

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 on the Rio Grande. All states involved agreed in principle to a proposed settlement, which has been presented to the judge overseeing the case and to the U.S. Supreme Court’s special master. On July 3, 2023, the special master issued his third interim report that recommends acceptance of the three states’ consent decree for settling the case. However, the U.S. Department of Justice (DOJ) is expected to submit exceptions this fall.

OSE made progress toward reducing New Mexico’s interstate stream compact compliance debts, while also increasing the number of offers submitted to defendants through its Litigation and Adjudication Program. The Dam Safety Bureau continued to address its backlog but is constrained by staff shortages that impact the performance of the Water Resource Allocation Program, which otherwise met or exceeded all of its performance targets. Legislative approval of some key capital projects management staff may help allow for bureau to focus on its core mission.

### Water Resource Allocation

The Water Rights Division exceeded its target for FY23 and processed 38 applications per month. Additionally, the division serves as “agency reviewers” for the New Mexico Finance Authority and Water Trust Board’s and as “cannabis water rights validation reviewers” for the Regulation and Licensing Department. Neither of these additional workloads are reflected in current performance measures but should be considered to better reflect agency productivity.

The Water Rights Abstract Bureau is responsible for populating and maintaining the Water Administration Technical Engineering Resource System and met its target for FY23. The Dam Safety Bureau planned for over 90 inspections in FY23 but performed only 26. The agency has struggled to fill positions because senior dam safety engineers are highly specialized and hard to attract to state service. The bureau plans to use the Federal Emergency Management Agency’s national dam safety grant funding to secure contract engineering assistance for inspections.

**Budget:** \$17,037.6    **FTE:** 171

	FY21 Actual	FY22 Actual	FY23 Target	FY23 Actual	Rating
Number of unprotested and unagrieved water right applications backlogged*	522	499	N/A	445	<span style="background-color: green; color: white; border-radius: 50%; padding: 2px;">G</span>
Average number of unprotested new and pending applications processed per month	30.5	39	35	37.8	<span style="background-color: green; color: white; border-radius: 50%; padding: 2px;">G</span>
Number of transactions abstracted annually into the water administration technical engineering resource system database.	24,029	28,665	21,000	19,210	<span style="background-color: yellow; color: black; border-radius: 50%; padding: 2px;">Y</span>
Number of notices issued to owners of publicly owned dams notifying them of deficiencies or potential issues	78	61	45	26	<span style="background-color: red; color: white; border-radius: 50%; padding: 2px;">R</span>
	<span style="background-color: yellow; color: black; border-radius: 50%; padding: 2px;">Y</span>	<span style="background-color: green; color: white; border-radius: 50%; padding: 2px;">G</span>			<span style="background-color: yellow; color: black; border-radius: 50%; padding: 2px;">Y</span>

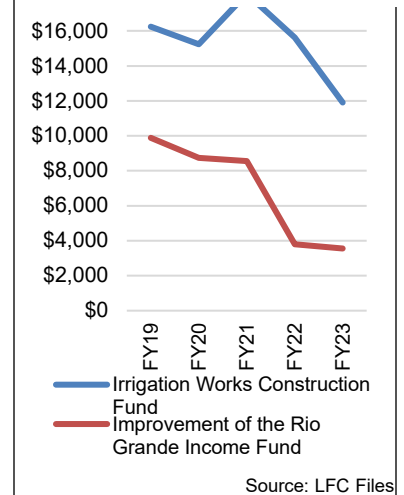
\*Measure is classified as explanatory and does not have a target.

### ACTION PLAN

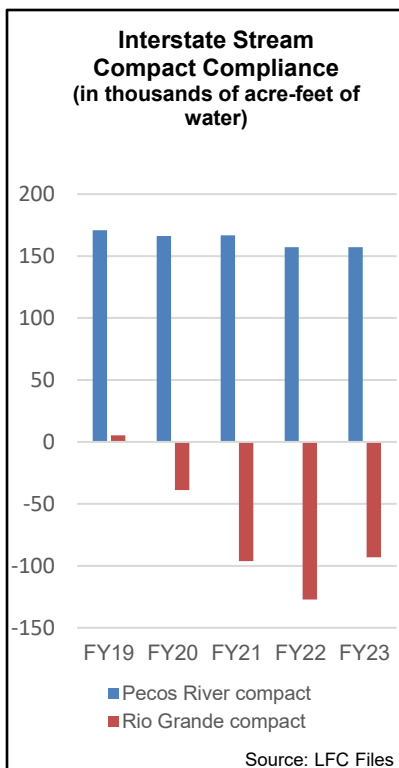
Submitted by agency?	Yes
Timeline assigned?	Yes
Responsibility assigned?	Yes

### Water Security Planning Act

ISC staff are currently working to implement the Water Security Planning Act, passed unanimously in the 2023 legislative session. The Act is intended to support communities throughout New Mexico in responding to and preparing for increasing water scarcity associated with climate change. These impacts are already being felt. Work under the Act will include significant public input related to the delineation of the regions themselves, requirements for regional planning entities, and processes for prioritization of requests for funding to the legislature, as well as regular reporting on outcomes.



### 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, attributed largely to an above-average monsoon season. As a result of the 2022 over-delivery and further reductions resulting from an agreement related to the federal government’s unauthorized release of water in 2011, New Mexico reduced its accrued debit for 2023 to 93,000 acre-feet in the fourth quarter, well below the compact compliance debit threshold of 200,000 acre-feet.

**Budget:** \$12,996.4    **FTE:** 46

	FY21 Actual	FY22 Actual	FY23 Target	FY23 Actual	Rating
Cumulative New Mexico Unit fund expenditures, in millions of dollars*	\$22.1	\$22.0	N/A	\$22.3	G
Cumulative state-line delivery credit per the Pecos River Compact, in thousand acre-feet	166,600	157,200	>0	156,600	G
Cumulative delivery credit per the Rio Grande Compact, in thousand acre-feet	-96,300	-127,100	>0	-93,000	Y
<b>Program Rating</b>	<b>G</b>	<b>Y</b>			<b>Y</b>

\*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 175 settlement offers in the fourth quarter of FY23 and continued to increase the Lower Rio Grande Bureau's productivity.

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.

**Budget:** \$7,618.2    **FTE:** 63

	FY21 Actual	FY22 Actual	FY23 Target	FY23 Actual	Rating
Number of offers to defendants in adjudications	381	142	300	436	G
Percent of all water rights with judicial determinations	76.2%	76.5%	77%	76.7%	Y
<b>Program Rating</b>	<b>G</b>	<b>G</b>			<b>Y</b>