

# New Mexico Water Governance Reform is Essential to Increase Water Sustainability and Reduce Future Water Insecurity

*Presented to the New Mexico Legislature's Water and Natural Resources Committee meeting 7/26/2022 at Sandia Pueblo by Norm Gaume, P.E., (ret.), President, Middle Rio Grande Water Advocates*

*Redlined by Norm Gaume as a presentation handout for the Water and Natural Resources Committee meeting 9/12/2025 in Taos.*

## **New Mexico's existing water governance is not working and is wrong for the 21<sup>st</sup> century**

What is wrong? What must be fixed to adapt to New Mexico's increasing aridity and best meet New Mexico's extraordinary water challenges? What can the Legislature do to transition to proactive water management and stewardship for our future with much less water?

New Mexico's water management for the future requires **new laws and policies**. New Mexico's water management agencies need the **capacity** to implement existing statutes and new ones. They need **practical enforcement authority** to stop illegal water use. They need to actively manage water deliveries to comply with Rio Grande Compact requirements. Agency staff could be much more productive if the agencies were reorganized with **new statutory focus** and investment in **modern business practices** and **modern information systems**.

The Middle Rio Grande Water Advocates call these changes water governance reform. The changes are essential to reduce climate change water insecurity in most regions of New Mexico.

## **Facts we must face**

To reduce current and future water insecurity, we must face these facts:

- New Mexico is the driest of the 50 states and is becoming more arid,
- New Mexico will have far less surface water and aquifer recharge in the future,
- Water is life, our being, our cultures, and our economy require water,
- Current uses of water cannot be sustained throughout New Mexico,
- Without a weather miracle, New Mexico will violate the Rio Grande Compact in 2026 due to depletion within the Middle Rio Grande of water that is legally apportioned for use below Elephant Butte Dam,
- Large areas of New Mexico have almost exhausted their groundwater and other areas are on that trajectory,
- In most areas of New Mexico where groundwater is the only water source, we don't know how much groundwater remains after a century of pumping or the rate of stored groundwater depletion,
- New Mexico needs and demands more from its state water management agencies than the agencies have the capacity, structure, or culture to provide,

- Important statutory authorizations and policy direction of the Legislature cannot be implemented because the Legislature has not provided water agencies with the capacity required for implementation, and
- Agency productivity could be substantially improved by modernizing legacy business practices, legacy information systems, and paper-based processes and records.

## **Water governance reform objectives and required actions**

- To preserve groundwater for the future and to comply with surface water sharing commitments, **we must reduce water demand** to better match the water supply.
- To avoid another US Supreme Court lawsuit focusing on the Middle Rio Grande, **the state must take emergency and continuing actions to stop overuse of water in the Middle Rio Grande.** 2025 update: It's probably too late.
- To improve water supply and water user resilience throughout the New Mexico, **the state must actively help communities design and implement water resilience infrastructure projects.**
- To manage water demand and make reliable data available to agency staff, **New Mexico's state water agencies must be funded and staffed to implement Active Water Resources Management and the 2019 Water Data Act.**
- To determine required actions and projects for an equitable transition to a much drier New Mexico, **the state must substantially invest in robust, collaborative regional and community water planning.**
- To implement improved water resilience, **New Mexico must build state and local government capacity to plan, design, and construct water resilience infrastructure projects.**
- To settle questions and assertions of water rights priorities and amounts, **the Legislature must prioritize and provide resources to complete long-overdue adjudications and negotiate water rights settlements.**
- To provide a reliable, scientific basis for balancing groundwater budgets in all regions of the state, **the Legislature must invest in aquifer geohydrologic investigations, groundwater monitoring, and groundwater models.**

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## **New Mexico needs to begin Water Governance Reform**

The Middle Rio Grande Water Advocates ask the Water and Natural Resources Committee to initiate Water Governance Reform by drafting and considering four bills. The bills would:

- Create the New Mexico Water Resources Department, establish expected outcomes, and provide the necessary staff and funding to accomplish those outcomes, and provide for increased accountability. Creating the NM Water Resources Department was a non-starter for State Engineer Hamman and Department of the Environment Secretary Kenney. Expected outcomes are not established. Accountability is poor. Legislative Finance Committee performance measures for the Office of the State Engineer and the Interstate Stream Commission need improvement.
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- Amend the regional water planning statute compiled at NMSA Sections 72-14-43 and 72-14-44 with statutory criteria and direction for climate change resilience water planning. Done: The 2023 Water Security Planning Act passed unanimously.
- Establish a \$1 billion Water Resilience Fund, and (not done)
- Require and provide for New Mexico's compliance with the requirements of the Rio Grande Compact to deliver, which means not deplete, the Lower Rio Grande's share of Rio Grande inflows through the Middle Rio Grande. Almost totally neglected.

### **Bill concepts** (I deleted some obsolete detail in this section)

These four bills would begin New Mexico's transition to become a proactive steward of its precious, sparse, and declining water resources.

**Bill A. Administer water in a modernized way.** The Legislature should create a cabinet-level New Mexico Water Resources Department with the capacity to:

- modernize water management business practices and information systems,
- actively manage water demands that outstrip water supplies and threaten New Mexico's future,
- complete adjudications and settlements of water rights, including tribal and pueblo rights,
- determine how much groundwater we have left,
- plan so that water will remain available for New Mexico's equitable, cultural, and economic future,
- help regions and communities across the state plan to equitably increase their water supply resilience, and
- actively support the planning, design, and construction of water projects.

For the State Engineer and the ISC to succeed, the Legislature should:

- ~~Create the Water Resources Department in 2023 with a three-year period for full implementation,~~
- Specify outcomes the agencies are to achieve,
- Provide funding and authorize staff positions so that operating and support divisions can be managed, staffed, and funded to accomplish outcomes specified by the Legislature,
- Provide for leadership and staff capacity to defend New Mexico in high-stakes litigation with Texas, while also focusing on other crucial water governance priorities and essential outcomes,
- Provide for successful recruitment of STEM professional and technical staff,
- Provide for recruitment of an inspired leadership team of division directors and managers,
- Provide for modernization of business processes and information systems to increase agency productivity, quality, and transparency, and
- Measure progress by achievement of specified outcomes, not agency outputs.

**Bill B. Begin robust regional water planning.** The 2023 Water Security Planning Act passed unanimously but the Legislature has not adequately funded its implementation. The ISC is spending all of the \$5 million appropriated for use in FY26 on its consultants. The 2023 Act directed the ISC to “establish and conduct” a regional water planning program. The ISC’s framework for the program is not yet in writing.

The ISC’s proposed Rules are flawed and need fundamental Improvement, including in the quality of the drafting. As proposed, the Rules,

- undermine the law’s intent for decentralized, science-based planning that considers public welfare and the needs of future generations of New Mexicans,
- assign roles to ISC staff who are too few to handle the workload, creating bottlenecks,
- delegate decision-making responsibilities to staff without criteria to guide those decisions, and
- specify a few details instead of creating broad performance requirements, expected outcomes, and guardrails.

**Bill C. Create a Water Resilience Fund.** The Legislature should create a Water Resilience Fund, using current windfall revenues, that would provide state matching funding to implement projects set forth in approved regional water plans. Regions need an incentive to do the hard work of water planning. A state commitment to support implementation and provide matching funding implement approved plans would provide that incentive.

**Bill D. Manage water debt.** New Mexico’s accrued water delivery debt owed the Lower Rio Grande is out-of-control. New Mexico is on a roll toward an explicit violation of the Rio Grande Compact water debt limit of 200,000 acre-feet. Such a violation surely will be litigated in another expensive and demanding *Texas v New Mexico* case before the U. S. Supreme Court. New Mexico must ensure the Lower Rio Grande receives its legally apportioned annual share of inflows to the Middle Rio Grande by reducing depletions of water in the Middle Rio Grande to prevent this compact violation and pay back New Mexico’s accrued water debt. Note that New Mexicans below Elephant Butte Dam are entitled to receive 57% of the Lower Rio Grande’s surface water.

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**Incorporated in 1998,** the New Mexico Water Advocates is an all-volunteer non-profit organization devoted to improving New Mexico’s and the Middle Rio Grande’s water future. It prepared the 2004 regional water plan for the Albuquerque-and-vicinity reach of the Middle Rio Grande.

The Water Advocates mission is to advocate for a balanced, equitable, and resilient water future for all of New Mexico through public education and engagement and civic participation, with urgent insistence on initiating and accelerating the transformative change necessary for New Mexico’s successful adaptation to increasing water scarcity.