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December 20, 2016

*Via U.S. Mail*

Pam Castaneda  
WQCC Administrator  
New Mexico Environment Department  
1190 S. St. Francis Dr., Suite S-2102  
Santa Fe, NM 87502



Re: WQCC No. 14-05(R) In the Matter of Proposed Amendments to Standards for Interstate and Intrastate Surface Waters, 20.6.4 NMAC;  
San Juan Water Commission's Report of Apparent Errata in Final Order and Request for Correction of Final Order

Dear Ms. Castaneda:

Please find enclosed for filing an original and 16 copies of the above-referenced document. Please endorse one copy and return it to our office in the self-addressed stamped envelope provided for your use.

If you have any questions or need further information, please do not hesitate to call.

Very truly yours,

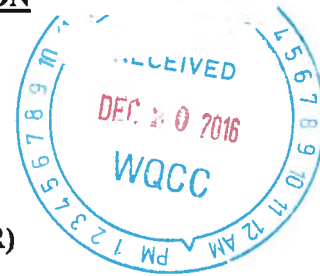
Trish Berry  
Assistant

TB/

Enclosure

cc: San Juan Water Commission

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



**In the Matter of:** )  
)  
**PROPOSED AMENDMENTS TO** )  
**STANDARDS FOR INTERSTATE** )  
**AND INTRASTATE SURFACE** )  
**WATERS, 20.6.4 NMAC** )

No. WQCC 14-05(R)

**SAN JUAN WATER COMMISSION'S**  
**REPORT OF APPARENT ERRATA IN FINAL ORDER**  
**AND**  
**REQUEST FOR CORRECTION OF FINAL ORDER**

COMES NOW San Juan Water Commission ("SJWC"), by and through its counsel of record, Taylor & McCaleb, P.A., and hereby alerts the Water Quality Control Commission ("WQCC") of the presence of apparent errata in the Proposed Statement of Reasons and Final Order ("Final Order") filed on December 9, 2016. SJWC respectfully requests that the WQCC revise its Final Order if it agrees with SJWC's assessment of errata.

**I. INTRODUCTION**

On the afternoon of December 9, 2016, the WQCC Administrator served the parties of record in the Triennial Review with the Final Order signed by Chairman Dominguez on November 15, 2016, and filed in this matter on December 9, 2016. Undersigned counsel for SJWC has reviewed the Final Order and identified apparent errors in three regulations: Sections 20.6.4.10(F)(2) NMAC, 20.6.4.10(F)(4)(a) NMAC, and 20.6.4.12(H) NMAC. Those errors are described in Section II, below, and missing or surplus language is noted by *italics*.

On Thursday, December 15, 2016, SJWC's counsel communicated via e-mail with all other counsel of record concerning the apparent errors described herein. The e-mail requested the positions of the other parties on the errors and input about the appropriate way to bring the

errors to the attention of the WQCC. To date, there has been no response from counsel for any other party.

## II. APPARENT ERRORS IN THE FINAL ORDER

According to the Final Order (at 72), Attachment A contains all WQCC-approved amendments to the Standards for Interstate and Intrastate Surface Waters resulting from the Triennial Review. SJWC asserts the following errors in the Final Order and Attachment A filed December 9, 2016.

### 20.6.4.10(F)(2) NMAC

The final language of 20.6.4.10(F)(2) NMAC, as set forth on page 15 of the Final Order and page 12 of Attachment A, states:

A temporary standard shall apply to specific designated use(s), pollutant(s), permittee(s), to specific water body segment(s), *and to specific discharges*. ....

However, during deliberations, the WQCC specifically adopted SJWC's proposal, which was:

A temporary standard shall apply to specific designated use(s), pollutant(s), *or* permittee(s), *and* to specific water body segment(s).

In addition, the WQCC directed the Hearing Officer to remove the "and to specific discharges" language and end the sentence at "segment(s)." [5/10/16 Tr. at 46:13-21, 55:19-20, 148:13-15; 6/14/16 Tr. at 245:21-247:19] For these reasons, SJWC asserts the language of the Final Order is in error, the word "or" should appear before "permittee(s)," the word "and" should be added, and the last phrase should be removed in order for the final regulation to match the WQCC's decision.

### 20.6.4.10(F)(4)(a) NMAC

In Attachment A to the Final Order, Section 20.6.4.10(F)(4)(a) NMAC reads (at 12):

(4) A petition for a temporary standard shall:

(a) identify the currently applicable standard(s), the proposed temporary standard for the specific pollutant(s) and the specific surface water body segment(s) of the state to which the temporary standard would apply;

However, during deliberations, the WQCC adopted SJWC's proposal, which was:

(4) A petition for a temporary standard shall:

(a) identify the currently applicable standard(s), the proposed temporary standard for the specific pollutant(s), *the permittee(s)*, and the specific surface water body segment(s) of the state to which the temporary standard would apply;

[5/10/16 Tr. at 152:5-153:23] The additional language about permittees is found on page 15 of the Final Order, but it did not make it into Attachment A. The final regulation should include this language.

#### 20.6.4.12(H) NMAC

Paragraph 34 of the Proposed Statement of Reasons indicates that the second sentence of the final standard should read:

The temporary standard and *any* schedule of actions may be included at the earliest practicable time, and shall specify milestone dates so as to measure progress towards meeting the original standard.

During deliberations, the WQCC specifically adopted the word "any" before "schedule of actions," and the Hearing Officer indicated that the word had been added. [5/10/16 Tr. at 140:13-142:10; 6/14/16 Tr. at 250:10-18; 8/9/16 Tr. at 324:8-12] However, the word "any" is missing from Attachment A (at 15).

### III. CONCLUSION

For all of these reasons, SJWC asserts that Attachment A to the Final Order contains errors that should be corrected to accurately reflect the decisions of the WQCC during the Triennial Review.

Respectfully submitted,

TAYLOR & McCALEB, P.A.

By:   
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing was served on the following persons  
by regular mail and e-mail this 20th day of December, 2016:

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