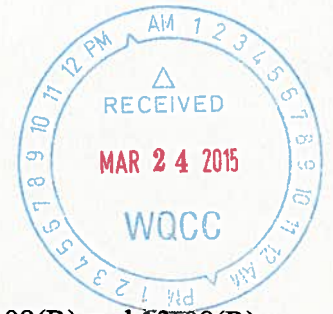


STATE OF NEW MEXICO  
WATER QUALITY CONTROL COMMISSION



In the Matter of )  
PROPOSED AMENDMENT )  
TO 20.6.6 NMAC (Dairy Rule) )

Nos. WQCC 12-09(R) and 13-08(R)

**ATTORNEY GENERAL'S RESPONSE TO COALITION MOTION FOR PARTIAL  
CHANGE OF VENUE AND RESCHEDULING**

The Coalition seeks to change venue of the technical portion of the hearing in this matter to Santa Fe, and for the Water Quality Control Commission ("Commission") to take public comment in Roswell, Las Cruces, and a location convenient to Los Lunas and Bernalillo County.

Section 76-6-6(C) of the Water Quality Act provides that, "Hearings on regulations or water quality standards of statewide application shall be held in Santa Fe." The Dairy Rule, at 20.6.6 NMAC, and the amendments proposed thereto in this proceeding apply statewide, and not to a specific geographical section of the state. *See, e.g.,* 20.6.6.2 NMAC. Therefore, the Water Quality Act requires the hearing in this matter to be held in Santa Fe.

Section 76-6-6(C) does not preclude the Commission from taking public comment in other locations around the state. Hearing the technical case in Santa Fe and taking public comment in areas of the state most affected by a proposed rule was used successfully by the Commission in the Copper Mine Rule proceeding. In that proceeding, the technical portion of the hearing for the proposed regulations, which applied statewide, was held in Santa Fe, and the Commission took public comment in Silver City, near where the major copper mines are located. Holding the technical case in Santa Fe and taking public comment in Roswell, Las Cruces, and a location convenient to Los Lunas and Bernalillo (or any other location the Commission deems appropriate) would allow for greater public participation in the hearing process without violating

the Water Quality Act. As it stands now, the hearing is scheduled to be held in Roswell, contrary to the mandate of the Act, and will most certainly form a basis for appeal.

Therefore, the Attorney General supports a change of venue to Santa Fe on the technical portion of the hearing, as required by Section 76-6-6(C) of the Water Quality Act, and taking public comment in locations near where many dairies are located. As a necessary consequence of a change of venue, the hearing in this matter would have to be rescheduled. The Attorney General has no objection to rescheduling the hearing to June 2015, or another time convenient to the Commission and all parties that ensures proper notice to the public.

Respectfully submitted,

HECTOR BALDERAS  
NEW MEXICO ATTORNEY GENERAL



---

Tannis L. Fox  
Assistant Attorney General  
Environmental Protection Division  
Office of the New Mexico Attorney General  
P.O. Box 1508  
Santa Fe, New Mexico 87504  
T 505.827.6695  
F 505.827.4444  
[tfox@nmag.gov](mailto:tfox@nmag.gov)

Counsel for Attorney General of New Mexico

Certificate of Service

I certify that the following were served with the foregoing pleading by email on March 24, 2015:


Robert A. Stranahan, IV  
Dalva Moellenberg  
Anthony J. Trujillo  
Gallagher and Kennedy, P.A.  
1233 Paseo de Peralta  
Santa Fe, New Mexico 87501-2758

Jeffrey Kendall  
General Counsel  
Christopher Atencio  
Kay R. Bonza  
Assistant Generals Counsel  
Office of General Counsel  
New Mexico Environment Department  
P.O. Box 5469  
Santa Fe, New Mexico 87502-5469

Jon Block  
New Mexico Environmental Law Center  
1405 Luisa Street, #5  
Santa Fe, New Mexico 87505-4074

Wade Jackson  
New Mexico Economic Development Department  
1100 S. St. Francis Drive, #1060  
Santa Fe, New Mexico 87504-4147

Christopher Saucedo  
SaucedoChavez, P.C.  
P.O. Box 1886  
Albuquerque, New Mexico 87103-1886

  
\_\_\_\_\_  
Tannis L. Fox