

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

**IN THE MATTER OF THE PETITION FOR
PROPOSED AMENDMENTS TO 20.6.4.9 NMAC,
DESIGNATION OF WATERS OF THE UPPER PECOS No. WQCC 21-51 (R)
WATERSHED AS OUTSTANDING NATIONAL
RESOURCE WATERS,**

**Village of Pecos, San Miguel County,
Upper Pecos Watershed Association, New
Mexico Acequia Association, and Molino
de la Isla Organics LLC,**

Petitioners.

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

Pursuant to 20.1.6.202 NMAC and the *Scheduling Order* issued December 9, 2021, 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 April 12, 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 Department’s 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	Resume of Jennifer Fullam
NMED Exhibit 4	Resume of Diana Aranda
NMED Exhibit 5	Data Dictionary
NMED Exhibit 6	Section 101(a)(2) of the federal Clean Water Act (CWA)
NMED Exhibit 7	40 C.F.R. § 131.12 - Antidegradation policy and implementation methods
NMED Exhibit 8	20.6.4.8 NMAC - Antidegradation Policy and Implementation Plan
NMED Exhibit 9	20.6.4.7(E)(3) NMAC - Definition of "Existing use"
NMED Exhibit 10	20.6.4.9 NMAC - Outstanding National Resource Waters
NMED Exhibit 11	Excerpts from WQCC Statement of Reasons for the 2005 amendments to 20.6.4 NMAC
NMED Exhibit 12	List of identified ONRWs for Valle Vidal from SWQB Mapper
NMED Exhibit 13	Excerpts from the Petition nominating waters of the USFS Wilderness Area as ONRWs - WQCC 10-01 (R)
NMED Exhibit 14	Water Quality Act; NMSA 1978 § 74-6-6
NMED Exhibit 15	40 C.F.R. § 131.20 - State review and revision of water quality standards

NMED Exhibit 16	40 C.F.R. § 25.5 - Public hearings
NMED Exhibit 17	Addendum to Petition references
NMED Exhibit 18	Water Quality Act; NMSA 1978, § 74-6-4
NMED Exhibit 19	State Rules Act; NMSA 1978, § 14-4-5.2
NMED Exhibit 20	Email to NMED from Kelly Nokes (July 6, 2021)
NMED Exhibit 21	Email to Kelly Nokes from NMED (September 10, 2021)
NMED Exhibit 22	20.1.6.200 - 20.1.6.206 NMAC - Rulemaking Procedures
NMED Exhibit 23	Hearing Notice - New Mexico Register
NMED Exhibit 24	Hearing Notice - Las Vegas Optic
NMED Exhibit 25	Hearing Notice - Albuquerque Journal
NMED Exhibit 26	State Rules Act; NMSA 1978, § 14-4-2
NMED Exhibit 27	Hearing Notice - NMED District Managers
NMED Exhibit 28	Hearing Notice - SWQB Website
NMED Exhibit 29	Hearing Notice - GovDelivery
NMED Exhibit 30	Hearing Notice - Sunshine Portal
NMED Exhibit 31	Hearing Notice - Legislative Council Service
NMED Exhibit 32	NMED Tribal Communication and Collaboration Policy
NMED Exhibit 33	Hearing Notification for Tribes
NMED Exhibit 34	Small Business Regulatory Relief Act; NMSA 1978, § 14-4A-4
NMED Exhibit 35	Hearing Notice - Small Business Regulatory Advisory Commission
NMED Exhibit 36	NMED Proposed Language for 20.6.4 NMAC
NMED Exhibit 37	20.6.4.7(B)(1)(b) NMAC
NMED Exhibit 38	State-Tribal Collaboration Act; NMSA 1978, § 11-18-3

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**

By: /s/ John Verheul
John Verheul
Deputy General Counsel
121 Tijeras Ave. NE, Suite 1000
Albuquerque, NM 87102
Telephone (505) 469-8862
Fax: (505) 383-2064
Email: John.Verheul@state.nm.us

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 March 10, 2022:

Kelly E. Nokes
Tannis Fox
Western Environmental Law Center
208 Paseo del Pueblo Sur, No. 602
Taos, New Mexico 87571
nokes@westernlaw.org
fox@westernlaw.org

Counsel for Petitioners

Robert F. Sanchez
Office of the Attorney General
P.O. Box 1508
Santa Fe, New Mexico 87504-1508
rfsanchez@nmag.gov

Counsel for the Water Quality Control Commission

/s/ John Verheul
John Verheul

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 WATER OF THE UPPER PECOS**
8 **WATERSHED AS OUTSTANDING**
9 **NATIONAL RESOURCE WATERS**

WQCC No. 21-51(R)

10
11 Village of Pecos, San Miguel County,
12 Upper Pecos Watershed Association, New
13 Mexico Acequia Association, and Molino
14 de la Isla Organics LLC,
15
16 Petitioners.

17
18 **DIRECT TECHNICAL TESTIMONY OF JENNIFER FULLAM**

19 **I. INTRODUCTION**

20 My name is Jennifer Fullam, and I am presenting this written testimony (**NMED Exhibit**
21 **1**) on behalf of the New Mexico Environment Department (“Department” or “NMED”) concerning
22 the Petition (“Petition”) filed with the Water Quality Control Commission (“WQCC” or
23 “Commission”) on October 1, 2021, by the Village of Pecos, San Miguel County, Upper Pecos
24 Watershed Association, the New Mexico Acequia Association, and Molino de la Isla
25 Organics, LLC (hereinafter referred to as “Petitioners”) to designate identified waters in the upper
26 Pecos as Outstanding National Resource Waters (“ONRWs”). The proposed designation would
27 require amending the State of New Mexico’s *Standards for Interstate and Intrastate Surface*
28 *Waters* (“Standards”), codified as Title 20, Chapter 6, Part 4 of the New Mexico Administrative
29 Code (“NMAC”). The Petitioner is proposing amendments in accordance with 20.6.4.9 NMAC
30 (**NMED Exhibit 10**). My testimony contains the following:

31 I. Introduction

32 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 Waters in the Upper
4 Pecos 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* (20.6.4
7 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") and have been in this position for five years as of March 27, 2022. Within the
12 past five years, I have served as an expert witness and provided testimony in four rulemaking
13 proceedings before the Commission. These include designated aquatic life use amendments for
14 Dog Canyon and Tecolote Creek; designated aquatic life use and recreational use amendments for
15 San Isidro Arroyo and tributaries to San Isidro Arroyo within Lee Ranch Mine; adoption of the
16 state's first temporary standard for the City of Raton's Wastewater Treatment Facility; and various
17 amendments brought forth as part of the Triennial Review of *Standards for Interstate and*
18 *Intrastate Surface Waters* (20.6.4 NMAC). As part of these rulemakings, and as the Standards
19 Coordinator, I have filed amended rules with the State and with the U.S. Environmental Protection
20 Agency ("EPA") in accordance with state and federal law. In addition to the rulemakings identified
21 above, I have also overseen the filing and approval of the amendments to 20.6.4 as part of the 2015
22 Triennial Review which became effective in 2017, provided technical review of the EPA-
23 recommended criteria for aluminum, provided review of work plans for potential Use Attainability

Analyses (“UAAs”) submitted by third-parties to the Department in accordance with 20.6.4.15(D) NMAC, and coordinated updates to the State’s Water Quality Management Plan/Continuing Planning Process, which was approved by the Commission and EPA in 2020.

Including my work with the Surface Water Quality Bureau, I have been with the Department for over 14 years. In addition to my current role, I have served as an Environmental Scientist for the Ground Water Quality Bureau Pollution Prevention Section and as the Delivery Prohibition Coordinator for the Petroleum Storage Tank Bureau. Prior to my service with the Department, I was the Environment Department Director for Tesuque Pueblo where, among other duties, I managed the surface and ground water quality programs including conducting the Triennial Review for the Pueblo’s surface water quality standards. I also served as a Graduate Research Assistant with Los Alamos National Laboratory (“LANL”) investigating polychlorinated biphenyl (“PCB”) exposure pathways in surface water and as a biologist and geographical information system specialist with the Pueblo of Pojoaque.

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

III. PROTECTIONS AFFORDED TO OUTSTANDING NATIONAL RESOURCE WATERS

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

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

At a minimum, the state’s antidegradation policy prohibits the degradation of water quality for all waters of the state to a level less than the existing use. Existing use, as defined under 20.6.4.7(E)(3) NMAC (NMED Exhibit 9), “means a use actually attained in a surface water of the state on or after November 28, 1975, whether it is the designated use,” or is currently being attained.

At the other end of the spectrum, the state’s antidegradation policy has its highest water quality protection for those waters designated as an Outstanding National Resource Water (“ONRW”). ONRWs are streams, rivers, lakes and wetlands that, like all waters of the state, are protected under the State of New Mexico’s *Standards for Interstate and Intrastate Surface Waters* (“Water Quality Standards”) and the CWA.

1 The antidegradation protections afforded to ONRWs under the state's antidegradation
2 policy and implementation plan, codified under 20.6.4.8 NMAC (**NMED Exhibit 8**), mirror those
3 requirements established under 40 C.F.R. § 131.12 (**NMED Exhibit 7**). Pursuant to these
4 regulations, the state is required to adopt a statewide antidegradation policy that, at a minimum,
5 maintains and protects high quality waters, which constitute an outstanding national resource, such
6 as waters of national and state parks, wildlife refuges, and waters of exceptional recreational or
7 ecological significance.

8 Pursuant to 20.6.4.8 NMAC (**NMED Exhibit 8**), degradation of water quality is prohibited
9 for waters designated as ONRWs except as provided in 20.6.4.8(A)(3)(a) through (e) NMAC and
10 20.6.4.8(A)(4)(a) NMAC (**NMED Exhibit 8**). These provisions include temporary and short-term
11 degradation if the WQCC determines it to be necessary to accommodate public health or safety;
12 temporary and short-term degradation in response to an emergency action that is necessary to
13 mitigate an immediate threat to public health or safety; pre-existing land use activities allowed by
14 federal or state law prior to designation as an ONRW that are controlled by best management
15 practices and do not pose any new or increased discharges such as acequia operation, maintenance
16 and repair; and activities that result in the restoration or maintenance of the chemical, physical or
17 biological integrity of the water. It is important to note that an ONRW designation does not prevent
18 or preclude discharges or anthropogenic activities from occurring. Activities such as these require
19 demonstration that they will not cause degradation of the ONRW or are one of the permitted short-
20 term and temporary activities identified under 20.6.4.8(A)(3) NMAC (**NMED Exhibit 8**).

1 **IV. BACKGROUND ON OUTSTANDING NATIONAL WATER RESOURCES IN** 2 **NEW MEXICO**

3 In accordance with 20.6.4.9(A) NMAC (**NMED Exhibit 10**), any person may nominate a
4 surface water of the state for designation as an ONRW by filing a petition with the Commission
5 pursuant to the applicable procedures. Pursuant to 20.6.4.9(B) NMAC (**NMED Exhibit 10**), the
6 WQCC may designate a surface water of the state as an ONRW where the Commission
7 determines that the designation is beneficial to the state and it has been demonstrated that the water
8 is part of a national or state park, wildlife refuge or wilderness area, or special trout water; or the
9 water has exceptional recreational or ecological significance; or the water has exceptional water
10 quality that has not been significantly modified by human activities.

11 Pursuant to 20.6.4.9(A) NMAC (**NMED Exhibit 10**), the nominating petition must include,
12 among other things, a map of the upstream and downstream boundaries of the proposed ONRW
13 waters. If the ONRW nomination is approved by the WQCC, the designated water is listed under
14 20.6.4.9(D) NMAC (**NMED Exhibit 10**). This delineation for the eligible water is critical to
15 implementing protections against degradation afforded to ONRWs.

16 Prior to 2005, the procedures for nominating an ONRW were codified under the
17 antidegradation policy in the State's *Standards for Interstate and Intrastate Surface Waters* (20.6.4
18 NMAC), predominately because the functionality of an ONRW designation directly relates to
19 ensuring degradation of a state water does not occur.

20 In 2005, the WQCC moved the process and the list of designated ONRWs to its own section
21 under 20.6.4.9 NMAC (**NMED Exhibit 10**). As discussed in the Statement of Reasons for the
22 2005 amendments to 20.6.4 NMAC (**NMED Exhibit 11**), this amendment was warranted because

1 the antidegradation policy and implementation plan apply to all waters of the state, and ONRWs
2 are specifically designated waters that receive special consideration.

3 In addition, and as part of the 2005 amendments, the WQCC amended language to clarify
4 the eligibility criteria that must be demonstrated for an ONRW designation. As reflected in the
5 Statement of Reasons for the 2005 amendments to 20.6.4 NMAC (**NMED Exhibit 11**), this
6 included an additional requirement to demonstrate the designation is beneficial to the State of New
7 Mexico, to prevent allegations of “taking” protections not otherwise substantiated. The 2005
8 amendments also expanded the eligibility to waters that demonstrated exceptional water quality
9 not impacted by anthropogenic activities. Other than a few clarifications in wording, these
10 eligibility requirements have essentially remained the same since 2005.

11 There have been several petitions for ONRW designations since the current procedures
12 were established.

13 The first ONRW designation occurred during the Triennial Review of Water Quality
14 Standards [WQCC 03-05 (R)] made effective for state purposes July 17, 2005. This ONRW
15 designated the Rio Santa Barbara (1.03 stream miles), including the west (5.5 stream miles),
16 middle (4.05 stream miles) and east (5.51 stream miles) forks, from their headwaters downstream
17 to the boundary of the Pecos wilderness area. Two other actions designated additional ONRWs.
18 These additions included the designation of identified waters within the United States Forest
19 Service (“USFS”) Valle Vidal special management unit [WQCC 05-04 (R)] made effective for
20 state purposes on February 16, 2006, with a clarification to 20.6.4 NMAC, effective on December
21 1, 2010, listing “Powderhouse” Creek as a designated ONRW within the Valle Vidal, as initially
22 adopted by the WQCC in 2005 for a total of 87 stream miles and approximately 3 acres of ponds
23 (**NMED Exhibit 12**); and identified and delineated perennial waters, including listed wetlands,

1 within 16 USFS Wilderness Areas [WQCC 10-01 (R)] made effective for state purposes on
2 January 14, 2011 (1,450 stream miles, 6,000 wetland acres and 136 lake acres) (**NMED Exhibit**
3 **13**). If adopted, the waters identified for consideration during this proceeding would be the fourth
4 series of ONRW designations for New Mexico, expanding antidegradation protections by
5 approximately 180 stream miles and 43 wetland acres within New Mexico.

6 **V. IMPLEMENTATION OF ANTIDEGRADATION POLICY FOR WATERS IN**
7 **THE UPPER PECOS IF DESIGNATED AS OUTSTANDING NATIONAL**
8 **WATER RESOURCES**

9 The Department evaluated the potential impacts to both point and non-point source
10 activities within the upper Pecos River from Dalton Day use area to the wilderness boundary, as
11 defined in the Petition, which may result from implementation of the state's antidegradation policy
12 should these waters be designated as ONRWs.

13 As demonstrated in the Petition, numerous types of pre-existing uses occur in the upper
14 Pecos from Dalton Day use area to the wilderness boundary. These pre-existing land use activities,
15 so long as they are allowed by federal or state law and existed prior to the ONRW designation,
16 may continue so long as they are controlled by best management practices, which are defined, in
17 part, under 20.6.4.7(B)(1)(b) NMAC (**NMED Exhibit 37**), and there is no increase of activity after
18 the designation of the ONRW. Given pre-existing uses are occurring, the designation of these
19 waters as ONRWs will only have implications if best management practices are not followed or if
20 there is expansion of a particular activity.

21 Regarding the federal National Pollutant Discharge Elimination System ("NPDES")
22 permitting program, the Department found no NPDES permits for discharges to any of the waters
23 nominated in this ONRW Petition. The designation of an ONRW would not prohibit a permittee

1 from applying to discharge to an ONRW so long as it can be demonstrated the discharge would
2 not cause degradation of the water quality as established in baseline conditions or established
3 existing uses, whichever is more stringent. Therefore, the designation of these waters as ONRWs
4 will not impact existing dischargers, because there are none, but may pose restrictions on future
5 point source dischargers.

6 As it pertains to future point source dischargers, the Petitioners provided Department-
7 collected water quality data for several of the waterbodies nominated for ONRW designation,
8 pursuant to 20.6.4.9(A)(3) NMAC (**NMED Exhibit 10**). Should an application to discharge under
9 Section 402 of the CWA be submitted, the Department will use this data, along with other available
10 and defensible data, to implement protections for ONRWs in accordance with the state's
11 antidegradation policy, codified in 20.6.4.8(A)(3) NMAC (**NMED Exhibit 8**).

12 In accordance with the state's antidegradation policy codified in 20.6.4.8(A)(3) NMAC,
13 (**NMED Exhibit 8**) there are provisions that allow for temporary and short-term degradation of
14 baseline water quality or existing uses so long as the activity undergoes a minimum 30-day public
15 review and comment period and the WQCC deems the activity necessary to accommodate public
16 health or safety. These types of activities include, but are not limited to, utility infrastructure and
17 roadway construction, maintenance, and repair. As it pertains to the waterbodies nominated for
18 ONRW designation in this matter, the Pecos River from Dalton day use area to the wilderness
19 boundary runs adjacent to State Road 63. State Road 63 is a narrow, paved two-lane road with
20 several bridges that cross the Pecos River. As provided under the state's antidegradation policy in
21 20.6.4.8(A)(3) NMAC (**NMED Exhibit 8**), service and repair of this road would be permitted, as
22 long as the activity did not result in any degradation of water quality or if temporary and short-
23 term degradation to baseline water quality or existing uses are approved by the WQCC and meet

1 the requirements under 20.6.4.8(A)(3) NMAC (**NMED Exhibit 8**). Other infrastructure service
2 needs such as water, sewer and other utilities would also be subject to approval by the WQCC if
3 the activity posed any temporary and short-term degradation of a water designated as an ONRW.

4 **VI. PROCEDURAL REQUIREMENTS AND ADMINISTRATIVE PROCESS FOR** 5 **DESIGNATING AN ONRW**

6 In accordance with NMSA 1978, § 74-6-6 (**NMED Exhibit 14**), no amendment to a water
7 quality standard or regulation, which includes designating ONRWs to be listed in 20.6.4.9(D)
8 NMAC, may be adopted or amended until after a public hearing. Additionally, 40 C.F.R. § 131.20
9 (**NMED Exhibit 15**) requires states to have a “public hearing for the purpose of reviewing
10 applicable water quality standards adopted pursuant to 40 C.F.R. §§ 131.10 through 131.15...”.

11 The EPA requires that these hearings must be held according to state law and EPA’s regulations
12 regarding public participation (40 C.F.R. § 25). The EPA has promulgated regulations in 40 C.F.R.
13 § 25.5 (**NMED Exhibit 16**) regarding a state’s responsibilities to notify the public for hearings
14 associated with the federal CWA. In part, EPA requires that a notice of the hearing be well-
15 publicized and mailed to interested and affected parties at least 45 days prior to the hearing date.

16 In accordance with 20.1.6.201 NMAC (**NMED Exhibit 1722**), the Commission must provide
17 notice of the hearing in the New Mexico Register and in at least one newspaper of general
18 circulation at least 60 days prior to the hearing. Because state regulations at 20.1.6 NMAC require
19 public notice no less than 60 days prior to a hearing, the state’s procedural regulations for
20 amendments to 20.6.4 NMAC are more stringent than the federal regulations, and as such, adhered
21 to for noticing hearings.

22 Because the designation of an ONRW requires amending 20.6.4 NMAC (i.e. - rulemaking),
23 several federal and state laws govern the process. The New Mexico Legislature authorized the

1 Commission to “adopt water quality standards for surface and ground waters of the state based on
2 credible scientific data and other evidence appropriate under the Water Quality Act.” NMSA 1978,
3 § 74-6-4(D) (**NMED Exhibit 18**). Amendments to the Standards must comply with NMSA 1978,
4 § 74-6-6 (**NMED Exhibit 14**) and 20.1.6 NMAC, which set forth procedural requirements for
5 rulemaking proceedings before the Commission.

6 In accordance with 20.6.4.9 NMAC (**NMED Exhibit 10**), any person may nominate a
7 surface water of the state as an ONRW by filing a petition with the WQCC in accordance with the
8 requirements in 20.6.4.9(A) NMAC (**NMED Exhibit 10**) and other applicable procedures. A
9 surface water of the state may be designated as an ONRW where the Commission determines it to
10 be of benefit to the state of New Mexico and it meets at least one of the eligibility criteria listed in
11 20.6.4.9(B) NMAC (**NMED Exhibit 10**).

12 The Petitioners emailed a draft Petition and solicitation for comment to the Department on
13 July 6, 2021 (**NMED Exhibit 20**), which the Department forwarded to EPA Region 6 on August
14 3, 2021. As requested, the Department provided comments on the draft Petition on September 10,
15 2021 (**NMED Exhibit 21**). As with all water quality standards amendments, both the Department
16 and EPA Region 6 consider themselves stakeholders, given the Department’s responsibility for
17 implementation of the state’s water quality standards, codified under 20.6.4 NMAC and EPA’s
18 obligation to ensure a state’s WQS are adopted in accordance with the CWA. As such, the
19 Department appreciated the consideration afforded by the Petitioners to provide comment prior to
20 petitioning the Commission.

21 The Petitioners filed a revised version of that petition and request for hearing with the
22 WQCC on October 1, 2021, which is the Petition before the Commission in this proceeding. As a
23 stakeholder to this matter, and in accordance with 20.1.6.203 NMAC (**NMED Exhibit 22**), the

1 Department filed an entry of appearance on this matter on October 1, 2021. At the regularly
2 scheduled WQCC meeting on November 9, 2021, the Petitioners brought forth their request for a
3 hearing on the matter. The WQCC granted a hearing, to be held virtually via WebEx, for April 12-
4 13, 2022, as described in the WQCC's Order Granting Public Hearing and Appointment of Hearing
5 Officer, dated November 30, 2021. The Hearing Officer, Gregory Chakalian, issued a Scheduling
6 Order on December 9, 2021, and a revised scheduling order, clarifying language for Item 9, on
7 December 13, 2021.

8 The Scheduling Order specified public notice of the hearing be drafted by the Petitioner in
9 English and Spanish, and posted by the Surface Water Quality Bureau. As required by
10 20.1.6.201(A) NMAC (**NMED Exhibit 22**), the notice of a public hearing to amend 20.6.4 NMAC
11 must be published no less than 60 days prior to the hearing. The Department translated and
12 published the public notice of hearing, in both Spanish and English, in the State Register on
13 January 26, 2022 (**NMED Exhibit 23**). The Department also published the hearing notice in the
14 Las Vegas Optic on February 4, 2022 (**NMED Exhibit 24**) and the Albuquerque Journal, a
15 newspaper of general circulation, on February 5, 2022 (**NMED Exhibit 25**), as required by
16 20.1.6.201(B) NMAC (**NMED Exhibit 22**).

17 In accordance with the State Rules Act NMSA 1978, § 14-4-5.2 (**NMED Exhibit 19**), the
18 notice of a proposed rulemaking is required to be "provide[d] to the public" at least 30 days prior
19 to the hearing. The term "provide to the public" is defined in NMSA 1978, § 14-4-2 (**NMED**
20 **Exhibit 26**) as posting the notice on the agency website; posting on the Sunshine Portal; making
21 it available in the agency's district, field and regional offices; sending notice to persons who
22 requested to be notified of such announcements; and providing it to the New Mexico Legislative
23 Council for distribution to appropriate interim and standing legislative committees. In fulfillment

1 of this requirement, the Department provided notification to the agency's District Managers by
2 SWQB's Bureau Chief, Shelly Lemon, on January 24, 2022 (**NMED Exhibit 27**); notice of the
3 hearing was posted on the New Mexico Environment Department's Events page, Public Notice
4 page, and Surface Water Quality Bureau's Upper Pecos River and Identified Tributaries ONRW
5 WQCC 21-51(R) page (**NMED Exhibit 28**) on or before February 4, 2022; notification was
6 distributed to 1,901 persons who have subscribed to the Surface Water Quality Bureau's listserv
7 to be notified of Surface Water Quality Bureau's announcements via a GovDelivery on February
8 4, 2022 (**NMED Exhibit 29**); notification was posted on the Sunshine Portal on January 11, 2022
9 (**NMED Exhibit 30**); and, notification was provided to the Legislative Council Service on January
10 10, 2022 (**NMED Exhibit 31**).

11 The State recognizes the importance of communication and collaboration with tribes to
12 ensure water quality across boundaries. The State has memorialized this sentiment through the
13 State-Tribal Collaboration Act, NMSA 1978, § 11-18-3 (**NMED Exhibit 38**), Executive Order
14 2005-004, and the Department's Tribal Communication and Collaboration Policy ("Policy")
15 (**NMED Exhibit 32**). In an effort to ensure opportunity for adequate communication and
16 collaboration with tribes, the Department provided notice of the hearing to 40 tribal
17 representatives, through the Department's Tribal Liaison, on January 24, 2022 (**NMED Exhibit**
18 **33**).

19 Finally, in accordance with the Small Business Regulatory Relief Act NMSA 1978, § 14-
20 4A-4 (**NMED Exhibit 34**), the Department provided notification of the proposed amendments to
21 the Small Business Regulatory Advisory Commission (**NMED Exhibit 35**) on January 24, 2022.

22 Pursuant to 40 C.F.R. § 25.5 (**NMED Exhibit 16**), the public hearing notification must
23 identify the matters to be discussed at the hearing and the agency's tentative determination on

1 major issues. Reports, documents, and data relevant to the discussion at the public hearing shall
2 be available to the public at least 30 days before the hearing. In addition, the agency shall schedule
3 witnesses in advance to ensure maximum participation and allotment of adequate time for all
4 speakers. In accordance with 20.1.6.202 NMAC (**NMED Exhibit 22**), the Notice of Intent to
5 Present Technical Testimony along with the supporting exhibits must be filed at least 20 days prior
6 to the hearing or in accordance with the procedural order. As prescribed in the Scheduling Order
7 issued on December 13, 2021, the Department's Notice of Intent to Provide Technical Testimony,
8 along with the supporting evidence for the proposed amendments, was required to be filed with
9 the Commission by March 10, 2022, 33 days prior to the hearing, thus fulfilling the requirements
10 of both 40 C.F.R. § 25.5 (**NMED Exhibit 16**) and 20.1.6.202 NMAC. In accordance with 40
11 C.F.R. § 25.5 (**NMED Exhibit 16**), the hearing, according to the Order for Hearing and
12 Appointment of Hearing Officer, provided adequate time to accommodate all witnesses with ample
13 opportunity to participate.

14 In accordance with 20.1.6.202 NMAC (**NMED Exhibit 22**), the Department submitted a
15 Notice of Intent to Present Technical Testimony, as found here, in accordance with the Scheduling
16 Order and applicable procedural rules. Based on the testimony presented by both the Petitioners
17 and the Department, the designation of these waters as presented in **NMED Exhibit 36**, have
18 satisfied state and federal requirements to be adopted as ONRWs, should the Commission choose
19 to do so.

20 **VII. FINDINGS**

21 With respect to the state's antidegradation policy and administrative process, there were
22 no findings that would prevent the Department from supporting ONRW designations for those

1 waters where the Petitioners demonstrate adequate proof of eligibility pursuant to 20.6.4.9(B)
2 NMAC (**NMED Exhibit 10**).

3 Regarding the administrative process for a rulemaking, such as required for designating a
4 water of the state as an ONRW, the Department provided sufficient notification of the public
5 hearing, as required under both state and federal law.

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

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

15 Based on the findings of the Department, and with consideration of Ms. Aranda's technical
16 testimony (**NMED Exhibit 2**), the Department recommends the WQCC approve the proposed
17 ONRW designation, as provided in **NMED Exhibit 36**.

18 This concludes my direct testimony.

**IN THE MATTER OF THE PETITION
FOR PROPOSED AMENDMENTS
TO 20.6.4.9 NMAC, DESIGNATION
OF WATER OF THE UPPER PECOS
WATERSHED AS OUTSTANDING
NATIONAL RESOURCE WATERS**

Village of Pecos, San Miguel County,
Upper Pecos Watershed Association, New
Mexico Acequia Association, and Molino
de la Isla Organics LLC,

Petitioners.

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 Village of Pecos, San Miguel County, the Upper Pecos Watershed Association, the New Mexico Acequia Association, and Molino de la Isla Organics LLC (hereinafter referred to as “Petitioners”) to designate listed waters for select tributaries, wetlands and mainstem of the Pecos River 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 Exhibit10**)

My testimony contains the following:

- I. Introduction
- II. Qualifications

1 III. Background

2 IV. Criteria for Designating an ONRW

3 V. Submittal Requirements for Nominating an ONRW

4 VI. Summary of Findings

5 VII. Proposed Amendments to 20.6.4 NMAC

6 **II. QUALIFICATIONS**

7 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”).

13 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 assessment, and my work was published in the Journal of Water & Health in 2016, with me as the principal author.

17 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 in other biology disciplines 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 under 20.6.4.8 NMAC (**NMED**
3 **Exhibit 8**), defines the protections for all surface waters of the state against degradation and
4 specifically protects waters designated as ONRWs under 20.6.4.8(A)(3) NMAC and listed in
5 20.6.4.9(D) NMAC (**NMED Exhibit 10**). All ONRW designations must be adopted by the
6 Water Quality Control Commission (“WQCC” or “Commission”) under the authority of the
7 New Mexico WQA. Any person may nominate an ONRW designation to the WQCC. As such,
8 the Petitioners submitted an ONRW nomination for the following waterbodies identified in
9 Exhibit 1 of the Petition:

10 “(a) *The Pecos river and all identified tributaries and wetlands from Dalton*
11 *Canyon creek to the Pecos wilderness boundary;*

12 (b) *In the Dry Gulch-Pecos river subbasin, Dalton Canyon creek and all identified*
13 *tributaries and wetlands from the Pecos river upstream to the headwaters, Wild Horse*
14 *creek and all identified tributaries from Dalton Canyon creek upstream to the headwaters,*
15 *Macho Canyon creek and all identified tributaries from the Pecos river upstream to the*
16 *headwaters and Sawyer creek and all identified tributaries from the Pecos river upstream*
17 *to the headwaters;*

18 (c) *In the Indian creek-Pecos river subbasin, Indian creek and all identified*
19 *tributaries from the Pecos river upstream to the headwaters, Holy Ghost creek and all*
20 *identified tributaries from the Pecos river upstream to the Pecos wilderness boundary,*
21 *Doctor creek and all identified tributaries and wetlands from Holy Ghost creek upstream*
22 *to the headwaters, Davis creek and all identified tributaries from the Pecos river upstream*

1 to the headwaters and Willow creek and all identified tributaries from the Pecos river
2 upstream to the headwaters;

3 (d) In the Rio Mora subbasin, Rio Mora and all identified tributaries from the Pecos
4 river upstream to the Pecos wilderness boundary and Bear creek and all identified
5 tributaries from the Rio Mora upstream to the Pecos wilderness boundary;

6 (e) In the Rio Mora-Pecos river subbasin, Carpenter creek from the Pecos river
7 upstream to the Pecos wilderness boundary, Winsor creek and all identified tributaies from
8 the Pecos river upstream to the Pecos wilderness boundary and Jack's creek and all
9 identified tributaries from the Pecos river upstream to the Pecos wilderness boundary;
10 and,

11 (f) In the Panchuela creek subbasin, Panchuela creek and all identified tributaries
12 and wetlands, from the Pecos river upstream to the Pecos wilderness boundary.

13 (g) The unnamed tributaries and wetlands designated are identified on the Maps
14 and List of Streams and Wetlands Within the Upper Pecos Watershed Designated as
15 Outstanding National Resource Waters published at the New Mexico state library and
16 available on the department's website."

17 This testimony reflects the Department's technical review of the Petition that nominates 16
18 named waterbodies, 96 unnamed waterbodies and 21 wetlands as ONRWs.

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

20 In accordance with 20.6.4.9(B) NMAC (**NMED Exhibit 10**), the designation of a surface
21 water of the state as an ONRW must demonstrate benefit to the State and meet at least one of three
22 eligibility criteria. The first listed eligibility criterion (20.6.4.9(B)(1) NMAC) (**NMED Exhibit**
23 **10**) requires the nominated water to be distinguished as a state special trout water designation; a

1 federal Wild and Scenic Rivers Act designation; or be within a designated national or state park,
2 monument, wildlife refuge, or wilderness area. The second listed eligibility criterion
3 (20.6.4.9(B)(2) NMAC) (**NMED Exhibit 10**) requires the nominated waters to have exceptional
4 recreational or ecological significance. The third listed eligibility criterion (20.6.4.9(B)(3)
5 NMAC) (**NMED Exhibit 10**) requires that the nominated waters have existing water quality equal
6 to or better than the numeric criteria necessary for the protection of aquatic life, contact, and human
7 health-organism only uses, and human activities have not significantly modified the waters in a
8 manner that substantially detracts from their value as a natural resource.

9 The Department reviewed the ONRW nomination of the Pecos River from the Dalton Day
10 Use Area upstream to the Pecos Wilderness boundary, and all attendant tributaries and wetlands,
11 and found the demonstration successfully met at least one eligibility criterion for designating
12 ONRWs, as described below.

13 The ONRW designation for the segment of the Pecos River from Davis Creek upstream to
14 the Pecos Wilderness boundary is supported by the eligibility criterion for designation pursuant to
15 20.6.4.9(B)(1) NMAC (**NMED Exhibit 10**) based on the federal Wild and Scenic Rivers Act.

16 The ONRW designation for the segment of the Pecos River, from the confluence with the
17 Rio Mora upstream to the bridge crossing at Cowles, is supported by the eligibility criterion for
18 designation pursuant to 20.6.4.9(B)(1) NMAC (**NMED Exhibit 10**) based on the New Mexico
19 Department of Game and Fish (“NMDGF”) designation as a state special trout water.

20 The ONRW designation for the segment consisting of the Pecos River from Dalton Canyon
21 Creek upstream to the Pecos Wilderness boundary is supported by the eligibility criterion for
22 designation pursuant to 20.6.4.9(B)(2) NMAC (**NMED Exhibit 10**) based on the NMDGF angler
23 use data and wildlife and plant species data.

1 The ONRW designation for the segment consisting of Jack's Creek from the waterfalls
2 located 0.25 miles downstream of N.M. Highway 63 crossing upstream to its headwaters is
3 supported by the eligibility criterion for designation pursuant to 20.6.4.9(B)(1) NMAC (**NMED**
4 **Exhibit 10**) based on the NMDGF designation as a state special trout water.

5 The ONRW designation for the segment consisting of Jack's Creek from the Pecos River
6 upstream to the Pecos Wilderness boundary is supported by the eligibility criterion for designation
7 pursuant to 20.6.4.9(B)(2) NMAC (**NMED Exhibit 10**) based on NMDGF angler use data.

8 For the segments consisting of Doctor Creek from Holy Ghost Creek upstream to the
9 headwaters, Holy Ghost Creek from the Pecos River upstream to the Pecos Wilderness boundary,
10 Indian Creek from the Pecos River upstream to the headwaters, Panchuela Creek from the Pecos
11 River upstream to the Pecos Wilderness boundary, Rio Mora from the Pecos River upstream to the
12 Pecos Wilderness boundary, and Winsor Creek from the Pecos River upstream to the Pecos
13 Wilderness boundary, the Petition provides evidence-based support for both exceptional
14 recreational and ecological significance pursuant to 20.6.4.9(B)(2) NMAC (**NMED Exhibit 10**)
15 based on angler use data and wildlife and plant species data from the NMDGF.

16 For the segments consisting of Bear Creek from the Rio Mora upstream to the Pecos
17 Wilderness boundary, Carpenter Creek from the Pecos River upstream to the Pecos Wilderness
18 boundary, Dalton Canyon Creek from the Pecos River upstream to the headwaters, Davis Creek
19 from the Pecos River upstream to the headwaters, Macho canyon Creek from the Pecos River
20 upstream to the headwaters, Sawyer Creek from the Pecos River upstream to the headwaters, Wild
21 Horse Creek from Dalton Canyon Creek upstream to the headwaters, and Willow Creek from the
22 Pecos River upstream to the headwaters, the Petition provides evidence-based support for both

1 exceptional recreational and ecological significance pursuant to 20.6.4.9(B)(2) NMAC (**NMED**
2 **Exhibit 10**) based on angler use data and wildlife and plant species data from the NMDGF.

3 For the 96 identified non-perennial nominated segments, the Petition provides evidence-
4 based support for both exceptional recreational and ecological significance pursuant to
5 20.6.4.9(B)(2) NMAC (**NMED Exhibit 10**) based on NMDGF wildlife and plant species data
6 associated with a one-mile radius from the named waterbodies in the Petition.

7 For the 21 identified wetlands, the Petition provides evidence-based support for both
8 exceptional recreational and ecological significance pursuant to 20.6.4.9(B)(2) NMAC (**NMED**
9 **Exhibit 10**) based on NMDGF's wildlife and plant species data associated with a one-mile radius
10 from the named waterbodies in the Petition.

11 For all waters named in the Petition, the Petition provides evidence-based support for the
12 designation of these waters as a benefit to the State of New Mexico pursuant to 20.6.4.9(B) NMAC
13 (**NMED Exhibit 10**).

14 In summary, the Department's review of the Petition found that the 16 named waterbodies,
15 96 identified non-perennial streams and 21 identified wetlands, met at least one of the eligibility
16 criteria pursuant to 20.6.4.9(B) NMAC (**NMED Exhibit 10**), and the Department therefore
17 supports the ONRW nomination.

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

19 In addition to meeting the eligibility criteria set forth in 20.6.4.9(B) NMAC (**NMED**
20 **Exhibit 10**), there are six elements contained in 20.6.4.9(A) NMAC (**NMED Exhibit 10**) that
21 must be included in any ONRW nomination. These elements are: (1) a map of the nominated
22 surface water of the state with a site location, and the upstream and downstream boundaries of the
23 proposed ONRW; (2) a written statement that includes evidence-based scientific principles in

1 support of the nomination, including specific references to one or more of the applicable ONRW
2 eligibility criteria listed in 20.6.4.9(B) NMAC (**NMED Exhibit 10**); (3) if available, chemical,
3 physical or biological water quality data to establish baseline water quality conditions for the
4 proposed ONRW; (4) a discussion of activities that might contribute to the reduction of water
5 quality in the proposed waters; (5) a discussion of the economic impact of the designation on the
6 local and regional economy within the state of New Mexico and its benefits to the state; and (6)
7 an affidavit of publication of notice of the petition in a newspaper of general circulation in the
8 affected counties and in a newspaper of general statewide circulation. The Department reviewed
9 the Petition to determine if it provided each of the six required elements identified above.

10 In accordance with 20.6.4.9(A)(1) NMAC (**NMED Exhibit 10**), all ONRW petitions must
11 include a map with the nominated waterbodies' location and a description of the upstream and
12 downstream boundaries for the ONRW designation. The Petition provided a map and description
13 of the upstream and downstream boundaries for all nominated waterbodies. The Department found
14 this information sufficient to meet the requirements in 20.6.4.9(A)(1) NMAC (**NMED Exhibit**
15 **10**).

16 In accordance with 20.6.4.9(A)(2) NMAC (**NMED Exhibit 10**), the Petition must provide
17 evidence-based scientific principles, in support of the nomination, including a specific reference
18 to how each waterbody fulfills the qualifying eligibility criteria in 20.6.4.9(B) NMAC (**NMED**
19 **Exhibit 10**). The Department reviewed the evidence contained in the Petition, including
20 references, and found that the evidence for each of the nominated waters was sufficient to meet
21 the requirements of 20.6.4.9(A)(2) NMAC (**NMED Exhibit 10**). The Department provided an
22 addendum (**NMED Exhibit 17**) to the Petition's footnotes to assist with accessing the references
23 used in the Petition.

1 In accordance with 20.6.4.9(A)(3) NMAC (**NMED Exhibit 10**), an ONRW petition must
2 provide, if available, chemical, physical or biological water quality data to establish baseline water
3 quality conditions. The Petition included water quality data for several of the nominated tributaries
4 in Exhibit 2 of the Petition. Because this element is not required, the lack of available data for a
5 specific segment does not disqualify its designation. Therefore, the Department finds that Exhibit
6 2 meets the requirements of 20.6.4.9(A)(3) NMAC (**NMED Exhibit 10**). To aid in the future use
7 of the data in the Petition, the Department provided a data dictionary for the Petition's data set
8 (**NMED Exhibit 5**).

9 In accordance with 20.6.4.9(A)(4) NMAC (**NMED Exhibit 10**), an ONRW petition
10 requires a discussion of activities that might contribute to the reduction of water quality. The
11 Department found the Petition discussed this at a regional level, incorporating all waters proposed
12 for ONRW designation. The Department therefore finds that this requirement was satisfied for all
13 proposed waters.

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

19 In accordance with 20.6.4.9(A)(6) NMAC (**NMED Exhibit 10**), an ONRW petition must
20 provide an affidavit of publication of notice of the petition in a newspaper of general circulation
21 in the affected counties and in a newspaper of general statewide circulation. The Department
22 included the affidavits of publication for the Las Vegas Optic on February 4, 2022 (**NMED**
23 **Exhibit 24**), to satisfy the requirement for notification in a newspaper of general circulation in the

1 affected counties; and for the Albuquerque Journal on February 5, 2022 (**NMED Exhibit 25**), to
2 satisfy the requirement of notification in a newspaper of general statewide circulation. Therefore,
3 this requirement was satisfied for all proposed waters.

4 In summary, the Department found that the Petition met the requirements of 20.6.4.9(A)(1)
5 NMAC through 20.6.4.9(A)(6) NMAC (**NMED Exhibit 10**) for all of the nominated waters.
6 Based on the submittal of these elements, the Department supports the designation of the identified
7 waters as ONRWs.

8 **VI. SUMMARY OF FINDINGS**

9 The Department finds that all of the nominated waterbodies in the Petition have met one
10 or more of the eligibility criteria of 20.6.4.9(B) NMAC (**NMED Exhibit 10**) and that the
11 Petitioners have satisfied the submittal requirements of 20.6.4.9(A) NMAC (**NMED Exhibit 10**).
12 These waterbodies are identified as:

- 13 • Bear Creek from the Rio Mora upstream to the Pecos Wilderness boundary;
- 14 • Bear Creek tributary 1;
- 15 • Carpenter Creek from the Pecos River upstream to the Pecos Wilderness boundary;
- 16 • Dalton Canyon Creek from the Pecos River upstream to the headwaters;
- 17 • Dalton Canyon tributaries 1-11;
- 18 • Davis Creek from the Pecos River upstream to the headwaters;
- 19 • Davis Creek tributary 1;
- 20 • Doctor Creek from Holy Ghost Creek upstream to the headwaters;
- 21 • Doctor Creek tributaries 1-4;
- 22 • Holy Ghost Creek from the Pecos River upstream to the Pecos Wilderness boundary;
- 23 • Holy Ghost tributaries 1-13;

- 1 • Indian Creek from the Pecos River upstream to the headwaters;
- 2 • Indian Creek tributaries 1-7;
- 3 • Jack's Creek from the Pecos River upstream to the Pecos Wilderness boundary;
- 4 • Macho Canyon Creek from the Pecos River upstream to the headwaters;
- 5 • Macho Canyon Creek tributaries 1-12;
- 6 • Panchuela Creek from the Pecos River upstream to the Pecos Wilderness boundary;
- 7 • Panchuela Creek tributaries 1-2;
- 8 • Pecos River from Dalton Canyon Creek upstream to the Wilderness boundary;
- 9 • Pecos River tributaries 1-28;
- 10 • Rio Mora from the Pecos River upstream to the Pecos Wilderness boundary;
- 11 • Rio Mora tributaries 1-4;
- 12 • Sawyer Creek from the Pecos River upstream to the headwaters;
- 13 • Sawyer Creek tributary 1;
- 14 • Wild Horse Creek from Dalton Canyon Creek upstream to the headwaters;
- 15 • Wild Horse Creek tributaries 1-4;
- 16 • Willow Creek from the Pecos River upstream to the headwaters;
- 17 • Willow Creek tributaries 1-4;
- 18 • Winsor Creek from the Pecos River upstream to the Pecos Wilderness boundary;
- 19 • Winsor Creek tributaries 1-4; and
- 20 • Wetlands 2a-c, 3, 4a-c, 5, 6, 7a-f and 7h.

21 The evaluations for the state's antidegradation policy and administrative processes are
22 discussed in the testimony of Jennifer Fullam (**NMED Exhibit 1**).

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

2 Based on the findings of the Department's review of the ONRW Petition and with
3 consideration of Ms. Fullam's technical testimony (**NMED Exhibit 1**), the Department
4 recommends the WQCC amend 20.6.4.9(D) NMAC to include the proposed ONRW designations
5 as provided in **NMED Exhibit 36**.

6
7 This concludes my direct testimony.
8

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 design 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 devices (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 defendable 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.

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 \geq 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 for 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 k
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	

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

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]

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]

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.

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]

Excerpts from the
State of New Mexico Water Quality Control Commission-
WQCC 03-05(R) Statement of Reasons for Amendment of Standards
Pages 22-24

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:

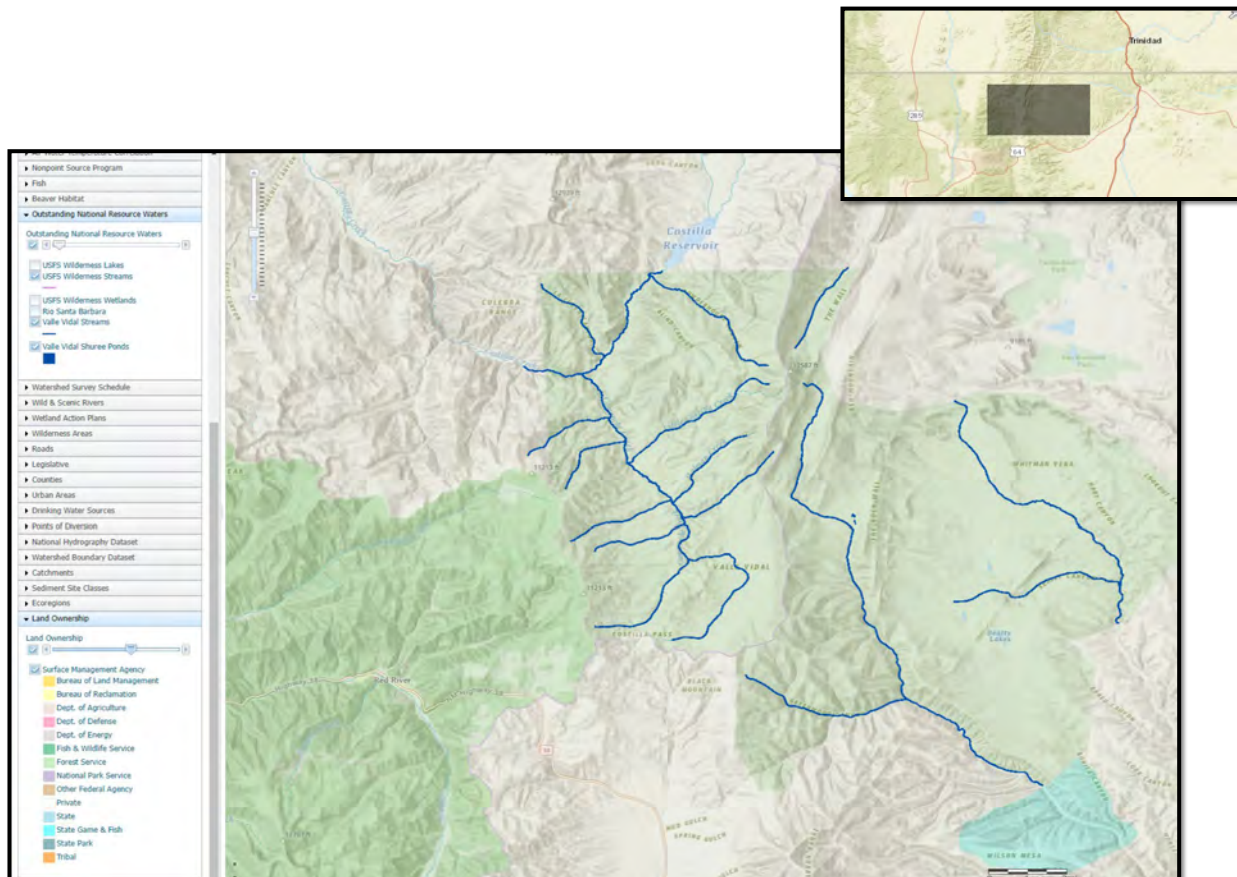
A. ~~[Livestock Watering and Wildlife Habitat Uses]~~Waters Created by Discharge:
~~[(1)]~~ When a discharge ~~[creates a water which could be used by livestock and/or wildlife in a non-classified, to an otherwise ephemeral or intermittent, non-classified surface water of the state[, such water shall 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.

Valle Vidal ONRW Waters
NMED SWQB OpenEnviroMap

As captured from <https://gis.web.env.nm.gov/oem/?map=swqb> on February 22, 2022

Waterbody	Reach	Size	Units
Leandro Creek	Vermejo River to headwaters	2.66	Miles
McCrystal Creek	North Ponil to headwaters	6.48	Miles
North Ponil Creek	South Ponil Creek to Seally Canyon	4.18	Miles
Seally Canyon	North Ponil to headwaters	4.74	Miles
Middle Ponil Creek	South Ponil to Greenwood Creek	15.54	Miles
Greenwood Canyon	Middle Ponil to headwaters	4.63	Miles
Comanche Creek	Costilla Creek to headwaters	10.29	Miles
Vidal Creek	Comanche Creek to headwaters	4.87	Miles
LaBelle Creek	Comanche Creek to headwaters	2.57	Miles
Grassy Creek	Comanche Creek to headwaters	3.11	Miles
Holman Creek	Comanche Creek to headwaters	2.85	Miles
Gold Creek	Comanche Creek to headwaters	2.87	Miles
Little Costilla Creek	Comanche Creek to headwaters	4.65	Miles
Chuckwagon Creek	Comanche Creek to headwaters	2.3	Miles
Fernandez Creek	Comanche Creek to headwaters	2.48	Miles
Costilla Creek	Diversion abv Costilla to Comanche Creek	1.59	Miles
Costilla Creek	Comanche Creek to Costilla Dam	4.19	Miles
La Cueva Creek	Costilla Creek to headwaters	2.96	Miles
Powderhouse Creek	Costilla Creek to headwaters	4.42	Miles
Shuree Pond	North	1.5	Acres
Shuree Pond	South	1.5	Acres

Total Stream Miles 87.38
Total Pond Acres 3.00



miles of streams, 700 miles of which are perennial; and approximately 6,000 acres of wetlands.³

B. Regulatory Criteria

1. Procedures for Nomination under 20.6.4.9.A NMAC

Section 20.6.4.9.A NMAC sets forth certain documentation and evidence that must be included in any petition to nominate an ONRW. This Petition satisfies all requirements of 20.6.4.9.A NMAC.

A petition must include maps of the surface waters nominated, including the location and proposed upstream and downstream boundaries. 20.6.4.9.A(1) NMAC. This Petition includes 17 maps of the surface waters nominated. The maps consist of a Statewide Reference Map, which identifies each Forest Service Wilderness area in New Mexico and the major rivers (not identified by name) in each area (Exhibit 4), and 16 maps of Forest Service Wilderness areas, which identify each national forest, the nominated streams and tributaries, and the wetlands that are located within the Wilderness area (Exhibits 5-20).⁴ The 16 maps of the Wilderness areas identify the location and the upstream and downstream boundaries of the waters nominated. The maps attached are:

Statewide Reference Map (Exhibit 4);
Cruces Basin Wilderness (Exhibit 5);

³ The following is a list by basin of the number of stream miles nominated:

Lower Rio Grande	85 mi.
Middle Rio Grande	181
Upper Rio Grande	215
Pecos River	219
Gila River	553
Canadian River	23
San Francisco River	95
Mimbres Closed	18
Tularosa Closed	61

⁴ Two of the individual maps, Exhibits 8 and 20, show the Pecos Wilderness (divided into northern and southern regions), and one of the maps, Exhibit 11, shows two Wilderness areas, the Withington and Apache Kid Wildernesses.

Latir Peak Wilderness (Exhibit 6);
Wheeler Peak Wilderness (Exhibit 7);
Northern Pecos Wilderness (Exhibit 8);
Manzano Mountain Wilderness (Exhibit 9);
Sandia Mountain Wilderness (Exhibit 10);
Withington and Apache Kid Wildernesses (Exhibit 11);
Aldo Leopold Wilderness (Exhibit 12);
Blue Range Wilderness (Exhibit 13);
Gila Wilderness (Exhibit 14);
Capitan Mountains Wilderness (Exhibit 15);
White Mountain Wilderness (Exhibit 16);
San Pedro Parks Wilderness (Exhibit 17);
Chama River Canyon Wilderness (Exhibit 18);
Dome Wilderness (Exhibit 19); and
Southern Pecos Wilderness (Exhibit 20).

The Petition also includes maps of the basins in which the Wilderness areas and nominated waters are located. These maps are:

Statewide Map of Water Quality Standard Basins and Wilderness Areas (Exhibit 21-A);
Map of the Central Basins and Wilderness Areas (Exhibit 21-B);
Map of the Northern Basins and Wilderness Areas (Exhibit 21-C); and
Map of the Southwestern Basins and Wilderness Areas (Exhibit 21-D).

A petition must include a written statement and evidence based on scientific principles in support of the nomination, including specific reference to one or more of the applicable ONRW criteria listed in Section 20.6.4.9.B NMAC. 20.6.4.9.A(2) NMAC. This Petition includes sections explaining why the nominated waters (or some of the nominated waters) satisfy the regulatory criteria as a significant attribute of designated Wilderness area, a part of a wild river under the WSRA, a significant attribute of a state gold medal trout fishery, waters that have exceptional ecological significance, and waters that have exceptional recreational significance, *See* Petition, §§ I.D – I.H.

A petition must include water quality data, including chemical, physical, or biological parameters, where available, to establish a baseline condition for the proposed ONRW.

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.



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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.

Addendum to Petition's references.

The Department has provided an addendum to the Petition's footnotes in order to ensure the accuracy, consistency and reproducibility of the references used. The reference format is in American Psychological Association (APA) style. Any footnotes that did not reference literature were not edited and remain the same as in the Petition.

¹ The term “Upper Pecos Watershed” refers to the perennial and non-perennial streams and wetlands nominated in this Petition, and identified in Maps 1 and 2 and Tables 1 and 2 in Section II.B of this Petition.

² Loomis, J. B., & American Wilderness Alliance. (1988). Economic benefits of watersheds: The economic effects of timber harvesting on recreational and commercial fisheries and municipal watersheds : a study of the Wildland Resource Research Program. Englewood, Colo: American Wilderness Alliance.

³ Id. (citing Pearce (1987)).

⁴ Id.

⁵ Gonzalez, P., G.M. Garfin, D.D. Breshears, K.M. Brooks, H.E. Brown, E.H. Elias, A. Gunasekara, N. Huntly, J.K. Maldonado, N.J. Mantua, H.G. Margolis, S. McAfee, B.R. Middleton, and B.H. Udall. (2018). Southwest. In Impacts, Risks, and Adaptation in the United States: Fourth National Climate Assessment, Volume II [Reidmiller, D.R., C.W. Avery, D.R. Easterling, K.E. Kunkel, K.L.M. Lewis, T.K. Maycock, and B.C. Stewart (eds.)]. U.S. Global Change Research Program, Washington, DC, USA, pp. 1101–1184. doi: 10.7930/NCA4.2018.CH25

⁶Furniss, Michael J.; Staab, Brian P.; Hazelhurst, Sherry; Clifton, Cathrine F.; Roby, Kenneth B.; Ilhadrt, Bonnie L.; Larry, Elizabeth B.; Todd, Albert H.; Reid, Leslie M.; Hines, Sarah J.; Bennett, Karen A.; Luce, Charles H.; Edwards, Pamela J. (2010). Water, climate change, and forests: watershed stewardship for a changing climate. Gen. Tech. Rep. PNW-GTR-812. Portland, OR: U.S. Department of Agriculture, Forest Service, Pacific Northwest Research Station. 75 p.

⁷ Id. at 21.

⁸ Id.

⁹ See Table 1. In addition, four-fifths of the tributaries are under 1.75 mile.

¹⁰ Personal communication (email) with Eric Frey, NMDGF Fisheries biologist (July 23, 2020).

¹¹ Acuña, Vicenç & Datry, Thibault & Marshall, Jonathan & Barcelo, Daniel & Dahm, Clifford & Ginebreda, Antonio & McGregor, Glenn & Sabater, Sergi & Tockner, Klement & Palmer,

Margaret. (2014). Why Should We Care About Temporary Waterways?. Science (New York, N.Y.). 343. 1080-1. doi: 10.1126/science.1246666.

¹¹ Marshall, Jonathan & Acuña, Vicenç & Allen, Daniel & Bonada, Núria & Boulton, Andrew & Carlson, Stephanie & Dahm, Clifford & Datry, Thibault & Leigh, Catherine & Negus, Peter & Richardson, John & Sabater, Sergi & Stevenson, R. & Steward, Alisha & Stubbington, Rachel & Tockner, Klement & Vander Vorste, Ross. (2018). Protecting U.S. Temporary waterways. Science. doi:361. 856-857. 10.1126/science.aav0839.

¹²New Mexico Environment Department Water Protection Division. (2020) Testimony of Rebecca Roose Water Protection Division Director, New Mexico Environment Department To the United States Senate Committee on Environment and Public Works Regarding a hearing on “Stakeholder Reactions: The Navigable Waters Protection Rule under the Clean Water Act”. Retrieved January 4, 2022 from: <https://www.env.nm.gov/wp-content/uploads/2020/09/2020-09-16-Rebecca-Roose-testimony.pdf>

¹³ New Mexico Department of Game and Fish. (2016). State Wildlife Action Plan for New Mexico. New Mexico Department of Game and Fish, Santa Fe, New Mexico, USA. Retrieved January 4, 2022 from: <https://www.wildlife.state.nm.us/download/conservation/swap/New-Mexico-State-Wildlife-Action-Plan-SWAP-Final-2019.pdf>

¹⁴ Id. at 65-66

¹⁵Leidy, Robert & Levick, Lainie & Fonseca, Julia. (2008). The ecological and hydrological significance of ephemeral and intermittent streams in the arid and semi-arid American southwest. U.S. Environmental Protection Agency, U.S. Department of Agriculture/ARS Southwest Watershed research Center. EPA/600/R-08/134, ARS/233046. Retrieved January 4, 2022 from: https://www.epa.gov/sites/default/files/2015-03/documents/ephemeral_streams_report_final_508-kepner.pdf

¹⁶ Alexander, Laurie & Autrey, Bradley & DeMeester, Julie & Fritz, Ken & Golden, Heather & Goodrich, David & Kepner, William & Lane, Charles & LeDuc, Stephen & Leibowitz, Scott & McManus, Michael & Pollard, Amina & Raanan Kiperwas, Hadas & Ridley, Caroline & Schofield, Kate & Vanderhoof, Melanie & Wigington, Parker. (2015). U.S. EPA. Connectivity of Streams and Wetlands to Downstream Waters: A Review and Synthesis of the Scientific Evidence (Final Report). U.S. Environmental Protection Agency, Washington, DC, EPA/600/R-14/475F, 2015. Retrieved January 4, 2022 from: <https://cfpub.epa.gov/ncea/risk/recordisplay.cfm?deid=296414>

¹⁷ Id. at B-55.

¹⁸ U.S. Environmental Protection Agency. (2015) Technical Support Document for the Clean Water Rule: Definition of Waters of the United States. Retrieved January 4, 2022, from: https://www.epa.gov/sites/default/files/2015-05/documents/technical_support_document_for_the_clean_water_rule_1.pdf

¹⁹ U.S. Environmental Protection Agency 2008 at 2. (Unclear what this reference was, no edits were made.)

²⁰Shanafield, Margaret & Bourke, Sarah & Zimmer, Margaret & Costigan, Katie. (2021). An overview of the hydrology of non-perennial rivers and streams. *Wiley Interdisciplinary Reviews: Water*. 8. doi: 10.1002/wat2.1504. <https://doi.org/10.1002/wat2.1504>

²¹Dewey, Janet & Hatten, Jeff & Choi, Byoungkoo & Mangum, Clay & Ouyang, Ying. (2020). Climate Drivers and Sources of Sediment and Organic Matter Fluxes in Intermittent Rivers and Ephemeral Streams (IRES) of a Subtropical Watershed, USA. *Climate*. 8. doi: 10.3390/cli81000117.

²² Von Schiller, Daniel & Bernal, Susana & Dahm, Clifford & Martí, Eugènia. (2017). Nutrient and Organic Matter Dynamics in Intermittent Rivers and Ephemeral Streams. In Datry, Thibault & Bonada, Núria & Boulton, Andrew. (Eds.), *Intermittent Rivers and Ephemeral Streams: Ecology and Management* (pp.135-160). Academic Press, London and New York. doi: 10.1016/B978-0-12-803835-2.00006-1

²³ Datry, Thibault. (2011). Benthic and hyporheic invertebrate assemblages along a flow intermittence gradient: effects of duration of dry events. *Freshwater Biology*. 57(3). 563 - 574. doi: 10.1111/j.1365-2427.2011.02725.x.

²⁴ McArthur, J.V., and J.R. Barnes. (1985). Patterns of macroinvertebrate colonization in an intermittent Rocky Mountain stream in Utah. *Great Basin Naturalist* 45. 117-123. <http://www.jstor.org/stable/41716170>

²⁵ Chester, Edwin & Robson, B.. (2011). Drought refuges, spatial scale and recolonization by invertebrates in non-perennial streams. *Freshwater Biology*. 56. 2094 - 2104. doi: 10.1111/j.1365-2427.2011.02644.x.

²⁵ Jordt, Samantha & Taylor, Brad. (2021). A rolling stone gathers no eggs: the importance of stream insect egg laying natural history for stream restoration. *Ecology*. 102. doi: 10.1002/ecy.3331.

²⁶ Dodds, Walter. (2009). Life on the Edge: The Ecology of Great Plains Prairie Streams. *BioScience*. 54. 205-216. doi: 10.1641/00063568(2004)054[0205:LOTETE]2.0.CO;2.

²⁶ Bernal, Susana & Von Schiller, Daniel & Sabater, Francesc & Martí, Eugènia. (2013). Hydrological extremes modulate nutrient dynamics in Mediterranean climate streams across different spatial scales. *Hydrobiologia*. 719. doi: 10.1007/s10750-012-1246-2.

²⁷ U.S. Fish & Wildlife Service. (2021). Wetlands Mapper. Retrieved January 4, 2022, from: <https://www.fws.gov/wetlands/Data/Mapper.html>

²⁸ Alexander, Laurie & Autrey, Bradley & DeMeester, Julie & Fritz, Ken & Golden, Heather & Goodrich, David & Kepner, William & Lane, Charles & LeDuc, Stephen & Leibowitz, Scott &

McManus, Michael & Pollard, Amina & Raanan Kiperwas, Hadas & Ridley, Caroline & Schofield, Kate & Vanderhoof, Melanie & Wigington, Parker. (2015). U.S. EPA. Connectivity of Streams and Wetlands to Downstream Waters: A Review and Synthesis of the Scientific Evidence (Final Report). U.S. Environmental Protection Agency, Washington, DC, EPA/600/R-14/475F, 2015. <https://cfpub.epa.gov/ncea/risk/recordisplay.cfm?deid=296414>

²⁹ Koundouri, Phoebe & Boulton, Andrew & Datry, Thibault & Souliotis, Ioannis. (2017). Ecosystem Services, Values, and Societal Perceptions of Intermittent Rivers and Ephemeral Streams. In Datry, Thibault & Bonada, Núria & Boulton, Andrew. (Eds.), Intermittent Rivers and Ephemeral Streams: Ecology and Management (pp.455-476). Academic Press, London and New York. doi: 10.1016/B978-0-12-803835-2.00018-8.

³⁰ Berrens, Robert & Talberth, John & Thacher, Jennifer & Hand, Michael. (2006). Economic and Community Benefits of Protecting New Mexico's Inventoried Roadless Area, Center for Sustainable Economy- Prepared for Forest Guardians, Santa Fe, New Mexico. Retrieved January 4, 2022 from: <https://sustainable-economy.org/wp-content/uploads/Final-Report.pdf>

³⁰ U.S. Forest Serv., Landscape Scale Assessment for the Pecos River Headwaters Watershed(2004) [USFS 2004]. (The Department was unable to find this reference therefore there were no edit changes to this reference)

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³⁴ New Mexico Department of Game and Fish. 2014. The Economic Contributions of Fishing, Hunting, and Trapping in New Mexico in 2013: A statewide and county-level analysis. Retrieved January 3, 2022, from: <https://www.wildlife.state.nm.us/download/publications/press-release/NMDGF-Economics-of-Fishing-Hunting-and-Trapping-Final.pdf>

³⁵ River Traditions LLC, Guide Recommended Fishing Tips from: the Pros.(n.d). 11 Best Places to Fly Fish in New Mexico: MAPS INCLUDED. Retrieved January 3, 2022, from: <https://guiderecommended.com/fly-fish-new-mexico/>

³⁶ Upper Pecos Watershed Association. (n.d). Pecos River Habitat and Riparian Restoration at Mora Recreation Area (2012 & 2013). Retrieved January 3, 2022, from: <https://pecoswatershed.org/projects/completed-projects/mora-recreation-area/>

³⁷ United States Department of Agriculture Forest Service. 2003. Final Pecos Wild and Scenic River Management Plan. Pecos/Las Vegas Ranger District, Santa Fe National Forest. Retrieved January 3, 2022, from: https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb5359036.pdf

³⁸ See Section III.H.

³⁹ Id.

⁴⁰ New Mexico Department of Game and Fish. (n.d.). Water Access and Maps. Retrieved January 3, 2022, from: <https://www.wildlife.state.nm.us/fishing/maps-and-accessibility/>

⁴¹ 16 U.S.C. § 1271 (emphasis added). Rivers or river segments are classified as having “outstandingly remarkable” recreational values that are readily accessible by road or railroad, that may have some development along their shorelines, and that may have undergone some impoundment or diversion in the past. 16 U.S.C. § 1273(b)(3).

⁴² USFS 2004 at 1. (Unclear what this reference was, no edits were made.)

⁴³ See Section III.B.

⁴⁴ See Section III.H.

⁴⁵ New Mexico Department of Game and Fish. (n.d.) 2019-2020 Fishing Rules and Info. Retrieved January 3, 2022, from: https://www.wildlife.state.nm.us/download/publications/rib/2019/fishing/2019_20-New-Mexico-Fishing-Rules-and-Info.pdf

⁴⁶ Id.

⁴⁷ New Mexico Environment Department Surface Water Quality Bureau. (2018). 2018 - 2020 State of New Mexico Clean Water Act 303(d)/305(b) Integrated Report Appendix A Integrated List. Retrieved January 3, 2022, from: <https://www.env.nm.gov/wp-content/uploads/sites/25/2018/03/Appendix-A-Integrated-List.pdf>

⁴⁸ Id. at iii.

⁴⁹ New Mexico Environment Department Surface Water Quality Bureau. (2018). 2018 - 2020 State of New Mexico Clean Water Act 303(d)/305(b) Integrated Report Appendix A Integrated List. Retrieved January 3, 2022, from: <https://www.env.nm.gov/wp-content/uploads/sites/25/2018/03/Appendix-A-Integrated-List.pdf>

⁵⁰ New Mexico Environment Department Surface Water Quality Bureau. (2018). 2018 - 2020 State of New Mexico Clean Water Act 303(d)/305(b) Integrated Report Appendix A Integrated List. Retrieved January 3, 2022, from: <https://www.env.nm.gov/wp-content/uploads/sites/25/2018/03/Appendix-A-Integrated-List.pdf>

⁵¹ Note, the regulations only require a water to meet a minimum of two criteria (the beneficial to the state criterion, plus one additional criteria). 20.6.4.9.B NMAC. Explanation of how designation of the nominated waters as ONRWs would be beneficial to the state is included in section III. H.

⁵² Berrens, Robert & Talberth, John & Thacher, Jennifer & Hand, Michael. (2006). Economic and Community Benefits of Protecting New Mexico's Inventoried Roadless Area, Center for Sustainable Economy- Prepared for Forest Guardians, Santa Fe, New Mexico

⁵² U.S. Forest Serv., Landscape Scale Assessment for the Pecos River Headwaters Watershed (2004) [USFS 2004].]. (The Department was unable to find this reference therefore it remains unedited.)

⁵³ San Miguel County New Mexico. (2018). Draft San Miguel County New Mexico Pecos Subarea Plan. Architectural Research Consultants, Incorporated. Retrieved January 3, 2022, from: <http://cms6.revize.com/revize/sanmiguelcounty/Pecos%20subarea%20plan.pdf>

⁵⁴ Id. at II-4, II-5.

⁵⁵ Id. at II-5, II-6.

⁵⁶ San Miguel County New Mexico. (2017). San Miguel County Comprehensive Plan Update: Report on Community Conversations and Community Survey. Architectural Research Consultants, Incorporated. Retrieved January 3, 2022, from: <https://cms6.revize.com/revize/sanmiguelcounty/San%20Miguel%20County%20Comprehensive%20Plan%20Update%2012.7.2017.pdf>

⁵⁷ Id. at 1-32.

⁵⁸ Id. at 1-31.

⁵⁹ Id. at 1-9.

⁶⁰ Id. at 1-31–1-32.

⁶¹ Id. at 1-33.

⁶² Watson, M.L.. (2005). Habitat fragmentation and the effects of roads on wildlife and habitats. New Mexico Department of Game and Fish. Retrieved January 4, 2022 from: <http://safepassagecoalition.org/resources/Habitat%20Fragmentation.pdf>

⁶³ New Mexico Department of Game and Fish. (2014). The Economic Contributions of Fishing, Hunting, and Trapping in New Mexico in 2013: A Statewide and County-level Analysis. Southwick Associates. Retrieved on January 4, 2022 from: <https://www.wildlife.state.nm.us/download/publications/press-release/NMDGF-Economics-of-Fishing-Hunting-and-Trapping-Final.pdf>

⁶⁴ Id. at 16, Table 6.

⁶⁵ Id. at 21, Table 11.

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.

From: [Kelly Nokes](#)
To: [Fullam, Jennifer, NMENV](#); [Lemon, Shelly, NMENV](#); [Aranda, Diana, NMENV](#); [Roose, Rebecca, NMENV](#); [Verheul, John, NMENV](#)
Cc: [Tannis Fox](#); [Rachel Conn](#)
Subject: Upper Pecos ONRW | Revised Petition for NMED Review
Date: Tuesday, July 6, 2021 12:21:36 PM

Good Afternoon —

Following up on our meeting earlier this spring, please find linked below a revised petition nominating the waters of the Upper Pecos Watershed for the Department's review before Petitioners' formal submission to the WQCC. We greatly appreciate this opportunity for your review and feedback on whether this petition can have the full support of NMED prior to our filing with the Commission.

Changes to this revised petition from the earlier filing include the following clarifications and additions:

- Clearly identified via maps, tables, and petition language the specific waterbodies and associated mileage that Petitioners are nominating;
- Clarified that when Petitioners refer to the "Upper Pecos Watershed," they are referring to the nominated portion of the watershed as outlined in our maps, tables, and petition language;
- Added a chart that summarizes which nominated waterbodies meet which ONRW criteria (exhibit 7);
- Added information about the ecological importance of nominated non-perennial drainages and their connectedness to downstream waters (section III.b.3); and
- Organized the baseline water quality data and provided a short summary of what data was included in the body of the petition.

We are also separately including a draft of Dr. Propst's testimony in support of the nomination that Petitioners intend to file at the NOI/testimony phase of the process.

Due to file-size constraints, the files can be accessed via the DropBox folder linked here: <https://www.dropbox.com/sh/tcami370y20m437/AAA04xSAGdiFNkHt4t3WoDvja?dl=0>

Thank you for expending the time and resources to review this revised petition prior to filing with the WQCC. We have attempted to fully address the concerns of the Department discussed in our meeting this spring. We look forward to your comments and suggestions if there is additional clarification or information that the Department believes is needed in order for you to support the nomination in its entirety. We look forward to hearing from you in the next few weeks. In the meantime, please do not hesitate to reach out with any questions or concerns.

Best — kn

--

Kelly E. Nokes | Shared Earth Wildlife Attorney
Western Environmental Law Center

P.O. Box 218 | Buena Vista, CO 81211
575.613.8051
nokes@westernlaw.org
www.westernlaw.org



September 10, 2021

Kelly Nokes and Tannis Fox, Western Environmental Law Center
On behalf of the Village of Pecos,
San Miguel County,
Upper Pecos Watershed Association,
New Mexico Acequia Association and
Molino de la Isla Organics, LLC.
Sent via Email: nokes@westernlaw.org, fox@westernlaw.org

Re: Technical review of the Upper Pecos ONRW Petition.

Dear Ms. Nokes and Ms. Fox,

On July 6, 2021, the New Mexico Environment Department ("NMED" or "Department") Surface Water Quality Bureau ("SWQB") received a request to review a revised petition with exhibits that proposes to designate certain surface waters of the Upper Pecos Watershed as Outstanding National Resource Waters ("ONRWs"). The July 6th petition is a revised version of the docketed [WQCC 20-18(R)] petition that was formally withdrawn on April 7, 2021.

The Department reviewed the documents provided and appreciates the work that went into the revised petition, as discussed in a Zoom meeting between the Petitioners and the Department on August 31 and identified in the list below. In addition, the Department can fully support the petition if the "Summary of the Department's review" listed items can be verified and/or addressed.

I. Items that Petitioners improved in the revised petition.

- A. Rearranged formatting and sections to better align with ONRW eligibility and nomination criteria.
- B. Refined maps of the surface waters of the state being nominated, including tables with latitude and longitude locations and proposed upstream and downstream boundaries in accordance with 20.6.4.9(A)(1) NMAC.
- C. Included the HUC sub-watershed language into proposed amendments to 20.6.4.9 NMAC.
- D. Significantly expanded the discussion on exceptional ecological significance to identify pertinent wildlife and plant life. The revised petition included the New Mexico Department of Game & Fish ("NMDGF") targeted search of species, including special status animal and plant species, within a one-mile buffer of the 16 named waters. Included a wildlife summary (Table 3).
- E. Added a section to highlight the ecological (and hydrological) significance and interconnectedness of the nominated non-perennial waters, wetlands and ponds.
- F. Significantly expanded the discussion on exceptional recreational significance, which focused on angler days and species of economic and recreational importance ("SERI").
- G. Expanded the section on existing water quality and added Table 7 to summarize information on existing water quality for each waterbody.
- H. Added Exhibit 7 that summarizes the Upper Pecos ONRW criteria for each waterbody.
- I. Added information describing how an ONRW designation of these waters would be beneficial to the state.

II. Summary of the Department's Comments with Recommendations to Resolve (as discussed in the August 31 meeting).

A. Regarding "exceptional" ecological and/or recreational significance (20.6.4.9(B)(2) NMAC).

1. Ecosystem services do not meet *exceptional* criteria for ONRWs. If that was the case, then all waters of New Mexico could be nominated as ONRWs.
2. Exceptional wildlife and plant life was demonstrated for 16 named (perennial) waterbodies. RECOMMENDATION: The Petitioners should explicitly reference NMDGF's species evaluation (Exhibit 5) and include narrative that connects the evaluation to non-perennial tributaries, wetlands and ponds in Section III.B.3.
3. Petitioners demonstrated exceptional recreational significance (and economic importance) of fishing.
RECOMMENDATION: The Petitioners should explain why the nominated waters provide exceptional recreation (besides fishing), if possible. If not possible, angler days and SERI data already demonstrate exceptional recreational significance. Might need to revise Exhibit 7.
4. It may be hard to justify *exceptional* recreational or ecological significance for constructed (man-made) ponds.
RECOMMENDATION: Petitioners should explain why the nominated man-made ponds have *exceptional* recreational and/or ecological significance.

B. Regarding Existing Water Quality and Human Activities (20.6.4.9(B)(3) NMAC)

1. The petition demonstrates that the nominated waters have not been significantly modified by human activities in a manner that substantially detracts from their value as a natural resource. However, only those waters whose existing water quality is equal to or better than the numeric criteria according to Exhibit 2, satisfy 20.6.4.9(B)(3) NMAC (i.e., meet both conditions).
RECOMMENDATION: Change the last sentence in Section III.F (page 50). "Thus, ~~the~~ those nominated waters whose existing water quality is equal to or better than numeric criteria satisfy 20.6.4.9.B(3) NMAC."

C. Other Items

1. Define any terms utilized to qualify a tributary for the ONRW criteria (e.g., angler days, Special Status, etc.)
2. For Exhibit 1, regarding the proposed NMAC language:
 - the Department recommends either referencing where the list of specific "identified" non-perennial and unnamed waters is located or changing the language to remove the term "identified" from the proposed language. It might be as simple as stating, "...all direct non-perennial, unnamed tributaries, and adjacent wetlands, and ponds..." The Department's concern is being able to find the "identified" waterbodies in an easily accessible and available document/location. Where will that document live? This should be noted in the proposed language or revised accordingly.
 - The Department recommends including a narrative in the petition that explains the delineation of the watershed used for the proposed amendments to 20.6.4.9 NMAC (e.g., U.S. Geological Survey ["USGS"] hydrologic unit code ["HUC"]), so there is a direct explanation and link to the proposed NMAC language.
3. The web links in Exhibit 2 (water quality data) do not function properly. Please review and correct links.

4. None of the non-perennial waters are identified as ephemeral waters in 20.6.4.97 NMAC. The Department recommends using the term “non-perennial” throughout the petition. Remove all references to ephemeral waters from the petition (text, tables, and exhibits).
5. The waters being nominated as ONRWs are currently identified in 20.6.4.98 NMAC and 20.6.4.217 NMAC. Please indicate this in the petition (text, tables, and exhibits).

II. Detailed comments on items still to be resolved per section.

A. Section II.B. Maps:

1. Include a scale for reference.
2. Identify data/map layer used to create the maps that identified:
 - a. Nominated streams (perennial & non-perennial) – footnote to explain “ephemeral” label?
 - b. Nominated wetlands and ponds.

B. Section II.D. Baseline:

1. The current section on baseline only has a list of available data. The Department recommends providing a brief analysis/synthesis of the existing data. Petitioners could reference Section III.F, which provides analysis of existing data. Recommend also including a statement that identifies those nominated waters that did not have available data to establish a baseline.
2. Please describe “field data” (i.e., what is the difference between field data and chemical data or habitat data?).
3. The links in Exhibit 2 do not function properly when clicked. The reader must copy/paste entire link into the web browser to download data and even then, some of the links did not work. The Department recommends removing hyperlinks and/or adding instructions on how to download. Please check and correct.

C. Section II.G. Affidavits of Publication.

1. The revised petition will have to be re-noticed.

D. Section III.B. Exceptional Ecological Significance.

1. Recommend referencing Exhibit 7 in this section.

E. Section III.B.1. Exceptional wildlife.

1. Include reference(s) and citation(s) for any defensible statements regarding exceptional wildlife.
2. Exceptional wildlife was demonstrated for the 16 named (perennial) waterbodies. The Petitioners should explicitly reference NMDGF’s species evaluation (Exhibit 5) and include narrative that connects the evaluation to non-perennial tributaries, wetlands and ponds in Section III.B.3.
3. Revise Table 4 to communicate important information related to ONRW criteria.
 - a. List the species of greatest conservation need (not just the number), specifically any aquatic species and not just birds and bats, by watershed or associated tributaries, similar to Table 5 (plant species).
 - b. This table can complement the narrative such that various animal species will be identified as exceptional and directly associated with the nominated waterbodies and their applicability of the ONRW criteria.

F. Section III.B.2. Exceptional plant life.

1. Include reference(s) and citation(s) for any evidence of exceptional plant life. For example, “‘Special Status Plant Species’ is a term used in the scientific community...”. A citation or two would be useful to support this statement.

2. Exceptional plant life demonstrated for 16 named (perennial) waterbodies should include a narrative that explains the connection to non-perennial tributaries and wetlands in Section III.B.3 by explicitly referencing NMDGF's evaluation.

G. Section III.B.3. Exceptional ecological significance and interconnectedness of non-perennials.

1. All surface waters of the state, as defined in 20.6.4.7(S)(5) NMAC, are protected. Protection of ecosystems is different from determining their *exceptional* ecological significance.
2. The debate is not whether the nominated non-perennial systems are ecologically significant, but whether they have *exceptional* ecological significance.
 - a. All or portions of the non-perennial waters are in the one-mile buffer zone. That seems to be where the opportunity lies to nominate non-perennials (on the "coat-tails" of the named, perennial waters). The Department recommends reiterating the fact that NMDGF's evaluation of exceptional wildlife and plant life showed that within a 1-mile buffer around the 16 named perennial waters (which included all or portions of the non-perennial tributaries) there are species of importance that demonstrate their *exceptional* ecological significance.
 - b. For example, on page 25, last sentence of first paragraph, "The network of Pecos non-perennial and perennial water courses and their associated wetland and riparian habitats support a broad diversity of flora and fauna, as demonstrated in the NMDGF targeted search of species (Exhibit 5), which identified special status animal and plant species in within a one-mile buffer of the 16 named perennial waters, which includes the non-perennial tributaries." (or similar). Also recommend connecting this statement to any threatened and endangered species, as appropriate.
3. On page 29, last paragraph, define "critical habitat." Is the critical habitat in this sentence related to threatened and endangered species (specific definition) or critical/crucial habitat for general aquatic and semi-aquatic species to carry out life functions (broad definition)?
4. The debate is not whether the nominated wetlands are ecologically significant, but whether these nominated waters have *exceptional* ecological significance.
 - a. The wetlands are in the one-mile buffer zone; that seems to be where the opportunity lies to nominate wetlands (on the "coat-tails" of the named, perennial waters). Recommend reiterating the fact that NMDGF's evaluation of exceptional wildlife and plant life of the 16 named perennial waters (including wetlands with a 1-mile buffer) have species of importance that demonstrate their *exceptional* ecological significance.
5. The nominated ponds that are constructed (man-made) and on private land (5 and 9a-9e) may be a point of contention for the landowner if the Commission designates their private ponds as ONRWs. Ponds 9f and 10 appear to be on USFS land.
 - a. The Department recommends adding land ownership to the map and including a narrative explaining these circumstances, ensuring transparency to the commission and stakeholders.
 - b. The Department also recommends bolstering your argument to prove that man-made ponds are exceptional in some way (not just providing ecosystem services).
6. Page 31, regarding non-perennial waters, wetlands and ponds. Normal ecosystem services are not criteria for ONRWs. If that was the case, then all waters of NM would meet ONRW criteria. Ensure that all narrative explains the connection and application to the ONRW exceptionality criteria. The Department recommends linking the ecological functions to Exhibit 7 Upper Pecos ONRW Criteria.

H. Section III.C. Exceptional Recreational Significance

1. The Department recommends referencing Exhibits 6 & 7 in this section.

2. The existence of trout (“trout water area”) is not *exceptional*. Therefore, the Department recommends revising Exhibit 7 to only show waterbodies designated as “state special trout waters” under that column and remove the statement “upstream of state special trout waters,” such that that column only includes waterbodies that fulfill the applicable ONRW criteria.
3. Fishing should not be used as justification for exceptional recreational uses on non-perennial tributaries without including additional evidence that fishing occurs in non-perennial waters. The Department recommends revising Exhibit 7 and wherever else applicable in the narrative.
4. The petition demonstrated exceptional recreational significance (and economic importance) of fishing through angler days and SERI data. However, the petition did not have supporting evidence for camping, hiking, horseback riding hunting, birdwatching, photography, backpacking and rafting. The petition should explain why the nominated waters provide *exceptional* recreation (besides fishing), if possible. If not possible, angler days and SERI data already demonstrate exceptional recreational significance. Exhibit 7 should only list items that have supporting evidence in the narrative to fulfill the applicable ONRW criteria.
5. For Table 6, the Department recommends listing species of economic and recreational importance by watershed (“16 nominated waters and their tributaries”), not just the number. Are SERI only aquatic life or do they include terrestrial wildlife as well? If so, linking SERI (terrestrial wildlife) to tributaries would help bolster the ONRW nomination for non-perennial tributaries.

I. Section III.D. Wild and Scenic River

No comments.

J. Section III.E. Special Trout Water

No comments.

K. Section III.F. Meets or Exceeds Water Quality Criteria

1. The Department recommends referencing Exhibit 2 (water quality data) in this section.
2. On page 41 at the top of the page, the Petitioners state that, “Willow Creek has been listed by NMED as a National Pollutant Discharge Elimination System success story” and cite the CWA 303(d)/305(b) Integrated Report. NMED has not listed Willow Creek as an NPDES success story. The Integrated Report states, “Continuing monitoring data following Terrero Mine reclamation indicate improved water quality with respect to metals.” Willow Creek is still impaired due to specific conductance, as Table 7 indicates. Please edit this sentence appropriately or delete the sentence.
3. Table 7: Summary of existing water quality
 - a. The Pecos River (Alamitos Canyon to Jack’s Creek) is not meeting its high quality coldwater aquatic life designated use due to temperature. This should be listed as “Not supporting; Temperature, 2020 (no TMDL).” Please ensure that the petition references the most current version of the Integrated Report: <https://www.env.nm.gov/surface-water-quality/303d-305b/>. The narrative, table(s), and exhibit(s) need to be corrected and referenced accordingly.
 - b. Remove “ephemeral” waters from the table or change designated uses to match non-perennial waters (20.6.4.98 NMAC). This petition does not reference any waters classified in 20.6.4.97 NMAC (ephemeral waters).
4. Page 49, last paragraph, first sentence needs to be corrected since the Pecos River mainstem is impaired due to temperature: “In summary, the existing water quality is equal to or better than the numeric water quality criteria for ~~all of the mainstem of the Pecos River in the nominated stretch of waters, and almost all~~ 12 of the named tributaries. The Pecos River in the nominated stretch of waters and three of the ~~15~~ named tributaries — Macho Canyon

Creek, Dalton Canyon, and Willow Creek — do not meet water quality standards for one water quality parameter (temperature or specific conductance)."

5. The last sentence in this section (page 50) needs to be corrected ("Thus, the nominated waters satisfy 20.6.4.9(B)(3) NMAC"). The petition demonstrates that the nominated waters have not been significantly modified by human activities in a manner that substantially detracts from its value as a natural resource. However, only those waters whose existing water quality is equal to or better than numeric criteria satisfy 20.6.4.9(B)(3) NMAC (meet both criteria). Change the last sentence in Section III.F (page 50) to: "Thus, ~~the~~those nominated waters whose existing water quality is equal to or better than numeric criteria satisfy 20.6.4.9(B)(3) NMAC."

L. Section III.G. Summary of nominated waters and associated criteria.

1. The Department recommends some narrative (i.e., further explanation or analysis) to explain Exhibit 7 instead of just referencing Exhibit 7 in this section.
2. For Exhibit 7 add a repeating header row at top of each page, and number all pages.
3. Currently, exceptional recreational significance was only demonstrated using angler days and SERI data. Therefore, this column should only include those items that have evidence to support ONRW criteria.
4. Did NMDGF identify unnamed (non-perennial) tributaries as trout water areas? If not, this needs to be corrected in the narrative and pertinent tables.
5. In Exhibit 7, in the "WQ equal to or better than criteria" column, the Pecos River entry needs to be corrected to: "MIXED" – YES-PC, NO-HQColdWAL, temperature (2020). Even though the monitoring location is in the downstream end of this assessment unit, it represents the water quality in the assessment unit, which is why the entire reach was listed.
6. Exhibit 7, wetlands and ponds – *exceptional* ecological significance was demonstrated implicitly through the NMDGF evaluation to identify special status animal species, but the connection needs to be explicitly stated.
 - a. "Flood control, wildlife habitat, water filtration, streamflow maintenance. Wetland ecological significance detailed in Exhibits 13, 22, and 35." Where are exhibits 13, 22, and 35? Normal ecosystem function and services are not *exceptional*.
 - b. The wetlands and ponds are in the one-mile radius. That seems to be where the opportunity lies to nominate these waters (on the "coat-tails" of the named, perennial waters).
 - c. Recommend bolstering the argument for wetlands and man-made ponds to prove they are exceptional in some way (not just identifying normal ecosystem services).

M. Section III.H. Beneficial to the State.

No comments.

N. Section IV. Broad-Based Support.

No comments, except to applaud that there is a placeholder for descriptions of additional notable public support received! These narratives could be used to support other exceptional recreational significance, if provided. The Department recommends adding additional notable public support as evidence of exceptional recreational significance, if available and as appropriate.

III. EDITS:

A. Page 23, #3 regarding non-perennials:

1. "The need to recognize, and incorporate into environmental management, the critical ecological ~~importance~~significance of non-perennial streams..."

B. Page 27, paragraph after Figure 2, second sentence:

1. "Non-perennial streams ~~go~~ typically go through at least three wetness phases during a year."
- C. The Department recommends rewording the following on **Page 49**: "It is logical to extrapolate from this that the unassessed waters ~~also~~ likely meet the applicable water quality standards, especially since those standards are less protective than the standards associated with the waters that were assessed and which, for the most part, are being met."
- D. **Page 51** is missing a footnote #. USFS 2004 is referenced but text does not have corresponding number.

This concludes the SWQB's review of the petition.

It is NMED's intent to provide comments that are comprehensive, constructive, and aid in the development of the Upper Pecos ONRW petition. If you have any questions regarding these comments or would like to schedule a meeting to discuss or to clarify, 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: 2021.09.10 10:32:20 -06'00'

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

cc: Harold Garcia, Chair, San Miguel County Commission (garciaharold505@gmail.com)
Mayor Benavidez, Village of Pecos (MayorT@villageofpecos.com)
Paula Garcia, Executive Director, New Mexico Acequia Association (lamorena@lasacequias.org)
Enrique Romero, Director of Legal Services, NMAA (enrique@lasacequias.org)
Jaimie Park, Policy Coordinator & Staff Attorney, NMAA (jaimie@lasacequias.org)
Frank Adelo, President/Chair, Upper Pecos Watershed Association (upwa@pecoswatershed.org)
Lela McFerrin, Vice President, UPWA (upwa@pecoswatershed.org)
Ralph Vigil, Jr., Owner, Molino de la Isla Organics, LLC (molinodelaisla@gmail.com)
Rachel Conn, Deputy Director, Amigos Bravos, (rconn@amigosbravos.org)
Rebecca Roose, Deputy Secretary of Administration, NMED (Rebecca.Roose@state.nm.us)
John Rhoderick, Acting Water Protection Division Director, NMED (John.Rhoderick@state.nm.us)
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)

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 hearing officer sufficiently in advance of the hearing so as to permit the commission administrator to arrange for the appropriate communications equipment. Each witness participating in this manner must be identified when speaking, all participants must be able to hear each other at the same time, and members of the public attending the hearing must be able to hear any witness who speaks during the hearing.
[20.1.6.206 NMAC - Rp, 20.1.6.206 NMAC, 03/16/2018]

New Mexico Register / Volume XXXIII, Issue 2 / January 26, 2022**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 UPPER PECOS WATERSHED AS OUTSTANDING NATIONAL RESOURCE WATERS, NO. WQCC 21-51 (R)**

The New Mexico Water Quality Control Commission (“Commission”) will hold a public hearing on Tuesday, April 12, 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 Upper Pecos Watershed 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 Commission website, <https://www.env.nm.gov/water-quality-control-commission/wqcc-meetings/>, at least 30 days prior to the hearing and as follows:

Meeting link:

<https://nmed-oit.webex.com/nmed-oit/j.php?MTID=m3703c9883544d95524c978e7792711a6>

Meeting number: 2453 489 2613

Meeting password: m5RyMJYPP93

To join by phone: +1-415-655-0001

Access code: 2453 489 2613

The proposed amendments to 20.6.4.9 NMAC, as petitioned for by the Village of Pecos, San Miguel County, the Upper Pecos Watershed Association, the New Mexico Acequia Association, and Molino de la Isla Organics, LLC (collectively, “Petitioners”), and docketed as No. WQCC 21-51 (R), propose designation of certain surface waters of the Upper Pecos Watershed in San Miguel County 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 December 9, 2021. 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. MST on Thursday, March 10, 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

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. Part 7, including Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, and Section 13 of the Federal Water Pollution Control Act Amendments of 1972. If you have any questions about this notice or any of NMED's non-discrimination programs, policies or procedures, you may contact: Non-Discrimination Coordinator, 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. If you believe that you have been discriminated against with respect to a NMED program or activity, you may contact the Non-Discrimination Coordinator identified above.

COMISIÓN DE CONTROL DE LA CALIDAD DEL AGUA DE NUEVO MÉXICO AVISO DE 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 LA CUENCA ALTA DE PECOS COMO AGUAS DE RECURSOS NACIONALES DESTACADOS, NÚM. WQCC 21-51 (R)

La Comisión de Control de la Calidad del Agua de Nuevo México ("Comisión") celebrará una audiencia pública el martes, 12 de abril 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 la Cuenca Alta de Pecos como Aguas de Recursos Nacionales Destacados. La Comisión iniciará su reunión mensual ordinaria a las 9:00 a.m. MST, y la audiencia pública comenzará al concluir sus asuntos ordinarios. La información para asistir a la audiencia virtual a través de la plataforma de conferencias WebEx estará disponible en el sitio web de la Comisión, <https://www.env.nm.gov/water-quality-control-commission/wqcc-meetings/>, al menos 30 días antes de la audiencia y de la siguiente manera:

Enlace a la reunión:

<https://nmed-oit.webex.com/nmed-oit/j.php?MTID=m3703c9883544d95524c978e7792711a6>

Número de la reunión: 2453 489 2613

Contraseña de la reunión: m5RyMJYPP93

Para unirse por teléfono: +1-415-655-0001

Código de acceso: 2453 489 2613

Las enmiendas propuestas a 20.6.4.9 NMAC, solicitadas por la localidad de Pecos, condado de San Miguel, la Asociación de la Cuenca Alta de Pecos, la Asociación de Acequias de Nuevo México y Molino de la Isla Organics, LLC (colectivamente, los "Petitionarios"), y registradas con el número WQCC 21-51 (R), proponen la designación de ciertas aguas superficiales de la Cuenca Alta de Pecos en el condado de San Miguel como Aguas de Recursos Nacionales Destacados ("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 poniéndose en contacto con Pamela Jones, administradora de la Comisión, 1190 S. St. Francis Drive, Santa Fe, Nuevo México 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 9 de diciembre de 2021. 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, para presentar las pruebas 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 su nombre, dirección, afiliación(es) y su historial académico y laboral;
4. Estimar la duración del testimonio directo de cada testigo;
5. Identificar todas las pruebas instrumentales que forman parte del Registro Administrativo y en el caso de que las pruebas instrumentales no formen parte del Registro Administrativo adjuntar una copia;
6. Enumerar o poner a disposición todos los materiales técnicos en los que se basó cada testigo para realizar la declaración técnica de hechos u opiniones contenida en su testimonio directo; y
7. Adjuntar un resumen de la declaración de cada testigo, indicando cualquier opinión que vaya a ofrecer y una explicación de la base de dicha opinión u opiniones.

La fecha límite para presentar los avisos de intención es a las 5:00 p.m. MST del jueves 10 de marzo de 2022, a la administradora de la Comisión. 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 sobre 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

Si alguna persona requiere asistencia, un intérprete o ayuda 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, Nuevo México, 87502, teléfono (505) 660-4305 o correo electrónico Pamela.jones@state.nm.us. (TDD o TTY) los usuarios 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).

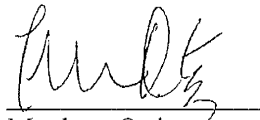
El NMED no discrimina por motivos de raza, color, nacionalidad, discapacidad, edad o sexo en la administración de sus programas o actividades, como lo exigen las leyes y reglamentos aplicables. El NMED es responsable de la coordinación de los esfuerzos de cumplimiento y la recepción de las consultas relativas a los requisitos de no discriminación implementados por 40 C.F.R. Partes 5 y 7, incluyendo el Título VI de la Ley de Derechos Civiles de 1964, con sus enmiendas; 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 Contaminación del Agua de 1972. Si tiene alguna pregunta sobre este aviso o cualquiera de los programas, políticas o procedimientos de no discriminación del NMED, o si cree que ha sido discriminado con respecto a un programa o actividad del NMED, puede ponerse en contacto con: Coordinadora de no discriminación, NMED, 1190 St. Francis Dr., Suite N4050, P.O. Box 5469, Santa Fe, NM 87502, (505) 827-2855, nd.coordinator@state.nm.us. También puede visitar nuestro sitio web en <https://www.env.nm.gov/non-employee-discrimination-complaint-page/> para saber cómo y dónde presentar una queja por discriminación.

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Affidavit of Publication in New Mexico Register

I, Matthew Ortiz, certify that the agency noted on Invoice # 5961 has published legal notice of rulemaking or rules in the NEW MEXICO REGISTER, VOLUME XXXII, that payment has been assessed for said legal notice of rulemaking or rules, which appears on the publication date and in the issue number noted on Invoice # 5961, and that Invoice # 5961 has been sent electronically to the person(s) listed on the *Billing Information Sheet* provided by the agency.

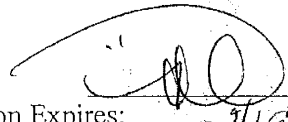
Affiant:

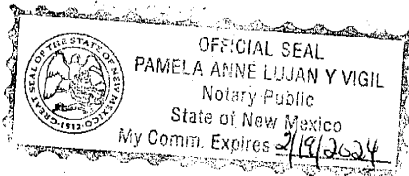

Matthew Ortiz

Subscribed, sworn and acknowledged before me this 26th day of January, 2022.

Notary Public:

My Commission Expires:


2/19/2024



1205 Camino Carlos Rey | Santa Fe, NM 87507 | www.srca.nm.gov

Hon. Hector Balderas
Attorney General

Hon. Brian S. Colón
Chairman/State Auditor

Hon. Maggie Toulouse Oliver
Secretary of State

Debra Garcia y Griego
Department of Cultural Affairs

Stephanie Wilson
Acting Director, Supreme Court Law Library

AFFIDAVIT OF PUBLICATION

COUNTIES OF SAN MIGUEL and MORA,
STATE OF NEW MEXICO } ss.

Phil Scherer, Editor, being duly sworn, on oath states that he is a Manager of the Las Vegas Optic, a semi-weekly newspaper of general paid and general circulation in San Miguel and Mora Counties, New Mexico, and that this newspaper is duly to publish legal notices or advertisements within the meaning of the provisions of Chapter 167, session Laws of 1937, and that payment therefor has been made and assessed as court costs. That the notice of which a copy as published is hereto attached and hereby made a part hereof was published in said newspaper once each week for 1 consecutive insertion(s). That the publication being on the 4th day of February, 2022 and the subsequent consecutive publications on the _____ n/a _____ day(s) of _____, 20_____.

Price: \$450.45.

Account Number: 33497.

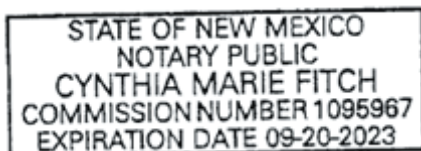


Editor

Subscribed and sworn to before me this 4th day of February, 2022.



Notary Public



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 UPPER PECOS WATERSHED AS OUTSTANDING NATIONAL RESOURCE WATERS, NO. WQCC 21-51 (R) The New Mexico Water Quality Control Commission ("Commission") will hold a public hearing on Tuesday, April 12, 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 Upper Pecos Watershed 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 Commission website, <https://www.env.nm.gov/water-quality-control-commission/wqcc-meetings/>, at least 30 days prior to the hearing and as follows:
Meeting link: <https://nmed-oit.webex.com/nmed-oit/j.php?MTID=m3703c9883544d95524c978e7792711a6>
Meeting number: 2453 489 2613
Meeting password: m5RyMJYPP93
To join by phone: +1-415-655-0001
Access code: 2453 489 2613
The proposed amendments to 20.6.4.9 NMAC, as petitioned for by the Village of Pecos, San Miguel County, the Upper Pecos Watershed

Association, the New Mexico Acequia Association, and Molino de la Isla Organics, LLC (collectively, "Petitioners"), and docketed as No. WQCC 21-51 (R), propose designation of certain surface waters of the Upper Pecos Watershed in San Miguel County 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/docketedmatters/>. 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 December 9, 2021. 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

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

supports or opposes the Petition;

3. Identify each witness, including name, address, 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).

notices of intent is 5:00 p.m. MST on Thursday, March 10, 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.

this matter, including notices of intent, must

via email to the Commission Administrator, at Pamela.Jones@state.nm.us

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. Part 7, including Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, and Section 13 of the Federal Water Pollution Control Act Amendments of 1972. If you have any questions about this notice or any of NMED's non-discrimination programs, policies or procedures, you may contact: Non-Discrimination Coordinator, 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. If you believe that you have been discriminated against with respect to a NMED program or activity, you may contact the Non-Discrimination Coordinator

...

COMISIÓN DE CONTROL DE LA CALIDAD DEL AGUA DE NUEVO MÉXICO

AVISO DE 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 LA CUENCA ALTA DE PECOS COMO AGUAS DE RECURSOS NACIONALES DESTACADOS, NÚM. WQCC 21-51 (R)

La Comisión de Control de la Calidad del

Agua de Nuevo México ("Comisión") celebrará una audiencia pública el martes, 12 de abril 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 y Estatales,

20.6.4.9 NMAC, Designación de Aguas de la Cuenca Alta de Pecos como Aguas de Recursos Nacionales Destacados.

La Comisión iniciará su reunión mensual ordinaria a las 9:00 a.m. MST, y la audiencia pública comenzará al concluir sus asuntos ordinarios.

La información para asistir a la audiencia virtual a través de la plataforma de conferencias WebEx estará disponible en el sitio web de la Comisión, <https://www.env.nm.gov/waterquality-control-commission/wqcc-meetings/>, al menos 30 días antes de la audiencia y de la siguiente manera:

Enlace a la reunión: <https://nmed-oit.webex.com/nmed-oit/j.php?MTID=m3703c9883544d95524c978e7792711a6>

Número de la reunión: 2453 489 2613

Contraseña de la reunión: m5RyMJYPP93

Para unirse por teléfono: +1-415-655-0001

Código de acceso: 2453 489 2613

Las enmiendas propuestas a 20.6.4.9 NMAC, solicitadas por la localidad de Pecos, condado de San Miguel, la Asociación de la Cuenca Alta de Pecos, la Asociación de Acequias de Nuevo México y Molino de la Isla Organics, LLC (colectivamente, los "Peticionarios"), y registradas con el número WQCC 21-51 (R), proponen la designación

de la Cuenca Alta de Pecos en el condado de San Miguel como Aguas de Recursos Nacionales Destacados ("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 poniéndose en contacto con Pamela Jones, administradora de la Comisión, 1190 St. Francis Drive, Santa Fe, Nuevo México 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 9 de diciembre de 2021. 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, para presentar las pruebas 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. o entidad para la o testigos;
2. Indicar si la persona que presenta la declaración apoya o se opone a la Petición;
3. testigo, incluyendo su nombre, dirección,

academico y laboral;
 4. Estimar la duración del testimonio directo de cada testigo;
 5. pruebas instrumentales que forman parte del Registro Administrativo y en el caso de que las pruebas instrumentales no formen parte del Registro Administrativo adjuntar una copia;
 6. Enumerar o poner a disposición todos los materiales técnicos en los que se basó cada testigo para realizar la declaración técnica de hechos u opiniones contenida en su testimonio directo; y
 7. Adjuntar un resumen de la declaración de cada testigo, indicando cualquier opinión que vaya a ofrecer y una explicación de la base de dicha opinión u opiniones.

La fecha límite para presentar los avisos de intención es a las 5:00 p.m. MST del jueves 10 de marzo de 2022, a la administradora de la Comisión. 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 sobre 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

Si alguna persona requiere asistencia, un intérprete o ayuda 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, Nuevo México, 87502, teléfono (505) 660-4305 o correo electrónico Pamela.jones@state.nm.us. (TDD o TTY) los usuarios 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, nacionalidad, discapacidad, edad o sexo en la administración de sus programas o actividades, como lo exigen las leyes y reglamentos aplicables. El NMED es responsable de la coordinación de los esfuerzos de cumplimiento y la recepción de las consultas relativas a los requisitos de no discriminación implementados por 40 C.F.R.

Partes 5 y 7, incluyendo el Título VI de la Ley de Derechos Civiles de 1964, con sus enmiendas; 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 Contaminación del Agua de 1972. Si tiene alguna pregunta sobre este aviso o cualquiera de los programas, políticas o procedimientos de no discriminación del NMED, o si cree que ha sido discriminado con respecto a un programa o actividad del NMED, puede ponerse en contacto con: Cordinadora de no discriminación, NMED, 1190 St. Francis Dr., Suite N4050, P.O. Box 5469, Santa Fe, NM 87502, (505) 827-2855, nd.coordinator@state.nm.us. También puede visitar nuestro sitio web en <https://www.env.nm.gov/non-employee-discriminationcomplaint-page/> para saber cómo y dónde presentar una queja por discriminación.

PUB: Las Vegas Optic,
 Feb 4, 2022
 #22010009

www.lasvegasoptic.com

LAS VEGAS OPTIC

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LAS VEGAS OPTIC SALES ACCOUNT EXECUTIVE. Full-Time Position in Sales. Candidate must have good people and computer skills. Must be willing to sell ads to help our business to grow and provide great service to customers. Have reliable transportation. Send your resume to Jim O'Rourke, jorourke@orourkemediagroup.com.

900
Legal Notices

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 UPPER PECOS WATERSHED AS OUTSTANDING NATIONAL RESOURCE WATERS, NO. WQCC 21-51 (R) The New Mexico Water Quality Control Commission ("Commission") will hold a public hearing on Tuesday, April 12, 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 Intra-state Surface Waters, 20.6.4.9 NMAC, Designation of Waters of the Upper Pecos Watershed 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 Commission website, <https://www.env.nm.gov/water-quality-control-commission/wqcc-meetings/>, at least 30 days prior to the hearing and as follows: Meeting link: <https://nmed-oit.webex.com/nmed-oit/j.php?MTID=m3703c9883544d95524c978e7792711a6> Meeting number: 2453 489 2613 Meeting password: m5RyMJYPP93 To join by phone: +1-415-655-0001 Access code: 2453 489 2613 The proposed amendments to 20.6.4.9 NMAC, as petitioned for by the Village of Pecos, San Miguel County, the Upper Pecos Watershed Association, the New Mexico Acequia Association, and Molino

de la Isla Organics, LLC (collectively, "Petitioners"), and docketed as No. WQCC 21-51 (R), propose designation of certain surface waters of the Upper Pecos Watershed in San Miguel County 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 December 9, 2021. 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. MST on Thursday, March 10, 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 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. Part 7, including Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, and Section 13 of the Federal Water Pollution Control Act Amendments of 1972. If you have any questions about this notice or any of NMED's non-discrimination programs, policies or procedures, you may contact: Non-

Discrimination Coordinator, 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. If you believe that you have been discriminated against with respect to a NMED program or activity, you may contact the Non-Discrimination Coordinator identified above.

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COMISIÓN DE CONTROL DE LA CALIDAD DEL AGUA DE NUEVO MÉXICO

AVISO DE 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 LA CUENCA ALTA DE PECOS COMO AGUAS DE RECURSOS NACIONALES DESTACADOS, NÚM. WQCC 21-51 (R)

La Comisión de Control de la Calidad del Agua de Nuevo México ("Comisión") celebrará una audiencia pública el martes, 12 de abril 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 la Cuenca Alta de Pecos como Aguas de Recursos Nacionales Destacados. La Comisión iniciará su reunión mensual ordinaria a las 9:00 a.m. MST, y la audiencia pública comenzará al concluir sus asuntos ordinarios. La información para asistir a la audiencia virtual a través de la plataforma de conferencias WebEx estará disponible en el sitio web de la Comisión, <https://www.env.nm.gov/water-quality-control-commission/wqcc-meetings/>, al menos 30 días antes de la audiencia y de la siguiente manera: Enlace a la reunión: <https://nmed-oit.webex.com/nmed-oit/j.php?MTID=m3703c9883544d95524c978e7792711a6> Número de la reunión: 2453 489 2613 Contraseña de la reunión: m5RyMJYPP93 Para unirse por teléfono: +1-415-655-0001 Código de acceso: 2453 489 2613 Las enmiendas propuestas a 20.6.4.9 NMAC, solicitadas por la localidad de Pecos, condado de San Miguel, la Asociación de la Cuenca Alta de Pecos, la Asociación de Acequias de Nuevo México y Molino de la Isla Organics, LLC (colectivamente, los "Peticionarios"), y registradas con el número WQCC 21-51 (R), proponen la designación de ciertas aguas superficiales de la Cuenca Alta de Pecos en el condado de San Miguel como Aguas de Recursos Nacionales Destacados ("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 poniéndose en contacto con Pamela Jones, administradora de la Comisión, 1190 S. St. Francis Drive, Santa Fe, Nuevo México 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 9 de diciembre de 2021. 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, para presentar las pruebas 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 su nombre, dirección, afiliación(es) y su historial académico y laboral;
4. Estimar la duración del testimonio directo de cada testigo;
5. Identificar todas las pruebas instrumentales que forman parte del Registro Administrativo y en el caso de que las pruebas instrumentales no formen parte del Registro Administrativo adjuntar una copia;
6. Enumerar o poner a disposición todos los materiales técnicos en los que se basó cada testigo para realizar la declaración técnica de hechos u opiniones contenida en su testimonio directo; y
7. Adjuntar un resumen de la declaración de cada testigo, indicando cualquier opinión que vaya a ofrecer y una explicación de la base de dicha opinión u opiniones.

La fecha límite para presentar los avisos de intención es a las 5:00 p.m. MST del jueves 10 de marzo de 2022, a la administradora de la Comisión. 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 sobre 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. Si alguna persona requiere asistencia, un intérprete o ayuda 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, Nuevo México, 87502, teléfono (505) 660-4305 o correo electrónico Pamela.jones@state.nm.us. Los usuarios 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, nacionalidad, discapacidad, edad o sexo en la administración de sus programas o actividades, como lo exigen las leyes y reglamentos aplicables. El NMED es responsable de la coordinación de los esfuerzos de cumplimiento y la recepción de las consultas relativas a los requisitos de no discriminación implementados por 40 C.F.R. Partes 5 y 7, incluyendo el Título VI de la Ley de Derechos Civiles de 1964, con sus enmiendas; 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 Contaminación del

Agua de 1972. Si tiene alguna pregunta sobre este aviso o cualquiera de los programas, políticas o procedimientos de no discriminación del NMED, o si cree que ha sido discriminado con respecto a un programa o actividad del NMED, puede ponerse en contacto con: Coordinadora de no discriminación, NMED, 1190 St. Francis Dr., Suite N4050, P.O. Box 5469, Santa Fe, NM 87502, (505) 827-2855, nd.coordinator@state.nm.us. También puede visitar nuestro sitio web en <https://www.env.nm.gov/non-employee-discrimination-complaint-page/> para saber cómo y dónde presentar una queja por discriminación. PUB: Las Vegas Optic, Feb 4, 2022

#22010009

STATE OF NEW MEXICO COUNTY OF SAN MIGUEL FOURTH JUDICIAL DISTRICT COURT CITY OF LAS VEGAS, a New Mexico home-rule municipality, Plaintiff, v. D-412-CV-2021-00030 ALICE CRESPIN, THE ESTATE OF ALICE CRESPIN, ADELINA CRESPIN, THE ESTATE OF ADELINA CRESPIN, RAYMOND SANCHEZ, ANY UNKNOWN OCCUPANTS OF THE PROPERTY, ANY UNKNOWN CLAIMANTS OF INTEREST IN THE PROPERTY, Defendants. NOTICE OF SALE AND FORECLOSURE PLEASE TAKE NOTICE

Continue to Page 7

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ADJUSTMENTS Please carefully review your Classified ad for any error in the first day of publication. Make request for corrections by 11 a.m. the day following the first publication. A copy of your ad may be provided at time of payment.

DEADLINE All classified ads and legals must be received by 11 a.m. two days before the desired run date.

PUBLISHERS NOTICE All real estate advertising in this newspaper is subject to the Fair Housing Act which makes it illegal to advertise "any preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status or national origin, or an intention to make any such preference, limitation or discrimination." Familial status includes children under the age of 18 living with parents or legal custodians, pregnant women and people securing custody of children under 18. This newspaper will not knowingly accept any advertising for real estate which is in violation of the law. Our readers are hereby informed that all dwellings advertised in this newspaper are available on an equal opportunity basis. To complain of discrimination call HUD toll-free at 1-800-669-9777. The toll-free telephone number for the hearing impaired is: 1-800-927-9275.



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David Montoya, the undersigned, authorized Representative of the Albuquerque Journal, on oath states that this newspaper is duly qualified to publish legal notices or advertisements within the meaning of Section 3, Chapter 167, Session Laws of 1937, that payment therefore has been made of assessed as court cost; and that the notice, copy of which is hereto attached, was published in said paper in the regular daily edition, for 1 time(s) on the following date(s):

02/05/2022

David Montoya

Sworn and subscribed before me, a Notary Public, in and for the County of Bernalillo and State of New Mexico this

7 day of February of 2022

PRICE \$1,110.42

Statement to come at the end of month.

ACCOUNT NUMBER 1087132



Official Seal
Christina White
Notary Public
State of New Mexico

My Commission Expires: 4/10/22

Christina White



TION

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 UPPER PECOS WATERSHED AS OUTSTANDING NATIONAL RESOURCE WATERS, NO. WQCC 21-51 (R)

The New Mexico Water Quality Control Commission ("Commission") will hold a public hearing on Tuesday, April 12, 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 Upper Pecos Watershed 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 Commission website, <https://www.env.nm.gov/water-quality-control-commission/wqcc-meetings/>, at least 30 days prior to the hearing and as follows:

Meeting link:
<https://nmed-oit.webex.com/nmed-oit/j.php?MTID=m3703c9883544d95524c978e7792711a6>

Meeting number: 2453 489 2613
Meeting password: m5RyMJYPP93
To join by phone: +1-415-655-0001
Access code: 2453 489 2613

The proposed amendments to 20.6.4.9 NMAC, as petitioned for by the Village of Pecos, San Miguel County, the Upper Pecos Watershed Association, the New Mexico Acequia Association, and Molino de la Isla Organics, LLC (collectively, "Petitioners"), and docketed as No. WQCC 21-51 (R), propose designation of certain surface waters of the Upper Pecos Watershed in San Miguel County as Outstanding National Resource Waters ("ONRWs").

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6. List or make available all technical materials relied upon by each witness in making statement of technical 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).

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**COMISIÓN DE CONTROL DE LA CALIDAD DEL AGUA DE NUEVO MÉXICO
AVISO DE 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 LA CUENCA ALTA DE PECOS COMO AGUAS DE RECURSOS NACIONALES
DESTACADOS, NUM. WQCC 21-51 (R)**

La Comisión de Control de la Calidad del Agua de Nuevo México ("Comisión") celebrará una audiencia pública el martes, 12 de abril 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 la Cuenca Alta de Pecos como Aguas de Recursos Nacionales Destacados. La Comisión iniciará su reunión mensual ordinaria a las 9:00 a.m. MST, y la audiencia pública comenzará al concluir sus asuntos ordinarios. La información para asistir a la audiencia virtual a través de la plataforma de conferencias WebEx estará disponible en el sitio web de la Comisión, <https://www.env.nm.gov/water-quality-control-commission/wqcc-meetings/>, al menos 30 días antes de la audiencia y de la siguiente manera:

Enlace a la reunión:
<https://nmed-oit.webex.com/nmed-oit/j.php?MTID=m3703c9883544d95524c978e7792711a6>

Número de la reunión: 2453 489 2613
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of the Albuquerque Journal, on oath
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State of New Mexico

My Commission Expires: 4/10/22

Christina White

Las enmiendas propuestas a 20.6.4.9 NMAC, solicitadas por la localidad de Pecos, condado de San Miguel, la Asociación de la Cuenca Alta de Pecos, la Asociación de Acequias de Nuevo México y Molino de la Isla Organics, LLC (colectivamente, los "Petitionarios"), y registradas con el número WQCC 21-51 (R), proponen la designación de ciertas aguas superficiales de la Cuenca Alta de Pecos en el condado de San Miguel como Aguas de Recursos Nacionales Destacados ("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/opt/docketed-matters/>. La petición también puede obtenerse electrónicamente poniéndose en contacto con Pamela Jones, administradora de la Comisión, 1190 S. St. Francis Drive, Santa Fe, Nuevo México 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 9 de diciembre de 2021. Una copia de la Orden de Programación está disponible en <https://www.env.nm.gov/opt/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, para presentar las pruebas 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 su nombre, dirección, afiliación(es) y su historial académico y laboral;
4. Estimar la duración del testimonio directo de cada testigo;
5. Identificar todas las pruebas instrumentales que forman parte del Registro Administrativo y en el caso de que las pruebas instrumentales no formen parte del Registro Administrativo adjuntar una copia;
6. Enumerar o poner a disposición todos los materiales técnicos en los que se basó cada testigo para realizar la declaración técnica de hechos u opiniones contenida en su testimonio directo; y
7. Adjuntar un resumen de la declaración de cada testigo, indicando cualquier opinión que vaya a ofrecer y una explicación de la base de dicha opinión u opiniones.

La fecha límite para presentar los avisos de intención es a las 5:00 p.m. MST del jueves 10 de marzo de 2022, a la administradora de la Comisión. 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 sobre 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

Si alguna persona requiere asistencia, un intérprete o ayuda 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, Nuevo México, 87502, teléfono (505) 660-4305 o correo electrónico Pamela.jones@state.nm.us. (TDD o TTY) los usuarios 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, nacionalidad, discapacidad, edad o sexo en la administración de sus programas o actividades, como lo exigen las leyes y reglamentos aplicables. El NMED es responsable de la coordinación de los esfuerzos de cumplimiento y la recepción de las consultas relativas a los requisitos de no discriminación implementados por 40 C.F.R. Partes 5 y 7, incluyendo el Título VI de la Ley de Derechos Civiles de 1964, con sus enmiendas; 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 Contaminación del Agua de 1972. Si tiene alguna pregunta sobre este aviso o cualquiera de los programas, políticas o procedimientos de no discriminación del NMED, o si cree que ha sido discriminado con respecto a un programa o actividad del NMED, puede ponerse en contacto con: Coordinadora de no discriminación, NMED, 1190 St. Francis Dr., Suite N4050, P.O. Box 5469, Santa Fe, NM 87502, (505) 827-2855, nd.coordinator@state.nm.us. También puede visitar nuestro sitio web en <https://www.env.nm.gov/non-employee-discrimination-complaint-page/> para saber cómo y dónde presentar una queja por discriminación.

Journal: February 5, 2022

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](#).

From: [Lemon, Shelly, NMENV](#)
To: [Kesler, Michael, NMENV](#); [Chavez, William, NMENV](#); [Root, Mary K, NMENV](#)
Cc: [Barrios, Kristopher, NMENV](#); [Aranda, Diana, NMENV](#); [Fullam, Jennifer, NMENV](#); [Verheul, John, NMENV](#)
Subject: Pecos ONRW Hearing Notice to NMED District Offices
Date: Monday, January 24, 2022 12:18:39 PM
Attachments: [2022-01-07 - WPD SWQB WQCC_21_51_R_HearingNotice 20220104 meeting link and SPANISH.pdf](#)

Hello,

I wanted to let the District Offices know that a petition to amend surface water quality regulations in 20.6.4.9 NMAC, *Standards for Interstate and Intrastate Surface Waters – Outstanding National Resource Waters* (“ONRWs”), has been filed and a hearing has been granted by the Water Quality Control Commission (“WQCC”). 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 purpose of the hearing is to consider designating identified waters within the Pecos River Watershed from the Dalton Day Use Area (near Pecos, NM) upstream to the US Forest Service Wilderness Boundary as ONRWs under 20.6.4.9 NMAC, *Standards for Interstate and Intrastate Surface Waters*. The proposed amendments to 20.6.4.9 NMAC may be reviewed, online at <https://www.env.nm.gov/opf/water-quality-control-commission/>, under WQCC’s Docketed Matter 21-51(R).

The WQCC is planning to hold the public hearing beginning **April 12, 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

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


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Public Hearing before the Water Quality Control Commission: WQCC 21-51: In the Matter of the Petition to Designate Upper Pecos Watershed as ONRW

TUESDAY, APRIL 12, 2022, 10AM – 6PM

WQCC 21-51 (R): In the Matter of Petition to Designate Surface Waters of the Upper Pecos Watershed as Outstanding National Resource Waters.

Public notices of this hearing and other hearings are posted on the [NMED Public Notices page](#).

Testimony and other documents associated with the hearing will be posted on the NMED [Docketed Matters page](#).

Location Webex

Contact Pamela.Jones@state.nm.us

Event type Public hearing


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Main Ph: [505-827-2855](tel:505-827-2855)
[800-219-6157](tel:800-219-6157)

Headquarters Location
Harold Runnels Building
1190 St. Francis Dr.
Suite N4050
Santa Fe, NM 87505


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Santa Fe, New Mexico 87505

tel (800) 219-6157

(505) 827-2855

Phone: 505-827-2855 1-800-219-6157 Environmental Emergencies: 505-827-9329 (24 hours)



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Public Notices

This page lists public notices for rulemakings, permitting actions and any appeals of the action. Any rulemaking hearing or specific permitting or enforcement matter appealed to a board, commission or Environment Department Secretary is found on our [Docketed Matters webpage](#) once it is docketed.

Historical actions (e.g., public notices and associated documents) are archived on the previous NMED site.

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▼ San Miguel County

▼ Proposed Amendments to 20.6.4.9 NMAC – Outstanding National Resource Waters

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 Upper Pecos Watershed as Outstanding National Resource Waters, WQCC Docketed Matter 21-51 (R)

Public Notice – Water Quality Control Commission

- Public Notice Type: New Mexico Water Quality Control Commission (WQCC) Notice of Public Hearing
- Date of Public Notice: Friday, February 4, 2022
- [Public Notice](#)
- WQCC Contact: Pamela Jones, Commission Administrator, pamela.jones@state.nm.us, 505-660-4305
- The petition and proposed amendments are available on the Commission's website, at </opf/docketed-matters/>.

Comisión de Control de la Calidad del Agua de Nuevo México avisio de 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 la Cuenca alta de Pecos como Aguas de Recursos Nacionales Destacados, registradas con el número WQCC 21-51 (R)

Avisio público – Comisión de Control de la Calidad del Agua de Nuevo México

- Tipo de aviso público: Comisión de Control de la Calidad del Agua de Nuevo México (WQCC) aviso de audiencia pública
- Fechas del aviso público del NMED: el viernes 4 de febrero de 2022
- [Avisio público](#)
- Contactos de WQCC: Commission Administrator, pamela.jones@state.nm.us, 505-660-4305
- La petición y las enmiendas propuestas están disponibles en el sitio web de la Comisión, en </opf/docketed-matters/>.



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Upper Pecos River and Identified Tributaries ONRW- WQCC 21-51(R)

Contact us
Ph: 505-827-0187 Find a list of Surface Water Quality staff contacts [here](#).

In accordance with 20.6.4.9(A) NMAC, 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 applicable procedures. Pursuant to 20.6.4.9(B) NMAC, the WQCC may designate a surface water of the state as an ONRW where the Commission determines that the designation is beneficial to the state and it has been demonstrated that at least one of the eligibility criteria in 20.6.4.9(B) NMAC have been demonstrated in accordance with 20.6.4.9(A) NMAC. As such, the third-party petition, proposing several ephemeral, intermittent, and perennial classified and unclassified waterbodies, from the US Forest Service ("USFS") Dalton Day Use area to the USFS Wilderness boundary, be designated as ONRWs, as provided under 20.6.4.9 NMAC.

Document	Author	Date
Petition	Village of Pecos, San Miguel County, Upper Pecos Watershed Association, New Mexico Acequia Association, and Molino de la Isla Organics LLC	10.01.2021
WQCC Pleading Log	WQCC	Various dates
Hearing Notice	NMED	02.04.2022

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Harold L. Runnels Building1190 St. Francis Drive, Suite N4050Santa Fe, New Mexico 87505tel (800) 219-6157(505) 827-2855

From: [New Mexico Environment Department](#)
To: [Fullam, Jennifer, NMENV](#)
Subject: NM WQCC hearing notice- Designation of waters of the Upper Pecos Watershed as Outstanding National Resource Waters, WQCC 21-51 (R)
Date: Friday, February 4, 2022 10:26:26 AM

Surface Water Quality Bureau

Our mission is to preserve, protect, and improve New Mexico's surface water quality for present and future generations.

SWQB logo



Oficina de Calidad de Aguas Superficiales

Nuestra misión es preservar, proteger y mejorar la calidad de las aguas superficiales de Nuevo México para las generaciones presentes y futuras.

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 UPPER PECOS WATERSHED AS OUTSTANDING NATIONAL RESOURCE WATERS, NO. WQCC 21-51 (R)

The New Mexico Water Quality Control Commission (“Commission”) will hold a public hearing on Tuesday, April 12, 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 Upper Pecos Watershed 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 Commission website, <https://www.env.nm.gov/water-quality-control-commission/wqcc-meetings/>, at least 30 days prior to the hearing and as follows:

Meeting link:

<https://nmed-oit.webex.com/nmed-oit/j.php?MTID=m3703c9883544d95524c978e7792711a6>

Meeting number: 2453 489 2613
Meeting password: m5RyMJYPP93
To join by phone: +1-415-655-0001
Access code: 2453 489 2613

The proposed amendments to 20.6.4.9 NMAC, as petitioned for by the Village of Pecos, San Miguel County, the Upper Pecos Watershed Association, the New Mexico Acequia Association, and Molino de la Isla Organics, LLC (collectively, “Petitioners”), and docketed as No. WQCC 21-51 (R), propose designation of certain surface waters of the Upper Pecos Watershed in San Miguel County 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 December 9, 2021. 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. MST on Thursday, March 10, 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

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, you may contact:

*Kathryn Becker, Non-Discrimination Coordinator
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*

<https://www.env.nm.gov/non-employee-discrimination-complaint-page/>

If you believe that you have been discriminated against with respect to a NMED program or activity,

you may contact the Non-Discrimination Coordinator identified above.

COMISIÓN DE CONTROL DE LA CALIDAD DEL AGUA DE NUEVO MÉXICO AVISO DE 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 LA CUENCA ALTA DE PECOS COMO AGUAS DE RECURSOS NACIONALES DESTACADOS, NÚM. WQCC 21-51 (R)

La Comisión de Control de la Calidad del Agua de Nuevo México ("Comisión") celebrará una audiencia pública el martes, 12 de abril 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 la Cuenca Alta de Pecos como Aguas de Recursos Nacionales Destacados. La Comisión iniciará su reunión mensual ordinaria a las 9:00 a.m. MST, y la audiencia pública comenzará al concluir sus asuntos ordinarios. La información para asistir a la audiencia virtual a través de la plataforma de conferencias WebEx estará disponible en el sitio web de la Comisión, <https://www.env.nm.gov/water-quality-control-commission/wqcc-meetings/>, al menos 30 días antes de la audiencia y de la siguiente manera:

Enlace a la reunión:

<https://nmed-oit.webex.com/nmed-oit/j.php?MTID=m3703c9883544d95524c978e7792711a6>

Número de la reunión: 2453 489 2613

Contraseña de la reunión: m5RyMJYPP93

Para unirse por teléfono: +1-415-655-0001

Código de acceso: 2453 489 2613

Las enmiendas propuestas a 20.6.4.9 NMAC, solicitadas por la localidad de Pecos, condado de San Miguel, la Asociación de la Cuenca Alta de Pecos, la Asociación de Acequias de Nuevo México y Molino de la Isla Organics, LLC (colectivamente, los "Petitionarios"), y registradas con el número WQCC 21-51 (R), proponen la designación de ciertas aguas superficiales de la Cuenca Alta de Pecos en el condado de San Miguel como Aguas de Recursos Nacionales Destacados ("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 poniéndose en contacto con Pamela Jones, administradora de la Comisión, 1190 S. St. Francis Drive, Santa Fe, Nuevo México 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 9 de diciembre de 2021. 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, para presentar las pruebas 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 su nombre, dirección, afiliación(es) y su historial

academico y laboral;

4. Estimar la duración del testimonio directo de cada testigo;
5. Identificar todas las pruebas instrumentales que forman parte del Registro Administrativo y en el caso de que las pruebas instrumentales no formen parte del Registro Administrativo adjuntar una copia;
6. Enumerar o poner a disposición todos los materiales técnicos en los que se basó cada testigo para realizar la declaración técnica de hechos u opiniones contenida en su testimonio directo; y
7. Adjuntar un resumen de la declaración de cada testigo, indicando cualquier opinión que vaya a ofrecer y una explicación de la base de dicha opinión u opiniones.

La fecha límite para presentar los avisos de intención es a las 5:00 p.m. MST del jueves 10 de marzo de 2022, a la administradora de la Comisión. 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 sobre 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

Si alguna persona requiere asistencia, un intérprete o ayuda 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, Nuevo México, 87502, teléfono (505) 660-4305 o correo electrónico Pamela.jones@state.nm.us. (TDD o TTY) los usuarios 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).

NMED no discrimina por motivos de raza, color, origen nacional, discapacidad, edad o sexo en la administración de sus programas o actividades, según lo exigen las leyes y regulaciones aplicables. NMED es responsable de la coordinación de los esfuerzos de cumplimiento y la recepción de consultas sobre los requisitos de no discriminación implementados por 40 C.F.R. Partes 5 y 7, incluido el Título VI de la Ley de Derechos Civiles de 1964, según enmendada; Sección 504 de la Ley de Rehabilitación de 1973; la Ley de Discriminación por Edad de 1975, el Título IX de las Enmiendas de Educación de 1972 y la Sección 13 de las Enmiendas de la Ley de Control de la Contaminación del Agua de 1972. Si tiene alguna pregunta sobre este aviso o alguno de los programas, políticas o procedimientos de no discriminación de NMED o si cree que ha sido discriminado con respecto a un programa o actividad de NMED, puede comunicarse con:

Kathryn Becker, coordinadora de no discriminación, NMED

1190 St. Francis Dr.

Suite N4050, P.O. Box 5469

Santa Fe, NM 87502

teléfono (505) 827-2855

correo electrónico nd.coordinator@state.nm.us

También puede visitar nuestro sitio web en <https://www.env.nm.gov/non-employee-discrimination-complaint-page/> para saber cómo y dónde presentar una queja de discriminación.



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Proposed Rule Name:

DESIGNATION OF WATERS OF THE UPPER PECOS WATERSHED AS OUTSTANDING NATIONAL RESOU

Agency:

Environment Department

Purpose:

The proposed amendments to 20.6.4.9 NMAC, as petitioned by San Miguel County, the Village of Pecos, the New Mexico Acequia Association, Molino de la Isla Organics, LLC, and the Upper Pecos Watershed Association (collectively, "Petitioners"), and docketed as WQCC 21-51 (R), propose designation of the waters of the Upper Pecos Watershed in San Miguel County as Outstanding National Resource Waters ("ONRWs").

Summary:

DESIGNATION OF WATERS OF THE UPPER PECOS WATERSHED AS OUTSTANDING NATIONAL RESOURCE WATERS PURSUANT TO 20.6.4.9 NMAC

Rule Complete Copy :

The petition and proposed amendments are available on the Commission's website, at <https://www.env.nm.gov/opf/docketed-matters/> (<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 (<mailto:Pamela.Jones@state.nm.us>).

Corrections:

Not available

Rule Explanatory Statement:

Not available

Related New Mexico Register Publications:

[Click Here to access Related New Mexico Publications](https://www.srca.nm.gov/new-mexico-register/) (<https://www.srca.nm.gov/new-mexico-register/>)

For any additional information or questions concerning this rule making or posting please contact:

Pamela Jones, Commission Administrator
 pamela.jones@state.nm.us
 (505) 660-4305

Last Updated Date

1/10/2022 4:19 PM

How to submit Comments:

Those wishing to do so may offer non-technical public comment at the hearing or submit a non-technical written statement in lieu of oral testimony at or before the hearing. Written comments regarding the proposed amendment may be addressed to Pamela Jones, WQCC Administrator, at the above address, and should reference docket number WQCC 21-51 (R).

When are comments due:

4/12/2022 9:00 AM

Hearing Date:

4/12/2022 9:00 AM

Public Hearing Location:

The WebEx video conferencing platform. <https://nmed-oit.webex.com/nmed-oit/j.php?MTID=m3703c9883544d95524c978e7792711a6> (<https://nmed-oit.webex.com/nmed-oit/j.php?MTID=m3703c9883544d95524c978e7792711a6>) 4/12/2022 (9:00 AM -)

How to participate:

Those wishing to do so may offer non-technical public comment at the hearing or submit a non-technical written statement in lieu of oral testimony at or before the hearing. Written comments regarding the proposed amendment may be addressed to Pamela Jones, WQCC Administrator, at the above address, and should reference docket number WQCC 21-51 (R). Pursuant to 20.1.6.203 NMAC, any person may file an entry of appearance as a party. The entry of appearance shall be filed with the WQCC Administrator, at the above address, no later than March 23, 2022, 20 days before the date of the hearing.

① If the document is not visible on the previewer, please download the file.

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Hearing Date: All
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 Agency: Environment Department

Total Results: 31 - Page #1

View	Agency	Public Hearing	Purpose	Hearing Date	Comments Due Date
View Details	Environment Department	DESIGNATION OF WATERS OF THE UPPER PECOS WATERSHED AS OUTSTANDING NATIONAL RESOU	DESIGNATION OF WATERS OF THE UPPER PECOS WATERSHED AS OUTSTANDING NATIONAL RESOURCE WATERS	4/12/2022	4/12/2022 9:00 AM
View Details	Environment Department	PROPOSED AMENDMENTS TO 20.3.20 NMAC OF THE RADIATION PROTECTION REGULATIONS EIB	AMENDMENTS TO 20.3.20 NMAC OF THE RADIATION PROTECTION REGULATIONS	3/25/2022	3/25/2022 12:00 PM
View Details	Environment Department	Proposed New Rule, 20.2.50 NMAC-Oil and Gas Sector-Ozone Precursor Pollutants	To provide emission standards to sources in the oil and gas sector in areas of the state that are within 95% of the NAAQS.	9/20/2021	6/22/2021 12:00 PM
View Details	Environment Department	AMENDMENTS TO 20.7.4 NMAC, UTILITY OPERATOR CERTIFICATION - WQCC 21-26	AMENDMENTS TO 20.7.4 NMAC, UTILITY OPERATOR CERTIFICATION	8/10/2021	8/10/2021 12:00 PM
View Details	Environment Department	AMENDMENTS TO 20.6.4 NMAC, TRIENNIAL REVIEW OF STANDARDS FOR SURFACE WATERS	AMENDMENTS TO 20.6.4 NMAC, TRIENNIAL REVIEW OF STANDARDS FOR INTERSTATE AND INTRASTATE SURFACE WATERS	7/13/2021	7/13/2021 12:00 PM
View Details	Environment Department	APPROVED AMENDMENTS TO 20.3.1,3-5,7,12,15 NMAC Radiation Protect. EIB21-09	AMENDMENTS TO 20.3.1 NMAC, 20.3.3 NMAC, 20.3.4 NMAC, 20.3.5 NMAC, 20.3.7 NMAC, 20.3.12 NMAC, AND 20.3.15 NMAC OF THE RADIATION PROTECTION REGULATIONS	6/25/2021	6/25/2021 12:00 PM
View Details	Environment Department	Approved Amendments To 20.2.79 NMAC, Permits - Nonattainment Areas, EIB 21-07(R)	Proposed amendments make technical and administrative corrections to 20.2.79 NMAC, Permits - Nonattainment Areas, to ensure that it is adequate to implement and enforce the 2015 revised ozone NAAQS	6/25/2021	5/21/2021 5:00 PM
View Details	Environment Department	2015 Ozone NAAQS Good Neighbor State Implementation Plan, EIB 21-05	To certify that New Mexico has an adequate, federally-approved State Implementation Plan to implement, maintain, and enforce the 2015 ozone NAAQS.	5/28/2021	5/28/2021 5:00 PM

View	Agency	Public Hearing	Purpose	Hearing Date	Comments Due Date
View Details	Environment Department	DESIGNATION OF UPPER PECOS WATERSHED AS NATIONAL RESOURCE , WQCC 20-18 (R)	DESIGNATION OF WATERS OF THE UPPER PECOS WATERSHED AS OUTSTANDING NATIONAL RESOURCE WATERS	4/13/2021	4/13/2021 12:00 PM
View Details	Environment Department	PROPOSED AMENDMENTS TO 11.5.1.16 NMAC - EIB 20-55	The amendment's purpose is to require employers to report an employee's positive novel coronavirus test to the Occupational Health and Safety Bureau within 4 hours of notice.	12/18/2020	11/27/2020 5:00 PM

[First](#) [Next](#) [Last](#)

SUNSHINE

NM.COM

From: [Verheul, John, NMENV](#)
To: joanne.vandestreek@nmlegis.gov
Cc: ics@nmlegis.gov; [Tannis Fox](#)
Subject: RE: Notice of Upcoming Rulemaking Proceeding
Date: Monday, January 10, 2022 2:09:00 PM
Attachments: [2022-01-07 - WPD SWQB WQCC 21 51 R HearingNotice 20220104 meeting link and SPANISH.doc](#)

Good afternoon Ms. Vandestreek,

I am writing to provide notice to you of a petition to amend regulations (20.6.4.9 NMAC, Standards for Interstate and Intrastate Surface Waters – Outstanding National Resource Waters) that a coalition of petitioners filed with the Water Quality Control Commission.

In accordance with NMSA 1978, Section 14-4-2(E), I'm sending the attached notice to you fulfill the requirement of distributing rulemaking information by providing it to the New Mexico legislative council service for distribution to the appropriate interim and standing legislative committees. The notice will also be published in the January 25 issue of the New Mexico Register, available here: <https://www.srca.nm.gov/new-mexico-register/>.

Please let me know if you have any questions or require additional information.

Thank you,

John Verheul
Deputy General Counsel
New Mexico Environment Department
121 Tijeras Avenue NE, Ste 1000
Albuquerque, NM 87102
John.Verheul@state.nm.us
505-469-8862 mobile
505-383-2064 fax
<https://www.env.nm.gov/>
Pronouns: he, him, his



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

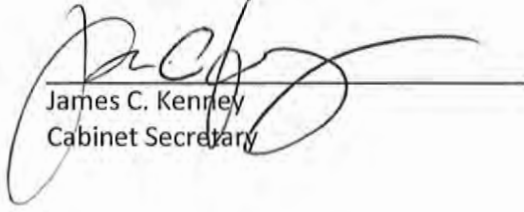
POLICY: NMED's policy is to work with tribal governments to create a positive government-to-government relationship and to promote effective communication and collaboration.

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

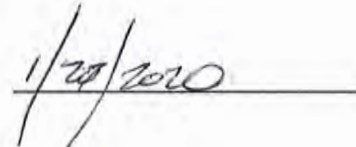
PROCEDURES:

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.

From: [Becker, Kathryn, NMENV](#)
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: Hearing date set for Upper Pecos ONRW
Date: Monday, January 24, 2022 11:40:35 AM
Attachments: [2022-01-07 - WPD SWQB WQCC 21 51 R HearingNotice 20220104 meeting link and SPANISH.pdf](#)

Greetings,

Attached is information and a link to the New Mexico Water Quality Control Commission's public hearing on Tuesday, April 12, 2022, to consider amendments to the Standards for Interstate and Intrastate Surface Waters, 20.6.4.9 NMAC, **Designation of Waters of the Upper Pecos Watershed as Outstanding National Resource Waters.**

This is a petition to designate several waterbodies within the upper Pecos watershed area upstream of the US Forest Service Dalton Day Use Area as Outstanding National Resource Waters ("ONRWs"). If you want to participate, follow the attached instructions.

If you have questions or want more information, please 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

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 UPPER PECOS
WATERSHED AS OUTSTANDING NATIONAL RESOURCE WATERS, NO. WQCC 21-51 (R)**

The New Mexico Water Quality Control Commission (“Commission”) will hold a public hearing on Tuesday, April 12, 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 Upper Pecos Watershed 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 Commission website, <https://www.env.nm.gov/water-quality-control-commission/wqcc-meetings/>, at least 30 days prior to the hearing and as follows:

Meeting link:

<https://nmed-oit.webex.com/nmed-oit/j.php?MTID=m3703c9883544d95524c978e7792711a6>

Meeting number: 2453 489 2613
Meeting password: m5RyMJYPP93
To join by phone: +1-415-655-0001
Access code: 2453 489 2613

The proposed amendments to 20.6.4.9 NMAC, as petitioned for by the Village of Pecos, San Miguel County, the Upper Pecos Watershed Association, the New Mexico Acequia Association, and Molino de la Isla Organics, LLC (collectively, “Petitioners”), and docketed as No. WQCC 21-51 (R), propose designation of certain surface waters of the Upper Pecos Watershed in San Miguel County 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 December 9, 2021. 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. MST on Thursday, March 10, 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

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. Part 7, including Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, and Section 13 of the Federal Water Pollution Control Act Amendments of 1972. If you have any questions about this notice or any of NMED's non-discrimination programs, policies or procedures, you may contact: Non-Discrimination Coordinator, 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. If you believe that you have been discriminated against with respect to a NMED program or activity, you may contact the Non-Discrimination Coordinator identified above.

COMISIÓN DE CONTROL DE LA CALIDAD DEL AGUA DE NUEVO MÉXICO
AVISO DE 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 LA CUENCA ALTA DE PECOS COMO AGUAS DE RECURSOS
NACIONALES DESTACADOS, NÚM. WQCC 21-51 (R)

La Comisión de Control de la Calidad del Agua de Nuevo México ("Comisión") celebrará una audiencia pública el martes, 12 de abril 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 la Cuenca Alta de Pecos como Aguas de Recursos Nacionales Destacados. La Comisión iniciará su reunión mensual ordinaria a las 9:00 a.m. MST, y la audiencia pública comenzará al concluir sus asuntos ordinarios. La información para asistir a la audiencia virtual a través de la plataforma de conferencias WebEx estará disponible en el sitio web de la Comisión, <https://www.env.nm.gov/water-quality-control-commission/wqcc-meetings/>, al menos 30 días antes de la audiencia y de la siguiente manera:

Enlace a la reunión:

<https://nmed-oit.webex.com/nmed-oit/j.php?MTID=m3703c9883544d95524c978e7792711a6>

Número de la reunión: 2453 489 2613

Contraseña de la reunión: m5RyMJYPP93

Para unirse por teléfono: +1-415-655-0001

Código de acceso: 2453 489 2613

Las enmiendas propuestas a 20.6.4.9 NMAC, solicitadas por la localidad de Pecos, condado de San Miguel, la Asociación de la Cuenca Alta de Pecos, la Asociación de Acequias de Nuevo México y Molino de la Isla Organics, LLC (colectivamente, los "Petitionarios"), y registradas con el número WQCC 21-51 (R), proponen la designación de ciertas aguas superficiales de la Cuenca Alta de Pecos en el condado de San Miguel como Aguas de Recursos Nacionales Destacados ("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 poniéndose en contacto con Pamela Jones, administradora de la Comisión, 1190 S. St. Francis Drive, Santa Fe, Nuevo México 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 9 de diciembre de 2021. 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, para presentar las pruebas 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 su nombre, dirección, afiliación(es) y su historial académico y laboral;
4. Estimar la duración del testimonio directo de cada testigo;
5. Identificar todas las pruebas instrumentales que forman parte del Registro Administrativo y en el caso de que las pruebas instrumentales no formen parte del Registro Administrativo adjuntar una copia;
6. Enumerar o poner a disposición todos los materiales técnicos en los que se basó cada testigo para realizar la declaración técnica de hechos u opiniones contenida en su testimonio directo; y
7. Adjuntar un resumen de la declaración de cada testigo, indicando cualquier opinión que vaya a ofrecer y una explicación de la base de dicha opinión u opiniones.

La fecha límite para presentar los avisos de intención es a las 5:00 p.m. MST del jueves 10 de marzo de 2022, a la administradora de la Comisión. 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 sobre 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

Si alguna persona requiere asistencia, un intérprete o ayuda 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, Nuevo México, 87502, teléfono (505) 660-4305 o correo electrónico Pamela.jones@state.nm.us. (TDD o TTY) los usuarios 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, nacionalidad, discapacidad, edad o sexo en la administración de sus programas o actividades, como lo exigen las leyes y reglamentos aplicables. El NMED es responsable de la coordinación de los esfuerzos de cumplimiento y la recepción de las consultas relativas a los requisitos de no discriminación implementados por 40 C.F.R. Partes 5 y 7, incluyendo el Título VI de la Ley de Derechos Civiles de 1964, con sus enmiendas; 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 Contaminación del Agua de 1972. Si tiene alguna pregunta sobre este aviso o cualquiera de los programas, políticas o procedimientos de no discriminación del NMED, o si cree que ha sido discriminado con respecto a un programa o actividad del NMED, puede ponerse en contacto con: Coordinadora de no discriminación, NMED, 1190 St. Francis Dr., Suite N4050, P.O. Box 5469, Santa Fe, NM 87502, (505) 827-2855, nd.coordinator@state.nm.us. También puede visitar nuestro sitio web en <https://www.env.nm.gov/non-employee-discrimination-complaint-page/> para saber cómo y dónde presentar una queja por discriminación.

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.

From: [Verheul, John, NMENV](#)
To: [Nelson, Johanna, EDD](#)
Cc: fox@westernlaw.org; [Kelly Nokes](#)
Subject: SBRAC - Proposed Amendments to 20.6.4.9 NMAC - Outstanding National Resource Waters
Date: Monday, January 24, 2022 12:09:00 PM
Attachments: [2022-01-24 - OGC WQCC 21-51R ONRW Pecos SBRAC Notice \(final\) .pdf](#)

Good Afternoon Ms. Nelson:

Please see the attached correspondence for the Small Business Regulatory Advisory Commission, regarding a petition to amend 20.6.4.9 NMAC – *Standards for Interstate and Intrastate Surface Waters - Outstanding National Resource Waters*.

Sincerely,
John

John Verheul
Deputy General Counsel
New Mexico Environment Department
121 Tijeras Avenue NE, Ste 1000
Albuquerque, NM 87102
John.Verheul@state.nm.us
505-469-8862 mobile
505-383-2064 fax
<https://www.env.nm.gov/>
Pronouns: he, him, his

NMED PROPOSED AMENDMENTS TO 20.6.4 NMAC

Based on the findings of the Department's review of the proposed ONRW designation, the Department recommends the following language for consideration:

20.6.4.9 OUTSTANDING NATIONAL RESOURCE WATERS:

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 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.

(4) The following waters are designated in the headwaters Pecos river watershed:

(a) The Pecos river from Dalton Canyon creek to the Pecos wilderness boundary;

(b) In the Dry Gulch-Pecos river subwatershed, Dalton Canyon creek from the Pecos river upstream to the headwaters, Wild Horse creek from Dalton Canyon creek upstream to the headwaters, Macho Canyon creek from the Pecos river upstream to the headwaters and Sawyer creek from the Pecos river upstream to the headwaters;

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

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

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

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

(g) Unnamed tributaries to waters in Subparagraphs (a) through (f), Paragraph (4) of this Subsection (D) as identified in the *Maps and Lists for Unnamed Tributaries to Perennial Waters and Wetlands*

in the Headwaters Pecos River Watershed, dated XXXXXX published at the New Mexico state library and available on the department's website;

(h) Unnamed wetlands adjacent to waters in Subparagraphs (a) through (f), Paragraph (4) of this Subsection (D) as identified in the *Maps and Lists for Unnamed Tributaries to Perennial Waters and Wetlands in the Headwaters Pecos River Watershed*, dated XXXXXX, 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, A XX/XX/XXXX]

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.

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.