



MICHELLE LUJAN GRISHAM
GOVERNOR

JAMES C. KENNEY
CABINET SECRETARY

Sent via email

July 28, 2022

Secretary Lynn Trujillo
Indian Affairs Department
Lynn.Trujillo@state.nm.us

Dear Secretary Trujillo:

Attached is NMED's Fiscal Year 2022 Annual Report pursuant to the State and Tribal Collaboration Act. The report summarizes NMED's FY22 activities involving sovereign pueblos, tribes, and nations across four categories: communication and outreach; technical and financial assistance; collaboration; and consultation. Our FY22 Report demonstrates NMED's ongoing commitment to inclusion of tribal governments in all that we do to collaborate, innovate, make science-based decisions and ensure compliance with environmental and public health laws.

We look forward to another year in partnership with the Indian Affairs Department to leverage state and tribal collaboration toward cleaner air, water and land and strong public health protections for New Mexicans.

If you have any questions regarding NMED's STCA Annual Report, please contact Rebecca Roose, Deputy Secretary, at (505) 670-6852, or Kathryn Becker, Tribal Liaison, at (505) 231-8933.

Sincerely,

A handwritten signature in blue ink, appearing to read "James C. Kenney", with a small "for" written below it.

James C. Kenney
Cabinet Secretary

Cc: Rebecca Roose, Deputy Secretary of Administration
Kathryn S. Becker, Tribal Liaison

State of New Mexico
ENVIRONMENT DEPARTMENT

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NMED in attendance and support of the first shovels of dirt moved in preparation for Kewa Pueblo’s Wastewater Treatment Plan Groundbreaking Event on December 8, 2021

I. Executive Summary

Every day the New Mexico Environment Department (NMED or the Department) works to protect, restore, and foster a healthy and prosperous environment for all New Mexicans. The Department's work is broad and includes the regulation and oversight of air, solid and hazardous waste, surface and groundwater quality, environmental and public health, drinking water, petroleum storage tank systems, radiation sources, public food establishments, and occupational health and safety. Through its statutory and regulatory programs and operations under both state and federal law, NMED has the chief executive function of protecting the environment and human health across the State. NMED's extensive regulatory and enforcement authority over state, federal, and private sector entities impact all New Mexicans, directly and indirectly.

As part of this administration's priorities, two major initiatives to reduce New Mexico's greenhouse gas emissions were approved by the Environmental Improvement Board (EIB) this fiscal year. In April, New Mexico adopted a nationally leading oil and gas emissions rule that will reduce emissions of ozone precursor pollutants – volatile organic compounds and oxides of nitrogen – by approximately 260 million pounds annually and will have the co-benefit of reducing methane emissions by over 851 million pounds annually. In May, EIB and the Albuquerque-Bernalillo County Air Quality Control Board co-adopted a Clean Car Rule for the state, allowing California's Advanced Clean Cars to be implemented statewide in New Mexico. The coordinated package of regulations will reduce emissions of greenhouse gases and ozone- and smog-causing pollutants from new passenger cars, trucks, and SUVs starting in model year 2026 and is projected to eliminate about 130,000 tons of greenhouse gases and over 1,700 tons of harmful ozone-forming air pollution in New Mexico by 2050.

Throughout the year, NMED collaborated with tribes, nations and pueblos across air, water, waste, health, and energy programs. NMED and other state agencies hosted a New Mexico Business Leaders in Hydrogen Roundtable in Albuquerque which included a number of tribal leaders including Navajo Nation President Jonathan Nez. NMED closed the fiscal year with a joint announcement with the EPA announcing the settlement of litigation between the United States and the State of New Mexico regarding the Gold King Mine Spill. Funds from the settlement are expected to benefit members of tribal communities near the San Juan and Animas River Watersheds in Northwest New Mexico.

II. Agency Overview & Background

A. Mission Statement

NMED's mission is to protect and restore the environment and to foster a healthy and prosperous New Mexico for present and future generations. NMED's mission is guided by Secretary James C. Kenney's leadership through four values:

- **Science:** Using the best available science to inform our decision-making.
- **Innovation:** Employing creative engineering and technological solutions to address environmental problems.
- **Collaboration:** Engaging communities and interested stakeholders in decision-making.
- **Compliance:** Ensuring meaningful compliance with state regulations and permits.

B. Agency Overview

NMED was created by the 40th state Legislature in 1991 under the "Department of Environment Act" (NMSA 1978, §9-7A-1 (1991)). As a single, cabinet-level department, NMED is to administer and oversee the State's environmental laws and to exercise the functions relating to environmental protection, natural resources, and public health and safety. At the conclusion of FY22, NMED employed 531 staff across five divisions. The Resource Management Division, which includes the Office of the Secretary, Office of Information Technology, Office of General Counsel and Administrative Services Division, is the backbone of the Department, supporting the mission programs through essential functions and services. NMED's environmental and public health protection activities are implemented by four divisions: the Environmental Health Division (EHD), the Environmental Protection Division (EPD), the Resource Protection Division (RPD), and the Water Protection Division (WPD).

The purpose of EHD is to provide public outreach, education, and regulatory oversight for worker safety; regulate food service and food processing facilities; regulate liquid waste treatment and disposal; and regulate public swimming pools, baths, and spas. In FY22, EHD included the Environmental Health Bureau and Occupational Health and Safety Bureau. In FY23, EHD is expanding to include the Cannabis and Hemp Bureau.

The purpose of EPD is to protect public health and the environment through programs that regulate air emissions and radiation-producing materials and equipment. In FY22, EPD included the Air Quality Bureau and Radiation Control Bureau. In FY23, EPD is expanding to include the new Climate Change Bureau.

RPD is responsible for overseeing hazardous and solid waste throughout the state; providing technical assistance to support these programs; conducting environmental monitoring at U.S. Department of Energy (DOE) facilities for the purposes of supporting other NMED regulatory programs and keeping the public informed; implementing storage

tank regulations; and conducting environmental remediation activities to clean-up contaminated sites in a manner that is protective of human health and the environment. RPD includes the DOE Oversight Bureau, Hazardous Waste Bureau, Petroleum Storage Tank Bureau and Solid Waste Bureau.

The purpose of WPD is to ensure the cleanest and safest water supplies for New Mexicans today and into the future through the protection of surface water and groundwater quality. This includes providing financing for and oversight of drinking water and wastewater infrastructure systems. WPD includes the Construction Programs Bureau, Drinking Water Bureau, Ground Water Quality Bureau and Surface Water Quality Bureau.

C. NMED Tribal Consultation and Collaboration Policy (NMSA 1978, § 11-18-4.C(1))

NMED's Tribal Collaboration and Consultation Policy (NMED Policy 07-16) was signed by Secretary Kenney on January 20, 2020 and is available at

<https://www.env.nm.gov/general/wp-content/uploads/sites/10/2016/08/2020-01-27-NMED-Tribal-Policy-2020-final-signed.pdf>.

The current policy builds upon the original policy adopted pursuant to the State Tribal Collaboration Act (STCA) on December 17, 2009. This and other NMED policies aid NMED employees in their determination of whether expanded public outreach is needed, if diverse means of public outreach are warranted, if Limited English Proficiency services are necessary, and how to provide such services. NMED staff are trained to use NMED's online interactive mapping tool to identify tribal lands (checkerboard and exterior boundaries) and use the New Mexico Indian Affairs Department's (IAD) contact information for tribes, pueblos and nations in New Mexico. Additionally, NMED employees are to give courtesy notifications to tribal and pueblo environmental directors and Navajo Nation Chapter Government officials, in addition to required notices to leadership, to ensure notice is directed to those most interested and potentially affected by NMED activities.

III. Goals and Accomplishments

NMED's efforts in FY22 advanced the following strategic goals:

1. Ensuring the safety of the air we breathe, the water we drink, the food we eat, the places we work and our lands.
2. Implementing the Governor's Executive Order on Climate, E.O. 2019-003.
3. Developing increased budgetary flexibility across funds to address community-based public health and environmental issues.
4. Enhancing the public and stakeholders' experience when interacting with the Department and needing information through constituent services, media/social media, a new website, online public participation tools, and continued opportunities to participate in hearings.

5. Recruiting and retaining current staff by creating an empowered and valued workforce through internal communications, policies, and flexibilities that include leave bonuses for new employees.
6. Completing the third annual Employee Engagement Survey (available at https://www.env.nm.gov/wp-content/uploads/2022/04/2022-04-25_-_OSI_2022_Employee_Engagement_Survey_Report_final.pdf), demonstrating an employee engagement level that is double the national average.

In addition to FY22 accomplishments described throughout this Annual Report, over the past year NMED supported publication of the 2021 New Mexico Climate Change Report (available at https://www.climateaction.nm.gov/wp-content/uploads/2022/05/NMClimateChange_2021_final.pdf). NMED also continued its investment in science and innovation through partnership with New Mexico State University and the New Mexico Produced Water Research Consortium, which released a Research Plan and Gap Analysis for Produced Water Reuse in New Mexico this year. During FY22, NMED made continued investments in studying and addressing per- and poly-fluoroalkyl substances (PFAS), a class of dangerous chemicals that persist in the environment and are tied to serious human health risks. NMED launched a story map providing drought information to public water utilities throughout the state. NMED worked with the EPA to deploy innovating technologies to ensure air quality compliance at oil and gas production facilities. On the communications front, NMED launched a newly designed website in Aug. 2021, an online Public Comment Portal in spring 2022, and the ability to translate website content to Spanish and Vietnamese in June 2022.

Fiscal Year 2023 (FY23) marks an important year for the Department to build critical capacity to meet the most pressing environmental and public health challenges. As noted above, NMED has two new bureaus in FY23, the Climate Change Bureau, which will advance the state toward our robust emissions reductions goals, and the Cannabis and Hemp Bureau, which supports these new and growing industries in New Mexico while protecting public health as edible products enter the market. As NMED continues to rebuild capacity, as well as retain, our talented workforce, we will recruit new employees across a number of positions in high priority programs, including cannabis and hemp, water infrastructure, uranium mine remediation, and emerging contaminants.

IV. Agency Efforts to Implement Policy (NMSA 1978, § 11-18-4.C(3)-(5))

NMED encourages all employees to take the STCA-mandated training administered by the State Personnel Office and developed by IAD, titled “Building Cultural Equity with Native Nations” (formerly called “Cultural Competency”). During FY22, 25 NMED employees took the course.

Drawing upon the STCA and NMED’s Tribal Consultation and Collaboration Policy, NMED summarizes its FY22 interactions with tribes, nations, and pueblos into four categories:

- 1. Communication and Outreach** (i.e., verbal or written interactions between governments)
- 2. Technical and Financial Assistance** (i.e., sharing technical expertise, providing training and awarding or allocating available funds)
- 3. Collaboration** (i.e., the process in which two or more parties work together to achieve a common goal)
- 4. Consultation** (i.e., the process of government-to-government dialogue between NMED and tribal governments regarding NMED's programmatic actions or proposed actions that affect or may affect the tribal government's interest, to resolve concerns)

Each category reflects important and purposeful NMED activities related to sharing resources, providing formal or informal notice, working together in partnership to tackle environmental and public health problems, and government-to-government coordination about activities that impact or have the potential to impact one another. In this section of the Annual Report we use these four categories to summarize each NMED division's FY22 interactions in Indian Country.

Communication and Outreach

- As a routine practice, NMED includes the Pueblos of San Ildefonso and Santa Clara on the carbon copy list on all correspondence related to the hexavalent chromium contamination plume at Los Alamos National Laboratory (LANL) to keep them apprised of NMED's regulatory decisions and the progress of the project. NMED also includes both pueblos on correspondence related to annual groundwater monitoring performed under the Interim Facility Wide Groundwater Monitoring Plan at LANL.
- The Hazardous Waste Bureau (HWB) on May 17, 2022, made a presentation to the Pueblo de San Ildefonso Tribal Council to provide an overview on performance of the hexavalent chromium plume control Interim Measure (IM) at the Los Alamos National Laboratory (LANL). The hexavalent chromium plume is located near the boundary of the Pueblo de San Ildefonso and the potential of transport of chromium contamination on the Pueblo property is of concern to NMED. NMED independently evaluated the performance of the IM and has concern that the assumptions made by the Department of Energy (DOE) for IM were not accurate. There was good discussion after the presentation and NMED responded to the Council members' questions. An additional meeting proposed by the Pueblo with NMED and DOE to discuss the path forward for IM will be held in the near future.

- HWB's Waste Isolation Pilot Plant (WIPP) Group in Spring 2022 made a concerted effort to identify and add all New Mexico Tribes and Nations not represented to the WIPP Facility Mailing List. HWB did independent research as well as used the LANL mailing list as a guide to identify gaps. In addition, *Indian Country Today* is one of five newspapers used when advertising WIPP Permit Actions. The first advertisement in this newspaper was published on April 29, 2022 and advertised the ability to join the WIPP Facility Mailing List.
- The Surface Water Quality Bureau (SWQB) included an article in the summer 2022 edition of the newsletter *Clearing the Waters*, on how the nonpoint source (NPS) management program can help address NPS pollution problems in waters where other states and tribes have jurisdiction for water quality programs. In the process, environmental program staff from the Southern Ute Tribe and Pueblo of Taos were contacted for information on their NPS programs, and they reviewed the article. The article included the Animas River and Rio Pueblo de Taos as examples, and is available at <https://www.env.nm.gov/surface-water-quality/newsletters>.
- SWQB funded the "*Restoring the Rio Quemado Riverine Wetland on Los Potreros Open Space, in Chimayo, NM*" project. Goals of this project include raising the channel elevation, improving wetland functionality, and restoring riparian vegetation in the Open Space area of Santa Fe County. A task of this project is to update the Wetland Action Plan (WAP). A WAP is a collaborative and community-based plan that describes voluntary actions that may be taken by public land management agencies or private landowners at their own discretion. The cooperator (Ecotone Landscape Planning, LLC) invited the five Pueblos located within Santa Fe County to participate in the virtual meeting, which demonstrated the goals of the WAP update. Representatives from the Pueblo of Santa Clara and the Pueblo de San Ildefonso were able to attend.
- SWQB conducted a land management agency stakeholder meeting to solicit input on development of the Rio Ruidoso HUC10 Watershed Based Plan. This meeting was attended by the Mescalero Apache Tribe, Division of Resource Management & Protection. The meeting was well attended, generated interest in the Plan, and began conversations of how different agencies' planning and project initiatives can be coordinated to leverage time and money spent to produce maximum benefits for the watershed. The watershed planning process involves a series of cooperative, iterative steps to characterize existing conditions, identify and prioritize problems, define management objectives, develop protection or remediation strategies, and implement and adapt selected actions as necessary. This requires extensive collaboration with local stakeholders and tribal government to produce a successful Plan.

- SWQB had a phone discussion with a representative from Navajo Nation’s Environmental Protection Agency to discuss the Nation’s potential metals criteria for agriculture.
- SWQB reviewed and provided a letter of support with comments to the Ute Mountain Ute Tribe regarding their Triennial Review of water quality standards.
- SWQB provided notification to all tribes, pueblos, and nations within New Mexico of the public hearing for the proposed designation of waters in the upper Pecos watershed as Outstanding National Resource Waters (“ONRWs”) under the state’s *Standards for Interstate and Intrastate Surface Waters* (20.6.4 NMAC).
- SWQB provided notification to all tribes, pueblos, and nations within New Mexico of the public hearing for the proposed designation of waters in sections of the Rio Grande, Rio Hondo, Lake Fork Creek, East Fork Jemez, Redondo Creek, and San Antonio Creek as ONRWs under the state’s *Standards for Interstate and Intrastate Surface Waters* (20.6.4 NMAC).
- SWQB reviewed the Pueblo of San Felipe’s application for Treatment in a Similar Manner as a State/Sovereign (“TAS”) and provided a letter of support.
- SWQB communicated with the Navajo Nation regarding sanitary sewer overflows to the Puerco River and its tributaries from the City of Gallup Wastewater Treatment Plant (WWTP).
- SWQB communicated with the Navajo Nation EPA regarding several large-scale construction projects adjacent to tribal lands. SWQB staff conducted a compliance evaluation inspection of the construction projects and contacted the operators to explain the National Pollutant Discharge Elimination System (NPDES) Construction General Permit (CGP) permitting process and requirements.
- SWQB submitted Downstream User Comments to U.S. EPA Regions 6 and 9 for tribally owned and operated WWTP from the Pueblo of Laguna: Rio Puerco WWTP and Casa Blanca WWTP; and from the Navajo Nation: Bureau of Indian Affairs Wingate High School Wastewater Treatment Facility (WWTF).
- SWQB included tribal notification requirements in Clean Water Act Section 401 certifications for exceedances and spills in several NPDES permits, including the Pueblo de San Ildefonso: Los Alamos County White Rock WWTP, Los Alamos County WWTF, Los Alamos National Laboratory Stormwater, and Los Alamos National Laboratory Industrial Outfalls.

- The Ground Water Quality Bureau (GWQB) sent letters to all tribal leaders and environmental directors providing information on available Brownfields Program services, including free Targeted Brownfields Assessments, the Brownfield Revolving Loan Fund, and the Voluntary Remediation Program.
- GWQB presented “Story Maps – A Fun & Easy Way to Showcase Brownfields Projects” at the May 10, 2022 Inter-Tribal Environmental Council – Tribal Environmental Summit.
- GWQB communicated with the Pueblo of Santa Clara and Pueblo of Sandia about potential tribal Brownfields sites.
- GWQB communicated with the Pueblo of Picuris about Brownfields Program assistance for a potential property purchase and redevelopment of the Historic Embudo Hospital.
- GWQB Pollution Prevention Section staff notified and followed up with the Navajo Nation EPA regarding a spill of domestic wastewater at a facility near Yah-ta-hey.



GWQB staff presented a technical update on the North Railroad Avenue Plume Superfund Site in Española, with several Pueblo of Santa Clara officials in attendance, during a Site visit by EPA Region 6 Administrator Dr. Earthea Nance on March 23, 2022.

- The Air Quality Bureau (AQB) staff presented to the Pueblo de San Ildefonso’s Tribal Council and Pueblo leadership on the Department’s air permits in effect for the Los Alamos National Laboratory and the air monitoring network operated throughout the state. AQB also provided updates on smoke projections and air quality impacts from recent wildfires and engaged in follow up discussions with the Pueblo’s consultant on monitoring methods and locations.

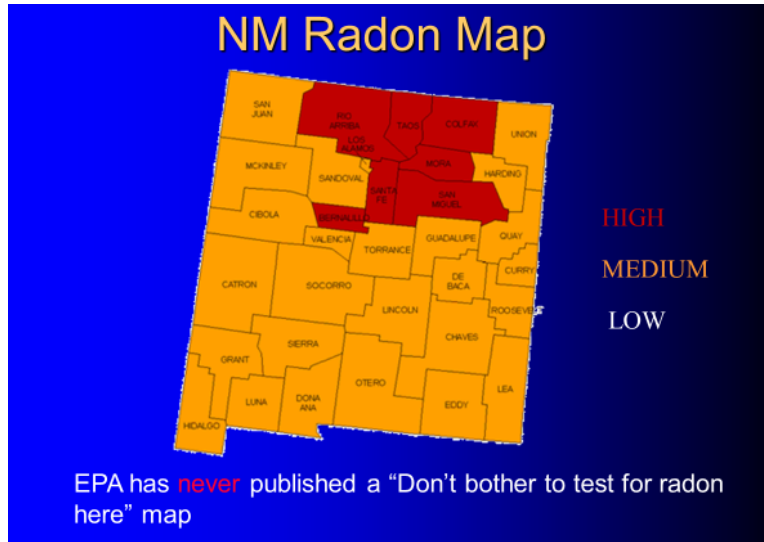
- The NMED and EMNRD Secretaries and co-leaders of the Governor's Climate Change Task Force in August 2021 sent each tribal leader a letter inviting tribal leadership into additional conversations on climate change policy priorities. Five separate meetings with tribal leaders and climate-focused staff ensued.
- The Environmental Protection Division (EPD) from July 2021 through May 2022 proposed the Clean Car Rule to adopt low and zero-emission new motor vehicles standards for New Mexico. NMED staff communicated with tribal leadership and tribal environmental directors via emails, presentation and individualized letters explaining the impact and potential benefits of the rule. The Environmental Improvement Board approved NMAC 20.2.91 (the Clean Car Rule) on May 5, 2022.

Technical and Financial Assistance

- The Surface Water Quality Bureau's (SWQB) River Stewardship Program funded the second phase of a watershed project that includes working with the Rio Puerco Alliance, River Source, Ojo Encino Farmers and Ranchers Committee, Hasbídító, and the Navajo Summer Youth Program to improve riparian and ecological conditions along the Torreon Wash within the Navajo Nation. The project includes planting between 1,765 and 3,000 cottonwoods, nearly 300 riparian shrubs, and 2,000 willow poles to improve riparian areas and building between 300 and 600 erosion control structures to stabilize gullies in the project area.
- SWQB staff taught break-out sessions at the New Mexico Water and Wastewater Association Northern School dedicated to NPDES sampling and reporting requirements. The May 2022 training was attended by several tribal Water Utility Operators.
- SWQB staff calculated the low flow statistic and provided U.S. EPA Region 6 permitting staff with it and other ambient water quality data in May 2022 for the City of Española WWTP permit renewal. Santa Clara Pueblo is the certifying entity for the City of Española WWTP NPDES permit. Santa Clara Pueblo will review the EPA pre-draft version of the permit and will have the option to certify, certify with condition, deny certification, or waive certification of the permit. This is part of the normal NPDES permit process. NMED comments as a downstream user to Santa Clara Pueblo on their 401 certifications.
- SWQB staff assisted Taos Ski Valley on submitting their NPDES discharge monitoring reports (DMRs) to the Pueblo of Taos in March of 2022. The Taos Ski Valley NPDES permit requires them to notify downstream acequias and the Pueblo of Taos of exceedances.

- SWQB staff conducted an off-site compliance evaluation inspection of the Chevron McKinley Mine from September to November 2021. The McKinley Mine discharges to both surface waters on the Navajo Nation and the State of New Mexico.
- SWQB permitting staff worked with U.S. EPA Region 6 and the U.S. Bureau of Reclamation on a preliminary permit review for the Navajo Gallup Water Supply Project (NGWSP) Water Treatment Plant Ultrafiltration-Nanofiltration Pilot Study. SWQB issued a State of New Mexico Clean Water Act Section 401 Water Quality Certification for the NGWSP Reach 27.7B, McKinley County, New Mexico. SWQB also conducted a compliance evaluation inspection of the U.S. Bureau of Reclamation Cutter Lateral Water Treatment Plant, part of the NGWSP.
- SWQB staff accompanied U.S. EPA Region 6 staff on compliance evaluation inspections at the City of Española WWTP (Pueblo of Santa Clara) and the Village of Bernalillo WWTP (Pueblo of Sandia).
- The Ground Water Quality Bureau (GWQB) staff provided financial assistance to Acoma Pueblo by tasking our environmental contractor to conduct a Phase II Targeted Brownfields Assessment (\$15,562) for asbestos-containing materials and lead-based paint at Acomita Day School.
- GWQB staff provided financial assistance to the Pueblo of Pojoaque by tasking an environmental contractor to conduct a Phase II Targeted Brownfields Assessment (\$15,371) at the Montoya Property.
- GWQB staff communicated with the Pueblo of Laguna about providing technical assistance through US EPA Brownfields programs for the Laguna Vendors site.
- NMED's FY22 Recycling and Illegal Dumping (RAID) grant awards included \$5,000 to the Pueblo of Zuni for purchase of a trailer for the collection of scrap tires during community cleanup events. The utility trailer will allow the Pueblo to increase the amount of scrap tires collected from illegal dumpsites and from residents on Pueblo of Zuni lands for proper recycling or disposal.
- The Solid Waste Bureau (SWB) provided technical and contract assistance to the Navajo Nation to complete a FY21 RAID grant award project. The Navajo Nation was awarded \$150,000 to abate illegal dumpsites and conduct an illegal dumping prevention campaign for six eastern chapters. Scrap tires were removed from Church Rock, Pinedale, and Smith Lake. Solid waste dumpsites were abated at ChiChiITah, Breadsprings and Manuelito. The outreach component of the project included poster-sized materials for each of the six chapters, with a message incorporating Navajo cultural philosophy to care for Mother Earth in a sacred way.

- The State Indoor Radon Program provided the Jicarilla Apache Nation with 10 prepaid indoor radon test kits for use in their community testing program.



Collaboration

- The Construction Programs Bureau (CPB) reaches out to tribes through the environmental review process for Clean Water State Revolving Fund (CWSRF) projects. The CWSRF funds are federal and, therefore, require compliance with the National Environmental Policy Act (NEPA), including consultation with any tribal entities in the area of the project, pursuant to Section 106 of the National Historic Preservation Act, to determine whether a proposed project has the potential to disturb areas considered important or culturally significant. NMED offers consultation to all tribes, nations, and pueblos with current land ownership in New Mexico and provides notice to those tribes with historical use and occupancy that request it. The following conversations occurred during FY22.
 - CPB staff is working with the Fort Sill Apache Tribe who have capital outlay funding to plan, design, construct, furnish and equip a wastewater system for the Fort Sill Apache Tribe in Luna County. The project is currently in the construction phase.
 - CPB staff is providing technical oversight to the Mescalero Apache Tribe who have Water Trust Board funding in the amount of \$223,000 to construct a welded steel water tank. The plans have been reviewed and final approval will be provided when the plans have been finalized.
 - CPB Staff is providing technical oversight to the Pueblo of Taos for a water meter replacement project that was funded by the Drinking Water State Revolving Loan Fund in the amount of \$400,000. The Pueblo is in the process of procuring and installing new water meters.
 - CPB staff sent out requests for comment as part of the tribal consultation process for the City of Tucumcari Clean Water State Revolving Loan Fund project CWSRF 102 to the following tribes: Apache Tribe of Oklahoma,

Comanche Indian Tribe, Pueblo of Isleta, Jicarilla Apache Nation, Kiowa Tribe of Oklahoma, Mescalero Apache Tribe and Pawnee Tribe of Oklahoma in regard to the City of Tucumcari effluent disposal and reuse system improvements in Tucumcari, Quay County, New Mexico.

- The Drinking Water Bureau (DWB) staff has continued to coordinate with the Navajo Nation EPA and the Navajo Tribal Utility Authority (NTUA) on the regulatory aspects of operating the Cutter Lateral of the Navajo-Gallup Water Supply Project (NGWSP). DWB staff conducted the first Sanitary Survey inspection for the Cutter Lateral on August 17, 2022. Representatives from NMED, Navajo Nation EPA, NTUA, and the US Bureau of Reclamation attended the on-site sanitary survey at the Cutter Lateral treatment plant and drove on rural roads on the Navajo Nation between the plant to the Cutter Lateral Dam intake. Below are a series of photos of the group on-site tour from the Cutter Lateral Dam intake to the Treatment Plant including water storage tanks and necessary equipment.





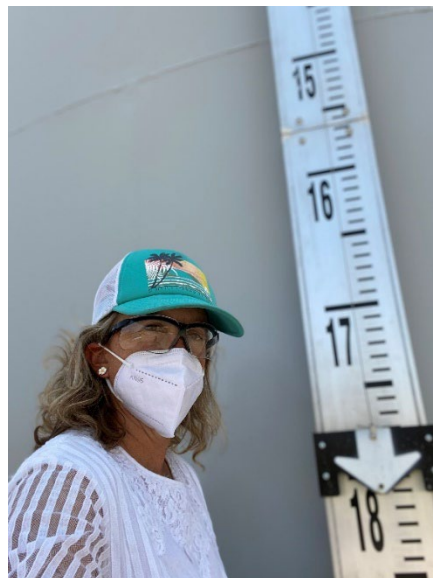
Cutter Lateral Filtration Basin



*Cutter Lateral Treatment Plant
Sanitary Survey*



*Cutter Lateral
Chemical Injectors*



- DWB played a leading role over the last nine years to help develop a regulatory framework for all the agencies to regulate water from the Navajo Gallup Water Supply Project (NGWSP) and assist in implementation. The NGWSP is designed to provide water to approximately a quarter million people in the Four Corners of New Mexico within the next 50 years, most of whom live on the Navajo Nation, the Jicarilla Apache Nation, and the City of Gallup. Due to the complex land status in the area of the project, four regulatory agencies have jurisdiction over portions of the project.
- DWB worked with representatives from the Bureau of Reclamation on the proposed Pojoaque Basin Regional Water Project. The Pojoaque Basin Regional Water Project authorizes the US Bureau of Reclamation to plan, design, and construct a regional drinking water system, consisting of water-diversion facilities from the Rio Grande and water treatment located on the Pueblo de San Ildefonso and serving water systems on the Pueblos of Nambe, Pojoaque and Tesuque. The Project also authorizes any treatment, transmission, storage, and distribution facilities and wellfields for Santa Fe County's distribution system and Pueblo water facilities that are necessary to distribute up to 4,000 acre-feet per year of water annually to customers in the Pojoaque Basin.
- The Surface Water Quality Bureau (SWQB) staff partnered with the Navajo Nation and the Southern Ute Indian Tribe to continue the water quality monitoring after the Gold King Mine spill for eight sites on the Animas and San Juan Rivers. The tribes collected samples and measured field parameters while NMED provided sampling supplies and laboratory analysis through its interagency agreement with the DOH Scientific Laboratory Division. This monitoring effort, with the first event completed in June 2022, shifts post-Gold King Spill monitoring from EPA to the local jurisdictions. By collaborating and sharing resources, NM and the tribes can continue collecting vital information on the health of these important waterbodies.
- The Ground Water Quality Bureau (GWQB) staff collaborated with the Pueblo of Santo Domingo, US EPA – Region 6 and Eight Northern Indian Pueblo Council staff to plan for a Phase II Targeted Brownfields Assessment at the Santo Domingo CC Housing property, a former industrial site. US EPA will use its environmental contractor to conduct additional assessments in preparation for property cleanup.
- GWQB staff Superfund Oversight Section staff continue ongoing coordination with the Pueblo of Santa Clara for access to Pueblo land for sampling and other cleanup activities at the North Railroad Avenue Plume Superfund Site in Española.
- NMED is working cooperatively with the Pueblo of Pojoaque to abate 135 truckloads of sludge illegally dumped on tribal lands by a Santa Fe hotel that was renovating its wastewater treatment system. The administrative compliance order NMED issued to

Bishop's Lodge in February 2020 requires the hotel to remove the sludge and properly dispose of it at a permitted facility and assume all associated costs. Prior to removal, NMED will require Bishop's Lodge to submit a plan in compliance with all regulatory requirements for testing, hauling and disposal at a permitted solid waste facility. Following a hearing, NMED issued a Final Order upholding the requirements of the administrative compliance order on May 31, 2022. The responsible party appealed the decision to the New Mexico Court of Appeals on June 30, 2022.

- NMED appointed a representative of the Pueblo of Santa Ana to serve a two-year term on the RAID Alliance. The 12-member RAID Alliance sets priorities for RAID grant funding and recommends awards each year.
- The Department of Energy Oversight Bureau (DOE-OB) sampled water and biofilm at two sites on the Pueblo de San Ildefonso property, in coordination with the Pueblo's Environmental Programs Manager, Raymond Martinez. As defined in the Memorandum of Agreement, NMED releases sampling results to Pueblo staff for review then uploads the results to Intellus. Data is publicly available at www.IntellusNM.com. This work provides an independent assessment of contamination impacts from LANL to the Rio Grande. All monitoring is carried out in accordance with the Department-wide Memorandum of Agreement with the Pueblo de San Ildefonso and DOE-OB specific access permit.
- DOE-OB continued their ongoing monitoring of stormwater on the Pueblo de San Ildefonso at site E110-Los Alamos Canyon above Otowi Bridge. This is the last monitoring point before potentially contaminated stormwater runoff and sediment from legacy LANL activities in Los Alamos and Pueblo Canyon enter the Rio Grande. DOE-OB is the only entity monitoring stormwater at this location, which is an important location for both the Pueblo as well as the City of Santa Fe and the Buckman Direct Diversion project. Runoff from three storm events (7/8/21, 8/27/21, and 9/30/21) was collected and sampled for metals, PCBs dioxins/furans, a full radionuclide suite, and suspended sediment concentration. Data is publicly available at www.IntellusNM.com. Stormwater monitoring is carried out under the Department-wide Memorandum of Agreement with the Pueblo de San Ildefonso.
- Pursuant to a Department-wide Memorandum of Agreement with the Pueblo of Santa Clara, the Petroleum Storage Tank Bureau (PSTB) collaborated by:
 - Conducting groundwater monitoring in February 2022, at the Circle K716/Exxon El Centro state-lead sites located at the Española Post Office and Plaza area. The report was accepted February 23, 2022 and provides the latest groundwater data on petroleum hydrocarbon contamination in the area. PSTB provides all data to the Pueblo of Santa Clara environmental staff.
 - Conducting investigative work in April 2022, at the Big Rock 66 state lead release site, located on fee land of the Pueblo of Santa Clara. High Resolution

Site Characterization (HRSC) was conducted at the site, which was used to help characterize the saturated soils within the defined plume. Initial results were inconclusive at the time of the initial reports. This work will also provide information for the Santa Clara Development Corporation to be able to continue with their upcoming construction activities in the parking lot of the Big Rock Casino. PSTB and representatives from the Pueblo of Santa Clara will receive all documents produced from the investigation.

- Pursuant to a Cooperative Agreement between NMED and the Pueblo of Laguna the Petroleum Storage Tank Bureau (PSTB) collaborated by:
 - Approving semi-annual groundwater monitoring in February 2022 at the School Maintenance Yard in Paraje;
 - Approving a continuation of the operation of a soil vapor extraction system (SVE) from May 2022 to May 2023 at the Laguna Mart release site. This work will continue to clean up the petroleum hydrocarbon release that has impacted the soil and groundwater in the location of the property.



Pictured is a soil vapor extraction system at the Laguna Mart release site

- The Petroleum Storage Tank Bureau (PSTB) collaborated with the Pueblo of Picuris on January 11, 2022, by conducting compliance inspections of underground storage tank facilities at A1 Auto Repair (FID 26305) and Traveler’s Service Station (FID 31185), with no violations issued. Annual groundwater monitoring was approved at the same two facilities within the town of Peñasco, which is within the exterior boundaries of the Pueblo of Picuris.
- PSTB collaborated with the Pueblo of Taos on April 25, 2022, by conducting a compliance inspection to determine if Allsup’s 102317 (FID 1855) at 507 Paseo del Pueblo Norte, within the exterior boundaries of the Pueblo of Taos, is being operated in accordance with UST Regulations. A suspected release was discovered, and the owner was notified.

- The Air Quality Bureau (aqb) staff engaged in follow up discussions with the Pueblo de San Ildefonso's consultant on air quality monitoring methods and locations and wrote a letter of support for the Pueblos' Department of Environmental and Cultural Preservation (DECP) application for funding for Enhancing Air Quality Monitoring at the Pueblo de San Ildefonso.

Consultation

- The Surface Water Quality Bureau (SWQB) staff met with environmental staff from the Pueblo of Taos to discuss the River Stewardship Program and a potential project to restore wetlands and stream areas on the pueblo.
- SWQB notified the Pueblo of Tesuque's Department of Environment and Natural Resources on April 18, 2022, of bentonite dumping that occurred in an arroyo upstream of the Pueblo of Tesuque. Bentonite is a type of clay that is used to mix drilling mud. SWQB provided information regarding the spill, clean-up and associated corrective actions to protect water quality and shared with the Pueblo on July 5, 2022 that the New Mexico Environment Department has received and approved the Final Corrective Action Report from PNM Resources regarding the bentonite slurry dumping and cleanup.
- SWQB recently funded the "*Restoring Springs and Wetlands on State Trust Lands in the Lower Embudo Valley*" project near Dixon, NM. The project's goal is to reduce soil erosion, halt channel degradation, raise channel elevation, improve wetland functionality, and restore riparian vegetation. The project area is of cultural significance to the Picuris Pueblo. The SWQB and the cooperator (Ecotone Landscape Planning, LLC) have given a presentation to the Picuris Pueblo describing the project goals, schedule, and various restoration structures that will be constructed. The Picuris Pueblo is in full support of the restoration project and requested future engagements that will involve a field visit with the Boys and Girls Club of the Picuris Pueblo to the project area to present different restoration structures that will improve wetland functionality and restore riparian vegetation.
- The Solid Waste Bureau (SWB) outreach staff provided information on the Recycling and Illegal Dumping (RAID) grant program at the IRAC meeting held via Zoom. Staff also reached out to tribal entities during the fall to answer questions and assist interested tribes to prepare applications.
- The Pueblo of Santa Clara requested in FY20 consultation regarding the North Railroad Avenue Plume Superfund Site in Española and it was mutually postponed due to focused efforts by the Pueblo and the state to stem the spread of COVID-19. The consultation meeting was held virtually on August 19, 2021. As a follow-up to the consultation meeting, NMED technical staff provided technical presentations on

the NRAP Superfund Site and the nearby Calle Chavez plume at a tribal council meeting in Española on September 24, 2021.

- The Ground Water Quality Bureau (GWQB) Pollution Prevention Section staff consulted and had a government-to-government dialogue with the Ohkay Owingeh Environmental Department to renew a discharge permit for regulation of a domestic wastewater groundwater discharge at the Delancey Street Foundation facility on tribal land. Staff from both governments worked together to issue the discharge permit in a manner that addressed concerns from both departments.
- GWQB's Pollution Prevention Section and Office of General Counsel staff engaged with the Pueblo of Pojoaque to develop a memorandum of understanding (MOU) focused on allowing NMED's issuance of a discharge permit for continued irrigation of the recreational fields located at the Santa Fe Downs facility. The Santa Fe Downs recently became Pueblo of Pojoaque trust land and had previously utilized reclaimed domestic wastewater to irrigate the fields. Issuance of a discharge permit under the MOU will allow NMED to continue to regulate the discharge that is occurring while allowing the Pueblo to receive treated water.

V. [Contacts \(NMSA 1978, § 11-18-4.C\(2\)\)](#)

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Kathryn Becker and Jeff Montoya, Pueblo of Pojoaque, enjoying a laugh at the Governor's State Tribal Collaboration Annual Summit.

VI. Statutes and Mandates

Governing statutes generally:

NMSA 1978, §9-7A-1 to -15;	Executive Department, Department of Environment;
NMSA 1978, §§ 25-1-1 to -15;	Food Service Sanitation Act;
NMSA 1978, §§ 25-2-1 to -20;	Adulterated or Misbranded Food Act;
NMSA 1978 §§ 26-2C-1 to -42;	Cannabis Regulation Act;
NMSA 1978, §§50-9-1 to -25;	Occupational Health and Safety Act;
NMSA 1978, §§ 61-33-1 to -10;	Utility Operators Act;
NMSA 1978, §§74-1-1 to -17;	Environmental Improvement Act;
NMSA 1978, §74-1-6;	Department Powers;
NMSA 1978 §§74-2-1 to -22;	Air Quality Control Act;
NMSA 1978 §§74-3-1 to -16;	Radiation Protection Act;
NMSA 1978, §§74-4-1 to -14;	Hazardous Waste Act;
NMSA 1978, §§74-4A-1 to -16;	Radioactive and Hazardous Materials Act;
NMSA 1978, §§74-4B-1 to -14;	Emergency Management Act;
NMSA 1978, §§74-4C-1 to -4;	Hazardous Waste Feasibility Study Act;
NMSA 1978, §§74-4E-1 to -9;	Hazardous Chemicals Information Act;
NMSA 1978 §§ 74-4G-1 to -12;	Voluntary Remediation Act;
NMSA 1978, §§74-6-1 to -17;	Water Quality Act;
NMSA 1978, §§74-6A-1 to -15;	Wastewater Facility Construction Loan Act;
NMSA 1978, §§74-6B-1 to -14;	Ground Water Protection Act;
NMSA 1978, §§74-6-2 to -17;	Environmental Improvement Act;
NMSA 1978, §§74-7-1 to -8;	Environmental Compliance Act;
NMSA 1978, §§74-8-1 to -3;	Solid Waste Incineration;
NMSA 1978, §74-9-1 to -43;	Solid Waste Act;
NMSA 1978, §§74-10-1 to -100;	Solid Waste Authority Act;
NMSA 1978, §§74-13-1 to -20;	Recycling and Illegal Dumping Act;
NMSA 1978, §§74-13A-1;	Petroleum Products Loading Fee Act;
NMSA 1978, §§75-1-1 to -6;	Rural Infrastructure Act;
NMSA 1978, §§ 70-13-1 to -5;	Produced Water Act;
NMSA 1978, §§ 76, Article 24;	Hemp Manufacturing Act;
NMSA 1978, §§ 76-24-1 to -10	Emergency Hemp Rule

VII. Agreements

Tribe/Pueblo/Nation Government	Agency	Activity	Agreement Name	Current Status	Contact/Phone
Pueblo of Pojoaque Environment Department	NMED	Abatement of soil and water pollution	Cooperative Agreement	In effect, effective since 5-1-01	GWQB Chief (505) 827-2919
Pueblo of Zuni	NMED	Underground Storage Tank Cleanup, at Mustang Store 7256	Cooperative Agreement	In effect, effective since 3-20-02	PSTB Chief (505) 476-4377
Pueblo of Laguna	NMED	Underground Storage Tank Cleanup at Laguna Mart	Cooperative Agreement	In effect, effective since 6-21-00	PSTB Chief (505) 476-4377
Pueblo of Laguna	NMED, U.S. EPA, the Grants/Cibola County School Board	Underground Storage Tank Cleanup for a former Grants/Cibola County Schools Maintenance Yard, Paraje	Memorandum of Agreement (MOA)	Effective 5-31-16	PSTB Chief (505) 476-4377
Jicarilla Apache Tribe Environmental Protection Office	NMED	Underground Storage Tank Cleanup at the Lodge at Chama, amended to include the Gomez Stop & Go Site	Cooperative Agreement	In effect signed 6-15-00 Amended 8-16-02	PSTB Chief (505) 476-4377
Pueblo of Picuris	NMED	Underground Storage Tank Cleanup and Petroleum Remediation	Consent for Access to Property	Effective 6-14-07	PSTB Chief (505) 476-4377
Ohkay Owingeh	NMED	Underground Storage Tank Cleanup and Petroleum Remediation	Consent for Access to Property	Effective 9-10-08	PSTB Chief (505) 476-4377
Pueblo de San Ildefonso	NMED	Soil, water, air, and plant monitoring as well as sampling to evaluate LANL activities	MOU	In effect, effective since 2-7-14	DOE Oversight Bureau Chief (505) 383-2074
Navajo Nation and Southern Ute Indian	NMED	Four Corners Air Quality Group Cooperation	MOU	In effect, effective since 12-03-15	Air Quality Bureau, Mark Jones (505) 566-9746
Pueblo of Santa Clara	NMED	Comprehensive description of all regulatory activities w/in exterior boundary	MOA	In effect, effective since 12-20-10, Amended 11-19-19	Kathryn S. Becker (505) 231-9983