



rec'd 4/5/11
at WQCC meeting

**STATE OF NEW MEXICO
WATER QUALITY CONTROL COMMISSION**

In the Matter of:)
)
PROPOSED AMENDMENT)
TO 20.6.2 NMAC (Dairy Rules))

WQCC 09-13R

STIPULATION ON MOTION FOR STAY

The parties to this rulemaking, New Mexico Environment Department ("NMED"), Dairy Industry Group for a Clean Environment ("DIGCE") and Amigos Bravos, the Rio Grande Chapter of the Sierra Club, and Caballo Concerned Citizens ("Coalition") hereby enter into the following stipulation concerning the current, "new" Dairy Rule:

1. On January 21, 2011, DIGCE filed a Notice of Appeal with the Court of Appeals to initiate an appeal of the final Dairy Rule adopted by the Commission in December 2010 and published on January 31, 2011 ("the Rule" or "Rules").
2. On January 28, 2011, DIGCE filed a Motion for Stay and Request for Hearing with the Commission.
3. The Commission has scheduled a hearing on the Motion for Stay for April 5, 2011.
4. NMED, DIGCE and the Coalition have entered into discussions regarding the possibility of reaching an agreement on proposed changes to the final Rules. If an agreement is reached, those changes would be presented to the Commission for its consideration.

5. DIGCE has filed a motion with the Court of Appeals to extend the time for the administrative record of the rulemaking to be filed with the Court of Appeals, and NMED and the Coalition have concurred in the motion in order to facilitate the settlement discussions.

6. The parties desire to postpone a hearing before the Commission on DIGCE's Motion for Stay pending settlement discussions, but agree that it is appropriate to suspend actions required of dairy owners and operators under the Rules pending the outcome of those discussions.

7. To facilitate the settlement discussions, NMED will issue an order suspending enforcement of the requirements of the Rule for dairy owners and operators to submit new permit applications (including applications to renew existing permits) or to pay fees, and for NMED to issue new permits under the Rule, and providing that NMED will take no enforcement action for the period described below against any person responsible for a dairy for noncompliance with the Rule, provided that any dairy facility who has an application due under the Rule shall submit a written notice to the department of its intent to file an application under the Rules within the timeframe specified under this Stipulation. Such written notice shall be submitted on or before May 2, 2011 for owners and operators required to submit applications under the Rule on or before that date and on or before the due date for a permit renewal application for other permittees. This suspension shall continue for the period of the settlement discussions, which shall coincide with the Court of Appeals' extension of the time to file the administrative record with the Court, and shall terminate upon the filing of the administrative record. If the

parties reach agreement on changes to the Rules to present to the Commission, the suspension shall continue in effect until the Commission takes final action on the rule changes. Any person required to submit a permit application or to pay fees under the new Rules during the period of the suspension or within 90 days after the suspension shall have until 90 days after the termination of the suspension to file the permit application or to pay fees in accordance with the Rules, except as NMED may provide on a case by case basis.

8. The Department may issue permits under the Rules during the suspension period if requested by an applicant

9. Following the suspension period, the Department may issue a schedule staggering the due dates for applications

10. NMED shall issue an Order consistent with the terms specified in paragraph 7 of this Stipulation and shall publish the Order on its website for the Rules.

11. If the suspension terminates without an agreement on the Rule changes, or at any time a party wishes to end the settlement process, any party to this stipulation may request a hearing on the Motion for Stay, to be scheduled for the next Commission meeting that takes place at least 20 days after termination of the suspension.

12. DIGCE shall provide a description of proposed changes to the Rules to NMED and the Coalition on or before April 15, 2011.

13. The parties agree to meet on a regular basis and to work in good faith to attempt to reach an agreement on proposed changes to the Rules to be presented to the Commission.

Respectfully Submitted,

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Certificate of Service:

I hereby certify that a true and accurate copy of the foregoing pleading was served upon the following parties this 5th day of April 2011 by electronic mail:

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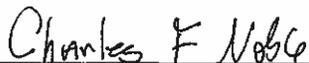
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