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Received by *Jennifer Salazar*
10/01/2025 at 5:13 pm
NM Interstate Stream Commission

July 9, 2025

Governor Charles Riley
Pueblo of Acoma
P.O. Box 309
Acoma, NM 87034

RE: Response to the Comments submitted by the Water Security Tribal Advisory Council (WSTAC) Ad-Hoc Steering Committee

Dear Governor Riley:

I am writing on behalf of all Interstate Stream Commission (ISC) employees working on the rules for the Regional Water Security Planning effort and myself to thank you and the Water Security Tribal Advisory Council (WSTAC) Ad-Hoc Steering Committee for submitting comments to me on May 14, 2025. In this letter I will generally address the comments of the WSTAC Ad-Hoc Steering Committee as it relates to the Proposed Rule and offer to meet with WSTAC to further explain the rationale and response in crafting the rule that we plan to propose.

The Overall Comment that the rule take into account tribal input at all stages of the regional planning process was integrated into the Proposed Rule. This means that not only will each tribal government be invited to be a member of the Regional Planning Council (Council(s)) in which the Nation, Pueblo, or Tribe are located, but also that water rights settlements, including local and federally executed Indian water rights settlements, must be considered by Councils, and all Councils must engage WSTAC and include documentation and recommendations made by WSTAC in plans.

As it relates to WSTAC's concern about tribal governments being outnumbered, and a recommendation that the rule implement weighted voting or consensus, the Proposed Rule will allow Councils to determine operating procedures, much like the Ad-Hoc Steering Committee has chosen to do. Because the current Proposed Rule provides for governmental entities to have a representative seat at the table, and because all tribal governments have a seat and do not need to consolidate representation unless the Tribe, Nation, or Pueblo decides to do so, the process is safeguarded against stacking in the composition of the Council.

NM ISC EXHIBIT

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NMISC Exhibits 00515

As it relates to the WSTAC's concern about explicit requirements for approval of a plan submitted by a Council by all tribal governments, we again worked to ensure at every stage of the Proposed Rule, from composition, to consideration, to criteria that there are express provisions for representation and documentation of recommendations, which may include tribal government opposition to, or support for, the projects, programs, or policies identified as priorities in the regional water security plan.

As it relates to WSTAC's recommendation that the State Engineer be required to consider regional issues of public welfare in state permitting decisions, that decision remains with the State Engineer. There remains a distinction between the public welfare values for the planning region as determined by Councils and the public welfare of the state, as determined by the Office of the State Engineer. This regional water security planning rulemaking effort does not change the state laws regarding the Office of the State Engineer's permitting processes and content. The ISC does not have any permitting duties and therefore what is proposed at the regional level will not obligate the State Engineer at the state level with permitting decisions. However, the State Engineer would have the discretion to consider regionally-defined public welfare values that are tied to the public welfare of the state. Please also keep in mind that consultation, pursuant to the State-Tribal Collaboration Act, is a route that the Nations, Pueblos, and Tribes have available to meet with the State Engineer regarding permitting decisions.

As it relates to WSTAC's recommendation that plans submitted by Councils 'be consistent with and facilitate implementation of tribal water rights settlement acts and agreements' the Proposed Rule now has a requirement in both the consideration section and the criteria section for compliance with local and federally executed Indian water rights settlements.

Finally, as it relates to WSTAC's concern that the plans submitted by Councils do not identify priorities, the Proposed Rule incorporates that comment to require priority based on the readiness of each project, program, and policy.

Now, as it relates to the three proposals to have new regions (a new Upper Rior Grande Region, a New Capital Region, and a New San Jose Region) the Proposed Rule does not create more regions, rather this concept was integrated into the Proposed Rule by allowing for sub-regions within a planning region or across multiple planning regions. Sub-regions make sense for varied interests and entities and the Proposed Rule provides for a process to seek Commission approval to form a sub-region, the reasons for doing so, and the requirement that priorities of a sub-region must be integrated into the single list by the Council. If the sub-region crosses multiple Councils, the sub-region may decide which Council to integrate its priorities.

Thank you for all your recommendations, as each one was helpful in substantially editing the discussion draft to allow the Proposed Rule to be clearer and more consistent in the engagement, recognition, and consideration of tribal governmental water rights and needs. As you will see, all of WSTAC's Ad-Hoc Steering Committee comments were integrated, but for the change to obligate the State Engineer to consider regional public welfare values in permitting decisions.

The current plan is to petition the ISC for a rulemaking hearing at the July 17, 2025, regularly scheduled meeting. The Proposed Rule will be included in the Petition and available online,

located on the ISC Meeting website with the Agenda as of July 14th, 2025 (https://www.ose.nm.gov/ISC/isc_meetings.php). Again, I offer to bring ISC employees with me to a WSTAC meeting to discuss this matter further. To schedule a meeting, please coordinate with Laurie Weahkee, the ISC hired facilitator for WSTAC; however, if you have communications directly for me, please do not hesitate to reach me at Hannah.Riseley-White@ose.nm.gov or 505-695-5592.

Sincerely,



Hannah Riseley-White, Director
New Mexico Interstate Stream Commission

Cc: State Engineer Elizabeth K. Anderson, P.E., New Mexico Office of the State Engineer
Secretary Josett Monette, New Mexico Indian Affairs Department
James Mountain, Senior Advisor, Office of Governor Michelle Lujan Grisham
Laurie Weahkee, Contractor for NMISC