

**STATE OF NEW MEXICO
BEFORE THE SECRETARY OF ENVIRONMENT**



**IN THE MATTER OF THE APPLICATION
OF NEW MEXICO COPPER CORPORATION FOR
A GROUNDWATER DISCHARGE PERMIT FOR
THE COPPER FLAT MINE, DP-1840**

No. GWB-18-06 (P)

ORDER DENYING MOTION FOR RECONSIDERATION

This matter comes before the Hearing Officer on Elephant Butte Irrigation District (EBID)'s Motion for Reconsideration of Merits Hearing Setting and Related Deadlines, filed June 26, 2018. Turner Ranch Properties and Hillsboro Pitchfork Ranch filed a Memorandum supporting the Motion on June 27, 2018. The Ground Water Bureau ultimately took no position on the Motion, and the permit applicant New Mexico Copper Corporation (NMCC) filed a Response opposing the Motion on July 11, 2018. EBID filed a Reply on July 18, 2018.

In its Motion EBID raises the same issues raised during the June 14, 2018 scheduling conference in which Counsel for all parties and the Hearing Officer and staff had participated for the express purpose of setting the hearing and related deadlines. During that conference, after disclosing her pregnancy, and during the discussion around a proposed August 20, 2018 hearing start date, EBID's counsel stated "If we have to, I can be ready for trial sometime late September, early October. I'm not in a position to be ready before then." Audio-recording at 14:40-14:50. The Hearing Officer relied upon this statement to set the hearing to begin September 24-28, 2018, and, in order to accommodate the Ranches' witness' availability, to continue if needed October 9-12, 2018.

EBID's Motion proposed to begin the hearing when we would have been beginning the second week of it if necessary, and to continue through following week, and although this proposal might have been agreeable to the other parties, or might have delayed the hearing only modestly even over NMCC's objections, the responses to the Hearing Officer's email inquiry as to witness availability that second week make clear that the proposal is not workable. Each of the other three parties, the Ranches, the Bureau, and NMCC, have an unavailable expert witness the week of October 15.

Delaying further into the fall means conflicts with the Hearing Officer's schedule, and the Hearing Clerk's schedule, and would inevitably entail even longer delays as a result of the holidays in November and December. EBID having failed to demonstrate good cause for the continuance, and the undue delay that would result, the Motion is denied.



Felicia L. Orth, Hearing Officer