



Gila Resources Information Project  
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## FOR IMMEDIATE RELEASE

Wednesday, January 8, 2014

### **WATER QUALITY CONTROL COMMISSION VOTES FOR POLITICS AND AGAINST WATER QUALITY PROTECTION**

*SANTA FE, N.M.*— At a hearing today, the New Mexico Water Quality Control Commission (WQCC) - a state decision-making entity responsible for protecting New Mexico's water - voted down a Motion to Stay the Copper Rule. In September 2013, the WQCC adopted the Copper Rule, which would allow contamination of groundwater beneath copper mine sites in New Mexico. The stay would have prevented the new Rule from being used by the New Mexico Environment Department (NMED) in copper mine permitting decisions while the Copper Rule is under appeal in the NM Court of Appeals.

The Motion to Stay was filed by the Gila Resources Information Project (GRIP), Turner Ranch Properties, L.P., and Amigos Bravos. In the Motion, they argue that the case raises important legal questions that must be resolved by the Court of Appeals, and that irreparable harm to public water resources is likely if the Copper Rule is implemented. The Rule marks the first time since the state Water Quality Act was adopted that the WQCC has adopted regulations that would allow contamination of groundwater by an industry.

GRIP and Turner Ranch Properties are represented by the non-profit, public-interest New Mexico Environmental Law Center (NMELC); Amigos Bravos is represented by High Desert Energy + Environment Law Partners, a firm based in Santa Fe. The Motion is supported by the New Mexico Office of the Attorney General. The Motion is opposed by NMED and multinational copper mining corporation Freeport-McMoRan Copper & Gold. NMED and Freeport-McMoRan, which operates three large open pit copper mines in Grant County, NM, worked together to draft and advocate for the Rule.

"We're not surprised by the WQCC's decision," says Bruce Frederick, NMELC Staff Attorney. "We anticipated that this Commission would deny our Motion, but the law requires us to go to the WQCC before we can ask the Court of Appeals to stay the Copper Rule pending appeal."

"Grant County residents rely 100% on groundwater for their drinking water and the copper rule would allow Freeport-McMoRan to add to existing contamination of the regional aquifer," stated GRIP Executive Director Allyson Siwik who testified at today's hearing. "It's critical that the copper rule be stayed pending appeal as groundwater contamination would occur if Freeport's permits are renewed under the new regulation."

"This new rule passed by the Water Quality Control Commission represents a complete shift in water quality protections for the state of New Mexico," said Rachel Conn, Projects Director for Amigos Bravos. "For the first time in NM history our state is allowing water pollution by rule. It is completely appropriate to wait to implement this rule until the New Mexico Court system determines whether or not it violates NM law."

The public interest groups and Turner Ranch Properties will continue in the NM Court of Appeals their efforts to protect water quality from the impacts of the Copper Rule.

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## **BACKGROUND**

- In 2009, the New Mexico Legislature mandated the Water Quality Control Commission to specify water discharge regulations for the dairy and copper mining industries that would prevent water pollution and protect water quality.
- In 2012, the NMED put together an advisory committee that included members from the copper mining company Freeport-McMoRan, environmental groups and technical experts to craft the new copper rule to present to the WQCC. The advisory committee met for eight months and in mid-August a draft rule was sent to NMED.
- At Freeport's request, the NMED's upper management overruled the recommendations of the advisory committee, including those recommendations of its own technical staff, and incorporated language that would allow Freeport (and other copper mine operators) to routinely pollute groundwater with acid rock drainage, metals and other contaminants in the course of its mining operations.
- In April 2013, the NMED presented its draft water quality rules for copper mines before the WQCC. The NMELC and its clients opposed the rules on grounds that they are illegal under the Water Quality Act. NMED's own technical staff involved in the copper rules development process did not attend the hearing to support the draft rules.
- The WQCC voted 9 – 1 in September 2013 to approve the draft copper rules with little deliberation. In making its decision, the commission adopted, with one small non-substantive change, the Proposed Statement of Reasons submitted by NMED with substantial help from Freeport-McMoRan.
- The NMELC and its clients filed an appeal against the adopted Copper Rule in October 2013.
- The NMELC and its clients filed in October 2013 a motion to stay the adopted Copper Rule until the Copper Rule appeal is decided.

### **INTERVIEWS AND IMAGES ARE AVAILABLE UPON REQUEST**

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*The mission of the **New Mexico Environmental Law Center** is to protect New Mexico's natural environment and achieve environmental justice for New Mexico's communities through legal representation, policy advocacy and public education.*

*The **Gila Resources Information Project** promotes community health by protecting the environment and natural resources in southwestern New Mexico.*

***Amigos Bravos'** mission is to return New Mexico's rivers and the Río Grande watershed to drinkable quality wherever possible and to contact quality everywhere else; to see that natural flows are maintained and where those flows have been disrupted by human intervention to see that they are regulated to protect and reclaim the river ecosystem by approximating natural flows; to preserve and restore the native riparian and riverine biodiversity; to support the environmentally sound and sustainable traditional ways of life of indigenous cultures; and to ensure that environmental justice and social justice go hand-in-hand.*

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