

STATE OF NEW MEXICO
WATER QUALITY CONTROL COMMISSION

NEW MEXICO ENVIRONMENT DEPARTMENT,
GROUNDWATER QUALITY BUREAU,

Complainant



WQCC 17-08 (A)

v.

**ABEL VILLALPANDO D.B.A. ROCKHILL DAIRY,
ROCKHILL DAIRY, L.L.C.**

Respondent.

SCHEDULING ORDER PURSUANT TO NMSA 1978, Section 74-6-10 (G)

and 20.1.3 NMAC

On October 12, 2017, Abel Villalpando d.b.a Rockhill Dairy, LLC, (“Rockhill Dairy”) filed an appeal (“Appeal”) with the Administrator for the Water Quality Control Commission (“Commission”). During its regular meeting on November 14, 2017, the Commission voted unanimously to hold a public hearing on the Appeal, and appointed Erin Anderson, as hearing officer, for the public hearing before the Commission on January 9, 2018.

Accordingly, the Hearing Officer hereby issues the following Scheduling Order pursuant to 20.1.3.19 and 20.1.3. 19 (E) NMAC.

1. The compliance order hearing will be held during the Commission’s regularly scheduled meeting on **Tuesday, January 9, 2018 at 9:00 a.m.** in Mabry Hall, Jerry Apodaca Education Building, 300 Don Gaspar, Santa Fe, 87501.
2. The compliance order hearing will be conducted in accordance with the Water Quality Act, NMSA 1978, Section 74-6-10, the Water Quality Control Commission Adjudicatory Procedures found in 20.1.3 NMAC, and all other applicable law.

3. Any person who wishes to present evidence shall file a witness list no later than 15 days before the hearing on December 22, 2017. The witness list shall include the name, address, phone number and email of the witness(s) and a brief description as to what they will testify to.
4. Pursuant to 20.1.3.17(J) NMAC the Department has the burden of going forward with the evidence and of proving by a preponderance of evidence that the violation has occurred, and that the proposed civil penalty, revocation, or suspension as the case may be is appropriate. Following the establishment of a prima facie case, the respondent shall have the burden of going forward with any adverse evidence or defense to the allegations.
5. The Respondent, at its own expense, have the hearing stenographically recorded and transcribed by a certified court reporter pursuant to 20.1.3.18(E) NMAC. Please contact Pam Castaneda, Commission Administrator, at 505-827-2425 or pam.castaneda@state.nm.us, to schedule the appearance of a certified court reporter.
6. The Hearing Officer will conduct the hearing so as to provide a reasonable opportunity for all interested persons to be heard without making the hearing unreasonably lengthy or cumbersome or burdening the record with unnecessary repetition in accordance with 20.1.3.20(B)(1) NMAC.
7. 20.1.3.20 NMAC outlines the general hearing procedures. The compliance order hearing will begin with an opening statement from the Hearing Officer followed by the option for brief opening statements by the parties. The Department will present its evidence first followed by the Respondent. All witnesses shall be examined under oath and all exhibits shall be considered in accordance with the applicable rule.

8. Unless otherwise ordered by the Commission, any party may submit proposed findings of fact, conclusions of law, and closing argument within thirty (30) days after the conclusion of the hearing pursuant to 20.1.3.21(B) NMAC.
9. Unless otherwise ordered by the Commission, the Hearing Officer will issue a recommended decision within thirty (30) days after the deadline for the filing of proposed findings of fact and conclusions of law in accordance with 20.1.3.21(C) NMAC.
10. The Commission shall reach a final decision at a public meeting. The Commission may adopt, modify, or set aside the Hearing Officer's recommended decision and shall set forth in the final order the reasons for its actions pursuant to 20.1.3.21(D) NMAC.



Erin O. Anderson, Administrative Law Judge
New Mexico Environment Department
Hearing Officer for WQCC 17-08 (A)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the **Scheduling Order Pursuant to NMSA 1978, Section 74-6-10 (G) and 20.1.3 NMAC** was sent via email on November 21, 2017, and via First Class U.S. Mail: on November 22, 2017:

Via hand delivery:

Christopher N. Atencio
Assistant General Counsel
Office of General Counsel
New Mexico Environment Department
121 Tijeras Avenue NE, Suite 1000
Albuquerque, New Mexico 87102-3400
email: Christopher.atencio@state.nm.us
Counsel for the New Mexico Environment Department

Via First Class U.S. Mail:

Abel Villalpando
304 East Ojibwa Road
Dexter, New Mexico 88230
Petitioner for Creekside Dairy

Stephen Vigil
New Mexico Attorney General's Office
P.O. Drawer 1508
Santa Fe, NM 87504
svigil@nmag.gov
Counsel for the Water Quality Control Commission



Pam Castañeda, Commission Administrator