The background of the slide is a close-up, slightly blurred image of teal-colored water with gentle ripples and waves. The lighting is soft, creating a calm and serene atmosphere.

Judge Manuel I. Arrieta

Water Administration in New Mexico: Legal Issues and Concerns

N.M. Const., Art. XVI, Sec. 3:

“The unappropriated water of every natural stream, perennial or torrential, within the state of New Mexico, is hereby declared to belong to the public **and to be subject to appropriation for beneficial use**, in accordance with the laws of the state. **Priority of appropriation shall give the better right.**”

Three Components of Water Law Administration

The Adjudication Court

The Office of the State Engineer

The Water Courts

The Adjudication Courts

Basin-wide suits for determination of final and adjudicated water rights, parties, hydrographic surveys, exclusive jurisdiction.

NMSA 1978, Section 72-4-17

Office of the State Engineer

Quasi-judicial administrative powers through a permit and regulation based system.

The Water Courts

Designated Water Judges handling appeals from any decision of the OSE, and, resolving disputes affecting the rights and liabilities of parties as they relate to water law issues

The Challenge of Administering Water in New Mexico.

Irrigated agriculture uses
about 80% of the water in the
state. (2018)

2018 Water Plan Office of the State Engineer, page
24, Part II.



The rest of the water use:

8.7 percent of total water use is for municipal and related purposes.

12.3 percent is other uses: manufacturing, mining, commercial purposes.

Irrigated agriculture
contributes 20% to the
State's economy.

Flood irrigation applied to a pecan orchard,
Mesilla Valley (July 2022)



Texas v. New Mexico, Case No. 141 Original, U.S. Supreme Court

1904-Rio Grande Project to provide irrigation to Texas and NM (and Mexico)

1906-Convention for Equitable Distribution between US and Mexico (treaty based)

1917-1918-EBID and EP No.1 organized to distribute LRG water to So. NM and El Paso district

2008 – Operating Agreement between Reclamation and EBID and EP No.1

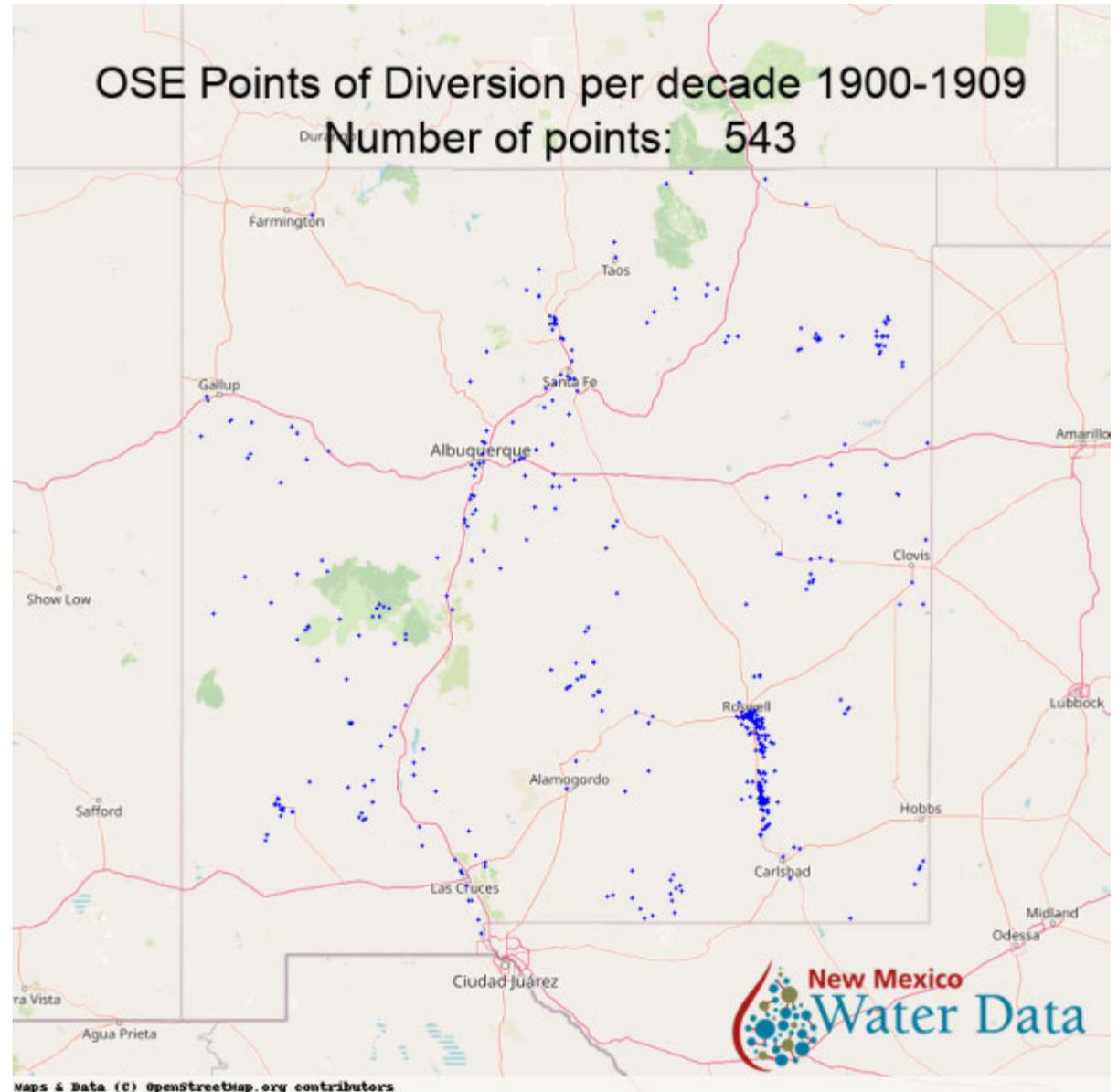
2012-NM v. United States (over 2008 Operating Agreement)

2013-Texas v. NM, Case No. 141

Deep Well Extractions

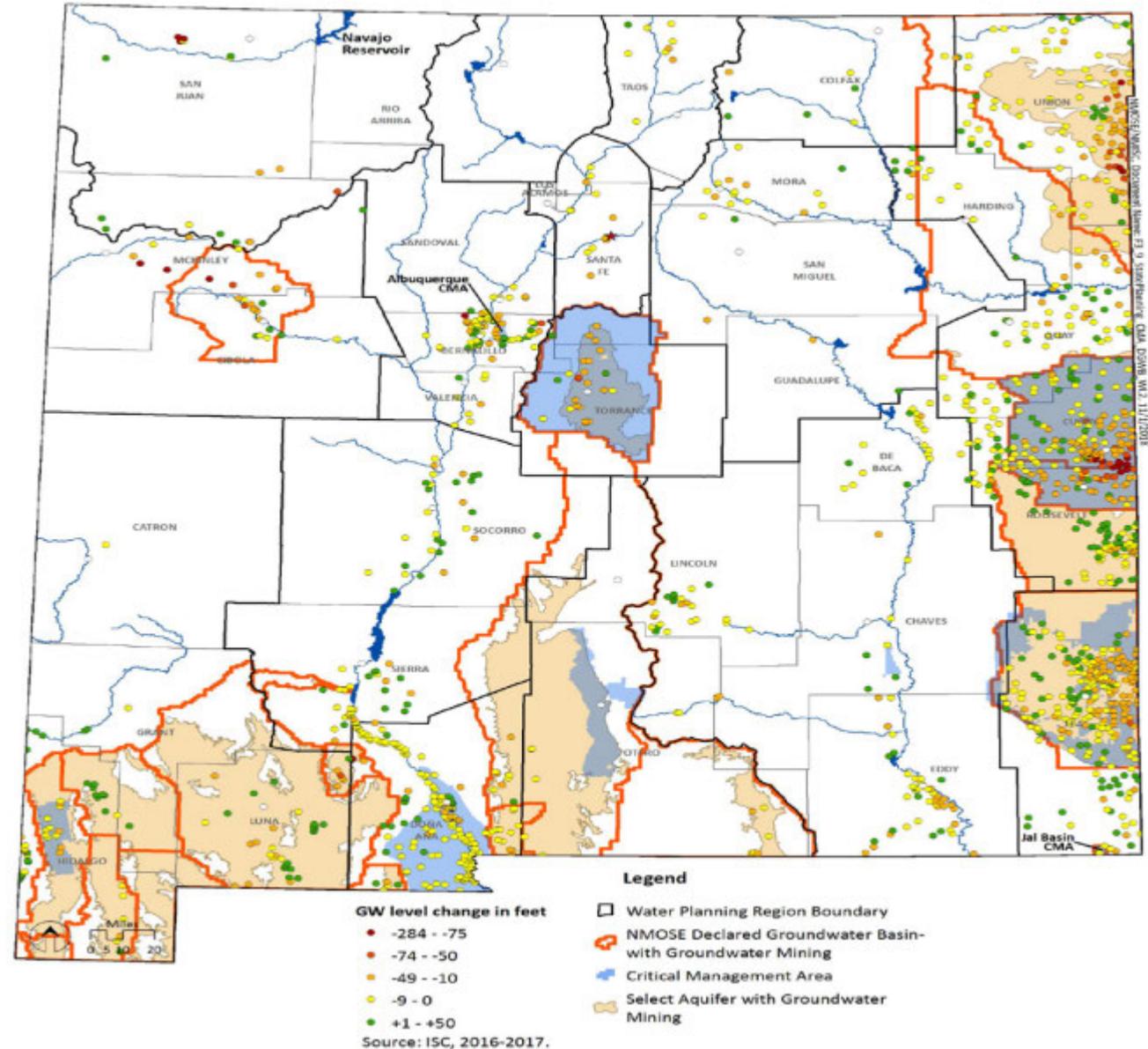
1909 - 543 deep wells

2022 - 174,758 deep wells



2018 Water Plan
Office of the State
Engineer, page 33,
Part I

“The most glaring water supply shortfall is occurring in eastern New Mexico where some communities have less than five years of water supply remaining.”



For the Western States, climate change is water.

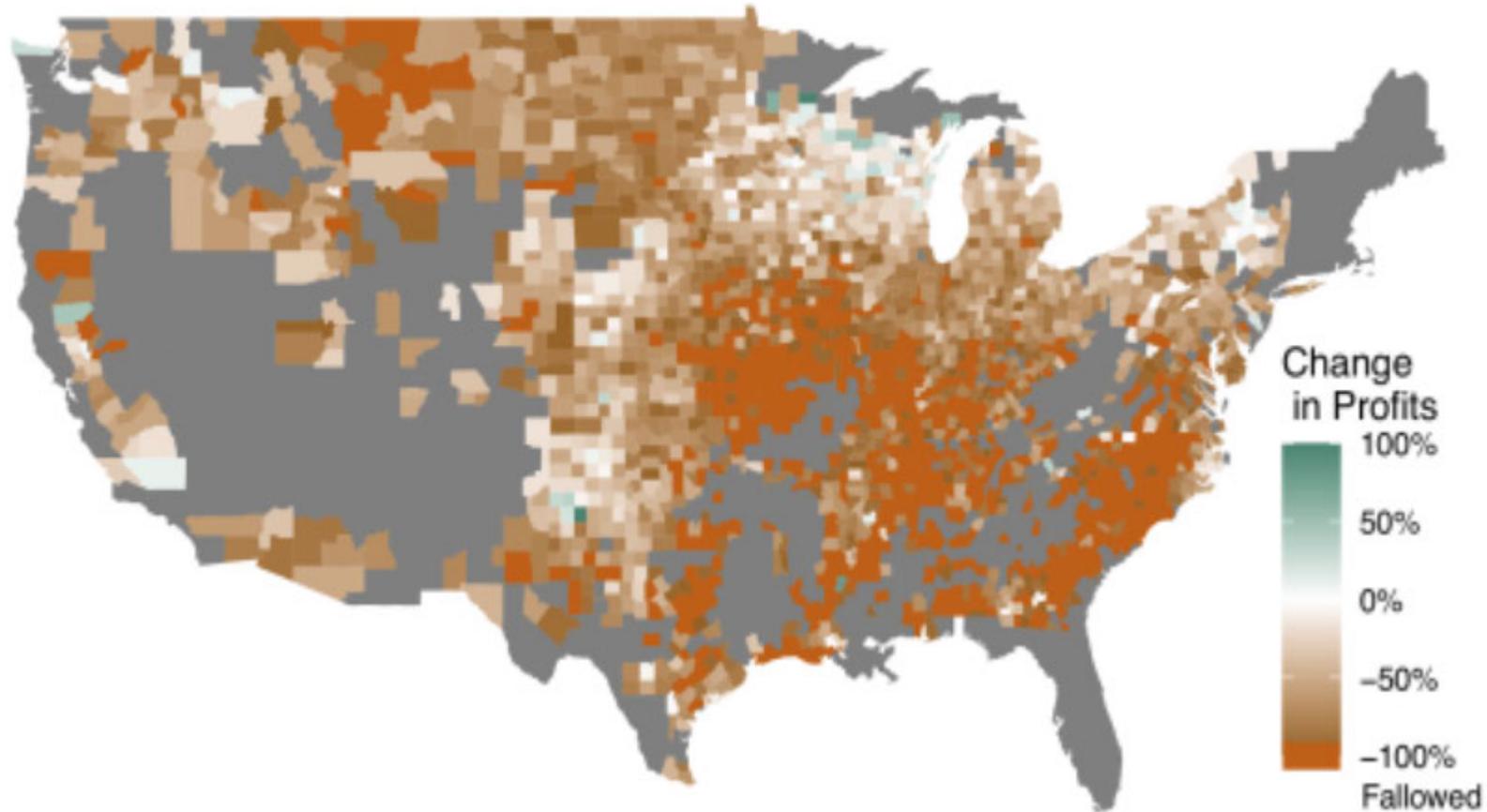
The Southwestern U.S. has been experiencing a severe megadrought since 2000.

National Oceanic and Atmospheric Administration (NOAA)

Lake Mead 7/1/2022



By 2060, America's breadbasket will shift to Canada.



Current Plans to Administer NM Water:

All regions of New Mexico will be affected by climate change, but the topographic complexity of the state will generate distinct impacts by location. The average temperature will warm across the state, probably between 5° and 7°F, whereas average precipitation is likely to remain constant, even if more variable from year to year, with the possibility of more extreme precipitation events. Snowpack, runoff, and recharge will decline, stressing both surface and groundwater resources. Surface-water quality will decline. Plant communities will be stressed by higher temperatures and greater aridity, leading to more extreme wildfires and increased erosion. Damage to soils, related to a number of factors, will create greater atmospheric dustiness and lower water infiltration to aquifers.

(Climate Change in NM Over the Next 50 Years: Impacts on Water Resources, March 2022, NM Bureau of Geology and Mineral Resources)

WE HAVE HOPE.



Honorable Manuel I. Arrieta
District Judge, Third Judicial District Court, Division I

E-mail: [REDACTED]

“Solving the Puzzle: The Water Court Structure and Process of Water Administration in New Mexico”: University of Denver Water Law Review, (Vol. 25, Fall 2021 issue).

Essay, “Climate Litigation: The Future is Now”: University of New Mexico, Journal of Natural Resources, Vol. 63, No. 1 (Winter 2023).
(Youtube: New Mexico’s Climate Science Judge Visits UNM – 10/26/22)