



STATE OF NEW MEXICO
WATER QUALITY CONTROL COMMISSION
1190 St. Francis Drive
P.O. Box 26110
Santa Fe, New Mexico 87502
(505) 827-2425

CONSTITUENT AGENCIES:

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

Minutes of the
New Mexico Water Quality Control Commission Meeting
April 13, 1999

The New Mexico Water Quality Control Commission ("WQCC") meeting was held on April 13, 1999 at 9:30 a.m. in the State Capitol Building, Room 321, Old Santa Fe Trail and Paseo de Peralta, Santa Fe, New Mexico.

Members present:

Peter Maggiore	WQCC Chair, Environment Department ("NMED")
Pat Turney	Office of the State Engineer
Bill Olson	Oil Conservation Division
Recardo Rel	Department of Agriculture
Howard Hutchinson	Soil and Water Conservation Commission
Lynn Brandvold	Bureau of Mines and Minerals Resources
David Johnson	State Parks Division
Andrew Sandoval	Department of Game and Fish
Irene Lee	Member-at-Large
Alberto Gutierrez	Member-at-Large

Members absent:

Paul Gutierrez	Member-at-Large
----------------	-----------------

Others present:

Weldon L. Merritt	New Mexico Environment Department
Erik Galloway	New Mexico Environment Department
James Davis, Ph.D.	New Mexico Environment Department
Chris Mechels	Self
Marcy Leavitt	New Mexico Environment Department
Haywood Martin	New Mexico Environment Department
Larry Webb	City of Rio Rancho
Cheryl James	Anthony Water and Sanitation District
Caylor Ross	Self
Jennifer Prada	New Mexico Environment Department
Ramona Rael	New Mexico Environment Department
Ray Espinosa	City of Gallup
Bob Gay	Self
Blane Sanchez	Sandia

Angela Faye Cross	New Mexico Environment Department
Greg Lewis	New Mexico Environment Department
Monte Anderson	Energy, Minerals & Natural Resources
Julia Bergen	Amigos Bravos
Elizabeth N. Taylor	Taylor & Murray, P.C.
Mike Saladen	Los Alamos National Laboratory
Mark Ericson	Santa Fe Indian School
Alex Puglisi	New Mexico Municipal League
Patrick Hanson	New Mexico Environment Department
Theresa Chavez	Santa Fe Indian School

Chair Peter Maggiore called the meeting to order at 9:35 a.m.

Item 1: Roll call.

Tamella Gonzales, WQCC Administrator, took roll call.

Item 2: Approval of the agenda.

Lynn Brandvold moved to approve the agenda. Bill Olson seconded the motion. The motion passed unanimously.

Item 3: Review of January 12, 1999 minutes.

Ms. Brandvold moved to approve the January 12, 1999 minutes as amended. Howard Hutchinson seconded the motion. The motion passed unanimously.

Item 4: Mr. Bob Gay - Request to reinstate utility operator certification.

David Johnson, acting chair, asked Ms. Cheryl James and Mr. Ray Espinosa, members of the Utility Operator Certification Advisory Board ("Advisory Board"), to join the Commissioners. Mr. Bob Gay asked the WQCC to reinstate his water and wastewater utility operator certification. Mr. Gay's certification lapsed in 1995. Mr. Gay stated that he thought that he had renewed it that year, and did not realize that the renewal was not completed.

Tannis Fox noted that Ms. James had participated in a discussion and a vote with respect to this issue as a member of the Advisory Board and that this fact should be disclosed on the record. Ms. Fox informed Mr. Gay that if he had a problem with Ms. James participating in the WQCC's decision, he should voice it now or any issue would be waived. Mr. Gay stated that he did not object to Ms. James' participation.

Mr. Hanson, Program Manager, Surface Water Quality Bureau ("SWQB"), stated that Mr. Gay was certified under the program in 1983, obtained a level 4 water systems operator in 1989, and obtained a level 4 wastewater systems operator in 1990. He renewed his certification, including the on-going training requirement, in 1984, 1985, 1986, 1989 and 1992.

The SWQB sent Mr. Gay a standard renewal notice dated July 17, 1995 to the address on record for Mr. Gay. The notice indicated that at that time Mr. Gay had obtained enough training credits to renew his certification. All that was required to complete the renewal was payment and verification of the information kept on record with SWQB. Mr. Gay stated he did not receive the notice and the SWQB had no record of the notice being returned.

Mr. Gay contacted the office in August or September of 1998 inquiring about the renewal procedures for his next cycle, which would have been due at the end of August 1998. The SWQB had not sent Mr. Gay a renewal notice because its records indicated that he had not been certified for three years. Mr. Martin stated that Mr. Gay had contacted the SWQB and the New Mexico Water and Wastewater Association to obtain the appropriate number of training credits for renewal of his certification in 1995. However, he did not renew his certificate in 1995 on time or during the one-year grace period allowed by regulations to reinstate a certificate without retaking the exam.

Mr. Hanson stated that this matter was taken to the Advisory Board in February 19, 1999. The Advisory Board voted and recommended to allow Mr. Gay to re-examine for his water and wastewater certificates, but not to reinstate them.

Ms. James confirmed the Advisory Board's vote and Mr. Hanson's statements. The Advisory Board was unanimous in its belief that Mr. Gay had neglected to follow up on his certification renewal. Mr. Espinosa agreed with Mr. Hanson that Mr. Gay was not entitled to renewal.

Mr. Gay asked the WQCC to reinstate his certification without testing.

Ms. Fox stated that it is not clear that the WQCC even has the authority to reinstate Mr. Gay's certification and that, even if the WQCC has the authority, the WQCC regulation is clear that operators must renew every three years and there is only a one year grace period within which to renew. After the grace period, an operator must make a new application.

Mr. Olson moved to deny Mr. Gay's request for renewal of his certification based on the WQCC's lack of authority to reinstate under the regulations. Mr. Hutchinson seconded the motion. Mr. Olson amended his motion to include "without prejudice".

The WQCC Administrator took a roll call vote:

Pat Turney	Yes
Bill Olson	Yes
David Johnson	Yes
Ricardo Rel	Yes

Andrew Sandoval	Yes
Howard Hutchinson	Yes
Lynn Brandvold	Yes
Irene Lee	Yes
Alberto Guitierrez	Yes
Paul Gutierrez	Absent
Peter Maggiore	Absent
Cheryl James	Abstain
Ray Espinosa	Yes

The motion carried.

Item 5: Update concerning postponement of City of Santa Fe's petition for hearing to amend 20 NMAC 6.1 to allow for site specific ammonia standards for segment 2110 of the Santa Fe River.

Weldon Merritt, NMED Hearing Officer, addressed the WQCC on the City of Santa Fe's petition to amend 20 NMAC 6.1 to allow for site specific ammonia standards for segment 2110 of the Santa Fe River. In February 1999 the City filed a motion to stay proceedings because the City understands that NMED intends to amend the water quality standard for ammonia on a statewide basis within the next six months, that the amendment would address the City's concerns, and therefore proceeding with the petition at this point would not be a good use of state and City resources. Mr. Merritt, after discussion with WQCC counsel, issued an order to vacate the hearing and stay proceedings for six months.

Mr. Sandoval asked Mr. Merritt what procedure NMED would use to review the water quality standards for ammonia on a statewide basis. Steve Pierce, SWQB, stated that a petition for regulatory change will be brought before the WQCC to revise the ammonia standards to conform with the Environmental Protection Division's ("EPA") changes that were received by the SWQB in September 1998.

Item 6: Proposed update of Work Element 13 of the New Mexico Water Quality Management Plan designating the City of Rio Rancho as a Designated Management Agency for Wastewater Management.

Haywood Martin, Chief, NMED Construction Programs Bureau, and Larry Webb, Director of Utilities for the City of Rio Rancho, requested the WQCC to update Work Element 13 of the New Mexico Water Quality Management Plan ("WQMP") to include the City of Rio Rancho as a Designated Management Agency ("DMA") for wastewater management. In conformance with 40 CFR § 130, EPA awards construction grants and loan funding to DMA's for construction of treatment facilities that are consistent with the statewide WQMP. The City of Rio Rancho requested designation as a DMA so that it can receive the benefit of federal funding in the form of low interest loans for construction of wastewater collection and treatment facilities. The Construction Programs Bureau administers these funds.

The City wishes to begin a project to construct a wastewater collection and treatment facility and would use \$10.8 million from the Clean Water State Revolving Fund.

The DMA designation is required under the Clean Water Act to insure to EPA that the City has necessary authority under the state and federal Law to effectively plan, construct and manage the facilities that would be constructed with federal funds.

The Construction Programs Bureau has conducted a process to solicit public comment that included advertising in local newspapers and inviting public comment up to 30 days after publication of the advertisement. The advertisement was published March 3, 1999. NMED received no written public comment.

The Construction Programs Bureau and SWQB recommend that the WQCC designate the City as a DMA, effective as of today's meeting.

Final designation would be made by Greg Cook, EPA regional administrator, subsequent to a request from Mr. Maggiore, NMED Secretary, as the Governor's designee for WQMP updates.

Mr. Sandoval asked Mr. Martin which municipalities had been rejected and why. Mr. Eric Galloway, NMED Groundwater Quality Bureau, stated that he did not know why certain municipalities had been rejected, but historically municipalities would be denied because of the inability to pay back NMED.

Alberto Gutierrez moved to designate the City of Rio Rancho as a DMA for wastewater treatment. Ms. Brandvold seconded the motion. Mr. Johnson asked to amend the motion to include the additional language in Work Element 13. Ms. Brandvold moved to second the amendment. Mr. Sandoval asked for clarification on the letter Chairman Maggiore would send to EPA. Chairman Maggiore would act as the Governor's designee and not as the Chair of the WQCC. Mr. Martin confirmed this.

The motion passed unanimously.

Item 7: Update on progress with proposed calendar of events for review of the New Mexico Water Quality Management Plan, including work elements 1, 3, and 13.

Mr. Galloway, SWQB, addressed the WQCC and stated that work element 1, establishing and planning an area of boundaries, replaces Environmental Improvement Division with NMED. This change is made throughout the document. Under C, work element 1, the contractor is the person who provides documentation for the planning and this is added to the WQMP. State Revolving Loan Funds are now available to abate for non-point source and other uses and language is added to extend the three-mile radius from a DMA, when public health and welfare of the state dictate a larger area.

Work element 3, population projections: 1980 population projections were not updated until 1990. If more recent or accurate projections are available, these may be substituted for the projections. The words "all New Mexico counties" are added, because population projections are received on a county by county basis, not a municipal basis.

Work element 13, authorized designee: this has already been approved by EPA and is being incorporated into the WQMP. If an agency had representation on the WQCC, it would keep its authority as a DMA once approved by NMED. Work Element 13 is broken into two parts; it clarifies the difference between a wastewater DMA and the DMA for tasks under the WQMP. This is a change brought about by the discussion held at the last WQCC meeting.

Because most of the responsibility for issues in the WQMP rests with the SWQB, it believes it should also assume responsibility for accumulating data and reporting to the WQCC. This would exclude DMAs already represented on the WQCC, such as the Department of Game and Fish.

Mr. Hutchinson suggested that individual soil and water conservation districts interface directly with individual land management agencies.

Mr. Davis stated that the idea of having the NMED as the sole reporting agency to the WQCC is to streamline data and alleviate the problem of lost information, and that if a problem exists with reporting, the WQCC has one department to turn to for answers.

Mr. Galloway suggested the SWQB craft new language regarding the soil and water conservation districts and incorporate this into work element 13.

Mr. Davis stated that a time frame for completing the WQMP and submitting it to the WQCC for final review would be around August of 1999.

Item 8: Update regarding proposed amendments to 20 NMAC 6.1, Standards for Interstate and Intrastate Streams.

Weldon Merritt, Hearing Officer for the Triennial Review, submitted his report to WQCC dated April 12, 1999.

Chairman Maggiore suggested a work session for reviewing and ruling on the recommended changes to the Standards for Interstate and Intrastate Streams. This session is scheduled for June 8 and 9, 1999, after the May 12, 1999 deadline for post hearing submittals and written exceptions to the Hearing Officer's Report.

Item 9: Legislative update.

Greg Lewis, Director, Water and Waste Management Division ("WWMD"), updated the WQCC on legislative issues. The following bills passed and were signed by the Governor: HB 321, to reauthorize the WQCC until June 2006; HB 592, which adds more exemptions to the Water Quality Act and the Voluntary Remediation Act; and SB 84, concerning groundwater storage and recovery. The review of House Joint Memorial 65, concerning watershed improvement, and Senate Joint Memorial 38 is being conducted by a separate interim committee. Bills that did not pass included the Riparian Enhancement Act and the River Inventory Bill.

Mr. Rel stated that bills submitted with funding and not passed might have been rolled into SB 738.

Mr. Hutchinson stated that the Soil and Water Conservation Division did receive additional funding for watershed restoration.

Item 10: Other business.

Mr. Hutchinson asked Mr. Davis for an update on the 305b report. Mr. Davis explained that instead of submitting portions of the report to be reviewed, the entire report would be presented to the WQCC as a mark up copy. The SWQB would ask for comments pertaining to certain portions of the report at various times. This would distribute the workload for the SWQB. The SWQB would approach the WQCC in late fall for final adoption of the report, which is due on April 1, 2000.

Mr. Gutierrez asked Mr. Davis for an update on the Carl Kelly construction work that was done for the Village of Ruidoso. Mr. Davis could not answer the question, and stated that he would research the subject and report back to the WQCC.

Chris Mechels asked the WQCC what role the public plays in WQCC meetings. Ms. Fox explained that the WQCC is both an adjudicatory and regulatory body. As an adjudicatory body, it adjudicates various appeals and the WQCC has rules that include public participation in appeals. As a regulatory body, the WQCC promulgates regulations and the public is entitled to participate in that process. Mr. Mechels asked that the WQCC have its procedures available to the public at every meeting, have extra copies of agenda material available for the public and have individuals identify themselves when speaking.

Mr. Gutierrez asked whether the proposed budget for the WQCC was authorized. Mr. Maggiore stated that the budget provision for the WQCC in HB 321 was taken out.

Item 11: Report on litigation and adjudicatory matters.

Ms. Fox stated that no appeal was filed after Chairman Maggiore signed an order granting NMED's request for dismissal of Molycorp's request for order hearing.

Item 12: Next meeting.

The next WQCC meeting is scheduled for May 11, 1999.

Mr. Johnson moved to adjourn the meeting at 10:48 pm. Mr. Gutierrez seconded the motion. The motion passed unanimously.



Chairperson