

State: Group can't use
Rio Grande in water
mining proposal

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FAR WEST TEXAS - The group that wants to mine water from hundreds of thousands of acres of state property will not be allowed to use the Rio Grande to convey the water to downstream customers.

Commissioner Jerry Patterson has taken that off the table," Trace Finley, the policy director for the General Land Office (GLO), said Monday. The state owns huge amounts of acreage, much of it rough country and quite remote, in Presidio, Brewster, Jeff Davis, Culberson, Hudspeth and El Paso counties. The GLO oversees the lease of this state property and the money derived from such ventures goes into a trust that generates the states educational funding, called the permanent school fund.

A business group called Rio Nuevo proposed a plan in June 2002 to lease 646,505 acres of property in these six border counties to market the water in the aquifers underlying the rugged terrain. The state property at issue is not a long, contiguous swath, but rather it is hundreds of individual acreages dotted here and there amid privately held land. The individual acreages of this state land ranges from parcels of just a few acres to properties as large as a square-mile section or bigger.

A change in commissioners and a tumultuous year in the Legislature meant that the GLO did not begin look at Rio Nuevo's lease application with any depth until quite recently.

The negotiation starts now," said Finley.

News of the water mining proposal broke last week and with it came the leak of a document called "Rio Nuevo Water Project 2003", which appears to outline goals for the project. The report points out that building a water pipeline to service its proposed lease would be costly and take a significant amount of time to build. The document also states that water could be transferred to Rio Grande Valley consumers via the Rio Grande - an alarming idea to some Big Bend area water experts and officials who worried that a transfer using the river was not conservationally sound. Environmental factors, such as the evaporative and seepage loss of groundwater pumped into the river, had come to the GLO's attention as well and Patterson nixed the idea of river conveyance.

"I think there are a lot of evaporation issues there," Finley said. There were concerns about the volume that would reach its destination and it didn't seem to be an appropriate use for that groundwater." If the water can't go down the Rio Grande, how would Rio Nuevo get the water to its customers?

'Pipelines are the only other alternative to transport that water," Finley said. "Theoretically they could truck it but I don't think that could work."

The GLO was reluctant to talk about the details of the proposed deal while it was still in negotiation, and since those talks are just beginning, Finley didn't necessarily have much information to impart.

The number of acres that could be mined, the amount that the GLO would receive for that lease, the duration of the lease and other pressing questions don't have answers right now.

An Open Record request filed with the GLO by The Big Bend Sentinel and the Presidio International resulted in a copy of Rio Nuevo's lease application, which indicates their willingness to pay 20 cents per acre for use of the property. According to the Secretary of State's office, principals of Rio Nuevo Management are James M. Mark Graf, Robert O. Cannon II, Steven C. Cole, Gary Martin and W. Michael Ford, while Midland attorney Kyle H. McDonnold serves as the registered agent for Rio Nuevo Ltd.

Calls to Rio Nuevo's Midland office and to McDonald were referred to spokesman Bill Miller, the co-founder of a high-profile Austin public relations and lobbyist group called HillCo Partners. Reports in the Fort Worth Star Telegram indicate that Miller's clients have included Farmer's Insurance, oil and gas firm Koch Industries and Alcoa. According to the Austin Business Journal, Miller was part of a three-person "transition" team that helped Midland State Rep. Tom Craddick ascend to speaker of the house earlier this year.

Through a staff member Tuesday, Miller issued the following statement, in its entirety, regarding Rio Nuevo: The school land board voted to proceed to develop a lease agreement with a company for state resources on state lands that have not produced any revenue for over 100 years. The company is willing to finance development of this resource and terms of the agreement have not been reached."

Some elected public servants and officials continue to have reservations about the potential water lease deal.

"Sounds like someone's trying to make a lot of money on something that belongs to the people of this state," Senator Frank Madla said Tuesday. His staff has begun gathering information on the issue. "I do have some concerns as to a private organization being able to get that water and resell it to other communities like El Paso. If the GLO is in the business of selling water, then it ought to be required to offer that water to municipalities and other governmental entities before they market it in a private manner. It's only fair. That water belongs to the people of Texas." Not all of that water is potable, either, especially in South Brewster County, where much of the groundwater must be treated for safe consumption.

A landscape Swiss-cheesed by numerous pumping wells could also have a

ripple effect on local economy, pointed out Brewster County Judge Val Beard.

"This is environmentally, culturally and as far as the tax base goes, an extremely bad idea," she said. "I suppose that most people don't worry about the tax bases as I do. This GLO land is checkerboarded. When you pump out from under GLO land, you pump out from under the surrounding land too. Eventually we'll have useless land and that destroys our tax base as well. It's a dangerous, dangerous thing."

The GLO plans to take the interest of Far West Texans into account during the negotiations, according to Finley.

"You can't force anyone to allow a company to run pipeline through someone's property for water," he maintained. "There will be things in the draft lease agreement to protect the interest of existing usage, that there would be no adverse impact on an existing well. The last thing we want to do is have an adverse affect on someone's property." The topic of water is inherently contentious.

"Anytime you do anything that impacts our water rights, you get controversy," observed State Rep. Pete Gallego. "You can do without a lot of things but you cannot do without water."

Gallego has been in contact with Patterson on the water lease issue and has met with the GLO staff. One question that is so far unanswered is whether Rio Nuevo and the GLO would be subject to the rules of local groundwater conservation districts, which have the authority to regulate and charge for the transfer of water outside the district.

Jake Brisbin Jr. has served as Marfa's mayor, Presidio County Judge and he now heads the Rio Grande Council of Governments, which is strongly tied to the activities and function of the Far West Texas Water Planning Group. "The scariest part of this is that if the state gets involved in draining our resource, they don't have to play by the same rules everyone else does," Brisbin said. "One hopes that they would."

Gallego said he has already made his opinion on the matter known to the GLO.

"I've initiated strong opposition to any idea that would circumvent the regional water planning group and circumvent the authority of the water districts," he said.

Brisbin has also thought about the link between education and water marketing.

Public education in Texas is funded through the interest generated off of a \$17 billion trust that the GLO oversees. The financial state of the school system is beleaguered and Brisbin wonders if Rio Nuevo will be able to argue successfully for a lease by bringing up how it could benefit Texas schoolchildren. He's wary.

"As is often the case in scenarios like this, the move to take our

resources is garbed in the clothing of it's "For our children's futures," he said. "Frankly, whenever I hear that it's for our children's futures, I'm extremely skeptical about what will follow that statement."

Some kind of public forum for the input of Far West Texans is a possibility while the GLO considers the lease, Finley said, though no local public hearing or meeting on the matter is set right now. "We're interested in hearing what the local citizenry has to say," he said. "We're amenable to that. We do want to talk to the people potentially affected."