

ACTION PLAN

Submitted by agency?	Yes
Timeline assigned?	Yes
Responsibility assigned?	Yes

Office of the State Engineer

The Office of the State Engineer (OSE) and the Interstate Stream Commission (ISC) spent significant time and resources working with the Office of the Attorney General to navigate settlement negotiations and trial preparation in the *Texas v. New Mexico* water rights case. All states involved agreed in principle to a proposed settlement. The settlement was presented in October 2022 to the judge overseeing the case. However, the U.S. Department of Justice (DOJ) contends the proposal fails to address their concerns in the case. The proposed settlement was presented in February and now awaits the ruling of the Special Master assigned by US Supreme Court to advise the Court regarding the proposed consent decree.

OSE worked with other state agencies, community groups, stakeholders, and irrigation districts to develop recommendations through the Water Policy and Infrastructure Task Force. The report included several recommendations that would require OSE and ISC to take a more active role in water planning and project development, as well as compliance and enforcement. This will represent a change in mission for the agency, which has historically focused on regulatory and compliance functions and may challenge agency capacity at current funding levels.

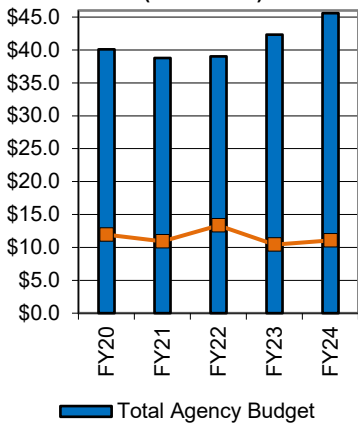
Water Resource Allocation

The Water Rights Division exceeded its target for the second quarter and processed 38 applications per month. Additionally, the division serves as “agency reviewers” under the New Mexico Finance Authority and Water Trust Board’s project review team and as “cannabis water rights validation reviewers” for the Regulation and Licensing Division. Neither of these unfunded additional workloads are reflected in current performance goals, but they should be considered for inclusion to reflect agency productivity more accurately.

The Water Rights Abstract Bureau is responsible for populating and maintaining the Water Administration Technical Engineering Resource System (WATERS) and is on track to meet its target for FY23.

The Dam Safety Bureau planned for over 90 inspections in FY23 but so far has only performed twelve field inspections in the first half of the year. The bureau plans to use the Federal Emergency Management Agency’s National Dam Safety Grant funding to secure contract engineering assistance for dam inspections. It expects to use these engineers to meet its target for FY23.

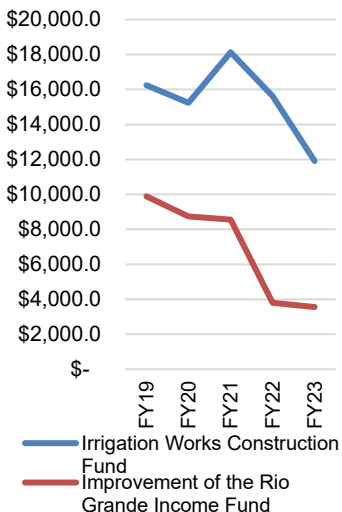
Share of OSE Operating Expenses Supported by Irrigation Works Construction Fund & Improvement of the Rio Grande Income Fund & IRGIF (in millions)



*FY24 is tentative based on HB2 (2023)

Source: LFC Files

OSE Fund Balances (in thousands)



Source: LFC Files

	FY21 Actual	FY22 Actual	FY23 Target	FY23 Q1	FY23 Q2	Rating
Budget: \$17,037.6 FTE: 171						
Number of unprotested and unagrieved water right applications backlogged*	522	499	N/A	516	483	
Average number of unprotested new and pending applications processed per month	30.5	39	35	40	38	G
Number of transactions abstracted annually into the water administration technical engineering resource system database.	24,029	28,665	21,000	6,184	4,595	Y

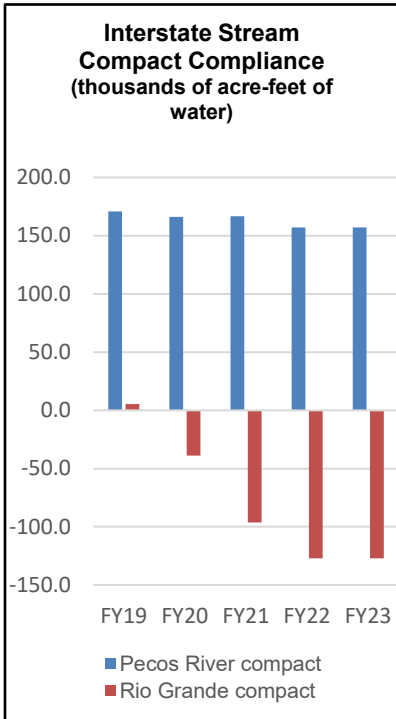
Number of notices issued to owners of publicly owned dams notifying them of deficiencies or potential issues 78 61 45 4 8 **G**

Program Rating **Y** **G** **Y** **Y**

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

Interstate Stream Commission

The state’s cumulative Pecos River Compact credit continues to be positive and is attributable primarily to the 2003 Pecos Settlement Agreement and significant investment in its implementation, including the purchase of water rights and construction of two augmentation wellfields. Under the Rio Grande Compact, New Mexico under-delivered by 30,800 acre-feet of water in 2021, which at the time represented a 32 percent increase in the size of the state’s debit. New Mexico then over-delivered by 3,400 acre-feet in 2022, which is attributed largely to an above-average monsoon season. As a result of the 2022 over-delivery and further reductions resulting an agreement related to the federal government’s unauthorized release of water in 2011, New Mexico’s accrued debit for 2023 is expected to drop to -93,000 acre-feet in the next quarterly report, well below the compact compliance threshold of -200,000 acre-feet.



	FY21 Actual	FY22 Actual	FY23 Target	FY23 Q1	FY23 Q2	Rating
Budget: \$12,996.4 FTE: 46						
Cumulative New Mexico Unit fund expenditures, in thousands of dollars*	\$22,050.0	\$21,999.0	N/A	N/A	\$22,300.0	
Cumulative state-line delivery credit per the Pecos River compact, in thousand acre-feet	166,600	157,200	>0	157,200	157,200	G
Cumulative delivery credit per the Rio Grande compact, in thousand acre-feet	-96,300	-127,100	>0	-127,100	-127,100	Y
Program Rating	G	Y		Y		Y

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

Litigation and Adjudication

The Litigation and Adjudication Program (LAP) is making progress in FY23 toward its goal of fully adjudicating water rights in the lower Rio Grande basin. The division made 75 settlement offers in the second quarter of FY23 and continued to increase the Lower Rio Grande Bureau's productivity. In addition, the program anticipates sending out offers in the Pecos adjudication for the third or fourth quarter of FY23, which will reduce dependency on the Lower Rio Grande Basin to meet this target alone.

Data continues to be entered into the LAP database and is being fused with hydrographic survey data to increase the accuracy of the division’s second performance measure.

	FY21 Actual	FY22 Actual	FY23 Target	FY23 Q1	FY23 Q2	Rating
Budget: \$7,618.2 FTE: 63						
Number of offers to defendants in adjudications	381	142	300	63	75	Y
Percent of all water rights with judicial determinations	76.2%	76.5%	77%	76.6%	76.7%	Y
Program Rating	G	G		Y		Y

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