

STATE OF NEW MEXICO
INTERSTATE STREAM COMMISSION
IN THE MATTER OF THE PROPOSED RULE TO IMPLEMENT
THE WATER SECURITY PLANNING ACT
Rulemaking No. 25-01(R)

**EXPERT TESTIMONY OF BOB WESSELY, PAST PRESIDENT, ON BEHALF OF THE
NEW MEXICO WATER ADVOCATES**

An Introduction to the Water Advocates' "Improved Proposed Rule Redline"

Madam Hearing Officer and Commissioners

- Thank you for the opportunity to speak on behalf of the New Mexico Water Advocates. My intent is to explain a product we have developed for you, the Commissioners, to use:
 - We have assembled a draft "Improved Proposed Rule" that we believe can serve for you to use to mark up during your deliberations later in this hearing. The document we are presenting is a redline markup of the ISC staff's "Proposed Rule." It addresses the concerns we have had with the ISC staff's proposed rule, as well as many of the comments that have been posted on ISC's website. We believe it can serve you as a better baseline for your editing during your deliberations.
- However, before the explanation, let me divert for some brief background - of me and of the product we are providing you today:
 - My background: Most of my paid career was as technical director of a 22-person systems engineering management consulting company. One of the key themes through those decades of work was structuring and developing requirements for computer procedures and for people procedures - precise enough to be unambiguously compelling, while not overly constraining on the implementers. After retirement from paid work, I wound up co-leading the Water Assembly and the development of the 2004 Middle Rio Grande regional water plan and working continuous water planning efforts since. As an offshoot, I became heavily involved in the initial drafting and the promoting of later drafts of materials that eventually led to the 2023 Water Security Planning Act.
 - The "Improved Proposed Rule" product we are providing today is an outgrowth of a substantial work effort. The first draft was in March '23, and was followed by a 30-month large-team effort including regular contact with ISC staff and open houses, resulting in this, our 93rd draft rule.
- The product for the Commission's use has four parts:
 - Exhibit B-1, a brief rationale of the changes we seek to the ISC staff's "Proposed Rule" to create an "Improved Proposed Rule"
 - Exhibit B-2, a brief paragraph-by-paragraph rationale or reasons for change, along with Microsoft Word's tracked changes paragraph-by-paragraph improvement markup to the "Proposed Rule"

- Exhibit B-3, an acknowledgement and listing of the NMWA team of a dozen and a half experienced people, almost all of whom worked on the “Improved Proposed Rule.” About half a dozen of them worked well into the weeds, others as brief reviewers.
- Exhibit B-4, my resume.
- Now, let me summarize the “Improved Proposed Rule” - summary rationale, and the paragraph-by-paragraph reasons for change of each paragraph in the redline markup.
 - Exhibit B-1 has a summary of our rationale for making suggested changes to the “Proposed Rule.” The unanimously passed 2023 Water Security Planning Act (WSPA) presents a once in a generation opportunity to seriously address New Mexico’s long neglected, serious current and growing water shortfalls. We believe the rules that we are working on today should take vigorous advantage of that opportunity.

As is detailed by testimony and exhibits, the ISC staff’s “Proposed Rule” provides for a limited interpretation of the WSPA guidance and a top-down or centralized planning rather than a regionally and community driven approach. For example, the “Proposed Rule” specifies council membership slots per ISC staff’s concept of interest balance, rather than criteria for membership, and requires ISC staff approval of replaced members. Further, the “Proposed Rule” does not lay out a water resiliency improvement objective (why plan at all) or a process (necessary planning components) to reach such an objective.

To meet the WSPA requirement for scientific integrity in the planning, we believe each region must start with a foundation of knowledge of their respective water situations, develop an understanding of their respective regions values, and then follow an organized process to develop a well-vetted, preferred alternative program of policies and projects whose implementation will provide regional resiliency to our changing water situations.

Since the ISC planning staff did not consider an earlier draft rule we submitted, let me summarize the “Improved Proposed Rule” in Exhibit B-2. The Exhibit contains our suggestions for each of the paragraphs’ reasons for change and our suggested specific changes to the text of the paragraph:

- 19.25.16.6 Objective - We provide and recommend replacement text to express a purpose and rationale for the planning process.
- 19.25.16.7 Definitions - We recommend adding some and revising other definitions..
- 19.25.16.10 Initial Planning Period – We’ve added language to flesh out the requirements. Subparagraph A now explicitly lays out requirements (rather than just descriptions) for ISC staff to fund and support a truly robust and effective regional planning process. In Subparagraph B, to meet the guidance of WSPA, we placed process requirements on regional councils to conduct their planning, while providing maximum freedom to account for differences among regions.
- 19.25.16.11 Ongoing Planning Period - We’ve edited the wording with the intent to balance better between being overly top-down prescriptive and being silent on key attributes

- 19.25.16.12 Composition of Regional Councils - We have replaced the existing words to provide criteria for membership in the councils rather than the imposition of ISC staff's concept of creating balanced regional councils. This should enable each region to develop its council and will define balanced interest representation as appropriate for the particular region.
- 19.25.16.14 Considerations for Councils During Planning - we recommend a small quantity of changes to make meeting statewide objectives and scientific data mandatory in the planning processes.
- 19.25.16.15 Criteria for Approval of Plans - We recommend leaving the "Proposed Rule" text as is stands but inserting two precursor Subparagraphs A and B to provide actual approval criteria before the "Proposed Rule's" specification of required plan content.
- 19.25.16.16 State Engineer Considerations - We believe this rule is not the place to impose requirements on the State Engineer. We recommend changing the title and text of this paragraph to address the WSPA requirement concerning reporting issues to ISC staff. We also recommend creating a new paragraph 19.25.16.17 to deal with WSPA's intent for regions to define and make use of their respective public welfare values.
- 19.25.16.17 Public Welfare and Values Statement for the Region - This paragraph has new text for regional councils to develop their own statement of public welfare and values for use in planning evaluation.
- Again, Exhibit B-3 is the acknowledgment listing and Exhibit B-4 is the resume.
- In Conclusion - We believe the "Improved Proposed Rule" forms a good basis for the Commission to ingest its desires, including those stimulated by other public comment, public comment, testimony and exhibits. However, we would request an opportunity to submit an updated redline after we have all been educated through the course of the hearing.
- While I'm not sure how it can be fit into this formal hearing process, we, the Water Advocates, would be pleased to work with the Commission during that ingestion process, only to help ensure Commission-desired changes are incorporated consistently with the various interacting sections of this very detailed "Improved Proposed Rule."
- Thank you again for giving serious consideration to our recommendations. I can stand for questions.

Respectfully submitted,
New Mexico Water Advocates

_____/s/____

By: Bob Wessely
 Past President, appearing *pro se*
 Signed: October 14, 2025