Legislative Finance Committee Hearing – FY16 Budget Request

December 8, 2014

FY16 Appropriation Request

Base Budget Request

Requested General Fund Increases

- **Irrigation Works Construction Fund (IWCF) Balance Depletion**
  - Request includes $4 million to reduce depletion rate of IWCF
- **State & Regional Water Plan Updates**
  - Request includes $100 thousand to support comprehensive update of the State Water Plan as well as the 16 existing regional water plans
- **Acequia Program Administration**
  - Request includes $75 thousand to fund existing position to help support the Acequia Program's administration of over 100 projects totaling close to $7.3 million
- **GIS Licensing Agreement**
  - Request includes $141 thousand to cover cost of site license agreement
- **Program Support Payroll Costs**
  - Request includes $200 thousand to fund projected payroll costs for all base positions within Program Support

IRRIGATION WORKS CONSTRUCTION FUND (IWCF) – FUND BALANCE PROJECTIONS

Scenario: No Reduction of IWCF

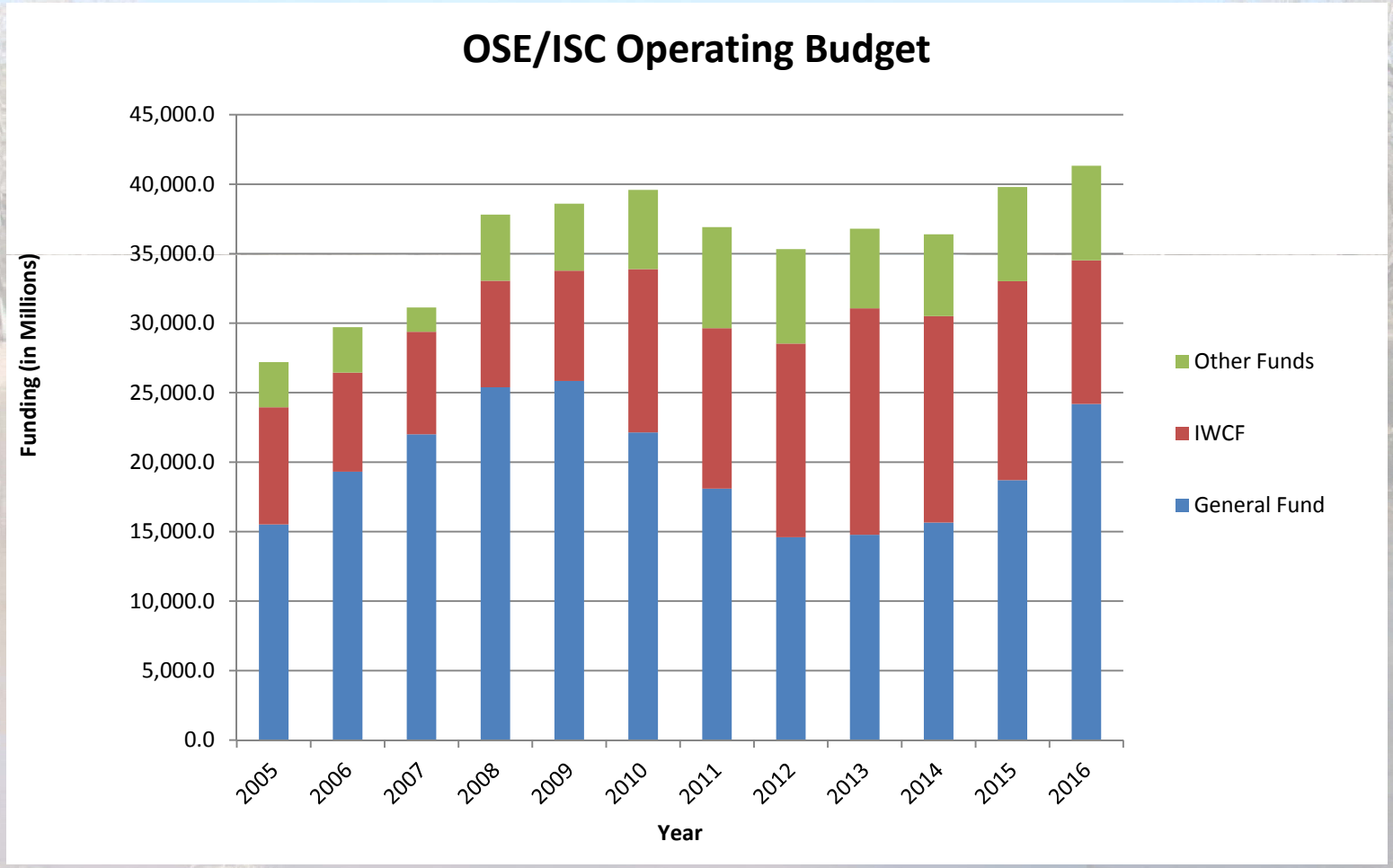
	Estimate	PROJECTED FY15-17		
	FY14	FY15	FY16	FY17
BEGINNING BALANCE	$20,041,993	$17,800,895	$10,897,895	$4,079,995
REVENUE	$10,019,774	$7,415,000	$7,510,000	$7,510,000
EXPENDITURES	$12,260,873	$14,318,000	*$14,327,900*	*$14,327,900*
NET CHANGE FUND BALANCE	($2,241,099)	($6,903,000)	($6,817,900)	($6,817,900)
ENDING BALANCE	$17,800,895	$10,897,895	$4,079,995	($2,737,905)

Scenario: $4 million Replacement of IWCF

	Estimate	PROJECTED FY15-17		
	FY14	FY15	FY16	FY17
BEGINNING BALANCE	$20,041,993	$17,800,895	$10,897,895	$8,079,995
REVENUE	$10,019,774	$7,415,000	$7,510,000	$7,510,000
EXPENDITURES	$12,260,873	$14,318,000	*$10,327,900*	*$10,327,900*
NET CHANGE FUND BALANCE	($2,241,099)	($6,903,000)	($2,817,900)	($2,817,900)
ENDING BALANCE	$17,800,895	$10,897,895	$8,079,995	$5,262,095

Note: Without reduction in use of IWCF the fund is projected to be depleted in FY17. If reduced by requested level of $4 million, the balance is projected to be depleted in FY19.

OSE/ISC Budget Composition



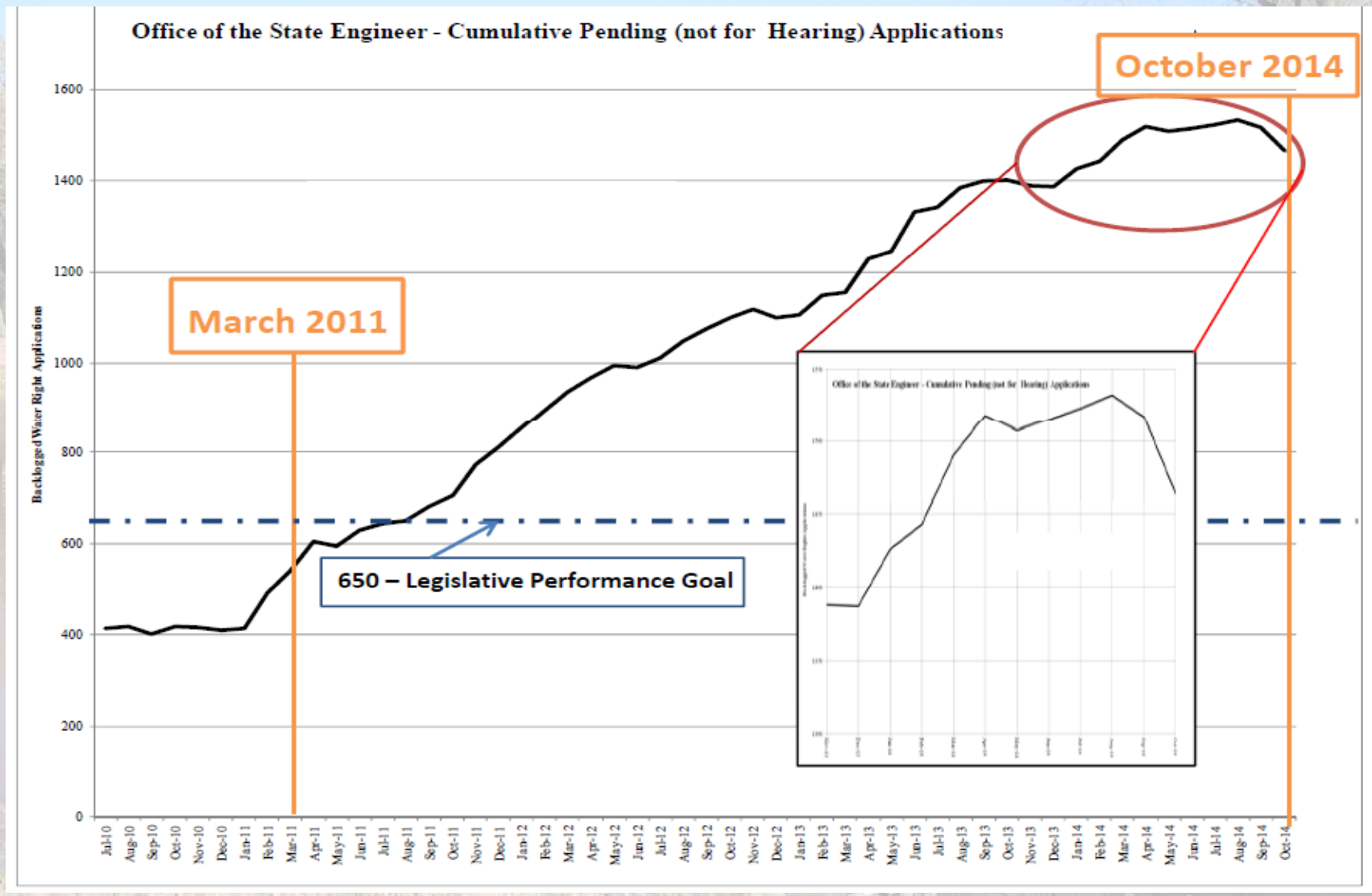
Water Resource Allocation Program Expansion Request

Purpose of Expansion	FTEs Requested	Quantitative Benefit/Outcome	General Fund Request
Water Rights Permit Application Backlog Reduction	7	Reduce Water Rights applications and backlog	$572.2

Demonstrated need of additional FTE in Program:

- **To reduce application backlog**
- **Implementation of water rights settlements requires additional personnel for the administration of water rights and to respond to increased inquiries from the public generated by Indian Water Rights settlement**
- **Workload increased in the San Juan basin, because of implementing the Navajo settlement agreement, and administering the Animas-La Plata project**
- **Record over 12,000 meter readings per year.**

OSE Applications Backlog



Program Support Expansion Request

Purpose of Expansion	FTEs Requested	Quantitative Benefit/Outcome	General Fund Request
Provide Additional IT Staff in Support Key Agency Initiatives	6	Improved performance in multiple areas	$533.5

Demonstrated need of additional FTE in Program:

Increasing demand for IT services to support key agency initiatives:

- **Water rights administration process improvements**
- **Facilitate process improvements to support the 12 active water rights adjudications**
- **Facilitate Active Water Resource Management through enhancement and support of the Real Time Water Measurement System**

Vacancy Summary

	Vacant Positions	Positions in Progress	Authorized Positions	Vacancy Percentage Rate	Percent of Positions in Progress
Program Support	3	1	43	7.0%	33.3%
Litigation & Adjudications Program	20	15	71	28.2%	75.0%
Water Resource Allocation Program	20	18	178	11.2%	90.0%
Interstate Stream Commission	11	7	49	22.4%	63.6%
Agency Total	**54**	**41**	**341**	**15.8%**	**75.9%**

Status of New Positions Authorized for FY15

Water Resource Allocation Program – 11 Positions

Office/Bureau	Position	Current Status
Statewide Bureau	Engineer Specialist A/O NL-O	Filled
Santa Fe	Engineer Specialist A/O NL-A	Projected fill date 1st Quarter of 2015
Roswell	Engineer Specialist A/O NL-A	SPO Approved for Advertising
Roswell	Engineer Specialist A/O NL-O	SPO Approved for Advertising
Las Cruces	Engineer Specialist A/O NL-O	Advertised
Las Cruces	Engineer Specialist A/O NL-B	Pending SPO Approval
Las Cruces	Engineer Specialist A/O NL-B	Pending SPO Approval
Cimarron	Engineer Specialist A/O NL-A	Filled
Deming	Engineer Specialist A/O NL-B	Filled
Water Right Abstract	Engineer Specialist A/O NL-A	Filled
Dam Safety	Civil Engineer-B	Filled

Litigation & Adjudication Program – 3 Positions

Office/Bureau	Position	Current Status
Pecos Adjudication	Engineer Specialist A/O NL-B	Scheduling interviews
Lower Rio Grande Adjudication	Engineer Specialist A/O NL-A	Advertising position
Northern NM Adjudication	Engineer Specialist A/O NL-B	Scheduling interviews

FY16-FY17 Special Litigation Appropriation

- ISC requests a 2-year (FY16 and FY17) special appropriation
- $9 million request ($4.5 million per year)

***Texas v. New Mexico and Colorado, No. 141 O*riginal**

- Second year of interstate litigation before the United States Supreme Court (USSC)
- Special Master appointed by USSC in November 2014

FY16-FY17 Special Litigation Appropriation cont.

Texas v. New Mexico and Colorado, No. 141 Original cont.

- Technical & legal expertise required
- Specific areas of expert contract support include:
  - Hydrology (ground and surface water modeling)
  - Crop evapotranspiration
  - Satellite imagery
  - Agriculture economics
  - Land use
  - Legal expertise in Reclamation Law, State and Federal water law, and interstate compact litigation

FY16-FY17 Special Litigation Appropriation cont.

New Mexico v. Salazar-US District Court District of NM

- Suit filed in 2011; Stayed pending USSC decision
  - 2008 Operating Agreement
  - Illegal release of NM's Rio Grande Compact credit water

FY16-FY17 Special Litigation Appropriation cont.

Pecos River Litigation

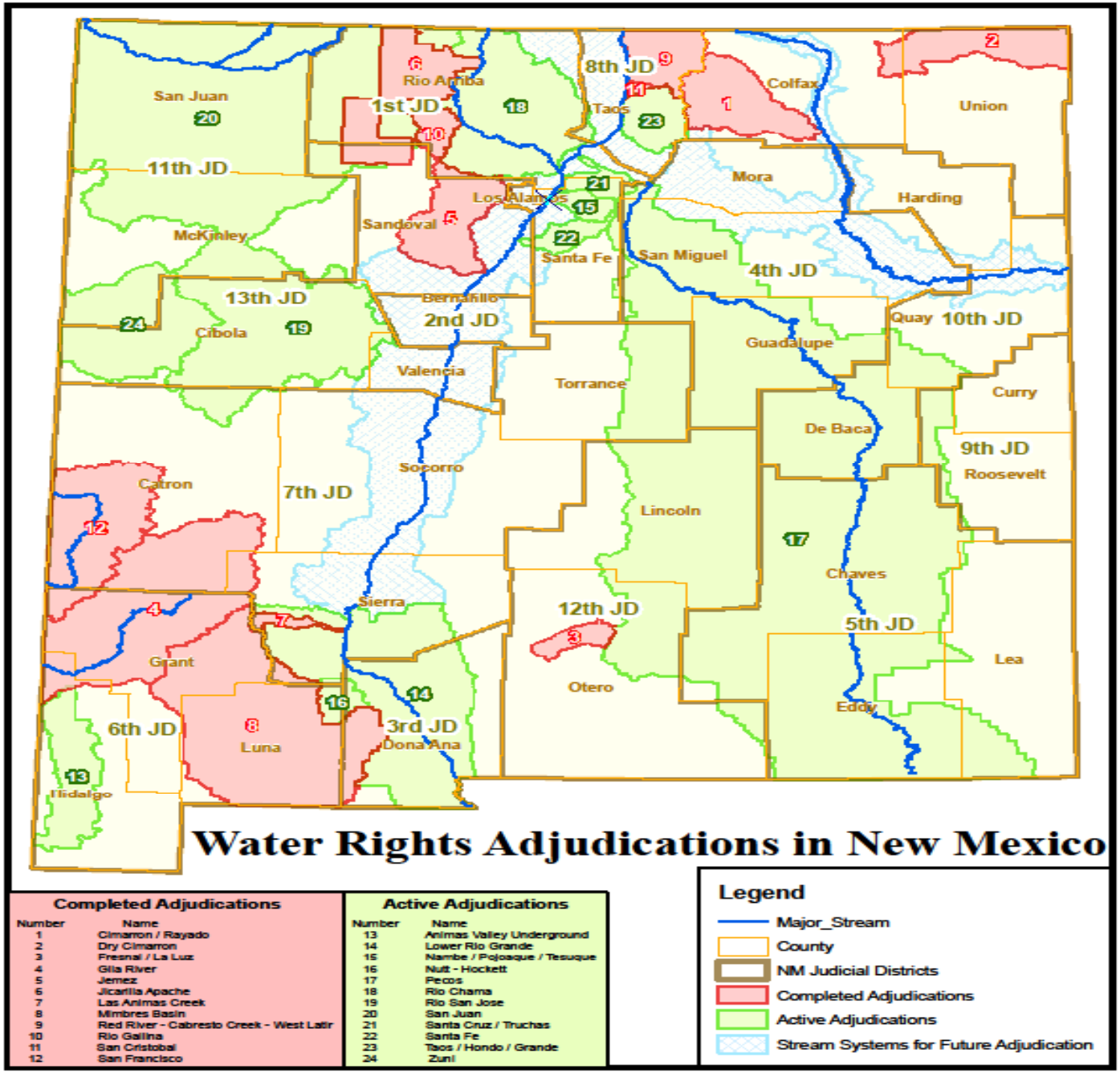
Specific Funding Needs-Pecos River Litigation

- Ongoing administrative litigation before State Engineer
- Litigation requires retention of multiple technical experts and outside counsel
- ISC's Pecos Settlement water rights transfers challenged
- Outcome may impact Pecos Settlement and Pecos River Compact compliance

FY16-FY17 Special Litigation Appropriation cont.

Threatened Litigation on Middle Rio Grande

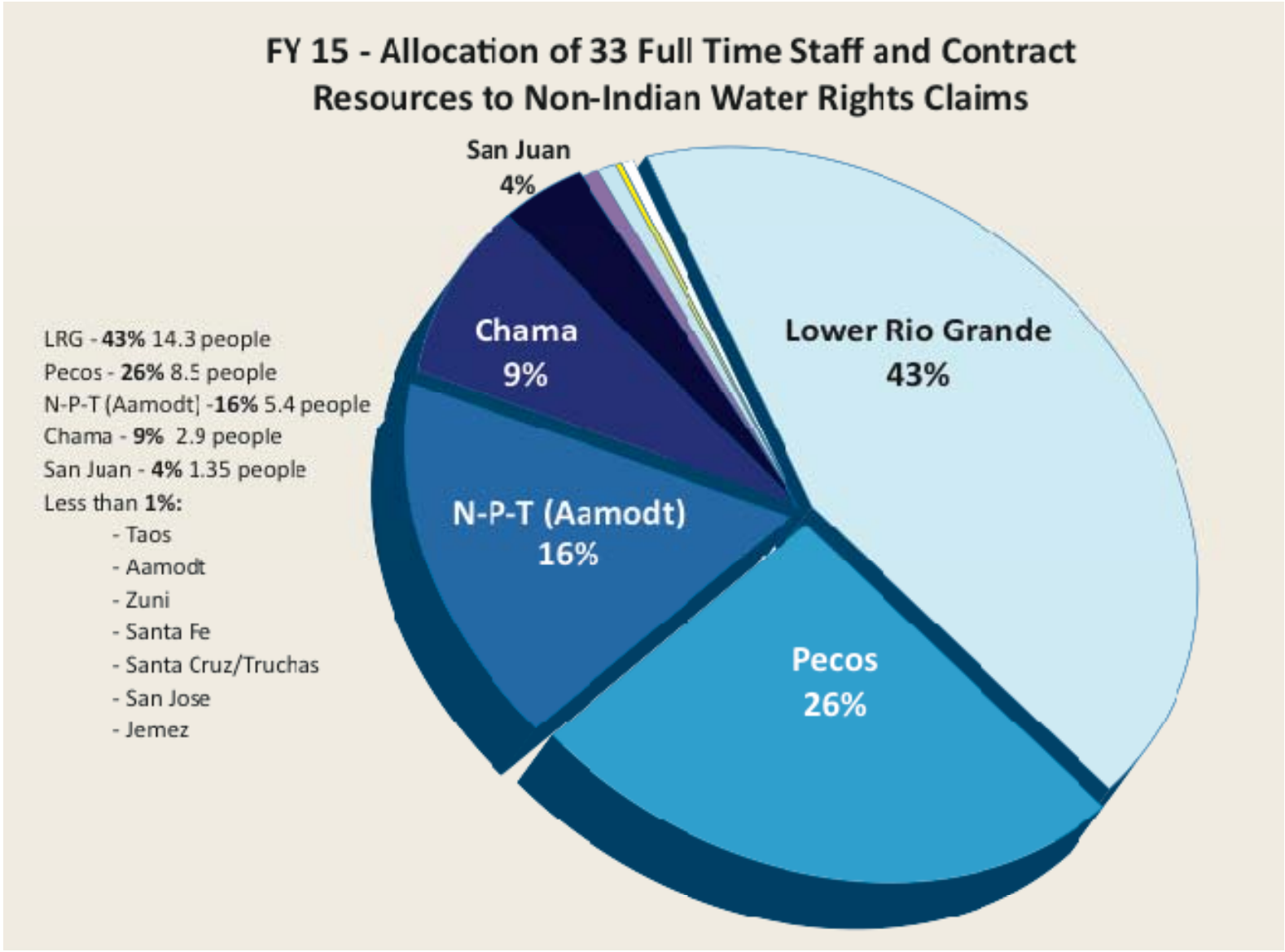
- Specific Funding Needs-Threatened Litigation on Middle Rio Grande
- Endangered Species Act lawsuit against USBOR and US Army Corps of Engineers
- State has received a Notice of Intent to sue


San Juan
20
11th JD
McKinley
Sandoval
5
6
Rio Arriba
1st JD
10
18
8th JD
9
14
Taos
23
Colfax
1
2
Union
Mora
Harding
21
Los Alamos
15
22
Santa Fe
San Miguel
4th JD
Bernalillo
2nd JD
13th JD
24
Cibola
19
Valencia
Torrance
Guadalupe
Quay
10th JD
Curry
De Baca
9th JD
Roosevelt
Socorro
7th JD
Catron
12
Lincoln
17
Chaves
Sierra
4
7
12th JD
3
5th JD
Lea
Grant
Otero
Eddy
16
14
6th JD
8
Luna
3rd JD
Dona Ana
13
Hidalgo
Water Rights Adjudications in New Mexico
Completed Adjudications
Number Name
1 Cimarron / Rayado
2 Dry Cimarron
3 Fresnal / La Luz
4 Gila River
5 Jemez
6 Jicarilla Apache
7 Las Animas Creek
8 Mimbres Basin
9 Red River - Cabresto Creek - West Latir
10 Rio Gallina
11 San Cristobal
12 San Francisco
Active Adjudications
Number Name
13 Animas Valley Underground
14 Lower Rio Grande
15 Nambe / Pojoaque / Tesuque
16 Nutt - Hockett
17 Pecos
18 Rio Chama
19 Rio San Jose
20 San Juan
21 Santa Cruz / Truchas
22 Santa Fe
23 Taos / Hondo / Grande
24 Zuni
Legend
Major_Stream
County
NM Judicial Districts
Completed Adjudications
Active Adjudications
Stream Systems for Future Adjudication

New Mexico's Currently Pending Water Rights Adjudication Suits

ADJUDICATION	FILED	COURT	ESTIMATED DEFENDANTS	PUEBLO/TRIBE
Lower Rio Grande (EBID)	1996	State	18,200	
San Juan (US v. NM)	1975	State	15,000+	Navajo Nation, Jicarilla Apache, Ute Mountain Ute
Pecos (Lewis)	1956	State	14,500	Mescalero Apache
Nambe/Pojoaque/Tesuque (Aamodt)	1966	Federal	5,600	Nambe, Pojoaque, San Ildefonso, Tesuque
Taos/Hondo (Abeyta)	1969	Federal	5,200	Taos
Santa Cruz/Truchas (Abbott)	1968/ 1970	Federal	5,000	Nambe, Pojoaque, San Ildefonso, Santa Clara, Ohkay Owingeh
Chama (Aragon)	1969	Federal	4,600	Ohkay Owingeh, Jicarilla Apache
San Jose (Kerr-McGee)	1983	State	2,000	Acoma, Laguna, Navajo
Santa Fe (Anaya)	1971	State	1,500	Santa Fe Indian School
Jemez (Abousleman)	1983	Federal	1,100	Jemez, Santa Ana, Zia
Zuni (A&R Productions)	2001	Federal	1,000	Zuni, Ramah Navajo, Navajo Nation
Animas Underground Basin	2005	State	500	

Total Non-Indian Defendants: 75,000+
Total Defendant Indian Pueblos: 13 San Ildefonso, Santa Clara, San Juan, Acoma, Laguna, Zuni, Zia, Santa Ana, Jemez, Tesuque, Pojoaque, Nambe, Taos
Total Defendant Indian Tribes: 4 Navajo Nation, Mescalero Apache, Jicarilla Apache, Ute Mountain Ute



Source: State of New Mexico's Rule 71.3 Report for FY 2015, July 24, 2014

Adjudication Resource Math

65 staff hours for each case (subfile)*

Paralegals - 15 hours per case

- Generate Summons
- Prepare Service Packet
- Mail Service Packet
- File Proof of Service
- Log Return Receipt
- Prepare for Claimant meeting
- Prepare modified Proposed Consent Order
- Mail modified Proposed Consent Order
- File signed Consent Order

Hydrographic Survey Technical Staff - 40 hours per case

- Abstract water right
- Research ownership
- Analyze assessment data
- Analyze historical aerial imagery
- COGO property boundary data
- Update Hydrographic Survey
- Prepare subfile map
- Prepare for Claimant meeting
- Meet with Claimant to discuss Claimant objections
- Perform follow-up field inspection
- Analyze field data collected
- Update Hydrographic Survey
- Prepare modified subfile map
- Respond to Claimant inquiries
- Prepare for mediation
- Attend mediation

Attorneys - 10 hours per case

- Review service packet
- Prepare for Claimant meeting
- Meet with Claimant
- Consult with Survey staff
- Review field inspection report
- Review updated subfile changes
- Review mocified Proposed Consent Order
- Negotiate to resolve objections
- Prepare for mediation
- Attend mediation
- Review final subfile Consent Order

x 75,000 New Mexicans claiming water rights

*Estimated hours are for non-Indian subfiles that are resolved without going to trial.