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State engineer denies Intel water rights proposal

BY BARRY MASSEY
Associated Press

SANTA FE -- Intel Corp.'s proposal for offsetting water use at its computer chip factory at Rio Rancho was rejected Tuesday by the state office that governs the allocation of water in New Mexico.

Intel had proposed to resurrect rights to water from the Rio Grande in Socorro County, which have not been used in more than 50 years.

But State Engineer Tom Turney concluded those water rights were invalid because the lands along the river near San Marcial had not been irrigated since 1941. Intel's proposal would not have restored any water to the river system.

"The water rights Intel proposed to retire do not exist except on paper," Turney said.

Intel wanted to acquire and transfer the water rights to help make up the difference between ground water pumping for its factory and the amount of water that returns to Rio Grande. According to Turney, about 85 percent of Intel's water flows back to the river through the sewer system.

But Intel faces no immediate problems because of the state engineer's decision.

Turney estimated that Intel has nearly 30 years to replenish the water and offset its draw down on the Rio Grande.

"The state engineer's decision will have no impact on production capability," said Kathleen Taylor, Intel's site materials and services manager.

She said it might take several weeks for the company to decide whether to appeal the state engineer's decision to a district court or pursue other options, including acquiring water rights that remain in use or leasing water rights.

The company must offset its river depletions to comply with a 1994 water

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permit issued by the state engineer's office. It allows the company to pump nearly 3 million gallons of ground water each day for its manufacturing plant. The water is used mostly to clean computer chips.

The state engineer, who is appointed by the governor, is responsible for administering legal rights to water use in New Mexico.

Intel had proposed to acquire 1,148 acre feet of water rights that have not been used since the Rio Grande flooded, first in 1937 and then again in 1941. The floods damaged what was known as the Val Verde irrigation ditch, causing farmers to abandon the area south of Socorro near Elephant Butte Reservoir. The state took possession of the land because the farmers failed to pay their taxes. The property was sold by the state over several decades.

An acre foot of water is 325,851 gallons, enough to cover an acre a foot deep.

Turney said the Intel proposal was denied exclusively because it involved invalid water rights. His office did not address other legal questions, including whether the water rights transfer would hurt other water users, was contrary to conservation or against the "public welfare of the state."

Under state law before 1965, Turney said, water rights were automatically lost if not used for four years.

Intel's proposal was challenged by irrigators and others who did not want the water rights -- if they legally existed -- to be transferred out of the Socorro area. They contended that Intel's proposal was not in the public interest because the water will be needed for future growth in the area.

Doug Wolf, a lawyer for the groups protesting Intel's proposal, said Turney's decision was a victory for Socorro County residents but also was important for managing water rights in the southern Rio Grande corridor.

"If he had told Intel that these water rights were valid today, then a lot of people down in that area would be probably tomorrow trying to get their water rights on the market. So it's a precedent in that sense," said Wolf, of the New Mexico Environmental Law Center.

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