

**STATE OF NEW MEXICO
BEFORE THE WATER QUALITY CONTROL COMMISSION**

**IN THE MATTER OF THE PETITION TO NOMINATE
SEGMENTS OF THE RIO GRANDE, RIO HONDO, LAKE
FORK, EAST FORK JEMEZ RIVER, SAN ANTONIO
CREEK, AND REDONDO CREEK AS OUTSTANDING
NATIONAL RESOURCE WATERS,**

WQCC No. 21-62 (R)

**OUTDOOR RECREATION DIVISION, NEW MEXICO
DEPARTMENT OF ECONOMIC DEVELOPMENT,**

Petitioner.

**NEW MEXICO ENVIRONMENT DEPARTMENT'S
NOTICE OF INTENT TO PRESENT TECHNICAL TESTIMONY**

Pursuant to 20.1.6.202 NMAC and the *Scheduling Order* issued January 19, 2022, the New Mexico Environment Department (“Department”) submits this Notice of Intent to Present Technical Testimony for the hearing in this matter currently scheduled to begin June 14, 2022.

1. Entity for whom the witnesses will testify

The Surface Water Quality Bureau of the Water Protection Division of the Department.

2. Identity of witnesses

The Department will call the following witnesses to present technical testimony at the hearing:

Jennifer Fullam is the Standards, Planning and Reporting Team Supervisor and the Water Quality Standards Coordinator with the Department’s Surface Water Quality Bureau. Her resume describing her educational and professional background is attached as NMED Exhibit 3. A copy of Ms. Fullam’s written direct testimony is attached as NMED Exhibit 1.

Diana Aranda is a Scientist/Specialist-Advanced on the Standards, Planning, and Reporting Team with the Surface Water Quality Bureau. Her resume is attached as NMED Exhibit 4. A copy of Ms. Aranda’s written direct testimony is attached as NMED Exhibit 2.

3. Estimated duration of direct oral testimony of witnesses

Ms. Fullam 15 minutes

Ms. Aranda 20 minutes

4. List of exhibits to be offered by the Department at the hearing

EXHIBIT NUMBER TITLE OF EXHIBIT

NMED Exhibit 1	Direct Technical Testimony of Jennifer Fullam
NMED Exhibit 2	Direct Technical Testimony of Diana Aranda
NMED Exhibit 3	Curriculum Vitae of Jennifer Fullam
NMED Exhibit 4	Resume of Diana Aranda
NMED Exhibit 5	Section 101(a)(2) of the federal Clean Water Act (CWA)
NMED Exhibit 6	Section 518 of the federal Clean Water Act (CWA)
NMED Exhibit 7	Wild and Scenic Rivers Act - Rio Grande
NMED Exhibit 8	Wild and Scenic Rivers Act - East Fork of Jemez
NMED Exhibit 9	Water Quality Act; NMSA 1978, § 74-6-6
NMED Exhibit 10	Water Quality Act; NMSA 1978, § 74-6-4
NMED Exhibit 11	State Rules Act; NMSA 1978, § 14-4-5.2
NMED Exhibit 12	State Rules Act; NMSA 1978, § 14-4-2
NMED Exhibit 13	State-Tribal Collaboration Act; NMSA 1978, § 11-18-3
NMED Exhibit 14	Small Business Regulatory Relief Act; NMSA 1978, § 14-4A-4
NMED Exhibit 15	40 C.F.R. § 131.12 - Antidegradation policy and implementation methods
NMED Exhibit 16	40 C.F.R. § 131.20 - State review and revision of water quality standards
NMED Exhibit 17	40 C.F.R. § 25.5 - Public hearings
NMED Exhibit 18	20.6.4.9 NMAC - Outstanding National Resource Waters
NMED Exhibit 19	20.6.4.8 NMAC - Antidegradation Policy and Implementation Plan

NMED Exhibit 20	20.6.4.7(E)(3) NMAC - Definition of “Existing use”
NMED Exhibit 21	20.6.4.7(B)(1)(b) NMAC - Best Management Practices
NMED Exhibit 22	20.1.6.200 - 20.1.6.206 NMAC - Rulemaking Procedures
NMED Exhibit 23	Excerpts from WQCC Statement of Reasons for the 2005 amendments to 20.6.4 NMAC
NMED Exhibit 24	NMED Surface Water Quality Bureau list of Outstanding National Resource Waters
NMED Exhibit 25	Google Earth Imagery - East Fork Jemez River
NMED Exhibit 26	Grazing and Visitor Pages from the National Park Service Valles Caldera website
NMED Exhibit 27	July 8, 2021 email from Outdoor Recreation Division to NMED Surface Water Quality Bureau
NMED Exhibit 28	September 30, 2021 letter from NMED Surface Water Quality Bureau to Outdoor Recreation Division
NMED Exhibit 29	Hearing Notice - NMED District Managers
NMED Exhibit 30	NMED Tribal Communication and Collaboration Policy
NMED Exhibit 31	Hearing Notification to Tribes
NMED Exhibit 32	Special Trout Waters
NMED Exhibit 33	Presidential Proclamation - Río Grande del Norte National Monument
NMED Exhibit 34	NMED Surface Water Quality Bureau Data Dictionary
NMED Exhibit 35	NMED Proposed Language for 20.6.4 NMAC

The Department reserves the right to introduce and move for admission of any other exhibit(s) in support of rebuttal testimony at the hearing.

Respectfully submitted,

**NEW MEXICO ENVIRONMENT DEPARTMENT
OFFICE OF GENERAL COUNSEL**

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *New Mexico Environment Department's Notice of Intent to Present Technical Testimony* was filed with the WQCC Administrator and served on the following via electronic mail on May 13, 2022:

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1 STATE OF NEW MEXICO
2 WATER QUALITY CONTROL COMMISSION
3

4 IN THE MATTER OF THE PETITION
5 FOR PROPOSED AMENDMENTS
6 TO 20.6.4.9 NMAC, DESIGNATION
7 OF SEGMENTS OF THE RIO GRANDE,
8 RIO HONDO, LAKE FORK, EAST FORK
9 JEMEZ RIVER, SAN ANTONIO CREEK,
10 AND REDONDO CREEK AS OUTSTANDING
11 NATIONAL RESOURCE WATERS,
12

WQCC No. 21-62(R)

13 Outdoor Recreation Division,
14 New Mexico Department of Economic
15 Development,
16

17 Petitioner.
18

19 **DIRECT TECHNICAL TESTIMONY OF JENNIFER FULLAM**

20 **I. INTRODUCTION**

21 My name is Jennifer Fullam, and I am presenting this written testimony (**NMED Exhibit**
22 **1**) on behalf of the New Mexico Environment Department (“Department” or “NMED”) concerning
23 the Petition (“Petition”) filed with the Water Quality Control Commission (“WQCC” or
24 “Commission”) on December 3, 2021, by the New Mexico Department of Economic Development
25 Outdoor Recreation Division (hereinafter referred to as “Petitioner”) to designate segments of the
26 Rio Grande, Rio Hondo, Lake Fork Creek, East Fork Jemez River, San Antonio Creek, and
27 Redondo Creek as Outstanding National Resource Waters (“ONRWs”). The proposed designation
28 would require amending the State of New Mexico’s *Standards for Interstate and Intrastate Surface*
29 *Waters* (“Standards”), codified as Title 20, Chapter 6, Part 4 of the New Mexico Administrative
30 Code (“NMAC”). The Petitioner is proposing amendments in accordance with 20.6.4.9 NMAC
31 (**NMED Exhibit 18**). My testimony contains the following:

32 I. Introduction

33 II. Qualifications

1 III. Protections Afforded to ONRWs

2 IV. Background of ONRWs in New Mexico

3 V. The Implementation of the State’s Antidegradation Policy for the Proposed Waters
4 if Designated as ONRWs

5 VI. Procedural Requirements for Nomination Including the Administrative Process for
6 Amending the State’s *Standards for Interstate and Intrastate Surface Waters*
7 (20.6.4 NMAC).

8 **II. QUALIFICATIONS**

9 I am currently employed as the Standards, Planning and Reporting Team Supervisor and
10 serve as the Water Quality Standards Coordinator within the Department’s Surface Water Quality
11 Bureau (“SWQB”). I have been in this position for five years and in that time served as an expert
12 witness and provided testimony in five rulemaking proceedings before the Commission. These
13 include designated aquatic life use amendments for Dog Canyon and Tecolote Creek; designated
14 aquatic life use and recreational use amendments for San Isidro Arroyo and tributaries to San Isidro
15 Arroyo within Lee Ranch Mine; adoption of the state’s first temporary standard for the City of
16 Raton’s Wastewater Treatment Facility; various amendments brought forth as part of the Triennial
17 Review of *Standards for Interstate and Intrastate Surface Waters* (20.6.4 NMAC); and most
18 recently the proposed designation of ONRWs in the upper Pecos River watershed. As part of these
19 rulemakings, and as the Standards Coordinator, I have filed amended rules with the state and with
20 the U.S. Environmental Protection Agency (“EPA”) in accordance with state and federal law. In
21 addition to the rulemakings noted above, I have provided technical review of the EPA’s
22 recommended criteria for aluminum; provided review of work plans for potential Use Attainability
23 Analyses (“UAAs”) submitted by third-parties to the Department in accordance with 20.6.4.15(D)

1 NMAC; and coordinated updates to the state's Water Quality Management Plan/Continuing
2 Planning Process ("WQMP/CPP"), which was most recently approved by the Commission and
3 EPA in 2020.

4 Including my work with the Surface Water Quality Bureau, I have been with the
5 Department for almost 15 years. In addition to my current role, I have served as an Environmental
6 Scientist for the Ground Water Quality Bureau Pollution Prevention Section and as the Delivery
7 Prohibition Coordinator for the Petroleum Storage Tank Bureau. Prior to my service with the
8 Department, I was the Environment Department Director for Tesuque Pueblo where I managed
9 the surface and groundwater quality programs, including conducting the Triennial Review for the
10 Pueblo's surface water quality standards. I also served as a Graduate Research Assistant with Los
11 Alamos National Laboratory ("LANL") investigating polychlorinated biphenyl ("PCB") exposure
12 pathways in surface water and as a biologist and geographical information system specialist with
13 the Pueblo of Pojoaque.

14 I hold a Bachelor of Science degree from the University of New Mexico in Biology with a
15 minor in geography (emphasis in remote sensing and geographical information systems) and a
16 Master of Science degree from New Mexico Highlands University in Environmental Science and
17 Management. My publications include Gonzales, G. and Montoya, J. (Fullam), 2005
18 *Polychlorinated biphenyls (PCBs) in the Rio Grande Sampled Using Semi-Permeable Membrane*
19 *Devices* LA-14200; and Fullam, J., 2008 *Elk Habitat Utilization Within Lower Pinon Juniper*
20 *Forests of Tesuque Pueblo*, New Mexico Highlands University Graduate Thesis. A copy of my
21 resume is included as **NMED Exhibit 3**. It is accurate and up-to-date.

1 **III. PROTECTIONS AFFORDED TO OUTSTANDING NATIONAL RESOURCE** 2 **WATERS**

3 The goal of the Federal Water Pollution Control Act (33 U.S.C. § 1251) (**NMED Exhibit**
4 **5**), otherwise referred to as the “Clean Water Act” or “CWA”, is to provide for the protection and
5 propagation of fish, shellfish and wildlife and for recreation in and on the water, wherever
6 attainable.

7 In accordance with 40 Code of Federal Regulations (“C.F.R.”) Section 131.12 (**NMED**
8 **Exhibit 15**), states are required, as part of their water quality standards, to adopt an antidegradation
9 policy to ensure the quality of surface waters does not degrade over time. The State of New
10 Mexico’s antidegradation policy, codified under 20.6.4.8 NMAC (**NMED Exhibit 19**), has three
11 tiers of protection for surface waters of the state, which ensure continual measures are being taken
12 to uphold the goal of the CWA.

13 At a minimum, the state’s antidegradation policy prohibits the degradation of water quality
14 below the existing use for any water of the state. An existing use, as defined under 20.6.4.7(E)(3)
15 NMAC (**NMED Exhibit 20**), “means a use actually attained in a surface water of the state on or
16 after November 28, 1975, whether it is the designated use,” or is currently being attained.

17 At the other end of the spectrum, the state’s antidegradation policy has its highest water
18 quality protection for surface waters of the state designated as ONRWs. Like all waters of the state,
19 ONRWs are protected under the State of New Mexico’s *Standards for Interstate and Intrastate*
20 *Surface Waters* (“Water Quality Standards”) and the CWA.

21 The antidegradation protections afforded to ONRWs under the state’s antidegradation
22 policy and implementation plan, codified under 20.6.4.8 NMAC (**NMED Exhibit 19**), mirror
23 those requirements established under 40 C.F.R. § 131.12 (**NMED Exhibit 15**). These regulations

1 require maintenance and protection of high-quality waters that constitute outstanding national
2 resources, such as waters of national and state parks, wildlife refuges, and waters of exceptional
3 recreational or ecological significance.

4 Pursuant to 20.6.4.8 NMAC (**NMED Exhibit 19**), degradation of water quality is
5 prohibited for waters designated as ONRWs except as provided in 20.6.4.8(A)(3)(a) through (e)
6 NMAC and 20.6.4.8(A)(4)(a) NMAC (**NMED Exhibit 19**). These provisions include temporary
7 and short-term degradation if the WQCC determines it to be necessary to accommodate public
8 health or safety; temporary and short-term degradation in response to an emergency action that is
9 necessary to mitigate an immediate threat to public health or safety; pre-existing land use activities
10 controlled by best management practices and allowed by federal or state law prior to designation
11 as an ONRW that do not pose any new or increased discharges of pollutants; acequia operation,
12 maintenance and repair; and activities that result in the restoration or maintenance of the chemical,
13 physical, or biological integrity of the water.

14 Other anthropogenic activities are not prohibited from occurring in or near waters
15 designated as ONRWs. However, state regulations require a demonstration that these activities
16 will not cause degradation of the ONRW or are one of the allowable short-term and temporary
17 activities identified under 20.6.4.8(A)(3) and (4) NMAC (**NMED Exhibit 19**).

18 **IV. BACKGROUND ON OUTSTANDING NATIONAL RESOURCE WATERS IN** 19 **NEW MEXICO**

20 In accordance with 20.6.4.9(A) NMAC (**NMED Exhibit 18**), any person may nominate a
21 surface water of the state for designation as an ONRW by filing a petition with the Commission
22 pursuant to the applicable procedures. Pursuant to 20.6.4.9(B) NMAC (**NMED Exhibit 18**). The
23 WQCC may designate a surface water of the state as an ONRW if the Commission determines that

1 the designation is beneficial to the state and the water is part of a national or state park, wildlife
2 refuge, wilderness area, or special trout water; or the water has exceptional recreational or
3 ecological significance; or the water has exceptional water quality that has not been significantly
4 modified by human activities.

5 Pursuant to 20.6.4.9(A) NMAC (**NMED Exhibit 18**), the nominating petition must include,
6 among other things, a map of the upstream and downstream boundaries of the proposed ONRW
7 waters. If the WQCC approves the ONRW nomination, the designated water is listed under
8 20.6.4.9(D) NMAC (**NMED Exhibit 18**). This delineation for the eligible water is critical for
9 implementing protections against degradation afforded to ONRWs.

10 Prior to 2005, the procedures for nominating an ONRW were codified under the
11 antidegradation policy in the state's *Standards for Interstate and Intrastate Surface Waters* (20.6.4
12 NMAC), predominately because the functionality of an ONRW designation directly relates to
13 protection against degradation of a state water.

14 In 2005, the WQCC moved the process and the list of designated ONRWs to its own section
15 under 20.6.4.9 NMAC (**NMED Exhibit 18**) because, as discussed in the Statement of Reasons for
16 the 2005 amendments to 20.6.4 NMAC (**NMED Exhibit 23**), the antidegradation policy and
17 implementation plan apply to all waters of the state. In contrast, ONRWs are specifically
18 designated waters that receive special consideration.

19 In addition, and as part of the 2005 amendments, the WQCC amended language to clarify
20 the eligibility criteria that must be demonstrated for an ONRW designation. As reflected in the
21 Statement of Reasons for the 2005 amendments to 20.6.4 NMAC (**NMED Exhibit 23**), the 2005
22 amendments added an additional requirement to demonstrate the designation is beneficial to the
23 State of New Mexico to prevent allegations of "taking" protections not otherwise substantiated.

1 The 2005 amendments also expanded the eligibility to waters that demonstrated exceptional water
2 quality not impacted by anthropogenic activities. Other than a few clarifications in wording, these
3 eligibility requirements have remained essentially the same since 2005.

4 There have been four ONRW petitions brought before the Commission between 2005 and
5 2022. Three of these petitions resulted in the adoption of ONRWs totaling approximately 1,553
6 stream miles, 6,000 wetland acres, and 139 lake/pond acres (**NMED Exhibit 24**). An additional
7 petition [WQCC Docketed Matter 21-51(R)] is still awaiting the Commission's deliberation but
8 would add 179 stream miles and 43 wetland acres, should they be adopted as proposed.

9 Additionally, if adopted by the WQCC, the ONRW designation for the Rio Grande from
10 directly above the Rio Pueblo de Taos to the New Mexico-Colorado border, the Rio Hondo from
11 the Carson National Forest boundary to its headwaters, Lake Fork Creek from the Rio Hondo to
12 its headwaters, the East Fork Jemez River from San Antonio Creek to its headwaters, San Antonio
13 Creek from the East Fork Jemez River to its headwaters and Redondo Creek from Sulphur Creek
14 to its headwaters, would be the 5th series of ONRWs, adding approximately 125.1 stream miles.

15 **V. THE IMPLEMENTATION OF THE STATE'S ANTIDegradATION POLICY**
16 **FOR THE PROPOSED WATERS IF DESIGNATED AS OUTSTANDING**
17 **NATIONAL RESOURCE WATERS**

18 Although the state's antidegradation policy, codified in 20.6.4.8 NMAC, prohibits
19 degradation of water quality for ONRWs, there are some allowances.

20 First, activities associated with the restoration or maintenance of the chemical, physical, or
21 biological integrity of the water, are allowed to cause short-term degradation to water quality
22 Pursuant to 20.6.4.8(A)(4) NMAC (**NMED Exhibit 19**). Examples of these types of activities
23 include riparian and wetland restoration projects and native fish recovery programs.

1 Second, language in 20.6.4.8(A)(3)(a) and (c) NMAC (**NMED Exhibit 19**) allows
2 temporary and short-term degradation of baseline water quality or existing uses so long as the
3 WQCC deems the activity necessary to accommodate public health or safety or the activity is in
4 response to an emergency and necessary to mitigate an immediate threat to public health or safety.
5 These types of activities include, but are not limited to, construction and maintenance of river
6 crossings; utility infrastructure; roadway construction, maintenance, and repair; and emergency
7 response to wildfire and other catastrophic events.

8 Third, pre-existing land-use activities are allowed, so long as they are allowed by federal
9 or state law and existed prior to the ONRW designation (e.g., permitted discharges, grazing, etc.),
10 are controlled by best management practices, which are defined, in part, under 20.6.4.7(B)(1)(b)
11 NMAC (**NMED Exhibit 21**), and, in accordance with 20.6.4.8 NMAC, there is no increase of
12 activity or discharge of pollutants after the designation of the ONRW (**NMED Exhibit 19**). For
13 pre-existing uses, the designation of these waters as ONRWs will only have implications if best
14 management practices are not implemented or if there is an expansion of a particular activity.

15 Finally, pursuant to 20.6.4.8(A)(3)(e) NMAC (**NMED Exhibit 19**), acequia operation,
16 maintenance, and repairs are allowed. And although not required, the use of best management
17 practices to minimize or eliminate pollutants into ONRWs is strongly encouraged.

18 The Department evaluated some of the potential implications of an ONRW designation on
19 known or expected point and non-point source activities in the waters being petitioned for
20 designation as part of this matter.

21 Point Sources

22 Regarding the federal National Pollutant Discharge Elimination System (“NPDES”)
23 permitting program, the Department used its Surface Water Quality online mapping tool

1 (<https://gis.web.env.nm.gov/oem/?map=swqb>) to identify NPDES permits within or upstream of
2 the proposed ONRW waters.

3 The Department found no NPDES permits for discharges directly to the Rio Grande from
4 just above the confluence Rio Pueblo de Taos to the New Mexico-Colorado border. However,
5 there are three NPDES permits on tributaries to this reach of the Rio Grande. Two discharge to the
6 Red River (Chevron Mining Inc./Questa Mine NPDES permit NM0022306 and the Town of Red
7 River Wastewater Treatment Plant NPDES permit NM0024899) and one discharges to the Rio
8 Hondo (Village of Taos Ski Valley Wastewater Treatment Plant NPDES permit NM0022101).

9 The Rio Hondo from the Carson National Forest boundary to its headwaters has one
10 NPDES permit, as already mentioned for the Taos Ski Valley. No other NPDES permits are located
11 on the nominated reach of the Rio Hondo. Additionally, the Department found no NPDES permits
12 for discharges to Lake Fork Creek from the Rio Hondo to its headwaters.

13 The Department found no NPDES permits on or upstream of the East Fork Jemez River
14 from San Antonio Creek to its headwaters, San Antonio Creek from the East Fork Jemez River to
15 its headwaters, and Redondo Creek from Sulphur Creek to its headwaters.

16 The designation of an ONRW would not prohibit a permittee from applying to discharge
17 to an ONRW so long as it can be demonstrated the discharge would not cause degradation of the
18 water quality as established in baseline conditions or established existing uses, whichever is more
19 stringent. Should an application to discharge under Section 402 of the CWA be submitted, the
20 Department will use available and defensible data to implement protections for ONRWs in
21 accordance with the state's antidegradation policy, codified in 20.6.4.8(A)(3) NMAC (**NMED**
22 **Exhibit 19**).

1 The Department determined that the designation of these waters as ONRWs would not
2 impact the existing upstream dischargers so long as the permitted discharges do not cause
3 degradation of the ONRW's baseline water quality or existing uses. Nor would designation prevent
4 new dischargers from discharging, so long as they can demonstrate no degradation of water quality
5 would occur as a result of the discharge.

6 Non-Point Sources

7 Non-point sources are evaluated predominately on land use activities on the waterbody or
8 within the watershed. Common anthropogenic activities associated with non-point sources include
9 motorized vehicles; heavy or extensive outdoor recreation that results in compacting soils, loss of
10 vegetation, or destabilization of stream banks; overuse by livestock; agriculture; and urban run-
11 off.

12 Anthropogenic activities leading to non-point source degradation were evaluated
13 subjectively, as the extent of pollutant loading on a waterbody varies significantly based on site
14 conditions and waterbody type. The designation of an ONRW does not prohibit these types of pre-
15 existing activities but many would require the implementation of best management practices.
16 Therefore, the Department determined potential anthropogenic non-point sources for the
17 nominated tributaries by evaluating general land usage by ownership type. Ownership type was
18 determined from the Department's Surface Water Quality online mapping tool
19 (<https://gis.web.env.nm.gov/oem/?map=swqb>).

20 The Rio Grande from just above the confluence Rio Pueblo de Taos to the New Mexico-
21 Colorado border traverses predominately through Bureau of Land Management lands, several
22 private claim lands, and a reach in the lower section in which waters are both under state and
23 Pueblo of Taos jurisdiction. Anthropogenic non-point source pollution to the Rio Grande along

1 this reach would be predominately from permissible activities on Bureau of Land Management
2 and Pueblo of Taos lands.

3 In accordance with Section 518(e)(2) of the CWA (33 U.S.C. § 1377) (**NMED Exhibit 6**),
4 EPA has the authority to treat Indian Tribes in a Similar Manner as States/Sovereigns (“TAS”) for
5 management and protection of water resources. Given the Pueblo of Taos obtained TAS on
6 December 8, 2005, and has had Water Quality Standards approved by EPA since June 19, 2006,
7 the state acknowledges the Pueblo of Taos’ jurisdiction on a portion of the Rio Grande and as such,
8 the state has no authority to designate these Tribal waters as ONRWs. The support provided by
9 the Pueblo of Taos for this nomination does not translate into a designation of tribal waters as an
10 ONRW, since, similar to the state, the Pueblo of Taos must undergo adoption of such a designation
11 through their own standards adoption and hearing process. Therefore, if the Rio Grande from just
12 above the confluence with the Rio Pueblo de Taos is designated by the WQCC as an ONRW, only
13 the portion of these waters in which the state has jurisdiction would be protected by the state’s
14 antidegradation policy for ONRWs.

15 The Rio Hondo from the Carson National Forest boundary to its headwaters is located
16 within U.S. Forest Service (“USFS”) land (non-wilderness areas) along State Highway 150. There
17 are two sections within the nominated reach where the Rio Hondo traverses through private claim
18 lands. Other than the state highway, development is limited and there are few USFS roads, likely
19 due to the USFS designated Columbine-Hondo and Wheeler Peak Wilderness Areas on either side
20 of the highway and the Rio Hondo. Existing permitted activities may continue. However, in
21 accordance with 20.6.4.8(A)(3) NMAC (**NMED Exhibit 19**), maintenance or construction on
22 these roads, if determined to pose temporary or short-term degradation, would require notification
23 and approval of the Commission.

1 Lake Fork Creek from the Rio Hondo to its headwaters is located on non-wilderness USFS
2 land, private claim land within the Taos Ski Valley, and the designated USFS Wheeler Peak
3 Wilderness area. The area designated as USFS non-wilderness area may have anthropogenic non-
4 point source pollution from outdoor recreation, livestock grazing, and natural resource harvesting.
5 The area within the USFS designated Wilderness Area has limited anthropogenic non-point
6 sources since it is located within the Wheeler Peak Wilderness, designated by Congress in 1964.
7 Although this $\frac{3}{4}$ mile segment of Lake Fork Creek was not nominated in the 2010 Wilderness
8 Areas ONRW designations [WQCC Docketed Matter 10-01(R)], it meets the requirements to be
9 designated. The predominant anthropogenic non-point sources to Lake Fork Creek from private
10 claim lands are likely from stormwater runoff from roadways and activity alongside and near Lake
11 Fork Creek within the Taos Ski Valley. Existing permitted activities may continue. However,
12 maintenance or construction on these roads or structures within the area in and around Lake Fork
13 Creek, if they were determined to pose temporary or short-term degradation to water quality,
14 would require notification and approval of the Commission.

15 The East Fork Jemez River from San Antonio Creek to the Valle Calderas boundary is
16 almost entirely within non-wilderness USFS land. Anthropogenic activities that may contribute to
17 anthropogenic non-point source pollution within these lands include outdoor recreation, livestock
18 grazing, and natural resource harvesting. The area around the East Fork Jemez River has numerous
19 USFS roads, as illustrated by Google Earth imagery (**NMED Exhibit 25**). Along with the USFS
20 roads, there are a few sections where the East Fork Jemez River runs along State Highway 4. In
21 accordance with 20.6.4.8(A)(3) NMAC (**NMED Exhibit 19**), maintenance or construction on
22 these roads, if it was determined to pose temporary or short-term degradation, would require
23 notification and approval of the Commission. The East Fork Jemez River from the Valle Calderas

1 boundary to its headwaters has fewer roads than the USFS lands, but like USFS, the Valles Caldera
2 National Preserve permits recreational and livestock grazing uses (**NMED Exhibit 26**). Overall,
3 if the Commission designates East Fork Jemez River as an ONRW, these activities may continue
4 as long as any expansion of these activities does not degrade water quality and they are done under
5 the inclusion of best management practices, as defined in 20.6.4.7(B)(1) NMAC (**NMED Exhibit**
6 **21**).

7 San Antonio Creek, from the East Fork Jemez River to its headwaters, runs along State
8 Highway 4 and State Highway 126 through USFS lands as well as several private claim lands, one
9 of which consists of residential and small business development. San Antonio Creek then traverses
10 upstream into the Valles Caldera. Uses for USFS lands and the Valles Caldera are identical to
11 those discussed for the East Fork Jemez River. Overall, if the Commission designates San Antonio
12 Creek as an ONRW, these activities may continue as long as any expansion of these activities does
13 not degrade water quality and they are done using best management practices, as defined in
14 20.6.4.7(B)(1) NMAC (**NMED Exhibit 21**).

15 Redondo Creek from Sulphur Creek to its headwaters has a short section along State
16 Highway 4 within non-wilderness USFS lands before it crosses into the Valles Caldera. Uses for
17 USFS lands and the Valles Caldera are identical to those discussed for the East Fork Jemez River.
18 Overall, if the Commission designates Redondo Creek as an ONRW, land use activities may
19 continue as long as any expansion of these activities does not degrade water quality and they are
20 done using best management practices, as defined in 20.6.4.7(B)(1) NMAC (**NMED Exhibit 21**).

1 **VI. PROCEDURAL REQUIREMENTS AND ADMINISTRATIVE PROCESS FOR**
2 **DESIGNATING AN ONRW**

3 In accordance with New Mexico Statutes Annotated (“NMSA”) 1978, § 74-6-6 (**NMED**
4 **Exhibit 9**), no amendment to a water quality standard or regulation, which includes designating
5 ONRWs in 20.6.4.9(D) NMAC, may be adopted or amended until after a public hearing.
6 Additionally, 40 C.F.R. § 131.20 (**NMED Exhibit 16**) requires states to have a “public hearing
7 for the purpose of reviewing applicable water quality standards adopted pursuant to 40 C.F.R. §§
8 131.10 through 131.15...”. The EPA requires states hold these hearings in accordance with state
9 law and EPA’s regulations regarding public participation (40 C.F.R. Part 25). The EPA has
10 promulgated regulations in 40 C.F.R. § 25.5 (**NMED Exhibit 17**) regarding the obligation to notify
11 the public for hearings associated with the federal CWA. In part, EPA requires that a notice of the
12 hearing be well-publicized and mailed to interested and affected parties at least 45 days prior to
13 the hearing date. In accordance with 20.1.6.201 NMAC (**NMED Exhibit 22**), the Commission
14 must provide notice of the hearing in the New Mexico Register and in at least one newspaper of
15 general circulation at least 60 days prior to the hearing. Because the procedural regulations at
16 20.1.6 NMAC require public notice no less than 60 days prior to a hearing, the state’s procedural
17 regulations for amendments to 20.6.4 NMAC are more stringent than the federal regulations for
18 noticing hearings.

19 Because the designation of an ONRW requires amending 20.6.4 NMAC (i.e., rulemaking),
20 several federal and state laws govern the process. The New Mexico Legislature authorized the
21 Commission to “adopt water quality standards for surface and ground waters of the state based on
22 credible scientific data and other evidence appropriate under the Water Quality Act.” NMSA 1978,
23 § 74-6-4(D) (**NMED Exhibit 10**). Amendments to the Standards must comply with NMSA 1978,

1 § 74-6-6 (**NMED Exhibit 9**) and 20.1.6 NMAC, which set forth procedural requirements for
2 rulemaking proceedings before the Commission.

3 The Petitioner emailed a draft Petition and solicitation for comment to the Department on
4 July 8, 2021 (**NMED Exhibit 27**). As requested, the Department commented on the draft Petition
5 on September 30, 2021 (**NMED Exhibit 28**). As with all water quality standards amendments,
6 both the Department and EPA Region 6 consider themselves stakeholders, given the Department's
7 responsibility for implementation of the state's water quality standards, codified under 20.6.4
8 NMAC, and EPA's obligation to ensure a state's WQS are adopted in accordance with the CWA.
9 The Department appreciates the consideration afforded by the Petitioner to provide comment prior
10 to petitioning the Commission.

11 The Petitioner filed a revised Petition and a request for hearing with the WQCC on
12 December 3, 2021. As a stakeholder, and in accordance with 20.1.6.203 NMAC (**NMED Exhibit**
13 **22**), the Department filed an entry of appearance on this matter on December 6, 2021. At the
14 regularly scheduled WQCC meeting on December 14, 2021, the Petitioner brought forth their
15 request for a hearing. The WQCC granted a hearing, to be held virtually via WebEx, on June 14,
16 2022, as described in the WQCC's Order Granting Public Hearing and Appointment of Hearing
17 Officer, dated January 13, 2022. The Hearing Officer, Gregory Chakalian, issued a Scheduling
18 Order on January 18, 2022.

19 The Scheduling Order specified public notice of the hearing be drafted by the Petitioner in
20 English and Spanish. It was mutually determined by the Petitioner and NMED that the hearing
21 notice was solely the Petitioner's obligation. In accordance with 20.1.6.201(A) NMAC (**NMED**
22 **Exhibit 22**), the notice of hearing must be published in the State Register; one newspaper of
23 general circulation in the state; and if the changes are confined to a specific geographic area, a

1 newspaper of general circulation in the area affected, all no less than 60 days prior to the hearing
2 for the matter. For this matter, the 60-day hearing notice would have been by April 15, 2022.

3 In accordance with the State Rules Act NMSA 1978, § 14-4-5.2 (**NMED Exhibit 11**), the
4 notice of proposed rulemaking is required to be “provide[d] to the public” at least 30 days prior to
5 the hearing. The term “provide to the public” is defined in NMSA 1978, § 14-4-2 (**NMED Exhibit**
6 **12**) as posting the notice on the agency website; posting on the Sunshine Portal; making it available
7 in the agency’s district, field, and regional offices; sending notice to persons who requested to be
8 notified of such announcements; and providing it to the New Mexico Legislative Council for
9 distribution to appropriate interim and standing legislative committees. However, pursuant to 40
10 C.F.R. § 25.5 (**NMED Exhibit 17**) a notice of the hearing must be well-publicized and mailed to
11 interested and affected parties at least 45 days prior to the hearing date, which is more stringent
12 than the timelines in the State Rules Act. For this matter, the 45-day hearing notice would have
13 been by April 30, 2022. As part of this requirement, the Department assisted in the dissemination
14 of the hearing notice to NMED’s District Managers on April 25, 2022 (**NMED Exhibit 29**).

15 The State recognizes the importance of communication and collaboration with tribes to
16 ensure water quality across boundaries. The State has memorialized this sentiment through the
17 State-Tribal Collaboration Act, NMSA 1978, § 11-18-3 (**NMED Exhibit 13**), Executive Order
18 2005-004, and the Department’s Tribal Communication and Collaboration Policy (“Policy”)
19 (**NMED Exhibit 30**). In an effort to ensure opportunity for adequate communication and
20 collaboration with tribes, the Department provided notice of the hearing to 40 tribal
21 representatives, through the Department’s Tribal Liaison, on April 19, 2022 (**NMED Exhibit 31**).

1 Finally, in accordance with the Small Business Regulatory Relief Act NMSA 1978, § 14-
2 4A-4 (**NMED Exhibit 14**), notification of the proposed amendments must be provided to the Small
3 Business Regulatory Advisory Commission.

4 Pursuant to 40 C.F.R. § 25.5 (**NMED Exhibit 17**), the public hearing notification must
5 identify the matters to be discussed at the hearing and the agency's tentative determination on
6 major issues. Reports, documents, and data relevant to the discussion at the public hearing shall
7 be available to the public at least 30 days before the hearing.

8 In addition, the agency shall schedule witnesses in advance to ensure maximum
9 participation and allotment of adequate time for all speakers. In accordance with 20.1.6.202
10 NMAC (**NMED Exhibit 22**), the Notice of Intent to Present Technical Testimony along with the
11 supporting exhibits must be filed at least 20 days prior to the hearing or in accordance with the
12 procedural order. The Scheduling Order required the Parties' Notices of Intent to Provide
13 Technical Testimony, along with supporting evidence, be filed with the Commission by May 13,
14 2022, 32 days prior to the hearing, thus fulfilling the requirements of both 40 C.F.R. § 25.5
15 (**NMED Exhibit 17**) and 20.1.6.202 NMAC (**NMED Exhibit 22**). The Department submitted a
16 Notice of Intent to Present Technical Testimony, as found here, in accordance with this Scheduling
17 Order. In accordance with 40 C.F.R. § 25.5 (**NMED Exhibit 17**), the hearing, according to the
18 Order for Hearing and Appointment of Hearing Officer, provided adequate time to accommodate
19 all witnesses with ample opportunity to participate.

20 Pending the Petitioner's adequate demonstration of providing notice of the hearing as
21 described above, the Department finds the state and federal rule-making requirements to adopt an
22 ONRW have been met.

1 **VII. FINDINGS**

2 Regarding the state's antidegradation policy and administrative process, there were no
3 findings that would prevent the Department from supporting ONRW designations for those waters
4 where the Petitioner demonstrated adequate proof of eligibility pursuant 20.6.4.9(B) NMAC
5 (NMED Exhibit 18) and notification to the public pursuant to 20.1.6.201(A) NMAC (NMED
6 Exhibit 22), the State Rules Act NMSA 1978, § 14-4-5.2 (NMED Exhibit 11), Small Business
7 Regulatory Relief Act NMSA 1978, § 14-4A-4 (NMED Exhibit 14), and 40 C.F.R. § 25.5
8 (NMED Exhibit 17).

9 As part of any rulemaking proceeding, any amendment to 20.6.4 NMAC must be made
10 effective before implementation can occur. Pending the outcome of this hearing, the Department
11 will file the amended rule with the State Records Center and Archives, obtain the required
12 certification of adherence for rulemaking from the state's Attorney General's Office and submit
13 the effective state rule to EPA Region 6 for approval under the CWA. It can take approximately
14 six months from the point the Commission renders its final order and statement of reasons to the
15 point the amendment is effective for CWA purposes.

16 **VIII. PROPOSED AMENDMENTS TO 20.6.4 NMAC**

17 Based on the findings of the Department, and with consideration of Ms. Aranda's technical
18 testimony (NMED Exhibit 2), the Department recommends the WQCC approve the proposed
19 ONRW designation, as provided in NMED Exhibit 35.

20 This concludes my direct testimony.

**STATE OF NEW MEXICO
WATER QUALITY CONTROL COMMISSION**

**IN THE MATTER OF THE PETITION
FOR PROPOSED AMENDMENTS
TO 20.6.4.9 NMAC, DESIGNATION
OF SEGMENTS OF THE RIO GRANDE,
RIO HONDO, LAKE FORK CREEK,
EAST FORK JEMEZ RIVER, SAN ANTONIO
CREEK, AND REDONDO CREEK AS
OUTSTANDING NATIONAL RESOURCE WATERS,**

Outdoor Recreation Division, New Mexico
Department of Economic Development,
Petitioner.

I. INTRODUCTION

My name is Diana I. Aranda, and I am presenting this written testimony (**NMED Exhibit 2**) on behalf of the New Mexico Environment Department ("Department" or "NMED") concerning the petition ("Petition") filed by the New Mexico Department of Economic Development's Outdoor Recreation Division ("Petitioner") to designate segments of the Rio Grande, Rio Hondo, Lake Fork Creek, East Fork Jemez River, San Antonio Creek, and Redondo Creek as Outstanding National Resource Waters ("ONRWs"), pursuant to 20.6.4.9(A) New Mexico Administrative Code ("NMAC") and 20.6.4.9(B) NMAC (**NMED Exhibit 18**)

My testimony contains the following:

- I. Introduction
- II. Qualifications
- III. Background
- IV. Criteria for Designating an ONRW

V. Submittal Requirements for Nominating an ONRW

VI. Summary of Findings

VII. Proposed Amendments to 20.6.4.9 NMAC

II. QUALIFICATIONS

I have been employed with the Department's Surface Water Quality Bureau ("SWQB") since February 2017. I worked for the Total Maximum Daily Load Team for two years, and have worked for the Standards, Planning, and Reporting Team ("Standards Team") since February 2019. I am an Environmental Scientist/Specialist-Advanced where I am responsible for various aspects of developing water quality standards for New Mexico's surface waters in accordance with the state Water Quality Act ("WQA") and the federal Clean Water Act ("CWA").

I hold a Bachelor of Science degree in Biology from the University of New Mexico, and a Master of Science degree in Coastal Zone Management from Nova Southeastern University. My master's work focused on recreational water quality assessments, and my work was published in the peer-reviewed Journal of Water & Health in 2016 with me as the principal author.

I have worked on water quality issues in various capacities, including: as a project manager for a consulting company; as a researcher for the National Oceanic and Atmospheric Administration ("NOAA") in collaborations with the U.S. Environmental Protection Agency ("EPA"), several universities, and local agencies; as a marine biologist for Biscayne National Park; and as a researcher at the University of Washington, Friday Harbor Laboratories. I have additional professional experience outside water quality listed in my resume. An accurate and up-to-date copy of my resume is included as **NMED Exhibit 4**.

1 **III. BACKGROUND**

2 The New Mexico antidegradation policy, codified as 20.6.4.8 NMAC (**NMED Exhibit**
3 **19**), defines the protections for all surface waters of the state against degradation and specifically
4 protects ONRWs in 20.6.4.8(A)(3) NMAC (**NMED Exhibit 19**). The Water Quality Control
5 Commission ("WQCC" or "Commission") designates waters as ONRWs under the authority of
6 the WQA and specifically identifies and lists these waters in 20.6.4.9(D) NMAC (**NMED**
7 **EXHIBIT 18**). Any person may nominate a surface water as an ONRW by filing a petition
8 with the WQCC. The Petitioner submitted an ONRW nomination for the following waterbodies
9 identified in Exhibit 2 of the Petition:

10 *"... (4) the Rio Grande from directly above the Rio Pueblo de Taos to the New Mexico-*
11 *Colorado border.*

12 *(5) the Rio Hondo from the Carson National Forest boundary to its headwaters and*
13 *Lake Fork creek from the Rio Hondo to its headwaters*

14 *(6) the East Fork Jemez river from San Antonio creek to its headwaters; San Antonio*
15 *creek from the East Fork Jemez river to its headwaters; and Redondo creek from Sulphur*
16 *creek to its headwaters."*

17 My testimony reflects the Department's technical review of the Petition nominating the six
18 identified waterbodies as ONRWs.

19 **IV. CRITERIA FOR DESIGNATING AN ONRW**

20 A petition to designate a surface water of the state as an ONRW must demonstrate that the
21 designation benefits the state and that the nominated waterbody meets at least one of three
22 eligibility criteria listed in 20.6.4.9(B) NMAC (**NMED Exhibit 18**). The first eligibility criterion
23 (20.6.4.9(B)(1) NMAC) (**NMED Exhibit 18**) requires the nominated water to be distinguished as

one or more of the following: a state special trout water designation; a federal Wild and Scenic Rivers Act designation; or be within a designated national or state park, monument, wildlife refuge, or wilderness area. The second eligibility criterion (20.6.4.9(B)(2) NMAC) (**NMED Exhibit 18**) requires the nominated waters to have exceptional recreational or ecological significance. The third eligibility criterion (20.6.4.9(B)(3) NMAC) (**NMED Exhibit 18**) requires the nominated waters to have sufficient water quality to fully support aquatic life and recreation and protect human health. In addition, the third eligibility criterion requires the nominated waters to not be significantly modified by human activities in a manner that substantially detracts from their value as a natural resource. The Department reviewed the Petition to determine if it provided sufficient evidence to support at least one of the criteria required to designate an ONRW.

The ONRW nomination for the waterbody segment of the Rio Grande from directly above the confluence with Rio Pueblo de Taos upstream to the New Mexico-Colorado border, meets the criteria for both 20.6.4.9(B)(1) and 20.6.4.9(B)(2) NMAC (**NMED Exhibit 18**). This nominated segment qualifies for 20.6.4.9(B)(1) NMAC (**NMED Exhibit 18**) because it has: a Wild and Scenic Rivers Act designation, extending from the Colorado State line downstream to the State Road 96 crossing (**NMED Exhibit 7**); a New Mexico Department of Game and Fish ("NMDGF") state special trout water designation, extending from the Colorado state line downstream to the Taos Junction Bridge at State Road 567 (**NMED Exhibit 32**); and a Rio Grande del Norte National Monument designation, for the Rio Grande segment located within the National Monument boundaries (**NMED Exhibit 33**). This nominated segment also qualifies for 20.6.4.9(B)(2) NMAC (**NMED Exhibit 18**) because the Petition provided NMDGF angler use and wildlife and plant species data to demonstrate both exceptional recreational and ecological significance.

1 The ONRW nomination for the waterbody segment of the Rio Hondo from the Carson
2 National Forest boundary to its headwaters is eligible pursuant to 20.6.4.9(B)(2) NMAC (**NMED**
3 **Exhibit 18**) because the Petition provided NMDGF angler use and wildlife and plant species data
4 to demonstrate both exceptional recreational and ecological significance.

5 The ONRW nomination for the waterbody segment of Lake Fork Creek from the Rio
6 Hondo to its headwaters is eligible pursuant to 20.6.4.9(B)(2) NMAC (**NMED Exhibit 18**)
7 because the Petition provided NMDGF angler use and wildlife and plant species data to
8 demonstrate both exceptional recreational and ecological significance.

9 The ONRW nomination for the waterbody segment of East Fork Jemez River from San
10 Antonio Creek to its headwaters is eligible for both 20.6.4.9(B)(1) and 20.6.4.9(B)(2) NMAC
11 (**NMED Exhibit 18**). This nominated waterbody segment qualifies for 20.6.4.9(B)(1) (**NMED**
12 **Exhibit 18**) because it has: a Wild and Scenic Rivers Act designation, extending from the Santa
13 Fe National Forest boundary to its confluence with the Rio San Antonio (**NMED Exhibit 8**); and
14 an NMDGF state special trout water designation for all waters within the Valles Caldera National
15 Preserve (**NMED Exhibit 32**). This nominated waterbody segment also qualifies for
16 20.6.4.9(B)(2) NMAC (**NMED Exhibit 18**) because the Petition provided NMDGF angler use and
17 wildlife and plant species data to demonstrate both exceptional recreational and ecological
18 significance.

19 The ONRW nomination for the waterbody segment of San Antonio Creek from the East
20 Fork Jemez River to its headwaters is eligible for both 20.6.4.9(B)(1) and 20.6.4.9(B)(2) NMAC
21 (**NMED Exhibit 18**). This nominated waterbody segment qualifies for 20.6.4.9(B)(1) (**NMED**
22 **Exhibit 18**) because it has an NMDGF state special trout water designation for all waters within
23 the Valles Caldera National Preserve (**NMED Exhibit 32**). This nominated waterbody segment

1 also qualifies for 20.6.4.9(B)(2) NMAC (**NMED Exhibit 18**) because the Petition provided
2 NMDGF angler use and wildlife and plant species data to demonstrate both exceptional
3 recreational and ecological significance.

4 The ONRW nomination for the waterbody segment of Redondo Creek from Sulphur Creek
5 to its headwaters is eligible for both 20.6.4.9(B)(1) and 20.6.4.9(B)(2) NMAC (**NMED Exhibit**
6 **18**). This nominated waterbody segment qualifies for 20.6.4.9(B)(1) NMAC (**NMED Exhibit 18**)
7 because it has an NMDGF state special trout water designation for all waters within the Valles
8 Caldera National Preserve (**NMED Exhibit 32**). This nominated segment also qualifies for
9 20.6.4.9(B)(2) NMAC (**NMED Exhibit 18**) because the Petition provided NMDGF angler use and
10 wildlife and plant species data to demonstrate both exceptional recreational and ecological
11 significance.

12 In summary, the Department's review of the Petition found that each of the six nominated
13 waterbodies met at least one of the eligibility criteria contained in 20.6.4.9(B) NMAC (**NMED**
14 **Exhibit 18**). The Department therefore supports the ONRW nominations.

15 **V. SUBMITTAL REQUIREMENTS FOR NOMINATING AN ONRW**

16 An ONRW nomination must also include the six submittal requirement elements listed in
17 20.6.4.9(A) NMAC (**NMED Exhibit 18**). These elements are: (1) a map of the nominated surface
18 water of the state with a site location, including the upstream and downstream boundaries of the
19 proposed ONRW; (2) a written statement that includes evidence-based scientific principles in
20 support of the nomination, including specific references to one or more of the applicable ONRW
21 eligibility criteria listed in 20.6.4.9(B) NMAC (**NMED Exhibit 18**); (3) if available, chemical,
22 physical or biological water quality data to establish baseline water quality conditions for the
23 proposed ONRW; (4) a discussion of activities that might contribute to the reduction of water

1 quality in the proposed waters; (5) a discussion of the economic impact of the designation on the
2 local and regional economy within the state of New Mexico and its benefits to the state; and (6)
3 an affidavit of publication of notice of the petition in a newspaper of general circulation in the
4 affected counties and in a newspaper of general statewide circulation. The Department reviewed
5 the Petition to determine if it provided each of the six required elements identified above.

6 In accordance with 20.6.4.9(A)(1) NMAC (**NMED Exhibit 18**), all ONRW petitions must
7 include a map with the nominated waterbodies' location and a description of the upstream and
8 downstream boundaries for the ONRW designation. The Petition provided a map and description
9 of the upstream and downstream boundaries for all nominated waterbodies. The Department found
10 this information sufficient to meet the requirements of 20.6.4.9(A)(1) NMAC (**NMED Exhibit**
11 **18**).

12 In accordance with 20.6.4.9(A)(2) NMAC (**NMED Exhibit 18**), the Petition must provide
13 evidence-based scientific information in support of the nomination, including how each waterbody
14 fulfills the eligibility criteria in 20.6.4.9(B) NMAC (**NMED Exhibit 18**). The Department
15 reviewed the evidence contained in the Petition, including references, and found that the evidence
16 provided for each of the nominated waters was sufficient to meet the requirements of
17 20.6.4.9(A)(2) NMAC (**NMED Exhibit 18**).

18 In accordance with 20.6.4.9(A)(3) NMAC (**NMED Exhibit 18**), an ONRW petition must
19 provide, if available, chemical, physical, or biological water quality data to establish baseline water
20 quality conditions. The Petition included water quality data for several of the nominated tributaries
21 in Exhibits 4-A through 4-D of the Petition. Because this element is not required, the lack of
22 available data for a specific segment does not disqualify its designation. Therefore, the Department
23 finds that Exhibits 4-A through 4-D meet the requirements of 20.6.4.9(A)(3) NMAC (**NMED**

1 **Exhibit 18).** To aid in the future use of the data in the Petition, the Department has provided a
2 data dictionary to assist in interpreting the Petition's water quality data (**NMED Exhibit 34**).

3 In accordance with 20.6.4.9(A)(4) NMAC (**NMED Exhibit 18**), an ONRW petition
4 requires a discussion of activities that might contribute to the reduction of water quality. The
5 Department found the Petition discussed this at a regional level which would impact all waters
6 proposed in this matter for ONRW designation. The Department, therefore, finds that this
7 requirement was satisfied for all proposed waters.

8 In accordance with 20.6.4.9(A)(5) NMAC (**NMED Exhibit 18**), an ONRW petition must
9 discuss the economic impact of the designation on the local and regional New Mexico economy,
10 including the appropriate references. The Petition includes this discussion at a regional level,
11 incorporating all waters in this nomination for ONRW designation. Therefore, the Department
12 finds this requirement was satisfied for all proposed waters.

13 In accordance with 20.6.4.9(A)(6) NMAC (**NMED Exhibit 18**), an ONRW petition must
14 provide an affidavit of publication of notice of the petition in a newspaper of general circulation
15 in the affected counties and in a newspaper of general statewide circulation. To satisfy this
16 requirement for notification in a newspaper of general circulation in the affected counties, Exhibit
17 5 of the Petition includes affidavits of publication of the intended Petition in the Taos News on
18 November 25, 2021, published and distributed in Taos county; the Rio Rancho Observer on
19 November 29, 2021, published in Sandoval county; and the Albuquerque Journal on November
20 22, 2021, published statewide. The Department found that this requirement was satisfied for all
21 proposed waters.

22 In summary, the Department found that the Petition met the requirements of 20.6.4.9(A)(1)
23 through 20.6.4.9(A)(6) NMAC (**NMED Exhibit 18**) for all the nominated waters. Based on the

1 submittal of these elements, the Department supports the designation of the identified waters as
2 ONRWs.

3 **VI. SUMMARY OF FINDINGS**

4 The Department found all of the nominated waterbodies in the Petition met one or more of the
5 eligibility criteria in 20.6.4.9(B) NMAC (**NMED Exhibit 18**) and that the Petitioner satisfied the
6 submittal requirements pursuant to 20.6.4.9(A) NMAC (**NMED Exhibit 18**). The nominated
7 waterbodies are:

- 8 • Rio Grande from directly above the Rio Pueblo de Taos to the New Mexico-Colorado
9 border;
- 10 • Rio Hondo from the Carson National Forest boundary to its headwaters;
- 11 • Lake Fork Creek from the Rio Hondo to its headwaters;
- 12 • East Fork Jemez River from San Antonio Creek to its headwaters;
- 13 • San Antonio Creek from the East Fork Jemez River to its headwaters; and
- 14 • Redondo Creek from Sulphur Creek to its headwaters.

15 The Department also evaluated the Petition in accordance with the state's antidegradation
16 policy and administrative procedures in the testimony of Jennifer Fullam, **NMED Exhibit 1**.

17 **VII. PROPOSED AMENDMENTS TO 20.6.4 NMAC**

18 The Department supports the Petitioners' proposed amendments to 20.6.4.9(D) NMAC and
19 recommends adopting the specific amendments as provided in **NMED Exhibit 35**. The
20 Department bases its recommendation to the WQCC on both this testimony, **NMED Exhibit 2**,
21 and Jennifer Fullam's testimony (**NMED Exhibit 1**).

22
23 This concludes my direct testimony.

Curriculum Vitae (CV) Jennifer T. Fullam

WORK HISTORY

March 2017- Present

State of New Mexico Environment Department, Santa Fe, New Mexico

Surface Water Quality Bureau

Standards, Planning and Reporting (SPR) Team Supervisor

- Serve as the coordinator for New Mexico's surface water quality standards which includes but is not limited to applying the procedures established for adopting changes to the surface water quality standards, petitioning for a hearing to the Water Quality Control Commission (WQCC), preparing and advertising public notices, providing written and oral testimony for a hearing before the WQCC, preparing for cross examination, understanding and applying hearing guidelines, assisting with the development of post-hearing submittals and filing rule changes to State Records and Archives in accordance with 20.1.24.10 NMAC.
- Maintain knowledge of State and Federal statutory requirements that affect surface water quality standards and standards development.
- Coordinate with the United States Environmental Protection Agency (EPA) on actions pertaining to the State's Water Quality Standards and the Federal Clean Water Act. This includes submitting surface water quality standards (new and revised) to EPA Region 6 for review and action (approval or disapproval).
- Conduct and review use attainability analysis and hydrology protocol surveys which propose to revise, remove or add segment specific water quality standards to 20.6.4 NMAC.
- Responsible for the daily management and oversight of work conducted by the Standards, Planning and Reporting Team which oversees the implementation of the Bureau's Quality Assurance requirements, technical and educational outreach activities and development of regulatory and rulemaking actions.
- Review and revise the Water Quality Management Plan and Continuing Planning Process as required under the Clean Water Act.
- Coordinate and provide guidance and appropriate training for staff on program procedures.
- Ensure that all written work products from the SPR team are of high quality, reflect the professionalism of the Bureau and Department, and support New Mexico Environment Department's (NMED's) role as the lead agency for surface water quality protection in New Mexico.
- Conduct employee performance reviews of staff under the SPR Team.
- Conduct recruitment, disciplinary and hiring actions in accordance with State Personnel and Human Resources policies and procedures.
- Conduct technical and educational public outreach for proposed rulemaking actions to the surface water quality standards. This includes coordinating public notices through the website, listserv, newspapers, media releases and public meetings, providing technical and regulatory information from members of the public and recognized stakeholders.
- Collaborate and facilitate dialogue with Tribes on water quality standard issues. Reviewing Tribal Water Quality Standards and providing input, as applicable.
- Participate on national issues pertaining to water quality standards such as variances, proposed rules on Waters of the United States (WOTUS) and proposed guidelines for standards.

- Facilitate positive working relationships with other state and federal agencies, stakeholders and cooperators involved in surface water quality standards activities.
- Oversee the development of quality assurance guidance documents such as the Quality Management Plan (QMP) and Quality Assurance Project Plan (QAPP), Standard Operating Procedures and Field Sampling Plans
- Oversee the Quality Assurance Manager responsible for quality assurance activities pertaining to surface water data collection both within the Bureau and with outside entities seeking to submit water quality data for assessment purposes.

March 2014-March 2017

State of New Mexico Environment Department, Santa Fe, New Mexico

Petroleum Storage Tank Bureau

Compliance Assistance Coordinator/Environmental Scientist Specialist-A

- Responsible for the implementation and daily management of the Delivery Prohibition enforcement program.
- Development and implementation of strategic data management processes.
- Create and maintain tracking tools to assist in data collection and case management.
- Effectively track specific violations and enforcement actions for approximately 300 new cases (1300 individual violations) per year in a consistent, objective and timely manner.
- Compile information, through active data mining within these internal tracking applications, the Department's database and facility owner's files, to be able to provide compliance and enforcement statistics to meet the Federal Environmental Protection Agency's mandates and State reporting requirements.
- Effectively communicate, both verbally as well as in writing to various audiences including peers, management, regulated community and legal counsel.
- Review and clarify observations documented by the inspectors in the field and prepare a legally defensible enforcement case.
- In the event enforcement actions are appealed to the Secretary, assist in preparing testimony for a hearing.
- Apply knowledge of Federal (specifically 40 CFR §280) and State regulations (20.5 NMAC) with technical and legal writing skills experience to draft and edit enforcement documents.
- Involved in the development of new regulations to meet 40 CFR § 280.
- Regularly coordinate with the Bureau Chief and Program Managers within the Bureau
- Seek input and collaborate with staff from other Bureaus as it applies towards implementation of State and Federal Regulations.
- Network with other States and Tribes on processes and regulatory implementation.
- Provide written and verbal notification to facility owners of upcoming enforcement actions and offer assistance on actions required to obtain compliance.
- Maintain open communication with inspectors to assemble the chronological histories of ongoing outreach with owners and operators facing enforcement actions.
- Gather, collaborate and discuss ongoing applicability of the regulations and disseminate this information to inspectors to ensure continuity within the delivery prohibition program.
- Manage and delegate tasks to technical and administrative staff assisting with the delivery prohibition program.
- Serve as a Bureau-wide web author, updating the Bureau's website as necessary using cloud-based programs and Adobe Contribute.
- Assist with additional projects such as with the development of standard operating procedures for the Prevention Inspection Program and database development and management.

- Assist the Bureau's Prevention Inspection Program by contributing to the ongoing program development and conducting compliance inspections at facilities around the State; which requires knowledge of the technical aspects of both UST and AST systems.

July 2007- March 2014

State of New Mexico Environment Department, Santa Fe, New Mexico

Ground Water Quality Bureau

Pollution Prevention Section

Environmental Scientist-O

- Ensuring the protection of ground water throughout the State of New Mexico by regulatory management for over 70 ground water discharge permits. The diversity of sites range from large federal industrial facilities, large domestic wastewater treatment plants and small septic tank/leachfield systems.
- Administering regulatory functions as they pertain to permitted and un-permitted facilities. Actions include but are not limited to management of records subject to the public information act, data entry of facility monitoring reports, database management for assigned facilities, ground water and wastewater sampling, response to unauthorized releases and enforcement actions.
- Successfully worked with Permittees and the general public in achieving voluntary compliance through non-enforcement actions. Refined experience in assessing potentially volatile situations and diffusing with effective and clear communication. Ground water protection has also been achieved through promoting cost-effective and source control mechanisms to reduce potential contaminants from reaching ground water. Discharge Permits are designed to address protection of ground water and human health while working towards long-term sustainability of small businesses.
- Maintain and continuously enhancing an already robust understanding of Federal Regulations such as the Clean Water Act, Resource Conservation and Recovery Act, Biosolids Standards the State of New Mexico's Clean Water act, Water Quality Control Commission regulations which have been used for evaluating site specific conditions and development of priority actions.
- Ongoing coordination and collaboration with Tribal entities including but not limited to compiling the annual Tribal Collaboration report for the Ground Water Quality Bureau, participation in the Annual Tribal Summit, planning and serving as a mentor and instructor for the annual Tribal Youth Environmental Science Camp.
- Effectively facilitate dialogue among a diverse group of individuals, with varying backgrounds and expertise, in order to develop and strategize a productive approach in resolving complex issues. Ongoing work includes facilitation of discussions between the GWQB, Hazardous Waste Bureau, Department of Energy Oversight Bureau, Surface Water Bureau and Los Alamos National Laboratory in order to maintain regulatory compliance and cross-departmental communications for the management of the facility.
- Provide assistance to legal counsel on litigation cases. These have included involvement with a federal negotiation case with the Hazardous Waste Bureau and Los Alamos National Laboratory as well as a Chapter 11 Bankruptcy Lawsuit against Mark IV Industries for the continued remediation of a contaminated ground water site in east Albuquerque which resulted in an Order of Consent.
- Actively participated and spearheaded discussions in various workgroups within the section to enhance the regulatory process and streamline the efficiency of the program to ensure protection of the State's resources as well as promoting economic development for rural communities. These have included the development of Best Management Practices for RV

Parks, Tribal Consultation Policy, Grease Trap Management Practices and Domestic Wastewater Discharge Permit Template.

- Development of sound investigative skills to truth information submitted to NMED through remote sensing technologies, ground-truthing or through various technological resources.
- Development of internal mechanisms and processes to effectively manage and increase efficiency in the management of regulatory processes.
- Serve as a Quality Assurance Manager (QAM) for the Radiation Control Bureau's Quality Assurance Project Plan (QAPP) ensuring all data collection activities are collected in a consistent and defensible manner.
- Applying federal laws and regulations, effective approaches to gain voluntary compliance and general management tools and resources to increase efficacy in job performance.
- General program administration functions to include preparing timesheets, vehicle logs, travel requests, along with submitting quarterly and annual reports to management as assigned.

April 2003-July 2007

Pueblo of Tesuque, Santa Fe, New Mexico

Environment Department

Biologist/Director

- Responsible for overseeing the management and execution of activities associated with the protection of environmental resources. The program included surface water quality, water rights, ground water, planning and development, forest restoration, wildlife habitat management, wildland fire response, emergency response as it pertained to the community and potential environmental impacts, general community assistance, education (pre-k through college) and outreach.
- Reported directly to the Tribal Administrator, Governor and Tribal Council on the department's activities.
- Supervised up to 11 individuals on routine and special projects undertaken by the department which included but were not limited to surface water, forest restoration, WUI fire suppression projects, wildlife surveys and habitat assessments, economic development projects, Aamodt water rights settlement committee, community activities, educational outreach (kindergarten through college), assistance with organic farm program, community assistance as requested.
- Worked and collaborated with numerous federal, state and local government agencies such as the Environmental Protection Agency (EPA), Army Corp of Engineers, Bureau of Indian Affairs, Indian Health Services, State of New Mexico Environment Department, Santa Fe County, City of Santa Fe, and various Tribal governments.
- Responsible for writing and managing over \$1,000,000.00 in State and Federal grants through the U.S. Forest Service, Administration for Native Americans, Environmental Protection Agency, U.S. Fish and Wildlife, and New Mexico Clean and Beautiful, submitting quarterly and annual reports on a regular basis as well as auditing expenses to ensure allocation of funds was completed and reported appropriately.
- Served as a member on the Tribal Emergency Planning committee and Land Use Planning Committee, Board member of Inter-Tribal Bison Cooperative, Inter-Tribal Resource Advisory Committee, and Water Rights Committee and as a voting member for EPA Region 6 Regional Tribal Operations Committee.
- Responsible for writing and implementing Quality Assurance documents and the department's annual Quality Management Plan, Quality Assurance Project Plans for water quality monitoring, GIS/GPS, and the Elk Demonstration Project.
- Prepared and conducted the triennial review of Tesuque Pueblo's Water Quality Standards.

- Actively engaged with community members to better understand the needs and priorities of the Tribe in order to effectively target financial mechanisms and internal resources which could be utilized to achieve long-term goals.
- Designed and implemented a multi-parameter study to assess movement and habitat utilization of elk herds within lower pinon/juniper forests of Tesuque Pueblo. Field work consisted of off-road driving and heavy lifting of equipment and supplies, remote sensing and data management.
- Use of various field equipment for work pertaining to water quality monitoring (ground and surface water), riparian ecosystem rehabilitation projects, wildlife habitat and behavior. Data correction and management of files.

January 2002- April 2003

Los Alamos National Laboratory, Los Alamos, New Mexico

Contaminant Monitoring Team

Graduate Research Assistant

- Provided technical research support for the Ecology Group including compiling, writing and editing portions of the published technical reports as well as the annual Environmental Surveillance Report.
- Collected and processed field samples from remote areas with a wide array of equipment.
- Analyzed data in MS Excel for risk assessment of contaminant such as high explosives, radionuclide, polychlorinated biphenyls (PCBs), dioxins, furans and pesticides such as DDT.
- Actively participated in a cooperative group with the New Mexico Environment Department, Los Alamos County and Tribal entities to designed and implement a contaminant mobilization study in the Rio Grande to assess the possible PCB risk levels that may be associated with LANL's historic PCB releases and the potential of mobilization after the Cerro Grande fire using semi-permeable membrane devises (LANL Publication Gonzales and Montoya 2005).

EDUCATION

2002-2008 New Mexico Highlands University, Las Vegas, New Mexico

Master of Science (May 2008)

- Thesis on the unique characteristics of elk movement and habitat utilization within the pinon/juniper forests of Tesuque Pueblo
- Other studies included toxicology, environmental assessment, surface hydrology, dendrology, wildlife habitat assessment and research methods
- Research on the use of semi-permeable membrane devices to assess the effects of pulse flooding events on PCB concentrations in the Rio Grande river near Los Alamos
- Cumulative GPA 4.0

1999-2002 University of New Mexico, Albuquerque, New Mexico

Bachelor of Science, Biology with minor in Geography (May 2001)

- Studies in riparian ecology, conservation biology, animal behavior, zoology and physiology.
- Formal studies and research in Geographical Information Systems.
- Graduated Cum Laude.

1994-1997 Northern New Mexico Community College, Espanola, New Mexico

Associate of Science in Science

- Graduated with Honors

APPLICABLE CERTIFICATIONS/TRAININGS

Quality Assurance

- EPA QMP/QAPP Training, Santa Fe, NM(Certificate)
- EPA Training to Quality Assurance Management, Data Quality Objectives, Santa Fe, NM (Certificate)

Water and Wastewater

- EPA Tribal Water Quality Standards Academy Intermediate level, Kalispell Montana (Certificate)
- EPA Water Quality Standards Academy, Washington D.C. (Certificate)
- NMSU WTAP Advanced Secondary Treatment (certificate)
- National Onsite Wastewater Recycling Association A to Z Course (certificate)
- YSI Training on 6920 Multi-parameter water quality monitoring unit, Yellow Springs, OH
- Stream Habitat Assessment Training, Taos Pueblo, NM
- Biological Assessment Training, Santa Ana Pueblo, NM
- Fundamentals of Drilling (certificate)

Emergency Response/Safety

- FEMA National Incident management System (IS-700) Tesuque Pueblo, NM (Certificate)
- BIA Northern Pueblos Wildland Firefighter Training (S-110, S-133, S-134, I-100, L-180, S-130, S-190), Ohkay Owingeh, NM (Red Card Certification)
- Pandemic Flu, Train the Trainer, Albuquerque, NM (Certificate)
- Zoonotic Disease Training, Los Alamos National Laboratory, Los Alamos, NM
- HAZWOPER certified (2007-2017)
- AHMP Essentials of Hazardous Materials Management, Albuquerque, NM (Certificate)
- U.S. Dept of Transportation Awareness for Initial Response to Haz-Mat Incidents Course (Certificate)
- National Safety Council Defensive Driving Course (Certificate)
- Swiftwater Rescue for River Professionals Training; Level II NFPA-compliant 1670 "Operations" (Certificate)

Inspection and Enforcement

- Western States Project NMED Environmental Enforcement Procedure Training (certificate)
- UST Inspector Training (Certificate)
- State of NM HR and OGC Inspector Training (certificate)

Lawmaking and Regulations

- State of NM State Rulemaking Training
- State of NM Records and Information Management Training

Management

- EdX Online Audit Course Best Practices for Project Management Success

PUBLICATIONS/PROFESSIONAL ORGANIZATIONS

- Gonzales, G. and Montoya, J., 2005. Polychlorinated biphenyls (PCBs) in the Rio Grande Sampled Using Semi-permeable Membrane Devices. LA-14200.
- Fullam, J., 2008. Elk Habitat Utilization Within Lower Pinon Juniper Forests of Tesuque Pueblo, New Mexico Highlands University Graduate Thesis.
- Golden Key National Honor Society (2001-Present)
- Native American Fish and Wildlife Society (2003-2007)
- The Quivera Coalition (2003-2007)
- Ecological Society of America (2016)
- The Wildlife Society (2011-2017)
- Society of Environmental Toxicology and Applied Chemistry (2002-2007; 2017-Present)

DIANA IXCHEL ARANDA

1190 St. Francis Drive, Suite N4050 Santa Fe, New Mexico 87505

Diana.Aranda@state.nm.us

Education

Nova Southeastern University Oceanographic Center - Ft. Lauderdale, FL. 4/2013
Master of Science in Coastal Zone Management

University of New Mexico - Albuquerque, NM. 5/2005
Bachelor of Science in Biology

Publication

Diana Ixchel Aranda, Jose V. Lopez, Helena M. Solo-Gabriele, and Jay Fleisher. 2016. Using Probabilities of Enterococci Exceedance and Logistic Regression to Evaluate Long Term Weekly Beach Monitoring Data. Journal of Water & Health, (1) : 81 -89.

Certification

Secondary Teacher Certification(7-12) 1/2017.

Current Employment

Environmental Scientist and Specialist Advanced. N.M. Department of Environment. 2/2017– Present.

ESS-A position in the Standards, Planning and Reporting Team. 2/2019-present.

Generate publishable documents that support the development and revisions to the State of New Mexico surface water quality standards in accordance with the federal Clean Water Act and NM Water Quality Act for the approval process of the Water Quality Control Commission and U.S. Environmental Protection Agency. Research and review federal and state requirements, guidance's, public comment and historical information to guide document creation and decision making for standard amendments. Investigate the scientific literature, analyze large field datasets, develops analysis methods to provide scientifically defensible conclusions for regulatory determinations concerning surface water quality and its protections. Creates publishable maps and conducts data analysis using ArcGIS. Collaborates and provides technical assistance to key stakeholders and the public. Participates in public hearings as an expert witness for technical and regulatory topics concerning standard amendments. Conducts administrative tasks and provides assistance for rulemaking procedures and requirements. Collaborate as an editor to internal and external documents in relation to standards and technical documents.

TMDL Writer. 2/2017-2/2019

Generated scientifically defensible department reports called, Total Maximum Daily Loads (TMDL) that establish the pollutant loading for specific surface waters in the State in according to The Clean Water Act. Assessed and analyzed water quality field data for the implementations of TMDLs. Participated in field work for gathering water quality data and habitat assessments following department standard operating procedures (SOP). Contributed in the evaluation of water quality impairments. Creates maps and databases utilizing ArcGIS that can be included in public publication. Conducted outreach with the public, state, federal, tribal, and municipal agencies to address stakeholders and constituent needs with individual groups and in public meetings, the State's Water Quality Control Commission and the Federal Environmental Protection Agency.

Past Employment

Biology High School Teacher, Santa Fe Public Schools. 8/2015 – 1/2017

Actively engaged students in academic learning with a Biology focus. Developed an exciting curriculum based on Common Core State Standards and an environment favorable to learning and personal growth. Instituted clear

objectives for all lessons, assignments, units and projects in accordance with curriculum goals and communicates objectives to students. Established effective rapport with students and motivated them to develop skills attitudes and knowledge needed to obtain a good foundation for continuous achievement growth and development in education. Cooperated with staff and support personnel in assessing and helping students with health, attitude, learning and behavioral problems. Utilized new and innovative ideas and technology in the classroom.

Surveillance Technician, Florid Keys Mosquito Control District. 8/2014 – 3/2015

Conduct mosquito surveillance for program operations designed to monitor and identify mosquito pest & disease vector species that affect the Florida Keys. Act as support to ongoing research projects such as the genetically modified mosquito project. Duties included; trap setup and retrieval, mosquito identification and data entry. Acted as public liaison for a door-to-door campaign and town hall meetings to educate the community about the release of genetically modified mosquito and assisted with public questions.

Project Manager, SWC Consultants. 8/2013-8/2014

Managed projects involving ecological, land use, and public involvement services for both public and private sector clients. Conducted Environmental Site Assessments (ESA) site visits, collected field and historical research data to produced technical reports for commercial real estate transaction due diligence under CERCLA. Collected historical and field data for several environmentally sensitive projects, conducted data analysis, created reports under an oversight of compliance timetables and budgets. Collaborated in the production of the Port Everglades Master Plan publication, and contributed with data collection and analysis, document review for existing conditions and impacts resulting from changes and expansion of the Port. Utilized ArcGIS software to create maps for reports and communications assignments.

Biologist I, Miami-Dade County, Coastal Resources Division. 8/2012- 4/2013

Processed Class I permits for coastal construction which included: assessment of benthic resources, plan review and report and permit writing. Reviewed and determine pre-construction conditions and created a report. Identified and notified of any code violations. Conducted quantitative underwater site transects and visual estimates of natural resource percent cover and evaluated on site benthic organisms, including sediment type, macroalgae, seagrass and corals.

Biological Technician, U.S. National Park Service - Biscayne National Park, 7/2011-6/2012

Assisted in the management and coordination of Biscayne National Park's water monitoring program within the park's marine waters. Conducted the deployment, data extraction, maintenance, and calibration of over 50 YSI instruments that our team managed. Planned and executed field work which involved: field safety planning, small boat operations, diving and maintenance of sites and equipment. Administer routine maintenance for the boat, the gear, the instruments and the lab. Prepared, collected, processed and analyzes data. Facilitated projects with partners and contractors.

Research Associate, National Oceanic and Atmospheric Administration (NOAA), University of Miami Cooperative Institute for Marine and Atmospheric Studies (CIMAS). 7/2008-6/2011

Research Associate II, (NOAA/AOML/PHOD) Ship of Opportunity Program, 9/2010-6/2011

Assisted in the management and coordination of the Ship of Opportunity Program Oceanographic program. Organized logistics of transatlantic sample transects which included and were not limited to updating cruise plans, monitoring the sampling progress in real time, trouble shooting and reporting any problems, participate in ship recruitment, and process completed cruise reports. Responded to request of information of monitoring transects by providing computer-generated maps. Replied to any of our constituent's request for information or troubleshooting. Maintained up-to date inventories within the program and its collaborators. Managed billing and payments of satellite transmissions and instrument upkeep. Maintained the programs web page maintenance.

Research Associate I, (NOAA)-Microbiology Laboratory, 7/2008 – 8/2010

Assisted in management, coordination, water quality sample processing, microbial plate and PCR molecular analysis, data management, report findings and execution of several projects for the Microbiology lab. Conducted water quality sampling and sediment sampling for the detection and enumeration of microbial contamination. Conducted qPCR-based microbial source tracking methods. Managed, processed and analyzed project data. Participated in various interagency collaborative research projects (USEPA, UM, FDEP, DOH, NOAA) that focused on the efficacy and development of microbial source tracking as well as surveillance to inform and improve water

quality on recreational waters. The collaborative projects included: EPA 'STREAMS' (in collaboration with multi-satellite projects and stakeholders to aid in science that will contribute to aquatic microbial field tracking; Miami-Dade, Department of Health's "Healthy Beaches" program; Marathon Key, "Little Venice" coastal construction technologies infrastructure improvement microbial source tracking assessment project. Prepared technical reports and communicated findings in the 2009 American Society for Microbiology, and the 2010 Ocean Sciences Meeting. Participated in oceanographic research cruises: Nancy Foster, (10 days); Walton Smith, (5 days).

Field Technician, Broward County Sea Turtle Conservation Program. 5-6/2008

Conducted beach surveillance for sea turtle tracks in order to locate and mark nests. Surveillance included: check existing nests for hatching and relocate nest as necessary, as well as record any pertinent field information such as false crawls and other observations.

Chemical analyst, Florida-Spectrum Environmental 4-6/2008

Analyze and report soil and water samples in the inorganic/wet chemistry department for; percent solids, total suspended solids, total dissolved solids, sulfides, MBAS, pH and Chemical oxygen demand, using EPA and SM methods. Upkeep and maintain the wet chemistry department. Assisted in other analysis assessments as needed and in other departments.

Teacher Assistant, Nova Southeastern University- Microbiology Division, 9/2007 – 5/2008

Facilitated the Microbiology laboratory. Prepared microbiology experiments for the undergraduate students. Instructed and trained students in specific laboratory techniques and laboratory protocols. Taught laboratory safety, protocol and microbiology methods such as: sample staining, enumeration, selective media, identification of unknown bacteria, RFLP, and transformation of plasmids. Coordinate and aid in management of a university Microbiology Laboratory. Prepared and conducted all necessary experiments for the day. Graded and provided comment to student's laboratory reports. Evaluated reports and prepared the class for the days experiment.

Program Intern, Arthur Marshall Foundation, 5-7/2007

Traveled to different youth summer programs and educated them about the Everglades restoration efforts. Lead the rehabilitation of Palm Beach Science Museum wetlands exhibition. Educated the general public about wetlands and the protection of the Everglades. Traveled the length of the Greater Everglades, viewed various restoration projects and learned about environmental management and mitigation processes. Managed and executed the rehabilitation/curation of a wetland in Palm Beach Science Museum to educate visitors about the ecology and protection of the Everglades. Assessed best management practices and delivered public comment to distinct audiences in government and public meetings.

Program Coordinator, AmeriCorps VISTA-Southwest Youth Services. 2/2006-2/2007

Supervised, designed and launched dynamic and positive strategies to sustain program development and implementation. Worked with diverse groups, established partnerships and collaborations with organizations to subsidized employees, saving the organization thousands of dollars. Managed and recruited staff and volunteers for our programs. Created and maintained the organizations website. Worked on advertisement products for the program using Photoshop and Publisher. Coordinated, developed and organized the annual Gala fundraiser for the program. Developed and implemented health curriculum to children ages 5-18. Mentored youth on leadership and tutored math and reading. Coordinated, planned, designed and launched dynamic and positive strategies to sustain program development and implementation for the non-profit. Built from the ground up a positive partnership that provided subsidized employees to implement our services within the communities we serve and saved the non-profit thousands of dollars. Supported the hiring of the subsidized employees and their management of up to four staff. Scheduled, monitored, communicated and coordinated staff's and volunteers (ranged from 2-20 volunteers) workloads and hours. Developed, coached and implemented soccer and health curriculum for children ages 5-18. As well as traveled to the different communities to deliver our services. Managed communications through media relations, created and upkeped the organizations website and worked on marketing and design using Photoshop. Coordinated, developed and organized the annual Gala fundraiser for our program.

Research Apprentice, Friday Harbor Laboratories-University of Washington. 9-12/2005

Investigated the physical-biological coupling of oceanographic processes and biota in the San Juan Archipelago. Conducted independent research with a final presentation and written report on the "Spatial and temporal variations of chlorophyll in the San Juan Islands, WA, in the Fall of 2005". Investigated the physical-biological coupling of oceanographic processes and biota in the San Juan Archipelago. I conducted independent research with a final oral

presentation and written report: “Spatial and temporal variations of chlorophyll in the San Juan Islands, WA”. Oceanographic Cruises: Research Vessel Centennial, San Juan Archipelago, Washington. University of Washington (Sept. - Dec. 2005 six one-day cruises). Awarded the Apprenticeship to study the Pelagic Ecosystem Function in the San Juan Archipelago.

Teachers Assistant, Upward Bound Program, UNM. 6-8/2005

Instructed and tutored in Math and reading comprehension to high school students of various levels in an intensive summer session. Mentored students in academic achievement and college preparation. Prepared class, graded, disciplined the classroom, tutored, college prep counseled and chaperoned.

Research Assistant, Cancer Research and Treatment Center, University of New Mexico (UNM). 6– 8/2004

Conducted microbiology and genetic research on Myeloid cell regulation to better understand onset of Leukemia. Generated new and publishable data on the Homeobox Protein Hex and the regulation of the C-Kit Promoter. Implemented molecular techniques such as Northern and Western Blots, DNA purification, PCR amplification, cell transformations and transfections for the experiments. Presented final findings in the Minority Biomedical Research program’s symposium.

Research Assistant, Mosquito Ecology and West Nile Virus Surveillance, UNM. 5/2003-5/2004

Operated and executed experimental field sampling of larval and adult mosquitoes. Collected blood samples from sentinel species. Processed data pertaining to an Environmental Health Project for the Environmental Health Department and Center for Disease Control (CDC) in the Rio Grande Valley, NM. Performed data analysis, public presentations and education, and wrote and co-authored our findings in a university research periodical.

Research Assistant, High-Performance Computational Biology Laboratory, UNM. 5/2002- 5/2004

Performed research on Phylogenetic tree reconstruction and molecular sequencing database tools. Programmed, using PERL, the reconstruction of complex evolutionary histories through computational modeling. Researched BLAST sequences and utilized sequences for tree reconstruction.

Lab Technician, Reproductive Ecology Laboratory, UNM. 5/2001-5/2002

Conducted botanical experiments of cross-pollinations. Microscopy analysis of pollen competition and gel electrophoresis. Collected and managed data.

Lab Technician, Yeast Genomic Research Laboratory, UNM. 9/2000 – 1/2001

Prepared molecular and chemical experiment setup, data collection and lab maintenance.

FEDERAL WATER POLLUTION CONTROL ACT

(33 U.S.C. 1251 et seq.)

AN ACT To provide for water pollution control activities in the Public Health Service of the Federal Security Agency and in the Federal Works Agency, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—RESEARCH AND RELATED PROGRAMS

DECLARATION OF GOALS AND POLICY

SEC. 101. (a) The objective of this Act is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters. In order to achieve this objective it is hereby declared that, consistent with the provisions of this Act—

(1) it is the national goal that the discharge of pollutants into the navigable waters be eliminated by 1985;

(2) it is the national goal that wherever attainable, an interim goal of water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water be achieved by July 1, 1983;

(3) it is the national policy that the discharge of toxic pollutants in toxic amounts be prohibited;

(4) it is the national policy that Federal financial assistance be provided to construct publicly owned waste treatment works;

(5) it is the national policy that areawide treatment management planning processes be developed and implemented to assure adequate control of sources of pollutants in each State;

(6) it is the national policy that a major research and demonstration effort be made to develop technology necessary to eliminate the discharge of pollutants into the navigable waters, waters of the contiguous zone and the oceans; and

(7) it is the national policy that programs for the control of nonpoint sources of pollution be developed and implemented in an expeditious manner so as to enable the goals of this Act to be met through the control of both point and nonpoint sources of pollution.

(b) It is the policy of the Congress to recognize, preserve, and protect the primary responsibilities and rights of States to prevent, reduce, and eliminate pollution, to plan the development and use (including restoration, preservation, and enhancement) of land and water resources, and to consult with the Administrator in the exercise of his authority under this Act. It is the policy of Congress that the States manage the construction grant program under this Act and implement the permit programs under sections 402 and 404 of

trial, and other effluent to attain the water quality objectives as established by this Act or applicable State law. The Administrator shall submit such detailed estimate and such comprehensive study of such cost to the Congress no later than February 10 of each odd-numbered year. Whenever the Administrator, pursuant to this subsection, requests and receives an estimate of cost from a State, he shall furnish copies of such estimate together with such detailed estimate to Congress.

(33 U.S.C. 1375)

GENERAL AUTHORIZATION

SEC. 517. There are authorized to be appropriated to carry out this Act, other than sections 104, 105, 106(a), 107, 108, 112, 113, 114, 115, 206, 207, 208 (f) and (h), 209, 304, 311 (c), (d), (i), (l), and (k), 314, 315, and 317, \$250,000,000 for the fiscal year ending June 30, 1973, \$300,000,000 for the fiscal year ending June 30, 1974, \$350,000,000 for the fiscal year ending June 30, 1975, \$100,000,000 for the fiscal year ending September 30, 1977, \$150,000,000 for the fiscal year ending September 30, 1978, \$150,000,000 for the fiscal year ending September 30, 1979, \$150,000,000 for the fiscal year ending September 30, 1980, \$150,000,000 for the fiscal year ending September 30, 1981, \$161,000,000 for the fiscal year ending September 30, 1982, such sums as may be necessary for fiscal years 1983 through 1985, and \$135,000,000 per fiscal year for each of the fiscal years 1986 through 1990.

(33 U.S.C. 1376)

SEC. 518. INDIAN TRIBES.

(a) POLICY.—Nothing in this section shall be construed to affect the application of section 101(g) of this Act, and all of the provisions of this section shall be carried out in accordance with the provisions of such section 101(g). Indian tribes shall be treated as States for purposes of such section 101(g).

(b) ASSESSMENT OF SEWAGE TREATMENT NEEDS; REPORT.—The Administrator, in cooperation with the Director of the Indian Health Service, shall assess the need for sewage treatment works to serve Indian tribes, the degree to which such needs will be met through funds allotted to States under section 205 of this Act and priority lists under section 216 of this Act, and any obstacles which prevent such needs from being met. Not later than one year after the date of the enactment of this section, the Administrator shall submit a report to Congress on the assessment under this subsection, along with recommendations specifying (1) how the Administrator intends to provide assistance to Indian tribes to develop waste treatment management plans and to construct treatment works under this Act, and (2) methods by which the participation in and administration of programs under this Act by Indian tribes can be maximized.

(c) RESERVATION OF FUNDS.—The Administrator shall reserve each fiscal year beginning after September 30, 1986, before allotments to the States under section 205(e), one-half of one percent of the sums appropriated under section 207. Sums reserved under this subsection shall be available only for grants for the development of waste treatment management plans and for the construction of

November 27, 2002

sewage treatment works to serve Indian tribes, as defined in subsection (h) and former Indian reservations in Oklahoma (as determined by the Secretary of the Interior) and Alaska Native Villages as defined in Public Law 92-203.

(d) COOPERATIVE AGREEMENTS.—In order to ensure the consistent implementation of the requirements of this Act, an Indian tribe and the State or States in which the lands of such tribe are located may enter into a cooperative agreement, subject to the review and approval of the Administrator, to jointly plan and administer the requirements of this Act.

(e) TREATMENT AS STATES.—The Administrator is authorized to treat an Indian tribe as a State for purposes of title II and sections 104, 106, 303, 305, 308, 309, 314, 319, 401, 402, 404, and 406 of this Act to the degree necessary to carry out the objectives of this section, but only if—

(1) the Indian tribe has a governing body carrying out substantial governmental duties and powers;

(2) the functions to be exercised by the Indian tribe pertain to the management and protection of water resources which are held by an Indian tribe, held by the United States in trust for Indians, held by a member of an Indian tribe if such property interest is subject to a trust restriction on alienation, or otherwise within the borders of an Indian reservation; and

(3) the Indian tribe is reasonably expected to be capable, in the Administrator's judgment, of carrying out the functions to be exercised in a manner consistent with the terms and purposes of this Act and of all applicable regulations.

Such treatment as a State may include the direct provision of funds reserved under subsection (c) to the governing bodies of Indian tribes, and the determination of priorities by Indian tribes, where not determined by the Administrator in cooperation with the Director of the Indian Health Service. The Administrator, in cooperation with the Director of the Indian Health Service, is authorized to make grants under title II of this Act in an amount not to exceed 100 percent of the cost of a project. Not later than 18 months after the date of the enactment of this section, the Administrator shall, in consultation with Indian tribes, promulgate final regulations which specify how Indian tribes shall be treated as States for purposes of this Act. The Administrator shall, in promulgating such regulations, consult affected States sharing common water bodies and provide a mechanism for the resolution of any unreasonable consequences that may arise as a result of differing water quality standards that may be set by States and Indian tribes located on common bodies of water. Such mechanism shall provide for explicit consideration of relevant factors including, but not limited to, the effects of differing water quality permit requirements on upstream and downstream dischargers, economic impacts, and present and historical uses and quality of the waters subject to such standards. Such mechanism should provide for the avoidance of such unreasonable consequences in a manner consistent with the objective of this Act.

(f) GRANTS FOR NONPOINT SOURCE PROGRAMS.—The Administrator shall make grants to an Indian tribe under section 319 of this Act as though such tribe was a State. Not more than one-third

of one percent of the amount appropriated for any fiscal year under section 319 may be used to make grants under this subsection. In addition to the requirements of section 319, an Indian tribe shall be required to meet the requirements of paragraphs (1), (2), and (3) of subsection (d)¹ of this section in order to receive such a grant.

(g) ALASKA NATIVE ORGANIZATIONS.—No provision of this Act shall be construed to—

(1) grant, enlarge, or diminish, or in any way affect the scope of the governmental authority, if any, of any Alaska Native organization, including any federally-recognized tribe, traditional Alaska Native council, or Native council organized pursuant to the Act of June 18, 1934 (48 Stat. 987), over lands or persons in Alaska;

(2) create or validate any assertion by such organization or any form of governmental authority over lands or persons in Alaska; or

(3) in any way affect any assertion that Indian country, as defined in section 1151 of title 18, United States Code, exists or does not exist in Alaska.

(h) DEFINITIONS.—For purposes of this section, the term—

(1) “Federal Indian reservation” means all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation; and

(2) “Indian tribe” means any Indian tribe, band, group, or community recognized by the Secretary of the Interior and exercising governmental authority over a Federal Indian reservation.

(33 U.S.C. 1377)

SHORT TITLE

SEC. 519. This Act may be cited as the “Federal Water Pollution Control Act” (commonly referred to as the Clean Water Act).

(33 U.S.C. 1251 note)

TITLE VI—STATE WATER POLLUTION CONTROL REVOLVING FUNDS

SEC. 601. GRANTS TO STATES FOR ESTABLISHMENT OF REVOLVING FUNDS.

(a) GENERAL AUTHORITY.—Subject to the provisions of this title, the Administrator shall make capitalization grants to each State for the purpose of establishing a water pollution control revolving fund for providing assistance (1) for construction of treatment works (as defined in section 212 of this Act) which are publicly owned, (2) for implementing a management program under section 319, and (3) for developing and implementing a conservation and management plan under section 320.

(b) SCHEDULE OF GRANT PAYMENTS.—The Administrator and each State shall jointly establish a schedule of payments under which the Administrator will pay to the State the amount of each

¹ Probably should be subsection (e).

River from Lowell upstream to its origin; to be administered by the Secretary of Agriculture.

(2) ELEVEN POINT, MISSOURI.—The segment of the river extending downstream from Thomasville, to State Highway 142; to be administered by the Secretary of Agriculture.

(3) FEATHER, CALIFORNIA.—The entire Middle Fork downstream from the confluence of its tributary streams one kilometer south of Beckwourth, California; to be administered by the Secretary of Agriculture.

(4) RIO GRANDE, NEW MEXICO.—The segment extending from the Colorado State line downstream to the State Highway 96 crossing, and the lower four miles of the Red River; to be administered by the Secretary of the Interior.

(5) ROGUE, OREGON.—

(A) IN GENERAL.—The segment of the river extending from the mouth of the Applegate River downstream to the Lobster Creek Bridge, to be administered by the Secretary of the Interior or the Secretary of Agriculture, as agreed to by the Secretaries of the Interior and Agriculture or as directed by the President.

(B) ADDITIONS.—In addition to the segment described in subparagraph (A), there are designated the following segments in the Rogue River:

(i) KELSEY CREEK.—The approximately 6.8-mile segment of Kelsey Creek from the Wild Rogue Wilderness boundary in T. 32 S., R. 9 W., sec. 25, Willamette Meridian, to the confluence with the Rogue River, as a wild river.

(ii) EAST FORK KELSEY CREEK.—

(I) SCENIC RIVER.—The approximately 0.2-mile segment of East Fork Kelsey Creek from headwaters downstream to the Wild Rogue Wilderness boundary in T. 33 S., R. 8 W., sec. 5, Willamette Meridian, as a scenic river.

(II) WILD RIVER.—The approximately 4.6-mile segment of East Fork Kelsey Creek from the Wild Rogue Wilderness boundary in T. 33 S., R. 8 W., sec. 5, Willamette Meridian, to the confluence with Kelsey Creek, as a wild river.

(iii) WHISKY CREEK.—

(I) RECREATIONAL RIVER.—The approximately 1.6-mile segment of Whisky Creek from the confluence of the East Fork and West Fork to the south boundary of the non-Federal land in T. 33 S., R. 8 W., sec. 17, Willamette Meridian, as a recreational river.

(II) WILD RIVER.—The approximately 1.2-mile segment of Whisky Creek from road 33–8–23 to the confluence with the Rogue River, as a wild river.

(iv) EAST FORK WHISKY CREEK.—

(I) SCENIC RIVER.—The approximately 0.9-mile segment of East Fork Whisky Creek from its headwaters to Wild Rogue Wilderness boundary in

this Act. The segment of the Rio Chama beginning at the El Vado Ranch launch site downstream to the beginning of Forest Service Road 151 shall be administered as a wild river and the segment downstream from the beginning of Forest Service Road 151 to elevation 6,353 feet shall be administered as a scenic river.

(109) EAST FORK OF JEMEZ, NEW MEXICO.—The 11-mile segment from the Santa Fe National Forest boundary to its confluence with the Rio San Antonio; to be administered by the Secretary of Agriculture in the following classifications:

(A) the 2-mile segment from the Santa Fe National Forest boundary to the second crossing of State Highway 4, near Las Conchas Trailhead, as a recreational river; and

(B) the 4-mile segment from the second crossing of State Highway 4, near Las Conchas Trailhead, to the third crossing of State Highway 4, approximately one and one-quarter miles upstream from Jemez Falls, as a wild river; and

(C) the 5-mile segment from the third crossing of State Highway 4, approximately one and one-quarter miles upstream from Jemez Falls, to its confluence with the Rio San Antonio, as a scenic river.

After the enactment of this paragraph, Federal lands within the boundaries of the segments designated under this paragraph or which constitute the bed or bank or are situated within one-quarter mile of the ordinary highwater mark on each side of such segments are withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws of the United States, and no patent may be issued for the surface estate with respect to any mining claim located on such lands. Nothing in this paragraph shall be construed as precluding mining operations on any valid existing claim, subject to applicable regulations under section 9.

(110) PECOS RIVER, NEW MEXICO.—The 20.5-mile segment from its headwaters to the townsite of Tererro; to be administered by the Secretary of Agriculture in the following classifications:

(A) the 13.5-mile segment from its headwaters to the Pecos Wilderness boundary, as a wild river; and

(B) the 7-mile segment from the Pecos Wilderness boundary to the townsite of Tererro, as a recreational river.

After the enactment of this paragraph, Federal lands within the boundaries of the segments designated under this paragraph or which constitute the bed or bank or are situated within one-quarter mile of the ordinary highwater mark on each side of such segments are withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws of the United States, and no patent may be issued for the surface estate with respect to any mining claim located on such lands. Nothing in this paragraph shall be construed as precluding mining operations on any valid existing claim, subject to applicable regulations under section 9.

(111) SMITH RIVER, CALIFORNIA.—The segment from the confluence of the Middle Fork Smith River and the North Fork Smith River to the Six Rivers National Forest boundary, including the following segments of the mainstem and certain tributaries, to be administered by the Secretary of Agriculture in the following classes:

74-6-6. Adoption of regulations and standards; notice and hearing.

A. No regulation or water quality standard or amendment or repeal thereof shall be adopted until after a public hearing.

B. Any person may petition in writing to have the commission adopt, amend or repeal a regulation or water quality standard. The commission shall determine whether to hold a hearing within ninety days of submission of the petition. The denial of such a petition shall not be subject to judicial review.

C. Hearings on regulations or water quality standards of statewide application shall be held in Santa Fe. Hearings on regulations or standards that are not of statewide application may be held within the area that is substantially affected by the regulation or standard. At least thirty days prior to the hearing date, notice of the hearing shall be published in the New Mexico register and a newspaper of general circulation in the area affected and mailed to all persons who have made a written request to the commission for advance notice of hearings and who have provided the commission with a mailing address. The notice shall state the subject, the time and the place of the hearing and the manner in which interested persons may present their views. The notice shall also state where interested persons may secure copies of any proposed regulation or water quality standard.

D. At the hearing, the commission shall allow all interested persons reasonable opportunity to submit data, views or arguments orally or in writing and to examine witnesses testifying at the hearing. The commission may designate a hearing officer to take evidence in the hearing. Any person heard or represented at the hearing shall be given written notice of the action of the commission.

E. No regulation or water quality standard or amendment or repeal thereof adopted by the commission shall become effective until thirty days after its filing in accordance with the provisions of the State Rules Act [Chapter 14, Article 4 NMSA 1978].

History: 1953 Comp., § 75-39-5, enacted by Laws 1967, ch. 190, § 5; 1982, ch. 73, § 26; 1993, ch. 291, § 6.

74-6-4. Duties and powers of commission. (Repealed effective July 1, 2026.)

The commission:

A. may accept and supervise the administration of loans and grants from the federal government and from other sources, public or private, which loans and grants shall not be expended for other than the purposes for which provided;

B. shall adopt a comprehensive water quality management program and develop a continuing planning process;

C. shall not adopt or promulgate a standard or regulation that exceeds a grant of rulemaking authority listed in the statutory section of the Water Quality Act authorizing the standard or regulation;

D. shall adopt water quality standards for surface and ground waters of the state based on credible scientific data and other evidence appropriate under the Water Quality Act. The standards shall include narrative standards and, as appropriate, the designated uses of the waters and the water quality criteria necessary to protect such uses. The standards shall at a minimum protect the public health or welfare, enhance the quality of water and serve the purposes of the Water Quality Act. In making standards, the commission shall give weight it deems appropriate to all facts and circumstances, including the use and value of the water for water supplies, propagation of fish and wildlife, recreational purposes and agricultural, industrial and other purposes;

E. shall adopt, promulgate and publish regulations to prevent or abate water pollution in the state or in any specific geographic area, aquifer or watershed of the state or in any part thereof, or for any class of waters, and to govern the disposal of septage and sludge and the use of sludge for various beneficial purposes. The regulations governing the disposal of septage and sludge may include the use of tracking and permitting systems or other reasonable means necessary to assure that septage and sludge are designated for disposal in, and arrive at, disposal facilities, other than facilities on the premises where the septage and sludge is generated, for which a permit or other authorization has been issued pursuant to the federal act or the Water Quality Act. Regulations may specify a standard of performance for new sources that reflects the greatest reduction in the concentration of water contaminants that the commission determines to be achievable through application of the best available demonstrated control technology, processes, operating methods or other alternatives, including where practicable a standard permitting no discharge of pollutants. In making regulations, the commission shall give weight it deems appropriate to all relevant facts and circumstances, including:

(1) the character and degree of injury to or interference with health, welfare, environment and property;

(2) the public interest, including the social and economic value of the sources of water contaminants;

(3) the technical practicability and economic reasonableness of reducing or eliminating water contaminants from the sources involved and previous experience with equipment and methods available to control the water contaminants involved;

(4) the successive uses, including domestic, commercial, industrial, pastoral, agricultural, wildlife and recreational uses;

(5) feasibility of a user or a subsequent user treating the water before a subsequent use;

(6) property rights and accustomed uses; and

(7) federal water quality requirements;

F. shall assign responsibility for administering its regulations to constituent agencies so as to assure adequate coverage and prevent duplication of effort. To this end, the commission may make such classification of waters and sources of water contaminants as will facilitate the assignment of administrative responsibilities to constituent agencies. The commission shall also hear and decide disputes between constituent agencies as to jurisdiction concerning any matters within the purpose of the Water Quality Act. In assigning responsibilities to constituent agencies, the commission shall give priority to the primary interests of the constituent agencies. The department of environment shall provide technical services, including certification of permits pursuant to the federal act, and shall maintain a repository of the scientific data required by the Water Quality Act;

G. may enter into or authorize constituent agencies to enter into agreements with the federal government or other state governments for purposes consistent with the Water Quality Act and receive and allocate to constituent agencies funds made available to the commission;

H. may grant an individual variance from any regulation of the commission whenever it is found that compliance with the regulation will impose an unreasonable burden upon any lawful business, occupation or activity. The commission may only grant a variance conditioned upon a person effecting a particular abatement of water pollution within a reasonable period of time. Any variance shall be granted for the period of time specified by the commission. The commission shall adopt regulations specifying the procedure under which variances may be sought, which regulations shall provide for the holding of a public hearing before any variance may be granted;

I. may adopt regulations to require the filing with it or a constituent agency of proposed plans and specifications for the construction and operation of new sewer systems, treatment works or sewerage systems or extensions, modifications of or additions to new or existing sewer systems, treatment works or sewerage systems. Filing with and approval by the federal housing administration of plans for an extension to an existing or construction of a new sewerage system intended to serve a subdivision solely residential in nature shall be deemed compliance with all provisions of this subsection;

J. may adopt regulations requiring notice to it or a constituent agency of intent to introduce or allow the introduction of water contaminants into waters of the state;

K. shall specify in regulations the measures to be taken to prevent water pollution and to monitor water quality. The commission may adopt regulations for particular industries. The commission shall adopt regulations for the dairy industry and the copper industry. The commission shall consider, in addition to the factors listed in Subsection E of this section, the best available scientific information. The regulations may include variations in requirements based on site-specific factors, such as depth and distance to ground water and geological and hydrological conditions. The constituent agency shall establish an advisory committee composed of persons with knowledge and expertise particular to the industry category and other interested stakeholders to advise the constituent agency on appropriate regulations to be proposed for adoption by the commission. The regulations shall be developed and adopted in accordance with a schedule approved by the commission. The schedule shall incorporate an opportunity for public input and stakeholder negotiations;

L. may adopt regulations establishing pretreatment standards that prohibit or control the introduction into publicly owned sewerage systems of water contaminants that are not susceptible to treatment by the treatment works or that would interfere with the operation of the treatment works;

M. shall not require a permit respecting the use of water in irrigated agriculture, except in the case of the employment of a specific practice in connection with such irrigation that documentation or actual case history has shown to be hazardous to public health or the environment or for the use of produced water;

N. shall not require a permit for applying less than two hundred fifty gallons per day of private residential gray water originating from a residence for the resident's household gardening, composting or landscape irrigation if:

(1) a constructed gray water distribution system provides for overflow into the sewer system or on-site wastewater treatment and disposal system;

(2) a gray water storage tank is covered to restrict access and to eliminate habitat for mosquitos or other vectors;

(3) a gray water system is sited outside of a floodway;

(4) gray water is vertically separated at least five feet above the ground water table;

(5) gray water pressure piping is clearly identified as a nonpotable water conduit;

(6) gray water is used on the site where it is generated and does not run off the property lines;

(7) gray water is applied in a manner that minimizes the potential for contact with people or domestic pets;

(8) ponding is prohibited, application of gray water is managed to minimize standing water on the surface and to ensure that the hydraulic capacity of the soil is not exceeded;

(9) gray water is not sprayed;

(10) gray water is not discharged to a watercourse; and

(11) gray water use within municipalities or counties complies with all applicable municipal or county ordinances enacted pursuant to Chapter 3, Article 53 NMSA 1978;

O. shall coordinate application procedures and funding cycles for loans and grants from the federal government and from other sources, public or private, with the local government division of the department of finance and administration pursuant to the New Mexico Community Assistance Act [[11-6-1](#) NMSA 1978 et seq.];

P. shall adopt regulations to be administered by the department of environment for the discharge, handling, transport, storage, recycling or treatment for the disposition of treated produced water, including disposition in road construction maintenance, roadway ice or dust control or other construction, or in the application of treated produced water to land, for activities unrelated to the exploration, drilling, production, treatment or refinement of oil or gas; and

Q. may adopt regulations to be administered by the department of environment for surface water discharges.

History: 1953 Comp., § 75-39-4, enacted by Laws 1967, ch. 190, § 4; 1970, ch. 64, § 3; 1971, ch. 277, § 51; 1973, ch. 326, § 3; 1981, ch. 347, § 1; 1984, ch. 5, § 13; [1993, ch. 291, § 4](#); [2001, ch. 240, § 1](#); [2001, ch. 281, § 1](#); [2003, ch. 7, § 2](#); [2009, ch. 194, § 1](#); [2019, ch. 197, § 11](#).

14-4-5.2. Notice of proposed rulemaking.

A. Not later than thirty days before a public rule hearing, the agency proposing the rule shall provide to the public and publish in the New Mexico register a notice of proposed rulemaking. The notice shall include:

- (1) a summary of the full text of the proposed rule;
- (2) a short explanation of the purpose of the proposed rule;
- (3) a citation to the specific legal authority authorizing the proposed rule and the adoption of the rule;
- (4) information on how a copy of the full text of the proposed rule may be obtained;
- (5) information on how a person may comment on the proposed rule, where comments will be received and when comments are due;
- (6) information on where and when a public rule hearing will be held and how a person may participate in the hearing; and
- (7) a citation to technical information, if any, that served as a basis for the proposed rule, and information on how the full text of the technical information may be obtained.

B. An agency may charge a reasonable fee for providing any records in nonelectronic form when provided to a person pursuant to this section. An agency shall not charge a fee for providing any records in electronic form when provided to a person pursuant to this section.

C. An internet link providing free access to the full text of the proposed rule shall be included on the notice of proposed rulemaking.

D. If the agency changes the date of the public rule hearing or the deadline for submitting comments as stated in the notice, the agency shall provide notice to the public of the change.

E. The state records administrator or the administrator's designee shall timely publish the notice of proposed rulemaking in the next publication of the New Mexico register.

14-4-2. Definitions.

As used in the State Rules Act:

A. "agency" means any agency, board, commission, department, institution or officer of the state government except the judicial and legislative branches of the state government;

B. "person" includes individuals, associations, partnerships, companies, business trusts, political subdivisions and corporations;

C. "proceeding" means a formal agency process or procedure that is commenced or conducted pursuant to the State Rules Act;

D. "proposed rule" means a rule that is provided to the public by an agency for review and public comment prior to its adoption, amendment or repeal, and for which there is specific legal authority authorizing the proposed rule;

E. "provide to the public" means for an agency to distribute rulemaking information by:

- (1) posting it on the agency website, if any;
- (2) posting it on the sunshine portal;
- (3) making it available in the agency's district, field and regional offices, if any;
- (4) sending it by electronic mail to persons who have made a written request for notice from the agency of announcements addressing the subject of the rulemaking proceeding and who have provided an electronic mail address to the agency;
- (5) sending it by electronic mail to persons who have participated in the rulemaking and who have provided an electronic mail address to the agency;
- (6) sending written notice that includes, at a minimum, an internet and street address where the information may be found to persons who provide a postal address; and
- (7) providing it to the New Mexico legislative council for distribution to appropriate interim and standing legislative committees;

F. "rule" means any rule, regulation, or standard, including those that explicitly or implicitly implement or interpret a federal or state legal mandate or other applicable law and amendments thereto or repeals and renewals thereof, issued or promulgated by any agency and purporting to affect one or more agencies besides the agency issuing the rule or to affect persons not members or employees of the issuing agency, including affecting persons served by the agency. An order or decision or other document issued or promulgated in connection with the disposition of any case or agency decision upon a particular matter as applied to a specific set of facts shall not be deemed such a rule, nor shall it constitute specific adoption thereof by the agency. "Rule" does not include rules relating to the management, confinement, discipline or release of inmates of any penal or charitable institution, the New Mexico boys' school, the girls' welfare home or any hospital; rules made relating to the management of any particular educational institution, whether elementary or otherwise; or rules made relating to admissions, discipline, supervision, expulsion or graduation of students from any educational institution; and

G. "rulemaking" means the process for adoption of a new rule or the amendment, readoption or repeal of an existing rule.

History: 1953 Comp., § 71-7-2, enacted by Laws 1967, ch. 275, § 2; 1969, ch. 92, § 1; [2017, ch. 137, § 1](#).

11-18-3. Collaboration with Indian nations, tribes or pueblos.

A. By December 31, 2009, every state agency shall develop and implement a policy that:

- (1) promotes effective communication and collaboration between the state agency and Indian nations, tribes or pueblos;
- (2) promotes positive government-to-government relations between the state and Indian nations, tribes or pueblos;
- (3) promotes cultural competency in providing effective services to American Indians or Alaska Natives; and
- (4) establishes a method for notifying employees of the state agency of the provisions of the State-Tribal Collaboration Act and the policy that the state agency adopts pursuant to this section.

B. In the process of developing the policy set forth in Subsection A of this section, state agencies shall consult with representatives designated by the Indian nations, tribes or pueblos.

C. A state agency shall make a reasonable effort to collaborate with Indian nations, tribes or pueblos in the development and implementation of policies, agreements and programs of the state agency that directly affect American Indians or Alaska Natives.

D. The Indian affairs department shall maintain for public reference an updated list of the names and contact information for the chief executives of the Indian nations, tribes or pueblos and for the state agency tribal liaisons.

E. Every state agency shall designate a tribal liaison, who reports directly to the office of the head of the state agency, to:

- (1) assist the head of the state agency with developing and ensuring the implementation of the policy as set forth in Subsection A of this section;
- (2) serve as a contact person who shall maintain ongoing communication between the state agency and affected Indian nations, tribes or pueblos; and
- (3) ensure that training is provided to the staff of the state agency as set forth in Subsection B of Section 4 [\[11-18-4 NMSA 1978\]](#) of the State-Tribal Collaboration Act. Nothing in this subsection shall preclude tribal liaisons from providing or facilitating additional training.

History: [Laws 2009, ch. 15, § 3.](#)

14-4A-4. Rules affecting small business.

A. Prior to the adoption of a proposed rule that may have an adverse effect on small business, an agency shall provide a copy of the proposed rule to the commission at the same time as persons who have requested advance notice of rulemaking.

B. Prior to the adoption of a proposed rule that the agency deems to have an adverse effect on small business, the agency shall consider regulatory methods that accomplish the objectives of the applicable law while minimizing the adverse effects on small business.

History: Laws 2005, ch. 244, § 4.

Electronic Code of Federal Regulations

e-CFR data is current as of **April 27, 2021**

[Title 40](#) → [Chapter I](#) → [Subchapter D](#) → Part 131

Title 40: Protection of Environment

PART 131—WATER QUALITY STANDARDS

§131.12 Antidegradation policy and implementation methods.

(a) The State shall develop and adopt a statewide antidegradation policy. The antidegradation policy shall, at a minimum, be consistent with the following:

(1) Existing instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected.

(2) Where the quality of the waters exceeds levels necessary to support the protection and propagation of fish, shellfish, and wildlife and recreation in and on the water, that quality shall be maintained and protected unless the State finds, after full satisfaction of the intergovernmental coordination and public participation provisions of the State's continuing planning process, that allowing lower water quality is necessary to accommodate important economic or social development in the area in which the waters are located. In allowing such degradation or lower water quality, the State shall assure water quality adequate to protect existing uses fully. Further, the State shall assure that there shall be achieved the highest statutory and regulatory requirements for all new and existing point sources and all cost-effective and reasonable best management practices for nonpoint source control.

(i) The State may identify waters for the protections described in paragraph (a)(2) of this section on a parameter-by-parameter basis or on a water body-by-water body basis. Where the State identifies waters for antidegradation protection on a water body-by-water body basis, the State shall provide an opportunity for public involvement in any decisions about whether the protections described in paragraph (a)(2) of this section will be afforded to a water body, and

the factors considered when making those decisions. Further, the State shall not exclude a water body from the protections described in paragraph (a)(2) of this section solely because water quality does not exceed levels necessary to support all of the uses specified in section 101(a)(2) of the Act.

(ii) Before allowing any lowering of high water quality, pursuant to paragraph (a)(2) of this section, the State shall find, after an analysis of alternatives, that such a lowering is necessary to accommodate important economic or social development in the area in which the waters are located. The analysis of alternatives shall evaluate a range of practicable alternatives that would prevent or lessen the degradation associated with the proposed activity. When the analysis of alternatives identifies one or more practicable alternatives, the State shall only find that a lowering is necessary if one such alternative is selected for implementation.

(3) Where high quality waters constitute an outstanding National resource, such as waters of National and State parks and wildlife refuges and waters of exceptional recreational or ecological significance, that water quality shall be maintained and protected.

(4) In those cases where potential water quality impairment associated with a thermal discharge is involved, the antidegradation policy and implementing method shall be consistent with section 316 of the Act.

(b) The State shall develop methods for implementing the antidegradation policy that are, at a minimum, consistent with the State's policy and with paragraph (a) of this section. The State shall provide an opportunity for public involvement during the development and any subsequent revisions of the implementation methods, and shall make the methods available to the public.

[48 FR 51405, Nov. 8, 1983, as amended at 80 FR 51047, Aug. 21, 2015]



Displaying title 40, up to date as of 2/22/2022. Title 40 was last amended 2/18/2022.

TITLE 40 - PROTECTION OF ENVIRONMENT

Chapter I - Environmental Protection Agency

Subchapter D - Water Programs

Part 131 - Water Quality Standards

Subpart C - Procedures for Review and Revision of Water Quality Standards

§ 131.20 State review and revision of water quality standards.

- (a) **State review.** The State shall from time to time, but at least once every 3 years, hold public hearings for the purpose of reviewing applicable water quality standards adopted pursuant to §§ 131.10 through 131.15 and Federally promulgated water quality standards and, as appropriate, modifying and adopting standards. The State shall also re-examine any waterbody segment with water quality standards that do not include the uses specified in section 101(a)(2) of the Act every 3 years to determine if any new information has become available. If such new information indicates that the uses specified in section 101(a)(2) of the Act are attainable, the State shall revise its standards accordingly. Procedures States establish for identifying and reviewing water bodies for review should be incorporated into their Continuing Planning Process. In addition, if a State does not adopt new or revised criteria for parameters for which EPA has published new or updated CWA section 304(a) criteria recommendations, then the State shall provide an explanation when it submits the results of its triennial review to the Regional Administrator consistent with CWA section 303(c)(1) and the requirements of paragraph (c) of this section.
- (b) **Public participation.** The State shall hold one or more public hearings for the purpose of reviewing water quality standards as well as when revising water quality standards, in accordance with provisions of State law and EPA's public participation regulation (40 CFR part 25). The proposed water quality standards revision and supporting analyses shall be made available to the public prior to the hearing.
- (c) **Submittal to EPA.** The State shall submit the results of the review, any supporting analysis for the use attainability analysis, the methodologies used for site-specific criteria development, any general policies applicable to water quality standards and any revisions of the standards to the Regional Administrator for review and approval, within 30 days of the final State action to adopt and certify the revised standard, or if no revisions are made as a result of the review, within 30 days of the completion of the review.

[48 FR 51405, Nov. 8, 1983, as amended at 80 FR 51049, Aug. 21, 2015]



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TITLE 40 - PROTECTION OF ENVIRONMENT

Chapter I - Environmental Protection Agency

Subchapter A - General

Part 25

- Public Participation in Programs Under the Resource Conservation and Recovery Act, the Safe Drinking Water Act, and the Clean Water Act

§ 25.5 Public hearings.

- (a) **Applicability.** Any non-adjudicatory public hearing, whether mandatory or discretionary, under the three Acts shall meet the following minimum requirements. These requirements are subordinate to any more stringent requirements found elsewhere in this chapter or otherwise imposed by EPA, State, interstate, or substate agencies. Procedures developed for adjudicatory hearings required by this chapter shall be consistent with the public participation objectives of this part, to the extent practicable.
- (b) **Notice.** A notice of each hearing shall be well publicized, and shall also be mailed to the appropriate portions of the list of interested and affected parties required by § 25.4(b)(5). Except as otherwise specifically provided elsewhere in this chapter, these actions must occur at least 45 days prior to the date of the hearing. However, where EPA determines that there are no substantial documents which must be reviewed for effective hearing participation and that there are no complex or controversial matters to be addressed by the hearing, the notice requirement may be reduced to no less than 30 days. EPA may further reduce or waive the hearing notice requirement in emergency situations where EPA determines that there is an imminent danger to public health. To the extent not duplicative, the agency holding the hearing shall also provide informal notice to all interested persons or organizations that request it. The notice shall identify the matters to be discussed at the hearing and shall include or be accompanied by a discussion of the agency's tentative determination on major issues (if any), information on the availability of a bibliography of relevant materials (if deemed appropriate), and procedures for obtaining further information. Reports, documents and data relevant to the discussion at the public hearing shall be available to the public at least 30 days before the hearing. Earlier availability of materials relevant to the hearing will further assist public participation and is encouraged where possible.
- (c) **Locations and time.** Hearings must be held at times and places which, to the maximum extent feasible, facilitate attendance by the public. Accessibility of public transportation, and use of evening and weekend hearings, should be considered. In the case of actions with Statewide interest, holding more than one hearing should be considered.
- (d) **Scheduling presentations.** The agency holding the hearing shall schedule witnesses in advance, when necessary, to ensure maximum participation and allotment of adequate time for all speakers. However, the agency shall reserve some time for unscheduled testimony and may consider reserving blocks of time for major categories of witnesses.
- (e) **Conduct of hearing.** The agency holding the hearing shall inform the audience of the issues involved in the decision to be made, the considerations the agency will take into account, the agency's tentative determinations (if any), and the information which is particularly solicited from the public. The agency should consider allowing a question and answer period. Procedures shall not unduly inhibit free expression of views (for example, by onerous written statement requirements or qualification of witnesses beyond minimum identification).
- (f) **Record.** The agency holding the hearing shall prepare a transcript, recording or other complete record of public hearing proceedings and make it available at no more than cost to anyone who requests it. A copy of the record shall be available for public review.

TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 6 WATER QUALITY
PART 4 STANDARDS FOR INTERSTATE AND INTRASTATE SURFACE WATERS

20.6.4.9 OUTSTANDING NATIONAL RESOURCE WATERS:

A. Procedures for nominating an ONRW: Any person may nominate a surface water of the state for designation as an ONRW by filing a petition with the commission pursuant to the guidelines for water quality control commission regulation hearings. 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;
- (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 this section;
- (3) water quality data including chemical, physical or biological parameters, if available, to establish a baseline condition for the proposed ONRW;
- (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) 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.

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

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

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

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

- (1) Rio Santa Barbara, including the west, middle and east forks from their headwaters downstream to the boundary of the Pecos Wilderness; and
- (2) the waters within the United States forest service Valle Vidal special management unit including:
 - (a) Rio Costilla, including Comanche, La Cueva, Fernandez, Chuckwagon, LittleCostilla, Powderhouse, Holman, Gold, Grassy, LaBelle and Vidal creeks, from their headwaters downstream to the boundary of the United States forest service Valle Vidal special management unit;
 - (b) Middle Ponil creek, including the waters of Greenwood Canyon, from their headwaters downstream to the boundary of the Elliott S. Barker wildlife management area;
 - (c) Shuree lakes;
 - (d) North Ponil creek, including McCrystal and Seally Canyon creeks, from their headwaters downstream to the boundary of the United States forest service Valle Vidal special management unit; and
 - (e) Leandro creek from its headwaters downstream to the boundary of the United States forest service Valle Vidal special management unit.
- (3) the named perennial surface waters of the state, identified in Subparagraph (a) below, located within United States department of agriculture forest service wilderness. Wilderness are those lands designated by the United States congress as wilderness pursuant to the Wilderness Act. Wilderness areas included in

this designation are the Aldo Leopold wilderness, Apache Kid wilderness, Blue Range wilderness, Chama River Canyon wilderness, Cruces Basin wilderness, Dome wilderness, Gila wilderness, Latir Peak wilderness, Pecos wilderness, San Pedro Parks wilderness, Wheeler Peak wilderness, and White Mountain wilderness.

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

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

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

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

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

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

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

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

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

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

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

(i) in the Pecos wilderness: Albright creek, Bear creek, Beatty creek, Beaver creek, Carpenter creek, Cascade canyon, Cave creek, El Porvenir creek, Hollinger creek, Holy Ghost creek, Horsethief creek, Jack's creek, Jarosa canyon/creek, Johnson lake, Lake Katherine, Lost Bear lake, Noisy brook, Panchuela creek, Pecos Baldy lake, Pecos river, Rio Mora, Rio Valdez, Rito Azul, Rito de los Chimayosos, Rito de los Esteros, Rito del Oso, Rito del Padre, Rito las Trampas, Rito Maestas, Rito Oscuro, Rito Perro, Rito Sebadillosos, South Fork Bear creek, South Fork Rito Azul, Spirit lake, Stewart lake, Truchas lake (North), Truchas lake (South), Winsor creek;

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

(c) The following waters are designated in the Gila River basin:

(i) in the Aldo Leopold wilderness: Aspen canyon, Black Canyon creek, Bonner canyon, Burnt canyon, Diamond creek, Falls canyon, Fisherman canyon, Running Water canyon, South Diamond creek;

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

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

- (e) The following waters are designated in the San Francisco River basin:
 - (i) in the Blue Range wilderness: Pueblo creek;
 - (ii) in the Gila wilderness: Big Dry creek, Lipsey canyon, Little Dry creek, Little Whitewater creek, South Fork Whitewater creek, Spider creek, Spruce creek, Whitewater creek.
- (f) The following waters are designated in the Mimbres Closed basin: in the Aldo Leopold wilderness Corral canyon, Mimbres river, North Fork Mimbres river, South Fork Mimbres river.
- (g) The following waters are designated in the Tularosa Closed basin: in the White Mountain wilderness Indian creek, Nogal Arroyo, Three Rivers.
- (h) The wetlands designated are identified on the *Maps and List of Wetlands Within United States Forest Service Wilderness Areas Designated as Outstanding National Resource Waters* published at the New Mexico state library and available on the department's website.
[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, 7/17/2005; A, 2/16/2006; A, 12/1/2010; A, 1/14/2011]

Excerpt from: 20.6.4 NMAC

20.6.4.8 ANTIDegradation Policy and Implementation Plan:

A. Antidegradation Policy: This antidegradation policy applies to all surface waters of the state.

(1) Existing instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected in all surface waters of the state.

(2) Where the quality of a surface water of the state exceeds levels necessary to support the propagation of fish, shellfish, and wildlife, and recreation in and on the water, that quality shall be maintained and protected unless the commission finds, after full satisfaction of the intergovernmental coordination and public participation provisions of the state's continuing planning process, that allowing lower water quality is necessary to accommodate important economic and social development in the area in which the water is located. In allowing such degradation or lower water quality, the state shall assure water quality adequate to protect existing uses fully. Further, the state shall assure that there shall be achieved the highest statutory and regulatory requirements for all new and existing point sources and all cost-effective and reasonable BMPs for nonpoint source control. Additionally, the state shall encourage the use of watershed planning as a further means to protect surface waters of the state.

(3) No degradation shall be allowed in waters designated by the commission as outstanding national resource waters (ONRWs), except as provided in Subparagraphs (a) through (e) of this paragraph and in Paragraph (4) of this Subsection A.

(a) After providing a minimum 30-day public review and comment period, the commission determines that allowing temporary and short-term degradation of water quality is necessary to accommodate public health or safety activities in the area in which the ONRW is located. Examples of public health or safety activities include but are not limited to replacement or repair of a water or sewer pipeline or a roadway bridge. In making its decision, the commission shall consider whether the activity will interfere with activities implemented to restore or maintain the chemical, physical or biological integrity of the water. In approving the activity, the commission shall require that:

(i) the degradation shall be limited to the shortest possible time and shall not exceed six months;

(ii) the degradation shall be minimized and controlled by best management practices or in accordance with permit requirements as appropriate; all practical means of minimizing the duration, magnitude, frequency and cumulative effects of such degradation shall be utilized;

(iii) the degradation shall not result in water quality lower than necessary to protect any existing use in the ONRW; and

(iv) the degradation shall not alter the essential character or special use that makes the water an ONRW.

(b) Prior to the commission making a determination, the department or appropriate oversight agency shall provide a written recommendation to the commission. If the commission approves the activity, the department or appropriate oversight agency shall oversee implementation of the activity.

(c) Where an emergency response action that may result in temporary and short-term degradation to an ONRW is necessary to mitigate an immediate threat to public health or safety, the emergency response action may proceed prior to providing notification required by Subparagraph (a) of this paragraph in accordance with the following:

(i) only actions that mitigate an immediate threat to public health or safety may be undertaken pursuant to this provision; non-emergency portions of the action shall comply with the requirements of Subparagraph (a) of this paragraph;

(ii) the discharger shall make best efforts to comply with requirements (i) through (iv) of Subparagraph (a) of this paragraph;

(iii) the discharger shall notify the department of the emergency response action in writing within seven days of initiation of the action;

(iv) within 30 days of initiation of the emergency response action, the discharger shall provide a summary of the action taken, including all actions taken to comply with requirements (i) through (iv) of Subparagraph (a) of this paragraph.

(d) Preexisting land-use activities, including grazing, allowed by federal or state law prior to designation as an ONRW, and controlled by best management practices (BMPs), shall be allowed to continue so long as there are no new or increased discharges resulting from the activity after designation of the ONRW.

(e) Acequia operation, maintenance, and repairs are not subject to new requirements because of ONRW designation. However, the use of BMPs to minimize or eliminate the introduction of pollutants into receiving waters is strongly encouraged.

(4) This antidegradation policy does not prohibit activities that may result in degradation in surface waters of the state when such activities will result in restoration or maintenance of the chemical, physical or biological integrity of the water.

(a) For ONRWs, the department or appropriate oversight agency shall review on a case-by-case basis discharges that may result in degradation from restoration or maintenance activities, and may approve such activities in accordance with the following:

- (i) the degradation shall be limited to the shortest possible time;
- (ii) the degradation shall be minimized and controlled by best management practices or in accordance with permit requirements as appropriate, and all practical means of minimizing the duration, magnitude, frequency and cumulative effects of such degradation shall be utilized;
- (iii) the degradation shall not result in water quality lower than necessary to protect any existing use of the surface water; and
- (iv) the degradation shall not alter the essential character or special use that makes the water an ONRW.

(b) For surface waters of the state other than ONRWs, the department shall review on a case-by-case basis discharges that may result in degradation from restoration or maintenance activities, and may approve such activities in accordance with the following:

- (i) the degradation shall be limited to the shortest possible time;
- (ii) the degradation shall be minimized and controlled by best management practices or in accordance with permit requirements as appropriate, and all practical means of minimizing the duration, magnitude, frequency and cumulative effects of such degradation shall be utilized; and
- (iii) the degradation shall not result in water quality lower than necessary to protect any existing use of the surface water.

(5) In those cases where potential water quality impairment associated with a thermal discharge is involved, this antidegradation policy and implementing method shall be consistent with Section 316 of the federal Clean Water Act.

(6) In implementing this section, the commission through the appropriate regional offices of the United States environmental protection agency will keep the administrator advised and provided with such information concerning the surface waters of the state as he or she will need to discharge his or her responsibilities under the federal Clean Water Act.

B. Implementation Plan: The department, acting under authority delegated by the commission, implements the water quality standards, including the antidegradation policy, by describing specific methods and procedures in the continuing planning process and by establishing and maintaining controls on the discharge of pollutants to surface waters of the state. The steps summarized in the following paragraphs, which may not all be applicable in every water pollution control action, list the implementation activities of the department. These implementation activities are supplemented by detailed antidegradation review procedures developed under the state's continuing planning process. The department:

- (1) obtains information pertinent to the impact of the effluent on the receiving water and advises the prospective discharger of requirements for obtaining a permit to discharge;
- (2) reviews the adequacy of existing data and conducts a water quality survey of the receiving water in accordance with an annually reviewed, ranked priority list of surface waters of the state requiring total maximum daily loads pursuant to Section 303(d) of the federal Clean Water Act;
- (3) assesses the probable impact of the effluent on the receiving water relative to its attainable or designated uses and numeric and narrative criteria;
- (4) requires the highest and best degree of wastewater treatment practicable and commensurate with protecting and maintaining the designated uses and existing water quality of surface waters of the state;

(5) develops water quality based effluent limitations and comments on technology based effluent limitations, as appropriate, for inclusion in any federal permit issued to a discharger pursuant to Section 402 of the federal Clean Water Act;

(6) requires that these effluent limitations be included in any such permit as a condition for state certification pursuant to Section 401 of the federal Clean Water Act;

(7) coordinates its water pollution control activities with other constituent agencies of the commission, and with local, state and federal agencies, as appropriate;

(8) develops and pursues inspection and enforcement programs to ensure that dischargers comply with state regulations and standards, and complements EPA's enforcement of federal permits;

(9) ensures that the provisions for public participation required by the New Mexico Water Quality Act and the federal Clean Water Act are followed;

(10) provides continuing technical training for wastewater treatment facility operators through the utility operators training and certification programs;

(11) provides funds to assist the construction of publicly owned wastewater treatment facilities through the wastewater construction program authorized by Section 601 of the federal Clean Water Act, and through funds appropriated by the New Mexico legislature;

(12) conducts water quality surveillance of the surface waters of the state to assess the effectiveness of water pollution controls, determines whether water quality standards are being attained, and proposes amendments to improve water quality standards;

(13) encourages, in conjunction with other state agencies, implementation of the best management practices set forth in the New Mexico statewide water quality management plan and the nonpoint source management program, such implementation shall not be mandatory except as provided by federal or state law;

(14) evaluates the effectiveness of BMPs selected to prevent, reduce or abate sources of water pollutants;

(15) develops procedures for assessing use attainment as required by 20.6.4.15 NMAC and establishing site-specific standards; and

(16) develops list of surface waters of the state not attaining designated uses, pursuant to Sections 305(b) and 303(d) of the federal Clean Water Act.

[20.6.4.8 NMAC - Rp 20 NMAC 6.1.1101, 10/12/2000; A, 5/23/2005; A, 8/1/2007; A, 1/14/2011]

Excerpts for: 20.6.4 NMAC

20.6.4.7 **DEFINITIONS:** Terms defined in the New Mexico Water Quality Act, but not defined in this part will have the meaning given in the Water Quality Act.

E. Terms beginning with the letter “E”.

(1) **“E. coli”** means the bacteria Escherichia coli.

(2) **“Ephemeral”** when used to describe a surface water of the state means the water body contains water briefly only in direct response to precipitation; its bed is always above the water table of the adjacent region.

(3) **“Existing use”** means a use actually attained in a surface water of the state on or after November 28, 1975, whether or not it is a designated use.

Excerpt from: 20.6.4 NMAC

20.6.4.7 DEFINITIONS: Terms defined in the New Mexico Water Quality Act, but not defined in this part will have the meaning given in the Water Quality Act.

B. Terms beginning with the letter “B”.

(1) “Best management practices” or “BMPs”:

(a) for national pollutant discharge elimination system (NPDES) permitting purposes means schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce the pollution of “waters of the United States;” BMPs also include treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal or drainage from raw material storage; or

(b) for nonpoint source pollution control purposes means methods, measures or practices selected by an agency to meet its nonpoint source control needs; BMPs include but are not limited to structural and nonstructural controls and operation and maintenance procedures; BMPs can be applied before, during and after pollution-producing activities to reduce or eliminate the introduction of pollutants into receiving waters; BMPs for nonpoint source pollution control purposes shall not be mandatory except as required by state or federal law.

(2) “Bioaccumulation” refers to the uptake and retention of a substance by an organism from its surrounding medium and food.

(3) “Bioaccumulation factor” is the ratio of a substance’s concentration in tissue versus its concentration in ambient water, in situations where the organism and the food chain are exposed.

(4) “Biomonitoring” means the use of living organisms to test the suitability of effluents for discharge into receiving waters or to test the quality of surface waters of the state.

Excerpt from: 20.1.6 NMAC

that part of the record, shall note on the New Mexico sunshine portal that the part of the record is not displayed, and shall provide instructions for accessing or inspecting that part of the record.

B. Cost of duplication: The cost of duplicating documents shall be borne by the person seeking copies of such documents, but the commission administrator shall not charge a fee for providing the notice of proposed rulemaking in electronic form.

[20.1.6.105 NMAC - Rp, 20.1.6.105 NMAC, 03/16/2018]

20.1.6.106 - 20.1.1.199 [RESERVED]

20.1.6.200 PREHEARING PROCEDURES - PETITION FOR REGULATORY CHANGE:

A. Any person may file a petition with the commission to adopt, amend, or repeal any regulation within the jurisdiction of the commission.

B. The petition shall be in writing and shall include a statement of the reasons for the regulatory change. The petition shall cite the relevant statutes that authorize the commission to adopt the proposed rules and shall estimate the time that will be needed to conduct the hearing. A copy of the entire rule, including the proposed regulatory change, indicating any language proposed to be added or deleted, shall be attached to the petition. The entire rule and its proposed changes shall be submitted to the commission in redline fashion, and shall include line numbers. Any document that does not include all the items required to be in a petition shall be returned to the petitioner along with a copy of these rules and a check-off list of required items, and the petitioner will be asked to resubmit their petition in the form required by these rules.

C. The commission shall determine, at a public meeting occurring no later than 90 days after receipt of the petition, whether or not to hold a public hearing on the proposal. Any person may respond to the petition either in writing prior to the public meeting or in person at the public meeting.

D. If the commission determines to hold a public hearing on the petition, it may issue such orders specifying procedures for conduct of the hearing, in addition to those provided by this part, as may be necessary and appropriate to fully inform the commission of the matters at issue in the hearing or control the conduct of the hearing. Such orders may include requirements for giving additional public notice, holding pre-hearing conferences, filing direct testimony in writing prior to the hearing, or limiting testimony or cross-examination.

[20.1.6.200 NMAC - Rp, 20.1.6.200 NMAC, 03/16/2018]

20.1.6.201 NOTICE OF HEARINGS:

A. Unless otherwise allowed by governing law and specified by the commission, the commission shall provide to the public notice of the proposed rulemaking at least 60 days prior to the hearing.

B. Public notice for proposed regulatory changes of general application to the state shall include publication in at least one newspaper of general circulation in the state, publication in the New Mexico register, and such other means of providing notice as the commission may direct or are required by law. Notice for proposed regulatory changes that are confined in effect to a specific geographic area shall also be published in a newspaper of general circulation in the area affected.

C. The notice of proposed rulemaking shall state:

(1) the subject of the proposed rule, including a summary of the full text of the proposed rule and a short explanation of the purpose of the proposed rule;

(2) a citation to the specific legal authority authorizing the proposed rule and the adoption of the rule;

(3) a citation to technical information, if any, that served as a basis for the proposed rule, and information on how the full text of the technical information may be obtained;

(4) the statutes, regulations, and procedural rules governing the conduct of the hearing;

(5) the manner in which persons may present their views or evidence to the commission including information on participating in the public hearing;

(6) the location where persons may secure copies of the proposed regulatory change;

(7) an internet link providing free access to the full text of the proposed rule; and

(8) if applicable, that the commission may make a decision on the proposed regulatory change at the conclusion of the hearing.

[20.1.6.201 NMAC - Rp, 20.1.6.201 NMAC, 03/16/2018]

20.1.6.202 TECHNICAL TESTIMONY:

A. Any person, including the petitioner, who intends to present technical testimony at the hearing shall, no later than 20 days prior to the hearing, file a notice of intent to present technical testimony. The notice shall:

- (1) identify the person for whom the witness(es) will testify;
 - (2) identify each technical witness the person intends to present, and state the qualifications of that witness, including a description of their educational and work background;
 - (3) if the hearing will be conducted at multiple locations, indicate the location or locations at which the witnesses will be present;
 - (4) include a copy of the direct testimony of each technical witness in narrative form, and state the estimated duration of the direct oral testimony of that witness;
 - (5) include the text of any recommended modifications to the proposed regulatory change;
- and
- (6) list and attach all exhibits anticipated to be offered by that person at the hearing.

B. The hearing officer may enforce the provisions of this section through such action as the hearing officer deems appropriate, including, but not limited to, exclusion of the technical testimony of any witness for whom a notice of intent was not timely filed. If such testimony is admitted, the hearing officer may keep the record open after the hearing to allow responses to such testimony. The hearing officer may also require that written rebuttal testimony be submitted prior to hearing.

[20.1.6.202 NMAC - Rp, 20.1.6.202 NMAC, 03/16/2018]

20.1.6.203 ENTRY OF APPEARANCE: Any person may file an entry of appearance as a party. The entry of appearance shall be filed no later than 20 days before the date of the hearing on the petition. In the event of multiple entries of appearance by those affiliated with one interest group, the hearing officer may consolidate the entries, or divide the service list to avoid waste of resources.

[20.1.6.203 NMAC - Rp, 20.1.6.203 NMAC, 03/16/2018]

20.1.6.204 PARTICIPATION BY GENERAL PUBLIC:

A. Any member of the general public may testify at the hearing. No prior notification is required to present non-technical testimony at the hearing. Any such member may also offer non-technical exhibits in connection with their testimony, so long as the exhibit is not unduly repetitious of the testimony.

B. A member of the general public who wishes to submit a written statement for the record, in lieu of providing oral testimony at the hearing, shall file the written statement prior to the hearing or submit it at the hearing. Written comment must be mailed or delivered to the commission administrator.

C. If the commission changes the date of the hearing or the deadline for submitting comments as stated in the notice of proposed rulemaking, the commission shall provide to the public notice of the change.

[20.1.6.204 NMAC - Rp, 20.1.6.204 NMAC, 03/16/2018]

20.1.6.205 LOCATION OF HEARING: Unless otherwise provided by governing law, the commission shall hold hearings on proposed regulatory changes of statewide application in Santa Fe, and at other places the commission may prescribe. The commission may hold hearings on proposed regulatory changes that are not of statewide application within the area substantially affected by the proposal.

[20.1.6.205 NMAC - Rp, 20.1.6.205 NMAC, 03/16/2018]

20.1.6.206 PARTICIPATION BY CONFERENCE TELEPHONE OR OTHER SIMILAR DEVICE:

A. A member of the commission may participate in a meeting or hearing of the commission by means of a conference telephone or other similar communications equipment when it is otherwise difficult or impossible for the member to attend the meeting or hearing in person, provided that each member participating by conference telephone can be identified when speaking, all participants are able to hear each other at the same time and members of the public attending the meeting or hearing are able to hear any member of the commission who speaks at the meeting or hearing. A commission member's participation by such means shall constitute presence in person at the meeting or hearing. A commission member who needs to participate in this manner must notify the commission administrator sufficiently in advance so as to permit the commission administrator to arrange for the appropriate communications equipment.

B. A witness may participate in a hearing of the commission by means of a conference telephone or other similar communications equipment when an emergency or circumstances make it impossible for the witness to attend the hearing in person. A witness who needs to participate in this manner must receive permission from the

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122. The Commission adopts NMED's proposal to make minor changes in paragraphs (2) and (3); in (2) the language would more accurately reflect the procedure used to conduct a water quality survey. The Commission deletes the word "voluntary" and adds language to the end of paragraph 13 for clarity and consistency with the language in the definition of BMPs.
123. The Commission rejects UC's proposal to outline the process in paragraph (16) for development and approval of the 303(d) list. The Commission has already rejected this proposal, and already plans to approve and submit future 305(b) and 303(d) reports as a combined document.

20.6.4.9 OUTSTANDING NATIONAL RESOURCE WATERS:

A. Procedures for nominating an ONRW: Any person may nominate a surface water of the state for designation as an ONRW by filing a petition with the commission pursuant to the *Guidelines for water quality control commission regulation hearings*. A petition to classify 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;
- (2) a written statement and evidence based on scientific principles in support of the nomination, including specific reference to one or more the applicable ONRW criteria listed in Subsection B of this section;
- (3) water quality data including chemical, physical or biological parameters, if available, to establish a baseline condition for the proposed ONRW;
- (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) 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.

124. The Commission adopts with some modification NMED's proposal to relocate and revise the ONRW nominating process. Merging paragraphs 2 and 3 simplifies the section. Adding the phrase "if available" regarding water quality data revises language which might unnecessarily burden the ONRW nomination process, and, as EPA has articulated the concern, to force a formal assessment of water quality prior to nomination could "effectively bar the general public from nominating any waters."
125. The Commission rejects NMED's and AB's proposal to delete a consideration of economic benefit altogether, but does replace "analysis" with "discussion" to address concerns that the requirement is currently overly rigorous.
126. The Commission adopts SJWC's proposal to reference in paragraph (2) ONRW criteria in Subsection B as clarification.

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

(1) the water is a significant attribute of a state gold medal trout fishery, 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; or

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

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

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

127. The Commission adopts SJWC's proposal to aid the public and the Commission by identifying the procedures required for nominating an ONRW and the criteria for designating an ONRW. The Commission concurs with the Hearing Officer's notes on the petitioner's burden of creating an analysis and EPA's position. If the petitioner's economic discussion is not sufficient, the commission will have the opportunity to request more information or deny the request. The burden of proof should be placed on the petitioner to persuade the Commission at a hearing. The federal government places the burden on the petitioner in wildlife and landmark requests. The burden standard of "beneficial to the state" is not light and thus will protect against allegations of a "taking."

128. The criteria proposed accurately reflect EPA regulations concerning ONRWs (40 C.F.R. § 131.12(a)(3)) and the ONRW characteristics referred to in the existing surface water quality standards (20.6.4.8(A) and (B) NMAC).

D. Waters classified as ONRWs: Rio Santa Barbara, including the West, Middle and East Forks from their headwaters downstream to the boundary of the Pecos Wilderness.
[20.6.4.9 NMAC - Rn, Subsections B, C and D of 20.6.4.8 NMAC, XX-XX-05; A, XX-XX-05]

129. The Commission considered extensive public comment in support of and in opposition to AB's proposal to classify the Rio Santa Barbara as an ONRW, in addition to the technical testimony offered. Recognizing historic uses, including livestock grazing, the Commission adopts AB's proposal because it has fulfilled all the current ONRW designation requirements in its Nomination for the Rio Santa Barbara as New Mexico's First Outstanding National Resource Water. The Commission was persuaded based on the information that was presented at the hearing that the

Rio Santa Barbara is a water of both exceptional ecological and recreational significance, and exceeds the criteria for the designated use of high quality coldwater fishery.

130. EPA has expressed concerns that no ONRWs have been nominated in New Mexico, but, particularly with changes being made concurrently to the anti-degradation policy, the Commission is comfortable with the designation.

~~[20.6.4.9]~~20.6.4.10 REVIEW OF STANDARDS; NEED FOR ADDITIONAL STUDIES:

A. Section 303(c)(1) of the federal Clean Water Act requires that the state hold public hearings at least once every three years for the purpose of reviewing water quality standards and proposing, as appropriate, necessary revisions to water quality standards.

B. It is recognized that, in some cases, numeric ~~[standards]~~criteria have been adopted ~~[which]~~that reflect use designations rather than existing conditions of surface waters of the state. Narrative ~~[standards]~~criteria are required for many constituents because accurate data on background levels are lacking. More intensive water quality monitoring may identify surface waters of the state where existing quality is considerably better than the established ~~[standards]~~criteria. When justified by sufficient data and information, the water quality ~~[standards]~~criteria will be modified to protect the ~~[designated]~~attainable uses ~~[which are attainable]~~.

C. It is also recognized that contributions of water contaminants by diffuse nonpoint sources of water pollution may make attainment of certain ~~[standards]~~criteria difficult. Revision of these ~~[standards]~~criteria may be ~~[required]~~necessary as new information is obtained on nonpoint sources and other problems unique to semi-arid regions.

[20.6.4.10 NMAC - Rp 20 NMAC 6.1.1102, 10-12-00; Rn, 20.6.4.9 NMAC, XX-XX-05; A, XX-XX-05]

131. The Commission adopts NMED's proposal to simplify the language.
132. The Commission rejects EBID's proposal to replace "standards" with designated uses and their associated criteria" as duplicative and unnecessary. The Commission rejects EBID's proposal to repeat in this section a process set out elsewhere in the WQS to change a designated use as duplicative and unnecessary.

~~[20.6.4.10]~~20.6.4.11 APPLICABILITY OF WATER QUALITY STANDARDS:

A. ~~[Livestock Watering and Wildlife Habitat Uses]~~Waters Created by Discharge:
~~[(1)]~~ When a discharge ~~[creates a water which could be used by livestock and/or wildlife in a non-classified, to an otherwise ephemeral or intermittent, non-classified surface water of the state[, such water shall be protected for the uses of livestock watering and/or wildlife habitat by the standards applicable to these uses as set forth in 20.6.4.900 NMAC.~~
~~(2)~~ Designated uses of such water will be limited to livestock watering and/or wildlife habitat only when such a water does not enter a classified surface water of the state with criteria which are more restrictive than those necessary to protect livestock watering and/or wildlife habitat, except in direct response to precipitation or runoff. The commission shall adopt any additional designated uses for such surface waters of the state by rulemaking proceedings.
~~(3)~~ When such a water, except in direct response to precipitation or runoff, enters a classified ~~[causes water to enter a surface water of the state with criteria [which] that are more restrictive than [those necessary to protect livestock watering and/or wildlife habitat, the numeric standards established for the classified surface water of the state]~~the criteria listed in 20.6.4.97 or 20.6.4.98 NMAC, the more restrictive criteria shall apply at the point such a water enters the ~~[classified]~~ surface water of the state with the more restrictive criteria. If discharge to such otherwise ephemeral or intermittent, non-classified waters of the state ceases or is diverted elsewhere~~[, all uses adopted under this section or subsequently under additional rulemaking proceedings for such waters of the state shall be deemed no longer designated, existing, or attainable]~~ the criteria listed in 20.6.4.97 or 20.6.4.98 NMAC shall apply.

New Mexico's Outstanding National Resource Waters

Total Stream Miles Adopted	1,553.47	Proposed Stream Miles	305.80
Total Wetland Acres Adopted	6,000.00	Proposed Wetland Acres	42.96
Total Lake/Pond Acres Adopted	139.00	Proposed Lake/Pond Acres	0.00



Tributary	Reach	Size	Units	Date Effective for State Purposes	WQCC Docket No.
Rio Santa Barbara	headwaters downstream to the boundary of the Pecos wilderness area	1.03	Stream Miles	7/17/2005	WQCC 03-05(R)
Rio Santa Barbara West Fork	headwaters downstream to the boundary of the Pecos wilderness area	5.50	Stream Miles	7/17/2005	WQCC 03-05(R)
Rio Santa Barbara Middle Fork	headwaters downstream to the boundary of the Pecos wilderness area	4.05	Stream Miles	7/17/2005	WQCC 03-05(R)
Rio Santa Barbara East Fork	headwaters downstream to the boundary of the Pecos wilderness area	5.51	Stream Miles	7/17/2005	WQCC 03-05(R)
Leandro Creek	Vermejo River to headwaters	2.66	Stream Miles	2/16/2006	WQCC 05-04(R)
McCrystal Creek	North Ponil to headwaters	6.48	Stream Miles	2/16/2006	WQCC 05-04(R)
North Ponil Creek	South Ponil Creek to Seally Canyon	4.18	Stream Miles	2/16/2006	WQCC 05-04(R)
Seally Canyon	North Ponil to headwaters	4.74	Stream Miles	2/16/2006	WQCC 05-04(R)
Middle Ponil Creek	South Ponil to Greenwood Creek	15.54	Stream Miles	2/16/2006	WQCC 05-04(R)
Greenwood Canyon	Middle Ponil to headwaters	4.63	Stream Miles	2/16/2006	WQCC 05-04(R)
Comanche Creek	Costilla Creek to headwaters	10.29	Stream Miles	2/16/2006	WQCC 05-04(R)
Vidal Creek	Comanche Creek to headwaters	4.87	Stream Miles	2/16/2006	WQCC 05-04(R)
LaBelle Creek	Comanche Creek to headwaters	2.57	Stream Miles	2/16/2006	WQCC 05-04(R)
Grassy Creek	Comanche Creek to headwaters	3.11	Stream Miles	2/16/2006	WQCC 05-04(R)
Holman Creek	Comanche Creek to headwaters	2.85	Stream Miles	2/16/2006	WQCC 05-04(R)
Gold Creek	Comanche Creek to headwaters	2.87	Stream Miles	2/16/2006	WQCC 05-04(R)
Little Costilla Creek	Comanche Creek to headwaters	4.65	Stream Miles	2/16/2006	WQCC 05-04(R)
Chuckwagon Creek	Comanche Creek to headwaters	2.30	Stream Miles	2/16/2006	WQCC 05-04(R)
Fernandez Creek	Comanche Creek to headwaters	2.48	Stream Miles	2/16/2006	WQCC 05-04(R)
Costilla Creek	Diversion abv Costilla to Comanche Creek	1.59	Stream Miles	2/16/2006	WQCC 05-04(R)
Costilla Creek	Comanche Creek to Costilla Dam	4.19	Stream Miles	2/16/2006	WQCC 05-04(R)
La Cueva Creek	Costilla Creek to headwaters	2.96	Stream Miles	2/16/2006	WQCC 05-04(R)
Powderhouse Creek	Costilla Creek to headwaters	4.42	Stream Miles	12/1/2010	WQCC 05-04(R)
Shuree Pond	North	1.50	Lake/Pond Acres	2/16/2006	WQCC 05-04(R)
Shuree Pond	South	1.50	Lake/Pond Acres	2/16/2006	WQCC 05-04(R)
USFS Wilderness Areas Streams	Identified Perennial Streams	1,450.00	Stream Miles	1/14/2011	WQCC 10-01(R)
Wilderness Areas Wetlands	Identified Wetlands	6,000.00	Wetland Acres	1/14/2011	WQCC 10-01(R)
USFS Wilderness Areas Streams	Identified Lakes	136.00	Lake/Pond Acres	1/14/2011	WQCC 10-01(R)
Bear Creek	Confluence with the Rio Mora to Wilderness Boundary	1.7	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Bear Creek - Trib 1	Confluence with Bear Creek to headwaters	0.71	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Carpenter Creek	Confluence with the Pecos River to the Wilderness Boundary	0.32	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Dalton Canyon Creek	Confluence with the Pecos River to headwaters	9.09	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Dalton Canyon Creek - Trib 1	Confluence with Dalton Canyon Creek to headwaters	0.37	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Dalton Canyon Creek - Trib 2	Confluence with Dalton Canyon Creek to headwaters	5.24	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Dalton Canyon Creek - Trib 3	Confluence with Dalton Canyon Creek to headwaters	0.49	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Dalton Canyon Creek - Trib 4	Confluence with Dalton Canyon Creek to headwaters	0.47	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Dalton Canyon Creek - Trib 5	Confluence with Dalton Canyon Creek to headwaters	0.48	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Dalton Canyon Creek - Trib 6	Confluence with Dalton Canyon Creek to headwaters	0.60	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Dalton Canyon Creek - Trib 7	Confluence with Dalton Canyon Creek to headwaters	1.04	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Dalton Canyon Creek - Trib 8	Confluence with Dalton Canyon Creek to headwaters	0.41	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Dalton Canyon Creek - Trib 9	Confluence with Dalton Canyon Creek to headwaters	0.50	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Dalton Canyon Creek - Trib 10	Confluence with Dalton Canyon Creek to headwaters	0.58	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Dalton Canyon Creek - Trib 11	Confluence with Dalton Canyon Creek to headwaters	4.43	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Davis Creek	Confluence with the Pecos River to headwaters	2.86	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Davis Creek - Trib 1	Confluence with Davis Creek to headwaters	0.47	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Doctor Creek	Confluence with the Pecos River to headwaters	3.67	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Doctor Creek - Trib 1	Confluence with Doctor Creek to headwaters	0.36	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Doctor Creek - Trib 2	Confluence with Doctor Creek to headwaters	0.40	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Doctor Creek - Trib 3	Confluence with Doctor Creek to headwaters	0.51	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Doctor Creek - Trib 4	Confluence with Doctor Creek to headwaters	1.24	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Holy Ghost Creek	Confluence with the Pecos River to Wilderness Boundary	3.30	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Holy Ghost Creek - Trib 1	Confluence with Holy Ghost to headwaters	0.61	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Holy Ghost Creek - Trib 2	Confluence with Holy Ghost to headwaters	0.51	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Holy Ghost Creek - Trib 3	Confluence with Holy Ghost to headwaters	0.61	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Holy Ghost Creek - Trib 4	Confluence with Holy Ghost to headwaters	0.49	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Holy Ghost Creek - Trib 5	Confluence with Holy Ghost to headwaters	0.49	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Holy Ghost Creek - Trib 6	Confluence with Holy Ghost to headwaters	1.53	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Holy Ghost Creek - Trib 7	Confluence with Holy Ghost to headwaters	0.38	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Holy Ghost Creek - Trib 8	Confluence with Holy Ghost to headwaters	0.49	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Holy Ghost Creek - Trib 9	Confluence with Holy Ghost to headwaters	0.47	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Holy Ghost Creek - Trib 10	Confluence with Holy Ghost to headwaters	0.40	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Holy Ghost Creek - Trib 11	Confluence with Holy Ghost to Wilderness Boundary	0.58	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Holy Ghost Creek - Trib 12	Confluence with Holy Ghost to Wilderness Boundary	0.21	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Holy Ghost Creek - Trib 13	Confluence with Holy Ghost to Wilderness Boundary	0.12	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Indian Creek	Confluence with the Pecos River to headwaters	6.62	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Indian Creek - Trib 1	Confluence with Indian Creek to headwaters	0.41	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Indian Creek - Trib 2	Confluence with Indian Creek to headwaters	4.45	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Indian Creek - Trib 3	Confluence with Indian Creek to headwaters	0.72	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Indian Creek - Trib 4	Confluence with Indian Creek to headwaters	0.83	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Indian Creek - Trib 5	Confluence with Indian Creek to headwaters	0.93	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Indian Creek - Trib 6	Confluence with Indian Creek to headwaters	1.78	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Indian Creek - Trib 7	Confluence with Indian Creek to headwaters	1.73	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Jack's Creek	Confluence with the Pecos River to the Wilderness Boundary	1.36	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Macho Canyon Creek	Confluence with the Pecos River to headwaters	8.11	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Macho Canyon Creek - Trib 1	Confluence with Macho Canyon Creek to headwaters	0.62	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Macho Canyon Creek - Trib 2	Confluence with Macho Canyon Creek to headwaters	0.38	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Macho Canyon Creek - Trib 3	Confluence with Macho Canyon Creek to headwaters	0.72	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Macho Canyon Creek - Trib 4	Confluence with Macho Canyon Creek to headwaters	0.82	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Macho Canyon Creek - Trib 5	Confluence with Macho Canyon Creek to headwaters	0.74	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Macho Canyon Creek - Trib 6	Confluence with Macho Canyon Creek to headwaters	0.60	Proposed Stream Miles	Proposed	WQCC 21-51(R)

Tributary	Reach	Size	Units	Date Effective for State Purposes	WQCC Docket No.
Macho Canyon Creek - Trib 7	Confluence with Macho Canyon Creek to headwaters	1.94	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Macho Canyon Creek - Trib 8	Confluence with Macho Canyon Creek to headwaters	1.31	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Macho Canyon Creek - Trib 9	Confluence with Macho Canyon Creek to headwaters	1.23	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Macho Canyon Creek - Trib 10	Confluence with Macho Canyon Creek to headwaters	10.07	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Macho Canyon Creek - Trib 11	Confluence with Macho Canyon Creek to headwaters	1.18	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Macho Canyon Creek - Trib 12	Confluence with Macho Canyon Creek to headwaters	1.59	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Rio Mora	Confluence with the Pecos River to the Wilderness Boundary	5.41	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Rio Mora - Trib 1	Confluence with Rio Mora to headwaters	1.46	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Rio Mora - Trib 2	Confluence with Rio Mora to headwaters	0.93	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Rio Mora - Trib 3	Confluence with Rio Mora to headwaters	0.74	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Rio Mora - Trib 4	Confluence with Rio Mora to the Wilderness Boundary	0.04	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Panchuela Creek	Confluence with the Pecos River to the Wilderness Boundary	1.07	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Panchuela Creek - Trib 1	Confluence with Panchuela Creek to the Wilderness Boundary	0.43	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Panchuela Creek - Trib 2	Confluence with Panchuela Creek to the Wilderness Boundary	0.39	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Pecos River	Confluence with the Dalton Canyon Confluence to the Wilderness Boundary	14.11	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Pecos River - Trib 1	Confluence with Pecos River to headwaters	1.37	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Pecos River - Trib 2	Confluence with Pecos River to headwaters	3.19	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Pecos River - Trib 3	Confluence with Pecos River to headwaters	0.40	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Pecos River - Trib 4	Confluence with Pecos River to headwaters	1.16	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Pecos River - Trib 5	Confluence with Pecos River to headwaters	2.08	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Pecos River - Trib 6	Confluence with Pecos River to headwaters	0.62	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Pecos River - Trib 7	Confluence with Pecos River to headwaters	1.28	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Pecos River - Trib 8	Confluence with Pecos River to headwaters	0.62	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Pecos River - Trib 9	Confluence with Pecos River to headwaters	0.37	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Pecos River - Trib 10	Confluence with Pecos River to headwaters	0.84	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Pecos River - Trib 11	Confluence with Pecos River to headwaters	3.33	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Pecos River - Trib 12	Confluence with Pecos River to headwaters	3.24	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Pecos River - Trib 13	Confluence with Pecos River to headwaters	0.38	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Pecos River - Trib 14	Confluence with Pecos River to headwaters	0.61	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Pecos River - Trib 15	Confluence with Pecos River to headwaters	0.62	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Pecos River - Trib 16	Confluence with Pecos River to headwaters	1.56	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Pecos River - Trib 17	Confluence with Pecos River to headwaters	3.46	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Pecos River - Trib 18	Confluence with Pecos River to headwaters	0.84	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Pecos River - Trib 19	Confluence with Pecos River to headwaters	0.40	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Pecos River - Trib 20	Confluence with Pecos River to the Wilderness Boundary	1.09	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Pecos River - Trib 21	Confluence with Pecos River to the Wilderness Boundary	0.51	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Pecos River - Trib 22	Confluence with Rio Mora to headwaters	0.73	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Pecos River - Trib 23	Confluence with Pecos River to headwaters	0.59	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Pecos River - Trib 24	Confluence with Pecos River to headwaters	0.95	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Pecos River - Trib 25	Confluence with Pecos River to headwaters	0.96	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Pecos River - Trib 26	Confluence with Pecos River to headwaters	0.50	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Pecos River - Trib 27	Confluence with Pecos River to headwaters	1.06	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Pecos River - Trib 28	Confluence with Pecos River to headwaters	0.64	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Sawyer Creek	Confluence with the Pecos River to headwaters	2.21	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Sawyer Creek - Trib 1	Confluence with Sawyer Creek to headwaters	1.28	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Wild Horse Creek	Confluence with Dalton Canyon Creek to headwaters	2.69	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Wild Horse Creek - Trib 1	Confluence with Wild Horse Creek to headwaters	1.33	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Wild Horse Creek - Trib 2	Confluence with Wild Horse Creek to headwaters	1.03	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Wild Horse Creek - Trib 3	Confluence with Wild Horse Creek to headwaters	1.02	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Wild Horse Creek - Trib 4	Confluence with Wild Horse Creek to headwaters	0.98	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Willow Creek	Confluence with the Pecos River to headwaters	5.92	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Willow Creek - Trib 1	Confluence with Willow Creek to headwaters	1.75	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Willow Creek - Trib 2	Confluence with Willow Creek to headwaters	5.60	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Willow Creek - Trib 3	Confluence with Willow Creek to headwaters	0.59	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Willow Creek - Trib 4	Confluence with Willow Creek to headwaters	0.60	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Winsor Creek	Confluence with the Pecos River to the Wilderness Boundary	1.77	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Winsor Creek - Trib 1	Confluence with Winsor Creek to headwaters	0.41	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Winsor Creek - Trib 2	Confluence with Winsor Creek to the Wilderness Boundary	0.17	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Winsor Creek - Trib 3	Confluence with Winsor Creek to the Wilderness Boundary	0.19	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Winsor Creek - Trib 4	Confluence with Winsor Creek to the Wilderness Boundary	0.11	Proposed Stream Miles	Proposed	WQCC 21-51(R)
Upper Pecos Wetland - 2a	Freshwater Emergent Wetland	see 2c	N/A	Proposed	WQCC 21-51(R)
Upper Pecos Wetland - 2b	Freshwater Emergent Wetland	see 2c	N/A	Proposed	WQCC 21-51(R)
Upper Pecos Wetland - 2c	Freshwater Emergent Wetland	20.91	Proposed Wetland Acres	Proposed	WQCC 21-51(R)
Upper Pecos Wetland - 3	Freshwater Forested/Shrub Wetland	0.66	Proposed Wetland Acres	Proposed	WQCC 21-51(R)
Upper Pecos Wetland - 4a	Freshwater Emergent Wetland	see 4c	N/A	Proposed	WQCC 21-51(R)
Upper Pecos Wetland - 4b	Freshwater Emergent Wetland	see 4c	N/A	Proposed	WQCC 21-51(R)
Upper Pecos Wetland - 4c	Freshwater Emergent Wetland	2	Proposed Wetland Acres	Proposed	WQCC 21-51(R)
Upper Pecos Wetland - 5	Freshwater Forested/Shrub Wetland	0.64	Proposed Wetland Acres	Proposed	WQCC 21-51(R)
Upper Pecos Wetland - 6	Freshwater Emergent Wetland	6.24	Proposed Wetland Acres	Proposed	WQCC 21-51(R)
Upper Pecos Wetland - 7a	Freshwater Forested/Shrub Wetland	see 7h	N/A	Proposed	WQCC 21-51(R)
Upper Pecos Wetland - 7b	Freshwater Forested/Shrub Wetland	see 7h	N/A	Proposed	WQCC 21-51(R)
Upper Pecos Wetland - 7c	Freshwater Forested/Shrub Wetland	see 7h	N/A	Proposed	WQCC 21-51(R)
Upper Pecos Wetland - 7d	Freshwater Forested/Shrub Wetland	see 7h	N/A	Proposed	WQCC 21-51(R)
Upper Pecos Wetland - 7e	Freshwater Forested/Shrub Wetland	see 7h	N/A	Proposed	WQCC 21-51(R)
Upper Pecos Wetland - 7f	Freshwater Forested/Shrub Wetland	see 7h	N/A	Proposed	WQCC 21-51(R)
Upper Pecos Wetland - 7h	Freshwater Forested/Shrub Wetland	12.51	Proposed Wetland Acres	Proposed	WQCC 21-51(R)
Rio Grande	Directly above the Rio Pueblo de Taos to the NM-CO border	52.2	Proposed Stream Miles	Proposed	WQCC 21-62(R)
Rio Hondo	Carson Naional Forest Boundary to its headwaters	10	Proposed Stream Miles	Proposed	WQCC 21-62(R)
Lake Fork Creek	Rio Hondo to its headwaters	3.3	Proposed Stream Miles	Proposed	WQCC 21-62(R)
East Fork Jemez River	San Antonio Creek to its headwaters	22.1	Proposed Stream Miles	Proposed	WQCC 21-62(R)
San Antonio Creek	East Fork Jemez River to its headwaters	32.1	Proposed Stream Miles	Proposed	WQCC 21-62(R)
Redondo Creek	Sulphur Creek to its headwaters	6.2	Proposed Stream Miles	Proposed	WQCC 21-62(R)

East Fork Jemez River

As captured through Google Earth Imagery April 8, 2022

Legend

-  Campground
-  Trailhead



Google Earth

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COVID-19 Response

Masks are required for everyone, regardless of location or vaccination status, in all NPS buildings, crowded outdoor spaces, and all forms of enclosed public transportation. Additional details are available at www.nps.gov/coronavirus. Before visiting, please check the [park website](#) to determine its operating status. Please [recreate responsibly](#).

National Park Service

Valles Caldera

National Preserve
New Mexico

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Grazing

Grazing continues a 100+ history of ranching in the Valles Caldera area, but must be managed to protect the purposes and values of Valles Caldera National Preserve established by its **enabling legislation**.

Excerpt from Enabling Legislation:

Public Law 113-291, Sec. 3043

"(6) Grazing.--The Secretary shall allow the grazing of livestock within the Preserve to continue--(A) at levels and locations determined by the Secretary to be appropriate, consistent with this section; and (B) to the extent the use furthers scientific research or interpretation of the ranching history of the Preserve."

Interested livestock owners and associations should read information on these pages.

- ***Grazing*** (current page)
- ***Livestock Operations Plan***
 - (downloadable version)
- ***Special Use Permit Conditions***
 - (downloadable version)
- ***Application***

Valles Caldera National Preserve Livestock Program To Resume Summer 2023

According to historical data, the grasslands within Valles Caldera National Preserve had a historical fire return interval of 3-12 years. Therefore, to mimic natural fire behavior to improve grassland health and forage quality for both wildlife and livestock, the NPS will seek to rest and burn the preserve's grazing areas every ten years, during which time grazing will be suspended.

Beginning in 2021, NPS officials plan to rest the grazing areas and conduct prescribed burns the following year in 2022. After the treatments, the NPS intends to issue future grazing permits for a two-year period. Applications for the two-year special use permit will be announced during summer 2022.

The NPS closely monitors the preserve's grasslands to prevent overgrazing, and if conditions become too dry, the

livestock program may be delayed or cancelled for the year.

For further information, please email [e-mail us](#) or call (954)848-6740.

Last updated: April 2, 2021

Was this page helpful?

Yes

No



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STAY CONNECTED

COVID-19 Response

Masks are required for everyone, regardless of location or vaccination status, in all NPS buildings, crowded outdoor spaces, and all forms of enclosed public transportation. Additional details are available at www.nps.gov/coronavirus. Before visiting, please check the [park website](#) to determine its operating status. Please [recreate responsibly](#).

National Park Service

Valles Caldera

National Preserve
New Mexico

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Operating Hours & Seasons

Weather Delays and Closures

*All delayed openings and closures due to winter weather and road conditions will be posted as an **alert** on the preserve's website, on **Twitter**, on **Facebook** and on the school closures section of KRQE, KOAT, and KOB news websites.*

The preserve is **open** for exploration, reflection, and discovery from dawn until dusk every day of the year. You can access the preserve through pass-through gates. These gates are located at

- Valle Grande Entrance
- Coyote Call Trailhead
- Two Track Across Valle Grande Trailhead
- Valle Grande Trailhead
- Banco Bonito
- Redondo Meadows
- Sulphur Canyon

Motorized Vehicle Access

Motorized vehicle access to the preserve is **open** every day of the week at the Valle Grande Entrance:

- **Summer season (Saturday before Memorial Day to Labor Day):** 8 am to 6 pm
- **Winter season (Tuesday after Labor Day to Friday before Memorial Day):** 9 am to 5 pm

The only exceptions when the vehicle gate is **closed**:

- Thanksgiving Day
- December 25th
- Inclement weather event

Backcountry Vehicle Access

Driving vehicles beyond the Entrance Station requires a free backcountry vehicle permit. **Backcountry vehicle access** varies during the year:

- **Summer season (May 15 to October 31):** Full access from the Entrance Station through Valle San Antonio (weather permitting)

- **Winter season (November 1 to May 14):** About 5 miles from the Entrance Station to the northern part of Valle Grande (weather permitting)

Visitor Services

There are two main visitor service facilities in Valles Caldera National Preserve:

Entrance Station

The Entrance Station is your first stop in Valles Caldera National Preserve. Rangers are available to answer questions, issue backcountry vehicle permits, and issue fishing permits. Preserve-related items are for sale. Two accessible, unisex, vault-toilet restrooms are available across the parking lot.

ADDRESSES

PHYSICAL ADDRESS

39201 New Mexico Highway 4
Jemez Springs, NM 87025

MAILING ADDRESS

P.O. Box 359
Jemez Springs, NM 87025

DIRECTIONS

From Jemez Springs: Take NM4 north for about 22 miles. Main entrance is at just past mile marker 39. Travel two miles down dirt road to the contact station. From Los Alamos: Take West Jemez Road to NM4. Take a right [away from Bandelier National Monument], follow the highway up and into the Jemez Mountains. The Preserve is 18 miles up NM4 from Los Alamos. Main entrance is just before mile marker 39. Travel two miles down dirt road to the contact station.

HOURS AND SEASONS

Open daily from 9:00 am to 5:00 pm.

TODAY'S HOURS**THURSDAY****MAR 03, 2022****Open****9:00 AM - 5:00 PM****STANDARD HOURS****Sun** 9:00 AM - 5:00 PM**Mon** 9:00 AM - 5:00 PM**Tue** 9:00 AM - 5:00 PM**Wed** 9:00 AM - 5:00 PM**Thu** 9:00 AM - 5:00 PM**Fri** 9:00 AM - 5:00 PM**Sat** 9:00 AM - 5:00 PM**CLOSURES & SEASONAL EXCEPTIONS****HOLIDAYS**

Holiday	Date	Hours
New Year's Day	Jan 02, 2023	8:00 AM - 6:00 PM
Birthday of Martin Luther King, Jr.	Jan 16, 2023	8:00 AM - 6:00 PM
Washington's Birthday	Feb 21, 2022	9:00 AM - 5:00 PM
Memorial Day	May 30, 2022	8:00 AM - 6:00 PM
Juneteenth National Independence Day	Jun 20, 2022	8:00 AM - 6:00 PM
Independence Day	Jul 04, 2022	8:00 AM - 6:00 PM
Labor Day	Sep 05, 2022	8:00 AM - 6:00 PM

Columbus Day	Oct 10, 2022	8:00 AM - 6:00 PM
Veterans Day	Nov 11, 2022	8:00 AM - 6:00 PM
Thanksgiving Day	Nov 24, 2022	Closed
Christmas Day	Dec 26, 2022	Closed

EXTENDED SUMMER HOURS

MAY 28 - LABOR DAY

From the Saturday before Memorial Day to Labor, the Entrance Station has extended hours.

Sun: 8:00 AM - 6:00 PM

Thu: 8:00 AM - 6:00 PM

Mon: 8:00 AM - 6:00 PM

Fri: 8:00 AM - 6:00 PM

Tue: 8:00 AM - 6:00 PM

Sat: 8:00 AM - 6:00 PM

Wed: 8:00 AM - 6:00 PM

AMENITIES

Automated External Defibrillator (AED)

Baby Changing Station

Backcountry Permits

Braille

Fishing Licenses Issued

Food/Drink - Snacks

Gifts/Souvenirs/Books

Information

Information - Maps Available

Information - Ranger/Staff Member Present

Large Print

Parking - Auto

Parking - Bus/RV

Permits Issued

Picnic Table

Restroom - Accessible

Toilet - Vault/Composting

Trailhead

Wheelchair Accessible

CONTACT INFORMATION

EMAIL ADDRESS

vall_info@nps.gov
.....

PHONE NUMBERS

 Voice

(575) 829-4100
.....

IMAGE GALLERY



Ranger Station

Located on the edge of the historic cabin district, the log cabin has basic exhibits and a sales area offering park-related clothing, gifts, books, and a few snacks and beverages. The building is NOT accessible and there are NO public restrooms in this building.

DIRECTIONS

From Jemez Springs: Follow NM4 north for 22 miles. The entrance has a gate and signs on your left. Follow the dirt road 2 miles to the Entrance Station. Obtain a Backcountry Vehicle Permit and follow the dirt road another 2 miles. From Los Alamos: Follow NM4 west for 18 miles. The entrance has a gate and signs on your right. Follow the dirt road 2 miles to the Entrance Station. Obtain a Backcountry Vehicle Permit and follow the dirt road another 2 miles.

HOURS AND SEASONS

The Ranger Station is open daily from 9:00 am to 5:00 pm. The Ranger Station may be closed all day or part of the day if staffing shortages require a closure. Severe winter weather may affect operating hours as well.

TODAY'S HOURS

THURSDAY
MAR 03, 2022

Open
9:00 AM - 5:00 PM

STANDARD HOURS

Sun 9:00 AM - 5:00 PM

Mon 9:00 AM - 5:00 PM

Tue 9:00 AM - 5:00 PM

Wed 9:00 AM - 5:00 PM

Thu 9:00 AM - 5:00 PM

Fri 9:00 AM - 5:00 PM

Sat 9:00 AM - 5:00 PM

CLOSURES & SEASONAL EXCEPTIONS

HOLIDAYS

Holiday	Date	Hours
New Year's Day	Jan 02, 2023	8:00 AM - 6:00 PM
Birthday of Martin Luther King, Jr.	Jan 16, 2023	8:00 AM - 6:00 PM
Washington's Birthday	Feb 21, 2022	9:00 AM - 5:00 PM
Memorial Day	May 30, 2022	8:00 AM - 6:00 PM
Juneteenth National Independence Day	Jun 20, 2022	8:00 AM - 6:00 PM
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Labor Day	Sep 05, 2022	8:00 AM - 6:00 PM
Columbus Day	Oct 10, 2022	8:00 AM - 6:00 PM
Veterans Day	Nov 11, 2022	8:00 AM - 6:00 PM
Thanksgiving Day	Nov 24, 2022	Closed
Christmas Day	Dec 26, 2022	Closed

AMENITIES

Benches/Seating

Braille

Cellular Signal

Food/Drink - Snacks

Gifts/Souvenirs/Books

Historical/Interpretive Information/Exhibits

Information

Information - Maps Available

Information - Ranger/Staff Member Present

Large Print

Parking - Auto

Picnic Table

Recycling

Trash/Litter Receptacles

CONTACT INFORMATION

EMAIL ADDRESS

vall_info@nps.gov

General information email is checked by staff on a daily basis. Depending on complexity of question, time of year, and availability of staff responses may take between one day to two weeks.

PHONE NUMBERS

Answered by staff during business hours, by automated voice mail outside of business hours.

 Voice

[\(575\) 829-4100](tel:(575)829-4100)

IMAGE GALLERY



Last updated: December 3, 2021

Was this page helpful?

Yes

No



An official form of the United States government. Provided by **Touchpoints**

CONTACT THE PARK

Mailing Address:

PO Box 359
Jemez Springs , NM 87025

Phone:

575 829-4100 x3

STAY CONNECTED

From: [Navas, Alexandra, EDD](#)
To: [Lemon, Shelly, NMENV](#)
Cc: [Roose, Rebecca, NMENV](#); [Rhoderick, John, NMENV](#); [Barrios, Kristopher, NMENV](#)
Subject: RE: Outstanding National Resource Waters: Draft Review
Date: Thursday, July 8, 2021 12:53:14 PM

Hi all,

I am happy to share the draft ONRW petition for NMED review. You can find the PDF petition, which includes all exhibits except three that are in Excel spreadsheets (3-A, 3-B, 3-C), in this shared Dropbox folder.

https://www.dropbox.com/sh/glapy9swzj5ukuc/AADpa9KTGKgOT_tTrFRclN-ja?dl=0

Please let me know if you have any trouble accessing the files.

Thanks again and looking forward to hearing your feedback this fall!

Axie



MICHELLE LUJAN GRISHAM
GOVERNOR

JAMES C. KENNEY
CABINET SECRETARY

Sent via Electronic Mail

September 30, 2021

Alexandra Navas, Director of Outdoor Recreation
New Mexico Economic Development Department, Outdoor Recreation Division
Joseph M. Montoya Building, 1100 South St. Francis Dr., Santa Fe, NM, 87505-4147
Alexandra.Navas@state.nm.us

Re: Technical review for the petition to nominate certain surface waters in the Upper Rio Grande, Rio Hondo, and Jemez watersheds as Outstanding National Resource Waters.

Dear Ms. Navas,

On July 8, 2021, the New Mexico Environment Department ("NMED" or "Department") Surface Water Quality Bureau ("SWQB") received a request to review a petition to designate certain surface waters as Outstanding National Resource Waters ("ONRWs").

The Department appreciates the work that went into the petition and has the following recommendations listed below.

I. General comments

1. In accordance with 20.6.4.9(A)(1) NMAC, all nominated waters must have their upstream and downstream boundaries delineated. Each of the waterbodies petitioned should be clearly listed and be consistent throughout the petition.
 - a. The proposed amendments to 20.6.4 NMAC do not include upstream and downstream boundaries for Lake Fork, East Fork Jemez River, San Antonio Creek, and Redondo Creek.
 - b. On page 23 and in Exhibit 9 there are several waterbodies described as having qualifying eligibility, yet they are not mentioned in Exhibit 1 or Table 1. To be included in the nomination, the petition must include these waterbodies in the proposed amendments to 20.6.4 NMAC. If it is not the Outdoor Recreation Division's ("ORD") intent to nominate these waterbodies, the Department recommends their removal, so the nominated waterbodies are consistently referenced throughout the petition.
 - c. The Department recommends against using the general terms Jemez and Rio Hondo "watershed" and "headwaters" to describe the nominated streams and instead list waterbodies by name. When and if the term watershed is used, it should describe a specific area and the waterbodies it contains. A reputable reference is the U.S. Geological Survey Watershed Boundary Dataset: https://www.usgs.gov/core-science-systems/ngp/national-hydrography/watershed-boundary-dataset?qt-science_support_page_related_con=4#qt-science_support_page_related_con, available for download at <https://apps.nationalmap.gov/downloader/#/>.

- d. The Department recommends consistently using “waterbodies” or “waterbody” when referring to the nominated waters. Currently, the petition refers to nominated waters in various ways, including: “water,” “waterbody/reach,” “stream,” “watershed”.
 2. In general, the referenced citations and website footnotes do not include the full citation for the referenced information.
 3. Several of the links to supporting evidence in the footnotes are obsolete. Supporting evidence for the nomination, such as the New Mexico Angler Satisfaction Report 2019-2020 License Year, the State’s Water Quality Management Plan and Continuing Planning Process (“WQMP/CPP”), and the Outdoor magazine excerpt, should be included in their entirety, either as appendices or exhibits to avoid broken links.
- II. Section I. – PETITIONER NOMINATES 125.1 MILES OF SURFACE WATERS IN THREE WATERSHEDS FOR ONRW DESIGNATION**
- See general comments.*
- III. Section II. – PETITIONER HAS SATISFIED ALL PROCEDURES FOR THIS NOMINATION**
- A. II-A. Required Procedures**
 1. The Department recommends discussing any public participation related to stakeholder outreach (specifically land-owners with affected waters crossing or hydrologically connected to the nominated waters), tribal engagement (specifically Taos and Jemez Pueblos, who have waters hydrologically connected to the nominated waters) and other public outreach. This information is useful to demonstrate general community support for water quality standards revisions.
 - B. II-B Maps of Surface Waters Nominated**
 1. ORD should include a narrative/description that explains how the watershed was determined and link that narrative to the “watershed” column for Table 1.
 2. The Department recommends that the map titles include only the names of the nominated streams and not the watershed. It should be clear that specific waterbodies are nominated, not watersheds. Alternatively, the maps could be titled “Nominated waterbodies in the ‘blank’ watershed.”
 3. The “Jemez headwaters” map should use the phrase, “proposed outstanding waters,” since the term “headwaters” implies the inclusion of other waters that are not part of this nomination. NMED recommends caution when using the terms “watershed” and “headwaters” to describe the nominated streams instead of listing them by name in the map.
 4. Special trout waters are included in the map provided as Exhibit 9 but are not included in Figure 4 on page 10. ORD should consistently identify the nominated waters throughout the document. If Yerba Creek, Italianos Creek, South Fork Rio Hondo and Gavilan Creek (also referred to as “Gavilon” in Exhibit 9 of the nomination) are not part of the proposed waters, then exclude any references to and discussion of them. If they are being nominated, these waterbodies should be identified throughout the petition, in all pertinent maps, and in the proposed amendments to 20.6.4 NMAC.
 5. Similarly, Jaramillo Creek is not identified as a proposed ONRW but is identified in Exhibit 10 as having the eligibility criteria to be nominated.
 - C. II-C Statement and Evidence Based on Scientific Principles in Support of Nomination**
No comments.
 - D. II-D Water Quality Data to Establish Baseline**
 1. The Department recommends providing baseline water quality or a statement identifying the lack of available data to establish a baseline for each waterbody.

2. ORD should ensure all data obtained for this nomination are included and cited to support statements and conclusions in the petition. As appropriate, ORD should explain how the data were obtained. Exhibits 3-A through 3-C were not included in this draft.
3. In section D-1, page 13, the Department recommends the following language:

“Based on the available and defensible water quality data, ~~the existing, baseline~~ water quality is equal to or better than the numeric water quality criteria according to 20.6.4.122 NMAC; except for temperature for all of the nominated sections of the upper the segment of the Rio Grande from Rio Pueblo de Taos to the Colorado border, except for temperature (entire segment) and pH for the {segment of the Rio Grande between Red River and Rio Pueblo de Taos}.”

 - a. For clarity, the Department recommends using the same sentence structure for sections 2 and 3, on pages 13 and 14, that discuss the historical database.
 - b. Below are the suggested waterbody downstream and upstream limits and water quality standard references to include within the narrative of each waterbody.

Waterbody	NMAC segment limits	Water Quality Standard
Rio Grande	(from the Rio Pueblo de Taos to the Colorado border)	20.6.4.122
Rio Hondo	(from the Carson National Forest boundary to headwaters)	20.6.4.129
Lake Fork creek	(from the Rio Hondo to headwaters)	20.6.4.123
East Fork Jemez River	(from San Antonio Creek to headwaters)	20.6.4.108
San Antonio Creek	(from Jemez River to headwaters)	20.6.4.108
Redondo Creek	(from Sulphur creek to headwaters)	20.6.4.108

4. ORD should include narration and the appropriate citation to explain Exhibits 3-D and 3-E.

II-E Activities that Might Reduce Water Quality

1. In section II-E, ORD should include a statement that these “activities” are typical activities that generally affect all waterbodies in New Mexico. The Department recommends the inclusion of specific activities that occur in each of these nominated waterbodies.

II-F Additional Evidence to Substantiate Designation

1. All surface waters of the state, as defined in 20.6.4.7(S)(5) NMAC, are protected to ensure that the water uses and quality necessary to support those uses are maintained and protected under the Antidegradation Policy and Implementation Plan (20.6.4.8 NMAC). While non-water quality benefits of an ONRW may be realized directly or indirectly due to the increased water quality protections provided by this designation, the protections of the ONRW designation are limited to water quality. ORD should include this clarification in the petition narrative.
2. In section II-F, paragraph 2, the statement “...and ONRW designation will only enhance that economic growth...” assumes that an ONRW designation contains ramifications outside water quality protections. The Department recommends restating this statement as follows, “...and the water quality protections afforded by an ONRW designation will only enhance that economic growth...”

II-G Publication in a Newspaper

1. The Department requests the reference to “20.6.4.9.B(6) NMAC” be corrected to reference 20.6.4.9(A)(6) NMAC
2. It is the Department’s understanding that “Exhibit 4” is a placeholder for requirements pursuant to 20.6.4.9(A)(6) NMAC. ORD should include these documents when available.

IV. Section III- PETITIONER HAS SATISFIED THE CRITERIA FOR DESIGNATION

A. III-A Criteria for Designation

No comments.

B. III-B Exceptional Recreational Significance

1. The Department recommends that the introduction paragraph provide the data sources, analytical, and quality assurance methods used to process and verify the defensibility of the data, and any other supporting evidence used to determine the recreational significance.
2. For sections III B-1 to -3, ORD should include the waterbody boundaries where the recreational significance applies.
3. ORD should define “fishing days.”
4. ORD should describe where and how the fishing data was obtained.
5. ORD should provide a clear narrative of how “fishing days” translate/relate to recreational significance criteria.
6. ORD should include the original report that the outside agency provided regarding “fishing days”, including a narrative that describes this data with the applicable references.
 - a. Exhibit 5 table refers to “visitor days,” are “visitor days” the same as “fishing days”? ORD should clarify and make it consistent throughout the petition.
 - b. The table presented in Exhibit 5 needs a title.
 - c. Spell out “EF” for Jemez in Exhibit 5.
 - d. The Angler Satisfaction Survey link does not work. (see General Comments #3)
7. Since only a portion of the Rio Hondo is being nominated, ORD should explain or clarify how angler data and fishing days were extrapolated to only the nominated portions.
8. The evidence for recreational significance for Redondo Creek was not apparent to NMED reviewers.
9. Section 101(a)(2) of the Clean Water Act is specific to protections for recreation in and on the water. Skiing is not a recreational use that is in or on a waterbody. The Department recommends narratives related to activities not associated with recreation in or on water be discussed in the petition as ancillary information only.
10. ORD should provide references for the following: “Between 2015 and 2019, visitor spending grew over 18 percent and generated \$7.4 billion in 2019” and “...while tourism generated \$737 million in tax revenues for the state and local governments.” Is this data for general tourism in the State of New Mexico or specific to the Upper Rio Grande watershed and waterbodies being nominated? ORD should clarify what this data represents and whether it is relevant to the nominated waters, solely being used to demonstrate “significance,” or both.
11. The petition demonstrated exceptional recreational significance (and economic importance) of fishing through fishing days and Species of Economic and Recreational Importance (“SERI”) data. However, the petition did not have supporting evidence for camping, hiking, horseback riding, hunting, birdwatching, photography, backpacking, and rafting. The petition should provide defensible scientifically-based evidence for *exceptional* recreation (besides fishing). If such evidence is not available, angler days and SERI data already demonstrate exceptional recreational significance. Consequently, Exhibit 2 should only list activities that have supporting evidence in the narrative to fulfill the applicable ONRW eligibility criteria.

C. III-C Exceptional Ecological Significance

1. The Department recommends that the introduction paragraph provide the data sources, analytical, and quality assurance methods used to process and verify the defensibility of the data, and any other supporting evidence used to determine the ecological significance.
2. For sections III C-1 to 3, include the waterbody boundaries where the recreational significance applies.
3. The Department recommends including defensible reference(s) and citation(s) for any assertions regarding exceptional wildlife being used to support the exceptional ecological significance eligibility criteria.

D. III-D State Special Trout Waters

1. On page 36, the nomination states:
"The Special Trout Waters nominated in this Petition are listed below, along with maps that show their location within the nominated waters: ... All waters within the Valles Caldera National Preserve, including San Antonio Creek and the East Fork Jemez River (Green Chile) (13.2 miles)[Ex. 10]." However, the petition only proposes amendments to 20.6.4 NMAC for the San Antonio Creek, East Fork Jemez River, and Redondo Creek. If all perennial waterbodies within the Valles Caldera National Preserve are being nominated, then ORD should specify this in the petition along with an explanation of how these fulfill the criteria.

E. III-E National Monument

1. The reference to "20.6.4.9.A NMAC" should be corrected to reference 20.6.4.9(B)(1) NMAC.

F. III-F Wild and Scenic Rivers

1. ORD should provide references for the supporting evidence that these waterbodies were adopted as wild and scenic rivers.

G. III-G Existing Water Quality

1. The Department recommends providing information on surface and subsurface wastewater discharges and permits (i.e., NPDES permits, NMED Groundwater Discharge Permits) to any nominated waterbodies.
2. ORD should provide the basis for this statement: "Similarly, those streams have not been modified by human activities that substantially detracts from their value as a natural resource" such as a lack of impoundments or major diversions.
3. Given the common definition of the term "pristine" and based on a multitude of historical and current anthropogenic activity along the Rio Hondo up to the Taos Ski Valley, it is a stretch to state that the Rio Hondo and Lake Fork are pristine. ORD should clarify this statement or remove the word "pristine" so that the statement reads: "While recreational activities take place on those streams, as outlined above, those activities have not substantially degraded or harmed those water bodies."

H. III-H Beneficial to State

1. First paragraph should state "... the reasons set forth above in Section II.F and Sections III.B through III.G..."
2. For the discussion regarding acequias, ORD should clarify that only the Rio Hondo holds acequias and provide supporting reference and citation for the eight major acequias mentioned.
3. For the discussion regarding Pueblo traditions, ORD should provide references and citations for any statements that are not direct quotes.

4. The Department was unable to review any references to Exhibit 11, as the exhibit was not provided.
5. ORD should either provide a reference for the quote “...*The local economy is dependent upon [emphasis added] clean water to support agriculture and recreation-based economic activities.*” Alternatively, ORD could modify the sentence to be more general.

I. Conclusion

1. The nomination document would truly benefit from a narrative summary conclusion with all the listed waterbodies and the ONRW criteria they fulfill to compliment Exhibit 2 and wrap up the petition.
2. The “NM Benefit” column in the table in Exhibit 2 does not properly reflect why an ONRW nomination is beneficial to the state. Using the general benefits of surface water is not the appropriate narrative to make an argument for why an ONRW nomination is beneficial to the state. All surface waters could provide these benefits, yet not all surface waters can be ONRWs. The Department recommends using the information discussed in Section III-H (Beneficial to the State) to populate this column.

It is NMED’s intent to provide comments that are comprehensive, constructive, and aid in the development of the ONRW petition. If you have any questions regarding these comments please contact Diana Aranda by email at Diana.Aranda@state.nm.us or by phone at (505) 946-8666.

Sincerely,

Shelly Lemon

Digitally signed by Shelly Lemon
Date: 2021.09.30 14:44:45 -06'00'

Shelly Lemon,
Bureau Chief
Surface Water Quality Bureau
Shelly.Lemon@state.nm.us

cc: John Verheul, Deputy General Counsel, NMED (John.Verheul@state.nm.us)
Kris Barrios, Program Manager, SWQB-NMED (Kristopher.Barrios@state.nm.us)
Jennifer Fullam, Standards Team Supervisor, SWQB-NMED (Jennifer.Fullam@state.nm.us)
Diana Aranda, Standards Team Scientist, SWQB-NMED (Diana.Aranda@state.nm.us)

From: [Lemon, Shelly, ENV](#)
To: [Kesler, Michael, ENV](#); [Chavez, William, ENV](#); [Root, Mary K, ENV](#)
Cc: [Fullam, Jennifer, ENV](#); [Verheul, John, ENV](#); [Aranda, Diana, ENV](#); [Barrios, Kristopher, ENV](#)
Subject: Rio Grande-Hondo-Jemez ONRW Hearing Notice to NMED District Offices
Date: Monday, April 25, 2022 9:57:19 AM
Attachments: [2022-04-25 - SWQB - 21-62R ONRW RG-Hondo-Jemez - Hearing Notice District Managers.pdf](#)

Hello,

I wanted to let the District Offices know that NM's Outdoor Recreation Division filed a petition to amend surface water quality regulations and the Water Quality Control Commission ("WQCC") granted a hearing on the matter. Pursuant to the State Rules Act (Section 14-4 NMSA 1978), we need to distribute rulemaking information and make it available in the agency's district, field, and regional offices. Since NMED offices have limited public access due to COVID-19, I am sending this information electronically to make you all aware in case somebody from the public contacts your office. **Please forward to field offices or appropriate staff, as needed.**

The Outdoor Recreation Division of the New Mexico Economic Development Department ("Petitioner") proposes designation of certain surface waters of the Rio Grande, Rio Hondo, Lake Fork Creek, East Fork of the Jemez River, San Antonio Creek, and Redondo Creek as Outstanding National Resource Waters ONRWs. The petition and proposed amendments are available online at <https://www.env.nm.gov/opf/docketed-matters/>, under WQCC's Docketed Matter 21-62(R).

The WQCC scheduled the public hearing for **June 14, 2022**, following the regularly scheduled WQCC public meeting and continuing thereafter as necessary via the WebEx online meeting platform.

Please see attached Hearing Notice (in English and Spanish) for more information.

If you or the public have any questions or would like additional information, feel free to contact Jennifer Fullam, John Verheul (both are copied on this email), or me.

Regards,
Shelly

Shelly Lemon

Chief - Surface Water Quality Bureau
New Mexico Environment Department
1190 S. St. Francis Dr, N2050
Santa Fe, NM 87505
Cell: (505) 470-5018
Pronouns: she/her

shelly.lemon@state.nm.us
<https://www.env.nm.gov/surface-water-quality/>

NEW MEXICO WATER QUALITY CONTROL COMMISSION NOTICE OF PUBLIC HEARING TO CONSIDER PROPOSED AMENDMENTS TO 20.6.4.9 NMAC – STANDARDS FOR INTERSTATE AND INTRASTATE SURFACE WATERS – DESIGNATION OF WATERS OF THE RIO GRANDE, RIO HONDO, LAKE FORK, EAST FORK OF THE JEMEZ RIVER, SAN ANTONIO CREEK, AND REDONDO CREEK AS OUTSTANDING NATIONAL RESOURCE WATERS, NO. WQCC 21-62 (R)

The New Mexico Water Quality Control Commission (“Commission”) will hold a public hearing on Tuesday, June 14, 2022, and continuing on subsequent days, as necessary, via the WebEx video conferencing platform. The purpose of the hearing is to consider amendments to the Standards for Interstate and Intrastate Surface Waters, 20.6.4.9 NMAC, Designation of Waters of the Rio Grande, Rio Hondo, Lake Fork, East Fork of the Jemez River, San Antonio Creek, and Redondo Creek as Outstanding National Resource Waters. The Commission will begin its regular monthly meeting at 9:00 a.m. MDT, and the public hearing will begin at the conclusion of its regular business. Information for attending the virtual hearing via the WebEx conferencing platform will be available on the New Mexico Environment Department (“NMED”) Events Calendar at <https://www.env.nm.gov/events-calendar/?trumbaEmbed=view%3Devent%26eventid%3D158027518> at least 30 days prior to the hearing.

The proposed amendments to 20.6.4.9 NMAC, as petitioned for by the Outdoor Recreation Division of the New Mexico Economic Development Department (“Petitioner”), and docketed as No. WQCC 21-62 (R), propose designation of certain surface waters of the Rio Grande, Rio Hondo, Lake Fork, East Fork of The Jemez River, San Antonio Creek, and Redondo Creek as Outstanding National Resource Waters (“ONRWs”).

The petition and proposed amendments are available on the Commission’s website, at <https://www.env.nm.gov/opf/docketed-matters/>. The petition may also be obtained electronically by contacting Pamela Jones, Commission Administrator, 1190 S. St. Francis Drive, Santa Fe, New Mexico 87502, (505) 660-4305, or Pamela.Jones@state.nm.us.

The hearing will be conducted in accordance with the New Mexico Water Quality Act, NMSA 1978, § 74-6-6; the Rulemaking Procedures for the Water Quality Control Commission, 20.1.6 NMAC; and the Scheduling Order issued January 19, 2022. A copy of the Scheduling Order is available at <https://www.env.nm.gov/opf/docketed-matters/> or may be obtained from the Commission Administrator at the address and phone number above. All interested persons will be given reasonable opportunity at the hearing to submit relevant evidence, data, views, and arguments, orally or in writing, to introduce relevant exhibits and to examine witnesses testifying at the public hearing.

Persons desiring to present technical testimony at the hearing must file with the Commission a written notice of intent. The notice of intent to present technical testimony shall:

1. Identify the person or entity for whom the witness(es) will testify;
2. State whether the person filing the statement supports or opposes the Petition;
3. Identify each witness, including name, address, affiliation(s), and educational and work background;
4. Estimate the length of the direct testimony of each witness;
5. Identify all exhibits which are part of the Record Proper and, for exhibits not part of the Record Proper, attach a copy;
6. List or make available all technical materials relied upon by each witness in making statement of technical of fact or opinion contained in his or her direct testimony; and
7. Attach a summary of the testimony of each witness, stating any opinion(s) to be offered by such witness, and an explanation of the basis for such opinion(s).

The deadline for filing notices of intent is 5:00 p.m. MDT on Friday, May 13, 2022, to the Commission Administrator. Any member of the general public may present non-technical public comment at the hearing or submit a non-technical written statement in lieu of oral testimony before or at the hearing.

All documents filed in this matter, including notices of intent, must be filed electronically via email to the Commission Administrator, at Pamela.Jones@state.nm.us.

The Commission may make a decision on the proposed amendments at the conclusion of the hearing.

If any person requires assistance, an interpreter or auxiliary aid to participate in this process, please contact Pamela Jones, Commission Administrator, at least 14 days prior to the hearing date at P.O. Box 5469, 1190 St. Francis Drive, Santa Fe, New Mexico, 87502, telephone (505) 660-4305 or email Pamela.jones@state.nm.us. (TDD or TTY) users please access the number via the New Mexico Relay Network, 1-800-659-1779 (voice); TTY users: 1-800-659-8331).

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, or if you believe that you have been discriminated against with respect to a NMED program or activity, you may contact: Kathryn Becker, Non-Discrimination Coordinator, NMED, 1190 St. Francis Dr., Suite N4050, P.O. Box 5469, Santa Fe, NM 87502, (505) 827-2855, nd.coordinator@state.nm.us. You may also visit our website at <https://www.env.nm.gov/non-employee-discrimination-complaint-page/> to learn how and where to file a complaint of discrimination.

LA COMISIÓN DE CONTROL DE CALIDAD DEL AGUA DE NUEVO MÉXICO DA AVISO DE UNA AUDIENCIA PÚBLICA PARA CONSIDERAR LAS ENMIENDAS PROPUESTAS A 20.6.4.9 NMAC - NORMAS PARA AGUAS SUPERFICIALES INTERESTATALES Y ESTATALES - DESIGNACIÓN DE LAS AGUAS DE RIO GRANDE, RIO HONDO, LAKE FORK, EAST FORK DE JEMEZ RIVER, SAN ANTONIO CREEK Y REDONDO CREEK COMO AGUAS DE RECURSOS DESTACADOS NACIONALES, NÚM. WQCC 21-62 (R)

La Comisión de Control de Calidad del Agua de Nuevo México ("Comisión") celebrará una audiencia pública el martes, 14 de junio de 2022, y continuará en los días siguientes según sea necesario, a través de la plataforma de videoconferencia WebEx. El propósito de la audiencia es considerar las enmiendas a las Normas para Aguas Superficiales Interestatales y Estatales, 20.6.4.9 NMAC, Designación de Aguas de Rio Grande, Rio Hondo, Lake Fork, East Fork de Jemez River, San Antonio Creek y Redondo Creek como Aguas de Recursos Destacados Nacionales. La Comisión iniciará su reunión mensual ordinaria a las 9:00 a.m. MDT, y al concluir los asuntos ordinarios comenzará la audiencia pública. La información para asistir a la audiencia virtual a través de la plataforma de conferencias WebEx estará disponible en el Calendario de Eventos del Departamento de Medio Ambiente de Nuevo México ("NMED") en <https://www.env.nm.gov/events-calendar/?trumbaEmbed=view%3Devent%26eventid%3D158027518> al menos 30 días antes de la audiencia.

Las enmiendas propuestas a 20.6.4.9 NMAC, solicitadas por la División de Recreación al Aire Libre del Departamento de Desarrollo Económico de Nuevo México ("Solicitante"), y registradas con el número WQCC 21-62 (R), proponen la designación de ciertas aguas superficiales de Rio Grande, Rio Hondo, Lake Fork, East Fork de Jemez River, San Antonio Creek y Redondo Creek como Aguas de Recursos Destacados Nacionales ("ONRWs" por sus siglas en inglés).

La petición y las enmiendas propuestas están disponibles en el sitio web de la Comisión, en <https://www.env.nm.gov/opf/docketed-matters/>. La petición también puede obtenerse electrónicamente comunicándose con Pamela Jones, administradora de la Comisión, 1190 S. St. Francis Drive, Santa Fe, NM 87502, (505) 660-4305, o Pamela.Jones@state.nm.us.

La audiencia se llevará a cabo de acuerdo con la Ley de Calidad del Agua de Nuevo México, NMSA 1978, § 74-6-6; los Procedimientos de Reglamentación de la Comisión de Control de la Calidad del Agua, 20.1.6 NMAC; y la Orden de Programación emitida el 19 de enero de 2022. Una copia de la Orden de Programación está disponible en <https://www.env.nm.gov/opf/docketed-matters/> o puede obtenerse de la administradora de la Comisión en la dirección y el número de teléfono mencionados anteriormente. Todas las personas interesadas tendrán una oportunidad razonable en la audiencia para presentar pruebas, datos, puntos de vista y argumentos pertinentes, de

forma oral o por escrito, presentar pruebas instrumentales pertinentes y para interrogar a los testigos que declaren en la audiencia pública.

Las personas que deseen presentar un testimonio técnico en la audiencia deberán presentar a la Comisión un aviso de intención por escrito. El aviso de intención de presentar un testimonio técnico deberá:

1. Identificar a la persona o entidad para la que testificará el testigo o testigos;
2. Indicar si la persona que presenta la declaración apoya o se opone a la Petición;
3. Identificar a cada testigo, incluyendo el nombre, la dirección, afiliación(es) y el historial académico y laboral;
4. Estimar la duración del testimonio directo de cada testigo;
5. Identificar todas las pruebas instrumentales que formen parte del Registro Administrativo y en el caso de pruebas instrumentales que no formen parte del Registro Administrativo deben adjuntar una copia;
6. Enumerar o poner a disposición todos los materiales técnicos en los que se basó cada testigo al hacer la declaración técnica de hecho u opinión contenida en su testimonio directo; y
7. Adjuntar un resumen del testimonio de cada testigo, indicando cualquier opinión u opiniones que vaya a ofrecer dicho testigo, y una explicación de la base de dicha opinión u opiniones.

La fecha límite para presentar avisos de intención a la administradora de la Comisión es el viernes, 13 de mayo de 2022, hasta las 5:00 p.m. MDT. Cualquier miembro del público puede presentar comentarios públicos no técnicos en la audiencia o presentar una declaración no técnica por escrito en lugar de un testimonio oral antes o durante la audiencia.

Todos los documentos presentados en este asunto, incluidos los avisos de intención, deben presentarse electrónicamente por correo electrónico a la administradora de la Comisión, a Pamela.Jones@state.nm.us.

La Comisión podrá tomar una decisión sobre las modificaciones propuestas al término de la audiencia.

Si alguna persona requiere asistencia, un intérprete o un dispositivo auxiliar para participar en este proceso, comuníquese con Pamela Jones, administradora de la Comisión, al menos 14 días antes de la fecha de la audiencia en P.O. Box 5469, 1190 St. Francis Drive, Santa Fe, NM, 87502, teléfono (505) 660-4305 o correo electrónico Pamela.Jones@state.nm.us. Los usuarios de TDD o TTY pueden acceder al número a través de la Red de Retransmisión de Nuevo México, 1-800-659-1779 (voz); usuarios de TTY: 1-800-659-8331).

El NMED no discrimina por motivos de raza, color, origen nacional, discapacidad, edad o sexo en la administración de sus programas o actividades, tal y como exigen las leyes y reglamentos aplicables. El NMED es responsable de la coordinación de los esfuerzos de cumplimiento y de la recepción de las consultas relativas a los requisitos de no discriminación implementados por el 40 C.F.R. Partes 5 y 7, incluyendo el Título VI de la Ley de Derechos Civiles de 1964, según enmendada; la Sección 504 de la Ley de Rehabilitación de 1973; la Ley de Discriminación por Edad de 1975, el Título IX de las Enmiendas de Educación de 1972, y la Sección 13 de las Enmiendas de la Ley Federal de Control de la Contaminación del Agua de 1972. Si tiene alguna pregunta sobre este aviso o sobre cualquiera de los programas, políticas o procedimientos de no discriminación del NMED, puede comunicarse con Kathryn Becker, Non-Discrimination Coordinator (coordinadora de no discriminación), New Mexico Environment Department, 1190 St. Francis Dr., Suite N4050, P.O. Box 5469, Santa Fe, NM 87502, (505) 827-2855, nd.coordinator@state.nm.us. Si cree que ha sido discriminado con respecto a un programa o actividad de NMED, puede ponerse en contacto con la coordinadora de no discriminación identificada más arriba o visitar nuestro sitio web en <https://www.env.nm.gov/non-employee-discrimination-complaint-page/> para aprender cómo y dónde presentar una queja de discriminación. Para ver este y otros avisos públicos emitidos por la Oficina de Calidad de las Aguas Subterráneas en línea, vaya a: <https://www.env.nm.gov/gwqb/public-notice/>.



NEW MEXICO ENVIRONMENT DEPARTMENT

Office of the Secretary

POLICY AND PROCEDURE 07-16

SUBJECT: Tribal Consultation and Collaboration

PURPOSE: Promote effective communication and collaboration between the New Mexico Environment Department (NMED) and Indian nations, tribes, or pueblos; promote positive government-to-government relations between NMED and Indian nations, tribes, or pueblos; promote cultural competency in providing effective services to American Indians or Alaska Natives; and to notify NMED employees of the provisions of the State-Tribal Collaboration Act and this policy.

APPLICABILITY: All NMED employees

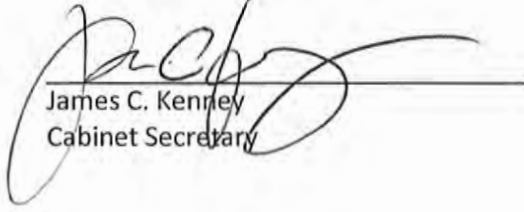
POLICY: NMED's policy is to work with tribal governments to create a positive government-to-government relationship and to promote effective communication and collaboration.

REFERENCES: State-Tribal Collaboration Act, NMSA 1978, § 11-18-1 *et seq.*

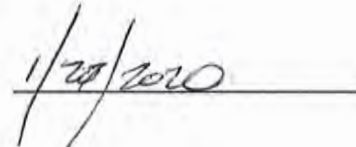
PROCEDURES:

1. Background
2. Definitions
3. Principles
4. Tribal Liaison
5. Procedures
6. Limitations
7. Approval

APPROVAL:


James C. Kenney
Cabinet Secretary

DATE:


1/20/2020

1. BACKGROUND.

1.1 This Tribal Consultation and Collaboration Policy ("Policy") continues the Department's commitment to recognize and respect tribal sovereignty and respect the principles of government-to-government relationships and to promote coordinated collaboration.

1.2 This Policy establishes a framework to jointly address issues of concern and to establish a meaningful consultation process with Indian nations, tribes and pueblos.

1.3 This Policy applies to all federally recognized Indian nations, tribes and pueblos with traditional use or occupancy in New Mexico.

2. DEFINITIONS.

2.1 "American Indian or Alaska Native" means: (1) individuals who are members of any federally recognized Indian tribe, nation, or pueblo; (2) individuals who would meet the definition of "Indian" pursuant to 18 U.S.C. 1153; or (3) individuals who have been deemed eligible for services and programs provided to American Indians and Alaska Natives by the United States Public Health Service, the United States Department of the Interior, Bureau of Indian Affairs, or other federal programs.

2.2 "Collaboration" means a process in which two or more parties work together to achieve a common goal. Collaboration may occur between state and tribal governments and their respective agencies and may involve other Indian organizations if needed. Collaboration may include working with NMED on matters such as workshops and trainings, or sharing information in forums designed to aid communication.

2.3 "Consultation" means the process of government-to-government dialogue between NMED and tribal governments regarding NMED's programmatic actions or proposed actions that affect or may affect the tribal government's interest, to resolve concerns.

2.4 "Communication" means verbal or written interactions between governments.

2.5 "Indian nation, tribe, or pueblo" means any federally recognized Indian nation, tribe, or pueblo located wholly or partially in New Mexico.

2.6 "Programmatic action" means any NMED rulemaking, policy, guidance, grant funding changes, or operational activity that may have a direct effect on an Indian nation, tribe, or pueblo including, but not limited to: 1) tribal cultural practices, lands, resources, or access to traditional areas of cultural or religious importance; 2) the ability of an Indian nation, tribe, or pueblo to govern or provide services to its members; and 3) any action that impacts an Indian nation, tribe, or pueblo's relationship with NMED.

2.7 "Tribal government" means the governing structure of a sovereign, federally recognized tribe, pueblo, band, or nation within the United States.

2.8 “Tribal liaison” means the NMED employee designated by the Secretary to serve as a contact person for matters pertaining to tribal government consultation and communication.

3. PRINCIPLES.

3.1 The state and tribal governments are sovereign governments.

3.2 Tribal governments are unique, and each has its own governmental structure, process, and protocols. To maintain government-to-government relationships, NMED shall work with tribal governments to develop mutually acceptable protocols for consultation and collaboration.

3.3 Some tribal governments claim locations within New Mexico as traditional use or occupancy and therefore hold significant concerns related to the lands and resources under NMED’s jurisdiction even though located out of New Mexico. As resources allow and as practicable, NMED shall endeavor to communicate with those tribal governments with interests in New Mexico.

3.4 NMED shall work in good faith with tribal governments to address and seek to mutually resolve expressed tribal government interests and concerns.

3.5 Meaningful collaboration and consultation require direct two-way communication and effort to respond to requests in a timely manner. Communication, consultation, and collaboration with tribal governments is a fundamental principle of all NMED operations and actions.

4. TRIBAL LIAISON. The NMED tribal liaison shall report directly to the Secretary or designee and assist NMED with:

4.1 ensuring implementation of this policy;

4.2 serving as a contact person who shall maintain ongoing communication between NMED and Indian nations, tribes, or pueblos;

4.3 ensuring that NMED staff take training as specified in NMSA 1978, § 11-18-4(B);

4.4 contacting the tribal environmental directors for all Indian nations, tribes, or pueblos in New Mexico at least annually to ensure reliable and prompt communication;

4.5 contacting tribal historic preservation officers for all federally recognized Indian tribes with traditional use or occupancy in New Mexico, at least annually to ensure timely and effective notifications of consultation;

4.6 providing NMED staff the Indian Affairs Department contacts for the leadership of Indian nations, tribes, and pueblos;

4.7 providing logistical support and meeting facilitation or training to NMED staff and Indian nations, tribes, and pueblos in accordance with a consultation request or other collaborative forum; and

4.8 compiling an annual report meeting the requirements of the State-Tribal Collaboration Act for submission by the Secretary or designee no later than July 31 of every year to the Indian Affairs Department.

5. PROCEDURES FOR CONSULTATION AND COLLABORATION.

5.1 *Consultation* consists of Identification, Notification, Engagement and Follow-up Communication and may be requested by tribal officials (governor, president or chairperson) or NMED's secretary or designee. NMED shall initiate or respond considering the timelines of an agency action, available resources, past consultation efforts and all other relevant information.

5.1.1 *Identification:* NMED shall consult with tribal governments upon written request for consultation by one or more tribal governments to NMED or by written invitation for consultation by NMED to one or more tribal governments. Either NMED or tribal government officials shall identify programmatic actions as early as possible to give enough time for meaningful consultation. Each time a programmatic action requires compliance with this policy, employees shall notify the tribal liaison and the Office of the Secretary.

5.1.2 *Notification Initiating Consultation:* Written notification of consultation or invitation to consult shall be transmitted by US Mail or electronic mail and shall:

5.1.2.1 be timely;

5.1.2.2 identify the proposed programmatic action to be consulted upon and provide relevant information regarding the action;

5.1.2.3 identify the representatives authorized to consult on behalf of NMED and request names for authorized representatives from the tribal government; and

5.1.2.4 identify the preferred methods of communication.

5.1.3 *Engagement:* Tribal governments shall have the opportunity to provide information and be included in and make recommendations on the proposed programmatic actions to NMED officials responsible for the final action.

5.1.3.1 *Final Decision Making:* The NMED tribal liaison and the consulting tribal government or governments shall develop a timeframe for consultation between NMED and tribal governments on NMED's proposed programmatic

actions to include a date by which NMED plans to make a final decision as to how to proceed with the proposed action.

5.1.3.2 Representation at Consultation: Government-to-government consultation shall be between tribal and NMED government officials; face-to-face meetings are preferred for consultation. While NMED employees are encouraged to maintain regular communication and cooperation with tribal governments, official consultation occurs through the Office of the Secretary.

5.1.3.3 Location: Consultation meetings may be held wherever practical, including tribal government locations.

5.1.3.4 Scope: NMED shall maintain compliance with all applicable state and federal laws.

5.1.3.5 Confidentiality: Successful consultation is dependent upon NMED protecting confidential information provided by tribal governments to the extent allowed by applicable federal and state laws, including the New Mexico Public Records Act, and the Inspection of Public Records Act. NMED will protect and exhibit a high degree of respect and sensitivity regarding the confidential information provided by tribal governments and will ensure confidentiality whenever possible.

5.1.4 Follow-up Communication: NMED shall inform tribal governments of final agency actions that were subject to consultation.

5.2 Collaborations such as workshops and trainings or forums designed to aid communication in preparation for rulemakings or legislative actions may be requested by tribal officials (governor, president or chairperson), tribal organizations or coalitions (All Pueblo Council of Governors or Eight Northern Indian Pueblo Council) or NMED's Secretary, Tribal Liaison, or NMED staff. NMED shall initiate or respond, and work to convene or create a space to foster collaborative communications.

6. LIMITATIONS.

6.1 This policy creates no benefit, substantive or procedural right, or entitlement, enforceable by law, for any tribal government or tribal official, and state government or state official.

6.2 This policy shall not diminish any administrative or legal remedy otherwise available by law to NMED or a tribal government.

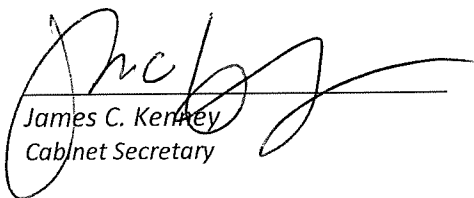
6.3 This policy shall not be construed to waive the sovereign immunity of the State of New Mexico or a tribal government, or to create a right of action by or against the State of New Mexico or tribal government or its officials for failure to comply with this policy.

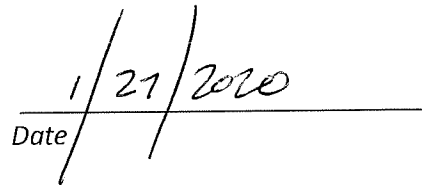
6.4 This policy does not prevent NMED and any tribal government from entering into Memoranda of Understanding, Intergovernmental Agreements, Joint Powers Agreements, or established administrative procedures and practices mandated by federal, state, or tribal laws or rules or regulations.

6.5 NMED retains the final decision-making authority with respect to actions undertaken by NMED. [NMSA 1978, §11-18-5]

7. APPROVAL.

Approved by:


James C. Kenney
Cabinet Secretary


Date

From: [Becker, Kathryn, ENV](#)
To: [Adam Duran](#); [Alan Hatch](#); [Cameron Martinez](#); [Cordell TeCube](#); [Cynthia Naha](#); [Dino Chavarria](#); [DMartinez](#); [Erin Martinez](#); [Evaristo A. Cruz](#); [Franklin Martinez \(fmartinez@poamail.org\)](#); [Glenn Tortalita](#); [Greg Jojola](#); [Greg Kaufman](#); [Heaven Lucero](#); [Jennifer Heminokeky](#); [Jesse Young](#); [Karmen Badoni](#); [Keith Manwell](#); [Larry Phillips, Jr.](#); [mvigil@taospueblo.com](#); [Margaret Chavez](#); [Naomi Archuleta](#); [Paul Clark](#); [Pinu"u Sout](#); [Pueblo of Picuris Env. Admin](#); [Pueblo of Picuris Environment](#); [Ramona Montoya](#); [Raymond Martinez](#); [Ruben Lucero](#); [Ryan Swazo-Hinds](#); [Sage Mountainflower](#); [Tenorio, Shannon](#); [Sophie Stauffer](#); [Steve Rydeen](#); [setter@pol-nsn.gov](#); [Tammy Belone](#); [tammy.parker@ashiwi.org](#); [thora](#); [Valinda Shirley](#); [Yazza, Wayne](#)
Subject: Outstanding National Resource Waters Petition for the Rio Grande/Hondo/East Fork Jemez
Date: Tuesday, April 19, 2022 1:52:14 PM
Attachments: [2022-04-19 - SWQB - 21-62R ONRW RG-Hondo-Jemez - Tribal Hearing Notice.pdf](#)

Greetings TEDs,

Attached is the notice of a June 14, 2022 hearing before the Water Quality Control Commission for proposed amendments to 20.6.4.9 NMAC *Standards for Interstate and Intrastate Surface Waters*. Please note, this is a third-party petition filed by the New Mexico Economic Development Department-Outdoor Recreation Division to designate several waterbodies (upper Rio Grande from just above the Rio Pueblo de Taos to the Colorado border, Rio Hondo, Lake Fork Creek, East Fork Jemez River, Redondo Creek and San Antonio Creek) as Outstanding National Resource Waters ("ONRWs").

The version attached here is what the petitioner recently published in the State Register.

If you have any questions, please don't hesitate to contact:

Jennifer Fullam

Standards, Planning & Reporting Team Leader

Surface Water Quality Bureau

New Mexico Environment Department

Phone: 505.946.8954

jennifer.fullam@state.nm.us

All the best,

Kathryn S. Becker

Assistant General Counsel

Tribal Liaison

New Mexico Environment Department

Office of General Counsel

Phone: 505-231-9983 PLEASE NOTE NEW NUMBER

kathryn.becker@state.nm.us

www.env.nm.gov

Pronouns: she/her/ella

MyPronouns.org Resources on Personal Pronouns

NEW MEXICO WATER QUALITY CONTROL COMMISSION NOTICE OF PUBLIC HEARING TO CONSIDER PROPOSED AMENDMENTS TO 20.6.4.9 NMAC – STANDARDS FOR INTERSTATE AND INTRASTATE SURFACE WATERS – DESIGNATION OF WATERS OF THE RIO GRANDE, RIO HONDO, LAKE FORK, EAST FORK OF THE JEMEZ RIVER, SAN ANTONIO CREEK, AND REDONDO CREEK AS OUTSTANDING NATIONAL RESOURCE WATERS, NO. WQCC 21-62 (R)

The New Mexico Water Quality Control Commission (“Commission”) will hold a public hearing on Tuesday, June 14, 2022, and continuing on subsequent days, as necessary, via the WebEx video conferencing platform. The purpose of the hearing is to consider amendments to the Standards for Interstate and Intrastate Surface Waters, 20.6.4.9 NMAC, Designation of Waters of the Rio Grande, Rio Hondo, Lake Fork, East Fork of the Jemez River, San Antonio Creek, and Redondo Creek as Outstanding National Resource Waters. The Commission will begin its regular monthly meeting at 9:00 a.m. MDT, and the public hearing will begin at the conclusion of its regular business. Information for attending the virtual hearing via the WebEx conferencing platform will be available on the New Mexico Environment Department (“NMED”) Events Calendar at <https://www.env.nm.gov/events-calendar/?trumbaEmbed=view%3Devent%26eventid%3D158027518> at least 30 days prior to the hearing.

The proposed amendments to 20.6.4.9 NMAC, as petitioned for by the Outdoor Recreation Division of the New Mexico Economic Development Department (“Petitioner”), and docketed as No. WQCC 21-62 (R), propose designation of certain surface waters of the Rio Grande, Rio Hondo, Lake Fork, East Fork of The Jemez River, San Antonio Creek, and Redondo Creek as Outstanding National Resource Waters (“ONRWs”).

The petition and proposed amendments are available on the Commission’s website, at <https://www.env.nm.gov/opf/docketed-matters/>. The petition may also be obtained electronically by contacting Pamela Jones, Commission Administrator, 1190 S. St. Francis Drive, Santa Fe, New Mexico 87502, (505) 660-4305, or Pamela.Jones@state.nm.us.

The hearing will be conducted in accordance with the New Mexico Water Quality Act, NMSA 1978, § 74-6-6; the Rulemaking Procedures for the Water Quality Control Commission, 20.1.6 NMAC; and the Scheduling Order issued January 19, 2022. A copy of the Scheduling Order is available at <https://www.env.nm.gov/opf/docketed-matters/> or may be obtained from the Commission Administrator at the address and phone number above. All interested persons will be given reasonable opportunity at the hearing to submit relevant evidence, data, views, and arguments, orally or in writing, to introduce relevant exhibits and to examine witnesses testifying at the public hearing.

Persons desiring to present technical testimony at the hearing must file with the Commission a written notice of intent. The notice of intent to present technical testimony shall:

1. Identify the person or entity for whom the witness(es) will testify;
2. State whether the person filing the statement supports or opposes the Petition;
3. Identify each witness, including name, address, affiliation(s), and educational and work background;
4. Estimate the length of the direct testimony of each witness;
5. Identify all exhibits which are part of the Record Proper and, for exhibits not part of the Record Proper, attach a copy;
6. List or make available all technical materials relied upon by each witness in making statement of technical of fact or opinion contained in his or her direct testimony; and
7. Attach a summary of the testimony of each witness, stating any opinion(s) to be offered by such witness, and an explanation of the basis for such opinion(s).

The deadline for filing notices of intent is 5:00 p.m. MDT on Friday, May 13, 2022, to the Commission Administrator. Any member of the general public may present non-technical public comment at the hearing or submit a non-technical written statement in lieu of oral testimony before or at the hearing.

All documents filed in this matter, including notices of intent, must be filed electronically via email to the Commission Administrator, at Pamela.Jones@state.nm.us.

The Commission may make a decision on the proposed amendments at the conclusion of the hearing.

If any person requires assistance, an interpreter or auxiliary aid to participate in this process, please contact Pamela Jones, Commission Administrator, at least 14 days prior to the hearing date at P.O. Box 5469, 1190 St. Francis Drive, Santa Fe, New Mexico, 87502, telephone (505) 660-4305 or email Pamela.jones@state.nm.us. (TDD or TTY) users please access the number via the New Mexico Relay Network, 1-800-659-1779 (voice); TTY users: 1-800-659-8331).

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LA COMISIÓN DE CONTROL DE CALIDAD DEL AGUA DE NUEVO MÉXICO DA AVISO DE UNA AUDIENCIA PÚBLICA PARA CONSIDERAR LAS ENMIENDAS PROPUESTAS A 20.6.4.9 NMAC - NORMAS PARA AGUAS SUPERFICIALES INTERESTATALES Y ESTATALES - DESIGNACIÓN DE LAS AGUAS DE RIO GRANDE, RIO HONDO, LAKE FORK, EAST FORK DE JEMEZ RIVER, SAN ANTONIO CREEK Y REDONDO CREEK COMO AGUAS DE RECURSOS DESTACADOS NACIONALES, NÚM. WQCC 21-62 (R)

La Comisión de Control de Calidad del Agua de Nuevo México ("Comisión") celebrará una audiencia pública el martes, 14 de junio de 2022, y continuará en los días siguientes según sea necesario, a través de la plataforma de videoconferencia WebEx. El propósito de la audiencia es considerar las enmiendas a las Normas para Aguas Superficiales Interestatales y Estatales, 20.6.4.9 NMAC, Designación de Aguas de Rio Grande, Rio Hondo, Lake Fork, East Fork de Jemez River, San Antonio Creek y Redondo Creek como Aguas de Recursos Destacados Nacionales. La Comisión iniciará su reunión mensual ordinaria a las 9:00 a.m. MDT, y al concluir los asuntos ordinarios comenzará la audiencia pública. La información para asistir a la audiencia virtual a través de la plataforma de conferencias WebEx estará disponible en el Calendario de Eventos del Departamento de Medio Ambiente de Nuevo México ("NMED") en <https://www.env.nm.gov/events-calendar/?trumbaEmbed=view%3Devent%26eventid%3D158027518> al menos 30 días antes de la audiencia.

Las enmiendas propuestas a 20.6.4.9 NMAC, solicitadas por la División de Recreación al Aire Libre del Departamento de Desarrollo Económico de Nuevo México ("Solicitante"), y registradas con el número WQCC 21-62 (R), proponen la designación de ciertas aguas superficiales de Rio Grande, Rio Hondo, Lake Fork, East Fork de Jemez River, San Antonio Creek y Redondo Creek como Aguas de Recursos Destacados Nacionales ("ONRWs" por sus siglas en inglés).

La petición y las enmiendas propuestas están disponibles en el sitio web de la Comisión, en <https://www.env.nm.gov/opf/docketed-matters/>. La petición también puede obtenerse electrónicamente comunicándose con Pamela Jones, administradora de la Comisión, 1190 S. St. Francis Drive, Santa Fe, NM 87502, (505) 660-4305, o Pamela.Jones@state.nm.us.

La audiencia se llevará a cabo de acuerdo con la Ley de Calidad del Agua de Nuevo México, NMSA 1978, § 74-6-6; los Procedimientos de Reglamentación de la Comisión de Control de la Calidad del Agua, 20.1.6 NMAC; y la Orden de Programación emitida el 19 de enero de 2022. Una copia de la Orden de Programación está disponible en <https://www.env.nm.gov/opf/docketed-matters/> o puede obtenerse de la administradora de la Comisión en la dirección y el número de teléfono mencionados anteriormente. Todas las personas interesadas tendrán una oportunidad razonable en la audiencia para presentar pruebas, datos, puntos de vista y argumentos pertinentes, de

forma oral o por escrito, presentar pruebas instrumentales pertinentes y para interrogar a los testigos que declaren en la audiencia pública.

Las personas que deseen presentar un testimonio técnico en la audiencia deberán presentar a la Comisión un aviso de intención por escrito. El aviso de intención de presentar un testimonio técnico deberá:

1. Identificar a la persona o entidad para la que testificará el testigo o testigos;
2. Indicar si la persona que presenta la declaración apoya o se opone a la Petición;
3. Identificar a cada testigo, incluyendo el nombre, la dirección, afiliación(es) y el historial académico y laboral;
4. Estimar la duración del testimonio directo de cada testigo;
5. Identificar todas las pruebas instrumentales que formen parte del Registro Administrativo y en el caso de pruebas instrumentales que no formen parte del Registro Administrativo deben adjuntar una copia;
6. Enumerar o poner a disposición todos los materiales técnicos en los que se basó cada testigo al hacer la declaración técnica de hecho u opinión contenida en su testimonio directo; y
7. Adjuntar un resumen del testimonio de cada testigo, indicando cualquier opinión u opiniones que vaya a ofrecer dicho testigo, y una explicación de la base de dicha opinión u opiniones.

La fecha límite para presentar avisos de intención a la administradora de la Comisión es el viernes, 13 de mayo de 2022, hasta las 5:00 p.m. MDT. Cualquier miembro del público puede presentar comentarios públicos no técnicos en la audiencia o presentar una declaración no técnica por escrito en lugar de un testimonio oral antes o durante la audiencia.

Todos los documentos presentados en este asunto, incluidos los avisos de intención, deben presentarse electrónicamente por correo electrónico a la administradora de la Comisión, a Pamela.Jones@state.nm.us.

La Comisión podrá tomar una decisión sobre las modificaciones propuestas al término de la audiencia.

Si alguna persona requiere asistencia, un intérprete o un dispositivo auxiliar para participar en este proceso, comuníquese con Pamela Jones, administradora de la Comisión, al menos 14 días antes de la fecha de la audiencia en P.O. Box 5469, 1190 St. Francis Drive, Santa Fe, NM, 87502, teléfono (505) 660-4305 o correo electrónico Pamela.Jones@state.nm.us. Los usuarios de TDD o TTY pueden acceder al número a través de la Red de Retransmisión de Nuevo México, 1-800-659-1779 (voz); usuarios de TTY: 1-800-659-8331).

El NMED no discrimina por motivos de raza, color, origen nacional, discapacidad, edad o sexo en la administración de sus programas o actividades, tal y como exigen las leyes y reglamentos aplicables. El NMED es responsable de la coordinación de los esfuerzos de cumplimiento y de la recepción de las consultas relativas a los requisitos de no discriminación implementados por el 40 C.F.R. Partes 5 y 7, incluyendo el Título VI de la Ley de Derechos Civiles de 1964, según enmendada; la Sección 504 de la Ley de Rehabilitación de 1973; la Ley de Discriminación por Edad de 1975, el Título IX de las Enmiendas de Educación de 1972, y la Sección 13 de las Enmiendas de la Ley Federal de Control de la Contaminación del Agua de 1972. Si tiene alguna pregunta sobre este aviso o sobre cualquiera de los programas, políticas o procedimientos de no discriminación del NMED, puede comunicarse con Kathryn Becker, Non-Discrimination Coordinator (coordinadora de no discriminación), New Mexico Environment Department, 1190 St. Francis Dr., Suite N4050, P.O. Box 5469, Santa Fe, NM 87502, (505) 827-2855, nd.coordinator@state.nm.us. Si cree que ha sido discriminado con respecto a un programa o actividad de NMED, puede ponerse en contacto con la coordinadora de no discriminación identificada más arriba o visitar nuestro sitio web en <https://www.env.nm.gov/non-employee-discrimination-complaint-page/> para aprender cómo y dónde presentar una queja de discriminación. Para ver este y otros avisos públicos emitidos por la Oficina de Calidad de las Aguas Subterráneas en línea, vaya a: <https://www.env.nm.gov/gwqb/public-notice/>.

Special Trout Waters

Licenses and General Information: **1-888-248-6866**

General Information

Special Trout Waters (STW) are managed to enhance the unique angling opportunities available in New Mexico. Regulations vary for STWs — some are managed to produce trophy-size trout, some to improve conservation of native trout, and others to enhance the overall trout population structure and density. Regulations are tailored to each water and may include reduced bag limits, catch-and-release for native Gila trout and Rio Grande cutthroat trout or increased harvest for nonnative fish species. Many STWs require artificial flies and lures with a single, barbless hook. Anglers must never disturb rocks, plants, or sediment to attract fish. Chumming and baitfish use are not allowed in any Special Trout Water. By following these regulations anglers help to conserve healthy fisheries in New Mexico and promote high-quality fishing experiences for everyone.

Designations of Special Trout Waters (STW)

The New Mexico Department of Game and Fish has established three designations for Special Trout Waters: Red Chile Water, Green Chile Water and Xmas Chile Water. Each designation is easy to remember, and signs with symbols are posted at STWs with bag limits and tackle restrictions.



Red Chile Water
Catch-and-release
with tackle restrictions



Green Chile Water
Two (2) trout daily bag limit
with tackle restrictions



Xmas Chile Water
Two (2) trout daily bag limit
with any legal tackle

Locations of chile waters are listed on pages 19–21

Native Trout Conservation Waters

Several Special Trout Waters have been established to help protect and conserve Gila trout and Rio Grande cutthroat trout. Nonnative trout species can outcompete or hybridize with native trout species. In order to protect native trout species, unlimited bag limits in some waters have been established for nonnative trout species (rainbow, brown, and brook trout). These waters are listed on page 20 under Red Chile (Native Trout Conservation).

General Bag and Possession Limit Restrictions

All fishing in STWs must stop when the daily bag limit for that water has been taken. Anglers may not continue to fish another STW with a similar or lower bag limit, but may continue if another STW has a higher bag limit or if fishing in Regular Trout Waters. Anglers **must count** those STW fish toward their overall daily bag limit. If fishing STWs where the bag limit is zero, anglers **must not** possess any trout.



Red Chile Water

Tackle restrictions: artificial fly or lure with a single barbless hook.

Catch and release only

Capulin Creek from the confluence with the Rio Grande to its headwaters.

Cimarron River from the east end of Tolby Campground downstream 1.4 miles to the first U.S. Highway 64 bridge.

Jack's Creek from the waterfalls located 0.25 miles downstream of N.M. Highway 63 crossing upstream to its headwaters.

Mogollon Creek from barrier at waterfalls near U.S. Forest Service Trail 153 upstream to confluence of Trail Canyon. Open from July 1–October 31.

Nabor Creek and **Nabor Lake** on the Sargent Wildlife Management Area.

Pecos River in the Pecos Wilderness above Pecos Falls.

Rio Chama from USGS gaging station located below Cooper's Landing to the Rio Nutrias confluence.

Rio Costilla from its confluence with Latir Creek upstream 2.4 miles to the Valle Vidal boundary.

Rio Las Animas within Gila National Forest, Black Range District.

Rio Valdez in the Pecos Wilderness from the waterfall barrier 0.8 miles below FS Trail 239 upstream to its headwaters.

San Juan River from Navajo Dam downstream 3.75 miles to the Crusher Hole Day Use Area. It is illegal to fish with more than 2 flies or lures on a single line when fishing the Special Trout Water of the San Juan River.

Tingley Beach South Pond within the Albuquerque Conservancy Park.

Valle Vidal All streams. Open July 1–December 31.

Catch & Release Tips

Many game fish in New Mexico have restricted bag and/or size limits that require immediate live release back into the water where taken. To ensure healthy release, follow these suggestions:

1. Land the fish quickly and don't play it to exhaustion.
2. Use a landing net whenever possible.
3. Keep the fish in the water.
4. Do not squeeze or grab any part of the fish. Wet your hands first if you must handle the fish.
5. Gently remove the hook (barbless hooks are easier).
6. If the hook is swallowed deeply, cut the leader. A fish's body fluids will dissolve the hook in a matter of days.
7. Let a tired fish recover. Hold it by the tail in the water with one hand and gently support it from below and just behind the head until it swims away.
8. Never toss or throw a fish back into the water.

Special Trout Waters

Licenses and General Information: **1-888-248-6866**



Red Chile Water (Native Trout Conservation)

Tackle restrictions: Artificial fly or lure with single, barbless hook.

Catch-and-release only for Rio Grande cutthroat trout and Gila trout

Bag limit unlimited for rainbow trout, brown trout and brook trout

Black Canyon upstream from waterfall barrier at Black Canyon Campground. Open July 1–October 31.

Cabresto Creek upstream from Cabresto Canyon to headwaters, not including Lake Fork or Cabresto Lake.

Canada Tio Grande within the Carson National Forest, excluding private land.

Columbine Creek from its confluence with the Red River upstream to its headwaters.

Frijoles Creek (Taos County) from its confluence with Rito de la Olla upstream to its headwaters.

Gavilan Creek from its confluence with the Rio Hondo upstream to its headwaters.

Italianos Creek from its confluence with the Rio Hondo upstream to its headwaters.

Leandro Creek within the Valle Vidal. Open July 1–December 31.

Palociento Creek from its confluence with Rito de la Olla upstream to its headwaters.

Rio Cebolla from the Seven Springs Day Use Area upstream to the headwaters including McKinney Pond.

Rio de Las Vacas from the fish migration barrier located 0.2 miles upstream of FS Road 70 crossing to its headwaters.

Rio Santa Barbara from the West Fork and Middle Fork confluence upstream to its headwaters including the East Fork.

Rito del Padre from the fish migration barrier located about 0.3 miles upstream of the confluence with the Rito Sebadilloso to its headwaters including Rito de los Chimayosos.

South Fork Rio Hondo (Taos County) from its confluence with the Rio Hondo upstream to its headwaters.

Tanques Creek from FS Road 93 crossing upstream to its headwaters.

West Fork Luna Creek from the Carson National Forest property boundary upstream to its headwaters.

Yerba Creek from its confluence with the Rio Hondo upstream to its headwaters.





Green Chile Water

Tackle restrictions: Artificial fly or lure with single, barbless hook

Bag limit two (2) trout only

Pecos River in the box canyon 0.5 miles upstream of its confluence with the Mora River to 0.2 miles downstream of the bridge crossing at Cowles.

Red River from its confluence with Goose Creek 1.1 miles upstream to the Carson National Forest boundary.

Rio Chama within the boundaries of the Rio Chama Wildlife and Fishing Area from Heron Reservoir outlet 2.9 miles upstream to Cottonwood Flats.

Rio de Los Pinos from FS Road 284 and 87A, 2.5 miles upstream to the private property boundary.

Rio Guadalupe from its confluence with Deer Creek Landing upstream 6.0 miles to Stable Canyon.

Rio San Antonio from the San Antonio Hot Springs pedestrian bridge upstream 2.0 miles to the Valles Caldera National Preserve boundary.

Sargent Wildlife Management Area for all waters within or adjacent to the WMA including the Rio Chamita, Sixto Creek, and Rio Chama, excluding Nabor Creek and Nabor Lake.

Shuree Ponds on the Valle Vidal. Open July 1– December 31.

Valles Caldera National Preserve all waters within preserve.



Xmas Chile Water

Tackle restrictions: Any legal tackle

Bag limit two (2) trout only

Gilita Creek and Willow Creek from its confluence with Snow Creek upstream to its headwaters including Little Turkey Creek.

Mineral Creek from its confluence with San Francisco River to its headwaters.

Red River from its confluence with the Rio Grande upstream to the lower walking bridge at Red River State Fish Hatchery.

Rio Chama from the river-crossing bridge on U.S. Highway 84 at Abiquiu upstream 7.0 miles to the base of Abiquiu Dam.

Rio Grande from the Colorado state line downstream to the Taos Junction Bridge at N.M. Highway 567.

Rio Ruidoso from Fridenbloom Drive upstream to the Mescalero Reservation.

Whitewater Creek from the Catwalk National Recreation Trail parking area upstream to the headwaters, including all tributaries.

The White House
Office of the Press Secretary

For Immediate Release

March 25, 2013

Presidential Proclamation -- Río Grande del Norte National Monument

ESTABLISHMENT OF THE RÍO GRANDE DEL NORTE NATIONAL MONUMENT

- - - - -

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

In far northern New Mexico, the Río Grande Wild and Scenic River flows through a deep gorge at the edge of the stark and sweeping expanse of the Taos Plateau. Volcanic cones, including the Cerro de la Olla, Cerro San Antonio, and Cerro del Yuta, jut up from this surrounding plateau. Canyons, volcanic cones, wild rivers, and native grasslands harbor vital wildlife habitat, unique geologic resources, and imprints of human passage through the landscape over the past 10,000 years. This extraordinary landscape of extreme beauty and daunting harshness is known as the Río Grande del Norte, and its extraordinary array of scientific and historic resources offer opportunities to develop our understanding of the forces that shaped northern New Mexico, including the diverse ecological systems and human cultures that remain present today.

For millennia, humans have seasonally passed through the Río Grande del Norte, gathering resources and finding spiritual meaning in its dramatic geologic features. Although few have attempted to live year-round in this harsh landscape, the images carved into the gorge's dark basalt cliffs and the artifacts scattered across the forested slopes of the volcanic cones bear ample testimony to the human use of the area.

The Río Grande gorge lies within the traditional area of the nearby Taos and Picuris Pueblos, as well as the Jicarilla Apache and Ute Tribes, and hosts a dazzling array of rock art. Carved into the boulders and cliffs are hundreds of images ranging from seemingly abstract swirls and dots to clear depictions of human and animal figures. Dense collections of petroglyphs are found near the hot springs that bubble up in the deep heart of the gorge, with some dating back to the Archaic Period (ca. 7,500 B.C. – 500 A.D.). In addition to petroglyphs, these lands harbor small hunting blinds, pit houses, chipping stations, potsherds, tools and projectile points, as well as large ceramic vessels. The area is home to a rich array of

archaeological resources that represent diverse cultural traditions. Archeological resources are found throughout the proposed monument, with its rugged terrain serving as the focal point for ongoing archaeological research. More recent artifacts and images mark the passage of settlers and Hispanic explorers dating back to the early 18th century. Ongoing explorations and inquiries of this unique cultural landscape have resulted in continuous discoveries that further illuminate northern New Mexico's human history.

Separated from the Río Grande Wild and Scenic River by a broad swath of sagebrush and grassland, the Río San Antonio gorge is another area of concentrated artifact and petroglyph sites. People were drawn to this area by the flowing water, hunting opportunities, and nearby San Antonio Mountain, which is thought to have been a major regional source for the dacite used by nomadic peoples to create stone tools thousands of years ago. This corner of the Río Grande del Norte landscape was traversed by traders and other travelers during the 18th and 19th centuries, who traded furs and other goods and later brought woolen articles from New Mexico's sheep grazing communities to markets throughout the Southwest. Between the Río Grande gorge and the Río San Antonio gorge stretches a sweeping and austere expanse of the Taos Plateau. The Río Grande del Norte landscape is a testament to the geologic past of New Mexico and the 70 million year tectonic history of the Río Grande Rift, one of the world's major rift systems. Composed of Servilleta lava basalts and rhyolites, the Taos Plateau has long been a center of research in geology and volcanology. Rising in stark contrast from the plateau's broad expanse, Cerro de la Olla, Cerro San Antonio, and other volcanic cones provide visible reminders of the area's volatile past. Cerro del Yuta, or Ute Mountain, the tallest of these extinct volcanoes, rises above the plateau to an elevation topping 10,000 feet. Springs within the Río Grande gorge have been measured emitting 6,000 gallons of water per minute into the river bed and are thought to be part of a flooded lava tube system.

This northern New Mexico landscape also exhibits significant ecological diversity in these different geologic areas. From the cottonwood and willows along the Río Grande corridor, to the expansive sagebrush plains above the gorge on the Taos Plateau, the piñons at the base of Ute Mountain, and the spruce, aspen, and Douglas fir covering the mountain's northern slopes, the diversity of both ecosystems and species allows for, and has been the subject of, substantial scientific research.

The Río Grande gorge connects the northern reaches of the river's watershed with its middle and lower stretches. Deep within the gorge, beneath soaring cliffs that rise hundreds of feet above the river, stands of willow and cottonwood thrive in riparian and canyon ecosystems that have been present since the river first appeared in the Río Grande Rift Valley. The river provides habitat for fish such as the Río Grande cutthroat trout as well as the recently reintroduced North American river otter. The Río Grande del Norte is part of the Central Migratory Flyway, a vital migration corridor for birds such as Canada geese, herons, sandhill cranes, hummingbirds, and American avocets. Several species of bats make their home in the gorge, which also provides important nesting habitat for golden eagles and numerous other raptor species, as well as habitat for the endangered southwestern willow flycatcher.

Bald eagles roost above the river in winter and fly out over the Taos Plateau's sagebrush shrub habitat and native grasslands, which stretch for thousands of acres to the west. The vast plateau harbors a significant diversity of mammals and birds, from the eagles, hawks, falcons, and owls soaring above

the plateau to the small mammals on which they prey. Many other bird species, including Merriam's turkey, scaled quail, mourning dove, mountain plover, and loggerhead shrike, can be seen or heard on the plateau. Large mammals, including the Rocky Mountain elk, mule deer, pronghorn, and Rocky Mountain bighorn sheep, find their winter homes on the plateau alongside a population of rare Gunnison's prairie dogs. The Río Grande del Norte also provides habitat for many species of predators, including the ringtail, black bear, coyote, red fox, cougar, and bobcat.

While diverse peoples have used this area intermittently for thousands of years, its challenging conditions make it inhospitable for permanent settlement. In an area near the forested slopes of Cerro Montoso, however, a group of eastern homesteaders attempted to make a living in the years immediately following World War I. The nearly forgotten story of this fleeting community, recently revealed through detailed historical research, is written on the landscape by the remnants of homes, root cellars, cistern-style water catchments, and cast metal toys. At one site, researchers have found several World War I brass uniform buttons, evidence of the veterans who once made their homes on this rugged land.

The protection of the Río Grande del Norte will preserve its cultural, prehistoric, and historic legacy and maintain its diverse array of natural and scientific resources, ensuring that the historic and scientific values of this area remain for the benefit of all Americans.

WHEREAS section 2 of the Act of June 8, 1906 (34 Stat. 225, 16 U.S.C. 431) (the "Antiquities Act"), authorizes the President, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and to reserve as a part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected;

WHEREAS it is in the public interest to preserve the objects of scientific and historic interest on the Río Grande del Norte lands;

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by the authority vested in me by section 2 of the Antiquities Act, hereby proclaim, set apart, and reserve as the Río Grande del Norte National Monument (monument), the objects identified above and all lands and interest in lands owned or controlled by the Government of the United States within the boundaries described on the accompanying map, which is attached to and forms a part of this proclamation. These reserved Federal lands and interests in lands encompass approximately 242,555 acres, which is the smallest area compatible with the proper care and management of the objects to be protected.

All Federal lands and interests in lands within the boundaries of this monument are hereby

appropriated and withdrawn from all forms of entry, location, selection, sale, leasing, or other disposition under the public land laws, including withdrawal from location, entry, and patent under the mining laws, and from disposition under all laws relating to mineral and geothermal leasing, other than by exchange that furthers the protective purposes of this proclamation.

The establishment of this monument is subject to valid existing rights. Lands and interests in lands within the monument's boundaries not owned or controlled by the United States shall be reserved as part of the monument upon acquisition of ownership or control by the United States.

The Secretary of the Interior (Secretary) shall manage the monument through the Bureau of Land Management (BLM) as a unit of the National Landscape Conservation System, pursuant to applicable legal authorities, including the Wild and Scenic Rivers Act (82 Stat. 906, 16 U.S.C. 1271 et seq.), to implement the purposes of this proclamation.

For purposes of protecting and restoring the objects identified above, the Secretary, through the BLM, shall prepare and maintain a management plan for the monument and shall provide for maximum public involvement in the development of that plan including, but not limited to, consultation with tribal, State, and local governments as well as community land grant and acequia associations.

Except for emergency or authorized administrative purposes, motorized vehicle use in the monument shall be permitted only on designated roads and non-motorized mechanized vehicle use shall be permitted only on designated roads and trails.

Nothing in this proclamation shall be construed to preclude the Secretary from renewing or authorizing the upgrading of existing utility line rights-of-way within the physical scope of each such right-of-way that exists on the date of this proclamation. Additional utility line rights-of-way or upgrades outside the existing utility line rights-of-way may only be authorized if consistent with the care and management of the objects identified above.

Nothing in this proclamation shall be deemed to enlarge or diminish the rights of any Indian tribe or pueblo. The Secretary shall, in consultation with Indian tribes, ensure the protection of religious and cultural sites in the monument and provide access to the sites by members of Indian tribes for traditional cultural and customary uses, consistent with the American Indian Religious Freedom Act (92 Stat. 469, 42 U.S.C. 1996) and Executive Order 13007 of May 24, 1996 (Indian Sacred Sites).

Laws, regulations, and policies followed by the BLM in issuing and administering grazing permits or leases on lands under its jurisdiction shall continue to apply with regard to the lands in the monument, consistent with the purposes of this proclamation.

Nothing in this proclamation shall be construed to alter or affect the Río Grande Compact between the States of Colorado, New Mexico, and Texas, or to create any reservation of

water in the monument.

Nothing in this proclamation shall be deemed to enlarge or diminish the jurisdiction of the State of New Mexico with respect to fish and wildlife management.

Nothing in this proclamation shall be construed to preclude the traditional collection of firewood and piñon nuts in the monument for personal non-commercial use consistent with the purposes of this proclamation.

Nothing in this proclamation shall be deemed to revoke any existing withdrawal, reservation, or appropriation; however, the monument shall be the dominant reservation.

Warning is hereby given to all unauthorized persons not to appropriate, injure, destroy, or remove any feature of the monument and not to locate or settle upon any of the lands thereof.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of March, in the year of our Lord two thousand thirteen, and of the Independence of the United States of America the two hundred and thirty-seventh.

BARACK OBAMA



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Surface Water Quality Bureau Data Dictionary

Data Dictionary Data Report Field Definitions: WQ Report Fields

FIELD NAME	DESCRIPTION
ASSESSMENT_UNIT_ID	Unique identifier for the waterbody assessment unit
ASSESSMENT_UNIT_NAME	Waterbody addressment unit name
PROJECT_NAME	Survey monitoring project name
STATION_ID	Unique identifier for monitoring location
STATION_NAME	Monitoring location name
SAMPLING_EVENT_TYPE	Type of monitoring activity
COMMENTS	
ACT_ID	Sample bottle or action identifier
ACT_START_DATE	Date of sample collection
ACTIVITY_TYPE	Description of data collection type
MEDIA_SUBDIVISION	Type of sample media
ANALYTE_SUITE	Analysis group for sample
ACTIVITY_COMMENTS	
CAS_NO	Unique numerical identifier assigned by the Chemical Abstracts Service (CAS) to every chemical substance described in the open scientific literature.
SAMPLE_FRACTION	Identification of whether the results were obtained from a physically-partitioned sample. Examples: Dissolved, Total
CHARACTERISTIC_NAME	Name of analytical parameter
REPORTED_VALUE	Result of measurement of analysis. MDP = Missing data point.
UNITS	Unit of measurement
SDL	The SDL is equal to the MRL raised by a factor corresponding to the DILUTION_FACTOR when a sample has to be diluted before analysis. If DILUTION_FACTOR = 1, SDL = MRL. Measured values less than the SDL are reported (in REPORTED VALUE) at the SDL.
PQL	The level at which an instrument response can be quantified. Used for Total Coliform and E. coli IDEXX Quantitray methods only.
MDL	The minimum measured concentration of a substance that can be reported with 99% confidence that the measured concentration is distinguishable from method blank results (EPA 821-R-16-006, 2016).
MRL	The lowest concentration at which an analyte can be detected in a sample <u>and</u> its concentration can be reported with reasonable degree of accuracy and precision.
SIGMA	Statistical confidence in reported value. Used only for radionuclides
LESS_THAN_YN	Logic statement indicating whether the REPORTED VALUE is less than the SDL
GREATER_THAN_YN	Logic statement indicating whether the REPORTED VALUE is greater than the instrument maximum reporting level
ANLMTH_ID	Analysis method identifier
DILUTION_FACTOR	A factor indicating the amount of which the sample was diluted to address matrix problems or achieve instrument response within its calibrated dynamic range. DILUTION_FACTOR is informational only and <u>not</u> used to modify the REPORTED VALUE. It can influence the SDL. A value of one means undiluted. Values greater than one indicate dilution. Values less than one indicate concentration.
LAB_ID	Name of laboratory performing analysis.
ANALYSIS_DATE	Date of analysis
WQX_QUALIFIER_CODE	WQX (formerly EPA_STORET) qualifier. See WQX_QUALIFIER worksheet for definitions.
LAB_QUALIFIER_CODE	Result qualifier attributed by the laboratory. See LAB_QUALIFIER worksheet for definitions.
SWQB_QUALIFIER_CODE	Result qualifier attributed by the SWQB. See SWQB_QUALIFIER worksheet for definitions.
RES_COMMENTS	Result comments
CHR_UID	Database field UID: Characteristic
SE_TYPE_UID	Database field UID: Sample Event Type
RES_UID	Database field UID: Result
ACT_UID	Database field UID: Activity
ACTYP_UID	Database field UID: Activity Type
SE_UID	Database field UID: Sample Event
MLOC_UID	Database field UID: Monitoring Location
PRJ_UID	Database field UID: Project
AU_UID	Database field UID: Assessment Unit

Data Dictionary Data Report Field Definitions: WQX Qualifier

Code	Description
"	LCS or LCSD is outside acceptance limits.
\$	Incorrect sample container
*	Sample was warm when received
4	MS, MSD: The analyte present in the original sample is greater than 4 times the matrix spike concentration; there
A	Compound not analyzed
AL	Aldol condensation present. Analyte may not be present.
ALK	Estimate, Alkylated PAH Sum
ALT	Alternate Method
B	Detection in blank
BAC	Correction Factor, background
BH	Detection in blank. Holding time exceeded.
BJHQC	Estimated value, compound also detected in LRB, holding time exceeded, QC problems
BJHT	Estimated value, compound also detected in LRB, holding time exceeded
BJQC	Estimated value, compound also detected in LRB, QC problems
BMDL	Concentration is less than method detection limit (MDL)
BQB	Below Quantitation Limit. Detection in blank.
BQBJ	Below Quantitation Limit. Detection in blank. Estimated.
BQJ	Below Quantitation Limit. Estimated.
BQL	Below Quantitation Limit
BRL	Below Reporting Limit
BU	Detection in blank. Not Detected: The analyte was analyzed for, but was not detected at a level greater than or equal to the level of the adjusted Contract Required Quantitation Limit (CRQL) for sample and method.
BVER	Continuing calibration blank criteria was not met
C	Presence of compound may be due to contamination of sample during laboratory processing
C25	Dual Column result difference >25%
CAJ	Correction Factor, lab
CAN	No Result Reported, analysis canceled
CBC	No Result Reported, cannot be calculated
CBL	Correction Factor, blank
CBQBJ	Co-eluting congener. Below Quantitation Limit. Detection in blank. Estimated.
CC	co-eluting congener
CCB	Co-eluting congener. Detection in blank.
CCBJ	Co-eluting congener. Detection in blank. Estimated.
CCBQ	Co-eluting congener. Below Quantitation Limit.
CCBQJ	Co-eluting congener. Below Quantitation Limit. Estimated.
CCJ	Co-eluting congener. Estimated.
CCU	Co-eluting congener. Not Detected.
CDI	Correction Factor, dilution
CJQC	Estimated value, possible contamination of sample during laboratory processing, QC problems
CLC	Correction Factor, other
CNT	Non-acceptable colony counts.
CON	Value Confirmed
D	Contract Required Quantitation Limit (CRQL) not met due to sample matrix interference, dilution required.
DB	Contract Required Quantitation Limit (CRQL) not met due to sample matrix interference, dilution required. Detection
DBH	Contract Required Quantitation Limit (CRQL) not met due to sample matrix interference, dilution required. Detection
DE	Serial dilution acceptance criteria not met.
DEC	Value Decensored
DH	Contract Required Quantitation Limit (CRQL) not met due to sample matrix interference, dilution required. Hold

DHJ	Contract Required Quantitation Limit (CRQL) not met due to sample matrix interference, dilution required. Holdi exceeded. Estimated: The analyte was positively identified and the associated numerical value is the approximat
DJ	Contract Required Quantitation Limit (CRQL) not met due to sample matrix interference, dilution required. Estimated:The analyte was positively identified and the associated numerical value is the approximate concentra
DL	Not Detected: The analyte was not detected at a level >= to the Method Detection Limit for the analysis.
DR	Contract Required Quantitation Limit (CRQL) not met due to sample matrix interference, dilution required. Rejec The sample results are unusable due to the quality of the data generated because certain criteria were not met. '
DU	Contract Required Quantitation Limit (CRQL) ... Not Detected: The analyte was analyzed for, but was not detecte level greater than or equal to the level of the adjusted Contract Required Quantitation Limit (CRQL) for sample a
E	Concentration of analyte being analyzed exceeded calibration range of instrument.
ECI	Estimated Value, Coelution
EE	Identifies compounds whose concentration exceed the calibration range addition of the instrument for that spec
EFAI	Equipment failure
EMPC	Estimated Maximum Possible Concentration
ESD	Estimated Value, serial dilution difference
EST	Estimated Value, outside limit of precision
EVA	Estimated Value, multiple Aroclors
EVAD	Estimated Value, degradation
EVID	Estimated Value, tentatively identified compound
F	Estimated value: compound failed initial calibration check (CCC) or QC criteria
F1F2	MS and/or MSD Recovery is outside acceptance limits and MS/MSD RPD exceeds control limits.
F1F2B	MS and/or MSD Recovery is outside acceptance limits, MS/MSD RPD exceeds control limits, and compound was
FBK	Analyte found in blank. Sample contamination indicated.
FDB	Dry Blank, failed
FDC	Drift Check, failed
FDL	Lab Duplicate, failed
FEQ	Field Equipment Questionable
FFB	Failed. Field blank not acceptable.
FFD	Field Duplicate, failed
FFS	Failed. Field spike not acceptable.
FFT	Failed. Trip blank not acceptable.
FIS	Internal Standard, failed
FLA	Field Lab Anomaly
FLD	Failed. Lab duplicate not acceptable.
FLS	Failed. Lab spike recovery not acceptable.
FMS	Failed. Matrix spike recovery not acceptable.
FPC	Performance Check, failed
FPR	Ongoing Precision and Recovery, failed
FQC	Quality Control, failed
FRS	Lab Reference, failed
FSD	Lab Spike Duplicate, failed
FSL	Failed. Spiked lab blank recovery not acceptable.
FSP	Failed. Surrogate spike recovery not acceptable.
FUB	Field Tubing Blank, failed
G	lock mass interference present
GG	Reported Value Is Between MDL and the Practical Quantitation Level (Or Reporting Limit)
GT	The listed result is greater than the upper quantitation limit for either the analytical method or the meter used fr measurement. Equivalent to the Legacy STORET Remark Code of L: Actual Value is known to be greater than the
GXB	Estimated Value, greater than 10x blank
H	Holding time exceeded:

HBJ	Holding time exceeded. Detection in blank. Estimated: The analyte was positively identified and the associated numerical value is the approximate concentration of the analyte in the sample.
HIB	Likely Biased High
HICC	Initial calibration criteria not met “ high
HIM	High Moisture
HL	Holding time exceeded. Lowest available reporting limit for the analytical method used.
HLBL	high labeled compound recovery in sample, estimated value, estimated value
HMSD	Matrix spike duplicate acceptance criteria not met “ high
HMSR	high matrix spike recovery, potential high bias
HNRO	high native analyte recovery in OPR (or LCS), potential high bias
HTH	Hard to Homogenize
HVER	high calibration verification standard recovery, estimated value
I	Estimated value; compound failed initial calibration value
ICA	Incorrect Initial Calibration Associated with Sample
INT	Interference suspected. Analyte may not be present.
IQCOL	ICV,CCV,ICB,CCB, ISA, ISB, CRI, CRA, DLCK or MRL standard: Instrument related QC is outside acceptance limits
ISAC	Internal standard acceptance criteria not met
ISP	Improper Sample Preservation
ITNA	Incubation time not attained
ITNM	Incubation temperature not maintained
J	Estimated: The analyte was positively identified and the associated numerical value is the approximate concentr
J+	Estimated: The analyte was positively identified and the associated numerical value... ++.
J-	the sample, and may have a potential negative bias.
J-HT	Approximate value analysis exceeded the holding time
J-MI	Approximate value due to matrix interference
J-QC	Approximate value due to quality control problems
J-R	Approximate value result is below the reporting level but greater than the method detection limit
J-RB	Approximate value result is below the reporting level but greater than the method detection limit. Detection in t
J-RH	Approximate value result is below the reporting level but greater than the method detection limit. Holding time
JB	Estimated: The analyte was positively identified and the associated numerical value is the approximate concentr the analyte in the sample. Detection in blank.
JCN	Sample Container Damaged, no sample lost
JCW	Sample Container Damaged, sample lost
JDE	Estimated: The analyte was positively identified and the associated numerical value is the approximate concentr the analyte in the sample. And serial dilution acceptance criteria not met.
JH	Estimated: The analyte was positively identified and the associated numerical value is the approximate concentr the analyte in the sample. Holding time exceeded.
JHTF	Estimated value. Holding time exceeded in the field
JHTQC	Estimated value, exceeded holding time and QC problems
JL	Estimated: The analyte was positively identified and the associated numerical value is the approximate concentr the analyte in the sample. Lowest available reporting limit for the analytical method used.
JMQC	Estimated value, matrix interference, QC problems
JRHQC	Estimated value, between detection limit and reporting limit, holding time exceeded, QC problems
JRHT	Estimated value, between detection limit and reporting limit and exceeded holding time
JRQC	Estimated value, between detection limit and reporting limit and QC problems
K	Value below the detection Limit. For BOD: depletion is less than 1.0
KB	Not detected, compound also detected in LRB
KBJHQ	Estimated value, not detected, compound also detected in LRB, holding time exceeded, QC problems
KBJQC	Estimated value, not detected, compound also detected in LRB, QC problems

KCF	Known Contamination, field
KJ	Estimated value, not detected
KJHQC	Estimated value, not detected, holding time exceeded and QC problems
KJHT	Estimated value, not detected and exceeded holding time
KJQC	Estimated value, not detected and QC problems
KK	True bacterial concentration is assumed to be less than the reported value.
KN	Not detected, presumptive evidence of nontarget compound
KNBJQ	Estimated value, not detected, compound also detected in LRB, presumptive evidence of nontarget compound, C
KNJHT	Estimated value, not detected, presumptive evidence of nontarget compound, holding time exceeded
KNJQC	Not detected, presumptive evidence of non-target compound, estimated value, QC problems
KRMDL	Reported value was at or below the method detection limit (MDL) and entered at the MDL
KRPQL	Reported value was at or below the reporting limit (PQL or LQL) and entered at the PQL
L	Lowest available reporting limit for the analytical method used.
L5B	Estimated Value, less than 5x blank
LAC	No Result Reported, lab accident
LBF	Lab Failed, sample not analyzed
LBJQC	Estimated value, greater than quantitation limit, compound also detected in LRB, QC problems
LICC	Initial calibration criteria not met – low
LIS	Lab internal standard(s) added to sample.
LJHQC	Estimated value, greater than quantitation limit, holding time exceeded, QC problems
LJQC	Estimated value, greater than quantitation limit and QC problems
LL	True bacterial concentration is assumed to be greater than the reported value.
LLBL	low labeled compound recovery in sample, estimated value
LLRO	low labeled compound recovery in the OPR (or LCS), estimated value
LLS	Value less than lower quality control standard.
LMSD	Matrix spike duplicate acceptance criteria not met – low
LMSR	low matrix spike recovery, potential low bias
LNJQC	Estimated value, greater than quantitation limit, presumptive evidence of nontarget compound, QC problems
LNRO	low native analyte recovery in OPR (or LCS), potential low bias
LOB	Likely Biased Low
LOPR	low OPR (or LCS) recovery, potential low bias
LSSR	Surrogate standard acceptance criteria not met – low
LVER	low calibration verification standard recovery, potential low bias
LXB	Estimated Value, between 5-10x blank
M6F	More Than 6 Flags Applied
MSR	Matrix spike acceptance criteria not met
MTRX	possible matrix interference, estimated value
N	Presumptive evidence of a nontarget compound
NA	Not Applicable
NAI	No Result Reported, interference
NB	Presumptive evidence of non-target compound; detected in blank
NBJQC	Estimated value, presumptive evidence of nontarget compound, compound also detected in LRB, QC problems
NFNSI	While comparison of nutrient fractions (e.g. filtered > unfiltered) or nutrient species (e.g. PO4 > TP) results are not consistent, the results are within precision limits and are analytically equal.
NFNSU	Comparison of nutrient fractions (e.g. filtered > unfiltered) or nutrient species (e.g. PO4 > TP) are not consistent. fall outside the normal limits of variability and do not meet Data Quality Objectives. Reanalyses were performed
NHS	Non-homogenous sample
NJ	Estimated value, presumptive evidence of nontarget compound
NJHT	Estimated value, presumptive evidence of nontarget compound, holding time exceeded
NJQC	Estimated value, presumptive evidence of nontarget compound, QC problems
NL	Estimated value, presumptive evidence of nontarget compound, greater than quantitation limit

NLBL	no labeled compound recovery in sample, rejected
NLRO	no labeled compound recovery in OPR (or LCS), rejected
NMSR	no matrix spike recovery, rejected
NN	authentic recovery is not within method/contract control limits
NRO	Control sample acceptance criteria not met
NRP	No Result Possible
NRR	No Result Reported, other
NSQ	No Result Reported, insufficient quantity of sample
OA3	Outlier, across stations
OS3	Outlier, single station
OTHER	Other
OUT	Result value is defined as an outlier by data owner
PNQ	No Quantifiable Result Reported
PPD	Spiked Blank Duplicate, failed
PRE	Presumptive evidence that analyte is present.
Q	The result did not pass the lab quality checks and there was an insufficient amount of the sample for re-analysis.
QCI	Quality Control incomplete
R	Rejected: The sample results are unusable due to the quality of the data generated because certain criteria were met. The analyte may or may not be present in the sample.
REX	Re-Prepared
RIN	Re-Analyzed
RLRS	Reporting limit raised, low total solids
RMAX	result is a maximum value
RNAF	result not affected by noted QC issue
RNON	result reported as non-detect due to blank contamination
RPDX	RPD is MS/MSD pair exceeds criterion, estimated value
RPO	% RPD outside of acceptable limits
RPON	% RPD outside of acceptable limits. Presumptive evidence of a nontarget compound.
RRUDL	Lab reported a result value, however the lab's detection limit is not known/available for validation or comparison
RSM	Value verified by rerun, same method (USGS)
SBB	Estimated Value, less than blank
SCA	Suspected Contamination, lab analysis
SCF	Suspected Contamination, field
SCP	Suspected Contamination, lab preparation
SCX	Suspected Contamination, unknown
SD%EL	MS/MSD RPD exceeds control limits
SD%SS	MS/MSD RPD exceeds control limits due to sample size difference. (TestAmerica Laboratory with a qualifier code
SDROL	MS and/or MSD Recovery is outside acceptance limits
SLB	Spike level low compared to background
SSR	Surrogate standard acceptance criteria not met
SUS	Result value is defined as suspect by data owner
T	Hardness by Calculation Method - Standard Methods 2340B - 19th Ed
TOC	Temperature outside of criteria
TT	analyte recalculated against alternate labeled compound(s)
U	Not Detected: The analyte was analyzed for, but was not detected at a level greater than or equal to the level of adjusted Contract Required Quantitation Limit (CRQL) for sample and method.
UB	The analyte was detected in the sample and in either the associated laboratory blank or field blank. If detected below the reporting limit (RL) the analyte result was reported as non-detected. If detected above the RL, the analyte result was reported as detected.
UH	Not Detected: The analyte was analyzed for, but was not detected at a level greater than or equal to the level of adjusted Contract Required Quantitation Limit (CRQL) for sample and method. Holding time exceeded.

UJ	Not Detected/Estimated: The analyte was not detected at a level greater than or equal to the adjusted CRQL or the reported adjusted CRQL is approximate and may be inaccurate or imprecise.
UNC	Value Not Confirmed
UQ	Not Detected: The analyte was not detected at a level \geq to the Reporting Level for the analysis. Also, the result did not pass the lab quality checks and there was an insufficient amount of the sample for re-analysis.
Z	Value verified by rerun, 2nd method (USGS)
^	Yield outside of contractual acceptable range (USGS)

Data Dictionary Data Report Field Definitions: Lab Qualifier

Data Qualifier	Description	WQX Equivalent
A	See note/comments.	
B	Analyte was detected in the laboratory blank.	B
C	Spike recovery in laboratory fortified blank is within method acceptance limits.	
D	Spike recovery in laboratory fortified blank is not within method acceptance limits.	
E	Analyte value exceeded calibration range.	
F	Sample matrix interference suspected.	
H	Sample was analyzed in duplicate.	
I	Sample was analyzed in triplicate.	
J	Analyte was detected at a level below the method's sample detection limit.	
K	Holding time was exceeded at laboratory.	H
L	Regulated parameter value equals or exceeds the EPA SDWA Maximum Contamination Level.	
M	Regulated parameter value equals or exceeds the EPA SDWA Action Level.	
N	Insufficient sample to verify results.	
O	Method internal standard(s) not within method acceptance limits when analyzed undiluted.	
P	Sample rejected/voided at laboratory.	R
Q	Sample submitted to laboratory past holding time.	H
R	Results based on four or more replicates.	
S	Relative percent difference between duplicates greater than 10% (waters).	
T	Relative percent difference between duplicates greater than 30% (soils).	
U	Analyte was not detected in this sample above the method's sample detection limit	U

Data Dictionary Data Report Field Definitions: SWQB Qualifier

Validation Code	Definition	WQX Equivalent
A1	Sample not collected according to SOP	
A2	Method QC check not completed according to SOP	
B1	Chemical was detected in the field blank at a concentration less than 5% of the sample concentration.	
BN	Blanks NOT collected during sampling run	
BU	Detection in blank. Analyte was not detected in this sample above the method's sample detection limit.	BU
C1	Instrument verification between in-calibration range and maximum interpolation range.	EST
C2	Data corrected for instrument drift within acceptable interpolation range.	CLC
E	The listed result is greater than the upper quantitation limit for either the analytical method or the meter used for the measurement.	GT
RB1	Chemical was detected in the field blank at a concentration greater than or equal to 5% of the sample concentration. Results for this sample are rejected because they may be the result of contamination; the results may not be reported or used for regulatory compliance purposes.	B
R1	Rejected due to incorrect sample preservation	R
R2	Rejected due to equipment failure in the field	R
R3	Rejected based on best professional judgment	R
R4	Instrument failed quality control check	FQC
D1	Spike recovery not within method acceptance limits	
F1	Sample filter time exceeded	
J1	Estimated: the analyte was positively identified and the associated value is an approximate concentration of the analyte in the sample	J
K1	Holding time violation	H
Ea	Estimated-Incubation temperature between 35.5 and 38.0° Celsius	
Er	Rejected-Incubation temperature < 34.5 or >38.0° Celsius	R
PD1	Percent difference between duplicate samples excessive	
S1	Per SLD, uncertainties (sigmas) are expressed as one standard deviation, i.e. one standard error. Small negative or positive values that are less than two standard deviations should be interpreted as "less than the detection limit."	
S2	Data are suspect but deemed usable based on best professional judgment; documentation of justification is required and should be included in the Data Verification and Validation Packet and reported with results	SUS
Z1	Macroinvertebrate data did not meet QC criteria specified in Section 2.5 of QAPP	
H1	Habitat data did not meet QC criteria specified in Section 2.5 of QAPP	

Data Dictionary Geomorphology Habitat Field Definitions

FIELD NAME	DESCRIPTION
Project	Survey monitoring project name
STATION	Monitoring location name
DATE	Date of sample collection
FIELD CREW	Sample collection staff
LEVEL IV EcoR	Level IV Ecoregion
Sediment Site Class (MTN, FTHILL, XERIC)	NMED SWQB Sediment Site Class
Reach length (m) from PC form	Length of pebble count survey reach (meters)
Reach length (m) from Thalweg form	Length of thalweg survey reach (meters)
D50_no bedrock =Median particle size_no bedrock (mm) =	50th percentile of particle size diameter excluding bedrock samples
% sand and fines (≤2 mm) =	Percent sand and fines in pebble count survey
LEVEL 1 ASSESSMENT CONCLUSION	NS = Non Support, FS=Full Support
% fines (≤0.06 mm) =	Percent fines (particles ≤ 0.06 mm)
WINXSPRO D84_no bedrock (mm) =	84th percentile of particle size diameter excluding bedrock samples
WINXSPRO Slope (ft/ft) =	Channel slope of surveyed reach in rise/run
SSTEMP Total shade (%) =	Shade percentage of surveyed reach
SSTEMP Latitude (degrees) =	Latitude of survey reach midpoint
SSTEMP Wetted width (ft)=	Wetted width at stream discharge cross section
Cross section area (ft²)	Stream discharge wetted cross section area
SSTEMP Flow (cfs) =	Measured stream discharge
Manning's Coefficient (n)	not currently used
Residual Pool Vertical Profile Area (m²/reach) = Area Sum	Thalweg wetted area
Log 10 geometric mean substrate size_bedrock excluded (mm) = LSUB_DMM_no bedrock	Log10 of pebble count geometric mean, excluding bedrock
Mean residual depth (m²/100m) = RP100 (cm)	Residual Pool Vertical Area / Pebble Count Reach Length * 100
Mean bankfull width (m) = XBkf_W	Mean bankfull width of measured profiles
Estimated volume of large woody debris (m³) = VLW	Estimated volume of large woody debris in survey reach
VLW_MSQ (m)	VLW/(XBkf_W*Reach Length)
Mean particle size_bedrock excluded (mm) = D50_no bedrock	50th percentile of particle size diameter excluding bedrock samples
Mean bankfull height (m) = XBkf_H	Mean bankfull height of measured profiles
Mean thalweg depth (cm) = XDEPTH	Mean of thalweg depth measurements
Reach SLOPE (%) = XSLOPE	Channel slope of surveyed reach in percent
Geometric mean particle size (m) = Dgm	Geometric mean of particle size diameter from pebble count
Average bankfull thalweg depth (m) = Dbf_th = XDEPTH + XBkf_H	Mean thalweg depth + mean bankful height
Bankfull hydraulic radius - unadjusted (m) = Rbf	Average bankfull thalweg depth * 0.65
rho	constant value
rhosed	constant value
g	gravitational constant value (m/sec²)
Ct_rpwd	Calculation steps for log relative bed stability
Cp3_mill_a	""
Cp3_mill	""
Cp3Ctrpwd_rat	""
Rrpw3	""
Reyp3	""
LReyp3	""
Shld_Px3_1	""
LShld_Px3	""
Shld_Px3	""
Dcbf_fin	""
LDcbf_fin	Denominator of log relative bed stability
Log relative bed stability_final_no bedrock = LRBS_fin_NOR	Calculated log relative bed stability
LEVEL 2 ASSESSMENT CONCLUSION	NS = Non Support, FS=Full Support, NA=not calculated
Comments	Physical habitat survey comments

Data Dictionary Benthic Taxon

FIELD NAME	DESCRIPTION
PRJ_NAME	Survey monitoring project name
MLOC_ID	Unique identifier for monitoring location
MLOC_NAME	Monitoring location name
MLOC_LATITUDE	Coordinates of sample location, latitude (WGS84)
MLOC_LONGITUDE	Coordinates of sample location, longitude (WGS84)
ACT_ID	Sample bottle or action identifier
ACT_START_DATE	Date of sample collection
RES_LAB_NAME	Name of enumerating laboratory
FAMILY	Taxonomic class of organism at Family level
TRIBE	Taxonomic class of organism at Tribe level
GENUS	Taxonomic class of organism at Genus level
TXRNK_NAME	Taxonomic rank of organism identified
TAX_NAME	Taxonomic class at Genus and species level
MEASUREMENT	Count of individuals
UNITS	Unit of measurement
LIFE_STAGE	Life cycle stage of organism
ANALYTE_SUITE	Analysis group for sample
CHR_CAS_NO	Unique numerical identifier assigned by the Chemical Abstracts Service (CAS) to every chemical substance described in the open scientific literature
CHR_NAME	Name of analytical parameter
ANLMTH_ID	Analysis method identifier
RES_COMMENTS	Result comments
CHR_UID	Database field unique identifier: characteristic
RES_UID	Database field unique identifier: result
ACT_UID	Database field unique identifier: activity
SE_UID	Database field unique identifier: sample event
MLOC_UID	Database field unique identifier: monitoring location
PRJ_UID	Database field unique identifier: project

Data Dictionary Fish Ecology

FIELD NAME	DESCRIPTION
PROJECT_NAME	Survey monitoring project name
STATION_NAME	Monitoring location name
COLLECTION_DATE_TIME	Date of sample collection
COLLECTION_AGENCY	Sample collectoin organization
ANALYTICAL_LAB	Name of laboratory performing analysis
COLLECTION_METHOD	Method of fish collection
TISSUE_TYPE	Description of tissue sample, if collected
COLLECTOR(S)	Staff present at sample event
COMMENTS	Sample comments
SPECIES	Fish species collected
TOTAL_COUNT	Number of individuals collected
TOTAL_LENGTHS(mm)	Series of individual lengths
DEFORMITIES (COUNT)	Individuals with deformities counted
DEFORMITIES (%)	Percentage of individuals with deformities
EMACIATED (COUNT)	Count of emaciated individuals
EMACIATED (%)	Percentage of emaciated individuals
ERODEDFINS (COUNT)	Individuals with eroded fins counted
EROREDFINS (%)	Percentage of individuals with eroded fins
FUNGUS (COUNT)	Individuals with visible fungus counted
FUNGUS (%)	Percentage of individuals with visible fungus
LESIONS (COUNT)	Individuals with lesions counted
LESIONS (%)	Percentage of individuals with lesions
TUMORS (COUNT)	Individuals with tumors counted
TUMORS (%)	Percentage of individuals with tumors
OTHER (COUNT)	Individuals with other health conditions counted
OTHER (%)	Percentage of individuals with other health conditions
COMP_UID	Database field unique identifier: Result
PRJ_UID	Database field unique identifier: Project
MLOC_UID	Database field unique identifier: Monitoring Location
SE_UID	Database field unique identifier: Sample Event

Data Dictionary Field Definitions: Pre- 2010 Field Sampling

FIELD NAME	DESCRIPTION
STORET ID	Unique identifier for monitoring location
Sample site	Monitoring location name
Collection date/time	Date of sample collection
pH	pH result (su)
EC	Specific Conductance result (uS/cm)
Temp	Temperture result ©
DO (mg/L)	Dissolved oxygen concentration result (mg/L)
DO (%sat)	Dissolved oxygen saturation result (%)
Turb	Turbidity result (NTU)
Salinity	Salinity result (ppt)
ValCode	Quality control validation code
Field notes	Sample event comments

Data Dictionary Data Report Field Definitions Pre-2010: WQ Report Fields

FIELD NAME	DESCRIPTION
County	Monitoring station county
HUC	Monitoring station 12-digit Hydrologic Unit Code
SEGNAME	Monitoring station assessment unit name
STORET ID	Unique identifier for monitoring station
Latitude	Monitoring station coordinates, latitude (WGS84)
Longitude	Monitoring station coordinates, longitude (WGS84)
StudyName	Survey monitoring project name
Station comments	Staff comments on station
ColDateTime	Date of sample collection
SampleType	Description of data collection type
SampleID	Sample bottle or action identifier
Analyte name	Name of analytical parameter
Calculated concentration	Result of measurement of analysis. MDP = Missing data point.
Units	Unit of measurement
Dilution Factor	A factor indicating the amount of which the sample was diluted to address matrix problems or achieve instrument response within its calibrated dynamic range. DILUTION FACTOR is informational only and not used to modify the CALCULATED CONCENTRATION. It can influence the SDL. A value of one means undiluted. Values greater than one indicate dilution. Values less than one indicate concentration.
Procedure code	Analysis method identifier
Less than	Logic statement indicating whether the REPORTED VALUE is less than the SDL
Qualifier codes	Result qualifier attributed by the laboratory. See LAB_QUALIFIER worksheet for definitions.
Sample detection limit	The Sample Detection Limit (SDL) is equal to the MRL raised by a factor corresponding to the DILUTION_FACTOR when a sample has to be diluted before analysis. If DILUTION_FACTOR = 1, SDL = MLQ. Measured values less than the SDL are reported (in REPORTED VALUE) at the SDL.
Sigma	Statistical confidence in reported value. Used only for radionuclides
MDL	The minimum measured concentration of a substance that can be reported with 99% confidence that the measured concentration is distinguishable from method blank results (EPA 821-R-16-006, 2016).
MLQ	The lowest concentration at which an analyte can be detected in a sample and its concentration can be reported with a reasonable degree of accuracy and precision. If blank = SDL.
PQL	The level at which an instrument response can be quantified.
Notes	Result comments
Validation Code	Result qualifier attributed by the SWQB. See SWQB_QUALIFIER worksheet for definitions
Validation Code Comments	Staff validation comments
Lab ID	Name of laboratory performing analysis
pH	pH result (su)
EC	Specific Conductance result (uS/cm)
temperature	Temperture result (C)
DO	Dissolved oxygen concentration result (mg/L)
DOsat	Dissolved oxygen saturation result (%)
turbidity	Turbidity result (NTU)
Salinity	Salinity result (ppt)
Sample Medium	Type of sample media
Collection Method	Method of sample collection
Sample Type	Description of data collection type
CAS Number	Unique numerical identifier assigned by the Chemical Abstracts Service (CAS) to every chemical substance described in the open scientific literature.

Data Dictionary Data Report Field Definitions Pre-2010: Lab Qualifier

Data Qualifier	Description	WQX Equivalent
A	See note/comments.	
B	Analyte was detected in the laboratory blank.	B
C	Spike recovery in laboratory fortified blank is within method acceptance limits.	
D	Spike recovery in laboratory fortified blank is not within method acceptance limits.	
E	Analyte value exceeded calibration range.	
F	Sample matrix interference suspected.	
H	Sample was analyzed in duplicate.	
I	Sample was analyzed in triplicate.	
J	Analyte was detected at a level below the method's sample detection limit.	
K	Holding time was exceeded at laboratory.	H
L	Regulated parameter value equals or exceeds the EPA SDWA Maximum Contamination Level.	
M	Regulated parameter value equals or exceeds the EPA SDWA Action Level.	
N	Insufficient sample to verify results.	
O	Method internal standard(s) not within method acceptance limits when analyzed undiluted.	
P	Sample rejected/voided at laboratory.	R
Q	Sample submitted to laboratory past holding time.	H

Data Dictionary Data Report Field Definitions Pre-2010: SWQB Qualifier

Validation Code	Definition	WQX Equivalent
A1	Sample not collected according to SOP	
A2	Method QC check not completed according to SOP	
B1	Chemical was detected in the field blank at a concentration less than 5% of the sample concentration.	
BN	Blanks NOT collected during sampling run	
BU	Detection in blank. Analyte was not detected in this sample above the method's sample detection limit.	BU
C1	Instrument verification between in-calibration range and maximum interpolation range.	EST
C2	Data corrected for instrument drift within acceptable interpolation range.	CLC
E	The listed result is greater than the upper quantitation limit for either the analytical method or the meter used for the measurement.	GT
RB1	Chemical was detected in the field blank at a concentration greater than or equal to 5% of the sample concentration. Results for this sample are rejected because they may be the result of contamination; the results may not be reported or used for regulatory compliance purposes.	B
R1	Rejected due to incorrect sample preservation	R
R2	Rejected due to equipment failure in the field	R
R3	Rejected based on best professional judgment	R
R4	Instrument failed quality control check	FQC
D1	Spike recovery not within method acceptance limits	
F1	Sample filter time exceeded	
J1	Estimated: the analyte was positively identified and the associated value is an approximate concentration of the analyte in the sample	J
K1	Holding time violation	H
Ea	Estimated-Incubation temperature between 35.5 and 38.0° Celsius	
Er	Rejected-Incubation temperature < 34.5 or >38.0° Celsius	R
PD1	Percent difference between duplicate samples excessive	
S1	Per SLD, uncertainties (sigmas) are expressed as one standard deviation, i.e. one standard error. Small negative or positive values that are less than two standard deviations should be interpreted as "less than the detection limit."	
S2	Data are suspect but deemed usable based on best professional judgment; documentation of justification is required and should be included in the Data Verification and Validation Packet and reported with results	SUS
Z1	Macroinvertebrate data did not meet QC criteria specified in Section 2.5 of QAPP	
H1	Habitat data did not meet QC criteria specified in Section 2.5 of QAPP	

**New Mexico Environment Department
Surface Water Quality Bureau
WQCC Docketed Matter 21-62(R)**

**Proposed Language to the state's *Standards for Interstate and Intrastate Surface Waters*
(20.6.4 NMAC as amended from the April 23, 2022, effective rule)**

To include designation of ONRWs in the Upper Rio Grande, Rio Hondo, Lake Fork Creek, East Fork Jemez River, Rio San Antonio, and Redondo Creek.

20.6.4.9 OUTSTANDING NATIONAL RESOURCE WATERS:

A. Procedures for nominating an ONRW: Any person may nominate a surface water of the state for designation as an ONRW by filing a petition with the commission pursuant to 20.1.6 NMAC, Rulemaking Procedures - Water Quality Control Commission. 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;
- (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 this section;
- (3) water quality data including chemical, physical or biological parameters, if available, to establish a baseline condition for the proposed ONRW;
- (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) 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.

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

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

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

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

- (1) Rio Santa Barbara, including the west, middle and east forks from their headwaters downstream to the boundary of the Pecos Wilderness; and
- (2) the waters within the United States forest service Valle Vidal special management unit including:
 - (a) Rio Costilla, including Comanche, La Cueva, Fernandez, Chuckwagon, Little Costilla, Powderhouse, Holman, Gold, Grassy, LaBelle and Vidal creeks, from their headwaters downstream to the boundary of the United States forest service Valle Vidal special management unit;
 - (b) Middle Ponil creek, including the waters of Greenwood Canyon, from their headwaters downstream to the boundary of the Elliott S. Barker wildlife management area;
 - (c) Shuree lakes;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) in the Pecos wilderness: Albright creek, Bear creek, Beatty creek, Beaver creek, Carpenter creek, Cascade canyon, Cave creek, El Porvenir creek, Hollinger creek, Holy Ghost creek, Horsethief creek, Jack's creek, Jarosa canyon/creek, Johnson lake, Lake Katherine, Lost Bear lake, Noisy brook, Panchuela creek, Pecos Baldy lake, Pecos river, Rio Mora, Rio Valdez, Rito Azul, Rito de los Chimayosos, Rito de los Esteros, Rito del Oso, Rito del Padre, Rito las Trampas, Rito Maestas, Rito Oscuro, Rito Perro, Rito Sebadilloses, South Fork Bear creek, South Fork Rito Azul, Spirit lake, Stewart lake, Truchas lake (North), Truchas lake (South), Winsor creek;

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

(c) The following waters are designated in the Gila River basin:

(i) in the Aldo Leopold wilderness: Aspen canyon, Black Canyon creek, Bonner canyon, Burnt canyon, Diamond creek, Falls canyon, Fisherman canyon, Running Water canyon, South Diamond creek;

(ii) in the Gila wilderness: Apache creek, Black Canyon creek, Brush canyon, Canyon creek, Chicken Coop canyon, Clear creek, Cooper canyon, Cow creek, Cub creek, Diamond creek, East Fork Gila river, Gila river, Gilita creek, Indian creek, Iron creek, Langstroth canyon, Lilley canyon, Little creek, Little Turkey creek, Lookout canyon, McKenna creek, Middle Fork Gila river, Miller Spring canyon, Mogollon creek, Panther canyon, Prior creek, Rain creek, Raw Meat creek, Rocky canyon, Sacaton creek, Sapillo

creek, Sheep Corral canyon, Skeleton canyon, Squaw creek, Sycamore canyon, Trail canyon, Trail creek, Trout creek, Turkey creek, Turkey Feather creek, Turnbo canyon, West Fork Gila river, West Fork Mogollon creek, White creek, Willow creek, Woodrow canyon.

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

(e) The following waters are designated in the San Francisco River basin:

(i) in the Blue Range wilderness: Pueblo creek;

(ii) in the Gila wilderness: Big Dry creek, Lipsey canyon, Little Dry creek, Little Whitewater creek, South Fork Whitewater creek, Spider creek, Spruce creek, Whitewater creek.

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

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

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

*(4) the Rio Grande from directly above the confluence with the Rio Pueblo de Taos to the New Mexico-Colorado state border.

*(5) the Rio Hondo from the Carson National Forest boundary to its headwaters; and Lake Fork creek from the Rio Hondo to its headwaters.

*(6) the East Fork Jemez river from San Antonio creek to its headwaters; San Antonio creek from the East Fork Jemez river to its headwaters; and Redondo creek from Sulphur creek to its headwaters.

[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, 7/17/2005; A, 2/16/2006; A, 12/1/2010; A, 1/14/2011; A, 4/23/2022]

**If adopted, the final citations may vary pending other rule making actions before the Commission.*