

State

N. Mexico-El Paso water feud to be settled in court

United Press International
SANTA FE — A water rights battle between New Mexico and El Paso Tuesday moved a step closer to the courtroom when the state engineer ruled the thirsty

Texas city could not have New Mexico's water.
That ruling, issued as a memorandum opinion by State Engineer Steve Reynolds, sets the stage for a legal challenge to a provision of

New Mexico's constitution that prohibits the out-of-state transport of the state's water.

El Paso sued New Mexico in September 1980, claiming it needed the water—most of which would come from the lower Rio Grande River underground water basin in Dona Ana County—for its continued growth and well being.

Besides the suit, El Paso filed 266 applications to appropriate annually 246,000 acre feet of water in the Lower Rio Grande basin and 60 applications for 50,000 acre feet from the Hueco underground water basin. Both those applica-

tions were filed in September 1980.

But U.S. District Court Judge Howard Bratton of Albuquerque ruled in February 1981 that the issue was not ripe for a trial since New Mexico had not rejected El Paso's claim for water.

By filing the applications, El Paso set the stage for the trial, since it appeared inevitable that the state would refuse the request for water based on its constitutional prohibition on the out-of-state use of its water.

Reynolds had said he would adhere to the regular procedures for processing the applications,

but later changed his mind. In a six-page memorandum opinion, he said he "has concluded that the use of New Mexico's public waters in another state, as proposed by El Paso's applications, would constitute a violation of the New Mexico constitution."

For that reason, Reynolds said, the applications should not be issued.

And, he said, the New Mexico constitution provides that "beneficial use shall be the basis, the measure and the limit of the right to the use of water."

"Because the state cannot control the nature and manner of use

outside its boundaries," Reynolds wrote, "this provision must be construed to prohibit use of the public water outside the state's boundaries."

Reynolds also said a pre-hearing conference in Las Cruces in March convinced him that "a protracted time schedule would be necessary before a hearing could be held on the El Paso applications and that the cost and delay thus occasioned subsequent New Mexico applicants would be lengthy and inordinate."

Thus, the ruling was made to expedite the legal question of whether one state can claim

another state's water.

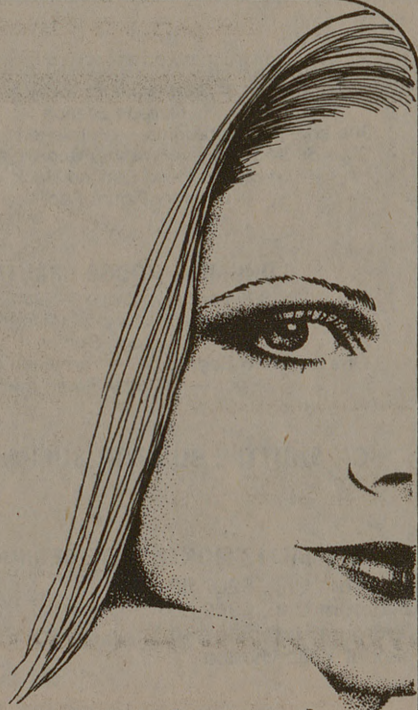
His ruling also cited legal historical sanctions on the water. "This history of development of the legal status of waters and the congressional, authorized and judicially sanctioned prerogatives of the individual states in the allocation and management of rights to the public waters convinces me (portions of) the New Mexico constitution preclude the utilization of the public waters of New Mexico outside of its borders; therefore, the above-styled declarations of the city of El Paso hereby denied," he wrote.

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Ag hearings seek info on legislation

United Press International
LUBBOCK — Farmers faced with soaring interest rates, increased costs of production and low prices for their products won't be in business next year unless the 1981 crop is an abundant one, a loan officer has told a U.S. House Agriculture Committee hearing.

"If farmers don't get maximum production this year, they won't be back like the sparrows next spring," Cleve Littlepage of Tahoka, an official of the Production Credit Association, said Tuesday.

The remark was made at one of three hearings being conducted in West Texas with U.S. Texas Reps. Kent Hance, D-Lubbock; Charles Stenholm, D-Stamford, and Jack

Hightower, D-Vernon, and Rep. Arian Stangeland, D-Minn.

Charlotte McLaughling of Petersburg, president of the Texas chapter of Women Involved in Farm Economics, said the losses farmers have incurred as a result of the halt of grain sales to the Soviet Union should be the responsibility of all taxpayers.

Stangeland brought applause from the 300 people present when he agreed, saying, "If the embargo is in the national interest, all taxpayers should take the responsibility. Agriculture should be treated as the defense establishment is."

Purpose of the hearings, held in Abilene on Monday, Lubbock on Tuesday and Amarillo on Wednesday, is to gain input on a proposed agricultural legislation package,

which the Senate will begin considering later this month.

James Stair of Plainview, Texas chairman of the American Agriculture Movement, reiterated the organization's belief in parity, asking the committee to consider the formula as a "prescription for a sick agriculture."

"The world only wants food from America now," he said. "And foreigners don't respect us for selling our commodities for less than the cost of production."

Carl King of Dimmitt, president of Texas Corn Growers, said the federal disaster program should be extended as an alternative to Federal Crop Insurance, adding, "It will be a disaster if there is no disaster program."

If the government is to tie cost

of production figures to various farm programs, the cost of land should be included, said Robert Green of Hartley, vice president of the Grain Sorghum Producers Association.

About half of the grain sorghum grown in the United States, he

said, is produced on rented land which greatly affects the cost of production.

"The only way consumers ever take the current problem seriously is if they go to the store one day and find the shelves empty," Stenholm told the hearing.

Texas prison change monitor is optimistic

United Press International
HOUSTON — The Tyler native chosen by U.S. District Judge William Wayne Justice to monitor state compliance with his prison reform order says he is optimistic about his mission.

However, Vincent M. Nathan, who has supervised three other penal reform cases, says he is not sure how long it will take to implement the reforms.

"I don't expect it to be over in a month, but I expect it to be less than a lifetime. I am certainly optimistic that, whatever the needed changes are that the judge has ordered, they will be made," he said Tuesday.

Nathan, a Toledo, Ohio, lawyer, was appointed Monday as special master to monitor state compliance with Justice's instructions to reduce overcrowding, increase inmate security and improve conditions in Texas prisons.

He has performed similar roles in penal reform cases in the Louisiana, Ohio, jail and in Ohio and Georgia state prisons.

"I will monitor the efforts to carry out the orders, but I will not have any administrative authority myself," Nathan said.

He described his role as acting as "the eyes and ears of the court, keeping up with state compliance."

Justice gave Nathan extensive authority to inspect prisons, look at prison records, confidentially interview prison officials, employees and inmates, and to hold limited hearings to gather information on Texas prison reform.

Nathan, 43, who grew up in Dallas, said the Texas case "is the sweeping (of cases he has monitored) in that it is a systemwide case. The others involved single institutions."

Nathan, a graduate of the University of Oklahoma law school and a 16-year law professor at the University of Toledo, was appointed to monitor court-ordered reforms in the Marion, Ohio, state prison in 1975.

He later was appointed to monitor compliance with court reform orders in the Lucas County Jail in Toledo, Ohio, and in 1979 took on the special master's role in the Reidsville, Ga., state prison reform case.

"It's not a problem unique to Texas," Nathan said. "It's happened all over the country. It's very, very hard to run an institution the way corrections people want, and need, for them to run."

Justice ordered the state to deposit \$150,000 with the court as downpayment on Nathan's \$95-an-hour fee and his costs.

Texas Attorney General Mark White has said he will appeal Justice's order—including his appointment of Nathan—to the U.S. Supreme Court if necessary.

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