



**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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**DRAFT Meeting Minutes**  
**New Mexico Water Quality Control Commission**  
**Virtual Meeting on Webex**  
**October 13, 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
Jason Cornwell	New Mexico Department of Health
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

**MEMBERS ABSENT:**

**OTHERS PRESENT:**

Robert F. Sánchez	Commission Counsel
Pam Jones	Commission Administrator
Alan Peura	Commission Staff
Melayna Ortiz	Commission Staff

36	John Verheul	Counsel for NMED
37	Rachel Janowitz	NMED Surface Water Quality Bureau
38	Heidi Henderson	NMED Surface Water Quality Bureau
39	Adam G. Rankin	Counsel for Matador Production Company and San
40		Mateo Midstream, LLC
41	Andrew Knight	Counsel for NMED
42	Shelly Lemon	NMED Surface Water Quality Bureau
43	Sarah Holcomb	NMED Surface Water Quality Bureau
44	Jennifer Fullam	NMED Surface Water Quality Bureau
45	Kris Barrios	NMED Surface Water Quality Bureau
46	Matthew Hairford	President, San Mateo Mid Stream, LLC and Matador
47		Production Company – <b>Via Telephone</b>
48	Kelly Nokes	Western Environmental Law Center
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51 The Chair called the meeting to order at 9:02 a.m. and introduced the new Department of Health  
 52 designee on the Commission, Deputy Jason Cornwell.

53  
 54 **Item 1. Roll Call.**

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

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

65  
 66 **Action:** Commissioner Cornwell moved to approve the draft agenda. Commissioner Wade  
 67 seconded the motion. Chair Pruett requested a roll call vote. Commissioner  
 68 Candelaria: aye; Commissioner Certain: aye; Commissioner Cornwell: aye;  
 69 Commissioner Dominguez: aye; Commissioner Hutchinson: aye; Commissioner  
 70 McWilliams: aye; Commissioner Musharrafieh: aye; Commissioner Patten: aye;  
 71 Chair Pruett: aye; Commissioner Rader: aye; Commissioner Sypher: aye;  
 72 Commissioner Thomson: aye; Commissioner Timmons: aye; and, Vice Chair  
 73 Wade: aye. The motion passed 14-0.

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 75 **Item 3. Approval of meeting minutes from October 13, 2020.**

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 77 **Action:** Commissioner Timmons moved to approve the meeting minutes from October 13,  
 78 2020. Commissioner McWilliams seconded the motion. Chair Pruett made  
 79 suggested edits to the October 13, 2020 minutes. Commissioner Timmons moved  
 80 to adopt and approve the minutes as amended. Commissioner McWilliams  
 81 seconded the amended Motion. Chair Pruett requested a roll call vote.  
 82 Commissioner Candelaria: aye; Commissioner Certain: aye; Commissioner  
 83 Cornwell: aye; Commissioner Dominguez: aye; Commissioner Hutchinson: aye;

84 Commissioner McWilliams: aye; Commissioner Musharrafieh: aye; Commissioner  
85 Patten: aye; Chair Pruett: aye; Commissioner Rader: aye; Commissioner Sypher:  
86 aye; Commissioner Thomson: aye; Commissioner Timmons: aye; and,  
87 Commissioner Wade: aye. The motion passed 14-0.  
88

89 **Item 4. Public comment.**

90  
91 **Action:** There was no public comment.  
92

93 **Item 5. Request for WQCC Approval of the Rio Chama Total Maximum Daily Load.**  
94 **WQCC 20-53. John Verheul, Counsel for New Mexico Environment**  
95 **Department, Rachel Jankowitz and Heidi Henderson, NMED Surface Water**  
96 **Quality Bureau.**  
97

98 **Action:** John Verheul, Counsel for NMED, presented the Request for Approval of the Rio  
99 Chama TMDL. Rachel Jankowitz, of the SWQB gave a PowerPoint presentation.  
100

101 The Commission discussed the item.  
102

103 Commissioner Thomson made the motion to approve the proposed TMDL subject  
104 to the one suggestion that a probable cause for E. coli be included as a natural  
105 regrowth in sediment. Commissioner Hutchinson seconded the motion. Chair  
106 Pruett requested a roll call vote. Commissioner Candelaria: aye; Commissioner  
107 Certain: aye; Commissioner Cornwell: aye; Commissioner Dominguez: aye;  
108 Commissioner Hutchinson: aye; Commissioner McWilliams: aye; Commissioner  
109 Musharrafieh: aye; Commissioner Patten: aye; Chair Pruett: aye; Commissioner  
110 Rader: aye; Commissioner Sypher: aye; Commissioner Thomson: aye;  
111 Commissioner Timmons: aye; and, Commissioner Wade: aye. The motion passed  
112 14-0.  
113

114 **Item 6. Joint Motion to Approve Settlement Agreement. New Mexico Environment**  
115 **Department Water Protection Division, Surface Water Quality Bureau v.**  
116 **Matador Production Company and San Mateo Midstream, LLC WQCC 20-**  
117 **16 (CO). Andrew Knight, Counsel for New Mexico Environment Department.**  
118 **Adam G. Rankin and Kaitlyn A. Luck, Counsel for Matador Production**  
119 **Company and San Mateo Midstream, LLC. Richard Virtue, Hearing Officer.**  
120

121 **Action:** Andrew Knight, Counsel for NMED, summarized the Settlement Agreement.  
122 Adam Rankin, appearing as Counsel on behalf of Matador Production Company  
123 and San Mateo Midstream, LLC stated the parties were pleased with the outcome  
124 of the Settlement Agreement.  
125

126 The Commission discussed the proposed Settlement Agreement.  
127

128 Commissioner Hutchinson asked the difference between an administrative fee and  
129 restoration funds. Counsel Knight responded the Settlement Agreement requires  
130 the payment of a \$15,000 administrative fee and, in addition to that, requires

131 Matador to expend \$15,000 to perform a supplemental environmental project to  
132 improve the quality of the Black River, explaining that these are separate payments.  
133

134 Commissioner Dominguez asked if standards are established or if TMDLs exist for  
135 the Black River. Shelly Lemon, SWQB Chief responded that there are no TMDLs  
136 for the Black River, but standards do exist to improve the quality of the Black River.  
137

138 Chair Pruett initiated discussion about civil penalties and administrative fees. Civil  
139 penalties are paid to the State of New Mexico General Fund. The administrative  
140 fee is a feature of the settlement agreement and not mentioned in the Water Quality  
141 Act.  
142

143 Counsel Sanchez reminded the Commission that when asked to vote, they will be  
144 approving the Stipulated Final Order, not the Settlement Agreement.  
145

146 Commissioner Hutchinson moved to approve the Stipulated Final Order which  
147 contains within it the Settlement Agreement. Commissioner Wade seconded the  
148 Motion. Chair Pruett requested a roll call vote. Commissioner Candelaria: aye;  
149 Commissioner Certain: aye; Commissioner Cornwell: aye; Commissioner  
150 Dominguez: aye; Commissioner Hutchinson: aye; Commissioner McWilliams:  
151 aye; Commissioner Musharrafieh: aye; Commissioner Patten: aye; Chair Pruett:  
152 aye; Commissioner Rader: aye; Commissioner Sypher: aye; Commissioner  
153 Thomson: aye; Commissioner Timmons: aye; and, Commissioner Wade: aye. The  
154 motion passed 14-0.  
155

156 **Item 7. Request for Hearing and Appointment of Hearing Officer for Proposed**  
157 **Amendment to Standards for Interstate and Intrastate Surface Water,**  
158 **20.6.4 NMAC (Triennial Review) WQCC 20-51. John Verheul, Counsel**  
159 **for New Mexico Environment Department.**  
160

161 **Action:** Annie Maxfield, Counsel for NMED, introduced others present to assist with the  
162 request for a hearing on amending 20.6.4 NMAC the Standards for Interstate and  
163 Intrastate Surface Water, also known as the Triennial Review.  
164

165 Ms. Maxfield stated that the Department intended to provide Public Notice by the  
166 following steps: holding three stakeholder group meetings, issuing a draft for  
167 public comment to be available by Monday, November 2<sup>nd</sup>, and holding two public  
168 meetings during the public comment period. These public meetings would be via  
169 Webex in accordance with the Governor's current public health order requiring  
170 virtual meetings.  
171

172 The Commission had the opportunity to ask questions and make comments.  
173

174 Commissioner Hutchinson moved to grant the request for hearing and have Chair  
175 Pruett appoint the hearing officer. Commissioner Sypher seconded the Motion.  
176 Chair Pruett requested a roll call vote. Commissioner Candelaria: aye;  
177 Commissioner Certain: aye; Commissioner Cornwell: aye; Commissioner  
178 Dominguez: aye; Commissioner Hutchinson: aye; Commissioner McWilliams:

179 aye; Commissioner Musharrafiel: aye; Commissioner Patten: aye; Chair Pruett:  
180 aye; Commissioner Rader: aye; Commissioner Sypher: aye; Commissioner  
181 Thomson: aye; Commissioner Timmons: aye; and, Commissioner Wade: aye. The  
182 motion passed 14-0.  
183

184 **Item 8. Request by Petitioner for a New Hearing Date and Acceptance of an**  
185 **Amended Petition WQCC 20-18 (R). Kelly Nokes and Erik Schlenker-**  
186 **Goodrich, Counsel for Western Environmental Law Center, John Verheul,**  
187 **Counsel for the New Mexico Environment Department, Felicia Orth, Hearing**  
188 **Officer.**  
189

190 **Action:** Kelly Nokes, Counsel for Western Environmental Law Center summarized the  
191 timeline for the Amended Petition. Ms. Nokes requested the hearing be scheduled  
192 on Tuesday, January 12, 2021.  
193

194 The Commission had discussion and time for questions and comments.  
195 Commissioner Dominguez pointed out that January 12, 2021 was just prior to the  
196 start of the 60-day legislative session and due to the amount of work anticipated  
197 during the session, Commissioner Dominguez was concerned that the Commission  
198 would not have the time to devote to studying and understanding the hearing  
199 material. He suggested the Commission look at a later date for the hearing.  
200

201 Chair Pruett asked Counsel Nokes and Counsel Verheul to make their best estimate  
202 on the length of time anticipated for this hearing. Counsel Nokes estimated no more  
203 than a day and a half for this hearing. Counsel Verheul stated a similar estimate  
204 pending review of the content of the public comment already received.  
205

206 Commissioner Hutchinson moved to re-schedule the hearing for the first  
207 Commission meeting following the legislative session, which would be Tuesday,  
208 April 13, 2021. Commissioner Patten seconded the Motion. Chair Pruett requested  
209 a roll call vote. Commissioner Candelaria: aye; Commissioner Certain: aye;  
210 Commissioner Cornwell: aye; Commissioner Dominguez: aye; Commissioner  
211 Hutchinson: aye; Commissioner McWilliams: aye; Commissioner Musharrafiel:  
212 aye; Commissioner Patten: aye; Chair Pruett: aye; Commissioner Rader: aye;  
213 Commissioner Sypher: aye; Commissioner Thomson: aye; Commissioner  
214 Timmons: aye; and, Commissioner Wade: aye. The motion passed 14-0.  
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217 **Adjournment**  
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219 **Action:** The Chair adjourned the meeting at 11:26 am.  
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Commission Chair Pruett