

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

**IN THE MATTER OF: PROPOSED)
AMENDMENTS TO STANDARDS FOR)
INTERSTATE AND INTRASTATE)
WATERS, SECTION 20.6.4 NMAC.)
_____)**

Docket No. WQCC 20-51 (R)

**NOTICE OF INTENT TO PRESENT TECHNICAL REBUTTAL
TESTIMONY AND NONTECHNICAL REBUTTAL
TESTIMONY BY COMMUNITIES FOR CLEAN WATER
AND GILA RESOURCES INFORMATION PROJECT**

Pursuant to the New Mexico Water Quality Control Commission’s Rulemaking Procedures, 20.1.6.202 NMAC, and the Hearing Officer’s Procedural Order of November 9, 2020, as amended by the order of April 1, 2021 granting Amigos Bravos’s unopposed motion for extension of time, Communities for Clean Water and the Gila Resources Information Project hereby jointly submit their Notice of Intent to Present Technical Rebuttal Testimony and Nontechnical Rebuttal Testimony at the public hearing in this matter, scheduled to begin on July 13, 2021.

Under section 303(c) of the federal Clean Water Act, 33 U.S.C. §1313(c), each state and tribal government is required to establish water quality standards and to review those standards every three years – “triennial review.” For the current triennial review, the New Mexico Environment Department (Department), on August 19, 2020, submitted to the Commission a petition to adopt proposed amendments to the Water Quality Control Commission standards of Interstate and Intrastate Surface Waters at 20.6.4 NMAC. Several other parties have also proposed amendments to the standards. The July 13 hearing will address those proposed revisions.

In accordance with section 20.1.6.202.A NMAC, Communities for Clean Water and the Gila Resources Information Project state as follows:

1. The names of the persons filing this Notice, and on whose behalf the technical and nontechnical witnesses will be testifying, are Communities for Clean Water and the Gila Resources Information Project.

2. The name, address, affiliation, and qualifications, including educational and work backgrounds, of each technical witness is as follows:

- A. Kathleen Wan Povi Sanchez
Sayain Project Coordinator
Tewa Women United
912 Fairview Lane
Española, New Mexico 87532

Kathleen Wan Povi Sanchez is a teacher and community organizer, and the Sayain Project Coordinator and past Director of Tewa Women United. Tewa Women United is a non-profit organization that engages in community organizing, utilizing its collective women's voices for political, social, and economic change for equity in Indian country, locally, nationally, and internationally. Ms. Sanchez is also an active member of Communities for Clean Water, which includes Tewa Women United as a component organization. She currently serves as a Commissioner on the New Mexico Mining Commission, and as a Commissioner on the New Mexico Coal Surface Mining Commission.

Ms. Sanchez is also a potter, being the fourth generation of a famous family of potters who work with traditional clay. She was mentored to make pottery through a communal process with family members of all ages. She has taught pottery courses in the Española public schools and at Common Ground on the Hill, a nonprofit, multicultural, traditional art education institution in Westminster, Maryland.

Ms. Sanchez holds a Bachelor of Sciences degree in Education-Elementary, focusing on chemistry and biology, from the University of New Mexico in Albuquerque, New Mexico, awarded in 1978. She has a Master of Arts degree in Special Education from the University of New Mexico, Albuquerque New Mexico, awarded in 1984.

B. Pamela E. Homer
Environmental Scientist
Santa Fe, New Mexico 87505

Pamela Homer is an environmental scientist in Santa Fe, New Mexico. Although she is currently employed with INTERRA, Inc. in Santa Fe, New Mexico, she is presenting technical testimony in her private capacity.

Ms. Homer worked for approximately eighteen years in the New Mexico Environment Department, holding technical and management positions in both the Surface Water Quality Bureau and the Ground Water Quality Bureau. Her experience with water programs includes permitting, enforcement, remedial action oversight, brownfield redevelopment, policy development, and rulemaking proceedings. She has testified before this Commission on several occasions.

In the Surface Water Quality Bureau, Ms. Homer was the Water Quality Standards Coordinator from 2007 until 2012. Her responsibility was to provide guidance to the Bureau in implementing the State surface water standards across the federal Clean Water Act programs, including impaired waters assessment, National Pollutant Discharge Elimination System permits, the establishment of total maximum daily loads for impaired waters, and stream restoration efforts. She also managed a team that developed new and revised water quality standards proposals based on scientific analysis, state and federal policy, and stakeholder concerns. Her primary task was to initiate and coordinate the 2009 Triennial Review, which began with public

outreach in 2008 and culminated in 2010 with EPA's approval of the adopted revisions to the Standards. She was the Department's primary technical witness in that rulemaking. She also coordinated an update of the Commission's Water Quality Management Plan/Continuing Planning Process document, which describes and directs implementation of water quality programs in the state.

In the Ground Water Quality Bureau she held technical and management roles in the review, issuance, and enforcement of Ground Water Discharge Permits, pursuant to the Commission's Ground and Surface Water Regulations, 20.6.2 NMAC. She also served as the Voluntary Remediation and Brownfields Team Leader and the Remediation Oversight Section Manager.

Ms. Homer holds a Bachelor of Science degree in earth sciences, and a Bachelor of Arts degree in German from Notre Dame University in Notre Dame, Indiana. She also holds a Master of Science degree in Resource Geography with water resources emphasis from Oregon State University in Corvallis, Oregon.

C. James R. Kuipers
Consulting Engineer
Kuipers & Associates LLC
2601 Steel Creek Road
Wisdom, Montana 59761

Mr. Kuipers is a professional engineer and head of the consulting firm of Kuipers & Associates LLC, where he has worked since 1996. He provides technical assistance to public interest groups and tribal, local, state, and federal governments on technical, environmental, and financial aspects of mining, including compliance with water quality standards. He has presented testimony before the Department, the Commission, the New Mexico Mining Commission, and committees of the New Mexico Legislature.

From 1997 to 2005, Mr. Kuipers also worked as a consulting engineer for the Center for Science in Public Participation, a non-profit organization in Bozeman, Montana, providing assistance on technical and environmental issues associated with hardrock mining. From 1993 to 1995, he worked for Denver Mineral Engineers, Inc., in Littleton, Colorado, where he was manager of the Mining and Wastewater Treatment Program, and then manager of the Process Engineering Department. In 1991 and 1992, he worked for Western Minerals Corporation, where he held the positions of Corporate Senior Metallurgist in Wheat Ridge, Colorado, and Project Manager for the Northumberland Gold Mine in Round Mountain, Nevada. From 1986 to 1991, Mr. Kuipers held various positions for Western Gold Exploration and Mining Co., including Shift Foreman, Mill Superintendent, Project Engineer, Project Manager, and Corporate Senior Metallurgist on several mining projects in the western United States, Ontario, Canada, and Johannesburg, South Africa. In 1984 and 1985 he worked for Canyonlands 21st Corporation as Director of Metallurgy in Blanding Utah and Project Manager in Jarbidge, Nevada. In 1983 and 1984, he worked for Cumberland Mining Company as Mill Superintendent in Basin, Montana and Head Metallurgist in Virginia City, Montana. Between 1974 and 1980, Mr. Kuipers held summer jobs with Huckaba Construction Co. in Whitehall, Montana and Cooke City, Montana, working as an underground and surface miner, millwright, mill operator, and fire assayer supervisor.

Mr. Kuipers has a Bachelor of Science degree in Mineral Process Engineering from Montana College of Mineral Science and Technology (now Montana Technological University or Montana Tech) in Butte, which was awarded in 1983.

3. The name, affiliation, and qualifications, including educational and work backgrounds, of each non-technical witness is as follows:

- A. Allyson Siwik
Director
Gila Resources Information Project
305 North Cooper Street
Silver City, New Mexico 888061

Allyson Siwik is the Executive Director of the Gila Resources Information Project in Silver City, New Mexico. She has a Bachelor of Arts degree in Biology from Colby College in Waterville, Maine, awarded in 1983. She has a Master of Environmental Management, Economics and Policy from Duke University School of the Environment in Durham, North Carolina, awarded in 1991.

4. The direct testimony of each witness is expected to be for the following lengths of time:

Kathy Sanchez: Fifteen minutes.

Pamela Homer: Thirty minutes

James Kuipers: Fifteen minutes

Allyson Siwik: Fifteen minutes

5. The written testimony of the technical and non-technical witnesses are submitted herewith as CCW-GRIP Exhibits 2, 5, 8, and 10.

6. Communities for Clean Water and the Gila Resources Information Project intend to offer the following rebuttal exhibits into evidence at the hearing:

Exhibit 1. Communities for Clean Water and Gila Resources Information Project Proposed Revisions to Surface Water Regulations, Part 20.6.4 NMAC, in Rebuttal to the Proposals of the New Mexico Environment Department, Triad National Security, the New Mexico Mining Association, and San Juan Water Authority.

Exhibit 2. Direct Rebuttal Testimony of Elder Kathleen WanPovi Sanchez

Exhibit 3. Resume of Kathleen M. Sanchez.

Exhibit 4. U.S. Department of Energy, *Final Supplement Analysis of the 2008 Site-Wide*

Environmental Impact Statement for the Continued Operation of Los Alamos National Laboratory for Plutonium Operations (August 2020).

Exhibit 5. Direct Rebuttal Testimony of Pamela E. Homer

Exhibit 6. Resume of Pamela Homer

Exhibit 7. U.S. Environmental Protection Agency, National Pollutant Discharge Elimination System Permit No. NM0028355, to Triad Security LLC and the U.S. Department of Energy for Los Alamos National Laboratory (Draft Permit).

Exhibit 8. Direct Rebuttal Testimony of Allyson Siwik

Exhibit 9. Resume of Allyson Siwik

Exhibit 10. Direct Rebuttal Testimony of James R. Kuipers

Exhibit 11. Resume of James R. Kuipers


Exhibit 12. Austin, B.J., J.T. Scott, M. Daniels, B.E. Haggard, *Water Quality Reporting Limits, Method Detection Limits, and Censored Values: What Does it All Mean?* Arkansas Water Resources Center, Fayetteville, Arkansas, FS-2016-01.

Exhibit 13. Rules for Significant Figures

CCCW and GRIP may also use additional demonstrative exhibits at the hearing, such as maps, charts, graphs, and “power-point” slides without introducing them into evidence. These demonstrative exhibits will be provided to the other parties approximately one day before the witness is scheduled to testify.

Respectfully submitted,

June 22, 2021



CHARLES de SAILLAN
Staff Attorney
New Mexico Environmental Law Center
1405 Luisa Street
Suite 5
Santa Fe, New Mexico 87505-4074
(505) 819-9058
cdesaillan@nmelc.org

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of June 2021, a copy of the foregoing Notice of Intent to Present Technical Rebuttal Testimony by Communities for Clean Water and Gila Resources Information Project was sent by electronic mail to:

Annie Maxfield
John Verheul
Assistant General Counsel
Office of General Counsel
New Mexico Environment Department
121 Tijeras, NE, Suite 1000
Albuquerque, New Mexico 87102
505-222-9592
annie.maxfield@state.nm.us
John.verheul@state.nm.us
Attorneys for the New Mexico Environment Department

Louis W. Rose
Kari Olson
Montgomery & Andrews, P.A.
Post Office Box 2307
Santa Fe, New Mexico 87504-2307
505-982-3873
lrose@montand.com
kolson@montand.com
Attorneys for Triad National Security, LLC

Robert F. Sanchez
Assistant Attorney General
Office of the Attorney General
Post Office Box 1508
Santa Fe, New Mexico 87504-1508
rfsanchez@nmag.gov
Attorney for the Water Quality Control Commission

Maxine Reynolds
Office of Laboratory Counsel
Los Alamos National Laboratory
Post Office Box 1663, MS A187
Los Alamos, New Mexico 87545
505-667-7512
mcreynolds@lanl.gov
Attorney for Triad National Security, LLC

Silas R. DeRoma
Stephen Jochem
United States Department of Energy
National Nuclear Security Administration
Los Alamos Site Office
3747 West Jemez Road
Los Alamos, New Mexico 87544
505-667-4668
silas.deroma@nnsa.doe.gov
stephen.jochem@nnsa.doe.gov
Attorneys for the United States Department of Energy

Tannis Fox
Western Environmental Law Center
208 Paseo del Pueblo Sur, #602
Taos, New Mexico 87571
505-629-0732
fox@westernlaw.org
Attorney for Amigos Bravos

Jolene L. McCaleb
Elizabeth Newlin Taylor
Taylor & McCaleb, P.A.
P.O. Box 2540
Corrales, New Mexico 87048-2540
505-888-6600
jmccaleb@taylormccaleb.com
etaylor@taylormccaleb.com
Attorneys for San Juan Water Commission

Stuart R. Butzier
Christina C. Sheehan
Modrall Sperling Roehl Harris & Sisk, P.A.
Post Office Box 2168
Santa Fe, New Mexico 87504-9318
505-848-1899
srb@modrall.com
ccs@modrall.com
Attorneys for New Mexico Mining Association
Dalva Moellenberg
Gallagher & Kennedy
1239 Paseo de Peralta
Santa Fe, New Mexico 87501-2758
505-982-9523
dml@gknet.com

Attorney for New Mexico Mining Association

Kyle Harwood
Luke Pierpont
Egolf + Ferlic + Martinez + Harwood, LLC
123 West San Francisco Street, Floor 2
Santa Fe, New Mexico 87501
505-596-9938
kyle@egolfaw.com
Attorneys for the Buckman Direct Diversion Board

Alexander Arensberg
Carolyne L. McIntosh
Squire Patton Boggs LLP
1801 California Street 4900
Denver, Colorado 80202
alexander.arenberg@squirepb.com
carolyne.mcintosh@squirepb.com


Charles de Saillan