



**STATE OF NEW MEXICO  
WATER QUALITY CONTROL COMMISSION  
1190 St. Francis Drive, Suite S-2102  
Santa Fe, New Mexico 87505  
Phone: (505) 827-2428**

**CONSTITUENT AGENCIES**

<b>Environment Department</b>	<b>State Engineer &amp; Interstate Stream Commission</b>
<b>Game and Fish Department</b>	<b>Oil Conservation Division</b>
<b>Department of Agriculture</b>	<b>Department of Health</b>
<b>State Parks Division</b>	<b>Soil and Water Conservation Commission</b>
<b>Bureau of Geology and Mineral Resources</b>	<b>Members-at-Large</b>

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**Meeting Minutes  
New Mexico Water Quality Control Commission  
Virtual Meeting on Webex  
September 8, 2020  
9:00 a.m.**

**MEMBERS PRESENT:**

Jennifer Pruett	Chair, New Mexico Environment Department
Gabriel Wade	Vice Chair, Oil Conservation Division
Keith Candelaria	Member-at-Large
David Certain	State Parks Division, Energy, Minerals and Natural Resources Department
Larry Dominguez	Department of Agriculture
Howard Hutchinson	Soil and Water Conservation Commission
Krista McWilliams	Member-at-Large
Ghassan Musharrafi	New Mexico State Engineer and Interstate Stream Commission
Kirk Patten	New Mexico Game and Fish
Kelsey Rader	Member-at-Large
David Sypher	Municipal and County Representative
Bruce Thomson	Member-at-Large
Stacy Timmons	New Mexico Bureau of Geology and Mineral Resources

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**MEMBERS ABSENT:**

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**OTHERS PRESENT:**

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Robert F. Sánchez	Commission Counsel
Pam Jones	Commission Administrator
John B. Kern	Clean Water Partnership - Cannon
Christopher Atencio	Counsel for NMED

36	Andrew Knight	Counsel for NMED
37	Pete Domenici, Jr.	Counsel for ACME Hometown Cleaners
38	Mark E. Coon	Regional Counsel – Cannon Air Force Base
39	Judi Kahl	Construction Programs Bureau
40	Rhonda Holderman	Construction Programs Bureau
41	Christal Weatherly	Counsel for NMED
42	John Verheul	Counsel for NMED
43	Rachel Janowitz	NMED Surface Water Quality Bureau
44	Heidi Henderson	NMED Surface Water Quality Bureau
45	Adam G. Rankin	Counsel for Matador Production Company and San
46		Mateo Midstream, LLC
47	Kaitlyn A. Luck	Counsel for Matador Production Company and San
48		Mateo Midstream, LLC
49	Richard Virtue	Hearing Officer

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51 The Chair called the meeting to order at 9:06 a.m.

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53 **Item 1. Roll Call.**

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55 The Administrator called the roll; a quorum was present. Chair Pruett discussed the  
56 protocol of the virtual meeting. She provided contact information for any individual  
57 experiencing technical issues. She mentioned the items on the agenda were time  
58 sensitive, which allowed the Commission to meet virtually, per advice from the  
59 Open Government Division of the Attorney General’s Office. Chair Pruett pointed  
60 out that Alan Peura will video record the meeting and will post the recording on the  
61 Commission’s website as soon as practicable after the meeting.

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63 **Item 2. Approval of the Draft Agenda.**

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65 **Action:** Commissioner Hutchinson moved to approve the draft agenda. Commissioner  
66 Wade seconded the motion. Chair Pruett called a roll call vote. Commissioner  
67 Candelaria: aye; Commissioner Certain: aye; Commissioner Dominguez: aye;  
68 Commissioner Hutchinson: aye; Commissioner McWilliams: aye; Commissioner  
69 Musharrafieh: aye; Commissioner Patten: aye; Chair Pruett: aye; Commissioner  
70 Rader: aye; Commissioner Sypher: aye; Commissioner Thomson: aye;  
71 Commissioner Timmons: aye; and, Vice Chair Wade: aye. The motion passed 13-  
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74 **Item 3. Approval of meeting minutes from June 9, 2020.**

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76 **Action:** Commissioner Hutchinson moved to approve the meeting minutes from June 9,  
77 2020. Commissioner Wade seconded the motion. Chair Pruett called a roll call vote.  
78 Commissioner Candelaria: aye; Commissioner Certain: aye; Commissioner  
79 Dominguez: aye; Commissioner Hutchinson: aye; Commissioner McWilliams:  
80 aye; Commissioner Musharrafieh: aye; Commissioner Patten: aye; Chair Pruett:  
81 aye; Commissioner Rader: aye; Commissioner Sypher: aye; Commissioner  
82 Thomson: aye; Commissioner Timmons: aye; and, Commissioner Wade: aye. The  
83 motion passed 13-0.

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**Item 4. Public comment.**

**Action:** John B. Kern of Clean Water Partnership - Cannon offered comment regarding Item #6. Proposed Settlement Agreement WQCC 20-08 (CO) Cannon Air Force Base. Chair Pruett advised Mr. Kern that public comment was not appropriate for specific action items, and that the technical type of testimony that Mr. Kern was presenting went beyond the bounds of public comment.

**Item 5. Proposed Settlement Agreement. WQCC 20-04 (CO), ACME Hometown Cleaners. Christopher Atencio, Counsel for the New Mexico Environment Department (NMED) Office of General Counsel. Pete Domenici, Jr., Counsel for ACME Hometown Cleaners.**

**Action:** Counsel Domenici, Jr. gave a brief history of the property at issue. As Counsel for ACME Hometown Cleaners, he requested approval of the Settlement Agreement.

Counsel Atencio agreed the terms of the Compliance Order speak for themselves and stated the Department requests approval of the terms of the Settlement Agreement.

The Commission discussed the item.

Commissioner Thomson spoke up suggesting adding language to the agreement regarding the location of monitor wells. Counsel Atencio was in agreement as long as the monitor wells location was approved by the Department before installed and suggested memorializing such in the Stipulated Final Order.

Chair Pruett asked the Commissioners whether or not they felt comfortable discussing this agenda item in open session or if there was a need to go into Executive Session. It was agreed by the Commission that there was no need to move into executive session.

Commissioner Hutchison made the motion to approve the proposed Settlement Agreement with the addition of Commissioner Thomson's suggested language. Vice Chair Wade seconded the motion. Chair Pruett called a roll call vote. Commissioner Candelaria: aye; Commissioner Certain: aye; Commissioner Dominguez: aye; Commissioner Hutchinson: aye; Commissioner McWilliams: aye; Commissioner Musharrafi: aye; Commissioner Patten: aye; Chair Pruett: aye; Commissioner Rader: aye; Commissioner Sypher: aye; Commissioner Thomson: aye; Commissioner Timmons: aye; and, Commissioner Wade: aye. The motion passed 13-0.

**Item 6. Proposed Settlement Agreement. WQCC 20-08 (CO) Cannon Air Force Base. Christopher Atencio and Andrew Knight, co-Counsel for the New Mexico Environment Department (NMED) Office of General Counsel. Mark E. Coon, Regional Counsel, for Cannon Air Force Base.**

132 **Action:** Chair Pruett asked both Chris Atencio, counsel for NMED in the matter, and Major  
133 Mark Coon to provide comment regarding Mr. Kern’s public comment earlier in  
134 the meeting. Major Coon stated that as a matter of policy the Air Force is not  
135 opposed to public comment, but since Mr. Kern is not a party to this matter his  
136 comments are not admissible with regards to this Agenda Item.

137  
138 Counsel Atencio stated the Department’s agreement with Major Coon saying the  
139 Department objects to the inclusion of Mr. Kern’s statement as public comment  
140 because he is not a party to this matter.

141  
142 Discussion continued regarding the merits of the proposed Settlement Agreement.  
143 Counsel Atencio summarized the proposed agreement between NMED and the Air  
144 Force. Major Coon stated the Air Force approves the agreement on its terms.

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146 The Commission discussed the proposed settlement agreement.

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148 Commissioner Hutchinson asked what the Commission’s authority is regarding  
149 operation under the existing permit. Chair Pruett responded that the Commission  
150 has enforcement discretion in order to encourage settlement. Major Coon made the  
151 comment that discretion is very broad in this matter, and Counsel Atencio stated  
152 the Rule strongly encourages settlement. NMAC 20.1.3.22 was given as the  
153 citation.

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155 Commissioner Sypher moved to approve the Settlement Agreement. Commissioner  
156 Hutchinson seconded the Motion. Chair Pruett called a roll call vote. Commissioner  
157 Candelaria: aye; Commissioner Certain: aye; Commissioner Dominguez: aye;  
158 Commissioner Hutchinson: aye; Commissioner McWilliams: aye; Commissioner  
159 Musharrafieh: aye; Commissioner Patten: aye; Chair Pruett: aye; Commissioner  
160 Rader: aye; Commissioner Sypher: aye; Commissioner Thomson: aye;  
161 Commissioner Timmons: aye; and, Commissioner Wade: aye. The motion passed  
162 13-0.

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164 Counsel Sanchez made the comment that Paragraph 13 of the Settlement  
165 Agreement was not in compliance with 20.1.3.22 NMAC because it did not state  
166 the Petitioner agrees to the jurisdictional allegations of the compliance order.  
167 Discussion ensued with Counsel Atencio and Major Coon aligning their positions  
168 in that nothing in the language of the paragraph in question was legally insufficient  
169 and the settlement agreement should be approved as written and as voted on  
170 previously in this meeting.

171  
172 Chair Pruett called for a Motion to re-open the discussion. Commissioner  
173 Hutchinson so moved; there was no second to Commissioner Hutchinson’s motion.  
174 The Motion to re-open discussion died and the Commission’s vote stands.

175  
176 **Item 7. Public Hearing. WQCC 20-07 (R). Proposed Revisions to 20.7.5 NMAC,**  
177 **Wastewater Facility Construction Loans. Christopher Atencio, NMED**  
178 **Office of General Counsel, Hearing Officer. Hearing Officer Chair Pruett.**  
179

180 **Action:** Counsel Atencio made an opening statement regarding the proposed revisions and  
181 introduced Witness Holderman. Holderman gave testimony about why these  
182 changes were needed and requested the WQCC allow the CPB to set interest rates  
183 going forward, remove subsidies to move money to projects to better protect water  
184 quality in New Mexico through those projects and approve a simplified ranking  
185 system to evaluate those projects.

186  
187 The Commission had the opportunity to ask questions and make comments.

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189 Commissioner Dominguez moved to approve the proposed Revisions to 20.7.5  
190 NMAC including the grammatical corrections offered by Commissioner  
191 Hutchinson. Commissioner Hutchinson seconded the Motion. Chair Pruett called a  
192 roll call vote. Commissioner Candelaria: aye; Commissioner Certain: aye;  
193 Commissioner Dominguez: aye; Commissioner Hutchinson: aye; Commissioner  
194 McWilliams: aye; Commissioner Musharrafieh: aye; Commissioner Patten: aye;  
195 Chair Pruett: aye; Commissioner Rader: aye; Commissioner Sypher: aye;  
196 Commissioner Thomson: aye; Commissioner Timmons: aye; and, Commissioner  
197 Wade: aye. The motion passed 13-0.

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199 **Item 8. Request for Approval of Priority Ranking System and Base Interest Rate**  
200 **Determination for FY2021. WQCC 20-52. Christopher Atencio, Counsel for**  
201 **NMED Office of General Counsel. Judi Kahl and Rhonda Holderman,**  
202 **Construction Programs Bureau.**

203  
204 **Action:** Counsel Atencio, Rhonda Holderman and Judi Kahl of the Construction Programs  
205 Bureau, summarized the Request before the Commission.

206  
207 The Commission had discussion and time for questions and comments.

208  
209 Commissioner Thomson moved to approve the base interest rates and to adopt the  
210 Priority Ranking System as modified so that sustainability would be 150 points and  
211 so that criteria for a rate structure would be established to allow for replacement  
212 costs. Commissioner Sypher seconded the Motion. Chair Pruett called a roll call  
213 vote. Commissioner Candelaria: aye; Commissioner Certain: aye; Commissioner  
214 Dominguez: aye; Commissioner Hutchinson: aye; Commissioner McWilliams:  
215 aye; Commissioner Musharrafieh: aye; Commissioner Patten: aye; Chair Pruett:  
216 aye; Commissioner Rader: aye; Commissioner Sypher: aye; Commissioner  
217 Thomson: aye; Commissioner Timmons: aye; and, Commissioner Wade: aye. The  
218 motion passed 13-0.

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220 **Item 9. Request for Approval of Revisions to the Water Quality Management Plan**  
221 **and Continuing Planning Process (WQMP/CPP), WQCC 20-34. Christal**  
222 **Weatherly, NMED Office of General Counsel.**

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224 **Action:** Although not provided in advance with the opportunity for public review, Chair  
225 Pruett allowed Counsel Weatherly to show a brief Power Point summary  
226 presentation concerning the Water Quality Management Plan / Continuing

227 Planning Process, on the advice of Counsel Sanchez that it could assist the  
228 Commission in understanding the matter being presented.

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230 The Commission discussed the proposal. If approved, the WQMP/PPP would be  
231 posted to the SWQB website and submitted to the EPA for review and approval.  
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233 Commissioner Timmons moved to adopt and approve the WQMP/PPP WQCC 20-  
234 34. Commissioner Hutchinson seconded the Motion. Chair Pruett called a roll call  
235 vote. Commissioner Candelaria: aye; Commissioner Certain: aye; Commissioner  
236 Dominguez: aye; Commissioner Hutchinson: aye; Commissioner McWilliams:  
237 aye; Commissioner Musharrafi: aye; Commissioner Patten: aye; Chair Pruett:  
238 aye; Commissioner Rader: aye; Commissioner Sypher: aye; Commissioner  
239 Thomson: aye; Commissioner Timmons: aye; and, Commissioner Wade: aye. The  
240 motion passed 13-0.  
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242 **Item 10. Request to Schedule Approval of the Rio Chama Total Maximum Daily Load.**  
243 **WQCC 20-53. John Verheul, NMED Office of General Counsel, Rachel**  
244 **Jankowitz and Heidi Henderson, NMED Surface Water Quality Bureau.**  
245

246 **Action:** Counsel John Verheul of the New Mexico Environment Office of General Counsel  
247 gave the Commission a brief summary of the request for approval of the Rio Chama  
248 Total Maximum Daily Load.  
249

250 The Commission discussed the public's opportunity to make comments on the  
251 TMDL at a Commission meeting. Commissioner Dominguez stated that  
252 historically, Commission TMDL approvals have included public comment.  
253

254 Chair Pruett stated that if the public has submitted written comments, those will be  
255 posted to the website so all interested parties have access to review them.  
256

257 Commissioner Hutchinson moved to schedule the adoption and approval of the  
258 TMDL for the Rio Chama for the October meeting. Commissioner Dominguez  
259 seconded the Motion. Chair Pruett called a roll call vote. Commissioner Candelaria:  
260 aye; Commissioner Certain: aye; Commissioner Dominguez: aye; Commissioner  
261 Hutchinson: aye; Commissioner McWilliams: aye; Commissioner Musharrafi:  
262 aye; Commissioner Patten: aye; Chair Pruett: aye; Commissioner Rader:  
263 unavailable to vote due to technical issues; Commissioner Sypher: aye;  
264 Commissioner Thomson: aye; Commissioner Timmons: aye; and, Commissioner  
265 Wade: aye. The motion passed 12-0 with one Commissioner unavailable for the  
266 vote.  
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268 The Commission took a 15-minute break between Agenda Items 10 and 11.  
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270 **Item 11. Public Hearing. WQCC 20-16 (CO) New Mexico Environment Department**  
271 **Water Protection Division, Surface Water Quality Bureau v. Matador**  
272 **Production Company and San Mateo Midstream, LLC. Andrew Knight,**  
273 **Counsel for the New Mexico Environment Department. Adam G. Rankin and**

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**Kaitlyn A. Luck, Counsel for Matador Production Company and San Mateo Midstream LLC. Richard Virtue Hearing Officer.**

**Action:** Roll call had a quorum despite Commissioner Musharrafiieh and Commissioner Rader initially being unavailable.

Counsel Andrew Knight of NMED and Counsel Rankin for Respondent announced a settlement had been reached between the parties and the settlement agreement had been signed by Matador and was awaiting signature by NMED.

The Commission discussed whether deadlines would be delayed if discussion of the agreement were held over until the October Commission meeting. It was determined that there is not a notice requirement other than the Open Meetings Act Notice, which was covered by the current agenda being posted to the website.

Commissioner Dominguez expressed concern that the current agenda is public notice for a public hearing, not discussion and approval of the settlement agreement.

Commissioner Wade moved to continue discussion of the settlement agreement at the October meeting. Commissioner Thomson seconded the Motion. Chair Pruett called a roll call vote. Commissioner Candelaria: aye; Commissioner Certain: aye; Commissioner Dominguez: aye; Commissioner Hutchinson: aye; Commissioner McWilliams: aye; Commissioner Musharrafiieh: aye; Commissioner Patten: aye; Chair Pruett: aye; Commissioner Rader: aye; Commissioner Sypher: aye; Commissioner Thomson: aye; Commissioner Timmons: aye; and, Commissioner Wade: aye. The motion passed 13-0.

**Item 12: Adjournment**

**Action:** The meeting adjourned at 3:40 pm.

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Commission Chair Pruett