

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



**IN THE MATTER OF PROPOSED  
AMENDMENTS TO GROUND AND  
SURFACE WATER PROTECTION  
REGULATIONS, 20.6.2 NMAC**

**No. WQCC 17-03 (R)**

**LOS ALAMOS NATIONAL SECURITY, LLC'S  
COMMENTS ON THE REVISED HEARING OFFICER'S REPORT**

Los Alamos National Security, LLC (“LANS”) submits its comments on the Revised Hearing Officer’s Report, filed June 29, 2018 (“Revised Report”). LANS joins the comments submitted by the New Mexico Environment Department (“NMED”) on July 2, 2018. In addition, LANS objects to the following provisions of the Revised Report:

1. Page 10, paragraph 47, third sentence: The sentence is a statement of fact, without an evidentiary basis, and is not a statement of authority appropriate for the “Authority” section of the Revised Report.

2. Page 10, paragraph 48, second sentence: The statement is a quote from the Environmental Improvement Act, NMSA 1978, § 74-1-12.A (1999) and relates to the Legislature’s purpose in creating the Water Conservation Fee and authority for implementing the federal Safe Drinking Water Act. It is not a statement of authority, and therefore, is inappropriate in this section of the Revised Report.

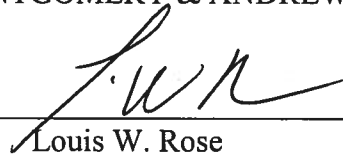
3. Page 10, paragraph 49: The statements do not relate to the Commission’s authority to adopt any of the proposed rules at issue in this proceeding. Additionally, the reference to Article XX, § 21 of the New Mexico Constitution is incomplete. Section 21 also states that “The legislature shall provide for control of pollution and control of despoilment of the air, water, and other natural resources of this state, consistent with the use and development of these resources for the maximum benefit of the people.” In 2015, the Court of Appeals decided that, in connection

with air pollution, that the legislature has enacted a statutory framework to address how protection for the environment is to be implemented. *Sanders-Reed v. Martinez*, 2015-NMCA-063, ¶ 17, 350 P.3d 1221, 1226. Thus, the Constitution does not provide authority for this Commission's decision; that authority rests with the Water Quality Control Act, NMSA 1978, §74-6-1 to 17.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I hereby certify that on July 5, 2018, a true and correct copy of the foregoing *Los Alamos National Security, LLL's Comments on Revised Hearing Officer's Report* served via electronic mail or hand-delivered to the following:

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