



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
October 13, 1998**

The New Mexico Water Quality Control Commission (WQCC) meeting was held on October 13, 1998, at 9:00 A.M. in the State Capitol Building, Room 317, Old Santa Fe Trail and Paseo de Peralta, The following member were present:

Ed Kelley	Chairperson, NMED
Paul Ritzma	Office of the State Engineer
Bill Olson	Oil Conservation Division
Ricardo Rel	Department of Agriculture
Howard Hutchinson	Soil & Water Conservation Bureau
Lynn Brandvold	Bureau of Mines & Mineral Resources
Alberto Gutierrez	Member-At-Large
Paul Gutierrez	Member-At-Large
David Johnson	State Parks Division
Andrew Sandoval	Department of Game & Fish

Absent

Irene Lee	Member-At-Large
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Others Present

Tamella L. Gonzales	WQCC Secretary
Tannis Fox	WQCC Legal Counsel/AGO
Weldon Merritt	NMED/Hearing Officer
Marcy Leavitt	NMED/Ground Water Bureau
Mike Saladen	LANL
Richard Virtue	Virtue, Nijjar and Bartell, P.C. / LANL
Sterling Grogan	Middle Rio Grande Conservancy

Paul Pizzoli
Charlie Nylander
Erik Galloway
Dale Doremus
Regina Romero

Los Alamos County
LANL
NMED/Surface Water Quality Bureau
NMED/Ground Water Bureau
New Mexico Municiple League

Chairman Ed Kelley called the meeting to order at 9:05 A.M.

Item 1: Roll Call.

The WQCC Secretary, Tammy Gonzales took roll call.

Item 2: Approval of the Agenda.

D. Johnson moved to approve the Agenda. Andrew Sandoval seconded the motion. The motion passed unanimously.

Item 3: Review of the Proposed Minutes of April 14, 1998.

Paul Ritzma moved to table the April 14, 1998 Minutes for further review. David Johnson seconded the motion. The motion passed unanimously.

Item 4: Review of the Proposed Minutes of May 12, 1998.

Paul Ritzma moved to table the May 12, 1998 Minutes for further review. David Johnson seconded the motion. The motion passed unanimously.

Item 5: Review of the Proposed Minutes of August 11, 1998.

Mr. Hutchinson informed the Commission that the issue on constituent agency accountability raised by Amigos Bravos at the July meeting is missing from the August 11, 1998 Agenda. Mr. Ritzma moved to table the August 11, 1998 Minutes for further review and have the constituent agency issue be placed on the Agenda for the November meeting. Mr. Hutchinson seconded the motion. The motion passed unanimously.

Item 6: Report by the Ground Water Quality Bureau on the Status of Pueblo Los Cerros Discharge Permit Appeal Decisions.

Marcy Leavitt, Chief, Ground Water Quality Bureau, briefed the Commission on the status of Pueblo Los Cerros's Appeal. Ms. Leavitt stated that the Ground Water Quality Bureau split effluent samples with Pueblo Los Cerros. Based on the results the Bureau and Pueblo Los Cerros agreed on a total effluent limitation of 15 mg/l total nitrogen. In order for Pueblo Los Cerros to receive a permit, they had to agree to a contingency plan. If at any time they could not meet that effluent limitation, the Bureau could require a monitoring well. A discharge permit was re-issued on August 27, 1998 with the new requirements. There was no new appeal.

Item 7: Informal Appeal by Kirtland AFB of the Discharge Plan for Tijeras Arroyo Golf Course / Assignment of Hearing Officer.

Chairman Kelley recused himself from this issue. Tannis Fox informed the Commission that Kirtland AFB filed a Formal Appeal in September from the requirement of a discharge permit for site WP-26. They have since filed an Informal Appeal, and this will stay the appeal process pending the outcome of informal negotiations. There is an outstanding Motion filed by the Environment Department for an extension of time to file a response to the Appeal Petition. Ms. Fox recommended that the Commission appoint a Hearing Officer. Mr. Johnson moved to appoint Weldon Merritt as Hearing Officer. Mr. Hutchinson seconded the motion. The motion passed unanimously.

Item 8: Commission's request for a report from the Hearing Officer on the Triennial Review and other procedures.

Mr. Weldon Merritt informed the Commission that Tannis Fox has prepared a Procedural Order for their review. Mr. Johnson asked Ms. Fox about the procedure for addressing exceptions to the Hearing Officers report. Ms. Fox explained that a provision may be put in the Procedural Order to have the Hearing Officer address any exceptions the Commission may receive. Ms. Fox explained the time line for post-hearing arguments. They will be due 60 days after the filing of the transcript. The Hearing Officer's recommendations will be due 60 days after the close of post-hearing arguments, then exceptions to the report will be due 30 days thereafter, then the Commission will deliberate.

The Commission agreed to have the Hearing Officer follow the sequential order that was used by NMED during the Triennial Review, that he set forth each of the proposals, and include a recommendation on whether or not to adopt or reject.

Mr. Hutchinson asked the Chairman what happens if there is a total omission of a recommendation in the Hearing Officers report. Ms. Fox explained that the Procedural Order will cover omissions.

Bill Olson moved to adopt the Procedural Order as it will be amended. Mr. Ritzma seconded the motion. The motion passed unanimously.

Item 9: Discussion on Per Diem and Mileage for Non-Salaried Commissioners attending the Triennial Review Hearing.

Chairman Kelley informed the Commission that a policy needs to be adopted on how per diem and mileage is handled for non-salaried Commissioners. Tannis Fox explained that non-salaried Commissioners are entitled to reimbursement only for official duty.

The Commission discussed the possibility of going before the Legislature to ask for a separate budget for the Commission and to establish a litigation fund in the fiscal year 2000. Paul Gutierrez informed the Commission that the Legislative Finance Sub-Committee meets in November, the Commission should approach the Committee regarding this issue. Tannis Fox suggested that each member submit a list of items that they wish to have brought before the Committee.

David Johnson moved to have budget issues formally put on the agenda for next month, along with a separate agenda item for legislative issues and the Sunset Review. Andrew Sandoval seconded the motion. The motion passed unanimously.

Item 10: Other Business.

Weldon Merritt asked the Commissioners to let the Commission Secretary know what format they would like to have the transcript of the Triennial Review given to them. It could be submitted to them in hard copy and/or on disk.

Paul Gutierrez pointed out to the Commission that the Water & Natural Resources Committee meets on November 9 and 10, and the next WQCC meeting is on November 10th. This could create a problem in trying to address the Legislative Finance Sub-Committee. Paul Gutierrez informed the Commission that from a political standpoint, it is better to have a Committee back an issue when going before the Legislature, but it is not necessary when you go into the session.

David Johnson asked Chairman Kelley if it would be possible for the Environment Department to prepare an outline of expenses that the Commission has incurred over the last few years. This would be helpful in developing a budget plan.

Item 11: Report on Litigation and Adjudicatory Matters.

Tannis Fox informed the Commission that an Appeal from a discharge plan was filed by Premier Motors. Marcy Leavitt explained that Premier Motors had filed a notice of intent to discharge that reflected higher discharge volumes than they actually had. This was due to a consultant who provided erroneous information. The Bureau went out to the site, conducted an inspection, took samples and determined that a discharge permit was not required. Ms. Fox stated that the issue has been settled and a Stipulated Order of Dismissal has been requested from Premier Motors' Counsel.

Item 12: Next Meeting.

The next Water Quality Control Commission meeting will be held on November 10, 1998.

David Johnson moved to adjourn the meeting. Paul Ritzma seconded the motion. The motion passed unanimously.

Peter Maggiore

Chairperson

11/18/98
Date