

**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.

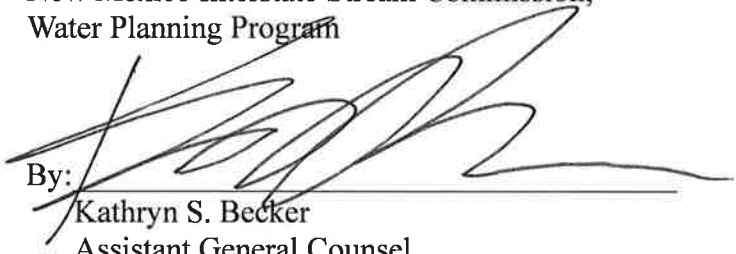
**NOTICE OF FILING OF WRITTEN DIRECT TESTIMONY
OF SARA FOX**

The Water Planning Program (“Program”) of the New Mexico Interstate Commission hereby submits the attached Written Direct Testimony of Sara Fox.

DATED this 1st day of October, 2025.

Respectfully submitted,

New Mexico Interstate Stream Commission,
Water Planning Program

By: 

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WRITTEN DIRECT TESTIMONY OF SARA FOX

I. INTRODUCTION and QUALIFICATIONS

My name is Sara Fox, and I am presenting this written direct testimony on behalf of the New Mexico Interstate Stream Commission (NMISC or Commission) in support of the Water Planning Program’s proposed Water Security Planning Rule (Proposed Rule) as submitted by NMISC’s petition filed July 17, 2025. The NMISC’s Water Planning Program, hereafter referred to as NMISC Staff, is proposing this rule to implement the 2023 Water Security Planning Act (WSPA or Act). My written direct testimony will provide support for the Proposed Rule on the following topics:

II. PUBLIC INPUT IN IMPLEMENTATION OF THE 2023 ACT

- A. In-Person and Online Engagement Opportunities
- B. Input Window Opportunities
- C. Communications Campaign Support
- D. Transparency and Accountability
- E. Discussion Draft Rule and Guideline Development and Input
- F. Outreach Associated with the Proposed Rule Public Comment Period

III. DISCUSSION OF EACH SUBSECTION OF THE PROPOSED RULE

- A. Regional Water Security Planning Regions
- B. Sub-Regions
- C. Initial and Ongoing Planning Periods
- D. Initial Planning Period (IPP)
- E. Ongoing Planning Period (OPP)
- F. Composition of Regional Water Security Planning Councils
- G. Regional Water Security Planning Council Meeting and Input Requirements
- H. Considerations for Councils During Planning Process
- I. Criteria for Approval of a Regional Water Security Plan

IV. SUGGESTED CHANGES TO THE PROPOSED RULE BASED ON COMMENTS RECEIVED

V. CONCLUSION

However, I have worked on the preparations for the Water Security Planning Rule from the beginning and may address questions regarding water planning in New Mexico looking back and

looking forward based upon questioning at the Rulemaking hearing. I am currently employed as the Senior Water Planner within the NMISC's Water Planning Program and have been in this position since March of 2022. My job duties include serving as the project manager overseeing implementation of WSPA, which involved coordination among the Planning team, agency leadership and various stakeholders, and managing contracts to ensure successful implementation of the public outreach efforts completed in 2024. In addition to coordinating implementation of the WSPA, I was an integral part of all aspects of the implementation of WSPA so far including the development of the Discussion Draft Rule and Guidelines, and a significant contributor to the Proposed Rule.

I am a Water Resources Engineer with over seven years of professional experience: four years in the field of water resources engineering and three years as a water resources planner. I hold a Master of Science in Civil Engineering and a Bachelor of Science in Environmental Engineering from the University of Colorado, Boulder. My academic background includes a focus on the nexus of climate and water, and my graduate thesis examined drought vulnerability, and the preparedness of state drought plans in the context of climate change.

In my career, I have worked on water rights evaluations across Colorado, including historical consumptive use analysis, interpretation of decree language, and support for change-of-use cases in Colorado Water Divisions 3 and 6. I've conducted field investigations, coordinated with Colorado Water Commissioners and landowners, and developed engineering reports in support of water court cases and water rights appraisals. I've also provided technical support for expert witness testimony in federal court in matters involving historic flooding and post-fire hydrology risk. My work has included literature reviews, Geographic Information Systems (GIS) and Light Detection and Ranging or LiDAR analysis, data visualization, and field documentation. Please see my Resume (Exhibit 19) for a detailed list of my work experience.

II. PUBLIC INPUT IN IMPLEMENTATION OF THE 2023 WATER SECURITY PLANNING ACT

The first implementation step specified in the Act requires NMISC to promulgate a rule and adopt guidelines. Upon passage of the Act in spring of 2023, NMISC Staff in coordination with NMISC/NMOSE leadership, began development of an implementation strategy to promote broad participation from New Mexicans, utilize the best available water science, and optimize unprecedented access to federal funding. By July 2023, NMISC Staff had identified contractors and developed an outreach strategy that is the foundation of the Proposed Rule. As called for in the Act, New Mexicans provided robust input, and we based the rule and guidelines on that input.

Starting in July 2023 and utilizing a mix of federal Bipartisan Infrastructure Law (BIL) funding and state funding, NMISC's two-person Water Planning team began contracting to support WSPA implementation. The contracts included:

- a communications firm to develop a campaign to engage more New Mexicans in water planning,
- a planning firm to develop input strategies that would educate and engage while collecting valuable input about values and goals for Regional Water Planning,
- a facilitator to coordinate with New Mexico's Tribes, Pueblos and Nations to take into account tribal sovereignty, tribal water rights and water needs of tribal communities, as required by WSPA and as necessary for effective water planning,

With contractor assistance, the planning team worked to develop an engagement process that included in-person events and online opportunities, to initiate a campaign to educate and engage New Mexicans in water planning, and to build tools that educate and support participants in future regional water planning.

A. *Designing in-Person and Online Engagement Opportunities*

To support respectful, effective, and fair engagement, NMISC contracted with planning experts (Brendle Group) to help develop an input process that would provide access equally for online and in-person users, support meaningful interactions for participants whose concerns and expertise vary significantly and collect data in a manner that would effectively inform the WSPA Rule and guidelines.

Working as a collaborative team, NMISC Staff and contractors developed the Main Stream campaign, which was a six-phase approach beginning with an outreach and input phase, followed by a drafting phase for a pre-publication discussion draft to serve as a first cut at the Rule (Discussion Draft) accompanied by draft guidelines, another outreach and public review phase, a re-drafting based on the input collected on the Discussion Draft (Exhibit 15) and finally Rule promulgation to be followed by guideline finalization and adoption. Communication between New Mexico's Tribes, Pueblos and Nations and NMISC has been consistent and continuous throughout this timeframe.

Developing ways for New Mexicans to meaningfully participate in regional water planning is the foundational goal of the Main Stream campaign, the 16 in-person Open House Events, and the Online Open House. Staff designed input opportunities, with contractor support, to be replicable online and in person, and to accommodate participation from people with various levels of subject matter expertise, interest, and time. The Open House format was responsive to the WSPAs requirements for broad public outreach and input opportunities for future Regional Water Security Planning.

Based on feedback and the professional experience of NMISC Staff and contractors, we developed an in-person event format to accommodate people, showing up when they were available and staying for as long or short a time as they wanted. The in-person events were named Open House Events, and the format included several staffed tables with materials that participants could work through at their own pace, and we scheduled Open House Events from 3-7 pm to span both work hours and after hours.

The Open House Events were arranged as a series of table stations that included informational display boards for participants to read, with questions for consideration. Tables in front of the display boards featured worksheets and comment cards for participants to complete in response to the question prompts. All the materials – educational and input-collecting – were available in Spanish and English, and Spanish speaking staff were present at all in-person events. The Online Open House mirrored this experience with identical materials and questions presented in the same order.

The educational materials and accompanying questions for the Open House Events were developed through an iterative collaboration with Brendle Group and NMISC Staff. NMISC staff and Brendle designed the Open House format to gather input on respondent concerns, values, and priorities related to the Rule and guidelines in a manner that provided for qualitative data analysis. Development of these materials included peer review by internal agency working groups and an

external working group comprised of volunteers who participated in the Water Policy and Infrastructure Task Force. NMISC Staff held multiple meetings and presentations with both the internal agency working groups and the external working group. NMISC Staff considered the comments and incorporated improvements into the final Open House Event materials, including the Online Open House event.

In addition to mirroring all the questions presented at the in-person Open Houses, the Online Open House featured a few additional questions that were deemed too background-heavy to be effectively communicated at the Open House Events. Participants at the Open House Events were made aware that they had the opportunity to respond online to additional questions. Topics covered in the expanded Online Open House included questions regarding potential grants and loans, how state agencies could collaborate, preferred prioritization schemes, and recurrence intervals of planning cycles. A few additional questions were developed by the New Mexico Office of the State Engineer (NMOSE) for the Online Open House to gain input regarding public welfare, which required more knowledge of New Mexico water law than the materials prepared for the in-person Open Houses provided.

The final question of the Online Open House asked for additional highlights, thoughts, questions, suggestions, criticisms or other items that we may have missed. This final question allowed participants to upload a file or to leave written comments and was used by multiple entities. In-person Open House participants had a parallel opportunity to leave comments in a comment box after moving through the stations.

In total, we developed 31 questions for the Open House Events and the Online Open House. Brendle generated three different reports, discussed in detail later in my testimony, from the comments received and these reports are available on the MainStreamNM.org website. The Engagement Report (Exhibit 20) includes the materials used online and in the Open House Events and captures responses. The Observations and Considerations Report (Exhibit 21) draw conclusions based on the input collected online and in person. The Summary Report (Exhibit 22) is a condensed version of the material presented in the Engagement Report and the Observations and Considerations Report.

B. *Input Window Opportunities*

To provide for continuity with earlier iterations of Regional Water Planning, NMISC Staff decided to hold the 2024 Open House Events in each of the 16 regions from previous planning rounds. The 16 Open House Events took place from April 22 to August 7 as detailed in the Engagement Report (Exhibit 20). The Online Open House launched on June 3, 2024, and closed on August 18, 2024. During this input window, NMISC Staff hosted virtual community conversations intended to provide opportunities for discussion like those available at in-person events. These community conversations occurred six times over the last six weeks of the online survey window and were scheduled both during lunch and after work hours to accommodate a variety of schedules. Additionally, NMISC Staff took every opportunity to present the ongoing input opportunity, resulting in at least 25 presentations and two radio interviews over the course of the input period.

C. *Communications Campaign Support*

NMISC Staff worked with an Albuquerque firm (Media Desk) to develop a communications campaign to support the rollout of the implementation of WSPA and eventual startup of the Regional Water Security Planning process, and the collaboration proved even more effective than we anticipated. NMISC's campaign, Main Stream New Mexico, was launched in December of 2023 and focused entirely on hosting a widely used, educationally relevant, and transparent input process to inform the development of the Rule and guidelines. The website associated with the campaign, MainStreamNM.org, has hosted notice and schedule information about input opportunities, online surveys at several steps in the input process, and continues to host numerous reports and a data dashboard detailing the input received during each step of this rule development process.

In addition to information and content directly related to Rule and guideline development, the MainStreamNM.org site also hosts technical water reports and plans, a blog series developed for the campaign to educate New Mexicans about water users around the state, educational videos developed to improve baseline understanding of water issues in New Mexico, and a newsletter with nearly 3,000 subscribers. Though initially developed to support Rule and guideline development, the intent of the Main Stream campaign is to serve as a resource for Regional Water Security Planning education now and as the process continues to develop through implementation.

In addition to the MainStreamNM.org website, MediaDesk also assisted in developing and placing advertisements – newspaper, radio, and flyers – which ran regionally in advance of each Open House Event to promote in-person open house attendance and to make people aware of online input opportunities. The NMISC invested nearly \$170,000 in advertising to support the Open House Events. NMISC Staff also attempted to reach as many public and elected officials and other stakeholders ahead of each meeting as possible by telephone or email. The advertising associated with the Open House Events is documented in Appendix II of the Engagement Report (Exhibit 20).

The Main Stream New Mexico campaign is the official source of information about Regional Water Security Planning. The Main Stream newsletter announced input opportunities in spring/summer 2024 and throughout 2025. The newsletter provides updates for subscribers of newly released reports and upcoming water planning events, and provides reminders ahead, during, and before the closing of public input opportunities.

D. *Transparency and Accountability*

To be accountable to participants who shared their time and opinion, and to document the breadth of responses received, NMISC Staff focused on transparency about what was heard and how that input was used to develop the Discussion Draft Rule and guidelines. After the input opportunity closed in mid-August, the Brendle Group compiled and presented all the input in a series of three reports. The reports, published on MainStreamNM.org, are:

- Engagement Report: this report (Exhibit 20) documents the outreach effort undertaken by the NMISC during the Open House input opportunity and publishes and what we heard in that effort. This report, and its accompanying data dashboard, catalogue and report the

complete and unedited input. This report was published on MainStreamNM.org in November 2024.

- Observations & Considerations Report: this report (Exhibit 21) provides a summary of insights and observations gained while conducting and reporting on the Open House Events and online survey. This report was published on the Main Stream New Mexico site in January 2025 along with the publication of the Discussion Draft Rule and Guidelines and the Summary Report. The contents of this report informed the Discussion Draft.
- Summary Report: this report (Exhibit 22) concisely summarizes the process and key considerations for the development of the Discussion Draft Rule and Guidelines as called for by WSPA. This report is a high-level summary focused on communicating our findings to the public and legislators and it is the shortest of the three documents. The Summary Report was published on the Main Stream New Mexico site in January 2025 along with the publication of the Discussion Draft Rule and Guidelines (Exhibit 15) and the Observations & Considerations Report.

These reports, the scientific underpinnings of the Leap Ahead Assessment (Exhibit 7), and lessons learned from other water planning efforts in New Mexico and elsewhere were foundational to the development of NMISC Staff's Discussion Draft Rule and guidelines.

E. *Discussion Draft Rule & Guideline Development and Input*

The NMISC Staff developed a Discussion Draft Rule and guidelines in the fall of 2024 based on input collected from the Open House Events and Online Open House. Many participants in the Open House Events provided feedback that they wanted to have rule language drafted that they could respond to in addition to answering questions that would inform the soon-to-be-written rule. The Discussion Draft Rule and guidelines provided an opportunity for New Mexicans to see their input reflected in an early draft Rule and guidelines, and to provide even more input about how they could be further improved. NMISC structured the Discussion Draft to mirror how the requirements of WSPA were presented in the Act, although we revised this structure for the Proposed Rule.

Before opening a public comment period for the Discussion Draft, NMISC circulated advance copies of the Discussion Draft Rule and Guidelines to leadership at state agencies and to leadership for Tribes, and Pueblos, and Nations. This provided an opportunity for these state agencies and tribal governments to provide comments, to respond officially to the proposed Discussion Draft language if desired, and to be prepared to discuss with staff and constituents. Input received during this period added clarity and corrected errors in the Discussion Draft Rule and guidelines.

At the January 21, 2025, meeting of the Commission, the Water Planning Program presented the Discussion Draft Rule and guidelines, the Observations & Considerations Report and the Summary Report. At the conclusion of the meeting, NMISC Staff opened the Discussion Draft input opportunity.

Working with Brendle Group, NMISC Staff developed a questionnaire designed to capture suggested edits, organizational suggestions, and additions to each section of the Discussion Draft Rule and guidelines. The questionnaire allowed participants to choose one of three options – support with no edits, support with edits, or do not support – for each subsection of the Discussion Draft Rule and Guidelines. If a participant selected “support with edits” or “do not support”, a comment box opened which prompted the participant to explain their selection and to be as specific as possible. At the conclusion of the questionnaire, participants also had the opportunity to provide additional

comments or to upload documents for consideration. Users of the questionnaire employed the upload feature to submit composed letters, like a position statement from an organization, and supporting documents referred to in submitted comments, such as documentation from decision making processes used in planning processes.

The Discussion Draft Rule and guidelines were initially open for comment from January 21 through February 21, 2025. During this time, NMISC Staff received 76 responses to the questionnaire and an additional 20 letters submitted through the questionnaire and via email. After an initial review and in response to expressed desire for more time, NMISC Staff re-opened the comment period from March 13 through April 30, 2025, to have greater engagement with commenters and allow additional time for comments. During this time, NMISC received an additional 27 comments to the survey and an additional 12 letters, both through the questionnaire, and through direct email to either Director Riseley-White or to the NMISC Water Planning Program.

The Compilation Report (Exhibit 23) contains all comments received in either the questionnaire or via email. This report was published after the initial comment period and then updated after the April comment period. Like the Engagement Report, which captures input from the Open House Events, the Compilation Report summarizes the input collected on the discussion draft and is an example of the NMISC Staff's commitment to documenting and considering what New Mexicans want out of their Regional Water Security Planning program. Feedback and detailed suggestions provided during the Discussion Draft period led the NMISC Staff to re-shape, re-organize, and expand edits to the Proposed Rule (Exhibit 16) by incorporating input from the Discussion Draft and insights from the Open House period. The Proposed Rule is significantly revised and improved because of the Discussion Draft input process.

F. Outreach Associated with the Proposed Rule Public Comment Period

In the spirit of the Act and much like all previous public comment opportunities, NMISC Staff ensured that the Proposed Rule public comment period was available and accessible to as many New Mexicans as possible. This was done in a variety of methods, which are described below. On July 17, 2025, immediately after the Commission voted to initiate the rule promulgation process, NMISC Staff opened the public comment portal on the NMOSE website. This public comment portal launched with the docket of materials, including the Notice (Exhibit 24) and the Proposed Rule, and included the ability to submit public comments and read comments submitted by others. The following day, NMISC Staff sent copies of the Proposed Rule to the NMOSE District Managers so that it was available at all NMOSE/NMISC Offices. Additionally, the Proposed Rule was posted on the New Mexico Sunshine Portal on August 8, 2025.

NMISC Staff continued to use the Main Stream Campaign to promote the Proposed Rule comment period. NMISC Staff sent three newsletters during the July 17– September 27, 2025, period, which helped announce, drive engagement, and remind New Mexicans of the ongoing comment period. Anyone who participated in any aspect of the WSPA implementation process was added to the Main Stream newsletter for ongoing communication.

NMISC used targeted advertising from July through September 2025 focused on making New Mexicans aware that NMISC was still accepting public comment on the Proposed Rule. NMISC invested over \$70,000 in advertising to invite comments on the Proposed Rule. A Summary of the advertising associated with the Proposed Rule public comment period is documented in Exhibit 25.

Finally, NMISC Staff provided a letter to the Small Business Regulatory Advisory Commission (Exhibit 26) in accordance with the Small Business Regulatory Relief Act, and NMISC Staff provided the Proposed Rule to the relevant legislative committees in accordance with the State Rules Act. NMISC Staff did not receive any requests for physical copies. It is my understanding that all the legal requirements for publishing, sharing, and communicating the Proposed Rule were done properly, timely, and abundantly.

III. DISCUSSION OF EACH SUBSECTION OF THE PROPOSED RULE

WSPA calls for five specific items to be addressed in the promulgation of rules, at a minimum:

1. the boundaries and number of water planning regions in the state;
2. the criteria for commission approval of a regional water security plan with prioritized projects, programs and policies;
3. 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;
4. the composition of a regional water planning entity; and
5. the procedure for a regional water planning entity to consider public welfare values and the needs of future generations of New Mexicans.

This section of the testimony will discuss in detail the Proposed Rule. This section will cover how the required elements one, two and four are addressed within the Proposed Rule. Additionally, the section of the testimony will discuss the overall structure of the Proposed Rule and why we reorganized it since the Discussion Draft. Items three and five both deal with public welfare as it relates to the Office of the State Engineer (OSE) and their administration of water rights. These two elements were drafted by OSE and are the reason for Nat Chakeres' direct testimony. This testimony follows the structure of the Proposed Rule with a discussion of each subsection.

A. *Regional Water Security Planning Regions*

WSPA replaced the previous Regional Water Planning statute from 1987 and requires that the Rule establish Regional Water Security Planning boundaries. Many of the Open House questions focused on identifying the principles that New Mexicans think should inform the determination of regional boundaries. For example, a regional map that is optimized around how water flows, i.e. watershed boundaries, would lend itself to easier development of water budgets and allow for everyone who has a shared water source – at least a shared surface water source – to plan together. A regional map optimized for expedited funding of projects, programs, or policies might follow existing boundaries of governing subdivisions such as the Council of Governments boundaries, which coincide with aggregate county boundaries. Alternatively, a regional map could optimize to cluster similar opportunities and threats, such as a regional boundary around a mountain range to reflect the reality that everyone adjacent to the mountain has similarly vested interest in fire safety and spring runoff.

During the Open House Events, participants were asked a series of questions that surveyed which organizational principle resonated most with the participant. Overwhelmingly, 74% of participants preferred regional boundaries to follow hydrologic boundaries. Participants seemed to resonate most with boundaries that followed their water sources (i.e. areas of the state with primarily

ground water sources wanted the boundaries to follow those groundwater basins and areas of the state with primarily surface water sources wanted the boundaries to follow those surface water basins). One benefit of hydrologic boundaries is that identifiable physical boundaries often correlate to significant geographic features such as mountains. The areas within hydrologic boundaries are often referred to as watersheds or basins, as precipitation that falls within the boundary will run off and eventually converge in a stream or river. In response to this feedback, NMISC Staff developed a proposed Regional Water Security Planning Council map to accompany the Discussion Draft with nine regions that largely follow hydrologic boundaries, as seen in New Mexico's Proposed Hydro-Administrative Boundaries Map within Exhibit 16.

NMISC Staff also considered how county boundaries compare to hydrologic ones. In some areas of the state these two boundaries are very similar. Where hydrologic boundaries are close to county boundaries, the county administrative boundaries were then used to simplify participation in regional water planning. In developing the proposed nine regional boundaries, NMISC Staff considered chiefly the hydrologic boundaries and the population of the future regions. New Mexico is large and geographically diverse, but as one of the most rural states, population density in some areas is very low.

The proposed Regional Water Security Planning regions aim to delineate areas that rely on similar water sources (i.e., primarily groundwater vs. surface water or a mix of groundwater and surface water) and sufficient population to ensure that the process will be meaningful and not too burdensome. Technical capacity in small communities is at a premium and successful Regional Water Security Planning should augment rather than deplete the work of local water managers. To ensure that future Regional Councils have sufficient participation to foster cooperative and voluntary planning efforts and allow for prioritized lists of projects, programs and policies (PPPs) to be meaningful, the regions need sufficient population.

A regional approach to water planning offers opportunities for regional collaboration on shared goals that could include forest management, groundwater management, and stormwater optimization. Regions that are too big might not be as good at considering important local issues, such as domestic wells, scalable regionalization, or water operator training. If regions are too small and numerous, funding opportunities and technical assistance would be spread more thinly.

The Discussion Draft comment period resulted in one adjustment to the proposed regional water planning boundaries: the southern half of Lea County was incorporated into the High Plains Council, removing it from the Pecos Council and aligning that portion of the regional boundaries based on administrative rather than hydrological considerations. There were three other suggested changes to the Discussion Draft map that did not result in changes to the proposed boundaries, though they did result in changes to the language around sub-regions. More detail on the subdivision portion of the Proposed Rule is included later in this testimony.

One proposal involved separating the Estancia Basin from the southern portion of the Central Council. This was proposed by the Estancia Planning Basin Committee, who have continuously met since the original Regional Water Planning process in the late 1980s. After much discussion, NMISC determined that the Estancia Basin, while well established, has the same sort of hydrological issues – a closed, groundwater dominated system – as the rest of the Central Council, and that the remainder of the central basin would struggle to organize without the leadership of the Estancia community. This was a difficult decision for the Water Planning Staff, as the Estancia Basin Committee has been doing exceptional independent water planning work for many years.

The Pueblo of Acoma, the Pueblo of Laguna, and the Water Security Tribal Advisory Council (WSTAC) submitted a recommendation for carving out the Rio San Jose area from the Northwest Council, thereby creating a tenth Council. This change would align Regional Planning boundaries with Indian Water Rights Settlement (IWRS) boundaries and would avoid a situation where the relatively small population within the settlement area, including the Pueblo of Acoma and the Pueblo of Laguna, compete for project funding with larger entities such as Albuquerque in the west, or the Navajo Nation in the north. This particular regional boundary is adjacent to most of the state's most significant water management challenges: Albuquerque, the Middle Rio Grande Conservancy District, the Navajo Nation, and the lands affected and funded by the Arizona Water Settlement Act (AWSA). Resolving this boundary recommendation by making the region smaller and aligning with the IWRS boundary would create a region that is much smaller in geography and population than any other region in the state and IWRS boundaries are one of potentially many political boundaries to be recognized and factored into the regional approach of priorities and funding sources.

NMISC Staff did not change the planning boundaries specifically around the Rio San Jose or more broadly around the state as recommended in the WSTAC letter for several reasons. First, the creation of a very small region would introduce significant inequality between regions into the planning process. Second, the creation of a region based around IWRS would set an unsustainable precedent, as future settlements would not have the opportunity to be reflected in regional water planning boundaries, and third, isolating the region from the AWSA region to the south could adversely impact the funding opportunities available to the Pueblo of Acoma via the AWSA. In terms of a specific proposal to use HUC 8 boundaries to better reflect Acoma Pueblo lands, our decision to keep the proposed boundaries was based on the combined importance of utilizing Hydrologic Unit Code (HUC) 6 hydrology to have a workable number of regions – there are over 60 HUC 8 boundaries in New Mexico – and considerations about the AWSA.

Determining the basis for regional planning boundaries was the primary focus of the Open House Events held across the state during the summer of 2024. More than 1,200 New Mexicans, at in person Open House Events and on MainStreamNM.org, provided their perspective on questions about how best to delineate regional water planning boundaries and most responses sought hydrology as the cornerstone basis. The proposed regions reflect this approach, although there are areas – such as the Southwest Region of the state – where hydrological boundaries are very nearly the same as administrative (county) ones and so administrative boundaries were used. Other than slight deviations to avoid having entities such as counties slightly overlap two regions, we made every effort to use watershed boundaries that are consistent with those identified in the HUC system. In essence, hydrology is the primary organizing principle, with layers of other relevant and potentially significant considerations for Councils to examine and evaluate.

Although these recommendations for smaller regions did not result in changes to the proposed regional boundary map, they did result in changes to the proposed rule in relation to the development of sub-regions. We have added significant language to the section covering sub-regions for water planning, with additions made specifically to enable the creation of water planning sub-regions based on IWRS or other considerations. This solution provides a method for areas with settlements – including the Rio San Jose – to become sub-regions that can plan independently from the larger region provided that priorities for funding are integrated into the work of the larger region. This solution provides some of the benefits of independent planning, including preserving limited

staff resources for locally relevant work, and is replicable on a case-by-case basis for existing and new IWRS statewide.

The final recommendation related to regional boundaries also came from WSTAC, which recommended moving the City of Santa Fe out of the Middle Rio Grande Council by either adding into the Northern Rio Grande Council or creating a tenth (eleventh, if the above recommendation had been taken) Capital Council, which would include Santa Fe. This comment did not result in changes to the map – Santa Fe has groundwater offset permits involving it in water administration as far north as the Pueblo of Nambé, and surface water operations that impact the Middle Rio Grande – and the sub-region rule expansions included in the proposed draft should facilitate some of the objectives of this proposed revision.

B. Sub-Regions

Based on these suggestions, and many comments received expressing concern over the general size of the regions (too big), NMISC created a provision in the Proposed Rule, Section 9, that allows a smaller geographic area to petition the Commission to become a sub-region. The Commission is to look at the criteria listed below to evaluate if the sub-region is beneficial for the planning process. These criteria were developed to make sure that the creation of a sub-region allows for a pathway for more localized planning to occur, and that the planning is ultimately integrated into the Region's larger prioritized PPP list. The sub-region process could result in beneficial planning for all members of a Region and any potential sub-region. In allowing for sub-regions, the NMISC Staff support the coordination and integration of interests rather than the isolation and succession approach of forming separate regions.

A Region might choose to divide into sub-regions for a variety of reasons, such as:

- A tribal settlement, or other unique source of funding, is available to a portion of a region only and planning is appropriately conducted separately.
- The subregional priorities are unrelated to the primary issues of the larger region.
- The regional process is dominated by a single large entity, a situation NMISC Staff support for Regional Councils would seek to mitigate.

The minimum criteria that the Commission would consider when determining if a sub-region is warranted are the following:

- The basis, hydrologic or otherwise, for differentiating the proposed sub-region from the larger region. The goal of the Regions as proposed is to aggregate areas of the state facing similar water needs to facilitate project prioritization and to allow for knowledge sharing and collaboration. For example, one hydrologic reason a sub-region might be warranted is if a section of the Region is reliant on groundwater, while the rest of the Region is reliant on surface water.
- Sufficient population and capacity within the proposed sub-region to engage in a planning process. A proposed sub-region requires a large enough population to facilitate initiating and maintaining water security planning. For example, a sub-region may be beneficial if it could reflect a broad range of interests within the proposed sub-region, pair technical capacity with appropriately scaled projects, and avoid burdening participant organizations.

- The impact of the proposed sub-region for the ability for remainder of the Region to engage in a planning process. As proposed, the Commission will consider the impact to the remainder of a planning region should a sub-region be created and be mindful that any subregion is not detrimental to the functioning of the water planning region as a whole.
- The support of the associated Council(s) relevant to the proposed sub-region. For example, the Commission may consider the perspective – supportive, ambivalent, oppositional, or otherwise – of the portion of an existing Region not included in the sub-region.
- The sub-region and Region need to provide a strategy for integrating the sub-region’s priorities alongside other regional priorities into the Region’s prioritized list of projects, programs, and policies. This integration is critical to ensure that the prioritized lists from the Regions can be used by legislators, funders and others with confidence that when and if funding items from the list, there is shared understanding of overall priorities within the Region. Establishing a procedure for incorporating the priorities of sub-regions into the overall PPP framework is essential for the success of the sub-regional process and NMISC resources – staffing and funding – can assist in this process during the Initial Planning Phase, as described in the Proposed Rule, Section 10.

C. *Initial & Ongoing Planning Periods*

The Regional Water Security Planning Process proceeds in two stages: the Initial Planning Period (IPP) and the Ongoing Planning Period (OPP). The comments received on the Discussion Draft made it clear that two distinct phases of planning needed to be defined in the new regional water security planning program. Despite efforts to enable the maximum opportunities for regions to develop their own processes, two periods needed to be identified because establishing a brand-new process/entity takes more resources and support – both money and staff time – than supporting an existing on-going process. By breaking out these two periods for the Regional Water Security Planning Program, NMISC seeks to set expectations related to the levels of support each Council will receive both during the establishment of a Council and development of the first Regional Water Security Plan (the Initial Planning Period) and the support provided after everything has been set up (the Ongoing Planning Period).

D. *Initial Planning Period (IPP)*

As contained in the Proposed Rule, Section 10, the IPP begins for all Councils when the rulemaking is concluded and ends for each Council individually when the first Regional Water Security Plan for that Region is accepted by the Commission. One of the critical components of the IPP is the creation of the Regional Water Security Planning Council, including establishing membership and processes. The structure and composition of a Council is the focus of a later section of this testimony.

During the IPP for each Region, NMISC Staff will actively support the creation of the Councils. When initiating the planning process, the first step will be for NMISC Staff to identify and invite the ‘representative’ members – composed of designees from governmental entities within the Region. After invitations are accepted, NMISC will organize an initial meeting with the goal of identifying potential candidates for the ‘at-large’ and ‘non-voting’ members.

If the group convened is unable to identify people to fill the required at-large members, NMISC Staff can recommend people to fill the required position in a non-voting capacity. Identified at-large and non-voting members will be invited to join the Council. All at-large members and non-voting members, once nominated by the representative members, will be confirmed by NMISC staff to ensure that the requirements for representation are being met.

Once all members have been identified, invited, and confirmed, members will decide upon operating principles required for establishing a Council. The operating principles are proposed be developed and adopted during the first year of planning and must cover, at a minimum:

- Roles and responsibilities of Council members, including non-voting members;
- Durations of the terms for members of the Council;
- Potential roles of committees, including a steering committee, sub committees and /or work groups, if relevant;
- Grounds and process for the removal of a member of the Council;
- Decision-making process to be used by the Council to prioritize projects, programs, and policies; and
- The process for integration and engagement with Commission approved sub-regions, if relevant.

The Council may choose to have their operating principles cover only the required items, at least initially, and the members may identify additional procedures for the members to follow initially or at any point during the OPP. Examples of processes and procedures for consideration by Councils will be presented in templates provided by NMISC Staff. Once operating principles have been developed and accepted by NMISC Staff, the newly established Council can officially begin the process of regional water planning. NMISC Staff concluded that determination of a decision-making process – voting, consensus, scoring metrics, etc. – is a required aspect of the Councils' operating principles and an important feature of empowering Councils to find a solution that works best for themselves, not something to be dictated through the Proposed Rule.

NMISC Staff support for the establishment of Councils will take the form of administrative support (setting meetings up, emailing out agendas, etc.), providing funding for Councils to hire contractors (technical consultants that can provide water planning or specific technical expertise) to help them develop a Regional Water Security Plan, and providing various Tools and Templates for Councils to use to develop required documents. NMISC Staff understand that while this process may take time to be completed, the role and goal of the NMISC Staff is to have resources ready to identify all of the governing entities, and to support Councils with tools, templates, and data necessary to start the planning and review phase of the IPP.

NMISC Staff do not anticipate supporting the convening stage of all nine Councils at the same time. However, Councils may choose to self-convene. To become the official Council, the group must demonstrate to NMISC Staff that the self-convened Council adheres to the composition as set out in Section 12 of the Proposed Rule. Once confirmed, the self-convened Council becomes the official Council. A self-convened Council will be supported by NMISC as best as the agency is able to with the resources at the time of the convening. Any self-convened Council will be able to apply for funding to support planning activities through a funding program to be outlined in the WSPA guidelines, if funds are available, but runs the risk that NMISC Staff may have less ability to support them given other demands. As of the time of this testimony and given currently anticipated

resources for the Water Security Planning Program, NMISC Staff time is anticipated to be allocated to stand up Councils on one of the following schedules.

Planning Region	Sequential Planning					
	Year					
	1	2	3	4	5	6
1 thru 3	Initial Planning Phase					
4 thru 6			Initial Planning Phase			
7 thru 9					Initial Planning Phase	
Planning Region	Concurrent Planning					
	Year					
	1	2	3	4	5	6
1 thru 3	Initial Planning Phase					
4 thru 6		Initial Planning Phase				
7 thru 9			Initial Planning Phase			

During the IPP, NMISC anticipates working with three Councils at a time, for a period of two years each. Running each two-year regional planning period sequentially, it is anticipated that it will take a minimum of six years to complete the nine anticipated plans. Some overlapping of the regional water planning process could facilitate concurrent planning work and accelerate the process to as little as four years. A more formal schedule of implementation will be brought forward during the adoption of the WSPA guidelines following the adoption of a WSPA Rule.

The final feature of the IPP is an advisory roundtable. This advisory roundtable will consist of volunteers from the community of water leaders, starting with Water Ambassadors who worked on the Water Policy and Infrastructure Task Force and a previous NMISC external working group. The primary goals of the advisory roundtable are to help ensure that the WSPA implementation is productive and efficient during the IPP, to aid the NMISC Staff in developing clear expectations, to provide a system of ongoing support, including refining and informing tools and templates and to help develop robust supporting materials to begin the OPP. The advisory roundtable's work will be completed when every region has an Initial Regional Water Security Plan accepted by the Commission of the NMISC. The advisory roundtable will be voluntary and designed to aid the work and communications of NMISC Staff, but will not be contracted, funded, or delegated with any duties of the NMISC.

E. Ongoing Planning Period (OPP)

The OPP is specific to each Council and begins for each Council upon Commission acceptance of their initial Regional Water Security Plan. During the OPP the Councils will ideally become more autonomous and self-sustaining, and will have the opportunity to determine their own planning timelines provided they meet minimum requirements set in this Proposed Rule. Councils may choose to change their names during the IPP, or at any point thereafter.

During the OPP, there will be ongoing responsibilities for NMISC Staff and Council members. NMISC Staff will aid the planning process by providing administrative support for the facilitation of meetings of the Councils, as well as technical support to aid water planning data and

analysis needs. NMISC Staff will review and confirm the replacement of at-large members. The NMISC does not anticipate funding construction costs, nor will the NMISC act as a fiscal agent for PPPs. Councils will also be able to apply for funding to support planning activities through a grant program to be outlined in the WSPA Guidelines, if funds are available. Ongoing responsibilities for the Council members include filling vacancies pursuant to the same criteria as the original appointments, participating in updates of the Regional Water Security Plan, reviewing and updating PPP lists, and maintaining the operating principles of the Council at a minimum every ten years during the required Plan update.

Section 11 of the Proposed Rule requires that the prioritized PPP list be reviewed and updated or reaffirmed at least every five years with a full plan update at least every ten years. NMISC Staff support will be available for Councils during this period, and significant interest has also been expressed in the funding program that will allow Councils to take even more leadership of their processes over time. This Proposed Rule has been developed with a focus on plan deliverables, rather than a prescriptive process, so as to provide Councils with flexibility in designing a process that works best for them and in which they have buy-in.

NMISC Staff support during the OPP will focus on being a resource to the Councils. Individual members of the NMISC Staff will work to develop relationships and expertise with the needs, communities, and individuals in a particular region and will actively participate in planning initiatives there. The advisory roundtable, active during the IPP and instrumental in developing the OPP expectations, process, and supporting materials, is anticipated to sunset following the acceptance of the final Initial Water Security Plan. Council membership will be established during the IPP and will be in place at the commencement of the OPP. During the OPP, the primary needs for Council membership will be replacement members. Specific requirements for this process are described below.

F. Composition of Regional Water Security Planning Councils

As described in Section 12 of the Proposed Rule, the composition of the Councils is foundational to the success of Councils. First, NMISC Staff determined that these planning entities would be called Councils to match the language chosen by the ad-hoc committee of tribal leaders who named WSTAC. Matching the WSTAC language is intended to avoid inadvertently establishing primacy between Councils and WSTAC so that this question could be addressed directly and intentionally by participants in the planning process.

Next, NMISC Staff researched a variety of representative bodies that could serve as a model for these future Councils before developing the Open House Event questions. These examples included previous rounds of regional water planning in New Mexico, Colorado's basin roundtables, and composition of the NMISC's nine-person Commission. During the engagement process, participants were asked about the relative value of limited versus extensive representation on Councils, and about flexibility versus prescriptiveness in process, and responses favored extensive representation on Councils that maintained the flexibility to adapt to changing needs.

When drafting the Discussion Draft, NMISC Staff aimed to develop a representative structure for Councils to allow for a hybrid approach – prescriptive enough to be consistent, flexible enough to remain relevant – and a diversity of water users and interests within each Council. The proposed structure of the Councils is broken into three groups: representative members, at-large members, and non-voting members.

Representative members are the governmental members of the Councils that are appointed to the Council by their respective governing bodies. Entities included in this group include municipalities and counties; irrigation and conservation districts; Nations, Tribes, and Pueblos; soil and water conservation districts; and acequias and land grants. As outlined in the Proposed Rule, upon initiation NMISC Staff will reach out to identify governing entities that are wholly or partially located within the Region to invite them to identify an individual to serve as a representative member of the Council.

Once convened, representative members will identify and invite the ten at-large members. Of the ten at-large members, seven must represent the following categories: ranching, farming, public higher education, environmental/conservation/non-governmental organizations, recreation, mutual domestic water consumer associations, and commercial/industrial/mining/power. If the representative members are unable to identify someone to represent these interests, NMISC Staff may select a non-voting member, familiar with the Region's water resources and knowledgeable of the stakeholder group.

Two of the remaining at-large members are designated for someone from an identified special district that is not represented in the representative members list should such a district exist, and a second individual from an existing regional water planning steering committee who has continuously operated since the conclusion of the last round of regional water planning, should that entity exist in the Region. Should either or both entities not exist in a given region, these 'at-large' seats should be filled as a general at-large member.

The final at-large member is a general at-large member to be selected by the Council and is intended to reflect an under-represented interest in the existing group. At-large members must also be located in the Region. The at-large member must show that they regularly either primary reside or earn their livelihood mainly from work completed within the Region. This distinction would allow for someone whose primary residence is in another Region to still be able to fill the at-large member position if they ranch or farm within the Region.

The requirement for at-large members to be located within the Region reflects the strong desire expressed in Open House feedback for planning Council membership to consist of regional locals. Most of the Open House participants strongly expressed that they want people from their communities to have a say in the priorities of the region. Hearing this but also understanding that New Mexico is largely a rural state, language was included for each at-large designation of how someone who resided outside of the Region might qualify to be an at-large member for each Council. To help identify potential at-large members for Councils, NMISC Staff intend to set up an application where individuals who believe they would meet the requirements of an at-large member can nominate themselves to NMISC Staff. This information will then be shared with the representative members for consideration when identifying potential at-large members for each Council.

The third category of membership for the Councils is non-voting members. The Council may have up to three non-voting members who own water rights in the region but who are not located within the region. These non-voting members on the Council are intending to increase regional coordination across and within regions. As an example, the Albuquerque Bernalillo County Water Utility Authority is a San Juan Chama Project Contractor located within the Middle Rio Grande Council but with significant reliance on water and infrastructure located in Upper Rio Grande Region and therefore may seek to be a non-voting member of the Upper Rio Grande Regional Council. Additionally, up to two non-voting members shall be appointed by the Council from hydrologically

connected Regions that share either a river or groundwater. For example, the Middle Rio Grande Council should have non-voting members from the Upper and Lower Rio Grande Councils.

The final defined role in the Proposed Rules composition of the Regional Water Security Planning participant identification process is the identification of 'regional stakeholders'. The Act calls for stakeholders to be identified distinctly from the general public. The intent of Section 12 of the Proposed Rule is to set out a process by which any resident of, or interested party in, a region can provide contact information and be listed as a stakeholder. NMISC Staff will then provide updates to stakeholder about the work of the Council.

In addition to input opportunities for individuals listed on the NMISC Staff-maintained regional stakeholder lists, the Council must also provide opportunities for public comments on Regional Water Security Plans. Identification of stakeholders was identified as a guideline in WSPA. It was elevated into the Proposed Rule so that Councils would have clear definitions of types of engagement within the WSPA process more fully identified, as set out in Section 13 of the Proposed Rule.

If someone's primary residence is within a Region, they may be a regional stakeholder for that region and need only provide contact information to be added to the NMISC Staff-maintained list. There are, however, a variety of people, groups, or entities that may not reside directly within a Planning Region but have valuable insights about that Region. If a person, group, or entity falls into this group and wants to be added to the regional stakeholder list, in addition to contact information, they must provide a simple statement of interest outlining why their perspective should be included in the planning process. NMISC Staff will ensure that new additions can be made to the list at any time, as the list is proposed to be maintained by NMISC Staff and shared in an ongoing way with Councils. Councils can maintain their own regional stakeholders lists in the OPP, or NMISC Staff can continue to play that supporting role.

G. Regional Water Security Planning Council Meeting and Input Requirements

WSPA explicitly calls for outreach and the incorporation of public input. To ensure ample opportunities for public input, Councils must hold a minimum number of meetings and comply with the meeting and input requirements of Section 13 of the Proposed Rule. The frequency requirements of the meetings differ between the IPP and OPP. During the IPP, multiple Council meetings may be necessary to establish the first Regional Water Security Plan. During the OPP, the Council must meet at least twice per calendar year, and during periods of updating a Plan, the Council must meet at least four times per calendar year but may opt to meet more frequently. Determining the schedule for periods of updating plans versus maintaining them during the OPP will be determined by each Council, provided they comply with the minimum frequencies – 5 and 10 years – set out in the Proposed Rule.

WSPA lists the public input requirements for regional water planning to be in the guidelines; however, during the process of drafting, it was determined that the public input requirements needed to be elevated to the Proposed Rule as it is an enforceable requirement that must be met for a Plan to be accepted. Whether developing or maintaining a Plan, the Council is at a minimum required to notify the regional stakeholder list, support both in-person and virtual events, provide at least 60-days for public comment on any draft Plan, and provide opportunities for comments ahead of Plan finalization. Council meetings must be made available to the widest range of people within the region as possible. Efforts are required by the Council to notify members of the Region of meetings and

other opportunities for comment. The meetings will be supported by NMISC Staff and efforts will be made to provide a hybrid option(s) (i.e., in-person plus virtual) for more inclusive participation. Stakeholder and public input opportunities during the development of a Plan must be documented in order for a Plan to be approved by the Commission.

Required notices and periods for comment protect Councils from accusations of ignoring some regional opinions, perspectives, and needs. The process outlined in the Proposed Rule ensures engagement at various levels, Councils, including voting and non-voting members, Nations, Tribes and Pueblos, stakeholders, and the public.

H. *Considerations for Councils During Planning Process*

During outreach conducted for the Open House Events, one of the clear themes was that New Mexicans want regional plans that reflect regional values – they want their region to suit them, not to fit a mold of regional planning set by the State. To maximize the opportunities Councils have for differentiating themselves from one another, the Proposed Rule in Section 14 focuses on outcomes rather than process. The considerations for Councils during the planning process were developed to deliberately allow regions to customize how they meet required criteria, with support from NMISC, especially during the IPP. WSPA calls out items that must be considered in a planning process which are as follows:

- consideration of existing water plans and water resources planning initiatives;
- compliance with state water law, including recognition of established water rights;
- best available science for considering climate resiliency and increasing aridification;
- recognition and respect of federally recognized or reserved tribal water rights;
- access to water for domestic use;
- compliance with applicable federal water law;
- public welfare values;
- balancing water uses and needs for future generation of New Mexicans; and
- public participation and comments.

The items identified above match the requirements for plan approval. Councils must document in their Plans consideration of these items. As stated above, New Mexico is a diverse state with a variety of needs and capacities. NMISC Staff does not anticipate each Council following the same methodology when considering all the items above. Rather the rule focuses on documentation of consideration.

Through the drafting process, other items not identified in WSPA were identified as concepts that should be considered in the development of Regional Water Security Plans. These concepts include the following:

- best available resources or methodologies for considering the needs of rural and urban places and populations within the region;
- groundwater management strategies and needs;
- regional food security and agricultural resilience; and
- water needs for healthy upland and riparian habitats.

The regional water security planning process aims to provide the scaffolding of what needs to be considered as part of a planning process. The focus is on what needs to be considered rather

than how or whether it needs to be addressed or how that consideration must be documented. This is intended to allow Councils to choose how to evaluate and document these considerations in a way that best reflects their community. NMISC Staff aims to provide support for Councils to meet these requirements by developing Tools and Templates that help them analyze these considerations for their Region.

In addition to the considerations listed above, all Regional Water Security Plans must consider statewide objectives. These objectives include laws or agreements that must be complied with because either they deal directly with the State of New Mexico meeting its obligations to the federal government, interstate compacts, Tribes, Pueblos, and Nations or alternative management practices. These statewide objectives, at a minimum, are defined as the following, and further discussed in the testimony of Director Riseley-White and Mr. Chakeres:

- State obligations under interstate compacts
- Compliance with the Endangered Species Act
- Implementation of water rights settlements, including locally executed and federally executed Indian water rights settlements
- Any state administration plans under Active Water Resources Management

The final consideration that must be addressed by Councils in Section 14 of the Proposed Rule is that plans are being developed with the best available science, data, and models. NMISC Staff intends to continue to work in partnership with New Mexico Tech and others to bring the best available data, science, and models to the Councils. This means investing in models being developed by OSE to help characterize aquifers and identify new technologies like Open ET. NMISC Staff will continue to seek and build partnerships across New Mexico and beyond to help Councils gain access to the best available science, data, and models. More information on the number and nature of Tools and Templates is contained in the testimony of Mr. Erdmann and Director Riseley-White.

NMISC Water Planning Program expects that as part of this process, Councils will identify data gaps in the current knowledge base. Their PPP lists could include efforts to fill those data gaps. Data gaps, however, should not hinder the completion of a Regional Water Security Plan. It is well established that New Mexico is dry and that historic water use practices require more water than future predictions have identified. It is not necessary to know exactly how much water will be available in the future to initiate a program to reduce water use now. Change is needed and the longer solutions are postponed, the fewer options will be available, and those that remain will be harder to achieve.

I. Criteria for Approval of a Regional Water Security Plan

In contrast to previous regional water planning efforts, WSPA focuses on supporting plan implementation. NMISC Staff aim to assist in plans being approved and implementable by ensuring that Regional Water Security Plans submitted for approval to the Commission have identified pathways for PPPs at various levels of readiness to move forward. This will create a metaphorical ‘pipeline’ of PPPs throughout the state ensuring that water PPPs are being built today, being planned for tomorrow, and are being envisioned for future needs.

As outlined in Section 15 of the Proposed Rule, an essential component of an implementable Plan will include a PPP list with clear priorities. In the funding program to be outlined in the WSPA guidelines, funding for planning activities could be used to help move PPPs through the pipeline –

from idea to scoping to ready to proceed. Funding for planning activities is not intended to support project construction. More details of a potential funding program will be proposed in the guidelines, which will be presented to the Commission after the WSPA Rule has been finalized and approved.

WSPA specifically calls for the Rule to prescribe how a region should present a prioritized list of PPPs for approval. Previous rounds of regional and state water planning in NM have resulted in unprioritized PPP lists without sponsors who have been difficult to implement. In the public engagement process of 2024, New Mexicans identified that Regional Plans should be able to identify a range of priorities to address local water management challenges, from watershed health to groundwater risks to stormwater management to drinking water access, and that an adaptable overarching structure be developed so as to enable each Region to develop a process and priorities that serve locals and an outcome which meets both local and state needs.

To assist regions in developing their own approach and process, NMISC is developing and will continue to develop and support educational outreach and materials focused on water; templates and examples drawn from broad and ongoing research into decision making, water planning, integration with other planning efforts, and other areas; and technical information about water quality, availability and use. The development and maintenance of Tools and Templates for Councils will remain a large part of the future work of the NMISC Planning Program. As part of this development, NMISC Planning will be conducting ongoing outreach to Councils and others to improve existing tools and to identify and develop new planning tools for use statewide or in specific regions.

The two fundamental elements in each Plan are process documentation and a prioritized PPP list. The processes to be documented are:

- Involvement, information and/or any recommendations from the WSTAC;
- Documentation that the development of any plan has met the public notice requirements set out in the Proposed Rule;
- Outreach conducted to encourage participation and the process by which PPPs were prioritized;
- Comments received from stakeholders and how they were incorporated;
- Comments received from state and federal agencies and how they were incorporated;
- public welfare statements, if any;
- Council committees, working groups and/or sub-regions within the region;
- Consideration and discussion of regional water balance including reductions in projected water availability due to impacts of climate change; and
- Compliance with statewide objectives.

A prioritized list of PPPs was the primary request from the New Mexico Legislature during the formation of WSPA. Previous rounds of state- and regional-planning in New Mexico have worked with communities to identify PPP proposals for state funding, even developing a statewide list of PPPs that was the centerpiece of the 2018 State Water Plan. The PPP list in the 2018 State Water Plan has not been systematically tracked to the satisfaction of many of the participants in the regional processes that developed the list. The WSPA was passed to create a more implementable water planning process that efficiently aligns locally identified, regionally supported PPPs with state funding and needed technical and financial support. NMISC leadership has been consistent in

requesting whatever it takes to give local communities the tools they need to identify, scope, design, and develop their projects.

Moving PPPs through the readiness pipeline and implementation requires ongoing focused application of financial and staff resources, which requires prioritization of resources. The prioritization of the PPP list by the Council is likely going to be one of the most difficult and critical tasks they will face, and in terms of allocating state funding to support local water initiatives in New Mexico, is also one of the most important. The difficulty of developing trust, prioritizing PPPs, and maintaining prioritization may be the greatest challenge facing Councils.

The WSPA process is not about prioritizing the funding of construction projects, it is about utilizing and building the PPP pipeline or bench. There are already numerous state funding opportunities with greater experience in administering funding for these purposes. Instead, the WSPA process aims to develop a pipeline of PPPs with various stages of readiness. What is meant by a pipeline is a route of moving from the idea stage to the ready to proceed stage – ready to be carried forward into construction or whatever the final step of the PPP might be. This framework of readiness will help ensure that New Mexico is thinking creatively at all levels of PPP identification. Readiness for construction can be a factor in prioritization for PPP lists, but it is not the sole criteria determining PPPs prioritization. To keep the pipeline functioning, the prioritized lists are to be categorized based on readiness: idea stage, scoping stage, and ready to proceed stage. Each item on the list must include the PPP type and sponsor(s) who will be the lead entity achieving implementation of the PPP. The Proposed Rule sets out additional information that could be included as part of a PPP on a sub-list, but these are not required items. NMISC Staff have started working to develop Tools and Templates for Councils, including adaptable templates for prioritized PPP lists and planning process documents.

Based on the input collected from regional planning participants in previous rounds of work, from outreach surrounding the Leap Ahead Report and 50-Year Water Action Plan, at Open House Events, through the Main Stream NM website, and on the Discussion Draft, the breadth of PPPs that New Mexicans want to see supported is vast and varied. NMISC Staff have developed the Proposed Rule intending for a broad variety of PPPs to be identified in each region. Having worked in private firms and on different tasks I am aware of multiple examples of each PPP. Examples of Projects could include but are not limited to evaluation and design of upgraded irrigation technology, preparing for or developing a 40-year water plan, riparian restoration and monitoring, community engagement around local water resource management, soil health and water retention, and developing planning documents ahead of construction. Programs could include asset management planning, developing a municipal, water-system, or county-wide conservation program, educational campaigns, regional outreach, supporting watershed management, development of automated telemetry for meter readings, and forming groundwater conservation programs. Policy examples could include work on rate structures, regionalization of water systems, water banking, or initiating formal active water resource management.

The final section of the Proposed Rule, Section 16, is to be discussed in the testimony of Mr. Chakeres on behalf of the NMOSE.

IV. SUGGESTED CHANGES TO THE PROPOSED RULE BASED ON COMMENT

NMISC Staff reviewed the public comments that were posted on the public comment portal of the ISC Rulemaking and Public Comment page from July 17 to September 27. We received 75

public comments in total with 30 being submitted in the final weekend when the public comment portal was open. Based on our review and reflection, we do have a few further edits to make to the Proposed Rule that support the reasoning and basis for its adoption. Please note, the volume of suggestions submitted was significant and NMISC staff and leadership will continue to evaluate those comments. There may be additional suggested edits by the time of the hearing based on input received during the comment period.

The following suggested edits are presented in order of the Proposed Rule. Suggested edits are shown in underlined italics or ~~strikeouts~~. The following sub-bullet provides a brief explanation of why these edits are being suggested and from whom we received the suggestion.

- Definitions:
 - 19.25.16.7 (J) Regional Water Utility Authority – A regional water utility authority established by the Regional Water System Resiliency Act or the predecessor of that Act.
 - This definition was added to ensure Regional Water Utility Authorities representation on the Councils. More explanation to this addition is below.
- Regions:
 - 19.25.16.9.B (6) whether the proposed subregion would enable more effective input into the regional water security program of tribal water concerns and the needs of tribal communities.
 - The addition of this criterion for evaluation by the Commission in determining a sub-region was suggested by the Pueblo of Laguna. NMISC Staff agree with this inclusion as one of the anticipated applications of the sub-region process is to enable communities who are part of an IWRS to plan together.
- Initial Planning Period:
 - 19.25.16.10.A (4) providing administrative support and facilitation for at least four meetings of each council within the region per calendar year.
 - Various commenters suggested a clarification of the meetings to be held by each region. NMISC Staff recommend adding the above edit to clarify that these required meeting would be held within the region.
 - 19.25.16.10.B (3) (e) the decision-making process to be used by the council to make planning recommendations and ultimately prioritize projects, programs, and policies.
 - A version of the above edit was suggested by NM Wild, Western Resource Advocates, Theodore Roosevelt Conservation Partnership, American Rivers Action Fund, Audubon Southwest and Amigos Bravos. The suggested language above reflects the need for Councils operating principals to reflect all types of planning recommendations, not just the process for prioritizing PPPs.
- Composition:
 - 19.25.16.12.A (1) Representative members. Each governmental entity listed below, if present within the region, is entitled to have a representative to serve on the council for any planning region within which it is located. A single representative may represent multiple governmental entities. If 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:

- The above edit was suggested by New Mexico Acequia Association, New Mexico Acequia Commission, New Mexico Land Grant Council and RCAC. The addition of the language above makes the process inclusive of processes that NMAC and NMLGC can take.
- 19.25.16.12.A (1)(e) one representative member identified by the governing body of each irrigation district, *artesian conservancy district* and conservancy district;
 - The above edit was suggested by the Pecos Valley Artesian Conservancy District. The edit makes the clearer that this governing entity falls into this category of representative members.
- 19.25.16.12.A (1) *(h) one representative member identified by the governing body of any Regional Water Utility Authority.*
 - Four groups – ABCWUA, Eastern NM Water Authority, City of Clovis and RCAC – identified the need to add Regional Water Authorities as a representative member to the Councils they are located within. NMISC Staff agreed with this addition and agreed with RCAC's addition that any group who formed a Regional Water Utility Authority via the Regional Water System Resiliency Act should also be able to be a representative member of any Council.
- 19.25.16.12.A (2) (d) environmental, conservation, or *ecosystem interests located* ~~water advocacy non-governmental organizations with members or local chapters~~ in the region;
 - A version of the above edit was suggested by NM Wild, Western Resource Advocates, Theodore Roosevelt Conservation Partnership, American Rivers Action Fund, Audubon Southwest and Amigos Bravos. This edit now better reflects the groups located within the region.
- 19.25.16.12.A (2) (e) water-based *sporting or* recreational interests located in the region (fishing, rafting, etc.);
 - The above edit was suggested by NM Wild, Western Resource Advocates, Theodore Roosevelt Conservation Partnership, American Rivers Action Fund, Audubon Southwest and Amigos Bravos. This edit ensures clarity by adding the word sporting which further clarifies the intention of this at-large member.
- Considerations:
 - 19.25.16.14.B (4) water needs for healthy upland, *wetland*, and riparian habitat.
 - Many commenters, including Rio Grande Return, Valencia Soil & Water Conservation District, and Trout Unlimited, noticed the lack of the term wetland in the inclusion at various points throughout the rule. Wetland was added here to the considerations section to reflect their importance. Wetland were also added as a PPP type in Section 15.
 - 19.25.16.14.C (3) *compliance with* and implementation of water rights settlements, including local and federally executed Indian water rights settlements;
 - The addition of the above language was submitted by WSTAC and supported by numerous tribal governments.

- Criteria:
 - 19.25.16.15.A (1) Water Security Tribal Advisory Council (WSTAC) engagement, involvement, information, and recommendations including WSTAC responses to those comments, and documentation of any unresolved -opposition;
 - The addition of the above language was submitted by WSTAC and supported by numerous tribal governments.
 - 19.25.16.15.A (5) comments received from state,~~and~~ federal, tribal and local governments agencies;
 - This edit stems from the WSTAC comment related to the role of WSTAC as a collective in contrast to the representational members of tribal governments as sovereign governments. With this edit and the one above the Proposed Rule now provides for Plan documentation of WSTAC responses, whatever they be, and federal, tribal, and local government responses.
 - 19.25.16.15.C (4) PPP types
 - 19.25.16.15.C (4)(k) aquifer recharge and groundwater sustainability
 - 19.25.16.15.C (4)(l) agricultural water use resilience
 - 19.25.16.15.C (4)(n) river, wetland and riparian habitat restoration and connectivity
 - 19.25.16.15.C (4)(o) livestock water management
 - 19.25.16.15.C (4)(s) scientific water studies
 - 19.25.16.15.C (4)(t) water related natural or green infrastructure

These six PPP types were recommended to augment existing PPPs by NM Wild, Western Resource Advocates, Theodore Roosevelt Conservation Partnership, American Rivers Action Fund, Audubon Southwest and Amigos Bravos. These are recommended by NMISC Staff to be added as the list set forth in the section is a “not limited to list” and the intent of NMISC Staff is for PPP types to be added over time as new types of PPP get invented or become feasible.

V. CONCLUSION

Based on my experience, my educational, and my participation in the passage of the WSPA and the development of the Proposed Rule, I recommend the Commission adopt the Proposed Rule as filed with the Commission on July 17, 2025, with the changes recommended above.