



July 16, 2025

via email

July 17, 2025 – Interstate Stream Commission Meeting

Subject: Public Comment on ISC Proposed Rule: RE: Agenda Item 6 – Proposed Rule to Implement the Water Security Planning Act

Submitted by: Norm Gaume, P.E., President, New Mexico Water Advocates

Attachment: Letter to Director Riseley-White, dated July 10, 2025

The New Mexico Water Advocates submitted the attached letter to Director Riseley-White on July 10 outlining our critique of the ISC's current direction, our intention to intervene as a party in the rulemaking, and our recommendation for a better path forward that reflects the decentralization mandate of the Water Security Planning Act.

The revised proposed rule, posted late Saturday or early Sunday with the ISC meeting agenda and packet, confirms many of the concerns we raised. We therefore appeal directly to you as Commissioners and decision-makers. The proposed rule is not ready to serve as the foundation for a durable and adaptive program that may govern New Mexico's regional water planning for decades to come.

The points below summarize our high-level findings from a prompt but careful review of the proposed rule.

1. The Proposed Rule Lacks Strategic Direction and a Clear Purpose for Planning

The rule establishes procedures but not the purposes. Without clearly defined problems, planning goals, or intended outcomes (beyond a prioritized PPP list), the program will lack coherence, focus, and accountability.

2. The Rule Fails to Establish a Complete and Coherent Planning Program

The rule outlines a centralized bureaucratic process—not a functional planning program. It lacks defined workflows, technical standards, implementation strategies, and conflict resolution mechanisms leading to negotiated agreement.

3. Staff Preferences Constrain the Rule Without Evidentiary Basis

Key structural decisions reflect staff workload triage and a default preference for centralized control—without study of alternatives or evidentiary justification. These are fundamental Commission-level policy questions and should not be adopted without a formal evidentiary record.

4. The Rule Undermines Regional Autonomy by Institutionalizing Staff Control

Staff retain authority over council formation, membership validation, and internal decision-making. This top-down approach discourages local leadership and genuine participation.

5. Scientific Integrity—A Statutory Requirement—Is Absent from the Rule

The rule omits the term “scientific integrity,” relying instead on the undefined phrase “best available science.” Scientific integrity requires transparency, documentation of sources and assumptions, rigorous methods, and protection from political or institutional distortion—standards that are missing from the rule. Its absence is especially troubling given the ISC’s history with the Gila Diversion planning process.

6. The ISC Lacks Clear and Impartial Governance of the Rulemaking Process

The Commission has no procedural rule to govern its own rulemaking. As a result, it is subject to default provisions that do not prohibit ex parte communications

between Commissioners and staff—even though staff are effectively petitioners for the adoption of their own draft rule. We urge the Commission to prohibit ex parte communications during this process to ensure transparency and fairness for all parties.

Water Advocates Recommendation

Please see the attached July 10 letter for our specific recommendations. In short:

- Begin with modest grants to support regional self-organization and council formation;
- Require ISC staff to prepare a concise report articulating their full program vision and justifying their centralized planning approach; and
- Confront the real challenge: shared water supply overuse, which the state is not currently regulating, and which is steadily depleting New Mexico's aquifers—just as the Roswell Artesian Basin aquifer would have been ruined a century ago without state intervention.

Respectfully submitted,

Norm Gaume, President
New Mexico Water Advocates

Attachment



July 10, 2025

via email

Hannah Riseley-White
Director
New Mexico Interstate Stream Commission
407 Galisteo Street
Santa Fe, NM 87501

RE: Strategic Decision-Making and Procedural Transparency in the Water Security Planning Program

Dear Director Riseley-White,

I write on behalf of the New Mexico Water Advocates to respectfully express serious concerns about the strategic and procedural direction being taken by ISC staff in developing the regional water security planning program required by the 2023 Water Security Planning Act (WSPA). This letter is offered in the spirit of constructive engagement, and with hope that direct communication can resolve the problems we see emerging—before formal intervention becomes necessary.

We appreciate the scale of your responsibilities and the dedication of your staff. But we are increasingly alarmed by the absence of transparency and public process behind critical decisions that define the entire program. These are not minor technical details. They are structural choices with long-term consequences. They warrant clear justification and Commission-level policy guidance.

Staff Decisions as De Facto Policy—Without Public Process

One of the most consequential decisions before the Commission is whether to exercise the broad authority delegated to it under the 2023 Water Security Planning Act to create a robust and responsive program of regional water planning. The choice between a constrained, staff-managed implementation and a more expansive, decentralized vision should not be made by default. It deserves formal legal guidance, open public deliberation, and an explicit decision by the Commission. It would be far preferable for this policy direction to be clarified now—**before** the ISC initiates formal rule promulgation based on a narrowly defined program structure already adopted by staff.

At the June 2025 public meeting, ISC staff acknowledged—responding to a commissioner’s question—that the proposed scheduling—only three regions at a time, on a two-year cycle, with ten-year update intervals—was not supported by a formal alternatives analysis. The three-region model is simply, in their words, “the most manageable option for our current staff capacity.”

This is not regional water planning. It is an ISC-controls-centric perspective of the 2023 statutory mandate to decentralize regional water planning. It is internal workload triage elevated as de facto program policy.

When the ISC makes decisions of this magnitude, the process must be strategic, inclusive, and grounded in a broader vision of what the agency—and the public—expect this program to achieve. Instead, decisions are being made privately, by a small group of staff and consultants, with no external engagement and no Commission-level deliberation.

The Water Advocates believe the staff is proceeding with a narrow administrative mindset that underestimates the capacity of New Mexicans to organize and plan effectively when provided with resources and the opportunity. The result is a mismatch between the law’s purpose and its execution. The WSPA was intended to decentralize water planning—to enable more New Mexicans to shape their water future.

A Model for Decentralized Enablement Exists

We urge you to consider a proven approach already used by New Mexico state government.

The Economic Development Department's Outdoor Recreation Program has effectively deployed small-scale grants to community-based organizations to achieve meaningful policy goals. Several years ago, that program sought to broaden access to outdoor recreation for disadvantaged youth. The Adobe Whitewater Club of New Mexico, for example, received a \$30,000 grant to provide river paddling instruction and experiences for fewer than 20 youth. The program was reimbursed based on a simple project plan and outcome tracking—not micromanaged from above.

When I inquired about the unbureaucratic structure of the program, the program director confirmed it was deliberate. The agency trusted capable organizations to deliver value within a clear, simple framework. And it worked.

We believe the ISC could replicate this approach. The 2025 Legislature provided \$7 million in appropriations that staff has only a vague plan to spend. The WSPA provides the Commission with the flexibility and authority to issue modest, outcome-based grants to local or regional entities that demonstrate readiness to begin water security planning mobilization. The only requirement would be a credible plan aligned with a holistic vision and goals for the water planning program that meets certain initial organizing objectives and a fiscal sponsor capable of executing the grant.

These grants, possibly ranging from \$25,000 to \$50,000 with a \$1 million budget, could support a range of early-stage activities aimed at forming regional councils and providing them with information commensurate with the scientific integrity requirements of the 2023 Act:

- mobilization efforts aimed at forming regional councils;
- regional coordination and relationship-building;
- data gathering and synthesis;
- development of participatory planning and decision-making processes; and
- identifying relevant material from existing water plans and documents.

Imagine the catalytic effect of issuing 10–20 such grants statewide. Imagine the momentum it could generate—across tribal nations, acequia communities, local governments, municipal water boards, and civic alliances ready to lead. You would be decentralizing in both form and function, consistent with the intent of the WSPA and the proven logic of common pool resource governance, as articulated by John Brown in Water Advocates essays.

This is not speculative. It is a proven model that already exists within New Mexico's own administrative toolkit.

Let the Commission Lead Strategically

As an experienced and reflective professional, I ask you to step back now and consider the deeper structural issue: the conflation of staff discretion with Commission policy.

These decisions—about how funding is distributed, who can initiate action, and how progress is measured—are strategic. They are governance choices. They belong to the Commission after consideration and deliberation, not the staff.

The staff draft rules defined "Interstate Stream Commission" so broadly that it included any staff member, the director, or the Commission itself. That's not just confusing—it's legally fraught and reflects a lack of conceptual clarity. The Commission is a deliberative public body. It alone bears responsibility for setting the policies that define this program. Strategic questions—like what should be centralized under ISC control and what should be decentralized—must be made publicly, not tactically by staff without oversight.

We urge you to initiate an open discussion with the Commission and stakeholders. The rules and guidelines must be based on considered Commission policy, not internally negotiated workarounds to staff bandwidth.

We Will Intervene as a Party

You closed the door to further dialogue about rule content but left open the door to discussions about process. We are walking through that door now. Our concerns have not been addressed nor our arguments considered as staff have made strategic decisions without Commission deliberation or involvement. Therefore, the Water Advocates will intervene formally as a party in the rulemaking proceeding.

As a party, we will submit evidence, present expert testimony, and cross-examine ISC witnesses. The Commission, as required by law, must then base its final decision on the record. This necessarily adversarial path is not our preferred one, but it remains available to us, as does direct political intervention.

A Better Way Is Within Reach

We believe in the potential of this program and in your ability to lead it toward a more inclusive and effective outcome. We hope you will consider:

- Envisioning regional water security planning broadly as a tool for scientifically grounded, adaptive problem-solving—fully responsive to our hydrologic and climate realities and capable of securing the legislative support and public investment needed to address overextended water resources;
- Presenting grant-based early planning support to the Commission for immediate implementation;
- Reframing staff and expert consultant roles as facilitators and enablers, not gatekeepers; and
- Structuring decentralization as a strategic design element, not a managerial constraint.

Please let us know whether you are willing to meet to discuss these options. The ISC has a unique opportunity to build a practical, lasting model for decentralized water planning—ultimately enabling the governance of shared water resources through collaborative agreements among users.

It starts by empowering and trusting the communities the program is meant to serve.

Sincerely,

Norm Gaume
President
New Mexico Water Advocates
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