

The seal of the Office of the State Engineer is a circular emblem. It features a stylized landscape with a winding river in the foreground, green hills, and a mountain range in the background. The text "Office of the State Engineer" is written in a semi-circle around the top of the emblem. The letters "nm" are visible in the lower-left quadrant of the seal.

# NEW MEXICO OFFICE OF THE STATE ENGINEER WATER RIGHTS ALLOCATION PROGRAM (WRAP) WATER RIGHTS DIVISION

August 12, 2022

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(505) 383-4000

<https://www.ose.state.nm.us>

## Interstate Stream Commission

# STATE ENGINEER APPLICATION PROCESS

**ALL SURFACE AND GROUND WATER RIGHTS IN NEW MEXICO ARE  
ADMINISTERED BY THE OSE IN ACCORDANCE WITH:**

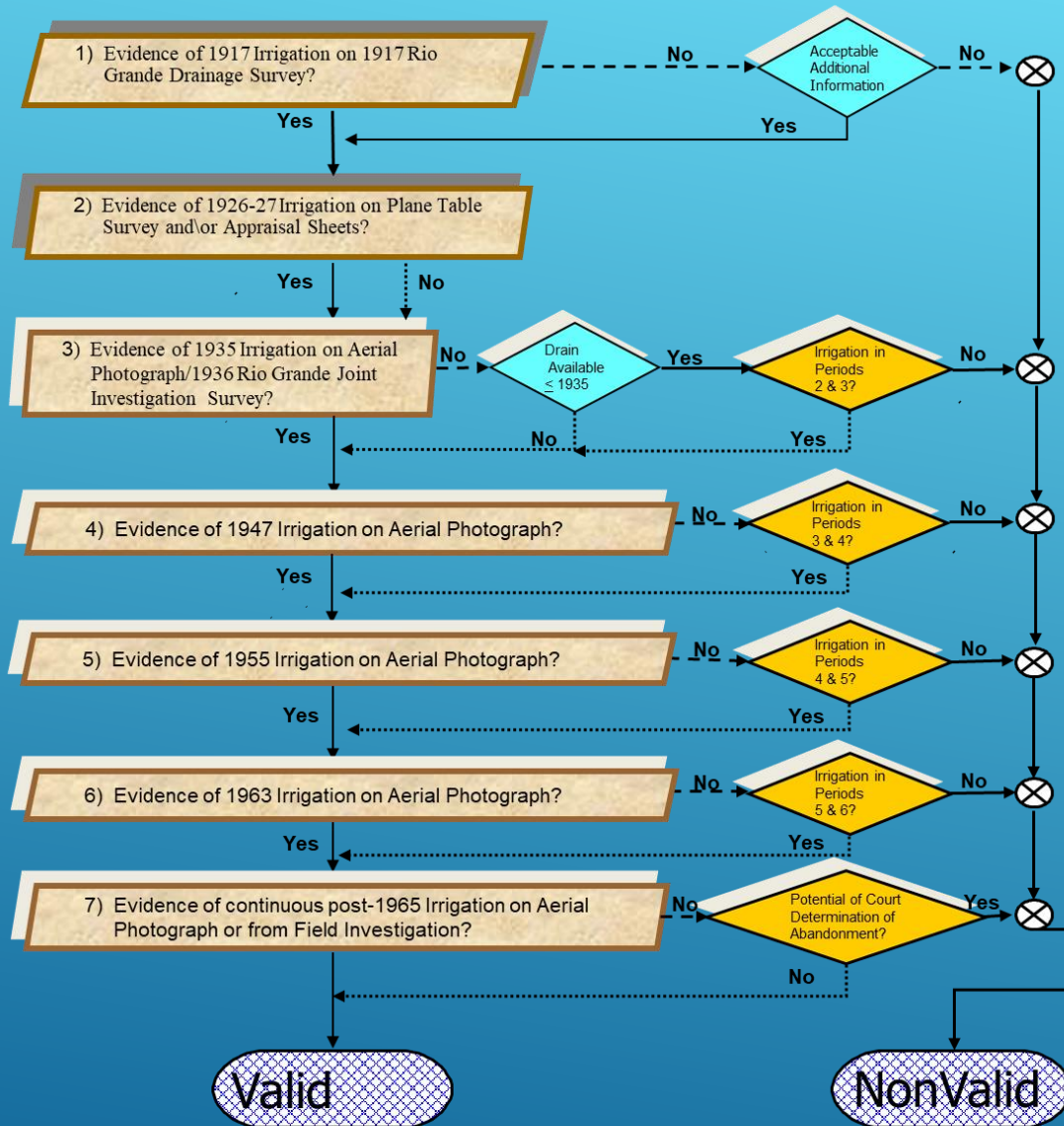
- **STATE LAW Chapter 72, NMSA, 1978**
- **COURT ADJUDICATIONS**
- **COURT ORDERS**
- **RULES AND REGULATIONS**
- **POLICIES AND PROCEDURES**
- **BASIN SPECIFIC GUIDELINES**
  
- **EXCEPTIONS**
  - **Indian Water Rights**
  - **Acequias**

# OVERVIEW OF HOW THE OSE PROCESSES WATER RIGHT APPLICATIONS

IT CAN TAKE 8 – 12 MONTHS TO BE PROCESSED IF NOT  
PROTESTED

- **Application Criteria**
  - What do you want to do?
- **Public Phase**
  - The public is informed / Notice of Publication
- **Technical Phase**
  - The OSE does a review of the move-from/move-to water rights – Impairment Analysis
- **Post Processing Phase**
  - Data processing
- **Compliance Phase**
  - Are you doing what you are supposed to do? Or what you want to do?
- **How Does The OSE Criteria Impact Cannabis Applications**
  - Are cannabis applications processed differently?
  - New Mexico Regulation & Licensing Department (RLD & CCD)
- **Questions/Discussion**

NM OSE CRITERIA FOR EVALUATING THE VALIDITY OF WATER RIGHTS PERFECTED PRIOR TO MARCH 19, 1907 IN THE MIDDLE RIO GRANDE BASIN



———— Indicates no evidence of pre-1907 water rights, forfeiture after four or more consecutive years of non-use, or potential of court determination of abandonment.

◆ Drain Available ≤ 1935 Indicative of the potential for lands to be irrigated

# HOW DOES THE OSE CRITERIA IMPACT CANNABIS APPLICATIONS

Are cannabis applications processed differently?

- The short answer is NO.
- Applications are processed in date order of filing. The sooner you file your application, the sooner we can act on it. “Acted on” does not mean approved. OSE will take action (approve or deny) based on the OSE findings.
- The OSE does not view one water right better or more valuable than another. All water uses are equal.
  - Applications filed by cities are not considered or evaluated differently than applications filed by irrigators.
  - Irrigation for greenhouse strawberries are no different than cannabis.

# HOW DOES THE OSE CRITERIA IMPACT CANNABIS APPLICATIONS (CONTINUED)

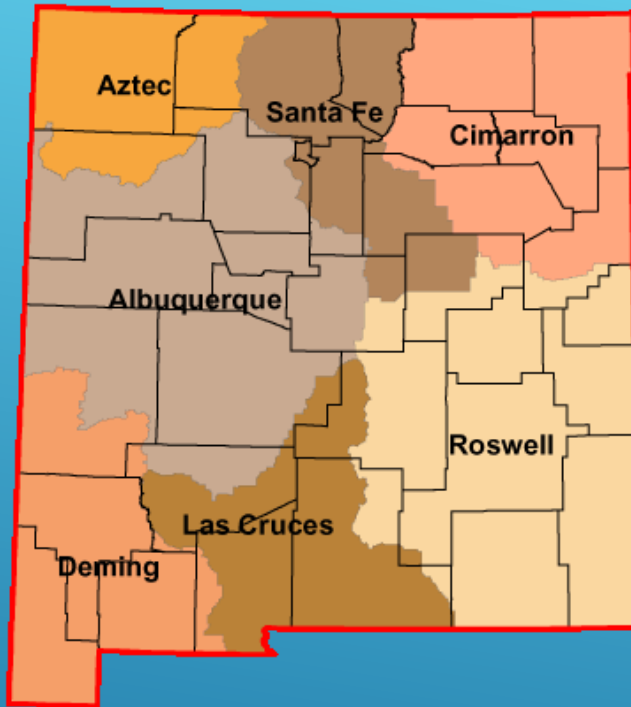
The New Mexico Cannabis Regulation Act, defined in Sections 1 through 42 [26-2C-1 to 26-2C-42 NMSA 1978] was enacted on April 12, 2021, requiring an applicant requesting a license to produce cannabis for sale demonstrate the legal right to a [commercial water supply](#), a valid water right, or another supply of water sufficient to meet the water needs as determined by the Regulation and Licensing Department.

Four (4) ways the OSE is providing information on Cannabis:

1. On-line: OSE Cannabis Information Link: <https://www.ose.state.nm.us/hottopics.php> A printable handout is available on this site.
2. On – line: A YouTube link is in the far-right corner of the OSE main website.
3. Call the OSE District associated with the location were the water right is located.
4. Come into the office (8-5 / closed for the noon hour)



# OFFICE OF THE STATE ENGINEER DISTRICT OFFICES



District	Address	Phone and Fax	District Manager
Albuquerque <a href="#">Water Rights District I</a>	5550 San Antonio Dr NE Albuquerque, NM 87109-4127	Phone: (505) 383-4000 Fax: (505) 383-4030	Wayne Canon
Roswell <a href="#">Water Rights District II</a>	1900 West Second St. Roswell, NM 88201	Phone: (575) 622-6521 Fax: (575) 623-8559	Juan Hernandez
Deming <a href="#">Water Rights District III</a>	321 West Spruce Street Deming, NM 88030	Phone: (575) 546-2851 Fax: (575) 546-2290	Lloyd Valentine
Las Cruces <a href="#">Water Rights District IV</a>	1680 Hickory Loop, Suite J Las Cruces, NM 88005-6598	Phone: (575) 524-6161 Fax: (575) 524-6160	Craig Cathey
Aztec <a href="#">Water Rights District V</a>	100 Gossett Drive, Suite A Aztec, NM 87410	Phone: (505) 383-4571	Shawn Williams
Santa Fe <a href="#">Water Rights District VI</a>	407 Galisteo St. Suite #102 Bataan Memorial Bldg. PO Box 25102 Santa Fe, NM 87504-5102	Phone: (505) 827-6120 Fax: (505) 827-6682	Ramona Martinez
Cimarron <a href="#">Water Rights District VII</a>	PO Box 481 301 East 9th Street Cimarron, NM 87714	Phone: (575) 376-2918 (575) 376-2410 Fax: (575) 376-4565	Tim Farmer

# HOW DOES THE OSE CRITERIA IMPACT CANNABIS APPLICATIONS (CONTINUED)

On-line: OSE Cannabis Information Link:

<https://www.ose.state.nm.us/hottopics.php> A printable handout is available on this site.

**Q: Can I grow cannabis using water from my domestic well?**

**A:** While you may use a domestic well for personal (non-commercial) cannabis growth allowable by law, similar to water use for a garden, domestic well permits do not allow water to be used in growing any commercial crops, including cannabis. Cannabis producers must acquire valid irrigation rights for outdoor cultivation or commercial water rights for indoor cultivation. If you do not have them, you will have to acquire valid commercial or irrigation rights from someone who does, then transfer those rights into your existing well with a permit from the OSE. All permit approvals will require meter installation and reporting of the usage.



# HOW DOES THE OSE CRITERIA IMPACT CANNABIS APPLICATIONS (CONTINUED)

**Q: I found a water right for sale, is there a process to expedite the transfer?**

**A:** No, unfortunately, this does not qualify as an emergency request pursuant to statutes 72-12-22, 72-12-24, 72-12-25, or 72-5-25 NMSA.

**Q: What is the timeline for changing the place, purpose, and/or point of diversion of water rights?**

**A:** Once you have found water rights to purchase, get ready to get in line again. The Office of the State Engineer has over 500 non-cannabis related water applications backlogged statewide to act upon, with an average wait time of eight to 12 months. If someone protests the application or contests those water rights, it could take another possible one to two years of waiting while the protest is resolved through legal processes.

# HOW DOES THE OSE CRITERIA IMPACT CANNABIS APPLICATIONS (CONTINUED)

**Q: Can I collect rainwater to grow commercial cannabis?**

**A:** Rainwater captured via rooftop catchment, which is allowed, is NOT a valid water right so this will not suffice as a water source for the purposes of commercial cannabis growing. You may use rainwater caught from your rooftop only to supplement a valid water right, but that is all.

# HOW DOES THE OSE CRITERIA IMPACT CANNABIS APPLICATIONS (CONTINUED)

**Q: What if I am connected to a commercial or municipal water system?**

**A:** If, on the other hand, you are buying or renting a facility connected to a commercial or municipal water systems, your road will be easier to travel because you can connect to those systems as a paying customer and prove you have the water or “right” to use it. If you are planning to operate out of a building in, say, Albuquerque, the Albuquerque-Bernalillo County Water Utility Authority (ABCWUA) has water rights for commercial, agriculture, and domestic use so you are just buying it from ABCWUA and you can show you are a customer of the authority.

**Q: I want to grow in a hoop house with my irrigation right?**

**A:** Growing in a hoop house is considered a greenhouse and requires a commercial water right.

# HOW DOES THE OSE CRITERIA IMPACT CANNABIS APPLICATIONS (CONTINUED)

New Mexico Regulation & Licensing Department (RLD)



Cannabis Control Division: <https://ccd.rld.stat.nm.us>

- The RLD will send the associated OSE District Office the *CCD/OSE Cannabis Water Rights Review Accession Form* (located at the above website). This document and any supporting documentation forwarded to the OSE, is reviewed by OSE staff to determine if a valid water right is associated with the applicant.
  - The OSE will **ONLY** review the form if it is sent by RLD, do not come in with one, you will be directed to RLD.
  - If you have questions about the form, contact RLD, not the OSE.
  - OSE review of the form can take 2-6 weeks.
  - **NO WATER HAULING** will be accepted as a valid water right.

# DOMESTIC WELLS

### 3. Proposed Water Right Type (check all that apply):

\*If proposed water right(s) for irrigation or agriculture purpose and the applicant intends to use it in a green house or indoor cultivation, a purpose of use change is required with the OSE to include or add commercial use to your water right.

Domestic well

Irrigation

Commercial

Leased water

Other: \_\_\_\_\_

- ▶ NOT acceptable as a source at all.
- ▶ Accession Form only box checked – Definitely need to watch the video on YouTube.

# DIRECTION TO MOVE FORWARD ON OUR RESPONSE

NOTES: 1)Water Rights Accession Form must be completed by applicant.

2) RG-62975 is a 72-12-1 Domestic Well. Domestic Wells do not allow for growing crops, including cannabis you will have to acquire valid commercial or irrigation rights, then transfer those rights into your existing well with a permit from the Office of the State Engineer (OSE). All permit approvals will require meter installation and reporting of the usage.



**Cultivation facility type:**

- Outdoor irrigation
- Indoor
- Greenhouse (non-earthen floor, permanent structure)
- Hoop house, temporary
- Other: \_\_\_\_\_

**Proposed Water Right Type (Check all that apply):**

If the proposed water right(s) is for irrigation or agriculture purpose and the right is in a green house or indoor cultivation, a purpose of use change is required to include or add commercial use to your water right.

- Domestic Well
- Irrigation
- Commercial
- Leased Water
- Other: purchased

**Additional documents attached to verify water right (Check all that apply):**

# HOOPHOUSE NEEDS A COMMERCIAL RIGHT

This is marked  
Domestic Irrigation  
and Other  
"Purchased".

# QUESTIONS/DISCUSSION





The future is uncertain but  
the end is always near.

Jim Morrison

“ quote fancy