



October 24, 2022

Dr. Earthea Nance
Regional Administrator
U.S. Environmental Protection Agency, Region 6
1201 Elm St., Suite 500
Dallas, TX 75270
Nance.Earthea@epa.gov

Re: Request for EPA's review and approval of designated ONRW's in the State of New Mexico's Standards for Interstate and Intrastate Surface Waters (20.6.4 NMAC)

Dear Regional Administrator Nance:

Pursuant to Section 303(c) of the federal Clean Water Act ("CWA") and Section 131.20 of Title 40 of the Code of Federal Regulations ("CFR"), the New Mexico Environment Department ("Department" or "NMED") hereby submits, on behalf of New Mexico's Water Quality Control Commission, amendments to New Mexico's *Standards for Interstate and Intrastate Surface Waters* 20.6.4 New Mexico Administrative Code ("NMAC"). These amendments are the result of two independent public hearings which led the Water Quality Control Commission ("WQCC" or "Commission") to designate several waters in New Mexico as Outstanding National Resource Waters ("ONRWs"). These waters include all identified waters of the state within the "upper Pecos watershed" upstream of the Dalton Canyon Creek Day Use Area to the U.S. Forest Service ("USFS") Wilderness Boundary ("Pecos ONRW") [WQCC Docketed Matter 21-51(R)] and the Rio Grande from directly upstream of the Rio Pueblo de Taos to the New Mexico-Colorado state border, the Rio Hondo from the Carson National Forest boundary to its headwaters, Lake Fork Creek from the Rio Hondo to its headwaters, 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 ("Rio Grande-Hondo-Jemez ONRW") [WQCC Docketed Matter 21-62(R)].

The Department engaged the U.S. Environmental Protection Agency ("EPA" or "Agency") Region 6 early and often in both rulemakings. In both actions, parties other than the Department petitioned the WQCC to designate certain waters as ONRWs [WQCC Docketed Matters 21-51(R) and 21-62(R)]. Although the Department was not the petitioner, it was a party to both matters and participated in the public hearing process.

As it pertains to WQCC Docketed Matter 21-51(R) for the waters within the upper Pecos watershed, the Petitioner submitted a petition for hearing before the WQCC on October 1, 2021. The WQCC heard the petition, set a hearing date, and appointed a hearing officer during their regularly scheduled public meeting on November 9, 2021. The notice of public hearing was provided in accordance with both state and federal requirements. A hearing was held on April 12, 2022, during which the Petitioners, the Department and another party presented technical testimony, predominately in favor of the proposed designations. The WQCC deliberated on July 12, 2022 as detailed in the deliberation transcripts and Statement of Reasons and Decision, dated August 10, 2022.

As it pertains to WQCC Docketed Matter 21-62(R) for portions of the Rio Grande, Rio Hondo, Lake Fork Creek, East Fork Jemez River, San Antonio Creek and Redondo Creek, the Petitioner submitted a petition for hearing before the WQCC on December 3, 2021. The WQCC heard the petition, set a hearing date, and appointed a hearing officer during their regularly scheduled public meeting on December 14, 2021. The notice of public hearing was provided in accordance with both state and federal requirements. A hearing was held on June 14, 2022, during which the Petitioners and the Department presented technical testimony, predominately in favor of the proposed designations. The WQCC deliberated on July 12, 2022 as detailed in the deliberation transcripts and Statement of Reasons and Decision, dated August 15, 2022.

The Department filed the amended rules [WQCC Docketed Matter 21-51(R) and 21-62(R)] concurrently with the State Records and Archives on August 25, 2022, and the amendments became effective for State purposes on September 24, 2022. The Commission met all procedural requirements of New Mexico law for adopting water quality standards as noted in the Attorney General Certification included with this submittal.

The NMED Cabinet Secretary delegated signatory authority to the Surface Water Quality Bureau Chief to submit surface water quality documents to EPA for approval. Included in this submission, the Department has enclosed the amended rule with the designated ONRWs for EPA's consideration along with supporting documentation, including a certification from the state's Attorney General, to aid in the Agency's review. We look forward to hearing from you and your staff about this submission. If you have questions or concerns, please feel free to contact Jennifer Fullam at 505.946.8954 or jennifer.fullam@env.nm.gov.

Sincerely,

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

Encls.: Pecos ONRW [WQCC Docketed Matter 21-51(R)]-Petition for hearing dated October 1, 2021;
Pecos ONRW [WQCC Docketed Matter 21-51(R)]-Order Scheduling Public Hearing and Appointing Hearing Officer dated November 30, 2021;
Rio Grande-Hondo-Jemez ONRW [WQCC Docketed Matter 21-62(R)]- Petition for hearing dated December 3, 2021;
Pecos ONRW [WQCC Docketed Matter 21-51(R)]-Corrected Order Scheduling Public Hearing and Appointing Hearing Officer dated December 17, 2021;
Rio Grande-Hondo-Jemez ONRW [WQCC Docketed Matter 21-62(R)]-Order Scheduling Public Hearing and Designating Hearing Officer dated January 14, 2022;
Pecos ONRW [WQCC Docketed Matter 21-51(R)]-Petitioners' Notice of Intent to Present Technical Testimony dated March 10, 2022;
Pecos ONRW [WQCC Docketed Matter 21-51(R)]-NMED's Notice of Intent to Present Technical Testimony dated March 10, 2022;
Pecos ONRW [WQCC Docketed Matter 21-51(R)]-Dennis McQuillan's Notice of Intent to Present Technical Testimony dated March 10, 2022;
Pecos ONRW [WQCC Docketed Matter 21-51(R)]-WQCC's hearing transcripts for April 12, 2022;
Rio Grande-Hondo-Jemez ONRW [WQCC Docketed Matter 21-62(R)]-Petitioner's Notice of Intent to Present Technical Testimony dated May 13, 2022;

Rio Grande-Hondo-Jemez ONRW [WQCC Docketed Matter 21-62(R)]-NMED's Notice of Intent to Present Technical Testimony dated May 13, 2022;
Pecos ONRW [WQCC Docketed Matter 21-51(R)]-Petitioners' Closing Arguments and Proposed Statement of Reasons dated May 19, 2022;
Pecos ONRW [WQCC Docketed Matter 21-51(R)]-NMED's Closing Arguments and Proposed Statement of Reasons dated May 19, 2022;
Pecos ONRW [WQCC Docketed Matter 21-51(R)]-Dennis McQuillan's Closing Arguments and Proposed Statement of Reasons dated May 19, 2022;
Rio Grande-Hondo-Jemez ONRW [WQCC Docketed Matter 21-62(R)]-WQCC's hearing transcripts for June 14, 2022;
Pecos ONRW [WQCC Docketed Matter 21-51(R)]-Hearing Officer's Report dated June 28, 2022;
Pecos ONRW [WQCC Docketed Matter 21-51(R)]-WQCC deliberation transcripts for July 12, 2022;
Rio Grande-Hondo-Jemez ONRW [WQCC Docketed Matter 21-62(R)]-WQCC deliberation transcripts for July 12, 2022;
Pecos ONRW [WQCC Docketed Matter 21-51(R)]-WQCC's Statement of Reasons and Decision supporting and approving the amendments to 20.6.4 NMAC dated August 10, 2022;
Rio Grande-Hondo-Jemez ONRW [WQCC Docketed Matter 21-62(R)]-WQCC's Statement of Reasons and Decision supporting and approving the amendments to 20.6.4 NMAC dated August 15, 2022;
20.6.4 NMAC as amended to include the designated ONRWs, effective September 24, 2022; and New Mexico Attorney General's certification that the rule was adopted in accordance with the laws of the State of New Mexico.

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