



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

1190 St. Francis Drive, Room N2150

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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  
State Parks Division  
Soil and Water Conservation Commission  
Bureau of Geology and Mineral Resources  
Municipal/County Representative  
Members -at Large

**Approved 09/09/03**

**Minutes of the  
New Mexico Water Quality  
Control Commission Meeting  
August 12, 2003**

The New Mexico Water Quality Control Commission (WQCC) meeting was held on August 12, 2003, at the New Mexico State Capitol Building, Room 317 in Santa Fe, New Mexico.

**MEMBERS PRESENT:**

Ron Curry	Chair, New Mexico Environment Department
David Johnson	State Parks Division
Mike Sloane	Department of Game and Fish
Steve Glass	City of Albuquerque - Municipal/County Representative
Maxine Goad	Member-at-Large
Edward Vigil	Member-at-Large
Bill Olson	Oil Conservation Division
Howard Hutchinson	Soil and Water Conservation Commission
Fred Lujan	Member-at-Large

**MEMBERS ABSENT:**

Doug Murray	Office of State Engineer
Julie Maitland	Department of Agriculture
Lynn Brandvold	Bureau of Geology and Mineral Resources

**OTHERS PRESENT:**

Zack Schandler, WQCC Counsel	Geraldine Madrid-Chavez
Joe Brunner	Tracy Hughes
Dal Moellenberg	Gerard A. Schoeddner
Maura Hanning	Fred Kalish
Mike Bowen	Jon Indall

Marcy Leavitt  
Roderick Ventura  
John Kelly

Jerry Schoeppner  
Richard Virtue

Chair Ron Curry called the meeting of the WQCC to order at 9:00 a.m.

**Item #1: Roll Call**

Geraldine Madrid-Chavez took roll and noted a quorum was present.

Chair Curry welcomed Commissioner Lujan and asked him to give a brief biography of himself.

**Item #2: Approval of the Agenda**

**ACTION: Commissioner Johnson moved to approve the agenda as presented. Commissioner Hutchinson seconded. Motion carried unanimously.**

Mr. Dal Moellenberg, Counsel for Phelps Dodge Tyrone, informed the Commission that settlement discussions in regards to Permit DP-27 are ongoing and requested discussing Items #5 & #6 together.

**Item #5: Setting for Hearing – Phelps Dodge’s Appeal Petition for DP-1341. (WQCC 03-13A)**

**Item #6: Setting for Hearing – Citizens for Economic Growth & Environmental Protection Appeal Petition for DP – 1341. (WQCC 02-12A)**

Mr. Dal Moellenberg and Mr. John Kelly, Counsel for Phelps Dodge Tyrone, requested setting the hearing for DP-1341 in October.

Mr. Charlie De Saillen, Counsel for the Environment Department, requested setting the hearing for DP-1341 in November.

Mr. Roderick Ventura, Counsel for GRIP, agreed with setting the hearing for DP-1341 in October.

Mr. John Kelly asked the Commission to consider consolidating all 3 appeals on DP-1341.

Mr. Charlie De Saillen asked the Commission to keep the 3 appeals on DP-1341 separate.

Mr. Rod Ventura stated that GRIP filed its appeal first and requested that GRIP present its case first.

After lengthy discussion the following actions were taken.

**ACTION:** **Commissioner Sloane moved to consolidate the hearings on DP-1341 and have the hearing begin on October 27, 2003 with the NMED Deputy Secretary sitting as the Hearing Officer. Commissioner Glass seconded. A roll call was taken and the results are as follows:**

Commissioner Vigil	No
Commissioner Goad	No
Commissioner Sloane	Yes
Commissioner Hutchinson	No
Commissioner Glass	Yes
Commissioner Olson	No
Commissioner Johnson	No
Commissioner Lujan	Yes
Commissioner Curry	No

**Motion failed with a 6-3.**

**ACTION:** **Commissioner Vigil moved to have consecutive hearings on DP-1341 beginning on October 27, 2003 with GRIP presenting its case first and the NMED Deputy Secretary sitting as the Hearing Officer. Commissioner Hutchinson seconded. A roll call was taken and the results are as follows:**

Commissioner Vigil	Yes
Commissioner Goad	Yes
Commissioner Sloane	Yes
Commissioner Hutchinson	Yes
Commissioner Glass	Yes
Commissioner Olson	Yes
Commissioner Johnson	Yes
Commissioner Lujan	No
Commissioner Curry	Yes

**Motion carried 8-1.**

**Item #3:** **Setting for Hearing – Appeal of the New Mexico Environment Department’s Denial of Phelps Dodge Tyrone, Inc.’s Application to Renew Discharge Permit DP-27. (WQCC 03-11A)**

Mr. Dal Moellenberg, Counsel for Phelps Dodge Tyrone, requested a hearing be set on DP-27 in November at the Commission’s regularly scheduled meeting.

**ACTION:** **Commissioner Olson moved to set the appeal on DP-27 for the regularly scheduled November meeting of the Commission and the Deputy Secretary of NMED would sit as Hearing Officer. Commissioner Johnson seconded. A roll call was taken and the results are as follows:**

Commissioner Vigil	Yes
Commissioner Goad	Yes
Commissioner Sloane	Yes
Commissioner Hutchinson	Yes
Commissioner Glass	Yes
Commissioner Olson	Yes
Commissioner Johnson	Yes
Commissioner Lujan	Yes
Commissioner Curry	Yes

**Motion carried 9-0.**

**Item #4: Setting for Hearing - Appeal of Administrative Compliance Order, Mr. Richard Garcia and Richard's Residential Septic Cleaning. (WQCC 03-03CO)**

Ms. Tannis Fox, Counsel for the Environment Department, requested a hearing be set for October 14, 2003 on the Appeal of Administrative Compliance Order for Mr. Richard Garcia and Richard's Residential Septic Cleaning.

**ACTION: Commissioner Olson moved to set a hearing on the Appeal of Administrative Compliance Order, Mr. Richard Garcia and Richard's Residential Septic Cleaning for the October 14, 2003 regularly scheduled Commission meeting. Commissioner Vigil seconded. Motion carried unanimously.**

**Item #7: Approval of the July 8, 2003 Meeting Minutes.**

**ACTION: After discussion and amendments, Commissioner Olson moved to approve the minutes of July 8, 2003 as amended. Commissioner Johnson seconded. Motion carried with one abstention by Commissioner Lujan.**

**Item #8: Other Business**

Ms. Tannis Fox, Counsel for the Department, responded to the Commission's request to the Department to review how to shorten Commission meetings. Ms. Fox stated that the Department wanted the Commission's support to amend the Water Quality Act to avoid duplicative hearings on permits. Presently, there are permit hearings before the Department and potential appeals before the Commission. In the past the Department has promoted legislation to do that, but it has not been passed. Ms. Fox discussed various models of legislation that would avoid the Commission having to hold lengthy de novo evidentiary hearings.

The Commission encouraged Ms. Fox and the Department to move forward on exploring such legislation.

Commissioner Hutchinson presented the Commission with a copy of the Evergreen Publication.

**Item #9: Next Meeting**

The next meeting of the Water Quality Control Commission will be September 9, 2003 in Santa Fe, New Mexico.

**ACTION: Commissioner Sloane moved to adjourn. Commissioner Hutchinson seconded. Motion carried unanimously.**

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**WQCC Chair**