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STATE OF NEW MEXICO

STATEWIDE WATER QUALITY MANAGEMENT PLAN

NEW MEXICO
WATER QUALITY CONTROL COMMISSION

P.O. Box 26110
Santa Fe, New Mexico 87502

August 1, 2002

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List of Acronyms and Abbreviations in this Plan

BPJ	Best Professional Judgment
BMP	Best Management Practice
CFR	Code of Federal Regulations
CPP	New Mexico Continuing Planning Process
CWA	Federal Clean Water Act (33 U.S.C. 1251 *et seq.*)
CWNS	Clean Water Needs Survey
CWSRF	New Mexico's Clean Water State Revolving Fund
DMA	Designated Management Agency
LA	Load Allocation
MOS	Margin of Safety
MOU	Memorandum of Understanding
NMAC	New Mexico Administrative Code
NMED	New Mexico Environment Department
NMOCD	New Mexico Oil Conservation Division
NMSA	New Mexico Statutes Annotated
NMWQA	New Mexico Water Quality Act (Chapter 74, Article 6 NMSA)
NPDES	National Pollutant Discharge Elimination System
NPS	Nonpoint Source(s) of Pollution
NPSMP	Nonpoint Source Management Program
POTWs	Publicly Owned Treatment Works
QAPP	Quality Assurance Project Plan
SRF	New Mexico's Clean Water State Revolving Fund
SWQB	Surface Water Quality Bureau of the NMED
TMDL	Total Maximum Daily Load
USEPA	United States Environmental Protection Agency
WLA	Waste Load Allocation
WQBEL	Water Quality Based Effluent Limit
WQCC	New Mexico Water Quality Control Commission
WQMP	Water Quality Management Plan
WQS	Water Quality Standard(s)
WRAS	Watershed Restoration Action Strategy

List of Documents Included in this Plan by Reference

New Mexico Water Quality Standards for Interstate and Intrastate Surface Waters [20.6.4 NMAC]

All TMDL documents individually listed in Work Element 1 of the Water Quality Management Plan

Clean Water Needs Survey

Memorandum of Understanding Between the U.S. Environmental Protection Agency Region 6 and the New Mexico Environment Department

New Mexico Continuing Planning Process

New Mexico Ground and Surface Water Protection Regulations [20.6.2 NMAC]

New Mexico Nonpoint Source Management Plan

Priority Rating System for Point Source, Non-Point Source and Brownfields Redevelopment Projects

Quality Assurance Project Plan for Water Quality Management Programs

Preface

This 2002 comprehensive update to the New Mexico Water Quality Management Plan (WQMP) represents an effort to modernize the WQMP. There are substantial changes in format to this document, many of which are intended to take advantage of technologies commonly available today that were non-existent or unavailable the last time the WQMP was comprehensively updated in 1981. These technologies primarily include widespread use of personal computers and rapid access to the Internet by ever-growing numbers of people. This document has been developed with capacity to be used as an electronic document that can be used via the Internet, stand-alone computer compact disc technology, or as a traditional paper document. Electronic users will find unprecedented access to reference documents and supplemental information through the use of hyperlinks embedded throughout the document. These hyperlinks (indicated by blue underlined text) have the capability to take the reader directly and immediately to referenced or supplemental information. For example, if there is a reference to a document such as the New Mexico Nonpoint Source Management Plan (a stand alone document that in itself is more than 150 pages) a hyperlink is provided that allows the reader to access a copy of the entire document. To avoid problems, all reference documents have been converted to a common and readily available electronic format. The common format is Adobe® Acrobat®. The Adobe® Acrobat® Reader® is widely used and available for free by contacting Adobe® at the following website: http://www.adobe.com/products/acrobat/readstep.html. For readers of this document who choose to use it more traditionally (i.e., as a paper document), citations of references are provided and or quoted to a large enough extent that the document remains useful. Regardless, copies of this document and the incorporated documents are available often through statewide repository libraries or by contacting the New Mexico Environment Department (www.nmenv.state.nm.us/) Surface Water Quality Bureau (www.nmenv.state.nm.us/swqb/swqb.html) in Santa Fe [(505) 827-0187].

The 2002 New Mexico WQMP update project has been carried out with a number of goals in mind. Many of the "work elements" adopted by the New Mexico Water Quality Control Commission over the many years have remained "on-the-books" even though they were completed or had become outdated or obsolete. In some respects the WQMP had become like an old fruit tree in need of pruning in order to restore its health and allow future growth. Indeed some work elements that remained "on-the-book" were adopted in the late 1970's. Many Clean Water Act programs have matured dramatically since the 1970's and 1980's. Some current programs or strategies did not exist in the late 1970s and early 1980s when many WQMP Work Element Strategies were first contemplated. One landmark event instituting change is the 1987 amendments to the Clean Water Act (P.L. 100-4). Prior to the 1987 amendments, Congress supported a construction grant program to assist local governments with funding wastewater treatment infrastructure improvements. After the 1987 amendment the grant program was transitioned to a revolving loan program. An example of a new program is the Nonpoint Source Management program that did not exist prior to adoption of §319 of the CWA in 1987. Many of the "old" pre-1987 WQMP strategies were directed at investigating and solving nonpoint source pollution problems. Since the enactment of §319, many of the nonpoint source management concerns have been rolled into a more efficient and better defined program.

The goals of this 2002 comprehensive update were to:

1. make what had become an obscure document more readily accessible and useable;
2. "prune" out old work elements and strategies that were either no longer required, completed, or simply outdated;
3. reorganize the document to track current federal requirements as found in the Code of Federal Regulations;
4. provide consolidation of the many partial updates (e.g., adoption of numerous Total Maximum Daily Load documents) that have occurred in recent years but have not been compiled in one accessible document;
5. provide a format that supports opportunity for future growth of the WQMP

This update is not intended to explore and incorporate all feasible new planning initiatives. Rather, the intent is to "prune" the document back to a "healthy" base upon which the future can grow.

Introduction

Water Quality Management Plans are required by federal statute (e.g., CWA §§ 208 and 303) and federal regulations (40 CFR 130). The New Mexico Water Quality Act also requires that the Water Quality Control Commission shall adopt a comprehensive water quality management program and develop a continuing planning process (§74-6-4.B NMSA 1978). The purpose of Water Quality Management Plans is best expressed in various subparts of 40 CFR 130. For example 40 CFR 130.0(a) states in-part:

> *The Water Quality Management (WQM) process described in the Act and in this regulation provides the authority for a consistent national approach for maintaining, improving and protecting water quality while allowing States to implement the most effective individual programs. The process is implemented jointly by EPA, the States, interstate agencies, areawide, local and regional planning organizations.*

In 40 CFR 130.0(e) it states in-part:

> *This process is a dynamic one, in which requirements and emphases vary over time. At present States have completed WQM plans which are generally comprehensive in geographic and programmatic scope. Technology based controls are being implemented for most point sources of pollution. However, WQS* [water quality standards] *have not been attained in many waterbodies and are threatened in others.*

Finally, in 40 CFR 130.6 it states in-part:

> *(a) Water quality management (WQM) plans. WQM plans consist of initial plans produced in accordance with sections 208 and 303(e) of the Act and certified and approved updates to those plans. Continuing water quality planning shall be based upon WQM plans and water quality problems identified in the latest 305(b) reports. State water quality planning should focus annually on priority issues and geographic areas and on the development of water quality controls leading to implementation measures. Water quality planning directed at the removal of conditions placed on previously*

certified and approved WQM plans should focus on removal of conditions which will lead to control decisions.

(b) Use of WQM plans. WQM plans are used to direct implementation. WQM plans draw upon the water quality assessments to identify priority point and nonpoint water quality problems, consider alternative solutions and recommend control measures, including the financial and institutional measures necessary for implementing recommended solutions. State annual work programs shall be based upon the priority issues identified in the State WQM plan.

(c) WQM plan elements. Sections 205(j), 208 and 303 of the Act specify water quality planning requirements. The following plan elements shall be included in the WQM plan or referenced as part of the WQM plan if contained in separate documents when they are needed to address water quality problems.

(1) Total maximum daily loads….
(2) Effluent limitations….
(3) Municipal and industrial waste treatment….
(4) Nonpoint source management and control….
(5) Management agencies….
(6) Implementation measures….
(7) Dredge or fill program….
(8) Basin plans….
(9) Ground water….

It is important to point out that the WQMP is one of many tools required by the CWA and the New Mexico Water Quality Act (NMWQA) in a programmatic approach to water quality protection. The WQMP is intended to work in conjunction with other important documents such as the Continuing Planning Process, the New Mexico Standards for Interstate and Intrastate Surface Waters as well as applicable laws and regulations.

In order to maintain the usefulness of this document into the future, documents that relate to required components of the WQMP (stipulated in 40 CFR 130.6(c)) have been incorporated by reference. Documents incorporated by reference may later be revised, after public notice and participation appropriate to each document. Such revised documents are considered to be incorporated herein by reference. Documents requiring approval by the U.S. Environmental Protection Agency (EPA) are considered incorporated after USEPA approval of the revised document. Accordingly, as referenced documents (e.g., Nonpoint Source Management Program, Continuing Planning Process) are updated, the WQMP is effectively updated. This approach is in keeping with current USEPA regulations found at 40 CFR 130.6(c).

Work Element 1 – Total Maximum Daily Loads (TMDLs)

(Revised: [month/year])

Requirements for Work Element 1

Regulation 40 CFR 130.6(c)(1) requires: *TMDLs in accordance with sections 303(d) and (e)(3)(C) of the Act and Sec. 130.7 of this part.*

Background

TMDLs are a required component of the WQMP. However, according to federal regulations (40 CFR 130.6(c)), a plan element may be "referenced as part of the WQM plan if contained in separate documents." The process for development of TMDLs and individual water quality-based effluent limitations is contained in *State of New Mexico Continuing Planning Process, July 1998*. As TMDLs are developed and approved, they are incorporated into the water quality management plan and used as the basis for implementation of water pollution control activities.

A Total Maximum Daily Load (TMDL) can best be described as a budget for pollutant influx to a watercourse. A TMDL, in actuality, is a planning document. The "allowable budget" is determined based on the amount of pollutants that can be assimilated without causing the stream to exceed water quality standards set to protect the stream's designated uses (e.g., fishery, irrigation, etc.). The current pollutant loading is then determined by scientific study of a stream to assess the excess loading above the allowable budget. Because TMDLs are only written for impaired waterbodies, the current loading is known to be in excess of the allowable budget, or total maximum daily load. Subtracting the TMDL from the current excess load provides a calculation of the amount of load reduction necessary to bring the waterbody into compliance with state standards. Once this capacity is determined, sources of pollutants are considered and an implementation plan is described.

Both point and nonpoint pollutant sources must be included. Once all sources are accounted for, pollutants are then allocated or budgeted among sources in a manner that describes the amount (the total maximum load) that can be assimilated into the river without causing the stream standard or "budget" to be exceeded. Nonpoint sources are grouped into a "load allocation" (LA) and point sources are grouped into a "wasteload allocation" (WLA). By federal regulation, the budget must also include a "margin of safety" (MOS). TMDLs can also be described by the following equation:

$$TMDL = LA + WLA + MOS$$

Implementation of TMDLs is described in the "Process for Establishing and Assuring Implementation of Water Quality Standards" section of the *State of New Mexico Continuing Planning Process, July 1998*. In summary, WLA allocations are implemented through the National Pollutant Discharge Elimination System (NPDES) permit program for point source

discharges and the LA is implemented through the voluntary NM Nonpoint Source Management Program.

In 1996 two groups, Forest Guardians and Southwest Environmental Center, jointly filed a lawsuit against the USEPA alleging that adequate TMDLs had not been developed by the State as required under § 303 of the CWA. The State of New Mexico was not a litigant in this suit. In 1997 USEPA and plaintiffs negotiated a consent decree and settlement agreement avoiding formal litigation. The consent decree and the settlement agreement combined set forth a 20-year schedule to address TMDLs for many stream segments in the State. The USEPA and the New Mexico Environment Department have signed a Memorandum of Understanding outlining tasks the State will complete to meet the terms of the settlement.

TMDLs are "living documents" in that they should be periodically reviewed and updated as conditions and data change. The Environment Department Surface Water Quality Bureau has implemented a watershed based water quality monitoring strategy to continually gather new data. Currently, § 303 of the CWA requires states to review and update their "§ 303(d)" lists of impaired waters every two years. CWA § 303(d) further requires the development of a TMDL for a "§ 303(d)" listed water.

The following are tables of TMDLs adopted by the WQCC. The tables are organized first by river basin, then by year, then by water body (e.g., stream name):

Canadian Basin TMDLs

Year	Canadian Basin Waterbody / TMDL Description	TMDL Document Name (Hyperlink to Document)	WQCC Adoption Date (Hyperlink to WQCC Meeting Minutes)	EPA Approval Date (Hyperlink to EPA Approval Letter)
1999	**Cieneguilla Creek** from the inflow to Eagle Nest Lake to the headwaters CR2-50000 (Canadian River Basin 2306) 13.6 miles for **fecal coliform**.	*Total Maximum Daily Load for Six-Mile Creek, Cieneguilla Creek, and Moreno Creeks – Cimarron Basin - Fecal Coliform*	November 9, 1999	December 17, 1999
1999	**Cieneguilla Creek** from the inflow to Eagle Nest Lake to the headwaters CR2-50000 (Canadian River Basin 2306) 13.6 miles for **turbidity** and **stream bottom deposits**.	*Total Maximum Daily Load for Turbidity, Stream Bottom Deposits, and Total Phosphorus in the Canadian River Basin (Cimarron)*	August 10, 1999	September 30, 1999
1999	**Moreno Creek** from the inflow to Eagle Nest Lake to the headwaters CR2-30000 (Canadian River Basin 2306) 14.4 miles for **turbidity**.	*Total Maximum Daily Load for Turbidity, Stream Bottom Deposits, and Total Phosphorus in the Canadian River Basin (Cimarron)*	August 10, 1999	September 30, 1999
1999	**Moreno Creek** from the inflow to Eagle Nest Lake to the headwaters CR2-30000 (Canadian River Basin 2306) 14.4 miles for **fecal coliform**.	*Total Maximum Daily Load for Six-Mile Creek, Cieneguilla Creek, and Moreno Creeks – Cimarron Basin - Fecal Coliform*	November 9, 1999	December 17, 1999

Year	Canadian Basin Waterbody / TMDL Description	TMDL Document Name (Hyperlink to Document)	WQCC Adoption Date (Hyperlink to WQCC Meeting Minutes)	EPA Approval Date (Hyperlink to EPA Approval Letter)
1999	**North Ponil Creek** from the confluence with South Ponil Creek to the mouth of McCrystal Creek CR2-10400 (Canadian River Basin 2306) 17.6 miles for **turbidity, stream bottom deposits**, and total **phosphorus**.	*Total Maximum Daily Load for Turbidity, Stream Bottom Deposits, and Total Phosphorus in the Canadian River Basin (Cimarron)*	August 10, 1999	September 30, 1999
1999	**North Ponil Creek** from the confluence with South Ponil Creek to the mouth of McCrystal Creek CR2-10400 (Canadian River Basin 2306) 10 miles for **temperature**.	*Total Maximum Daily Load For Temperature On North Ponil Creek Canadian River Basin (Cimarron)*	November 9, 1999	December 17, 1999
1999	**Six-Mile Creek** the inflow to Eagle Nest Lake to headwaters CR2-40000 (Canadian River Basin 2306) 6.6 miles for **turbidity**.	*Total Maximum Daily Load for Turbidity, Stream Bottom Deposits, and Total Phosphorus in the Canadian River Basin (Cimarron)*	August 10, 1999	September 30, 1999
1999	**Six-Mile Creek** the inflow to Eagle Nest Lake to headwaters CR2-40000 (Canadian River Basin 2306) 6.6 miles for **fecal coliform**.	*Total Maximum Daily Load for Six-Mile Creek, Cieneguilla Creek, and Moreno Creeks – Cimarron Basin - Fecal Coliform*	November 9, 1999	December 17, 1999
2000	**Cieneguilla Creek** from the inflow to Eagle Nest Lake to the headwaters CR2-50000 (Canadian River Basin 2306) 13.6 miles for metals (chronic **aluminum**).	*Total Maximum Daily Load For Metals (Chronic Aluminum) In Cieneguilla Creek*	December 12, 2000	February 16, 2001
2000	**Cimarron River** from the mouth on the Canadian River to Turkey Creek (CR2-10000) 35.5 miles for metals (chronic **aluminum**).	*Total Maximum Daily Load For Stream Bottom Deposits In Rayado Creek And Metals (Chronic Aluminum) In The Cimarron River*	December 12, 2000	February 16, 2000
2000	**Rayado Creek** from the mouth on the Cimarron River to Miami Lake diversion (CR2-10100) 16.5 miles for **stream bottom deposits**.	*Total Maximum Daily Load For Stream Bottom Deposits In Rayado Creek And Metals (Chronic Aluminum) In The Cimarron River*	December 12, 2000	February 16, 2000
2001	**Middle Ponil Creek** from the confluence with South Ponil Creek to the headwaters (Canadian River, 2306) for **temperature**.	*Total Maximum Daily Load For Temperature On Middle Ponil Creek*	July 10, 2001	September 27, 2001
2001	**Middle Ponil Creek** from the confluence with South Ponil Creek to the headwaters (Canadian River, 2306) for **turbidity**.	*Total Maximum Daily Load for Turbidity in Middle Ponil and Ponil Creek*	July 10, 2001	September 27, 2001

Year	Canadian Basin Waterbody / TMDL Description	TMDL Document Name (Hyperlink to Document)	WQCC Adoption Date (Hyperlink to WQCC Meeting Minutes)	EPA Approval Date (Hyperlink to EPA Approval Letter)
2001	**Ponil Creek** from the mouth on the Cimarron River to the confluence of North Ponil and South Ponil Creeks (Canadian River, 2306) metals (chronic **aluminum**).	*Total Maximum Daily Load For Metals (Chronic Aluminum) In Ponil Creek*	July 10, 2001	September 27, 2001
2001	**Ponil Creek** from the mouth on the Cimarron River to the confluence of North Ponil and South Ponil Creeks (Canadian River, 2306) **temperature**.	*Total Maximum Daily Load For Temperature On Ponil Creek*	July 10, 2001	September 27, 2001
2001	**Ponil Creek** from the mouth on the Cimarron River to the confluence of North Ponil and South Ponil Creeks (Canadian River, 2306) **turbidity**.	*Total Maximum Daily Load for Turbidity in Middle Ponil and Ponil Creek*	July 10, 2001	September 27, 2001

Rio Grande Basin TMDLs

TMDLs Completed Prior to 1999[1]

Point Source Load Allocation for the Twining Water and Sanitation District (NPDES Permit NM0022101), Taos County, New Mexico. 1981. [Table 1-1]

Point Source Load Allocation for the Town of Red River (NPDES Permit NM0024899, Taos County, New Mexico. 1982. [Table 1-2]

Point Source Load Allocation for the City of Grants, Cibola County, New Mexico (NPDES Permit No. NM0020737). 1989. [Table 1-3]

[1] Prior to the 2001 revision of the WQMP, TMDLs were categorized in Work Element 6 of the WQMP. TMDLs previously adopted as Work Element 6 have been "relocated" to Work Element 1. The Point Source Load Allocation tables presented herein are copied from the former Work Element 6.

1

2 **TMDLs Completed After 1999**

3

Year	Rio Grande Basin Waterbody / TMDL Description	TMDL Document Name (Hyperlink to Document)	WQCC Adoption Date (Hyperlink to WQCC Meeting Minutes)	EPA Approval Date (Hyperlink to EPA Approval Letter)
1999	**Cordova Creek** from the mouth on Costilla to headwaters URG1-30300 (Rio Grande 2120) 3.8 miles for **turbidity, stream bottom deposits**, and **total phosphorus**.	*Total Maximum Daily Load For Turbidity, Stream Bottom Deposits And Total Phosphorus For Cordova Creek*	November 9, 1999	December 17, 1999
1999	**Jemez River** from Rio Guadalupe to the confluence of the East Fork of the Jemez River and San Antonio Creek MRG2-20000 (Rio Grande 2105.5 and 2106) 6.4 miles for **turbidity** and **stream bottom deposits**.	*Total Maximum Daily Load For Turbidity And Stream Bottom Deposits In The Rio Grande Basin (Jemez)*	October 12, 1999	December 2, 1999
1999	**Middle Rio de las Vacas** from the confluence with the Rio Cebolla to Rito de las Palomas MRG2-20200 (Rio Grande 2106) 2 miles for **temperature**.	*Total Maximum Daily Load (TMDL) For Temperature On The Middle Rio de las Vacas*	October 12, 1999	December 2, 1999
1999	**Redondo Creek** from the mouth on Sulphur Creek to the headwaters MRG2-40100 (Rio Grande 2106) 5.2 miles for total **phosphorus**.	*Total Maximum Daily Load For Total Phosphorus For Redondo Creek*	October 12, 1999	December 2, 1999
1999	**Rio Chamita** from the confluence of the Rio Chama to the New Mexico - Colorado border total **phosphorus**, total **ammonia**, and **fecal coliform**.	*Total Maximum Daily Load For The Rio Chamita From The Confluence Of The Rio Chama To The New Mexico - Colorado Border*	August 10, 1999	September 30, 1999
1999	**Rio Chamita** from mouth on the Rio Chama to New Mexico-Colorado border URG2-30500, Rio Grande 2116 12.6 miles for **temperature**.	*Total Maximum Daily Load For Temperature On The Rio Chamita*	November 9, 1999	December 17, 1999
1999	**Rio Guadalupe** from the mouth on the Jemez River to the confluence of the Rio de las Vacas and Rio Cebolla MRG2-20100 (Rio Grande 2106) 2.4 miles for **turbidity** and **stream bottom deposits**.	*Total Maximum Daily Load For Turbidity And Stream Bottom Deposits In The Rio Grande Basin (Jemez)*	October 12, 1999	December 2, 1999
2000	**Santa Fe River** from the Cochiti Pueblo to the Santa Fe WWTP URG1-10300 (Rio Grande 2110) 12.7 miles for **chlorine** and **stream bottom deposits**.	*Water Quality Assessment For The Santa Fe River From The Cochiti Pueblo To The Santa Fe Wastewater Treatment Plant For Chlorine And Stream Bottom Deposits*	January 11, 2000	March 20, 2000

Year	Rio Grande Basin Waterbody / TMDL Description	TMDL Document Name (Hyperlink to Document)	WQCC Adoption Date (Hyperlink to WQCC Meeting Minutes)	EPA Approval Date (Hyperlink to EPA Approval Letter)
2000	**Santa Fe River** from the Cochiti Pueblo to the Santa Fe WWTP URG1-10300 (Rio Grande 2110) 12.7 miles for **dissolved oxygen** and **pH**.	*Total Maximum Daily Load For The Santa Fe River For Dissolved Oxygen and pH*	December 12, 2000	January 11, 2001
2001	**Middle Rio Grande** from northern border of Isleta Pueblo to the southern border of the Santa Ana Pueblo, Rio Grande, 2105, 2105.1) for **fecal coliform bacteria**.	*Middle Rio Grande Total Maximum Daily Load (TMDL) for Fecal Coliform*	November 13, 2001	May 3, 2002

Gila River Basin TMDLs

Year	Gila River Basin Waterbody / TMDL Description	TMDL Document Name (Hyperlink to Document)	WQCC Adoption Date (Hyperlink to WQCC Meeting Minutes)	EPA Approval Date (Hyperlink to EPA Approval Letter)
2001	**Black Canyon Creek** from the mouth on the East Fork of the Gila River to the headwaters (Gila River 20.6.4.503) **temperature**.	*Total Maximum Daily Load For Temperature On Black Canyon Creek*	November 13, 2001	April 5, 2002
2001	**Canyon Creek** from the mouth on the Middle Fork of the Gila to the headwaters, 4.5 mi. (Gila River 20.6.4.503) **turbidity**.	*Total Maximum Daily Load For Turbidity On Canyon Creek*	December 11, 2001	April 10, 2002
2001	**Canyon Creek** from the mouth on the Middle Fork of the Gila to the headwaters, 4.5 mi. (Gila River 20.6.4.503) **plant nutrients**.	*Total Maximum Daily Load For Plant Nutrients On Canyon Creek*	December 11, 2001	April 10, 2002
2001	**East Fork of the Gila River** from the confluence with the west fork to Taylor Creek (Gila River, 20.6.4.503) metals (**aluminum**).	*Total Maximum Daily Load For Metals (Chronic Aluminum) For The East Fork Of The Gila River And Taylor Creek*	November 13, 2001	April 15, 2002
2001	**Mangas Creek** from the mouth on the Gila River to Mangas Springs, 4.7 mi. (Gila River 20.6.4.502) **plant nutrients**	*Total Maximum Daily Load for Nutrients on Mangas Creek*	December 11, 2001	April 16, 2002
2001	**Mogollon Creek**, perennial potions above the USGS gauge (Gila River 20.6.4.503) metals (**aluminum**).	*Total Maximum Daily Load For Metals (Chronic Aluminum) For Mogollon Creek*	November 13, 2001	April 5, 2002

Year	Gila River Basin Waterbody / TMDL Description	TMDL Document Name (Hyperlink to Document)	WQCC Adoption Date (Hyperlink to WQCC Meeting Minutes)	EPA Approval Date (Hyperlink to EPA Approval Letter)
2001	**Sapillo Creek** from the mouth on the Gila River to Lake Roberts, 5.0 mi. (Gila River 20.6.4.503) **turbidity**.	*Total Maximum Daily Load For Turbidity On Sapillo Creek*	December 11, 2001	April 5, 2002
2001	**Sapillo Creek** from the mouth on the Gila River to Lake Roberts, 5.0 mi. (Gila River 20.6.4.503) **total organic carbon**.	*Total Maximum Daily Load For Total Organic Carbon (TOC) On Sapillo Creek*	December 11, 2001	April 5, 2002
2001	**Taylor Creek** from the confluence with the Beaver Creek to Wall Lake (Gila River, 20.6.4.503) metals (**aluminum**).	*Total Maximum Daily Load For Metals (Chronic Aluminum) For The East Fork Of The Gila River And Taylor Creek*	November 13, 2001	April 15, 2002
2001	**Taylor Creek** from the confluence with the Beaver Creek to Wall Lake, 2.9 mi. (**temperature**).	*Total Maximum Daily Load For Temperature On Taylor Creek*	November 13, 2001	**pending**

San Francisco River Basin

Year	San Francisco River Basin Waterbody / TMDL Description	TMDL Document Name (Hyperlink to Document)	WQCC Adoption Date (Hyperlink to WQCC Meeting Minutes)	EPA Approval Date (Hyperlink to EPA Approval Letter)
2001	**Centerfire Creek** from the mouth on the San Francisco River to the headwaters (San Francisco River 20.6.4.603) **conductivity**.	*Total Maximum Daily Load For Conductivity On Centerfire Creek*	November 13, 2001	April 16, 2002
2001	**Centerfire Creek** from the mouth on the San Francisco River to the headwaters, 7.1 mi. (San Francisco River Basin 20.6.4.603 **plant nutrients**.	*Total Maximum Daily Load For Plant Nutrients On Centerfire Creek*	December 11, 2001	April 16, 2002
2001	**San Francisco River** from Centerfire Creek to the New Mexico-Arizona border (San Francisco River 20.6.4.602) **temperature**.	*Total Maximum Daily Load For Temperature On The San Francisco River From Centerfire Creek To The New Mexico/Arizona Border*	November 13, 2001	April 12, 2002
2001	**San Francisco River** from Centerfire Creek upstream to the New Mexico/Arizona Border, 15 mi. (San Francisco River Basin 20.6.4.602 **plant nutrients**.	*Total Maximum Daily Load For Plant Nutrients On The San Francisco River from Centerfire Creek Upstream to the New Mexico/Arizona Border*	December 11, 2001	**pending**

Year	San Francisco River Basin Waterbody / TMDL Description	TMDL Document Name (Hyperlink to Document)	WQCC Adoption Date (Hyperlink to WQCC Meeting Minutes)	EPA Approval Date (Hyperlink to EPA Approval Letter)
2001	**South Fork of Negrito Creek** from the confluence with the North Fork to the headwaters (San Francisco River 20.6.4.603) **temperature**.	*Total Maximum Daily Load For Temperature On The South Fork Of Negrito Creek From The Confluence With The North Fork To The Headwaters*	November 13, 2001	April 5, 2002
2001	**Tularosa River** from the mouth on the San Francisco River to Apache Creek (San Francisco River 20.6.4.603) **conductivity**.	*Total Maximum Daily Load For Conductivity On The Tularosa River*	November 13, 2001	April 5, 2002
2001	**Whitewater Creek** from the mouth on the San Francisco River to Whitewater Campground (San Francisco River 20.6.4.603) **turbidity**.	*Total Maximum Daily Load For Turbidity In Whitewater Creek*	November 13, 2001	April 12, 2002
2001	**Whitewater Creek** from the mouth on the San Francisco River to Whitewater Campground, 5.6 mi. (San Francisco River Basin 20.6.4.603) dissolved chronic **aluminum**.	*Total Maximum Daily Load For Chronic Aluminum On Whitewater Creek*	December 11, 2001	April 12, 2002

Strategy

1) The State of New Mexico will continue to develop TMDLs as specified in the CPP, and following the schedule and terms established in the federal Court monitored consent decree, the settlement agreement, and the MOU between the NMED and the USEPA. Additionally, the state will develop TMDLs as specified in negotiated Clean Water Act § 106 and § 104(b)(3) grant commitments. The State may also act independently of the aforementioned agreements to adopt TMDLs as it may find necessary and appropriate.

2) TMDLs are considered "living documents," and will be reviewed and revised as necessary as new water quality data are received and water quality standards are developed.

3) TMDL implementation will be addressed in individual TMDL documents. TMDL implementation will follow current federal statutory and regulatory structure that WLA allocations are implemented through the NPDES permit program for point source discharges and the LA is implemented through the voluntary NM Nonpoint Source Management Program.

Work Element 1 Tables

Table 1-1

Point Source Load Allocation for the Twining Water and Sanitation District (NPDES Permit No. NM0022101), Taos County, New Mexico

Parameter	Time Interval	7Q10 [A/] (ft^3/sec)	Effluent Volume (mgd)	Allowable Mass Load (kg/day)	Allowable 30-day Average Conc. (mg/l)	Allowable 7-day Average Conc. (mg/l)
5-day biochemical oxygen demand	annual 3.3	0.095	10.8	30	45	
total suspended solids	annual	3.3	0.095	10.8	30	45
fecal coliform bacteria	annual	3.3	0.095	----	500[B/]	500[B/]
total residual chlorine	annual	3.3	0.095	----	0.04	0.04
total ammonia nitrogen	annual	3.3	0.095	10.8	30	30
total phosphorus	January	3.3	0.095	0.36	1.0	1.0
	February	3.3	0.095	0.36	1.0	1.0
	March	3.3	0.095	0.36	1.0	1.0
	Apri1	4.4	0.095	0.36	1.0	1.0
	May	8.9	0.095	0.72	2.0	2.0
	June	8.9	0.095	0.72	2.0	2.0
	July	6.1	0.048	0.55	3.0	3.0
	August	5.7	0.048	0.55	3.0	3.0
	September	5.0	0.019	0.36	5.0	5.0
	October	4.5	0.019	0.36	5.0	5.0
	November	3.3	0.095	0.36	1.0	1.0
	December	3.3	0.095	0.36	1.0	1.0

[A/] The critical low flow condition in the Rio Hondo is the average low flow that persists for seven consecutive days once every ten years, on the average (7Q10).

[B/] Units are organisms per 100 ml.

Table 1-2

Point Source Load Allocation for the Town of Red River
(NPDES Permit No. NM0024899), Taos County, New Mexico

Parameter	Time Interval	7Q10 [A/] (ft^3/sec)	Effluent Volume (mgd)	Allowable Mass Load (kg/day)	Allowable 30-day Average Conc. (mg/l)	Allowable 7-day Average Conc. (mg/l)
5-day biochemical oxygen demand	annual	5.6	0.485	55.3	30	45
total suspended solids	annual	5.6	0.485	55.3	30	45
fecal coliform bacteria	annual	5.6	0.485	----	500[B/]	500[B/]
total residual chlorine	annual	5.6	0.485	----	0.02	0.02
total phosphorus	January	6.1	0.388	1.5	1.0	1.0
	February	5.9	0.388	1.5	1.0	1.0
	March	5.9	0.388	1.5	1.0	1.0
	April	8.4	0.097	0.37	1.0	1.0
	May	16.3	0.097	2.8	7.5	7.5
	June	18.0	0.485	3.1	1.7	1.7
	July	12.3	0.485	2.2	1.2	1.2
	August	11.3	0.485	2.2	1.2	1.2
	September	10.7	0.097	1.8	5.0	5.0
	October	9.4	0.097	1.5	4.0	4.0
	November	7.4.	0.388	1.5	1.0	1.0
	December	5.6	0.388	1.5	1.0	1.0
total ammonia nitrogen	January	6.1	0.388	44.0	30	30
	February	5.9	0.388	44.0	30	30
	March	5.9	0.388	29.4	20	20
	April	8.4	0.097	7.3	20	20
	May	16.3	0.097	11.0	30	30
	June	18.0	0.485	36.7	20	20
	July	12.3	0.485	25.7	14	14
	August	11.3	0.485	33.0	18	18
	September	10.7	0.097	11.0	30	30
	October	9.4	0.097	11.0	30	30
	November	7 4	0.388	44.0	30	30
	December	5.6	0.388	44.0	30	30

[A/] The critical low flow condition in the Rio Hondo is the average low flow that persists for seven consecutive days once every ten years, on the average (7Q10).

[B/] Units are organisms per 100 ml

Table 1-3

Point Source Allocation for the City of Grants
(NPDES Permit No. NM 0020737), Cibola County, New Mexico.

Parameter	7Q10[1] (ft3/sec)	TMDL[2] (kg/day)	Measured Back-ground (kg/day)	Allowable Mass Load (kg/day)	Allowable Average Conc. (mg/1)	Allowable Maximum Conc. (mg/1)
Total phosphorus (as P)	3.1	1.51	0.76	0.75	0.1	0.1
Total inorganic nitrogen (as N) (NH_3 + NH_4 + $N0_2$ + $N0_3$)	3.1	30.2	9.1	21.1	2.8	2.8
Total ammonia (as N)	3.1	1.89	1.14	0.75	0.15	0.15
Fecal coliform bacteria	NA	NA	NA	NA	100[4]	100
Total chlorine residual	NA	NA	NA	NA	0.005[5]	0.005
Biochemical oxygen demand (5-day)	NA	NA	NA	227[6]	30	NA
Total suspended solids	NA	NA	NA	227[6]	30	NA

[1]The minimum average seven consecutive day flow which occurs with a frequency of once in ten years.
[2]Total maximum daily load (TMDL) = (7Q10 + WWTF design flow (3.08 ft^3/sec)) X WQS X 2.447.
[3]WLA (waste load allocation) = TMDL - MBG (measured background).
[4]Units are 100 organisms per 100 ml.
[5]A water quality-based effluent limitation based on implementation of Section 1-102.F, Hazardous Substances, of the state's water quality standards.
[6]Loads and concentrations for BOD (5-day) and TSS are based on EPA's secondary treatment regulations (40 CFR Part 133); they are not based on water quality standards or TMDL

Work Element 2 – Effluent Limitations
(Revised: [month/year])

Requirements for Work Element 2

Regulation 40 CFR 130.6(c)(2) requires: "*[e]ffluent limitations including water quality based effluent limitations and schedules.*"

Background

The "Effluent Limitations" element is a required (40 CFR 130.6(c)) element in the WQMP. However, according to the same regulation, a plan element may be "…referenced as part of the WQM plan if contained in separate documents…." A plan for effluent limitations is contained in *State of New Mexico Continuing Planning Process, July 1998* (CPP). An Implementation Plan is also incorporated in the NM Standards for Interstate and Intrastate Surface Waters[2]. The intent of this element of the WQMP is to supplement, but not supersede, the CPP and the water quality standards.

As specified in the CPP, the WQCC has determined that the primary mechanism for controlling point source discharges to surface waters ("waters of the United States"[3]) in New Mexico is the NPDES permit program established under § 402 of the federal CWA. The USEPA Region 6 in Dallas, Texas is responsible for issuing NPDES permits in New Mexico that specify the amount and concentration of contaminants that a permittee may discharge to a surface waterbody. The USEPA is also responsible for the enforcement of effluent limitations stipulated by NPDES permits. An unofficial list of NPDES permits may be viewed on the NMED's web page at http://www.nmenv.state.nm.us/swqb/psrlist.html.

Federal regulations, among other requirements, require NPDES permits include **technology based effluent limitations** and other necessary effluent limitations for toxic pollutants and sewage sludge[4]. The USEPA is responsible for development and promulgation of technology based effluent limitations pursuant to §§ 301, 304, 306, 307, and 316 of the Clean Water Act. Federally promulgated technology based effluent limitations are published by USEPA in the Code of Federal Regulations[5].

Federal regulations require NPDES permits must, contain **water quality based effluent limits** (WQBELs)[6] when necessary to protect applicable water quality standards for the receiving water adopted in accordance with CWA § 303. Therefore, WQBELs are required where technology

[2] 20.6.4 NMAC.
[3] As defined in 40 CFR 122.2.
[4] Refer to 40 CFR 122.44(a) and 40 CFR 122.44(b) for more detail.
[5] The term technology based effluent limitations in this section generally refers to the "Secondary Treatment Regulation" (40 CFR 133) for publicly owned treatment works (POTWs); the "Effluent Guidelines and Standards" (40 CFR Subchapter N) for non POTWs, and/or technology based effluent limitations based upon the "best professional judgment" (BPJ) of the permit writer where appropriate. BPJ is usually considered where technology based effluent limitations have not been previously established in regulation for a particular industry.
[6] Refer to 40 CFR 122.44(d) for more detail.

based effluent limits are not sufficient to protect water quality standards. WQBELs may be calculated at the time a permit is issued by the permitting agency or WQBELs may be calculated as part of a WLA in a TMDL.

Federal regulations require NPDES permits must implement (be consistent with) State adopted water quality management plans[7] (e.g., WLAs in TMDLs in Work Element 1 of this WQMP).

The WQCC is authorized under the New Mexico Water Quality Act (NMWQA) [§ 74-6-1 et seq. NMSA 1978] to adopt regulations, including effluent limitations for the protection of surface water quality. The WQCC has adopted regulations for protection of surface water quality specifying effluent limitations under certain specified conditions. These regulations are found in Subpart 2 of the WQCC's Ground and Surface Water Protection Regulations[8]. Effluent limitations for discharges to surface and ground waters are adopted in accordance with all requirements (e.g., public participation) specified in the NMWQA.

The WQCC has, in addition to adopting regulations specifying effluent limitations for discharges to surface waters, previously adopted as part of this WQMP a strategy to control the pH of discharges and the discharge of pathogens (as indicated by fecal coliform bacteria) for the protection of public health and the environment.

The WQCC has adopted, and periodically revises, water quality standards for surface waters in the State of New Mexico. The WQCC through the water quality standards allows, in specified circumstances, schedules of compliance to be included in NPDES permits[9]. Federal regulation also allows for schedules of compliance in NPDES permits under certain limitations[10]. Such schedules of compliance will be for the purpose of providing a permittee with adequate time to make treatment facility modifications necessary to comply with water quality based limitations determined to be necessary to implement new or revised water quality standards. Implementation of schedules of compliance should be in accordance with provisions of the NPDES regulations and the water quality standards.

Where a State, such as New Mexico, is not delegated primacy for the issuance of federal permits (e.g., NPDES permits) pursuant to Section 401 of the federal Clean Water Act, the State in which the discharge originates is authorized to review discharges (and permits) to ensure the discharge will: 1) be compatible with appropriate state law; 2) protect water quality standards adopted in accordance with § 303 of the CWA; and 3) implement an effective water quality management plan. In such review, or certification, the State may: 1) approve the discharge without condition; 2) approve the discharge subject to conditions necessary to meet one of the three aforementioned criteria; 3) deny certification; or 4) waive certification. The NMWQA[11] assigns the responsibility for certifying permits issued under the CWA to the New Mexico Environment Department. The NMWQA also specifies[12] conditions where a certification shall be denied.

[7] 40 CFR 122.44(d)(6) and 40 CFR 130.12(a)
[8] 20.6.2 NMAC
[9] Subsection J of 20.6.4.11 NMAC
[10] 40 CFR 122.47
[11] § 74-6-4.E - NMSA 1978, 1993 Replacement Pamphlet
[12] § 74-6-5.E - NMSA 1978, 1993 Replacement Pamphlet

Strategy

1) The CPP is incorporated herein by reference. Effluent limits and decisions regarding effluent limits should be consistent with the CPP.

2) The NPDES permitting authority will incorporate, as appropriate, technology based effluent limitations in NPDES permits in accordance with federal NPDES regulations;

3) The NPDES permitting authority will review NPDES permit applications and relevant water quality data to determine and include water quality based effluent limits as appropriate and necessary to protect water quality standards;

4) The NPDES permitting authority will incorporate WLAs for point source discharges adopted in TMDLs by the WQCC and approved by the USEPA as part of this WQMP (see Work Element 1);

5) The NM Environment Department will review NPDES permit actions for purposes of state certification[13]. The Environment Department will assure through appropriate review and communication with the permitting authority that permit requirements and effluent limitations are: compatible with appropriate state law, protect water quality standards and implement the water quality management plan.

6) The Environment Department will use the effluent limitation[14] of 500 fecal coliform bacteria per 100 milliliters and the range 6.0- 9.0 for pH for state certifications of NPDES permits except when:

   a. more stringent limitations are needed to meet the antidegradation policy and implementation plan of the New Mexico Water Quality Standards, (20.6.4 NMAC);

   b. the WQCC has adopted more stringent limitation in a point source load allocation.

   In all cases, state-certified effluent limitations for fecal coliform bacteria and pH shall be stringent enough so that receiving waters meet water quality standards.

[13] CWA § 401 and NMWQA § 74-6-4.E.

[14] Strategy number 6 was originally adopted by the WQCC in 1989 in Work Element 6. This strategy is relocated without amendment to this Work Element for continuity.

Work Element 3 – Municipal and Industrial Waste Treatment
(Revised: [month/year])

Requirements for Work Element 3

Regulation 40 CFR 130.6(c)(3) requires:

> *Identification of anticipated municipal and industrial waste treatment works, including facilities for treatment of stormwater-induced combined sewer overflows; programs to provide necessary financial arrangements for such works; establishment of construction priorities and schedules for initiation and completion of such treatment works including an identification of open space and recreation opportunities from improved water quality in accordance with section 208(b)(2) (A) and (B) of the Act.*

Background

New Mexico's plan for waste treatment is addressed in two documents.

The first document is the *Clean Water Needs Survey* (CWNS) that

> *… is required by Sections 205(a) and 516(b)(1) of the CWA. The CWNS is a summary of the estimated capital costs for water quality projects and other activities eligible for SRF support as authorized by the 1987 CWA Amendments. These activities include both facilities and certain water quality program elements. Activities include the planning, design, and construction of publicly owned wastewater collection and treatment systems and projects controlling CSOs, SW, and NPS pollutants. Other eligible water quality program elements are those that involve one-time expenditures supporting the CWA goals, such as program development and implementation*. [From introduction to EPA's "1996 Clean Water Needs Survey Report to Congress -- (EPA 832-R-97-003)]]

In the past the State of New Mexico has participated in these surveys by collecting information and submitting it to the EPA for inclusion in periodic (once every four years) reports Congress. The 1996 Clean Water Needs Survey Report to Congress (EPA 832-R-97-003) is the most recent and current version of the report. More information about the Clean Water Needs Survey and electronic access to the report may be found on the USEPA's website at http://www.epa.gov/owmitnet/mtb/cwns/index.htm

The second document is the *Priority Rating System for Point Source, Nonpoint Source and Brownfields Redevelopment Projects*. Previous priority rating systems for evaluating proposed projects for CWSRF funding were limited to point source discharges. In 2000, NMED's Construction Programs Bureau, in consultation with the Surface Water Quality and Ground Water Quality Bureaus, revised and prepared an update to the WQCC's 1986 *Water Quality*

Control Commission Priority Rating System for Wastewater Facility Construction Loan Projects. The revisions were adopted by the WQCC in a document now known as the *Water Quality Control Commission Priority Rating System for Point Source, Non-Point Source and Brownfields Redevelopment Projects*.

Strategy

1) The 1996 CWNS is incorporated into the WQMP by reference.

2) The State of New Mexico, principally through the New Mexico Environment Department, will continue to participate in future CWNS data collection efforts.

3) Future CWNS Reports, when finalized by EPA and sent to Congress as required by law, will be automatically incorporated by reference into this element of the WQMP.

4) The 2000 *Water Quality Control Commission Priority Rating System for Point Source, Non-Point Source and Brownfields Redevelopment Projects* is incorporated into the WQMP by reference.

5) Future revisions of the *Priority Rating System for Point Source, Non-Point Source and Brownfields Redevelopment Projects* when adopted by the WQCC will be automatically incorporated into this element of the WQMP by reference.

6) New Mexico priorities under this Work Element will be guided by the above documents.

Work Element 4 – Nonpoint Source Management and Control
(Revised: [month/year])

Requirements for Work Element 4

Regulation 40 CFR 130.6(c)(4) requires:

> *(i) The* [Water Quality Management] *plan shall describe the regulatory and non-regulatory programs, activities and Best Management Practices (BMPs) which the agency has selected as the means to control nonpoint source pollution where necessary to protect or achieve approved water uses. Economic, institutional, and technical factors shall be considered in a continuing process of identifying control needs and evaluating and modifying the BMPs as necessary to achieve water quality goals.*
>
> *(ii) Regulatory programs shall be identified where they are determined to be necessary by the State to attain or maintain an approved water use or where non-regulatory approaches are inappropriate in accomplishing that objective.*
>
> *(iii) BMPs shall be identified for the nonpoint sources identified in section 208(b)(2)(F)-(K) of the Act and other nonpoint sources as follows:*
>
> *(A) Residual waste. Identification of a process to control the disposition of all residual waste in the area which could affect water quality in accordance with section 208(b)(2)(J) of the Act.*
>
> *(B) Land disposal. Identification of a process to control the disposal of pollutants on land or in subsurface excavations to protect ground and surface water quality in accordance with section 208(b)(2)(K) of the Act.*
>
> *(C) Agricultural and silvicultural. Identification of procedures to control agricultural and silvicultural sources of pollution in accordance with section 208(b)(2)(F) of the Act.*
>
> *(D) Mines. Identification of procedures to control mine-related sources of pollution in accordance with section 208(b)(2)(G) of the Act.*
>
> *(E) Construction. Identification of procedures to control construction related sources of pollution in accordance with section 208(b)(2)(H) of the Act.*
>
> *(F) Saltwater intrusion. Identification of procedures to control saltwater intrusion in accordance with section 208(b)(2)(I) of the Act.*
>
> *(G) Urban stormwater. Identification of BMPs for urban stormwater control to achieve water quality goals and fiscal analysis of the necessary capital and operations and maintenance expenditures in accordance with section 208(b)(2)(A) of the Act.*
>
> *(iv) The nonpoint source plan elements outlined in Sec. 130.6(c) (4)(iii)(A)(G) of this regulation shall be the basis of water quality activities implemented through agreements or memoranda of understanding between EPA and other departments, agencies or instrumentalities of the United States in accordance with section 304(k) of the Act.*

Background

As defined in federal regulations (40 CFR 122.2), a point source is a discrete discharge of pollutants, as through a pipe or similar conveyance (e.g., a ditch). A nonpoint source (NPS) is essentially any source of pollutant(s) that is not a point source.

Nonpoint sources of water pollution are now widely recognized as the biggest contributors to water pollution in New Mexico, as well as the nation. Principal sources of surface water NPS pollution in New Mexico include erosion from rangelands, agricultural activities, construction, silviculture, resource extraction, land disposal, unsurfaced roads, and recreation. Hydromodification may affect attainment of designated uses by diverting water out of stream channels, by impounding waters, through streambed channelization, and dredge-and-fill activities. Principal known sources of NPS ground water pollution in rural and suburban areas include household septic tanks, cesspools, and agricultural activities.

NPS management is a required component of the WQMP. However, according to federal regulations (40 CFR 130.6(c)), a plan element may be "referenced as part of the WQM plan if contained in separate documents." New Mexico's plan for management of NPS pollution is described in the CPP under the *Process for Establishing and Assuring Implementation of Water Quality Standards* and in *New Mexico Nonpoint Source Management Program, October 1999* (NPSMP).

Strategy

1) Relevant portions of the CPP and the *New Mexico Nonpoint Source Management Program, October 1999* are incorporated into the WQMP by reference.

2) Future CPP revisions, when adopted by the WQCC and approved by the EPA as required by law, will be automatically incorporated by reference into this element of the WQMP.

3) Future revisions to the *New Mexico Nonpoint Source Management Program* will be automatically incorporated by reference into this element of the WQMP upon their approval by USEPA.

4 Revisions to the *New Mexico Nonpoint Source Management Program* will be made and implemented on an as needed basis.

Work Element 5 – Management Agencies

(Revised: [month/year])

Requirements for Work Element 5

Regulation 40 CFR 130.6(c)(5) requires:

> [i]*dentification of agencies necessary to carry out the plan and provision for adequate authority for intergovernmental cooperation in accordance with sections 208(b)(2)(D) and 303(e)(3)(E) of the Act. Management agencies must demonstrate the legal, institutional, managerial and financial capability and specific activities necessary to carry out their responsibilities in accordance with section 208(c)(2)(A) through (I) of the Act.*

Introduction

Prior to the 2001 revision of the Water Quality Management Plan (WQMP), Management Agencies were addressed in Work Element 13 of the WQMP. Management agencies previously designated in Work Element 13 have been "relocated" to Work Element 5.

I. -- Wastewater Management

Background

Under § 208 of the Federal Clean Water Act, WQMPs are to include identification of agencies necessary to implement the Plan and provision for adequate authority for intergovernmental cooperation. Designated Management Agencies (DMAs) must demonstrate legal, institutional, managerial, and financial capability, and specific activities necessary to carry out their responsibilities. As specified at 40 CFR 130.12(b), CWA Section 201 funding can only be awarded to DMAs that are in conformance with the statewide WQMP. Accordingly, 84 municipalities (including Los Alamos County), 2 counties, 11 sanitation or water and sanitation districts, 4 state agencies, and 2 Native American tribal entities have been designated wastewater management agencies. One of the two Native American Tribal entities, the Navajo Tribal Utility Authority, has been designated as an interim wastewater management agency.

The WQCC has the responsibility for designating management agencies. Under federal regulations[15], management agency designations must be certified by the Governor, and the EPA Administrator shall accept such designations unless he/she finds that the designated management agencies do not have adequate specified authorities required in § 208 (c)(2).

[15] 40 CFR 130.6(e)

The Governor certified the designation of 97 wastewater management agencies in 1980. Other additional management agencies were certified in September 1983, August 1984, October 1985, April 1999, and May 2001. A total of 103 wastewater management agencies have been designated.

Incorporated municipalities, counties, and sanitation and water and sanitation districts have the necessary authorities under state law to satisfy the requirements of Section 208(c)(2) of the CWA. State law provides the designated State agencies with the necessary authority to design, construct, operate, and maintain wastewater treatment plants and to accept and utilize State and/or Federal funds for these purposes.

The Navajo Tribal Authority has been delegated the necessary authority by the Navajo Tribal Council to satisfy the requirements of Section 208(c)(2) of the CWA. The Navajo water Commission, the agency responsible for Section 208 planning on the Navajo Reservation, has determined that the Authority should be an interim management agency with the designation to be reviewed annually.

The Pueblo of Pojoaque is a Federally recognized Indian tribal entity and has adequate authority over facilities under its jurisdiction to serve appropriately as a wastewater management agency.

Designated wastewater management agencies are listed in the following tables. Each agency that has accepted this designation shall be responsible for wastewater management in its facility planning area and shall, if the agency satisfies applicable Federal regulations, be able to receive Section 201 construction grants funding.

Designated Management Agencies for Wastewater Management

INCORPORATED MUNICIPALITIES Agency Designated	Accepted	Rejected
Alamogordo	X	
Albuquerque	X	
Artesia	X	
Aztec	X	
Bayard	X	
Belen	X	
Bernalillo	X	
Bloomfield	X	
Capitan	X	
Carlsbad	X	
Carrizozo	X	
Causey	X	
Chama	X	
Cimarron	X	
Clayton	X	
Cloudcroft	X	
Clovis	X	
Columbus	X	
Corona	X	
Cuba	X	
Deming	X	
Des Moines	X	
Dexter	X	
Dora	X	
Eagle Nest	X	
Elida	X	
Encino	X	
Espanola	X	
Estancia	X	
Eunice	X	
Farmington	X	
Floyd	X	
Folsom	X	
Fort Sumner	X	
Gallup	X	
Grady	X	
Grants	X	
Grenville		X
Hagerman	X	

INCORPORATED MUNICIPALITIES Agency Designated	Accepted	Rejected
Hatch	X	
Hobbs	X	
Hope		X
House	X	
Jal	X	
Jemez Springs	X	
Lake Arthur	X	
Las Cruces	X	
Las Vegas	X	
Logan	X	
Lordsburg	X	
Los Alamos County	X	
Los Lunas	X	
Loving	X	
Lovington	X	
Magdalena	X	
Maxwell	X	
Melrose	X	
Moriarity	X	
Mosquero	X	
Mountainair	X	
Pecos	X	
Portales	X	
Questa	X	
Raton	X	
Red River	X	
Reserve	X	
Rio Rancho	X	
Roswell	X	
Roy	X	
Ruidoso	X	
San Jon	X	
San Ysidro	X	
Santa Fe	X	
Santa Rosa	X	
Silver City	X	
Socorro	X	
Springer	X	
Sunland Park	X	

INCORPORATED MUNICIPALITIES Agency Designated	Accepted	Rejected
Taos	X	
Tatum	X	
Texico	X	
Truth or Consequences	X	
Tucumcari	X	
Tularosa	X	
Vaughn	X	
Virden		X
Wagon Mound	X	
Willard		X

COUNTIES Agency Designated	Accepted	Rejected
Valencia	X	
Dona Ana	X	

SANITATION DISTRICTS / WATER & SANITATION DISTRICTS Agency Designated	Accepted	Rejected
Alpine Village Sanitation District	X	
Anthony Sanitation District	X	
Bluewater Water & Sanitation District		X
El Valle de los Ranchos Water & Sanitation District	X	
Lakeshore City Sanitation District	X	
Pena Blanca Water & Sanitation District	X	

SANITATION DISTRICTS / WATER & SANITATION DISTRICTS Agency Designated	Accepted	Rejected
Ranchos de Placitas Sanitation District	X	
San Rafael Water & Sanitation District	X	
Thoreau Water & Sanitation District	X	
Twining Water & Sanitation District	X	
Williams Acres Water & Sanitation District	X	
Yah-ta-hey Water & Sanitation District	X	

STATE AGENCIES Agency Designated	Accepted	Rejected
Corrections Dept.	X	
Dept. of Finance and Administration	X	
Health and Environment Dept.	X	
Natural Resources Dept.	X	

NATIVE AMERICAN TRIBAL ENTITIES Agency Designated	Accepted	Rejected
Navajo Tribal Utility Authority (interim wastewater management agency)	X	
Pueblo of Pojoaque	X	

Strategy

1) As economic development and growth continue in New Mexico, or as the need arises, additional designated management agencies for wastewater will be considered.

2) The WQCC will consider new designated management agencies upon presentation of a petition requesting such designation.

3) Designation of a Management Agency will occur only after appropriate public participation and presentation of relevant authorities by the applicant.

II. Management Agencies for Nonpoint Sources of Pollution

The New Mexico Nonpoint Source Management Program identifies specific agencies and their programs for the implementation of the nonpoint source management and control program. Under the NPSMP, interagency agreements (e.g., MOUs) may be established to outline management responsibilities unique to each agency's area of responsibility and expertise.

Strategy

1) Agencies or organizations participating through formal agreements under the NPSMP will be considered a designated management agency for purposes the WQMP.

Work Element 6 – Implementation Measures

(Revised: [month/year])

Requirements for Work Element 6

Regulation 40 CFR 130.6(c)(6) requires:

> *[i]dentification of implementation measures necessary to carry out the plan, including financing, the time needed to carry out the plan, and the economic, social and environmental impact of carrying out the plan in accordance with section 208(b)(2)(E).*

Background

Schedules that specify when pollution control programs are expected to be implemented are useful in tracking the progress of control programs incorporated into the Water Quality Management Plan. Implementation schedules inform management agencies responsible for the programs and other interested or affected parties of when significant milestones leading to implementation are expected to occur.

According to federal regulations (40 CFR 130.6(c)), a plan element may be "referenced as part of the WQMP if contained in separate documents." The State of New Mexico has elected to utilize its Clean Water Act Continuing Planning Process as an "umbrella" planning document to describe implementation measures employed by the State to protect water quality and to carry out the plan. The CPP utilizes a "modular" approach to planning documents. In this approach, planning and protocol documents are incorporated by reference. This method facilitates updates and improvements of specific modules more readily than rewriting/reviewing an entire document.

Where appropriate or required, individual documents also contain additional implementation procedures specific to that document. For example, section 20.6.4.8 of the New Mexico *Water Quality Standards for Interstate and Intrastate Surface Waters*, [20.6.4 NMAC] defines the State's "Antidegradation Policy and Implementation Plan." In particular, the antidegradation plan addresses economic, social and environmental concerns pertinent to the policy. Another example is the State's Nonpoint Source Management Program that identifies implementation and financing of measures under that program.

Implementation schedules may also be affected by statutory or Court imposed orders. An example of a statutory schedule is CWA § 303(c) that requires States to review their water quality standards every three years. An example of a Court imposed schedule is the Consent decree and settlement agreement that resulted from *Forest Guardians and Southwest Environmental Center v. Carol Browner, Administrator, U. S. Environmental Protection Agency* and the consequent MOU between the USEPA and the NMED for the development of TMDLs (see Work Element 1).

Measures for financing these programs may arise from a variety of source including federal grants (e.g., CWA §§ 106, 201, and 319), state budgets authorized by the Legislature, state revolving funds, local governments, cost sharing with stakeholders (public and private) or other means as appropriate to the task.

Strategy

1) The New Mexico Continuing Planning Process is incorporated by reference.

2) Utilize the CPP as a reference guide to program implementation and scheduling.

3) Adhere to statutory, regulatory, and Court sanctioned schedules.

4) Utilize funding sources appropriate to the task.

Work Element 7 – Dredge or Fill Program

(Revised: [month/year])

Requirements for Work Element 7

Regulation 40 CFR 130.6(c)(7) requires:

> *[i]dentification and development of programs for the control of dredge or fill material in accordance with section 208(b)(4)(B) of the Act.*

Background

The United States Department of the Army, Corps of Engineers is responsible for issuing permits for activities involving the discharge of dredge and fill materials as required pursuant to § 404 of the federal Clean Water Act. Where a State, such as New Mexico, is not delegated primacy for the issuance of permits (e.g., permits for dredged or fill material) pursuant to the CWA, the State is entitled pursuant to § 401 of the CWA to review discharges (and permits) to ensure the discharge will: 1) be compatible with appropriate state law; 2) protect water quality standards adopted in accordance with § 303 of the CWA; and 3) implement an effective water quality management plan. In such review, or certification, the State may: 1) approve the discharge without condition; 2) approve the discharge subject to conditions necessary to meet one of the three aforementioned criteria; 3) deny certification; or 4) waive certification. The New Mexico Water Quality Act (NMWQA) assigns the responsibility for certifying permits issued under the CWA to the New Mexico Environment Department (§74-6-4.E NMSA 1978). The NMWQA also specifies[16] conditions where a certification shall be denied.

The dredge or fill program is has also been addressed in the *New Mexico Nonpoint Source Management Program*[17].

Strategy

1) The *New Mexico Nonpoint Source Management Program* is hereby incorporated by reference.

2) The NM Environment Department will review dredge or fill permit actions for purposes of state certification. The Environment Department will assure through appropriate review and communication with the permitting authority that permit requirements and effluent limitations are: compatible with appropriate state law, protect water quality standards and implement the water quality management plan.

[16] § 74-6-5.E - NMSA 1978, 1993 Replacement Pamphlet
[17] July 1999 page 47.

Work Element 8 – Basin Plans

(Revised: [month/year])

Requirements for Work Element 8

Regulation 40 CFR 130.6(c)(8) requires:

> *[i]dentification of any relationship to applicable basin plans developed in accordance with section 209 of the Act.*"

Background

Basin plans were initially developed by the State for water quality planning in the early and mid 1970's. In the 1980's the State elected to do its planning on a "state-wide" basis rather than a "basin-wide" basis. The USEPA approved New Mexico Continuing Planning Process, indicates *"the State has chosen to do its water quality management planning on a statewide basis and therefore has no areawide water quality management plans or basin water quality management plans*[18]*."*

Strategy

1) Continue water quality management planning on a statewide basis.

[18] 1987 NM Continuing Planning Process, page 7 and 1998 NM Continuing Planning Process page 6.

Work Element 9 – Ground water
(Revised: [month/year])

Requirements for Work Element 9

40 CFR 130.6(c)(9) specifies that:

> "…*States are not required to develop ground-water WQM plan elements beyond the requirements of section 208(b)(2)(k) of the Act.*" [Emphasis added.]

Section 208(b)(2) of the Act states:

> "*[a]ny plan prepared ... shall include but not be limited to: ... (k) a process to control the disposal of pollutants on land or in subsurface excavations within such area to protect ground and surface water quality.*"

Background

The WQCC has adopted comprehensive regulations [20.6.2 NMAC], including ground water quality standards and a discharge permitting program, for the protection of ground water quality under the authority of the New Mexico Water Quality Act (NMWQA). In accordance with the NMWQA [§ 74-6-4 NMSA 1978] the WQCC has delegated responsibility for administering its regulations regarding ground water protection to the New Mexico Environment Department and the New Mexico Oil Conservation Division (NMOCD) of the New Mexico Energy Minerals and Natural Resources Department[19]. The WQCC reviews and changes its regulations, as it deems appropriate.

In conjunction with the department-wide efforts to create/improve electronic databases, the NMED Ground Water Quality Bureau has developed a computerized database. The database addresses aspects of all of the ground water protection programs, including pollution prevention, assessment and abatement, Superfund oversight, and voluntary remediation.

The NMED database is designed to be GIS-compatible and to provide information on site characteristics, including contaminant types, legal entities, regulatory deadlines and issues, public notices, soil and ground water analytical data, well construction details, generalized lithology, and other related information. The database can be used to track regulatory timelines, providing notices of due dates to NMED staff for site-related correspondence and activities. The database may be used by the NMED to respond to public or regulatory-related inquiry, and for supporting production of the 305(b) Report to Congress.

The NMOCD has developed similar database functions to assist in the implementation of the ground water quality protection regulations.

[19] *Delegation of Responsibilities to Environmental Improvement Division and Oil Conservation Division* July 21, 1989.

Strategy

1) The WQCC will update the *Ground and Surface Water Protection Regulations* [20 NMAC 6.2] as necessary to meet arising needs.

2) The NMED and the NMOCD will continue to administer the state regulations for ground water protection in accordance with the WQCC's delegation of responsibilities.

Appendix – USEPA Review and Public Participation 2001/2002 WQMP Update

Review Process

Public review and participation for the 2001/2002 update to the WQMP was performed under the "Process for Updating and Maintaining the Statewide Water Quality Management Plan" section of the 1998 CPP.

Preliminary correspondence with the USEPA regarding WQMP update requirements and strategies began April 9, 2001, by letter outlining a comprehensive approach to the project. On September 28, 2001, a preliminary draft was electronically transmitted to EPA requesting comment. On October 29, 2001, USEPA responded to the Surface Water Quality Bureau with their comments. On December 5, 2001, and December 20, 2001, the Surface Water Quality Bureau responded to USEPA's comments with revised preliminary drafts. On December 21, 2001, the USEPA provided the Surface Water Quality Bureau with a letter of Technical Acceptance of the preliminary draft. This review and Technical Acceptance indicated that, if adopted as proposed, the EPA would be able to approve the December 20, 2001 draft of the proposed revisions to the WQMP as required by the Code of Federal Regulations. The December 20, 2001 version then became the basis of public comment.

Public review was initiated by letter to the WQCC, a news release, electronic mailing to interested parties, U.S. Postal Service mailing to the WQCC mailing list, and public notice issued January 18, 2002 published in the Albuquerque Journal (January 18, 2002), The Santa Fe New Mexican (January 21, 2002), the Farmington Daily Times (January 18, 2002), the *Las Cruces Sun News* (January 18, 2002), and the Roswell Daily Record (January 18, 2002). The draft WQMP and public notice was also posted on the NMED's web page. A sixty-day comment period (double the 30-day minimum specified in the CPP) was provided. During the 60-day comment period the Surface Water Quality Bureau held four public meetings at various locations throughout the State. Public meetings were held in Las Cruces (February 4, 2001 – 7 attendees), Roswell, (February 5, 2001 – 3 attendees), Santa Fe (February 6, 2001 – 13 attendees) and Farmington (February 7, 2001 – 16 attendees). During the comment period the SWQB also received (and fulfilled) a request to present the proposed revisions to the winter meeting of the Western Coalition of Arid States (WESCAS). WESTCAS meeting attendees included representatives of western state's and USEPA water quality program officials and managers. WESTCAS was particularly interested in SWQB's approach to the plan by presenting a maximum amount of information through the electronic format. The Surface Water Quality Bureau prepared and mailed to all meeting participants a summary document of oral comments and discussion that occurred during the public meetings. Written comments were received from several citizens and organizations. The draft WQMP and the public participation process was presented and discussed at the April WQCC regularly scheduled open meeting.

Response to Comments

The SWQB greatly appreciates the effort and thought the commenters provided.

General Issues

Where similar comments from separate commenters occurred they have been compiled into a single general issue for response.

General Issue #1

The introduction to the document should be updated, expanded, and retained to better inform the reader as to the purpose of the document. The introduction should be understandable to the public and readers not already familiar with the document.

Response to General Issue # 1

The Introduction was rewritten to better explain the purpose. A new "Preface" section was also added to describe the WQMP update process and goals.

General Issue # 2

There were numerous widely different comments on the overall quality and approach to this update of the WQMP. One commenter expressed dissatisfaction that the document was "not intelligible to a member of the public on first encounter, … the documents seem focused on 'rote compliance' rather than informing and involving the public, … looking at the other states I would rank our efforts dead last … I suggest that an examination of the whole documentation structure needs to be undertaken…." [Mechels]. In contrast other commenters were laudatory of the effort stating the approach was "… exceptionally helpful" [Dairy Producers], "… we support the approach that the Environment Department is taking to simplifying the … Plan" [San Juan Coal Company] "… it is refreshing to me that your agency has chosen to show respect for the people you serve by making the process and information physically and intellectually accessible [and] … done a good job refining the WQMP" [Oldham] and that "… this innovative approach is likely to serve as a model for other states. [LANL]."

Many commenters expressed appreciation and support for the public meetings held throughout the state.

Response to General Issue # 2

Obviously no document is all things to all people. The SWQB greatly appreciates the effort and thoughts of all those persons who attended the public meetings and provided verbal participation as well as those who provided written comments. SWQB has reviewed each comment and did make some changes to help the reader, particularly the "lay person" such as adding a preface and expanding the introduction. It is helpful to understand the broad spectrum of the users of this document for this and future endeavors.

General Issue #3

The CPP and the WQMP both need revision and these revisions should be done concurrently.

Response to General Issue #3

To revise both documents concurrently would be unwieldy and confusing to many who wish to participate. The goals of the current effort, primarily updating a compilation version of the Water Quality Management Plan, have been added to the preface of the document. The SWQB encourages commenters to stay involved as progress is made toward building on the new foundation of the WQMP.

General Issue # 4

Two commenters (Forest Guardians and San Juan Water Commission) addressed concern for the WQCC current statewide approach to planning as opposed to basin planning.

Response to General Issue # 4

As indicated in the current CPP the State has chosen to do its planning on a statewide basis. As stated in the new preface section of the WQMP the goals of this effort do not encompass or address such a large revision to existing policy. This is an issue that should be addressed in its own separate forum. This recompilation / update of the WQMP should provide a clean foundation for initiating future discussions as suggested by these commenters.

Specific Issues

(Note: issue numbers below do not correspond to numbers assigned by the commenter in their correspondence).

The following are responses to specific issues in written comments not addressed in general responses. Specific comments are briefly summarized below. The full context of the comment is available through the electronically attached copy of each commenter's submittal.

Concerned Citizens for Nuclear Safety (CCNS) Issue # 1

The Public Participation work element should not be deleted. Public participation is an essential component of a management plan and informing the public of government actions and decision-making. Eliminating the public participation element would violate 40 CFR 130.6(c)(9)(v).

Response to CCNS Issue # 1

SWQB recognizes the value of public participation. SWQB encourages and is actively seeking new ways to improve accessibility and public participation. In this light, SWQB sponsored four public meetings throughout the State to consider the WQMP revisions. The intent of this document utilizing an electronic format is to facilitate public access to large volumes of information through a single document. SWQB has a full time public outreach coordinator who is in the process of completing a draft public participation protocol for all the Bureau's activities.

This protocol is undergoing internal and USEPA review. SWQB will seek public review of the protocol in the near future.

The public participation work element ("old" Work Element 11) was last revised in 1978. Public Participation and outreach is a key aspect of all of the subprograms under the Clean Water Act and the Water Quality Act (e.g., water quality standards development, TMDL development, regulation review etc.). Public Participation is described in individual programmatic plans (e.g., the Nonpoint Source Management Plan) and the Continuing Planning Process document. Public review of this WQMP proposal was carried out in accordance with requirements specified in the CPP. The emphasis of old W.E. 11 as adopted in 1978 focused on CWA §208 planning and how public input was obtained in reaching the 1978 plan. Some references to federal regulations within the old W.E. 11 are now obsolete. Finally procedures for public participation and education in 1978 could not have envisioned and therefore do not address the current power of the Internet and electronic documents as a means of outreach. In the future, planning efforts will continue to directly incorporate public participation procedures in documents such as the CPP, and may be incorporated as a modern work element in future revisions/updates to the WQMP.

SWQB disagrees that eliminating the public participation element at this time would violate 40 CFR 130.6(c)(9)(v). 40 CFR 130.6(c)(9) is the requirement for a Ground Water work element. Paragraph 9 states:

> *...[i]f a State chooses to develop a ground-water quality plan element, it should describe the essentials of a State program and should include, but is not limited to: ...(v) [p]rocedures for program management and administration including ... public participation....* [Emphasis added.]

EPA's use of the term "should" indicates inclusion is not mandatory. However, the Work Element 9 references the WQCC Regulations for Ground and Surface Water Protection found at 20.6.2 NMAC. Those regulations (e.g., 20.6.2.3108 NMAC – Public Notice and Participation and 20.6.2.3110 NMAC – Public Hearing Participation) spell out public participation requirements for the ground water protection program. Finally, SWQB consulted with the USEPA regarding the proposed revisions to the WQMP prior to public notice to ascertain if the revisions met the requirement of the Clean Water Act and the Code of Federal Regulations. The USEPA responded that the document as proposed was "technically acceptable."

Mechel Issue #1

NMED must undertake a major upgrade of it web-site.

Resonse to Mechel Issue #1

While not directly related to the WQMP, NMED agrees that the website should be a major tool in communicating with the public and the regulated community and continues to work toward improving and expanding its website. Internal work groups have been formed and SWQB is participating in that effort.

E. Oldham Issue # 1

The plan is reactive and not proactive. I expect the limitations lie in the enabling legislation, and as such are beyond your authority … there is a legal and regulatory disconnect between water rights, water supply, and water quality.

Response to E. Oldham Issue #1

The SWQB appreciates the time and effort that you have put into local water issues and would encourage you to continue to voice your concerns.

Forest Guardians Issue #1

In general, we [Forest Guardians] find the WQMP draft to be inadequate due mainly to it's [sic] reference to numerous other documents (the Continuing Planning Process in particular) that are currently being revised and/or are not yet approved by EPA. In referring to the CPP, the WQMP places most of it's implementation measures and authority in that document, one which is being revised and is as yet unapproved by the EPA. The Clean Water Act explicitly states there must be *adequate authority and implementation in a WQMP*. §303(e)(3)(E and F), 33 U.S.C.A. §1313 (emphasis added). By deferring this implementation and authority to other documents like the CPP, NMED is not following this mandate of the CWA.

Response to Forest Guardians Issue # 1

The SWQB is currently involved in drafting revisions to the CPP. However, the 1998 CPP that is referenced throughout the draft WQMP has been approved by the USEPA. SWQB consulted with the USEPA regarding the proposed revisions to the WQMP prior to public notice to ascertain if the revisions met the requirement of the Clean Water Act and the Code of Federal Regulations. The USEPA responded that the document as proposed was "technically acceptable."

Forest Guardians Issue #2

Forest Guardians provided extensive comment on the voluntary nature of implementing Best Management Practices in TMDLs and their opinion that the WQMP should establish more clearly what regulatory mechanisms would be used to ensure that appropriate control actions are taken.

Response to Forest Guardians Issue # 2

The many TMDLs listed in the compilation revision of Work Element 1 have all been previously reviewed by the public, adopted by the WQCC and approved by the USEPA. This compilation revision did not open the TMDLs for additional debate or approval. The purpose of this revision to the WQMP was to compile existing TMDLs and relocate those TMDLs from one Work Element to another. Forest Guardians is encouraged as are other members of the public to

participate in the development and implementation of TMDLs in the forum provided as each TMDL is developed, reviewed, and approved.

Individual TMDL plans include implementation measures specific to that plan. As stated in the "background" section of the Work Element 1, current statutory and regulatory frameworks provide for implementation through the NPDES permit program for point source discharges and the CWA section 319 Nonpoint Source Management program for other sources. To help clarify this SWQB has added Strategy #3 to the Work Element to address this approach.

Presently, there is no requirement under the federal Clean Water Act for reasonable assurances for implementation of nonpoint source TMDLs. As stated in existing guidance (Guidance for Water Quality-Based Decisions: The TMDL Process, EPA 440/4-91-001, April 1991) implementation of nonpoint source TMDLs is through voluntary programs, such as section 319 of the Clean Water Act. According to the proposed regulations for TMDLs (40 CFR 130.2[p]), site-specific or watershed-specific voluntary actions are mechanisms that may provide reasonable assurances for nonpoint sources. The SWQB has implemented TMDLs statewide through a strong Watershed Protection Program. This program will continue to provide for the implementation of nonpoint source TMDLs.

Pursuant to Section 303(e)(1) of the Clean Water Act (CWA), the Surface Water Quality Bureau (SWQB) has established appropriate monitoring methods to evaluate the effectiveness of controls or Best Management Practice (BMP) activities. In order to optimize the efficiency of this monitoring effort, the SWQB has adopted a rotating basin monitoring strategy. This strategy is based on a 5-7 year return interval, and provides improved coordination and monitoring of BMP effectiveness.

Implementation plans are included in every TMDL in New Mexico. As stated in the TMDL document, this is a general implementation plan for activities to be established in the watershed. The SWQB will further develop the details of the plan with the help and cooperation of the stakeholders and other interested parties in the watershed. Detailed watershed management plans that include specific BMPs should be developed by and for watershed stakeholders. In this watershed, public awareness and involvement will be crucial to the successful implementation of this plan and improved water quality. Staff from the SWQB will work with stakeholders to provide the guidance in developing the Watershed Restoration Action Strategy (WRAS). The WRAS is a written plan intended to provide a long-range vision for various activities and management of resources in a watershed. It includes opportunities for private landowners and public agencies to reduce and prevent impacts to water quality. This long-range strategy will become instrumental in coordination, reducing, and preventing further water quality impacts in the watershed. SWQB staff assists with technical assistance such as the selection and application of BMPs needed to meet WRAS goals. The watershed management plans would include any specific BMPs for activities, such as grazing or road runoff and maintenance that are identified as contributing to the water quality impairment. It is not the intention of the SWQB to provide an all inclusive watershed management plan in the TMDL documents. In order to obtain reasonable assurances for implementation in watersheds with multiple landowners including Federal, State, and private land, the SWQB has established Memoranda of Understanding

(MOUs) with various Federal and State agencies. These MOUs provide for co-ordination and consistency in dealing with Nonpoint source issues.
Milestones are also used in the implementation plans in the TMDL documents to determine if BMPs are implemented and standards attained.

Forest Guardians Issue #3

Forest Guardians in an extensive comment assert that the WQMP must include implementation procedures for consultation with the U.S. Fish and Wildlife Service to comply with the Endangered Species Act.

Response to Forest Guardians Issue # 3

The Code of Federal Regulations (40 CFR 130.6) specifies the nine required elements of a WQMP [see revised Introduction to the WQMP]. SWQB consulted with the USEPA regarding the proposed revisions to the WQMP prior to public notice to ascertain if the revisions met the requirement of the Clean Water Act and the Code of Federal Regulations. The USEPA responded that the document as proposed was "technically acceptable."

Los Alamos National Laboratory (LANL) Issue #1

LANL urges NMED and the WQCC to archive records with the State Records Center so there is public access to these records.

Response to LANL Issue # 1

SWQB agrees archiving WQCC records is important. While not directly responsible for archiving WQCC documents, SWQB is aware that many WQCC documents are already in archive at the State Records Center.

As shown in the TMDL tables of Work Element 1, SWQB has begun to use the capabilities of electronic documents by incorporating hyperlinks to relevant documents such as WQCC minutes and correspondence from EPA approving the TMDLs to enhance the public record.

LANL Issue # 2

LANL provided extensive comment on the overall planning process and useful comparisons on the intent and requirement of the WQMP and the CPP.

Response to LANL Issue # 2

SWQB appreciates the time and effort of LANL in providing this useful information and would encourage LANL to continue to participate in future water quality planning initiatives. As stated in the new Preface SWQB envisions this compilation and update of the WQMP to be the precursor to building a stronger WQMP in future actions. The information will also be useful in future review of the CPP.

LANL Issue #3

LANL commented that this plan "does not identify priority water quality problems or issues."

Response to LANL Issue #3

SWQB partially agrees with LANL and, as in the previous comment, believes that this might be an area to explore in future reviews in that priorities might be more explicit. However, by default, inclusion of certain issues in the WQMP is an expression of priority. For example TMDLs in Work Element 1 are developed and adopted in response to problems noted in watersheds via the CWA §303(d) list. Another example of how the WQMP is working to prioritize is through the incorporation by reference of the *New Mexico Nonpoint Source Management Program*. The Nonpoint Source Management Program details how nonpoint source project will be prioritized.

LANL Issue # 4

LANL suggested insertion in the introduction of a matrix that indicates the disposition of the all the old work elements / work element strategies.

Response to LANL Issue #4

SWQB summarized the disposition of the various affected work elements in the PowerPoint® presentation made to the public in February 2002 and the similar but slightly different PowerPoint® presentation made to the WQCC in April 2002. The SWQB had prepared an "proposed action table" of notes in the process of preparing this revision that addresses LANL's issue. The Table would not be appropriate in the introduction as suggested by LANL because of its size and format. However SWQB includes the notes or Proposed Action Table in this response to comments that is appended to the WQMP and should therefore serve those interested in the question.

LANL Issue # 5

The list of TMDLs could be adequately presented in a table that would not occupy as much space.

Response to Issue # 5

SWQB concurs and has reformatted the information into a table format.

LANL Issue # 6

Work Element 1 should include a description of the prioritized TMDL activities and issues that will be the focus of the coming years work.

Response to LANL #6

Strategy 1 for Work Element 1 addresses this issue. At the time the draft WQMP was prepared an electronic copy of the Forest Guardians/USEPA Settlement Agreement was not available thus no hyperlink was provided. An electronic copy of the Settlement Agreement has been created and a hyperlink created. Access to a copy of the Settlement Agreement will provide additional information.

LANL Issue # 7

Tables 1-1, 1-2, and 1-3 are point source load allocations that were established by TMDLs prior to 1999. It seems these tables should be in Work Element 2.

Response to LANL Issue #7

Tables 1-1, 1-2, and 1-3 are from TMDLs and therefore SWQB believes inclusion in Work Element 1 is appropriate. These tables are included separately because due to their age they are not available electronically *in toto*. The intent of Work Element 2 is to define a process for NPDES effluent limitations rather than a list. USEPA has reviewed this approach and has provided a letter that this approach is technically acceptable.

LANL Issue #8

A list of NPDES permits, with the location of discharge and status should be provided in this plan or hyper linked to the plan. A list of NPDES permits is available on the NMED website.

Response to LANL Issue #8

The SWQB maintains a list of NPDES permits on its website for informational purposes. A reference to the website address has been added to the "Background" section of Work Element 2.

LANL Issue #9

In Work Element 2, strategies 2, 3, and 4 are EPA responsibilities and it is not clear why they are part of the strategy for New Mexico.

Response to LANL Issue #9

As stated in the Background of Work Element 2, the USEPA currently has the responsibility to issue NPDES permits. The language utilized in strategies 2, 3, & 4 does not refer directly to EPA but refers appropriately to the "NPDES permitting authority" whether that is the USEPA or the State. The strategies are also informative to the public.

Response to LANL Issue # 10

Work Element 2 should include a description of prioritized NPDES activities and issues that will be the focus of the coming years as required by 40 CFR 130.6(b). As noted in the Work Element the State is not delegated primacy for the NPDES permit program. NPDES permitting priorities are set by permitting agency. The State's priorities are expressed in strategies 5 & 6 and the background information that describes the importance of those activities (e.g., review and certification of proposed NPDES permits to assure all permits are compatible with appropriate state law, protect state adopted water quality standards and implement the state adopted water quality management plan). USEPA has reviewed this approach and has provided a letter that this approach is technically acceptable.

LANL Issue # 11

In Work Element 3 the referenced documents should be hyperlinked.

Response to LANL Issue # 11

Additional hyperlinks have been added.

LANL Issue # 12

Work Element 3 should include a description of the prioritized waste treatment activities and issues that will be the focus of the coming years as required in 40 CFR 130.6(b).

Response to LANL Issue # 12

An additional strategy (#6) has been added to Work Element 3 to clarify that New Mexico's priorities will be guided by the documents referenced in the Work Element.

LANL Issue # 13

The description of Work Element 4 should be expanded to include the use of BMPs controlling nonpoint sources and funding for nonpoint source pollution control activities. The expanded description should be comparable to Work Elements 1 and 2.

Response to LANL Issue # 13

The Nonpoint Source control program including the use of BMPS and funding descriptions is fully described by the *New Mexico Nonpoint Source Management Program* document that is incorporated into the WQMP by reference as indicated in Strategy 1 and the list of documents incorporated by reference.

LANL Issue # 14

Work Element 4 should include a schedule for revision of the Nonpoint Source Management Plan and should also include the prioritized nonpoint source management activities for the coming years as required in 40 CFR 130.6(b).

Response to LANL Issue # 14

The Clean Water Act does not specify a particular timeframe for revision of the Nonpoint Source Management Plan adopted in accordance with Section 319 of the Act. Therefore, EPA indicates the Plan only needs to be revised as needed. Another strategy has been added to indicate the Plan will be revised as needed

The method of prioritization of nonpoint source activities is contained in the Nonpoint Source Management Plan that is incorporated by reference. For example, the Plan provides for the prioritization of projects, solicited through an annual Request For Proposal process. According to the Plan, projects in impaired waterbodies identified through the CWA §303(d) list will receive a higher priority than proposed project in non-impaired waters. USEPA has reviewed this approach and has provided a letter that this approach is technically acceptable.

LANL Issue # 15

LANL suggested an editorial change of removing the "rejected column" of Designated Management Agencies in Work Element 5.

Response to LANL Issue # 15

SWQB appreciates the comment but in this effort the SWQB has with only minor changes (i.e., additions since the table was last printed and word processing changes) transplanted the tables of earlier versions of the WQMP into this version.

LANL Issue # 16

In Work Element 6 the Background section should include a schedule.

Response to LANL Issue # 16

The Work Element does not require schedules; explanations of what kinds of implementation measures are identified and strategies for schedules are appropriate.

LANL Issue # 17

In Work Element 6, an explicit listing of funding programs that are used for water pollution control activities should be provided.

Response to LANL Issue # 17

The last paragraph of the Background section of this Work Element provides such a listing.

LANL Issue # 18

In Work Element 9, LANL suggests the discussion is out of place within the context of the work element and that a concise overview of the regulations would be more consistent.

Response to LANL Issue # 18

A concise overview of the regulations is presented in the first paragraph of the background and a link is provided to the regulations that "speak for themselves." The discussion on databases at the Bureau and Department levels is appropriate. Database management and computer technology (e.g., geographic information systems) in a modern and efficient workplace are critical tools in the process to control the disposal of pollutants.

San Juan Coal Company Issue # 1

San Juan Coal strongly disagrees with the inconsistent approach proposed for the TMDL element, that [they] understand has been pushed by EPA. The planning document is not the place for a library of every TMDL. San Juan supports the NMED's approach taken with other elements, i.e., a summary of how the element fits into the plan and hot links to additional information. That approach will work equally well with the TMDL elements. The Water Quality Plan can include a hot link to the TMDL program library … recreating that library in the WQMP is inefficient and redundant use of our state staff. The EPA's proposed approach is also inconsistent with the Federal Paperwork Reduction Act because it not only forces a duplication of effort, but creates duplicate "electronic paper" that occupies computer space.

Response to San Juan Coal Company Issue #1

SWQB feels the detailed listing of TMDLs in the revised table is useful to the public and the agency. The TMDL tables with their hot links serve as a compilation and directory to very important documents with high public interest. The electronic document approach adopted by SWQB streamlines the WQMP dramatically. SWQB cannot comment on EPA's approach to these documents but feels that the approach the SWQB has adopted is useful to the Commission and the public.

San Juan Water Commission

All of San Juan Water Commission's issues were addressed under the general issues above.