

PECOS RIVER COMMISSION

74th Annual Meeting
April 4, 2023 8:30 AM

SUMMARY OF ACTIONS TAKEN

	Agenda Item	Actions Taken	Page
1	Call to Order	The meeting was called to order by Commissioner Willis at 8:30 a.m. MDT.	3
2	Welcome and Introduction of Attendees	A quorum was present for action items.	3
3	Approval of Minutes from April 2021 meeting	Commissioner Willis moved to approve the minutes, seconded by Commissioner Tate, motion carried by unanimous vote.	3
4	Commissioner Reports a) New Mexico b) Texas	a) Presented by Commissioner Willis and Frank Scott b) Presented by Commissioner Tate and Scott Van Winkle	3
5&6	Report of Secretary-Treasurer	Presented by Marcy Leavitt. Commissioner Willis moved to approve the report, seconded by Commissioner Tate, motion carried by unanimous vote.	5
7	Report of Audit	Presented by Marcy Leavitt. Commissioner Willis moved to approve the report, seconded by Commissioner Tate, motion carried by unanimous vote.	5
8	Report of Commission Committees a) Legal b) Engineering	a) Legal – No report. b) Engineering – Provided by Frank Scott. Commissioner Willis moved to approve the report, seconded by Commissioner Tate, motion carried by unanimous vote.	5
9	Reports from Cooperating Agencies and Others a) US Geological Survey b) US Fish and Wildlife Service c) US Bureau of Reclamation d) US Army Corps of Engineers	Informational	6
10	Unfinished Business	Informational	10

11	<p>New Business</p> <p>a) Resolutions: USGS Streamflow Gages; Federal Commissioner Vacancy</p> <p>b) Public comment</p> <p>c) Date of 2024 PRC Annual Meeting</p>	<p>a) Commissioner Willis moved to approve the resolutions, seconded by Commissioner Tate, motion carried by unanimous vote.</p> <p>b) No public comment.</p> <p>c) April 9, 2024 is the date for the next meeting, to be held in Texas</p>	10
12	Adjournment	<p>Commissioner Willis moved to adjourn the meeting, seconded by Commissioner Tate, motion carried by unanimous vote.</p> <p>Meeting adjourned at 10:46 a.m.</p>	10

MEETING MINUTES

1. Call to order by Acting Chairman

Commissioner Willis called the meeting to order and welcomed all attendees to the 2023 annual meeting of the Pecos River Commission.

2. Introduction of Attendees

Each agency introduced its attendees and the commissioners asked participants representing the public, businesses, and irrigation districts to introduce themselves. A list of attendees is included in attachments to the minutes. The court reporter for the meeting was Karen Rodriguez of KMR Court Reporting.

3. Approval of minutes of the 2022 annual meeting

Commissioner Willis moved to approve the 2022 meeting minutes, seconded by Commissioner Tate. The motion was carried by unanimous vote.

4. Reports from State Commissioners

New Mexico

Commissioner Willis welcomed everyone to the meeting. He reported that New Mexico has been able to shut down wells that supplement the Pecos River and that snowpack and rainfall conditions have been good. He also implored the agencies to work together to address future problems caused by too much water due to rainstorms that must be stored in reservoirs. A place to store that water is needed, and he hopes the legal team will figure that out.

Frank Scott continued the report for New Mexico in place of Rolf Schmidt Peterson, the New Mexico Interstate Stream Commission (ISC) Director. Mr. Scott reported that the Pecos Basin in New Mexico received near normal precipitation in 2022. There was significant variation throughout the year. The first half of the year was extremely dry with the basin reaching exceptional drought conditions by mid-summer. Significant storms started in the last week of June and conditions improved during the second half of 2022, with the latter half of the year above normal precipitation. However, the basin began to dry again at the beginning of winter with well below average snowpack in November and December. The basin ended 2022 slightly better than it started with slightly less than 50 percent of the basin in drought conditions and almost none of it in extreme or exceptional drought. Calendar year 2022 began with New Mexico having a compact delivery credit of 157,200 acre-feet. It also looks like New Mexico will incur a small credit for 2023.

Mr. Scott reiterated Commissioner Willis's statement regarding discussion of future storage of water. Future water will likely come as monsoon rains and a conversation is needed regarding storage of water in Brantley Reservoir in a way that will benefit both states.

Mr. Scott provided a brief update on intrepid potash. The New Mexico Office of the State Engineer Hearing Unit process has been stayed pending expedited interstate proceedings in the adjudication court. The adjudication court filed its findings and amended findings of fact and conclusions of law in 2021, with partial final judgment entered March 17, 2022. There's been an appeal on that. That was filed April 15, 2022. The case is set for oral arguments sometime in 2023 or early 2024.

Also, as Commissioner Willis alluded to, Mr. Scott stated that it was an interesting year with New Mexico's augmentation well fields which are part of the Pecos Settlement Agreement. The 2003 Pecos Settlement Agreement represents New Mexico's most significant effort to ensure compliance with the Pecos River Compact and the US Supreme Court's 1988 amended decree. Between 2003 and full implementation in 2009, New Mexico has purchased water rights associated with approximately 12,000 irrigated acres. Together with approximately 8,000 acres purchased pre-settlement for placement in the Pecos Water Resource Conservation Project, a total of approximately 20,000 acres of water rights have been purchased at an expense of over \$100 million.

Mr. Scott concluded his remarks with the Carlsbad Irrigation District (CID) allotment. The Carlsbad project began the irrigation season with just over 50,000 acre-feet in storage. Hot and drying conditions resulted in very little snow runoff. As a result, CID's annual allotment in 2022 was initially set at just 1.4 acre-feet. With additional rains and inflows, they were able to increase the allotment to 2.2 acre-feet by the end of the year. New Mexico began augmentation pumping in January 2022 and the wells were pumped continuously until the monsoon and fall rains finally brought the Carlsbad project supply up to 90,000 acre-feet in late October, at which point the pumps were turned off. It looks like 2023 will be a good year, and hopefully there will be enough runoff so New Mexico will not have to operate the augmentation well fields.

Regarding ESA water deliveries from the Vaughn conservation pipeline, Mr. Scott reported that under New Mexico's agreement with the Bureau of Reclamation (BOR), New Mexico provided 3,353 acre-feet of water to the Pecos River for Endangered Species Act (ESA) purposes from the Vaughn Conservation Pipeline. The pipeline is a critical tool, ensuring ESA compliance for the Carlsbad project. That concluded the substance of the New Mexico report.

Texas

Commissioner Tate thanked everyone for their attendance and started his remarks saying the precipitation patterns have been interesting, with some getting water, and some not. In Marfa Texas there was snow in March 2023 which is unusual. Commissioner Tate then turned the Texas presentation over to Scott Van Winkle.

Mr. Van Winkle started by saying that the majority of the Pecos River Basin in Texas is in extreme drought. The NOAA Climate Prediction Center Seasonal Drought Outlook is predicting La Nina conditions to continue at least through the summer. The long-term outlook is more of the same. The March 28, 2023, United States Drought Monitor showed 80 percent of Texas experiencing drought conditions, with 47 percent being severe or worse. There is a slight improvement from a year ago, when approximately 95 percent of Texas was in drought. These conditions are forecast to continue through the summer. The majority of the Pecos basin in Texas is currently experiencing drought conditions.

Looking at the NOAA three-month outlook for the Pecos Basin in Texas, Mr. Van Winkle reported the prediction is 50 to 60 percent probability for above average temperatures and a 30 to 50 percent probability for below average precipitation through June. However, for Texas, summer storms and activity in the tropics can affect these predictions.

Mr. Van Winkle gave an overview of current flows along the Pecos River in Texas. Flows at Red Bluff were 24.3 cubic feet per second (cfs); at Orla 5.6 cfs; and at Garvin 8.2 cfs. Red Bluff reservoir is currently about 60 percent full, with about 88,876 acre-feet of storage. This is down from 74,000 acre-feet at this time last year.

Mr. Van Winkle stated that there were no new water rights permits issued for the basin in 2022, and the basin is expected to have little to no water available for new water rights permits.

5&6. Report of Secretary-Treasurer

Marcy Leavitt provided a combined Secretary Treasurer's report.

Regarding secretarial duties, the combined fiscal year 2022 Activity Report and fiscal year 2023 budget report were sent to the President and Governors on September 4, 2022.

Regarding financial issues, Ms. Leavitt provided the commissioners with copies of the fiscal report for fiscal year 2022, and an interim fiscal year 2023 report through March 15, 2023. The balance in the Pecos River Commission bank account on March 15, 2023, was \$149,498. As of March 15th, fiscal year 2023 total debits were \$157,304 and total credits were \$158,094. Ms. Leavitt stated she does not anticipate any financial problems for the remainder of fiscal year 2023.

Ms. Leavitt presented a proposed budget for fiscal year 2024 which includes \$147,616 for the U.S. Geological Survey, and \$13,850 for Commission expenses, including the audit, surety bond, court reporter, travel, supplies, and any other miscellaneous expenses. The total budget proposed for fiscal year 2024 is \$161,466.

Commissioner Willis moved to approve the fiscal report, seconded by Commissioner Tate. The motion was carried by unanimous vote.

Commissioner Willis moved to approve the fiscal year 2024 budget, seconded by Commissioner Tate. The motion was carried by unanimous vote.

7. Report of Audit

Ms. Leavitt provided the audit report. The 2022 audit was completed on July 31, 2022, by Porch and Associates. Copies of the audit were sent to Commissioners by email. The audit found no deficiencies in internal control, or instances of noncompliance or other matters that are required to be reported under Government Accounting Standards.

Commissioner Willis moved to approve the report, seconded by Commissioner Tate. The motion was carried by unanimous vote.

8. Reports of Commission Committees

Legal Report

Nicholas Rossi stated that there was no legal report this year.

Engineering Report

Mr. Scott presented the report of the engineering committee which summarized the engineer advisor's meeting held on March 29, 2023. Present at the engineer advisor's meeting were the New Mexico and Texas Pecos River commissioners and the engineer advisors for New Mexico and Texas, as well as support staff. Reports of federal water operations for calendar year 2022 were presented to the engineer advisors and commissioners by the BOR, the U.S. Army Corps of Engineers (Corps), the U.S. Geological Survey (USGS), and the U.S. Fish and Wildlife Service (USFWS). Additionally, brief presentations were made by both the New Mexico and Texas engineer advisors summarizing some of their respective states' recent activities on the Pecos River. All reports were well received, and there were no disputed issues during the meeting.

Mr. Scott then spoke about current Pecos River accounting. On June 27, 2022, the federal Pecos River Master issued its final report for Water Year 2021, which is accounting year 2022, and included an annual shortfall from New Mexico of 4,000 acre-feet. That shortfall has reduced New Mexico's accumulated overage to 157,200 acre-feet.

Mr. Scott concluded his report with an update on the Malaga Bend project. In 2022 Southwest Salt Company pumped approximately 432 acre-feet of groundwater from the Malaga Bend area of New Mexico into its surface evaporation ponds. The company produced 50,000 tons of salt that was shipped out to cattle feed and water softener businesses across the country. Since pumping started in 2013, there has been a 53 percent decrease of the salt content of the Pecos River in the area of the Malaga Bend reach.

Commissioner Willis moved to approve the committee reports, seconded by Commissioner Tate. The motion was carried by unanimous vote.

9. Reports from Cooperating Agencies

U.S. Geological Survey (USGS)

The USGS presentation was made by Scott Green, a hydrotech in the Las Cruces office. The USGS operates 85 stream gaging stations, 18 in cooperation with the Pecos River Commission, and 51 in cooperation with other federal, state, and local agencies. USGS also operates 16 crest gages for the U.S. Department of Transportation and 12 gages for water quality. Mr. Green showed a map of the gage network. In the Pecos River Basin, the Rio Arriba and Las Cruces field offices operate the network. The Las Cruces office includes the Roswell office.

Next in his presentation, Mr. Green showed hydrographs for the Pecos River Basin showing highest flow events in June and August. The Pecos River near Acme had a peak of 21,80 cfs on August 21, 2022. The Rio Hondo at the Diamond A Ranch near Roswell New Mexico had a peak of 14,600 cfs which is the highest since 2013. In the lower Pecos Basin, the heaviest storm events were in August.

The USGS operates two webcams on the Pecos River, near Roswell and Acme. In conclusion, Mr. Green showed several photos taken by webcams, including the site at the Pecos River near Acme with only base flow in March at 37.9 cfs, and the same web cam during the August 21st storm event where there was overbanking.

Other notable events mentioned by Mr. Green included removal of gaging equipment at the Delaware river near Red Bluff due to bridge replacement. The gaging equipment will be reinstalled when the bridge is complete. Also, Lake Avalon near Carlsbad was emptied for a lidar survey. And regarding wildfires in New Mexico, specifically the Hermit's Peak, Calf Canyon, McBride, and Nogal Canyon fires, the USGS is watching for impact on the Pecos River basin. Ash and debris were observed in the upper Pecos in August 2022.

U.S. Fish and Wildlife Service (USFWS)

Chuck Hayes presented on behalf of USFWS. Mr. Hayes started his presentation with a discussion of the Biological Opinion for the Carlsbad project which addresses water operation impacts to the Pecos blunt nose shiner and interior least tern. The Pecos blunt nose shiner, native to the Pecos River, gathers most of the attention with regard to the Biological Opinion. The blunt nose shiner has lost 42 percent of its historic range. The current range is the reach found, between Sumner and Brantley Reservoirs. The Biological Opinion is focused on maintaining river connectivity. Mr. Hayes provided a figure showing why connectivity is important. Bars in the graphic showed days of river drying as related to shiner density. Shiner density decreases in years with river drying. Then density slowly increases until the next drying period. In March 2022 the Pecos River was critically dry. Even after all supplemental water was released the river, about 7,000 acre-feet, the river dried for one to two weeks.

In 2022 shiner density was less than half of what was observed for 2021, below 12 fish per 100 meters squared. However, flow spikes caused by monsoon rains might have flushed larval fish downstream to Brantley reservoir, which could have caused a decline to show up in 2022. Also, a combination of drying and monsoons may have led to a decline in fish density.

Mr. Hayes also discussed amendments to the Biological Opinion in 2022 to improve the way it works. These amendments included elimination of Taiban target flows for monitoring of river drying, which has not been a good measure of river continuity. Also, the changes allow saving supplemental water resources for later in the year when they are needed. There is also potential for the Biological Opinion to be extended five years through 2026 if certain conditions are met, including the establishment of a permanent supplemental water pool at Santa Rosa.

Mr. Hayes also mentioned that his agency has completed a year-long water quality study which will help give insight into shiner distribution. A final report on the study is expected by the end of April 2023. He also thanked the Ft. Sumner Irrigation District (FSID) for access to sites during the study.

For other shiner related activities, USFWS completed an egg/larval retention study to look at different life stages and how they are retained at different discharge levels. A geomorphology study was implemented to identify a suitable habitat restoration site on Bitter Lake National Wildlife Refuge which would help bolster the fish population. USFWS also brought some captured fish into captivity in case there is a catastrophic event. The agency's goal is to keep shiner populations from bottoming out to zero.

Mr. Hayes mentioned other species that USFWS is addressing. In terms of success stories, the interior least tern has been delisted due to recovery. The Rio Grande cooter was determined to be not warranted for listing at this time. He also discussed the Texas hornshell Candidate Conservation Agreement successes. There are more than 100 enrollments in the program which include implementation of conservation measures.

At Bitter Lake National Wildlife Refuge there are four aquatic invertebrates that have been listed under the ESA. All of these populations are persisting.

The Pecos pupfish is the subject of an ongoing species status assessment expected in 2024.

Wright's marsh thistle is proposed for listing as threatened with critical habitat, but no final decision has been made. Leoncita false-foxglove is also under review as is the Rio Grande cooter.

Bitter Lake National Wildlife Refuge provides habitat for many other species, and in 2022 it had about 34,000 over-wintering sandhill cranes. For the first time since the beginning of the pandemic the refuge was able to host its annual Dragonfly Festival.

That concluded the USFWS presentation.

One question was asked by Mr. Holdeman of FSID regarding the success of Texas hornshell mussel conservation. Mr. Hayes stated that he thinks it has been successful.

Bureau of Reclamation (BOR)

Jim Wilbur, the deputy area manager, introduced BOR staff. Mr. Wilbur first provided a virtual tour of BOR facilities and an update on operations and maintenance (O&M) projects.

Starting with Sumner dam, the design is ongoing for the radial gate replacement project. BOR is also hiring a contractor for the National Environmental Policy Act (NEPA) review. Mr. Wilbur expects the 100 percent design to be completed in summer 2023, with construction beginning fall 2024. He expects construction to take 3 years. In the interim there is an operational restriction for the reservoir which limits storage to 36,000 acre-feet year-round.

Another ongoing BOR maintenance project is the Avalon dam river outlet works project where they are replacing cylinder gates with a glory spillway outlet works. BOR is reviewing plans and assisting with environmental compliance. CID is seeking funding through Congress and BOR has provided a letter of support.

Mr. Wilbur mentioned briefly some other incomplete minor O&M recommendations that BOR is working on and then moved to water operations for 2022.

In 2022 maximum storage was in March 2022 at about 68,500 acre-feet within the water operations system. This represented only 37 percent of the total available storage for 2022. The minimum storage was in July when the system storage was down to 12 percent of total available storage. Mr. Wilbur also noted that Avalon was drained at end of 2022 for a sediment survey, and is now refilling.

Next Mr. Wilbur addressed the irrigation supply for 2022. For FSID, they ended up receiving 86 percent of their full entitlement. CID ended up with 60 percent of their full allotment. BOR leased water from both FSID and CID to offset depletions as part of the supplemental water program to support endangered species. Also, ISC's Seven Rivers pumps were needed to augment CID's irrigation supply.

Mr. Wilbur next discussed 2022 block releases and storage volumes by purpose. At Sumner, supplemental water is a small component of water stored, with irrigation being the bulk of water stored. There were two block releases in 2022 moving water from Sumner and Santa Rosa down to Brantley, in June and August. Large rain events in late August allowed curtailment of the second block release. The bulk of block releases are for FSID and CID entitlements. The water year 2022 was critically dry so supplemental water was used to minimize drying so there was no take for blunt nose shiner. In total, for 2022 BOR used just over 10,000 acre-feet.

Mr. Wilbur presented a slide that provided a historical look at supplemental water deliveries. Dry years in 2011, 2012, and 2013 required a significantly greater amount of supplemental water, in the range of 12,000 to 18,000 acre-feet. Based on historic review, 2022 was a normal year for supplemental water deliveries.

Looking forward to 2023, Mr. Wilbur mentioned that BOR has its annual operating plan meeting on April 18, 2023. He also discussed 2023 irrigation supply projections. FSID should get closer to their full entitlement, which would be 90-95 percent of annual maximum. CID is starting the irrigation season at 1.8 acre-feet and could get up to 90 percent of their full allotment by September. BOR also projects one late summer block release due to good rains last year and high storage levels in Brantley.

Regarding Brantley operation projections for 2023, maximum storage was reached in March 2023 and releases have begun for irrigation. BOR expects minimum storage in July or August, which is the driver for the one block release previously mentioned. BOR expects Brantley to end the season, depending on the monsoons, lower than it started in 2023, in the 20,000 acre-foot range as opposed to the 35,000 acre-foot range.

Looking at 2023 from a supplemental water perspective, BOR expects normal conditions instead of critically dry. Supplemental water supply should be similar to 2022, at about 9,000 acre-feet. Under normal conditions BOR will be targeting 35 cfs at Taiban when there are bypass flows available earlier in the irrigation season. They are focused on maintaining a continuous river. BOR expects to run the Vaughn conservation through the year. The pipeline was turned on in February 2023.

Mr. Wilbur closed by giving an overview of partner support funding opportunities including WaterSMART and Bipartisan Infrastructure Law investments.

U.S. Army Corps of Engineers (Corps)

Major Brett Fuller, deputy commander, gave the presentation for the Corps. Major Fuller provided an overview of the Albuquerque District. The district serves three states. In the Pecos basin they operate and maintain the Santa Rosa dam and Two Rivers dam, and oversee flood control operations at BOR's Sumner and Brantley dams under Section 7 of the Flood Control Act of 1944. Flood protection and sediment control are the primary purposes of the Corps-owned projects in the Pecos Basin, and Santa Rosa Lake is also authorized for irrigation storage. The irrigation storage at Santa Rosa Lake provides incidental benefits for fish and wildlife as well as significant recreational opportunities for the Upper Pecos Basin.

Next Major Fuller discussed Corps 2022 water operations. For Santa Rosa dam and lake, the Pecos River started calendar year 2022 with below average snowpack in the upper basin. Early year projections were for runoff volumes of 20 percent of median. However, due to summer rains, actual runoff was 14,600

acre-feet, or 35 percent of the median. There were two irrigation block releases in 2022 totaling about 34,200 acre-feet. Peak storage was reached in August 2022 and ended the year with 16,660 acre-feet of storage. Due to low water levels, the Corps was unable to collect invasive species samples. There were no flood operations at Santa Rosa.

Next Major Fuller discussed the Two Rivers project, which required operations to control downstream flood risks during August 2022. The August event produced a total inflow volume to the project of 6,750 acre-feet. Gates were closed at Diamond A at the request of downstream operators during flood operations. Rocky dam provided additional flood management on the Rocky Arroyo during the August storm event, storing 3,638 acre-feet. Major Fuller expressed concern regarding reduced channel capacity downstream of the Two Rivers project that could cause flooding. He asked New Mexico to coordinate with local agencies to restore and maintain Rio Hondo and Rocky Arroyo channel capacities.

Major Fuller next discussed the 50-Year Water Plan partnership between New Mexico and numerous stakeholders to assess water challenges and develop projects aimed at improving water sustainability. The Corps is partnering with ISC to provide technical guidance in developing the plan which is scheduled to be completed in July 2023.

At the conclusion of the Corps report, there was one question from Mr. Holdeman from FSID regarding where to find the 2022 water management civil works activities document. The document was provided to all participants.

International Boundary Waters Commission (IBWC)

There was no presentation from IBWC.

10. Unfinished Business

There was no unfinished business.

11. New Business

Resolutions

Commissioners Willis and Tate asked Mr. Scott to read into the record resolutions regarding funding of USGS streamflow gages and the vacancy of the federal Pecos River Commission chairperson.

Commissioner Willis moved to approve each resolution, seconded by Commissioner Tate. The motions were carried by unanimous vote.

The commissioners set the date for the 2024 annual meeting for Tuesday April 9, 2024.

There was no public comment.

12. Adjournment

Commissioner Willis moved to adjourn the meeting, seconded by Commissioner Tate. The motion was carried by unanimous vote. The meeting adjourned 10:46 a.m.