

STATE OF NEW MEXICO
WATER QUALITY CONTROL COMMISSION

No. WQCC 21-62(R)

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

Outdoor Recreation Division,
New Mexico Department of Economic
Development,

Petitioner.

TRANSCRIPT OF PROCEEDINGS

BE IT REMEMBERED that on the 14th day of June,
2022, this matter came on for hearing before GREGORY
CHAKALIAN, Hearing Officer, virtually through Cisco
Webex Meetings video conferencing, at the hour of 9:22
a.m.

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A P P E A R A N C E S

The Hearing Officer:

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Administrative Law Judge
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ADMITTED

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ADMITTED

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ADMITTED

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1 CHAIR STRINGER: Moving on to our next agenda
2 item, we have the public hearing in the matter of the
3 petition to nominate the segments of the Rio Grande, Rio
4 Hondo, Lake Fork, East Fork Jemez River, San Antonio
5 Creek and Redondo Creek as Outstanding National Resource
6 Waters, and the assigned Hearing Officer is Gregory
7 Chakalian.

8 And I see he is with us. So I will turn the
9 floor over to Mr. Chakalian.

10 HEARING OFFICER CHAKALIAN: Good morning,
11 Commissioners, parties and members of the public.

12 On behalf of the Office of Public
13 Facilitation, I hereby call to order the petition to
14 nominate segments of the Rio Grande, Rio Hondo, Lake
15 Fork, East Fork Jemez River, San Antonio Creek and
16 Redondo Creek as Outstanding National Resource Waters.

17 This was filed on December 3, 2021, by the New
18 Mexico Department of Economic Development Outdoor
19 Recreation Division -- from now on I'll refer to them as
20 the petitioner -- docketed NOPF -- that's the Office of
21 Public Facilitation -- as WQCC 21-62, rulemaking.

22 My name is Gregory Chakalian, the appointed
23 Hearing Officer by the Commission on January 13, 2022,
24 with the powers and duties outlined in 20.1.6.100 New
25 Mexico Administrative Code.

1 This virtual WebEx rulemaking is hosted by
2 Commission Administrator Pamela Jones and was properly
3 noticed in the New Mexico Register and as otherwise
4 required under 20.1.6.201 NMAC, and is being held on the
5 virtual platform in part to increase public
6 participation.

7 The public is encouraged to participate by
8 using the chat feature to alert the host that you want
9 to provide a general comment, that is a nontechnical
10 comment, or to cross-examine a witness. General comment
11 will be taken throughout the hearing at various times,
12 and each speaker will have up to five minutes after you
13 are sworn in.

14 This rulemaking is being transcribed verbatim
15 by a court reporter and also recorded via WebEx. Please
16 keep your microphone muted until it is your turn to
17 speak.

18 All the documents referred to today during the
19 rulemaking can be found on the New Mexico Environment's
20 web site under the Public Participation menu, Boards and
21 Commissions. Drop down, further look for Docketed
22 Matters, and then look for WQCC, or Water Quality
23 Control Commission.

24 The following short background is meant to
25 help orient the public to the scope of today's

1 rulemaking:

2 The Clean Water Act requires states to develop
3 water quality standards that consider designated uses,
4 levels of pollutants and conditions and an
5 antidegradation of the current water quality.
6 Antidegradation is aimed at restoring and maintaining
7 the physical, chemical and biological integrity of the
8 waters of the United States.

9 New Mexico has an antidegradation policy and
10 implementation plan located at 20.6.4.8 NMAC. New
11 Mexico has procedures for nominating Outstanding Waters
12 at 20.6.4.9 subsections A and B NMAC. With limited
13 exceptions, once a water is designated as an ONRW, no
14 degradation of water quality is allowed. An ONRW does
15 not place additional requirements on acequias, and
16 existing land use activity such as grazing are allowed
17 subject to the use of best management practices.

18 That concludes my summary of today's
19 rulemaking. I'll continue.

20 The Commission may choose to deliberate
21 immediately following the conclusion of the public
22 hearing or at a subsequent meeting, but shall reach its
23 decision no later than 60 days following the close of
24 the evidentiary record or the date the Hearing Officer's
25 report, if requested, is filed, whichever is later, as

1 required by 20.1.6.306 subsection C NMAC.

2 We will deal with posthearing procedures at
3 the close of the evidentiary record.

4 Petitioners and the New Mexico Environment
5 Surface Water Quality Bureau have prefiled full written
6 technical testimony and marked exhibits in this case.

7 Before we hear opening statements and from our
8 witnesses, I will address preliminary matters.

9 Would the parties please enter an appearance.

10 MS. FOX: Hello.

11 My name is Tannis Fox. I'm with Western
12 Environmental Law Center, and I'm here today
13 representing the petitioner, Outdoor Recreation
14 Division, in this matter.

15 MR. VERHEUL: Good morning.

16 My name is John Verheul. I'm an attorney with
17 the New Mexico Environment Department, and that is who I
18 represent in this proceeding.

19 HEARING OFFICER CHAKALIAN: Are there any
20 preliminary matters the parties would like to address
21 before we begin?

22 Ms. Fox.

23 MS. FOX: Thank you, Mr. Hearing Officer.

24 Just one for our part, and that is that NMED
25 and ourselves have stipulated to the admission of all

1 parties' exhibits, and so if we could move those into
2 admission now, that would expedite the hearing a little
3 bit.

4 HEARING OFFICER CHAKALIAN: Agreed.

5 Ms. Fox, how many exhibits do you have?

6 THE REPORTER: I think you were muted,
7 Ms. Fox.

8 MS. FOX: We have 35 exhibits, Mr. Hearing
9 Officer, and I move for admission of Petitioner's
10 Exhibits 1 through 35.

11 HEARING OFFICER CHAKALIAN: Okay.

12 Mr. Verheul?

13 MR. VERHEUL: No objection on my part,
14 obviously.

15 The Environment Department also has 35
16 exhibits, and we would move for admission of those, as
17 well.

18 HEARING OFFICER CHAKALIAN: Ms. Fox?

19 MS. FOX: No objection.

20 HEARING OFFICER CHAKALIAN: Okay. So the
21 court reporter, please take note that the Petitioner's
22 Exhibits 1 through 35 and the New Mexico Department of
23 Surface Water Quality is hereby admitted, all 35 of
24 each.

25 Ms. Fox, are yours lettered or numbered?

1 MS. FOX: Numbered, Mr. Hearing Officer.

2 HEARING OFFICER CHAKALIAN: Mr. Verheul?

3 MR. VERHEUL: Numbered.

4 HEARING OFFICER CHAKALIAN: Okay. So -- okay.

5 Ms. Court Reporter?

6 THE REPORTER: Yes.

7 HEARING OFFICER CHAKALIAN: All right.

8 Wonderful.

9 (Exhibits Petitioner's 1 through 35 and NMED 1
10 through 35 admitted into evidence.)

11 HEARING OFFICER CHAKALIAN: Okay. So now that
12 we have that into evidence, Ms. Fox, I received four
13 PowerPoint presentations.

14 MS. FOX: That's correct.

15 HEARING OFFICER CHAKALIAN: And those are for
16 demonstrative purposes only?

17 MS. FOX: That's correct.

18 HEARING OFFICER CHAKALIAN: Okay. Sounds
19 good.

20 Mr. Verheul, do you have any demonstrative
21 exhibits?

22 MR. VERHEUL: We do not, Mr. Hearing Officer.

23 HEARING OFFICER CHAKALIAN: Okay.

24 Okay, Ms. Fox and Mr. Verheul, are there any
25 other preliminary matters before we begin with brief

1 opening statements?

2 No. Okay.

3 Ms. Fox, you represent the petitioner.

4 Would you like to go first?

5 MS. FOX: Yes, Mr. Hearing Officer.

6 HEARING OFFICER CHAKALIAN: Please.

7 MS. FOX: Thank you.

8 Thank you, Mr. Hearing Officer.

9 Good morning, Madam Chair and Members of the
10 Commission.

11 Again I am Tannis Fox with Western
12 Environmental Law Center, representing the petitioner,
13 the Outdoor Recreation Division of the New Mexico
14 Department of Economic Development, in the petition
15 before you, nominating six waterbodies in Northern New
16 Mexico as Outstanding National Resource Waters.

17 The nominated waters are the first 52 miles of
18 the Rio Grande beginning at the New Mexico-Colorado
19 border, that part of the Rio Hondo that lies within
20 Carson National Forest and its tributary, Lake Fork, and
21 three streams that flow in and around Valles Caldera
22 National Preserve, the East Fork Jemez River, the San
23 Antonio Creek and Redondo Creek. All told, the
24 nomination consists of a little over 125 miles of some
25 of the most beloved waters in our state.

1 Outstanding Waters designation protects New
2 Mexico's most exceptional waters and provides the
3 highest level of protection in the state by prohibiting
4 any new degradation to water quality while still
5 respecting and allowing the continuation of preexisting
6 uses such as grazing and acequia operations.

7 Today we will present five witnesses in
8 support of the petition.

9 First will be Axie Navas, director of the
10 Outdoor Recreation Division. Ms. Navas will explain how
11 designation of these waters furthers ORD's core mission
12 to promote New Mexico's outdoor recreation economy in a
13 sustainable manner.

14 The waters nominated are some of the most
15 visited and recreated in in the state and as a result
16 generate significant economic benefits to local
17 communities. Visitors from all around the state and
18 indeed the country spend their dollars at local
19 outfitting shops, retail stores, restaurants and places
20 of lodging. New Mexico's outdoor recreation economy is
21 one of our state's strongest economic sectors, and
22 keeping these streams clean and healthy maintains and
23 enhances their economic value to our state.

24 Ms. Navas will explain how the petition has
25 met all procedural and notice requirements and how all

1 streams meet the substantive criteria for designation
2 found in the Commission's regulations. A stream must
3 meet only one of the substantive criteria to qualify.
4 Here each of these special waters meets more than one
5 criterion.

6 The evidence will demonstrate that all six
7 streams meet both the exceptional recreational and
8 exceptional ecological significance criteria, while a
9 number meet another of the criteria, including being a
10 Special Trout Water within it, being within a national
11 monument, being part of a Wild and Scenic River and
12 having exceptional water quality.

13 For quick reference, Petitioner's Exhibit 7 in
14 our notice of intent, or NOI, is a chart that shows the
15 criteria each stream meets.

16 Finally, Ms. Navas will discuss the extensive
17 outreach efforts ORD has conducted over the last two
18 years in local communities that would be most impacted
19 by the designations. ORD has gathered letters and
20 resolutions from over 50 pueblos, state legislators,
21 local governments, acequia associations, land grants,
22 schools, neighborhood associations, businesses and
23 nonprofit organizations and New Mexico's two US senators
24 in support of the nomination.

25 And ORD partner organizations have gathered

1 signatures from over 2,200 individuals who support water
2 protections for these streams. Those petitions with the
3 signatures in support are filed in the record before the
4 Commission.

5 Next, Joanna Hatt, a fish biologist with the
6 state Department of Game and Fish, will testify. She
7 will discuss the extraordinary biodiversity found in and
8 around these streams.

9 These waters' rich riparian areas are home to
10 state and federally endangered threatened species,
11 including the southwest willow flycatcher and Mexican
12 spotted owl. They are home to an astounding array of
13 species of greatest conservation need as designated by
14 the state Department of Game and Fish, including the
15 bald eagle, northern leopard frog and Rio Grande sucker.

16 Petitioner's Exhibit 19 lists all the special
17 status plants and animals found within one mile of the
18 bank of each of the streams.

19 Ms. Hatt will not only explain why these
20 streams warrant ONRW designation based on their
21 exceptional ecological value, but why they warrant
22 designation based on their exceptional recreational
23 value. Each of the nominated streams is home to
24 numerous species of economic and recreational
25 significance, including elk, black bear and bighorn

1 sheep.

2 The National Park Service and Valles Caldera
3 National Preserve support designation of the three
4 streams whose headwaters start in the caldera.
5 Dr. Robert Parmenter, division chief of science and
6 resource stewardship for the preserve, will explain why
7 those three streams merit designation based both on
8 their exceptional ecological and recreational values.
9 He will talk about some of the impressive species
10 recovery efforts the preserve has undertaken and how
11 ONRW designation will aid in those recovery efforts.

12 Next you will hear from Mr. Nick Streit, who
13 owns two fly fishing shops in the state, in Taos and
14 Santa Fe, and is an expert fly fisher and guide.
15 Mr. Streit will discuss the outstanding fishing in the
16 Rio Grande, Rio Hondo, Lake Fork, East Fork Jemez and
17 San Antonio.

18 Exhibit 18 in our NOI is angler data from the
19 Department of Game and Fish that shows that each year
20 thousands fish in these streams, making them some of the
21 most fished waters in our state. Mr. Streit will
22 explain that keeping these waters healthy for the fish
23 helps keep his business and other businesses thriving.

24 And finally, Rachel Conn, deputy director of
25 Amigos Bravos, will discuss the significance of the

1 water quality data provided by the NMED Surface Water
2 Quality Bureau. This data fulfills the Commission's
3 requirement that all available water quality data be
4 provided to establish baseline water quality.

5 All streams nominated have very good water
6 quality, and water quality of the Rio Hondo and Lake
7 Fork is so good that they qualify for ONRW status based
8 on their high water quality.

9 This petition is brought by an executive
10 agency, the State of New Mexico, and has the full
11 support of Governor Lujan Grisham. The New Mexico
12 Environment Department fully supports the petition, as
13 you will hear today, and the Department of Game and Fish
14 has provided extensive support and technical assistance
15 over the last two years this petition has been in the
16 works. Significantly, no party has filed an opposition
17 to the petition.

18 The notice for this hearing, as Mr. -- as the
19 Hearing Officer stated, provided that the Commission may
20 deliberate on the petition immediately following the
21 hearing. We encourage the Commission to deliberate
22 today after close of the hearing and to designate the
23 nominated waters as ONRWs if you find the evidence
24 supports designation. In the view of ORD, the evidence
25 clearly and without qualification establishes these six

1 waters qualify.

2 Thank you for your time and attention today.

3 We look forward to putting on our case before
4 you.

5 HEARING OFFICER CHAKALIAN: Ms. Fox, are all
6 five of your witnesses available to be sworn in as a
7 group?

8 MS. FOX: Yes, they are, Mr. Hearing Officer.

9 HEARING OFFICER CHAKALIAN: Okay.

10 Mr. Verheul, are both of your witnesses
11 present to be sworn in?

12 MR. VERHEUL: I believe they are, Mr. Hearing
13 Officer.

14 If they could turn on their video.

15 HEARING OFFICER CHAKALIAN: I see Ms. Fullam
16 and Ms. Aranda.

17 Okay. So, Ms. Fox, would you identify your
18 five witnesses before I ask them to be sworn in.

19 MS. FOX: Yes. We have Axie Navas, who is --

20 HEARING OFFICER CHAKALIAN: Um-hum.

21 MS. FOX: -- director of the Outdoor
22 Recreation Division, petitioner in this matter.

23 HEARING OFFICER CHAKALIAN: Um-hum.

24 MS. FOX: Mr. Robert Parmenter from National
25 Park Service.

1 HEARING OFFICER CHAKALIAN: Um-hum.

2 MS. FOX: We have Joanna Hatt from Game and
3 Fish.

4 HEARING OFFICER CHAKALIAN: Um-hum.

5 MS. FOX: Nick Streit, who is our expert fly
6 fisher.

7 And Rachel Conn from Amigos Bravos.

8 HEARING OFFICER CHAKALIAN: Okay. Would you
9 all -- all seven of you please raise your right hand.
10 You're going to be sworn in by the court reporter.

11 (AXIE NAVAS, ROBERT PARMENTER, PhD, JOANNA
12 HATT, NICK STREIT and RACHEL CONN were duly
13 sworn or affirmed.)

14 HEARING OFFICER CHAKALIAN: Okay. Ms. Aranda
15 and Ms. Fullam, would you please unmute yourselves, hold
16 up your right hand, please.

17 Please proceed, Ms. Court Reporter.

18 THE REPORTER: I believe she was sworn.

19 HEARING OFFICER CHAKALIAN: No. No, ma'am.
20 Neither of the Department's witnesses were sworn yet.

21 THE REPORTER: Oh, okay.

22 (JENNIFER FULLAM and DIANA ARANDA were duly
23 sworn or affirmed.)

24 HEARING OFFICER CHAKALIAN: Thank you,
25 everyone.

1 Now let's review what we've done so far.

2 The exhibits that have hereby been admitted
3 into evidence may be used in findings of fact and
4 conclusions of law.

5 As the prefiled technical testimony is now in
6 evidence, the parties' witnesses have the opportunity to
7 summarize their written evidence for the benefit of the
8 public.

9 Each witness is provided between 15 and 30
10 minutes in which to adopt their prefiled testimony under
11 oath, making any corrections on the record and provide a
12 concise, plain English summary of their prefiled written
13 technical testimony. Ms. Jones will keep track and
14 provide each witness with an alert five minutes before
15 the time limit has been reached. So at 15 minutes
16 Ms. Jones will provide a notice to the witness and ask
17 how much more time that witness may need.

18 All testimony, including public comment, will
19 be taken under oath, and all persons giving testimony
20 will be subject to cross-examination by any other person
21 in attendance on the subject matter of their testimony
22 and on matters affecting their credibility.

23 Under 20.1.6.301 NMAC, all relevant evidence
24 shall be admitted unless I determine that the evidence
25 is unduly repetitious or incompetent.

1 So we have an opening statement, that is not
2 evidence, and Ms. -- Ms. Fox, would you like to begin
3 the presentation of your case in chief?

4 MS. FOX: Yes, Mr. Hearing Officer.

5 We will first call Ms. Axie Navas.

6 HEARING OFFICER CHAKALIAN: Please proceed.

7 MS. FOX: Thank you.

8 AXIE NAVAS

9 having been first duly sworn or affirmed, was
10 examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MS. FOX:

13 Q. Please state your name.

14 A. Axie Navas.

15 Q. What is your current employment?

16 A. I am director of the Outdoor Recreation
17 Division within the New Mexico Economic Development
18 Department and the petitioner in this matter. The New
19 Mexico legislature established ORD during the 2019
20 regular session, and I was appointed as its first
21 director by Governor Michelle Lujan Grisham that same
22 year.

23 Q. What are your responsibilities as director?

24 A. I direct and oversee the operations of ORD,
25 including working with the Governor and secretary of

1 Economic Development Department to establish and
2 implement policy goals for the office. I develop the
3 annual budget, work with state law makers to pass that
4 budget and bills related to ORD's mission, work with
5 federal officials to advance outdoor recreation and
6 public land initiatives and access federal funding for
7 New Mexico. I work with local communities,
8 nongovernmental organizations and businesses to promote
9 ORD's goals.

10 I also currently serve as co-chair of the
11 outdoor recreation industry's national Confluence of
12 States, which is a coalition of state outdoor directors
13 across the country.

14 Q. Would you describe your prior work experience
15 briefly, please.

16 A. Prior to becoming director of ORD, I was a
17 journalist for almost 10 years. As a journalist I
18 worked for a number of publications, including El
19 Salvador's leading newspaper, writing articles in
20 Spanish, as well as most recently Outside, a national
21 magazine located in Santa Fe, focused on the outdoors.
22 I held various positions at Outside, including most
23 recently executive editor and digital editorial
24 director.

25 Q. What is your educational background?

1 A. I have bachelor's of arts degrees from
2 Northwestern University in journalism and Spanish.

3 Q. Your resume is Petitioner's Exhibit 3; is that
4 correct?

5 A. Yes.

6 Q. Can you please describe the process that ORD
7 has led developing the petition before the Commission.

8 A. I began working with NGO partners in the
9 spring of 2020 to develop a petition to nominate waters
10 in Northern New Mexico as Outstanding Waters based on
11 their recreational significance and other values. I
12 consulted with both the secretary of economic -- of the
13 Economic Development Department, Alicia J. Keyes, and
14 the Governor and her staff before making any commitments
15 on behalf of the state, and the petition before the
16 Commission today has the full support of Governor Lujan
17 Grisham and Secretary Alicia Keyes.

18 We worked closely with those NGO partners,
19 Amigos Bravos, Trout Unlimited, New Mexico Wild, a few
20 charitable trusts, over the course of now two years. We
21 worked hand-in-hand and had tremendous assistance and
22 support from the Department of Game and Fish, which
23 supplied information in support of the ecological and
24 recreational significance of the nominated waters, as
25 evidenced by the testimony in our NOI and today from

1 Game and Fish fish biologist Joanna Hatt.

2 We also worked closely with NMED, which
3 carefully reviewed our draft petition, provided detailed
4 and helpful comments and supports the petition.

5 Most importantly, we conducted outreach
6 throughout Northern New Mexico and in the communities in
7 which the nominated streams are located to provide
8 information, answer questions and assess the support in
9 those impacted communities for the nominations. You'll
10 see we have strong support in these local communities
11 which I will discuss in my written testimony and in the
12 power presentation I will give.

13 Q. Your written testimony in support of the
14 petition is Petitioner's Exhibit 2; is that correct?

15 A. Correct.

16 Q. Is that testimony accurate to the best of your
17 knowledge, and do you adopt it today?

18 A. Yes.

19 MS. FOX: Mr. Hearing Officer, Ms. Navas has
20 prepared a PowerPoint presentation for the Commission to
21 summarize her written testimony.

22 Q. Ms. Navas, would you please begin your
23 presentation.

24 A. I will. Thank you so much, Ms. Fox.

25 Bear with me as I pull this up.

1 Thank you so much for the time this morning.

2 I intend to give that clear-cut overview of
3 why we think this petition is so crucial to the
4 legislative foundational mission of the Outdoor
5 Recreation Division.

6 First an overview, and I will keep this brief,
7 knowing that the folks on this call are familiar with
8 the ONRW designation, but I want to give a big picture
9 overview of Outstanding Waters in general.

10 So as has been stated, ONRW designation
11 provides the highest level of protection. No
12 degradation is allowed except for short-term degradation
13 associated with restoration and public safety
14 activities.

15 Crucially, it protects existing uses such as
16 acequias, recreation, farming and ranching. You will
17 see that testified to today in the letters of support
18 that we've gathered.

19 There are three ONRW designations to date.
20 The Rio Santa Barbara, waters in the Valle Vidal, all
21 named perennial waters in US Forest Service wilderness,
22 and the -- there's a petition for the Upper Pecos
23 watershed that is pending.

24 So our petition in particular, the recreation
25 petition, really stands on this concept that these

1 waters have enormous outstanding recreational
2 significance to the State of New Mexico.

3 We know that there are many, many thousands of
4 New Mexicans, including all the supporters we'll talk
5 about today, who depend on these waters for their
6 cultural heritage, traditions, livelihoods and
7 recreation. We're going to hear the testimony from
8 supporters this morning, and then you'll also see it
9 listed in the enormous number of resolutions and letters
10 of support and signatures that we've gathered from New
11 Mexicans all over the state, and in particular in the
12 impacted communities, about why they want to see this
13 petition succeed.

14 And then finally, as has been stated, the
15 Economic Development Department and the Outdoor
16 Recreation Division within the EDD is petitioner. We
17 have technical assistance and support from the
18 Department of Game and Fish and the Environment
19 Department.

20 So what are the waters that we are nominating?
21 We're nominating almost 126 miles of surface water in
22 Northern New Mexico. Within that 126 miles there are
23 six waterbodies that we are requesting that the
24 Commission designate as ONRWs.

25 Ms. Fox has stated ONRW requirements have been

1 met for each of these waterbodies. We will go through
2 this in more detail. But we've outlined here the six
3 requirements, and we will speak about each one in turn
4 this morning.

5 So first, a map of the surface water of the
6 state, including the location and proposed upstream and
7 downstream boundaries. We have that in the petition, in
8 the NOI, and I'll review it briefly in this
9 presentation, for all 125.9 miles of river that we are
10 nominating.

11 Here you can see -- you can see specific
12 mileages for each stretch of river that we are
13 nominating, each of those six nominated waterbodies.

14 To begin, to the north we're nominating just
15 over 52 miles of the Rio Grande. So this is from the
16 Colorado border south to the confluence with the Rio
17 Pueblo. This entire stretch lies within the Rio Grande
18 del Norte National Monument. It is home to exceptional
19 world classify fly fishing, as you will hear about later
20 today, as well as exceptional hiking, angling and just
21 general nature enjoyment. It is truly an outstanding
22 river in New Mexico.

23 We are also nominating portions of the Rio
24 Hondo and Lake Fork, Lake Fork from its headwaters to
25 its confluence with the Rio Hondo, and the Rio Hondo in

1 its entirety within the Carson National Forest boundary.
2 It runs along the Taos Ski Valley road and is home, as
3 well, to exceptional ecological variety, to exceptional
4 angling, and provides incredible nature enjoyment for
5 the people who recreate within that canyon.

6 And then finally, three waterbodies in the
7 headwaters of the Jemez. So this is just about 22 miles
8 of the East Fork of the Jemez River, about 32 miles of
9 the San Antonio Creek and about six miles of Redondo
10 Creek. As you can see, their headwaters begin in the
11 Valles Caldera National Preserve whose leadership
12 supports this nomination.

13 The second requirement, this written statement
14 and evidence based on scientific principles in support
15 of the nomination. You can see that listed in the
16 petition, in the NOI, and you will hear about it in more
17 detail from further witnesses this morning.

18 The third requirement, water quality data
19 including chemical, physical or biological parameters,
20 if available, to establish a baseline condition for the
21 proposed ONRW.

22 We've worked with NMED to gather this
23 available data. It's in the petition, the NOI, and you
24 will hear about it in more detail from further witnesses
25 this morning.

1 The fourth requirement, a discussion of
2 activities that might contribute to the reduction of
3 water quality in the proposed ONRW.

4 I've listed an overview here. We go into more
5 depth in the petition itself. These are some of the
6 potential threats that each waterbody faces, why we
7 think it's so critical for the Commission to act now and
8 actually designate these rivers as Outstanding National
9 Resource Waters. Potential threats include climate
10 change which threatens general watershed health and
11 function, wildfires, development and transportation,
12 increased recreational use without proper management,
13 and waste disposal.

14 The fifth requirement, any additional evidence
15 to substantiate such a designation, including an
16 analysis of the economic impact of the designation on
17 the local and regional economy within the State of New
18 Mexico.

19 This one's really key to us as the Outdoor
20 Recreation Division within the Economic Development
21 Department. We know that the Outdoor Recreation
22 Division is a -- the outdoor recreation economy --
23 excuse me -- is a powerhouse in this state, contributing
24 almost \$2 billion annually to state GDP, employing over
25 25,000 people.

1 Tourism-related employment, which is related
2 but not quite the same thing -- it's an umbrella for
3 some of the outdoor recreation employment -- is even
4 larger, 96,000 jobs in 2019. And that's almost
5 9 percent of all jobs in New Mexico.

6 So when you combine these two concepts, the
7 outdoor recreation economy with the tourism-related
8 employment, both of which rely on healthy lands and
9 waters for their vitality and their growth, you see
10 enormous numbers.

11 Many people -- many, many thousands of people
12 in rural counties throughout New Mexico depend on these
13 industries for their livelihood, and many of these
14 businesses are rural, as I stated, and small, perhaps as
15 a sole proprietorship or only employs five people, which
16 is an enormous impact in that particular county, and
17 it's crucial that we support these homegrown businesses
18 that are the backbone of the New Mexico outdoor and
19 tourism economies.

20 So that's the big picture at the state level.
21 These particular counties are also very dependent on
22 tourism and outdoor recreation. I'll give you one stat
23 to begin with. In 2019 this sector constituted almost
24 30 percent of jobs in Taos County and 10 percent of jobs
25 in Sandoval County, the two counties where these

1 nominated waters are located. In Sandoval County in
2 particular, recreation is the single biggest spending
3 category, with 77.9 million in direct visitor spend in
4 2019.

5 You have between 12 and 30 percent of visits
6 to these counties, including folks who say that they're
7 coming to these areas because they enjoy hiking,
8 backpacking, general nature enjoyment. And that's --
9 that can only happen if -- if these areas where people
10 recreate, they access our beautiful lands and waters are
11 protected.

12 So that fundamentally is why we view this as
13 an economic development initiative. It's about
14 protecting that foundation, really laying a strong
15 foundation as we work to sustainably, with that emphasis
16 on sustainable, grow the outdoor economy in income.
17 This is a way for New Mexico to do this work right from
18 the beginning.

19 The sixth requirement -- I'll go through this
20 quickly -- affidavit of publication of notice of the
21 petition in a newspaper of general circulation. We have
22 met this requirement, both for the petition, as you can
23 see, as well as the notice requirements for the hearing
24 itself have all been met and are specified here.

25 I want to dive into the ONRW criteria for just

1 a few minutes.

2 So as Ms. Fox stated, all nominated waters --
3 all six nominated waters meet more than one of the
4 criteria as outlined in the Commission's ONRW
5 regulation. So that's really key, is that not only are
6 we meeting one, we're not only at the baseline, we're
7 actually -- we're actually above it. Each one meets at
8 least one of these criteria. They're --

9 MS. JONES: Excuse me.

10 MS. NAVAS: -- meets more than one.

11 Excuse me.

12 MS. JONES: We are at the 15-minute mark.
13 Just letting you know. Pardon me.

14 MS. NAVAS: That sounds great. I'll probably
15 need maybe seven more minutes.

16 To articulate that one more time, we have
17 satisfied all the criteria for all the nominated
18 waterbodies. I'll run through this quickly.

19 But designation of each of these waters is
20 beneficial to the state for many of the reasons that
21 you'll hear about this morning, as well as the ones that
22 I articulated from the Economic Development Department's
23 point of view.

24 All waters have exceptional recreational
25 significance.

1 All waters have exceptional ecological
2 significance.

3 And then certain waters are a significant
4 attribute of a state Special Trout Water. They include
5 this -- this designation as a Special Trout Water or a
6 national monument.

7 And then certain waters meet the water quality
8 standards.

9 So first -- and this is the point that is
10 crucial for the Outdoor Recreation Division. Each one
11 of these six waters has exceptional recreational
12 significance for a whole host of people and
13 recreationists.

14 The Rio Grande, to cite one stat, in 2020-2021
15 30,000 anglers -- more than 30,000 anglers fished this
16 stretch of river, accounting for 80,000 visitor days.
17 When I'm citing that economic development data and
18 tourism data about how important this economy is, it's
19 encapsulated in that angler data. These are people
20 coming from all over the state. They're both residents
21 of Northern New Mexico, they're coming from outside of
22 Northern New Mexico, they're coming from outside of the
23 state, and they are supporting our local businesses.

24 But people are coming to these rivers because
25 they're beautiful, because they're clean, and because

1 New Mexico has protected them. That's what we're --
2 what we're requesting the Commission consider today.

3 The Rio Grande also has some of the most
4 incredible whitewater rafting in the country. You can
5 see that as named by Outside magazine it was one of the
6 top 32 waterways in North America for whitewater.

7 Of course, there's also incredible hunting and
8 general nature enjoyment along this stretch of river.

9 The Rio Hondo and Lake Fork also have enormous
10 numbers of visitors coming to fish their banks.

11 They also are home to cutthroat trout, and
12 cutthroat trout inhabit both the Rio Grande -- both the
13 Rio Hondo -- excuse me -- and Lake Fork both are SERI
14 species, which you'll hear about in more detail today,
15 but both are unique watersheds that are very worthy of
16 protection.

17 And then the headwaters of the Jemez. This is
18 also a paradise for anglers that attracted over 50,000
19 visitors in 2019.

20 And then in 2020-2021 the stretch ranked a
21 15th in the state for numbers of anglers fishing in the
22 stream. Again enormous -- enormous significance when it
23 comes to fishing, hunting, hiking, just general nature
24 enjoyment. This is for both visitors -- of course,
25 that's where much of the tourism economic numbers are

1 derived from -- but it's also for residents. I know I
2 personally find so much joy from these waters. I'm sure
3 there are other folks on this call who do, as well.
4 It's crucial for the people who live in these
5 communities.

6 Special Trout Water. The entire portion of
7 the Rio Grande that we are nominating is considered a
8 Special Trout Water, and then portions of San Antonio
9 Creek, East Fork Jemez River and Redondo Creek are also
10 Special Trout Water.

11 Once again the entire segment, the 52-mile
12 nominated stretch of the Upper Rio Grande, lies within
13 the upper -- the Rio Grande del Norte National Monument.

14 It's also a Wild and Scenic River.

15 And then a portion of the East Fork of the
16 Jemez River that we are nominating is a -- is a Wild and
17 Scenic River.

18 There's a really helpful recap of this
19 criteria that we have met, and once again we've met --
20 we've met more than one of this criteria for each of the
21 waterways that we're nominating, but you can find this
22 recap in Exhibit 7 of the petition. You'll find this
23 chart which breaks down what I've reviewed today and
24 each of the criteria that each waterbody meets.

25 I want to end on this, the fact that this is a

1 community vision. Even though the Outdoor Recreation
2 Division is the petitioner, this wouldn't be happening
3 without community support. So we have over 50 formal
4 letters and resolutions of support from the federal
5 government, from local governments along these -- these
6 rivers, from tribal governments, from acequias,
7 neighborhood associations, land grants, and, as Ms. Fox
8 has articulated, support from both our New Mexico
9 senators.

10 We also have enormous support -- I won't go
11 through this full list -- from the business community
12 and the NGO community, more of which you'll hear
13 articulated later today in formal testimony.

14 And then finally, we have 2,218 letters and
15 signatures of support in total. So this includes
16 people, individuals who have signed on to petitions in
17 support of nominating these waters.

18 Acequia significance is crucial for us, and I
19 think the fact that we have -- we have 10 acequias and
20 acequia associations, as well as all the ditches on the
21 Rio Hondo have signed on in support and have written so
22 poetically as Elias Espinoza writes. He's the mayordomo
23 of Acequia de San Antonio, which draws water from the
24 Rio Hondo. He speaks for the parciantes of the Acequia
25 de San Antonio and then comes out in strong support as

1 you can read here.

2 We also have significant support from tribal
3 governments. The All Pueblo Council of Governors has
4 signed on in support of this petition, as has the tribal
5 council of Santa Clara and Taos Pueblos. And you can
6 read the really eloquent words of Joseph Brophy Toledo
7 from Jemez Pueblo who writes about how these areas are a
8 crucial place for prayer and the source and root of all
9 life in the watershed.

10 This work of this petition is the result of
11 over two years of community outreach. That has been the
12 focus, is to use the Outdoor Recreation Division as the
13 tool of the community where we have brought together all
14 these disparate voices.

15 We have heard from people who support this
16 petition. As you can see, we have over 50 letters and
17 resolutions of support and over 2,000 signatures in
18 support of this work. We wouldn't be doing it without
19 that backbone, and that crucially is the reason and I
20 think in a nutshell why we think this is so key to
21 continuing to sustainably grow and support the outdoor
22 recreation economy in New Mexico.

23 And with that, I'm going to thank the
24 Commission for your time this morning. I will conclude
25 the presentation here and stand by for questions.

1 HEARING OFFICER CHAKALIAN: Ms. Fox, are your
2 witnesses going to stand for cross-examination as a
3 panel?

4 MS. FOX: Yes, Mr. Hearing Officer. I was
5 just about to say that. We would like to have
6 Ms. Navas, Ms. Hatt and Ms. Conn stand for panel cross
7 at the conclusion of Ms. Conn's testimony. Mr. Streit
8 and Dr. Parmenter will stand for cross-examination
9 immediately following their testimony.

10 HEARING OFFICER CHAKALIAN: Okay.

11 So would you like to call your next witness?

12 MS. FOX: I would, Mr. Hearing Officer.

13 Thank you very much, Ms. Navas. You're
14 excused for the time being.

15 We'd like to call Ms. Joanna Hatt, please.

16 HEARING OFFICER CHAKALIAN: Please proceed.

17 MS. FOX: Thank you, Mr. Hearing Officer.

18 JOANNA HATT

19 having been first duly sworn or affirmed, was
20 examined and testified as follows:

21 DIRECT EXAMINATION

22 BY MS. FOX:

23 Q. Please state your name.

24 A. Joanna Hatt.

25 Q. What is your current employment?

1 A. So for the last five years I've worked as a
2 native fish biologist with New Mexico Department of Game
3 and Fish, and in this capacity my primary
4 responsibilities are managing and conserving our -- many
5 of New Mexico's threatened and endangered fishes.

6 Q. Would you please describe your prior work
7 experience briefly?

8 A. So before I came to Game and Fish, I served
9 four years as a coordinator for two research
10 laboratories dedicated to natural resource management,
11 and I've worked about 20 years as a biologist with
12 different taxa, including birds, plants, mammals,
13 invertebrates and fish.

14 Q. What is your educational background?

15 A. I have a bachelor's of science from the
16 Rubenstein School of Natural Resources and the
17 University of Vermont in Burlington, Vermont, and I
18 majored there in wildlife and fisheries biology, and a
19 master's of science from the Warnell School of Forestry
20 and Natural Resources of the University of Georgia in
21 Athens, Georgia, where I majored in forest resources.

22 Q. Your resume is Petitioner's Exhibit 29; is
23 that correct?

24 A. Yes.

25 Q. And, Ms. Hatt, what's been your involvement

1 and the Department of Game and Fish's involvement in the
2 ONRW petition process leading up to today's hearing?

3 A. The department has devoted significant
4 resources since the spring of 2020 to support the
5 petition. I personally became involved the fall of that
6 year. A former colleague of mine at Game and Fish,
7 Meaghan Conway, an avian specialist, participated in the
8 bimonthly meetings that were convened by the Outdoor Rec
9 Division to develop the outreach strategies, gather
10 evidence and prepare the petition, along with our NGO
11 partners and counsel.

12 Meaghan and I both drafted the section in the
13 petition on ecological significance of the nominated
14 waters, and we also developed the part on recreational
15 significance. And then I used the section to develop
16 the testimony submitted in ORD's notice of intent.

17 Q. You submitted testimony, as you just alluded
18 to, in support of the petition, and that is Petitioner's
19 Exhibit 28; is that correct?

20 A. Correct.

21 Q. And is that testimony accurate to the best of
22 your knowledge, and do you adopt it today?

23 A. Yes.

24 MS. FOX: Mr. Hearing Officer, Ms. Hatt has
25 also prepared a PowerPoint presentation for the

1 Commission to summarize her testimony.

2 Q. And, Ms. Hatt, you may begin your
3 presentation.

4 A. Thank you, Ms. Fox.

5 And I'm assuming you can see the PowerPoint in
6 full right now on the screen.

7 Q. We cannot.

8 A. Okay. One minute, please.

9 How about now?

10 Q. We can. There we go. That is a good view.
11 Thanks.

12 A. Okay. No problem. Appreciate the patience.

13 So as Ms. Fox alluded to, I'm here today to
14 provide testimony on behalf of the Department of Game
15 and Fish for today's Outstanding National Resource Water
16 petition.

17 As Ms. Navas alluded to earlier in her
18 testimony, we have six waters that are nominated today,
19 and I will show you the maps that you just saw that are
20 also in the notice of intent.

21 But just to refresh, the Upper Rio Grande from
22 the confluence of the Rio Pueblo de Taos and all the
23 way -- extending all the way up into the border with
24 Colorado.

25 Our next two waters are the Rio Hondo in the

1 Carson National Forest and its Lake Fork tributary.

2 And then our last three waters are the
3 headwaters of the Jemez, including the East Fork Jemez
4 River, San Antonio Creek and Redondo Creek.

5 So to assess the eligibility of each water for
6 ONRW designation, I use the New Mexico Environmental
7 Review Tool, and I'll call that the ERT from here on
8 out. So that tool allows us to determine the special
9 status species that are present in the nominated water
10 area.

11 It's a conservation planning tool that is
12 populated with occurrence data from Natural Heritage New
13 Mexico, and these may be survey data or direct
14 observations of animals and/or plants. And then where
15 we don't have direct observations, we have predicted
16 distributions from spatial models of habitat that allow
17 us to -- you know, where we would expect the species to
18 occur, we can use the habitat information and how it
19 relates to the species occurrence. And those are both
20 from Gap Analysis Project data and Natural Heritage
21 data.

22 So in essence the ERT helps us to identify
23 those special status species that are in a project area
24 or an area of interest, and there are multiple special
25 status designations. And I'll describe them each here,

1 and then their acronyms so we can use those from here on
2 out.

3 So we've got species of economic or
4 recreational importance, or SERI, which Ms. Navas
5 referred to in her testimony earlier. An example here
6 would be elk, where the hunting of elk generates
7 substantial revenue for the state.

8 The second special status category is a
9 species federally listed under the Endangered Species
10 Act of 1973. And here my example on the bottom left is
11 the Jemez Mountains salamander.

12 The third status is the -- are the species
13 that are listed under New Mexico's Wildlife Conservation
14 Act of 1978. And these species, like under the
15 Endangered Species Act, have special protections through
16 prohibition on take. And then the Department of game
17 and fish is responsible for conserving these species and
18 their habitats. Here my example on the bottom is a
19 white-tailed ptarmigan, which is state endangered.

20 And then finally, for animals we have species
21 that are defined as species of greatest conservation
22 need, or SGCNs, and those are defined in New Mexico's
23 state Wildlife Action Plan of 2016, based on criteria
24 like they are declining, vulnerable, endemic to New
25 Mexico, they have disjunct populations, or serve as

1 keystone species. So it just has to fit one of those
2 criteria. Some of those SGCNs are also state or
3 federally listed while others don't have other
4 protections.

5 And then finally, the special status plants
6 that are also listed in the ERT are identified from the
7 New Mexico Rare Plant Conservation Strategy. And some
8 of these plants are either state or federally listed, as
9 well.

10 So here's an example of an output from the ERT
11 for the Upper Rio Grande. In our analysis for this
12 nomination, we included a buffer of a mile around each
13 of the nominated waters to incorporate all the animals
14 or plants that would be using the watershed but may not
15 be found directly in the water. So you can see our
16 buffered area of analysis here in red and then the
17 corresponding list of special status species that comes
18 from the ERT.

19 And to some the ERT is our primary source of
20 information to develop these lists of the species that
21 occur within our nominated waters, but where we had
22 additional survey data, which we often did, that had not
23 yet been incorporated into the ERT, we validated the
24 existing list and, where needed, supplemented the final
25 species lists. So once we had those lists, we could

1 evaluate the qualification of each water for the ONRW
2 designation.

3 Our first evaluation was to examine each water
4 for its recreational significance per the SERI that are
5 found in this area. And in this case, all nominated
6 waters have multiple species of economic or recreational
7 importance, including Rio Grande cutthroat trout on the
8 top, Rocky Mountain bighorn sheep, black bear and mule
9 deer.

10 Here is a sunrise version of the tables of
11 SERI that are found in the petition for all the
12 nominated waters. The Upper Rio Grande segment includes
13 nine SERI and many of the major big game species in the
14 state. The Rio Hondo and Lake Fork contain seven SERI,
15 including an important recreational trout fishery. The
16 last three Jemez waters originating on the caldera host
17 a healthy -- or are -- where the caldera is a host to a
18 healthy and productive elk herd on one of the most
19 sought after hunts in our state.

20 And then finally, Rio Grande cutthroat trout,
21 our state fish, is found in the three of the nominated
22 waters, and these waters are some of the easiest access
23 for anglers.

24 So overall this is a small snapshot of the
25 bigger picture of the recreational importance which

1 Ms. Navas just mentioned earlier, but it's important to
2 make note of, as well.

3 Moving on to our evaluation of the ecological
4 significance of these waters, again we used those ERT
5 lists that have been validated and evaluated the
6 ecological significance for all six waters. And all of
7 the waters again had many species of special status,
8 including bald eagles, northern leopard frogs, Rio
9 Grande chub, in the bottom middle, and American pikas.

10 So I'll -- next I'll walk you through the
11 special status species within each nominated water with
12 some specifics on the value of each of those individual
13 waters for a particular species.

14 For the Upper Rio Grande nominated segment, we
15 had five species that are either federally and/or state
16 listed, including southwestern willow flycatcher. The
17 southwestern willow flycatcher is a federally listed
18 species, and as well as a state endangered species, and
19 that species is dependent upon willows that grow on
20 stream banks for their breeding. So the Upper Rio
21 Grande provides important nesting habitat for this bird.

22 The Upper Rio Grande also provides habitat for
23 many other bird species that are considered SGCNs, 20 in
24 all. So the Rio Grande chub, also an SGCN, is found in
25 this reach, and the Upper Rio Grande in particular

1 provides one of the longest unfragmented reaches for the
2 species across its entire range.

3 Moving on to Rio Hondo and the Lake Fork, here
4 I've condensed the tables into one as the species listed
5 occur in both waters. We had five state-listed species
6 that are found here, including the state endangered
7 white-tailed ptarmigan that I mentioned earlier. So
8 white-tailed ptarmigan primarily inhabit alpine
9 ecosystems, but they forest and roost in riparian areas
10 and meadows in the winter. So this is an important part
11 of their life cycle that we have this habitat protected.

12 The species of greatest conservation need in
13 the Rio Hondo are -- include 19 birds, one amphibian and
14 four mammals, and one of those mammals is a spotted bat.
15 And spotted bats in particular require streams with high
16 water quality. So it's a good sign that this water is
17 providing habitat for the species.

18 A similar list here for the Lake Fork SGCNs,
19 14 birds, one amphibian and three mammals. One of the
20 SGCNs here is the Lewis's woodpecker, which is a bird
21 that forages for flying insects near cottonwood stands
22 that are found in riparian areas.

23 Finally, moving into our Jemez waters, the
24 East Fork Jemez River contains two federally listed
25 species and six state-listed species. This list

1 includes the Jemez Mountains salamander, which I
2 mentioned earlier. And as the name suggests, the Jemez
3 Mountains salamanders are endemic to the Jemez
4 Mountains, they're found in cool, moist and shaded
5 habitats and federally designated critical habitats
6 found throughout all the nominated waters in the Jemez
7 region.

8 The SGCNs in the East Fork Jemez are a long
9 list here, 31 species, a number of birds. And then Rio
10 Grande sucker, which has not been noted yet, as I
11 mentioned earlier, that is one of the SGCNs, and in
12 particular it's a species that's experienced
13 contractions in its distribution across its range, and
14 the Jemez waters support 10 percent of the known
15 populations of this species.

16 San Antonio Creek contains three federally
17 listed species and six state-listed species. Notably
18 San Antonio Creek provides designated critical habitat
19 for the federally and state-endangered New Mexico meadow
20 jumping mouse. This species is an extreme habitat
21 specialist that requires dense herbaceous vegetation
22 adjacent to perennial streams. Ten of the 22 known
23 populations of this species within New Mexico occur in
24 this area, including recently discovered sites along San
25 Antonio Creek.

1 MS. JONES: Excuse me. We're at the 15-minute
2 mark.

3 MS. HATT: Thank you.

4 HEARING OFFICER CHAKALIAN: How much more time
5 do you need, Ms. Hatt?

6 MS. HATT: I -- it's probably under five
7 minutes at this point.

8 HEARING OFFICER CHAKALIAN: Okay. Please
9 proceed.

10 MS. HATT: Again like for the previous waters,
11 there's a large list of SGCNs to occupy this nominated
12 stretch. Many wading water riparian obligate birds are
13 found in San Antonio Creek, including American bittern,
14 bank swallows, black swifts and eared grebes.

15 Then finally, Redondo Creek contains three
16 federally listed species and six state-listed species,
17 much like the list from San Antonio Creek. Redondo
18 includes habitat for New Mexico meadow jumping mouse, as
19 well as wrinkled marshsnail, which is a state-endangered
20 species. The wrinkled marshsnail occupies wet meadows,
21 and it occurs in small, isolated populations within the
22 state, and in the Jemez Mountains, as well, and is
23 vulnerable to species, it's vulnerable to wetland
24 habitat loss and water contamination. So high water
25 quality is a good mark that the species occurs there.

1 And Redondo Creek includes 20 SGCN birds, two
2 SGCN amphibians, one SGCN invertebrate and four SGCN
3 mammals.

4 So moving on to special status plants. Again
5 these plants are those that have been listed in New
6 Mexico's Rare Plant Conservation Strategy of 2017. And
7 these special status plants are part of a -- 235 rare
8 and endangered plants that were identified by New Mexico
9 Energy, Minerals and Natural Resources Department in
10 partnership with the Rare Plant Conservation
11 partnership. And as you can see, most of our nominated
12 waters also include those special status plants.

13 So to wrap up, I'd like to give you a
14 30,000-foot view on the importance of these nominated
15 waters to special status animals and plants.

16 As you likely notice from the tables, bird
17 diversity is high in all of the nominated waters.
18 Within the Upper Rio Grande reach, the gorge in
19 particular holds a distinction of being an important
20 bird area. So important bird areas are designations
21 from the National Audubon Society to recognize and
22 protect areas that are providing critical habitat for
23 birds.

24 And this part -- this designation is in part
25 because of the unfragmented nature of this reach. This

1 part of the river that we're nominating is still largely
2 an unimpounded natural waterway, providing large swaths
3 of continuous habitat for animals that require
4 conductivity throughout their life cycle, like many of
5 the game species I mentioned earlier, and also some of
6 the nonnative fish and birds.

7 And then finally, the New Mexico Rare Plant
8 Conservation Strategy has designated a portion of the
9 nominated water as an important plant area. So these
10 are areas that support a high diversity of sensitive
11 plant species or are the last locations of a rare or
12 endangered plant and represent high priority areas for
13 management.

14 Like in the Upper Rio Grande, the Rio Hondo
15 and Lake Fork areas provide habitat for numerous special
16 status plants and animals, and as I mentioned earlier,
17 there are thriving trout fisheries, which you'll hear
18 about later in the testimonies to follow, and we also
19 have an important plant area in this region, as well.

20 Then continuing on the theme for these Jemez
21 waters, the nominated waters include important bird
22 areas and important plant areas, but they also fall
23 within a conservation opportunity area, which is
24 designated in our state Wildlife Action Plan, and these
25 are areas within the state that contain high

1 biodiversity and superior potential for conserving our
2 SGCNs.

3 As you were, you know, perhaps aware of in me
4 showing all those tables of SGCNs, but also in terms of
5 the descriptions of those range-restricted or endemic
6 species that occupy these waters, like Jemez Mountains
7 salamanders or wrinkled marshsnail, this is an important
8 area for many of these range-restricted species.

9 So to summarize, all of the nominated waters
10 qualify for designation as Outstanding National Resource
11 Waters per the testimony that I just provided. It's
12 also of note, and we mentioned this earlier, that these
13 waters qualify based on a multitude of factors, in
14 particular for these special status species, for both
15 recreational and ecological value.

16 So with that, thank you for your time and
17 attention, and I conclude my PowerPoint.

18 MS. FOX: Thank you, Ms. Hatt. We really
19 appreciate that.

20 Ms. Hatt, as we discussed, will stand for
21 cross-examination from NMED and questions from the
22 Commission as a panel after Ms. Conn's testimony.

23 We will now call Dr. Robert Parmenter.

24 DR. PARMENTER: Good morning.

25 MS. FOX: Good morning.

1 ROBERT PARMENTER, PhD
2 having been first duly sworn or affirmed, was
3 examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MS. FOX:

6 Q. Please state your name.

7 A. Robert Ross Parmenter.

8 Q. And what is your current employment?

9 A. I work with the National Park Service at
10 Valles Caldera National Preserve as the division chief
11 for science and resource stewardship.

12 Q. And what are your responsibilities as division
13 chief?

14 A. Yeah. My division is responsible for both
15 natural and cultural resources, performing the inventory
16 monitoring and research on those resources. We also
17 coordinate the outside scientists who come to the
18 preserve for scientific research purposes. There are
19 currently 55 of those this year.

20 And we are also charged with the
21 implementation of resource stewardship. That includes
22 forest thinning projects, the livestock grazing program,
23 working with Game and Fish on the hunting and fishing
24 programs, invasive species, hazard trees, just
25 everything that happens within the preserve that deals

1 with resources.

2 Q. Can you briefly describe your prior work
3 background.

4 A. Yes. I've been with the Park Service since
5 the -- since Congress moved us from USDA to the National
6 Park Service in 2015. And prior to that I was the
7 director of science and education here at the preserve,
8 since 2003. So I'm in my 20th year now here at Valles
9 Caldera.

10 Prior to that I spent 15 years on faculty at
11 University of New Mexico in the biology department,
12 running the Sevilleta Long-Term Ecological Research
13 program at the Sevilleta National Wildlife Refuge in
14 Socorro County, and I was the director of the field
15 station on the refuge.

16 Q. What is your educational background?

17 A. Oh, went to Colorado College for my
18 undergraduate degree in Colorado Springs, and then down
19 to University of Georgia for a master's degree in
20 zoology, working on freshwater aquatic turtles, and then
21 over to Logan, Utah at Utah State University for a PhD
22 in biology and ecology.

23 Q. Have you authored scientific articles?

24 A. Yes. Yes, I have. I've been the senior
25 author or co-author on more than a hundred peer-reviewed

1 scientific journal articles and book chapters.

2 Q. Your curriculum vitae is Petitioner's
3 Exhibit 31; is that correct?

4 A. Yes, it is.

5 Q. And you submitted testimony in support of the
6 petition in this matter which is Petitioner's
7 Exhibit 30; is that correct?

8 A. Yes, it is.

9 Q. Is that testimony accurate to the best of your
10 knowledge, and do you adopt it today?

11 A. It is, and I do.

12 Q. That was a compound question, and thank you
13 for answering it in a compound way.

14 A. You're welcome.

15 MS. FOX: Dr. Parmenter has a PowerPoint
16 presentation, Mr. Hearing Officer, to summarize his
17 testimony.

18 Q. Dr. Parmenter, can you please begin your
19 presentation.

20 A. All right.

21 Okay. Let's find it here. Maybe it's not
22 that. Sharing my meeting window.

23 Okay. Can you see that?

24 Q. I cannot.

25 A. Okay.

1 Sharing content? Is that what this is?

2 Q. Yes. We can see your screen, and one of the
3 icons on the screen is your PowerPoint.

4 A. Okay. How's that?

5 My apologies. I haven't used WebEx before.

6 Q. No. I --

7 Mr. Hearing Officer, I wonder if we should
8 take a five-minute break in order for Dr. Parmenter to
9 get his PowerPoint up.

10 I see it there. If you can click on it, I see
11 it on your screen. Aha. Maybe this is it.

12 Now if there's a way to click just on the --
13 perfect.

14 A. All right. Very good.

15 So my presentation today will deal with the
16 Valles Caldera National Preserve's segments of the
17 proposed streams. And of course, everybody, I would
18 hope, knows that the Jemez Mountains are here in
19 North -- North Central New Mexico, and that the Valles
20 Caldera is a volcano that you can see from space very
21 clearly, and it includes most of the Jemez Mountains,
22 has been in existence here for about 14 to 16 million
23 years.

24 There are a number of landowners that occur
25 across the Jemez Mountains.

1 Number 1 here on the screen is the Valles
2 Caldera National Park Service.

3 Number 2 is also National Park Service at
4 Bandelier National Monument.

5 Number 3 is Santa Clara Pueblo on our
6 northeastern boundary.

7 Number 4 is the Jemez Pueblo to our south.

8 We have three different ranger districts of
9 the Santa Fe National Forest illustrated as number 5.
10 This is the Jemez Ranger District in the south, the
11 northeast is the Espanola, the northwest is the Coyote
12 Ranger District.

13 6 is Los Alamos, including Los Alamos National
14 Lab.

15 And then 7, we have a variety of private
16 inholdings and small communities to the southwest of the
17 preserve.

18 The Valles Caldera was formed geologically
19 1.23 million years ago, has been an enclosed watershed,
20 draining out through San Diego Canyon down the Jemez
21 River valley. It's renowned for its incredible scenery
22 and activities. People have been using the preserve for
23 over 10,000 years. Many of the indigenous people still
24 live in the area. And of course, Mexican and American
25 settlers in the 19th and 20th centuries have come up and

1 used the preserve for hunting, livestock grazing, timber
2 and some mining at Sulphur Springs.

3 You've seen this a number of times today, but
4 I wanted to just point out that the headwaters of both
5 of the two major streams of San Antonio Creek and the
6 East Fork occur up in the northeast portion of the
7 preserve, in the Valle del Esposos for the San Antonio
8 and the Rincon de los Soldados for the East Fork Jemez
9 River. And then Redondo Creek drains the southwestern
10 aspect of Redondo Peak, which is the resurgent dome in
11 the middle of the preserve that's about 1.2 million
12 years old.

13 The preserve itself has been -- was, of
14 course, wildlands up until 1860, and then Congress
15 created the Baca Location Number 1 as part of a
16 settlement or a land grant dispute. And it went through
17 a series of private owners over the next 140 years and
18 was finally acquired by Congress in the year 2000. So
19 prior to 2000 it was privately owned, public access was
20 very restricted, and was pretty much limited to people
21 who could afford to buy the lodging and the guide
22 services to the Dunigans and the Bond families.

23 Since that time, however, the preserve has
24 opened up to the American public, and we have lots of
25 visitors that come up, including a lot of fishermen and

1 people who like to recreate along the creeks in the
2 Valles Caldera. We are, of course, known for the elk
3 herd in the Jemez Mountains, and the Valles Caldera
4 provides the summer calving ground for that elk herd.
5 We have approximately 2,000 elk on the preserve and
6 another 3,000 to 4,000 elk in the rest of the Jemez
7 Mountains. And we do offer hunting opportunities in the
8 fall through the Department of Game and Fish.

9 There's also a wide variety of other
10 recreation that goes on here, including mountain biking.
11 That's relatively rare for national park units. But we
12 also have hiking, horseback riding, snowshoeing and
13 skiing in the winter and, of course, fishing on all of
14 our streams.

15 So Valles Caldera National Preserve is part of
16 the National Park system, is open to the public. We
17 constitute the top of the Jemez River watershed, about
18 89,000 acres totally, but inside the preserve we have 75
19 miles of perennial streams, and some of these are up for
20 nomination here today.

21 These constitute first, second and third order
22 streams. And just to make sure my definitions are
23 correct here, first order streams, of course, are
24 these -- are these small brooks that come out of springs
25 that kind of tumble down mountainsides. When two first

1 order streams come together, they become a second order
2 stream, much like Redondo Creek is. And then third
3 order streams, like San Antonio Creek and the East Fork
4 Jemez River, are when two second order streams come
5 together.

6 So these two main streams have a confluence at
7 Battleship Rock in the Jemez Valley and form the Jemez
8 River, which is a fourth order stream going down to the
9 Rio Grande.

10 In addition to the streams, of course, we have
11 extensive wetlands and fens throughout the Valles. The
12 different stream types we have include these nice
13 secluded canyons. This is a photograph of Hidden
14 Valley, which is on the west end of the Valle Grande as
15 it leaves the preserve into the Jemez National
16 Recreation Area on the Santa Fe National Forest.

17 And then out in the Valles we have a whole
18 suite, many acres of wetlands and fens. And a fen, of
19 course, is just a bog that has a current going through
20 it very slowly. So pretty much the eastern half of the
21 Valle Grande is one giant fen.

22 We have exceptional recreational values, we
23 believe, over 76,000 annual visitors as of last year. A
24 large number of these come to fish. And because we want
25 to keep the back country of the preserve up in the Rio

1 San Antonio somewhat secluded, we allow 35 vehicles into
2 the back country each day. And that allows people to
3 spread out, and for fishermen they can work their
4 different reaches of the stream.

5 And on the preserve the San Antonio Creek and
6 the East Fork are the most visited by fishermen.
7 Redondo Creek is our fifth most popular stream, mostly
8 for hikers and hunters and wildlife aficionados.

9 We have exceptional fishing across the Jemez
10 watershed, both on the Santa Fe National Forest and on
11 the preserve, and we do believe -- you've seen these
12 numbers before, but an incredible number of visitors
13 come up to fish on these two streams. The Valles
14 Caldera you can fish for free if you have a state
15 fishing license with a trout stamp. The Park Service
16 issues a permit for fishing, but it comes at no cost.

17 One of the things we've been doing as part of
18 our inventory is keeping track of the fish populations
19 on the preserve, and I started this program back in 2003
20 with an aquatics consultant out of Albuquerque came up.

21 And they had done surveys all through the
22 Western United States, and when they started the surveys
23 on the preserve, they just couldn't believe it. We have
24 some of the highest densities of fish, numbers of fish
25 per meter of stream and biomass, the sheer weight of

1 these fish, than virtually any other place in the
2 Western United States.

3 Currently we have in most of these streams
4 more than two fish per meter -- or 200 fish -- excuse
5 me -- I left that out -- 200 fish per 100 meters of
6 stream. So it's about two fish per meter of stream here
7 in the San Antonio and East Fork.

8 And most of those are trout. We have brown
9 trout and rainbow trout in the East Fork and brown trout
10 in the Rio San Antonio. Both of these, of course, are
11 introduced species that are very good game fish. We
12 have been discussing with various groups over the years
13 the potential to reintroduce Rio Grande cutthroat trout
14 to these streams.

15 High recreational values. They're very
16 popular year-round, with a lot of people in the summer
17 that recreate in the Valles and enjoy the resources
18 there, and then in the winter, of course, we have skiers
19 and snowshoers particularly in the Valle Grande. And
20 all of these streams are accessible to the public.

21 In terms of ecological value, the -- we have a
22 number of different aspects of the resources here.

23 First of all, the Jemez Mountains, the caldera
24 is basically a giant sponge that holds water from summer
25 storms as well as snowmelt and the wetlands and the

1 fens. And this basically keeps the water at high
2 elevation in cooler temperatures and slowly releases it
3 downstream to water users in the Jemez Valley. And it
4 provides groundwater recharge to the Rio Grande.

5 This is important because in a drying, warming
6 climate we need to conserve what water we have. And of
7 course, keeping it up there -- compared to Elephant
8 Butte, for example, where the old saying goes New Mexico
9 spreads its water out to dry, it's probably better to
10 keep our water in these nice, cool wetlands and fens.
11 So these streams provide that function at higher
12 elevation.

13 In addition, as has been mentioned by Joanna,
14 the endangered species of the New Mexico meadow jumping
15 mouse occurs in Redondo Creek watershed and the Rio San
16 Antonio. So there are definite benefits to keeping the
17 habitat in good quality at this point.

18 Habitat protection. We've got -- done a lot
19 of work on this. We do have a livestock grazing
20 program, but these are in pastures that are in upland
21 areas, without perennial streams. So they work off of
22 stock tanks that are recharged by snowmelt and with
23 summer thunderstorms. So we do not allow cattle on our
24 streams. We do have trespass cattle issues going on,
25 but we're trying to deal with that. Hopefully later

1 this year we'll reinforce all of our fences for that.

2 We've also been restoring willow populations
3 to the upland streams and trying to get a lot of the
4 stream bank stabilization projects done. And we're
5 approaching the end of that. We're getting very close
6 to finishing up those -- those wetland and stream
7 restoration projects.

8 And of course, we're -- the ultimate goal is
9 to not only improve jumping mouse habitat and all the
10 riparian species that go with that, but we'd like to get
11 beavers back on the preserve so we can get beaver ponds
12 to enhance some of the fishing opportunities, as well.

13 For conservation, we were -- been successful
14 in reintroducing the Rio Grande chub and the Rio Grande
15 sucker to the San Antonio on the preserve. They were
16 absent when I first got here, but they're -- have very
17 good breeding populations in there now. And we would
18 hope to keep them going. And the good habitat is
19 providing good, stable, large populations of those
20 species plus the longnose dace, another native game
21 fish.

22 Another species we brought back to the
23 preserve was the northern leopard frog. Those were
24 missing from the Jemez Mountains, and working with one
25 of the consultants from New Mexico Department of Game

1 and Fish, we reintroduced these to the Valle Seco and
2 Mirror Pond on Redondo, and we now do surveys out here,
3 and the -- the (unintelligible and/or inaudible) says
4 there's too many frogs to count. They're -- they've
5 spread out all across the preserve and are there by the
6 thousands now. So this population seems to have been
7 reestablished very nicely here.

8 This is one of the places in upper Redondo
9 Canyon where we release these frogs, and again there's
10 thousands of them that have spread out through Redondo
11 Creek and over into Jaramillo Creek, as well.

12 MS. JONES: We're approaching the 15-minute
13 mark.

14 DR. PARMENTER: Excellent. I have about one
15 minute left.

16 HEARING OFFICER CHAKALIAN: Thank you, sir.

17 DR. PARMENTER: The three things that might
18 create some problems with this for us is climate
19 warming, which will reduce overall stream flows, and as
20 a result that could increase not only temperatures, but
21 salinity, because the groundwater intrusion will compose
22 a larger fraction of the water in the stream.

23 In addition, fires create some problems if
24 they're big time wildfires, but we're working on a new
25 fire management plan to try to allow natural fires to

1 burn, low-intensity fires in the understory. So we
2 would note that that will reduce some of the fire
3 problems in the future.

4 And then finally, we have trespass cattle that
5 again we hope to put a lock on that later this summer
6 with repairing all the boundary fences.

7 So in conclusion, we believe, National Park
8 Service, that these streams do exhibit exceptional
9 ecological and recreational qualities, and that we
10 support the designation of these streams as ONRW waters.

11 Thank you very much.

12 MS. FOX: Thank you very much, Dr. Parmenter.
13 We really appreciate you and the National Park Service
14 taking the time to both support and provide testimony in
15 this proceeding.

16 Mr. Hearing Officer, Dr. Parmenter is now
17 ready for cross-examination from NMED and questions from
18 the Commission.

19 HEARING OFFICER CHAKALIAN: Mr. Verheul?

20 MR. VERHEUL: No cross-examination questions
21 for any of these witnesses. Thank you.

22 HEARING OFFICER CHAKALIAN: Commissioners?
23
24
25

1 EXAMINATION

2 BY THE COMMISSION:

3 COMMISSIONER SYPHER: Madam Chair?

4 CHAIR STRINGER: Oops. Sorry. I was looking
5 for my buttons.

6 Go ahead, Vice-chair.

7 COMMISSIONER SYPHER: All I wanted to do was
8 thank the witnesses for their exceptional testimony. I
9 thought it was well presented. Thank you.

10 DR. PARMENTER: You're very welcome.

11 CHAIR STRINGER: Other Commission -- I did
12 have one question.

13 It was mentioned that livestock grazing was a
14 potential threat, but this wasn't included in the
15 petition's discussion on potential threats, and I was
16 wondering why agriculture activities or livestock
17 grazing weren't discussed.

18 DR. PARMENTER: For Valles Caldera, the
19 livestock program that we have, the -- again the cattle
20 are contained away from perennial streams. The trespass
21 cattle, on the other hand, are coming off of the
22 allotments for the National Forest north of the
23 preserve. And every -- in past years the trees along
24 the northern boundary, some of them fall during the
25 winter and crush the fences that would keep the cattle

1 out.

2 So we are now reinforcing all of that and
3 working with the Forest Service and their permittees to
4 increase maintenance of that fence so that it will be
5 cattle-proof by June 1st, when cattle are turned out on
6 it, and that we should not have trespass cattle issues
7 after this summer.

8 So I think this was in -- in personally my
9 opinion, that this is an ephemeral problem that will be
10 short-term in nature.

11 CHAIR STRINGER: Okay. I appreciate that.

12 I'm not sure if any of the other panelists
13 might speak to other agricultural uses. I think one of
14 the public comments mentioned that it is -- some of
15 these waters are used for that purpose and is that a
16 potential threat to the water quality.

17 MS. FOX: Chair Stringer, you can -- we're
18 going to have panel cross of the three other witnesses,
19 you know, at the end, and you can ask them that
20 question.

21 CHAIR STRINGER: Okay.

22 MS. FOX: Yeah. Only Dr. Parmenter is
23 standing for questions right now.

24 CHAIR STRINGER: Okay. I'm sorry. I thought
25 it was a panel. I misunderstood.

1 MS. FOX: We're having the panel -- we're
2 having Ms. Navas, Ms. Hatt and Ms. Conn stand for panel
3 cross after Ms. Conn's testimony.

4 CHAIR STRINGER: Okay. Thank you. Sorry
5 about that.

6 MS. FOX: That's okay.

7 HEARING OFFICER CHAKALIAN: Any other
8 Commissioners?

9 Are there any members of the public who wish
10 to cross-examine this single witness?

11 Okay. May this witness be excused,
12 Ms. Conn -- Ms. Fox?

13 MS. FOX: Yes, Mr. Hearing Officer. Thank
14 you.

15 And thank you again, Dr. Parmenter.

16 DR. PARMENTER: My pleasure.

17 Thank you, all.

18 HEARING OFFICER CHAKALIAN: Would you like to
19 call your fourth witness?

20 MS. FOX: Yes, Mr. Hearing Officer. Thank
21 you.

22 We call Nick Streit.

23 HEARING OFFICER CHAKALIAN: Please proceed.

24 MS. FOX: Thank you.

25

1 NICK STREIT

2 having been first duly sworn or affirmed, was
3 examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MS. FOX:

6 Q. What is your name?

7 A. My name is Nick Streit.

8 Q. How are you employed?

9 A. I own Taos Fly Shop and have had that for
10 about 20 years. My wife and I reopened that in 2004.
11 And I also own The Reel Life in Santa Fe.

12 Q. And how did you come to reopen the Taos Fly
13 Shop?

14 A. Fly fishing is kind of a family business. So
15 my dad had the Taos Fly Shop in the '80s. He had it
16 from 1980 to 1988 and then closed it and just ran a
17 guide service after that. And so in 2004, after I had
18 kind of tried college and some other things, I came back
19 to Taos and reopened the fly shop with my wife.

20 Q. You submitted direct testimony in this matter
21 in support of the petition, which is Petitioner's
22 Exhibit 32; is that correct?

23 A. Correct.

24 Q. And is that testimony accurate to the best of
25 your knowledge, and do you adopt it today?

1 A. Yes.

2 Q. What is your experience fly fishing,
3 Mr. Streit?

4 A. So like I said, it's a family business. My
5 dad taught me to fly fish when I was very young. My
6 uncle, Jackson, also owns a fly shop up in Colorado. So
7 I grew up fly fishing. I started helping my dad on
8 guide trips when I was a teenager. In fact, I think I
9 took my first guide trip before I even had a driver's
10 license so my clients had to drive me to the river.

11 Just took to it. Of course, growing up in
12 Northern New Mexico there was a lot of opportunity for
13 it, became a passion pretty quickly. And then in 1998 I
14 was selected to be on the United States junior fly
15 fishing team, and we competed in Wales and took second
16 place there.

17 And after that I did some guiding in
18 Argentina, Alaska, fished other places like the Bahamas,
19 other parts of the world. And came back, started the
20 fly shop and guided thousands of trips in the area, and
21 also have taught fly fishing classes through community
22 colleges, Taos -- UNM Taos and Santa Fe Community
23 College.

24 Q. And do you conduct guiding trips today?

25 A. Yeah. I still do about 50 to 75 trips myself

1 every year, as well as classes.

2 Q. How many employees do you have between the two
3 shops?

4 A. We employ about 20 to 25 people, mostly --
5 well, a mix of full-time and seasonal, but in season
6 right now we've got about two dozen people working for
7 us.

8 Q. Do you sell New Mexico fishing licenses at
9 your shops?

10 A. Yes, we do. I actually have -- I wrote those
11 numbers down. Let's see. Last year at the Taos Fly
12 Shop we sold 2,213 licenses, for about 80 -- let's
13 see -- \$83,760. And that's revenue directly to the
14 state Game and Fish. And at The Reel Life we sold 698
15 licenses, bringing in another \$21,481.

16 Q. And in very general terms, what is the
17 recreational significance of the nominated waters and
18 their benefit to the State of New Mexico in your view?

19 A. Well, the nominated waters, they provide, you
20 know, a great diversity of recreation, but for my sake,
21 fly fishing. Northern New Mexico, New Mexico in
22 general, most people think is a desert and don't think
23 of it when it comes to fly fishing, but as it would be,
24 we have some incredible fly fishing here in the area,
25 and the nominated waters represent that really, really

1 well.

2 So people come from all over to fish, fly fish
3 these streams and, of course, you know, stay and spend
4 money in other ways.

5 Q. In your view, do the nominated waters in the
6 Jemez Mountains have exceptional recreational
7 significance?

8 A. Yes. The Jemez streams, the San Antonio
9 and -- sorry -- San Antonio, East Fork of the Jemez are
10 the primary ones that we fly fish there, and they're
11 both fantastic streams. They're very unique in that a
12 lot of Northern New Mexico small streams are kind of in
13 tight quarters, real brushy, and in the Valles Caldera
14 in particular you get an opportunity to fly fish in
15 these beautiful meadow, mountain settings, incredible
16 wildlife viewing all around.

17 It's really a unique opportunity to have a
18 wilderness experience in a relatively easy access
19 environment. And that's really important for a lot of
20 our customers, especially that are coming from sea level
21 and may be not used to the elevation, that we can take
22 people right to these creeks, we can have easy wading
23 and walking along the streams and provide them with a
24 really unique experience. Both of those streams are
25 really outstanding.

1 Q. Are you a hunter, as well?

2 A. Yes. My wife and I both hunt. In fact, my
3 wife shot her first elk on the Valles Caldera two years
4 ago, which was one of the most incredible experiences of
5 our marriage. We -- the caldera is really, in my mind,
6 one of the Great American, you know, public lands
7 success stories, and it's being managed so well, not
8 only for the elk hunting, but, you know, back to the fly
9 fishing.

10 They have limited -- limited availability,
11 like was talked about earlier. They only let a certain
12 amount of people in every day. And so it really keeps
13 the body of the fishing high. And I think earlier we
14 heard that there's two fish for every meter, which is
15 definitely a lot more than we're catching. So we must
16 be doing something a little bit wrong. But it is a
17 remarkable place.

18 Q. How many trips, you know, a season do you
19 guide in the caldera?

20 A. I think last year we did 26 guide trips in the
21 caldera and -- and that's relevant, you know. Northern
22 New Mexico especially, you know, a lot of our guides
23 live in rural communities. Guiding fly fishers is a
24 pretty good paying job. Most guides bring home, you
25 know, \$300 to \$400 a day after they get tipped and

1 everything. And so that's very relevant for our
2 business and for the community.

3 Q. In your view, do the nominated segments of the
4 Rio Hondo and Lake Fork have exceptional recreational
5 significance?

6 A. Yes. The Hondo is one of my favorite places
7 to fish, especially right now. Well, you can't fish it
8 right now because the forest is closed, but that's a
9 different story. What I mean is this time of year, when
10 it gets hot in places maybe like the lower Rio Grande or
11 other of our -- you know, the Chama lower elevation
12 streams become too -- too warm, the Hondo still runs
13 really cold with clear water. It drains from high
14 elevation mountains, of course, the Wheeler Peak
15 Wilderness. So it's a great place for us to take
16 clients on these hot summer days.

17 It's only about a 20-minute drive from Taos so
18 easy to get to. Great place for us to introduce fly
19 fishing to beginners because the fish there in the clear
20 water really eat dry flies well, which are flies we fish
21 on the surface of the water, and people get to see these
22 trout come up and grab the flies on the surface. And
23 the casts are short. So really a great place for
24 beginners.

25 And the other big thing about the Hondo is

1 that it has some Rio Grande cutthroat trout in it, and
2 catching native fish in their home waters has become a
3 much more important part of our sport and our industry,
4 and so that's really -- that's really been a good thing
5 for -- for us there.

6 Q. And about how many trips a year do you -- a
7 season do you guide to those two streams?

8 A. About two dozen trips a year we'll take up
9 there, on average.

10 Q. In your view, does the nominated segment of
11 the Rio Grande have exceptional recreational
12 significance?

13 A. Yes, absolutely. So the Rio Grande -- it's
14 hard for me to put it all in words. It's a really
15 unique river in that this is, of course, as the name
16 suggests, a large river. This is -- and it's on par
17 with many of the Western, you know, famous fly fishing
18 rivers, although what's incredible about the Rio Grande
19 is that it doesn't have the fishing and angling pressure
20 that we see in a lot of other places like Colorado and
21 Montana.

22 So because we have 50 miles of the canyon to
23 fish, most of which is accessed only by foot traffic, we
24 still are able to have a total, you know, solitude
25 wilderness experience down there with extremely high

1 quality of fly fishing, really good brown trout, rainbow
2 trout populations down there. The Rio Grande is really,
3 really fortunate to have a big influx of spring water,
4 which makes it fairly drought resistant and also keeps
5 the water quality, you know, sufficient for really good
6 trout fly fishing.

7 Of course, then just being able to go down
8 there, see bighorn sheep and eagles and herons and
9 everything else is an amazing experience. I've seen
10 bears down there.

11 And then the cultural significance to the --
12 to the Rio Grande, to the whole community, you know,
13 being able to take clients down to the river and show
14 them, you know, petroglyphs that have been there for
15 thousands of years and talk about the significance of
16 the area of the Rio Grande. Yeah. It's an amazing
17 river.

18 Q. About how many trips do you guide to the Rio
19 Grande every year?

20 A. The Rio Grande is our big -- our big one.
21 Last year we did about 1,200 guide days on the Rio
22 Grande. And it is -- we wouldn't be in business without
23 the Rio Grande. It's that simple. It's that important
24 of a river for us.

25 Q. And is there anything more that you can add

1 about fishing on the Rio Grande?

2 A. Let's see. I wrote down actually a quote from
3 my dad's book. My dad just wrote a new book called Fly
4 Fish Taos and Santa Fe. And he sums it up pretty good
5 in this. He says "Nick and I have been fortunate to
6 travel to some of the world's best fly fishing
7 destinations, guiding from Alaska to Argentina. So
8 people will often ask us where our top place to fish is,
9 and the answer usually surprises them that it's the Rio
10 Grande, and when it's fishing well, it's still number
11 one."

12 And that pretty much sums it up.

13 Q. Thank you, Mr. Streit.

14 This concludes his direct testimony, and he is
15 ready for cross-examination from NMED and any questions
16 from the Commission.

17 HEARING OFFICER CHAKALIAN: Mr. Verheul?

18 MR. VERHEUL: No questions.

19 HEARING OFFICER CHAKALIAN: Any Commissioners?

20 Are there any members of the public?

21 Ms. Fox, may this witness be excused?

22 MS. FOX: Yes, he may, Mr. Hearing Officer.

23 HEARING OFFICER CHAKALIAN: Thank you.

24 And, Ms. Fox, you have Ms. Conn as your last
25 witness?

1 MS. FOX: That is correct.

2 HEARING OFFICER CHAKALIAN: Please proceed.

3 MS. FOX: Thank you.

4 CHAIR STRINGER: Mr. Hearing Officer, may I
5 propose we take a short break really quick?

6 HEARING OFFICER CHAKALIAN: Okay.

7 CHAIR STRINGER: It's possible five or 10
8 minutes?

9 HEARING OFFICER CHAKALIAN: Ten minutes?
10 Let's see. It is 11:03. So at 11:13 we'll come back on
11 the record and we'll continue with Ms. Conn.

12 Thank you.

13 CHAIR STRINGER: Thank you. Appreciate it.

14 (Proceedings in recess from 11:03 a.m. to
15 11:13 a.m.)

16 HEARING OFFICER CHAKALIAN: It is 11:13. We
17 are back on the record.

18 And Ms. Fox is calling Ms. Conn.

19 MS. FOX: That is correct, Mr. Hearing
20 Officer.

21

22

23

24

25

1 RACHEL CONN

2 having been first duly sworn or affirmed, was
3 examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MS. FOX:

6 Q. Please state your name.

7 A. Rachel Conn.

8 Q. What is your current employment?

9 A. I am the deputy director for Amigos Bravos.

10 We're a nonprofit water conservation organization
11 dedicated to protecting and restoring the waters of New
12 Mexico. As deputy director I direct the organization's
13 projects in our three program areas, that includes
14 watershed protection and policy, holding polluters
15 accountable, and building a water protection movement
16 for the future.

17 As part of this work I help New Mexico
18 communities learn about and use the Clean Water Act and
19 the New Mexico Water Quality Act to protect and clean up
20 their rivers, streams and other waters, and I do this by
21 giving trainings around the state on water quality
22 standards, on ONRWs, on total maximum daily loads, on
23 National Pollutant Discharge Elimination System permits,
24 and other Clean Water Act and Water Quality Act topics.

25 I have worked for Amigos Bravos for the past

1 21 years on New Mexico water quality policy and
2 protection.

3 Q. What's your experience appearing before the
4 Water Quality Control Commission?

5 A. I've appeared before the Commission numerous
6 times, as you are aware -- hello, everyone -- including
7 during the last three Triennial Reviews and all prior
8 Commission rulemakings designating ONRWs.

9 From 2003 to 2004, I helped draft the Rio
10 Santa Barbara ONRW nomination, and in 2004 I provided
11 testimony during that Triennial Review in support of the
12 nomination on the state's -- and on the state's
13 antidegradation policy, and ONRW nomination procedures
14 were also part of that hearing.

15 In 2005 I assisted the State of New Mexico in
16 conducting research for the Valle Vidal ONRW nomination,
17 and in 2007 I served as a technical witness during the
18 Commission rulemaking on the antidegradation policy.

19 In 2010 I provided technical testimony in
20 support of the Outstanding Waters wilderness nomination
21 and amendments again to the antidegradation policy.

22 Most recently last summer, I appeared before
23 this Commission, providing technical testimony on an
24 array of topics in the Triennial Review, and in 2022,
25 just a couple months ago, I provided testimony in

1 support of the Upper Pecos watershed ONRW nomination.

2 Q. Briefly, what is your work experience prior to
3 Amigos Bravos?

4 A. Before coming to Amigos Bravos, I worked for
5 the Massachusetts Department of Environmental Protection
6 as a consultant assessing the data management needs of
7 the various bureaus in the department, and I also worked
8 for a nonprofit in Southern Colorado assessing and
9 addressing water quality problems associated with gold
10 mining.

11 Q. What is your educational background?

12 A. I have a BA in environmental biology from
13 Colorado College.

14 Q. And your resume is Petitioner's Exhibit 34; is
15 that correct?

16 A. Correct.

17 Q. And you provided written direct testimony in
18 support of the petition which is Petitioner's
19 Exhibit 33; is that correct?

20 A. Yes.

21 Q. And is that testimony accurate to the best of
22 your knowledge, and do you adopt it today?

23 A. Yes, it is, and yes, I do.

24 MS. FOX: Ms. Conn, Mr. Hearing Officer, has
25 prepared a PowerPoint presentation for the Commission

1 that summarizes her written testimony.

2 Q. And, Ms. Conn, if you could please begin your
3 presentation.

4 A. Are you seeing it?

5 Q. Yes, although it also has the slides to the
6 left, all the slides to the left.

7 A. Okay. For some reason it did not appear the
8 way it usually does.

9 Is that better?

10 Q. You got it.

11 A. All right.

12 Madam Chair, Mr. Hearing Officer, Members of
13 the Commission, thank you for the opportunity to testify
14 before you today.

15 This first intro slide has some photos of the
16 nominated waters. On the left is a picture of a fly
17 fisherman catching a fish in San Antonio Creek, in the
18 Valles Caldera. The picture in the center is of the
19 Upper Rio Grande north of Questa. And the picture on
20 the right is of a student helping with some volunteer
21 water quality monitoring in the Rio Hondo.

22 There are six requirements, as has been laid
23 out by previous witnesses, for nominating an ONRW as set
24 forth in our regulations at 20.6.4.9A NMAC.

25 My first part of my testimony will focus on

1 this third requirement, that water quality data,
2 including chemical, physical or biological parameters,
3 if available, to establish a baseline condition for the
4 proposed ONRW.

5 So water quality in the Rio Grande. So all
6 the available water quality data, including the
7 chemical, physical water quality data, the monitoring
8 locations, the 303(d) listing rationale, the assessment
9 history, all of that information is set forth in
10 Exhibits 8-A to 8-E, which shows that water quality in
11 the Rio Grande is equal to or better than the numeric --
12 the applicable numeric water quality criteria except for
13 a couple parameters.

14 So from the state line down to the Rio Pueblo
15 de Taos is impaired for temperature -- oh. Excuse me.
16 It's impaired for temperature for the entire stretch,
17 and it's impaired for pH from the Red River down to the
18 Rio Pueblo de Taos, so those two parameters of
19 impairment. And all other water quality standards are
20 being met in the nominated stretch.

21 For the Rio Hondo and the Lake Fork, again all
22 of that existing water quality data and the monitoring
23 locations and the assessment rationale is laid out in
24 Exhibits 8-A to 8-E, and that data shows that all water
25 quality standards are being met in these two river

1 systems.

2 Water quality data on the Jemez, again all of
3 this data is laid out in Exhibits 8-A and 8-E -- 8-A
4 through 8-E -- excuse me -- and that data shows that the
5 water quality standards are being met except for the
6 criteria outlined here below. We have -- there's some
7 impairments for temperature, turbidity, aluminum, in
8 these -- in these -- in the nominated streams in the
9 Jemez.

10 The second part of my testimony is focusing on
11 the criteria for designation, specifically this third
12 criteria, this B.(3), the existing water quality is
13 equal to or better than the numeric criteria for
14 protection of aquatic life and contact uses and the
15 human health organism only criteria, and the water has
16 not been significantly modified by human activities in a
17 manner that substantially detracts from its value as a
18 natural resource.

19 Here it is again. Again that's 20.6.4.9B.(3)
20 NMAC.

21 As I mentioned in earlier slides, both the Rio
22 Hondo and the Lake Fork are meeting all applicable water
23 quality criteria and therefore meet the designation
24 criteria.

25 In addition, while there is human development

1 along these rivers -- specifically there's a road that
2 goes up the canyon on the Rio Hondo, and there's another
3 road that goes up the Lake Fork -- the road -- these
4 roads actually provide amazing access for fishing and to
5 the ski area and to hiking trails, and this increases
6 the recreational opportunities and values of the river.

7 And so therefore, the Rio Hondo and the Lake
8 Fork both meet this third criteria -- designation
9 criteria for ONRWs.

10 And this concludes my -- my testimony.

11 I want to thank you for your time today, and I
12 believe we'll stand for cross-examination, I believe, as
13 a panel.

14 MS. FOX: Thank you very much, Ms. Conn. That
15 is correct.

16 And right now, Mr. Hearing Officer, with your
17 permission, we'll put Ms. Navas and Ms. Hatt on screen
18 for cross and questions. There they all are.

19 AXIE NAVAS, JOANNA HATT and RACHEL CONN
20 having been previously duly sworn or affirmed, were
21 examined and testified further as follows:

22 HEARING OFFICER CHAKALIAN: Mr. Verheul?

23 MR. VERHEUL: No questions. Thank you.

24 HEARING OFFICER CHAKALIAN: Commissioners?
25

1 I see Chair Stringer, and I see Commissioner
2 Brancard.

3 Are there any others besides those two?

4 If there are, will you please turn on your
5 camera.

6 Yes, Mr. Dominguez, I see you, as well.

7 So, Chair Stringer, do you want to begin?

8 CHAIR STRINGER: Sure.

9 EXAMINATION

10 BY THE COMMISSION:

11 CHAIR STRINGER: I'll just go back to the --
12 the question I incorrectly posed earlier to the wrong
13 group, but if anyone -- perhaps Ms. Navas could speak to
14 the question about why agricultural impacts weren't
15 discussed as part of things that could impact water
16 quality in the proposal.

17 MS. NAVAS: Thank you, Commissioner.
18 Appreciate the question.

19 I'll address first the fact that -- well, I'd
20 like to pass any water quality questions perhaps over to
21 Deputy Director Conn to speak about that in more depth,
22 you know, as far as perceived -- perceived threats.

23 We know that like specifically some of
24 these -- these short-term impacts and some of the
25 traditional uses that have been going on in these

1 watersheds for years are specifically called out to be
2 protected within the ONRW regulation. I'm thinking
3 about grazing in particular and acequia operations.
4 Both of these operations and these traditional values,
5 these cultural values, these economic values are
6 specifically called out to be able to continue under
7 ONRW designation.

8 I don't know if that totally answers the
9 question, but that's how we've approached it, that's how
10 we've talked about it from communities.

11 And with that, I'll conclude and see if
12 there's anything that Deputy Director Conn wants to add
13 from a water quality perspective.

14 MS. CONN: Yes.

15 Madam Chair, Members of the Commission,
16 there -- there -- I think that Dr. Parmenter addressed
17 some of these questions related to the Jemez headwaters
18 in the Valles Caldera, and in terms of the Rio Hondo and
19 the Upper Rio Grande, there is limited grazing in the
20 Upper Rio Grande corridor, down by the river itself,
21 because of the nature of the -- deep canyon.

22 And in the Rio Hondo and the Lake Fork, there
23 are some grazing permittees, and we actually met with
24 them, and they didn't express concern with -- with the
25 nomination.

1 In terms of potential impacts from -- from
2 agricultural activities, there -- there -- all of --
3 most of the acequias and farming that occurs on the --
4 on the Rio Hondo and the Lake Fork down -- occurs
5 downstream. So a lot of the farming activity is below
6 the designated stretch. And so the -- most of the
7 agricultural interests that we're talking about here are
8 going to be very much benefitting from the protected
9 water that will be flowing down to -- to the communities
10 that divert to the acequias and have livestock that
11 are -- that are close to the river.

12 CHAIR STRINGER: Thank you. I appreciate the
13 responses.

14 MS. FOX: Chair Stringer, I just did want to
15 point out to you that in Dr. Parmenter's testimony,
16 which is Exhibit 30, on page 7 he did identify trespass
17 cattle as a potential threat that they're addressing on
18 the -- in the caldera.

19 CHAIR STRINGER: Okay. Thank you.

20 HEARING OFFICER CHAKALIAN: Commissioner
21 Brancard?

22 COMMISSIONER BRANCARD: Thank you.

23 Thank you for everyone's presentations. These
24 were really helpful.

25 I'm just curious -- and somebody may have

1 already addressed this in your comments, but looking at
2 the map of the segments, particularly in the Valles
3 Caldera, I'm curious as to why there is sort of a
4 missing segment of the Redondo Creek between Sulphur
5 Creek and San Antonio Creek and why that's not included
6 in the designation.

7 MS. NAVAS: Thank you, Commissioner. I'm
8 happy to weigh in, and then if any other witnesses want
9 to provide additional context, they can. Appreciate the
10 question. I was just pulling up the map here.

11 Really the thinking with Redondo Creek was to
12 nominate the stretch that lay primarily within the
13 Valles Caldera Monument, so the piece that is within
14 public lands starting from the headwaters to the
15 confluence with Sulphur Creek. So that was determined
16 as the area with the strongest data around recreational
17 opportunity, around -- around outstanding recreational
18 significance, and that -- that's the thinking behind
19 that particular stretch of -- of creek, of river.

20 MS. FOX: Rachel -- or Ms. Conn, you're muted.

21 MS. CONN: Oh. Sorry about that.

22 Commissioner Brancard, I'll add to that.

23 It's actually the -- it's the whole stretch of
24 the Redondo Creek is nominated. It flows into Sulphur
25 Creek which then flows into San Antonio Creek. So it is

1 the whole stretch of Redondo that is nominated in the
2 nomination.

3 COMMISSIONER BRANCARD: Okay. So what's
4 missing then is Sulphur Creek.

5 MS. CONN: Correct.

6 COMMISSIONER BRANCARD: Okay. Thank you.
7 That's helpful.

8 HEARING OFFICER CHAKALIAN: Commissioner
9 Dominguez?

10 COMMISSIONER DOMINGUEZ: Thank you,
11 Mr. Hearing Officer.

12 I want to thank the panel for their earlier
13 testimony. Much appreciated.

14 I'll direct, I think, part of these questions
15 to Ms. Conn to start with, and then if anybody else
16 wants to add in, please do so.

17 Ms. Conn, good morning.

18 MS. CONN: Good morning, Commissioner
19 Dominguez. Good to see you.

20 COMMISSIONER DOMINGUEZ: Likewise.

21 Let's focus on this question towards the Rio
22 Grande.

23 So to frame this, I want to kind of look back
24 at most of the prior ONRW designations. A majority, if
25 not all of them, really focus on the headwaters of a lot

1 of the stream segments, particularly the wilderness
2 areas. It's pretty much the headwaters. However, with
3 the Rio Grande we're looking to add an ONRW that starts
4 at the state line.

5 Can you tell us if the segment in Colorado of
6 the Rio Grande is currently designated as an ONRW?

7 MS. CONN: I don't believe that it is, as in
8 under their Colorado ONRW protections, I don't believe
9 it's a designated stretch.

10 COMMISSIONER DOMINGUEZ: Okay.

11 So what impact does that have with the
12 potential designation of an ONRW in New Mexico when New
13 Mexico has no control over what happens in that stream
14 segment above the state line?

15 MS. CONN: Well, I -- I'm not aware of ONRWs
16 across the nation where this is -- this has been done,
17 where there's -- where there -- there is a segment -- or
18 I'm not aware -- I believe that there are some, but I'm
19 not aware of there being a question coming up with
20 concern about the water quality coming across -- across
21 the state line from an upstream state.

22 You know, this is -- there are provisions in
23 the Clean Water Act, 401 provisions, that give
24 downstream states the ability to review proposed
25 discharges to -- if they're going to impact water

1 quality standards. That's something that applies
2 already to this stretch of the Rio Grande, you know,
3 with our water quality standards.

4 If there's something that's going to be
5 proposed upstream in -- in an adjacent state that's
6 going to cause the water quality standards to be
7 impacted, there is -- there is a process for downstate
8 review and certification.

9 And so that really doesn't change. What is
10 changing is the standard that applies.

11 COMMISSIONER DOMINGUEZ: You mentioned when
12 you talked about your past work you did some work in
13 Colorado.

14 Do you know the stream portion of the Rio
15 Grande going through the Colorado -- State of Colorado?
16 It goes through quite a bit of land mass. Does that
17 flow through any areas of Colorado where there was prior
18 surface mining?

19 MS. CONN: I am not aware of that,
20 Commissioner Dominguez.

21 COMMISSIONER DOMINGUEZ: Okay. Thank you.

22 Let's switch focus to your written testimony
23 and specifically related to the Village of Taos Ski
24 Valley.

25 In your written testimony, as Exhibit 33, and

1 I'll just read the sentence. This was in an area where
2 you talked about the NPDES permit for that -- for the
3 village. "You indicated the Village of Taos Ski Valley
4 has been apprised of the nomination and the implications
5 for its wastewater discharges and has passed a
6 resolution in support of the nomination."

7 Within that sentence when you say the
8 implications for its wastewater discharges, what do you
9 mean by that?

10 MS. CONN: So these protections, the ONRW
11 protections, if they're -- if these -- if the Rio Hondo
12 is designated as an Outstanding National Resource Water,
13 the Village of Taos Ski Valley -- they discharge into
14 this segment, so they have a discharge permit that
15 discharges into the Rio Hondo, and as -- so with that
16 wastewater treatment permit there's associated loading
17 requirements, limits. So with this designation they
18 would not be able to increase their permit -- their
19 pollution loading into the designated stream.

20 And we -- Director Navas and I met with the
21 village and the mayor and the village staff on multiple
22 occasions and presented before them and discussed these
23 implications.

24 I will note that in prior public presentations
25 the Village of Taos Ski Valley, talking about their

1 plans for the future, had already made the commitment to
2 the public that they weren't going to be increasing
3 loading into the Rio Hondo as a result of their
4 activities. They have been upgrading their wastewater
5 treatment plant.

6 So as -- if they bring on more capacity of --
7 you know, as they increase the flow into the wastewater
8 treatment plant, they're increasing the treatment
9 levels, and so they've committed in the past to not
10 increase pollutant loading in the Rio Hondo, and -- and
11 this -- the ONRW designation would -- would make that
12 so, as well, would require that.

13 COMMISSIONER DOMINGUEZ: Okay. Let's stay on
14 that -- that same area and move away from the wastewater
15 treatment plant and talk about the -- the village itself
16 and more the commercial side of the area, as well as the
17 ski area.

18 So there -- in looking at the maps and time
19 that I spend at the ski area, there's a fair number
20 of -- part of the roads are paved, part of them are dirt
21 roads. From what I understand, there's potentially
22 plans for additional commercial construction in the
23 area.

24 What will be the impact to that commercial
25 production on the water quality? And then secondfold,

1 would the designation of the ONRW potentially impact the
2 ability for commercial construction within the area?

3 MS. CONN: Thank you, Commissioner Dominguez,
4 for that question.

5 So the -- as you know, ONRW protections
6 protect water quality. They don't limit activities. So
7 any type of activity can continue as long as water
8 quality is not being degraded.

9 In terms of the -- they're -- you're correct
10 that there are some new proposed developments that are
11 part of a NEPA public comment process. I think the
12 public comment period ended just recently for some
13 proposed new plans that the ski valley has, one of which
14 is building a gondola from the base area up to the base
15 of lift 4.

16 And that -- and you did mention that there are
17 a number of roads. The roads that are -- that -- the
18 road that parallels the Lake Fork -- the nominated
19 segment of the Lake Fork that goes from that base area
20 up to lift 4 is a dirt road and does have actually
21 substantial water quality impacts at the moment,
22 existing water quality impacts.

23 And some of the proposed -- the gondola, if --
24 we have -- you know, our comments have focused on this
25 at Amigos Bravos and in our discussions with the village

1 and with the ski valley itself, discussed the need to
2 control traffic on that road, both because it's kind of
3 chaos up there for people who are trying to find
4 parking, but also because of the water quality impacts.

5 And the water -- the gondola if approved
6 would -- and it's combined, as we've discussed with
7 the -- you know, our desire and has been mentioned, at
8 least, with the village personnel that we've spoken with
9 as -- as a goal as part of that development, could lead
10 to improved water quality in the Lake Fork because it
11 would reduce traffic on that -- that road.

12 There's also been discussion about paving that
13 road and tilting it away, putting in better drainage so
14 that that road has a less of an impact on water quality
15 in -- in the Lake Fork.

16 The other development that's being proposed as
17 part of that recent project involve -- are further away
18 from the river and involve some structures mid-mountain
19 and -- but of course, none of that -- if the river is
20 designated, then construction activities would need to
21 be performed in such a manner that they don't impact
22 water quality, which is very much the goal of the Clean
23 Water Act already with construction stormwater permits,
24 et cetera, those types of requirements.

25 COMMISSIONER DOMINGUEZ: Okay. Thank you.

1 So if I'm -- I'm kind of paraphrasing here.

2 So if I'm hearing you correctly, the -- some of the
3 proposed development, if approved through the NEPA
4 process or whatever process is required, could proceed
5 but may have to be done so with enhanced activities as
6 to prevent runoff or sediment movement, et cetera, as to
7 not cause an impairment.

8 Is that a correct summation?

9 MS. CONN: Yes. That -- Commissioner
10 Dominguez, that's correct. And I think it aligns with
11 both the goals of the Village of Taos Ski Valley as well
12 as Ski Valley, Inc. Both are entities -- both the
13 company, Taos Ski Valley, Inc., and the Village of Taos
14 Ski Valley have -- well, the village passed a resolution
15 in support, and the ski valley wrote a letter in support
16 of the nominations. And I think that really supports
17 their values as a B corporation in terms of protecting
18 the natural environment of where they're located.

19 COMMISSIONER DOMINGUEZ: Okay. Thank you for
20 that.

21 You brought up the ski area itself and
22 referenced Ski Valley, Inc. So let's turn to that. And
23 possibly yourself or any of the other panel can field
24 this one.

25 So the current practices of the ski area, of

1 what they have to do for maintenance, routine things in
2 the operation of the ski area, those can continue as
3 current under a designation; is that correct?

4 MS. CONN: Yes. Those can continue as -- as
5 they currently do. And I will point out again that the
6 Lake Fork and the -- and the Rio Hondo -- mainstem of
7 the Rio Hondo itself are meeting all water quality
8 criteria.

9 COMMISSIONER DOMINGUEZ: Okay.

10 MS. CONN: They're meeting all the standards.
11 So the current activities are not impacting the
12 designated uses on the Rio Hondo or the Lake Fork
13 currently.

14 COMMISSIONER DOMINGUEZ: Okay.

15 What about snowmaking activities? I hear and
16 read periodic concerns about the practice of snowmaking
17 and the potential impacts to water quality. Could you
18 touch on that?

19 MS. CONN: Yes. I think that there have been
20 concerns in the past about impacts of snowmaking, both
21 on the water quantity and water quality, in -- in all
22 ski areas across the state.

23 COMMISSIONER DOMINGUEZ: The potential
24 designation of this would have no impact on Ski, Inc.'s
25 ability to continue with snowmaking activities, correct?

1 MS. CONN: It wouldn't -- yes, if they
2 continue with their current operations that aren't
3 shut -- you know, impacting water quality today. I
4 guess you could -- you could say that if they wanted to
5 put in -- I don't know all the ins and outs of what
6 snowmaking involves, but, you know, if it involved -- if
7 there was some new process that involved, you know,
8 creating some kind of facility that had a discharge of a
9 by-product that would have a pipe that went into the Rio
10 Hondo, then that -- then that would be subject that it
11 could be causing additional degradation, the discharges
12 with that.

13 So, you know, I can't say all hypotheticals
14 into the future, but the way that they've been operating
15 now with their snowmaking operations would -- would
16 be -- would fit with this nomination, they would be
17 allowed to continue under these protections.

18 COMMISSIONER DOMINGUEZ: Okay. Thank you.
19 That I think addressed my questions there.

20 Mr. Hearing Officer, that's all the questions
21 I have for this panel.

22 HEARING OFFICER CHAKALIAN: Unless there is
23 another Commissioner who has a question for this panel,
24 I'll ask the public members if they have any
25 cross-examination questions for this panel.

1 Okay. Ms. Fox, do you rest your case in
2 chief?

3 MS. FOX: We do, Mr. Hearing Officer.

4 HEARING OFFICER CHAKALIAN: Okay.

5 And, Mr. Verheul, before we begin with your
6 case in chief, I know you have two witnesses, they've
7 been sworn in already, but we have a couple public
8 members who would like to make a comment.

9 So, Ms. Jones, would you call the first one.

10 MS. JONES: I will.

11 Is Roger Fragua on -- on with us?

12 If you are, would you turn your camera on,
13 please.

14 MR. FRAGUA: Yes. I'm here.

15 MS. JONES: Thank you.

16 HEARING OFFICER CHAKALIAN: Ms. Jones, are you
17 able to help him turn his camera on? Because we're not
18 going to have a public member make a comment unless
19 they're on camera and sworn in by the court reporter.

20 MS. JONES: There you go.

21 MR. FRAGUA: Yes. I'm here.

22 HEARING OFFICER CHAKALIAN: You're going to be
23 sworn in, sir, and then you'll have up to five minutes
24 to make a general comment.

25 MR. FRAGUA: Yes. Thank you.

1 THE REPORTER: Would you state and spell your
2 full name, please.

3 MR. FRAGUA: My name is Roger Fragua. It's
4 spelled R-O-G-E-R, last name is spelled F-R-A-G-U-A.

5 HEARING OFFICER CHAKALIAN: Please proceed.

6 ROGER FRAGUA
7 having been first duly sworn or affirmed, gave
8 public comment as follows:

9 PUBLIC COMMENT

10 MR. FRAGUA: Yes. So the comment I wanted to
11 make today is about our traditional farming practices.

12 I am from the Pueblo of Jemez. I'm an
13 enrolled member there in good standing with my
14 community. I am a traditional farmer. I have been
15 farming in the same ground that my grandfather has
16 farmed, my father and those before them. So I count
17 myself as a thousand-year-old farmer, using
18 thousand-year-old seed and thousand-year-old soil with
19 thousand-year-old water.

20 These farming practices are not just
21 sustenance foodstuffs. They are ceremonial value to our
22 entire community, and in fact way beyond our community.
23 These ceremonial values extend way into the universe.
24 So the food that we grow is food for our ceremonial
25 purposes and our communal purposes.

1 Impacts to the water and the water quality in
2 addition to the number of wildfires that we have seen
3 throughout recent time really have impacted our farming
4 and our farming values, therefore impacting our culture
5 and our cultural values.

6 So I would like to state for support of the
7 Outstanding Water designation, especially for the Jemez
8 headwater areas, that it's imperative that these waters
9 remain clean and pristine as possible. It's really
10 important that these waters remain that way, again not
11 just for our foodstuff, for our community values, but
12 more importantly for our ceremonial values.

13 So we have been watering our fields over the
14 last few years with black water from soot coming down
15 from the wildfires, and we do not want to be watering
16 our crops with effluent coming in from other manmade
17 sources that could be prevented.

18 We appreciate all that this Commission is
19 trying to do by designating these waters, and we support
20 these waters being Outstanding Water designation.

21 Those are my comments I'd like to make for
22 today.

23 HEARING OFFICER CHAKALIAN: Ms. Jones?

24 MS. JONES: The next person on the list is
25 Joseph Toledo.

1 Mr. Toledo, are you with us?

2 Okay. We can come -- we can circle back
3 around.

4 Dan Roper is the next on the list.

5 Mr. Roper, are you with us?

6 MR. ROPER: I am.

7 And let me turn on my video now.

8 HEARING OFFICER CHAKALIAN: And, Ms. Jones,
9 would you mute Mr. Fragua.

10 MS. JONES: Yes.

11 HEARING OFFICER CHAKALIAN: Okay. Mr. Roper,
12 you're going to be sworn in.

13 MR. ROPER: Okay.

14 DAN ROPER

15 having been first duly sworn or affirmed, gave
16 public comment as follows:

17 PUBLIC COMMENT

18 THE REPORTER: Would you state and spell your
19 full name, please.

20 MR. ROPER: Yeah. Dan Roper, and it's spelled
21 D-A-N R-O-P-E-R.

22 THE REPORTER: Thank you.

23 HEARING OFFICER CHAKALIAN: Please proceed.

24 MR. ROPER: Okay. Thank you, Commissioners.

25 I would like to offer a brief comment on -- in

1 support of this petition on behalf of Trout Unlimited.

2 Many of our members and supporters in New
3 Mexico live in these watersheds and in communities
4 adjacent to these nominated stream segments. It
5 probably won't surprise anyone that our organization
6 would enthusiastically support this petition,
7 considering the majority of these waters rank among the
8 state's most popular fishing destinations, important for
9 both recreational fishing and also the conservation of
10 wild and native trout populations. This includes Rio
11 Grande cutthroat trout, our state fish, and a species of
12 conservation concern.

13 There are really just two things that we need
14 to preserve these fish populations and the recreational
15 and economic opportunities they support. We need good
16 habitat, and we need clean water. So by ensuring we
17 prevent water quality impairments in these waters, we
18 increase the likelihood that these will remain great
19 places to fish for future designations.

20 As Director Navas pointed out, these waters
21 are significant drivers of our tourism and economic
22 economies. They create thousands of jobs and generate
23 significant consumer spending and tax revenue in these
24 communities.

25 As my colleague at Trout Unlimited likes to

1 say, fishing opportunities in places like this do more
2 than just sell fishing licenses. They also book hotels,
3 reservations in restaurants, sell concert and opera
4 tickets, and generate spending at artisan markets, among
5 other things. That's because so many visits to New
6 Mexico include these diverse activities. When people
7 choose to visit New Mexico, these outdoor opportunities
8 factor in to their decisionmaking, and without clean
9 water in these streams, those opportunities would be
10 significantly diminished.

11 I'd also like to highlight again that portions
12 of these nominated waters, including the Rio Grande, San
13 Antonio and East Fork of the Jemez, include segments
14 that qualify for Outstanding Waters designation due to
15 their classification by Game and Fish as Special Trout
16 Water.

17 This is also true in the Rio Hondo watershed
18 where many of the tributaries to the Rio Hondo that are
19 not included in this petition are Special Trout Water
20 managed to protect and enhance populations of native
21 cutthroat trout. When we preserve water quality in the
22 mainstem of our rivers, we also benefit native fish in
23 the tributary streams throughout the watershed.

24 As an organization, Trout Unlimited is driven
25 by a mission to protect and restore populations of

1 native and wild trout and the rivers and watersheds
2 where they are found. We have just two species of
3 native trout in New Mexico, the Gila trout, an
4 ESA-listed species found in the Gila and San Francisco
5 watersheds in Southwest New Mexico, and the Rio Grande
6 cutthroat trout, once found throughout Northern New
7 Mexico, and now we find just a small portion of its
8 historic range, and threatened by climate change,
9 drought and wildfire.

10 It's our belief as an organization that
11 protecting water quality in our trout streams is
12 essential to the future of these species, to their
13 recreational and cultural significance, and to all the
14 downstream users that share these same waters.

15 So for those reasons, we support this
16 petition. We thank Director Navas for bringing this
17 petition forward and for the Lujan Grisham
18 administration support for clean water and outdoor
19 recreation.

20 And that concludes my comment. Thank you.

21 HEARING OFFICER CHAKALIAN: Ms. Jones?

22 MS. JONES: Calling Tom Swetnam.

23 Mr. Swetnam with us?

24 MR. SWETNAM: Yes. I am here.

25 MS. JONES: If you could turn your camera on,

1 please. There you go.

2 THE REPORTER: Mr. Arguello, would you please
3 mute your microphone. Thank you.

4 TOM SWETNAM

5 having been first duly sworn or affirmed, gave
6 public comment as follows:

7 PUBLIC COMMENT

8 MR. SWETNAM: Okay. My name is --

9 THE REPORTER: Oh, excuse me. Yes, would you
10 state and spell your full name, please.

11 MR. SWETNAM: My name is Tom Swetnam. That's
12 S-W-E-T-N-A-M.

13 Thank you for the opportunity today to speak
14 in support of the Outstanding National Resource Waters
15 designation for San Antonio Creek, East Fork of the
16 Jemez River and Redondo Creek.

17 I'm a residence -- I'm a resident of Jemez
18 Springs, where I live in a watershed, providing
19 essential drinking water to Jemez Valley residents. I
20 grew up in Jemez Springs in the 1960s, attending
21 elementary school and high school in the Jemez Valley
22 system. I have a master's degree and a PhD in watershed
23 management from University of Arizona.

24 I'm a regents professor emeritus at the
25 university, where I worked for 35 years, and I've

1 conducted numerous fire, forest ecology and climate
2 studies in the Jemez Mountains and -- and in New Mexico.

3 In 2000 I was appointed by the President of
4 the United States to serve a four-year term on the first
5 Valles Caldera National Preserve Board of Trustees. I'm
6 currently a board member of the Jemez Mountains Firewise
7 Association. It's a nonprofit 501(3) organization,
8 focused on reducing wildfire threats to our communities.

9 And our organization submitted a letter in
10 support of -- under our old name, which was Greater
11 Eastern Jemez Mountains Wildland/Urban Interface
12 Corporation. That's the old name. So currently it's
13 the Jemez Mountains Firewise Association.

14 So I'm stating firmly in support of the ONRW
15 designation for the Jemez Rivers. This designation will
16 provide protection to current and future quality of
17 these precious waters which are lifeblood of our
18 ecosystems and human communities. This designation will
19 benefit residents, acequia parciantes, fishermen, people
20 who recreate in and around these waters from all over
21 the world.

22 As a child during the summer, I fished and
23 swam almost every day in the Jemez River. I learned how
24 to swim in the pool below the falls at Soda Dam. I
25 remember the waters in the 1960s already changing

1 quality on a year-to-year basis depending on what was
2 happening upstream, including extensive clear-cutting
3 logging which took place on the old Baca ranch,
4 livestock grazing and wildfires. I see the ONRW now as
5 a needed line of defense to prevent future damage to
6 these critical waters.

7 I recall longtime residents here in the Jemez
8 Valley who used to be able to obtain drinking water from
9 the Jemez River. Today that would be a bad idea. The
10 ONRW will not fix existing water quality problems, but
11 it will prevent further future degradation. Those who
12 fear government regulation should contemplate the much
13 greater risks of a future degraded Jemez River that you
14 can no longer fish or swim in. Cap the point of ONRW
15 designation to keep our waters at least as clean as they
16 are now.

17 Finally, as a resident in these highly
18 fire-prone forests and living in a critical drinking
19 water watershed here in the valley, I believe it's
20 imperative that we secure funding support for forest
21 thinning and fuels treatment in coming seasons and years
22 to mitigate and reduce the impacts of these
23 high-severity fires we're seeing today, now as we speak
24 on our landscape.

25 The ONRW designation I believe will improve

1 our chances here in the Jemez Valley for such funding,
2 because critical watersheds with ONRW designation will
3 be a priority, I am fairly confident, in these future
4 funding programs.

5 In sum, I wholeheartedly support the ONRW
6 designation for the Jemez Rivers.

7 Thank you.

8 HEARING OFFICER CHAKALIAN: Ms. Jones, how
9 many more public members do we have signed up?

10 MS. JONES: Eleven.

11 HEARING OFFICER CHAKALIAN: Okay. We're going
12 to take a pause, then, on public comment. We're going
13 to have Mr. Verheul present his two expert witnesses.
14 We'll come back to public comment after those two
15 witnesses are finished, and we're going to -- we're
16 going to have to impose a three-minute limit on public
17 comment from here on in since it seems like this is
18 going to become more and more.

19 So, Mr. Verheul, are you ready to proceed?

20 MS. FOX: Mr. Hearing Officer?

21 Mr. Hearing Officer?

22 Thank you.

23 The scheduling order in this proceeding
24 scheduled public comment for noon, and that is the time
25 that at least our organizations had given for people to

1 provide public comment. So I would suggest that we
2 proceed according to your scheduling order and take the
3 public comment as noticed and as expected by members of
4 the public who are here and ready to testify.

5 HEARING OFFICER CHAKALIAN: Ms. Fox, I had
6 consulted the public notice that was published in the
7 register, and that did not list the noon and a specific
8 time. It specifically said reasonable opportunity.
9 So --

10 MS. FOX: It's your scheduling order,
11 Mr. Hearing Officer.

12 HEARING OFFICER CHAKALIAN: Right. I'm going
13 by the -- I'm going by the public notice that was
14 published in the register. So --

15 MS. FOX: But I believe your scheduling order
16 has force, and we were certainly going by your own
17 scheduling order.

18 And I am concerned that people have taken time
19 out of their day to testify at noon and -- because that
20 was the expectation set in your scheduling order. So I
21 would be worried, for example, that people who work may
22 not be able to -- and have planned their day around
23 providing public comment at noon per your scheduling
24 order could be not available later.

25 So my strong suggestion is that we go by your

1 scheduling order.

2 HEARING OFFICER CHAKALIAN: Okay. So what I'm
3 understanding, Ms. Fox, is that you communicated to your
4 members based on the public -- based on the scheduling
5 order that we would have public comment at noon. Okay.

6 So everyone who wants to comment, please send
7 a chat to Ms. Jones, and we will go in order that she
8 receives your name, and each person will have up to
9 three minutes to make a comment.

10 So, Ms. Jones, who is the next person on your
11 list?

12 MS. JONES: And just to be clear, those of you
13 who have already texted me, you don't need to text me
14 again. I do have your name on the list.

15 I'm going to go back to Joseph Toledo, who was
16 the second on the list, and he is now on the call.

17 Mr. Toledo?

18 HEARING OFFICER CHAKALIAN: Okay.

19 Instead of swearing in each person
20 individually, let's swear in every one who is with us
21 now.

22 So, Pam, would you give us -- would you read
23 off the names one at a time, and would everyone please
24 turn their camera on and be ready to be sworn in.

25 MS. JONES: Okay. I don't -- I didn't get an

1 answer from Mr. Toledo, but the next one would be
2 Barbara Ellis, Rachel Ellis, Liliana Castillo, Dawn
3 Boulware, Roberta Salazar, David Arguello, Doug Bridges,
4 Floyd Archuleta, Jesse Deubel, Joaquin Arguello, Carlos
5 Miera. Also one final, Phaedra Greenwood.

6 That's all I have, Mr. Hearing Officer.

7 MR. MC CORMACK: (Unintelligible and or
8 inaudible) list as well, Robert McCormack?

9 MS. JONES: And Mr. McCormack.

10 MS. RIVERA: Pamela, I also sent a chat over.
11 This is Tiffany Rivera, that I would like to provide
12 comment, as well, please.

13 HEARING OFFICER CHAKALIAN: So if you're
14 not --

15 MS. JONES: Okay. (Unintelligible and/or
16 inaudible.)

17 HEARING OFFICER CHAKALIAN: If your camera is
18 not turned on -- your camera has to be turned on to make
19 public comment.

20 MS. JONES: So we'll --

21 HEARING OFFICER CHAKALIAN: Mr. McCormack --

22 MS. JONES: -- add Tiffany Rivera, Joe Zupan,
23 and I think that's the last chat I have.

24 HEARING OFFICER CHAKALIAN: Okay.

25 MS. BARKER: Pamela, I did, as well. My name

1 is Zoe Barker.

2 MS. JONES: Okay, Zoe. Thank you.

3 MS. BARKER: Thank you.

4 MS. RODRIGUEZ: I believe I signed up also to
5 make a comment. Sylvia Rodriguez.

6 MS. JONES: Okay. I don't see you, but I'll
7 add you to the list.

8 MR. LOEHMAN: Okay. Ron Loehman. I signed up
9 through the chat, and it seems like it didn't register.
10 I want to make a comment.

11 MS. JONES: Okay. No. I don't see your name,
12 but thank you.

13 HEARING OFFICER CHAKALIAN: So, Pam, I want to
14 get this list correct, and I want to verify it with the
15 people you can see on the screen.

16 So take a minute, and let's make sure we have
17 everyone to be sworn in at one time, and then these are
18 the people that we will hear from at noon, and anyone
19 after this will have an opportunity after Mr. Verheul
20 puts on his testimony.

21 MS. JONES: Okay. I see another -- another
22 camera came on. I don't have that name on the list.

23 Mr. Tabish, are you adding your name to the
24 list?

25 MR. TABISH: I would appreciate it.

1 MS. JONES: Okay. Thank you.

2 Okay. I am at the end of my chats. I
3 don't -- the last chat I got was from Sally Paez.

4 And if your camera is on, I -- I can't see
5 everyone and look at the chat.

6 So I'm going to read the list slowly again,
7 Mr. Hearing Officer.

8 Joseph Toledo, if he has joined us. Barbara
9 Ellis. Rachel Ellis. Liliana Castillo. Dawn Boulware.
10 Robert Salazar. David Arguello. Apologize if I didn't
11 say that right. Doug Bridges. Floyd Archuleta. Jesse
12 Deubel. Joaquin Arguello. Carlos Miera. Phaedra
13 Greenwood. Joe Zupan. Tiffany Rivera. Sylvia
14 Rodriguez. Zoe Barker. Ron Loehman. Ken Tabish.
15 Sally Paez.

16 HEARING OFFICER CHAKALIAN: So, Ms. Jones, are
17 you saying all of those people have their cameras on and
18 are ready to make a comment?

19 MS. JONES: Those are the names I have. Let
20 me now scroll through the cameras. I have to shut the
21 chat to do so.

22 HEARING OFFICER CHAKALIAN: What if you just
23 call roll and ask each person to say aye.

24 MS. JONES: I can do that. Let me start the
25 list again.

1 Mr. Joseph Toledo, are you present?

2 Barbara Ellis, present?

3 MS. BARBARA ELLIS: Present.

4 And if I may, my husband, Fred Ellis, and I
5 would like to speak together.

6 MS. JONES: Okay.

7 Rachel Ellis, are you present?

8 MS. RACHEL ELLIS: I'm present.

9 MS. JONES: Liliana Castillo?

10 MS. CASTILLO: Present.

11 MS. JONES: Dawn Boulware.

12 MS. BOULWARE: Present.

13 MS. JONES: Roberta Salazar?

14 MS. SALAZAR: Present.

15 MS. JONES: David Arguello.

16 MR. DAVID ARGUELLO: Present. Arguello.

17 MS. JONES: Ah, thank you.

18 Doug Bridges?

19 MR. BRIDGES: Present.

20 MS. JONES: Floyd Archuleta?

21 Mr. Archuleta, are you with us?

22 MS. SALAZAR: He hasn't arrived yet.

23 MS. JONES: Okay.

24 Jesse Deubel?

25 MR. DEUBEL: Present.

1 MS. JONES: Thank you.

2 Joaquin Arguello?

3 MR. JOAQUIN ARGUELLO: Present.

4 MS. JONES: Carlos Miera?

5 Mr. Miera, are you with us?

6 Phaedra Greenwood.

7 MR. MIERA: I'm here. I was still on mute.

8 MS. JONES: And who is this now?

9 MR. MIERA: Carlos Miera.

10 MS. JONES: Oh, thank you, Mr. Miera.

11 Phaedra Greenwood?

12 Oh, I see you. Okay.

13 Joe Zupan?

14 MR. ZUPAN: I'm present.

15 MS. JONES: Thank you.

16 Tiffany Rivera?

17 MS. RIVERA: Present.

18 MS. JONES: Sylvia Rodriguez?

19 Ms. Rodriguez, are you with us? Are you on

20 camera?

21 MS. RODRIGUEZ: Yes. Sorry.

22 MS. JONES: I see you. Thank you.

23 Zoe Barker?

24 MS. BARKER: Present.

25 MS. JONES: Thank you.

1 Ron Loehman?

2 MR. LOEHMAN: Present.

3 MS. JONES: Thank you.

4 Ken Tabish?

5 MR. TABISH: Present.

6 MS. JONES: Sally Paez.

7 MS. PAEZ: Present.

8 MS. JONES: Okay. Mr. Hearing Officer, that's
9 the list.

10 HEARING OFFICER CHAKALIAN: And how many do
11 you have?

12 MS. TETER: Hello, ma'am?

13 MR. MC CORMACK: Rob McCormack is also
14 present.

15 MS. TETER: Ma'am?

16 MS. JONES: Yes.

17 MS. TETER: My name is Fabiola Teter. I live
18 in Arroyo Hondo. And I was having trouble getting into
19 your Zoom system, but I would like to be present and be
20 able to offer a comment, as well.

21 HEARING OFFICER CHAKALIAN: Okay.

22 Ms. Jones --

23 MS. JONES: Fabiola -- yes, sir.

24 HEARING OFFICER CHAKALIAN: Ms. Jones, would
25 you mute everyone for a moment, please.

1 MS. JONES: Okay.

2 HEARING OFFICER CHAKALIAN: Unmute myself.

3 Ms. Jones, how many people do you have signed
4 up at this point?

5 MS. JONES: That have not yet spoken, one --
6 20.

7 HEARING OFFICER CHAKALIAN: You have 20.

8 MS. JONES: That includes the young lady that
9 just spoke up.

10 HEARING OFFICER CHAKALIAN: Okay.

11 So at three minutes each, that will take us
12 until 1:09. Okay.

13 Would everyone please raise your right hand.
14 You're going to be sworn in by the court reporter.

15 (Public commenters were duly sworn or
16 affirmed.)

17 HEARING OFFICER CHAKALIAN: Okay.

18 Ms. Jones -- thank you.

19 Ms. Jones, one at a time, in the order that
20 you have people signed up, would you unmute them and
21 start a timer for three minutes.

22 MS. JONES: Okay.

23 Let me try once more for a Mr. Joseph Toledo,
24 if you're on.

25 Okay. Barbara Ellis.

1 HEARING OFFICER CHAKALIAN: And, Ms. Jones,
2 would you mute everyone else.

3 MS. JONES: Yes, sir.

4 HEARING OFFICER CHAKALIAN: Okay, Ms. Ellis.
5 You have three minutes starting now.

6 BARBARA ELLIS
7 having been first duly sworn or affirmed, gave
8 public comment as follows:

9 PUBLIC COMMENT

10 THE REPORTER: Excuse me. Ms. Ellis, would
11 you state and spell your full name, please.

12 I believe you're muted.

13 MS. BARBARA ELLIS: My name is Barbara Ellis.
14 It's B-A-R-B-A-R-A and then E-L-L-I-S.

15 And my husband, Fred, is with me. We would
16 like to speak together.

17 HEARING OFFICER CHAKALIAN: Okay. Let me
18 give -- let me give a little bit of direction to
19 everyone. When your name is called, please unmute
20 yourself, spell your name without the court reporter
21 having to ask you, and then you go ahead and give your
22 comment right away, because we have to try to get
23 everyone in and be fair to everyone.

24 So please go ahead, Ms. Ellis.

25 MS. BARBARA ELLIS: I was born and raised in

1 Albuquerque. As a young child I lived near the Rio
2 Grande Bosque, had many opportunities to observe the
3 interactions in nature and a riparian environment. Was
4 also fortunate to spend several summers in the East --
5 near the East Fork of the Jemez River, and to be able to
6 play and explore near the river was magical and
7 formative.

8 Today I am a master naturalist. I volunteer
9 for several restoration projects throughout Santa Fe
10 County. As such, I understand the importance of clean
11 water protections, and I strongly support your efforts
12 to protect the designated waters in Northern New Mexico.

13 Thank you.

14 HEARING OFFICER CHAKALIAN: Ms. Jones, would
15 you call the next person, please.

16 MS. JONES: Mr. Fred Ellis, would you like to
17 make a comment?

18 MR. ELLIS: Yes. Thank you.

19 FRED ELLIS

20 having been first duly sworn or affirmed, gave
21 public comment as follows:

22 PUBLIC COMMENT

23 MR. ELLIS: My name is Frederick,
24 F-R-E-D-E-R-I-C-K, last name Ellis, E-L-L-I-S.

25 HEARING OFFICER CHAKALIAN: Go ahead, sir.

1 MR. ELLIS: Good afternoon, Commissioners.

2 My name is Fred Ellis.

3 And I thank you for the opportunity to comment
4 on the Upper Rio Grande, Rio Hondo and headwaters of the
5 Jemez Outstanding Waters petition.

6 I was born and raised in Santa Fe and still
7 live there with my wife, Barbara. Our son and daughter
8 were also born and raised in Santa Fe. My whole life my
9 family and I have enjoyed many excursions to the Upper
10 Rio Grande and East Fork of the Jemez Rivers. These
11 trips included fishing, backpacking and rafting. Our
12 children learned to rock climb near the East Fork of the
13 Jemez. And the views and wildlife sightings in the Rio
14 Grande Gorge are some of my fondest memories.

15 These waters are wonderful gifts that are
16 enjoyed by many New Mexicans and visitors who come to
17 our state.

18 In summary, I believe it is crucial to protect
19 these outstanding rivers and streams for recreational
20 and ecological purposes, to ensure all these waters can
21 be enjoyed by our grandchildren and their families, New
22 Mexico citizens and visitors from all over the world.
23 We strongly support this petition that nominate these
24 waters as Outstanding National Resource Waters.

25 Thank you.

1 MS. JONES: Thank you, Mr. Ellis.

2 Next calling Rachel Ellis. If you would spell
3 your name, turn your camera on and begin your comment.

4 RACHEL ELLIS

5 having been first duly sworn or affirmed, gave
6 public comment as follows:

7 PUBLIC COMMENT

8 MS. RACHEL ELLIS: Good afternoon.

9 Rachel Ellis, R-A-C-H-E-L E-L-L-I-S.

10 Thank you, Commissioners, for hearing public
11 comments today on the ONRW nominations of the Rio Hondo,
12 Lake Fork, Rio Grande and headwaters of the Jemez.

13 I was born and raised in Santa Fe, and I grew
14 up fishing and rafting on the Rio Grande, hiking along
15 the Rio Hondo and Lake Fork, and also rock climbing near
16 the East Fork of the Jemez. And these areas provide
17 truly world class outdoor recreation opportunities. And
18 for me growing up such -- near such beautiful and
19 pristine rivers influenced how I got to where I am
20 today, the associate director of the Southwest River
21 Protection Program at American Rivers.

22 American Rivers, which I am commenting on
23 behalf of today, works across the United States to
24 protect and restore rivers, while also supporting local
25 communities efforts to protect their own waters. And

1 our Southwest River Protection Program works to protect
2 the most ecologically and culturally important rivers
3 across New Mexico, Colorado, Utah and Arizona. And so
4 these nominated segments are top amongst those.

5 From a water policy perspective, ONRW
6 designation is a powerful tool and one that is used very
7 successfully nationwide to protect clean water. New
8 Mexico and the Water Quality Control Commission have
9 already established strong ONRW regulations and
10 important designations of other Outstanding Waters in
11 New Mexico. Designating all the nominated sections in
12 the Outdoor Recreation Division's petition would build
13 on this legacy and honor the diverse communities who are
14 in support of this designation.

15 Two of the nominated ONRW sections complement
16 and strengthen but do not duplicate water quality
17 protections for two of New Mexico's nationally
18 recognized Wild and Scenic Rivers, the East Fork of the
19 Jemez and the Upper Rio Grande. These rivers have
20 already been recognized by Congress as nationally and
21 regionally unique, and by increasing the reaches of
22 protected rivers and streams through the proposed
23 Outstanding Waters nominations, these invaluable wild
24 and scenic rivers will have their water quality
25 protected at a larger watershed scale.

1 Northern New Mexico and all the users
2 downstream deserve this guarantee on their -- on keeping
3 their waters as high quality as they are today. These
4 waters support exceptional fish and wildlife populations
5 who also deserve these clean waters, and this will be
6 only increasingly the case in a warming climate.

7 So thank you for listening to my comment, and
8 I strongly encourage you to support clean water, local
9 communities by supporting the petition to designate all
10 of the nominated segments as Outstanding National
11 Resource Waters.

12 Thank you.

13 MS. JONES: Thank you, Ms. Ellis.

14 Calling Liliana Castillo. If you'll spell
15 your name and begin your comment, please.

16 MS. CASTILLO: Yes. Thank you, Ms. Jones.

17 LILIANA CASTILLO

18 having been first duly sworn or affirmed, gave
19 public comment as follows:

20 PUBLIC COMMENT

21 MS. CASTILLO: Liliana is L-I-L-I-A-N-A,
22 Castillo, C-A-S-T-I-L-L-O.

23 Thank you, Commission -- Members of the
24 Commission, for the opportunity to provide public
25 comment today. I am the deputy director of CAVU, a

1 nonprofit that inspires community engagement and support
2 of locally led solutions to the climate crisis.

3 We all know that high quality waters are key
4 for literally everything in New Mexico, and that is true
5 for addressing climate change impacts that continue to
6 stress our already limited water supplies. We urge
7 protection of the nominated 120 -- more than 125 miles
8 of the six streams with Outstanding National Resource
9 Waters designation.

10 For centuries people in Northern New Mexico
11 have depended on clean water in the Rio Hondo, Upper Rio
12 Grande and Jemez watersheds to water livestock and feed
13 acequia systems. As you've already heard, the waters in
14 and around the Valles Caldera National Preserve also
15 hold significance for many pueblos. This designation
16 will ensure that clean water flows downstream to these
17 critical watershed stakeholders and protect these
18 traditional uses from adverse impacts.

19 In addition, these designations fit squarely
20 within and further Governor Lujan Grisham's efforts to
21 diversify the state's economy and build climate change
22 resiliency, as set forth in her Executive Order
23 2021-052. And so we urge the Commission to support the
24 nomination.

25 Thank you so much.

1 MS. JONES: Thank you.

2 Next is Dawn Boulware. If you will begin by
3 spelling your name, give your comment.

4 DAWN BOULWARE

5 having been first duly sworn or affirmed, gave
6 public comment as follows:

7 PUBLIC COMMENT

8 MS. BOULWARE: Hi.

9 My name is Dawn Boulware. First name is
10 spelled D-A-W-N, last name is Boulware,
11 B-as-in-boy-O-U-L-W-A-R-E.

12 I am a fourth generation New Mexican and a
13 native Taosena. I have worked at Taos Ski Valley,
14 Incorporated for over 25 years and am currently the
15 vice-president of social and environmental
16 responsibility.

17 I support the Outstanding Water protections
18 for the Rio Hondo and Lake Fork of the Rio Hondo both
19 personally and on behalf of Taos Ski Valley,
20 Incorporated. These waters provide tremendous value in
21 terms of the myriad of recreational opportunities they
22 provide not only to our local community, but to our
23 guests who come and visit our area, including camping,
24 fishing, skiing, hiking, snowshoeing, and generally,
25 like when I was a little girl, frolicking in the waters.

1 And the big piece is for all of the life these
2 waters support, beginning in the wilderness from which
3 they emanate, to the villages and valleys they flow
4 through to the Rio Grande.

5 Taos Ski Valley, Incorporated has engaged in
6 numerous activities over the last several years to
7 improve the watershed health, mainly focused on
8 improving the forest health, including thinning the
9 areas within our -- within our boundaries, and we have
10 seen tremendous improvement in that forest health to
11 what it currently is, and as we're seeing in the
12 wildfires throughout Northern New Mexico right now, what
13 happens when the forests get overgrown and -- and
14 obviously due to climate change, as well.

15 So for all of these reasons, I ask you to
16 support this very special designation for these waters.

17 Thank you.

18 MS. JONES: Thank you.

19 Calling Roberta Salazar.

20 ROBERTA SALAZAR

21 having been first duly sworn or affirmed, gave
22 public comment as follows:

23 PUBLIC COMMENT

24 MS. SALAZAR: Okay. Roberta Salazar,

25 R-O-B-E-R-T-A S-A-L-A-Z-A-R.

1 Thank you, Commission, for having me on.

2 I am a native of New Mexico, a parciante in
3 Taos County. I live close to the Rio Hondo. I've also
4 been a wildlife biologist, a federal wildlife biologist
5 for 17 years on wetlands in New Mexico and Colorado.
6 And for the past 23 years I found and directed Rivers &
7 Birds, a local environmental organization, and one of
8 our main missions is to teach people to take care of our
9 rivers, waters and watershed.

10 Almost every week throughout the year on
11 somewhere along one of our rivers here in Taos County,
12 floating, swimming, hiking, camping, boating. Sadly
13 over the past four decades I've witnessed harmful
14 impacts to our local rivers, such as sewage dumpage into
15 the Rio Grande and the Rio Hondo, Molycorp mining
16 tailing leaks into the Red River and Rio Grande, and
17 increasing negative impacts to the Rio Hondo watershed
18 from expanded ski area developments.

19 Now, Rivers & Birds has taken about 8,000
20 public school students down to the Rio Grande to learn
21 how to take care of the river, and our fifth graders
22 have planted about 700 native trees close to Taos
23 Junction Bridge, and many of those trees are now 40 feet
24 tall, and they provide habitat not only for the river,
25 but for many creatures, including humans, who go there

1 to rest and recreate.

2 About 4,000 of our students have gone to the
3 Rio Hondo to learn about the characteristics of a high
4 quality mountain stream and the establishment of our
5 federal clean water quality standards. And on that day
6 we teach them many facts which would likely --

7 HEARING OFFICER CHAKALIAN: Making an
8 appointment.

9 MS. SALAZAR: -- (unintelligible and/or
10 inaudible) such as that New Mexico is a desert, the
11 fourth driest in the nation, that one-half of 1 percent
12 of our land is -- only one-half of 1 percent of New
13 Mexico's land is rivers, and that one-third of the water
14 that goes into the Rio Grande comes from our Sangre de
15 Cristo rivers, and of those rivers the Rio Hondo is one
16 of the largest rivers.

17 We have mayordomos that meet with our children
18 in our education programs. And I'll always remember
19 when mayordomo elder, who lives here at the Rio Hondo,
20 who explained to us that his entire family got all their
21 drinking water directly from the acequia up into the
22 1960s. That's how pristine and healthy the water was.

23 So let's be role models for our children for
24 future generations. We have a very unique opportunity
25 now to designate these rivers. We're in full support of

1 that, and given the megadrought that we're in, it's very
2 likely that it may continue for decades into the future
3 because of increasing climate change events.

4 MS. JONES: Ms. Salazar, that is three
5 minutes. Thank you.

6 MS. SALAZAR: Okay.

7 MS. JONES: Calling David Arguello.
8 Are you with us?

9 MR. ARGUELLO: Yes, I am.

10 DAVID FERMIN ARGUELLO

11 having been first duly sworn or affirmed, gave
12 public comment as follows:

13 PUBLIC COMMENT

14 MR. DAVID ARGUELLO: David, D-A-V-I-D, middle
15 name Fermin, F-E-R-M-I-N, Arguello, A-R-G-U-E-L-L-O.

16 I was born and raised in Valdez, New Mexico.
17 I was born April 19, 1949. I am -- still live in the
18 house. I sleep about 15 feet from where I was born. My
19 family has been in Valdez since about 1823. We are
20 members of the Arroyo Hondo community land grant. We
21 are members of two acequias, the San Antonio and the
22 Prando Ditch. I have served on -- as a commissioner of
23 both of those ditches, and I currently irrigate a garden
24 off the San Antonio. My property has an orchard that
25 uses the San Antonio water.

1 In my childhood, probably until the early
2 '70s, the water from the Rio Hondo was our source of
3 water for everything, including domestic and drinking
4 water. So I'm very much committed to the well-being of
5 the Rio Hondo. My ancestors grazed their animals on the
6 Italianos Canyon. So Italianos Canyon is named after my
7 ancestors, Carlos and David Prando. So I'm very much
8 committed to the well-being.

9 The other comment I wanted to make is that
10 five generations in my family have worked at the Taos
11 Ski Valley, myself, my father, brother-in-law, nephews
12 and grand nephews. So we're familiar with the ski
13 valley in the early days of the 1960s through current.
14 There's a current grand nephew still working there.

15 I personally have seen some of the dumping of
16 wastewater into the Rio Hondo. I live right close to
17 it. So sometimes you do smell the sewage in the water.
18 So I personally have witnessed some of the damages from
19 the ski valley into the water of the Rio Hondo.

20 So I very much support Italianos Creek as a
21 pristine creek. The Rio Hondo used to be a pristine
22 river. And my village has used the Rio Hondo for
23 domestic water usage until probably the mid-'70s, late
24 '70s. So I'm very concerned about the quality of the
25 water and the damages to the river.

1 MS. JONES: Excuse me. That's three minutes.

2 Thank you.

3 Floyd Archuleta. Please spell your name and
4 begin.

5 Oh. Mr. Archuleta, if you're speaking with
6 Mr. -- Roberta -- there you go. Okay.

7 MR. ARCHULETA: Ready?

8 MS. JONES: Ready.

9 FLOYD ARCHULETA

10 having been first duly sworn or affirmed, gave
11 public comment as follows:

12 PUBLIC COMMENT

13 MR. ARCHULETA: Okay. Floyd Archuleta,
14 F-L-O-Y-D A-R-C-H-U-L-E-T-A.

15 Thank you for the opportunity to present our
16 public comments.

17 I currently belong to the TVAA, that's Taos
18 Valley Acequia Association, and I am the president for
19 the Lower Des Montes Neighborhood Association. I come
20 from a long line of ranchers as far as our family.
21 We've ranched and we've farmed all our lives, my
22 grandfather, my dad and then before that even. We raise
23 alfalfa hay, and I have a -- big gardens that I take
24 care of, also.

25 So this is part of our culture. The -- I

1 remember as -- or the previous people that have been
2 speaking about drinking water, I remember my mom used to
3 bring water from the ditch, we used to bring water from
4 the ditch. So we all used to take turns. Sometimes
5 when we didn't have water in the winter, we used to
6 actually go to Arroyo -- to Valdez, rather, and haul
7 water in 55-gallon barrels for drinking water.

8 But it's very important to us to have clean
9 water for our gardens, and there's a lot more gardens
10 now, especially with what's happening with the climate
11 changes. Everybody's trying to grow good, fresh
12 vegetables with clean water.

13 And I understand that we are having some
14 problems, some issues from the Ski Valley, and we would
15 like to resolve that as soon as possible, just to have
16 our clean water quality.

17 But I won't take any more time, but to thank
18 you so much for the opportunity to speak.

19 MS. JONES: Thank you. Yes.

20 Doug Bridges?

21

22

23

24

25

1 DOUG BRIDGERS

2 having been first duly sworn or affirmed, gave
3 public comment as follows:

4 PUBLIC COMMENT

5 MR. BRIDGERS: Hello.

6 My name is Doug Bridgers, D-O-U-G
7 B-R-I-D-G-E-R-S.

8 I am a lifelong resident of New Mexico. I
9 live in Arroyo Seco, New Mexico. I am a board member of
10 Rivers & Birds, which is a Northern New Mexico
11 nonprofit. I'm an acequia parciante, and I irrigate two
12 acres here right off of the Rio Hondo, not too far from
13 the Rio Hondo.

14 I have grown up in New Mexico and been
15 swimming in the Jemez River, been fishing all my life,
16 and I've seen in my short lifetime the changes that have
17 occurred, that we get lower water flows now, we get
18 smaller snow packs. I see the effects of climate change
19 and, of course, development impacts.

20 I do recall seeing the Red River from Molycorp
21 Mine tailings flowing a cloudy turquoise blue and the
22 fish dying afterwards. I do recall the big spills that
23 we had upstream just over the border in Colorado from
24 the Summitville mine and heavy metals waste that flowed
25 ultimately into the Rio Grande. And I do recall a

1 sewage leakage coming down from the Taos Ski Valley as
2 they grew and before they had proper sewage facilities.

3 So with all of these things in mind, I think
4 it's very, very important to support the ONRW
5 designation and to give the opportunity to have another
6 tool in our toolbox and be proactive in protecting the
7 pristine water qualities that we have. These are very
8 precious resources for all of us in Northern New Mexico.

9 Thank you for the opportunity to provide
10 testimony.

11 MS. JONES: Thank you.

12 (Unintelligible and/or inaudible.)

13 THE REPORTER: Pam, I didn't understand.
14 There was some echo.

15 MS. JONES: Okay. I've got everybody muted.
16 Is it better?

17 THE REPORTER: Yes. Thank you.

18 MS. JONES: Okay.

19 Jesse Deubel?

20 JESSE DEUBEL

21 having been first duly sworn or affirmed, gave
22 public comment as follows:

23 PUBLIC COMMENT

24 MR. DEUBEL: Thank you very much.

25 J-E-S-S-E, last name Deubel, D-E-U-B-E-L.

1 My name is Jesse Deubel, and I'm a lifelong
2 New Mexican. I'm also the executive director of the New
3 Mexico Wildlife Federation, and I am providing this
4 comment on behalf of the federation, which is the
5 state's oldest and largest sportspersons organization.
6 We were founded in 1914. And the majority of our
7 members are hunters and anglers.

8 And for many of the reasons that have already
9 been shared by public comment throughout this hearing, I
10 would just like to say that the New Mexico Wildlife
11 Federation strongly supports these ONRW designations
12 that are being discussed here today.

13 So thank you so much for the opportunity to
14 provide that comment.

15 MS. JONES: Thank you.

16 Joaquin Arguello.

17 Are you still with us?

18 MR. JOAQUIN ARGUELLO: Yes, I am.

19 MS. JONES: There you go.

20 JOAQUIN ARGUELLO

21 having been first duly sworn or affirmed, gave
22 public comment as follows:

23 PUBLIC COMMENT

24 MR. JOAQUIN ARGUELLO: Let me start my clock
25 so I know how long I have and I don't get taken over.

1 Joaquin Arguello, J-O-A-Q-U-I-N, Arguello,
2 A-R-G-U-E-L-L-O, accent over the I, two dots over the U.

3 I'm a Valdez family descendant, part-time
4 resident. I am here not only on behalf of my family,
5 but also on behalf of the Arroyo Hondo Arriba community
6 land grant, also as our family is parciantes of the
7 different acequias, San Antonio de Valdez and the Prando
8 Ditch, as my father had stated earlier.

9 And, you know, I was a former crew leader for
10 the Rocky Mountain Youth Corps back in the '90s, when
11 they first started, and working on related issues, some
12 of the fire erosion control up in the Hondo fire area.

13 But what I wanted to say today was, you know,
14 coming from a -- the position of a family that has been
15 around for 15-plus generations after doing our genealogy
16 recently, in terms of, you know, institutional records,
17 right, in terms of church records, and many of our
18 families go back way further, we can trace our lineage
19 to our indigenous families and ancestors.

20 You know, with that our family lineages has a
21 very particular relationship with a sense of place. A
22 lot of people talk about that in terms of a concept
23 called querencia, or a sense of belonging in a
24 relationship, a lifelong relationship with a place.

25 That is not so much in what is viewed today in

1 terms of extraction for monetary value. It's more of a
2 mutually beneficial way of living with land, with
3 resources. And that's how we feel about the river and
4 the watershed in total, in which I'm speaking to both
5 because I don't believe we can separate the water, the
6 river from the land and the watershed and everything
7 else.

8 You know, more and more today we see -- even
9 like NM True and our tourism economy, which is
10 historically dependent upon these lands and these waters
11 and rivers, meeting critical support and direct formal
12 protection, not just from development or gentrification,
13 as are some current issues that are happening, but also
14 from just the long-term changes in our environment to
15 droughts and the like.

16 So, you know, with that I wanted to thank you
17 all for allowing us to have public comments, because a
18 lot of times from an environmental point of view that's
19 a very mostly scientific way of looking at nature, which
20 can also be seen as part of what Lomawaima in 1996 wrote
21 about, the unnatural truths where people are separated
22 from resources and land.

23 But if we look at something bigger, which is
24 environmental justice, which Hilda Llorens wrote about
25 in her works in 2021, really recognizing the people in a

1 place and the livelihood, right, not just us historical
2 families, but more and more people coming here are
3 coming here for a balanced, healthy livelihood.

4 And so with that I want to share my support
5 for the ONRW designation.

6 MS. JONES: Thank you.

7 Mr. Carlos Miera, are you with us?

8 MR. MIERA: Yes, I am.

9 MS. JONES: Please begin.

10 CARLOS MIERA

11 having been first duly sworn or affirmed, gave
12 public comment as follows:

13 PUBLIC COMMENT

14 MR. MIERA: My name -- my name is Carlos
15 Miera. That's C-A-R-L-O-S, and Miera, M-I-E-R-A.

16 I'm a Commissioner on the Des Montes Ditch
17 Association and a member of the Rio Hondo Acequia
18 Association, which is an ad hoc group composed of the
19 nine acequias that draw water from the Rio Hondo. My
20 family has been in the area since 1745.

21 I'm here today to express my -- or our support
22 for the proposed designation for obvious reasons. The
23 Rio Hondo Acequias irrigate and own water rights for
24 2,800 acres, and we own 7,000 acre-feet of water. The
25 communities of Valdez, Canoncito, Des Montes, Arroyo

1 Hondo depend on the waters derived from the Rio Hondo
2 for irrigation to irrigate our crops, our gardens, our
3 orchards, for livestock, and just as importantly to
4 replenish the aquifer.

5 So water quality and water quantity are of a
6 great concern to us. Therefore, we support the
7 application for the Rio Hondo to be designated as the
8 Outstanding National Resource.

9 Furthermore, with the assistance of Mr. David
10 Norton from the Taos Ski Valley, Inc., the Rio Hondo
11 Acequia Association has received funding to conduct an
12 in-depth assessment of the quality of water in the Rio
13 Hondo from its origin to its final journey to the Rio
14 Grande, and to identify sources of pollution.
15 Mitigation efforts will be addressed once we have
16 completed the study.

17 We have seen increases in algae and foam in
18 the -- and foam in the acequias and are determined to
19 identify the sources of pollution for our waters. For
20 this we request your support.

21 We also have plan to develop a watershed
22 management plan that would help us to designate and
23 maintain the quality of waters within our watershed. We
24 would like to invite some of today's participants to
25 join us in this effort, and more information will be

1 made available as we further develop this plan. We have
2 engaged the services of Brooke Zanetell to lead this
3 initiative.

4 From our perspective, the Rio Hondo watershed
5 includes not only to the Bull of Woods to the Lakeport,
6 but all the tributaries and springs that feed into the
7 Rio Hondo, the Manzanitas, Italiano, the Gavilan. All
8 these streams and springs form -- help form the Rio
9 Hondo.

10 We anticipate that once our study is completed
11 we will have a product that will help us preserve the
12 waters of the Rio Hondo, and we only ask that as
13 decisions are made on or about the Rio Hondo, that the
14 acequias that depend on these waters be included as
15 active participants.

16 Thank you for your consideration for all the
17 proposals here before you today.

18 MS. JONES: Ms. Phaedra Greenwood. Please
19 unmute and begin.

20 PHAEDRA GREENWOOD

21 having been first duly sworn or affirmed, gave
22 public comment as follows:

23 PUBLIC COMMENT

24 MS. JONES: Ms. Greenwood, you're still muted.

25 There you go.

1 MS. GREENWOOD: Now can you hear me?

2 MS. JONES: Yes. We can hear you.

3 MS. GREENWOOD: Okay.

4 MS. JONES: Please begin.

5 MS. GREENWOOD: I'm Phaedra Greenwood,

6 P-H-A-E-D-R-A G-R-E-E-N-W-O-O-D.

7 I'm a parciante on the -- on the Acequia de
8 Atalaya, and I'm a writer and birder and a naturalist.

9 For many years I've been concerned about the
10 health of the Rio Hondo. Our household is dependent on
11 this vital river for both irrigation and domestic use.
12 And over the years I've watched the Rio Hondo
13 deteriorate, which alarms me. And I'm now seeing algae
14 in the river, and for years we have not had any reliable
15 monitoring, which is very distressing.

16 For five years I served as secretary for the
17 Committee to Save the Rio Hondo. Recently our small
18 property was an important part of a UNM ecology study,
19 and I learned a lot from that myself, participating in
20 that when the students came to our house.

21 The riparian areas that lie between the
22 acequia and the Rio Hondo are a rich source of
23 biodiversity, and along the Rio Hondo I've seen and
24 photographed many wild animals, including elk, cougar,
25 bighorn sheep, bobcats, black bears, deer, raccoons,

1 rabbits, skunks, weasels, foxes, coyotes, prairie dogs,
2 otters, pack rats, three different species of mice,
3 various snakes, lizards, toads, butterflies, and over 50
4 species of birds. And I consider my property a refuge
5 for any and all of them that wander through here.

6 With the wildfires roaring all around us and
7 threatening our watershed, I think it would be totally
8 appropriate to designate our local river that nourishes
9 our stock, waters our gardens, orchards and crops and
10 turns our valleys green as an outstanding natural
11 resource waters.

12 Thank you for hearing me.

13 MS. JONES: Joe Zupan.

14 JOE ZUPAN

15 having been first duly sworn or affirmed, gave
16 public comment as follows:

17 PUBLIC COMMENT

18 MR. ZUPAN: Good afternoon.

19 This is Joe Zupan, J-O-E Z-U-P-A-N.

20 I'm a Taos County resident, and I support this
21 petition, but I would like to ask if I could concede my
22 time to Mr. Garrett Altmann from Santa Clara Pueblo who
23 is on but has limited time.

24 MS. JONES: Mr. Hearing Officer?

25 HEARING OFFICER CHAKALIAN: That's fine with

1 me.

2 MS. JONES: Mr. Hearing Officer, he would need
3 to be sworn in, Mr. Altmann.

4 HEARING OFFICER CHAKALIAN: We're dealing
5 right now with public members who have been sworn in.
6 Anyone who hasn't been sworn in will have an opportunity
7 to make a public comment after the NMED puts on their
8 case. So please sign up with Ms. Jones if you haven't
9 been sworn in already.

10 But, Ms. Jones, who is the next person that
11 has been sworn in?

12 MR. ALTMANN: I was sworn in at the beginning,
13 if that makes a difference.

14 HEARING OFFICER CHAKALIAN: At the beginning
15 of what, sir?

16 MR. ALTMANN: Of this hearing today.

17 HEARING OFFICER CHAKALIAN: I don't remember
18 your being sworn in.

19 Court reporter, do you remember swearing in
20 this gentleman?

21 THE REPORTER: I do not.

22 HEARING OFFICER CHAKALIAN: I don't either.

23 Sir, please sign up for a comment after.

24 MR. ALTMANN: Okay.

25 MS. JONES: Okay, Mr. Zupan.

1 HEARING OFFICER CHAKALIAN: Ms. Jones, who is
2 next?

3 MS. JONES: Mr. Zupan. He's about to begin.

4 HEARING OFFICER CHAKALIAN: Okay.

5 MR. ZUPAN: Thank you for the opportunity to
6 state in support of this petition.

7 I'm a Taos County resident. I'm speaking as
8 such. My home is located less than a half mile from the
9 Rio Grande del Norte National Monument, near the
10 junction of the Rio Grande and the Rio Pueblo de Taos.

11 Accordingly I do spend a lot of time
12 recreating there, hiking, mountain biking and hanging
13 out at the river. And more than just that, I bear
14 witness to lots of other New Mexicans and visitors that
15 similarly enjoy the recreation opportunities here.
16 Particularly in this year of enormous fires and closed
17 forests, many people have gravitated to the monument and
18 our rivers.

19 Beyond a sense of well-being and mental health
20 that outdoor recreation provides, the iconic vistas
21 available in the Upper Rio Grande Gorge and our other
22 rivers really sticks with people. Many visitors come
23 back year after year to enjoy these vistas and this
24 recreation which bolsters our outdoor recreation
25 economy. As -- as Dr. Navas mentioned, 30 percent of

1 the economic activity in Taos County is attributable to
2 our rivers.

3 So I encourage the WQCC to designate these
4 waters as Outstanding National Resource Waters.

5 Thank you very much.

6 MS. JONES: Ms. Tiffany Rivera.

7 MS. RIVERA: Pamela, can you hear me?

8 MS. JONES: Yes, I can. Thank you.

9 Please begin.

10 MS. RIVERA: Thank you.

11 TIFFANY RIVERA

12 having been first duly sworn or affirmed, gave
13 public comment as follows:

14 PUBLIC COMMENT

15 MS. RIVERA: Tiffany Rivera, T-I-F-F-A-N-Y,
16 Rivera, R-I-V-E-R-A.

17 Thank you for the opportunity to comment this
18 afternoon.

19 My name is Tiffany Rivera, director of
20 government affairs for New Mexico Farm and Livestock
21 Bureau. We are the largest agriculture organization in
22 the state, representing more than 20,000 member families
23 involved in all aspects of agriculture.

24 Unfortunately, this afternoon we respectfully
25 stand in opposition to the proposal submitted by the

1 petitioners to designate segments of the Rio Grande, Rio
2 Hondo, Lake Fork, East Fork Jemez River, San Antonio
3 Creek and Redondo Creek as ONRWs. New Mexico Farm and
4 Livestock Bureau adamantly opposes ONRW designations as
5 these designations have the potential to severely limit
6 economic growth while also placing additional
7 restrictions and regulations on water and potentially
8 land use.

9 In a state as arid and dry as New Mexico,
10 continued access and use to water on our working land is
11 imperative. We actively support and encourage voluntary
12 and incentive-based conservation and management
13 practices, and these efforts should be conducted through
14 a grassroots effort and supported by the citizens of the
15 state.

16 Additionally, we have concerns with the
17 designation and how it will impact watershed maintenance
18 and conservation work that will need to be done in
19 response to the recent Cerro Pelado fire. The Cerro
20 Pelado fire has burned over 45,000 acres near the
21 proposed -- near one of the proposed -- excuse me --
22 ONRW sections of the East Fork on the Jemez River.

23 New Mexico Farm and Livestock Bureau
24 understands, appreciates and supports the multiple
25 benefits that our state's waters and natural lands

1 provide, and we appreciate the Outdoor Recreation
2 Division and all the work they have done to spur tourism
3 and recreational opportunities which support our many
4 rural communities.

5 Instead of proposing additional designations
6 with increased restrictions, we recommend that the
7 division work proactively with advocacy groups statewide
8 to secure funding which will be utilized to manage and
9 repair our watersheds and forests. The state will not
10 be able to reap the true benefits of our natural lands
11 and resources if they are in dire and struggling
12 conditions due to lack of proactive management.

13 Lastly, as the state's largest agricultural
14 advocacy organization who is heavily interested and
15 involved in proposals and designations, we would
16 respectfully request that the state's executive agencies
17 and their respective divisions work in a collaborative
18 fashion and include more agricultural organizations such
19 as their self as stakeholders in any future proposals.

20 So thank you for the opportunity to comment
21 this afternoon.

22 HEARING OFFICER CHAKALIAN: Ms. Rivera?

23 MS. RIVERA: Yes.

24 HEARING OFFICER CHAKALIAN: The rules -- the
25 rules that apply at this rulemaking allow any party or

1 Commissioner to ask questions of any -- anyone, any
2 witness at all.

3 I see Ms. Fox's hand is up.

4 And I also would mention to the Commissioners
5 that if anyone has a question for any of the witnesses,
6 including Ms. Rivera, that you have the ability to
7 cross-examine any of these witnesses.

8 Ms. Fox?

9 MS. FOX: Thank you, Mr. Hearing Officer.

10 CROSS-EXAMINATION

11 BY MS. FOX:

12 Q. Good afternoon, Ms. Rivera.

13 Thank you for your comment.

14 My name is Tannis Fox, and I'm representing
15 the petitioner in this matter, and I just have a couple
16 of questions for you.

17 And the first is -- I assume that you are
18 aware and your organization is aware of the Commission's
19 regulations that essentially exempt preexisting uses,
20 specifically calling out grazing, from ONRW requirements
21 so long as BMPs are employed and no additional
22 degradation is conducted.

23 Is that -- are you familiar with those
24 regulations?

25 A. Yes, ma'am. And I was glad to hear that noted

1 earlier in the proceedings, as well as the testimony
2 provided by the gentleman from the -- oh, excuse me. I
3 don't have my notes here. But he had mentioned the
4 trespass of cattle. So I'm glad to hear that there was
5 remediation on that effort being made up north.

6 HEARING OFFICER CHAKALIAN: Ms. Fox, excuse
7 me.

8 So, Ms. Rivera, I think you're talking about
9 Mr. Parmenter?

10 MS. RIVERA: I am.

11 HEARING OFFICER CHAKALIAN: Ms. Fox, am I
12 saying -- am I saying that name right, Ms. Fox?

13 MS. FOX: Correct.

14 HEARING OFFICER CHAKALIAN: Parmenter? Okay.
15 Good.

16 And, Ms. Fox, instead of using abbreviations,
17 could you explain what they are, because we have members
18 of the public here.

19 MS. FOX: Thank you, Mr. Hearing Officer.
20 Yes.

21 BMPs are best management practices.

22 HEARING OFFICER CHAKALIAN: Thank you.

23 MS. FOX: Thank you.

24 HEARING OFFICER CHAKALIAN: Please proceed,
25 Ms. Fox.

1 MS. FOX: Thank you.

2 Q. And then also, Ms. Rivera, you expressed some
3 concern about ONRW status inhibiting conservation
4 activities, and are you aware of the Commission's
5 regulations that allow conservation activities to go on
6 and allow short-term degradation for conservation
7 efforts?

8 A. I am. Some of the concerns I think that we
9 have for that is getting the approval process through
10 the Commission done in a timely manner, and so just the
11 burden that ONRW designation would place on any type of
12 conservation project, I think, could be obviously
13 alleviated if there was not a designation in place so
14 that that conservation project could proceed forward
15 faster without having to get that approved.

16 Q. And you specifically identified the Cerro
17 Pelado fire --

18 A. Yes, ma'am.

19 Q. -- in and around the Valles Caldera as
20 potentially -- that conservation efforts around that
21 fire could be in some way inhibited because of ONRW
22 status? Is that what you said?

23 A. Yes. So in looking over the fire map with the
24 proposed designation specifically for the Jemez East
25 Fork, they're fairly close. So it's just concern about

1 what the recovery practice is and moving forward, you
2 know, if that's going to have any type of impact to
3 having the repairs done in that area.

4 And again I think that the state really needs
5 to focus on proactive management of our watersheds and
6 our forests to not have to deal with fires, but
7 unfortunately here is where we are with a couple fires
8 burning throughout the state. So --

9 Q. And you were here to hear Dr. Parmenter's
10 testimony, Dr. Parmenter from Valles Caldera National
11 Preserve, correct?

12 A. Yes, ma'am.

13 Q. And did you hear him express any concern
14 whatsoever about Valles Caldera National Preserve or the
15 National Park Service being able to conduct restoration
16 efforts after that fire as a result of ONRW status?

17 A. I did not. I --

18 Q. Thank you.

19 A. Oh. Thanks.

20 HEARING OFFICER CHAKALIAN: Are there any
21 Commissioners who would like to cross-examine this
22 witness?

23 Okay. Ms. Rivera --

24 Pam, would you mute the microphones, please.

25 MS. JONES: They all appear to be muted,

1 Mr. Hearing Officer.

2 HEARING OFFICER CHAKALIAN: Ms. Rivera, based
3 on the questions you were asked, is there anything
4 further that you would like to say regarding those
5 questions?

6 MS. RIVERA: No, sir. I appreciate the ear of
7 the audience this afternoon, and thank you, guys, for
8 the opportunity to comment.

9 HEARING OFFICER CHAKALIAN: You're welcome.

10 Ms. Jones, who is next?

11 MS. JONES: Sylvia Rodriguez.

12 SYLVIA RODRIGUEZ

13 having been first duly sworn or affirmed, gave
14 public comment as follows:

15 PUBLIC COMMENT

16 MS. RODRIGUEZ: My name is Sylvia Rodriguez,
17 S-Y-L-V-I-A R-O-D-R-I-G-U-E-Z.

18 I'm a Commissioner on the Acequia de San
19 Antonio in Valdez, a member of the Taos Valley Acequia
20 Association and also of the Rio Hondo Acequia
21 Association. I irrigate about an acre and a quarter off
22 of the San Antonio Acequia and wrote a letter on behalf
23 of my acequia last year in support of this designation.

24 I've spent the last 40 years observing and
25 participating in grassroots efforts to protect the land

1 and water resources of the Rio Hondo Valley, which
2 includes two land grant villages and three communities
3 that irrigate off of the acequia -- off of the Rio
4 Hondo, and this includes mobilization against
5 developments and the deterioration of the river by an
6 expanding ski industry.

7 Basically, I support this designation. I
8 think it's tremendously important to the people of
9 this -- of this watershed. The acequia that I represent
10 has approximately 75 or 81 active parciantes.

11 I appreciate the opportunity to testify today
12 and thank you.

13 MS. JONES: Okay. Zoe Barker.

14 MS. BARKER: Thank you.

15 ZOE BARKER

16 having been first duly sworn or affirmed, gave
17 public comment as follows:

18 PUBLIC COMMENT

19 MS. BARKER: My name is Zoe, Z-O-E, Barker,
20 B-A-R-K-E-R.

21 Good afternoon, and thank you for the
22 opportunity to comment.

23 I am the water associate with Conservation
24 Voters New Mexico.

25 I'm going to keep my comment brief and say

1 that we support the designation for many of the reasons
2 already mentioned.

3 I also wanted to alert the Commissioners to
4 the fact that we submitted a petition with over a
5 thousand signatures from New Mexico residents supporting
6 the designation of all of the named segments as
7 Outstanding National Resource Waters.

8 Thank you, all, for the opportunity to
9 comment, and have a good day.

10 MS. JONES: Thank you.

11 Mr. Ron Loehman?

12 Mr. Loehman?

13 MR. LOEHMAN: Yes. Thank you.

14 RON LOEHMAN

15 having been first duly sworn or affirmed, gave
16 public comment as follows:

17 PUBLIC COMMENT

18 MR. LOEHMAN: Ron Loehman, R-O-N
19 L-O-E-H-M-A-N.

20 I am conservation chairman for New Mexico
21 Trout, which is a 501(c)(3), all volunteer organization,
22 that is dedicated to preservation and enhancement of
23 trout fishing in New Mexico, as well as restoring and
24 enhancing trout habitat and educating the public to the
25 values of that enhancement.

1 So our members are about 300 members in New
2 Mexico. We fish all of the waters that are in this
3 designation, this proposal for designation as an ONRW.
4 We're very familiar with them. We totally support the
5 designation. It will enhance all of our members'
6 activities, as well as all of the ones that have been
7 mentioned previously.

8 We volunteer and provide money for
9 preservation on these waters. Particularly the San
10 Antonio has been the subject of a lot of our attention.
11 So we kind of put our money where our interests are, and
12 we, as I said, totally support this designation.

13 My wife and I also own property on -- in the
14 Jemez on the Rio Guadalupe. We own about 30-plus acres
15 and about half a mile of the river where we do our own
16 private restoration. It's outside the designated areas
17 for this ONRW petition, but they're very similar to the
18 values, and, you know, we know what's at stake with our
19 rivers, and the situation of increasing climate change,
20 drought, lack of water -- clean water is very important.
21 We recognize that and support it -- support it
22 completely.

23 So thank you very much for this opportunity to
24 speak, and good afternoon.

25 MS. JONES: Thank you.

1 Mr. Ken Tabish, you're up.

2 KEN TABISH

3 having been first duly sworn or affirmed, gave
4 public comment as follows:

5 PUBLIC COMMENT

6 MR. TABISH: My name is Ken Tabish, K-E-N
7 T-A-B-I-S-H.

8 And today I'm speaking on behalf of Trout
9 Unlimited, and I want to thank the Commission to have
10 this opportunity to comment.

11 I am a board member of the Bosque Chapter of
12 Trout Unlimited, which incorporates over 600 members
13 within the Albuquerque metropolitan area. I'm also on
14 the board of the New Mexico Trout Unlimited Council,
15 which incorporates four chapters throughout the state.

16 And just at the beginning of this
17 conversation, I would like to say that we as TU New
18 Mexico do support the ONRW designation for these
19 segments of streams.

20 For the Bosque Chapter here in the metro area,
21 we consider the Jemez waters, the headwaters of the
22 Jemez, our home waters. And we fish them regularly. We
23 see their value as recreational areas. TU sees that its
24 mission statement is to promote clean, cold water
25 throughout the State of New Mexico that would be great

1 habitat for wild and native trout. These waters provide
2 that opportunity. And so we want to promote that, and
3 we feel this designation would do that immensely.

4 We also see that the water is interconnected
5 with the land, the flora, the fauna, the people who
6 inhabit and recreate in those areas, the communities
7 that need these waters. And because of that we
8 collaborate with the stakeholders around these waters,
9 the local ranchers we work with. We work with the
10 indigenous communities, the local communities and all
11 the recreational people who access these areas to hike,
12 to fish, to backpack, to rock climb, and even to float
13 the rivers if you're considering the Rio Grande.

14 So on behalf of TU Bosque Chapter and TU New
15 Mexico Council, we do support this designation, and we
16 want to thank you for having this opportunity to make
17 this comment.

18 MS. JONES: Thank you, Mr. Tabish.

19 Sally Paez.

20 SALLY PAEZ

21 having been first duly sworn or affirmed, gave
22 public comment as follows:

23 PUBLIC COMMENT

24 MS. PAEZ: Good afternoon, Madam Chair and
25 Commissioners.

1 My name is Sally Paez, S-A-L-L-Y P-A-E-Z.

2 I grew up in Albuquerque. I've lived in Santa
3 Fe County for about nine years, and I studied ecology
4 and natural resources law at the University of New
5 Mexico. I currently am a staff attorney at New Mexico
6 Wild or the New Mexico Wilderness Alliance, an
7 organization which is dedicated to the preservation of
8 New Mexico's wild lands, waters and wildlife.

9 And on behalf of both my organization and
10 myself, I strongly support the designation of these
11 waters.

12 I consider myself so lucky to have grown up
13 hiking and backpacking and watching nature throughout
14 Northern New Mexico along all of these nominated
15 waterways, and I know personally how much they
16 contribute to our state. They have irreplaceable value
17 to recreational, ecological, economic and cultural
18 values that make New Mexico special and wonderful, and I
19 think it is imperative that we seize this opportunity to
20 diversify our state's economy by supporting responsible
21 recreation, that we take steps to conserve healthy
22 ecosystems for the humans and the plants and the animals
23 that depend on them, and that we protect our local food
24 systems, our cultural traditions and the public health.

25 Future generations are depending on the

1 Commission and all of us to prevent future degradation
2 to water quality and these beautiful landscapes. The
3 waters currently meet and exceed the legal criteria for
4 designation under the New Mexico Administrative Code.
5 And I do appreciate also that this designation will not
6 limit existing land uses, grazing, acequias,
7 agriculture, as long as those practices are continued in
8 accordance with the best management practices.

9 Water quality benefits all of us. It's
10 critical to our future.

11 And I thank you all very much for the
12 opportunity to speak.

13 MS. JONES: Thank you.

14 Fabiola Teter.

15 Ms. Teter, are you with us?

16 Mr. Hearing Officer, I don't see her name in
17 the participant list, and that is the last name on the
18 list of those that were sworn in.

19 HEARING OFFICER CHAKALIAN: Okay. And we can
20 add her to the list that we are compiling for later this
21 afternoon.

22 MR. MC CORMACK: Pamela, this is -- this is
23 Rob McCormack. I believe I was sworn in, as well. It
24 seems I keep getting missed off the list.

25 HEARING OFFICER CHAKALIAN: Ms. Jones?

1 MS. JONES: I don't have his name. It's
2 possible that I've missed it.

3 Is -- Ms. Arreguin, do you remember
4 Mr. McCormack?

5 THE REPORTER: Yes, I do.

6 MS. JONES: Okay. My apologies.

7 HEARING OFFICER CHAKALIAN: Mr. McCormack,
8 please spell your name and continue.

9 MR. MC CORMACK: Great. Thank you.

10 ROB MC CORMACK

11 having been first duly sworn or affirmed, gave
12 public comment as follows:

13 PUBLIC COMMENT

14 MR. MC CORMACK: My name is Rob McCormack,
15 R-O-B M-C-C-O-R-M-A-C-K.

16 Thank you very much for the opportunity to
17 comment today.

18 I'm a resident of Valdez, New Mexico and Rio
19 Hondo Valley, and a board member of Enchanted Circle
20 Trout Unlimited, our local Trout Unlimited chapter here
21 in the Taos Valley, Eagles Nest, Angel Fire area.

22 I as well own a small business that sells
23 largely to the outdoor crowd, FishSki Provisions. We
24 make green chile macaroni and cheeses and grits for
25 outdoor use. And I also am a part-time fly fishing

1 guide especially on the Rio Grande.

2 I think -- when you think of Outstanding
3 Waters in Northern New Mexico, the Rio Hondo and its
4 tributaries, including the Lake Fork as well as the
5 smaller ones, and the Rio Grande, our most typical
6 outstanding waters you can think of, and I think that
7 the opportunity to give them Outstanding Water
8 designation should not be remiss, and it's something
9 that will only benefit our future generations.

10 They're ecologically important, recreationally
11 important and culturally important, and I think this is
12 a great opportunity to do something really special for
13 these important waterways.

14 Thank you.

15 HEARING OFFICER CHAKALIAN: Thank you.

16 We are going to continue with the evidence
17 presentation by Mr. Verheul for the New Mexico
18 Environment Surface Water Quality Bureau.

19 MR. VERHEUL: Shall I proceed, Mr. Hearing
20 Officer?

21 HEARING OFFICER CHAKALIAN: Yes.

22 Do you have an opening statement?

23 MR. VERHEUL: I do. I have a very brief
24 opening statement.

25 HEARING OFFICER CHAKALIAN: Please.

1 MR. VERHEUL: The first thing I'd -- first
2 thing I'd like to say is that the New Mexico Environment
3 Department very much appreciates the robust public
4 participation we've had here today and the heartfelt
5 comments that everyone has made, and we appreciate the
6 Commission, the Commission administrator and the Hearing
7 Officer taking the steps necessary to ensure that
8 everyone is heard in that process.

9 The Environment Department and specifically
10 our Surface Water Quality Bureau has been engaged with
11 the Outdoor Recreation Division for nearly two years now
12 in the development of this petition that's being heard
13 today. And so we're very pleased to see it advance to
14 this proceeding, and we're supportive of it, and we hope
15 that it is successful.

16 And with that, I'd like to call the
17 Environment Department's first witness, Jennifer Fullam.

18 HEARING OFFICER CHAKALIAN: And both of your
19 witnesses have been sworn in so please proceed.

20 MR. VERHEUL: Thank you.

21

22

23

24

25

1 JENNIFER FULLAM

2 having been first duly sworn or affirmed, was
3 examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. VERHEUL:

6 Q. Good afternoon.

7 Please state your name.

8 A. Jennifer Fullam.

9 Q. And what is your current position?

10 A. I'm an environmental scientist supervisor, and
11 I serve as the water quality standards coordinator with
12 the New Mexico Environment Department Surface Water
13 Bureau.

14 Q. How long have you held this position?

15 A. I've been the water quality standards
16 coordinator for five years.

17 Q. And what are your duties in this position?

18 A. I oversee and facilitate the Department -- the
19 Department's team that's responsible for proposing
20 amendments to the state's surface water quality
21 standards, as well as participate in hearings related to
22 any proposed amendments initiated by parties other than
23 the Department.

24 In part this includes supervising and aiding
25 technical staff under the Standards, Planning and

1 Reporting Team, conducting analyses of water quality
2 standards, writing the technical support documents for
3 such analyses, petitioning for the water quality
4 standard amendments before the Water Quality Control
5 Commission, and then filing those adopted rules with the
6 State Records and Archives and EPA Region 6 to ensure
7 they become effective for both state Water Quality Act
8 and federal Clean Water Act regulatory purposes.

9 In order to do this, I have to maintain
10 current knowledge of statutory requirements and
11 procedures, assess and evaluate studies and data sets to
12 ensure all the information is based on scientific
13 principles, and then communicate with EPA Region 6
14 regularly regarding any state amendments and updates to
15 the federal regulations or guidelines.

16 Q. Can you please summarize your post high school
17 education?

18 A. Yes. I have a bachelor of science degree in
19 biology with a minor in geography from the University of
20 New Mexico and a master of science degree in
21 environmental science and management from New Mexico
22 Highlands University.

23 Q. Do you hold any certifications, or have you
24 received any additional professional training that's
25 relevant to this proceeding?

1 A. Yes. I received training and obtained various
2 certifications applicable to both my position and more
3 specifically to this proceeding. In particular, I
4 attended and received certification from EPA's national
5 Water Quality Standards Academy, as well as EPA's Tribal
6 Water Quality Standards Academy. I have certifications
7 from EPA in quality assurance management, data quality
8 objectives and quality management plans. I've also
9 taken the state's rulemaking training and records and
10 information management training.

11 A full list of all my training and
12 certifications can be found in my resume which I filed
13 as NMED Exhibit 3.

14 Q. Can you tell us a little bit about your work
15 experience that's relevant to this proceeding.

16 A. I can. I have testified and filed amended
17 rules in one tribal and five state water quality
18 standard rulemaking hearings. So these included the
19 2005 Triennial Review, of Tesuque Pueblo's water quality
20 standards, state designated use amendments for Dog
21 Canyon, Tecolote Creek, San Isidro Arroyo and
22 tributaries to San Isidro Arroyo, the state's first
23 discharger-specific temporary standard for Doggett
24 Creek and the City of Raton's wastewater treatment
25 plant, the 2020 Triennial Review of New Mexico's water

1 quality standards, and the nomination for the Upper
2 Pecos watershed Outstanding National Resource Water,
3 otherwise referred to as an ONRW.

4 In addition to these rulemakings, I've also
5 reviewed and prepared comments on behalf of the state
6 for EPA's 2018 recommended criteria for aluminum and
7 provided comments and ultimately approval on third-party
8 work plans associated with various work attainability
9 analyses. I've also led updates to the state's Water
10 Quality Management Plan, Continuing Planning Process,
11 which the Commission and EPA most recently approved in
12 2020.

13 Other work experience pertaining to data
14 management, water quality and exposure pathway analyses,
15 those can be found in my resume.

16 Q. Have you authored or coauthored any articles
17 relating to your professional training?

18 A. Yes. I coauthored a study published by Los
19 Alamos National Laboratory pertaining to exposure
20 pathways for polychlorinated biphenyls on the Cerro
21 Grande fire, and we used semipermeable membrane devices,
22 and I was also the principal investigator and grant
23 manager on a research project funded by EPA for Tesuque
24 Pueblo, and that was regarding elk habitat utilization,
25 which was really part of a larger investigation to

1 determine if elk migration posed a radiological exposure
2 pathway from Los Alamos.

3 Q. Have you reviewed the petition and the direct
4 technical testimony filed by the petitioner in this
5 proceeding?

6 A. Yes.

7 Q. Did you submit written technical testimony in
8 this matter?

9 A. Yes. My direct technical testimony was filed
10 as NMED Exhibit 1.

11 Q. And exhibits accompanying your written
12 testimony?

13 A. Yes.

14 Q. Do you have any changes or corrections to any
15 of those exhibits or your testimony?

16 A. No.

17 Q. Do you adopt that prefiled written technical
18 testimony today?

19 A. I do.

20 Q. What is the nature of your testimony here
21 today?

22 A. My testimony today summarizes the background
23 of ONRWs and what impacts they may have on those waters
24 being nominated. I'll also provide some testimony on
25 the regulatory state and federal notification

1 requirements associated with a rulemaking such as this.

2 Q. Can you briefly describe the proposed
3 amendments to the state standards for interstate and
4 intrastate surface waters being considered today.

5 A. Well, the proposed amendments, if adopted,
6 they would designate the Rio Grande from just above the
7 confluence of the Rio Pueblo de Taos to the Colorado
8 border, the Rio Hondo from the Carson National Forest
9 boundary to its headquarters, Lake Fork Creek from the
10 Rio Hondo to its headwaters, the East Fork Jemez River
11 from San Antonio Creek to its headwaters, San Antonio
12 Creek from East Fork Jemez River to its headwaters, and
13 Redondo Creek from Sulphur Creek to its headquarters all
14 as ONRWs.

15 Q. Can you describe briefly what an ONRW is?

16 A. An ONRW is a designation for a water of the
17 state in which the highest level of antidegradation
18 applies.

19 Q. Can any water be designated as an ONRW?

20 A. No. For a water to be designated as an ONRW,
21 the Commission must determine whether the designation
22 would be beneficial to the state and that the nominated
23 waterbody meets one of those three eligibility criteria
24 talked about earlier today.

25 Q. So what protections are afforded to ONRWs once

1 designated?

2 A. Well, under the state's antidegradation policy
3 in 20.6.4.8 NMAC, no degradation of water quality is
4 permitted for a water designated as an ONRW.

5 Q. So does this designation change the water
6 quality standards?

7 A. No. The act of designating a water of a state
8 as an ONRW doesn't change the designated uses or the
9 criteria. The designation really only changes the water
10 quality protections under the state's antidegradation
11 policy.

12 Q. Can you briefly explain the state's
13 antidegradation policy?

14 A. Okay. The antidegradation policy consists of
15 three tiers of protection.

16 Tier 1 is applicable to all waters of the
17 state, and it ensures that existing uses and the level
18 of water quality necessary to protect those existing
19 uses are maintained and protected.

20 Tier 2 protects and maintains high quality
21 waters by prohibiting any lowering of water quality
22 unless it's determined to be important for economic or
23 social means in the area that the water is located.

24 Tier 3 is the most protective tier, and it
25 prohibits degradation in ONRWs except for specifically

1 defined, time-limited activities, such as activities
2 that restore and maintain water quality or activities
3 deemed necessary to accommodate public health or safety.

4 Q. So if the antidegradation policy prohibits the
5 degradation of these waters once designated, are there
6 any activities that are permitted on or near an ONRW?

7 A. Yeah. Yes. There are several potential
8 activities that are allowed on or near ONRWs with
9 certain constraints. If it's demonstrated that the
10 activity will not cause degradation to water quality of
11 the ONRW, then the activity is permissible.

12 On the other hand, activities that may cause
13 degradation of ONRWs need further evaluation and
14 administrative consideration. And that's all described
15 in 20.6.4A.(3) and (4) NMAC. These activities include
16 those associated with public health and safety and
17 emergency response, acequia operation maintenance and
18 repair, preexisting activities and activities associated
19 with the restoration of the chemical, physical and
20 biological integrity of the water.

21 Q. Can an ONRW designation be removed once it's
22 adopted?

23 A. ONRWs are codified in 20.6.4.9 NMAC, and to
24 date New Mexico has not removed any ONRW designations.
25 If it were to be considered in the future, it would have

1 to be done through a rulemaking action before this
2 Commission and subsequently approved by EPA.

3 As provided in Section 74-6-4.D of the state's
4 Water Quality Act, the New Mexico legislature designated
5 authority to the Commission to, quote, adopt water
6 quality standards for surface and groundwaters of the
7 state based on credible, scientific data and other
8 evidence appropriate under the Water Quality Act.
9 Therefore, amending the water quality standards to be
10 less protective, as would be the case if we were
11 reducing antidegradation policy requirements for an
12 ONRW, that would require significant reasoning based on
13 sound evidence.

14 So although it's not prohibited anywhere in
15 the federal or state regulations, it would be pretty
16 challenging to demonstrate that an ONRW designation
17 should be removed.

18 Q. Is designating waters as ONRWs -- is it
19 supportive of the federal Clean Water Act?

20 A. Yes. It's in line with the goals and
21 objectives of the Clean Water Act to restore, maintain
22 and protect water quality wherever attainable. The
23 ultimate goal of the act is to bring the water quality
24 of all waters of the US to their highest attainable use,
25 and designating waters as ONRWs is one tool to work

1 towards that goal.

2 Q. I want to talk a little bit about the
3 administrative process of this nomination and then
4 potentially the designation of these waters.

5 Does the Environment Department consider
6 itself a stakeholder in this matter?

7 A. Yes. The Department considers itself a
8 stakeholder based on the Department's responsibility for
9 implementing the state's water quality standards. The
10 Department also considers EPA a stakeholder since it's
11 EPA's obligation to ensure the state water quality
12 standards are adopted in accordance with the Clean Water
13 Act.

14 Q. Did the petitioner contact the Department
15 concerning this particular nomination?

16 A. Yes. The petitioner contacted the Department
17 during the development of their petition and in
18 preparation for this hearing as I provided in my direct
19 technical testimony.

20 Q. What are the hearing notification requirements
21 for a rulemaking such as this?

22 A. So in accordance with 20.1.6.201 NMAC, the
23 hearing notice must be published in the state register
24 and in a newspaper of general circulation in the area
25 affected at least 60 days prior to the hearing. In

1 addition to these requirements, there are also public
2 notification requirements found in 40 CFR 25.5 and in
3 Chapter 14, Article 4 of the State Rules Act. I
4 reference the relative citations for public noticing in
5 my direct technical testimony.

6 Q. And who is responsible for meeting these
7 hearing notification requirements?

8 A. In accordance with 20.1.6 NMAC, the Commission
9 shall publish hearing notification. However, the
10 Commission does not have any budget to accomplish all of
11 these tasks. So generally it's the petitioner that
12 takes on the responsibility for providing hearing
13 notice.

14 Q. For this particular hearing, who provided the
15 obligatory notice of hearing?

16 A. The petitioner took the lead for providing
17 notice as required. However, there were a couple of
18 elements that the petitioner sought the Department's aid
19 on.

20 Q. And can you describe those elements that the
21 Department provided aid on?

22 A. Yes. The Department provided notification to
23 the Department's district managers, and then in
24 accordance with the Department's tribal communication
25 and collaboration policy the Department provided

1 notification of the proposed amendments to tribal
2 representatives. The Department's demonstration of
3 these notices can be found in NMED Exhibits 29 and 31.

4 Q. How long does the administrative process take
5 from the point where the Commission potentially decides
6 to designate these waters to the point where the rule
7 becomes effective for Clean Water Act purposes?

8 A. The administrative process following the
9 Commission's final order and statement of reasons takes
10 about six months. The process includes filing with
11 State Records Center and Archives and then submitting it
12 to EPA for approval. So the rule becomes effective for
13 state purposes under the New Mexico Water Quality Act
14 once the designations are codified under 20.6.4 NMAC,
15 and that usually takes about two months from the
16 Commission's final statement of reasons and approval
17 order. Then the rule will become effective for purposes
18 of the Clean Water Act on EPA's approval date.

19 Q. Ms. Fullam, both the petitioner and the
20 Department filed proposed amendments to 20.6.4 NMAC.

21 Were there any substantive differences between
22 Petitioner's Exhibit 1 and Department or NMED
23 Exhibit 35?

24 A. No. The proposed language for 20.6.4.9 NMAC
25 in the Petitioner's Exhibit 1 and the Department's

1 Exhibit 35 are identical.

2 Q. And does the Department support the
3 designation of the waters identified in the petition?

4 A. Yes.

5 Q. All right. Thank you, Ms. Fullam.

6 At this time I'd like to call the Department's
7 next witness, Ms. Diana Aranda.

8 HEARING OFFICER CHAKALIAN: And, Mr. Verheul,
9 are your witnesses standing for cross-examination as a
10 panel?

11 MR. VERHEUL: They are, Mr. Hearing Officer.

12 HEARING OFFICER CHAKALIAN: Please proceed.

13 DIANA ARANDA

14 having been first duly sworn or affirmed, was
15 examined and testified as follows:

16 DIRECT EXAMINATION

17 BY MR. VERHEUL:

18 Q. Please state your name.

19 A. I am Diana Aranda.

20 Q. And what is your current position?

21 A. I am an environmental scientist advanced in
22 the Standards, Planning and Reporting Team for the New
23 Mexico Environment Department Surface Water Quality
24 Bureau.

25 Q. How long have you held this position?

1 A. I've been in this position for three years and
2 have been employed with the NMED Surface Water Quality
3 Bureau since February, 2017.

4 Q. What are your duties in this position?

5 A. I am responsible for developing and reviewing
6 water quality standards for the New Mexico surface water
7 in accordance to the state Water Quality Act and the
8 federal Clean Water Act. I also write and review
9 documents to develop and revise the state's surface
10 water quality standards for approval by this Commission
11 and the US Environmental Protection Agency.

12 Q. Would you please summarize your education.

13 A. I hold a bachelor's of science degree in
14 biology from the University of New Mexico and a master
15 of science degree in coastal zone management from Nova
16 Southeastern University.

17 Q. What certifications and professional training
18 do you have that's relevant here today?

19 A. I have received certifications from EPA's
20 national Water Quality Standards Academy and EPA quality
21 project and program management. I also have attended
22 the state's rulemaking training, as well as their
23 records and information management training.

24 Q. What professional experience do you have
25 that's relevant to this proceeding today?

1 A. I have testified before this Commission
2 regarding the 2020 Triennial Review of the state
3 standards in interstate and intrastate surface water for
4 the adoption of total maximum daily loads, and most
5 recently for the Upper Pecos Outstanding National
6 Resource Waters, or ONRW, nominations.

7 And the complete details of my job duties are
8 in my resume filed as NMED Exhibit 4.

9 Q. Have you reviewed the petition and the direct
10 written technical testimony filed by the petitioners in
11 this matter?

12 A. Yes.

13 Q. Did you submit direct written technical
14 testimony?

15 A. Yes. My direct written technical testimony
16 was filed as NMED Exhibit 2.

17 Q. Do you have any changes or corrections to that
18 testimony?

19 A. No.

20 Q. Do you adopt that prefiled written testimony
21 today?

22 A. Yes.

23 Q. And did you file any exhibits relating to your
24 testimony?

25 A. Yes.

1 Q. What is the nature of your testimony today?

2 A. So I'm going to summarize the Department's
3 technical review of the petitioner's proposal to amend
4 20.6.4.9D NMAC to designate certain waters as ONRWs. So
5 the Department's technical review evaluated each of the
6 nominated waterbodies to ascertain the fulfillment of
7 eligibility criteria and submittal elements required for
8 the ONRW designation.

9 The full details of this technical review can
10 be found in my direct written technical testimony.

11 Q. Would you describe how you conducted this
12 technical review?

13 A. The Department examined the petition in its
14 entirety, then completed a focus review to ascertain
15 whether the petition provided evidence and the
16 documentation to satisfy the ONRW eligibility criteria
17 and the submittal requirements of 20.6.4.9A and B NMAC
18 for each of the nominated waterbodies.

19 Q. In your written testimony, you first address
20 the ONRW eligibility requirements in 20.6.4.9B NMAC.

21 What was the rationale behind that?

22 A. So the Department first reviewed the
23 eligibility criteria for 20.6.4.9B NMAC because if a
24 nominated waterbody does not meet the eligibility
25 criteria, then that waterbody would not qualify for an

1 ONRW designation, and therefore NMED would not continue
2 their review of that waterbody under this particular
3 ONRW nomination.

4 Q. So what are the eligibility criteria that are
5 in 20.6.4.9B NMAC?

6 A. So according to 20.6.4.9B NMAC, the Commission
7 may designate a surface water of the state as an ONRW if
8 the designation is beneficial to the state and it's
9 either, one, a significant attribute of the state's
10 Special Trout Water, a national park, a state park or
11 monument, a national or state wildlife refuge, a
12 wilderness area, or a designated Wild and Scenic River;
13 or, two, the water has exceptional recreational or
14 ecological significance; or, three, the water has
15 exceptional water quality and has not been significantly
16 altered in any way that detracts in its value as a
17 natural resource.

18 Q. Did the petition in this matter here today
19 demonstrate that these waterbodies fulfilled those
20 eligibility criteria?

21 A. Yes. The petitioners demonstrated that
22 several waters identified in the petition met the ONRW
23 criterion for one or more of the significant attributes
24 that are listed and identified, so such as 20.6.4.9B.(1)
25 NMAC. So there was a Wild and Scenic River Act

1 designation, a national monument designation or a
2 Special State Trout Water.

3 So in addition, the petitioners also
4 demonstrated that all of the nominated waters met the
5 eligibility criterion for exceptional recreational or
6 ecological significance pursuant to 20.6 --
7 20.6.4.9B.(2) NMAC through the -- through --
8 demonstrated the New Mexico's Department Game and Fish
9 data.

10 And because of this the Department believes
11 that the petitioner has provided sufficient evidence to
12 demonstrate that all of the nominated waterbodies
13 fulfilled at least one of the eligibility criteria for
14 an ONRW designation that is contained within 20.6.4.9B
15 NMAC.

16 And Section IV of my direct written technical
17 testimony describes how the Department verified the
18 eligibility criteria for the nominated waterbodies.

19 Q. I want to talk briefly about the submittal
20 elements in 20.6.4.9A NMAC.

21 Why is it important that the petition contain
22 those?

23 A. Well, the submittal elements for 20.6.4.9A
24 NMAC are in place to identify the nominated waters'
25 specific boundaries, describe the nomination scientific

1 basis, and ensure that there's transparency to the
2 public, stakeholders and the Commission.

3 Q. And how did this petition fulfill those
4 submittal requirements?

5 A. The petitioner submitted all of the six
6 required elements to nominate the waters as ONRWs. The
7 required elements included maps, evidence in support of
8 the nomination, water quality data if it was available,
9 a discussion of the activities that might reduce water
10 quality, a discussion of the economic impact, and an
11 affidavit of public notification.

12 And Section V of my direct written technical
13 testimony describes the Department's verification of the
14 submittal requirements for these nominated waterbodies.

15 Q. So to sum up, did the Department find that the
16 petitioner fulfilled the submittal requirements of 9A
17 and the eligibility criteria in 9B?

18 A. Yes. The Department found that all of the
19 nominated waterbodies in the petition met at least one
20 of the eligibility criteria in 20.6.4.9B NMAC and that
21 the petitioner provided all of the submittal
22 requirements -- all the submittal elements in 20.6.4.9A
23 NMAC.

24 Q. I already asked Ms. Fullam whether or not
25 Petitioner's Exhibit 1 and NMED Exhibit 35 were

1 identical.

2 So my only remaining question for you,
3 Ms. Aranda, is does the Department support this ONRW
4 nomination?

5 A. The Department supports the designation of the
6 identified waters as submitted by the Petitioner's
7 Exhibit 1 as ONRWs.

8 Q. Okay. Thank you.

9 No further questions, Ms. Aranda.

10 Mr. Hearing Officer, at this point I would
11 offer these witnesses to sit as a panel for any
12 cross-examination or questions from the Commission.

13 JENNIFER FULLAM and DIANA ARANDA
14 having been previously duly sworn or affirmed, were
15 examined and testified further as follows:

16 HEARING OFFICER CHAKALIAN: Ms. Fox?

17 MS. FOX: Thank you, Mr. Hearing Officer.

18 I have no questions, but do thank Ms. Fullam
19 and Ms. Aranda for their testimony and also for their
20 careful review of our petition and your assistance over
21 the last two years. Really appreciate it.

22 HEARING OFFICER CHAKALIAN: Commissioners?
23
24
25

1 EXAMINATION

2 BY THE COMMISSION:

3 HEARING OFFICER CHAKALIAN: I see
4 Mr. Brancard.

5 Mr. Brancard?

6 COMMISSIONER BRANCARD: I'm trying to maneuver
7 here. The power is out in our building, but -- let's
8 see if I can hang in here.

9 So thank you for the presentation. I had a
10 couple of questions sort of triggered by comments made
11 by others earlier.

12 In terms of the notice, and this could be both
13 formal and any informal contact, have -- has the
14 Department reached out to the State of Colorado or any
15 agency of the State of Colorado concerning the Rio
16 Grande?

17 MS. FULLAM: Commissioner Brancard, thank you
18 for the question.

19 No. The Department did not reach out to the
20 State of Colorado regarding this petition, in part
21 because we were not the petitioners.

22 COMMISSIONER BRANCARD: Was there any notice
23 given to the -- specifically to the Interstate Stream
24 Commission about this application?

25 MS. FULLAM: I'm not aware if there was or was

1 not.

2 COMMISSIONER BRANCARD: Okay. Thank you.

3 For some of the -- for these segments, are
4 there any existing NPDES permits along any of these
5 segments?

6 MS. FULLAM: Commissioner Brancard, the only
7 one that I can recall is for the Taos Ski Valley.

8 I don't know if Ms. Aranda wanted to add to
9 that or she recalls any others.

10 MS. ARANDA: I believe like if they fall
11 within wilderness areas or -- what I remember is that
12 the permit -- that the waters -- nominated waters were
13 within some protective state. I have to remember. I am
14 sure that the petitioners are fully aware and -- and
15 have a more robust answer for you. But I can try to
16 figure it out as we move along.

17 COMMISSIONER BRANCARD: Thank you.

18 So just generally, then, would the designation
19 of this Tier 3 water impact the renewal of an NPDES
20 permit?

21 MS. FULLAM: Commissioner Brancard, I think I
22 can add some information on that.

23 If there was a permittee who was -- currently
24 has a permit and wanted to continue discharging when
25 they come in for their permit renewal application, they

1 would give the water quality that they're discharging,
2 and it would be evaluated as a Tier 3 water under the
3 renewal application process. And so it would be likely
4 that they would not be allowed to increase loading to
5 the stream, that would impact water quality.

6 COMMISSIONER BRANCARD: Thank you.

7 There were questions raised about
8 activities -- restoration activities that might need to
9 occur in and around the watersheds related to forest
10 fire impacts, and we seem to be having a lot of forest
11 fires these days, around a lot of our streams.

12 Would those kinds of activities fall into the
13 categories under the antidegradation policy that would
14 require an approval because they might potentially
15 impact water quality?

16 MS. FULLAM: Commissioner Brancard, there is a
17 special provision under the antidegradation policy for
18 activities that are directly affecting human health or
19 safety, and wildfires, to my understanding, fall under
20 that category.

21 The Surface Water Quality Bureau and the
22 Department as a whole actually works closely with the US
23 Forest Service, and so when there's a fire and
24 postrestoration activities under a BAER plan, they work
25 hand-in-hand with our Surface Water Quality Bureau, and

1 because there is a provision for public health and
2 safety and getting in -- you know, if a bridge were to
3 come out or a forest fire comes in, we have provisions
4 under our regulations to allow that to be expedited and
5 not be held up with red tape.

6 COMMISSIONER BRANCARD: Right.

7 But I did see in our antidegradation policy
8 that certain activities would have to come to the
9 Commission for approval?

10 MS. FULLAM: Correct. There are activities
11 that do have to come to the Commission for approval. If
12 it is an emergency, though, they can initiate action
13 prior to coming to the Commission for approval.

14 COMMISSIONER BRANCARD: But then they would
15 have to come afterwards; is that correct?

16 MS. FULLAM: That's my understanding. It is a
17 little beyond the scope of the work that I do.

18 COMMISSIONER BRANCARD: Okay. Thank you.
19 That's helpful. Thank you very much.

20 MS. ARANDA: Just to clarify, Commissioner,
21 your question about the Taos Ski Valley permit, it is
22 the -- the designation is within -- it's sandwiched in
23 between two wilderness areas. So the area where the
24 permit is is not within -- it's private lands. So I
25 believe that would be a question for the petitioners, if

1 they would like to expand on that, just to clarify.

2 COMMISSIONER BRANCARD: Thank you.

3 HEARING OFFICER CHAKALIAN: Commissioner
4 Brancard, does that conclude your questions?

5 COMMISSIONER BRANCARD: Yes, it does. Thank
6 you.

7 HEARING OFFICER CHAKALIAN: Commissioner
8 Dominguez?

9 COMMISSIONER DOMINGUEZ: Thank you,
10 Mr. Hearing Officer.

11 And I appreciate my fellow Commissioner's
12 earlier questions, because he covered some of the
13 territory that I had questions on.

14 Ms. Fullam, Ms. Aranda, thank you for your
15 testimony.

16 So kind of piggybacking on Commissioner
17 Brancard's earlier questions about Colorado, are you
18 aware of whether Colorado's water quality standards are
19 similar to New Mexico?

20 MS. FULLAM: Commissioner Dominguez, I was
21 actually trying to look that up to verify that. And I
22 wasn't able -- it looks like they have a high -- they
23 have a cold water designation. I have to look in more
24 detail to find the specific designation they have.
25 Every state has different designated uses or terms for

1 their designated uses, and cold water in Colorado may be
2 a little bit different than cold water in New Mexico.
3 But it looks like there is a similar designated use.

4 COMMISSIONER DOMINGUEZ: Okay.

5 Are the current water quality standards at the
6 state boundary currently being met?

7 MS. FULLAM: Commissioner Dominguez, I would
8 have to look that up for you.

9 COMMISSIONER DOMINGUEZ: Okay.

10 MS. FULLAM: I think that was part of the
11 petitioner's testimony of the water quality and
12 Ms. Conn's testimony, but I can refer back to it and
13 confirm that if you need to.

14 COMMISSIONER DOMINGUEZ: Okay. Let's go with
15 a hypothetical, then. Let's assume there was
16 degradation as a -- as the water crossed from Colorado
17 to New Mexico at some future point and it impacted the
18 status of an ONRW.

19 What would be the process or implications
20 then?

21 MS. FULLAM: Commissioner Dominguez, that is a
22 very good question. Let me think about an applicable
23 response.

24 It poses a real question, and it's something
25 that we do need to consider. The designation of an ONRW

1 prevents -- essentially prevents permittees for existing
2 practices to add to the degradation. So if the
3 degradation is already occurring, that's not within the
4 scope of protections for an ONRW. It's strictly
5 antidegradation. So it would be for new discharges that
6 would impact that water.

7 So the question you pose is a little new, and
8 if there was a new permit that was in Colorado, they
9 would hopefully notify us, we would get to speak as a
10 downstream water, and we could work that out before they
11 issue a permit.

12 That would be my short answer.

13 COMMISSIONER DOMINGUEZ: Yeah. And thank you
14 for that answer, then. I'm not trying to put you on the
15 spot there, but this, I think, is -- from most of the
16 prior ONRWs that I've been involved in, this is the
17 first time we have a major segment crossing a state
18 line. So we're kind of moving into some new territory
19 there, and I'm just trying to wrap my head around that
20 if it -- if there's going to be potential implications
21 down the road that we haven't really accounted for.

22 So that's where my line of questioning is
23 coming from, is there.

24 MS. ARANDA: I can add. So --

25 COMMISSIONER DOMINGUEZ: Please.

1 MS. ARANDA: I -- I mean, it's -- the Rio
2 Grande -- that section of the Rio Grande is located
3 in -- in the Norte National Monument, and so I
4 wouldn't -- I would feel a little bit confident that
5 maybe there is some interstate communications regarding
6 the protection of the national monument. And I would
7 hope -- I don't know if that -- it's not like a
8 certainty. And from what I understand, there is an
9 impairment -- there is a TMDL for this segment for
10 temperature.

11 Does that help, Commissioner Dominguez?

12 COMMISSIONER DOMINGUEZ: Yeah. That kind of
13 fills in some blanks there, but I think there is still a
14 little bit of uncharted territory there and some gray
15 area that we really don't quite have answers to. As
16 long as there's no degradation, it doesn't appear it's
17 an issue. But we've also seen what waters from other
18 areas coming out of Colorado have contributed to New
19 Mexico in prior years. So it is an area of concern.

20 MS. FULLAM: Commissioner Dominguez, I -- you
21 made a point, and I'd like to, if I can, take the time
22 to expand on that a little bit.

23 COMMISSIONER DOMINGUEZ: Sure.

24 MS. FULLAM: The interest -- the interesting
25 part about an ONRW is that the water does not have to be

1 pristine for protection or designation as an ONRW. What
2 it does is it establishes -- that baseline water quality
3 data that's required, if it's available, that really
4 sets the line of where we would permit degradation to
5 occur below.

6 So if the water already -- you know, as
7 Ms. Aranda established, if there's a temperature
8 impairment, establishing it as an ONRW -- our goal is
9 always to make the water quality better, but that
10 doesn't prevent the protections that an ONRW gives. It
11 just sets that baseline that we would not permit it to
12 go any lower. And so we would always be looking to get
13 better.

14 An existing use is really the best water
15 quality it's ever been, the best use we've ever had
16 since 1975. And that's that next bar that we're inching
17 up towards. So a water does not need to, nor should it
18 have to have high water quality to be designated or
19 protected as an ONRW.

20 COMMISSIONER DOMINGUEZ: Thank you very much
21 for that. And thank you for leading into my next line
22 of questioning.

23 So let's talk about NPDES permits.

24 So in looking at your written testimony,
25 Ms. Fullam, you note that for the Rio Grande -- nothing

1 on the Rio Grande but for some of the tributaries --
2 there's three different discharge permits on
3 tributaries, the Chevron Mining, Questa Mine, and then
4 the Town of Red River Waste Water Treatment Plant.

5 Are all of those currently meeting standards
6 for their discharges?

7 MS. FULLAM: The two permits that I reference
8 to for Chevron Mining and the Town of Red River actually
9 discharge to the Red River, not to the Rio Grande. So
10 the Red River is a tributary to the Rio Grande. I did
11 not look into more details of Red River and impairments.
12 I think that there are some impairments on the Red River
13 from the top of my head. I would not be comfortable
14 quoting that, but it would be in our integrated report.

15 COMMISSIONER DOMINGUEZ: And with that said,
16 and looping back to your prior testimony, so if there --
17 if some of those do have impairments, that's just
18 setting the baseline that it cannot be anything greater
19 than that with those discharges, correct?

20 MS. FULLAM: Correct.

21 COMMISSIONER DOMINGUEZ: Okay. Thank you.

22 And now switching to Rio Hondo, the wastewater
23 discharge permit for Taos Ski Valley is there, correct?

24 MS. FULLAM: Correct.

25 COMMISSIONER DOMINGUEZ: And do you know if

1 that's currently meeting standards?

2 MS. FULLAM: Commissioner Dominguez, I do not
3 know off the top of my head. The permits are issued
4 through EPA, and they submit their reports directly to
5 EPA through a web app called NetDMR. And so I do not
6 have access nor did I look at their DMR reports to see
7 if they are in compliance or meeting their permit.

8 COMMISSIONER DOMINGUEZ: Okay. Thank you.

9 Let me ask more of a general question, then,
10 from a permitting side.

11 Are there pitfalls to having point source
12 discharges affiliated with an ONRW?

13 MS. FULLAM: Could you elaborate on what you
14 mean by a pitfall?

15 COMMISSIONER DOMINGUEZ: Pitfall -- sure,
16 since you didn't bite on that one.

17 So let's -- I'm still trying to kind of wrap
18 my head around the concept of ONRWs being the best of
19 the best and the most pristine waters, which you --
20 you've indicated that's not necessarily a criteria. I
21 think in general the public thinks of ONRWs as being the
22 best of the best.

23 But if we have discharge -- existing discharge
24 permits tied to those ONRWs, and if I'm correct in just
25 kind of remembering some of the prior TMDL hearings

1 affiliated with wastewater treatment plants around the
2 state, not all wastewater treatment plants currently are
3 able to meet standards. We have some -- some that have
4 issues and continue to have issues.

5 Is that correct?

6 MS. FULLAM: Commissioner Dominguez, that --
7 that's correct.

8 COMMISSIONER DOMINGUEZ: So as wastewater
9 treatment plants age and they potentially become
10 problematic, can that then become problematic for the
11 ONR designation? Is that a better explanation than the
12 word "pitfall"?

13 MS. FULLAM: Commissioner Dominguez, that adds
14 more clarity.

15 If I understand what you're trying to ask is
16 that if there's going to be degradation of the water
17 inherently wrapped around aging of wastewater treatment
18 plants and the inability to continually meet the permit
19 requirements -- is that -- is that what you're asking?

20 COMMISSIONER DOMINGUEZ: Yes.

21 MS. FULLAM: That is an in-depth question.
22 Let me see if I can simplify that.

23 The O -- like I was explaining, the ONRW sets
24 kind of a baseline of what would not be permitted to go
25 below ever again. And in general, what I've seen -- I

1 am not on the permitting section of things, but what I
2 have seen over the years is technology gets better, not
3 worse, and as wastewater treatment plants are required
4 to upgrade their facilities, we're getting better
5 treatment out of them.

6 So they do age, and as they age they start
7 failing, and we can start seeing -- and you can kind of
8 see in their monitoring reports when they're trending.
9 Engineers have been fairly good at estimating the
10 lifespan of a wastewater treatment plant, and it would
11 be the permittee's responsibility to ensure their plant
12 is always meeting their permit limits, and those permit
13 limits will be based on the antidegradation tier. And
14 if it's an ONRW, that sets the bar for that.

15 So I have some confidence that the system --
16 the permitting system is functional, that wastewater
17 treatment plants are held to an accountability for
18 meeting standards in their permit, and so as that --
19 it's inevitable it will happen. It's my understanding
20 that we have mechanisms in place to ensure that the
21 degradation does not occur.

22 COMMISSIONER DOMINGUEZ: Thank you for that
23 answer. That helps.

24 I'm still trying to wrap my head around the
25 concept of whether it's a good idea or not of having a

1 point source discharge into an ONRW. So I'm just trying
2 to wrap my head around that -- that aspect.

3 So let's move to another aspect, and not to
4 pick on Ms. Fullam, so, Ms. Aranda, if you want to add
5 anything into any of this, feel free to do so.

6 Ms. Fullam --

7 MS. ARANDA: (Unintelligible and/or
8 inaudible.)

9 COMMISSIONER DOMINGUEZ: Please, go ahead.

10 MS. ARANDA: Yeah. No. My forte is not the
11 permitting, and so I -- this is -- were you -- were you
12 addressing that still, the permitting side?

13 COMMISSIONER DOMINGUEZ: Sure.

14 MS. ARANDA: Yeah. So for the TMDLs that are
15 in place for -- like we were talking about the Rio
16 Grande and then the Rio Hondo. Those are protective
17 TMDLs. And so if you -- if there is a degrading -- some
18 degradation already occurring, which is not -- an ONRW
19 will still be able to be in place, as Ms. Fullam
20 commented, and we can only do better. And those TMDLs
21 are in place, the ONRWs would kind of -- I see it as a
22 solidification of expansion. So the -- the point source
23 will not expand in any regard.

24 And so I guess every permit that the ski basin
25 would bring from -- on -- like once the ONRW is in

1 place, it would have to be reviewed by the Commission.
2 So I think that the -- the issues that -- the
3 hypothetical issues of the future will be in the laps of
4 a hypothetical future Commission and a hypothetical NMED
5 to help us guide us through this. But as of now, they
6 are the protective TMDLs, there is the protective
7 standards, and this would just be a step further from
8 that.

9 That's my opinion.

10 COMMISSIONER DOMINGUEZ: Thank you,
11 Ms. Aranda.

12 So then hypothetically it will be a whole new
13 Commission and not my problem to deal with down the
14 road. So maybe I'm overthinking this. So --

15 MS. ARANDA: Seven generations. We have to
16 look seven generations back, seven generations.

17 COMMISSIONER DOMINGUEZ: Okay. Ms. Fullam,
18 I'm looking at your written testimony, and you were --
19 you had discussed about Taos Ski Valley area and
20 stormwater runoff from roadways and such as that, and
21 you indicate that the existing permitted activities may
22 continue, however maintenance or construction on the
23 roads or structures within the area in and around Lake
24 Fork Creek, if they were determined to pose temporary or
25 short-term degradation, the water quality would require

1 notification and approval to the Commission.

2 So -- and you heard some of the earlier
3 testimony in my line of questioning around Ski Valley;
4 is that correct?

5 MS. FULLAM: Yes. That's correct.

6 COMMISSIONER DOMINGUEZ: So if there is going
7 to be new construction in the village area or the Ski
8 Valley itself that could potentially cause degradation,
9 then that would trigger the permitting and review
10 process under the antidegradation policy; is that
11 correct?

12 MS. FULLAM: Commissioner Dominguez, I would
13 give a strong caveat that it would cause degradation or
14 increased discharges to Lake Fork or the Rio Hondo. If
15 they did construction and it was -- and most
16 construction -- again not permitting, it's not my
17 expertise, but there are provisions in place that have
18 to ensure that construction areas are protected from
19 everything just running off into a tributary. If there
20 were to be degradation to the water based on their
21 activities, the regulations require notification and
22 discussion -- or approval by the Commission.

23 COMMISSIONER DOMINGUEZ: Okay. Thank you.

24 That's the section I'm actually looking at of
25 20.6.4.8 --

1 MS. FULLAM: Okay.

2 COMMISSIONER DOMINGUEZ: -- A.(3). Yes. So
3 it turns into a 30-day public comment period, et cetera,
4 and comes before the Commission.

5 MS. FULLAM: Right.

6 COMMISSIONER DOMINGUEZ: So my -- in looking
7 at your written testimony where you're referring to
8 maintenance and construction of the roads or structures
9 in the area, that they might potentially have to come
10 before the Commission through a 30-day comment period
11 and approval by the Commission before they could
12 actually do some maintenance and/or construction; is
13 that correct?

14 MS. FULLAM: Commissioner Dominguez, that
15 would be correct. I -- it's still -- I think it is very
16 important to underline that business owners generally
17 are going to try and not cause degradation. I think
18 there is support from Taos Ski Valley for this ONRW
19 designation that gives the Department some confidence
20 that they're -- one, they are aware of the regulations,
21 they're in support of protecting water quality, and they
22 understand that if there was expansion that were to
23 cause degradation of water quality, that they would be
24 held to the regulatory processes we have in 20.6.8.

25 COMMISSIONER DOMINGUEZ: I am in hopes you are

1 exactly correct that they fully understand the full gist
2 of 20.6.4.8. So -- so I think we've sort of covered
3 Taos Ski Valley there.

4 Let me circle back to an area that
5 Commissioner Brancard covered earlier, talking about
6 responses on forest fire activities.

7 And you covered the response activity very
8 well, where it would be handled under the emergency
9 response section of the antidegradation policy.

10 Let's move away from the response activities
11 to forest health maintenance activities to hopefully
12 prevent a fire. So let's say we have an ONR designation
13 that's in or adjacent to Forest Service land and the
14 Forest Service is going to take proactive measures to do
15 forest thinning, forest health activities.

16 If those activities could potentially cause
17 temporary degradation, would they -- would the Forest
18 Service need to come before the Commission under
19 20.6.4.8A.(3) to get permitting process to do forest
20 health activities?

21 That was a very long, convoluted question.
22 Let me know if I need to parse it.

23 MS. FULLAM: Commissioner Dominguez, under all
24 the theoretical ifs, as you've described it, yes. They
25 would have to -- it would have to be an activity that

1 was going to cause degradation.

2 We do have a clause that if it's for the
3 restoration of the chemical, physical or biological
4 integrity of the water, restoration activities are
5 permitted under an ONRWS, because, you know, they're
6 short-term, they're time sensitive, and overall it leads
7 to the general health of the water.

8 I can't speak on the theoretical kind of
9 scenario specifically of whether that activity would
10 fall under restoration that, you know, enhances the
11 biological, chemical or -- chemical, biological or
12 physical integrity of the water.

13 But we would have to evaluate that on a
14 one-on-one basis. I think that the ifs that you
15 provided, definitely possible. Whether they are
16 probable, most thinning activities, unless they're
17 highly destructive or clear-cut, I would not presume
18 them to be severely impactful of water quality.

19 So yes. In the scenario you painted, I would
20 say yes, they would have to go before the Commission.
21 We want to make sure the water quality is protected, and
22 if it was that significant, they would probably have to
23 go through that level of notification and approval by
24 the Commission.

25 I don't know if that would ever be the case.

1 MS. ARANDA: The way I interpret the
2 antidegradation is that no matter -- I mean, because
3 it's for public safety, for public health, and all those
4 activities would fall under that, and it requires a
5 30-day public review, a comment period, and the
6 Commission would determine allowing temporary or -- it
7 would determine whether to allow this temporary
8 short-term degradation. That's the way I would
9 interpret it.

10 I would -- if -- if a stakeholder came to us,
11 I think we would recommend to talk to the Commission,
12 independently of anything. But that's the way I
13 understand the antidegradation rule.

14 And at the end of the day, all permittees are
15 required to use best management practices, and all
16 permittees are held accountable for the -- for the water
17 quality, no matter if it has an ONRW or not. That is
18 their responsibility as a -- as a permittee.

19 COMMISSIONER DOMINGUEZ: Very good.

20 Thank you, both, for those clarifications. I
21 think -- I think everybody's got the ultimate goal of
22 keeping our good water good and are making things
23 better, and as we try to -- try to work on watershed
24 health, well, obviously, forest health is a key aspect.
25 And I'm just trying to make sure that an ONRW

1 designation doesn't create unintended consequences that
2 limits the ability to conduct forest health activities
3 that ultimately helps water quality, but they're --
4 getting from point A to point B could have some
5 unintended consequences.

6 I think I'm down to one -- speaking of the
7 antidegradation policy and potentials for temporary or
8 short-term degradation, and I'll ask this question and
9 see if -- if any of the attorneys object to my question.

10 But speaking of temporary degradation, the
11 current NMAC allows for the use of piscicides without
12 the permitting process.

13 However, in an ONRW would we then be back to
14 doing the 30-day comment and approval by the Commission
15 for the use of a piscicide within an ONRW?

16 I've reviewed the piscicide, or piscicide,
17 depending on where you're from, section of the NMAC, and
18 I don't find something that addresses ONRWs. It's just
19 focused on the qualifications for an NPDES permit, which
20 that's what we built into that when we modified it a
21 number of years ago.

22 But the fact that a piscicide could be
23 considered of causing a temporary degradation, I'm
24 trying to wrap my head around it if we would be back in
25 the loop of Game and Fish coming before WQCC in order to

1 restore and maintain the physical or biological
2 integrity of the surface water.

3 So that had a whole lot of, as you say,
4 hypothetical what ifs, but could you shed any sort of
5 light on that?

6 MS. ARANDA: So your interpretation of
7 20.6.4.16B, which is the 30 days of receive of the
8 petition, the Department shall review the petition and
9 file recommendations regarding plan -- like the use of
10 piscicide?

11 COMMISSIONER DOMINGUEZ: Well, actually, I
12 didn't know if it would be there or if that would be
13 handled under 20.6.4.8A.(3) under the antidegradation
14 policy.

15 MS. ARANDA: Yeah --

16 MS. FULLAM: Commissioner --

17 MS. ARANDA: Either way it has to go through
18 the Commission for a 30-day --

19 Yes, Ms. Fullam?

20 MS. FULLAM: Yeah. Commissioner Dominguez, I
21 think the regulatory ropes that you would go through is
22 we start out in 20.6.4.16, which is the planned use of a
23 piscicide, which is covered under a national permit. I
24 do not have the national permit in front of me to know
25 what the limitations or the allowances are for that.

1 If that national permit were to speak to ONRWS
2 as specifically being excluded, then yes, we would go
3 back to 20.6.4.8 for notification and the use of it,
4 because I think at that point it may or may not be
5 covered under that national NPDES permit.

6 That's probably how I would approach it on
7 the -- on -- you know, start with Section 16, see if
8 it's covered under that national permit. If it is, then
9 you follow through with 16. If it's specifically
10 excluded because of the designation of the water, then
11 we would go through that notification process in
12 Section 8.

13 COMMISSIONER DOMINGUEZ: Very good.

14 Thank you, both, for trying to shed some light
15 on there, and albeit that that wasn't exactly within the
16 scope of either of your testimony, and I thank
17 Mr. Verheul for not objecting to my question.

18 So I did notice that one of my fellow
19 Commissioners had -- I may have gained his attention in
20 that. So if he has any insight, that would be great.

21 Otherwise, I believe that covered all the
22 questions I have. Ms. Fullam, Ms. Aranda, thank you
23 very much for your testimony and for indulging my
24 lengthy hypothetical what if questions.

25 Mr. Hearing Officer, that concludes my line of

1 questioning.

2 HEARING OFFICER CHAKALIAN: Are there any
3 other Commissioners who have cross-examination questions
4 for these witnesses?

5 COMMISSIONER PATTEN: Mr. Hearing Officer,
6 this is Commissioner Patten.

7 HEARING OFFICER CHAKALIAN: I can barely hear
8 you, sir.

9 COMMISSIONER PATTEN: Okay. Can you hear me
10 better now?

11 HEARING OFFICER CHAKALIAN: Yes, sir.
12 Please proceed.

13 COMMISSIONER PATTEN: Okay.

14 I just wanted to comment quickly on
15 Commissioner Dominguez' noticing my interest in his
16 questions. I'm not a -- obviously not a witness in this
17 situation so I think I can follow up with him at a later
18 date and answer his questions.

19 HEARING OFFICER CHAKALIAN: So you don't have
20 any questions for these two witnesses.

21 COMMISSIONER PATTEN: No, I do not. Thank
22 you.

23 HEARING OFFICER CHAKALIAN: Okay. Thank you.

24 Do we have any other Commissioners with
25 questions before we turn to the public to see if they

1 have any cross-examination?

2 Do we have any members of the public who want
3 to cross-examine these two witnesses?

4 Okay. Before we go back to public comment,
5 Mr. Verheul, does that --

6 MR. JOAQUIN ARGUELLO: Yes. I have a
7 question.

8 HEARING OFFICER CHAKALIAN: Who is asking
9 what?

10 MR. JOAQUIN ARGUELLO: Yeah. My name is
11 Joaquin Arguello. I was one of the people who testified
12 earlier.

13 HEARING OFFICER CHAKALIAN: Okay.

14 So. Mr. Arguello, do you understand the scope
15 of cross-examination?

16 MR. JOAQUIN ARGUELLO: Only that I'll ask a
17 question, they'll answer.

18 HEARING OFFICER CHAKALIAN: No. It doesn't
19 work that way.

20 Tell me what the question is first.

21 EXAMINATION

22 BY MR. JOAQUIN ARGUELLO:

23 MR. JOAQUIN ARGUELLO: The question is in
24 regards to the conversation that just happened and in
25 relations to what the baseline would be considered in

1 terms of if this protection does happen for the Rio
2 Hondo. And my question is specifically would the
3 baseline be what is defined as a healthy river, whether
4 or not the Taos Ski Valley is meeting -- is meeting any
5 said environmental standards, or would the baseline be
6 at whatever level the Taos Ski Valley is currently
7 impacting the river.

8 HEARING OFFICER CHAKALIAN: Okay. Let's find
9 out from the witnesses.

10 Do either of the witnesses feel as though they
11 could testify to that question?

12 MS. FULLAM: Mr. Hearing Officer, I could try
13 to elaborate on that.

14 HEARING OFFICER CHAKALIAN: Please,
15 Ms. Fullam.

16 MS. FULLAM: Thank you for your question.
17 Thank you for your comments. It's greatly appreciated.
18 We do enjoy hearing what the public has. It is
19 important for us.

20 To answer your question or try and clarify a
21 little bit, baseline water quality is the water quality.
22 The petitioner submitted data that was obtained from New
23 Mexico Environment Department and was based on surveys
24 that we did on all of these waterbodies, including we
25 did all sorts of waterbodies, but they narrowed it down

1 to the waterbodies that are nominated.

2 And the baseline water quality is that water
3 quality at least for those surveys, because that was
4 submitted, and so it doesn't really matter what the Taos
5 Ski Valley is maintaining. It has to meet that water
6 quality.

7 It does not necessarily mean that it is a
8 healthy river, although the petitioners did give
9 testimony that we're saying in specific the Rio Hondo
10 and Lake Fork were meeting water quality standards. And
11 so that could give you indication that it is a -- it's
12 got water quality sufficient to support aquatic life.
13 And I believe there's primary contact on those
14 tributaries.

15 So baseline water quality isn't necessarily
16 relevant to the discharger. It's relevant to the water
17 quality that the river has been able to meet.

18 We also have what's called an existing use,
19 which is the best water quality, the best uses that the
20 river has been able to attain any time since 1975. So
21 if the water quality was of lesser quality now than it
22 was in 1980, the 1980 water quality is the one that we
23 would protect for.

24 Does that answer the question?

25 MR. JOAQUIN ARGUELLO: Yes, that does. Thank

1 you so much. And I just -- that was a multi-part
2 questioning. That example really answered that for me.
3 So thank you.

4 MS. FULLAM: You're welcome.

5 HEARING OFFICER CHAKALIAN: Okay. Thank you.

6 Are there any other public members who have
7 cross-examination for these two witnesses?

8 Mr. Verheul, in light of the cross-examination
9 ending, are you ready to rest your case?

10 MR. VERHEUL: The Department does rest its
11 case at this time.

12 HEARING OFFICER CHAKALIAN: Okay. Thank you,
13 sir.

14 We're going to go back and take some more
15 public comment. We have four people that have been
16 waiting patiently --

17 MS. FOX: Mr. Hearing Officer?

18 HEARING OFFICER CHAKALIAN: Ms. Fox.

19 MS. FOX: Mr. Hearing Officer, I have some
20 follow-up from the Commission's questions.

21 HEARING OFFICER CHAKALIAN: You have some
22 follow-up for his witnesses. I don't understand what
23 you're asking.

24 MS. FOX: I have follow-up from the Commission
25 questions for these witnesses, if I could be allowed.

1 HEARING OFFICER CHAKALIAN: These are the
2 Department's witnesses. So I don't understand what you
3 mean by follow-up.

4 MS. FOX: Follow-up to the Commission's
5 questions.

6 HEARING OFFICER CHAKALIAN: Oh, I understand
7 that part.

8 MS. FOX: Okay.

9 HEARING OFFICER CHAKALIAN: I understand what
10 you're saying. But I don't understand procedurally why
11 you think that's allowed because these are his
12 witnesses. These are Mr. Verheul's witnesses.

13 MS. FOX: That's correct, Mr. Hearing Officer,
14 but in the past it's been the frequent practice of
15 allowing other Commission -- other counsel to conduct
16 short follow-up of other parties' witnesses after
17 Commission questions, especially after such an extensive
18 examination that was conducted by Mr. Dominguez.

19 So I request leave.

20 HEARING OFFICER CHAKALIAN: I tell you what,
21 Ms. Fox. If you want to send your questions to
22 Mr. Verheul to ask, they're his witnesses, that would be
23 on redirect, that would be fine with me. But I don't
24 know procedurally how that would work. Okay?

25 So why don't we take these four public

1 members, let's let them -- let's let them make their
2 comment, and that way you and Mr. Verheul can work out
3 these questions of his witnesses.

4 So, Ms. Jones.

5 MS. JONES: Yes. The first name is someone
6 from this morning, Fabiola Teter.

7 HEARING OFFICER CHAKALIAN: Was she already
8 sworn in, Ms. Jones?

9 MS. JONES: No.

10 HEARING OFFICER CHAKALIAN: Let's get all four
11 members on the camera so that we can have Ms. Arreguin
12 swear them in.

13 MS. JONES: The four names I have are Garrett
14 Altmann, Larky Hodges, Fabiola Teter, Garrett
15 VeneKlasen.

16 HEARING OFFICER CHAKALIAN: Let me know when
17 you see all four of them.

18 MS. JONES: I see Garrett.

19 Garrett, what is your last name?

20 MR. VENE KLASSEN: VeneKlasen.

21 MS. JONES: Okay. This is Garrett VeneKlasen.

22 HEARING OFFICER CHAKALIAN: And the other
23 three?

24 MS. JONES: I don't see them on camera,
25 Mr. Hearing Officer.

1 HEARING OFFICER CHAKALIAN: Okay. Then let's
2 go with Mr. VeneKlasen.

3 Ms. Arreguin, will you swear him in.
4 And I don't see you on the camera yet.

5 THE REPORTER: I'm here, and I see
6 Mr. VeneKlasen.

7 HEARING OFFICER CHAKALIAN: Okay. Great.
8 Thank you.

9 GARRETT VENE KLASEN
10 having been first duly sworn or affirmed, gave
11 public comment as follows:

12 PUBLIC COMMENT

13 THE REPORTER: Would you state and spell your
14 full name, please.

15 MR. VENE KLASEN: Garrett VeneKlasen,
16 G-A-R-R-E-T-T V-as-in-Victor-E-N-E-K-L-A-S-E-N.

17 HEARING OFFICER CHAKALIAN: Okay. You have
18 three minutes.

19 MR. VENE KLASEN: Good afternoon, Madam Chair,
20 Commissioners.

21 Garrett VeneKlasen with New Mexico Wild.

22 I live here in Taos County, avid outdoor
23 recreationist, hunter, angler, skier, boater, fisherman.
24 Just love the outdoors, and I love our public lands.

25 So there's over 2,200 verbal and written

1 supporters of this designation representing local
2 ranchers, farmers, acequia parciantes, land grant heirs,
3 pueblo members, business owners, hunters, anglers, and a
4 wide variety of outdoor recreation enthusiasts.

5 The fact that New Mexico Division of Outdoor
6 Recreation, NMED and New Mexico Department of Game and
7 Fish are supporting this designation illustrate the
8 state administrative support across the board. I
9 applaud Governor Lujan Grisham for allowing this level
10 of state agency support. I also applaud the high level
11 of Congressional delegate and local support from local
12 elected officials, including City Council and County
13 Commission support.

14 ONRW protections give New Mexicans more tools
15 as a state to protect our water quality from upstream
16 degradation, which is a good thing and should be
17 embraced by the Commission.

18 I also want to note that there is a
19 cross-border ONRWs type designation between Wyoming and
20 Colorado. So there is precedent for this.

21 And I just urge Commissioners to deliberate on
22 this designation today. I think the overwhelming
23 support might just warrant that.

24 So thanks for your consideration, and very
25 much appreciate your time.

1 HEARING OFFICER CHAKALIAN: Thank you.

2 Ms. Jones?

3 MS. JONES: I can again call the three names
4 that are on my list remaining, and that would be Garrett
5 Altmann, Larky Hodges, Fabiola Teter.

6 Mr. Hearing Officer, I don't get a response
7 from any of them.

8 HEARING OFFICER CHAKALIAN: Thank you. Let me
9 know if you --

10 MS. JONES: Oh, wait.

11 MS. TETER: Are you able to hear me?

12 This is Fabiola Teter.

13 MS. JONES: Yes, ma'am.

14 HEARING OFFICER CHAKALIAN: Yes. Ms. Teter,
15 you have to turn your camera on.

16 MS. TETER: All right. Thank you so much.

17 I apologize for having to leave shortly for a
18 medical --

19 HEARING OFFICER CHAKALIAN: Ms. -- Ms. Teter?
20 Would you turn on your camera, please?

21 MS. TETER: Okay. Did that turn on --

22 HEARING OFFICER CHAKALIAN: Down on the
23 bottom -- down on the bottom it says Start Video.

24 MS. TETER: Yes. And I'm -- okay. I've got
25 that now.

1 HEARING OFFICER CHAKALIAN: Okay. There you
2 go.

3 You're going to be sworn in and then asked to
4 spell your name, and you have three minutes after that.
5 So please proceed.

6 MS. TETER: Yes.

7 FABIOLA TETER

8 having been first duly sworn or affirmed, gave
9 public comment as follows:

10 PUBLIC COMMENT

11 THE REPORTER: Thank you.

12 And spell your name, please.

13 MS. TETER: My -- it's

14 F-as-in-Frank-A-B-I-O-L-A, last name is

15 T-as-in-Tom-E-T-E-R.

16 HEARING OFFICER CHAKALIAN: Please proceed.

17 MS. TETER: Yes. What I would like to first
18 of all say is thank you for allowing this type of
19 testimony from the various members that have come before
20 you.

21 I concur with all of what the members have
22 said. However, there was one testimony from Ms. Rivera
23 that I do not concur with, and that is simply because my
24 mother was a member and president of the Farm Bureau
25 Association, and at that time the focus was with farming

1 and ranching. My mother lived to be a hundred years
2 old, and up to that point she managed her ranching and
3 farming business. She was a teacher for 30 years. She
4 lived in this community from the time she was born.

5 I live in the home that my -- that she lived
6 in, that my grandparents owned. She was a
7 commissioner -- a ditch commissioner for many years. I
8 have been a ditch commissioner and up to this time have
9 been instrumental in ensuring the quality and quantity
10 of the water in the Rio Hondo. She is featured in the
11 history of New Mexico family and personal history for
12 documentation on her family history over that period of
13 time.

14 I still irrigate a great number of acreage in
15 Arroyo Hondo, and as such am very interested in
16 continuing to protect the quality and the quantity of
17 the water in the Rio Hondo. I've also been instrumental
18 in working in -- on issues with EPA and at the federal
19 level regarding the pollution that has occurred in the
20 past with Taos Ski Valley. It continues to be a problem
21 for us because of the additional and continued
22 development that is going on at Taos Ski Valley.

23 But we are -- have a shortage of water. The
24 additional development that is taking place and will
25 continue to take place will only deplete the amount of

1 water that comes through that river.

2 I think it's important to -- for the
3 designation that is being requested, because for
4 generations local communities have depended on clean
5 water in our New Mexico rivers in order to feed our
6 acequia systems and our people. The designation ensures
7 that the clean water will continue to flow downstream to
8 the farmers, the ranchers and communities that depend on
9 the acequia water for their crops, their gardens and
10 their livestock and the human life.

11 MS. JONES: That's three minutes.

12 HEARING OFFICER CHAKALIAN: Thank you. Thank
13 you, Ms. Teter.

14 MS. TETER: You're welcome.

15 I hope you all consider my testimony as --

16 HEARING OFFICER CHAKALIAN: Thank you,
17 Ms. Teter.

18 MS. TETER: Thank you so --

19 HEARING OFFICER CHAKALIAN: Thank you, ma'am.
20 Appreciate it.

21 Okay. Let's go back to Mr. Verheul.

22 Mr. Verheul, do you have any follow-up to the
23 questions that were asked on cross-examination for your
24 witnesses?

25 MR. VERHEUL: Mr. Hearing Officer, I have no

1 questions on redirect for any of my witnesses.

2 HEARING OFFICER CHAKALIAN: Okay. All right.

3 Okay. Ms. Jones, that concludes the public
4 comment?

5 MS. JONES: Yes, sir.

6 HEARING OFFICER CHAKALIAN: Okay.

7 And both parties have rested.

8 So the Commission, as your Hearing Officer, I
9 would declare that the evidentiary record is now closed
10 in this matter and that we should discuss whether or not
11 you want to deliberate at this time or if you would like
12 me to prepare a posthearing report and go that route.

13 CHAIR STRINGER: Thank you, Mr. Hearing
14 Officer.

15 I'd like to open it up for discussion from the
16 Commissioners to see if we have any feedback on a
17 preference as to deliberate and make a decision now or
18 if a Hearing Officer report would be desired. The
19 public notice did mention that we could make the
20 decision today. So that is -- as every -- a few people
21 have stated, that is allowable.

22 I'll start the discussion to say that I am
23 prepared to make the decision today and do the
24 deliberations and conclude this matter if that's the
25 desire of the fellow Commissioners. I believe we have

1 to take a vote on that if I'm correct.

2 Commissioner Dominguez?

3 COMMISSIONER DOMINGUEZ: Thank you, Madam --
4 or Madam Chair.

5 I have actually just more of a schedule
6 question.

7 Are we -- as far as the meeting itself, was
8 there an intention of taking a lunch break at any point
9 in time?

10 I didn't quite -- I was under the assumption
11 that we would build something in there. For blood sugar
12 aspects, I need to eat periodically, and I was not aware
13 that we were going to just push through the whole day.

14 So that's more of a scheduling question.

15 CHAIR STRINGER: So once the hearing opened,
16 the scheduling was left to the Hearing Officer.

17 So, Mr. Chakalian, do you want to respond to
18 that comment? Because we're technically still in the
19 hearing.

20 HEARING OFFICER CHAKALIAN: Commissioner
21 Dominguez, I thought one of the benefits to having a
22 virtual hearing was that people could turn off their
23 cameras, their microphones and take small breaks for
24 nourishment, but if that's not your understanding, then
25 I guess in the future we can build in a break during the

1 hearing.

2 So I hope that answers your question.

3 COMMISSIONER DOMINGUEZ: Yes, it does. It's
4 more for planning purposes. If I was teleworking and I
5 had a refrigerator in the hallway, that would be fine.
6 Working out of an office as I do now and have been since
7 last June, I just need to be able to plan ahead. So as
8 long as we know as Commissioners ahead of time what to
9 plan for, that's great. I'm just asking for that
10 consideration of giving us a heads-up of what the
11 process is going to be so that we can plan accordingly.

12 CHAIR STRINGER: I think that's a good point,
13 Commissioner Dominguez, for us to all be prepared. I
14 know I ate my last breakfast bar a little while ago and
15 was getting a little hungry.

16 But if -- if I can get any feedback from the
17 Commissioners on a desire to perhaps take a lunch break
18 and return to deliberate or if a request for a Hearing
19 Officer report would be preferred.

20 Mr. -- Commissioner Brancard?

21 COMMISSIONER BRANCARD: Chair, I don't know if
22 we need a Hearing Officer report, but I believe at the
23 next meeting we're going to be deliberating on another
24 ONRW case. I wonder if there might be a benefit to
25 having, say, both of them at the same time, one after

1 the other.

2 CHAIR STRINGER: That makes very good logical
3 sense. And yes, we do plan to deliberate on the Pecos
4 Outstanding National Resource Water at the next
5 Commission meeting in July.

6 HEARING OFFICER CHAKALIAN: And, Mr. Brancard,
7 since you brought it up, I'll let you know that the
8 report is finished. In a few days it will go to the
9 parties for a seven-day comment period. When they make
10 their comments, I will then file the final report with
11 the Commission on or about the 28th or 9th of June. So
12 it would be ready for your July meeting.

13 CHAIR STRINGER: So given the comment made by
14 Commissioner Dominguez and the suggestion from
15 Commissioner Brancard, I would propose that we pass a
16 motion to deliberate both of those at the next meeting,
17 and we'll have the report, but we are not requesting a
18 Hearing Officer report for this particular matter.

19 Do I have a second -- or I guess a motion?
20 That's my motion. Sorry.

21 COMMISSIONER SYPHER: Madam Chair -- Madam
22 Chair, I would so move. This is --

23 CHAIR STRINGER: Okay.

24 COMMISSIONER SYPHER: This is Mr. Sypher.

25 CHAIR STRINGER: Thank you, Vice-chair Sypher.

1 I was going to rephrase mine as a motion, but
2 I will second your motion.

3 And shall we have a roll call vote to solidify
4 that?

5 Ms. Jones?

6 MS. JONES: Yes, ma'am.

7 Commissioner Brancard, how do you vote?

8 COMMISSIONER BRANCARD: Yes.

9 MS. JONES: Commissioner Candelaria?

10 COMMISSIONER CANDELARIA: Yes.

11 MS. JONES: Commissioner Dominguez?

12 COMMISSIONER DOMINGUEZ: Yes.

13 MS. JONES: Commissioner McWilliams?

14 COMMISSIONER MC WILLIAMS: Yes.

15 MS. JONES: I don't believe Commissioner Mody
16 has joined us.

17 Commissioner Patten?

18 COMMISSIONER PATTEN: Yes.

19 MS. JONES: Has Commissioner Rader joined us?

20 Vice-chair Sypher?

21 COMMISSIONER SYPHER: Yes.

22 MS. JONES: Commissioner Velasquez?

23 Commissioner Vigil?

24 COMMISSIONER VIGIL: Yes.

25 MS. JONES: Let me loop back around.

1 Commissioner Velasquez, how do you vote?

2 Chair Stringer?

3 CHAIR STRINGER: Yes.

4 MS. JONES: Madam Chair, the motion passes.

5 CHAIR STRINGER: Okay. Thank you.

6 And we have comment from Counsel Sanchez.

7 MR. SANCHEZ: Thank you, Madam Chair, Members
8 of the Commission.

9 I -- I agree that in this particular case a
10 Hearing Officer report is probably not indicated or even
11 necessary.

12 The only question I would have is will the
13 parties nonetheless be allowed to file posthearing
14 submissions by way of proposed statements of reason?

15 Thank you.

16 CHAIR STRINGER: Commissioner Sanchez, I'm
17 very sorry. My earbuds died, and I had to switch, and I
18 missed your comment switching out.

19 Would you mind repeating what you just said?

20 MR. SANCHEZ: Not at all. I'll try to
21 recapture fairly what I said.

22 I agree that in this particular case a Hearing
23 Officer's report is not indicated or in fact not
24 necessary.

25 The only question I had is whether the parties

1 would be allowed to file posthearing submissions by way
2 of proposed statements of -- statements of fact -- or --
3 I'm sorry -- statements of reasons. My apologies.

4 I think that fairly captures what you -- what
5 you missed.

6 CHAIR STRINGER: Okay. Thank you.

7 And that question would be directed to the
8 Hearing Officer.

9 HEARING OFFICER CHAKALIAN: Okay. Let me see
10 if I understand Counsel Sanchez' question, is would the
11 parties be allowed to submit posthearing submissions.

12 Once the hearing is over and if a report is
13 not required by the Commission, I would need to look at
14 20.1.6, posthearing procedures. So give me one moment,
15 and I will pull that up.

16 In the meantime I wanted to address the
17 SmartComment, or better known as the public comment
18 portal.

19 Ms. Jones being the administrator will put
20 together a public comment report for all written comment
21 that has come in and make that available to the
22 Commissioners.

23 And what she has done for me in the past and
24 the way it is attached as an exhibit to my report in the
25 Pecos matter is she has done a direct data export of all

1 the comments and the petitions. The petitions are
2 included, as well. And she has put any negative -- any
3 comment made in opposition at the top of the list,
4 because in the Pecos matter there was one comment in
5 opposition -- or were there two, Ms. Jones? I forgot.
6 One or two. And then there were several hundred in
7 favor. And I have a feeling it would be the same in
8 this case.

9 Does the Commission have a preference on how
10 it would like that report?

11 CHAIR STRINGER: I don't hear any preferences
12 or see any hands raised to express a preference.

13 I have viewed all of the comments that were
14 made to the public comment portal as of last night so
15 they're easily viewable. But I think organizing it in
16 such a manner makes sense to me. And I'll have access
17 to all of them regardless. We'll have access to all of
18 them regardless.

19 HEARING OFFICER CHAKALIAN: Okay.

20 So under 20.1.6.304 -- and, Counsel Sanchez,
21 let me know --

22 Oh, and by the way, Ms. Arreguin, when will
23 you have a transcript -- a verbatim transcript for this
24 hearing?

25 THE REPORTER: Before 10 days.

1 HEARING OFFICER CHAKALIAN: Before 10 days.

2 And I believe it's being paid for by the
3 petitioner?

4 THE REPORTER: I do not know that.

5 HEARING OFFICER CHAKALIAN: I think that's
6 what's in my scheduling order. I'm looking at this rule
7 right now, but I think that's what's in the scheduling
8 order, and I think that's what the rule requires, as
9 well.

10 Mr. Verheul, do you disagree with that?

11 MR. VERHEUL: I don't think the rule requires
12 it, Mr. Hearing Officer, but I do specifically recall it
13 being in your scheduling order.

14 HEARING OFFICER CHAKALIAN: Okay. Because I
15 think we did discuss it in January when we met at our
16 conference.

17 Okay. And the Department's new procedure is
18 to put the transcript on the Docketed Matters web page
19 for anyone to access, for those who might want to read
20 it, members of the public. You will be able to find it
21 there.

22 Posthearing submissions. The Hearing Officer
23 may allow the record to remain open. We're not doing
24 that today. The Hearing Officer's determination
25 regarding posthearing submissions shall be announced at

1 the concluding -- conclusion of the hearing. And
2 considering whether the record will remain open, the
3 Hearing Officer shall consider the reasons why. We
4 don't have to worry about that.

5 The report. Hearing Officer shall file a
6 report. The report shall identify --

7 Madam Chair and Mr. Sanchez, I see 304. I
8 don't see where it involves the Hearing Officer on
9 whether or not posthearing submissions are allowable
10 outside of whether the record stays open. So I guess I
11 would like -- I would look to Counsel Sanchez and see
12 what his interpretation is.

13 MR. SANCHEZ: Madam Chair, if I might, please.

14 CHAIR STRINGER: Yes, Counsel Sanchez.

15 MR. SANCHEZ: Hearing Officer Chakalian, what
16 I'm relying on is a distinction you've made in the past
17 between what you call the evidentiary record and other
18 matters. You certainly closed the evidentiary record as
19 you have today in previous cases, but allowed
20 posthearing submissions by way of closing statements and
21 statements of -- statements of reason. So it was that
22 distinction that I was looking to.

23 And I see both counsel for the Department and
24 for the petitioner have their cameras on. Perhaps you'd
25 allow them to comment on -- on the question.

1 HEARING OFFICER CHAKALIAN: I'd be happy to.
2 But you asked me what I thought, and in the past the
3 posthearing submissions were for my report. In this
4 case I'm not producing a report, and it would only be --
5 it would be outside that.

6 So let's hear from both of the attorneys.

7 Ms. Fox?

8 MS. FOX: Thank you, Mr. Hearing Officer.

9 We don't -- if it's the pleasure of the
10 Commission, we don't have objection to filing
11 posthearing briefs, although I'm not sure that it's
12 necessary in this case, given the evidence in this
13 matter, on the one hand.

14 On the other hand, I do have a scheduling -- I
15 do have some scheduling issues. I will be gone two
16 weeks beginning this Friday, and that's going to then
17 cut it perilously close to when the next Commission
18 meeting is.

19 HEARING OFFICER CHAKALIAN: And before we go
20 to Mr. Verheul, Ms. Fox, didn't you say that you
21 submitted Exhibit 1 which was an amendment of the
22 20.6.4?

23 MS. FOX: That's correct, Mr. Hearing Officer.

24 HEARING OFFICER CHAKALIAN: Okay.

25 And what -- and what function does that -- how

1 does that help the Commission in their deliberations?

2 MS. FOX: Our Exhibit 1 is our proposed
3 amendments to the Commission's regulations that would
4 include these waters as ONRWs.

5 HEARING OFFICER CHAKALIAN: So in a way is
6 that not -- in a way is that not part -- wouldn't that
7 be a large part of your posthearing submission?

8 MS. FOX: That and the evidence that we
9 supplied in our notice of intent and here today.

10 HEARING OFFICER CHAKALIAN: Which is already
11 in the record.

12 So, Counsel Sanchez, Ms. Fox, the petitioners
13 have already submitted Exhibit 1, which I think would be
14 a big help for the Commission in their deliberation.

15 And, Mr. Verheul, you have Exhibit what? 35?

16 MR. VERHEUL: Yes, Mr. Hearing Officer.

17 HEARING OFFICER CHAKALIAN: And what is your
18 position on posthearing submissions?

19 MR. VERHEUL: I concur with Ms. Fox, and I
20 also respect her scheduling issue. I think you're
21 correct that the proposed amendments and our Exhibit 35
22 is identical to Petitioner's Exhibit 1. Those should be
23 of great help to the Commission in their deliberations.

24 I think the real issue is then drafting a
25 statement of reasons and final order, which may not be

1 necessary for the Commission's deliberations, but it may
2 be useful for -- for whoever the Commission designates
3 to draft the final order of the Commission concluding
4 their deliberations. So that could be something that
5 takes place in the July time frame.

6 HEARING OFFICER CHAKALIAN: Chair Stringer,
7 does that help?

8 CHAIR STRINGER: Yes. All of this discussion
9 is very helpful. We will need a final statement of
10 reasons to go along with the final order, and the
11 language with the regulatory changes is very helpful.

12 I guess I'm just wondering whose authority it
13 is, because you're the Hearing Officer, to establish
14 that. If it's mine as Chair of the Commission, then I
15 would say that we do not need those posthearing
16 submissions because we have what we need.

17 Then that leaves the final question of who is
18 drafting the statement of reasons. And I think without
19 having counsel for the petitioner draft that, that would
20 leave the burden on our WQCC counsel, and I think it
21 would be easier if the petitioners drafted the statement
22 of reasons.

23 And I'll pause there because Counsel Sanchez
24 has his hand up.

25 Go ahead, Counsel Sanchez.

1 MR. SANCHEZ: Thank you, Madam Chair.

2 Given the discussion that's ensued, I
3 certainly am responsible -- my apologies -- for
4 preparing the final statement of reasons and decision,
5 and I'm perfectly comfortable with that. I just simply
6 wanted to ask whether counsel for the petitioner or for
7 NMED were interested in submitting proposed statements
8 of reasons in that regard.

9 But I'm fine. I think the record is very
10 clear, and I -- if there -- if that's not their
11 preference or they don't feel it's necessary or think
12 it's necessary, I'm absolutely fine with preparing it
13 myself.

14 CHAIR STRINGER: Okay.

15 Then that leads to the scheduling question for
16 Ms. Fox.

17 If you don't have any posthearing submissions
18 to submit, does the July time frame for deliberations
19 work for you?

20 MS. FOX: Thank you, Madam Chair.

21 I want to be clear that we have no objection
22 to submitting posthearing briefing if that's the
23 pleasure of the Commission, but my schedule is not going
24 to permit it to -- that to be done, you know, any time
25 except for a few days before the next Commission

1 hearing. So I just want to be clear about that.

2 The deliberations in July are fine as far as
3 we're concerned. You know, we would prefer them today.
4 We think the record -- we thought the record was clear
5 enough for that, as did apparently Madam Chair.

6 And all that said, postdeliberations, you
7 know, we would be willing to draft -- take the first
8 crack at a draft of the statement of reasons. Counsel
9 Sanchez has offered, but I just want to put that out
10 there, that we will offer, as well. So whatever we all
11 can agree to is fine by us.

12 CHAIR STRINGER: This is a very agreeable
13 group. I appreciate that.

14 Go ahead, Counsel Sanchez.

15 MR. SANCHEZ: Thank you. Yes. It is an
16 agreeable group.

17 The only thing I'm looking at is 20.1.6.306
18 subsection C, which requires the Commission to reach its
19 decision, which I interpret as its written decision,
20 within 60 days following in this case the close of the
21 record. So as long as we are mindful of that.

22 I don't know what benefit there might be of
23 the petitioner submitting proposed statement of reasons
24 if they're going to come in after the deliberation of
25 the Commission in July. So we can -- we can forego

1 those.

2 Thank you.

3 CHAIR STRINGER: Thank you --

4 MS. FOX: Well --

5 CHAIR STRINGER: -- Counsel Sanchez.

6 Go ahead, Ms. Fox.

7 MS. FOX: Thank you, Chair Stringer.

8 Well, the Commission will need a statement of
9 reasons in support of its rulemaking. It's in order to
10 satisfy the administrative and legal requirements for
11 the proceeding. So there will have to be a statement of
12 reasons that's signed by the Commission that somebody
13 prepares.

14 CHAIR STRINGER: Yeah. I think Counsel
15 Sanchez is saying he'll take that on, but I'll let him
16 speak.

17 You have your hand up. Go ahead, Counsel
18 Sanchez.

19 MR. SANCHEZ: Madam Chair, that's exactly what
20 I'm saying. I think we can go it alone. We'll be
21 absolutely fine. Thank you.

22 CHAIR STRINGER: Okay.

23 Okay. With that, we have a motion to
24 deliberate in July. The hearing record is closed. I'm
25 trying to think if there's any other hanging items that

1 I need to address before we close this matter of the
2 agenda.

3 I don't believe so.

4 So I'm going to take a final call for comments
5 on these procedural matters before we close this agenda
6 item.

7 Okay. Thank you, all.

8 That concludes that agenda item.

9 (Proceedings adjourned at 2:51 p.m.)

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1 STATE OF NEW MEXICO)
2) ss.
3 COUNTY OF BERNALILLO)
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5

6 I, CHERYL ARREGUIN, the officer before whom the
7 foregoing proceeding was taken, do hereby certify that
8 the witnesses whose testimony appears in the foregoing
9 transcript were duly sworn or affirmed; that I
10 personally recorded the testimony by machine shorthand;
11 that said transcript is a true record of the testimony
12 given by said witnesses; that I am neither attorney nor
13 counsel for, nor related to or employed by any of the
14 parties to the action in which this proceeding is taken,
15 and that I am not a relative or employee of any attorney
16 or counsel employed by the parties hereto or financially
17 interested in the action.

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