April 6, 2026

Troy Hill
Water Division Director, Region 6
U.S. Environmental Protection Agency
1201 Elm St., Suite 500
Dallas, Texas 75270

Re: Submission of Amended Water Quality Standards at 20.6.4 NMAC for Review and Approval - Tijeras Arroyo Use Attainability Analysis

Dear Director Hill:

Pursuant to Section 303(c) of the federal Clean Water Act (CWA) and 40 C.F.R. § 131.20, the New Mexico Environment Department (NMED or Department) submits amendments to 20.6.4 New Mexico Administrative Code (NMAC), *Standards for Interstate and Intrastate Surface Waters,* to the U.S. Environmental Protection Agency (EPA) for review and approval on behalf of the New Mexico Water Quality Control Commission (WQCC). The WQCC adopted this amendment as the result of a public rulemaking hearing to include "Tijeras Arroyo, Rio Grande to Four Hills Bridge" on the State's list of ephemeral waters at 20.6.4.97 NMAC. National Technology & Engineering Solutions of Sandia, LLC (NTESS), operator of Sandia National Laboratories under contract to the Department of Energy's National Nuclear Safety Administration, was the Petitioner in this rulemaking. The WQCC adopted the proposed amendment based on a Use Attainability Analysis (UAA) and the requirements found at 40 C.F.R. § 131.10, 40 C.F.R. § 131.11, 20.6.4.10 NMAC and 20.6.4.15 NMAC. This amendment modifies the hydrological determination of "Tijeras Arroyo, Rio Grande to Four Hills Bridge" from intermittent to ephemeral and adds the segment to the list of ephemeral waters protected under 20.6.4.97 NMAC. The Clean Water Act § 101(a)(2) "fishable/swimmable" designated uses were amended to reflect the change from intermittent to ephemeral determination removing primary contact and marginal warmwater aquatic life and adding secondary contact and limited aquatic life.

The Petitioner engaged NMED and EPA early in the rulemaking process. NMED appreciates the ongoing consultation and assistance provided by your staff. The Petitioner consulted on various elements during the development of the UAA. NMED provided comments, that included a comment letter from EPA, to the Petitioner on September 21, 2021. After incorporating feedback from the NMED and EPA into the UAA, the Petitioner proceeded with a public comment period from February 8, 2025 to April 10, 2025, before requesting and being granted a hearing before the WQCC.

The Petitioner and NMED provided the notice of public hearing and public participation opportunities in accordance with state and federal requirements and included:

- a public comment period on the proposed 20.6.4.97 NMAC amendments and final UAA from August 12, 2025 – December 9, 2025;
- a public meeting on March 5, 2025; and
- consideration of public comment by the WQCC prior to approval of the final adopted rule language.

No comments were received during the public comment periods. The public hearing was held on December 9, 2025, where the Petitioner and Department presented technical testimony in support of the proposed rule amendments. No public comments relevant to the UAA or the proposed amendments were received by the WQCC. However, the WQCC did receive and consider one written public comment related to New Mexico State Rules Act procedures submitted during the rulemaking hearing. The WQCC deliberated at the hearing, ultimately adopting the amendments as detailed in the transcript of proceedings and WQCC's Statement of Reasons and Final Order for Adoption of Amendments to 20.6.4 NMAC, February 6, 2026.

NMED filed the amended rules (WQCC Docketed Matter 25-28(R)) with the State Records Center and Archives on February 12, 2026, with an effective date, for state purposes, of March 14, 2026. The WQCC met all procedural requirements of New Mexico law for adopting water quality standards as noted in the Attorney General Certification included with this submittal.

NMED has enclosed the amended rule as published in the New Mexico Register. Links with complete supporting documentation, response to comments, and other information to aid in EPA's review may be found on NMED's website for this matter at https://www.env.nm.gov/surface-water-quality/tijeras-arroyo-uaa/.

Through NMED's Delegation Order signed on June 23, 2025, the NMED Cabinet Secretary authorized the Surface Water Quality Bureau Chief to prepare and submit surface water quality documents, which include water quality standards amendments, to EPA for approval. We look forward to hearing from your staff about EPA's action on this submission. If there are any questions or concerns, please feel free to contact Stephani Clark Barkalow at stephani.clark-barkalow@env.nm.gov or (505) 819-9823.

Respectfully,

Shelly Lemon Digitally signed by Shelly Lemon
Date: 2026.04.06 20:01:18 -06'00'

Shelly Lemon
Chief, Surface Water Quality Bureau
shelly.lemon@env.nm.gov

Enc.: Amended 20.6.4.97 NMAC
New Mexico Attorney General Certification

Cc: Jasmin Diaz-Lopez, Water Quality Division, EPA Region 6 (diazlopez.jasmin@epa.gov)
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