

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

IN THE MATTER OF PROPOSED AMENDMENTS  
to 20.6.8 NMAC – *Ground and Surface Water  
Protection – Supplemental Requirements for Reuse of  
Treated Produced Water*

No. WQCC 25-34 (R)

Water Access Treatment & Reuse Alliance,

Petitioner.

**ENERGY TRADE ASSOCIATIONS’ STATEMENT OF OPPOSITION  
TO ENVIRONMENTAL NON-GOVERNMENTAL ORGANIZATIONS’  
MOTIONS TO DISQUALIFY**

The New Mexico Oil and Gas Association (“NMOGA”), Independent Petroleum Association of New Mexico (“IPANM”), and Permian Basin Petroleum Association (“PBPA”) (together, NMOGA, IPANM, and PBPA are referred to as the “Energy Trade Associations”) hereby file this statement of opposition to the following motions: (1) New Energy Economy (“NEE”) Daniel Tso’s Motion to Disqualify Cabinet Secretary Commissioners and Vacate July & August Orders (filed Sept. 25, 2025) (“NEE Motion”) and (2) the Center for Biological Diversity (“CBD”) and Mario Atencio’s Motion to Disqualify Commissioners and Vacate Order Setting Hearing on WATR Alliance Petition (filed Sept. 25, 2025) (“CBD Motion”). Both motions rely on principles of due process. *See* NEE Motion at 5 (“Due process requires a fair and impartial tribunal”); CBD Motion at 1 (the motion “is rooted in constitutional requirements of due process and fundamental legal principles of fairness”). It is well established under New Mexico law, however, that there is no constitutional guarantee of due process in a rulemaking. *See Southwestern Public Service Company v. New Mexico Public Regulation Comm’n*, 2025-NMSC-013, ¶¶ 48-49, 572 P.3d 878; *Livingston v. Ewing*, 1982-NMSC-110, ¶ 14, 98 N.M. 685. *See also Miles v. Board of County Com’rs of County of Sandoval*, 1998-NMCA-118, ¶ 8, 125 N.m. 608. (“[p]rocedural due process

does not apply when government makes a policy decision that has an adverse impact on an entire classification of individuals ..., even if the decision has the same adverse effect on the interests of the members of the group as would an individualized deprivation.”).

Amigos Bravos (“AB”), Sierra Club (“SC”), and Western Environmental Law Center (“WELC”) also filed a Motion to Disqualify Seven Commissioners and Their Designees and Vacate Commission Vote Granting WATR’s Request for Hearing (filed Sept. 29, 2025) (“AB Motion”). The response to the AB Motion is due Monday, October 13, 2025. All three motions cover overlapping issues and include nearly identical arguments. Rather than repeat arguments multiple times in multiple response briefs, the Energy Trade Associations will provide a single consolidated response on Monday. The arguments from that consolidated response are incorporated herein by reference.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I certify that on October 10, 2025 a copy of the foregoing **Energy Trade Association’s Statement of Opposition to Environmental Non-Governmental Organizations’ Motions to Disqualify** was emailed to the following:

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