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Pueblo of Tesuque Water Quality Standards

Approved, passed, and adopted November 28, 2005
By the Tribal Council of the Pueblo of Tesuque

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SECTION I. INTRODUCTION, AUTHORITY, AND APPLICABILITY

A. **Purposes** . Pursuant to authority set forth in § 518 of the Clean Water Act, enacted February 4, 1987 (33 U.S.C. § 1377), the Tribal Council ("Tribal Council") of the Pueblo of Tesuque (hereinafter, "Pueblo"), a federally-recognized Indian tribe, hereby enacts the Water Quality Code of the Pueblo of Tesuque (hereinafter, "Code", "Water Quality Standards", or "Standards"). The purposes of this Code are to:

1. designate the existing and attainable uses for which the surface water of the Pueblo of Tesuque shall be protected;
2. prescribe water quality criteria, narrative and numeric, to sustain the designated uses;
3. assure that degradation of existing water quality does not occur; and
4. promote the health, social welfare, and economic well-being of the Pueblo, its members, and all residents of the Pueblo of Tesuque Indian Reservation ("Reservation").

The standards contained in this Code are consistent with § 101(a)(2) of the Clean Water Act (33 U.S.C. § 1251(a)(2)), which declares that "it is the national goal that, wherever attainable, an interim goal of water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water be achieved by July 1, 1983." Agriculture, recreation, primary contact, recharge of groundwater supply via surface waters, irrigation, municipal and industrial uses, domestic use, livestock watering, and all other uses authorized are other beneficial uses of Pueblo waters. Contamination that may result from such uses shall not lower the quality of the water below what is required for recreation and the protection and propagation of fish, shellfish, and wildlife.

B. **Applicability**. The Code applies to all surface waters within the exterior boundaries of the Pueblo of Tesuque Reservation including water situated wholly or partly within or bordering upon the Pueblo of Tesuque Reservation ("Tribal Waters"). Waters that do not combine with other surface or subsurface waters, such as stock tanks or treatment lagoons, are private waters and excluded from this Code. The specified criteria apply to substances attributable to discharges, nonpoint sources, or instream activities. The criteria shall not apply to acts of God nor to natural phenomena.

C. **General Standards** . The general standards in Section III of this Code shall be maintained at all times and apply to streams, lakes, reservoirs, canals, drains, ponds, springs, and wetlands, whether they are perennial, ephemeral, or intermittent waterbodies. Numeric criteria particular to a use shall be maintained any time the flow equals or exceeds the four-day three-year low flow value ("4Q3"). When intermittent and ephemeral streams have a low flow value of zero, all discharges shall meet standards for the designated uses. The criteria assigned to a waterbody are the ones required to sustain all designated uses of the waterbody. The water that is within reservoirs used for water treatment are exempt from these criteria, but the criteria apply to receiving bodies of water affected by the effluent from such reservoirs. The Tribal Council shall issue and approve surface water designations for Tribal Waters and shall determine the suitability of bodies of water for primary contact purposes. The criteria, numeric and narrative, contained in this Code will be part of the permitting and

management process for all dischargers who are subject to federal, state, or Pueblo regulations. These criteria shall be used in existing procedures (or in any new procedure or process that may be created) to determine when a designated use is threatened. If criteria are not met, the permitting and management process may be expected to require advanced treatment technologies for point sources and to implement such best management practices as are applicable for nonpoint sources.

D. Antidegradation Policy. The antidegradation policy for Tribal Waters and the procedures for implementing it are in Section II of this Code.

E. Environment Department. The Environment Department shall serve under the direction of the Governor and the Tribal Council of the Pueblo. The Environment Department shall work in cooperation with the U.S. Environmental Protection Agency ("EPA") and other agencies of federal, tribal, and state governments. The duties of the Environment Department are detailed in the Implementation Plan (Section II of this Code).

F. Revisions and Public Hearing. The Tribal Council shall have exclusive authority to amend this Code. In accordance with § 303(c)(1) of the Clean Water Act (33 U.S.C. § 1313(c)), the Tribal Council will hold public hearings, or authorize on its behalf an outside entity to conduct such public hearings, at least once each three-year period for the purpose of reviewing the Code and proposing amendments, as appropriate, or to incorporate by reference other regulations. Revisions shall include relevant scientific and engineering advances with respect to water quality and waste treatment. If water quality monitoring identifies reaches where attainable quality is less than existing water quality standards, the standards may be modified to reflect attainability. Modification shall be carried out in accordance with use attainability analysis procedures, development of a site specific standard, or other appropriate methods. Errors resulting from inadequate and erroneous data or human or clerical oversight will be corrected by the Pueblo. The discovery of such errors does not render the unaffected standards invalid.

G. Compliance Schedules. It is the policy of the Pueblo to allow on a case-by-case basis the inclusion of a compliance schedule in a National Pollutant Discharge Elimination System ("NPDES") permit issued to an existing facility. Such a schedule will provide a permittee with adequate time, not to exceed three years, to make treatment modifications so that the resulting effluent meets final permit requirements. Compliance schedules may be included in NPDES permits at the time of permit reissuance or modification and shall require compliance at the earliest practicable time before the three year limit has expired. Duration and schedule of activities also shall be specified so as to measure progress toward final project completion.

H. Variances. The Tribal Council may allow variances from this Code and the standards herein on a case-by-case basis. A variance from the Pueblo's criteria may be allowed in certain cases where the appropriateness of the specific criteria is questionable. The variance provides a period of time during which issues concerning the appropriateness of the criteria may be resolved. A variance shall be valid for no more than three years. Variances are not renewable but may be reissued again upon adequate justification. A variance shall be granted only after appropriate public participation and any required EPA review and approval. Variances from criteria will be allowed for anticipated non-attainment of water quality standards due to one or more of the reasons listed in 40 C.F.R. 131.10 (g) . Variances from criteria shall be for specific pollutants, time-limited, and shall not forego the currently designated use. Variances are to be issued instead of removing a designated use for a waterbody where such use is not now attainable but can be expected with reasonable progress towards water quality.

I. Short Term Exceedances . The Environment Department, with consent from the Tribal Council of the Pueblo, may authorize short term activities that might cause a violation of the Pueblo's water quality standards. Such authorization shall not be granted for activities that could result in the adverse impact on any federally endangered or threatened species or on the critical habitat of such species or which could result in the irreversible degradation of the water quality. The Tribal Council and the Environment Department shall specify the degree of exceedance, the time limit, and restoration procedures where applicable. The Pueblo may include additional requirements for short-term exceedances in related environmental regulations such as a Water Quality Management Plan. These short-term activities will take place whenever necessary and without public notice. Such short term activities are those which are necessary to accommodate legitimate uses, emergencies, or to protect public health and welfare and in which no permanent or long-term impairment of beneficial uses is likely to result. Such restricted activities that may be categorically excluded from the water quality standards include, but are not limited to, bank stabilization, mosquito abatement, algae and weed control, tracers used in hydrological studies, or activities which result in overall enhancement or maintenance of beneficial uses. Short-term exceedances are not intended to supersede existing tribal, federal, or state permitting processes or requirements.

J. Dispute Resolution Mechanism . Disputes due to differing water quality standards between the Pueblo and a state or between the Pueblo and another Indian tribe authorized by EPA to administer a water quality standards program and having EPA-approved water quality standards shall be resolved using the Dispute Resolution Mechanism promulgated by the EPA in 40 C.F.R. § 131.7.

SECTION II. ANTIDegradation Policy and Implementation Plan

A. Antidegradation Policy .

1. Existing water uses and the level of water quality necessary to protect existing uses shall be maintained and protected.

2. Where existing water quality exceeds levels necessary to support propagation of fish and wildlife and recreation in and on the water, the water quality shall be maintained and protected unless it is found by the Pueblo that a lower level of water quality is required in order to accommodate important economic or social development in the area in which the waters are located. Degradation of water quality may not occur without full satisfaction of governmental and public participation requirements. In permitting such degradation of water quality, the Pueblo shall require the highest statutory and regulatory requirements for all new and existing point sources and such best management practices as are applicable for nonpoint source control.

3. Where high quality water constitutes an outstanding national or tribal resource or the waters are of exceptional recreational or ecological significance, the water quality and uses shall be maintained and protected by water quality controls, maintenance of natural flow regimes, protection of instream habitats, and pursuit of land use practices protective of the watershed.

4. In those cases where thermal discharge may impair water quality, the antidegradation policy and implementing methods shall be consistent with § 316 of the Clean Water Act, as amended (33 U.S.C. § 1326 (1987)).

B. Implementation Plan and Duties of the Environment Department .

1. The Environment Department, acting under authority delegated by the Tribal Council, shall implement the water quality standards and the antidegradation policy by establishing and maintaining controls on the discharge of pollutants to Tribal Waters. Enforcement of this Code also shall be through the implementation of the NPDES. Unless and until the EPA delegates to the Pueblo primary responsibility for the NPDES program, the EPA shall develop and issue permits for discharges within the Reservation.

2. The Environment Department shall have the following duties:

- (a) to work in conjunction with federal, tribal, and state agencies as appropriate;
- (b) to establish and maintain controls on the discharge of pollutants to surface waters; such controls shall be carried out in a stepwise process involving several interrelated programs;
- (c) to recommend to the Tribal Council any permitting or management regulations that would be consistent with this Code; provided that nothing herein shall prohibit the Tribal Council from imposing permit requirements in addition to those authorized by this Code;

- (d) to obtain information pertinent to the effect of the effluent on the receiving waters and to advise the prospective discharger of requirements for obtaining a permit to discharge, including any permit requirements as the Pueblo itself may impose;
- (e) to assess the probable effects of effluent on receiving waters relative to the designated uses and numeric and narrative standards;
- (f) to designate, subject to the approval of the Tribal Council, Pueblo streams as perennial, ephemeral or intermittent in accordance with the water quality standards and to determine low flow numeric values;
- (g) to conduct water quality surveillance of Tribal waters to assess the effectiveness of pollution controls and prevention and to determine whether water quality standards are being attained, including but not limited to reviewing existing database adequacy and obtaining any needed data by conducting an intensive analytical survey of the receiving waters;
- (h) to conduct biological monitoring of fish, invertebrate, plant bioassay, and sediment quality to assess the physical and chemical factors relative to heavy metals and toxic substance contamination;
- (i) to require the highest level and best degree of waste water treatment practicable to protect and maintain the designated uses and existing water quality of the receiving waters;
- (j) to submit requirements of or comments on effluent limitations for inclusion in any federal permit issued to a discharger pursuant to §§ 402 or 404 of the Clean Water Act (33 U.S.C. § 1342), which effluent limitations shall be included in any such permit as a condition for tribal certification pursuant to § 401 of the Clean Water Act (33 U.S.C. § 1341);
- (k) to develop and pursue inspection and enforcement programs to ensure that dischargers comply with requirements of this Code, satisfy the requirements of any later Pueblo permit regulations, and complement EPA's enforcement of federal permits;
- (l) to ensure that the provisions for public involvement required by this Code and the Clean Water Act are followed (40 C.F.R. Part 25);
- (m) to provide continuing technical training for waste water treatment facility operators through the utility operators training and certification programs;
- (n) to seek funds to assist the construction of Pueblo-owned-waste water treatment facilities, including but not limited to the construction grants program authorized by § 201 of the Clean Water Act (33 U.S.C. § 1281);
- (o) to encourage, in conjunction with other agencies, voluntary implementation of best management practices noted for controlling

nonpoint source pollution, and to comply with this Code and with the Clean Water Act; and

- (p) to evaluate effectiveness of best management practices selected to prevent or abate nonpoint sources of water pollutants.

An antidegradation implementation flow chart has been developed to ensure proposed activities are in compliance with the antidegradation policy (see Appendix 2).

SECTION III. GENERAL STANDARDS

Watercourses 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. In addition, the following narrative standards apply to all Tribal Waters, unless stricter standards are imposed in Section IV of this Code:

A. **Stream Bottom Deposits.** The stream shall be free from water contaminants from other than natural causes that will settle and cause deleterious effects to the aquatic biota or significantly alter the physical or chemical properties of the bottom.

B. **Floating Solids, Oil, and Grease.** All waters shall be free from objectionable oils, scum, foam, grease, and other floating materials and suspended substances of a persistent nature resulting from other than natural causes which could damage or impair the normal growth, function or reproduction of human animal, plant or aquatic life (including visible films of oil, globules of oil, grease, or solids in or on the water, or coatings on stream banks).

C. **Color.** Materials producing true color resulting from other than natural causes shall not create an aesthetically undesirable condition; nor should color impair the attainable uses of the water or harm aquatic life.

D. **Odor and Taste.** Water contaminants from other than natural causes shall be limited to concentrations that will not impart unpalatable flavor to fish, or result in offensive odor or taste arising from the water, or otherwise interfere with the existing and attainable uses of the water, nor shall taste and odor-producing substances of other than natural origin interfere with the production of a potable water supply by modern treatment methods.

E. **Nuisance Conditions.** Plant nutrients or other substances stimulating algal growth from other than natural causes shall not be present in concentrations that will produce objectionable algal densities, nuisance aquatic vegetation, result in a dominance of nuisance species instream, or otherwise cause nuisance conditions. When stricter requirements are not established elsewhere in this Code, the dissolved oxygen shall be maintained at 2 milligrams per liter (" mg/L") in order to prevent nuisance conditions from other than natural causes. The phosphorus and nitrogen concentrations shall not be increased to levels that result in man-induced eutrophication problems. The Tribal Council may establish nutrient limitation for lakes, reservoirs, and streams, and shall incorporate such limitations into appropriate water quality management plans.

F. **Pathogens.** Streams shall be virtually free from pathogens including bacteria, viruses, or parasites. In particular, waters used for irrigation of table crops such as lettuce shall be virtually free of *Salmonella* and *Shigella* species.

G. **Turbidity.** Turbidity attributable to other than natural causes shall not reduce light transmission to the point that the aquatic biota is inhibited or that will cause an unaesthetic and substantial visible contrast with the natural appearance of the water. Turbidity attributable to natural causes or the reasonable operation of irrigation and flood control facilities is not subject to these standards. Specifically, turbidity shall not exceed 5 Nephelometric Turbidity Units

("NTU") over background when background turbidity is 50 NTU or less; there shall not be more than a 10% increase in turbidity when background turbidity is more than 50 NTU.

H. **Mixing Zones.** The size of mixing zones shall be less than 1/3 of the cross-sectional area or the critical stream flow at or above 4Q3 conditions of the receiving stream. In intermittent or ephemeral streams, discharges shall meet all applicable numeric and narrative criteria at the point of discharge. There shall be no acute toxicity in the mixing zone. Numeric acute criteria shall be attained at the point of discharge. There shall be no chronic toxicity at the edge of the mixing zone. Numeric chronic criteria shall be attained at the edge of the mixing zone. Mixing zones are not allowed for discharges to publicly owned lakes or reservoirs; these effluents shall meet all applicable numeric and narrative criteria at the point of discharge. Mixing zones shall not overlap ceremonial or recreational sites. Requirements for mixing zones shall be consistent with those established in other regulations such as water quality management plans and implementation plans developed by the Pueblo or by the EPA. In any waters receiving a waste discharge, a continuous zone must be maintained where the water is of adequate quality to allow the migration of aquatic life with no significant effect on their population.

I. **Radioactivity.** Except as otherwise provided in this Code, the radioactivity of surface water shall be maintained at concentrations which do not exceed the maximum natural background concentrations in surface waters of the Pueblo.

J. **Temperature.** The introduction of heat by other than natural causes shall not increase the temperature, outside the mixing zone, by more than 2.7° C (5° F) in a stream, based upon the monthly average of the maximum daily temperatures measured at mid-depth or three feet (whichever is less) outside the mixing zone. In lakes, the temperature of the water column or epilimnion (if thermal stratification exists) shall not be raised more than 1.7° C (3° F) above that which existed before the addition of heat of artificial origin, based upon the average of temperatures taken from the surface to the bottom or surface to the bottom of the epilimnion (if stratified). The normal daily and seasonal variations that were present before the addition of heat from other than natural sources shall be maintained. In no case shall man-introduced heat be permitted when the maximum temperature specified for the reach (20° C/68° F for cold water fisheries and 32.2° C/90° F for warm water fisheries) would thereby be exceeded. High water temperatures caused by unusually high ambient air temperatures are not violations of these standards.

K. **Salinity/Mineral Quality** (total dissolved solids ("TDS"), chlorides, and sulfates). Existing mineral quality shall not be altered by municipal, industrial, or instream activities or other waste discharges so as to interfere with the designated uses. No increase exceeding 1/3 over naturally occurring levels may be permitted. Numeric criteria for chlorides at 230 mg/L, for sulfates at 250 mg/L, and for TDS at 500 mg/L shall not be exceeded.

L. **pH Range** . The pH of a stream or a lake shall not fluctuate in excess of 1.0 pH unit over a period of 24 hours for other than natural causes.

M. **Dissolved Oxygen.** If the stream is capable of supporting aquatic life, the dissolved oxygen standard shall not be less than 5 mg/L.

N. Dissolved Gases. Surface water shall be free of nitrogen and other dissolved gases at levels above 110% saturation when this supersaturation is attributable to municipal, industrial, or other discharges.

O. Toxic Substances. Toxic substances, including but not limited to pesticides, herbicides, heavy metals, and organic solvents, shall not be present in receiving waters in such quantities as to be toxic to human, animal, plant, or aquatic life or as to interfere with the normal propagation, growth, and survival of the sensitive indigenous aquatic biota. For lists of the applicable toxic substances, criteria published, and sensitive indigenous species/lifestages, reference should be made to the procedures implementing this toxic substances narrative contained in the rules, regulations, and guidelines of the EPA, or any rules, regulations and guidelines adopted by the Pueblo subsequent to adoption of these standards. Within the mixing zone, there shall be no acute toxicity. There shall be no chronic toxicity at the edge of the mixing zone. Biomonitoring testing following current EPA test methods shall be used to determine compliance with the narrative criteria. For substances lacking EPA published criteria, biomonitoring data may be used to determine compliance with this narrative standard in accordance with EPA standard acute and chronic biological test protocols. These protocols can be found in U.S. Environmental Protection Agency Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms (EPA-821-R-02-012; October 2002); Post Third Round NPDES Permit Implementation Strategy (adopted October 1, 1992); Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms (EPA-821-R-02-013; October 2002); Technical Support Document For Water Quality-based Toxics Control, (EPA\505\2-90-001, March 1991); and Quality Criteria for Water, (1986), or the most current revision thereof. If the Pueblo needs to derive numeric criteria, without actually conducting toxicity tests, they shall use the AQUIRE ("Aquatic Toxicity Information Retrieval") database and EPA's Guidance, Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and their Uses. In the event that sufficient data is not available to derive a numeric criterion following the above guidance, the Pueblo may use the results of toxicological studies to calculate a criterion based on the following methods:

1. concentrations of non-persistent toxic materials shall not exceed concentrations which are chronically toxic (as determined from appropriate chronic toxicity data or calculated as 10% of LC-50 values) to representative, sensitive aquatic organisms;
2. concentrations of persistent toxic materials that do not bioaccumulate shall not exceed concentrations which are chronically toxic (as determined from appropriate chronic toxicity data or calculated as 5% of LC-50 values) to representative, sensitive aquatic organisms; and
3. concentrations of toxic materials that bioaccumulate shall not exceed concentrations which are chronically toxic (as determined from appropriate chronic toxicity data or calculated as 1% of LC-50 values) to representative, sensitive aquatic organisms.

Toxicants in the receiving water known to be persistent, bioaccumulative, carcinogenic, synergistic with other waste stream components, or antagonistic with non-waste stream components will be addressed on a case by case basis.

SECTION IV. WATER BODY USES AND SPECIFIC STANDARDS

A. Use Designation .

1. The following water body uses and the standards pertaining thereto shall apply to segments of Rio Tesuque, Rio En Medio, and the Rio Chupadero within the exterior boundaries of the Reservation. The following uses also shall apply to perennial tributaries to the Rio Tesuque, Rio En Medio, Rio Chupadero and to any wetlands, artesian springs, and any perennial standing waters along the above water bodies: fish culture, warm water fishery, irrigation, livestock watering and wildlife habitat, primary contact and groundwater recharge.

2. The following water body uses and the standards pertaining thereto shall apply to the water bodies within Aspen Ranch (elev. 9,000-9,200 ft.) and the Vigil Grant (elev. 8,800-9,000 ft.). These lands and their resources were purchased by the Pueblo with funds from the Pueblo Lands Board Settlement of 1925. The Aspen Ranch and Vigil Grant (318.05 acres) are held in trust by the federal government. The Rio en Medio within the confines of Aspen Ranch and the Rio Chupadero within the confines of the Vigil Grant have the following designated uses: groundwater recharge, high quality cold water fishery, primary contact, livestock watering and wildlife habitat.

3. The following water body uses and the standards pertaining thereto shall apply to all other intermittent or ephemeral streams, including any associated with standing water and wetlands: livestock watering and wildlife habitat, and primary contact.

B. Water Body Uses and Specific Standards.

1. **High Quality Coldwater Fishery Use.** Criteria for high quality coldwater fishery use incorporates acute and chronic fisheries criteria with the following additions:

- (a) The dissolved oxygen shall not be less than 6.0 mg/L, or 85% of saturation, whichever is greater;
- (b) Temperature shall not exceed 20° C (68° F);
- (c) pH shall be within the range of 6.6 to 8.8;
- (d) Total phosphorus (as P) shall not exceed 0.1 mg/L;
- (e) Total organic carbon shall not exceed 7 mg/L;
- (f) Turbidity shall not exceed 10 NTU (25 NTU in certain reaches where natural background prevents attainment of lower turbidity);
- (g) Conductivity (at 25°C) shall not exceed 300 umhos/cm and 1,500 umhos/cm depending on the natural background of particular stream reaches;
- (h) Total ammonia shall not exceed levels found in Appendix 1;

- (i) Total chlorine residual shall not exceed 0.002 mg/L; and
- (j) Total inorganic nitrogen (as N) shall not exceed 1.0 mg/L.

2. **Warmwater Fishery Use.** Criteria for warm water fishery use incorporates acute and chronic fishery criteria with the following additions:

- (a) Dissolved oxygen shall not be less than 5 mg/L;
- (b) Temperature shall not exceed 32.2° C (90° F);
- (c) pH will be within the range of 6.0 to 9.0;
- (d) Tables for total ammonia shall not exceed levels found in Appendix 1; and
- (e) Total chlorine residual shall not exceed 0.003 mg/L.

C. **Acute Fishery Criteria .**

□ The following numeric criteria shall not be exceeded.

Analyte dissolved unless otherwise noted	Concentration µg/l
Aluminum	750
Arsenic	340
Beryllium	130
Cadmium	$e^{(1.0166[\ln(\text{hardness})]-3.924)} \times 1.136672 - [\ln(\text{hardness})(0.041838)]$
Chlordane, Total	2.4
Total Chlorine Residual	19
Chromium **	$e^{0.8190[\ln(\text{hardness})]+2.5736}$
Copper	$e^{0.9422[\ln(\text{hardness})]-1.7408}$
Cyanide, Total	22.0
Lead	$e^{1.273[\ln(\text{hardness})]-1.460} \times 1.46203 - [\ln(\text{hardness})(0.145712)]$
Mercury, Total	2.4
Nickel	$e^{0.8460[\ln(\text{hardness})]+2.253}$
Selenium, Total	20.0
Silver	$e^{1.72[\ln(\text{hardness})]-6.7525} \mu\text{g/l}$
Zinc	$e^{0.8473[\ln(\text{hardness})]+0.8618}$

**The criteria for chromium shall be applied to an analysis which measures both the trivalent and hexavalent ions.

D. Chronic Fishery Criteria .

- The following numeric criteria shall not be exceeded.

Analyte (dissolved unless otherwise noted)	Concentration (µg/L)
Cadmium	$e^{(0.7409[\ln(\text{hardness})]-4.719)} \times 1.101672 - [\ln(\text{hardness})(0.041838)]$
Copper	$e^{0.8545[\ln(\text{hardness})]-1.7428}$
Lead	$e^{1.273[\ln(\text{hardness})]-4.705} \times 1.46203 - [\ln(\text{hardness})(0.145712)]$
Chlordane (total)	0.0043
Mercury (total)	0.012
Iron	1.0 mg/L
Zinc	$e^{0.8473[\ln(\text{hardness})]+0.8699}$
Selenium (total)	5.0
Nickel	$e^{0.8460[\ln(\text{hardness})]+0.0554}$
Chromium **	$e^{0.819 [\ln(\text{hardness})]+0.534}$
Cyanide (total)	5.2
Beryllium	5.3
Total chlorine residual	11
Aluminum	87.0
Arsenic	150

**The criteria for chromium shall be applied to an analysis which measures both the trivalent and hexavalent ions.

E. Livestock Watering & Wildlife Habitat Use .

- The following numeric criteria shall not be exceeded.

Analyte (dissolved, except as noted)	Concentration (mg/L, except as noted)
Aluminum	5.0
Arsenic	0.2
Boron	5.0
Cadmium	0.05
chromium**	1.0
Cobalt	1.0
Copper	0.5
Lead	0.1
mercury (total)	0.012 µg/L
selenium (total)	0.002
Vanadium	0.1
Zinc	25.0
radium (²²⁶ Ra + ²²⁸ Ra)	30.0 pCi/L
Tritium	20,000 pCi/L
gross alpha	15 pCi/L

**The criteria for chromium shall be applied to an analysis which measures both the trivalent and hexavalent ions.

F Irrigation Use .

□ The monthly geometric mean of fecal coliform bacteria shall not exceed 1,000 colonies/100 mL; no single sample shall exceed 2,000 colonies/100 mL.

□ The following numeric criteria shall not be exceeded.

Analyte (Dissolved)	Concentration (mg/L)
aluminum	5.0
arsenic	0.10
boron	0.75
cadmium	0.01
chromium**	0.10
cobalt	0.05
copper	0.20
lead	5.0
molybdenum	0.01
selenium (in the presence of <500mg/L of SO ₄)	0.13
vanadium	0.1
zinc	2.0
selenium (in the presence of >500mg/L of SO ₄)	0.25

**The criteria for chromium shall be applied to an analysis which measures both the trivalent and hexavalent ions.

G. Groundwater Recharge .

- The following numeric criteria shall not be exceeded:

Analyte (dissolved except as noted)	Concentration (mg/L except as noted)
arsenic	0.01
barium	2.0
cadmium	0.005
chromium**	0.1
cyanide	0.2
iron	0.3
lead	0.05
mercury (total)	0.002
nitrates	10.0
selenium	0.05
silver	0.05
Radium (²²⁶ Ra + ²²⁸ Ra)	5 pCi/L
uranium	0.03
tritium	20,000 pCi/L
gross alpha	15 pCi/L

**The criteria for chromium shall be applied to an analysis which measures both the trivalent and hexavalent ions.

H. Primary Contact.

1. The geometric mean maximum for fecal coliform bacteria shall not exceed 200 colonies per 100 mL. Compliance with this criteria shall be determined based on a minimum of 5 samples taken over a maximum of 30 days. A single sample maximum for fecal coliform bacteria shall not exceed 400 colonies per 100 mL.
2. pH shall be within the range of 6.6 to 8.8.
3. The TDS of mineral constituents shall not exceed 500 mg/L.
4. Turbidity shall not exceed 25 NTU's.
5. The open water shall be free from algae in concentrations causing a nuisance condition or causing gastrointestinal or skin disorders.

The concentration of E. coli shall not exceed a monthly geometric mean maximum of 126 colonies/100 mL and a single sample maximum of 235 colonies/100 mL, in accordance with an illness rate of 8 per 1,000 exposures.

I. Industrial and Municipal Water Supply Use. General Standards apply to industrial and municipal water supply use.

J. Fish Culture Use. General Standards apply to fish culture use.

SECTION V. SAMPLING AND ANALYSES

Methodology. All methods of sample collection, preservation, and analysis used in determining water quality and maintenance of these standards shall be in accordance with procedures prescribed by the latest edition of: (1) American Public Health Association, "Standard Methods for the Examination of Water and Wastewater;" or (2) "Methods for Chemical Analysis of Water and Wastes;" or (3) EPA's "Guidelines Establishing Test Procedures for the Analysis of Pollutants," found in 40 C.F.R. Part 136; or (4) EPA's "Rapid Bioassessment Protocols For Use in Streams and Wadeable Rivers: Periphyton, Benthic Macroinvertebrates, and Fish." Other methods which may not be "EPA approved" may be used as determined to be appropriate by the Environment Department.

A. Bacteriological Surveys. The monthly geometric mean is used in assessing attainment of standards when a minimum of five samples is collected in a 30-day period. No single sample shall exceed the upper limit for bacterial density, as set forth in Section IV of this Code, when less than 5 samples are collected in a 30-day period.

B. Sampling Procedures.

1. **Streams.** Stream monitoring stations below waste discharges shall be located outside the designated mixing zone.

2. **Lakes.** Sampling in lakes, including artificial lakes, shall be located where the attainment of a water quality standard is to be assessed. Water quality measurements shall be taken at intervals in the water column at a sampling station. For toxic substances and nutrients, the entire water column shall be monitored. For dissolved oxygen in stratified lakes, measurements shall be made in the epilimnion. In non-stratified lakes measurements will be made at intervals throughout the entire water column.

C. Biological Surveys . Any biological assessment program which is undertaken shall be established in accordance with EPA's "Rapid Bioassessment Protocols For Use in Streams and Wadeable Rivers: Periphyton, Benthic Macroinvertebrates, and Fish." Or other established procedures as determined appropriate by the Environment Department. As needed, artificial collection sites shall be installed in lowland stream beds to determine potential species diversity under improved stream conditions.

SECTION VI. DEFINITIONS

The following terms shall have the following definitions when used in this Code:

- A. **Acute:** A stimulus severe enough to rapidly induce an effect; in aquatic toxicity tests, an effect observed in 96 hours or less typically is considered acute. When referring to aquatic toxicity or human health, an acute effect is not always measured in terms of lethality.
- B. **Acute Toxicity:** Toxicity which exerts short-term lethal impacts on representative organisms with a duration of exposure generally less than or equal to 48 hours. This will be quantified as a statistically significant difference at the 95% confidence level between survival in the appropriate test organism and a control. Methods used to measure acute toxicity are found in "Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms" (EPA-821-R-02-012; October 2002). Other methods may be used to determine acute effects other than lethality such as, but not limited to, behavioral changes or immobilization.
- C. **Agriculture Use:** The use of water for irrigation.
- D. **Algae:** Simple plants without roots, stems, or leaves which contain chlorophyll and are capable of photosynthesis.
- E. **Ambient:** Environmental or surrounding conditions.
- F. **Antidegradation Policy:** 40 C.F.R. § 131.6 requires each State and Tribe to include an antidegradation policy consistent with 40 C.F.R. § 131.12 when submitting water quality standards to EPA. The policy set forth in this Code is designed to protect water quality and provide a method of assessing activities that may impact the integrity of the waterbody.
- G. **Aquatic Biota:** Animal and plant life in the water.
- H. **Attainable use:** A use of surface water that has water quality and all other characteristics necessary to support and maintain the use or that would support and maintain the use after the implementation of water quality standards as set forth in this Code.
- I. **Benthic Macro invertebrates:** The invertebrate organisms living in the water.
- J. **Best Management Practices:** Practices undertaken to control, restrict, and diminish nonpoint sources of pollution that are consistent with the purposes of this Code and with the narrative standards and numeric standards contained therein; measures, sometimes structural, that are determined to be the most effective practical means of preventing or reducing pollution of water bodies from nonpoint sources.
- K. **Bioaccumulate:** The process by which a compound is taken up by an aquatic organism, both from water and through food.
- L. **Bioassay:** A toxicity test using selected organisms to determine the acute or chronic effects of a chemical pollutant or whole effluent.

- M. Carcinogenic:** Cancer producing.
- N. Chronic Toxicity:** Toxicity which exerts sub-lethal effects, such as the impairment of growth or reproduction, or which becomes lethal after long-term exposure, generally measured in a 7 day test on representative organisms. This will be quantified as a statistically significant difference at the 95% confidence level between the survival and/or reproduction or growth of the appropriate test organism and the control. Methods used to measure chronic toxicity are found in EPA-821-R-02-013, "Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms."
- O. Coldwater fishery:** A stream reach, lake, or impoundment where the water temperature and other characteristics are suitable for the support or propagation, or both, of coldwater fish such as, but not limited to, longnose dace, Rio Grande chub, Rio Grande sucker, brown, cutthroat (including the native Rio Grande cutthroat), brook, or rainbow trout.
- P. Color:** Color as used herein means true color as well as apparent color. True color is the color of the water from which turbidity has been removed. Apparent color includes not only the color due to substances in solution (true color), but also that color due to suspended matter.
- Q. Designated uses:** Those uses set forth in the water quality standards herein.
- R. Dissolved oxygen ("DO"):** The amount of oxygen dissolved in water or the amount of oxygen available for biochemical activity in water, commonly expressed as a concentration in milligrams per liter (mg/L).
- S. Domestic use:** The use of water for drinking and cooking.
- T. Effluent:** Discharge into surface waters from other than natural sources.
- U. Ephemeral stream:** A reach of a stream that flows temporarily in direct response to precipitation or snow melt, the channel bed of which is above the water table.
- V. Epilimnion:** The layer of water that overlies the thermocline of a lake and that is subject to the action of wind.
- W. Eutrophication:** The maturation of a standing body of water, involving increasing concentration of dissolved nutrients and seasonal oxygen deficiency.
- X. Existing uses:** Those uses actually attained in a surface water body on or after November 28, 1975, whether or not they are referred to in this Code.
- Y. Fecal coliform bacteria:** The portion of the coliform group which is present in the gut or the feces of warm-blooded animals. Fecal coliform bacteria generally include organisms which are capable of producing gas from lactose broth in a suitable culture medium within 24 hours at 44.5+/-0.2°C.
- Z. Fish culture:** Production of coldwater or warmwater fish in a hatchery or rearing station.

- AA. **Fishery:** A balanced, diverse, community of fish controlled by the water quality, quantity, and habitat of a waterbody.
- BB. **Flow:** Atmospheric precipitation resulting in surface and/or groundwater runoff.
- CC. **Geometric Mean:** A mean calculated by converting all values to logarithms, averaging the logarithms, and determining the antilogarithm of that average.
- DD. **Indigenous:** Produced, growing, or living naturally in a particular region or environment.
- EE. **Industrial:** Refers to production of goods or services for profit.
- FF. **Industrial use:** The use of water with reference to the production of goods or services for profit.
- GG. **Intermittent stream:** A stream or reach of a stream that flows only at certain times of the year when receiving flow from springs, melting snow, or localized precipitation.
- HH. **LC-50:** The concentration of a substance that is lethal to 50% of the test organisms within a defined time period.
- II. **Milligrams per Liter ("mg/L"):** The concentration at which one milligram is contained in a volume of one liter; one milligram per liter is equivalent to one part per million ("ppm") at unit density.
- JJ. **Mixing zone:** A three-dimensional zone in which discharged effluent mixes with the receiving water and within which there is a gradation of water quality.
- KK. **Narrative standards:** A standard or criterion expressed in words rather than numerically.
- LL. **Natural background:** Characteristics that are not man-induced that are related to water quality; the levels of pollutants present in ambient water that are from natural, as opposed to man-induced, sources.
- MM. **Nephelometric Turbidity Units ("NTU"):** A measure of turbidity in water (see "turbidity," below).
- NN. **Nonpoint source:** A source of pollution that is not a discernible, confined, and discrete conveyance (e.g., run-off from land).
- OO. **Nuisance condition:** A condition involving uncontrolled growth of aquatic plants, usually caused by excessive nutrients in the water.
- PP. **Nutrient:** A chemical element or inorganic compound taken in by green plants and used in organic synthesis.

QQ. Perennial stream: A stream or reach of a stream that flows continuously throughout the year, the upper surface of which is generally lower than the water table of the region adjoining the stream.

RR. Persistent: Existing for a long or longer than unusual time or continuously.

SS. pH: The negative logarithm of the effective hydrogen-ion concentration in gram equivalents per liter.

TT. Picocurie ("pCi"): That quantity of radioactive material producing 2.22 nuclear transformations per minute.

UU. Point source: Any discernible, confined, and discrete conveyance from which pollutants are or may be discharged into a water body; provided that "point source" does not include return flows from irrigated agriculture.

VV. Primary contact use: The use of water for the practice of Indian religion and Indian traditional purposes by tribal members of the Pueblo involving the intentional and incidental ingestion of the water and immersion in the water; recreational use of the water involving prolonged contact and the risk of ingesting water in quantities sufficient to pose a health hazard, including but not limited to swimming and water skiing; and any other recreational use of the water in which contact with the water need not occur and in which the probability of ingesting water is minimal, including but not limited to fishing and boating.

WW. Reservation: The Tesuque Pueblo Indian Reservation and all other lands exclusively reserved for, held in trust for, granted to, or otherwise conveyed to or held for the Pueblo, including the Vigil Grant and the Aspen Ranch.

XX. Segment: A surface water body that has common hydrologic characteristics or flow regulation regimes, possesses common natural physical, chemical, and biological characteristics, and exhibits common reactions to external stresses, such as the discharge of pollutants.

YY. Synergism: Cooperative action of discrete agents such that the total effect is greater than the sum of the effects taken independently.

ZZ. TDS: Total dissolved solids.

AAA. Thermal Stratification: Temperature-caused horizontal layers of different densities produced in a lake.

BBB. Threatened and Endangered Species Habitat: A stream reach, lake, spring, and/or pool where water quality, lack of interspecies competition, temperature, and instream or benthic habitat provide for the support and propagation of a threatened or endangered aquatic species.

CCC. Total Inorganic Nitrogen: The sum of nitrate nitrogen, nitrite nitrogen, and total ammonia nitrogen.

DDD. Toxicity: State or degree of being toxic or poisonous.

EEE. Turbidity: Water that is cloudy or muddy in physical appearance.

FFF. Use-attainability analysis: A structured scientific assessment of the factors affecting attainment of a use for a body of water, which assessment may include physical, chemical, biological, and economic factors, such as those referred to in 40 C.F.R. § 131.10(g).

GGG. Warmwater fishery: A stream reach, lake, or impoundment where the water temperature and other characteristics are suitable for the support or propagation or both of warmwater fish such as, but not limited, to flathead chub and other native cyprinids, white sucker, largemouth and smallmouth bass, crappie, white bass, bluegill, flathead catfish, channel catfish, or fathead minnow.

III. Water Contaminant: Any substance that alters the physical, chemical, or biological qualities of water.

APPENDIX 1

pH-Dependent Values of the CMC (Acute Criterion)

CMC, mg N/L		
pH	Salmonids Present	Salmonids Absent
6.5	32.6	48.8
6.6	31.3	46.8
6.7	29.8	44.6
6.8	28.1	42.0
6.9	26.2	39.1
7.0	24.1	36.1
7.1	22.0	32.8
7.2	19.7	29.5
7.3	17.5	26.2
7.4	15.4	23.0
7.5	13.3	19.9
7.6	11.4	17.0
7.7	9.65	14.4
7.8	8.11	12.1
7.9	6.77	10.1
8.0	5.62	8.40
8.1	4.64	6.95
8.2	3.83	5.72
8.3	3.15	4.71
8.4	2.59	3.88
8.5	2.14	3.20
8.6	1.77	2.65
8.7	1.47	2.20
8.8	1.23	1.84
8.9	1.04	1.56
9.0	0.885	1.32

**Temperature and pH-Dependent Values of the CCC (Chronic Criterion)
for Fish Early Life Stages Absent**

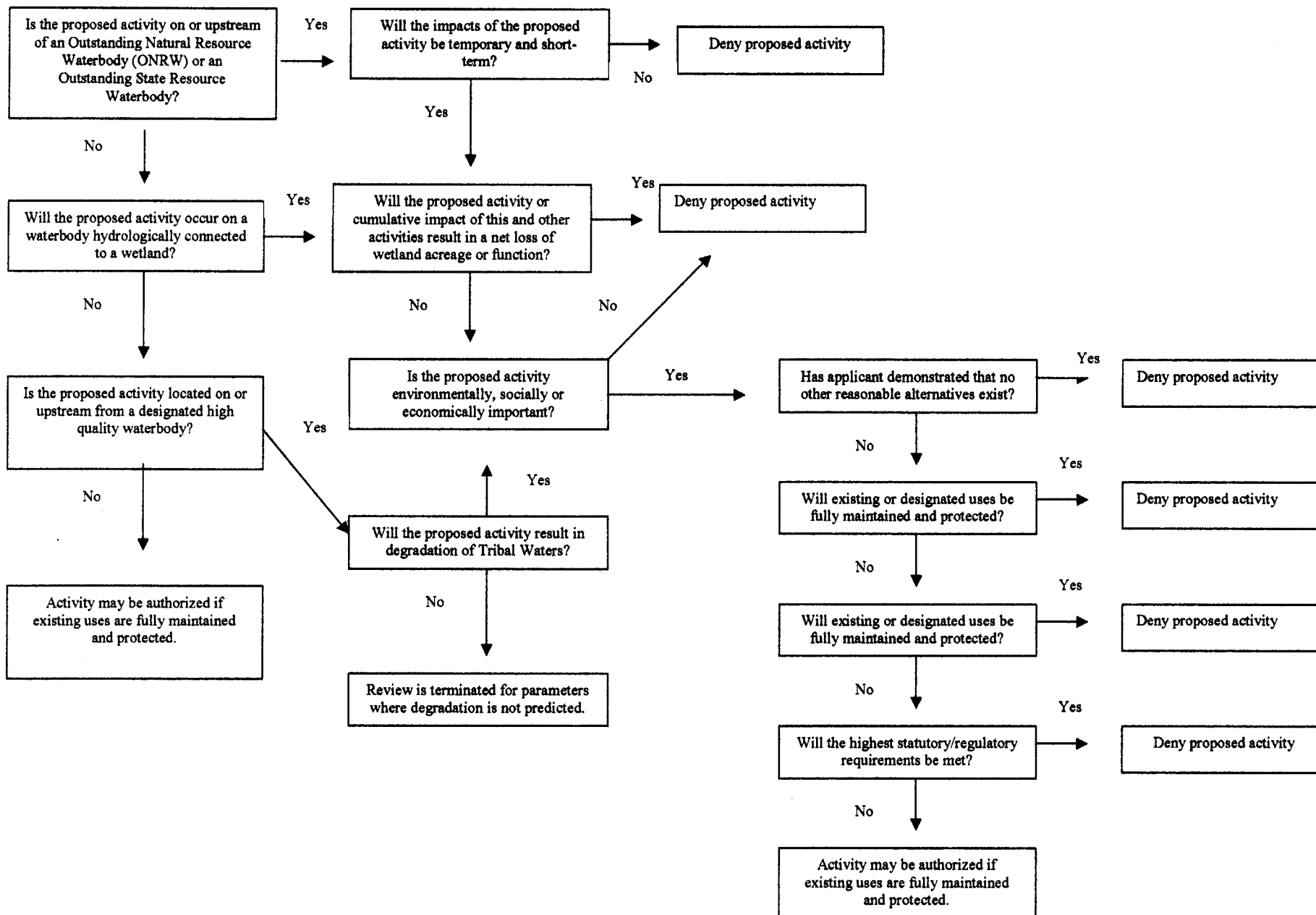
CCC for Fish Early Life Stages Absent, mg N/L										
pH	Temperature									
	0-7	8	9	10	11	12	13	14	15*	16*
6.5	10.8	10.1	9.51	8.92	8.36	7.84	7.35	6.89	6.46	6.06
6.6	10.7	9.99	9.37	8.79	8.24	7.72	7.24	6.79	6.36	5.97
6.7	10.5	9.81	9.20	8.62	8.08	7.58	7.11	6.66	6.25	5.86
6.8	10.2	9.58	8.98	8.42	7.90	7.40	6.94	6.51	6.10	5.72
6.9	9.93	9.31	8.73	8.19	7.68	7.20	6.75	6.33	5.93	5.56
7.0	9.60	9.00	8.43	7.91	7.41	6.95	6.52	6.11	5.73	5.37
7.1	9.20	8.63	8.09	7.58	7.11	6.67	6.25	5.86	5.49	5.15
7.2	8.75	8.20	7.69	7.21	6.76	6.34	5.94	5.57	5.22	4.90
7.3	8.24	7.73	7.25	6.79	6.37	5.97	5.60	5.25	4.92	4.61
7.4	7.69	7.21	6.76	6.33	5.94	5.57	5.22	4.89	4.59	4.30
7.5	7.09	6.64	6.23	5.84	5.48	5.13	4.81	4.51	4.23	3.97
7.6	6.46	6.05	5.67	5.32	4.99	4.68	4.38	4.11	3.85	3.61
7.7	5.81	5.45	5.11	4.79	4.49	4.21	3.95	3.70	3.47	3.25
7.8	5.17	4.84	4.54	4.26	3.99	3.74	3.51	3.29	3.09	2.89
7.9	4.54	4.26	3.99	3.74	3.51	3.29	3.09	2.89	2.71	2.54
8.0	3.95	3.70	3.47	3.26	3.05	2.86	2.68	2.52	2.36	2.21
8.1	3.41	3.19	2.99	2.81	2.63	2.47	2.31	2.17	2.03	1.91
8.2	2.91	2.73	2.56	2.40	2.25	2.11	1.98	1.85	1.74	1.63
8.3	2.47	2.32	2.18	2.04	1.91	1.79	1.68	1.58	1.48	1.39
8.4	2.09	1.96	1.84	1.73	1.62	1.52	1.42	1.33	1.25	1.17
8.5	1.77	1.66	1.55	1.46	1.37	1.28	1.20	1.13	1.06	0.990
8.6	1.49	1.40	1.31	1.23	1.15	1.08	1.01	0.951	0.892	0.836
8.7	1.26	1.18	1.11	1.04	0.976	0.915	0.858	0.805	0.754	0.707
8.8	1.07	1.01	0.944	0.885	0.829	0.778	0.729	0.684	0.641	0.601
8.9	0.917	0.860	0.806	0.756	0.709	0.664	0.623	0.584	0.548	0.513
9.0	0.790	0.740	0.694	0.651	0.610	0.572	0.536	0.503	0.471	0.442

* At 15 C and above, the criterion for fish ELS absent is the same as the criterion for fish ELS present.

**CCC for Fish Early Life Stages Present, mg N/L
Temperature, C**

pH	0	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30
6.5	6.67	6.67	6.46	6.06	5.68	5.33	4.99	4.68	4.39	4.12	3.86	3.62	3.39	3.18	2.98	2.80	2.62	2.46
6.6	6.57	6.57	6.36	5.97	5.59	5.25	4.92	4.61	4.32	4.05	3.80	3.56	3.34	3.13	2.94	2.75	2.58	2.42
6.7	6.44	6.44	6.25	5.86	5.49	5.15	4.83	4.52	4.24	3.98	3.73	3.50	3.28	3.07	2.88	2.70	2.53	2.37
6.8	6.29	6.29	6.10	5.72	5.36	5.03	4.72	4.42	4.14	3.89	3.64	3.42	3.20	3.00	2.82	2.64	2.47	2.32
6.9	6.12	6.12	5.93	5.56	5.21	4.89	4.58	4.30	4.03	3.78	3.54	3.32	3.11	2.92	2.74	2.57	2.41	2.25
7.0	5.91	5.91	5.73	5.37	5.04	4.72	4.43	4.15	3.89	3.65	3.42	3.21	3.01	2.82	2.64	2.48	2.32	2.18
7.1	5.67	5.67	5.49	5.15	4.83	4.53	4.25	3.98	3.73	3.50	3.28	3.08	2.88	2.70	2.53	2.38	2.23	2.09
7.2	5.39	5.39	5.22	4.90	4.59	4.31	4.04	3.78	3.55	3.33	3.12	2.92	2.74	2.57	2.41	2.26	2.12	1.99
7.3	5.08	5.08	4.92	4.61	4.33	4.06	3.80	3.57	3.34	3.13	2.94	2.76	2.58	2.42	2.27	2.13	2.00	1.87
7.4	4.73	4.73	4.59	4.30	4.03	3.78	3.55	3.32	3.12	2.92	2.74	2.57	2.41	2.26	2.12	1.98	1.86	1.74
7.5	4.36	4.36	4.23	3.97	3.72	3.49	3.27	3.06	2.87	2.69	2.53	2.37	2.22	2.08	1.95	1.83	1.72	1.61
7.6	3.98	3.98	3.85	3.61	3.39	3.18	2.98	2.79	2.62	2.45	2.30	2.16	2.02	1.90	1.78	1.67	1.56	1.47
7.7	3.58	3.58	3.47	3.25	3.05	2.86	2.68	2.51	2.36	2.21	2.07	1.94	1.82	1.71	1.60	1.50	1.41	1.32
7.8	3.18	3.18	3.09	2.89	2.71	2.54	2.38	2.23	2.10	1.96	1.84	1.73	1.62	1.52	1.42	1.33	1.25	1.17
7.9	2.80	2.80	2.71	2.54	2.38	2.24	2.10	1.96	1.84	1.73	1.62	1.52	1.42	1.33	1.25	1.17	1.10	1.03
8.0	2.43	2.43	2.36	2.21	2.07	1.94	1.82	1.71	1.60	1.50	1.41	1.32	1.24	1.16	1.09	1.02	0.96	0.897
8.1	2.10	2.10	2.03	1.91	1.79	1.68	1.57	1.47	1.38	1.29	1.21	1.14	1.07	1.00	0.94	0.879	0.824	0.773
8.2	1.79	1.79	1.74	1.63	1.53	1.43	1.34	1.26	1.18	1.11	1.04	0.973	0.912	0.855	0.802	0.752	0.705	0.661
8.3	1.52	1.52	1.48	1.39	1.30	1.22	1.14	1.07	1.00	0.941	0.882	0.827	0.775	0.727	0.682	0.639	0.599	0.562
8.4	1.29	1.29	1.25	1.17	1.10	1.03	0.97	0.906	0.849	0.796	0.747	0.700	0.656	0.615	0.577	0.541	0.507	0.475
8.5	1.09	1.09	1.06	0.990	0.928	0.870	0.816	0.765	0.717	0.672	0.630	0.591	0.554	0.520	0.487	0.457	0.428	0.401
8.6	0.920	0.920	0.892	0.836	0.784	0.735	0.689	0.646	0.606	0.568	0.532	0.499	0.468	0.439	0.411	0.386	0.362	0.339
8.7	0.778	0.778	0.754	0.707	0.663	0.622	0.583	0.547	0.512	0.480	0.450	0.422	0.396	0.371	0.348	0.326	0.306	0.287
8.8	0.661	0.661	0.641	0.601	0.563	0.528	0.495	0.464	0.435	0.408	0.383	0.359	0.336	0.315	0.296	0.277	0.260	0.244
8.9	0.565	0.565	0.548	0.513	0.481	0.451	0.423	0.397	0.372	0.349	0.327	0.306	0.287	0.269	0.253	0.237	0.222	0.208
9.0	0.486	0.486	0.471	0.442	0.414	0.389	0.364	0.342	0.320	0.300	0.281	0.264	0.247	0.232	0.217	0.204	0.191	0.179

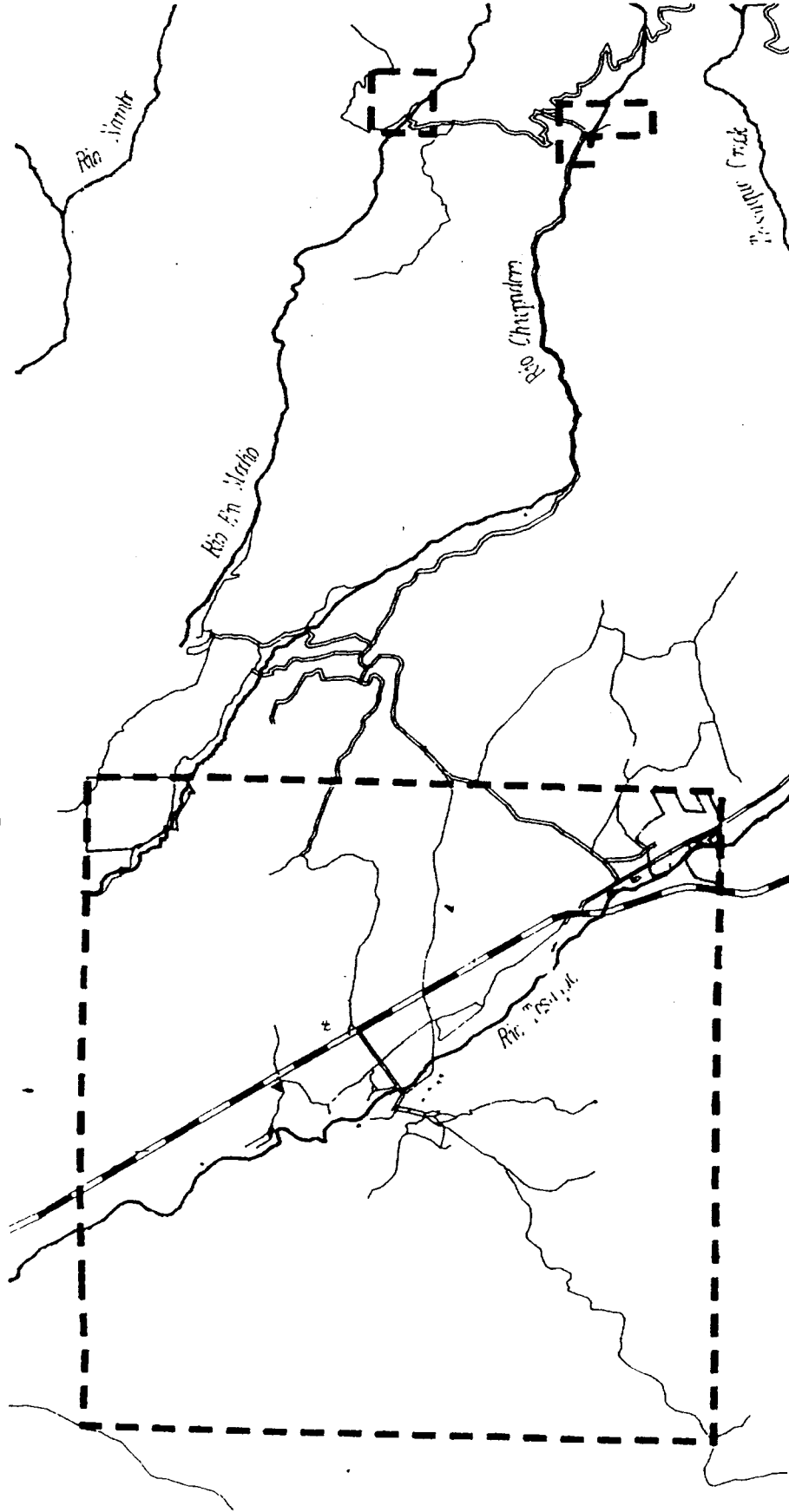
APPENDIX 2 Antidegradation Implementation Flow Chart



APPENDIX 3

Tesuque Pueblo

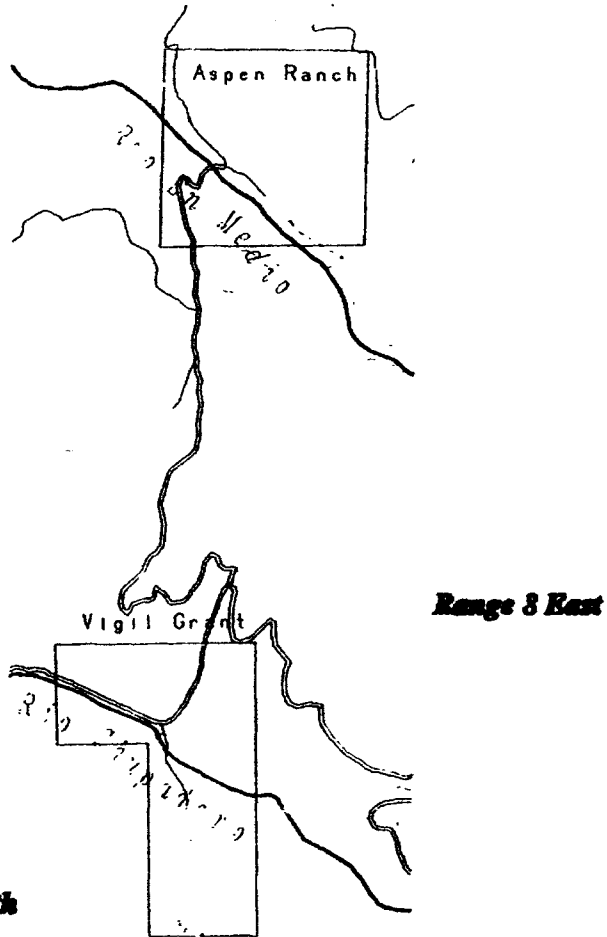
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- Ponds
- Private Land Claims
- Light Duty Roads
- Primary Roads
- Unimproved Roads
- Reservation Boundary
- Intermittent Streams
- Perennial Streams
- Secondary Roads
- Tribal Office

Approximately 1.8 inches equals one mile

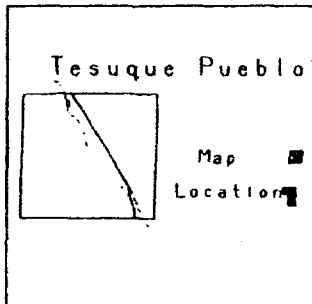
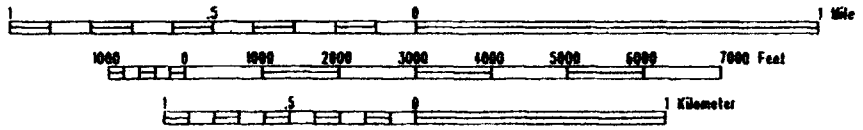
Aspen Ranch & Vigil Grant Tesuque Pueblo



Township 18 North

Range 8 East

Scale 1:24,000



- unimproved roads
 streams
- light duty roads
 reservation boundary
- trails