
Water Acquisition and Management Subcommittee Position Paper: Rio Grande Project Usable Water

Introduction:

The U.S. Bureau of Reclamation's Rio Grande Project is located along the Rio Grande valley in southern New Mexico and northwest Texas. The Project supplies water for about 155,000 acres of irrigable lands in the Elephant Butte Irrigation District (EBID), located in the Rincon and Mesilla Valleys in New Mexico and the El Paso Water Improvement District No. 1 (EP No. 1), located in the El Paso Valley of far west Texas. The Secretary of the Interior authorized the Project in 1905 under the provisions of the 1902 Reclamation Act.

Storage for the Project is provided by Elephant Butte and Caballo Reservoirs in southern New Mexico, which have a total combined capacity in excess of 2,000,000 acre-feet. In accordance with the Rio Grande Compact, normal release from Project Storage under full-supply conditions is 790,000 acre-feet per year. By reuse of drain return flows, the normal release allows the full Project allocation of approximately 930,000 acre-feet per year to be delivered to the canal headings of EBID and EP No. 1, and to the heading of the Republic of Mexico's Acequia Madre. Mexico receives 60,000 acre-feet of Project water per year, in accordance with 1906 and 1933 Treaty Conventions.

Drainage from EP No. 1 also provides a supplemental supply for 18,000 AF of irrigated acres in Hudspeth County south of El Paso. In recent years some Project water has been converted to municipal and industrial use for the City of El Paso.

Rio Grande Compact:

All Rio Grande Project water operations at Elephant Butte and Caballo Reservoirs must be conducted in conformance with the Rio Grande Compact, which was signed by the states of Colorado, New Mexico and Texas on March 18, 1938. The Compact was subsequently ratified by the legislature of each state, enacted as Public Act No. 96 by the 76th Congress, and signed into law by the President on May 31, 1939. The schedule of deliveries and responsibilities of each state under the Compact became effective January 1, 1940.

Under the Compact, all water stored in Elephant Butte and Caballo Reservoirs is termed Project Storage. This includes credit water accrued by either New Mexico or Colorado by reason of deliveries in excess of required amounts, San Juan-Chama Project water stored in Elephant Butte pursuant to PL 97-140 and water available for release to downstream irrigation demand and to the Republic of Mexico (Rio Grande Project Usable Water).

Project Water Rights:

Rights to Project water have been the subject of on-going litigation since 1986 when EBID filed suit against the New Mexico State Engineer in state court and initiated a comprehensive adjudication of the Lower Rio Grande stream system. The case was removed to federal court by the City of El Paso and subsequently remanded back to state court. In 1997 the United States filed a complaint to quiet title to the rights of the Project in federal court. That complaint was dismissed and subsequently appealed to the Tenth Circuit Court of Appeals, which upheld the

dismissal and remanded the case back to the state court adjudication. It will likely be several years before that adjudication is complete.

Use of Rio Grande Project Water for Supplemental Flows:

Use of Rio Grande Project Usable Water to provide Collaborative Program supplemental flows would face numerous impediments. There is the primary question of whether or not such a use would be legal under state and federal law, complicated by the lack of an adjudication of who owns what rights to what water. It would require the cooperation and agreement of numerous parties and would likely not survive a legal challenge.

To provide supplemental flows, water would need to be stored during spring runoff in either El Vado, Abiquiu, Cochiti or Jemez Canyon Reservoirs and labeled as Rio Grande Project Usable Water slated for release later in the summer during periods of lower flow. At a minimum, approval and cooperation would be required from the following parties:

- Rio Grande Compact Commission (consisting of the New Mexico State Engineer, Colorado State Engineer, and the Texas Commissioner)
- New Mexico Office of the State Engineer
- New Mexico Interstate Stream Commission
- U.S. Bureau of Reclamation
- U.S. Army Corps of Engineers
- Elephant Butte Irrigation District (EBID)
- El Paso Irrigation District (EP) No. 1
- City of El Paso
- Republic of Mexico
- U.S. Department of State
- Middle Rio Grande Conservancy District
- And, potentially, Hudspeth County Conservation and Reclamation District No. 1

Some of these parties, such as the Rio Grande Compact Commission, the New Mexico State Engineer, EBID, EP No. 1 and possibly the Bureau of Reclamation hold an unequivocal veto over any such proposal.

Complicating matters is the fact that 2003 will be the first year since the late 1970s that the Rio Grande Project will not have a full allocation for the irrigation season due to low storage levels in Elephant Butte and Caballo Reservoirs.

Conclusions:

Due to the numerous parties involved, the complexity of Compact accounting, and various legal impediments (including international relations with a the Republic of Mexico), compounded by a lack of available physical storage upstream of the MRG, the WAM concludes that Rio Grande Project Usable Water would have no potentially viable role in addressing water needs for the ESA Collaborative Program.