

Overall in FY21, the Office of the State Engineer (OSE) did not provide sufficient information regarding plans to improve performance or context for lagging metrics. Additionally, the agency has neither proposed nor accepted any new measures for FY23 that would gauge performance on new initiatives or better capture current programmatic effectiveness. Short-term extreme drought within New Mexico’s decades-long “mega-drought” has continued to deepen. In 2021, the drought has become exceptional, the highest category of drought, in many parts of the state. These conditions combined with use demands resulted in reduced water deliveries to Elephant Butte Reservoir in 2021, increasing the state’s accrued debit under the Rio Grande Compact. In addition, exceptional drought has led to the need for the Interstate Stream Commission (ISC), under the 2003 Pecos River Settlement, to pump its wellfields to increase supply for the Carlsbad Irrigation District (CID).

Experts warn the conditions exacerbating the region’s long-term drought are likely the new normal. The ISC has initiated an effort with the New Mexico Bureau of Geology and Mineral Resources, the New Mexico Water Resources Resource Institute, the U.S. Army Corps of Engineers, the New Mexico Water Dialogue, and others to provide science-based information to New Mexicans about the type(s) of changes they should expect and decisions they can make as temperatures continue to increase. OSE is tasked with measuring and distributing available water efficiently, maximizing use of New Mexico’s interstate stream apportionments to promote sustainability, and planning for the future water needs of residents and the environment. Significant issues for OSE and ISC in FY21 include continuing to address the extreme drought shortages using active water resource management, litigation with Texas over the Rio Grande Compact in the Lower Rio Grande, developing drought contingency plans for Colorado River water, changing direction on Arizona Water Settlement Act projects, and developing and implementing a water conservation and management pilot project for the Lower Rio Grande basin.

Water Resource Allocation

The purpose of the Water Resource Allocation Program (WRAP) is to provide for administration, distribution, protection, conservation, and development of the state's surface water and groundwater resources, including the implementation of active water resource management. WRAP has an internal goal to keep the number of backlogged water rights permit applications under 500, which it maintained for half of FY21 but had exceeded by the end of the year. The program did not meet the target for applications processed per month in any quarter of FY21, reportedly due to 35 vacant positions in the Water Rights Division and the need to investigate illegal water use complaints that are higher due to drought conditions.

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 performance measure related to the number of these notices issued indicates the number of publicly-owned dams with problematic inspection findings. OSE may want to reconsider the target for this measure, or whether this measure is valuable at all, as it currently implies that a higher number of deficient dams is an indicator of success.

ACTION PLAN

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

The Office of the State Engineer has not made performance management a priority, as indicated by the lack of action plans submitted to improve performance on key measures and an ongoing reluctance to revise or introduce new performance metrics that more accurately capture the work and effectiveness of the agency’s programs. Existing measures do not fully capture the agency’s mission, and specifically, metrics on dam safety, New Mexico unit fund expenditures, and adjudications do not provide legislators or the public with clear, meaningful data on the agency’s accomplishments. In order to determine which initiatives to invest in, appropriators need better information about how effective the agency currently is and how additional resources would change program performance.

Budget: \$14,913.6 FTE: 172

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

Dam Name	Purpose	Estimated Rehab Cost
Cimarroncito Dam	Water Supply	\$10M or more
San Mateo Dam	Irrigation	\$3M or more
Fenton Lake Dam	Recreation, Wildlife	\$8M or more
Eagle Nest Dam	Irrigation and Recreation	\$1M or more
Nichols Dam	Water Supply	\$3M
McClure Dam	Water Supply	\$3M
Lake Maloya Dam	Water Supply	>\$20M
Bluewater Dam	Irrigation	\$10M or more
Alto Lake Dam	Water Supply	\$10M or more
Lower Vallecito Dam	Irrigation	\$7M-\$8M

Source: OSE

The Dam Safety Bureau keeps a list of publicly owned dams in need of rehabilitation, ranked in priority order based on several factors. The list consists of 66 dams that are publicly owned, are of sufficient size to be regulated by OSE, are considered high-hazard potential dams, have auxiliary spillway capacity that is less than 70 percent of the regulatory requirement, and are deficient based on safety criteria with a condition rating of unsatisfactory, poor, or fair. The owners of the 10 dams above are either planning rehabilitation work and assembling funding or they are currently undergoing rehabilitation. State capital outlay funds are being used for four of these dams.

	FY19 Actual	FY20 Actual	FY21 Target	FY21 Actual	Rating
Unprotested and unaggrieved water rights applications backlogged*	547	502	N/A	522	R
Unprotested water rights applications processed, per month	30	39	50	30.5	R
Transactions abstracted annually into the water administration resource system database	24,946	20,432	20,000	24,029	G
Notices issued to owners of publicly-owned dams notifying them of deficiencies or issues	84	58	45	78	G
Program Rating	Y	Y			Y

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

Interstate Stream Compact Compliance

The purpose of the Interstate Stream Compact Compliance and Water Development Program is to ensure New Mexico's continued compliance with its 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.

The Pecos River Compact report for water year 2020, issued on June 28, 2021, included an annual debit to New Mexico of 4,700 acre-feet, resulting in a cumulative Pecos River Compact credit of 161.6 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. The agency received a special appropriation of \$1 million for this purpose for use in FY21-22. The Rio Grande Compact Commission reports New Mexico has an accrued debit of 96.3 thousand acre-feet. Ongoing drought conditions and the release and consumption of approximately 32 thousand acre-feet of retained debit water in the middle Rio Grande valley in 2020 reduced the state's Compact deliveries and will likely increase the debit in the remainder of 2021.

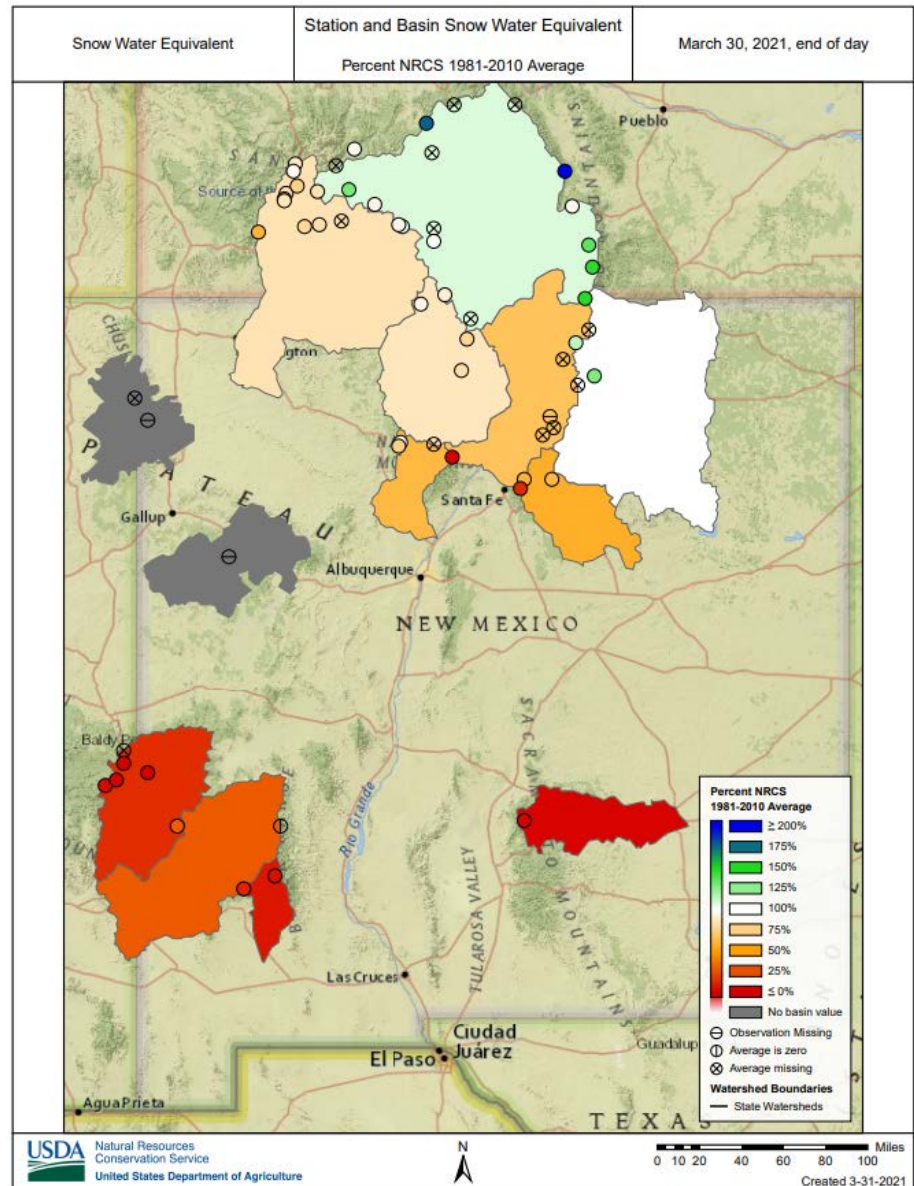
Article VII storage restrictions on post-1929 reservoirs have been in effect since mid-June 2020 and are expected to remain in effect for the foreseeable future. ISC and OSE are working with the Middle Rio Grande Conservancy District (MRGCD) on actions necessary to repay the accrued debit and minimize agricultural depletions in the future. The MRGCD delayed the start of their irrigation season by one month and have no native water in storage to supplement irrigation supplies. ISC staff are also working closely with federal water managers to ensure adherence to the state's mandatory river maintenance responsibilities, with water conveyance and Compact deliveries being the top priority.

Budget: \$11,896.3 FTE: 43

	FY19 Actual	FY20 Actual	FY21 Target	FY21 Actual	Rating
Cumulative state-line delivery credit per the Pecos River Compact, in thousand acre-feet	170.8	166.3	>0	161.6	G
Cumulative delivery credit per the Rio Grande Compact, in thousand acre feet	5.4	-38.8	>0	-96.3	R
Cumulative New Mexico unit fund expenditures, in millions*	\$14.83	\$20.1	N/A	\$22.1	
Program Rating	G	G			G

Litigation and Adjudication

These two 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 in 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, as that number cannot be accurately ascertained before adjudication suits are filed in the future for areas yet to be adjudicated. This measure is therefore affected not only by the ongoing entry of new judicial determinations, but also by the opening of new adjudication suits or sections of adjudications. Since FY19, the program has included data for water rights with judicial determinations in all closed and active adjudications to provide more meaningful data on the cumulative effect of adjudications.



Budget: \$14,913.6 **FTE:** 172

	FY19 Actual	FY20 Actual	FY21 Target	FY21 Actual	Rating
Offers to defendants in adjudications	456	444	325		G
Water rights that have judicial determinations	75%	76%	74%		G
Program Rating	G	G			G