

STATE OF NEW MEXICO
BEFORE THE WATER QUALITY CONTROL COMMISSION



IN THE MATTER OF PROPOSED AMENDMENTS TO
SURFACE WATER QUALITY STANDARDS FOR
SAN ISIDRO ARROYO AND TRIBUTARIES

WQCC No. 19-03(R)

**PEABODY NATURAL RESOURCES COMPANY'S
NOTICE OF INTENT TO PRESENT TECHNICAL TESTIMONY**

Peabody Natural Resources Company ("Petitioner") hereby submits its Notice of Intent to Present Technical Testimony at the hearing of this matter, in support of its Petition to Amend the Ground and Surface Water Protection Regulations, pursuant 20.1.6.202 NMAC and the Notice of Public Hearing.

I. Identity, Qualifications, and Testimony Summaries of Petitioners' Four Technical Witnesses

At the hearing of this matter Petitioner will present the following four technical witnesses. Petitioner reserves the right to present additional non-technical witnesses as part of its direct presentation, as well as technical and non-technical witnesses in rebuttal or in response to witnesses, statements or evidence of other parties or members of the public:

**A. Mr. John Cochran
681 S. Highline Lane
Camp Verde, Arizona, 86322**

1. Summary of Mr. Cochran's Qualifications and Direct Testimony

Mr. John Cochran currently works as a consultant for Peabody Investment Corporation, where he has been employed for approximately fourteen years. He has broad expertise in environmental permit compliance for Peabody Natural Resources Company's ("Peabody") operations in Arizona, Colorado and New Mexico, including providing permitting and compliance support for water-related regulatory programs. Mr. Cochran has extensive experience and expertise

in regulatory compliance and permit management. Mr. Cochran has a Bachelor of Science degree from the University of Arizona in Hydrology.

Mr. Cochran’s direct testimony, which includes advance written testimony submitted herewith, will consist of technical testimony. He will provide an overview of the federal and state legal framework pertinent to surface water quality standards and the regulations adopting those standard. Mr. Cochran will provide testimony regarding the New Mexico Surface Water Quality Standards (“SWQS”) as they relate to the Clean Water Act. He will go on to discuss Peabody’s decision to petition the New Mexico Water Quality Commission (“Commission”) for a regulatory change to its SWQS for certain drainages, arroyos and tributaries within the San Isidro Arroyo. Mr. Cochran will also provide an overview the Lee Ranch Mine, including a brief discussion of its NPDES and SMCRA permits.

2. Estimated Length of Mr. Cochran’s Direct Testimony

It is estimated that Mr. Cochran’s direct oral testimony will last approximately fifteen (15) minutes, more or less.

B. Mr. Pleasant Chad Gaines 60018 Cantina Acres Grants, New Mexico, 87020

1. Summary of Mr. Gaines’ Qualifications and Direct Testimony

Mr. Pleasant Chad Gaines is an Environmental Specialist for Peabody Investment Corporation, where he has worked since 2006. Mr. Gaines has expertise in environmental permitting and compliance management at Peabody’s two New Mexico mines, the Lee Ranch Mine and El Segundo Mine. Mr. Gaines received his Bachelor of Science degree in Organizational Management from Ashford University.

Mr. Gaines' direct testimony, which includes advance written testimony submitted herewith, will consist of technical testimony. He will provide an introduction to the Lee Ranch Mine Site, including some of the relevant mine features. He will orient the Commission to the area that is the subject of Peabody's Petition. Mr. Gaines will also testify about the proposed regulatory change. His testimony will include the proposed final text of the proposed regulatory changes, which is slightly different from the draft language that was initially included in Peabody's Petition, and which resulted from collaborative discussions with staff of the New Mexico Environment Department ("NMED") Surface Water Quality Bureau ("SWQB"). The text of the recommended modifications to the proposed regulatory change appears as Peabody Exhibit __ to his advance written testimony, as required by 20.1.6.202.A(5) NMAC. Mr. Gaines will provide testimony about each watercourse that is the subject of the proposed regulatory change.

2. Estimated Length of Mr. Gaines' Direct Testimony

It is estimated that Mr. Gaines' direct oral testimony will last approximately twenty (20) to minutes, more or less.

C. Mr. Jeffrey Olyphant
3672 Bellerive Blvd.
Saint Louis, Missouri, 63115

1. Summary of Mr. Olyphant's Qualifications and Direct Testimony

Mr. Jeffrey Olyphant is a Manager of Hydrology for Peabody Investment Corporation. He is an expert with over twelve years of experience in hydrology and environmental permitting compliance. Mr. Olyphant has worked for Peabody since 2012, where he has developed and reviewed technical hydrology reports, hydrogeologic monitoring plans for site characterization and impact assessments, and environmental permit applications, renewals and modifications. Mr. Olyphant has a Bachelor of Science degree from Indiana University in Environmental Science,

with a Minor in Geological Sciences, and a Masters in Geological Sciences-Hydrogeology from the University of Texas at Austin.

Mr. Olyphant's direct testimony, which includes advance written testimony submitted herewith, will provide an introduction to the regional hydrogeologic setting at the LRM and discuss why the setting is relevant to the Petition. Mr. Olyphant will provide testimony about the site-specific hydrogeologic setting of the LRM. Mr. Olyphant will testify regarding the stream segments identified in the Petition, and the hydrologic finding that these stream segments are ephemeral.

2. Estimated Length of Mr. Olyphant's Direct Testimony

It is estimated that Mr. Olyphant's direct testimony will last approximately thirty (30) minutes, more or less.

**A. Mr. James Boswell
302 E. Dee St.
Lebanon, Illinois, 62254**

1. Summary of Mr. Boswell's Qualifications and Direct Testimony

Mr. James Boswell is the Director of Environmental, Regulatory and Permitting for Peabody Energy, where he has been employed for over fourteen years. He has broad expertise in environmental project management for Peabody. Mr. Boswell currently manages environmental permitting for Peabody's Midwest operations including mining, discharge, groundwater, stormwater, air, and dredge and fill permitting. Mr. Boswell has a Bachelor of Science degree from Indiana University in Environmental Science, with Minors in Geology and Mathematics, and a Masters in Geological Sciences from Indiana University.

Mr. Boswell's direct testimony, which includes advance written testimony submitted herewith, will cover several subject areas, and will include technical testimony. Mr. Boswell will

testify regarding all aspects of Peabody's Use Attainability Analysis ("UAA"). Mr. Boswell will provide testimony on the development and implementation of the work plan for the UAA and the process leading to agency input and approval of the work plan for the UAA. He will offer an overview of NMED SWQB's foundational Hydrology Protocol ("HP"). Mr. Boswell will provide testimony regarding Peabody's implementation of the HP for the UAA. Mr. Boswell will testify regarding the UAA for the overall arroyos, tributaries, and drainages within the areas that are the subject of Peabody's Petition, and the results that support a finding that the stream segments identified therein are ephemeral.

2. Estimated Length of Mr. Boswell's Direct Testimony

It is estimated that Mr. Boswell's direct testimony will last approximately forty (40) minutes, more or less.

II. Materials Referenced by Petitioner's Witnesses

In addition to the materials that Petitioners will use as exhibits, as listed below and attached, one or more of Petitioner's witnesses referenced or reviewed the UAA materials that are on file with the New Mexico Environment Department, drafts of the proposed changes to the regulatory text that have been exchanged between Petitioner and the NMED, letters and comments submitted to the Petitioner and made a part of the record, and the Water Quality Control Commission's regulations. Petitioner also references permits for the LRM.

III. Petitioner's Hearing Exhibits

- A. Mr. Cochran's testimony will include presentation of the following exhibits:
1. Advance Written Testimony of John Cochran
 2. Resume of John Cochran
 3. Lee Ranch Mine Location Map

4. PowerPoint Presentation, John Cochran, Peabody Investment Corporation

B. Mr. Gaines' testimony will include presentation of the following exhibits:

5. Advance Written Testimony of Pleasant Chad Gaines

6. Resume of Pleasant Chad Gaines

7. Figure 3, UAA Overview Map

8. NMED 2012 Use Attainability Analysis

9. Text of the Recommended Modification to the Proposed Regulatory Change 20.6.4.97(C)(1) NMAC

10. PowerPoint Presentation, Pleasant Chad Gaines

C. Mr. Olyphant's testimony will include presentation of the following exhibits, in addition to exhibits presented by Mr. Gaines:

11. Advance Written Testimony of Jeffrey Olyphant

12. Resume of Jeffrey Olyphant

13. PowerPoint Presentation, Jeffrey Olyphant

14. Location of the San Juan Structural Basin

15. Structural Elements of the San Juan Basin Diagram

16. San Juan Basin Regional Groundwater Flow Diagram

17. Hydrograph of USGS Gaging Station 08340500

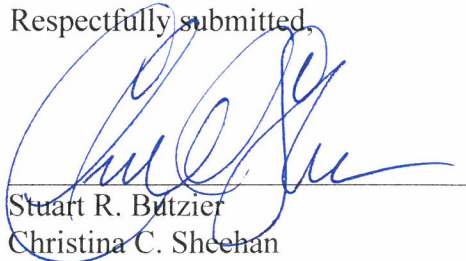
18. Surface Geology Map of the UAA Study Area

19. Diagram of Representative Geologic Column of the Menefee Formation

20. Stratigraphic framework of the San Juan Basin and generalized southwest-northeast cross-section of San Juan Basin

- D. Mr. Boswell's testimony presentation of the following exhibits, in addition to exhibits presented by Mr. Gaines:
21. Advance Written Testimony of James Boswell
 22. Resume of James Boswell
 23. PowerPoint Presentation, James Boswell
 24. Lee Ranch Mine UAA Public Notice Documents
- E. Yet to be identified exhibits Petitioner may use in rebuttal.

Respectfully submitted,



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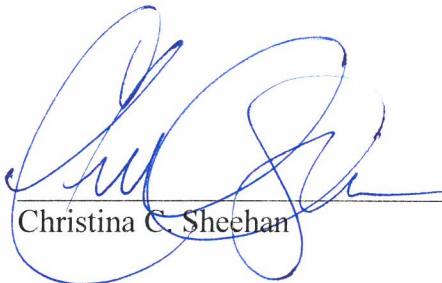
Attorneys for Peabody Natural Resources Company

CERTIFICATE OF SERVICE

I hereby certify that on September 18, 2019, a copy of the foregoing “Notice of Intent to Present Technical Testimony” was filed with the WQCC Administrator and served on the following via electronic mail:

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