

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



**IN THE MATTER OF PROPOSED
AMENDMENTS TO 20.6.2 NMAC,
THE COPPER MINE RULE,**

No. WQCC 12-01(R)

**New Mexico Environment Department,
Petitioner.**

**WILLIAM C. OLSON
RESPONSE
TO
NEW MEXICO ENVIRONMENT DEPARTMENT
NOTICE OF OBJECTION**

I, William C. Olson hereby submit this response to the New Mexico Environment Department (Department) Notice of Objection to William C. Olson's Notice of Intent to Present Technical Testimony filed with the New Mexico Water Quality Control Commission (Commission) on March 12, 2013. The Department maintains that, by filing a Notice of Intent to Present Technical Testimony as a member of the public, I have violated a professional services contract between myself and the Department. The Department does not provide any factual information in support of its position. For clarity of the hearing record, I would like to provide the Commission with the following information:

1. During 2012, I worked under a professional services contract to assist the Department in the development of a Copper Mine Rule that would achieve the goals of the New Mexico Water Quality Act for prevention of pollution of New Mexico ground water and surface water resources.

2. In the fall of 2012, the Department informed me that my services would not be required for attending and providing expert witness testimony at the Commission rule-making hearings pursuant to the contract. At that point, I had completed all other scope of work tasks and my contract was amicably terminated effective December 1, 2012.

3. The prior professional services contract between the Department and myself contained a provision that stated, "Confidentiality – Any confidential information provided to or developed by the contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the Agency."

4. The prior professional services contract between the Department and myself does not contain any provision preventing my participation in a public hearing of this Commission.

5. My February 22, 2013 Notice of Intent to Provide Technical testimony was prepared by myself as a public citizen of the State of New Mexico interested in the protection of New Mexico water resources. I do not represent any other party.

6. My testimony was submitted for the purpose of providing information to assist the Commission in its decision making process in the adoption of a Copper Mine Rule.

7. My February 22, 2013 Notice of Intent to Provide Technical Testimony supports the need for adoption of rules for copper mines and contains my independent analysis and expert opinion of the proposed Copper Mine Rule in regards to:

- a. The statutory requirements of the Water Quality Act;
- b. The requirements of various Commission rules;
- c. Historical ground water protection in New Mexico since adoption of the Water Quality Act and Commission rules in 1977;

- d. Previous Commission litigation over statutory requirements for protecting ground water at a place of withdrawal of water for present or reasonably foreseeable future use;
- e. Inconsistencies between portions of the proposed Copper Mine Rule and the Water Quality Act, other Commission rules, historical ground water protection in New Mexico and prior Commission litigation over the issue of place of withdrawal;
- f. Technical feasibility and water rights issues;
- g. Potential for harm regarding specific portions of the proposed rule; and
- h. Proposed modifications to problematic sections of the rule necessary to make it consistent with the Water Quality Act, other Commission rules, previous Commission litigation and historical precedent.

8. A review of my February 22, 2013 Notice of Intent to Provide Technical Testimony shows that my testimony is based upon my knowledge obtained during 25 years of public service for the State of New Mexico in the implementation of the Water Quality Act and Commission rules and does not rely on or disclose any confidential information.

For the above reasons, the Department's March 12, 2013 Notice of Objection is without merit.

Respectfully submitted,

WILLIAM C. OLSON



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Certificate of Service

I certify that the following were served with the foregoing pleading by mail or hand delivery on March 22, 2013:

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