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April 15, 2011

Felicia Orth, Administrator
New Mexico Environmental Improvement Board
Harold Runnels Building, Rm N2150
1190 St. Francis Drive
Santa Fe, New Mexico 87505

EIB 11-08

Re: Amended Petition for Public Hearing to Consider a Proposed Amendment to the Liquid Waste Treatment and Disposal Fees in Title 20, Chapter 7, Part 11 of the New Mexico Administrative Code.

Dear Ms. Orth:

Link Summers, Pro Se, respectfully requests that the Environmental Improvement Board ("EIB") accept this amended petition for proposed amendments to the Liquid Waste Treatment and Disposal Fees, 20.7.11 NMAC. The purpose of the proposed amendments is to make corrections to the previously filed proposed amendments to the current regulations, to clarify various definitions and provisions and to provide accurate accounting and accountability so that the citizens and consumers who pay fees to the Liquid Waste Program are adequately protected. We respectfully request that the Board substitute this Amended Petition for the previously filed petition that has been scheduled for hearing in August of 2011. Summers expect that the hearing will take 1 day. Filing this amended petition for the hearing in August of 2011 will allow for 60 days notice to the public pursuant to NMSA 1978, §74-1-9D (1985).

The proposed amendments include:

Section 20.7.11.6 OBJECTIVE:

Amend to insert the word "education" after the word "administration" and before the words "and operation".

Section 20.7.11.7 DEFINITIONS:

B.

(2) Amend to delete the word "not" after the words "that is" and before the words "recognized".

(6) amend to insert the phrase "Liquid waste includes nonhuman animal excreta and other animal waste but shall be treated in a separate, properly - designed liquid waste treatment unit dedicated to the treatment of that waste only;" after the words "floor drains" and before the words "Liquid waste also includes";

(7) amend to insert new (g)

(g) to change the name on the permit of the person or contractor who performs the site evaluation, system design, or installation of an on-site liquid waste system.

Amend to add a new definition (10) -

(10) "report" means a printed document provided to the Environment Improvement Board as provided for Section 20.7.11.14 NMAC and to assure that the Environment Improvement Board fulfills its responsibility for consumer protection as provided in 74-1-8 A (3) NMSA 1978. A "report" shall include items in sufficient detail to prove by a preponderance of the evidence that the amounts of the Liquid Waste Treatment and Disposal Fees have been calculated in compliance with 74-1-8 A (3) NMSA 1978. A "report" shall include at least:

(a) An updated report from the appropriate authority in each of the states contiguous to New Mexico including Texas, Oklahoma, Colorado, Utah, and Arizona which includes:

i) Types of permits issued and the amount of the fee for each

ii) Services rendered that are included in the fees including:

(a) Reports issued to other units of Government including Legislatures which indicate the success or failure of the program to complete its mission

(b) Licenses, certification, or training required for employment in the program - including inspectors.

(c) Continuing education and additional training requirements for employees of the program - including inspectors

(d) Itemization of costs for the different types of permits, both completed and rejected, including appeals.

(e) Whether inspections are performed, how many and what procedures they include and what percentage of total permits are inspected

(f) Costs to implement the program

(g) Costs to administer the program

(h) Sources of funding for the program

b) An updated report from the New Mexico Environment Department which includes at least:

i) Types of permits issued and the amount of the fee for each

ii) Services rendered that are included in the fees including:

(a) Reports issued to other units of Government including Legislatures which indicate the success or failure of the program to complete its mission

(b) Licenses, certification, or training required for employment in the program - including inspectors.

(c) Continuing education and additional training requirements for employees of the program - including inspectors

(d) Itemization of costs for the different types of permits, both completed and rejected, including appeals.

(e) Whether inspections are performed, how many and what procedures they include and what percentage of total permits are inspected

(f) Itemized costs to implement the program

(g) Itemized costs to administer the program

(h) itemized sources of funding for the program

(c) A statement that the information contained in the report is true and accurate with regards to data generated in New Mexico and that the information concerning contiguous states was obtained from the appropriate named source with authority to release the information.

(d) Comments and explanations where appropriate

(10) Amend to renumber existing number (10) to become number (11).

Section 20.7.11.9 SEPTIC TANK MANUFACTURER CERTIFICATION FEE:

Amend to add the phrase "Prior to certification or recertification, the department engineer shall conduct a scheduled on-site inspection of in - state septic tank manufacturing facilities at least once a year and such unannounced inspections as are needed to assure product quality and provide consumer protection. The department shall not recertify septic tanks manufactured within the state nor collect the fees for recertification unless the inspection has been performed within one year of the recertification date. The engineer performing the inspection for certification or recertification shall prepare, date and sign a written report documenting compliance with each individual requirement of 20.7.3.501."

Section 20.7.11.12 PAYMENT OF FEES:

Amend to add the phrase ". Penalties for violation of this Section 20.7.11.12 shall be in accordance with 74-1-10 A NMSA 1978" after the words " are non-refundable".

Section 20.7.11.14:

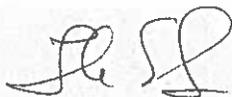
Amend to add the following language: "The department shall petition the Board to review, adjust, and reauthorize the fees based upon the report. The department shall demonstrate to the Board that the fees charged meet the requirements of 74-1-8 A (3) NMSA 1978. No fee shall be charged unless the Board reviews, adjusts, and reauthorizes the fee in compliance with 20.7.11.14 and 74-1-8 A (3) NMSA 1978. Penalties for violation of this Section 20.7.11.14 shall be in accordance with 74-1-10 A NMSA 1978" after the words "every six months thereafter".

Summers has diligently attempted to obtain accurate information concerning the accounting and disposition of funds in 20.7.11 with NMED. Recent events indicate to Summers that NMED's response has been inadequate based upon Summers understanding of the original intent of 74-1-8 A (3) NMSA 1978 and 20.7.11 NMAC . Consequently Summers believes that more explicit language is in order.

These proposed amendments will also be posted on the POWRA website (www.powranm.org).

Thank you for your consideration of this request.

Sincerely,



Link Summers, Pro Se

Certificate of Service

This will certify that an original of this Amended Petition was sent to the New Mexico Environment Improvement Board for filing this 15th day of April, 2011 by email to felicia.orth@state.nm.us and that copies of the foregoing were emailed to the following:

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