

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

**IN THE MATTER OF THE PETITION FOR
PROPOSED AMENDMENTS TO 20.6.4.9 NMAC,
DESIGNATION OF WATERS OF THE UPPER PECOS No. WQCC 20-18 (R)
WATERSHED AS OUTSTANDING NATIONAL
RESOURCE WATERS,**

**San Miguel County, the Village of Pecos,
the New Mexico Acequia Association,
Molino de la Isla Organics LLC, and
the Upper Pecos Watershed Association,**

Petitioners.

PETITIONERS' NOTICE OF WITHDRAWAL OF AMENDED PETITION

Petitioners San Miguel County, the Village of Pecos, the New Mexico Acequia Association, Molino de la Isla Organics LLC, and the Upper Pecos Watershed Association (“Petitioners”) hereby withdraw their Amended Petition in this matter. Petitioners respectfully withdraw their Amended Petition in order to conserve the resources of the New Mexico Water Quality Control Commission (“Commission”) and the parties, and with the goal of filing a new petition with the Commission that has the full support of the New Mexico Environment Department (“Department”). A petition that the Department fully supports will streamline the issues before the Commission, reduce the length of the hearing, and will potentially avoid two hearings before the Commission. As grounds for this withdrawal, Petitioners further state:

1. Petitioners filed their original Petition on April 20, 2020, nominating all named and unnamed waters in the Upper Pecos Watershed as Outstanding National Resources Waters (“ONRWs”).

2. After receiving feedback from the Department on the Petition, Petitioners filed an Amended Petition on September 24, 2020, addressing various comments from the Department.

3. The Commission scheduled a public hearing on the Amended Petition for November 10, 2020, but due to an error in issuing public notice for the hearing, the Commission rescheduled the hearing for April 13, 2021.

4. On March 10, 2021, as required by the Procedural Order and Hearing Guidelines issued in this matter, Petitioners and the Department filed their Notices of Intent to File Direct Testimony (“NOI”).

5. While the Department in its NOI supported designation of 16 named perennial and intermittent streams as nominated in the Amended Petition, the Department did not support the designation of the ephemeral streams and wetlands that were nominated by Petitioners. In its NOI, the Department raised other issues with the Amended Petition as well.

6. After reviewing the Department’s NOI, Petitioners worked hard to meet each of the Department’s concerns in its Notice of Intent to File Rebuttal Testimony, filed March 24, 2021. Furthermore, Petitioners and their counsel have been in communication with the Department in an attempt to find common ground on the Petitioners’ full nomination.

7. Since the parties filed their Notices of Intent to File Rebuttal Testimony, Petitioners and the Department have agreed to work together to try to reach full agreement on the nomination.

8. In light of this commitment, the Petitioners and the Department filed a Joint Motion to Postpone Hearing on Amended Petition yesterday, April 6, 2021, explaining to the Hearing Officer in the motion, and by email, the grounds for postponement.

9. Today, the Hearing Officer denied the parties' joint motion to postpone the hearing.

10. Petitioners believe that in order to secure their goal of obtaining ONRW designation for all waters in the Upper Pecos Watershed, and to conserve the resources of the Commission and the parties, it is in the best interests of the Commission and the parties for Petitioners to withdraw their Amended Petition, continue their efforts to work collaboratively with the Department to secure full agreement on the entirety of the nomination, and file a new petition for the Commission's consideration.

11. In its present posture, the hearing on the Amended Petition would not represent an efficient use of the Commission's or the parties' resources, would take longer than necessary if the parties reach agreement, and could result in a second and potentially duplicative proceeding before the Commission if Petitioners' entire nomination were not approved by the Commission in the first instance.

12. Therefore, for the foregoing reasons, Petitioners respectfully withdraw their Amended Petition. Petitioners will continue to work with the Department to secure full agreement of the parties on the scope of a new nomination for the waters of the Upper Pecos Watershed to be designated as ONRWs before re-petitioning this nomination for the Commission's consideration.

13. While Petitioners apologize for any inconvenience to the Commission caused by the withdrawal of their Amended Petition at this stage of the proceedings, they take this action in a good faith effort to avoid undue waste of the Commission's and the parties' resources and in order to foster a more efficient resolution of this important matter.

Respectfully submitted this 7th day of April, 2021.

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing pleading was served by email on April 7, 2021 to the following:

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