

**APPENDIX G**  
**APPLICABLE LAWS AND REGULATIONS**

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## 1.0 APPLICABLE LAWS AND REGULATIONS

The Water Operations Review and EIS are subject to, and intended to be consistent with, all applicable federal and state laws, regulations, agency policies, and interstate compacts including but not limited to those listed below.

### 1.1 *Federal Statutes and Policy Documents*

#### 1.1.1 Natural Resources

Statutes and Executive Orders were designed to restore and protect the natural environment of the United States—air, water, land, and fish and wildlife—and include:

- The Endangered Species Act of 1973 (ESA), as amended P.L. 93-205; 87 Stat. 884, 16 U.S.C. 460 et seq. including Consultation and Regulatory Certainty Under Section 7 of the ESA, 16 U.S.C. Section 1536.
- Under the Fish and Wildlife Coordination Act, 16 U.S.C. 661 (2005), federal agencies must consult with the Fish and Wildlife Service and with state wildlife agencies on the impacts to fish and wildlife resources of federal or federally licensed or permitted water projects.
- The Rio Grande Compact (Compact) is an interstate agreement between New Mexico, Colorado and Texas to equitably apportion the water of the Rio Grande between the three states and the Republic of Mexico. The Compact was approved by Congress on May 31, 1939 and is administered pursuant to §72-15-23 NMSA 1978 (1945). A Rio Grande Compact Commission was established consisting of one representative from each state and a United States-designated representative.
- Public Law [P.L.] 100-633, which amends the National Wild and Scenic Rivers Act of 1968, P.L. 90-542, to include a portion of the Rio Chama, the reach between El Vado and Abiquiu Reservoirs, as “wild and scenic” and designates another portion of the reach as a study reach for possible designation.

Other Federal statutes and policy documents addressing natural resources that may apply include:

- Rivers and Harbors Appropriation Act of 1899, 33 U.S.C. 401 et seq.
- Federal Water Project Recreation Act, P. L. 89-72, July 9, 1965, 79 Stat. 213 (16 U.S.C. §460l-12 et seq. as amended 1974, 1976, 1992)
- Agriculture and Food Act of 1981, P.L. 97-98, containing the Farmland Protection Policy Act (FPPA)— title XV, subtitle I (§1539 et seq.), Dec. 22, 1981, 95 Stat. 1341 (7 U.S.C. 4201 et seq.)
- Migratory Bird Conservation Act, Feb. 18, 1929, ch. 257, 45 Stat. 1222 (16 U.S.C. 715 et seq.)
- Land and Water Conservation Fund Act of 1965, P.L. 88-578, Sept. 3, 1964, 78 Stat. 897 (16 U.S.C. 460l-4 et seq.)
- Safe Drinking Water Act, July 1, 1944, ch. 373, title XIV, as added P.L. 104-182, title V, §501(e), Aug. 6, 1996, 110 Stat. 1691 (42 U.S.C. 300f et seq.)
- Solid Waste Disposal Act Pub. L. 89-272, title II, Oct. 20, 1965, 79 Stat. 997 (42 U.S.C. 6901 et seq.)
- Comprehensive Environmental Response, Compensation, and Liability Act of 1980 Pub. L. 96-510, Dec. 11, 1980, 94 Stat. 2767 (42 U.S.C. 9601 et seq.)
- Resource Conservation and Recovery Act of 1976 Pub. L. 94-580, Oct. 21, 1976, 90 Stat. 2795 (42 U.S.C. 6901 et seq.)
- Wilderness Act of 1964, 16 U.S.C. 1131 et seq.

- Clean Air Act, 42 U.S.C. 7401 et seq. (1970).
- National Environmental Policy Act of 1969, as amended (P.L. 91-910, 42 U.S.C. 4321-4347).
- Clean Water Act, 33 U.S.C. 1251 et seq. (2005).
- Executive Order 11991, Protection and Enhancement of Environmental Quality, May 24, 1977, 42 FR 26967.
- Executive Order 11988, Floodplain Management, May 24, 1977, 42 FR 26951 (see EO12148, amending, in part, EO 11988).
- Executive Order 11990, Protection of Wetlands, May 24, 1977, 42 FR 26961, amended by EO 12608, September 9, 1987.
- Convention between the United States and Mexico on Equitable Distribution of the Waters of the Rio Grande, May 21, 1906, U.S.-Mexico.

### **1.1.2 Social and Cultural Resources**

Some of the Federal laws and policies established to provide for public outdoor recreation use and enjoyment, and to preserve scenic, scientific, and historic features that are applicable to this Review and EIS are listed below.

- Historic Sites, Buildings and Antiquities Act, 16 U.S.C. 461 et seq. (2005).
- Archaeological and Historic Preservation Act, 16 U.S.C. 469 et seq. (2005).
- National Historic Preservation Act, 16 U.S.C. 470 et seq. (2005).
- Archaeological Resources Protection Act of 1979, 16 U.S.C. 470aa et seq. (2005)
- Antiquities Act of 1906, 16 U.S.C. 431 et seq. (2005)
- National Park Service Organic Act, 16 U.S.C. 14-4, 22, 43. (2005)
- General Authorities Act of 1970, 16 U.S.C. 1a-1(2005)
- Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971, 42 FR 26967
- Executive Order 13007, Indian Sacred Sites, May 24, 1996, 61 FR 26771
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, February 11, 1994, 59 FR 7629 (See EO12948 amending, in part, EO 12898, January 30, 1995, 60 FR 6381).

## **1.2 State and Local Statutes, Regulations, and Policies**

### **1.2.1 Natural Resources**

- Act of March 13, 1928, 45 Stat. 312, recognizing prior and paramount rights of the Six Middle Rio Grande Pueblos.
- Air Quality Control Act, §§ 74-2-1 to -17 NMSA 1978 (1967).
- Air Quality (Statewide), Chapter 20.2.72 NMAC 2005.
- Albuquerque/Bernalillo County Air Quality Control Board, Chapter 20.11.3 NMAC 2005.
- Water Quality Act, §§ 74-6-1 to -17 NMSA 1978 (1967).
- Environmental Compliance Act, §§ 74-7-1 to -8 NMSA 1978 (1983).
- Endangered Plants, § 75-6-1 NMSA 1978 (2004).

- Endangered Plant Species List and Collection Permits, Part 19.21.2 NMAC 2005.
- Removal, Capture or Destruction of Endangered Species, Part 19.33.2 NMAC 2005.

### **1.2.2 Social and Cultural Preservation Acts**

- Historic District and Landmark Act, §§ 3-22-1 to –5 NMSA 1978 (1983).
- Habitat Protection Act, §§17-6-1 to –11 NMSA 1978 (1973).
- Cultural Properties Act, §§18-6-1 to –23 NMSA 1978 (1969).
- Preservation and Maintenance of Registered Cultural Properties, Part 4.10.4 NMAC 2005.
- Review of Proposed State Undertakings that May Affect Registered Cultural Properties, Part 4.10.7 NMAC 2005.
- New Mexico Prehistoric and Historic Sites Preservation Act, §§18-8-1 to –8 NMSA 1978(1989).
- Implementation of the Prehistoric and Historic Sites Preservation Act, Part 4.10.12 NMAC 2005.
- Religious Freedom Restoration Act, §§ 28-22-1 to –5 NMSA 1978 (2000).

### **1.3 Tribal Laws, Regulations and Policies**

Many Federal laws and executive orders were designed to protect and preserve historic and cultural resources under Federal control in consultation with Native American Tribes. Some of the ones most applicable to this Review and EIS are listed below.

- American Indian Religious Freedom Act of 1978, 42 U.S.C. 1996a.
- Native American Graves Protection and Repatriation Act of 1990, 25 U.S.C. 3001 et seq.
- Religious Freedom Restoration Act of 1993, 42 U.S.C. 2000 cc et seq.
- Executive Order 13007, Indian Sacred Sites, May 24, 1996, 61 FR 26771.
- Secretarial Orders 3175, 3206, and 3215 on Indian Trust Assets.
- Act of March 13, 1928, 45 Stat. 312, recognizing prior and paramount rights of the Six Middle Rio Grande Pueblos.
- Applicable Tribal laws implementing federal laws.
- Laws or treaties establishing Indian Reservation within or adjacent to the project area.

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