

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

**IN THE MATTER OF PETITION TO NOMINATE
SEGMENTS OF RIO GRANDE, RIO HONDO,
LAKE FORK, EAST FORK JEMEZ RIVER, SAN
ANTONIO CREEK, AND REDONDO CREEK
AS OUTSTANDING NATIONAL RESOURCE
WATERS,**

WQCC No. 21-62 (R)

**Outdoor Recreation Division, New Mexico
Department of Economic Development,**

Petitioner.

STATEMENT OF REASONS AND DECISION

A duly constituted quorum of the Water Quality Control Commission (“Commission”) having met on July 12, 2022, in public meeting to deliberate and issue its decision on the Petition to Nominate Segments of Rio Grande, Rio Hondo, Lake Fork, East Fork Jemez River, San Antonio Creek, and Redondo Creek as Outstanding National Resource Waters (“Petition”)¹ of Petitioner Outdoor Recreation Division of the New Mexico Department of Economic Development (“Petitioner”), the Commission, in accordance with the relevant provisions of 20.1.6.306 NMAC, issues this Statement of Reasons and Decision in the matter.

STATEMENT OF REASONS

I. Jurisdictional Authority and Statutory and Regulatory Requirements

1. The Commission is authorized under NMSA 1978, § 74-6-4(D) (2019) to adopt and amend water quality standards for surface waters of the State “based on credible scientific data and other evidence appropriate under the Water Quality Act,” in accordance with the Water Quality

¹ Filed on December 3, 2021.

Act, §§ 74-6-1 to -17 (1967, as amended through 2019), and the Standards for Interstate and Intrastate Surface Waters, 20.6.4 NMAC.

2. The Water Quality Act does not grant the Commission, or any other entity, the power to take away or modify property rights in water, nor is it the intent of the Water Quality Act to take away or modify such property rights. NMSA 1978, § 74-6-12(A) (1999); 20.6.4.6(C) NMAC.

3. Adoption of amendments to the State's surface water quality standards must comply with the procedural and substantive requirements of NMSA 1978, § 74-6-6 (1993), and with the procedural requirements of 20.1.6 NMAC for rulemaking hearings before the Commission.

4. 20.6.4.9(A) NMAC, setting forth the Commission's procedures for nominating a surface water of the State for designation as an outstanding natural resource water ("ONRW"), in applicable part provides:

Any person may nominate a surface water of the [S]tate for designation as an ONRW by filing a petition with the [C]ommission pursuant to 20.1.6 NMAC ... A petition to designate a surface water of the [S]tate as an ONRW shall include:

- (1) a map of the surface water of the [S]tate, including the location and proposed upstream and downstream boundaries;
- (2) a written statement and evidence based on scientific principles in support of the nomination, including specific reference to one or more of the applicable ONRW criteria listed in [20.6.4.9(B) NMAC];
- (3) water quality data including chemical, physical or biological parameters, if available, to establish a baseline condition for the proposed ONRW;
- (4) a discussion of activities that might contribute to the reduction of water quality in the proposed ONRW;
- (5) any additional evidence to substantiate such a designation, including a discussion of the economic impact of the designation on the local and regional economy within the [S]tate of New Mexico and the benefit to the [S]tate; and
- (6) [an] affidavit of publication of notice of the petition in a newspaper of general circulation in the affected counties and in a newspaper of general statewide circulation.

5. 20.6.4.9(B) and (C) NMAC, setting forth the Commission's criteria for ONRWs, state:

B. A surface water of the [S]tate, or a portion of a surface water of the [S]tate, may be designated as an ONRW where the [C]ommission determines that the designation is beneficial to the [S]tate of New Mexico, and:

- (1) the water is a significant attribute of a state special trout water, national or state park, national or state monument, national or state wildlife refuge or designated wilderness area, or is part of a designated wild river under the federal Wild and Scenic Rivers Act; or
- (2) the water has exceptional recreational or ecological significance; or
- (3) the existing water quality is equal to or better than the numeric criteria for protection of aquatic life and contact uses and the human health-organism only criteria, and the water has not been significantly modified by human activities in a manner that substantially detracts from its value as a natural resource.

C. Pursuant to a petition filed under Subsection A of this section, the [C]ommission may classify a surface water of the [S]tate or a portion of a surface water of the [S]tate as an ONRW if the criteria set out in Subsection B of this section are met.

6. The pertinent parts of 20.6.4.8(A) NMAC, concerning the Commission's antidegradation policy, read:

(3) No degradation shall be allowed in waters designated by the [C]ommission as [ONRWs], except as provided in Subparagraphs (a) through (e) of this paragraph and in [20.6.4.8(A)(4) NMAC].

(a) After providing a minimum 30-day public review and comment period, the [C]ommission determines that allowing temporary and short-term degradation of water quality is necessary to accommodate public health or safety activities in the area in which the ONRW is located ... In making its decision, the [C]ommission shall consider whether the activity will interfere with activities implemented to restore or maintain the chemical, physical or biological integrity of the water. In approving the activity, the [C]ommission shall require that:

- (i) the degradation shall be limited to the shortest possible time and shall not exceed six months;
- (ii) the degradation shall be minimized and controlled by best management practices or in accordance with permit requirements as appropriate; all practical means of minimizing the duration, magnitude, frequency and cumulative effects of such degradation shall be utilized;
- (iii) the degradation shall not result in water quality lower than necessary to protect any existing use in the ONRW; and
- (iv) the degradation shall not alter the essential character or special use that makes the water an ONRW.

(b) Prior to the [C]ommission making a determination, the [D]epartment or appropriate oversight agency shall provide a written recommendation to the [C]ommission. If the [C]ommission approves the activity, the [D]epartment or appropriate oversight agency shall oversee implementation of the activity.

(c) Where an emergency response action that may result in temporary and short-term degradation to an ONRW is necessary to mitigate an immediate threat to public health or safety, the emergency response action may proceed prior to providing notification required by Subparagraph (a) of this paragraph in accordance with the following:

(i) only actions that mitigate an immediate threat to public health or safety may be undertaken pursuant to this provision; non-emergency portions of the action shall comply with the requirements of Subparagraph (a) of this paragraph;

(ii) the discharger shall make best efforts to comply with requirements (i) through (iv) of Subparagraph (a) of this paragraph;

(iii) the discharger shall notify the [D]epartment of the emergency response action in writing within seven days of initiation of the action;

(iv) within 30 days of initiation of the emergency response action, the discharger shall provide a summary of the action taken, including all actions taken to comply with requirements (i) through (iv) of Subparagraph (a) of this paragraph.

(d) Preexisting land-use activities, including grazing, allowed by federal or state law prior to designation as an ONRW, and controlled by best management practices (BMPs), shall be allowed to continue so long as there are no new or increased discharges resulting from the activity after designation of the ONRW.

(e) Acequia operation, maintenance, and repairs are not subject to new requirements because of ONRW designation. However, the use of BMPs to minimize or eliminate the introduction of pollutants into receiving waters is strongly encouraged.

(4) This antidegradation policy does not prohibit activities that may result in degradation in surface waters of the [S]tate when such activities will result in restoration or maintenance of the chemical, physical or biological integrity of the water.

(a) For ONRWs, the [D]epartment or appropriate oversight agency shall review on a case-by-case basis discharges that may result in degradation from restoration or maintenance activities, and may approve such activities in accordance with the following:

(i) the degradation shall be limited to the shortest possible time;

(ii) the degradation shall be minimized and controlled by [BMPs] or in accordance with permit requirements as appropriate, and all practical means of minimizing the duration, magnitude, frequency and cumulative effects of such degradation shall be utilized;

(iii) the degradation shall not result in water quality lower than necessary to protect any existing use of the surface water; and

(iv) the degradation shall not alter the essential character or special use that makes the water an ONRW.

II. Petition to Designate Segments of Rio Grande and Others as ONRWs

7. The New Mexico Environment Department (“Department”), a non-petitioning party, entered its appearance on December 6, 2021, and subsequently participated in the rulemaking proceeding.

8. The Petition came before the Commission for consideration during its regularly scheduled meeting on December 14, 2021. The Commission heard from Tannis Fox of the Western Environmental Law Center, as counsel for Petitioner, and John Verheul, as counsel for the Department. After duly considering the Petition, and being otherwise sufficiently advised in the premises, the Commission determined that a public hearing should be held on the Petition in accordance with 20.1.6.200(C) NMAC.

9. The Order Scheduling Public Hearing and Appointing Hearing Officer filed on January 14, 2022, granted Petitioner’s request for a public hearing, and pursuant to 20.1.6.205 NMAC, set the public hearing during the Commission’s regularly scheduled meeting on June 14, 2022, using a WebEx virtual meeting platform, with the proviso that the public hearing could be continued thereafter if the Commission deemed it necessary.

10. The Order Scheduling Public Hearing and Appointing Hearing Officer provided that the Commission could choose to deliberate immediately following the conclusion of the public hearing or at a subsequent meeting, but required the Commission to reach its decision no later than sixty (60) days following the close of the record or the date the hearing officer’s report was filed, whichever was later, as required by 20.1.6.306(C) NMAC.

11. The Order Scheduling Public Hearing and Appointing Hearing Officer appointed Gregory Chakalian as the hearing officer to conduct the public hearing, and to perform the

functions and exercise all powers and duties prescribed under 20.1.6 NMAC.

12. The Order Scheduling Public Hearing and Appointing Hearing Officer required that notice of the public hearing be given as provided in 20.1.6.201 NMAC.

13. The Order Scheduling Public Hearing and Appointing Hearing Officer required Petitioner to pay all costs and expenses of the publication of public notice.

14. The Order Scheduling Public Hearing and Appointing Hearing Officer required that the public hearing be conducted in accordance with the Commission's rulemaking procedures as set forth in 20.1.6 NMAC.

15. Hearing Officer Chakalian entered his Scheduling Order on January 19, 2022, establishing the procedures for conducting the public hearing and setting forth the relevant deadlines, including (pre)filing of individual Notices to Present Technical Testimony pursuant to 20.6.1.202(A) NMAC.

16. Both Petitioner and the Department submitted their respective Notices of Intent to Present Technical Testimony at the public hearing, on May 13, 2022.

III. Public Notice and Public Hearing

17. Petitioner submitted affidavits of publication of notice of the Petition in a newspaper of general circulation in the affected counties and in a newspaper of general statewide circulation, in accordance with 20.6.4.9(A)(6) NMAC. [Tr. 39:19-24; Petitioner's Exhibit 9; *see also* Petition Exhibit 5].

18. Notice of the Petition was published on November 21, 2021, in the *Albuquerque Journal*. [Petition Exhibit 5].

19. Notice of the Petition was published on November 25, 2021, in the *Taos News*. [Petition Exhibit 5].

20. Notice of the Petition was published on November 28, 2021, in the *Rio Rancho Observer*. [Petition Exhibit 5].

21. Petitioner, through the Department, provided notice of the public hearing in accordance with 20.1.6.201 NMAC, NMSA 1978, § 14-4-5.2 (2017) of the State Rules Act, and NMSA 1978, § 14-4A-4 (2005) of the Small Business Regulatory Relief Act, by publishing the notice of the public hearing in the *New Mexico Register* and a newspaper of general circulation in the areas affected at least sixty (60) days prior to the public hearing. [Tr. 39:19-24; Petitioner's Exhibits 10 and 19].

22. Notice of the public hearing was published on April 2, 2022, in the *Albuquerque Journal*. [Petitioner's Exhibit 11].

23. Notice of the public hearing was published on April 10, 2022, in the *Rio Rancho Observer*. [Petitioner's Exhibit 11].

24. Notice of the public hearing was published on March 7, 2022, on the Commission's website. [Petitioner's Exhibit 13].

25. Notice of the public hearing was published on April 28, 2022, on the *New Mexico Sunshine Portal*. [Petitioner's Exhibit 14].

26. Notice of the public hearing was sent to the Department's district offices on April 25, 2022. [Petitioner's Exhibit 15 and NMED's Exhibit 29].

27. Notice of the public hearing was sent to persons who requested notice on April 26, 2022. [Petitioner's Exhibit 16].

28. Notice of the public hearing was sent to the Legislative Council Service on March 25, 2022. [Petitioner's Exhibit 17].

29. Notice of the public hearing was otherwise timely given in accordance with all relevant Federal and State laws and regulations. [Tr. 39:19-25].

30. The Department, as a non-petitioning party, did not give notice to the State of Colorado regarding the Petition, and further, the Department was not aware whether there was specific notice to the New Mexico Interstate Stream Commission concerning the Petition. [Tr. 194:12-25; Tr. 195:1].

31. The Commission duly heard and considered testimony on behalf of all parties who entered an appearance in the rulemaking proceeding, and allowed members of the general public to testify at the public hearing, and to also offer non-technical exhibits in connection with their testimony. The Commission further allowed any member of the general public who wished to submit a written statement for the record, in lieu of providing oral testimony at the public hearing, to file the written statement prior to the public hearing or submit it at the hearing.

32. Hearing Officer Chakalian conducted the public hearing in a fair and equitable manner, providing a reasonable opportunity for all persons to be heard, and allowing all interested persons a reasonable opportunity to submit data, views or arguments orally and in writing, and to examine the parties' individual witnesses.

33. The record proper, as that term is defined in 20.1.6.7(Q) NMAC, was submitted to the Commission for review in compiling this Statement of Reasons.

34. The Commission administrator, following receipt of the transcript of proceedings, promptly furnished copies of the *verbatim* transcript to the Commission members, Commission counsel and Hearing Officer Chakalian, and copies of the transcript of proceedings were available to any person directly from the court reporter, in accordance with 20.1.6.303 NMAC.

IV. Reasons for Commission's Decision

35. The Petition nominated (a) the Rio Grande from directly above the Rio Pueblo de Taos to the New Mexico-Colorado border, (b) the Rio Hondo from the Carson National Forest boundary to its headwaters and Lake Fork Creek from the Rio Hondo to its headwaters, (c) the East Fork Jemez River from San Antonio Creek to its headwaters, (d) San Antonio Creek from the East Fork Jemez River to its headwaters, and (e) Redondo Creek from Sulphur Creek to its headwaters, for a total of 125.9 miles of segments of six streams, all to be designated as ONRWs. [Tr. 34:20-24; Tr. 35:9-25; Tr. 36:1-10; Tr. 179:5-14].

36. Petitioner demonstrated that designation of all the nominated surface waters is beneficial to the State, as required by 20.6.4.9(B) NMAC, and that all those waters have exceptional recreational and ecological significance under 20.6.4.9.B(2) NMAC, and that many of those waters meet other ONRW criteria as well. [Tr. 31:22-25; Tr. 32:1; Tr. 41:1-13; Tr. 54:3-9; Tr. 80:19-25; Tr. 81-86; *see also* Petition Exhibit 3, chart summarizing ONRW criteria met by nominated waterbodies].

37. In toto, through direct testimony and admitted exhibits, Petitioner demonstrated that all the nominated surface waters merit designation as ONRWs because the Petition met all procedural requirements in 20.6.4.9(A) NMAC, and because designation of all those waters will benefit the State pursuant to 20.6.4.9(B) NMAC, and all those waters meet more than one of the substantive criteria for designation under 20.6.4.9(B)(1)-(3) NMAC.

A. ONRW Nominations Meet Procedural Requirements of 20.6.4.9(A) NMAC

38. Petitioner met all procedural requirements of 20.6.4.9(A) NMAC for nominating the ONRWs. [Tr. 183:20-25; Tr. 184; Tr. 185:1-3; NMED's Exhibits 29 and 31].

39. Petitioner provided a map of the (nominated) surface waters of the State, including the locations and proposed upstream and downstream boundaries for each nominated ONRW, as required by 20.6.4.9(A)(1) NMAC. [Tr. 35:5-10; Tr. 49:17-20; Petitioner's Exhibits 4, 5 and 6.]

40. Based on Petitioner's written statement and testimony received during the public hearing, the Commission received substantial evidence based on scientific principles in support of the ONRW nominations, including specific reference to one or more of the applicable ONRW criteria, as required by 20.6.4.9(A)(2) NMAC. [Petition Exhibit 1: *Petitioner's Demonstration That Petition Satisfies 20.6.4.9.A And -B NMAC, Part II*; Tr. 190:18-25; Tr. 19; Tr. 192: 15-23].

41. Petitioner provided water quality data, including chemical, physical or biological parameters, if available, to establish a baseline condition for the proposed ONRWs, as required by 20.6.4.9(A)(3) NMAC. [Petition Exhibit 1: *Petitioner's Demonstration That Petition Satisfies 20.6.4.9.A And -B NMAC, Part II*].

42. Petitioner's witnesses discussed activities that might contribute to the reduction of water quality in the proposed ONRWs, as required by 20.6.4.9(A)(4) NMAC. [Tr. 37:1-13; *Petition Exhibit 1: Petitioner's Demonstration That Petition Satisfies 20.6.4.9.A And -B NMAC, Part II(E)*].

43. Petitioner provided additional evidence to substantiate the proposed ONRW designations, including an analysis of the economic impact of the designations on the local and regional economy within the State and the benefit to New Mexico, as required by 20.6.4.9(A)(5) NMAC. [Tr. 37:18-25; Tr. 38; 39:1-18; Tr. 192:10-11].

B. ONRW Nominations Meet Designation Requirements of 20.6.4.9(B) NMAC

44. Petitioner demonstrated that designation of all of the nominated waters as ONRWs would be beneficial to the State, as required by 20.6.4.9(B) NMAC. [Tr. 40:19-23; Tr. 179:20-22; Tr. 190:21-24].

45. Petitioner demonstrated that a number of the nominated surface waters or segments of those waters meet the significant attribute criterion of 20.6.4.9.(B)(1) NMAC. [Tr. 190:6-25].

46. Petitioner demonstrated that all of the nominated surface waters meet the exceptional recreational significance criterion of 20.6.4.9(B)(2) NMAC. [Tr. 31:21-15; Tr. 32:1; Tr. 34:1-2; 40:24-25; Tr. 41-9-13; Tr. 50:3-5; Tr. 53:3-9; Tr. 81:5-16; Tr. 191-3-9].

47. All of the nominated surface waters support Species of Economic or Recreational Importance (“SERI”). [Tr. 51:3-5; Tr. 53:3-19].

48. Petitioner provided a Special Status Animal and Plant Species list generated on June 13, 2021 using the New Mexico Environmental Review Tool (nmert.org) for the ONRW nominated stream segments. [Petition Exhibit 7].

49. All of the nominated surface waters meet the exceptional recreational significance criterion of 20.6.4.9(B)(2) NMAC in that they support multiple SERI and Species of Greatest Conservation Need (“SGCN”) designated by the New Mexico Department of Game and Fish. [Petition Exhibit 7].

50. Petitioner demonstrated that all of the nominated waters meet the exceptional ecological significance criterion of 20.6.4.9(B)(2) NMAC. [Tr. 41:1-2; Tr. 54:3-6; Tr. 60:11-15; Tr. 191:3-9].

51. All of the nominated surface waters meet the exceptional ecological significance criterion of 20.6.4.9(B)(2) NMAC, based on the presence of multiple SERI and SGCN and state and federally listed threatened or endangered species, and on the interconnected nature of the

perennial and nonperennial streams and wetlands which make up a healthy functioning watershed. [Petitioner's Exhibit 4, 11].

52. Petitioner has demonstrated that designation of all nominated surface waters is warranted under 20.6.4.9 NMAC in that each of those waters meets at least one of the designation criteria of 20.6.4.9(B) NMAC and the designation would be beneficial to the State. [Tr. 25:2-8; Tr. 37: 4-13; Tr. 92:1-25; Tr. 93:1-9; Petitioner's Exhibit 7].

53. Petitioner's Exhibit 7 includes all existing water quality data which was available for the nominated surface waters.

V. Department and New Mexico Farm and Livestock Bureau

54. Petitioner worked closely with the Department on the Petition. [Tr. 32:2-4; Tr. 36:22-25; Tr. 183:16-19].

55. A technical review by the Department's Surface Water Quality Bureau ("SWQB") staff determined that all procedural and administrative requirements for designating the nominated surface waters as ONRWs had been met. [Tr. 190:21-25].

56. A technical review by the Department's SWQB staff determined that the Petition successfully demonstrated that every surface water nominated met at least one eligibility criterion in 20.6.4.9(B) NMAC for designation as an ONRW. [Tr. 190:21-25; Tr. 191:1-15; NMED Exhibit 2].

57. A technical review by the Department's SWQB staff determined that the Petition contained all six (6) submittal elements required of an ONRW petition under 20.6.4.9(A) NMAC. [Tr. 192:3-17; NMED Exhibit 2].

58. Pursuant to 20.6.4.8 NMAC, which reflect 40 C.F.R. § 131.12, degradation of water quality is prohibited for waters designated as ONRWs, except as provided in 20.6.4.8(A)(3)(a)

through (e) NMAC and 20.6.4.8(A)(4)(a) NMAC. [NMED Exhibit 1; Tr. 181:4-20].

59. An ONRW designation does not categorically prevent or preclude discharges or anthropogenic activities from occurring. Activities such as these require a demonstration that they will not cause degradation of the ONRW or are one of the permitted short-term and temporary activities identified under 20.6.4.8(A)(3) and (4) NMAC. [NMED Exhibit 1; Tr. 181:12-20].

60. ONRWs are codified in 20.6.4.9 NMAC, and to date New Mexico has not removed any ONRW designations. If it were to be considered in the future, it would have to be done through a rulemaking action before the Commission and subsequently approved by the Environmental Protection Agency. [Tr. 181:21-25; Tr. 182:1-17].

61. The designation of surface waters as ONRWs is supportive of the goals and objectives of the Clean Water Act to restore, maintain and protect water quality wherever attainable. [Tr. 182:18-22].

62. The Department found one National Pollutant Discharge Elimination System permit that discharges into one of the nominated segments, which is the Village of Taos Ski Valley's wastewater permit #NM0022101. The Village of Taos Ski Valley has been apprised of the nomination and the implications for its wastewater discharges and has passed a resolution in support of the nomination. See Resolutions and Letters of Support [Petition Exhibit 10].

63. The Department supported the Commission's designation of the nominated surface waters as ONRWs. [Tr. 186:2-4; Tr. 193:2-7].

64. There are no substantive difference between the proposed amendments to 20.6.4 NMAC between those filed by Petitioner and the Department. [Tr. 185:20-25; Tr. 186:1; Petitioner's Exhibit 1 and Department Exhibit 35].

65. The New Mexico Farm & Livestock Bureau (“NMF&LB”), the largest agriculture organization in the State, representing more than 20,000 members families involved in all aspects of agriculture [Tr. 156:19-23], through the testimony of Tiffany Rivera, Director of Government Affairs - who testified under oath during a public comment period – opposed the proposal submitted by Petitioners to designate segments of the Rio Grande, Rio Hondo, Lake Fork, East Fork Jemez River, San Antonio Creek and Redondo Creek as ONRWs because ONRW designations have the potential to severely limit economic growth while also placing additional restrictions and regulations on water and potentially land use. [Tr. 156:24-25; Tr. 157:1-8].²

66. Additionally, the NMF&LB had concerns with the [ONRW] designation and how it will impact watershed maintenance and conservation work that will need to be done in response to the recent Cerro Pelado fire. The Cerro Pelado fire has burned over 45,000 acres near one of the proposed ONRW sections of the East Fork on the Jemez River. [Tr. 157:16-22].

67. The NMF&LB failed to show by any evidence that the organization and its members would be adversely affected by the proposed nomination of the surface waters of the Upper Pecos Watershed as ONRWs.³

68. For all the foregoing reasons, the Commission finds and concludes that Petitioner’s proposal to amend 20.6.4.9(D) NMAC, classifying the identified surface waters as ONRWs, is supported by substantial evidence in the record, and the Commission adopts Petitioner’s proposed amendments to 20.6.4.9(D) NMAC, as set forth in Petitioner’s Exhibit 2 at page 66 of the Petition, which exhibit is fully incorporated by reference into this Statement of Reasons and Decision.

² For Witness Rivera’s full written comment, see PDF download “Comment from: Tiffany Rivera. 6/10.22 12:00 AM” at <https://nmed.commentinput.com/comment/extra?id=s8CRp>.

³ See, *New Mexico Cattle Growers’ Assn’s v. New Mexico Water Quality Control Com’n*, 2013-NMCA-046, ¶ 12, 299 P.3d 436, 440, certiorari granted 300 P.3d 1181, certiorari quashed 313 P.3d 251.

BASED ON THE FOREGOING REASONS, IT IS DECIDED AND ORDERED:

A. The Commission amends 20.6.4.9(D) NMAC as proposed by Petitioner, classifying the nominated surface waters as ONRWs.

B. This Statement of Reason constitutes the written decision of the Commission's actions on the proposed regulatory changes in this rulemaking proceeding, and the reasons for those actions. Other written or oral statements by Commission members are not recognized as part of the Commission's official decision or reasons.

C. The Commission directs the Department to prepare the amendments to 20.6.4.9(D) NMAC in a format acceptable to Records and Archives for filing as part of the New Mexico Administrative Code. This preparation may include re-numbering and re-lettering of existing sections of the standards and correcting any errata consistent with the Statement of Reasons.

Issued this 15th day of August, 2022.

New Mexico Water Quality Control Commission

Stephanie Stringer

Digitally signed by Stephanie
Stringer
Date: 2022.08.15 20:35:00 -06'00'

By: Stephanie Stringer, Chair

Certificate of Service

I hereby certify that on August 15, 2022 a copy of the foregoing **Statement of Reasons and Decision** was emailed to the persons listed below. A copy will be mailed first class upon request.


John Verheul
Christal Weatherly
New Mexico Environment Department
121 Tijeras Ave, NE #1000
Albuquerque, NM 87102
John.Verheul@state.nm.us
Christal.Weatherly@state.nm.us
Counsel for the New Mexico Environment Department

Tannis Fox
Western Environmental Law Center
409 East Palace Ave. Suite 2
Santa Fe, NM 87505
fox@westernlaw.org

Kelly Nokes
Western Environmental Law Center
P.O. Box 218
Buena vista CO 81211
nokes@westernlaw.org
Counsel for Petitioners

Robert F. Sanchez
New Mexico Office of the Attorney General
408 Galisteo St.,
Santa Fe, NM 87501
rfsanchez@nmag.gov
Counsel for the Water Quality Control Commission

Pamela Jones

 Digitally signed by Pamela Jones
Date: 2022.08.15 21:01:49 -06'00'

Pamela Jones, Commission Administrator
Water Quality Control Commission
Pamela.jones@state.nm.us

