



New Mexico Environment Department

WQS VARIANCES: COORDINATION ACROSS PROGRAMS

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ACWA Nutrients Permitting Workshop
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Overview



- NMED-SWQB Background
- Development Stage
- Submittal Stage
- Implementation Stage
- Questions



New Mexico Water Quality Act

- NM WQA - NMSA 1978 §74-6-4.
- The Water Quality Control Commission (WQCC) shall adopt water quality standards ... at a minimum protect public health or welfare, enhance the quality of water and serve the purposes of the Water Quality Act;
- shall adopt a comprehensive water quality management program and develop a continuing planning process;
- shall specify in regulations the measures to be taken to prevent water pollution and to monitor water quality
- NMED is the constituent agency designated to provide technical assistance to the WQCC

NMED's Core Principles



Science: Using the best available science to inform our decision-making in protecting public health and the environment.



Innovation: Employing creative engineering and technological solutions to address environmental problems.



Collaboration: Engaging communities and interested stakeholders in environmental decision-making.



Compliance: Ensuring meaningful compliance with state regulations and permits.



NMED's Water Quality Bureau Structure

SURFACE WATER QUALITY BUREAU

Comprised of three (3) technical sections (34 FTEs):

1. Monitoring, Assessment and Standards Section

- a. Standards, Planning and Reporting
- b. Monitoring
- c. TMDLs and Assessment

2. Point Source Regulation Section (NPDES Program)

- a. Municipal
- b. Industrial and Stormwater

3. Watershed Protection Section (Nonpoint Source Program)

- a. Implementation and Restoration
- b. NM Field Offices
- c. Wetlands



Standards, Planning and Reporting Team

2 FTE + 1 QA Officer + 1 Vacancy

The purpose of WQS:

(NMSA 1978 §74-6-4; 40 CFR 131.2)

- Protect public health or welfare
- Enhance the quality of water
- Serve the purposes of the Water Quality Act and Clean Water Act, including 101(a)(2) uses



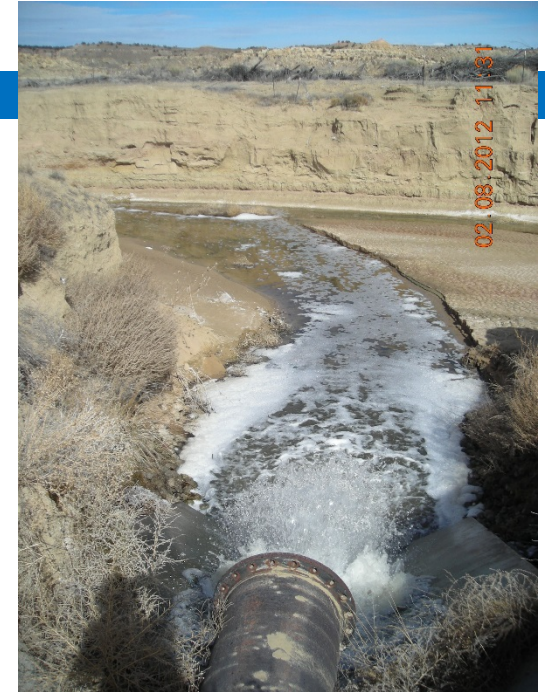
All other Bureau and Section functions ultimately serve to implement policies in the WQS, protect WQS or restore impaired waters back to a condition that is set by the WQS.



Point Source Regulation

5 FTE + 1 Program Manager + 1 Vacancy

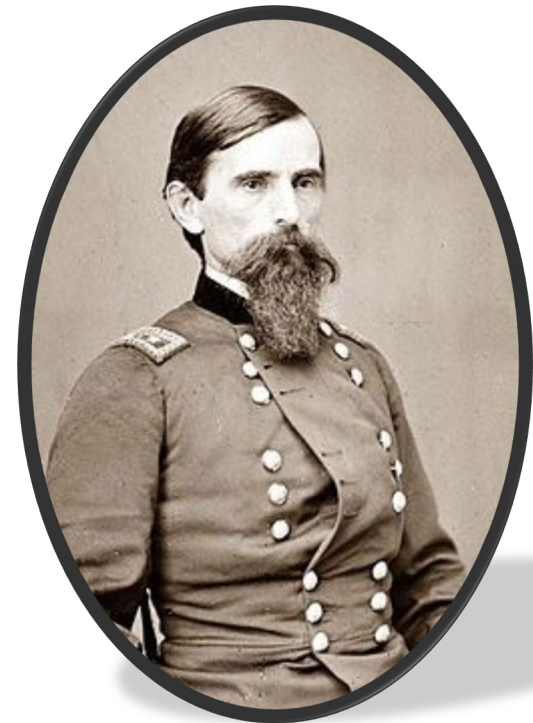
- **Assist USEPA with implementation** of the National Pollutant Discharge Elimination System (NPDES) permit program
- **Conduct compliance inspections** on behalf of USEPA
- **Review and certify (CWA §401) federal NPDES permits**
- **Serve as local point of contact** for permittees





Important Details

- ❑ New Mexico does not have delegated authority for NPDES program
- ❑ EPA Region 6 is responsible for NPDES program in NM
- ❑ *"All calculations based on experience elsewhere, fail in New Mexico."* - NM Territorial Governor Lew Wallace
- ❑ Implementation section of TMDL is not approved by EPA



Disclaimers

- ❑ New Mexico does NOT have an approved variance (aka, temporary standard) “on the books.”
- ❑ The views expressed in this presentation are those of the author and do not necessarily represent other points of view.
- ❑ The case study presented is New Mexico’s first ever water quality standards variance (aka, temporary standard)... the final outcome is TBD.



Development Stage:

Raton WWTP discharger-specific nutrient variance

The receiving water has been impaired for nutrients since the mid-to late 1990's.

- NM drafted a TMDL in 2011, but it was tabled due to concerns that the WLA would be unachievable and NMED was directed to work with NM Municipal League to develop alternative limits.
- The workgroup devised a strategy for alternative limits in NPDES permits; however, EPA struggled with the idea because there was no regulatory mechanism to require EPA to incorporate the alternative limits into permits.
- NM incorporated a temporary standard provision into the WQS in 2017 to provide a regulatory mechanism for alternatives.

NMED

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NMML

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EPA R6



Development Stage:

Raton WWTP discharger-specific nutrient variance

2016-2017

Work Plan – EPA R6 Nutrient POC

Conceptual Model and Implementation Considerations

Temporary Standard Implementation Proof-of-Concept for New Mexico

Five Temporary Standard Demonstrations (City of Raton was the 1st demo)

Collaboration and Coordination between:

NMED, Surface Water Quality Bureau (WQS, NPDES, TMDLs, Mgt.)

USEPA, Region 6, Dallas, Texas (WQS, NPDES, Nutrient POC)

USEPA, Standards and Health Protection Division Washington, DC

USEPA, Office of Science and Technology, Washington, DC

Tetra Tech – engineering review and HAC analysis

ECONorthwest – economic analysis

Permittees and NM Municipal League

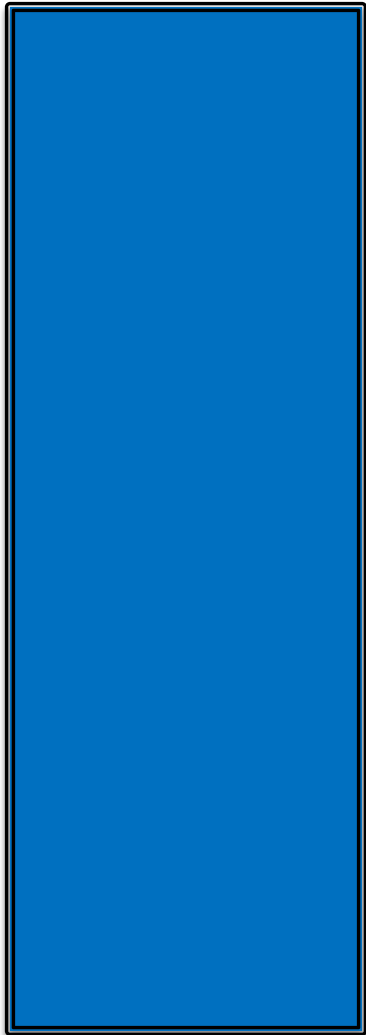
GOAL

The goal of the project is to review and develop approaches for implementation of discharger-specific nutrient temporary standards in NM.



Development Stage:

Raton WWTP discharger-specific nutrient variance

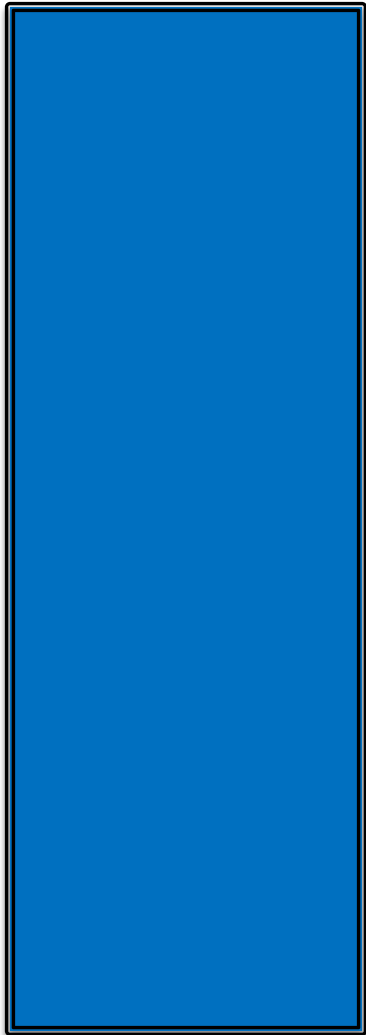


- **June 2017 - June 2018:**
Substantial and Widespread Economic and Social Impact and Highest Attainable Condition Analysis Report for Raton, New Mexico (**biweekly** teleconferences between NMED – EPA HQ – EPA R6 – Tetra Tech... on-going)
- **July 2018:**
NMED Letter to City of Raton
- **August 2018:**
NMED-EPA-Raton teleconference re: report
- **October 2018:**
NMED-Raton discussion of possible HAC
- **February 2019:**
Raton technical memorandum re: HAC & timeline
- **April 2019:**
NMED-Raton meeting re: memo, HAC & timeline



Development Stage:

Raton WWTP discharger-specific nutrient variance



- **May 2019:**
NMED Draft temporary standard proposal for the City of Raton WWTP
- **June 2019:**
EPA comments on Draft proposal
- **June 2019:**
Canadian River TMDL public meeting & meeting with City of Raton to discuss temporary standard proposal
- **July 2018:**
Raton comments on Draft proposal
- **August 2019:**
Revised proposal
- **August 2019:**
EPA review and comments on revision
- **September 2019:**
Raton review and comments on revision
- **October 1, 2019:**
Open 30-day public comment period



Submittal Stage:

Raton WWTP discharger-specific nutrient variance

NMED

- ❑ Revised NMAC language in proposal based on NMED legal review
- ❑ Bureau Chief, WQS Team, General Counsel petition Commission for hearing
- ❑ File SOR, revised NMAC, and TS Proposal

EPA

- ❑ WQS Program pre-review for standards compliance
- ❑ NPDES Program pre-review for potential permit considerations



Submittal Stage:

Raton WWTP discharger-specific nutrient variance

NMED

- Commission hearing (March, April?) to present proposal and approve, approve with revisions, or deny petition.
- If Commission approves, WQS Team submits to State Records, publishes in NM Register, and submits to EPA for final review and approval.

EPA

- WQS Program reviews submittal and approves within 60 days or disapproves within 90 days (June?)



Implementation Stage:

Raton WWTP discharger-specific nutrient variance

NMED

- NPDES Team pre-reviews draft NPDES permit and provides comment/edits to EPA.
- NPDES Team conducts 401 review and certification of NPDES permit.
- WQS Team conducts re-evaluation as prescribed in approved temporary standard.

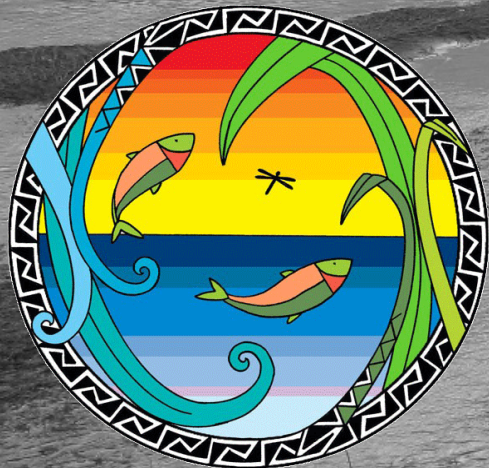
EPA

- NPDES Program develops draft permit for City of Raton WWTP based on approved temporary standard.
- NPDES Program issues final permit consistent with temporary standard and 401 state certification.

Permittee must demonstrate sufficient progress during re-evaluation

Questions?

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**Water is the most critical resource issue
of our lifetime and our children's lifetime.
The health of our waters is the principal
measure of how we live on the land.
- Luna Leopold**