

## **PUBLIC TESTIMONY OF MARCY LEAVITT**

My name is Marcy Leavitt, and I am providing testimony today as a member of the public. I worked for the New Mexico Environment Department (NMED) for 23 years, all of which were in the area of water quality protection. I was Chief of the Ground Water Quality Bureau for 10 years, from February 1993 to February 2003, and Chief of the Surface Water Quality Bureau from March 2003 to May 2008 and from January 2010 until May 2011. I was the Director of the Water and Waste Management Division from May 2008 until December 2009. At that time the Water and Waste Management Division included the Ground Water Quality Bureau, Surface Water Quality Bureau, Hazardous Waste Bureau, and Department of Energy Oversight Bureau. I also worked on petroleum storage tank issues from 1986 to 1991 and was Chief of the Petroleum Storage Tank Bureau from May to December 2011. For 2 years I worked as a consulting hydrologist conducting ground water cleanups. For most of my career I was responsible for implementation of the Water Quality Act and Water Quality Control Commission (Commission) Regulations, and have participated as an expert witness in numerous hearings regarding the efficacy of the state's water quality protection programs, including hearings on copper mines. I was integrally involved with negotiations that resulted in the December 2010 Tyrone settlement agreement between NMED and Freeport.

I am currently employed as the New Mexico-Texas Regulatory Branch Chief by the United States Army Corps of Engineers, but I am not representing that agency today. I have a Bachelor's Degree in Geology from the University of Cincinnati and a Master's Degree in Hydrology from New Mexico Institute of Mining and Technology.

The purpose of my testimony is to express concern as a member of the public regarding the ripple effects of the proposed copper mine rules. During my career at NMED I worked in

many programs whose primary purpose was the protection of ground water quality for current and future generations. In each of these programs, ground water directly beneath the site where the discharge occurred was protected as a public resource and as a “place of withdrawal of water for present and reasonably foreseeable future use” under the Water Quality Act. In each of these programs it was understood that ground water often moves in unpredictable ways, and is not contained by property boundaries. In each of these programs emphasis was placed on containing contaminants at the source rather than hoping to clean up contaminants after ground water pollution occurs. In each of these programs it was understood that preventing ground water pollution is far less expensive than cleaning up contamination and that in many cases cleanup to WQCC standards is impossible. NMED and this Commission have understood and upheld these principles for more than 35 years, not allowing current politics and industry pressure to trump our state’s future water security. It is imperative that you, as stewards of our most precious resource, understand the implications of the proposed Copper Mine Rule that will extend beyond the copper mining industry.

From gas stations to dairies to community wastewater treatment systems to our national laboratories, regulations have been in place for decades to ensure that ground water is protected for current and future use. For more than 35 years, regulated facilities have been required to implement source control measures to ensure that contaminants do not leak into ground water. Liners are required at dairies, landfills, hazardous waste disposal facilities and industrial and municipal wastewater treatment plants to protect ground water. Where source control fails, cleanup to Commission water quality standards is required, including remediation of ground water directly beneath the facility. For decades, these requirements have been applied to all industries and all sources of contamination because we know that our limited ground water

resources will be needed to support future generations.

If you open the door now and allow significant ground water resources to become contaminated and remain contaminated for the benefit of one business sector, you will not be able to shut the door on other industries that seek the same treatment. Consistency is the tenet that all regulatory programs strive for and survive on to be credible. If you approve this proposed rule, why should a dairy line its lagoons instead of installing a few monitoring wells with the hope that contaminants won't escape to a neighbor's well. How will you impose liner requirements on a municipality that is struggling to balance its budget when you allow the profitable copper mining industry to forego source control? How will you justify requiring some businesses to be good stewards of our most precious resource, when copper mines are allowed to pollute large quantities of water that could be the future water supply for a neighboring community? Why should some industries have to go through public vetting of variances and alternative abatement standards when the copper mines are relieved of these long-standing requirements? How can we continue to claim that water is a public resource when private companies can turn clean aquifers into acid-laden waste repositories?

Strong and consistent ground water quality protection programs are in the best interests of the public at large. If you give up what has been accomplished in the last 35 years throughout the state and across business sectors, it will be impossible to contain the impacts. I urge you as citizens of New Mexico to consider these consequences as you deliberate these sweeping changes to our state's ground water quality protection program.