

STATE OF NEW MEXICO
BEFORE THE WATER QUALITY CONTROL COMMISSION



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

No. WQCC ¹³~~12~~-08 (R)

SECOND PETITION TO AMEND 20.6.6 NMAC (DAIRY RULE)
AND REQUEST FOR HEARING

I. INTRODUCTION

Pursuant to the New Mexico Water Quality Act (“WQA”), NMSA 1978, §§ 74-6-1 to 74-6-17 (2009), and Section 301 of the *Guidelines for Water Quality Control Commission Regulation Hearings*, the Dairy Industry Group for a Clean Environment (“DIGCE”) petitions the Commission to amend the Ground Water Protection – Supplemental Permitting Requirements for Dairy Facilities Regulations, 20.6.6 NMAC (Dairy Rule).

DIGCE represents a coalition of dairy industry representatives, including the Dairy Farmers of America, Dairy Producers of New Mexico, and various individual dairy producers, who comprise its Board of Directors. DIGCE participated as the party representing the dairy industry in the original rulemaking proceedings regarding the Dairy Rule and in proceedings held before the Commission in 2011 regarding amendments to the Dairy Rule.

The Dairy Rule was adopted by the Commission in December 2010 and published in the New Mexico Register on January 15, 2011. DIGCE filed an appeal of the rules in the Court of Appeals, and implementation of the Dairy Rule was postponed while the parties to the rulemaking engaged in settlement discussions. Those settlement discussions resulted in a set of

proposed amendments to the Dairy Rule which were adopted by the Commission in November 2011 and became effective on December 31, 2011

On September 4, 2012, DIGCE filed a petition to amend the Dairy Rule with respect to three particular topics: flow meter calibration, acceptable backflow prevention devices, and nutrient management plans. Written direct and rebuttal testimony has been filed by DIGCE and a group of parties who oppose the amendments, and these proposed rule amendments currently are set for hearing before the Commission on September 10, 2013. As discussed below, DIGCE is willing to have the hearing on the amendments proposed through the September 2012 Petition be consolidated for hearing with the amendments proposed with this Petition.

As discussed in more detail below, since DIGCE filed its September 2012 Petition, a large number of draft discharge permits under the Dairy Rules have been published for comment. According to the latest report from NMED to the Commission dated June 2013, 92 draft discharge permits were published between September 2012 and June 2013 of a total of 128 draft discharge permits published since the Dairy Rule came into effect. As of June 2013, 18 discharge permits had been issued as final permits. With regard to those final permits, variance petitions had been filed and acted upon for two dairies, and there were five pending variance petitions. There were two other pending variance petitions, one regarding a draft permit and another regarding a permit issued before the Dairy Rule was in effect.

One of the primary reasons for this Petition is to avoid an unintended consequence of the Dairy Rule for the majority of permits to require variances from the Commission. DIGCE has polled dairy permittees to determine how many additional variance petitions could be expected regarding the 128 draft discharge permits. The results indicate that over 100 variance petitions are likely. Based on discussions with producers and their consultants, one of the most common

reasons for variance petitions are that the prescriptive rule requirements regarding the number and locations of monitoring wells result in a very large and unreasonable number of monitoring wells. Additional variance petitions are anticipated to address prescriptive liner requirements. Variance petitions also are expected to address a wide variety of other Dairy Rule provisions. DIGCE believes that the Commission's action on this Petition could avert the need for many, if not the large majority, of the expected variance petitions by providing the Department with a reasoned range of discretion and flexibility to establish reasonable permit requirements that can be put in place without the need for variances.

II. SUMMARY OF PROPOSAL

Exhibit "A" to this Second Petition shows the amendments that DIGCE now proposes. In Exhibit "A," existing rule language proposed for deletion is shown by strikeout, and new language proposed to be included in an amended Dairy Rule is underlined. Exhibit "A" also shows the amendments proposed in DIGCE's September 2012 Petition, which DIGCE continues to support, although they are shown in Exhibit "A" for convenience only. The following list summarizes the proposed amendments:

1. Amend the definition of "impoundment," section 20.6.6.7.B(18) NMAC, to exclude structures used for solids settling.
2. Amend the engineering design requirements for solids separators, section 20.6.6.17.C(5) NMAC, eliminate the requirement to submit a design schematic for a separator not proposed by the applicant or permittee within 90 days of the effective date of the permit.
3. Amend the engineering design requirements for new or improved impoundments, to section 20.6.6.17.D(5), (6) and (7) NMAC, to replace the minimum requirement for a

- 60 mil synthetic liner with a requirement for a two-foot thick compacted soil liner with a maximum demonstrated permeability of 1×10^{-7} cm/sec.
4. Amend the requirements for manure solids separators to eliminate the requirement for existing dairies to install separators. Section 20.6.6.20.F NMAC.
 5. Amend the flow meter installation requirements, section 20.6.6.20.J NMAC, to eliminate the requirement for a “physical and permanent” label. Note: additional amendments to this subsection were proposed in the September 2012 Petition.
 6. Amend the flow metering methods requirements, section 20.6.6.20.K NMAC, to allow for a closed pipe totalizing flow meter in gravity flow situations and to allow the Department discretion to accept a proposal to meter flow by metering the water supply.
 7. Amend the impoundment capacity management requirements, section 20.6.6.21.A NMAC, and corresponding flow meter requirements, 20.6.6.21.G, to allow for a tank to store wastewater.
 8. Amend the requirement for fresh water to be used in a land application area, 20.6.6.21.C NMAC, to allow the Department discretion to accept a proposal for land application of wastewater in the absence of fresh water.
 9. Amend the requirements for crop removal methods, 20.6.6.21.J NMAC, to eliminate some of the prescriptive requirements for demonstrations of grazing as a crop removal method.
 10. Amend the requirement for Department approval of changes to crop removal methods, 20.6.6.21.K NMAC, by eliminating the requirement.

11. Amend the monitoring well location requirements, 20.6.6.23.A and .B NMAC, to reduce the prescriptive monitoring well location requirements requiring a well downgradient of each “source” and to eliminate other prescriptive requirements specifying the location and number of monitoring wells. Instead, require an appropriate monitoring well system for the dairy facility with a minimum of one upgradient and two downgradient wells. Provide for acceptance of the continued use of previously approved existing monitoring wells.
12. Amend the monitoring well identification tag requirements, 20.6.6.23.C NMAC to allow for printed adhesive or metal labels.
13. Amend the construction and completion requirements for monitoring wells, 20.6.6.23.D NMAC, to clarify they apply to new monitoring wells.
14. Amend the ground water sampling requirements, 20.6.6.23.H(3) NMAC, to allow the Department to extend the time for sample collection.
15. Amend the monitoring well inspection requirements, 20.6.6.23.M NMAC, to eliminate the provisions on performance of downhole inspections.
16. Amend the wastewater volume measurement and reporting requirements, 20.6.6.24.C NMAC to allow for monthly rather than weekly recording of flow meter readings.
17. Amend the stormwater sampling and reporting requirements, 20.6.6.24.D NMAC, to eliminate the need to sample stormwater if it will first be sent to a wastewater impoundment before land application.
18. Amend the sampling and reporting requirements for wastewater to be land applied, 20.6.6.25.C NMAC, to provide for annual, rather than quarterly sampling and to allow the Department to approve an alternative sampling method for good cause.

19. Amend the sampling requirements for irrigation wells, 20.6.6.25.E NMAC, to allow sampling from a group of wells rather than each individual well and for sampling once every five years rather than annually.
20. Amend the land application data sheet requirement, 20.6.6.25.G, to eliminate the requirement to repeat data from the previous six quarters.
21. Amend the soil sampling requirement, 20.6.6.25.K and .L, to eliminate the specified five month period for sample collection.
22. Amend the requirements for sampling of wastewater from an evaporative system, 20.6.6.26, to eliminate the requirement for collection of six-subsamples.
23. Amend the contingency requirements regarding exceedance of ground water standards, 20.6.6.27.A and .B, to reflect the proposed modified engineering design requirements for new liners and to consolidate similar sections.
24. Amend the monitoring well replacement contingency requirements, 20.6.6.27.C NMAC [proposed to change to .B], to allow the Department discretion to extend the time to install replacement wells for good cause shown.
25. Amend the contingency requirements for impoundments, 20.6.6.27.G NMAC [proposed to change to .F], to reflect changes to the monitoring well requirements.
26. Amend the requirements for permanent closure, 20.6.6.30.A NMAC, to clarify what monitoring wells have to be installed and to change triggering event for certain activities from the removal of all livestock to the cessation of regulated discharges.
27. Amend the closure requirements regarding discontinuing of ground water monitoring, 20.6.6.30.D and E NMAC, by eliminating these subsections.

III. STATEMENT OF REASONS & PROPOSED REGULATORY CHANGES

A copy of the proposed regulatory changes, indicating any language proposed to be added or deleted, is included as Attachment A. DIGCE requests that the Commission hear and adopt the regulatory changes identified in Attachment A for the reasons indicated below. DIGCE's reasons for the regulatory changes in Attachment A will be more fully supported by testimony to be submitted as part of the hearing process.

The general reasons for the proposed regulatory changes are to address issues regarding permits proposed for issuance under the Dairy Rule which, if the Dairy Rule is not amended, likely would result in petitions for variances to be heard before the Commission regarding the majority of the pending permit actions, and would be unduly burdensome on dairy operators. Specific reasons for each proposed change are set forth below.

1. Amend the definition of "impoundment," section 20.6.6.7.B(18) NMAC, to exclude structures used for solids settling.

The Dairy Rule currently requires solids settling structures for dairies originally permitted under the Dairy Rule and the addition of solids settling structure for existing dairies already permitted. The Dairy Rule allows the dairy operator to choose the type of solids settling structure to be used. One approach to solids settling is to have a settling basin, which must be designed to allow for removal of solids. Solids removal generally is not feasible for synthetically-lined impoundments because of the high risk of tearing the liner. The definition in the Dairy Rule, however, can be read to treat certain solids settling structures as "impoundments" subject to the prescriptive liner requirements. This proposed rule amendments would clarify that solids settling structures are not "impoundments" and may be constructed in a manner appropriate for solids settling and removal.

- 2. Amend the engineering design requirements for solids separators, section 20.6.6.17.C(5) NMAC, eliminate the requirement to submit a design schematic for a separator not proposed by the applicant or permittee within 90 days of the effective date of the permit.**

The purpose of this amendment is to eliminate the requirement for an existing dairy operating under an existing discharge permit to be retrofitted with a solids separator. Most existing dairies do not have solids separators, but some dairies were originally designed and permitted without solids separators. Retrofitting an existing dairy to install a separate solids separator can be costly and impracticable, and these existing dairies already are functioning without the need for a separate solids separator.

- 3. Amend the engineering design requirements for new or improved impoundments, to section 20.6.6.17.D(5), (6) and (7) NMAC, to replace the minimum requirement for a 60 mil synthetic liner with a requirement for a two-foot thick compacted soil liner with a maximum demonstrated permeability of 1×10^{-7} cm/sec.**

The Dairy Rule currently requires a single 60 mil HDPE liner or an equivalent liner. The Commission adopted the single synthetic liner requirement as a compromise between a double synthetic liner system with leak collection, as originally proposed by the Department, and a compacted soil liner system as proposed by DIGCE. Further technical evaluation of the synthetic liner system prescribed by the current Dairy Rule indicates that the single synthetic liner system as prescribed in the Dairy Rule likely will not be as effective in preventing or reducing discharges to ground water as would a two foot thick compacted soil liner with a demonstrated permeability of 1×10^{-7} or less. As DIGCE's witnesses testified in the original Dairy Rule hearing, a compacted soil liner system has several other advantages over a synthetic liner system. A compacted soil liner system can be less costly than a synthetic liner system, but, depending upon the nature of the soils at the site, can be more costly in some instances. DIGCE

proposes this amendment based primarily on the superior expected performance of a compacted soil liner system compared to a single synthetic liner.

- 4. Amend the requirements for manure solids separators to eliminate the requirement for existing dairies to install separators. Section 20.6.6.20.F NMAC.**

See reasons for this amendment as discussed in item 2 above.

- 5. Amend the flow meter installation requirements, section 20.6.6.20.J NMAC, to eliminate the requirement for a “physical and permanent” label. Note: additional amendments to this subsection were proposed in the September 2012 Petition.**

While this is a relatively minor issue, DIGCE believes that the current requirement for an engraved metal label is overly prescriptive and unduly burdensome, so DIGCE proposes to allow for labeling that can be more easily accomplished.

- 6. Amend the flow metering methods requirements, section 20.6.6.20.K NMAC, to allow for a closed pipe totalizing flow meter in gravity flow situations and to allow the Department discretion to accept a proposal to meter flow by metering the water supply.**

The current Dairy Rule would not allow a closed pipe totalizing flow meter in gravity flow situations and can be read to mandate an open pipe weir device. The amendment would allow the use of a closed-pipe totalizing flow meter when practicable. The amendment also allows for the use of metering the water supply as an alternative to flow meters for wastewater. Flow meters on the water supply are easier to maintain and are more reliable, and methods are available to allow for relatively easy calculation of wastewater discharge rates based on water use rates.

- 7. Amend the impoundment capacity management requirements, section 20.6.6.21.A NMAC, and corresponding flow meter requirements, 20.6.6.21.G, to allow for a tank to store wastewater.**

A few dairies utilize tanks to store wastewater rather than impoundments, particularly for relatively low-volume wastewater discharges. Tanks generally provide superior containment to impoundments, and there is no reason to preclude the use of tanks or to require a variance to allow the use of a tank.

8. Amend the requirement for fresh water to be used in a land application area, 20.6.6.21.C NMAC, to allow the Department discretion to accept a proposal for land application of wastewater in the absence of fresh water.

A few dairies have been permitted to operate land application systems without concurrent use of fresh water for irrigation. These typically are very small dairies who have successfully demonstrated their ability to land-apply dairy wastewater while maintaining crops. This approach may actually reduce the likelihood of discharges to groundwater, as long as crops are maintained, because of the much lower total volume of water applied to the crops. This amendment would allow the Department to review and approve this approach without the need for a variance.

9. Amend the requirements for crop removal methods, 20.6.6.21.J NMAC, to eliminate the need for Department-approved demonstrations to allow for grazing as a crop removal method.

Grazing as a means of harvesting crops can be an efficient means of crop removal. The current Dairy Rule allows the Department to accept grazing as a crop removal method subject to a number of prescriptive requirements. The proposed amendment would keep the minimum data requirements needed to calculate nitrogen removal by crops grazing, but would eliminate the need for a technical proposal and demonstration requiring Department approval.

10. Amend the requirement for Department approval of changes to crop removal methods, 20.6.6.21.K NMAC, by eliminating the requirement.

Changes to crop removal methods can be dictating by weather, the success of a particular crop in a particular season or year, and crops prices. For example, a farmer may plant a crop

with the intention of mechanical harvesting to produce grain, but failure of a crop due to hail or lack of precipitation can result in the need to change to a different crop and different crop removal method, such as harvesting for forage rather than grain or grazing rather than mechanical harvesting. These changes occur during the course of a growing season and are dictated by events outside the farmer's control, and it is not practicable to obtain Department approval for these changes. The potential for change can be accounted for in a nutrient management plan, with a simple switch to a different data collection and accounting method when crop removal methods change.

11. Amend the monitoring well location requirements, 20.6.6.23.A and .B NMAC, to reduce the prescriptive monitoring well location requirements requiring a well downgradient of each "source" and to eliminate other prescriptive requirements specifying the location and number of monitoring wells. Instead, require an appropriate monitoring well system for the dairy facility with a minimum of one upgradient and two downgradient wells. Provide for acceptance of the continued use of previously approved existing monitoring wells.

The prescriptive requirements for monitoring well locations and numbers is the most common Dairy Rule requirement that will cause permittees to seek variances. The prescriptive requirements for monitoring well locations in the Dairy Rule can arbitrarily require replacement of existing monitoring wells for slight changes in location. They can require replacement of a monitoring well system previously approved by the Department that is functioning properly to monitor groundwater based on a site-specific conditions. The prescriptive requirements specify the location of monitoring wells without considering site-specific conditions in locations that could cause a monitoring well itself to be a conduit for contamination, such as placement in a playa lake bed or in a heavily-used area where a well is susceptible to damage. These requirements to not allow for experts to consider site specific conditions, such as surface topography, hydrology and geology in considering how to properly design an effective

monitoring well system. The prescriptive requirements do not take into account U.S. Environmental Protection Agency guidance on how to properly design a monitoring well system. The prescriptive requirements would require hundreds, perhaps over a thousand, new monitoring wells for dairies at great cost, and there is not sufficient drilling capacity to construct the required number of wells, even if it were reasonable and necessary to install all of these wells.

The proposed amendment would return the approach to developing appropriate monitoring well systems similar to the general Commission discharge permit regulations, where a monitoring well system would be designed for an entire facility, not individual sources, and the number and locations of wells would be considered based upon site-specific conditions. The consideration of professional interpretations and opinions based upon site-specific conditions is accomplished for facilities by the retention of subsection N of the current Dairy Rule, which provides for dispute resolution to consider differences in professional opinions and to provide a forum for resolution of disputes without resort to appeals to the Commission.

12. Amend the monitoring well identification tag requirements, 20.6.6.23.C NMAC to allow for printed adhesive or metal labels.

This is a minor change similar to item 5 to eliminate overly prescriptive requirements for labeling.

13. Amend the construction and completion requirements for monitoring wells, 20.6.6.23.D NMAC, to clarify they apply to new monitoring wells.

The Dairy Rule contains prescriptive design requirements for monitoring wells. DIGCE's proposed amendments would retain these requirements as is for new monitoring wells, but would clarify that they do not apply to existing monitoring wells previously approved for use

by the Department. This will allow for continued use of existing, previously approved and functioning monitoring wells.

14. Amend the ground water sampling requirements, 20.6.6.23.H(3) NMAC, to allow the Department to extend the time for sample collection.

This is a simple amendment allowing the Department to approve an extension of time to collect samples from newly-installed monitoring wells. An extension may be appropriate for a number of reasons, including the status of the dairy facility, issues with well development, and other limitations on sampling within the specified time frame.

15. Amend the monitoring well inspection requirements, 20.6.6.23.M NMAC, to eliminate the provisions on performance of downhole inspections.

This change corresponds to the change in item 13. Downhole inspections are costly, disruptive, and pose a risk of damage a monitoring well. DIGCE contends they are rarely needed, and are likely unnecessary if the Commission clarifies that the new well construction requirements do not apply retroactively to existing monitoring wells.

16. Amend the wastewater volume measurement and reporting requirements, 20.6.6.24.C NMAC to allow for monthly rather than weekly recording of flow meter readings.

The frequency of flow meter readings is not of high importance. It is easy to calculate daily discharge volumes regardless of the frequency of meter readings by simple arithmetic. Flow meter readings typically are taken by consultants to ensure proper recording of data, and a weekly meter reading requirement can require excessive consultant visits at considerable cost. Monthly readings were allowed in the past and are reasonable going forward.

17. Amend the stormwater sampling and reporting requirements, 20.6.6.24.D NMAC, to eliminate the need to sample stormwater if it will first be sent to a wastewater impoundment before land application.

When stormwater is sent for land application, it is simpler for purposes of nutrient management plans and data management and calculations to measure nutrient values for the combination wastewater and stormwater sent to a common pond. Separate measurements for stormwater impoundments can require considerable additional sampling and data handling and management with no benefit to nutrient management planning or groundwater protection.

18. Amend the sampling and reporting requirements for wastewater to be land applied, 20.6.6.25.C NMAC, to provide for annual, rather than quarterly sampling and to allow the Department to approve an alternative sampling method for good cause.

Frequent sampling of wastewater ponds can be dangerous to samplers attempting to obtain multiple samples from a wastewater pond. Annual sampling is believed to be of sufficient frequency to provide reasonably accurate data for use in nutrient management planning and would reduce the potential danger to samplers and the cost of sampling and data management.

19. Amend the sampling requirements for irrigation wells, 20.6.6.25.E NMAC, to allow sampling from a group of wells rather than each individual well and for sampling once every five years rather than annually.

Sampling individual irrigation wells to provide data on nitrogen levels for use in nutrient management planning is not necessarily representative of the quality of water applied for irrigation when multiple wells are used at the same time to supply an irrigation system. This amendment would simplify and reduce sampling and data management requirements while still providing reasonably accurate data.

20. Amend the land application data sheet requirement, 20.6.6.25.G, to eliminate the requirement to repeat data from the previous six quarters.

The current Dairy Rule requirement is to repeat land application data from the previous six quarters in a land application data sheet. Previous data will be available from previously submitted land application data sheets, and repeating the submission of data will increase paperwork and the potential for errors.

21. Amend the soil sampling requirement, 20.6.6.25.K and .L, to eliminate the specified five month period for sample collection.

It is not always practical or optimal to collect soil samples within the specified period due to changes in crop rotation, weather, and other factors. Soil collection can be addressed as specified in a nutrient management plan based upon individual farm and site circumstances as appropriate. The current rule is overly prescriptive.

22. Amend the requirements for sampling of wastewater from an evaporative system, 20.6.6.26, to eliminate the requirement for collection of six-subsamples.

Data from the sampling of wastewater in an evaporative system is of limited use, since it need not be used for nutrient management planning. Taking six subsamples from an evaporative pond is not necessary and simply adds to the danger of sample collection for samplers and the cost of data collection and management.

23. Amend the contingency requirements regarding exceedance of ground water standards, 20.6.6.27.A and .B, to reflect the proposed modified engineering design requirements for new liners and to consolidate similar sections.

The current Dairy Rule has a complex set of contingency requirements that vary based upon slightly different liner types. This approach is unnecessarily complex and there is less need

for such an approach if the Commission adopts the changes to standard wastewater impoundment liner design requirements as proposed above.

24. Amend the monitoring well replacement contingency requirements, 20.6.6.27.C NMAC [proposed to change to .B], to allow the Department discretion to extend the time to install replacement wells for good cause shown.

As discussed above, there are substantial constraints on available capacity to install monitoring wells given the large number of dairy permits that may require new wells and the large number of wells. Consequently, there is a serious question whether it is possible for dairies to meet the deadlines for installation of new wells. This change would give the Department discretion to grant an extension for good cause.

25. Amend the contingency requirements for impoundments, 20.6.6.27.G NMAC [proposed to change to .F], to reflect changes to the monitoring well requirements.

This proposed change reflects the proposed changes to reduce the prescriptive monitoring well requirements that currently require a downgradient monitoring well for each potential “source.”

26. Amend the requirements for permanent closure, 20.6.6.30.A NMAC, to clarify what monitoring wells have to be installed and to change triggering event for certain activities from the removal of all livestock to the cessation of regulated discharges.

The prescriptive monitoring well requirements have unduly burdened the number of dairies that are being closed due to economic constraints to the industry. These proposed changes generally correspond to the reduction in prescriptive requirements for installation of new monitoring wells under the Dairy Rules and will facilitate closure of existing dairies. Dairies

that are closing also may be used for other purposes, such as feeding heifers or beef cattle, from which discharges are not regulated. Part of this amendment changes the timing of certain closure activities so they occur sooner, on cessation of regulated dairy discharges, rather than waiting if the dairy has been put to another productive use.

27. Amend the closure requirements regarding discontinuing of ground water monitoring, 20.6.6.30.D and E NMAC, by eliminating these subsections.

This proposed amendment is intended to reduce overly prescriptive requirements regarding cessation of groundwater monitoring following closure. It is intended to facilitate closeout of permits for closed dairies by providing additional flexibility for cessation of monitoring when it is no longer necessary.

IV. REQUEST FOR HEARING

Petitioner requests that the Commission schedule a rulemaking hearing to consider these proposed amendments as soon as possible and that the Commission appoint a hearing officer to conduct this rulemaking hearing. Upon appointment of a hearing officer, DIGCE requests the Commission grant the hearing officer authority to set a schedule for submission of written direct testimony and responses prior to the hearing. It is anticipated that the rulemaking hearing will take approximately five days. DIGCE reserves the right to supplement the statement of reasons with additional reasons in support of the proposed regulatory changes and to change the language set forth in Attachment A.

A hearing already is scheduled to take place at the Commission's September 2013 meeting regarding the Petition filed in September 2012. Petitioner would agree to the consolidation of this Second Petition with the September 2012 Petition for hearing, allowing the Commission to hold one hearing covering both Petitions.

In order to avoid the need for dairies that currently have permit deadlines to take actions that would be affected by the proposed rule amendments, Petitioner has requested that the Department suspend enforcement of deadlines for actions that may be affected by the proposed rule amendments pending the Commission's consideration of this Petition. Suspension of enforcement pending the Commission's consideration of this Petition also will avoid the potential need for permittees to request variances from these requirements pending the Commission's consideration of the rule amendments, saving substantial commitments of resources by permittees, the Department and the Commission.

In addition, if amendments can be considered and adopted while the majority of the permits remain in draft form, any Dairy Rule amendments adopted by the Commission can be addressed by changes to the draft permits, reducing the need for permit modification proceedings should the Dairy Rule amendments not be adopted until after many additional final permits are issued. That will conserve resources for both the Department and permittees.

For the foregoing reasons, DIGCE respectfully requests that the Commission set a hearing on the amendments proposed in this Second Petition.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this Petition to Amend 20.6.6 NMAC (Dairy Rule) and Request for Hearing was served via email and regular U.S. mail on the following parties this Monday, August 05, 2013:

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