



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

1445 ROSS AVENUE, SUITE 1200

DALLAS, TX 75202-2733

FEB - 6 2009

Ron Curry, Chair
State of New Mexico Water Quality Control Commission
P.O. Box 26110
Santa Fe, New Mexico 87502

Dear Mr. Curry:

Thank you for submitting New Mexico's 2008 § 303(d) List of Water Quality Limited Segments. The Environmental Protection Agency (EPA) has conducted a complete review of the submissions dated August 12, 2008 and supporting documentation and supplemental information provided at EPA's request. During this review, we worked closely with staff from the New Mexico Environment Department to ensure that the Final 2008 § 303(d) List accurately reflected impaired water bodies in New Mexico based on available data. I would like to acknowledge that this could not have been possible without the close cooperative efforts by the staff of both agencies.

Based on this review, EPA has determined that New Mexico's 2008 § 303(d) List of Water Quality Limited Segments (WQLSs) still requiring Total Maximum Daily Loads (TMDLs) meets the requirements of § 303(d) of the Clean Water Act ("CWA" or "the Act") and EPA's implementing regulations. By this final action, EPA is taking both an approval and disapproval action regarding the State's decisions to list all the water bodies and associated pollutants identified in the Final 2008 § 303(d) List of the State's listing submission and associated priority rankings. Specifically, we cannot approve the State's decision not to list one water body (or one water body-pollutant combination) and the decision to list two water bodies (or two water body-pollutant combinations) as identified and discussed in the enclosed decision document. Therefore, EPA in the instances cited is listing and delisting water bodies and pollutants with appropriate priority ranking on New Mexico's 2008 § 303(d) List. EPA requests your assistance in updating EPA's Assessment Data Base (ADB) to accurately reflect the addition and deletions of these water bodies and associated pollutants. EPA will open a public comment period regarding these actions and will, if necessary, revise the list of waters and pollutants after we consider any comments received. The statutory and regulatory requirements, and summary of EPA's review of New Mexico's compliance with each requirement, are described in the enclosed Decision Document.

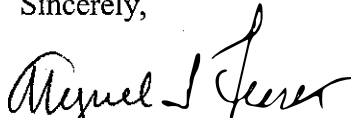
New Mexico's 2008 § 303(d) List now includes 338 water body-pollutant combinations as noted in the Record of Decision, Administrative Record No. 9. The State listings are based on an assessment methodology described in the State submission. In addition to the List, EPA regulations at 40 CFR § 130.7 require that the State provide a priority ranking for each listing and a TMDL development schedule for the next two years. The State provided priority rankings for all listed waters as required by § 303(d)

and its implementing regulations. Three Hundred and thirty-eight (338) water body pollutant combinations are targeted for TMDL development in the next 10 years. This is consistent with the targeting requirement of 40 CFR § 130.7 and meets the requirements under the 1997 Consent Decree (CD) in *Forest Guardians and Southwest Environmental Center v. EPA*, Civil Action Number: 96-0826 LH.

EPA acknowledges that the public participation process sponsored by the New Mexico Environment Department included solicitations of public comments through newspaper advertisements, public hearings, and preparation of a responsiveness summary explaining how the State considered public comment in the final listing decisions. These actions in general met the public participation requirements as required in 40 CFR § 130.7. However, as noted in the Record of Decision, EPA is requesting that the State promptly Public Notice the addition of the assessment units/pollutant-combinations, NM-2105_50 and NM-2105.1_00, during either the Pajarito Plateau New Mexico 2008 § 303(d) List addendum scheduled for calendar year 2009 or during the New Mexico 2010 § 303(d) List submission scheduled for April 1, 2010.

Thank you for your efforts to develop the Final New Mexico 2008 303(d) List. If you have questions on any of the above information, feel free to give me a call at (214) 665-7101 or call Forrest John of my staff at (214) 665-8368.

Sincerely,



Miguel I. Flores
Director

Water Quality Protection Division

Enclosure

cc: Glenn Saums, Acting Bureau Chief, New Mexico Environment Department