

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



**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 RESPONSE TO THE COALITION
MOTION FOR A PARTIAL CHANGE OF VENUE AND RESCHEDULING**

The New Mexico Environment Department (“NMED” or “Department”) files this Response to The Coalition Motion for a Partial Change of Venue and Rescheduling. NMED opposes the Motion filed by Amigos Bravos, Lea County Concerned Citizens, Mesquite Community Action Committee, Rio Grande Chapter of the Sierra Club, and Rio Valle Concerned Citizens (“the Coalition”) because the Water Quality Control Commission (“Commission”) has already decided the location of the hearing and the Coalition has provided no new argument as to why a change in venue is appropriate at this time. The Department opposes a rescheduling of this hearing because the motions pending before the Hearing Officer and/or Commission may be resolved in advance of or at the hearing.

Change of Venue

1. The Coalition seeks to change venue of the technical portion of the hearing in this matter, claiming that Section 74-6-6(C) of the Water Quality Act, NMSA 1978, Sections 74-6-1 to -17 (1967, as amended through 2013), requires that the hearing take place in Santa Fe, New Mexico.

2. The Coalition, by and through its members, previously raised this same issue of hearing location unsuccessfully in three separate forums: in front of the Commission during its

September 9, 2014, regular meeting; in the First Judicial District Court of New Mexico on November 25, 2014; and in the New Mexico Supreme Court on December 15, 2014.

3. During its January 13, 2015, regular meeting, the Commission rescheduled this matter to commence on April 6, 2015, and again set the hearing location for Roswell, New Mexico.

4. The Commission previously deliberated and decided on the hearing location, and the Coalition has provided no new facts, circumstances, or argument warranting the Commission to revisit its decision.

Rescheduling of Hearing

5. The Coalition requests that the hearing be rescheduled due to pending motions in this proceeding. The outstanding motions may be resolved in advance of the Dairy Rule hearing.

6. The pending petitions to amend the Dairy Rule have created uncertainty in the Department's implementation of the rule. Acknowledging the potential of having to re-issue permits if the Dairy Rule is amended, the Ground Water Quality Bureau diverted much of its limited and valuable Agriculture Team staff time to address non-dairy agricultural facility permits when this hearing was continued from December 9, 2014. The Department requires resolution of the pending petitions in order to effectively manage groundwater permitting and enforcement matters at dairy facilities.

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For the foregoing reasons, the Department respectfully requests that the Hearing Officer deny the Coalition's Motion for a Partial Change of Venue and Rescheduling.

Respectfully submitted,

GROUND WATER QUALITY BUREAU
NEW MEXICO ENVIRONMENT DEPARTMENT



Jeffrey M. Kendall, General Counsel
Christopher Atencio, Assistant General Counsel
Kay R. Bonza, Assistant General Counsel
Office of General Counsel
New Mexico Environment Department
P.O. Box 5469
Santa Fe, NM 87502-5469
Telephone: (505) 827-2855
jeff.kendall@state.nm.us
christopher.atencio@state.nm.us
kay.bonza@state.nm.us

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CERTIFICATE OF SERVICE

I hereby certify that a copy of New Mexico Environment Department's Response to the Coalition's Motion for a Partial Change of Venue and Rescheduling was served on the parties of record in this matter via electronic mail on March 25, 2015.

SERVICE LIST

Robert A. Stranahan, IV
Dalva L. Mollenberg, Esq.
Anthony (T.J.) Trujillo, Esq.
Gallagher & Kennedy, P.A.
1239 Paseo de Peralta
Santa Fe, New Mexico 87501
DLM@gknet.com
AJT@gknet.com
bob.stranahan@gknet.com
*For the Petitioner, Dairy Industry Group for
a Clean Environment (DIGCE)*

Jon Block
Eric Jantz
Douglas Meiklejohn
New Mexico Environmental Law Center
1405 Luisa Street, Ste. 5
Santa Fe, NM 87505
jblock@nmelc.org
For the Coalition

Tannis L. Fox, Assistant Attorney General
Water, Environmental and Utilities Division
Office of the New Mexico Attorney General
P.O. Box 1508
Santa Fe, New Mexico 87504
tfox@nmag.gov
For the New Mexico Attorney General

Wade Jackson, General Counsel
Economic Development Department
Joseph Montoya Building
1100 S. St. Francis Drive
Santa Fe, New Mexico 87505
Wade.Jackson@state.nm.us
Counsel for the Commission



Kay R. Bonza