

## Judicial Notice

City of Clovis v. Gamez, No. 29,177, 2009 WL 6669346 (N.M. Ct. App. Dec. 29, 2009)

Rule 11–201(B) NMRA states a court may take judicial notice of an adjudicative fact where:  
B. Kinds of Facts. A judicially noticed fact must be one not subject to reasonable dispute in that it is either

- (1) generally known within the community, or
- (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned, or
- (3) notice is provided for by statute.

The district court is permitted to take judicial notice "whether requested or not." NMRA 11–201(C). We have previously held geographical facts are a proper subject for judicial notice. See, e.g., Gallegos v. Conroy, 38 N.M. 154, 29 P.2d 334, 336 (1934) (taking judicial notice that village is located on certain railroad)

Pecos Valley Artesian Conservancy Dist. v. Peters, 1948-NMSC-022, 52 N.M. 148, 193 P.2d 418.

"The fact that the water table rises and falls is not so alarming to us as to some of the witnesses. **It is public knowledge that for five years precipitation has been subnormal, and the last three years can be classed as ‘drouthy years.’** Irrigation projects generally in the state have suffered from the shortage of water from this cause. But there is an ample supply available in the Roswell district, even though some of it may be classed as storage water. It is quite certain that there will always be water for irrigation from these wells so long as water or snow falls from the clouds over the intake area, though at times the supply may be deficient, as in cases of diversion from flowing streams."

Spillway Marina, Inc. v. U.S., United States Court of Appeals, Tenth Circuit. July 6, 1971 445 F.2d 876

Courts take judicial notice of facts which are generally known and accepted, including general climatic conditions.

Middle Rio Grande Water Users Ass'n v. Middle Rio Grande Conservancy District  
Supreme Court of New Mexico. May 11, 1953 57 N.M. 287

It is common knowledge that through floods, silting and other conditions, irrigated lands within the Middle Rio Grande Conservancy District have progressively decreased from colonial days to present time until now they are only about half what they were at their peak.