



## **Attorney General of New Mexico**

**GARY K. KING**  
Attorney General

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Chief Deputy Attorney General

August 22, 2014

Paul Kienzle, Chairman  
Dr. Tom Arvas, Commissioner  
Ralph Ramos, Commissioner  
Thomas Salopeck, Commissioner

William Montoya, Vice-Chair  
Robert Espinoza, Commissioner  
Bob Ricklefs, Commissioner  
Alexa Sandoval, Director

VIA EMAIL

Dear Commissioners and Director Sandoval:

I write to you today to encourage the Game and Fish Commission to adopt regulations that will expedite the ability of the public to fish in public streams that flow across private lands.

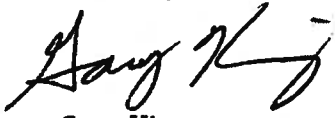
Attorney General Opinion No. 14-04 issued earlier this year, concluded that, under the New Mexico Constitution and longstanding judicial opinions, a "private landowner cannot prevent persons from fishing in a public stream that flows across the landowner's property, provided the public stream is accessible without trespass across privately owned adjacent lands."

I agree with the New Mexico Wildlife Federation's contention that, for too long, New Mexico landowners have enjoyed exclusive access to waters that should have been shared with all members of the public. As a private landowner myself, I understand and fully appreciate the importance of respecting legally sound private property rights. Nevertheless, New Mexico law does not permit a private landowner to exclude members of the public from fishing in public waters on the landowner's property, as long as the public waters are accessible without trespassing.

To date, the legislature has not enacted laws that expressly address the issue. Until it does, I believe the Commission has sufficient legal authority now to establish clear policy that permits, protects and properly regulates the right to use public waters for fishing, including those that run through private property. Accordingly, I encourage the Commission to act as soon as possible to develop policies and regulations that clarify the public's right to enjoy all of New Mexico's public streams

while protecting the property rights of private landowners. My office is prepared to assist and advise the Commission in its efforts to address this important issue

Sincerely,

A handwritten signature in black ink, appearing to read "Gary King". The signature is stylized with a large, looped "G" and a long, sweeping "K".

Gary King  
ATTORNEY GENERAL