

Leadership at the Office of the State Engineer (OSE) is working to refocus the agency’s priorities on big-picture planning and investments that can mitigate the impact of water scarcity on New Mexico’s residents and economy. The Governor’s 50-year water plan prepared by the Interstate Stream Commission (ISC) is expected to be available to the public, with recommendations coming out of a new water policy and infrastructure task force in mid-October 2022. In recent discussions with interim committees, it is apparent that the OSE/ISC will be called upon to take a more active role in water planning and project development as well as compliance and enforcement than its mission, mostly regulatory functions, and capacity have allowed to date.

Water Resource Allocation

The Water Resource Allocation Program (WRAP) has an internal goal of keeping the number of backlogged water rights permit applications under 499, which it achieved for the first time this fiscal year. The program met the target for applications processed per month in the first quarter and fourth quarters but fell one short of the FY22 target. WRAP also had an additional workload resulting from drought conditions as well as numerous cannabis water right validation reviews in support of the Regulation and Licensing Division’s producer licensing process, and “agency review” duties for the New Mexico Finance Authority’s Water Trust Board, which provides funding for water-related projects. The purpose of WRAP is to provide for the administration, distribution, protection, conservation, and development of the state's surface water and groundwater resources, including the implementation of active water resource management. The Dam Safety Bureau’s performance measure is related to the number of publicly owned dams with problematic inspection findings. Written notice of a dam’s condition, including any deficiencies and potential issues, is a required component of dam safety inspections conducted by the Dam Safety Bureau in WRAP. The State Engineer will work to change this performance measure in the next fiscal year to more accurately reflect the services provided by this bureau. Currently, dam construction project management is not a part of its mission or budget.

| | FY20 Actual | FY21 Actual | FY22 Target | FY22 Total | Rating |
|--|-------------|-------------|-------------|------------|--------|
| Budget: \$15,153.5 FTE: 171 | | | | | |
| Unprotested and unagrieved water rights applications backlogged* | 502 | 522 | N/A | 499 | |
| Unprotested water rights applications processed, per month | 39 | 30.5 | 40 | 39 | Y |
| Transactions abstracted annually into the water administration resource system database | 20,432 | 24,029 | 20,000 | 28,665 | G |
| Notices issued to owners of publicly-owned dams notifying them of deficiencies or issues | 58 | 78 | 45 | 61 | G |
| Program Rating | Y | Y | | | G |

*Measure is classified as explanatory and does not have a target.

Interstate Stream Compact Compliance

The Pecos River Compact report for water year 2021, issued on June 25, 2022, included an annual debit to New Mexico of 4,400 acre-feet, resulting in a

ACTION PLAN

| | |
|--------------------------|----|
| Submitted by agency? | No |
| Timeline assigned? | No |
| Responsibility assigned? | No |

**Publicly Owned Dams in Need of Rehabilitation:
10 Highest Priority Dams**

| Name | Purpose | Estimated Rehab Cost |
|---------------------|------------------------|----------------------|
| Cimarroncito Dam | Water Supply | \$16M or more |
| Fenton Lake Dam | Recreation, Wildlife | \$18M or more |
| Bear Canyon Dam | Irrigation, Recreation | \$8M or more |
| Eagle Nest Dam | Irrigation | \$10M or more |
| Nichols Dam | Water Supply | \$5M or more |
| McClure Dam | Water Supply | \$5M or more |
| Bluewater Dam | Irrigation | TBD |
| Alto Lake Dam | Water Supply | \$10M or more |
| Lower Vallecito Dam | Irrigation | \$7M or more |
| Lake Maloya Dam | Water Supply | >\$30M |

Source: OSE

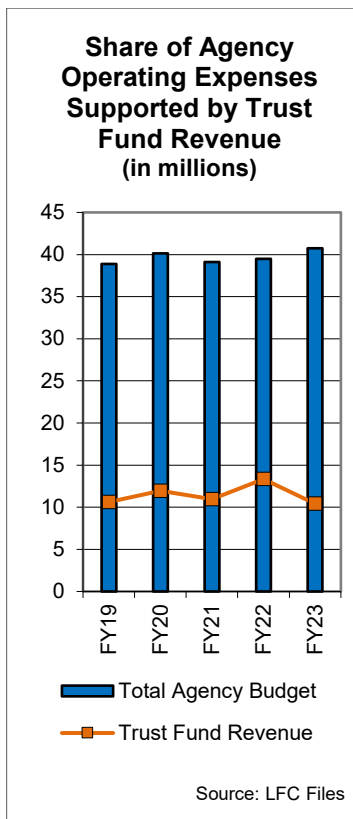
The Dam Safety Bureau keeps a list of publicly owned dams that are of sufficient size to be regulated by OSE, have high-hazard potential, have auxiliary spillway capacity less than 70 percent of the regulatory requirement, and are deficient based on safety criteria with a condition rating of unsatisfactory, poor, or fair. According to LFC’s most recent quarterly capital outlay report, OSE has \$13.9 million in unspent capital outlay funding for dam construction and rehabilitation. Another \$10 million for statewide dam rehabilitation was appropriated to OSE during the 2022 legislative session.

cumulative Pecos River Compact credit of 157.2 thousand acre-feet. OSE attributes New Mexico’s cumulative credit in large part to investments the state made in implementing the 2003 Pecos Settlement Agreement, such as purchasing water rights and constructing and operating two augmentation wellfields.

New Mexico’s Rio Grande Compact engineer advisor reports New Mexico under-delivered by approximately 30,800 acre-feet in 2021, resulting in a calculated accrued debit of 127,100 acre-feet for calendar year 2022. The Middle Rio Grande Conservancy District will begin the 2022 irrigation season with no native water in storage, and received only about 50 percent of a full allocation of San Juan Chama project water due to water supply conditions in the San Juan basin.

New Mexico’s legal and technical teams are optimistic about Rio Grande Compact litigation with Texas reaching a settlement, while continuing to prepare for trial. Attorneys for the parties have been negotiating a settlement and are aiming to complete the deal by September 23. Absent a settlement agreement, the case will likely have a hearing to discuss the mechanics of a trial and set a trial date for early January.

The purpose of the ISC compliance and water development program is to ensure the state’s continued compliance with interstate stream compacts, resolve federal and interstate water issues, develop water resources and stream systems in an environmentally sound manner, and plan for the future use of water to ensure maximum sustained beneficial use of available water resources.



| | FY20 Actual | FY21 Actual | FY22 Target | FY22 Total | Rating |
|--|-------------|-------------|-------------|------------|--------|
| Budget: \$12,037.7 FTE: 44 | | | | | |
| Cumulative state-line delivery credit per the Pecos River Compact, in thousand acre-feet | 166.3 | 161.6 | >0 | 161.6 | G |
| Cumulative delivery credit per the Rio Grande Compact, in thousand acre feet | -38.8 | -96.3 | >0 | -127.1 | R |
| Cumulative New Mexico unit fund expenditures, in millions* | \$20.1 | \$22.1 | N/A | \$22 | |
| Program Rating | G | G | | | Y |

*Measure is classified as explanatory and does not have a target.

Litigation and Adjudication

The two Litigation and Adjudication Program (LAP) measures track progress toward the completion of the adjudication of water rights in New Mexico. The percentage of water rights that have judicial determinations represents the percentage of water rights that have been determined by court orders entered as a share of all water rights adjudication suits to date. It is not expressed as a percentage of all water rights that have been and will be adjudicated in the future because that number cannot be determined before suits are filed for areas yet to be adjudicated. The program exceeded its FY22 target despite the lower number of offers made to defendants.

Offers to defendants in adjudications are currently low because activity in the Lower Rio Grande Bureau has a disproportionate effect on the measure; adjudications in other parts of the state are mostly in earlier stages or are correcting existing subfiles rather than initiating new offers. OSE will work to

develop a performance measure that will more broadly capture their progress than this current longstanding goal for the next fiscal year.

| | FY20 Actual | FY21 Actual | FY22 Target | FY22 Total | Rating |
|--|----------------|----------------|----------------|---------------|----------|
| Budget: \$7,201.7 FTE: 58 | | | | | |
| Offers to defendants in adjudications | 444 | 381 | 325 | 142 | R |
| Water rights that have judicial determinations | 76% | 76% | 74% | 77% | G |
| Program Rating | G | G | | | Y |