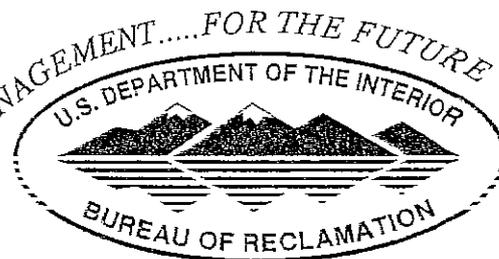


2002 Calendar Year Report to the Pecos River Commission

NEW MEXICO
Charles Coll

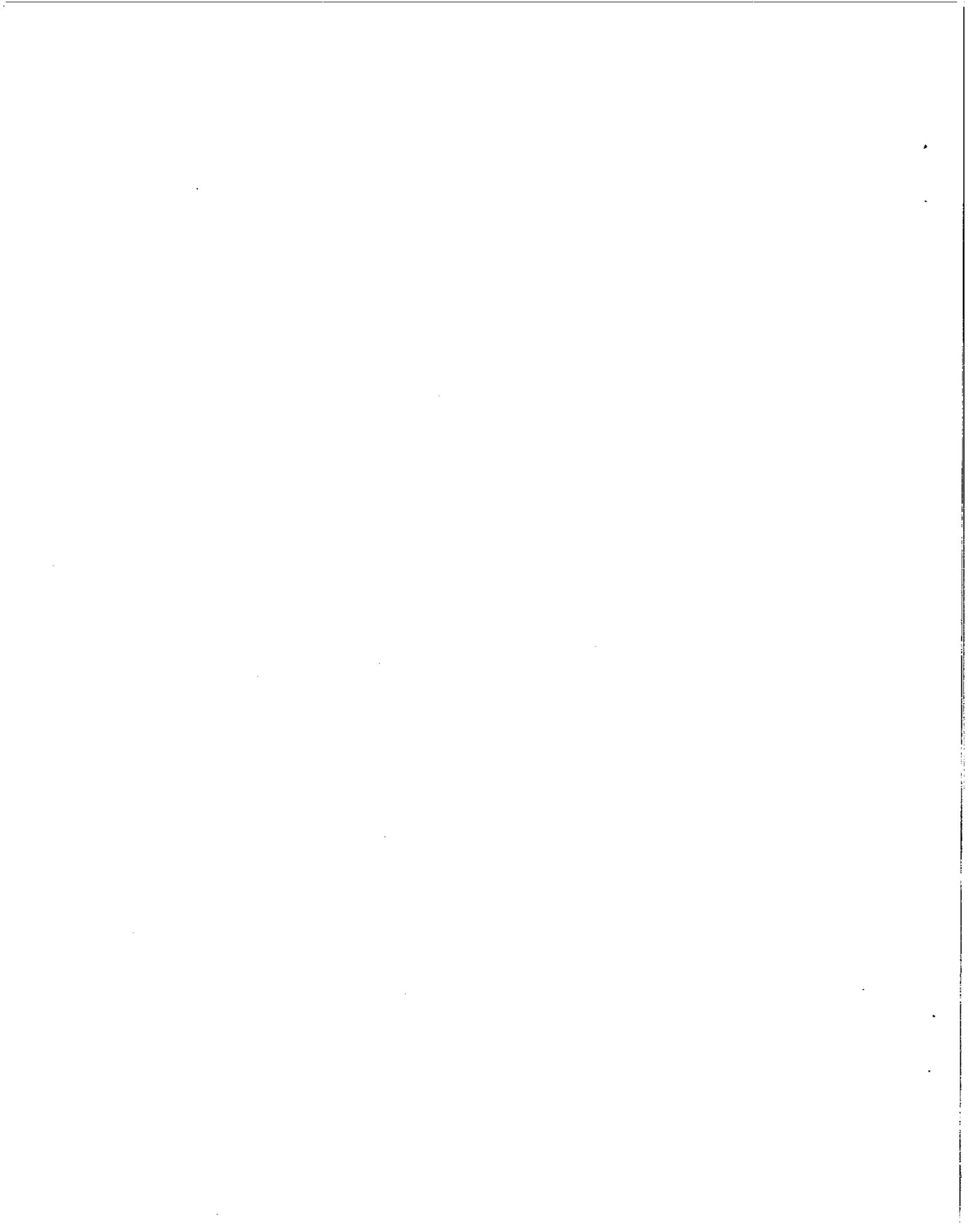
TEXAS
Julian Thrasher, Jr.

FEDERAL CHAIRMAN
Marvin Watts



UNITED STATES DEPARTMENT of the INTERIOR
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Upper Colorado Region
Albuquerque Area Office
March 14, 2003

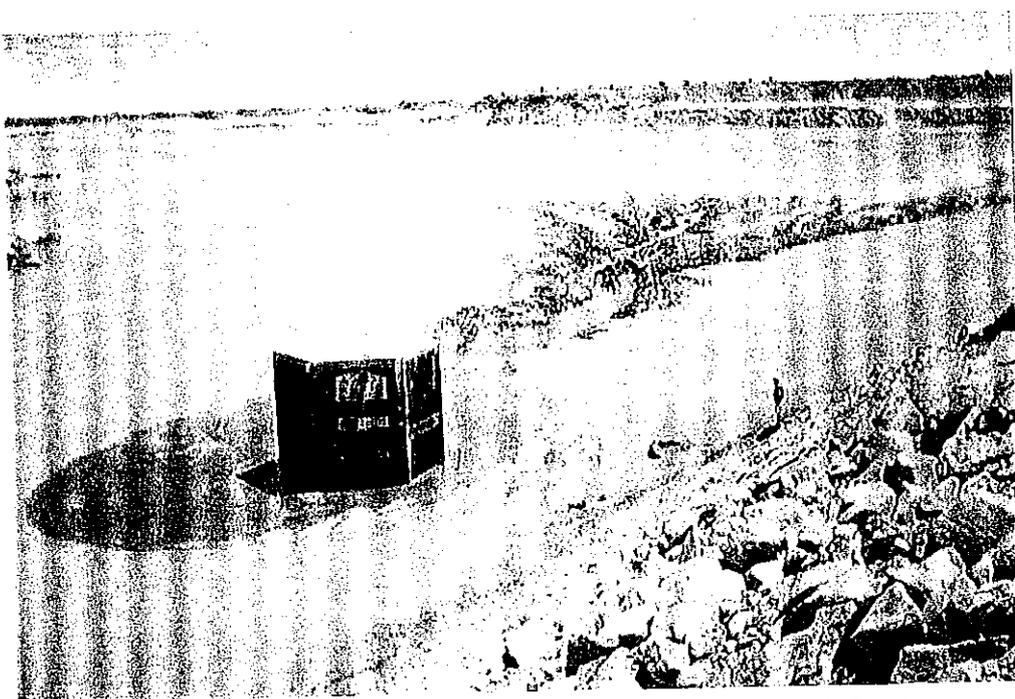


2002 Calendar Year Report to the Pecos River Commission

NEW MEXICO
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Marvin Watts



Sumner Reservoir River Outlet Works Intake Structure, May 31, 2003
Photograph by Jon Trotter (CID).

UNITED STATES DEPARTMENT of the INTERIOR
BUREAU of RECLAMATION



Upper Colorado Region
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March 14, 2003

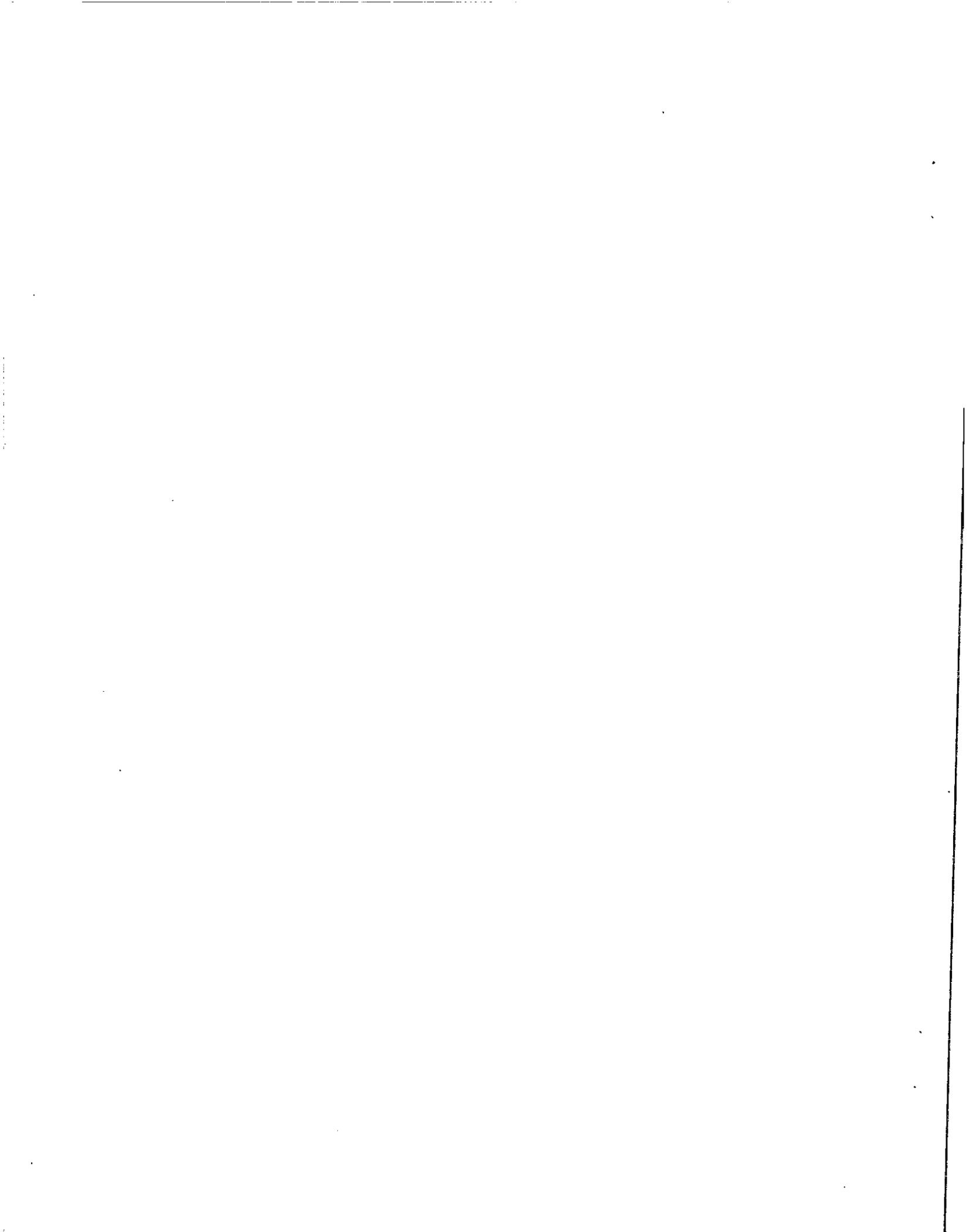


TABLE OF CONTENTS

1.0 INTRODUCTION	1
2.0 CARLSBAD PROJECT	1
2.1 Crop Production	1
2.2 Reservoir Storage Entitlements.....	4
2.3 Sumner Dam and Reservoir	5
2.4 Brantley Dam and Reservoir	7
2.5 Avalon Dam and Reservoir	9
3.0 CARLSBAD PROJECT ENVIRONMENTAL COMPLIANCE ACTIVITIES	10
3.1 Endangered Species Program for Water Operations	10
3.2 National Environmental Policy Act Activities for Water Operations	11
3.3 National Environmental Policy Act Activities for Resource Management Plan.....	12
4.0 PECOS RIVER BASIN WATER SALVAGE PROJECT	12
5.0 FORT SUMNER PROJECT	13
5.1 Crop Production	13
5.2 Operations.....	13
6.0 OTHER PECOS RIVER ACTIVITIES	14
6.1 Reclamation's Water Offset Program.....	14
6.2 Carlsbad Irrigation District Water Lease Program.....	14
6.3 Water Release and Replacement Agreement for State Line Delivery	15
6.4 Ad Hoc Pecos River Basin Committee.....	15
6.5 Pecos River Basin General Stream Adjudication	15
6.6 Endangered Species Act Related Litigation	16

LIST OF TABLES

Table 1. 2002 Pecos River Storage Entitlements.	4
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LIST OF FIGURES

Figure 1. Project map of the Reclamation's Albuquerque Area Office.	2
Figure 2. Area map of the Carlsbad Project.	3
Figure 3. Calendar year 2002 Sumner Dam releases/bypasses and total storage6	
Figure 4. Calendar year 2002 Brantley Dam releases and total storage volumes8	
Figure 5. Calendar Year 2002 CID Main Canal Diversions Endangered Species9	
Figure 6. Fort Sumner Irrigation District 2002 Diversions13	

**U. S. Bureau of Reclamation
Upper Colorado Region - Albuquerque Area Office
2002 Calendar Year Report to the Pecos River Commission**

1.0 INTRODUCTION

The Albuquerque Area Office of the Bureau of Reclamation (Reclamation) is responsible for operation, maintenance, and oversight of three projects on the Pecos River (Figure 1). These projects are: the *Carlsbad Project*, which includes Sumner, Brantley, and Avalon Dams; the *Pecos River Basin Water Salvage Project*; and the *Fort Sumner Project*, which includes the Fort Sumner Diversion Dam.

Reclamation's Carlsbad Field Office continues to report to the Albuquerque Area Office's Water Resource Management Division. An agreement between Reclamation and Carlsbad Irrigation District (CID), finalized on October 2, 1989, provided for CID to operate and maintain Brantley Dam, Sumner Dam, and the Pecos River Water Salvage Project. Reclamation continues to be responsible for assuring that this work is accomplished in compliance with all applicable agreements, contracts, regulations, compacts, and other related laws.

2.0 CARLSBAD PROJECT

2.1 Crop Production

As of the printing of this report, Reclamation has not received CID's 2002 crop and water data. This information is generally received in mid to late spring of the following year.

At the time of the printing of the 2001 Calendar Year Report to the Pecos River Commission, Reclamation had not received a 2001 crop census report from CID, therefore this information is now being provided in the 2002 report. The crops grown in 2001 were corn, oats, grass, cotton lint, cotton seed, sorghums, wheat, irrigated pasture, silage, peppers, cantaloupe, watermelon, family gardens, alfalfa, and pecans. Out of a total irrigable area of 25,055 acres, 17,721.50 acres were irrigated in 2001. Total gross crop related income is not reported on the District's crop and water data, therefore the average crop value per irrigated acre is not known. Of the total water diverted, 53,796 acre-feet (af) were delivered to the irrigated lands, for a total of 3.0 af delivered per irrigated acre.

ALBUQUERQUE AREA OFFICE BUREAU OF RECLAMATION

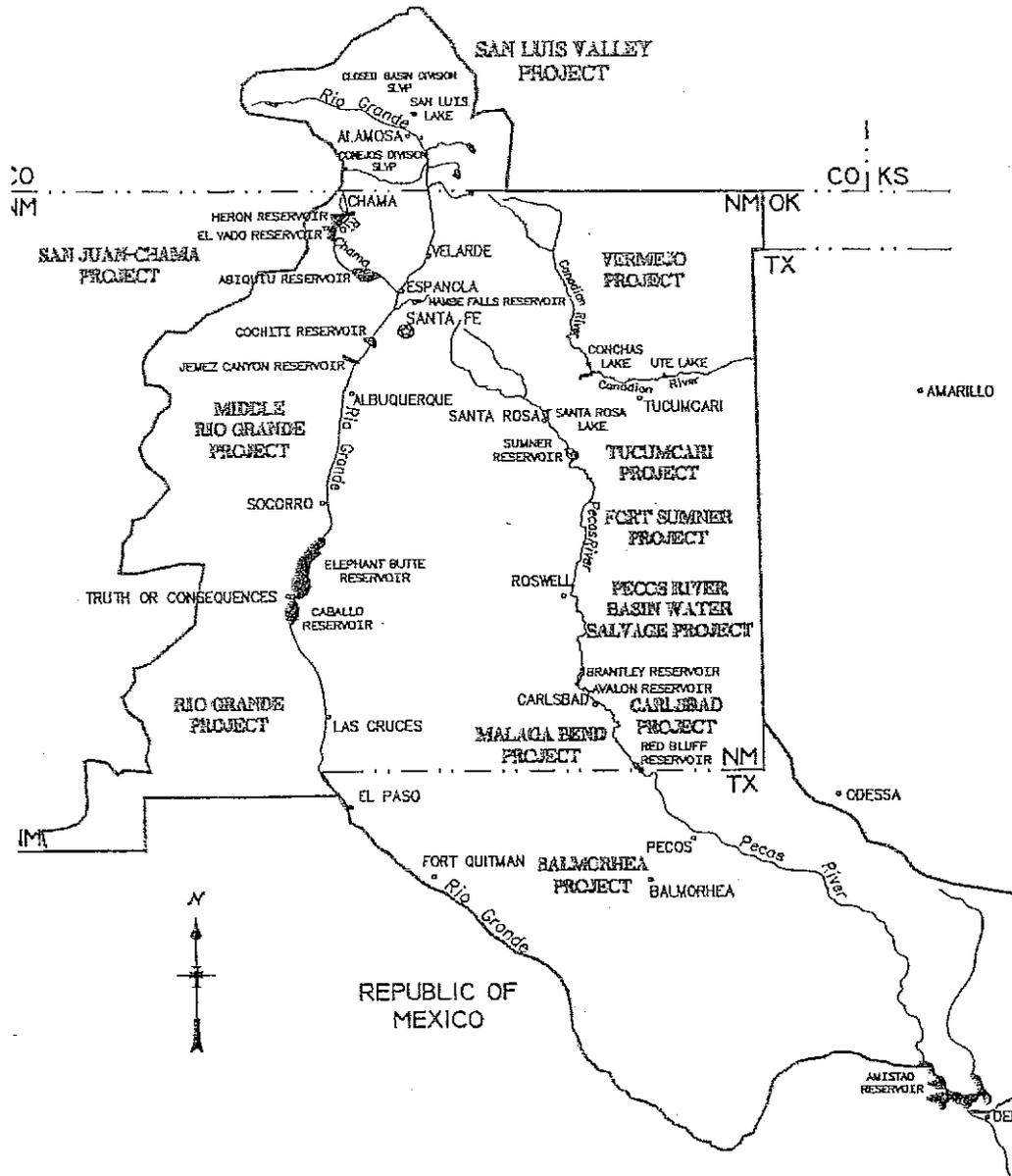


Figure 1. Project Map of Reclamation's Albuquerque Area Office.

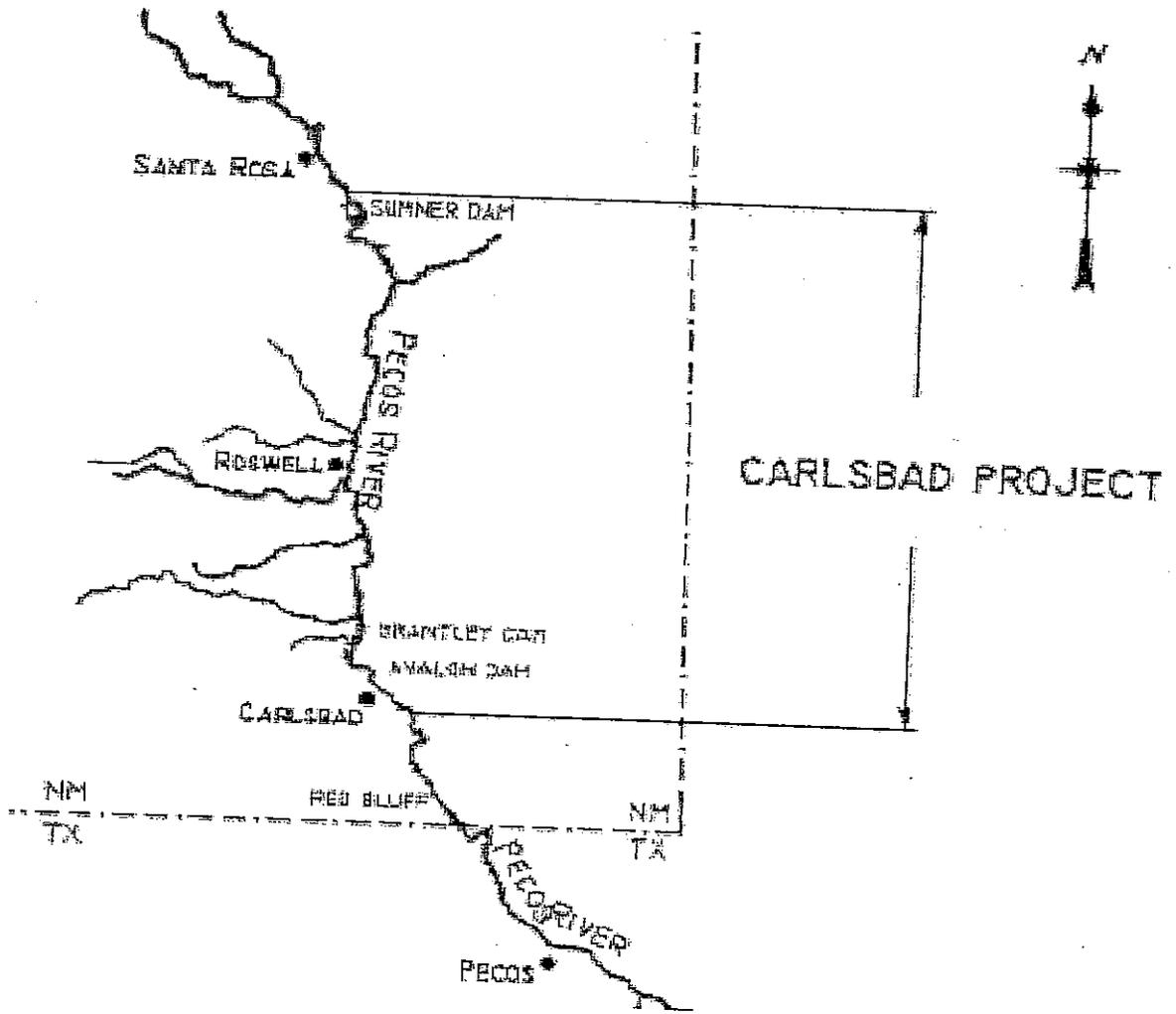


Figure 2. Area map of the Carlsbad Project.

2.2 Reservoir Storage Entitlements

All Carlsbad Project reservoirs (Figure 2) were operated in accordance with the requirements of the Pecos River Compact and U.S. Army Corps of Engineers' (COE) flood control criteria.

The COE determines area and capacity tables for Santa Rosa Reservoir. Reclamation calculates annual total conservation storage entitlements for the Pecos River reservoirs that are in New Mexico. Table 1 presents the calendar year 2002 storage entitlements for the four Pecos River Reservoirs.

Table 1. 2002 Pecos River Reservoir Storage Entitlements.

Reservoir	Entitlement Storage (af)	Minimum Pool (af)	Total Estimated Sediment Accumulation (af)	Total Conservation Storage (af)	Conservation Elevation (feet)
Santa Rosa	92,237	0	2,631	94,868	4744.39
Sumner	40,397	2,500	29	42,926	4,262.88 (NAVD88)
Brantley	40,000	2,000	50	42,059	3,255.98 (NAVD 88)
Avalon	3,866	600	0	4,466	3,117.40
TOTAL:	176,500				

Operation of the dams on the Pecos River is a joint effort between Reclamation, CID, and the COE. The COE has flood control responsibilities at Sumner Dam when the reservoir gets into the exclusive flood pool (elevation 4262.88 to 4283.88 feet (ft); except it is 4269.16 to 4283.88 ft from November 1 through April 30, elevations in North American Vertical Datum (NAVD) 88) and at Brantley Dam when the reservoir elevation is above 3272.69 ft up to 3284.69 ft (NAVD 88).

The 2001 end-of-year total CID conservation storage in the four Pecos River reservoirs (Santa Rosa, Sumner, Brantley and Avalon) was at 18 percent of entitlement. Santa Rosa, Sumner, Brantley and Avalon reservoirs on the Pecos River were at approximately 15, 19, 16, and 24 percent, respectively, of each reservoir's entitled conservation storage. The March 1, 2001 most probable forecasted snow melt runoff inflow into Santa Rosa Reservoir for the period March through July was approximately 34,000 af or 64 percent of the 30-year average.

The actual March through July 2002 inflow to Santa Rosa Reservoir was 2,463 af, approximately 5 percent of the 30-year average. On December 31, 2002, the total CID entitlement storage in the four Pecos reservoirs was at 11 percent of entitlement. Santa Rosa, Sumner, Brantley and Avalon reservoirs were at approximately 11, 19, 25, and 0 percent, respectively, of each reservoir's entitlement storage.

2.3 Sumner Dam and Reservoir

2.3.1 Sumner Dam Operations

The operation of Sumner Dam is to divert to storage available natural inflow above Fort Sumner Irrigation District's (FSID's) allotted water right (up to 100 cubic-feet-per-second (cfs) of the natural inflow above Sumner Reservoir) and when not required to target downstream flows at the United States Geological Survey (USGS) Pecos River near Acme river gage (located 113 miles downstream of Sumner Dam), and to release stored Carlsbad project water for CID. Reclamation took over the operation of Sumner Dam on November 12, 1998 to assure compliance with the Endangered Species Act (ESA) and provide bypasses for the threatened Pecos bluntnose shiner. Reclamation continues to direct the CID dam tender on gate adjustments and the CID continues to be responsible for all maintenance activities. This operating procedure does not alter the normal operations of Avalon and Brantley Reservoirs for the purpose of delivering water to CID.

Under a water right permit granted by the State of New Mexico, CID is allowed to store up to an additional 20,000 af in Sumner Reservoir from November 1 to April 30 each year, provided that the entitled conservation storage of all four reservoirs on the Pecos River in New Mexico does not exceed 176,500 af. No additional storage under this water right permit occurred in 2002.

Sumner Reservoir began the year with 10,262 af in total storage. Winter season ESA-related bypasses had been initiated on November 9, 2001, and were discontinued on February 12, 2002. Irrigation season ESA-related bypasses occurred three times, June 21-23 (28 cfs), August 5-7 (10cfs), and September 20-22 (20cfs). The only CID block release of the 2002 irrigation season was initiated on March 5 and terminated on March 15, a total of 23,950 af were released from Sumner Dam (Figure 3). There were 8 days at peak discharge of 1,200 cfs. Sumner Reservoir reached a maximum total storage of 14,232 af on February 13. Sumner Reservoir's lowest total storage was on May 31, when the reservoir level was well below 100 af. Sumner Reservoir end-of-year total storage was 10,291 af.

Sumner Reservoir dropped below the minimum pool on March 18 and remained below the minimum pool until September 14. On May 31 the reservoir effectively went dry. The gates were shut when damage to the facilities became a concern due to high sediment in the discharged water. A fish kill occurred downstream and bypass flows for FSID were discontinued until June 03. The reservoir experienced 36 days below 500 af and 39 days between 500 and 1,000 af.

2002 Sumner Dam Bypass/Release and Total Storage

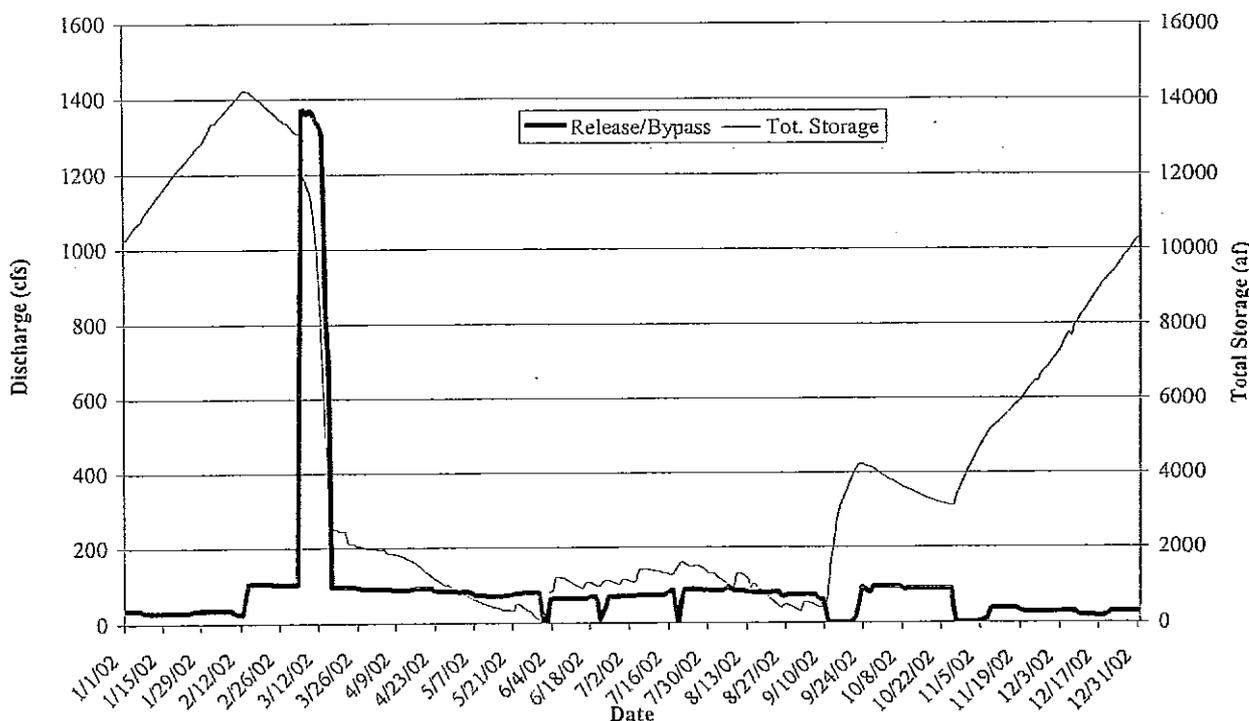


Figure 3. Calendar year 2002 Sumner Dam bypass/release and total storage (downloaded from USGS web site on 2/19/03).

A total of approximately 5,563 af were bypassed for ESA-related purposes during the winter season from November 1, 2001, through February 28, 2002. A total of approximately 228 af were bypassed during the 2002 irrigation season. The effects of these modified operations on the Carlsbad Project water supply are discussed in Section 5.1 Reclamation's Water Offset Program. Reclamation has leased water from river pumpers and the Hagerman Irrigation Company to replace the depletions associated with the modified operations.

2.3.2 Sumner Dam Facility Review and Safety of Dams Programs

An inspection of the river outlet works occurred on November 06, 2002 to ensure that damage did not occur from the high sediment load passed through the outlet works when Sumner Reservoir went dry. No significant damage was found in the penstocks. Coating of the penstocks has been delayed until the winter season 2003/2004.

A Sumner Dam periodic facility review was performed on May 16th 2002.

2.4 Brantley Dam and Reservoir

2.4.1 Brantley Dam Operations

The operations of Brantley Dam are the bypass of mitigation flows for the construction of Brantley Dam (20 cfs) during periods without irrigation releases and the release of water for use in CID. During the irrigation season (normally March through October), releases are made from Brantley Dam to Avalon Reservoir at the rate necessary to support the diversion into the CID's main canal, generally between 75 and 350 cfs, as required by irrigation demand (Figure 4). Additionally, Brantley Dam releases were made, in December 2002, to assist the NMISC in meeting its Pecos River Compact obligations as discussed in section 6.3 Water Release and Replacement Agreement for State Line Delivery and 5.2 Carlsbad Irrigation District Water Lease Program.

The COE has flood operation responsibility once the reservoir rises into the flood pool, as identified by the COE in their Water Control Manuals for Brantley Dam. Even though the top of the conservation or entitlement pool for Brantley Reservoir was 3,255.98 ft (NAVD 88) for 2002, the COE does not recognize its flood operations control responsibility to start until the reservoir reaches elevation 3,272.69 ft which is the projected top of conservation after 100 years of sediment buildup. Therefore, Reclamation has flood operation control responsibility below elevation 3,272.69 (NAVD 88) ft to the top of the entitlement pool, which is adjusted each year for sediment.

Brantley Reservoir began the year with a total storage of 8,537 af. Brantley Dam irrigation releases were initiated on April 13 and were stopped and started as needed to meet demand and to conserve water. The final irrigation release occurred on October 15. Approximately 44,500 af were released for irrigation during this period. Brantley Reservoir reached a maximum total storage of 30,080 af on April 13. Brantley Reservoir's lowest total storage was on September 8 at a volume of 6,241 af. Brantley Reservoir end-of-year total storage was 12,020 af.

2002 Brantley Dam Release and Total Storage

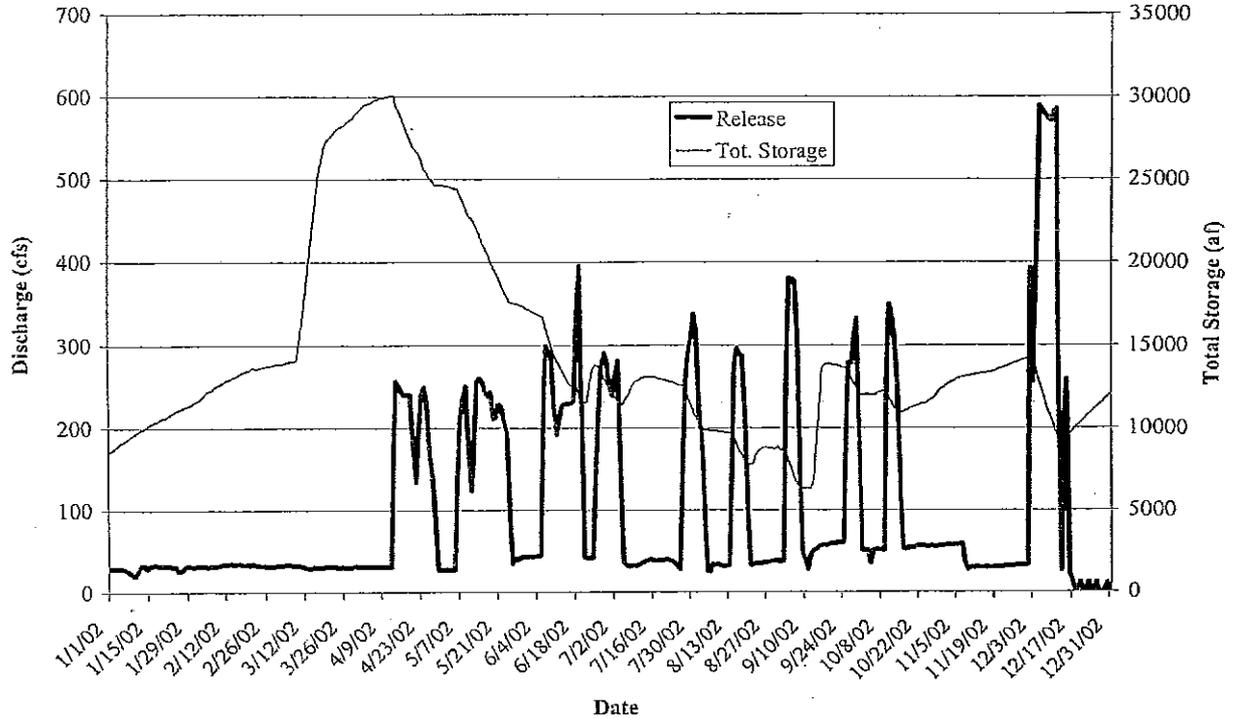


Figure 4. Calendar year 2002 Brantley Dam releases and total storage (downloaded from USGS web site on 2/19/03).

2.4.2 Brantley Dam Facility Review and Safety of Dams Programs

A periodic facility review for Brantley Dam was performed on May 15, 2002. The sinkholes downstream and upstream of the left end of Brantley Dam are being monitored visually and surveyed every two years.

2.4.3 Brantley Reservoir Water Quality Monitoring

Weekly monitoring of water quality has been ongoing since 1997 under contract to the Carlsbad Environmental Monitoring and Research Center of New Mexico State University. Total dissolved solids, salinity, specific conductivity, temperature, dissolved oxygen, and pH data are collected each week at locations in the inflow to the lake, the outflow below the dam, and at 5-ft depth intervals at the dam. Data are provided to CID, Brantley Dam and Reclamation in Albuquerque. Quarterly and annual reports were received by Reclamation in 2002.

2.5 Avalon Dam and Reservoir

2.5.1 Avalon Dam Operations

Avalon Reservoir began the year with conservation storage of 1,525 af. Due to the small reservoir capacity and the location of Brantley Dam 10 miles upstream, Avalon Dam is used primarily as a diversion dam to meet irrigation demand for the CID. Water is released from Brantley Dam and the small reservoir at Avalon is used to fine tune the releases into the CID Main Canal. Diversions into the CID Main Canal began on February 14, and ceased on October 26, totaling 36,630 af. Diversions into the CID main canal are given in Figure 5. Calendar Year 2002 CID Main Canal Diversions.

Calendar Year 2002 Carlsbad Irrigation District Main Canal Diversions

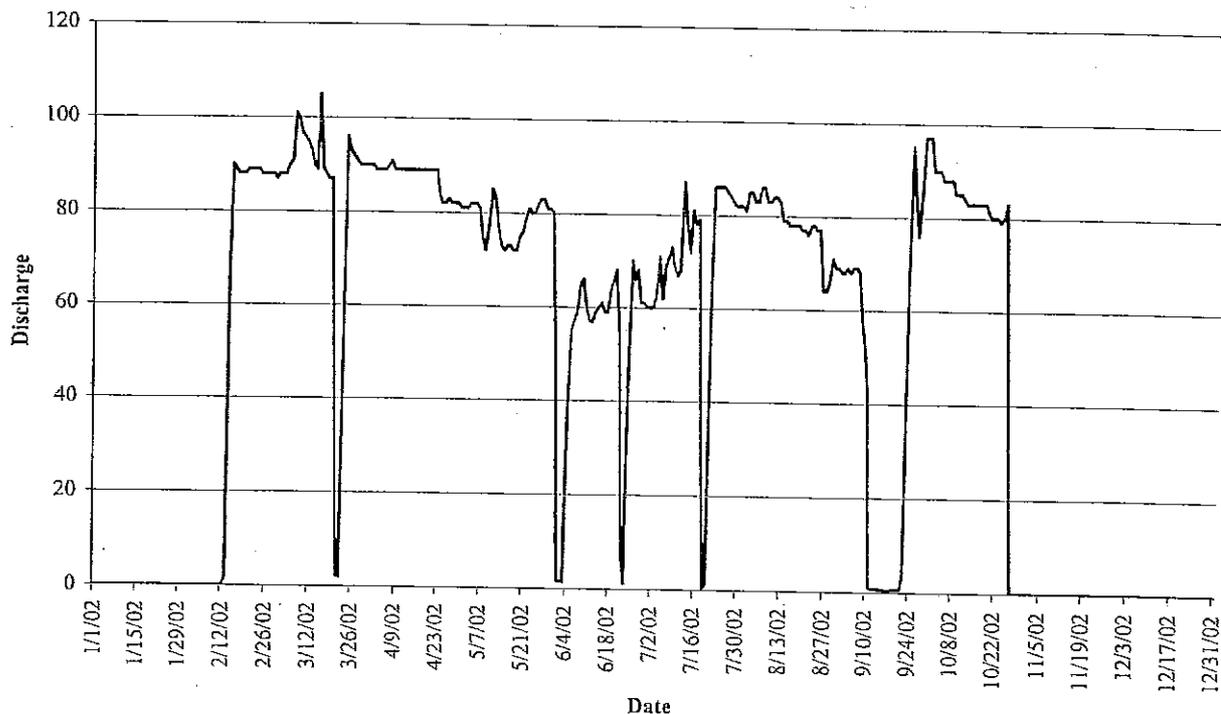


Figure 5. Calendar Year 2002 CID Main Canal Diversions (downloaded from the USGS web site 2/19/03).

Releases for the NMISC and CID lease agreement were bypassed through Avalon Dam. A total of 13,700 af of water was released from Avalon Dam directly to the Pecos River in 2002. Avalon Reservoir end-of-year total storage was 21 af. Avalon Reservoir was drawn down for maintenance purposes.

2.5.2 Avalon Dam Facility Review and Safety of Dams Programs

A periodic facility review for Avalon Dam was performed on May 14, 2002.

3.0 CARLSBAD PROJECT ENVIRONMENTAL COMPLIANCE ACTIVITIES

3.1 Endangered Species Program for Water Operations

The Pecos River went intermittent for the second in as many years (as recorded by the USGS Pecos River Near Acme, NM). The first of the two drying events occurred from May 20 to June 14. The second period occurred from August 1 to September 10. Reclamation contracted with the New Mexico Department of Game and Fish (NMDGF) to monitor all intermittent events throughout the 2002 irrigation season. The NMISC contracted with the SWCA Environmental Consultants, Inc (SWCA) to monitor intermittent conditions during the same period.

Reclamation leased groundwater rights associated with 300 acres located approximately 15 miles upstream of the Acme gage. Approximately 486 af were pumped to the Pecos River during calendar year 2002. The land fallowing and pumping operation associated with the groundwater lease did not increase or decrease the Carlsbad Project water supply in 2002. Although the water pumped to the Pecos river did provide refuge for approximately one mile during low flow and intermittent conditions.

SWCA produced a draft report entitled "Relationships Between Stream Flow and Habitat of Pecos Bluntnose Shiner and Response of the Fish Community to Intermittent Summer Flows in the Pecos River, New Mexico" on January 10, 2003. The report is available through the NMISC. The U.S. Fish and Wildlife service also produced a final draft report entitled "Pecos Bluntnose Shiner Habitat Suitability Pecos River, New Mexico 1992 through 1999." The U.S. Fish and Wildlife report is currently undergoing review by Reclamation before it is released for comments.

The U.S Fish and Wildlife Service, Fisheries Resource Office, made a total of six monitoring trips throughout the 2002 irrigation season. The monitoring trips focused on the fish community between Sumner Dam and Brantley Reservoir and also recorded effects of intermittent conditions which occurred through out the 2002 irrigation season. Their data showed a significant drop in Pecos bluntnose shiner density over the period of April to August 2002.

Reclamation initiated formal consultation on December 13, 2002 through a "Biological Assessment of Proposed Pecos River Dam Operations March 1, 2003 through February 28, 2006." The Biological Assessment was prepared to describe and analyze the potential effects of Reclamation's proposed Pecos River Dam operations on the Pecos river bluntnose shiner. Reclamation proposed to operate the Carlsbad Project to divert to storage and deliver Carlsbad Project water from storage as contracted for irrigation and consistent with applicable federal and state laws.

3.2 National Environmental Policy Act (NEPA) Activities for Water Operations

During 2002, Reclamation and the NMISC signed a joint lead agreement for preparation of the Carlsbad Project Water Operations and Water Supply Conservation Environmental Impact Statement (EIS). A Notice of Intent to prepare the EIS was published in the Federal Register and public scoping meetings were held during October in Santa Rosa, Ft. Sumner, Roswell, and Carlsbad, New Mexico. This is a multi-agency effort with participation by federal, state and local agencies and irrigation districts. The EIS teams are currently preparing descriptive sections of the EIS and a range of alternatives are being formulated. A draft scoping report has been prepared and a newsletter will be distributed this spring. The Draft EIS is expected to be ready for release in Spring 2004.

A second EIS is being performed by Reclamation and the NMISC to cover a permanent miscellaneous purpose contract between NMISC, Carlsbad Irrigation District, and Reclamation. The second EIS will be spearheaded by the NMISC and focus on authorizing use of water for miscellaneous purposes, but expressly to ensure stateline flows to meet compact requirements. Reclamation and the NMISC will be joint leads for both EIS. Both EISs will proceed concurrently to the degree possible.

3.2.1 Biological Resources Working Group

The Biological Resources Working Group (BRWG) is a technical work group of the EIS. The BRWG is made up of biologists and representatives of Reclamation, FWS, COE, NMDGF, NMISC, and CID, and is co-chaired by biologists representing Reclamation and NMISC. Although the BRWG was established to address all biological resources, in 2002, work focused on the Pecos bluntnose shiner. An objective of the BRWG is to review existing data and reports prepared by the FWS and develop methods to help formulate and evaluate water management scenarios.

The co-leads of the BRWG participated in the NEPA Team's public scoping meeting tour through four, eastern New Mexico towns from October 21-24, 2002. The BRWG is now working on drafts of the affected environment section to the EIS and will also produce a Synthesis Report of the Final Report of the study conducted by the FWS from 1992 to 1997.

3.2.2 Pecos River Hydrology Working Group

The Hydrology Working Group (HWG) consists of representatives from Reclamation, NMISC, New Mexico Office of the State Engineer (NMOSE), COE, CID, Pecos Valley Artesian Conservancy District (PVACD), and FWS. The HWG was formed in January 2000 to further develop the river and operations simulation computer model (RiverWare) of the Pecos River from Santa Rosa Lake to Avalon Dam. A suite models have been incorporated to model the Pecos River Basin from Santa Rosa Dam to the Red Bluff gage.

During 2002, the Pecos River RiverWare model was used to monitor the impacts of the November 1, 2000 through October 31, 2001, modified operations. In addition to assessing the impacts to Carlsbad Project water supply, this process develops the accounting methodologies that will be important when using the model to evaluate alternatives for the current water operations NEPA process.

Refinement of the suite of models is on-going.

3.3 National Environmental Policy Act Activities for Resource Management Plan

On September 29, 2000, a draft environmental assessment (EA) for the Brantley/Avalon Resource Management Plan was released to the public for comment. In addition, a Biological Assessment, prepared and submitted to the FWS, has been reviewed and approved. The draft EA identified four management alternatives including A) No Action, B) Resource Conservation Emphasis, C) Multipurpose Emphasis, and D) Recreational Development Emphasis. Reclamation has selected the Multipurpose Emphasis as the preferred alternative and is presently reviewing the comments received on the draft EA. It is anticipated that the Final EA and the Resource Management Plan will be completed by the end of 2003.

4.0 PECOS RIVER BASIN WATER SALVAGE PROJECT

Under the authority of Public Law 88-594, Reclamation continues to control salt cedar growth from the Sumner Dam area to the New Mexico-Texas state line. This excludes the area between the Artesia bridge and north boundary of Reclamation's Brantley lands. Reclamation contracts with the CID to perform the mechanical removal work. Salt cedar removal is primarily accomplished utilizing rubber-tire tractors with root plows, and a D-7 caterpillar with a rake attachment.

Pecos River lands cleared in New Mexico total approximately 33,230 acres. Acreage cleared by Reclamation, south of the New Mexico-Texas state line, totaled about 14,000 acres. The State of Texas presently addresses salt cedar clearing on these areas. Federal lands in the program make up about 36 percent of the cleared areas, and private lands make up about 64 percent.

The original authorizing legislation allowed clearing for approximately 58,000 acres, but was reduced by litigation brought by the Audubon Society and the completion of an EIS in 1979. FY 2002 expenditures for maintaining the cleared areas of salt cedar was \$337,498.00, about \$10.16 per acre. The NMISC funded \$150,000.00 of these costs.

NMISC continues to fund Reclamation's involvement in obtaining annual cooperative agency agreements from private landowners for the Pecos River Basin Water Salvage Program.

Although the program did not achieve the original acreage intended, the Water Salvage Project is, to date, the largest, and most successful effort to control the growth of salt cedar in the Pecos Valley.

5.0 FORT SUMNER PROJECT

5.1 Crop Production

As of the printing of this report, Reclamation has not received the FSID's 2002 crop and water data. This information is generally received in mid to late spring of the following year.

5.2 Operations

The irrigation season for FSID typically begins March 1 and ends October 31. FSID is also allowed to divert for two, eight-day periods during the winter. This winter right is usually taken just prior to the March 1 irrigation season. During irrigation season, 80 to 100 cfs is usually bypassed through Sumner Reservoir depending on FSID's available water right. During 2002, FSID began calling for water on February 13, 2002 and discontinued irrigating on October 26, 2002. FSID's allotment ranged from 65 to 100 cfs (Figure 6). A total of 36,650 af were diverted into the FSID Main Canal as recorded at the USGS Fort Sumner Main Canal Near Fort Sumner, NM gage.

2002 Fort Sumner Main Canal Diversions

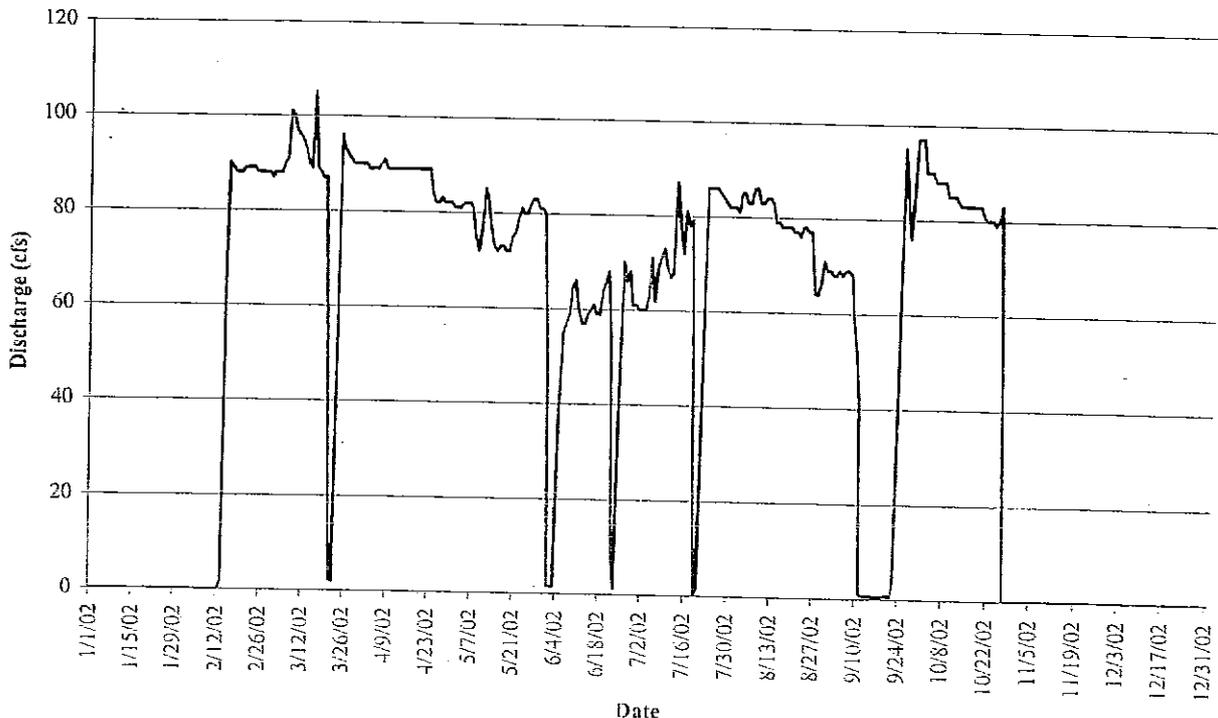


Figure 6. Fort Sumner Irrigation District 2002 diversions (downloaded from USGS web site on 02/20/03).

6.0 OTHER PECOS RIVER ACTIVITIES AND OPERATIONS

6.1 Reclamation's Water Offset Program

The water year 2001 water accounting was finalized on October 29, 2002. The final results concluded that Reclamation ended the water year with a credit of 335 af. Concurrence was received from the NMISC on December 3, 2002. Provisional data was used for the calculations and Reclamation will accordingly revise the accounting.

Reclamation continued its best effort to offset the additional depletions to the Carlsbad Project water supply associated with the ESA-related modified operations of Sumner Dam through a water offset program. During 2002, agreements were reached with six Pecos River pumpers to lease the water rights associated with 1,255.4 acres. An agreement with Hagerman Irrigation Company (HIC) made in 2001 continued to deliver water associated with 630 acres to the Pecos River in the 2002 accounting period. Additional water was delivered to the Pecos River from the HIC under the terms of a 5-year lease for 169 acres. Applying a consumptive irrigation requirement of 2.1 af/acre to the 1,255.4 acres associated with the river pumpers and the 799 (630 acres late 2001, and 169 acres 2002) acres associated with the Hagerman Irrigation Company, an offset credit of approximately 4,314 af is realized.

General calculations show that Reclamation's water offset program was successful in offsetting the additional depletions incurred by the modified operations of Sumner Dam for the period November 1, 2001, through October 31, 2002. In general, the bypass flows are approximately 50 percent as efficient as block releases. The bypass of approximately 5,563 af resulted in approximately 2,781 af of additional depletions to the Carlsbad Project water supply. Reclamation's water acquisition credit of approximately 4,649 af (4,314 af plus 2001 credit) more than offsets the additional depletions. Reclamation and NMISC staff are working together to finalize the accounting. The Pecos River RiverWare model is being used in the final accounting.

6.2 Carlsbad Irrigation District Water Lease Program

Reclamation and CID entered into a 5-year agreement on February 9, 1999, which authorizes the conversion of Carlsbad Project water from irrigation to miscellaneous purposes and uses other than irrigation. This agreement is an umbrella contract which allows individual yearly contracts with the NMISC. A three-party agreement among CID, Reclamation, and NMISC for the 2002 water year was entered into on March 20, 2002, to lease from CID water allocated and available to CID but uncalled for by its users (undelivered allotment water), as well as water made available from fallowed lands within the District (fallowed land water). Approximately 5,188 af of such water were released to the Pecos River for delivery to the New Mexico-Texas state line.

6.3 Water Release and Replacement Agreement for State Line Delivery

In December 2002, Reclamation signed a water release and replacement agreement with CID and the NMISC that allowed release of up to 5,000 af of water from Avalon Dam for end-of-year state line delivery. The NMISC replaced the released water by purchasing groundwater and delivering it to Brantley Reservoir. Delivery of 5,000 acre-feet of replacement water was completed during October and November 2002.

6.4 Lower Pecos River Basin Committee (Ad Hoc Pecos River Basin Committee)

Reclamation participated in the ad hoc committee convened by NMISC in August 2001 to develop a consensus plan for continuing to meet New Mexico's Compact obligations. The committee is continuing as the Lower Pecos River Basin Committee. Implementing the ad hoc committee's plan will require certain actions by Reclamation. In particular, a conversion contract will be needed allowing release of Carlsbad Project water allotted to lands that the NMISC will purchase under the consensus plan. Reclamation and NMISC are negotiating an agreement for completing the required NEPA compliance for the conversion contract.

6.5 Pecos River Basin General Stream Adjudication

State of New Mexico, ex rel. the Office of the State Engineer and Pecos Valley Artesian Conservancy District v. L. T. Lewis, et al. and the United States of America Case Nos. 20294 and 22600 (Consolidated).

The Pecos River General Stream Adjudication (State Engineer v. L.T. Lewis) is ongoing in the 5th Judicial District Court in Chavez County, New Mexico. Reclamation and the U. S. Department of Justice are involved in this case by virtue of the U. S. interest in the water rights for the Carlsbad Project.

In authorizing funding to implement the ad hoc committee's consensus plan, the New Mexico legislature required that there be a settlement of CID's surface water claims (H.B. 417, NMSA 72-1-2.4). CID, PVACD, the State of New Mexico, and the United States have recently completed settlement negotiations. Key settlement terms are in accordance with the consensus plan and H.B. 417. They include NMISC purchase of land and water rights, augmentation of the flow of the Pecos River by pumping groundwater to the river in the Roswell basin, and provisions for management of supplemental well pumping within CID. The settlement also includes operating rules governing the use of water allotted to CID lands that will be purchased by NMISC. Depending on stateline delivery status and the water supply available to CID, NMISC allotments may be delivered to the state line or re-allotted to CID irrigators. Under the settlement the United States and CID have agreed to refrain from making a priority call unless the supply available to CID drops below 50,000 acre feet. Interim provisions will be in effect until December 31, 2004 to allow the parties to meet conditions precedent necessary for fully implementing the settlement.

6.6 Endangered Species Act Related Litigation

Forest Guardians v. Bureau of Reclamation, et al. – CIV No. 02-749-JP/RLP-ACE
On June 27, 2002, the Forest Guardians filed a lawsuit against Reclamation and the Army Corps of Engineers claiming violations of the ESA and NEPA. On September 19, 2002, the Forest Guardians, Reclamation and the Corps met before Judge Parker in Federal District Court for a status conference to determine if the lawsuit should be expedited. An agreement was reached to delay the proceedings of the lawsuit until a biological assessment was completed on or before December 15, 2002 and a project record for the new consultation completed by January 3, 2003.

Reclamation provided a Biological Assessment to the Fish and Wildlife Service on December 13, 2002 and provided the project record on December 30, 2002. A stipulation for the dismissal of the ESA related claims was submitted to the court on February 14, 2003.

Reclamation filed a motion to dismiss the NEPA claims on November 18, 2002. The matter is currently before the court.

