



STATE OF NEW MEXICO  
OFFICE OF THE STATE ENGINEER

John R. D'Antonio, Jr., P.E.  
State Engineer

Santa Fe

BATAAN MEMORIAL BUILDING, ROOM 102  
SANTA FE, NM 87504-5102  
(505) 827-6120  
Fax: (505) 827-6682

July 20, 2011

El Prado Water and Sanitation District  
c/o James C. Brockmann, Esq.  
Stein & Brockmann, P.A.  
P.O. Box 5250  
Santa Fe, NM 87502-5250

Re: File No. RG-40450

Dear Mr. Brockmann:

According to the records of the Office of the State Engineer/Water Rights Division (OSE), through the end of 2010, El Prado Water and Sanitation District (the District) has accrued an over diversion balance of 778.82 acre-feet of water. The District's pre-settlement permits recognize that diversions from well RG-40450-S deplete the Rio Lucero, and that diversions from well RG-40450-S-2 deplete the Arroyo Seco and the Rio Lucero proportionally at 97% and 3% respectively. Of the District's over-diversions through 2010, 131.62 acre-feet are debited against well RG-40450-S and 647.20 acre-feet are debited against diversions from well RG-40450-S-2.

OSE policy requires repayment of all over-diversions. Methods of re-payment acceptable to this office are as follows:

1. Purchase or lease and retirement of water rights on the Arroyo Seco and Rio Lucero in quantities sufficient to offset the described depletions. Water rights so retired must be formally transferred to the District's wells through application and permit. Any water right transferred and left unexercised would be available on an annual basis as credit toward repayment of the District's over-diversion balance. This option may be pursued as a temporary change in point of diversion and place and purpose of use with water rights reverting to the original place and purpose of use at the expiration of specified term.
2. Purchase or lease and retirement of water rights on the Rio Grande sufficient to offset the total over diversion amount. Rio Grande water rights must be formally transferred to the District's wells, and then not exercised in order to obtain credit toward repayment. This option may also be pursued as a temporary change in

- point of diversion and place and purpose of use with water rights to reverting to original place and purpose of use at the expiration of a specified term.
3. A combination of the above two transfer options with the total repayment credit dependent on the quantities of water rights transferred and then left unexercised.
  4. An additional payback option is possible through use of San Juan Chama Project water owned by or available through lease to the District. Use of San Juan Chama Project water as an offset for surface depletions must be by an approved OSE permit for such use.

Any additional over-diversion by the District must be repaid in accordance with these options and in a manner acceptable to the OSE. Please feel to contact me if further discussion of this matter is needed.

Sincerely,



Mary Young  
Water Rights Division

c: Linda Gordan, District VI Supervisor  
Arianne Singer, Special Assistant Attorney General