

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



In the Matter of:

**PROPOSED AMENDMENTS TO
GROUND AND SURFACE WATER
PROTECTION REGULATIONS,
20.6.2 NMAC**

WQCC 17-03(R)

**ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
NOTICE OF POSITION ON PROPOSED AMENDMENTS**

Pursuant to the Scheduling Order in this matter, the New Mexico Energy, Minerals and Natural Resources Department ("EMNRD") presents its Notice of Position on the Proposed Amendments to 20.6.2 NMAC submitted by the New Mexico Environment Department ("NMED").

I. Background.

EMNRD has a number of interests impacted by the changes to 20.6.2 NMAC. First, the Oil Conservation Division ("OCD") and the State Parks Division of EMNRD are constituent agencies under the Water Quality Act, NMSA 1978, Section 74-6-2(K). The Water Quality Control Commission has delegated the administration of its regulations for oil and natural gas facilities to OCD. NMSA 1978, Section 74-6-4(F). Thus, OCD is responsible for administering 20.6.2 NMAC for oil and gas facilities subject to the Water Quality Act, including issuing discharge permits and taking compliance actions.

Second, several EMNRD divisions, along with NMED, are responsible for administering the federal Safe Drinking Water Act Underground Injection Control ("UIC") program at various facilities. See 40 CFR 147.1601. These include programs administered under separate regulatory authorities and under the Underground Injection Control portion of 20.6.2 NMAC. 20.6.2.5000 to 20.6.2.5399 NMAC.

Finally, several EMNRD programs regulate groundwater protection under other statutory provisions and are exempt from 20.6.2 NMAC. These include discharges regulated under the Oil and Gas Act, NMSA 1978, Sections 70-2-1 et seq., the Surface Mining Act, NMSA 1978, Sections 69-25A-1 et seq., and the Geothermal Resources Development Act, NMSA 1978, Sections 71-9-1 et seq.

II. Statement of Position

EMNRD generally supports the amendments submitted by NMED. Specifically, EMNRD is in strong support of the amendments to the following subsections:

- 20.6.2.3105.L, .M, and .N NMAC
- 20.6.2.5101.D (1), (2) and (3) NMAC

These changes mostly update 20.6.2 NMAC to clarify the names of the entities and the names of the statutes which relate to the exemptions mentioned above. Of particular importance is the repeal of the Geothermal Resources Conservation Act, Sections 71-5-1 et seq. and its replacement with the Geothermal Resources Development Act, Sections 71-9-1 et seq. That change narrowed the scope of EMNRD's geothermal regulation, and therefore the scope of the exemption from 20.6.2 NMAC, and also transferred the regulation of geothermal facilities from one EMNRD division (OCD) to another, the Energy Conservation and Management Division. The changes to 20.6.2.3105.N and 20.6.2.5101.D(2) reflect this shift.

III. Proposed Amendments

EMNRD has no proposed amendments to the NMED Petition.

Respectfully submitted,



WILLIAM BRANCARD

CHERYL L. BADA

Energy, Minerals and Natural Resources Department

1220 South St. Francis Drive

Santa Fe, NM 87505

(505) 476-3210

bill.brancard@state.nm.us

cheryl.bada@state.nm.us

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served the following by electronic mail this 27th day of July, 2017.

Ms. Pam Castaneda, Administrator
Water Quality Control Commission
Room N-2168, Runnels Building
1190 St. Francis Dr.
Santa Fe, NM 87505
Pam.Castaneda@state.nm.us

New Mexico Environment Department
Office of General Counsel
Lara Katz
John Verheul
Post Office Box 5469
Santa Fe, NM 87502
Lara.Katz@state.nm.us
John.Verheul@state.nm.us

Timothy A. Dolan
Office of Laboratory Counsel
Los Alamos National Laboratory
P.O. Box 1663, MS A187
Los Alamos, NM 87545
tdolan@lanl.gov

Michael Bowen
Executive Director
New Mexico Mining Association
1470 St. Francis Drive
Santa Fe, NM 87505
nmma@comcast.net

Jaimie Park
Douglas Meiklejohn
Eric Jantz
Jonathan Block
New Mexico Environmental
Law Center
1405 Luisa St., Suite 5
Santa Fe, NM 87505
jpark@nmelc.org

Pete Domenici
Lorraine Hollingsworth
320 Gold St. SW, Ste. 1000
Albuquerque, NM 87102
pdomenici@domenicilaw.com
lhollingsworth@domenicilaw.com

Louis W. Rose
Karie Olson
P.O. Box 2307
Santa Fe, NM 87504-2307
lrose@montand.com
kolson@montand.com

Rachel Conn
Amigos Bravos
P.O. Box 238
Taos, NM 87571
rconn@amigosbravos.org

Dalva L. Moellenberg
Gallagher & Kennedy, P.A.
1239 Paseo de Peralta
Santa Fe, NM 87501
DLM@gknet.com

William Olson
14 Cosmic Way
Lamy, NM 87540
billjeanie.olson@gmail.com

Russell Church, President
NMML EQA Subsection
New Mexico Municipal League
P.O. Box 846
Santa Fe, NM 87504
rchurch@redriver.org

Michael L. Casillo
AFLOA/JACE
1500 W. Perimeter Rd, Suite 1500
Joint Base Andrews, Maryland 20762
Michael.1.casillo2.civ@mail.mil

John T. Grubescic
Office of the Attorney General
P.O. Box 1508
Santa Fe, NM 87504-1508
jgrubescic@nmag.gov