NM Regulators Approve Water Protection Rules

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ALBUQUERQUE, N.M. (AP) — New Mexico regulators on Tuesday approved a proposed set of rules aimed at protecting groundwater at copper mines despite claims by the attorney general's office that the proposal contradicts existing state law.

The hearing before the state Water Quality Control Commission marked the culmination of months of wrangling over how best to deal with potential contamination at mining sites. The commission heard days of testimony, held public meetings and reviewed volumes of information related to the so-called "copper rule" before voting 9-1 to approve modifications.

The state Environment Department has said the proposal would be the most stringent of any copper producing state in the West, but critics contend that it would give mining companies a license to pollute and could open the door to other industries to seek similar regulations.

"Although the rule has its critics, it is more protective than what is in place now," department attorney Andrew Knight told the commission, adding that there will be room to make changes.

"We strongly oppose these copper rules as they will allow the mining industry to pollute our valuable groundwater resources rather than prevent pollution at mining operations as required under the State Water Quality Act," Allyson Siwik, executive director of the Gila Resources Information Project environmental group, said in a statement.

The rule includes new requirements for installing monitoring wells, containing contamination and cleaning up when the mine closes. Knight said it provides a "prescriptive" solution to address the scale and complexity of copper mines.

Assistant Attorney General Tannis Fox told the commission the state Water Quality Act is clear that any groundwater sources being used now or in the future demand protection. The proposal, she said, would allow mining companies to pollute the groundwater beneath their operations.

Fox also raised concerns about top agency officials negotiating the proposal with Freeport McMoRan, which operates mines in southern New Mexico. She said for the first time, the department failed to call its own technical staff to testify before the commission because they had concerns about the proposal.

"That's highly unusual but not surprising," she said.

Critics have said earlier versions of the proposal had required liners to be installed

in certain areas. Under the version being considered by the commission, liners would be required at the discretion of the department.

Attorneys agreed that a practical and economical balance needed to be struck, allowing copper mining to continue while protecting water supplies from contamination.

Bill Olson, a former regulator and longtime department employee who testified in opposition of the proposal, said the issue holds even more importance as New Mexico deals with a persistent drought.

"New Mexico is an arid state with limited groundwater resources," he told the commission, adding that monitoring wells some distance away from an open pit mine offer no guarantee of protection.

Some commissioners said the state needed to move forward with the new regulations. Others voiced concerns about the proposal opening the door for other industries to pollute.

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