



**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  
March 14, 2000**

The New Mexico Water Quality Control Commission (WQCC) meeting was held on March 14, 2000, at 9:00 a.m. in the State Capitol Building, Room 317, corner of Paseo de Peralta and Old Santa Fe Trail, Santa Fe, New Mexico.

**Members present:**

|                   |   |
|-------------------|---|
| Paul Ritzma       | Acting Chair, Environment Department (NMED)   |
| Tom Turney        | State Engineer & Interstate Stream Commission |
| Jack Kelly        | Department of Game and Fish                   |
| Bill Olson        | Oil Conservation Division                     |
| Ricardo Rel       | Department of Agriculture                     |
| Howard Hutchinson | Soil and Water Conservation Commission        |
| Lynn Brandvold    | Bureau of Mines and Mineral Resources         |
| Paul Gutierrez    | Member-at-Large                               |
| Alberto Gutierrez | Member-at-Large                               |
| Irene Lee         | Member-at-Large                               |

**Members Absent:**

|              |                      |
|--------------|----------------------|
| Dave Johnson | State Parks Division |
|--------------|----------------------|

**Others present:**

|                |                                |
|----------------|--------------------------------|
| Daniel Rubin   | WQCC Counsel                   |
| Tamella Lakes  | WQCC Administrator             |
| David Hogge    | NMED                           |
| James Davis    | NMED                           |
| Erik Galloway  | NMED                           |
| Gary King      | NMED                           |
| Steven Pierce  | NMED                           |
| Mike Bowen     | New Mexico Mining Association  |
| Yvette Paroz   | Department of Game and Fish    |
| David Propst   | Department of Game and Fish    |
| Jim White      | Jicarilla Game and Fish        |
| Mark Blakeslee | Bureau of Land Management      |
| Mike Saladen   | Los Alamos National Laboratory |
| Bruce Thomson  | University of New Mexico       |
| Doug Reaker    | AGRA                           |
| Kelly Bitner   | Neptune & Co.                  |

|                  |                                     |
|------------------|-------------------------------------|
| Franz Lauffer    | Sandia National Laboratory          |
| Ana Marie Ortiz  | NMED/OGC                            |
| Dennis McQuillan | NMED                                |
| Jennifer Parker  | NMED                                |
| Fred Vigil       | Environmental Protection Office/JAT |
| Bob Ricklees     | Philmont                            |
| Jay Lazarus      | Glorieta Geoscience, Inc.           |
| John Horning     | Forest Guardians                    |

Chairman Ritzma called the meeting to order at 9:00 a.m.

**Item 1: Roll call.**

Tamella L. Lakes, WQCC Administrator took roll call.

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

Due to the length of item number 6, it was moved to the end of the agenda and all other items were moved up. Mr. Turney moved to approve the agenda as amended. Mr. P. Gutierrez seconded the motion. The motion passed unanimously.

**Item 3: Approval of the January 11, 2000, minutes.**

Ms. Brandvold moved to approve the January 11, 2000, minutes as amended. Mr. Hutchinson seconded the motion. The motion passed unanimously.

Chairman Ritzma gave the Commission an update on the petition for alternative abatement standards for the Cunningham Mill Mine Reclamation project submitted by LAC Minerals. The parties approached the Hearing Officer on March 13, 2000, with a Joint Motion for Continuance. The motion is unopposed, and requests an indefinite continuance to work out all differences. The Hearing Officer signed the Order allowing the continuance.

**Item 4: New Mexico Department of Game and Fish (DG&F) presentation on the proposed deployment of piscicide for the Calendar year 2000 as it relates to the restoration activities associated with the Rio Grande cutthroat trout and Gila trout management programs.**

Mr. David Propst and Ms. Yvette Paroz, DG&F, stated that there are four (4) separate Antimycin treatments proposed for the year 2000. The first treatment is for White Creek in the Gila Wilderness, to remove Hybrid Rainbow Gila trout. The stream was originally renovated in 1993 and complied with all National Environmental Policy Act (NEPA) requirements. The DG&F is requesting approval to go back and finish the job that was not completed in 1993 and 1994.

Mr. Propst stated that this effort is critical to the restoration of Gila trout.

All standard measures and safety precautions used by the DG&F in the past will be applied during these treatments.

Ms. Brandvold asked if the use of Antimycin would sterilize the stream and kill everything. Mr. Propst stated that Antimycin is specific to fish and some gill breathing aquatic insects. Based on past studies, if there is a negative effect on the insects, they tend to recover rapidly. Antimycin targets only fish and does not harm anything else.

Mr. Rubin, counsel for the Commission, asked if all notice requirement for these treatments had been met as required by 20 NMAC 6.1 and NEPA. Mr. Propst stated that they had complied with NEPA notice requirements in effect in 1993.

Ms. Yvette Paroz, DG&F stated that the remaining treatments are for Costilla Creek, South Ponil Creek, and Poso Creek. These treatments are for the removal of Brook trout and Rio Grande cutthroat trout hybrids. All public meetings and notice requirements were completed.

Mr. Turney asked if there would be a problem with the anti-donation clause going onto private lands. Mr. Kelly stated that in the Memorandum of Understanding (MOU) signed with each ranch, it identifies benefits back to the State because federal lands are being used.

Mr. A. Gutierrez asked how much public interest was shown during the public meetings. Ms. Paroz stated very little, basically only people associated with the project showed up to the meetings.

Mr. Rubin asked if the Environment Department (NMED) had approved the projects. Mr. Kelly stated that the DG&F has followed the procedures written in 1105.F. The first step is to file a written petition to the Commission.

Chairman Ritzma proposed to accept the petitions from the DG&F and instruct the NMED to review them and notify the Commission of their approval or disapproval of the petitions. Chairman Ritzma also proposed that the Commission set appropriate hearing locations and dates for the petitions and appoint a Hearing Officer, and instruct Counsel for the Commission to review the petitions for any procedural defects.

Mr. P. Gutierrez moved to accept the petition for the Gila Trout 2000 renovation activities in White Creek. Ms. Brandvold seconded the motion. The motion passed unanimously.

Mr. A. Gutierrez moved to have the NMED review the petition for the Gila Trout 2000 activities in White Creek and submit a recommendation to the Commission within ten (10) days. Mr. P. Gutierrez seconded the motion. The motion passed unanimously.

Ms. Brandvold moved to appoint Ms. Felicia Orth as Hearing Officer for the Gila Trout 2000 renovation activities in White Creek. Mr. Rel seconded the motion. The motion passed unanimously.

Mr. Hutchinson moved to accept the DG&F petition for restoration activities in Costilla Creek, South Ponil Creek and Poso Creek. Mr. P. Gutierrez seconded the motion. The motion passed unanimously.

Mr. A. Gutierrez moved to have NMED review the petition for restoration activities in Costilla Creek, South Ponil Creek and Poso Creek, and submit a recommendation to the Commission within twenty (20) days. Mr. Hutchinson seconded the motion. The motion passed unanimously.

Mr. P. Gutierrez moved to set a hearing before the Commission immediately following its regular May meeting in Taos, New Mexico for the DG&F petition for restoration activities in Costilla Creek, South Ponil Creek and Poso Creek. Ms. Brandvold seconded the motion. The motion passed unanimously.

**Item 5: NMED update on amendments to ground water quality standards**

Mr. Dennis McQuillan, Ground Water Quality Bureau, stated that the amendments have not been updated since 1985. The reason for this is because up until now, the Bureau has not had the funding to hire a toxicologist. In 1995 and 1996 a proposal was presented to industry and citizens groups in hopes of building a consensus for adopting EPA's drinking water MCLs. That proposal was unsuccessful. Because of this, a contract has been set up with Dr. J. Lewis, a toxicologist with the University of New Mexico. Dr. Lewis will evaluate all the standards. Once this has been done, the Bureau will submit a petition to the Commission to update the Ground Water Standards.

Mr. Olson and Mr. A. Gutierrez asked that arsenic be added to the list for review and that the standards be updated to conform with the recent changes that were made during the Triennial Review.

**Item 6: 2000 – 2002 draft 303 (d) list submitted to the Commission for the start of the 30-day comment period**

Mr. David Hogge, State TMDL Coordinator briefed the Commission on the 2000 – 2002 draft 303(d) list. Mr. Hogge stated that a list was made this year to keep the 2000 § 303(d) list and 2000 § 305(b) report to Congress coincident. It allows for listing and de-listing of parameters and waterbodies predicated on 1998-1999 water quality survey data and keeps data accumulation and review manageable. The draft 2000 – 2002 list consists of 190 waterbodies. Public participation will remain the same.

The draft list has been made available today for the start of the 30-day comment period. The comment period ends on April 13, 2000, at 5:00 pm MDT.

No action was necessary for this item.

**Item 7: Brief presentation concerning the use of hardness-dependent water quality criteria for metals**

Steve Pierce, Surface Water Quality gave an update to the Commission on how the Bureau determines the hardness-dependent criteria for metals as requested by the Commission at its January meeting. The Commission first adopted hardness-based acute and chronic numeric standards for metals in 1991. In the 1998-1999 triennial review, the Commission adopted revised formulae, 20 NMAC 6.1, § 1104.1.G. Mr. Pierce gave the Commission a five (5) page handout which explained the formulae used for ascertaining the hardness-dependent values for metals and also contained tables showing resultant values for a range of hardness values. Mr. Pierce stated that the basic concept is to set a standard that is protective of all uses, but is not overly stringent.

**Item 8: Review and approve Clean Water Act (CWA) § 305(b) report to Congress on Water Quality**

Dr. Jim Davis, Chief SWQB and Gary King, Environmental Specialist, submitted the CWA 305(b) report to the Commission for their review and approval. Dr. Davis stated that the report is required under 305(b) of the federal Water Pollution control Act and serves as a source of basic information on water quality and water pollution control programs in New Mexico. Each State is required to submit this report to Congress every two (2) years. The draft version has significant changes and is the result of a multi-bureau effort.

The draft copy was sent to various constituent agencies on the Commission. All comments from constituent agencies are incorporated into the draft copy.

The following is a list of all substantive changes made by the Commission:

Mr. A. Gutierrez moved to have the program statistics summarized in a paragraph on page 33 under the heading of Pesticides.

Mr. Rel seconded the motion. The motion passed unanimously.

Mr. Turney moved for Congress to consider delaying the Safe Drinking Water Act requirement for the new Arsenic drinking water standard until EPA can demonstrate a need for a new standard based on the epidemiological evidence that is being collected throughout the United States and the World. Mr. Turney will provide the SWQB with appropriate language and suggestions on where the language should appear in the report. Ms. Brandvold seconded the motion. The motion passed unanimously.

Mr. Hutchinson moved to create a new paragraph three (3) on Page nine (9) and address the NPDES permit backlog, statistics and a recommendation that EPA adequately fund the NPDES program in New Mexico. Mr. P. Gutierrez seconded the motion. The motion passed unanimously.

Mr. Turney moved to put language in the executive summary encouraging EPA to set standards for radon based on sound science. The motion passed unanimously.

Mr. Turney moved to put in language stating that New Mexico has a Source Water Protection Program. Mr. A. Gutierrez seconded the motion. The motion passed unanimously.

Mr. A. Gutierrez moved to remove lines 9 through 15 on page 15. Mr. Olson seconded the motion. The motion passed unanimously.

Mr. Hutchinson moved to send the CWA § 305(b) report executive summary to the New Mexico Congressional Delegates. Ms. Brandvold seconded the motion. The motion passed unanimously.

Mr. Hutchinson moved to have the Chairman draft a cover letter to accompany the executive summary with emphasis on the Commission's concerns regarding arsenic, radon, tribal issues, and the State NPDES permit backlog. Mr. P. Gutierrez seconded the motion. The motion passed unanimously.

Chairman Ritzma stated that each Commissioner would submit their non-substantive comments directly to the SWQB.

Mr. A. Gutierrez moved to approve the CWA § 305(b) report to Congress as amended. Mr. P. Gutierrez seconded the motion. The motion passed unanimously.

The completed CWA § 305(b) report to Congress is available on the Environment Department's web page.  
[www.nmenv.state.nm.us](http://www.nmenv.state.nm.us)

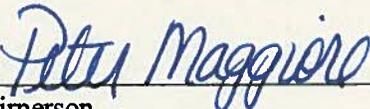
**Item 9: Other Business.**

There was no other business to discuss.

**Item 10: Next Meeting.**

The next meeting of the WQCC will be held on April 11, 2000.

Mr. P. Gutierrez moved to adjourn at approximately 12:20 pm. Mr. Rel seconded the motion. The motion passed unanimously.

  
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Chairperson