APPENDIX G
RESPONSE TO COMMENTS

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Changes made during public comment period based on staff review:

1. Table 5.5 now includes all nutrient data for Little Coyote Creek and the Mora River

2. Moved discussion of options for the Mora Mutual Domestic Water & Sewer Works Association and the Mora National Fish Hatchery from *Plant Nutrients – Wasteload Allocation* (Section 5.4.1) to *Implementation of TMDLs – NPDES Permitting* (Section 9.1)

Comment Set A:

From: Clarence Aragon [mailto:mwsa@nnmt.net]
To: Drinkard, Shelly, NMENV
Subject: Public Comment TMDL Mora River
Sent: Thursday, July 19, 2007 4:43 PM

TMDL Comments 7/19/2007
Mora Mutual Domestic Water & Sewer Works Association

As one of two point sources located on the Mora River, the Association and its membership know first hand the importance of maintaining the Quality and Health of the receiving stream. After review of the Draft TMDL document there a number of points the Association would like to make in reference to how this study will ultimately affect our ability to comply in light of the TMDL data used by our surface water permitting agency for more stringent limitations.

For the record, we would like to point out that the two point sources on the affected stretches of the Mora River have been, since their origin, the only users to implement any type of treatment to the returned water flow going back into the river. This is relevant because under the proposed guidelines point source discharge requirements are enforceable under federal and State environmental law and non point sources are encouraged to implement BMP (Best Management Practices), clearly an educational and voluntary process. The impact on the community based on the source you are classified in is quite different. Sewer customers on the Associations community sewer system are now facing a tremendous cost increases for the Operation and maintaince of new facilities and a possible debt service of up to forty years. The funding availability for water and waste water infrastructure is far less than the need. Time and time again small water systems throughout the state go every year and try and compete with large municipalities for limited funds. Unfortunately the dispersement brake down reflects very limited money allocations that rarely can address completed projects of any magnitude. The focal point for leveraging public monies is local capacity and economics. As you can imagine this is not a strong point for rural communities, thus creating a multitude of problems in our ability to move towards complying with what we see as unfunded mandates.

As part of a comprehensive approach to improving the quality of the receiving streams on rural communities affected by the TMDL data, we would like to see a BMP approach for the point source contributors of nutrients to the stream as well. Infrastructure, Affordability and the cost of operating the facilities required to meet more stringent permits is a major problem for small rural facilities with a limited customer base and small economies. Mora Mutual Water & Sewer Association wants to be part of the solution in improving the quality of water in the Mora River and we have demonstrated that for over thirty years by providing the only form of waste water treatment in western Mora County. Forcing the Association into financial obligations far beyond its capacity can not be the only answer. We have neither the resources or the desire to argue the science behind the TMDL because we are aware that there is a problem, what we will question is the current approach in solving it. The village of Mora is home to a struggling economy, and although census numbers show improvement in median house hold incomes over the last ten

years, those numbers reflect the development of properties on the outlining areas (non point sources) and not the 100 customers currently the Association's collection system.

Based on our extensive experience with the funding opportunities presented to us thus far, we are not encouraged by our options in attaining the necessary funding for compliance. The Association will make every effort to comply but the reality is that our capacity is limited as is our ability to secure funding under the current criteria.

Clarence Aragon,
System Manager
Mora Mutual Water & Sewer
Association

SWQB Response: *Thank you for your comment. SWQB acknowledges that the wasteload allocations (WLAs) established in the TMDL for the point source pollution from the Mora Mutual Domestic Water & Sewer Works Association (MMDWWA) and the Mora National Fish Hatchery will require changes and improvements to the design and operation of those facilities. SWQB would like to reiterate the fact that the development of a TMDL opens up various funding opportunities. NMED's Construction Programs Bureau (CPB) assists communities in need of funding for WWTP upgrades and improvements to septic tank configurations (such as the design of cluster systems). They can also provide matching funds for appropriate Clean Water Act §319(h) projects using state revolving fund monies. The USDA Environmental Quality Incentive Program (EQIP) program can provide assistance to private land owners in the basin. The USDA Forest Service aligns their mission to protect lands they manage with the TMDL process and are another source of assistance. And, the BLM has several programs in place to provide assistance to improve unpaved roads and grazing allotments.*

The Watershed Protection Section of SWQB administers CWA §319(h) funding to assist in the implementation of BMPs to address water quality problems on reaches listed on the Integrated §303(d)/§305(b) List. These monies are available to all private, for profit and nonprofit organizations that are authenticated legal entities or governmental jurisdictions including: cities, counties, tribal entities, Federal agencies, or agencies of the State. Funding is available for both watershed group formation (which includes WRAS development) and on-the-ground projects to improve surface water quality and associated habitat. Work plans developed and funded under CWA §319(h) comprise a variety of efforts; including watershed association development, pollutant source tracking, riparian area restoration, and spill response. Further information on funding from the CWA §319 (h) can be found on the SWQB website: http://www.nmenv.state.nm.us/swqb/WPS/index.html. It is possible that over time, the positive impacts resulting from nonpoint source pollutant reductions could affect the wasteload allocations required for point source pollutants.

As noted in the TMDL, MMDWWA discharges to the Mora River under authorization of an NPDES permit. Federal regulations (40 CFR 130.12(a) and 40 CFR 122.44(d)(1)(vii)) clearly require that NPDES permits must be consistent with the WLA of an adopted and approved TMDL. The regulations do not allow point source dischargers to be treated the same way as

nonpoint source discharges regarding BMPs to meet water quality criteria. Thus, it important to provide direction on implementation of the WLA such that effluent limits and schedules can be readily incorporated within the structure of a permit.

The implementation portion of the TMDL (Section 9.0) includes an optional alternative (i.e. cluster systems) to the costly upgrades that would be necessary for continued discharge to the river. Cluster Systems offer a management solution that would eliminate the effluent discharge to the Mora River. Instead of discharging effluent to the river, the final dispersal of treated wastewater would be to leach fields and possibly to agricultural reuse. Because of this, cluster systems are considered nonpoint sources. Therefore, if the cluster system option is chosen MMDWWA would be subject to BMPs as well as discharge requirements from the Ground Water Quality Bureau (GWQB) of NMED. The cluster system option could effectively remove the MMDWWA from any effluent requirements in the NPDES permit. Furthermore, inclusion of this option in the TMDL lends supporting justification for funding through sources such as the NM Revolving Loan program administered in part by the CPB and CWA §319 (h) funding administered by SWQB's Watershed Protection Section. CPB is currently working with the MMDWWA to procure funding and to manage improvement projects for the wastewater treatment plant and the wastewater collection system. The SWQB, CPB, and GWQB will continue to work collaboratively with the community on these important issues.

Comment Set B:

From: Gilbert Quintana
To: Shelly Drinkard
Comments Regarding: the Canadian River Watershed
Letter received: 7/18/2007

****PDF Inserted****

Surface Water Quality Bureau

NEW MEXICO ENVIRONMENT DEPARTMENT

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SURFACE WATER QUALITY BUREAU

Public Comment Card

Meeting Date: 6/12/07

Comments Regarding: Canadian River Watershed

***OPTIONAL INFORMATION :**

Acequia Del Medio de Tramperos/Commissioner
Acequia de la Moradad, par Comte

*Name: Gilbert Quintana

*Affiliation: Mora Land Grant, Vice President

*E-Mail: apachequintana@netscape.net

*Mailing Address: PO Box 51 Holman, New Mexico 87723

Comments must be submitted in writing in order to be included in the public record. Please provide comments in the space below (use back if necessary):

In the meeting held on the above date, I left with a better understanding of maximum amount of a pollutant that enters our stream, Rio Agua Negra, the headwaters of the Mora River. I believe several of my community members a Mr. Clarence Aragon and Mr. Ivan Roper spoke well regarding this issue and hopefully their comments will be incorporated into public comment. The issue of specific conductance, plant nutrients, sedimentation/filtration and temperature and how they effect our water is of upmost concern to my family, friends and community members. Some of my concerns are as follows; the study was conducted during a drought period unlike nothing I had seen before. I was born here and have lived the majority of my life on my homelands. I do believe that the acequias are one of the best life lines in filtering our water. These water systems protect our well being and should be funded for improvements to continue this positive way of life and health. Best management practices have to be addressed without pointing fingers or laying blame. Ownership and education of the problems brings solutions to this matter. Non point sources and point sources needed to be addressed. I can see things in the Mora Valley such as the use of spray pesticides, chemical fertilizer and processed feed (ie Range cube/Cube feed) that impact these conditions, just to mention a few. I would hope that the government in

(over)

Turn comment card in tonight or mail / fax:

TMDL Coordinator
Surface Water Quality Bureau, P. O. Box 26110. Santa Fe, NM 87502
Phone: (505) 827-0187; Fax: (505) 827-0160

Conjunction with local people could begin to address these issues. through education, training and funding. As Mr. Aragon stated "without pointing fingers and laying blame" we could begin the healing of our mother earth. I would be willing to practice and partake in this process with these type of thinkers to come up with best management practices for our community.

SWQB Response: *Thank you for your comment. Even though New Mexico has been experiencing drought conditions for multiple years, streamflow measurements taken during SWQB's water quality survey were above the critical low flows for the waterbodies. As stated in SWQB's Assessment Protocol, data collected during all flow conditions, including low flow conditions (i.e., flows below the 4-day, 3-year low-flow frequency [4Q3]), will be used to determine designated use attainment status during the assessment process. In terms of assessing designated use attainment in ambient surface waters, water quality standards (WQS) apply at all times under all flow conditions.*

SWQB appreciates your willingness to "practice and partake in the process" of restoring your watershed "without pointing fingers or laying blame." One of the positive aspects of a TMDL is that it opens up various funding opportunities. For example, the Watershed Protection Section of SWQB administers Clean Water Act §319(h) funding to assist in the implementation of BMPs to address water quality problems on reaches listed on the Integrated §303(d)/§305(b) List. These monies are available to all private, for profit and nonprofit organizations that are authenticated legal entities or governmental jurisdictions including: cities, counties, tribal entities, Federal agencies, or agencies of the State. Funding is available for both watershed group formation (which includes Watershed Restoration Action Strategy development) and on-the-ground projects to improve surface water quality and associated habitat. Work plans developed and funded under CWA §319(h) comprise a variety of efforts; including watershed association development, pollutant source tracking, riparian area restoration, and spill response. Further information on funding from the CWA §319 (h) can be found on the SWQB website:
http://www.nmenv.state.nm.us/swqb/WPS/index.html.

Additionally, NMED's Construction Programs Bureau (CPB) assists communities in need of funding for WWTP upgrades and improvements to septic tank configurations (such as the design of cluster systems). They can also provide matching funds for appropriate Clean Water Act §319(h) projects using state revolving fund monies. The USDA Environmental Quality Incentive Program (EQIP) program can provide assistance to private land owners in the basin. The USDA Forest Service aligns their mission to protect lands they manage with the TMDL process and are another source of assistance. And, the BLM has several programs in place to provide assistance to improve unpaved roads and grazing allotments.