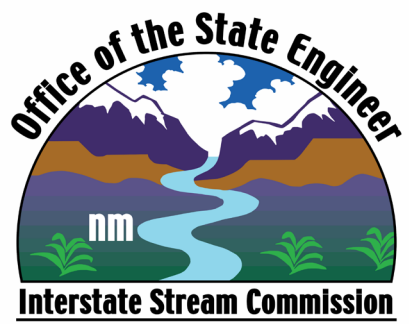




New Mexico Office of the State Engineer/ Interstate Stream Commission



OSE Hot Topics: Border Wall and Project Jupiter
Nat Chakeres, OSE General Counsel
October 6, 2026

Border Wall Wells

- During the first Trump administration, during construction of border wall, federal contractors complied with state law in procuring water needed for construction. This included applying for permits for new wells.
- In early spring 2026, construction of “secondary barrier” began, along with a road between the barriers.
- Contractors initially filed for permits, then withdrew their applications at the request of DHS.
- OSE team immediately responded:
 - Inspecting drilling sites
 - Informing DHS that unpermitted drilling was illegal
 - Engaging with local ranchers and leaders.



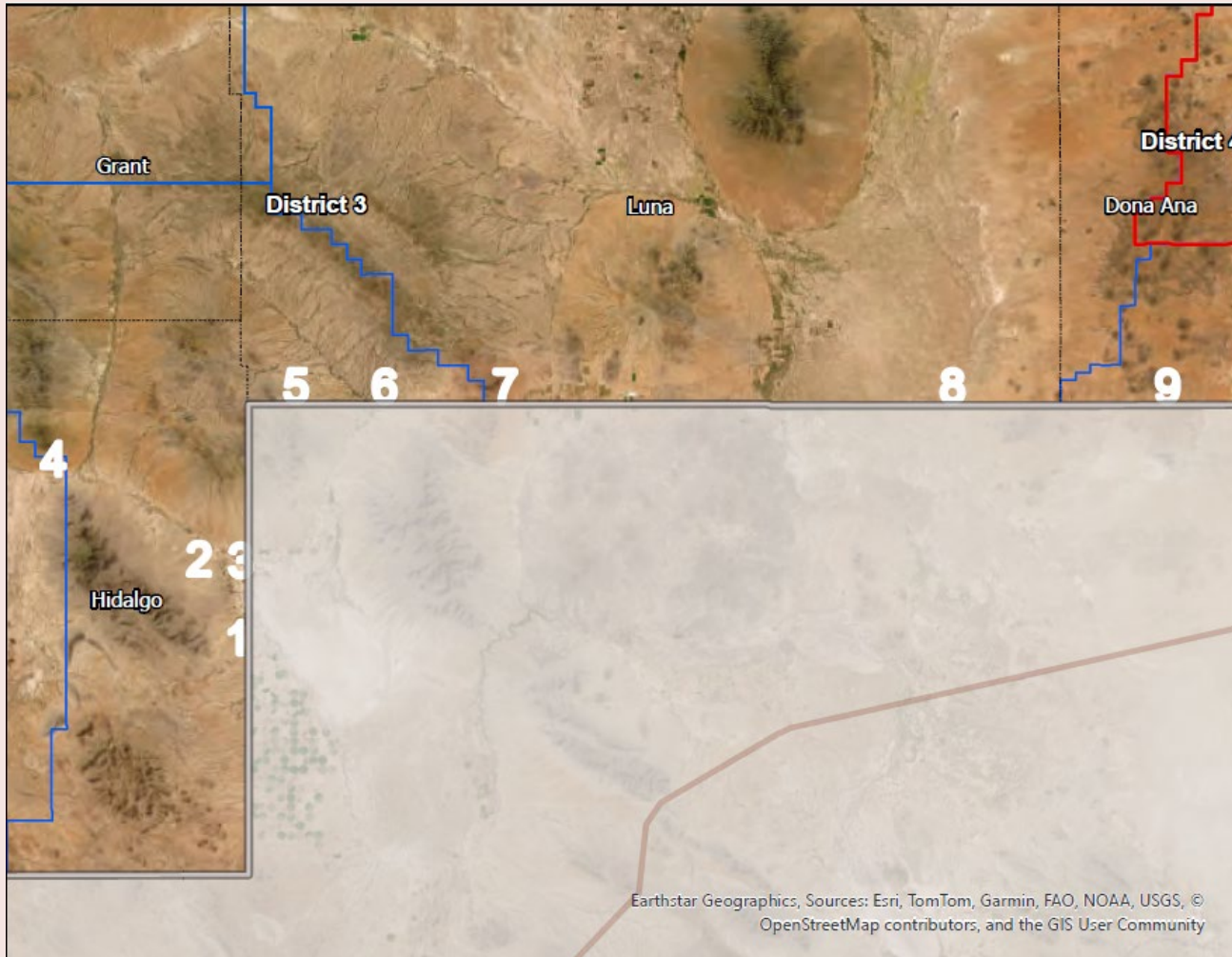
Border Wall Wells Cont'd



- Upon inspection, wells were also improperly constructed, which created risk of aquifer contamination and damage.
- Total quantity of water withdrawn is unknown, but it could run into the hundreds of acre-feet in some areas that are very water-scarce.
- After a public uproar, DHS agreed to stop drilling new wells, plug and abandon some of the wells that had not been used, and obtain construction water from existing sources “if feasible.”
- However, they are continuing to use at least three illegally drilled wells, and their contractors have also illegally purchased water from stock watering wells that are not permitted for sales.



Border Wall Wells Cont'd



- The OSE has sued the US and its contractors, seeking an injunction against the illegal use of water and repayment of water illegally used.
- The OSE has also begun administrative enforcement proceedings against the contractors.
- In response, DHS purported to “waive” all of New Mexico’s water laws.
- We intend to fight the waiver, which we believe is unconstitutional.
- We will continue to engage with DHS in an attempt to resolve the issue without further litigation.
- Area legislators have been enormously helpful in trying to resolve the issue.

Project Jupiter

- Current water use is occurring based on an existing water right – LRG-3150E
- Emergency authorization was granted to drill a replacement well in October 2025
- Petition for Mandamus filed in NM Supreme Court
- Supreme Court issued a temporary stay while the Petition could be briefed
- Supreme Court denied the Petition
- Administrative hearing is pending to determine whether emergency authorization was proper

