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Drawing to be held June 3, 2010**

**-see raffle coupon on page 4**

## Outstanding National Resource Waters – Under Attack Again

The New Mexico Environment Department (NMED) is proposing changes to the State's rules governing the protection of New Mexico's most special waters. These recreationally and ecologically important rivers, streams and other waters, technically referred to as "Outstanding National Resource Waters" (ONRWs), are afforded special protections under the federal Clean Water Act.

Amigos Bravos members, supporters of the Coalition for the Valle Vidal, flyfishing advocates, hunting groups, and many others have, over the years, come out in support of ONRW protections and specific ONRW designation for waters like the Rio Santa Barbara in the Pecos Wilderness and Comanche Creek in the Valle Vidal.

These protections are at risk of being undermined by a politically-charged process that has led NMED to propose substantially weaker protections for these outstanding waters.

The current protections prohibit new pollution of water quality in these outstanding waters except for very specific allowances for short term pollution from restoration activities that have a long term goal of improving the overall health of the water body. Historic pre-existing activities such as grazing and recreational practices may continue as long as these activities do not increase discharges to the designated

*-continued on page 13*

# Molycorp Cleanup: Good for Health & Economy of Taos County

A version of this article by Executive Director Brian Shields appeared in the February 25 edition of *The Taos News*.

**Please note: The comment period ended on March 22, 2010.**

The federal Environmental Protection Agency (EPA) is soliciting comments from the public regarding their proposed Superfund cleanup plan for the Molycorp molybdenum mine (Chevron Mining, Inc.), located in Questa, New Mexico.

For over twenty years, Amigos Bravos has advocated for cleanup and restoration at the mine. The Molycorp mine is the largest mine in the Río Grande watershed and one of the largest sources of water pollution in New Mexico. Cleanup at the mine is a win-win-win-win proposition. In addition to the current mine work force, cleanup creates reclamation jobs, reduces pollution, restores wildlife habitat, and protects human health...all essential resources for the future sustainability of a vibrant Taos County.

In 2000, Amigos Bravos published a study estimating that the cost of full reclamation at the Molycorp Questa mine would be \$380 million ([http://www.amigosbravos.org/docs/molycorp/full\\_reclaim.pdf](http://www.amigosbravos.org/docs/molycorp/full_reclaim.pdf)). In 2001, we published a follow-up report on the economic benefits of reclamation which concluded that the \$380 million cleanup cost would generate between \$670 - \$932 million in economic benefits including \$640 - \$874 million in direct and indirect income, output, and earnings – and another \$30 to \$58 million in non-market benefits such as fish and wildlife related recreation, and enhanced property values ([http://www.amigosbravos.org/docs/molycorp/case\\_study.pdf](http://www.amigosbravos.org/docs/molycorp/case_study.pdf)). The cost of EPA's proposed cleanup will run between \$516 million and \$882 million, thus raising the benefits to the local economy even higher than previous estimates.

The EPA's plan includes 27 alternatives and sub-alternative combinations. Although there remain some issues to be resolved, Amigos Bravos supports EPA's "preferred plan", because we believe that the "preferred plan" outlines an important step in the building of a healthy future for Taos County.

The Superfund plan has some major positive components, although each falls short of complete cleanup.

First, EPA proposes to reclaim the 380 million tons of acid-generating waste rock piles and the tailings ponds to the specifications adopted by the State in 2001 and which Amigos Bravos supported. Unfortunately, EPA is proposing

postponement of the cleanup of the tailings area until disposal of tailings ceases (which may be a century away!). Therefore EPA's plan falls short of the intent of Superfund to stop ongoing contamination.

Second, EPA's proposal calls for the collection and treatment of contaminated water prior to discharging it into the Red River. This is a great thing. However, pump-and-treat technologies will have to be in place in perpetuity and the plan does not mandate Financial Assurance on the part of the mine to ensure that the treatment continues beyond the life of the mine.

Finally, EPA's plan requires clean up and reclamation of Eagle Rock Lake and the Red River. With respect to the

Red River, the plan addresses the control of acid-generating seeps and the cleanup of *some* tailings pipe spills. Unfortunately, the plan falls short of proposing a comprehensive restoration of the river to pre-mining conditions, when it was a Blue Ribbon trout fishery.

For over thirty years various governmental agencies have spent untold resources studying environmental and human health impacts

of the mine. Cleanup of the Molycorp mine and the restoration of the Red River are long overdue. Now is the time to let EPA know that the future health of Taos County residents and the economic sustainability of Questa depend on a thorough cleanup and restoration effort.

We ask you, the reader, to send EPA a note of support for their preferred alternative, and a request that the plan include: 1) Financial assurance to pay for water treatment in perpetuity; 2) A mandate to stop ongoing contamination of air and water at the tailings site, and; 3) A comprehensive reclamation strategy to restore the Red River to as close to pre-mining conditions as possible.

Comments can be submitted prior to March 22, 2010 to Phyllis June Hoey, USEPA Region 6, 1445 Ross Ave (6SF-PO), Dallas, TX 75202. EPA's proposed cleanup plan can be downloaded from our web page: [www.amigosbravos.org](http://www.amigosbravos.org) or by calling (575) 758-3874. ❖



Molycorp mine, Questa, New Mexico. ©LightHawk

# Amigos Bravos Testifies in Favor of Statewide Cap on Greenhouse Gas Emissions

On March 1st, Amigos Bravos testified before the state Environmental Improvement Board (EIB) in favor of a greenhouse gas (GHG) emission petition.

The petition was first filed in December 2008 by the NM Environmental Law Center on behalf of New Energy Economy (NEE). It originally required the state to reduce its GHG emissions to 25% below the 1990 emission levels by 2020. However, the petition has been modified to address some concerns over its potential cost and now calls for a phased-in program that would apply only to electricity generators and the oil and natural gas industry. They would have to reduce greenhouse gas emissions by 3 percent per year from 2010 levels. After 2014, the scope of the GHG reduction program could be expanded.

Amigos Bravos testified in April 2009 in support of the EIB's authority to set GHG limits. When the EIB's authority was upheld, three state legislators, Public Service Company of NM (PNM) and electricity suppliers, along with the state's oil and gas, dairy, and livestock associations filed suit in January this year to prohibit the EIB from hearing public testimony on the petition.

Negotiations on GHG emissions at the federal level have stalled. All the major oil and gas companies have withdrawn from these talks in favor of lobbying for proposals that favor their industry at the expense of dealing with the overall problem of GHGs and climate change.

The NEE petition is being closely watched across the country as the discussions move from Washington DC to the states.

Opponents to the petition argued that the science on global climate change is not established, that there are no documented impacts to the environment or human health from climate change, and that climate change is just a natural and cyclical event.

## Amigos Bravos' Public Testimony

My name is Michael Jensen. I represent Amigos Bravos, Friends of the Wild Rivers, based in Taos and Albuquerque. Amigos Bravos was founded in 1988 and has grown to be a well-established and nationally respected 501(c)(3) river conservation organization. We are guided by social justice principles and are dedicated to preserving and restoring the ecological and cultural integrity of New Mexico's rivers and watersheds.

The 2006 report from the International Panel on Climate Change (IPCC – [www.ipcc.ch](http://www.ipcc.ch)) made a dire prediction about the kind of water regime we could have in the Southwest.

According to the consensus models of the IPCC, in the Southwest a climate similar to the 1950s drought could become the new climate within the next few decades<sup>1</sup>

A 2008 report on the economic cost to New Mexico from climate change impacts on water resources – based on the IPCC models – concluded that the measurable annual economic costs from a mid-range scenario would be in the vicinity of \$300 million.<sup>2</sup> This is a conservative estimate of the potential economic costs. The report looked at just water-related impacts, at just a few of the major tributaries to the Río Grande, not the whole watershed, and it was based on abnormally high flow data. Furthermore, the authors stressed that non-economic losses – losses of cultural practices and traditional life ways, as well as loss of environmental services – would be incalculable.

Loss of fish habitat and water resources for migratory birds and grazing wildlife alone would devastate the hunting and fishing and tourism economy of the state. Lower river flows threaten water supplies for cities now turning to surface waters for drinking. Climate change will disrupt precipitation patterns, leading to more and larger storm events, impacting stream and river beds, water quality, and the timing of agricultural uses of water. Riverine and riparian habitats will be degraded. Climate change will decrease water quality by increasing pollutant loads through decreased water flows (less dilution). Cultural practices of native nations will be impacted as pure water sources disappear or become degraded and plants disappear. Traditional land-based economies like farming and grazing will also be harmed.

If we apply the report's logic to the entire Río Grande watershed, to the Pecos, the Gila, the San Juan, and other watersheds, the annual economic impact and the widespread non-economic losses to society and the environment become unimaginable.

We are facing difficult but necessary political choices regarding economic and environmental uses of water and the best way to encourage a transition to a new equilibrium. In our federal system, failure of climate change legislation in Washington DC means that states must take up leadership. New Mexico is a bellwether state in this regard.

We need to ask ourselves: If not now, when?

Therefore, we urge the EIB to move forward with the petition to establish a statewide cap on GHG emissions in New Mexico.

Thank You. ❖

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<sup>1</sup> "Permanent dust bowl could be NM future", <http://www.abqjournal.com/news/state/552715nm04-06-07.htm>; "Permanent drought predicted for Southwest", <http://www.latimes.com/news/nationworld/nation/la-sci-swdrought6apr06.1.1875684.story>.

<sup>2</sup> Brian Hurd & Julie Coonrod, *Climate Change and Its Implications for New Mexico's Water Resources and Economic Opportunities*, <http://agecon.nmsu.edu/bhurd/hurdhome/index.htm>



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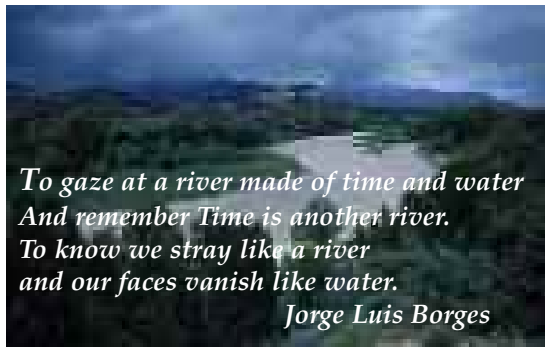
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**Amigos Bravos' Capital Reserve Fund** is our hedge against hard times, ensuring that Amigos Bravos can survive cash flow shortages in the annual operating budget. It can only be accessed for certain purposes, such as meeting payroll or for emergency capital outlay. Any use of money from the Fund requires approval from the Board of Directors. Thanks to the many generous contributions of our members, the interest-bearing account now has a balance of \$93,895. *Please consider making a contribution to the Capital Reserve Fund.* ❖

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*To gaze at a river made of time and water  
And remember Time is another river.  
To know we stray like a river  
and our faces vanish like water.  
Jorge Luis Borges*

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# Endocrine Disruptor Found in Middle Río Grande

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In June and October 2009, Amigos Bravos found Bisphenol-A (commonly called BPA) in the riverside drain running along the east side of the Río Grande. The location was at the I-25 Bridge south of Albuquerque.

BPA is an endocrine disrupting compound (EDC). EDCs are chemicals that act like hormones in the body. The endocrine system maintains proper body functioning by releasing hormones that regulate growth and development, reproductive changes, and reactions to the environment. Common endocrine system hormones are estrogen and androgen steroids that regulate female and male reproduction and development.

Some industrial chemicals mimic the action of natural hormones. BPA is used primarily in plastics manufacture; many Type-7 and some Type-3 plastics (look at the triangle label on the product) contain BPA. Concerns about the health impacts of BPA first arose in the 1930s, but it has been widely used in plastics manufacture for many decades. Widespread concerns surfaced again in 2008, when some manufacturers of hard plastic bottles announced they would discontinue their products or change their processes.

## Government Concerns

On March 29th, 2010, the federal Environmental Protection Agency (EPA) announced that it was creating a BPA action plan that would focus on the environmental impacts of BPA, add BPA to EPA's list of chemicals of concern, and require testing related to environmental effects.

The EPA announcement echoed an earlier announcement from the Food and Drug Administration (FDA). The FDA announced on January 15th, 2010, that recent research studies indicated grounds for concern about BPA's potential effects on fetuses, infants, and children.

The FDA and EPA announcements bring those two agencies in line with the earlier conclusions of the National Toxicology Program, part of the National Institutes of Health, which raised some concerns and called for more studies.

To date, research studies of BPA's possible environmental and human health impacts have not been conclusive, with some showing harm and others not.

The now unanimous federal position that BPA is a "chemical of concern" means that there is enough evidence of a potentially harmful impact to the environment and human health that the agencies will focus research on trying to make a definitive statement about that impact.

As the EPA Office of Prevention, Pesticides and Toxic Substances said in its announcement, "Both EPA and FDA, and many other agencies are moving forward to fully assess the environmental and health impacts to ensure that the full range of BPA's possible impacts are examined."

## Water Quality Monitoring Project

Amigos Bravos' finding confirms an earlier finding of BPA in research conducted by Maceo Martinet, then a graduate student in UNM's Biology Department.

Maceo is now on the staff of the Albuquerque office of the US Fish and Wildlife Service, which is funding Amigos Bravos' water quality monitoring project.

The project, part of the Middle Río Grande Bosque Initiative, began in March 2009 and monitors water quality at eight sites in the extensive system of drains and ditches along the Río Grande. The sites range from the Angostura Diversion in Algodones (just north of Bernalillo) to the I-25 Bridge over the river.

Amigos Bravos works with two high schools in the South Valley area, the School on Wheels and Río Grande High School, which help monitor four of the sites that are close to the schools.

The sites are sampled three times during the irrigation season: in March, June, and October. The list of substances sampled for includes nutrients (nitrate, nitrite, total nitrogen, ammonia, phosphate), metals (including arsenic and mercury), radionuclides, *E. coli* (a bacteria found in fecal matter), semi-volatile organic compounds (like solvents and other industrial chemicals), and pharmaceuticals (pain medication, antibiotics, hormones, and other medicines) and personal care products (sunscreen, insect repellent, and caffeine).

## Other Findings

Throughout 2009, most of the sites sampled either did not result in detections of the items sampled for or reported levels below State surface water standards.

However, one site, on the San Jose Drain just below the General Electric plant in the Mountain View Community, did show extremely elevated levels of *E. coli* in June, as well as high levels of arsenic. The drain normally contains very little water and runs through a Superfund site that is the result of a long history of poorly regulated industrial activity.

The first round of sampling in March 2009 also detected seven different pharmaceuticals and personal care products (PPCPs) from three sites along the east Riverside Drain, at the Angostura Diversion near Algodones, the National Hispanic Cultural Center, and the I-25 Bridge. The PPCPs included:

- Acetaminophen (*pain reliever and fever reducer*)
- Caffeine (*stimulant*)
- Carbamazepine (*anti-seizure and mood stabilizer*)
- DEET (*insect repellent*)
- Meprobamate (*tranquilizer*)
- Oxybenzone (*sunscreen & cosmetic ingredient*)
- Sulfamethoxazole (*antibiotic*)

The Albuquerque Bernalillo County Water Utility

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## Amigos Bravos Participates in Polluted Waters List

In December, 2009, the New Mexico Environment Department (NMED) released a draft of the 2010-2012 §303(d)/§305(b) Integrated List – the “303d” list and sometimes referred to as the “impaired waters” list. The list summarizes water quality for all water bodies in the state and identifies which water bodies the state considers to be impaired (polluted).

The draft 303d list included a summary of a comprehensive water quality study conducted by NMED on the Pajarito Plateau, the location of Los Alamos National Laboratory.

Amigos Bravos was happy to see that our comments on the previous 303d list (the 2008-2010 list released in June, 2008) made an impact in the Upper Rio Fernando, a tributary of the Rio Pueblo de Taos and eventually the Rio Grande. During the 2008-2010 process Amigos Bravos had commented on the fact that NMED wasn't using strong enough criteria in the stream to determine whether the water quality was safe for recreational activities such as fishing and wading in the water.

The Environmental Protection Agency (EPA) took note of our comments and required that during the current process NMED use the more protective standards for *E.coli* we had advocated for in the 2008-2010 process. The difference was substantial. The old standard was 2507 Colony Forming Units (cfu)/100ml and the new standard is 235 cfu/100ml. Unfortunately, the levels of *E.coli* in the Upper Rio Fernando were so high that even the old standard of 2507cfu was almost exceeded and therefore the stream has been listed as impaired (polluted).

The good news is that because the stream is now officially listed as impaired, it will be eligible for funding for water quality improvement planning and projects.

Regarding the Pajarito Plateau study, Amigos Bravos commends NMED for undertaking a comprehensive study of the streams in the Pajarito Plateau, but we are concerned that the wrong water quality criteria were used for most of these waters. Only the “acute aquatic life” water quality criteria were used, rather than both acute and chronic criteria.

Chronic criteria are stricter and are essential for protecting the life cycles of many forms of aquatic life. Because NMED used the weaker and less protective standards in developing the list of polluted waters (303d list), we don't know the true extent of the pollution in these waters.

Nevertheless, we do know that *even using the weaker standards*, 22 of the 23 water bodies assessed on LANL property were listed as not meeting water quality standards for at least one pollutant. In particular, PCBs (polychlorinated biphenols) and Gross Alpha radionuclides exceeded at least one water quality criterion almost everywhere there was data available.

Amigos Bravos is also concerned that water quality data collected by Sentinels-Rios de Taos and Amigos Bravos was not taken into account in the assessment process. NMED

## Endocrine Disruptor

—continued from page 6

Authority (WUA) had long denied that there were pharmaceuticals in the river, which is now being used for drinking water as part of the San Juan-Chama Project. As a result of Amigos Bravos' findings, the WUA announced that PPCPs likely were in the water, that the treatment process didn't entirely remove them, that they would begin regular monitoring of the drinking water treatment plant and the wastewater treatment plant of PPCPs, and that they would work with a national organization to identify better treatment technologies.

Studies by the US Geological Survey (USGS) and the Associated Press show that PPCPs are wide-spread in the environment and in drinking water systems. Monitoring by the New Mexico Environment Department (NMED), the US Fish & Wildlife Service, and a joint State Surface Water Quality Bureau (SWQB) and USGS project have all found PPCPs in New Mexico's waters. The recent SWQB/USGS study detected a large variety of PPCPs at every wastewater treatment discharge along the Middle Río Grande.

### Emerging Science

Research and field observations show that PPCPs in surface waters – especially endocrine disrupting compounds – have an impact on aquatic life. There are also some indications that humans can also be harmed by chronic exposure – such as through drinking water – to even very small amounts of endocrine disruptors and other PPCPs.

Researchers are beginning to suspect that some types of PPCPs can alter immune system function. Acute doses seem to shut down immune system functioning, but chronic low doses can force the immune system into overdrive.

This counter-intuitive result is changing the field of drug impacts research and the way standards are set, shifting the focus to chronic low-dose exposure. PPCPs may be peculiar in this regard, compared to other environmental contaminants, because they are designed to act on the human body at very low concentrations.

In the case of BPA, the focus of many different federal agencies on potential environmental and human health impacts should help clarify the role of at least one common pharmaceutical found in our waters.

For more information, see our Winter 2009 Bulletin article on our webpage ([www.amigosbravos.org](http://www.amigosbravos.org)) or contact Michael Jensen at [mjensen@amigosbravos.org](mailto:mjensen@amigosbravos.org) or (505) 362-1063. ❖

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uses data from non-agency sources to supplement the agency's limited resources. The data that we collected indicate instances of high levels of *E.coli* in all three streams that were studied (Rio Fernando, Rio Pueblo de Taos, Rio Hondo). Amigos Bravos submitted comments on this concern in hopes that NMED will take this data into account. ❖

# Río Pueblo de Taos Watershed Restoration Planning

Amigos Bravos has received funding to carry out a restoration planning project in sections of the Río Pueblo de Taos watershed.

The funding comes through the State's 319 grant program. These are federal Environmental Protection Agency (EPA) funds distributed to the states for use on restoration or planning work. The project is scheduled to begin as soon as contract arrangements are finalized by the EPA.

The Río Pueblo de Taos Comprehensive Plan project area will include the Río Pueblo de Taos from the Río Grande to the Taos Pueblo boundary (a large portion of this stretch runs along a portion of the Taos Pueblo) and the Río Grande del Rancho from Hwy 518 (the confluence with the Río Chiquita in the village of Talpa) to the Río Pueblo de Taos.

Some of the major problems in the Río Pueblo watershed are canalizations and the loss of wetlands that have taken place over the years by individuals dumping fill into the floodplain and adjacent wetlands, a loss of riparian habitat due to over grazing in the area where the river enters the canyon, and possible storm water discharge issues.

The Río Pueblo de Taos mainstem is listed for the following impairments (contamination above State surface water quality standards):

- From the Río Grande to the Arroyo del Alamo – **Temperature**. The probable sources of impairment are flow alterations from water diversions, habitat modification, other recreational pollution sources, and rangeland grazing;
- From Arroyo del Alamo to Río Grande del Rancho - **Temperature and Stream Bottom Deposits**. The probable sources of impairment are range grazing, highway/road/bridge runoff (both new construction and non-construction related), and crop production;
- From Río Grande del Rancho to the Taos Pueblo Boundary - **Temperature and Conductivity**. The probable sources of impairment are listed as loss of riparian habitat, rangeland grazing, habitat modification, and unknown sources.

The Río Grande del Rancho (from the confluence with the Río Pueblo de Taos to Highway 518) is listed as impaired for **Conductivity**, due to water diversions, habitat modification, highway/road/bridge runoff (new construction), natural sources, and streambank modifications/destabilization.

There are a number of groundwater discharge permits (there is substantial groundwater contribution to the Río Pueblo) and one NPDES permit issued near or on the Río Pueblo de Taos. The Town of Taos Wastewater Treatment Facility is located on the Río Pueblo and has both an NPDES permit and a groundwater discharge permit (DP232). The Taos Golf Course has a groundwater discharge permit for discharging treated effluent.

The lower reach of the Río Pueblo is the site of an

on-going river otter reintroduction program in collaboration with the Pueblo of Taos and other partners. Any activities on that section of the river will have to take the otter program into account.

## New EPA Requirements

In 2005, Amigos Bravos received a 319 grant to form a watershed group and to write a Watershed Restoration Action Strategy (WRAS) for the mainstem of the Río Pueblo de Taos. This process was completed in December of 2005.

While the WRAS included all the elements specified in the original grant, EPA has made it clear that additional elements are needed to qualify the plan and projects identified in the plan as eligible for on-the-ground funding through the 319 program. The main missing components – and the primary focus of the proposed planning update process – include identifying each point or non-point source of impairment in the watershed, calculating specific load estimates for each source (especially for non-point sources), calculating how much pollutant load reduction each potential project identified in the plan will contribute to the restoration of the watershed, and establishing a monitoring and evaluation protocol.

Specifically, we will:

1. Identify the specific causes and sources of pollution by reviewing existing studies, speaking with adjacent landholders and other stakeholders, conducting Geographic Information Systems (GIS) surveys, and consulting key experts
2. Identify Non-Point Source management measures for each of the sources of pollution we find using our GIS data and input from experts and stakeholders
3. Estimate load reductions attainable by specific management measures in order to achieve improved water quality on each assessment unit
4. Identify the technical assistance and financial resources needed to achieve these management measures
5. Initiate an education and outreach program to encourage and sustain stakeholder involvement (described below)
6. Develop a timeline for implementing management measures
7. Develop a set of interim milestones to measure progress
8. Develop criteria for measuring load reductions and progress of management measures
9. Develop monitoring procedures to ensure that the management measures and associated load reductions are being achieved

Amigos Bravos will re-connect with participants in the earlier Río Pueblo de Taos Watershed Group. Amigos Bravos will engage in one-on-one meetings with key

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## New Mexico to Get First Dairy Regulations

Amigos Bravos, as part of a coalition of community-based organizations, is pressing for better regulations for the dairy industry in New Mexico. The other members of the coalition are Caballo Concerned Citizens, Citizens for Dairy Reform, Food and Water Watch, and the Río Grande Chapter of the Sierra Club.

Amigos Bravos is urging our members to provide public support for creating fair regulations that provide clarity for both the industry and the New Mexico Environment Department (NMED), as well as accountability for dairies that pollute our waters and harm public health. The new regulations would apply to all new dairy permits and to existing dairies where appropriate.

The Water Quality Control Commission (WQCC) began at least a week of hearings on April 13th to hear testimony from coalition members, the dairy industry, and the NMED. The public may also come and give testimony on any day of the hearings. The hearing agenda is on the WQCC's website: <http://www.nmenv.state.nm.us/wqcc/>.

### Regulations Are Critical

Incredibly, even though New Mexico has the highest number of animals per farm of any state in the country, there are not specific regulations for dairies in New Mexico. The NMED has been using parts of regulations for other types of industries to regulate dairies.

Unlike the image portrayed by the industry – of small farms with cows peacefully grazing on the grass – the dairy industry in New Mexico is dominated by large-scale industrial dairies, also known as Concentrated Animal Feeding Operations (CAFOs).

An average lactating dairy cow produces 150 pounds of manure – feces and urine – every day. The combined manure production every day in New Mexico is estimated between about 6 – 10 million gallons.

According to the NMED's own data, about two-thirds of all dairies in New Mexico have violated the State's standard for nitrates, the most damaging groundwater pollutant. If violations of other groundwater standards are included, the number of dairies in violation increases significantly.

In addition, this figure does not factor in contamination of surface waters or airborne contamination that poses a particular threat to public health.

The dairy industry's main defense isn't to deny that they pollute, but to say how important they are to the economy of New Mexico. The industry never mentions the cost to the environment and the public health from their operations. Dairy wastes lead to higher water treatment costs, health costs, lower property values, and impacts on tourism.

"Clearly, the current regulations aren't doing enough", said Brian Shields, Executive Director of Amigos Bravos.

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## Río Pueblo de Taos

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stakeholders such as participants in the drafting of the WRASs for the Río Pueblo de Taos and Río Fernando de Taos, Taos Soil and Water Conservation District, Water Sentinels of Taos, Taos Valley Acequia Association, Carson National Forest Service, US Bureau of Land Management (BLM), NM Department of Transportation, Town of Taos, Taos County, and the Pueblo of Taos.

Each stakeholder will be encouraged to identify a water further their organizational goals and address a specific impairment in the watershed. As an incentive to participate in the planning project, Amigos Bravos will help develop these projects and provide each stakeholder with information on how to apply for funding to implement them. These elaborated projects will be included in the final Watershed Based Plan.



### Río Fernando

The Río Fernando de Taos will not be included in this project, but Amigos Bravos will seek additional 319 funds for a later project that would focus specifically on the Río Fernando. If it seems necessary after work on the Río Pueblo de Taos plan and implementation, we may devote a separate project to the upper Río Grande del Rancho watershed as well.

The primary reason for excluding the Río Fernando at this point is because a separate WRAS was developed for the Río Fernando de Taos by the Meridian Institute during the same time period Amigos Bravos was working on the Río Pueblo. Watershed groups were formed during the original process for both the Río Pueblo de Taos and the Río Fernando de Taos. The Río Fernando de Taos WRAS is missing the same components as the Río Pueblo de Taos WRAS.

Amigos Bravos' long-term goal is to expand upon the two WRASs by developing two separate Comprehensive Watershed Plans, one for each section of the watershed. In addition to a separate process, the Río Fernando upper watershed and associated Apache Canyon have issues with *E. coli* that will likely involve substantially different mainstem.

For more information, contact Rachel Conn at (575) 758-3874, [rconn@amigosbravos.org](mailto:rconn@amigosbravos.org) ❖

## First Dairy Regulations

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“We need to be able to hold the dairy industry accountable for the harm it does to the environment and the public health.”

### Proposals

The dairy industry itself actually started the process by getting the legislature in 2009 to tell the NMED to create dairy industry-specific rules by the end of 2009. The process has taken longer than expected because the industry initially boycotted some early community meetings and the NMED decided in the Fall to allow for more time for the dairy groups to put together their own proposal and provide more extensive comments on NMED’s draft proposal.

The industry’s approach to regulatory reform is to exclude all existing dairies in New Mexico from any new regulations and to severely limit the scope of regulations placed on future dairies. It’s a “business as usual” solution.

“The industry was obviously hoping they could control the process, since they started it” said Rachel Conn, Clean Water Policy Analyst for Amigos Bravos. “Fortunately for New Mexico, communities across the State got involved. We have a chance of getting good regulations that will create a level playing field within the industry.”

Amigos Bravos and our partners support much of what is in the NMED proposal, which is on their website:

<http://www.nmenv.state.nm.us/gwb/NMED-GWQB-DairyRegDevelopment.htm>. Key provisions of the NMED proposal are:

- Synthetic liners for all dairy manure waste lagoons
- Monitoring wells to detect groundwater pollution
- Better quality control on dairy planning documentation, engineering, and reporting
- A fee structure that will ensure that the NMED has sufficient funds to carry out the permitting process and to ensure that dairies submit timely and accurate documentation

However, we have some additional proposals, which we believe strengthen the NMED’s proposal:

- Larger setbacks from water sources and from residences and businesses
- Monitoring for a larger list of possible contaminants
- Financial assurance so that when a dairy stops operating there is enough funding to cover the cost of closing down the dairy facility and any possible cleanup if there is contamination

For more information, go to our website ([www.amigosbravos.org](http://www.amigosbravos.org)) or contact us at (575) 758-3874 or (505) 362-1063. ❖

## NEW MEXICO DAIRY INDUSTRY REGULATIONS TALKING POINTS

New Mexicans have the right to safe, clean water. In arid New Mexico, every source of water needs to be protected. New Mexico has never had regulations specifically designed for the dairy industry. There are proposals from the NM Environment Department (NMED), from the dairy industry, and from a coalition of community-based organization: Amigos Bravos, Caballo Concerned Citizens, Citizens for Dairy Reform, Food and Water Watch, and the Río Grande Chapter of the Sierra Club. The proposal submitted by the New Mexico Environment Department (NMED) – with the addition of proposals from the Community Coalition – will provide regulations for the dairy industry that are necessary, are fair, and that will provide accountability.

### These New Regulations Are Necessary

- *The dairy industry says that most dairies are “good” dairies that don’t pollute*  
**IN FACT:** According to New Mexico Environment Department data, nearly 2/3’s of the state’s dairies currently violate state groundwater standards for nitrates; if other violations of groundwater standards are included, the number of dairies in violation increases
- *The dairy industry says that new regulations will harm dairies*  
**IN FACT:** The dairy industry asked for new regulations in the 2009 legislative session; this isn’t a case of the NM Environment Department going after the industry
- *The dairy industry likes to portray dairies as small farms with cows peacefully grazing on the grass*  
**IN FACT:** The dairy industry in New Mexico is dominated by large-scale industrial dairies, also known as Concentrated Animal Feeding Operations (CAFOs) and sometimes referred to as “megafarms”; New Mexico has the highest number of animals per facility of any state in the country and these dairies produce 5.6 million gallons of manure waste each day
- *The dairy industry says that when there is pollution it is only in shallow groundwater that isn’t used by anyone*  
**IN FACT:** In an arid state like New Mexico, all water in the State needs to be protected. The New Mexico Court of Appeals recently chastised industry organizations, including the dairy industry, for opposing the ability of the State to protect our waters for the benefit of all
- *The dairy industry wants to exclude all current dairies from any of the new regulations*  
**IN FACT:** The current regulations are clearly not working because the dairy industry claims that the current regulations don’t provide clear guidelines – that’s why

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## 2010 New Mexico Legislature Review

If there is any silver lining to the budget crisis in New Mexico, it would seem to be that it forced the State Legislature to focus on the budget crisis and ignore the usual run of bad environmental legislation.

Many in the environmental community, including Amigos Bravos, thought that the 2010 session would continue the trend of the past several years, in which we would have to spend a lot of time and resources fighting off bad bills. However, in the end, many bad bills either never made it to committee or were stalled there.

### **Amigos Bravos opposed several bills, none of which advanced very far in the legislative process:**

- SB131 (Ulibarri) would have changed the makeup and the conflict of interest rules of the Water Quality Control Commission to favor industry over State agencies and other stakeholders, such as Pueblos and environmental organizations. It stalled in Committee
- SB241 (Garcia) & HB213 (ONeil) proposed to reorganize agencies by combining the Environment (NMED) and Energy Minerals and Natural Resources (EMNRD) departments and the Office of the Natural Resources Trustee (ONRT). It might have made some sense organizationally, but it would create a situation in which too few checks and balances would exist if this new mega-agency became too influenced by the industries they would regulate and in which it would become too easy for the Legislature to stop environmental protection with a single measure, rather than having to propose multiple measures aimed at the current multiple agencies. These bills were stopped in Committee
- HB192 (Taylor) sought – for the second year in a row – to repeal the hard-won strengthening of Oil & Gas industry Pit Rules, which regulate the often toxic “produced” waters stored in ponds at drilling sites. The bill was found “Not Germane”, meaning that the House Rules Committee decided it was not proper to bring up in the short session, which deals with budget-related items
- HJM41 (Heaton) urged that Nuclear Energy be considered an “alternative energy” that the State should actively promote. The Memorial was stopped in committee
- HJR4 (Nunez) proposed a Constitutional amendment allowing the Legislature to nullify Executive rules and regulations. This clearly unconstitutional resolution never received a hearing.

### **Amigos Bravos also supported a number of good bills, two of which did surprisingly well:**

- HB27 (Egolf) would have allowed the Office of the Natural Resources Trustee (ONRT) to seek compensation from polluters who caused harm to the state’s natural resources. The bill did not get out of committee
- HM21 (Egolf) urged the National Nuclear Security

Administration (NNSA), the agency within the Department of Energy (DOE) that oversees Los Alamos National Laboratory, to work with the Buckman Direct Diversion (BDD) Board to ensure the safety of Santa Fe’s drinking water, which will soon come in part from the Río Grande just downstream from where two major canyons discharge into the river. The memorial passed the House 64-1.

- SB186 (Cisneros) would establish a fund to attract federal funding and private donations and dedicate them to protecting and restoring New Mexico’s water resources, wildlife habitat, working farms & ranches, and recreational opportunities. The bill passed the Senate 27-14, but ran out of time in the House
- HB259 (Lujan) – the “Private Action to Enforce Environmental Status bill – would have allowed private citizens to file suit against polluters that threaten direct damage to their health or property. Under current New Mexico law, a person can sue for damages after their health or property has been harmed, but has no standing in court to force environmental violators to stop polluting. The bill failed on the House Floor by just two votes, 32-34
- HB276 (Egolf and Senator Nava) – the so-called “bad actor bill” – would have allowed the Environment Department to deny or revoke permits to the polluters that have caused significant health problems in local communities or who have had repeated violations of their permits. The bill made it out of committees to the House Floor, where it failed by only one vote

### **Other Bills**

One successful bill came out of the Environmental Alliance of New Mexico (EANM), a coalition of New Mexico environmental groups that Amigos Bravos is part of and which is coordinated by Conservation Voters New Mexico ([www.cvnm.org](http://www.cvnm.org)). SB200 (Cisneros), the Public Building Energy Efficiency Standards bill, was brought forward by the Río Grande Chapter of the Sierra Club. It calls for the State to invest in energy-efficient design and operation of public buildings through the EPA’s Energy Star Certification Program.

House Bill 78 (Madalena) would have set up a completely voluntary emissions offset program, giving credit to New Mexico businesses for reducing their emissions. This proactive attempt to encourage New Mexico businesses to start moving on greenhouse gas emissions was tabled in its first committee.

There were several memorials that would have diverted funding away from enforcement of off-highway vehicle (OHV) regulations in our parks and wildlife areas. These were all stopped.

Senate Bill 303 (Pinto) – the Farmer Protection Act –

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## TALKING POINTS

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they started this whole process – and because impacted communities don't think the current regulations prevent dairies – especially CAFO megafarms – from polluting their drinking water

### These New Regulations Are Fair

- *The dairy industry says the new regulations will unfairly hurt dairies*

**IN FACT:** The April WQCC hearings are the result of a one-year process of community meetings involving the industry, the Environment Department, and the public from across the State; this has been a balanced and fair process for everybody that reflects community concerns not just dairy industry demands

- *The dairy industry says that the new regulations would substantially increase environmental compliance costs*

**IN FACT:** At least 50% of dairy costs are feed and feed-related; there are also substantial costs for barns, milking parlors and other buildings, as well as equipment. Concentrated feeding operations require building manure waste lagoons. The actual cost of monitoring and reporting is minimal compared to all the other costs of running a dairy

- *The dairy industry says that NMED isn't using "the best science available"*

**IN FACT:** The industry insists on using outdated technology that is clearly not preventing groundwater contamination and they are opposing monitoring wells, which are standard practice anywhere that contamination is a problem or a threat; the NMED is proposing better technology (using synthetic liners and leak detection systems) and monitoring to ensure best science is used to detect groundwater impacts

- *The dairy industry says that the new regulations are more stringent than regulations adopted by any other state*

**IN FACT:** There is nothing in the NMED's proposal or in the additional requirements proposed by the Community Coalition that does not exist in other state regulations of the dairy or CAFO industry

- *The dairy industry says that record low milk prices and a difficult lending market mean the new regulations will put most of the industry out of business*

**IN FACT:** Prices are already back up to normal levels and many in the New Mexico dairy industry predict that 2010 will be a good year. Prices in the dairy industry fluctuate wildly because of the industry's inability to control their production, which means an endless cycle of boon and bust. This is not a reason to allow the industry to avoid being accountable for its waste

- *The dairy industry says that they generate over \$1 billion in direct benefit to the State and another \$1 billion in indirect benefits*

**IN FACT:** Dairies have a place in New Mexico's economy, but the industry – especially the CAFO megafarms – places costs on state and local governments and the public from greater need for water treatment, the need to find alternative water sources, health costs from exposure to dairy pollution (water and air), lower property values, and impacts on tourism; it is definitely not fair for the dairies to make the profits and the public to pay for the costs

- *The proposed regulations will immediately affect new dairies, while existing dairies will come under the regulations when their permits are renewed (every 5 years) or if they make significant changes to their infrastructure; dairies have plenty of time to adjust*

### These New Regulations Will Hold the Dairy Industry Accountable

- *The dairy industry says that most dairies are "good" dairies that don't pollute*

**IN FACT:** According to New Mexico Environment Department data, nearly 2/3's of the state's dairies currently violate state groundwater standards for nitrates; if other violations of groundwater standards are included, the number of dairies in violation increases

- *The dairy industry claims that NMED hasn't scientifically demonstrated any meaningful protection to groundwater from the new regulations*

**IN FACT:** The new regulations require monitoring wells, better manure lagoon liners, and better reporting from the dairies; the dairy industry – with its documented failure to prevent water contamination – wants to be left alone to continue polluting

- *It's inconceivable that a \$2 billion dollar industry should avoid being held responsible for taking care of its manure waste; the NMED and Community Coalition proposals will help ensure that the dairy industry – especially the CAFO megafarms – stop polluting our groundwater ❖*

## Legislature Review

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would provide farmers with legal liability protection in cases where their fields were accidentally contaminated with genetically-modified organisms (GMOs). Currently, farmers who went on to use seeds from those fields could be sued by the GMO manufacturers – all large multinational agribusiness giants – for using the GMO products without permission. The bill was defeated in the Senate Conservation Committee. However, farmers have organized and formed a Farmer Protection Coalition to get this legislation passed in 2011.

For copies of the legislation go to:

<http://www.nmlegis.gov/lcs/BillFinderNumber>. ❖



*Friends of  
the Wild  
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*In 2005, Amigos Bravos secured the first New Mexican ONRW designation for the Río Santa Barbara*

## Outstanding National Resource Waters – Under Attack Again

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river. In fact, pre-existing activities such as grazing and recreational opportunities are protected by an ONRW designation because pollution from new sources such as drilling for oil and gas would be prohibited and thus water quality would be protected for ongoing activities.

Unfortunately, NMED is proposing to weaken these current protections to allow temporary degradation from all kinds of pollution sources. In addition, the strong language for long-term protections has been watered down. Amigos Bravos is opposing these changes and is advocating for keeping the language as is.

Weakening the protections for our state's most special waters because of irrational fears and political pressures does not make sense. There has never been a case brought forward showing an on-the-ground conflict with the current regulations, which are being applied to 19 rivers and streams statewide. If it isn't broken, why change it?!

There will be a hearing in May in front of the Water Quality Control Commission (WQCC). Amigos Bravos encourages you to write to the WQCC expressing your desire to retain the current ONRW protections.

In addition, there will be an opportunity for members of the public to provide public testimony at the hearing. The hearing details have not yet been set. Amigos Bravos will update our website with the details when they are available.

***Please write to the WQCC and let them know that you would like them to retain the current ONRW protections! ❖***

WQCC Address:  
New Mexico Water Quality Control Commission  
1190 St. Francis Drive, N2153  
Santa Fe, New Mexico 87502