

STATE OF NEW MEXICO
WATER QUALITY CONTROL COMMISSION



IN THE MATTER OF PROPOSED AMENDMENTS
TO 20.6.2 NMAC, THE COPPER MINE RULE

No. WQCC 12-01 (R)

New Mexico Environment Department,
Petitioner.

**NEW MEXICO ENVIRONMENT DEPARTMENT'S
NOTICE OF INTENT TO PRESENT TECHNICAL TESTIMONY**

The New Mexico Environment Department (“NMED” or “Department”) hereby submits this Notice of Intent to Present Technical Testimony in support of the above-referenced petition at the public hearing set to begin April 9, 2013.

1. The person for whom the witnesses will testify.

The Department.

2. The name and qualifications of each technical witness.

Thomas Skibitski. Mr. Skibitski is the Acting Director of the Resource Protection Division of the Department. Mr. Skibitski will be testifying as a technical fact witness for the Department. His education includes a Bachelor’s Degree in Architecture and Planning from the University of New Mexico with a focus on construction management, and a graduate certificate in Environmental Conflict Resolution from Antioch-McGregor University. Mr. Skibitski has been employed with the Department since 1998 and always in a management capacity. In addition to his job as Acting Director of the Resource Protection Division, Mr. Skibitski is the Chief of the Department of Energy (DOE) Oversight Bureau, a non-regulatory program that conducts oversight activities at DOE facilities in New Mexico, a position he has

held for the last seven years. Prior to his employment with the Department, Mr. Skibitski worked in the field of construction project management.

Mr. Skibitski's full direct testimony is attached. In summary, Mr. Skibitski will testify about the events giving rise to the 2009 amendments to the New Mexico Water Quality Act and the Department's directive to craft industry specific rules for approval by the Water Quality Control Commission. Mr. Skibitski will testify as to the formation of the Copper Rule Advisory Committee and the Department's role in proposing a rule that is both in the public interest of preventing ground water pollution and scientifically based. Finally, his testimony will address the Department's objectives and interests in crafting the proposed Copper Mine Rule such that it is a permit by rule.

Adrian Brown. Mr. Brown is a Civil Engineer with the environmental engineering and consulting firm of Adrian Brown Consultants, Inc. His firm specializes in earth-science problems in the mining, hazardous waste, water supply, manufacturing, and civil construction industries. Mr. Brown will be testifying as a technical expert witness for the Department. Mr. Brown received a Bachelor of Engineering in Civil Engineering, a Master of Science in Engineering, and a Master of Administration from Monash University, Australia. His experience spans more than 40 years, and over 500 projects in all areas of groundwater and surface water flow and transport, remediation, slope stability, and geotechnics. He has published a number of papers and book chapters on groundwater flow, contamination, and remediation. Mr. Brown has lectured in the U.S., Australia, Canada and China. He served for two years as an adjunct professor in groundwater engineering at the Colorado School of Mines. Currently, he is the President of the International Mine Water Association (IMWA).

Mr. Brown's full direct testimony is attached. In summary, Mr. Brown will testify about the Department's proposed Copper Mine Rule in detail by delineating the discharge control methods described in the Department's proposed Copper Mine Rule and the effectiveness of those methods. For each mining unit, Mr. Brown will testify as to the operational requirements, the contaminant capture requirements, the monitoring requirements, and make a technical determination as to whether the proposed rule prevents water pollution so that groundwater meets the quality standards at locations of present and potential future groundwater use. Mr. Brown is familiar with the permitting practices of the Ground Water Quality Bureau of the Department for copper mines and is familiar with the New Mexico Mining Act. In addition, Mr. Brown is familiar with the regulation of hard rock mines throughout the United States.

3. Whether the Department supports or opposes the proposed Copper Mine Rule.

The Department supports the proposed Copper Mine Rule.

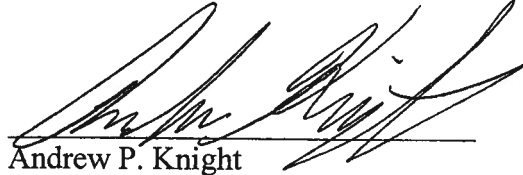
4. A list and description of exhibits.

<u>EXHIBIT NUMBER</u>	<u>TITLE OF EXHIBIT</u>
NMED Exhibit 1	Resume of Thomas Skibitski
NMED Exhibit 2	Re-issue of Supplemental Discharge Permit for Closure, DP-1341
NMED Exhibit 3	NM Court of Appeals Opinion in <i>Phelps Dodge Tyrone, Inc. v. NM Water Quality Control Comm'n</i> , 2006-NMCA-115
NMED Exhibit 4	Final Senate Bill 206 proposing amendments to the Water Quality Act, NMSA 1978, § 74-6-4
NMED Exhibit 5	Advisory Committee Guidelines with Cover Letter
NMED Exhibit 6	September 13, 2012 Public Notice Version of Copper Rule

NMED Exhibit 7	NMED PowerPoint Presentation from September 25 and 26, 2012 Public Meetings
NMED Exhibit 8	Resume of Adrian Brown
NMED Exhibit 9	Nevada Admin. Code Chapter 445A – Water Controls Mining Facilities
NMED Exhibit 10	Workman, J., and Keeble, R., “Design and Construction of Liner Systems,” Chapter 5.1
NMED Exhibit 11	Precipitation Map of New Mexico
NMED Exhibit 12	“Conceptual Understanding and Groundwater Quality of the Basin-Fill Aquifer in the Middle Rio Grande Basin”, by Laura M. Bexfield, USGS
NMED Exhibit 13	Final Groundwater Restoration Plan for the Chino, Cobre, and Tyrone Mine Facilities
NMED Exhibit 14	Ground Water in White River Valley, White Pine, Nye, and Lincoln Counties, Nevada
NMED Exhibit 15	Modelling of Calcium Sulphate Solubility in Concentrated Multi-component Sulphate Solutions
NMED Exhibit 16	Water Balance Covers for Waste Containment: Principles and Practice
NMED Exhibit 17	Discharge Permit Renewal and Modification, Lampbright Leach System, DP-376
NMED Exhibit 18	Discharge Permit Renewal and Modification, DP-484, Tailing Pond 7
NMED Exhibit 19	Hoek, E. and Bray, J. “Rock Slope Engineering, Revised 2 nd Edition”, Chapter 9, Circular Failure

Respectfully submitted,

NEW MEXICO ENVIRONMENT DEPARTMENT



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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was served by email on the following on this 22nd day of February, 2013:

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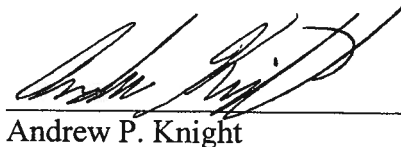
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