

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

Meeting Minutes  
New Mexico Water Quality Control Commission  
Regular Meeting  
December 10, 2013

9:00 a.m.

New Mexico State Capitol Building Room 309

Santa Fe, New Mexico 87501

**MEMBERS PRESENT:**

Butch Tongate  
Dan Brooks  
DL Sanders  
Brett Woods  
Hoyt Pattison  
John Waters  
Edward Vigil  
Scott Dawson  
Clark Taylor

Chair, Environment Department  
Department of Game & Fish  
Office of the State Engineer (teleconference)  
State Parks Division  
Member-at Large (teleconference)  
Member-at-Large  
Member-at-Large  
Oil Conservation Division  
Soil & Water Conservation Comm'n (teleconference)

**MEMBERS ABSENT:**

Larry Dominguez  
Steve Glass

Department of Agriculture  
Municipal/County Representative

**OTHERS PRESENT:**

Sean Cunniff, New Mexico Attorney General's Office  
Pam Castaneda, Administrator  
Please see attached sign-in-sheet

The meeting was called to order by Mr. Tongate at 9:04 a.m.

**Item 1. Roll Call.**

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

**Item 2. Approval of Agenda.**

**Action:** Mr. Waters moved Commission adoption of the agenda.  
Mr. Brooks seconded the motion. The motion passed unanimously.

**Item 3. Approval of minutes of September 10, 2013 meeting.**

**Action:** Mr. Woods moved to approve the minutes as presented. Mr. Dawson seconded the motion. Mr. Brooks moved to abstain because he was absent for part of the meeting. The motion passed unanimously.

**Item 4. Update on dairy permitting**

**Action:** Jerry Schoeppner, Chief of the Ground Water Quality Bureau, presented an update on dairy pennits.

**Item 5. Request for Hearing in WQCC 13-09 (PISC), Petition by the Department of Game and Fish for the use of piscicides to restore the native fish community in the Las Animas Creek Watershed, Sierra County, New Mexico**

**Action:** Mr. Kirk Patten and Mr. Bryan Bakevich with the Department of Game and Fish requested a hearing to be set. Mr. Tongate requested that Ms. Orth be appointed as Hearing Officer and set the hearing date. Mr. Waters moved to approve the request for hearing and Hearing Officer. Mr. Vigil seconded the motion. The motion passed unanimously.

**Item 6. Discussion and possible action on legal representation of the Commission in WQCC 12-01 (R), The Copper Rule, in the Court of Appeals, and matters related to the Motion for Stay. The Commission may vote to adjourn into Closed Executive Session to discuss the matter pursuant to Section 10-15-1(H)(7), NMSA 1978 of the Open Meetings Act.**

**Action:** Mr. Woods moved that the Commission go into executive session to discuss this agenda item pursuant to Section 10-15-1(H) (7), NMSA 1978 of the Open Meetings Act. Mr. Waters seconded. Roll call was taken and the motion passed unanimously.

The Chair requested that everyone except Mr. Kendall leave the room. Mr. Frederick objected that Mr. Kendall, as NMED General Counsel and counsel to one party, should not be invited to the closed session. Mr. Kendall responded that his role in the discussion was limited to procuring counsel for the Commission. The Chair denied the objection and the Commission entered into executive session at 9:20 a.m.

The Commission went back on the record at 10:33 a.m. The Chair announced that the matters discussed in executive session were limited to those specified in the motion for closure. Mr. Woods moved that the Chair be given the authority to designate legal counsel for future proceedings regarding the Copper Rule. Mr. Brooks seconded. The motion passed unanimously.

The Chair announced that there is a possibility of a special meeting to be set prior to the January 14, 2014 meeting in regards to the Copper Rule and other items.

Mr. Frederick renewed his objection to Mr. Kendall's participation in the closed executive session. The Chair noted the objection without further comment.

**Item 7. Next Regular Meeting: January 14, 2014**

**Action Upcoming:**

March 11, 2014, Hearing on proposed amendments to the Dairy Rule and scheduling of several dairy variance petitions.

**Item 8. Adjournment**

The Chair adjourned the meeting at 10:38 a.m.

  
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Commission Chair