

DISTRICT COURT
SAN JUAN COUNTY NM
FILED

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STATE OF NEW MEXICO
ELEVENTH JUDICIAL DISTRICT
COUNTY OF SAN JUAN

D-1116-CV-75-184

STATE OF NEW MEXICO,
ex rel. STATE ENGINEER,

Hon. James J. Wechsler
Judge Pro Tempore

Plaintiff,

SAN JUAN RIVER STREAM
SYSTEM ADJUDICATION

vs.

THE UNITED STATES OF AMERICA, et al.

Defendants,

vs.

THE JICARILLA APACHE TRIBE and the
NAVAJO NATION,

Defendants-Interveners

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 Northern New Mexico/Pecos Adjudications Bureau in Exhibit B, and those of the Bureau for Pueblos, Tribes and Nations in Exhibit C.

Respectfully submitted,

/s/ Edward C. Bagley

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CERTIFICATE OF SERVICE

I certify that on June 13, 2024, 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 2025
EXHIBIT A: LOWER RIO GRANDE ADJUDICATION BUREAU

June 6, 2024

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 adjudications in the Lower Rio Grande Adjudication Bureau for fiscal year 2025 (July 1, 2024 to June 30, 2025), 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 FTEs	FY2024 FTEs	FY2025 FTEs
Total Bureau Staff and Contractor Resources	12.9	11.7	9.5	10.6	14.0
A. Lower Rio Grande Adjudication	12.5	11.1	9.0	10.0	13.5
B. Animas Underground Water Basin Adjudication	0.4	0.6	0.5	0.6	0.5

LOWER RIO GRANDE ADJUDICATION PRIORITIES FOR FY 2025

A. General

1. Significant Litigation

- a. Stream System Issue 104 (United States' interest in the Rio Grande Project). This stream system issue continues to be stayed during the pendency of the submission of the proposed settlement and consent decree to the United States Supreme Court. If the Supreme Court rejects the proposed settlement, the controversy will be returned to the Special Master for further proceedings, and it is anticipated that the parties would wish to continue the stay. If the Supreme Court accepts the proposed settlement, the parties will presumably brief the Court as to what (if any) issues remain to be resolved prior to entry of the final judgment in the Stream System Issue.
- 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. Unlike Stream System Issue 104, however, this stream system issue got no further than position statements when the pendency of *Texas v. New Mexico* made the stay advisable. If the

settlement is accepted by the Supreme Court, the parties will presumably brief the court on what effect, if any, the Supreme Court decision has on this issue and consider with the Court next steps in resolving the status of pre-Rio Grande Project surface water rights.

- c. Copper Flat Mine expedited *inter se* on remand. Following a partial remand on subfile LRO-28-008-9009, New Mexico Copper Corporation, on the issue of whether the water rights in the Miscellaneous Wells were abandoned or forfeited, the issue was briefed and argued by all the parties. On August 23, 2023, this Court entered its Findings of Fact and Conclusions of Law on Remand. The parties submitted an agreed form of Final Subfile Order and Judgment, which this Court entered on December 12, 2023. No appeal was timely taken, and the matter became final.
 - d. Apodaca Cervantes LLC subfile. Trial briefs and proposed findings of fact and conclusions of law were filed by the State on July 24, 2023 and by Apodaca Cervantes on July 31. This Court entered its Findings of Fact and Conclusions of Law on September 15, 2023. Because the parties could not agree on the form of a final subfile order, a status conference was held on January 5, 2024, and a Subfile Order and Final Judgment was entered by this Court on February 20, 2024. Apodaca Cervantes timely filed its notice of appeal on March 19, 2024 and filed its docketing statement on May 13, 2024. The State, therefore, anticipates that the appeal will be fully briefed, and possibly argued, during FY 2025.
 - e. Texas v. New Mexico. Though this is not subfile litigation, LRG Adjudication Bureau legal, support, and technical staff may continue to be involved, as in prior years, if the United States Supreme Court rejects the pending settlement agreement. On the other hand, if the settlement agreement is accepted, and the Consent Order is entered by the Supreme Court, LRG hydrographic survey staff in Las Cruces may be called on to support compliance measures and programs even though those will primarily be the responsibility of the Interstate Stream Commission and the Las Cruces District IV office of the State Engineer's Water Resource Allocation Program.
2. Negotiations with major parties.

None are now pending other than the stayed negotiations related to Stream System Issues 104 and 107. As noted above, the United States Supreme Court's decision on the proposed settlement may lead to their resumption in the coming year.

3. Mediation of other substantive issues.

Two Jaralosa subfiles are ripe for mediation, but Jaralosa has asked that mediation be waived so that the matter may be put on a trial track.

4. Other special procedures and procedural motions in the LRG

- a. There is continuing authentication of claims to historical groundwater use for claimants seeking to add a 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 Global Order for our third group of fifty subfiles was filed in August 2023 with the Statements of Adjudication being filed with the court in September 2023, thus completing the third group. Two more groups (the fourth and the fifth) of fifty subfiles each have been completed through the process with Filed Proposed lists, Publications, Filed Final lists, Filed Global Orders, and Filed Statements of Adjudications (on January 12 and April 22, 2024). The State has now completed the publication of the sixth group of proposed subfiles and is awaiting conclusion of the time period for filing an objection before filing the Final List for this group; this activity will continue throughout FY 25.

B. Additional accomplishments over the past year

1. Staffing

- a. In October 2023, the manager of the Las Cruces Hydrographic Survey Bureau took a position with WRAP's District IV office, leaving the bureau without a manager for the second time since 2021. After a lengthy search, a new manager was hired and began work on April 29, 2024.
- b. One new hydrosurvey staff member was hired in Las Cruces, and a technical intern may be added to replace last year's intern if a suitable candidate applies.
- c. Two new staff attorneys were added to the bureau in Santa Fe, though offset by the loss of one staff attorney by transfer to the Administrative Litigation Unit. It is anticipated that a third LRG staff attorney will be hired during the first half of FY 25.

2. A number of subfiles were successfully resolved in mediation.

C. Lower Rio Grande Adjudication, Routine Subfile Processing

1. The preparatory work for the creation of new subfile offers continues to be focused on the Northern Mesilla section, though work actively continues in all sections but Nutt-Hockett.
2. 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.

3. The status of all sections as of May 17, 2024 is:
 - a. Nutt Hockett: 43 subfiles, 100% served, 100% adjudicated
 - b. Rincon: 1238 subfiles, 97%-served, 86% adjudicated
 - c. Northern Mesilla: 5920 subfiles, 63% served, 45% adjudicated
 - d. Southern Mesilla: 5517 subfiles, 63% served, 49% adjudicated
 - e. Outlying Areas: 1370 subfiles, 83% served, 75% adjudicated
4. Routine subfile processing encompasses most of the bureau's everyday work and includes the following: updating the Hydrographic Survey, creating new maps to conform to necessary additions and revisions of point of diversion locations and irrigation and assessment polygons, analyzing claims for a larger Farm Delivery Requirement (NOIs), completing legal review of proposed offers, providing service of offers, revising offers or duplicates, reviewing objections, having discussions with objecting claimants by survey or legal staff, processing default and implied consent requests, correcting entered orders with typographical errors, and re-opening entered orders needing significant correction.
5. The COP building in Santa Fe is still slated for demolition at some future date, and Building Services is at last actively looking into alternative office space for employees currently officed there. Progress toward that event has been slower than expected, but, if it occurs in the coming fiscal year, there will plainly be some disruption when it occurs.
6. District-specific regulations under the active water resource management program continue to be 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 sometime in FY 25. This may lead to an increase in the submission of Hydrographic Survey Change Requests and a corresponding increase in the workload in the Las Cruces office.

ANIMAS UNDERGROUND WATER BASIN ADJUDICATION PRIORITIES FOR FY 2025

1. As of May 1, 2024, there are 218 Animas subfiles, of which 84% have been served, and 71% have been adjudicated.

Table 1: Lower Rio Grande Bureau Resources Allocated

PRIORITY ADJUDICATION SECTION	Staff Atty	Contact Atty	Staff Para-legal	Survey Staff	Data/IT Staff	Section Totals
Lower Rio Grande Adjudication						
<i>A. General</i>	1.0		0.5	2.0		3.5
<i>B. Rincon</i>	0.5			1.0		1.5
<i>C. N. Mesilla</i>	1.0		1.0	4.0		6.0
<i>D. S. Mesilla</i>	.5		0.5	1.0		2.0
<i>E. Outlying</i>				0.5		0.5
CATEGORY TOTALS - LRG	3.0		2.0	8.5		13.5
Animas Underground Adjudication						
<i>Animas</i>				0.5		0.5
CATEGORY TOTALS - ALL SECTIONS	3.0		2.0	9.0		14.0

STATE OF NEW MEXICO'S RULE 71.3 REPORT-FY 2025

EXHIBIT B: NORTHERN NEW MEXICO/PECOS ADJUDICATION BUREAU

June 6, 2024

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 2025 (July 1, 2024 to June 30, 2025). 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**

	FY2022 FTEs	FY2023 FTEs	FY2024 FTEs	FY2025 FTEs
Total Bureau Staff and Contractor Resources	19.3	12.0	12.5	17.5
State Adjudications:	11.6	8.0	8.5	12.5
I. San Juan Adjudication	4.40	3.0	2.5	3.0
II. San Jose Adjudication (<i>Kerr-McGee</i>)	.75	-	-	2.5
III. Santa Fe Adjudication (<i>Anaya</i>)	-	-	0.5	1.0
IV. Pecos Adjudication (<i>Lewis</i>)	6.45	5.0	5.5	6.0
Federal Adjudications:	7.7	4.0	4.0	5.0
V. Chama Adjudication (<i>Aragon</i>)	3.30	2.0	1.5	1.5
VI. Zuni Adjudication (<i>A&R</i>)	1.00	0.5	-	0.5
VII. Santa Cruz/Truchas Adjudication	.35	-	0.5	1.0
VIII. Santa Clara Creek	-	-	1.0	2.0
IX. Jemez Adjudication (<i>Abousleman</i>)	.35	-	-	-
X. Nambé, Pojoaque, Tesuque Adj. (<i>Aamodt</i>)	.20	-	-	-
XI. Taos	2.5	1.5	1.0	-

STATE COURT ADJUDICATIONS - PRIORITIES FOR FY 2025

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 approximately 300 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 2025:**

 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 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 FY 2025.
 - 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 2024 or early 2025.
 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 2025**: Commence technical work on non-Indian water right claims in anticipation of conducting a hydrographic survey of non-Indian water right claims.

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 2025**:

1. Complete technical work on additional Cerro Gordo claims.
2. Begin legal work on individual subfiles and send out offers to water right claimants.

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.
- b. **Serving Order to Show Cause Packets**: The State commenced serving Order to Show Cause packets on relation back claimants.

2. **FY 2025**:

- a. **Serving “Order to Show Cause Packets”**: The State will continue serving Order to Show Cause packets on relation back claimants.
- b. **Serving “Answer” Packets**: The State will commence serving packets on claimants who responded to discovery in the earlier relation back proceedings.
- c. **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 2025.

- d. **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 2025.

B. Carlsbad—Intrepid Potash:

1. Accomplishments Over the Past Few Years:

- a. On April 15, 2022, Defendants Intrepid Potash, Inc. and Intrepid Potash—New Mexico, LLC (collectively “Intrepid”) 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.
- b. The New Mexico Court of Appeals issued its ruling on October 18, 2023.
- c. On November 20, 2023, Intrepid filed its Petition for Writ of Certiorari.
- d. On February 6, 2024, the New Mexico Supreme Court granted Intrepid’s Petition for Certiorari.
- e. On May 28, 2024, the State filed its Answer Brief.

- C. FY 2025:** Conduct oral argument on Intrepid’s appeal to the New Mexico Supreme Court.

D. Upper Pecos—Cow Creek

1. Accomplishments Over the Past Few Years:

- a. **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 Rights in the Cow Creek Section*.
- b. **Sending Out Packets:** The State has since joined approximately 99% of known claimants (or their successors) identified in the 2015 Hydrographic Survey by serving them with adjudication packets pursuant to the Court’s *Second Amended Procedural Order*.
- c. **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 2025:

- a. **Sending Out Packets:** The State will continue to join and serve the remaining subfile claimants as they are identified. The State is preparing to request permission from the Court to effect service by publication on the unknown heirs of certain deceased claimants whose successors cannot be identified through available public records. The State continues to seek to perfect personal service on the remaining known claimants but, by the end of FY 2025, will also request the Court's permission to effect service by publication on known claimants for whom personal service has failed.
- b. **Omitted Claims Notice:** The State is preparing to publish notice of the opportunity for unknown 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 2025.
- c. **Adjudication of Cow Creek Claims:** With the service 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. By the end of the calendar 2024 irrigation season, the State may begin to terminate consultation with defendants with whom negotiations have failed. The State has begun in FY2024 to file motions for default judgment against subfile defendants who have not responded to service of their adjudication packet or to the State's letters, emails and calls urging them to do so.

E. Gallinas River

F. 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 five 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.

G. FY 2025: not scheduled for FY 2025

H. Rio Hondo

1. **Accomplishments Over the Past Few Years:** N/A
2. **FY 2025:** Litigate remaining objections to priorities.

I. Fort Sumner Irrigation District

1. **Accomplishments Over the Past Few Years:**
 - a. **Undertook technical work:** In preparation for concluding litigation of FSID's diversion right, the State's Water Use and Conservation Bureau completed technical work regarding the Irrigation Water Requirements for FSID. The Hydrology Bureau commenced work on an analysis of the hydrology of the irrigation district.
 - b. **Began negotiations with FSID:** Held multiple meetings with FSID, its counsel, and expert to negotiate a settlement of FSID claims. Exchanged documents produced by both side's experts and analyzed said documents.
2. **FY 2025:**
 - a. Continue negotiations with FSID to achieve a settlement in compromise of FSID's claims.
 - b. Prepare a scheduling and procedural order to either settle FSID claims or commence litigation of them.

FEDERAL COURT ADJUDICATIONS - PRIORITIES FOR FY 2025

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 July 5, 2023, the Court, on motion by the State, finalized the priority dates for the three most senior acéquiás on the Rio Chama—Acéquiás de Chamita, Hernandez, and los Salazares.
3. **Section 3: Rio Cebolla**
 - a. Prepared addendum summarizing surface water irrigation rights and hydrographic survey maps in anticipation of *inter se*.

4. **Section 3: Canjilon Creek:**

- a. The final objection to irrigation water requirements was withdrawn.
- b. The Court granted summary judgment for the State on the final remaining objection to 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 acequia 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*.

B. FY 2025:

1. **Section 1: Rio del Oso:** Complete adjudication of individual subfiles, including potential litigation with the Merced del Pueblo Abiquiu.

2. **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. 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.

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.

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 2025:** Conclude preparation of 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. The State, counsel for C&E Concrete, Inc., and the United States have scheduled a mediation on June 18, 2024.
 3. The State has begun working with the Tribes, Pueblos and Nations Bureau of the Office of the State Engineer to review federal allotment claims and is finalizing offers for the Federal allottees.

- B. **FY 2025**
 1. Resolve three remaining subfile claims through June 18, 2024, mediation or trial.
 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.
 3. Discuss and submit consent orders for the Federal allottees.

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:**

1. Commenced work on litigating duty of water and priority dates.
2. Undertake historical research regarding Santa Cruz priority dates.
3. Moved for final determination of Truchas priorities and engaged in motion practice with opposing counsel over Truchas priorities.

B. **FY 2025:**

1. Conclude litigation of Truchas priorities.
2. Move for scheduling and procedural order and order to show cause regarding Santa Cruz priorities. Serve order to show cause and commence litigation of Santa Cruz priorities.

IX. SANTA CLARA CREEK

A. **Accomplishments Over the Past Few Years:** Commence technical studies in anticipation of a hydrographic survey of all water rights in the Santa Clara Creek tributary of the Rio Grande.

B. **FY 2025**

1. Complete hydrographic survey of all water rights in the Santa Clara Creek tributary of the Rio Grande.
2. File Complaint for the statutory stream system adjudication of the Santa Clara Creek stream system.
3. Commence sending offers to water right claimants in Santa Clara Creek.

X. JEMEZ ADJUDICATION, U.S. v. Abouseman, 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 2025** – *not scheduled for fiscal year 2025*

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 2025** – *not scheduled for fiscal year 2025*

STATE OF NEW MEXICO'S RULE 71.3 REPORT

Table 1: Northern New Mexico/Pecos Adjudication Bureau Priority Sections & Resources For Fiscal Year 2025

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			2.0			3.0
<i>San Juan Subtotals</i>	1.0			2.0			3.0
<i>Santa Fe—Cerro Gordo</i>	0.5			0.5			1.0
<i>Pecos</i>							
<i>Roswell Underground Basin—Relation Back</i>	0.5	1.5	0.5				2.5
<i>Upper Pecos—Cow Creek</i>	1.0		0.5	1.0			2.5
<i>Rio Hondo</i>			0.5				0.5
<i>Fort Sumner Irrigation District</i>	0.5						0.5
<i>Pecos Subtotals</i>	2.0	1.5	1.5	1.0			6.0
<i>Rio San Jose</i>	0.5				2.0		2.5
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				1.0
<i>Santa Clara Creek—Non-Indian</i>	0.5			1.5			2.0
<i>Taos (Abeyta)—Non-Indian</i>							0.5
<i>Zuni (A&R Productions)—Non-Indian</i>	0.5						0.5
CATEGORY TOTALS – ALL SECTIONS	6.0	1.5	2.5	5.5	2.0		17.511

STATE OF NEW MEXICO'S RULE 71.3 REPORT
FY 2025 (July 1, 2024 to June 30, 2025)
EXHIBIT C: BUREAU FOR PUEBLOS, TRIBES, AND NATIONS

June 6, 2024

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 other staff members in other bureaus within the OSE and Interstate Stream Commission. Their assistance is an integral part of negotiations; however, the time of these staff members is not reflected here.

This report breaks down the amount of effort for each adjudication task at the level of 0.5 full-time equivalent (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.

Currently, the PTN Bureau is staffed with four full time employees:

- Deputy General Counsel
- Attorney
- Technical Lead (Water Resource Professional)
- Law Clerk

In addition, this report includes the time of staff members within the Northern New Mexico Adjudication and the Hydrographic Survey Bureaus, which are located within the Litigation and Adjudication Program, and contract attorneys and technical staff.

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

STAFF RESOURCES AVAILABLE TO BUREAU FOR PUEBLOS, TRIBES, AND NATIONS	Staff Atty	Contract Atty	Staff Law Clerk	Technical Lead	Survey Staff	Technical Contractor	Section Totals
FULL TIME EQUIVALENT ALLOCATION	2	2	1	1	1.5	0.5	8

	FY2024 FTEs
Total Bureau Staff and Contractor Resources	8
State Adjudications:	
I. San Juan Adjudication	0.5 to 1
• Navajo Nation Settlement Agreement – Implementation	
• Ute Mountain Ute Tribe – In Negotiation	
II. San Jose Adjudication (<i>Kerr-McGee</i>)	0.5
• Pueblos of Acoma, Laguna – Seeking Federal Legislation	
• Navajo Nation – In Negotiation; Seeking Federal Legislation	
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>)	0.5
• Ohkay Owingeh – Seeking Federal Legislation	
VI. Taos Adjudication (<i>Abeyta</i>)	0.5
• Taos Pueblo Settlement Agreement – Implementation & Seeking Federal Legislation	
VII. Zuni Adjudication (<i>A&R</i>)	0.5
• Zuni Pueblo – Seeking Federal Legislation	
• Navajo Nation (Ramah Navajo) – In Negotiation	
VIII. Santa Cruz/Truchas Adjudication (<i>Abbott</i>)	2
• Santa Clara Pueblo and Ohkay Owingeh – In Negotiation	
IX. Jemez Adjudication (<i>Abousleman</i>)	1
• Pueblos of Zia and Jemez – Seeking Federal Legislation	
• Pueblo of Santa Ana – In Litigation	
X. Nambé, Pojoaque, Tesuque Adjudication (<i>Aamodt</i>)	0.5
• Pueblos of Nambé, Pojoaque, Tesuque, San Ildefonso - Implementation	
Other Tribes, Pueblos & Nations:	
XI. Six Middle Rio Grande Pueblos	1.5 to 2
• Pueblos of Sandia, Isleta, Cochiti, Santa Domingo, San Felipe, and Santa Ana – Federal Assessment Team newly appointed, hoping for Federal Negotiation Team to be appointed	

STATE COURT ADJUDICATIONS - PRIORITIES FOR FY 2025

- 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:** Federal Assessment Team was converted to Federal Negotiation Team at the end of FY 2024. State will continue negotiations to reach settlement of the Tribe's pending claims.
- 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 Through FY 2024:** The parties (other than the United States) signed a settlement agreement (Local 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 of Representatives 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 and ordered a favorable report without amendment, No. 118-131, which was printed on December 12, 2023. The House of Representatives Committee on Natural Resources referred the bill to the Subcommittee on Water, Wildlife, and Fisheries on March 22 2023, but a hearing has not been scheduled.
- FY 2025:** Once legislation is passed, the parties will continue discussions to conform the Local 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 (same?) parties have completed negotiations and are in the process of executing the Local Settlement Agreement of Navajo Nation's water rights claims in the Rio San Jose. Once all the parties (other than the United States) have signed the agreement, Navajo Nation will begin the same congressional approval process detailed above and ultimately combine its Settlement Agreement with that of 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) Potential claims of Pueblos, Tribes, and Nations are not currently under review in this adjudication.**

- IV. **PECOS ADJUDICATION**, *State of N.M. & PVACD v. Lewis*, Case Nos. 20294 & 22600 (Consolidated) – Potential claims of Pueblos, Tribes, and Nations are not currently under review in this adjudication.

FEDERAL COURT ADJUDICATIONS - PRIORITIES FOR FY 2025

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

A. **Ohkay Owingeh:**

Accomplishments Through FY 2024: The parties (other than the United States) signed a Local Settlement Agreement for the Chama Stream System claims, dated July 5, 2023

FY 2025: The parties are working on federal legislation to propose to the Department of the Interior and introduce to Congress in FY 2025.

Once legislation is passed, the parties will continue discussions to conform the Local 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 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:**

Accomplishments During FY 2024: The local parties drafted an amendment to the the Taos Pueblo Indian Water Rights Settlement Act of 2010, Public Law 111-291, seeking additional federal funding required to complete the projects identified in the 2012 conformed Settlement Agreement.

FY 2025: The State will continue to consult and assist with Settlement Agreement implementation issues and support the amendment seeking additional federal funding and congressional approval process.

- 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 Through FY 2024: Zuni Pueblo and the State signed the Local Settlement Agreement in the Spring of 2023.

FY 2025: The parties are working on federal legislation to propose to the Department of the Interior and introduce Congress during FY 2025. 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):** The State commenced negotiations to reach settlement of the Tribe's claims in FY 2024 and will continue to strive towards reaching a Local Settlement Agreement and draft federal legislation to propose to the Department of Interior for review and introduce to Congress during FY 2025.

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*) (U.S. D.Ct., N.M.)

A. Ohkay Owingeh and Pueblo of Santa Clara:

Accomplishments in FY 2024: The parties had put negotiations regarding Pueblo claims in this adjudication on hold while it completed the negotiations of Ohkay Owingeh's water rights claims in the Chama adjudication. The parties have contracted mediators and re-commenced negotiations in early Spring of FY 2024 to reach settlement of Ohkay Owingeh and Santa Clara Pueblo's claims and have reached out to the Pueblos of Nambe, Pojoaque, and San Ildefonso to discuss potential outstanding claims pending in this adjudication.

FY 2025: The State will continue negotiations with the Pueblos and other water users in the Santa Cruz/Truchas Stream System and working towards the goal of reaching a local settlement agreement.

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 Through FY 2024: 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. The Senate Indian Affairs Committee approved the Senate bill at its business meeting on March 29, 2023, and ordered a favorable report without amendment, No. 118-131, which was printed on December 12, 2023. The House bill was referred to the Committee on Natural Resources and the Subcommittee on Water, Wildlife, and Fisheries in March of 2023, but a hearing has not been scheduled.

FY 2025: Once legislation is passed, the parties will continue discussions to conform the Local 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 Through FY 2024: 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 Winan's rights. The Court issued its Order in September 2023. The United States, Pueblos of Jemez, Santa Ana and Zia filed a motion for clarification, which was denied in April 2024.

FY 2025: The parties await decisions on the remaining threshold issues not addressed in the Court's September 2023 Order,

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 TRIBES, PUEBLOS, AND NATIONS - PRIORITIES FOR FY 2025

XI. SIX MIDDLE RIO GRANDE PUEBLOS

A. Pueblos of Sandia, Isleta, Cochiti, Santa Domingo, San Felipe, and Santa Ana:

FY 2025: 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.