



**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

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

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DRAFT Meeting Minutes
New Mexico Water Quality Control Commission
Virtual Meeting on Webex
November 10, 2020
9:03 a.m.

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
Ghassan Musharrafiéh	New Mexico State Engineer and Interstate Stream Commission
Kelsey Rader	Member-at-Large
David Sypher	Municipal and County Representative
Bruce Thomson	Member-at-Large
Stacy Timmons	New Mexico Bureau of Geology and Mineral Resources

MEMBERS ABSENT:

Krista McWilliams	Member-at-Large
Kirk Patten	New Mexico Game and Fish
Jason Cornwell	New Mexico Department of Health

OTHERS PRESENT:

Robert F. Sánchez	Commission Counsel
Gregory Chakalian	NMED Administrative Law Judge
Pam Jones	Commission Administrator
John Verheul	Counsel for NMED
Heidi Henderson	NMED Surface Water Quality Bureau
Shelly Lemon	NMED Surface Water Quality Bureau

36	Sarah Holcomb	NMED Surface Water Quality Bureau
37	Jennifer Fullam	NMED Surface Water Quality Bureau
38	Kris Barrios	NMED Surface Water Quality Bureau
39	Lynette Guevara	NMED Surface Water Quality Bureau
40	Jolene McCaleb	Member of the Public
41	Jennifer Hower	Counsel for NMED
42	Rebecca Roose	Director, NMED Water Protection Division
43	Ray Romero	NMED Office of General Counsel
44	Kathryn Becker	Counsel for NMED
45	Michael Daly	Member of the Public
46	Miguel Montoya	NMED Surface Water Quality Bureau
47	Diana Aranda	NMED Surface Water Quality Bureau
48	William Foley	Member of the Public
49	Bill Brancard	Counsel for Energy, Minerals, Natural Resource
50		Department (EMNRD)
51	Jay Lazarus and Kim Hamann	Members of the Public

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54 The Chair called the meeting to order at 9:03 a.m.

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56 **Item 1. Roll Call.**

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58 The Administrator called the roll; a quorum was present. Commissioners
59 McWilliams and Patten were counted as absent. Chair Pruett discussed the protocol
60 of the virtual meeting. She provided contact information for any individual
61 experiencing technical issues. She mentioned the items on the agenda were time
62 sensitive, which allowed the Commission to meet virtually, per advice from the
63 Open Government Division of the Attorney General’s Office. Chair Pruett pointed
64 out that Commission Administrator will video record the meeting and will post the
65 recording on the Commission’s website as soon as practicable after the meeting.

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

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69 **Action:** Commissioner Hutchinson moved to approve the draft agenda. Commissioner
70 Sypher seconded the motion. Chair Pruett called a roll call vote. Commissioner
71 Candelaria: aye; Commissioner Certain: aye; Commission Cornwell: absent;
72 Commissioner Dominguez: aye; Commissioner Hutchinson: aye; Commissioner
73 McWilliams: absent; Commissioner Musharrafieh: aye; Commissioner Patten:
74 absent; Chair Pruett: aye; Commissioner Rader: aye; Commissioner Sypher: aye;
75 Commissioner Thomson: aye; Commissioner Timmons: aye; and, Vice Chair
76 Wade: aye. The motion passed 11-0 with 3 commissioners absent.

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78 **Item 3. Approval of meeting minutes from October 13, 2020.**

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80 **Action:** Commissioner Hutchinson moved to approve the meeting minutes from October
81 13, 2020. Commissioner Wade seconded the motion. There was no discussion and
82 there were no edits. Chair Pruett called a roll call vote. Commissioner Candelaria:
83 aye; Commissioner Certain: aye; Commission Cornwell: absent; Commissioner

84 Dominguez: aye; Commissioner Hutchinson: aye; Commissioner McWilliams:
85 absent; Commissioner Musharrafiieh: aye; Commissioner Patten: absent; Chair
86 Pruett: aye; Commissioner Rader: aye; Commissioner Sypher: aye; Commissioner
87 Thomson: aye; Commissioner Timmons: aye; and, Commissioner Wade: aye. The
88 motion passed 11-0 with 3 commissioners absent.

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90 **Item 4. Public comment.**

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92 **Action:** There was no public comment.

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94 **Item 5. Request to Schedule Approval of the 2020-2022 State of New Mexico Clean**
95 **Water Act §303(d) and §305(b) Integrated Report, WQCC 20-66. John**
96 **Verheul, Counsel for New Mexico Environment Department, Lynette Guevara**
97 **and Kris Barrios, NMED Surface Water Quality Bureau.**

98
99 **Action:** John Verheul, Counsel for NMED, presented the request to schedule approval of
100 the integrated report and for hearing at the December WQCC meeting. Mr. Verheul
101 stated the 2020-2022 State of New Mexico Clean Water Act §303(d) and §305(b)
102 Integrated Report is a planning document required by the Clean Water Act and the
103 EPA and is submitted every two years.

104
105 Chair Pruett offered the Commissioners the opportunity to discuss the item.

106
107 Commissioner Hutchinson made the motion to hear and consider the Report at the
108 December meeting. Commissioner Dominguez seconded the motion. Chair Pruett
109 called a roll call vote. Commissioner Candelaria: aye; Commissioner Certain: aye;
110 Commissioner Cornwell: absent; Commissioner Dominguez: aye; Commissioner
111 Hutchinson: aye; Commissioner McWilliams: absent; Commissioner
112 Musharrafiieh: aye; Commissioner Patten: absent; Chair Pruett: aye; Commissioner
113 Rader: aye; Commissioner Sypher: aye; Commissioner Thomson: aye;
114 Commissioner Timmons: aye; and, Commissioner Wade: aye. The motion passed
115 11-0 with 3 commissioners absent.

116
117 **Item 6. Discussion about possible rulemaking for miscellaneous matters that come**
118 **before the Commission that are not rulemaking or adjudicatory matters, to**
119 **create a transparent process with timelines from petition through Commission**
120 **approval or rejection.**

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122 **Action:** Chair Pruett opened the discussion with her reasons for creating this agenda item.
123 Every matter that comes before the Commission for approval or adoption should
124 get a Docket number and have some kind of process where there is a request or
125 petition with the attachment of whatever is being presented.

126
127 Chair Pruett introduced Gregory Chakalian, new Administrative Law Judge and
128 Hearing Officer overseeing the New Mexico Environment Department Office of
129 Public Facilitation. Chair Pruett said, in discussion with Mr. Chakalian, she charged
130 him with the task of producing a proposal for rulemaking with the goal of a clear,
131 consistent, predictable process of submitting matters for the commission's approval

132 and adoption that is transparent for the public and for the commissioners. This
133 should not be a burdensome administrative process for the department.

134
135 The Commission discussed the item. Commissioner Timmons asked for
136 clarification on what items this rule would pertain to. Chair Pruett explained that
137 these matters would be those falling under the Clean Water Act that come before
138 the Commission for decision. Mr. Verheul further clarified such matters as planning
139 documents like TMDLs, Water Quality Management Plan and Non-Point Source
140 Management Plan and possibly rate settings for the Construction Bureau. He
141 stated constituent agencies like New Mexico Energy, Minerals and Natural
142 Resources Department (EMNRD) and Game and Fish should be consulted for
143 input.

144
145 Commissioner Dominguez asked who the petitioner to this rulemaking would be,
146 since the commission cannot be a petitioning party to itself. Mr. Verheul stated
147 there was not a decision at this point as to which bureau or department would take
148 the lead in presenting this rule. Mr. Verheul cited 20.1.6 NMAC as the authority on
149 rulemaking procedures for the WQCC.

150
151 Director Roose of the Water Protection Division commented that although the
152 discussion is preliminary, she wants to know the objective and direction of this
153 rulemaking and agreed that constituent agencies should offer input. Director Roose
154 expressed concern that, depending on petitioning party, there could be strains on
155 resource availability, i.e. staff.

156
157 Chair Pruett offered time to members of the public and other participants from other
158 agencies to offer comment on this discussion. Mr. Verheul offered an option of a
159 Standard Operating Procedure developed by the hearing officer with input from
160 other agencies and departments that have similar situations. Chair Pruett stated that
161 a matter affecting persons outside the department would have to be enforced by a
162 rule, not an SOP.

163
164 Discussion concluded with an overview of the upcoming calendar. With the
165 legislative session coming in February, it is likely there will be no WQCC meeting
166 in February or March.

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168 **Item 7.** Next meeting and expected upcoming matters for December 8, 2020. The only
169 matter currently on the December agenda is WQCC 20-66, Clean Water Act
170 §303(d) and §305(b) Integrated Report.

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172 **Item 8. Adjournment**

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174 **Action:** The meeting adjourned at 10:09am.

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Commission Chair Jennifer J. Pruett