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By email to: [NMENV.GWQBrulerev@state.nm.us](mailto:NMENV.GWQBrulerev@state.nm.us)

Steve Huddleson, P.G., C.P.G.  
Manager, Pollution Prevention Section  
Ground Water Quality Bureau  
New Mexico Environment Department  
1190 St. Francis Drive  
Santa Fe, NM 87505

Re: Public Comments about the September 19, 2016 “New Draft” of Proposed Changes to New Mexico’s Surface and Ground Water Protection Regulations 20.6.2 NMAC

Dear Mr. Huddleson:

I am deeply concerned about the proposed changes found in the September 19, 2016 “new draft” of the New Mexico’s Surface and Ground Water Protection regulations that exceed the authority of the New Mexico Environment Department (Department) and reduce or eliminate the public’s due process rights required in permit decision-making processes. I have reviewed the November 2015 Ground Water Quality Bureau’s “Hit List” and find the Department’s attempt to eliminate transparency and eviscerate the public’s rights to participate in permitting decision-making alarming.

I am also concerned about changes that would allow more pollution in New Mexico’s waters. For example, the amount of chromium – a toxic chemical highlighted in the movie *Erin Brockovich* - would double from 0.05 milligram per liter (mg/L) to 0.1 mg/L. Proposed 20.6.2.3103.A.6 NMAC. As you know, the federal drinking water standard for chromium is 0.1 mg/L. The New Mexico Water Quality Act does not preclude New Mexico from having more protective drinking water standards than the federal standards. The federal standards are a floor, not a ceiling. The New Mexico Water Quality Control Commission clearly had good reason to set the chromium standard at the more protective 0.05 mg/L. The Department has not provided any justification for significantly weakening the chromium standard.

I support the Department’s proposed fee increases tied to the consumer price index. Proposed 20.6.2.3114 NMAC. The proposed fee increases are long overdue and bring the fees to the levels of neighboring states.

I urge the Department to strike the proposals that would:

1. Add a definition for a “discharge permit amendment.” The New Mexico Water Quality Act does not authorize the Department to amend a discharge permit, only to renew or modify a permit. The Department is proposing to exceed its authority.
2. Allow for the discharge of a new pollutant without providing public notice and the opportunity for a public hearing under a “discharge permit amendment.” Under the

existing regulations, the introduction of a new pollutant would constitute a “modification” of the discharge permit, which requires public notice and opportunity for a public hearing. The Department is proposing to exceed its authority.

3. Allow the Department to issue a formal letter to renew a permit. The Water Quality Act is clear that public participation is required in permit renewal decision-making. The Department is proposing to exceed its authority.
4. Allow the Department to issue permit variances in perpetuity. The Water Quality Act authorizes the Water Quality Control Commission to issue permits for no more than five years and for a permitted facility, a variance from meeting water quality standards may not exceed the term of the permit. If a facility requires additional time to come into compliance, it is required to go before the Commission to explain why. Public notice and opportunity for public input is required. The Department is proposing to exceed its authority.
5. Allow the Department to conduct an internal five-year review of a variance. The Water Quality Act is clear that the facility must come before the Water Quality Control Commission if it needs more than five years to come into compliance with the permit. Again the Department is proposing to exceed its authority.
6. Prevent the ability of the public to challenge a variance before the Water Quality Control Commission by limiting the argument and evidence to “changed circumstances or newly-discovered facts or conditions that were not known at the time the variance was initially granted.” I question how the public would learn of changed circumstances or newly-discovered facts when no public notice would be required under the proposed changes.
7. Reduce the size of the public notice sign required to be posted at the facility from 2 feet by 3 feet to a mere 11 inches by 17 inches. Even a 2 x 3 foot sign is too small; a larger sign should be required, at least 3 x 4 feet, so that the public can easily see the sign when driving past the facility, learn about proposed discharge, who to contact for more information, and how to participate in the decision-making process.

The Department held four “listening sessions” (Las Cruces, Albuquerque, Farmington and Roswell) about the proposed changes. A listening session was not held in my community. I request that a listening session be held in [name of your community]. Please add my name to your update list about this regulatory process. Please inform me when this matter will come before the Water Quality Control Commission in Spring 2017.

Thank you for your careful consideration of my comments. Please contact me with any questions or concerns you may have.

Sincerely,

Insert name and email address