



STATE OF NEW MEXICO  
WATER QUALITY CONTROL COMMISSION  
1190 St. Francis Drive  
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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  
June 8, 1999

The New Mexico Water Quality Control Commission (WQCC) meeting was held on June 8, 1999 at 9:00 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)
Tom Turney	Office of the State Engineer
Ricardo 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
Paul Gutierrez	Member-at-Large

Members absent:

Alberto Gutierrez	Member-at-Large
Bill Olson	Oil Conservation Division

Others present:

Tamella Gonzales	WQCC Administrator
Tannis Fox	Attorney General/Counsel to WQCC
Louis W. Rose	Montgomery & Andrews, P.C.
John Hernandez	MRGCD, CID and EBID
David Hogge	NMED
Kelly Bitner	Neptune Oil Company
Glenn Saums	NMED
James Davis, Ph.D.	NMED
Charlie Nylander	Los Alamos National Laboratory
Marcy Leavitt	NMED
Liz Taylor	Taylor & Murray, P.C.
Greg Lewis	NMED
Elizabeth Taylor	Taylor & Murray, P.C.
Blane Sanchez	Pueblo of Sandia
Matt Bishop	Western Environmental Law Center
Richard Virtue	Virtue & Najjar, P.C.
Mike Saladen	Los Alamos National Laboratory
Richard Meyerhoff	EcoPlan Associates
Maxine Goad	Citizen
Jack Kelly	Department of Game and Fish

Bill Landin	City of Santa Fe
Susan Kery	Citizen
Bill Brancard	Sutin, Thayer & Browne
Tod Stevenson	Department of Game and Fish
Ernie Atencio	Amigos Bravos

Chair Peter Maggiore called the meeting to order at 9:05 a.m.

**Item 1: Roll call.**

Tamella Gonzales, WQCC Administrator, took roll call.

**Item 2: Approval of the agenda.**

Chair Maggiore requested that item 5 on the draft agenda, discussion of the Triennial Review, be moved to item 8 at the end of the agenda due to the length of time that item will take. Tom Turney moved to approve the agenda with the change requested by the Chair. Lynn Brandvold seconded the motion. The motion passed unanimously.

**Item 3: Review of April 13, 1999 minutes.**

Ms. Brandvold moved to approve the April 13, 1999 minutes as amended. Ricardo Rel seconded the motion. The motion passed unanimously.

**Item 4: Overview of the Total Maximum Daily Load (TMDL) Process and Proposed TMDLs for Rio Chamita and Cimarron Basin, Start of 30 Day Comment Period.**

David Hogge, TMDL Coordinator for NMED's Surface Water Quality Bureau, addressed the first round of TMDLS that are due December 31, 1999. Mr. Hogge stated that the 3 TMDLS for the Rio Chamita and the 7 TMDLS for the Cimarron Basin have been submitted to the Environmental Protection Agency (EPA) for formal technical review. Approval letters were received from EPA on June 1, 1999 and the TMDL's are fully compliant with federal regulations and the Clean Water Act.

The public comment period for these 10 TMDLS begins today, June 8, 1999, and ends July 8, 1999 at 5:00 p.m. MDT. A community meeting for the Cimarron Basin TMDLS will be held in Angel Fire on June 16, 1999, from 6:30 p.m. to 8:30 p.m. at the Community Center. All required notices were sent out on May 28, 1999. The community meeting for the Rio Chamita TMDLS will be held in Chama on June 17, 1999 from 6:30 p.m. to 8:30 p.m. at the Town Hall. All required notices were sent out on June 4, 1999.

All required legal notices were sent out on May 26, 1999. The TMDL drafts are available on the NMED web site. The pollutants in the Lower Pecos River were found to be below standards and the Lower Rio Grande is currently within Surface Water Quality Standards. The domestic water supply bundle and Santa Fe River TMDLS are scheduled for completion by December 31, 1999; Middle Rio Grande TMDL by December 31, 2000; Gila and San Francisco Watersheds by December 31, 2001; San Juan River by December 31, 2004 and the Rio Puerco by December 31, 2006.

The process for approval include submission of completed TMDLS to EPA Region 6 for formal technical review, notice the public comment period for 30 days, request for adoption by the WQCC as part of the State Water Quality Management Plan; and when adopted, submission to EPA Region 6 for final approval. This process includes public participation.

The first group of 10 TMDLS includes development of TMDLS for 3 constituents that were not listed in the 1996-1998 303d list. The Bureau has added those constituents because of exceedences found during sampling last year. Impacts of the Rio Chamita TMDLS will require water quality based limits for total ammonia and phosphorus at Wastewater Treatment Plants (WWTP) and fecal coliform limits will be set at the stream standard of 200/100 col/ml. Impacts of Cimarron TMDLS will include Nonpoint source projects that address sediment, turbidity and total phosphorus reductions. The remaining 13 TMDLS for 1999 will follow the same process. The Bureau anticipates bringing the remaining 13 TMDLS before the WQCC by its August meeting, or no later than September 14, 1999.

Mr. Sandoval asked how the bundles were prioritized. Mr. Hogge stated that the TMDL schedule arose out of a lawsuit filed by the Forest Guardians and Southwest Environmental Center against the EPA. As a result of the consent decree and settlement agreement, a Memorandum of Understanding (MOU), between NMED and EPA was created and outlined NMED's role in the TMDL process.

Mr. Sandoval asked if the Lower Pecos River was more impacted by the sampling process than the San Juan River. Mr. Hogge stated that the two rivers couldn't be rated the same because different constituents effect them.

Mr. Rel asked that the acequias be placed on the WQCC mailing list.

Mr. Gutierrez asked what NPS best management practices were being implemented on the Cimarron. Mr. Hogge stated on a voluntary basis, individual groups could apply for federal funds under the 319 process to implement BMPs. The Bureau is trying to get as many people as possible involved in the process.

Ms. Brandvold asked if there is any national pollutant discharge elimination systems in any of the waters listed by the Bureau. Mr. Hogge stated that Chama has a WWTP that discharges to the Rio Chamita. Dr. Davis stated that NMED met with the Village of Chama to discuss the ramifications, and a possible solution to the wastewater treatment plant discharge.

#### **Item 5: Legislative Update.**

Dr. Davis addressed HB 592, as amended on April 5, 1999. The only changes that were made to the bill are in paragraph H of 74-6-12, limitations. The sentence now reads; When changes in dissolved oxygen, temperature of dissolved solids, sediment or turbidity in a water of the state is attributable to natural causes or for reasonable operation of irrigation and flood control facilities that are not subject to federal or state water pollution control permitting.

Chairman Maggiore asked Dr. Davis if this would require the WQCC to adopt regulations pursuant to those changes, specifically to define reasonable operations. Dr. Davis agreed with that assessment. Dr. Davis stated that EPA would take a careful look at any definition the WQCC adopted to define reasonable operations.

Mr. Sandoval stated that the new language added to 74-6-12 was not considered in the Hearing Officer's report regarding changes to 20 NMAC 6.1, Standards for Interstate and Intrastate Streams. This would have potential implications in the Commission proceeding with the Triennial Review.

Ms. Fox stated that she would look into the legal aspect of this issue.

**Item 6: Other business.**

There was no other business to discuss.

**Item 7: Report on litigation and adjudicatory matters.**

Mr. Hutchinson stated that there has been litigation initiated in California against the development of TMDLs for nonpoint sources of pollution. The case name is California Farm Bureau v. Browner. The Wyoming, Florida and Arkansas Association of Conservation Districts, several New Mexico organizations and other states have joined in a lawsuit against the Clean Water Action Plan. Some entities involved are the NM Cattle Growers Association, Dairy Producers of NM, Arizona and New Mexico Counties and the Association of WoolGrowers.

**Item 8: Commission review and possible action on proposed changes to 20 NMAC 6.1 (Triennial Review).**

Chair Maggiore referred the WQCC to a memo they received from Ms. Fox in January regarding guidelines that the WQCC must follow while reviewing and ruling on the changes to 20 NMAC 6.1.

Chair Maggiore stated that some Commissioners have expressed concerns regarding the format of the Hearing Officer's report. The Hearing Officer, however, is no longer employed by NMED.

Mr. John Hernandez, representing the three major irrigation districts, Elephant Butte, Carlsbad, and the Middle Rio Grande, suggested that WQCC counsel go through the report and flag the controversial items and the WQCC should vote today or tomorrow on all other issues. All controversial items would remain the unchanged in the Standards. The WQCC could hold hearings throughout the year to review and vote on those items that could not be addressed at this meeting.

Mr. Sandoval moved to appoint a new hearing officer to review the record and prepare a report, including recommendations, for the WQCC. Mr. Johnson proposed an additional amendment to Mr. Sandoval's motion. The WQCC would direct NMED to codify the entire regulation (20 NMAC 6.1) to follow the State Records Center standards. Mr. Sandoval amended his motion to include the proposal. Mr. Gutierrez seconded the motion. The motion passed unanimously.

Mr. Gutierrez moved to appoint Mr. Bill Brancard as hearing officer. Mr. Sandoval seconded the motion. The motion passed unanimously.

The WQCC instructed Mr. Brancard to present his report to the WQCC based on a Procedural Order to be prepared by Ms. Fox and signed by Chair Maggiore.

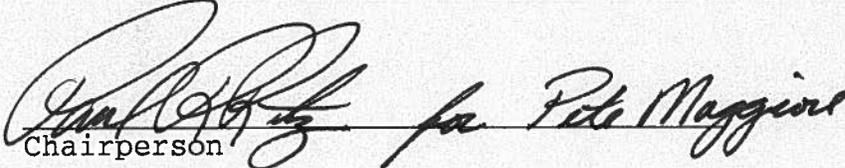
Mr. Gutierrez moved to allow 30 days after the submission of the hearing officer's report for exceptions. Mr. Rel seconded the motion. The motion passed unanimously.

**Item 9: Next meeting.**

The next WQCC meeting is scheduled for August 10, 1999.

Mr. Steve Pierce, Surface Water Quality Bureau, informed the WQCC and the public that this would be Commissioner Sandoval's last meeting with the WQCC. He thanked Mr. Sandoval for his fine work over the years, as did Chair Maggiore who expressed his personal appreciate for Mr. Sandoval's contribution.

Mr. Sandoval moved to adjourn the meeting at 11:04 am. Mr. Gutierrez seconded the motion. The motion passed unanimously.

  
Chairperson