DIRECT TECHNICAL TESTIMONY OF MICHAEL BACA

I. INTRODUCTION

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My name is Michael Baca, and I am presenting this written testimony (NMED Exhibit 1) on behalf of the New Mexico Environment Department ("NMED" or "Department") concerning the proposal to amend the State of New Mexico's Standards for Interstate and Intrastate Surface Waters ("Water Quality Standards" or "WQS"), codified at Title 20, Chapter 6, Part 4 of the New Mexico Administrative Code (20.6.4 NMAC) for specified waters on the Pajarito Plateau. Triad National Security, LLC, Newport News Nuclear BWXT-Los Alamos, LLC, and the United States Department of Energy, Office of Environmental Management, Los Alamos Field Office (collectively, the "Petitioners"), are proposing a new segment under 20.6.4.141 NMAC with a proposed coolwater aquatic life use ("ALU"), including an additional temperature criterion. The proposed 20.6.4.141 NMAC segment is currently included under 20.6.4.126 NMAC with a designated coldwater aquatic life use. These proposed WQS amendments follow the provisions of 20.6.4.10 and 20.6.4.15 NMAC allowing for such amendments. My testimony will provide background on the framework for Water Quality Standards including designated uses and criteria, outline the administrative processes and procedures for amendments (20.1.6 NMAC and 20.6.4 NMAC), and describe the Department's coordination with the petitioners regarding stakeholder engagement, development of a Use Attainability Analysis and site-specific criteria, and public notice of the rulemaking hearing.

II. **QUALIFICATIONS**

I hold a Bachelor of Arts in Chemistry from Carleton College, and I am currently employed as the Surface Water Quality Bureau ("SWQB") Monitoring, Assessment, and Standards Section ("MASS") Standards and Outreach Team Supervisor, and serve as the Water Quality Standards Coordinator for the SWQB. In this position, I lead and assist MASS staff with

the development, review, revision, and maintenance of surface water quality standards; supervise

SWQB's Quality Assurance Officer; and provide direction to staff working on special initiatives

related to harmful algal blooms and volunteer data collection.

I began working for the Department in February of 2005 as an Environmental Scientist and Specialist – Operational in the Environmental Health Bureau in the Gallup Field Office. In this position I provided training, issued permits, conducted compliance inspections and completed enforcement actions for the Food Safety, Onsite Wastewater, and Public Pool and Spa Safety Programs. I was promoted to Environmental Scientist and Specialist – Advanced in July of 2006 to serve as the Pool Specialist in northwestern New Mexico. I continued my duties in the food and onsite wastewater programs while taking on additional responsibilities as the subject matter expert and certified trainer for the pool program. In this role, I ensured consistent administration, implementation, and enforcement of the program across the district and provided internal and external training, technical guidance, and policy development at a state level.

I started working for the NMED Air Quality Bureau in July of 2008 as an Environmental Analyst – Advanced in their Policy and Planning Section's Control Strategies Team in Las Cruces. In this position, I served as the border liaison and worked on climate, particulate matter and ozone pollution issues. I worked with stakeholders in formal and informal settings on cross jurisdictional air quality and climate concerns in the tri-state, bi-national Paso del Norte Airshed near Sunland Park, New Mexico, El Paso, Texas and Ciudad Juárez, Mexico. I developed ozone and particulate matter air quality management plans and participated in special studies regarding emissions inventories, monitoring, and photochemical modeling. I developed New Mexico's recommendation for an ozone nonattainment area in and around Sunland Park in southern Doña Ana County, as well as portions of that area's nonattainment State Implementation Plan ("SIP")

under the federal Clean Air Act ("CAA").

From December of 2018 to September 2023, I served as the Control Strategies manager in Santa Fe, with a staff of six that develop air quality rules and the New Mexico SIP; track and comment on federal air quality and climate rules, guidance, and regulatory actions; manage and participate in air quality studies; lead and participate in regional and local climate change and air quality improvement groups and committees; implement air quality management plans and grant programs; and facilitate stakeholder engagement, outreach and education events. My team also managed the Diesel Emissions Reduction Act and the Volkswagen Environmental Mitigation Trust settlement, awarding nearly \$20 million dollars to replace heavily polluting diesel vehicles and equipment with cleaner burning alternative fueled models, including electric vehicles and charging stations.

I have led and been a part of several rulemaking efforts for NMED before the Environmental Improvement Board, including the Ozone Precursor Rule (20.2.50 NMAC), Energy Transition Act Rule (20.2.101 NMAC), Regional Haze (draft 20.2.68 NMAC), Fugitive Dust (20.2.23 NMAC) and Permitting Rules for Nonattainment Areas (20.2.79 NMAC), covering emission sources in the Oil and Gas, Electric Power, and Construction Sectors. Additionally, I have led and participated in rulemaking efforts before the Water Quality Control Commission regarding the designation of Outstanding National Resource Waters (20.6.4.9 NMAC) and Copper Site Specific Criteria for the Pajarito Plateau (20.6.4.900 NMAC). An accurate and upto-date copy of my resume is included as **NMED Exhibit 2**.

III. WATER QUALITY STANDARDS

Under the New Mexico Water Quality Act ("WQA"), the Water Quality Control Commission ("WQCC" or "Commission") is responsible for adopting Water Quality Standards.

1 NMSA 1978, § 74-6-4(D). The standards must at a minimum protect public health or we

- 2 enhance the quality of water and serve the purposes of the WQA. *Id.* The federal Clean Water Act
- 3 ("CWA") regulations provide similar direction: "States adopt water quality standards to protect
- 4 public health or welfare, enhance the quality of water and serve the purposes" of the CWA. 40
- 5 C.F.R. § 131.2. Section 101(a)(2) of the CWA requires that, wherever attainable, water quality
- 6 shall provide "for the protection and propagation of fish, shellfish and wildlife and for recreation
- 7 in and on the water." 33 U.S.C. § 1251(a). In accordance with 40 C.F.R. § 131.10(a), each State
- 8 must specify appropriate water uses to be achieved and protected. Additionally, adoption of WQS
- 9 must ensure the attainment and maintenance of WQS for downstream waters. 40 C.F.R. §
- 10 131.10(b). The requirements as outlined under 40 C.F.R. § 131 and the CWA have been codified
- under the Water Quality Standards at 20.6.4 NMAC.
- 12 A water quality standard "defines the goals for a water body, or portion thereof, by
- designating the use or uses to be made of the water and by setting criteria necessary to protect the
- uses." 40 C.F.R. § 131.2. The designated uses in New Mexico's Surface Water Quality Standards,
- 15 set forth in 20.6.4.900 NMAC, are:
- fish culture

- public water supply
- industrial water supply
- domestic water supply
 - irrigation and irrigation storage
- primary and secondary contact
- livestock watering
- wildlife habitat, and
- aquatic life (coldwater, coolwater, warmwater and four other subcategories)
- 25 The Standards also establish water quality criteria that will protect the designated uses of
- a water body. Criteria also serve as the primary regulatory basis for Total Maximum Daily Load
- 27 calculations and National Pollutant Discharge Elimination System permit limits. These criteria can

be general narrative criteria that apply to all waters, or numeric criteria that apply to a specific designated use or water quality segment. An example of a narrative criterion is that for plant nutrients, which states, "Plant nutrients from other than natural causes shall not be present in concentrations that will produce undesirable aquatic life or result in a dominance of nuisance species in surface waters of the state." 20.6.4.13(E) NMAC. Examples of numeric criteria include maximum, 4T3 temperature¹, or 6T3 temperature² criteria applicable to various existing, designated, or attainable uses, found in 20.6.4.900(H) NMAC.

IV. BACKGROUND ON AQUATIC LIFE USES AND SUBCATEGORIES APPLICABLE TO 20.6.4.126 NMAC

New Mexico's surface waters with an existing, designated, or attainable Aquatic Life Use ("ALU") "shall be free from any substances at concentrations that can impair the community of plants and animals in or the ecological integrity" of the water. 20.6.4.900(H) NMAC. In accordance with 40 C.F.R. § 131.10(c), states may develop subcategories of the uses listed in CWA § 303(c), including the protection and propagation of fish, shellfish, and wildlife, to refine and clarify specific use classes. Subcategories must specify the level of water quality that supports and protects the goal uses listed in CWA § 101(a)(2). 40 C.F.R. § 131.10(c). New Mexico has adopted seven subcategories of ALU including high quality coldwater, coldwater, marginal coldwater, coolwater, warmwater, marginal warmwater, and limited aquatic life uses. The WQS define these uses and set specific criteria for these subcategories in Paragraphs 1 through 7 of 20.6.4.900(H) NMAC. Additionally, subsections I, J, K, L, and J of 20.6.4.900

¹ "4T3 temperature" means the temperature not to be exceeded for four or more consecutive hours in a 24-hour period on more than three consecutive days. 20.6.4.7(A)(2) NMAC.

² "6T3 temperature" means the temperature not to be exceeded for six or more consecutive hours in a 24-hour period on more than three consecutive days. 20.6.4.7(A)(3) NMAC.

include acute and chronic criteria applicable to all ALU subcategories.

A classified water of the state includes a segment description, designated uses, and applicable criteria. *See* 20.6.4.7(C)(3) NMAC. During the 2005 Triennial Review, the WQCC initially classified waters within or near Los Alamos National Laboratory, under Sections 126, 127, and 128 of 20.6.4 NMAC (**NMED Exhibit 5**). Sandia Canyon (from Sigma Canyon upstream to LANL NPDES outfall 001) is currently included in 20.6.4.126 NMAC with a designated coldwater aquatic life use, which has an instantaneous maximum temperature criterion of 24°C (75°F) and a 6T3 temperature criterion of 20°C (68 °F). *See* 20.6.4.900(H)(2) NMAC.

The initial classification of Sandia Canyon under 20.6.4.126 NMAC included a maximum temperature criterion of 24°C (75°F) and did not include a 6T3 temperature criterion. As a result of the 2008 Triennial Review, the maximum temperature criteria was removed from 20.6.4.126 NMAC and the default maximum temperature criterion of 24°C and a 6T3 criterion specified in 20.6.4.900(H)(2) for coldwater ALU was adopted and became applicable to the classified segment (NMED Exhibit 6). The New Mexico CWA § 303(d)/§ 305(b) 2018-2020 Integrated Report (Appendix A) lists the Sandia Canyon assessment unit within 20.6.4.126 NMAC as impaired for coldwater ALU due to temperature with an assigned impairment category of 5/5B ³. 2018-2020 State of New Mexico Clean Water Act Section 303(d)/Section 305(b) Integrated Report, Appendix A 303(d)/305(b) List. (NMED Exhibit 7). A 5/5B category assignment indicates that a review of the WQS is warranted as the designated use may

³ IR Category 5/5B - Impaired for one or more designated or existing uses and a review of the water quality standard will be conducted. [Assessment Units] are listed in this category when it is possible that water quality standards are not being met because one or more current designated use is inappropriate. After a review of the water quality standard is conducted, a Use Attainability Analysis (UAA) will be developed and submitted to USEPA for consideration, or the [Assessment Unit] will be moved to IR Category 5A and a TMDL will be scheduled.

not be appropriate. Id.

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V. USE ATTAINABILITY ANALYSIS REQUIREMENTS

3 Under the WQA, any person (including NMED) may at any time petition the Commission 4 to adopt, amend, or repeal a water quality standard. NMSA 1978, § 74-6-6(B). In accordance with 5 20.6.4.15(E) NMAC, any person may submit notice to NMED stating their intent to conduct a use 6 attainability analysis ("UAA"). A UAA is a scientific assessment of the factors (e.g., physical, 7 chemical, biological, and economic) affecting the attainment of the designated use as described in 8 40 C.F.R. § 131.10(g). See 40 C.F.R. § 131.3(g). UAAs are required when revising CWA § 9 101(a)(2) designated uses (i.e., swimmable/fishable) with less stringent criteria or removing such 10 designated use. 20.6.4.10(D) NMAC. Designated uses that are existing uses cannot be removed 11 unless a designated use with more stringent criteria is adopted. 20.6.4.15(A)(2) NMAC. The 12 revision of a designated use based on an existing use with more stringent criteria does not require 13 a UAA. 20.6.4.15(A) NMAC. 14 UAAs must use scientifically defensible methods such as those outlined in the U.S. 15 Environmental Protection Agency's Technical Support Manual: Waterbody Surveys and 16 Assessments for Conducting Use Attainability Analyses or the Department's Hydrology Protocol 17 as included in the appendices of the WOCC-approved Water Quality Management Plan -18 Continuing Planning Process. 20.6.4.15(B) NMAC. Additionally, UAAs that conclude that the 19 revision or removal of the designated use is warranted based on one or more of the 40 C.F.R. § 20 131.10(g) factors, must determine the highest attainable use ("HAU") to be adopted. 20.6.4.15(C) 21 NMAC. The HAU is the modified aquatic life (or wildlife or recreation) use that is closest to the 22 CWA \$101(a)(2) use and that is attainable based on the evaluation of the 40 C.F.R. \$ 131.10(g) 23 factors. See 40 C.F.R. § 131.3(m).

1	When NMED does not conduct the UAA, the proponent must provide a work plan that
2	outlines the development of the UAA for review and comment by NMED and the U.S.
3	Environmental Protection Agency ("EPA"). 20.6.4.15(E)(1) NMAC. The workplan must identify
4	and include:
5 6 7 8 9 10 11 12 13 14	 The waterbody and reasoning for the UAA. The source of the data to be used to demonstrate the current designated use is not attainable. The 131.10(g) factor(s) to be evaluated. The data to be used to determine the HAU. The state and federal agencies to be consulted. The stakeholder engagement and outreach process. The public notification process to be used. The expected timeline, including any rulemaking activities that result from the UAA.
15	20.6.4.15(E)(3) NMAC.
16	Once comments from NMED and EPA, if any, are addressed and the work plan is approved
17	by NMED, the proponent may proceed with conducting the UAA. 20.6.4.15(E)(2) NMAC. The
18	outcome of the UAA, including data and findings, are submitted to NMED and public notice is
19	provided as outlined in the approved workplan. 20.6.4.15(E)(4) NMAC. If a WQS revision is
20	warranted, NMED or the proponent of the UAA, may petition the WQCC for a rulemaking to
21	modify the designated use. 20.6.4.15(E)(5) NMAC.
22	As with a UAA and a proposed designated use change, anyone may petition the
23	Commission to adopt site-specific criteria ("SSC") based on site-specific conditions, provided the
24	petition: identifies the specific waters to which the SSC would apply, explains the rationale for
25	proposing the SSC, describes the methods used to notify and solicit input from potential
26	stakeholders and the general public in the affected area and present and respond to the public input

received, and presents and justifies the derivation of the proposed SSC. 20.6.4.10(F)(3) NMAC.

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- background or other factors or combination of factors that may warrant a modification of the
 default criteria to fully protect the designated use to which they apply. 20.6.4.10(F)(1) NMAC and
 20.6.4.10(F)(2) NMAC. Pursuant to 20.6.4.10(F)(4) NMAC, the derivation of SSC must rely on a
 scientifically defensible method or the natural background concentration. SSC based on natural
 background must support the level of aquatic life expected to occur naturally at a site. 20.6.4.10(G)
 NMAC. Natural background must be determined by: considering spatial and seasonal interannual
 variability as appropriate, documenting the presence of natural sources of the pollutant,
 - VI. WATER QUALITY STANDARDS AMENDMENT PROCESS

modeling methods to quantify the natural background. 20.6.4.10(G)(1)-(4) NMAC.

quantifying the human contribution of the pollutant, and relying on analytical, statistical, or

Rulemaking before the Commission begins when a person files a written petition and statement of reasons to adopt, amend, or repeal a regulation in accordance with 20.1.6.200 NMAC. The petition must specify the statutory authority for the Commission to adopt proposed rules, estimate the amount of time to conduct the hearing, and include a copy of the entire rule with line numbers and proposed changes in redline fashion. 20.1.6.200(B) NMAC. The Commission may grant a rulemaking hearing in accordance with 20.1.6.200(C) NMAC and specify the procedures for conducting the hearing as outlined in 20.1.6.200(D) NMAC, including provisions for public notice and public participation.

In addition to these requirements, a petition to adopt SSC shall include the specific waters to which the criteria apply, a rationale for the proposing the site-specific criteria, and a description of stakeholder engagement including methods of public notice and comment and responses to comment or input received. 20.6.4.10(F)(3)(a)-(c) NMAC. The petition must also present and justify the derivation of the proposed criteria to the Commission following the WQCC rulemaking

1	procedures at 2	20.1.6 NMAC.	20.6.4.10(F))(3)(d) NMAC.
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Public notice of rulemaking hearings must be provided to the public in accordance with
20.1.6.201(A) NMAC. The public notice must include publication in a newspaper of general
circulation, the New Mexico Register, and such other means as directed by the Commission or
required by law. 20.1.6.201(B) NMAC. The rulemaking public notice must include: the subject, a
summary, and the purpose of the proposed rule, the legal authority for the rule and its adoption,
the technical basis for the proposed rule and how to find technical information, governing laws of
procedure, and information on how to present information and participate in the hearing, examine
documents, and download information. 20.1.6.201(C)(1)- (7) NMAC. The public notice may also
state the Commission's intent to make a decision on the proposed rule at the conclusion of the
hearing. 20.1.6.201(C)(8) NMAC. In addition to publication of notice, the Commission must
"provide to the public" by distributing rulemaking information by:

- posting it on the commission's website,
- posting it on the New Mexico sunshine portal,
- making it available at the applicable constituent agency's district, field, and regional offices,
- sending it by email to persons who have made a written request for notice of announcements addressing the subject of the rulemaking proceeding and who have provided an email address to the commission administrator,
- sending it by email to persons who have participated in the rulemaking and who have provided an email address to the commission administrator,
- sending written notice that includes, at a minimum, an internet and street address where the information may be found to persons who provide a postal address; and
- providing it to the New Mexico legislative council for distribution to appropriate interim and standing legislative committees.
- 20.1.6.7(P)(1)-(7) NMAC.
- The Commission must hold a public hearing and consider technical testimony to adopt new or amended standards. NMSA 1978, § 74-6-6(A). New or revised standards must be submitted by the State to EPA for approval and use in CWA programs. 40 C.F.R. § 131.20.

VII.	WORKPLAN COORDINATION, UAA AND SSC DEVELOPMENT, AND
	PURLIC NOTICE

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On February 10, 2020, the Department received the final work plan from the Petitioners for the development of a UAA to evaluate the naturally occurring thermal conditions (40 C.F.R. § 131(g)(1)) for the Sandia Canyon assessment unit classified under 20.6.4.126 NMAC. The workplan provided transparency, planning, and a common understanding of the need for the designated use revisions. In addition to the technical aspects of the workplan, the petitioners included their plans for stakeholder outreach, public engagement, and consultation with state and federal agencies. NMED approved the workplan on April 9, 2020 (NMED Exhibit 8).

The Petitioners developed a draft UAA based on the work plan and submitted it to NMED for review on October 25, 2021. The Department reviewed the UAA and forwarded its initial comments and the UAA to EPA for their review. NMED provided formal comments that also included EPA's comments on the draft UAA to the Petitioner on March 4, 2022 (NMED Exhibit 9). The Petitioners also held a 45-day public comment period on this draft UAA from December 20, 2021 to February 3, 2022.

The Petitioners addressed the public's, the Department's, and EPA's comments in a response to comments document dated November 6, 2023, and a revised UAA dated February 16, 2024. Throughout the process, the Petitioners solicited input from stakeholders and the public and responded to all the input they received in accordance with the workplan and 20.6.4 NMAC. The revised UAA included the proposed coolwater designated use revision and site-specific 6T3 temperature criterion of 25°C (77°F) for a new classified segment under 20.6.4.141 NMAC. The Petitioners held a subsequent public comment period from May 12 to June 13, 2024, and did not receive any comments. The final UAA and description of the public input process were provided with the Petition submitted to the Commission in this matter.

The public notice for the hearing was drafted and published by the Petitioners in the
Albuquerque Journal, Los Alamos Daily Post, and the New Mexico Register in accordance with
the State Rules Act and 20.1.6.201 NMAC (NMED Exhibit 10). NMSA 1978, § 14-4-5.2(D). The
Petitioners also sent out a listserv email and posted the public notice of rulemaking to their
Electronic Public Reading Room website (NMED Exhibit 11).

The Department assisted the Petitioners and Commission with notification requirements and provided rulemaking information to the public, as described in 20.1.6.7(P) NMAC. The Department completed the "provide to the public" requirements it was responsible for on or before March 14, 2025 by: posting the notice of rulemaking to the Commission's website, the New Mexico Sunshine Portal, at NMED's District and Field Offices, and sending emails with the public notice of rulemaking to the Office of Public Facilitation's and SWQB's stakeholder lists and Listserv subscribers, EPA Region 6, and to the Legislative Council Service (NMED Exhibit 12). Additionally, the Department sent notice to the Small Business Regulatory Advisory Committee, posted the public notice and rulemaking information on its events calendar, the SWQB's website, the NMED Public Notice website, and created an entry for the Commission to receive comments through the Department's Public Comment Portal (NMED Exhibit 13).

VIII. CONCLUSION

Commission regulations allow for the amendment of designated uses and the adoption of site-specific criteria based on relevant, site-specific water body conditions and scientifically defensible methods. Specific waterbody conditions include the chemical, biological, or physical characteristics of a site that support the aquatic life community expected to naturally occur. Site-specific criteria can be more or less stringent than the "default" criteria for a designated use, but must support and protect designated use of the water body.

1	In 2018, the Department and Petitioners engaged on the topic of a Use Attainability
2	Analysis for the Sandia Canyon assessment unit and conducted multiple scoping meetings and
3	reviews to outline and discuss expectations and processes. The Petitioners drafted a workplan for
4	the UAA development and stakeholder engagement that was approved by the Department. NMED
5	observed that the Petitioners followed the workplan, completed stakeholder engagement activities,
6	and held public comment periods on their draft and revised UAA and proposed WQS amendments.
7	This included data collection and analysis, evaluation of existing uses, determining the HAU, site-
8	specific criteria development, public meetings, responding to comments, and making
9	corresponding revisions to the UAA and proposed WQS amendments, as necessary. As such,
10	NMED considers the Petitioners to have properly complied with the applicable provisions of
11	20.6.4.10 NMAC and 20.6.4.15 NMAC.
12	The proposed revisions to 20.6.4 NMAC, as presented by the Petitioners, are based on
13	scientifically-sound approaches and methodologies promoted by EPA to consider the naturally
14	occurring thermal conditions that prevent the attainment of the current designated ALU in the
15	upper portion of Sandia Canyon. NMED recommends that the Commission adopt the proposed
16	amendments to 20.6.4.126 NMAC and the newly classified segment, including the coolwater ALU
17	and 6T3 temperature SSC under 20.6.4.141 NMAC.
18	If the Commission adopts the proposed amendments, the SWQB would file the rule
19	changes with the State Records Center and Archives in accordance with the State Rules Act.
20	NMSA 1978, § 14-4-5(D). The rules would become effective for state purposes thirty days after
21	filing in accordance with the State Rules Act. NMSA 1978, Section 74-6-6(E). The SWQB would
22	also submit the revised water quality standards to EPA for formal review and action (within 90
23	days of submittal) under CWA § 303(c).

1 This concludes my direct technical testimony.

MICHAEL G. BACA

EDUCATION - September 1999-June 2004, Carleton College, Northfield, MN, B.A. in Chemistry

PROFESSIONAL EXPERIENCE – February 2005-Present, New Mexico Environment Department

October 2023 - Present, Surface Water Quality Bureau, Water Resources Manager I

Serve as the Water Quality Standards Coordinator and the supervisor for the Standards and Outreach Team. Oversee, lead, and assist in the development, revision, and implementation of New Mexico's surface water quality standards, including rulemakings and special projects. Provide technical testimony and exhibits for proposed water quality management plans and standards amendments presented before the Water Quality Control Commission, including third-party rulemakings, the Triennial Review and the Water Quality Management Plan and Continuing Planning Process. Organize public stakeholder engagement opportunities regarding proposed changes to standards to provide feedback and discussion with the public, regulated community, interests groups, nonprofit organizations, academia and state, local and federal government representatives and elected officials. Oversee the day-to-day activities of the team: managing, assigning and prioritizing tasks and projects, developing employees, providing technical and policy guidance, and administering personnel related actions such as evaluations, discipline, and hiring.

December 2018-September 2023, Air Quality Bureau, Staff Manager

Manage the daily operations of the Control Strategies Section including a staff six to implement and enforce the federal Clean Air Act in New Mexico through the development and revision of the State Implementation Plan and other air quality management plans and rules for the state. Assign and prioritize completion of tasks and projects to achieve the vision and mission of the Department and the Bureau's performance measures. Provide technical and policy guidance through the development of work products and administration of existing programs, policies, rules, regulations, and resources. Oversee, lead and assist with rulemaking and special projects including the adoption of rules and management plans by presenting testimony and exhibits before the Environmental Improvement Board. Manage air quality programs and projects to award contracts and grants, ensure timely submission of deliverables and technical reports, and review financial expenditures to meet contractual obligations and compliance with state procurement rules. Organize and develop public stakeholder engagement strategies to provide meaningful engagement opportunities and collaborations with the public, regulated community, interests groups, nonprofit organizations, academia and state, local and federal government representatives and elected officials. Complete timely HR actions to include training, employee evaluations, discipline, hiring and other personnel actions.

July 2008-December 2018, Air Quality Bureau, Environmental Analyst

Represent the Department as the air quality liaison with binational border air quality agencies and stakeholders, participating in the Joint Advisory Committee and the USEPA border programs. Develop and prepare technical testimony and exhibits for public hearings in front of the Environmental Improvement Board to present and defend air quality plans and rules for adoption in New Mexico, including state implementation plans required by the USEPA. Analyze ambient air quality monitoring data and prepare technical documents for submission to the USEPA for high wind blowing dust events that cause air pollution episodes. Conduct public education and outreach meetings and develop educational material regarding air quality, rule requirements, and rule development. Review and comment on permits, Environmental Impact Statements, and Environmental Assessments for compliance with

federal and state rules and standards. Manage air quality research projects and contracts in the border area to ensure timely submission of deliverables.

February 2005 - July 2008, Field Operations Division, Environmental Scientist and Specialist

Oversee public swimming pool program at a district level to ensure consistent permitting, inspection, and enforcement actions across six counties in northwest New Mexico. Review engineering plans and approve permits for construction of swimming pool and bath facilities. Conduct training for swimming pool department staff and operators. Permit and inspect restaurants and food processors, swimming pool facilities, and liquid waste disposal system installations and initiate enforcement actions for compliance with applicable regulations. Conduct public education and outreach to help the regulated community comply with environmental management principles, administrative requirements, and state regulations.

LYNETTE STEVENS GUEVARA -

Summary of Qualifications:

Thirty+ years of experience in natural resources protection and management with emphasis on water quality monitoring, assessment, and restoration. Major strengths include project management and collaboration, data management and interpretation, technical report preparation and editing, and developing tools and techniques to increase efficiency.

Professional Experience:

11/22 – present New Mexico Environment Dept. Surface Water Quality Bureau, Santa Fe, NM

Monitoring, Assessment, and Standards Section Program Manager

- Managed a group of fourteen technical staff including supervising three team leaders to:
 - Monitor, assess, and report on surface water quality conditions around New Mexico
 - Develop, revise, and maintain New Mexico's related surface water quality standards
 - o Develop total maximum daily load (TMDL) planning documents to address impairments
 - o Provide related assistance and support to other Bureau sections and stakeholders as needed
- Complete program management activities including grant writing, funding allocations, hiring, and performance reviews
- Prepare and implement EPA grants applications and revisions, associated workplans, and budgets designed to achieve Department and Bureau goals
- Actively participate on various EPA and state counterpart workgroups regarding water quality policy, implementation, guidance, and strategies to achieve Clean Water Act goals and deliverables
- Actively collaborate with other NMED Water Protection Division bureau management and staff on collaborative projects and initiatives to move the Department forward

11/20- 10/22 New Mexico Environment Dept. Ground Water Quality Bureau, Santa Fe, NM

Pollution Prevention Section Reuse Team Leader

- Serve as in-house expert for above-ground use of reclaimed domestic wastewater and aquifer recovery and storage permits to encourage successful implementation of water reuse projects
- Maintain individual groundwater discharge permit case load, provide review and comment on all
 permits with reuse components, and contribute to the oversight of all discharge permits managed by
 the Section
- Research and propose IT modernization tools to provide e-Permitting and e-Reporting tools to increase efficiency, compliance, and transparency
- Manage CWA 319 grant including workplans, budgeting, and reporting
- Hire and supervise and manage a team of three technical staff

08/01 – 11/20 New Mexico Environment Dept. Surface Water Quality Bureau, Santa Fe, NM

State on New Mexico Clean Water Act §303(d)/ §305(b) Assessment Coordinator (2001-2020)

Project management duties performed to develop and maintain the biennial Clean Water Act §303(d)/ §305(b) Integrated Report and List to Congress:

- Collated and assessed chemical, physical, and biological data to determine surface water quality impairments based on current water quality standards in 20.6.4 NMAC
- Developed and applied assessment protocols used to determine water quality attainment
- Developed automated assessment procedures in R statistical programming language
- Collaborated with NMED IT and USEPA Office of Water to merge and improve NMED inhouse and

- national water quality monitoring and assessment databases
- Presented to the NM Water Quality Control Commission (WQCC) and EPA Region 6 for approval
- Prepared and presented testimony to the NM WQCC regarding Outstanding National Resource Waters (ONRW) nominations in the Valle Vidal and to defend impairment determinations
- Participated in various EPA and state counterpart workgroups and national conferences regarding
 Clean Water Act policy, procedures, and deliverables
- Collaborated with the USDA National Sedimentation Lab to develop sedimentation assessment protocols for the San Juan River basin
- Collaborated with the EPA Office of Research and Development and EPA Region 6 to develop sedimentation and nutrient assessment protocols and monitoring techniques

Monitoring and Assessment Section Program Manager (2004-2006)

- Managed a group of twelve technical staff including supervising three team leaders in order to monitor, assess, and report on surface water quality conditions around New Mexico
- · Participated in grant writing, funding allocations, hiring, and performance reviews
- Developed Requests for Proposals and participated in selection of funding recipients
- Prepared and implemented strategic plans, associated workplans, and budgets designed to achieve
 Department and Bureau goals through implementation of several EPA grants
- Developed and presented budget requests for NMED and EPA to meet program goals

Monitoring and Assessment Section TMDL, GIS and Database Team Leader (2001-2003)

- Supervised and managed three technical staff to develop total maximum daily load (TMDL) water quality planning documents, GIS tools, and water quality databases for the Section
- Participated in hiring, performance reviews, and completing team goals to support the Bureau.
- Developed team timelines and specific TMDL, GIS, and database tasks and products needed to accomplish goals, and participated in the evolution of the Monitoring and Assessment Section
- Developed, public noticed, and presented TMDL water quality planning documents to stakeholders and the NM WQCC to address identified water quality impairments

05/97 – 08/01 Navajo Nation, Window Rock, AZ

Hydrologist II, Navajo Nation EPA Water Quality Program (02/99 -08/01)

- Project management, including the proposal and implementation of watershed restoration projects;
 designing monitoring networks; preparing outreach materials, presentations, and technical reports; and
 coordinating activities with federal tribal and federal land management partners
- Developed bioassessment monitoring program, associated quality assurance project plans, and provided training to staff and students
- Coordinated surface water quality sampling, interpreted data, and prepared summary reports

Hydrologist II/Supervisor, Navajo Nation Water Management Branch (05/97 -02/99)

- Supervised and managed stream gage and watershed restoration staff, including hiring, training, evaluations, budgeting, and ensuring deliverables were met
- Project management of watershed restoration projects with tribal and federal land management partners, including the development of RFPs, contracts, workplans, work schedules, permits, project budgets, and monitoring networks
- Maintained nine active continuous stream gages coordinated with USGS, ordered needed equipment, surveyed benchmarks, measured stream flow, developed rating curves, and assisted with water monitoring design of irrigation canals

Education:

Post-baccalaureate coursework at University of Washington and Shoreline CC, Seattle, WA Master of Science (Watershed Science), Colorado State University, Fort Collins, CO

Computer Skills:

MS Office, Oracle database design team, SSTEMP modeling, RStudio programming, ArcGIS, website maintenance

Interests / Hobbies:

Founding treasurer of Wild Sage Co-op (now La Montanita) Gallup branch, past Parent-Teacher-Kid Association board member, bike-to-school and community trails advocate, mountain biking, skiing, hiking

Publications and Presentations:

- Guevara, L. 2003. The challenges and opportunities of implementing TMDLs in states with no instream flow program. In proceedings of ASAE Conference on Emerging TMDL Issues. Albuquerque, NM.
- Guevara, L. 2012. Determining sediment impairment in New Mexico using biologic and geomorphic sediment thresholds. In proceedings of *National Water Quality Monitoring Conference*. Portland, OR. Available at: http://acwi.gov/monitoring/conference/2012/.
- Hughes, R., et. al. 2022. Biological assessment of western USA sand-bed rivers based on modeling historical and current fish and macroinvertebrate data. River Research and Applications 38: Issue 4, 639-656. Available at: https://onlinelibrary.wiley.com/doi/10.1002/rra.3929.
- Irwin, R. and L. Stevens. 1996. Psuedoreplication issues versus hypothesis testing and field study designs: Alternative study designs and statistical analyses help prevent data misinterpretation. Park Science. Spring 1996. National Park Service, Denver, CO.
- Irwin, R.; Stevens, L.; and M. Van Mouwerik, M. 1998. Environmental Contaminants Encyclopedia: Integrated Resource Management Application. National Park Service, Ft. Collins, CO. Available at: Environmental Contaminants Encyclopedia. Available at: https://irma.nps.gov/DataStore/Reference/Profile/2257033.
- Jessup, B.K., D. Eib, L. Guevara, J. Hogan, F. John, S. Joseph, P. Kaufmann, and A. Kosfiszer. 2010. Sediment in New Mexico Streams: Existing conditions and potential benchmarks. Prepared for the EPA Region 6, Dallas, TX and the New Mexico Environment Department, Santa Fe, NM. Available at: http://www.nmenv.state.nm.us/swqb/Sedimentation/.
- Jessup, B.K., P. Kaufmann, F. John, L. Guevara, and S. Joseph. 2014. Bedded Sediment Conditions and Macroinvertebrate Responses in New Mexico Streams: A First Step in Establishing Sediment Criteria. Journal of American Water Resources Association. July. Volume 50, Issue 6.
- Stevens, L.I. 1996. Benthic macroinvertebrates as indicators of water quality. Master's thesis. Department of Earth Resources, Colorado State University, Ft. Collins, CO.
- Viera, N., W. Clements, L. Guevara, and B. Jacobs. 2004. Resistance and resilience of stream insect communities to repeated hydrologic disturbances after a wildfire. Freshwater Biology 49: 1243-1259.

Shelly Lemon Santa Fe, New Mexico

EDUCATION

M.S. Hydrology University of Arizona – Tucson, AZ

B.S. Biology

Minor in Chemistry/Math

University of Arizona – Tucson, AZ

PROFESSIONAL EXPERIENCE

Bureau Chief – Surface Water Quality Bureau, NM Environment Department

August 2016 – Present NMED – Surface Water Quality Bureau, Santa Fe, NM

- Manage the Surface Water Quality Bureau of the New Mexico Environment
 Department by planning, setting, and achieving goals set forth in the Department's
 Strategic Plan, EPA approved work plans, and program planning documents.
- Contribute to and implement Department strategic goals, objectives, and actions.
- Collaborate with the public, stakeholders, and decision makers (legislators, Governor's Office, etc.) to ensure that the goals of the Department are achieved.
- Oversee an operating budget of approximately \$11 million dollars that requires administration of general funds, special revenue funds, interagency transfers, and federal grants, including oversight of the Bureau's grants and contracts management.
- Develop, tailor, and implement administrative, programmatic, and financial operation procedures to ensure accountability and facilitate successful completion of projects.
- Directly or indirectly supervise 42 technical and administrative staff including hiring, work performance evaluations, and discipline, if needed. Ensure performance goals are met and activities are conducted in accordance with applicable statutes, policies, rules, permits, orders, and grant commitments.
- Develop and respond to legislative proposals and develop regulatory initiatives to promote and enhance surface water quality protections in New Mexico.
- Provide leadership and substantive expertise on technical and policy working groups, particularly in support of Department priority initiatives.
- Periodically meet with managers and staff to evaluate program effectiveness, identify strengths, weaknesses, and opportunities, and develop strategies to improve Bureau programmatic operating functions.
- Facilitate coordination between EPA, and other public and private entities involved in surface water quality protection, management, and regulation.
- Ensure that information requests are responded to in a timely and professional manner.
- Oversee short-term investigations in response to citizen complaints, accidental spills, and other emergencies.
- Work with the Bureau's webmaster to create, update, and maintain webpages, resources, and links associated with activities of the Bureau.

Program Manager for Monitoring, Assessment and Standards

June 2015 – October 2016 NMED – Surface Water Quality Bureau, Santa Fe, NM

- Managed the Surface Water Quality Bureau's monitoring, assessment, and standards programs including writing, submitting, and managing the Clean Water Act Section 106 grants on an annual basis with semi-annual updates.
- Oversaw and evaluated the performance of 15 staff.
- Participated in the development and revision of state surface water quality standards and regulations including the 2013 Triennial Review presented during the Water Quality Control Commission's October 2015 hearing and subsequent deliberations.

- Planned water quality surveys throughout New Mexico that met budgetary constraints and data quality objectives.
- Reviewed, integrated, and assessed data for use in Clean Water Act required activities.
- Prepared water quality reports (e.g. watershed survey summaries, use attainability analyses, TMDLs, etc.) for the public and as a deliverable to EPA.
- Reviewed, updated, and developed protocols to standardize tasks including sample collection, data assessment, and report writing.
- Represented the Bureau at meetings, professional conferences, workshops, and Water Quality Control Commission meetings.
- Conducted short-term investigations in response to citizen complaints, accidental spills, and other emergencies.
- Maintained analytical results in the Bureau's water quality database, prepared retrievals of stored data, and scheduled uploads of data to EPA's national database.
- Worked with the Bureau's webmaster to create, update, and maintain webpages, resources, and links associated with activities of the Section and Bureau.

Municipal Team Leader – Point Source Regulation Section

March 2014 – May 2015

NMED – Surface Water Quality Bureau, Santa Fe, NM

- Reviewed and evaluated the performance of the Municipal Team by providing meaningful, frequent, and ongoing input on work performance and prioritization of workloads.
- Cooperated with and supported the efforts of other Bureau sections. Facilitated
 positive working relationships with other state and federal agencies, stakeholders,
 and cooperators involved in National Pollutant Discharge Elimination System
 (NPDES) permitting activities.
- Reviewed, analyzed data, and prepared comments on NPDES permits submitted to the Bureau for certification under Section 401 of the Federal Clean Water Act. Ensured consistency in NPDES permit certifications.
- Investigated regulated facilities for compliance/non-compliance with applicable state and federal surface water quality laws, standards, and regulations, and prepared and submitted comprehensive inspection reports that documented the status of the facilities regarding the federal NPDES permit program and regulations.
- Collected accurate and detailed information and useable evidence during site investigations to supplement information contained in NPDES permits, to evaluate violations of state surface water quality standards and regulations, and to assist EPA with enforcement.
- Reviewed, analyzed, and prepared well-written, clear, concise, and factual comments on proposed or new amended federal and state agency policies and procedures, regulations, and technical recommendations.
- Developed standard operating procedures for wastewater sampling and compliance sampling. Evaluated and acquired sampling equipment necessary for monitoring NPDES permitted facilities.

Reviewed, analyzed data, and prepared comments relevant to regulatory requirements and surface water quality studies and findings on Environmental Assessments (EA) and Environmental Impact Statements (EIS) submitted to SWQB for review.

Acting Program Manager for Monitoring, Assessment and Standards

July 2012 – July 2013

NMED – Surface Water Quality Bureau, Santa Fe, NM

- Managed the Surface Water Quality Bureau's monitoring, assessment, and standards programs including writing, submitting, and managing the Clean Water Act Section 106 Monitoring Initiative grant on an annual basis with semi-annual updates.
- Oversaw and evaluated the performance of 15 staff.
- Participated in the development and revision of state surface water quality standards and regulations.

- Planned water quality surveys throughout New Mexico that met budgetary constraints and data quality objectives.
- Reviewed, integrated, and assessed data for use in Clean Water Act required activities.
- Prepared water quality reports (e.g. watershed survey summaries, use attainability analyses, TMDLs, etc.) for the public and as a deliverable to EPA.
- Developed protocols to standardize tasks including sample collection, data assessment, and report writing.
- Represented the Bureau at meetings, professional conferences, workshops, and Water Quality Control Commission meetings.
- Conducted short-term investigations in response to citizen complaints, accidental spills, and other emergencies.
- Maintained analytical results in the Bureau's water quality database, prepared retrievals of stored data, and scheduled uploads of data to the EPA's national database.
- Worked with the Bureau's webmaster to create, update, and maintain webpages, resources, and links associated with activities of the Section and Bureau.

Monitoring Team Leader – Monitoring, Assessment and Standards

April 2011 – July 2013 NMED – Surface Water Quality Bureau, Santa Fe, NM

- Managed the statewide ambient monitoring program for the Bureau. The Monitoring Team is responsible for collecting water quality data and associated flow measurements in surface waters of the state. Data collected by the Monitoring Team is used to determine if the water body meets water quality standards and ensure designated uses are supported.
- Oversaw and evaluated the performance of 5 staff.
- Planned water quality surveys throughout New Mexico that met budgetary constraints and data quality objectives.
- Ensured adequate and appropriate data were collected to support a variety of Clean Water Act required activities (e.g., water quality standards amendments, TMDL development, NPDES permits, nonpoint source monitoring effectiveness, etc.).
- Prepared watershed survey summaries for the public and as a deliverable to EPA.
- Developed protocols to standardize tasks including sample collection, data assessment, and report writing. Specifically, responsible for developing, updating, and revising the Field Sampling Plan and Physical Habitat standard operating procedures.
- Maintained analytical results in the Bureau's water quality database, prepared retrievals of stored data, and scheduled uploads of data to EPA's national database.
- Conducted short-term investigations in response to citizen complaints, accidental spills, and other emergencies.
- Worked with the Bureau's webmaster to create, update, and maintain monitoring webpages, resources, and links.
- Represented the Bureau at meetings, professional conferences, and workshops.

Nutrients and Lakes Team Leader & TMDL Writer – Monitoring and Assessment

August 2004 – April 2011 NMED – Surface Water Quality Bureau, Santa Fe, NM

- Prepared watershed planning documents (i.e., TMDLs) to improve water quality and conducted public meetings to address stakeholder comments and concerns.
- Presented the final draft documents to the NM Water Quality Control Commission for inclusion and adoption into the State's Water Quality Management Plan.
- Oversaw the nutrient criteria development program for streams, rivers, and lakes.
- Headed efforts in hydrology and monitoring design to develop a *Hydrology Protocol* that distinguishes between ephemeral, intermittent, and perennial waters in New Mexico and to create a practical yet thorough 10-year monitoring and assessment strategy for the Bureau.
- Managed and evaluated the performance of 3 technical staff.

Graduate Research Assistant – Sustainability of semi-Arid Hydrology and Riparian Areas

January 2002 – January 2004

SAHRA – University of Arizona, Tucson, AZ

- Designed, coordinated, and implemented a hydrologic research project to determine the influence of land use and regional hydrology on surface water quality in a semi-arid stream.
- Organized and prepared an objective, scientifically sound thesis describing the methods, results, conclusions, and management implications of this research.
- Co-authored the journal article, "Spatial variability in dissolved organic matter and inorganic nitrogen concentrations in a semiarid stream, San Pedro River, Arizona" for the *Journal of Geophysical Research* Volume: 112, Issue: G3.

Graduate Teaching Assistant

January 2002 – December 2003

University of Arizona, Tucson, AZ

- Assisted in the instruction of an "Introduction to Global Change" class for undergraduates and a "Fundamentals of Water Quality" class for graduates.
- Developed hands-on activities to enhance global awareness and environmental stewardship.
- Designed and facilitated a final project to encourage critical analysis and informed decision-making.

OTHER EXPERIENCE

Middle School Science Teacher | Academy of Technology and the Classics, Santa Fe, NM August 2013 – March 2014

High School Science Teacher | Chino Valley High School, Chino Valley, AZ August 1998 – June 2001

Teacher Fellow | Earth Watch Institute - Bellavista Preserve, Ecuador Summer 1999 (2 weeks)

Science Instructor | Nizhoni - Upward Bound Summer Academy, Flagstaff, AZ Summer 1997, 1998 (6 weeks/Summer)

Naturalist | San Joaquin Outdoor Education, La Honda, CA February 1995 – June 1995, August 1995 – June 1996

Science Instructor & Dive Master | Catalina Island Marine Institute, Avalon, CA June 1993 – January 1995; Summer 1994, 1995, 1996 (10 week/Summer)

STATE OF NEW MEXICO WATER QUALITY CONTROL COMMISSION

IN THE MATTER OF THE TRIENNIAL REVIEW OF STANDARDS FOR INTERSTATE AND INTRASTATE SURFACE WATERS, 20.6.4 NMAC WQCC 03-05(R)



STATEMENT OF REASONS FOR AMENDMENT OF STANDARDS

I. INTRODUCTION

A. Clean Water Act

- 1. The federal Clean Water Act (CWA), Section 101(a)(2), states its objective as the restoration and maintenance of the chemical, physical and biological integrity of the Nation's waters.
- 2. The CWA achieves this objective by ensuring "wherever attainable, water quality which provides for the protection and propagation of fish, shellfish and wildlife, and provides for recreation in and on the water be achieved."
- 3. CWA Section 303(c)(2) establishes the purpose of water quality standards ("WQS" or "standards") as "serv[ing] the purposes of the Clean Water Act." Generally speaking, this language means that the WQS should fulfill the objectives, goals and policies of the CWA.
- 4. The Environmental Protection Agency's (EPA's) Water Quality Standards Handbook (Handbook) provides more specific guidance regarding the meaning of "serv[ing] the purposes of the Clean Water Act." To "serve the purposes of the Clean Water Act." WQS must (a) include provisions for restoring and maintaining chemical, physical, and biological integrity of state waters; (b) wherever attainable, achieve a level of water quality that provides for the protection and propagation of fish, shellfish and wildlife, and recreation in and on the water; and (c) consider the use and value of state waters for public water supplies, propagation of fish and wildlife, recreation, agriculture and industrial purposes, and navigation.
- 5. WQS serve two important purposes: (a) to "define the goals for a water body, or portion, thereof, by designating the use or uses to be made of the water, by setting criteria necessary to protect the uses"; and (b) to "serve as the regulatory basis for the establishment of water-quality-based treatment controls and strategies beyond technology-based levels of treatment required by sections 301(b) and 306 of the Act" in National Pollutant Discharge Elimination system (NPDES) and Dredge-or-Fill permits.

B. Water Quality Act

- The New Mexico Water Quality Act (WQA), Section 74-6-3.E, designates the New Mexico Water Quality
 Control Commission ("WQCC" or "Commission") as the state's water pollution control agency for all purposes
 of the CWA.
- 7. The WQA requires the WQCC to take all necessary steps to comply with the CWA and to protect water quality in New Mexico.
- 8. WQA Section 74-6-4.C provides that the WQCC:
 - shall adopt water quality standards for surface and ground water of the state based on credible scientific data and other evidence appropriate under the Water Quality Act. The standards shall include narrative standards and as appropriate, the designated uses of the waters and the water quality criteria necessary to protect such uses. The standards shall at a minimum protect the public health or welfare, enhance the quality of water and serve the purposes of the Water Quality Act. In making standards, the commission shall give weight it deems appropriate to all facts and circumstances, including the use and value of the water for water supplies, propagation of fish and wildlife, recreational purposes and agricultural, industrial and other purposes.
- WQA Section 74-6-4.E designates the New Mexico Environment Department (NMED) to provide technical services to the WQCC.
- 10. As part of this designation, and as specifically provided by the 1998 State of New Mexico Continuing Planning Process (CPP), NMED takes the lead technical role in the triennial review process.

C. Triennial Review Process

- 11. CWA Section 303(c)(1) requires New Mexico to hold a public hearing at least once every three years to review applicable water quality standards and, as appropriate, to modify and adopt standards.
- 12. The states have considerable latitude in developing and tailoring their WQS to achieve state goals and priorities, but the WQS must comply with federal guidelines.
- 13. After the WQCC holds a hearing, it modifies and adopts the standards based on the hearing record and sends to EPA for review and approval.
- 14. If the EPA approves the WQS, they become enforceable under federal law.
- 15. If the EPA does not approve the WQS, in whole or in part, it gives the state an opportunity to correct the problem.
- 16. If the state cannot or will not correct the problem, then the EPA must promulgate WQS for the state.

17. There have been several instances in the history of New Mexico's WQS that the EPA has disapproved a portion of the standards. In each case, the WQCC has avoided federal promulgation by correcting the problem itself.

D. 1998 Triennial Review

- 18. New Mexico's most recent triennial review hearing was in 1998, and the final order was completed in 2000.
- 19. On January 23, 2001, EPA informed the WQCC that the WQS amendments adopted in the 1998 triennial review were acceptable except for (a) the definition of "surface waters of the state"; (b) the implementation of the "reasonable operation of irrigation and flood control exemption"; (c) the designated uses for the Cimarron River and tributaries; (d) the secondary contact designated use for the lower Rio Grande; and (e) human health criteria for priority toxic pollutants. EPA also noted that the WQCC had not adopted adequate antidegradation implementation procedures.
- 20. The WQCC successfully addressed each of these items, except the antidegradation implementation procedures, in separate hearings.
- 21. With respect to antidegradation implementation procedures, NMED initiated a process for adopting such procedures, releasing a preliminary draft for public review and comment in November 2003.
- 22. Although EPA approved the WQS amendments adopted in the 1998 triennial review, EPA still may revise its decision based on consultations with the U.S. Fish and Wildlife Service (USFWS) pursuant to the federal Endangered Species Act.

E. 2003 Triennial Review

- 23. NMED implemented a full public participation process for the 2003 triennial review.
- 24. On February 21, 2003, NMED initiated a 45-day comment period on a discussion draft of possible changes to the WQS.
- 25. The comment period was publicly noticed through legal advertisements, written notice to the WQCC and NMED Surface Water Quality Bureau (SWQB) mailing lists, and the NMED website.
- 26. NMED held public meetings regarding the discussion draft in Las Cruces, Roswell, Santa Fe and Farmington.
- 27. NMED met with all stakeholders who requested an opportunity to discuss the discussion draft.

- 28. As a result of these meetings, NMED extended the comment period by 30 days.
- 29. NMED revised its discussion draft to take into account many of the comments received during the public participation process.
- NMED filed its petition to amend the WQS on August 15, 2003, initiating the 2003 triennial review.
- 31. The WQCC published notice of the hearing.
- 32. The WQCC held the hearing on February 24, 2004, continuing until March 4, 2004.
- 33. At the hearing, all interested persons were given a reasonable opportunity to submit data, views and arguments orally and in writing, and to examine witnesses testifying at the hearing.
- 34. The Commission deliberated over the course of five days in its November 2004, December 2004 and January 2005 meetings to come to agreement or to a vote of the majority on the following changes to the standards, the basis for which follows each section in summary form. Unless otherwise noted, the Commission approved these changes based on credible scientific data.
- 35. For a more detailed understanding of the basis for each change and citations to the specific supporting testimony and evidence in the record, this Statement, adopted by the Commission as part of its regular meeting on April 12, 2005, must be read in conjunction with Attachment A to the Hearing Officer's Report, submitted to the Commission prior to its deliberations and discussed at length during its deliberations.

II. CHANGES TO THE STANDARDS

A. SCOPE AND OBJECTIVE

- **20.6.4.2 SCOPE:** Except as otherwise provided by statute or regulation of the water quality control commission, this part governs all surface waters of the state of New Mexico. which are subject to the New Mexico Water Quality Act, Sections 74-6-1 through 74-6-17 NMSA 1978.

 [20.6.4.2 NMAC Rp 20 NMAC 6.1.1002, 10-12-00; A, XX-XX-05]
 - 36. The Commission adopts NMED's proposal to add a comma for clarification.

20.6.4.6 OBJECTIVE:

- **A.** The purpose of this part is to establish water quality standards that consist of the designated use or uses of surface waters of the state, the water quality criteria necessary to protect the use or uses [5] and an antidegradation policy.
- **B.** The state of New Mexico is required under the New Mexico Water Quality Act (Subsection C of Section 74-6-4 NMSA 1978) and the federal Clean Water Act, as amended (33 U.S.C. Section 1251 *et seq.*) to adopt water quality standards that protect the public health or welfare, enhance the quality of water[$_{7}$] and are consistent with and serve the purposes of the New Mexico Water Quality Act and the federal Clean Water Act. It is the objective of the federal Clean Water Act to restore and maintain the chemical, physical[$_{7}$] and biological integrity of

233. The Commission rejects AB's proposal to replace "limited aquatic life" with "aquatic life" and to exclude the chronic criteria in Section 20.6.4.900.J for the reasons stated in Section 20.6.4.HH, and there is no reason to adopt the second proposal if the first is not adopted.

20.6.4.125 RIO GRANDE BASIN - Perennial reaches of San Pedro creek.

A. Designated Uses: coldwater aquatic life, irrigation, livestock watering, wildlife habitat and secondary contact.

B. Criteria:

- (1) In any single sample: pH within the range of 6.6 to 8.8 and temperature 25°C (77°F) or less. The use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.
- (2) The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).

 [20.6.4.125 NMAC N, XX-XX-05]
 - 234. The Commission adopts this new segment for San Pedro Creek for the reasons set out above in paragraph 210, above; see Segment 111.
- 20.6.4.126 RIO GRANDE BASIN Perennial portions of Cañon deValle from Los Alamos national laboratory (LANL) stream gage E256 upstream to Burning Ground spring, Sandia canyon from Sigma canyon upstream to LANL NPDES outfall 001, Pajarito canyon from Arroyo de La Delfe upstream into Starmers gulch and Starmers spring and Water canyon from Area-A canyon upstream to State Route 501.
- A. Designated Uses: coldwater aquatic life, livestock watering, wildlife habitat and secondary contact.

B. Criteria:

- (1) In any single sample: pH within the range of 6.6 to 8.8 and temperature 24°C (75.2°F) or less. The use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.
- (2) The monthly geometric mean of E. coli bacteria 548 cfu/100 mL or less; single sample 2507 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).
 [20.6.4.126 NMAC N, XX-XX-05]
 - 235. Both UC and NMED proposed to segment and adopt segment-specific standards for waters within or near LANL. The segments, set out now as segments 126, 127 and 128, are identical, but different designated uses and criteria were urged in this segment.
 - 236. The Commission adopts this new segment to classify waters based upon an intensive study by the USFWS. The study supports the designated uses of coldwater aquatic life, wildlife habitat, secondary contact, and livestock watering. The aquatic life, wildlife habitat and recreation uses are required by CWA Section 101(a)(2) unless a UAA supports not designating them. For this segment, coldwater is the appropriate subcategory of aquatic life use because it is supported by the USFWS report and is consistent with the aquatic life use in adjacent Section 20.6.4.121, which includes tributaries of the Rio Grande in Bandelier National Monument (where high quality coldwater is the designated use). For this segment, secondary contact is the appropriate

subcategory of recreation because full-body contact in these small streams is unlikely and infrequent, and if it does occur the proposed criteria offer a proper level of protection. Finally, the uses of wildlife habitat and livestock watering are appropriate. The WQCC has historically presumed these uses for all unclassified surface waters. There is no question about wildlife using these streams. There also is evidence that livestock watering is an existing use. Laboratory publications acknowledge the presence of livestock on or adjacent to this segment, including horseback riding, cattle grazing and free-range chickens and dairy goats. The designation of livestock watering is based on both the existing use of these waters by livestock, as well as for the protection of downstream livestock watering uses.

- 237. The Commission rejects UC's proposal to designate just limited aquatic life because USFWS demonstrated that shellfish typically found in coldwater aquatic communities is present in these streams. The coldwater subcategory is intended for "the protection and propagation of fish, shellfish and wildlife." Accordingly, the presence of shellfish indicative of a coldwater aquatic community establishes an existing use, even in the absence of fish. In addition, the USFWS documented existing macroinvertebrate communities in all of these streams (except Water Canyon). These macroinvertebrate communities (except Sandia Canyon) compare favorably (only slightly impaired or full support - impacts observed) to Upper Los Alamos Canyon, a coldwater fishery at the time of the study. The USFWS also determined that eight species in Los Alamos and Pajarito Canyons (identified by NMED) were classified by the Idaho Department of Environmental Quality (DEQ) as preferring coldwater. Moreover, the Laboratory's invertebrate data included several species that prefer coldwater in Los Alamos, Pajarito, Sandia and Chaquehui Canyons. Finally, to the extent that the absence of fish is relevant to the subcategory designation, the term "existing use" has a broader meaning than "existing on this date". The absence of fish in 2003 is not the benchmark for designation of an aquatic life use.
- 238. The Commission rejects UC's proposal not to designate the livestock watering use on the basis that it is not an existing or attainable use because livestock are not permitted on Laboratory property and will not be in the foreseeable future, pointing to fencing and security patrols as evidence of an intent to exclude livestock. The evidence indicates that livestock continue to use

- streams on Laboratory property despite UC's intent to exclude them; NMED has observed tracks, feces, wallows, and overgrazing, and has discussed the impacts of livestock grazing on surface water on Laboratory property with UC representatives. Accordingly, livestock watering is an existing use, and cannot be removed without a UAA.
- 239. At the hearing, UC suggested the streams in this segment could be divided between lower reaches used by livestock and upper reaches that are not used by livestock. It suggested that the division points could be based on "breaks in the slopes and positions of the springs." UC did not make any proposal to this effect, however, and the Commission will not adopt such a division after the hearing in the absence of an earlier proposal.
- 240. The Commission rejects UC's proposed dissolved oxygen (DO) criterion of 5 mg/l for Pajarito Canyon, Starmers Gulch and Water Canyon, and 4 mg/l for Canon de Vale and Sandia Canyon, and adopts NMED's proposed DO criterion of 6 mg/l for all waters in this segment in order to protect the designated use of coldwater aquatic life.

20.6.4.127 RIO GRANDE BASIN - Perennial portions of Los Alamos canyon upstream from Los Alamos reservoir and Los Alamos reservoir.

- A. Designated Uses: coldwater aquatic life, livestock watering, wildlife habitat, irrigation and primary contact.
 - B. Criteria:
- (1) In any single sample: pH within the range of 6.6 to 8.8 and temperature 20°C (68°F) or less. The use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.
- (2) The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).

 [20.6.4.127 NMAC N, XX-XX-05]
 - 241. The Commission adopts another new segment proposed by NMED and UC, for the same reasons as set out above in paragraphs 235-236. The proposed uses are appropriate, as discussed above. The only difference involves the designated use of primary contact, which is based on evidence of swimming in Los Alamos Reservoir.
 - 242. The Commission has adopted NMED's proposed "aquatic life" designation elsewhere, so rejects UC's retention of the "fishery" designation.
- 20.6.4.128 RIO GRANDE BASIN Ephemeral and intermittent portions of watercourses within lands managed by U.S. department of energy (DOE) within Los Alamos national laboratory, including but not limited to: Mortandad canyon, Cañada del Buey, Ancho canyon, Chaquehui canyon, Indio canyon, Fence canyon, Potrillo canyon and portions of Cañon de Valle, Los Alamos canyon, Sandia canyon, Pajarito canyon and Water canyon not specifically identified in 20.6.4.126 NMAC. (Surface waters within lands scheduled for transfer from DOE to tribal, state or local authorities are specifically excluded.)

- A. Designated Uses: livestock watering, wildlife habitat, limited aquatic life and secondary contact.
- B. Criteria:
- (1) The use-specific criteria in 20.6.4.900 NMAC, except the chronic criteria for aquatic life are applicable for the designated uses listed in Subsection A of this section.
 - (2) The monthly geometric mean of E. coli bacteria 548 cfu/100 mL or less; single sample 2507 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).
 - (3) The acute total ammonia criteria set forth in section 20.6.4.900.K (Salmonids Absent) are applicable to this use.

[20.6.4.128 NMAC - N, XX-XX-05]

- 243. The Commission adopts another new segment proposed by NMED and UC, for the same reasons as set out above in paragraphs 235-236. The proposed uses are appropriate, as discussed above.
- 244. The Commission adopts UC's proposed acute total ammonia criteria for this segment in order to identify the applicable criteria.

20.6.4.129 RIO GRANDE BASIN - Perennial reaches of the Rio Hondo.

A. Designated Uses: domestic water supply, high quality coldwater aquatic life, irrigation, livestock watering, wildlife habitat and secondary contact.

B. Criteria:

- (1) In any single sample: specific conductance 400 µmhos/cm or less, pH within the range of 6.6 to 8.8, total phosphorous (as P) less than 0.1 mg/L and temperature 20°C (68°F) or less. The use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.
- (2) The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).

 [20.6.4.129 NMAC N, XX-XX-05]
 - 245. The Commission adopts NMED's proposal to create a new segment and to restore the phosphorous criterion removed inadvertently in the 1998 triennial review. The designated uses and associated criteria have been carried forward from the original segment; see segment 123, above.

20.6.4.130 - 20.6.4.200: [RESERVED]

20.6.4.201 PECOS RIVER BASIN - The main stem of the Pecos river from the New Mexico-Texas line upstream to the mouth of the Black river (near Loving).

A. Designated Uses: irrigation, livestock watering, wildlife habitat, secondary contact[-] and warmwater [fishery] aquatic life.

B. [Standards]Criteria:

- (I) In any single sample: pH [shall-be] within the range of 6.6 to 9.0 and temperature [shall not exceed] 32.2°C (90°F) or less. The use-specific numeric [standards]criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.
- (2) [The monthly geometric mean of fecal coliform bacteria shall not exceed 200/100 mL; no single sample shall exceed 400/100 mL] The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of [20.6.4.13]20.6.4.14 NMAC).
- (3) At all flows above 50 cfs: TDS [shall not exceed] 20,000 mg/L or less, sulfate [shall not exceed] 3,000 mg/L[$_7$] or less and chloride [shall not exceed] 10,000 mg/L or less. [20.6.4.201 NMAC Rp 20 NMAC 6.1.2201, 10-12-00; A, XX-XX-05]
 - 246. The Commission adopts changes proposed by NMED and already described above.

- [C]E. United States geological survey. 1987. Methods for the determination of organic substances in water and fluvial sediments, techniques of water-resource investigations of the U.S. geological survey. Washington, D.C. 80 p.
- [P]F. United States environmental protection agency. 1974. Methods for chemical analysis of water and wastes. National environmental research center, Cincinnati, Ohio. (EPA-625-/6-74-003). 298 p.
- [E]G. New Mexico water quality control commission. [1978]2003. (208) state of New Mexico water quality management plan [(updated 1988)]. Santa Fe, New Mexico. [226.]85 p.
- [F]H. Colorado river basin salinity control forum. [1993]2002. [1993]2002 Review, water quality standards for salinity, Colorado river system. Phoenix, Arizona. [454]176 p.
- [G]I. United States environmental protection agency. [1991]2002. Methods for measuring the acute toxicity of effluents and receiving waters to freshwater and marine organisms. Office of research and development, Washington, D.C. ([4th Ed., EPA/600/4-90/027]5th Ed., EPA 821-R-02-012). 293 p. http://www.epa.gov/ost/WET/disk2/atx.pdf
- [H]J. United States environmental protection agency. 1989. Short-term methods for estimating the chronic toxicity of effluents and receiving waters to freshwater organisms. Environmental monitoring systems laboratory, Cincinnati, Ohio. (2nd Ed., EPA 600/4-89/001). 250 p. http://www.epa.gov/ost/WET/etf/pdf.
- [H]K. Ambient-induced mixing, in United States environmental protection agency. 1991. Technical support document for water quality-based toxics control. Office of water, Washington, D.C. (EPA/505/2-90-001). 2 p.
- [J]L. United States environmental protection agency. 1983. Technical support manual: waterbody surveys and assessments for conducting use attainability analyses. Office of water, regulations and standards, Washington, D.C. 251 p. http://www.epa.gov/OST/library/wqstandards/uaavo1123.pdf
- [K]M. United States environmental protection agency. 1984. Technical support manual: waterbody surveys and assessments for conducting use attainability analyses, volume III: lake systems. Office of water, regulations and standards, Washington, D.C. 208 p. http://www.epa.gov/OST/library/wqstandards/uaavo1123.pdf [20.6.4.901 NMAC Rp 20 NMAC 6.1.4000, 10-12-00; A, XX-XX-05]
 - 344. The Commission adopts NMED's proposal to update the references, and add new references and correct web addresses.

Dated: 57/3/

CHAIR, WATER QUALITY CONTROL COMMISSION



IN THE MATTER OF THE PETITION TO AMEND 20.6.4 NMAC - STANDARDS FOR INTERSTATE AND INTRASTATE SURFACE WATERS, THE TRIENNIAL REVIEW



ORDER AND STATEMENT OF REASONS FOR AMENDMENT OF STANDARDS

I. INTRODUCTION

A. Clean Water Act

- The federal Clean Water Act (CWA), 42 U.S.C. Section 1251(a), states its objective as the restoration and maintenance of the chemical, physical and biological integrity of the Nation's waters.
- 2. The CWA achieves this objective by ensuring "wherever attainable, water quality which provides for the protection and propagation of fish, shellfish and wildlife, and provides for recreation in and on the water be achieved."
- 3. CWA Section 1313(c) establishes the purpose of water quality standards ("WQS" or "standards") as "serv[ing] the purposes of the Clean Water Act." The WQS should fulfill the objectives, goals and policies of the CWA.
- 4. The Environmental Protection Agency's (EPA's) Water Quality Standards Handbook (Handbook) provides more specific guidance. To "serve the purposes of the Clean Water Act", WQS must (a) include provisions for restoring and maintaining chemical, physical, and biological integrity of state waters; (b) wherever attainable, achieve a level of water quality that provides for the protection and propagation of fish, shellfish and wildlife, and recreation in and on the water; and (c) consider the use and value of state waters for public water supplies, propagation of fish and wildlife, recreation, agriculture and industrial purposes, and navigation.
- 5. WQS serve two important purposes: (a) to "define the goals for a water body, or portion, thereof, by designating the use or uses to be made of the water, by setting criteria necessary to protect the uses"; and (b) to "serve as the regulatory basis for the establishment of water-quality-based treatment controls and strategies beyond

technology-based levels of treatment required by sections 301(b) and 306 of the Act" in National Pollutant Discharge Elimination system (NPDES) and Dredge-or-Fill permits.

B. Water Quality Act

- 6. The New Mexico Water Quality Act (WQA), Section 74-6-3.E, designates the New Mexico Water Quality Control Commission ("WQCC" or "Commission") as the state's water pollution control agency for all purposes of the CWA.
- 7. The WQA requires the WQCC to take all necessary steps to comply with the CWA and to protect water quality in New Mexico.
- 8. WQA Section 74-6-4.D provides that the WQCC:
 - shall adopt water quality standards for surface and ground water of the state based on credible scientific data and other evidence appropriate under the Water Quality Act. The standards shall include narrative standards and as appropriate, the designated uses of the waters and the water quality criteria necessary to protect such uses. The standards shall at a minimum protect the public health or welfare, enhance the quality of water and serve the purposes of the Water Quality Act. In making standards, the commission shall give weight it deems appropriate to all facts and circumstances, including the use and value of the water for water supplies, propagation of fish and wildlife, recreational purposes and agricultural, industrial and other purposes.
- WQA Section 74-6-4.E designates the New Mexico Environment Department (NMED) to provide technical services to the WQCC.
- 10. As part of this designation, and as specifically provided by the 1998 State of New Mexico Continuing Planning Process (CPP), NMED takes the lead technical role in the triennial review process.

C. Triennial Review Process

- 11. CWA Section 1313(c)(1) requires New Mexico to hold a public hearing at least once every three years to review applicable water quality standards and, as appropriate, to modify and adopt standards.
- 12. The states have considerable latitude in developing and tailoring their WQS to achieve state goals and priorities, but the WQS must comply with federal guidelines.
- 13. After the WQCC holds a hearing, it modifies and adopts the standards based on the hearing record and sends to EPA for review and approval.
- 14. If the EPA approves the WQS, they become enforceable under federal law.

- 15. If the EPA does not approve the WQS, in whole or in part, it gives the state an opportunity to correct the problem.
- 16. If the state cannot or will not correct the problem, then the EPA must promulgate WQS for the state.
- 17. There have been several instances in the history of New Mexico's WQS that the EPA has disapproved a portion of the standards. In each case, the WQCC has avoided federal promulgation by correcting the problem itself.

D. 2008 Triennial Review

- 18. NMED implemented a full public participation process for the 2008 triennial review, including public comment periods, public notices and meetings.
- 19. NMED revised its discussion draft to take into account many of the comments received during the public participation process.
- 20. NMED filed its petition to amend the standards on December 1, 2008, initiating the 2008 triennial review.
- 21. The Commission Administrator docketed the petition on December 2, 2008.
- 22. The Commission's Hearing Officer entered Scheduling and Procedural Orders on April 15, 2009, and the Commission Administrator published public notice for the orders on May 4, 2009.
- 23. Numerous parties filed petitions to amend the Standards.
- 24. The Department filed an amended petition on July 6, 2009.
- 25. The parties filed written testimony and exhibits regarding the various proposed amendments to the Standards.
- 26. The Commission Administrator published public notice for the hearing in both English and Spanish in several newspapers on or before August 10, 2009.
- 27. The Department filed a Notice of Compliance with Small Business Regulatory Relief Act on February 27, 2009.
- 28. The WQCC held the hearing on December 8, 2010, continuing until December 11, 2010.

- 29. At the hearing, all interested persons were given a reasonable opportunity to submit data, views and arguments orally and in writing, and to examine witnesses testifying at the hearing. In addition to testimony from the parties, oral public was accepted, and 55 written public comments were received.
- 30. The Commission deliberated over the course of two days in its July 2010 meeting to come to agreement or to a vote of the majority on the following changes to the standards, the basis for which follows each section in summary form. Unless otherwise noted, the Commission approved these changes based on credible scientific data.
- 31. For a more detailed understanding of the basis for each change and citations to the specific supporting testimony and evidence in the record, this Statement, adopted by the Commission as part of its regular meeting on October 12, 2010, must be read in conjunction with Attachment A to the Hearing Officer's Report, submitted to the Commission prior to its deliberations and discussed at length during its deliberations.
- 32. What follows are those sections of the Standards which have been amended. Those sections in which the only change would be re-numbering or re-lettering to accommodate amendments made in other sections are not shown.

II. CHANGES TO THE STANDARDS

20.6.4.7 DEFINITIONS: Terms defined in the New Mexico Water Quality Act, but not defined in this part will have the meaning given in the Water Quality Act.

A. Terms beginning with numerals or the letter "A," and abbreviations for units.

- 33. The Commission adopts Department's proposal to reorganize section 7. Alphabetizing the definitions under subsections enhances the readability of the Standards, allows for the insertion or deletion of definitions without renumbering all subsequent definitions, and means the subsection citation for a particular definition will remain consistent over time.
- 34. The Commission adopts the Department's proposal to add a list of unit abbreviations at the beginning of section 7, for additional clarity.
- (1) "4T3 temperature" means the temperature not to be exceeded for four or more consecutive hours in a 24-hour period on more than three consecutive days.
- (2) "6T3 temperature" means the temperature not to be exceeded for six or more consecutive hours in a 24-hour period on more than three consecutive days.

363. The Commission adopts the Department's proposal to specify 30°C as the maximum temperature because section 900.H does not specify the temperature criteria for the limited aquatic life use, and to restructure subsection B; see section 101.

20.6.4.125 RIO GRANDE BASIN - Perennial reaches of San Pedro creek <u>from the San Felipe</u> pueblo boundary to the headwaters.

- A. Designated Uses: coldwater aquatic life, irrigation, livestock watering, wildlife habitat and [secondary] primary contact.
 - B. Criteria:
- [(1) In any single sample: pH within the range of 6.6 to 8.8 and temperature 25°C (77°F) or less.] The use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section], except that the following segment-specific criterion applies: temperature 25°C (77°F) or less.
- [(2) The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).] [20.6.4.125 NMAC N, 05-23-05, A, XX-XX-XX]
 - 364. The Commission adopts the Department's proposal to exclude waters on tribal lands for the reasons given in section 103, change the contact use designation to primary contact to be consistent with the assigned criteria, and restructure subsection B; see section 101.
- 20.6.4.126 RIO GRANDE BASIN Perennial portions of Cañon de Valle from Los Alamos national laboratory (LANL) stream gage E256 upstream to Burning Ground spring, Sandia canyon from Sigma canyon upstream to LANL NPDES outfall 001, Pajarito canyon from Arroyo de La Delfe upstream into Starmers gulch and Starmers spring and Water canyon from Area-A canyon upstream to State Route 501.
 - **A. Designated Uses:** coldwater aquatic life, livestock watering, wildlife habitat and secondary contact.
 - B. Criteria:

 - - 365. The Commission adopts the Department's proposal to delete the segment-specific temperature criterion because the changes to section 900.H specify 24°C as the maximum for the coldwater aquatic life use. The temperature for this segment was established at 24°C because continuous temperature data were available; see also section 900.H.
 - 366. The Commission adopts the Department's proposal to restructure subsection B for the reasons given in section 101.

20.6.4.127 RIO GRANDE BASIN - Perennial portions of Los Alamos canyon upstream from Los Alamos reservoir and Los Alamos reservoir.

A. Designated Uses: coldwater aquatic life, livestock watering, wildlife habitat, irrigation and primary contact.

- 487. The Commission adopts the Department's proposal to add a sentence at the end of the paragraph that explains that a segment-specific criterion identified in sections 101-899 is a maximum temperature; this avoids the need to revise numerous sections.
- 488. The Commission adopts the Department's proposal to clarify that the specific conductance criterion is a particular value set on a segment-specific basis that falls within the range of $300-1,500~\mu\text{S/cm}$.
- 489. The Commission adopts the Department's proposals to change μmhos/cm to μS/cm for the reasons given in section 7.A; and to delete the reference to ammonia and human health criteria because the criteria are specified in the introductory paragraph.
- (2) Coldwater: Dissolved oxygen 6.0 mg/L or more, <u>6T3</u> temperature 20°C (68°F) or less, maximum temperature 24°C (75°F) and pH within the range of 6.6 to 8.8. Where a single segment-specific temperature criterion is indicated in 20.6.4.101-899 NMAC, it is the maximum temperature and no 6T3 temperature applies. [The total ammonia criteria set out in Subsections K, L and M of this section and the human health criteria listed in Subsection J of this section are applicable to this use.]
 - 490. The Commission adopts the Department's proposal to modify the temperature criteria for the reasons given in paragraph (1) of section 900.H.
 - 491. The Commission adopts the Department's proposals to add the second sentence because it avoids the need to make revisions to numerous segment-specific criteria in sections 101-899; and to delete the reference to ammonia and human health criteria for the reasons given in paragraph (1) of section 900.H.
- (3) Marginal Coldwater: Dissolved oxygen [than] 6 mg/L or more, on a case by ease basis maximum] 6T3 temperature[s may exceed] 25°C (77°F), maximum temperature 29°C (84°F) and [the] pH [may] within the range from 6.6 to 9.0. Where a single segment-specific temperature criterion is indicated in 20.6.4.101-899 NMAC, it is the maximum temperature and no 6T3 temperature applies. [The total ammonia criteria set out in Subsections K, L and M of this section and the human health criteria listed in Subsection J of this section are applicable to this use.]
 - 492. The Commission adopts the Department's proposal to delete the phrase referring to temperatures exceeding 25°C on a case-by-case basis because the phrase is no longer necessary. The phrase acknowledges that it may be appropriate to set a segment-specific criterion higher than 25°C in accordance with the second part of the definition of "marginal coldwater" which indicates that the temperature "in the surface water of the state may exceed 25°C." Nine segments with the marginal coldwater designation

- **J.** United States environmental protection agency. [1989] 2002. Short-term methods for estimating the chronic toxicity of effluents and receiving waters to freshwater organisms. Environmental monitoring systems laboratory, Cincinnati, Ohio. ([2nd] 4th Ed., EPA [600/4-89/001] 821-R-02-01). [250] 335 p.
 - 566. The Commission adopts the Department's proposal to correct the edition because a later edition has been issued.
 - 567. The Commission directs the Department to prepare the amended surface water standards 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 relettering of existing sections of the standards and the correction of errata consistent with the findings above.

CHAIR, WATER QUALITY CONTROL COMMISSION

2018-2020 State of New Mexico Clean Water Act Section 303(d)/ Section 305(b) Integrated Report

Appendix A 303(d)/305(b) List



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PREFACE

I. Format and Organization of Integrated List and Assessment Rationale

In 2013, the New Mexico Environment Department (NMED) merged Surface Water Quality Bureau's (SWQB) in-house water quality database with NMED's Assessment Database to create the Surface water QUality Information Database (SQUID) so both data and assessment conclusions could be housed in one database. SWQB took this opportunity to also re-design and streamline the CWA §303(d)/§305(b) Integrated Report: Appendix A List of Assessed Waters (Integrated List) format for ease of review, to incorporate additional information, and to reduce the total number of pages. The associated Assessment Rationale (previously called the Record of Decision or ROD) that houses additional details on any water body or Assessment Unit (AU) that is currently or has ever been documented as "impaired" is also now housed in SQUID. If there was no action on a specific impaired AU during a particular listing cycle, there may be no entry for that cycle.

The Canadian and Dry Cimarron River watersheds were surveyed by the SWQB in 2015-2016 and hence are the focus of revised or retained assessment conclusions in the Integrated List. Other datasets that were either submitted or acquired this cycle and assessed as reported include:

- 2015-2017 EPA-collated Gold King Mine dataset,
- 2012-2017 Pajarito Plateau data collected by Los Alamos National Laboratory staff and contractors,
- 2014-2016 data for various stream reaches in and around Taos and Red River collected by Sentinels-Rio de Taos and submitted by Amigos Bravos, and
- 2015 data collected and submitted by the Hermit's Peak Watershed Alliance.

The assessment conclusions in non-focus areas based on data from previous rotational surveys and previously submitted outside data are typically carried over to the next list until more current data are available to assess unless, for example, a water quality standard change necessitates a re-assessment. This was the case with several historic dissolved aluminum listings with concurrent pH > 6.5 because the previous dissolved aluminum criteria are no longer applicable in these waterbodies.

All AUs are assigned IR categories as described in New Mexico's CALM (NMED/SWQB 2017). Assessment units noted with IR Category 5A, 5B, or 5C on the Integrated List in Appendix A comprise New Mexico's official CWA §303(d) List of Impaired Waters. A listing of Category 5-only waters is included in the beginning of Appendix A. To see details on a specific AU, refer to the particular AU entry on the full Integrated List in Appendix A and associated assessment rationale entry. Starting with the 2018-2020 IR, each AU entry on the Integrated List now also contains a "PARAMETER IR CATEGORY." This useful field provides additional planning information regarding each particular cause of impairment or AU_cause pair. For example, a parameter IR category of 5B lets the user know that a review of the applicable water quality standard is needed prior to scheduling TMDL development. New Mexico has several temperature listings that fall under the 5B parameter IR category.

New Mexico's Integrated List also includes an estimated year in the "TMDL DATE" field for all parameter IR category 5A AU_cause pairs. The estimated year is generally based on the SWQB's rotational monitoring schedule, prioritization strategy in the SWQB's long-term vision document (NMED/SWQB

2015), and severity of the impairment. The "TMDL DATE", as well as the projected "MONITORING SCHEDULE" year, is ultimately dependent upon personnel and financial resources which can change on an annual basis. If a TMDL has already been developed for the noted cause of impairment, the EPA TMDL approval date (MM/DD/YYYY) is reported in the TMDL date field.

II. Useful Definitions

INTEGRATED LIST FIELD HEADINGS AND CODES --

ASSESSED	This field notes the last Integrated Reporting Cycle when data for t	his

particular AU or watershed were collated, assessed, and reported. In the case of a non-assessed AU (IR Category 3), this date indicates when there was an attempt to collate data to assess but no assessible data were

available.

Assessment Unit (AU) Descriptive name of a specific waterbody (stream reach or lake). Limited

to 60 characters.

ATTAINMENT The use attainment status for the associated USE (Fully Supporting, Not

Supporting, Not Assessed)

ASSESSED This field generally notes the last Integrated Report Cycle when data for

this particular watershed were assessed and reported.

AU ID An internal database code that is unique to an assessment unit, and is not

intended to provide any specific information to the reader of the list.

CAUSE(S) Parameters and/or constituents that are causing non-attainment of the

associated USE

E. coli Abbreviation of Escherichia coli. These bacteria found in the

environment, foods, and intestines of people and animals.

FIRST LISTED This field generally notes the first Integrated Reporting Cycle when the

associated impairment was noted.

HUC 8-digit Hydrologic Unit Codes (HUC) that identify various watersheds.

The US Geologic Survey defines these codes and associated watershed

names.

IR Integrated Report

IR Category (AU) Overall water quality standards attainment category for each assessment

unit as determined by combining individual designated use support decisions. The unique IR categories for New Mexico are described as

follows as follows:

IR Category (Cause)

Water quality standards attainment category for each listed cause of impairment. The unique IR categories for New Mexico are described as follows as follows:

IR Category 1

Attaining the water quality standards for all designated and existing uses. AUs are listed in this category if there are data and information that meet all requirements of the assessment and listing methodology and support a determination that the water quality criteria are attained.

IR Category 2

Attaining some of the designated or existing uses based on numeric and narrative parameters that were tested, and no reliable monitored data is available to determine if the remaining uses are attained or threatened. AUs are listed in this category if there are data and information that meet requirements of the assessment and listing methodology to support a determination that some, but not all, uses are attained based on numeric and narrative water quality criteria that were tested. Attainment status of the remaining uses is unknown because there is no reliable monitored data with which to make a determination.

IR Category 2A

This indicates a IR Category 2 parameter (currently non-impaired) where an associated Action exists (e.g., Approved TMDL, Alternative Restoration Approach, etc.).

IR Category 3/3A

Insufficient of no reliable monitored data and/or information to determine if any designated or existing use is attained.

IR Category 3/3B

There are insufficient available data and/or information to make a support determination (only one data point available). Data point does not exceed an applicable water quality criterion).

IR Category 3/3C

There are insufficient available data and/or information to make a support determination (only one data point available). Data point exceeds an applicable water quality criterion).

IR Category 4A

Impaired for one or more designated uses, but does not require development of a TMDL because TMDL has been completed. AUs are listed in this subcategory once all TMDL(s) have been developed and approved by USEPA that, when implemented, are expected to result in full attainment of the standard. Where more than one pollutant is associated with the impairment of an AU, the AU remains in IR Category 5A (see below) until all TMDLs for each pollutant have been completed and approved by USEPA.

IR Category 4B

Impaired for one or more designated uses, but does not require development of a TMDL because other pollution control requirements are reasonably expected to result in attainment of the water quality standard in the near future. Consistent with the regulation under 40 CFR 130.7(b)(i),(ii), and (iii), AUs are listed in this subcategory where other pollution control requirements required by local, state, or federal authority are stringent enough to implement any water quality standard (WQS) applicable to such waters.

IR Category 4C

Impaired for one or more designated uses, but does not require development of a TMDL because impairment is not caused by a pollutant. AUs are listed in this subcategory if a pollutant does not cause the impairment. For example, USEPA considers flow alteration to be "pollution" vs. a "pollutant."

IR Category 5/5A

Impaired for one or more designated or existing uses and a TMDL is underway or scheduled. AUs are listed in this category if the AU is impaired for one or more designated uses by a pollutant. Where more than one pollutant is associated with the impairment of a single AU, the AU remains in IR Category 5A until TMDLs for all pollutants have been completed and approved by USEPA.

IR Category 5/5B

Impaired for one or more designated or existing uses and a review of the water quality standard will be conducted. AUs are listed in this category when it is possible that water quality standards are not being met because one or more current designated use is inappropriate. After a review of the water quality standard is conducted, a Use Attainability Analysis (UAA) will be developed and submitted to USEPA for consideration, or the AU will be moved to IR Category 5A and a TMDL will be scheduled.

IR Category 5/5C

Impaired for one or more designated or existing uses and Additional data will be collected before a TMDL is scheduled. AUs are listed in this category if there is not enough data to determine the pollutant of concern or there is not adequate data to develop a TMDL. For example, AUs with biological impairment will be listed in this category until further research can determine the particular pollutant(s) of concern. When the pollutant(s) are determined, the AU will be moved to IR Category 5A and a TMDL will be scheduled. If it is determined that the current designated uses are inappropriate, it will be moved to IR Category 5B and a UAA will be developed. If it is determined that "pollution" is causing the impairment (vs. a "pollutant"), the AU will be moved to IR Category 4C.

IR Category 5-ALT

Available data and/or information indicate that at least one designated or existing use is not being supported and an alternative restoration approach is in progress or under development.

LOCATION DESCRIPTION

The name of the 8-digit Hydrologic Unit Code (HUC) watershed of the assessment unit as defined by the United States Geologic Survey.

MONITORING SCHEDULE

These proposed dates are primarily based on SWQB's most recent

rotational watershed monitoring schedule. This date, as well as the "TMDL DATE" date, is ultimately dependent upon personnel, financial, and laboratory resources which change on an annual basis.

NS Non Support or Not Supporting

PARAMETER(S) OF CONCERN This includes parameters that are currently not documented as impaired

but that have previous TMDLs or other action plans.

PARAMETER IR CATEGORY See above definition for "IR Category (Cause)."

PCBs Polychlorinated biphenyls; highly-persistent compounds that are fat

soluble and accumulate in the food chain

PROBABLE SOURCE(S)

This field contains either 1) "Source Unknown" if no TMDLs have yet been

developed, or 2) the Probable Sources noted in associated TMDLs that

may be contributing to the noted impairment(s).

SIZE Streams and/or rivers = Miles, Lakes and/or playas = Acres, per EPA's

current reporting requirement

TMDL Total Maximum Daily Load

TMDL DATE This field contains either 1) future estimated ("est.") TMDL development

year primarily based on SWQB's rotational monitoring schedule, prioritization schedule, date since last intensively surveyed, upcoming permit renewals, etc.; 2) the EPA TMDL approval date (MM/DD/YYYY) if a TMDL has already been developed and approved; or 3) nothing if the water quality standard is under review (IR Category 5B) or additional data are needed (IR Category 5C). This date, as well as the "Monitoring Schedule" date, is ultimately dependent upon personnel and financial

resources which change on an annual basis.

USE Any designated uses specified in the State of New Mexico Standards for

Interstate and Intrastate Surface Waters (20.6.4 NMAC) that apply to the given assessment unit and/or any documented existing uses that apply to the given assessment unit. Uses that exist but are not officially designated in NMAC are also listed here with a note in "Assessment Unit

Comments."

WATER TYPE This field contains the EPA-defined water type that most accurately

describes the "normal" hydrologic character of the assessment unit to the best of SWQB's knowledge given available flow data, GIS layers, and

Hydrology Protocol survey results (where available).

WQS REF Applicable Water Quality Standard segment as described in the most

recent State of New Mexico Standards for Interstate and Intrastate Surface Waters (20.6.4 NMAC) that applies to the given assessment unit.

III. Abbreviations in Assessment Unit Names

The size of the assessment unit name is limited to 60 characters by the database. Therefore, the following abbreviations were used when necessary:

abv = above ΑZ Arizona blw = below bnd = boundary

BNSF Burlington Northern - Santa Fe =

Campgrd = Campground Ck = Creek Cny = Canyon CO Colorado CR = **County Road** confl confluence Div = Diversion Ε = East

Fork FS Forest Service (usually road) =

hdwtrs = headwaters HWY = Highway

=

Fk

Interstate highway

irrigation Irr =

LANL = Los Alamos National Laboratory

М = Middle mile mi = North Ν **New Mexico** NM =

nr = near

NWR National Wildlife Refuge =

OK = Oklahoma

Portion (i.e., reaches) prt =

River or Rio R road rd = RR = railroad

Rsvr = Reservoir S South

SFNF = Santa Fe National Forest

Spr = Spring SR = state road trib = tributary TX = Texas

VCNP Valles Caldera National Preserve =

xing = crossing

USFS **United States Forest Service** =

W = West

WWTP waste water treatment plant

(Table of Contents of Category 5 waters on the following Integrated §303(d)/§305(b) List)

HUC: 11040001 - Cimarron Headwaters

- Dry Cimarron R (Perennial reaches OK bnd to Long Canyon)
- Dry Cimarron River (Long Canyon to Oak Ck)
- Dry Cimarron River (Oak Creek to headwaters)
- Long Canyon (Perennial reaches abv Dry Cimarron)

HUC: 11080001 - Canadian Headwaters

- Canadian River (Chicorica Creek to CO border)
- Doggett Creek (Raton Creek to headwaters)
- East Fork Chicorica Creek (Chicorica Creek to headwaters)
- Lake Maloya
- Maxwell Lake 13
- Raton Creek (Chicorica Creek to headwaters)
- Stubblefield Lake
- Tinaja Creek (West Fork Tinaja Creek to headwaters)
- VanBremmer Creek (HWY 64 to headwaters)
- Vermejo River (Rail Canyon to York Canyon)
- York Canyon (Vermejo R to Left Fork York Canyon)

HUC: 11080002 - Cimarron

- American Creek (Cieneguilla Creek to headwaters)
- Cimarron River (Canadian River to Ponil Creek)
- Cimarron River (Cimarron Village to Turkey Creek)
- Cimarron River (Turkey Creek to Eagle Nest Lake)
- Eagle Nest Lake
- Greenwood Creek (Middle Ponil Creek to headwaters)
- McCrystal Creek (North Ponil to headwaters)
- Middle Ponil Creek (Greenwood Creek to headwaters)
- North Ponil Creek (Seally Canyon to headwaters)
- Ponil Creek (Cimarron River to HWY 64)
- Ponil Creek (HWY 64 to confl of North and South Ponil)
- Rayado Creek (Cimarron River to Miami Lake Diversion)
- Saladon Creek (Cieneguilla Creek to headwaters
- Shuree Pond (North)
- Springer Lake

HUC: 11080003 - Upper Canadian

Charette Lake (Lower)

- Charette Lake (Upper)
- Wheaton Creek (Manuelas Creek to headwaters)

HUC: 11080004 - Mora

- Coyote Creek (Black Lake to headwaters)
- Coyote Creek (Mora River to Amola Ridge)
- Coyote Creek (Williams Canyon to Black Lake)
- Mora River (USGS gage east of Shoemaker to HWY 434)
- Rito Cebolla (Mora River to Rito Morphy)
- Sapello River (Mora River to Arroyo Jara)

HUC: 11080005 - Conchas

- Conchas Reservoir
- Conchas River (Conchas Reservoir to Salitre Creek)

HUC: 11080006 - Upper Canadian-Ute Reservoir

- Canadian River (TX border to Ute Reservoir)
- Canadian River (Ute Reservoir to Conchas Reservoir)
- Pajarito Creek (Perennial prt Canadian R to Vigil Canyon)
- Ute Reservoir

HUC: 11080008 - Revuelto

• Revuelto Creek (Canadian River to headwaters)

HUC: 11100101 - Upper Beaver

Clayton Lake

HUC: 13010005 - Conejos

- Canada Tio Grande (Rio San Antonio to headwaters)
- Rio San Antonio (CO border to Montoya Canyon)
- Rio San Antonio (Montoya Canyon to headwaters)

HUC: 13020101 - Upper Rio Grande

- Acid Canyon (Pueblo Canyon to headwaters)
- Arroyo del Palacio (Rio Grande to headwaters)
- Bitter Creek (Red River to headwaters)
- Canada Agua (Arroyo La Mina to headwaters)
- DP Canyon (Grade control to upper LANL bnd)
- DP Canyon (Los Alamos Canyon to grade control)
- Embudo Creek (Canada de Ojo Sarco to Picuris Pueblo bnd)

- Embudo Creek (Rio Grande to Canada de Ojo Sarco)
- Graduation Canyon (Pueblo Canyon to headwaters)
- Grassy Creek (Comanche Creek to headwaters)
- Los Alamos Canyon (DP Canyon to upper LANL bnd)
- Los Alamos Canyon (NM-4 to DP Canyon)
- Pioneer Creek (Red River to headwaters)
- Pojoaque River (San Ildefonso bnd to Pojoaque bnd)
- Pueblo Canyon (Acid Canyon to headwaters)
- Pueblo Canyon (Los Alamos Canyon to Los Alamos WWTP)
- Pueblo Canyon (Los Alamos WWTP to Acid Canyon)
- Red River (Placer Creek to headwaters)
- Red River (Rio Grande to Placer Creek)
- Rio Fernando de Taos (R Pueblo d Taos to USFS bnd at canyon)
- Rio Grande (Embudo Creek to Rio Pueblo de Taos)
- Rio Grande (Ohkay Owingeh bnd to Embudo Creek)
- Rio Grande (Red River to CO border)
- Rio Grande (Santa Clara Pueblo bnd to Ohkay Owingeh bnd)
- Rio Grande del Rancho (R Pueblo de Taos to Rito de la Olla)
- Rio Pueblo (Picuris Pueblo bnd to headwaters)
- Rio Pueblo de Taos (Arroyo del Alamo to R Grande del Rancho)
- Rio Pueblo de Taos (Rio Grande to Arroyo del Alamo)
- Rio Santa Barbara (non-pueblo Embudo Ck to USFS bnd)
- Santa Cruz Lake
- Santa Cruz River (San Clara Pueblo bnd to Santa Cruz Dam)
- South Fork Acid Canyon (Acid Canyon to headwaters)
- Unnamed Arroyo (Rio Pueblo de Taos to Taos WWTP)
- Vidal Creek (Comanche Creek to headwaters)
- Walnut Canyon (Pueblo Canyon to headwaters)

HUC: 13020102 - Rio Chama

- Abiquiu Creek (Rio Chama to headwaters)
- Abiquiu Reservoir
- Arroyo del Toro (Rio Chama to headwaters)
- Burns Lake (Rio Arriba)
- Canada de Horno (Rio Chama to headwaters)
- Canjilon Ck (Perennial portions Abiquiu Rsrv to headwaters)
- Canones Creek (Abiquiu Rsvr to Chihuahuenos Ck)
- Canones Creek (Rio Chama to Jicarilla Apache bnd)
- Chihuahuenos Creek (Canones Creek to headwaters)

- Coyote Creek (Rio Puerco de Chama to headwaters)
- El Rito Creek (Perennial reaches above HWY 554)
- El Rito Creek (Perennial reaches below HWY 554)
- Heron Reservoir
- Hopewell Lake
- Placer Creek (Hopewell Lake to headwaters)
- Poleo Creek (Rio Puerco de Chama to headwaters)
- Rio Nutrias (Perennial prt Rio Chama to headwaters)
- Rio Ojo Caliente (Arroyo El Rito to Rio Vallecitos)
- Rio Puerco de Chama (Abiquiu Reservoir to HWY 96)
- Rio Tusas (Perennial prt Rio Vallecitos to headwaters)
- Rio Vallecitos (Rio Tusas to headwaters)
- Rio del Oso (Perennial prt Rio Chama to headwaters)
- Rito Encino (Rio Puerco de Chama to headwaters)
- Rito de Tierra Amarilla (HWY 64 to headwaters)
- Rito de Tierra Amarilla (Rio Chama to HWY 64)
- Sixto Creek (Rio Chamita to CO border)

HUC: 13020201 - Rio Grande-Santa Fe

- Ancho Canyon (North Fork to headwaters)
- Ancho Canyon (Rio Grande to North Fork Ancho)
- Arroyo de la Delfe (Pajarito Canyon to headwaters)
- Canada del Buey (within LANL)
- Canon de Valle (LANL gage E256 to Burning Ground Spr)
- Canon de Valle (below LANL gage E256)
- Canon de Valle (upper LANL bnd to headwaters)
- Chaquehui Canyon (within LANL)
- Mortandad Canyon (within LANL)
- North Fork Ancho Canyon (Ancho Canyon to headwaters)
- Pajarito Canyon (Lower LANL bnd to Two Mile Canyon)
- Pajarito Canyon (Two Mile Canyon to Arroyo de La Delfe)
- Pajarito Canyon (upper LANL bnd to headwaters)
- Pajarito Canyon (within LANL above Starmers Gulch)
- Potrillo Canyon (above Water Canyon)
- Rio Grande (Cochiti Reservoir to San Ildefonso bnd)
- Rio Grande (non-pueblo Angostura Div to Cochiti Rsrv)
- Rito de los Frijoles (Rio Grande to headwaters)
- Sandia Canyon (Sigma Canyon to NPDES outfall 001)
- Sandia Canyon (within LANL below Sigma Canyon)

- Santa Fe River (Cienega Creek to Santa Fe WWTP)
- Santa Fe River (Cochiti Pueblo bnd to Cienega Creek)
- Santa Fe River (Guadalupe St to Nichols Rsvr)
- Santa Fe River (Nichols Reservoir to headwaters)
- Santa Fe River (Santa Fe WWTP to Guadalupe St)
- Ten Site Canyon (Mortandad Canyon to headwaters)
- Three Mile Canyon (Pajarito Canyon to headwaters)
- Two Mile Canyon (Pajarito to headwaters)
- Water Canyon (upper LANL bnd to headwaters)
- Water Canyon (within LANL below Area-A Cyn)

HUC: 13020202 - Jemez

- Calaveras Creek (Rio Cebolla to headwaters)
- Clear Creek (Rio de las Vacas to San Gregorio Lake)
- Clear Creek (San Gregorio Lake to headwaters)
- East Fork Jemez (San Antonio Creek to VCNP bnd)
- East Fork Jemez (VCNP to headwaters)
- Fenton Lake
- Jaramillo Creek (East Fork Jemez to headwaters)
- Jemez River (Jemez Pueblo bnd to Rio Guadalupe)
- Jemez River (Soda Dam nr Jemez Springs to East Fork)
- Jemez River (Zia Pueblo bnd to Jemez Pueblo bnd)
- La Jara Creek (East Fork Jemez to headwaters)
- Redondo Creek (Sulphur Creek to headwaters)
- Rio Cebolla (Fenton Lake to headwaters)
- Rio Cebolla (Rio de las Vacas to Fenton Lake)
- Rio Guadalupe (Jemez River to confl with Rio Cebolla)
- Rio de las Vacas (Clear Creek to headwaters)
- Rito Penas Negras (Rio de las Vacas to headwaters)
- Rito de las Palomas (Rio de las Vacas to headwaters)
- Rito de los Indios (San Antonio Creek to headwaters)
- San Antonio Creek (East Fork Jemez to VCNP bnd)
- San Antonio Creek (VCNP bnd to headwaters)
- San Gregorio Lake
- Sulphur Creek (Redondo Creek to headwaters)
- Sulphur Creek (San Antonio Creek to Redondo Creek)
- Vallecito Ck (Jemez Pueblo bnd to Div abv Ponderosa)
- Vallecito Ck (Perennial Prt Div abv Ponderosa to headwaters)

HUC: 13020203 - Rio Grande-Albuquerque

- Rio Grande (Arroyo de las Canas to Rio Puerco)
- Rio Grande (Isleta Pueblo boundary to Tijeras Arroyo)
- Rio Grande (Rio Puerco to Isleta Pueblo bnd)
- Rio Grande (San Marcial at USGS gage to Arroyo de las Canas)
- Rio Grande (Tijeras Arroyo to Alameda Bridge)
- Rio Grande (non-pueblo Alameda Bridge to HWY 550 Bridge)

HUC: 13020204 - Rio Puerco

- Rio Puerco (Arroyo Chijuilla to northern bnd Cuba)
- Rio Puerco (non-pueblo Rio Grande to Arroyo Chico)

HUC: 13020207 - Rio San Jose

- Arroyo del Valle (Laguna Pueblo bnd to headwaters)
- Bluewater Lake

HUC: 13020209 - Rio Salado

Rio Salado (Rio Grande to Alamo Navajo bnd)

HUC: 13020211 - Elephant Butte Reservoir

- Elephant Butte Reservoir
- Rio Grande (Elephant Butte Rsvr to San Marcial at USGS)

HUC: 13030101 - Caballo

- Caballo Reservoir
- Las Animas Ck (perennial prt Animas Gulch to headwaters)
- Rio Grande (Caballo Reservoir to Elephant Butte Reservoir)

HUC: 13030102 - El Paso-Las Cruces

Rio Grande (International Mexico bnd to Anthony Bridge)

HUC: 13030202 - Mimbres

- Bear Canyon Reservoir
- Gallinas Creek (Mimbres River to headwaters)
- San Vicente Creek (Perennial prt Maudes Cny to Silva Creek)

HUC: 13050003 - Tularosa Valley

- Dog Canyon Creek (perennial portions)
- Fresnal Canyon (La Luz Creek to Salado Canyon)
- Karr Canyon (Fresnal Canyon to headwaters)

- Lake Holloman
- Nogal Creek (Tularosa Creek to Mescalero Apache bnd)

HUC: 13050004 - Salt Basin

Sacramento R (Perennial prt Scott Able Canyon to headwaters)

HUC: 13060001 - Pecos Headwaters

- El Porvenir Creek (Gallinas River to SFNF bnd)
- El Rito (Pecos River to headwaters)
- Gallinas River (Pecos River to Aguilar Creek)
- Gallinas River (Perennial prt Aguilar Creek to Pecos Arroyo)
- Glorieta Ck (Perennial prt Pecos R to Glorieta CC WWTP)
- McAllister Lake
- Pecos River (Sumner Reservoir to Santa Rosa Reservoir)
- Pecos River (Tecolote Creek to Villanueva State Park)
- Santa Rosa Reservoir
- Storrie Lake
- Sumner Reservoir
- Tecolote Creek (I-25 to Blue Creek)
- Tres Lagunas (Northeast)

HUC: 13060003 - Upper Pecos

Pecos River (Salt Creek to Crockett Draw)

HUC: 13060007 - Upper Pecos-Long Arroyo

- Figure Eight Lake
- Lake Van
- Pecos River (Eagle Creek to Rio Felix)
- Pecos River (Rio Felix to Rio Hondo)
- Pecos River (Rio Hondo to Salt Creek)
- Pecos River (Rio Penasco to Eagle Creek)

HUC: 13060008 - Rio Hondo

- Grindstone Canyon Reservoir
- Rio Bonito (Perennial prt NM 48 near Angus to headwaters)

HUC: 13060010 - Rio Penasco

Agua Chiquita (perennial portions McEwan Cny to headwaters)

HUC: 13060011 - Upper Pecos-Black

- Brantley Reservoir
- Lower Tansil Lake/Lake Carlsbad (Carlsbad Municipal Lake)
- Pecos River (Avalon Reservoir to Brantley Reservoir)
- Pecos River (Black River to Six Mile Dam Lake)
- Pecos River (Brantley Reservoir to Rio Penasco)
- Pecos River (Six Mile Dam Lake to Lower Tansil Lake)
- Pecos River (TX border to Black River)
- Six Mile Dam Lake

HUC: 14080101 - Upper San Juan

- Navajo Reservoir
- Navajo River (Jicarilla Apache Nation to CO border)

HUC: 14080104 - Animas

- Animas River (Estes Arroyo to So. Ute Indian Tribe bnd)
- Lake Farmington (Beeline Reservoir)

HUC: 14080105 - Middle San Juan

- La Plata R (McDermott Arroyo to So. Ute Indian Tribe bnd)
- La Plata River (San Juan River to McDermott Arroyo)
- San Juan River (Navajo bnd at Hogback to Animas River)

HUC: 15020003 - Carrizo Wash

Quemado Lake

HUC: 15020004 - Zuni

- McGaffey Lake
- Ramah Reservoir

HUC: 15020006 - Upper Puerco

Puerco River (non-tribal AZ border to Gallup WWTP)

HUC: 15040001 - Upper Gila

- Beaver Creek (Perennial prt Taylor Ck to Mule Canyon)
- East Fork Gila River (Gila River to headwaters)
- Gila River (Mogollon Ck to East and West Forks of Gila R)
- Gilita Creek (Middle Fork Gila R to Willow Creek)
- Iron Creek (Middle Fork Gila R to headwaters)
- Lake Roberts
- Middle Fork Gila River (Canyon Creek to headwaters)

- Middle Fork Gila River (West Fork Gila R to Canyon Creek)
- Snow Lake
- Taylor Creek (Perennial reaches Beaver Creek to headwaters)
- Turkey Creek (Gila River to headwaters)
- West Fork Gila R (East Fork to Middle Fork)
- West Fork Gila R (Middle Fork to headwaters)
- Willow Creek (Gilita Creek to headwaters)

HUC: 15040002 - Upper Gila-Mangas

- Bill Evans Lake
- Gila River (AZ border to Red Rock)
- Gila River (Mangas Creek to Mogollon Creek)
- Gila River (Red Rock to Mangas Creek)
- Mangas Creek (Gila River to Mangas Springs)

HUC: 15040004 - San Francisco

- Centerfire Creek (San Francisco R to headwaters)
- Mule Creek (San Francisco R to Mule Springs)
- Negrito Creek (Tularosa River to confl of N and S forks)
- San Francisco River (Box Canyon to Whitewater Creek)
- San Francisco River (Centerfire Creek to AZ border)
- San Francisco River (NM 12 at Reserve to Centerfire Creek)
- San Francisco River (Whitewater Ck to Pueblo Ck)
- Trout Creek (Perennial prt San Francisco R to headwaters)
- Tularosa River (San Francisco R to Apache Creek)

Uses Abbreviation Key				
ColdWAL	Coldwater Aquatic Life			
CoolWAL	Coolwater Aquatic Life			
DWS	Domestic Water Supply			
FC	Fish Culture			
HQColdWAL	High Quality Coldwater Aquatic Life			
IW Storage	Industrial Water Storage			
IW Supply	Industrial Water Supply			
IRR	Irrigation			
IRR Storage	Irrigation Storage			
LAL	Limited Aquatic Life			
LW	Livestock Watering			
MCWAL	Marginal Coldwater Aquatic Life			
MWWAL	Marginal Warmwater Aquatic Life			
MWS	Municipal Water Storage			
PC	Primary Contact			
PWS	Public Water Supply			
sc	Secondary Contact			
WWAL	Warmwater Aquatic Life			
WH	Wildlife Habitat			

Sandia Canyon (Sigma Canyon to NPDES outfall 001)		AU IR CATEGORY	LOCATION DESCRIPTION		
			5/5B	HUC: 13020201	Rio Grande-Santa Fe
AU ID	WQS REF	WATER TYPE	SIZE	ASSESSED	MONITORING SCHEDULE
NM-9000.A_047	20.6.4.126	STREAM, PERENNIAL	2.24 MILES	2018	
USE	ATTAINMENT	CAUSE(S)	FIRST LISTED	TMDL DATE	PARAMETER IR CATEGORY
ColdWAL	Not Supporting	Polychlorinated Biphenyls (PCBs)	2006		5/5C
		Aluminum, Total Recoverable	2018		5/5B
		Copper, Dissolved	2010		5/5B
		Temperature	2018		5/5B
LW	Fully Supporting				
	Not Assessed				
SC					
SC WH	Not Supporting	Polychlorinated Biphenyls (PCBs)	2006		5/5C
	Not Supporting	Polychlorinated Biphenyls (PCBs)	2006		5/5C
WH AU Comment: N	Not Supporting lone.	Polychlorinated Biphenyls (PCBs) low Sigma Canyon)	2006 AU IR CATEGORY	LOCATION DES	
WH AU Comment: N	Not Supporting lone.		AU IR	LOCATION DESC	
WH AU Comment: N	Not Supporting lone.		AU IR CATEGORY		CRIPTION
WH AU Comment: N Sandia Canyo	Not Supporting lone. n (within LANL be	low Sigma Canyon)	AU IR CATEGORY 5/5B	HUC: 13020201	CRIPTION Rio Grande-Santa Fe
WH AU Comment: N Sandia Canyo	Not Supporting lone. n (within LANL be	low Sigma Canyon) WATER TYPE	AU IR CATEGORY 5/5B SIZE	HUC: 13020201 ASSESSED	CRIPTION Rio Grande-Santa Fe
WH AU Comment: N Sandia Canyo AU ID NM-128.A_11	Not Supporting lone. n (within LANL be WQS REF 20.6.4.128	Iow Sigma Canyon) WATER TYPE STREAM, EPHEMERAL	AU IR CATEGORY 5/5B SIZE 3.39 MILES FIRST LISTED	HUC: 13020201 ASSESSED 2018	CRIPTION Rio Grande-Santa Fe MONITORING SCHEDULE
WH AU Comment: N Sandia Canyo AU ID NM-128.A_11 USE	Not Supporting lone. n (within LANL be WQS REF 20.6.4.128 ATTAINMENT	WATER TYPE STREAM, EPHEMERAL CAUSE(S)	AU IR CATEGORY 5/5B SIZE 3.39 MILES FIRST LISTED	HUC: 13020201 ASSESSED 2018	CRIPTION Rio Grande-Santa Fe MONITORING SCHEDULE PARAMETER IR CATEGORY
WH AU Comment: N Sandia Canyo AU ID NM-128.A_11 USE	Not Supporting lone. n (within LANL be WQS REF 20.6.4.128 ATTAINMENT	WATER TYPE STREAM, EPHEMERAL CAUSE(S) Polychlorinated Biphenyls (PCBs)	AU IR CATEGORY 5/5B SIZE 3.39 MILES FIRST LISTED 2006	HUC: 13020201 ASSESSED 2018	CRIPTION Rio Grande-Santa Fe MONITORING SCHEDULE PARAMETER IR CATEGORY 5/5C
WH AU Comment: N Sandia Canyo AU ID NM-128.A_11 USE LAL	Not Supporting lone. n (within LANL be WQS REF 20.6.4.128 ATTAINMENT Not Supporting	WATER TYPE STREAM, EPHEMERAL CAUSE(S) Polychlorinated Biphenyls (PCBs) Aluminum, Total Recoverable	AU IR CATEGORY 5/5B SIZE 3.39 MILES FIRST LISTED 2006 2018	HUC: 13020201 ASSESSED 2018	Rio Grande-Santa Fe MONITORING SCHEDULE PARAMETER IR CATEGORY 5/5C 5/5B
WH AU Comment: N Sandia Canyo AU ID NM-128.A_11 USE LAL	Not Supporting lone. n (within LANL be WQS REF 20.6.4.128 ATTAINMENT Not Supporting Not Supporting	WATER TYPE STREAM, EPHEMERAL CAUSE(S) Polychlorinated Biphenyls (PCBs) Aluminum, Total Recoverable	AU IR CATEGORY 5/5B SIZE 3.39 MILES FIRST LISTED 2006 2018	HUC: 13020201 ASSESSED 2018	Rio Grande-Santa Fe MONITORING SCHEDULE PARAMETER IR CATEGORY 5/5C 5/5B



Howie C. Morales

NEW MEXICO ENVIRONMENT DEPARTMENT

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James C. Kenney
Cabinet Secretary

Jennifer J. Pruett
Deputy Secretary

April 9, 2020

Taunia S. Van Valkenburg, Group Leader Environmental Protection & Compliance Division Los Alamos National Laboratory P.O. Box 1663, K490 Los Alamos, New Mexico 87545

Karen E. Armijo
Permitting and Compliance Program Manager
National Nuclear Security Administration
U.S. Department of Energy
karen.armijo@nnsa.doe.gov

Subject: Work Plan Approval: Use Attainability Analysis for the determination of appropriate aquatic life designated uses for Sandia Canyon

Dear Ms. Valkenburg and Armijo:

The New Mexico Environment Department ("NMED") Surface Water Quality Bureau ("SWQB") received a revised work plan for the above-mentioned Use Attainability Analysis ("UAA") on February 10, 2020. Prior, the SWQB and US Environmental Protection Agency ("EPA") Region 6 reviewed and provided comment on several drafts of this plan as submitted on June 27, 2018 and May 28, 2019.

An approval of a UAA work plan by NMED is required in accordance with 20.6.4.15(D) NMAC prior to development of a UAA. This letter constitutes approval of the work plan, as submitted to the SWQB on February 10, 2020, for the Sandia Canyon Use Attainability Analysis. Please note, that although this work plan was provided to the US Environmental Protection Agency ("EPA") Region 6 for review, this approval does not reflect any additional comments that EPA may have.

If you have any questions or need additional information, please contact SWQB's Water Quality Standards Coordinator, Jennifer Fullam, at Jennifer.fullam@state.nm.us or 505.827.2637.

Sincerely,

Shelly Lemon Digitally signed by Shelly Lemon Date: 2020.04.09 16:10:40

Shelly Lemon,
Bureau Chief
Surface Water Quality Bureau

cc: Russell Nelson, Water Quality Division, United States Environmental Protection Agency (via email nelson.russell@epa.gov)

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Via Email

March 4, 2022

Steve Story, Group Leader
Los Alamos National Laboratory
Environmental Protection & Compliance Division
Compliance Programs Group
Via email to story@lanl.gov

Re: Comments for the Sandia Canyon Use Attainability Analysis

Dear Steve Story,

On October 25, 2021, the New Mexico Environment Department ("Department" or "NMED") Surface Water Quality Bureau ("SWQB") received a Use Attainability Analysis ("UAA") of Aquatic Life Use Designations within upper Sandia Canyon. Windward Environmental prepared the UAA on behalf of the U.S. Department of Energy's National Nuclear Security Administration, and Triad National Security, LLC ("DOE-Triad") for Los Alamos National Laboratory ("LANL").

This UAA considers whether natural physical conditions in Upper Sandia Canyon, specifically air and/or water temperatures, prevent attainment of the designated coldwater aquatic life use in Sandia Canyon from Sigma Canyon upstream to the National Pollutant Discharge Elimination System ("NPDES") permit outfall 001. This perennial water is classified in 20.6.4.126 NMAC. The New Mexico Water Quality Control Commission ("WQCC") established the designated aquatic life use in 2005 based on an existing aquatic life use study on four identified tributaries within Los Alamos, which included Sandia Canyon. At the time, the coldwater aquatic life use did not have a chronic temperature exposure limit. Since that time, the WQCC adopted acute and chronic temperature criteria to protect coldwater aquatic life as follows: an acute maximum temperature ("Tmax") of 24° Celsius ("C"), which is never to be exceeded, and a chronic temperature limit of 20°C, which is not to be exceeded for six or more consecutive hours in a 24-hour period on more than three consecutive days ("6T3").

The Department reviewed the UAA and has the following comments and suggestions to consider. Comments and suggestions sent to the Department from the U.S. Environmental Protection Agency ("EPA") Region 6 are included as an attachment.

General

- 1. DOE-Triad should include the proposed amendments to 20.6.4 NMAC that are supported by the evidence presented in the UAA.
- 2. Pursuant to 40 C.F.R. 131.10(b), amending a designated use requires the water quality standards for downstream waters to be protected and maintained. As such, DOE-Triad must take into consideration the water quality standards of downstream waters by identifying the downstream waters to "Upper Sandia Canyon" and their applicable water quality standards and demonstrating how a potential amendment to Upper Sandia Canyon's designated aquatic life use provides for the attainment and maintenance of the water quality standards of downstream waters.
- 3. The demonstration should provide information on the available water quality data and the reasoning for choosing to use certain data as part of the analysis, particularly for determining the existing aquatic life use.
- 4. The discussion of models as the method to demonstrate attainable uses is overreaching. The Air Water Temperature Correlation ("AWTC") and Stream Segment Temperature ("SSTEMP") models have limitations

Steve Story NMED Comments for the Sandia Canyon UAA March 4, 2022 Page **2** of **5**

for determining attainable uses in comparison to actual data. The actual water quality data should be the driving element used to support any aquatic life use amendments. DOE-Triad should restructure the UAA with this in mind.

- 5. Although summaries are helpful, all the tables in the UAA should have accompanying data sets or citations to validate the findings.
- 6. On page 20 of the UAA, it states "[t]he effect of global climate change will have to be evaluated periodically in the future, because it could change the use designations based on temperature." The Department suggests this statement be removed in its entirety. Water quality standards must protect for existing uses as defined in 40 C.F.R. 131.3.

Geographical References

- 7. The Department requests the latitude and longitude be included for the sampling locations as well as the NPDES outfalls.
- 8. The Department requests the map with sampling locations (Figure 1) include the centroids for the two 800-meter Parameter-elevation Relationships of Independent Slopes Model ("PRISM") cells (i.e., Upper Sandia AU-east and -west) used in the AWTC model.

References

9. The reference to LANL's Data Quality Objectives for Sampling and Monitoring Supplemental Environmental Project (2017) was not retrievable through LANL's Electronic Public Reading Room (https://www.lanl.gov/library/about/environmental.php), nor was it found to be accessible elsewhere online. In addition, LANL's Interim Facility-Wide Groundwater Monitoring Plan for the 2017 Monitoring Year, October 2016-September 2017 (LANL 2016) is accessible but has had several updates not reflected in the reference. The Department requests all references used for this analysis be provided via attachment or via functioning web links and include all applicable revisions.

Attainable Use and Existing Use

- 10. In accordance with 40 C.F.R. 131.10(g), a designated use may be removed (and replaced with the highest attainable use) if it is not an existing use. Additionally, and pursuant to 40 C.F.R. 131.10(i), a designated use may not have criteria less stringent than the existing use. As such, DOE-Triad must evaluate the existing aquatic life use and identify the highest attainable use to ensure the proposed use and associated criteria are at least as stringent as the existing use (as defined in 40 C.F.R. 131.3).
- 11. In table 5 on page 18 of the UAA, the attained Tmax and 6T3 criteria must be included as part of the description for the existing use.
- 12. On page 23 of the UAA, the findings of the benthic macroinvertebrate surveys must be included as part of the description for the existing use.
- 13. On pages 24 and 25 of the UAA, the attained criteria for both DO and pH should be included in the description for the existing use.

Highest Attainable Use

- 14. In accordance with 40 C.F.R. 131.10(g), DOE-Triad must demonstrate the highest attainable use. On page 31, DOE-Triad assert that the flows to Upper Sandia Canyon are not subject to consideration for protections under marginal coldwater aquatic life uses due to the anthropogenic source of the flows to the tributary. However, the definition for "marginal coldwater" does not state it is limited to waters with a natural origin. The definition at 20.6.4.7(M)(1) NMAC states that natural conditions severely limit maintenance of a coldwater aquatic life population or historical data indicate that surface water temperature may exceed 25°C. Therefore, DOE-Triad must consider the marginal coldwater designated aquatic life use when determining the highest attainable use in this UAA.
- 15. On page 9 of the UAA, it states that the "warmest attainable use among the sources of air temperature

Steve Story NMED Comments for the Sandia Canyon UAA March 4, 2022 Page **3** of **5**

data and among years was selected as the projected attainable use..." In accordance with 40 C.F.R. 131.10, the highest attainable use, meaning the use with the most stringent criteria, must be demonstrated. As it pertains to temperature criteria for the protection of aquatic life, these would be the lowest temperatures from the maximum and 6T3 temperature spectrum during the warmest months of the year, not the warmest temperatures during the warmest months of the year. The Department requests the evaluation determine the highest attainable use, as prescribed in 40 C.F.R. 131.10 and 20.6.4.15 NMAC.

- 16. Actual data is the preferential means to demonstrate the attainable use, whereas water temperature modeling should only support the actual data or provide insight to areas lacking data, pending the model can be calibrated to actual data. DOE-Triad present actual data but use the models to demonstrate the highest attainable use. This should be reversed. DOE-Triad should use actual data to demonstrate the highest attainable use and if necessary, provide clarification and discussion on the models beyond what the actual data already demonstrate.
- 17. Table 5 on page 18 of the UAA suggests that the existing and attainable designated use for Sandia Canyon at Sigma Canyon is high-quality coldwater. Given this reach has an existing (and attainable) use with criteria that are more stringent than the criteria for the current designated aquatic life use, DOE-Triad should include proposed language for 20.6.4 NMAC to amend the aquatic life use for this reach in accordance with 40 C.F.R. 131.10(i), or explain why the Upper Sandia Canyon AU is homogenous given these results.
- 18. The graphs provided on page 16 of the UAA demonstrate that the temperature criteria for the designated coldwater aquatic life use are attained at some stations. DOE-Triad should provide the extent of attainable aquatic life uses within Upper Sandia Canyon, as applicable. DOE-Triad should explain whether the AU is homogenous or where the data indicate breaks or shifts in stream conditions and attainable/existing uses.

Water Quality Data

- 19. In Table 5 on page 18 of the UAA, the Department noted the values for 6T3, for all five years at all six sampling locations, were equivalent to the Tmax. Based on what the Tmax and 6T3 represent, and the omission of the raw data used to determine these values, the Department disputes the findings as presented in the UAA for actual Tmax and 6T3. Without accurate actual Tmax and 6T3 data, the aquatic life use attained at each site cannot be determined.
- 20. In accordance with 40 C.F.R. 131.10(h), a designated use may not have criteria less stringent than the existing use. Should the data for the actual 6T3 be demonstrated to be valid, all evidence suggests the 6T3 criteria for marginal coldwater aquatic life use is being attained at some sites during some years. DOE-Triad should provide more reasoning and explanation regarding which aquatic life use (coolwater or marginal coldwater) is the highest attainable use for all or part of the Upper Sandia Canyon AU.
- 21. DOE-Triad should provide the datasets used to create the graphs on page 16 and to calculate actual Tmax and 6T3 values in Table 5.
- 22. On page 17 of the UAA, it states that "[f]igure 3 shows that (on an instantaneous basis) water temperatures exceeded the 6T3 criterion for coldwater...". Given that 6T3 is determined on a continuous basis, this should be reworded to simply state that the instantaneous water temperatures exceeded 20°C at every thermograph location during the study period.
- 23. On page 17 of the UAA, it states that "the 6T3 criterion for coldwater was not exceeded at Sandia at Sigma between 2016 and 2018". On page 17 of the UAA, it states that "[I]ower-than-expected water temperatures...may have resulted from shading in canyon bottoms..." DOE-Triad must clarify why the proposed amendments are applicable to Sandia Canyon at Sigma Canyon even though in some years this reach may attain coldwater criteria. DOE-Triad should discuss and describe the extent of the reach where coldwater temperature criteria are not attainable. The proposed amendments to 20.6.4 NMAC should be consistent with the extent discussion and findings of the UAA.
- 24. On page 17 of the UAA, it states that "[c]ooling over time could be related to the installation of the [grade control structure] in 2013, which has led to greater retention of water and vegetative growth...above E123." Again, DOE-Triad should clearly delineate the extent to which the current coldwater use is not

Steve Story
NMED Comments for the Sandia Canyon UAA
March 4, 2022
Page 4 of 5

attainable and provide the highest attainable use, based on existing data.

- 25. Table 7 on page 22 of the UAA is labeled "Calculated Outfall 001 water temperature thresholds, 2015 to 2018". However, there is no discussion describing how or what a "temperature threshold" is, nor is the reference provided. Perhaps this should be renamed to "Calculated Outfall 001 water temperature statistics." Similar to Comment 20, the Department noted the values for 6T3 were equivalent to the Tmax. DOE-Triad should provide the dataset used to calculate Tmax and 6T3 in Table 7 to verify these results.
- 26. Page 24 of the UAA states that dissolved oxygen and pH data from 2016 to 2019 were collected pursuant to LANL's interim facility-wide groundwater monitoring plan ("IFGWP") for the 2017 monitoring year. The IFGMP reference provided was only valid for data collection between October 2016 to September 30, 2017. In order to consider data defensible for purposes of this analysis, DOE-Triad should include all relative quality assurance documents under which DO and pH data were collected.

Air Water Temperature Correlation Model

- 27. DOE-Triad should discuss the uncertainties and assumptions associated with of each part of the analysis in the applicable sections of the UAA, not at the end of the document. The uncertainties and assumptions must be taken into consideration to understand and interpret the data and model results.
- 28. Table 3, on page 10 of the UAA, presents PRISM data as unique values for each year, 2014-2018; however, the PRISM data used to develop the Department's AWTC model is the 30-year average July maximum temperature (1981-2010) and does not change year-to-year. DOE-Triad should recalculate the 6T3 and Tmax values in Table 3 using the PRISM 30-year average July temperature.
- 29. In Table 3, the data indicate Upper Sandia Canyon may attain water temperature criteria protective of the marginal coldwater and coolwater designated uses. As such, the Department requests DOE-Triad review the evidence, criteria, and definitions to evaluate whether marginal coldwater aquatic life or coolwater aquatic life is the appropriate and attainable aquatic life use.
- 30. In Section 4.3 of the UAA, entitled "Evaluation of LANL MET and PRISM Model Data", DOE-Triad should define how a "warm outlier" was determined.
- 31. In Section 4.3 of the UAA, entitled "Evaluation of LANL MET and PRISM Model Data", DOE-Triad discuss the use of Autoregressive Integrated Moving Average ("ARIMA") models. This model was not discussed in the approved work plan and is not applicable for this UAA.
- 32. The UAA states on page 20 that "[b]y inputting measured MWAT values into Equations 3 and 4, the 6T3 and TMAX values that should be observed in the Upper Sandia Canyon [assessment unit] can be more accurately estimated." Modeled 6T3 and Tmax temperatures from actual MWAT measurements are not substitutes for actual 6T3 and Tmax results. The dataset used to calculate the MWAT values can and should be used to calculate actual, observed 6T3 and Tmax values not modeled to estimate these values. The work plan, approved by the Department, did not discuss modifying the model to fit within the desired parameters, and is therefore not applicable to this analysis.

SSTEMP Model

- 33. The work plan says SSTEMP will be "used to simulate temperatures and estimate the effects resulting from potential changes in alluvial groundwater inflow/outflow." The work plan also states that "SSTEMP will be applied as a contingency method for determining the highest attainable designated use if it is determined that use of NMED's AWTC Model is not appropriate." DOE-Triad should ensure the UAA is consistent with the approved work plan.
- 34. On page 14 of the UAA, it states that "The sensitivity analysis generated by SSTEMP for each scenario indicated that mean air temperature had the greatest influence over estimated mean stream temperatures, while inflow temperature, relative humidity, wind speed, and possible sun had lesser (but still significant) influences over predicted mean temperatures." DOE-Triad must include the SSTEMP model inputs, identify data sources for the input parameters, and provide the model results, including sensitivity

Steve Story NMED Comments for the Sandia Canyon UAA March 4, 2022 Page **5** of **5**

> analyses, as an appendix to the UAA to support and verify this statement and the SSTEMP section in general.

Given the extent and technical complexity presented in the UAA, the comments presented here may not be comprehensive. In addition, the Department requests to be identified as a stakeholder in this matter, as the agency responsible for implementing such water quality standards, should they be adopted by the WQCC and approved by EPA. If you have any questions regarding these comments or the process, please contact Jennifer Fullam by email at jennifer.fullam@state.nm.us or by phone at 505.946.8954.

Sincerely,

Shelly Lemon Digitally signed by Shelly Lemon Date: 2022.03.04 10:49:57 -07'00'

Digitally signed by Shelly Lemon

Shelly Lemon, Chief Surface Water Quality Bureau

Attachment: 2022-02-14 - EPA - UAA Sandia Demonstration Comments (FINAL) JDL

Cc: Sandia Canyon Use Attainability Analysis Public Comment (sandiacanyonuaa@lanl.gov) Russell Nelson, Water Quality Division, EPA Region 6 (nelson.russell@epa.gov) Jasmin Lopez-Diaz, Water Quality Division, EPA Region 6 (DiazLopez.Jasmins@epa.gov) John Verheul, NMED Deputy General Counsel (john.verheul@state.nm.us) Susan Lucas Kamat, NMED-SWQB, Point Source Regulation (susan.lucaskamat@state.nm.us) Kris Barrios, NMED-SWQB, Monitoring, Assessment and Standards (kristopher.barrios@state.nm.us) Jennifer Fullam, NMED-SWQB, Standards Planning and Reporting (jennifer.fullam@state.nm.us)

Attachment: 2022-02-14 - EPA - UAA Sandia Demonstration Comments (FINAL) JDL



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6 1201 ELM STREET, SUITE 500 DALLAS, TEXAS 75270

2/14/2022

Ms. Jennifer Fullam Standards, Planning & Reporting Team Leader Surface Water Quality Bureau New Mexico Environment Department 1190 S. St. Francis Drive Santa Fe, NM 87505

Dear Ms. Fullam:

Thank you for the opportunity to review the final draft of the Use Attainability Analysis (UAA) focusing on the perennial portion of the Upper Sandia Canyon AU- NM-9000.A-47 prepared by Department of Energy's National Nuclear Security Administration, Trias National Security, LCC (DOE-NA-LA/Triad) and Winward Environmental, LLC. I have completed my review of the UAA and found NMED has identified some of the EPA's main concerns in its comments. Specifically general comment number two which addresses the need to identify downstream waters for the UAA pursuant 40 C.F.R. § 131.10(b), site specific comment number ten requesting a descriptions of flow conditions in Uper Sandia Canyon and influence of impoundment on stream temperatures, and water quality data comment number 25 and 26 regarding 40 C.F.R. § 131.10(h) and need for discussion of any conditions that could be contributing to the elevated surface water temperatures. EPA supports these comments and the concerns NMED raises regarding the development of this UAA. Please see additional comments below.

- 1. On page 2, it states, "Outfall 001 is the primary source of water flow to the Upper Sandia Canyon UA, two other NPDES outfalls... also discharge much smaller volumes of effluent to the AU". The EPA suggests including the MGD for each outfall to be included in the Site Description and History and for the UAA to also consider the influence these NPDES outfalls may also have to the water temperature of the AU.
- 2. On page 4, it states "Upper Sandia Canyon is effluent dependent, meaning that it would not be perennial without the effluent inputs". Although this is true, the UAA must determine if natural conditions are preventing the attainment of coldwater aquatic use in the perennial reach of Sandia Canyon AU NM-9000.A_047. The UAA must consider what the water temperature would be if not for the possible elevated temperature of the NPDES discharger or other anthropogenic causes.
- 3. Sensitivity Analysis generated by SSTEMP is discussed and said to support the AWTC modeling results described in Section 4. However, the results of the sensitivity analysis are not shown within the study. Suggestion to include in report.

Given EPA's oversight role, I am providing the SWQB with these comments and recommendations, I appreciate you forwarding them to Mr. Story. I would appreciate if you keep me informed as to the timing of the DOE-NA-LA/Triad rulemaking process. Please let me know if you have any questions concerning this letter via phone at (214) 665-2733 or email at diazlopez.jasmins@epa.gov.

Sincerely,

Jasmin Diaz

Region 6

Water Quality Standards



COMMISSION OF PUBLIC RECORDS

Your Access to Public Information

Affidavit of Publication in New Mexico Register

I, Matthew Ortiz, certify that the agency noted on Invoice # 8030 has published legal notice of rulemaking or rules in the NEW MEXICO REGISTER, VOLUME XXXVI, that payment has been assessed for said legal notice of rulemaking or rules, which appears on the publication date and in the issue number noted on Invoice #8030, and that Invoice #8030 has been sent electronically to the person(s) listed on the Billing Information Sheet provided by the agency.

Affiant:

Matthew Ortiz

Subscribed, sworn and acknowledged before me this day of March 2025.

Notary Public:

My Commission Expires:

AMELA ANNE LUJAN Y VIGIL Notary Public State of New Mexico Comm. # 2001927 My Comm. Exp. Jan 22, 2028

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

New Mexico Register / Volume XXXVI, Issue 5 / March 11, 2025

NEW MEXICO WATER QUALITY CONTROL COMMISSION NOTICE OF PUBLIC RULEMAKING HEARING

The Water Quality Control Commission ("WQCC") will hold a public hearing for this matter to begin **on May 13, 2025**, following the WQCC's regularly scheduled meeting, which starts at 9:00 am, and continuing thereafter as necessary. The hearing shall be conducted in-person at the New Mexico State Capitol, 490 Old Santa Fe Trail, Santa Fe, New Mexico, 87501, and virtually via a video conferencing platform. The hearing will last as long as required to hear all testimony, evidence, and public comment. Detailed information concerning the time, location, and the virtual meeting link can be found on the New Mexico Environment Department's ("NMED") event calendar at https://www.env.nm.gov/events-calendar/. Please visit the WQCC website prior to the hearing for any updates at https://www.env.nm.gov/opf/water-quality-control-commission/. The WQCC may make a decision on the proposed regulatory change at the conclusion of the hearing.

The purpose of the public hearing is to consider Triad National Security, LLC's and the United States Department of Energy's National Nuclear Security Administration, Los Alamos Field Office's Petition for Rulemaking to Amend 20.6.4.126 NMAC and establish a new segment within the Sandia Canyon Assessment Unit to be defined in 20.6.4.141 NMAC. The proposed new segment would be assigned a coolwater Aquatic Life Use and segment-specific temperature criteria based on the findings of a Use Attainability Analysis conducted by Petitioners, which assessed attainability of the Aquatic Life Use designated in Subsection A of 20.6.4.126 NMAC. Petitioners sought this hearing pursuant to NMSA 1978, § 74-6-6 (1993), 20.1.6.200 NMAC, and 20.6.4.15 NMAC. The proposed regulations and supporting information may be reviewed online at https://www.env.nm.gov/opf/water-quality-control-commission/. Technical information that served as a basis for the proposed rule may be obtained from the Petitioners upon request. Persons who wish to review a physical copy of the proposed amendments should contact the WQCC Administrator at the address provided below.

All interested people will be given reasonable opportunity at the hearing to submit relevant evidence, data, views, and arguments, orally or in writing; to introduce exhibits; and to examine witnesses.

Pursuant to 20.1.6.202 NMAC and the Pre-Hearing Order issued by the hearing officer on December 20, 2024, those wishing to present direct technical testimony must file a written notice of intent to present technical testimony with the WQCC Administrator on or before April 14, 2025.

Notices of intent to present technical testimony shall conform to 20.1.6.104 NMAC and reference the docket number, **WQCC 24-65(R)**.

The form and content of the notice of intent to present technical testimony shall:

- Identify the person for whom the witness(es) will testify;
- Identify each technical witness the person intends to present and state the qualifications of that witness, including a description of their education and work background;
- Include a copy of the full written direct testimony of each technical witness in narrative form;
- Include the text of any recommended modifications to the proposed regulatory change; and
- List and attach all exhibits anticipated to be offered by that person at the hearing, including any proposed statement of reasons for adoption of rules.

Notices of intent to present technical testimony shall be filed with:

Pamela Jones, WQCC Administrator New Mexico Environment Department Harold Runnels Building P.O. Box 5469 Santa Fe, NM 87502 Telephone: (505) 660-4305

Email: pamela.jones@env.nm.gov

Those wishing to do so may offer non-technical public comment at the hearing in person or virtually. The Hearing Officer will hold a public comment session each day of the hearing, with a **public comment session reserved at 1pm on May 13, 2025**. Non-technical written statements may be submitted in lieu of oral testimony at or before the hearing. Written comments regarding the proposed rule should reference docket number **WQCC 24-65(R)** and may be addressed to Pamela Jones, WQCC Administrator, at the above address, or submitted in the public comment portal at: https://nmed.commentinput.com/comment/search or via email to: pamela.jones@env.nm.gov.

Pursuant to 20.1.6.203 NMAC, any person may file an entry of appearance as a party. The entry of appearance shall be filed with the WQCC Administrator, at the above address, no later than **April 14, 2025**.

The hearing will be conducted in accordance with the WQCC Rulemaking Procedures (20.1.6 NMAC); Use Attainability Analysis regulatory requirements (20.6.4.15 NMAC), the Water Quality Act, (Sections 74-6-1 to -17 NMSA 1978 (1967 as amended through 2019); the State Rules Act, (Section 14-4-5.3 NMSA 1978), other applicable procedures and any additional Procedural Order or Scheduling Order issued by the WQCC or Hearing Officer. These documents are available online at https://www.env.nm.gov/opf/docketed-matters/ or by contacting the WQCC Administrator at pamela.jones@env.nm.gov.

If any person requires assistance, language interpretation, or auxiliary aid to participate in this process, please contact Pamela Jones, WQCC Administrator, at the above address, at least 14 days prior to the hearing date. (TDD or TTY users please access the number via the New Mexico Relay Network, 1-800-659-1779 (voice); TTY users: 1-800-659-8331).

STATEMENT OF NON-DISCRIMINATION

NMED does not discriminate on the basis of race, color, national origin, disability, age or sex in the administration of its programs or activities, as required by applicable laws and regulations. NMED is responsible for coordination of compliance efforts and receipt of inquiries concerning non-discrimination requirements implemented by 40 C.F.R. Parts 5 and 7, including Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, and Section 13 of the Federal Water Pollution Control Act Amendments of 1972. If you have any questions about this notice or any of NMED's non-discrimination programs, policies or procedures, you may contact: Kate Cardenas, Non-Discrimination Coordinator, NMED, 1190 St. Francis Dr., Suite N4050, P.O. Box 5469, Santa Fe, NM 87502 or (505) 827-2855 or nd.coordinator@env.nm.gov. If you believe that you have been discriminated against with respect to a NMED program or activity, you may contact NMED's Non-Discrimination Coordinator identified above.

New Mexico Register / Volume XXXVI, Issue 5 / March 11, 2025

COMISIÓN DE CONTROL DE CALIDAD DEL AGUA DE NUEVO MÉXICO AVISO DE AUDIENCIA PÚBLICA PARA ELABORACIÓN DE NORMAS

La Comisión de Control de Calidad del Agua ("WQCC" por sus siglas en inglés) llevará a cabo una audiencia pública sobre este asunto que comenzará el 13 de mayo de 2025, después de la reunión programada regularmente de la WQCC, que comienza a las 9:00 a. m., y continuará después según sea necesario. La audiencia se llevará a cabo en persona en el Capitolio del Estado de Nuevo México, 490 Old Santa Fe Trail, Santa Fe, Nuevo México, 87501, y virtualmente a través de una plataforma de videoconferencia. La audiencia durará el tiempo que sea necesario para escuchar todos los testimonios, pruebas y comentarios públicos. Puede encontrar información detallada sobre la hora, la ubicación y el enlace de la reunión virtual en el calendario de eventos del Departamento de Medio Ambiente de Nuevo México ("NMED" por sus siglas en inglés) en https://www.env.nm.gov/events-calendar/_visite el sitio web de la WQCC antes de la audiencia para obtener actualizaciones en https://www.env.nm.gov/opf/water-quality-control-commission/. La WQCC puede tomar una decisión sobre el cambio regulatorio propuesto al finalizar la audiencia.

El propósito de la audiencia pública es considerar la Petición de Elaboración de Normas para enmendar el NMAC 20.6.4.126 y establecer un nuevo segmento dentro de la Unidad de Evaluación de Sandia Canyon, presentada por Triad National Security, LLC y la Administración Nacional de Seguridad Nuclear del Departamento de Energía de los Estados Unidos, Oficina local de Los Alamos, que se definirá en el NMAC 20.6.4.141. Al nuevo segmento propuesto se le asignaría un Uso de Vida Acuática de Aguas Frías y criterios de temperatura específicos del segmento basados en los hallazgos de un Análisis de Alcance de Uso realizado por los Peticionarios, que evaluó el alcance del Uso de Vida Acuática designado en el NMAC 20.6.4.126(A). Los Peticionarios solicitaron esta audiencia de conformidad con la NMSA 1978, § 74-6-6 (1993), 20.1.6.200 NMAC y 20.6.4.15 NMAC. Las regulaciones propuestas y la información de apoyo se pueden consultar en línea en https://www.env.nm.gov/opf/water-quality-control-commission/. La información técnica que sirvió de base para la norma propuesta se puede obtener de los Peticionarios a pedido. Las personas que deseen revisar una copia impresa de las enmiendas propuestas deben comunicarse con la administradora de la WQCC a la dirección que se proporciona a continuación.

A todas las personas interesadas se les dará una oportunidad razonable en la audiencia para presentar evidencia, datos, puntos de vista y argumentos relevantes, de manera oral o por escrito; para presentar pruebas instrumentales; y para interrogar a los testigos.

De conformidad con el 20.1.6.202 NMAC y la Orden Previa a la Audiencia emitida por el funcionario de audiencias el 20 de diciembre de 2024, quienes deseen presentar testimonio técnico directo deben presentar un aviso por escrito de la intención de presentar testimonio técnico ante la administradora de la WQCC a más tardar hasta el 14 de abril de 2025.

Los avisos de intención de presentar testimonio técnico deberán cumplir con 20.1.6.104 NMAC y hacer referencia al número de expediente, **WQCC 24-65(R)**.

La forma y el contenido del aviso de intención de presentar testimonio técnico deberán:

- Identificar a la persona para la cual testificarán los testigos;
- Identificar a cada testigo técnico que la persona pretende presentar y establecer las calificaciones de ese testigo, incluida una descripción de su historial académico y laboral;
- Incluir una copia del testimonio directo escrito completo de cada testigo técnico en forma narrativa;
- Incluir el texto de cualquier modificación recomendada al cambio regulatorio propuesto; y
- Enumerar y adjuntar todas las pruebas instrumentales que se prevé que esa persona ofrezca en la audiencia, incluida cualquier declaración propuesta de motivos para la adopción de normas.

Los avisos de intención de presentar testimonio técnico deberán presentarse a:

Pamela Jones, administradora de WQCC

Departamento de Medio Ambiente de Nuevo México Harold Runnels Building P.O. Box 5469 Santa Fe, NM 87502 Teléfono: (505) 660-4305 Correo electrónico: pamela.jones@env.nm.gov

Quienes deseen hacerlo pueden ofrecer comentarios públicos no técnicos en la audiencia en persona o virtualmente. El funcionario de audiencias llevará a cabo una sesión de comentarios públicos todos los días de la audiencia, con una sesión de comentarios públicos reservada a la 1:00 p. m. del 13 de mayo de 2025. Se pueden presentar declaraciones no técnicas por escrito en lugar de testimonio oral en la audiencia o antes de ella. Los comentarios por escrito sobre la norma propuesta deben hacer referencia al número de expediente WQCC 24-65(R) y pueden dirigirse a Pamela Jones, administradora de WQCC, a la dirección anterior, o enviarse en el portal de comentarios públicos en: https://nmed.commentinput.com/comment/search o por correo electrónico a: pamela.jones@env.nm.gov.

De conformidad con 20.1.6.203 del NMAC, cualquier persona puede presentar un registro de comparecencia como parte. El registro de comparecencia deberá presentarse ante la administradora de WQCC, en la dirección antes mencionada, a más tardar el 14 de abril de 2025.

La audiencia se llevará a cabo de conformidad con los Procedimientos de Elaboración de Normas de la WQCC (20.1.6 NMAC); Utilice los requisitos regulatorios del Análisis de Alcance (20.6.4.15 NMAC), la Ley de Calidad del Agua (Secciones 74-6-1 a -17 NMSA 1978 (1967 enmendada hasta 2019); la Ley de Normas Estatales (Sección 14-4-5.3 NMSA 1978), otros procedimientos aplicables y cualquier Orden de Procedimiento u Orden de Programación adicional emitida por la WQCC o el funcionario de audiencias. Estos documentos están disponibles en línea en https://www.env.nm.gov/opf/docketed-matters/ o comunicándose con la administradora de la WQCC en pamela.jones@env.nm.gov.

Si alguna persona requiere asistencia, interpretación de idiomas o un dispositivo auxiliar para participar en este proceso, comuníquese con Pamela Jones, administradora de la WQCC, a la dirección anterior, al menos 14 días antes de la fecha de la audiencia. (Los usuarios de TDD o TTY pueden acceder al número a través de la Red de Retransmisión de Nuevo México, 1-800-659-1779 (voz); usuarios de TTY: 1-800-659-8331).

DECLARACIÓN DE NO DISCRIMINACIÓN

El NMED no discrimina por motivos de raza, color, origen nacional, discapacidad, edad o sexo en la administración de sus programas o actividades, según lo exigen las leyes y reglamentaciones aplicables. El NMED es responsable de la coordinación de los esfuerzos de cumplimiento y la recepción de consultas relacionadas con los requisitos de no discriminación implementados por 40 C.F.R. Partes 5 y 7, incluido el Título VI de la Ley de Derechos Civiles de 1964, en su forma enmendada; la Sección 504 de la Ley de Rehabilitación de 1973; la Ley de Discriminación por Edad de 1975, el Título IX de las Enmiendas de Educación de 1972 y la Sección 13 de las Enmiendas de la Ley Federal de Control de la Contaminación del Agua de 1972. Si tiene alguna pregunta sobre este aviso o cualquiera de los programas, políticas o procedimientos de no discriminación de NMED, puede comunicarse con: Kate Cardenas, coordinadora de no discriminación, NMED, 1190 St. Francis Dr., Suite N4050, P.O. Box 5469, Santa Fe, NM 87502 o (505) 827-2855 o nd.coordinator@env.nm.gov. Si cree que ha sido objeto de discriminación con respecto a un programa o actividad del NMED, puede comunicarse con la coordinadora de no discriminación del NMED identificada anteriormente.

Affidavit of Publication

STATE OF NEW MEXICO COUNTY OF BERNALILLO }

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Classification:

GOVERNMENT LEGALS

I, Bernadette Gonzales, the undersigned, Legal Representative of the Albuquerque Journal, on oath, state that this newspaper is duly qualified to publish legal notices or advertisements within the meaning of Section 3. chapter 167, Session Laws of 1937, and payment of fees has been made of assessed and a copy of which is hereto attached, was published in said publication in the daily edition, 1 times(s) on the following date(s):

March 11, 2025

That said newspaper was regularly issued and circulated on those dates.

SIGNED:

egal Representative

Subscribed to and sworn to me this 11th day of March 2025.

Notary Public

My commission expires: 19

STATE OF NEW MEXICO **NOTARY PUBLIC** DAVID LINDSEY MONTOYA COMMISSION NUMBER 1140229 EXPIRATION DATE 04-26-2027

TRIAD NATIONAL SECURITY, LLC. c/o MICHAEL MORISTON BIKINI ATOLL ROAD GC-DO A187 Los Alamos, NM 87545

COMISION DE CONTROL DE CALIDAD DEL AGUA DE NUEVO MEXICO AVISO DE AUDIENCIA PUBLICA PARA ELABORACION DE

La Comision de Control de Calidad del Agua ("WQCC" por sus siglas en ingles) llevara a cabo una audiencia publica sobre este asunto que comenzara el 13 de mayo de 2025, despues de la reunion programada regularmente de la WQCC, que comienza a las 9:00 a. m., y continuara despues segun sea necesario. La audiencia se llevara a cabo en persona en el Capitolio del Estado de Nuevo Mexico, 490 Old Santa Fe Trail, Santa Fe, Nuevo Mexico, 87501, y virtualmente a traves de una plataforma de videoconferencia. La audiencia durara el tiempo que sea necesario para escuchar todos los testimonios, pruebas y comentarios publicos. Puede encontrar informacion detallada sobre la hora, la ubicación y el enlace de la reunion virtual en el calendario de eventos del Departamento de Medio Ambiente de Nuevo Mexico ("NMED" por sus siglas en ingles) en https://www.env.nm.gov/events-calendar/ Visite el sitio web de la WOCC antes de la audiencia para obtener actualizaciones en https://www. antes de la audiencia para obtener actualizaciones en https://www. env.nm.gov/opf/water-quality-control-commission/ La WQCC puede tomar una decisionsobre el cambio regulatorio propuesto al finalizar la audiencia.

El proposito de la audiencia publica es considerar la Peticion de Elaboración de Normas para enmendar el NMAC 20.6.4.126 y establecer un nuevo segmento dentro de la Unidad de Evaluacion de Sandia Canyon, presentada por Triad National Security, LLC y la Administracion Nacional de Seguridad Nuclear del Departamento de Energia de los Estados Unidos, Oficina local de Los Alamos, que se definira en el NMAC 20.6.4.141. Al nuevo segmento propuesto se le asignaria un Uso de Vida Acuatica de segmento propuesto se le asignaria un Uso de Vida Acuatica de Aguas Frias y criterios de temperatura especificos del segmento basados en los hallazgos de un Analisis de Alcance de Uso realizado por los Peticionarios, que evaluo el alcance del Uso de Vida Acuatica designado en el NMAC 20.6.4.126(A). Los Peticionarios sollicitaron esta audiencia de conformidad con la NMSA 1978, § 74-6-6 (1993), 20.1.6.200 NMAC y 20.6.4.15 NMAC. Las regulaciones propuestas y la informacion de apoyo se pueden consultar en linea en https://www.env.nm.gov/opt/water-quality-control-commission/. La informacion tecnica que sirvio de base para la norma propuesta se puede obtener de los base para la norma propuesta se puede obtener de los Peticionarios a pedido. Las personas que deseen revisar una copia impresa de las enmiendas propuestas deben comunicarse con la administradora de la WQCC a la dirección que se proporciona a continuacion.

A todas las personas interesadas se les dara una oportunidad razonable en la audiencia para presentar evidencia, datos, puntos de vista y argumentos relevantes, de manera oral o por escrito; para presentar pruebas instrumentales; y para interrogar a los

tesugos.

De conformidad con el 20.1.6.202 NMAC y la Orden Previa a la Audiencia emitida por el funcionario de audiencias el 20 de diciembre de 2024, quienes deseen presentar testimonio tecnico directo deben presentar un aviso por escrito de la intencion de presentar testimonio tecnico ante la administradora de la WQCC a

mas tardar hasta el 14 de abril de 2025.

Los avisos de intencion de presentar testimonio tecnico deberan cumplir con 20.1.6.104 NMAC y hacer referencia al numero de expediente, WOCC 24-65(R).

La forma y el contenido del aviso de intencion de presentar testimonio tecnico deberan:

l dentificar a la persona para la cual testificaran los testigos; - Identificar a cada testigo tecnico que la persona pretende presentar y establecer las calificaciones de ese testigo, incluida

una descripcion de su historial academico y laboral; - Incluir una copia del testimonio directo escrito completo de cada testigo tecnico en forma narrativa;
- Incluir el texto de cualquier modificacion recomendada al cambio

regulatorio propuesto; y

- Enumerar y adjuntar todas las pruebas instrumentales que se preve que esa persona ofrezca en la audiencia, incluida cualquier declaración propuesta de motivos para la adópción de normas. Los avisos de intención de presentar testimonio tecnico deberan presentarse a:

Pamela Jones, administradora de WQCC Departamento de Medio Ambiente de Nuevo Mexico

Harold Runnels Building P.O. Box 5469 Santa Fe, NM 87502

Telefono: (505) 660-4305
Correo electronico: pamela jones@env.nm.gov
Quienes deseen hacerlo pueden ofrecer comentarios publicos no tecnicos en la audiencia en persona o virtualmente. El funcionario de audiencias llevara a cabo una sesion de comentarios publicos todos los dias de la audiencia, con una sesion de comentarios publicos reservada a la 1:00 p. m. del 13 de mayo de 2025. Se publicos reservada a la 1:00 p. m. del 13 de mayo de 2025. Se pueden presentar declaraciones no tecnicas por escrito en lugar de testimonio oral en la audiencia o antes de ella. Los comentaños por escrito sobre la norma propuesta deben hacer referencia al numero de expediente WOCC 24-65(R) y pueden dirigirse a Pamela Jones, administradora de WOCC, a la dirección anterior, o enviarse en el portal de comentarios publicos en: https://mmed.commentipout.com/commenticarch. commentingut.com/comment/search o por correo electronico a: pamela.jones@env.nm.gov.
De conformidad con 20.1.6.203 del NMAC, cualquier persona

puede presentar un registro de comparecencia como parte. El registro de comparecencia debera presentarse ante la

administradora de WQCC, en la direccion antes mencionada, a mas tardar el 14 de abril de 2025.

mas tardar el 14 de abril de 2025.

La audiencia se llevara a cabo de conformidad con los Procedimientos de Elaboracion de Normas de la WOCC (20.1.6 NMAC); Utilice los requisitos regulatorios del Analisis de Alcance (20.6.4.15 NMAC), la Ley de Calidad del Agua (Secciones 74-6-1 a -17 NMSA 1978 (1967 enmendada hasta 2019); la Ley de Normas Estatales (Seccion 14-4-5.3 NMSA 1978), otros procedimientos aplicables y cualquier Orden de Procedimiento u Orden de Programacion adicional emitida por la WOCC o el funcionario de audiencias. Estos documentos estan disponibles en línea en https://www.env.nm.gov/opl/docketed-matters/ o comunicandose con la administradora de la WOCC en pamela. iones@env.nm.gov. jones@env.nm.gov.

Si alguna persona requiere asistencia, interpretacion de idiomas o

jones@env.nm.gov.

Si alguna persona requiere asistencia, interpretacion de idiomas o un dispositivo auxiliar para participar en este proceso, comuniquese con Parmela Jones, administradora de la WQCC, a la direccion anterior, al menos 14 dias antes de la fecha de la audiencia. (Los usuarios de TDD o TTY pueden acceder al numero a traves de la Red de Retransmision de Nuevo Mexico, 1-800-659-1779 (voz); usuarios de TTY: 1-800-659-8331).

DECLARACION DE NO DISCRIMINACION

I NMED no discrimina por motivos de raza, color, origen nacional, discapacidad, edad o sexo en la administracion de sus programas o actividades, segun lo exigen las leyes y reglamentaciones aplicables. El NMED es responsable de la coordinacion de los esfuerzos de cumplimiento y la recepción de consultas relacionadas con los requisitos de no discriminacion implementados por 40 C.F.R. Partes 5 y 7, incluido el Titulo VI de la Ley de Derechos Civiles de 1964, en su forma enmendada; la Seccion 504 de la Ley de Rehabilitación de 1973; la Ley de Discriminación por Edad de 1975, el Titulo IX de las Enmiendas de la Ley Federal de Control de la Contaminación del Agua de 1972. Si tiene alguna pregunta sobre este aviso o cualquiera de los programas, políticas o procedimientos de no discriminación de NMED, puede comunicarse con: Kate Cardenas, coordinadora de no discriminación, NMED, 1190 St. Francis Dr., Suite N4050, P.O. Box 5469, Santa Fe, NM 87502 o (505) 827-2855 o nd. coordinator@env.nm.gov. Si cree que ha sido objeto de discriminación con respecto a un programa o actividad del NMED, puede comunicarse con la coordinadora de no discriminación del NMED juede comunicarse con la coordinadora de no discriminación con respecto a un programa o actividad del NMED, puede comunicarse con la coordinadora de no discriminación del NMED juede comunicarse con la coordinadora de no discriminación del NMED juede comunicarse con la coordinadora de no discriminación del NMED juede comunicarse con la coordinadora de no discriminación del NMED juede comunicarse con la coor

Journal: March 11, 2025

Affidavit of Publication

STATE OF NEW MEXICO SS COUNTY OF BERNALILLO \$

Ad Cost:

\$282,46

Ad Number:

194280 Account Number: 1112745

Classification:

GOVERNMENT LEGALS

I, Bernadette Gonzales, the undersigned, Legal Representative of the Albuquerque Journal, on oath, state that this newspaper is duly qualified to publish legal notices or advertisements within the meaning of Section 3, chapter 167, Session Laws of 1937, and payment of fees has been made of assessed and a copy of which is hereto attached, was published in said publication in the daily edition, 1 times(s) on the following date(s):

March 11, 2025

That said newspaper was regularly issued and circulated on those dates. SIGNED:

egal Representative

Subscribed to and sworn to me this 11th day of March 2025.

Notary Public

My commission expires: 04-26

STATE OF NEW MEXICO NOTARY PUBLIC DAVID LINDSEY MONTOYA COMMISSION NUMBER 1140229 EXPIRATION DATE 04-26-2027

TRIAD NATIONAL SECURITY, LLC. c/o MICHAEL MORISTON **BIKINI ATOLL ROAD GC-DO A187** Los Alamos, NM 87545



NEW MEXICO WATER QUALITY CONTROL COMMISSION NOTICE OF PUBLIC RULEMAKING HEARING

NOTICE OF PUBLIC RULEMAKING HEARING

The Water Quality Control Commission ("WQCC") will hold a public hearing for this matter to begin on May 13, 2025, following the WQCC's regularly scheduled meeting, which starts at 9:00 am, and continuing thereafter as necessary. The hearing shall be conducted in-person at the New Mexico, 87501, and virtually via a video conferencing platform. The hearing will last as long as required to hear all testimony, evidence, and public comment. Detailed information concerning the time, location, and the virtual meeting link can be found on the New Mexico Environment Department's ("NMED") event calendar at https://www.env.nm.gov/events-calendar/. Please visit the WQCC website prior to the hearing for any updates at https://www.env.nm.gov/opt/water-quality-control-commission/. The WQCC may make a decision on the proposed regulatory change at the conclusion of the hearing. The purpose of the public hearing is to consider Triad National Security, LLC's and the United States Department of Energy's National Nuclear Security Administration, Los Alarmos Field Office's Petition for Rulemaking to Amend 20.6.4.126 NMAC and establish a new segment within the Sandia Canyon Assessment Unit to be defined in 20.6.4.141 NMAC. The proposed new segment would be assigned a coolwater Aquatic Life Use and segment-specific temperature criteria based on the findings of a Use Attainability Analysis conducted by Petitioners, which assessed attainability of the Aquatic Life Use designated in 20.6.4.126(A) NMAC. Petitioners sought this hearing pursuant to NMSA 1978, § 74-6-6 (1933), 20.1.6.200 NMAC, and 20.6.4.15 NMAC. The proposed regulations and supporting information may be reviewed online at https://www.env.nm.gov/opt/water-quality-control-commission/. Technical information that served as a basis for the proposed rule may be obtained from the Petitioners upon request. Persons who wish to review a physical copy of the proposed amendments should contact the WQCC Administrator at the address provided below.

proposed amendments should contact the wood Administration of the address provided below.

All interested people will be given reasonable opportunity at the hearing to submit relevant evidence, data, views, and arguments, orally or in writing; to introduce exhibits; and to examine witnesses. Pursuant to 20.1.6.202 NMAC and the Pre-Hearing Order issued by the hearing officer on December 20. 2024, those wishing to Pursuant to 20.1.6.202 NMAC and the Pre-healing Cross issued by the hearing officer on December 20, 2024, those wishing to present direct technical testimony must file a written notice of intent to present technical testimony with the WQCC Administrator

on or before April 14, 2025.

Notices of intent to present technical testimony shall conform to 20.1.6.104 NMAC and reference the docket number, WQCC

The form and content of the notice of intent to present technical testimony shall:

testimony shall:

- identify the person for whom the witness(es) will testify;
- identify each technical witness the person intends to present and state the qualifications of that witness, including a description of their education and work background;
- Include a copy of the full written direct testimony of each technical witness in narrative form;
- Include the text of any recommended modifications to the proposed regulatory change; and
- List and attach all exhibits anticipated to be offered by that person at the hearing, including any proposed statement of reasons for adoption of rules.

Notices of intent to present technical testimony shall be filed with:

Pamela Jones, WQCC Administrator

New Mexico Environment Department
Harold Runnels Building

P.O. Box 5469

P.O. Box 5469

P.O. Box 5469
Santa Fe, NM 87502
Telephone: (505) 660-4305
Email: pamela.jones@env.nm.gov
Those wishing to do so may offer non-technical public comment at the hearing in person or virtually. The Hearing Officer will hold a public comment session each day of the hearing, with a public comment session reserved at 1pm on May 13, 2025. Non-technical written statements may be submitted in lieu of oral testimony at or before the hearing. Written comments regarding the proposed rule should reference docket number WQCC 24-65(R) and may be addressed to Pamela Jones WQCC Administrator, at the above address, or submitted in the public comment portal at: https://nmed.commentinput.com/comment/search or via email to: pamela.jones@env.nm.gov.
Pursuant to 20.1.6.203 NMAC, any person may file an entry of appearance as a party. The entry of appearance shall be filed with the WQCC Administrator, at the above address, no later than April 14, 2025.

14, 2025.

The hearing will be conducted in accordance with the WQCC Rulemaking Procedures (20.1.6 NMAC); Use Attainability Analysis regulatory requirements (20.6.4.15 NMAC), the Water Quality Act, (Sections 74-6-1 to -17 NMSA 1978 (1967 as amended through 2019); the State Rules Act, (Section 14-4-5.3 NMSA 1978), other applicable procedures and any additional Procedural Order or Scheduling Order issued by the WQCC or Hearing Officer. These documents are available online at https://www.env.nm.gov/opt/docketed-matters/ or by contacting the WQCC Administrator at pamela.jones@env.nm.gov.

dockered-matters or by contacting the WUCC Administrator at pamela.jones@env.nm.gov. If any person requires assistance, language interpretation, or auxiliary aid to participate in this process, please contact Pamela Jones, WOCC Administrator, at the above address, at least 14 days prior to the hearing date. (TDD or TTY users please access

the number via the New Mexico Relay Network, 1-800-659-1779

the number via the New Mexico Relay Network, 1-800-659-1779 (voice); TTY users: 1-800-659-8331).

STATEMENT OF NON-DISCRIMINATION NMED does not discriminate on the basis of race, color, national origin, disability, age or sex in the administration of its programs or activities, as required by applicable laws and regulations. NMED is responsible for coordination of compliance efforts and receipt of inquiries concerning non-discrimination requirements implemented by 40 C.F.R. Parts 5 and 7, including Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, and Section 13 of the Federal Water Pollution Control Act Amendments of 1972. If you have any questions about this notice or any of NMED's non-discrimination programs, policies or procedures, you may contact: Kate Cardenas, Non-Discrimination Coordinator, NMED, 1190 St. Francis Dr., Suite N4050, P.O. Box 5469, Santa Fe, NM 87502 or (505) 827-2855 or nd.coordinator@env.nm.gov . If you believe that you have been discriminated against with respect to a NMED program or activity, you may contact NMED's Non-Discrimination Coordinator identified above.

Journal: March 11, 2025

Affidavit of Publication

STATE OF NEW MEXICO }SS COUNTY OF LOS ALAMOS }
Classification: GOVERNMENT LEGALS
, the undersigned, Legal Representative of the Los Alamos Daily Post, on oath, state that this newspaper is duly qualified to publish legal notices or advertisements within the meaning of Section 3, chapter 167, Session Laws of 1937, and payment of fees has been made of assessed and a copy of which is hereto attached, was published in said publication in the daily edition,
That said newspaper was regularly issued and circulated on those dates. SIGNED:
Legal Representative
Subscribed to and sworn to me this day of day of April day of
State of New Mouco
County of Los Alamos
This instrument was acknowledged before me on April 4, 2020 by Wilden Lose W
Hotary Public Signature
Official Stamp: LINDA MONTOYA Notary Public - State of New Mexico Commission # 1136278 My Comm. Expires December 21, 2025

Affidavit of Publication

STATE OF NEW MEXICO }SS COUNTY OF LOS ALAMOS }	
Classification: GOVERNMENT LEGALS	
I,	
That said newspaper was regularly issued and circulated on those dates. SIGNED:	
Mirsien Lorgher	
Legal Representative	
Subscribed to and sworn to me this day of	
• "	
State of New Movice	
County of Los Alomos	
This instrument was acknowledged before me on April H. 2005 by Wicten Lasking	4
Ando Manda	
Notary Public Signature	
Official Stamp: LINDA MONTOYA Notary Public - State of New Mexico Commission # 1136278 My Comm. Expires December 21, 2025	4

LEGALS

NEW MEXICO WATER QUALITY CONTROL COMMISSION NOTICE OF PUBLIC RULEMAKING HEARING

The Water Quality Control Commission ("WQCC") will hold a public hearing for this matter to begin on May 13, 2025, following the WQCC's regularly scheduled meeting, which starts at 900 am, and continuing thereafter as necessary. The hearing shall be conducted in-person at the New Mexico, 5750l, and virtually via a video conferencing platform. The hearing will last as long as required to hear all testimony, evidence, and public comment. Detailed information concerning the time, location, and the virtual meeting link can be found on the New Mexico Environment Department? ("NMED") event calendar at Inteps/lwawe env mm goviept water-quality-control-commission/. The WQCC may make a decision on the proposed regulatory change at the conclusion of the hearing the conclusion of the hearing

The purpose of the public hearing is to consider Triad National Security, LLC's and the United States Department of Energy's National Nuclear Security Administration Los Alamos Field Office's Petition for Rulemaking to Amend 20.6.4.126 NNAC and establish a new segment within the Sandia Carryon Assessment Unit to be defined in 20.6.4.141 NMAC. The proposed new segment would be assigned a codwarter Aquantic Life Use and segment specific temperature criteria based on the findings of a Use Attainability Analysis conducted by Petitioners, which assessed attainability of the Aquantic Life Use designated in 20.6.4.126(A) NNAC. Petitioners sought this hearing pursuant to NNAS. 1978, § 74–66 (1989), 20.16.200 NMAC, and 20.6.4.15 NMAC. The proposed regulations and supporting information may be reviewed online at https://www.env.nn.govojc/wate-quality-control-commission/. Technical information that yeared as a basis for the proposed rule may be obtained from the Petitioners upon request. Amend 20.64 126 NMAC and establish a new see Persons who wish to review a physical copy of the proposed amendments should contact the WQCC Administrator at the address provided below.

All interested people will be given reasonable opportunity at the hearing to submit relevant evidence, data, views, and arguments, orally or in writing, to introduce exhibits; and to examine witnesses. Pursuant to 20.1.6.202 NMAC and the Pre-Hearing Order issued by the hearing officer on December 20, 2024, those wishing to present direct technical testimony must file a written notice of intent to present technical testimony with the WOCC Administrator on or before April 14, 2025.

Notices of intent to present technical testimony shall conform to 20.1.6.104 NMAC and reference the docket number, WQCC 24-65(R).

- The form and content of the notice of intent to present technical testimony shall:

 *Identify the person for whom the witness(es) will testify,
 *Identify each technical witness the person intends to
 present and state the qualifications of that witness, including a
 description of their education and work background:

 *Include a copy of the full written direct testimony of each
 technical witness in narrative form;

 *Include the test of any recommended modifications to the
- Include the text of any recommended modifications to the proposed regulatory change; and.
 • List and attach all exhibits anticipated to be offered by that person at the hearing, including any proposed statement of

Notices of intent to present technical testimony shall be filed with:

Pamela Jones, WOCC Administrator New Mexico Environmer Harold Runnels Building ent Department PO Box 5460 P.O. Box 5409 Santa Fe, NM 87502 Telephone: (505) 660-43 Email: pamela.jones@e 5) 660-4305

reasons for adoption of rules

Those wishing to do so may offer non-technical public Those wishing to do so may offer non-technical public comment at the hearing in person or virtually. The Hearing Officer will hold a public comment session each day of the hearing, with a public comment session reserved at 1 pm on May 13, 2025. Non-technical written statements may be submitted in lieu of oral testimony at or before the hearing. Written comments regarding the proposed rule should reference docket number WQCC 24-65(R) and may be addressed to Pamela Jones. WQCC 34-ministrator, at the above address, or submitted in the public comment portal at https://maya.comment.public.com/public.com at: https://nmed.commentinput.com/comment/search or via email to: pamela.jones@env.nm.gov.

Pursuant to 20.1.6.203 NMAC, any person may file an entry of appearance as a party. The entry of appearance shall be

filed with the WQCC Administrator, at the above address, no later than April 14, 2025.

The hearing will be conducted in accord WOCC Rulemaking Procedures (20.1.6 NMAC); Use Artainability Analysis regulatory requirements (20.6.4.15 NMAC), the Water Quality Act, (Sections 74-6-1 to -17 NMSA 1978 (1967 as amended through 2019); the State Rules Act, (Section 14-4-5.3 NMSA 1978), other applicable Rules Act, (Section 14-4-5;3 NMSA 1978), other applicable procedures and any additional Procedural Order or Scheduling Order issued by the WQCC or Hearing Officer. These documents are available online at https://www.env.mg.oviog/folocketed-mattery' or by contacting the WQCC Administrator at pamela.jones@env.nm.gov.

or auxiliary aid to participate in this process, please contact Pamela Jones, WQCC Administrator, at the above address, at least 14 days prior to the hearing date. (TDD or TTY users please access the number via the New Mexico Relay Network, 1-800-659-1779 (voice); TTY users: 1-800-659-

STATEMENT OF NON-DISCRIMINATION

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 n companne efforts and recept of inquiries concerning non-discrimination requirements implemented by 40 C.F.P. arts 5 and 7, including Title VI of the Civil Rights Act of 1964, as amended: Section 504 of the Rebabilitation Act of 1973; the Age Discrimination Act of 1975, Title IV of the Education Amendments of 1972, and Section 13 of the Federal Water Politation 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 any questions arout unit nonce or any of NMED's non-discrimination programs, policies or procedures, you may contact. Kate Cardenas, Non-Discrimination Coordinator, NMED, 1100 St. Francis Dr., Suite N4050, Po. Des 05-469. Santa Fe, NM 87502 or (505) 827-2855 or nd.coordinator@ env.mn.gov. if you believe that you have been discriminated against with respect to a NMED program or activity, you may contact NMED's Non-Discrimination Coordinator identified about identified above.

PUBLISHED IN THE LOS ALAMOS DAILY POST THURSDAY MARCH 13, 2025

COMISIÓN DE CONTROL DE CALIDAD DEL AGUA DE NUEVO MÉXICO DE NUEVO MEXICO AVISO DE AUDIENCIA PÚBLICA PARA ELABORACION DE NORMAS

La Comisión de Control de Calidad del Agua ("WOCC" La Comisión de Control de Calidad del Agua ("WQCC" por sus siglas en inglés) lleurarà a cabo uma audiencia pública sobre este assuto que comenzará el 13 de mayo de 2025, después de la resunión programada regularmente de la WQCC, que comienza a las 900 a m. y continuará después según sea necesario. La audiencia se llevará a cabo en persona en el Capitolio del Estado de Nuevo México, 87501, y virtualmente a través de una plataforma de video conferencia. La audiencia durará el tiempo que sea necesario para escuchar todos los testimonios, truebos y comentarios escuchar todos los testimonios, pruebas y comen públicos. Puede encontrar información detallada sobre la hora, la ubicación y el enlace de la reunión virtual en el calendario de eventos del Departamento de Medio Ambiente de Nuevo México ("NMED" por sus siglas en inglés) en https://www.env.nm.gov/events-calendar/. Visite el sitio web de la WQCC antes de la audiencia para obtener actualizaciones en https://www.env.nm.gov/opf/waterquality-control-commission/. La WQCC puede tomar una decisión sobre el cambio regulatorio propu

El propósito de la sudiencia pública es considerar la Petición de Elaboración de Normas para emmendar el NMAC.

20. 6.4 126 y estiblecer un mesor segmento dentro de la Unidad de Evaluación de Sandia Caryon, presentada por Triad National Security, LLC y la Administración Nacional de Seguridad Nuclear del Departamento de Energia de los Estados Unidos. Oficina local de Los Alamos, que sedefinirá en el NMACO 50.4 141. Al muevo segmento propuetos se le asignaria un Uso de Vida Acutitica de Aguas Prias y criterios de temperatura especificos del segmento basados en los hallazgos de un Analisis de Alcance de Uso realizado por los Peticionarios, que evaluá el alcance del Uso de Vida Acutitar. Peticionarios, que evaluó el alcance del Uso de Vida Acuática designado en el NIMAC 20.6.4.126(A). Los Peticionarios solicitaron esta audiencia de conformidad con la NMSA 1978, § 74-6-6 (1983), 20.1.6.200 NMAC y 20.6.415 NMAC Las regulaciones propuestas y la información de apoyo se pueden consultar en linea en https://www.env.mn.gov/op/i wate-quality/-control-commission/. La información técnica water-quanty-control commander and marked termined elemente que sirvió de base para la norma propuesta se puede obtener de los Peticionarios a pedido. Las personas que deseen revisar una copia impresa de las enmiendas propuestas deben comunicarse con la administradora de la WQCC a la roporciona a conti

A todas las personas interesadas se les dará una oportunidad razonable en la audiencia para presentar evidencia, datos, puntos de vista y argumentos relevantes, de manera oral o por escrito, para presentar pruebas instrumentales, y para

interrogar a los testigos.

De conformidad con el 20.1.6.202 NMAC y la Orden Previa a la Audiencia emitida por el funcionario de audiencias el 20 de diciembre de 2014, quiense deseen presentar testimonio itenico directo deben presentar un aviso por escrito de la intención de presentar restimonio itenico artie el administradora de la WQCC a más tardar hasta el 14 de abril

Los avisos de intención de presentar testimonio técnico deberán cumplir con 20.1.6.104 NMAC y hacer referencia al mumero de expediente, WQCC 24-65(R).

testimonio técnico deberán:

- esumomo tecnico deceran: Identificar a la persona para la cual testificarán los testigos; Identificar a cada testigo técnico que la persona pretende presentar y establecer las calificaciones de ese testigo, incluida una descripción de su historial académico y laboral; • Incluir una copia del testimonio directo escrito completo de cada testigo técnico en forma narrativa:
- Inchiir el texto de cualquier modificación recomendada al
- Eminierar y adjuntar todas las pruebas instrumentales que se prevé que esa persona ofrezca en la audiencia, incluida ción propuesta de motivos para la adopción

Los avisos de intención de presentar testimonio técnico

Los avisos de intención de presentar testimonio técnic deberán presentarse. Pamela Jones, administradora de WQCC Departamento de Medio Ambiente de Nuevo México Harold Runnels Building PO. Box 5469 Santa Fe, NM 87502 Deléforor (50%) 650-4275

Teléfono: (505) 660-4305

Correo electronico: pamela.jones@env.nm.gov

Quienes deseen hacerlo pueden ofrecer comentarios públicos no técnicos en la audiencia en persona o virtualmente El funcionario de audiencias llevará a cabo una sesión de comentarios públicos todos los días de la audiencia, con una sesión de comentarios públicos reservada a la 1:00 p. m. del 13 de mayo de 2025. Se pueden presentar declaraciones no técnicas por escrito en lugar de testimonio oral en la no tecnicas por escrito en lugar de testimonio oral en la audiencia o antes de ella. Los comentarios por escrito sobre la norma propuesta deben hacer referencia al mimero de espediente WQCC 24-68(R) y pueden dirigirse a Pamela Jones, administradora de WQCC, a la dirección amerior, o emviarse en el portal de comentarios públicos en: https:// nmed.commentitiput.com/comment/search o por correo electrónico a: pamela/jones@env.nm.gov.

De conformidad con 20.1.6.203 del NMAC, cualquier

persona puede presentar un registro de comparecencia como parte. El registro de comparecencia deberá presentarse ante la administradora de WQCC, en la direcció mencionada, a más tardar el 14 de abril de 2025.

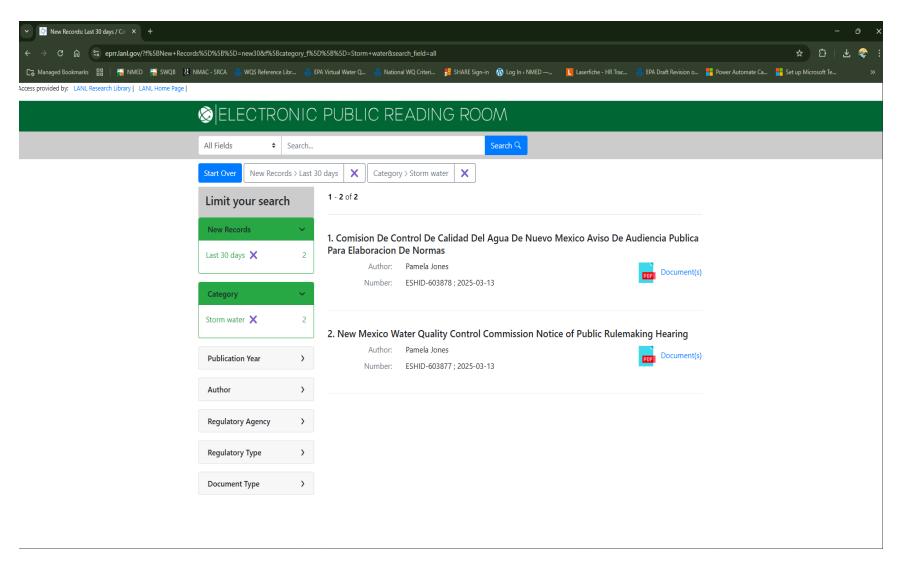
La untiencia se llevari a cabo de conformidad con los Procedimientos de Elaboración de Normas de la WQCC (20.16 NMAC). Utilize los requisitos regulatorios del Analisis de Alcance (20.6.415 NMAC), la Ley de Calidad del Agua (Secciones 74-6-1 a -17 NMSA 1978 (1987 enmendada hasta 2019), la Ley de Normas Estatales (Seccion 14-4-5 3 NMSA 1978), coros procedimientos aplicables y cualquier Orden de Procedimiento u Orden de Programación adicional emithado por la WQCC o el funcionario de audiencias. Estos documentos están disponibles en lines en https://www.mr.mr.gov/ord/dockleted-matters/o comunicándose con la administradora de la WQCC en pamela jones@jenvun.gov. La audiencia se llevará a cabo de conformidad con pamela.jones@env.nm.gov.

Si alguna persona requiere asistencia, interpretación de si aguan persona nesquare assistant men persona un tiónemas o un dispositivo auxiliar para participar en este proceso, comuniquese con Pamela Jones, administradora de la WQCC, a la dirección anterior, al menos 14 días antes de la fecha de la audiencia. (Los usuarios de TDD o TTY pueden acceder al número a través de la Red de Retransmisión de Nuevo México, 1-800-659-1779 (voz); uarios de TTV: 1-800-650-8331)

DECLARACIÓN DE NO DISCRIMINACIÓN

DECLARACION DE NO DISCRIMINACION
El NMED no discrimina por motivos de raz, color, origen
nacional, discapacidad, edad o sexo en la administración
de sus programas o actividades, según lo exigen las leyes
y reglamentaciones aplicables. El NMED es responsable
de la coordinación de los esfuerzos de cumplimiento y la
recepción de consultas relacionadas con los requisitos de
no discriminación implementados por 40 C F.R. Partes 5
y 7, incluido el Título VI de la Leye de Derechos Civiles de
1964, en su forma enmendada; la Sección 204 de la Ley de
Rebablitación de 1973; la Ley de Discriminación por Edad
de 1975, el Tirulo IX de las Emmiendas de Educación de de 1975, el Título IX de las Enmiendas de Educación de 1972 y la Sección 13 de las Enmiendas de la Ley Federal de Control de la Contaminación del Agua de 1972. Si tiene alguna pregunta sobre este aviso o cualquiera de los programas, políticas o procedimientos de no discriminación de NMED, puede comunicarse con: Kate Cardenas, coordinadora de no discriminación, NMED, 1190 St Francis Dr., Suite N4050, P.O. Box 5469, Santa Fe, NM Franko M.; Sude 1990, 900, 900, 900, 900 et 1990, 900 et

PUBLISHED IN THE LOS ALAMOS DAILY POST THURSDAY MARCH 13, 2025



The Petitioners Electronic Reading Room Website with the Posting of Notice of Public Rulemaking.

From: Los Alamos National Laboratory < lanl@service.govdelivery.com>

Sent: Saturday, March 15, 2025 6:02 AM

To:

Subject: [EXTERNAL] New documents added to Electronic Public Reading Room

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Per regulatory requirements, this e-mail is to notify you that the following documents have been added to the Los Alamos National Laboratory <u>Electronic Reading Room</u>. The document(s) have been submitted to fulfill one or more requirements of the Los Alamos National Laboratory.

- New Mexico Water Quality Control Commission Notice of Public Rulemaking Hearing
- Comision De Control De Calidad Del Agua De Nuevo Mexico Aviso De Audiencia Publica Para Elaboracion De Normas

You may view these documents and many others at LANL's Electronic Public Reading Room.

If you have questions, please contact us.

Steven Anton Horak
Los Alamos National Laboratory
Communications and Public Outreach
P.O. Box 1663
MS S020
Los Alamos, NM 87545
505-551-4514
envoutreach@lanl.gov

You are subscribed to Public Reading Room - Regulatory Documents for Los Alamos National Laboratory.

















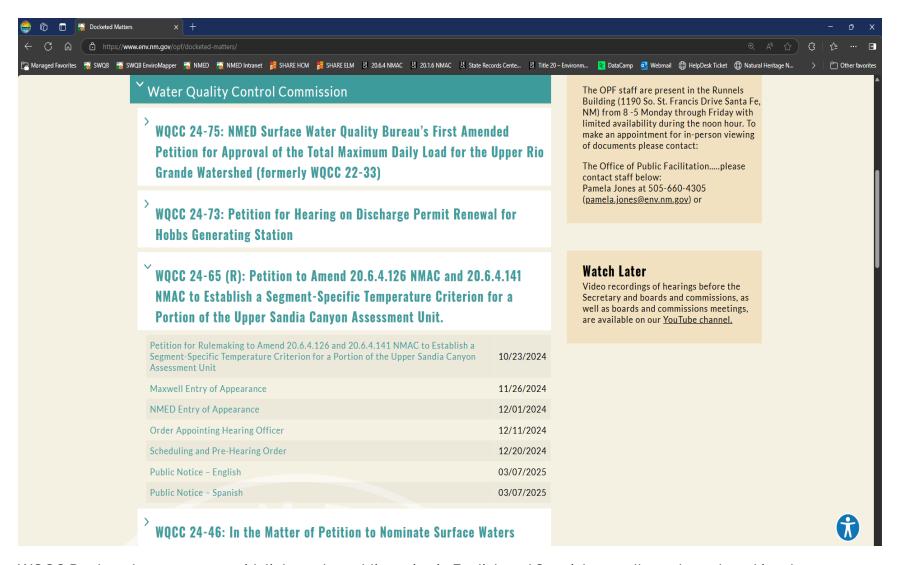
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Us

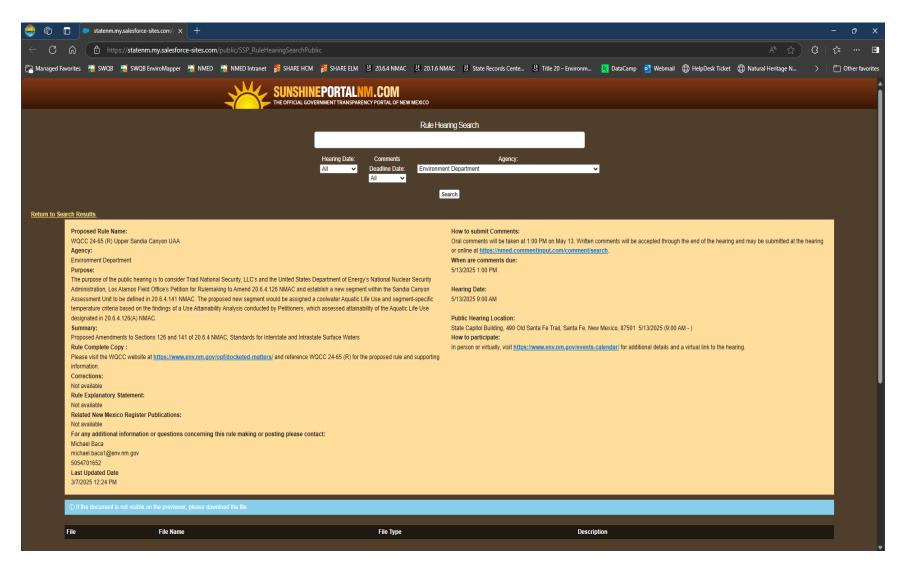


Los Alamos National Laboratory · PO Box 1663 · Los Alamos, New Mexico 87545





WQCC Docketed matters page with links to the public notice in English and Spanish as well as other rulemaking documents.



New Mexico Sunshine Portal Public Notices of Rulemaking webpage with links to the public notice in English and Spanish as well as links to the WQCC Docketed Matters webpage, public comment portal, and NMED events calendar.

From: <u>Chavez, William, ENV</u>

To: Fox, Ed, ENV; Romero, Dominic, ENV; Hernandez, Anai, ENV; Rivera, James, ENV; Krzebiot, Carrie, ENV;

Kokovay, Steven, ENV; Reyes, Damon, ENV; Vigil, Thomas X, ENV; Kesler, Michael, ENV

Cc: Baca, Michael, ENV

Subject: FW: WQCC 24-65 (R) - Public Notice of Rulemaking

Date:Tuesday, March 11, 2025 7:41:38 AMAttachments:Public Notice WOCC 24-65(R) (Final).pdf

Spanish Public Notice WQCC 24-65(R) (Final).pdf

WQCC-24-65 Petition for Hearing-Upper Sandia Canyon UAA.pdf

Importance: High

Good morning Staff Managers,

Pursuant to our process to post public notices in our field offices, please see the attached public notices for the Surface Water Quality Bureau.

Please make the notices available for your respective offices.

Thank you

Bill

From: Baca, Michael, ENV <michael.baca1@env.nm.gov>

Sent: Tuesday, March 11, 2025 7:27 AM

To: Chavez, William, ENV <william.chavez@env.nm.gov>

Cc: Guevara, Lynette, ENV <lynette.guevara@env.nm.gov>; Scott, Brecken, ENV
 <brecken.scott@env.nm.gov>; Lemon, Shelly, ENV <Shelly.Lemon@env.nm.gov>

Subject: WQCC 24-65 (R) - Public Notice of Rulemaking

Importance: High

Good morning, Mr. Chavez,

The WQCC has a rulemaking before them from a third party and NMED is helping with the public notice for the commission. The petition and associated information are available online at https://www.env.nm.gov/opf/docketed-matters/. We must provide the attached information in our field (or district) offices. Would you be able to distribute these to the DMs for posting in our field offices? Your assistance is highly appreciated.

Thank you,

Michael Baca | WQS Coordinator NMED SWQB | <u>www.env.nm.gov/surface-water-quality/michael.baca1@env.nm.gov</u> | (505) 470-1652

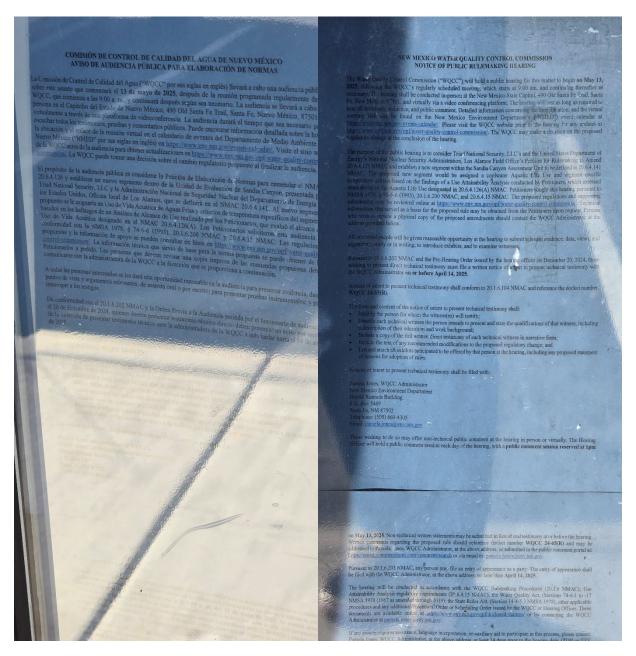
Science | Innovation | Collaboration | Compliance



Picture of the New Mexico Environment Department Los Alamos Field Office with the public notice of rulemaking posted on the front door.



Picture of the front door with the Notice of Rulemaking posted in Spanish and English.



Close up pictures of the Notices of Rulemaking with the Spanish version on the left and the English version on the right.

To: Subject: Date:	Baca, Michael, ENV Water Quality Control Commission Public Notice: HEARING: WQC 24-65 (R) Thursday, March 13, 2025 2:40:46 PM
Banner	

NOTICE OF PUBLIC RULEMAKING HEARING

New Mexico Environment Department

From:

The Water Quality Control Commission ("WQCC") will hold a public hearing for this matter to begin **on May 13, 2025**, following the WQCC's regularly scheduled meeting, which starts at 9:00 am, and continuing thereafter as necessary. The hearing shall be conducted in-person at the New Mexico State Capitol, 490 Old Santa Fe Trail, Santa Fe, New Mexico, 87501, and virtually via a video conferencing platform. The hearing will last as long as required to hear all testimony, evidence, and public comment. Detailed information concerning the time, location, and the virtual meeting link can be found on the New Mexico Environment Department's ("NMED") event calendar at https://www.env.nm.gov/events-calendar/. Please visit the WQCC website prior to the hearing for any updates at https://www.env.nm.gov/opf/water-quality-control-commission/. The WQCC may make a decision on the proposed regulatory change at the conclusion of the hearing.

The purpose of the public hearing is to consider Triad National Security, LLC's and the United States Department of Energy's National Nuclear Security Administration, Los Alamos Field Office's Petition for Rulemaking to Amend 20.6.4.126 NMAC and establish a new segment within the Sandia Canyon Assessment Unit to be defined in 20.6.4.141 NMAC. The proposed new segment would be assigned a coolwater Aquatic Life Use and segment-specific temperature criteria based on the findings of a Use Attainability Analysis conducted by Petitioners, which assessed attainability of the Aquatic Life Use designated in 20.6.4.126(A) NMAC. Petitioners sought this hearing pursuant to NMSA 1978, § 74-6-6 (1993), 20.1.6.200 NMAC, and 20.6.4.15 NMAC. The proposed regulations and supporting information may be reviewed online at https://www.env.nm.gov/opf/water-quality-control-commission/. Technical information that served as a basis for the proposed rule may be obtained from the Petitioners upon request. Persons who wish to review a physical copy of the proposed amendments should contact the WQCC Administrator at the address provided below.

All interested people will be given reasonable opportunity at the hearing to submit relevant evidence, data, views, and arguments, orally or in writing; to introduce exhibits; and to examine witnesses.

Pursuant to 20.1.6.202 NMAC and the Pre-Hearing Order issued by the hearing officer on December 20, 2024, those wishing to present direct technical testimony must file a written notice of intent to present technical testimony with the WQCC Administrator on or before April 14, 2025.

Notices of intent to present technical testimony shall conform to 20.1.6.104 NMAC and reference the docket

The form and content of the notice of intent to present technical testimony shall:

- Identify the person for whom the witness(es) will testify;
- Identify each technical witness the person intends to present and state the qualifications of that witness, including a description of their education and work background;
- Include a copy of the full written direct testimony of each technical witness in narrative form;
- Include the text of any recommended modifications to the proposed regulatory change; and
- List and attach all exhibits anticipated to be offered by that person at the hearing, including any proposed statement of reasons for adoption of rules.

Notices of intent to present technical testimony shall be filed with:

Pamela Jones, WQCC Administrator

New Mexico Environment Department

Harold Runnels Building

P.O. Box 5469

Santa Fe, NM 87502

Telephone: (505) 660-4305

Email: pamela.jones@env.nm.gov

Those wishing to do so may offer non-technical public comment at the hearing in person or virtually. The Hearing Officer will hold a public comment session each day of the hearing, with a **public comment session reserved at 1pm on May 13, 2025**. Non-technical written statements may be submitted in lieu of oral testimony at or before the hearing. Written comments regarding the proposed rule should reference docket number **WQCC 24-65(R)** and may be addressed to Pamela Jones, WQCC Administrator, at the above address, or submitted in the public comment portal at: https://nmed.commentinput.com/comment/search or via email to: pamela.jones@env.nm.gov.

Pursuant to 20.1.6.203 NMAC, any person may file an entry of appearance as a party. The entry of appearance shall be filed with the WQCC Administrator, at the above address, no later than **April 14, 2025**.

The hearing will be conducted in accordance with the WQCC Rulemaking Procedures (20.1.6 NMAC); Use Attainability Analysis regulatory requirements (20.6.4.15 NMAC), the Water Quality Act, (Sections 74-6-1 to -17 NMSA 1978 (1967 as amended through 2019); the State Rules Act, (Section 14-4-5.3 NMSA 1978), other applicable procedures and any additional Procedural Order or Scheduling Order issued by the WQCC or Hearing Officer. These documents are available online at https://www.env.nm.gov/opf/docketed-matters/ or by contacting the WQCC Administrator at pamela.jones@env.nm.gov.

If any person requires assistance, language interpretation, or auxiliary aid to participate in this process, please contact Pamela Jones, WQCC Administrator, at the above address, at least 14 days prior to the hearing date. (TDD or TTY users please access the number via the New Mexico Relay Network, 1-800-659-1779 (voice); TTY users: 1-800-659-8331).

NMED does not discriminate on the basis of race, color, national origin, disability, age or sex in the administration of its programs or activities, as required by applicable laws and regulations. NMED is responsible for coordination of compliance efforts and receipt of inquiries concerning non-discrimination requirements implemented by 40 C.F.R. Parts 5 and 7, including Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, and Section 13 of the Federal Water Pollution Control Act Amendments of 1972. If you have any questions about this notice or any of NMED's non-discrimination programs, policies or procedures, you may contact:

Kate Cardenas, Non-Discrimination Coordinator New Mexico Environment Department 1190 St. Francis Dr., Suite N4050 P.O. Box 5469 Santa Fe, NM 87502 (505) 827-2855 nd.coordinator@env.nm.gov/general/environmental-justice-in-new-mexico/

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.

AVISO DE AUDIENCIA PÚBLICA PARA ELABORACIÓN DE NORMAS

La Comisión de Control de Calidad del Agua ("WQCC" por sus siglas en inglés) llevará a cabo una audiencia pública sobre este asunto que comenzará el 13 de mayo de 2025, después de la reunión programada regularmente de la WQCC, que comienza a las 9:00 a. m., y continuará después según sea necesario. La audiencia se llevará a cabo en persona en el Capitolio del Estado de Nuevo México, 490 Old Santa Fe Trail, Santa Fe, Nuevo México, 87501, y virtualmente a través de una plataforma de videoconferencia. La audiencia durará el tiempo que sea necesario para escuchar todos los testimonios, pruebas y comentarios públicos. Puede encontrar información detallada sobre la hora, la ubicación y el enlace de la reunión virtual en el calendario de eventos del Departamento de Medio Ambiente de Nuevo México ("NMED" por sus siglas en inglés) en https://www.env.nm.gov/events-calendar/. Visite el sitio web de la WQCC antes de la audiencia para obtener actualizaciones en https://www.env.nm.gov/opf/water-quality-control-commission/. La WQCC puede tomar una decisión sobre el cambio regulatorio propuesto al finalizar la audiencia.

El propósito de la audiencia pública es considerar la Petición de Elaboración de Normas para enmendar el NMAC 20.6.4.126 y establecer un nuevo segmento dentro de la Unidad de Evaluación de Sandia Canyon, presentada por Triad National Security, LLC y la Administración Nacional de Seguridad Nuclear del Departamento de Energía de los Estados Unidos, Oficina local de Los Alamos, que se definirá en el NMAC 20.6.4.141. Al nuevo segmento propuesto se le asignaría un Uso de Vida Acuática de Aguas Frías y criterios de temperatura específicos del segmento basados en los hallazgos de un Análisis de Alcance de Uso realizado por los Peticionarios, que evaluó el alcance del Uso de Vida Acuática designado en el NMAC 20.6.4.126(A). Los Peticionarios solicitaron esta audiencia de conformidad con la NMSA 1978, § 74-6-6 (1993), 20.1.6.200 NMAC y 20.6.4.15 NMAC. Las regulaciones propuestas y la información de apoyo se pueden consultar en línea en https://www.env.nm.gov/opf/water-quality-control-commission/. La información técnica que sirvió de base para la norma propuesta se puede obtener de los Peticionarios a pedido. Las personas que deseen revisar una copia impresa de las enmiendas propuestas deben comunicarse con la administradora de la WQCC a la dirección que se proporciona a continuación.

A todas las personas interesadas se les dará una oportunidad razonable en la audiencia para presentar evidencia, datos, puntos de vista y argumentos relevantes, de manera oral o por escrito; para presentar pruebas instrumentales; y para interrogar a los testigos.

De conformidad con el 20.1.6.202 NMAC y la Orden Previa a la Audiencia emitida por el funcionario de audiencias el 20 de diciembre de 2024, quienes deseen presentar testimonio técnico directo deben presentar un aviso por escrito de la intención de presentar testimonio técnico ante la administradora de la WQCC a más tardar hasta el 14 de abril de 2025.

Los avisos de intención de presentar testimonio técnico deberán cumplir con 20.1.6.104 NMAC y hacer referencia al número de expediente, **WQCC 24-65(R)**.

La forma y el contenido del aviso de intención de presentar testimonio técnico deberán:

- Identificar a la persona para la cual testificarán los testigos;
- Identificar a cada testigo técnico que la persona pretende presentar y establecer las calificaciones de ese testigo, incluida una descripción de su historial académico y laboral;
- Incluir una copia del testimonio directo escrito completo de cada testigo técnico en forma narrativa;
- Incluir el texto de cualquier modificación recomendada al cambio regulatorio propuesto; y
- Enumerar y adjuntar todas las pruebas instrumentales que se prevé que esa persona ofrezca en la audiencia, incluida cualquier declaración propuesta de motivos para la adopción de normas.

Los avisos de intención de presentar testimonio técnico deberán presentarse a:

Pamela Jones, administradora de WQCC

Departamento de Medio Ambiente de Nuevo México

Harold Runnels Building

P.O. Box 5469

Santa Fe, NM 87502

Teléfono: (505) 660-4305

Correo electrónico: pamela.jones@env.nm.gov

Quienes deseen hacerlo pueden ofrecer comentarios públicos no técnicos en la audiencia en persona o virtualmente. El funcionario de audiencias llevará a cabo una sesión de comentarios públicos todos los días de la audiencia, con una sesión de comentarios públicos reservada a la 1:00 p. m. del 13 de mayo de 2025. Se pueden presentar declaraciones no técnicas por escrito en lugar de testimonio oral en la audiencia o antes de ella. Los comentarios por escrito sobre la norma propuesta deben hacer referencia al número de expediente WQCC 24-65(R) y pueden dirigirse a Pamela Jones, administradora de WQCC, a la dirección anterior, o enviarse en el portal de comentarios públicos en:

https://nmed.commentinput.com/comment/search o por correo electrónico a: pamela.jones@env.nm.gov.

De conformidad con 20.1.6.203 del NMAC, cualquier persona puede presentar un registro de comparecencia como parte. El registro de comparecencia deberá presentarse ante la administradora de WQCC, en la

dirección antes mencionada, a más tardar el 14 de abril de 2025.

La audiencia se llevará a cabo de conformidad con los Procedimientos de Elaboración de Normas de la WQCC (20.1.6 NMAC); Utilice los requisitos regulatorios del Análisis de Alcance (20.6.4.15 NMAC), la Ley de Calidad del Agua (Secciones 74-6-1 a -17 NMSA 1978 (1967 enmendada hasta 2019); la Ley de Normas Estatales (Sección 14-4-5.3 NMSA 1978), otros procedimientos aplicables y cualquier Orden de Procedimiento u Orden de Programación adicional emitida por la WQCC o el funcionario de audiencias. Estos documentos están disponibles en línea en https://www.env.nm.gov/opf/docketed-matters/ o comunicándose con la administradora de la WQCC en pamela.jones@env.nm.gov.

Si alguna persona requiere asistencia, interpretación de idiomas o un dispositivo auxiliar para participar en este proceso, comuníquese con Pamela Jones, administradora de la WQCC, a la dirección anterior, al menos 14 días antes de la fecha de la audiencia. (Los usuarios de TDD o TTY pueden acceder al número a través de la Red de Retransmisión de Nuevo México, 1-800-659-1779 (voz); usuarios de TTY: 1-800-659-8331).

NMED no discrimina por motivos de raza, color, origen nacional, discapacidad, edad o sexo en la administración de sus programas o actividades, según lo exigen las leyes y regulaciones aplicables. NMED es responsable de la coordinación de los esfuerzos de cumplimiento y la recepción de consultas sobre los requisitos de no discriminación implementados por 40 C.F.R. Partes 5 y 7, incluido el Título VI de la Ley de Derechos Civiles de 1964, según enmendada; Sección 504 de la Ley de Rehabilitación de 1973; la Ley de Discriminación por Edad de 1975, el Título IX de las Enmiendas de Educación de 1972 y la Sección 13 de las Enmiendas de la Ley de Control de la Contaminación del Agua de 1972. Si tiene alguna pregunta sobre este aviso o alguno de los programas, políticas o procedimientos de no discriminación de NMED o si cree que ha sido discriminado con respecto a un programa o actividad de NMED, puede comunicarse con: Kate Cardenas, coordinadora de no discriminación, NMED 1190 St. Francis Dr. Suite N4050, P.O. Box 5469 Santa Fe, NM 87502 teléfono (505) 827-2855 correo electrónico nd.coordinator@env.nm.gov

También puede visitar nuestro sitio web en https://www.env.nm.gov/general/environmental-justice-in-new-mexico/
para saber cómo y dónde presentar una queja de discriminación.

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From: <u>Jones, Pamela, ENV</u>

To: ach121052@aol.com; albert366@msn.com; Alex Puglisi; areeves@mbssllp.com; asmacgregor@ci.santa-fe.nm.us;

asreise@sandia.gov; bagallegos@cabq.gov; Bahar, Dana, ENV; bfaris@cabq.gov; billjeanie.olson@gmail.com; Brent J. Nickel; Bruce Baisel; ccns@nuclearactive.org; cdnylander@comcast.net; chcwc@hotmail.com; Charles de Saillan; Christina Sheehan; collinska@cdm.com; communications@lasacequias.org; cwyant@plateautel.net; david@nmrealtor.com; dgberardelli@hotmail.com; dgboyer@sesi-nm.com; dgratson@envstd.com; Jordan, David;

David M. Lerwill; ecole@lata.com; ejantz@nmelc.org; entranosa@aol.com; eriksg@westernlaw.org;

etaylor@taylormccaleb.com; fox@westernlaw.org; ggerholt@concho.com; Engel, Gretchen; hall@law.unm.edu; Hunter, Michelle, OSE; irwinct@cdm.com; jaimiepark2@gmail.com; James Bearzi; Joni Arends; Jennifer Pruett; jftrujillo505@gmail.com; Winchester, Jim; jmccaleb@taylormccaleb.com; jrosenblatt@las-cruces.org; Karen Thomas; Kari Olson; Kendra Palmer; Paula Garcia; lee.killinger@mosaicco.com; lemayeu@sandia.gov; lindsay@lindsaylovejoy.com; lrose@montand.com; Luciana Vigil-Holterman; Macias, Theresa, ENV; Mara

Yarbrough; White, Melissa, ENV; Mike.Holder@hollyfrontier.com; miensen@nmelc.org; MNeumann@energyfuels.com; mpf@stateside.com; Nick Martin; NMENV-oogc; nmwgi@nmagriculture.org;

oscarsimpson3@yahoo.com; paul.romero@wilsonco.com; Gudgel, Rachel; Randall Pettigrew; randy; rgallegos@lanl.gov; ronaldmascarenas@aol.com; serit@cybermesa.com; snixon@rodey.com; stuart.butzier@modrall.com; Susan McMichael; Theresa.Ballaine@bhpbilliton.com; Tiffany Rivera; timothy.j.davis@nasa.gov; tubrown2000@yahoo.com; western@modrall.com; wilogonzales@yahoo.com

Cc: <u>Henderson, Heidi, ENV</u>; <u>Baca, Michael, ENV</u>

Subject: WQCC 24-65 (R) LANL - Upper Sandia Canyon Public Hearing Notice

Date: Thursday, March 13, 2025 3:22:17 PM

Attachments: Listserv WOCC 24-65 (R) Public Notice -Eng+Span.pdf

Good afternoon -

Please find attached the Public Hearing Notice for the hearing regarding the above matter.

Pam Jones Paralegal Office of Public Facilitation (505) 660-4305 cell From: New Mexico Environment Department

To: Baca, Michael, ENV

Subject: WQCC 24-65 (R) - Public Notice of Rulemaking Hearing, 20.6.4 NMAC

Date: Tuesday, March 11, 2025 11:31:37 AM

Surface Water Quality Bureau

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

SWQB logo

Oficina de Calidad de Aguas Superficiales

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

NOTICE OF PUBLIC RULEMAKING HEARING

The Water Quality Control Commission ("WQCC") will hold a public hearing for this matter to begin **on May 13, 2025**, following the WQCC's regularly scheduled meeting, which starts at 9:00 am, and continuing thereafter as necessary. The hearing shall be conducted in-person at the New Mexico State Capitol, 490 Old Santa Fe Trail, Santa Fe, New Mexico, 87501, and virtually via a video conferencing platform. The hearing will last as long as required to hear all testimony, evidence, and public comment. Detailed information concerning the time, location, and the virtual meeting link can be found on the New Mexico Environment Department's ("NMED") event calendar at https://www.env.nm.gov/events-calendar/. Please visit the WQCC website prior to the hearing for any updates at https://www.env.nm.gov/opf/water-quality-control-commission/. The WQCC may make a decision on the proposed regulatory change at the conclusion of the hearing.

The purpose of the public hearing is to consider Triad National Security, LLC's and the United States Department of Energy's National Nuclear Security Administration, Los Alamos Field Office's Petition for Rulemaking to Amend 20.6.4.126 NMAC and establish a new segment within the Sandia Canyon Assessment Unit to be defined in 20.6.4.141 NMAC. The proposed new segment would be assigned a coolwater Aquatic Life Use and segment-specific temperature criteria based on the findings of a Use Attainability Analysis conducted by Petitioners, which assessed attainability of the Aquatic Life Use designated in 20.6.4.126(A) NMAC. Petitioners sought this hearing pursuant to NMSA 1978, § 74-6-6 (1993), 20.1.6.200 NMAC, and 20.6.4.15 NMAC. The proposed regulations and supporting information may be reviewed online at https://www.env.nm.gov/opf/water-quality-control-commission/. Technical information that served as a basis for the proposed rule may be obtained from the Petitioners upon request. Persons who wish to review a physical copy of the proposed amendments should contact the WQCC Administrator at the address provided below.

All interested people will be given reasonable opportunity at the hearing to submit relevant evidence, data, views, and arguments, orally or in writing; to introduce exhibits; and to examine witnesses.

Pursuant to 20.1.6.202 NMAC and the Pre-Hearing Order issued by the hearing officer on December 20, 2024, those wishing to present direct technical testimony must file a written notice of intent to present technical testimony with the WQCC Administrator on or before April 14, 2025.

Notices of intent to present technical testimony shall conform to 20.1.6.104 NMAC and reference the docket number, **WQCC 24-65(R)**.

The form and content of the notice of intent to present technical testimony shall:

Identify the person for whom the witness(es) will testify;

Identify each technical witness the person intends to present and state the qualifications of that witness, including a description of their education and work background;

- Include a copy of the full written direct testimony of each technical witness in narrative form;
- Include the text of any recommended modifications to the proposed regulatory change; and
- List and attach all exhibits anticipated to be offered by that person at the hearing, including any proposed statement of reasons for adoption of rules.

Notices of intent to present technical testimony shall be filed with:

Pamela Jones, WQCC Administrator New Mexico Environment Department Harold Runnels Building P.O. Box 5469 Santa Fe, NM 87502

Telephone: (505) 660-4305 Email: pamela.jones@env.nm.gov

Those wishing to do so may offer non-technical public comment at the hearing in person or virtually. The Hearing Officer will hold a public comment session each day of the hearing, with a **public comment session reserved at 1pm on May 13, 2025**. Non-technical written statements may be submitted in lieu of oral testimony at or before the hearing. Written comments regarding the proposed rule should reference docket number **WQCC 24-65(R)** and may be addressed to Pamela Jones, WQCC Administrator, at the above address, or submitted in the public comment portal at: https://nmed.commentinput.com/comment/search or via email to: pamela.jones@env.nm.gov.

Pursuant to 20.1.6.203 NMAC, any person may file an entry of appearance as a party. The entry of appearance shall be filed with the WQCC Administrator, at the above address, no later than **April 14**, **2025**.

The hearing will be conducted in accordance with the WQCC Rulemaking Procedures (20.1.6 NMAC); Use Attainability Analysis regulatory requirements (20.6.4.15 NMAC), the Water Quality Act, (Sections 74-6-1 to -17 NMSA 1978 (1967 as amended through 2019); the State Rules Act, (Section 14-4-5.3 NMSA 1978), other applicable procedures and any additional Procedural Order or Scheduling Order issued by the WQCC or Hearing Officer. These documents are available online at https://www.env.nm.gov/opf/docketed-matters/ or by contacting the WQCC Administrator at pamela.jones@env.nm.gov.

If any person requires assistance, language interpretation, or auxiliary aid to participate in this process, please contact Pamela Jones, WQCC Administrator, at the above address, at least 14 days prior to the hearing date. (TDD or TTY users please access the number via the New Mexico Relay Network, 1-800-659-1779 (voice); TTY users: 1-800-659-8331).

NMED does not discriminate on the basis of race, color, national origin, disability, age or sex in the administration of its programs or activities, as required by applicable laws and regulations. NMED is responsible for coordination of compliance efforts and receipt of inquiries concerning non-discrimination requirements implemented by 40 C.F.R. Parts 5 and 7, including Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, and Section 13 of the Federal Water Pollution Control Act Amendments of 1972. If you have any questions about this notice or any of NMED's non-discrimination programs, policies or procedures, you may contact:

Kate Cardenas, Non-Discrimination Coordinator New Mexico Environment Department 1190 St. Francis Dr., Suite N4050 P.O. Box 5469 Santa Fe, NM 87502 (505) 827-2855 nd.coordinator@env.nm.gov https://www.env.nm.gov/general/environmental-justice-in-new-mexico/

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.

AVISO DE AUDIENCIA PÚBLICA PARA ELABORACIÓN DE NORMAS

La Comisión de Control de Calidad del Agua ("WQCC" por sus siglas en inglés) llevará a cabo una audiencia pública sobre este asunto que comenzará el 13 de mayo de 2025, después de la reunión programada regularmente de la WQCC, que comienza a las 9:00 a. m., y continuará después según sea necesario. La audiencia se llevará a cabo en persona en el Capitolio del Estado de Nuevo México, 490 Old Santa Fe Trail, Santa Fe, Nuevo México, 87501, y virtualmente a través de una plataforma de videoconferencia. La audiencia durará el tiempo que sea necesario para escuchar todos los testimonios, pruebas y comentarios públicos. Puede encontrar información detallada sobre la hora, la ubicación y el enlace de la reunión virtual en el calendario de eventos del Departamento de Medio Ambiente de Nuevo México ("NMED" por sus siglas en inglés) en https://www.env.nm.gov/events-calendar/. Visite el sitio web de la WQCC antes de la audiencia para obtener actualizaciones en https://www.env.nm.gov/opf/water-quality-control-commission/. La WQCC puede tomar una decisión sobre el cambio regulatorio propuesto al finalizar la audiencia.

El propósito de la audiencia pública es considerar la Petición de Elaboración de Normas para enmendar el NMAC 20.6.4.126 y establecer un nuevo segmento dentro de la Unidad de Evaluación de Sandia Canyon, presentada por Triad National Security, LLC y la Administración Nacional de Seguridad Nuclear del Departamento de Energía de los Estados Unidos, Oficina local de Los Alamos, que se definirá en el NMAC 20.6.4.141. Al nuevo segmento propuesto se le asignaría un Uso de Vida Acuática de Aguas Frías y criterios de temperatura específicos del segmento basados en los hallazgos de un Análisis de Alcance de Uso realizado por los Peticionarios, que evaluó el alcance del Uso de Vida Acuática designado en el NMAC 20.6.4.126(A). Los Peticionarios solicitaron esta audiencia de conformidad con la NMSA 1978, § 74-6-6 (1993), 20.1.6.200 NMAC y 20.6.4.15 NMAC. Las regulaciones propuestas y la información de apoyo se pueden consultar en línea en https://www.env.nm.gov/opf/water-quality-control-commission/. La información técnica que sirvió de base para la norma propuesta se puede obtener de los Peticionarios a pedido. Las personas que deseen revisar una copia impresa de las enmiendas propuestas deben comunicarse con la administradora de la WQCC a la dirección que se proporciona a continuación.

A todas las personas interesadas se les dará una oportunidad razonable en la audiencia para presentar evidencia, datos, puntos de vista y argumentos relevantes, de manera oral o por escrito; para presentar pruebas instrumentales; y para interrogar a los testigos.

De conformidad con el 20.1.6.202 NMAC y la Orden Previa a la Audiencia emitida por el funcionario de audiencias el 20 de diciembre de 2024, quienes deseen presentar testimonio técnico directo deben presentar un aviso por escrito de la intención de presentar testimonio técnico ante la administradora de la WQCC a más tardar hasta el 14 de abril de 2025.

Los avisos de intención de presentar testimonio técnico deberán cumplir con 20.1.6.104 NMAC y hacer referencia al número de expediente, **WQCC 24-65(R)**.

La forma y el contenido del aviso de intención de presentar testimonio técnico deberán:

- Identificar a la persona para la cual testificarán los testigos;
- Identificar a cada testigo técnico que la persona pretende presentar y establecer las calificaciones de ese testigo, incluida una descripción de su historial académico y laboral;

- Incluir una copia del testimonio directo escrito completo de cada testigo técnico en forma narrativa;
- Incluir el texto de cualquier modificación recomendada al cambio regulatorio propuesto; y
- Enumerar y adjuntar todas las pruebas instrumentales que se prevé que esa persona ofrezca en la audiencia, incluida cualquier declaración propuesta de motivos para la adopción de normas.

Los avisos de intención de presentar testimonio técnico deberán presentarse a:

Pamela Jones, administradora de WQCC Departamento de Medio Ambiente de Nuevo México Harold Runnels Building P.O. Box 5469 Santa Fe, NM 87502

Teléfono: (505) 660-4305

Correo electrónico: pamela.jones@env.nm.gov

Quienes deseen hacerlo pueden ofrecer comentarios públicos no técnicos en la audiencia en persona o virtualmente. El funcionario de audiencias llevará a cabo una sesión de comentarios públicos todos los días de la audiencia, con una sesión de comentarios públicos reservada a la 1:00 p. m. del 13 de mayo de 2025. Se pueden presentar declaraciones no técnicas por escrito en lugar de testimonio oral en la audiencia o antes de ella. Los comentarios por escrito sobre la norma propuesta deben hacer referencia al número de expediente WQCC 24-65(R) y pueden dirigirse a Pamela Jones, administradora de WQCC, a la dirección anterior, o enviarse en el portal de comentarios públicos en: https://nmed.commentinput.com/comment/search o por correo electrónico a: pamela.jones@env.nm.gov.

De conformidad con 20.1.6.203 del NMAC, cualquier persona puede presentar un registro de comparecencia como parte. El registro de comparecencia deberá presentarse ante la administradora de WQCC, en la dirección antes mencionada, a más tardar el 14 de abril de 2025.

La audiencia se llevará a cabo de conformidad con los Procedimientos de Elaboración de Normas de la WQCC (20.1.6 NMAC); Utilice los requisitos regulatorios del Análisis de Alcance (20.6.4.15 NMAC), la Ley de Calidad del Agua (Secciones 74-6-1 a -17 NMSA 1978 (1967 enmendada hasta 2019); la Ley de Normas Estatales (Sección 14-4-5.3 NMSA 1978), otros procedimientos aplicables y cualquier Orden de Procedimiento u Orden de Programación adicional emitida por la WQCC o el funcionario de audiencias. Estos documentos están disponibles en línea en https://www.env.nm.gov/opf/docketed-matters/ o comunicándose con la administradora de la WQCC en pamela.jones@env.nm.gov.

Si alguna persona requiere asistencia, interpretación de idiomas o un dispositivo auxiliar para participar en este proceso, comuníquese con Pamela Jones, administradora de la WQCC, a la dirección anterior, al menos 14 días antes de la fecha de la audiencia. (Los usuarios de TDD o TTY pueden acceder al número a través de la Red de Retransmisión de Nuevo México, 1-800-659-1779 (voz); usuarios de TTY: 1-800-659-8331).

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

programa o actividad de NMED, puede comunicarse con:

Kate Cardenas, coordinadora de no discriminación, NMED 1190 St. Francis Dr.
Suite N4050, P.O. Box 5469
Santa Fe, NM 87502
teléfono (505) 827-2855
correo electrónico nd.coordinator@env.nm.gov

También puede visitar nuestro sitio web en https://www.env.nm.gov/general/environmental-justice-in-new-mexico/ para saber cómo y dónde presentar una queja de discriminación.

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This email was sent to michael.baca1@env.nm.gov using GovDelivery Communications Cloud on behalf of: New Mexico Environment Department \cdot Harold L. Runnels Building \cdot 1190 St. Francis Drive \cdot Suite N4050 \cdot Santa Fe, New Mexico 87505



From: Baca, Michael, ENV
To: Diaz Lopez, Jasmin

Cc:Guevara, Lynette, ENV; Scott, Brecken, ENVSubject:WQCC 24-65 (R) - Public Notice of RulemakingDate:Tuesday, March 11, 2025 7:54:00 AM

Attachments: Public Notice WQCC 24-65(R) (Final).pdf

WOCC-24-65 Petition for Hearing-Upper Sandia Canyon UAA.pdf

Importance: High

Good morning, Jasmin

The WQCC granted a third-party rulemaking hearing on May 13, at 9 AM, for proposed amendments to Section 126 and a new Section 141 of 20.6.4 NMAC. Triad National Security, LLC (i.e., LANL) and USDOE National Nuclear Security Administration are the petitioners. NMED is assisting the petitioners and WQCC with public notice and this information is being provided in accordance with the federal and state laws and the WQMP-CPP.

For more information, please see the attached public notice and Petition for Hearing that contains the petitioners work plan, the final UAA, and the proposed amendments to 20.6.4 NMAC. Additional rulemaking and participation information may be found on NMED's Water Quality Standards website at https://www.env.nm.gov/surface-water-quality/wqs/ and the Water Quality Control Commission's Docketed Matters website at https://www.env.nm.gov/opf/docketed-matters/. Our events calendar has the virtual link to join the hearing at https://www.env.nm.gov/events-calendar/.

Please let me know if you have any questions or concerns regarding this matter.

Respectfully,

Michael Baca | WQS Coordinator NMED SWQB | <u>www.env.nm.gov/surface-water-quality/michael.baca1@env.nm.gov</u> | (505) 470-1652

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From: Baca, Michael, ENV
To: lcs@nmlegis.gov

Cc: Guevara, Lynette, ENV; Scott, Brecken, ENV

Subject: WQCC 24-65 (R) - Public Notice of Rulemaking

Date: Tuesday, March 11, 2025 7:32:00 AM

Attachments: Public Notice WOCC 24-65(R) (Final).pdf

Spanish Public Notice WQCC 24-65(R) (Final).pdf

WOCC-24-65 Petition for Hearing-Upper Sandia Canyon UAA.pdf

Importance: High

Good morning,

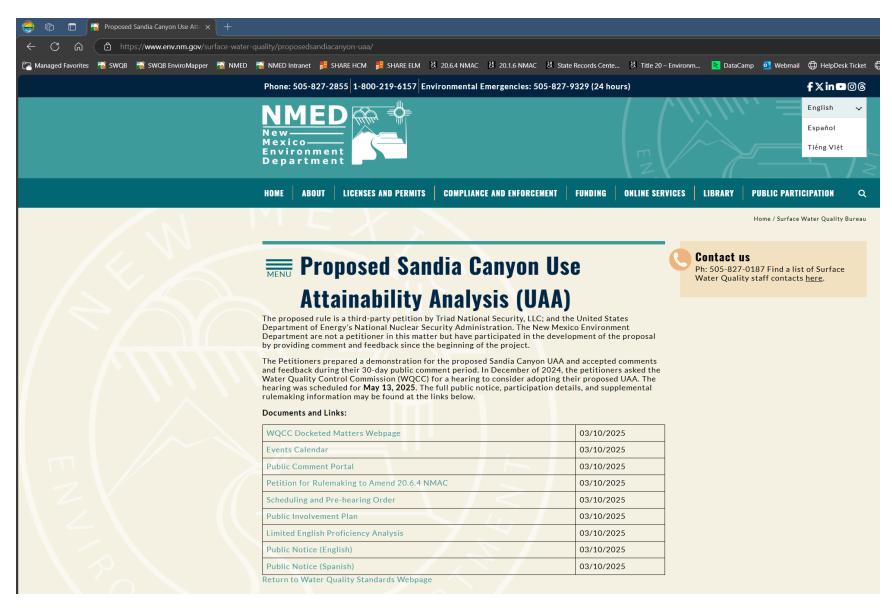
The WQCC has a rulemaking before them from a third party and we are helping with the public notice for the commission. This notice and rulemaking information is being provided in accordance with the State Rules Act (14-4-2 and 14-4-5.2 NMSA 1978) and the Water Quality Control Commissions Rulemaking Rules (20.1.6 NMAC). The petitioners are proposing changes to Section 126 and a new Section 141 of 20.6.4 NMAC, Standards for Interstate and Intrastate Surface Waters.

Please let me know if you have any questions or concerns regarding this matter.

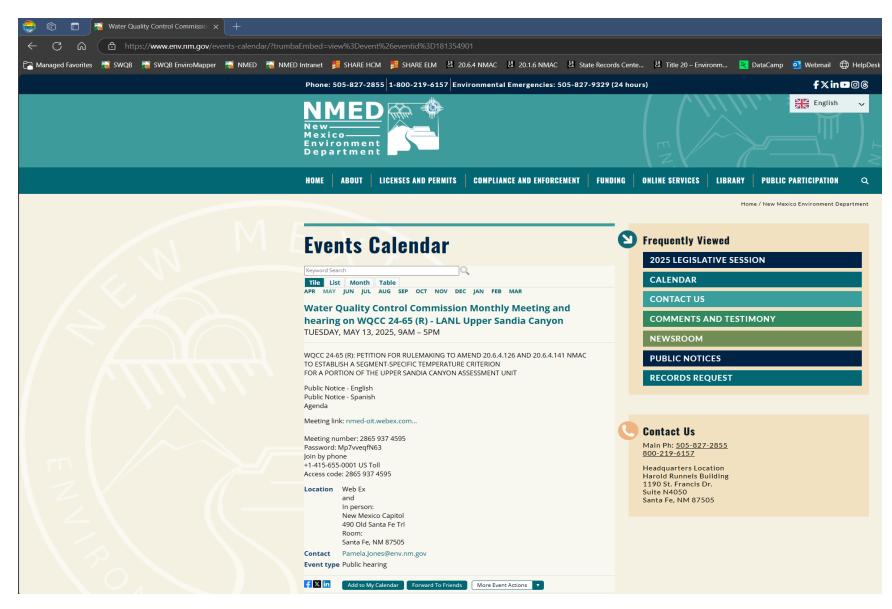
Respectfully,

Michael Baca | WQS Coordinator NMED SWQB | <u>www.env.nm.gov/surface-water-quality/michael.baca1@env.nm.gov</u> | (505) 470-1652

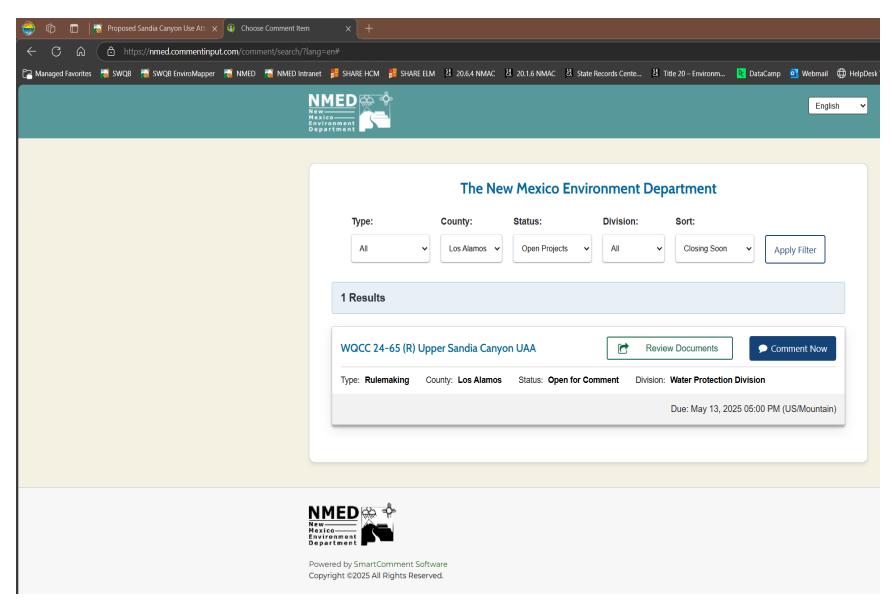
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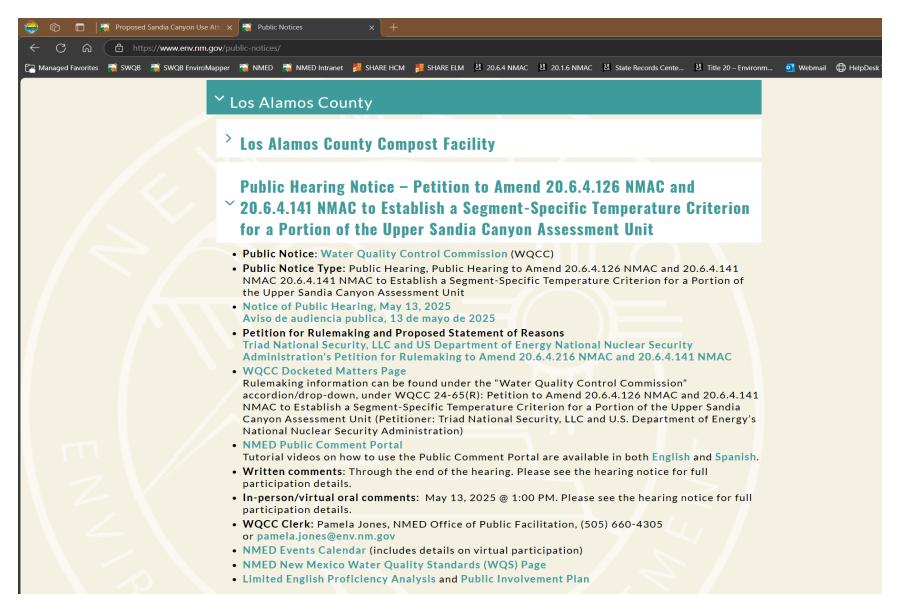
SWQB WQS Website with Sandia Canyon UAA public notice and rulemaking information.



NMED Events Calendar with link to public notices and virtual meeting.



NMED's public comment portal with links to public notices, the petition, and the WQCC Docketed Matters website.



NMED's Public Notice Website with public notices of rulemaking and links to rulemaking information and NMED websites.



March 12, 2025

Via email (kim.sewell@edd.nm.gov)

Kim Sewell Small Business Regulatory Advisory Council New Mexico Economic Development Department 1100 S. St. Francis Drive Santa Fe, NM 87505-4147

Re: Proposed Amendments to 20.6.4 NMAC

Dear Kim,

The New Mexico Environment Department (NMED) is writing to notify the Small Business Regulatory Advisory Council that third parties have filed a petition proposing to amend 20.6.4 NMAC. The third parties are made up of Triad National Security, LLC, the management and operating contractor of Los Alamos National Laboratory (LANL), and the United States Department of Energy's National Nuclear Security Administration, by and through the Los Alamos Field Office.

The petitioner's proposed amendments to the rules seek to change the designated use for a portion of the Sandia Canyon water quality assessment unit, based upon a Use Attainability Analysis (UAA) conducted pursuant to a work plan approved by NMED. Specifically, the proposed amendments would establish a segment-specific temperature criterion for the westernmost portion of the Upper Sandia Canyon Assessment Unit, which is wholly located within LANL's boundaries.

The proposed amendments to the rules are not expected to have an adverse or significant effect on small businesses in New Mexico.

NMED has worked to ensure all requirements regarding public participation, public notice, and public hearing have been and will be met throughout the rulemaking process. In coordinating with the petitioners, NMED has observed their public engagement endeavors, including the petitioners' meetings with stakeholders and subsequent adjustments made to their analysis and proposed rule.

Please let me know if the SBRAC has any concerns or questions regarding the proposed rule amendments, or would like to have further discussions with NMED and the third party petitioners concerning their proposal.

Sincerely,

Digitally signed by Brecken

Brecken Scott Scott Date: 2025,03,12 09:18:32

-06'00'

Brecken L. Scott

Assistant General Counsel