

FOR IMMEDIATE RELEASE:
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NM Attorney General Balderas on Water Lawsuit with Federal Government & Texas: This Case is about the Attempt to Federalize our State Water Rights

Santa Fe, NM – Today, New Mexico Attorney General Hector Balderas appeared before the Senate Finance Committee to give an update on *Texas v New Mexico and Colorado* – a critical case to protect New Mexico water rights from the federal government and Texas. Please see below for excerpts from Attorney General Balderas' testimony:

- First, this case is ultimately about the attempt to federalize our state water rights
 - Second, this lawsuit is about the federal government stealing New Mexico's credit water and giving it to Texas, and doing so without our knowledge and certainly without our approval
 - Third, this suit is about the United States government favoring Texas farmers over southern New Mexico farmers. For example, in 2012 the U.S. gave Texas farmers 30 acre inches of water and New Mexico farmers only got 10 inches or less
- One of the most salient points that I want to emphasize is that New Mexico was forced to sue in order to protect its lawful entitlement and use of waters in the Rio Grande and to establish definitively that the Bureau of Reclamation cannot release our credit water without our approval.
- If we do not put up a defense, we lose control of our water, and ultimately, this case became necessary because without filing, we would have already lost.
- This is a complex case, and there is a great deal at stake; that is a fact upon which we can all agree. It is crucial, however, that we are all on the same page in terms of the facts and where New Mexico truly stands as of now:
- First, there is a misconception that New Mexico is in a weak position, but the truth is that we believe New Mexico is in a very strong position based on the law and on the evidence.
 - Second, the misconception that Texas outspending New Mexico is necessarily detrimental to our position is not true for the following reasons:
 - a. While Texas will undoubtedly outspend us, the fact of the matter is that more money doesn't mean a win, and;
 - b. As long New Mexico has adequate funding to bring forward the necessary experts, present our case to the Court, and the agencies involved that we rely on

(primarily Interstate Stream Commission) are adequately funded, we remain in a strong position

- Third, the misconception that we should settle this case immediately is false too:
 - a. We do not believe that this case is currently in a posture to consider settlement.
 - b. While we are always willing to talk to Texas, we do not see any common ground on which to base successful negotiations. What Texas claims the Rio Grande Compact requires and what we read in the plain language of the Compact are as different as night and day.

- Fourth, the misconception that groundwater pumping in New Mexico automatically takes surface water away from Texas is incorrect:
 - a. New Mexico meters, measures and administers groundwater pumping in the Lower Rio Grande to ensure that water rights owners are not exceeding the limit of their water rights. We are looking forward to proving in court that groundwater pumping is not harming Texas.
 - b. In comparison, Texas allows uncontrolled groundwater pumping. Texas would like us to believe they have their act together in how they manage both ground and surface water yet groundwater pumping is completely uncontrolled.

- Fifth, the misconception that New Mexicans below Elephant Butte Reservoir live in “Compact Texas” not New Mexico is false:
 - a. There is no such thing as “Compact Texas”. The Rio Grande Compact did not change state boundaries and recognizes each state’s boundaries correctly.
 - b. There is only one state that is protecting New Mexicans below Elephant Butte Reservoir and it is not Texas.
 - c. Texas and the U.S. Bureau of Reclamation are trying to steal water that rightfully belongs to New Mexicans below Elephant Butte Reservoir.

- Given all of these facts, I will say again to you all that I am committed to being aggressive in my handling of this litigation

- We are well-positioned for success, but adequate funding is essential, not only for my office but for the Interstate Stream Commission. The Legislative Finance Committee recommendation for the Interstate Stream Commission is \$2 million and \$2 million for the Attorney General’s Office, and that money is crucial to our combined success

- **The consequences of loss would be catastrophic to New Mexico.**

Relevant History of the Case:

- 2008: Elephant Butte Irrigation District, El Paso County Water Improvement District #1, Bureau of Reclamation enter into the 2008 Operating Agreement

- 2008-2010: Elephant Butte Irrigation District's yearly allocation is decreased by Operating Agreement
- 2011: BOR releases New Mexico Compact Credit Water to Texas over New Mexico objections and New Mexico is subsequently forced to sue the Bureau of Reclamation in Federal district court
- 2013: Texas files petition for leave to bring suit against New Mexico and Colorado in the Supreme Court

Please see attached for a graphic demonstrating the United States government favoring Texas farmers over southern New Mexico farmers.

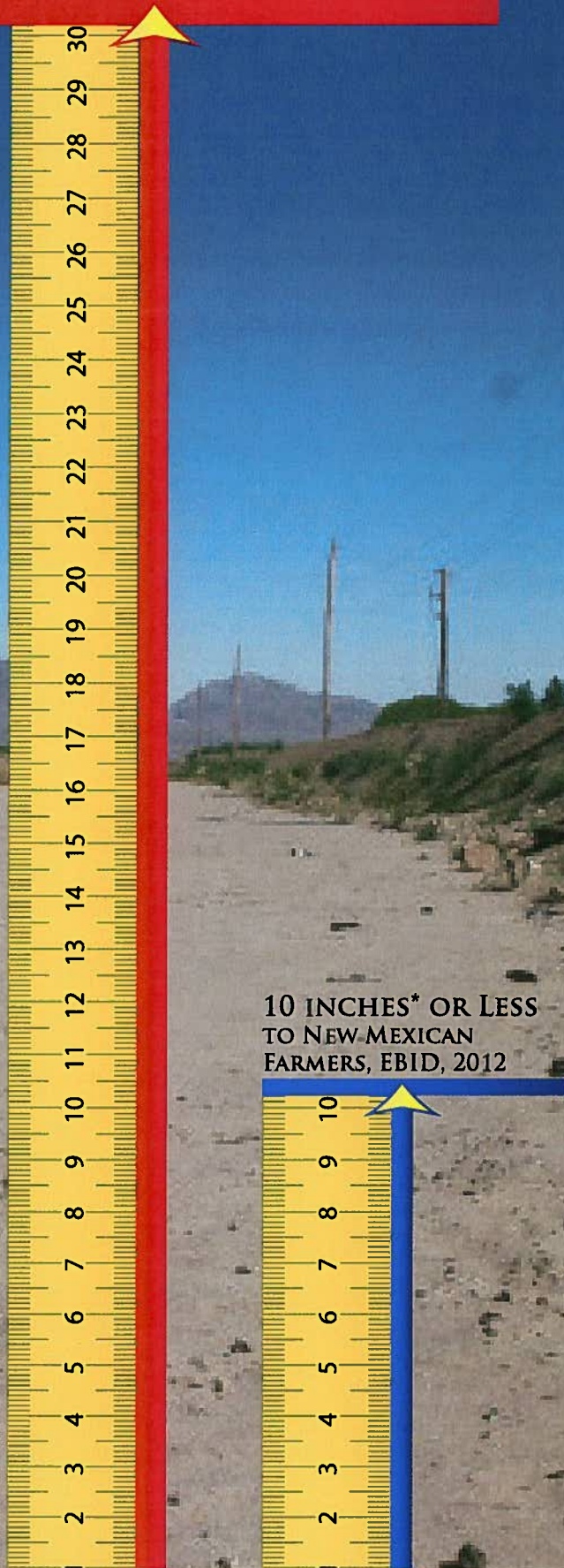
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30 INCHES* TO EL PASO FARMERS, EP#1 2012

WHY DID NEW MEXICO SUE THE UNITED STATES BUREAU OF RECLAMATION?

* Surface water allocated out of Elephant Butte Reservoir

10 INCHES* OR LESS TO NEW MEXICAN FARMERS, EBID, 2012



Las Cruces area irrigation ditch, May 2012