



# Outdoor Recreation Division Outstanding Waters Hearing

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DIRECT TESTIMONY

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**EDD** ECONOMIC  
DEVELOPMENT  
DEPARTMENT  
OUTDOOR RECREATION DIVISION



## ***OUTSTANDING WATERS OVERVIEW***

ONRW designation provides highest level of protection. No degradation allowed except for short term degradation associated with restoration and public safety activities.

Protects existing uses such as acequias, recreation, farming, and ranching.

Three ONRW designations to date:

- Rio Santa Barbara
- Waters in the Valle Vidal
- All named perennial waters and wetlands in USFS Wilderness
- Upper Pecos Watershed ONRW petition is pending

# ORD Recreation Petition Overview

- EDD/ORD is Petitioner, with technical assistance and support from Department of Game and Fish and Environment Department.
- 50 resolutions and letters from Pueblos, state legislators, local governments, acequia associations, land grants, schools, neighborhood associations, businesses, and nongovernmental associations that support the nominations.
- New Mexicans, including these supporters, depend on these waters for their cultural heritage, traditions, livelihoods, and recreation.
- Nominated waters: Stretches of the Rio Grande, Rio Hondo, Lake Fork, and headwaters of the Jemez.



# The Nominated Rivers: 125.9 Miles of Surface Waters

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ORD requests the Commission to designate six waterbodies as ONRWs by amending 20.6.4.9.D NMAC as follows:

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

1. the Rio Grande from directly above the Rio Pueblo de Taos to the New Mexico-Colorado state border.
2. the Rio Hondo from the Carson National Forest boundary to its headwaters; and Lake Fork creek from the Rio Hondo to its headwaters.
3. 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.

# ONRW Requirements Have Been Met

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There are six requirements for nominating an ONRW set forth in Section 20.6.4.9.A NMAC. ORD has met each for each nominated waterbody:

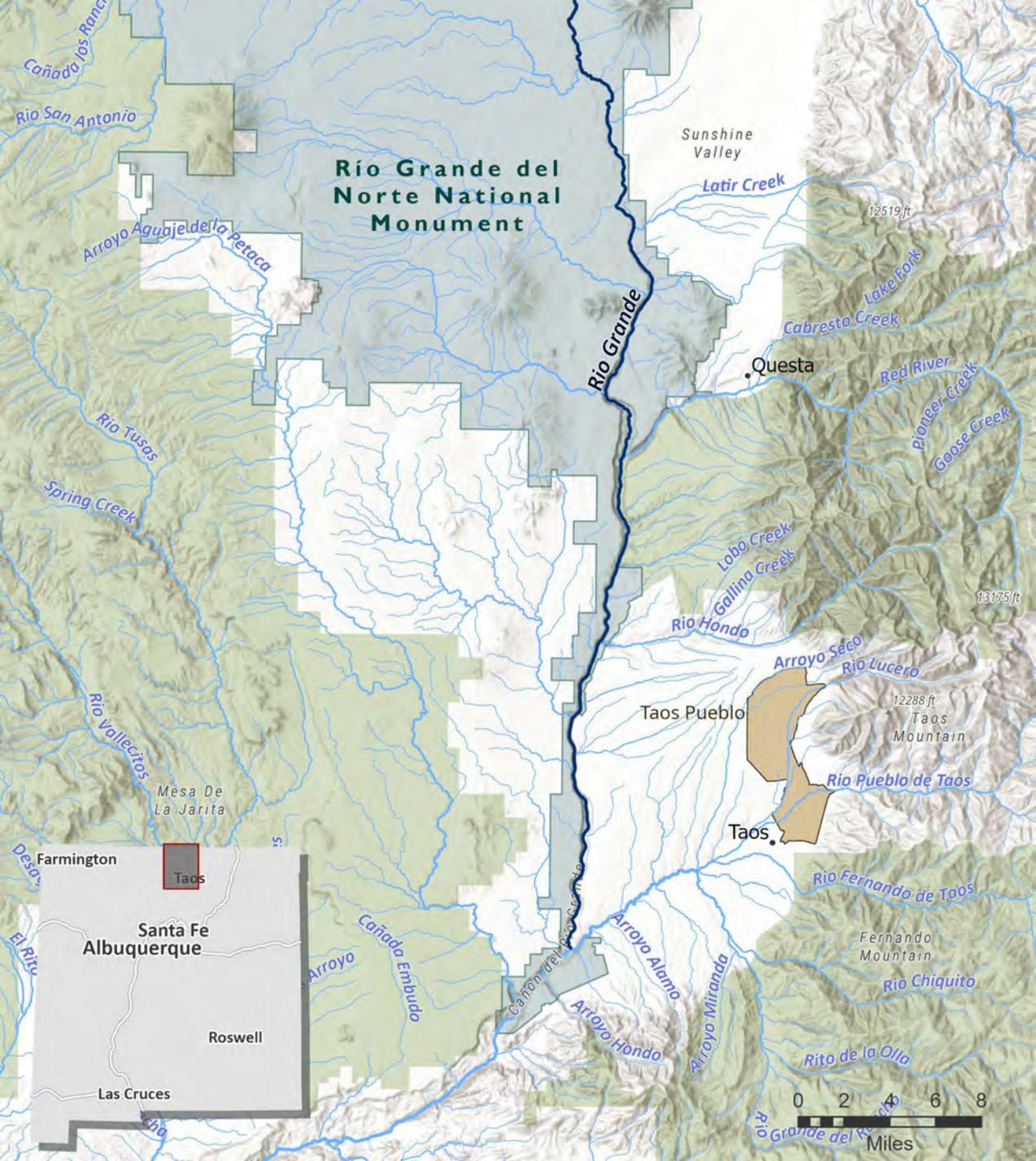
- (1) a map of the surface water of the state, including the location and proposed upstream and downstream boundaries;
- (2) a written statement and evidence based on scientific principles in support of the nomination, including specific reference to one or more of the applicable ONRW criteria listed in 20.6.4.9.B NMAC;
- (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 an analysis 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;
- (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.

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

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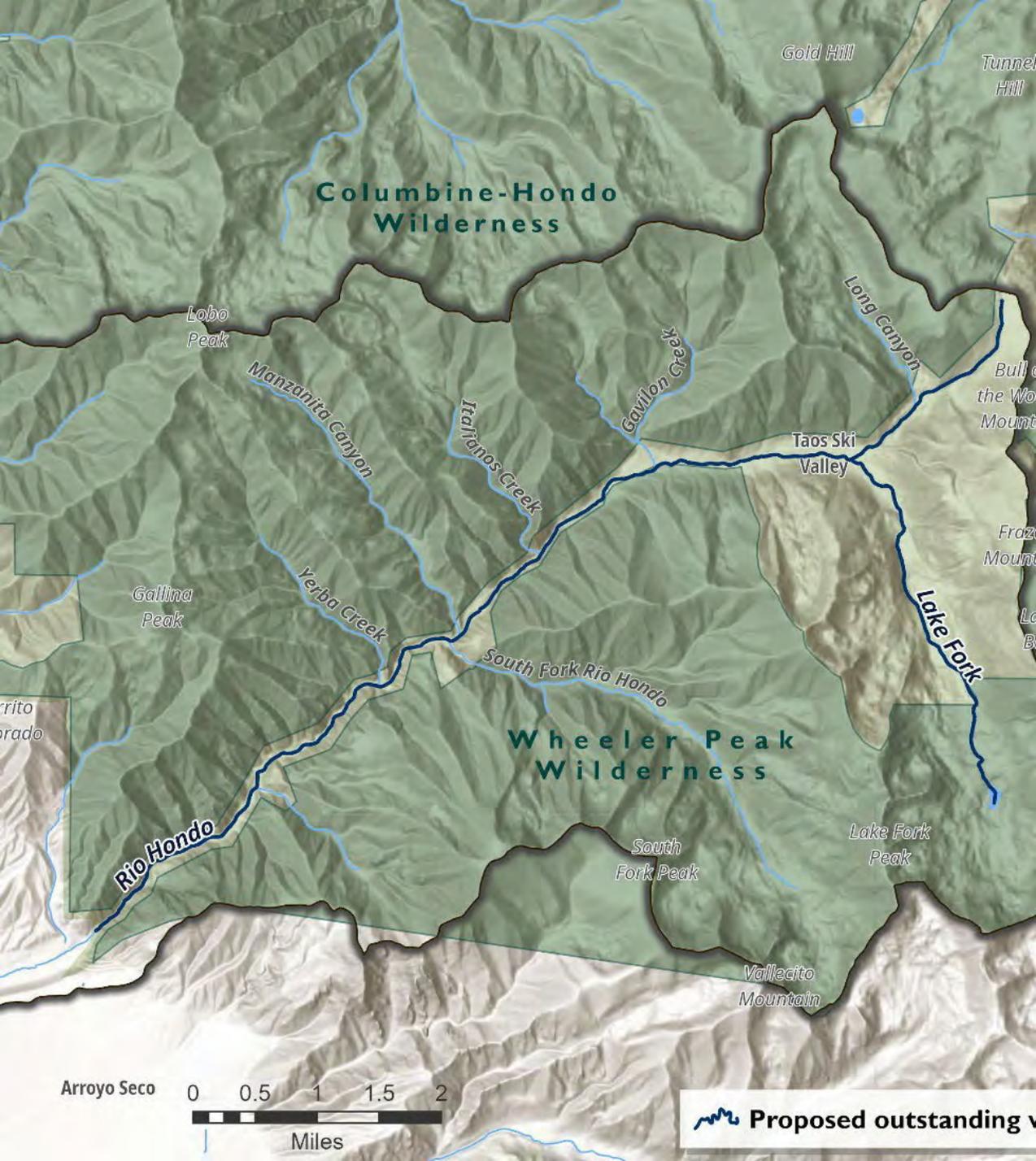
# Nominated Stretches

Waterbody	Segment Description	Length (miles)
Rio Grande	New Mexico-Colorado border to directly above confluence with Rio Pueblo de Taos	52.2
Rio Hondo	Headwaters to Carson National Forest boundary	10.0
Lake Fork	Headwaters to confluence with Rio Hondo	3.3
East Fork Jemez River	Headwaters to confluence with San Antonio Creek	22.1
San Antonio Creek	Headwaters to confluence with East Fork Jemez River	32.1
Redondo Creek	Headwaters to confluence with Sulphur Creek	6.2
Total		125.9



# Rio Grande

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# Rio Hondo and Lake Fork

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# East Fork Jemez River, San Antonio Creek, and Redondo Creek

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(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 20.6.4.9.B NMAC.

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

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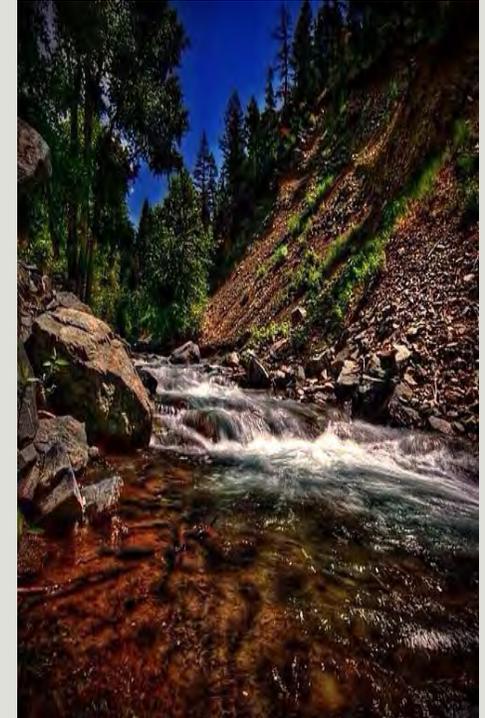
(4) a discussion of activities that might contribute to the reduction of water quality in the proposed ONRW.

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# Potential Threats to Each Waterbody

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- Climate change and watershed health and function.
- Wildfires.
- Development and transportation.
- Increased recreational use without proper management.
- Waste disposal.



(5) any additional evidence to substantiate such a designation, including an analysis 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.

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# The Positive Economic Impacts

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- Between 2015 and 2019, **visitor spending grew +18% and generated \$7.4 billion.**
- Tourism-related employment totaled +96,000 jobs in 2019, accounting for **8.6 percent of all jobs in New Mexico**, while tourism generated \$737 million in tax revenues.
- In 2020, **boating and fishing were 2<sup>nd</sup> largest drivers of state outdoor economy**, generating \$100.96 million for state GDP.
- The economic impact of boating and fishing in New Mexico **grew by 27% between 2019 and 2020.**
- In 2019, this sector constituted **29.6% of jobs in Taos County and 10.1% of jobs in Sandoval County.**
- Between **12% to 30% of visits to these counties include hiking, backpacking, and general nature enjoyment.**
- In Sandoval County, **recreation is the single biggest spending category**, with \$77.9 million in direct visitor spend in 2019.
- For Taos County, 2019 **visitor spending on recreation reached almost \$30 million**, having increased steadily each year since at least 2013.

(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.

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# Affidavits of Publication for Petition

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- *Taos News*, a newspaper of general circulation in Taos County, published November 25, 2021;
- *Rio Rancho Observer*, a newspaper of general circulation in Sandoval County, published November 28, 2021;
- *Albuquerque Journal*, a newspaper of general statewide circulation, published November 21, 2021.

# Notice Requirements for Hearing Have Been Met

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- Publication in New Mexico Register (Mar. 22, 2022)
- Publication in newspaper of general circulation and in geographic area affected
  - *Albuquerque Journal* (April 2, 2022)
  - *Taos News* (April 14, 2022)
  - *Rio Rancho Observer* (April 10, 2022)
- Notice to Small Business Regulatory Relief Commission
- Post notice on Commission website
- Post notice on New Mexico Sunshine Portal
- Provide notice to NMED field offices
- Provide notice to those who request notice of Commission rulemakings
- Provide notice to Legislative Council Service

# ONRW Criteria

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**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.

20.6.4.9.B NMAC (emphasis added).

ORD Has Satisfied  
All the Criteria for  
Designation for All  
the Nominated  
Waterbodies

- Designation of **all waters is beneficial to the state**, 20.6.4.9.B NMAC, ~~set forth in Section V.H and throughout Petitioner's Notice of Intent;~~
- **All waters have exceptional recreational significance**, 20.6.4.9.B(2) NMAC, ~~set forth in Section V.B;~~
- **All waters have exceptional ecological significance**, 20.6.4.9.B(2) NMAC, ~~set forth in Section V.C;~~
- **Certain waters are a significant attribute of a state special trout water or national monument**, or part of a federal wild and scenic river, 20.6.4.9.B(1) NMAC, ~~set forth in Section V.D, E, and F, respectively;~~ and
- **Certain waters meet the water quality standards** required by 20.6.4.9.B(3) NMAC, ~~set forth in Section V.G.~~

# Exceptional Recreational Significance

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## Rio Grande

- In 2020-21, ~30,000 anglers fished this stretch of river, accounting for ~80,000 visitor days.
- For 2020-21, this stretch ranked 4th in the state for the number of anglers fishing in a stream.
- One of the top 32 waterways in North America by *Outside* magazine for whitewater.

## Rio Hondo and Lake Fork

- During 2020-21, the Rio Hondo saw over 1,700 anglers and almost 4,900 visitor days.
- Rio Grande cutthroat trout and cutthroat trout inhabit the waters of the Rio Hondo and Lake Fork. Both are SERI. (~~Special Status Animal and Plant Lists~~)



# Exceptional Recreational Significance

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## Headwaters of the Jemez

- Region attracted ~50,000 visitors in 2019.
- In 2020-21, >23,000 anglers fished the nominated stretch of the East Fork Jemez.
- For 2020-21, this stretch ranked 6<sup>th</sup> in the state for the number of anglers fishing in a stream.
- In 2020-21, >13,500 anglers fished the nominated stretch of the San Antonio.
- For 2020-21, this stretch ranked 15<sup>th</sup> in the state for the number of anglers fishing in a stream.



# Special Trout Waters

- Rio Grande: New Mexico-Colorado border to directly above confluence with Rio Pueblo de Taos (Xmas Chile) (52.2 miles)
- San Antonio Creek: Headwaters to VCNP boundary downstream 2.0 miles to the San Antonio Hot Springs pedestrian bridge (Green Chile) (22.2 miles)
- East Fork Jemez River: Headwaters to VCNP boundary (Green Chile) (10.4 miles)
- Redondo Creek: Headwaters to VCNP boundary (Green Chile) (5.5 miles)



# National Monument and Wild & Scenic

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## National Monument

- The 52.2-mile nominated segment of the upper Rio Grande lies entirely within Rio Grande del Norte National Monument

## Wild and Scenic

- Rio Grande: New Mexico-Colorado border to directly above confluence with Rio Pueblo de Taos (52.2 miles)
- East Fork Jemez River: from the Santa Fe National Forest Boundary to its confluence with San Antonio Creek (11 miles)



# Criteria Met for Designation: A Recap (Exhibit 7)

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**ONRW NOMINATED WATERS**

Green = criteria met (note: NM Benefit plus only one other criterion is required to satisfy 20.6.4.9.B NMAC)

Nominated Waterbody	CRITERIA						Water quality = or > numeric criteria
	NM Benefit	State Special Trout Waters	Wild and Scenic River	National Monument	Exceptional recreational significance	Exceptional ecological significance	
<b>Rio Grande</b>	Recreational benefit, ecological benefit, mitigate and adapt to climate change, historical and cultural significance, economic benefit (outdoor recreation/tourism, irrigation)	YES (entire nominated segment)	YES	YES (Rio Grande del Norte National Monument)	Fishing, rafting and kayaking, visitor numbers (for hiking, bird and wildlife watching, backpacking, camping, photography, bike riding, hunting), and 9 SERI	25 SGCN, 1 federal/state endangered, 4 state threatened, 3 special status plants	
				79,764 visitor (fishing) days (2020-21)			
<b>Rio Hondo</b>	Recreational benefit, ecological benefit, mitigate and adapt to climate change, historical and cultural significance, economic benefit (outdoor recreation/tourism, irrigation)				Fishing and 7 SERI (also has camping, hiking, horseback riding, hunting, bird watching, photography, backpacking, bike riding, rafting)	23 SGCN, 1 state endangered, 4 state threatened, 1 special status plants	YES (all water quality standards are met including aquatic life and human contact uses)
				4,897 visitor (fishing) days (2020-21)			
<b>Lake Fork</b>	Recreational benefit, ecological benefit, mitigate and adapt to climate change, historical and cultural significance, economic benefit (outdoor recreation/tourism, irrigation)				7 SERI (also has fishing, camping, hiking, horseback riding, hunting, bird watching, photography, backpacking, bike riding, rafting)	18 SGCN, 1 state endangered, 4 state threatened, 1 special status plant species	YES (all water quality standards are met including aquatic life and human contact uses)

**ONRW NOMINATED WATERS**

Green = criteria met (note: NM Benefit plus only one other criterion is required to satisfy 20.6.4.9.B NMAC)

CRITERIA							
Nominated Waterbody	NM Benefit	State Special Trout Waters	Wild and Scenic River	National Monument	Exceptional recreational significance	Exceptional ecological significance	Water quality = or > numeric criteria
San Antonio Creek	Recreational benefit, ecological benefit, mitigate and adapt to climate change, historical and cultural significance, economic benefit (outdoor recreation/tourism, irrigation)	YES (from San Antonio Hotsprings pedestrian bridge upstream to headwaters)			Fishing and 4 SERI (also has camping, hiking, horseback riding, hunting, wildlife and bird watching, photography, backpacking, bike riding, rafting)	31 SGCN, 2 federally/state endangered, 1 federally threatened, 4 state threatened, 3 special status plants	
32,884 visitor (fishing) days (2020-21)							
East Fork Jemez River	Recreational benefit, ecological benefit, mitigate and adapt to climate change, historical and cultural significance, economic benefit (outdoor recreation/tourism, irrigation)	YES (within Valles Caldera National Preserve)	YES (Santa Fe National Forest boundary downstream to confluence with San Antonio Creek)		Fishing and 4 SERI (also has camping, hiking, horseback riding, hunting, wildlife bird watching, photography, backpacking, bike riding, rafting)	31 SGCN, 1 federally/state endangered, 1 state endangered, 1 federally threatened, 4 state threatened, 3 special status plants	
67,226 visitor (fishing) days (2020-21)							
Redondo Creek	Recreational benefit, ecological benefit, mitigate and adapt to climate change, historical and cultural significance, economic benefit (outdoor recreation/tourism, irrigation)	YES (within Valles Caldera National Preserve)			4 SERI (also has camping, hiking, horseback riding, hunting, fishing, bird watching, photography, backpacking, bike riding, rafting)	27 SGCN, 2 federally/state endangered, 1 state endangered, 1 federally threatened, 3 state threatened	

# 50 Letters & Resolutions of Support

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## Federal Government

Valles Caldera National Preserve

## Pueblos

All Pueblo Council of Governors

Santa Clara Pueblo

Taos Pueblo

Joseph “Brophy” Toledo, Jemez Pueblo

## Local Governments

Taos County

Town of Red River

Town of Taos

Village of Jemez Springs

Village of Taos Ski Valley

Village of Questa

## Businesses

Taos Chamber of Commerce

Laguna Elk Ranch

Los Rios River Runners

MuddnFlood Mountain Shop

New Mexico River Outfitters Association

Pilar Yacht Club

Shed Rio

Taos Ski Valley

Taos Village Farm

## Acequias

New Mexico Acequia Commission

Acequia de la Plaza

Acequia de San Antonio

Acequia Madre del Rio Chiquito

Acequia Madre del Rio Lucero y Arroyo Seco

Atalya Acequia

Des Montes Ditch Association

Embudo Valley Regional Acequia

Association (representing 10 acequias)

Rebalse Ditch Association

Taos Valley Acequia Association

## Land Grants

Arroyo Hondo Arriba Community Land

Grant Association

## Neighborhood Associations

Lower Des Montes Neighborhood

Association

Stagecoach Neighborhood Association

## State Legislators

Representative Kristina Ortez, D-42

## NGOs

American Rivers

Amigos Bravos

Bosque Chapter Trout Unlimited

Caldera Action

Climate Advocates Voces Unidas

Firewise USA

Enchanted Circle Trout Unlimited

Los Amigos de Valles Caldera

New Mexico Wild

New Mexico Wildlife Federation

River and Birds

Roots and Wings Community School

Taos Initiative for Life Together

The Pew Charitable Trusts

Trout Unlimited New Mexico

## Land Owners

Benjamin Green

“Our parciantes cherish our local rivers,” writes Elias Espinoza, Mayordomo of the Acequia de San Antonio, which feeds from the Rio Hondo. Not only do the acequia association members irrigate with water from the Rio Hondo, “[w]e also know that our fellow parciantes on other acequias . . . depend on the Rio Hondo to irrigate food crops, pastures and livestock. We all depend on clean unpolluted waters from our local river for our quality of life.”

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## ACEQUIA SIGNIFICANCE AND SUPPORT

“Today, the descendants of Jemez Pueblo continue to regularly visit the Jemez headwaters, including the sacred shrines of the Valles Caldera and perform ceremonies using the sacred waters of the Jemez as well as the many tributaries that feed into the mainstem,” writes Jemez Pueblo member and cultural leader Joseph “Brophy” Toledo. “The headwaters are a critical place for prayer and they are the source and root of all life in the watershed.”

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## PUEBLO SIGNIFICANCE AND SUPPORT

# A Whole Community Vision

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- ORD has worked closely over the past two years with governmental and nongovernmental partners, including NMDGF, Amigos Bravos, Trout Unlimited, New Mexico Wild, and The Pew Charitable Trusts.
- Contacted more than 50 Pueblos, state legislators, local governments, acequia associations, land grants, schools, neighborhood associations, and local businesses that have provided resolutions and letters of support.
- Consulted with or gave presentations to the New Mexico Acequia Commission, New Mexico Acequia Association, Jemez Pueblo, Flower Hill Institute, Santa Ana Pueblo, Zia Pueblo, landowners in each watershed, U.S. Forest Service Jemez District Ranger, U.S. Forest Service Carson National Forest staff, and U.S. Bureau of Land Management.
- In addition, ORD and its partners have held public community outreach meetings to provide information and answer questions on all nominations, including presenting to Jemez Walatowa farmers' group.

