

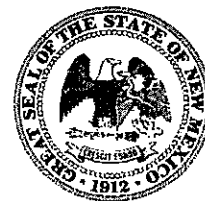
**STATE OF NEW MEXICO
WATER QUALITY CONTROL COMMISSION**

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Constituent Agencies

Environment Department
Office of State Engineer
Game and Fish Department
Oil Conservation Division
Department of Agriculture
Department of Health
State Parks Division
-Soil and Water Conservation Commission
Bureau of Geology and Mineral Resources
Municipal/County Representative
Members-at Large

**Minutes of the
New Mexico Water Quality Control Commission
Regular Meeting**

April 5, 2011

9:00 a.m.

New Mexico State Capitol Building Room 307

490 Old Santa Fe Trail

Santa Fe New Mexico 87501

MEMBERS PRESENT:

Raj Solomon	Chair
Dave Gatterman	State Parks Division
Larry Dominguez	Department of Agriculture
Mike Sloane	Department of Game & Fish
Doug Bland	Bureau of Geology and Mineral Resources
D.L. Sanders	Office of the State Engineer
Heidi Krapfl	Department of Health
Daniel Sanchez	Oil Conservation Division
Steve Glass	County of Bernalillo, Municipal/County Representative
Edward Vigil	Member-at-Large
Maxine Goad	Member-at-Large
Harold W. Tso	Member-at-Large

OTHERS PRESENT:

Please see attached sign-in sheets

Felicia Orth, NMED/OOTS
Laurie Leibowitz, NMED/OOGC
Melanie Carver, NM Attorney General's Office

The meeting was called to order by Mr. Solomon at 9:00 a.m.

Item 1. Roll Call.

Roll was taken, it was noted that a quorum was present.

Item 2. Approval of Agenda.

Action: The Commission discussed switching Items 6 and 7. Mr. Tso moved Commission adoption of the Agenda as amended, moving Item 7, motion for hearing on DIGCE's Motion to Stay in WQCC 09-13 (R) because a Stipulated Motion to Stay had been filed, to Item 6. Mr. Gatterman seconded. The motion passed unanimously.

Item 3. Approval of January 11, 2011 meeting minutes.

Action: Meeting minutes were not available and will be taken up at the next WQCC meeting.

Item 4. Status update and scheduling of public hearing or meeting to approve consolidation and revision of the Water Quality Management Plan and Continuing Planning Process. Eric Ames, NMED/OGC, Pam Homer, NMED Surface Water Quality Bureau.

Action: After Commission discussion, Mr. Glass moved to set hearing for the next WQCC meeting in May with NMED documents submitted by the end of next week (April 15, 2011). Mr. Gatterman seconded. The motion passed unanimously.

Item 5. Hearing, continued, and possible deliberations in WQCC 10-10 (R), Petition for Rulemaking for Procedures Governing State Certification of Federal Permits under the Clean Water Act, NMED, Petitioner. Charles de Saillan, NMED/OGC for NMED; Megan Anderson and Rachel Conn, Amigos Bravos; Louis Rose, Montgomery & Andrews.

Action: A recap of the hearing was given by Mr. de Saillan. After Commission discussion, Mr. Vigil moved to close the record and adopt the rules as amended and agreed to by Mr. de Saillan, attorney for NMED, Ms. Anderson and Ms. Conn, attorneys for Amigos Bravos, and Louis Rose. Mr. Glass seconded the motion.

Roll Call Vote:

Mr. Solomon	yes
Mr. Sanders	yes
Mr. Sanchez	yes
Mr. Gatterman	yes
Mr. Glass	yes
Mr. Dominguez	yes
Mr. Sloane	yes
Mr. Bland	abstain
Ms. Krapfl	yes

Mr. Tso	yes
Ms. Goad	yes
Mr. Vigil	yes

The motion passed, eleven votes in the affirmative; one abstention.

Item 6. (formerly Item 7). Motion Hearing—DIGCE’s Motion to Stay in WQCC 09-13 (R), Amendments to 20.6.2 NMAC, Dairy Regulations. T.J. Trujillo and Dalva Moellenberg for Movants; Chuck Noble and Misty Braswell, MNMED/OGC; Jonathan Block and Bruce Frederick for the Coalition; Melanie Carver, NM Atty. General’s Office, Commission Counsel.

Action: Mr. Noble distributed Stipulated Motion to Stay hearing agreed to by all parties. The Commission discussed with parties repercussions of delaying the motion hearing. Mr. Glass moved to table the motion hearing. After discussion, Mr. Glass amended his motion and moved to delay motion hearing until the July WQCC meeting. Mr. Tso seconded the motion. After further discussion the motion was withdrawn and Mr. Sanders moved to delay consideration of the Motion to Stay until the June WQCC meeting. Mr. Dominguez seconded the motion.

Roll Call Vote:

Mr. Solomon	yes
Mr. Sanders	yes
Mr. Sanchez	yes
Mr. Gatterman	yes
Mr. Glass	yes
Mr. Dominguez	yes
Mr. Sloan	yes
Mr. Bland	yes
Ms. Krapfl	yes
Mr. Tso	no
Ms. Goad	yes
Mr. Vigil	yes

The motion passed, eleven votes in the affirmatives; one in opposition.

Item 7. (formerly Item 6). Motion Hearing—Cattle Growers Association’s Motion to Stay in WQCC 10-01 (R), Designation of Outstanding National Resource Waters. Dan Dolan for Movants, Tannis Fox, NMED/OGC, Erik Schlenker-Goodrich for River Groups; Jay Tutchton and Samantha Ruscavage-Barz for WildEarth Guardians; Melanie Carver, NM Atty. General’s Office, Commission Counsel.

Action: The Commission discussed Motion to Stay and Motion to Strike and Motion to Continue. The Commission heard from attorneys for the River Groups and WildEarth Guardians to discuss the Motion to Strike the Cattle Grower’s Brief.

Mr. Glass moved to Strike Cattle Grower's Brief. Mr. Sloane seconded. The Commission had extensive discussions on how to proceed and repercussions of various options on how to proceed given by Commission Counsel.

The Commission held further discussions on how to proceed. Mr. Sanders moved to allow the River Groups and WildEarth Guardians to file a sur-reply to the Cattle Grower's Brief and to continue the proceeding until that time and to proceed with the motion hearing on the Motion to Stay. Mr. Dominguez seconded. The Commission held further discussions and Mr. Sanders withdrew his motion.

Following further discussion on how to proceed, Mr. Sanders moved to continue the proceeding and to allow for witnesses with a scheduling order providing an opportunity for the River Groups and WildEarth Guardians to file a sur-reply to the Cattle Grower's Brief, the scheduling procedure to include dates filings are due and limiting the evidence to the established prongs for a stay.

The Commission held further discussions and agreed to break for 15 minutes to give all parties an opportunity to agree to a scheduling order outlined by Commission Counsel.

After break the Commission further discussed options on how to address Motion to Strike by River Groups and WildEarth Guardians and the late filing by the Cattle Growers. The River Groups and WildEarth Guardians discussed reasons for their Motion to Strike. There was further Commission discussion of options on how to address the Motion to Strike and options for sanctions and/or for the late filing by the Cattle Growers. Legal options were given by Commission Counsel.

A vote was taken on Mr. Glass's motion:

Roll Call Vote:

Mr. Solomon	no
Mr. Sanders	no
Mr. Sanchez	no
Mr. Gatterman	no
Mr. Glass	yes
Mr. Dominguez	no
Mr. Sloan	yes
Mr. Bland	yes
Ms. Krapfl	yes
Mr. Tso	recuse
Ms. Goad	yes
Mr. Vigil	no

The motion did not pass, six votes in opposition; five votes in the affirmative; and one recusal.

Mr. Sanders moved to adopt Commission Counsel's Scheduling Order, set forth as follows:

1. Hearing on Motion to Stay to be held May 10, 2011 and completed on May 10, 2011.
2. NMED, WildEarth Guardians, and River Groups may respond to the Cattle Growers Brief by April 29, 2011.
3. Exhibit and Witness lists, Demonstrative props, and Exhibits are due by all parties by April 22, 2011.
4. Rebuttal Witnesses and Exhibits are due by all parties by April 26, 2011.
5. Service is to be by email to all parties.
6. If any of the deadlines are missed by any of the parties, documents will be excluded and opportunity to respond is excluded.
7. If a continuance is requested by any party, that party concedes its argument.
8. The scope of testimony is limited to stay prongs 2, 3, and 4, and stay prong 1 is not open to new evidence or new witnesses as set forth in Section 502.B of the rulemaking hearing guidelines.
9. Argument addressing Prong 1 is limited to a demonstrative prop that cites to the record and is due April 22, 2011
10. All evidence and exhibits are to contain citations to the record.
11. Objections to any evidence and exhibits will be heard at the hearing.
12. No other written documents will be allowed.
13. Mr. Sanders will serve as Hearing Officer.

Mr. Dominguez seconded the motion.

Roll Call Vote:

Mr. Solomon	yes
Mr. Sanders	yes
Mr. Sanchez	yes
Mr. Gatterman	yes
Mr. Glass	no
Mr. Dominguez	yes
Mr. Sloan	no
Mr. Bland	no
Ms. Krapfl	no
Mr. Tso	abstain
Ms. Goad	abstain
Mr. Vigil	yes

The motion passed, six in the affirmative; four in opposition; and two abstentions.

Item 8. Other business.

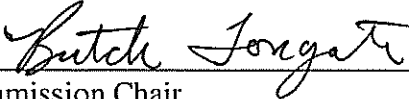
None.

Item 9. Next meeting:

May 10, 2011

Item 10. Adjournment.

The Chair adjourned the meeting.



Commission Chair