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Volume: XXXVI **Issue:** 20 **Publication date:** 10/21/2025 **Number of pages:** 3 **(ALD Use Only) Sequence No.**

Issuing agency name and address: New Mexico Environment Department, 1190 St. Francis Drive, Suite N4050, Santa Fe, NM 87505

Agency DFA code: 667

Contact person's name: Brecken Scott

Phone number: 505-490-1177

E-mail address: brecken.scott@env.nm.gov

Type of rule action:

New ☐ **Amendment** ☑ **Repeal** ☐ **Emergency** ☐ **Renumber** ☐

(ALD Use) Recent filing date:

Title number: 20 **Title name:** Environmental Protection

Chapter number: 6 **Chapter name:** Water Quality

Part number: 4 **Part name:** Standards for Interstate and Intrastate Surface Waters

Amendment description (If filing an amendment): Amending one section and adding one new section.

Amendment's NMAC citation (If filing an amendment): Sections 126 and 141 of 20.6.4 NMAC

Are there any materials incorporated by reference?

Yes ☐ **No** X

Please list attachments or Internet sites if applicable. N/A

If materials are attached, has copyright permission been received? **Yes** ☐ **No** ☐ **Public domain** ☐

Specific statutory or other authority authorizing rulemaking:

74-6-4(D) NMSA 1978;
74-6-6 NMSA 1978; and
Section 9 of 20.6.4 NMAC.

Notice date(s): March 11, 2025

Hearing date(s): May 13, 2025

Rule adoption date: 10/7/2025

Rule effective date: 11/8/2025

Concise Explanatory Statement For Rulemaking Adoption:

Findings required for rulemaking adoption:

Findings MUST include:

- Reasons for adopting rule, including any findings otherwise required by law of the agency, and a summary of any independent analysis done by the agency;
- Reasons for any change between the published proposed rule and the final rule; and
- Reasons for not accepting substantive arguments made through public comment.

See attached Statement of Reasons and Concise Explanatory Statement.

Issuing authority (If delegated, authority letter must be on file with ALD):
Name:

Bruce Thomson

Check if authority has been delegated ☐

Title:

Water Quality Control Commission Chair

Signature: **(BLACK ink only OR Digital Signature)**

Signed by:
Bruce Thomson
0E08B8408FE848B...

Date signed:

10/9/2025

This is an amendment to 20.6.4 NMAC, Sections 126 and 141, effective 11/8/2025.

20.6.4.126 RIO GRANDE BASIN: Perennial waters within lands managed by the U.S. department of energy (DOE) within Los Alamos National Laboratory (LANL), including but not limited to: Cañon de Valle from LANL stream gage E256 upstream to Burning Ground spring, Sandia canyon [~~from Sigma canyon upstream to LANL NPDES outfall 001~~] at Sigma canyon upstream to Sandia canyon at Bedrock Road, Pajarito canyon from 0.5 miles below Arroyo de La Delfe upstream to Homestead spring, Arroyo de la Delfe from Pajarito canyon to Kieling spring, 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: the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses.

[20.6.4.126 NMAC - N, 5/23/2005; A, 12/1/2010; A, 4/23/2022; A, 11/8/2025]

[~~20.6.4.141 - 20.6.4.200 [RESERVED]~~]

20.6.4.141 RIO GRANDE BASIN: Sandia canyon from Sandia canyon at Bedrock Road upstream to LANL NPDES outfall 001.

A. Designated uses: coolwater aquatic life, livestock watering, wildlife habitat and secondary contact.

B. Criteria: the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses, except that the following additional segment-specific criterion applies: a 6T3 temperature of 25°C (77°F).

[20.6.4.141 NMAC - N, 11/8/2025]

20.6.4.142 - 20.6.4.200 [RESERVED]

NOTICE AND CONCISE EXPLANATORY STATEMENT OF THE WATER QUALITY CONTROL COMMISSION'S DECISION TO AMEND 20.6.4 NMAC, ADOPTING SITE-SPECIFIC WATER QUALITY CRITERIA FOR TEMPERATURE IN THE UPPER SANDIA CANYON ASSESSMENT UNIT, AS SEGMENTED CASE NO. WQCC 24-65(R)

Pursuant to the Water Quality Act ("Act"), NMSA 1978, Sections 74-6-1 to -17, and the *Standards for Interstate and Intrastate Surface Waters*, 20.6.4 NMAC, the Water Quality Control Commission ("WQCC") is authorized to "adopt water quality standards for surface and ground waters of the state based on credible scientific data and other evidence appropriate under the [Act] . . . [giving the] weight it deems appropriate to all facts and circumstances." NMSA 1978, Section 74-6-4(D). The Act further states, "[t]he standards shall at a minimum protect the public health or welfare, enhance the quality of water and serve the purposes of the [Act]." NMSA 1978, Section 74-6-4(D).

This amendment establishes site-specific water quality criteria for temperature for the Upper Sandia Canyon Assessment Unit. The amendment divided Upper Sandia Canyon Assessment Unit into two segments, for which there are differing water quality criteria for temperature. Site-specific water quality criteria are a type of water quality standard. As such, the WQCC may adopt site-specific numeric criteria if the provisions under 20.6.4.10(F) NMAC are demonstrated. Petitioners conducted a use attainability analysis, the findings of which supported dividing the assessment unit and establishing segment-specific water quality criteria for temperature based on natural background of the water body.

Petitioners brought the proposed rule amendment before the WQCC in a petition for a public hearing. Notice of the hearing was published at least 60 days prior to the hearing in accordance with 20.1.6.201 NMAC. A public hearing, docketed as WQCC 24-65(R), was held on May 13, 2025. After deliberating, the WQCC voted unanimously to adopt the proposed rule amendment. In adopting the rule amendment, the WQCC considered all facts and circumstances and concluded that the standards in the proposed rule amendment protect the public health or welfare, enhance the quality of water, and serve the purposes of the Act. The WQCC provided its reasons for the action taken in the Statement of Reasons and Final Order dated October 7, 2025.

Adoption of the final rule amendment occurred upon signature of the Statement of Reasons and Final Order. 20.1.6.307 NMAC. The rule amendment adopted by the WQCC shall become effective no less than thirty days after its filing in accordance with the provisions of the State Rules Act. NMSA 1978, Section 74-6-6(E). In accordance with 1.24.10.16(E) NMAC, no rule shall be valid and enforceable until it is filed with the Administrative Law Division and published in the *New Mexico Register*. To ensure both requirements of 1.24.10.16(E) NMAC have been met, this rule will be effective no earlier than its publication in the *New Mexico Register* or thirty days from filing with the Administrative Law Division, whichever comes later.

A copy of the final rule amendment is attached to this notice.

STATE OF NEW MEXICO
WATER QUALITY CONTROL COMMISSION

IN THE MATTER OF:
THE PETITION TO AMEND 20.6.4.126 NMAC AND 20.6.4.141 NMAC TO ESTABLISH A SEGMENT-SPECIFIC TEMPERATURE CRITERION FOR A PORTION OF THE UPPER SANDIA CANYON ASSESSMENT UNIT

WQCC No. 24-65 (R)

Triad National Security, LLC and U.S. Department of Energy's National Nuclear Security Administration,

Petitioners.

WATER QUALITY CONTROL COMMISSION'S STATEMENT OF REASONS AND FINAL ORDER FOR ADOPTION OF AMENDMENTS TO 20.6.4.126 AND 20.6.4.141 NMAC

A duly constituted quorum of the Water Quality Control Commission ("Commission" or "WQCC") having met on May 13, 2025, in public meeting to deliberate and issue its decision on proposed amendments to New Mexico's Standards for Interstate and Intrastate Surface Waters, 20.6.4 NMAC ("Part 4") adding site-specific temperature criteria for a portion of the Upper Sandia Canyon Assessment Unit, the Commission issues this Statement of Reasons and Final Order.

STATEMENT OF REASONS

I. Jurisdictional Authority and Statutory and Regulatory Requirements

1. In accordance with federal Clean Water Act (CWA) and its implementing regulations, each State is responsible for reviewing, establishing, and revising water quality standards. 33 U.S.C. § 1313(c); 40 CFR § 131.4(a). States must specify appropriate water uses to be achieved and protected. 40 CFR § 131.10. "States adopt water quality standards to protect public health or welfare, enhance the quality of water, and serve the purposes of the Clean Water Act." 40 CFR § 131.2.

2. A water quality standard "defines the goals for a water body, or portion thereof, by designating the uses to be made of the water and by setting criteria necessary to protect the uses." *Id.*

3. Under the New Mexico Water Quality Act (WQA), NMSA 1978, §§ 74-6-1 to 74-6-17, the Commission is required to adopt water quality standards for surface and ground waters of the State of New Mexico "based on credible scientific data and other evidence," including the designated uses of the waters and "the water quality criteria necessary to protect such uses." NMSA 1978, § 74-6-4(D) (2019).

4. States must also hold public hearings for the purpose of reviewing applicable water quality standards, and, as appropriate, modify those standards. 33 U.S.C. § 1313(c). Whenever a State revises or adopts a new standard, it must meet the requirements and purposes of the federal Clean Water Act and be submitted to EPA for approval. *Id.*

5. The WQCC has adopted water quality standards for surface waters in New Mexico. *See* 20.6.4 NMAC. These standards include the designated uses and water quality criteria for waters in the Rio Grande Basin, including waters in Upper Sandia Canyon within the Laboratory. *See* 20.6.4.126 NMAC.

6. The WQCC "...may remove a designated use, that is not an existing use, ...if a use attainability analysis demonstrates that attaining the use is not feasible because of a factor listed in 40 CFR 131.10(g)." 20.6.4.15(A)(1) NMAC.

7. If a UAA demonstrates that the designated use is not attainable based on one of the factors in 40 CFR 131.10(g), it must determine the highest attainable use, as defined in 40 CFR 131.3(m), for the protection and propagation of fish, shellfish and wildlife and recreation. 20.6.4.15(C) NMAC.

8. Under New Mexico regulations, a UAA is described as "a scientific study conducted for the purpose of assessing the factors affecting the attainment of a use." 20.6.4.7.U(2) NMAC. Requirements for a UAA are set forth in 20.6.4.15 NMAC. In accordance with 20.6.4.15(E) NMAC, any person may submit notice to NMED stating their intent to conduct a UAA. When a UAA is conducted by third parties, New Mexico regulations require the development of a work plan with minimum required elements, and approval of the work plan by the Department, prior to conducting a UAA. 20.6.4.15(E) NMAC.

9. Under the WQA, any person may petition to have the Commission adopt, amend, or repeal a regulation or water quality standard. NMSA 1978, § 74-6-6(B), *and see* 20.1.6.200 NMAC.

10. 40 C.F.R. § 131.11(b)(1)(ii) provides that states and tribes may adopt water quality criteria that have been modified to reflect site-specific conditions.

11. The Commission's procedures for adoption of numeric site-specific criteria (SSC) are provided at 20.6.4.10(F) NMAC. The Commission may adopt SSC based on relevant site-specific conditions. *Id.* The derivation of SSC must rely on a scientifically defensible method. 20.6.4.10(F)(4) NMAC.

12. Consistent with the WQA, 20.6.4.10(F)(3) NMAC allows for "any person" to petition the commission to adopt site-specific criteria and sets forth the following requirements for a petition.

13. 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.

14. Adoption of amendments to the State's surface water quality standards must comply with the substantive and procedural requirements of Section 74-6-6 of the WQA and with the procedural requirements of 20.1.6 NMAC for rulemakings before the Commission.

15. New Mexico caselaw provides:

> In adopting a new rule, an administrative agency is required to provide a statement of reasons for doing so. Although formal findings are not required, the record must indicate the reasoning of the Commission and the basis on which it adopted the rule. The Commission need not state its reasons for adopting each provision in a rule or respond to all concerns raised in testimony; such a requirement would be unduly onerous and unnecessary for the purposes of appellate review. [The courts] require only that the public and the reviewing courts are informed as to the reasoning behind the rule.

Earthworks' Oil & Gas Accountability Project v. New Mexico Oil Conservation Comm'n, 2016-NMCA-055, ¶ 12, 374 P.3d 710 (citations omitted).

II. Petition to Amend 20.6.4.126 and 20.6.4.141 NMAC to Add Site-Specific Temperature Criteria for a Portion of the Upper Sandia Canyon Assessment Unit

16. Pursuant to the WQA and the Commission's regulations, Triad National Security, LLC ("Triad") and the United States Department of Energy, National Nuclear Security Administration, Los Alamos Field Office, initiated this proceeding on October 23, 2024 by filing a Petition for Rulemaking to amend the New Mexico WQCC's Standards for Interstate and Intrastate Surface Waters, 20.6.4 NMAC ("Part 4").

17. The Petition asked the WQCC to adopt site-specific temperature criteria for the Upper Sandia Canyon Assessment Unit. Pursuant to 20.1.6.200(B) NMAC, the entire rule, including the proposed regulatory change, was attached to the petition as Petitioners' Exhibit N, LANL UAA_0208-0266 (with changes at LANL UAA_0237 and 0240).

18. Petitioners' proposed changes to 20.6.4.126 NMAC were as follows:

20.6.4.126 RIO GRANDE BASIN: Perennial waters within lands managed by the U.S. department of energy (DOE) within Los Alamos National Laboratory (LANL), including

but not limited to: Cañon de Valle from LANL stream gage E256 upstream to Burning Ground spring, Sandia canyon from ~~from Sigma canyon upstream to LANL NPDES outfall 001~~ at Sigma canyon upstream to Sandia canyon at Bedrock Road, Pajarito canyon from 0.5 miles below Arroyo de La Delfe upstream to Homestead spring, Arroyo de la Delfe from Pajarito canyon to Kieling spring, 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: the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses.

[20.6.4.126 NMAC - N, 5/23/2005; A, 12/1/2010; A, 4/23/2022]

19. Petitioners' proposed changes to 20.6.4.141 NMAC were as follows:

20.6.4.141 RIO GRANDE BASIN: Sandia canyon from Sandia canyon at Bedrock Road upstream to LANL NPDES outfall 001.

A. Designated uses: coolwater aquatic life, livestock watering, wildlife habitat and secondary contact.

B. Criteria: the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses, except that the following additional segment-specific criterion applies: a 6T3 temperature of 25 °C (77 °F).
[20.6.4.141 NMAC -N, X/XX/XXXX]

20. The Petition reflected the culmination of Petitioners' data collection and analysis, as well as agency and public engagement spanning many years.

21. Mr. Nicholas R. Maxwell, a non-petitioning party, entered an appearance on November 26, 2024, and participated in the rulemaking proceeding.

22. The New Mexico Environment Department ("NMED" or "Department"), a non-petitioning party, entered its appearance on December 1, 2024, and subsequently participated in the rulemaking proceeding.

23. The Petition came before the Commission for consideration during its regularly scheduled meeting on December 10, 2024. After duly considering the Petition, and being

otherwise sufficiently advised in the premises, the Commission determined that a public hearing should be held on the Petition in accordance with 20.1.6.200(C) NMAC.

24. On December 11, 2024, the Commission issued an Order Designating Hearing Officer. In the Order, the Commission designated Felicia Orth as the Hearing Officer for the public hearing with all powers and duties prescribed or delegated by the Commission under the WQA and 20.1.6.100 NMAC.

25. On December 20, 2024, the Hearing Officer issued a Pre-Hearing Order, setting the rulemaking proceeding for a public hearing to begin on May 13, 2025, and continue through May 14, 2025, as necessary to hear all testimony, evidence, and public comment.

26. On April 14, 2025, Petitioners and NMED submitted their respective Notices of Intent to Present Technical Testimony at the public hearing.

27. No Party filed Notice of Intent to Present Rebuttal Testimony.

28. NMED provided affidavits of publication of public notice for the hearing for the *Albuquerque Journal*, *Los Alamos Daily Post*, and the *New Mexico Register*. **NMED Exhibit 10.**

29. NMED completed the "provide to the public" notice requirements outlined in 20.1.6.7(P) NMAC on or before March 14, 2025. **NMED Exhibits 12 and 13.**

30. A hybrid public hearing was held on May 13, 2025 and conducted in-person in Room 322 at the New Mexico State Capitol, 411 S. Capitol Street, in Santa Fe, New Mexico and remotely via the WebEx platform.

31. The Commission duly heard and considered testimony on behalf of Petitioners and NMED and allowed opportunity for any member of the general public to testify at the public hearing, and to offer non-technical exhibits in connection with their testimony, or to submit a written statement for the record, in lieu of providing oral testimony at the hearing.

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

33. Consistent with 20.1.6.306(A) NMAC, a quorum of the Commission attended the hearing, the public notice indicated that a decision might be made at the conclusion of the hearing, and the Commission immediately deliberated and made a decision on Petitioners' proposed amendments to 20.6.4 NMAC at the conclusion of the hearing on May 13, 2025.

34. After deliberation, the Commission unanimously voted to adopt Petitioners' proposal to amend 20.6.4.900 NMAC. **New Mexico Environment Department, "Water Quality Control Commission Monthly Meeting and hearing on WQCC 24-65 (R) - May 13, 2025 Day 2", YOUTUBE (May 20, 2025, https://youtu.be/2Q7LSODhXO8?si=N_5o5TfCA9ABwauO) at 2:30:35-2:32:10.**

35. Based upon the evidence and argument in the record, the following Statement of Reasons sets forth how the Commission considered and weighed the evidence presented and considered legal arguments in this matter with respect to adoption of changes to New Mexico's Water Quality Standards at 20.6.4 NMAC.

REASONS FOR COMMISSION'S DECISION

A. Background

36. The Upper Sandia Canyon AU (NM-9000.A_047) is a 2.21 mile reach, from Los Alamos National Laboratory's (LANL or The Laboratory) NPDES Outfall 001 to Sigma Canyon. **Petitioners' Ex. M at LANL UAA_0206.** The Upper Sandia Canyon AU is an effluent-dominated

perennial stream reach currently described in New Mexico regulations at 20.6.4.126 NMAC. **Petitioners' Ex. B at LANL UAA_0030-0034.**

37. The source of perennial flow for the Upper Sandia Canyon AU is discharge through the Laboratory's industrial Outfall 001. Outfall 001 is one of eleven outfalls permitted under the Laboratory's NPDES Permit No. NM0028355. **Petitioners' Ex. A at LANL UAA_0006.**

38. In 2005, the WQCC adopted the Upper Sandia Canyon AU as a classified water of the State of New Mexico with the designated use of coldwater aquatic life and the segment-specific temperature criterion of 24°C, based on a 2002 U.S. Fish and Wildlife Service study. EPA approved Segment 20.6.4.126 NMAC in 2007. In 2010, as part of a revision of the New Mexico WQSs, the WQCC eliminated the Upper Sandia Canyon AU's site-specific maximum temperature standard of 24°C and replaced it with the general coldwater temperature criteria contained in 20.6.4.900.H NMAC. The general criteria specify a TMAX of 24°C but also include the criterion that a temperature of 20°C not be exceeded for 6 or more consecutive hours in a 24-hour period on more than 3 consecutive days (6T3). **Petitioners' Ex. V (Goering) at LANL UAA_0344; NMED Ex. 1 (Baca) at 6.**

39. In NMED's 2018–2020 IR (NMED 2018) and in subsequent IRs, the Upper Sandia Canyon AU is listed as impaired for temperature (i.e., not meeting the coldwater aquatic life designated use). **Petitioners' Ex. V (Goering) at LANL UAA_0343.**

40. In October 2015, the Laboratory notified NMED that it had initiated an investigation to determine if naturally occurring thermal conditions were preventing attainment of the coldwater ALU in the perennial reach of Sandia Canyon. ***Id.* at LANL UAA_0344, Petitioners' Exhibit P at LANL UAA_0274-0286.**

B. Petitioners' Use Attainability Analysis Followed a Work Plan Approved by NMED

41. On April 9, 2020, NMED approved Petitioners' Work Plan, and allowed Petitioners to proceed with a UAA to determine "if natural thermal conditions are preventing the attainment of Coldwater Aquatic Life Use in the perennial reach of the Sandia Canyon Assessment Unit, (AU) – 9000.A_047 – Water Quality Segment 20.6.4.126." **Petitioners' Ex. A at LANL UAA_0001-0021; NMED Exhibit 8;** ***and see*** **40 CFR 131.10(g)(1).**

42. In accordance with 20.6.4.15(E) NMAC, the Approved Work Plan identified multiple lines of evidence that would be considered, data proposed to be used, and established framework for stakeholder outreach, public engagement, and consultation with appropriate state and federal entities. **Petitioners' Ex. A at LANL UAA_0001-0021.**

43. In accordance with the Approved Work Plan, Petitioners' Final UAA examined air and water temperature data, flow data, and modeling results over a multi-year span, analyzed the presence of threatened or endangered species and critical habitat, and considered aquatic life surveys and additional designated use criteria including dissolved oxygen and pH data. ***See*** **Petitioners' Ex. B at LANL UAA_0022-0070; Petitioners' Ex. V (Goering) at LANL UAA_0347-0348; Hearing Transcript (Tr.) 64:8-18.**

44. In accordance with the Approved Work Plan, Petitioners engaged with state and federal regulators by providing draft versions of the UAA report for comment, responding to comment, and consulting informally to refine both the report and recommendations. **Petitioners' Ex. V (Goering) at LANL UAA_0345-0346, 0352-0354; NMED Ex. 1 (Baca) at 11; Tr. 54:20-58:6, 102:19-104:2.**

45. In accordance with the Approved Work Plan, Petitioners engaged with stakeholders and the public by providing draft versions of the UAA report for comment, responding to comment, and presenting at numerous stakeholder meetings from 2018 to 2024. **Petitioners' Ex. V (Goering) at LANL UAA_00349-0351; NMED Ex. 1 (Baca) at 11.**

C. Petitioners' Use Attainability Analysis Provides Reliable and Scientifically Supported Evidence that the Coldwater Aquatic Life Use is Not Attainable throughout the Entire Upper Sandia Canyon Assessment Unit

46. Petitioners' UAA incorporated thermograph data collected between 2014 and 2018 as a primary line of evidence to assess long-term water temperature trends in Upper Sandia Canyon. The thermograph data show that the coldwater ALU designation is unattainable in the Upper Sandia Canyon AU. The Final UAA thermograph data indicate that 6T3 temperatures frequently exceeded the 20°C (68°F) coldwater criterion at most monitoring locations. TMAX values surpassed the 24°C (75.2°F) coldwater threshold at multiple sites. **Petitioners' Ex. B at LANL UAA_0038-0043; Petitioners' Ex. W (Segura) at LANL UAA_0364-0366; Tr. 69:17-73:9.**

47. Petitioners' UAA modeled predicted water temperatures using the Air-Water Temperature Correlation (AWTC) Model (using both air temperature data from LANL meteorological stations and estimated air temperatures based on the Parameter-Elevation Regressions on Independent Slopes Model (PRISM)), the Maximum Weekly Average Temperature (MWAT) Model. These analyses generally predicted water temperatures in Upper Sandia Canyon that would exceed the current coldwater criteria. **Petitioners' Ex. B at LANL UAA_0042-0044 and 0051-0054; Petitioners' Ex. W (Segura) at LANL UAA_0366-0369; Tr. 74:1-77:25.**

48. AWTC modeling results indicate that the coldwater ALU is unattainable in Upper Sandia Canyon because air-temperature-based water-temperature predictions exceed coldwater criteria in most years. ***See*** **Petitioners' Ex. B, Table 7, LANL UAA_0053.** The results show that coolwater use is likely attainable under typical conditions. **Petitioners' Ex. W (Segura) at LANL UAA_0367-0368; Tr. 78:1-80:18.**

49. The MWAT analysis reinforces the conclusion that coldwater use is not attainable in the easternmost portion of Upper Sandia Canyon. The model results as documented in **Petitioners' Ex. B, Table 4, LANL UAA_0044**, indicate that predicted water temperatures in the Upper Sandia Canyon AU consistently exceed the 6T3 coldwater ALU criterion of 20°C but remain within the coolwater ALU threshold of 29°C. MWAT values, derived from thermograph data collected between 2014 and 2018, ranged from 16.64°C at Sigma Canyon (2017) to 22.35°C below Outfall 001 (2016), demonstrating that coldwater conditions are not attainable in parts of this reach under natural conditions. These results align with AWTC model projections, reinforcing the conclusion that air temperature is the primary driver of instream water temperatures. **Petitioners' Ex. W (Segura) at LANL UAA_0368-0369; Tr. 77:8-80:18.**

50. Hourly data from Outfall 001 indicate that effluent temperatures from the outfall have minimal effect on downstream temperatures and that air temperature is the primary driver of instream water temperatures in Sandia Canyon. **Petitioners' Ex. B, Table 5, LANL UAA_0045. Petitioners' Ex. W (Segura) at LANL UAA_0369-0370; Tr. 71:4-72:15.**

51. Petitioners' UAA evaluated dissolved oxygen (DO) levels in the Upper Sandia Canyon study area using data collected from LANL's environmental surveillance gages between 2016 and 2019. DO concentrations remained well within regulatory limits; therefore, the analysis confirmed that DO is not a limiting factor for the attainment of coldwater ALU in Upper Sandia

Canyon. **Petitioners' Ex. B at LANL UAA_0048; Petitioners' Ex. W (Segura) at LANL UAA_0372; Tr. 82:22-83:3.**

52. Petitioners' UAA assessed pH levels in the Upper Sandia Canyon study area using data collected between 2016 and 2019. pH values met the required standards throughout the study period; therefore, the Final UAA concluded that pH is not a limiting factor in the attainment of coldwater ALU in Upper Sandia Canyon. **Petitioners' Ex. B at LANL UAA_0048-0049; Petitioners' Ex. W (Segura) at LANL UAA_0372-0373; Tr. 82:22-83:3.**

53. The Final UAA assessed the potential impact of the proposed water quality changes on federally listed species, critical habitats, and aquatic life within Sandia Canyon. The UAA predicts no adverse effects on threatened or endangered species, aquatic life, or critical habitats from the proposed regulatory changes. Given that no fish were observed in Upper Sandia Canyon, benthic invertebrate diversity remains stable, and no aquatic species listed as threatened or endangered by the NMDGF or the USFWS were found within the study region of Sandia Canyon, the proposed regulatory changes would not adversely affect aquatic life in the segments. **Petitioners' Ex. B at LANL UAA_0047; Petitioners' Ex. W (Segura) at LANL UAA_0373-0374 and 0377; Tr. 83:3-8.**

D. Petitioners' Proposed Amendments Reflect the Highest Attainable Use and Provide a Protective Temperature Standard

54. Two distinct temperature regimes exist within Sandia Canyon, necessitating a split into two regulatory segments. First, Upper Sandia Canyon (Bedrock Road to Outfall 001): because the coldwater ALU is unattainable, but the reach meets coolwater criteria, redesignation of this portion of the AU (to a coolwater ALU with a 6T3 criterion of 25°C as an extra protection for the reach) is appropriate. Second, for Sandia Canyon between Sigma Canyon to Bedrock Road): because the coldwater ALU is generally attainable, the current criteria should be retained.

Petitioners' Ex. B at LANL UAA_0055-0056; Petitioners' Ex. W (Segura) at LANL UAA_0378; Tr. 83:9-84:8.

55. Under the proposed designated use change, waters downstream will be protected and maintained in accordance with 40 CFR 131.10(b). Shifting Sandia Canyon's upper segment (Bedrock Road to Outfall 001) from coldwater to coolwater remains protective because the system naturally cools downstream, and because this segment will retain current temperature criteria. **Petitioners' Ex. B at LANL UAA_0045-0046.** Further downstream segments of Sandia Canyon and the Rio Grande will not be affected by Petitioners' proposed segmentation of the Upper Sandia Canyon AU due to limited hydrological connectivity. Gaging station data confirm that Upper Sandia Canyon flows rarely reach LANL's eastern boundary, and no significant surface flow reaches the Rio Grande, about 9 miles downstream. **Petitioners' Ex. W (Segura) at LANL UAA_0378-0379; Tr. 80:19-82:17.**

E. NMED Supports Petitioners' Proposed Amendments and the Commission Finds that Petitioners' Proposed Amendments are Supported

56. NMED supported Petitioners' proposed amendments to 20.6.4.126 and 20.6.4.141 NMAC. **NMED Ex. 1 (Baca) at 13.**

57. The Commission finds that the testimony and conclusions of Petitioners' witnesses, Mr. Goering and Mr. Segura, and NMED's witness, Mr. Baca, are credible and that the weight of evidence supports adoption of Petitioners' proposed amendments to New Mexico Water Quality Standards. Petitioners propose to divide the current Upper Sandia Canyon AU into two AUs, including an upper AU (the western portion of the reach) assigned a coolwater aquatic life use designation with an additional protective 25°C 6T3 criterion, (as set out in proposed amended 20.6.4.141 NMAC) and a lower AU (the eastern portion of the reach) with no change to the aquatic

life designation (as set out in proposed amended 20.6.4.126 NMAC). **NMED Ex. 1 (Baca) at 13; Tr. 105:1-18.**

F. Other Matters

58. The Commission authorizes the Department to address any numbering changes, grammatical errors, or non-substantive typographical mistakes that may be necessary in connection with the final changes to the surface water quality standards adopted herein by the Commission.

59. The date of adoption of the rule shall be the date of signature of the Commission Chair below.

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

A. The Commission hereby approves and adopts the Petitioners' Proposed Final Rule with any non-substantive amendments necessary for filing with the State Records Center, in accordance with applicable State Records Center procedures.

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

C. The Commission directs the Department to prepare the amendments to the Commission's surface water quality standards at 20.6.4 NMAC, titled "Standards for Interstate and Intrastate Surface Waters," in a format acceptable to the State Records Administrator for filing as part of the New Mexico Administrative Code. This preparation may include re-numbering and re-lettering of existing sections of the surface water quality standards and correcting any errata consistent with this Statement of Reasons.

D. The rule amendment adopted by the Commission shall become effective no less than thirty days after its filing in accordance with the provisions of the State Rules Act. NMSA 1978, Section 74-6-6(E). In accordance with 1.24.10.16(E) NMAC, no rule shall be valid and enforceable until it is filed with the Administrative Law Division and published in the *New Mexico Register*. To ensure both requirements of 1.24.10.16(E) NMAC have been met, this rule will be effective no earlier than its publication in the *New Mexico Register* or thirty days from filing with the Administrative Law Division, whichever comes later.

Issued this 7 day of October, 2025.

Water Quality Control Commission

Bruce M Thomson

By: Bruce Thomson, Chair

10/7/25

Date