



*State of New Mexico*  
**ENVIRONMENT DEPARTMENT**  
*Office of the Secretary*



**SUSANA MARTINEZ**  
Governor

**JOHN A. SANCHEZ**  
Lieutenant Governor

Harold Runnels Building  
1190 Saint Francis Drive, PO Box 5469  
Santa Fe, NM 87502-5469  
Telephone (505) 827-2855 Fax (505) 827-2836  
[www.env.nm.gov](http://www.env.nm.gov)

**BUTCH TONGATE**  
Cabinet Secretary

**J. C. BORREGO**  
Deputy Secretary

STATE-TRIBAL COLLABORATION ACT  
ANNUAL REPORT  
FY 2018

**I. AGENCY OVERVIEW**

The New Mexico Environment Department ("NMED" or the "Department") was established in the Department of Environment Act (Legislature 40), enacted July 1, 1991, as a single, cabinet-level department to administer and oversee the State's environmental laws and to exercise the functions relating to environmental protection and regulation. Through all its statutory and regulatory programs and operations under both state and federal law, NMED's mission is to protect and restore the environment, and to foster a healthy and prosperous New Mexico for present and future generations.

*NMED Responsibilities:*

Inform citizens and businesses on environmental protection and health and safety requirements.  
Monitor air and water quality to assure state and federal standards are met.  
Issue permits to facilities, businesses, and individuals to ensure facilities and operations meet established environmental and health standards.  
Inspect work sites and industrial facilities to ensure they meet environmental laws and protect public and employee health and safety.  
Assist facilities with compliance requirements of environmental laws and regulations through outreach and technical assistance and enforcement when necessary.  
Resolve environmental issues that threaten the health of our state's residents.

*NMED Assistance Programs*

Office of Nuclear Workers Advocacy;  
OSHA Compliance Assistance and Zia Star Voluntary Protection Program;  
Small Business Assistance Program of the Air Quality Bureau; and the  
Tribal Liaison.

*NMED Cleanups and Remediation*

Superfund Oversight — Ground Water Quality Bureau;  
Mining Environmental Compliance — Ground Water Quality Bureau;  
Voluntary Remediation and Brownfields — Ground Water Quality Bureau;  
Hazardous Waste Bureau;  
Solid Waste Bureau; and  
Petroleum Storage Tank Bureau.

*NMED Protecting Public Health and Safety*

Air Quality Bureau;  
U.S. Department of Energy ("DOE") Oversight Bureau;  
Food Safety, Swimming Pools, and Liquid Waste (Septic Tanks) Programs of the  
Environmental Health Bureau;  
Occupational Health & Safety Bureau; and  
Radiation Control Bureau.

*NMED Supporting Water and Wastewater Infrastructure Development and Operations*

Construction Programs Bureau;  
Drinking Water Bureau;  
Ground Water Quality Bureau; and  
Surface Water Quality Bureau.

To learn more about NMED, please visit our website: [www.env.nm.gov](http://www.env.nm.gov)

**II. NMED COMPLIANCE WITH THE STATE-TRIBAL COLLABORATION ACT REQUIREMENTS FOR STATE AGENCIES**

- A.** *Develop and implement a policy on collaboration with Indian nations, tribes and pueblos by December 21, 2009*

In December 2009, then Secretary Ron Curry signed the "Promoting and Protecting New Mexico's Environmental Tribal Collaboration and Communication Policy" ("Policy") that is still in effect today. The Policy provides guidance to the Department and tribal governments for working together in a collaborative manner and outlines approaches for government-to-government consultation. The policy is posted on the Department's website: [https://www.env.nm.gov/OOTS/Tribal\\_Liaison/NMED\\_Tribal\\_Communication\\_and\\_Collaboration\\_Policy.pdf](https://www.env.nm.gov/OOTS/Tribal_Liaison/NMED_Tribal_Communication_and_Collaboration_Policy.pdf)

**B.** *Designate a tribal liaison who reports to the head of the state agency*

Secretary Tongate designated Kathryn Becker the Department's Tribal Liaison in August of 2016 and she continues in this capacity in addition to her role as Assistant General Counsel. In addition to her outreach duties and participation in government-to-government consultation with the Secretary, Ms. Becker, under the direction of Secretary Tongate, has approached each bureau within the Department to share information about the STCA and how she can aid employees in their daily duties with jurisdictional questions and communications.

**C.** *Annually participate in the Governor's state-tribal summit to address issues of mutual concern*

To meet the obligations and take advantage of the opportunities presented by the State-Tribal Collaboration Act, Environment Department Secretary Butch Tongate and Tribal Liaison Kathryn Becker participated in the Annual New Mexico State-Tribal Leaders Summit held in Acoma on June 6<sup>th</sup> and 7<sup>th</sup>, 2018. In addition, the Secretary has participated in numerous formal government-to-government consultations with tribal leadership over the course of the last year.

**D.** *Submit an annual report by July 31<sup>st</sup> of every year on the activities of the state agency pursuant to the STCA*

The Department has consistently and timely submitted a report every year.

**E.** *Train state employees in the State Personnel Office ("SPO")-administered and Indian Affairs Department ("IAD")-developed Cultural Competency Course*

From January to July 2018 the Department has renewed its efforts to ensure that all employees that have contact or ongoing communications with members of tribes, nations and pueblos attend the Cultural Competency course and 105 employees have successfully completed the course this year. We are appreciative of IAD and SPO working well together to resolve contracting delays and to allow the contracted trainer to travel to Las Cruces and Farmington to provide the training at our agency offices and reduce our travel costs.

**NMED PROGRAM PARTICIPATION BY BUREAU**

**AIR QUALITY BUREAU**

*Consultations and Meetings*

Several representatives from the Navajo Nation Environmental Protection Agency ("NNEPA") and the Southern Ute Indian Tribe ("SUIT") Air Program participated in the September 13, 2017 Four Corners Air Quality Group Meeting in Farmington, NM. NNEPA and SUIT also presented updates on their tribal programs and participated in the poster session in which agencies highlighted some of their recent important achievements. More information on the Four Corners Air Quality Group is available at <https://www.env.nm.gov/air-quality/fcaqg/> or you may contact Mark Jones at (505) 566-9746, or by email to [mark.jones@state.nm.us](mailto:mark.jones@state.nm.us).

### *Agreements and Protocols*

A Memorandum of Understanding (“MOU”) including numerous state and federal agencies and the Southern Ute Indian Tribe and the Navajo Nation. Signatory parties agree to work in a coordinated and mutually beneficial manner to support the activities of the Four Corners Air Quality Group.

### **SOLID WASTE BUREAU**

The Solid Waste Bureau (“SWB”) does not have jurisdiction over tribal solid waste management facilities or activities. However, the SWB does provide technical assistance, outreach and education to all pueblos, tribes and nations if requested. The SWB has and will continue to work collaboratively with tribal governments on illegal dumping cases that cross over jurisdictional lines.

In addition, the Recycling and Illegal Dumping (“RAID”) Act includes pueblos, tribes and nations as entities eligible to apply for grants (“RAID grants”) that can be used to establish recycling facilities, purchase equipment, perform marketing, purchase products produced by a recycling facility, provide educational outreach, develop recycling infrastructure, or abate illegal dumpsites.

During FY18, the SWB engaged solid waste professionals from 10 different pueblos, tribes and nations on solid waste management, diversion opportunities, scrap tire management issues, economics of waste and recycling, safety at solid waste facilities, and overall best management practices via the following educational outreach and technical assistance opportunities:

- During FY18, 15 solid waste facility operators from seven pueblos, tribes or nations attended one of the SWB’s three-day Solid Waste Facility Operator Certification Courses.
- In FY18, five RAID grants totaling \$134,404 went to San Felipe Pueblo, Santo Domingo Tribe, and Zuni Pueblo.
- In FY19, seven RAID grants totaling \$111,018 were awarded to Pueblo of Acoma, Isleta Pueblo, Pueblo of Pojoaque, San Felipe Pueblo, Pueblo of Santa Ana, and Santo Domingo Tribe.

### *Presentation on Grant Funding and other Solid Waste Matters*

- In May 2018, the SWB Chief attended a tribal conference on grant funding, sponsored by Eight Northern Pueblos and held at [Santa Ana Wellness Center]. She gave a presentation outlining the RAID grant program, describing the application process, and showing examples of past funded projects.

### *Memorandum of Agreement, Santa Clara Pueblo*

- SWB staff met with Santa Clara Pueblo staff to discuss Memorandum of Agreement and other issues of concerns regarding in-holdings and illegal dumping in areas around the Pueblo.

*Grant Funding, Recycling and Illegal Dumping Grants, FY18 (Closed)*

- For FY18, five RAID grants were awarded to three pueblos and tribes for a total of \$134,404.

*San Felipe Pueblo: \$34,404*

- Hauling of scrap tires to a tire recycling facility
- Scrap tire management equipment upgrades
- Educational outreach to the local community regarding scrap tire management

*Santo Domingo Pueblo: \$25,000*

- Illegal dumping prevention community outreach through “digital storytelling,” i.e. creating a video and purchasing other outreach materials

*Santo Domingo Pueblo: \$5,000*

- Purchase of a trailer for recycling cardboard

*Zuni Pueblo: \$25,000*

- Purchase of three 40-yard roll off containers for collection and temporary storage of recyclables
- Signs and relevant recycling educational outreach

*Zuni Pueblo: \$45,000*

- Instructional workshop led by an Earthship Biotechnology instructor to educate Zuni citizens on the construction of Earthships using scrap tires and other materials
- Purchase of materials to build one Earthship in Zuni

*Grant Funding, Recycling and Illegal Dumping Grants, FY19 (Open)*

- For FY19, seven RAID grants have been awarded to six pueblos and tribes for a total of \$111,018.

*Pueblo of Acoma: \$10,000*

- Purchase of a covered recycling trailer

*Isleta Pueblo: \$21,000*

- Purchase of curbside recycling carts and larger recycling containers to expand the existing recycling program pueblo-wide

*Isleta Pueblo: \$3,500*

- Abatement of an illegal tire dumpsite on Comanche Ranch

*Pueblo of Pojoaque: \$2,500*

- Abatement of an illegal tire dumpsite

*San Felipe Pueblo: \$60,087*

- Purchase of outdoor recycling receptacles, cardboard recycling trailers, and signage for cardboard trailers
- Purchase of a portable cardboard baler
- Education and outreach materials

*Pueblo of Santa Ana: \$5,931*

- Purchase of outdoor signage for transfer station trailers and designated areas
- Educational and outreach materials
- Display center for signage and announcements

*Santo Domingo Pueblo: \$8,000*

- Purchase of a waste oil heater to heat the workshop with used oil

## **CONSTRUCTION PROGRAMS BUREAU**

### *Consultations and Meetings*

The NMED Cabinet Secretary has designated the Construction Programs Bureau Chief as the designee to take part in regular Tribal Infrastructure Fund (“TIF”) Board meetings and assist the Indian Affairs Department (“IAD”) in the development and refinement of existing guidelines, policies and programmatic procedures to streamline and increase the efficiency and effectiveness of the TIF program.

### *Project oversight and highlights*

The Construction Programs Bureau provided oversight and technical assistance on eleven capital outlay projects awarded to tribal entities with total funding of over two million dollars in State Fiscal Year 2018 (SFY18). These projects included water, wastewater and solid waste projects on the Navajo Nation, Acoma Pueblo, Sandia Pueblo, Nambe Pueblo, Isleta Pueblo, and Ohkay Owingeh Pueblo. In addition to these projects the Bureau was also involved in assisting IAD with 10 TIF projects as part of the Inter-Government Agreement (IAG). CPB provides technical services including review of plans and specifications and project construction site visits on the TIF projects. The total amount of funding for the water and wastewater TIF projects that CPB assisted with was \$2.6 million dollars. In addition to capital outlay project management, CPB works under a memorandum of agreement with the New Mexico Finance Authority to oversee Water Trust board (WTB), Colonias, Drinking Water State Revolving Fund (DWSRF) and Planning grants for a variety of entities including tribes and pueblos. During SFY18 CPB provided technical oversight of four WTB projects awarded to tribal entities for projects with over \$2.9 million dollars in funding.

The NMED CPB worked with the Pueblo of Isleta on two projects completed in SFY18. The Pueblo of Isleta successfully purchased two trash trucks for their solid waste department and completed the plans and specifications for the replacement of sewers located in the main village area of the Pueblo.

The NMED CPB also worked with the Pueblo of Acoma to successfully complete the design and construction of a sewer main extension and wastewater system improvements connecting the housing and governmental buildings to the north Acoma wastewater treatment in SFY 18.

The NMED CPB assisted the Navajo Nation Baahaali-Chichiltah Chapter with the planning, design and construction of a bathroom addition and cistern system for the Baahaali-Chichiltah Chapter regional solid waste transfer station office. The work was completed in April of 2018.

### *Agreements and Protocols*

Communities that receive funding that CPB oversees are provided with guidance and technical support in connection with project oversight and accountability. CPB engineering staff provide support on all aspects of project oversight requirements. NMED works with IAD through intergovernmental Agreement (IGA) that took effect January of 2018 and remains in effect until either agency cancels it.

## **OCCUPATIONAL HEALTH AND SAFETY BUREAU**

A representative from the Bureau conducted a presentation about the Occupational Safety and Health Act and worker safety and health for employees of the Ohkay Owingeh on October 12, 2017.

A representative from the Bureau participated in the Isleta Resort and Casino Health Fair on October 24, 2017, hosted by the Pueblo of Isleta. The Bureau representative handed out safety education materials and talked with several participants about employee safety and health.

## **DEPARTMENT OF ENERGY OVERSIGHT BUREAU**

The New Mexico Environment Department (NMED) Department of Energy Oversight Bureau continues (DOE-OB or Bureau) develops and implement vigorous monitoring and assessment programs at Los Alamos National Laboratory (LANL), Sandia National Laboratories/New Mexico (SNL/NM), the Waste Isolation Pilot Plant (WIPP), and areas surrounding these facilities. These programs include both joint and independent evaluations for environmental and public health protection of all media, including air, soils and sediments, groundwater, and surface water. The focus of these evaluations is on the potential contaminant levels of heavy metals, organic and inorganic compounds, and radionuclides. The DOE-OB is 100% federally funded through two (2) non-competitive grants from the U.S. Department of Energy.

The Bureau participated in the following Tribal collaborations and interactions during fiscal year 2018 (July 1, 2017 to June 30, 2018).

### *Agreements and Protocols*

NMED entered into a Memorandum of Agreement (MOA) with the Pueblo de San Ildefonso governing interactions between NMED and the Pueblo on February 7, 2014. The MOA documents procedures for access to Pueblo de San Ildefonso lands and

information, data sharing, sampling, and responses to inadvertent discoveries. The MOA is still in effect. Addendums include:

- Protocol for Inadvertent Discoveries of Native American Human Remains and Cultural Artifacts
- Protocol for Protecting Confidential Pueblo Information
- Protocol for Access to Pueblo Lands
- Appendix A, Plan for Environmental Sampling at San Ildefonso Pueblo (updated annually)

NMED entered into a MOA with Santa Clara Pueblo on December 20, 2010. The MOA regards the identification and regulation of lands within the exterior boundary of Santa Clara Pueblo. The MOA is still in effect. Specific to the DOE-OB, the MOA details the protocols for sampling environmental media on Santa Clara Pueblo lands and the use of resulting analytical or quantitative data.

During SFY 2018, the DOE-OB met with representatives of Santa Clara Pueblo to review the existing MOA and discuss changes in potential sampling and public outreach and education activities on Santa Clara lands.

### Consultations and Meetings

NMED Resource Protection Division (RPD) and DOE-OB participated in multiple meetings with LANL and Pueblo de San Ildefonso representatives to discuss the remediation of chromium contamination within the regional aquifer.

Sandia Oversight Section staff assisted the Pueblo of Isleta with questions regarding sediment sampling design and sediment analysis methods related to the deposition of legacy sediment deposited over the last 50 years from both Los Alamos National Labs and Sandia National Labs on Pueblo of Isleta property. Staff performed preliminary research regarding common analytes of interest in sediment analysis at both LANL and SNL/NM, methods used to analyze sediment, and procedures for sampling.

### Public Outreach and Training

Bureau staff hosted a table at the Pueblo of Isleta Environmental Fair and the Pueblo of Santa Ana Environmental Fair. Staff illustrated the basic principle of the hydrologic cycle through a hands-on demonstration and operation of a portable groundwater model.

Attendees introduced dyes (pollutants) into the model and track the migration of these pollutants from surface sources, injections wells, leaking storage facilities, and rivers. Attendees could also then see the effects of pumping on the transport and dilution of these pollutants.

Bureau staff hosted a table at the Santa Clara Pueblo Environmental Day. Staff illustrated the concepts of surface water interactions in a watershed using an interactive point source watershed model. Attendees added various food-colorings (“pollutants”) to the landscape and explore various sources of point and non-point source pollution and how they migrate through a watershed.

DOE-OB staff attends the monthly Los Alamos Trails Working Group Meeting. The group is comprised of members from LANL, Santa Clara Pueblo, Pueblo de San Ildefonso, USFS, NPS, Los Alamos County and members of the public.



Bureau scientists and hydrologists provide in-the-field training and mentoring to Pueblo de San Ildefonso staff regarding site selection, installation, operation, and maintenance of NMED's automated stormwater sampling stations located on Pueblo lands. DOE-OB managers and scientists at the Los Alamos and Sandia Oversight offices completed the State of New Mexico Cultural Competency training. DOE-OB managers and scientists at the Los Alamos, Sandia, and WIPP Oversight offices completed the NMED Civil Rights training.

#### *Environmental Monitoring on Tribal lands*

Working under the MOA between NMED and the Pueblo de San Ildefonso, staff renewed the 3-month Land Access Permits that grant DOE OB scientists access to Pueblo lands to conduct groundwater, drinking water, and stormwater monitoring. Groundwater monitoring wells are located in Mortandad and Sandia Canyons and springs are located in Sandia and White Rock Canyons. Drinking water supply wells are located throughout the Pueblo. Stormwater sampling on Pueblo lands is conducted in Los Alamos Canyon and along the Rio Grande at Otowi Bridge. Bureau staff maintained close working contact (monthly, weekly, and sometimes daily) with Pueblo de San Ildefonso environmental managers and staff to coordinate escorts and access necessary to properly install and maintain NMED monitoring equipment on Pueblo lands.

DOE OB staff provides automatic email notifications to the Pueblo de San Ildefonso whenever stormwater, groundwater, or spring monitoring data from a sample originating from a location on Tribal lands is loaded into the Environmental Information Monitoring (EIM) database. The email notifies appropriate Pueblo contacts of the 60-day review period prior to the data being publicly accessible via Intellus New Mexico. The notification email contains an attachment with the uploaded data for review by Pueblo environmental staff. At their discretion, they have the right to request that no data from a particular sampling event or location be released.

### **DRINKING WATER BUREAU**

The NMED does not have jurisdictional oversight authority of public drinking water systems located on tribal lands; however, public water systems located on private fee lands within the exterior boundary of pueblos are within the states regulatory jurisdiction.

#### ***Consultations and Meetings***

The Drinking Water Bureau ("DWB") participates in periodic regulatory coordination meetings and bimonthly design conference calls for the Navajo-Gallup Water Supply Project. The purpose of these regular meetings is to coordinate oversight activities and discuss project progress. Participants include Bureau of Reclamation, Navajo Tribal Utility Authority, NNEPA, Indian Health Service, US EPA, BIA, Jicarilla Apache Nation, and NMED. DWB has jurisdictional oversight authority for two of the systems impacted by this project, City of Gallup and Lybrook Mutual Domestic Water Consumers Association, both of which provide water to tribal and non-tribal citizens. The DWB oversees these water systems to ensure they comply with the Safe Drinking Water Act and New Mexico Drinking Water Regulations. This year's efforts continued to focus on regulatory and technical components of the project. Discussions continue regarding regulatory authority and construction and or engineering review requirements

for each portion of the project. Technical aspects of the project were also considered to develop a treatment strategy that will ensure the quality of water being delivered. Coordination meetings will continue into State Fiscal Year 2019 ("SFY19") as additional aspects of the project are reviewed and considered.

The DWB is considering potential involvement and coordination with the Pojoaque Regional Water System to determine if NMED will have any oversight responsibilities for the participating systems. Involvement will be determined based on the location and ownership of the water system facilities and if NMED has any jurisdictional authority for any components of this regional water system.

### ***Agreements and Protocols***

There are no current agreements between NMED's DWB and tribal and federal governments; however, an MOU is underway regarding the Navajo-Gallup Water Supply Project with EPA Region 9, EPA Region 6 and the Navajo Nation Department of Justice and the Navajo Nation EPA to aid in the administration and operation of this large and complex project. Additional agreements are contemplated for the operation of the pumping plant.

## **ENVIRONMENTAL HEALTH BUREAU**

NMED's Environmental Health Bureau ("EHB") protects public health and the environment through specific programs that provide public outreach and education and regulatory oversight for food service and food processing facilities, liquid waste treatment and disposal systems, and public swimming pools and baths. EHB operates in 22 field offices throughout the state and provides consultation services to pueblos, tribes, and nations as requested.

The Bureau Chief for EHB met with staff from the Indian Health Service (IHS), Albuquerque Area Office, to ensure the proper authority is inspecting food service activities located on tribal lands. Facilities identified and discussed with IHS were; San Juan Elementary School, Santo Domingo Elementary, Cochiti Elementary, Santa Fe Downs and Ski Apache. After reviewing past procedures and confirming land status, the Bureau coordinated efforts with the Indian Health Service and appropriate changes were made. This included providing all pertinent regulatory files to the Indian Health Service and communication with the State Department of Public Education to ensure state funding for food distribution continues for schools where jurisdictional changes were made. In addition, EHB provided guidance to Cochiti Elementary School in dealing with a boil water advisory regarding food service.

EHB coordinated efforts between staff at the Gallup Indian Medical Center and NM Department of Health (DOH) in response to addressing follow-up visits of patients seen at the Gallup Indian Medical center who reside off tribal property. DOH, through their local public health office, will collaborate with the Medical Center and conduct home visits when necessary.

## **GROUND WATER QUALITY BUREAU**

### ***Voluntary Remediation and Brownfields***

New Mexico Environment Department Voluntary Remediation Program (NMED-VRP) met with Eight Northern Indian Pueblo Council staff in October 2017 to discuss the continuation of our

work together, as well as concerns and priority issues for the coming year. The collaborative work is beneficial to fulfilling the mission of addressing tribal brownfields in New Mexico with NMED providing technical support and ENIPC serving as a liaison and between the state and tribes.

A visit to Acoma Pueblo in March 2017, to tour priority sites with EPA Region 6 Land Revitalization Coordinator and ENIPC resulted in Targeted Brownfields Assessment (TBA) requests to both EPA and NMED. NMED contractors conducted a Phase I Environmental Site Assessment (ESA) at the Acomita Day School in January 2018. A conference call was held in May 2018, to discuss the results of the Phase I and the need for a Phase II. Acoma Pueblo plans to submit a request to NMED for an asbestos and lead based paint survey on the property. VRP staff began monthly conference calls with Laguna Pueblo and EPA Region 6 staff in September 2017 to determine a path forward for the Mesita Property (the former Laguna Industries Site). A limited Phase II TBA request was submitted to NMED to investigate documented groundwater contamination and potential vapor intrusion resulting from previous manufacturing activities. In October 2017 NMED-VRP staff, ENICP staff, and EPA staff met Laguna environmental staff at the property for a site walk and a planning meeting. NMED-VRP staff tasked a contractor to submit a technical proposal for groundwater sampling, indoor air and sub-slab vapor sampling, and a passive soil vapor survey at the property. A meeting was held on site in March to better define the scope of work; Laguna environmental staff, NMED-VRP staff, ENICP staff, and the contractor were in attendance. Field work is expected to begin with soil vapor sampling in July 2018.

Meetings were held with EPA Region 6 Brownfields staff and ENIPC during an EPA visit in October 2017. As part of this visit EPA and NMED joined ENIPC for meetings and a site visit on Pueblo of Santa Ana. Pueblo of Santa Ana subsequently requested Phase II assistance for a property that has a former radio communication tower. Environmental concerns focus on an underground storage tank and a transformer the may contain PCBs. EPA found the property eligible for NMED assistance in May 2018. A contractor will be tasked with submitting a technical proposal at the beginning of FY19.

## **HAZARDOUS WASTE BUREAU**

### *Consultations and Meetings Fort Wingate*

- A state Hazardous Waste Facility Permit was issued to the United States Department of the Army ("Army") in 2005 that required the Army to close an inactive Open Burn or Open Detonation hazardous waste treatment unit and implement corrective action where necessary to investigate and clean up releases of contaminants from historic operations at the closed Ft. Wingate Army Depot. The Permit includes specific provisions for tribal consultation and review of corrective action documents prior to approval of corrective actions by NMED's Hazardous Waste Bureau ("HWB"). Most of the land that comprises Fort Wingate is planned for transfer to the BIA and ultimately into tribal trust to either the Pueblo of Zuni or Navajo Nation after cleanup is complete. The HWB routinely engages in tribal consultation with both tribes by travelling to their lands to discuss ongoing cleanup activities with tribal representatives. In

addition, HWB will consult with both tribes prior to issuing a draft renewal of the Hazardous Waste Facility Permit on issues related to land parcel cleanup and land transfer.

#### *Los Alamos National Laboratory ("LANL")*

- HWB continues to work with Accord Pueblos, particularly the Pueblos of Santa Clara and San Ildefonso, to discuss issues related to groundwater contamination and migration of contamination via storm water from operations at LANL. NMED continues to work with the Pueblo de San Ildefonso to investigate and mitigate chromium contamination in the regional water supply aquifer. The chromium contamination in groundwater has migrated from LANL to beneath a portion of the Pueblo that borders LANL. A Settlement Agreement and Stipulated Final Order was issued to LANL in January 2016, as a result of a radioactive release at the Waste Isolation Pilot Plan. The Order required US DOE to implement five SEPs, one of which required increased storm water monitoring in and around LANL, including sharing skills, knowledge and technology with the Accord Pueblos. The Accord Pueblos have received training on storm water sampling and data analysis, as well as equipment. The Pueblo of San Felipe expressed interest in a recent LANL permit modification. HWB contacted US DOE and conveyed the Pueblo's interest to be involved in LANL permitting and corrective action issues. This communication resulted in US DOE arranging a meeting with the Pueblo of San Felipe to apprise them of the permitting action. NMED will work in cooperation with the Pueblo of San Felipe and the US DOE on issues of interest to the Pueblo.

#### *Kirtland Air Force Base/Sandia National Laboratories*

- HWB has contacted Isleta Pueblo regarding corrective actions at Kirtland Air Force Base, specifically concerning activities related to the Bulk Fuels Facility Spill. A meeting with Isleta Pueblo to provide updates on corrective actions at Kirtland Air Force Base has not yet been scheduled. In addition, the HWB has been notified by Sandia National Laboratories that cultural sites are present at a unit undergoing corrective action that could be affected by groundwater investigation activities. Upon receipt of information regarding the cultural sites from a Sandia National Laboratories National Environmental Policy Act study, HWB will contact Isleta Pueblo to discuss the work if it appears that the cultural site(s) will be affected by investigation activities.

### **PETROLEUM STORAGE TANK BUREAU**

#### *Consultations and Meetings*

Since October 2006, NMED's Petroleum Storage Tank Bureau ("PSTB") and EPA Region 6 Office of Underground Storage Tank ("OUST") program have coordinated and implemented joint compliance inspections at private facilities on fee lands within the exterior boundaries of pueblos that constitute Indian Country. EPA inspectors and PSTB inspectors coordinate joint inspections at facilities that are privately owned and operated.

EPA and PSTB inspectors perform joint inspections at 14 active facilities within the exterior boundaries of pueblos in New Mexico. Joint inspections are scheduled at least a month in advance and EPA notifies PSTB, affected tank owners and operators, and affected Pueblos,

Tribes, and Nations. Five joint inspections were performed in FY18. In addition, PSTB conducts compliance inspections for facilities that are leaking storage tank sites and performs inspections for tank closures, repairs and modifications as necessary. EPA conducts inspections on a three-year cycle. PSTB inspectors will complete courtesy inspections, if requested by tribal governments, in consultation with EPA and all inspection results and reports are provided to EPA.

PSTB also coordinates environmental remediation activities at various sites and provides updates to the respective Tribe, Pueblo, or Nation and EPA accordingly and when requested.

#### *Agreements and Protocols:*

- PSTB has maintained previously signed cooperative agreements with Zuni Pueblo, Laguna Pueblo and the Jicarilla Apache Tribe for remediation activities. In addition to Department-wide MOA's, PSTB has signed access agreements allowing state oversight of remedial activities within the external boundaries of Picuris Pueblo and Ohkay Owingeh.
- NMED is currently working with the Pueblo of Santa Clara to revise and update the existing MOA, including the provisions related to PSTB.

### **RADIATION CONTROL BUREAU**

#### *Public Outreach and Training*

- The New Mexico Department Environment, Radiation Control Bureau ("RCB") RCB WIPP Emergency Response Program, in collaboration with the New Mexico Department of Health, participated in the State of New Mexico's 2018 Volunteer Emergency Responder Conference that was held at the University of New Mexico's Medical School. The conference provided a venue for hazardous/radiological volunteer first responders, emergency medical technicians, hospital emergency room personnel, law enforcement, fire rescue, etc. to participate in hands-on training for mitigating and abating potential hazardous/radiological transportation incidents. Topics of discussion were in specialties of transportation containers, introduction to understanding bills-of-lading, basic monitoring and surveillance techniques using radiological instrumentation, hazardous/radioactive labels/placarding, and use of the USDOT Emergency Response Guide Book. Representation of various tribal emergency responders was in attendance from jurisdictions providing first responder activities in Farmington, Gallup, Crownpoint, and tribal entities of Pueblo Tribal governments.

#### *Consultation and Meetings*

- The Indoor Outreach Radon Program ("IRP") staff of RCB provided 100 short-term radon test kits to the Pueblo of Isleta Environmental Division for use in their testing program.

- IRP staff attended the Earth Day events at Cochiti Pueblo. Presentations included information on results of radon testing at the pueblo. The Indoor Radon Outreach Program assisted Cochiti Pueblo Department of Natural Resources in its testing efforts by providing short-term radon test kits.

## **SURFACE WATER QUALITY BUREAU**

NMED does not have jurisdiction over tribal waters under the New Mexico Water Quality Act or federal Clean Water Act; however, because many surface waters of the state either pass through tribal or pueblo lands or form the boundary between state and tribal lands, the Surface Water Quality Bureau (SWQB) undertakes informal collaborations on specific issues in the following three areas:

### *NPDES Permits*

- NMED certifies National Pollutant Discharge Elimination System (NPDES) permits issued by the U.S. Environmental Protection Agency (EPA) for those discharges within state jurisdiction to ensure permits are protective of the State's Water Quality Standards. NMED also comments as a downstream state on those NPDES permitted facilities located within tribal waters.
- All NPDES permits within the state's jurisdiction, as well as most tribal permits within New Mexico, can be found on the SWQB website. This information is now easily available to the public and our tribal neighbors at: <https://www.env.nm.gov/swqb/Permits/>.
- SWQB Point Source Regulation Section staff periodically receive questions from tribal technical staff related to NPDES permitting and assist as needed when those issues arise.

### *Watershed Protection*

- The Pueblo of Santa Ana was awarded a \$133,873 grant agreement through the River Stewardship Program to restore 27 acres on the pueblo along the Rio Grande. The project includes removing exotic trees and shrubs, creating low flow channels through high and dry areas, and planting native trees and shrubs. Construction is expected to begin in Fall of 2018.
- SWQB staff continue to provide technical support on the Turkey Pen Canyon Watershed Improvement Project on Mescalero Apache Tribal Lands in southeast New Mexico. The Turkey Pen Canyon Watershed Improvement Project involves thinning approximately 500 acres of understory to reduce the risk of wildfire, improve rainwater infiltration to groundwater and improve surface water quality through decreased storm water runoff and subsequent erosion.

- SWQB staff continue to support Santa Clara Pueblo’s efforts to restore the Santa Clara Creek watershed following the Las Conchas Fire. Over 50% of the watershed was heavily burned and post-fire flooding was devastating.
- SWQB staff represent NMED as a member of the Rio Puerco Management Committee (RPMC). NMED’s participation in the RPMC is specified, along with “affected tribes and pueblos,” in the federal Rio Puerco Watershed Management Program Reauthorization Act. One of the purposes of the RPMC is to coordinate watershed restoration and management across boundaries. Acoma, Isleta, Laguna, and Jemez Pueblos, the Navajo Nation central government, as well as the Ojo Encino and Torreon chapters of the Navajo Nation, are active RPMC participants.
- SWQB staff who review and certify Clean Water Act Section 404 permits and authorizations routinely coordinate with environmental staff from Indian Nations, Pueblos, and Tribes regarding 401 certifications and confirmations for projects located near or crossing onto their lands.

#### *Water Quality Monitoring*

- SWQB Monitoring staff continued to work with the Jicarilla Apache Nation to collect water quality data on the Navajo River near Dulce, New Mexico. The SWQB plans to send all data collected to the Jicarilla Apache Nation after the survey is completed, or as requested.
- SWQB wrote a letter of support to USEPA regarding the application by the Navajo Nation for treatment in a similar manner as a state (TAS) for the water quality standards and water quality certification programs authorization under Sections 303(c) and 401 of the Clean Water Act, 33 U.S.C. §§ 1251, et seq. The Navajo Nation had already acquired TAS for defined Navajo Nation lands within the states of Arizona and New Mexico. The subject of this TAS was to extend their authority to include a previously excluded portion of land identified as the Bennett Freeze area on the western area of the Navajo Nation within the state of Arizona. Because of the migratory nature of pollutants and waters, and the need to protect designated uses for surface waters in and outside of political boundaries, SWQB supports continuation of coordinated efforts to protect waters in and outside the boundaries of the Navajo Nation.
- SWQB Wetlands staff attended and presented at the “EPA-Tribal Wetlands Workshop” at Isleta Pueblo Resort in Albuquerque, New Mexico. The presentation focused on the development and use of New Mexico Rapid Assessment Method. SWQB Wetlands staff also co-lead a field trip to study and identify wetland plants for jurisdictional determinations.
- SWQB invited tribal nations to attend the bureau’s Wetlands Roundtables, and several tribes participated. In addition, SWQB Wetlands staff conducted a Playas of the Southern High Plains Workshop in Clovis, New Mexico in which several members of the Tribe of Oklahoma attended.

## **OFFICE OF THE CHIEF SCIENTIST**

The Gold King Mine (“GKM”) spill incident continues to require a multi-bureau wide Department engagement with federal, state and tribal governments. The spill began on August 5, 2015, when the United States Environmental Protection Agency (“US EPA”) and its contractors breached a collapsed portal of the GKM, releasing millions of gallons of acid mine drainage and more than 1.1 million pounds of heavy metals into the Animas River watershed from southwestern Colorado. The GKM contamination plume traveled through the Animas and San Juan River watersheds to Lake Powell, Utah. In response, the State of New Mexico, joined by three other states (Arizona, Colorado and Utah) and three tribes (Southern Ute Indian Tribe, Ute Mountain Ute Indian Tribe and Navajo Nation), declared states of emergency. New Mexico and Navajo Nation initiated litigation, which is ongoing.

In December 2016, Congress authorized appropriations of \$4 million annually in 2017 through 2021 to develop a long-term water quality monitoring program for the Animas and San Juan watersheds through the Water Infrastructure Improvements for the Nation (“WIIN”) Act. The WIIN Act also requires that monitoring data results be communicated to the public.

During June 2017, EPA and the GKM-affected state and tribal jurisdictions qualified under the WIIN Act began collaboratively identifying and prioritizing projects that were submitted to EPA for 2017 funding. The Department received a grant of more than \$380,000 for projects in New Mexico. The 2017 WIIN Act award also supports the placement of river probes that provide real-time water quality data, and a plan for the long-term monitoring of surface water, sediment, and biology, throughout the watershed.

The Department continues to conduct sampling along the Animas River and upstream of the Navajo Nation and has dedicated a website regarding information collected on the spill a dashboard to determine risk levels for activity. <https://www.env.nm.gov/river-water-safety/>. The last three years, the Department has closely worked with the Navajo Nation Environmental Protection Agency (NNEPA) on monitoring the long-term effects from the spill and legacy issues. Most recently, the Department hosted a well-attended Third Annual Conference on the GKM Spill from June 20-22, 2018 at the San Juan College in Farmington and a teach-in in Shiprock Chapter.

### **III. KEY NAMES AND CONTACT INFORMATION**

Mr. Butch Tongate, Cabinet Secretary, NMED

Mr. Juan Carlos "JC" Borrego, Deputy Secretary, NMED

Ms. Kathryn S. Becker, Esq., Tribal Liaison

P.O. Box 5469

Santa Fe, New Mexico 87502-5469

505-827-2054

[kathryn.becker@state.nm.us](mailto:kathryn.becker@state.nm.us)



#### IV. APPENDICES

##### EXISTING AGREEMENTS

<b>Tribe/Pueblo/Nation Government</b>	<b>Agency</b>	<b>Activity</b>	<b>Agreement name</b>	<b>Current Status</b>	<b>Contact/Phone</b>
Pueblo of Pojoaque Environment Department	NMED	Abatement of soil and water pollution	Cooperative Agreement	In effect, effective since 5-1-01	PSTB Chief (505) 476-4377
Pueblo of Zuni EPA	NMED and Federal	Underground Storage Tank Cleanup, at Malco site	Cooperative Agreement	In effect, effective since 11-9-04	PSTB Chief (505) 476-4377
Pueblo of Zuni	NMED	Underground Storage Tank Cleanup, at Mustang Store 7256	Cooperative Agreement	In effect, effective since 3-20-02	PSTB Chief (505) 476-4377
Pueblo of Laguna	NMED	Underground Storage Tank Cleanup at Laguna Mart	Cooperative Agreement	In effect, effective since 6-21-00	PSTB Chief (505) 476-4377
Pueblo of Laguna	NMED, U.S. EPA, the Grants/Cibola County School Board	Underground storage tank cleanup for a former Grants Cibola county Schools Maintenance Yard, Paraje,	Memorandum of Agreement (MOA)	Effective 5-31-2016	PSTB Chief (505) 476-4377
Jicarilla Apache Tribe Environmental Protection Office	NMED	Underground Storage Tank Cleanup at the Lodge at Chama, amended to include the Gomez Stop and Go site	Cooperative Agreement	In effect signed 6-15-00 amended 8-16-02	PSTB Chief (505) 476-4377

Ohkay Owingeh	NMED	Underground Storage Tank Cleanup and Petroleum Remediation activities	Consent for Access to Property	Effective 9-10-08	PSTB Chief (505) 476-4377
Pueblo of San Ildefonso	NMED	Soil, water, air, and plant monitoring as well as sampling to evaluate LANL activities	MOU	In effect, effective since 2-7-14	DOE Oversight Bureau Chief (505) 383-2074
Navajo Nation and Southern Ute Indian	NMED	Four Corners Air Quality Group Cooperation	MOU	In effect, effective since 12-03-2015	Air Quality Bureau, Mark Jones, (505) 566-9746
Pueblo of Santa Clara	NMED	Comprehensive description of Regulatory activities within exterior boundary by environmental media	MOA	In effect, effective since 12-20-10	Kathryn Becker (505) 827-2054