



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

**Environment Department  
Game and Fish Department  
Department of Agriculture  
State Parks Division  
Bureau of Mines and Mineral Resources**

**State Engineer & Interstate Stream Commission  
Oil Conservation Division  
Department of Health  
Soil and Water Conservation Commission  
Members-at-Large**

**Meeting Minutes  
New Mexico Water Quality Control Commission  
Special Meeting  
October 24, 2018  
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
David Certain	State Parks Division, Energy, Minerals and Natural Resources Department
Jane DeRose-Bamman	Municipal and County Representative (Teleconference)
Howard Hutchinson	Soil and Water Conservation Commission (Teleconference)
Dana Bahar	New Mexico Environment Department (Teleconference)
Edward Vigil	Member-at-Large (Teleconference)
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 (Teleconference)
John Waters	Member -at-Large (Teleconference)

**MEMBERS ABSENT:**

**OTHERS PRESENT:**

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 9:02 a.m.

**Item 1. Roll Call.**

Roll was taken; a quorum was present.

Ms. DeRose-Bamman, Dr. Dunbar, Mr. Hutchinson, Mr. Waters, Mr. Vigil, Ms. Bahar, and Ms. Toth explained why they needed to appear by teleconference. It was impossible and impractical for them to attend in person.

**Item 2. Approval of the Draft Agenda.**

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

~~A special meeting was called, because a Petition for a review of permit was filed with the Commissioner Administrator to set a hearing date and appointment of a hearing officer.~~

**Item 3. WQCC 17-07 (A). New Mexico Environment Department, Groundwater Quality Bureau, Complainant, v. Abel Villalpando D.B.A. Creekside Dairy, LLC, Respondent. Villalpando dba Creekside v. NMED, WQCC. New Mexico Court of Appeals, A-1-CA-37623. Motion for Stay of Collection of Civil Penalties Pending Appeal.**

**Action:** Elizabeth Reitzel, Miller Statvert, on behalf of Mr. Villalpando, gave a brief opening statement regarding WQCC 17-07 (A). New Mexico Environment Department, Groundwater Quality Bureau, Complainant, v. Abel Villalpando D.B.A. Creekside Dairy, LLC, Respondent Villalpando dba Creekside v. NMED, WQCC New Mexico Court of Appeals, A-1-CA-37623, which has been filed in the Court of Appeals. Christopher Atencio, Office of the General Counsel was unopposed of the Motion for Stay of Collection of Civil Penalties pending the Appeal.

The Chair entertained a motion to approve the Motion for the Stay in WQCC 17-07 (A). Mr. Certain so moved. Mr. Waters seconded the motion. The motion passed unanimously.

**Item 4. WQCC 17-08 (A). New Mexico Environment Department, Groundwater Quality Bureau, Complainant, v. Abel Villalpando D.B.A. Rockhill Dairy, LLC, Respondent. Villalpando dba Rockhill Dairy v. NMED, WQCC. New Mexico Court of Appeals, A-1-CA-37619. Motion for Stay of Collection of Civil Penalties Pending Appeal.**

**Action:** WQCC 17-08 (A). New Mexico Environment Department, Groundwater Quality Bureau, Complainant, v. Abel Villalpando D.B.A. Rockhill Dairy, LLC,

Respondent. Villalpando dba Rockhill Dairy v. NMED, WQCC. New Mexico Court of Appeals, A-1-CA-37619 was filed with the Court of Appeals. Elizabeth Reitzel, Miller Statvert, on behalf of Mr. Villalpando. Christopher Atencio, Office of the General Counsel was unopposed of the Motion for Stay of Collection of Civil Penalties pending the Appeal.

The Chair entertained a motion to approve the Motion for the Stay in WQCC 17-08 (A). Ms. DeRose-Bamman so moved. Mr. Dawson seconded the motion. The motion passed unanimously.

Commission Counsel advised that a Stipulated Order needed to be signed by the Chair.

**Item 5. WQCC 18-05 (A) Petition for Review of the New Mexico Secretary of the Environment's Decision Granting Groundwater Discharge Permit DP-1132 In Proceeding GWB 17-20 (P). Request for Hearing and appointment of a Hearing Officer.**

**Action:** Jonathan Block, on behalf of Communities for Clean Water, Susan McMichael, on behalf of Los Alamos National Security, LLC and John Verheul, New Mexico Environment Department were present and gave a briefing regarding WQCC 18-05 (V) all agreed to waive the 90-day rule. The Commission has a 90- day timeline to start the hearing process pursuant to 20.1.3 NMAC.

The Commission questioned the parties.

The Chair entertained a motion that the Commission approve the request by all the parties to waive the 90-day deadline and the request of the waiver of timelines specified in 20.1.3.16 NMAC and that the parties will draft a Stipulated Order and the Chair will sign on behalf of the Commission. The motion was amended under the rules a waiver of the 90 days needed to be in writing for the Hearing Officer to sign. Mr. Waters so moved on the amended motion. Mr. Payne seconded. The motion passed unanimously.

The Chair entertained a motion that the Commission appoint Felicia Orth to be the Hearing Officer in the Matter of WQCC 18-05 (A) and the Hearing Officer to work with the parties to arrive at a scheduling Order that accommodates the proposed dates. A hearing date will be set for another date and time. Mr. Dawson so moved. Mr. Hutchinson seconded the motion. The motion passed unanimously.

The Chair moved that the Commission will not request from the Hearing Officer a recommendation and will allow oral argument from the parties. Ms. Bahar so moved. Mr. Certain seconded the motion. The motion passed unanimously.

**Item: 6. Update on Pending Litigation. The Commission will enter into closed session under Section 10-15-1 (H)(7) of the Open Meetings Act to discuss the following pending cases:**



- a. *Rio Hondo v. WQCC*, New Mexico Court of Appeals, A-1-CA-36039
- b. *Amigos Bravos v. WQCC*, New Mexico Court of Appeals, A-1-CA-37531
- c. *Villalpando dba Rockhill v. NMED*, New Mexico Court of Appeals, A-1-CA-37619
- d. *Villalpando dba Creekside v. NMED*, New Mexico Court of Appeals, A-1-CA-37623

**Action:** The Chair entertained a motion to close the meeting in accordance with the open meetings act 10-15-1(H)(7) for discussion relating to a. *Rio Hondo v. WQCC*, New Mexico Court of Appeals, A-1-CA-36039, b. *Amigos Bravos v. WQCC*, New Mexico Court of Appeals, A-1-CA-37531, c. *Villalpando dba Rockhill v. NMED*, New Mexico Court of Appeals, A-1-CA-37619, d. *Villalpando dba Creekside v. NMED*, New Mexico Court of Appeals, A-1-CA-37623. Mr. Dawson so moved. Mr. Waters seconded the motion. The motion passed unanimously.

The Chair asked the Commission Administrator to take a roll call vote. The vote was 11 yes and 0 nay. The motion passed unanimously. The time was 10:20 a.m. when the meeting entered closed session.

The Commission reconvened into open session at 11:05 a.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 for closure.

**Item 7. Next meeting and forthcoming matters. November 13, 2018.**

**Action:** The Chair asked the Commission Administrator if there were any items. No agenda items were scheduled at this time.

Commissioner Waters had a question regarding the meeting in January. If there are no action items a meeting for January will not be scheduled.

The Chair updated the Commission about the Legislative Finance Committee (LFC) meeting on October 22, 2018 that he attended. The Chair gave a brief overview to the LFC of what the Commission does. The Sunset subcommittee of the LFC voted to extend the sunset date for four or five years. The Commission structure was a topic of discussion.

**Item 8. Adjournment.**

**Action:** The Chair entertained a motion to adjourn the meeting. Mr. Payne so moved to adjourn the meeting. Mr. Dawson seconded the motion. The motion passed unanimously. The meeting was adjourned at 11:18 a.m.

  
Commission Chair