

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

APPROVED NOVEMBER 8, 2005

Minutes of the

**New Mexico Water Quality Control Commission Meeting
October 11, 2005**

The New Mexico Water Quality Control Commission (WQCC) meeting was held on October 11, 2005 at the PERA Building, Apodaca Hall, Santa Fe, New Mexico.

MEMBERS PRESENT:

Derrith Watchman-Moore	Acting Chair, New Mexico Environment Department
Cheryl Bada	State Parks Division
Steve Glass	City of Albuquerque – Municipal/County Representative
Maxine Goad	Member-at-Large
Edward Vigil	Member-at-Large
Howard Hutchinson	Soil and Water Conservation Commission
Doug Murray	Office of State Engineer
Wayne Price	Oil Conservation Division (for Mark Fesmire)
Peggy Johnson	Bureau of Geology and Mineral Resources
Tim Darden	Department of Agriculture
Mike Sloane	Department of Game & Fish
Fred Lujan	Member-at-Large

MEMBERS ABSENT:

OTHERS PRESENT:

Zack Shandler, WQCC Counsel	Felicia Orth, NMED
Barbara Claire, NMED	Bill Olson, NMED
Tracy Hughes, NMED	Joni Arends, CCNS
Douglas Meiklejohn, NM ELC	Paul Robinson, SWOP
Julia Barnes	Marcy Leavitt, NMED
Cindy Padilla, NMED	George Schuman, NMED
Kathryn Becker, NMED	T.J. Trujillo, Gallagher & Kennedy

Tim Davis, public
Gary Dessell, public
Dave Colbrain, public

Jane DeRose Bamman, NMED
John Kielins, Public
Francisco Apodaca, NMED

Derrith Watchman-Moore, Deputy Chair, called the meeting of the WQCC to order at 9:00 a.m.

Item #1 Roll Call

Administrator Barbara Claire took roll and noted a quorum was present.

Item #2 Approval of Agenda

ACTION: Commissioner Goad moved to approve the amended agenda as presented. Commissioner Glass seconded. Motion carried unanimously.

Item #3 Approval of the September 13th, 2005 Meeting Minutes

Commissioner Glass made several suggested changes to the minutes.

ACTION: Commissioner Glass moved approve the September 13th 2005 Minutes as amended. Commissioner Darden seconded. Commissioners Lujan, Darden, and Hutchinson abstained. Motion carried.

Item #4 Request for a Hearing in the Matter of the Petition for Proposed Amendments to 20.6.4.9 NMAC, Designation of the Waters of the Valle Vidal as Outstanding National Resource Waters. Marcy Leavitt, NMED, David Probst, DFG.

After questions and deliberation the Commission set a hearing in the matter at the regularly scheduled meeting on December 13, 2005 in Santa Fe, appointing Felicia Orth as Hearing Officer.

ACTION: Commissioner Glass moved to set a hearing to consider all waters of the Valle Vidal and the associated Costilla waters as ONRW for December 13th, 2005 in Santa Fe in conjunction with the regularly scheduled Commission meeting with Felicia Orth as Hearing Officer. Commissioner Sloan seconded. Motion carried unanimously.

Item #5 Request for a Hearing in the Matter of Proposed WQCC Rulemaking Procedures as a Proposed New Part – 20.1.6 NMAC (Felicia Orth, NMED Hearing Officer).

Ms. Orth presented her proposed Rulemaking Procedures, 20.1.6 NMAC, noting that she had not, at this point, solicited input from any other parties. The

proposed rules closely resemble the rulemaking guidelines adopted in 1993 and are posted to the WQCC website. After discussion and deliberation the Commission set a hearing in the matter for March 14th, 2006 in Santa Fe with Deputy Chair Watchman Moore as Hearing Officer.

ACTION: **Commissioner Bada moved to set a hearing in the matter of the proposed rulemaking procedures WQCC 05-05 (R) for March 14th, 2006 in Santa Fe with Deputy Chair Watchman-Moore as Hearing Officer. Commissioner Darden seconded. Motion carried unanimously.**

Item #6 **Discussion regarding Groundwater Discharge Permit #1255 issued to NASA / White Sands Testing Range (Bill Olson, Groundwater Bureau, NMED; Daniela Bowman, public citizen).**

Mr. Olson, NMED Groundwater Bureau Chief, addressed the Commission regarding Permit #1255 which expires in March of 2007; the renewal application is due in September of 2006. Commissioner Sloan had requested the matter be more fully reviewed by the Commission. Ms. Daniela Bowman, public citizen, answered in rebuttal to the Department's statements. After an exchange of question and debate among the parties and the Commission, Counsel Shandler advised the Commission that he will research the legal implications of this matter and will report at the November meeting as to procedure by the Commission. Mr. Kurt Vollbrecht of the Department addressed the Commission's questions. Ms. Bowman provided a schematic of DP#1255 groundwater plume to the Commission. Counsel Shandler advised the Commission that the discussion and debate was getting too scientifically technical and was getting beyond the scope originally intended for the item's time allotment. Counselor Shandler asked the Commission to table the item to November's Agenda when he could advise the Commission more fully on procedure and the legal implications. Deputy Chair Watchman-Moore asked it be added as an agenda item for November.

Item #7 **Hearing and Possible Decision on Proposed Amendments to 20.6.2.7 NMAC, 20.6.2.3108 NMAC, 20.6.2.3109 NMAC, 20.6.2.3112 NMAC and 20.6.2.3114 NMAC pursuant to 2005 Statutory changes to NMSA 1978, 74-6-5 (House Bill 35) WQCC 05-03 (R). Tracy Hughes, General Counsel, OGC.**

Deputy Chair Watchman Moore sat as Hearing Officer and convened the hearing at 10:40 am. Kathy Townsend Court Reporters transcribed the hearing. Ms. Joni Arends of the Concerned Citizens for Nuclear Safety, Mr. Paul Robinson of the Southwest Information Research Project, and Mr. Doug Meiklejohn of the New Mexico Environmental Law Center gave public comment. The Record was closed at 4:30 pm and the Commission deliberated and voted on two of the proposed amendments. The Commission agreed to table the rest of the decisions until the next meeting.

ACTION: **Commissioner Price moved to approve the proposed amendments to 20.6.2.3108.A. NMAC as amended to read as 30 days notice instead of 15 days. Commissioner Goad seconded. Motion failed.**

ACTION: **Commissioner Bada moved to leave the definition of “discharge site” in 20.6.2.7.S. NMAC unchanged from its present wording, and instead to change the proposed wording of 20.6.2.3108.B.(2) NMAC to incorporate the concept of distance from the property boundary. Commissioner Sloan seconded. Motion carried, nine (9) – Yea, two (2) – No.**

The Commission agreed to table the rest of the deliberations until the next meeting in November.

Item #8 Other Business

- Commissioner Murray requested that the Construction Bureau be invited to attend the WQCC meeting when the hearing is requested for the proposed amendments to the Utility Operator Certification Regulations.

Item #9 Next regularly scheduled meeting is November 8th, 2005.

Item #10 Adjournment

There being no other business before the Commission, the meeting was adjourned at 5:47 pm.

ACTION: **Commissioner Bada moved to adjourn the meeting. Commissioner Glass seconded. Motion carried unanimously.**



WQCC Chair