



**STATE OF NEW MEXICO  
 WATER QUALITY CONTROL COMMISSION  
 1190 St. Francis Drive, Suite S-2102  
 Santa Fe, New Mexico 87505  
 Phone: (505) 827-2428**

**CONSTITUENT AGENCIES**

<b>Environment Department</b>	<b>State Engineer &amp; Interstate Stream Commission</b>
<b>Game and Fish Department</b>	<b>Oil Conservation Division</b>
<b>Department of Agriculture</b>	<b>Department of Health</b>
<b>State Parks Division</b>	<b>Soil and Water Conservation Commission</b>
<b>Bureau of Geology and Mineral Resources</b>	<b>Members-at-Large</b>

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**DRAFT Meeting Minutes**  
 New Mexico Water Quality Control Commission  
 Virtual Meeting on Webex  
 September 8, 2020  
 9:00 a.m.

**Webex Information**

**To connect via video conference, go to:**

<https://nmed-oit.webex.com/nmed-oit/j.php?MTID=m489266f43bf3eeeff65ba51d735c584>

**When prompted, enter the meeting number: 133 330 5310**  
**The password is: 3k72mNkmegV**

**To connect via phone dial: 1-415-655-0001**  
**When Prompted, dial access code: 133 330 5310**

**If you are having difficulties logging on to the meeting, please contact Lorrie Gasca at (505) 231-0914 or Alan Peura (505) 629-6302. Please refer to the instructions below in this agenda for more detailed instructions**

**MEMBERS PRESENT:**

Jennifer Pruett	Chair, New Mexico Environment Department
Gabriel Wade	Vice Chair, Oil Conservation Division
Keith Candelaria	Member-at-Large
David Certain	State Parks Division, Energy, Minerals and Natural Resources Department
Larry Dominguez	Department of Agriculture
Howard Hutchinson	Soil and Water Conservation Commission
Krista McWilliams	Member-at-Large
Ghassan Musharrafieh	New Mexico State Engineer and Interstate Stream Commission
Kirk Patten	New Mexico Game and Fish

36 Kelsey Rader Member-at-Large  
37 David Sypher Municipal and County Representative  
38 Bruce Thomson Member-at-Large  
39 Stacy Timmons New Mexico Bureau of Geology and Mineral  
40 Resources

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42 **MEMBERS ABSENT:**

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45 **OTHERS PRESENT:**

46 Robert F. Sánchez Commission Counsel  
47 Pam Jones Commission Administrator  
48 John B. Kern Clean Water Partnership - Cannon  
49 Christopher Atencio Counsel for NMED  
50 Andrew Knight Counsel for NMED  
51 Pete Domenici, Jr. Counsel for ACME Hometown Cleaners  
52 Mark E. Coon Regional Counsel – Cannon Air Force Base  
53 Judi Kahl Construction Programs Bureau  
54 Rhonda Holderman Construction Programs Bureau  
55 Christal Weatherly Counsel for NMED  
56 John Verheul Counsel for NMED  
57 Rachel Janowitz NMED Surface Water Quality Bureau  
58 Heidi Henderson NMED Surface Water Quality Bureau  
59 Adam G. Rankin Counsel for Matador Production Company and San  
60 Mateo Midstream, LLC  
61 Kaitlyn A. Luck Counsel for Matador Production Company and San  
62 Mateo Midstream, LLC  
63 Richard Virtue Hearing Officer

64

65 The Chair called the meeting to order at 9:06 a.m.

66

67 **Item 1. Roll Call.**

68

69 The Administrator called the roll; a quorum was present. Chair Pruett discussed the  
70 protocol of the virtual meeting. She provided contact information for any individual  
71 experiencing technical issues. She mentioned the items on the agenda were time  
72 sensitive, which allowed the Commission to meet virtually, per advice from the  
73 Open Government Division of the Attorney General’s Office. Chair Pruett pointed  
74 out that Alan Peura will video record the meeting and will post the recording on the  
75 Commission’s website as soon as practicable after the meeting.

76

77 **Item 2. Approval of the Draft Agenda.**

78

79 **Action:** Commissioner Hutchinson moved to approve the draft agenda. Commissioner  
80 Wade seconded the motion. Chair Pruett called a roll call vote. Commissioner  
81 Candelaria: aye; Commissioner Certain: aye; Commissioner Dominguez: aye;  
82 Commissioner Hutchinson: aye; Commissioner McWilliams: aye; Commissioner  
83 Musharrafieh: aye; Commissioner Patten: aye; Chair Pruett: aye; Commissioner

84 Rader: aye; Commissioner Sypher: aye; Commissioner Thomson: aye;  
85 Commissioner Timmons: aye; and, Vice Chair Wade: aye. The motion passed 13-  
86 0.

87  
88 **Item 3. Approval of meeting minutes from June 9, 2020.**

89  
90 **Action:** Commissioner Hutchinson moved to approve the meeting minutes from June 9,  
91 2020. Commissioner Wade seconded the motion. Chair Pruett called a roll call vote.  
92 Commissioner Candelaria: aye; Commissioner Certain: aye; Commissioner  
93 Dominguez: aye; Commissioner Hutchinson: aye; Commissioner McWilliams:  
94 aye; Commissioner Musharrafieh: aye; Commissioner Patten: aye; Chair Pruett:  
95 aye; Commissioner Rader: aye; Commissioner Sypher: aye; Commissioner  
96 Thomson: aye; Commissioner Timmons: aye; and, Commissioner Wade: aye. The  
97 motion passed 13-0.  
98

99 **Item 4. Public comment.**

100  
101 **Action:** John B. Kern of Clean Water Partnership - Cannon offered comment regarding Item  
102 #6. Proposed Settlement Agreement WQCC 20-08 (CO) Cannon Air Force Base.  
103

104 **Item 5. Proposed Settlement Agreement. WQCC 20-04 (CO), ACME Hometown**  
105 **Cleaners. Christopher Atencio, Counsel for the New Mexico Environment**  
106 **Department (NMED) Office of General Counsel. Pete Domenici, Jr., Counsel**  
107 **for ACME Hometown Cleaners.**  
108

109 **Action:** Counsel Domenici, Jr. gave a brief history of the property at issue. As Counsel for  
110 ACME Hometown Cleaners he requested approval of the Settlement Agreement.  
111

112 Counsel Atencio agreed the terms of the Compliance Order speak for themselves  
113 and stated the Department requests approval of the terms of the Settlement  
114 Agreement.  
115

116 The Commission discussed the item.  
117

118 Commissioner Thomson spoke up suggesting adding language to the agreement  
119 regarding the location of monitor wells. Counsel Atencio was in agreement as long  
120 as the monitor wells location was approved by the Department before installed and  
121 suggested memorializing such in the Stipulated Final Order.  
122

123 Chair Pruett asked the Commissioners whether or not they felt comfortable  
124 discussing this agenda item in open session or if there was a need to go into  
125 Executive Session. It was agreed by the Commission that there was no need to  
126 move into executive session.  
127

128 Commissioner Hutchison made the motion to approve the proposed Settlement  
129 Agreement with the addition of Commissioner Thomson's suggested language.  
130 Vice Chair Wade seconded the motion. Chair Pruett called a roll call vote.  
131 Commissioner Candelaria: aye; Commissioner Certain: aye; Commissioner

132 Dominguez: aye; Commissioner Hutchinson: aye; Commissioner McWilliams:  
133 aye; Commissioner Musharrafieh: aye; Commissioner Patten: aye; Chair Pruett:  
134 aye; Commissioner Rader: aye; Commissioner Sypher: aye; Commissioner  
135 Thomson: aye; Commissioner Timmons: aye; and, Commissioner Wade: aye. The  
136 motion passed 13-0.  
137

138 **Item 6. Proposed Settlement Agreement. WQCC 20-08 (CO) Cannon Air Force Base.**  
139 **Christopher Atencio and Andrew Knight, co-Counsel for the New Mexico**  
140 **Environment Department (NMED) Office of General Counsel. Mark E. Coon,**  
141 **Regional Counsel, for Cannon Air Force Base.**  
142

143 **Action:** Chair Pruett asked both Chris Atencio, counsel for NMED in the matter, and Major  
144 Mark Coon to provide comment regarding Mr. Kern’s public comment earlier in  
145 the meeting. Major Coon stated that as a matter of policy the Air Force is not  
146 opposed to public comment, but since Mr. Kern is not a party to this matter his  
147 comments are not admissible with regards to this Agenda Item.  
148

149 Counsel Atencio stated the Department’s agreement with Major Coon saying the  
150 Department objects to the inclusion of Mr. Kern’s statement as public comment  
151 because he is not a party to this matter.  
152

153 Discussion continued regarding the merits of the proposed Settlement Agreement.  
154 Counsel Atencio summarized the proposed agreement between NMED and the Air  
155 Force. Major Coon stated the Air Force approves the agreement on its terms.  
156

157 The Commission discussed the proposed settlement agreement.  
158

159 Commissioner Hutchinson asked what the Commission’s authority is regarding  
160 operation under the existing permit. Chair Pruett responded that the Commission  
161 has enforcement discretion in order to encourage settlement. Major Coon made the  
162 comment that discretion is very broad in this matter, and Counsel Atencio stated  
163 the Rule strongly encourages settlement. NMAC 20.1.3.22 was given as the  
164 citation.  
165

166 Commissioner Sypher moved to approve the Settlement Agreement. Commissioner  
167 Hutchinson seconded the Motion. Chair Pruett called a roll call vote. Commissioner  
168 Candelaria: aye; Commissioner Certain: aye; Commissioner Dominguez: aye;  
169 Commissioner Hutchinson: aye; Commissioner McWilliams: aye; Commissioner  
170 Musharrafieh: aye; Commissioner Patten: aye; Chair Pruett: aye; Commissioner  
171 Rader: aye; Commissioner Sypher: aye; Commissioner Thomson: aye;  
172 Commissioner Timmons: aye; and, Commissioner Wade: aye. The motion passed  
173 13-0.  
174

175 Counsel Sanchez made the comment that Paragraph 13 of the Settlement  
176 Agreement was not in compliance with NMAC 20-1-3-22. Discussion ensued with  
177 Counsel Atencio and Major Coon aligning their positions in that nothing in the  
178 language of the paragraph in question was legally insufficient and the settlement

179 agreement should be approved as written and as voted on previously in this  
180 meeting.

181  
182 Chair Pruett called for a Motion to re-open the discussion. Commissioner  
183 Hutchinson so moved; there was no second to Commissioner Hutchinson's motion.  
184 The Motion to re-open discussion died and the Commission's vote stands.  
185

186 **Item 7. Public Hearing. WQCC 20-07 (R). Proposed Revisions to 20.7.5 NMAC,**  
187 **Wastewater Facility Construction Loans. Christopher Atencio, NMED**  
188 **Office of General Counsel, Hearing Officer. Hearing Officer Chair Pruett.**  
189

190 **Action:** Counsel Atencio made an opening statement regarding the proposed revisions and  
191 introduced Witness Holderman. Holderman gave testimony about why these  
192 changes were needed and requested the WQCC allow the CPB to set interest rates  
193 going forward, remove subsidies to move money to projects to better protect water  
194 quality in New Mexico through those projects and approve a simplified ranking  
195 system to evaluate those projects.  
196

197 The Commission had the opportunity to ask questions and make comments.  
198

199 Commissioner Dominguez moved to approve the proposed Revisions to 20.7.5  
200 NMAC including the grammatical corrections offered by Commissioner  
201 Hutchinson. Commissioner Hutchinson seconded the Motion. Chair Pruett called  
202 a roll call vote. Commissioner Candelaria: aye; Commissioner Certain: aye;  
203 Commissioner Dominguez: aye; Commissioner Hutchinson: aye; Commissioner  
204 McWilliams: aye; Commissioner Musharrafieh: aye; Commissioner Patten: aye;  
205 Chair Pruett: aye; Commissioner Rader: aye; Commissioner Sypher: aye;  
206 Commissioner Thomson: aye; Commissioner Timmons: aye; and, Commissioner  
207 Wade: aye. The motion passed 13-0.  
208

209 **Item 8. Request for Approval of Priority Ranking System and Base Interest Rate**  
210 **Determination for FY2021. WQCC 20-52. Christopher Atencio, Counsel for**  
211 **NMED Office of General Counsel. Judi Kahl and Rhonda Holderman,**  
212 **Construction Programs Bureau.**  
213

214 **Action:** Counsel Atencio, Rhonda Holderman and Judi Kahl of the Construction Programs  
215 Bureau summarized the Request before the Commission.  
216

217 The Commission had discussion and time for questions and comments.  
218

219 Commissioner Thomson moved to approve the base interest rates and to adopt the  
220 Priority Ranking System as modified where sustainability would be 150 points and  
221 criteria that a rate structure be established to allow for replacement costs.  
222 Commissioner Sypher seconded the Motion. Chair Pruett called a roll call vote.  
223 Commissioner Candelaria: aye; Commissioner Certain: aye; Commissioner  
224 Dominguez: aye; Commissioner Hutchinson: aye; Commissioner McWilliams:  
225 aye; Commissioner Musharrafieh: aye; Commissioner Patten: aye; Chair Pruett:  
226 aye; Commissioner Rader: aye; Commissioner Sypher: aye; Commissioner

227 Thomson: aye; Commissioner Timmons: aye; and, Commissioner Wade: aye. The  
228 motion passed 13-0.

229  
230 **Item 9. Request for Approval of Revisions to the Water Quality Management Plan**  
231 **and Continuing Planning Process (WQMP/CPP), WQCC 20-34. Christal**  
232 **Weatherly, NMED Office of General Counsel.**

233  
234 **Action:** Chair Pruett allowed Counsel Weatherly to present a brief summary presentation  
235 concerning the Water Quality Management Plan / Continuing Planning Process.

236  
237 The Commission discussed the proposal. If approved the WQMP/CPP would be  
238 posted to the SWQB website, submitted to the EPA for review and approval.

239  
240 Commissioner Timmons moved to adopt and approve the WQMP/CPP WQCC 20-  
241 34. Commissioner Hutchinson seconded the Motion. Chair Pruett called a roll call  
242 vote. Commissioner Candelaria: aye; Commissioner Certain: aye; Commissioner  
243 Dominguez: aye; Commissioner Hutchinson: aye; Commissioner McWilliams:  
244 aye; Commissioner Musharrafiéh: aye; Commissioner Patten: aye; Chair Pruett:  
245 aye; Commissioner Rader: aye; Commissioner Sypher: aye; Commissioner  
246 Thomson: aye; Commissioner Timmons: aye; and, Commissioner Wade: aye. The  
247 motion passed 13-0.

248  
249 **Item 10. Request to Schedule Approval of the Rio Chama Total Maximum Daily Load.**  
250 **WQCC 20-53. John Verheul, NMED Office of General Counsel, Rachel**  
251 **Jankowitz and Heidi Henderson, NMED Surface Water Quality Bureau.**

252  
253 **Action:** Counsel John Verheul of the New Mexico Environment Office of General Counsel  
254 gave the Commission a brief summary of the Rio Chama Total Maximum Daily  
255 Load.

256  
257 The Commission discussed the public making comments on the TMDL.  
258 Commissioner Dominguez stated that historically TMDL approvals have included  
259 public comment.

260  
261 Chair Pruett made the comment that if the public has submitted written comments  
262 those will be posted to the website so all interested parties have access to review  
263 them.

264  
265 Commissioner Hutchinson moved to schedule the adoption and approval of the  
266 TMDL for the Rio Chama for the October meeting. Commissioner Dominguez  
267 seconded the Motion. Chair Pruett called a roll call vote. Commissioner Candelaria:  
268 aye; Commissioner Certain: aye; Commissioner Dominguez: aye; Commissioner  
269 Hutchinson: aye; Commissioner McWilliams: aye; Commissioner Musharrafiéh:  
270 aye; Commissioner Patten: aye; Chair Pruett: aye; Commissioner Rader:  
271 unavailable to vote due to technical issues; Commissioner Sypher: aye;  
272 Commissioner Thomson: aye; Commissioner Timmons: aye; and, Commissioner  
273 Wade: aye. The motion passed 12-0 with one Commissioner unavailable for the  
274 vote.

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**Item 11. Public Hearing. WQCC 20-16 (CO) New Mexico Environment Department Water Protection Division, Surface Water Quality Bureau v. Matador Production Company and San Mateo Midstream, LLC. Andrew Knight, Counsel for the New Mexico Environment Department. Adam G. Rankin and Kaitlyn A. Luck, Counsel for Matador Production Company and San Mateo Midstream LLC. Richard Virtue Hearing Officer.**

**Action:** Roll call had a quorum despite Commissioner Musharrafieh and Commissioner Rader initially unavailable.

Counsel Andrew Knight of NMED and Counsel Rankin for Respondent announced a settlement had been reached between the parties and the settlement agreement had been signed by Matador and was awaiting signature by NMED.

The Commission discussed whether deadlines would be delayed if discussion of the agreement were held over until the October commission meeting. It was determined that there is not a notice requirement other than the Open Meeting Notice which was covered by the current agenda being posted to the website.

Commissioner Dominguez expressed concern that the current agenda is public notice for a public hearing, not discussion and approval of the settlement agreement.

Commissioner Wade moved to continue discussion of the settlement agreement at the October meeting. Commissioner Thomson seconded the Motion. Chair Pruett called a roll call vote. Commissioner Candelaria: aye; Commissioner Certain: aye; Commissioner Dominguez: aye; Commissioner Hutchinson: aye; Commissioner McWilliams: aye; Commissioner Musharrafieh: aye; Commissioner Patten: aye; Chair Pruett: aye; Commissioner Rader: aye; Commissioner Sypher: aye; Commissioner Thomson: aye; Commissioner Timmons: aye; and, Commissioner Wade: aye. The motion passed 13-0.

**Item 12: Adjournment**

**Action:** The meeting adjourned at 3:40pm.

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Commission Chair Pruett