



**STATE OF NEW MEXICO
WATER QUALITY CONTROL COMMISSION
1190 St. Francis Drive, Suite S-2102
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CONSTITUENT AGENCIES

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| 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 Mines and Mineral Resources | Members-at-Large |

**Meeting Minutes
New Mexico Water Quality Control Commission
Regular Meeting
July 10-11, 2018
9:00 a.m.
State Capitol Building, Room 307
July 11, 2018 Room 309
490 Old Santa Fe Trail
Santa Fe, New Mexico 87501**

MEMBERS PRESENT:

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| Larry Dominguez | Chair, Department of Agriculture |
| David Certain | State Parks Division, Energy, Minerals and Natural Resources Department |
| Jane DeRose-Bamman | Municipal and County Representative |
| Howard Hutchinson | Soil and Water Conservation Commission |
| J.C. Borrego | New Mexico Environment Department |
| Edward Vigil | Member-at-Large |
| Jacob Payne | New Mexico Game and Fish |
| Nelia Dunbar | New Mexico Bureau of Geology and Mineral Resources (Teleconference) |
| Scott Dawson | Oil Conservation Division |
| Barbara Toth | Department of Health |

MEMBERS ABSENT:

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| John Waters | Member-at-Large |
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OTHERS PRESENT:

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| Stephen Vigil | Commission Counsel |
| Pam Castañeda | Commission Administrator |

Please see attached sign-in-sheet for others present.

The Chair called the meeting to order at 9:09 a.m.

Item 1. Roll Call.

Roll was taken; a quorum was present.

Item 2. Approval of the Revised Draft Agenda.

Action: Mr. Hutchinson moved to approve the Revised Draft Agenda. Mr. Borrego seconded the motion. The motion passed unanimously.

Item 3. Approval of meeting minutes from May 5, 2018.

Action: Ms. DeRose-Bamman requested a revision to Item 4, line 56 to line 65 as it didn't have who made the motion. The Chair asked on line 62 to strike "entertained a motion" and replace it with "moved". Ms. DeRose-Bamman moved to approve the minutes as amended. Mr. Hutchinson seconded the motion. Mr. Dawson abstained. The motion passed unanimously.

Item 4. WQCC 17-03 (R). In the Matter of: Proposed Amendments to Ground and Surface Water Protection Regulations, 20.6.2 NMAC. Pending matters and/or motions related to: (a) AB/Grip Memorandum on Logical Outgrowth, and (b) Responses to Revised Hearing Officer's Report.

Action: Cheryl Arreguin, of Kathy Townsend Court Reporters, recorded and transcribed the pending matters and/or motions related to: (a) AB/Grip Memorandum on Logical Outgrowth for WQCC 17-03 (R). The transcript is available in the office of the Commission Administrator.

The Chair gave an update on what transpired since the May meeting. Many of the parties provided a joint report. AB/Grip filed a separate document, Exceptions to the Hearing Officer's report, and a Memorandum on logical outgrowth. The Commission will take up and rule on the motion determining logical outgrowth at the August meeting.

Item 5. WQCC 17-03 (R). In the Matter of: Proposed Amendments to Ground and Surface Water Protection Regulations, 20.6.2 NMAC. Deliberations and possible decision.

Action: Cheryl Arreguin, of Kathy Townsend Court Reporters, recorded and transcribed at the July 10, 2018, meeting WQCC 17-03 (R). In the Matter of Proposed Amendments to Ground and Surface Water Protection Regulations, 20.6.2 NMAC. The transcript is available in the office of the Commission Administrator.

The Commission deliberated.

Mr. Borrego moved to accept New Mexico Environment Department's proposed reformatting. Mr. Payne seconded the motion. The motion passed unanimously.

The Commission discussed a process to move through deliberations by only voting on proposed amendments that had split decisions. Proposed amendments with general agreement would move forward and there would be a vote on the entire rule at the close of deliberations.

The Commission recessed for a break at 11:19 a.m. and reconvened at 11:32 a.m.

The Chair introduced Barbara Toth, New Mexico Department of Health who is a new Commissioner and joining as an observer at this meeting.

The Commission recessed for lunch at 12:31 p.m. and reconvened the meeting at 1:35 p.m.

The Chair moved to accept the Environment Department's proposed language for 3103A (2). Mr. Payne seconded the motion. Seven in favor and two against. The motion passed. The two against were Ms. DeRose-Bamman and Mr. Hutchinson.

The Commission recessed for a break at 3:18 p.m. and reconvened at 3:31 p.m.

Mr. Hutchinson moved to have no changes at all to 3105A. Ms. DeRose-Bamman seconded the motion. The Chair asked the Commission Administrator to do a roll call vote. Mr. Dawson, Ms. DeRose-Bamman, Ms. Dunbar, Mr. Hutchinson, Mr. Vigil in favor. Mr. Certain, Mr. Borrego, Mr. Payne, Mr. Dominguez against.

The proceedings for WQCC 17-03 (R) adjourned at 5:15 p.m.

WQCC 17-03 (R). In the Matter of: Proposed Amendments to Ground and Surface Water Protection Regulations, 20.6.2 NMAC. Deliberations and possible decision continued July 11, 2018 at 9:12 a.m. in room 309 of the State Capitol.

Roll call was taken; a quorum was present.

Denise Kopan, of Kathy Townsend Court Reporters, recorded and transcribed at the July 11, 2018 meeting. WQCC 17-03 (R). In the Matter of: Proposed Amendments to Ground and Surface Water Protection Regulations, 20.6.2 NMAC. Deliberations and possible decision. The transcript is available in the office of the Commission Administrator.

Regarding the motion on 20.6.2.3105, Subsection A. The Commission voted five to four to make no changes. Under the statute a six-member vote is required to concur. Six members did not concur, the action was null and void. Thus, the failed motion results in no action taken on 20.6.2.3105, Subsection A.

The Chair moved to adopt within 3105 A the changes within the first sentence, which would be the proposed deletion of “listed numerical,” the addition of the wording “in Subsections A, B, C,” and the proposed deletion of “and does not contain any toxic pollutant.” Mr. Hutchinson seconded the motion. The Chair asked the Commission Administrator for a roll call vote. Mr. Dawson yes, Mr. Certain yes, Ms. DeRose-Bamman yes, Ms. Dunbar yes, Mr. Hutchinson yes, Mr. Vigil yes, Mr. Borrego yes, Mr. Payne yes, Mr. Dominguez yes. The motion passed unanimously.

Mr. Hutchinson moved to accept the proposed new language in 3105.A. The language specific to “if treatment or blending is required to achieve these standards, this exemption does not apply.” Mr. Payne seconded the motion. The Chair asked the Commission Administrator to take a roll call vote. Mr. Certain yes, Ms. Dunbar yes, Mr. Borrego yes, Mr. Payne yes, Mr. Dominguez yes. Mr. Dawson no, Ms. DeRose-Bamman no, Mr. Hutchinson no, Mr. Vigil no. The motion failed, and no action was taken as there was not concurrence by six or more members.

Ms. DeRose-Bamman moved to amend 3108 H with a combination of LANS’ and the Department’s proposals. The language includes identical changes in the first sentence by both parties. Followed by LANS’ second sentence “The draft permit shall include all proposed effluent limitations or other condition on the proposed discharge, and all proposed monitoring, recordkeeping and reporting requirements. Ending with the New Mexico Environment Department’s language that says, “A draft permit for a permit modification shall only include those permit conditions proposed to be modified. Mr. Hutchinson seconded the motion. The motion passed unanimously.

Ms. DeRose-Bamman moved to adopt LANS’ language for I. Mr. Hutchinson seconded the motion for discussion regarding item number 4. The Commission discussed. The Chair asked for a voice vote. Mr. Borrego nay, Mr. Hutchinson nay, Mr. Vigil nay, Mr. Payne nay, Dr. Dunbar nay, Mr. Certain nay, Ms. DeRose-Bamman nay, Mr. Dominguez nay. Motion failed.

The Chair moved to accept the Department’s proposal of I (1) (2) and (3) under Section 3108. Mr. Borrego seconded the motion. The motion passed unanimously.

The Commission recessed for a break at 10:40 a.m. and reconvened at 10:49 a.m.

The Chair mentioned that Dr. Dunbar participated telephonically both days.

Mr. Borrego moved to accept the Department’s proposal on 4104.C and D. Mr. Dawson seconded the motion. The motion passed unanimously.

The Commission recessed for lunch at 11:52 a.m. The meeting reconvened at 1:05 p.m.

Ms. DeRose-Bamman moved to accept the Dairies recommendation to insert “reasonably” in 4106.C, and C (7). Mr. Dominguez seconded the motion. The motion passed unanimously.

The Chair noted that Mr. Vigil was not present for this portion of the deliberations.

Mr. Dawson moved to accept the proposed language, changing from the “Geothermal Resources Development Act” in 5003 as proposed by New Mexico Environment Department. Mr. Payne seconded the motion. The motion passed unanimously.

Mr. Payne moved to adopt the Environment Department’s language pursuant to the proposed change in 20.6.2.5006. Mr. Borrego seconded the motion. The Chair asked the Commission Administrator for a roll call vote. The motion passed unanimously. Ms. DeRose-Bamman abstained.

The Chair moved to accept the grammatical changes that were proposed through the remainder of the document, after 5102, and that they accept the grammatical changes documented. Ms. DeRose-Bamman seconded the motion. The motion passed unanimously.

The Commission recessed for a break at 3:25 p.m. The meeting reconvened at 3:38 p.m.

The Commission will continue the deliberations in August regarding 4103 A and B and other sections with references to 4103. The proceedings adjourned at 3:42 p.m.

Item: 6. Update on Rio Hondo v. Water Quality Control Comm’n, A-1-CA36039, New Mexico Court of Appeals. The Commission may enter into executive session pursuant to Section 10-15-1(H)(7) to discuss pending litigation.

Action: The Chair entertained a motion to close the meeting in accordance with the Open Meetings Act 10-5-1 (H)(7) for discussion relating to an Update on Rio Hondo v. Water Quality Control Comm’n, A-1-CA36039, New Mexico Court of Appeals, the time was 3:43 p.m.

Ms. DeRose-Bamman so moved. Mr. Payne seconded the motion. The motion passed unanimously.

The Chair asked the Commission Administrator to take a roll call vote. The vote was 8 yes and 0 nay. The motion passed unanimously.

The Commission returned to open session at 3:53 p.m. and reconvened the regular meeting. The Chair stated that the record should reflect that the matters discussed in closed executive session were limited to only those specified in the motion that was passed to go into executive session.

Item 7. Next Meeting and forthcoming matter. August 14, 2018.

Action: The Chair asked the Commission Administrator if there were any items scheduled for August. WQCC 17-03 (R) oral arguments on logical outgrowth and the Commission may decide on the motion filed by AB/Grip. The Commission will go back into deliberations for 17-03 (R), WQCC 18-01 (R). Proposed Revisions to 20.7.5 NMAC-wastewater Facility Construction Loans. WQCC 17-07 (A) and WQCC 17-08 (A) deliberations and an Integrated Report.

Item 8. Adjournment.

Action: The Chair entertained a motion to adjourn. Mr. Payne so moved to adjourn the meeting. Mr. Dawson seconded the motion. The motion passed unanimously. The meeting adjourned at approximately 4:30 p.m.


Commission Chair