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NMED SWQB Nominates Outstanding National Resource Waters (ONRWs)

By Lynette Guevara and Michael Baca - SWQB Monitoring, Assessment and Standards Section



Rio Cebolla - 2024 ONRW Designation Nomination.

New Mexico's water resources continue to face stressors that contribute to limited and decreasing water supplies. Water plays a key role in ecosystem function and processes. Therefore, maintaining adequate water quality and flow are essential to sustaining habitat, wildlife, and fish species, which in turn are sources of many economic, cultural and spiritual values. Water is consistently recognized across communities in New Mexico as a critically important resource worth protecting.

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NMED Surface Water Quality Bureau

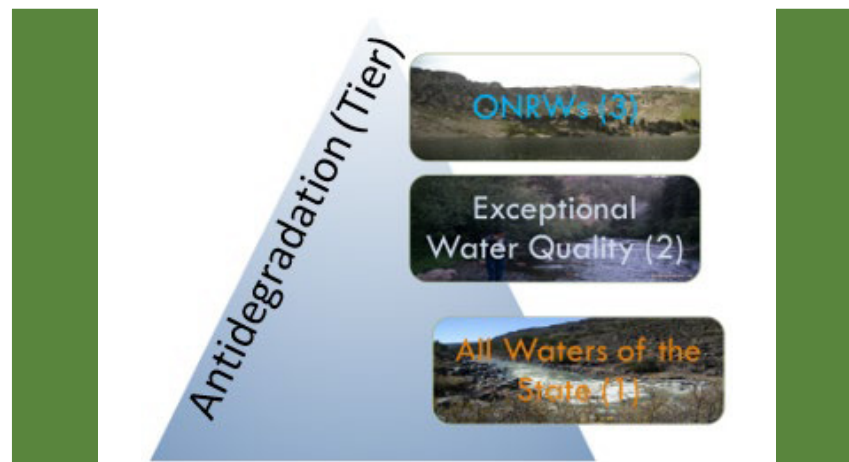
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An Outstanding National Resource Water (ONRW) is a stream, lake, or wetland that receives special protection against future degradation under New Mexico's *Standards for Interstate and Intrastate Surface Waters* (Surface Water Quality Standards or WQS, 20.6.4 NMAC). ONRW designation affords the highest protection of water quality under the State's antidegradation policy (i.e., Tier 3) which mirrors the protections established under federal regulations at 40 C.F.R. § 131 and the federal Clean Water Act (CWA).



ONRW designations are intended to protect surface waters from future degradation for the immediate and future benefit of the local community, and the State. ONRW designations benefit the state of New Mexico because enhanced water quality protection will help maintain and support:

1. a clean water supply for present and future generations of New Mexicans,
2. healthy, functioning ecosystems, preserve habitat, and support biodiversity,
3. the recreational benefits in these areas, and
4. the designated uses of these waters as detailed in 20.6.4.101 through 899 NMAC.

New Mexico's Process for Designating ONRWs

The Water Quality Control Commission (WQCC) is authorized under the New Mexico Water Quality Act (WQA) (NMSA 1978, § 74-6-4(D)) to adopt and amend WQS for surface waters of the State, including approving the nomination of waters as ONRWs. Pursuant to 20.6.4.9(B) and (C) NMAC, a surface water of the state may be designated and classified as an ONRW where the WQCC determines it will benefit the state of New Mexico and it meets at least one of the eligibility criteria listed in 20.6.4.9(B)(1)-(3) NMAC.

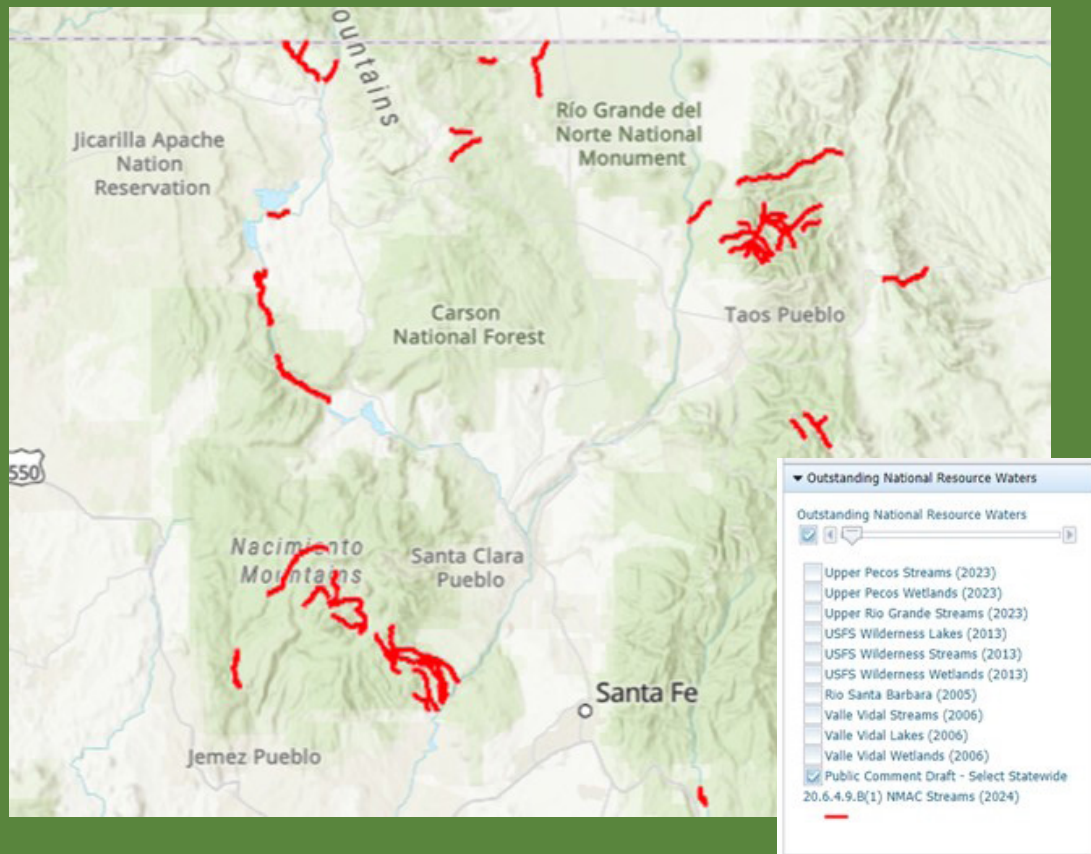
At the September 10, 2024, WQCC meeting, the SWQB filed a Petition for Rulemaking Hearing (Petition) with the WQCC to nominate several specific stream reaches around the state for designation as ONRWs. The nominated stream reaches all meet the criteria listed in 20.6.4.9(B)(1) NMAC which states:

...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.

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Prior to petitioning, the SWQB developed and released a “Public Comment Draft - Select Statewide 20.6.4.9.B(1)NMAC Streams (2024)” geographic information system (GIS) layer for SWQB’s Open EnvironMap (Mapper). SWQB created representative lines depicting the nominated streams utilizing several GIS layers including but not limited to (data source in parentheses):

- National Park Service – Boundaries (U.S. National Park Service)
- National Hydrography Dataset (U.S. Geological Survey)
- National Landscape Conservation System Wilderness Areas (U.S. Bureau of Land Management)
- New Mexico Surface Land Ownership (U.S. Bureau of Land Management)
- Special Trout Waters – Streams (New Mexico Department of Game and Fish)
- United States Forest Service – Boundaries (U.S. Forest Service)
- Wild & Scenic Rivers (U.S. Forest Service)



Example of 2024 ONRW Designation Nomination viewable from SWQB’s Mapper, available at:
<https://gis.web.env.nm.gov/oem/?map=swqb>.

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SWQB held a public comment period from July 20 through August 19, 2024, which included a virtual public meeting and presentation on August 8, 2024, to provide additional information on the current nomination and the procedural steps for rulemaking. Public participation opportunities were highlighted, and staff provided a live demonstration of how to: find rule making material and supporting documents, use our GIS Mapper, navigate various NMED websites and information repositories, and submit comment through NMED's Smart Comment Portal.

NMED received significant interest and support for the nomination with 656 submissions via email and an additional 76 submissions through NMED's Smart Comment Portal. A summary of the public meeting including participants and questions received can be found in Appendix E2 of the final petition presented at the September 10, 2024, WQCC meeting (available under "WQCC 24-46 (R)" at <https://www.env.nm.gov/opf/docketed-matters/>). The WQCC granted SWQB's request for a hearing and assigned a Hearing Officer.

You can see the recorded hearing and access the meeting materials on the Water Quality Control Commission's webpage at <https://www.env.nm.gov/opf/water-quality-control-commission/>



Italianos Creek waterfall - 2024 ONRW Designation Nomination.

How You Can Continue to Participate

- **Provide Public Comment to WQCC**

- o Public Comment Portal at <https://nmed.commentinput.com/?id=87jtdHWue>

- **Ask questions, or provide input and feedback including the following suggested information:**

- o Do you support or oppose the nominated waters for ONRW designation?
- o Provide anecdotal or scientific water quality information
- o Are you familiar with or visited the nominated waters in the past?
- o Do they hold special significance for you or your family?
- o Anything else you think should be considered?

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The petition, public notice, and additional information are available at the SWQB website: <https://www.env.nm.gov/surface-water-quality/2024onrw> or on the WQCC website under “WQCC 24-46 (R)” at <https://www.env.nm.gov/opf/docketed-matters/>.

If you have any questions or concerns regarding the ONRW nominations or process, please contact:

Michael Baca, WQS Coordinator, michael.baca1@env.nm.gov or 505.470.1652

Lynette Guevara, MASS Program Manager, lynette.guevara@env.nm.gov or 505.629.8811



Rio Chamita flows in the Edward Sargent Wildlife Management Area - 2024 ONRW Designation Nomination.



Surface Water Permitting to Protect State Waters

By Pam Homer and Jocelyn Harimon
SWQB Point Source Regulation Section - State Permit Program Team

New Mexico is an arid state whose culture, economy, and natural ecosystems are sustained by rivers, streams, lakes, wetlands, and other surface waters. The 2023 U.S. Supreme Court ruling in *Sackett v. Environmental Protection Agency (EPA)* severely reduced the federal regulatory and protective reach which New Mexico has relied upon to protect its surface waters. The development of a surface water discharge permitting program at the state level, as prioritized in [New Mexico's 50-Year Water Action Plan](#), is imperative for the protection and preservation of New Mexico's water resources.

Many of New Mexico's waters are no longer subject to permitting requirements under the federal Clean Water Act (CWA). For example, these waters no longer require CWA permits:

- Ephemeral waters that flow in response to rain or snowmelt;
- Wetlands without a continuous surface connection to other surface waters, for example, where a dike or road has been built;
- Isolated ponds, lakes, and wetlands, including playas and springs; and
- Drier reaches of interrupted streams, where the water goes underground.

In addition, intermittent waters that flow seasonally could be at risk in future court challenges.

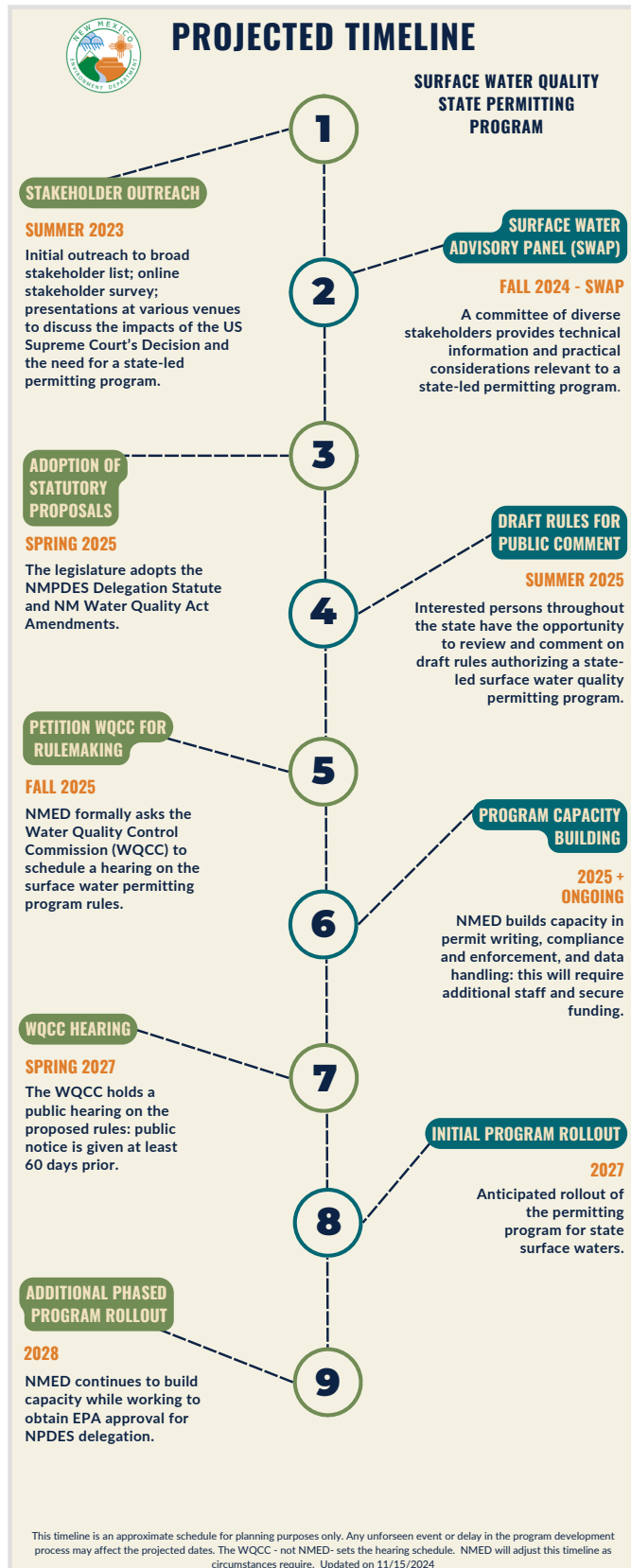


Located in City of Rocks State Park (between Deming and Silver City) lies the isolated Faywood Cienega, a primarily spring-fed wetland. The cienega attracts diverse wildlife including some of which cannot be found in the surrounding areas. In this arid corner of New Mexico, isolated wetlands like Faywood Cienega are critical to maintaining diversity and important wildlife habitat in an arid environment.

The New Mexico Environment Department (NMED) is developing a state-led Surface Water Quality State Permitting Program that will protect not only those waters still covered by the federal CWA, known as Waters of the United States or “WOTUS”, but all Surface Waters of the State. To that end NMED proposes a two-prong approach.

NMED is seeking delegation from EPA for the federal National Pollutant Discharge Elimination System (NPDES) program to regulate point source discharges into WOTUS. At the same time, NMED is proposing a state permitting program under the New Mexico Water Quality Act to cover both point source discharges and discharges of dredged and fill materials into Surface Waters of the State. The U.S. Army Corps of Engineers will continue

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to regulate discharges of dredged and fill materials to WOTUS. Overall, the result will be a modernized, integrated surface water permitting program to proactively protect water quality and watersheds.

NMED has been working hard this past year on stakeholder outreach, the solicitation for and formation of the Surface Water Advisory Panel (SWAP), and the drafting of statutory and regulatory proposals. The SWAP just wrapped up a series of six full-day sessions from August through October, where key stakeholders engaged in productive conversations covering the most critical aspects of the development and implementation of the permitting program. Next steps include taking the statutory proposals to the 2025 Legislature for adoption and releasing draft rules for public comment in the summer of 2025. In the Fall of 2025 NMED plans to petition the Water Quality Control Commission for a rulemaking followed by a hearing in the Spring of 2026.

For detailed information about the development of the program including the specific information covered in the [SWAP meetings](#), visit [Surface Water Quality State Permitting Program \(nm.gov\)](#).

If you have any questions or feedback, or would like to be added to the project mailing list, please send an email to swq.pp@env.nm.gov.

The timeline identifies the steps needed to develop the state permitting program, gain approval, build capacity, and begin implementation.



River Stewardship Program Project Highlight

Reimagining San Vicente Creek Project

By Susan Styer, NMED SWQB Water Resources Professional

Project cost: \$170,537 (River Stewardship Program funds) and \$33,300 (local match)

The Gila Resources Information Project (GRIP) worked cooperatively with the Town of Silver City, private landowners and subcontractor Stream Dynamics, Inc. to complete the *Reimagining San Vicente Creek* project in southwestern New Mexico. San Vicente Creek drains the 38-square mile Silver City Watershed into the Mimbres River 16 miles northwest of Deming, NM. The upstream perennial reach flows through the urbanized downtown Silver City area, through Big Ditch Park and the San Vicente Creek open space. San Vicente Creek, its riparian corridor, and the trails and open space system are important natural assets that are enjoyed by those who recreate there and provides important riparian habitat that serves as breeding, nesting, and forage habitat for migrating birds, including the state threatened Mexican Blackhawk, and other wildlife.

The project aimed to improve surface water quality and the riparian habitat of San Vicente Creek. This was accomplished by reducing nutrient and sediment loads by constructing instream structures, improving stream geometry and floodplain access by induced stream meandering and grade control structures. Selectively removing non-native trees from approximately 20 acres of the riparian corridor along 1 mile of San Vicente Creek helped to protect legacy cottonwoods and other native trees and in turn removed approximately 63 tons of biomass reducing

riparian fire risk in the project area. Additionally, GRIP, along with volunteers, planted 505 native trees, over 650 whips or posts of harvested cottonwood and willow, seeded 148 pounds of native grass and 53 pounds of native wildflower to restore the riparian corridor and stabilize stream banks. To assist the Town of Silver City to conduct routine sewer line maintenance to prevent sewage leaks that impair water quality, GRIP completed a redesign of the sewer access routes which included modifying and hardening low water crossings, creating rolling dips, and building grade control structures.

In April of 2023, GRIP was awarded a contract to conduct the *Reimagining San Vicente Creek and the Silver City Watershed – Phase 2* project with funds through the River Stewardship Program. This phase focuses on some of the best remaining and attainable areas for restoration of the floodplain and wetland habitat on San Vicente Creek and its tributaries and builds on further sediment control of arroyo erosion work completed in Phase 1.

Photo above, San Vicente Creek - Pre-construction.

Photo left, Post-construction. Constructed log vane and willow planting will induce meandering helping to restore stability to this incised stream section, as well as push the creek to the opposite bank away from the sewer line to protect it from being undermined by high volume/high velocity stormwater.



Clean Water Act Section 319 Program and River Stewardship Program Funding Opportunities

The Surface Water Quality Bureau will be releasing three funding opportunities in the upcoming months. Our exciting announcement this year is that we are dropping our non-federal match requirement for Clean Water Act Section 319 funding to only 10% of the project cost! Matching funds may consist of cash expenditures on the project or in-kind project contributions of labor, equipment, and materials donations. We look forward to seeing your applications for the next round of projects to improve surface water quality in New Mexico.

1) Clean Water Act Section 319 On-the-Ground Implementation Projects Request for Applications (RFA)

- Anticipated Release Date: late December 2024 to early January 2025
- Funding Available: approximately \$840,000 for on-the-ground projects
- Open for 60 days
- Only 10% match required!
- Eligible entities include local public bodies (e.g., municipalities, Soil and Water Conservation Districts, counties, etc.) or vendors on the Riparian, Aquatic, and Wetland Restoration Services Statewide Price Agreement #40-00000-23-00037

2) Clean Water Act Section 319 Watershed-Based Planning Projects Request for Proposals (RFP)

- Anticipated Release Date: approximately February 2025
- Funding Available: approximately \$200,000 for watershed-based planning projects
- Open for 60 days
- Only 10% match required!
- Eligible entities include local public bodies, non-governmental organizations, businesses, tribes, pueblos, and other non-federal agencies.

3) River Stewardship Program FY2025 Request for Proposals (RFP)

- Anticipated Release Date: Spring 2025
- Funding Available: between \$1,800,000 and \$11,800,000 depending on the outcome of the 2025 New Mexico Legislative Session
- Open for 60 days
- No match required!
- Eligible entities include local public bodies, non-governmental organizations, businesses, tribes, pueblos, and other non-federal agencies.

NMED does not discriminate on the basis of race, color, national origin, disability, age or sex in the administration of its programs or activities, as required by applicable laws and regulations. NMED is responsible for coordination of compliance efforts and receipt of inquiries concerning non-discrimination requirements implemented by 40 C.F.R. Part 7, including Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, and Section 13 of the Federal Water Pollution Control Act Amendments of 1972. If you have any questions about this notice or any of NMED's non-discrimination programs, policies or procedures, you may contact:

Kate Cardenas Non-Discrimination Coordinator (505) 469-0732
New Mexico Environment Department
1190 St. Francis Dr., Suite N4050
P.O. Box 5469
Santa Fe, NM 87502
nd.coordinator@state.nm.us

If you believe that you have been discriminated against with respect to a NMED program or activity, you may contact the Non-Discrimination Coordinator identified above or visit our website at <https://www.env.nm.gov/non-employee-discrimination-complaint-page> to learn how and where to file a complaint of discrimination.