

---

## 4.0 REMOVAL OF CONSENT DECREE LISTINGS

The Río Puerco and San Pablo Canyon were identified as part of the Río Puerco Bundle in the *Forest Guardians and Southwest Environmental Center (Plaintiffs) v. Carol Browner, in her official capacity as Administrator, EPA (Defendant): Joint Motion for Entry of Consent Decree* (U.S. District Court for the District of New Mexico 1997). As part of this Consent Decree the Río Puerco Bundle TMDLs were required to be completed by December 31, 2006. The specific impairments listed on the 303(d) list approved by the USEPA on May 1, 1996 and therefore covered by the Consent Decree are identified in the following sections with an explanation on the actions the SWQB has taken for these waterbodies.

### 4.1 Río Puerco

The upper portion of the Río Puerco from Rito Olguin to the headwaters (later called Río Puerco [Rito Olguin to headwaters]) was originally listed on the 1996 CWA §303(d) list as impaired for temperature and sedimentation/siltation (previously referred to as “stream bottom deposits”) and the lower portion Río Puerco from the mouth on the Río Grande to Rito Olguin (later called Río Puerco [non-pueblo lands Río Grande to Rito Olguin]) was listed for sedimentation/siltation. The sedimentation/siltation listing for Río Puerco (non-pueblo lands Río Grande to Rito Olguin) was removed in 1998 based on the intermittent status of this reach (NMED/SWQB 2004a). The listings for temperature and sedimentation/siltation for the Río Puerco (Rito Olguin to headwaters) have remained on subsequent CWA §303(d) lists based on the need for additional information to verify the impairments.

Before the 2004 Río Puerco study began, the original two assessment units were refined and renamed based on additional information gathered by the SWQB about the Río Puerco watershed. The new assessment units are Río Puerco (non-pueblo lands Río Grande to Arroyo Chijuilla), Río Puerco (Arroyo Chijuilla to Northern boundary Cuba), and Río Puerco (Northern boundary Cuba to headwaters). Arroyo Chijuilla is approximately 20 miles north of Rito Olguin (Figure 2.1) and the Río Puerco reach in between these two tributaries is intermittent. Therefore, the lowest reach of the Río Puerco will continue to be listed as not impaired for sedimentation/siltation.

The 2004 Río Puerco study included several sampling stations on the Río Puerco (Figure 2.1 and Table 3.1). Based on information from these sampling stations, the reach Río Puerco (Arroyo Chijuilla to Northern boundary Cuba) has been determined to be a perennial reach with an existing use of marginal warmwater aquatic life (see Section 2.3).

A thermograph was deployed at the station Río Puerco @ Hwy 550 Bridge on June 16, 2004 and was retrieved on December 17, 2004. During this period, temperature readings never exceeded the marginal warmwater criteria of 32.2°C (20.6.4.900). The maximum temperature recorded was 28.14°C. Based on these new temperature data and the designated and existing uses in this reach, there are no water quality impairments for temperature on the reach Río Puerco (Arroyo Chijuilla to Northern boundary Cuba). As stated in the Consent Decree, waters removed from the CWA §303(d) list will not require development of a TMDL.

---

A biological and stream bed assessment was also performed at the station Río Puerco @ Hwy 550 Bridge which confirmed the sedimentation/siltation listing and is discussed in Section 3.0 of this TMDL document.

Between March and July 2004, SWQB staff conducted surveys to assess the physical and biological condition of Río Puerco (Northern boundary Cuba to headwaters) at the only established station in this assessment unit - Río Puerco @ CR13 Bridge. Subsequent visits to this site in August to November 2004 revealed that this station was not flowing and SWQB staff were unable to collect additional water quality samples or biological samples.

Based on the information gathered during the 2004 Río Puerco survey, the SWQB has determined that Río Puerco (Northern boundary Cuba to headwaters) is not perennial for the entire length of this assessment unit. SWQB has therefore determined that the applicable water quality standard segment for this intermittent reach is 20.6.4.98. There are no temperature criteria associated with 20.6.4.98. The general bottom deposit criteria found in 20.6.4.13.A NMAC and SWQB's sedimentation/siltation assessment protocol are not applicable to non perennial reaches. Therefore, there were no identified water quality impairments for either sedimentation/siltation or temperature at this station during the 2004 survey. As stated in the Consent Decree, waters removed from the CWA §303(d) list will not require development of a TMDL.



**Photo 4.1 Río Puerco at County Road 13 Bridge (September 1, 2004)**

---

Information supporting the recommendation for delistings for the Río Puerco is located in the SWQB administrative record file, which is open to public inspection upon appointment.

## **4.2 San Pablo Canyon**

San Pablo Creek from the mouth on the Río Puerco to the headwaters (later changed to San Pablo Canyon [Río Puerco to headwaters]) was originally listed on the 1996 CWA §303(d) list as impaired for turbidity, nutrients, and sedimentation/siltation. The turbidity impairment was removed from the CWA §303(d) list in 1998 because the original listing was based on only one data point and according to the SWQB 1998 assessment protocols should have been identified as Full Support, Impacts Observed. The listings for nutrients and sedimentation/siltation have remained on subsequent CWA §303(d) lists based on the need for additional information to verify the lists. The 2004 Río Puerco study included a sampling station on San Pablo Creek (i.e. San Pablo Canyon above Río Puerco). On March 30, 2004 and April 15, 2004, SWQB staff conducted surveys to assess the physical and biological condition of San Pablo Canyon. Subsequent visits to this site in May 2004 to November 2004 found that San Pablo Canyon was not flowing and SWQB staff were unable to collect additional water quality samples or biological samples.

Based on the information gathered during the 2004 Río Puerco survey, the SWQB determined that San Pablo Canyon is not perennial at all points, and therefore does not fall under 20.6.4.109 NMAC. SWQB determined that the applicable water quality standard segment San Pablo Canyon is 20.6.4.98. The general bottom deposit and plant nutrient criteria found in 20.6.4.13 NMAC and SWQB's assessment protocols for these two items are not applicable to non perennial reaches. Therefore, there are no identified water quality impairments for either sedimentation/siltation or plant nutrients on this reach during the 2004 survey. As stated in the Consent Decree, waters removed from the CWA §303(d) list will not require development of a TMDL.



**Photo 4.2 San Pablo Canyon above Highway 550 (June 30, 2004)**

Information supporting the recommendation for delisting San Pablo Canyon from the mouth on the Río Puerco to the headwaters for sedimentation/siltation and plant nutrients is located in the SWQB administrative record file, which is open to public inspection upon appointment.