

Water Court Reorganization Attorney Instructions

This document will describe the high-level steps to be taken to submit non-adjudication Water Cases per the Supreme Court Provisional Order #S-1-AO-2025-00017 and Draft Rule starting October 1, 2025. Both are attached. This SOP is specific to non-adjudication water cases.

Definitions:

For purposes of this SOP, there are two types of water litigation in New Mexico:

- **Adjudication cases**, which involve a system-wide declaration of water rights in a basin; and,
- **Non-adjudication Water cases**, which are disputes over usage under a previously determined scope of rights. In this document, the term “Water Case” refers only to **non-adjudication water cases** that use the Odyssey case type of “Water Case” (code WTR).

Directive:

On October 1, 2025, the new structure for processing non-adjudication water cases will begin for the New Mexico Judiciary. The new structure is based on the Supreme Court Provisional Order #S-1-AO-2025-00017, and describes it as follows:

- The thirteen Judicial Districts are grouped into three Water Regions (see the attached map);
- Water Regions 1 and 3 each have one Water Clerk and one Water Judge, while Water Region 2 has two Water Clerks and two Water Judges;
- There is one "floating" Water Judge;
- There are no excusals;
- Water case records in Odyssey will retain the case number from the originating District Court location where the case is filed, will have a Water Region identifier in the case caption, and will have a Water Region case subtype added; and,
- Once the case is initiated through eEFile & Serve, the Water Case will be picked up by the appropriate Water Region and that region’s Water Clerk will assign the region’s Water Judge to the case.

FILING ATTORNEYS

Initiating a Water Case:

- 1) Confirm that your case meets the definition of a non-adjudication Water Case as defined in the Supreme Court Provisional Order #S-1-AO-2025-00017 and Water Court Rule;
- 2) Non-adjudication Water Cases include cases implicating:
 - a) NMSA 1978, Sections 72-1-1 to 72-20-103;
 - b) NMSA 1978, Sections 73-1-1 to 73-20-19;
 - c) Appeals from the Office of the State Engineer pursuant to Section 72-7-1; and
 - d) Cases involving significant impairment of a water right under Section 72-12-28.
- 3) Even if it is not apparent at the outset of the case that it meets the definition of a Water Case, the case may be identified as a Water Case by court staff and transferred to the relevant Water Region jurisdiction;
- 4) There are no judge excusals per 1-0.88.1
- 5) In eEFile & Serve, select **Start a New Case**
 - a) For **Location**, select the county in which the disputed waters or point of desired appropriation is situated;
 - b) For **Category**, select **Civil**;
 - c) For **Case Type**, select **Water Case**;
 - d) Enter the party information normally;
 - e) For the **Filing Code**, select **OPN: Petition**;
 - f) For the **Filing Description** field, type in “**Water case**”
 - g) Before uploading the Petition document,
 - i) make sure it has the word “Water” in the title of the document
 - ii) is captioned accurately; and,
 - iii) the file name includes the word “Water”
 - h) Attorneys will use the **Courtesy Copies** field to enter the email that matches the water region the court location belongs to:
 - i) Water Region 1 waterregion1-grp@nmcourts.gov
 - Judicial District 1
 - Judicial District 2
 - Judicial District 11
 - Judicial District 13
 - ii) Water Region 2 waterregion2-grp@nmcourts.gov
 - Judicial District 3
 - Judicial District 6
 - Judicial District 7
 - iii) Water Region 3 waterregion3-grp@nmcourts.gov
 - Judicial District 4
 - Judicial District 5
 - Judicial District 8
 - Judicial District 9
 - Judicial District 10
 - Judicial District 12
 - i) All other actions are the same as any other civil case initiation in eEFile & Serve.

Subsequently Filing into an Existing Water Case:

- 1) In eEFile & Serve, select **File into Existing Case**
 - a) Search on the water case number;
 - b) In addition to perform all of the normal steps for subsequent filing into a civil case, add the Water Region Group in the **Courtesy Copies** field (as noted in step 5.h. above).

Reopening a Closed Water Case:

- 1) In eEFile & Serve, select **File into Existing Case**
 - a) Search on the water case number;
 - b) Perform all of the normal steps for subsequent filing into a civil case;
 - c) Select the appropriate **Reopen** filing code;
 - d) For the **Filing Description**, type in “**Water case**”
 - e) Before uploading the Petition document,
 - i) make sure it has the word “Water” in the title of the document
 - ii) is captioned accurately; and,
 - iii) the file name includes the word Water;
 - f) Add the Water Region Group in the Courtesy Copy field (as noted in step 5.h. above).



IN THE SUPREME COURT OF THE STATE OF NEW MEXICO

September 4, 2025

NO. S-1-AO-2025-00017

**IN THE MATTER OF THE
REORGANIZATION OF THE NEW
MEXICO WATER COURT STRUCTURE**

PROVISIONAL ORDER

WHEREAS, this matter came on for consideration upon the Court's own motion to reorganize the water court structure in New Mexico;

WHEREAS, New Mexico's current water court system, established collectively by Supreme Court Order Nos. 04-8110 (January 27, 2004), 04-8110 (June 4, 2004), and 05-8100 (February 28, 2005), provides for the designation of a water law judge in each of New Mexico's thirteen judicial districts, and calls for the development of a mandatory water law education program to train judges, special masters, and court staff in water law matters;

WHEREAS, New Mexico's thirteen judicial districts are not coterminous with New Mexico's stream systems;

WHEREAS, specialized technical, legal, and case management training for water law judges is critical to the efficient and just resolution of water cases;

WHEREAS, it appearing to the Court that it would be in the best interests of judicial economy and the timely and effective adjudication of water cases if a new

1 water court structure were established in New Mexico, and the Court having
2 considered the foregoing and being sufficiently advised, Chief Justice David K.
3 Thomson, Justice Michael E. Vigil, Justice C. Shannon Bacon, Justice Julie J.
4 Vargas, and Justice Briana H. Zamora concurring;

5 NOW, THEREFORE, IT IS ORDERED that, pursuant to the superintending
6 control of the Supreme Court and the authority of the Chief Justice under Article VI,
7 Sections 3 and 15, of the Constitution of the State of New Mexico, a new water court
8 structure is hereby adopted for New Mexico and Supreme Court Order Nos. 04-8110
9 (January 27, 2004), 04-8100 (June 4, 2004), and 05-8100 (February 28, 2005) are
10 hereby WITHDRAWN;

11 IT IS FURTHER ORDERED that the new water court structure shall be
12 divided geographically into three water regions that encompass, to the greatest extent
13 feasible, one or more distinct stream systems in each region;

14 IT IS FURTHER ORDERED that Water Region 1 (WR1) shall encompass
15 the First, Second, Eleventh, and Thirteenth Judicial Districts; Water Region 2 (WR2)
16 shall encompass the Third, Sixth, and Seventh Judicial Districts; and Water Region
17 3 (WR3) shall encompass the Fourth, Fifth, Eighth, Ninth, Tenth, and Twelfth
18 Judicial Districts, as reflected on the map attached hereto and incorporated herein by
19 reference;

1 IT IS FURTHER ORDERED that the Supreme Court shall appoint five
2 district court judges to serve as water judges in the three water regions: one to preside
3 over WR1, two to preside over WR2, one to preside over WR3, and one to serve as
4 an alternate;

5 IT IS FURTHER ORDERED that the Hon. Bryan P. Biedscheid shall serve
6 as the judge for WR1, the Hon. Manuel Arrieta and the Hon. Jarod K. Hofacket shall
7 serve as the judges for WR2, the Hon. Dustin K. Hunter shall serve as the judge for
8 WR3, and the Hon. Erin B. O'Connell shall serve as the alternate water judge;

9 IT IS FURTHER ORDERED that the appointed water judges shall serve and
10 continue to preside over the water cases assigned to them pursuant to this Order until
11 a successor may be appointed by order of the New Mexico Supreme Court;

12 IT IS FURTHER ORDERED that the provisions of Rule-1-088.1 NMRA and
13 NMSA 1978, Section 38-3-9 (1985) shall not apply to the appointed water judges,
14 and a water judge assigned to a water case may not be excused by a party except
15 under Article VI, Section 18 of the New Mexico Constitution;

16 IT IS FURTHER ORDERED that one Court of Appeals Judge and one
17 Supreme Court Justice shall volunteer to be the water law liaison for their respective
18 courts, and if there are no volunteers, the Chief Judge of the Court of Appeals and
19 Chief Justice shall designate a water law liaison for their respective courts;

1 IT IS FURTHER ORDERED that the water judges shall hear cases that
2 implicate or invoke NMSA 1978, Sections 72-1-1 to 72-20-103 (1907, as amended
3 through 2024), or NMSA 1978, 73-1-1 to 73-20-19 (1931, as amended through
4 2025); administrative appeals from the Office of the State Engineer pursuant to
5 Section 72-7-1; and cases that may result in significant impairment of a water right
6 under Section 72-12-28. The OSE shall retain its administrative authority under the
7 current water code, including hearing petitions for new appropriations or authorizing
8 changes to existing water rights under Sections 72-5-1 to -39;

9 IT IS FURTHER ORDERED that Supreme Court Order No. 17-8500-DS
10 shall continue to control water rights adjudications in state courts, and Hon. James
11 J. Wechsler (ret.) shall continue to preside over water rights adjudications filed under
12 Section 72-4-15 in the First, Third, Fifth, Eleventh, and Thirteenth Judicial District
13 Courts;

14 IT IS FURTHER ORDERED that Hon. Jarod K. Hofacket shall continue to
15 preside over the Animas Underground Basin water rights adjudication in the Sixth
16 Judicial District Court pursuant to Supreme Court Order No. 20-8500-DS;

17 IT IS FURTHER ORDERED that appointed water judges shall hear water
18 cases in addition to all matters on their regular dockets, with water cases to receive
19 the same priority as juvenile and children's court matters;

1 IT IS FURTHER ORDERED that a court clerk will be assigned to each of the
2 water regions to oversee the filing and administrative case management of the water
3 cases for their designated region;

4 IT IS FURTHER ORDERED that all water cases shall be filed in the district
5 court of the county in which the disputed waters or point of diversion is situated and
6 the clerk of that court shall thereafter direct the water case to the water clerk in the
7 appropriate water region;

8 IT IS FURTHER ORDERED that the case number generated in the judicial
9 district where the dispute originates shall be retained, while the case caption of all
10 pleadings filed in water cases shall reflect the new water region as a suffix to the
11 case caption using the format (WATER REGION X). A sub case type shall be
12 applied to the case record indicating “Water Region X”;

13 IT IS FURTHER ORDERED that the five appointed water judges, and the
14 designated water liaisons from the Court of Appeals and the Supreme Court, shall
15 annually attend water law training identified by the Court Education Institute; and

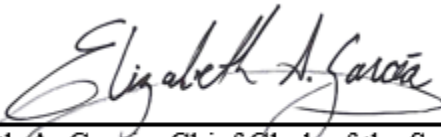
16 IT IS FURTHER ORDERED that the water judges shall earn a minimum of
17 seven (7) continuing water law legal education credits annually, including, but not
18 limited to, credit(s) related to education in the areas of tribal water law and/or water
19 rights in New Mexico; and

1 IT IS FURTHER ORDERED that the reorganized water court structure, as set
2 forth in this order, shall be effective **October 1, 2025**.

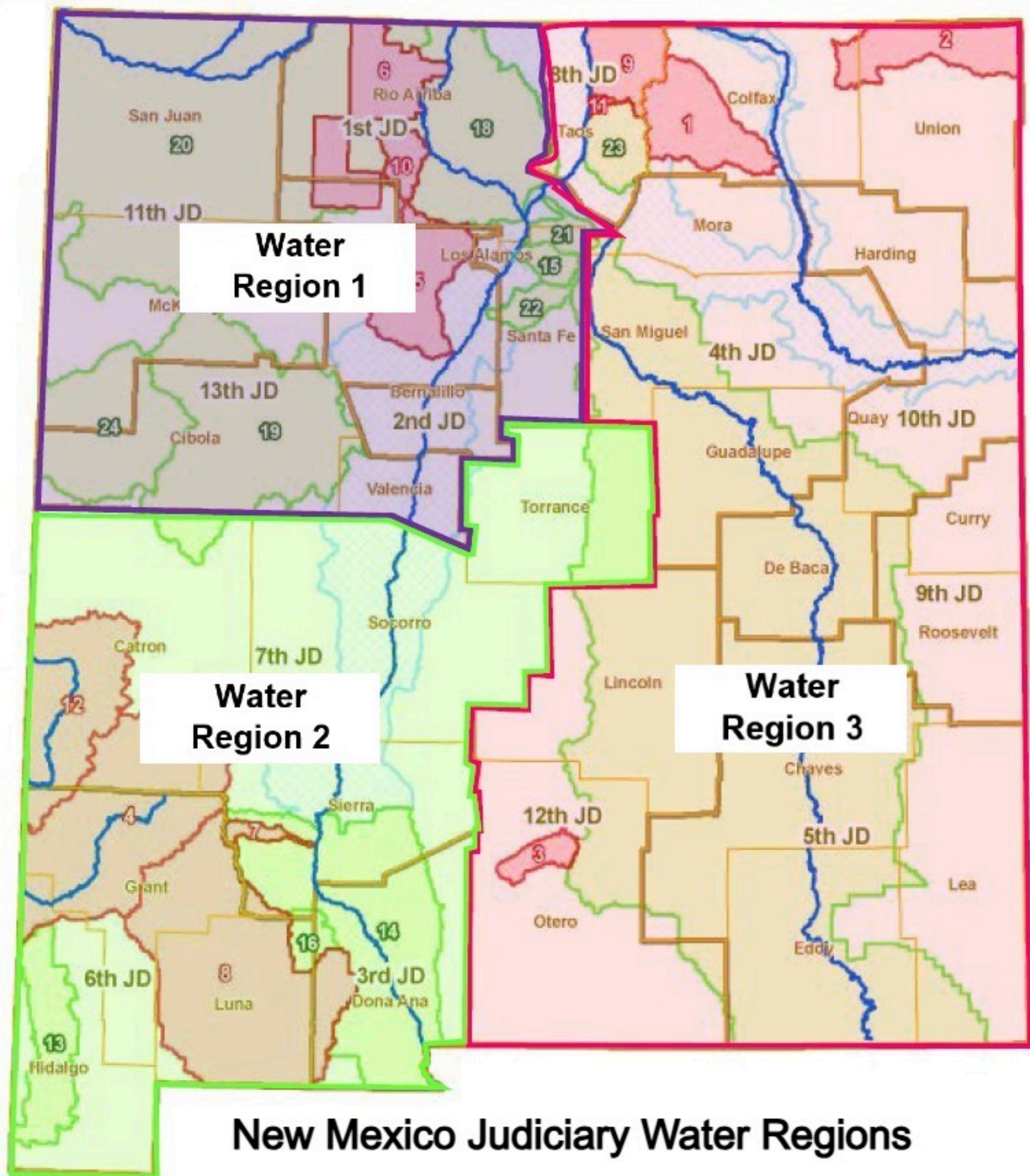
3 IT IS SO ORDERED.



WITNESS, the Honorable David K. Thomson, Chief Justice of the Supreme Court of the State of New Mexico, and the seal of said Court this 4th day of September, 2025.


Elizabeth A. Garcia, Chief Clerk of the Supreme Court
of the State of New Mexico

I CERTIFY AND ATTEST:
A true copy was served on all parties
or their counsel of record on date filed.
Elizabeth A. Garcia
Chief Clerk of the Supreme Court
of the State of New Mexico



DRAFT Rule 1-0XX. Water court structure and procedure

A. Establishment of water regions.

The state shall be divided into three water regions encompassing distinct stream systems to the greatest extent feasible:

- (1) Water Region 1 (WR1): First, Second, Eleventh, and Thirteenth Judicial Districts;
- (2) Water Region 2 (WR2): Third, Sixth, and Seventh Judicial Districts; and
- (3) Water Region 3 (WR3): Fourth, Fifth, Eighth, Ninth, Tenth, and Twelfth Judicial Districts.

B. Appointment of water judges.

The Supreme Court shall appoint five district judges to preside over water cases in the regions. Initially they shall be appointed as follows: one in WR1, two in WR2, one in WR3, and one alternate. The appointment of water judges to the water regions shall be controlled by Supreme Court order. The designated Water judges shall continue to serve until a successor is appointed.

C. Assignment and excusal.

- (1) Water judges may not be excused under Rule 1-088.1 NMRA or Section 38-3-9 NMSA 1978.
- (2) A party may seek disqualification of a water judge only under Article VI, Section 18 of the New Mexico Constitution.

D. Jurisdiction.

Water judges shall hear cases implicating:

- (1) NMSA 1978, Sections 72-1-1 to 72-20-103;
- (2) NMSA 1978, Sections 73-1-1 to 73-20-19;
- (3) appeals from the Office of the State Engineer pursuant to Section 72-7-1; and
- (4) cases involving significant impairment of a water right under Section 72-12-28.

E. Water rights adjudications.

- (1) This rule does not affect water rights adjudications cases.
- (2) Judges selected to preside over adjudications filed under Section 72-4-15 in the First, Third, Fifth, Eleventh, and Thirteenth Judicial Districts and in over the Animas Underground Basin adjudication, shall continue to preside over those adjudications until further Supreme Court Order.

F. Filing and case management.

- (1) All water cases shall be filed in the district court of the county where the disputed waters or point of diversion is situated.
- (2) The clerk of that court shall direct the case to the water clerk of the appropriate region.
- (3) The case number of origin shall be retained, and the caption shall include the suffix "(WATER REGION X)."
- (4) A sub case type of "Water Region X" shall be applied to the case record.
- (5) Attorneys shall comply with published instructions for for proper filing of water cases with the Electronic Filing System referenced in Rule 1-005.2 NMRA.

G. Case priority.

Water cases shall be heard in addition to matters on the regular docket of the assigned judge and shall receive the same priority as juvenile and children's court matters.

H. Water court clerks.

One clerk shall be assigned to each water region to oversee filing and administrative case management.

I. Education and training.

(1) Water judges, and the designated water law liaisons from the appellate courts, shall annually attend water law training identified by the Court Education Institute.

(2) Water judges shall earn a minimum of seven continuing legal education credits annually in water law, including credits in tribal water law and water rights in New Mexico.

J. Effective date.

This rule shall take effect October 1, 2025.