

SA
DISTRICT COURT
SAN JUAN COUNTY NM
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D-1116-CV-75-184

Hon. James J. Wechsler
Judge Pro Tempore

SAN JUAN RIVER STREAM
SYSTEM ADJUDICATION

STATE OF NEW MEXICO
ELEVENTH JUDICIAL DISTRICT
COUNTY OF SAN JUAN

STATE OF NEW MEXICO,
ex rel. STATE ENGINEER,

Plaintiff,

vs.

THE UNITED STATES OF AMERICA, et al.

Defendants,

vs.

THE JICARILLA APACHE TRIBE and the
NAVAJO NATION,

Defendants-Intervenors

STATE OF NEW MEXICO'S NOTICE OF FILING OF

STATE'S RULE 1-071.3 REPORT

Pursuant to Rule 1-071.3 NMRA, the State of New Mexico, by and through its counsel, hereby submits its report setting out its priorities and allocation of resources for adjudications pending in both state and federal courts. The report is submitted in the form of the attached exhibits, setting out priorities and resources of the Lower Rio Grande Adjudication Bureau in Exhibit A, those of the Pecos Adjudication Bureau in Exhibit B, and those of the Northern New Mexico Adjudication Bureau in Exhibit C.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on June 29, 2023, an electronic version of this document was filed by electronic mail to: sjcwaterfilings@nmcourts.gov and served by electronic mail to: sanjuanwater-grp@nmcourts.gov.

/s/ Edward C. Bagley

Edward Charles Bagley

STATE OF NEW MEXICO'S RULE 71.3 REPORT – FY 2024
EXHIBIT A: LOWER RIO GRANDE ADJUDICATION BUREAU

June 26, 2023

Pursuant to the requirements of NMRA Rule 1-071.3, the State of New Mexico presents its report setting out the State's priorities and available resources for the state stream system adjudication, in the Lower Rio Grande Adjudication Bureau for fiscal year 2024 (July 1, 2023 to June 30, 2024), which will be filed in each adjudication. The available resources are based upon full time employee ("FTE") time, including staff and contractors, and are listed in Table 1.

SUMMARY OF AVAILABLE RESOURCES FOR THE LOWER RIO GRANDE ADJUDICATION BUREAU

	FY2021 FTEs	FY2022 FTEs	FY2023 FTE	FY2024 FTE
Total Bureau Staff and Contractor Resources	12.9	11.7	9.5	10.6
A. Lower Rio Grande Adjudication	12.512. 47	11.1	9.0	10.0
B. Animas Underground Water Basin Adjudication	0.4	0.6	0.5	0.6

LOWER RIO GRANDE ADJUDICATION PRIORITIES FOR FY 2024

A. General

1. Litigation of proposed or designated stream system/expedited *inter se* issues
 - a. Stream System Issue 104 (United States' interest in the Rio Grande Project). This stream system issue continues to be stayed during consideration by the Special Master of the State's proposed settlement in Texas v. New Mexico.
 - b. Stream System Issue 107 (status of pre-Rio Grande Project surface water rights). This stream system issue is currently stayed along with Stream System Issue 104, for the same reason. Four individuals filed separate Form B notices of intent to participate, five years after the deadline for doing so had passed. On January 19, 2022, the Court issued individual orders granting the State's motion to strike each Form B.
 - c. The Court of Appeals affirmed the court's dismissal of the Pre-1906 Claimants' claims to rights derivative of the Rio Grande Dam & Irrigation Company in the Pre-1906 Claimants' expedited *inter se* on those claims. The Pre-1906 Claimants filed a motion for rehearing with the Court of Appeals. The Court denied the motion.

- d. Toby Romero subfile. The Supreme Court affirmed the court's acceptance of the special master's finding of partial forfeiture.
- e. Copper Flat Mine expedited *inter se*. On September 17, 2021, the Court of Appeals entered an opinion on the appeal and cross-appeals. The adjudication court's holding that the mine owners could not continue to develop their water rights under the Mendenhall doctrine was affirmed, as was the holding that the water rights in the primary wells were not abandoned. The holding that the majority of the miscellaneous wells were abandoned or forfeited was reversed and remanded for further findings. On June 16, 2022, argument was held on whether or to what extent the water rights in those wells were abandoned or forfeited.
- f. Apodaca Cervantes LLC subfile. Trial was held on April 26 and 27, 2023, on disputed issues of acreage and higher FDR. Trial briefs and findings of fact and conclusions of law will be due July 10, 2023..
- g. Alex R Masson, Inc. subfile. Mediation was unsuccessful. Case referred to trial. However, parties are working to explore settlement options.
- h. Texas v. New Mexico. Though this is not subfile litigation, LRG Adjudication Bureau legal, support, and technical staff have been and will continue to be involved in support for discovery, trial preparation, and settlement negotiations.

2. Negotiation with major parties.

None now pending other than the negotiations related to the Stream System Issue 104 stay. A decision by the Special Master in Texas v. New Mexico may lead to opening further discussions in the coming year.

3. Mediation of other substantive issues.

- a. Edward Padilla and Dolores Padilla subfile. Mediation was held and the parties settled.
- b. Eugene Frank Pakozdi Jr. subfile. Scheduled for mediation.
- c. Robert E and Billye L Green Revocable Trust subfile. Scheduled for mediation.
- d. Jeremy A Lyon and Carrie N Lyon subfile. Scheduled for mediation.
- e. BJTR Investments LP subfile. Mediation on hold pending claimant's request for documents from federal government.

4. Other special procedures and procedural motions in the LRG

- a. Continuing authentication of claims to historical groundwater use for claimants seeking to add groundwater component to their adjudicated and unadjudicated surface water rights, in conjunction with permitting applications to the District IV office.
- b. Stream System Issue 108 (Global Proceeding to Add Assessed Acreage). The first two groups of subfiles have been adjudicated. The State has filed the proposed global order for the third group with the filed final list for the group, and is awaiting the court's global order for that group. The State finished publication of the fourth group of proposed subfiles and is awaiting conclusion of the time period for filing an objection.

- c. The Court granted the State's motion to clarify implied consent under the Court's Seventh Amended Procedural Order. The State has updated its forms to reflect the court's order.
 - d. The State has filed an unopposed motion to withdraw its motion to exclude smaller surface water stock water impoundments from the adjudication.
- B. Accomplishments over the past few years
- a. Most of the non-routine work done in the LRG adjudication bureau over the past few years has involved appeals from stream system issues, expedited *inter se* proceedings, and subfile proceedings, including
 - i. James Scott Boyd's appeal of the court's order striking his Form B notice of intent to participate in Stream System Issue Number 107
 - ii. Designated Pre-1906 claimants' appeal of the court's order dismissing claims to derivative rights of the Rio Grande Dam & Irrigation Company
 - iii. Appeal of the Copper Flat expedited *inter se*
 - iv. Claimants' appeal in the Stephen Faykus and the Faykus Family Trust subfile, including appellant's request for a supersedeas bond
 - v. Claimant's appeal from the Toby Romero subfile.
 - b. The LRG bureau provided support for the Texas v. New Mexico lawsuit.
 - c. The State has begun implementation of Stream System Issue Number 108.
 - d. The adjudication of the Nutt-Hockett Basin was completed in 2021.
 - e. Settlement of the Rice Family Living Trust and Glenn and Glenda Packard subfiles, which had been scheduled for trial.
 - f. Mediation and trial of the Apodaca Cervantes LLC subfile.
 - g. Transition to a new server and new GIS software which reduces the risk of loss of data and improves our work in the adjudication.
- C. Lower Rio Grande Adjudication, Routine Subfile Processing
- a. The preparatory work for the creation of new subfile offers continues to be focused in the Northern Mesilla section, though work actively continues in all sections but Nutt-Hockett.

- b. The continuing receipt of Hydrographic Survey Change Requests (HSCR) for all sub-basins prevents the hydrographic survey staff from working in one sub-basin exclusively. Of the three active sub-basins outside of Northern Mesilla, Southern Mesilla receives the most attention, because there the need to analyze a subfile following the receipt of a HSCR will typically require that the close-fitting block of subfiles adjacent to the newly-analyzed one must also be analyzed and, when appropriate, forwarded for new offers.
- c. The status of all sections as of May 8, 2023 is:
 - 1. Nutt Hockett: 43 subfiles, 100% served, 100% adjudicated
 - 2. Rincon: 1238 subfiles, 97% served, 86% adjudicated
 - 3. Northern Mesilla: 5923 subfiles, 62% served, 43% adjudicated
 - 4. Southern Mesilla: 5516 subfiles, 63% served, 48% adjudicated
 - 5. Outlying Areas: 1368 subfiles, 83% served, 75% adjudicated
- d. Routine subfile processing encompasses most of the bureau's everyday work, and includes updating the Hydrographic Survey, creating new maps to conform to multiple point and polygon requirements, analyzing claims for a larger Farm Deliver Requirement (NOIs), legal review of proposed offers, service of offers, revised offers or duplicates, reviewing objections, discussions with objecting claimants by survey or legal staff, default and implied consent requests, correcting entered orders with typographical errors and re-opening entered orders needing significant correction.
- e. A UNM law school student intern has been helping the LRG legal bureau since the Spring and will continue to do so during the summer when not studying for the bar in July. A NMSU student intern will be helping the LRG hydrographic survey bureau during the summer. And it is anticipated that the LRG Bureau will add one attorney in Santa Fe and a water resources professional in Las Cruces.
- f. The remodel of the Las Cruces office was recently completed. The remodel project began in the fall of 2022.
- g. Our building in Santa Fe is scheduled for demolition at some future date. We are looking for new offices. There will be some disruption when we move into our new offices.
- h. District-specific regulations under the active water resource management program are currently being prepared for publication. In conjunction with such publication the State anticipates publishing a list of administrable water rights pursuant to Section 19.25.13.27 of the New Mexico Administrative Code. This may lead to an increase in the submission

of Hydrographic Survey Change Requests and a corresponding increase in the work load in the Las Cruces office.

ANIMAS UNDERGROUND WATER BASIN ADJUDICATION PRIORITIES FOR FY 2024

1. The Court of Appeals affirmed the court's decision in J & C Victor Trust denying the Trust's motion to set aside the court's order setting the FDR and CIR for the Animas adjudication.
2. As of May 18, 2023, there are 202 Animas subfiles, of which 88% have been served, and 77% have been adjudicated.

Table 1: Lower Rio Grande Bureau Resources Allocated

PRIORITY ADJUDICATION SECTION	Staff Atty	Contract Atty	Staff Para-legal	Survey Staff	Data/IT Staff	Section Totals
Lower Rio Grande Adjudication						
<i>A. General</i>	.1	-	.2	.5		.8
<i>B. Rincon</i>	.1	-	.1	.1		.3
<i>C. N. Mesilla</i>	.5	-	.90	3.50		4.9
<i>D. S. Mesilla</i>	.40	-	.6	2.60		3.6
<i>E. Outlying</i>	.1	-	.1	.2		.4
Category Totals: LRG	1.2	-	1.9	6.9		10.0
Animas Underground Adjudication						
<i>Animas</i>	.1	.10	-	.40		.6
	.1	.10	-	.40		.6
CATEGORY TOTALS - ALL SECTIONS	1.3	.10	1.9	7.3		10.6

STATE OF NEW MEXICO'S RULE 71.3 REPORT

FY 2024 (July 1, 2023 to June 30, 2024)

EXHIBIT B: NORTHERN NEW MEXICO/PECOS ADJUDICATION BUREAU

June 26, 2023

Pursuant to the requirements of Rule 1-071.3 NMRA, the State of New Mexico presents its report setting out the State's proposed priorities and its analysis of resources needed by the Courts and the State in the Northern New Mexico/Pecos Adjudication Bureau for fiscal year 2024 (July 1, 2023 to June 30, 2024). This report will be filed in each of the Bureau's adjudications. The available resources are based upon full time employee ("FTE") time as of the date of this filing, including contractors, and are listed in Table 1.

During fiscal year 2022, the State's Northern New Mexico and Pecos Bureaus were reorganized to combine Northern and Pecos into one Bureau, while at the same time separating out Indian water right matters to be managed under a separate Bureau for Pueblos, Tribes, and Nations. For fiscal year 2023, the Bureau for Pueblo, Tribes, and Nations for the first time contemporaneously filed its own report on priorities and resources.¹ This report speaks only to the Northern New Mexico/Pecos Bureau's non-Indian adjudication matters.

In addition to those active adjudication lawsuit activities described below, significant additional attorney, paralegal, contractor, and technical resources have been or will be committed this fiscal year to implementing completed decrees in the Pecos², and in *Aamodt*³.

¹ This transition results in the metrics contained in the one report for FY 22 tracking into two reports for FY 23 and FY 2024.

² The Pecos Priority Project.

³ Specifically, the State is tasked with implementing Section 4 protection pursuant to the *Aamodt* Settlement Agreement and the *Aamodt* Final Judgement and Decree.

**SUMMARY OF AVAILABLE RESOURCES FOR NORTHERN NEW MEXICO/PECOS
ADJUDICATION BUREAU**

	FY2021 FTEs	FY2022 FTEs	FY2023 FTEs	FY2024 FTEs
Total Bureau Staff and Contractor Resources	21.65	19.3	12.0	12.5
State Adjudications:	12.35	11.6	8.0	8.5
I. San Juan Adjudication	5.0	4.40	3.0	2.5
II. San Jose Adjudication (<i>Kerr-McGee</i>)	.80	0.75	-	-
III. Santa Fe Adjudication (<i>Anaya</i>)	-	-	-	0.5
IV. Pecos Adjudication (<i>Lewis</i>)	6.55	6.45	5.0	5.5
Federal Adjudications:	9.3	7.7	4.0	4.0
V. Chama Adjudication (<i>Aragon</i>)	4.10	3.30	2.0	1.5
VI. Zuni Adjudication (<i>A&R</i>)	.40	1.00	0.5	-
VII. Santa Cruz/Truchas Adjudication	.60	.35	-	0.5
VIII. Santa Clara Creek	-	-	-	1.0
IX. Jemez Adjudication (<i>Abousleman</i>)	.20	.35	-	-
X. Nambé, Pojoaque, Tesuque Adj. (<i>Aamodi</i>)	.20	.20	-	-
XI. Taos	3.80	2.5	1.5	1.0

STATE COURT ADJUDICATIONS - PRIORITIES FOR FY 2024

I. SAN JUAN ADJUDICATION, *New Mexico v. U.S., Jicarilla Apache Tribe and Navajo Nation, Case No. D-1116-CV-75-184 (11th Judicial District, San Juan County)*

A. Accomplishments Over the Past Few Years:

1. Section 1: La Plata

- a. Claims of unknown claimants in the La Plata section:** In February of 2018 the State published notice of the pendency of this adjudication lawsuit to all unknown claimants. No additional claims resulted from this.
- b. Surface water domestic and stock claims in the La Plata section:** In March 2019, the Court issued its *Order to Show Cause* regarding surface water domestic and stock claims. Eight Requests for Consultation were timely served on the State. Two proved not to be objections to the *Order to Show Cause*. Another was resolved by the Court's March 7, 2022, entry of the ten amended NMDOT orders. Five of these claims remain pending.
- c. Preparation of the appendix to the Partial Final Decree:** The appendix is the computer-generated summary of the approximately six hundred subfile consent orders entered in the course of these La Plata proceedings. The appendix to what will be the

proposed Final Decree has been and continues to be proofed and updated.

- d. Errors and Omissions:** In February 2023 the Court entered two *Orders* for expedited procedures for globally correcting mistakes that are shared by multiple consent orders under Rules 60(a) and 60(b), respectively. Clerical errors that can be corrected under Rule 1-060(A) NMRA, and substantive errors that can be corrected under Rule 1-060(B) NMRA, have since then been the subject of global motions under this procedure approved by the Court. To date the State has submitted for the Court's approval nine *Motions* to correct errors in 100 subfiles.
2. **City of Aztec, Farmington and Bloomfield:** Settlement agreements were reached with each of the three municipalities regarding the adjudication of their water rights. Discussions to reduce their terms to the form of consent orders, and to agree on procedures to submit those proposed consent orders to the Court for entry have been undertaken between the parties.

B. FY 2024:

1. **Section 1: La Plata**

- a. **Claims of unknown claimants in the La Plata section:** The State will file its motion requesting the Court enter an order granting judgment by default against all unknown claimants finding they have no surface water rights in the La Plata section.
- b. **Surface water domestic and stock claims in the La Plata section:** Five remaining outstanding claims require field visits and further consultation which the State hopes to conclude before the end of this year, wrapping up surface water domestic and stock proceedings by the end of this calendar year.
- c. **Preparation of the appendix to the Partial Final Decree:** The appendix continues to be reviewed for consistency with the individual orders and maps, and for omissions and errors, both clerical and substantive.
- d. **Errors and Omissions:** The State will continue to submit motions to the Court to correct clerical and substantive errors in previously entered subfile orders adjudicating water rights. Approximately another 100 subfiles will be affected, resulting in perhaps a half-dozen motions—most of these requiring field work or technical review by the Hydrographic Survey Bureau. The State anticipates completing this field work and filing these motions before the end of this calendar year.
- e. **Commence *inter se* proceedings on surface water uses:** Following the conclusion of the above described tasks, the State will file a motion for a procedural and scheduling order for *inter se*, and commence to resolve *inter se* objections through litigation or mediation. The State anticipates beginning this proceeding in late calendar 2023 or early 2024.
2. **City of Aztec, Farmington and Bloomfield:** The State will continue discussions with

the municipalities to reduce the terms of their respective settlement agreements to the form of consent orders, and to agree on procedures to submit those proposed consent orders to the Court for entry.

II. **SAN JOSE ADJUDICATION**, *New Mexico v. Kerr-McGee Corp.*, Case No. CB-83-190-CV & CB-83-220-CV (consolidated) (13th Judicial District, Cibola County):

A. **Accomplishments Over the Past Few Years**: N/A

B. **FY 2024**: not scheduled for FY 2024

III. **SANTA FE ADJUDICATION**, *Anaya v. Public Service Co. of New Mexico*, Case No. 43, 347 (1st Judicial District, Santa Fe County)

A. **Accomplishments Over the Past Few Years**: Preliminary technical work on additional Cerro Gordo claims.

B. **FY 2024**: Continue technical work on additional Cerro Gordo claims.

IV. **PECOS ADJUDICATION** *State of N.M. & PVACD v. Lewis*, Case Nos. 20294 & 22600 (Consolidated),

A. **Roswell Underground Water Basin (“RAB”)**

1. **Accomplishments Over the Past Few Years**:

a. **Scheduling and Procedural Order**: During the last fiscal year the Court entered the *Scheduling and Procedural Order*, jointly submitted by the State and PVACD, for the adjudication of relation back claims in the RAB.

2. **FY 2024**:

a. **Serving Packets**: The State will commence serving packets on relation back claimants in FY 2024.

b. **Adjudication of Relation Back Claims**: With the service of packets and notification of relation back proceeding to claimants, the State expects to be undertaking subfile consultations, and entering into consent orders for resolved relation back claims throughout fiscal year 2024.

c. **Litigate Contested Relation Back Claims**: While the State expects to settle most relation back claims, the State will be consolidating contested relation back claims and preparing for litigation throughout fiscal year 2024.

B. **Carlsbad—Intrepid Potash**:

1. **Accomplishments Over the Past Few Years**: On April 15, 2022, Defendants Intrepid

Potash, Inc. and Intrepid Potash—New Mexico, LLC filed their Notice of Appeal of, *inter alia*, the Subfile Order and Partial Final Judgment and Decree adjudicating their water rights. Briefing of the appeal was completed in February, 2023.

2. **FY 2024**: not scheduled for FY 2024

C. Upper Pecos—Cow Creek

1. Accomplishments Over the Past Few Years:

- a. **Recommencing the Cow Creek Adjudication:** Over the last fiscal year the State has reviewed the Hydrographic Survey and the previous Orders of the Court to prepare for the adjudication of the Cow Creek stream system.
- b. **Motion for Amended Procedural Order:** On January 9, 2023, the Court entered the State’s proposed *Second Amended Procedural Order Governing the Adjudication of Water Right in the Cow Creek Section*.
- c. **Sending Out Packets:** The State has since joined approximately $\frac{3}{4}$ of known claimants identified in the 2015 Hydrographic Survey by serving them with adjudication packets pursuant to the Court’s *Second Amended Procedural Order*.
- d. **Adjudication of Cow Creek Claims:** The State has been undertaking subfile consultations, and entering into consent orders for resolved water right claims throughout the remainder of the last fiscal year.

2. FY 2024:

- a. **Sending Out Packets:** The State expects to update ownership and serve all remaining subfile claimants that can be identified by the end of calendar 2023.
- b. **Omitted Claims Notice:** Also by the end of calendar 2023, the State expects to publish notice of the opportunity for water right owners to claim any water rights not depicted or described in the 2015 Hydrographic Survey. The State expects to evaluate those claims and serve adjudication packets on those claimants in FY 2024.
- c. **Adjudication of Cow Creek Claims:** With the sending out of packets and notification of the proceeding to claimants, the State expects to continue undertaking subfile consultations, and entering into consent orders for resolved water right claims throughout the fiscal year.

D. Gallinas River

3. Accomplishments Over the Past Few Years:

- a. **City of Las Vegas Remand Proceeding:** On June 23, 2022 the Court entered the *Final Order on City of Las Vegas’ Equitable Remedy*.

- b. **NMDOT and Concluding the Gallinas *Inter Se*:** On July 2, 2021, with regard to closing out the Gallinas *inter se*, the State and the NMDOT entered into a Memorandum of Understanding, and jointly submitted motions for the entry of 5 amended NMDOT orders consistent with that MOU. Subsequently, during the course of this last year, the NMDOT approached the State with sixteen more subfiles for review of possible further action. This resulted in the entry of one additional amended order. The State submitted its *Notice of Conclusion of Inter Se Proceedings* on March 7, 2023.
- c. **Updating the Addendum to the Partial Final Decree:** The State updated the addendum to the Partial Final Decree to reflect the changes resulting from *inter se*.
- d. **Entry of the Final Partial Judgment and Decree by the Court:** The Court entered its *Final Partial Judgment and Decree on Water Rights for the Gallinas River Section* on June 7, 2023.

4. **FY 2024:** *not scheduled for FY 2024*

E. Rio Hondo

- 1. **Accomplishments Over the Past Few Years:** N/A
- 2. **FY 2024:** Litigate remaining objections to priorities.

F. Fort Sumner Irrigation District

- 1. **Accomplishments Over the Past Few Years:** N/A
- 2. **FY 2024:** Undertake technical work in preparation for commencing adjudication of irrigation water requirement.

FEDERAL COURT ADJUDICATIONS - PRIORITIES FOR FY 2024

V. CHAMA ADJUDICATION, *N.M. v. Aragon, Case No. 69cv07941-KWR/KK* (U.S.D.Ct., N.M.)

A. Accomplishments Over the Past Few Years:

- 1. **Section 1: Rio del Oso:** In September and October 2022, respectively, the Court granted default judgments on three subfiles.
- 2. **Section 1: Mainstem:** On February 1, 2023, moved the Court to rule on 2009 Special Master's Report on priorities for 3 ditches.
- 3. **Section 3: Rio Cebolla:**

- a. One of two pending objections to irrigation water requirements and priorities was withdrawn.
- b. On September 15, 2022, Court's *Order* correcting remaining clerical error in subfile order entered.
- c. Prepared addendum summarizing surface water irrigation rights and hydrographic survey maps in anticipation of *inter se*.

4. Section 3: Canjilon Creek:

-
- ~~a. One of two pending objections to irrigation water requirements and priorities was withdrawn.~~
 - b. Filed *Motion* for entry of Scheduling and Procedural Order to resolve one remaining objection to irrigation water requirements and priorities.
 - c. Prepared addendum summarizing surface water irrigation rights and hydrographic survey maps in anticipation of *inter se*.

5. Section 7: Cañones Creek:

- a. Negotiated with two remaining objectors to acéquia and private ditch priority dates.
- b. Negotiated with two remaining objectors to irrigation water requirements.
- c. Worked on preparation of addendum summarizing surface water irrigation rights and hydrographic survey maps in anticipation of *inter se*.

6. Section 7: Rio Brazos: On December 13, 2022, Court entered its *Order* correcting subfile clerical errors.

7. Section 7: Rutherford and Plaza Blanca: On November 28, 2022, Court entered its *Order* correcting subfile clerical error.

B. FY 2024:

- 1. Section 1: Rio del Oso:** Complete adjudication of individual subfiles, including potential litigation with the Merced del Pueblo Abiquiu.
- 2. Section 1: Mainstem:** Conclude litigation of priorities for 3 ditches.
- 3. Section 3: Rio Cebolla**
 - a. Move for entry of final order adjudicating irrigation water requirements and priorities.

- b. Finalize addendum summarizing surface water irrigation rights and hydrographic survey maps.
- c. Commence *inter se* and move for entry of partial final judgment and decree for surface water irrigation rights.

3. Section 3: Canjilon Creek

- a. Litigate to conclusion the one remaining objection to irrigation water requirements and priorities.
- b. Prepare addendum summarizing surface water irrigation rights and hydrographic survey maps.
- c. Commence *inter se* and move for entry of partial final judgment and decree for surface water irrigation rights.

4. Section 7: Cañones Creek

- a. Determine acéquia and private ditch priority dates. Two objections remain (in negotiations with the objectors).
- b. Determine irrigation water requirements. Two objections remain (in negotiations with the objectors).
- c. Prepare addendum summarizing surface water irrigation rights and hydrographic survey maps.
- d. Commence *inter se* and move for entry of partial final judgment and decree for surface water irrigation rights.

8. Section 7: Rio Brazos: *not scheduled for FY 2024.*

9. Section 7: Rutherford and Plaza Blanca: *not scheduled for FY 2024.*

VI. TAOS ADJUDICATION, *New Mexico v. Abeyta*, Case No. CV-69-7896-MV/WPL & No. CV-7939-MV/WPL (consolidated) (U.S.D.Ct., N.M.)

- A. Accomplishments Over the Past Few Years:** Reconcile subfile orders with WRATS and hydrographic survey maps.
- B. FY 2024:** Prepare addendum for *inter se* of surface water rights.

VII. ZUNI ADJUDICATION, *U.S. v. N.M. v. A & R Productions*, Case No. 01-cv-00072-DHU-JHR (U.S.D.Ct., N.M.)

- A. Accomplishments Over the Past Few Years:**

1. Approximately 950 non-Indian, non-federal subfiles have been adjudicated—three subfiles remain unresolved.
2. On June 6, 2022 briefing was completed on the State and the United States' *Objections to the Proposed Findings and Recommended Disposition* of the Magistrate Judge regarding their *Motion for Summary Judgment* regarding one of three remaining subfiles to be adjudicated: Meech Concrete.
3. The State and the United States engaged in settlement negotiations regarding the two other remaining subfiles.

B. FY 2024:

1. Once a ruling is made on the above referenced *Objections*, complete litigation of the three remaining subfiles described above.
2. Consult with U.S. on scheduling *inter se* proceedings for FY 2025 and development of proposed procedural motion, proposed partial final judgment and decree and addendum.

VIII. SANTA CRUZ/TRUCHAS ADJUDICATION, *New Mexico v. Abbott, Case No. 68-7488 KWR/JHR (Santa Cruz) and Case No. 70-8650 KWR/JHR (Truchas)* (N.M. D.Ct., N.M.)

A. Accomplishments Over the Past Few Years: Work on litigating duty of water and priority dates.

B. FY 2024:

1. The State will move for a final determination of Truchas priorities.
2. Conclude the litigation of Santa Cruz priorities.
3. Conclude errors and omissions work on Santa Cruz/Truchas subfiles.

IX. SANTA CLARA CREEK

A. Accomplishments Over the Past Few Years: N/A

B. FY 2024 – Undertake technical studies in anticipation of commencing a hydrographic survey of all water rights in the Santa Clara Creek tributary of the Rio Grande.

X. JEMEZ ADJUDICATION, *U.S. v. Abovsleman, Case No. 6:83-cv-01041-MV-JHR* (U.S.D.Ct., N.M.)

C. Accomplishments Over the Past Few Years: completed 2000 PFJD

D. FY 2024 – *not scheduled for fiscal year 2024*

XI. NAMBÉ-POJOAQUE-TESUQUE ADJUDICATION, *New Mexico v. Aamodt*, Case No. 66-cv6639- MV/WPL (U.S.D.Ct, N.M.)—FJD entered 2017 and case closed.

A. **Accomplishments Over the Past Few Years:** – completed 2017 FJD

B. **FY 2024** – not scheduled for fiscal year 2024

STATE OF NEW MEXICO'S RULE 71.3 REPORT

Table 1: Northern New Mexico/Pecos Adjudication Bureau Priority Sections & Resources For Fiscal Year 2024

PRIORITY ADJUDICATION SECTION	Staff Atty	Contract Atty	Staff Para-legal	Survey Staff	Technical Contractor	Data/IT Staff	Section Totals
STATE COURT ADJUDICATIONS							
<i>San Juan</i>							
<i>Section 1 (La Plata)</i>	1.0		1.0	0.5			2.5
<i>San Juan Subtotals</i>	1.0		1.0	0.5			2.5
<i>Santa Fe—Cerro Gordo</i>							
				0.5			0.5
<i>Pecos</i>							
<i>Roswell Underground Basin—Relation Back</i>	0.5	1.0	0.5				2.0
<i>Upper Pecos—Cow Creek</i>	1.5		0.5	0.5			2.5
<i>Rio Hondo</i>		0.5					0.5
<i>Fort Sumner Irrigation District</i>	0.5						0.5
<i>Pecos Subtotals</i>	3.5	1.5	2.0	1.5			8.5
FEDERAL COURT ADJUDICATIONS							
<i>Chama (Aragon)—Non-Indian</i>	0.5		0.5	0.5			1.5
<i>Santa Cruz/Truchas—Non-Indian</i>	0.5						0.5
<i>Santa Clara Creek—Non-Indian</i>	0.5			0.5			1.0
<i>Taos (Abeyta)--Non-Indian</i>			0.5	0.5			1.0
CATEGORY TOTALS – ALL SECTIONS	5.0	1.5	3.0	3.0			12.5

STATE OF NEW MEXICO'S RULE 71.3 REPORT
FY 2024 (July 1, 2023 to June 30, 2024)
EXHIBIT C: BUREAU FOR PUEBLOS, TRIBES, AND NATIONS
June 26, 2023

The Bureau for Pueblos, Tribes, and Nations ("PTN Bureau") is charged with addressing the water rights claims of the New Mexico Pueblos, Tribes, and Nations in pending adjudications through settlement negotiations or litigation, if necessary. The PTN Bureau also assists with implementation issues for executed Settlement Agreements.

The OSE's Tribal Liaison plays a key role in all aspects of communications with the Pueblos, Tribes, and Nations and is directly involved in the activities of the PTN Bureau. The Tribal Liaison's time is not reflected in this report. The PTN Bureau consults with the Hydrology Bureau (OSE Water Resources Allocation Program), and with staff of the Interstate Stream Commission. Their assistance is an integral part of negotiations, however, the time of these staff members are not reflected here.

This report breaks down the level of effort for each adjudication task at the level of 0.5 FTE. The amounts of effort allotted to each adjudication task may not, in the aggregate, add up to the full amount of resources available, or may exceed the available resources. This allows for flexibility as needed during the year.

STAFF RESOURCES AVAILABLE TO BUREAU FOR PUEBLOS, TRIBES, AND NATIONS	Staff Atty	Contract Atty	Staff Para-legal	Survey Staff	Technical Contractor	Section Totals
<i>FULL TIME EMPLOYEE ALLOCATION</i>	3.5	2	0 to .5	2.5	0 to .5	9

SUMMARY OF AVAILABLE RESOURCES FOR THE BUREAU FOR PUEBLOS, TRIBES, AND NATIONS RELATED TO ADJUDICATIONS

	FY2024 FTEs
Total Bureau Staff and Contractor Resources	9
State Adjudications:	
I. San Juan Adjudication	.5 to 1.5
• Navajo Nation Settlement Agreement	
• Ute Mountain Ute Tribe	
II. San José Adjudication (<i>Kerr-McGee</i>)	.5 to 1
• Pueblos of Acoma, Laguna	
• Navajo Nation	
III. Santa Fe Adjudication (<i>Anaya</i>) – N/A	-
IV. Pecos Adjudication (<i>Lewis</i>) – N/A	-
Federal Adjudications:	
V. Chama Adjudication (<i>Aragon</i>)	1
• Ohkay Owingeh	
VI. Taos Adjudication (<i>Abeyta</i>)	1
• Taos Pueblo Settlement Agreement	
VII. Zuni Adjudication (<i>A&R</i>)	.5
• Zuni Pueblo	
VIII. Santa Cruz/Truchas Adjudication (<i>Abbott</i>)	2 to 3
• Santa Clara Pueblo and Ohkay Owingeh	
IX. Jemez Adjudication (<i>Abousleman</i>)	1
• Pueblos of Zia and Jemez	
• Pueblo of Santa Ana	
X. Nambé, Pojoaque, Tesuque Adjudication (<i>Aamodi</i>)	.5
• Pueblos of Nambé, Pojoaque, Tesuque, San Ildefonso Settlement Agreement	
Other Pueblos, Tribes, & Nations:	
XI. Six Middle Rio Grande Pueblos	2 to 3
• Pueblos of Sandia, Isleta, Cochiti, Santa Domingo, San Felipe, and Santa Ana	

STATE COURT ADJUDICATIONS – ACCOMPLISHMENTS FOR FY 2023 AND PRIORITIES FOR FY 2024

- I. SAN JUAN ADJUDICATION, *New Mexico v. U.S., Jicarilla Apache Tribe and Navajo Nation, Case No. D-1116-CV-75-184 (11th Judicial District, San Juan County)***
- A. Navajo Nation Settlement Agreement:** Consult and assist with settlement agreement implementation issues.
- B. Ute Mountain Ute Tribe:** Continue negotiations to reach settlement of the Tribe's pending claims.
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- II. RIO SAN JOSE ADJUDICATION, *New Mexico v. Kerr-McGee Corp., Case No. CB-83-190-CV & CB-83-220-CV (consolidated) (13th Judicial District, Cibola County)***
- A. Pueblos of Acoma and Laguna:**
Accomplishments During FY 2023: The parties (other than the United States) signed a settlement agreement in June 2022. Congress introduced legislation in both the House and the Senate (*Rio San Jose and Rio Jemez Water Settlements Act of 2023*, Senate Bill 595; House Bill 1304) on March 1, 2023, seeking approval and funding. The Senate Indian Affairs Committee approved the Senate bill at its business meeting on March 29, 2023. Once the committee report is completed, the bill will be moved to the Senate floor for action. A hearing in the House has not yet been scheduled.
- FY 2024:** Once legislation is passed, the parties will continue discussions to conform the Settlement Agreement to the federal legislation and seek State legislative approval. Once the conformed Settlement Agreement is signed by the parties, including the United States, the State will move the Court for entry of a partial final judgment and decree adjudicating the Pueblos' water rights and to commence *inter se*. Timing for commencement of the *inter se* process is dependent upon actions by Congress.
- B. Navajo Nation:** The parties are completing negotiations to reach a signed Settlement Agreement that will merge with the process detailed above for the Pueblos of Acoma and Laguna.
- III. SANTA FE ADJUDICATION, *Anaya v. Public Service Co. of New Mexico, Case No. 43,347 (1st Judicial District, Santa Fe County) – There are no Pueblos, Tribes, or Nations with active claims in this adjudication.***
- IV. PECOS ADJUDICATION, *State of N.M. & PVACD v. Lewis, Case Nos. 20294 & 22600 (Consolidated) – There are no pending claims of a Pueblo, Tribe, or Nation in this adjudication.***

FEDERAL COURT ADJUDICATIONS – ACCOMPLISHMENTS FOR FY 2023 AND PRIORITIES FOR FY 2024

V. CHAMA ADJUDICATION, *N.M. v. Aragon*, Case No. 69cv07941-KWR/KK (U.S.D.Ct., N.M.)

A. Ohkay Owingeh:

Accomplishments During FY 2023: Negotiations have progressed and the parties intend to have a completed Settlement Agreement for the Chama Stream System claims asserted by Ohkay Owingeh by the end of June 2023.

FY 2024: The parties anticipate having a signed Settlement Agreement by the end of June 2023, and are working on federal legislation to propose to the Department of the Interior for introduction to Congress this year.

Once legislation is passed, the parties will continue discussions to conform the Settlement Agreement to the federal legislation and seek State legislative approval. Once the conformed Settlement Agreement is signed by all parties, including the United States, the State will move the Court for entry of a partial final judgment and decree adjudicating the Ohkay Owingeh's water rights and to commence *inter se*. Timing for commencement of the *inter se* process is dependent upon actions by Congress.

VI. TAOS ADJUDICATION, *New Mexico v. Abeyta*, Case No. CV-69-7896-MV/WPL & No. CV-7939-MV/WPL (consolidated) (U.S.D.Ct., N.M.)

A. Taos Pueblo Settlement Agreement: Consult and assist with settlement agreement implementation issues.

VII. ZUNI ADJUDICATION, *U.S. v. N.M.*, Case No. 07-cv-00681-MV-JHR (U.S.D.Ct, N.M.)

A. Zuni Tribe:

Accomplishments During FY 2023: Zuni Pueblo and the State signed a Settlement Agreement in FY 2023.

FY 2024: The parties are working on federal legislation to propose to the Department of the Interior for introduction to Congress this year. Once legislation is passed, the parties will continue discussions to conform the Settlement Agreement to the federal legislation and seek State legislative approval. Once the conformed Settlement Agreement is signed by all parties, including the United States, the State will move the Court for entry of a partial final judgment and decree adjudicating Zuni Tribe's water rights and to commence *inter se*. Timing for commencement of the *inter se* process is dependent upon actions by Congress.

B. Navajo Nation (Ramah Chapter): Begin negotiations to reach settlement of the Tribe's claims.

VIII. SANTA CRUZ/TRUCHAS ADJUDICATION, *New Mexico v. Abbott*, Case No. 68-7488 KWR/JHR (Santa Cruz) and Case No. 70-8650 KWR/JHR (Truchas) (N.M. D.Ct.,N.M.)

A. Ohkay Owingeh and Pueblo of Santa Clara:

Accomplishments During FY 2023: The parties began FY 2023 intending to negotiate the claims of Ohkay Owingeh in the *Abbott* case along with their *Aragon* case. However, the parties decided to reach settlement on the Chama claims independent of the Santa Cruz/Truchas Stream System claims and thus discussion of those claims were put on hold.

FY 2024: Continue negotiations to reach settlement of the claims of Ohkay Owingeh and Santa Clara.

IX. JEMEZ ADJUDICATION, *U.S. v. Abousleman*, Case No. 6:83-cv-01041-MV-JHR (U.S.D.Ct., N.M.)

A. Pueblos of Zia and Jemez:

Accomplishments During FY 2023: The parties (other than the United States) signed a settlement agreement in June 2022. Congress introduced legislation in both the House and the Senate (*Rio San Jose and Rio Jemez Water Settlements Act of 2023*, Senate Bill 595; House Bill 1304) on March 1, 2023, seeking approval and funding. The Senate Indian Affairs Committee approved the Senate bill at its business meeting on March 29, 2023. Once the committee report is completed, the bill will be moved to the Senate floor for action. A hearing in the House has not yet been scheduled.

FY 2024: Once legislation is passed, the parties will continue discussions to conform the Settlement Agreement to the federal legislation and seek State legislative approval. Once the conformed Settlement Agreement is signed by the parties, including the United States, the State will move the court for entry of a partial final judgment and decree adjudicating the Pueblos' water rights and to commence *inter se*. Timing for commencement of the *inter se* process is dependent upon actions by Congress.

B. Pueblo of Santa Ana:

Accomplishments in FY 2023: The parties filed supplemental briefs in the Fall of 2022 pursuant to the Court's scheduling order, addressing the scope of the issues on remand related to aboriginal rights and Winans rights.

FY 2024: The parties are waiting for a ruling by the Court on the issues to be determined on remand and a schedule for litigating the remaining issues.

X. NAMBÉ-POJOAQUE-TESUQUE ADJUDICATION, *New Mexico v. Aamodt*, Case No. 66-cv6639- MV/WPL (U.S.D.Ct, N.M.) - FJD entered 2017 and case closed.

A. Pueblos of Nambe, Pojoaque, Tesuque and San Ildefonso Settlement Agreement:

Consult and assist with settlement agreement implementation issues, including continued assessment of lands under Section 4 of the Settlement Agreement.

**OTHER PUEBLOS, TRIBES, AND NATIONS – ACCOMPLISHMENTS FOR FY 2023
AND PRIORITIES FOR FY 2024**

XI. SIX MIDDLE RIO GRANDE PUEBLOS

A. Pueblos of Sandia, Isleta, Cochiti, Santa Domingo, San Felipe, and Santa Ana:
Accomplishments During FY 2023: The Secretary of the Interior’s Indian Water Rights Office appointed a federal assessment team to consult with the six Middle Rio Grande Pueblos to determine the scope of their water right claims. The State, United States, and the Pueblos have been meeting regularly to address issues raised by the assessment team.

FY 2024: The State, Pueblos and United States continue to meet with the federal assessment team to provide information with the goal of having a federal negotiation team appointed so that settlement agreement negotiations can begin.