



**STATE OF NEW MEXICO
WATER QUALITY CONTROL COMMISSION
1190 St. Francis Drive, Suite S-2102
Santa Fe, New Mexico 87505
Phone: (505) 827-2428**

CONSTITUENT AGENCIES

**Environment Department
Game and Fish Department
Department of Agriculture
State Parks Division
Bureau of Geology and Mineral Resources**

**State Engineer & Interstate Stream Commission
Oil Conservation Division
Department of Health
Soil and Water Conservation Commission
Members-at-Large**

January 3, 2020

Ken McQueen
Regional Administrator
U.S. Environmental Protection Agency, Region 6
1201 Elm St., Suite 500
Dallas, TX 75270

Re: Request for EPA's review and approval of designated use amendments to San Isidro Arroyo, Mulatto Canyon, Arroyo Tinaja and Doctor Arroyo in McKinley County, New Mexico

Dear Mr. McQueen,

Pursuant to 20.6.4.15 NMAC, the State of New Mexico Standards for Interstate and Intrastate Surface Waters, Peabody Natural Resources Company ("Peabody") conducted a Use Attainability Analysis ("UAA") for four waterbodies within the Lee Ranch Mine in McKinley County, New Mexico. The UAA prepared by Peabody evaluated the extent of the natural low-flow conditions along the San Isidro Arroyo, Mulatto Canyon, Arroyo Tinaja and Doctor Arroyo within the Lee Ranch Mine site, not already evaluated in previous studies.

Peabody solicited public participation on the proposed amendments from March 13 through April 12, 2019 and held a public meeting on the Draft UAA and proposed water quality standards amendments on March 26, 2019. Subsequently, Peabody petitioned the Water Quality Control Commission ("WQCC") for a hearing on the proposed amendments on April 5, 2019. Public notice of the hearing was published in the New Mexico Register on July 30, 2019, and in the Albuquerque Journal and the Gallup Independent on August 2, 2019. A public hearing was held before the WQCC and a Hearing Officer on October 8, 2018. At the public hearing, Peabody and the New Mexico Environment Department presented technical testimony in support of the proposed rulemaking. No other party entered an appearance in this matter, and there was no public comment. The WQCC deliberated on October 8, 2019, at which time it voted unanimously to adopt Peabody's proposed amendments. The rule was filed with the State Records and Archives and became effective for State purposes on December 17, 2019.

In accordance with 40 CFR §131.20, the State of New Mexico is hereby submitting the UAA for San Isidro Arroyo and Tributaries within Lee Ranch Mine along with the WQCC's final order and statement of reasons approving the proposed amendments to 20.6.4 NMAC for EPA's review and approval. Also enclosed is the certification from the State Attorney General certifying the rule was adopted in accordance with the laws of the State of New Mexico.

If you have questions or would like to discuss this matter, please feel free to contact Jennifer Fullam at (505) 827-2637.

Sincerely,



Jennifer Pruett, Chair
New Mexico Water Quality Control Commission

Encl.: Lee Ranch Mine UAA

WQCC Hearing Transcripts from October 8, 2019

WQCC Final Order and Statement of Reasons dated November 4, 2019

20.6.4 NMAC with amendments effective December 17, 2019

New Mexico Attorney General's Certification

Cc: Charles Maguire, Division Director, Water Quality Division, United States Environmental Protection Agency, 1445 Ross Ave., Dallas, Texas 75202 (via email to maguire.charles@epa.gov)
Russell Nelson, Water Quality Division, United States Environmental Protection Agency, (via email to nelson.russell@epa.gov)
Cody Barnes, Administrator for Boards and Commissions, New Mexico Environment Department (via email to cody.barnes@state.nm.us)
Annie Maxfield, Assistant General Counsel, New Mexico Environment Department (via email to annie.maxfield@state.nm.us)
James Kenney, Secretary, New Mexico Environment Department (via email to james.kenney@state.nm.us)
Rebecca Roose, Director, Water Protection Division, New Mexico Environment Department (via email to rebecca.roose@state.nm.us)
Shelly Lemon, Bureau Chief, Surface Water Quality Bureau (SWQB), New Mexico Environment Department (via email to shelly.lemon@state.nm.us)
Kris Barrios, Program Manager, Monitoring, Assessment and Standards Section Manager, SWQB (via email to kristopher.barrios@state.nm.us)
Jennifer Fullam, Standards Planning and Reporting Team Leader, SWQB (via email to jennifer.fullam@state.nm.us)
Diana Aranda, Environmental Scientist, SWQB (via email to diana.aranda@state.nm.us)