

**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 POTENTIAL ERROR

The Water Planning Program (“Program”) of the New Mexico Interstate Commission (“NMISC”) hereby provides notice to the Interstate Stream Commission (“Commission”) of a potential error in the rule currently under review and deliberation by the Commission. This notice provides no legal argument or new information, rather it seeks to aid the Commission in identifying in the Record Proper where ample testimony was provided and reasons given for the language in the Proposed Rule. Moreover, the Program seeks to substantiate the testimony provided to the Commission at this junction to avoid creating an unworkable and impracticable result.

In discussion of Section 12: Composition of Regional Water Security Planning Councils, there was an indication by the Commission to move mutual domestic water consumer associations (MDWCA) or community regional water systems in the region from At-large Members to Representative Members. While the Water Planning Program understands this amendment to be rooted in principles of fairness and inclusion for small systems that are political subdivisions of the state, there are reasons for MDWCAs not to be Representative members, as outlined in the Record Proper.

Importantly, Ms. Fox’s testimony begins with the composition section of the Proposed Rule, Section 12, and is shown at Tr. Vol. I., PP. 134-138, LL. 18-25, attached. Ms. Fox’s

testimony supported the originally Proposed Rule, inclusive of her written direct testimony. *Id.* The Water Planning Program recognizes that MDWCA, unlike acequias and land grants, do not have a governing body, such as an association, commission, or council. There was testimony that there is no list or map for NMISC staff to invite MDWCAs to participate as Representative Members. See, Ms. Fox's testimony, Tr. Vol. I., PP. 136-138, LL. 18-9, attached. Specifically, Ms. Fox testified that the Water Planning Program listed political subdivisions with governing bodies as Representative Members, and while MDWCAs are political subdivisions, they are not collectively organized. Tr. Vol. I., P. 138, LL.1-18, attached. MDWCAs may, through the Resiliency Act or the Regionalization Act, as referred to in Mr. Erdmann's testimony, collectively form and be a regional water utility authority, which is a proposed Representative Member to the current rule. Tr. Vol. I, P. 90. LL. 1-18, attached.

At the hearing several commenters provided information to the Commission that there was frequently cross membership between acequias and MDWCAs in places where acequias exist. Ms. Monica Rodriguez of the New Mexico Acequia Association as the Community Outreach Coordinator and as a councilor for the New Mexico Land Grant Council identified the importance of inclusion of MDWCAs in any work group along with acequias and land grants. Tr. Vol. I, PP. 220-222, LL. 25-10, attached. In addition, Ms. Rodriguez supported that MDWCAs and Community Regional Water Systems be included in accordance with the Regional Water System Resiliency Act. Tr. Vol. I, PP. 223-224, LL. 24-6, attached.

Similarly, Ms. Serafina Lombardi responded to questions from Commissioner Garcia regarding the inequities that rural communities face by offering that rural communities are where the majority of acequias are located, and land grants, and MDWCAs, all of which are volunteers and warrant inclusion in the planning process and support to do so. Tr. Vol. I, PP. 468-469, LL. 1-

15, attached. Additionally, there was interest in a working group that would be comprised of rural representatives who are from acequias, MDWCAs, and land grants, such as in the comment of Alfredo Montoya, President of the Mutual Domestic Water Association, the President of the Acequia Alcalde, the President of the Regional Acequia Association entitled Las Nueve Acequias, Commissioner on the New Mexico Acequia Commission, and a Vice Chair of the New Mexico Acequia Association. Tr. Vol. I, PP. 476-478, LL. 5-22, attached.

Comments were replete during the multiday hearing on the Proposed Rule in response to Commissioners interested in how the planning process could be made more accessible to limited-resource communities in rural areas. Mr. Archuleta, on behalf of the New Mexico Land Grant Council, identified that as a state agency that is tasked with providing support to Land Grant Mercedes through the State, and like the Mutual Domestics and Acequias, most Land Grants operate on a volunteer basis. Vol. II, P. 513-514, LL. 5-12, attached. Mr. Archuleta further recommended that MDWCAs be included in the composition of regional councils and be considered in a rural community water users working group. Vol. II, P. 514-515, LL. 13-1, attached.

Discussion during deliberations has led to water commissions established by joint powers agreements, such as the San Juan Water Commission, to be included as Representative Members. According to testimony by Ms. Elizabeth Newlin Taylor the San Juan Water Commission has multiple MDWCAs represented by the Rural Water User Association, which has a seat on the Commission. Tr. Vol. III, P. 759, LL. 16-25. Mr. John Kadlecsek, President of a MDWCA, said that while regional community associations may be forming, many MDWCA are independent and autonomous in nature and won't necessarily be involved and may choose to organize as a subgroup. Tr. Vol. P. 723, LL. 1-7.

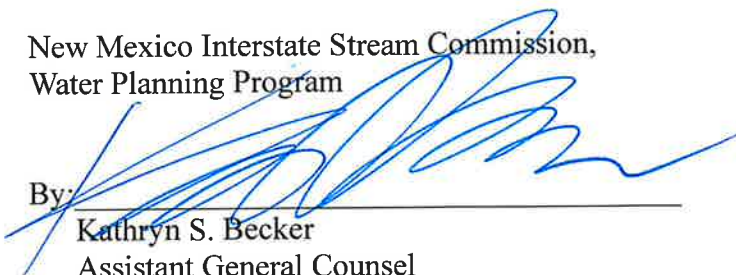
In conclusion, NMISC staff testimony and public comment all support that MDWCAs participate in Regional Councils in one or more of the following four ways but not as Representative Members: one, as currently proposed MDWCAs have a seat at the table as At-Large Members; two, it is possible for MDWCAs to regionalize and by existing statutes gain governing status and eligibility as Representative Members; three, as discussed in deliberations thus far, MDWCAs may be covered in rural water user associations that are included in districts, commissions or other governing bodies within the Representative Members, and finally fourth, as is under discussion, MDWCAs may be included in a rural working users group created by the New Mexico Land Grant Council or New Mexico Acequia Commission or the New Mexico Acequia Association as part of a rural water user for additional representation, and supported by the NMISC staff. Tr. Vol. III, PP. 955-956, LL. 7-21, attached.

Should the Commission adopt a rule that provides for MDWCA to be Representative Members, NMISC staff will neither be able to have a map or list to invite members, nor be able to verify that invitations were received in a fair or comprehensive manner, and there is no collective governing body to determine representation.

DATED this 30th day of January 2026.

Respectfully submitted,

New Mexico Interstate Stream Commission,
Water Planning Program

By: 

Kathryn S. Becker
Assistant General Counsel
Office of General Counsel
407 Galisteo Street (87501)
P.O. Box 25102
Santa Fe, NM 87501-5102
kathryn.becker@ose.nm.gov

Page 134 1 way? Why is it so important? 2 A. After figuring out where your 3 Region is the next question, or the 4 next obvious question, at least to me, 5 is who is the people who are going to 6 be planning this Region? It makes the 7 most sense for the composition of the 8 Councils to come next. 9 Q. Did you get feedback from the 10 Discussion Draft that aided in your 11 compositional framework? 12 A. Yes: 13 We received a significant 14 amount of Comments during the 15 Discussion Draft period that resulted 16 in changes to the "Composition" as it 17 is in the Proposed Rule today. 18 Q. Do you support the language of 19 Section 12 regarding: 20 "Composition of Regional 21 Water Security Planning 22 Councils"? 23 A. I support it with the additions 24 described later in my Testimony. 25 Q. There is one change adding:	Page 136 1 "Representative Members." 2 How are those "... Members" 3 determined? 4 A. Representative Members are 5 essentially Members that will be 6 invited on to the Council by ISC and 7 are appointed by the resolution of 8 each, like, governing body of any 9 entity identified on that list. 10 Q. Just to be clear, those are 11 invitations. 12 A. Correct. 13 Q. Voluntary based. 14 A. Correct. 15 Q. The entity self-selects who, if 16 anyone, to participate. 17 A. Correct. 18 Q. How does the New Mexico 19 Interstate Stream Commission know in 20 each Region all of these governing 21 bodies? 22 A. Well generally speaking the 23 governing entities are known and 24 mappable. 25 We've done a preliminary kind
Page 135 1 "... a Representative 2 Member." 3 Is that what you're referring 4 to? 5 A. Yes. 6 Q. Okay. Let's look at describing 7 this: 8 I think it would help to say 9 categorically how "Composition" is 10 organized. 11 A. The Regional Planning Council is 12 proposed to have 3 types of membership, 13 "Representative Members," which are 14 essentially governmental members of 15 the Council; 16 We have "At-Large Members," 17 which represent different types of 18 water uses; and, 19 Then we have "Non-Voting 20 Members," which represent entities 21 with either Water Rights interests 22 within the Council or hydrologically 23 connected Regions. 24 Q. Let's go through those in a 25 little more detail starting with the	Page 137 1 of mapping exercise identifying and 2 kind of overlaying different boundaries 3 into Regions, to identify the initial 4 invitation list that will be refined 5 and revisited ahead of any invitations 6 going out. 7 Q. The Proposed Rule has identified 8 the Land Grant Council as the governing 9 entity. Why is that? 10 A. Land Grants are part of the kind 11 of water management ecosystem in New 12 Mexico. It is important that your 13 active Land Grants, as appointed by 14 the Land Grant Council, would also be 15 a part of these Councils. 16 Q. Is the Council created and 17 maintained by the Governor of the 18 State? 19 A. The Land Grant Council, yes. 20 Q. Were there any governing entities 21 that were not included in the 22 "Representative Member" section? 23 A. Yes, the municipal -- they have 24 a name. 25 Q. I believe you refer in your

Page 138 1 Testimony to "Mutual Domestic Water 2 Consumer Associations," or "MDWCAs"; 3 correct? 4 A. Correct. Those are not listed 5 as a "Representative Member," although 6 they are listed as an "At-Large Member" 7 because there is no kind of collective 8 agency representing them at the 9 statewide level. 10 With the inclusion of the 11 additional "Representative Members" 12 for Regional Water Utilities, if many 13 Mutual Domestic were to get together 14 and move through the Resiliency Act or 15 the Regionalization Act that's been 16 alluded to in Mr. Erdmann's Testimony, 17 that would make them a "Representative 18 Member." 19 Q. You further support the Proposed 20 Change of the New Mexico Interstate 21 Stream Commission post the Petition to 22 have regional water -- excuse me -- 23 Regional Utility Authorities as 24 Representative Members. 25 A. Yes, I do.	Page 140 1 A. There are numerous Acequias all 2 over the State. I think I've heard 3 anywhere from like 500 to 800, and 4 that's a lot of people. We don't have 5 a consolidated list of leadership 6 that's updated, so therefore we are 7 relying on the Regional Acequia 8 Associations, which are a little bit 9 smaller in number, to help us make sure 10 we are collectively representing them. 11 Q. But for the Tribes, Nations, and 12 Pueblos identified in "Representative 13 Members," are all these governing 14 entities Political Subdivisions of the 15 State? 16 A. Yes, they are. 17 Q. Okay. Let's now look at the 18 second category: 19 I believe you described 20 "At-Large Members"? 21 A. Yes: 22 At-Large Members are aimed to 23 represent essentially a variety of 24 users of water that are non- 25 governmental. These are:
Page 139 1 Q. Okay. What does the Proposed 2 Rule say for individual Acequias? 3 A. (No audible response.) 4 Q. I'm going back a minute. 5 A. Yes. 6 The Acequias are listed as 7 "Representative Members," and their 8 representation is based off of Regional 9 Acequia Associations within the Region. 10 Those are essentially collectives of 11 Acequias who have gotten together and 12 developed and formalized into a 13 Regional Acequia Association. 14 If no such Regional Acequia 15 Association exists within a Region we 16 would approach the New Mexico Acequia 17 Commission to have them appoint someone 18 from within that Region to fill that 19 Representative Member spot. 20 Q. Are there Acequias in every 21 Planning Region? 22 A. I think they are in most of the 23 Regions except for the Eastern Plains. 24 Q. And why not just invite all of 25 them?	Page 141 1 Ranchers; 2 Farmers; 3 Public education institutes; 4 Environmental conservation 5 NGOs; 6 Water-based recreation; 7 Mutual Domestics; 8 Commercial, industrial, and 9 mining; 10 Special districts pursuant to 11 Chapter 73 that aren't already 12 identified in the Representative 13 Members; 14 The special existing Regional 15 Water Planning Steering Committees; 16 and, 17 The one general at-large 18 member. 19 Q. How are the At-Large Members 20 determined? 21 A. At-Large Members are going to be 22 identified by Representative Members 23 initially. 24 We also are aiming to have, 25 like, a portal or a form or something

INTERSTATE STREAM COMMISSION NEW RULE 19.25.16 NMAC - Regional Water Security PI
VOL I ,

Page 90 1 body of any Regional Water 2 Utility Authority." 3 Please describe. 4 A. Regional Water Utility 5 Authorities actually entered this 6 discussion once earlier. That's where 7 the phrase "Regional" was used in the 8 2023 Legislative session. These are 9 water utilities that have chosen to 10 regionalize based on that. 11 While there aren't a 12 tremendous number of those utilities 13 at this point, it is one of the 14 strategies that the State is really 15 hoping will be central to water 16 management moving forward, so we wanted 17 to make sure those folks were included, 18 so that's why we made that addition. 19 Q. Just so I'm abundantly clear, you 20 were referencing an Act in 2023 for the 21 regionalization of water systems, and 22 that's why the Water Security Planning 23 Act doesn't have the word "Regional" 24 in it. 25 A. That's correct, yes.	Page 92 1 Q. The next proposed edit is to 2 add: "... sporting organizations..." 3 Is that similar? 4 A. Yes. Similarly that was 5 submitted in the same proposed set of 6 Comments, and was a way to be more 7 inclusive and a little bit broader in 8 terms of, again, honoring recreational 9 interests to be inclusive with sporting 10 interests as well. 11 Q. Turning to "Considerations," 12 which is Section 14 of the Proposed 13 Rule, there are two edits that you 14 made in addition to the Proposed Rule. 15 One is to add the word: 16 "... wetland..." 17 Why is that? 18 A. We heard from many Commenters 19 around the State that the inclusion of 20 wetlands was really essential to 21 managing water. We certainly had no 22 intent at any point of excluding 23 wetlands, but it was clear how 24 important this was to people based on 25 how frequently it came up, so we took
Page 91 1 Q. Okay. And so this is the idea 2 that there is a promotion for 3 regionalization, and those utilities 4 that do regionalize have a slot to be 5 invited as representative members. 6 A. Yes. 7 Q. Okay. I'm following. 8 The next edit is to add: 9 "... ecosystems interests 10 located..." 11 And to take out: 12 "... water advocacy 13 Nongovernmental Organizations 14 with members or local 15 chapters." 16 Please describe why you're 17 making that recommended change. 18 A. This edit was proposed by a group 19 of organizations who, frankly, are the 20 organizations we were trying to 21 characterize with this description. 22 The proposal from them is intended to 23 sort of better reflect the groups that 24 work inside of the Regions. That's why 25 we made that change.	Page 93 1 this recommendation to include the word 2 "... wetland..." here. 3 Q. Next in that section is the 4 additional words: 5 "... compliance with [and 6 continuing it reads] and 7 implementation of Water 8 Rights Settlements." 9 Can you describe why that was 10 considered important? 11 A. Yes: 12 This recommendation was 13 submitted by the Tribal Advisory 14 Council, and was supported by numerous 15 Tribal governments as being an 16 important clarification relative to the 17 way that Settlements were going to be 18 treated in the process, so we took 19 that recommendation and we are 20 furthering that recommendation on to 21 you as well. 22 Q. Lastly there is a section of the 23 Proposed Rule on "Criteria," which is 24 Section 15: 25 There are 4 main edits here

INTERSTATE STREAM COMMISSION NEW RULE 19.25.16 NMAC - Regional Water Security PI
VOL I ,

Page 218	Page 220
1 No. 2 Thank you very much. 3 Now we have Mr. Montoya. 4 Hello. Spell your first and 5 last name and state your affiliation. 6 MR. RUDY MONTOYA: My name is 7 Rudy Montoya; R-U-D-Y M-O-N-T-O-Y-A. 8 I'm with the New Mexico Acequia 9 Association. 10 11 RUDY MONTOYA, 12 after having been first called, 13 was examined and testified as follows: 14 15 PUBLIC COMMENT 16 BY MR. RUDY MONTOYA: Thank you for 17 letting me speak here today. My 18 Comments are actually meant to 19 complement those of my colleague, 20 Monica Rodriguez, who is going to be 21 soon joining. 22 I'm with the New Mexico 23 Acequia Association. We've handed in 24 a copy of our Written Comments that 25 were turned in prior to the September	1 throughout the Rules we need more 2 language that allows the public more 3 opportunities for community engagement, 4 input, and chances to participate. 5 HEARING OFFICER ORTH: Thank you 6 very much, Mr. Montoya. 7 Are there Commission 8 questions? 9 Commissioner Suina has joined 10 us in person; welcome, Commissioner 11 Suina. 12 Thank you very much, 13 Mr. Montoya. 14 Ms. Rodriguez, would you like 15 to go next? 16 MS. MONICA RODRIGUEZ: Good 17 afternoon. My name is Monica Rodriguez; 18 M-O-N-I-C-A R-O-D-R-I-G-U-E-Z. 19 20 MONICA RODRIGUEZ, 21 after having been first called, 22 was examined and testified as follows: 23 24 PUBLIC COMMENT 25 BY MS. MONICA RODRIGUEZ: My family has
Page 219	Page 221
1 27 deadline. 2 We generally support the 3 Proposed Rule for the Water Security 4 Planning Act, but the Rules need to 5 include a few things in order to have 6 Acequia and rural voices heard. 7 Some of the things that I 8 kind of want to point out that Monica 9 can elaborate on includes the need for 10 the language to create the Acequia and 11 Rural Water Security Advisory Working 12 Group. This group will be a statewide 13 forum that will provide input to ensure 14 that rural Water Rights and rural water 15 needs, and viewpoints are considered 16 and incorporated into the Region's 17 plan and related activities. 18 We also want to make sure that 19 the Rule needs to have the 9 ISC 20 Planning Regions overlap or be 21 contained within the Council of 22 government Regions. This will improve 23 the capacity available for implementing 24 the plans. 25 I also want to note that	1 farmed and ranched both in the Española 2 Valley and in the San Joaquin Rio de 3 Chama Land Grant for generations. We 4 continue to do so to this day. I also 5 work for the New Mexico Acequia 6 Association as their Community Outreach 7 Coordinator, and I sit on the New 8 Mexico Land Grant Council as a 9 Councilor. 10 As my colleague Rudy mentioned 11 we did submit our Written Comments 12 before the deadline of September 27, 13 and we have provided them here for you 14 today for your reference. 15 As he said we generally 16 support the Rule, but we think it is 17 really important to include the voices 18 of rural communities such that their 19 interests and their concerns are 20 included in the Rules. He highlighted 21 that the Rules should include language 22 to create an Acequia and Rural Water 23 Security Working Group. I think this 24 is going to be the foundation for 25 including those voices in the Rule

Page 222 1 process, so that Land Grants, Mercedes, 2 and Mutual Domestic can be involved 3 in this process. 4 This will be a statewide 5 forum that will provide input to ensure 6 that the rural Water Rights, water 7 needs, concerns, viewpoints, and 8 traditional knowledge is considered and 9 incorporated into the Region's plans 10 and into their related activities. 11 We also want to highlight that 12 the Rules should also include the 9 13 ISC Planning Regions overlapping onto 14 the Council of Governments. These 15 Regions are already created, and they 16 provide technical support and free 17 Grant writing, planning, and project 18 implementation services that Acequias 19 lack as volunteers, as well as Land 20 Grants. This will also improve and 21 strengthen the available capacity to 22 implement the plans. 23 We are also suggesting that 24 the Water Security Planning Act in 25 Section 4, Subsection A, which states: Page 223 1 "Subject to available 2 funding the Commission shall 3 establish and conduct a 4 Regional Water Security 5 Program pursuant to the 6 provisions of the Water 7 Security Planning Act, and 8 that the Commission may make 9 Grants or loans of funds for 10 the purpose of Regional Water 11 Planning as possible, using 12 appropriations made for that 13 purpose." 14 Such a fund or program is not 15 mentioned in the Rules, and needs to 16 be further defined in the Rules. 17 Please see our Comment related to this 18 on page 2 of our Written Comments. 19 We would also like to ask that 20 the Rules should include throughout 21 opportunities for the public to engage 22 with the process, give their input, 23 and chances for them to participate. 24 Then lastly we support 25 including 1 member from a Mutual	Page 224 1 Domestic Water Consumers Association 2 and a Community Regional Water System 3 in the Region as a Representative 4 member, as stated in the Rule, in 5 accordance with the Regional Water 6 System Resiliency Act. 7 Thank you for your time, 8 Madam Hearing Officer and Commissioners. 9 I stand for any questions. 10 HEARING OFFICER ORTH: Thank you, 11 Ms. Rodriguez. 12 Are there Commission 13 questions? 14 Commissioner Chávez. 15 16 EXAMINATION 17 BY COMMISSIONER CHAVEZ: 18 Q. Thank you for your Comments, 19 Ms. Rodriguez, and I have a quick 20 question: 21 You had a list of entities 22 that you want to be in your Advisory 23 Work Group. Have you guys considered 24 Community Ditches? 25 Not every area in the State Page 225 1 of New Mexico has Acequias. I come 2 from the Four Corners area, and there 3 are some Acequias, but there are some 4 Community Ditches. Have you guys 5 considered including that language? 6 A. BY MS. MONICA RODRIGUEZ: I 7 guess I'm not a legal scholar and I 8 don't want to go down that road, but 9 as far as the support that NMAA 10 offers, we include Community Ditches 11 in our support. 12 We try to advise from the 13 perspective of the Acequia, but I don't 14 know that we include that because of 15 maybe the legal definition of "Ditches" 16 versus "Acequias." 17 Acequias, as you know, have 18 Political Subdivision status and are 19 local governments. 20 COMMISSIONER CHAVEZ: Thank you. 21 HEARING OFFICER ORTH: Other 22 Commission questions. 23 Thank you very much, 24 Ms. Rodriguez. 25 Pam Roy.
---	---

Page 464 1 Madam Hearing Officer and members of 2 the Commission: 3 My name is Serafina, 4 S-E-R-A-F-I-N-A; Lombardi, 5 L-O-M-B-A-R-D-I. 6 7 SERAFINA LOMBARDI, 8 after having been first called, 9 was examined and testified as follows: 10 11 PUBLIC COMMENT 12 BY MS. SERAFINA LOMBARDI: I come 13 before you as a mom concerned about 14 water and for our future generations 15 in our State. 16 I am a Commissioner on the 17 Acequia de los Martinez Arriba in 18 Chimayo, New Mexico. I am also a 19 member of the Executive Committee of 20 our regional Acequia Association Board, 21 which is called the Rio Quemado, Rio 22 en Medio, Rio Frijoles, Rio Santa Cruz 23 Stream System Acequia Association. 24 I can write it down for you 25 when I'm done, if that would be better.	Page 466 1 Advisory Committee, which would be a 2 statewide forum to ensure that those 3 rural issues are lifted up and 4 acknowledged across the Regions and 5 really supports equity and reaching 6 our underserved communities to engage 7 in this process. 8 The other item I would like 9 to highlight from our Comments is that 10 there was mention in the Water Security 11 Act of funding which has not carried 12 over into the rules. We would really 13 like to see that lifted up in the 14 Rulemaking process. 15 Funding to support 16 implementation as able really increases 17 the motivation of the community to 18 engage and understand that there will 19 be an impact from their efforts, and 20 inspires all of us that there will be 21 a beneficial outcome in the end. 22 With that, I will close my 23 Comments and thank you all for your 24 service. 25 HEARING OFFICER ORTH: All right.
Page 465 1 We are actively engaged doing 2 Regional Water Planning on our Acequia 3 in that basin thanks to support from 4 the New Mexico Acequia Association, 5 which is my day job where I am the 6 Program Director. For almost 13 years 7 I have been there now. 8 I stand to support the 9 Comments that NMAA submitted before 10 the September 27 deadline, and we 11 provided a printed copy of yesterday. 12 I want to highlight that 13 those Comments were created by Acequia 14 leaders from across the State coming 15 together multiple times to share their 16 experience and insights with this 17 endeavor to make this as a productive, 18 positive, and impactful Regional Water 19 Planning process for all the Regions 20 of the State. 21 Two of the items I would like 22 to highlight in those Comments 23 include: 24 One, the need to form an 25 Acequia and Rural Water Security	Page 467 1 Thank you very much, Ms. Lombardi. 2 I forgot to ask the 3 Commissioners if they had questions of 4 Ms. García or Ms. Lombardi. I didn't 5 want to persist in that mistake if you 6 had questions. 7 COMMISSIONER GARCÍA: I have a 8 question. 9 HEARING OFFICER ORTH: You do. 10 All right. 11 COMMISSIONER GARCÍA: Thank you. 12 Thank you for your testimony, and 13 thank you, Ms. García, as well. 14 15 EXAMINATION 16 BY COMMISSIONER GARCÍA: 17 Q. Could you elaborate on the 18 funding issue and explain the 19 inequities that rural communities face, 20 or Acequias in particular when it comes 21 to applying for funding when planning 22 for projects, and what kind of 23 resources are needed for assisting 24 those communities who are generally 25 volunteers?

Page 468 1 A. MS. SERAFINA LOMBARDI: Thank 2 you for that question, Commissioner 3 García: 4 As many of you understand and 5 may have experienced, in many of our 6 rural communities, which is where the 7 majority of our Acequias are across 8 the State, not only are Acequias 9 serviced by volunteers, but our Land 10 Grants leaders are serving as 11 volunteers. Our Mutual Domestics are 12 volunteers, and we have very few other 13 local governments to interact with. 14 We may be in counties that are 15 fairly underresourced, which may be the 16 only, in some places, local government 17 that there is any access to. There are 18 very few mechanisms for formal 19 organizing. 20 All of the ones that exist, 21 for example, where I live in Chimayo 22 have very little access to funding. 23 Maybe we can get ISC funding for an 24 Acequia infrastructure project, but 25 that's, you know, once or twice in our	Page 470 1 have hopes to implement because there 2 are so few resources for us to draw 3 upon. 4 I hope that answers your 5 question. 6 HEARING OFFICER ORTH: Thank you. 7 Other Commissioner questions 8 of either Ms. Lombardi or Ms. García. 9 No. 10 All right. Thank you very 11 much. 12 I believe I indicated to 13 Chili Yazzie that I would accept 14 Comment around 1:20. 15 If you would spell your name, 16 please. 17 MR. CHILI YAZZIE: Thank you. 18 19 CHILI YAZZIE, 20 after having been first called, 21 was examined and testified as follows: 22 23 PUBLIC COMMENT 24 BY MR. CHILI YAZZIE: (Speaking native 25 language.)
Page 469 1 lifetimes. There is very little to 2 support us in gathering our ideas, 3 writing them down, and coming to 4 events like this to participate. 5 In order for these rural 6 communities to have meaningful 7 engagement in this Regional Water 8 Planning process, which is so vital to 9 us and our futures, and we're very 10 engaged stakeholders, we need support. 11 We need support to create opportunities 12 that are accessible and meet the needs 13 of folks driving all the way to 14 Albuquerque, you know, from Chimayo, 15 which is a hardship. 16 How do we put these locations 17 and times together, whether it's 18 liaisons who can help communities come 19 together, or funding to get support to 20 write down our own ideas? 21 I could go on, but I need to 22 rein it in. We need funding for every 23 level and for various issues, 24 particularly when it comes to being 25 organized to participate, but then to	Page 471 1 I give you my greetings to 2 say that (speaking native language) in 3 my language. It means sky, the 4 universe, the heavens is me or I am. 5 I say to you this morning, or 6 this afternoon, that (speaking native 7 language). I am of the universe; I am 8 a child of the universe. 9 My name is Chili Yazzie, 10 C-H-I-L-I Y-A-Z-Z-I-E, and I'm from 11 Shiprock. 12 Principally I work with a 13 farmer collective. We go by our 14 acronym name, which is to be ToohBAA, 15 T-O-O-H-B-A-A. That stands for our 16 full name, which in our language is 17 (speaking native language) Alliance. 18 We are traditional farmers 19 that farm along the San Juan River. 20 There are 6 river-based farming 21 communities that are served by 2 22 different irrigation projects. One is 23 the Upper Fruitland Irrigation Project 24 that serves Upper Fruitland, 25 Nenahnezad, and the San Juan Chapter

Page 476 1 ALFREDO MONTOYA, 2 after having been first called, 3 was examined and testified as follows: 4 5 PUBLIC COMMENT 6 BY MR. ALFREDO MONTOYA: I am the 7 President of the Mutual Domestic Water 8 Consumers Association. Also the 9 President of the Acequia Alcalde, and 10 the President of the Regional Acequia 11 Association entitled Las Nueve Acequias, 12 which is in the Upper Rio Grande River. 13 I'm also a Commissioner on 14 the New Mexico Acequia Commission, and 15 I'm a Vice Chair of the New Mexico 16 Acequia Association. 17 I want to thank you all for 18 the opportunity to speak on the 19 Proposed Rules regarding the water 20 security planning: 21 By virtue of my involvement 22 in all these organizations, Acequias, 23 Mutual Domestics, and also a member of 24 the Sebastian Martin Land Grant, I am 25 aware that there are over 700 Acequias Page 477 1 throughout New Mexico. There are also 2 hundreds of Mutual Domestic Water 3 Consumer Associations or water 4 associations. There are dozens of 5 Mercedes and Land Grants. Almost 6 entirely all these Acequias -- 7 HEARING OFFICER ORTH: I'm 8 sorry, hold on Mr. Montoya; I'm not 9 sure what's happening. 10 I'm very sorry for the 11 interruption. 12 MR. ALFREDO MONTOYA: Almost 13 entirely all of these entities are 14 found in rural New Mexico. Together 15 they represent hundreds of thousands 16 of New Mexico residents. Many times 17 they are not represented with important 18 plans like these, the Water Security 19 Act, when they are created. 20 Almost entirely all the 21 leaders of these Acequias, Mutual 22 Domestics, and Land Grants serve in 23 leadership positions on an unpaid 24 voluntary basis. There are hardly 25 ever any paid Engineers, Hydrologists,	Page 478 1 or other professionals that speak on 2 behalf of these entities. The result 3 is the Acequias, Mutual Domestic water 4 systems, and Land Grant citizens' 5 concerns are not taken into account. 6 In order to give Acequias, 7 Mutual Domestic water associations, 8 and Land Grants a voice I propose that 9 the Proposed Rules include an Acequia 10 and Water Security Advisory Group, or 11 an Advisory Working Group very similar 12 to the Water Security Tribal Advisory 13 Council. 14 The council would be comprised 15 of rural representatives who are from 16 Acequias, Mutual Domestics, and Land 17 Grants. This group would provide a 18 statewide forum that would provide 19 input to ensure that rural Water 20 Rights, water needs, and viewpoints are 21 considered and incorporated into each 22 region's plan and related activities. 23 I would like to thank you all 24 for your service as well, and for the 25 opportunity to make a few Comments. Page 479 1 HEARING OFFICER ORTH: Thank you 2 very much, Mr. Montoya. 3 The Administrator did get an 4 email from Kian Dadras. 5 MR. ALFREDO MONTOYA: I'm sorry? 6 HEARING OFFICER ORTH: Kian, 7 K-I-A-N; Dadras, D-A-D-R-A-S. He says 8 Mayordomo Alfredo may or may not be 9 able to mention this on his behalf, 10 but he is repairing backhoes at the 11 moment in Alcalde. He wondered if you 12 would bring up the question of the 13 gutting of carbon capture regulatory 14 market and the effect it has on 15 Parcientes. 16 MR. ALFREDO MONTOYA: Yes. 17 This gentleman has approached 18 us with a proposal that would capture 19 carbon as a resource for Acequias to 20 be able to have a revenue stream. We 21 are seriously considering it and taking 22 this proposal into consideration, and 23 I will speak with Kian later on about 24 his proposal. 25 HEARING OFFICER ORTH: Thank you
--	---

Page 512 1 Officer. That's all I have. 2 HEARING OFFICER ORTH: Thank you. 3 All right. Thank you very 4 much, Ms. Hebard. 5 We'll move online for a 6 moment. 7 Arturo Archuleta; are you 8 online with us? 9 MR. ARTURO ARCHULETA: Yes, I 10 am. Can you hear me? 11 HEARING OFFICER ORTH: Yes. 12 If you would please spell 13 your first and last name. 14 MR. ARTURO ARCHULETA: Sure. 15 It's Arturo, A-R-T-U-R-O; Archuleta, 16 A-R-C-E-U-L-E-T-A. 17 HEARING OFFICER ORTH: And 18 you're with Amigos Bravos. 19 MR. ARTURO ARCHULETA: No, I am 20 with the New Mexico Land Grant 21 Council. 22 HEARING OFFICER ORTH: Okay. 23 Thank you very much. Go ahead. 24 MR. ARTURO ARCHULETA: Thank 25 you.	Page 514 1 Public Comment, and I just want to 2 briefly sort of go over some of our 3 recommendations: 4 The first is that the Rules 5 need to include language in Section 6 19.25.16.6 to include political 7 subdivisions of the State as entities 8 that are targeted for meaningful input 9 and participation. I think this will 10 help capture some of the small local 11 government entities like Land Grants, 12 Acequias, as well as Mutual Domestic. 13 We also support the inclusion 14 of the Land Grants as part of Section 15 19.25.16.12, which covers " 16 "Composition of Regional 17 Water Security Planning 18 Councils." 19 We also encourage the 20 inclusion of representatives from 21 Mutual Domestic Water Consumer 22 Associations within that section just 23 because that is another sort of water 24 interest group comprised of local 25 small communities, and it's kind of a
Page 513 1 ARTURO ARCHULETA, 2 after having been first called, 3 was examined and testified as follows: 4 5 PUBLIC COMMENT 6 BY MR. ARTURO ARCHULETA: So, Madam 7 Hearing Officer, members of the 8 Commission, again my name is Arturo 9 Archuleta. I'm here on behalf of New 10 Mexico Land Grant Council. The 11 Council is a State agency that is 12 tasked with providing support to Land 13 Grant Mercedces throughout the State. 14 Land Grants, like Acequias, 15 are small local government entities 16 that predate both statehood as well as 17 the establishment of the United States 18 Sovereignty here in the Southwest. 19 Under State law Land Grant Boards of 20 Trustees have authority over the 21 common waters of their respective 22 Grants. 23 The Council has submitted 24 Written Testimony to the Commission 25 during the open sort of period for	Page 515 1 local government structure. 2 Then finally we request the 3 inclusion in the Rule of the Acequia 4 and Rural Water Security Advisory 5 Working Group as was proposed and 6 described earlier by Mr. Alfredo 7 Montoya. The Council supports that, 8 and it was included in our Written 9 Comments as to why we believe that is 10 very important to ensure that the 11 rural community water users have sort 12 of another opportunity to be heard and 13 sort of an additional sounding board 14 for giving input into this process. 15 With that I will wrap up and 16 stand for any potential questions. 17 HEARING OFFICER ORTH: Thank you, 18 Mr. Archuleta. 19 Commission questions. 20 Commissioner García. 21 COMMISSIONER GARCÍA: Thank you. 22 Thank you, Mr. Archuleta, for 23 your Testimony today. 24 /// 25 ///

INTERSTATE STREAM COMMISSION NEW RULE 19.25.16 NMAC - Regional Water Security PI
VOL III ISC HEARING ,

Page 759 1 EXAMINATION 2 BY COMMISSIONER GARCÍA: 3 Q. Thank you, Senator, and thank 4 you, Ms. Taylor. 5 Is the New Mexico Rural Water 6 Users Association an entity that's 7 defined in Statute? 8 A. BY MS. ELIZABETH NEWLIN TAYLOR, 9 ESQ.: I don't believe so. 10 Q. And what's the purview of that 11 organization? 12 A. BY MS. ELIZABETH NEWLIN TAYLOR, 13 ESQ.: Do you want to speak to that? 14 A. BY SENATOR STEVE LANIER: Go 15 ahead. 16 A. BY MS. ELIZABETH NEWLIN TAYLOR, 17 ESQ.: Okay. 18 Well in San Juan County it is 19 an umbrella organization made up of 20 all the -- I think there is 7 or 8, 21 maybe more other Rural Water User 22 Associations, which is an umbrella 23 association that actually has a seat 24 on the Board of the San Juan Water 25 Commission.	Page 761 1 Joint Powers Agreement under the Joint 2 Powers Agreement Act. It's made up of 3 the cities of Aztec, Bloomfield, 4 Farmington, the County of San Juan, 5 and the rural associations. 6 Q. Does this New Mexico Rural Water 7 Users generally represent Community 8 Ditches? 9 A. BY MS. ELIZABETH NEWLIN TAYLOR, 10 ESQ.: Yes. 11 A. BY SENATOR STEVE LANIER: Yes. 12 I think the difference is we 13 only have a 5-Commissioner Commission, 14 so we didn't want to have, you know, a 15 20-Commissioner Commission. All of the 16 water associations fit underneath that 17 umbrella, so then they talk and send 18 us 1 representative to the San Juan 19 Water Commission. 20 Is that clear? It's 21 different than Acequias. 22 Q. Are you saying that Community 23 Ditches are different from Acequias? 24 A. BY SENATOR STEVE LANIER: In our 25 area, yes.
Page 760 1 Q. Okay. So this is the New Mexico 2 Rural Water... 3 Who does the New Mexico Rural 4 Water Users Association represent? 5 A. BY MS. ELIZABETH NEWLIN TAYLOR, 6 ESQ.: Its member entities. 7 Q. And what type of entities are 8 they? 9 A. BY MS. ELIZABETH NEWLIN TAYLOR, 10 ESQ.: There are also, you know, other 11 flavors or other small... 12 Well they are rural water 13 associations, so they could be a 14 Mutual Domestic or a Co-Op, or some 15 other type of a rural water. 16 There's, like 7 or 8 17 different organizational types of 18 rural water associations. 19 Q. The San Juan Water Commission, 20 is that considered a rural water 21 association? 22 A. BY MS. ELIZABETH NEWLIN TAYLOR, 23 ESQ.: No. 24 The San Juan Water Commission 25 itself was formed in 1986 under a	Page 762 1 A. BY MS. ELIZABETH NEWLIN TAYLOR, 2 ESQ.: Legally they are the same. 3 Q. Because they occur in the same 4 statute. 5 A. BY MS. ELIZABETH NEWLIN TAYLOR, 6 ESQ.: Right. 7 A. BY SENATOR STEVE LANIER: Yes. 8 Q. And then any recent statutes 9 that have mentioned Acequias and say 10 "Acequia and Community Ditch," like 11 "Acequia and Community Ditch Fund," or 12 "Acequia and Community Ditch 13 Infrastructure Fund." 14 You're saying in your Region 15 you consider them different. 16 A. BY SENATOR STEVE LANIER: Yes. 17 A. BY MS. ELIZABETH NEWLIN TAYLOR, 18 ESQ.: They have a different outlook, 19 but legally they are the same. 20 A. BY SENATOR STEVE LANIER: It is 21 the same, but we consider them 22 different. 23 Q. Okay. What do you mean by "... 24 different outlook..."? 25 A. BY SENATOR STEVE LANIER: We let

INTERSTATE STREAM COMMISSION NEW RULE 19.25.16 NMAC - Regional Water Security PI
VOL III ISC HEARING ,

Page 723 1 PUBLIC COMMENT 2 BY MR. JOHN KADLECEK: I am here today 3 mostly in my capacity as President of 4 the Mutual Domestic because I am 5 concerned about the language of the 6 At-Large Representative for Mutual 7 Domestics in its particular vagueness. 8 I very much liked hearing 9 what Mr. Kaufman had to say about how 10 this room may not even hold all these 11 Representatives, and if there were to 12 be a Representative from each Mutual 13 Domestic in that area, it's getting to 14 be an unwieldy number. 15 It does mention a Regional 16 Community Association of which we are 17 not part of and none exists. I know 18 that there are conversations about 19 creating them, but many Mutual 20 Domestics are independent and 21 autonomous in nature and won't 22 necessarily want to be involved in 23 something like that. 24 I wish that I had a solution 25 to offer for my concern, but the only	Page 725 1 day comes. 2 The other thing I wondered is 3 there is no language in here about the 4 Open Meetings Act, and I wondered if 5 that would be a part or required of 6 the different Councils. 7 Thank you very much for 8 putting all this together and providing 9 the opportunity to Comment. 10 HEARING OFFICER ORTH: Thank 11 you, Mr. Kadlecek. 12 Let me see if there are 13 Commission questions of you. 14 Commissioner García. 15 16 EXAMINATION 17 BY COMMISSIONER GARCÍA: 18 Q. Mr. Kadlecek; is that the 19 correct pronunciation? 20 A. It is, thank you. 21 Q. Okay. Thank you. 22 Thank you for your Comment 23 today. I would like to ask you if you 24 could elaborate on your Comment about 25 paper Water Rights versus wet water.
Page 724 1 thing I can think of has to do with 2 the conversation about Subregions, 3 which also I think is a very good 4 idea, including having voting rights 5 and being based on Groundwater areas. 6 That's the general Comment I 7 had about Mutual Domestics. 8 The other one, which, to me, 9 is kind of the elephant in the room, 10 and that's the discrepancy between 11 actual paper Water Rights and the 12 actual amount of water that we have in 13 this State. 14 Again, I don't have any 15 solution, but I think maybe there's a 16 way that will come out in the PPPs. I 17 see that part of this is about 18 protecting the Water Rights, but know 19 that there is less water than there is 20 Water Rights, and that's an important 21 issue. That's a very important issue 22 to me. That reconciliation is going 23 to come in a very uncomfortable way in 24 the future, and that's something that 25 needs to be kept in mind before that	Page 726 1 Are you located in the 2 Pojoaque Basin? 3 A. BY MR. JOHN KADLECEK: I am, 4 yeah. I'm just north of Santa Fe, 5 outside of Tesuque. 6 Q. What do you mean by "paper Water 7 Rights versus wet water," and can you 8 give us an example of what that means 9 in your Region and your stream basin? 10 In other words do you have 11 any sense of what the discrepancy 12 might be? 13 A. BY MR. JOHN KADLECEK: This is 14 something that I wish I was more 15 informed on than I am. I'm part of 16 conversations with people who are more 17 informed than I am, but it has to do 18 with the fact that development in 19 Santa Fe has to show that they have 20 enough Water Rights to provide to the 21 residents that they are building for, 22 but they might be coming from Socorro. 23 There is no reality in moving that 24 water because it's an abstract 25 concept.

Page 955 1 unique and they face unique challenges 2 to participation because of their 3 volunteer nature. In some cases it's 4 the unique cultural context, whether 5 they be Acequias or Land Grants, and 6 the unique challenges that they face. 7 I guess my question is 8 whether there is an opening for that in 9 the current Rule, to have an advisory 10 body, one or more, that would provide 11 for that purpose? 12 I mean since it is in the 13 Statute and it's not in the Rule, what 14 options do you think we have to address 15 that? 16 A. Thank you, Commissioner García. 17 Our decision was to include 18 just WSTAC in the Rule because of 19 their distinct nature as Sovereigns. 20 Do we think engaging in a more informal 21 way and an ongoing way with Acequia 22 and Land Grant communities would be 23 beneficial? Absolutely. 24 Whether that needs to be in 25 the Rule is something we determined to	Page 957 1 because it would open the door to 2 everyone else, but the Statute mentions 3 "... Acequias...", it doesn't mention 4 everyone else, and there is a reason 5 for that. 6 I believe one reason that 7 Acequias and Community Ditches -- they 8 are synonymous, by the way; same 9 Statute, same term. 10 I noticed that in your Redline 11 you put that in there. I think that's 12 helpful because in their respective 13 basins the Acequias are managing most, 14 if not all of the non-Indian Surface 15 Water Rights. That's a very big role, 16 and there are many of them. 17 If you don't have a process 18 that's orderly to get that advice, you 19 run the risk of getting 50 or 100 20 Acequias coming to you individually, 21 versus if you have an actual process. 22 That's one of the reasons that it's 23 helpful. 24 I just want to make the case 25 that because it's mentioned in the
Page 956 1 not put it there with a concern that 2 once you open that door, there might 3 be other groups that have distinct 4 interests that would want their own 5 groups established by Rule. 6 I do think it's worth looking 7 at, you know, the Statute that 8 establishes the Acequia Commission 9 because the Acequia Commission advises 10 the Governor, the Legislature, and 11 State Agencies on issues that impact 12 Acequias. 13 Similarly, I think the Land 14 Grant Council establishing Statute 15 provides a similar framework. 16 But whether it's through the 17 Acequia Commission, or some other 18 process, would we welcome supporting, 19 including facilitation, support, or 20 otherwise that kind of convening? 21 Absolutely. 22 Would we find that valuable? 23 Yes, most certainly. 24 Q. I appreciate that answer. 25 You said you didn't do it	Page 958 1 Statute, it's not like everybody else, 2 and there is a reason. 3 Now one thing that I 4 recommended earlier, and I don't think 5 this is limited to Acequias, but is 6 there an opening to use the Rule to 7 point to Guidelines, something like 8 "including, but not limited to," or 9 something along the lines of, you 10 know, "The Commission will consider 11 these things, including creation of an 12 advisory process for Acequias," or 13 "advisory body." 14 You know, the Statute says 15 "... rural...", too, which is 16 interesting. 17 The recommendation that came 18 from those communities was combining 19 it into one advisory body, and it 20 seems like a reasonable thing to do 21 given what the Statute says. 22 I guess my question is can we 23 point to that in the Rule, or point to 24 a Guideline that would do that? 25 A. Commissioner García, I believe