Received by Jennifer Salazar
10/01/2025 at 5:32 pm
NM Interstate Stream Commission

STATE OF NEW MEXICO
INTERSTATE STREAM COMMISSION

IN THE MATTER OF
PROPOSED NEW RULE 19.25.16
NMAC – Regional Water Security Planning

No. NMISC 25-01 (R)

New Mexico Interstate Stream Commission, Water Planning Program,

Movant.

NOTICE OF FILING OF PUBLIC COMMENTS

The Water Planning Program ("Program") of the New Mexico Interstate Commission hereby submits the attached comments received during the public comment period.

DATED this 1st day of October, 2025.

Respectfully submitted,

New Mexico Interstate Stream Commission,
Water Planning Program

By: _____

Kathryn S. Becker
Assistant General Counsel
Office of General Counsel
407 Galisteo Street
Santa Fe, NM 87501
kathryn.becker@ose.nm.gov

Org Name	Elephant Butte Chamber of Commerce
Author First	Bruce
Author Last	Swingle
City	Elephant Butte
State Abbrev	NM
Email	bswingle12@gmail.com
Comment Filename	EB Minimum Conservation Pool.pdf

Comment Body

Elephant Butte Lake Dam was constructed in 1916, without the capacity to maintain a minimum conservation pool needed to sustain the fishery, other aquatic organisms, wildlife, vegetation, and habitat. Due to acute factors, including climate-related conditions, the Rio Grande Compact, an international treaty with Mexico, the original dam design and intent, at the time, and reduced or irregular water storage at Elephant Butte Reservoir, the region could experience an ecological disaster within the reservoir. To prevent this disaster, the reservoir should maintain at least a minimum conservation pool of 113,196-acre feet (af) or 5.7% of the reservoir's capacity.

ESTABLISH A MINIMUM CONSERVATION POOL TO PROTECT THE ECOSYSTEM AT ELEPHANT BUTTE LAKE

Elephant Butte Lake Dam was constructed in 1916, without the intent or capacity to maintain a minimum conservation pool needed to sustain the fishery, other aquatic organisms, wildlife, vegetation, and habitat. Due to acute factors, including climate-related conditions, the Rio Grande Compact, an international treaty with Mexico, the original dam design and intent, at the time, and reduced or irregular water storage at Elephant Butte Reservoir, the region could experience an ecological disaster within the reservoir. To prevent this disaster, the reservoir should maintain at least a minimum conservation pool of 113,196-acre feet (af) or 5.7% of the reservoir's capacity.

INDUSTRY STANDARD MINIMUM STORAGE CAPACITY

Maintaining a minimum pool or dead storage level is standard in the industry; most dam dead storage levels are engineered well above 5.7%. Storing a minimum of 5.7% of capacity maintains the lake's water level at 4300 feet, which is also the lowest possible level needed to sustain Dam Site Marina at its optimal location.

LOCATION AND ORIGINAL PURPOSE

Elephant Butte Dam (originally called Engle Dam) is on the Rio Grande River, located immediately east of Elephant Butte, New Mexico, 145 miles south of Albuquerque, New Mexico, and 125 miles north of El Paso, Texas. When constructed, the reservoir was designed to store about 2,210,298 af of water for irrigation and flood control but has since reduced to 1,985,900 af according to information released by the Bureau of Reclamation (BOR). As a result of ongoing sediment accumulation, the true capacity of the reservoir is much less. It is a concrete gravity dam, 301 feet high, and 1,674 feet long, including the spillway. Dam construction started in 1911 and was completed in 1916.

The reservoir quickly became a premier recreational destination in the southwest with 1.5 million to 2.5 million visitors annually. In 1940, a Telsa-designed dynamo hydroelectric generation plant with a capacity of 24,300 kilowatts was installed at the dam. The power system encompasses 490 miles of transmission line and eleven (11) substations totaling 81,750 kilovolt-amperes, which was developed and operated by the Rio Grande Project until 1977.

HISTORY

At the time of completion, the dam created the largest reservoir in the world and was the first civil engineering water project associated with international allocation of water. The reservoir is currently the 84th largest man-made lake in the United States and the largest in New Mexico by total surface area and peak volume. It is impounded by Elephant Butte Dam, a section of the largest state park in New Mexico, Elephant Butte Lake State Park. Elephant Butte Lake is one of the most

important fishing destinations for Largemouth Bass anglers in the Southwest, and largest outdoor recreational mecca in New Mexico.

WATER CONFLICTS AND THE COMPACT

Historically, the region has fought over Rio Grande water. These conflicts resulted in a federal embargo against Colorado, an international treaty with Mexico, extraordinary and ongoing litigation, and an interstate compact. Since 1938, Elephant Butte Lake has been governed by the Rio Grande Compact. The Rio Grande Compact is an interstate compact between Colorado, New Mexico, and Texas, to apportion the waters of the Rio Grande Basin equitably. Water from the lake supplies irrigation water as well as a portion of El Paso's drinking water supply, when available. The reservoir is part of the Rio Grande Project, which provides for irrigation, flood risk reduction and hydroelectric power to south-central New Mexico and western Texas. In 1906, an international treaty was signed guaranteeing Mexico 10% or about 60,000 af of Rio Grande water per annum.

On multiple occasions key stakeholders in the region quasi-coordinated dialogues discussing a minimum pool, but these conversations abruptly ended when reasonable volumes of water were released into the lake from upstream authorities. Past efforts were unproductive and shortsighted. Thus far, the lake's ecosystem exposures remain unmitigated, and sufficient safeguards have not been enacted to protect the ecosystem from serious water level fluctuations. Without proper management, experts believe the lake will die within 73 years. Seventy-three (73) years may seem like a long time, in reality, it is three generations of farmers, residents, nature lovers, and outdoor enthusiasts.

THE WATER HAD DROPPED BELOW DEAD POOL LEVEL NINE TIMES

In 1974, the community initiated an effort to create a minimum pool. US Representative Runnels championed the effort and secured 50,000 af of additional water. Unfortunately, little thought of preserving a minimal water level went into the legislation, and in 1994, the water level breached the spillway, officially nullifying the appropriation. This effort, as well intended as it was, failed to provide a sustainable resolution to the problem. Since the nullification of Representative Runnels' appropriation in1994, the lake has dropped to or below 5.7% of capacity on nine (9) occasions for a total of 740 days. Each of these nine events likely harmed the lake's ecosystem.

Since completion of the dam, the reservoir has experienced 4,011 days at or below 5.7% of water capacity. The worst period was August 3rd-8th, 1954, when the lake dropped to 0.1%. August 6th was the worst day ever recorded with only 2,395 af of water in the lake. Locals tell stories of the lake, once having a capacity to store over two (2) million af of water, recessing to a narrow river channel in 1954, where they caught fish by hand and net. The ecosystem suffered incalculable harm from these infinitesimal water levels. People do not typically contemplate the harm the next significant water fluctuation or minimal water level will cause to the fishery, other aquatic organisms, wildlife, and their habitats; the reservoir dropped to 5.7% or below on twenty-one (21) occasions in the past and it will occur again without intervention.

The BOR conducted an Environmental Impact Statement (EIS) for Elephant Butte and Caballo Reservoirs Resource Management Plan, dated 1999. The following is a summary of goals identified in the EIS: create and maintain wildlife habitat areas, protect riparian and wetland plant communities, protect and enhance the quality of the fishery, control erosion, manage vegetation, manage and protect cultural resources, provide a balance of water uses, ***manage fluctuation of water surface levels, and provide for drought contingency.*** If implemented, these goals would

address many concerns, but many key stakeholders must be involved to establish and maintain a minimum conservation pool. The BOR does not have the sole authority or responsibility to address many of the goals identified in their plan nor to create a minimum pool.

IRRIGATION SEASON IMPACTS

It has long been suspected that the large water-level fluctuations experienced at Elephant Butte Lake were harmful to the fishery and ecosystem. During irrigation session, it is common for water levels to recede by 20,000 af or more per week and over six (6) inches per day. As annual spring flows diminish, the water cycle of the reservoir suffers fluctuations detrimental to the nest-building strategies of fish, other aquatic organisms, and some wildlife. These fluctuations increase disease and adversely affect their morality, particularly in bass and bluegill spawns. They kill aquatic vegetation, disconnect shoreline habitat from water, interrupt native natural vegetation propagation, kill existing riparian vegetation, increase erosion and sedimentation, and increase turbidity during water drawdowns.

LARGEMOUTH BASS AFFECTED

Alexander Vaisvil, PhD conducted research on the effects of water level fluctuations to young-of-year Largemouth Bass in Elephant Butte Lake. He concluded that water level fluctuations directly impact hatchings and growth rates of Largemouth Bass. Hatches were reduced when reservoir water levels receded. The resulting water-fluctuations reduced the quality and quantity of littoral fish habitat (Daugherty et al. 2015). Water released from the dam during hatching periods significantly reduces the number of fish hatching and results in smaller growth rates of hatchlings. Vaisvil's abstract (*Water-Level Fluctuations and Water Temperature Effects on Young-of-Year Largemouth Bass in a Southwest Irrigation Reservoir*) published in the Journal of Fish and Wildlife Management (2022) 13 (2): 534-543.

Vaisvil cited other research indicating strong year classes of Largemouth Bass were associated with water levels at or above full capacity of southeastern reservoirs, (Maceina and Bettoli 1998; Sammons and Bettoli 2000). A correlation between strong year classes of Largemouth Bass and high-water years was observed and reported by Kohler et al. (1993). Elevated but stable water levels inundated vegetation in littoral areas that provided young-of-year Largemouth Bass with increased cover from predation as well as increased availability of prey (Parkos et al. 2011). An important finding in this research suggests reasonable and stable water levels are healthy for the ecosystem, and supports improved fish spawning, nursey habitat and other aquatic organisms.

CONSEQUENCES FOR AQUATIC LIFE

Low water levels at Elephant Butte Lake have numerous consequences for fish and other aquatic organisms, and their habitat. Anoxia, a combination of warm water temperatures and low water levels, has historically caused large numbers of fish mortality in Elephant Butte Lake and many other lakes across the state. In summer months, thermal layers develop in a lake. Water near the surface is too hot for fish, while cooler water at the bottom has too little oxygen. Lakes with critically low water and elevated temperatures have decreased oxygen available for life, thus triggering large-scale fish die-offs.

2018 LOW LEVELS CAUSE FISH DIE-OFFS

In a press release dated August 10, 2018, the New Mexico Department of Game and Fish indicated several lakes including Elephant Butte Lake were experiencing fish die-offs. The die-offs affected multiple species of fish and were attributed to low oxygen levels caused by recent weather patterns

across the state, including drought and hot temperatures. At the time, Elephant Butte Lake's water level was at or below the recommended minimum pool level of 5.7% for 162 days straight. A related press release dated August 14, 2018, the Gila National Forest Service said the water levels at several New Mexico lakes, including Elephant Butte Lake had significantly declined, leaving critically low dissolved oxygen levels for fish and other aquatic organisms. The situation resulted in a large-scale fish die-off.

SEDIMENTATION ACCUMULATION

Water fluctuation also causes sedimentation problems. According to Bureau of Reclamation Technical Report No. ENV-20200-019 Titled, "*Elephant Butte Reservoir 2017 and 2019 Sedimentation Survey*", since 1915, the reservoir lost 624,000 af or (24%) of its storage capacity due to sedimentation. The survey also indicated that due to sediment accumulation, the reservoir pool below the invert of the penstock valve has been reduced to 33 percent of the original penstock storage volume, a loss of 67%. The sedimentation level at the dam is 4,236 feet (project vertical datum), which is about four (4) feet below the invert of the outlet works valve. If sediment raises four (4) feet at the dam, the dam will have no ability to release water for any purpose, including the compact.

Based on the level accumulation of sediment, sediment management is critical at the reservoir. Sediment management activities at Elephant Butte Reservoir historically consisted of using the sluice gates to remove sediment from the face of the dam. The sluice gate air vents are undersized at this dam; hence, sediment sluicing can only occur when the reservoir head is not too great. There are no other active sediment management efforts taking place in the reservoir *(B. Kalminson, personal communication, December 16, 2019)*. For over 100 years, sediment has made its way to the dam. This lack of addressing sediment management over 100 years has harmed the lakes ecosystem and dam infrastructure. On the current path, if measures are not taken, sedimentation will render the dam inoperable in about 70 years. Ironically, Elephant Butte Reservoir is not the only dam in New Mexico in serious need of maintenance and upkeep, Caballo, El Vado and Ft. Sumner dams also need attention.

GOVERNOR'S 50 YEAR Water PLAN

The Governor's 50-year Water Action Plan, released in 2024 acknowledges surface water resources are degrading due to extreme weather and other threats. Her report identifies several important water resource management strategies; however, the plan does not go far enough to protect Elephant Butte Lake's ecosystem. Action item (A4) in the Governor's plan states, "Prioritize water management infrastructure improvements (e.g., dams and reservoirs) and operational efficiencies to meet future demands by developing agreements for flexible management options, … and addressing critically important dam safety improvements, while ensuring that environmental flows and compliance will be part of our solutions." This plan should include strategies to protect and maintain the lake's ecosystem.

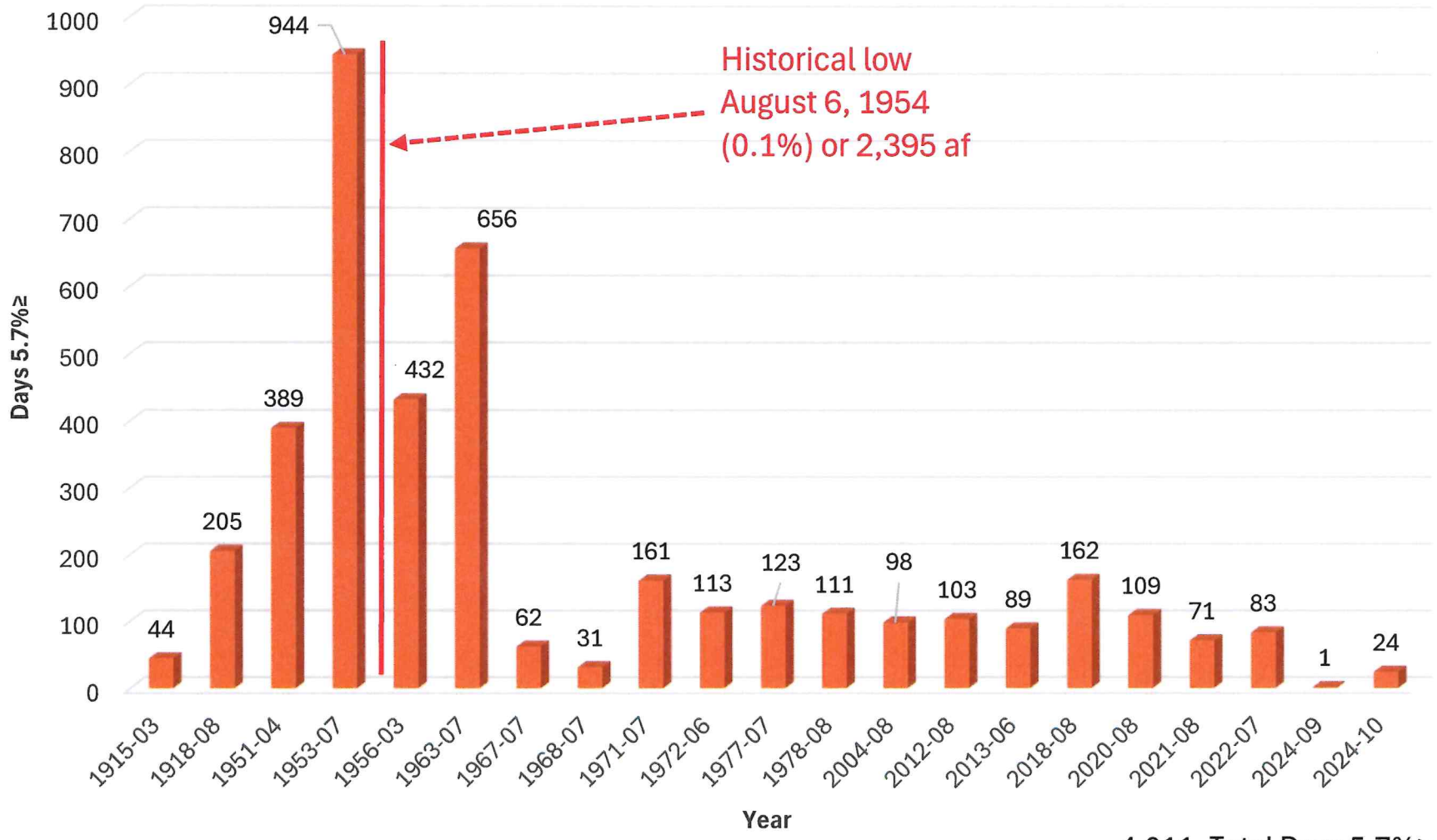
COMPLICATED TIMING AND APPROPRIATION

Unquestionably, the timing and appropriation of Rio Grande water is complicated, which is likely why no one has made a serious attempt to establish a reasonable minimum conservation pool. The undertaking is challenging, but not insurmountable. New Mexico must develop a long-term plan and vision to protect the ecosystem of the state's largest lake. Key stakeholders must be assembled to protect the lake's ecosystem and to establish a conservation pool, including representatives from the governor's office, the region's state legislative and federal congressional delegations, NMOSE,

NMISC, NMDFG, BOR, USGS, Elephant Butte Irrigation District, El Paso County Water Improvement District 1, and other local organizations.

The bottom line, is that numerous organizations and communities support securing water to sustain the lake's ecosystem, preventing an ecological disaster at the lake, and creating a strategic water reserve to protect New Mexico's future.

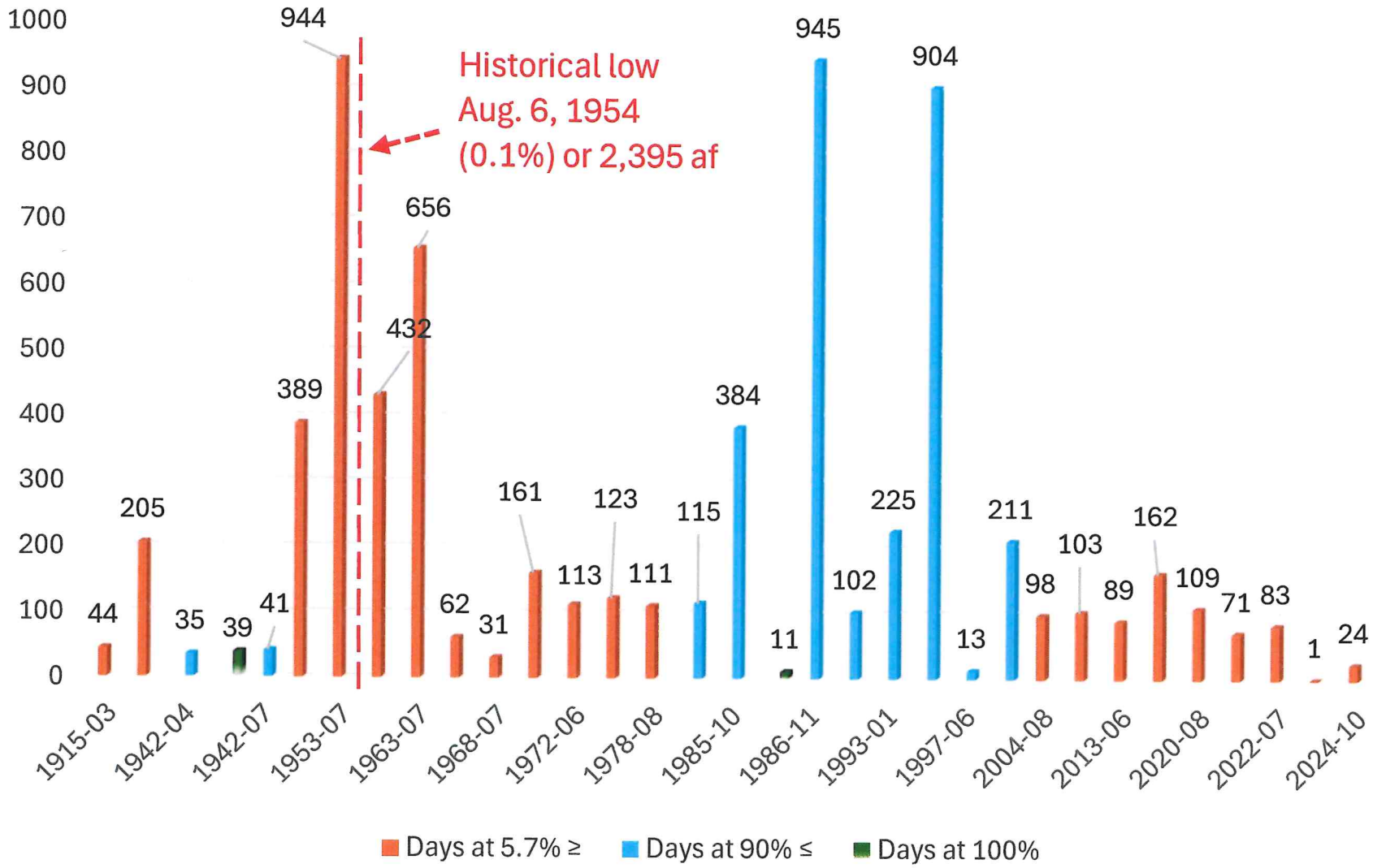
Elephant Butte Lake Water Level
Days 5.7%≥



4,011- Total Days 5.7%≥

NMISC Exhibits 01750

ELEPHANT BUTTE LAKE WATER LEVELS AT 5.7%≥ & 90%≤



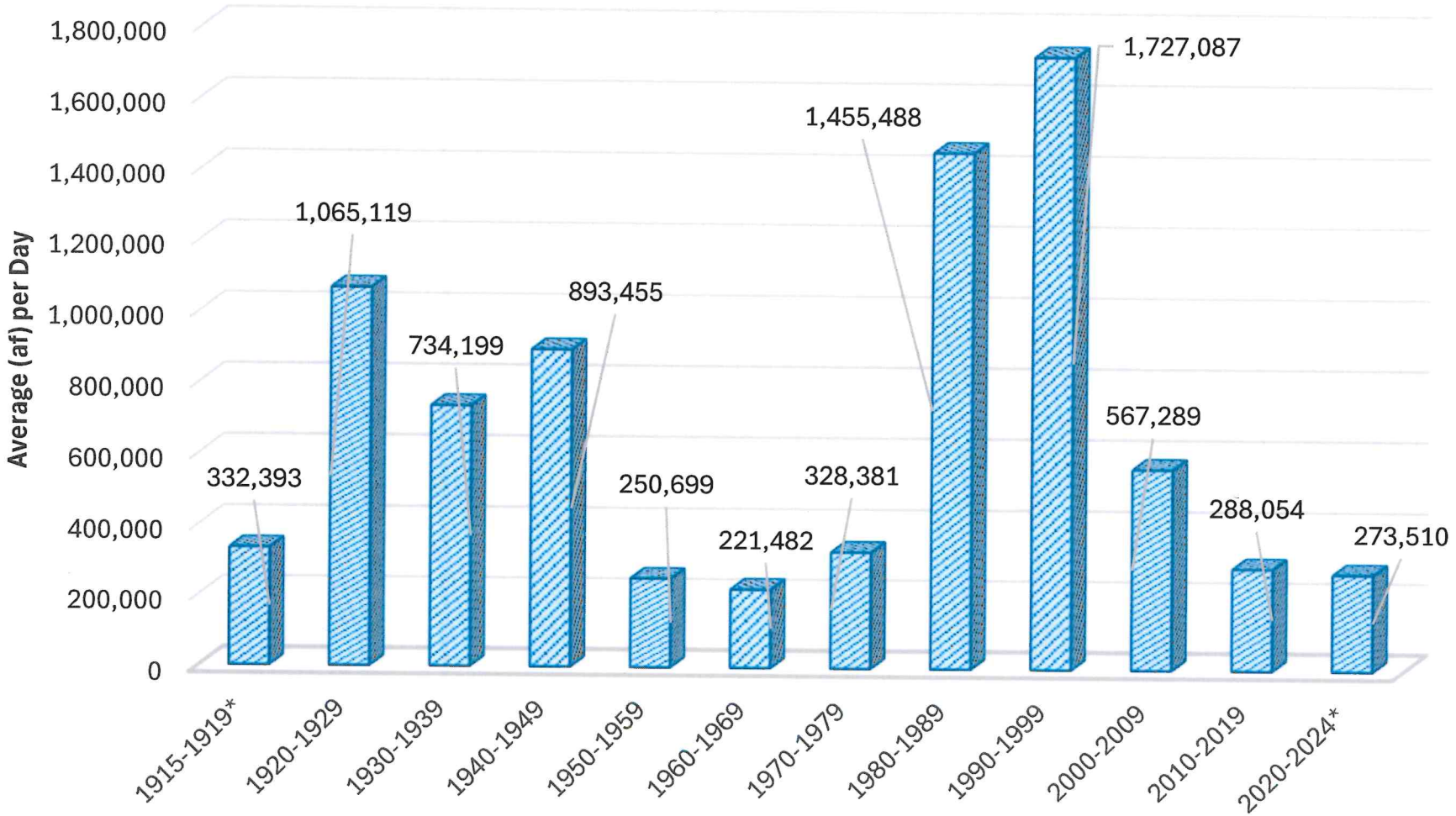
NMISC Exhibits 01751

ELEPHANT BUTTE RESERVOIR WATER LEVELS

Date	Water Level	# of Days at Level
03/21/1915-05/03/1915	5.7% ≥	44
08/28/1918-03/27/1919	5.7% ≥	205
04/22/1942-05/26/1942	90% ≤	35
5/27/1942-07/04/1942	100% Full	39
07/05/1942-08/14/1942	90% ≤	41
04/28/1951-05/21/1952	5.7% ≥	389
07/08/1953-02/07/1956	5.7% ≥	944
08/03-08/1954	0.1% historical low	
03/28/1956-06/03/1957	5.7% ≥	432
07/18/1963-05/04/1965	5.7% ≥	656
07/11/1967-09/11/1967	5.7% ≥	62
07/12/1968-08/12/1968	5.7% ≥	31
07/04/1971-12/12/1971	5.7% ≥	161
06/29/1972-10/20/1972	5.7% ≥	113
07/25/1977-11/25/1977	5.7% ≥	123
08/16/1978-12/05/1978	5.7% ≥	111
05/07/1985-08/29/1985	90% ≤	115
10/24/1985-11/11/1986	90% ≤	384
11/12/1986-11/22/1986	100% Full	11
11/23/1986-06/24/1989	90% ≤	945
05/02/1992-08/11/1992	90% ≤	102
01/02/1993-08/14/1993	90% ≤	225
12/09/1993-05/31/1996	90% ≤	904
06/20/1997-07/02/1997	90% ≤	13
11/29/1997-06/27/1998	90% ≤	211
08/15/2004-11/21/2004	5.7% ≥	98
08/22/2012-12/03/2012	5.7% ≥	103
06/20/2013-09/17/2013	5.7% ≥	89
08/04/2018-01/13/2019	5.7% ≥	162
08/30/2020-12/17/2020	5.7% ≥	109
08/07/2021-10/17/2021	5.7% ≥	71
07/17/2022-10/08/2022	5.7% ≥	83
9/27/2024	5.7% ≥	1
10/01/2024-10/24/2024	5.7% ≥	24

Total Days at 5.7% ≥	**4,011**
Total Days at 90% ≤	3,025
Total Days at 100% Full	50

ELEPHANT BUTTE LAKE
WATER LEVEL BY DECADE



NMISC Exhibits 01753

Org Name	New Mexico Department of Game and Fish
Author First	Jack
Author Last	Marchetti
City	Santa Fe
State Abbrev	NM
Email	jack.marchetti@dgf.nm.gov
Comment Filename	OSE_WSPA-Rulemaking_NMDGF-comments1_GS_signed.pdf

Comment Body

The New Mexico Department of Game and Fish (Department) has reviewed the Water Security Planning Act (WSPA) proposed New Rule (as of July 2025) and offers the following comment letter (see attached) in response. Thank you for the opportunity to provide comments.

GOVERNOR
Michelle Lujan Grisham

DIRECTOR AND SECRETARY
TO THE COMMISSION
Michael B. Sloane

STATE OF NEW MEXICO
DEPARTMENT OF GAME & FISH

One Wildlife Way, Santa Fe, NM 87507

Tel: (505) 476-8000 | Fax: (505) 476-8180

For information call: (888) 248-6866

https://wildlife.dgf.nm.gov/

STATE GAME COMMISSION

RICHARD STUMP
Chair
Santa Fe

SHARON SALAZAR HICKEY
Vice Chair
Santa Fe

FERNANDO CLEMENTE, JR.
Sunland Park

GREGG FULFER
Jal

TIRZIO J. LOPEZ
Cebolla

DR. SABRINA PACK
Silver City

DR. CHRISTOPHER C. WITT
Albuquerque

4 August 2025

Jennifer Salazar
New Mexico Office of the State Engineer
New Mexico Interstate Stream Commission (NMISC)

RE: Rulemaking Public Comment Period for the Water Security Planning Act; NMERT Project No. NMERT-4868

Dear Ms. Salazar,

The New Mexico Department of Game and Fish (Department) has reviewed the Water Security Planning Act (WSPA) proposed New Rule (as of July 2025) and offers the following comments on the New Rule.

As stated in Section 3 of the Motion to Initiate the Rulemaking Process in the Matter of Proposed New Rule 19.25.16, the purpose of the proposed New Rule is to "provide the structure and support of regional Water Security Planning Councils (Councils) that will then gain an understanding of water data and forecasts, consider diverse populations, uses, and needs, and provide recommendations on what outcomes are most ready for funding and furthering." In general, the Department supports the proposed New Rule and the Water Security Planning Act but wishes to see the needs of fish and wildlife considered and addressed by Councils and by regional water security plans.

The Department supports the inclusion of Subsection B.4 and C.2 under Section 19.25.16.14 that pertain to healthy upland and riparian habitats and both state and federal threatened and endangered species, respectively. However, under Subsection A of Section 19.25.16.14, the Department recommends adding the following additional statement that the Councils shall consider, with resources provided by NMISC staff, "best available science regarding the water needs of native fish, wildlife, and their habitats." The Department feels strongly that fish and wildlife must be considered by Councils during the planning process. Failure to do so may result in more cases similar to that of the Rio Grande silvery minnow (*Hybognathus amarus*). This species' water needs were neglected until the fish was seriously imperiled and water was overallocated

in the Middle Rio Grande, presenting serious challenges to the future survival of this species.

The Department also supports the inclusion of “watershed health” and “river and riparian habitat restoration” as Project, Program, or Policy (PPP) types in Subsection C.4 of Section 19.25.16.15. However, the Department recommends adding “environmental flows” as an additional PPP type. Environmental flows, referring to water allocated to remain in the river channel to benefit fish and wildlife species, are considered a beneficial use of water by the state of New Mexico and are an important tool for efforts to maintain water quality, river health, and ecosystem function. They also have been vital in the recovery of aquatic species such as the Colorado pikeminnow (*Ptychocheilus lucius*) and the razoraback sucker (*Xyrauchen texanus*) in the San Juan River. Therefore, environmental flows should be added as a new PPP type to allow Councils the option to implement them if applicable.

Thank you for the opportunity to review the proposed New Rule. Please contact Jack Marchetti, Aquatic/Riparian Habitat Specialist, at jack.marchetti@dgf.nm.gov or 505-479-1269 if you have any questions.

Sincerely,

Virginia Seamster, Ph.D.
Assistant Chief for Technical Guidance
Ecological and Environmental Planning Section

Org Name	Rio Grande Return
Author First	Karen
Author Last	Menetrey
City	Santa Fe
State Abbrev	NM
Email	karen@riogrande return.org
Comment Filename	Rio Grande Return Regional Water Planning Rule Comments 8.14.2025.pdf

Comment Body

Rio Grande Return respectfully submits the attached comments regarding consideration of wetlands in the proposed rule for Regional Water Security Planning.

REVITALIZING THE REGENERATIVE CAPACITY OF DAMAGED ECOSYSTEMS

Rio Grande Return
1704B Llano Street #347
Santa Fe, NM 87505

August 7, 2025

Subject: **Public Comment Requesting Inclusion of Wetlands in Proposed Rule for Regional Water Security Planning**

Dear Interstate Stream Commission,

Thank you for the opportunity to comment on the proposed rule for Regional Water Security Planning. Rio Grande Return is a non-profit organization that restores riverscapes and ecosystems unique to the arid Southwest using low-tech and process-based methods to foster resilience, adaptive capacity and stewardship in these important land and water resources. Rio Grande Return respectfully recommends that wetlands be explicitly identified and considered as water resources within the rule, alongside riparian areas and other key ecological systems.

Currently, the draft rule does not reference wetlands. This omission is significant. To ensure a resilient and sustainable water future for New Mexico, it is essential that wetlands, due to their unique hydrologic and ecological functions, are systematically incorporated into regional water planning. Wetlands play a vital role in New Mexico's hydrologic and ecological systems. Their functions include: groundwater recharge and storage, drought resilience and water availability, flood and wildfire mitigation, water quality improvement through filtration, habitat for wildlife (including threatened and endangered species), recreational values, cultural and spiritual values for Tribal and local communities, carbon sequestration and climate modulation.

Wetlands are distinct from riparian areas. While the draft rule refers to riparian areas, it does not distinguish them from wetlands. These terms are not interchangeable.

- Wetlands are characterized by saturated soils and hydrophytic vegetation, and they may occur in riparian or non-riparian settings.
- Riparian areas are transitional zones adjacent to rivers and streams and may or may not contain wetlands.

Many critical wetlands in New Mexico lie outside of riparian corridors and could be overlooked if only riparian zones are addressed in regional planning. The following examples highlight wetlands that are important water resources but fall outside of riparian definitions:

- Isolated springs and slope wetlands, including desert ciénegas and high-elevation spring-fed wetlands, support biodiversity and store and supply water for a variety of uses.

NMISC Exhibits 01758

- Playa wetlands, especially those on the Eastern Plains, serve as critical migratory bird habitat and contribute significantly to Ogallala Aquifer recharge. Other playas associated with basalt flows offer localized water sources for wildlife and livestock.

Conversely, large areas of the Rio Grande bosque, while technically riparian, no longer meet the criteria for wetlands due to altered flood regimes and isolation from active hydrology.

Rio Grande Return recommends the following amendments to ensure wetlands are incorporated into all regional planning processes:

- 19.25.16.14.B(4): Water needs for healthy upland, wetland, and riparian habitats.
- 19.25.16.15.C(4)(n): River, wetland, and riparian habitat restoration.

The New Mexico Environment Department (NMED) has been mapping wetlands statewide for more than a decade to update the National Wetlands Inventory. These spatial data should be incorporated into the Regional Water Planning Mapping Tool to support public engagement and evidence-based planning. Wetland data can be accessed through:

- https://gis.web.env.nm.gov/oem/?map=wetlands and a direct request to the NMED Surface Water Quality Bureau
- National Wetlands Inventory (including Navajo Nation data): https://www.fws.gov/program/national-wetlands-inventory/wetlands-mapper

Wetlands are indispensable to water security and ecological integrity in New Mexico. Their explicit inclusion in the Regional Water Security Planning Rule is essential for comprehensive, science-based, and climate-resilient water management.

Thank you for your consideration.

Sincerely,

Karen Menetrey

Karen Menetrey
Director of Ecological Opportunities
Rio Grande Return

Author First	Roger
Author Last	DeVore
City	Santa Fe
State Abbrev	NM
Email	devorerl21@gmail.com
Comment Filename	No attachment

Comment Body

I’m new to New Mexico, originally from Florida. Bought 10 acres and have had to learn a lot about water as Florida is abundant and New Mexico is not. What we have learned and our solutions: Found county and state codes counter act water conservation in some ways. Restrictions to water retention, cannot block it as it needs to allow to flow down river or in our case a wash. It appears that throwing branch’s into arroyo’s or washes was the simple solution back in the day to slow water flow, but was told this is against county code and it only partially works. Our solutions for our property are contour swales, demi looms, Zuni bowls, beaver dams, gabion rock walls and vegetation. We’ve created these solutions to slow water flow, which in turn slows erosion and provides ponding to allow the water to seep into the ground to replenish the aquifer. Stopping water flow, no, the water continues to flow underground via the aquifer and into a large arroyo nearby. Eventually flowing in the Rio Grande and it’s aquifer. These solutions are used very minimally by the county or state and only in extreme wash conditions. Why? Proven solutions. Many properties were used for grazing or farming for so long grasses and vegetation have not recovered or is slow to recover. I’ve been seeding my property with native prairie and wild grass seeds, desert and prairie wildflowers to cover as much ground as possible. Planted several large native trees to begin building wind breaks and canopy to prevent erosion and retain ground moisture for understory plants to take root. Greening the desert has become a movement in many places, plenty of research by scientists and personal accounts. Wind breaks were used after the great dust storms and soil erosion of he 1930’s in the Prairie states, this prevented high winds from eroding top solid to allow understory plants to grow and rebuild the farmlands. It’s a slow process and there is proof it works. Solutions to consider, just at a larger scale.

Author First	Don
Author Last	Frasher
City	Alamogordo
State Abbrev	NM
Email	drfrasher@gmail.com
Comment Filename	No attachment

Comment Body

Better enforcemenent towards unpermitted and out of regulation septic sytems and grey water usage. Especially ini the vinicity of waterways, arroyos, and wells both public and private

Author First	Ann
Author Last	Ypong
City	Santa Fe
State Abbrev	NM
Email	rocaudt@cybermesa.com
Comment Filename	No attachment

Comment Body

Ms. Tanya Marie Trujillo, Deputy State Engineer, OES, NM, said, and this is the quote I heard at the City of Santa Fe River and Watershed meeting I attended, August 16, 2025, held at the Audubon Center here in Santa Fe: "The solution to pollution is dilution."

The solution to pollution is NOT dilution.

The solution to pollution is to stop the source of the pollution at the SOURCE OF THE POLLUTION - Not to have it "diluted" by the waters of New Mexico, either our groundwater or our surface water.

All users of State Water Rights, and really, all of us New Mexicans, must have not just water, but water that is NOT POLLUTED. Please pass this on to the NM Water Quality Control Commission, NOW, and to all the individual users of NM Water Rights (OSE.) Agriculture can be severely impacted by pollutants that are "allowed" to be discharged into our precious water sources to be "diluted," as can all other users of our waters be severely impacted.

"Dilution is the solution to pollution" - NO WAY! Use your powers as the Interstate Stream Commission to make sure this "dilution" DOES NOT HAPPEN. Ann Young

Author First	Henry
Author Last	Brown
City	Folsom
State Abbrev	NM
Email	brownmnh@bacavalley.com
Comment Filename	No attachment

Comment Body

My hope is that existing water rights ar not harmed or threatened.
Many areas could benefit from increased activities that would slow water runoff and control sedimentation, activities to increase water infiltration.

Author First	Carrie
Author Last	Dobbs
City	Flora Vista
State Abbrev	NM
Email	D0307018@sbcglobal.net
Comment Filename	No attachment

Comment Body

Do not attempt to interfere with those individuals exercising their legal surface water rights for agricultural purposes, instead increase fines for individuals diverting or using water to which they do not have legal rights. Municipalities and water districts need to tier water prices so that the price per gallon increases with every thousand gallon of water used. People will take notice, and truly make an effort to conserve if it hits their pocketbook!

Author First	Brian
Author Last	Henry
City	Hobbs
State Abbrev	NM
Email	bhenry88240@icloud.com
Comment Filename	No attachment

Comment Body

One thing that needs to be looked at is processing of produced oilfield water for other uses. In 2011 a pilot project was done in Lea county that showed the feasibility of such processing.
Processing and repurposing this water would help alleviate the crisis that parts of the state that rely on the Ogalalla aquifer which is non replenishing and is being depleted by overpumping.

Author First	Donna
Author Last	Swanson
City	Alamogordo
State Abbrev	NM
Email	swansjd@msn.com
Comment Filename	No attachment

Comment Body

I do not see a link to the regional water plan of which we reply. This would greatly improve comments. I did participate in a discussion forum some years ago where it was said to be ‘science driven’ to keep NM water up north so that the northern lakes would be full and according to some, less evaporation would take place by keeping the water to the north. I commented throughout the sessions that this would not be appropriate to the farmers and lakes, the tourist and local economies of Southern NM to simply keep the water north, and that evaporation still will occur.
I saw that the Rio Grand in Southern NM ran dry this year. So if this is your ‘science based’ plan, it lacks in morality and in judgment and needs a rework with a new premise than to fill the northern lakes to the detriment of the southern waterways.

Author First	Bruce
Author Last	Strong
City	Albuquerque
State Abbrev	NM
Email	seargentrok@yahoo.com
Comment Filename	No attachment

Comment Body

Your plans are based on ignorance. There is no need to restrict water usage in New Mexico at all, but rather it is necessary to develop the water resources that we have that the public is unaware of.
Deep beneath the Cochiti area, there is a fresh water ocean of the purest, cleanest, most delicious water that could supply New Mexico for 400 years or more. When drilling it is necessary to use a diamond drill bit. You drill down to hard rock and it breaks all thd standard drill bits and most drillers give up and assume there is nothing further. If you switch to a diamond drill bit, it will break through the layer of hard stone and bust through to an underground reservoir that is unbelievable in its size and depth and purity.
Underneath Rio Rancho there is a salt water ocean that could be desalinated using the power of micro-nuclear reactors that can be leased through General Electric or the Department of Energy. Once the water is desalinated and purified there would be drinkable water for the Greater Albuquerque area for 500 years or more.
What we need are leaders with vision and action. Not crybabies who want to restrict everyone’s rights and privileges because they are too lazy or ignorant to find water.

Author First	Teresa
Author Last	Smith de Cherif
City	Bosque Farms
State Abbrev	NM
Email	chair@valenciaswcd-nm.gov
Comment Filename	No attachment

Comment Body

Jennifer Salazar
Interstate Stream Commission

Dear Ms. Salazar,

I am writing to encourage that wetlands be included in section 12.25.16.15 (C)(4). Within the jurisdictional boundaries of the Valencia Soil and Water Conservation District (Valencia SWCD), there are approximately 258 acres of small water bodies, some of which include wetlands. Once such area is the Belen Marsh in Belen, which is in our Valencia SWCD. The Belen Marsh is without protection, can be backfilled at any time, but provides a vital habitat for native and migratory birds, large game species, and other animals. Wetlands provide an important role in phytoremediation of pollutants. In our new Long-range Conservation Plan, we list the protection of existing wetlands as one of our priority actions, and are committed to informing the pubic about their importance. We stand ready to provide more information.
Thank you from Teresa Smith de Cherif, Board Chair, Valencia Soil and Water Conservation District.

Author First	Thomas David
Author Last	Burleigh
City	SOCORRO
State Abbrev	NM
Email	thomas.burleigh@nmt.edu
Comment Filename	No attachment

Comment Body

All the legalize wording makes these new rules unreadable. I have no idea what is the new policy nor its implications..

Org Name	Quemado Lake Water Association
Author First	Agatha
Author Last	King
City	Quemado
State Abbrev	NM
Email	qlwawater7@gilanet.com
Comment Filename	No attachment

Comment Body

It would be helpful to have the commission explain what is to be included in the Water Safety Plans required by water entities.
How will entities be supported to create and maintain their water safety plans?
How will the water safety plan impact system compliance with the state?
Will the commission be the oversight system for regionalization of water systems throughout the state?
Will all entities be required to belong to a regionalized system once this is implemented?

Author First	Karel
Author Last	Zide
City	Deming
State Abbrev	NM
Email	zide45@gmail.com
Comment Filename	No attachment

Comment Body

The Mimbres aquifer is not replenishing itself enough to accommodate all the farming in the valley and the local population- we need to meter these farms and charge for the water usage - and stop the intentional flooding of the pecan orchards. Underground irrigation and metered water fees would help to eliminate water abuse like sprinklers running in the hot afternoon as witnessed in the fields next to where I live!
We should look at water recycling as a viable solution; Singapore as an example-all tap water is recycled, perfectly safe and continually tested for safety.
The rumored giant data mining center for Columbus should be prohibited- millions of gallons of water would be sucked out of the aquifer everyday- this could only end in disaster

Author First	Nancy
Author Last	Poe
City	Raton
State Abbrev	NM
Email	npoe_3194@yahoo.com
Comment Filename	No attachment

Comment Body

Never let Fracked or Produced Water anywhere Near our State!

Author First	Jessica
Author Last	A
City	—
State Abbrev	—
Email	jessynatencio@gmail.com
Comment Filename	2D44B12B-DE15-4FD1-BEA4-AC23556265D5.jpeg

Comment Body

Please include in your plans to leave water for wildlife too.
Also Stop using our river water for the construction of bridges and do not let water companies get water from our rivers to sell it in plastic bottles!


Wildlife needs water
too

Author First	Patricia
Author Last	Salazar
City	Albuquerque
State Abbrev	NM
Email	luispatriciasalazar@yahoo.com
Comment Filename	No attachment

Comment Body

Some Restaurants serve water, maybe is good idea if they serve water only if you are asking for, else I was working in some Restaurants in the past and I did notice they defrost some meats in running water, the maybe need defrost meats in a regular fridge before they will need the meat for the different dishes that they sold. All this is a water waste

Author First	Pricilla
Author Last	Del Águila
City	Albuquerque
State Abbrev	NM
Email	priscilla_delaguila@comcast.net
Comment Filename	No attachment

Comment Body

I am a new mother and really concerned about the access to water for all of us and our children’s future. My biggest concern is why are we allowing a water bottle company, Niagara water, in Los Lunas, do business here? They are depleting our precious water sources for profit. What are you doing about the safety and security of our water for NM residents for now and in the future?

Author First	Benny
Author Last	Martin
City	Rio Rancho
State Abbrev	NM
Email	benandmich@gmail.com
Comment Filename	No attachment

Comment Body

How will you protect the Rio Grande from being polluted by all the domestic well used to gain access to the non-potable water being dumped into it?
If a domestic well is allowed to obtain 3.5 acre feet of water a year that equals 585 acre feet a year from the 170 Wells drilled into the hot wings aquifer in downtown T or C?
Not one business in that town except for the five grandfathered in bath houses have a discharge permit to go into the Rio Grande.

Author First	Steven
Author Last	Siegel
City	Placitas
State Abbrev	NM
Email	oporornis@yahoo.com
Comment Filename	No attachment

Comment Body

Thank you for this opportunity. Any water use and conservation plan needs especially to address high water use agriculture practices and growth. Among high water use agriculture practices are alfalfa growing, and pecan growing. Alfalfa, especially if it is exported as it is in Arizona, is a crop that New Mexico's dry areas need to learn to live without. Raising livestock that consume alfalfa probably doesn't belong in arid parts of New Mexico, either.

But growth is another area that needs to change. This is so difficult. Politicians love growth and the increased tax base that goes along with it. Improperly thought out growth, such as is evident in Rio Rancho, will not be stopped unless governments lead. We only have so much water to share with our neighbors and the myriad more that will come with growth. The end result of a pro-growth policy in a water deficient landscape is Phoenix, AZ, a city on the brink of disaster.

2025 is the first time I can remember when grass grew in the middle of the Rio Grande at Albuquerque, and you could literally walk across the river without getting your feet wet. Before the Rio Grande looks like the Rio Puerco and our wells go dry we need to decrease demand, and that means controlling growth.

One positive step in all this would be an up-to-date mapping of our aquifers, with the data presented in a way that the people, and not just geologists, can understand. If you value public input, then you need to give the public knowledge. The recent drying of the river near the intake plant at Alameda was scary. But there was nary a word from the government about it. Apparently supplemental wells were enough to keep the taps flowing. This may not always be the case. Please let every household know where its water is coming from. Then the public, whose input you obviously value, can make, and help you make, informed choices.

Org Name	Walking Water Consulting
Author First	Cathie
Author Last	Eisen
City	Nogal
State Abbrev	NM
Email	cathieeisen@gmail.com
Comment Filename	No attachment

Comment Body

Having been in the Water/Wastewater Industry for the past 26 years I have had my hands in the waters of New Mexico in many forms and fashions. Water Planning is essential for the survival of every human and living organism and has been sorely overlooked in so many ways, in spite of many efforts to the contrary. The updated act provides the opportunity for all of us to participate in our states future and to make every effort to provide a sustainable supply of water to all those who will come after us. It is an onerous task and will require many layers of effort and participation. How to get there from here? By updating our planning and developing the means to better identify and track these resources so they can be protected and managed in the best possible fashion. In short, the first thing we need to do is to limit any additional burdens to our water supplies until we can properly and accurately catalog what is available for our use. The plan needs to include a means to support funding for more in depth water studies and monitoring of recharge and stream flows. A plan is only as good as the science that it is based on and we need accurate measurements and studies in order to determine how to manage the issues. The plan should also serve to educate and provide support to our community and county entities to develop their own water studies, plans and regulations to assure the best management of their individual resources. Planning is also an ongoing effort. Local and state plans should be updated frequently to include updated information and climate changes as they occur. All of these efforts will contribute to the preservation of our customs and culture while assuring that everyone has an adequate supply of safe and plentiful water for their future needs. Thank you for the opportunity to be a part of this effort.

Author First	Kathryn
Author Last	Fletcher
City	Anderson
State Abbrev	MO
Email	johnsonkathryn482@gmail.com
Comment Filename	No attachment

Comment Body

We shouldn't have to pay for water it's an ecencal that we all have to have

Author First	William
Author Last	Hall
City	Ruidoso
State Abbrev	NM
Email	stoneandgold10@gmail.com
Comment Filename	No attachment

Comment Body

I would like to see the Water Security Planning effort include the following :
• I encourage the planning councils to investigate the management of irrigation water rights (use it or lose it) so that conservation efforts during drought periods any adopted policy would allow for the preservation of these rights during times of non-use, specific to declared droughts. The seizure of water rights for non-use by the State of New Mexico should never be allowed. Current law should be re-written to reflect this goal.
• I would also suggest that the studies focus on identifying the total available resources and encourage the development of ordinances to ensure that the demand does not exceed the available supply. Sustainability should be the key focus of these plans to assure an adequate supply for future generations. In depth studies of prior, current and future demands to identify the impacts to the existing water sources need to be paired with aquifer mapping and monitoring.
• We need to determine where and how usage and growth is viable for each area of study as there are varied sources of water across our county boundaries.
• Additionally, specific to our local concerns in Lincoln County, we also need to study and document the impacts of current and future flood events and how that impacts our water quality and quantity.

I also need to encourage public input and education to assure that everyone is a part of this effort to preserve our most precious resource. Lincoln County also wants to protect and preserve private water rights to assure that the personal needs, customs and culture of our residents is preserved for perpetuity.

Thanks
Bill Hall

Author First	Jill
Author Last	M
City	—
State Abbrev	—
Email	jill@thejilldemographic.com
Comment Filename	No attachment

Comment Body

The ISC’s proposed rule is flawed and must be fundamentally
improved by:
complying with the law’s intent for decentralized,
science-based planning that considers public welfare and the needs of future generations of New Mexicans.

Removes mandatory roles to ISC staff who are too few to handle the workload.
Remove delegation of decision-making to staff or mandate clear criteria to guide those decisions.
Establish performance requirements, clear outcomes, and guardrails.

Author First	Rebecca
Author Last	Bryant
City	Deming
State Abbrev	NM
Email	rebeccaalalacottage@gmail.com
Comment Filename	No attachment

Comment Body

I am deeply concerned with the facts of climate change, run off and storage / replenishment of water for all of New Mexico. The future of New Mexico depends on changing how the existing water is used. Urban growth, high water use commercial development, agricultural usage has to be brought into alignment with climate driven changes to water availability. Take a hard look at agricultural usage that is not producing food for local consumers. Look at ranching practices that cannot be supported under probable climate change as water scarcity increases. Education on sustainable usage, environment adjustments to survive the future changes need to be rigorously addressed. We are going to depend on sound laws,regulations, and enforcement to provide water for all.

Author First	Jackie
Author Last	Nobles
City	Deming
State Abbrev	NM
Email	jackietgp3@gmail.com
Comment Filename	No attachment

Comment Body

Water metering on ALL agricultural and industrial wells in the state is imperative to knowing what the situation is within our aquifers.

Org Name	Lincoln County Land and Natural Resources Committee
Author First	Robert
Author Last	Shepperd
City	Nogal
State Abbrev	NM
Email	robertshepperd@yahoo.com
Comment Filename	No attachment

Comment Body

We would like to see the Water Security Planning effort include the following. We encourage the planning councils to look into the management of irrigation water rights (use it or lose it) so that conservation efforts during drought periods would allow for the preservation of these rights during times of non-use, specific to declared droughts. We would also suggest that the studies focus on identifying the total available resources and encourage the development of ordinances to ensure that the demand does not exceed the available supply. Sustainability should be the key focus of these plans in order to assure an adequate supply for future generations. In depth studies of prior, current and future demands to identify the impacts to the existing water sources need to be paired with aquifer mapping and monitoring. We need to determine where and how usage and growth is viable for each area of study as there are varied sources of water across our county boundaries. Additionally, specific to our local concerns in Lincoln County, we also need to study and document the impacts of current and future flood events and how that impacts our water quality and quantity.

We also need to encourage public input and education to assure that everyone is a part of this effort to preserve our most precious resource. Lincoln County also wants to protect and preserve private water rights to assure that the personal needs, customs and culture of our residents is preserved for perpetuity.

Robert Shepperd
Chair Lincoln County Land and Natural Resources Committee
Lincoln County, New Mexico

Org Name	Upper Hondo SWCD
Author First	Upper
Author Last	Hondo
City	Capitan
State Abbrev	NM
Email	upperhondo@uhswcd.com
Comment Filename	No attachment

Comment Body

In both documents, the Interstate Stream Commission discusses the establishment of sub-regions with associated planning council as an option to each region’s planning council. The proposed regions cover a lot of terrain with a wide range of topography, hydrology, with unique demographics, water sources (surface and underground), water users (agriculture, domestic, industrial, recreational, etc.), external (outside the sub-region) (upstream and downstream), climate challenges, etc. It is highly recommended that sub-regions be a mandatory requirement in order to identify and tackle the unique and complex issues with each of the regions. Regional councils would use the sub-region plans to establish an overall regional plan.

Org Name	New Mexico Wild et al.
Author First	Aidan
Author Last	Manning
City	Albuquerque
State Abbrev	NM
Email	aidan@nmwild.org
Comment Filename	Comments on Proposed Regional Water Planning Rule.pdf

Comment Body

New Mexico Wild, on behalf of Western Resource Advocates, New Mexico Wild, the Theodore Roosevelt Conservation Partnership, Amigos Bravos, American Rivers Action Fund, Audubon Southwest respectfully submits the attached comments in response to the proposed rule. We appreciate the opportunity to provide comment.

September 18th, 2025

Subject: Public Comment on Proposed Regional Water Security Planning Rule

Dear Ms. Salazar and the Interstate Stream Commission (ISC),

Thank you for the opportunity to review and provide comments on the proposed new rule for regional water planning under the Water Security Planning Act (WSPA). The following comments were developed and approved by Western Resource Advocates, New Mexico Wild, the Theodore Roosevelt Conservation Partnership, Amigos Bravos, American Rivers Action Fund, and Audubon Southwest, who collectively represent more than ten thousand members and supporters across the state of New Mexico with an interest in supporting the unique ecosystems, communities, and economies of our state.

Overall, we feel that the proposed rule, as written, has a few key issues that would hamper its capacity to guide effective regional plans and thus meet the requirements of the WSPA. However, the changes suggested herein, would address these issues.

Section 19.25.16.6 Objective

Please see our rationale for separating public welfare from the needs of future generations of New Mexicans for Section 19.25.16.15.

> **19.25.16.6 OBJECTIVE:** The objective of this rule is to establish a framework for regional water security planning councils to develop, maintain, and aid in implementation and tracking of regional water security plans. This framework will be grounded in regional values, scientific consensus, and New Mexico water law. The processes outlined in this rule are intended to: ensure that the plans will be based on the best available science, data, and models regarding available water supplies, use, and trends; provide transparency and opportunities for meaningful input and participation by the public and Nations, Pueblos, and Tribes within each regional water security planning region; acknowledge the sovereignty, water rights, and water needs of tribal communities; consider public welfare; ~~and~~ safeguard water resources to meet the needs of future generations of New Mexicans; align with state and federal laws; and identify and prioritize projects, programs, and policies that will help to ensure water security into the future. [19.25.16.6 NMAC – N, xx/xx/202x]

Section 19.25.16.10 Initial Planning Period

Subsection A

> (4) providing administrative support and facilitation for at least four meetings of each council per calendar year.
>
> (5) providing councils with technical support, including assistance with accessing the best available data and science, templates to guide decision making, information on funding sources, and compilations of existing plans and additional resources from inside and outside of state government.
>
> (6) developing and maintaining lists of region-specific stakeholders and notifying stakeholders of opportunities to engage in the planning process.

Section C(9)(d) of the WSPA requires that ISC support councils in identifying funding sources and acquiring funds. We believe explicitly stating that the commission has a role in assisting

councils in both the initial and ongoing planning phases is important. The ISC could fulfill this responsibility by producing a resource listing possible funding sources and updating that resource annually.

Similarly, the commission is best placed to work with other state agencies to ensure that critical data and planning originating in other agencies is available and accessible. This includes plans and programs including but not limited to: Wildlife Action Plans (NMDGF), Watershed Based Plans (NMED), Wetland Inventories (NMED), and State Parks management Plans (EMNRD). We recommend explicitly stating the role the commission plays in coordinating with other state agencies.

Subsection B

(3) once the council has been formed through the convening, inviting, and selection of representative members, at-large members, and non-voting members, the council shall adopt and provide NMISC staff written operating principles that, at a minimum, describe the following:

(a) the roles and responsibilities of the council's voting and non-voting members;

(b) the duration(s) of the term(s) for council members;

(c) the potential roles of committees, including a steering committee, subcommittees and/or work groups, if relevant;

(d) the grounds and process for removing a member from the council;

(e) the decision-making process to be used by the council to make planning decisions and ultimately ~~to~~ prioritize projects, programs, and policies; and

(f) the process for integration and engagement with commission approved subregions, if relevant.

We strongly support the requirement that Councils set a decision making structure as soon as reasonably possible. It should be made clear that this structure covers not only the final prioritization process but also the many other planning decisions that will be made over the 3 year planning period – i.e. what data to consider, the specifics of what public outreach looks like, how to consider public comment, what public welfare values are etc.

Section 19.25.16.11 Ongoing Planning Period

Subsection A

A. Responsibilities of NMISC staff include:

(1) reviewing and confirming compliance with Subsection A of 19.25.16.12 NMAC for representation of representative and at-large members, when council vacancies are filled.

(2) providing administrative support and facilitation for at least two meetings of the council per calendar year during periods when the council is not in the process of updating a plan and providing at least four meetings of the council per calendar year when the council is in the process of updating a plan.

(3) providing councils with technical support, including assistance with accessing the best available data and science, information on funding sources, decision-making guides, compilations of existing plans including inside and outside of state government, and resources to aid in tracking and reporting on implementation.

(4) publishing all regional water security plans developed by councils and approved by the commission.

See above commentary on funding and state agency coordination assistance.

Subsection B

(6) developing, reviewing, and updating PPP lists.

(7) developing and maintaining region-specific lists of stakeholders and providing information to stakeholders about opportunities to engage in the planning process and Council activities. The council may request NMISC staff support to carry out these responsibilities.

We believe that informing stakeholders of all Council activities is important for transparency, because the "planning process" itself is not clearly defined in the rule as currently written. Providing definitions for "planning process" and "council activities" would make this requirement more clear.

Subsection C

C. Councils shall report to the commission by June 30 of each year on the progress of planning activities, status of plan implementation, ~~and~~ outcomes, and steps taken to ensure stakeholder and public input throughout the planning process.

D. During the ongoing planning period, councils shall update plans at least once every ten years. Councils shall review and update PPP lists at least once every 5 years.

If regional water planning is to have the impact we hope, we believe strongly that openness and transparency are critical. We recommend that Councils report annually on the ways that the public have been incorporated into the planning process to ensure that meaningful participation does not only happen at the end. This also meets the goals of Sections C(3-6) of the WSPA.

Section 19.25.16.12 Composition of Regional Water Security Planning Councils

(2) At-large members. Up to ten at-large members shall represent each of the following stakeholder groups. There shall be one at-large member position for each stakeholder group, but members may represent multiple stakeholder groups. The stakeholder groups to be represented are:

(a) ranches in the region

(b) farmers in the region (these farmers may include 4H, Young Farmers, etc.);

(c) statewide or regional public higher education institutions (such as a student, professor, administrator etc.) in the region;

(d) environmental, conservation, or ecosystem interests ~~water advocacy non-governmental organizations with members or local chapters~~ in the region;

(e) water-based sporting or recreational interests located in the region (fishing, rafting, etc.);

(f) mutual domestic water consumer associations or community regional water systems in the region;

(g) commercial, industrial, mining, and power in the region;

(h) special districts established pursuant to Chapter 73, NMSA 1978, with staff whose responsibilities include water management, located in whole or in part within the region, and that do not fall within the previous membership categories within Paragraph (1) of Subsection A of 19.25.16.12. Should there be no representative pursuant to these criteria for the region, this becomes a general at-large member;

(i) existing regional water planning steering committees who have continuously operated since the conclusion of the 2014-2016 regional water planning effort. Should there be no regional water planning steering committee in the region, this becomes a general at-large member; and

(j) one general at-large member in the region, who represents grassroots or community water needs.

We appreciate the implied intent that each at-large member should represent the interests that reside within the region and not the state as a whole and therefore support the inclusion of “in the region” after each position. As written now it appears that for example an individual that the Council agrees represents ranchers in the region, but does not necessarily reside themselves in the region, could serve as At-Large Member A. We agree with this sideboard and feel it provides a good compromise between region-based decision making and the reality of limited capacity for many stakeholders at the regional scale.

- To be consistent we believe that the educational seat should also represent the institutions in the region and not statewide interests.
- To be consistent we believe that the environmental seat should represent ecological interests in the region broadly rather than members of a specific organization.
- We firmly believe that missing from this list is a member who represents grassroots, community water needs. While there could be overlap in perspectives – ranchers, acequia members, and environmental advocates are part of the community – perspectives of public health, social justice, community welfare etc. may be left out of the conversation without a more community-oriented representative. We recommend the addition of this seat.

Section 19.25.16.13 Meeting and Input Requirements

A. Councils shall hold regularly scheduled meetings as follows:

(1) meetings shall be held at least four times per year during periods when the region’s plan is being developed or updated.

(2) meetings shall be held at least two times per year during periods when the plan is not being developed or updated.

(3) councils shall ~~provide at least 14-day notice of meetings~~follow the provisions of the Open Meetings Act to notice all meetings and formal ~~or other~~ activities to council members, the public, region-specific stakeholders, Nations, Pueblos and Tribes, and the commission, with NMISC staff support as needed.

(4) councils, with NMISC staff support, shall offer meetings for hybrid participation if practicable.

In the previous draft we recommended that Councils follow the Open Meetings Act, to ensure transparency, trust and true community participation. If this is not possible, at minimum we recommend expanding on what type of notice is required – for example, ensuring the standard of public notice meets or exceeds the requirements for all participating local or county governments.

Section 19.25.16.14 Considerations for Councils During Planning Processes

Subsection B

B. Councils ~~may~~ shall consider the following information for inclusion in any regional water security plan, or document when information is insufficient to be able to fully consider:

(1) best available resources or methodologies for considering the needs of rural and urban places and populations within the region;

(2) groundwater management strategies and needs;

(3) regional food security and agricultural resilience; and

(4) water needs for healthy upland and riparian habitats, including the best available science regarding the water needs of native fish, wildlife, and their habitats.

Section 72-14-3 NMSA states that the Interstate Stream Commission is "authorized…to investigate water supply, to develop, to conserve, to protect and to do any and all other things necessary to protect, conserve and develop the waters and stream systems of this state, interstate or otherwise". This enabling legislation gives the ISC broad authority to set rules that guide regional water planning councils through a thorough and effective planning process.

We feel that understanding and documenting key information about a region's key resources is necessary for both informed stakeholder involvement and effective planning. Section 19.25.16.14.B allows but does not require that councils consider these critical pieces of information.

The WSPA requires that the ISC establish in rule "a procedure…for considering the needs of future generations" and that "the outcomes sought by each regional water planning entity shall…consider public welfare values, balancing water uses and the needs of future generations of New Mexicans.

We firmly believe that neither of these requirements can be met without the careful consideration of all information currently listed in 19.25.16.14.B. We recommend removing the "may" to replace with a "shall" with a qualifier to allow for Councils to document when insufficient information is available.

Subsection C

C. Councils shall consider the following statewide objectives in any regional water security plan:

(1) state obligations under interstate compacts;

(2) compliance with the Endangered Species Act and the prevention of serious harm to the habitats of species that are threatened or endangered under state or federal law, or at risk of future listings;

(3) implementation of water rights settlements, including local and federally executed Indian water rights settlements;

(4) the state's existing administration plans under the Active Water Resources Management program.

We support the clearly identified statewide objectives and recognize that they are all reflected in existing statute and regulation such as NMSA 72-14-3.1 NMAC 19.25.13. We propose the broadening of Objective 2, to reflect the existing statewide priority expressed in NMSA 72-14-3.3 which establishes the Strategic Water Reserve. This reserve can be used not only to address the needs of current endangered species but to prevent the listing of future species. This existing goal of preventing future listings is particularly relevant for a process to develop long-lasting water plans and should therefore be included in this list.

Section 19.25.16.15 Criteria for Approval of Regional Water Security Plans

Subsection A

19.25.16.15 CRITERIA FOR APPROVAL OF REGIONAL WATER SECURITY PLANS:

In order to be approved by the commission, a regional water security plan must meet the following criteria:

A. Plans shall include documentation of the following items:

(1) Water Security Tribal Advisory Council (WSTAC) engagement, involvement, information and recommendations;

(2) public notice under Section 19.25.16.13;

(3) stakeholder engagement in the development, vetting and prioritization of PPPs;

(4) comments received, considered, and incorporated from stakeholders and the public;

(5) comments received from state and federal agencies;

(6) council consideration of public welfare values;~~,~~

~~(6)~~(7) council consideration of balancing water uses and the needs of future generations of New Mexico in the region through an analysis of the long-term sustainability and cumulative impacts of any proposed project, including an estimate of how long any impact or benefits achieved from a project are expected to remain~~, if any~~;

~~(7)~~(8) Council committees, working groups and/or sub-regions, if applicable, within a region;

~~(8)~~(9) consideration of the regional water balance, including any projected reductions in water availability due to the impacts of climate change or other factors; and

~~(9)~~(10) compliance with statewide objectives identified in Paragraph C of Section 14.

Section C(1)(e) of the WSPA requires that the ISC establish in rule "a procedure…for considering the needs of future generations". As written, we do not find the proposed rule to do so. While sections 19.25.16.14.A and 19.25.16.15.A require consideration of future generations, no procedure is established to do so. We strongly believe that the intent of this language was to require planning entities to consider the long term benefits and impacts of any proposed projects, and how they would support the needs of our communities and environments into the future – i.e the need to consider sustainability in the planning process. We recommend adding a new section to the rule detailing the specific procedure for this consideration.

We also want to acknowledge that the terms "public welfare" and the "needs of future generations" are treated as both distinct and related ideas in different parts of the WSPA (see 72-14A-4(C)(1)(e) vs. 72-14A-5(b)(2) NMSA). The draft rule reflects this confusion. Public welfare is a legal term of art that has significance in NM water law. We believe it is best to not conflate legal public welfare considerations with a broader interest in considering long-term sustainability and future needs. Instead, we believe the best role of this rule is to clarify that distinction.

Subsection B

B. Plans ~~may~~ shall include documentation that the needs of rural and urban populations within the region were considered, or documentation that information was insufficient to fully consider.

See commentary above regarding the information required to consider future generations and public welfare. We believe considering both rural and urban water needs is integral to these decisions as well, and should be required, not just encouraged.

Subsection C

C. Plans shall include a list of prioritized proposed projects, programs, and policies with each item ranked individually relative to all other PPPs region wide, as well as within three ~~on that~~ sub-lists ~~region wide~~.

(1) The prioritized list of PPPs included in each plan shall also be organized based on the readiness of each individual PPP.

Section 19.25.16.15.C states that in regards to prioritization, PPPs shall be "ranked individually relative to all other PPPs on that sublist region wide". We read this to mean that no overall prioritization ranking is required, only priority within each readiness category. While we support the use of readiness-based sublists, we urge the ISC to also require an overall ranking of PPP priority. In regions where PPPs are not well distributed among sublists, sublist ranking alone may artificially inflate or deflate the true need for a PPP to be implemented. We feel that including both ranking systems best meets the requirements of prioritization under WSPA.

(4) PPP types include, but are not limited to projects, programs, and policies that address the following:

- **(a)** watershed health
- **(b)** drinking water
- **(c)** storm water
- **(d)** wastewater
- **(e)** water retention and delivery infrastructure
- **(f)** water conservation resulting in a reduction of total water use
- **(g)** education
- **(h)** efficiency resulting in a reduction of total or per-capita water use
- **(i)** water reuse
- **(j)** aquifer storage and recovery
- **(k)** aquifer recharge and groundwater sustainability
- **(l)** agricultural water use resilience
- **(m)** development of new water resources
- **(n)** river and riparian habitat restoration
- **(o)** environmental flows
- ~~**(n)**~~**(p)** water related natural or green infrastructure
- ~~**(o)**~~**(q)** livestock water management
- ~~**(p)**~~**(r)** alternative water administration strategies (under Active Water Resources Management, water markets or banks, voluntary shortage sharing, etc.)
- ~~**(q)**~~**(s)** drinking water system regionalization
- ~~**(r)**~~**(t)** asset management planning
- **(u)** scientific water studies
- ~~**(s)**~~**(v)** aquatic connectivity

We believe that the list of potential PPP types under 19.25.16.15.C(4) would benefit from some additional items (environmental flows, water related natural or "green" infrastructure, and aquatic connectivity) and specifications for existing items (aquifer recharge and groundwater

sustainability, agricultural water use resilience, livestock water management, and water related scientific studies).

> **(5)** Additional documentation for each ~~PPP may include~~shall consider the following, with the understanding that data availability and relevancy will vary:
>
> **(a)** existing or potential funding, including to match state or federal
> **(b)** ability to enhance regional water resilience or have long-lasting and sustainable benefits
> ~~**(b)**~~**(c)** consideration of any positive and negative socio-economic, environmental, or cultural impacts associated with the PPP
> ~~**(c)**~~**(d)** the presence of multiple benefits or ability to meet multiple objectives
> ~~**(d)**~~**(e)** substantial support from diverse stakeholders; or
> ~~**(e)**~~**(f)** identification of interrelated PPP's and potential enhanced benefits of implementing multiple PPPs in conjunction with each other.

How PPPs are considered, ranked and ultimately presented is the core requirement of regional water security plans. It is critical that this is done thoroughly. We respectfully believe that the considerations in 19.25.16.15.C(5), both existing and additional, cannot be optional. ISC is well within the authority provided in their enabling legislation and the WSPA to set these considerations in rule. The Motion to Initiate Rule Making states that the purpose of the rule is to "provide the structure and support of regional Water Security Planning Councils [to enable them] to provide recommendations on what outcomes are most ready for funding and furthering." This structure is reasonably necessary to ensure that plans are comparable across regions and that priorities can be considered together across the state.

The Water Security Planning Act of 2023 demonstrated a recognition of our state's dire position, which will determine the use and availability of our most precious natural resource for many years to come. The need for informed, holistic, and good faith regional water security plans is great, and such plans could present opportunities to implement solutions with many diverse benefits. However, we believe a number of important changes to the proposed ruleset are necessary if they are to guide such an effective planning process and meet the requirements set out by WSPA. We thank you for your consideration of our suggested changes.

Sincerely,

New Mexico Wild
Western Resource Advocates
Theodore Roosevelt Conservation Partnership
American Rivers Action Fund
Audubon Southwest
Amigos Bravos

Org Name	Eldorado Area Water & Sanitation District
Author First	Maya
Author Last	Clifford
City	Santa Fe
State Abbrev	NM
Email	m.clifford@eawsd.org
Comment Filename	2025_09_ISC_Regional Planning Letter.pdf

Comment Body

Please see the attached letter on behalf of the District

ELDORADO AREA WATER & SANITATION DISTRICT
2 North Chamisa Drive, Suite A • Santa Fe, NM 87508 • (505) 466-2411

John Calzada, PRESIDENT
Gregory Hart, VICE PRESIDENT
David W. Yard, SECRETARY
Elizabeth Roghair, TREASURER
David Burling, DIRECTOR

Maya R. Clifford
GENERAL MANAGER

LETTER OF COMMENT

September 18, 2025

Interstate Stream Commission
Attn: Water Planning Program
PO Box 25102
407 Galisteo Street, Suite #101
Santa Fe, NM 87504-5102

RE: Regional Water Security Planning (WSP) Docketed Matter NMISC 25-01 (R)

Dear Interstate Stream Commissioners:

This letter is in response to the Regional Water Security Planning (WSP) draft guidelines and rulemaking hearing which is accepting comments prior to rule promulgation before September 27, 2025.

This letter is intended to encourage and encourage Commissioners of the Interstate Stream Commission (ISC) to think broadly about how these rules will affect their fellow New Mexican and not as an agency representing the State of New Mexico.

How will this affect your neighbor, friend, family member, local municipality, or special district?

The General Manager of the Eldorado Area Water & Sanitation District (the District) submitted comments on the mainstreamnm.org website prior to the draft guidelines being written. Some of those comments were incorporated into the final draft guidelines now being considered for rule promulgation but several were not. Some of the outstanding issues which will affect the District are as such listed below:

19.25.16.9 (A) *The nine regional water security planning regions are show in exhibit A, water security planning regions map.*

The WSP Regional Boundaries are drawn around hydrologic elements - - the District is located within the region with the greatest population, the Middle Rio Grande Council, but is not hydrologically connected to the Rio Grande watershed directly. How will entities be supported and encouraged to participate if they are not hydrologically connected to their planning region and how will projects, programs, and policies, be given oversight if they are not as high of a priority as dictated by the larger regional council?

19.25.16.11 (D) *During the ongoing planning period, councils shall update plans at least once every ten years. Councils shall review and update PPP lists at least once every 5-years.*

The capacity issues in this state are great - - finding council members who have the bandwidth, expertise, and enough historical knowledge to write operating principles on behalf of thousands of New Mexicans seems like a great challenge for the ISC to manage and equitably incorporate all different types of entities, municipalities, utilities, and districts alike. It is encouraged for Commissioners to think through how these draft guidelines support that endeavor and intention.

19.25.16.12 (2) *At large members. Up to ten at-large members shall represent each of the following stakeholder groups. There shall be one at-large member position for each stakeholder group, but members may represent multiple stakeholder groups. (h) special districts established pursuant to Chapter 73, NMSA 1978, with staff whose responsibilities include water management, located in whole or in part within the region, and that do not fall within the previous membership categories within Paragraph (1) of Subsection A of 19.25.16.12.*

The composition of the regional councils is made up of seven types of representative members including soil & water conservation districts, irrigation district, and acequia associations but do not include Water & Sanitation Districts like ours, and would only consider us at-large members. Water & Sanitation Districts specifically mentioned in Chapter 73, Article 21 NMSA 1978, throughout the State of New Mexico serve a signification portion of New Mexicans directly whether to support agriculture, ranching, farming, potable water delivery, or sanitation treatment. Is it encouraged for Commissioners to consider how the council's representative members and stakeholders will be able to engage and provide diversity of thought to serve the greatest number of New Mexicans to the highest degree.

19.25.16.15 (2) *Each proposed PPP must list the sponsor(s) that intends to lead implementation of the PP, including obtaining and administering any necessary funding for the PPP.*

One of the core activities of the councils will be to create a regional prioritized projects, programs, and policies list - - there are no written guidelines in this draft rule informing the public or the future councils on how to 'weight' projects against one another outside of a 'readiness stage' which is highly subjective. Additionally, funding and implementation are the greatest challenges that prevent project completion in rural New Mexican communities like ours - - it is not clear how the ISC will help support projects funding or implementation hurdles and what meaningful guidance they will offer.

Thank you for the time and attention to read these comments.

Sincerely,

ELDORADO AREA WATER & SANITATION DISTRICT



Maya R Clifford
General Manager

cc: Harwood Pierpont
Representative Matthew McQueen
Senator Elizabeth Stefanics
Senator Peter Wirth
Santa Fe County Commissioner Hank Hughes
New Mexico Commissioner of Public Lands Stephanie Garcia Richard

Author First	Sheridan
Author Last	Hewitt
City	Edgewood
State Abbrev	NM
Email	sherihewitt4@gmail.com
Comment Filename	No attachment

Comment Body

I would you to give serious consideration to the introduction of beavers to New Mexico’s waterways (all of them regardless of size). This is being done all over Europe and England with excellent results. Beavers expand our water storage and provide better habitat for wildlife. This is not a frivolous request.

Author First	Mary
Author Last	Meade
City	Deming - Luna
State Abbrev	NM
Email	marylmeade@yahoo.com
Comment Filename	No attachment

Comment Body

In Luna County our only water source is the Mimbres aquifer. We are in a decades long drought, or call it climate change, where there has been no recharge of the aquifer for about 20 years. According to your 2022 inventory, agriculture is taking 92% of our county's total water consumption, or 100,000 acre feet a year. The make up of the council seems to favor Agriculture. One seat each for farmers, ranchers, soil and water conservation district, irrigation district, and many of the rural area counties and municipalities are heavily represented by ag allegiances, as, even tho' they are a substantial minority of the population, they seem to control the politics in the small towns. The illusion is that agriculture makes up a substantial base and you seem to think that justifies giving them a more weighted voice. They have been very successful promoting their legend. The reality is there are only 213 farms and ranches in Luna county, with one packing plant, and a lot of cattle over-grazing land and destroying the topsoil such that we have had a record number of dust storms this spring and summer. The fact is they only contribute .3% to our county gross tax receipts according to the State EDD. Another fact is these county farmers have received over $88 million from our taxes over the past 30 years in subsidies, per USDA Census, to keep them in what would otherwise be failing businesses. I would like to see a vehicle within the council that allows for fast tracking the enforcement of already State legislated regulations to 1) shut down ag water rights that have not been used in four years. 2) inspect the transfer of all ag water rights to ensure they were tranferred to other agricultural purposes, e.g. require public review of any other kind of transfer such as power plant or AI mfg commercial purposes. 3) clearly define what "public beneficial use" is, (e.g. the majority of the public or just a handful of farmers). 4) clearly define when minor water rights can actually be shut down during a draught. (Is it after the water is all gone?) 5) put all legacy wells currently in paper files at all SOE offices on the SOE POD data base as quickly as possible. 6) Require all wells, including domestic, to have meters on them and establish automatic reporting systems. 7) for national border regions, where agriculture south of the border is projected (by remote sensing) to be consuming the same quantity of water as agriculture north of the border, require they have a seat on the council. Some research says our aquifer has accessible about 6 million acre feet of water left. And we have used about a third of that in 50 years. Two meetings a year just doesn't seem urgent enough for those of us in the southwest part of the state.

Org Name	New Mexico Cattle Growers' Association
Author First	Tom
Author Last	Paterson
City	Moriarty
State Abbrev	NM
Email	nmwgi@nmagriculture.org
Comment Filename	No attachment

Comment Body

Comments:
1. The Water Security Planning Act provides that there shall be no condemnation of water rights. It further provides that owners' rights must be protected. Where is this emphasized in the proposed rule?
2. Section 16-7 does not define "public welfare." What is included in "public welfare" or "public welfare values"?
3. Section 16-9 identifies nine regional water security planning regions. How are the regions actually designated? If basins with certain strong footprints in agriculture or rural areas are merged with metropolitan-anchored basins, disproportionate weight may be given to metropolitan areas.
4. Section 16-10 will have the effect of concentrating rule authority in the ISC staff, which will dilute the law's decentralization intent.
5. Section 16-12, as drafted, gives each representative and at-large member the same vote. There is no provision in membership or voting procedures to reflect relative historic uses of water within a region, thus potentially diluting existing uses and disrupting local economies. That would not be fair or equitable to agriculture or rural interests.
6. Section 16-14 calls for using "best available science." If depletion/return-flow assumptions or climate scenarios are parameterized in ways to penalize irrigated acreage such as through assumed low efficiency or high evaporative losses while favoring municipal conservation yields, this will have a detrimental impact on rural areas. Model inputs should be transparent. There should be a peer-review lane for agriculture and rural areas.
7. Section 16-15C requires "a list of prioritized proposed projects, programs, and policies with each item ranked individually relative to all other PPPs on that sub-list region wide." If scoring criteria emphasize population served, economic output per acre-foot or drought "resilience" metrics that fit cities better than ranches and farms, rural water uses could be denied investment. This may occur regardless of whether a rural PPP receives no formal condemnation. The scoring rubric should be included in the rule for consideration or prioritization of traditional uses.

Requests to Protect Agriculture and Rural Communities
1. Emphasize in the rule text that regional plans/PPPs cannot be used to justify or fast-track inter-basin or rural-to-urban transfers/leases that impair existing rights or rural community water security.
2. Section 16-7: Define "public welfare" to include existing, traditional uses of water.
3. Section 16-9: Define regions by hydrologic units/acequia systems rather than metropolitan service areas; prohibit regional boundaries that subordinate predominantly agricultural and rural basins to metropolitan councils.
4. Section 16-12: Require that each council include acequia/ditch association(s), agricultural producers (row, forage, dairy, beef cattle, sheep) and livestock/rangeland interests with minimum seat allocations and voting commensurate with traditional utilization.
5. Section 16-14: Require public release of all model inputs/assumptions (ET rates, efficiency, climate scenarios) and a formal agricultural sector technical review before PPP approval.

8. Section 16-15C: The scoring rubric should be included in the rule for consideration and prioritization of traditional uses.
9. Section 16-15: Before approving a regional plan, require an equity impact statement that quantifies the effects on agricultural acres, ditch deliveries and rural domestic systems plus mitigation of harms identified.

Author First	Vanessa
Author Last	Renteria
City	Albuquerque
State Abbrev	NM
Email	vrenteri@hotmail.com
Comment Filename	No attachment

Comment Body

Do not allow for oil and gas waste water called produced water to be used in NM. It is highly toxic and will be detrimental to new Mexicans health.

Org Name	The County of Lincoln, County Commission
Author First	Mark
Author Last	Fischer
City	Carrizozo
State Abbrev	NM
Email	mfischer@lincolmcountynm.gov
Comment Filename	No attachment

Comment Body

We encourage the planning councils to look into the management of irrigation water rights (use it or lose it) so that conservation efforts during drought periods would allow for the preservation of these rights during times of non-use, specific to declared droughts. We also urge that studies be commissioned on determining water budgets for the region and relevant sub-regions. These water budgets should focus on identifying the total available water resources and encourage the development of ordinances to ensure that the demand does not exceed the recharge rates of available water supplies. Sustainability should be the key focus in order to assure an adequate supply for future generations. In depth studies of prior, current and future demands to identify the impacts to the existing water sources need to be paired with comprehensive aquifer mapping and monitoring. We need to determine where and how usage and growth is viable for each area of study as there are varied sources of water and recharge across our county boundaries. Additionally, and specific to our local concerns in Lincoln County, we also need to study and document the impacts of current and future flood events and how that impacts our water quality and quantity. Lincoln County's geology, which is made up of multiple watersheds and isolated and semi-isolated aquifers complicates the comprehension of local water budgets as well as the rational transfer of water rights. The practice of water rights transfers needs in depth study, particularly as it pertains to aquifers which have little or no connection with one another. The criticality of surface water flows to percolation and groundwater recharge is another important water management issue, somewhat outside the consideration of simple aquifers but remains very relevant in Lincoln County. Lincoln County also wants to protect and preserve private water rights to assure that the personal property, customs and culture of our citizens is preserved for the future. We also question the standing of statewide or regional public higher education institutions (such as a student, professor, administrator, etc.); or environmental, conservation, or water advocacy non-governmental organizations with members or local chapters in the region; these non-constituent groups should not be voting members of Regional Water Security Planning Councils.
Mark Fischer, Chair Lincoln County Commission, The County of Lincoln, New Mexico

Author First	Shani
Author Last	Silver
City	RR
State Abbrev	NM
Email	going2abq@yahoo.com
Comment Filename	No attachment

Comment Body

All new construction should be required to have grey water or rain storage containment for landscape and gardening purposes. Lawns, individually, commercially, and government owned should be watered with grey water, as should all construction projects and street maintenance. The new AI Data Center, as well as any new business enterprises, should be required to harvest their own water through innovative means and face heavy penalties for any contamination of our water supply throughout the state. These new companies promising to bring in thousands of jobs (like the Space Center) should not have to our potable drinking water, especially considering that we are nearing extreme drought conditions for several years in a row in many counties. Protect the potable drinking water supply that we have by encouraging installations of grey water systems, as well as rain harvesting systems. New construction continues to go up all around Rio Rancho, all sharing the same aquifer that had a 50 year max capacity, estimated 20 years ago with a smaller population. All of the housing projects have used millions, if not trillions, of gallons of potable water to grade the streets and build platforms for foundations. This could have been accomplished with non-potable water rather than our dwindling drinking water. Utilize some of the strategies coming out of Arizona for water conservation because we are only years away from being in the same situation of continuous drought.

Author First	David
Author Last	Kowal
City	Rio Rancho
State Abbrev	NM
Email	davehkowal@gmail.com
Comment Filename	No attachment

Comment Body

Let's do the right thing and scrap this legislation now. Resources and funds proposed by this present legislation should instead be used for large scale water import planning and projects. Chopping the state up into districts is the wrong direction to be going. There is very little, if anything useful, to be done for New Mexico water needs on this small scale. Maybe a little conservation and a few other minor things is all that can be accomplished on this tiny scale. New Mexico needs water state-wide necessitating state-wide solution(s).

Our major aquifers are beginning to show draw-down and surface water is at maximum usage in most areas of the state. This will only get worse as population continues to increase and water needs increase commensurately. Conservation and development of local sources is inadequate for present water needs, and thoroughly inadequate for future needs. This presently proposed action will do nothing to satisfy needs. It is a waste of money and resources.

New Mexico needs to import water in order to survive. Large scale projects need to be planned and implemented now in order to have water when it's needed. Resources and funds proposed by this present legislation should be used for large scale water import planning and projects.

Funding proposed for this present legislation could better be used to develop plans for a comprehensive water solution which would secure New Mexico's water future. Very likely, water will need to be imported across state lines from long distances. Local sources are spoken for (tied up by present allocations). This means that federal funding will be a necessity. Application(s) for funding will require appropriately detailed proposals and plans. This requires both funding and resources which could be provided in lieu of this legislation. Let's do the right thing and scrap this legislation now.

Author First	David
Author Last	Carmichael
City	Las Cruces
State Abbrev	NM
Email	btrout22@hotmail.com
Comment Filename	No attachment

Comment Body

I'm glad that New Mexico is working on plans for our future water supply, and I've attended several of the public meetings related to rule-making. In light of those meetings, and after reading the proposed rule, I have concerns about the makeup of the Planning Committees. It seems that some of largest users of water (farmers, ranchers, miners, and other industrial users) would be overrepresented on the Planning Committees as proposed. Proponents of non-consumptive water uses, such as wildlife habitat management, outdoor recreation, birding, and ecological science interests should be better represented than they are in the current proposed rule. Furthermore, it seems that all of the disciplines involving special expertise are outweighed by the number of political leaders included on the committees. I worked as a defense contractor for many years, and I managed quite a few public scoping meetings, hearings, etc. during those years. I have seen first-hand how elected officials committed to the status quo can "flood the zone" when it comes time to discuss policy changes and responses to new challenges. I'm not confident that the proposed makeup of the committees will result in the visionary responses called for by our current challenges. For example, in the meetings I've attended, there has been relatively little discussion about how to reconfigure agricultural production, crop choice, etc. despite the fact that the agricultural sector uses more than 90% of the water in our region. Realistically, that is the only slice of the pie that is large enough to see much change, but as far as I've seen, most stakeholders are not addressing that reality. In fact, every day I drive by farms that are growing young pecan trees for transplantation into expanding orchards. A pre-emptive move in anticipation of future limits? Perhaps, but it implies that many of the key stakeholders simply are not ready or willing to address the real challenges that we face. Reconsidering the membership of the planning committees might help address this problem.

Author First	Maresa
Author Last	Pryor-Luzier
City	Datil
State Abbrev	NM
Email	mpluzier@gmail.com
Comment Filename	No attachment

Comment Body

Please protect rural water sources from corporations. We have been fighting for years to protect our groundwater that is not rechargeable in Catron and Socorro counties. Please help us and others protect our water sources.

Thank you!

Org Name	Rio Santa Barbara Unified Acequia Association
Author First	Carlos
Author Last	Abeyta
City	Penasco
State Abbrev	NM
Email	cabeyta33@gmail.com
Comment Filename	No attachment

Comment Body

I come from a family of 12 siblings. We grew up turning the soil for every square inch of our 12 acre parcel in Penasco, NM. We have struggled with water issues running through our Santa Barbara River and Acequias (17 acequias). This struggle seems to never go away and I understand the valuable resource, whether above or under ground. Please do not cave into money making entities who want to steel our water. I am the president of the Rio Santa Barbara Unified Acequia Association. I am not a legal expert but a farmer who would like to continue cultivating the land and fighting for what is right. I ask you to protect our way of life by ensuring that the water keeps flowing for our needs. We are not peasants and our villages are filled with highly educated people. People who are different and I hope that you acknowledge our needs and protect our acequias. Our people have worked hard to keep these treasures in our backyards for our communal needs. We also need to keep our aquafers so that the coming generations have the invaluable resource for domestic purposes through the MDWCA's. Thank you

Org Name	New Mexico Acequia Association
Author First	Vidal
Author Last	Gonzales
City	Santa Fe
State Abbrev	NM
Email	vidal@lasacequias.org
Comment Filename	NMAA FINAL ISC WSPA Comments (Submitted) 09-23-2025.pdf

Comment Body

Please view our attached documents to view our comments. Thank you.

New Mexico Acequia Association
805 Early Street
Suite 203B
Santa Fe, NM 87505
505.995.9644
www.lasacequias.org

September 23, 2025

Interstate Stream Commission
NMISC Administrator
5550 San Antonio Dr. NE,
Albuquerque, NM 87109

RE: NMAA Comments Regarding the Interstate Stream Commission's Proposed Rule on the Water Security Planning Act

Dear NMISC Administrator:

The New Mexico Acequia Association (NMAA) has been actively involved in the Interstate Stream Commission's planning process and rule development concerning the Water Security Planning Act. The New Mexico Acequia Association is a grassroots, membership based organization of acequias and community ditches in New Mexico. Since 1989, we have been working to protect acequias and agricultural water rights through community education, organizing, and advocacy. Please see our comments below to the Interstate Stream Commission's proposed rule on the Water Security Planning Act.

Sincerely,

Vidal Gonzales, Director of Policy and Planning
New Mexico Acequia Association

PROPOSED RULE – New Mexico Acequia Association Comments

Received by Jennifer Salazar
7/17/2025 at 1:42 pm
NM Interstate Stream Commission

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 25 ADMINISTRATION AND USE OF WATER – GENERAL PROVISIONS
PART 16 REGIONAL WATER SECURITY PLANNING

19.25.16.1 ISSUING AGENCY: New Mexico Interstate Stream Commission, hereinafter the commission.
[19.25.16.1 NMAC – N, xx/xx/202x]

19.25.16.2 SCOPE: This rule implements the provisions of the Water Security Planning Act, Section 72-14A-1 NMSA 1978, and sets forth the processes and criteria for convening and establishing regional water security planning councils and developing and maintaining regional water security plans.
[19.25.16.2 NMAC – N, xx/xx/202x]

19.25.16.3 STATUTORY AUTHORITY: Section 72-14A-1, et seq. NMSA 1978.
[19.25.16.3 NMAC – N, xx/xx/202x]

19.25.16.4 DURATION: Permanent.
[19.25.16.4 NMAC – N, xx/xx/202x]

19.25.16.5 EFFECTIVE DATE: xxxxxxxxxxxxx xx, 2025, unless a later date is cited at the end of a section.
[19.25.16.5 NMAC – N, xx/xx/202x]

19.25.16.6 OBJECTIVE: The objective of this rule is to establish a framework for regional water security planning councils to develop, maintain, and aid in implementation and tracking of regional water security plans. This framework will be grounded in regional values, scientific consensus, and New Mexico water law. The processes outlined in this rule are intended to: ensure that the plans will be based on the best available science, data, and models regarding available water supplies, use, and trends; provide transparency and opportunities for meaningful input and participation by the public, political subdivisions of the state, and Nations, Pueblos, and Tribes within each regional water security planning region; acknowledge the sovereignty, water rights, and water needs of tribal communities; consider public welfare and the needs of future generations of New Mexicans; align with state and federal laws; and identify and prioritize projects, programs, and policies that will help to ensure water security into the future. [19.25.16.6 NMAC – N, xx/xx/202x]

19.25.16.7 DEFINITIONS:

A. "Commission" means the New Mexico interstate stream commission and its nine appointed members, authorized under Section 72-14-1 NMSA 1978.

B. "Initial planning period" means the time period from the establishment of each council to the approval of its first regional water security plan by the commission.

C. "NMISC staff" means the employees of the New Mexico interstate stream commission.

D. "Ongoing planning period" means any time period following the initial planning period for each council. The ongoing planning period begins once an initial regional water security plan is approved by the commission.

E. "Projects, programs, and policies" or "PPPs" or "PPP" means identified strategies and alternatives, including infrastructure projects, conservation programs, watershed or groundwater management policies, and other types of initiatives that will promote regional water security and are identified in the plans and PPP lists.

F. "Regional water security plan" or "plan" means a plan produced by a council, that meets the requirements described herein and is approved by the commission.

G. "Regional water security planning council" or "council" means the members described herein who lead regional water security plan development, and aid in and track implementation of the plan in their respective region.

H. "Regional water security planning region" or "planning region" or "region" means an area of the state as described herein that is the planning area for each regional water security planning council.

I. "**Region-specific stakeholder**" means a member of the public who is not a member of a council but has identified themselves to NMISC staff or a council as interested in engaging in the planning process for a specific region.

Commented [VG1]: Adding political subdivisions of the state will help to make clear the following requirements of the **Water Security Planning Act §72-14A-1 et seq., NMSA 1978,**:

SECTION 4. WATER PLANNING FUNDING--REGIONAL WATER PLANNING--RULES--GUIDELINES.—Subsection C. The commission shall:
"(5) provide engagement with acequia communities;
(6) provide for the engagement of rural communities;"

SECTION 5. REGIONAL WATER PLANNING ENTITIES.—Subsection C. Each regional water planning entity shall:
"(4) assist in the funding, development and incorporation of plans for rural communities;"

PROPOSED RULE – New Mexico Acequia Association Comments

[19.25.16.7 NMAC – N, xx/xx/202x]

19.25.16.8 WATER SECURITY TRIBAL ADVISORY COUNCIL:

A. NMISC staff shall provide administrative support and facilitation, in coordination with the office of the state engineer and Indian affairs department, for the establishment and operation of a water security tribal advisory council ("WSTAC") comprising representatives of New Mexico Nations, Pueblos, and Tribes.

B. The purpose of the WSTAC is to provide a forum for input from New Mexico Nations, Pueblos, and Tribes to ensure that their sovereignty, water rights, water needs, and viewpoints are considered and incorporated in regional water security planning and other related activities as determined by the commission.

C. The participating Nations, Pueblos, and Tribes shall determine their own procedures and principles for the operation of WSTAC.

[19.25.16.8 NMAC – N, xx/xx/202x]

19.25.16.9 ACEQUIA AND RURAL WATER SECURITY ADVISORY WORKING GROUP

A. NMISC staff shall provide administrative support and facilitation, in coordination with the New Mexico Acequia Association, the New Mexico Acequia Commission, the New Mexico Land Grant Council, and the New Mexico Rural Water Association for the establishment and operation of the Acequia and Rural Water Security Advisory Working Group ("ARWSAWG") comprising of the appointed representatives of each Regional Water Security Planning Council that represents acequias, mutual domestics or community regional water systems, and land grant-mercedes.

B. The purpose of the ARWSAWG is to provide a forum for input from New Mexico acequias, mutual domestics or community water systems, and land grant-mercedes to ensure that their water rights, water needs, and viewpoints are considered and incorporated in regional water security planning and other related activities as determined by the commission.

C. The participating appointed representatives of the acequias, mutual domestics or community regional water systems, and land grant-mercedes of each Regional Water Security Planning Council shall determine their own procedures and principles for the operation of ARWSAWG.

~~19.25.16.9~~19.25.16.10 **REGIONAL WATER SECURITY PLANNING REGIONS:**

A. The nine regional water security planning regions are shown in exhibit A, water security planning regions (map).

B. Subject to commission approval, regional water security planning regions may be subdivided into sub-regions within a planning region or across multiple planning regions. In determining whether to approve a proposed sub-region, the commission shall use the following criteria:

(1) the basis, hydrological or otherwise, for the sub-region and what circumstances make the proposed sub-region distinct from the region;

(2) whether there is sufficient population and capacity within the proposed sub-region to engage in a transparent and inclusive planning process for the proposed sub-region;

(3) the impact of the proposed sub-region on the ability of the remainder of the region to engage in a transparent and inclusive planning process;

(4) support from the associated council(s) for the proposed sub-region;

(5) the process for how the work of the proposed sub-region will be integrated with the regional water security plan(s) of associated regions, including the prioritization of projects, programs, and policies.

[19.25.16.9 NMAC – N, xx/xx/202x]

~~(5)~~19.25.16.11 REGIONAL WATER SECURITY PROGRAM FUND

~~19.25.16.10~~19.25.16.12 **INITIAL PLANNING PERIOD:** During the initial planning period,

A. Responsibilities of NMISC staff include:

(1) inviting governmental entities identified in Paragraph (1) of Subsection A of 19.25.16.12, NMAC to select their representatives, and convening a meeting of these representative members.

(2) assisting representative members in the invitation of at-large members, identified in Paragraph 2 of Subsection A of 19.25.16.12, NMAC, and non-voting members, identified in Paragraph (3) of Subsection A of 19.25.16.12, NMAC.

(3) acting as the commission's liaison to the councils for the purpose of ensuring the coordination of commission information, policies, and resources. Subject to adequate funding and resources, one NMISC staff shall be assigned to one planning region for the purpose of these tasks and shall be located at an

Formatted: Highlight

Commented [VG2]: The creation of the Acequia and Rural Water Security Advisory Working Group will meet the following legal requirements of the **Water Security Planning Act §72-14A-1 et seq., NMSA 1978,** ensure the plans are equitable, and ensure that no water rights are affected:

SECTION 4. WATER PLANNING FUNDING--REGIONAL WATER PLANNING--RULES--GUIDELINES.—Subsection C. The commission shall: "(5) provide engagement with acequia communities; (6) provide for the engagement of rural communities;"

SECTION 5. REGIONAL WATER PLANNING ENTITIES.—Subsection C. Each regional water planning entity shall: "(4) assist in the funding, development and incorporation of plans for rural communities;"

SECTION 3. CONDEMNATION OF WATER RIGHTS.—"Nothing in the Water Security Planning Act shall be construed as permitting the condemnation of water rights or as determining, abridging or affecting in any way the water rights of water right owners in the state."

Formatted: Indent: Left: 0.75", No bullets or numbering

Formatted: Condensed by 0.1 pt

Formatted: Indent: Left: 0.25"

Commented [VG3]: The current planning regions are hard to understand what regional acequia associations, political subdivisions of the state, and other entities will be in. Some regions divide these entities into different regions, while they should be in one region. To solve this issue, the nine planning regions shall overlap and/ or be contained within the Councils of Governments (COGs) regions. This will ensure that there are overlapping technical assistance services (such as free grant writing, planning, and project implementation services), which will improve the capacity available to implement the plans. The COGs are existing entities that have vast expertise/existing relationships with assisting local government bodies, tribes, and political subdivisions of the state with planning, project development, implementation, and grant writing services. This will provide additional support to ISC staff by partnering with the COGs to find funding and implement the plans. This will ensure that the plans are implemented by providing additional technical experience, capacity, and building upon existing relationships. Please see the attached map of the COGs located in the supporting documents section of our comments.

Commented [VG4]: The creation of the Regional Water Security Program Fund must be created to meet the following legal requirements of the **Water Security Planning Act §72-14A-1 et seq., NMSA 1978.**

SECTION 4. WATER PLANNING FUNDING--REGIONAL WATER PLANNING--RULES--GUIDELINES.--
A. Subject to available funding, the commission ... [1]

Formatted

office of the state engineer district office within or near the region.

(4) providing administrative support and facilitation for at least four meetings of each council per calendar year and in the convening of each councils' working groups.

(5) providing councils with technical support, including assistance with accessing the best available data and science, templates to guide decision making, convening working groups of the councils, and compilations of existing plans and additional resources.

(6) developing and maintaining lists of region-specific stakeholders, planning stakeholder engagement opportunities, and notifying stakeholders of opportunities to engage in the planning process.

B. Responsibilities of the council include:

(1) once convened by the NMISC staff, the representative members shall invite, with NMISC staff support, and select at-large members as identified in Paragraph (2) of Subsection A of 19.25.16.12 NMAC. NMISC staff shall review membership and confirm compliance with Paragraph (2) of Subsection A of 19.25.16.12 NMAC.

(2) the representative members and the at-large members shall invite, with NMISC staff support, and select non-voting members as identified in Paragraph (3) of Subsection A of 19.25.16.12 NMAC.

(3) once the council has been formed through the convening, inviting, and selection of representative members, at-large members, and non-voting members, the council shall adopt and provide NMISC staff written operating principles that, at a minimum, describe the following:

(a) the roles and responsibilities of the council's voting and non-voting members;

(b) the duration(s) of the term(s) for at large council members;

(c) the potential roles of committees, including a steering committee, sub-committees and/or work groups, if relevant;

(d) the grounds and process for removing a member from the council;

(e) the decision-making process to be used by the council to prioritize projects, programs, and policies; ~~and~~

~~(e)~~**(f)** the process for integration and engagement to be used by the council for the inclusion of input provided by the WSTAC and ARWSAWG; and

~~(f)~~**(g)** the process for integration and engagement with commission approved sub-regions, if relevant.

C. Councils may choose to self-convene provided the composition set forth in Section 19.25.16.12 is adhered to and the self-organized council is confirmed by NMISC staff.

[19.25.16.10 NMAC – N, xx/xx/202x]

~~19.25.16.11~~**19.25.16.13 ONGOING PLANNING PERIOD:** During the ongoing planning period.

A. Responsibilities of NMISC staff include:

(1) reviewing and confirming compliance with Subsection A of 19.25.16.12 NMAC for representation of representative and at-large members, when council vacancies are filled.

(2) providing administrative support and facilitation for at least two meetings of the council per calendar year during periods when the council is not in the process of updating a plan ~~and~~, providing at least four meetings of the council per calendar year when the council is in the process of updating a plan, and providing assistance for the operation of the councils' working groups~~.~~

(3) providing councils with technical support, including assistance with accessing the best available data and science, decision-making guides, compilations of existing plans, and resources to aid in tracking and reporting on implementation.

~~(3)~~**(4)** providing administrative support, facilitation, and technical support to the councils for carrying out Subsection B of 19.25.16.12 NMAC.

~~(4)~~**(5)** publishing all regional water security plans developed by councils and approved by the commission.

B. Responsibilities of the council include:

(1) filling vacancies on the council pursuant to Subsection A of 19.25.16.12 NMAC.

(2) preparing proposed regional water security plans and presenting proposed plans to the commission for acceptance.

(3) preparing proposed updates to regional water security plans and presenting proposed updates to the commission for acceptance.

(4) reviewing the operating principles for the council and making changes consistent with Paragraph (3) of Subsection B of 19.25.16.10 NMAC if needed.

(5) aiding in and tracking plan implementation, including outcomes.

(6) developing, reviewing, and updating PPP lists.

(7) developing and maintaining region-specific lists of stakeholders and providing information to stakeholders about opportunities to engage in the planning process. The council may request NMISC staff support to carry out these responsibilities.

C. Councils shall report to the commission by June 30 of each year on the progress of planning activities, status of plan implementation, funding recommendations, and outcomes.

D. During the ongoing planning period, councils shall update plans at least once every ten years. Councils shall review and update PPP lists at least once every 5 years.

[19.25.16.11 NMAC – N, xx/xx/202x]

Commented [VG5]: Representative members shall have their own authority and discretion to select their own representatives. Some political subdivisions of the state, do not have the capacity to rotate their representatives every term. Also, could potentially be a sovereignty issue for tribal entities.

Commented [VG6]: Creating this process will make the integration and input inclusion process of the WSTAC and ARWSAWG evident and provide a clear decision-making process for all parties. By adding this operating principle it will meet the following legal requirements of the **Water Security Planning Act §72-14A-1 et seq., NMSA 1978,** ensure the plans are equitable, and ensure that no water rights are affected:

SECTION 4. WATER PLANNING FUNDING--REGIONAL WATER PLANNING--RULES--GUIDELINES.—Subsection C. The commission shall:
"(4) provide engagement with Indian nations, tribes and pueblos, including through the use of the State-Tribal Collaboration Act;
(5) provide engagement with acequia communities;
(6) provide for the engagement of rural communities;"

SECTION 5. REGIONAL WATER PLANNING ENTITIES.—Subsection C. Each regional water planning entity shall:
"(2)ensure opportunities for participation by Indian nations, tribes or pueblos located within the water planning region;
(4) assist in the funding, development and incorporation of plans for rural communities;"

SECTION 3. CONDEMNATION OF WATER RIGHTS.—"Nothing in the Water Security Planning Act shall be construed as permitting the condemnation of water rights or as determining, abridging or affecting in any way the water rights of water right owners in the state."

Commented [VG7]: This comment refers to this section of the rules:

19.25.16.12 ONGOING PLANNING PERIOD: During the ongoing planning period.
B. Responsibilities of the council include:

PROPOSED RULE – New Mexico Acequia Association Comments

~~19.25.16.12~~19.25.16.14 COMPOSITION OF REGIONAL WATER SECURITY PLANNING COUNCILS:

A. Councils shall comprise three categories of members: representative members, at-large members and non-voting members. Representative members and at-large members shall be voting members of a council. If an

~~qualified or willing representative member, as described in Paragraph (1) of Subsection A of 19.25.16.12 NMAC or~~ at-large member, as described in Paragraph (2) of Subsection A of 19.25.16.12 NMAC cannot be identified by the council, the council may propose or NMISC staff may select a replacement non-voting member who is knowledgeable about water resources in the region.

(1) Representative members. Each governmental entity listed below, if present within the region, is entitled to have a representative serve on the council for any planning region within which it is located. A single representative may represent multiple governmental entities. In the event that a governmental entity is located in multiple regional water security planning regions, the governing body may appoint the same or different representatives to each council. Each representative member shall be appointed by resolution or official action of each governmental entity's governing body. Representative members will consist of the following:

(a) one representative member identified by the governing body of each municipality;

(b) one representative member identified by the governing body of each county;

(c) one representative member identified by the governing body of each irrigation or conservancy district;

(d) one representative member identified by the governing bodies of each Nation, Pueblo, and Tribe;

(e) one representative member identified by the governing bodies of each soil and water conservation district;

(f) one representative member of each regional acequia association in the planning region or if no regional acequia association exists in a planning region, one representative from that region appointed by the New Mexico Acequia Commission; ~~and~~

(g) one representative member from an active land grant appointed by the Land Grant Council in a planning region; and

~~(g)~~**(h)** one representative member from a mutual domestic water consumer association or community regional water system in the region. ~~;~~

(2) At-large members. Up to ten at-large members shall represent each of the following stakeholder groups. There shall be one at-large member position for each stakeholder group, but members may represent multiple stakeholder groups. The stakeholder groups to be represented are:

(a) ranchers in the region;

(b) farmers in the region (these farmers may include 4H, Young Farmers, etc.);

(c) statewide or regional public higher education institutions (such as a student, professor, administrator, etc.);

(d) environmental, conservation, or water advocacy non-governmental organizations with members or local chapters in the region;

(e) water-based recreational interests located in the region (fishing, rafting, etc.);

~~**(f)** mutual domestic water consumer associations or community regional water systems in the region;~~

~~(g)~~**(f)** commercial, industrial, mining, and power in the region;

(g) watershed restoration organizations in the region;

(h) special districts established pursuant to Chapter 73, NMSA 1978, with staff whose responsibilities include water management, located in whole or in part within the region, and that do not fall within the previous membership categories within Paragraph (1) of Subsection A of 19.25.16.12. Should there be no representative pursuant to these criteria for the region, this becomes a general at-large member;

(i) existing regional water planning steering committees who have continuously operated since the conclusion of the 2014-2016 regional water planning effort. Should there be no regional water planning steering committee in the region, this becomes a general at-large member; and

(j) one general at-large member in the region.

(3) Non-voting members. Up to five non-voting members representing parties from outside the region with water interests in the region. These five non-voting members shall comprise up to three non-voting members for entities outside the region that own water rights within the region, and up to two non-voting members from other water security planning councils hydrologically linked to the region.

B. Region-specific stakeholders. Lists of region-specific stakeholders shall be developed and

Commented [VG8]: Representative members shall have their own authority and discretion to select their own representatives. Political subdivisions of the state are their own governing bodies and shall have the right to select their own representative. Also, could potentially be a sovereignty issue for tribal entities.

Commented [VG9]: Not all commissions, councils or other governmental entities approve actions through a resolution. The New Mexico Acequia Commission and the New Mexico Land Grant Council simply approve actions through a majority vote.

Commented [VG10]: Mutual domestics are political subdivisions of the state and shall be treaty as such through being a representative member on the councils. This will meet the following legal requirements of the **Water Security Planning Act §72-14A-1 et seq., NMSA 1978,** ensure the plans are equitable, and ensure that no water rights are affected:

SECTION 4. WATER PLANNING FUNDING--REGIONAL WATER PLANNING--RULES--GUIDELINES.—Subsection C. The commission shall: "(6) provide for the engagement of rural communities;"

SECTION 5. REGIONAL WATER PLANNING ENTITIES.—Subsection C. Each regional water planning entity shall: "(4) assist in the funding, development and incorporation of plans for rural communities;"

SECTION 3. CONDEMNATION OF WATER RIGHTS.—"Nothing in the Water Security Planning Act shall be construed as permitting the condemnation of water rights or as determining, abridging or affecting in any way the water rights of water right owners in the state."

Commented [VG11]: Strike and move these entities into being a representative member of the councils.

maintained by NMISC staff and shared with councils. The identification of region-specific stakeholders shall, at a minimum, include:

(1) an email point of contact; and

(2) documentation including a physical address, residential or professional, within the region; or

(3) written statement of interest identifying the individual or entity and explaining why the individual or entity is interested in engaging in the region's planning process.

[19.25.16.12 NMAC – N, xx/xx/202x]

~~19.25.16.13~~19.25.16.15 REGIONAL WATER SECURITY PLANNING COUNCIL MEETING AND INPUT REQUIREMENTS:

A. Councils shall hold regularly scheduled meetings as follows:

(1) meetings shall be held at least four times per year during periods when the region's plan is being developed or updated.

(2) meetings shall be held at least two times per year during periods when the plan is not being developed or updated.

(3) councils shall provide at least 14-day notice of meetings or other activities to council members, the public, region-specific stakeholders, Nations, Pueblos and Tribes, and the commission, with NMISC staff support as needed.

(4) councils, with NMISC staff support, shall offer meetings for hybrid participation if practicable.

B. Councils shall develop regional water security plans through broad input and public comment opportunities. This shall include opportunities for the public, region-specific stakeholders, and Nations, Pueblos, and Tribes to be involved in the development, vetting and prioritization of PPPs. During the plan development or update of any plan, councils shall, with NMISC staff support, at a minimum:

(1) notify the public, region-specific stakeholders, and Nations, Pueblos and Tribes, including by distributing publicly available information regionally about the development of the plan, and opportunities for input, at regular intervals.

(2) provide in-person and virtual opportunities for input at council meetings.

(3) provide a minimum of 60 days for the public, region-specific stakeholders, and Nations, Pueblos and Tribes to provide input and public comment in person, via email, or through a website on proposed regional water security plans.

(4) make comments publicly available ahead of finalization of a regional water security plan to be presented for commission approval.

C. Councils shall consider a broad range of participation options for input and public comment, which may include but are not limited to:

(1) providing materials in languages in common use within the region (e.g., ASL, Spanish, Tewa, Navajo).

(2) hosting additional meetings, focus groups, listening sessions, open houses or other events.

(3) providing engagement resources (e.g., presentations, paper surveys) to local community partners with existing connections in rural areas.

(4) providing multiple in-person opportunities distributed throughout the region and expanded strategies for community engagement.

(5) providing meeting spaces or computer access and connectivity for remote participation.

D. To promote broad awareness and to encourage participation, council outreach efforts, with NMISC Staff support as needed, shall include, but are not limited to:

(1) educational content; and

(2) multimedia advertising of engagement opportunities.

(3) additional opportunities may be developed at the determination of the council.

[19.25.16.13 NMAC – N, xx/xx/202x]

~~19.25.16.14~~19.25.16.16 CONSIDERATIONS FOR COUNCILS DURING PLANNING PROCESSES:

A. Councils shall consider, with resources provided by NMISC staff, the following information for inclusion in regional water security plans:

(1) existing water plans and water resources planning initiatives;

(2) compliance with state water law, including recognition of established water rights;

(3) best available science for considering climate resiliency and increasing aridification;
(4) recognition and respect of federally recognized or reserved tribal water rights;
(5) access to water for domestic use;
(6) compliance with applicable federal water law;
(7) public welfare values;
(8) balancing water uses and the needs of future generations of New Mexicans; and
(9) public participation and comments.

B. Councils may consider the following information for inclusion in any regional water security plan:
(1) best available resources or methodologies for considering the needs of rural and urban places and populations within the region;
(2) groundwater management strategies and needs;
(3) regional food security and agricultural resilience; and
(4) water needs for healthy upland and riparian habitats.

C. Councils shall consider the following statewide objectives in any regional water security plan:
(1) state obligations under interstate compacts;
(2) compliance with the Endangered Species Act and the prevention of serious harm to the habitats of species that are threatened or endangered under state or federal law;
(3) implementation of water rights settlements, including local and federally executed Indian water rights settlements;
(4) the state's existing administration plans under the Active Water Resources Management program.

D. Councils shall develop and update regional water security plans as provided herein using the best available science, data, and models, and may identify data gaps and recommend further studies in their regional water security plans. Councils may not delay the development of or updates to a plan due to lack of data.
[19.25.16.14 NMAC – N, xx/xx/202x]

~~19.25.16.15~~19.25.16.17 **CRITERIA FOR APPROVAL OF REGIONAL WATER SECURITY PLANS:** In order to be approved by the commission, a regional water security plan must meet the following criteria:

A. Plans shall include documentation of the following items:
(1) Water Security Tribal Advisory Council (WSTAC) engagement, involvement, information and recommendations;
~~(1)~~**(2)** Acequia and Rural Water Security Advisory Working Group (ARWSAWG) engagement, involvement, information and recommendations;
~~(2)~~**(3)** public notice under Section 19.25.16.13;
~~(3)~~**(4)** stakeholder engagement in the development, vetting and prioritization of PPPs;
~~(4)~~**(5)** comments received, considered, and incorporated from stakeholders and the public;
~~(5)~~**(6)** comments received from state and federal agencies;
~~(6)~~**(7)** council consideration of public welfare values, balancing water uses and the needs of future generations of New Mexico in the region, if any;
~~(7)~~**(8)** Council committees, working groups and/or sub-regions, if applicable, within a region;
~~(8)~~**(9)** consideration of the regional water balance, including any projected reductions in water availability due to the impacts of climate change or other factors; and
~~(9)~~**(10)** compliance with statewide objectives identified in Paragraph C of Section 14.

B. Plans may include documentation that the needs of rural and urban populations within the region were considered.

C. Plans shall include a list of prioritized proposed projects, programs, and policies with each item ranked individually relative to all other PPPs on that sub-list region wide.
(1) The prioritized list of PPPs included in each plan shall be organized based on the readiness of each individual PPP.
(2) Each proposed PPP must list the sponsor(s) that intends to lead implementation of the PPP, including obtaining and administering any necessary funding for the PPP.
(3) PPPs shall be sorted by priority into the following readiness stages:
(a) ideas stage;
(b) scoping stage; and
(c) ready to proceed stage.

Commented [VG12]: Including documentation in the plan of the Acequia and Rural Water Security Advisory Working Group will meet the following legal requirements of the **Water Security Planning Act §72-14A-1 et seq., NMSA 1978,** ensure the plans are equitable, and ensure that no water rights are affected:

SECTION 4. WATER PLANNING FUNDING--REGIONAL WATER PLANNING--RULES--GUIDELINES.—Subsection C. The commission shall: "(5) provide engagement with acequia communities; (6) provide for the engagement of rural communities;"

SECTION 5. REGIONAL WATER PLANNING ENTITIES.—Subsection C. Each regional water planning entity shall: "(4) assist in the funding, development and incorporation of plans for rural communities;"

SECTION 3. CONDEMNATION OF WATER RIGHTS.—"Nothing in the Water Security Planning Act shall be construed as permitting the condemnation of water rights or as determining, abridging or affecting in any way the water rights of water right owners in the state."

(4) PPP types include, but are not limited to projects, programs, and policies that address the following:

(a) watershed health
(b) drinking water
(c) storm water
(d) wastewater
(e) water retention and delivery infrastructure
(f) water conservation resulting in a reduction of total water use
(g) education
(h) efficiency resulting in a reduction of total or per-capita water use
(i) water reuse
(j) aquifer storage and recovery
(k) aquifer recharge
(l) agricultural resilience
(m) development of new water resources
(n) river and riparian habitat restoration
(o) livestock management
(p) alternative water administration strategies (under Active Water Resources Management, water markets or banks, voluntary shortage sharing, etc.)
(q) drinking water system regionalization
(r) asset management planning
(s) scientific studies

(5) Additional documentation for each PPP may include:

(a) existing or potential funding, including funding to match state or federal resources;
(b) ability to enhance regional water resilience or have long-lasting and sustainable benefits;
(c) the presence of multiple benefits or ability to meet multiple objectives;
(d) substantial support from diverse stakeholders; or
(e) identification of interrelated PPP's and potential enhanced benefits of implementing multiple PPPs in conjunction with each other.

(6) Councils may elect to repeat PPP list items in subsequent plans and updated PPP lists.

(7) Councils with sub-regions shall integrate all sub-regional priorities into a single prioritized list of PPPs for submittal to the commission with their plan. Processes for resolving sub-regional priorities alongside the recommendations of other sub-regions in the region shall be resolved by the council pursuant to its operating principles, as provided for in Paragraph (3) of Subsection B of 19.25.16.10 NMAC.
[19.25.16.15 NMAC – N, xx/xx/202x]

~~19.25.16.16~~19.25.16.18 STATE ENGINEER CONSIDERATION OF REGIONAL ISSUES OF PUBLIC WELFARE IN PERMITTING DECISIONS:

A. The state engineer, in its decisions on permit applications under Sections 72-5-6; 72-5-7; 72-5-23; 72-5-24; 72-5A-6; 72-6-5; 72-12-3; 72-12-7; and 72-12B-1 NMSA 1978, may consider issues of public welfare of a water planning region identified by a council if the state engineer determines that such regional issues are related to or may impact the public welfare of the state.

B. A council's determination shall not be binding on the state engineer's determination of whether a particular permit application would be detrimental to the public welfare of the state.

C. The state engineer, in determining whether a regional public welfare issue identified by a council is relevant to the determination of whether a particular permit application would be detrimental to the public welfare of the state, shall explain the reasoning in writing.
[19.25.16.16 NMAC – N, xx/xx/202x]

HISTORY OF 19.25.16 NMAC: [RESERVED]

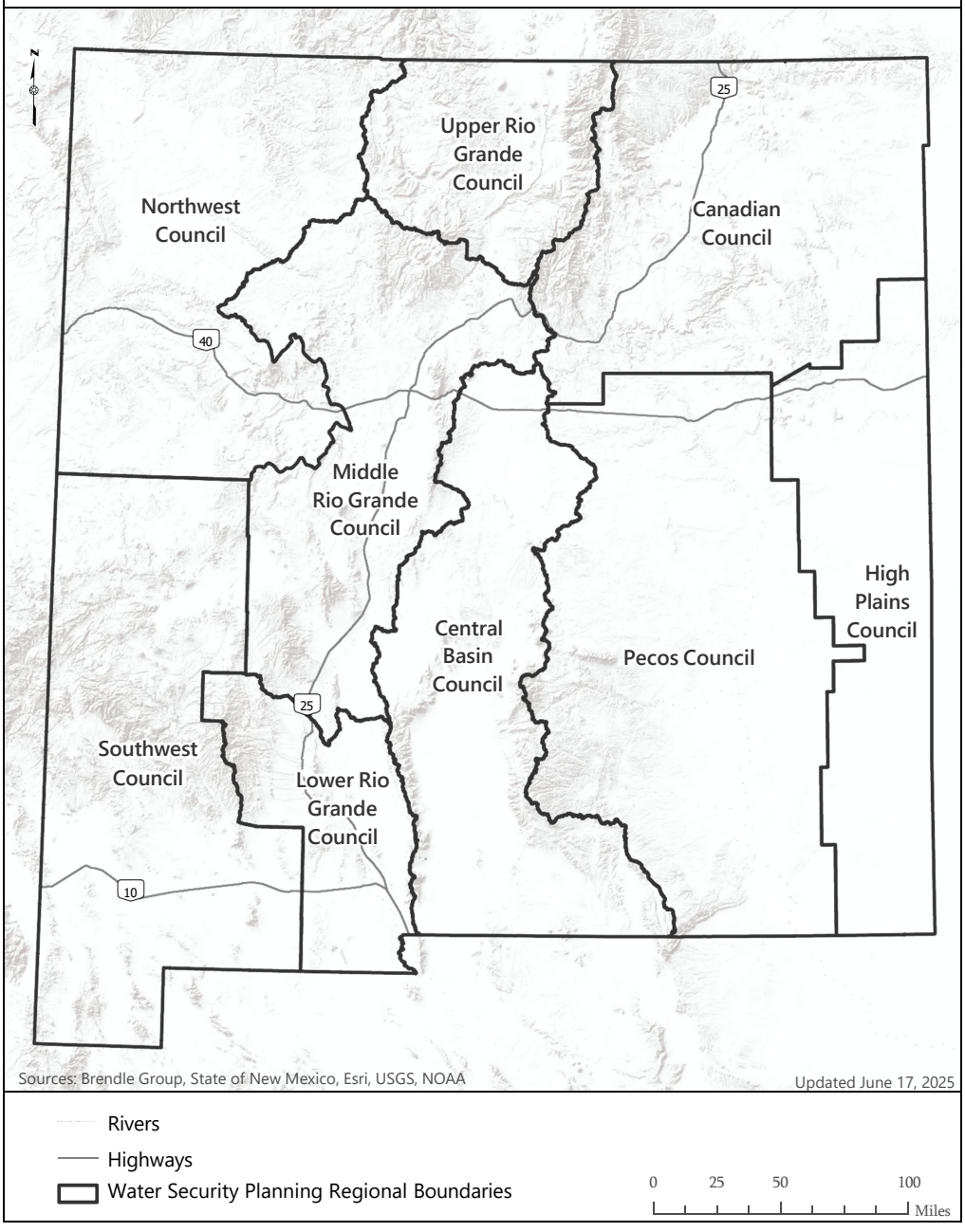
Page 2: [1] Commented [VG4] **Vidal Gonzales** **8/21/2025 2:48:00 PM**

The creation of the Regional Water Security Program Fund must be created to meet the following legal requirements of the **Water Security Planning Act §72-14A-1 et seq., NMSA 1978.**

SECTION 4. WATER PLANNING FUNDING--REGIONAL WATER PLANNING--RULES--GUIDELINES.--
A. Subject to available funding, the commission
shall establish and conduct a regional water security program pursuant to the provisions of the Water Security Planning Act. The commission may make grants or loans of funds for the purpose of regional water planning, as possible, using appropriations made for that purpose.

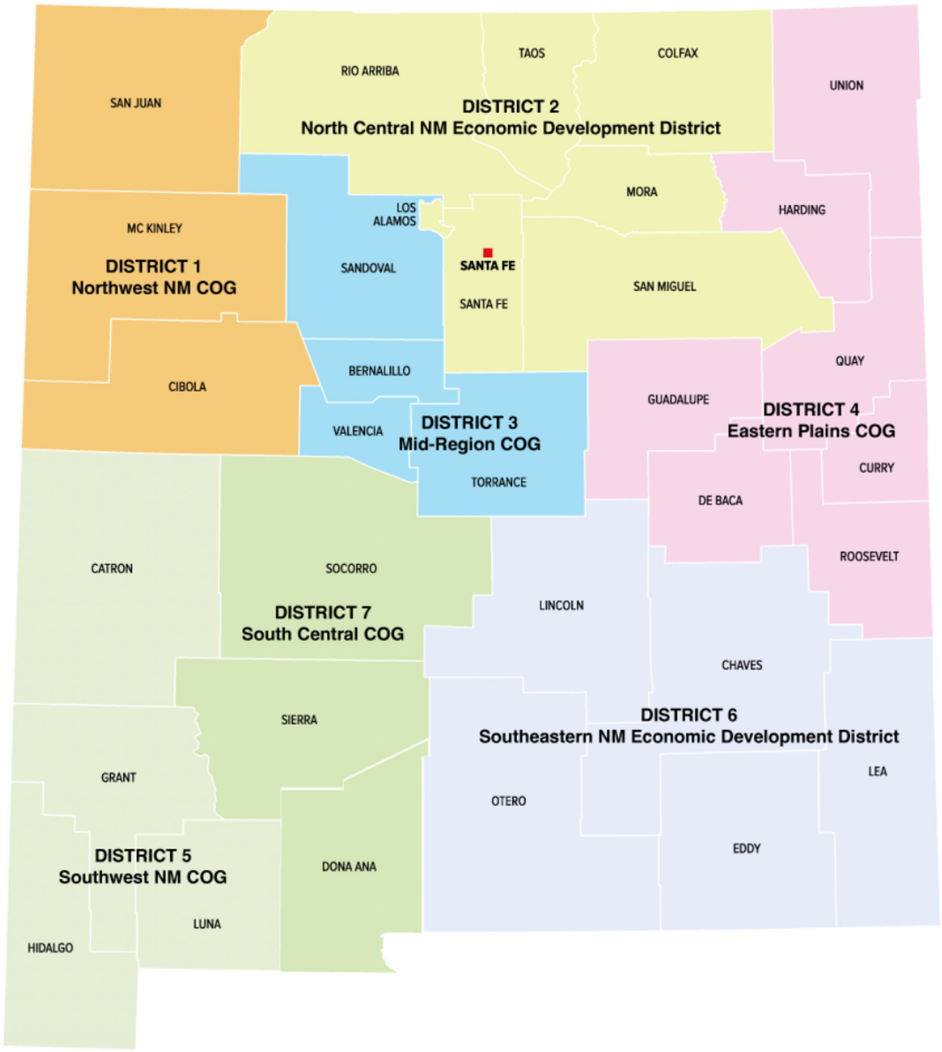
Formatted Table

Water Security Planning Regional Boundaries



Supporting Documents

Council of Government Maps



Commented [VG13]: The nine planning regions shall overlap and/ or be contained within the Councils of Governments (COGs) regions. This will ensure that there are overlapping technical assistance services (such as free grant writing, planning, and project implementation services), which will improve the capacity available to implement the plans. The COGs are existing entities that have vast expertise/existing relationships with assisting local government bodies, tribes, and political subdivisions of the state with planning, project development, implementation, and grant writing services. This will provide additional support to ISC staff by partnering with the COGs to find funding and implement the plans. This will ensure that the plans are implemented by providing additional technical experience, capacity, and building upon existing relationships. Please see the attached map of the COGs.

Water Security Planning Act:
Highlighted Supporting Language

AN ACT

RELATING TO WATER PLANNING; ENACTING THE WATER SECURITY PLANNING ACT; AUTHORIZING THE INTERSTATE STREAM COMMISSION TO MAKE LOANS AND GRANTS FOR REGIONAL WATER PLANNING; REQUIRING THE INTERSTATE STREAM COMMISSION TO MAKE RULES AND GUIDELINES FOR REGIONAL WATER PLANNING; PROVIDING DUTIES OF REGIONAL WATER PLANNING ENTITIES; PROTECTING PRIORITY ADMINISTRATION AND WATER RIGHTS OWNERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. SHORT TITLE.--Sections 1 through 5 of this act may be cited as the "Water Security Planning Act".

SECTION 2. DEFINITION.--As used in the Water Security Planning Act, "commission" means the interstate stream commission.

SECTION 3. CONDEMNATION OF WATER RIGHTS.--Nothing in the Water Security Planning Act shall be construed as permitting the condemnation of water rights or as determining, abridging or affecting in any way the water rights of water right owners in the state.

SECTION 4. WATER PLANNING FUNDING--REGIONAL WATER PLANNING--RULES--GUIDELINES.--

A. Subject to available funding, the commission shall establish and conduct a regional water security program pursuant to the provisions of the Water Security Planning

NMISC Exhibits 01826

Act. The commission may make grants or loans of funds for the purpose of regional water planning, as possible, using appropriations made for that purpose.

B. The commission shall establish a procedure, in consultation with the Indian affairs department, to establish an advisory council for taking into account in the regional water security program tribal sovereignty, tribal water rights and the water needs of tribal communities.

C. The commission shall:

(1) promulgate rules that, at a minimum, establish:

(a) the boundaries and number of water planning regions in the state;

(b) the criteria for commission approval of a regional water security plan with prioritized projects, programs and policies;

(c) the procedure for a regional water planning entity to develop and provide notice to the commission of issues and concerns relating to the public welfare of the water planning region;

(d) the composition of a regional water planning entity; and

(e) the procedure for a regional water planning entity to consider public welfare values and the needs of future generations of New Mexicans;

NMISC Exhibits 01827

(2) adopt guidelines that, at a minimum, address:

(a) the identification of regional stakeholders and opportunities for stakeholder collaboration;

(b) the public input requirements for regional water planning;

(c) the requirements for a proposal for grants or loans for planning activities;

(d) the process for approval of grants or loans;

(e) the process for state agency collaboration;

(f) the metrics for reporting on regional water projects and, programs and policies;

(g) the procedures to support implementation of a regional water security plan; and

(h) the schedule for implementation of regional water planning, including integration with statewide objectives;

(3) emphasize engagement, communication and education in regional water planning activities statewide;

(4) provide engagement with Indian nations, tribes and pueblos, including through the use of the State-Tribal Collaboration Act;

(5) provide engagement with acequia

NMISC Exhibits 01828

communities;

(6) provide for the engagement of rural communities;

(7) ensure, by using the integrated water data and information platform developed pursuant to the Water Data Act and collaborating with the bureau of geology and mineral resources of the New Mexico institute of mining and technology and the water resources research institute, that the best science, data and models relating to water resource planning are available to the regional water planning entities and are used with scientific integrity and adherence to principles of honesty, objectivity, transparency and professionalism in developing, vetting and prioritizing proposals;

(8) report, by October 31 of each year, to the appropriate legislative interim committee dealing with water and natural resources and, by October 31 of each year, distribute the report to the appropriate state agencies dealing with water and natural resources on regional water planning implementation that includes:

(a) approved regional water security plans with prioritized projects, programs and policies for state funding;

(b) outcomes of regional water security plan implementation; and

NMISC Exhibits 01829

(c) the status of regional water planning expenditures; and

(9) support regional water planning entities by:

(a) providing technical and local capacity development support, including commission staff and funding;

(b) providing statewide objectives for regional water security plan development, including compliance with interstate compacts, the federal Endangered Species Act of 1973 and congressionally authorized tribal water settlement acts;

(c) supporting the development of a proposal for alternative administration through active water resources management, if prioritized by the region, that may be submitted to the state engineer and affected Indian nations, tribes and pueblos for approval; and

(d) identifying funding sources and supporting the acquisition of funds for implementation of approved regional water security plans.

SECTION 5. REGIONAL WATER PLANNING ENTITIES.--

A. An entity shall not be made a part of a proposal for planning funds under this section without that entity's consent.

B. The outcomes sought by each regional water

NMISC Exhibits 01830

planning entity shall:

(1) be established through broad public input;

(2) consider public welfare values, balancing water uses and the needs of future generations of New Mexicans;

(3) be grounded in state water law;

(4) be developed using the best available science;

(5) recognize and respect federally recognized or reserved tribal water rights;

(6) consider access to water for domestic use; and

(7) comply with applicable federal water law.

C. Each regional water planning entity shall:

(1) be composed of regional stakeholders as identified in the entity's guidelines;

(2) ensure opportunities for participation by Indian nations, tribes or pueblos located within the water planning region;

(3) obtain public input in the development, vetting and prioritization of regional water planning activities and proposals;

(4) assist in the funding, development and

incorporation of plans for rural communities;

(5) report to the commission by June 30 of each year on the progress of planning activities and outcomes of regional water security plan implementation; and

(6) review existing water plans and data sets of municipalities, counties and other entities within the water planning region and use them as appropriate.

SECTION 6. Section 72-14-44 NMSA 1978 (being Laws 1987, Chapter 182, Section 2) is amended to read:

"72-14-44. INTERSTATE STREAM COMMISSION--GROUNDWATER APPROPRIATION--WATER RIGHTS PURCHASE.--

A. The interstate stream commission is authorized to appropriate groundwater or purchase water rights on behalf of any of the various regions of the state.

B. Nothing in this section shall be construed as permitting the condemnation of water rights or as determining, abridging or affecting in any way the water rights of Indian nations, tribes or pueblos".

NMISC Exhibits 01832

Author First	Dan
Author Last	Townsend
City	Las Cruces
State Abbrev	NM
Email	retrofit1000@gmail.com
Comment Filename	No attachment

Comment Body

City States/tribes/nations and empires have fallen and failed due to water scarcity and drought. I always appreciate the efforts I have observed in New Mexico to plan and implement water management and planning. The "Rule" appears to provide a framework for such efforts. If my impression is correct, I would endorse the passage and implementation of the rule as presented in this document.

Org Name	City of Clovis
Author First	Michael
Author Last	Morris
City	Clovis
State Abbrev	NM
Email	mmorris@cityofclovis.org
Comment Filename	No attachment

Comment Body

Regional water security planning is vital for Clovis and the high plains of Eastern New Mexico. We applaud the Interstate Stream Commission for implementing the provisions of the Water Security Planning Act, Section 72014A-1 NMSA 1978, and setting forth the processes and criteria for convening and establishing regional water security planning councils and developing and maintaining regional water security plans.
The City of Clovis as a municipality, and as a key partner in the construction of the Ute Pipeline project, welcomes the opportunity to participate in the regional water security planning process.
Regarding Section 19.25-16.12 Composition of Regional Water Security Planning Councils, (1) Representative members; we respectfully recommend that water utility authorities, such as the Eastern New Mexico Water Utility Authority, who has an interest in water and water security in the High Plains Council and Canadian Council, be authorized to have a representative serve on the council for the planning region within which it has a water and water security interest. For the ENMWUA this would be the High Plains Council as well as the Canadian Council. An ENMWUA representative would be appointed by resolution of its governing body.
Thank you for your consideration.
Michael A. Morris. Mayor of Clovis and Chairman of the Eastern New Mexico Water Utility Authority.

Author First	William
Author Last	Baker
City	Albuquerque
State Abbrev	NM
Email	wmchbaker@gmail.com
Comment Filename	William Baker - Email Comment 9.24.2025.pdf

Comment Body

See email attached.

From: William Baker
To: Commission, ISC, OSE
Subject: [EXTERNAL] Proposed Rule 19.25.16 NMAC, Regional Water Security Planning
Date: Tuesday, September 23, 2025 8:59:01 PM

Some people who received this message don't often get email from wmchbaker@gmail.com. Learn why this is important

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

I am commenting in support of this proposed rule. I think the proposed bottom-up approach will help make needed reforms more palatable to those who deny there are problems with water management or don't want to do anything about them.

Thank you for your consideration,

William Baker
9013 Natalie Ave. NE
Albuquerque, NM 87111

Org Name	Energy, Minerals and Natural Resources Department
Author First	Energy, Minerals and Natural Resources Department
Author Last	Energy, Minerals and Natural Resources Department
City	Santa Fe
State Abbrev	NM
Email	gabriel.wade@emnrd.nm.gov
Comment Filename	EMNRD Proposed Rule Change Edits 9-26-25.pdf

Comment Body

Please see attached proposed rulemaking edits submitted by the Energy, Minerals and Natural Resources Department.

Any questions can be directed to Gabriel Wade, EMNRD General Counsel at gabriel.wade@emnrd.nm.gov

These comments are submitted by the New Mexico Energy, Minerals and Natural Resources Department (EMNRD) Office of General Counsel on behalf the New Mexico State Parks Division (Parks Division) and the New Mexico Forestry Division (Forestry Division).

The Parks Division would like to be included in regional water security planning where one or more state parks exist. The Parks Division proposes to add this language to proposed 19.25.16.12(A)(1) NMAC as a new subsection (h):

(h) one representative member identified by the state parks division of the energy, minerals and natural resources department for planning regions that have one or more state parks;

The Forestry Division would like to be included in regional water security planning based on several factors that are listed below. The Forestry Division proposes to add this language to proposed 19.25.16.12(A)(1) NMAC as a new subsection (i):

(i) one representative member identified by the forestry parks division of the energy, minerals and natural resources department to address wildfire and watershed risks and mitigation.

Specifically, the Forestry Division has identified these areas of concern to address:

1. The rule should explicitly recognize the impacts of recent and historic large-scale wildfires on regional water security. Burn scars fundamentally alter hydrological processes, leading to increased erosion, sedimentation, post-fire flooding, and water quality degradation, as well as the loss of vegetative cover critical to watershed function. The framework should direct the Councils to incorporate post-wildfire impacts into regional water security plans. The Councils should be directed to draw on Burned Area Emergency Response (BAER) assessments and other long-term recovery strategies where available. Restoration priorities such as reforestation, riparian stabilization, and erosion control must be considered as essential components of regional water security.

2. The rule should require the Councils to evaluate wildfire risk using the best available modeling for watersheds where major water infrastructure is located. Incorporating climate-informed wildfire projections will ensure long-range planning accounts for the potential impacts of fire on watershed condition, water supply reliability, and water quality. Without this forward-looking perspective, regional plans may understate risks and fail to prioritize needed mitigation and adaptation measures.

3. The rule should encourage Councils to integrate existing tools and plans that already address wildfire and watershed risks. For example, Community Wildfire Protection Plans, the U.S. Forest Service's Watershed Condition Framework, BAER assessments, USGS post-fire hydrology studies, and the 2020 New Mexico Forest Action Plan provide a strong foundation for aligning forestry, watershed, and water security planning. Leveraging these resources will avoid duplication, enhance coordination, and improve the effectiveness of regional plans.

Org Name	San Juan Water Commission
Author First	Steve
Author Last	Lanier
City	Farmington
State Abbrev	NM
Email	steve.lanier@nmlegis.gov
Comment Filename	2025.09.26 SJWC Comments on Regional Security Planning Rule.pdf

Comment Body

Please see my attached written comment.

San Juan Water Commission

7450 East Main Street, Suite B • Farmington • New Mexico • 87402
Ph: 505-564-8969 • Fax: 505-564-3322 • Email: sjwcoffice@sjwc.org

MEMBERS:
City of Aztec
City of Bloomfield
City of Farmington
San Juan County
S.J. County Rural Water Users Association

September 26, 2025

New Mexico Interstate Stream Commission
Hearing No. NMISC 25-01(R)

Via public comment portal only at:
https://www.ose.nm.gov/RulesRegs/rulemaking.php

San Juan Water Commission' Comments on July 17, 2025, Proposed Regional Water Security Planning Rule, 19.25.16 NMAC

In accordance with the public notice of the rulemaking to be held in this matter on October 15, 2025, San Juan Water Commission ("SJWC") hereby submits the following comments and proposed amendments to the Regional Water Security Planning Rule, 19.25.16 NMAC, filed on July 17, 2025 (the "Rule"). The amendments proposed by SJWC are intended to ensure that (i) the rule remains within the scope of the ISC's statutory authority and (ii) all political subdivisions within a planning region are invited to participate on the regional water security planning council.

I request the opportunity to present oral testimony on behalf of SJWC at the hearing. I anticipate that approximately 10 minutes will be needed.

To begin, the regional water security program, and this rulemaking to establish that program, are governed by the Water Security Planning Act, NMSA 1978, Sections 72-14A-1, *et seq.* The ISC's rule must not exceed the scope of its authority under that Act. SJWC's proposed amendments to the Rule are offered with that restriction in mind.

Proposed Amendments

SJWC's proposed amendments to the Rule are set forth below in redline and ~~strikeout~~ format.

19.25.16.12 COMPOSITION OF REGIONAL WATER SECURITY PLANNING COUNCILS:

A. Councils shall comprise three categories of members: representative members, at-large members and non-voting members. Representative members and at-large members shall be voting members of a council. If a qualified or willing representative member, as described in Paragraph (1) of Subsection A of 19.25.16.12 NMAC or at-large

member, as described in Paragraph (2) of Subsection A of 19.25.16.12 NMAC cannot be identified by the council, the council may propose or NMISC staff may select a replacement non-voting member who is knowledgeable about water resources in the region.

(1) Representative members. Each governmental entity listed below, if present within the region, is entitled to have a representative serve on the council for any planning region within which it is located. A single representative may represent multiple governmental entities. In the event that a governmental entity is located in multiple regional water security planning regions, the governing body may appoint the same or different representatives to each council. Each representative member shall be appointed by resolution of each governmental entity's governing body. Representative members will consist of the following:

(a) one representative member identified by the governing body of each municipality;

(b) one representative member identified by the governing body of each county;

(c) one representative member identified by the governing body of each irrigation or conservancy district;

(d) one representative member identified by the governing bodies of each Nation, Pueblo, and Tribe;

(e) one representative member identified by the governing bodies of each soil and water conservation district;

(f) one representative member of each regional acequia association in the planning region or if no regional acequia association exists in a planning region, one representative from that region appointed by the New Mexico Acequia Commission; ~~and~~

(g) one representative member of each regional community ditch association or rural water users association in the planning region or if no regional community ditch association or rural water users association exists, one representative from that region appointed by the New Mexico Rural Water Users Association;

(~~g~~h) one representative member from an active land grant appointed by the Land Grant Council in a planning region~~.~~ and

(~~h~~i) one representative from each additional political subdivision located in whole or in part within the planning region not falling within the previous membership categories.

. . . .

[Note: All political subdivisions not falling within the other listed categories of representatives should be included, such as SJWC, as they may have significant interest in the contents of a regional water security plan and, like SJWC, may have specific responsibility for particular water issues within the planning region.

Further, community ditches or rural water users associations often serve significant populations in a region and should have a voice on the Councils. In San Juan County, for example, the rural associations serve a population that equals the number of people who

live in Bloomfield. Community ditches are separate entities from acequias and are not represented by the New Mexico Acequia Association.]

~~19.25.16.16 STATE ENGINEER CONSIDERATION OF REGIONAL ISSUES OF PUBLIC WELFARE IN PERMITTING DECISIONS:~~

~~A. The state engineer, in its decisions on permit applications under Sections 72-5-6; 72-5-7; 72-5-23; 72-5-24; 72-5A-6; 72-6-5; 72-12-3; 72-12-7; and 72-12B-1 NMSA 1978, may consider issues of public welfare of a water planning region identified by a council if the state engineer determines that such regional issues are related to or may impact the public welfare of the state.~~

~~B. A council's determination shall not be binding on the state engineer's determination of whether a particular permit application would be detrimental to the public welfare of the state.~~

~~C. The state engineer, in determining whether a regional public welfare issue identified by a council is relevant to the determination of whether a particular permit application would be detrimental to the public welfare of the state, shall explain the reasoning in writing.~~

[Note: Under state law, the ISC has no authority over the State Engineer's permitting decisions. Further, the Water Security Planning Act, Section 72-14A-4 (2023), establishes the scope of the ISC's authority under the Act. The Act does not address the State Engineer's consideration of regional public welfare issues in permitting decisions. In fact, Section 72-14A-3 (2023) of the Act states that nothing in the Act shall be construed "as determining, abridging or affecting in any way the water rights of water right owners in the state." (Emphasis added.) It therefore is improper to adopt a rule indicating what information the State Engineer "may" consider when making a permitting decision and requiring the State Engineer to explain her reasoning concerning "whether a regional public welfare issue identified by a council is relevant to the determination of whether a particular permit application would be detrimental to the public welfare . . . ." If public welfare considerations identified in regional water security plans are to be part of the State Engineer's public welfare analysis, then such requirement should be mandated by the Legislature, especially given the fact that different planning regions may reach opposite conclusions on public welfare. Section 19.25.16.16 NMAC should therefore be deleted in its entirety.]

EXHIBIT—WATER SECURITY PLANNING REGIONAL BOUNDARIES

SJWC proposes that the exhibit to the final Rule identify not only the boundaries of each planning region, but also all county boundaries and surface water and groundwater

basin boundaries. These additions will assist the public in identifying counties and which water basins (or parts thereof) are located within each planning region.

ADDITION OF SEVERABILITY CLAUSE

SJWC proposes to add a severability clause to the Rule to ensure that the Rule will continue in effect if a court determines that one section is invalid and cannot be enforced. Here is proposed language:

> **19.25.16.17 SEVERABILITY CLAUSE:** If any section, paragraph, clause or provision of 19.25.16.NMAC shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Regional Water Security Planning Rule.

Thank you very much for your consideration of these comments. Please feel free to contact me so that I know when I am scheduled to present oral testimony at the hearing. I may be reached at steve.lanier@nmlegis.gov or by calling 505-320-7722.

Very truly yours,

/s/ Steve Lanier
Steve Lanier
Chairman, San Juan Water Commission
New Mexico State Senator for District 2

Org Name	Catron County
Author First	Deborah
Author Last	Mahler
City	Reserve
State Abbrev	NM
Email	deborah.mahler@catroncountynm.gov
Comment Filename	092625commenttoNMISC.pdf

Comment Body

Please find the attached.

Sherry Perez
Clerk – PO Box 197
(575) 533-6400

Rick Barnes
Treasurer – PO Box 407
(575) 533-6384

Lillie Laney
Assessor – PO Box 416
(575) 533-6577

Keith Hughes
Sheriff – PO Box 467
(575) 533-6222

Lucinda Howell
Probate Judge



Buster Floyd Green
Commissioner
District No. 1

Audrey H. McQueen
Commissioner
District No. 2

Haydn Forward
Commissioner
District No. 3

Commission Office
PO Box 507 – (575) 533-6423
FAX (575) 533-6433

Deborah Mahler
County Manager

September 26, 2025

Via Web Only: https://www.ose.nm.gov/RulesRegs/rulemaking.php

NM Interstate Stream Commission
5550 San Antonio Dr. NE
Albuquerque, NM 87019

Dear Honorable Members of the New Mexico Interstate Stream Commission:

I am submitting these comments on behalf of the County of Catron in response to the New Mexico Interstate Stream Commission's ("NMISC") Water Planning Program proposal to adopt a new rule, Proposed Rule 19.25.16 NMAC, Regional Water Security Planning. This submission is made pursuant to the authority granted of NMSA 1978, Section 4-28-19 (B) (1973) and Catron County Resolution 43-2025

First, I would like to state that Catron County supports the NMISC's efforts to establish a framework for regional water security planning councils to develop, maintain, and aid in implementation and tracking of regional water security plans and its efforts to include local government and stakeholders in the process. On behalf of the County I would like to thank the NMISC for the opportunity to submit comments on the proposed rules.

Please be advised that due to the short comment period and the County Commission's scheduling & open meeting act constraints, the current County Commission has not had the opportunity to meet as a board to issue comments. Accordingly, these comments are based exclusively on current Catron County water policy in relation to the NMICS's proposed rule in an effort align the proposed rule more closely with the Catron County Water Plan. The focus of the alignment is for the purposes of promoting the goals of the Catron County Water Plan which include enhancing local control, protecting property and water rights, and ensuring that local priorities and traditional uses are respected.

Comments:

Proposed Rule:

The current rule proposed by the New Mexico Interstate Stream Commission does not adequately reflect the priorities and needs of Catron County as outlined in the Catron County Water Plan, Ordinance 04-93. The rule lacks provisions for enhancing local control, protecting property and water rights, and ensuring that local priorities and traditional uses are respected.

1. Strengthening Local Authority and Decision-Making Power

Proposed Rule: The rule does not specify the role of local authorities in water management decisions.

Proposed Revision:
The rule should be amended to grant local governments a decisive role in regional water planning and permitting processes. This includes the establishment of local water advisory boards composed of elected members to oversee water resource management within the county. The local government must be notified of all interstate and federal water development actions that may impact water rights or uses within Catron County prior to initiating such actions.

2. Ensuring Local Ordinances and Plans are Given Significant Weight

Proposed Rule: The rule does not prioritize local ordinances and plans in decision-making processes.

Proposed Revision:

The rule should require that local ordinances and water plans are given significant weight in state and regional decision-making. The State should ensure that planned actions consider and coordinate with the local water plans.

3. Enhancing Protection of Private Property and Water Rights

Proposed Rule: The rule lacks mechanisms for protecting private property and water rights.

Proposed Revision:
The rule should include mechanisms for the protection of private property and water rights, recognizing these as basic property rights under the principle of prior appropriation. The rule should oppose involuntary restriction of water rights and provide for local veto or challenge of state actions that conflict with county plans.

4. Formalizing Coordination with Local Government

Proposed Rule: The rule does not formalize a requirement for agencies to coordinate with Catron County or other local governments.

Proposed Revision:
The rule should formalize the requirement to coordinate with local governments, including mandatory notification and consultation processes. Currently Federal agencies, through NEPA, must notify the Catron County Commission of any proposed action that will affect the County's culture and heritage values.

5. Incorporating Custom, Culture, and Community Values

Proposed Ruel: The rule does not incorporate emphasis on custom, culture, and community values .

Proposed Revision:
The rule should incorporate Catron County's emphasis on custom, culture, and community values, ensuring these are prioritized in planning and decision-making. The Catron County Comprehensive Plan emphasizes the protection of custom and culture, requiring federal agencies to preserve these under NEPA.

6. Establishing Guidelines for Emergency Management

Proposed Rule: The rule does not align with Catron County's emergency management procedures.

Proposed Revision:
The rule should establish clear guidelines for emergency management that align with Catron County's procedures, including the ability for the County Commissions or other local governments to establish Critical Water Areas under dire emergencies, with the requirement for a local referendum to sustain such designations. Compensation for affected property owners must be included.

7. Improving Dispute Resolution Mechanisms

Proposed Rule: The rule does not provide for local mediation and arbitration in dispute resolution.

Proposed Revision:
The rule should improve dispute resolution mechanisms to allow for local mediation and arbitration, with binding outcomes if agreed upon by parties involved. The Water Advisory Board and Local Water Boards shall be available to mediate or arbitrate disputes over water use or appropriation.

Sincerely,

Deboral Mahler, Manager
Catron County, New Mexico

Org Name	New Mexico Land Grant Council
Author First	Arturo
Author Last	Archuleta
City	Albuquerque
State Abbrev	NM
Email	carchuleta02@unm.edu
Comment Filename	NMLGC ISC Regional Water Security Planning Comments.pdf

Comment Body

Please see attached comments

MICHELLE LUJÁN GRISHAM
GOVERNOR

New Mexico Land Grant Council

Physical Address: 1828 Mesa Vista NE, Albuquerque, NM 87106
Mailing Address: 1 University of New Mexico MSCO2-1680, Albuquerque, NM 87131
Email: nmlandgrantcouncil@unm.edu ♦ Website: www.lgc.unm.edu

JUAN SÁNCHEZ
CHAIR

REBECCA CORREA-SKARTWED
VICE-CHAIR

LEONARD T. MARTÍNEZ
MEMBER

ANDREA C. PADILLA
MEMBER

STEVE J. POLACO
MEMBER

September 26, 2025

Jennifer Salazar
Interstate Stream Commission
407 Galisteo Street, Suite #101
Bataan Memorial Building
Santa Fe, NM 87504

Dear Ms. Salazar

The New Mexico Land Grant Council is submitting the attached comments concerning the Interstate Stream Commission's rule making process for the Regional Water Security Planning Rule. The Council officially adopted these comments in its meeting held September 26, 2025. The Council strongly encourages the Interstate Stream Commission to incorporate all the proposed amendments contained within the comments. Particularly, the Council encourages the Commission to include in the Rule the creation of the Acequia and Rural Water Security Advisory Working Group as recommended by both the New Mexico Land Grant Council and the New Mexico Acequia Association.

If you have any questions or need additional information concerning the Council's comments please contact Arturo Archuleta, the Director of the Council, at (505) 328-4104 or via email at carchuleta02@unm.edu. Thank you.

Con todo respeto,

Juan Sánchez,
Chair

PROPOSED RULE – New Mexico Land Grant Council Comments

Received by Jennifer Salazar
7/17/2025 at 1:42 pm
NM Interstate Stream Commission

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 25 ADMINISTRATION AND USE OF WATER – GENERAL PROVISIONS
PART 16 REGIONAL WATER SECURITY PLANNING

19.25.16.1 ISSUING AGENCY: New Mexico Interstate Stream Commission, hereinafter the commission.
[19.25.16.1 NMAC – N, xx/xx/202x]

19.25.16.2 SCOPE: This rule implements the provisions of the Water Security Planning Act, Section 72-14A-1 NMSA 1978, and sets forth the processes and criteria for convening and establishing regional water security planning councils and developing and maintaining regional water security plans.
[19.25.16.2 NMAC – N, xx/xx/202x]

19.25.16.3 STATUTORY AUTHORITY: Section 72-14A-1, et seq. NMSA 1978.
[19.25.16.3 NMAC – N, xx/xx/202x]

19.25.16.4 DURATION: Permanent.
[19.25.16.4 NMAC – N, xx/xx/202x]

19.25.16.5 EFFECTIVE DATE: xxxxxxxxxxxxx xx, 2025, unless a later date is cited at the end of a section.
[19.25.16.5 NMAC – N, xx/xx/202x]

19.25.16.6 OBJECTIVE: The objective of this rule is to establish a framework for regional water security planning councils to develop, maintain, and aid in implementation and tracking of regional water security plans. This framework will be grounded in regional values, scientific consensus, and New Mexico water law. The processes outlined in this rule are intended to: ensure that the plans will be based on the best available science, data, and models regarding available water supplies, use, and trends; provide transparency and opportunities for meaningful input and participation by the public, political subdivisions of the state, and Nations, Pueblos, and Tribes within each regional water security planning region; acknowledge the sovereignty, water rights, and water needs of tribal communities; consider public welfare and the needs of future generations of New Mexicans; align with state and federal laws; and identify and prioritize projects, programs, and policies that will help to ensure water security into the future. [19.25.16.6 NMAC – N, xx/xx/202x]

Commented [AA1]: Land Grant-Mercedes have the statutory authority to make bylaws, rules and regulations necessary for the protection, improvement and management of the common waters of the land grant-merced (NMSA 1978 §§ 49-1-3H and 49-4-5H), and they therefore have a vested interest in regional water security planning. They are political subdivisions of the State and therefore adding political subdivisions to this section will provide land grant-mercedes and other local government units (including mutual domestic water consumer associations, and soil and water conservation districts) to represent the interest of their constituents in the regional water security planning process.

19.25.16.7 DEFINITIONS:

A. "Commission" means the New Mexico interstate stream commission and its nine appointed members, authorized under Section 72-14-1 NMSA 1978.

B. "Initial planning period" means the time period from the establishment of each council to the approval of its first regional water security plan by the commission.

C. "NMISC staff" means the employees of the New Mexico interstate stream commission.

D. "Ongoing planning period" means any time period following the initial planning period for each council. The ongoing planning period begins once an initial regional water security plan is approved by the commission.

E. "Projects, programs, and policies" or "PPPs" or "PPP" means identified strategies and alternatives, including infrastructure projects, conservation programs, watershed or groundwater management policies, and other types of initiatives that will promote regional water security and are identified in the plans and PPP lists.

F. "Regional water security plan" or "plan" means a plan produced by a council, that meets the requirements described herein and is approved by the commission.

G. "Regional water security planning council" or "council" means the members described herein who lead regional water security plan development, and aid in and track implementation of the plan in their respective region.

H. "Regional water security planning region" or "planning region" or "region" means an area of the state as described herein that is the planning area for each regional water security planning council.

I. "**Region-specific stakeholder**" means a member of the public who is not a member of a council but has identified themselves to NMISC staff or a council as interested in engaging in the planning process for a specific region.

PROPOSED RULE – New Mexico Land Grant Council Comments

[19.25.16.7 NMAC – N, xx/xx/202x]

19.25.16.8 WATER SECURITY TRIBAL ADVISORY COUNCIL:

A. NMISC staff shall provide administrative support and facilitation, in coordination with the office of the state engineer and Indian affairs department, for the establishment and operation of a water security tribal advisory council ("WSTAC") comprising representatives of New Mexico Nations, Pueblos, and Tribes.

B. The purpose of the WSTAC is to provide a forum for input from New Mexico Nations, Pueblos, and Tribes to ensure that their sovereignty, water rights, water needs, and viewpoints are considered and incorporated in regional water security planning and other related activities as determined by the commission.

C. The participating Nations, Pueblos, and Tribes shall determine their own procedures and principles for the operation of WSTAC.

[19.25.16.8 NMAC – N, xx/xx/202x]

19.25.16.9 ACEQUIA AND RURAL WATER SECURITY ADVISORY WORKING GROUP

A. NMISC staff shall provide administrative support and facilitation, in coordination with the New Mexico Acequia Association, the New Mexico Acequia Commission, the New Mexico Land Grant Council, and the New Mexico Rural Water Association for the establishment and operation of the Acequia and Rural Water Security Advisory Working Group ("ARWSAWG") comprising of the appointed representatives of each Regional Water Security Planning Council that represents acequias, mutual domestics or community regional water systems, and land grant-mercedes.

B. The purpose of the ARWSAWG is to provide a forum for input from New Mexico acequias, mutual domestics or community water systems, and land grant-mercedes to ensure that their water rights, water needs, and viewpoints are considered and incorporated in regional water security planning and other related activities as determined by the commission.

C. The participating appointed representatives of the acequias, mutual domestics or community regional water systems, and land grant-mercedes of each Regional Water Security Planning Council shall determine their own procedures and principles for the operation of ARWSAWG.

~~19.25.16.9~~19.25.16.10 **REGIONAL WATER SECURITY PLANNING REGIONS:**

A. The nine regional water security planning regions are shown in exhibit A, water security planning regions (map).

B. Subject to commission approval, regional water security planning regions may be subdivided into sub-regions within a planning region or across multiple planning regions. In determining whether to approve a proposed sub-region, the commission shall use the following criteria:

(1) the basis, hydrological or otherwise, for the sub-region and what circumstances make the proposed sub-region distinct from the region;

(2) whether there is sufficient population and capacity within the proposed sub-region to engage in a transparent and inclusive planning process for the proposed sub-region;

(3) the impact of the proposed sub-region on the ability of the remainder of the region to engage in a transparent and inclusive planning process;

(4) support from the associated council(s) for the proposed sub-region;

(5) the process for how the work of the proposed sub-region will be integrated with the regional water security plan(s) of associated regions, including the prioritization of projects, programs, and policies.

[19.25.16.9 NMAC – N, xx/xx/202x]

~~(5)~~19.25.16.11 REGIONAL WATER SECURITY PROGRAM FUND

~~19.25.16.10~~19.25.16.12 **INITIAL PLANNING PERIOD:** During the initial planning period,

A. Responsibilities of NMISC staff include:

(1) inviting governmental entities identified in Paragraph (1) of Subsection A of 19.25.16.12, NMAC to select their representatives, and convening a meeting of these representative members.

(2) assisting representative members in the invitation of at-large members, identified in Paragraph 2 of Subsection A of 19.25.16.12, NMAC, and non-voting members, identified in Paragraph (3) of Subsection A of 19.25.16.12, NMAC.

(3) acting as the commission's liaison to the councils for the purpose of ensuring the coordination of commission information, policies, and resources. Subject to adequate funding and resources, one NMISC staff shall be assigned to one planning region for the purpose of these tasks and shall be located at an office of the state engineer district office within or near the region.

(4) providing administrative support and facilitation for at least four meetings of each council

Commented [AA2]: The New Mexico Land Grant Council endorses the addition of an Acequia and Rural Water Security Advisory Working Group as proposed by the New Mexico Acequia Association. To include membership from Acequias, Land Grant-Mercedes, mutual domestics and rural community water regional water systems.

Commented [AA3]: A Regional Water Security Program Fund must be created to meet the following legal requirements of the **Water Security Planning Act §72-14A-1 et seq., NMSA 1978.**

SECTION 4. WATER PLANNING FUNDING--REGIONAL WATER PLANNING--RULES--GUIDELINES.--
A. Subject to available funding, the commission shall establish and conduct a regional water security program pursuant to the provisions of the Water Security Planning Act. The commission may make grants or loans of funds for the purpose of regional water planning, as possible, using appropriations made for that purpose.

Commented [AA4]: Additional proposed language included in this section to strengthen the planning process utilized by NMISC.

per calendar year and in the convening of each councils' working groups.

(5) providing councils with technical support, including assistance with accessing the best available data and science, templates to guide decision making, convening working groups of the councils and compilations of existing plans and additional resources.

(6) developing and maintaining lists of region-specific stakeholders, planning stakeholder engagement opportunities, and notifying stakeholders of opportunities to engage in the planning process.

B. Responsibilities of the council include:

(1) once convened by the NMISC staff, the representative members shall invite, with NMISC staff support, and select at-large members as identified in Paragraph (2) of Subsection A of 19.25.16.12 NMAC. NMISC staff shall review membership and confirm compliance with Paragraph (2) of Subsection A of 19.25.16.12 NMAC.

(2) the representative members and the at-large members shall invite, with NMISC staff support, and select non-voting members as identified in Paragraph (3) of Subsection A of 19.25.16.12 NMAC.

(3) once the council has been formed through the convening, inviting, and selection of representative members, at-large members, and non-voting members, the council shall adopt and provide NMISC staff written operating principles that, at a minimum, describe the following:

(a) the roles and responsibilities of the council's voting and non-voting members;

(b) the duration(s) of the term(s) for council members;

(c) the potential roles of committees, including a steering committee, sub-committees and/or work groups, if relevant;

(d) the grounds and process for removing a member from the council;

(e) the decision-making process to be used by the council to prioritize projects, programs, and policies; ~~and~~

(f) the process for integration and engagement to be used by the council for the inclusion of input provided by the WSTAC and ARWSAWG; and

~~(f)~~(g) the process for integration and engagement with commission approved sub-regions, if relevant.

C. Councils may choose to self-convene provided the composition set forth in Section 19.25.16.12 is adhered to and the self-organized council is confirmed by NMISC staff.

[19.25.16.10 NMAC – N, xx/xx/202x]

~~19.25.16.11~~19.25.16.13 ONGOING PLANNING PERIOD: During the ongoing planning period.

A. Responsibilities of NMISC staff include:

(1) reviewing and confirming compliance with Subsection A of 19.25.16.12 NMAC for representation of representative and at-large members, when council vacancies are filled.

(2) providing administrative support and facilitation for at least two meetings of the council per calendar year during periods when the council is not in the process of updating a plan, ~~and~~ providing at least four meetings of the council per calendar year when the council is in the process of updating a plan, and providing assistance for the operation of the councils' working groups~~.~~

(3) providing councils with technical support, including assistance with accessing the best available data and science, decision-making guides, compilations of existing plans, and resources to aid in tracking and reporting on implementation.

(4) providing administrative support, facilitation, and technical support to the councils for carrying out Subsection B of 19.25.16.12 NMAC.

(5)

~~(4)~~(6) publishing all regional water security plans developed by councils and approved by the commission.

B. Responsibilities of the council include:

(1) filling vacancies on the council pursuant to Subsection A of 19.25.16.12 NMAC.

(2) preparing proposed regional water security plans and presenting proposed plans to the commission for acceptance.

(3) preparing proposed updates to regional water security plans and presenting proposed updates to the commission for acceptance.

(4) reviewing the operating principles for the council and making changes consistent with Paragraph (3) of Subsection B of 19.25.16.10 NMAC if needed.

(5) aiding in and tracking plan implementation, including outcomes.

(6) developing, reviewing, and updating PPP lists.

(7) developing and maintaining region-specific lists of stakeholders and providing information to stakeholders about opportunities to engage in the planning process. The council may request NMISC staff support to carry out these responsibilities.

C. Councils shall report to the commission by June 30 of each year on the progress of planning activities, status of plan implementation, funding recommendations and outcomes.

D. During the ongoing planning period, councils shall update plans at least once every ten years. Councils shall review and update PPP lists at least once every 5 years.

[19.25.16.11 NMAC – N, xx/xx/202x]

Commented [AA5]: Adding this operating principle will strengthen the rule and it will meet the following legal requirements of the **Water Security Planning Act §72-14A-1 et seq., NMSA 1978,** ensure the plans are equitable, and ensure that no water rights are affected:

SECTION 4. WATER PLANNING FUNDING--REGIONAL WATER PLANNING--RULES--GUIDELINES.—Subsection C. The commission shall:
"(4) provide engagement with Indian nations, tribes and pueblos, including through the use of the State-Tribal Collaboration Act;
(5) provide engagement with acequia communities;
(6) provide for the engagement of rural communities;"

SECTION 5. REGIONAL WATER PLANNING ENTITIES.— Subsection C. Each regional water planning entity shall:
"(2)ensure opportunities for participation by Indian nations, tribes or pueblos located within the water planning region;
(4) assist in the funding, development and incorporation of plans for rural communities;"

SECTION 3. CONDEMNATION OF WATER RIGHTS.—"Nothing in the Water Security Planning Act shall be construed as permitting the condemnation of water rights or as determining, abridging or affecting in any way the water rights of water right owners in the state."

Commented [AA6]: Recommend adding explicit support to Councils in the Rule.

PROPOSED RULE – New Mexico Land Grant Council Comments

~~19.25.16.12~~19.25.16.14 **COMPOSITION OF REGIONAL WATER SECURITY PLANNING COUNCILS:**

A. Councils shall comprise three categories of members: representative members, at-large members and non-voting members. Representative members and at-large members shall be voting members of a council. If a

qualified or willing representative member, as described in Paragraph (1) of Subsection A of 19.25.16.12 NMAC or at-large member, as described in Paragraph (2) of Subsection A of 19.25.16.12 NMAC cannot be identified by the council, the council may propose or NMISC staff may select a replacement non-voting member who is knowledgeable about water resources in the region.

(1) Representative members. Each governmental entity listed below, if present within the region, is entitled to have a representative serve on the council for any planning region within which it is located. A single representative may represent multiple governmental entities. In the event that a governmental entity is located in multiple regional water security planning regions, the governing body may appoint the same or different representatives to each council. Each representative member shall be appointed by resolution or official action of each governmental entity's governing body. Representative members will consist of the following:

(a) one representative member identified by the governing body of each municipality;

(b) one representative member identified by the governing body of each county;

(c) one representative member identified by the governing body of each irrigation or conservancy district;

(d) one representative member identified by the governing bodies of each Nation, Pueblo, and Tribe;

(e) one representative member identified by the governing bodies of each soil and water conservation district;

(f) one representative member of each regional acequia association in the planning region or if no regional acequia association exists in a planning region, one representative from that region appointed by the New Mexico Acequia Commission; ~~and~~

(g) one representative member from an active land grant appointed by the Land Grant Council in a planning region; and

~~**(g)**~~**(h)** one representative member from a mutual domestic water consumer association or community regional water system in the region.

(2) At-large members. Up to ten at-large members shall represent each of the following stakeholder groups. There shall be one at-large member position for each stakeholder group, but members may represent multiple stakeholder groups. The stakeholder groups to be represented are:

(a) ranchers in the region;

(b) farmers in the region (these farmers may include 4H, Young Farmers, etc.);

(c) statewide or regional public higher education institutions (such as a student, professor, administrator, etc.);

(d) environmental, conservation, or water advocacy non-governmental organizations with members or local chapters in the region;

(e) water-based recreational interests located in the region (fishing, rafting, etc.);

~~**(f)** mutual domestic water consumer associations or community regional water systems in the region~~;

~~**(g)**~~**(f)** commercial, industrial, mining, and power in the region;

~~**(h)**~~**(g)** special districts established pursuant to Chapter 73, NMSA 1978, with staff whose responsibilities include water management, located in whole or in part within the region, and that do not fall within the previous membership categories within Paragraph (1) of Subsection A of 19.25.16.12. Should there be no representative pursuant to these criteria for the region, this becomes a general at-large member;

~~**(i)**~~**(h)** existing regional water planning steering committees who have continuously operated since the conclusion of the 2014-2016 regional water planning effort. Should there be no regional water planning steering committee in the region, this becomes a general at-large member; and

~~**(j)**~~**(i)** one general at-large member in the region.

(3) Non-voting members. Up to five non-voting members representing parties from outside the region with water interests in the region. These five non-voting members shall comprise up to three non-voting members for entities outside the region that own water rights within the region, and up to two non-voting members from other water security planning councils hydrologically linked to the region.

B. Region-specific stakeholders. Lists of region-specific stakeholders shall be developed and maintained by NMISC staff and shared with councils. The identification of region-specific stakeholders shall, at a

Commented [AA7]: Not all commissions, councils or other governmental entities approve actions through a resolution. The New Mexico Acequia Commission and the New Mexico Land Grant Council simply approve actions through a majority vote.

Commented [AA8]: Recommend moving Mutual Domestics and Regional Water Systems to Representative Member section, as these entities are political subdivisions as well.

minimum, include:

(1) an email point of contact; and

(2) documentation including a physical address, residential or professional, within the region; or

(3) written statement of interest identifying the individual or entity and explaining why the individual or entity is interested in engaging in the region's planning process.

[19.25.16.12 NMAC – N, xx/xx/202x]

~~19.25.16.13~~19.25.16.15 REGIONAL WATER SECURITY PLANNING COUNCIL MEETING AND INPUT REQUIREMENTS:

A. Councils shall hold regularly scheduled meetings as follows:

(1) meetings shall be held at least four times per year during periods when the region's plan is being developed or updated.

(2) meetings shall be held at least two times per year during periods when the plan is not being developed or updated.

(3) councils shall provide at least 14-day notice of meetings or other activities to council members, the public, region-specific stakeholders, Nations, Pueblos and Tribes, and the commission, with NMISC staff support as needed.

(4) councils, with NMISC staff support, shall offer meetings for hybrid participation if practicable.

B. Councils shall develop regional water security plans through broad input and public comment opportunities. This shall include opportunities for the public, region-specific stakeholders, and Nations, Pueblos, and Tribes to be involved in the development, vetting and prioritization of PPPs. During the plan development or update of any plan, councils shall, with NMISC staff support, at a minimum:

(1) notify the public, region-specific stakeholders, and Nations, Pueblos and Tribes, including by distributing publicly available information regionally about the development of the plan, and opportunities for input, at regular intervals.

(2) provide in-person and virtual opportunities for input at council meetings.

(3) provide a minimum of 60 days for the public, region-specific stakeholders, and Nations, Pueblos and Tribes to provide input and public comment in person, via email, or through a website on proposed regional water security plans.

(4) make comments publicly available ahead of finalization of a regional water security plan to be presented for commission approval.

C. Councils shall consider a broad range of participation options for input and public comment, which may include but are not limited to:

(1) providing materials in languages in common use within the region (e.g., ASL, Spanish, Tewa, Navajo).

(2) hosting additional meetings, focus groups, listening sessions, open houses or other events.

(3) providing engagement resources (e.g., presentations, paper surveys) to local community partners with existing connections in rural areas.

(4) providing multiple in-person opportunities distributed throughout the region and expanded strategies for community engagement.

(5) providing meeting spaces or computer access and connectivity for remote participation.

D. To promote broad awareness and to encourage participation, council outreach efforts, with NMISC Staff support as needed, shall include, but are not limited to:

(1) educational content; and

(2) multimedia advertising of engagement opportunities.

(3) additional opportunities may be developed at the determination of the council.

[19.25.16.13 NMAC – N, xx/xx/202x]

~~19.25.16.14~~19.25.16.16 CONSIDERATIONS FOR COUNCILS DURING PLANNING PROCESSES:

A. Councils shall consider, with resources provided by NMISC staff, the following information for inclusion in regional water security plans:

(1) existing water plans and water resources planning initiatives;

(2) compliance with state water law, including recognition of established water rights;

Commented [AA9]: Adding public comment opportunities to this section will strengthen this section.

(3) best available science for considering climate resiliency and increasing aridification;
(4) recognition and respect of federally recognized or reserved tribal water rights;
(5) access to water for domestic use;
(6) compliance with applicable federal water law;
(7) public welfare values;
(8) balancing water uses and the needs of future generations of New Mexicans; and
(9) public participation and comments.

B. Councils may consider the following information for inclusion in any regional water security plan:
(1) best available resources or methodologies for considering the needs of rural and urban places and populations within the region;
(2) groundwater management strategies and needs;
(3) regional food security and agricultural resilience; and
(4) water needs for healthy upland and riparian habitats.

C. Councils shall consider the following statewide objectives in any regional water security plan:
(1) state obligations under interstate compacts;
(2) compliance with the Endangered Species Act and the prevention of serious harm to the habitats of species that are threatened or endangered under state or federal law;
(3) implementation of water rights settlements, including local and federally executed Indian water rights settlements;
(4) the state's existing administration plans under the Active Water Resources Management program.

D. Councils shall develop and update regional water security plans as provided herein using the best available science, data, and models, and may identify data gaps and recommend further studies in their regional water security plans. Councils may not delay the development of or updates to a plan due to lack of data.
[19.25.16.14 NMAC – N, xx/xx/202x]

~~19.25.16.15~~19.25.16.17 **CRITERIA FOR APPROVAL OF REGIONAL WATER SECURITY PLANS:** In order to be approved by the commission, a regional water security plan must meet the following criteria:

A. Plans shall include documentation of the following items:
(1) Water Security Tribal Advisory Council (WSTAC) engagement, involvement, information and recommendations;
(2) Acequia and Rural Water Security Advisory Working Group (ARWSAWG) engagement, involvement, information and recommendations
~~(2)~~**(3)** public notice under Section 19.25.16.13;
~~(3)~~**(4)** stakeholder engagement in the development, vetting and prioritization of PPPs;
~~(4)~~**(5)** comments received, considered, and incorporated from stakeholders and the public;
~~(5)~~**(6)** comments received from state and federal agencies;
~~(6)~~**(7)** council consideration of public welfare values, balancing water uses and the needs of future generations of New Mexico in the region, if any;
~~(7)~~**(8)** Council committees, working groups and/or sub-regions, if applicable, within a region;
~~(8)~~**(9)** consideration of the regional water balance, including any projected reductions in water availability due to the impacts of climate change or other factors; and
~~(9)~~**(10)** compliance with statewide objectives identified in Paragraph C of Section 14.

B. Plans may include documentation that the needs of rural and urban populations within the region were considered.

C. Plans shall include a list of prioritized proposed projects, programs, and policies with each item ranked individually relative to all other PPPs on that sub-list region wide.
(1) The prioritized list of PPPs included in each plan shall be organized based on the readiness of each individual PPP.
(2) Each proposed PPP must list the sponsor(s) that intends to lead implementation of the PPP, including obtaining and administering any necessary funding for the PPP.
(3) PPPs shall be sorted by priority into the following readiness stages:
(a) ideas stage;
(b) scoping stage; and
(c) ready to proceed stage.

(4) PPP types include, but are not limited to projects, programs, and policies that address the following:

(a) watershed health
(b) drinking water
(c) storm water
(d) wastewater
(e) water retention and delivery infrastructure
(f) water conservation resulting in a reduction of total water use
(g) education
(h) efficiency resulting in a reduction of total or per-capita water use
(i) water reuse
(j) aquifer storage and recovery
(k) aquifer recharge
(l) agricultural resilience
(m) development of new water resources
(n) river and riparian habitat restoration
(o) livestock management
(p) alternative water administration strategies (under Active Water Resources Management, water markets or banks, voluntary shortage sharing, etc.)
(q) drinking water system regionalization
(r) asset management planning
(s) scientific studies

(5) Additional documentation for each PPP may include:

(a) existing or potential funding, including funding to match state or federal resources;
(b) ability to enhance regional water resilience or have long-lasting and sustainable benefits;
(c) the presence of multiple benefits or ability to meet multiple objectives;
(d) substantial support from diverse stakeholders; or
(e) identification of interrelated PPP's and potential enhanced benefits of implementing multiple PPPs in conjunction with each other.

(6) Councils may elect to repeat PPP list items in subsequent plans and updated PPP lists.

(7) Councils with sub-regions shall integrate all sub-regional priorities into a single prioritized list of PPPs for submittal to the commission with their plan. Processes for resolving sub-regional priorities alongside the recommendations of other sub-regions in the region shall be resolved by the council pursuant to its operating principles, as provided for in Paragraph (3) of Subsection B of 19.25.16.10 NMAC.
[19.25.16.15 NMAC – N, xx/xx/202x]

~~19.25.16.16~~19.25.16.18 STATE ENGINEER CONSIDERATION OF REGIONAL ISSUES OF PUBLIC WELFARE IN PERMITTING DECISIONS:

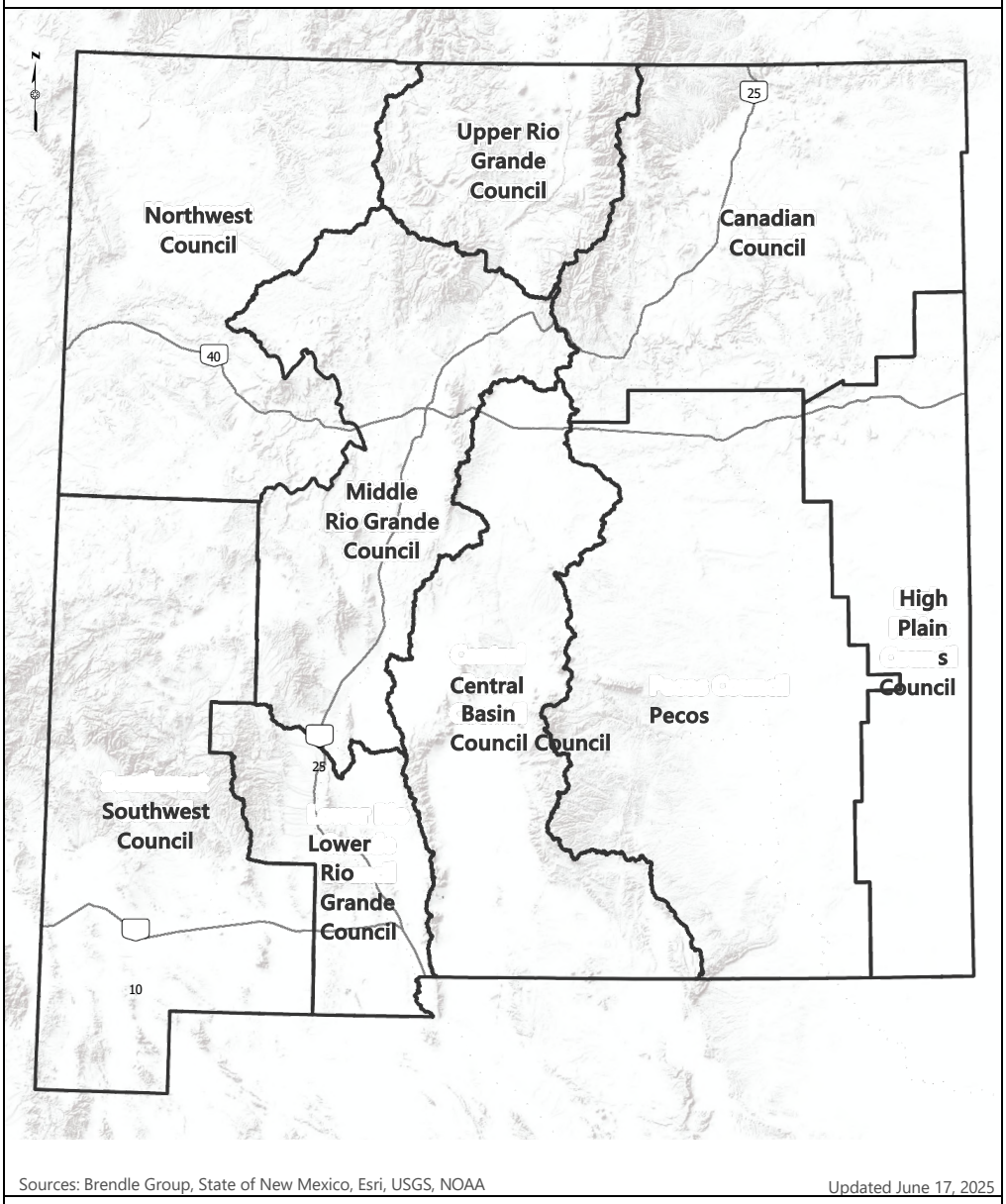
A. The state engineer, in its decisions on permit applications under Sections 72-5-6; 72-5-7; 72-5-23; 72-5-24; 72-5A-6; 72-6-5; 72-12-3; 72-12-7; and 72-12B-1 NMSA 1978, may consider issues of public welfare of a water planning region identified by a council if the state engineer determines that such regional issues are related to or may impact the public welfare of the state.

B. A council's determination shall not be binding on the state engineer's determination of whether a particular permit application would be detrimental to the public welfare of the state.

C. The state engineer, in determining whether a regional public welfare issue identified by a council is relevant to the determination of whether a particular permit application would be detrimental to the public welfare of the state, shall explain the reasoning in writing.
[19.25.16.16 NMAC – N, xx/xx/202x]

HISTORY OF 19.25.16 NMAC: [RESERVED]

Water Security Planning Regional Boundaries



Sources: Brendle Group, State of New Mexico, Esri, USGS, NOAA

Updated June 17, 2025

Rivers

Highways

Water Security Planning Regional Boundaries

0 25 50 100 Miles

Author First	Ramona
Author Last	Goolsby
City	RIO RANCHO
State Abbrev	NM
Email	RamonaGoolsby@proton.me
Comment Filename	Regional Water Security Planning (2).pdf

Comment Body

I have attached the PDF file of my comments. I have attempted to post them here but have gotten error messages every time. Thank you.

Public Comment on Proposed Rule 19.25.16 NMAC: Regional Water Security Planning

Submitted via the Online Portal at https://www.ose.nm.gov/RulesRegs/rulemaking.php
Date: September 25, 2025

New Mexico Interstate Stream Commission c/o Office of the State Engineer P.O. Box 25102
Santa Fe, NM 87504-5102 Email: isc.planning@ose.nm.gov

Dear Members of the Interstate Stream Commission and State Engineer,

I am writing as a concerned New Mexico resident deeply invested in the sustainable management of our state's water resources. The Water Security Planning Act (WSPA, SB 337, 2023) represents a critical opportunity to address our escalating water challenges through decentralized, community-led planning that empowers regions to develop adaptive, science-based strategies. However, after reviewing the proposed rule (19.25.16 NMAC) and the November 2024 "Observations and Considerations Report" (based on 2024 public engagement), I urge the Commission to reject or substantially revise the rule. It introduces bureaucratic pitfalls that undermine WSPA's legislative intent, fails to truly decentralize governance, and risks rendering regional councils' efforts ineffective or easily overruled by state-level bureaucrats. Below, I outline key concerns, drawing on the rule's deviations from WSPA's emphasis on local autonomy, scientific integrity, transparency, and inclusivity, as well as the report's recommendations from over 2,300 participant inputs.

1. Undermining Decentralization and Regional Autonomy

WSPA's intent was to foster "nimble," entity-led planning where regional councils drive customized processes, with state oversight in a supportive role. The 2024 report reinforces this, recommending NMISC act as a "technical support role, acting as a resource for regional water planning entities" (page 55) and assist with data access (page 56). Yet, the proposed rule centralizes excessive control with NMISC staff, creating a top-down structure that contradicts this vision. For instance:

- NMISC staff are tasked with convening councils, reviewing and confirming membership (19.25.16.10.A and 19.25.16.11.A), and acting as liaisons with potential veto-like authority over operations. This institutionalizes staff oversight, allowing bureaucrats to influence or override council decisions, such as sub-region approvals (19.25.16.9.B) or operating principles (19.25.16.10.B).
- Provisions like "subject to adequate funding" (19.25.16.10.A(3)) tie essential support (e.g., meetings, technical aid) to state resources, potentially disadvantaging rural regions and enabling de facto control—contrary to the report's call for NMISC to "serve as a connection to resources throughout implementation" (page 56). This setup risks bureaucratic overreach, where councils' hard work—developing prioritized projects, programs, and policies (PPPs)—could be sidelined by state preferences, eroding the Act's goal of empowering diverse stakeholders, including tribes, acequias, and rural communities. I recommend amending the rule to limit NMISC's role to facilitation only,

with clear safeguards against interference, to align with the legislature's unanimous support for bottom-up governance and the report's emphasis on regional leadership.

2. Lack of Clear Strategic Direction and Measurable Outcomes

The rule establishes procedural steps (e.g., council composition in 19.25.16.12 and meeting requirements in 19.25.16.13) but omits defined goals, problem statements, or metrics for success. Plans must use "best available science" (19.25.16.14), but without explicit outcomes—such as quantifiable reductions in water overuse or benchmarks for climate resiliency—the process could devolve into unfocused PPP lists (19.25.16.15) that fail to deliver tangible water security. The report explicitly calls for "measurable and data-driven" plans with identified goals, metrics, and strategies (pages 22-24), including water balance analyses and progress tracking every 5 years (pages 51-54, 57). This vagueness exacerbates bureaucratic pitfalls, as ambiguous plans are easier for state officials to dismiss or reinterpret. To better reflect WSPA's intent for "durable, adaptive" 50-year plans, the rule should mandate clear objectives, evaluation criteria, and annual outcome tracking tied to statewide goals like interstate compact compliance, as recommended in the report (e.g., metrics for water availability and ecological impacts, page 52).

3. Insufficient Emphasis on Scientific Integrity and Data Standards

While requiring the "best available science, data, and models" (19.25.16.6 and 19.25.16.14.D), the rule lacks safeguards for scientific integrity, such as transparency protocols, peer review, or protections against political influence. Plans can proceed despite data gaps, but without standards for documenting assumptions or ensuring objectivity, this risks repeating past NMISC shortcomings (e.g., reliance on unreliable data). The report prioritizes "best available science and data" with considerations for addressing gaps/uncertainties (pages 22-24) and leveraging the Water Data Act platform (page 51), emphasizing "data-informed plans" (page 24). This weakness not only misaligns with the Act's science-based mandate but also allows bureaucrats to challenge or override council findings on non-scientific grounds. I suggest incorporating explicit integrity principles, including mandatory evidentiary records and independent review, to uphold the legislature's emphasis on evidence-driven planning and the report's call for "hard data" (page 54).

4. Inadequate Governance, Transparency, and Enforcement

The rule's governance is opaque, with no defined conflict resolution, implementation strategies, or binding enforcement mechanisms. The State Engineer's consideration of regional public welfare issues is merely permissive ("may consider" in 19.25.16.16), rendering councils' input non-binding and vulnerable to override. Additionally, the rulemaking process itself lacks procedural rules for the Commission, potentially allowing ex parte communications or biased deliberations. This erodes transparency and accountability, contrary to WSPA's calls for broad public participation and annual legislative reporting. The report stresses transparent processes, including progress tracking (pages 51-53) and NMISC support for implementation (page 55). To address this, the rule should include impartial governance standards, mandatory integration of council recommendations in permitting, and proactive funding commitments to ensure equitable implementation across regions.

5. Limited Inclusivity and Holistic Evaluation

Council composition (19.25.16.12) aims for representation but permits replacements if members cannot be found, risking imbalances toward governmental interests over environmental or tribal voices. Public input requirements (19.25.16.13) are minimal—a 60-day comment period and hybrid meetings—but lack mandates for holistic PPP assessments, such as cumulative impacts or equity analyses for rural/urban/tribal needs (optional in 19.25.16.14.B and 19.25.15.B). This could marginalize underrepresented groups, deviating from the Act's equity focus, including tribal sovereignty via WSTAC (19.25.16.8). The report calls for "diverse representation" and inclusive input (implied in pages 22, 55). Strengthening inclusivity through required veto powers for tribes, expanded engagement options (e.g., multilingual and rural-focused), and holistic review criteria would better honor the legislature's intent.

In conclusion, while the proposed rule attempts to operationalize WSPA, it falls short by prioritizing bureaucratic control over true decentralization, potentially wasting the efforts of dedicated councils and stakeholders. This misalignment with the Act's community-led, inclusive, and science-driven spirit—evident when compared to the 2024 report's recommendations—could perpetuate New Mexico's water crises rather than resolve them. I strongly recommend pausing the rulemaking for revisions based on public feedback, or rejecting the rule outright to develop one that fully empowers regions. Thank you for considering this comment as part of the official record. I am available for further discussion and look forward to a process that truly secures our water future for all New Mexicans.

Sincerely,

Ramona Goolsby

Org Name	Albuquerque Bernalillo County Water Utility Authority
Author First	Mark
Author Last	Kelly
City	Albuquerque
State Abbrev	NM
Email	mkelly@abcwua.org
Comment Filename	20250926 ABCWUA Water Security Planning Act Comments.pdf

Comment Body

Please see the attached comments.

Albuquerque Bernalillo County
Water Utility Authority

PO Box 568
Albuquerque, NM 87103
www.abcwua.org

Chair
Klarissa Peña
City of Albuquerque
Councilor, District 3

Vice Chair
Barbara Baca
County of Bernalillo
Commissioner, District 1

Frank A. Baca
County of Bernalillo
Commissioner, District 2

Dan Lewis
City of Albuquerque
Councilor, District 5

Eric C. Olivas
County of Bernalillo
Commissioner, District 5

Louie Sanchez
City of Albuquerque
Councilor, District 1

Timothy M. Keller
City of Albuquerque
Mayor

Ex-Officio Member
Gilbert Benavides
Village of Los Ranchos
Board Trustee

Executive Director
Mark S. Sanchez

Website
www.abcwua.org

September 26, 2025

New Mexico Interstate Stream Comission
407 Galisteo St
Santa Fe, NM 87501
Submitted Online

Re: Comments on Proposed Rule – Regional Water Security Planning

Dear Commissioners:

On behalf of the Albuquerque Bernalillo County Water Utility Authority (Water Authority), the largest water utility in New Mexico serving the greater Albuquerque metro and Bernalillo County, the Water Authority expresses appreciation for the opportunity to comment on the proposed rules to implement the 2023 Water Security Planning Act (WSPA). The Water Authority recognizes and commends the Commission's efforts to establish a comprehensive framework for regional water security planning. Since 2023, the Water Authority has worked with the New Mexico Interstate Stream Commission (NMISC) in discussing the implementation of WSPA, including active participation in the WSPA Working Group convened by NMISC. As a major municipal water provider, the Water Authority has a strong interest in the success of regional water planning and wishes to ensure the rules are workable, inclusive, and effective for all stakeholders.

After a thorough review of the Proposed Rule 19.25.16 NMAC – Regional Water Security Planning, the Water Authority has identified several concerns that could present challenges to successful implementation. The attached comments focus on seven primary issues:

1. The Water Authority Is Not Included Among Representative Members of Regional Planning Councils
2. Sub-regions Not Well Defined
3. Planning Councils Too Large
4. Steering Committees Vaguely Defined
5. Planning Council Requirements Too Intense.
6. Lack of clarity on Objectives and Metrics for NMISC Commission approval.
7. The reasoning for the list of Projects, Programs, and Policies needs clarification.

The Water Authority has provided a focused overview of these concerns below which include a thorough examination of each issue, including specific references to rule sections and suggested improvements. As always, the Water Authority looks forward to collaborating with NMISC on regional water planning and hopes these comments prove helpful in the process.

Best regards,



Mark Kelly, PE
Water Resources Division Manager
Albuquerque Bernalillo County Water Utility Authority

Detailed Comments on Proposed Rulemaking for Regional Water Security Planning

1. The Water Authority Is Not Included Among Representative Members of Regional Planning Councils (19.25.16.12(A)(1))

Concern: The Water Authority is not currently guaranteed a seat as a voting representative member under the proposed rule's membership structure – a situation that could similarly impact other important water providers that are not traditional governmental entities. As per Section 19.25.16.12(A)(1), representative members come from governmental bodies like counties, cities, Tribes, etc.. The Water Authority, however, is a joint water utility authority created by state statute (NMSA 72-1-10) and is not a municipality or county. Under the draft rule, the Water Authority doesn't cleanly fit any of the listed categories. The rule may have tried to include the Water Authority as a Chapter 73 special district in the region (19.25.16.12(A)(2)(h)), but this is incorrect. The Water Authority was not established under Chapter 73 (which typically covers water & sanitation districts, etc.), so even an at-large member role does not apply.

In short, the largest municipal water provider in the region (and state) would have no formal vote on the regional planning council. Without explicit recognition in the rule, there is a risk that key water utilities like Water Authority could be sidelined while facing the greatest amount of impact from decisions made by the council. The importance of including major water providers/utilities is clear: they have technical expertise, data, and a large stake in regional water security. Excluding such agencies from direct representation could result in plans that don't fully account for municipal water supply considerations or that lack buy-in from those who must implement projects.

Recommendation: Modify the rule to explicitly include large water utility authorities as representative members of regional councils. The simplest approach would be to add a new subparagraph in 19.25.16.12(A)(1) listing "joint powers authorities or regional utility authorities managing public water supply" within the region. For example: *"(h) one representative member identified by the governing body of any regional water utility authority established by law that provides water services within the planning region."*

Therefore, the Water Authority strongly urges the Commission to adjust Section 19.25.16.12(A)(1), the planning council representative members, to guarantee representation for the Water Authority in the Middle Rio Grande region (and by extension, any similar water utility authority in other regions). This change will ensure that planning councils benefit from the expertise of municipal water utilities and that our Board and ratepayers have a voice in crafting regional solutions. It will also set a precedent that the regional planning process truly

NMISC Exhibits 01868

integrates all water management institutions, not just traditional governmental entities. In practice, such an amendment helps "get the right folks in the room" from day one, rather than having to work around the rules to include them. This modification aligns with the spirit of the WSPA, which intended broad collaboration and coordination on water security, and will lead to more robust and implementable regional plans.

2. Sub-regions Not Well Defined (19.25.16.9(B)) – Clarify Criteria and Process

Concern: The concept of "sub-regions" in the proposed rule is insufficiently defined, which could lead to confusion, inconsistent application, or a failure to create subregions despite need. The rule (Section 19.25.16.9(B)) allows the Commission to approve subdividing a planning region into sub-regions but only provides broad criteria for doing so. For example, the Commission must consider if there is a distinct hydrological basis, sufficient population and capacity in the sub-region, and how the sub-region's work will integrate with the regional plan. While these criteria identify *what* to think about, they do not clearly define *how* sub-regions should be formed or function. There is no definition of "sub-region" in the definitions section, and the procedure for initiating or approving a sub-region (e.g. can local stakeholders propose it, or only the Commission?) is unclear. In a large planning region like the Middle Rio Grande, which encompasses diverse communities, the lack of clarity could make it difficult to carve out logical sub-regional planning efforts. Additionally, the rule as written does not define how subregions will be integrated with the regional plan, creating the potential for disconnected water planning efforts. This ambiguity might result in either under-utilization of sub-regions (missing opportunities to make planning more manageable) or disputes if a sub-region is requested but there is no clear process of approval by the Commission. Disputes may also arise if there is no clear requirement or mechanism to link subregions to regional planning.

Recommendation: The Water Authority recommends strengthening Section 19.25.16.9(B) to better define sub-regions, the process for their establishment, and their integration into regional water plans. The rule should outline a transparent procedure by which a sub-region can be proposed and evaluated by the Commission. Clear thresholds or examples would help; *e.g.*, "if a planning region has several clear/distinct water management areas with a consolidated populations that have clear hydrologic systems, a subset of council members may petition to form a sub-region." The criteria listed (hydrological basis, sufficient capacity, etc.) are reasonable, but the rule should specify how those are demonstrated or measured. It is also suggested that explicitly stating that Commission approval of a sub-region will result in a

NMISC Exhibits 01869

dedicated sub-regional planning effort (with its own meetings or work plan), whose results (analyses and prioritized projects) will be integrated into the overall regional plan. This integration process should be clarified in the rule or guidelines – for example, the rule could state that any sub-region must coordinate with the parent region's planning council on shared issues and that the final regional plan must reconcile sub-regional priorities through the council's operating principles. By adding these clarifications, the Commission will make the sub-region option more accessible and predictable, which is important for large regions that may otherwise struggle to accommodate all local needs under one umbrella. In short, the Commission should better define the "who, when, and how" of sub-regional planning, so that this tool can be effectively used to improve regional plan outcomes.

3. Planning Councils Too Large (19.25.16.12(A)(1)) – Ensure Manageable Council Size

Concern: The Regional Water Security Planning Councils as constituted by the draft rule,, could become unwieldy due to their size. Section 19.25.16.12(A)(1) enumerates the entities entitled to appoint a "representative member" to each council: each municipality, each county, each irrigation or conservancy district, each Nation/Pueblo/Tribe, each soil and water conservation district, a regional acequia association, and a land grant (if present in the region). In a region with many local governments and organizations, this could easily yield dozens of voting members. For instance, in the Middle Rio Grande planning region, there are fourteen municipalities (e.g., Albuquerque, Rio Rancho, Los Lunas, Belen, etc.), three counties, six Tribes/Pueblos, the Middle Rio Grande Conservancy District, multiple soil & water districts, and land grants. As written, the rule has the potential to result in a group of 30+ representative members on the planning council. When the ten at-large members are factored in, the total planning council voting members could be greater than 40 members, depending on how many counties and municipalities are within a given region. A council of that size is problematic: it would be difficult to convene, hard to achieve quorum or consensus, and cumbersome for meaningful discussion and decision-making. The large number of members may also deter effective participation – if individuals feel their voice is not being heard in the large planning council, the planning council could become a mere formality. Such a bloated structure could undermine the councils' functionality, contrary to the intent of fostering inclusive yet actionable regional planning.

Recommendation: the Water Authority recommends modifying Section 12(A) to either set an upper limit on voting members or to explicitly permit a representative structuring of seats, so

NMISC Exhibits 01870

that each region can tailor its council size to something workable (perhaps on the order of 15–25 voting members at most). This restructuring can be achieved through tiered representation or a "core council" concept. For example, rather than every single municipality automatically getting a seat, the rule could be modified to allow municipalities to be grouped by size or region and have them select a representative among themselves. Dividing municipalities and water systems by size categories, each represented on the council, so that larger cities and smaller towns each have a voice without all sitting at once is also a possibility. Similarly, where multiple small entities of the same type exist (e.g. several small acequia associations or several small mutual domestic water systems), they could caucus to choose one voting member for that stakeholder category. The rule already contemplates that "a single representative may represent multiple governmental entities"; this could be emphasized as the norm in regions with many entities for a given category of planning council membership.

Alternatively, the tiered representation approach could follow the "core and subcommittee" model. This approach would include the establishment a core council of a limited size (e.g., one representative per county, municipality, tribe, irrigation district, etc.) and allow that core council to form advisory subcommittees (or working groups) that involve other stakeholders. Indeed, the concept of subcommittees is briefly mentioned in Section 19.25.16.10(B)(3)(c) (planning councils can have subcommittees per their operating principles), but the rule could more **explicitly** sanction a two-tier structure. By empowering planning councils to be smaller, agile decision-making bodies with advisory subcommittees and working groups, the rule would help ensure **these** councils can successfully complete a Commission approved regional water plan. In summary, this change will make councils more nimble and effective in achieving the WSPA's goals.

4. Steering Committees Vaguely Defined (Rules 19.25.16.10(B)(3)(c) and 19.25.16.12(A)(2)(i)) – Define Role or Remove Ambiguity

Concern: The proposed rule makes reference to "steering committees" in two contexts but leaves their role ambiguous. First, in Section 19.25.16.10(B)(3)(c), when describing a council's obligation to adopt operating principles, it suggests that those principles describe "the potential roles of committees, including a steering committee, subcommittees and/or work groups, if relevant". This implies that a council may form a steering committee as part of its internal structure, but it doesn't elaborate on why or how. Second, in Section 19.25.16.12(A)(2)(i), among the list of at-large members, the rule reserves one at-large slot for "existing regional water planning steering committees who have continuously operated since the conclusion of the 2014–2016 regional water planning effort". In regions where no such

NMISC Exhibits 01871

legacy steering committee exists, that slot becomes a general at-large member. These provisions indicate that the drafters recognized the prior regional water planning groups (often called steering committees in the 2015 regional water plan updates) and wanted to accommodate them, but the rule doesn't explicitly say what their ongoing function is under the new act. The vagueness here causes confusion. For example: if a pre-existing steering committee (from a previous planning cycle) is still active, is it meant to continue guiding the new council, or is it essentially dissolved into the new council (with one member representing it)? The rule gives it one vote at the table via an at-large member, which suggests the latter. Meanwhile, the new council itself could decide to form its own "steering committee" as a subset of members, but the rule provides no guidance on what authority that subset would have or how it interacts with the full council. In short, stakeholders might be unclear whether "steering committee" refers to an old body carried over, a new sub-committee of the council, or both. Without clarity, there's a risk of redundant or conflicted roles, or simply stakeholders not leveraging a steering committee at all due to uncertainty.

Recommendation: Clarifying the concept of steering committees in the rule or accompanying guidelines to avoid ambiguity is needed. The Water Authority suggest the addition of a definition or explanation in the Guidelines document for how councils can use steering committees. Since 19.25.16.10(B)(3)(c) leaves it to the council's discretion ("if relevant"), the Commission should provide examples, at a minimum, of when it might be beneficial to have a steering committee: for instance, a smaller group of the council that works with NMISC staff to draft plan sections or to set meeting agendas, etc. Addressing the transition of existing regional planning steering committees is also needed. If the intent is to honor the knowledge of those groups, perhaps the guideline could state that the council should consider forming a steering or advisory committee that includes members of the previous regional steering committee. Alternatively, if the rule's one at-large seat is thought to sufficiently incorporate the existing steering committee, then make that clear: that past committees are essentially being replaced by the new planning council (with one representative from the existing steering committee to carry forward for continuity in planning). Given that the rule already requires planning councils to develop operating procedures early on, having a clear template for what a steering committee does will help councils quickly organize themselves

NMISC Exhibits 01872

5. Planning Council Requirements Too Intense (Rule 19.25.16.13 and Related Sections) – Streamline Process & Provide Support

Concern: The proposed rule imposes a number of process requirements on the regional planning councils that, while well-intentioned for transparency and inclusivity, may be overly burdensome and could overwhelm the councils' capacity. Section 19.25.16.13 lays out meeting and public input requirements in detail. Key mandates include: holding at least four meetings per year while developing or updating a plan (and at least two per year otherwise); providing at least 14-day public notice for all meetings; offering hybrid (in-person + virtual) participation if practicable; and undertaking broad outreach and comment solicitation, such as notifying stakeholders and Tribes regularly, providing multiple input opportunities, and allowing a minimum 60-day comment period on draft plans. Additionally, councils must compile and consider all comments and make them public before finalizing the plan. Furthermore, for a plan to be approved, Section 19.25.16.15 lists a series of documentation requirements, including proof of all the above outreach steps, consideration of public welfare, integration of sub-regions, etc. These requirements reflect best practices but collectively they represent a very intensive workload for regional volunteer planning councils (many of whose members will be serving in addition to their regular jobs) and the NMISC personnel that support them. There is concern that the administrative burden – frequent meetings, extensive record-keeping, and outreach in multiple formats – could discourage participation or slow down the planning process significantly. Likewise, ensuring multi-lingual materials, while important for accessibility, adds complexity (and who will produce those – the unpaid council members or NMISC staff?). In short, the rule may be setting a gold standard that is difficult to meet in practice, especially for regions that are challenged with active participation of planning council members and with limited staff support. If councils struggle to fulfill every procedural requirement "to the letter," it would be at the expense of achieving a Commission-approved plan, which is a strong disincentive. The Water Authority is concerned that the intensity of these requirements might inadvertently hamper the very goal of getting plans done in a timely manner.

Recommendation: The Water Authority suggests a two-pronged approach: streamline certain requirements in the rule, and augment support for planning councils to meet the remaining requirements. Firstly, the Commission should consider scaling back or adding flexibility to the meeting and input mandates. For instance, instead of a hard minimum of four meetings per year during plan development, the rule could say "at least quarterly meetings or as needed to accomplish plan milestones." This gives councils some discretion if, say, work is being done in subcommittees between meetings, they might not need to convene so often formally.

NMISC Exhibits 01873

Similarly, if a region's stakeholders are already heavily engaged through other forums, the council might tailor the public input process appropriately. The rule could allow a planning council to request a waiver or modification of certain outreach requirements with Commission approval, provided they still achieve the intent of public participation.

Secondly, NMISC should commit to provide greater support to planning councils via NMISC staff or funding for planning councils to hire/subcontract support. The rule already states NMISC staff will assist with facilitation and technical support. The Commission should commit sufficient resources to this support role. For example, NMISC regional coordinators could handle much of the logistics: sending out notices, compiling comments, setting up hybrid meeting technology, and drafting summaries. If the state can shoulder the logistical load, council members can focus on substantive planning decisions. In the WSPA work group discussions, there were suggestions of the state leveraging funding to help regions with planning tasks (e.g., small grants or contracts), which is idea concept the Water Authority believes should be further evaluated. Anything that offsets the volunteer workload will make the process more sustainable.

6. Lack of Clarity on Objectives and Metrics for NMISC Commission Approval (Rule 19.25.16.15 and Related Sections)

Concern: The proposed rule does not provide sufficient specificity regarding the objectives and metrics that regional water plans must meet to be eligible for approval by the NMISC. This lack of clarity creates uncertainty for planning councils and stakeholders, undermines consistency in plan evaluations, and risks excluding key entities from meaningful participation. Without clear criteria, planning councils may struggle to structure their plans effectively, and NMISC staff may apply inconsistent standards across regions.

Recommendation: The Water Authority recommends that the rule be amended to provide clear and detailed approval criteria for regional water plans, including specific objectives and measurable metrics such as conservation targets, infrastructure resilience benchmarks, and stakeholder engagement indicators. These criteria should be transparent and accessible to all planning councils to ensure consistency and fairness in the evaluation process. Additionally, the Commission should outline how NMISC staff and commissioners will evaluate regional plans, including minimum thresholds for approval. The Water Authority further recommends that NMISC staff provide technical assistance to planning councils through written guidance, webinars, and liaisons to help interpret objectives and metrics. Finally, before full

implementation, the Commission should conduct a pilot review of draft regional plans using the proposed criteria to refine the process and identify any gaps in clarity or feasibility. By taking these steps, the Commission can promote transparency, consistency, and equitable participation in regional water planning under the WSPA framework.

7. The Reasoning For the List of Projects, Programs, and Policies (PPPs) (19.25.16.15.C) – Provide Clarification of What the PPPs Will Be Used For

Concern: Section 19.25.16.15.C of the proposed rule requires councils to include a prioritized list of PPPs organized by implementation readiness and sponsor capacity, the rule does not clearly articulate what these lists will be used for. This lack of clarity raises several questions:

- Will the PPP lists serve as the basis for funding decisions by the Commission or other agencies?
- Will they be used to track implementation progress or evaluate regional performance?
- Will they influence legislative appropriations or grant eligibility?
- Are they intended to guide long-term strategic planning or only short-term project execution?
- What criteria should be used to prioritize projects into the readiness stages?

Without a clear explanation of how PPPs will be prioritized by planning councils and how the lists will be used, the planning process risks becoming a procedural exercise rather than a meaningful tool for advancing water security.

Recommendation: The Commission should revise the rule to explicitly state the intended uses of the PPP lists. This could include:

- Clarifying how PPPs will be evaluated and selected for funding.
- Defining how PPPs will be tracked and reported over time.
- Explaining how PPPs will inform statewide water planning and policy decisions.
- Ensuring that PPPs reflect not only readiness but also alignment with regional and statewide water security goals.

Providing this clarity will strengthen the rule's coherence, improve stakeholder engagement, and ensure that regional planning efforts lead to tangible outcomes.

NMISC Exhibits 01875

Conclusion

In conclusion, the Water Authority appreciates the opportunity to provide feedback on the proposed rules for implementing the 2023 Water Security Planning Act (WSPA). The Water Authority has identified several key concerns, including the omission of the Water Authority from the list of representative council members, insufficient clarity around the definition of sub-regions, the potential for planning councils to become excessively large, the ambiguous role of steering committees, the overly demanding requirements placed on regional planning councils, and the need for clarification on the reasoning for the list of Projects, Programs, and Policies . The Water Authority hopes that these comments and recommendations will help ensure that the rules are workable, inclusive, and effective for all stakeholders, ultimately leading to successful regional water security planning.

NMISC Exhibits 01876

Org Name	Taos Pueblo
Author First	Governor
Author Last	Taos Pueblo
City	Taos
State Abbrev	NM
Email	susan@jordan-lawfirm.com
Comment Filename	2025-09-24 Taos Pueblo Comment Letter WSPA Proposed Rule.pdf

Comment Body

Comment letter attached.

TAOS PUEBLO

Governor's Office

P.O. BOX 1846 • TAOS, NEW MEXICO 87571 • (575) 758-9593 • Fax (575) 758-4604

By U.S. priority mail
and upload to https://www.ose.nm.gov/RulesRegs/rulemaking.php

September 24, 2025

ATTN: Jennifer Salazar, NMISC Administrator
Commissioners of the New Mexico Interstate Stream Commission
5550 San Antonio Dr. NE
Albuquerque, NM 87109

Re: Proposed Rule 19.25.16 NMAC, Regional Water Security Planning

Dear Chairman Sanchez, Members of the Commission, and Administrator Salazar:

Taos Pueblo submits the following comments on the New Mexico Interstate Stream Commission ("ISC" or "Commission") Proposed Rule 19.25. 16 NMAC to implement the Water Security Planning Act, Section 72-14-A1 NMSA 1978 ("WSPA" or "Act").

Taos Pueblo appreciates the efforts to date by the ISC Director and staff to provide opportunities for Tribal input in the WSPA rule promulgation process. Unfortunately, the Proposed Rule falls short of the State's obligations to comply with and implement Indian water rights settlements.

Taos Pueblo urges the Commission to revise the Proposed Rule to make clear that regional plans must abide by Indian water rights settlements and must meet the statewide objective of compliance with the congressionally authorized Tribal water rights settlements. The WSPA, in Section 72-14A-4.C(9)(b), expressly requires the Commission to support regional water planning entities by "providing statewide objectives for regional water security plan development, including *compliance with . . . congressionally authorized tribal water settlement acts*" (emphasis added). Congressionally authorized settlements include the Taos Pueblo settlement authorized by Title V of Public Law 111-291, the Claims Resolution Act of 2010. The State of New Mexico is a party to our settlement and is bound by its terms.

It is essential for the Commission to revise the Proposed Rule to ensure that regional water security plans are compliant with Indian water rights settlements and the WSPA. Specifically, we submit that Sections 19.25.16.14.C(3), 19.25.16.15, 19.25.16.9.B, and 19.25.16.16 of the Proposed Rule should be revised as set forth below.

1. Insert the following underscored text in the list of statewide objectives in Section 19.25.16.14.C(3) for regional councils to consider in regional water security plans:

"(3) compliance with and implementation of water rights settlements, including local and federally executed Indian water rights settlements."

As noted above, the WSPA uses the term "compliance with" in reference to the statewide objective regarding congressionally authorized tribal water settlements (Section 72-14A-4.C(9)(b) NMSA 1978).

2. Add the following at the end of Section 19.25.16.15 on criteria for approval of regional water security plans:

> "D. Plans shall comply with congressionally authorized Indian water rights settlements."

We recognize that the regional plan criteria for approval in the Proposed Rule state, in Section 19.25.16.15.A, that "[p]lans shall include documentation of the following items: . . . (9) compliance with statewide objectives identified in Paragraph C of Section 14 [Section 19.25.16.14.C]". However, read literally, Section 19.25.16.15.A merely requires documentation in the regional plan. A future Commission might construe this criterion in a way that limits the Commission's review to verification that "documentation" is in the plan. The above addition of a Subsection D is necessary and appropriate to leave no doubt in the minds of future Commissioners that the Commission must scrutinize regional plans for compliance and cannot approve a regional plan that does not actually comply with congressionally authorized Indian water rights settlements.

3. Add the following underscored text to Section 19.25.16.15.C requiring regional plans to include prioritized lists of proposed projects, programs, and policies:

> "C. Plans shall include a list of prioritized proposed projects, programs, and policies with each item ranked individually relative to all other PPPs on that sub-list region wide. The relative rankings of PPPs shall be consistent with statewide objectives for regional water security plan development, including compliance with interstate compacts, the federal Endangered Species Act of 1973 and congressionally authorized tribal water settlement acts."

Section 72-14A-4.C(9)(b) of the Act requires the Commission to support regional water planning entities by "providing statewide objectives for regional water security plan development including *compliance with* interstate compacts, the federal Endangered Species Act of 1973 and *congressionally authorized tribal water settlement acts*" (emphasis added). If the Commission does not require the relative rankings of PPPs in regional water security plans to be consistent with the statewide objectives identified in the WSPA, then the Commission will have failed to provide the guidance intended by the Act and the planning process will be at serious risk of failing to meet these foundational objectives of the Act.

4. Add to the list of criteria for establishing subregions (Section 19.25.16.9.B) the following underscored text for consistency with the Act:

"(6) whether the proposed subregion would enable the regional water security program to more effectively obtain input and take into account tribal sovereignty, tribal water rights, and the needs of tribal communities."

If the above additional criterion for subregions is not added, then there is a substantial risk that a subregion may be designated or rejected without regard to whether the subregion would facilitate taking into account in the regional water security program tribal sovereignty, tribal water rights and the needs of tribal communities as intended by Section 72-14A-4.B of the Act.

5. Delete Section 19.25.16.16 concerning the State Engineer's consideration of regional issues of public welfare in permitting decisions. This section would purport to allow the State Engineer to consider, in permitting decisions under Sections 72-5-6, 72-5-7, 72-5-23, 72-5-24, 72-5A-6, 72-6-5, 72-12-3, 72-12-7, and 72-12B-1 NMSA 1978, issues of public welfare of a water planning region *identified by a regional planning council* if the state engineer determines that such regional issues are related to or may impact the public welfare of the state (Section 19.25.16.16(A)), and to require the State Engineer to explain whether a regional public welfare issue identified by a planning council is relevant to the determination of whether a particular permit application would be detrimental to the public welfare of the state (Section 19.25.16.16(C)). These provisions exceed the Commission's authority under the WSPA. The WSPA requires the implanting rule promulgated by the Commission to establish "the procedure *for a regional water planning entity* to consider public welfare values . . . " (Section 72-14A-4.C(e), emphasis added). It does not provide for the Commission to establish procedures *for the State Engineer*'s consideration of public welfare in water rights permitting. The statement in the Proposed Rule that "[a] council's determination shall not be binding on the State Engineer's determination of whether a particular permit application would be detrimental to the public welfare of the state" (Section 19.25.16.16(B)) does not remedy the exceedance of the Commission's authority here. Even if the Commission were authorized to establish procedures for the State Engineer to consider in permitting decisions public welfare issues identified by a regional planning council, Section 19.25.16.16 as drafted does not limit consideration of regional plan public welfare values to the extent they are consistent with existing law and water settlements. Consequently, promulgating the rule with Section 19.25.16.16 would be inconsistent with existing law on public welfare and with the WSPA's statewide objective of compliance with Congressionally authorized Indian water rights settlements.

We appreciate this opportunity to provide these comments on the Proposed Rule.

Sincerely,

Edwin Concha

Edwin Concha
Governor

cc: Matthew E. Montoya, Lt. Governor
Jeremy Lujan, Tribal Secretary
Robert Evan Trujillo, War Chief
Benito M. Concha, Lt. War Chief
Waylon Brown, War Chief Secretary
Daniel V. Suazo, Director, Water Administration Department
Susan G. Jordan, Jordan Law Firm LLC

Org Name	Environmental Defense Fund
Author First	Gretel
Author Last	Follingstad
City	Santa Fe
State Abbrev	NM
Email	gfollingstad@edf.org
Comment Filename	EDF Comments_WSPA_Proposed Rule 9_26_25.pdf

Comment Body

We appreciate the opportunity to comment on this important milestone for the New Mexico Water Security Planning Act.

Environmental Defense Fund
Climate Resilient Water Systems
New Mexico Program

September 26, 2025

Subject: EDF Comments on Water Security Planning Act Proposed Rule

Dear Ms. Salazar and the New Mexico Interstate Stream Commission,

In July 2025 the Interstate Stream Commission (ISC) initiated the rulemaking process for regional planning pursuant to the 2023 Water Security Planning Act (WSPA), opening the public comment period for the Proposed Rule. Implementation of the WSPA is a pivotal opportunity for comprehensive, data-based regional water management to meet increasing water security challenges across New Mexico. Environmental Defense Fund (EDF) appreciates the opportunity to provide the following suggestions for updating the final Rule.

We have five (5) overarching recommendations:

(1) Include a standardized framework that clearly defines and outlines a consistent process for determining regional public welfare values that are reflective of statewide public welfare values, defines and outlines a consistent process for determining the water uses and needs of future generations of New Mexicans in the region, and provides additional guidance to support the development of council operating principles;
(2) Authorize members of regional water security planning councils to enter into Memoranda of Understanding, as needed, to ensure councils are structured to develop and implement plans and maximize council effectiveness for execution of the PPPs in the plan;
(3) Clarify financial authorities, fiscal agents, and funding mechanisms in a way that ensures equity and efficiency across regions;
(4) Ensure the best available science and data is integrated into all regional plans through ISC's technical assistance obligation;
(5) Improve timeframes for plan development, plan updates, and council meeting frequency.

We have included several other recommendations that propose specific adjustments to certain language or sections of the Proposed Rule, that are listed below the overarching recommendations.

Overarching Recommendations

(1) Include a standardized framework that clearly defines and outlines a consistent process for determining regional public welfare values that are reflective of statewide public welfare values, defines and outlines a consistent process for determining the water uses and needs of future generations of New Mexicans in the region, and provides additional guidance to support the development of council operating principles.

Relevant Sections:

- Proposed Rule Section 10 (19.25.16.10)(A) Initial Planning Period

The WSPA requires ISC to promulgate rules that include "the procedure for a regional planning entity to develop and provide notice to the commission of issues and concerns relating to the public welfare of the water planning region" (Section 72-14A-4(C)(1)(c), NMSA 1978) and "the procedure for a regional water planning entity to consider public welfare values and the needs of future generations of New Mexicans" (Section 72-14A-4(C)(1)(e), NMSA 1978).

The Proposed Rule requires councils to consider public welfare values, balancing water uses and the needs of future generations of New Mexicans in each region (Proposed Rule 19.25.16.14(A) and 19.25.16.15(A)(6)). However, the rule does not outline a clear and consistent process by which councils are to define and determine regional public welfare values and consider water uses and needs of future generations.

We suggest that the Rule require ISC to provide a standardized framework and process that includes:

(a) A statewide definition for public welfare values that shall be considered by councils when determining their regional public welfare values (this would guide the State Water Planning process as well).
(b) A facilitated process for each council to establish regional public welfare values, which guide the planning process and development of the PPPs according to the requirements of the WSPA (Section 72-14A-5(B)(2), NMSA 1978).
(c) Clear process for councils to consider public welfare values at all stages of the regional planning process and updates. This would provide a beneficial metric by which to track compliance with the Proposed Rule's requirement that councils document this consideration (Proposed Rule 19.25.16.15(A)(6).
(d) A facilitated process for determining the water uses and needs of future generations of New Mexicans in the region, including technical support, best available science, data and metrics that should be applied.
(e) Providing a clear minimum planning timeframe that accounts for 'future generations' of New Mexicans in the region for councils to consider these future water uses and needs at all stages of the regional planning process and updates. This would provide a

beneficial metric to track compliance with the Proposed Rule's requirement to document this consideration (Proposed Rule 19.25.16.15(A)(6).

(f) Additional guidance which supports councils in establishing the written operating principles outlined in Proposed Rule Section 19.25.16.10(B)(3). This would facilitate broad standardization of operating principles across regions in the initial establishment of councils. It would additionally ensure a consistent timeframe for new council member appointments and the establishment of member leadership roles to maintain institutional knowledge during member transitions and plan update timeframes.

We recommend the ISC provide this type of framework during the initial planning period, with ISC staff technical support to facilitate consistency across regions and maximize efficiencies for the initial planning period as part of ISC's responsibilities to provide technical assistance and facilitation for implementing the WSPA.

(2) Authorize members of regional water security planning councils to enter into Memoranda of Understanding, as needed, to ensure councils are structured to develop and implement plans and maximize council effectiveness for execution of the PPPs in the plan.

Relevant Sections:

- Proposed Rule Section 10 (19.25.16.10) Initial Planning Period

We recommend the Rule authorizes regional water planning councils to enter Memoranda of Understanding (MOUs) as a mechanism to ensure accountability to equitable plan development, tracking, and implementation. Additionally, MOUs can help with identifying fiscal agents for implementation of PPPs and clarifying questions of legal authorization and liability. This would maximize council effectiveness and ensure councils are structured to both develop and implement plans. We further recommend the Rule require ISC staff to provide councils with MOU templates, should a council choose to enter an MOU.

(3) Clarify financial authorities, fiscal agents, and funding mechanisms in a way that ensures equity and efficiency across regions.

Relevant Sections:

- Proposed Rule Section 10 (19.25.16.10) Initial Planning Period
- Proposed Rule Section 11 (19.25.16.11) Ongoing Planning Period

We understand the WSPA states the details about the process for proposal and approval of grants and loans will be provided in the forthcoming regional planning guidelines (Section 72-14A-4(C)(2), NMSA 1978), however we suggest adding more clarity to the Rule about funding mechanisms and fiscal agents. In particular, we recommend the Rule include details about the types of entities that can serve as fiscal agents for the regional plan PPP execution and provisions about how funds may be utilized by councils for planning activities. Details about

funding for needed research and data compilation, advertising and education, and meeting expenses will help the regions execute the planning process. It is also critical to provide clarity and assurance of equity in the allocation of funds among regions and specific project types, including ISC's process for supporting funding acquisition for PPPs identified in regional water security plans, as required in the WSPA (Section 72-14A-4(C)(9)(d), NMSA 1978). This revision would provide clear criteria for councils while developing their plans and PPP lists. Additionally, the above suggestion to authorize councils to enter into MOUs, may enable accountability and even greater clarity around these financial considerations.

These changes would likely involve revisions to the responsibilities of ISC staff and councils in both the initial planning period and the ongoing planning period, and potentially the addition of a new section of the Rule with more detailed treatment of financial topics.

(4) Ensure the best available science and data is integrated into all regional plans through ISC's technical assistance obligation.

Relevant Sections

- Proposed Rule Section 10 (19.25.16.10) Initial Planning Period
- Proposed Rule Section 11 (19.25.16.11) Ongoing Planning Period
- Proposed Rule Section 14 (19.25.16.14) Considerations for Councils During Planning Processes

The WSPA places great emphasis on ensuring that regional planning is founded in the best available science, data, and models (Section 72-14A-4(C)(7) and Section 72-14A-5(B)(4), NMSA 1978). The following recommendations would require several adjustments to the Proposed Rule to effectively uphold this critical principle.

First, we recommend aligning timeframes for plan development with ongoing advancements in regional and statewide water science and data - including aquifer characterization and mapping data - as well as updated water rights adjudication information. Whenever possible, plan updates should be coordinated to integrate and account for such advancements and updated information. (Proposed Rule Sections 19.25.16.10 and 19.25.16.11(D)).

We additionally suggest the Rule explicitly reference regional water balance data among the technical support and best available data and science that ISC staff are required to provide to councils (Proposed Rule Sections 19.25.16.10)(A)(5) and 19.25.16.11)(A)(3)). The Proposed Rule requires plans to demonstrate consideration of the regional water balance and projected reductions in water availability due to climate change as a prerequisite for plan approval (Proposed Rule Section 19.25.16.15(A)(8)). This would involve the compilation and, in many cases, generation of extensive data and modeling, which is likely to be outside of some regions' capacity. It is necessary to ensure that the development of this information is included in the technical support ISC is required to provide.

Furthermore, the WSPA references the integration of regional water planning with statewide objectives in sections 74-14A-4(C)(2)(h) and 72-14A-4(C)(9)(b), NMSA 1978. In addition to locally driven regional planning processes, the Rule should require coordination and consistency across regions to maximize the efficiency and effectiveness of regional water management by adding consideration of statewide water plans to the list of statewide objectives specified in Proposed Rule Section 19.25.16.14(C).

We further recommend the Rule explicitly reference the Water Data Act and the data available through collaboration with the New Mexico Institute of Technology's Bureau of Geology and Mineral Resources to ensure that the best science, data and models relating to water resource planning are available to councils and are properly utilized in developing, vetting, and prioritizing proposals, as stated in the WSPA (Section 72-14A-4(C)(7), NMSA 1978). This should be referenced among ISC's technical support responsibilities for both the initial planning period (Proposed Rule Section 19.25.16.10)(A)(5)) and the ongoing planning period (Proposed Rule Section 19.25.16.11(A)(3)).

Finally, we respectfully suggest adjusting the wording of Proposed Rule Section 19.25.16.14(D) to "Councils shall develop and update regional water security plans as provided herein using the best available science, data, and models, and *should update plans as new data becomes available. Councils shall* identify data gaps and recommend *and pursue funding for implementation of* further studies in their regional water security plans *to address any data gaps*. "

This proposed change requires councils to identify data gaps and needs in their regional water security plans, which will ensure councils are consistently seeking and utilizing the best available information in the planning process.

(5) **Improve timeframes for plan development, plan updates, and council meeting frequency**.

Relevant Sections:

- Proposed Rule Section 7 (19.25.16.7) Definitions
- Proposed Rule Section 10 (19.25.16.10)(A)(4) Initial Planning Period
- Proposed Rule Section 11 (19.25.16.11)(A)(2) and (D) Ongoing Planning Period
- Proposed Rule Section 13 (19.25.16.13) Regional Water Security Planning Council Meeting and Input

We acknowledge that the WSPA requires the ISC to adopt Guidelines that address the schedule for regional water planning (Section 72-14A-4(C)(2)(h), NMSA 1978), however, we recommend the Rule include a clearly defined timeframe for completion of initial plan development, ongoing planning and plan updates, to ensure plans are completed, updated, and implemented with consistency.

Our recommended adjustments are as follows:

- For the initial planning period, the Rule should require two to three council meetings over six months dedicated to the establishment of the council, definition of operating principles and other activities associated with council setup. These council initiation meetings should be facilitated by ISC staff, to best facilitate the framework detailed in our first overarching recommendation above about public welfare and future generation water needs.
- After the six-month council initiation process is concluded, councils should lead the development of their plans based on the Rule and forthcoming regional planning guidelines, with engagement with ISC staff to provide technical support and the other duties outlined in the WSPA (Section 72-14A-4, NMSA 1978).
- After the six-month council setup process, regional plans should be completed within one year. Councils should be required to hold at least six council meetings during this period. ISC staff should be engaged in plan progress and required to join one council meeting mid-way through the initial plan development and as needed for ISC technical support. ISC staff should also be present at the final council meeting before the council submits the initial regional plan to ISC for approval, to ensure the proposed plan meets the required components before submission.
- Following ISC approval of the initial regional plan, councils should meet at least three times per year during the ongoing planning period.
- Regional plans should be updated at least every five years, rather than every ten years as required in the Proposed Rule Section 19.25.16.11(D). This higher frequency for plan updates are particularly important due to the rapidly changing conditions associated with the impacts of climate change. Examples of similar timelines for planning processes may be found in FEMA hazard mitigation planning.
- PPP lists should be updated on an ongoing basis, rather than once every five years (Proposed Rule Section 19.25.16.11(D)), given that councils are required to report to ISC annually on the progress of planning activities, implementation, and outcomes (WSPA Section 72-14A-5(C)(5), NMSA 1978), and ISC is required to report annually to the legislature on approved PPPs and plan implementation outcomes (WSPA Section 72-14A-4(C)(8), NMSA 1978).

Additional Recommendations

- **Include a review of plan completeness prior to ISC review.**

Relevant Sections

- Proposed Rule Section 10 (19.25.16.10)(A) Initial Planning Period

We recommend the Rule require ISC staff to review each region's proposed plan for inclusion of the required components in the Proposed Rule Section 19.25.16.15, prior to submitting the

proposed plan to the ISC for technical content review and approval process. This could be accomplished in the proposed meeting schedule and planning timeframe outlined above, in the last council meeting before plan submission.

- **Clarify provisions for public notice and meeting requirements.**

  Relevant Sections
  - Proposed Rule Section 13 (19.25.16.13) Regional Water Security Planning Council Meeting and Input

  While we again acknowledge that further details for public notice and meeting requirements will be provided in the forthcoming regional planning Guidelines per the WSPA Section 72-14A-4(C)(2), we suggest including clarity on the provisions for public notice and meeting requirements in the Rule. In particular, we recommend that the Rule require at least one public meeting during plan development and another for each update, dedicated to presenting the draft plan to the public and receiving public comments. These public meetings should be conducted prior to submission of the plan to the ISC for approval. Additionally, all other council meetings should designate time for public comments.

- **Move 'optional considerations' to the list of required items in plans.**

  Relevant Sections
  - Proposed Rule Section 14 (19.25.16.14) Considerations for Councils During Planning Processes
  - Proposed Rule Section 15 (19.25.16.15)(A) and (B) Criteria for Approval of Regional Water Security Plans

  The Proposed Rule Section 19.25.16.14(A), requires that various categories of information are *considered* for inclusion in plans. We recommend that it be *required* that all plans include the items listed in Proposed Rule Section 19.25.16.14(A). Additionally, the items currently listed as optional items under Section 19.25.16.14(B), should be added to the list of *required* components (Section 19.25.16.14(A)). These 'optional' categories of information are essential for holistic water planning and management. Examples include:
  - Groundwater use and management strategies are paramount for almost every region, given that 87% of New Mexico communities depend on groundwater for municipal needs and 24 of 33 counties (roughly 1.2 million people) rely on groundwater for their sole water source. Groundwater is of critical importance to regional water planning and management strategies.
  - Land uses pertaining to regional food security, agricultural resilience, and water needs for healthy upland, prairies, forested and riparian habitats.
  - Water needs of urban and rural populations (Proposed Rule Section 19.25.16.15(B)), are key factors when considering public welfare values, the water uses and needs of future

generations of New Mexicans, and the regional water balance - all of which are required considerations under the Proposed Rule Section 19.25.16.15(A). Therefore, the water uses and needs of future generations should also be a required consideration.

- **Provide clear criteria for prioritization of PPPs to include filling data gaps and capacity needs**

  Relevant Sections
  - Proposed Rule Section 15 (19.25.16.15)(C) Criteria for Approval of Regional Water Security Plans

  We suggest ISC provide a clear set of criteria for consideration in the PPP prioritization process, beyond readiness, to include consideration of data and capacity gaps that can be improved. While readiness is an important consideration of prioritizing projects, programs, and policies for water management, we believe other factors should also be considered for prioritization. For example, there may be instances where a high-value PPP is in the early stages of development and is several years off but would benefit greatly from near term investment. In this instance, it would rank relatively low on a list organized exclusively based on readiness, but may rank higher on a list based on other prioritization factors such as long-term water savings.

- **Include sustainable groundwater management practices, modelling and mapping to the PPP types.**

  Relevant Sections
  - Proposed Rule Section 15 (19.25.16.15)(C)(4) Criteria for Approval of Regional Water Security Plans

  We support the inclusion of aquifer storage and recovery, aquifer recharge, and agricultural resilience among the provided list of PPP types. We recommend adding a project type for "monitoring aquifer health and improving sustainable groundwater management" to allow for a greater range of methods to monitor, protect and manage groundwater more sustainably. We also suggest adding modelling and mapping alongside scientific studies on the list of eligible PPP types, to read: "(s) scientific studies, including modelling and mapping."

- **Require additional documentation for each PPP.**

  Relevant Sections
  - Proposed Rule Section 15 (19.25.16.15)(C)(5) Criteria for Approval of Regional Water Security Plans

  The Proposed Rule allows for certain categories of additional documentation to be provided for each PPP in Section 19.25.16.15(C)(5). We believe that these optional items should be required

documentation for each PPP, to ensure transparency of the council's process and considerations for prioritizing the PPPs in the region.

Conclusion

This new chapter for regional water planning in New Mexico presents an incredible opportunity to improve resilient water management across the state, and getting the details right is crucial to meet the water challenges ahead given climate change impacts. We respectfully urge the ISC to adopt the changes we have proposed, to address critical gaps in the current Proposed Rule, and lay a solid foundation for what's needed for regional water resilience. Further, we believe these suggestions are valuable additions to the Rule and support further development of the regional planning Guidelines. We support the ISC's efforts in implementing the Water Security Planning Act and we look forward to engaging further with ISC as the regional planning process proceeds.

Sincerely,

Gretel Follingstad, PhD
Senior Manager, Climate Resilient Water Systems
gfollingstad@edf.org
505-603-5402 (MT)

Environmental Defense Fund

Org Name	ENMWUA
Author First	Mike
Author Last	Morris
City	Clovis
State Abbrev	NM
Email	enmwua@enmwua.com
Comment Filename	No attachment

Comment Body

On behalf of the Board of the Eastern New Mexico Water Utility Authority (ENMWUA), I respectfully submit the following comments in support of the proposed rule implementing the Water Security Planning Act, Section 72-14A-1 NMSA 1978. We commend the Interstate Stream Commission for its leadership in establishing a framework for regional water security planning that emphasizes transparency, inclusivity, and long-term resilience.

As a regional entity responsible for developing and managing the Eastern New Mexico Rural Water System, commonly referred to as the Ute Pipeline Project, an essential infrastructure initiative to secure sustainable water supplies for Eastern New Mexico, ENMWUA has a vested interest in the success of regional water planning efforts. We strongly support the inclusion of water utility authorities, such as ENMWUA, as representative members of Regional Water Security Planning Councils.

Specifically, we recommend that ENMWUA be formally recognized as a representative member of the High Plains Region, and as a member-at-large of the Canadian Region, given our operational and strategic interests in both planning areas. Such representation would be designated by resolution of ENMWUA’s governing board and would ensure that regional planning efforts benefit from the Authority’s technical expertise, long-term planning experience, and collaborative partnerships.

Additionally, under Section 19.25.16.13 of the proposed rule, we advocate that council meetings be held within the region they serve. This approach would enhance accessibility for local stakeholders and foster meaningful engagement, consistent with the rule’s stated goals of transparency and inclusive participation.

We appreciate the opportunity to provide input and look forward to supporting the Commission’s efforts to strengthen water security across Eastern New Mexico.

Respectfully submitted,
Mike Morris
Chairman
Eastern New Mexico Water Utility Authority Board

Org Name	Pecos Valley Artesian Conservancy District
Author First	Robert
Author Last	McCrea
City	Roswell
State Abbrev	NM
Email	bmccrea@h2olawyers.com
Comment Filename	Regional Water Security Planning_PVACD Comment 09.26.2025.pdf

Comment Body

Please see the attached document for comments.

HENNIGHAUSEN
OLSEN & McCREA
LLP

608 N. Richardson Ave. ■ P.O. Box 1415 ■ Roswell, New Mexico 88202-1415
Phone: (575) 624-2463 ■ Fax: (575) 624-2878 ■ Web: h2olawyers.com

September 26, 2025

INTERSTATE STREAM COMMISSION
ATTN: Water Planning Program
5500 San Antonio Dr. NE
Albuquerque, NM 87109

Re: Proposed Rule 19.25.16 NMAC, Regional Water Security Planning

Dear Interstate Stream Commissioners:

On behalf of the Pecos Valley Artesian Conservancy District ("PVACD"), it is our honor and privilege to submit the following comments on the proposed regulations to establish a framework for Regional Water Security Planning Councils to develop, maintain, and aid in implementation and tracking of Regional Water Security Plans. The following comments are presented for your consideration:

1. **Adherence to prior appropriation doctrine and New Mexico water law.** It is the position of the PVACD that all regional council operating principles, decision-making, planning, resource allocation, regional water security plan, and implementation of the same adherence to prior appropriation doctrine, respecting the real property rights of all water rights owners and users, reflecting the well-established tenants of New Mexico water law.

2. **Modification of language regarding 19.25.16.12.** While the proposed rule language seeks to have numerous groups and interested parties and stakeholders involved in the regional water councils, 19.25.16.12 (1)(c) and 19.25.16.12 (2)(h) do not sufficiently allow for adequate representation for irrigation districts, artesian conservancy districts, conservancy districts, and other Chapter 73 special districts as voting members of the regional water councils.

A.J. OLSEN
Inactive

ROBERT J. McCREA
Certified Public Accountant

MITCHELL E. McCREA
Special Counsel
Licensed in Texas & New Mexico

FRED R. HENNIGHAUSEN
1924-2017

ALVIN F. JONES
1944-2019

The PVACD proposes that the language of 19.25.16.12.(1) be modified to state "one representative member identified by the governing body of each irrigation district, **artesian conservancy district, and** conservancy district;"

Thank you for allowing the PVACD the opportunity to comment on the proposed regulations. If you have any questions or if we may be of further service, please do not hesitate to contact me.

Sincerely,

Robert J. McCrea
Hennighausen, Olsen & McCrea, LLP

AND

Olivia R. M. Standish
The Standish Law Firm, LLC

Legal Counsel for the Pecos Valley
Artesian Conservancy District

xc: PVACD Board

Org Name	John Shomaker & Associates, Inc.
Author First	Erwin
Author Last	Melis
City	Albuquerque
State Abbrev	NM
Email	emelis@shomaker.com
Comment Filename	No attachment

Comment Body

On behalf of the Estancia Basin Water Planning Committee it is a little frustrating to have the previous planning regions be subsumed into larger ones, that I understand, have a more logical breakdown of surface water drainages. However, the EBWPC was set up and continues to function as an important clearing house for groundwater data in the Estancia Basin, where, I think, unique conditions apply. These conditions, I think, are different from conditions in the Tularosa Basin, to the south, which has now been added as a part of a larger planning region. It is difficult enough to get people and governmental agencies to cooperate on (ground) water conservation in the Estancia Basin, and I have serious concerns that such a larger planning region, logistically, will be difficult to get together, let alone manage, and formulate a policy that is meaningful to implement, AND easy to communicate to the people who live in these planning regions. Thank you.

Org Name	Pueblo of San Felipe
Author First	Janine
Author Last	Drywater
City	San Felipe Pueblo
State Abbrev	NM
Email	jdrywater@sfpueblo.com
Comment Filename	Letter of Support WSTAC_0001.pdf

Comment Body

Good morning, Chairman,

I hope this email finds you well. Please see the attached support letter from the Pueblo of San Felipe Administration. If you have questions, please do not hesitate to contact our office.

Wishing you a wonderful day.

Janine Drywater
Executive Administrative Assistant
127 Hagen Road
San Felipe Pueblo, NM 87001
Office: 505-867-3381
Cell: 505-607-2999
jdrywater@sfpueblo.com

PUEBLO OF SAN FELIPE

Office of the Governor

September 26, 2025

Via Email: ISC.Commission@ose.nm.gov

Mark Sanchez, Chairman
NM Interstate Stream Commission
Bataan Memorial Building
407 Galisteo St. Suite 101
Santa Fe, NM 87501

Re: Support for the Water Security Tribal Advisory Council's (WSTAC) Recommendations on the WSPA Proposed Rule

Dear Chairman Sanchez,

The Pueblo of San Felipe has carefully reviewed the Water Security Tribal Advisory Council's (WSTAC) *Recommendations on the Water Security Planning Act Proposed Rule*. We write to express our full support for these recommendations and to emphasize their importance to protecting the sovereignty, water rights, and long-term water security of New Mexico's Pueblos, Tribes, and Nations.

The Pueblo strongly supports WSTAC's call for:

- Requiring tribal consent for decisions that may impact Tribal water rights, resources, lands, or data.
- Ensuring tribal engagement at key planning stages so that consultation is meaningful, documented, and not merely perfunctory.
- Establishing additional full planning regions where tribal water settlements and governance capacity warrant independent regional planning authority.
- Recognizing and prioritizing Tribal water rights settlement projects in all regional water security planning processes, consistent with federal and state law.

(505) 867-3381/3382 • **P.O. Box 4339, San Felipe Pueblo, NM 87001** • FAX: (505) 867-3383

These recommendations are essential to honoring the intent of the Water Security Planning Act (SB 337), safeguarding sovereignty, and ensuring that the State's water security framework is both legally sound and equitable.

We appreciate the opportunity to participate in this important process and respectfully request that the Commission incorporate WSTAC's recommendations into the final rule. Please keep the Pueblo informed of the details surrounding the October 15–17, 2025, hearing on the Proposed Rule.

Thank you for your consideration and for your commitment to working in partnership with New Mexico's Tribal Nations and Pueblos.

Respectfully,

Pueblo of San Felipe

Governor Anthony Ortiz

Org Name	Pueblo of Sandia
Author First	Cynthia
Author Last	Moleres
City	Bernalillo
State Abbrev	NM
Email	cmoleres@sandiapueblo.nsn.us
Comment Filename	TA - Correspondence - 9-26-2025-1.PDF

Comment Body

Good morning,

Attached is a letter for your records.

Thank you,

Cynthia L. Moleres
Administrative Coordinator
Tribal Administration
505-867-3317 Option 1
Direct Line - 505-771-5012
Fax Number 505-867-9235

Felix Chaves
Governor

Angelo K. Paisano
Lt. Governor

PUEBLO of SANDIA
481 Sandia Loop Road
Bernalillo, New Mexico 87004

(505) 867-3317
Fax (505) 867-9235
www.sandiapueblo.nsn.us

September 26, 2025

Sent via First Class Mail and e-mail: ISC.Commission@ose.nm.gov

Jennifer Salazar
NMISC Administrator
New Mexico Interstate Stream Commission
5550 San Antonio Dr., NE
Albuquerque, New Mexico 87109

RE: NMISC Rulemaking on Regional Water Security Planning (19.25.16 NMAC)

Dear Members of the Interstate Stream Commission,

I write on behalf of the Pueblo of Sandia to provide the following comments on the Proposed Rule for Regional Water Security Planning (19.25.16 NMAC). The Pueblo concurs with the comments offered by the Water Security Tribal Advisory Council ("WSTAC") in response to this Proposed Rule. The Pueblo offers the following additional comments relating to proposed Section 19.25.16.16 of the Proposed Rule.

Broadly, the 2023 Water Security Planning Act ("Act") authorizes the New Mexico Interstate Stream Commission ("ISC") to make loans and grants to facilitate regional water planning and requires the ISC to:

- create rules establishing water planning regions and guidelines these entities must follow;
- create rules that govern the procedures and composition of regional water planning entities;
- adopt guidelines that govern the public input and engagement requirements for each entity; and
- support the development of water security plans with prioritized projects, programs and policies for each planning region.

The Act further provides that the outcomes sought by each regional water planning entity shall consider public welfare values, balancing water uses and the needs of future generations of New Mexicans. Section 5(B)(2). To assist the regional water planning entity, the Act requires that the ISC promulgate rules that establish the procedure for a regional water planning entity to:

- develop and provide notice to the commission of issues and concerns relating to the public welfare of the water planning region, Section 4(C)(1)(c); and

- consider public welfare values and the needs of future generations of New Mexicans. Section 4(C)(1)(e).

Section 19.25.16.16 of the Proposed Rule goes beyond the authority given to the ISC under the Act. Whether the State Engineer, in making decisions on permit applications under Sections 72-5-6; 72-5-7; 72-5-23; 72-5-24; 72-5A-6; 72-6-5; 72-12-3; 72-12-7; and 72-12B-1 NMSA 1978, may or should consider issues of public welfare of a water planning region identified by a regional water security planning council is not within the scope of the rules that ISC was directed to promulgate under the Act. The Proposed Rule further imposes a new requirement on the State Engineer to explain the reasoning, in writing, if a regional public welfare issue identified by a council is relevant to the determination of whether a particular permit application would be detrimental to the public welfare of the state. This proposed requirement is also outside the scope of the Act's directives to the ISC to promulgate rules that will provide ***a procedure for regional water planning entities*** to provide notice to the ISC of issues and concerns relating to the public welfare of the region, or to consider public welfare values and the needs of future generations of New Mexicans.

The Act does not authorize the ISC to decide what the State Engineer may consider during permitting decisions, nor to adopt a rule imposing new obligations on the State Engineer during those decisions. As the ISC explained in its July 9, 2025 response to WSTAC, "[t]he ISC does not have any permitting duties . . ." Rules adopted by an administrative agency are only permissible if they are in harmony with the agency's express statutory authority or spring from those powers that may be fairly implied therefrom. We therefore ask that this section be removed from the Proposed Rule as outside the scope of the Act and beyond the authority of the ISC.

We understand the complexities of the task put before you by the Act. We also understand the importance of developing regional water security plans with prioritized projects and activities from each planning region. However, the Pueblo is concerned that its interests and concerns may not be reflected in, and may even be at odds with, the public welfare determinations made by a regional water planning entity, especially in a region as large and populous as the proposed Middle Rio Grande Region. The Pueblo's water rights are protected by the public welfare considerations that are required under state water laws, and ISC has not been given the authority to promulgate rules that could potentially change or limit those protections based on the public welfare determinations made by a regional water planning entity. Section 19.25.16.16 should therefore be removed from the Proposed Rule. We ask for, and appreciate, your meaningful consideration of our concerns.

Sincerely,



Felix L. Chaves
Governor

Cc: Greg Kaufman, Pueblo of Sandia Environment Director (via e-mail)
Steffani A. Cochran, Pueblo of Sandia General Counsel (via e-mail)
File

Org Name	Pueblo of Laguna
Author First	Richard
Author Last	Hughes
City	Laguna
State Abbrev	NM
Email	rwhughes@rothsteinlaw.com
Comment Filename	Water Security Act regs.comments.final-1.pdf

Comment Body

Please see the attached.

ROTHSTEIN DONATELLI LLP
ATTORNEYS AT LAW

RICHARD W. HUGHES
rwhughes@rothsteinlaw.com

September 26, 2025

Via electronic mail to ISC.Commission@ose.nm.gov

Administrator
New Mexico Interstate Stream Commission
5550 San Antonio Dr., N.E.
Albuquerque, New Mexico 87109

Re: Comments on proposed Rule regarding Regional Water Security

Dear Administrator:

On behalf of the Pueblo of Laguna, we are submitting these comments on the proposed Rule concerning Regional Water Security, to be codified at Title 19, Chapter 25, Part 16, NMAC, under the authority of the Water Security Planning Act, NMSA (1978) §§ 72-14A-1 through 72-14A-5 (the "Act"). Our comments, which have been reviewed and approved by Gov. Harry A. Antonio, Jr., are as follows:

1. As required by the Act, at § 72-14A-4(A), proposed Section 16.8 would create a Water Security Tribal Advisory Council ("WSTAC"), "comprising representatives of New Mexico Nations, Pueblos and Tribes," presumably meaning a representative from each tribe in the State, though that is somewhat unclear. But what is even less clear is exactly what this Advisory Council would do. There does not appear to be any other reference to this Council in the proposed Rule, except in Section 16.15(A)(1), which we discuss below. Section 16.8(B) states that the purpose of the WSTAC is to "provide a forum for input" for Tribes, to ensure that their water rights and water needs are "considered and incorporated in regional water security planning," but there is no hint as to how that would happen. Section 16.12 specifies that each Tribe within a Planning Region would have a representative on that Region's Planning Council, so presumably that would ensure tribal input of some sort into that Council's deliberations and decisions, but how the WSTAC would relate to other Councils or to the Interstate Stream Commission ("ISC") is not explained. And the statement in Section 16.15(A)(1), that plans submitted to the ISC must include documentation of WSTAC "engagement, involvement, information and recommendations" is equally puzzling. For one thing, although the map is not detailed enough to tell for sure, there are clearly several Regions with no Tribes in them, such as the High Plains, probably the Lower Rio Grande, possibly the Central Basin, and the Southwest (except for the uninhabited outpost of the Ft. Sill Apaches). How do the Councils in those Regions relate to the WSTAC? And even with respect to Regions that do have one or more tribes in them, by what procedure do those Councils communicate with the WSTAC, or get its input into the Council's deliberations? (We would note that the Act states that the ISC should provide for engagement with Tribes through the use of the State-

Tribal Collaboration Act, NMSA (1978) §§ 11-18-1 through 11-18-5, but that Act primarily addresses the manner by which state agencies should develop means of obtaining tribal input into their policies and operations, and seems ill-suited to be applied in this context.) We think the functioning of the WSTAC in this setting should be more clearly set out in the Rule, so that its members will have some guidance as to how the group should operate.

2. We would propose adding to Section 16.9(B) an additional clause, to read as follows:

   (6) whether the proposed subregion would enable more effective input into the regional water security program of tribal water rights concerns and the needs of tribal communities.

   Some subregions might contain one or more tribes, but fewer other stakeholders, and tribal concerns might be given greater attention.

3. Section 16.12 indicates that the Regional Councils will be relatively huge, with at least ten "At-large members," and potentially dozens of "Representative members." Considering the technical and political complexity of the tasks set before them, one must wonder how such large and diverse groups will ever be able to develop plans in keeping with the guidelines and criteria set forth in the regulations. (Interestingly, the Act only says that each Council should "be composed of regional stakeholders." The proposed Rule obviously gives broad scope to that term.) It may be that as a political matter, it would not be feasible now to exclude any of the named groups from the Councils (especially now that their inclusion has been proposed in the proposed Rule), but there should be some measures proposed to simplify the process in which they are to be engaged. One important consideration is technical support—we see that technical support is to be provided to each Council by ISC staff, but this may be a tremendous burden on ISC staff (attending four meetings a year for each of nine Regional Councils), and the manner in which it is provided should be more clearly set forth in the proposed Rule.

4. The Act, at § 72-14A-4(A), authorizes the ISC, "subject to available funding," to make grants or loans (presumably to the Councils, but that is unclear) for regional planning. Section 72-14A-4(C)(2)(d) requires the ISC to address the "process for approval of grants or loans." But nothing in the proposed Rule addresses funding at all. This could be a crucial consideration. Some Councils may want to hire staff, or at least consultants, to aid them in the complex tasks with which they are charged, and members may want compensation for travel and per diem for attending the four meetings each year. (Ditto the WSTAC.) But this essential subject appears to be absent from the proposed Rule. The means by which Councils can obtain funding, and the purposes for which funding could be used, should be addressed.

5. The Act at § 72-14A-4(C)(9), requires that the Commission support Regional Water Planning Councils by "providing statewide objectives for regional water security plan development, including *compliance with . . . congressionally authorized tribal water*

settlement acts." (Emphasis added.) The proposed Rule takes an odd approach to this requirement. Section 16.15(A)(9) requires that Regional Plans must document "compliance with statewide objectives identified in Paragraph C of Section 14," which paragraph includes, at clause (3), "implementation of water rights settlements, including local and federally executed Indian water rights settlements." But Section 16.14(C) only requires that the Council "consider" such settlements in developing their Regional Plans, as does Section 16.14(A). Those settlements constitute federal law, binding on the State. It is not sufficient that Councils merely "consider" such settlements. Their plans must be *subject to* the terms of such settlements, and that should be a specific requirement in Section 16.15, which sets forth the requirements for approval of Regional Plans. We would strongly recommend that Section 16.14(C)(3) be revised to read, "(3) compliance with and implementation of . . .," and that Section 16.15(A)(9) be revised to read, "compliance with statewide objectives identified in Paragraph C of Section 14, including strict compliance with the terms of congressionally approved tribal water rights settlements affecting water resources within or available to the Region." Finally, we would propose to add, to Section 16.15(C), after the existing sentence, the following: "The relative rankings of PPPs shall be consistent with statewide objectives for regional water security plan development, including compliance with interstate compacts, the federal Endangered Species Act of 1973, and congressionally authorized tribal water settlement acts." These changes should be an essential first step in assuring that tribal interests as reflected in state and federally approved water rights settlements are given appropriate deference in the development of these plans.

6. We believe that 16.16 goes well beyond what the legislature authorized the ISC to do in these regulations, and requires significant changes. We do not think the ISC is in a position to tell the State Engineer what she "may" consider, nor may it tell her that she has to provide a written explanation if she chooses not to adopt the "public welfare" determination of a Regional Council in a particular case. We would thus urge that paragraphs A and C of this section be deleted.

7. All of the proposed Regions are quite large, which will make the tasks of the Councils particularly challenging, but the proposed "Northwest Council" Region, which stretches from Laguna Pueblo north to include Zuni Pueblo, all of the Navajo Reservation in New Mexico and most of the Eastern Navajo Agency, faces especially daunting issues. As you know, Acoma and Laguna Pueblos have negotiated a complex settlement of their water rights claims in the Rio San Jose basin, in an agreement that includes the cities of Grants and Milan, the Navajo Nation, and nine acequias and community ditches, as well as the State and the United States. The settlement is pending before Congress. Once approved, it will establish an elaborate process for assuring the availability of water to satisfy the rights of the two Pueblos and the Navajo Nation lands within the settlement area, a gargantuan task considering that the Rio San Jose basin may be the most water supply-challenged basin in the State. Similarly, the congressionally approved Navajo-San Juan settlement, whose centerpiece is the Navajo-Gallup Water Supply Project, will dramatically change the water supply picture in the area to be served by that project. Zuni Pueblo has also

reached a settlement with the State on its rights in the Zuni River. We believe that to lump these three areas into a single Region, that also includes lands outside of these settlement areas, will make the task of the Northwest Regional Council virtually impossible, given the complexities and highly individualized features of these settlements. We would propose, at a minimum, that the Rio San Jose basin, as it is defined in the federal legislation that is pending for approval of the settlement, be set aside as a separate water security planning region, or subregion. This would at least assure that the plan developed for that region would likely be consistent with the terms of the settlement. The area covered by the Navajo-San Juan settlement might be treated the same way.

Thank you for the opportunity to comment on the proposed Rule. It was obviously the product of a great deal of careful thought. We hope the above comments will help make it better.

Sincerely yours,

Richard W. Hughes
Attorney

Xc: Hon. Harry A. Antonio, Jr., Governor
Susan Jordan
Adam Ringia

Org Name	New Mexico Acequia Commission
Author First	Andrea
Author Last	La Cruz-Crawford
City	Santa Fe
State Abbrev	NM
Email	a.lacruzcrawford@gmail.com
Comment Filename	20250926 NMAC Letter Adopting NMAA Comments.pdf

Comment Body

Dear NMISC Administrator,

Please see the attached comments regarding the above referenced matter and cover letter regarding the same.

Thank you for your time and consideration.

Best Regards,

Andrea La Cruz-Crawford
NMAC Commissioner

Michelle Lujan Grisham
Governor of New Mexico



Mary Trujillo Mascareñas
Chair Person

Judy Torres
Vice Chair Person

New Mexico Acequia Commission

www.newmexicoacequiacommission.com

September 26, 2025
Interstate Stream Commission
NMISC Administrator
5550 San Antonio Drive, NE
Albuquerque, NM 87109

RE: NMAC Adoption of NMAA Comments Regarding the Interstate Stream Commission's Proposed Rule on the Water Security Planning Act

Dear NMISC Administrator,

The New Mexico Acequia Commission ("NMAC") was created in 1987 to advise the Governor, the New Mexico Interstate Stream Commission and the U.S. Army Corps of Engineers. The NMAC was also charged with the duties of serving as a facilitator for communication between local acequia organizations and the state and federal governments, and for reviewing plans or legislation that affect acequias and presenting their findings to the governor, the legislature, and other state agencies.

NMAC has been working with the New Mexico Acequia Association ("NMAA") on their creation of a set of proposed comments to the Interstate Stream Commission's planning process and rule development under the Water Security Planning Act. NMAC fully supports the comments submitted by NMAA and voted at their most recent meeting held on September 26, 2025 to endorse and adopt NMAA's comments on these proposed rules, which are attached.

Best Regards,

New Mexico Acequia Commission
By:

Mary Mascarenas

Mary Mascareñas
NMAC Chair

PROPOSED RULE – New Mexico Acequia Commission Adoption of New Mexico Acequia Association Comments

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 25 ADMINISTRATION AND USE OF WATER – GENERAL PROVISIONS
PART 16 REGIONAL WATER SECURITY PLANNING

19.25.16.1 ISSUING AGENCY: New Mexico Interstate Stream Commission, hereinafter the commission.
[19.25.16.1 NMAC – N, xx/xx/202x]

19.25.16.2 SCOPE: This rule implements the provisions of the Water Security Planning Act, Section 72-14A-1 NMSA 1978, and sets forth the processes and criteria for convening and establishing regional water security planning councils and developing and maintaining regional water security plans.
[19.25.16.2 NMAC – N, xx/xx/202x]

19.25.16.3 STATUTORY AUTHORITY: Section 72-14A-1, et seq. NMSA 1978.
[19.25.16.3 NMAC – N, xx/xx/202x]

19.25.16.4 DURATION: Permanent.
[19.25.16.4 NMAC – N, xx/xx/202x]

19.25.16.5 EFFECTIVE DATE: xxxxxxxxxxxxx xx, 2025, unless a later date is cited at the end of a section.
[19.25.16.5 NMAC – N, xx/xx/202x]

19.25.16.6 OBJECTIVE: The objective of this rule is to establish a framework for regional water security planning councils to develop, maintain, and aid in implementation and tracking of regional water security plans. This framework will be grounded in regional values, scientific consensus, and New Mexico water law. The processes outlined in this rule are intended to: ensure that the plans will be based on the best available science, data, and models regarding available water supplies, use, and trends; provide transparency and opportunities for meaningful input and participation by the public, political subdivisions of the state, and Nations, Pueblos, and Tribes within each regional water security planning region; acknowledge the sovereignty, water rights, and water needs of tribal communities; consider public welfare and the needs of future generations of New Mexicans; align with state and federal laws; and identify and prioritize projects, programs, and policies that will help to ensure water security into the future. [19.25.16.6 NMAC – N, xx/xx/202x]

19.25.16.7 DEFINITIONS:

A. "Commission" means the New Mexico interstate stream commission and its nine appointed members, authorized under Section 72-14-1 NMSA 1978.

B. "Initial planning period" means the time period from the establishment of each council to the approval of its first regional water security plan by the commission.

C. "NMISC staff" means the employees of the New Mexico interstate stream commission.

D. "Ongoing planning period" means any time period following the initial planning period for each council. The ongoing planning period begins once an initial regional water security plan is approved by the commission.

E. "Projects, programs, and policies" or "PPPs" or "PPP" means identified strategies and alternatives, including infrastructure projects, conservation programs, watershed or groundwater management policies, and other types of initiatives that will promote regional water security and are identified in the plans and PPP lists.

F. "Regional water security plan" or "plan" means a plan produced by a council, that meets the requirements described herein and is approved by the commission.

G. "Regional water security planning council" or "council" means the members described herein who lead regional water security plan development, and aid in and track implementation of the plan in their respective region.

H. "Regional water security planning region" or "planning region" or "region" means an area of the state as described herein that is the planning area for each regional water security planning council.

I. "**Region-specific stakeholder**" means a member of the public who is not a member of a council but has identified themselves to NMISC staff or a council as interested in engaging in the planning process for a specific region.

Commented [VG1]: Adding political subdivisions of the state will help to make clear the following requirements of the **Water Security Planning Act §72-14A-1 et seq., NMSA 1978,**:

SECTION 4. WATER PLANNING FUNDING--REGIONAL WATER PLANNING--RULES--GUIDELINES.—Subsection C. The commission shall:
"(5) provide engagement with acequia communities;
(6) provide for the engagement of rural communities;"

SECTION 5. REGIONAL WATER PLANNING ENTITIES.—Subsection C. Each regional water planning entity shall:
"(4) assist in the funding, development and incorporation of plans for rural communities;"

[19.25.16.7 NMAC – N, xx/xx/202x]

19.25.16.8 WATER SECURITY TRIBAL ADVISORY COUNCIL:

A. NMISC staff shall provide administrative support and facilitation, in coordination with the office of the state engineer and Indian affairs department, for the establishment and operation of a water security tribal advisory council ("WSTAC") comprising representatives of New Mexico Nations, Pueblos, and Tribes.

B. The purpose of the WSTAC is to provide a forum for input from New Mexico Nations, Pueblos, and Tribes to ensure that their sovereignty, water rights, water needs, and viewpoints are considered and incorporated in regional water security planning and other related activities as determined by the commission.

C. The participating Nations, Pueblos, and Tribes shall determine their own procedures and principles for the operation of WSTAC.

[19.25.16.8 NMAC – N, xx/xx/202x]

19.25.16.9 ACEQUIA AND RURAL WATER SECURITY ADVISORY WORKING GROUP

A. NMISC staff shall provide administrative support and facilitation, in coordination with the New Mexico Acequia Association, the New Mexico Acequia Commission, the New Mexico Land Grant Council, and the New Mexico Rural Water Association for the establishment and operation of the Acequia and Rural Water Security Advisory Working Group ("ARWSAWG") comprising of the appointed representatives of each Regional Water Security Planning Council that represents acequias, mutual domestics or community regional water systems, and land grant-mercedes.

B. The purpose of the ARWSAWG is to provide a forum for input from New Mexico acequias, mutual domestics or community water systems, and land grant-mercedes to ensure that their water rights, water needs, and viewpoints are considered and incorporated in regional water security planning and other related activities as determined by the commission.

C. The participating appointed representatives of the acequias, mutual domestics or community regional water systems, and land grant-mercedes of each Regional Water Security Planning Council shall determine their own procedures and principles for the operation of ARWSAWG.

~~19.25.16.9~~19.25.16.10 **REGIONAL WATER SECURITY PLANNING REGIONS:**

A. The nine regional water security planning regions are shown in exhibit A, water security planning regions (map).

B. Subject to commission approval, regional water security planning regions may be subdivided into sub-regions within a planning region or across multiple planning regions. In determining whether to approve a proposed sub-region, the commission shall use the following criteria:

(1) the basis, hydrological or otherwise, for the sub-region and what circumstances make the proposed sub-region distinct from the region;

(2) whether there is sufficient population and capacity within the proposed sub-region to engage in a transparent and inclusive planning process for the proposed sub-region;

(3) the impact of the proposed sub-region on the ability of the remainder of the region to engage in a transparent and inclusive planning process;

(4) support from the associated council(s) for the proposed sub-region;

(5) the process for how the work of the proposed sub-region will be integrated with the regional water security plan(s) of associated regions, including the prioritization of projects, programs, and policies.

[19.25.16.9 NMAC – N, xx/xx/202x]

~~(5)~~19.25.16.11 REGIONAL WATER SECURITY PROGRAM FUND

~~19.25.16.10~~19.25.16.12 **INITIAL PLANNING PERIOD:** During the initial planning period,

A. Responsibilities of NMISC staff include:

(1) inviting governmental entities identified in Paragraph (1) of Subsection A of 19.25.16.12, NMAC to select their representatives, and convening a meeting of these representative members.

(2) assisting representative members in the invitation of at-large members, identified in Paragraph 2 of Subsection A of 19.25.16.12, NMAC, and non-voting members, identified in Paragraph (3) of Subsection A of 19.25.16.12, NMAC.

(3) acting as the commission's liaison to the councils for the purpose of ensuring the coordination of commission information, policies, and resources. Subject to adequate funding and resources, one NMISC staff shall be assigned to one planning region for the purpose of these tasks and shall be located at an

Formatted: Highlight

Commented [VG2]: The creation of the Acequia and Rural Water Security Advisory Working Group will meet the following legal requirements of the **Water Security Planning Act §72-14A-1 et seq., NMSA 1978,** ensure the plans are equitable, and ensure that no water rights are affected:

SECTION 4. WATER PLANNING FUNDING--REGIONAL WATER PLANNING--RULES--GUIDELINES.—Subsection C. The commission shall: "(5) provide engagement with acequia communities; (6) provide for the engagement of rural communities;"

SECTION 5. REGIONAL WATER PLANNING ENTITIES.—Subsection C. Each regional water planning entity shall: "(4) assist in the funding, development and incorporation of plans for rural communities;"

SECTION 3. CONDEMNATION OF WATER RIGHTS.—"Nothing in the Water Security Planning Act shall be construed as permitting the condemnation of water rights or as determining, abridging or affecting in any way the water rights of water right owners in the state."

Formatted: Indent: Left: 0.75", No bullets or numbering

Formatted: Condensed by 0.1 pt

Formatted: Indent: Left: 0.25"

Commented [VG3]: The current planning regions are hard to understand what regional acequia associations, political subdivisions of the state, and other entities will be in. Some regions divide these entities into different regions, while they should be in one region. To solve this issue, the nine planning regions shall overlap and/ or be contained within the Councils of Governments (COGs) regions. This will ensure that there are overlapping technical assistance services (such as free grant writing, planning, and project implementation services), which will improve the capacity available to implement the plans. The COGs are existing entities that have vast expertise/existing relationships with assisting local government bodies, tribes, and political subdivisions of the state with planning, project development, implementation, and grant writing services. This will provide additional support to ISC staff by partnering with the COGs to find funding and implement the plans. This will ensure that the plans are implemented by providing additional technical experience, capacity, and building upon existing relationships. Please see the attached map of the COGs located in the supporting documents section of our comments.

Commented [VG4]: The creation of the Regional Water Security Program Fund must be created to meet the following legal requirements of the **Water Security Planning Act §72-14A-1 et seq., NMSA 1978.**

SECTION 4. WATER PLANNING FUNDING--REGIONAL WATER PLANNING--RULES--GUIDELINES.--
A. Subject to available funding, the commission ... [1]

Formatted

office of the state engineer district office within or near the region.

(4) providing administrative support and facilitation for at least four meetings of each council per calendar year and in the convening of each councils' working groups.

(5) providing councils with technical support, including assistance with accessing the best available data and science, templates to guide decision making, convening working groups of the councils, and compilations of existing plans and additional resources.

(6) developing and maintaining lists of region-specific stakeholders, planning stakeholder engagement opportunities, and notifying stakeholders of opportunities to engage in the planning process.

B. Responsibilities of the council include:

(1) once convened by the NMISC staff, the representative members shall invite, with NMISC staff support, and select at-large members as identified in Paragraph (2) of Subsection A of 19.25.16.12 NMAC. NMISC staff shall review membership and confirm compliance with Paragraph (2) of Subsection A of 19.25.16.12 NMAC.

(2) the representative members and the at-large members shall invite, with NMISC staff support, and select non-voting members as identified in Paragraph (3) of Subsection A of 19.25.16.12 NMAC.

(3) once the council has been formed through the convening, inviting, and selection of representative members, at-large members, and non-voting members, the council shall adopt and provide NMISC staff written operating principles that, at a minimum, describe the following:

(a) the roles and responsibilities of the council's voting and non-voting members;

(b) the duration(s) of the term(s) for at large council members;

(c) the potential roles of committees, including a steering committee, sub-committees and/or work groups, if relevant;

(d) the grounds and process for removing a member from the council;

(e) the decision-making process to be used by the council to prioritize projects, programs, and policies; ~~and~~

~~(e)~~**(f)** the process for integration and engagement to be used by the council for the inclusion of input provided by the WSTAC and ARWSAWG; and

~~(f)~~**(g)** the process for integration and engagement with commission approved sub-regions, if relevant.

C. Councils may choose to self-convene provided the composition set forth in Section 19.25.16.12 is adhered to and the self-organized council is confirmed by NMISC staff.

[19.25.16.10 NMAC – N, xx/xx/202x]

~~19.25.16.11~~**19.25.16.13 ONGOING PLANNING PERIOD:** During the ongoing planning period.

A. Responsibilities of NMISC staff include:

(1) reviewing and confirming compliance with Subsection A of 19.25.16.12 NMAC for representation of representative and at-large members, when council vacancies are filled.

(2) providing administrative support and facilitation for at least two meetings of the council per calendar year during periods when the council is not in the process of updating a plan ~~and~~, providing at least four meetings of the council per calendar year when the council is in the process of updating a plan, and providing assistance for the operation of the councils' working groups~~.~~

(3) providing councils with technical support, including assistance with accessing the best available data and science, decision-making guides, compilations of existing plans, and resources to aid in tracking and reporting on implementation.

~~(3)~~**(4)** providing administrative support, facilitation, and technical support to the councils for carrying out Subsection B of 19.25.16.12 NMAC.

~~(4)~~**(5)** publishing all regional water security plans developed by councils and approved by the commission.

B. Responsibilities of the council include:

(1) filling vacancies on the council pursuant to Subsection A of 19.25.16.12 NMAC.

(2) preparing proposed regional water security plans and presenting proposed plans to the commission for acceptance.

(3) preparing proposed updates to regional water security plans and presenting proposed updates to the commission for acceptance.

(4) reviewing the operating principles for the council and making changes consistent with Paragraph (3) of Subsection B of 19.25.16.10 NMAC if needed.

(5) aiding in and tracking plan implementation, including outcomes.

(6) developing, reviewing, and updating PPP lists.

(7) developing and maintaining region-specific lists of stakeholders and providing information to stakeholders about opportunities to engage in the planning process. The council may request NMISC staff support to carry out these responsibilities.

C. Councils shall report to the commission by June 30 of each year on the progress of planning activities, status of plan implementation, funding recommendations, and outcomes.

D. During the ongoing planning period, councils shall update plans at least once every ten years. Councils shall review and update PPP lists at least once every 5 years.

[19.25.16.11 NMAC – N, xx/xx/202x]

Commented [VG5]: Representative members shall have their own authority and discretion to select their own representatives. Some political subdivisions of the state, do not have the capacity to rotate their representatives every term. Also, could potentially be a sovereignty issue for tribal entities.

Commented [VG6]: Creating this process will make the integration and input inclusion process of the WSTAC and ARWSAWG evident and provide a clear decision-making process for all parties. By adding this operating principle it will meet the following legal requirements of the **Water Security Planning Act §72-14A-1 et seq., NMSA 1978,** ensure the plans are equitable, and ensure that no water rights are affected:

SECTION 4. WATER PLANNING FUNDING--REGIONAL WATER PLANNING--RULES--GUIDELINES.—Subsection C. The commission shall:
"(4) provide engagement with Indian nations, tribes and pueblos, including through the use of the State-Tribal Collaboration Act;
(5) provide engagement with acequia communities;
(6) provide for the engagement of rural communities;"

SECTION 5. REGIONAL WATER PLANNING ENTITIES.—Subsection C. Each regional water planning entity shall:
"(2)ensure opportunities for participation by Indian nations, tribes or pueblos located within the water planning region;
(4) assist in the funding, development and incorporation of plans for rural communities;"

SECTION 3. CONDEMNATION OF WATER RIGHTS.—"Nothing in the Water Security Planning Act shall be construed as permitting the condemnation of water rights or as determining, abridging or affecting in any way the water rights of water right owners in the state."

Commented [VG7]: This comment refers to this section of the rules:

19.25.16.12 ONGOING PLANNING PERIOD: During the ongoing planning period.
B. Responsibilities of the council include:

~~19.25.16.12~~19.25.16.14 COMPOSITION OF REGIONAL WATER SECURITY PLANNING COUNCILS:

A. Councils shall comprise three categories of members: representative members, at-large members and non-voting members. Representative members and at-large members shall be voting members of a council. If an

~~qualified or willing representative member, as described in Paragraph (1) of Subsection A of 19.25.16.12 NMAC or~~ at-large member, as described in Paragraph (2) of Subsection A of 19.25.16.12 NMAC cannot be identified by the council, the council may propose or NMISC staff may select a replacement non-voting member who is knowledgeable about water resources in the region.

(1) Representative members. Each governmental entity listed below, if present within the region, is entitled to have a representative serve on the council for any planning region within which it is located. A single representative may represent multiple governmental entities. In the event that a governmental entity is located in multiple regional water security planning regions, the governing body may appoint the same or different representatives to each council. Each representative member shall be appointed by resolution or official action of each governmental entity's governing body. Representative members will consist of the following:

(a) one representative member identified by the governing body of each municipality;

(b) one representative member identified by the governing body of each county;

(c) one representative member identified by the governing body of each irrigation or conservancy district;

(d) one representative member identified by the governing bodies of each Nation, Pueblo, and Tribe;

(e) one representative member identified by the governing bodies of each soil and water conservation district;

(f) one representative member of each regional acequia association in the planning region or if no regional acequia association exists in a planning region, one representative from that region appointed by the New Mexico Acequia Commission; ~~and~~

(g) one representative member from an active land grant appointed by the Land Grant Council in a planning region; and

~~(g)~~**(h)** one representative member from a mutual domestic water consumer association or community regional water system in the region. ~~;~~

(2) At-large members. Up to ten at-large members shall represent each of the following stakeholder groups. There shall be one at-large member position for each stakeholder group, but members may represent multiple stakeholder groups. The stakeholder groups to be represented are:

(a) ranchers in the region;

(b) farmers in the region (these farmers may include 4H, Young Farmers, etc.);

(c) statewide or regional public higher education institutions (such as a student, professor, administrator, etc.);

(d) environmental, conservation, or water advocacy non-governmental organizations with members or local chapters in the region;

(e) water-based recreational interests located in the region (fishing, rafting, etc.);

~~**(f)** mutual domestic water consumer associations or community regional water systems in the region;~~

~~(g)~~**(f)** commercial, industrial, mining, and power in the region;

(g) watershed restoration organizations in the region;

(h) special districts established pursuant to Chapter 73, NMSA 1978, with staff whose responsibilities include water management, located in whole or in part within the region, and that do not fall within the previous membership categories within Paragraph (1) of Subsection A of 19.25.16.12. Should there be no representative pursuant to these criteria for the region, this becomes a general at-large member;

(i) existing regional water planning steering committees who have continuously operated since the conclusion of the 2014-2016 regional water planning effort. Should there be no regional water planning steering committee in the region, this becomes a general at-large member; and

(j) one general at-large member in the region.

(3) Non-voting members. Up to five non-voting members representing parties from outside the region with water interests in the region. These five non-voting members shall comprise up to three non-voting members for entities outside the region that own water rights within the region, and up to two non-voting members from other water security planning councils hydrologically linked to the region.

B. Region-specific stakeholders. Lists of region-specific stakeholders shall be developed and

Commented [VG8]: Representative members shall have their own authority and discretion to select their own representatives. Political subdivisions of the state are their own governing bodies and shall have the right to select their own representative. Also, could potentially be a sovereignty issue for tribal entities.

Commented [VG9]: Not all commissions, councils or other governmental entities approve actions through a resolution. The New Mexico Acequia Commission and the New Mexico Land Grant Council simply approve actions through a majority vote.

Commented [VG10]: Mutual domestics are political subdivisions of the state and shall be treaty as such through being a representative member on the councils. This will meet the following legal requirements of the **Water Security Planning Act §72-14A-1 et seq., NMSA 1978,** ensure the plans are equitable, and ensure that no water rights are affected:

SECTION 4. WATER PLANNING FUNDING--REGIONAL WATER PLANNING--RULES--GUIDELINES.—Subsection C. The commission shall: "(6) provide for the engagement of rural communities;"

SECTION 5. REGIONAL WATER PLANNING ENTITIES.—Subsection C. Each regional water planning entity shall: "(4) assist in the funding, development and incorporation of plans for rural communities;"

SECTION 3. CONDEMNATION OF WATER RIGHTS.—"Nothing in the Water Security Planning Act shall be construed as permitting the condemnation of water rights or as determining, abridging or affecting in any way the water rights of water right owners in the state."

Commented [VG11]: Strike and move these entities into being a representative member of the councils.

maintained by NMISC staff and shared with councils. The identification of region-specific stakeholders shall, at a minimum, include:

(1) an email point of contact; and

(2) documentation including a physical address, residential or professional, within the region; or

(3) written statement of interest identifying the individual or entity and explaining why the individual or entity is interested in engaging in the region's planning process.

[19.25.16.12 NMAC – N, xx/xx/202x]

~~19.25.16.13~~19.25.16.15 REGIONAL WATER SECURITY PLANNING COUNCIL MEETING AND INPUT REQUIREMENTS:

A. Councils shall hold regularly scheduled meetings as follows:

(1) meetings shall be held at least four times per year during periods when the region's plan is being developed or updated.

(2) meetings shall be held at least two times per year during periods when the plan is not being developed or updated.

(3) councils shall provide at least 14-day notice of meetings or other activities to council members, the public, region-specific stakeholders, Nations, Pueblos and Tribes, and the commission, with NMISC staff support as needed.

(4) councils, with NMISC staff support, shall offer meetings for hybrid participation if practicable.

B. Councils shall develop regional water security plans through broad input and public comment opportunities. This shall include opportunities for the public, region-specific stakeholders, and Nations, Pueblos, and Tribes to be involved in the development, vetting and prioritization of PPPs. During the plan development or update of any plan, councils shall, with NMISC staff support, at a minimum:

(1) notify the public, region-specific stakeholders, and Nations, Pueblos and Tribes, including by distributing publicly available information regionally about the development of the plan, and opportunities for input, at regular intervals.

(2) provide in-person and virtual opportunities for input at council meetings.

(3) provide a minimum of 60 days for the public, region-specific stakeholders, and Nations, Pueblos and Tribes to provide input and public comment in person, via email, or through a website on proposed regional water security plans.

(4) make comments publicly available ahead of finalization of a regional water security plan to be presented for commission approval.

C. Councils shall consider a broad range of participation options for input and public comment, which may include but are not limited to:

(1) providing materials in languages in common use within the region (e.g., ASL, Spanish, Tewa, Navajo).

(2) hosting additional meetings, focus groups, listening sessions, open houses or other events.

(3) providing engagement resources (e.g., presentations, paper surveys) to local community partners with existing connections in rural areas.

(4) providing multiple in-person opportunities distributed throughout the region and expanded strategies for community engagement.

(5) providing meeting spaces or computer access and connectivity for remote participation.

D. To promote broad awareness and to encourage participation, council outreach efforts, with NMISC Staff support as needed, shall include, but are not limited to:

(1) educational content; and

(2) multimedia advertising of engagement opportunities.

(3) additional opportunities may be developed at the determination of the council.

[19.25.16.13 NMAC – N, xx/xx/202x]

~~19.25.16.14~~19.25.16.16 CONSIDERATIONS FOR COUNCILS DURING PLANNING PROCESSES:

A. Councils shall consider, with resources provided by NMISC staff, the following information for inclusion in regional water security plans:

(1) existing water plans and water resources planning initiatives;

(2) compliance with state water law, including recognition of established water rights;

(3) best available science for considering climate resiliency and increasing aridification;
(4) recognition and respect of federally recognized or reserved tribal water rights;
(5) access to water for domestic use;
(6) compliance with applicable federal water law;
(7) public welfare values;
(8) balancing water uses and the needs of future generations of New Mexicans; and
(9) public participation and comments.

B. Councils may consider the following information for inclusion in any regional water security plan:
(1) best available resources or methodologies for considering the needs of rural and urban places and populations within the region;
(2) groundwater management strategies and needs;
(3) regional food security and agricultural resilience; and
(4) water needs for healthy upland and riparian habitats.

C. Councils shall consider the following statewide objectives in any regional water security plan:
(1) state obligations under interstate compacts;
(2) compliance with the Endangered Species Act and the prevention of serious harm to the habitats of species that are threatened or endangered under state or federal law;
(3) implementation of water rights settlements, including local and federally executed Indian water rights settlements;
(4) the state's existing administration plans under the Active Water Resources Management program.

D. Councils shall develop and update regional water security plans as provided herein using the best available science, data, and models, and may identify data gaps and recommend further studies in their regional water security plans. Councils may not delay the development of or updates to a plan due to lack of data.
[19.25.16.14 NMAC – N, xx/xx/202x]

~~19.25.16.15~~19.25.16.17 **CRITERIA FOR APPROVAL OF REGIONAL WATER SECURITY PLANS:** In order to be approved by the commission, a regional water security plan must meet the following criteria:

A. Plans shall include documentation of the following items:
(1) Water Security Tribal Advisory Council (WSTAC) engagement, involvement, information and recommendations;
~~(1)~~**(2)** Acequia and Rural Water Security Advisory Working Group (ARWSAWG) engagement, involvement, information and recommendations;
~~(2)~~**(3)** public notice under Section 19.25.16.13;
~~(3)~~**(4)** stakeholder engagement in the development, vetting and prioritization of PPPs;
~~(4)~~**(5)** comments received, considered, and incorporated from stakeholders and the public;
~~(5)~~**(6)** comments received from state and federal agencies;
~~(6)~~**(7)** council consideration of public welfare values, balancing water uses and the needs of future generations of New Mexico in the region, if any;
~~(7)~~**(8)** Council committees, working groups and/or sub-regions, if applicable, within a region;
~~(8)~~**(9)** consideration of the regional water balance, including any projected reductions in water availability due to the impacts of climate change or other factors; and
~~(9)~~**(10)** compliance with statewide objectives identified in Paragraph C of Section 14.

B. Plans may include documentation that the needs of rural and urban populations within the region were considered.

C. Plans shall include a list of prioritized proposed projects, programs, and policies with each item ranked individually relative to all other PPPs on that sub-list region wide.
(1) The prioritized list of PPPs included in each plan shall be organized based on the readiness of each individual PPP.
(2) Each proposed PPP must list the sponsor(s) that intends to lead implementation of the PPP, including obtaining and administering any necessary funding for the PPP.
(3) PPPs shall be sorted by priority into the following readiness stages:
(a) ideas stage;
(b) scoping stage; and
(c) ready to proceed stage.

Commented [VG12]: Including documentation in the plan of the Acequia and Rural Water Security Advisory Working Group will meet the following legal requirements of the **Water Security Planning Act §72-14A-1 et seq., NMSA 1978,** ensure the plans are equitable, and ensure that no water rights are affected:

SECTION 4. WATER PLANNING FUNDING--REGIONAL WATER PLANNING--RULES--GUIDELINES.—Subsection C. The commission shall: "(5) provide engagement with acequia communities; (6) provide for the engagement of rural communities;"

SECTION 5. REGIONAL WATER PLANNING ENTITIES.—Subsection C. Each regional water planning entity shall: "(4) assist in the funding, development and incorporation of plans for rural communities;"

SECTION 3. CONDEMNATION OF WATER RIGHTS.—"Nothing in the Water Security Planning Act shall be construed as permitting the condemnation of water rights or as determining, abridging or affecting in any way the water rights of water right owners in the state."

(4) PPP types include, but are not limited to projects, programs, and policies that address the following:

(a) watershed health
(b) drinking water
(c) storm water
(d) wastewater
(e) water retention and delivery infrastructure
(f) water conservation resulting in a reduction of total water use
(g) education
(h) efficiency resulting in a reduction of total or per-capita water use
(i) water reuse
(j) aquifer storage and recovery
(k) aquifer recharge
(l) agricultural resilience
(m) development of new water resources
(n) river and riparian habitat restoration
(o) livestock management
(p) alternative water administration strategies (under Active Water Resources Management, water markets or banks, voluntary shortage sharing, etc.)
(q) drinking water system regionalization
(r) asset management planning
(s) scientific studies

(5) Additional documentation for each PPP may include:

(a) existing or potential funding, including funding to match state or federal resources;
(b) ability to enhance regional water resilience or have long-lasting and sustainable benefits;
(c) the presence of multiple benefits or ability to meet multiple objectives;
(d) substantial support from diverse stakeholders; or
(e) identification of interrelated PPP's and potential enhanced benefits of implementing multiple PPPs in conjunction with each other.

(6) Councils may elect to repeat PPP list items in subsequent plans and updated PPP lists.

(7) Councils with sub-regions shall integrate all sub-regional priorities into a single prioritized list of PPPs for submittal to the commission with their plan. Processes for resolving sub-regional priorities alongside the recommendations of other sub-regions in the region shall be resolved by the council pursuant to its operating principles, as provided for in Paragraph (3) of Subsection B of 19.25.16.10 NMAC.
[19.25.16.15 NMAC – N, xx/xx/202x]

~~19.25.16.16~~19.25.16.18 STATE ENGINEER CONSIDERATION OF REGIONAL ISSUES OF PUBLIC WELFARE IN PERMITTING DECISIONS:

A. The state engineer, in its decisions on permit applications under Sections 72-5-6; 72-5-7; 72-5-23; 72-5-24; 72-5A-6; 72-6-5; 72-12-3; 72-12-7; and 72-12B-1 NMSA 1978, may consider issues of public welfare of a water planning region identified by a council if the state engineer determines that such regional issues are related to or may impact the public welfare of the state.

B. A council's determination shall not be binding on the state engineer's determination of whether a particular permit application would be detrimental to the public welfare of the state.

C. The state engineer, in determining whether a regional public welfare issue identified by a council is relevant to the determination of whether a particular permit application would be detrimental to the public welfare of the state, shall explain the reasoning in writing.
[19.25.16.16 NMAC – N, xx/xx/202x]

HISTORY OF 19.25.16 NMAC: [RESERVED]

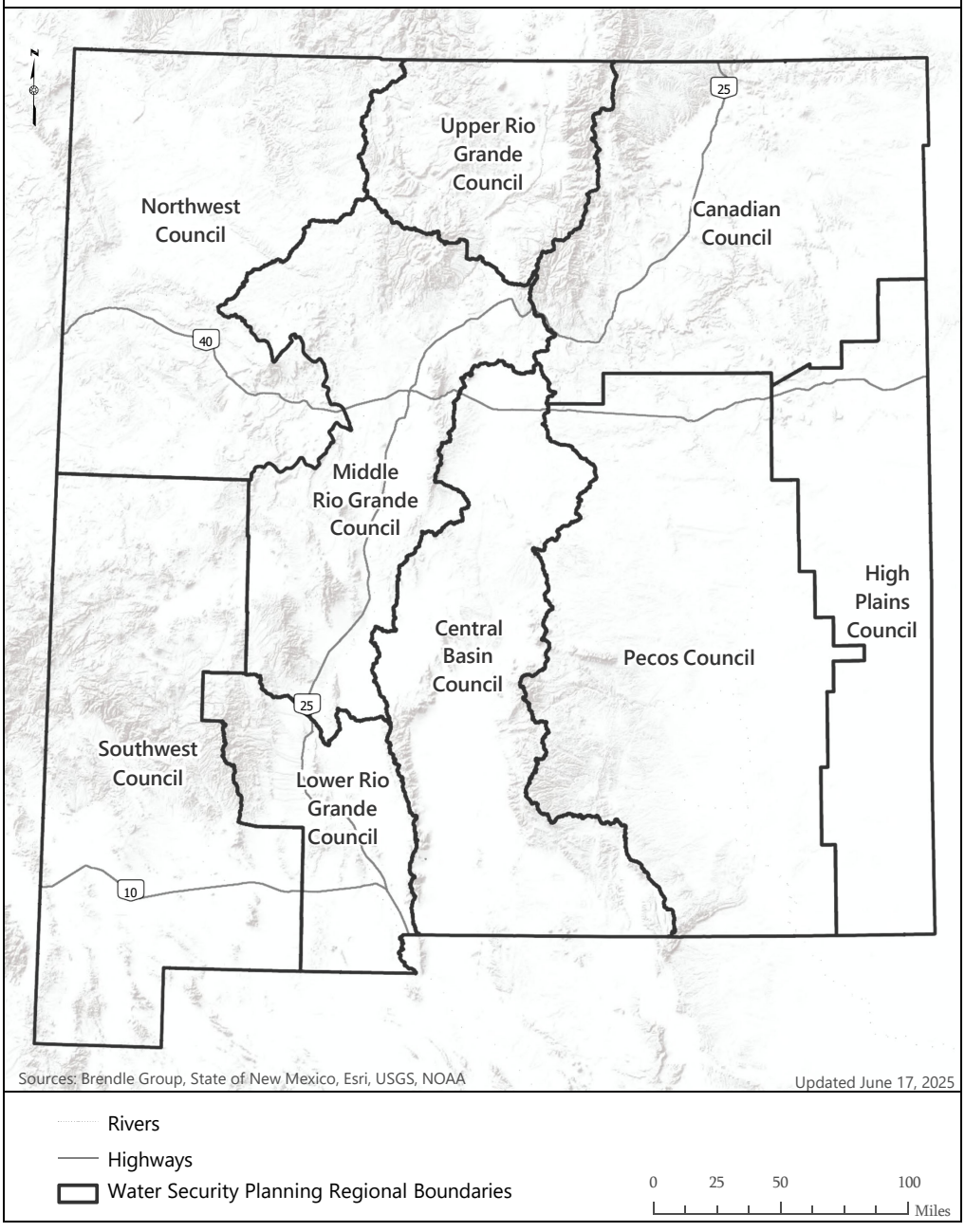
Page 2: [1] Commented [VG4] **Vidal Gonzales** **8/21/2025 2:48:00 PM**

The creation of the Regional Water Security Program Fund must be created to meet the following legal requirements of the **Water Security Planning Act §72-14A-1 et seq., NMSA 1978.**

SECTION 4. WATER PLANNING FUNDING--REGIONAL WATER PLANNING--RULES--GUIDELINES.--
A. Subject to available funding, the commission
shall establish and conduct a regional water security program pursuant to the provisions of the Water Security Planning Act. The commission may make grants or loans of funds for the purpose of regional water planning, as possible, using appropriations made for that purpose.

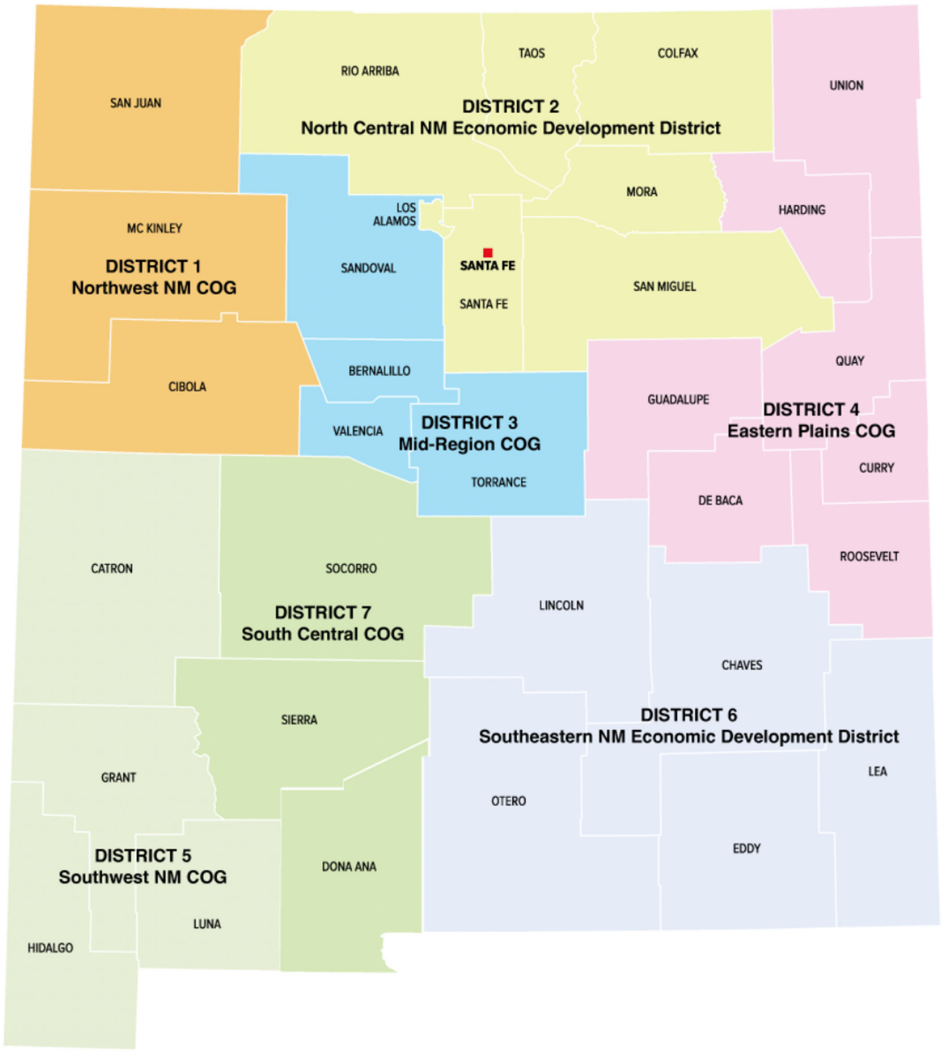
Formatted Table

Water Security Planning Regional Boundaries



Supporting Documents

Council of Government Maps



Commented [VG13]: The nine planning regions shall overlap and/ or be contained within the Councils of Governments (COGs) regions. This will ensure that there are overlapping technical assistance services (such as free grant writing, planning, and project implementation services), which will improve the capacity available to implement the plans. The COGs are existing entities that have vast expertise/existing relationships with assisting local government bodies, tribes, and political subdivisions of the state with planning, project development, implementation, and grant writing services. This will provide additional support to ISC staff by partnering with the COGs to find funding and implement the plans. This will ensure that the plans are implemented by providing additional technical experience, capacity, and building upon existing relationships. Please see the attached map of the COGs.

Water Security Planning Act:
Highlighted Supporting Language

AN ACT

RELATING TO WATER PLANNING; ENACTING THE WATER SECURITY PLANNING ACT; AUTHORIZING THE INTERSTATE STREAM COMMISSION TO MAKE LOANS AND GRANTS FOR REGIONAL WATER PLANNING; REQUIRING THE INTERSTATE STREAM COMMISSION TO MAKE RULES AND GUIDELINES FOR REGIONAL WATER PLANNING; PROVIDING DUTIES OF REGIONAL WATER PLANNING ENTITIES; PROTECTING PRIORITY ADMINISTRATION AND WATER RIGHTS OWNERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. SHORT TITLE.--Sections 1 through 5 of this act may be cited as the "Water Security Planning Act".

SECTION 2. DEFINITION.--As used in the Water Security Planning Act, "commission" means the interstate stream commission.

SECTION 3. CONDEMNATION OF WATER RIGHTS.--Nothing in the Water Security Planning Act shall be construed as permitting the condemnation of water rights or as determining, abridging or affecting in any way the water rights of water right owners in the state.

SECTION 4. WATER PLANNING FUNDING--REGIONAL WATER PLANNING--RULES--GUIDELINES.--

A. Subject to available funding, the commission shall establish and conduct a regional water security program pursuant to the provisions of the Water Security Planning

NMISC Exhibits 01924

Act. The commission may make grants or loans of funds for the purpose of regional water planning, as possible, using appropriations made for that purpose.

B. The commission shall establish a procedure, in consultation with the Indian affairs department, to establish an advisory council for taking into account in the regional water security program tribal sovereignty, tribal water rights and the water needs of tribal communities.

C. The commission shall:

(1) promulgate rules that, at a minimum, establish:

(a) the boundaries and number of water planning regions in the state;

(b) the criteria for commission approval of a regional water security plan with prioritized projects, programs and policies;

(c) the procedure for a regional water planning entity to develop and provide notice to the commission of issues and concerns relating to the public welfare of the water planning region;

(d) the composition of a regional water planning entity; and

(e) the procedure for a regional water planning entity to consider public welfare values and the needs of future generations of New Mexicans;

NMISC Exhibits 01925

(2) adopt guidelines that, at a minimum, address:

(a) the identification of regional stakeholders and opportunities for stakeholder collaboration;

(b) the public input requirements for regional water planning;

(c) the requirements for a proposal for grants or loans for planning activities;

(d) the process for approval of grants or loans;

(e) the process for state agency collaboration;

(f) the metrics for reporting on regional water projects and, programs and policies;

(g) the procedures to support implementation of a regional water security plan; and

(h) the schedule for implementation of regional water planning, including integration with statewide objectives;

(3) emphasize engagement, communication and education in regional water planning activities statewide;

(4) provide engagement with Indian nations, tribes and pueblos, including through the use of the State-Tribal Collaboration Act;

(5) provide engagement with acequia

NMISC Exhibits 01926

communities;

(6) provide for the engagement of rural communities;

(7) ensure, by using the integrated water data and information platform developed pursuant to the Water Data Act and collaborating with the bureau of geology and mineral resources of the New Mexico institute of mining and technology and the water resources research institute, that the best science, data and models relating to water resource planning are available to the regional water planning entities and are used with scientific integrity and adherence to principles of honesty, objectivity, transparency and professionalism in developing, vetting and prioritizing proposals;

(8) report, by October 31 of each year, to the appropriate legislative interim committee dealing with water and natural resources and, by October 31 of each year, distribute the report to the appropriate state agencies dealing with water and natural resources on regional water planning implementation that includes:

(a) approved regional water security plans with prioritized projects, programs and policies for state funding;

(b) outcomes of regional water security plan implementation; and

NMISC Exhibits 01927

(c) the status of regional water planning expenditures; and

(9) support regional water planning entities by:

(a) providing technical and local capacity development support, including commission staff and funding;

(b) providing statewide objectives for regional water security plan development, including compliance with interstate compacts, the federal Endangered Species Act of 1973 and congressionally authorized tribal water settlement acts;

(c) supporting the development of a proposal for alternative administration through active water resources management, if prioritized by the region, that may be submitted to the state engineer and affected Indian nations, tribes and pueblos for approval; and

(d) identifying funding sources and supporting the acquisition of funds for implementation of approved regional water security plans.

SECTION 5. REGIONAL WATER PLANNING ENTITIES.--

A. An entity shall not be made a part of a proposal for planning funds under this section without that entity's consent.

B. The outcomes sought by each regional water

NMISC Exhibits 01928

planning entity shall:

(1) be established through broad public input;

(2) consider public welfare values, balancing water uses and the needs of future generations of New Mexicans;

(3) be grounded in state water law;

(4) be developed using the best available science;

(5) recognize and respect federally recognized or reserved tribal water rights;

(6) consider access to water for domestic use; and

(7) comply with applicable federal water law.

C. Each regional water planning entity shall:

(1) be composed of regional stakeholders as identified in the entity's guidelines;

(2) ensure opportunities for participation by Indian nations, tribes or pueblos located within the water planning region;

(3) obtain public input in the development, vetting and prioritization of regional water planning activities and proposals;

(4) assist in the funding, development and

NMISC Exhibits 01929

incorporation of plans for rural communities;

(5) report to the commission by June 30 of each year on the progress of planning activities and outcomes of regional water security plan implementation; and

(6) review existing water plans and data sets of municipalities, counties and other entities within the water planning region and use them as appropriate.

SECTION 6. Section 72-14-44 NMSA 1978 (being Laws 1987, Chapter 182, Section 2) is amended to read:

"72-14-44. INTERSTATE STREAM COMMISSION--GROUNDWATER APPROPRIATION--WATER RIGHTS PURCHASE.--

A. The interstate stream commission is authorized to appropriate groundwater or purchase water rights on behalf of any of the various regions of the state.

B. Nothing in this section shall be construed as permitting the condemnation of water rights or as determining, abridging or affecting in any way the water rights of Indian nations, tribes or pueblos".

NMISC Exhibits 01930

Org Name	Pueblo of Isleta
Author First	Alex
Author Last	Hamilton
City	Isleta
State Abbrev	NM
Email	Alex.Hamilton@Isletapueblo.com
Comment Filename	MX-4070N_20250926_095516.pdf

Comment Body

Good Afternoon,

Please find attached a Letter of Support from the Pueblo of Isleta.

Thank you,
-Alex Hamilton

Alex J. Hamilton
Associate Counsel | Pueblo of Isleta
(505) 869-9715 (office) | (505) 627-9770 (cell) | alex.hamilton@isletapueblo.com
Tribal Services Complex Building "C" | 3950 Highway 47 | Isleta, NM 87105

Eugene Jiron
Governor

Lt. Governor, Charles E. Jojola
Lt. Governor, M. Rodney Jones

PUEBLO OF ISLETA

OFFICE OF THE GOVERNOR
P.O. Box 1270
Isleta, New Mexico 87022
Telephone: 505-869-3111

September 26, 2025

Via Email: ISC.Commission@ose.nm.gov

Mark Sanchez, Chairman
NM Interstate Stream Commission
Bataan Memorial Building
407 Galisteo St. Suite 101
Santa Fe, NM 87501

Re: Support for the Water Security Tribal Advisory Council's Recommendations on the WSPA Proposed Rule

Dear Chairman Sanchez,

I am writing to notify the Interstate Stream Commission that the Pueblo of Isleta has reviewed the Water Security Tribal Advisory Council's Recommendations on the Water Security Planning Act Proposed Rule. The Pueblo of Isleta offers it full support for these Recommendations.

The Pueblo of Isleta appreciates the opportunity to participate in this process. Please keep us informed of the details surrounding the October 15-17, 2025, hearing on the new Proposed Rule.

Sincerely,

Eugene Jiron, Governor
Pueblo of Isleta

Author First	Paul
Author Last	Spencer
City	Bluewater
State Abbrev	NM
Email	unopablocy60@gmail.com
Comment Filename	No attachment

Comment Body

Inquiry on the Introduction of Regionalization in New Mexico’s Water Planning
When and where was the concept of regionalization for public water systems proposed during the 2024 public engagement activities related to the New Mexico Water Plan, or in the prior planning stages of the 2022 New Mexico Water Policy and Infrastructure Task Force?
Concerns Regarding the Absence of Public Input on Regionalization
The regionalization framework adopted under the U.S. Environmental Protection Agency’s guidelines and implemented through New Mexico’s 2023 Senate Bill 1 (SB1), known as the Regional Water System Resiliency Act, was neither discussed nor proposed in the public engagement activities associated with the development of the New Mexico Water Plan nor during the planning deliberations of the 2022 New Mexico Water Policy and Infrastructure Task Force. Nonetheless, this approach is prominently featured in the state’s 50-Year Water Action Plan as if it had emerged from extensive community consultations. In reality, regionalization does not represent a solution derived from grassroots or public engagement processes during the formulation of the 50-Year Water Action Plan. Consequently, it warrants reconsideration to ensure that the public—particularly operators of community public water systems—receives appropriate opportunities for meaningful involvement in this process.
This top-down implementation lacks democratic legitimacy and should be evaluated for removal from the 50-Year Water Action Plan, which is presented as a product of input from water stewards throughout New Mexico’s diverse regions. Instead, it aligns more closely with agendas advanced by political entities and international institutions, such as those convened at the United Nations, which have established their own global objectives for water resource management.
Flaws in the Plan’s Development and Data Foundation
The 50-Year Water Action Plan is fundamentally flawed, as evidence indicates it was not adequately shaped by local residents but rather influenced by external global institutions pursuing their distinct priorities. Furthermore, the data underpinning its proposed actions is insufficient, given that the New Mexico Water Data Act—enacted in 2019 to standardize and integrate water data collection—was not in effect during the earlier planning phases. This temporal limitation undermines the reliability of the evidentiary basis for the plan’s projections of severe water scarcity and related forecasts.
I urge the state to remove or reconsider the regionalization framework from the 50-Year Water Action Plan until genuine, transparent public engagement can occur.

Author First	Lori
Author Last	Laiche
City	Albuquerque
State Abbrev	NM
Email	busygal123@msn.com
Comment Filename	No attachment

Comment Body

Please reject or significantly revise rule 19.25.16 NMAC. Increasing bureaucracy over decentralization leads to undermining the hard work of the councils and stakeholders. There are also issues with clear objectives, data standards, and enforcement. Thank you

Author First	L.
Author Last	Watchempino
City	Pueblo of Acoma
State Abbrev	NM
Email	5000wave@gmail.com
Comment Filename	No attachment

Comment Body

Thank you for the opportunity to comment on the proposed Rule for the Water Security Planning Act (WSPA).

The proposed Northwest New Mexico Region is an improvement from a larger region that would have connected it to the San Juan Region. This down-sized Region is better suited to accommodate an arid region where water resources are stressed, and water rights have been over-appropriated.

It also makes sense to take into account tribal sovereignty, tribal water rights, and the needs of tribal communities in considering whether a proposed subregion should be designated. (Section 19.25.16.9.B)

Membership on the Regional Planning Committees should be as diverse and inclusive as possible, to avoid overrepresentation by the largest and most powerful water users and political leaders in a planning region at the expense of smaller water users and proponents of non-consumptive water uses that promote sustainable stream systems and the ecosystems and cultural uses that they support.

The Commission should revise the proposed Rule to clearly state that regional water security plans must be compliant with Indian water rights settlements and the WSPA, consistent with the statewide objective regarding congressionally authorized tribal water rights settlements, including local and federally executed Indian Water rights settlements. (Section 72-14A-4.C(9(b) NMSA 1978)

As pointed out by Taos and Laguna Pueblos, Section 19.25.16.16 provisions relating to the State Engineer's consideration of regional public welfare issues in permitting decisions should be deleted. The WSPA does not authorize the Commission to establish procedures for the State Engineer's determination of public welfare in water rights permitting. (Section 19.25.15.16C)

Regional Plans should also include a list of proposed projects, programs, and policies that have been prioritized in accordance with statewide objectives for regional water security plan development, including compliance with interstate compacts, the federal Endangered Species Act of 1973, AND Congressionally authorized tribal water rights settlement acts. (Section 72-14A-4.C(9(b) NMSA 1978 and Section 19.25.15.16)

Finally, I urge that hybrid Regional Council meetings be held within the region they serve, with an option for virtual attendance, to enable broader participation and accessibility for local stakeholders, and to foster meaningful engagement, consistent with the proposed Rule's stated goals of transparency and inclusive participation.

Org Name	Trout Unlimited
Author First	Saba
Author Last	Ijadi
City	Albuquerque
State Abbrev	NM
Email	saba.ijadi@tu.org
Comment Filename	Trout Unlimited Comment on Regional Water Security Planning Proposed Rule 09.27.2025.pdf

Comment Body

Dear Commissioner and NMISC Administrator, please find attached Trout Unlimited's comment on the proposed rule. Thank you the opportunity to provide input.

Trout Unlimited, Inc.
P.O. Box 6854
Albuquerque, New Mexico 87197

September 27, 2025

Jennifer Salazar
New Mexico Office of the State Engineer
New Mexico Interstate Stream Commission

Dear Interstate Stream Commissioners,

On behalf of Trout Unlimited (TU), we thank the Interstate Stream Commission for the opportunity to comment on the future of regional water planning in New Mexico. As a conservation organization working to care for and recover New Mexico's rivers and streams and our native and wild trout populations, TU is committed to supporting a water future that sustains New Mexico's communities and natural environment.

Draft rule 19.16.25 represents progress toward a new vision for regional water planning with a focus on implementation and inclusive, science-based decision-making. Upon review of the draft rule, we offer the following recommendations meant to ensure that regional planning councils are equipped to make informed decisions that address regional water security and advance collaborative, multi-benefit projects that strengthen communities and the environment.

Increase focus on funding of programs, projects, and policies (PPPs) identified in regional water security plans.

We want to take this opportunity to underscore the importance of continued emphasis on linking state water funding to regional water planning. Dedicated funding for regional water planning serves 3 important objectives:

1) Ensures that NMISC can provide the ongoing administrative support and technical assistance necessary for high functioning planning councils;
2) Incentives participation among council representatives and the public; and
3) Increases the likelihood that projects vetted and prioritized by diverse interests within the regions have a clear path to state funding.

It is crucial that NMISC work with the state legislature and other partners to create a dedicated, sustainable source of state funding for implementation of programs, projects,

and policies identified in approved regional water security plans. Trout Unlimited looks forward to assisting with this important element of water planning.

State funding allocated to projects prioritized by regional water councils should be available to non-governmental organizations (NGOs) as eligible entities.

While outside the direct purview of this rulemaking, we want to emphasize the importance of NGO eligibility to implement projects that are prioritized by regional councils, should funding become available through NMISC or other state funding mechanisms. Our experience demonstrates that including NGOs as eligible entities for project funding enhances the effectiveness of collaborative planning efforts. In addition to participating in planning councils, NGOs can bring important expertise and capacity to the table to implement projects while leveraging private and federal funding, especially in rural or under-resourced communities.

Identify standards and best practices for planning council operating procedures.

We recognize and support the critical role that NMISC staff will play in providing administrative support, technical assistance, and public notification responsibilities for regional councils in the initial planning period and throughout the planning process. In Subsection B.3 under Section 19.25.16.10, we encourage NMISC to consider the appropriate degree of autonomy planning councils in developing operating procedures. We recommend identifying standards and/or best practices to be adopted across all planning councils for greater consistency and effectiveness.

Clarify that each at-large planning council member must reside within the planning region to which they are appointed.

As written in Subsection A of Section 19.25.16.12, it is unclear to us whether all "at-large members" must reside within the planning region to which they are appointed, because this requirement is not stated in the same manner for each position. We recommend that each of the at-large members should be required to reside within the region they are appointed to. If done right, one of the primary benefits of regional water planning councils will be the local relationships and trust built between various stakeholders and user groups within a common planning region, all working together for their shared water future.

Ensure that requirements for regional water planning councils are commensurate with NMISC capacity to provide administrative and technical support.

Section 19.25.16.13 lays out an extensive list of requirements for regional planning councils to adhere to. We caution against too many requirements placed on councils without a clear sense of ongoing NMISC staff support and capacity. We support basic standards that must be adhered to and a suite of best practices as recommendations, while stressing the importance of setting up councils to succeed with the capacity and support they are likely to have.

Ensure regional water security planning efforts are based on a thorough understanding of current and future water supplies, needs, and trends.

Planning efforts should be grounded in an accounting of existing surface and groundwater supplies, existing levels of use, and a projection of future needs. To the extent possible, NMISC should support regional councils in such an assessment at the onset of developing regional water plans, and throughout the planning process. We recommend that this type of assessment be included in Subsection A of Section 19.25.16.14.

We also recommend adding the consideration of best available science regarding the water needs of native fish and wildlife to the list of considerations in Subsection A of Section 19.25.16.14. Considering available science and data pertaining to the water needs of fish and wildlife will lead to better water projects designed and implemented throughout the regions. Also, in Subsection B.4 of 19.25.16.14, we recommend the inclusion of wetlands as a distinct habitat type alongside upland and riparian habitat.

Also, it is unclear to us why resources as important as groundwater, agriculture, and fish and wildlife habitat would not be included in the list of information that councils *shall* consider in Subsection A. We recommend combining Subsections B and A in Section 19.25.16.14 so that all these critical resources are considered on equal footing.

Adjust criteria for approval of regional water security plans and prioritization of projects, programs, and policies.

As mentioned above, an assessment of current water supplies, trends, and future needs is the basis of smart water planning. This can be more explicitly included in Section 19.25.16.15.

We consider the prioritization of PPPs as the core function of regional water planning councils. With this in mind, we question the use "readiness" as the criteria for organizing lists of prioritized PPPs in Subsection C.3. Many projects, for example, can move from the concept to implementation phase in just a few years, a shorter period than the planning period proposed in these rules. Plans may not be updated frequently enough to track this progress. Further, a well-vetted project concept could be considered "ready to proceed", creating confusion in the meaning of these terms. We request a reconsideration of criteria appropriate for prioritization and organization (beyond readiness) in Subsection C.3.

In Subsection C.4 of Section 19.25.16.15. we recommend the following:

- Add wetlands as a habitat type to Subsection C.4.(n), alongside river and riparian habitat.
- Include projects that support the quantity, timing, and seasonality of instream flows by adding a new PPP type for projects that enhance stream flows to Subsection C.4.
- Clarify that projects that improve aquatic connectivity are an eligible project type. For example, projects that improve road crossing and culverts can lead to better infrastructure while benefiting fish and wildlife. Consider adding "and connectivity" after "restoration" in Subsection C.4.(n) to make this clear.

- Recognize the benefits of projects that utilize natural and green infrastructure to create multi-benefit outcomes for people and wildlife, often at a lower cost than engineered solutions. Consider adding natural and green infrastructure as an additional PPP in Subsection C.4.

Regarding project prioritization, it's important to link prioritization with projects that benefit multiple interests. Advancing collaboratively developed, multi-benefit water projects should be a primary objective of planning councils. This concept is captured in Subsection C.5.(c), but only as something to "document" for a PPP. "Readiness" is just one of many criteria that should be important in prioritization. We recommend the addition of language in Section 19.25.16.15 to provide additional factors that shall be used to prioritize PPPs, including the extent to which a PPP benefits multiple stakeholders and resource values.

Related to this, we believe the concepts captured in Subsection C.5 are important and risk being undervalued as presented in the draft rule, as there is nothing that requires or incentivizes the inclusion of these components in the prioritization process. Leveraging funds (a), enhancement of water resilience and long-lasting impact (b), the presence of multiple benefits (c), support from diverse stakeholders (d), and the enhanced benefits of bundling PPPs (e), should be used to inform the prioritization process. We recommend that you revisit this language and assess how to better link it to prioritization. We encourage an expansion of factors in Subsection C.1 that influence prioritization.

Thank you for your continued dedication to managing New Mexico's water resources in a holistic and science-based way. We encourage NMISC to consider this and other public input to strengthen the rule before adoption. We offer TU's partnership in all phases of this endeavor and look forward to working in close collaboration with the Interstate Stream Commission and our local and regional partners to make this effort successful.

Sincerely and respectfully,

Dan Roper
New Mexico State Lead
Trout Unlimited
Nambe, NM
dan.roper@tu.org

Saba Ijadi
Policy and Engagement Manager
Trout Unlimited
Albuquerque, NM
saba.ijadi@tu.org

Org Name	New Mexico Water Advocates
Author First	Norm
Author Last	Gaume
City	Albuquerque
State Abbrev	NM
Email	normgaume@gmail.com
Comment Filename	2025 09 27 NM Water Advocates WSPA rules public comment.pdf

Comment Body

Please see the New MexicoWater Advocates public comment, attached. The ISC staff's proposed rule requires substantial improvement to correct the extensive flaws and omissions documented in the attachment.

NEW MEXICO
WATER ADVOCATES

September 27, 2025

Water Advocates Public Comment on Proposed Rule No. NMISC 25-01 (R)

Executive Summary

The ISC staff's proposed rule requires substantial improvement to correct the extensive flaws and omissions documented herein.

We submit this public comment to the Interstate Stream Commission ("Commission") regarding the Proposed Rule filed by Commission staff ("Staff") on July 17, 2025, for the Commission's rulemaking. The Proposed Rule is for implementation of the 2023 Water Security Planning Act ("Act"). Our review finds the Proposed Rule does not meet statutory requirements and will not create the transformative regional water security program the Act requires the Commission to establish and conduct.

We identify major procedural and substantive deficiencies.

- The Proposed Rule omits two procedures the Act requires and violates other provisions of law.
- Staff and Commission consultants remain the sole possessors of the Rule's rationale and technical basis, denying Commissioners and the public access required by law to the Staff's evidence and reasoning.
- Staff's design of the Commission's rulemaking process and schedule denies due process by withholding the Staff's factual and analytical foundation necessary to inform public comment.
- The hearing schedule provides no opportunity for interested parties to rebut Staff testimony or evidence, precluding due process and balanced consideration by the Commission.

We also identify important omissions and ambiguities.

- The Proposed Rule ignores the Act's mandate for scientific integrity; it merely repeats the Act's twenty-four-word reporting clause.
- Staff drafted the rule to require numerous bureaucratic Staff approvals without articulating criteria for them.

- The Proposed Rule uses the word “community“ once as an adjective describing a type of water utility.
- The Proposed Rule omits defining ‘consideration’ of mandatory outcomes.

We recommend the Commission revise the Proposed Rule to: (1) include all mandatory statutory procedures, (2) establish transparent criteria for staff decisions, (3) require demonstration of compliance with statutory outcomes, (4) restore scientific integrity as a foundational principle, (5) clarify accountability, (6) explicitly center communities’ voices in regional water security planning to align with the Act’s intent to anchor water planning in community values and participation, and (7) comply with mandatory drafting standards.

We respectfully request that the Commission defer final adoption until Staff publishes the technical basis and rationale for the Proposed Rule and the Commission provides sufficient time for public review and a fair opportunity for interested parties to rebut Staff testimony and evidence.

The Water Advocates comments below are organized in five sections. Introduction, Legal Basis, Substantive Concerns, Omissions, and Closing.

I. INTRODUCTION

The ISC staff's proposed rule requires substantial improvement to correct the extensive flaws and omissions described below.

The 2023 Water Security Planning Act (“Act”), NMSA 1978, §§ 72-14A-1 et seq., says the Interstate Stream Commission (“Commission”) “shall establish and conduct a regional water security program pursuant to the provisions of the Water Security Planning Act.” The Act establishes statutory direction for a reformed statewide regional water security planning program, replacing a 1987 statute that authorized regional water “plans” never intended for implementation; only for the sake of having documents showing a need for each region’s water. Many regions submitted real plans with excellent recommendations that the State subsequently ignored.

The Commission staff (“Staff”) filed a proposed rule (“Proposed Rule”) on July 17, 2025, that is seriously deficient in meeting the Act’s requirements for rules. The rulemaking process designed by staff does not meet statutory requirements for rulemaking. The Proposed Rule will create a regional water security planning program that is unlikely to result in the transformative changes needed for statewide water security. These public comments demonstrate these assertions.

The New Mexico Water Advocates "Water Advocates" is a 501(c)3 New Mexico nonprofit advocacy organization incorporated in 1998 to create the initial Middle Rio Grande regional water plan. The planning area included several counties within the Middle Rio Grande basin, including all the Albuquerque metropolitan area. The resulting plan was substantive.

The Water Advocates as an organization and through its president, a retired licensed water resource management and planning engineer, led processes that created Senate Bill 337 (2023), beginning with the New Mexico Water Policy and Infrastructure Task Force's unanimous recommendation to replace the 1987 Act. The Water Advocates drafted SB337 (2023). Former New Mexico State Engineer Mike Hamman edited the bill and made it an agency-supported bill. The NM Legislature passed the Act unanimously, without a single vote against it in any committee hearing or in the two chambers, including on a substantive House floor amendment. The Water Advocates participated in the rule development process to the limited extent Staff allowed.

The Water Advocates object to the content of the Proposed Rule for what it says and what it omits.

II. LEGAL BASIS

Commission Authority. The 2023 Act requires the Commission, subject to available funding, to **establish and conduct a regional water security program** pursuant to the Act and to promulgate rules to do so. See NMSA 1978, § 72-14A-4(C).

Mandatory Rule Elements; Public Welfare and Future Generations. The Act requires the Commission's promulgated rules "at a minimum" to address five specific requirements. See NMSA 1978, § 72-14A-4 (C)(1). The Act requires the rules establish (1) the procedure for a regional water planning entity to develop and provide notice to the commission of issues and concerns relating to the public welfare of the water planning region and (2) the procedure for a regional water planning entity to consider public welfare values and the needs of future generations of New Mexicans. See NMSA 1978, § 72-14A-4 (C) (1) (c) & (e).

Mandatory Outcomes. The Act sets mandatory criteria for the development of outcomes regional water planning security planning councils ("Council"), ("Councils") must seek. See NMSA 1978, § 72-14A-5 (B).

Technical Basis. The State Rules Act requires the notice of proposed rulemaking include "a citation to technical information, if any, that served as a basis for the Proposed Rule, and information on how the full text of the technical information may be obtained." See NMSA 1978, § 14-4-5.2 (A) (7).

Due Process. The State Rules Act requires that "Each agency shall determine, in accordance with governing statutory and case law, the manner in which parties to the proceeding and members of the public will be able to participate in public hearings." Case law requirements for affording due process to parties and the public are substantial and binding on this rulemaking. See NMSA 1978, § 14-4-5.3 (B) and NMAC 1.24.25.

Composition of Regional Water Planning Entities. The law states "Each regional water planning entity shall be composed of regional stakeholders as identified in the entity's guidelines." (The Proposed Rule appropriately substitutes "Council" for "entity.") See NMSA 1978, § 72-14A-5 (C) (1).

III. SUBSTANTIVE CONCERNS

Omission of Mandatory Rule Content. The Act at § 72-14A-4(C) (2) requires rules to establish two procedures the Proposed Rule omits. These include "the procedure for a regional planning entity (Council) to develop and notify the commission of issues and concerns relating to the public welfare of the water planning region," and "the procedure for a regional water planning entity to consider public welfare values and the needs of future generations of New Mexicans." The Proposed Rule does not set out these required procedures.

Missing Technical Basis of Proposed Rule. Water resource security planning is a technical and a social endeavor. The Act requires technical information; "the best science, data, and models related to water resource planning are available to the regional water planning entities and are used with scientific integrity and adherence to the principles of honesty, objectivity, transparency, and professionalism in developing, vetting, and prioritizing proposals." The Proposed Rules have a technical basis that Staff did not cite in required rulemaking notices or make publicly available, counter to the State Rules Act, NMSA 1978, § 14-4-5.2 (A) (7). Contrary to Staff assertions at the Commission's September 18, 2025, public meeting, the Statement of Reasons attached to the Motion the Commission approved on July 17, 2025, does not provide any of the Staff's reasoning.

Staff presentations at the Commission's September 18, 2025, meeting indicated Staff will publish the written technical testimony and exhibits of the four Staff expert witnesses on October 1, 2025. The unavailability of Staff testimony and exhibits until after the public comment period has ended deprives public commentors the opportunity to know the basis of the Proposed Rule contents and reasons for the inherent Staff decisions.

As one example, Staff specified each Council's membership positions without revealing its reasons or the evaluation of the alternatives Staff considered, if any. This detailed

specification in the Proposed Rule without any public reasoning violates due process requirements. Additionally, the Staff specification of Councils membership violates this requirement of the Act; “Each regional water planning entity shall be composed of regional stakeholders as identified in the entity’s guidelines;” NMSA 1978, § 72-14A-5 (C) (1).

Another example is the absence of any public rationale for the Proposed Rule requirement that “Councils may not delay the development of or updates to a plan due to lack of data.” Why? From the Water Advocates perspective, this statement made without qualification or rationale violates the Act’s clear requirements for scientific integrity and adherence to the principles of honesty, objectivity, transparency, and professionalism.

The Commission asked for public comment on the Proposed Rule rules without explaining any reasoning behind the language. Staff admitted at the Commission’s June meeting that no analysis of alternatives was done on a key question. Without understanding the reasons for the Proposed Rule, the public comments must rely on the raw rule language alone. Is this sequence professional, objective, and transparent? The Water Advocates assert that it is none of these and may violate statutory law and case law.

The ISC Director’s Staff report to the Commission on September 18, 2025, directly but inadequately addressed the rationale for the rule. The Director’s direct quotation says,

> “I also just want to make sure that it is clear. With regard to the prehearing rationale for this Proposed Rule, that can be found in a number of places. There is a statement of reasons which was filed July 17 and is available for viewing along with the Proposed Rule. The other rationale can be found in the multiple publications on mainstreamnm.org website including the observations and considerations report, engagement report, and summary report, all of which compile the extensive public input that we captured that informs the Proposed Rule.”

The Water Advocates see this statement as a direct rebuttal without merit of the Water Advocates’ written public comment to the Commission submitted three days in advance as the Commission requires of all public comment. The Commission kept the Water Advocates’ written public comment publicly secret as the ISC Director rebutted it without acknowledging what she was rebutting.

The Statement of Reasons cited by the ISC Director says nothing about the Staff rationale for the Proposed Rule substantive provisions, requirements, and omissions. The Statement of Reasons published on July 17 is nothing more than series of formulaic restatements of the Act’s requirements, the Commission’s roles and responsibilities, and the organization of the Proposed Rule. For example, it cites the Act’s five specific minimum requirements for the content of the required Commission rules without stating the Proposed Rule omits addressing two of the five and why.

The Director cited “multiple publications on the mainstreamnm.org website” including the three consultant reports that document the Commission’s public outreach procedures and summarize the public comments received over “a year and a half” “of the Staff’s open house outreach.” That extensive effort concluded months before Staff released its Discussion Draft Rule language. The reports, written by consultants, make public recommendations that are the opposite of Proposed Rule content.

Presumably, the Commission’s professional Staff evaluated the professional literature on rational water planning and other relevant technical and social information, in addition to the open houses’ public comments, as it evaluated alternatives for the content of the Proposed Rules Staff now proposes to have the force of administrative law.

Upon information and belief, and without responses to a Water Advocates Inspection of Public Record Act pending request for pertinent public records, Staff are engaged in a major effort with consultants to complete a “framework” document that presumably will provide the Staff’s vision, rationale, and details for the “regional water security program” the Act requires the Commission to “establish and conduct.” Upon information and belief, this program framework is overdue and will not be completed in 2025.

The New Mexico Register Notice says the Proposed Rules are the “framework.” Thus, the pending overarching framework for the regional water security program, which should inform the public and the Proposed Rules “framework,” are in the wrong sequence. Perhaps this delay in the overarching program framework explains the Proposed Rules absent rationale.

Arbitrary and Capricious. The examples cited above demonstrate the requirements of the Proposed Rule are arbitrary and capricious because they were published without any technical basis. The forthcoming ISC technical testimony and evidence may untimely disclose the Staff rationale a mere two weeks before the rulemaking hearing convenes, providing inadequate time for engaged members of the public to provide fully informed technical public comment in advance of the hearing.

Hearing Design Due Process Problems. The Commission’s New Mexico Register Notice of Proposed Rulemaking includes the phrase “…to hear all testimony, evidence, and public comment pertaining to the Proposed Rule.” A Staff attorney representing the “planning program” told the Commission on September 18 meeting that only Staff is allowed to present testimony and evidence. The Hearing Officer clarified; members of the public with comments that are more substantive or “technical” in nature may be allowed more time than the normal three minutes for “public comments,” that each public commentor will have one opportunity to speak, and only Commission members will be allowed to ask

questions. The process precludes any interested party's rebuttal of the Staff's testimony and evidence.

The Staff attorney said this; "So [the New Mexico Register Notice] identifies that number one the deadline on the portal is September 27 and then it identifies that there is going to be a pause where no more comments are accepted. That's the close." The Staff attorney said she will provide the "prefiled testimony" "with exhibits" of four ISC expert witness to the Commission on October 1. She didn't mention the public but later responded to the Hearing Officer's concern that the testimony and exhibits would be posted. The Staff attorney further asserted that public commenters, if they wish the Commission to consider their comments must adhere to the September 27 deadline. The Water Advocates assert this sequence violates the legally required due process to be afforded interested parties.

Staff and Commission contractors hold the entire rationale for the draft rules to themselves. Neither the Commission members nor the public has access to that reasoning, which makes fully informed public comment impossible.

The Staff attorney also asserted that all public commenters are the same; they are only allowed public comment. The Hearing Officer made an important clarification that she would grant more time for public commenters with substantive or technical comments but would not allow them to ask questions or participate in cross examination.

Because the Commission may decide to deliberate and finalize the rule immediately following all testimony and public comment, public parties with substantive concerns will have no opportunity for any rebuttal that would inform the Commission's deliberations.

With reference to the due process paragraph in the Legal Basis section above, a professional colleague that has had success in enforcing due process requirements against state agencies provided these case law citations that may apply to this rulemaking. I repeat them here for Staff attorneys' and the Hearing Officer's consideration.

> Findings of fact and conclusions of law must be supported by substantial evidence. New Mexico follows the rule of substantial evidence in the record, requiring the reviewing court to determine whether the record contains substantial evidence to support the agency decision and to ignore evidence to the contrary. Substantial evidence is "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." No part of the evidence may be exclusively relied upon if it would be unreasonable to do so. The reviewing court needs to find evidence that is credible in light of the whole record and that is sufficient for a reasonable mind to accept as adequate to support the conclusion reached by the agency. *The Counseling Center, Inc., v. New Mexico Human Services Dept.*, 2018-NMCA ¶ 39, citing, *Duke City Lumber Co. v. N.M. Envtl. Improvement Bd.*, 1984-NMSC-042, ¶¶ 13-14, 101 N.M. 291, 681 P.2d 717. Without an actual administrative process that complies with due process, including public notice, and a meaningful

opportunity to be heard and present a claim or defense the agency's procedural decision-making process is unlawful. *Pub. Serv. Co. of New Mexico v. New Mexico Pub. Regulation Comm'n*, 2019-NMSC-012, ¶63, 444 P.3d 460. ("It is well settled that the fundamental requirements of due process in an administrative context are reasonable notice and opportunity to be heard and present any claim or defense." *Citing, ABCWUA*, 2010-NMSC-013, ¶ 21 (quoting *Jones v. N.M. State Racing Comm'n*, 1983-NMSC-089, ¶ 6, 100 N.M. 434, 671 P.2d 1145).)

IV. OMISSIONS

The Proposed Rule content appears unguided by an overarching philosophy to relate Rule content to the Act's requirements. Why does the Rule re-articulate some statutory requirements, ignore others, and flesh out only a few? Does the Commission intend that Council members must read the Act and the Rule together to understand legal requirements? Does the Commission intend that each Council have a lawyer?

The Staff must have decided why it minimized the Act's implementing Rules. We ask why? The Act delegates broad responsibility and authority to the Commission to "establish and conduct" a regional water security program. Why did Staff write the Proposed Rules to address less than the minimum requirements, rather than rules that would create the comprehensive program required by the Act? The Commission should ask, why don't the Proposed Rules address the Commission's statutory requirements set forth in NMSA 1978, § 72-14A-4 (C) (7) and (8) and (9)?

The Act requires scientific integrity precisely because of the Commission's gross failures to uphold it. Over 15 years ending about five years ago, the Commission pursued a New Mexico Unit of the Central Arizona Project, also known as the Gila Diversion Project. The Commission ultimately abandoned its effort after spending $17 million and tens of thousands of hours of scarce Staff time on work that Staff and commission consultants knew to be unprofessional, dishonest and non-transparent. Multiple Gila consultants who produced unprofessional or fraudulent work for Staff remain under ISC contract today. A district court judge found the Commission awarded $1.2 million of these "work orders" in violation of the Open Meetings Act.

Against this history, the Act's mandate for scientific integrity could not be clearer. The Commission should therefore question why the Proposed Rules omit any mention of scientific integrity and why they contain a provision barring Councils from delaying planning due to lack of data. That provision risks repeating the Commission's past mistakes by forcing decisions without the objective and transparent scientific foundation the Act requires.

The Act requires progress reporting. The Commission, Staff, and Councils need periodic written reviews of each Council's progress and expenditures. These reviews should include honest and objective 'estimates to complete' with actual-to-planned schedule and budget reporting, standard tools in project and program management.

Why didn't Staff think through the foundational elements of regional water security planning progress reporting for inclusion in the Rules, thereby requiring the development of information essential to effective project management and transparent accountability?

Planning Objectives Must Align with PPP Prioritization. The Proposed Rule does not articulate two essential but distinct objectives: (1) prioritizing the water infrastructure backlog and (2) tackling the overuse of diminishing water resources. These are very different challenges, yet the rule applies the same prioritization metrics to programs and policies as it does to discrete infrastructure projects. This approach diminishes the importance of solutions that require more than funding alone.

Projects, programs and policies are distinct; each should be a defined term.

Regional Water Security planning must not deprioritize needed policies and programs because they are not immediately ready to implement. Meaningful new programs and policy changes will almost certainly require substantial time and effort. Readiness as the prioritization criterion is wrong.

The Proposed Rule fails to position water planning as a powerful problem-solving process for long-term water security. The Proposed Rule should require Councils to define the specific problems that must be solved to achieve water security in their regions. The Proposed Rule could be strengthened by providing basic requirements for a rational planning process designed to evaluate alternative solutions to those articulated problems. While the Proposed Rule identifies the prioritization of PPPs 'that will help ensure water security into the future' as an objective, the Rule should give that objective substance by linking it to clear problem definitions and solution pathways.

The Proposed Rule Falls Short as a Vehicle for Transformative Change. The Act was intended to support the transformative change needed for New Mexico to live within its means while reserving water for future generations. As written, the Proposed Rules are unlikely to achieve that intent.

Most Council membership pursuant to the Proposed Rule is specified to be local government elected officials or their appointees, whose primary responsibilities are to protect their local governments' or water distribution systems' water supplies and economic uses. Staff has structured Council membership such that two representatives on each large Council represent water uses that have only equitable rights.

The State Engineer's General Counsel emphasized in his presentation to the Water Advocates' May 2025 workshop that priority administration would not protect schools, hospitals, and essential equitable uses, including household needs for sanitation and drinking, rivers and the environment, and other similar uses with only equitable rights to water or junior statutory rights. He acknowledged these equitable "uses that are not going away."

Regional water security planning must explicitly address these equitable uses and needs. Meeting statewide objectives is necessary, but not sufficient, to ensure that all essential water uses, including environmental and ecological uses, are included in planning the path toward long-term water security.

Undefined Accountability for Guidelines. The Proposed Rule fails to define accountability for the development, approval, amendment, and application of Guidelines. Guidelines are generally understood to be an institution's formal administrative instructions to Staff that the institution can adopt and amend through a simpler process than rulemaking. As a former Interstate Stream Commission Director and Assistant State Engineer, I know State Engineer guidelines historically served as an internal substitute for rules or supervisory case-by-case direction, sometimes applied as binding policy and other times disregarded at Staff discretion.

The Proposed Rule omits any clarification of who approves guidelines, who has authority to amend them, and who may act outside their parameters. Without these, the Rule creates uncertainty about whether guidelines will be enforceable, subject to Commission oversight, or open to arbitrary Staff interpretation.

This omission undermines both due process and public transparency. When internal guidance substitutes for rulemaking without clear accountability, affected entities cannot know which standards apply, how they may be changed, or by whom. The Rule should therefore establish explicit provisions for guideline authority, including approval and revisions by the Commission, public notice of adoption or amendment, and a prohibition or clear limits on Staff discretion to act outside guideline parameters. The Commission must establish the guidelines policy parameters in the Rule.

Local and Polycentric Governance. The Proposed Rule fails to create a pathway for regional water governance that could eventually share authority and responsibility with the State. New Mexico's history demonstrates that the State alone cannot ensure water security. The Act's intent to base planning on science, inclusion, accountability and public welfare calls for a polycentric model in which local, regional, state, tribal, and community entities coordinate and agree to share responsibility.

Polycentric water governance, as developed in Elinor Ostrom's Nobel Prize–winning research and advanced through Indiana University's Ostrom Workshop, means managing shared water resources through many overlapping centers of authority. Each center—local, regional, state, tribal, or community—holds partial responsibility, coordinates with the others, and contributes to resilient, adaptive management of our common water resources.

The Proposed Rule could advance this concept by requiring Councils to examine how local governments' land-use authorities can be exercised as part of long-term policies to achieve the rule's objective to "help to ensure water security into the future." Land use and water use are inseparable. A water security planning framework that ignores local land-use authorities outside the State's purview is incomplete.

Communities and Subregions. The Rule gives scant attention to communities and subregions. The word community appears only once in the entire document, limited to a narrow membership category for regional Councils. This omission reveals a deeper flaw: the Rule treats planning regions as the unit of organization, as though water security issues exist only at that scale. In fact, planning regions are administrative conveniences and clearinghouses for recommendations—not the places where water problems are felt or solved. The Rule must remove Staff bureaucratic barriers that may prevent recognition of the community and subregional scales.

Community-centered planning is essential. Water problems begin and end in communities—towns, villages, irrigation districts, domestic well neighborhoods, acequia associations, and Pueblos—each with unique vulnerabilities, knowledge, and priorities. Effective planning must start with community-level challenges and solutions and then reconcile them across hydrologic subregions and the encompassing regions. Without this bottom-up integration, regional plans risk becoming abstractions detached from lived reality.

California's Sustainable Groundwater Management Act (SGMA) implementation success that national water expert Dr. Maurice Hall highlighted in the Water Advocates' July 2025 workshop illustrates the effectiveness of empowering local users. Under the SGMA, users of discrete aquifers form local management agencies to balance their basins, subject to state oversight. The Proposed Rule should recognize each non-recharging or inadequately recharging aquifer as a subregion requiring its own groundwater management plan, reviewed by the region for inclusion in the regional plan. This approach would align with decades of research showing that common-pool resources can be protected not only by regulation but also by giving resource users authority to manage for their common good—a solution proven effective in both theory and practice.

Staff-Centric Bottlenecks Replace Missing Decision Criteria. The Proposed Rule would entrench a Staff-centric process that substitutes administrative control for collaborative governance. It requires multiple Staff approvals for nearly every stage of regional Council formation, membership, and planning activity, yet provides no criteria for those approvals. This structure transforms Staff review from a support function into a gatekeeping mechanism.

Unnecessary but mandatory Staff approvals without transparent standards will create bottlenecks, delay progress, and undermine regional initiative. The Water Security Planning Act envisions a partnership between the Commission and regional Councils grounded in science and accountability, not a top-down permit system for planning. By failing to define the basis for the multiple required Staff approvals designed by Staff, the Rule invites arbitrary or inconsistent approvals that would stall Councils before they begin.

Several sections illustrate this problem. Under Section 19.25.16.10 (Initial Planning Period), Staff must "review membership and confirm compliance" before a Council may operate — yet the Rule provides no standards for Staff confirmation or what constitutes compliance. Section 19.25.16.11 (Ongoing Planning Period) again requires Staff to "review and confirm compliance" whenever vacancies are filled, creating another approval checkpoint without defined criteria. Section 19.25.16.12 (Composition of Councils) authorizes Staff to select replacements for missing members "knowledgeable about water resources in the region," but offers no measure for knowledge or the process for selection. In each case, Staff approval is mandatory, but the Rule is silent on the evidentiary basis, timeline, or appeal mechanism for these decisions.

This approach contradicts the statute. The Water Security Planning Act clearly provides that "each regional water planning entity shall be composed of regional stakeholders as identified in the entity's guidelines" (NMSA 1978, § 72-14A-5(C)(1)). The Proposed Rule undermines this statutory language by shifting authority for Council composition from regional stakeholders to Staff. The law vests the power of composition in the regional entity itself — guided by its own operating principles — not in Staff acting without criteria or oversight.

The ISC Director has said she hopes these rules will last for decades because rulemaking is burdensome. That goal underscores the need for a Rule that remains flexible over time. The best way to achieve durability is not to hard-code specific membership seats that may become obsolete, but to establish performance standards ensuring that Council composition represents all regional stakeholders. Such standards would allow each region to adapt as demographics, governance structures, and water challenges evolve, while preserving the Act's intent that Councils are comprised of representatives of all stakeholders.

To fulfill the Act's purpose, the final Rule must replace open-ended Staff discretion with clear, objective criteria for when and how approvals are granted. Staff roles should focus on providing technical, process, and administrative support, ensuring access to data and science, requiring accountability, and facilitating compliance — not acting as a barrier or gatekeeper to regional participation or innovation.

Failure to Define or Operationalize Statutory Considerations. The Water Security Planning Act establishes seven outcomes that each regional water planning entity must adhere to or consider when developing its plan. NMSA 1978, § 72-14A-5(B)

1. be established through broad public input;
2. consider public welfare values, balancing water uses and the needs of future generations of New Mexicans;
3. be grounded in state water law;
4. be developed using the best available science;
5. recognize and respect federally recognized or reserved tribal water rights;
6. consider access to water for domestic use; and
7. comply with applicable federal water law."

Although the Act uses the word "consider," it does so within a mandatory framework — each regional planning entity shall consider these outcomes. This creates an obligation of substantive engagement, not mere acknowledgment. The Proposed Rule, however, fails to define what constitutes adequate consideration or how Councils must document that consideration in their plans.

Section 19.25.16.15 (Criteria for Approval) requires Councils show they have "considered" public welfare values, tribal rights, and future generations, but offers no standards, evidence requirements, or measurable benchmarks for demonstrating meaningful consideration. As drafted, a Council could claim to have "considered" an issue without any record of analysis, discussion, or decision-making. This lack of specificity leaves Councils, the Commission, and the public without clear guidance for compliance or evaluation.

Deferring interpretation of these statutory considerations to later guidelines or internal Staff processes contradicts the intent of the Act, which makes them core legal requirements. The absence of performance standards invites inconsistent application across regions and undermines public confidence that statutory purposes are being met.

To ensure fidelity to the Act, the Rule should be amended to:

- Define "consideration" for each statutory outcome in practical, measurable terms;
- Require documentation in the regional plan showing how each outcome was analyzed, discussed, and reflected in proposed actions; and

- Make compliance reviewable, so the Commission and the public can fairly assess whether plans genuinely considered each required outcome.

This lack of definition also compounds the Staff-centric bottleneck problem describe above. By leaving the meaning of "consider" undefined, the Rule effectively delegates to Staff the authority to decide—without criteria—whether a regional Council has adequately "considered" each statutory outcome. The result would be inconsistent, subjective judgments across regions and over time, undermining fairness and transparency. If "consideration" is to be a condition for plan approval, the Rule must define how it is demonstrated, not leave its interpretation to Staff opinion.

By clarifying the meaning of "consider," the Rule would transform a vague procedural step into a demonstrable standard of accountability, aligning regional planning with the Act's purpose of transparent, science-based, and equitable water governance.

Undefined Accountability for Guidelines. The Proposed Rule fails to define accountability for the development, approval, amendment, and application of Guidelines. Guidelines are generally understood to be formal administrative instructions that can be adopted or revised through a simpler process than rulemaking. In practice, they are often used to direct Staff actions and program administration without the rigor or transparency of formal rulemaking.

Based on my prior experience as Interstate Stream Commission Director / Assistant State Engineer, guidelines historically served as an internal substitute for rules or supervisory case-by-case direction, sometimes applied as binding policy and other times updated or disregarded, all at Staff discretion. The Proposed Rule omits any clarification of who approves guidelines, who has authority to amend them, and who may act outside their parameters. Without these definitions, the Rule creates uncertainty about whether guidelines will be enforceable, subject to Commission oversight, or open to arbitrary Staff interpretation.

This omission undermines both due process and public transparency. When internal guidance substitutes for rulemaking without clear accountability, affected entities cannot know which standards apply, how they may be changed, or by whom. The Rule should therefore establish explicit provisions for guideline authority, including approval and revisions by the Commission, public notice of adoption or amendment, and a prohibition or clear limits on Staff discretion to act outside guideline parameters. The Commission does not need to review Staff's future proposed guideline to establish the guidelines policy parameters.

V. CLOSING

The Water Advocates wish to express confidence the highly diverse Commission members will promulgate a final Rule that positions regional water security planning as a powerful problem-solving process and tool. Given the serious defects identified above, this will take time. We urge the Commission members to take the time required to find the best path forward, derived from a fair rulemaking process that respects and considers the expert views of interest parties.

The Water Advocates respect the Commission's diverse perspectives that represent New Mexico diverse water-related values and needs, from the sacred and the public welfare to economic commodification.

The Water Advocates recognize we can't be afforded special access, as the Staff have asserted we seek. Instead, we want fair access to be open to all. The Water Advocates want **any** interested party to be afforded the right to intervene, present testimony and evidence, and be afforded the opportunity to rebut others' testimony and evidence so the Commission will understand public perspectives that are different from Staff's.

We will file a motion seeking to intervene as a party in the rulemaking. We will prefile expert testimony and evidence prior to the hearing, after we have reviewed and understand Staff expert testimony and evidence. We also expect to offer the testimony and evidence of unaffiliated, credentialed experts.

Sincerely,

Norm Gaume, P.E. (ret.)
President
norm@nmwateradvocates.org
nmwateradvocates.org

Org Name	RCAC
Author First	Ramon
Author Last	Lucero
City	Santa Fe
State Abbrev	NM
Email	ramon.lucero@rcac.org
Comment Filename	25-09-27_RCAC Regional Water System Security Act Comments.pdf

Comment Body

Please see attached file.

September 27, 2025

Interstate Stream Commission
NMISC Administrator
5500 San Antonio DR. NE,
Albuquerque, NM 87109

RE: Rural Community Assistance Corporation (RCAC) Comments Regarding the Interstate Stream Commission's Proposed Rule on the Water Security Planning Act

Dear NMISC Administrator:

The Rural Community Assistance Corporation (RCAC), a non-profit organization based out of Sacramento, California, a network partner to the Rural Community Assistance Partnership (RCAP) who provide Technical Assistance to rural community water systems across the nation.

Serving rural community water system in New Mexico since 1990 with technical, managerial, and financial technical assistance and advocacy, we respectfully submit the attached comments to the Interstate Stream Commission's proposed rule on the Water Security Planning Act.

Mil Gracias,

Ramon Lucero

Ramón Lucero
Regional Field Manger
RCAC – New Mexico and Arizona

PROPOSED RULE

Received by Jennifer Salazar
7/17/2025 at 1:42 pm
NM Interstate Stream Commission

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 25 ADMINISTRATION AND USE OF WATER – GENERAL PROVISIONS
PART 16 REGIONAL WATER SECURITY PLANNING

19.25.16.1 ISSUING AGENCY: New Mexico Interstate Stream Commission, hereinafter the commission.
[19.25.16.1 NMAC – N, xx/xx/202x]

19.25.16.2 SCOPE: This rule implements the provisions of the Water Security Planning Act, Section 72-14A-1 NMSA 1978, and sets forth the processes and criteria for convening and establishing regional water security planning councils and developing and maintaining regional water security plans.
[19.25.16.2 NMAC – N, xx/xx/202x]

19.25.16.3 STATUTORY AUTHORITY: Section 72-14A-1, et seq. NMSA 1978.
[19.25.16.3 NMAC – N, xx/xx/202x]

19.25.16.4 DURATION: Permanent.
[19.25.16.4 NMAC – N, xx/xx/202x]

19.25.16.5 EFFECTIVE DATE: xxxxxxxxxxxxx xx, 2025, unless a later date is cited at the end of a section.
[19.25.16.5 NMAC – N, xx/xx/202x]

19.25.16.6 OBJECTIVE: The objective of this rule is to establish a framework for regional water security planning councils to develop, maintain, and aid in implementation and tracking of regional water security plans. This framework will be grounded in regional values, scientific consensus, and New Mexico water law. The processes outlined in this rule are intended to: ensure that the plans will be based on the best available science, data, and models regarding available water supplies, use, and trends; provide transparency and opportunities for meaningful input and participation by the public, political subdivisions of the state, and Nations, Pueblos, and Tribes within each regional water security planning region; acknowledge the sovereignty, water rights, and water needs of tribal communities; consider public welfare and the needs of future generations of New Mexicans; align with state and federal laws; and identify and prioritize projects, programs, and policies that will help to ensure water security into the future. [19.25.16.6 NMAC – N, xx/xx/202x]

19.25.16.7 DEFINITIONS:

A. **"Commission"** means the New Mexico interstate stream commission and its nine appointed members, authorized under Section 72-14-1 NMSA 1978.

B. **"Initial planning period"** means the time period from the establishment of each council to the approval of its first regional water security plan by the commission.

C. **"NMISC staff"** means the employees of the New Mexico interstate stream commission.

D. **"Ongoing planning period"** means any time period following the initial planning period for each council. The ongoing planning period begins once an initial regional water security plan is approved by the commission.

E. **"Projects, programs, and policies"** or "PPPs" or "PPP" means identified strategies and alternatives, including infrastructure projects, conservation programs, watershed or groundwater management policies, and other types of initiatives that will promote regional water security and are identified in the plans and PPP lists.

F. **"Regional water security plan"** or "plan" means a plan produced by a council, that meets the requirements described herein and is approved by the commission.

G. **"Regional water security planning council"** or "council" means the members described herein who lead regional water security plan development, and aid in and track implementation of the plan in their respective region.

H. **"Regional water security planning region"** or "planning region" or "region" means an area of the state as described herein that is the planning area for each regional water security planning council.

I. "**Region-specific stakeholder**" means a member of the public who is not a member of a council but has identified themselves to NMISC staff or a council as interested in engaging in the planning process for a specific region.

Commented [RL1]: Adding political subdivisions of the state will help to make clear the following requirements of the **Water Security Planning Act §72-14A-1 et seq., NMSA 1978,**:

SECTION 4. WATER PLANNING FUNDING--REGIONAL WATER PLANNING--RULES--GUIDELINES.—Subsection C. The commission shall: "(5) provide engagement with acequia communities;
(6) provide for the engagement of rural communities;"

SECTION 5. REGIONAL WATER PLANNING ENTITIES.—
Subsection C. Each regional water planning entity shall: "(4) assist in the funding, development and incorporation of plans for rural communities;"

Formatted: Font color: Red

Formatted: Font color: Red

PROPOSED RULE

[19.25.16.7 NMAC – N, xx/xx/202x]

19.25.16.8 WATER SECURITY TRIBAL ADVISORY COUNCIL:

A. NMISC staff shall provide administrative support and facilitation, in coordination with the office of the state engineer and Indian affairs department, for the establishment and operation of a water security tribal advisory council ("WSTAC") comprising representatives of New Mexico Nations, Pueblos, and Tribes.

B. The purpose of the WSTAC is to provide a forum for input from New Mexico Nations, Pueblos, and Tribes to ensure that their sovereignty, water rights, water needs, and viewpoints are considered and incorporated in regional water security planning and other related activities as determined by the commission.

C. The participating Nations, Pueblos, and Tribes shall determine their own procedures and principles for the operation of WSTAC.

[19.25.16.8 NMAC – N, xx/xx/202x]

19.25.16.9 ACEQUIA AND RURAL WATER SECURITY ADVISORY WORKING GROUP

A. NMISC staff shall provide administrative support and facilitation, in coordination with the New Mexico Acequia Association, the New Mexico Acequia Commission, the New Mexico Land Grant Council, the Rural Community Assistance Corporation (RCAC) and the New Mexico Rural Water Association for the establishment and operation of the Acequia and Rural Water Security Advisory Working Group ("ARWSAWG") comprising of the appointed representatives of each Regional Water Security Planning Council that represents acequias, mutual domestics or community regional water systems, and land grant-mercedes.

B. The purpose of the ARWSAWG is to provide a forum for input from New Mexico acequias, mutual domestics or community regional water systems, and land grant-mercedes to ensure that their water rights, water needs, and viewpoints are considered and incorporated in regional water security planning and other related activities as determined by the commission.

C. The participating appointed representatives of the acequias, mutual domestics or community regional water systems, and land grant-mercedes of each Regional Water Security Planning Council shall determine their own procedures and principles for the operation of ARWSAWG.

19.25.16.9 19.25.16.10 REGIONAL WATER SECURITY PLANNING REGIONS:

A. The nine regional water security planning regions are shown in exhibit A, water security planning regions (map).

B. Subject to commission approval, regional water security planning regions may be subdivided into sub-regions within a planning region or across multiple planning regions. In determining whether to approve a proposed sub-region, the commission shall use the following criteria:

(1) the basis, hydrological or otherwise, for the sub-region and what circumstances make the proposed sub-region distinct from the region;

(2) whether there is sufficient population and capacity within the proposed sub-region to engage in a transparent and inclusive planning process for the proposed sub-region;

(3) the impact of the proposed sub-region on the ability of the remainder of the region to engage in a transparent and inclusive planning process;

(4) support from the associated council(s) for the proposed sub-region;

(5) the process for how the work of the proposed sub-region will be integrated with the regional water security plan(s) of associated regions, including the prioritization of projects, programs, and policies.

[19.25.16.9 NMAC – N, xx/xx/202x]

19.25.16.11 REGIONAL WATER SECURITY PROGRAM FUND

19.25.16.10 19.25.16.12 INITIAL PLANNING PERIOD: During the initial planning period,

A. Responsibilities of NMISC staff include:

(1) inviting governmental entities identified in Paragraph (1) of Subsection A of 19.25.16.12, NMAC to select their representatives, and convening a meeting of these representative members.

(2) assisting representative members in the invitation of at-large members, identified in Paragraph 2 of Subsection A of 19.25.16.12, NMAC, and non-voting members, identified in Paragraph (3) of Subsection A of 19.25.16.12, NMAC.

(3) acting as the commission's liaison to the councils for the purpose of ensuring the coordination of commission information, policies, and resources. Subject to adequate funding and resources, one NMISC staff shall be assigned to one planning region for the purpose of these tasks and shall be located at an office of the state engineer district office within or near the region.

(4) providing administrative support and facilitation for at least four meetings of each council per calendar year and in the convening of each council's working group.

(5) providing councils with technical support, including assistance with accessing the best available data and science, templates to guide decision making, and compilations of existing plans and additional

Commented [RL2]: The creation of the Acequia and Rural Water Security Advisory Working Group will meet the following legal requirements of the **Water Security Planning Act §72-14A-1 et seq., NMSA 1978,** ensure the plans are equitable, and ensure that no water rights are affected:

SECTION 4. WATER PLANNING FUNDING--REGIONAL WATER PLANNING--RULES--GUIDELINES.—Subsection C. The commission shall: "(5) provide engagement with acequia communities; (6) provide for the engagement of rural communities;"

SECTION 5. REGIONAL WATER PLANNING ENTITIES.—
Subsection C. Each regional water planning entity shall: "(4) assist in the funding, development and incorporation of plans for rural communities;"

SECTION 3. CONDEMNATION OF WATER RIGHTS.—"Nothing in the Water Security Planning Act shall be construed as permitting the condemnation of water rights or as determining, abridging or affecting in any way the water rights of water right owners in the state."

Formatted: Font color: Text 2

Formatted: Indent: Left: 0.25", First line: 0.5"

Formatted: Indent: Left: 0.5", First line: 0.5"

Formatted: Indent: Left: 0.5", First line: 0.5"

Formatted: Indent: Left: 0.5", First line: 0.5"

Formatted: Font: (Default) TimesNewRomanPSMT, 7 pt, Font color: Custom Color(RGB(182,8,46))

Formatted: Normal, Indent: Left: 0.5", First line: 0.5"

Formatted: Font color: Red

Formatted: Highlight

Commented [RL3]: The current planning regions are hard to understand what regional acequia associations, political subdivisions of the state, and other entities will be in. Some regions divide these entities into different regions, while they should be in one region. To solve this issue, the nine planning regions shall overlap and/ or be contained within the Councils of Governments (COGs) regions. This will ensure that there are overlapping technical assistance services (such as free grant writing, planning, and project implementation services), which will improve the capacity available to implement the plans. The COGs are existing entities that have vast expertise/existing relationships with ...

Formatted: Highlight

Formatted: Indent: Left: 1.75", No bullets or numbering

Commented [RL4]: The creation of the Acequia and Rural Water Security Advisory Working Group will meet the following legal requirements of the **Water Security** ...

Formatted: Font: 10 pt, Bold, Font color: Red

Formatted: Normal, No bullets or numbering

Deleted: .

resources.

(6) developing and maintaining lists of region-specific stakeholders and notifying stakeholders of opportunities to engage in the planning process.

B. Responsibilities of the council include:

(1) once convened by the NMISC staff, the representative members shall invite, with NMISC staff support, and select at-large members as identified in Paragraph (2) of Subsection A of 19.25.16.12 NMAC. NMISC staff shall review membership and confirm compliance with Paragraph (2) of Subsection A of 19.25.16.12 NMAC.

Deleted: ¶

(2) the representative members and the at-large members shall invite, with NMISC staff support, and select non-voting members as identified in Paragraph (3) of Subsection A of 19.25.16.12 NMAC.

(3) once the council has been formed through the convening, inviting, and selection of representative members, at-large members, and non-voting members, the council shall adopt and provide NMISC staff written operating principles that, at a minimum, describe the following:

(a) the roles and responsibilities of the council's voting and non-voting members;

(b) the duration(s) of the term(s) for at large council members;

(c) the potential roles of committees, including a steering committee, sub-committees and/or work groups, if relevant;

(d) the grounds and process for removing a member from the council;

(e) the decision-making process to be used by the council to prioritize projects, programs, and policies; and

(f) the process for integration and engagement to be used by the council for the inclusion of input provided by the WSTAC and ARWSAWG; and

(g) the process for integration and engagement with commission approved sub-regions, if relevant.

C. Councils may choose to self-convene provided the composition set forth in Section 19.25.16.12 is adhered to and the self-organized council is confirmed by NMISC staff.

[19.25.16.10 NMAC – N, xx/xx/202x]

19.25.16.11 19.25.16.13 ONGOING PLANNING PERIOD: During the ongoing planning period.

A. Responsibilities of NMISC staff include:

(1) reviewing and confirming compliance with Subsection A of 19.25.16.12 NMAC for representation of representative and at-large members, when council vacancies are filled.

(2) providing administrative support and facilitation for at least two meetings of the council per calendar year during periods when the council is not in the process of updating a plan ~~and~~ providing at least four meetings of the council per calendar year when the council is in the process of updating a plan and providing assistance for the operation of the council's working groups.

(3) providing councils with technical support, including assistance with accessing the best available data and science, decision-making guides, compilations of existing plans, and resources to aid in tracking and reporting on implementation.

(4) Providing administrative support, facilitation, and technical support to the council's for carrying out Subsection B of 19.25.16.12 NMAC.

(5) publishing all regional water security plans developed by councils and approved by the commission.

B. Responsibilities of the council include:

(1) filling vacancies on the council pursuant to Subsection A of 19.25.16.12 NMAC.

(2) preparing proposed regional water security plans and presenting proposed plans to the commission for acceptance.

(3) preparing proposed updates to regional water security plans and presenting proposed updates to the commission for acceptance.

(4) reviewing the operating principles for the council and making changes consistent with Paragraph (3) of Subsection B of 19.25.16.10 NMAC if needed.

(5) aiding in and tracking plan implementation, including outcomes.

(6) developing, reviewing, and updating PPP lists.

(7) developing and maintaining region-specific lists of stakeholders and providing information to stakeholders about opportunities to engage in the planning process. The council may request NMISC staff support to carry out these responsibilities.

C. Councils shall report to the commission by June 30 of each year on the progress of planning activities, status of plan implementation, funding recommendations, and outcomes.

D. During the ongoing planning period, councils shall update plans at least once every ten years. Councils shall review and update PPP lists at least once every 5 years.

[19.25.16.11 NMAC – N, xx/xx/202x]

Commented [RL5]: Representative members shall have their own authority and discretion to select their own representatives. Some political subdivisions of the state, do not have the capacity to rotate their representatives every term. Also, could potentially be a sovereignty issue for tribal entities.

Formatted: Font color: Red

Formatted: Font color: Red

Formatted: Font color: Red

Commented [RL6]: Creating this process will make the integration and input inclusion process of the WSTAC and ARWSAWG evident and provide a clear decision-making process for all parties. By adding this operating principle it will meet the following legal requirements of the **Water Security Planning Act §72-14A-1 et seq., NMSA 1978,** ensure the plans are equitable, and ensure that no water rights are affected:
SECTION 4. WATER PLANNING FUNDING--REGIONAL WATER PLANNING--RULES--GUIDELINES.—Subsection C. The commission shall: "(4) provide engagement with Indian nations, tribes and pueblos, including through the use of the State-Tribal Collaboration Act;
(5) provide engagement with acequia communities;
(6) provide for the engagement of rural communities;"

SECTION 5. REGIONAL WATER PLANNING ENTITIES.—
Subsection C. Each regional water planning entity shall: "(2)ensure opportunities for participation by Indian nations, tribes or pueblos located within the water planning region; (4) assist in the funding, development and incorporation of plans for rural communities;"

SECTION 3. CONDEMNATION OF WATER RIGHTS.—"Nothing in the Water Security Planning Act shall be construed as permitting the condemnation of water rights or as determining, abridging or affecting in any way the water rights of water right owners in the state."

Formatted: Font color: Red

Formatted: Font color: Red, Strikethrough

Deleted: .

Commented [RL7]: This comment refers to this section of the rules:
19.25.16.12 ONGOING PLANNING PERIOD: During the ongoing planning period.

B. Responsibilities of the council include:

PROPOSED RULE

19.25.16.12 19.25.16.14 COMPOSITION OF REGIONAL WATER SECURITY PLANNING COUNCILS:

A. Councils shall comprise three categories of members: representative members, at-large members and non-voting members. Representative members and at-large members shall be voting members of a council. If a

qualified or willing representative member, as described in Paragraph (1) of Subsection A of 19.25.16.12 NMAC or at-large member, as described in Paragraph (2) of Subsection A of 19.25.16.12 NMAC cannot be identified by the council, the council may propose or NMISC staff may select a replacement non-voting member who is knowledgeable about water resources in the region.

(1) Representative members. Each governmental entity listed below, if present within the region, is entitled to have a representative serve on the council for any planning region within which it is located. A single representative may represent multiple governmental entities. In the event that a governmental entity is located in multiple regional water security planning regions, the governing body may appoint the same or different representatives to each council. Each representative member shall be appointed by resolution or official action of each governmental entity's governing body. Representative members will consist of the following:

(a) one representative member identified by the governing body of each municipality;

(b) one representative member identified by the governing body of each county;

(c) one representative member identified by the governing body of each irrigation or conservancy district;

(d) one representative member identified by the governing bodies of each Nation, Pueblo, and Tribe;

(e) one representative member identified by the governing bodies of each soil and water conservation district;

(f) one representative member of each regional acequia association in the planning region or if no regional acequia association exists in a planning region, one representative from that region appointed by the New Mexico Acequia Commission; and

(g) one representative member from an active land grant appointed by the Land Grant Council in a planning region.

(h) One representative members from a mutual domestic water consumers association and a community regional water system in the region - Regional Water Authorities - Regional Water System Resiliency Act, NMSA 1978 §§ 62-20-1 et seq.

(2) At-large members. Up to ten at-large members shall represent each of the following stakeholder groups. There shall be one at-large member position for each stakeholder group, but members may represent multiple stakeholder groups. The stakeholder groups to be represented are:

(a) ranchers in the region;

(b) farmers in the region (these farmers may include 4H, Young Farmers, etc.);

(c) statewide or regional public higher education institutions (such as a student, professor, administrator, etc.);

(d) environmental, conservation, or water advocacy non-governmental organizations with members or local chapters in the region;

(e) water-based recreational interests located in the region (fishing, rafting, etc.);

(f) ~~mutual domestic water consumer associations or community regional water systems in the region;~~

(g) commercial, industrial, mining, and power in the region;

(h) watershed restoration organizations in the region;

(i) special districts established pursuant to Chapter 73, NMSA 1978, with staff whose responsibilities include water management, located in whole or in part within the region, and that do not fall within the previous membership categories within Paragraph (1) of Subsection A of 19.25.16.12. Should there be no representative pursuant to these criteria for the region, this becomes a general at-large member;

(j) existing regional water planning steering committees who have continuously operated since the conclusion of the 2014-2016 regional water planning effort. Should there be no regional water planning steering committee in the region, this becomes a general at-large member; and

(k) one general at-large member in the region.

(3) Non-voting members. Up to five non-voting members representing parties from outside the region with water interests in the region. These five non-voting members shall comprise up to three non-voting members for entities outside the region that own water rights within the region, and up to two non-voting members from other water security planning councils hydrologically linked to the region.

B. Region-specific stakeholders. Lists of region-specific stakeholders shall be developed and

Commented [RL8]: Representative members shall have their own authority and discretion to select their own representatives. Political subdivisions of the state are their own governing bodies and shall have the right to select their own representative. Also, could potentially be a sovereignty issue for tribal entities.

Formatted: Font color: Red

Commented [RL9]: Not all commissions, councils or other governmental entities approve actions through a resolution. The New Mexico Acequia Commission and the New Mexico Land Grant Council simply approve actions through a majority vote.

Formatted: Font color: Red

Commented [RL10]: Mutual domestics and Regional Water Authorities organized under the Regional Water System Resiliency Act NMSA 1978 §§ 62-20-1 et seq, are political subdivisions of the state and shall be treaty as such through
being a representative member on the councils. This will meet the following legal requirements of the **Water Security Planning Act §72-14A-1 et seq., NMSA 1978,** ensure the plans are equitable, and ensure that no water rights are affected:

SECTION 4. WATER PLANNING FUNDING--REGIONAL WATER PLANNING--RULES--GUIDELINES.—Subsection C. The commission shall: "(6) provide for the engagement of rural communities;"

SECTION 5. REGIONAL WATER PLANNING ENTITIES.—
Subsection C. Each regional water planning entity shall: "(4) assist in the funding, development and incorporation of plans for rural communities;"

SECTION 3. CONDEMNATION OF WATER RIGHTS.—"Nothing in the Water Security Planning Act shall be construed as permitting the condemnation of water rights or as determining, abridging or affecting in any way the water rights of water right owners in the state."

Formatted: Font color: Red

Formatted: Font color: Red, Strikethrough

Commented [RL11]: Strike and move these entities into being a representative member of the councils.

Formatted: Strikethrough

Formatted: Font color: Red, Strikethrough

Formatted: Not Expanded by / Condensed by

maintained by NMISC staff and shared with councils. The identification of region-specific stakeholders shall, at a minimum, include:

(1) an email point of contact; and

(2) documentation including a physical address, residential or professional, within the region; or

(3) written statement of interest identifying the individual or entity and explaining why the individual or entity is interested in engaging in the region's planning process.

[19.25.16.12 NMAC – N, xx/xx/202x]

19.25.16.13 19.25.16.15 REGIONAL WATER SECURITY PLANNING COUNCIL MEETING AND INPUT REQUIREMENTS:

A. Councils shall hold regularly scheduled meetings as follows:

(1) meetings shall be held at least four times per year during periods when the region's plan is being developed or updated.

(2) meetings shall be held at least two times per year during periods when the plan is not being developed or updated.

(3) councils shall provide at least 14-day notice of meetings or other activities to council members, the public, region-specific stakeholders, Nations, Pueblos and Tribes, and the commission, with NMISC staff support as needed.

(4) councils, with NMISC staff support, shall offer meetings for hybrid participation if practicable.

B. Councils shall develop regional water security plans through broad input and public comment opportunities. This shall include opportunities for the public, region-specific stakeholders, and Nations, Pueblos, and Tribes to be involved in the development, vetting and prioritization of PPPs. During the plan development or update of any plan, councils shall, with NMISC staff support, at a minimum:

(1) notify the public, region-specific stakeholders, and Nations, Pueblos and Tribes, including by distributing publicly available information regionally about the development of the plan, and opportunities for input, at regular intervals.

(2) provide in-person and virtual opportunities for input at council meetings.

(3) provide a minimum of 60 days for the public, region-specific stakeholders, and Nations, Pueblos and Tribes to provide input and public comment in person, via email, or through a website on proposed regional water security plans.

(4) make comments publicly available ahead of finalization of a regional water security plan to be presented for commission approval.

C. Councils shall consider a broad range of participation options for input and public comment, which may include but are not limited to:

(1) providing materials in languages in common use within the region (e.g., ASL, Spanish, Tewa, Navajo).

(2) hosting additional meetings, focus groups, listening sessions, open houses or other events.

(3) providing engagement resources (e.g., presentations, paper surveys) to local community partners with existing connections in rural areas.

(4) providing multiple in-person opportunities distributed throughout the region and expanded strategies for community engagement.

(5) providing meeting spaces or computer access and connectivity for remote participation.

D. To promote broad awareness and to encourage participation, council outreach efforts, with NMISC Staff support as needed, shall include, but are not limited to:

(1) educational content; and

(2) multimedia advertising of engagement opportunities.

(3) additional opportunities may be developed at the determination of the council.

[19.25.16.13 NMAC – N, xx/xx/202x]

19.25.16.14 19.25.16.16 CONSIDERATIONS FOR COUNCILS DURING PLANNING PROCESSES:

A. Councils shall consider, with resources provided by NMISC staff, the following information for inclusion in regional water security plans:

(1) existing water plans and water resources planning initiatives;

(2) compliance with state water law, including recognition of established water rights;

(3) best available science for considering climate resiliency and increasing aridification;
(4) recognition and respect of federally recognized or reserved tribal water rights;
(5) access to water for domestic use;
(6) compliance with applicable federal water law;
(7) public welfare values;
(8) balancing water uses and the needs of future generations of New Mexicans; and
(9) public participation and comments.

B. Councils may consider the following information for inclusion in any regional water security plan:
(1) best available resources or methodologies for considering the needs of rural and urban places and populations within the region;
(2) groundwater management strategies and needs;
(3) regional food security and agricultural resilience; and
(4) water needs for healthy upland and riparian habitats.

C. Councils shall consider the following statewide objectives in any regional water security plan:
(1) state obligations under interstate compacts;
(2) compliance with the Endangered Species Act and the prevention of serious harm to the habitats of species that are threatened or endangered under state or federal law;
(3) implementation of water rights settlements, including local and federally executed Indian water rights settlements;
(4) the state's existing administration plans under the Active Water Resources Management program.

D. Councils shall develop and update regional water security plans as provided herein using the best available science, data, and models, and may identify data gaps and recommend further studies in their regional water security plans. Councils may not delay the development of or updates to a plan due to lack of data.
[19.25.16.14 NMAC – N, xx/xx/202x]

19.25.16.15 19.25.16.17 CRITERIA FOR APPROVAL OF REGIONAL WATER SECURITY PLANS: In order to be approved by the commission, a regional water security plan must meet the following criteria:

A. Plans shall include documentation of the following items:
(1) Water Security Tribal Advisory Council (WSTAC) engagement, involvement, information and recommendations;
(2) Acequias and Rural Water Security Advisory Working Group (ARWSAWG) engagement , involvement, information, and recommendations;
(3) public notice under Section 19.25.16.13;
(4) stakeholder engagement in the development, vetting and prioritization of PPPs;
(5) comments received, considered, and incorporated from stakeholders and the public;
(6) comments received from state and federal agencies;
(7) council consideration of public welfare values, balancing water uses and the needs of future generations of New Mexico in the region, if any;
(8) Council committees, working groups and/or sub-regions, if applicable, within a region;
(9) consideration of the regional water balance, including any projected reductions in water availability due to the impacts of climate change or other factors; and
(10) compliance with statewide objectives identified in Paragraph C of Section 14.

B. Plans may include documentation that the needs of rural and urban populations within the region were considered.

C. Plans shall include a list of prioritized proposed projects, programs, and policies with each item ranked individually relative to all other PPPs on that sub-list region wide.
(1) The prioritized list of PPPs included in each plan shall be organized based on the readiness of each individual PPP.
(2) Each proposed PPP must list the sponsor(s) that intends to lead implementation of the PPP, including obtaining and administering any necessary funding for the PPP.
(3) PPPs shall be sorted by priority into the following readiness stages:
(a) ideas stage;
(b) scoping stage; and
(c) ready to proceed stage.

Commented [RL12]: Including documentation in the plan of the Acequia and Rural Water Security Advisory Working Group will meet the following legal requirements of the **Water Security Planning Act §72-14A-1 et seq., NMSA 1978,** ensure the plans are equitable, and ensure that no water rights are affected:

SECTION 4. WATER PLANNING FUNDING--REGIONAL WATER PLANNING--RULES--GUIDELINES.—Subsection C. The commission shall: "(5) provide engagement with acequia communities; (6) provide for the engagement of rural communities;"

SECTION 5. REGIONAL WATER PLANNING ENTITIES.—
Subsection C. Each regional water planning entity shall: "(4) assist in the funding, development and incorporation of plans for rural communities;"

SECTION 3. CONDEMNATION OF WATER RIGHTS.—"Nothing in the Water Security Planning Act shall be construed as permitting the condemnation of water rights or as determining, abridging or affecting in any way the water rights of water right owners in the state."

(4) PPP types include, but are not limited to projects, programs, and policies that address the following:

(a) watershed health
(b) drinking water
(c) storm water
(d) wastewater
(e) water retention and delivery infrastructure
(f) water conservation resulting in a reduction of total water use
(g) education
(h) efficiency resulting in a reduction of total or per-capita water use
(i) water reuse
(j) aquifer storage and recovery
(k) aquifer recharge
(l) agricultural resilience
(m) development of new water resources
(n) river and riparian habitat restoration
(o) livestock management
(p) alternative water administration strategies (under Active Water Resources Management, water markets or banks, voluntary shortage sharing, etc.)
(q) drinking water system regionalization
(r) asset management planning
(s) scientific studies

(5) Additional documentation for each PPP may include:

(a) existing or potential funding, including funding to match state or federal resources;

(b) ability to enhance regional water resilience or have long-lasting and sustainable benefits;

(c) the presence of multiple benefits or ability to meet multiple objectives;
(d) substantial support from diverse stakeholders; or
(e) identification of interrelated PPP's and potential enhanced benefits of implementing multiple PPPs in conjunction with each other.

(6) Councils may elect to repeat PPP list items in subsequent plans and updated PPP lists.

(7) Councils with sub-regions shall integrate all sub-regional priorities into a single prioritized list of PPPs for submittal to the commission with their plan. Processes for resolving sub-regional priorities alongside the recommendations of other sub-regions in the region shall be resolved by the council pursuant to its operating principles, as provided for in Paragraph (3) of Subsection B of 19.25.16.10 NMAC.
[19.25.16.15 NMAC – N, xx/xx/202x]

19.25.16.16 19.25.16.18 STATE ENGINEER CONSIDERATION OF REGIONAL ISSUES OF PUBLIC WELFARE IN PERMITTING DECISIONS:

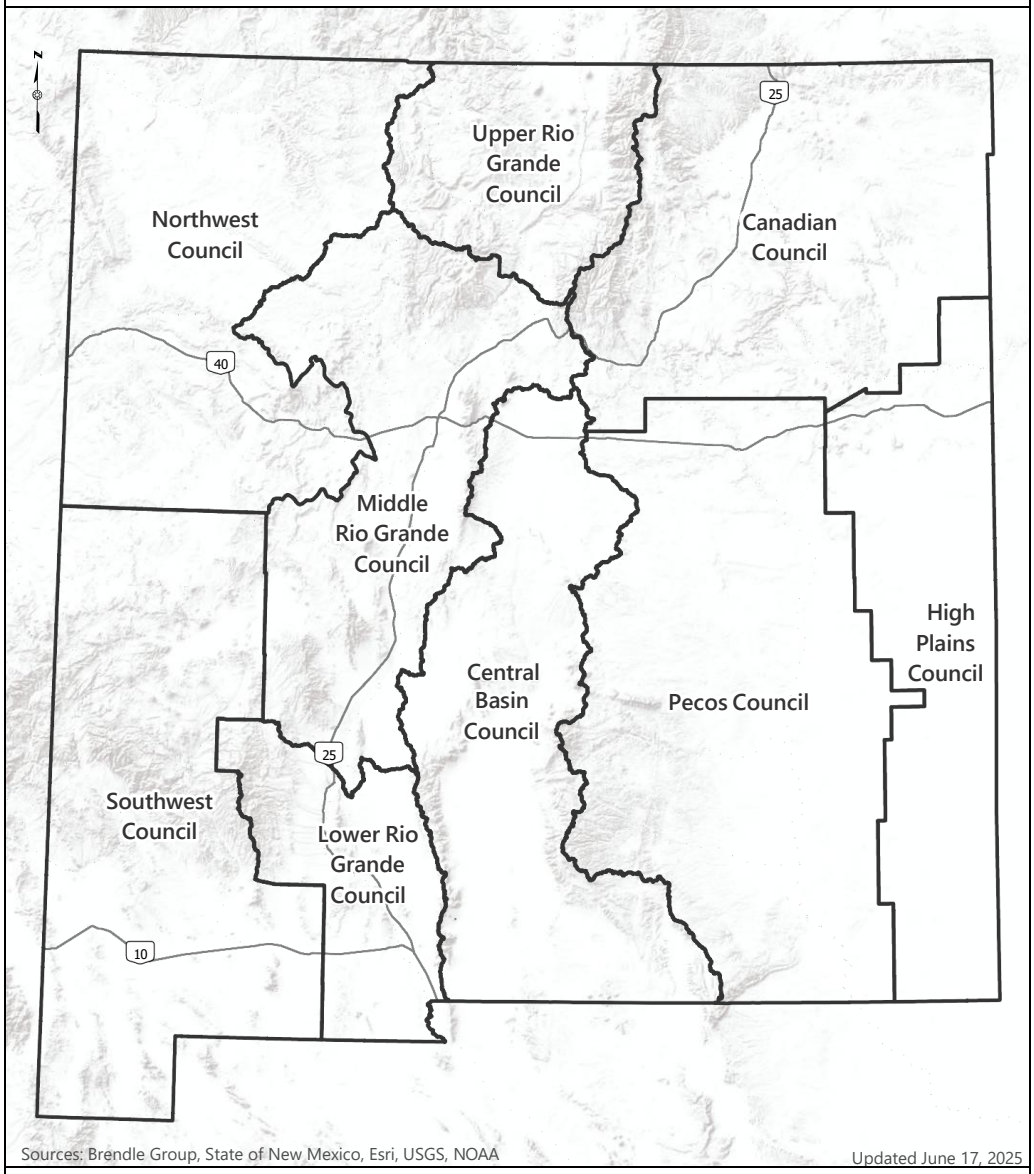
A. The state engineer, in its decisions on permit applications under Sections 72-5-6; 72-5-7; 72-5-23; 72-5-24; 72-5A-6; 72-6-5; 72-12-3; 72-12-7; and 72-12B-1 NMSA 1978, may consider issues of public welfare of a water planning region identified by a council if the state engineer determines that such regional issues are related to or may impact the public welfare of the state.

B. A council's determination shall not be binding on the state engineer's determination of whether a particular permit application would be detrimental to the public welfare of the state.

C. The state engineer, in determining whether a regional public welfare issue identified by a council is relevant to the determination of whether a particular permit application would be detrimental to the public welfare of the state, shall explain the reasoning in writing.
[19.25.16.16 NMAC – N, xx/xx/202x]

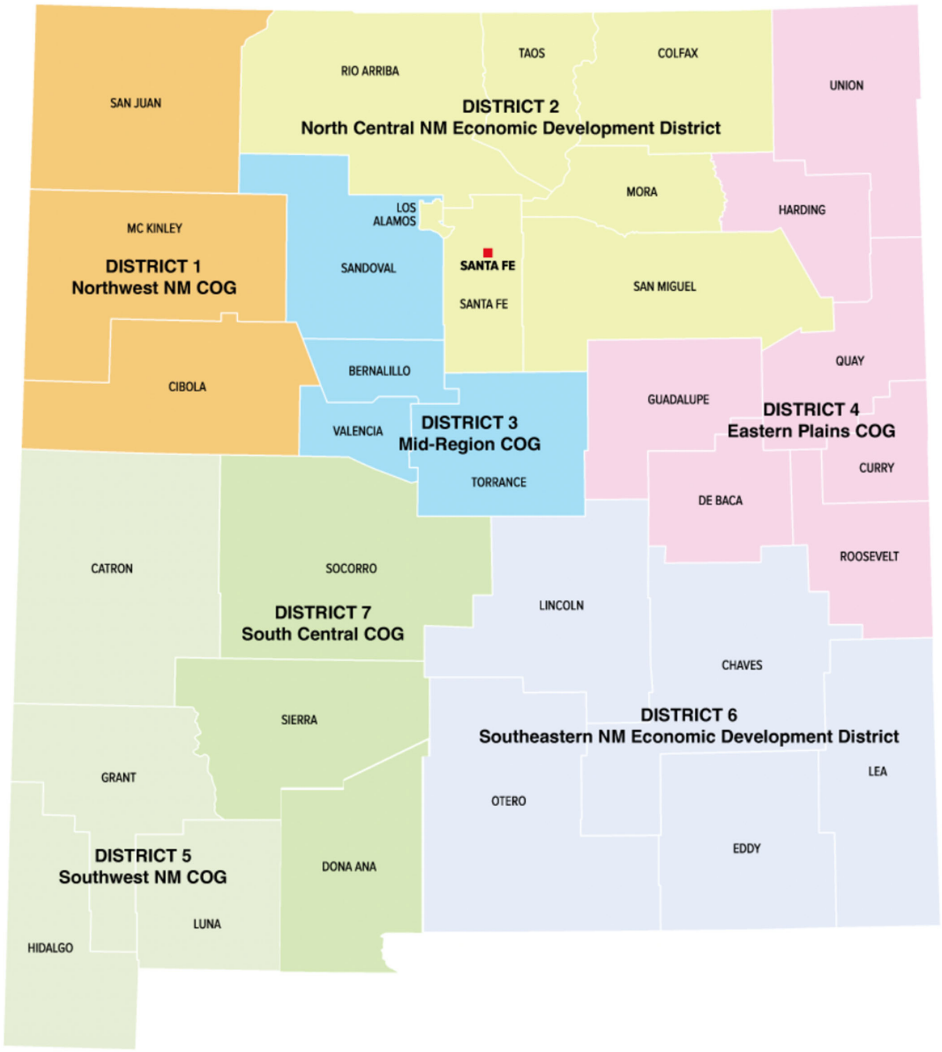
HISTORY OF 19.25.16 NMAC: [RESERVED]

Water Security Planning Regional Boundaries



Supporting Documents

Council of Government Maps



Commented [VG13]: The nine planning regions shall overlap and/ or be contained within the Councils of Governments (COGs) regions. This will ensure that there are overlapping technical assistance services (such as free grant writing, planning, and project implementation services), which will improve the capacity available to implement the plans. The COGs are existing entities that have vast expertise/existing relationships with assisting local government bodies, tribes, and political subdivisions of the state with planning, project development, implementation, and grant writing services. This will provide additional support to ISC staff by partnering with the COGs to find funding and implement the plans. This will ensure that the plans are implemented by providing additional technical experience, capacity, and building upon existing relationships. Please see the attached map of the COGs.

AN ACT

RELATING TO WATER PLANNING; ENACTING THE WATER SECURITY PLANNING ACT; AUTHORIZING THE INTERSTATE STREAM COMMISSION TO MAKE LOANS AND GRANTS FOR REGIONAL WATER PLANNING; REQUIRING THE INTERSTATE STREAM COMMISSION TO MAKE RULES AND GUIDELINES FOR REGIONAL WATER PLANNING; PROVIDING DUTIES OF REGIONAL WATER PLANNING ENTITIES; PROTECTING PRIORITY ADMINISTRATION AND WATER RIGHTS OWNERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. SHORT TITLE.--Sections 1 through 5 of this act may be cited as the "Water Security Planning Act".

SECTION 2. DEFINITION.--As used in the Water Security Planning Act, "commission" means the interstate stream commission.

SECTION 3. CONDEMNATION OF WATER RIGHTS.--Nothing in the Water Security Planning Act shall be construed as permitting the condemnation of water rights or as determining, abridging or affecting in any way the water rights of water right owners in the state.

SECTION 4. WATER PLANNING FUNDING--REGIONAL WATER PLANNING--RULES--GUIDELINES.--

A. Subject to available funding, the commission shall establish and conduct a regional water security program pursuant to the provisions of the Water Security Planning

NMISC Exhibits 01971

Act. The commission may make grants or loans of funds for the purpose of regional water planning, as possible, using appropriations made for that purpose.

B. The commission shall establish a procedure, in consultation with the Indian affairs department, to establish an advisory council for taking into account in the regional water security program tribal sovereignty, tribal water rights and the water needs of tribal communities.

C. The commission shall:

(1) promulgate rules that, at a minimum, establish:

(a) the boundaries and number of water planning regions in the state;

(b) the criteria for commission approval of a regional water security plan with prioritized projects, programs and policies;

(c) the procedure for a regional water planning entity to develop and provide notice to the commission of issues and concerns relating to the public welfare of the water planning region;

(d) the composition of a regional water planning entity; and

(e) the procedure for a regional water planning entity to consider public welfare values and the needs of future generations of New Mexicans;

NMISC Exhibits 01972

(2) adopt guidelines that, at a minimum, address:

(a) the identification of regional stakeholders and opportunities for stakeholder collaboration;

(b) the public input requirements for regional water planning;

(c) the requirements for a proposal for grants or loans for planning activities;

(d) the process for approval of grants or loans;

(e) the process for state agency collaboration;

(f) the metrics for reporting on regional water projects and, programs and policies;

(g) the procedures to support implementation of a regional water security plan; and

(h) the schedule for implementation of regional water planning, including integration with statewide objectives;

(3) emphasize engagement, communication and education in regional water planning activities statewide;

(4) provide engagement with Indian nations, tribes and pueblos, including through the use of the State-Tribal Collaboration Act;

(5) provide engagement with acequia

NMISC Exhibits 01973

communities;

(6) provide for the engagement of rural communities;

(7) ensure, by using the integrated water data and information platform developed pursuant to the Water Data Act and collaborating with the bureau of geology and mineral resources of the New Mexico institute of mining and technology and the water resources research institute, that the best science, data and models relating to water resource planning are available to the regional water planning entities and are used with scientific integrity and adherence to principles of honesty, objectivity, transparency and professionalism in developing, vetting and prioritizing proposals;

(8) report, by October 31 of each year, to the appropriate legislative interim committee dealing with water and natural resources and, by October 31 of each year, distribute the report to the appropriate state agencies dealing with water and natural resources on regional water planning implementation that includes:

(a) approved regional water security plans with prioritized projects, programs and policies for state funding;

(b) outcomes of regional water security plan implementation; and

NMISC Exhibits 01974

(c) the status of regional water planning expenditures; and

(9) support regional water planning entities by:

(a) providing technical and local capacity development support, including commission staff and funding;

(b) providing statewide objectives for regional water security plan development, including compliance with interstate compacts, the federal Endangered Species Act of 1973 and congressionally authorized tribal water settlement acts;

(c) supporting the development of a proposal for alternative administration through active water resources management, if prioritized by the region, that may be submitted to the state engineer and affected Indian nations, tribes and pueblos for approval; and

(d) identifying funding sources and supporting the acquisition of funds for implementation of approved regional water security plans.

SECTION 5. REGIONAL WATER PLANNING ENTITIES.--

A. An entity shall not be made a part of a proposal for planning funds under this section without that entity's consent.

B. The outcomes sought by each regional water

NMISC Exhibits 01975

planning entity shall:

(1) be established through broad public input;

(2) consider public welfare values, balancing water uses and the needs of future generations of New Mexicans;

(3) be grounded in state water law;

(4) be developed using the best available science;

(5) recognize and respect federally recognized or reserved tribal water rights;

(6) consider access to water for domestic use; and

(7) comply with applicable federal water law.

C. Each regional water planning entity shall:

(1) be composed of regional stakeholders as identified in the entity's guidelines;

(2) ensure opportunities for participation by Indian nations, tribes or pueblos located within the water planning region;

(3) obtain public input in the development, vetting and prioritization of regional water planning activities and proposals;

(4) assist in the funding, development and

NMISC Exhibits 01976

incorporation of plans for rural communities;

(5) report to the commission by June 30 of each year on the progress of planning activities and outcomes of regional water security plan implementation; and

(6) review existing water plans and data sets of municipalities, counties and other entities within the water planning region and use them as appropriate.

SECTION 6. Section 72-14-44 NMSA 1978 (being Laws 1987, Chapter 182, Section 2) is amended to read:

"72-14-44. INTERSTATE STREAM COMMISSION--GROUNDWATER APPROPRIATION--WATER RIGHTS PURCHASE.--

A. The interstate stream commission is authorized to appropriate groundwater or purchase water rights on behalf of any of the various regions of the state.

B. Nothing in this section shall be construed as permitting the condemnation of water rights or as determining, abridging or affecting in any way the water rights of Indian nations, tribes or pueblos".

NMISC Exhibits 01977

Org Name	New Mexico Farm and Livestock Bureau
Author First	Katie
Author Last	Adams
City	Las Cruces
State Abbrev	NM
Email	katiea@nmflb.org
Comment Filename	Regional Water Planning Comments.docx

Comment Body

New Mexico Farm and Livestock Bureau appreciates the opportunity to comment on the Interstate Stream Commissions Regional Water Security Planning proposed rule.

NEW MEXICO FARM & LIVESTOCK BUREAU

2220 North Telshor Boulevard ● Las Cruces, New Mexico 88011 ● (575) 532-4700

September 24, 2025

Interstate Stream Commission
NMISC Administrator
5550 San Antonio Dr., NE,
Albuquerque, NM 87109

RE: NMF&LB Comments Regarding the Interstate Stream Commission's Proposed Rule on the Water Security Planning Act

NMISC Administrator,

New Mexico Farm and Livestock Bureau (NMF&LB) appreciates the opportunity to provide comments on the *Interstate Stream Commission's Regional Water Security Planning* proposal.

New Mexico Farm and Livestock Bureau works to ensure the protection of individual water rights through monitoring, commenting, and participating in the due process of rules and regulations. NMF&LB recognizes and supports the creation of water sub-regions when the program is used to ensure that local public welfare and historical customs and cultures are maintained and considered.

As the Interstate Stream Commission continues to assess the *Regional Water Security Planning* proposal, we respectfully request that you consider:

- Including a definition of public welfare and what is included in categorized values.
- Does the structure of regional councils accurately represent the needs of regions in agricultural or rural areas?
- Are the councils using proper scientific methods and models to create transparency and represent all areas of evaluation adequately and accurately?
- What affects would be incurred with improper evaluation in scientific methods and models?

NEW MEXICO FARM & LIVESTOCK BUREAU

2220 North Telshor Boulevard ● Las Cruces, New Mexico 88011 ● (575) 532-4700

Once again, we at NMF&LB appreciates the opportunity to provide comment on the *Interstate Stream Commission's Regional Water Security Planning* proposal. As an organization we seek to support efforts that maintain and protect the water rights of agricultural operations, rural communities and all that are involved in feeding, fueling, and clothe the world.

New Mexico Farm and Livestock Bureau is New Mexico's largest and oldest agricultural organization, representing members involved in all aspects of agriculture from dairy and livestock to fruits and vegetables. Our mission is to promote and protect agriculture in the great State of New Mexico. We are charged with the important task of representing our members' interests when it comes to impending regulations and programs.

Org Name	Santo Domingo Pueblo
Author First	Pablo
Author Last	Padilla
City	Santo Domingo Pueblo
State Abbrev	NM
Email	pablohpadilla@gmail.com
Comment Filename	SDP - WSTAC Recommendation Support-2.pdf

Comment Body

ISC Chairman Mark Sanchez:

Attached is a letter from my client, Santo Domingo Pueblo.

Sincerely,
Pablo H. Padilla Jr., Esq.
pablohpadilla@gmail.com (don't forget the "h")

Santo Domingo Pueblo

OFFICE OF THE GOVERNOR P.O. BOX 99, SANTO DOMINGO PUEBLO, NEW MEXICO 87052 TELEPHONE (505) 465-2214 / 2215 FAX (505) 465-2688

September 26, 2025

Mark Sanchez, Chairman
NM Interstate Stream Commission
Bataan Memorial Building
407 Galisteo St. Suite 101
Santa Fe, NM 87501

SENT Via Email to: ISC.Commission@ose.nm.gov

Re: Support for the Water Security Tribal Advisory Council's (WSTAC) Recommendations on the WSPA Proposed Rule

Dear Chairman Sanchez,

As Governor of Santo Domingo Pueblo, I write to notify the Interstate Stream Commission that our Pueblo has reviewed the Water Security Tribal Advisory Council's (WSTAC) Recommendations on the Water Security Planning Act (WSPA) Proposed Rule and offers our full support for these Recommendations, which will be issued on September 27, 2025, the deadline.

It is important that the sovereignty of Santo Domingo Pueblo and other Pueblos, Tribes and Nations be considered in these rules when it comes to water planning by the State of New Mexico.

We appreciate the opportunity to participate in this process. Please keep us informed of the details surrounding the October 15-17, 2025, hearing on the new Proposed Rule.

Sincerely,

Acting Gov. Thomas Moquino

Thomas Moquino Jr., Governor

CC: Laurie Weahkee, WSTAC

Org Name	Water Security Tribal Advisory Council (WSTAC)
Author First	Laurie
Author Last	Weahkee
City	Santa Fe
State Abbrev	NM
Email	laurie.weahkee@gmail.com
Comment Filename	WSTAC RecommendationsPropRule Final 9.26.25-1.docx

Comment Body

Dear Chairman Mark Sanchez,

Please find attached the Water Security Tribal Advisory Council (WSTAC) Comments and Recommendations on the Proposed Rule for the Water Security Planning Act. Also included are letters from Tribes that support the recommendations. Thank you.

Respectfully submitted,

Laurie Weahkee, Coordinator
Water Security Tribal Advisory Council (WSTAC)
505-238-9243

September 27, 2025

Via Email: ISC.Commission@ose.nm.gov

Mark Sanchez, Chairman
NM Interstate Stream Commission
Bataan Memorial Building
407 Galisteo St. Suite 101
Santa Fe, NM 87501

Re: Comments on NMISC Proposed Rule 19.25.16, Regional Water Security Planning

Dear Chairman Mark Sanchez,

The following comments on the Proposed Rule for Regional Water Security Planning (19.25.16 NMAC) were developed by an ad hoc committee composed of multiple members of the Water Security Tribal Advisory Council (WSTAC) and have been provided to the WSTAC for its consideration. The individual Nations, Pueblos, and Tribes listed at the conclusion of this letter support and adopt these recommendations. Nothing in this letter, however, precludes or limits the ability of any Tribe to submit its own individual comments, or choosing whether to reference or incorporate the positions set forth herein. The WSTAC ad hoc committee appreciates the New Mexico Interstate Stream Commission's (NMISC) commitment to implementing the Water Security Planning Act (SB 337) (the "Act"), strengthening the state's water security planning framework, and honoring the sovereignty, water rights, and water needs of New Mexico's Nations, Pueblos, and Tribes. The following comments address four key areas where the proposed rule should be revised to more fully incorporate the recommendations of the WSTAC and the intent of the Act.

1. Tribal Representation and Decision-Making Power (19.25.16.10 & 19.25.16.12)

The proposed rule provides for one representative member from each Nation, Pueblo, or Tribe. This inclusion, though welcomed, does not achieve true equity or demonstrate full respect for tribal sovereignty, since tribal voices can still be outnumbered by municipal, county, irrigation district, and industrial representatives. This imbalance is inconsistent with the Act's emphasis on protecting and respecting tribal sovereignty and federally recognized and reserved tribal water rights.

Water resources held by Pueblos, Tribes, and Nations are unique in their origin and status, deriving from federal law and long-standing reserved and time-immemorial rights. Decisions by a regional water security planning council that affect these resources carry consequences that reach beyond ordinary planning concerns—they implicate sovereign rights that cannot be altered or diluted through majority vote. In addition, regional planning

processes often involve the collection and use of data regarding water use, land base, and infrastructure. When such data or decisions touch on tribal lands or resources, they may raise sovereignty and confidentiality concerns. Therefore, tribal consent should be required when any decision is made by a regional council that may impact water rights, water resources, land, or data relating to the water use or land base of a Pueblo, Tribe, or Nation. Requiring tribal consent in these situations not only aligns with the Act's directive to respect sovereignty but also avoids conflicts that would arise if a regional council were to adopt measures opposed by affected tribal governments.

Recommendation 1:

Amend Section 19.25.16.10(B)(3)(e) to require that any decisions of a regional water security planning council that may impact the water rights, water resources, land, or data relating to the water use or land base of a Pueblo, Tribe, or Nation cannot be approved without the consent of the affected Pueblo, Tribe, or Nation. This ensures that tribal sovereignty is respected and that regional councils cannot take actions that negatively impact tribal resources or information without the agreement of those directly affected.

2. Required Tribal Engagement at Key Stages (19.25.16.13 & 19.25.16.15)

The proposed rule requires documentation of WSTAC engagement, involvement, information, and recommendations in regional plans. This is an improvement over earlier drafts. However, the rule does not require engagement at specific points in the planning process, nor does it require documentation of unresolved tribal concerns. Without these assurances, tribal participation risks being treated as perfunctory rather than substantive.

Meaningful engagement must occur at defined stages of the planning process, not simply through open comment periods. Tribes must have an opportunity to shape the initial direction of a plan, to review drafts before they are finalized, and to confirm that their concerns have been fairly addressed before submission to the Commission. Moreover, engagement is not only about water use but also about land use, ecological health, and the sensitive data collected during planning. Failure to account for tribal perspectives in these areas risks both legal disputes and a loss of trust in the planning process.

Recommendation 2:

Amend Section 19.25.16.13 to require that regional councils confer with WSTAC and affected Nations, Pueblos, and Tribes at three stages: (i) plan initiation, (ii) prior to publication of a draft plan, and (iii) prior to submission of a final plan to the Commission. Amend Section 19.25.16.15(A)(1) to add that plans must include a summary of WSTAC/tribal comments, responses to those comments, and documentation of any unresolved tribal

opposition. This should include comments or concerns related to water resources, land, and any data collection or reporting regarding tribal water use or land base.

3. **Regional Boundaries and the Limitations of the Sub-Region Framework (19.25.16.9)**

The ISC's decision to incorporate a "sub-region" mechanism in Section 19.25.16.9 is a partial response to tribal recommendations for establishing additional planning regions. While we appreciate that the rule now recognizes that sub-regions may be proposed and approved, the current framework does not go far enough to address the core concerns raised by tribal governments regarding the alignment of planning boundaries with tribal water rights settlements and tribal governance capacity.

Under the Proposed Rule, sub-regions:

- Must receive approval from the ISC and demonstrate distinctness based on hydrologic, population, or other criteria;
- Must integrate their planning priorities into the larger regional council's single list of projects, programs, and policies (PPPs); and
- Are not granted the authority to develop, approve, or submit standalone regional water security plans.

This framework fails to recognize that in certain instances, particularly where sub-regions coincide with federally recognized Indian water rights settlements or adjudication boundaries, tribal governments (and non-Indian parties to those settlements) have the legal, technical, and administrative capacity to undertake comprehensive regional planning in their own right. These settlements are not merely hydrologic constructs; they are governing legal instruments ratified by Congress or federal court decrees that set enforceable rules for water allocation, administration, infrastructure, and intergovernmental coordination. To subordinate such regions to a larger planning council where tribal governments may be numerically outvoted is inconsistent with both tribal sovereignty and the intent of the Water Security Planning Act.

Moreover, the requirement that sub-regional PPPs be "integrated" into the regional council's list raises real concerns about dilution or delay in the implementation of tribal priorities.

Recommendation 3:

Adopt the recommendation in the May 14, 2025, WSTAC ad hoc committee letter to establish additional full planning regions, including but not limited to:

- a **Rio San Jose Region**;
- a **Capital Region**; and
- an **Upper Rio Grande Region.**

These regions must be reflected in the official map adopted by ISC and treated as full regional water security planning regions with independent councils, planning authority, and the ability to develop and submit their own plans directly to the Commission.

4. **Recognition and Prioritization of Indian Water Rights Settlement Projects (19.25.16.9(B); 19.25.16.14(C); and 19.25.16.15)**

The proposed rule fails to ensure that PPPs implementing or supporting Indian water rights settlements are formally recognized or prioritized in regional water security plans. This is a significant omission. Many of New Mexico's tribal communities are parties to, or will become party to, federally approved Indian water rights settlements that require decades of coordinated infrastructure development, funding acquisition, and regional collaboration. These settlements are binding legal instruments, ratified by Congress, which carry statutory obligations for both tribal and non-tribal parties, including the State of New Mexico.

Despite the rule's general reference to statewide objectives including "implementation of water rights settlements" (*see* 19.25.16.14(C)(3)), this language is advisory and does not require consideration of settlement-related PPPs in prioritization processes. As currently drafted, the rule allows regional councils to exclude or de-prioritize settlement-related PPPs without any documentation or justification. This undermines the enforceability and implementation of the very settlements the state is bound to uphold and may place the state at legal risk if its planning processes frustrate federally approved settlement timelines or obligations.

This issue is particularly acute in regions where tribal water settlements establish distinct project planning and implementation needs that do not align with broader regional PPP rankings. Ensuring that these PPPs are prioritized, or at a minimum, explicitly considered and documented, is essential to respecting tribal sovereignty, upholding the State's legal commitments, and avoiding conflict between planning frameworks and federal settlement law.

Recommendation 4:

4A. Amend 19.25.16.9(B):

Add to this list of criteria for subregions the following underscored text for consistency with the requirement of NMSA 72-14A-4.B:

> "[(6) whether the proposed subregion will facilitate taking into account in the regional water security program tribal sovereignty, tribal water rights and the needs of tribal communities.]"

NMSA 72-14A-4.B requires the Commission to establish a procedure for taking into account in the regional water security program tribal sovereignty, tribal water rights and the needs of tribal communities. If the above additional criterion is not added, there is a substantial risk that a subregion may be designated or rejected without regard to whether the subregion would facilitate taking into account in the regional water security program tribal sovereignty, tribal water rights and the needs of tribal communities.

4B. Amend 19.25.16.14(C):

In this list of statewide objectives that regional councils shall consider in regional water security plans, clarify 19.25.16.14.C(3) for consistency with NMSA 72-14A-4.C(9)(b) by inserting the bracketed text:

> "(3) [compliance with and] implementation of water rights settlements, including local and federally executed Indian water rights settlements."

NMSA 72-14A-4.C(9)(b) requires the Commission to support regional water planning entities by "providing statewide objectives for regional water security plan development including *compliance with* interstate compacts, the federal Endangered Species Act of 1973 and *congressionally authorized tribal water settlement acts*" (emphasis added).

4C. Amend Section 19.25.16.15(A)

Add this additional item for planning documentation:

> "[(#) implementation of water rights settlements, including local and federally executed Indian water rights settlements, shall be a required planning consideration and documentation shall include all PPPs necessary to support their implementation];"

4D. Amend Section 19.25.16.15(C)

In this subsection requiring regional plans to include prioritized lists of proposed projects, programs and policies, add the bracketed text for consistency with NMSA 72-14A-4.C(9)(b):

> "C. Plans shall include a list of prioritized proposed projects, programs, and policies with each item ranked individually relative to all other PPPs on that sub-list region wide. [The relative rankings of PPPs shall be consistent with statewide objectives for regional water security plan development, including compliance with interstate compacts, the federal Endangered Species Act of 1973 and congressionally authorized tribal water settlement acts. PPPs that support the implementation of federally approved Indian water rights settlements shall be identified as such, and councils shall ensure that these PPPs are incorporated into the prioritized list and assigned a priority readiness stage]."

As noted above, NMSA 72-14A-4.C(9)(b) requires the Commission to support regional water planning entities by "providing statewide objectives for regional water security plan development including *compliance with* interstate compacts, the federal Endangered Species Act of 1973 and *congressionally authorized tribal water settlement acts*" (emphasis added). If the Commission does not require the relative rankings of PPPs in regional water plans to be consistent with the statewide objectives identified in the Water Security Planning Act, then the Commission will have failed to provide the guidance intended by the Act and the planning process will be at serious risk of failing to meet these foundational objectives of the Act.

These amendments will help deter regional water security planning councils from deprioritizing or excluding PPPs that are essential to the implementation of binding settlement agreements.

Conclusion

We commend NMISC for thoughtfully addressing concerns and strengthening the proposed rule since the December 2024 draft, including stronger participation requirements and recognition of WSTAC's role. However, the below listed Nations, Pueblos, and Tribes respectfully requests that the NMISC give further consideration to the recommendations outlined herein. These additions are vital to ensuring that the final rule honors tribal sovereignty, safeguards tribal water rights, lands, and data, and fulfills the mandates of the Water Security Planning Act.

We appreciate the Commission's continued collaboration with WSTAC and its commitment to working together toward a framework that honors tribal sovereignty, protects tribal water rights, and addresses the water needs of tribal communities.

Thank you for your consideration.

Respectfully submitted,

Pueblo of Acoma

Pueblo of Isleta

Pueblo of Jemez

Pueblo of Nambe

Ohkay Owingeh

Pueblo of Pojoaque

Pueblo of San Felipe

Pueblo of Sandia

Pueblo of Santa Ana

Pueblo of Santo Domingo

Pueblo of Tesuque

Pueblo of Zia

Pueblo of Zuni

Navajo Nation

Ute Mountain Ute

WSTAC Ad Hoc Steering Committee

CC: Director, Hannah Riseley-White, Interstate Stream Commission via email: Hannah.Riseley-White@ose.nm.gov

State Engineer Elizabeth Anderson, Office of the State Engineer via email: elizabeth.anderson@ose.nm.gov

Jennifer Salazar, Commission Administrator via email: jennifer.salazar@ose.nm.gov

Org Name	Water Security Tribal Advisory Council (WSTAC)
Author First	Laurie
Author Last	Weahkee
City	Santa Fe
State Abbrev	NM
Email	laurie.weahkee@gmail.com
Comment Filename	TribalSupport WSTAC Recs on WSPA Proposed Rule.pdf

Comment Body

Tribal support letters from WSTAC

PUEBLO OF ACOMA
SKY CITY

OFFICE OF THE GOVERNOR

Charles P. Riley, Governor
Loren Aragon, 1st Lt. Governor
Ted Ortiz, 2nd Lt. Governor
Ardell Concho, Tribal Secretary
Norman F. Torivio, Tribal Interpreter

25 PINSBAARI DRIVE ACOMA, NM 87034 PO BOX 309 ACOMA, NM 87034 PHONE: 505-552-6604 FAX: 505-552-7204

September 26, 2025

Via Email: ISC.Commission@ose.nm.gov

Mark Sanchez, Chairman
NM Interstate Stream Commission
Bataan Memorial Building
407 Galisteo St. Suite 101
Santa Fe, NM 87501

Re: Support for the Water Security Tribal Advisory Council's (WSTAC) Recommendations on the WSPA Proposed Rule

Dear Chairman Sanchez,

We are writing to notify the Interstate Stream Commission that the Pueblo of Acoma has reviewed the Water Security Tribal Advisory Council's (WSTAC) Recommendations on the Water Security Planning Act (WSPA) Proposed Rule and offers our full support for these Recommendations.

We appreciate the opportunity to participate in this process. Please keep us informed of the details surrounding the October 15-17, 2025, hearing on the new Proposed Rule.

Sincerely,

PUEBLO OF ACOMA

Charles Riley. (Sep 25, 2025 15:08:32 MDT)

Charles P. Riley
Governor

September 26, 2025

Via Email: ISC.Commission@ose.nm.gov

Mark Sanchez, Chairman
NM Interstate Stream Commission
Bataan Memorial Building
407 Galisteo St. Suite 101
Santa Fe, NM 87501

Re: Support for the Water Security Tribal Advisory Council's (WSTAC) Recommendations on the WSPA Proposed Rule

Dear Chairman Sanchez,

We are writing to notify the Interstate Stream Commission that the Pueblo of Nambe reviewed the Water Security Tribal Advisory Council's (WSTAC) Recommendations on the Water Security Planning Act (WSPA) Proposed Rule and offers our full support for these Recommendations.

We appreciate the opportunity to participate in this process. Please keep us informed of the details surrounding the October 15-17, 2025, hearing on the new Proposed Rule.

This response is given with full consent of Governor Nathaniel S. Porter, Pueblo of Nambe

Sincerely,

Michael R. Lujan Jr.

Mayordomo, Pueblo of Nambe

PO Box 1099
Ohkay Owingeh, New Mexico 87655
Phone (505) 852-4400
Fax (505) 852-4820

September 25, 2025

Mark Sanchez, Chairman
NM Interstate Stream Commission
Bataan Memorial Building
407 Galisteo St. Suite 101
Santa Fe, NM 87501

Via Email: ISC.Commission@ose.nm.gov

Re: Support for the Water Security Tribal Advisory Council's (WSTAC) Recommendations on the WSPA Proposed Rule

Dear Chairman Sanchez,

We are writing to notify the Interstate Stream Commission that the Ohkay Owingeh has reviewed the Water Security Tribal Advisory Council's (WSTAC) Recommendations on the Water Security Planning Act (WSPA) Proposed Rule and offers full support for recommendations 1, 2, and 4. It is critical that future water planning in New Mexico recognizes and prioritizes Tribal Water Rights and Water Right Settlements. Tribal Water Right Settlements are binding legal documents that place obligations and provide benefits to all water users within the settlement area. These obligations and promised benefits must be considered in regional planning's projects, programs, and policies.

We appreciate the opportunity to participate in this process. Please keep us informed of the details surrounding the October 15-17, 2025, hearing on the new Proposed Rule.

Sincerely,

Benny J. Lujan, Governor

Ohkay Owingeh

PUEBLO OF SAN FELIPE

Office of the Governor

September 26, 2025

Via Email: ISC.Commission@ose.nm.gov

Mark Sanchez, Chairman
NM Interstate Stream Commission
Bataan Memorial Building
407 Galisteo St. Suite 101
Santa Fe, NM 87501

Re: Support for the Water Security Tribal Advisory Council's (WSTAC) Recommendations on the WSPA Proposed Rule

Dear Chairman Sanchez,

The Pueblo of San Felipe has carefully reviewed the Water Security Tribal Advisory Council's (WSTAC) *Recommendations on the Water Security Planning Act Proposed Rule*. We write to express our full support for these recommendations and to emphasize their importance to protecting the sovereignty, water rights, and long-term water security of New Mexico's Pueblos, Tribes, and Nations.

The Pueblo strongly supports WSTAC's call for:

- Requiring tribal consent for decisions that may impact Tribal water rights, resources, lands, or data.
- Ensuring tribal engagement at key planning stages so that consultation is meaningful, documented, and not merely perfunctory.
- Establishing additional full planning regions where tribal water settlements and governance capacity warrant independent regional planning authority.
- Recognizing and prioritizing Tribal water rights settlement projects in all regional water security planning processes, consistent with federal and state law.

(505) 867-3381/3382 • **P.O. Box 4339, San Felipe Pueblo, NM 87001** • FAX: (505) 867-3383

These recommendations are essential to honoring the intent of the Water Security Planning Act (SB 337), safeguarding sovereignty, and ensuring that the State's water security framework is both legally sound and equitable.

We appreciate the opportunity to participate in this important process and respectfully request that the Commission incorporate WSTAC's recommendations into the final rule. Please keep the Pueblo informed of the details surrounding the October 15–17, 2025, hearing on the Proposed Rule.

Thank you for your consideration and for your commitment to working in partnership with New Mexico's Tribal Nations and Pueblos.

Respectfully,

Pueblo of San Felipe

Governor Anthony Ortiz

Felix Chaves
Governor

Angelo K. Paisano
Lt. Governor



(505) 867-3317
Fax (505) 867-9235
www.sandiapueblo.nsn.us

September 26, 2025

Mark Sanchez, Chairman
NM Interstate Stream Commission
Bataan Memorial Building
407 Galisteo Street, Ste. 101
Santa Fe, New Mexico 87501

RE: Support for the Water Security Tribal Advisory Council's Comments on the Proposed Rule for Regional Water Security Planning (19.25.16 NMAC)

Dear Chairman Sanchez,

The Pueblo of Sandia has reviewed the Water Security Tribal Advisory Council's (WSTAC) Comments on the Proposed Rule for Regional Water Security Planning (19.25.16 NMAC) and offers our support for these Comments.

Sincerely,

Felix L. Chaves
Governor

Cc: Laurie Weahkee, ISC Contractor, WSTAC (laurie.weahkee@gmail.com)
Greg Kaufman, Pueblo of Sandia Environment Director (via e-mail)
Steffani A. Cochran, Pueblo of Sandia General Counsel (via e-mail)
File

Y:\2025Letters\GeneralCounsel\25sc062.ml

PUEBLO OF SANTA ANA

OFFICE OF THE LT. GOVERNOR

26 September 2025

Mark Sanchez, Chairman
NM Interstate Stream Commission
Bataan Memorial Building
407 Galisteo St. Suite 101
Santa Fe, NM 87501
ISC.Commission@ose.nm.gov

Re: Support for the Water Security Tribal Advisory Council's (WSTAC) Recommendations on the WSPA Proposed Rule

Dear Chairman Sanchez,

We are writing to notify the Interstate Stream Commission that the Pueblo of Santa Ana has reviewed the Water Security Tribal Advisory Council's (WSTAC) Recommendations on the Water Security Planning Act (WSPA) Proposed Rule and offers our full support for these Recommendations.

We appreciate the opportunity to participate in this process. Please keep us informed of the details surrounding the October 15-17, 2025, hearing on the new Proposed Rule.

Sincerely,

Pueblo of Santa Ana
Kevin C. Montoya, Lt. Governor

02 DOVE ROAD ♦ SANTA ANA ♦ NM 87004

TEL: 505-771-6700 ♦ FAX: 505-771-6745 ♦ EMAIL: GOV@SANTAANA-NSN.GOV

Santo Domingo Pueblo

OFFICE OF THE GOVERNOR P.O. BOX 99, SANTO DOMINGO PUEBLO, NEW MEXICO 87052 TELEPHONE (505) 465-2214 / 2215 FAX (505) 465-2688

September 26, 2025

Mark Sanchez, Chairman
NM Interstate Stream Commission
Bataan Memorial Building
407 Galisteo St. Suite 101
Santa Fe, NM 87501

SENT Via Email to: ISC.Commission@ose.nm.gov

Re: Support for the Water Security Tribal Advisory Council's (WSTAC) Recommendations on the WSPA Proposed Rule

Dear Chairman Sanchez,

As Governor of Santo Domingo Pueblo, I write to notify the Interstate Stream Commission that our Pueblo has reviewed the Water Security Tribal Advisory Council's (WSTAC) Recommendations on the Water Security Planning Act (WSPA) Proposed Rule and offers our full support for these Recommendations, which will be issued on September 27, 2025, the deadline.

It is important that the sovereignty of Santo Domingo Pueblo and other Pueblos, Tribes and Nations be considered in these rules when it comes to water planning by the State of New Mexico.

We appreciate the opportunity to participate in this process. Please keep us informed of the details surrounding the October 15-17, 2025, hearing on the new Proposed Rule.

Sincerely,

Acting Gov. Thomas Moquino

Thomas Moquino Jr., Governor

CC: Laurie Weahkee, WSTAC

Office of the Governor
Pueblo of Tesuque
20 TP828
Santa Fe, New Mexico 87506

September 26, 2025

Via Email: ISC.Commission@ose.nm.gov

Mark Sanchez, Chairman
NM Interstate Stream Commission
Bataan Memorial Building
407 Galisteo St: Suite 101
Santa Fe, NM 87501

Re: Support for the Water Security Tribal Advisory Council's (WSTAC) Recommendations on the WSPA Proposed Rule

Dear Chairman Sanchez,

We are writing to notify the Interstate Stream Commission that the Pueblo of Tesuque has reviewed the Water Security Tribal Advisory Council's (WSTAC) Recommendations on the Water Security Planning Act (WSPA) Proposed Rule and offers our full support for these Recommendations.

We appreciate the opportunity to participate in this process. Please keep us informed of the details surrounding the October 15-17, 2025, hearing on the new Proposed Rule.

Sincerely,

Earl Samuel, Governor
Pueblo of Tesuque

Phone (505) 983-2667 *Fax (505) 982-2331*

Arden Kucate
Governor

Cordelia Hooee
Lt. Governor

Anthony Sanchez Jr.
Head Councilman

Ricky Penketewa Sr.
Councilman

PUEBLO OF ZUNI
P. O. Box 339
Zuni, New Mexico 87327
1203-B NM State Hwy 53
Phone: (505) 782-7021
www.ashiwi.org
505-782-7000 MAIN

Virginia Chavez
Councilwoman

Birdena Sanchez
Councilwoman

Edward Wemytewa
Councilman

Shirley Bellson
Councilwoman

Officially known as the Zuni Tribe of the Zuni Indian Reservation

September 26, 2025

Via Email: ISC.Commission@ose.nm.gov

Mark Sanchez, Chairman
NM Interstate Stream Commission
Bataan Memorial Building
407 Galisteo St. Suite 101
Santa Fe, NM 87501

Re: Support for the Water Security Tribal Advisory Council's (WSTAC) Recommendations on the WSPA Proposed Rule

Dear Chairman Sanchez,

We are writing to notify the Interstate Stream Commission that the Zuni Tribe of the Zuni Indian Reservation (Pueblo of Zuni) has reviewed the Water Security Tribal Advisory Council's (WSTAC) Recommendations on the Water Security Planning Act (WSPA) Proposed Rule and offers our full support for these Recommendations.

We appreciate the opportunity to participate in this process. Please keep us informed of the details surrounding the October 15-17, 2025, hearing on the new Proposed Rule.

Sincerely, for

Cordelia Hooee, Lt. Governor
Pueblo of Zuni

Author First	Stewart
Author Last	Ingham
City	Albuquerque
State Abbrev	NM
Email	stewartingham72@gmail.com
Comment Filename	No attachment

Comment Body

After reviewing the proposed rule (19.25.16 NMAC), I urge the Commission to reject or completely revise it. The rule allows bureaucrats to undermine the legislative intent, does not act to truly decentralize governance, and risks rendering regional councils' efforts moot and easily overturned by state bureaucrats. While the proposed rule attempts to provide operational guidelines to WSPA, it fails by allowing bureaucratic control instead of true decentralization, potentially wasting the time and efforts of dedicated councils and citizens. This completely bastardizes the Act's community focused, inclusive, and science-driven spirit and could perpetuate New Mexico's water insecurity. I strongly recommend stopping the process and allow for revisions based on public feedback. Thank you for considering this comment as part of the official record.

Author First	Mary
Author Last	Ingham
City	Albuquerque
State Abbrev	NM
Email	Marykmoon123@gmail.com
Comment Filename	No attachment

Comment Body

Public Comment on Proposed Rule 19.25.16 NMAC: Regional Water Security Planning
Submitted via the Online Portal at https://www.ose.nm.gov/RulesRegs/rulemaking.php
Date: September 27, 2025
New Mexico Interstate Stream Commission c/o Office of the State Engineer P.O. Box 25102
Santa Fe, NM 87504-5102 Email: isc.planning@ose.nm.gov
Dear Members of the Interstate Stream Commission and State Engineer,
I am writing as a concerned New Mexico citizen deeply concerned that we have the best and most sustainable water management system possible. Our family also pay for water rights on our property.
The Water Security Planning Act (WSPA, SB 337, 2023) is an important document and plan to help address our mounting water challenges through decentralized, community-led planning that empowers regions to develop adaptive, science-based strategies. I have reviewed the proposed rule, and I urge the Commission to reject or substantially simplify and revise it.
Some specific suggestions include:
- The document is written in high-level legal language that is difficult for many New Mexico citizens to understand. It needs to be rewritten at a much lower reading/ comprehension level, to allow non-professionals to voice their opinions, ask questions, and provide possible unique solutions and ideas.
- All plans/studies/regulations need to be regionalized and localized as much as possible.
- Meetings need to be held in the individual regions to increase local participation and knowledge. Online participation may be available, but in-person should be the primary method of local/regional meetings. They need to be well-publicized in a variety of ways.
- Individual county/regional plans need to be done to truly capture the varied needs across New Mexico.
- Decision making must not be delegated to governmental agencies/professionals/politicians, but left in the hands of local citizens and water sytems. Decentralization must be a constant consideration.
- Innovation and "thinking outside the box" needs to be encouraged including desalinization of brackish waters using nuclear power and accessing underground water supplies that are difficult to access.
- Legal access to surface and ground water/ Water rights must be respected and prioritized, especially for Agricultural purposes to feed ourselves and our neighbors.
- Training and Education of local citizens and Water board members and water users must be a high priority in this process.
- Establish clear performance requirements, outcomes, goals in conjunction with the local people/water users.
- The terms "Science-based and Scientific" are nebulous terms that can be twisted to say what people want them to say. Scientific guidance should be peer-reviewed. A careful look at sources and what has been effectively used in similar processes in other similar states need to be researched, considered and agreed upon by local water boards and users.

I look forward to a document that champions integrity, transparency, and inclusivity (grass-roots), as well as

decentralization and regional autonomy.
Thank you for the opportunity to comment on this proposed Rule.
I truly hope this effort will help secure our water future in New Mexico.
Sincerely,
Mary Ingham
2516 Chanate Ave. SW
Albuquerque, NM 87105
505-249-7542

TAYLOR & MCCALEB, P.A.
ATTORNEYS & COUNSELORS AT LAW

JOLENE L. MCCALEB*
ELIZABETH NEWLIN TAYLOR*

TELEPHONE: (505) 888-6600
FACSIMILE: (505) 888-6640

etaylor@taylormccaleb.com
jmccaleb@taylormccaleb.com

* *ALSO ADMITTED IN ARIZONA*

September 28, 2025

New Mexico Interstate Stream Commission
Hearing No. NMISC 25-01(R)

Via public comment portal only at:
https://www.ose.nm.gov/RulesRegs/rulemaking.php

Re: Comments on July 17, 2025, Proposed Regional Water Security Planning Rule, 19.25.16 NMAC

Dear Commissioners:

In accordance with the public notice of the rulemaking to be held in this matter on October 15, 2025, I hereby submit the following comments and proposed amendments to the Regional Water Security Planning Rule, 19.25.16 NMAC, filed on July 17, 2025 (the "Rule").

I am submitting these comments based on my experience as a practitioner in the area of New Mexico water law for more than 30 years. I have represented a number of public and private clients in water law matters, often working to obtain permits from the Office of the State Engineer ("OSE"). I also have appeared before the New Mexico Legislature to discuss proposed changes to the Water Code and related statutes, and I have participated in OSE rulemakings in 2013 and more recently concerning the Water-Use Leasing Act.

I also am an elected Director of the flood control authority in Albuquerque, the Albuquerque Metropolitan Arroyo Flood Control Authority ("AMAFCA") and reviewed the Rule with AMAFCA's duties and obligations in mind.

The following amendments are intended to ensure that (i) the ISC does not exceed its statutory authority in promulgating the Rule and (ii) the regional water security planning council includes all political subdivisions within a planning region.

I would like to present oral testimony at the hearing, and I anticipate that my presentation will take approximately 10 minutes.

P.O. Box 2540 • Corrales, NM 87048-2540

Rationale for Proposed Substantive Amendments

The R ule should be amended in two substantive ways:

1. The "representative members" of the Regional Water Security Planning Councils ("Council") should be expanded to include (i) one representative from each political subdivision in the region, and (ii) one representative from each regional community ditch association. *See* Proposed Amendments to 19.25.16.12 NMAC attached as Exhibit A to this comment.

2. Section 19.25.16.16 NMAC, entitled "State Engineer Consideration of Regional Issues of Public Welfare in Permitting Decisions" should be removed entirely. *See* Exhibit A.

Expand Representative Members. The Council should be expanded to include political subdivisions in addition to the seven enumerated entities in the proposed Rule. Specifically, in the Middle Rio Grande Region, AMAFCA plans, builds and maintains flood control structures. One of the most visible flood control structures is the North Diversion Channel, which runs through the middle of Highway I-40 in Albuquerque. Under the Rule, storm water is a listed subject of the PPPs, or projects, programs, and policies of the Councils. *See* 19.25.16.15.C(4)(d). The Councils need representation from flood control authorities throughout the State, including AMAFCA, to bring their professional experience, expertise and ideas to thoughtfully address storm water issues. As I have learned, the issues surrounding storm water are complicated and important. Besides protecting people and property, storm water management directly affects the quality of surface water through its discharge to rivers in the State. These political subdivisions should have the opportunity to serve on their local Council.

Also, as other comments have pointed out, other political subdivisions also should be included, including community ditches and water and sanitation districts.

Delete Section Concerning Consideration of Regional Plans in State Engineer Decisions. Two significant reasons require the Commission to delete this section – it is beyond the statutory authority granted by the Water Security Planning Act, and it could restrict water rights owners' ability to use their water rights.

The Water Security Planning Act, NMSA 1978, Sections 72-14A-1, *et seq.*, controls the regional water security program and this rulemaking to establish that program. The ISC's Rule cannot not exceed the scope of its authority under that Act. If the Rule exceeds the ISC's authority, the Rule is *ultra vires* and unauthorized. New Mexico courts have struck down rules as unenforceable in cases where the rule was *ultra vires* or not authorized by statute. In *Mechem v. City of Santa Fe*, 1981-NMSC-104, ¶ 20, 95 N.M. 668, the New Mexico Supreme Court held that because a statute did not expressly provide for a type of term in a city's exception to a zoning ordinance, the term was *ultra vires* and unenforceable. The term was unenforceable even though the city and the land owner had negotiated the term years before. *Id.* at ¶¶ 21-25.

Similarly, the New Mexico Court of Appeals overturned an action by Albuquerque Public Schools when it refused to allow a teacher to have a discharge hearing before the school board because APS had acted *ultra vires*. *Alarcon v. Albuquerque Public Schools*, 2018-NMCA-021, ¶ 33, 413 P.3d 507. State statute allows all teachers the right to appear before the school board, and APS's refusal to do so was unauthorized and beyond its power. *Id.*

Here, the ISC has no authority over the State Engineer's permitting decisions under the Water Security Planning Act, Section 72-14A-4 (2023), which establishes the scope of the ISC's authority. The Act does not address the State Engineer's consideration of regional public welfare issues in permitting decisions.

Significantly, the Act states the opposite. It states that nothing in the Act shall be construed "as determining, abridging or *affecting in any way* the water rights of water right owners in the state." Section 72-14A-3 (2023) (emphasis added). Therefore, it is improper to adopt a rule indicating what information the State Engineer "may" consider when making a permitting decision and requiring the State Engineer to explain her reasoning concerning "whether a regional public welfare issue identified by a council is relevant to the determination of whether a particular permit application would be detrimental to the public welfare . . . ." These sections are *ultra vires* and are not authorized by the Act.

If public welfare considerations identified in regional water security plans need to be part of the State Engineer's public welfare analysis, which is doubtful, then such a requirement should be mandated by the Legislature. Section 19.25.16.16 NMAC should therefore be deleted in its entirety.

Deleting the section also makes sense because different planning regions may reach opposite conclusions on public welfare. In New Mexico, the Legislature has not defined the "public welfare of the State," but it is generally considered to include the effects of a proposed OSE permit on the welfare of the State, not just the local or regional impact. By definition, the Councils will develop regional plans that consider a region's public welfare. It is almost guaranteed that one region's definition of public welfare will differ from another region's definition. Under the proposed Rule, the different "definitions" of public welfare across the State will establish different standards for what's an acceptable use of water, and that will unfairly impact water right owners.

It also is possible that a regional plan will seek to restrict use of water for a particular purpose, such as cannabis farming, drilling oil and gas wells, or export to another water basin. These restrictions will conflict with water right owners' ability to use their water rights for purposes allowed under the Water Code. Significantly, the Water Code does not prioritize one use of water over another – that is, drinking water for residents does not have a "higher" value than water used for agriculture or manufacturing. If the owner of a water right wants to use water for a purpose that conflicts with a regional plan's statement of public welfare, he should be able to apply to change the water right to that use without concern that the public welfare expressed in a regional plan will defeat his application.

For example, an application to transfer a water right to another water basin or region could significantly benefit the public welfare of the State if that other region needs the water, but the local regional plan could oppose such a use. Under the Water Code, the transfer of a water right to another region is allowed, and it happens frequently. One significant example is the San Juan-Chama Project, which transfers 96,200 acre feet per year of water from the San Juan River – the Colorado River Basin – to the Rio Grande Basin for use by the conservancy district, Jicarilla Apache Nation, cities and others along the Middle Rio Grande. The State as a whole has benefited from those transbasin transfer permits. Simply put, the public welfare identified in regional plans should not be used against legal transfers that benefit the State as a whole. The Commission should delete the entire Section 19.25.16.16 NMAC.

In addition to the substantive amendments described above, the Commission also should adopt the suggestions by the San Juan Water Commission to improve the map describing the Water Security Planning Regional Boundaries and add a severability clause.

Thank you for the opportunity to provide comments on this important Rule. I look forward to addressing the Commission at the hearing. Please feel free to contact me about scheduling my presentation of oral testimony at the hearing.

Very truly yours,

Elizabeth N. Taylor

Elizabeth Newlin Taylor

ENT/

cc: San Juan Water Commission
Albuquerque Metropolitan Arroyo Flood Control Authority

EXHIBIT A

Proposed Amendments

Proposed amendments to the Rule are set forth below in redline and ~~strikeout~~ format.

19.25.16.12 COMPOSITION OF REGIONAL WATER SECURITY PLANNING COUNCILS:

A. Councils shall comprise three categories of members: representative members, at-large members and non-voting members. Representative members and at-large members shall be voting members of a council. If a qualified or willing representative member, as described in Paragraph (1) of Subsection A of 19.25.16.12 NMAC or at-large member, as described in Paragraph (2) of Subsection A of 19.25.16.12 NMAC cannot be identified by the council, the council may propose or NMISC staff may select a replacement non-voting member who is knowledgeable about water resources in the region.

(1) Representative members. Each governmental entity listed below, if present within the region, is entitled to have a representative serve on the council for any planning region within which it is located. A single representative may represent multiple governmental entities. In the event that a governmental entity is located in multiple regional water security planning regions, the governing body may appoint the same or different representatives to each council. Each representative member shall be appointed by resolution of each governmental entity's governing body. Representative members will consist of the following:

(a) one representative member identified by the governing body of each municipality;

(b) one representative member identified by the governing body of each county;

(c) one representative member identified by the governing body of each irrigation or conservancy district;

(d) one representative member identified by the governing bodies of each Nation, Pueblo, and Tribe;

(e) one representative member identified by the governing bodies of each soil and water conservation district;

(f) one representative member of each regional acequia association in the planning region or if no regional acequia association exists in a planning region, one representative from that region appointed by the New Mexico Acequia Commission; ~~and~~

(g) one representative member of each regional community ditch association or rural water users association in the planning region or if no regional community ditch association or rural water users association exists, one representative from that region appointed by the New Mexico Rural Water Users Association;

(~~g~~h) one representative member from an active land grant appointed by the Land Grant Council in a planning region; and

(~~h~~i) one representative from each additional political subdivision located in whole or in part within the planning region not falling within the previous membership categories.

~~**19.25.16.16 STATE ENGINEER CONSIDERATION OF REGIONAL ISSUES OF PUBLIC WELFARE IN PERMITTING DECISIONS:**~~

~~A. The state engineer, in its decisions on permit applications under Sections 72-5-6; 72-5-7; 72-5-23; 72-5-24; 72-5A-6; 72-6-5; 72-12-3; 72-12-7; and 72-12B-1 NMSA 1978, may consider issues of public welfare of a water planning region identified by a council if the state engineer determines that such regional issues are related to or may impact the public welfare of the state.~~

~~B. A council's determination shall not be binding on the state engineer's determination of whether a particular permit application would be detrimental to the public welfare of the state.~~

~~C. The state engineer, in determining whether a regional public welfare issue identified by a council is relevant to the determination of whether a particular permit application would be detrimental to the public welfare of the state, shall explain the reasoning in writing.~~

San Francisco Soil and Water Conservation District
P.O. Box 119 – Glenwood, New Mexico 88039
575-539-2593

September 28, 2025

NM Interstate Stream Commission
P.O. Box 25102
Santa Fe, NM 87504-5102

RE: Proposed Regional Water Security Planning Regulations

Dear Commissioners,

Thank you for the opportunity to comment on the proposed Regional Water Security Planning Regulations. The San Francisco Soil and Water Conservation District's borders are defined by the San Francisco River Basin.

We are commenting on specific sections of the proposed regulations. The Subsection will be displayed followed by our comment.

19.25.16.9 REGIONAL WATER SECURITY PLANNING REGIONS:

A. *The nine regional water security planning regions are shown in exhibit A, water security planning regions (map).*

B. *Subject to commission approval, regional water security planning regions may be subdivided into sub-regions within a planning region or across multiple planning regions. In determining whether to approve a proposed sub-region, the commission shall use the following criteria:*

Comment

In our initial comments we pointed out that John Wesley Powell stated that the political subdivisions of the West need to be defined by watershed basins. Many of our current water problems can be directly traced back to the failure of heeding Mr. Powell's wisdom.

The San Francisco watershed and basin is hydrologically separated from all other basins in the Southwest Council area. The basin is fully adjudicated. The use of water in the basin is unique in the Southwest region. The San Francisco basin and other distinct basins should be granted automatic sub region status.

The failure to grant sub-region status for these basins could result in those areas being totally subsumed into a regional council's plan essentially leaving them without a voice in the long term water planning and project priorities.

19.25.16.14 CONSIDERATIONS FOR COUNCILS DURING PLANNING PROCESSES:

A. Councils shall consider, with resources provided by NMISC staff, the following information for inclusion in regional water security plans:

Comment:

The regulations ostensibly set up councils that craft regional water plans for the benefit of the citizens of the region. Yet according to 19.25.16.14 the resources used to develop those plans will come from NMISC staff for the nine items of information under Subsection A.

This means ISC staff will be writing the regional water plans based on information prescribed by the ISC, i.e. this means Councils can't search for and determine the best available science for considering climate resiliency and increasing aridification or if it is something needed for creation of a regional plan.

19.25.16.14 Subsection A (2) states, "compliance with state water law, including recognition of established water rights. This conforms with § 72-14A-3 NMSA.[1] The water rights in the San Francisco River sub region are adjudicated and owned. Water planning should only have two purposes – protect owners water rights and priority dates and provide for proper functioning watersheds.

Contrary to these two purposes is 19.25.16.14 Subsection A (7). The determination of public welfare is rife with problems. The following are what Charles T. DuMars Michele Minnis identified as problems with determination of public welfare:[2]

1. First, the issues are not clear-cut and capable of technical resolution.
2. Second, expert testimony, if appropriate at all, would be largely subjective and value-loaded, and the decision making process would likely lead to a war of experts testifying on widely varied major premises.
3. Third, resolution without error would be difficult because the traditional legal efficiency guidelines of relevancy and materiality would be useless because virtually everything is relevant in a public welfare inquiry.
4. Fourth, the inquiry would be so broad that the party with the most financial resources and staying power would prevail, solely because he could amass more subjective testimony.
5. Fifth, the typical decision maker in such a forum at the initial stage of the proceeding is the state engineer, and his staff, likewise, is comprised of engineers or other technically trained persons. These persons are unlikely to be prepared by professional training or by temperament to handle sweeping non-technical issues.
6. Sixth, assuming the issues were brought to the appellate courts for judicial clarification, there would be little chance of consistency in outcomes because any legal holding would contain little more than a general legal rule, as broad as public welfare itself, and each case would turn on its facts.
7. Seventh, inasmuch as clear legal rules would not be forthcoming from the courts and the decision maker would not necessarily be trained to address these policy questions, the possibility of arbitrary and inconsistent results would be extremely high. Without some predictability of result, few people would be inclined to invest money in transferring a water right

We recognize the need for proper project planning and design that includes analysis of social, cultural, economic and environment impacts. This method allows for objective scientific data collection and analysis

A public welfare determination for project level decisions by a regional council often involve targeting someone else's water rights. Urban areas have long coveted agricultural water. Past regional planning efforts and projects have demonstrated the economic and political power of urban centers influence in planning directions.

Suggested Actions:

1. Include this statement in the considerations to be used by planning councils: "The public's welfare is best served by protection of the prior appropriation doctrine and the property rights in water."

---

[1] New Mexico Statutes Chapter 72. Water Law § 72-14A-3. Condemnation of water rights
Nothing in the Water Security Planning Act shall be construed as permitting the condemnation of water rights or as determining, abridging or affecting in any way the water rights of water right owners in the state.

[2] DuMars, Charles T. and Michele Minnis, New Mexico Water Law: Determining Public Welfare Values in Water Rights Allocation, 31 Ariz. L. Rev. 817 (1989)

2. Remove all other references to public welfare unless pertaining specifically proposed projects.
3. Allow for greater autonomy of councils to procure their own information to better reflect the conditions and resources within their regions.
4. Include "creation of incentives" for water conservation in consideration.

19.25.16.15 CRITERIA FOR APPROVAL OF REGIONAL WATER SECURITY PLANS:

C. Plans shall include a list of prioritized proposed projects, programs, and policies with each item ranked individually relative to all other PPPs on that sub-list region wide.

(4)

Comment:

The District concurs with the listing of the PPP types and find that these will be useful for inclusion in our sub region District Resource Management Plan currently in development.

Suggested Actions:

Under subsection (7) PPPs developed for a sub region should be given greater weight than being integrated into the single prioritized list of PPPs. Integration defeats the planning for a sub region.

The District looks forward to working with our fellow political subdivisions on the regional council and the ISC in the development of a water security plan for our region and state.

Howard Hutchinson

Howard Hutchinson, Chair

NMISC Exhibits 02049