

STATE OF NEW MEXICO
WATER QUALITY CONTROL COMMISSION

IN THE MATTER OF PETITION TO
NOMINATE SURFACE WATERS
DESIGNATED AS SPECIAL TROUT WATERS, OR
WILD AND SCENIC RIVERS, OR LOCATED WITHIN
A WILDERNESS, PARK, MONUMENT OR REFUGE
AS OUTSTANDING NATIONAL RESOURCE WATERS,

WQCC 24-XX (R)

NEW MEXICO ENVIRONMENT DEPARTMENT,

PETITIONER.



2024 ONRW Designation Nominations

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ACRONYMS:

BLM	Bureau of Land Management
BLM WA	Bureau of Land Management Wilderness Area
BMPs	Best Management Practices
BNM	Bandelier National Monument
CCSP	Cimarron Canyon State Park
CHW	Columbine-Hondo Wilderness
CWA	Clean Water Act
EPA	United States Environmental Protection Agency
ESWMA	Edward Sargeant Wildlife Management Area
HUC	hydrologic unit code
IR	CWA §303(d)/ §305(b) Integrated Report
NMAC	New Mexico Administrative Code
NMED	New Mexico Environment Department
NMDGF	New Mexico Department of Game and Fish
NMSA	New Mexico Statutes Annotated
ONRW	Outstanding National Resource Water
PNHP	Pecos National Historical Park
RC W&S	Rio Chama Wild and Scenic
RGdN NM	Rio Grande Del Norte National Monument
RR W&S	Red River Wild and Scenic
SA WSA	San Antonio Wilderness Study Area
STW	NMDGF Special Trout Water
SWQB	Surface Water Quality Bureau
USFS	United States Forest Service
USGS	United States Geological Survey
VCNP	Valles Caldera National Preserve
WQA	New Mexico Water Quality Act
WQCC	New Mexico Water Quality Control Commission
WQS	Water Quality Standards
WWTP	Wastewater Treatment Plant

I. Introduction

In 2021, Governor Michelle Lujan Grisham issued Executive Order 2021-052 – *Protecting New Mexico’s Lands, Watersheds, Wildlife, and Natural Heritage*, setting a goal to conserve “at least 30 percent (30%) of all lands in New Mexico” by the year 2030. The executive order also directed the natural resource state agencies, including the New Mexico Environment Department (NMED), to form the 30 by 30 Committee to “utilize its existing authorities, funding, and programs...to support and implement programs designed to conserve, protect, and enhance...natural environments across the State” to further the conservation goal. Furthermore, the 30 by 30 Committee is charged with ensuring that their department’s collective efforts “Prevent degradation of surface and ground water quality across watersheds...and ensure resilient local economies...based on agriculture, fishing and outdoor recreation”.

An Outstanding National Resource Water (ONRW) is a stream, lake, or wetland that receives special protection against future degradation under New Mexico’s *Standards for Interstate and Intrastate Surface Waters* (Surface Water Quality Standards or WQS), codified at 20.6.4 New Mexico Administrative Code (NMAC). This designation affords the highest protection of water quality under the State’s antidegradation policy and mirrors the protections established under federal regulations at 40 C.F.R. § 131 and the federal Clean Water Act (CWA). It is important to note that an ONRW designation does not prevent or preclude discharges or anthropogenic activities from occurring, but activities such as these require validation so that they will not cause water quality degradation of the ONRW. Although most types of degradation of water quality is not permitted in ONRWs, certain activities are allowed including:

- temporary, short-term activities to maintain public health or safety,
- existing land use activities,
- acequia operation, maintenance, and repair; and
- watershed restoration activities.

The Water Quality Control Commission (Commission or WQCC) is authorized under the New Mexico Water Quality Act (WQA) (NMSA 1978, § 74-6-4(D)) to adopt and amend WQS for surface waters of the State “based on credible scientific data and other evidence”. Additionally, the adoption of amendments to the State’s WQS must comply with the other requirements of the (WQCA) (NMSA 1978, § 74-6-6), the State Rules Act (NMSA 1978 §§ 14-4-1 to -11), the Small Business Regulatory Relief Act (NMSA 1978 §§ 14-4A-1 to -6) and the Commission’s Rulemaking Procedures (20.1.6 NMAC).

In accordance with 20.6.4.9 NMAC, any person may nominate a surface water of the state as an ONRW by filing a petition with the Commission in accordance with the requirements in 20.6.4.9(A) NMAC, 20.1.6.200 NMAC, and other applicable statutes, regulations, or procedures. Pursuant to 20.6.4.9(B) and (C) NMAC, a surface water of the state may be designated and classified as an ONRW where the Commission determines it will benefit the state of New Mexico and it meets at least one of the eligibility criteria listed in 20.6.4.9(B)(1)-(3) NMAC.

The Commission codified requirements for ONRW nomination and designation during the 2005 Triennial Review (May 2005). The Commission also designated its first river segment as an ONRW (Rio Santa Barbara) at that time (WQCC Docket 03-05(R)). Since then, the Commission has designated waters as ONRWs through the public hearing and rulemaking process four additional times. Most recently, the

Commission adopted waters in the Upper Rio Grande (WQCC Docket 21-51(R)) and Upper Pecos Rivers (WQCC Docket 21-62(R)). Third parties developed and presented these petitions to the Commission. NMED Surface Water Quality Bureau (SWQB) staff worked with these parties to ensure the rulemaking process was adhered to and provided testimony during their proceedings. Additionally, SWQB agreed to continue working with third parties to identify and nominate additional ONRWs eligible for nomination under 20.6.4.9(B)(1). This petition and list of nominated waters is the result of that collaborative effort.

New Mexico's water resources continue to face stressors that contribute to limited and decreasing water supplies. Water plays a key role in ecosystem function and process and maintaining adequate water quality and flow are essential to maintaining habitat, wildlife, and fish species, which in turn are sources of many economic, cultural and spiritual values. Water is consistently recognized across communities in New Mexico as a critically important resource worth protecting.

II. Procedures for Nominating an ONRW - 20.6.4.9(A)(1) – (6) NMAC

SWQB will file a Petition for Rulemaking Hearing (Petition) with the Commission to nominate specific surface waters of the state for designation as ONRWs. These waters meet the criteria listed in 20.6.4.9(B)(1) NMAC and the ONRW designation will protect them from degradation for the immediate and future benefit of the local community, and the State. As required by 20.1.6.200(B) NMAC, SWQB will submit a copy of this nomination, which includes the proposed language amendments to 20.6.4.9(D) NMAC in Appendix C, as well as the full 20.6.4 NMAC with proposed amendments to the Commission as an attachment to the Petition.

This nomination and its appendices provide the information, data, and evidence to demonstrate to the Commission that the nominated waters meet the requirements and criteria to support an ONRW designation as described below.

Paragraphs 1 through 6 of 20.6.4.9(A) NMAC set forth the requirements and procedures for nominating ONRWs. The procedures allow any person to nominate a surface water of the state for designation as an ONRW by filing a petition with the Commission pursuant to their regulations for rulemaking at 20.1.6 NMAC. A petition to designate a surface water of the state as an ONRW shall include:

1. a map of the surface water of the state, including the location and proposed upstream and downstream boundaries (Appendix A),
2. a written statement and evidence based on scientific principles in support of the nomination, including specific reference to one or more of the applicable ONRW criteria listed in Subsection B of 20.6.4.9 NMAC,
3. water quality data including chemical, physical or biological parameters, if available, to establish a baseline condition for the proposed ONRW (Appendix B1 – B4),
4. a discussion of activities that might contribute to the reduction of water quality in the proposed ONRW,
5. any additional evidence to substantiate such a designation, including a discussion of the economic impact of the designation on the local and regional economy within the state of New Mexico and the benefit to the state, and
6. an affidavit of publication of notice of the petition in a newspaper of general circulation in the affected counties and in a newspaper of general statewide circulation (Appendix D).

SWQB addressed and satisfied all procedures prescribed by 20.6.4.9 NMAC and 20.1.6 NMAC for petitioning the Commission for Rulemaking and nominating surface waters for designation as ONRWs as demonstrated in the following sections.

III. SWQB Nomination of ONRWs

A. 20.6.4.9(A)(1) NMAC - Maps of Surface Water Nomination

Table 1 lists the nominated stream reaches and their associated estimated mileage, upstream and downstream boundary descriptions, the United States Geological Service (USGS) 8-Digit Hydrological Unit Code (HUC) Name, 20.6.4.9(B)(1) NMAC nominating criteria, and an Appendix A map figure reference number. A petition to nominate an ONRW must include a map of the surface water of the state, including the location and proposed upstream and downstream boundaries according to 20.6.4.9(A)(1) NMAC. As indicated, Appendix A contains the maps of the nominated surface waters from Table 1.

SWQB developed an associated “Public Comment Draft - Select Statewide 20.6.4.9.B(1) NMAC Streams (2024)” geographic information system (GIS) layer for NMED SWQB OpenEnviroMap¹. SWQB created representative lines depicting the nominated streams utilizing several GIS layers including but not limited to (data source in parentheses):

- National Park Service – Boundaries (U.S. National Park Service)
- National Hydrography Dataset (U.S. Geological Survey)
- National Landscape Conservation System Wilderness Areas (U.S. Bureau of Land Management)
- New Mexico Surface Land Ownership (U.S. Bureau of Land Management)
- Special Trout Waters – Streams (New Mexico Department of Game and Fish)
- United States Forest Service – Boundaries (U.S. Forest Service)
- Wild & Scenic Rivers (U.S. Forest Service)

Table 1. Nominated Water Bodies

Water Body	Stream Miles	Downstream Boundary	Upstream Boundary	USGS 8-Digit HUC	Nominating Criteria	Appendix A Map Figure
Rio Chamita (ESWMA)	8.47	ESWMA boundary	Colorado border	Rio Chama	STW	1
Sixto Creek (ESWMA)	0.97	Rio Chamita confluence	Colorado border	Rio Chama	STW	1
Rio Chama (ESWMA)	3.31	ESWMA boundary	Wolf Creek confluence	Rio Chama	STW	1
Nabor Creek (ESWMA)	3.37	Rio Chamita confluence	Colorado border	Rio Chama	STW	1
Rio Chama	3.37	Heron Reservoir outlet	Cottonwood Flats	Rio Chama	STW	2
Rio Chama	2.88	Rio Nutrias confluence	USGS Gage 08285500 below El Vado Dam	Rio Chama	STW	3

¹Available at <https://gis.web.env.nm.gov/oem/?map=swqb>.

Water Body	Stream Miles	Downstream Boundary	Upstream Boundary	USGS 8-Digit HUC	Nominating Criteria	Appendix A Map Figure
Rio Chama (W&S)*	11.64	USFS Wilderness Streams – Rio Chama ONRW	Rio Nutrias confluence	Rio Chama	RC W&S	3
Rio Chama (W&S)*	11.99	USFS boundary	USFS Wilderness Streams – Rio Chama ONRW	Rio Chama	RC W&S	3
Rio Chama	7.77	Abiquiu Creek confluence	Abiquiu Reservoir	Rio Chama	STW	4
Rio de Los Pinos	2.53	USFS road 87A	2.5 miles upstream to private land	Conejos	STW	5
Rio San Antonio	8.59	Downstream SA WSA boundary	Upstream SA WSA boundary	Conejos	RGdN NM, SA WSA	5
Tanques Creek	2.77	Rio Nutrias confluence	headwaters	Conejos	STW	6
Canada Tio Grande	4.89	Rio Pinos confluence	headwaters	Conejos	STW	6
Cabresto Creek	16.21	USFS boundary	headwaters	Upper Rio Grande	STW	7
Red River (W&S)	4.00	Rio Grande confluence	4 miles upstream	Upper Rio Grande	RR W&S	8
Red River	0.93	Goose Creek confluence	Foster Park Canyon confluence	Upper Rio Grande	STW	9
Columbine Creek	5.31	Red River confluence	headwaters	Upper Rio Grande	CHW, STW	9
Deer Creek	3.28	Columbine Creek confluence	headwaters	Upper Rio Grande	CHW, STW	9
Placer Fork	4.08	Columbine Creek confluence	headwaters	Upper Rio Grande	CHW, STW	9
Willow Fork	2.61	Placer Fork confluence	headwaters	Upper Rio Grande	CHW	9
Goose Creek	5.34	Red River confluence	headwaters	Upper Rio Grande	CHW	9
Bear Canyon	2.76	Red River confluence	headwaters	Upper Rio Grande	CHW	9
Long Canyon	2.54	Rio Hondo confluence	headwaters	Upper Rio Grande	CHW	9
Gavilan Canyon	2.29	Rio Hondo confluence	headwaters	Upper Rio Grande	CHW, STW	9
Italianos Creek	3.12	Rio Hondo confluence	headwaters	Upper Rio Grande	CHW, STW	9
Manzanita Creek	3.36	Rio Hondo confluence	headwaters	Upper Rio Grande	CHW	9
Yerba Creek	3.15	Rio Hondo confluence	headwaters	Upper Rio Grande	CHW, STW	9

Water Body	Stream Miles	Downstream Boundary	Upstream Boundary	USGS 8-Digit HUC	Nominating Criteria	Appendix A Map Figure
Lama Canyon	1.70	CHW boundary	headwaters	Upper Rio Grande	CHW	9
San Cristobal Creek	4.94	CHW boundary	headwaters	Upper Rio Grande	CHW	9
Lobo Creek	3.55	CHW boundary	headwaters	Upper Rio Grande	CHW	9
Gallina Creek	1.32	CHW boundary	headwaters	Upper Rio Grande	CHW	9
Frijoles Creek	3.72	Rito de la Olla confluence	headwaters	Upper Rio Grande	STW	10
Palociento Creek	2.80	Rito de la Olla confluence	headwaters	Upper Rio Grande	STW	10
West Fork Luna Creek	2.98	Luna Creek	headwaters	Upper Rio Grande	STW	10
Cimarron River	8.48	Tolby Creek confluence	CCSP boundary	Cimarron	CCSP, STW	11
Pecos River	2.95	PNHP boundary	PNHP boundary	Pecos Headwaters	PNHP	12
Rito de los Indios	4.56	San Antonio Creek confluence	headwaters	Jemez	VCNP, STW	13
La Jara Creek	5.70	East Fork Jemez confluence	headwaters	Jemez	VCNP	13
Sulphur Creek	5.65	VCNP boundary	headwaters	Jemez	VCNP	13
San Luis Creek	5.75	San Antonio Creek confluence	headwaters	Jemez	VCNP	13
Jaramillo Creek	12.02	East Fork Jemez confluence	headwaters	Jemez	VCNP, STW	13
Rio Cebolla	12.26	Calaveras Creek confluence	headwaters	Jemez	STW	13
Rio Guadalupe	6.30	Deer Creek confluence	Stable Creek confluence	Jemez	STW	14
Rito de los Frijoles	14.35	Rio Grande confluence	headwaters	Rio Grande-Santa Fe	BNM	15
Alamo Canyon	15.15	Rio Grande confluence	headwaters	Rio Grande-Santa Fe	BNM	15
Capulin Creek**	7.20	Downstream BNM boundary	Dome Wilderness	Rio Grande-Santa Fe	BNM, STW	15
Capulin Creek**	3.45	Dome Wilderness	headwaters	Rio Grande-Santa Fe	STW	15
Medio Creek**	3.10	Downstream BNM boundary	Dome Wilderness	Rio Grande-Santa Fe	BNM	15
Lummis Canyon	8.62	Alamo Canyon confluence	headwaters	Rio Grande-Santa Fe	BNM	15

NOTES and ACRONYM:

* Existing ONRW stream reaches in Chama River Canyon Wilderness 20.6.4.9(D)(3)(a)(iii)

** Existing ONRW stream reaches in Dome Wilderness 20.6.4.9(D)(3)(a)(v)

BLM WA	Bureau of Land Management Wilderness Area
BNM	Bandelier National Monument
CCSP	Cimarron Canyon State Park
CHW	Columbine-Hondo Wilderness
ESWMA	Edward Sargent Wildlife Management Area
PNHP	Pecos National Historical Park
RC W&S	Rio Chama Wild and Scenic
RGdN NM	Rio Grande Del Norte National Monument
RR W&S	Red River Wild and Scenic
SA WSA	San Antonio Wilderness Study Area
STW	NMDGF Special Trout Water
VCNP	Valles Caldera National Preserve

B. 20.6.4.9(A)(2) NMAC - Statement and Evidence in Support of the Nomination

A petition to nominate an ONRW must include a written statement and evidence based on scientific principles in support of the nomination, including specific reference to one or more of the applicable ONRW criteria listed in 20.4.6.9(B) NMAC. All nominated stream reaches in this Petition fall under the criteria in 20.6.4.9(B)(1) NMAC which states:

the water is a significant attribute of a state special trout water, national or state park, national or state monument, national or state wildlife refuge or designated wilderness area, or is part of a designated wild river under the federal Wild and Scenic Rivers Act.

The specific criterion in 20.6.4.9.B(1) NMAC for each nominated stream reach is included in Table 1. Some nominated stream reaches fall under more than one criterion, highlighting their importance to the ecosystem in maintaining habitat for plants and wildlife while providing attractive outdoor recreational opportunities. For some nominated stream reaches, like special trout waters (STW) or Wild and Scenic Rivers (W&S), the waters are an integral part of its existing designation and uses. For parks, monuments, refuges and wilderness areas, the nominated waters play a significant role in maintaining the health of the surrounding ecosystems and living organisms and create or enhance recreational opportunities and experiences in surrounding areas. As noted previously and displayed in the maps provided in Appendix A, many of the nominated waters are near previously designated ONRWs and share many of the same ecological characteristics that support native flora and fauna and recreational opportunities that benefit local economies, outdoor enthusiasts, and other visitors. ONRW designation will complement and enhance the management goals of the existing land or water designations and benefit protection, conservation, or restoration efforts in and downstream of the nominated waters.

Of the currently nominated water bodies, 34 of 54, or nearly 63%, are designated as STW (31) or W&S rivers (3). STW designations enhance unique fishing opportunities and promote native trout conservation. STWs are managed by the NMDGF with different goals in mind including to produce trophy sized trout, improve conservation of native trout, or to enhance the overall trout population structure and density. Fishing regulations are tailored to the water body and include modified bag limits, catch-and-release for native species like Rio Grande cutthroat trout, and restricted tackle. It is also illegal to disturb rocks, plants, or sediment to attract fish increasing the protection of the physical habitat².

² Available at <https://www.wildlife.state.nm.us/fishing/game-fish/cold-water-regulations-2/>.

Similarly, Wild and Scenic Rivers possess “outstandingly remarkable” characteristics including unique scenic, recreational, geologic, fish and wildlife, historic, cultural,” or other similar values. While the two designations share similar, mutually reinforcing criteria, ONRW designation would complement and strengthen water quality protections for W&S rivers. The federal Wild and Scenic Rivers Act does not provide any water quality-based protections, such as designated uses, water quality criteria, or antidegradation requirements. However, the State affords surface waters designated as ONRWs the highest level of water quality-based protection under the New Mexico’s Antidegradation Policy and Implementation Plan in 20.6.4.8 NMAC and are classified as Tier III waters in the State’s Water Quality Management Plan and Continuing Planning Policy (WQMP-CPP).

Streams and lakes in wilderness areas, refuges, preserves and parks play a significant role in supporting wildlife habitat and living organisms, as well as providing ample recreation opportunities for visitors. They also provide scenic, scientific and historic value especially in an arid state like New Mexico. For wilderness areas, these values have specifically been recognized during the designation process for protection of the lands and watersheds.

As outlined above, each of the nominated stream segments meet the criteria in 20.6.4.9(B)(1) NMAC. Therefore, ONRW designation would benefit the state of New Mexico because enhanced water quality protection will help maintain and support:

1. a clean water supply for present and future generations of New Mexicans,
2. healthy, functioning ecosystems, preserve habitat, and support biodiversity,
3. the recreational benefits in these areas, and
4. the designated uses of the waters under in 20.6.4 NMAC.

C. 20.6.4.9(A)(3) NMAC - Water Quality Data

A petition must include water quality data, including chemical, physical, or biological parameters, *if available* (emphasis added), to establish baseline conditions for the proposed water bodies.

SWQB monitors water quality around the State to generate the primary source of surface water quality data statewide. The core mission of SWQB’s Monitoring Program is the collection of relevant water quality data in New Mexico’s surface waters utilizing scientific methods to determine whether surface waters are meeting their designated uses codified in the WQS at 20.6.4 NMAC. SWQB uploads data to the U.S. Environmental Protection Agency’s (EPA) Water Quality Exchange for public download via the Water Quality Portal³. SWQB Monitoring Assessment and Standards Section fulfills surface water quality monitoring needs to the extent possible given available resources, NMED priorities, and strategic goals.

Monitoring staff develop and implement field sampling plans to ensure all necessary chemical, biological, and physical data needed to determine attainment of New Mexico’s water quality standards are collected during water quality surveys. SWQB utilizes a rotational watershed monitoring approach. Monitoring focuses primarily on physical, chemical, and biological conditions in perennial waters, and includes sampling for pollutants that have numeric or narrative water quality criteria in New Mexico. Available SWQB-collected water quality data, including chemical data (i.e., nutrients, heavy metals, total dissolved solids, total suspended solids, and E. coli); field data (i.e., dissolved oxygen, flow, specific

³ Available at: <https://www.epa.gov/waterdata/water-quality-data>.

conductance, temperature, and pH); benthic macroinvertebrate data; long-term temperature and dissolved oxygen deployment data; and geomorphology habitat data (e.g., wetted bank width, substrate size classes, pool depth, etc.) are provided in Appendix B1 – B4.

SWQB compares collated water quality data to current water quality standards using consistent, documented processes. New Mexico’s listing methodology is described in the Comprehensive Assessment and Listing Methodology (CALM)⁴. This document explains how SWQB evaluates surface water quality data and other information within defined assessment units (AUs) to determine whether surface water quality standards are being met. AUs can represent a single lake or reservoir, length of a stream reach or river, or surface waters within a delineated area such as a watershed. SWQB generally defines AUs through various factors such as hydrologic or watershed boundaries, WQS found in 20.6.4 NMAC, geology, topography, incoming tributaries, surrounding land use/land management, etc. AUs are intended to represent surface waters with assumed homogenous water quality. Some of the nominated stream reaches in this demonstration are portions of an AU while the majority are the entire AU. The CWA requires SWQB to identify impaired waterbodies and provide a report on water conditions to the public and EPA every two years. This report is commonly referred to as the CWA 303(d) / 305(b) Integrated Report (IR)⁵. A summary of current water quality standards attainment based on the 2024-2026 IR is provided in Table 2. Many of the proposed stream reaches are meeting all monitored water quality standards for their designated uses.

Table 2. Summary of Water Quality Condition

Water Body*	Associated AU	NMAC Reference	Condition - IR Category**	Cause(s) of Water Quality Impairment
Rio Chamita (ESWMA)	Rio Chamita (Rio Chama to CO border)	20.6.4.119	Impaired - 4A	Total Ammonia, E. coli, Nutrients, Temperature
Sixto Creek (ESWMA)	Sixto Creek (Rio Chamita to CO border)	20.6.4.119	Impaired - 4A	Temperature
Rio Chama (ESWMA)	Rio Chama (Little Willow Creek to CO border)	20.6.4.119	Impaired - 4A	Temperature
Nabor Creek (ESWMA)	Nabor Creek (Rio Chamita to CO border)	20.6.4.98	Not Assessed - 3/3A	Unknown (no data)
Rio Chama	Rio Chama (El Vado Reservoir to Rito de Tierra Amarilla)	20.6.4.119	Impaired - 4A	E. coli, Nutrients, Temperature
Rio Chama	Rio Chama (Abiquiu Reservoir to El Vado Reservoir)	20.6.4.118	Not Impaired - 1	None
Rio Chama (W&S)	Rio Chama (Abiquiu Reservoir to El Vado Reservoir)	20.6.4.118	Not Impaired - 1	None
Rio Chama (W&S)	Rio Chama (Abiquiu Reservoir to El Vado Reservoir)	20.6.4.118	Not Impaired - 1	None
Rio Chama	Rio Chama (Abiquiu Creek to Abiquiu Dam)	20.6.4.116	Not Impaired - 1	None
Rio de Los Pinos	Rio de los Pinos (New Mexico reaches)	20.6.4.123	Impaired - 5/5A	Total Recoverable Aluminum, Temperature
Rio San Antonio	Rio San Antonio (CO border to Montoya Canyon)	20.6.4.123	Impaired - 5/5A	Total Recoverable Aluminum, Dissolved Oxygen, Temperature

⁴ Available at: <https://www.env.nm.gov/surface-water-quality/calm/>.

⁵ Available at: <https://www.env.nm.gov/surface-water-quality/303d-305b/>.

Water Body*	Associated AU	NMAC Reference	Condition - IR Category**	Cause(s) of Water Quality Impairment
Tanques Creek	Tanques Creek (Rio Nutritas to headwaters)	20.6.4.98	Not Assessed - 3/3A	Unknown (no data)
Canada Tio Grande	Canada Tio Grande (Rio San Antonio to headwaters)	20.6.4.123	Impaired - 5/5A	Dissolved Oxygen, E. coli, Temperature
Cabresto Creek	Cabresto Creek (Red River to headwaters)	20.6.4.123	Impaired - 5/5A	Dissolved Oxygen
Red River (W&S)	Red River (Rio Grande to Placer Creek)	20.6.4.122	Impaired - 5/5A	Turbidity
Red River	Red River (Placer Creek to East Fork Red River)	20.6.4.123	Impaired - 5/5C	Benthic Macroinvertebrates
Columbine Creek	Columbine Creek (Red River to headwaters)	20.6.4.123	Not Impaired - 1	None
Deer Creek	Deer Creek (Columbine Creek to headwaters)	20.6.4.98	Not Assessed - 3/3A	Unknown (no data)
Placer Fork	Placer Fork (Columbine Creek to headwaters)	20.6.4.123	Not Impaired - 2	None
Willow Fork	Willow Fork (Placer Fork to headwaters)	20.6.4.98	Not Assessed - 3/3A	Unknown (no data)
Goose Creek	Goose Creek (Red River to headwaters)	20.6.4.123	Not Impaired - 1	None
Bear Canyon	Bear Canyon (Red River to headwaters)	20.6.4.98	Not Assessed - 3/3A	Unknown (no data)
Long Canyon	Long Canyon (Rio Hondo to headwaters)	20.6.4.98	Not Assessed - 3/3A	Unknown (no data)
Gavilan Canyon	Gavilan Canyon (Rio Hondo to headwaters)	20.6.4.98	Not Assessed - 3/3A	Unknown (no data)
Italianos Creek	Italianos Creek (Rio Hondo to headwaters)	20.6.4.123	Not Impaired - 2	None
Manzanita Creek	Manzanita Creek (Rio Hondo to headwaters)	20.6.4.123	Not Impaired - 2	None
Yerba Creek	Yerba Creek (Rio Hondo to headwaters)	20.6.4.98	Not Assessed - 3/3A	Unknown (no data)
Lama Canyon	Lama Canyon (wilderness boundary to headwaters)	20.6.4.98	Not Assessed - 3/3A	Unknown (no data)
San Cristobal Creek	San Cristobal Creek (Rio Grande to headwaters)	20.6.4.123	Not Impaired - 1	None
Lobo Creek	Lobo Creek (wilderness boundary to headwaters)	20.6.4.98	Not Assessed - 3/3A	Unknown (no data)
Gallina Creek	Gallina Creek (wilderness boundary to headwaters)	20.6.4.98	Not Assessed - 3/3A	Unknown (no data)
Frijoles Creek	Frijoles Creek (Rito de la Olla to headwaters)	20.6.4.98	Not Assessed - 3/3A	Unknown (no data)
Palociento Creek	Palociento Creek (Rito de la Olla to headwaters)	20.6.4.98	Not Assessed - 3/3A	Unknown (no data)
West Fork Luna Creek	West Fork Luna Creek (Luna Creek to headwaters)	20.6.4.98	Not Assessed - 3/3A	Unknown (no data)
Cimarron River	Cimarron River (Turkey Creek to Eagle Nest Lake)	20.6.4.309	Impaired - 5/5A	Nutrients, Temperature, Turbidity

Water Body*	Associated AU	NMAC Reference	Condition - IR Category**	Cause(s) of Water Quality Impairment
Pecos River	Pecos River (Canon de Manzanita to Alamitos Canyon)	20.6.4.217	Impaired - 5/5A	Dissolved oxygen, Temperature
Rito de los Indios	Rito de los Indios (San Antonio Creek to headwaters)	20.6.4.108	Impaired - 5/5A	Total Recoverable Aluminum, Nutrients, Temperature
La Jara Creek	La Jara Creek (East Fork Jemez to headwaters)	20.6.4.108	Impaired - 5/5B	Total Recoverable Aluminum, Temperature
Sulphur Creek	Sulphur Creek (Redondo Creek to headwaters)	20.6.4.124	Impaired - 5/5B	Dissolved Aluminum
San Luis Creek	San Luis Creek (San Antonio Creek to headwaters)	20.6.4.98	Not Assessed - 3/3A	Unknown (no data)
Jaramillo Creek	Jaramillo Creek (East Fork Jemez to headwaters)	20.6.4.108	Impaired - 5/5A	Total Recoverable Aluminum, E. coli, Nutrients, Sedimentation, Turbidity
Rio Cebolla	Rio Cebolla (Fenton Lake to headwaters)	20.6.4.108	Impaired - 5/5C	Total Recoverable Aluminum, Nutrients, Turbidity
Rio Guadalupe	Rio Guadalupe (Jemez River to confluence with Rio Cebolla)	20.6.4.108	Impaired - 4A	Nutrients, Specific Conductance, Temperature, Turbidity
Rito de los Frijoles	Rito de los Frijoles (Rio Grande to headwaters)	20.6.4.121	Impaired - 5/5C	DDT - Fish Consumption Advisory
Alamo Canyon	Alamo Canyon (Rio Grande to headwaters)	20.6.4.121	Not Assessed - 3/3A	Unknown (no data)
Capulin Creek	Capulin Creek (Rio Grande to headwaters)	20.6.4.121	Not Impaired - 1	None
Capulin Creek	Capulin Creek (Rio Grande to headwaters)	20.6.4.121	Not Impaired - 1	None
Medio Creek	Medio Creek (Rio Grande to headwaters)	20.6.4.98	Not Assessed - 3/3A	Unknown (no data)
Lummis Canyon	Lummis Canyon (Alamo Canyon to headwaters)	20.6.4.98	Not Assessed - 3/3C	Unknown (no data)

NOTES:

*Water bodies cross referenced to Table 1.

**IR Category definitions⁶: 1-2 = Not Impaired for parameters monitored, 3 = Not Assessed (no data), 4 – 5 = Impaired for one or more parameters monitored

D. 20.6.4.9(A)(4) NMAC - Activities that Might Reduce Water Quality

A petition to nominate an ONRW must describe activities that may contribute to the reduction of water quality in the proposed ONRW 20.6.4.9(A)(4) NMAC. The existing and potential activities discussed below could reduce water quality in the nominated waters.

⁶ More detailed descriptions available at: <https://www.env.nm.gov/surface-water-quality/calm/>

i. Climate Change

As the climate warms, so do rivers and streams. High stream temperature is the most common water impairment in New Mexico and is especially dangerous to aquatic life. Hotter water holds less oxygen, thus reducing the amount of dissolved oxygen available for fish. In addition, hotter climates can result in higher evaporation rates and lower stream flows, which can result in the concentration of pollutants in rivers and streams. Climate change also affects the global hydrologic cycle, and therefore the quality, quantity, and timing of stream flows. Drying events due to the altered hydrologic cycle can be especially detrimental to aquatic life. Erosion is expected to increase because of higher peak flows as well as from increased intensity and frequency of wildfires. In turn, sediment loads are expected to increase, affecting municipal water supplies and aquatic habitats. Healthy watersheds buffer the impacts of disturbances such as fire, floods, drought, and other disruptions, and, in doing so, yield water of high quality farther downstream in the watershed. This resilience is especially noticeable when it is gone, as in the aftermath of catastrophic fire or extensive defoliation and soil erosion. The vicious cycle of climate change and drought damage watershed health in many ways. Higher temperatures can both increase and impair plant transpiration. Reduced precipitation exacerbates this effect, and, over time, such landscapes become denuded, either suddenly through fire or gradually through decreased soil moisture and plant death. Widespread bare soil is a major detriment to watersheds because it is vulnerable to erosion and consequent silting of streams, and, most importantly, because it has lost its ability to hold water and process its contaminants. From a water quality perspective, bare soil must be prevented or reversed in a watershed to enhance watershed resilience and hydrologic function and maintain a healthy watershed that supplies clean water in the face of climate change.

ii. Wildfires

As discussed above, climate change exacerbates the threat of wildfires, and is expected to continue to do so throughout the Southwest, in particular. Wildfire is a natural process needed for a healthy environment, but the natural wildfire regime has been disrupted resulting in wildfires that burn hotter, larger, and longer. Wildfire season has grown longer, and wildfire impacts have worsened. Recently New Mexico experienced its largest forest fire ever in the Hermits Peak/Calf Canyon Fire in 2022. Debris flow and soil erosion following wildfire can reduce water quality by increasing sediment load, resulting in increased turbidity, increased temperature, increased specific conductance, and changes in dissolved oxygen. Ash and debris flows following wildfires can also have detrimental impacts on fish populations. Species resilience following these disturbance events may depend on maintaining habitat connectivity that provide refuge and critical dispersal corridors for aquatic species. Unfortunately, watershed recovery in high-intensity burn scars is often a long, slow, process; however, healthy watersheds that experience lower-intensity burns recover more quickly.

iii. Dams

Dams have many positive and necessary attributes; however, they can also negatively affect water quality and the natural processes of a river or stream. Changing the ecosystem from a river to a lake can have effects on fish, water temperature, and dissolved oxygen. The stagnant water along with nutrients and abundant sunlight often lead to the right conditions for producing large amounts of plants and algae, which is more likely to result in eutrophication. These conditions also increase the likelihood of harmful algal blooms that can produce toxins dangerous to human and animal health. Because the water slows as it approaches the dam, sediments collect upstream of a dam including in the lake, which can change the substrate composition of the river or stream both upstream and downstream of the dam; this results in excess sediments upstream of the dam and what is known as “sediment-starved” rivers or streams downstream of the dam. The collected sediment can contain contaminants that may be released over time into the lake and then flow downstream. Dams disconnect the watershed and act

as a barrier to aquatic species from travelling throughout the watershed. The water at the bottom of a reservoir is normally much cooler than the surface; sometimes this will lead to cool water temperatures at the outflow of the dam. The altered flow downstream of a dam can affect aquatic life by altering the physical conditions of the river or stream. The timing of the dam releases and downstream flows can also interfere with natural cycles of aquatic life.

iv. Hard Rock Mining

More than 40 percent of stream reaches in western watersheds are contaminated by acid mine drainage and associated heavy metals. Acid mine drainage from mining activities have caused massive fish kills and have poisoned migratory birds at many sites across the west. Mine drainage can also affect the reproduction of aquatic plants and animals and contaminate drinking water.

v. Development and Transportation

Increased sediment loading from roads and development can impair water quality. The relationship between road building in formerly undisturbed areas and increased sediment yield in streams is well established. When impervious surfaces cover greater areas in a watershed, runoff quantity and velocity increases, which results in increased erosion and loading of sediment and other contaminants, such as metals, organics, and PCBs. Any increase in sediment in streams affects inflow of oxygen, increases water temperature, and negatively impacts food availability. Not only do these factors decrease fish populations and increase fish stress, but they also degrade the fishing experience, reducing water clarity. In addition, increased sediment loading in a stream can contribute to increased conductivity. A rapid or larger than normal increase in conductivity, in turn, can adversely affect aquatic organisms if they do not have the time or capacity to adapt.

vi. Increased Recreational Use without Proper Management

Recreation is an essential part of what makes these rivers deserving candidates for ONRW designation. However, to ensure this resource is available for future generations, recreation in and around waterbodies must be properly managed and accompanied by robust water quality protections. Poorly managed recreational use of a watershed can lead to increased erosion and other water quality issues, such as excess *E. coli*, nutrients, and other contaminants in and along the water body.

vii. Illegal Waste Disposal

Illegal dumping of trash and other waste is a threat to water quality across much of New Mexico, including the nominated waters.

viii. Point Source Discharges

The National Pollutant Discharge Elimination System (NPDES) permit program regulates point source pollution discharges to surface waters. In New Mexico the NPDES program is administered by EPA with the assistance of SWQB staff that review and certify that permits comply with New Mexico law. Additionally, SWQB staff conduct compliance evaluation inspections of NPDES permit holders on behalf of EPA. Four of the nominated waters have existing point sources with individual NPDES permits. Three permits are for fish hatcheries, two are for wastewater treatment plants (WWTP), and one for a closed mining facility undergoing cleanup and remediation activities.

Table 3 lists nominated waterbodies with existing individual National Pollutant Discharge Elimination System (NPDES) permits, major dams, or recent wildfire burn scar (since 2017) within the 12-digit USGS HUC upstream (or contributing tributaries) of the proposed stream reach.

Table 3. Identified Upstream Activities with the Potential to Reduce Water Quality

Water Body	NPDES permits	Dams	Recent Wildfires
Rio Chama	NMDGF Los Ojos State Fish Hatchery, NM0030139	N/A	N/A
Rio Chama	N/A	El Vado Dam	N/A
Rio Chama (W&S)	N/A	El Vado Dam	N/A
Rio Chama (W&S)	N/A	El Vado Dam	Indios (2024)
Rio Chama	N/A	Abiquiu Dam	N/A
Red River (W&S)	NMDGF Red River State Fish Hatchery, NM0030147 Chevron Mining, Inc. Questa Mine, NM0022306	N/A	N/A
Cimarron River	N/A	Eagle Nest Dam	Ute Park/Cimarron (2018)
Pecos River	Village of Pecos WWTP, NM0029041 NMDGF Lisboa Fish Hatchery, NM0030121	N/A	Rincon (2021) Calf Canyon (2022)
Rio Cebolla	NMDGF Seven Springs Fish Hatchery, NM0030112	N/A	N/A
Rio Guadalupe	N/A	N/A	Venado (2018)
Alamo Canyon	N/A	N/A	Cerro Pelado (2022)
Capulin Creek	N/A	N/A	Cerro Pelado (2022)
Capulin Creek	N/A	N/A	Cerro Pelado (2022)

E. 20.6.4.9(A)(5) NMAC – Additional Evidence to Substantiate Designation

A petition may set forth additional evidence to substantiate such a designation, including a discussion of the economic impact of the designation on the local and regional economy within the State of New Mexico and the benefit to the state. 20.6.4.9.A(5) NMAC. ONRW designation can help protect not only the waters of the nominated waterbodies but also the contributing watershed and surrounding ecosystems and communities that rely on these waters. Additionally, many of the local economies near the nominated waters rely on agriculture, tourism and outdoor recreation that benefit from clean water, scenic views, and the opportunities that clean water and healthy watersheds afford.

The economic impact of national forests on the surrounding local and regional economies has been demonstrated in past adoptions of ONRWs. The University of New Mexico’s Bureau of Business and Economic Research (BBER) has evaluated the two national forests that the waters in this proposal are located within: the Carson National Forest and Santa Fe National Forest. The BBER reports described the socioeconomic impact on forest users, and the impact of each forest on the surrounding local and regional economy. Past ONRW petitions provided key information and tables from the BBER reports that attempted to quantify the direct, indirect and induced financial benefits of ranching, timber harvesting, recreation and forest service operations on regional and local economies for each national forest. The BBER reports covered the full range of activities that occur within national forests. Because this nomination is for waters within wilderness areas, special trout waters, parks, monuments, and wild and scenic rivers where the range of activities is a subset of those that occur within the entire national forest, the economic benefits of existing activities in these areas are a subset of those for the entire

national forests. No documentation was available from BBER or the U.S. Forest Service (USFS) regarding economic benefits of these areas alone.

This proposed ONRW designation of waters will have little to no detrimental economic impact on existing uses within these areas because there are no new requirements that will apply to existing activities. Therefore, existing economic benefits experienced by the various sectors that rely on the national forests are expected to continue if the proposed waters are designated as ONRWs.

Under the current WQS, discharges from “preexisting land-use activities” that are controlled by best management practices (BMPs) and do not have new or increased discharges are exempt from any additional requirements as a result of ONRW designation per 20.6.4.8.A(4)(e) NMAC. NMED does not propose to alter the protection given to existing uses under the current regulations but intends to maintain this protection. For example, NMED recently revised its Memorandum of Understanding (MOU) with USFS outlining the responsibilities of each agency to oversee and manage waters, and consequently water quality, within the National Forest System (NFS) to protect and improve the quality of the state’s waters to assure clean water for downstream communities. The MOU details the responsibilities of each party to work toward these common and mutually beneficial goals, providing specific requirements and actions and explicitly addressing ONRWs on NFS land. The MOU acknowledges USFS as the Commission’s Designated Management Agency for implementation of the New Mexico Nonpoint Source Pollution Management Program on NFS lands. Additionally, NMED and USFS hold an annual planning and collaboration meeting to maintain communication, evaluate goals and priorities, and direct work to protect or restore water quality on NFS lands. Furthermore, NMED and USFS require site specific BMPs to be developed and implemented for projects that could impact water quality on or downstream of NFS lands.

While ONRW designation is not expected to result in detrimental economic impacts to existing land uses, the designation will produce benefits to the state. By designating waters as ONRWs, New Mexico takes an important step to ensuring water quality protection of streams that ultimately feed downstream public drinking water supplies, agriculture, recreation, cultural and other important uses. Snowpack in the mountains high in the watersheds melts and snowmelt provides much of the annual streamflow in New Mexico. Healthy watersheds filter contaminants from water and provide other important benefits such as flood control, wildfire mitigation and drought resilience. These are valuable and irreplaceable benefits that are difficult to quantify and can be easily overlooked and taken for granted.

ONRW designation can help to protect wildlife habitat provided by designated waters. Additionally, the designation can help to preserve rivers and streams enjoyed by numerous New Mexicans and tourists, annually. Although economic information is not available for recreational and wildlife uses of wilderness areas, parks, special trout waters, or wild and scenic rivers individually, the state derives a significant amount of economic benefits from Recreational Vehicle camping, fishing, hunting, hiking, birding and other outdoor recreation activities.

Outdoor recreation also boosts and diversifies New Mexico’s economy overall. In 2019, Governor Michelle Lujan Grisham and the New Mexico Legislature created an Outdoor Recreation Division (ORD) within the Economic Development Department, and an accompanying Outdoor Recreation Infrastructure Fund. Through 2021, ORD invested nearly \$12 million dollars to bolster access to the outdoors, conserve outdoor recreation assets, create new jobs, and support outdoor infrastructure improvements. The U.S. Department of Commerce’s Bureau of Economic Analysis (BEA) reported that the economic output for New Mexico’s outdoor recreation was 2.1% of the State’s Gross Domestic

Product (GDP), or \$2.3 billion. Compared to the previous year, this was a \$400 million increase year-over-year, outpacing the national average growth rate in the industry by 2.5%. Employment in the outdoor recreation sector in New Mexico also realized a substantial increase in 2021, up to 28,475 accounting for an 18.2% increase from 2020.

F. 20.6.4.9(A)(6) NMAC – Affidavit of Publication

A petition must provide an affidavit of publication of notice of the petition in a newspaper of general circulation in the affected counties and a newspaper of general statewide circulation. The notice of petition was published on July 19, 2024, in the Santa Fe New Mexican, and on July 20, 2024, in the Albuquerque Journal. Additionally, a listserv email was sent to approximately 1,900 subscribers announcing the petition. A copy of the notice of the petition and affidavits of publication are provided as Appendix D. NMED was unable to publish notice of the petition in the Los Alamos Monitor, The Taos News, and the Las Vegas Optic as these newspapers are not vendors to provide services to the state.

If granted a hearing in this matter, SWQB will provide a public notice of rulemaking and associated information in accordance with the State Rules Act (NMSA 1978 §§ 14-4-1 to -11) and the Commission's Rulemaking Procedures (20.1.6 NMAC).

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Appendix A. Maps of Nominated Surface Waters

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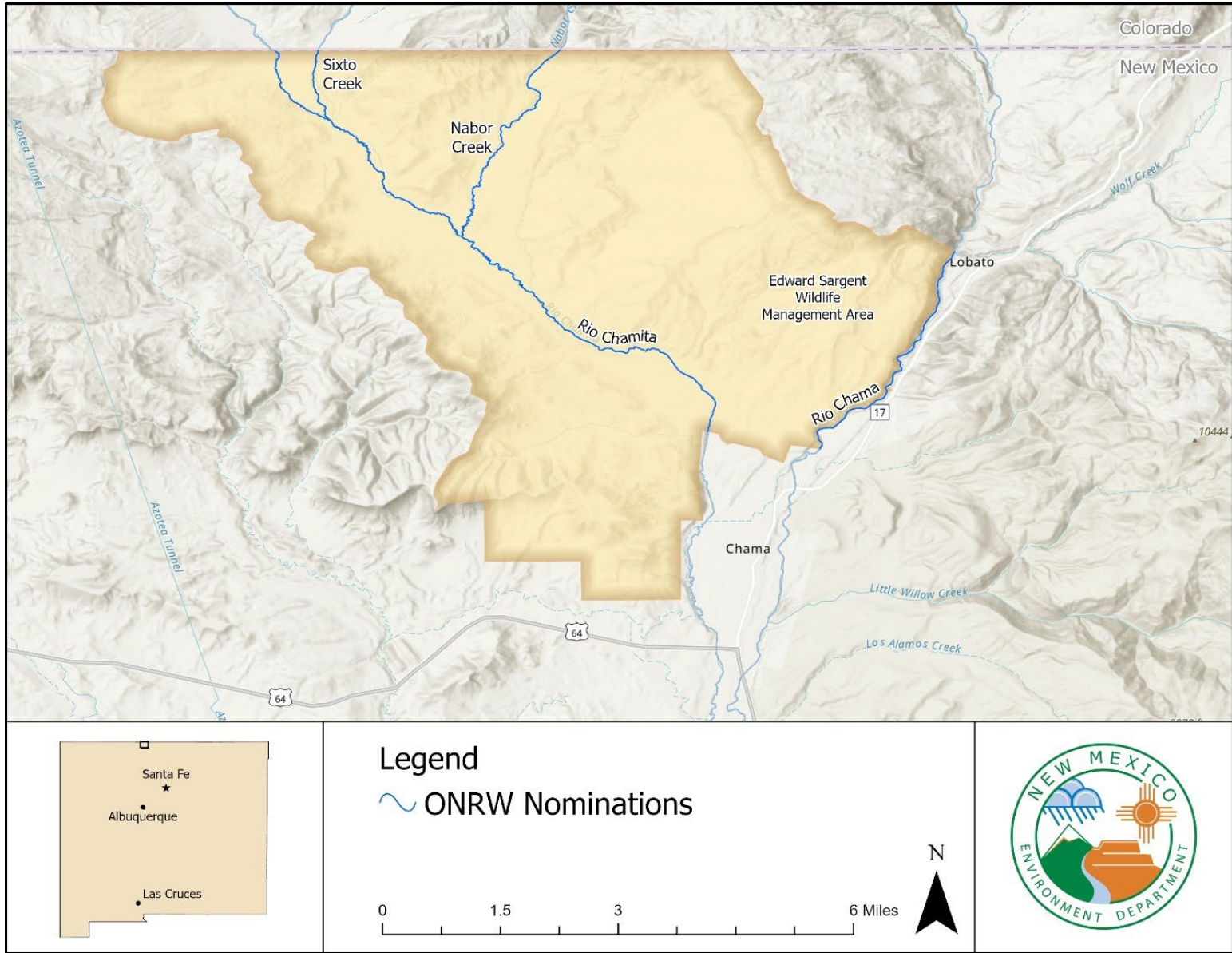


Figure 1. Edward Sargeant Wildlife Management Area Nominations

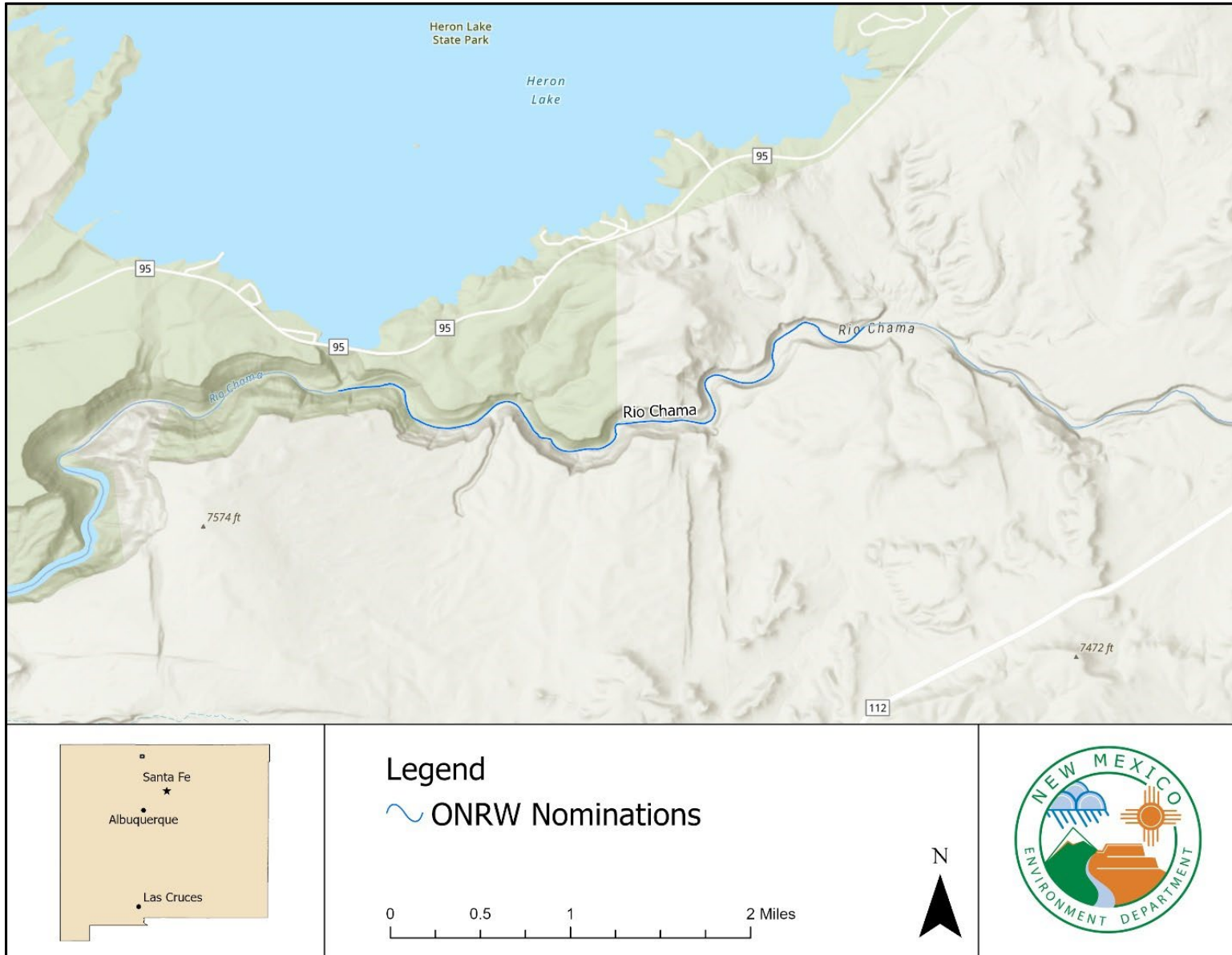


Figure 2. Rio Chama Above Heron Reservoir Outlet Special Trout Water Nomination

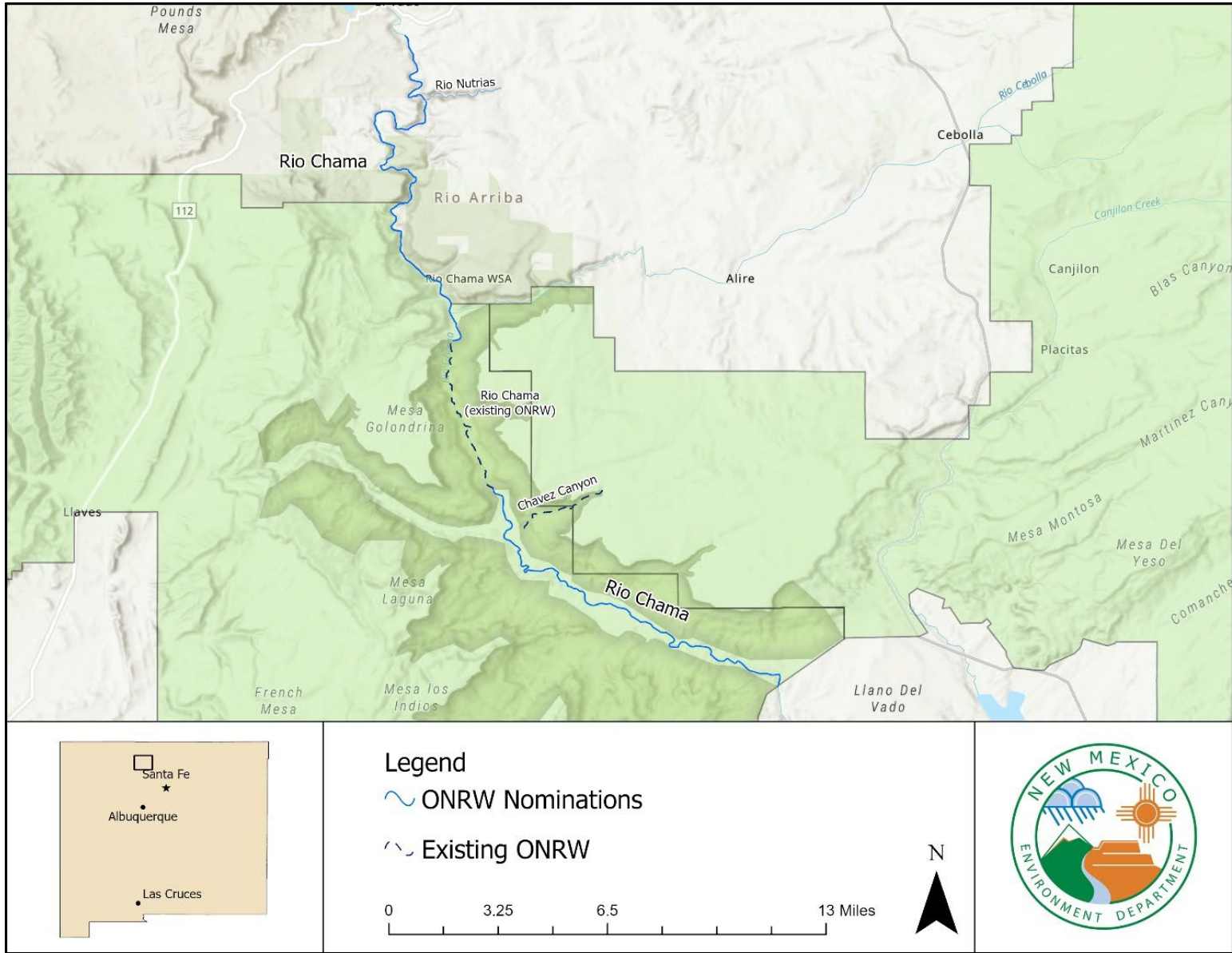


Figure 3. Rio Chama Wild and Scenic Nomination

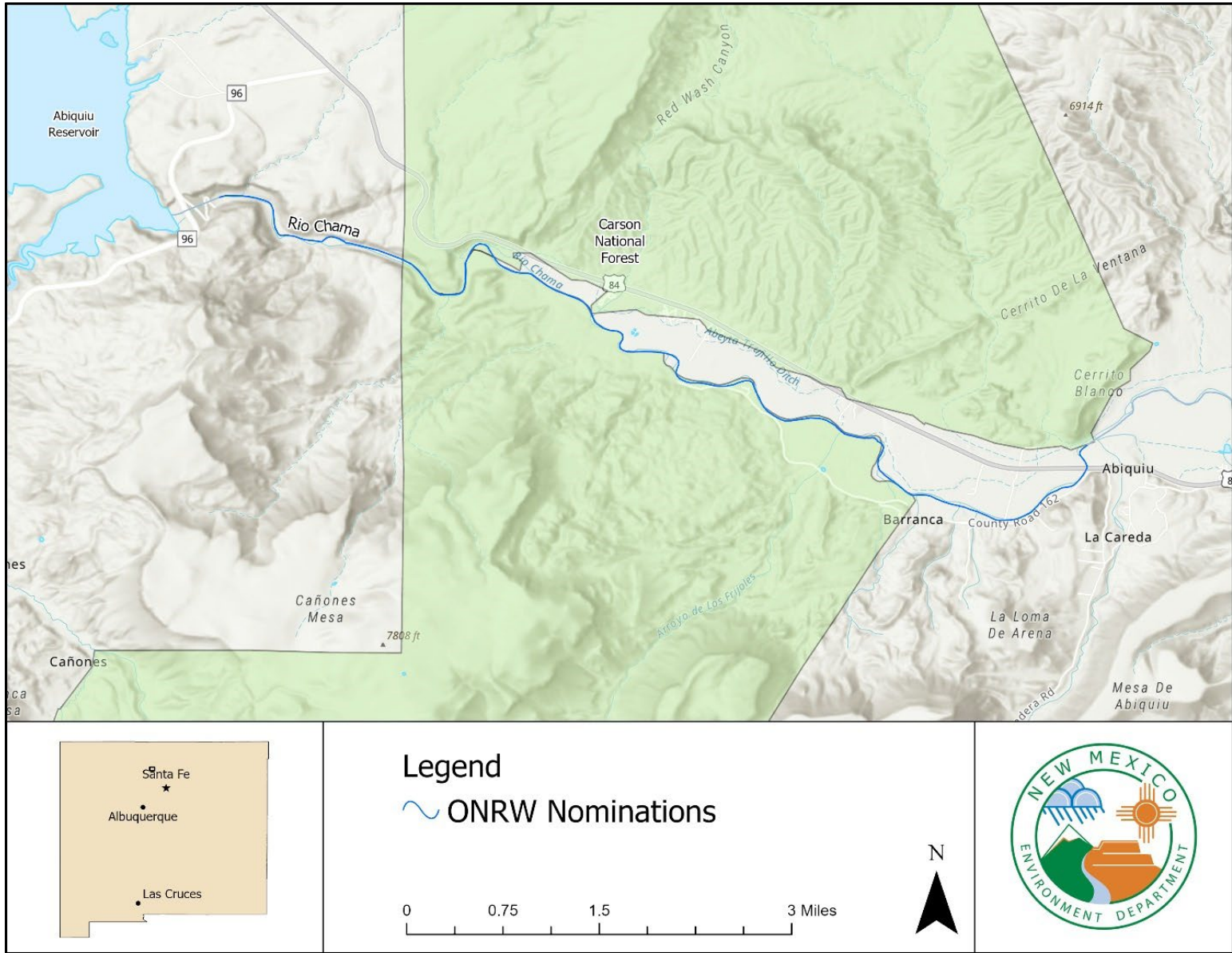


Figure 4. Rio Chama Below Abiquiu Reservoir Special Trout Water Nomination

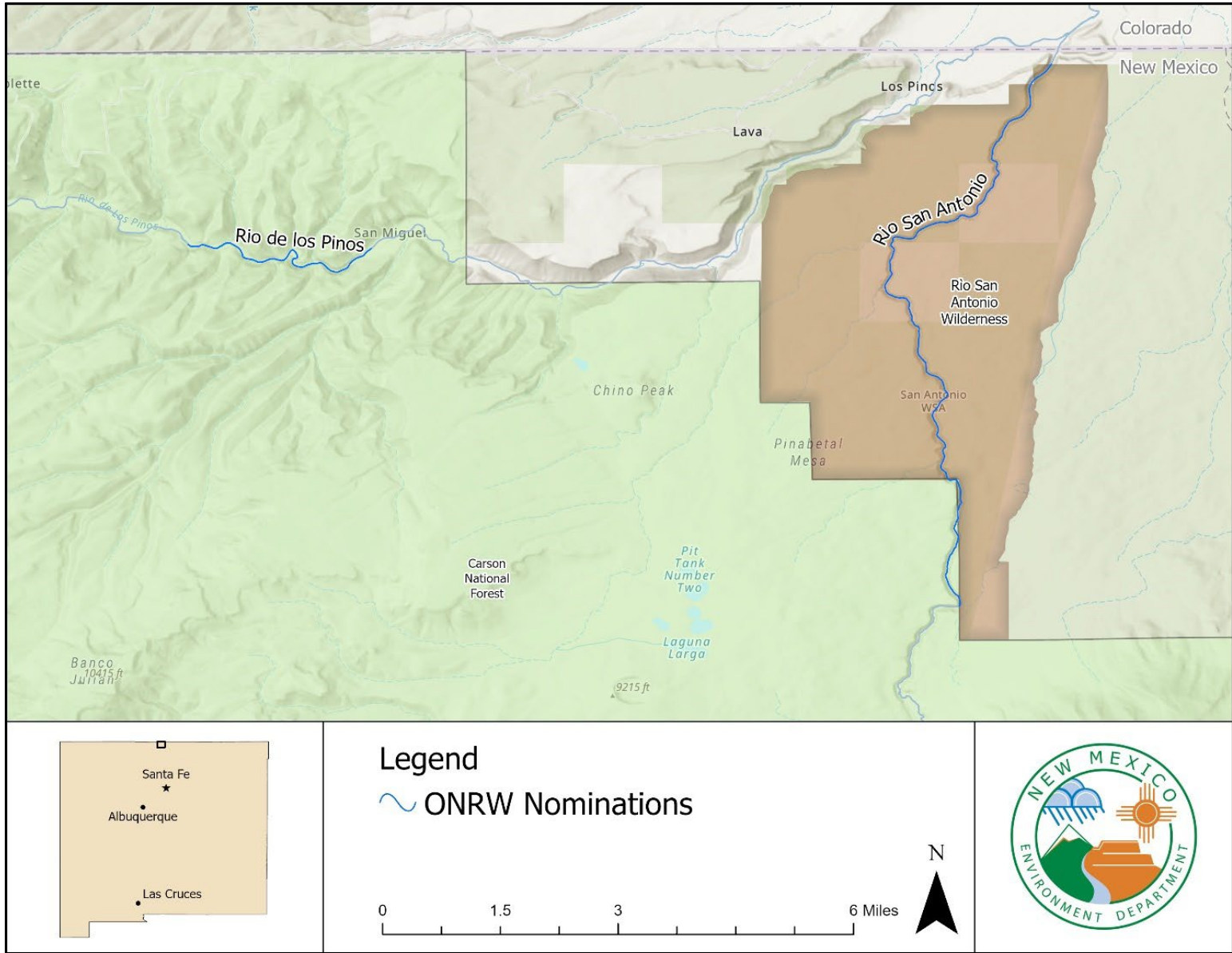


Figure 5. Rio de Los Pinos Special Trout Water and Rio San Antonio Wilderness Nominations

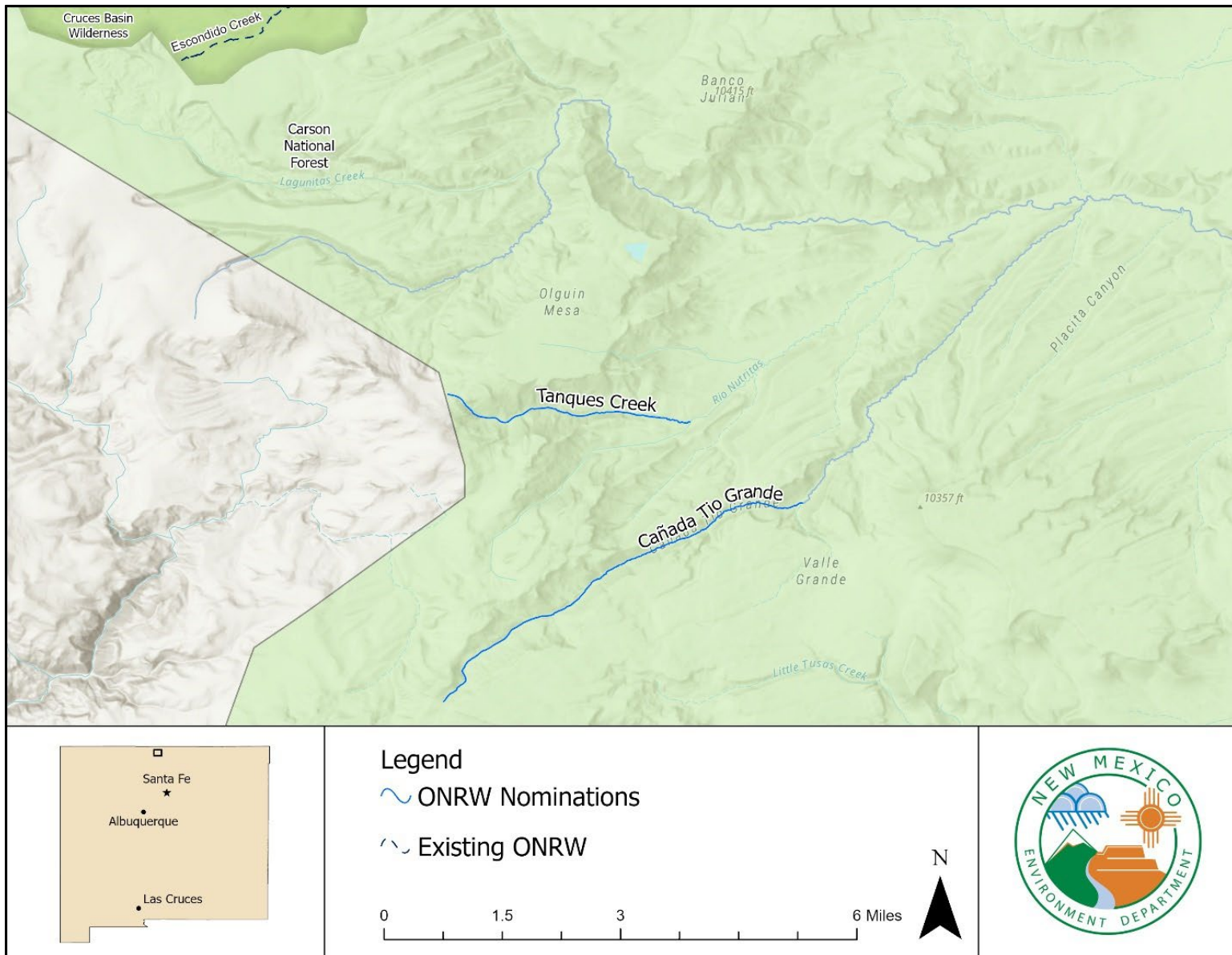


Figure 6. Canada Tio Grande and Tanques Creek Special Trout Water Nominations

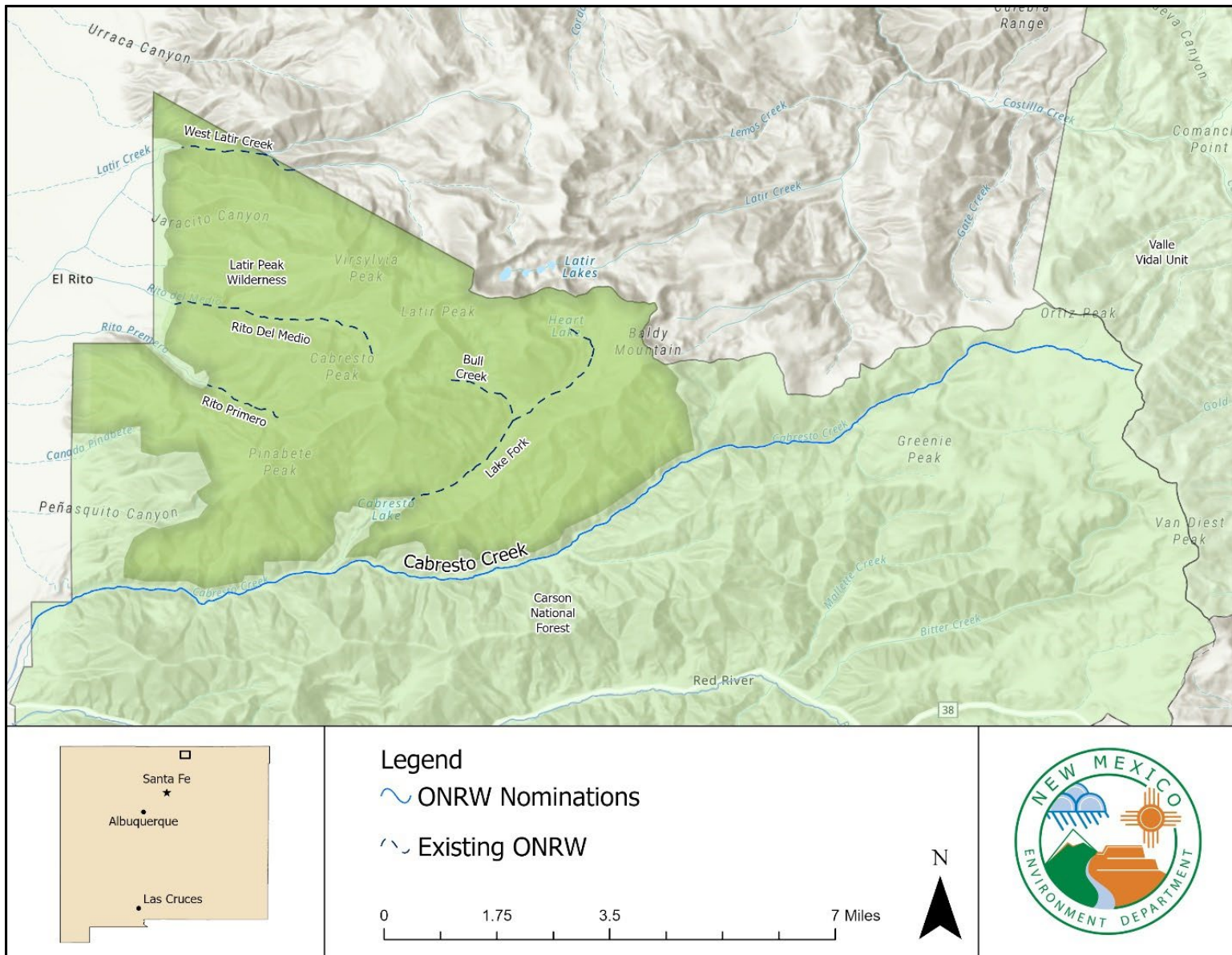


Figure 7. Cabresto Creek Special Trout Water Nomination

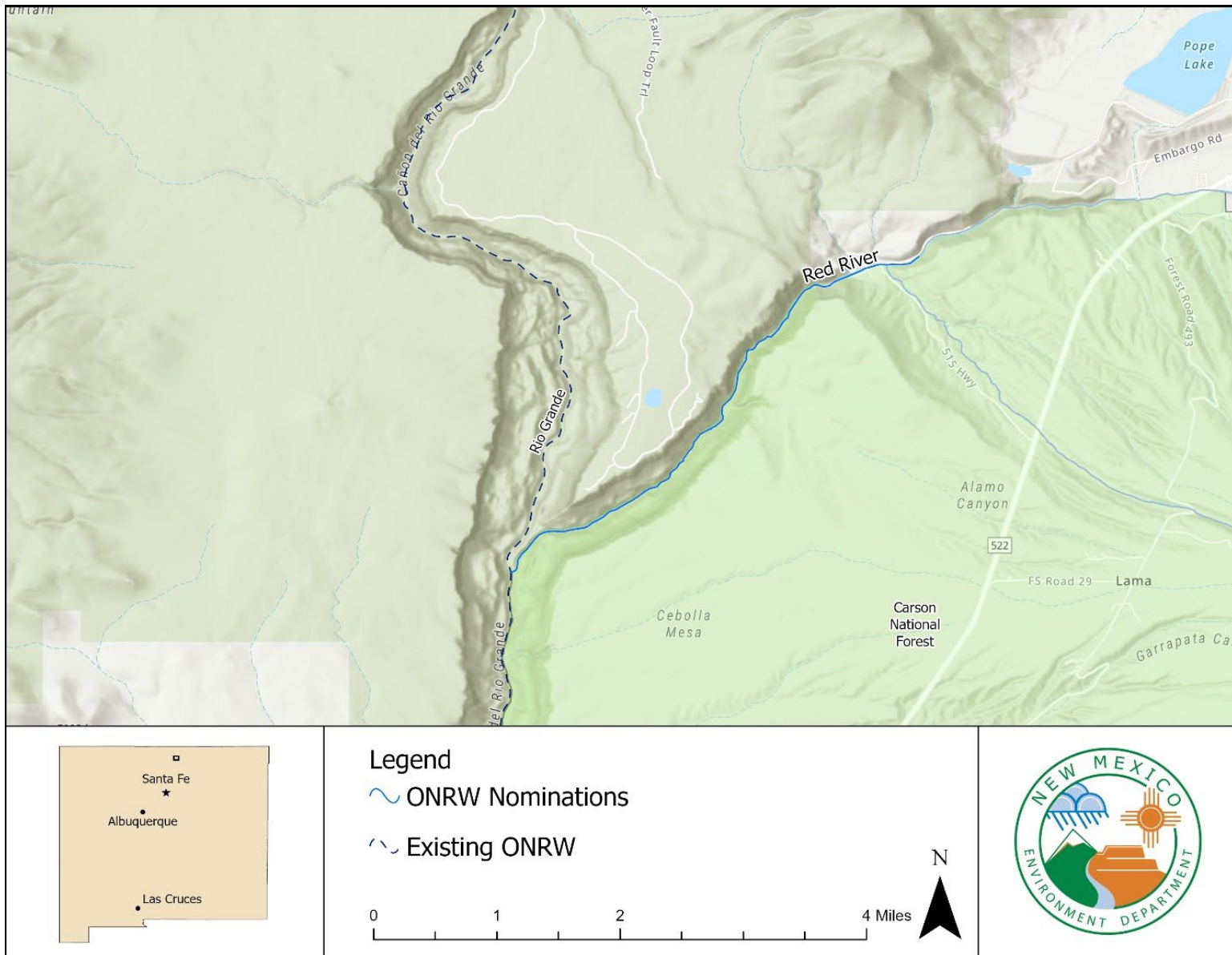


Figure 8. Red River Wild and Scenic Nomination

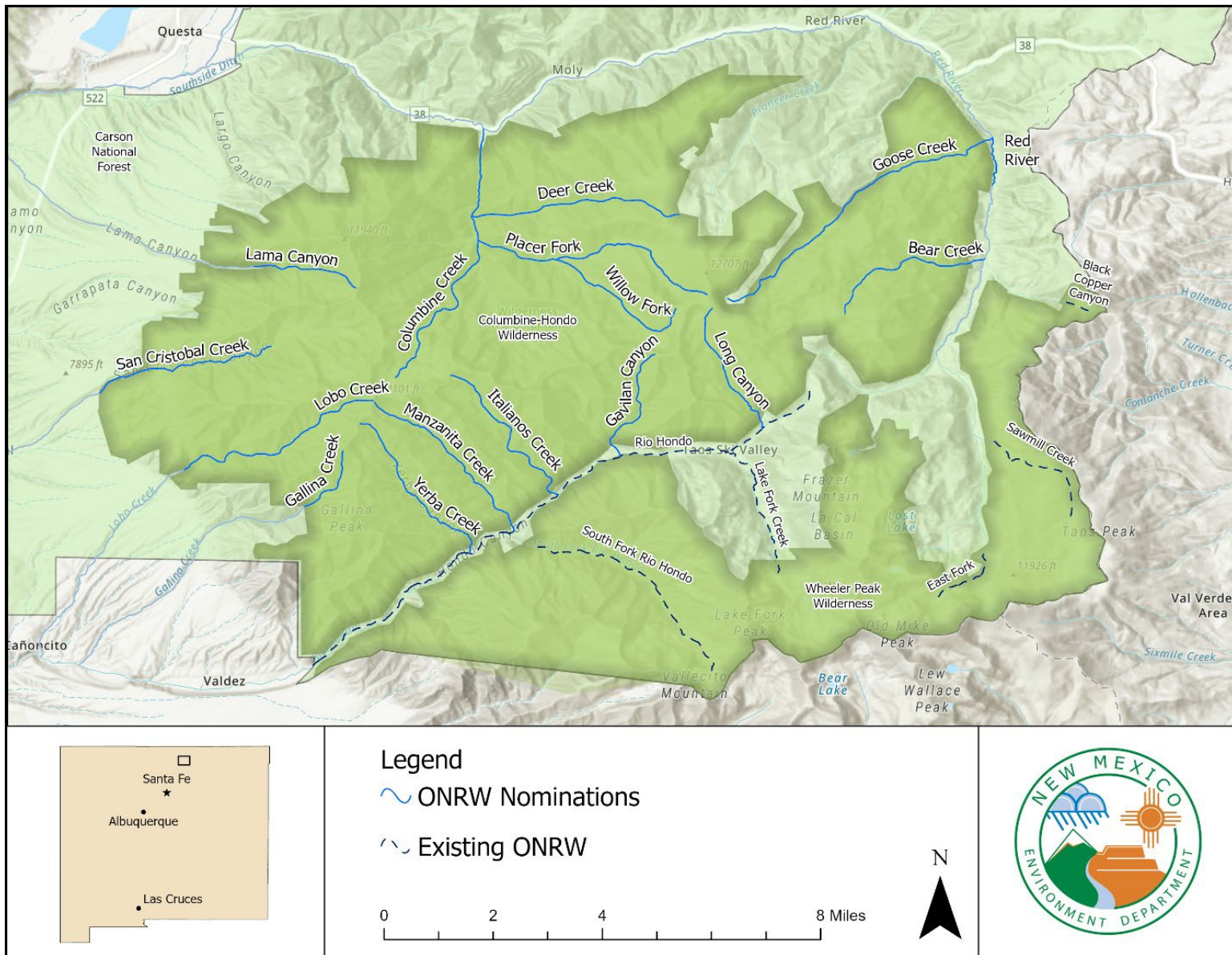


Figure 9. Columbine-Hondo Wilderness and Special Trout Water Nominations

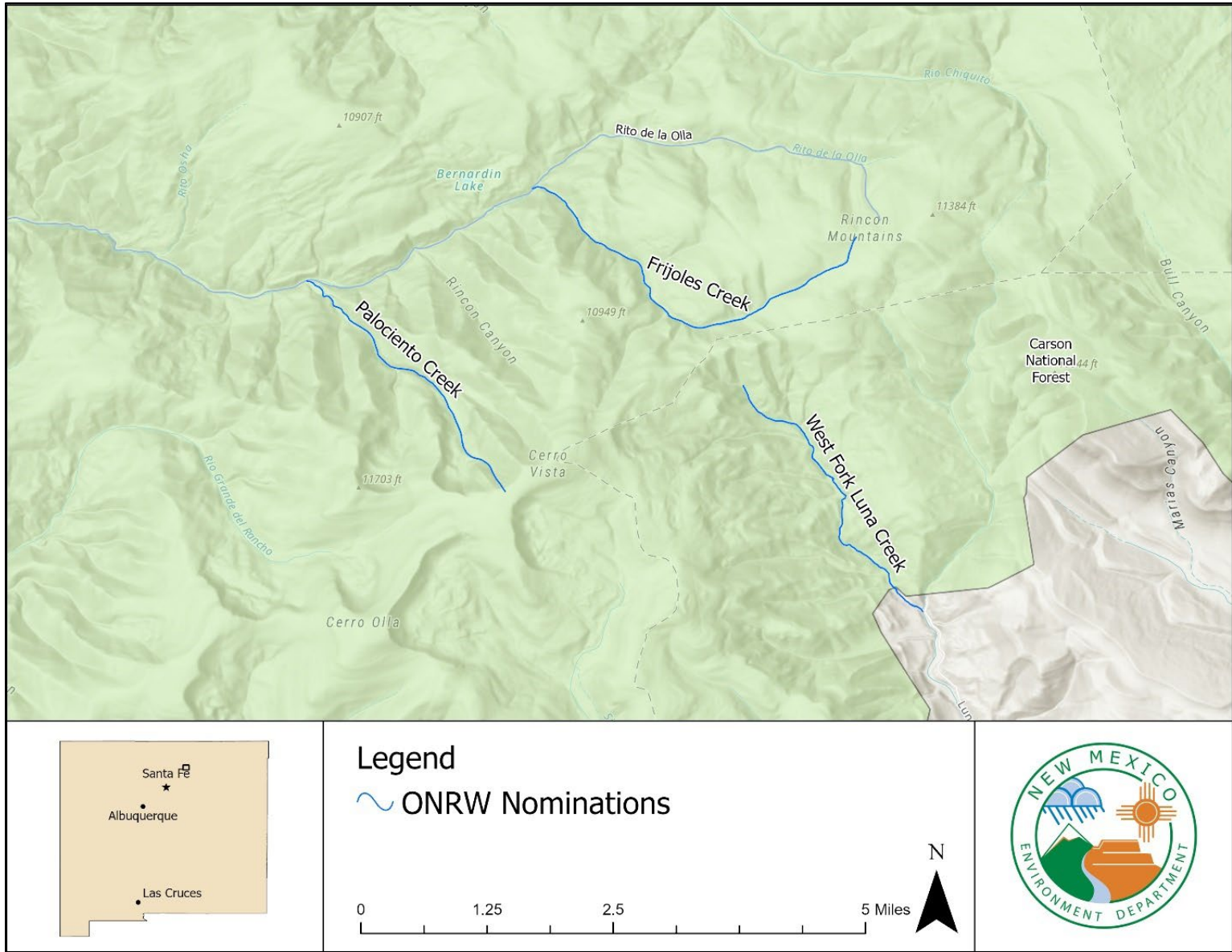


Figure 10. Frijoles Creek, Palociento Creek, and West Fork Luna Creek Special Trout Water Nominations

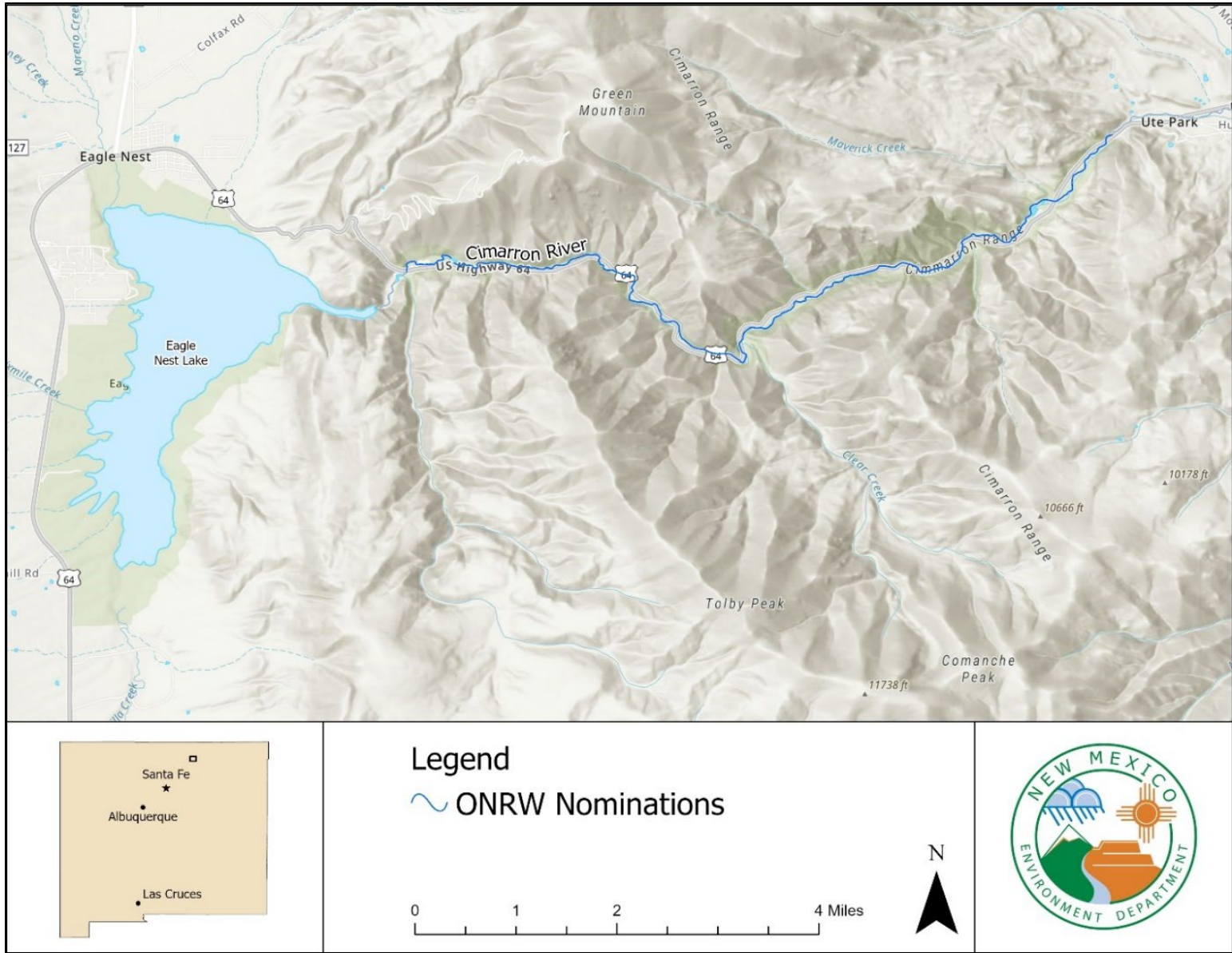


Figure 11. Cimarron River State Park and Special Trout Water Nomination

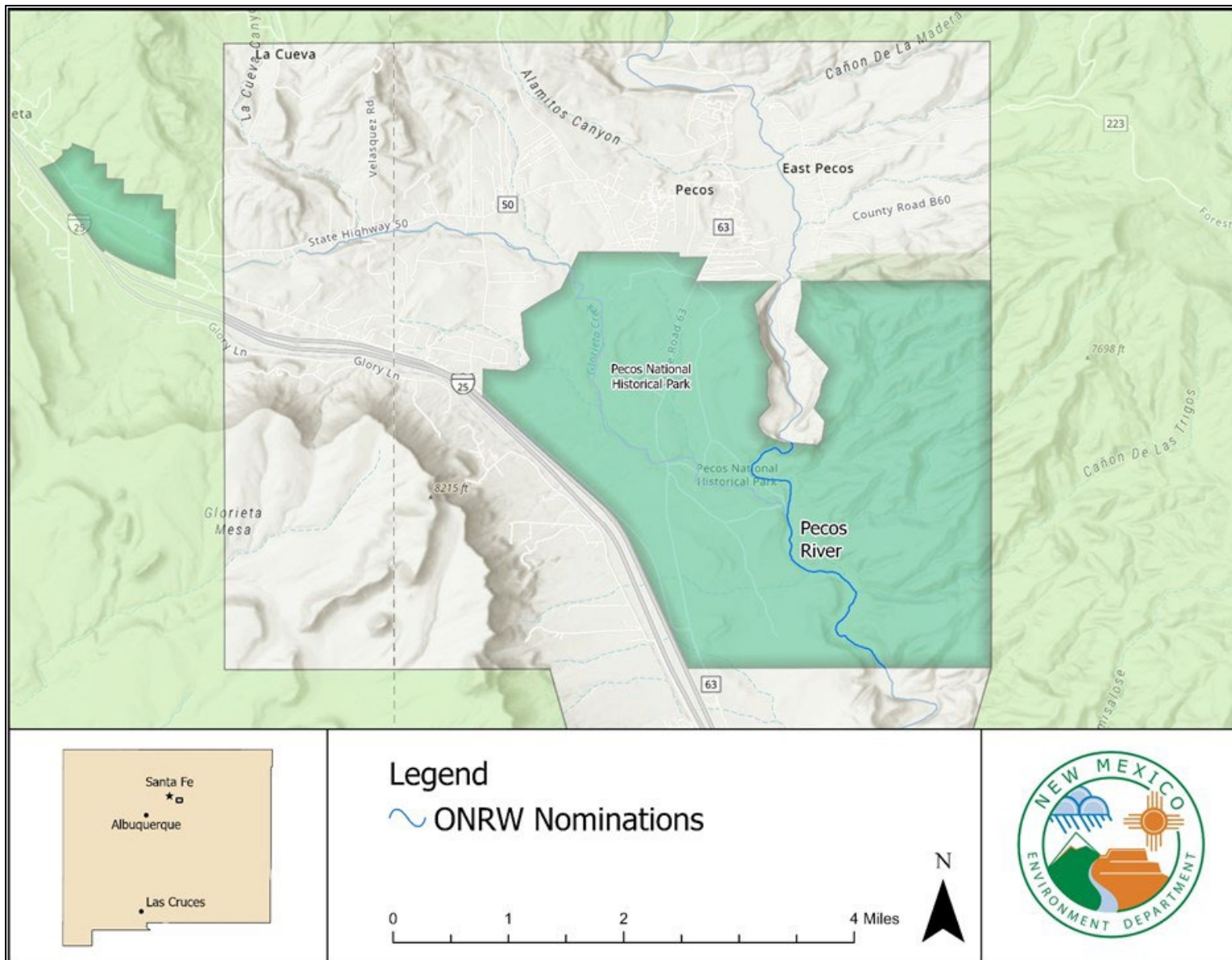


Figure 12. Pecos National Historical Park Nomination

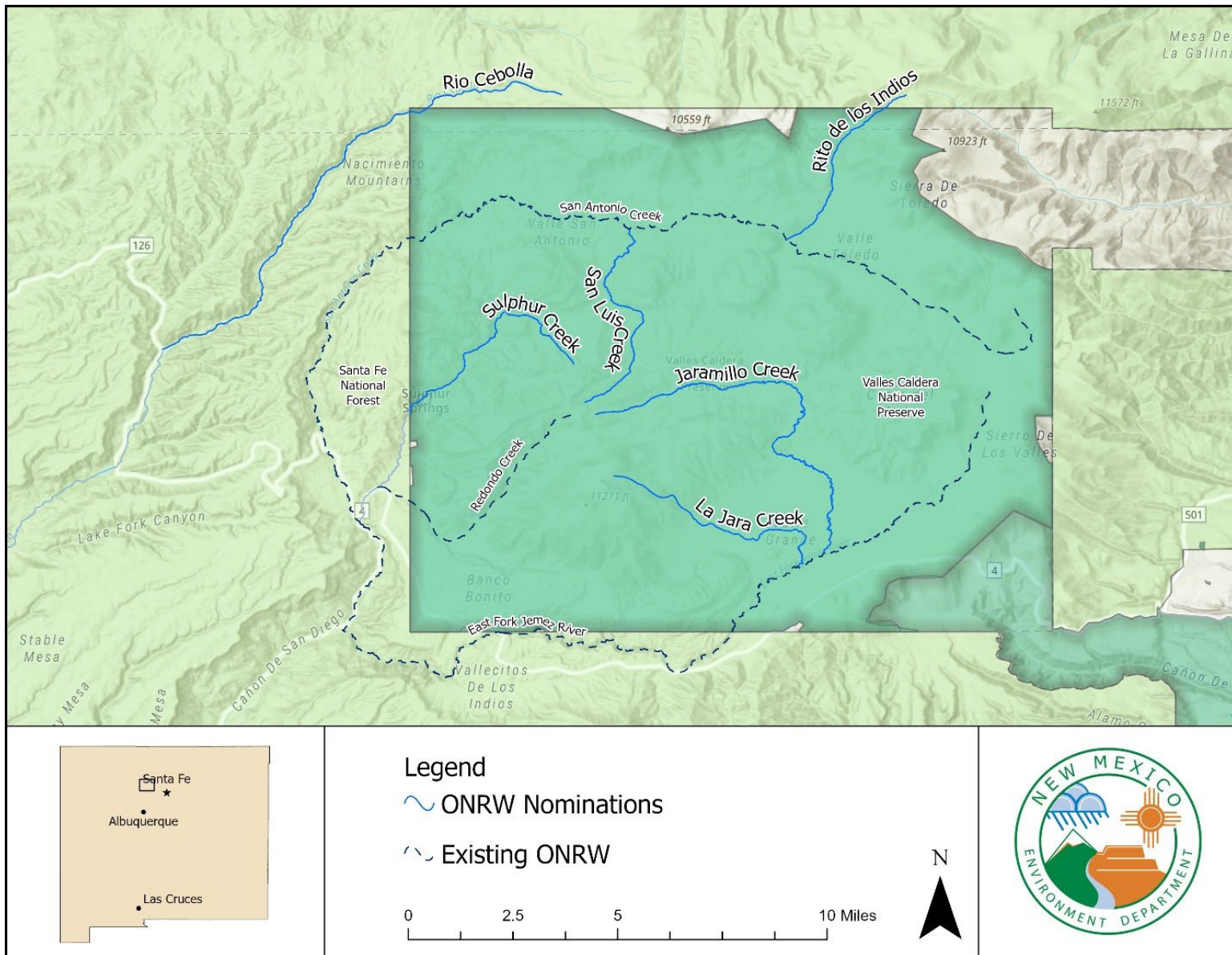


Figure 13. Valles Caldera National Preserve and Rio Cebolla Special Trout Water Nominations

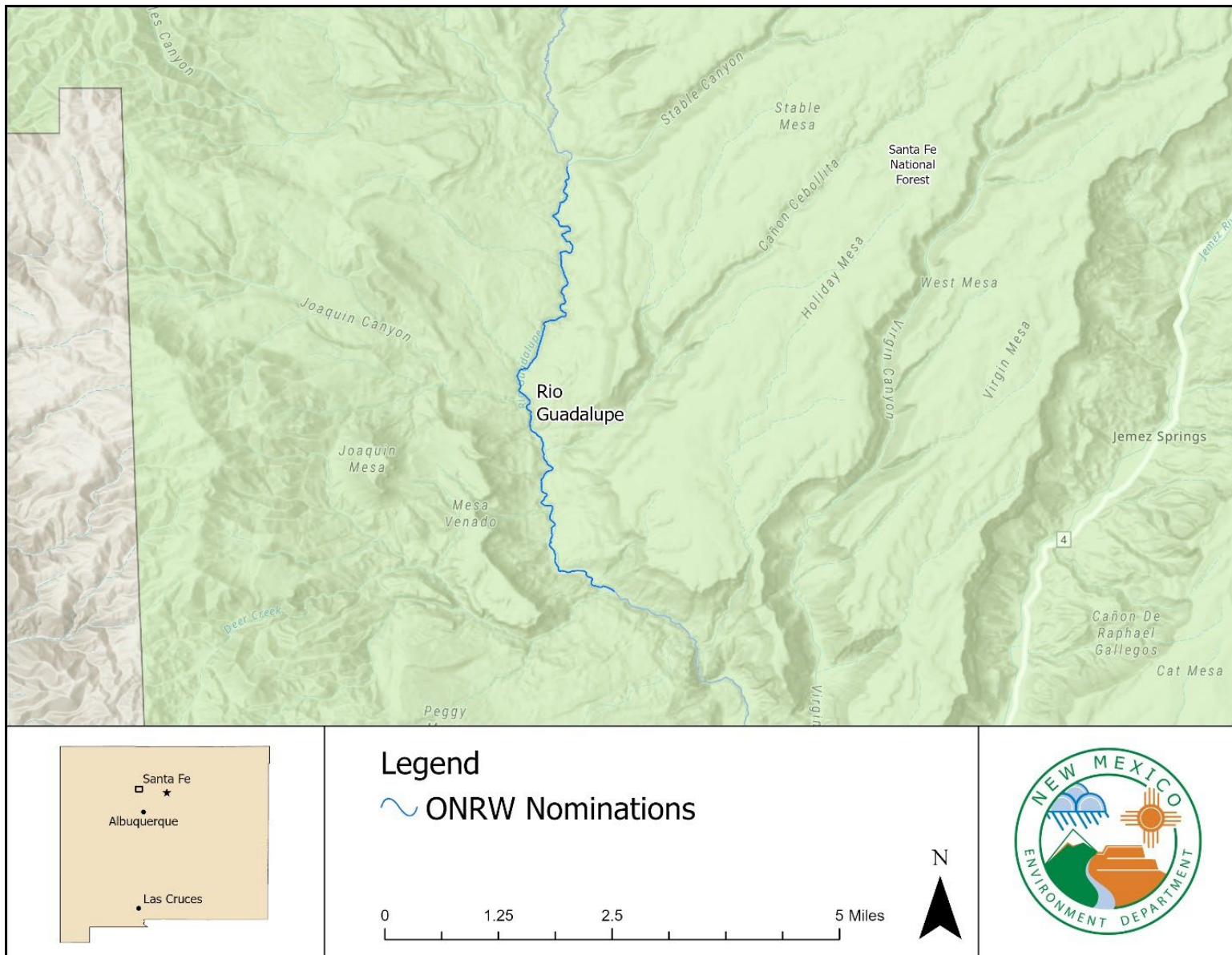


Figure 14. Rio Guadalupe Special Trout Water Nomination

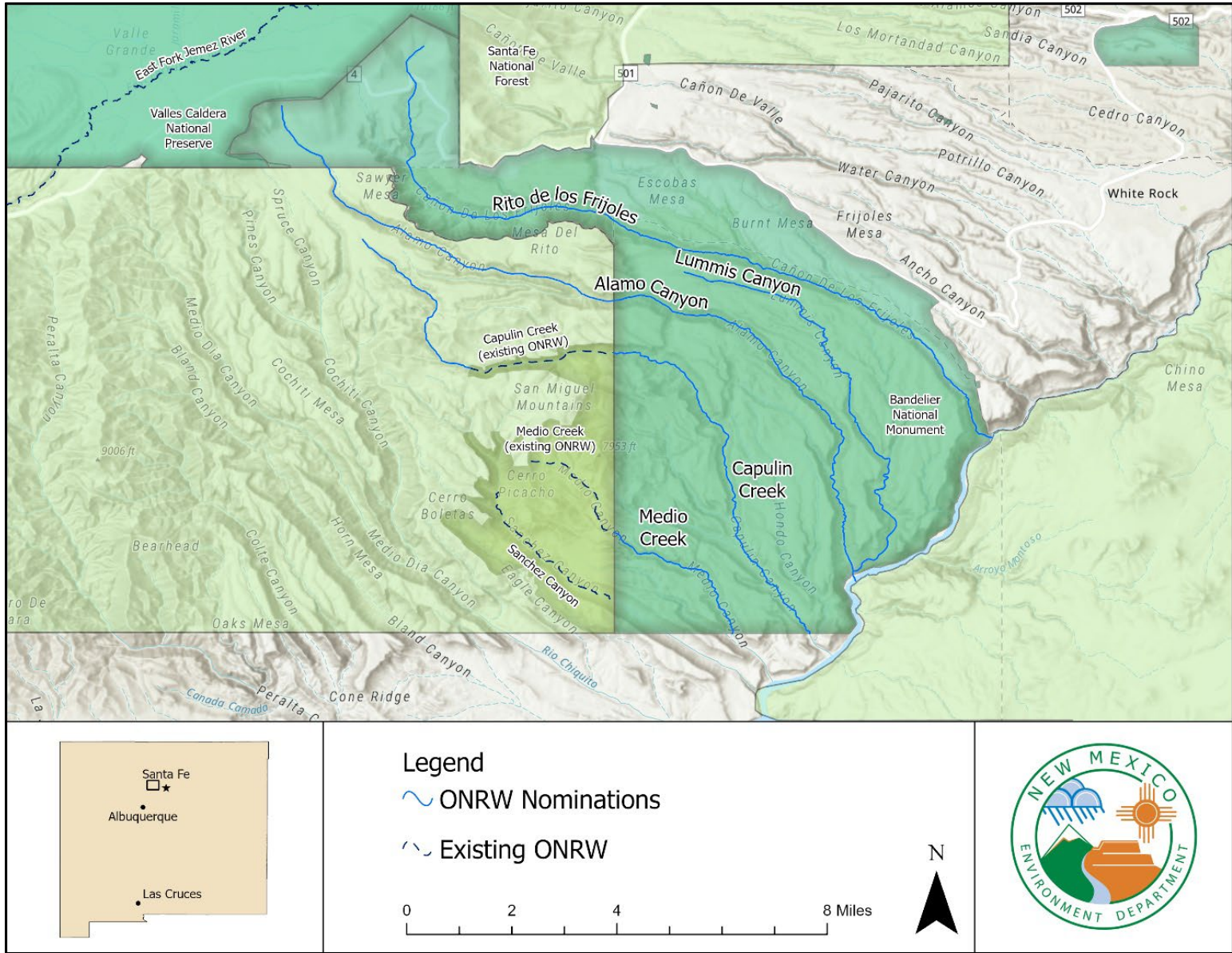


Figure 15. Bandelier National Monument and Upper Capulin Creek Special Trout Water Nominations

Appendix B1-B4. Baseline Water Quality Data

These files contain large amounts of data and are available for download during the public comment period at <https://www.env.nm.gov/surface-water-quality/wqs/>. Excel versions of data tables are also available upon request.

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Appendix C. Proposed Amendments to 20.6.4 NMAC

Proposed new language provided in redline format.

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1 **20.6.4.9 OUTSTANDING NATIONAL RESOURCE WATERS:**

2 **A. Procedures for nominating an ONRW:** Any person may nominate a surface
3 water of the state for designation as an ONRW by filing a petition with the commission pursuant
4 to 20.1.6 NMAC, Rulemaking Procedures - Water Quality Control Commission. A petition to
5 designate a surface water of the state as an ONRW shall include:

6 (1) a map of the surface water of the state, including the location and
7 proposed upstream and downstream boundaries;

8 (2) a written statement and evidence based on scientific principles in support
9 of the nomination, including specific reference to one or more of the applicable ONRW criteria
10 listed in Subsection B of this section;

11 (3) water quality data including chemical, physical or biological parameters, if
12 available, to establish a baseline condition for the proposed ONRW;

13 (4) a discussion of activities that might contribute to the reduction of water
14 quality in the proposed ONRW;

15 (5) any additional evidence to substantiate such a designation, including a
16 discussion of the economic impact of the designation on the local and regional economy within
17 the state of New Mexico and the benefit to the state; and

18 (6) affidavit of publication of notice of the petition in a newspaper of general
19 circulation in the affected counties and in a newspaper of general statewide circulation.

20 **B. Criteria for ONRWs:** A surface water of the state, or a portion of a surface
21 water of the state, may be designated as an ONRW where the commission determines that the
22 designation is beneficial to the state of New Mexico, and:

23 (1) the water is a significant attribute of a state special trout water, national or
24 state park, national or state monument, national or state wildlife refuge or designated wilderness
25 area, or is part of a designated wild river under the federal Wild and Scenic Rivers Act; or

26 (2) the water has exceptional recreational or ecological significance; or

27 (3) the existing water quality is equal to or better than the numeric criteria for
28 protection of aquatic life and contact uses and the human health-organism only criteria, and the
29 water has not been significantly modified by human activities in a manner that substantially
30 detracts from its value as a natural resource.

31 **C.** Pursuant to a petition filed under Subsection A of this section, the commission
32 may classify a surface water of the state or a portion of a surface water of the state as an ONRW
33 if the criteria set out in Subsection B of this section are met.

34 **D.** Waters classified as ONRWs: The following waters are classified as ONRWs:

35 (1) Rio Santa Barbara, including the west, middle and east forks from their
36 headwaters downstream to the boundary of the Pecos Wilderness; and

37 (2) the waters within the United States forest service Valle Vidal special
38 management unit including:

39 (a) Rio Costilla, including Comanche, La Cueva, Fernandez,
40 Chuckwagon, Little Costilla, Powderhouse, Holman, Gold, Grassy, LaBelle and Vidal creeks,
41 from their headwaters downstream to the boundary of the United States forest service Valle
42 Vidal special management unit;

43 (b) Middle Ponil creek, including the waters of Greenwood Canyon,
44 from their headwaters downstream to the boundary of the Elliott S. Barker wildlife management
45 area;

46 (c) Shuree lakes;

1 (d) North Ponil creek, including McCrystal and Seally Canyon creeks,
2 from their headwaters downstream to the boundary of the United States forest service Valle
3 Vidal special management unit; and

4 (e) Leandro creek from its headwaters downstream to the boundary of
5 the United States forest service Valle Vidal special management unit.

6 (3) the named perennial surface waters of the state, identified in Subparagraph
7 (a) below, located within United States department of agriculture forest service wilderness.
8 Wilderness are those lands designated by the United States congress as wilderness pursuant to
9 the Wilderness Act. Wilderness areas included in this designation are the Aldo Leopold
10 wilderness, Apache Kid wilderness, Blue Range wilderness, Chama River Canyon wilderness,
11 Cruces Basin wilderness, Dome wilderness, Gila wilderness, Latir Peak wilderness, Pecos
12 wilderness, San Pedro Parks wilderness, Wheeler Peak wilderness, and White Mountain
13 wilderness.

14 (a) The following waters are designated in the Rio Grande basin:

15 (i) in the Aldo Leopold wilderness: Byers Run, Circle Seven
16 creek, Flower canyon, Holden Prong, Indian canyon, Las Animas creek, Mud Spring canyon,
17 North Fork Palomas creek, North Seco creek, Pretty canyon, Sids Prong, South Animas canyon,
18 Victorio Park canyon, Water canyon;

19 (ii) in the Apache Kid wilderness Indian creek and Smith
20 canyon;

21 (iii) in the Chama River Canyon wilderness: Chavez canyon,
22 Ojitos canyon, Rio Chama;

23 (iv) in the Cruces Basin wilderness: Beaver creek, Cruces
24 creek, Diablo creek, Escondido creek, Lobo creek, Osha creek;

25 (v) in the Dome wilderness: Capulin creek, Medio creek,
26 Sanchez canyon/creek;

27 (vi) in the Latir Peak wilderness: Bull creek, Bull Creek lake,
28 Heart lake, Lagunitas Fork, Lake Fork creek, Rito del Medio, Rito Primero, West Latir creek;

29 (vii) in the Pecos wilderness: Agua Sarca, Hidden lake,
30 Horseshoe lake (Alamitos), Jose Vigil lake, Nambe lake, Nat lake IV, No Fish lake, North Fork
31 Rio Quemado, Rinconada, Rio Capulin, Rio de las Trampas (Trampas creek), Rio de Truchas,
32 Rio Frijoles, Rio Medio, Rio Molino, Rio Nambe, Rio San Leonardo, Rito con Agua, Rito
33 Gallina, Rito Jaroso, Rito Quemado, San Leonardo lake, Santa Fe lake, Santa Fe river, Serpent
34 lake, South Fork Rio Quemado, Trampas lake (East), Trampas lake (West);

35 (viii) in the San Pedro Parks wilderness: Agua Sarca, Cañon
36 Madera, Cave creek, Cecilia Canyon creek, Clear creek (North SPP), Clear creek (South SPP),
37 Corralitos creek, Dove creek, Jose Miguel creek, La Jara creek, Oso creek, Rio Capulin, Rio de
38 las Vacas, Rio Gallina, Rio Puerco de Chama, Rito Anastacio East, Rito Anastacio West, Rito de
39 las Palomas, Rito de las Perchas, Rito de los Pinos, Rito de los Utes, Rito Leche, Rito Redondo,
40 Rito Resumidero, San Gregorio lake;

41 (ix) in the Wheeler Peak wilderness: Black Copper canyon,
42 East Fork Red river, Elk lake, Horseshoe lake, Lost lake, Sawmill creek, South Fork lake, South
43 Fork Rio Hondo, Williams lake.

44 (b) The following waters are designated in the Pecos River basin:

45 (i) in the Pecos wilderness: Albright creek, Bear creek, Beatty
46 creek, Beaver creek, Carpenter creek, Cascade canyon, Cave creek, El Porvenir creek, Hollinger

1 creek, Holy Ghost creek, Horsethief creek, Jack's creek, Jarosa canyon/creek, Johnson lake, Lake
2 Katherine, Lost Bear lake, Noisy brook, Panchuela creek, Pecos Baldy lake, Pecos river, Rio
3 Mora, Rio Valdez, Rito Azul, Rito de los Chimayosos, Rito de los Esteros, Rito del Oso, Rito del
4 Padre, Rito las Trampas, Rito Maestas, Rito Oscuro, Rito Perro, Rito Sebadilloses, South Fork
5 Bear creek, South Fork Rito Azul, Spirit lake, Stewart lake, Truchas lake (North), Truchas lake
6 (South), Winsor creek;

7 **(ii)** in the White Mountain wilderness: Argentina creek, Aspen
8 creek, Bonito creek, Little Bonito creek, Mills canyon/creek, Rodamaker creek, South Fork Rio
9 Bonito, Turkey canyon/creek.

10 **(c)** The following waters are designated in the Gila River basin:
11 **(i)** in the Aldo Leopold wilderness: Aspen canyon, Black
12 Canyon creek, Bonner canyon, Burnt canyon, Diamond creek, Falls canyon, Fisherman canyon,
13 Running Water canyon, South Diamond creek;

14 **(ii)** in the Gila wilderness: Apache creek, Black Canyon creek,
15 Brush canyon, Canyon creek, Chicken Coop canyon, Clear creek, Cooper canyon, Cow creek,
16 Cub creek, Diamond creek, East Fork Gila river, Gila river, Gilita creek, Indian creek, Iron
17 creek, Langstroth canyon, Lilley canyon, Little creek, Little Turkey creek, Lookout canyon,
18 McKenna creek, Middle Fork Gila river, Miller Spring canyon, Mogollon creek, Panther canyon,
19 Prior creek, Rain creek, Raw Meat creek, Rocky canyon, Sacaton creek, Sapillo creek, Sheep
20 Corral canyon, Skeleton canyon, Squaw creek, Sycamore canyon, Trail canyon, Trail creek,
21 Trout creek, Turkey creek, Turkey Feather creek, Turnbo canyon, West Fork Gila river, West
22 Fork Mogollon creek, White creek, Willow creek, Woodrow canyon.

23 **(d)** The following waters are designated in the Canadian River basin:
24 in the Pecos wilderness Daily creek, Johns canyon, Middle Fork Lake of Rio de la Casa, Middle
25 Fork Rio de la Casa, North Fork Lake of Rio de la Casa, Rito de Gascon, Rito San Jose, Sapello
26 river, South Fork Rio de la Casa, Sparks creek (Manuelitas creek).

27 **(e)** The following waters are designated in the San Francisco River
28 basin:
29 **(i)** in the Blue Range wilderness: Pueblo creek;
30 **(ii)** in the Gila wilderness: Big Dry creek, Lipsey canyon, Little
31 Dry creek, Little Whitewater creek, South Fork Whitewater creek, Spider creek, Spruce creek,
32 Whitewater creek.

33 **(f)** The following waters are designated in the Mimbres Closed basin:
34 in the Aldo Leopold wilderness Corral canyon, Mimbres river, North Fork Mimbres river, South
35 Fork Mimbres river.

36 **(g)** The following waters are designated in the Tularosa Closed basin:
37 in the White Mountain wilderness Indian creek, Nogal Arroyo, Three Rivers.

38 **(h)** The wetlands designated are identified on the *Maps and List of*
39 *Wetlands Within United States Forest Service Wilderness Areas Designated as Outstanding*
40 *National Resource Waters* published at the New Mexico state library and available on the
41 department's website.

42 (4) The following waters are designated in the headwaters Pecos river watershed:
43 **(a)** The Pecos river from Dalton Canyon creek to the Pecos wilderness
44 boundary;
45 **(b)** In the Dry Gulch-Pecos river subwatershed, Dalton Canyon creek from
46 the Pecos river upstream to the headwaters, Wild Horse creek from Dalton Canyon creek

1 upstream to the headwaters, Macho Canyon creek from the Pecos river upstream to the
2 headwaters and Sawyer creek from the Pecos river upstream to the headwaters;

3 (c) In the Indian creek-Pecos river subwatershed, Indian creek from the
4 Pecos river upstream to the headwaters, Holy Ghost creek from the Pecos river upstream to the
5 Pecos wilderness boundary, Doctor creek from Holy Ghost creek upstream to the headwaters,
6 Davis creek from the Pecos river upstream to the headwaters and Willow creek from the Pecos
7 river upstream to the headwaters;

8 (d) In the Rio Mora subwatershed, Rio Mora from the Pecos river
9 upstream to the Pecos wilderness boundary and Bear creek from the Rio Mora upstream to the
10 Pecos wilderness boundary;

11 (e) In the Rio Mora-Pecos river subwatershed, Carpenter creek from the
12 Pecos river upstream to the Pecos wilderness boundary, Winsor creek from the Pecos river
13 upstream to the Pecos wilderness boundary and Jack's creek from the Pecos river upstream to the
14 Pecos wilderness boundary; and,

15 (f) In the Panchuela creek subwatershed, Panchuela creek from the Pecos
16 river upstream to the Pecos wilderness boundary;

17 (g) Unnamed tributaries to waters in Subparagraphs (a) through (f),
18 Paragraph (4) of this Subsection (D) as identified in the *Maps and Lists for Unnamed Tributaries*
19 *to Perennial Waters and Wetlands in the Headwaters Pecos River Watershed*, published at the
20 New Mexico state library and available on the department's website.

21 (h) Unnamed wetlands adjacent to waters in Subparagraphs (a) through
22 (f), Paragraph (4) of this Subsection (D) as identified in the *Maps and Lists for Unnamed*
23 *Tributaries to Perennial Waters and Wetlands in the Headwaters Pecos River Watershed*,
24 published at the New Mexico state library and available on the department's website.

25 (5) the Rio Grande from directly above the Rio Pueblo de Taos to the New
26 Mexico-Colorado state border.

27 (6) the Rio Hondo from the Carson National Forest boundary to its headwaters;
28 and Lake Fork creek from the Rio Hondo to its headwaters.

29 (7) the East Fork Jemez river from San Antonio creek to its headwaters; San
30 Antonio creek from the East Fork Jemez river to its headwaters; and Redondo creek from
31 Sulphur creek to its headwaters.

32 (8) the following waters located within a national or state park, national or
33 state monument, or national or state wildlife refuge:

34 (a) in the Valles Caldera national preserve: La Jara creek; Sulphur
35 creek; San Luis creek; Jaramillo creek; Rito de los Indios;

36 (b) in the Bandelier national monument: Rito de los Frijoles, Lummis
37 canyon, Alamo canyon, Capulin creek, and Medio creek;

38 (c) in the Cimarron canyon state park: Cimarron river;

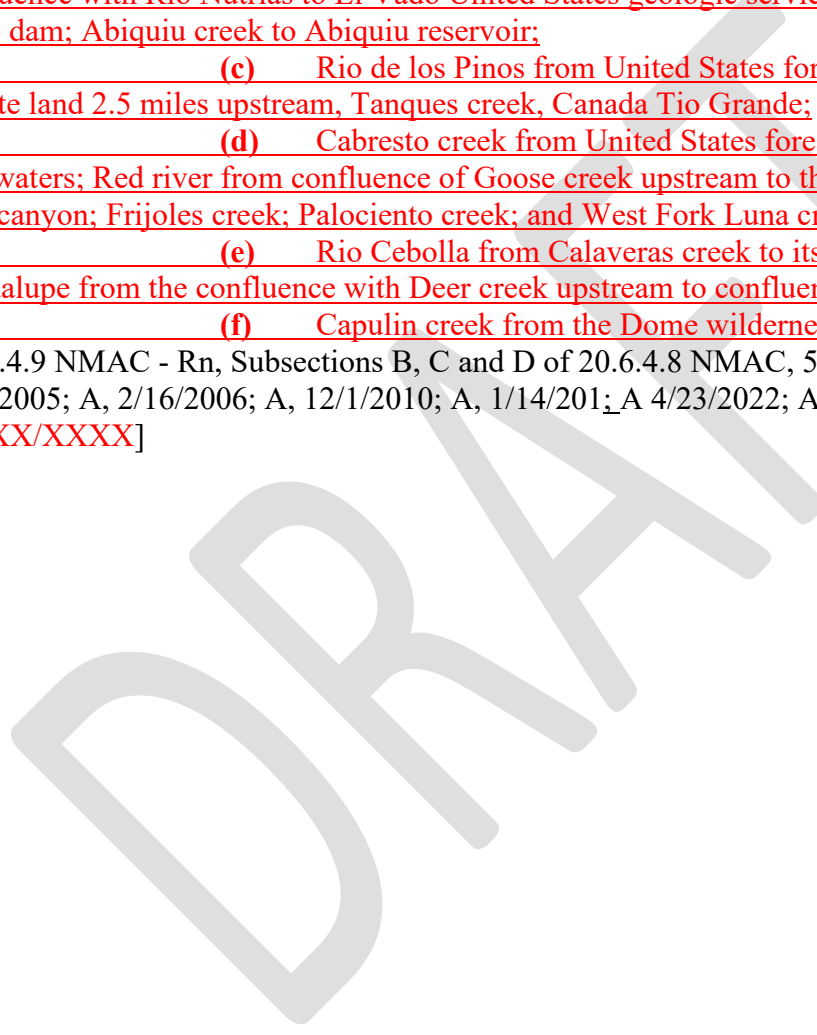
39 (d) in the Pecos national historical park: Pecos river;

40 (e) in the Rio Grande del Norte national monument: Rio San Antonio.

41 (9) the following waters located within a designated wilderness area: in the
42 Columbine – Hondo wilderness areas: Columbine creek; Deer creek; Placer fork; Willow fork;
43 Goose creek; Bear creek; Long canyon; Gavilan canyon; Italianos creek; Yerba creek; Manzanita
44 creek; Gallina creek; Lobo creek; San Cristobal creek; Lama canyon.

45 (10) the following wild rivers as designated by the federal Wild and Scenic
46 Rivers Act:

1 (a) Rio Chama from the US forest service boundary to confluence
2 with the Rio Nutrias;
3 (b) Red River from the confluence with the Rio Grande to four miles
4 upstream.
5 (11) the following state special trout waters not already included in Paragraphs
6 8 through 10 of this Subsection:
7 (a) in the Edward Sargent wildlife management area: Rio Chamita,
8 Nabor creek, Sixto creek, and Rio Chama;
9 (b) Rio Chama from: Heron Reservoir outlet to Cottonwood flats; the
10 confluence with Rio Nutrias to El Vado United States geologic services gage 08285500 below El
11 Vado dam; Abiquiu creek to Abiquiu reservoir;
12 (c) Rio de los Pinos from United States forest service road 87A to
13 private land 2.5 miles upstream, Tanques creek, Canada Tio Grande;
14 (d) Cabresto creek from United States forest service boundary to
15 headwaters; Red river from confluence of Goose creek upstream to the confluence with Foster
16 park canyon; Frijoles creek; Palociento creek; and West Fork Luna creek;
17 (e) Rio Cebolla from Calaveras creek to its headwaters; Rio
18 Gaudalupe from the confluence with Deer creek upstream to confluence with Stable creek;
19 (f) Capulin creek from the Dome wilderness boundary to headwaters.
20 [20.6.4.9 NMAC - Rn, Subsections B, C and D of 20.6.4.8 NMAC, 5/23/2005; A, 5/23/2005; A,
21 7/17/2005; A, 2/16/2006; A, 12/1/2010; A, 1/14/201; A 4/23/2022; A, 09/24/2022; A,
22 XX/XX/XXXX]
23



Appendix D. Affidavits of Publication

Affidavits of Publication will be included with the petition to nominate ONRWs filed with the WQCC at the end of the public comment period. These public notices were provided to newspapers for publishing and will be posted on our webpages.

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NOTICE OF PETITION TO NOMINATE SURFACE WATERS OF THE STATE FOR DESIGNATION AS OUTSTANDING NATIONAL RESOURCE WATERS

The New Mexico Environment Department (NMED) Surface Water Quality Bureau (SWQB) gives public notice of a draft petition to nominate (nomination) certain surface waters of the state as outstanding national resource waters (ONRW). Accordingly, NMED developed regulatory language to amend *Standards for Interstate and Intrastate Surface Waters*, 20.6.4 NMAC, to designate these waters as ONRWs. The waters qualify for ONRW designation as significant attributes of a Special Trout Water; a designated wild river; a national or state park, monument, or wildlife refuge; or a designated Wilderness area. ONRWs are entitled to the highest protection from pollution under the New Mexico Water Quality Control Commission's (WQCC) surface water quality standards at 20.6.4 NMAC.

NMED will hold a 30-day public comment period on this proposed action starting on July 20, 2024, and ending on August 19, 2024 at 5:00 PM MDT. Comments will be accepted via mail, email, and NMED's smart comment portal at <https://nmed.commentinput.com/comment/search>. The draft nomination, amended regulatory language, and all other related information may be found on NMED's website through the Smart Comment Portal or at <https://www.env.nm.gov/surface-water-quality/wqs/>. The petition and appendices contain a list of waters nominated, maps, baseline water quality data, and other supporting information for the nomination. Additionally, an interactive GIS map with the proposed ONRWs is available at <https://gis.web.env.nm.gov/oem/?map=swqb>.

At the conclusion of the public comment period, NMED will consider input received and if appropriate, make amendments to its nomination. NMED intends on filing a petition and requesting a public rulemaking hearing at the September 2024 regular meeting of the WQCC. If the WQCC grants a public hearing, the SWQB will publish a notice of rulemaking at least 60 days prior to the hearing in the New Mexico Register, in the Albuquerque Journal, and on NMED's website. That notice will include the date, time, and place of the hearing and how to participate in the hearing, including instructions for joining virtually, submitting public comment, and filing technical testimony.

For more information and to submit comments contact Michael Baca, Water Quality Standards Coordinator, NMED SWQB, P.O. Box 5469, Santa Fe, NM, 87502, (505) 470-1652 or michael.baca1@env.nm.gov. To stay up to date with the latest news from NMED, please sign up for our listserv at https://public.govdelivery.com/accounts/NMED/subscriber/new?topic_id=NMED_4.

NMED does not discriminate on the basis of race, color, national origin, disability, age or sex in the administration of its programs or activities, as required by applicable laws and regulations. NMED is responsible for coordination of compliance efforts and receipt of inquiries concerning non-discrimination requirements implemented by 40 C.F.R. Parts 5 and 7, including Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, and Section 13 of the Federal Water Pollution Control Act Amendments of 1972. If you have any questions about this notice or any of NMED's non-discrimination programs, policies or procedures, you may contact: Kate Cardenas, NMED Non-Discrimination Coordinator, NMED, 1190 St. Francis Dr., Suite N4050, P.O. Box 5469, Santa Fe, NM 87502, (505) 827-2855 or nd.coordinator@env.nm.gov. If you believe that you have been discriminated against with respect to a NMED program or activity, please contact the Non-Discrimination Coordinator.

AVISO DE PETICIÓN PARA NOMINAR AGUAS SUPERFICIALES DEL ESTADO PARA SU DESIGNACIÓN COMO AGUAS DE RECURSO NACIONAL EXCEPCIONAL

La Oficina de Calidad de Aguas Superficiales (SWQB, por sus siglas en inglés) del Departamento de Medio Ambiente de Nuevo México (NMED, por sus siglas en inglés) da aviso público de un borrador de petición para nominar (nominación) ciertas aguas superficiales del estado como Aguas de Recursos Nacionales Excepcionales (ONRW, por sus siglas en inglés). En consecuencia, el NMED ha desarrollado un lenguaje regulatorio para enmendar los *Estándares para aguas superficiales interestatales y estatales, 20.6.4 NMAC*, para designar estas aguas como ONRW. Las aguas califican para la designación ONRW como atributos significativos de un agua especial para truchas; un río silvestre designado; un parque, monumento o refugio de vida silvestre nacional o estatal; o una zona silvestre designada. Las ONRW tienen derecho a la más alta protección contra la contaminación según los estándares de calidad de las aguas superficiales de la Comisión de Control de Calidad del Agua de Nuevo México (WQCC, por sus siglas en inglés) en 20.6.4 NMAC.

El NMED celebrará un período de comentarios públicos de 30 días sobre esta acción propuesta a partir del 20 de julio de 2024 y finalizará el 19 de agosto de 2024 a las 5:00 p.m. MDT. Los comentarios se aceptarán por correo postal, correo electrónico y el portal de comentarios inteligente de NMED en <https://nmed.commentinput.com/comment/search>. El borrador de la nominación, el lenguaje regulatorio enmendado y toda información relacionada se pueden encontrar en el sitio web de NMED a través del portal de comentarios inteligente o en <https://www.env.nm.gov/surface-water-quality/wqs/>. La petición y los apéndices contienen una lista de aguas nominadas, mapas, datos de referencia sobre la calidad del agua y otra información de respaldo para la nominación. Además, hay disponible un mapa SIG interactivo con los ONRW propuestos en <https://gis.web.env.nm.gov/oem/?map=swqb>.

Al finalizar el período de comentarios públicos, el NMED considerará los comentarios recibidos y, si corresponde, hará enmiendas a su nominación. El NMED tiene la intención de presentar una petición y solicitar una audiencia pública de reglamentación en la reunión ordinaria de la WQCC de septiembre de 2024. Si la WQCC concede una audiencia pública, la SWQB publicará un aviso de reglamentación al menos 60 días antes de la audiencia en el Registro de Nuevo México, en el Albuquerque Journal y en el sitio web de NMED. Ese aviso incluirá la fecha, hora y lugar de la audiencia y cómo participar en la audiencia, incluidas instrucciones para unirse virtualmente, enviar comentarios públicos y presentar testimonios técnicos.

Para obtener más información y para enviar comentarios, comuníquese con Michael Baca, coordinador de estándares de calidad del agua, NMED SWQB, P.O. Box 5469, Santa Fe, NM, 87502, (505) 470-1652 o michael.baca1@env.nm.gov. Para mantenerse actualizado con las últimas noticias de NMED, regístrese en nuestro servidor de listas en https://public.govdelivery.com/accounts/NMED/subscriber/new?topic_id=NMED_4.

El NMED no discrimina por motivos de raza, color, origen nacional, discapacidad, edad o sexo en la administración de sus programas o actividades, según lo exigen las leyes y regulaciones aplicables. NMED es responsable de coordinar los esfuerzos de cumplimiento y recibir consultas relacionadas con los requisitos de no discriminación implementados por 40 C.F.R. Partes 5 y 7, incluido el Título VI de la Ley de Derechos Civiles de 1964, según enmendada; Sección 504 de la Ley de Rehabilitación de 1973; la Ley de Discriminación por Edad de 1975, el Título IX de las Enmiendas a la Educación de 1972 y la Sección 13 de las Enmiendas a la Ley Federal de Control de la Contaminación del Agua de 1972. Si tiene alguna pregunta sobre este aviso o cualquiera de los programas, políticas o procedimientos de no

discriminación de NMED, puede comunicarse con: Kate Cardenas, coordinadora de no discriminación de NMED, NMED, 1190 St. Francis Dr., Suite N4050, P.O. Box 5469, Santa Fe, NM 87502, (505) 827-2855 o nd.coordinator@env.nm.gov. Si cree que ha sido discriminado con respecto a un programa o actividad de NMED, comuníquese con la coordinadora de no discriminación.

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