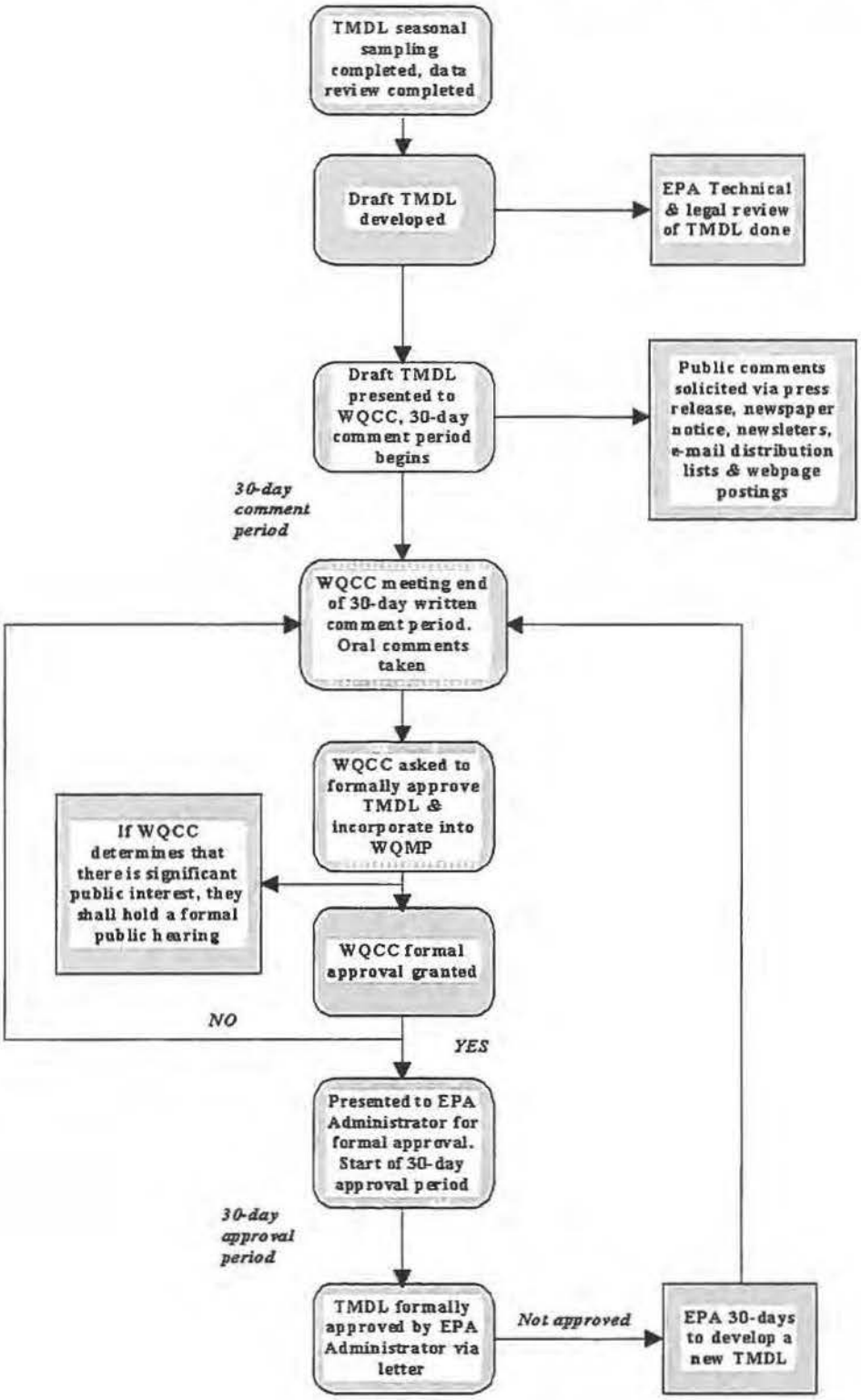
APPENDIX B. PUBLIC PARTICIPATION



Appendix C:

Public Comments and Responses will be inserted here.

Appendix C:

One response was received during the public comment period. Jose Varela Lopez, a private citizen, provided three comments. His comment and the responses follow. Also attached is a copy of his original letter containing these comments.

C: According to recently released information in the Jemez Y Sangre Water Supply Study the dissolved oxygen and pH both fall within acceptable parameters outlined in the TMDL Draft Plan's Water Quality Criteria. I do not know why the numerical differences exist with respect to the two plans, but believe that the inconsistencies should be addressed.

R: The only pH or dissolved oxygen data presented in the Draft Jemez y Sangre Water Planning Region's Water Supply Study (August, 2000) are that of the National Water Quality Assessment (NWQA) administered by the U.S. Geological Survey. These data are median values for pH (8.5) and dissolved oxygen (102 percent saturation). The medians do not indicate what the maximum values for pH were, or the minimum values for dissolved oxygen. Violations of NM water quality standards are not based on medians. It is possible to violate water quality standards with only one sample. It is also possible to have violations of a standard in a data set that when a median is calculated, the median is not a violation of a standard. It is not clear that the NWQA data presented was collected using similar methods and measuring tools employed SWQB. SWQB employed continuous sampling for this TMDL (with example results summarized in Figure 5 of the draft TMDL), and any values above the standard for pH or below the standard for DO were taken as violations.

C: The State of New Mexico Surface Water Quality Bureau (SWQB) Implementation Plan also contains flaws. First of all, the Santa Fe River Restoration Project being undertaken by the Forest Guardians is not on land leased to them by BLM. The BLM is prohibited from leasing land for this type of undertaking. The Forest Guardians are in fact creating the riparian forest on property belonging to the City of Santa Fe. Secondly, the SWQB should realize that the BMPs being implemented on this project do not take into account the ephemeral nature of this section of the Santa Fe River. As such, extensive vegetation has never been a factor in this area. However, with the creation of this riparian forest along the flood plain, the SWQB and Forest Guardians have in effect greatly altered the prevailing ecosystem without any studies to address the consequences of such a project on downstream communities in general, nor private property in specific.

R2: You are correct that the Santa Fe River Restoration Project is being conducted on land owned by the City of Santa Fe. The document will be updated to reflect this.

With regard to your comment about the past condition of the Santa Fe River, please note that SWQB is not charged with restoring streams to their historical conditions (despite the suggestion implied by some project titles), but rather to enforce the New Mexico Water Quality Act, which recognizes designated uses for surface water and sets standards which are believed to protect those uses. If either the uses or the standards are believed to be inappropriate for a water body,

and sufficient evidence to that effect is available, then the New Mexico Water Quality Control Commission may amend the standards to better reflect reality.

With regard to the environmental impact of the Santa Fe River Restoration Project, you are correct that a detailed study has not been completed to assess the potential downstream impacts of the project. However, several features of the project are intended to improve downstream conditions. The vegetation that is being planted and encouraged is intended to strengthen the bank, with the desired outcome that less sediment will erode and be transported downstream. Providing access by flood flows to more of the flood plain in the project area will also reduce erosion and potential downstream flooding by slowing the floodwater.

C: The TMDL Draft also states that the Water Quality Act, "does not grant to the commission or to any other entity the power to take away or modify the property rights in water, nor is it the intention of the Water Quality Act to take away or modify such rights." This policy is also upheld under Federal Law. Therefore, given the fact that the State of New Mexico SWQB is allowing Forest Guardians to construct a riparian forest, and given the resulting consumptive use of water by said forest, it would appear that the SWQB is in fact abrogating the rights of senior water rights users downstream. This would appear to be a violation of both State and Federal Law. To the best of my knowledge no study has been completed or commissioned to deal with this matter.

R: The SWQB supports efforts to stabilize streambanks along the Santa Fe River. The Santa Fe River is impaired by not only dissolved oxygen and pH, but also by stream bottom deposits (TMDL previously approved Dec 1999). Stabilizing streambanks will help to decrease sediment loads into the river by decreasing the erosion of streambanks. Holding the streambanks in place with riparian vegetation also provides shade to the stream. This shade is necessary to reduce temperatures and direct sunlight to the stream, which drive the dissolved oxygen and pH problems in the Santa Fe River. The intent of stabilizing the streambanks along the Santa Fe River is to improve water quality so that water quality standards are being met. The SWQB believes that an additional benefit of shading streams would be decreases in evaporative losses. However, all inquiries related to water rights should be directed to the Office of the New Mexico State Engineer.

October 16, 2000

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David Hogge
TMDL Coordinator
New Mexico Environment Department
PO Box 26110
Santa Fe, NM 87502-6110

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SURFACE WATER
QUALITY BUREAU

Re: TMDL Draft for Santa Fe River

Dear Mr. Hogge,

This letter is in response to the New Mexico Environment Department TMDL Management Plan Draft. Specifically, the draft for a section of the Santa Fe River known as 20.6.4.113, below the City of Santa Fe Waste Water Treatment Plant. Undoubtedly, a TMDL Management Plan is required to achieve water quality standards pursuant to guidelines set forth under the Federal Clean Water Act. However, I did note several problems contained in the body of the TMDL Draft Plan.

According to recently released information in the Jemez Y Sangre Water Supply Study the dissolved oxygen and pH both fall within the acceptable parameters outlined in the TMDL Draft Plan's Water Quality Criteria. I do not know why the numerical differences exist with respect to the two plans, but believe that the inconsistencies should be addressed.

The State of New Mexico Surface Water Quality Bureau (SWQB) Implementation Plan also contains flaws. First of all, the Santa Fe River Restoration Project being undertaken by the Forest Guardians is not on land leased to them by the Bureau of Land Management (BLM). The BLM is prohibited from leasing land for this type of undertaking. The Forest Guardians are in fact creating the riparian forest on property belonging to the City of Santa Fe. Secondly, the SWQB should realize that the Best Management Practices (BMPs) being implemented on this project do not take into account the ephemeral nature of this section of the Santa Fe River. As such, extensive vegetation has never been a factor in this area. However, with the creation of this riparian forest along the flood plain, the SWQB and Forest Guardians have in effect greatly altered the prevailing ecosystem without any studies to address the consequences of such a project on downstream communities in general, nor private property in specific.

The TMDL Draft also states that the Water Quality Act (20 NMAC 6.2) (NMWQCC 1995a), "does not grant to the commission or to any other entity the power to take away or modify the property rights in water, nor is it the intention of the Water Quality Act to take away or modify such rights". This policy is also upheld under Federal Law. Therefore, given the fact that the State of New Mexico Surface Water Quality Bureau is allowing the Forest Guardians to construct a riparian forest, and given the resulting consumptive use of water by said forest, it would appear that the SWQB is in fact abrogating the rights of senior water rights users downstream. This would appear to be a violation of both State and Federal Law. To the best of my knowledge no study has been completed or commissioned to deal with this matter.

Obviously, pollution control is important to everyone, however, any management plan should address the rights of all parties affected by such a plan; instead of resolving one problem and simultaneously creating several more.

Sincerely,

José J. Varela López

Appendix D: §319 Projects in the Santa Fe Watershed

Listed below are completed, current, and proposed Clean Water Act Section 319(h) nonpoint source pollution prevention projects administered by the New Mexico Environment Department Surface Water Quality Bureau in the Santa Fe River watershed. Any effect that each project may have on dissolved oxygen or pH in the Santa Fe River is briefly included.

The map below depicts the approximate locations of the projects.

1. La Bajada Mine Restoration (95-D, $107,922, Complete)
This project successfully demonstrated Best Management Practices (BMP's) on uranium mine tailings and the adjacent Santa Fe River, reducing detectable radiation downstream of the mine to meet water quality standards.

2. Santa Fe River Restoration (99-L, $143,840, In Progress)
The lead agency is the New Mexico State Land Office, which is partnering with the City of Santa Fe and the Santa Fe Watershed Association to mechanically improve the currently ephemeral portion of the Santa Fe River above the WWTP with enhancement of riparian growth and minimization of the erosion and sediment discharge that has occurred in this watershed. This project will indirectly contribute to stabilized dissolved oxygen concentrations and pH in the Santa Fe River by inhibiting algal growth through decreased solarization, which is expected to result from a decreased width to depth ratio of the river channel, which in turn is an expected outcome of reduced sediment supply. The reduced available light and resulting lower temperatures will both reduce algal growth. With less algal growth, lower pH is expected in the day (because more CO_2 will be left in the water column), and higher DO is expected at night (with less respiration by algae occurring).

3. Caja del Rio Project (99-N, $133,000, Proposed)
The lead agency is the US Santa Fe National Forest. The Forest Service plans to increase vegetation on damaged rangelands by drawing cattle away from riparian areas with a pipeline, fencing riparian areas, and burning sagebrush to enhance grasses. This project will indirectly contribute to stabilized dissolved oxygen concentrations and pH in the Santa Fe River by inhibiting algal growth through decreased solarization, which is expected to result from increased shading by riparian vegetation and a concomitant decreased width to depth ratio of the river channel.

4. Santa Fe River Restoration Project (00-E, $134,500, In Progress)
The lead organization is the Forest Guardians, who are continuing to work on land on the Santa Fe River leased by them by the Bureau of Land Management. The focus of this project is on enhancing the riparian zone to reduce temperatures, remove nutrients form the water, and decrease sediment discharge. The BMP's being implemented include temporary cattle exclusion, revegetating stream banks (*e.g.*, planting of willows and cottonwoods), and removal of a levee (to allow access of high flows to the flood plain). The created wetlands expected to form will directly address ph and DO problems in the river by removing a portion of the nutrient

load. This project will also indirectly contribute to stabilized dissolved oxygen concentrations and pH in the Santa Fe River by inhibiting algal growth through decreased solarization, which is expected to result from increased shading by riparian vegetation and a concomitant decreased width to depth ratio of the river channel.

5. Upper Santa Fe Watershed Pollution Prevention Project (00-D, $736,450, Proposed)
The Santa Fe National Forest and City of Santa Fe propose to thin and burn 1100 ac of piñon/juniper and ponderosa forest in the upper Santa Fe River watershed. The upper watershed contributes 40% of Santa Fe's municipal water supply, and 70 years of fire suppression have resulted in very high fuel loading levels that increase the chances of a large intense wildfire that would reduce the quality or quantity of this water supply. Another component of the project that will be an important key to improving water quality in the listed portion of the Santa Fe River is the development of a watershed restoration action strategy (WRAS) for the entire Santa Fe River watershed. This WRAS is incorporated in an EPA-approved workplan as a deliverable and includes the components described as per EPA guidance on WRAS's.

6. Stormwater Management for Nonpoint Source Pollution Reduction in Santa Fe (97-N, $463,735, Proposed)
The City of Santa Fe proposes to implement urban runoff controls in the Arroyo de los Pinos channel and watershed. The Arroyo de los Pinos is an important tributary of the Arroyo de los Chamisos, which discharges a large amount of stormwater-driven sediment to the Santa Fe River. The proposed project will slow, detain, and utilize urban runoff to reduce peak flows reaching the Arroyo de los Chamisos. The on-the-ground project components will be used to illustrate effectiveness of a proposed drainage ordinance also to be developed with project funding. The reduction in peak stormwater flows expected from this project will be less erosive than current peak flows, allowing establishment of more riparian vegetation and a concomitant reduction in width to depth ratio of the stream channel. The resulting reduction in solarization will indirectly contribute to stabilized dissolved oxygen concentrations and pH in the Santa Fe River by inhibiting algal growth.

7. Valle Grande Grass Bank Composite Project (00-C, $541,417, Proposed)
The Conservation Fund proposes several coordinated range restoration projects on Forest Service land utilizing the Valle Grande Grass Bank. Proposed projects in the Santa Fe River watershed include erosion control using channel structures, slash lopping and scattering, and seeding on 250 ac of rapidly eroding land in the Cerrito Pelado area of the Caja del Rio Plateau, and rest from grazing and prescribed burning on the Caja del Rio Plateau and a portion of Rowe Mesa that is within the Galisteo River watershed. This project also includes an education program of outdoor workshops and conferences attended by ranchers from across New Mexico. The improved management of rangelands on the Caja del Rio allotment of the Santa Fe National Forest expected from this project will improve infiltration and reduce runoff to the Santa Fe River, with the indirect result of permitting more establishment of riparian vegetation and a concomitant decrease in width to depth ratio of the stream channel. The resulting reduction in solarization will indirectly contribute to stabilized dissolved oxygen concentrations and pH in the Santa Fe River by inhibiting algal growth.