

**BEFORE THE WATER QUALITY CONTROL COMMISSION  
FOR THE STATE OF NEW MEXICO**



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

**WQCC 12-09 (R) and  
WQCC 13-08 (R)**

**DIGCE'S UNOPPOSED MOTION FOR CONTINUANCE**

Petitioner the Dairy Industry Group for a Clean Environment, Inc. (hereinafter, "DIGCE") moves for a continuance of the hearing currently scheduled in this matter to begin on December 9, 2014 in Roswell, New Mexico. This motion is prompted by the legal proceedings initiated in the Supreme Court and set for an emergency hearing on December 8, 2014. Those proceedings (1) seek a writ barring the Commission from holding the hearing in Roswell and requiring that the hearing be held in Santa Fe, and (2) seek a writ requiring the Commission to allow the Attorney General to appear as a party in the rulemaking hearing.

Continuing the rulemaking hearing will avoid unnecessary and expense should the Supreme Court halt the hearing, and will allow for more orderly and efficient hearing preparation and arrangements. DIGCE's members, witnesses and counsel, as well as the other parties and the Commissioners and agency staff, are finalizing hearing preparations and travel arrangements for the hearing scheduled in Roswell. Those preparations have gone forward following the ruling by Judge Attrep of the First Judicial District on November 25 that allowed the hearing to proceed in Roswell. With a Supreme Court ruling currently not expected until the afternoon of December 8, the day before the rulemaking hearing is set to commence the morning of December 9, if the Supreme Court requires a change in the hearing location to Santa Fe, there will be much wasted effort and expense in finalizing hearing preparations, making travel arrangements, and perhaps for some witnesses, counsel, Commissioners and staff, actual travel to Roswell. In addition, many local dairy operators,

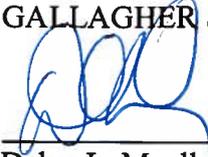
most of whom operate 24-hours a day, seven days a week, intend to attend and participate in the hearing. Consequently, they need to rearrange work schedules in anticipation of the hearing. These efforts would be wasted, resulting in a great inconvenience and unnecessary expense, if the Supreme Court halts the hearing at the last minute.

DIGCE understands that the next available date for a hearing on its petitions likely will be in April, 2015. While it is regretful that a hearing on the longstanding petitions again be delayed, that is the better option at this point to avoid inconvenience and unnecessary expense for the hearing participants.

**WHEREFORE**, DIGCE respectfully requests that the Hearing Officer and/or the Commission continue the hearing on its petitions until the next available hearing date and advise the parties on when and where the Commission will meet to address rescheduling of the hearing. Counsel for DIGCE has consulted with counsel for all parties, and none of the parties object to this motion. A proposed form of Order is attached.

Respectfully Submitted,

GALLAGHER & KENNEDY, P.A.



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**Certificate of Service:**

I hereby certify that a true and accurate copy of the foregoing pleading was served upon the following parties of record by mail, hand-delivery and/or electronic mail this Wednesday, December 03, 2014:

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