

CLEARING THE WATERS

A quarterly newsletter by the Surface Water Quality Bureau

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Editor:

Susan j. Ossim

susan.ossim@state.nm.us

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Taos County is on the Forefront of Wetland Protection

By Chris Cudia, Environmental Scientist

Taos County contains some of New Mexico's most celebrated communities and natural environments. The richness of its cultural heritage is almost beyond comprehension as our deepest roots run here. Among the natural features that make Taos County so unique are its aquatic resources including wetlands. Taos County boasts some of our most noteworthy surface water resources in the state, everything from the depths of the Rio Grande Gorge to lush slope wetlands in the highest mountain valleys.

"Water is life" is not just another bumper sticker to those who call this county home. Historical settlement patterns are a clear indication of the inextricable link that exists between residents and water resources. Towns and villages were established along rivers, streams, and the acequias that crisscrossed the valleys. The livelihood of past, present, and future residents has and will continue to be dependent upon these resources.

Although fortunate to have a relative abundance of wetlands and other surface water resources in the County, water supply in the high desert will always remain inherently limited. This reality poses a challenge for those tasked with striking a balance between economy, cultural preservation, and environmental protection. Over the past several years, Taos County has emerged as a leader in addressing these complex issues, and their approach to wetland preservation and protection is especially noteworthy.

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Shallow groundwater and wetlands are common throughout Taos valley, areas such as these pictured above.

The SWQB first became aware that Taos County was on the forefront of the issue of wetland protection while on routine inspections. One of the programs administered by the New Mexico Environment Department's Watershed Protection Section (WPS) is the Water Quality Certification program. Section (§) 401 the Federal Clean Water Act provides states with the option of certifying Federal CWA §404 permits issued by the U.S. Army Corps of Engineers (the Corps). These permits are issued by the Corps for the discharge of dredged or fill materials into water of the United States including wetlands. New Mexico exercises its option to certify these federal permits and in doing so coordinates closely with the Corps throughout the permitting and certification process. The WPS also coordinates closely with county partners to facilitate permitting and compliance. On a recent trip to Taos, staff from WPS spoke with Eric Montoya, Taos County Rural Addressing Coordinator, and David Parks, GIS Technician, about their current Land Use Regulations. Specifically, with regard to how the regulations approach wetland protection.

Taos County recently updated its Land Use Regulations, Ordinance 2018-2 on September 4, 2018 and became effective on October 5, 2018. The regulations are noteworthy in that they include provisions specifically designed to protect wetland habitats. When asked how this effort got started, Eric was quick to credit one of his predecessors, Tim Corner, as being instrumental in advancing the cause. Mr. Corner, a Certified Floodplain Manager, who now works for the Town of Taos, was key to moving this forward. Eric took over as Rural Addressing Coordinator and GIS Specialist in June of 2018 and since that time has been the WPS and the Corps primary contact for the purposes of CWA §404/401 compliance. WPS and representatives from the Corp's Regulatory Branch have met with Eric on numerous occasions to review proposed actions and conduct wetland delineations and inspections.

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As previously indicated, the catalyst for these inspections is the Federal Clean Water Act Requirements and provisions within the County's Land Use Regulations (LUR). Section 4.8.13 of the LUR addresses Residential Wetland Development. This section applies to various activities that require permitting or county approval and clearance such as securing a building permit for new construction.

The underlying purpose of these requirements is described in the LUR regulation as follows:

"It is the purpose of this Section to preserve, protect, and improve the public health, safety, and general welfare of the citizens of Taos County, and to conserve and protect open bodies of water and flowing streams, wetlands, and the natural and scenic resources of Taos County, and to implement the Taos County Comprehensive Plan" (Taos Co Ordinance 2018-02, Section 4.8.13(B), Sept 4, 2018).

Section 4.8.13(E) of the LUR goes on to list criteria that must be met before clearance is secured. The list, presented below, is a clear indication of the County's dedication to preserving its cultural heritage and the natural resources that support it:

1. *Final approval of an application may not be granted pursuant to this Section until it is determined that each of the following criteria will be met:*
 - a. *There shall be no net loss of wetland values and functions.*
 - b. *The project is designed to minimize adverse impacts regarding the conservation of populations of fish or wildlife or their habitats.*
 - c. *The project is designed to control and will not cause excessive erosion.*
 - d. *The project will not adversely impact historic resources or paleontological resources.*
 - e. *Project alternatives and modifications to lessen impacts have been determined to be infeasible, i.e. there are no reasonable design alternatives or modifications available to lessen impacts.*
 - f. *The project does not conflict with any other federal, state or local designated preserve or conservation area.*
 - g. *Any structure proposed in, on or over a surface water is water-dependent. If not water-dependent, the structure must clearly demonstrate an overriding public purpose.*
 - h. *There will be no violation of water quality standards; the project complies with state and local water quality rules and standards.*
 - i. *In conjunction with other projects, the project will not result in cumulative impacts that in the aggregate fail the criteria of this Section. (Taos Co Ordinance 2018-02, Section 4.8.13(E), Sept 4, 2018)*

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County planners utilize the National Wetlands Inventory (NWI) maps during clearance reviews. The NWI is a publicly available resource that provides detailed information on the abundance, characteristics, and distribution of US wetlands and can be accessed through the link provided: <https://www.fws.gov/wetlands/>. The NWI was established by the US Fish and Wildlife Service for the purpose of delineating and classifying wetland resources with the goal of conserving them. This invaluable tool is made even more useful thanks to actions taken by Maryann McGraw, Wetlands Program Coordinator for NMED, highlighted elsewhere in this issue. Maryann and her staff have carried out a number of wetland mapping projects in the state of New Mexico to update the NWI.

These projects have yielded finer spatial resolution than previously available through the NWI, making it an even more useful tool. Unfortunately, as expressed by Eric and David during our conversation, often times LUR clearance procedures require an even finer resolution. Eric indicated that reviewing the NWI layers is their first step in assessing potential wetland impacts but that field verification is also routinely needed. Especially challenging situations trigger a call to the Corps. At which point, staff from the Corps and WPS schedule a site visit to determine if and to what extent the proposed action will impact wetlands. The Corp's wetland delineation procedures are employed for this purpose.



David Parks, Taos County GIS Technician, reviewing NWI layers to assess potential impacts to wetlands.

Agency coordination has been a real positive according to Eric, though it often adds a significant amount of time to the clearance process. The conversation then shifted to discussion of some of the challenges applicants have meeting LUR requirements. Eric and David indicated that in some instances, a foot or two could be the difference between meeting a setback requirement and being denied zoning clearance. This complexity is especially apparent outside the Town of Taos limits.

A brief drive around the Town and County reveals countless wetland and riparian habitats scattered about the valley. David pulled up a map of one project currently under review to illustrate this. "They [wetlands] are all over the place", he said. Eric commented on how his home community, Ranchitos, has always been known for being green even through periods of drought. Historical records are unclear when the first acequias were established in the Taos Valley, but the acequia that serves his home community is considered to be the earliest on official record. The fact that traditional land uses in Taos County predate the American Revolution by over a 100 years millennia for residents of Taos Pueblo cannot be overlooked or dismissed. Conflicts between property rights and environmental protection laws, most of which were assessed in just the past 50 years, are bound to happen in a situation like this and indeed they do.

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Common wetland habitats in the County of Taos.

Many properties within both the Town of Taos limits and Taos County contain or are surrounded by extensive wetlands and both gentlemen knew people whose development plans had been impacted by such designation. They were also keenly aware that restricting a person's ability to develop on a property that has been in their family since before the Mayflower set sail, will not always be well-received. Taos County's efforts to protect wetlands are commendable though one cannot help but appreciate the unenviable position it often places them in. These are tough calls and so far, the County has managed to achieve positive outcomes.

Leandro Cordova, Taos County Manager, and Edward Vigil, the County's Planning Director, joined our conversation during a break from their schedules. Both expressed an unwavering support for wetland protection while acknowledging the challenges inherent in doing so. Director Vigil stated that since being adopted, the wetlands program continues to evolve. "We're not at the point we'd like to be." "Communication with the Corps has improved and we continue to learn more about the issue but it is still a work in progress." County Manager Cordova added, "It's a balancing act...It is difficult to explain to someone that activities allowed in the past are no longer allowed." Manager Cordova and Director Vigil left our discussion in order to attend another meeting. They indicated the purpose of that meeting was to seek resolution on the exact issue being discussed.

Drafters of the Taos County Land Use Regulations recognize the importance of balancing economic growth, cultural preservation, and environmental protection. These values are interrelated such that compromising one will often have a detrimental ripple effect on the others. The

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proactive approach taken by Taos County to protect wetland resources is by no means easy and challenges will continue to arise, but in the meantime, steps taken by Taos County to preserve the entire community of life in the place they call home is quite commendable.



Riverine wetland common in the County of Taos.



For GIS Users

By Abe Franklin, WPS Program Manager

The web-based geographic information system (GIS) at <https://gis.web.env.nm.gov/oem/?map=swqb> is useful for looking up information on specific streams, but people who need data for larger areas, such as the whole state, a county, or a national forest, typically wish for the actual GIS data. NMED's GIS coordinator Zachary Stauber has made those data available at <http://data-nmenv.opendata.arcgis.com>. He recommended that I provide this link because it "will never change," whereas some of the data themselves, when updated, result in new download links. "Everything on our web maps that we're responsible for is visible in the above link, but searching will narrow it down neatly," reported Stauber. For example, search for "assessed 2018," or "impaired 2018," to find the current GIS coverages behind the 2018-2020 State of New Mexico Clean Water Act Section 303(d)/Section 305(b) Integrated Report. Or search for "nonpoint" to find and download the four coverages developed under the New Mexico Nonpoint Source Management Program.

Enjoy!

Environmental Law Institute Recognizes *Maryann McGraw's* Achievements



Many *Clearing the Waters* readers know that Maryann McGraw, New Mexico's Wetlands Program Coordinator, gets things done in the areas of wetlands monitoring, mapping, protection, and restoration. Her accomplishments were recently recognized by the Environmental Law Institute (ELI) as being of national significance, and ELI awarded her the prestigious National Wetlands Award for State, Tribal, and Local Program Development. "This award is important for New Mexico because many people outside the area don't know we have wetlands, or how important they are," said McGraw, who got the Wetlands Program off the ground in 2003 and continues to provide vision and guide the program, ensuring the program reflects the crucial role of wetlands and riparian areas in the west.

Ms. McGraw has applied for and received 38 federal grants that support initiatives spanning from high elevation headwater slope wetlands to lowland riverine wetlands. She has led the effort since 2009 to update mapping and classification of New Mexico's wetlands for the National Wetland Inventory and has led the development of NM Rapid Assessment Methods (RAMs) for wetlands. She started the New Mexico Wetlands Roundtables in 2006, which provide opportunities to learn and network for approximately 40-70 wetland and conservation partners statewide, including federal, tribal, state and regional natural resource agencies, conservation organizations, watershed groups, educators, and private contractors. In addition to Wetlands Roundtables, Ms. McGraw spearheaded a number of recent workshops and training sessions: NM RAM trainings, Playas Across Borders, and Wetlands and Roads workshops. She is also an active member of the Society of Wetlands Scientists and Association of State Wetlands Managers, and regularly assists these organizations with achieving their goals through collaboration and planning.

Please join us in congratulating Maryann McGraw for this achievement!

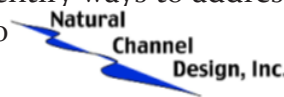
Two New Planning Projects Underway!

By Abe Franklin, WPS Program Manager

The Watershed Protection Section and cooperators started two new watershed-based planning projects in July, that are funded under Section 319 of the Clean Water Act. These projects were identified through a Request for Grant Applications (RFGA) released in 2017. More information on the RFGA and other opportunities for water quality funding is available at: www.env.nm.gov/surface-water-quality/funding-sources.

WILLOW CREEK WATERSHED-BASED PLANNING PROJECT

Willow Creek is a headwater tributary of the Gila River. The majority of its watershed, and a portion of the stream itself, are within the Gila Wilderness. Willow Creek is one of one of the better options where interested people may legally fish for the endemic and federally threatened Gila trout. Despite that these fish are present, the designated use of Willow Creek for high quality coldwater aquatic life isn't fully supported. The stream is listed as impaired by excessive aluminum and temperature, based on water quality data collected in 2011. A total maximum daily load (TMDL) for chronic aluminum was approved in 2014. Downstream of the wilderness the creek is impacted by roads, recreation (e.g., a Forest Service campground), and private cabins. The watershed was also heavily impacted by the 2012 Whitewater Baldy Complex Fire, and to a lesser extent by the 2006 Bear Fire. With a grant from NMED, Flagstaff-based **Natural Channel Design** will conduct a detailed assessment of the stream and its watershed and identify ways to address these impairments, in cooperation with the Gila National Forest, the New Mexico Department of Game and Fish, Trout Unlimited, and local landowners.



SAPELLO RIVER WATERSHED-BASED PLAN

With headwaters above 11,000 feet in the Pecos Wilderness, the Sapello River flows for approximately 70 miles through mostly private lands in several ecozones before reaching the Mora River near Watrous at about 6,400 feet. The marginal coldwater aquatic life (MCWAL) designated use of the lower eight miles (downstream of the Arroyo de la Jara) is not fully supported, because of excessive sediment, low dissolved oxygen, and high temperatures, based on water quality data collected in 2015 and 2016. The next assessment unit upstream (Sapello River from Arroyo de la Jara to Manuelitas Creek), also with the MCWAL designated use, has not been recently assessed. The original sedimentation impairment listing and TMDL are based on data collected within that assessment unit from the river near Emplazado (about 5 miles downstream of the community of Sapello). The Sapello River is also considered an important source of nutrients to the Mora River, which is listed as impaired by nutrients. With a grant from the NMED, the

Hermit's Peak Watershed Alliance will employ an intensive outreach process to engage landowners and identify appropriate projects and management changes to reduce erosion on their properties. By keeping soils in place and streambanks intact, implementation of the watershed-based plan will meet landowner objectives and reduce loading of sediment and nutrients to the Sapello River.



For a complete list of current and recent Section 319 and River Stewardship projects, with links to detailed information for each, please visit: www.env.nm.gov/nmed_319_and_rsp_project_list.

Watershed-based planning is the main approach for identifying solutions to nonpoint source pollution problems in New Mexico. To learn more about watershed-based planning, visit www.env.nm.gov/surface-water-quality/wbp.

Public Comments Requested on Draft New Mexico Nonpoint Source Management Plan

New Mexico's Nonpoint Source (NPS) Management Plan is under revision. Two workshops with key stakeholders comprising the NPS Advisory Committee were conducted in the fall of 2017 to collect early input on potential changes from the 2014 NPS Management Plan. A draft NPS Management Plan was provided to Region 6 of the EPA in April for technical review, then to NMED's Office of General Counsel in July for legal review. Next comes the public comment period, and we encourage everyone with an interest in protecting and improving surface water quality in New Mexico to review this plan and submit a comment.

The sixty-day public comment period is set to begin in **October** and will be announced soon to everyone on the Surface Water Quality Bureau's email list. You may add yourself to this list at https://public.govdelivery.com/accounts/NMED/subscriber/new?topic_id=NMED_4. More information on the plan revision is also available at www.env.nm.gov/surface-water-quality/nps-plan. The draft plan will be added to this web page at the beginning of the public comment period.



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New Mexico Environment Department
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Santa Fe, NM 87502
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nd.coordinator@state.nm.us

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EVENTS & ANNOUNCEMENTS

October

October 11th - 13th - Las Vegas. Hermit's Peak Watershed Alliance will be hosting this exciting three day Community Design Workshop convening residents and stakeholders from the community together with a team of nationally recognized professionals to develop a conceptual design for revitalizing Gallinas River Park. To register and more details please visit: <http://hermitspeakwatersheds.org/node/154> - or - <https://www.eventbrite.com/e/community-design-workshop-tickets-49926633906?aff=ebdssbdestsearch> or

October 20th - near Tijeras. Join Albuquerque Wildlife Federation final volunteer restoration service project of the year at Cedro Creek in the Sandia Mountains. They will repair and add to rock structures they built in past years to prevent the stream from downcutting and to stabilize the channel. For additional details or to sign up: Contact Scial at rioscial@gmail.com or 505-480-2906 or abq.nmwildlife.org/projects.html.

October 31st - Nov. 2nd - Albuquerque. The Quivira Coalition, Holistic Management International, and the American Grassfed Association will collaborate to convene ranchers, farmers, environmentalists, land managers, students, teachers, and others for a three-day conference to explore ideas of regeneration. This collaborative conference will bring together leaders, innovators, and stewards of the land for three days of provocative plenary presentations, roundtable discussions, and networking with diverse attendees from across the southwest, the country, and globe. To register and for more details please visit: <https://quivira-coalition.org/regenerate/>.

November

November 1st - Albuquerque. The Nature Conservancy Rio Grande Water Fund Signatories Meeting. The Rio Grande Water Fund is a solution that can bring clean water to New Mexicans for generations to come. This innovative project will invest in the restoration of forested lands upstream so we can secure clean water for communities in these watersheds and downstream. Our goal is to generate sustainable funding over the next 20 years to proactively increase the pace and scale of forest restoration, including the most high-risk areas in the Rio Grande watershed. Visit: <https://www.eventbrite.com/e/rio-grande-water-fund-signatories-meeting-november-1-2018-tickets-50676608099#listing-organizer>

November 7th - Las Cruces. NMED/SWQB Wetlands Program's southern New Mexico Wetlands Roundtable. The New Mexico Wetlands Roundtable events are combined government agency/non-governmental organizations roundtables. 9:00 a.m. to 4:15 p.m. at the Las Cruces City Hall, 700 North Main Street, Room 2007-B&C (2nd floor), Las Cruces, NM.

For more information: contact Emile Sawyer (Emile.Sawyer@state.nm.us; 505-827-2827).

December

December 11th - Santa Fe. NMED/SWQB Wetlands Program's northern New Mexico Wetlands Roundtable. The New Mexico Wetlands Roundtable events are combined government agency/non-governmental organizations roundtables. 9:00 a.m. to 4:15 p.m. at the Toney Anaya Building, 2550 Cerrillos Road, Rio Grande Room (2nd Floor) Santa Fe, NM. (Please note the location is not at the State Library but the Toney Anaya Building to the north on Cerrillos Road.)

For more information: contact Karen Menetrey (Karen.Menetrey@state.nm.us; 505-827-0194).