

Discussion of the Landowner Certification of Non-navigable Water Rule – 19.31.22 NMAC



Non-navigable Water Rule

Senate Bill 226 (2015)

Amended 17-4-6 NMSA (1978)

Subsection C – “No person engaged in hunting, fishing, trapping, camping, hiking, . . . or any other recreational use shall walk or wade onto private property through non-navigable public water or access public water via private property unless the private property owner or lessee or person in control of private lands has expressly consented in writing”



Non-navigable Water Rule

19.31.22 NMAC – Effective January 2018

- Establishes application process by which a landowner can apply for Certification of a water segment within the property boundaries as a Non-navigable Public Water
- Upon receipt of a complete application, Director shall provide a written determination to the Commission
- Notice and hearing by Commission and, if approved, certification as a Non-navigable Public Water
- Signs issued by Department and paid for by landowner
- If Certified as Non-navigable Public Water and posted, property is subject to laws, rules, and regulations of trespass



Non-navigable Water Rule

- Commission has certified five private properties to include segments of water as Non-navigable Public Waters and subject to trespass laws under 19.31.22 NMAC
- Received two additional applications in September 2019

