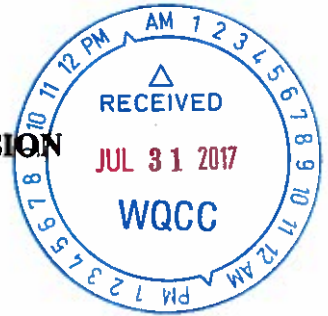


**STATE OF NEW MEXICO
BEFORE THE WATER QUALITY CONTROL COMMISSION**



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

No. WQCC 17-03(R)

**WILLIAM C. OLSON
MOTION TO AMEND EXHIBIT A OF REVISED PROCEDURAL ORDER**

On May 31, 2017, the Hearing Officer issued a Procedural Order governing the conduct of the upcoming Water Quality Control Commission (WQCC) hearing in the matter of the New Mexico Environment Department's (NMED) proposed amendments to the WQCC's Ground and Surface Water Protection Regulations at 20.6.2 NMAC. On June 2, 2017, the Hearing Officer issued a Revised Procedural Order (Order) modifying some of the filing deadlines tabulated in Exhibit A attached to the Order. Both the Procedural Order and the Revised Procedural Order in Exhibit A contain a September 29, 2017 "*Deadline for the parties to file statements of position taken (support for, opposition to, or no position taken) on amendments proposed by parties other than NMED*".

As a party to the hearing, on June 2, 2017, I sent the Hearing Officer an email, copied to all parties to the hearing, requesting clarification of this requirement and asking how it relates to direct and rebuttal testimony filings. The Hearing Officer did not respond to my request. However, the Hearing Officer on June 20, 2017 sent an email responding to an inquiry regarding my request sent from counsel for a separate party, the New Mexico Environmental Law Center.

In that email, copied to all parties, the Hearing Officer indicated that she was not comfortable having email discussions with parties to the hearing; that I raised some good issues in my June 2, 2017 email; that she hoped to address my questions during the last scheduling conference; and, that I could file a motion for a written response.

In response to the Hearing Officer's suggestion, I hereby move to amend Exhibit A of the Revised Procedural Order to remove the September 29, 2017 filing requirement that the parties file "statements of position" taken on amendments proposed by parties other than NMED for the following reasons:

1. The filing of "statements of position" on other parties proposed amendments is required a little over 2 weeks after each party files written direct testimony on September 11, 2017 and approximately 2 weeks before the filing of written rebuttal testimony on October 13, 2017. Written direct testimony will contain the detailed technical rationale for all parties proposed amendments to the rules as well as their detailed analysis of NMED's proposed rules. Written rebuttal testimony will contain the positions of the parties, again including detailed technical analyses, regarding amendments proposed by each of the other parties. The submission of separate "statements of position" is redundant to filing rebuttal testimony and is therefore unnecessary.

2. The "statements of position" on other parties' proposed amendments occurs in the middle of the time period for preparation of rebuttal testimony. During this time, parties are analyzing the technical basis for each party's proposed amendments, consulting with experts, and developing their own technical responses. The additional requirement of filing "statements of position" in this rebuttal preparation time period places an unnecessary and undue burden on the parties, especially parties who are members of the public, to separately prepare documents

regarding other party's amendments that will already be addressed in written rebuttal testimony submitted 2 weeks later.

3. This additional requirement not only places an unnecessary burden upon the parties, but reviewing "statements of position" that is redundant to positions taken in rebuttal testimony does not represent a good use of limited WQCC resources.

4. There is no discussion in the text of the Order regarding the purpose or intent of the requirement to file "statements of position" separate from those positions taken in written rebuttal testimony.

5. The Hearing Officer's suggestion to address this issue at the last scheduling conference will come too late because, according to Exhibit A of the Revised Procedural Order, the last scheduling conference is set for October 13, 2017 -- approximately 2 weeks after the deadline for submission of "statements of positions" on amendments proposed by other parties.

A draft of this motion was distributed to the parties on the service list for review on July 19, 2017. The draft motion was also distributed to the New Mexico Municipal League Environmental Quality Association Subsection, a new party to the hearing, on July 28, 2017 for their review. At the time of this filing, the NMED, New Mexico Energy Minerals and Natural Resources Department, Gila Resources Information Project and Amigos Bravos concurred in the motion and the Dairy Industry Group for a Clean Environment, New Mexico Mining Association and City of Roswell do not oppose the motion. In addition, Los Alamos National Laboratory Security LLC indicated that it opposed the motion and, at the time of this filing, there was no response from the United States Air Force and New Mexico Municipal League Environmental Quality Association Subsection.

For the foregoing reasons, I respectfully request that the Hearing Officer amend Exhibit A of the Revised Procedural Order to remove the September 29, 2017 filing requirement that the parties file "statements of position" taken on amendments proposed by parties other than NMED.

DATED this 31st day of July, 2017.

Respectfully submitted,

By:

A handwritten signature in blue ink, appearing to read "William C. Olson", is written over a horizontal line.

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CERTIFICATE OF SERVICE

I hereby certify that on July 31, 2017, a true and correct copy of the foregoing *William C. Olson Motion to Amend Exhibit A of Revised Procedural Order* was served via electronic mail to the following:

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