

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

1190 St. Francis Drive, Room N2150

Post Office Box 26110

Santa Fe, New Mexico 87502

Telephone (505) 827-2425 Fax (505) 827-0310



**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

**New Mexico Water Quality Control Commission Meeting**

**May 11, 2010**

**9:00 a.m.**

**New Mexico State Capitol Building Room 317**

**490 Old Santa Fe Trail**

**Santa Fe New Mexico 87505**

**MEMBERS PRESENT:**

Sarah Cottrell	Acting Chair
Cheryl Bada	State Parks Division
Larry Dominguez	Department of Agriculture
Howard Hutchinson	Soil and Water Conservation Commission
Steve Glass	County of Bernalillo, Municipal/County Representative
Doug Bland	Bureau of Geology and Mineral Resources
Brad Jones	Oil Conservation Division
Greg Lewis	Office of the State Engineer
Heidi Krapfl	Department of Health
Mike Sloane	Department of Game & Fish
Maxine Goad	Member-at-Large
Edward Vigil	Member-at-Large
Joseph Chavarria	Member-at-Large
Harold W. Tso	Member-at-Large

**MEMBERS ABSENT:**

None

**OTHERS PRESENT:**

Chet & Cathy Wyant	Charles Lakin, Esq. Domenici Firm
Felicia Orth, NMED	Mary P. Carlson
Rebecca Onchaga	Scott McKittrick, SMA
Josh Smith, Esq., Hubert & Humphrey Firm	Jerry & Rogelia Nivens, CCC

James & Barbara Massengill  
Carlos Romero, NMED/EHD  
Joyce Medina, NMED

Bill Olson, NMED/GWQB  
Zachary Shandler, Asst. AG, Board Counsel

The meeting was called to order by Ms. Cottrell at 9:00 a.m.

**Item 1. Roll Call:**

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

**Item 2. Approval of Agenda**

The Chair requested that the order of Items 6 and 7 on the revised agenda be switched. It was agreed that Item 7 would be heard prior to Item 6.

**Action: Mr. Glass moved Commission adoption of the Agenda as amended. Ms. Bada seconded. The motion passed unanimously.**

**Item 3. Approval of the meeting minutes of April 13-16, 2010.**

**Action: Mr. Tso moved Commission approval of the April 13-16, 2010 meeting minutes. Mr. Glass seconded. The motion passed unanimously.**

**Item 4. Election of Chairperson.**

**Action: Ms. Bada moved that Ms. Cottrell be elected Commission Chair. Mr. Jones seconded. The motion passed unanimously**

**Item 5. Request for hearing in Appeal Petition WQCC 10-06 (A), Notice of Deficiency of Stage 1 Abatement Plan, Dona Ana Dairies, Petitioner. Charles Lakin, Esq., Domenici Law Firm, for Petitioner; Tannis Fox, NMED/OGC.**

There was lengthy Commission discussion with Mr. Lakin and Ms. Fox regarding scheduling of the requested hearing.

**Action: Mr. Glass moved that the deliberations in WQCC 09-13 (R) Dairy Regulations be set on August 9, 10 and 11 and the hearing in WQCC 10-06 (A), Notice of Deficiency of Stage 1 Abatement Plan, Dona Ana Dairies be set for hearing on August 12 and 13, 2010 and continue each matter as necessary. Mr. Hutchinson seconded. The motion passed unanimously.**

It was noted that a hearing officer had not been appointed.

**Action: Mr. Lewis moved Commission appointment of Felicia Orth as**

Hearing Officer. Mr. Hutchinson seconded. The motion passed unanimously.

**Item 7. Request for Order Hearing and Answer to Compliance Order in re: WQCC 10-03 (A), I & W, Inc., Petitioner, Thomas Hnasko, Esq., Hinkle Law Firm for Petitioner.**

- a. **Motion to Dismiss Request for Order Hearing in WQCC 10-03 (A), Gail MacQuesten, NMEMNRD/OGC.**
- b. **I & W Motion to Quash Purported Compliance Order in WQCC 10-03 (A). Thomas Hnasko, Esq., Hinkle Law Firm for Respondent.**

Mr. Shandler stated that I & W was now under federal bankruptcy protection and that the Commission no longer had any authority to act in this matter. He further noted that the attorneys in this case requested that it be tabled until the Bankruptcy Trustee authorizes the Commission to take up the matter again. He further indicated that Ms. MacQuesten had stated that she would notify the Commission of that authorization.

**Action: Mr. Glass moved that the Commission table WQCC 10-03 (A). Mr. Tso seconded. The motion passed unanimously.**

**Item 6. Discussion of previously tabled Request for Record Review in re: WQCC 08-05 (A), Appeal by ParaSol Dairy-Discharge Permit DP 1641. Pete Domenici, Esq., Domenici Law Firm, for Petitioner; Joshua L. Smith, Esq., Elephant Butte Irrigation District; Jerry Nivens, Caballo Concerned Citizens; Chris Rich and Steve Hanson, USDI/BOR; Tracy Hughes, NMED/OGC.**

The Chair stated that because she had not been present during discussions relating to this case, that Carlos Romero, NMED/EHD, would replace her on behalf of the Department. Ms. Bada and Mr. Sloane recused themselves from the deliberations.

Mr. Shandler noted that the Commission had previously conducted deliberations in this matter in executive session.

**Action: Mr. Bland moved that the Commission go into executive session to deliberate this matter. Mr. Vigil seconded.**

**Roll Call Vote:**

Mr. Lewis	yes
Mr. Jones	yes
Mr. Glass	yes
Mr. Dominguez	yes
Mr. Hutchinson	no
Mr. Bland	yes

<b>Ms. Krapfl</b>	<b>yes</b>
<b>Mr. Tso</b>	<b>no</b>
<b>Ms. Goad</b>	<b>yes</b>
<b>Mr. Vigil</b>	<b>yes</b>
<b>Mr. Chavarria</b>	<b>yes</b>
<b>Mr. Romero</b>	<b>yes</b>

**The motion passed ten in the affirmative, 2 in the negative.**

The Commission moved into executive session.

The Commission returned to open meeting status.

**Action: Mr. Dominguez moved that the Commission return to its open meeting. Mr. Hutchinson seconded**

**Roll Call Vote:**

<b>Mr. Lewis</b>	<b>yes</b>
<b>Mr. Jones</b>	<b>yes</b>
<b>Mr. Glass</b>	<b>yes</b>
<b>Mr. Dominguez</b>	<b>yes</b>
<b>Mr. Hutchinson</b>	<b>yes</b>
<b>Mr. Bland</b>	<b>yes</b>
<b>Ms. Krapfl</b>	<b>yes</b>
<b>Mr. Tso</b>	<b>yes</b>
<b>Ms. Goad</b>	<b>yes</b>
<b>Mr. Vigil</b>	<b>yes</b>
<b>Mr. Chavarria</b>	<b>yes</b>
<b>Mr. Romero</b>	<b>yes</b>

**The motion passed unanimously.**

Mr. Romero stated that the only matters discussed by the Commission in its executive session were those relating to WQCC 08-05 (A), ParaSol Dairy's Request for Record Review.

**Action: Mr. Vigil moved that the Commission table this matter until its next meeting on June 8, 2010. Mr. Chavarria seconded. The motion passed unanimously.**

**Item 8. Other business**

None

**Item 11. Next meeting: June 8, 2010, 9:00 a.m., Location: State Capitol Room 317, 490 Old Santa Fe Trail, Santa Fe, NM 87501.**

**Item 12. Adjournment**

**Action: The meeting was adjourned by the Chair at 11:55 a.m.**

*Signature on file*

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Sarah Cottrell, Acting Chair