



June 26, 2025

via email

Senator Elizabeth "Liz" Stefanics
Chair, Water and Natural Resources Committee & Senate Conservation Committee
New Mexico Legislature
State Capitol
Santa Fe, NM 87501

RE: Public Communication: Confronting Water Planning and Governance Incapacity

Dear Chair Stefanics:

Thank you for your leadership and commitment to New Mexico's water future as Chair of the 2025 Water and Natural Resources Committee. As sponsor of the 2023 Water Security Planning Act, you established a clear statutory vision: water resources planning and governance in New Mexico must be better informed and more decentralized. The Act passed unanimously, reflecting bipartisan agreement that the State's water planning to date is inadequate for today's challenges.

Now we must overcome the fundamental lack of resources, urgency, and focus within State institutions. State elected and appointed leaders must acknowledge that New Mexico is already deep into a water supply crisis. The crisis is existential for many. When the well runs dry, it's too late. The Legislature's action is needed now.

Deepening, unfronted water crises. We face deepening water crises across the state: a major aquifer depleted, rivers stretched beyond their limits by unregulated uses, poor water use and groundwater resource data, and an imminent new violation of the Rio Grande Compact. Many of New Mexico's native peoples are still waiting for the State's quantification and settlement of their water rights.

The State is not managing these challenges because the institutions responsible—principally the Office of the State Engineer (OSE) and the Interstate Stream Commission (ISC)—do not have the information, tools, staffing, or capacity to utilize the authorities and meet the mandates of water management statutes. Neither can they stand up and complete essential programs, such as meeting their Water Data Act directing agency responsibilities as water data owners.

The NM Bureau of Geology's Aquifer Mapping Program, active since 2006, is essential for groundwater planning and management. However, the multi-year program appropriations recommended by the Governor to accelerate the research and data collection work were cut 75% by the 2025 Legislature despite widespread support.

Legislative Interest. Legislators are interested in water as indicated by the large number of voting and advisory members who attended the committee's May 2025 organizational meeting. We must build on this interest.

Without the Legislature providing the resources that New Mexico's state water agencies require to do modernize themselves so they can do their jobs, the intention of the statutes and programs goes unmet. The Water and Natural Resources Committee's meetings this year provide the opportunity to inform Committee members of these urgent realities and lay the groundwork for the 2026 Legislature.

Groundwork includes preparing appropriation bills with clear conditions for expenditure. Actions are also needed this interim to see that Legislative Finance Committee members are briefed on the consequences and massive opportunity costs of continued inaction. The Water and Natural Resources Committee should articulate the urgent need for the Legislative Finance Committee and the session finance committees to fund water planning and management.

Four Core Priorities. We suggest four core priorities for the 2025 Committee's focus. The recommendations presented below align with the Committee's 2025 work plan and the 2022 Water Policy and Infrastructure Task Force's water management and planning recommendations.

An informed committee consensus is essential to address ruinous water overuse. The Legislature must do its part to stop the ongoing but unrecognized slow-moving train

wreck of unfronted overuse of New Mexico's limited water resources. The overuse impacts are aggravated by increasing water scarcity caused by increased heat and disappearing snowmelt runoff.

1. Modernize and Build State Water Agency Capacity

Committee Work Plan Reference: Applies broadly to many work plan items

The most important work this Committee can accomplish during the 2025 interim is to prepare the Legislature to invest in modernizing and building the capacity of New Mexico's core water agencies.

The OSE and the ISC are responsible for water resource and water use measurement, monitoring, planning, and administration. They must produce and act on data, administer water rights and water uses, enforce permits, ensure interstate stream compacts compliance, and create a responsive and responsible regional water planning program. Today, they lack the institutional capacity, including staffing, technical systems, and water administration infrastructure to meet these obligations.

Agency staff are stretched too thin. Internal systems are outdated or entirely absent. Foundational data is incomplete or inaccessible. Managers lack tools to track progress, delays, and outcomes. Without modern staffing levels, current data, current simulation models, and integrated management information systems, the agencies cannot exercise the authorities delegated to them or fulfill their mandates.

The Water Data Act requires the State Engineer and Interstate Stream Commission to clean up legacy datasets, collect accurate new information, and make data and metadata publicly available online. Even where water use is measured, the data remains inaccessible. Regional Water Security Planning Councils—authorized under the 2023 Water Security Planning Act—require reliable water use and supply data to function. But the agencies cannot provide these data without fundamental modernization. Authority alone is not enough—without modernization and operational capacity, statutory responsibilities cannot be fulfilled.

This is no time for incremental budget increases. It is a call for recurring funding and multi-year special appropriations to allow water agencies to modernize their internal infrastructure, recruit and retain qualified staff, deliver transparent public data, and fulfill their statutory responsibilities. Without this investment, illegal water uses will

continue, planning decentralization will fail, and legal and economic harm will grow. Equally important, the Legislature must demand accountability. New funding must be tied to measurable improvements in agency performance: faster permit processing, improved public data availability, consistent enforcement actions, and visible progress on Compact compliance and regional planning support. Legislative direction and dollars for agency modernization must deliver clear **outcomes** that legislators, stakeholders, and the public can track over time.

Recommendations: Prioritize committee time to build a shared understanding of the scale and nature of the modernization challenge. Focus not only on current operational deficiencies, but on what a functional, accountable water governance system requires in 21st century New Mexico. Invite agency leadership to clearly articulate what tools, staffing, systems, and interagency coordination are needed to meet statutory mandates.

These discussions should directly inform the preparation of appropriations bills for introduction in the 2026 legislative session—bills that link funding to clearly defined **outcomes** in agency performance, data transparency, administration and enforcement, and regional water planning support.

2. Support Rapid Implementation of the 2023 Water Security Planning Act

Work Plan Reference: A.4

The Water Security Planning Act requires the Interstate Stream Commission to create a decentralized, regional water security planning program. To get started, the ISC must adopt rules, provide for the regional water security planning councils to establish themselves, and provide resources, including access to regional water data and to expert advice and assistance. Yet, two years after passage, the program is not close to being defined and underway.

On June 18, the ISC approved a program workplan that allocates nothing to regional councils to support their self-organization and launch their initial planning work. The ISC's choice to spend all the water planning program's \$7 million FY26 special appropriations on its contractors undermines the Legislature's delegation of powers to regional planning councils. Instead, the ISC should provide grants from a portion of the \$7 million to directly fund regions' self-organization.

ISC planning staff informed the Commission at its June 2025 meeting they will not offer support to all nine planning regions this decade. Some regions will not be selected by the ISC to begin water planning until 2032. Staff propose to restrict regional planning periods to only two years. That's impossibly short. Imposed delay of initiation opportunities denies the urgency of needed water resources solutions statewide. Given the urgency, the ISC should pursue initiatives in parallel rather than sequentially; ISC must get regional councils' water security planning efforts underway!

Recommendations: Request a detailed program implementation plan from ISC staff. Ask them to document and present not only the rulemaking status, but also their overall implementation philosophy, timelines, and intended support mechanisms for regional councils.

Direct ISC staff to explain how the ISC's decentralization approach will bring local knowledge and leadership and community values to the forefront along with adequate water science, data, and models. All are essential to develop coherent regional water plans that solve problems, and to implement them.

Ask what initial milestones can be accomplished in FY27 through FY30 with dedicated, multi-year appropriations—especially those tied to Council formation, data availability and accessibility, and decentralized work performed by the Councils.

Request the ISC's rationale for spending all its FY26 water planning special appropriations on vaguely defined work by the ISC's on-call contractors. Inquire about the steps the ISC is taking to require its numerous on-call contractors to compete for specific work assignments on the strength of their creative ideas and proposed contributions.

3. Confront the Imminent Risk of a New Rio Grande Compact Violation

Work Plan Reference: A.12

Middle Rio Grande's current water use exceeds its sustainable supply. Deficit water deliveries to Elephant Butte are likely to surpass the 200,000-acre-foot Compact delivery debt limit in 2026. This would trigger a new interstate stream Compact lawsuit by Texas, causing a decade or more of intensive, high risk, high-stakes litigation. Such litigation will divert resources, including water agency managers and staff, from managing and finding solutions to New Mexico's many water problems,

and will lead to a U.S. Supreme Court-appointed Special Master enforcing a new U.S. Supreme Court decree governing Middle Rio Grande water use.

State and local governments within the Middle Rio Grande must act now to prevent Texas from gaining a say. If Middle Rio Grande water overuse causes deficit water deliveries that violate the Rio Grande Compact, New Mexico must be able to demonstrate legitimate efforts to regain compliance. New Mexico's failure to act now will be seen as indifference, weakening its position and inviting outside authority.

Recommendations: Convene a hearing focused on the status of Middle Rio Grande Compact compliance. Invite agency staff, legal experts, and outside water resources experts to assess current risk and identify immediate response options.

The Committee should document what statutory authority, budget, and enforcement tools are needed now to reduce overuse and prevent a new Rio Grande Compact violation—and the costly consequences that would follow.

4. Refocus to Foundational Water Governance Priorities

Work Plan Reference: A.5

The Governor's initiative for the desalination of oil and gas waste and brackish water attracted the 2025 Legislature's attention and resources. Desalination of oil and gas waste remains scientifically uncertain, without any publicly available data from scientifically conducted technology demonstrations at scale to show efficacy, reliability, and safety. It is prohibitively expensive and fraught with public health and safety issues. In contrast, critical water resources work such as measuring and monitoring, active administration for Compact compliance, and groundwater resources understanding and protection from exhaustion are seriously underfunded.

Large-scale desalination of brackish groundwater first requires extensive subsurface research—a process that is underway in the Lower Rio Grande but will take years. This research must identify viable extraction sites; quantify the brackish water resource volume and extraction rates that ensure long-term viability of public development investments; and determine safe locations for waste disposal. Brackish groundwater pumping and permanent waste disposal must not compromise freshwater supplies.

Recommendations: Acknowledge that while innovation has a role, it must not displace urgent investment in foundational water resources governance, data, and planning capacity. Recognize that desalination is a niche solution in New Mexico due to geology and the high costs of desalinated water.

Require and fund a scientific and fiscal review, conducted with scientific integrity, of the desalination initiative, including an analysis of its feasibility, risks, and opportunity costs.

Ask water agency staff and independent experts to identify priority programs essential to responsible water governance that weren't funded, while desalination was generously funded based on inflated claims and unrealistic assumptions.

In closing, thank you again for your leadership and for your commitment to ensuring New Mexico responds responsibly and effectively to its most pressing water challenges. Please call on us for technical support, policy analysis, or assistance in developing recommendations as the Committee pursues its interim work.

Sincerely,

/s/

Norm Gaume, P.E. (ret.)

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