

Irrigation
District
Perspective on
Rio Grande
Compact
Compliance

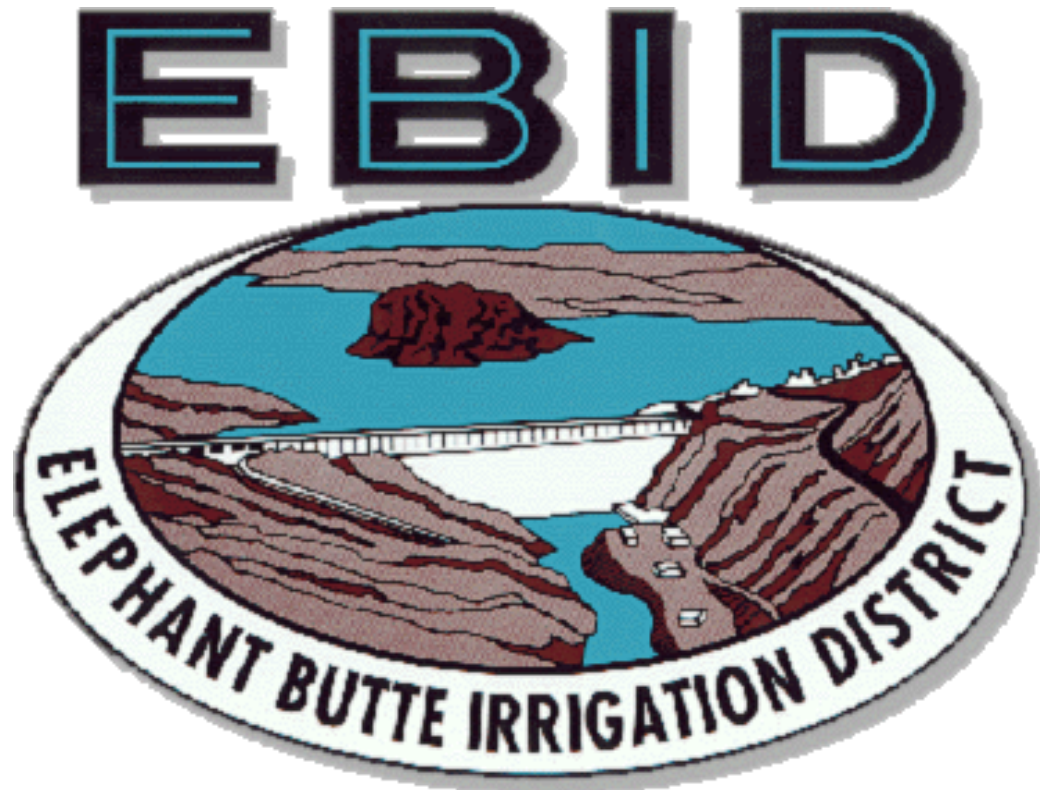
Samantha R. Barncastle
EBID General Counsel

August 26, 2024

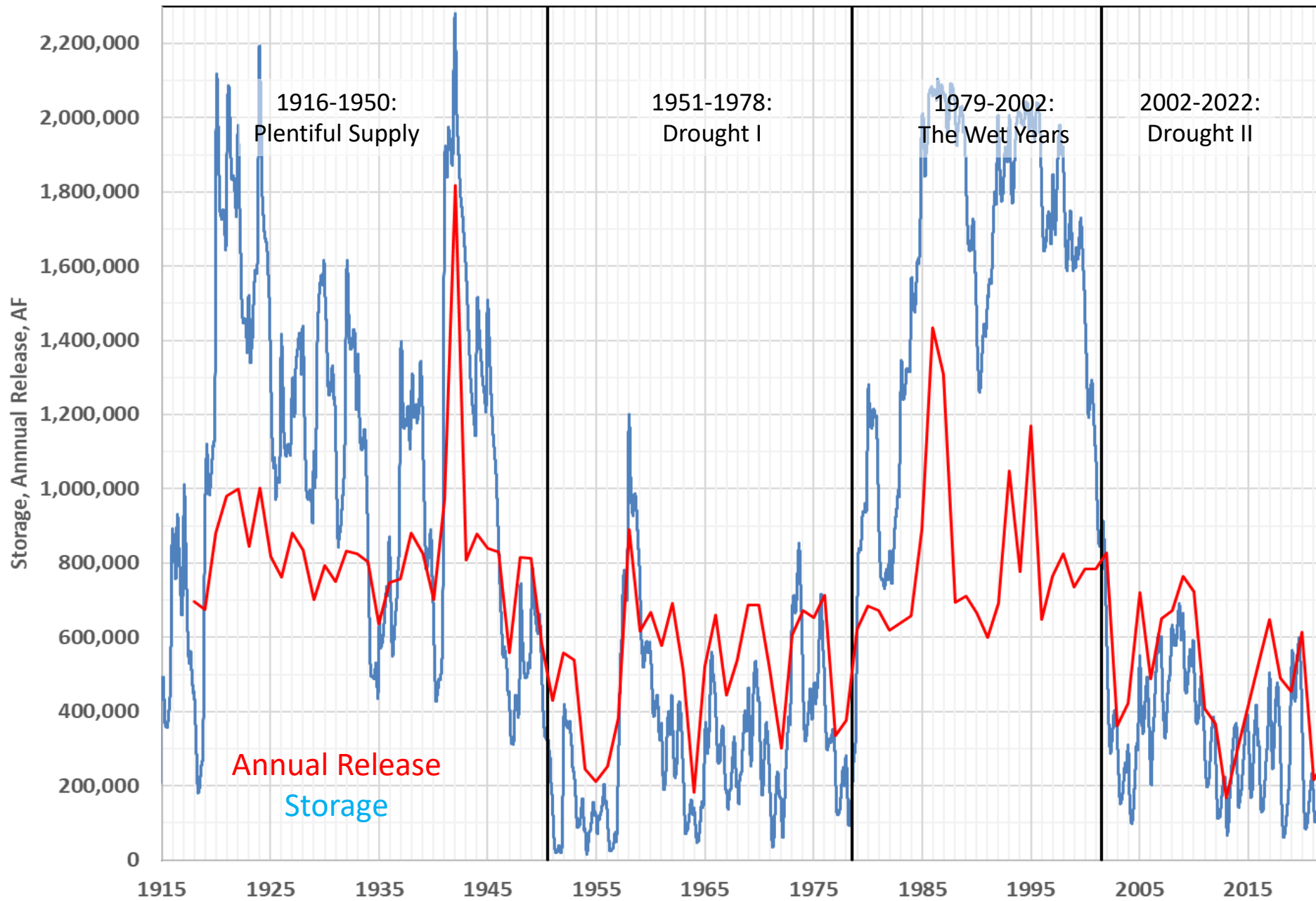
Legislative Interim
Committee

Water & Natural Resources

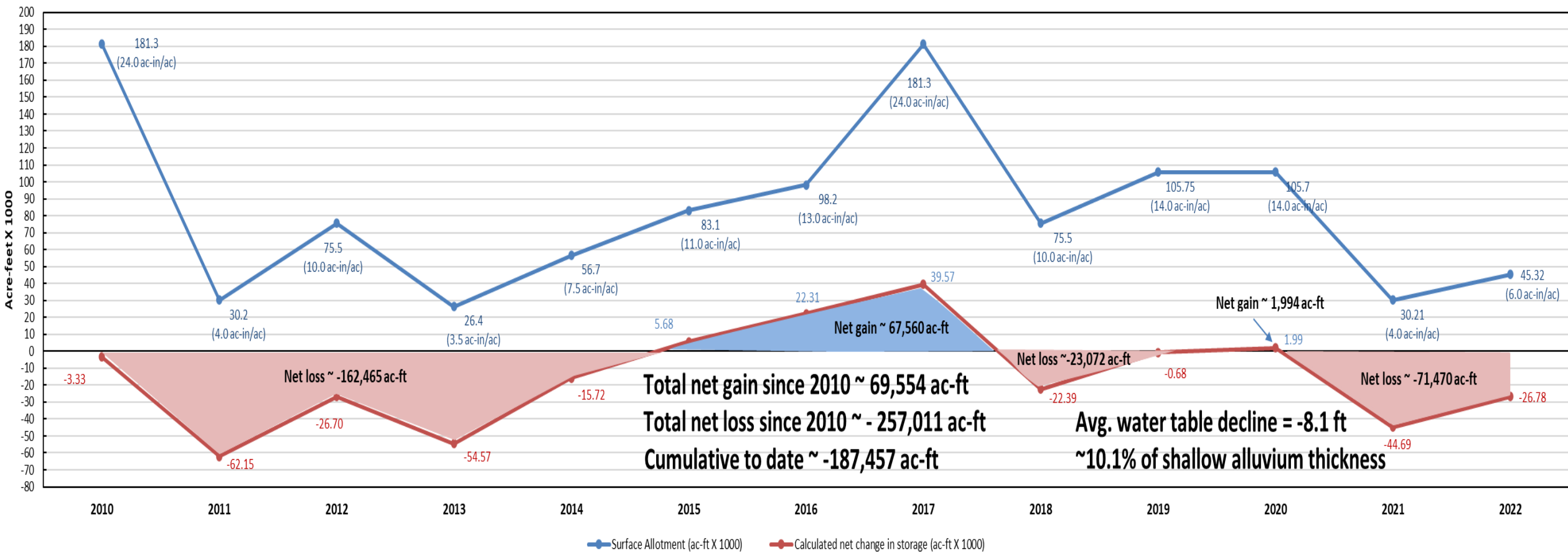
Socorro, NM



Rio Grande Project Hydrologic History: Elephant Butte Reservoir, 1917 - 2022

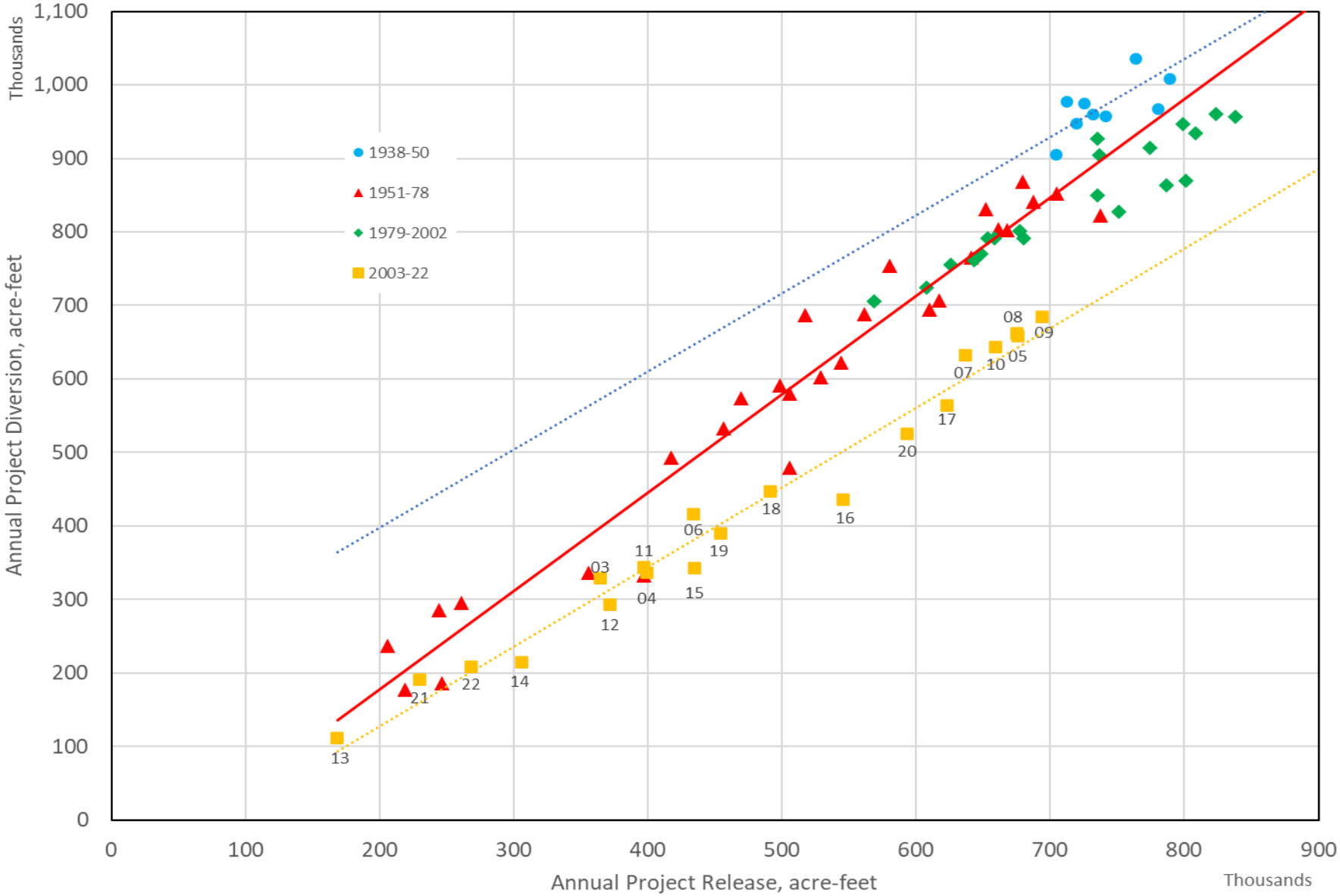


Mesilla Valley year-end net change in shallow aquifer storage from 2010 to 2022 (relative to Dec. 31, 2009 water table conditions) and the total annual pro rata EBID surface water allotment



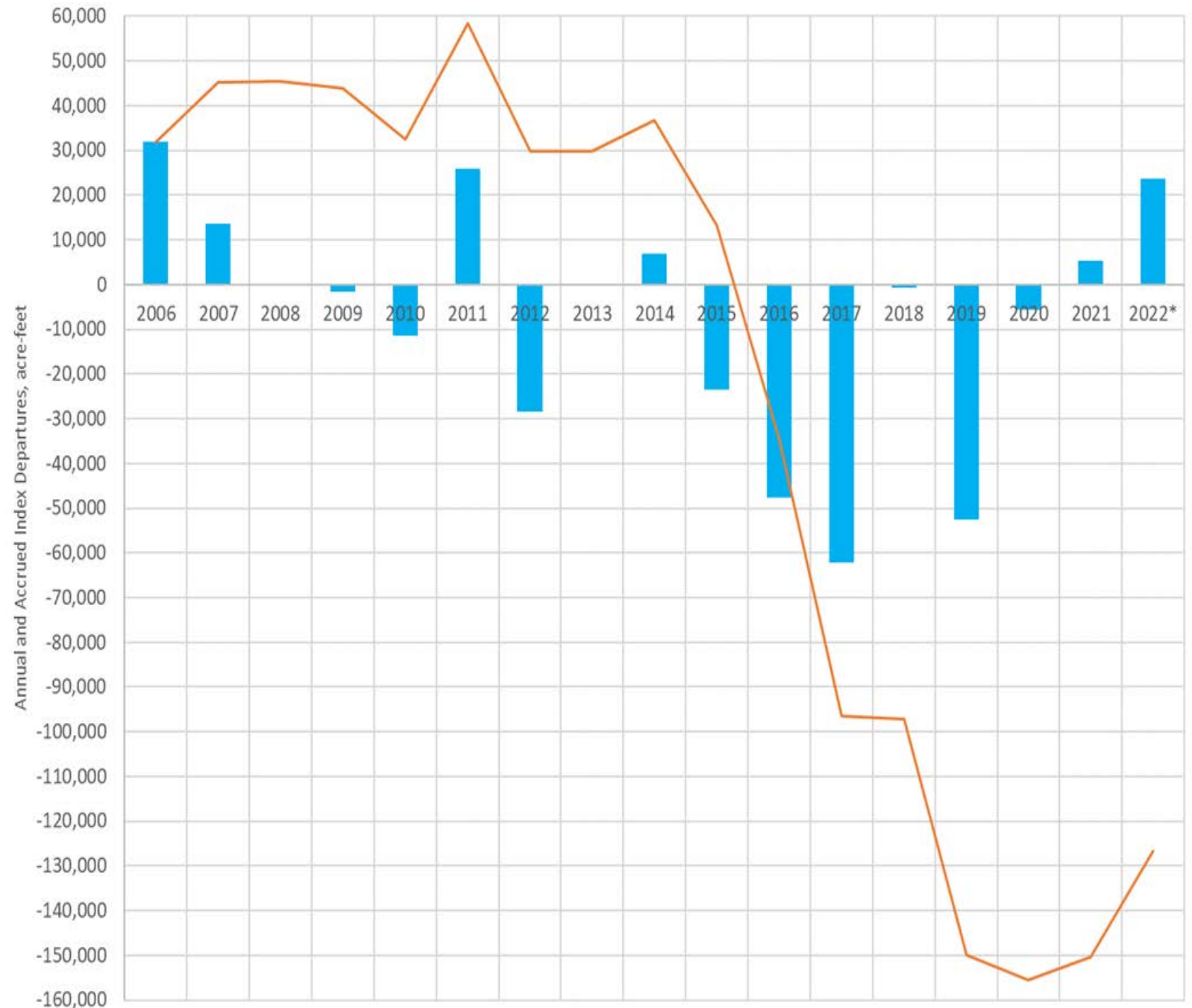
- The oscillation of groundwater depletion relative to the surface water allotment continues as expected.
- The aquifer impacts of 2021 were not compounded in 2022 at many sites as much as expected, suggesting that adaptation is occurring.
- Stormwater capture continues to be a priority as opportunities present!

Release and Diversion in the Rio Grande Project, 1938-2021



Historical Run: 2006-2022* Annual and Accrued Index Departures

- The Orange line is the Accrued annual debt—or how short we were in delivering water to the state line over the rolling accounting period
- The Blue bars are the annual debt—or how short we were in delivering water at the state line in each accounting year



SCOTUS 2024 Opinion



- EBID opposed the settlement and Consent Decree along with the Federal Government and Texas Irrigation District, which led to the recent Court Opinion, which was released June 21, 2024.
- The Court agreed with the US Government and the Irrigation Districts that the rights claimed by the project, ie. the Federal interest, outweighed the right of the states to settle this case over the objection of the government.
- EBID argued it would have causes of action against the United States for violations of its “Downstream Contracts” if it deprived EBID of water in the name of the Consent Decree. The Court seemed to accept this logic when it decided that the US had interests the States could not compromise
- EBID’s focus is and remains properly quantifying what is to be protected for the Project under the Rio Grande Project
- EBID’s position remains that the Compact was put in place to protect the delivery of Project water to Project beneficiaries.
- Despite what legal scholars are saying, it is my legal opinion that this decision is unique to the Rio Grande Project – I do not see broad applicability throughout the west, even on the *Hinderlider* issue, which many saw as a major curveball...

EBID's work 'on the ground'

- Elephant Butte Irrigation District (EBID) has identified several infrastructure priorities that will help it to cope with rapidly changing hydrologic and institutional conditions.
- These infrastructure measures are intended to make the most of a dwindling supply and provide means for future Rio Grande Compact compliance requirements without further impairing EBID's water supply.

RE-RECLAIMING THE WEST!

EBID's Vision for a more stable future



Elephant Butte Irrigation District (EBID)

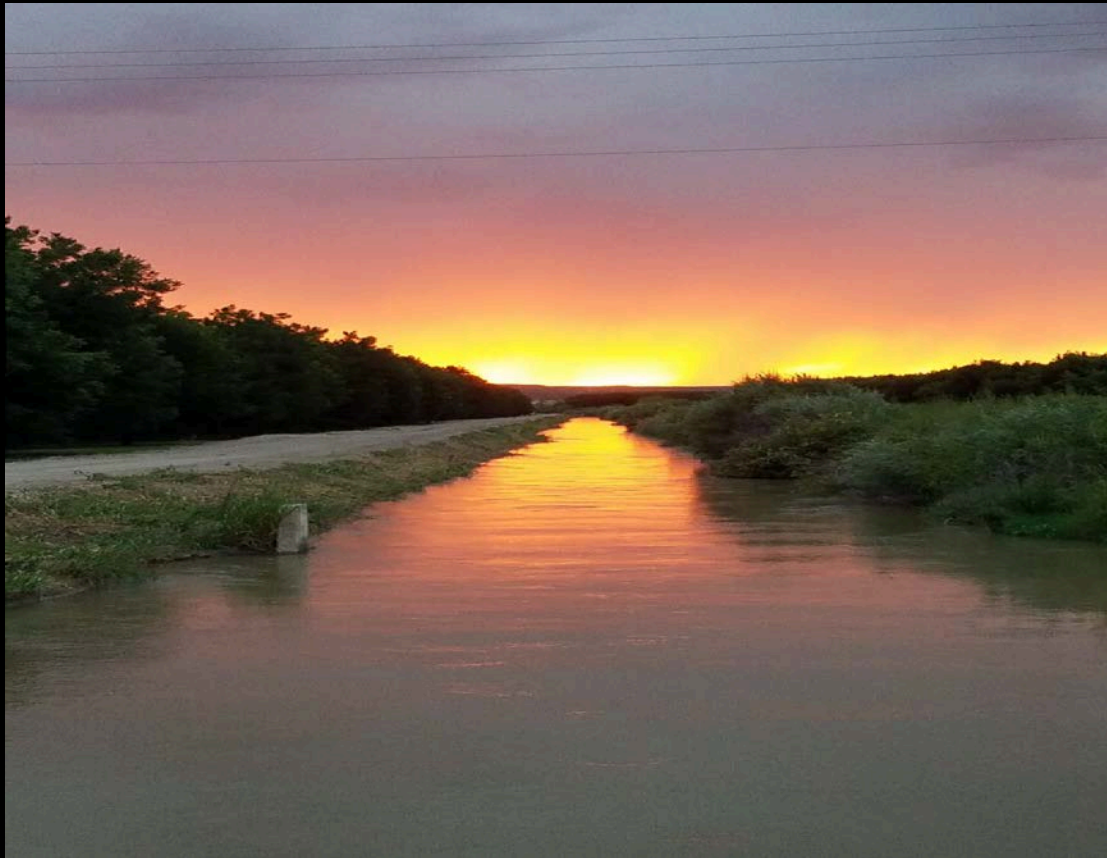
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Location: New Mexico portion of the Rio Grande Project
Sierra and Dona Ana Counties, New Mexico

PUBLIC LAW 117–169—AUG. 16, 2022

PART 3—DROUGHT RESPONSE AND PREPAREDNESS



SEC. 50233. DROUGHT MITIGATION IN THE RECLAMATION STATES.

(a) DEFINITION OF RECLAMATION STATE.—In this section, the term “Reclamation State” means a State or territory described in the first section of the Act of June 17, 1902 (32 Stat. 388, chapter 1093; 43 U.S.C. 391).

(b) APPROPRIATION.—In addition to amounts otherwise available, there is appropriated to the Secretary (acting through the Commissioner of Reclamation), for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, \$4,000,000,000, to remain available through September 30, 2026, for grants, contracts, or financial assistance agreements, in accordance with the reclamation laws, to or with public entities and Indian Tribes, that provide for the conduct of the following activities to mitigate the impacts of drought in the Reclamation States, with priority given to the Colorado River Basin and other basins experiencing comparable levels of long-term drought, to be implemented in compliance with applicable environmental law:

Rio Grande Project Area – Drought Resiliency Team

- This group is a team of highly qualified water professionals who are working to identify projects that may result in a more sustainable and resilient Lower Rio Grande community.
- This group has prioritized infrastructure as the preferred mechanism for managing groundwater depletions, though other mechanisms exist (including importation of new water supplies, fallowing farmland, and priority administration requiring wells to be turned off)





RE-RECLAIMING THE WEST!

We are not only planning for implementation of the settlement from TX v. NM, whatever that may be, we are planning for our long-term future, much like our great-grandfathers originally did over 100 years ago. This must be a community-wide effort and should not fall on the farmers alone to see it succeed!