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RESOLUTION REGARDING THE ADJUDICATION SETTLEMENT OF THE CARLSBAD PROJECT WATER RIGHTS PECOS RIVER BASIN

Santa Fe, New Mexico
February 14, 2003

WHEREAS, the United States Supreme Court has enjoined the State of New Mexico to comply with Article III (a) of the Pecos River Compact by delivering water at the New Mexico – Texas stateline as prescribed in the Amended Decree entered in Texas v. New Mexico, 485 U.S. 288 (1988).

WHEREAS, the New Mexico Interstate Stream Commission (Commission) anticipated a possible net shortfall in deliveries to Texas in 2001 under the Pecos River Compact and United States Supreme Court Amended Decree.

WHEREAS, the Commission in July 2001 established the ad hoc Pecos River Basin Committee (Committee), made up of representatives of six irrigation entities, six municipalities, three classes of industry, the Bureau of Reclamation, and the chairman of the regional water planning effort and charged the Committee with evaluating alternatives for priority administration and determining additional ways to deliver additional water across the state line.

WHEREAS, the members of the Committee worked arduously with the Commission staff to develop a suite of alternatives for short-term and long-term compliance with the Pecos River Compact and Amended Decree.

WHEREAS, a consensus resolution was adopted by the members of the Committee regarding the long-term compliance plan in January 2002.

WHEREAS, legislative criteria for implementation of the consensus plan were established and approximately half of the \$68 million in implementation costs were appropriated, subject to specific criteria, in laws passed by the 2002 Legislature and signed by the Governor.

WHEREAS, the first legislative criteria for accessing the consensus plan funding required the settlement of surface water rights of the Carlsbad Irrigation District (CID) between the CID, United States, Pecos Valley Artesian Conservancy District (PVACD) and the State.

WHEREAS, such a settlement has been tentatively reached.

WHEREAS, modeling analysis conducted by Hydrosphere Resource Consultants, Inc., consultants to the Commission, under the direction of the Commission and SEO staff and reviewed by experts for the United States, CID and PVACD, indicate that the implementation of the Consensus Plan and the Settlement Terms, will achieve the objectives of long-term compliance with the Pecos River Compact and significantly reduce the likelihood of a net shortfall and priority administration while increasing the water supplies to CID and maintaining the aquifer storage and hydraulic heads in the Roswell Artesian Basin.

WHEREAS, the Boards of CID and PVACD have approved the Settlement by actions taken February 11, 2003.

WHEREAS, the results of the modeling analysis are dependent on the assumptions made regarding the future hydrology and river operations.

WHEREAS, it is important for the success of the Consensus Plan and the Settlement Terms to maintain the integrity of those assumptions in the future.

WHEREAS, there could be restrictions imposed on the river operations due to ESA compliance that may deviate from the model assumptions.

WHEREAS, additional depletions in the Pecos River due to activities related to compliance with the ESA are possible to the extent that it can negate the benefits achieved through the implementation of the Consensus Plan and the Settlement Terms.

WHEREAS, since the State of New Mexico must invest significant sums of money to effectuate the Settlement, it is important that the State be assured that any impacts due to ESA compliance activities by the United States will be offset to preserve the integrity of the hydrologic modeling assumptions.

NOW, THEREFORE, BE IT RESOLVED

That the Commission approve the proposed settlement terms as set forth in the Term Sheet dated February 10, 2003 ("Term Sheet"), and authorize the Chairman to execute on behalf of the Interstate Stream Commission the final Settlement Agreement together with any non-substantive changes to the Term Sheet necessary to implement the settlement, and with the understanding that implementation of measures necessary to comply with the federal Endangered Species Act for Carlsbad Project operations not materially frustrate the goals of the State of New Mexico to be achieved through the settlement.

BE IT FURTHER RESOLVED

That staff is directed to take all necessary actions to work with the federal government to assure that compliance with NEPA and ESA requirements does not materially frustrate the goals of the State of New Mexico through implementation of the Settlement Agreement, and to take all actions necessary to assure that any increased depletions to the Pecos River attributable to the implementation of measures necessary to comply with the ESA for Carlsbad Project operations be offset in a manner consistent with state law.

By  _____
Jim Dunlap, Chairman