

CLEARING THE WATERS

A quarterly newsletter by the Surface Water Quality Bureau

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In This Issue: pg

Grant Application opens for WBP	1
Staff Update	2
Regulations Guidance	3
NPS Management Program Revision	7
Events	8

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Clearing The Waters is available on our website at:

<https://www.env.nm.gov/surface-water-quality/newsletters/>

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Request for Grant Applications: Watershed-Based Planning

By Abe Franklin, WPS Program Manager

The Surface Water Quality Bureau is pleased to announce release of a Request for Grant Applications (RFGA) for watershed-based planning (WBP) projects on **November 9**. This RFGA has been long in development, as we shift from a procurement model to a grant model for these projects, similarly to how many other states and some New Mexico state agencies manage pass-through federal grant funds.

The RFGA solicits applications to develop or update comprehensive WBPs to identify and build the methods, programs, and partnerships required for eligible streams to meet their water quality standards. Each new planning project must address at least one total maximum daily load (TMDL) for an impaired stream, or develop a hydrologic solution to a water quality problem in a limited category of streams without TMDLs (Category 4C streams). Also eligible is New Mexico's only stream in assessment Category 4B, Sandia Canyon (near Los Alamos). Streams in Category 4B have adequate planning such that a TMDL is not required, but their plan may need to be updated or expanded.

Projects funded under the RFGA will require a minimum forty percent non-federal match, which may consist of cash expenditures or in-kind contributions of labor, equipment, and materials. The RFGA will include opportunities for potential applicants to ask questions. The RFGA will be open until 5:00 PM Mountain Standard Time on January 18, 2018. Applications will be submitted via email.

More information including an application form and instructions will be posted at www.env.nm.gov/surface-water-quality/wbp. For more information about the RFGA, please contact Abe Franklin at abraham.franklin@state.nm.us.



NMED Surface Water Quality Bureau
www.env.nm.gov/surface-water-quality



Watershed Protection Section Staff Update - Santa Fe

Welcome back, *Chris Cudia!*

In April, Restoration and Implementation Team Leader Greg Kaufman departed the Watershed Protection Section and accepted a position at Los Alamos National Laboratory, with the Environmental Stewardship group in the Environmental Protection and Compliance division. During his slightly more than two years with the Watershed Protection Section (WPS), Greg learned a lot about New Mexico's Water Quality Management Program, and we learned a lot about the program as well, through his experience here. Through this interaction, Greg contributed significantly to project development and project management procedures, and represented the Environment Department well.

After a thorough hiring process, Chris Cudia accepted the team leader position for the Implementation Team in Santa Fe. Chris has a long career in environmental protection and surface water quality programs. Chris began working in the Surface Water Quality Bureau (SWQB) in 1994, when



Greg Kaufman

he was among a small staff still developing the Nonpoint Source Management Program. He was one of the main contributors and organizers of the 1994 Nonpoint Source Management Plan, a document which we still have handy here. Chris was the original manager of the Silver City office when it was a larger operation, where he oversaw nearly the full range of activities that SWQB is engaged in, for southwestern New Mexico. He then moved back to one of his home towns, Las Vegas, where he worked for the Environmental Health Division for a while before returning to WPS. He left NMED in 2012 to take a position as Natural Resources Coordinator in the New Mexico Department of Transportation's (NMDOT's) Environmental Section. There he more fully developed NMDOT's wetland mitigation program, making notable improvements to how NMDOT selects sites for mitigation. NMDOT frequently carries out mitigation in larger sites with greater restoration potential not in DOT right-of-way, with greater benefits to wildlife, as a result of Chris's work there. Chris returned to NMED in 2015, where he has been working in the Drinking Water Bureau, evaluating and tracking small public water systems in New Mexico.



Chris Cudia

He mentioned during his interview that he views SWQB and the Nonpoint Source Management Program as “home,” and that he was “raised” in the program. We look forward to his long-term perspective and his applying new skills and experiences here again.

GUIDANCE FOR REGULATIONS REGARDING SAND AND GRAVEL OPERATIONS IN NEW MEXICO

By Alan Klatt, SWQB Environmental Scientist, Implementation and Restoration Team - Santa Fe

Sand and gravel mining operations are often located near floodplains where sand and gravel river deposits can be excavated and are most commonly used in construction and road maintenance activities. In 2017, the Surface Water Quality Bureau received multiple questions from the public regarding the relevant regulations for sand and gravel mining operations in New Mexico. In relation to surface water quality, sand and gravel operations have the potential to accelerate erosion and contribute increased sediment loads and turbidity to waters of the state – the regulatory objective is to protect all designated uses of waters of the state such as aquatic life use, irrigation, and domestic water supply which can generally be accomplished by implementing best management practices and erosion controls. The following factsheet lists the relevant regulatory agencies and the roles they may have in relation to sand and gravel operations.

1. THE NEW MEXICO ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT (EMNRD)



EMNRD administers the New Mexico Mining Act through the Mining and Minerals Division of EMNRD. The Mining Act at 69-36-3 Definition H. states:

“*Mining*” means the process of obtaining useful minerals from the earth’s crust or from previously disposed or abandoned mining wastes, including exploration, open-cut mining and surface operation, the disposal of refuse from underground and in situ mining, mineral transportation, concentrating, milling, evaporation, leaching and other processing. “*Mining*” does not mean the exploration and extraction of potash, sand, gravel, caliche, borrow dirt and quarry rock used as aggregate in construction...

Extraction of gravel is not regulated under the Mining Act. However, sand, gravel and aggregate mining operations must file a registration form with the Mine Registration Program and complete annual reports.

Contact:

Mine Registration and Reporting Program

Mining and Minerals Division

Energy, Minerals and Natural Resources Department

(505) 476-3405

2. THE MINING ENVIRONMENTAL COMPLIANCE SECTION (MECS) OF THE GROUND WATER QUALITY BUREAU (GWQB) OF THE NEW MEXICO ENVIRONMENT DEPARTMENT (NMED)

MECS conducts all of the permitting, spill response, abatement and public participation activities for mining facilities in New Mexico in accordance with the Water Quality Control Commission (WQCC) Regulations (20.6.2 NMAC). In addition, the MECS participates in the implementation of the New Mexico Mining Act and Non Coal Mining Regulations by reviewing and commenting on mine permits and closeout plans, coordinating environmental protection requirements at mine sites with the Mining and Minerals Division of the Energy, Minerals and Natural Resources Department, and providing determinations that environmental standards will be met after closure of New Mexico mining operations. Currently the MECS manages over 55 active mining

continued on page 4

permits. NMED's Surface Water Quality Bureau and the Air Quality Bureau also participate by reviewing and commenting on mine permits with regards to environmental standards.

Specific to 20.6.2.1201 A. NMAC Notice of Intent to Discharge, "Any person intending to make a new water contaminant discharge or to alter the character or location of an existing water contaminant discharge, unless the discharge is being made or will be made into a community sewer system or subject to the Liquid Waste Disposal Regulations adopted by the New Mexico Environmental Improvement Board, shall file a notice with the Ground Water Quality Bureau of the department for discharges that may affect ground water, and/or the Surface Water Quality Bureau of the department for discharges that may affect surface water....."

This regulation requires the person making a discharge to file a Notice of Intent (NOI) and based on the information submitted, NMED would make a determination whether a Discharge Permit would be required for a specific facility or discharge. If MECS/GWQB suspects a discharge is occurring to ground water from a facility that may exceed 20.6.2.3103 standards, NMED will issue a letter requiring submission of a Notice of Intent. Regulations related to Discharge Permit Required may be reviewed at 20.6.2.3104 NMAC.

Specific to gravel operations and NMED regulations related to ground water, discharge permits are not routinely required. Historically, it has been found that activities associated with gravel operations do not cause the discharge of contaminants listed at 20.6.2.3103 NMAC. Conversely, discharge permits are required at mining operations such as copper and uranium mines that discharge known contaminants that exceed 20.6.2.3103 NMAC standards.

Contact:

Mining Environmental Compliance Section

Ground Water Quality Bureau

New Mexico Environment Department

(505) 827-1049

3. SURFACE WATER QUALITY BUREAU, NEW MEXICO ENVIRONMENT DEPARTMENT

The New Mexico water quality standards (20.6.4 NMAC) apply at all times to waters of the state. The standards are available on the web at <https://www.env.nm.gov/swqb/Standards/>. They include, but are not limited to:

20.6.4.13 GENERAL CRITERIA (e.g., Bottom Deposits and Suspended or Settleable Solids, Floating Solids, Oil and Grease, Toxic Pollutants, Temperature, Turbidity, and Total Dissolved Solids): General criteria are established to sustain and protect existing or attainable uses of surface waters of the state. These general criteria apply to all surface waters of the state at all times, unless a specified criterion is provided elsewhere in this part. Surface waters of the state shall be free of any water contaminant in such quantity and of such duration as may with reasonable probability injure human health, animal or plant life or property, or unreasonably interfere with the public welfare or the use of property.

For example, General Criterion at 20.6.4.13(J) states, "activities or discharges shall not cause turbidity to increase more than 10 Nephelometric Turbidity Units (NTU) over background turbidity when the background turbidity, measured at a point immediately upstream of the activity, is 50 NTU or less, nor to increase more than 20 percent when the background turbidity is more than 50 NTU."

Designated uses for specific stream segments and lakes, and some numeric criteria to support their designated uses, are provided at 20.6.4.97 through 20.6.4.899 NMAC. Numeric criteria applicable to designated uses (unless otherwise specified in 20.6.4.97 through 20.6.4.899 NMAC) are provided at 20.6.4.900 NMAC.

continued on page 5

Contact:
Watershed Protection Section
Surface Water Quality Bureau
New Mexico Environment Department
(505) 827-2793



4. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (EPA)

Sediment and associated nutrients are considered components of industrial storm water discharges covered under National Pollutant Discharge Elimination System (NPDES) General Permits. Stormwater discharges may also include other pollutants depending upon the industrial activity. Stormwater discharges from construction activities (such as clearing, grading, excavating, and stockpiling) are transient – occurring mainly during the construction itself, and then only during storm events. Coverage under the NPDES Construction General Permit (CGP) for construction sites with disturbance of one or more acre (or smaller if part of a greater common plan of development) require the preparation of a Storm Water Pollution Prevention Plan (SWPPP) that includes identification and control of all pollutants associated with the construction activity to minimize impacts to water quality. The current CGP effective on June 4, 2015 includes state specific requirements that the SWPPP must include site-specific interim and permanent stabilization, managerial, and structural solids, erosion, and sediment control best management practices (BMPs) and/or other controls that are designed to prevent to the maximum extent practicable an increase in the sediment yield and flow velocity from preconstruction, pre-development conditions to assure that applicable standards in 20.6.4 NMAC, including the anti-degradation policy, or Waste Load Allocation in Total Maximum Daily Loads are met.

Contacts:



EPA Region 6
1445 Ross Avenue
Suite 1200
Dallas, Texas 75202
Ph: 800-887-6063 or
214-665-2760

or

Point Source Regulation Section
Surface Water Quality Bureau
New Mexico Environment Department
(505) 827-2798

5. US ARMY CORPS OF ENGINEERS (USACE)

Activities within watercourses or wetlands may require coverage under a Clean Water Act Section 404 permit. The discharge of dredged or fill material to waters of the United States without a permit or failure to comply with the terms or conditions of a Section 404 permit may result in a violation of the Clean Water Act.

Contact:

US Army Corps of Engineers, Albuquerque
(505)-342-3678

6. AIR QUALITY BUREAU (aqb), NEW MEXICO ENVIRONMENT DEPARTMENT

The Air Quality Bureau (aqb) Permitting Section processes permit applications for industries that emit pollutants to the air. The Permit Programs Section consists of three programs: Minor Source, Major Source, and Technical Services.

continued on page 6

Minor Construction Permits (20.2.72 NMAC)

Minor Construction Permits are required for facilities with potential emissions either greater than 10 pounds per hour (pph) or 25 tons per year (tpy) of pollutants with a national or state ambient air quality standard (such as nitrogen oxides and carbon monoxide). A minor source permit is also required for facilities that emit New Mexico Toxic Air Pollutants (NMTAPs) at certain pound per hour levels. See the Tables in the regulation at 20.2.72.502 NMAC for a list of NMTAPs. Information on NMTAPs can also be found on the [NM Toxic Air Pollutants web pages](#). This permit must be obtained before the facility is constructed or modified.

Fugitive Dust

The AQB does not regulate fugitive dust; however, AQB recommends controls to minimize emissions of particulate matter from fugitive dust sources. Control strategies for a comprehensive facility dust control plan can be found in [EPA's Compilation of Air Pollutant Emission Factors, AP-42](#). The AQB or the US Environmental Protection Agency may implement requirements, regulations and standards for the control of fugitive dust sources in the future.

Determining whether a facility needs a permit or NOI is too complicated to be fully covered here. For other Air Quality Permit questions refer to the [Air Quality Bureau Contacts page](#) or the [Permit Section home page](#).

Contact:
Air Quality Bureau
Albuquerque, NM
(505) 346-6775

7. MINE SAFETY HEALTH ADMINISTRATION (MSHA), US DEPARTMENT OF LABOR

Sand, gravel and aggregate operations (like all mining operations) must register with MSHA. Examples of MSHA requirements include, but are not limited to:

30 CFR Part 46 defines a miner as any person who is engaged in “mining operations,” which is: mine development, drilling, blasting, extraction, milling, crushing, screening, or sizing of minerals at a mine; maintenance and repair of mining equipment; and associated haulage of materials within the mine from these activities. Miners are required to receive new miner or annual refresher training for their job.

MSHA's regulation requires that an individual capable of providing first aid be available on all shifts. The person must be currently trained and able to perform patient assessment and artificial respiration, control bleeding, and treat shock, wounds, burns, and musculoskeletal injuries. (30 CFR Section 56.18010)

Sand and gravel operations in New Mexico are part of the “Metal and Nonmetal -South Central District” with field offices in Albuquerque and Carlsbad.

Contact:

Air Quality Bureau
Albuquerque, NM
(505) 346-6775

or

Air Quality Bureau
Carlsbad NM
(575) 887-6074

8. LOCAL MUNICIPAL AND/OR COUNTY REGULATIONS

Sand, gravel and aggregate operations may be regulated by local municipal and/or county zoning ordinances and regulations. Contact the relevant local offices for more information on these.

NONPOINT SOURCE MANAGEMENT PROGRAM REVISION PROCESS IS UNDERWAY

By Abe Franklin, Watershed Protection Section Program Manager

States are required under Section 319 of the Clean Water Act (added in 1987) to plan for nonpoint source (NPS) pollution control and reduction, and New Mexico first developed a NPS management plan in 1989. New Mexico has revised the plan every five years (with one exception) since then. Our current plan was submitted to EPA in 2014, and is available at www.env.nm.gov/swqb/wps/Plan.

It may seem early to get started on a revision, but three years into the period covered by the plan is a good time to begin considering what is working and what could be improved. The first steps in the revision process were to present to the Water Quality Control Commission on September 12 NMED's intent and process for revising the New Mexico NPS Management Plan, to form a NPS Advisory Committee, and to organize a couple of facilitated workshops to gather input from people working on NPS pollution issues in New Mexico. The first workshop was held on October 18 at Ghost Ranch, and the second workshop is scheduled for **November 15** at Elephant Butte Lake State Park. If you are interested in attending, or participating as a member of the NPS Advisory Committee, please send an email to Rosemary Romero (romero.rosemary@gmail.com) by **November 12**.

EPA guidance for nonpoint source management programs is available at https://19january2017snapshot.epa.gov/sites/production/files/2015-09/documents/key_components_2012.pdf. EPA guidelines for allowable uses of Clean Water Act Section 319 funds (one of the funding sources that support nonpoint source management programs) is available at <https://19january2017snapshot.epa.gov/sites/production/files/2015-09/documents/319-guidelines-fy14.pdf>.



NMED does not discriminate on the basis of race, color, national origin, disability, age or sex in the administration of its programs or activities, as required by applicable laws and regulations. NMED is responsible for coordination of compliance efforts and receipt of inquiries concerning non-discrimination requirements implemented by 40 C.F.R. Part 7, including Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, and Section 13 of the Federal Water Pollution Control Act Amendments of 1972. If you have any questions about this notice or any of NMED's non-discrimination programs, policies or procedures, you may contact:

Kristine Pintado, Non-Discrimination Coordinator
New Mexico Environment Department
1190 St. Francis Dr., Suite N4050
P.O. Box 5469
Santa Fe, NM 87502
(505) 827-2855
nd.coordinator@state.nm.us

If you believe that you have been discriminated against with respect to a NMED program or activity, you may contact the Non-Discrimination Coordinator identified above or visit our website at www.env.nm.gov/NMED/EJ to learn how and where to file a complaint of discrimination.

EVENTS & ANNOUNCEMENTS

November

November 7th - Durango, Colorado. Sharing Stories Across the Watershed. Three Diné speakers will share their perspectives about the importance of the Animas-San Juan river system to Navajo health, farming, and cultural practices. Dr. Karletta Chief (Univ of AZ) will speak about the collaborative research partnership to monitor the San Juan River. Duane “Chili” Yazzie (President, Shiprock Chapter) will describe the importance of subsistence farming to Diné communities. Janene Yazzie (Tó Bei Nihi Dziil organizer) will discuss efforts to organize tribal youth and community members around issues of water sovereignty. This event is free and open to everyone interested in our Animas River communities. For additional details: <http://www.mountainstudies.org/events//sharing-stories-across-the-watershed>.

November 15th - Elephant Butte Lake State Park. NMED SWQB Nonpoint Source management plan revision workshop. Please see article on page 7 for more details.

November 15th - 19th - Galiuro Mountains (NE of Tucson, AZ). Sky Island Alliance is teaming up with private landowners, the U.S. Fish and Wildlife Service, and pond builder extraordinaire Tom Biebighauser of Wetland Restoration and Training LLC to create ponds south of the Muleshoe Ranch in the Galiuro Mountains. These ponds will provide habitat for lowland leopard frogs (*Lithobates yavapaiensis*) and many other native bird, bat, dragonfly and butterfly species. Join us for a day, or the entire trip, as we build two ponds and enhance the surrounding habitat with native plantings. Free event! For more information visit: <https://www.skyislandalliance.org/event/pond-building-southern-galiuros/>.

November 23 - December 31st - Carlsbad. Join the Carlsbad Chamber of Commerce for Christmas on the Pecos River. Holiday lights will dazzle you as they illuminate off the water. Christmas carols will put you in the holiday spirit as you glide down the Pecos River. Come early and grab a bite to eat, shop for unique holiday gifts or visit with Santa. Truly a unique experience for southeastern New Mexico. For more information about the tour visit: <http://www.christmasonthepecos.com/>.

December

December 12th - 15th - Clovis. Wetlands Across Borders Workshop – Playas of the Southern High Plains. Clovis Community College; Clovis, New Mexico. The meeting will consist of one and one half days of presentations and panel discussions about playa ecology, conservation, restoration and other important topics about playas. The meeting will be followed by three track options – New Mexico Rapid Assessment Method Training for Playa Wetlands, a Playas and Roads workshop, or a half-day field trip to look at local playas. Note that Wetlands Across Borders Meetings are for participants from neighboring states as well as New Mexico. We will be reaching out to Texas, Oklahoma, and Colorado as well.

If you would like to be a presenter or bring a poster to the event, please let Maryann McGraw know as the agenda will fill up fast. There is no cost to attend but for planning purposes and limited seating for the track options, you will have to register on-line through Evite: <http://evite.me/qQwEcWtbY7>. For more information please contact; Maryann McGraw, Wetlands Program Coordinator, SWQB NMED, phone 505-827-0581 or email: maryann.mcgraw@state.nm.us.

Save the Date- 2018

February 22nd - 23rd - Albuquerque. The 2018 Land & Water Summit is quickly approaching. This years theme is: The Ripple Effect: Stormwater & Tree Canopy. Join Xeriscape Council of New Mexico and the Arid Low Impact Development. Early Bird Registration Open until 12/31/17. For more information and to register <http://landandwatersummit.org/>.