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Permaculture in Practice: On water, time's running out for Texas

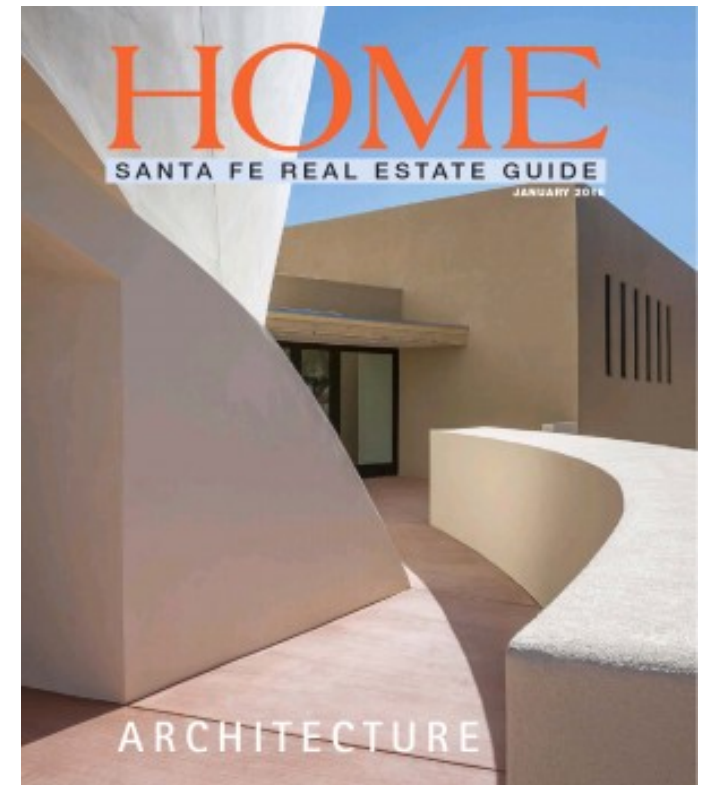
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By Nate Downey
For The New Mexican

The water situation in Santa Fe is so grim that when it rains people dance naked in the streets. OK, that's not all bad — especially given such an attractive populace fully capable of salsas and tangos — but is it wrong to feel encouraged when a

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neighbor has it much worse?

It's true that our state's "use it or lose it" legal system makes no sense in an age when water conservation is so important, but at least in New Mexico, water-rights owners are limited to using a specified amount.

Texas adheres to an even dumber doctrine called the "right of capture," which lets landowners pump as much water as possible. The Lone Star State owns its surface water — its rivers, lakes, reservoirs, estuaries and coastal waters — but all underground water belongs to the landowner. It comes with the deed, like trees and switchgrass. The problem is that in most cases, aquifers are slow to recharge, so neighbors pump against neighbors in an ugly race to the bottom.

For this reason and others, the official 2012 Texas Water Plan, which looks 50 years ahead, depends on the construction of 26 major reservoirs. The problem is that a broad consensus of intelligent experts (who I recently had the good fortune of meeting at the annual program of the Philosophical Society of Texas) believes that most of those reservoirs won't be built within that time frame, if ever.

First, there's no dam money, as in the days of LBJ. Second, the remaining waters of Texas often provide significant local economic benefits, and since many of the reservoirs would be created to provide water to distant urban areas, the selected dam sites are often unpopular at a local level. Third, the Endangered Species Act has the power to stop many of these projects before they start.

Apart from the fact that existing reservoirs are extremely low and many may soon be of little use if the drought continues, the most serious economic, legal and political challenges for the would-be Texas dam-builders come from the fact that 95 percent of Texas real estate is privately owned, and Texans aren't known for giving up their property to the government. (In New Mexico, real estate is split about 50/50 public to private.)

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The ultimate irony is that Texas is currently suing New Mexico because it says some of our private landowners are pumping too much water from below Elephant Butte. That's right. They are suing us for exercising our own version of a much more limited right of capture.

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Meanwhile, both states have mostly ignored our “responsibility to capture” stormwater. Harvesting precipitation is not a panacea, but it is currently missing from either state’s water portfolio. Fortunately, state Sen. Peter Wirth’s Senate Bill 16, the tax credits for water harvesting bill, did better than expected for a first attempt at the Legislature in 2014. Unfortunately, the Senate Finance Committee refused to consider it.

No one is dancing in the streets yet, but partly we have Texas to thank for our relative success. The city of Austin already has a successful program similar to the one proposed by SB 16. I imagine their street-dancing is among the hottest in all of Texas.

Nate Downey is the author of Harvest the Rain (Sunstone Press, 2010) and the president of Santa Fe Permaculture Inc. You can contact him through his new company website, www.perma-design.com.

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