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RE: Draft 2016-2018 303(d)/305(b) Integrated Report

Dear Ms. Guevara,

Amigos Bravos is a statewide water conservation organization guided by social justice principles. Our mission is to protect and restore the waters of New Mexico. Amigos Bravos works locally, statewide, and nationally to ensure that the waters of New Mexico are protected by the best policy and regulations possible. The 303(d)/305(b) list is a critical component of our work to protect clean water and the communities that depend upon clean water in New Mexico. We would like to communicate the following comments regarding the draft 2016-2018 303d/305b Integrated Report and List ("Report").

1. There is Confusion Regarding Terminology and Totals for Stream Miles, Assessed Miles, and Impaired Miles.

Amigos Bravos continues to find the language that talks about stream miles, assessed miles and impaired miles in New Mexico confusing. For example, in the Executive Summary on page xi the Report states: "From the approximately 7,648 stream miles reported in [the] New Mexico Integrated 303(d)/305(b) List...". This reference to 7,648 stream miles is confusing for several reasons. First, this is the only place in the report that this 7,648 number appears. There is not a description of what these stream miles are or how the 7,648 number was generated. While Amigos Bravos was able to add up the miles from the second column in Table 9 on page 56 to get to the 7,648 number, and while we think it is referring to total assessed miles, we are still a bit confused since Table 9 includes 1,382 miles in IR category 3, which is the category that includes waters for which there is either no data or not enough data to make a clear determination on impairment status. It is unclear how IR category 3 waters (or at least

the subset of IR category 3 waters for which there is no data) are different from all the other unassessed stream miles in the state. Therefore we believe that IR category 3 should include more than 100,000 stream miles. Second, aren't all the 108,649 miles of rivers and streams in New Mexico reported in the Report? For example, water quality protection programs, water quality standards, and water quality regulations that are summarized in the report apply to all streams, not just the 7,648 miles of assessed streams. Therefore stating that there are only 7,648 miles that are reported in the Report, as it does on page xi, is confusing and inaccurate. Amigos Bravos suggests several solutions:

- a. Additional language in xi should be added that clarifies that of the 108,649 miles of streams in New Mexico, 7,648 have been assessed, though as we describe further below it would be more accurate to minus out the IR category 3 waters and say that 6,266 miles have been assessed. Of these 7,648 (or 6,266) assessed miles, nearly 4,116 miles (54%) have been found to be not meeting at least one water quality standard (also called impaired.)
- b. A general summary of the different terms like "assessed", "impaired", "impairments", "designated uses" would be helpful and could be added into the Executive Summary.
- c. Total columns/rows should be added to many of the tables and figures. For example Tables 9 and 11 should have a total row at the bottom for columns 2 and 3.
- d. A row that lists the total number of assessed miles (7,648 miles, or as we propose 6,266 miles) should be added to Figure 1.
- e. A row that lists the total number of assessed lake/reservoir acres should be added to Figure 1.

2. Clarity Regarding Changes to Total Lake Acreage and Assessed Streams Miles is Requested.

Amigos Bravos is unclear why total Lake/Reservoir acreage in the Report (94,415 acres) has changed so drastically from the total Lake/Reservoir acreage reported in the Final 2014 -2016 Report (108,905 acres). In addition, Amigos Bravos is unclear why assessed miles has decreased from those reported in the 2014-2016 Final Report. The 2016-2018 Report has 7,648 total examined miles in table 9, while the 2014-2016 Final Report has 7,710 examined miles listed in table 9. While this is not a huge difference, it is confusing since we would expect the number of examined miles to increase, not decrease.

3. Clarity Regarding Impairment Percentages is Needed.

The percentages cited on page xi of impaired streams (54%) and lakes (67%) are misleading. First of all these percentages are based on stream miles and lake acreage that include IR category 3 waters (which are waters for which there is not enough data to make a determination if water quality standards are being met). To accurately represent the percentage of impaired assessed streams and lakes, the IR category 3 stream miles should be subtracted from the total before calculating percentages. This is especially critical for lakes and reservoirs, as 21,446 acres of the state's total 94,415

acres fall into IR category 3. If IR category 3 stream miles and lake acreage are subtracted, the percentage of impaired streams and lakes changes drastically to 65% and 86% respectively. Second, statements that are made about impairment percentages should clarify that these percentages are based on total waters that were assessed, not on overall total state miles/acreage. Amigos Bravos believes it would be useful to include a table or chart that lists: overall total state stream miles and lake acreage, total assessed stream miles and lake acreage, percentage of impaired miles and acreage of total assessed state miles and acreage, and percentage of assessed miles and acreage to total miles and acreage. Note, as outlined above, we do not believe that IR category 3 waters should be included in the total of assessed miles.

4. 4b IR Designation for Sandia Canyon

During the last listing cycle Amigos Bravos opposed changing the IR designation for copper impairment in Sandia Canyon on LANL property (segment that flows from NPDES outfall OO1 to Sigma Canyon, AU NM-9000.A_047) from IR category 5 to IR category 4b. This change in designation removed the requirement to develop a TMDL for this assessment unit. Amigos Bravos' main concern with this change was the assumption made in the proposal that existing pollution control requirements and regulatory mechanisms that were either planned or in place, were both adequately monitored and were reasonably expected to result in attainment of the applicable water quality criterion in the near future. We hold that this was not the case and still is not the case. While the final 2014-2016 List officially designated this new 4b segment and included a lengthy section about the details and requirements of this new segment, the new Report fails to mention this process in any detail and does not include a summary of the progress to date. Amigos Bravos requests that a summary/short progress report be provided in the 2016-2018 Report.

5. The Reduction in State Funding for Surface Water Quality Programs is Disturbing and Should be Further Explained and Justified in the Report.

Amigos Bravos was dismayed to see the drastic reduction in funding for the New Mexico surface water quality management program. Funding in FY 15 was reduced to \$4,374,156, which represents a substantial reduction from FY13 funding levels of \$5,775,981. State funding was more drastically reduced than federal levels during this period and represents a decrease in \$819,909 dollars annually of funding for surface water quality management. The Report does not explain why or how this funding was reduced by the State administration, nor does it outline what programs were cut or impacted. These details should be added to the Final Report.

6. A Timetable for Numeric Nutrient Criteria Development Should be Provided.

While Amigos Bravos appreciates the summary regarding nutrient criteria development included on page 55 in the section titled "Nutrient Assessment Protocol Improvement for Wadeable Perennial Streams", this summary needs to include a timetable for final nutrient criteria development.

7. Aluminum Impairments

As mentioned numerous times previously, Amigos Bravos does not believe that the current hardness based Aluminum criteria is protective of existing uses, and that with a protective Aluminum standard, many waterbodies in New Mexico, including the 16 waterbodies proposed to be delisted in the Report, would be listed as impaired. Amigos Bravos especially has concerns about whether the current hardness based Aluminum criteria is protective of New Mexico's freshwater mussel species. Putting those concerns aside, as the appropriate place to argue the appropriateness of standards is during the Triennial Review, Amigos Bravos still has a several Aluminum impairment questions. Sixteen segments are being proposed to be delisted for Aluminum impairment in the Report, yet a reason for why they are being de-listed is given for only a couple of these segments. Amigos Bravos speculates that the reason that all of these segments are being de-listed is because the water quality standard was changed. Clarity regarding whether or not this is indeed the case would be very much appreciated.

8. Regulation of Discharges from Los Alamos National Laboratory

Amigos Bravos appreciates having sections that outline the major groundwater issues in the state, including discharges from Los Alamos National Laboratory. Providing these outlines of the issues is effective at providing basic knowledge of these issues to the general public, and we thank the Department for providing them. We do have several comments about the language in the Los Alamos section. Specifically we suggest the following edits:

- a. The second paragraph on page 72 of the Report should be expanded to ensure that who NMED has continued to meet with is accurately communicated. Simply stating "concerned citizens" is inaccurate and confusing. One of the 6 groups that have continued to meet with NMED is Concerned Citizens for Nuclear Safety and thus using the language "concerned citizens" could be interpreted to mean that NMED has been meeting with only this group. In fact NMED has been meeting with representatives from 6 organizations (Tewa Women United, Honor Our Pueblo Existence, Concerned Citizens for Nuclear Safety, Amigos Bravos, Partnership for Earth Spirituality and the New Mexico Acequia Association as well as individual concerned citizens. This language should be changed to read: "NMED has continued to meet with members from 6 community organizations and several concerned citizens.
- b. It is inaccurate to state that discussion of "upgrades" have been part of these meetings if NMED is referring to the construction of the new low-level liquid waste treatment facility. The construction of this facility has not been part of these discussions.
- c. A full history of the permitting process at the RLWTF should be included in this summary. Please add the following language: " NMED released its first draft of the permit in mid-1990s, which was subsequently withdrawn. In 2005, another public process began with another draft permit, this draft was also withdrawn. The most recent process was initiated in 2013."
- d. The date for the release of a draft permit for SWWS should be updated. A draft permit has not yet been released.

- e. The date for the release of a draft permit for discharges to multiple septic tank/leachfield systems should be updated. A draft permit has not yet been released.
- f. The statement “NMED met with LANS/DOE staff and concerned citizens regarding the draft permit” in paragraph 5 on page 72 should be changed to “NMED met with LANS/DOE staff and representatives from 6 community organizations and several concerned citizens.”

9. Climate Change and the Importance of Resiliency

Climate change is currently and will even more so in the future drastically impact the surface waters of New Mexico. The scope and magnitude of the impact of climate change on New Mexico’s water resources warrants broad programmatic shifts and action. This action should be documented in the Report. In addition, specific impacts that we are seeing on our water resources as a result of climate change should be documented and presented in the Report. Amigos Bravos requests that two sections be added to the Report, one section that reports the impacts we are seeing from Climate Change on our water resources and a second section that documents steps that the Department is taking to mitigate these impacts.

There is a pressing need to protect, support, and increase the resiliency of our watersheds so that wherever possible New Mexico’s water resources and the communities that depend upon them are able to adapt to a changing climate. Resiliency consists of two parts. First, resiliency is the capacity of an ecological or community system to maintain its function in the face of stress. A system with high resiliency withstands and bounces back from stress better than a system with low resiliency. Second, resiliency is the capacity of an ecological or community system to adapt to changing circumstances and conditions. Climate change elevates the importance of resiliency. Climate change exacerbates impacts caused by existing ecological and community stressors. Climate change is also a persistent, intensifying, and non-linear stressor. Actions adequate to guard against a particular impact in a world that has warmed by 2°C may be completely inadequate in a world that has warmed by 3°C. Thus, in the absence of robust action to build resiliency, climate change may unravel and catastrophically degrade existing ecological and community systems. We urge the Department to focus efforts on increasing the resiliency of watersheds and to document these efforts in the Report.

10. Typos/Formatting Comments

- a. Amigos Bravos appreciates the inclusion of Figure 1. This provides important clarification on the somewhat confusing distinction between impaired waters and waters that are considered officially included on the 303d List.
- b. Table 1 should either be moved to section C.3 of the Report or reproduced there to enable easier review of the information presented in tables 9 and 11. In addition, the language that is included next to these tables should more clearly define the different categories.
- c. The numbers of stream miles in Table 2 do not add up. The perennial, intermittent/ephemeral and ditch miles totals in Table 2 add up to 56,584 miles, not the total 108,649 total state miles also is listed in the table.

- d. On page 10, FY2014 is included twice when listing total number of inspections. Perhaps the second FY14 should really be FY15?
- e. On page 12 commas are missing from the list of sources of non-point source pollution.
- f. Different “earliest final decision” dates for the triennial review process are listed in different sections of the report. On page xi January 2016 is identified as the earliest decision date and then on page 8 March 2016 is listed as the earliest decision date.
- g. Figures 12 and 13 should include the tables that were included in the same figures from previous versions of the report. If only one representation of the data is going to be included, Amigos Bravos prefers the table representation over the line graph because the table includes the exact numbers.
- h. Amigos Bravos thanks the Departments for providing the excel spreadsheet that detail proposed new listings and de-listing. These spreadsheets have made our review of the Report much easier and streamlined.

Thank you for the opportunity to provide comment on the Report. We look forward to further discussion about the concerns that we have raised in our comments. Please do not hesitate to contact me at 575-758-3874 or rconn@amigosbravos.org if further clarification or discussion on the above comments is merited or needed.

Sincerely,



Rachel Conn
Projects Director
Amigos Bravos