



AGENDA

SANTA FE RIVER
COMMISSION
OCTOBER 14, 2021
6:00 PM
ATTEND VIRTUALLY

SPECIAL PROCEDURES FOR SANTA FE RIVER COMMISSION MEETING

Attendance: In response to the State's declaration of a Public Health Emergency, the Mayor's Proclamation of Emergency, and the ban on public gatherings in excess of those permitted in the current Public Health Order, and the need to incorporate technology and practices to re-institute in-person meetings consistent with the limitations established by the Order, the Santa Fe River Commission meeting will be conducted virtually.

Viewing: Members of the public may join the Zoom meeting by internet or phone, as follows:

Internet: To join the Zoom meeting on the internet using a computer, laptop, smartphone, or tablet, use the following link: <https://santafenm-gov.zoom.us/j/96312146548?pwd=RHE1L25MK0xMSCt4dUVzY3JONzBIQT09>.

Passcode: 186325

Attendees should use the "Raise Hand" function to be recognized by the Chair to speak at the appropriate time.

Phone: To join the Zoom meeting using a phone, use the following phone numbers and Webinar ID: **US: 1 (346) 248-7799 - Webinar ID: 963 1214 6548 - Passcode: 186325**

Phone attendees should press *9 to use the "Raise Hand" function to be recognized by the Chair to speak at the appropriate time.

The agenda and packet for the meeting will be posted at <https://santafe.primegov.com/public/portal>.

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **APPROVAL OF AGENDA**
4. **APPROVAL OF MINUTES**
 - a. Approval of minutes from 7/8/2021 meeting



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5. **COMMUNICATIONS FROM OTHER AGENCIES/COMMITTEES**

- a. Report from Santa Fe Watershed Association (Amara Nash, Outreach Coordinator, amara@santafewatershed.org)
- b. Santa Fe County Update (Mike Romero, Greenway/River Trail Project Manager, Public Works Department, miromero@santafecountynm.gov)

6. **INFORMATIONAL ITEMS**

- a. ASR Progress Report: Conceptualizing Living River Ordinance adaptations for ASR (Bill Schneider, Water Resources Coordinator, whschneider@santafenm.gov, 505.955.4203)

7. **DISCUSSION AND ACTION ITEMS**

8. **MATTERS FROM STAFF**

- a. Green Infrastructure and stormwater utilization in upcoming NMDOT projects (Zoe Isaacson, River and Watershed Project Administrator, 505.955.6853, zrisaacson@santafenm.gov)
- b. Brother's Lane Rain Garden Update (Zoe Isaacson, River and Watershed Project Administrator, 505.955.6853, zrisaacson@santafenm.gov)
- c. Recruiting new River Commission Members (Zoe Isaacson, River and Watershed Project Administrator, 505.955.6853, zrisaacson@santafenm.gov)
- d. Tour of upper Santa Fe watershed scheduled for October 30th (Zoe Isaacson, River and Watershed Project Administrator, 505.955.6853, zrisaacson@santafenm.gov)

9. **MATTERS FROM THE PUBLIC**

10. **MATTERS FROM THE COMMISSION**



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- a. Waters of the US (WOTUS) and how to get involved (Santa Fe County Commissioner Anna Hansen, 505-986-6329, ahansen@santafecountynm.gov)
 - b. The Santa Fe River in Agua Fria Village (Santa Fe County Commissioner Anna Hansen, 505-986-6329, ahansen@santafecountynm.gov)
 - c. Update from the Chair (Rachel Kullman, River Commission Chair, Rachel@Kullmanwater.com)
11. **NEXT MEETING: Thursday, January 13, 2022**
 12. **ADJOURN**

Persons with disabilities in need of accommodations, contact the City Clerk's office at 955-6521, five (5) working days prior to meeting date.



MINUTES

SANTA FE RIVER
COMMISSION
JULY 08, 2021
6:00 PM
VIRTUAL MEETING

1. **CALL TO ORDER**

Meeting was called to order at 6:02 PM

2. **ROLL CALL**

Members Present:

Member Phil Bove
Member Heidi Klingel
Member Rachel Kullman
Member Anna Hansen
Member Susan Coulter

Members Excused:

Member Emile Sawyer
Member Andrew Black

Others Attending:

Zoe Isaacson, River and Watershed Project Administrator
Alan Hook, Attendee

3. **APPROVAL OF AGENDA**

MOTION: Member Hansen moved, seconded by Member Coulter, to approve the agenda as presented.

VOTE: The motion was on the following Roll Call vote:

For: Member Bove, Member Klingel, Member Kullman, Member Hansen, Member Coulter

Against: None



MINUTES

SANTA FE RIVER
COMMISSION
JULY 08, 2021
6:00 PM
VIRTUAL MEETING

Abstain: None

4. APPROVAL OF MINUTES

- a. Approval of the 04/08/2021 Meeting Minutes

MOTION: Member Hansen moved, seconded by Member Coulter, to approve the 4/08/2021 minutes as presented.

VOTE: The motion was on the following Roll Call vote:

For: Member Bove, Member Klingel, Member Kullman, Member Hansen, Member Coulter

Against: None

Abstain: None

- b. Approval of Minutes from 4/27/2021 River Commission Mtg

MOTION: Member Coulter moved, seconded by Member Klingel, to approve the 4/27/2021 minutes as presented.

VOTE: The motion was on the following Roll Call vote:

For: Member Bove, Member Klingel, Member Kullman, Member Hansen, Member Coulter

Against: None

Abstain: None

5. COMMUNICATIONS FROM OTHER AGENCIES/COMMITTEES

- a. Report from Santa Fe Watershed Association (Amara Nash, Outreach Coordinator, amara@santafewatershed.org)



MINUTES

SANTA FE RIVER
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VIRTUAL MEETING

- b. Santa Fe County Update (Carrie Olson, Project Manager, Public Works Department, colson@santafecountynm.gov)

6. DISCUSSION AND ACTION ITEMS

- a. Administration of the 2021 Target Flow Hydrograph to date and ways to adaptively manage remainder of Living River water based on new developments at Nichols Reservoir and monsoon forecast (Alan Hook, Public Utilities Water Resource Coordinator, 955.4205, aghook@santafenm.gov & Patricio Pacheco, Public Utilities Water Resource Analyst, 955.4221, pmpacheco@santafenm.gov)

Member Coulter moved, seconded by Member Klingel, to approve the amended hydrograph as presented; the planned fall pulse will no longer take place in October due to changes to the construction schedule at Nichols Reservoir. Instead, the

MOTION: Commission has decided to increase the base flow from 0.15cfs to 0.3cfs from now (7/8/2021) until February 17th, and will resume mid-March to carry through the remainder of the water year. This will allow for more infiltration and greater wetting of the river channel.

VOTE: The motion was on the following Roll Call vote:

For:

Against:

- b. Aquifer storage and recovery update and developments (William Schneider, Public Utilities Water Resource Manager, 955. 955.4203, whschneider@santafenm.gov)

MOTION: moved, seconded by , to postpone the informational item until Bill Schneider can join future meeting.



MINUTES

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VOTE: The motion was on the following Roll Call vote:

For:

Against:

7. **MATTERS FROM STAFF**

- a. Introduction of the Source Water Protection Plan for soliting comment (Zoe Isaacson, River and Watershed Project Administrator, 955.6853, zrisaacson@santafenm.gov)
- b. River Talks series schedule of events (Zoe Isaacson, River and Watershed Project Administrator, 955.6985, zrisaacson@santafenm.gov)
- c. Santa Fe River Commission tour of the Upper Watershed and diversions (Zoe Isaacson, River and Watershed Project Administrator, 955.6853, zrisaacson@santafenm.gov)

8. **MATTERS FROM THE PUBLIC**

9. **MATTERS FROM THE COMMISSION**

- a. Remembering Melinda Romero Pike (Phil Bove, Commission and Aceqia Madre Mayordomo, pjbove@aol.com)
- b. Chairwoman Kullman announces formation of Reach 19 River Commission Stewardship Team (Rachel Kullman, River Commission Chair, Rachel@Kullmanwater.com)
- c. Update from Story Map group on “Stormwater Journeys in the Santa Fe Watershed” (Heidi Klingel, River Commission Vice-Chair, heidiklingel@hotmail.com)
- d. Resignation of Vanessa Springer (Rachel Kullman, River Commission Chair, rachel@kullmanwater.com)

10. **NEXT MEETING: Thursday, October 14, 2021**



City of Santa Fe

MINUTES

SANTA FE RIVER
COMMISSION
JULY 08, 2021
6:00 PM
VIRTUAL MEETING

11. **ADJOURN**

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Meeting adjourned at 7:38 PM

Zoe Isaacson

Liaison

Chair

MONTHLY REPORT: June 2021

To: The City of Santa Fe River & Watershed Coordinator

From: Santa Fe Watershed Association

Date: June 30, 2021

1413 Second Street, Suite 3

Santa Fe, NM 87505

(505) 820-1696 • fax 986-9132

amara@santafewatershed.org

www.santafewatershed.org



RE: Adopt-the-River & Adopt-an-Arroyo Programs

Santa Fe
WATERSHED
ASSOCIATION

Due to complications from COVID-19, volunteer and bag collection numbers have been drastically diminished. SFWA is eager to engage more volunteer activities in the River and arroyos as COVID restrictions are lifted.

Task 1. PLAN FOR RESTORING AND MAINTAINING ADOPTED RIVER REACHES AND ARROYOS

- ✓ 6/2/21, Waldorf School cleaned River Reach 21
- ✓ 6/17/21, Tom Rebstock cleaned Arroyo Chamisos (Carlos Rey to Las Campanas)
- ✓ 6/19/21, United Church of Santa Fe cleaned River Reach 17
- ✓ 6/20/21, NM State Land Office cleaned River Reach 11
- ✓ 6/20/21, NM State Supreme Court cleaned River Reach 12
- ✓ 6/25/21 to 6/27/21, SFWA Summer Clean Up Days

TASK 2. COORDINATE VEGETATION MANAGEMENT IN ACCORDANCE WITH THE CITY'S COMPREHENSIVE VEGETATION MANAGEMENT PLANNING

- ✓ 6/9/21 Arranged volunteers to water from San Isidro to Romero Park
- ✓ 6/10/21 Arranged volunteers to water from Frenchy's Field to Siler Road
- ✓ Coordinating waterings on an ongoing basis, scheduled in relation to rainfall events

Task 3. REPORT ON STEWARDS AND MONETARY SPONSORS

- ✓ All reaches of the river have sponsors except for reaches 14,15, 19, 20, 25, 26, San Isidro Crossing (29C), and in the County: Camino Real (30D), and Paseo Real (40).
- ✓ There are 5 reaches that need Steward teams (Reach 9, Reach 19, San Isidro Crossing, and the same two County reaches that need sponsors).
- ✓ Arroyo reaches with signs are all sponsored except for 7.
- ✓ Seven arroyo reaches need Stewards.
- ✓ SFWA is actively looking for sponsors and stewards for the Adopt-an-Arroyo and Adopt-the-River programs.
- ✓ Adopt-an-Arroyo Program Manager, Amara Nash, and Administrative Director Raquel Baca Thompson have sent out sponsor invoices and renewal letters and will continue approaching potential Sponsors.
- ✓ Adopt-an-Arroyo Program Manager, Amara Nash and Steward Coordinator Keely Jackson are tracking Steward renewals, approaching new potential Stewards and "Angel" Volunteers, and encouraging current steward teams to clean their reaches and, occasionally, other reaches in need of a cleanup.

TASK 4. ORGANIZE AND SUPPORT TRASH REMOVAL AND VEGETATION MANAGEMENT

Reach Report for June 2021 totals for **FY 2020-21** are as follows:

| | Reaches/visits | Volunteers | Trash Bags Collected | Volunteer Hours |
|---------------------------|----------------|------------|----------------------|-----------------|
| Totals through May | | | | |
| River | 51 | 170 | 438 | 565.5 |
| Arroyos | 21 | 274 | 288 | 603 |
| June | | | | |
| River | 4 | 69 | 167 | 178 |
| Arroyos | 2 | 11 | 21 | 21 |
| Totals | 78 | 524 | 914 | 1,367.5 |

The value of the volunteers' in-kind contributions in City river reaches and arroyos to date in **FY 20/21** is approximately **\$34,776** (1,367.5 hours @ \$25.43; see [www.independentsector.org/volunteer time](http://www.independentsector.org/volunteer_time)).

The approximate total weight of trash collected to date in **FY 20/21** is **6.86 tons** (914 bags * 15 lbs/bag * 1/2000 tons/lb)

TASK 5. POST SIGNS FROM ARMIJO PARK TO FRENCHY'S FIELD

- ✓ Keely Jackson-Kennemore and Andy Otto regularly check signs for wear and tear. Signs are from Cerro Gordo Road to Siler Bridge.
- ✓ City staff continues to help with post and sign installation for the arroyo reaches.
 - SFWA will be requesting meeting with City staff to determine proper sign installation for new sponsor reaches.

TASK 6. PROVIDE TRAINING AND EDUCATION FOR VOLUNTEERS REGARDING RIVER & ARROYO RESTORATION

- ✓ During cleanups that Keely and Amara attend, they speak to the volunteers about water conservation and water challenges in the Southwest.
- ✓ We are working on developing more virtual education materials and outreach with the Santa Fe Public Schools Office of Sustainability.
- ✓ We have received funding to create a series of educational videos for existing and potential stewards.

TASK 7. ORGANIZE THREE ANNUAL COMMUNITY-WIDE EVENTS

- ✓ June 25-27 was our annual Summer Clean Up

MONTHLY REPORT: June 2021

To: The City of Santa Fe River & Watershed Coordinator

From: Santa Fe Watershed Association

Date: June 30, 2021

- ✓ The next event is Hunt for Red Rocktober in October

TASK 8. COORDINATE WITH CITY STAFF TO TAKE ALL ACTIONS IN COMPLIANCE WITH THE CITY.

- ✓ Keely Jackson-Kennemore and Amara Nash notify River and Watershed Coordinator Zoe Isaacson, Melissa MacDonald, and Parks Superintendent about each Steward clean-up outing to schedule trash collection. They also relay observations received from Stewards to Zoe Isaacson and Melissa McDonald.
- ✓ A sharp increase in homeless activity in the Arroyo de los Pinos by La Farge Library was noted by numerous steward teams, including an abundance of bio-hazard waste and an obvious campfire site. There is significant concern about continuing to allow student groups to work in this reach and concerns about bush fire hazards. A recent steward team reported that they “stayed out of active homeless encampment of 7-15 people because of human waste, needles and other hazards.”

TASK 9. SEND MONTHLY REPORTS OF WORK DONE THE PREVIOUS MONTH.

- ✓ We are hereby providing report of activity for June 2021 to the City of Santa Fe River and Watershed Coordinator.

TASK 10. CONDUCT PUBLIC OUTREACH TO PROMOTE PROGRAMS AS WELL AS TO THANK SPONSORS AND STEWARDS.

INCLUDE PRESENTATIONS TO NEIGHBORHOOD MEETINGS AND COMMUNITY EVENTS, AND MAINTAIN A WEB SITE.

- ✓ We have been using social media sites as well as volunteermatch.com, to thank volunteers and to recruit new volunteers for River and Arroyo Stewardship.
- ✓ We are exploring virtual ways to promote and educate the community on the Adopt-an-Arroyo Program.

Submitted by: Amara Nash, SFWA Adopt-the-River and Adopt-an-Arroyo Program Manager



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Santa Fe
WATERSHED
ASSOCIATION

JULY + AUGUST 2021



Summer

Summer started off hotter than a 3 alarm Hatch green chile taco eaten in the arroyo de los Chamisos at high noon. Luckily, an abundant monsoon season

followed quickly. If only strong stormwater events didn't carry trash along the six miles of river and ~80 miles of arroyos that our Adopt Programs cover. What a powerful force of nature to try to pick up after. We are so fortunate to have so many volunteers and sponsors to help us keep up as the water flows continue carrying a seemingly endless stream of debris.

This summer SFWA volunteers were back in our waterways, getting down and dirty, doing their best to keep up with the litter that damages the environment and detracts from its natural beauty.

Speaking of great volunteers, a number of Santa Fe teachers continue to participate in early back-to-school river cleanups knowing the value of these outings. For what better way is there to strengthen connections between themselves and their students than the river? It's a wonderful way to start the school year and say farewell to summer!

Stewards and Sponsors, thank you all for sharing some of your summer free time with SFWA in the river and arroyos as we all work towards improving the health of our watershed.



RIVER NEWS

We'd like to introduce our newest steward team — The City of Santa Fe's **River Commission**. These folks volunteer their free time to help promote and guide the City of Santa Fe as it works to restore the SF River to a *living river*. Now they have begun to spend some of that free time in the river removing trash too. And like the SFWA, they believe a living river creates an opportunity for recreation, education, walkable urbanism, unification, and ultimately, an asset to be enjoyed by all. We are excited to have them become

part of our larger Adopt Team.

Want to know more? Click here:

https://www.santafenm.gov/media/archive_center/Commission_Role_and_Goals_background.pdf

We are also thankful for such a great turnout of Steward Teams and Angel Volunteers this summer. We'd like to send a shout-out to those teams that have been getting their feet wet, like **Ross Rody's Team, UpCycle Santa Fe, The City of Santa Fe's River Commission, The Sierra Club, and SF Waldorf Elementary School**. And hat's off to the Closson Street Neighborhood and Meow Wolf, who helped out as "*angel volunteers*". Some exotic river finds this summer from these cleanups were an ironing board, a colorful parrot kite, a microwave and a slide projector. What will be found this fall?

Summer's not over yet, so let's keep the momentum going everyone. Visit the river soon!

79 volunteers + 14 work hours = 106 bags of trash out of the river + two trailer loads!



SPONSOR NEWS

Since 2009, the **Angelica Foundation**, a private nonprofit in New Mexico, has supported SFWA's Adopt the River program. Their contributions along with our other wonderful sponsors have helped us host 12 Love Your River Days, engage with hundreds of volunteers, and remove tons of trash from the river. A big thanks for supporting us over the years and for supporting progressive organizations and programs in the U.S. and Mexico that empower communities to become more economically, socially and environmentally just.

Sponsors, remember, your generous contributions help us organize hundreds of SFWA volunteers you have never met, who spend their free time, moving wet, sandy blankets and sleeping bags, filling up thirteen gallon bags with tedious micro trash, and wrestling shopping carts and tires up steeper than

steep banks, and cutting back the ever persistent invasive elms. Your contributions help us keep our volunteers safe with glove purchases, supplied with bags, and refreshed on hot days. Your contributions also help us spread the word to the community about the wonderful work they are doing and help us host engaging community cleanups and volunteer recognition events. We truly could not do this work without you. Thank you for your energy, time, and resources.

Know anyone who would like to sponsor the river or arroyo? Send them to Amara Nash!

amara@santafewatershed.org or call her at 505-820-1696.



ARROYO NEWS

We are happy to announce two new Arroyo Steward Teams, as well! Nina Otero Community School's 7th Grade Science Class will be working to keep their reach of Arroyo Chamisos clean, as well as participating in some tracking and data collection with our own Aaron Kauffman. Teacher Paul Bourdon says, *"taking my students into the Arroyo Chamisos for the first time last spring was pretty cool! It was great to see them participate in surveying and data collection activities."*

Seth Feder is leading a team from the neighborhood around Arroyo Torreon to help keep that arroyo clean as well. He wants to support all the great work happening in the Santa Fe Watershed, *"so we all can live in a sustainable city with ample resources to support quality of life."*

While we are always giddy about announcing new teams, we also want to shower our existing volunteers with gratitude. The summer cleanup season started with the **Candelero Neighborhood Association** team, who gave some free time to do good work in the Arroyo Chamisos, while the **Amma Center's Green Team** lent a helpful hand at the Arroyo Pinos by La Farge Library and various others.

Arroyo teams, thank you for all your hard work this summer. Keep up the good work!

10 Arroyo volunteers + 5 work hours = 14 bags better.

UPCOMING EVENTS

The City of Santa Fe and the River Commission Present:

RIVER WALK + TALKS

https://www.santafenm.gov/media/files/0716_2021%20River%20Talks.pdf

SEPT 8

River Talk: History of the Santa Fe River Hydrology

5:30-7:00 pm

Alto Park

Come join Steve Finch and John Shomaker & Associates for a walking tour around Alto Park to learn more about Santa Fe River history.

SEPT 18

How to Become a Watershed Super Hero:

A Walking Discussion of the Tools, Perspective and Practice of Citizen Science

9:30-11:00 am

Frenchy's Field Barn

Join Rich Schrader of River Source at Frenchy's Field Barn for a walking tour. Come learn the ways one can engage in protecting water security and resilience in the Santa Fe watershed and our local river.

SEPT 22

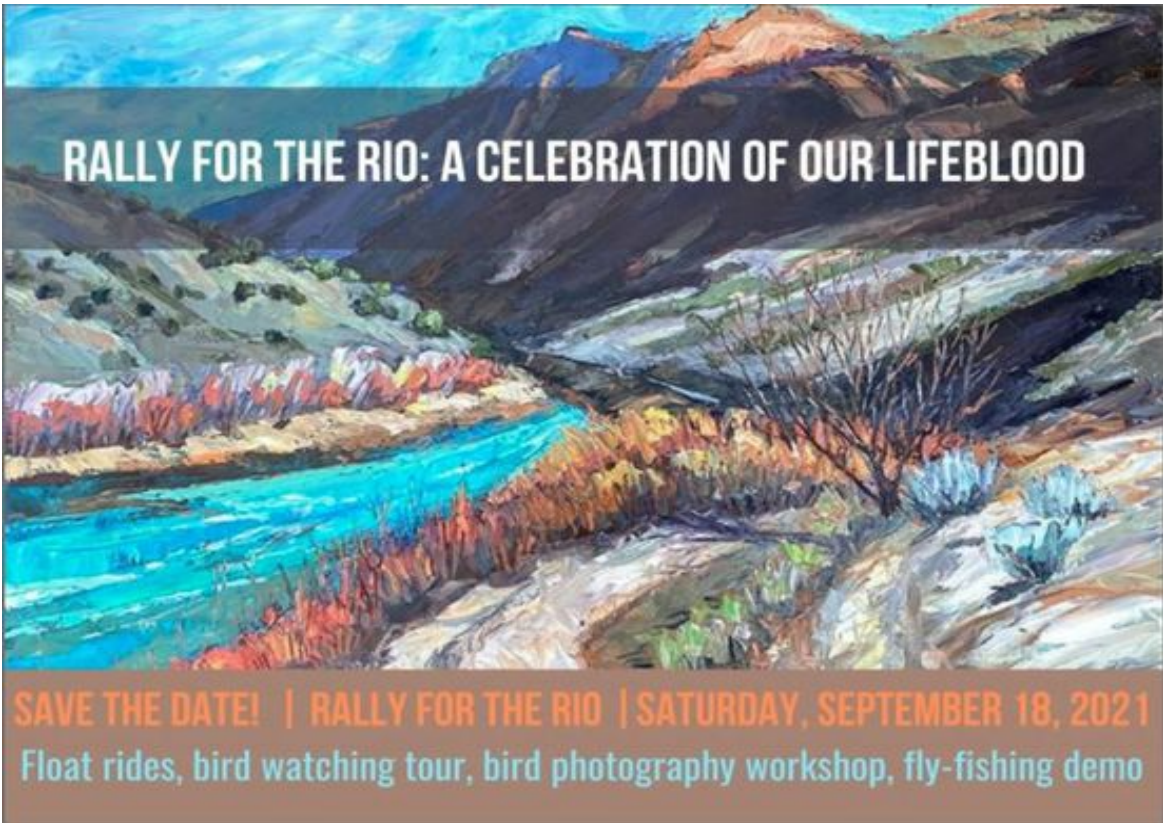
Why Rain Gardens?

5:30-7:00 pm

Meetup at 1925 Aspen Drive

Join Reese Baker, owner of The Rain Catcher, for a rain garden tour. Learn about bioremediation of storm water and more!

SEPT 18



RALLY FOR THE RIO: A CELEBRATION OF OUR LIFEblood

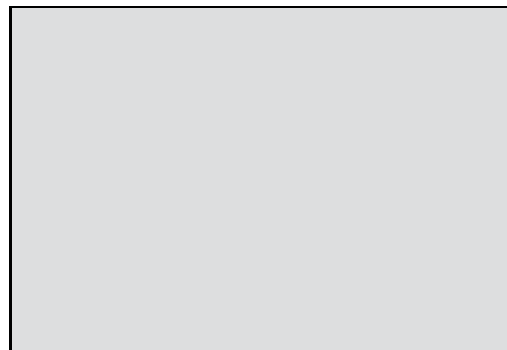
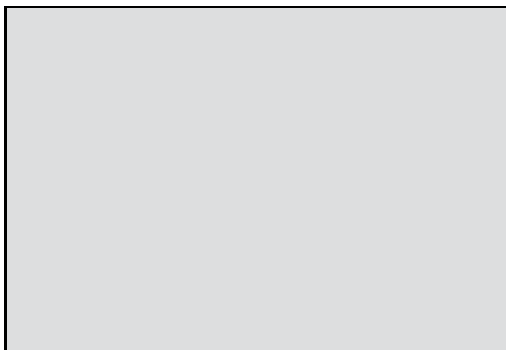
SAVE THE DATE! | RALLY FOR THE RIO | SATURDAY, SEPTEMBER 18, 2021

Float rides, bird watching tour, bird photography workshop, fly-fishing demo

<https://www.amigosbravos.org/upcoming-events/>

OCTOBER 22-24

Hunt for the Red Rocktober !



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Santa Fe Watershed Association
1413 Second Street
Suite 3
Santa Fe, New Mexico 87505
US

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Henry P. Roybal
Commissioner, District 1

Anna Hansen
Commissioner, District 2

Rudy N. Garcia
Commissioner, District 3



Anna T. Hamilton
Commissioner, District 4

Hank Hughes
Commissioner, District 5

Katherine Miller
County Manager

Submitted via: regulations.gov

September 21, 2021

Damaris Christensen
Oceans, Wetlands and Communities Division
Office of Water (4504-T)
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

Stacey Jensen
Office of the Assistant Secretary of the Army
for Civil Works
Department of the Army
108 Army Pentagon
Washington, DC 20310-0104

Re: Definition of “Waters of the United States” Preproposal Outreach Comments
Docket ID. No. EPA-HQ-OW-2021-0328

Dear Ms. Christensen and Ms. Jensen:

On August 4, 2021, the U.S. Environmental Protection Agency (“EPA”) and the Department of the Army (“Army”) (collectively, the “Agencies”) published a notice in the Federal Register of their intent to revise the definition of the term “waters of the United States” (“WOTUS”) under the Clean Water Act (“CWA”) and to seek feedback from the public on several topics, including implementation of the definition; regional, state and tribal interests; environmental justice interests; and the jurisdictional tributaries and ditches. 86 FR 41911. As the elected representatives of residents who heavily rely on surface water that is directly and adversely impacted by the Navigable Waters Protection Rule (“NWPR”), the Santa Fe County Board of County Commissioners (“BCC”) seeks reversal of the NWPR, which has been vacated and we support the rule making for a new rule and submit these comments for the Agencies’ consideration.

I. New Mexico’s Unique Characteristics Mandate WOTUS Include Ephemeral Streams

The negative impact of the Trump administration’s decision to remove ephemeral streams from the definition of WOTUS cannot be overstated. New Mexico is unique in its geography and its weather patterns. Located in the arid and semi-arid Southwest, Santa Fe averages about 14.2 inches of precipitation (rainfall plus snowfall) per year, with roughly 40% of that precipitation falling during monsoon season (between June and September). During monsoon rains and other high intensity storms, ephemeral streams, arroyos, and irrigation ditches (known as acequias) carry significant amounts of stormwater throughout the watershed. None of these watercourses are currently included in the NWPR of WOTUS.

Low annual rainfall totals, coupled with much of it falling during a short window of time, leads to many reaches of the state's streams and arroyos being dry for months of the year. According to the New Mexico Environmental Department, 88,810 miles of the state's waters flow only in response to rain (ephemeral waters) or seasonally due to factors such as snow melt (intermittent waters). Only 6,362 miles of watercourses flow year-round (perennial waters). Given the large percentage of ephemeral and intermittent waters in New Mexico, it is estimated that 96% of the state's waters are not subject to CWA jurisdiction and protection under the current rule. The failure to recognize ephemeral and intermittent streams as WOTUS has left almost an entire state's surface waters without any oversight or protection. This is especially true as New Mexico is one of a handful of states that does not have its own state laws and regulations to assume control over surface water quality. If the CWA does not apply the waters of New Mexico, there is no state regulation to fill the gap. Essentially, the CWA is the last line of defense for New Mexico's surface waters. It is critical that the NWPR be reversed and that the new rule include ephemeral and intermittent streams as part of the WOTUS.

II. The Buckman Direct Diversion Regional Water Treatment Facility ("BDD")

Ephemeral and intermittent streams do not exist in a vacuum. The quality of these streams can have substantial impacts on traditional navigable waters, downstream. One example is the impact of flows into the Rio Grande from ephemeral streams located upstream, near Los Alamos National Laboratory ("LANL"), on the region's ability to provide safe and reliable drinking water to its residents. Together with the City of Santa Fe, Santa Fe County jointly operates the Buckman Direct Diversion Regional Water Treatment Facility ("BDD"), a municipal water supply project in northern New Mexico that diverts San Juan-Chama and native Rio Grande water rights for the benefit of City of Santa Fe, and Santa Fe County residents. The BDD treats diverted surface water in accordance with federal and state Safe Drinking Water Act standards to ensure a clean and safe water supply for the residents of the County and City of Santa Fe.

The BDD intake structure on the Rio Grande is located to the west of the City of Santa Fe, and downstream of several communities and CWA National Pollutant Discharge Elimination System ("NPDES") permittees on the Rio Grande and its tributaries, including the community of Los Alamos, and LANL. LANL is located on the Pajarito Plateau, west of the Rio Grande, and includes watersheds with a number of perennial, intermittent, and ephemeral streams that are tributaries to the Rio Grande. At least two of these tributaries are upstream of the BDD intake structure. Pollutants from industrial outfalls and storm water discharge enter ephemeral tributaries of the Rio Grande from numerous sites located at LANL, or on lands formerly occupied by LANL. Dozens of these sites are in the ephemeral Los Alamos Canyon watershed, whose confluence with the Rio Grande is only three miles upstream of the BDD intake structure. As a result of these discharges, and other LANL operations that generated hazardous, mixed, and radioactive wastes, legacy contamination is entrained in sediments in the canyons. Stormwater from flood events carries these contaminated sediments down canyon to ephemeral reaches during flood events.

The water quality of the Rio Grande and its tributaries has a direct impact on the BDD's ability to divert its source water, and the associated expense to treat it in accordance with federal and state drinking water standards. Any potential for an increase in contamination or sedimentation of the Rio Grande or its tributaries, will have an adverse impact on BDD operations and the public that it serves.

Prior rulemakings that touched on the definition of WOTUS (most crucially, the 2015 Obama-era Clean Water Rule) have established that ephemeral tributaries and certain non-floodplain wetlands significantly improve the quality of downstream traditional navigable waters by transporting and filtering pollutants, trapping storm water, and performing many other chemical, physical, and biological functions that benefit human health and the environment. Because of this connection to traditionally navigable water, the 2015 Clean Water Rule ensured that the definition of WOTUS included ephemeral streams and disconnected wetlands, therefore providing critical protections to the BDD source waters under CWA permitting programs.

In contrast, the NWPR has affected the BDD drinking water utility by eliminating ephemeral streams from federal protection and CWA permitting requirements for industrial outfalls, stormwater discharges, and dredge and fill activities for most stream reaches on the Pajarito Plateau. The BDD relies on appropriate CWA permitting at LANL and other upstream sites to ensure the discharges in the BDD source area are appropriately regulated to protect human health and the environment. In fact, effective permitting under the CWA is a crucial part of the statutory and regulatory framework that ensures cleanup of legacy pollution at LANL is accomplished to levels that maintain and preserve the BDD's source water quality. Without effective permitting, monitoring, and enforcement of discharges by federal and state regulatory agencies, these contaminant sources located in ephemeral streams upstream of the BDD – including those at LANL – will inexorably migrate downstream, creating deleterious cumulative impacts in the Rio Grande and at the BDD intake location.

It's worth repeating that New Mexico is one of only a few states that lack CWA permitting authority, and the only such state in the arid west. The CWA permitting programs are the primary mechanism for regulating and limiting discharges of pollutants into WOTUS. Without authority or capacity to develop and implement a state-based permitting program to fill the gap created by the NWPR, New Mexico cannot currently regulate surface water discharges to any waters, including ephemeral reaches, and contaminants can therefore continue to migrate unmonitored and unregulated into the Rio Grande. Moreover, the threat from unregulated discharges to ephemeral reaches will increase treatment costs borne by BDD ratepayers.

III. Environmental Justice for All New Mexicans

Principles of environmental justice further dictate shoring up protection of New Mexico's ephemeral and intermittent streams. Within Santa Fe County are located the Pueblos of San Ildefonso, Tesuque, Pojoaque, Nambe and Cochiti. These pueblos are home to indigenous people who have a long and proud history of agricultural and cultural and religious practices associated with New Mexico's waters. Additionally, Hispanic and Latino residents currently constitute about half of Santa Fe County's population, and rely on these watercourses for their rich economic, cultural, and religious traditions. Sadly, Native-Americans, Hispanics and Latinos, and other people of color, have traditionally faced some of the worst environmental devastation and water quality conditions in the United States. All people deserve fair treatment with respect to the development of environmental regulations and policies. By including ephemeral waters such as arroyos as WOTUS, it will ensure that equality of environmental protection will continue to be meaningfully pursued with respect to people of color and Native-Americans inhabiting the Southwest.

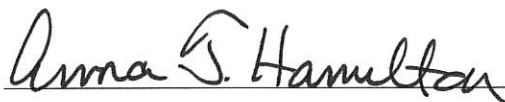
In conclusion, the BCC strongly encourages the Agencies to reverse the NWPR and revise the definition of the WOTUS to include wetlands, ephemeral, and intermittent streams. Recognizing our unique geography and ensuring the overwhelming majority of the state's surface waters are protected from pollutants, depends on it. Upholding environmental justice principles and reversing years of inequitable application of environmental regulations to people of color and Native-Americans, demands it. The people and wildlife of New Mexico are counting on it. Lastly, the BCC supports the "two-rule" process proposed by the Agencies, and agrees that the pre-NWPR rule should be reinstated and bolstered with regulatory and statutory changes that adhere to Supreme Court precedent and reduce the likelihood of rollbacks of the regulatory framework for WOTUS in the future.

Thank you for the opportunity to provide these comments.

Respectfully,



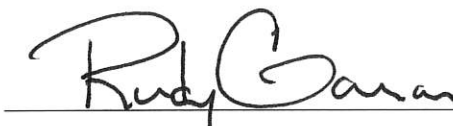
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