



**STATE OF NEW MEXICO  
WATER QUALITY CONTROL COMMISSION  
1190 St. Francis Drive, Suite S-2102  
Santa Fe, New Mexico 87505  
Phone: (505) 827-2425  
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**CONSTITUENT AGENCIES**

<b>Environment Department</b>	<b>State Engineer &amp; Interstate Stream Commission</b>
<b>Game and Fish Department</b>	<b>Oil Conservation Division</b>
<b>Department of Agriculture</b>	<b>Department of Health</b>
<b>State Parks Division</b>	<b>Soil and Water Conservation Commission</b>
<b>Bureau of Mines and Mineral Resources</b>	<b>Members-at-Large</b>

**Meeting Minutes  
New Mexico Water Quality Control Commission  
Regular Meeting  
04/11/17  
9:00 a.m.  
State Capitol Building, Room 307  
490 Old Santa Fe Trail  
Santa Fe, New Mexico 87501**

**MEMBERS PRESENT:**

Larry Dominguez	Chair, Department of Agriculture
Jane DeRose-Bamman	Water Utility Authority
Howard Hutchinson	Soil and Water Conservation Commission
J.C. Borrego	New Mexico Environment Department
Scott Dawson	Oil Conservation Division
Edward Vigil	Member-at-Large
John Waters	Member-at-Large
Nelia Dunbar	New Mexico Bureau of Geology and Mineral Resources
Christy Tafoya	State Parks Division, Energy, Minerals and Natural Resources Department
Donald Jaramillo	New Mexico Game and Fish
Ghassan Mussarrafi	Office of the State Engineer

**MEMBERS ABSENT:**

Deborah Dixon	State Engineer & Interstate Stream Commission
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**OTHERS PRESENT:**

John Grubestic	Commission Counsel
Pam Castañeda	Commission Administrator

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

The Chair called the meeting to order at 9:02 a.m.

**Item 1. Roll Call.**

Roll was taken; a quorum was present.

**Item 2. Approve the Agenda.**

**Action:** Mr. Hutchinson moved to approve the agenda as presented. Mr. Waters seconded the motion. The motion passed unanimously.

**Item 3. Approval of meeting minutes from January 10, 2017.**

**Action:** The Chair entertained a motion. Mr. Waters moved to approve the meeting minutes. Mr. Dawson seconded the motion. The motion passed unanimously.

**Item 4. Approval of the Final Draft of the Santa Fe River E. coli TMDLs.**

**Action:** John Verheul with the New Mexico Environment Department's ("NMED") Office of General Counsel introduced Lynette Guevara, with the Surface Water Quality Bureau. Ms. Guevara gave a brief presentation regarding the Santa Fe River TMDLs. Mr. Hutchinson questioned Ms. Guevara. Mr. Vigil moved to accept the Santa Fe River TMDL's as presented. Mr. Hutchinson seconded the motion. The motion passed unanimously.

**Item 5. Approval of the recommended Withdrawal of the Dissolved Aluminum TMDL for Cieneguilla Creek (Eagles Nest Lake to Headwaters).**

**Action:** John Verheul with the New Mexico Environment Department's ("NMED") Office of General Counsel introduced Kris Barrios, with the Surface Water Quality Bureau. Mr. Barrios gave a brief presentation regarding the Cieneguilla Creek TMDL Withdrawal of the Dissolved Aluminum. Ms. Rachel Conn, Projects Director for Amigos Bravos provided public comment. The Commission questioned Mr. Barrios. Mr. Hutchinson moved approval of the recommended Withdrawal of the Dissolved aluminum TMDL for Cieneguilla Creek. Mr. Waters seconded the motion. The motion passed unanimously.

**Item 6. WQCC 17-02 (R). In the Matter of Proposed Amendments to Ground and Surface Water Protection Regulations, 20.6.2 NMAC. Request for Hearing. New Mexico Environmental Law Center Response in Opposition to and Motion to Dismiss the Department's Petition.**

**Action:** John Verheul and Lara Katz of the New Mexico Environment Department's ("NMED") Office of General Counsel gave opening comments. Michelle Hunter, Bureau Chief, Ground Water Bureau was present. On April 6, 2017, the New Mexico Environmental Law Center ("NMELC") filed with the Commission Administrator a Response in Opposition to and Motion to Dismiss the New

Mexico Environment Department's Petition to Amend the Ground and Surface Water Protection Regulations, 20.6.2 NMAC. The Chair turned the meeting over to John Grubestic, Commission Counsel to give guidance to the Commission on how to proceed regarding the filing. Mr. Grubestic stated that there are no provisions in the Water Quality Act ("WQA") or in the Water Quality Control Commission Guidelines regarding a Response in Opposition or Motion to Dismiss. Mr. Grubestic stated that there was not a timeline to respond to the petition. Mr. Grubestic assessed the procedures that are in the Commissions Adjudicatory procedures 20.1.3.15 NMAC. Mr. Grubestic stated that the Commission could proceed and decide on the Response or assign a Hearing Officer to make the decision.

The Commission discussed the Motion to Dismiss.

Lara Katz commented on where NMED stood regarding the Response and that they would be able to file a brief. Douglas Meiklejohn, counsel for the NMELC substituting for Jamie Park commented that NMELC did not object to filing a brief or the assignment of a Hearing Officer.

Mr. Meiklejohn agreed with counsel for NMED that the matter should be resolved expeditiously and that there would be time to implement the briefing schedules.

Mr. Hutchinson moved the Commission to appoint a Hearing Officer to set a schedule on the Motion to Dismiss and expeditiously conduct the hearing. Mr. Vigil seconded the motion. The Hearing Officer would report to the Commission by the next regularly scheduled meeting with a recommendation of the disposition of the Motion. The Chair asked the Commission Administrator to take a roll call vote. The motion passed 9 to 1. Mr. Mussharrafiieh abstained.

Mr. Verheul, Office of General Counsel, gave a brief presentation regarding the Proposed Amendments to Ground and Surface Water Protection Regulation, 20.6.2 NMAC. Mr. Verheul requested to set the hearing for the regularly scheduled Water Quality Control Commission meeting on October 10, 2017. Mr. Meiklejohn requested that the Commission not set the hearing until the Motion to dismiss was decided. Dalva Mollenberg, counsel for the Dairy producers filed a notice of appearance on April 10, 2017, with the Commission Administrator. Mr. Mollenberg commented regarding setting the hearing for October.

The Commission questioned the New Mexico Environment Department.

The Commission discussed the Request for Hearing.

The Chair entertained a motion to assign Erin O. Anderson as the Hearing Officer for WQCC 17-02 (R). The Hearing Officer would create a Scheduling Order in conjunction with the Commissions previous motion to address the Motion to Dismiss and the Commission scheduling an October hearing date. The Hearing Officer would need to address the procedural motions in conjunction with the

Commissions motion. Mr. Hutchinson so moved. Mr. Dawson seconded the motion. The Chair asked the Commission Administrator to take a roll call vote. The motion passed 10 to 1.

The Commission asked the Hearing Officer to schedule the hearing.

The Chair introduced the new Hearing Officer Ms. Erin Anderson.

The Commission took a short break at 10:33 a.m. to set up for Item 7. The meeting reconvened at 10:43 a.m.

**Item 7. WQCC 16-04 (R). In the Matter of Proposed Amendments to Wastewater Facility Construction Loans Regulations, 20.7.5.14 NMAC. Public Hearing.**

**Action:** Erin Anderson the Administrative Law Judge conducted the hearing in accordance with the Commission’s Rulemaking Guidelines.

Cheryl Arreguin of Kathy Townsend Court Reporters recorded and transcribed the public hearing for WQCC 16-04 (R). The transcript is available in the office of the Commission Administrator.

Annie Maxfield, Office of General Counsel (“NMED”), representing the Construction Programs Bureau of the Water Protection Program provided a brief opening statement.

Judith Kahl, Bureau Chief, Construction Programs Bureau of the Water Protection Program provided testimony. The Commission questioned Ms. Kahl.

No public comment.

The Commission deliberated in open forum.

The Chair entertained a motion. Ms. DeRose-Bamman moved to accept the changes in proposed 20.7.5.14(G) and 20.7.5.14 H (1), H(2), and H(3) and not the changes proposed for H(4) until the statutory authority exists to make the change. Mr. Waters seconded the motion. The Chair asked for a discussion on the motion. The Chair proposed for a friendly amendment. The amendment would be to remove the word “decennial” from (4) (b). The motion would be to accept all the changes proposed by the Department with the exception of: under H (4) (a) and (b), with the exception of the very last strike-through of “decennial,” and that would be accepted by the Commission. The Chair asked the Commission Administrator to take a roll call vote. The motion passed unanimously. The Chair requested for the Hearing Officer to develop the Statement of Reasons and Final Order.

Item 8 was a no action item. The Chair entertained a motion to close the meeting in accordance with the Open Meetings Act 10-15-1 (H)(7) in the matter of

Communities for Clean Water v. NM WQCC, 35,253. Ms. DeRose-Bamman so moved. Mr. Hutchinson seconded the motion. The Chair asked the Commission Administrator to take a roll call vote. The motion passed unanimously.

The meeting closed at 11:52 a.m.

**Item 8. Closed Executive Session regarding pending litigation in the matter of Communities for Clean Water v. NM WQCC, 35,253.**

**Action:** The Commission came back into open session at 12:25 p.m. The record reflected that matters discussed in executive session were limited, only to those specified in the motion for closure, specifically pending legal matters against the commission pursuant to NMSA 1978, § 10-15-1(H)(7).

**Item 9. WQCC 17-01 (A). In the Matter of: Waste Control Specialists LLC's Petition for Review and Notice of Appeal of the Ground Water Quality Bureau of the New Mexico Environment Department's Rejection of Waste Control Specialist LLC's Withdrawal of its Application for Discharge Permit and Determination that a Discharge Permit is Required. Informational and discussion purpose for the commission.**

**Action:** The Chair briefed the Commissioners on WQCC 17-01 (A) to answer any questions they had regarding the filings filed with the Commission Administrator. The Chair turned the meeting over to Mr. Grubestic, Commission Counsel. Mr. Grubestic briefed the Commissioners on the documents that were filed. The parties are currently in settlement discussion. This was a no action item. No action was taken.

**Item 10. Next meeting: May 9, 2017.**

**Action:** There is one item scheduled WQCC 16-05 (R). In the Matter of the Petition for Alternative Abatement Standards for the former Saint Anthony Mine, Cibola County New Mexico. This is scheduled for 2-3 days for the May 9, 2017, meeting. WQCC 13-07 (A) In the Matter of Las Campanas Notice of Appeal of Ground Water that a permit is required, is scheduled for the Water Quality Control Commission meeting on June 13, 2017.

**Item 10. Adjournment.**

**Action:** The Chair entertained a motion to adjourn. Mr. Vigil so moved to adjourn the meeting. Mr. Dawson seconded the motion. The motion passed unanimously. The meeting adjourned at approximately 1:00 p.m.

  
Commission Chair