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Behind the Dell City water deal
by Mike Mrkvicka

The Public Service Board's decision last week to bargain for water rights in the Dell Valley follows a scenario orchestrated by El Paso builder Woody Hunt.

Hunt is president and CEO of the Hunt Building Corp. and the continued success of his wide range of financial interests in El Paso depends, quite naturally, based on a steady supply of potable water. Hunt has often urged the El Paso Water Utilities to become more aggressive in finding new sources.

Long ago, Hunt injected himself directly into Dell Valley water politics when he purchased about 2,000 acres of farmland that lay above the water-rich Bone Springs-Victorio Peak aquifer, some 80 miles east of El Paso.

Over the past year, he has teamed up with another Dell Valley landowner, Denver billionaire Philip Anschutz, whose corporation farms about 7,000 acres. Believing that El Paso can benefit best from the water, they spearheaded an effort to make it easy for the water utility to buy Dell Valley land.

They lobbied their neighbors and created a formalized organization of land owners who want to sell their fields en masse.

The organization, known as Dell Valley Water Rights Owners, today represents more than 22,000 acres in the Dell Valley.

This makes it easy for the water utility to purchase the land because, instead of negotiating land deals with each Dell Valley property owner, it can work with one negotiator to develop a purchase option for the entire 22,000 acres.

Hunt and Anschutz are still encouraging other Dell County land owners to participate in the sale. And depending on how many actually participate, the water utility could gain access to up 60,000 acre feet of water (per year), under the rules of the Hudspeth County Underground Water Conservation District.

That compares to current annual usage in El Paso of 115,000 acre feet, said Ed Archuleta, general manager of EPWU.

"When you look at the amount of water that remains in the Hueco and Mesilla bolsons, this in my opinion will give us water for 100 years or more," Archuleta said.

It's not all that simple, though. Even if agreement is quickly reached, there'll be plenty of hurdles to cross.

One of the biggest is a series of lawsuits filed over recent water-use policy changes made by the Water Conservation District. No serious exportation of water can begin until those suits are settled.

The big advantage of having the deep-pockets of Hunt and Anschutz lead the Dell Valley Water Rights Owners is that they are willing to finance the inevitable legal expenses.

Hunt also owns about 5,000 acres of salt flats in Hudspeth County that could prove essential to any plan to export water to El Paso.

Groundwater in the Bone Springs-Victorio Peak aquifer is too brackish to drink straight from the well. EPWU will have to treat the water in a desalination plant before exporting it to El Paso.

The reverse osmosis process used in desalination, however, produces an unwanted byproduct of super salty "brine." Hunt has suggested that this brine can be disposed of in evaporative ponds on his salt flats without damaging the environment.

Exploring options

Hunt and his Hunt Building Corp. started serious research of the possible use of Dell City water in May 2000, when it entered a partnership with EPWU "to explore various options for bringing water into El Paso from Far West Texas basins," Hunt has explained in public documents.

Hunt spent nearly \$3 million financing hydrogeologic studies of the area. It all culminated with the publishing of a booklet, "Water Resource Development: The Challenge to a Region."

In it, Hunt concludes that it is unwise for El Paso to rely solely on the quickly depleting supply of fresh water in the Hueco Bolson and the unpredictable flow of surface water in the Rio Grande. He also expresses doubt about the long-term prospects of the desalination plant EPWU plans to install to process brackish water from the Hueco Bolson. Because the bolson recharges so slowly there's only a limited supply of brackish water available, he fears. All this leaves only one dependable, long-term source.

"The Dell Valley groundwater resource in Hudspeth County, Texas, is a rechargeable source of water that cannot be overlooked," the booklet concludes. Unlike the Hueco Bolson, the aquifer beneath Dell Valley is recharged by runoff from the Sacramento Mountains in New Mexico.

The EPWU has long looked to Hudspeth and Culberson County as a means of bolstering its water supply. In fact, the water utility owns or is in the process of finalizing the purchase of 29,000 acres east of Dell Valley. The big problem with the farms the utility owns is they sit atop the Capitan Reef aquifer, which is not nearly as water-rich as the Bone Springs-Victorio Peak aquifer beneath Dell Valley.

"We believe we could extract about 15,000 acre feet (per year) from Capitan Reef properties, maybe higher," Archuleta said.

If the Dell Valley farmland becomes available, EPWU would be able to pump four times as much water from the Bone Springs-Victorio Peak aquifer. "Under the conservation district rules, we could extract approximately 60,000 acre feet or so on a sustained basis even after you account for the loss through desalination," Archuleta said.

Devising a plan

With the "Water Resource Development" booklet in hand and EPWU's interest piqued, Hunt set about devising a plan that would enable the utility to purchase a large enough acreage in Dell Valley to make the acquisition worthwhile for the utility.

Hunt, himself, owns water rights to only 1,876 acres, not enough by itself to warrant an investment in a pipeline and desalination plant. So he decided to persuade his Dell Valley neighbors to join the cause. Convincing them to sell was no easy business. By giving up their land and water rights, farmers in Dell Valley must ultimately give up their livelihood. Hunt fully anticipated resistance.

His first victory came with Anschutz, the Dell Valley's largest land holder with 7,250 acres of farmland. Anschutz founded Qwest Communications and, just last month, purchased the San Francisco Examiner. His corporation, CL Machinery Co., has farmed in the Dell Valley the past 27 years.

By teaming up, Hunt and Anschutz could offer 9,000 acres to EPWU. But Hunt thought it would take a more significant chunk of the Dell Valley to interest the utility.

Last summer, Hunt sent Ron Glover, president of Hunt Natural Resources, to Dell Valley on the mission of persuading smaller Dell Valley farmers to participate.

Hunt's initial idea was to establish a limited partnership. Hunt and Anschutz would serve as general partners, responsible for financing the legal fees and engineering work. Smaller Dell Valley farmers would participate as limited partners.

The smaller farmers were told they would probably get a better price for their land if they negotiated as a partnership rather than selling it piecemeal.

The principals

As last week's action by the PSB indicates, the plan has worked well, so far.

The one thing that has changed significantly since last summer, however, is the plan's organizational structure. Hunt and Anschutz have taken on another major partner, Valley Shadows LLC, which owns just under 1,700 acres in Dell Valley.

Valley Shadows is "in the dairy business in El Paso and has been involved in the Dell Valley agricultural community the past 20 years," said Brad Bouma, a principal in the enterprise.

Instead of a partnership, Hunt, Anschutz and Bouma created Dell Valley Water Rights Owners, a limited liability company.

The three principals in the company own a total of 11,000 acres of Dell Valley farmland. They were able to persuade the owners of another 11,000 acres to participate in the proposed sale, said William J. Miller, who runs the CL Machinery Co. for Anschutz.

This gives them the ability to negotiate the sale of 22,000 acres. Miller said efforts continue to bring more farmers into the process. "We hope that the number will ultimately entail the entire valley. But there are people who will not elect to participate with us. That's their choice," Miller said.

Under the agreement approved last week by the PSB, Archuleta has 90 days to develop a formal purchase option with the Water Rights Owners. One thing that concerns farmers is what will happen to the farmland once a sales agreement is reached but before EPWU begins pulling water from the aquifer. That could be years down the road, not only because of the litigation but because EPWU has yet to establish a timetable for pipeline and desalination plant construction.

"It's likely that the farmers will be allowed to continue to work their land until EPWU starts taking the water to El Paso," Miller said. "We don't know when they'll begin taking water. More than likely, they will take this property down over a staged approach over a number year. And we don't know how many years," Miller said.

"But we'd like to structure the deal so that any person in the valley today will be able to continue farming in the near term, and some of them

maybe over the long term, depending on the period of time over which El Paso takes the water.

"In any event, no one will be forced or compelled to quit farming if they don't want to participate in the sale of water. They can continue to farm, protected by the rules of the Hudspeth County Underground Water Conservation District. The water will be available for them," Miller said.

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