

Q: I am not against some change but why is our community/county/basin the only one targeted? There are people and demands all up and down the Rio Grande but ours is the only one to bear the burden on all new wells “depleting” the Rio. Lots of communities are over allocated. Jarales where I grew up looks nothing like it did 50 years ago. Maybe the state should spread the responsibility around. I will be curious to see if other communities/counties/basins are treated the same.

A: Your community is not being singled out nor is this the first protective action taken on the Rio Grande. Since 2021, the State Engineer has issued six Special orders issuing closures to all or parts of different basins throughout the state. Each one is where the permitted diversions exceed the recharge according to the most recent data our office has obtained. The State Engineer has always been committed to the development of the State and responsible appropriation of the public water. The State Engineer began restricting new appropriations that affect the Rio Grande by adjudicating the water rights on Las Animas Creek system (Cause No. 6427) in 1969, prohibiting any new appropriations of water to stop further depletion of an over appropriated resource. The second area on the Lower Rio Grande to experience the restriction of new appropriations on January 5, 1999, that enacted the Mesilla Valley Administrative Area Guidelines (<https://www.ose.state.nm.us/WR/WRrules.php>). Any new well must have a water right transferred in to offset the effects of pumping. In general, the quantity of water appropriated in this state on paper exceeds the amount of wet water available to divert. In the face of climate change, you can expect more actions such as these to be in the news. Many more adjudications are underway in the northern Rio Grande and tributaries adding to the already existing Rio Grande System adjudications. The time has now come to address these sensitive aquifers that have not been addressed in the central region.

Q: I want to start a new hotel with hot tubs fed by mineral hot water. Can I do this?

A: Since the signing of this Order 198, you must acquire a water right and transfer it to your location.

Q: Does this Order 198 mean that I can't drill a new well?

A: No, any existing agriculture or commercial well can be replaced, but if you wish to drill a new well to begin a new operation or business, you will have to transfer a valid water right that originates from the source you wish to use (fresh, mineral, or “geothermal” waters that are less than 250° F).

Q: I just need a well for domestic purposes, am I still allowed to drill a well for that?

A: Yes, you may continue to get permits to drill domestic or livestock wells.

Q: I do not understand the language of the State Engineer Order, can you explain it in layman's terms?

A: The OSE seeks to protect the surface and groundwater resources of the Hot Springs Basin. Any new appropriation of water will deplete these resources which will result in impairment of existing water rights. A person would need to file an Application to Change a Water Right with the OSE to transfer an existing valid water right in the Hot Springs Basin for any new purpose of use or simply the same purpose of use in a new location.



Hot Springs State Engineer Order 198



Q: Why will you give me a permit, but the City of T or C won't?

A: The city of T or C has their own rules that apply within city limits. It is up to them if they want to issue permits.

Q: Why is the City of T or C denying my septic application and saying it is due to the State Engineer order?

A: The State Engineer does not have jurisdiction over septic tanks. Please contact the city and/or the New Mexico Environment Department.

Q: I don't want a domestic well for my house. I just want a well to supply hot water for a bath in my backyard.

A: A well to supply hot water for personal use may be permitted under a 72-12-1.1 Domestic Permit, which allows for the diversion of 1.0 acre-feet per year (approximately 362,000 gallons).

Q: The city gave me a business license, but now I can't open my business because I can't get water.

A: Contact the city and inquire if you may connect your business to city water.

Q: Why is the state holding our water hostage to kill the businesses and tourism in the City of T or C?

A: The state is not holding water hostage. An analysis was completed by the Office of the State Engineer Hydrology Bureau who determined that all the water in the Hot Springs basin has been appropriated and any new appropriations will negatively impact the Rio Grande and other wells.

Q: I applied for new appropriation to your office prior to the Order. Will the application be cancelled?

A: No, if it was turned in before the order was signed, the OSE will process the application.

Q: Will the basin ever open again?

A: Not likely because there is no new water to appropriate.

Q: On page two of State Engineer Order 198 it orders under Number 2 that this rescinded Order 196. I could not find Order 196. What does this mean?

A: When the State Engineer first issued the Order closing the Hot Springs Basin to new appropriations, legal counsel numbered it as Order 196. After it was signed, it was discovered that the number 196 was already in use for an Order issued in 2022 which curtails diversions on the Rio Gallinas in San Miguel County. The Hot Springs Order was subsequently renumbered from Order 196 to Order 198 and re-signed to affirm the closure.