



**STATE OF NEW MEXICO  
WATER QUALITY CONTROL COMMISSION**

1190 St. Francis Drive  
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Santa Fe, New Mexico 87502  
(505) 827-2842

**CONSTITUENT AGENCIES:**

- Environment Department
- State Engineer & Interstate Stream Commission
- Game and Fish Department
- Oil Conservation Division
- Department of Agriculture
- State Park & Recreation Division
- Soil and Water Conservation Bureau
- Bureau of Mines and Mineral resources
- Member-at-Large

Minutes of the  
New Mexico Water Quality Control Commission Meeting  
January 13, 1998

The New Mexico Water Quality Control Commission (WQCC) held its meeting on January 13, 1998 at 9:00 a.m. at the Energy, Minerals & Natural Resources Department, Oil Conservation Division Conference Room, 2040 S. Pacheco, Santa Fe, New Mexico. The following members were present.

- |                    |                                     |
|--------------------|-------------------------------------|
| John Kelley        | NMED                                |
| Brian James        | State Engineer Office               |
| Bill Olson         | Oil Conservation Division           |
| David Johnson      | State Parks Division                |
| Ricardo Chavez Rel | NM Department of Agriculture        |
| Andrew Sandoval    | Department of Game & Fish           |
| Howard Hutchinson  | Soil & Water Conservation Bureau    |
| Charles Chapin     | Bureau of Mines & Mineral Resources |
| Paul Gutierrez     | Member-at-Large                     |
| Irene Juliana Lee  | Member-at-Large                     |

Not Present

- |                   |                 |
|-------------------|-----------------|
| Alberto Gutierrez | Member-at-Large |
|-------------------|-----------------|

Others

- |                 |                          |                |         |
|-----------------|--------------------------|----------------|---------|
| Debra Gallegos  | WQCC Adm. Secretary      | Weldon Merritt | NMED    |
| Tannis Fox      | WQCC Legal Counsel - AGO | Maxine Goad    | NMED    |
| Patrick Simpson | Legal Counsel - AGO      | David Hogge    | SWQB    |
| Steve Pierce    | NMED                     | Monte Anderson | NMEMNRA |
| Marcy Leavitt   | NMED                     | Glenn Saums    | SWQB    |
| Dale Doremus    | NMED                     |                |         |

**Item 1- Roll Call. (Tape 1 - Side 1 - 10)**

Chairperson Kelley introduced and welcomed aboard Tannis Fox, Legal Counsel for the WQCC, and Irene Lee, Commissioner.

## **Item 2- Approval of the Agenda**

Agenda change to Items 3 and 4. Postponed approval of the December 9th minutes, and October 14th minutes until next scheduled meeting. (Tape 1 Side 1 Count 018)

P. Gutierrez requested to switch Item 8 (Next Meeting), and Item 9 (Other Business), because items considered under Other Business may affect the scheduling of the next meeting. (Tape 1 Side Count 021)

B. Olson moved to approve the agenda with a change to switch Item 8 and Item 9. P. Gutierrez seconded the motion. The motion passed unanimously. (Tape 1 Side 1 Count 028)

## **Item 3 - Review of the Tabled Proposed Minutes of October 14, 1997.**

B. Olson moved to table the October 14, 1997 minutes. D. Johnson seconded the motion. The motion passed unanimously. (Tape 1 Side 1 Count 034)

## **Item 4 - Review of the Proposed Minutes of December 9, 1997.**

B. Olson moved to table the December 9, 1997 minutes. D. Johnson seconded the motion. The motion passed unanimously. (Tape 1 Side 1 Count 034)

D. Johnson indicated that the name of "State Parks & Recreation Division" was changed to "State Parks Division".

## **Item 5 - In the Matter of Nick Van Tol/Appoint Hearing Officer.**

Chairperson Kelley recused himself on this matter, and asked Charles Chapin to serve as Chairperson. Commissioner Lee also recused herself from this matter.

B. James moved to appoint Weldon Merritt as Hearing Officer on the Nick Van Tol case. B. Olson seconded the motion. The motion passed unanimously. (Tape 1 Side 1 Count 071)

Tannis Fox informed the Commission that a hearing for Nick Van Tol is scheduled for February 16, 1998. (Tape 1 Side 1 Count 103)

## **Item 6 - Update on the State of New Mexico Continuing Planning Process under the Federal Clean Water Act.**

Maxine Goad from NMED gave a brief presentation, and a copy of the informal draft regarding updates for the state's Continuing Planning Process (CPP) to the Commission. EPA requires each state under section 303.e of the Federal Clean Water Act to adopt a CPP, which EPA must approve. The proposed amendments and updates for New Mexico CPP were last updated in 1987. M. Goad sent an informal draft of the proposed amendments to EPA for comments. The WQCC must adopt the CPP after a public hearing, and approval by the Governor or his designees, and EPA. (Tape 1 Side 1 Count 156)

M. Goad is asking for comments from the Commissioners, the public, and internal NMED, with a 30-day period to submit any comments. (Tape 1 Side 1 Count 179)

D. Hogge, Environmental Specialist/SWQB gave an update on the San Francisco Gila TMDLs scheduled for the year 2001. All point source data is researched to decide the priority, and planning stages for the next ten years.

A public meeting will be held at the Harold Runnels Building in Santa Fe the first or middle week in February. Notice will be published in three major newspapers and distributed by mail. (Tape 1 Side 1 Count 308)

**Item 7 - Information only update from William J. LeMay, Director, New Mexico Oil Conservation Commission regarding changes to OCC Regulations.**

Roger Anderson, Environmental Bureau Chief for the Oil Conservation Commission, distributed a copy of OCD Order No. R-10767-A. He noted the following changes:

- (1) OCD Rule 7 is hereby amended, adopted and shown in Exhibit "A," attached hereto and made a part of this order.
- (2) OCD Rule 19 is hereby adopted and shown in Exhibit "B," attached hereto and made part of this order. Rule 19 shall apply to "B.(21) activities." "B. (22) activities" shall continue to be regulated under the Water Quality Act and the WQCC regulations until further action is taken by this Commission.
- (3) OCD Rule 7 as amended and Rule 19 shall be effective as of the date of publication in the New Mexico Register.
- (4) Order No. R-10767 entered on February 13, 1997, is hereby superseded.
- (5) Jurisdiction of this cause is retained for the entry of such further orders as the Commission may deem necessary.(Tape 1 Side 2 Count 000)

B. Olson clarified OCC regulation changes that originally came up during the WQCC hearings concerning Environment Department, New Mexico Oil and Gas Association (NMOGA) and Mining Association disputed regulatory language. The first issue was "How long are the standards effective" (referring to page 5, Exhibit B). This issue was never really resolved through the WQCC hearings. The WQCC adopted language stating "the standards that were in effect at the time the plan was approved are the standards for the duration of the plan". The OCC added the clause "unless the director determines compliance with those standards may with reasonable probability create a present or future hazard to public health or the environment". In this case the burden of proof is upon the director to justify his decision. The oil industry agreed with those provisions as long as the burden of proof was upon the director. The second issue involved modification of the exemptions. The WQCC has an exemption from the Abatement Plan procedures if the remediation is conducted within 180 days. The OCC extended this to the year. (Tape 1 Side 2 - Count 057)

M. Leavitt, Ground Water Bureau Chief, and Roger Anderson had a discussion on the concerns of duplication, adopting standards, hearing procedures, and fee schedules. (Tape 1 Side 2 Count 308)

**Item - 8 Other Business**

T. Fox updated and informed the Commission on the Forest Guardians case, the Defendant has filed a Motion to extend the time to answer until January 21, 1998. Chairperson Kelley asked that T. Fox to keep the Commission informed as to whether or not to have a special meeting. (Tape 1 Side 2 - Count 412)

Merritt asked Chairperson Kelley and the Commissioners if they wished to received recommendations from him or to review the transcript. D. Johnson pointed out that it is the history of the Commission to receive a recommendation from the Hearing Officer before making a final decision. (Tape 1 Side 2 - Count 427)

**Item - 9 Next Meeting**

Next meeting scheduled for Tuesday, March 10, 1998, at 9:00 A.M.

C. Chapin move to adjourn the meeting. B. James seconded the motion. The motion passed unanimously. (Tape 1 - Side 2 - 460)

**Meeting adjourned at 10:20 a.m.**

  
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**Chairperson**