

Water and Natural Resources Committee

Compact Updates: Rio Grande and Colorado River

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New Mexico Interstate Stream Commission

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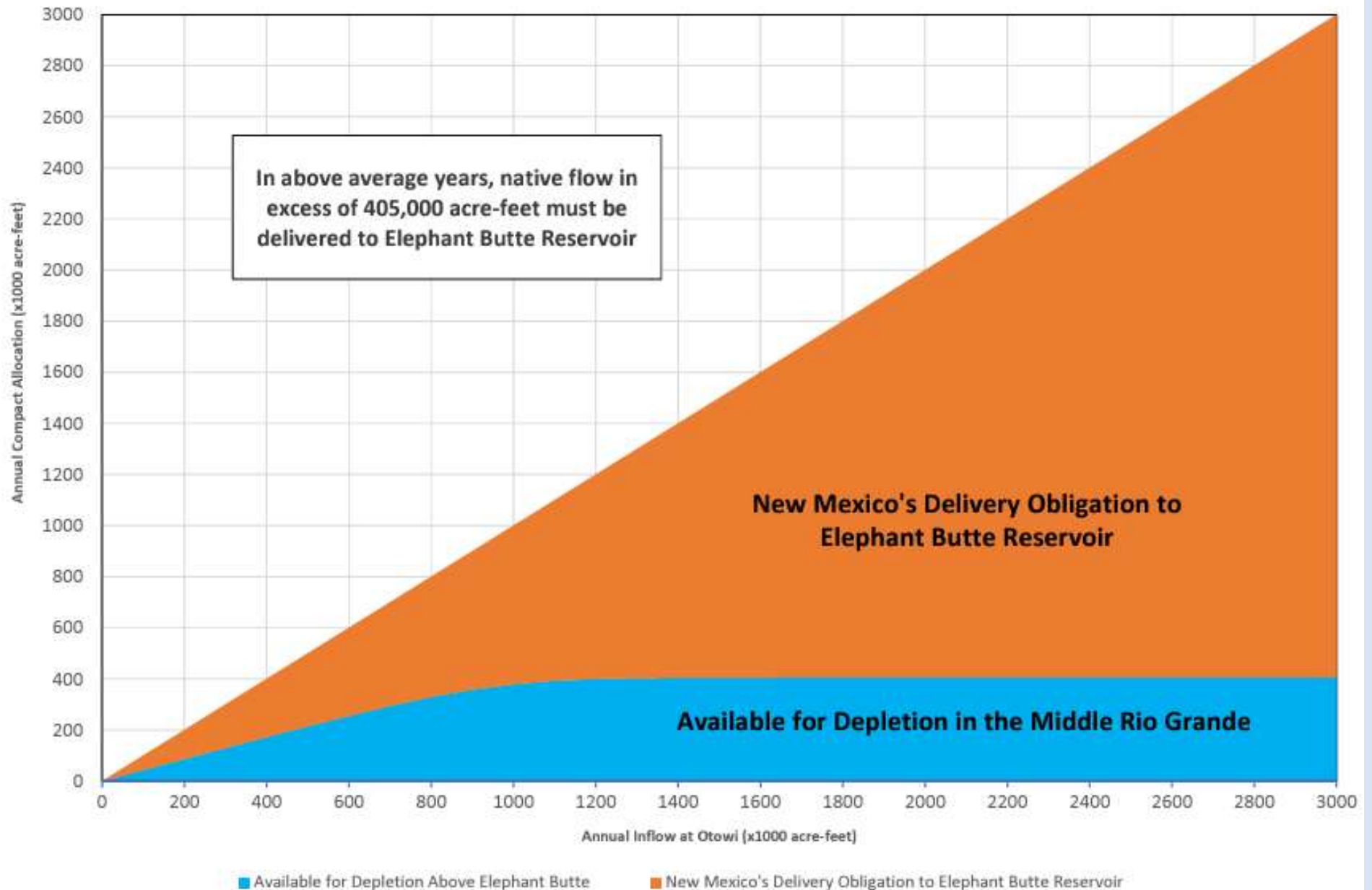


Why is NM's Compact status important?

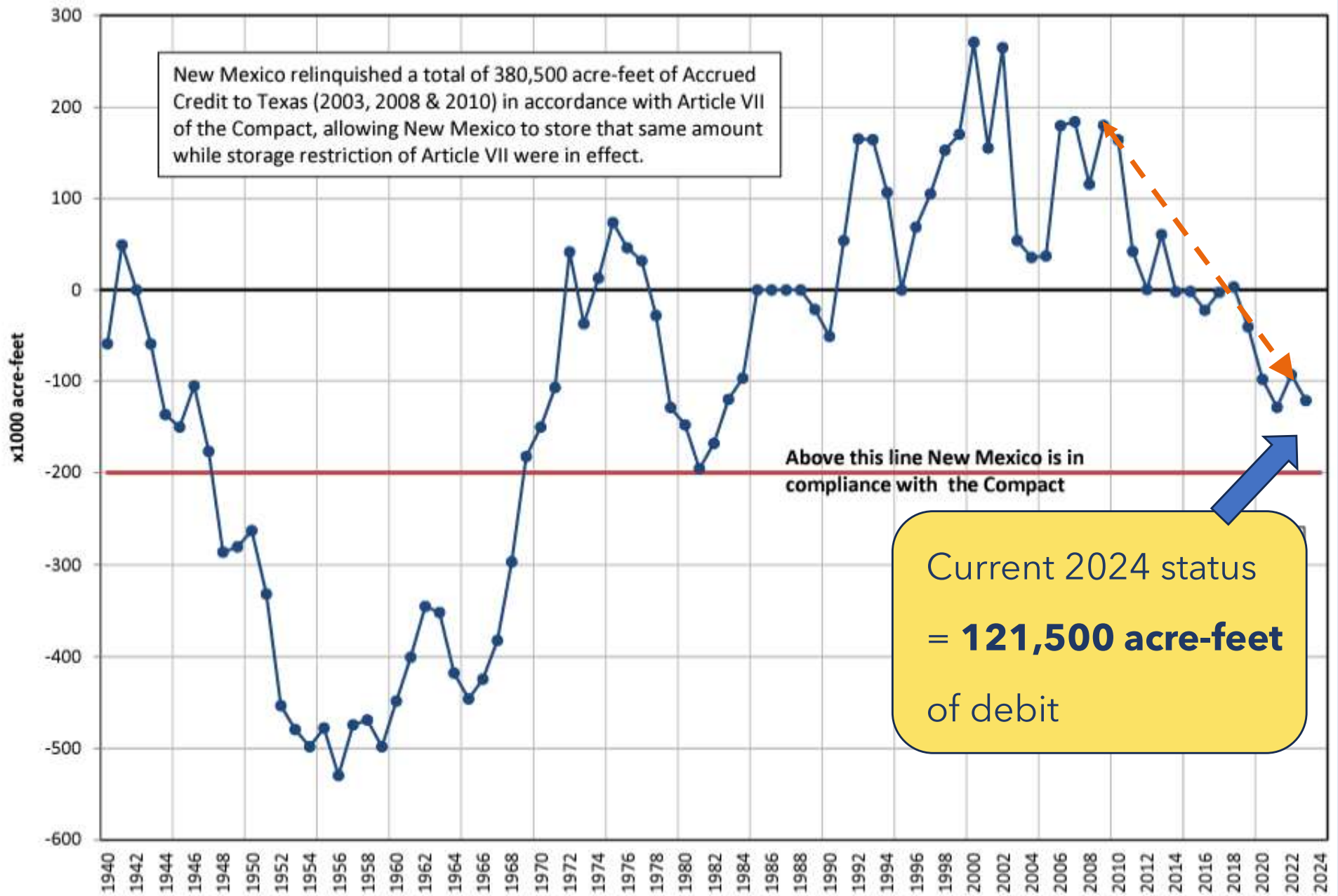
- State water law is subordinate to a state's obligations under an interstate compact
 - *US Supreme Court, Hinderlider v. La Plata Riv. & Cherry Creek Ditch Co., 304 U.S. 92 (U.S. 1938)*
- Upstream storage of native Rio Grande water for middle valley water users is dependent on compact status
 - *Rio Grande Compact Articles VI and VII*

Rio Grande Compact Obligation

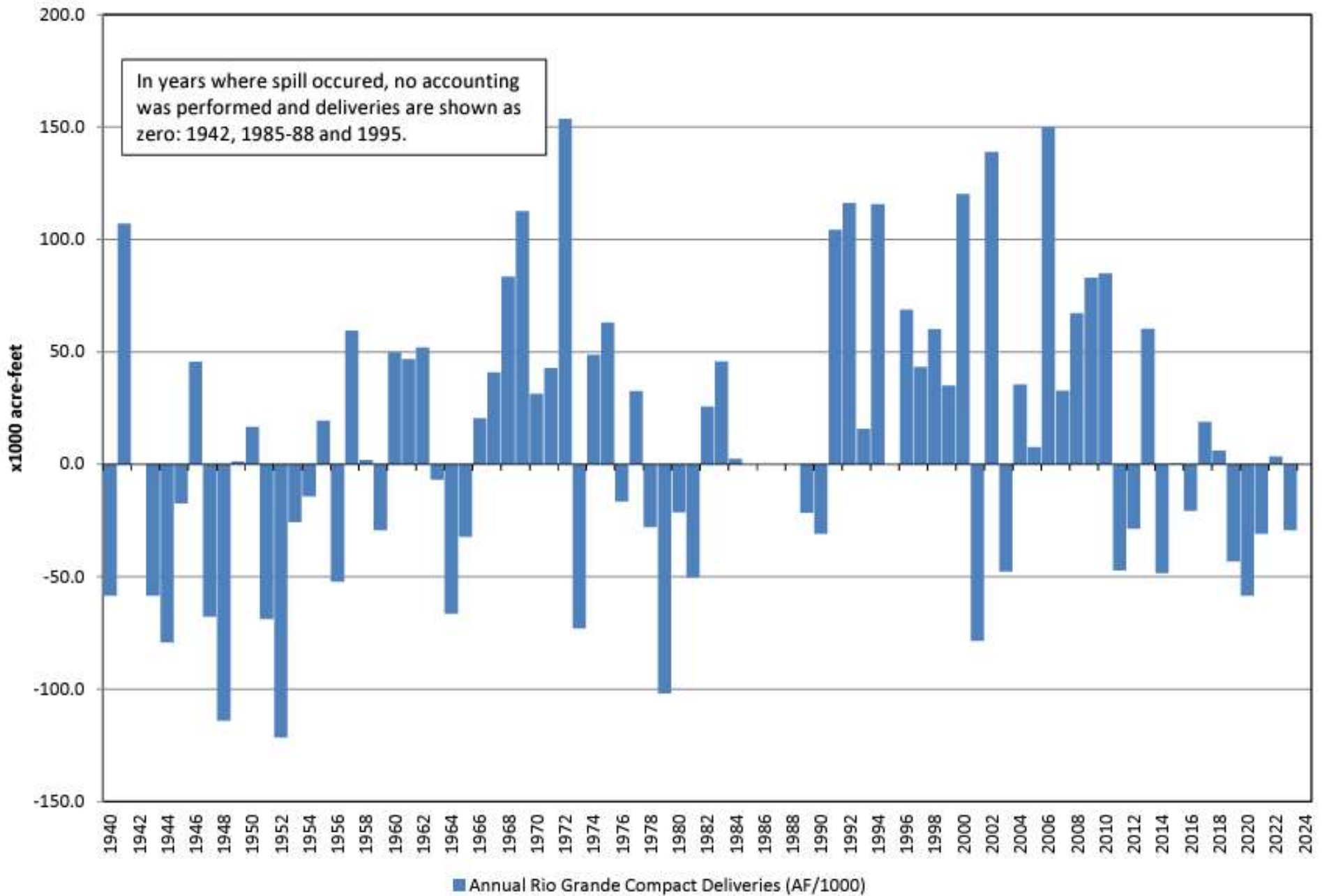
New Mexico's Annual Middle Rio Grande Allocation Chart



Rio Grande Compact Cumulative Departures 1940 through 2024



Annual Rio Grande Compact Deliveries 1940 through 2023



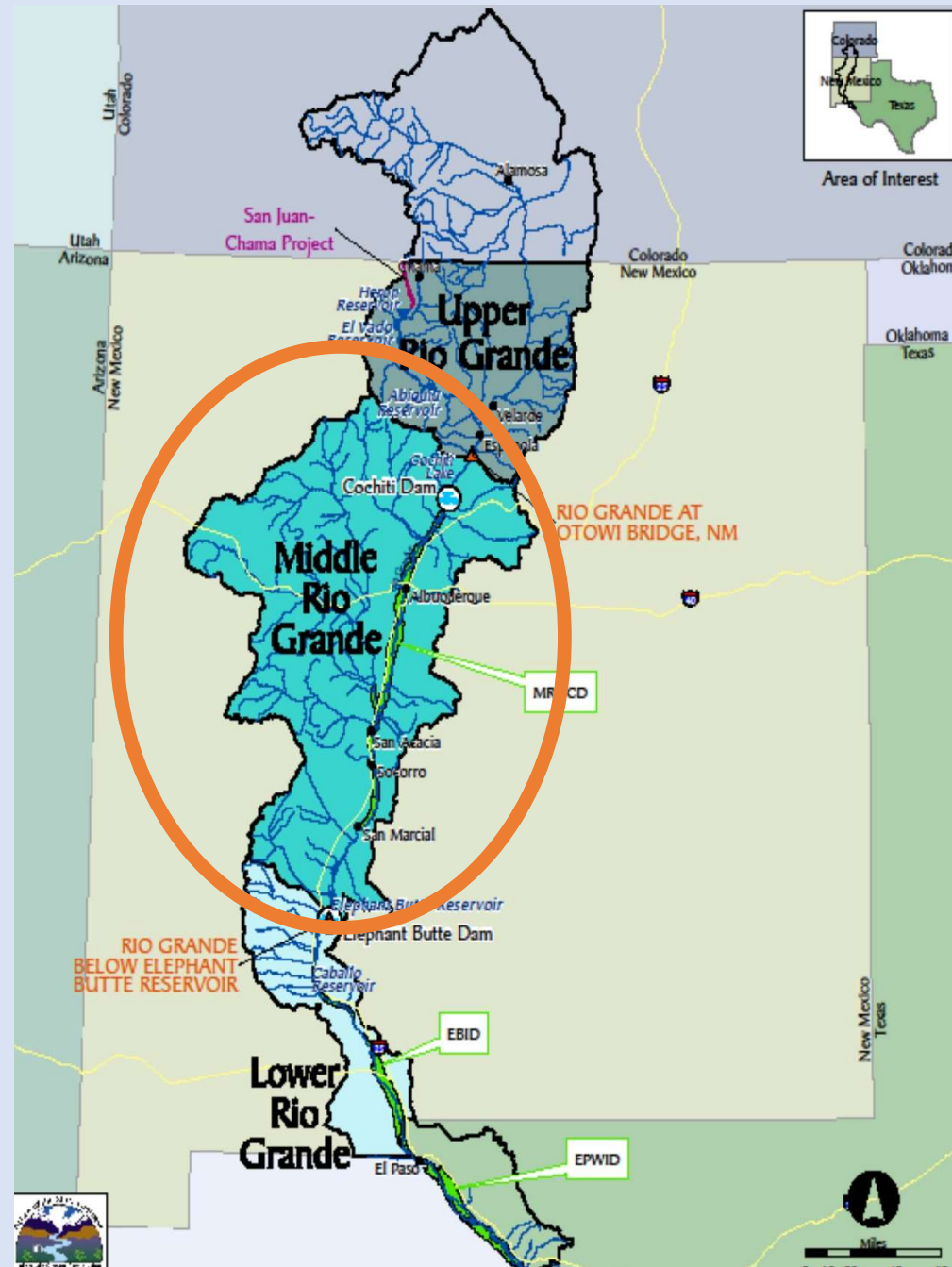
Middle Rio Grande Investments

\$44M in 2023 and 2024 Legislative Sessions is supporting:

- Active Channel Management for Multiple Purposes
 - Conveyance and Habitat
 - Critical Partnerships with Federal Agencies: Reclamation and Army Corps of Engineers
 - Cooperative Agreement with Middle Rio Grande Conservancy District (MRGCD)
- MRGCD's Voluntary Depletion Reduction Program
- Ongoing Delta Channel Maintenance and Sediment Plug Mitigation
- Data, Modeling and Development of Various Management Tools
 - Low Flow Conveyance Channel

Leverages Federal Funding and Partnerships

***Need to prepare for:
Six Middle Rio Grande Pueblos Water Rights
Negotiations and Settlement
More Active Depletions Management***



Lower Rio Grande – TX v NM No. 141

The three compacting states proposed a Consent Decree that contained an index obligation quantifying the volume of water to be delivered to Texas as a proportion of releases from Caballo Reservoir. The US opposed the Consent Decree on the grounds that it would dispose of the US' claims without its consent.

- April 20, 2024 - TX and NM presented oral argument at the US Supreme Court
- June 21, 2024 - Court issued a 5-4 decision against the states
- NM continues to take action and collaborate with state, federal and local partners to identify and implement solutions

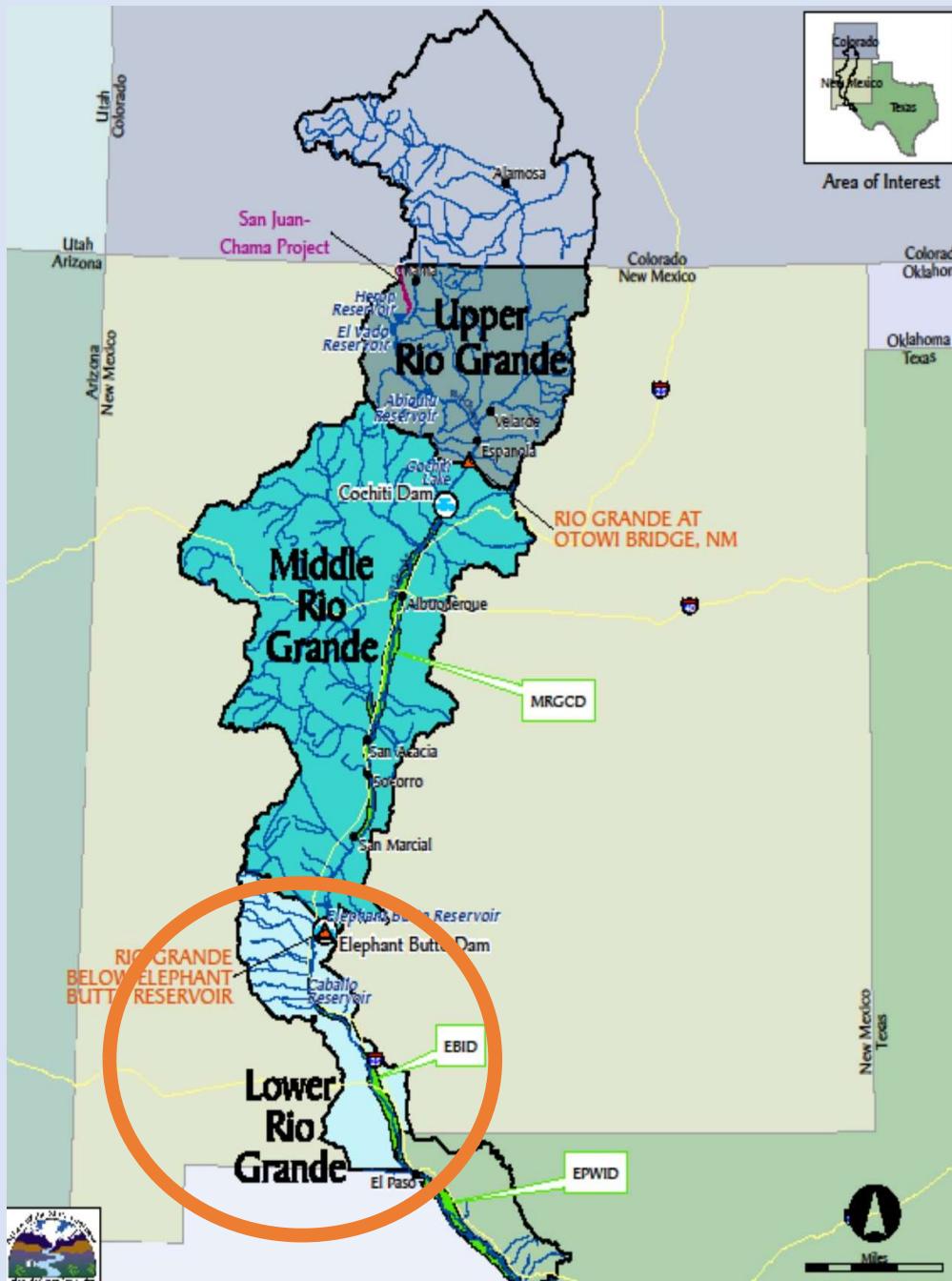


Lower Rio Grande Investments

\$60M+ in 2023 and 2024 Legislative Session is supporting:

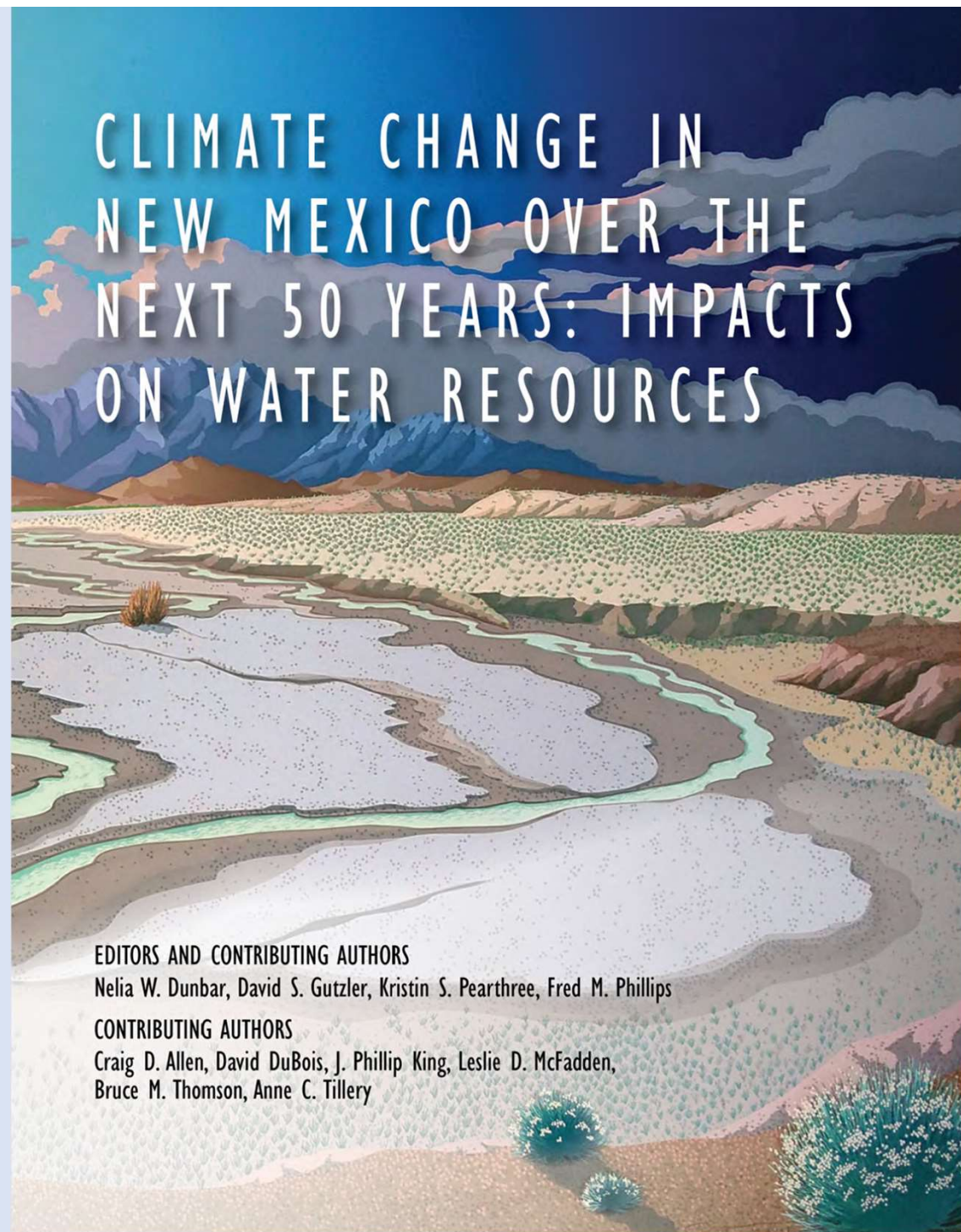
- Depletions Management
 - 2023 Groundwater Conservation Program = \$4.6M committed on ~3,000 acres as part of a longer-term groundwater leasing program
 - 2024 enrollment planned
 - Gathering community input towards a potential purchase program
- Implement special projects - aquifer recharge, brackish water, water importation, stormwater management
- Engage with local stakeholders to develop suite of long-term solutions
- Cooperative Agreement with Elephant Butte Irrigation District (EBID)
- Building the NMISC/NMOSE Team

Leverages Federal Funding and Partnerships



Looking into the future:

- We need to plan and prepare for 25% less water in our rivers and recharging our aquifers by 2070



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What Does this Mean?



- Commitment to holistic management and a multipronged approach
- Need for planning and capacity development at all levels
- Build on legislative wins from 2023 and 2024 legislative session
- Continue to work to leverage federal funding

NM's Regulatory Framework is Prepared to Tackle the Challenges Ahead

Conjunctive Management of Surface and Groundwater

- NM has the oldest regulatory regime for conjunctive management in the US - since 1956. NM courts recognize the State Engineer's ability to conjunctively manage surface and groundwater rights to ensure compact compliance, including Rio Grande offset requirements.

City of Albuquerque v. Reynolds, 1962-NMSC-173, 71 N.M. 428

Active Water Resource Management (AWRM)

- The State Engineer can enforce all laws related to use of water even in the absence of a complete adjudication.
- In addition, the State Engineer can administer based on agreed upon alternative management plans, which can provide for better win-wins.

Strategic Water Reserve

- NM Interstate Stream Commission has ability to support river flows for Compact and species purposes, including owning and leasing water and storage rights.

NMSA 1978, § 72-14-3.3

Water Security Planning Act

*Senate Bill 337 - Passed unanimously.
Will transform and reinvigorate regional
water planning in New Mexico.*

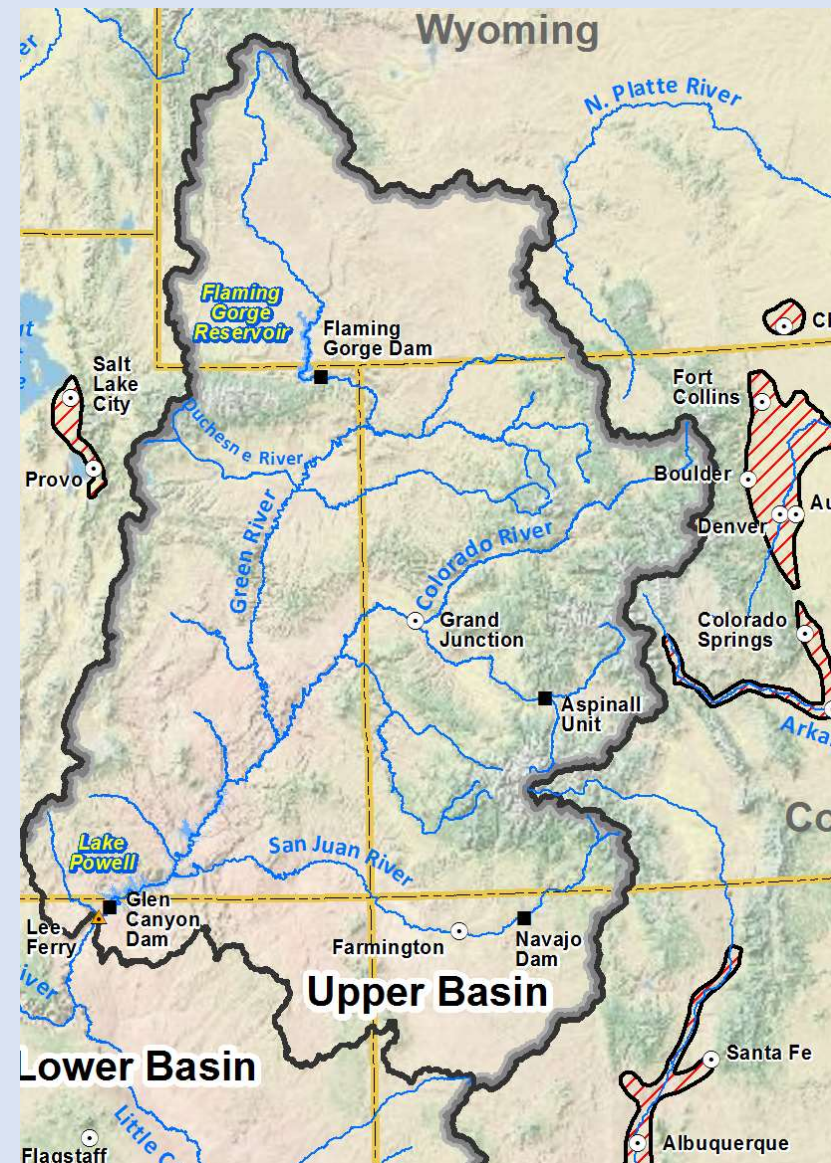
Ensures Regional Water Planning:

- Involves Robust Public Involvement - including from Major Water Rights Holders
 - Is Grounded in the Best Available Data, Science and Models
 - Ties to Implementation through Prioritization of Projects for Funding
 - Builds Local Capacity
-
- *Recommendation of the 2022 Water Policy and Infrastructure Task Force, implementation called for by the 50-Year Water Action Plan*



COLORADO BASIN UPDATES - Current Conditions

- New Mexico is an Upper Division State, along with Colorado, Utah, and Wyoming.
- Glen Canyon Dam (Lake Powell) operations are very important for Upper Division States, because of hydropower generation and the influence of releases on flows passing Lee Ferry, which is an indicator of the compliance with the 1922 Colorado River Compact.
 - Lake Powell is currently at 3,583' (41% full). The elevation at Lake Powell is expected to remain above the critical elevation of 3,525' in the next two years.
 - In Water Year 2025, Lake Powell will be operated in the Mid-Elevation Release Tier where 7.48 million acre-feet will be released from the reservoir according to the 2007 Colorado River Interim Guidelines For Lower Basin Shortages and Coordinated Operations For Lake Powell and Lake Mead (2007 Interim Guidelines).
- The 10-year running average for Lee Ferry flows is currently around 86 million acre-feet, well above 75 million acre-feet mentioned in the compact.



Post-2026 Process

- The 2007 Interim Guidelines will expire in 2026.
- Reclamation has initiated National Environmental Policy Act (NEPA) process related to the development of the post-2026 Colorado River reservoir operational strategies for Lake Powell and Lake Mead under historically low reservoir conditions.
- The Upper Division States (UDS) and the Lower Division States (LDS) submitted two separate alternatives to Reclamation in March 2024.
- Reclamation is currently working with the UDS and LDS to fully capture the underlying assumptions and methods related to their respective alternatives.
- Reclamation intends to publish a draft Environmental Impact Statement for public comment by the end of 2024.



Tribal engagement

- In April 2024, the UDS and the Upper Basin Tribes held a signing ceremony for a Memorandum of Understanding (MOU) in Chama, NM. The MOU memorializes tribal-states dialogue meetings and encourages collaboration and exchange of information to pursue shared goals and priorities.
- Meanwhile, New Mexico has been participating in periodic discussions with leaders of the 30 tribes and nations within the entire Colorado River Basin, along with the other Colorado River Basin states principals and the federal government related to the post-2026 process. This group is commonly known as the 38 Sovereigns.

TIME TO WORK TOGETHER

