

Public Welfare

Below is the text of a public welfare statement that was developed for the Region. A requirement of the Regional Water Planning Handbook, the Public Welfare statement is designed to provide guidance to the State Engineer regarding transfer applications and new appropriations of water that affect the Middle Rio Grande Region. Though the State Engineer is obligated to assess possible impairment to existing rights and contrariness to water conservation and public welfare when considering water transfers and applications, no definition of public welfare has been provided by statute. Instead, regional water plans serve as a means for defining 'public welfare' locally. The adoption of a statement that is genuinely representative of regional public welfare is an arduous and heartfelt process, and it succeeds only if future conflicts over water are reduced, and if water transfer decisions reflect the long-term needs of the region as a whole. Neither must it be a static declaration, for there are unknown perspectives and unknown users that will require a voice in the future. Instead, the definition of public welfare is iterative and evolving, and should be monitored continuously by the public itself.

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The Public Welfare statement presented on the next two pages has four parts, all equally important:

- Introduction
 - General Statement
 - Water Transfer Process
 - Public Welfare Principles and Considerations
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Introduction

This public welfare statement is part of the Regional Water Plan and is presented to provide guidance to the State Engineer in decisions concerning applications for transfer and new appropriations of water rights that affect the Middle Rio Grande Region as required in the Regional Water Planning Handbook. This public welfare statement will accomplish its purpose if conflicts are reduced in the region, and if decisions reflect the long-term future needs of the region, rather than merely responding to immediate demands. This must not be a static, final statement, but an iterative and evolving declaration which is continuously monitored by the public to ensure that it accurately reflects the welfare of the public, always remembering that there are unknown users and perspectives concerning our water resources that will need to be given a voice in the future.

General Statement

Water has many important values to the people in our region which need to be appreciated and fairly balanced to ensure the overall safety, security and well-being for the region. Such values include cultural, economic, environmental and hydrologic viability for the region. In times of scarcity, everyone must share the responsibility for living within the shortage. We recognize the current deficit situation and have a duty to balance water use with renewable supply, starting now and in the future. Decisions should be made to keep as many options as possible open for future generations.

Water Transfer Process

We believe the “public welfare” must be safeguarded by the State Engineer through active management of our limited water resources in the decision-making process used to evaluate new appropriations and transfer of water rights. A strong decision-making process supports “public welfare”. Public welfare is equal in importance to other statutory criteria — impairment and conservation. Transfers of water rights must be open to all affected stakeholders and use the best available science. The public will be better served if the process encourages negotiation, not litigation. The process must provide reasonable and timely notice to and allow participation by all parties. Public review must be a part of the State Engineer’s decision-making process. The evaluation of transfer must consider both the positive and negative impacts of the transfer of water rights on both the area of origin as well as the area receiving the water rights. Bona fide reduction in wet water use at the source site must match the transferred water right. When considering water rights, the State Engineer should respect an individual’s right to use, lease, sell or transfer that right, to the extent consistent with Public Welfare as defined herein.

Public Welfare Principles and Considerations

The “public welfare” requires that our use of the water resources be consistent with three guiding principles:

1. Maintain, improve, and where possible, increase the quality and quantity of the region’s water resources.
2. Promote conservation and reuse of the region’s water resources.
3. Encourage efficient use of the region’s water resources.

The State Engineer should consider the diversity of water demands and factors when evaluating new appropriations and transfers of water rights, including but not limited to health and safety concerns, economic interests, agricultural interests, environmental interests, social and cultural interests, aesthetic interests, recreational interests, and municipal and domestic needs.

- When considering health and safety concerns, the State Engineer should strive to maintain and improve the quality of our water resources as a basic human right to safe drinking water.
- When considering economic interests, the State Engineer should recognize that the Middle Rio Grande Region is a vital part of the New Mexico economy. Agreements and transfers of water rights should result in long-term economic benefit to the region and the state as a whole.
- When considering agricultural interests, the State Engineer should strive to sustain a vibrant and efficient agricultural system, recognizing that agriculture has economic, ecological, historic, and cultural values.
- When considering environmental interests, the State Engineer should maintain and improve ecosystem biodiversity. The State Engineer should also consider instream flows as being essential for the region.
- When considering social and cultural interests, the State Engineer should protect water uses which support the diversity of cultures and traditions existing in our region. In particular, the sovereignty of tribal nations and pueblos must continue to be recognized. In addition, the promises contained in the Treaty of Guadalupe Hidalgo should be acknowledged and honored.
- When considering aesthetic interests, the State Engineer should strive to maintain and improve the agricultural and riparian greenbelts along the flowing waters and ditches in our communities.
- When considering recreational interests, the State Engineer should encourage low consumptive rather than new consumptive recreational uses.
- When considering municipal and domestic needs, the State Engineer should strive to sustain an adequate water supply to meet these needs. The State Engineer should consider local land use plans and decisions.