



NEW MEXICO
ENVIRONMENT DEPARTMENT



Office of the Secretary

BILL RICHARDSON
Governor
DIANE DENISH
Lieutenant Governor

Harold Runnels Building
1190 Saint Francis Drive (87505)
PO Box 5469, Santa Fe, NM 87502-5469
Phone (505) 827-2855 Fax (505) 827-2836
www.nmenv.state.nm.us

RON CURRY
Secretary
SARAH COTTRELL
Deputy Secretary

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Contact: Marissa Stone Bardino, NMED Communications Director
(505) 827-0314 or (505) 231-0475

State Supreme Court Clears Way for Petition to be Heard that Protects Headwater Streams in Wilderness Areas of New Mexico

Designation Will Protect State's Waters from Future Degradation

(Santa Fe, NM) – The New Mexico Supreme Court ruled yesterday to allow the State of New Mexico's proposal to protect the state's headwater streams in Wilderness areas to move forward. The court's orders clear the way for the state Water Quality Control Commission to hold deliberations on the state's Outstanding National Resource Waters proposal.

"This designation will protect our precious limited water resources and benefit all water users," said New Mexico Environment Department Secretary Ron Curry. "We appreciated the broad support for our petition from municipalities, tribes and pueblos, non-profit organizations, and water associations throughout the state."

ONRW status will provide the highest level of protection for the state's headwater streams in Wilderness areas. The New Mexico Environment Department, the New Mexico Department of Game and Fish, and the Energy, Minerals and Natural Resources Department filed a petition with the Water Quality Control Commission in February nominating all perennial surface waters in U.S. Forest Service Wilderness as "Outstanding National Resource Waters" or "ONRWs."

ONRW status is regulated under the state Water Quality Act and the federal Clean Water Act. The nomination covers 12 Wilderness areas in the state, and includes 195 streams and rivers extending approximately 700 miles, 29 lakes, and 1,405 wetlands covering 4,930 acres. The nomination would protect some of the state's most valuable headwater streams.

The hearing before the Water Quality Control Commission on the state's petition was scheduled to begin Sept. 14. Days before the hearing was to begin, the New Mexico Cattle Growers Association filed an application for a preliminary injunction and temporary restraining order with a state district judge in Sandoval County. The cattle growers do not support the state's petition because they fear their grazing permits on federal public lands will be subject to lawsuits as a result of ONRW designation even though their current grazing activities are protected under the state's proposal.

Two working days before the hearing and without giving state agencies an opportunity to be heard, the district court judge issued a temporary restraining order enjoining the WQCC from moving forward with the hearing. The New Mexico Environment Department filed a petition with the Supreme Court a day before the

scheduled hearing asking the court to stay the order and to require the district court to dismiss the CGA's application. That day, the Supreme Court stayed the order, allowing the ONRW hearing before the WQCC to move forward. The WQCC proceeded to hold seven days of hearing on the state agencies' ONRW proposal. The WQCC was scheduled to deliberate on the proposal on Nov. 30. The court's orders allow those deliberations to proceed.

For more information, call Marissa Stone Bardino at (505) 827-0314.

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