



FAR WEST TEXAS
WATER PLANNING GROUP

1100 North Stanton, Suite 610
El Paso Texas 79902

915/533-0998

915/532-9385 FAX

MEMORANDUM

Jesse Acosta
County

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Water Utilities

Jerry Agan
Public

Loretta Akers
Public

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Municipalities
Vice Chairman

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Counties

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TO: Regional Planning Group Chairs

FROM: Tom Beard

DATE: February 16, 2004

SUBJECT: Rio Nuevo and the General Land Office

PAGES: 1 of 3, including this page

Since stories have run in most of the big city dailies, and since you are all undoubtedly very well aware of the hearings being conducted by the interim Senate committees (and the charge of the committees), presumably you are all also aware of a bizarre scheme by the Texas General Land Office and a group of self-styled investors, who are really oilmen and speculators, calling itself Rio Nuevo, Ltd., to export somewhere between 16 and 114 billion gallons (50-350,000 acre-feet) of water per year *out of the desert* of Far West Texas. If you are not aware of it, please let me know: I will be happy to send you more news clippings and background materials than you could possibly be happy to get.

The point of this memo is to ask for your help and to urge your involvement. Although the Rio Nuevo/GLO proposal does not affect any of the planning groups other than ours, at least directly and at least for now, the precedent that it could establish would directly and definitely affect all of us. In fact, it would make regional water planning irrelevant and a waste of your time and mine — and that of all of our planning groups' members. That is why the Far West Texas Water Planning Group, at our last meeting, directed me to write to all of you.

Neither Rio Nuevo nor the General Land Office ever appeared before the Far West Texas Water Planning Group until the volume of protest, incredulity, and outrage became too great to ignore. Even then our concern was a surprise because the scheme had been cooked in private and behind closed doors — not in public as the public's business should be conducted. Nor did Rio Nuevo or the GLO ever write us a letter. Nor did they ever communicate with our consultants. In fact, we never heard from any proposers or about any proposals to pump water out of the desert during the entire first planning cycle. Nor had we heard anything officially, or directly, in this planning cycle until the publicity forced the issue.

Senator Frank Madla got wind of a seemingly incomprehensible scheme several months ago and, not having a clue as to what was going on or what it could possibly mean, mentioned it to some of us in Far West Texas. That was the only way we found out about Rio Nuevo and its involvement with the General Land Office — essentially by accident. Since then, such paltry information as we have been allowed to receive has been like pulling diseased teeth — painful and smelly.

50,000 acre-feet of water per year is a lot of water, especially in the desert and especially in the single region with arguably the largest unmet needs. Yet, in spite of our unmet needs, and in spite of the thousands of hours spent crafting our water plan, and in spite of how goofy the scheme is, up pops this screwy scheme that is not in the plan at all, that dodges the plan, and that would make our unmet needs and our shortages dramatically worse. Theoretically our planning process considered all water sources and demands; clearly we missed one.

In case it is not apparent on its face how ridiculous this Rio Nuevo/GLO dodge is, be aware that, originally, they were talking about 350,000 acre-feet, which they were going to pump into the Rio Grande for transport down river. 50,000 acre-feet going into a pipeline is bad enough when it is not a part of the water plan, and when our plan does not show any *extra* 50,000 acre-foot supplies, but consider how insane it is to propose putting 350,000 acre-feet into the Rio Grande when it is 120 degrees at Presidio and when 80-90% will be lost to evaporation. We would not have approved that strategy.

Our planning group is asking each of your planning groups to pass a resolution opposing this scheme because it is a water use that is not in our regional water plan. More generally, I would hope that your resolution would oppose any water use that is not in the appropriate regional water plan and in support of requiring all water strategy proponents to be a part of the planning process at the regional level. We believe that the alternative — allowing those water uses or strategies that will not require Water Development Funding to be exempt from the regional planning process, as would be the case with Rio Nuevo and the GLO — effectively emasculates regional water planning. If we are all to continue dedicating huge amounts of time to the development of regional water plans, presumably none of the members of any of the planning groups wants their efforts to have been for naught simply because a privately-funded strategy surfaces that is not in the plan and that, as a result, makes the plan incomplete at best and irrelevant at worst.

For your information, I am enclosing a resolution passed by our planning group. Region D has already passed an resolution, unsolicited, very similar to ours. Although unsolicited, it was very welcome, as yours will be if your group chooses to pass one. I hope that all of you will do so. There is not much point in a planning process that allows major components to be omitted from the regional plan. If we believe that regional water planning is a good idea — and I, for one, think that it was visionary, although I do continue to have discomfort on occasion as a developing process continues to evolve — we must insist, loudly, that the integrity of the process must be defended from attack. Let there be no mistake: This is an attack on the regional water planning process and on local control of it.

You may hear or read that Commissioner Patterson has said that Rio Nuevo and future lessees from the GLO must comply with the State water plan. Presumably that means that Rio Nuevo and its mutant offspring must also comply with the regional plans since the State plan is a compilation of the regional plans. That, of course, is a positive development — and a new one because originally the planning process was not a part of the discussion. Unfortunately, it is far from comforting to those of us in Far West Texas because the GLO also says that the requirement of compliance remains in effect only for so long as we are “fair” and “reasonable” to Rio Nuevo. In whose judgment? That of the Far West Texas Water Planning Group, Rio Nuevo, the GLO, or a Travis County district court? We have a way to go here, and your groups need to be heard if they have an opinion.

Although an idea that is nutty beyond belief, Rio Nuevo and the General Land Office have already caused an extremely beneficial result. The Senate Select Committee on Water Policy and the Subcommittee on the Leasing of State Water Rights, both appointed by Lt. Governor Dewhurst, were that result. Ideas that have never been on the table now are on the table. All Texans now have an opportunity to address water issues long ignored, and all of the planning groups need to weigh in. If you would be interested, I would be happy to email you the testimony that our planning group has already submitted.

Please give me a call (432/364-2244) or drop me an e-mail (tombeard@leoncitaranch.com) if I can supply you with any more information or justification for action. Thanks in advance for your help and support and that of your planning groups.

**RESOLUTION OF
FAR WEST TEXAS WATER PLANNING GROUP
OPPOSING
THE DISREGARD OF THE REGIONAL WATER PLANNING
PROCESS BY THE TEXAS GENERAL LAND OFFICE**

WHEREAS, a proposal has been made by a group or entity calling itself "Rio Nuevo" to pump groundwater from the aquifers of Far West Texas into the Rio Grande or into a pipeline for export from Far West Texas and for use down-river or elsewhere; and

WHEREAS, the Texas General Land Office is considering the sale or lease of water from lands owned by the people of the State of Texas in Far West Texas to markets and population centers outside of Region I; and

WHEREAS, the Texas General Land Office has not considered the impact of the proposed sale or lease on the economy, people, or environment of Far West Texas; and

WHEREAS, the Legislature of the State of Texas, 75th Session, mandated that all water use strategies affecting the water resources of each region must be considered by the regional water planning groups in devising a water plan; and

WHEREAS, those water use strategies considered by the regional water planning groups to be viable and appropriate for the region must be incorporated in the regional water plan; and

WHEREAS, no proposal by Rio Nuevo or any other group or entity to export groundwater from the Far West Texas Water Planning Region was ever made and no water use strategy for the export of groundwater from Far West Texas is a part of our Regional Water Plan.

NOW, THEREFORE, BE IT RESOLVED that the **FAR WEST TEXAS WATER PLANNING GROUP** opposes any effort to export groundwater from Far West Texas by Rio Nuevo, the Texas General Land Office, or any other group or entity unless a water use strategy proposing the export of groundwater is first presented to and reviewed by the **FAR WEST TEXAS WATER PLANNING GROUP** and then included in the regional water plan for Far West Texas.

BE IT FURTHER RESOLVED that all water produced or to be produced from lands owned by the State of Texas is in fact owned by the people of the State of Texas and must be used for the benefit of all of the people of the State of Texas.

BE IT FURTHER RESOLVED that the responsibility of the Texas General Land Office to the school children of the State of Texas is an important state interest, but that responsibility does not allow the Texas General Land Office to ignore the rights and

best interests of other Texans who would be affected by the proposed sale or lease of water.

BE IT FURTHER RESOLVED that all negotiations regarding the sale or lease of water from lands owned by the people of the State of Texas must be conducted in public, with public input and knowledge.

BE IT FURTHER RESOLVED that Governor Rick Perry, Lt. Governor David Dewhurst, and Speaker Tom Craddock are urged to intervene and ask Commissioner Jerry Patterson to delay further negotiations with Rio Nuevo or any other group or entity regarding the sale or lease of water from lands owned by the people of the State of Texas until a thorough study of the impacts of selling or leasing large amounts of water under lands owned by the people of the State of Texas and controlled by the Texas General Land Office has been conducted.

BE IT FINALLY RESOLVED that the study of the impacts of selling or leasing water should focus on how the pumping and export would affect (1) the environment, (2) the value and use of private lands, (3) the value and use of public lands, including the proposed lands and other public lands (including federal, state, and local), (4) ad valorem tax bases, (5) aquifer conditions, depletion, subsidence, and sustainability, (6) spring flows and well levels, (7) local economies and demographics, (8) cost/benefit analyses for both the importing and exporting water planning regions, (9) the availability of water in both the importing and exporting water planning regions during the period for which water is proposed to be sold or leased, (10) the availability of feasible and practicable alternative supplies to the proposed sale or lease, (11) the amount, term, and proposed use of the water proposed to be sold.

Adopted by vote of the **FAR WEST TEXAS WATER PLANNING GROUP** as of the Twentieth day of November, 2003.



TOM BEARD,
Chairman