

Water & Natural Resources Interim Committee- Las Vegas, NM

October 7, 2014- Debbie Hughes – on behalf of several small farmers & ranchers in SE NM

The Water Use Leasing Act [72-6-1 to 72-6-7 NMSA 1978] & the Emergency/ temporary water permit process 72-5-25. Emergency; change of point of diversion; procedure are both being greatly abused in SE NM. Companies are making millions of dollars selling water. 72-5-25 is supposed to be for emergency only and not harm anyone. OSE is issuing a lot of permits for \$5.00, renewable 3 times. Up to 9 acre feet.

Farmers and others are protesting the water leasing, but you cannot get a hearing for 1-2 years. Therefore millions made by private companies and huge cost to state. Loop holes in the law and rules and regulations are not strong enough to manage fairly.

What is the real problem here? The law states: (1) will not impair any existing right to a greater degree than such right is, or would be, impaired by the continued use and location of use by the owner; and

(2) will not be contrary to the conservation of water within the state or detrimental to the public welfare of the state.

**The problem is, if and when you protest, you bear all of the cost and wait as much as 2 years to get a hearing to prove you were impaired!**

NM ISSC, CID and 7 other farmers are protesting the transfer of some water rights on the black river ---but in the meantime, the pumping continues and the commercial water company gets richer while impairing others existing rights!

A WATER BUDGET ANALYSIS TO SUPPORT SUSTAINABLE WATER MANAGEMENT IN THE BLACK RIVER BASIN, NEW MEXICO was a study commissioned by the NM ISSC on May 5, 2014 for the basin in which water rights are affected.

“This stream system is increasingly becoming the only regional refuge for a number of threatened and sensitive species. In addition to providing this important habitat, the Black River supports New Mexico’s compliance with the Pecos River Compact as the last significant tributary before the Texas state line.”

“By the end of 2015 the federal candidate and state-listed endangered Texas hornshell (*Popenaias popeii*), a freshwater mussel, is expected to be listed under the Federal Endangered Species Act (ESA). It is important that state agencies implement management strategies to protect species habitat and prepare for the implications of the possible ESA listing.”

These are just a couple of the findings that were in the report and should have been considered by the state engineer before allowing leasing water directly from the surface flow of the black river.