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February 26, 2015

Mr. Ron Curry
Region 6 Administrator
Environmental Protection Agency
1445 Ross Avenue
Dallas, Texas 75202-2733

Re: Middle Rio Grande (MRG) Watershed Based Municipal Separate Storm Sewer Permit, Environmental Protection Agency (EPA) NPDES General Permit No. NMR04A000

Dear Mr. Curry:

The New Mexico Interstate Stream Commission (ISC) was recently provided a copy of the above-referenced Permit. The Permit provides authorization to parties in much of Bernalillo County, New Mexico and a part of Sandoval County, New Mexico to discharge stormwater under the National Pollutant Discharge Elimination System. Based upon our review of the Permit, as well as discussions with local stakeholders, we are concerned that the permit may result in actions that reduce the volume of stormwater that reaches the channel of the Rio Grande in parts of Sandoval County and much of Bernalillo County, New Mexico.

The ISC is authorized by law to "investigate water supply, to develop, to conserve, to protect and to do any and all other things necessary to protect, conserve and develop the waters and stream systems of this state, interstate or otherwise". Section 72-14-3, New Mexico Statutes Annotated. Included in the ISC's statutory authority is the responsibility for administration of New Mexico's interstate stream compact obligations.

The surface waters of the Rio Grande in Colorado, New Mexico and Texas are governed by the provisions of the Rio Grande Compact, a federal law, Act of May 31, 1939, ch 155, 53 Stat. 785. The Compact has specific delivery requirements for New Mexico in the middle Rio Grande valley. The ISC conducts projects and administers the Compact for the State of New Mexico in order to maintain compliance with its delivery requirements. Middle valley tributary inflows into the channel of the Rio Grande, including those generated by stormwater runoff, are important to New Mexico as the state is entitled to consume that water under the terms of the Compact. We are concerned that the Permit, as written, will result in increased depletion of water (by evaporation), without water rights being transferred to offset the new depletions, and thus less water will reach the river to support compact deliveries.

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In addition, the ISC and New Mexico water right holders rely on stormwater generated from the watershed of the middle Rio Grande as a source of supply especially during the summer. In most years, the ISC, middle valley water right holders, and federal water management agencies take advantage of the summer tributary inflows to aid in meeting irrigation demand and to maintain compliance with river flow targets of the 2003 Biological Opinion for Middle Rio Grande Water Operations issued by the United State Fish and Wildlife Service. For example, flows from the Albuquerque North Diversion channel, which average about 5,000 acre-feet per year (see attached figure), and other flood control channels aid in meeting the Albuquerque gage flow targets contained in the 2003 Biological Opinion. To the extent such flows do not occur or are reduced, another source of water will be needed but may not exist. While the ISC is heavily involved in day-to-day management of the river and reservoir system, we are not part of the EPA permit process.

The ISC supports efforts to ensure that storm water reaches the river. However, we are concerned that this Permit will result in actions that reduce the amount of water reaching the river. Specifically, we believe the requirements on Albuquerque Metropolitan Arroyo Flood Control Authority with regard to dissolved oxygen may result in projects that yield less water reaching the river in a clean and usable manner than in the past. Similarly, the requirement for new and re-development projects to manage on-site (or retain) the 90th percentile storm event volume that infiltrates or evaporates the discharge volume will result in less water reaching the river in a clean and usable manner in the future. That requirement, in particular, appears to result in increased water evaporation.

For the above reasons, the ISC encourages the EPA to modify the Permit so that storm water continues to reach the channel of the Rio Grande in the middle Rio Grande. It is essential that the storm water continues to be available for use, to satisfy senior water rights holders in the middle Rio Grande valley, to meet endangered species flow targets and to support New Mexico's Compact deliveries.

We appreciate your consideration of our comments.

Very truly yours,



Jim T. Dunlap, Chairman
New Mexico Interstate Stream Commission

cc: Amy Haas, Acting ISC Director and General Counsel
Tom Blaine, New Mexico State Engineer Designee
William K. Honker, P.E., Director EPA Water Quality Division
Nelly Smith, EPA NPDES Permits and TMDL's Branch
Mike Hamman, CEO MRGCD
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Rolf Schmidt-Petersen, ISC Rio Grande Basin Manager