

RECEIVED

By Water Quality Control Commission at 5:34 pm, Sep 21, 2020

**STATE OF NEW MEXICO
WATER QUALITY CONTROL COMMISSION**

**IN THE MATTER OF THE UPDATED STATEWIDE
WATER QUALITY MANAGEMENT PLAN AND
CONTINUING PLANNING PROCESS**

WQCC No. 20-34

**New Mexico Environment Department,
Petitioner.**

**ORDER APPROVING AND ADOPTING UPDATED STATEWIDE WATER
QUALITY MANAGEMENT PLAN AND CONTINUING PLANNING PROCESS**

THIS MATTER first came before the Water Quality Control Commission (“Commission”) on June 9, 2020, at its regularly scheduled public meeting, on the Request for Approval of the State of New Mexico Statewide Water Quality Management Plan and Continuing Planning Process (WQMP/CPP) of the New Mexico Environment Department (Department). The Department requested that, pursuant to the Clean Water Act, 33 U.S.C. §1251 *et seq.* (1972) and the Water Quality Act, NMSA 1978, Sections 74-6-1 to -17 (1987, as amended through 2019), the Commission approve the proposed updates to the WQMP/CPP, as well as the attached Appendices A and C. At the June 9 public meeting, the Commission considered the proposed updates to the WQMP/CPP and attached appendices, allowed all interested persons a reasonable opportunity to provide comment on the proposed updates to the WQMP/CPP, and heard the oral presentations by the Department’s Surface Water Quality Bureau (Bureau). After deliberation, by Order dated June 25, 2020, the Commission remanded the updates to the WQMP/CPP to the Bureau for revisions to the plan introduction as set forth in the Findings below; the Bureau thereafter revised the updates to the WQMP/CPP in conformance with that Order, and submitted the revised updates to the WQMP/CPP to the Commission for approval at its regularly scheduled public meeting on

September 9, 2020.

THEREFORE, THE COMMISSION FINDS:

1. WQMPs “consist of initial plans produced in accordance with [§§] 208 and 303(e) of the [Clean Water Act] and certified and approved updates to those plans.” 40 C.F.R. § 130.6(a) (2003).

2. Each State is required to “establish and maintain a continuing planning process (CPP) as described under [§] 303(e)(3)(A)-(H) of the [Clean Water Act],” and “[e]ach State is responsible for managing its water quality program to implement the processes specified in the [CPP].” 40 C.F.R. § 130.5(a) (2003).

3. The State is allowed to “determine the format of its CPP as long as the minimum requirements of the [Clean Water Act] and [40 C.F.R. § 130.5 (2003)] are met.” 40 C.F.R. § 130.5(b) (2003).

4. The Commission is required “to adopt a comprehensive [WQMP] and develop a [CPP].” NMSA 1978, Section 74-6-4(B) (2019).

5. The WQMP/CPP is reviewed from time to time by the Bureau in accordance with 40 C.F.R. § 130.5 (2003) and 40 C.F.R. § 130.6 (2003), and the WQMP/CPP must be “updated as needed to reflect changing water quality conditions, results of implementation actions, new requirements or to remove conditions in prior conditional or partial plan approvals.” 40 C.F.R. § 130.6(e) (2003).

6. The State CPP “[must] specify the process and schedule used to revise [Water Quality Management] plans,” and the State “[must] ensure that State and areawide [Water Quality Management] plans together include all necessary plan elements and that such plans are consistent

with one another.” 40 C.F.R. § 130.6(e) (2003). Further, “[t]he [State] Governor or the Governor’s designee [is required to] certify by letter to the Regional Administrator for EPA approval that the [Water Quality Management] plan updates are consistent with all other parts of the plan.” 40 C.F.R. § 130.6(e) (2003).

7. The EPA “is responsible for periodically reviewing the adequacy of the State’s CPP,” 40 C.F.R. § 130.5(a) (2003), and the Regional Administrator is required to “review approved State CPPs from time to time to ensure that the planning processes are consistent with the [Clean Water Act] and [40 C.F.R. § 130.5 (2003)].” 40 C.F.R. § 130.5(c) (2003).

8. Following the Commission’s remand on June 9, 2020, the Bureau revised the updates to the WQMP/CPP’s introduction to address the following areas: (a) watershed effects on surface water quality and planning; (b) climate change mitigation and adaptation [in the Governor’s Executive Order]; (c) the MS4 [general] permit process, as it relates to the Middle Rio Grande [watershed]; and (d) potential effects [to] the Bureau of federal changes to the Waters of the United States, including any planning or analysis.

9. The updated WQMP/CPP as revised by the Bureau is attached to and made a part of this Order as Exhibit A. Also attached to and made a part of this Order are: Appendix A (“Antidegradation Policy Implementation Procedure for Regulated Activities”), attached as Exhibit B; Appendix C (“Hydrology Protocol”), attached as Exhibit C, and Appendix C (“Hydrology Protocol Field Sheet”), attached as Exhibit D.

10. The updated WQMP/CPP as revised by the Bureau complies with all the requirements of the federal and state laws and regulations specified above.

11. The Commission has the authority to approve and adopt the updated WQMP/CPP as

revised by the Bureau, in accordance with the federal and state laws and regulations specified above.

THEREFORE, IT IS ORDERED that the updated WQMP/CPP as revised by the Bureau is approved and adopted by the Commission.

Dated this 21st day of September, 2020.

Jennifer Pruett

Digitally signed by Jennifer
Pruett
Date: 2020.09.21 07:42:10 -06'00'

Jennifer Pruett, Chair
Water Quality Control Commission

Certificate of Service

I hereby certify that on September 21, 2020 a copy of the **Order Approving and Adopting Updated Statewide Water Quality Management Plan and Continuing Planning Process** was emailed to the persons listed below. A copy will be mailed first class upon request.

Christal Weatherly
New Mexico Environment Department
121 Tijeras Ave, NE #1000
Albuquerque, NM 87102
christal.weatherly@state.nm.us
Counsel for the New Mexico Environment Department

Robert F. Sánchez
New Mexico Office of the Attorney General
408 Galisteo St.,
Santa Fe, NM 87501
rfsanchez@nmag.gov
Counsel for the Water Quality Control Commission

Pamela Jones, Commission Administrator
Water Quality Control Commission
P.O. Box 5469
Santa Fe, NM 87502
Phone: (505) 827-2428
Email: pamela.jones@state.nm.us