

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

Pamela Jones

IN THE MATTER OF:

**PETITION FOR REGULATORY CHANGE TO
ADOPT AMENDMENTS TO 20.6.2 NMAC
AND NEW RULE 20.6.5 NMAC**

No. WQCC 25-74 (R)

New Mexico Environment Department,

Petitioner.

PRE-HEARING ORDER

On December 9, 2025, the Water Quality Control Commission (“Commission” or “WQCC”) granted a hearing in the proposed rulemaking to amend 20.6.2 NMAC and adopt a new rule at 20.6.5 NMAC, docketed as WQCC 25-74. Felicia Orth was designated as the Hearing Officer by the Commission.

On December 17, 2025, Counsel for the Petitioner, San Juan Water Commission, Amigos Bravos, New Mexico Acequia Association, New Mexico Wilderness Alliance, and Bruce Wetherbee (pro se), met with the Hearing Officer and staff from the Office of Public Facilitation to discuss scheduling the hearing and filing deadlines.

Based on that discussion, the Hearing Officer orders as follows:

1. The public hearing in this matter will be conducted in-person at the State Capital Building, with a virtual participation option, beginning at 9:00 a.m. on Monday, June 8, 2026 and continuing for approximately nine (9) business days through Thursday, June 18, 2026, as necessary, to hear all testimony, evidence, and public comment.

2. The Commission may choose to deliberate on the Petition following the close of the record, or may choose to deliberate in a subsequent meeting, pursuant to 20.1.6.306 NMAC.
3. Entries of appearance and notices of intent (NOIs) for the direct technical testimonies of all parties planning to make them shall be filed pursuant to this Order and 20.1.6.202 NMAC on or before April 15, 2026, 5:00 p.m.
4. Unless, no later than 5 p.m. on March 13, 2026, Petitioner has filed an amended Petition or confirmed that they will not be amending their original Petition, Petitioner's deadline for the direct NOI is April 1, 2026.
5. NOIs shall include a full narrative of direct technical testimony and all exhibits other than demonstrative exhibits, which may include PowerPoint presentations. The NOI shall:
 - (1) identify the person for whom the witness(es) will testify;
 - (2) identify each technical witness the person intends to present and state the qualifications of that witness, including a description of their educational and work background;
 - (3) include a copy of the direct testimony of each technical witness in narrative form;
 - (4) include the text of any recommended modifications to the proposed regulatory change; and
 - (5) list and attach all exhibits anticipated to be offered by that person at the hearing, including any proposed statement of reasons for adoption of rules.

6. NOIs and other documents submitted to the Commission Administrator shall be filed electronically and served electronically on all parties reflected on the service list maintained by the Administrator. The requirements in 20.1.6.104 NMAC to file multiple paper copies of documents are waived; one paper copy of all NOIs shall be delivered to the Commission Administrator for the Hearing Officer's use no later than noon (12:00 p.m.) on June 5, 2026.
7. In the event a party seeks to present rebuttal testimony, a rebuttal NOI must be filed with the Commission Administrator no later than May 15, 2026, 5:00 p.m., with full narrative of rebuttal testimony and the other required elements in the direct NOI and filed and served electronically all as detailed above.
8. The technical witnesses for each party shall not read their narrative testimony from the NOI during the public hearing, but offer a summary of their direct testimony not to exceed 40 minutes, and a summary of any rebuttal testimony not to exceed 30 minutes, unless otherwise authorized by the Hearing Officer.
9. Petitioners will make their presentations first and may order their witnesses as they agree to for optimal presentation to the Commission. The order of presentation by other parties will be decided in a pre-hearing conference prior to hearing. The Hearing Officer retains discretion to deviate from that schedule, taking witnesses or issues out of order as necessary based on circumstances or time constraints that arise during the hearing.
10. Panels: Any party may present its witnesses for some or all of its presentation as a panel of no more than three persons. If witnesses testify as members of a panel, clarifying questions and cross-examination will occur only after all panel members have testified.

11. Other parties may ask clarifying questions and cross-examine individual witnesses or witness panels at the conclusion of all direct testimony by individual witnesses or witness panels. Cross-examination by the parties will be in reverse order of their direct testimony placement. Thereafter, Commissioners may question all witnesses.
12. Public Comment: The Hearing Officer will provide an opportunity for non-technical public comment each day of the hearing in a manner that accommodates the public pursuant to 20.1.6.204 NMAC. This may require interrupting the technical testimony from time to time. Public comment sessions will be expressly reserved each day at 4:00 p.m.
13. Members of the public wishing to offer non-technical public comment may do so only once either in person or on the virtual platform with access provided and managed by the Administrator. Oral public comment is limited to 3 minutes; written public comment submitted to the Administrator is unlimited and must be received prior to adjournment of the hearing. Written public comment may be submitted electronically or as a single original document.
14. Although 20.1.6.301.C NMAC provides that any person who testifies at the hearing is subject to cross-examination on the subject matter of their direct testimony and matters affecting their credibility, the parties are encouraged to limit such cross-examination of non-technical witnesses, including the public, to avoid harassment, intimidation, needless expenditure of time, or undue repetition. The Hearing Officer may take appropriate action to limit any such cross-examination.

15. Those wishing to comment may be invited but will not be required to sign up for the time slot they wish to speak in.
16. The deadline for dispositive motions is May 22, 2026. Responses may be filed with the Commission Administrator and served on parties no later than May 29, 2026, and replies no later than June 4, 2026.
17. Procedural motions and motions *in limine* may be filed with the Commission Administrator and served until May 22, 2026, with responses due by June 1, 2026, and replies to be heard at the beginning of the hearing on June 8, 2026. This requirement does not apply to such motions that could have been reasonably anticipated to be filed prior to May 22, 2026.
18. Demonstrative exhibits, including PowerPoint or other slide presentations, shall be shared or uploaded no later than noon (12:00 p.m.) on June 4, 2026, to a folder for which a link will be provided to all parties to facilitate the sharing of large files. This will allow for review by all parties and the members of the Commission prior to the hearing.
19. To the extent not in conflict with the above, the Rulemaking Procedures found in 20.1.6 NMAC apply.

-original signed by-
Felicia L. Orth, Hearing Officer

CERTIFICATE OF SERVICE

I hereby certify that on January 15, 2026, a copy of the foregoing was emailed to the persons listed below. A copy will be mailed first class upon request.

Brecken Scott
Christal Weatherly
Assistant General Counsel
New Mexico Environment Department
Brecken.Scott@env.nm.gov
Christal.Weatherly@env.nm.gov
Counsel for the New Mexico Environment Department

Sally Paez
Sally@nmwild.org
Counsel for NM Wilderness Alliance

Tannis Fox
fox@westernlaw.org
*Counsel for Amigos Bravos, NM Acequia Assn.,
and NM Wilderness Alliance*

Elizabeth Newlin Taylor
etaylor@taylormccaleb.com
Counsel for San Juan Water Commission

Bruce Wetherbee
editor@thecandlepublishing.com
Pro Se

David Kirmse
Jennifer Bradfute
Matthias Sayer
Jennifer@bradfutelaw.com
matthias@bradfutelaw.com
david@bradfutelaw.com
Counsel for WATR Alliance

Eduardo Ugarte
NM Department of Justice
Eduardo.ugarte@nmdoj.gov
Board Counsel

Felicia L. Orth
Felicia.l.orth@gmail.com
Hearing Officer

/s/ Pamela Jones
Pamela Jones
Commission Administrator
Office of Public Facilitation