

APPENDIX D
RESPONSE TO COMMENTS

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**Comment Set A:
Dan Santantonio, PhD
Las Cruces Utilities Department**

(Sent via electronic mail)

Comments to draft TMDL Document for the Lower Rio Grande (from the Texas Border to Elephant Butte Dam), 13 March 2007.

Thank you for coming to Las Cruces on 13 March 2007 for the public meeting regarding the draft TMDL Document. The Las Cruces Utilities Department appreciates the opportunity to comment on the document.

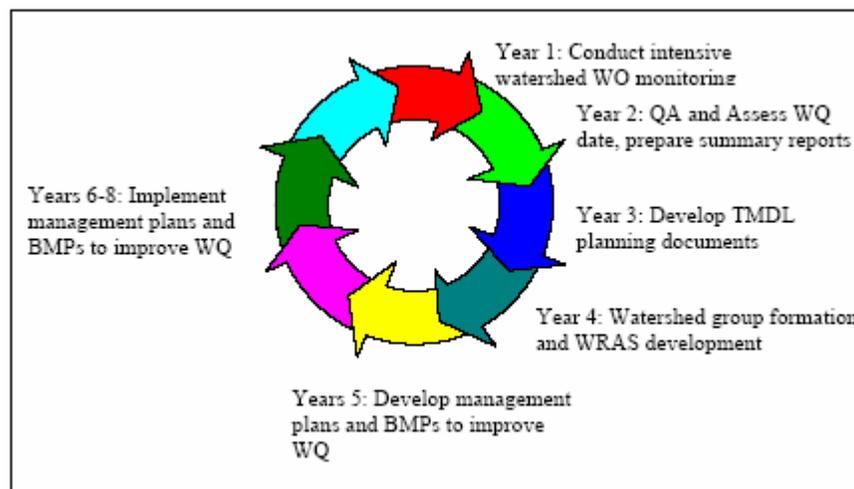
We recognize that extremely high spikes in bacteria occur episodically in the two lower segments of the Rio Grande, and that, until recently, there were serious problems with overloaded municipal wastewater treatments facilities (WWTF) (point dischargers) located between Anthony, NM, and the Texas border.

We have concerns regarding the appropriateness of 2004 as an assessment year, given that it was a year that reflected serious conditions of drought, and because the next assessment is not scheduled until 2011 or 2012. What does the assessment period represent?

RESPONSE:

Similar to most other states, SWQB utilizes a rotating basin, targeted approach to water quality monitoring. Using this approach, a select number of watersheds are intensively monitored each year with an established return frequency of approximately every eight years. Revisions to the schedule may be occasionally necessary based on staff and monetary resources that fluctuate on an annual basis.

This is an adaptive, on-going management approach, meaning a watershed will not be ignored between intensive survey years (refer to figure below).



What criteria were used to determine how much data, and what kind of data, were sufficient and necessary to determine the TMDL, and the timing of its issuance? What are the data quality objectives? According to EPA-approved criteria, were sufficient and appropriate data used?

RESPONSE:

A sampling frequency is determined based on the application of attainment criteria and human and budget resource constraints. SWQB does not require a specific minimum data set to make use attainment determinations. Intensive surveys are used because of the demonstrated advantage of this form of monitoring in relating water quality data to specific water quality problems. Intensive water quality surveys involve monthly sampling and on-site measurements of water quality variables at representative points in a waterbody. Beginning in 2002, a new sampling regime was begun. The new sampling regime was extended over an eight-month, three-season time period to better characterize the waterbody throughout most of the hydrograph and the associated variability. Each sampling station is generally visited monthly between March and October to achieve the “n” determined with the method described in Section 1.5 *Quality Objectives and Criteria for Measurement Data* of the quality assurance project plan (QAPP) (NMED/SWQB 2004a). Since the QAPP is approved by EPA, the SWQB had sufficient and appropriate data to make attainment determinations.

SWQB coordinates with several other entities during development and implementation of water quality monitoring activities. During survey development, SWQB holds a pre-survey monitoring meeting in the watershed to solicit comment and concerns from stakeholders as well as local, state, or federal agency personnel working in the watershed. This information is used to finalize draft sampling plans that are developed in accordance with the QAPP (NMED/SWQB 2004a). Standard operating procedures are followed during the survey to ensure consistent, quality collection and handling of samples (NMED/SWQB 2004b).

The sampling process design for any given project will vary depending on the objectives of the specific project; however, the majority of the data collected by the SWQB are based on some form of a judgmental sampling design, primarily due to resource limitations. Judgmental sampling design is the selection of sampling locations, dates, parameters, and frequencies based on knowledge of the features and conditions under investigation and on professional judgment, with no type of randomization. While a judgmental sample design can be implemented at a relatively low cost, it does not allow the level of confidence (uncertainty) to be accurately quantified and limits the statistical inferences that can be made (USEPA 2002).

References:

NMED/SWQB. 2004a. Quality Assurance Project Plan (QAPP) for Water Quality Management Programs, 2004. NMED/SWQB EPA QAPP QTRCK Number 04-088.

NMED/SWQB. 2004b. Standard Operating Procedures for Sample Collection and Handling, June 22, 2004. (<http://www.nmenv.state.nm.us/swqb/MAS/index.html>)

USEPA. 2002. Guidance on Choosing a Sampling Design for Environmental Data Collection. EPA 240-R-02-005. USEPA Office of Environmental Information, Washington, D.C. December 2002.

There has been no source identification. There are fundamental and large differences in the large swath of possible sources identified by NMED in a generic manner, some not regulated under the Clean Water Act. Possible sources include septic tanks, agricultural sources, storm water, and point sources that were

chronically in violation of NPDES permit requirements. These would represent very different pathways, and require different approaches to control and remediation. The cost to address them all would be very great, and possibly wasteful if only certain sources are causing impairment. Can another assessment period be scheduled significantly sooner than 2001/12 in order to better identify sources before a TMDL, if appropriate, is put in place?

Did NMED use an analysis of reasonable potential to evaluate point sources? How was it conducted? Once point sources near the border (WWTFs), which were in violation, are in compliance, is there sufficient justification for a TMDL when impairment may be exclusively the result of non-point sources? Minor point source contributions (de minimis) to a water of the US that is already impaired by excessive non-point loadings would be better dealt with under Sec. 319 than under a TMDL under Sec. 303 (d) (1) (A). What Sec. 319 measures have been put into place? Have they been evaluated, and given a chance to become effective?

RESPONSE:

Under Section 303(d)(1) of the Clean Water Act (CWA), states are required to develop a list of waters within a state that are not in compliance with water quality standards and establish a total maximum daily load (TMDL) for each pollutant. By definition, TMDLs are the sum of the individual Waste Load Allocations (WLAs) for point sources and Load Allocations (LAs) for nonpoint sources (NPSs) and background conditions, and includes a margin of safety (MOS). TMDLs are not regulatory documents, but they can be used to issue or modify permits for point sources and/or apply for funding to minimize the deleterious effects of nonpoint sources.

Current estimates indicate that nonpoint sources are the cause of approximately 95% of the state's water quality problem. The US Environmental Protection Agency (EPA) has developed guidelines that describe the process and criteria to be used to award CWA Section 319 nonpoint source grants to States and Territories. The guidelines continue to emphasize a concentrated focus on the implementation of projects that are designed to improve waters that have been listed as impaired under Section 303(d) of the CWA. Therefore, the 303(d)/TMDL process actually provides opportunities for funding under Section 319.

TMDLs are the guiding document for development of Watershed Restoration Action Strategies (WRAS) by local stakeholders with assistance from the SWQB Watershed Protection Section (WPS). The WRAS is in essence the TMDL Implementation Plan, or phase 2 of the TMDL process. A WRAS is designed to focus on the prevention and remediation of nonpoint sources of pollution and provides details on the type and location of BMPs that will best address the impairments detailed in the TMDL. The local watershed group in the Las Cruces area is Paso del Norte Watershed Council (PdNWC). PdNWC is currently in the process of engaging local stakeholders to discuss WRAS development and prioritize remediation efforts.

As stated previously, development of the TMDL and WRAS opens up funding opportunities through the Clean Water Act §319(h) program to implement BMPs in the watershed. Work plans developed and funded under CWA §319(h) comprise a variety of efforts; including watershed association development, pollutant source tracking, riparian area restoration, spill response, and treatment of abandoned mines. SWQB has and will continue to encourage BMP implementation through technical assistance during the development of the WRAS and during the development, implementation, and monitoring of CWA §319(h) projects.

NMED has used Fecals data from other sources, e.g. Howell et al. 1966. Did NMED, in their evaluation of point sources as a factor contributing to impairment, use Fecals data presented by the City of Las Cruces in technical testimony before the WQCC in Las Cruces during 9-10 October 2001? These data (attached) indicate that a WWTF in compliance with its NPDES permit is not a significant source of bacteria which would cause impairment. Samples were taken five of seven days of the week above and below the WWTF outfall which was also sampled during a total four months. We did not attempt to correlate rainfall events to the spikes in Fecals.

RESPONSE:

SWQB did not use the fecal coliform data presented by the City of Las Cruces for assessment purposes because the current water quality standard is for *E. coli*, not fecal coliform.

In reference to the TMDL Document, the evaluation of rainfall for the lowest segment of the Rio Grande should be done after data representing WWTFs in violation have been taken out of the data set. When this is done, the data in Figures 4.5 and 4.6 both show the same direct correlation of *E. coli* to rainfall events.

Margin of Safety (MOS, Sec 4.7) does not include an allowance for population/community growth, and in Sec. 4.9 “future growth [is] not anticipated to lead to a significant increase in bacteria that cannot be controlled with BMP implementation and appropriate NPDES permit limits in this watershed.” Does this mean that NMED regards municipal WWTFs which are in compliance with their NPDES permits as not being a significant source of impairment, and this includes future growth? How would the TMDL affect municipal WWTF planned increases in design capacity to accommodate present and future growth?

The City of Las Cruces has begun construction to expand the design flow of the Jacob Hands WWTF from 8.9 to 13.5 MGD by equalizing flow through the addition of equalization basins to the present treatment trains. This would increase the WLA needed for the facility from 4.25×10^{10} cfu to ~~7.06×10^{10}~~ 6.25×10^{10} cfu throughout all flow conditions. This \$ 12 million project is scheduled for completion in September 2008. Will the TMDL negatively impact this expansion to meet present and future growth of Las Cruces and the adjoining areas? Is an increase in the WLA to accommodate the greater design flow threatened?

RESPONSE:

New or expanding facilities will not see a change in their NPDES permits since the permits are written with a concentration limit only. All facilities in the Lower Rio Grande region will contain the same concentration limit of 126 cfu/100 mL. Writing permits in this manner does not allow competition between wastewater treatment plants, since all permits have the same concentration limit, but still allows room for future growth in this segment of the river.

The wasteload allocation (WLA) provided in the TMDL would be adjusted if and when a particular facility has an approved expansion. In the case of the City of Las Cruces WWTP, the extra load created from a 4.6 million gallon per day expansion, or 2.20×10^{10} cfu/day, would be added to the facility's WLA. Consequently, the load allocation would be reduced by 2.20×10^{10} cfu/day throughout all flow conditions.

We are concerned that the restrictions imposed on impaired segments with a TMDL may be an unfair burden to municipal point sources which are already in compliance with their NPDES permits. Municipal point sources have been too broadly and generically included as possible sources. Sufficient and

appropriate enforcement measures could address those point sources that are not in compliance, if any at present. Excessive non-point loadings which are causing impairment could be more effectively dealt with by additional assessment to identify the most egregious sources and to implement BMP practices. A rifle shot or two and re-sighting is a more effective use of limited resources than a shotgun blast.

RESPONSE:

The probable source list provided in the TMDL is intended to include any and all activities that could be contributing to the identified impairment. It is not intended to single out any particular land owner or single land management activity, and has therefore been labeled "Probable" and generally includes several items. As stated in the TMDL, under Table 4.9, this list of probable sources is based on staff observation and known land use activities in the watershed. These sources are not confirmed or quantified at this time. It is up to the watershed group comprised of local stakeholders to determine the WRAS objectives and focus remediation efforts that will best address the impairments detailed in the TMDL. WRAS work plans comprise a variety of efforts; including watershed association development, pollutant source tracking, riparian area restoration, spill response, and treatment of abandoned mines.

Thank you. I hope these comments will encourage the development of the most cost-effective and environmentally sensible solutions to the problem of high levels of bacteria in the Rio Grande.

**Comment Set B:
Mark Dubbin, P.E.
Las Cruces Public Works Department**

(Sent via electronic mail)

Ms. Drinkard,

Thank you and the New Mexico Environment Department for conducting the study of the Rio Grande River in an effort to improve the water quality of our only river. In Regards to the study the City of Las Cruces has several concerns regarding the proposed TMDL for the Lower Rio Grande watershed.

- The number of samples taken along the river do not appear to be sufficient to make a conclusion regarding the “normal” levels of Escherichia coli bacteria (E.Coli.) present in the river. Standard Scientific methodology requires years of data taken at multiple intervals and then an evaluation of the data to determine its viability. Generally 8-10 samples are taken, high readings and low readings are discarded and mean is established, this does not appear to be consistent with the study.

RESPONSE:

A sampling frequency is determined based on the application of attainment criteria and human and budget resource constraints. SWQB does not require a specific minimum data set to make use attainment determinations. Beginning in 2002, a new sampling regime was begun. The new sampling regime was extended over an eight-month, three-season time period to better characterize the waterbody throughout most of the hydrograph and the associated variability. Each sampling station is generally visited monthly between March and October to achieve the “n” determined with the method described in Section 1.5 *Quality Objectives and Criteria for Measurement Data* of the quality assurance project plan (QAPP) (NMED/SWQB 2004). Since the QAPP is approved by EPA, the SWQB had sufficient and appropriate data to make attainment determinations, which is not the same as determining the “normal” levels of bacteria present in the river. SWQB agrees that it would be nice to collect water quality data as “standard scientific methodology” dictates (i.e. over multiple years and intervals), but the reality is that the resources are not available for SWQB to conduct such a study. Therefore, SWQB must do what it can with the resources it has according to what is deemed acceptable by EPA.

Reference:

NMED/SWQB. 2004. Quality Assurance Project Plan (QAPP) for Water Quality Management Programs, 2004. NMED/SWQB EPA QAPP QTRCK Number 04-088.

- The City of Las Cruces has only one direct storm water discharge to the Rio Grande, the Las Cruces Dam outfall channel. No samples were taken in this area to determine if contributions would impact the water quality, in fact, no discharge from the dam is believed to have occurred during the sampling period.
- As a Small MS4 (Phase II) the City of Las Cruces is not required to test storm water for quality. Visual inspection of storm water is the generally accepted method of evaluation. I would suggest to NMED that storm water discharges be sampled prior to assuming that there is some impact to the river.

- During a year with “normal” rainfall the City’s storm water system will only discharge to agricultural drains that eventually lead to the river. The study specifically exempts pollution from agricultural sources while it seeks to assign urban runoff as a pollutant source. Hypothetically, if the City were to be required to spend millions of dollars in an effort to clean the storm water it would still discharge into a channel potentially loaded with agricultural pollution making no difference in the rivers’ actual water quality.

RESPONSE:

The general permit for small municipal separate storm sewer systems (sMS4s) in New Mexico was issued on September 29, 2006. Seven municipalities in the Lower Rio Grande region fall under this general permit. According to 40 CFR § 130.2(h), NPDES-permitted stormwater must have a wasteload allocation (WLA), therefore the sMS4s in the Lower Rio Grande region will receive a categorical WLA under NPDES permit #NMR040000. EPA issued a joint NPDES/TMDL memo which specifically addresses how NPDES regulated stormwater should be addressed in TMDLs. NPDES permits must be consistent with the assumptions and requirements of the WLA in a TMDL (40 C.F.R. § 122.44(d)(1)(vii)(B)). Accordingly, if an MS4 urbanized area did not receive a WLA in the TMDL, then the MS4 urbanized area would receive a “zero” WLA and would not be allowed to discharge.

Your comment above, “[as] a Small MS4 (Phase II) the City of Las Cruces is not required to test storm water for quality,” is incorrect. Analytical monitoring is required for discharges into impaired waters (refer to parts 5.6.1.2 and 5.6.2 of the small MS4 permit issued on September 29, 2006). According to EPA’s TMDL Stormwater Policy, the NPDES permit must specify the monitoring necessary to determine compliance with the given effluent limitation (40 CFR §122.144(i)). In instances in which the effluent limitation is expressed as BMPs, the permit must specify the monitoring necessary to determine if load reductions are achieved. Return flows by themselves should not contribute bacteria. It is most likely a combination of sources that are contributing to the bacterial loading in agricultural drains. The bacterial loading from these diverse sources are (or should be) controlled via the NPDES program, the Nonpoint Source Program, or others.

- There is no biological source study to support assumptions for the supposed urban influence to the E.Coli. levels. Although cattle are grazed along the entire length of the river the study assumes that this is insignificant and that spending millions to control undetermined sources is the solution.
- No hydrology was used to attribute a source to the few samples taken in proximity of rain events. Well utilized engineering methodology takes into account the time taken for a rain event to reach a particular point downstream however this was not considered at all.

RESPONSE:

One of the program elements incorporated into the MS4 operator’s storm water management program (SWMP), which was developed to comply with the sMS4 permit, may be conducting a biological source study. The sMS4 permit requires that an MS4 operator document compliance with a TMDL and incorporate measures or controls necessary to comply with assumptions and requirements of the wasteload allocation defined in the TMDL. NMED has been suggesting that this may entail developing a program similar to that included in the NPDES permit for the large MS4 permit issued to Albuquerque

(http://www.nmenv.state.nm.us/swqb/PSRS/NPDES_Permits/NMS000101-AlbuquerqueMS4.pdf).

The probable source list provided in the TMDL is intended to include any and all activities that may be contributing to the identified impairment. It is not intended to single out any particular land owner or single land management activity, and has therefore been labeled "Probable" and generally includes several items. As stated in the TMDL, under Table 4.9, this list of probable sources is based on staff observation and known land use activities in the watershed. These sources are not confirmed or quantified at this time. It is up to the watershed group comprised of local stakeholders to determine the WRAS objectives and focus remediation efforts that will best address the impairments detailed in the TMDL. The local watershed group in the El Paso/Las Cruces area is Paso del Norte Watershed Council (PdNWC).

This summary mentions but a few points and only then to raise the awareness of some of the flaws contained in the study. Answers to these questions will require years of solid results and impartial evaluation of the data. The City of Las Cruces is willing to assist NMED's efforts to improve the water quality, but realizes that the preliminary evidence must support the spending of significant tax revenues to maximize the public benefit that such an endeavor would entail.

Regards,

Mark H. Dubbin, P.E.

Public Works Department

575 S. Alameda

Las Cruces, NM 88005

Office: (505) 528-3171 Fax: (505) 528-3036

Comment Set C:
Rebecca G. Perry- Piper
(PDF of letter received inserted)

RECEIVED

MAR 13 2007

SURFACE WATER
QUALITY BUREAU

March 9, 2007
135 Rincon Valverde
Ponderosa, NM 87044

Ms Shelly Drinkard
New Mexico Environment Department
Surface Water Quality Bureau
Harold Runnels Building Room N2109
1190 St. Francis Drive, P.O. Box 26110
Santa Fe, New Mexico 87502-6110

Dear Ms Drinkard,

I hope that you are well.

As I intend to appear and present on April 10, 2007 when New Mexico Water Quality Control Commission will hold a public hearing to consider proposed amendments to 20.6.4 NMAC at the State Capitol, at 9:00 A.M., I feel that it is extremely important to also appear and present, additionally, during WQCC's considering approval of the Final Draft TMDL for the Lower Rio Grande (Texas Border to Elephant Butte Dam). To promote transparency, I am submitting the written form of my non-technical oral public comment to you.

Please J. "Just" Ferry - Ryan
mailed 3-10-07
USPS 7006 0100 0003 0064 1240
CMR

Refer to J. Gut "Penny-Pym" USPS 7006 0100 0003 0064 1240
CMR
mailed 3-10-07

March 9, 2007

What I intend to say, either on April 10 or 11, 2007, before NMWQCC, in the Roundhouse, concerning Agenda Item #4, as of a March 6, 2007 copy of same sent to me by Administrator Medina, is as follows:
-beginning-

"New Mexico Environment Department is continuing to allow its Commission/Board to place undue hardship upon the public-at-large wishing to participate in information gathering, substantively commenting and perhaps initiating due-process procedure during the crafting of TMDL documents for New Mexico waterbody identifiers' watersheds. Ironically, the basic qualifier for funding this crafting is public participation. ~~From March 11, 2007 to April 1, 2007 (Albuquerque Journal February 14, 2007, 'Your PC Might Not Spring Forward') computers, running on programs older than 2005 or lacking original vendor support might present erroneous information~~

March 9, 2007

~~about physical world appointments due to daylight savings time starting three weeks earlier. There is a copy of this article enclosed herein.~~

Enclosed Albuquerque Journal legal, February 26, 2007, The New Mexico Environment Department Surface Water Quality Bureau Propose Total Maximum Daily Loads (TMDLs) For The Lower Rio Grande Watershed; omitted omits a specific date and time for the public meeting to be held to summarize relevant information and provide comments. Additionally, nowhere in aforementioned February 26, 2007 Albuquerque Journal legal was is it specifically stated that interested parties could can be surface-mailed hardcopy draft (not the final draft) versions of Total Maximum Daily Load (TMDL) for the Lower Rio Grande Watershed (defined as from the Texas Border to Elephant Butte Dam) which includes E coli; Rio Grande (Texas Border to Leagesburg Dam) and E coli; Rio Grande (Leagesburg Dam to Percha Dam) prior to the

Rebecca J. "Prof" Perry - Kupper
mailed 3-10-07
USPS 7006 0100 0003 0064 1240
CMR

Repeared "Just" Ring - Paper
mailed 3-10-07
USPSCMR
7006 0100 0003 0064 1240

March 9, 2007
technically, undisclosed "mid-March"
public meeting; about same TMDL
document; in Las Cruces, by writing
to NMEDSWQB Shelly Drinkard. Further,
interested parties may have felt
feet communicatively intimidated
upon their having read when
reading the phrase, 'Cif possible,
please submit an electronic copy in
addition to paper)', contained in
said legal, Albuquerque Journal,
February 26, 2007.

~~New Mexico Environment Depart-
ment needs to rectify this grave
communicative situation by publish-
ing another legal, with all due
respect, immediately in the Albu-
querque Journal, stating the date
and time of the Las Cruces pub-
lic meeting on draft TMDL docu-
ment Lower Rio Grande, making
it more clear to the public that
a draft TMDL document now
exists and the contact name and
physical address they can write to
in order to obtain one prior to
the Las Cruces public meeting.~~

USPS 2006 0100 0003 0064 1240
CMR

March 9, 2007

Ms Drinkard dutifully attempted to rectify said situation, on March 5, 2007, by responding (enclosed) to the receiving of my comment of March 2, 2007. In doing so, she reinforced my belief that the existence of the draft TMDL document (cover enclosed titled "*** Draft ***", not "Final Draft", but with unprecedented asterisks around the word "Draft" as evidenced in, also enclosed, title of Draft Total Maximum Daily Load (TMDL) for The San Juan River Watershed (Part Two) Navajo Nation Boundary At The Hogbacks To Navajo Dam September 23, 2005) for the Lower Rio Grande was not appropriately made accessible to all of the interested public-at-large in the February 26, 2007 legal, aforementioned. In Ms Drinkard's March 5, 2007 correspondence, a flyer (enclosed), announcing the public meeting, evidenced that the information on the date and time of the public meeting on the draft TMDL document for the Lower Rio Grande was known as early as February 23, 2007 and said information should have been

Refers to "Draft" Perry - Paper
mailed 3-10-07

March 9, 2007

disclosed in the aforementioned February 26, 2007 legal. This communicative situation, in its entirety, was yet another example of how SWQB had not, and has not, ensured that members of the public-at-large who choose to obtain vital announcements through their state newspaper, hardcopy surface-delivered version, rather than electronically generated in their own homes or schools/libraries/offices, are being discriminated against. Additionally, the information in the legal, February 26, 2007, can be assumed to have been accessible three days later than a posting by some other manner, either in a contrived, regionally exclusive or communicatively exclusive manner.

As remarked upon earlier, the leaving of the time and date for the public's chance to gain substantiveness prior to comment is omitted in the legal. It is only to be gained in a narrow and unpredictable manner between March 11, 2007, and April 1, 2007, especially if a member of the public-at-large can only access computers operating on programs developed before 2005

Refer to "Just" Perry - Ryan
Mailed 3-10-07

USPS 706 0100 0003 0064 1240
CMR

USPSC MR 7006 0100 0003 0064 1240

March 9, 2007

or that are, no longer under contract to an original vendor,

The contact person name, fax number, telephone number, email address, and zip code, have had been omitted from information concerning Las Cruces City Hall, preventing the public from conveniently enquiring about the scheduling of the "mid-March" public meeting. Additionally, the legal of February 26, 2007 does not document that the public servants in Las Cruces have been coordinated through SWQB to readily provide information on this mid-March public meeting should they be contacted by an enquiring citizen.

The participation of the public in this aforedescribed process can be interpreted to only be expected to be timely, not substantive, the participation of SWQB in this process, again, is only expected to be timely, not substantive, in the manner that The texting of this February 26, 2007 Albuquerque Journal legal lays this out in the manner it announces announced the public participation process involved in the finalization

Rebecca M. "Prof" Long - Paper
mailed 3-10-07

March 9, 2007

of this TMDL document. Substantiveness of public comment is was never mentioned, never clearly provided for. Neither is was it made clear that the lack of substantiveness in submitted comments on said TMDL document will be grounds for dismissal of same submitted comments. Timeliness, not substantiveness is was mandated; comment before scoping, scoping after comment; when the public-at-large gathers.

I would also like to ask the WQCC, again, as I did in response to the fragmentation of the Jemez River System on August 8, 2006, to refrain from approving any TMDL document on the Rio Grande Watershed until NMEDSWQB has presented, simultaneously, all of the TMDL documents it will complete. (for example, ~~simultaneously viewing completed TMDL documents for the Lower Rio Grande Watershed, at the same time as the Middle Rio Grande Watershed, as well as at the same time as the Upper Rio Grande Watershed Encompassing flows from the Colorado border to the Texas border~~) With

Refer to "Gut" Perry Ryan
mailed 3-10-07

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CMR

USPS
CNR
7006 0100 0003 0054 12410

March 9, 2007

all due respect to all involved,
WQCC should simultaneously review
all TMDL documents for:

- 1.) Rio Grande (Red River to
New Mexico-Colorado border),
- 2.) Rio Grande (Red River to
Taos Pueblo Boundary),
- 3.) Rio Grande (Taos Pueblo
Boundary to Embudo Creek),
- 4.) Rio Grande (Embudo Creek
to San Juan Pueblo Boundary),
- 5.) Rio Grande (San Ildefonso
Pueblo Boundary to Cochiti Pueblo
Boundary),
- 6.) Rio Grande (Cochiti Pueblo
Boundary to Santa Domingo
Pueblo Boundary),
- 7.) Rio Grande (Santa Ana Pueblo
Boundary to Sandia Pueblo Boundary),
- 8.) Rio Grande (Sandia Pueblo
Boundary to Isleta Pueblo Boundary),
- 9.) Rio Grande (Isleta Pueblo
Boundary to Rio Puerco [Bernardo]),
- 10.) Rio Grande (Rio Puerco
[Bernardo] to Rio Salado [San
Acacia]),
- 11.) Rio Grande (Rio Salado [San
Acacia] to La Percha Dam),
- 12.) Rio Grande (La Percha Dam
to Elephant Butte), and.

Blanca M. "Pat" Perry-Roper
mailed 3-10-07

March 9, 2007

13.) Rio Grande (Elephant Butte to the Texas Border). This way, the interrelationship of all tributaries and the main stem, that could be legally surveyed in honoring tribal sovereignty, of the Rio Grande can be viewed as one comprehensive TMDL in a holistic model.

I assert that NMEDSWQB is purposely denying New Mexicans their rights to publicly participate in developing this a comprehensive TMDL document; on all the measurable assessment units of the Upper, Middle and Lower Rio Grande Watersheds combined into the Rio Grande Watershed; while receiving Clean Water Act funding that is based upon equal access for any member of the public-at-large to participate, both in a timely and a substantive manner. WQCC needs to refuse SWQB's TMDL document on the Lower Rio Grande Watershed (Texas Border to La Percha Dam) being approved until it this TMDL document on the

Refer to "But King - Ryan" Mailed 3-10-07

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7006 0100 0003 0064 1240

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March 9, 2007

~~Lower~~ Rio Grande Watershed is substantive. WQCC must approve a Rio Grande Watershed TMDL that is truly substantive in its degree of public participation allowed and in its allocation of data being corroborated with analysis of best management practices' impact arising out of the allocated data. Fragmentation prevents this.

-end-

Respectfully,

Rebecca G. "Gert" Perry-Piper

(P.S. : I have not sent 15 copies of this revised non-technical oral public comment, for pre-hearing review, to Administrator Medina to share with WQCC. I sent a letter.)

Rebecca G. "Gert" Perry-Piper
135 Rincon Valverde
Ponderosa, NM 87044

Rebecca G. "Gert" Perry-Piper
mailed 3-10-07

RESPONSE:

Thank you for your continued dedication to water quality in the state of New Mexico. As you requested, a copy of the updated TMDL that will include Appendix D *Response to Comments* will be sent to you at least 10 days before the May 8, 2007 meeting at which SWQB expects to request approval of the Main Stem of the Lower Rio Grande (International Boundary with Mexico to Elephant Butte Dam) TMDL. Responses to your concerns are detailed below.

Public participation was solicited in development of this TMDL as stated in the Public Participation Flowchart in Appendix C. The draft TMDL was made available for a 45-day comment period starting on February 23, 2007. The draft document notice of availability was extensively advertised via newsletters, email distribution lists, webpage postings (<http://www.nmenv.state.nm.us>), and public notices to area newspapers. The draft document notice of availability was also mailed or emailed to approximately 394 addresses and the TMDL was made available to the public via the SWQB web site, at the public meeting in Las Cruces, and upon request.

As you pointed out on page 3 of your March 9th letter, the public notice originally published in the Santa Fe New Mexican, the Albuquerque Journal, and the Las Cruces Sun-News mistakenly omitted the date and time of the public meeting for this TMDL. In response to this error, SWQB published additional notices and advertisements in the Legal section, Community Calendar, & Local News section of the local area newspaper, the Las Cruces Sun-News. A flyer announcing the date and time of the public meeting was also posted in Las Cruces businesses and local public offices. The public meeting for this TMDL was held in Las Cruces on March 13, 2007. All public meeting notices were mailed to the SWQB mailing list prior to the meeting. Responses to public comments were attached as Appendix D of the TMDL.

SWQB does not exclude or discriminate against anyone from participating in the public participation process. Public notices, however, are generally printed in local papers and posted in local places of note in order to solicit the local interest. Any member of the public is welcome to submit their name and contact information to SWQB in order to be included in statewide mailings, either through electronic mailings or regular post mailings. Many of SWQB's core documents are made available to the public via the SWQB website, but the Bureau is always willing to provide information via phone calls or surface mail.