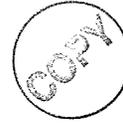


STATE OF NEW MEXICO
WATER QUALITY CONTROL COMMISSION



APR 1 2015

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

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)
)
)

No. WQCC 12-09 (R) and
No. WQCC 13-08 (R)

**NEW MEXICO ENVIRONMENT DEPARTMENT'S
UNOPPOSED MOTION TO SUPPLEMENT THE RECORD**

Comes now the Ground Water Quality Bureau ("GWQB" or "Bureau") of the Water Protection Division of the New Mexico Environment Department ("Department" or "NMED") and respectfully moves the Hearing Officer to admit into the Record Proper the exhibits attached herein. As grounds for this motion, the GWQB states the following:

1. On March 18, 2015, the Department submitted a Motion for Leave to File Amended Notices of Intent to Present Technical and Rebuttal Testimony; attached to the Amended Notices of Intent were written direct and written rebuttal testimony of Trais Kliphuis.

2. It was brought to the Department's attention that Ms. Kliphuis made references to documents and files in her written testimony attached to the Amended Notices of Intent, and that those documents and files were not attached to the testimony that the Department submitted.

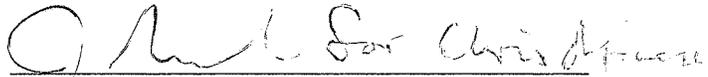
3. Pursuant to a request by the parties for these documents, the Bureau attaches the following exhibits:

- NMED Exhibit 4 Disc Containing Audio Recordings of the Technical Working Group Meetings held on May 16, 2014, and June 24, 2014
- NMED Exhibit 5 Meeting Notes from July 29, 2014, Roswell Public Meeting
- NMED Exhibit 6 Email Relating to Variance Petition Meeting, November 2, 2012
- NMED Exhibit 7 Memorandum of Meeting of Phone Conversation, July 10, 2013

4. The Bureau has contacted the parties and notes no opposition to this motion.

Respectfully submitted,

GROUND WATER QUALITY BUREAU
NEW MEXICO ENVIRONMENT DEPARTMENT



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

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PROPOSED AMENDMENT)	
TO 20.6.6 NMAC (Dairy Rule))	No. WQCC 12-09 (R) and
)	No. WQCC 13-08 (R)
)	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the New Mexico Environment Department's Unopposed Motion to Supplement the Record along with the attached exhibits were served on the parties of record in this matter via electronic mail and first class mail on April 1, 2015.

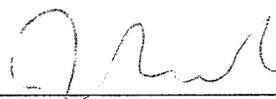
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Christopher N. Atencio

Roswell Public Meeting on Proposed Dairy Rule Amendments
July 29, 2014 Bassett Auditorium
Note: Jennifer Pruett

Petitioners: DIGCE

Eric Palla: DIGCE recognizes importance of protecting GW, but wants reasonable requirements to protect GW but cannot afford to pay for unnecessary requirements that do not contribute to GW protection

DIGCE had concerns about final Dairy Rule, even when it pulled its appeal of the Dairy Rule. Wanted to see how the Rule was implemented and permitted, thinking it might need to file for amendments later.

2012 NMED started issuing permits, which typically required 3-4 monitoring wells, sometimes fewer and for bigger dairies, more. New draft permits after the Dairy Rule often require 10 MWs, for big ones more than 20. Sometimes require placement of MWs in inappropriate locations. Any change in location requires the dairy to petition the WQCC for a variance. Over 100 dairies have indicated they will ask for a variance. If the rules are not changed, lots of resources will be needed to handle all these variances.

DIGCE first asked for amendments, then second petition filed fall 2013. DIGCE agreed to give NMED more time to consider the amendments before taking a position on the proposed amendments. DIGCE's proposed amendments will allow continued protection of GW, and would allow NMED to consider site-specific conditions, without the need for so many variances.

Dal Moellenberg: Thanks NMED for hosting, for hearing their presentations. He is going to summarize the proposed amendments. The full text of petition and amendments are on the NMED webpage.

After WQCC adopted Dairy Rule in 2010, DIGCE filed appeal in Ct Appeals. Led to discussions, reached agreement on amendments that everyone signed off on and presented to the Commission. DIGCE felt that enough progress had been made that could drop their appeal to see how rule implemented in permits. As permits have been issued, this had id'd issues.

Two specific petitions are out there; WQCC will hear both in November 2014.

First, changes proposed in 2012:

Backflow prevention: method to ensure mixture of irrigation and WW can't flow back down to irrigation wells. Irrigation wells always have some type of backflow prevention, and DIGCE supports that, but DIGCE proposes allowing different methods. If use air gap, then lose all the pressure in your system (so if not designed for this, requires a lot of changes). Rule also allows reduced pressure principle device. DIGCE has examined and filed expert testimony that shows these don't work for irrigation systems and dairy WW. DIGCE wants rule to allow use of chemigation valves, used in many irrigation systems that also utilize dairy WW, and have been used successfully. Have presented expert testimony on that. Expense of having to use other than chemigation valves, and

other irrigators (like farmers taking dairy WW) won't use other methods, so DIGCE thinks this would better match what is being used in the industry without sacrificing GW protection.

Calibration of flow meters: rule requires installation of flow meters which must be calibrated in the field. The problem is that the meters used by the industry can only be calibrated at the factory. DIGCE's amendment would allow calibration at factory; if broken, then send back to factory and replace.

Nutrient management plans: dairy uses these to make sure not over-applying WW for fertilizer, and balances WW, chemical fertilizer, irrigation water so don't contaminate GW. A number of technical changes proposed. One is to require only 1 certification for people putting these together, instead of 2. Another is to delete requirements for NRCS plan which has many unneeded requirements; should just limit to those needed for GW protection.

Second petition with a number of broader changes:

First is MWs, and primary change is to remove quite a bit of language that has very specific prescriptive requirements for MWs and MW locations. Before Dairy Rule, NMED would look at site-specific situation, proposal from applicant, then decide how many MWs and where they should be located. Typically this would mean 2, 3, 4 MWs for a dairy. Dairy Rule requires for each impoundment and each field. Technically that doesn't often work – you don't get info about which field or source is contaminating. Now you might need 10-15 MWs, up to 40, MWs for a dairy. Sometimes MWs have to be replaced, must be sampled/analyzed, so great cost increase. MW cost varies according to depth, typical one is \$30,000. DIGCE amendment takes out prescriptive requirements for number of wells and locations, would allow the experts to decide appropriate number and location.

Rule also has specific requirements for how to construct MWs; for the most part, DIGCE leaves these alone, but has a problem with existing wells having to meet these requirements. If a current well is working fine, providing good data, should not have to be replaced.

Another proposal concerns tags that id MWs, and deadlines for constructing MWs. If a large number required, not enough well drillers to construct these. Also a change to requirement for downhole inspection of MWs, which are expensive and can damage the MW.

Finally, some relief from MW requirements for dairies that are closing, that want to cease sampling and can use dairy for some other use.

Second: impoundment liner requirements. This change would allow NMED, without requirements for variance, to approve compacted soil liner in place of rule-required synthetic liner. Technical experts says 2-foot clay compacted clay liner just as effective in preventing GW contam than synthetic liners. Advantages in not tearing, removing solids. DIGCE notes that site-specific conditions might dictate whether clay-liner is appropriate; not going to be effective if sandy soils. DIGCE proposes these be allowed when an engineer certifies that clay liner provides equivalent protection.

These are 2 significant changes; others are less significant.

Amendments that deal with solids separators (to remove solids before to impoundment) – DIGCE amendment would allow existing dairies operating without these to not be required to install them. Also, would clarify that separators are not impoundments requiring installation of MW.

Another amendment – no impoundment required for direct land application.

Another would allow tanks for WW storage.

Also address crop harvesting, for measurements of nutrient removal. Would remove some burdensome requirements when grazing used, as opposed to other methods of crop removal.

Another flow meter change: reduce how often read and recorded.

Changes for sampling requirements: remove duplicative sampling if WW going to impoundment to be used for irrigation. Reduction of sampling of WW ponds because not needed and sometimes unsafe to get multiple samples from a pond. Simplify sampling requirements for evaporative ponds. Reduce sampling frequency for irrigation wells, to determine how much nitrogen already present in irrigation water.

Reduce LA data, and provide more flexibility for timing of soil sampling (timing issue).

This summarizes changes, which don't gut the requirements. Don't eliminate sampling, monitoring, liners, but just provide more flexibility and allow use of alternative approaches. Will provide some needed cost relief to the dairies to use proven methods that are less costly, and by eliminating variances (which are very expensive for NMED also).

DIGCE asks TWG to support all of DIGCE's proposed amendments.

Al Squire (President of DPNM): Thanks NMED TWG for listening. DPNM has 55% of dairies in NM. Monthly newsletter, information mailings and meetings/workshops. Members from all over NM. Has supported DIGCE's work to produce more predictable requirements for dairies. Dairy industry is largest agricultural industry in NM. The past 5 years have been very challenging financially for NM's dairies. Low-margin business where every penny counts. Cannot pass on increased costs to consumers. Lost many dairies, and many families lost equity and borrowing capacity. Starting to see an improvement, but it will take many years to get back losses.

Issue with Rule is not whether GW should be protected, but whether all the requirements in the Rule are necessary to protect GW. Prior permits required fewer wells. Did NMED err in number of MWs required before the rule, or does the Dairy Rule require multiple unnecessary MWs? Proposed amendments will allow NMED to have flexibility to determine how many wells necessary, with a more predictable situation than existed before the Dairy Rule.

Presents 5 letters of support: Sen Phil Griego, Assoc of Commerce & Ind, Mayor of Clovis, Southwest Cheese, and resident from Clovis/Portales area.

Coalition

Jon Block (NMELC), has been working on this matter since 2010. Experts: Kathy Martin, Bill Olson. Thanks NMED for holding a public meeting. Political position of Coalition to not participate in any non-public meetings on this matter held by NMED; all stakeholders should be able to be present at all meetings. Hopes that additional public meetings will be held so more people can attend and participate.

Kathy Martin (licensed professional engineer in OK and NM). Participated in original Dairy Rule hearings. BS in petroleum engineering, MS in ? engineering. Has been working on CAFOs since 1997 when OK wrote state-CAFO Act. Also worked on these in KS, CA, WY, NE, CO other states on rulemaking. Wrote haz waste permits for OK, wrote regulations and created permitting and lagoon-closure program. Gives copy of Seepage Rates on Manure/Clay Liners at Dairy Facilities (published by EPA, now out of print). Paper and bibliography she wrote on all types of liners. TX chemigation regulations. KS doesn't consider chemigation valves appropriate for ag waste, will provide citation.

She has done 3rd party permit evaluations for 18 years for hog farms, for Indiana CAFOs. IN is a more modern regulatory situation, just incorporated NRCS standards by reference. Other states incorp by reference other standards and industry best management practices. If no state requirements, she goes to NRCS best practices for requirements, or state's NRCS requirements. FOS (Field Office Site) for your state on the NRCS webpage. Standard 590 for NM is different than that for other states, in hopes to address specific state concerns. NRCS only amends when specific state requirements change.

She is not here to give expert testimony, but has a lot of experience with liners, CAFOs, and other dairy-related matters.

During June meeting, one of the experts (Keith?) said that synthetic liner would seep more than clay-liner. Seepage rate allowed by DIGCE's proposal would be absurd. Lots of calculations offered. One of best performance standards for liners is seepage rate; many states will give maximum rates or thicknesses. If have a performance standard for liners, you need to understand your seepage rate and your concentration of contaminants.

Bill Olson (former GWQB Bureau Chief, continued work on original Dairy Rule, helped negotiate settlement of rule appeal, as a private citizen testified about the settlement on NMED's and citizens's behalf, has listened to tapes of discussions). He notes that Coalition has participated since 2009 in stakeholder meetings, WQCC hearings, settlement meetings – ended up with a rule based on extensive scientific testimony, 10 days of hearings. Coalition supports current rule, until scientific evidence is presented showing while rule should change.

Major issues and request for changes all started in response to industry's request for prescriptive requirements in a rule, in a law that mandated that Commission adopt specific measures to prevent water pollution and monitor water quality. Prior to this,

Commission was prohibited by law from being prescriptive. This whole rule came about as a result of industry's request. Legislature gave direction to Commission.

The major issue in the rulemaking came from GWQB study that showed that 57% of dairy industry had GW contamination. A key function of rule is prevention, based on scientific information.

Two major issues for last 10 years: MWs and liners. Your whole purpose of MWs is to detect contamination early and limit damage that might be done to aquifer. Petition proposed by DIGCE eliminates monitoring of sources of contamination; only requires 3 MWs: 1 UG (upgradient) and 2 DG (downgradient). Allegation of 40 MWs is likely at a facility in abatement, not required by permits but by abatement plans. Bill looked at NMED dairy permits, which averaged about 4 MWs per dairy. He'd like to see data supporting DIGCE's allegations about number of MWs required.

The key point to the Petition is back to the 3 MW position, which sets up a "point of compliance" situation (issue in Copper Rule). Only way to effectively monitor a facility with 2 DG wells allows a lot of pollution until contamination gets to edge of facility. Key position Bill has seen in TWG meetings is that no scientific information has been presented on how this 3 MW system will detect and prevent water pollution, which comes back to the crux of the requirement for permits.

Briefly on liner issues: he has heard today and in TWG about clay liners, but nothing presented about how these will be constructed. Petition discusses compacted soil liner, which is very different from clay. There are a lot of compacted soil liners, with a lot of contamination from multiple sources including some from manure liners. These are systems that have been in place that have caused pollution. The key is that there hasn't been any scientific information presented about how these liners will prevent GW contamination. Synthetic liners are less permeable, but can leak if not properly installed.

Regarding the process that has been going on: Purpose of TWG is to discuss, debate and reach consensus. In his 25 years as a regulator, this has always been the process. Unfortunately, this process is excluding the Coalition from the process, which has set up separate, exclusive meetings and hasn't allowed any open discussion or opportunity for consensus. Purpose of reducing work before hearing, to eliminate issues that everyone agrees on – this type of exclusive process has never been used in any previous rulemaking in which he's been involved. At the first meeting, there was no purpose for the proposed changes; DIGCE presented in morning, Coalition excluded, but was supposed to attend afternoon explaining what they think about petition. Same thing at second meeting. Coalition had no knowledge of morning meeting to be able to comment on what was said. Coalition would like to see a different process, that allows open discussion among all the parties. DIGCE's discussion today sounds different from the Petition, might include some things that Coalition can agree on. Asks NMED to consider a different process, and a more open discussion of these issues.

In summary, current rule adopted based on extensive scientific and technical testimony presented at 10 days of hearing. Settlement agreement reached about rule. No scientific evidence or studies presented, especially about MWs and liners, to show how these won't prevent GW contamination. TWG has asked several times for scientific

studies and information. Absent scientific information, Coalition supports the agreed-upon rule from settlement that was adopted by the WQCC. Coalition supports rule until scientific demonstration that a change is needed.

Public comment

Senator Woods: He is a state senator from District 7: Curry, Quay and Chaves Counties. Has a number of dairies, and two cheese plants (including SW Cheese which is huge) who wouldn't have come without the dairies. He believes job of state government is to produce taxpayers. We need a lot of money and demands on government. These dairymen are major players in the economy of this state. Agriculture is taxed 3 different ways: county taxes, corp and personal income tax, property tax, and is third most important revenue generator for government. He's heard talk about liners and MWs, and there are a lot of different variables. They are willing to come together to negotiate points. A MW must be capped below water table, and if GW drops, have to re-drill well. Seems like there could be flexibility for different types of plugs. There must be some common sense solutions to some of these problems. We should take into account some different types of backflow prevention, calibration in the field shouldn't be needed if calibrated at factory. Please carefully consider what is scientific evidence for these changes.

Senator Pirtle: He is from Senate District 32, which has quite a few dairies and large farming community. As a businessman he understands that the bottom line is all about money. This dairy industry is all about bringing in money. One of biggest issue is nonsensical requirements about MWs, which must be moved 10 feet or something similar. As a producer they have no control over how much their cost is each month, so can't pass on to consumer. NMED has to balance science with common sense to protect GW, not to put unnecessary burden on industry. Every dairyman is a steward of the land, and cares about the environment.

Representative Dodge: District 63: Guadalupe, De Baca County, parts of Curry, Roosevelt, other counties. Chairs committees both interim and during session. Information tonight is fascinating and overwhelming, applauds everyone here to learn issues, appreciates the invitation. Dairy industry is a significant driver in his district. 75% milk produced in NM comes from the eastern part of the state. Tremendous number of jobs at the cheese plant in his district. He understands we need clear, clean water, being from Santa Rosa with all its lakes, streams. Dairy industry wants reasonable rules as long as there is a fair hearing for everyone. He understands need to work a business without unnecessary and unreasonable rules. He doesn't understand how MW locations are required, but he is going to learn. Wants NMED to take into consideration the money that the dairy industry brings into the state. He strongly encourages the group to make necessary changes to the Dairy Rule to make sure GW is protected, to make sure there are no unnecessary requirements.

Representative Spence-Ezzell: She is on House Energy & Natural Resources Committee. She is multi-generation in Chaves County and NM. She is still involved in family farm. Every person in this room wants the same thing: clean environment and clean water, but want to be able to make a living without unnecessary rules not based on sound science. We want all the players involved in these decisions. Has Coalition been invited to all meetings? [Jeff: yes, they were invited but declined to come.] When we are going after an industry that has been struggling, has followed all the rules and

regulations on dairies, now we are hearing the Coalition wasn't invited, she takes exception to that. She attended 2009 meetings, and if she was correct, the dairy industry was not invited. We have water problems in our state, but these dairy people live in our community and want the same thing. Let's have equal input from everyone.

Senator Ingle: One of the biggest problems in NM: cesspools for people that can't afford septic tanks. Many people have gone broke in this industry. Some businesses can add costs onto product, but this industry can't because they are tied to worldwide prices. NM has a graying economy but this is an industry that young people stay in. Please think about regulations and consequences before you make them. What makes this industry work is sanitation requirements – this determines their price.

Dane Goble: GGI, represents DPNM, geosci, NMP training in multiple states. GGI agrees that Dairy Rule needs some change. His comments are limited to NMP. GGI's work includes many NMPs. Best approach: being proactive, rather than creating nutrient budget. Best way to manage is to use real-time data, rather than working through nutrient budget. Experienced university experts at NMSU and NMSU Extension, NRCS, NMED, can achieve agronomic goals without sacrificing environmental protection. Encourages us to use these resources.

Zach Riley: On behalf of Farm & Livestock Bureau, born & raised agriculturalist from Eastern NM. Supports DIGCE's proposal to amend strict and inflexible rules, even where rules do not support increased GW protection. Will be a lot of variances that will cost everyone a lot of time and money – not a good use of resources for dairy industry or NMED. DIGCE's proposed amendments will allow reasonable changes to protect the industry and the GW.

Shawna Perry: Resident of Chaves County, works for GGI. Comments on prescriptive rules for MWs, liners. Permits require new MW at times less than 15 feet from working MW previously approved by NMED. Even if less than 15 feet, NMED has required another well – this is not sound science. It doesn't make sense to require another MW if prior permit approved other wells. They request that previously approved MWs be grandfathered in, if serving its purpose. They request that fields no longer being used, that no longer have water rights, be removed from permits. Requirement for MW for each impoundment is not necessary – 1 MW would do. Their professional opinion is that rule is overly burdensome. Chemigation valves do work and protect GW.

Luke Wolber: Dairyman from Socorro area. He asks us to consider that most dairymen are multi-generational; they want to pass on their dairies to their kids. Everything on dairy is based on water; they don't want to pollute GW.

Jeremy Kohler: Branch manager of Farm Credit of NM. Submits letter from CEO supporting DIGCE amendments because rule is burdensome. They understand importance of dairy industry and economic influence in rural areas. Amendments would allow NMED to consider site-specific circumstances of each dairy and still protect GW. They are the largest ag lender in NM. Dairymen need a reliable source of credit. The current regulations make it very difficult for a lender to lend to dairymen because of collateral risks. Dairy rule had a huge impact on their ability to lend money to dairies.

Maria Elena Bejerano: She has lived in Anthony, near a dairy. She does not think Dairy Rule should be changed. The proposed amendments will be a regression from GW protection. She was involved in original Dairy Rule and felt all parties were fairly represented. All the dairies around her are in Stage 2 Abatement – which is a “wait and see” process. She is here to defend prior rule, which will protect GW.

Daniel Lorimer: With the Sierra Club. He agrees wholeheartedly that the dairy industry is an economic generator, largest ag contributor. Between 2012 and 2013 milk sales have increased. This is an industry that has asked for regulation, deserves good regulation, but it has to be a responsible corporate member of our state. GW is held in trust by the state for each one of us. This is an industry that can do the job right. The regs on the books already represent a compromise. If asked again, he would request double liners, not single liners.

Rick Schaap: He is a dairy farmer in NM. Thanks TWG for open-mindedness, asks that DIGCE proposal be taken seriously. Doesn't make sense that specific distances for MWs are required, this isn't a practical approach.

Chet Wyant: EnviCompliance Services working for several dairies. He encourages TWG to consider amendments carefully, which are practical and makes common sense.

Jeff: within next 2 weeks the location of the November WQCC hearing will be announced.

Kirby, Kimberly, NMENV

From: Kirby, Kimberly, NMENV
Sent: Friday, November 02, 2012 1:26 PM
To: 'Marsha Shoemaker'
Cc: Jarett Stovall
Subject: NM Adjudicatory Procedures

Marsha,

Per our discussion during the meeting concerning the variance request for Southern Draw Dairy earlier this week, attached is 20.1.3 NMAC, Adjudicatory Procedures for the Water Quality Control Commission (WQCC). You will want to pay particular attention to the Variance Hearing section (20.1.3.18 NMAC). Also per your request, is the link for the WQCC's homepage, where you can access their schedule, agenda and other WQCC related information - <http://www.nmenv.state.nm.us/wqcc/>

Please let me know if you have any questions.

Thanks, and have a nice day.
Kim



20.1.3 NMAC -
Adjudicatory Pro...

Kimberly Kirby, *Geoscientist*
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Albuquerque, NM 87109
Phone: (505) 222-9523
Fax: (505) 222-9510



<input type="checkbox"/> Telephone	<input checked="" type="checkbox"/> Meeting	Time: 10:00 a.m.	Date: July 10, 2013
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Individuals Attending Teleconference or Meeting:

Sara Arthur, Kim Kirby, and Jennifer Pruett, GWQB; Chris Atencio, OGC	Called	Returned call from	John Logsdon, Sr. Vice President Ag New Mexico Farm Credit Services; Chet and Cathy Wyant, EnviroCompliance Services, Inc.; NM
	Was called by	Was called back by	
State Senator Pat Woods			
DP-911			
Site Name: Chalk Hill Dairy			

Subject: Discuss August 31, 2012 variance request on Discharge Permit Renewal for Closure issued on May 29, 2012

Discussion: Pruett asked the Chalk Hill Dairy representatives if they had a specific agenda that they wished to address during the meeting.

Wyant stated that they wished to discuss 4 items with NMED: 1) The variance request docketed was meant to be a letter asking for discussion with NMED and more formal variance request will be filed in the future; 2) the permittee wishes to backfill the RCS (RCS); 3) Installation of four new monitoring wells; and 4) abandonment of three existing monitoring wells is unnecessary. Wyant stated that he thought that the last wastewater discharge at the site was around October 2007. He also stated that he didn't think that LAA-B had received wastewater discharges.

Logsdon stated that he had made arrangements for topsoil to be purchased for closure of the RCS with no set schedule of fill material delivery. Pruett asked about historical complaints from neighbors about stormwater from the facility flowing northeast to the ditches along NM 267. Wyant replied that a survey of the facility completed after that complaint showed the facility is graded so stormwater flows to the RCS. Arthur stated that DP-941 required submission of a solids disposal plan prior to filling in and regrading the RCS.

Wyant stated that the permittee proposed using existing MW-1, a supply well, as a monitoring well downgradient of the RCS, LAA-A and the corrals, instead of installing the required 3 monitoring wells hydrologically downgradient of the RCS, LAA-A and LAA-B. He said the permittee also proposes to use MW-2, east of the storm water impoundment as an upgradient well instead of the required new hydrologically upgradient monitoring well. Logsdon stated that the permittee wished to sell the dairy facility as a residential/hobby farm property as quickly as possible. He stated that installation of the four new monitoring wells at the facility would cost more than the value of the property. Pruett stated that the requirement to install four monitoring wells was necessary to comply with 20.6.6 NMAC since the existing wells used for monitoring were not properly constructed or located. She stated that the GWQB was not likely to accept Wyant's proposal which was, in part, based on a ground water flow direction map created without data from properly constructed/located monitoring wells. She expressed concern that analytical results from samples from existing facility wells indicated that ground water at the site was contaminated with TDS, Cl and nitrate-N. She stated that the GWQB was very concerned that possible future agricultural/other use of the facility may mobilize contaminants from sources at the facility, particularly LAA-A which had received wastewater for many years. Arthur added that no crop had been harvested/grown on LAA-A since fresh irrigation water had never been applied to the field, so limited nitrogen removal had occurred.

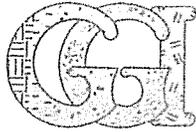
Wyant stated that he did not agree that the high TDS values sampled in facility ground water was from sources at the dairy. He stated that the TDS values in the facility ground water were typical of ground water in the Portales Valley. Pruett asked Wyant to submit data to NMED supporting that claim. Wyant stated that the most recent analytical data from the facility wells showed that the ground water quality was improving. Arthur stated that the most recent report received by NMED, from October 2012, still indicated ground water contamination. Wyant and Logsdon stated that more recent data had been submitted to NMED. Arthur and Kirby stated that they would check unfiled monitoring reports for the recent data.

Woods added that he had been told that monitoring wells can cause ground water contamination. Pruett stated that monitoring wells constructed in compliance with 20.6.6 NMAC cannot be a source of ground water contamination. Woods asked questions concerning proper well construction and was answered by Pruett and Kirby.

Chet stated that he was in the process of compiling a facility history for submission to NMED that would show that the site had had long periods when it was not in use or discharging wastewater.

Initialed *SEA*

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Agenda for July 12, 2013 meeting with NMED and GGI Clients

Draft Discharge Permits to be discussed:

1. Bonestroo –DP-898
2. Caballo – DP-546
3. Cheyenne 1&3 – DP-677
4. El Dorado – DP-1277
5. Nature's – DP-207
6. Par 5 – DP-1131
7. Pirtle Farms - DP-163
8. Pirtle and Sons 2 – DP-164
9. Woodcrest – DP-635

Topics to be discussed:

- Timeline adjustments for activities (i.e. lagoon drawings, construction and associated monitoring wells) that are in process with NRCS?
- Requirements for replacement monitoring wells where existing monitoring wells are greater than allowed distance from source and/or are shown to exceed 10 mg/L nitrate.
- Requirement for one monitoring well per every lagoon cell – installation on berms of lagoon system?
- Requirement for specific backflow prevention devices, existing check valves as backflow prevention devices.
- Storm water: sampling from pump discharge, meter storm water using a flow meter, staff gauge to estimate storm water volume, lagoon capacity for storm water pumped and then land applied via greenwater lagoon infrastructure.
- Extensions of time for monitoring well installations where surveys are being completed
- Variances – will individual variance requests be required for downstream requirements and each downstream requirement tied to initial requirement (i.e. monitoring well, survey, etc)?
- Variance – will a request for a variance on a specific monitoring well allow for Permittee to have decision before being required to complete additional monitoring well installations (i.e. wells Permittee is not filing a variance request on)? This would allow for reduced cost-per-monitoring well for Permittee.
- How can we integrate Abatement Plan activities into Discharge Permits?

20

7/12/13 NMED - Dairy Meeting

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