

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



IN THE MATTER OF THE PROPOSED
AMENDMENTS TO STANDARDS FOR
INTERSTATE AND INTRASTATE WATERS,
20.6.4 NMAC

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) WQCC No. 14-05(R)
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**AMIGOS BRAVOS' RESPONSE TO THE NEW MEXICO ENVIRONMENT
DEPARTMENT'S MOTION TO STRIKE**

INTRODUCTION

The New Mexico Environment Department ("NMED") has moved to strike Sections I and II of Amigos Bravos' September 30, 2014 Proposed Amendments and Statement of Basis ("Proposed Amendments"). NMED complains that Sections I and II were submitted contrary to Section 301 of the Water Quality Control Commission's ("Commission") Guidelines for Water Quality Control Commission Regulation Hearings ("Guidelines"). Amigos Bravos opposes NMED's motion because it elevates form over substance, misinterprets the Guidelines, and seeks relief that is not warranted. NMED's motion should therefore be DENIED.

ARGUMENT:

**AMIGOS BRAVOS PROPERLY SUBMITTED SECTIONS I AND II OF ITS
PROPOSED AMENDMENTS ON SEPTEMBER 30, 2014**

The Department does not contend that Sections I and II of Amigos Bravos' Proposed Amendments are substantively inappropriate. NMED's argument is purely procedural: that Sections I and II "are *more properly* argued, found, and placed in the later Notice of Intent to Present Technical Testimony," due on December 12th. NMED Mot. at 2 (emphasis added). In so arguing, NMED elevates form over substance and, in the process, wastes the time and resources

That said, even if this Commission agrees and expressly clarifies that the September 30th deadline did, in fact, only pertain to the *existing* surface water standards, that is no basis for striking sections I and II of Amigos Bravos' Proposed Amendments. NMED's basic argument is that the deadline for filing objections to NMED's proposed revision of surface water standards is December 12th. This would mean, at most, that Amigos Bravos filed Sections I and II well in advance of the December 12th deadline. There is nothing improper with filing a document in advance of a deadline. In fact, that is precisely how deadlines are intended to operate. *See* Merriam-Webster, Dictionary (2014) (defining deadline as "a date or time *before which* something must be done" (emphasis added), *available at* www.m-w.com).

Nor can NMED complain of prejudice from having *additional time* to address Amigos Bravos' objections to NMED's proposed changes. While NMED weakly complains that these objections will "cause confusion" and "complicate" the process, these complaints are nebulous, unexplained, and unfounded. NMED Mot. at 3. Thus, even if the deadline for filing proposed changes to surface water standards proposed by NMED is December 12th, not September 30th, that is no basis for striking Sections I and II of Amigos Bravos Proposed Changes; at most, these sections were simply filed early.

Respectfully submitted this 8th day of December 2014.



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