

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 NORM GAUME, PRESIDENT, ON BEHALF OF THE
NEW MEXICO WATER ADVOCATES**

I. Introduction

My name is Norm Gaume. I am a retired licensed water engineer and president of the New Mexico Water Advocates. I submit this written testimony on behalf of the Water Advocates to assist the New Mexico Interstate Stream Commission in adopting a lawful and effective rule that meets the spirit and intent of the Water Security Planning Act and will withstand judicial review. I am the Water Advocates representative for the Commission's rulemaking, acting *pro se*.

This testimony addresses substantive defects in the Proposed Rule and offers constructive remedies. The Water Security Planning Act at § 72-14A-4(A) provides,

“Subject to available funding, the commission shall establish and conduct a regional water security program pursuant to the provisions of the Water Security Planning Act.”

The Water Advocates' goal is a functional, clear rule. We do not seek delay as the ISC staff Response to the Water Advocates Motion asserts. The Commission must ensure its adopted rule requirements produce a **problem-solving regional water security program** that is successful statewide. The rule must require councils and communities to:

- understand the hydrologic realities of their regions,
- identify and prioritize feasible programs and actions to adapt to those realities, and
- inform State and local water resources policy and decision-making through transparent, scientifically grounded, and publicly accountable planning.

The rule also must identify the Commission's required support, oversight and essential approvals in the conduct of this **program**.

All primary participants in the process including the Commission, its staff, regional councils, communities, elected officials, water professionals and leaders, and the public must be able to read the rules and gain a clear understanding of their respective roles, responsibilities, and authorities. Only such a rule can translate the Act's framework into an operational program that improves New Mexico's long-term water security in accordance with law.

The Commission's July 17 and August 26, 2025, docket filings initiated the Commission rulemaking within a non-evidentiary process and schedule specified by the Commission's staff. The Commission's July 17 filing of the Proposed Rule was provided by staff without any analysis of alternatives or rationale for the decisions that make the Proposed Rule what it is. As detailed in the Water Advocates October 6 Motion, the Proposed Rule lacks the analytical reasoning the State Rules Act's explicit reference (NMSA 1978 § 14-4-5.3(B)) to case law requires (*New Energy Economy v. NMED*, 2016-NMSC-005 ¶ 18: agency must show a *reasoned analysis* and *rational connection* between facts and decisions; *ABCWUA v. NM PRC*, 2010-NMSC-013 ¶ 21 decisions must rest on *substantial evidence* credible in light of the whole record).

Without any record of the reasons for staff decisions, the Proposed Rule as submitted by staff is arbitrary and capricious. The Commission has the authority to modify its rulemaking procedures and take the time necessary to create an adopted rule founded on a transparent, reasoned rationale as the legally sufficient backbone of this critically important statewide program.

This testimony builds upon and incorporates by reference three filings already docketed in this proceeding:

- Water Advocates' Public Comment (filed September 27, 2025)
- Water Advocates' Motion (filed October 6, 2025)
- Water Advocates' Reply (filed October 13, 2025)

Together, these documents provide the detailed statutory and procedural analysis that supports this testimony.

The purpose of this testimony is not to restate those filings but to interpret their implications in practical terms, to connect their analysis with the Commission's decision now before you, and to demonstrate how specific, feasible revisions can align the rule with both the Water Security Planning Act and the State Rules Act.

This testimony focuses on the practical implications of the record. It explains how the Commission can remedy the rule's deficiencies to comply with statutory mandates and uphold due-process and transparency requirements. By doing so, the Commission can establish a lawful, durable regional water-security framework that earns public confidence and fulfills the Director's goal of sufficiency for decades.

II. Expert Qualifications

I am qualified by education, licensure, and experience to present this expert testimony to the Commission. I hold a Bachelor of Science in Electrical Engineering and a Master of Science in Civil Engineering from New Mexico State University. I am a retired licensed professional engineer (New Mexico License No. 6969) with more than thirty years of experience in water-resources engineering, management, and policy within New Mexico. My professional work has focused on developing and implementing transparent, science-based, and lawful water-management strategies at municipal, state, and regional scales. Since 2021, I have served as president of the New Mexico Water Advocates, a nonprofit incorporated in 1998 to advance sustainable water governance and planning throughout the state.

The following four professional experiences illustrate how I have applied problem solving methods to resolve complex water-management challenges. Each example offers lessons directly relevant to the Commission's current rulemaking under the Water Security Planning Act, demonstrating that durable water governance depends on credible data, reasoned analysis, and accountable public engagement.

1. Albuquerque Water Resources Management Strategy (1990–1997)

As the City of Albuquerque's Water Resources Manager from 1990 to 1997, I managed a program that demonstrated the poor performance and long-term consequences of continuing the status quo of sole reliance on local groundwater pumping and created a solution that was adopted and implemented. After state and federal geologic survey agencies produced initial evidence, we emphasized a parallel public communications and involvement program that was publicly visible, transparent, inclusive, and accessible. The evolving multi-disciplinary effort and expertise transformed powerful economic-development and political disbelief that an Albuquerque water-supply problem existed into a publicly understood and accepted solution that my successors implemented. My work concluded with the Albuquerque City Council's adoption of the 1997 Albuquerque

Water Resources Management Strategy along with seven annual rate increases to fund it. This is a classic example of the engineering profession's scientific problem-solving methods applied to a public water resources security challenge.

2. Pecos River Compact Compliance Settlement (1997–2002)

As Director of the Interstate Stream Commission from 1997 to 2002, the State Engineer's principal assignment to me was to find a solution to New Mexico's chronic annual problem to comply with the direct requirement of the U.S. Supreme Court's 1987 Pecos River Compact Amended Decree to never again owe water to Texas. Compliance was an annual emergency requiring full-time staff attention. Powerful opposing institutions, including the Bureau of Reclamation, took intransigent positions. When an Amended Decree violation became imminent in late 2000, the Commission's direct intervention through its forceful presence and Chairman was persuasive. The required delivery of water through the last dam in New Mexico was made. I then chaired an invited stakeholder group's 2001 meetings, traveling to Roswell weekly for six months with the Commission's expert staff engineer and other expert individuals skilled in reaching a collaborative agreement. A detailed settlement was agreed, motivated by the end-of-year deadline for developing authorizing legislation. The detailed solution was signed into law in 2002 after passage by the Legislature with bipartisan sponsors from Roswell and Carlsbad. My successors implemented it. The results speak for themselves, including compact-compliance success and lessons learned.

3. State Engineer Administrative Authority Rulemaking (2003–2004)

As a self-employed consulting engineer specializing in water resources management and planning, I worked in 2003 and 2004 as the engineering subcontractor to a State Engineer's expert private-sector attorney to jointly develop the legal and technical principles for a rule authorized by NMSA 1978 § 72-2-9.1. The rule gives detailed meaning to that law, which articulates New Mexico's imperative to comply with interstate stream compacts and the State Engineer's authority to administer water diversions based on the best information available. After the attorney and I completed the integrated legal and technical conceptualization of the needed rule, a State Engineer technical expert and staff lawyer joined us to write the rule through numerous drafts and then negotiate its internal approval. The State Engineer promulgated the rule in 2004. It was upheld in 2012 by the New Mexico Supreme Court's unanimously supportive opinion, 2012-NMSC-039.

4. Gila River Diversion Opposition (2014–2020)

In 2014, I closed my successful sole-proprietor consulting engineering practice to focus on stopping the Interstate Stream Commission's opaque, wasteful, and intentionally deceptive effort to build the Gila River Diversion Project. The project was fatally flawed on its face for engineering and water availability reasons, as I asserted publicly in 2014. It would have destroyed a nationally significant wild river segment I have studied and know well. The segment flows through national forest and through state lands purchased and held in the public trust for their unique ecological significance. The project footprint would have destroyed this wild ecological treasure, long protected by state conservation expenditures.

After six years of focused opposition, including forensic reviews of ISC and Bureau of Reclamation models, I submitted a signed engineering analysis to the Commission demonstrating that the agencies' project reports, data, and model outputs were intentionally biased, and that Reclamation's draft Environmental Impact Statement materially misrepresented those already biased analyses. Upon receipt of my analysis, this Commission abandoned its predecessor's efforts in 2020. The Commission spent \$17 million in public funds to produce nothing of public value. This experience is precisely why the Water Security Planning Act requires the Commission "shall ensure" "scientific integrity in accordance with the principles of honesty, objectivity, transparency, and professionalism."

Conclusion

Across three of these four experiences I learned that New Mexico's water security depends on professional credibility and honesty utilizing transparent data, reasoned grounding, and accountable public process. These lessons provide my professional foundation for presenting this testimony and recommendations for the Commission's consideration in promulgating the water security program rule that the Water Security Planning Act requires.

My narrative CV is filed separately to demonstrate my qualifications to testify at this hearing as an expert witness.

III. Framework for a Functional Rule

Nothing in the Proposed Rule provides the information an interested party needs to understand the regional water security planning program that § 72-14A-4(A) requires the Commission to establish and conduct. The Commission must articulate a coherent

framework explaining how the Commission, regional councils, and communities are to fulfill their statutory responsibilities under the Water Security Planning Act. Without such a structure, the rule cannot be functional or reviewable. The following framework—based on § 72-14A-4(A)—describes the integrated system the Commission’s rule must establish.

A. Objective

The objective of this rule is to establish the Commission’s requirements for New Mexico’s regional water security program, as provided in § 72-14A-4(A), NMSA 1978. The rule empowers the nine geographical regions illustrated in Exhibit I to organize, plan, and act collectively to improve regional and statewide water security. Its purpose is to ensure that water planning functions as a problem-solving process grounded in science, data, and public participation.

B. Organization of Regional Water Security Planning Councils

The rule authorizes and directs the organization of nine regional water security planning councils corresponding to the regions shown in Exhibit I. It establishes requirements for the Commission to organize and convene councils and for councils, if they choose, to organize and convene themselves.

C. Work Plan Development and Commission Support

Representative groups within a region may apply to the Commission to receive funds to establish a council if the Commission determines the proposal would be helpful to the regional council’s creation. Once a council is established and approved by the Commission, it may apply for additional funding to develop a detailed work plan.

Following any needed negotiation and upon Commission approval of the work plan, the council applies to the Commission to receive the best available data, expert services, grants, and staff assistance to implement the approved plan. Councils and the Commission work cooperatively to ensure that each plan is based on the best available science, data, and models describing regional water supply, use, and trends.

D. Council Responsibilities and Planning Process

Councils shall emphasize public communications and transparency. Councils shall transparently develop, document, and publicly report their work and progress; draft plan sections for public review and comment; obtain public review of the complete draft plan; submit the complete draft plan to the Commission; respond fully to review comments; and obtain Commission approval of the completed regional water security plan.

Each council shall provide opportunities for meaningful participation by credentialed experts, the public, local communities, and the Nations, Pueblos, and Tribes within its region. Councils shall acknowledge and respect tribal sovereignty, water rights, settlements, and water needs, and document how their work advances the public welfare and the needs of future generations of New Mexicans.

E. Plan Content and Outcomes

Each completed regional plan shall document the region's prioritization of policies, projects, and programs to improve water security. Plans shall demonstrate how the region's planning responds to the hydrologic realities of the region and to statewide objectives and constraints. Councils shall take full cognizance of those realities and produce vetted, prioritized, and implementable regional water security plans that define and document their consideration of the public welfare and the needs of future generations.

F. Implementation, Tracking, and Updating

With Commission assistance, councils secure funding, implement their plan, and keep it current. They track and publicly report implementation progress, including progress toward achieving the mandatory planning outcomes specified in § 72-14A-5(B) and (C).

IV. Summary and Rebuttal of Legal and Procedural Deficiencies

All procedural and legal concerns are set forth in the Water Advocates' Motion and Reply, incorporated by reference. Together they establish that the Commission's current process and staff-drafted rule fail to meet the standards of the State Rules Act and controlling New Mexico precedent.

Key Findings (Summary of Motion and Reply):

1. **Neglect to include mandatory procedures.**
2. **Lack of reasoned analysis** (*New Energy Economy v. NMED*, 2016-NMSC-005 ¶ 18).
3. **Failure to define delegation and oversight** (§ 72-14A-4(A)–(C)).
4. **Mischaracterization of the Motion** as mere public comment.
5. **Denial of due process** through a non-evidentiary hearing for a technical rulemaking on the highly technical endeavor that is water resources planning. The hearing structure precludes intervening party status and cross examination.

These defects remain unrebutted. A rule adopted without correction would be arbitrary and capricious and would violate NMSA 1978 § 14-4-5.7(B). It would not withstand judicial review.

V. Substantive Deficiencies of the Proposed Rule

The following eight deficiencies demonstrate that the Proposed Rule fails to implement the Water Security Planning Act (§ 72-14A NMSA 1978) as enacted.

- A. Absence of a Reasoned Framework and Failure to Explain Staff Decisions
- B. Misrepresentation of the Engagement Record and Omission of Public-Welfare Requirements
- C. Excessive Staff Centralization and Undefined Commission Oversight Responsibilities
- D. Lack of Substantive Approval Criteria and Performance Standards
- E. Failure to Operationalize Commission and Council Responsibilities and Over-Specification of Administrative Detail
- F. Failure to Incorporate Communities in the Proposed Rule Concepts
- G. Local and Polycentric Governance
- H. Undefined Accountability for Guidelines

A. Absence of a Reasoned Framework and Failure to Explain Staff Decisions

It is not evident that staff followed any framework or rationale in drafting the Proposed Rule. The text repeats certain statutory provisions verbatim while ignoring others, including the Legislature's express requirements for scientific integrity, grounding, and measurable outcomes. Where the rule adds language, it merely names duties without describing how they are to be performed. Dozens of lines within the Proposed Rule recite responsibilities without defining their execution or accountability. Only three of the five statutory elements that require rulemaking appear at all, and none is operationalized.

No written explanation, technical memorandum, or administrative record shows how and why staff decided what to include or exclude. The absence of an articulated rationale hinders the Commission's evaluation of whether the rule meets legislative intent. Given the Water Security Planning Act's direction to the Commission to establish a functional, science-based program to improve New Mexico's water security, a minimal, unexplained rulemaking effort cannot satisfy the Commission's statutory duty to "establish and conduct" the statewide program (§ 72-14A-4(A)).

B. Misrepresentation of the Engagement Record and Omission of Public-Welfare Requirements

Staff cite the Brendle Group Engagement Report (2024) as justification for major elements of the Proposed Rule, but that reliance is unfounded. That report, the third in a series of three, documents outreach activities and summarizes participant responses. It does not analyze statutory requirements, recommend rule language, or supply an evidentiary basis for policy choices. Staff's claim that the report supports their drafting decisions is inconsistent with its content.

The Engagement Report records broad participant support for a transparent, scientifically grounded, and regionally representative planning process. Respondents emphasized that councils' members should be elected or transparently selected to include members with professional water experience rather than relying solely on personal experience. Two-thirds of respondents indicated that technical expertise is more important than general representation. These preferences are absent from the Proposed Rule. Staff has offered no rationale for omitting them.

The report also shows that participants viewed public welfare and the water needs of future generations of New Mexicans as core, measurable elements of regional planning. In questions 21 and 22, respondents defined public welfare broadly to encompass environmental health, community well-being, cultural and traditional values, and protecting water for future generations. Participants urged that councils document how their plans advance or affect those values. They further recommended that the Commission adopt clear criteria and indicators for evaluating public welfare impacts.

The Proposed Rule ignores those findings. It provides no definition of "consideration," no requirement for analytical evaluation of public welfare impacts, and no procedure to measure progress. Without such direction, the duty "to consider public welfare values, balancing water uses and the needs of future generations" (§ 72-14A-5(B)(2)) becomes symbolic. Meaningful consideration would require that councils determine, using the best available science, data, and models, the consequences of maintaining the status quo and to identify policies that would materially improve water-supply resilience, advance public welfare, and preserve water for future use. The Water Security Planning Act does not require such policies be adopted, but the rule must require they be examined and understood. The Commission must correct this omission to comply with both the statute and the record of public input.

C. Excessive Staff Centralization and Undefined Commission Oversight Responsibilities

The Act assigns the Interstate Stream Commission authority and responsibility to establish and conduct the state's water-security planning program (§ 72-14A-4(A)). The Commission expects its Director to manage its staff and operations under its direction and within the limited expenditure authority delegated each year. The Proposed Rule blurs that structure by embedding numerous layers of internal staff "approval" and "concurrence" that extend beyond ordinary administrative management. The Proposed Rule provides no criteria for these staff decisions. Conditioning nearly every regional action on prior staff approval or permission subordinates regional initiative to internal control, undermining the councils' statutory role and weakening Commission oversight.

The Commission's June 2025 meeting illustrates this problem. At that meeting, the Commission approved the annual work plan for the ISC's water planning program. When a Commissioner asked about the staff's intended staggered, tiered approach to limit active planning to three regions at a time for two-year cycles, the planning program manager admitted that staff had not analyzed any alternatives. From my direct contemporaneous participation, planning program staff had predetermined that approach as workload triage before public engagement began. Although the Commission approved the work plan, it required quarterly progress reports as a condition of approval. No report has been presented in any public meeting or posted to the Commission's agenda as of October 2025.

The staff work plan allocates \$5 million to unnamed on-call contractors and no funding to help regional councils organize, convene, and begin their work. The Water Advocates' June 16 public comment objected to that allocation. Such budgeting exemplifies how staff has consolidated authority and resources, disregarding both the Act's delegation of responsibility to regional councils and the Commission's specific June 2025 direction.

The rule must clarify oversight responsibilities, require regular reporting of staff actions in open meetings, and ensure that staff function to support and facilitate all regional planning work. The Commission must not allow its staff to be regional planning gatekeepers and for its rule's processes and procedures to institutionalize staff-centric bottlenecks.

D. Lack of Substantive Approval Criteria and Performance Standards

The Act requires the Commission to approve regional water-security plans that reflect public welfare values, future generation needs, and the best available science, data, and models (§ 72-14A-5(C)(1)). The Proposed Rule reduces that substantive duty to a

procedural checklist that restates statutory topics, such as stakeholder engagement, documentation, and prioritization, without establishing standards for adequacy, scientific integrity, or consistency. Plans could satisfy the consideration requirement through a trivial effort. The Commission's rule must require Councils demonstrate analytical rigor and alignment with hydrologic reality to make the mandatory consideration meaningful.

New Mexico's prior planning rounds show the consequence of such shallow review. The Commission previously "accepted for filing" plans produced in earlier cycles without any independent evaluation or requirements for improvement in the absence of defined standards. As a result, legislators and the Legislative Finance Committee's leadership concluded that state-funded regional water planning yielded only "shelf reports" lacking any independent value. The Water Security Planning Act was enacted to correct that failure by requiring active review, revision, and the Commission's approval and endorsement for funding the prioritized projects, programs and policies set forth in implementable plans.

The rule must require explicit Commission findings of adequacy before approval, confirming that each regional plan demonstrates: (1) evidence-based analysis of available water supplies, uses, and trends; (2) documented and meaningful consideration of public welfare and intergenerational needs; (3) internal consistency and prioritization of projects, programs, and policies; and (4) technical review by qualified ISC engineers and hydrologists to ensure hydrologic soundness.

Furthermore, the rule neither provides nor requires measurable performance standards to evaluate implementation and improvement over time. Without indicators, periodic evaluation, and public reporting, neither councils nor the Commission can demonstrate progress or accountability, including to the Legislature and its appropriators. To comply with legislative intent, the rule must couple substantive approval criteria with performance metrics that make success measurable and reviewable.

E. Failure to Operationalize Commission and Council Responsibilities and Over-Specification of Administrative Detail

The Water Security Planning Act establishes a shared operational framework between the Commission and the regional councils. The Commission must maintain and provide data and models, coordinate among agencies, and support the regions (§ 72-14A-4(C)(3)–(9)) while requiring analytical rigor. Councils must prepare and update plans that prioritize clearly described projects, programs, and policies; consider public welfare values and the needs of future generations; and document water-supply conditions and trends (§ 72-14A-5(B)–(C)). These interdependent duties are designed to function together so that regional

analysis informs state and local governments' decision-making. The Commission, in turn, provides the technical foundation for credible regional water security planning and ensures its quality.

The Proposed Rule recites these responsibilities in general terms but omits the procedures, schedules, and standards needed to make them work. For councils, it imposes no requirement to set measurable objectives, evaluate alternative strategies, or demonstrate progress toward improved water security. For the Commission, it provides no mechanism for maintaining or publishing the data and models that councils must rely upon, nor for delivering coordinated technical assistance. At the same time, the Proposed Rule devotes numerous lines of text to name internal duties without criteria or the required procedures and any performance requirements, rendering the Proposed Rule bureaucratic and functionally silent.

By over-specifying bureaucratic form while omitting operational content and procedures, the Proposed Rule perpetuates the formalism that hampered earlier planning efforts. To implement the Act faithfully, the rule must simplify internal provisions and eliminate excessive staff "approval" requirements. The rule must clearly state outcome-based requirements focused on scientific credibility, transparent evaluation, and measurable improvement in regional water security.

F. Failure to Incorporate Communities in the Proposed Rule Concepts

The Rule gives scant attention to communities and subregions. The word community appears only once in the entire document, limited to a narrow membership category for regional Councils. This omission reveals a deeper flaw: the Rule treats planning regions as the unit of organization, as though water security issues exist only at that scale. In fact, planning regions are administrative conveniences and clearinghouses for recommendations. With the notable exception of regions that are interstate stream compact compliance basins, regions are not the places where water problems are felt or solved. The Rule must recognize community and subregional scales.

Community-centered planning is essential. Water problems begin and end in communities, towns, villages, irrigation districts, domestic well neighborhoods, acequia associations, and Pueblos, each with unique vulnerabilities, knowledge, and priorities. Effective planning must start with community-level challenges and solutions and then reconcile them across hydrologic subregions and the encompassing regions. Without this bottom-up integration, regional plans risk becoming abstractions detached from lived reality.

California's Sustainable Groundwater Management Act (SGMA) implementation success that national water expert Dr. Maurice Hall highlighted in the Water Advocates' July 2025 workshop illustrates the effectiveness of empowering local users. Under the SGMA, users of discrete aquifers form local management agencies to balance their basins, subject to state oversight. The Proposed Rule should recognize each non-recharging or inadequately recharging aquifer as a subregion requiring its own groundwater management plan, reviewed by the region for inclusion in the regional plan. This approach would align with decades of research showing that common-pool resources can be protected not only by regulation but also by giving resource users authority to manage for their common good, a solution proven effective in both theory and practice.

G. Local and Polycentric Governance.

The Proposed Rule fails to create a pathway for regional water governance that could eventually share authority and responsibility with the State. New Mexico's history demonstrates that the State alone cannot ensure water security. The Act's intent to base planning on science, inclusion, accountability and public welfare calls for a polycentric model in which local, regional, state, tribal, and community entities coordinate and agree to share responsibility.

Polycentric water governance, as developed in Elinor Ostrom's Nobel Prize-winning research and advanced through Indiana University's Ostrom Workshop, means managing shared water resources through many overlapping centers of authority. Each center, local, regional, state, tribal, or community, holds partial responsibility, coordinates with the others, and contributes to resilient, adaptive management of our common water resources.

The Proposed Rule could advance this concept by requiring Councils to examine how local governments' land-use authorities can be exercised as part of long-term policies to achieve the rule's objective to "help to ensure water security into the future." Land use and water use are inseparable. A water security planning framework that ignores local land-use authorities outside the State's purview is incomplete.

H. Undefined Accountability for Guidelines

The Proposed Rule fails to define accountability for the development, approval, amendment, and application of Guidelines. Guidelines are generally understood to be an institution's formal administrative instructions to Staff that the institution can adopt and amend through a simpler process than rulemaking. As a former Interstate Stream Commission Director and Assistant State Engineer, I know State Engineer guidelines

historically served as an internal substitute for rules or supervisory case-by-case direction, sometimes applied as binding policy and other times disregarded at Staff discretion.

The Proposed Rule omits any clarification of who approves guidelines, who has authority to amend them, and who may act outside their parameters. Without these, the Rule creates uncertainty about whether guidelines will be enforceable, subject to Commission oversight, or open to arbitrary Staff interpretation.

This omission undermines both due process and public transparency. When internal guidance substitutes for rulemaking without clear accountability, affected entities cannot know which standards apply, how they may be changed, or by whom. The Rule should therefore establish explicit provisions for guideline authority, including approval and revisions by the Commission, public notice of adoption or amendment, and a prohibition or clear limits on Staff discretion to act outside guideline parameters. The Commission must establish the guidelines policy parameters in the Rule.

I. Summary of Proposed Rule Defects

Taken together, these eight substantive deficiencies reveal a Proposed Rule that is incomplete, opaque, and contrary to the purposes of the Water Security Planning Act. The rule lacks a reasoned analytical foundation, fails to incorporate the Act's mandatory procedures, and centralizes decision-making within staff without defined oversight or measurable standards. It fails to recognize the essential need for community-level and subregional participation, provides no framework that might support future state and local cooperative polycentric governance, and leaves the development and use of guidelines unaccountable. As a result, the rule cannot deliver the transparent, science-based, and community-driven program the Legislature mandated. The Commission must correct these defects by revising the rule to (1) operationalize statutory duties and oversight, (2) embed community and regional initiative as the foundation of planning, and (3) ensure that all guidance, data, and decisions remain subject to Commission approval and public accountability. Only such a rule can achieve durable, lawful, and credible water-security planning for New Mexico.

VI. Conclusions and Requests

The Water Security Planning Act entrusted the Interstate Stream Commission with creating a transparent and durable framework for regional water-security planning grounded in science, data, and public accountability. The Proposed Rule, as written, does not meet that charge. My testimony, together with the Water Advocates' Public Comment

(September 27, 2025), Motion (October 6, 2025), and Reply (October 13, 2025), identifies the procedural and substantive corrections required to bring the rule into compliance with statute and to make it effective in practice.

Accordingly, I respectfully request that the Commission:

1. **Revise the Proposed Rule** to bring it into full compliance with the Water Security Planning Act, related statutes, and applicable case law, ensuring that both Commission and regional responsibilities are operationalized as the Legislature intended;
2. **Ensure that regional councils** are empowered to organize and operate in accordance with § 72-14A-5 NMSA 1978, supported and facilitated by Commission resources, technical assistance, and transparent oversight;
3. **Clarify and document all delegations of authority** to staff in writing, consistent with the Commission's organic responsibility; and
4. **Keep the rulemaking record open** and allow timely closing statements and submission of revised exhibits reflecting the testimony and evidence received at this hearing.

Through these actions, the Commission can correct the deficiencies identified in this proceeding and adopt a lawful, transparent, and durable rule that fulfills the Legislature's intent and earns the confidence of the public it serves.

Respectfully submitted,
New Mexico Water Advocates

_____/s/____

By: Norm Gaume, P.E. (ret.)
President, appearing *pro se*
Signed: October 14, 2025