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May 6, 2025

Environmental Improvement Board

New Mexico Environment Department

1190 St. Francis Drive, Suite N4050

Santa Fe, NM 87505

Re: Formal Protest of EIB 25-11 (R) – Proposed New Regulation, 11.5.7 NMAC – Heat Illness and Injury Prevention

Dear Members of the Environmental Improvement Board,

I am writing on behalf of AK Sales and Consulting, Inc., a small business headquartered in Roswell, New Mexico, employing over 40 dedicated professionals. We specialize in building playgrounds and outdoor athletic facilities for school districts, municipalities, and public parks across the state.

We respectfully submit this letter in protest of the proposed new regulation, 11.5.7 NMAC – Heat Illness and Injury Prevention. While we understand and support the importance of worker safety and health, particularly in extreme conditions, this proposed regulation poses a severe operational and financial burden on small businesses like ours that work primarily in outdoor construction.

Due to the nature of our projects and our primary clientele being public schools, we are limited to performing most of our work during the summer months when students are off campus or during regular school hours when staff are present to coordinate safety. As a result, we cannot avoid working in elevated temperatures — a reality of life and business in New Mexico where temperatures exceed 80 degrees for a majority of the year and often reach over 90 degrees during summer.

Implementing the proposed heat-related protocols would require us to hire additional staff, extend project timelines, and restructure work schedules in ways that would drive up costs significantly. These increased expenses would inevitably be passed on to our clients — in this case, public schools and municipalities with already constrained budgets. The outcome would either be unsustainable price increases or the inability of public entities to afford necessary upgrades to their playgrounds and athletic facilities, directly impacting the quality and safety of spaces for children and communities.

We urge the Board to reconsider the proposed regulation or to provide exemptions, allowances, or tiered requirements for small businesses and public-sector-focused contractors. A one-size-fits-all mandate could have unintended consequences that hinder rather than help New Mexico's workers and communities.

Thank you for considering our perspective, and we welcome the opportunity to participate in further dialogue or public hearings on this matter.

Sincerely,

Tawsha R. Jacobs

CFO-Owner AK Sales and Consulting, Inc.