List of Comments from Public Meetings

June 1, 2009, Hobbs, 6:00-8:30 pm

- DIGCE read and submitted statement of opposition to the permittee and public meetings out of concern for the legality of the process.
- Request to make copies of presentation on website.
- Strong concern expressed about 65% ground water contamination.
- How did the 65% ground water contamination get to this point before something is being done about it?
- What can be done to clean the contamination up and how long does it take? In a lifetime?
- What is the potential harm to private water wells? Should citizens buy bottled water instead of drinking the water from their well?
- Concern that the contamination will not be cleaned-up.
- Has there been a successful clean-up from a dairy?
- How far does the contamination migrate in the aquifer from the source at the dairy?
- Who is responsible for ground water monitoring? Suggestion that it is a good use of money to have NMED performing sampling. Suggestion that a "third party" complete the sampling to verify the data collected by the dairy and NMED.
- Request that NMED serve as the watchdog of dairies for the public.
- Suggestion that stormwater impoundments for new dairies be lined upon construction.
- Concern that nitrate-nitrogen in concentrations less than the standard can be harmful by ingestion and absorption (across the skin).
- Why is the standard for nitrate-nitrogen is 10 mg/l and will it will be evaluated for being reduced to less than 10 mg/l?
- Concern about NMED extending deadlines for the dairies and therefore the abatement plans are taking a long time to be approved and implemented.
- Request that NMED enforce on strict deadlines and issue fines to the dairies if the deadlines are not met.
- Request that NMED not reduce the fines that are issued through settlement.
- Suggestion that GWQB salary be governed by the fines issued. Fines should not be re-appropriated by legislature.
- Concern about re-issuance of a permit when the dairies are out of compliance with the previous one.
- Suggestion that a permit not be authorized for an ownership transfer unless the dairy is in compliance with the permit.
- Concern about this being a debate of free enterprise vs. public health. How many people have to get sick or die before something is done?
- Suggestion that the dairies should be fined for discharging without a permit.
- Statement that NMED should not have to be babysitting the dairies.
- Why are setbacks greater for public wells than for private domestic wells? Suggestion that setbacks be the same for private domestic wells and public wells; both should be the greater distance of the two.

- NMDA read and submitted statement of support for 206 and support for the advisory committee to begin at beginning of drafting process.
- What is the make-up of advisory committee?
- Concern expressed that NMED moved forward too quickly with discussion draft; it is more important to get it right than to rush to get it done.
- Caution expressed to NMED to be careful during the process and let the process work as it is intended to work by taking comments from both sides (dairies and public).
- Concern about compost mixed with manure and land-applied to fields growing a feed-crop (cows eating cows).
- Statement that dairies have an investment in their property and do not want to see the investment lost if ground water is contaminated; dairies have an interest in protecting their investment.
- Suggestion that the advisory committee stay in place after the regulations are promulgated for continuing comment and review.

June 2, 2009, Portales, 6:00-8:30 pm

- What is the significance of measuring wastewater flow if the lagoon has already been sized to accommodate wastewater?
- Statement that the discharge volume to the wastewater impoundment does not need to be measured. Suggestion to use a custom engineered staff-gauge in lieu of a flow meter; measure the depth in the impoundment instead of the flow into the impoundment. Statement that a marker in the impoundment could be the most effective tool on the dairy. Statement that discharge volumes to the field are the critical volume dairies need to measure.
- Why has sulfate been added to the list of constituents for wastewater and stormwater?
- Where are the setbacks measured from at the dairy?
- Suggestion that there be an exception for setbacks to facility-owned wells (water supply and irrigation).
- Why does a new facility with a properly constructed management systems need a setback from a flood zone?
- What is the definition of 100-year flood zone and how it is determined?
- What is the definition of a playa?
- When do setbacks apply? Suggestion that this needs clarification. Would it apply to a dairy that has been shut-down and then 5 years later re-opened by a different owner? Suggestion to define "new" dairy.
- DIGCE read and submitted statement of opposition to the permittee and public meetings out of concern for the legality of the process.
- NMDA read and submitted statement of support for 206 and support for the advisory committee to begin at beginning of drafting process.
- Statement that NMED did not consider dairy industry in drafting process. Statement that this is a unique situation because dairies invited regulation (frequently industry tolerates regulation, but they do not invite them). Statement that the dairy industry has concerns about the pace of the regulation development.

- Statement that legislative expectation was to see progress within one year, not completion within one year.
- Statement that NMED should be commended on the efforts to protect the environment. Statement that this is a national issue, but has been addressed too little and too late.
- Suggestion that the advisory committee stay in place after the regulations are promulgated for continuing comment and review.
- Suggestion that more funding be available so that NMED can do more site visits with permittees at least on an annual basis.
- Statement that NMED has a unique opportunity to "do it right".
- Statement that it is disturbing that we currently have regulations and 65% of dairies have contamination; this indicates a failure in the current process.
- Statement that the focus needs to be on the waste, not on water.
- Statement that the focus needs to be on reducing nitrogen instead of increasing monitoring wells.
- Suggestion to include active solutions, not passive monitoring.
- Statement that the regulations by definition are regressing by requiring excessive paperwork and are doing nothing for compliance.
- Suggestion to throw the discussion draft in the trash and start over.
- Suggestion to look at other state's regulations.
- Statement that these regulations need to be tolerated by the industry.
- Statement that they contain too many engineering requirements, "Engineers Right to Work Act".
- Suggestion that the dairies need to be able to get approval for certain components while they are waiting for the permit to be set effective.
- Suggestion that prescriptive regulations be made through regulatory development between the dairies and NMED work to reduce the cumbersome permitting process by making.

June 15, 2009, Roswell, 6:00-8:30 pm

- Statement that a number of farmers (not dairies) spread fertilizer through irrigation systems. Suggestion that NMED may need to think about the backflow prevention needs/requirements of these farmers.
- Does the setback for private domestic wells apply to existing facilities and their activities (irrigation ditches/ irrigation systems)?
- Should monitoring wells be installed closer to the private domestic wells to watch for contamination.
- Statement that setbacks are a "good addition".
- Statement from a citizen that it is nice to see that after 12 years the State tested her well and nitrate was close to the standards. Citizen stated that she tried early on (12 yrs ago?) to organize meetings concerning water contamination from dairies: the dairies were not interested in rules then. Citizen stated that she is glad that is has finally come into law to prevent contamination.
- Statement that NMED-GWQB has a nice website with much information; there were no problems opening the discussion draft document.

- Request for another water-fair in the near future.
- NMDA read and submitted statement of support for 206 and support for the advisory committee to begin at beginning of drafting process.

June 16, 2009, Mesquite, 6:00-8:30 pm

- Has the advisory committee been formed yet, and if so, who are the members of the advisor committee?
- How is the committee formed or appointed?
- How can someone request to participate on the advisory committee?
- 65% of dairies have contamination; so when are liners upgraded to synthetic liners?
- How many dairies have been required to upgrade liner?
- Are you considering surface water protection in these regulations or is it not included because it is under jurisdiction of another agency? Does the Ground Water Quality Bureau (GWQB) consider surface water protection or is it another bureau that does this; like the Surface Water Quality Bureau (SWQB)?
- If there are surface water concerns, are the dairies required to get a NPDES permit?
- Are the regulations designed to protect waters of the state or waters of the US?
- Of the 65 % of the dairies with contamination how many are in abatement? Abatement I or Abatement II? Any in the Mesquite area in Stage II?
- How often does NMED inspect the dairies?
- How many staff work on the dairies?
- Statement that the public is placing too much trust in the industry for reporting, but they have failed many, many times.
- Statement that the discussion draft places burden on the dairies to report; this may be problematic.
- Would NMED inspect new facilities coming in?
- Statement that many dairies in the state continue to discharge with expired permits. Will this be addressed in these new policies?
- Statement from citizen that if inspections are occurring, he/she is not so concerned with timely permit renewal.
- What if the dairy does not have enough water rights to grow the crop? For example, if they are growing alfalfa that takes 4 ac-ft, but they only have 3 ac-ft?
- Does the public get to see the Nutrient Management Plan (NMP)?
- In the permit processing, is there a process for other agencies to review the applications or must they wait until the public comment process?
- Statement that there is a problem with having all these hearings, but no enforcement. What is NMED doing for increased enforcement authority in the future?
- On a scale of 0 to 100, what is the industry's impact on these regulations?
- Statement by citizen; "I assume rules will go thru EPA review and approval process."
- What impact would it have if the US government did claim ground water in NM as waters of the US?
- How are changes in ground water flow direction affected by pumping influences?
- Does NMED get regular receipt of monitoring reports?

- Is there a provision to partner with NMSU for conducting a monitoring program at dairies?
- Is the land application area (LAA) considered to part of the area required for setbacks?
- Suppose one of the irrigation canals is continually flowing for a period of time, is that included in the setback zones? Suggestion to include irrigation canals and ditches in setback zones and suggestion for consideration of time when canals are running.
- Concern about flooding from a pipe break or something from the LAA. Suggestion for berming of the LAA for at least 100-yr flood.
- Concern noted about E. Coli in the irrigation systems.
- Who introduced SB 206?
- Concern about waste being transported to irrigation ditches; concern that ditch and waste should not leave the dairy property.
- Suggestion that deadline requirements should be more clearly defined as calendar days, rather than being interpreted as working days.
- Are there any requirements for closure contingency funds (financial assurance)?
- Statement that there has been some discussion about treatment coming to help dairies with their wastewater. How would that effect the permitting of dairies and these rules?
- Concern that regarding Total Maximum Daily Loads (TMDLs), the public is getting mixed signals from NMED.
- Concern that there are no Best Management Practices (BMPs) to address E. Coli entering surface water. Request that surface water be sampled to find contributing sources. Suggestion for NMED to look at link between ground water and surface water protection.
- Statement that NMED should be commended for the efforts put into this discussion draft; it is much better than what has been seen before.
- Is there interaction with the Air Quality Bureau? Is there the possibility of regulating dust and odor?
- Is abatement included under other regulations?
- NMDA read and submitted statement of support for 206 and support for the advisory committee to begin at beginning of drafting process.

June 23, 2009, Los Lunas, 6:00-8:30 pm

- What is the purpose of the 60-day minimum storage requirement? For solids settling?
- How are setbacks from impoundments, production areas and fields, different from the current regulations?
- Were other state's regulations considered when drafting the setback requirements?
- Monitoring wells will be required at all dairy facilities now; is that correct?
- If NMED starts to see contamination in the monitoring wells will the dairy have to do something about it; will they have to enter into abatement?
- Will the upgradient monitoring well be used to take action on upgradient land owners?
- If the upgradient monitoring well shows ambient contamination and the dairy causes the ground water quality to exceed the ambient contamination, would the permit be denied?
- Have there been any changes to the monitoring well requirements?

- Is it possible that the standard required screen length (5 feet above the static water level and 15 feet below the static water level) for the monitoring wells change? To prevent this dilution?
- Does NMED feel that by purging 3 times and collecting a sample, that the sample isn't getting diluted from pulling ground water across the entire 15 feet of screen?
- Suggestion to reduce the amount of dilution in the ground water sample by reducing the allowable screen length to less than 15 feet below the static water table.
- Is the construction of monitoring wells consistent?
- Is there money offered by the government for installing monitoring wells? Is there money offered by the government to assist existing dairies to come into compliance?
- Can you use a USGS quad map to satisfy the application requirement for wells w/in 1-mile radius of the facility?
- Who are the participants of the advisory committee and stakeholder meetings?
- Has there been consideration for setbacks for state parks and wildlife areas? Suggestion that these be incorporated into the setbacks.
- Statement that NMED is not involved enough in the data that is submitted by the dairies to make a decision. During the first Parasol hearing NMED staff stood behind the information submitted by the dairy; information that, in the end, was turned up-side-down by other agencies and found to be inaccurate. NMED needs to be involved firsthand and question information submittals.
- Suggestion that NMED do more of the geo-technical work such that more site-specific data is collected by NMED.
- Suggestion that NMED require complete engineered plans to be submitted with the application.
- Statement that the three most important things to consider when permitting a dairy are location, location, location. Statement that some locations should be "thanks but no thanks"; some locations just are not safe.
- Statement that the public wants NMED to succeed and not continue to fail with permitting these facilities correctly.
- Statement from citizen that NMED has done a good job protecting the dairy industry with these regs; there are not a detriment to them at all, but rather a protection for them. Statement that NMED should be commended for their efforts.
- NMDA read and submitted statement of support for 206 and support for the advisory committee to begin at beginning of drafting process.
- Statement from citizen that he/she feels the aggressive pace NMED is achieving is very necessary and NMED should be commended for it.
- Statement of concerned with the aggressive time frame, but it is understandable because SB 206 called for an end to stipulated conditions.
- Statement that the discussion draft is a start, but still does not completely meet the missions of the NMED or the WQCC. Suggestion that NMED needs to consider the 65 % contamination with this opportunity for protection; this is the time and opportunity to get this right.