



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

Environment Department	State Engineer & Interstate Stream Commission
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	Members-at-Large

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Meeting Minutes

**New Mexico Water Quality Control Commission
Virtual Meeting on Webex
April 13, 2021
9:02 a.m.**

MEMBERS PRESENT:

Jennifer Pruett	Chair, NMED
Gabriel Wade	Vice Chair, Oil Conservation Division
David Certain	State Parks Division, EMNRD
Larry Dominguez	Department of Agriculture
Howard Hutchinson	Soil and Water Conservation Commission
Ghassan Musharrafieh	New Mexico State Engineer and Interstate Stream Commission
Kelsey Rader	Member-at-Large
Keith Candelaria	Member-at-Large
Bruce Thomson	Member-at-Large
Stacy Timmons	New Mexico Bureau of Geology
Krista McWilliams	Member-at-Large
Kirk Patten	New Mexico Game and Fish
Jason Cornwell	New Mexico Department of Health Resources

MEMBERS ABSENT:

David Sypher	Municipal and County Representative
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OTHERS PRESENT:

Pam Jones	Commission Administrator
Madai Corral	NMED OPF Hearing Clerk
Gregory Chakalian	NMED Administrative Law Judge

34	Robert F. Sánchez	Commission Counsel
35	John Verheul	Counsel for NMED
36	Annie Maxfield	Counsel for NMED
37	Jolene McCaleb	San Juan Water Commission
38	Kelly Nokes	Western Environmental Law Center
39	Tannis Fox	Western Environmental Law Center
40	Rebecca Roose	Water Protection Division Director
41	Kris Barrios	Surface Water Quality Bureau
42	Heidi Henderson	Surface Water Quality Bureau
43	Jennifer Fullam	Surface Water Quality Bureau
44	Shelly Lemon	Surface Water Quality Bureau
45	Michele Hunter	Ground Water Quality Bureau
46	Louis Rose	Montgomery and Andrews, P.A.
47	Rachel Conn	Member of the Public
48	Stuart Butzier	Member of the Public
49	Timothy Goering	Member of the Public
50	Valerie Huerta	Member of the Public
51	William Foley	Member of the Public
52	Alex Puglisi	Member of the Public
53	Brian Iacona	Member of the Public
54	Maxine McReynolds	OGC, Los Alamos National Laboratory
55	Meredith Zeigler	Surface Water Quality Bureau
56	Miguel Montoya	Surface Water Quality Bureau
57	Ron Sholdt	Ground Water Quality Bureau
58	Avery Young	Ground Water Quality Bureau
59	James Bearzi	Member of the Public
60	Arecely Tellez	Member of the Public
61	Jane DeRose-Bamman	Member of the Public
62	Jason Herman	Ground Water Quality Bureau
63	Diana Aranda	Surface Water Quality Bureau

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65 Chair Pruett called the meeting to order at 9:02 a.m.

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67 **Item 1. Roll Call.**

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69 The Administrator called the roll; a quorum was present.
70 Commissioner Sypher were counted as absent. Chair Pruett
71 discussed the protocol of the virtual meeting. She mentioned the
72 items on the agenda were time sensitive, which allowed the
73 Commission to meet virtually, per advice from the Open
74 Government Division of the Attorney General’s Office. Chair Pruett
75 pointed out that Commission Administrator will video record the
76 meeting and will post the recording on the Commission’s website
77 as soon as practicable after the meeting.
78

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

80
81 **Action:** Commissioner Cornwell moved to approve the draft agenda.
82 Commissioner Hutchinson seconded the motion. The Chair called
83 a roll call vote. Commissioner Candelaria: aye; Commissioner
84 Certain: aye; Commissioner Cornwell: aye; Commissioner
85 Dominguez: aye; Commissioner Hutchinson: aye; Commissioner
86 McWilliams: aye; Commissioner Musharrafiieh: aye;
87 Commissioner Patten: aye; Commissioner Rader: aye;
88 Commissioner Thomson: aye; Commissioner Timmons: aye; Vice
89 Chair Wade: aye. Chair Pruett: aye. Commissioner Sypher:
90 absent. The motion passed 13-0 with 1 Commissioner absent.

91
92 **Item 3. Approval of meeting minutes from January 12, 2021.**

93
94 **Action:** Commissioner Hutchinson moved to approve the meeting minutes
95 from January 12, 2021. Commissioner Dominguez seconded the
96 motion. There was no discussion and there were no edits. The
97 Chair called a roll call vote. Commissioner Certain: aye;
98 Commissioner Cornwell: aye; Commissioner Dominguez: aye;
99 Commissioner Hutchinson: aye; Commissioner McWilliams: aye;
100 Commissioner Musharrafiieh: aye; Commissioner Patten: aye;
101 Commissioner Rader: aye; Commissioner Thomson: aye;
102 Commissioner Timmons: aye; and Vice Chair Wade: aye.
103 Commissioner Sypher: Absent. Commissioner Candelaria and
104 Chair Pruett: abstained. The motion passed 11-0 with 1
105 Commissioner absent and 2 abstentions.

106
107 **Item 4. Public comment.**

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109 **Action:** There was no public comment.

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111 **Item 5:** *Open Meetings Act (OMA) Annual Resolution for 2021.* Discussion
112 and adoption. Robert F. Sánchez, Counsel for Water Quality
113 Control Commission.

114
115 **Action:** Commission Counsel Sánchez gave an overview of the Open
116 Meetings Act Resolution for 2021.

117
118 There was discussion among the commissioners about protocol
119 and procedures after the pandemic. Counsel Sánchez said the
120 provision is current that allows the Commission to meet in person
121 or telephonically.

122

123 Commissioner Hutchinson made the motion to approve the Open
124 Meetings Act Resolution for 2021. Commissioner Cornwell
125 seconded the motion. The Chair called a roll call vote.
126 Commissioner Candelaria: aye; Commissioner Certain: aye;
127 Commissioner Cornwell: aye; Commissioner Dominguez: aye;
128 Commissioner Hutchinson: aye; Commissioner McWilliams: aye;
129 Commissioner Musharrafieh: aye; Commissioner Patten: aye;
130 Commissioner Rader: aye; Commissioner Thomson: aye;
131 Commissioner Timmons: aye; Vice Chair Wade: aye. Chair
132 Pruettt: aye. Commissioner Sypher: absent. The motion passed
133 13-0 with 1 Commissioner absent.

- 134
135 1. **Item 6. WQCC 21-04:** *In the Matter of Marisela Ornelas, d/b/a*
136 *Vision Mobile Home Park, LLC.* Marisela Ornelas, Owner, Vision
137 Mobile Home Park, Charles Patton, Vice President of Compliance,
138 Vision Mobile Home Park, Christopher Vigil, Counsel for New Mexico
139 Environment Department.
140 a. Deliberation on Motions to Dismiss.
141 b. If necessary, schedule a Hearing.
142 c. If needed, appoint a Hearing Officer.

143
144 **Action:** Christopher Vigil, Counsel for NMED invited Charles Patton, Vice
145 President of Compliance, Vision Mobile Home Park to describe the
146 matter regarding the mobile home park.

147
148 Mr. Patton began with a request to be able to speak on behalf of
149 Ms. Ornelas. He presented a Power of Attorney at that time to be
150 distributed to Counsel Sánchez and Counsel Vigil.

151
152 After some discussion about the merits of the Power of Attorney,
153 Chair Pruettt called for a break to study and more fully understand
154 the document presented.

155
156 Break occurred from 9:31am – 9:41am.

157
158 The Commission returned from break and discussed the item. Ms.
159 Ornelas, Owner, Vision Mobile Home Park, LLC affirmed that Mr.
160 Patton was able to speak on her behalf. Chair Pruettt reminded the
161 Commission that the discussion is whether or not to schedule a
162 hearing and appoint a hearing officer.

163
164 Ms. Ornelas made her case for proceeding with scheduling the
165 hearing because she wants resolution to the issue. Chair Pruettt
166 explained the law regarding public notice and said there would not
167 be enough time to sufficiently notify the public of the hearing.

168 Chair Pruett told Ms. Ornelas that she could always settle the
169 matter with the Department and avoid a hearing.

170
171 Commissioner Dominguez moved to deny the Motion to Dismiss.
172 Commissioner Thomson seconded the motion. The Chair called a
173 roll call vote. Commissioner Candelaria: aye; Commissioner
174 Certain: aye; Commissioner Cornwell: aye; Commissioner
175 Dominguez: aye; Commissioner Hutchinson: aye; Commissioner
176 McWilliams: aye; Commissioner Musharrafiieh: aye;
177 Commissioner Patten: aye; Commissioner Rader: aye;
178 Commissioner Thomson: aye; Commissioner Timmons: aye; Vice
179 Chair Wade: aye. Chair Pruett: aye. Commissioner Sypher:
180 absent. The motion passed 13-0 with 1 Commissioner absent.

181
182 Counsel Vigil suggested entertaining an oral motion for an
183 extension of time to hold the hearing. The Commission discussed
184 this suggestion. Commissioner Hutchinson moved to accept the
185 oral waiver of the 90-day period to hold the hearing.
186 Commissioner McWilliams seconded the motion. The Chair called
187 a roll call vote. Commissioner Candelaria: aye; Commissioner
188 Certain: aye; Commissioner Cornwell: aye; Commissioner
189 Dominguez: aye; Commissioner Hutchinson: aye; Commissioner
190 McWilliams: aye; Commissioner Musharrafiieh: aye;
191 Commissioner Patten: aye; Commissioner Rader: aye;
192 Commissioner Thomson: aye; Commissioner Timmons: aye; Vice
193 Chair Wade: aye. Chair Pruett: aye. Commissioner Sypher:
194 absent. The motion passed 13-0 with 1 Commissioner absent.

195
196 The final item in #6 on the agenda was to schedule the hearing
197 and appoint a hearing officer. Commissioner Dominguez moved to
198 set the hearing on June 8, 2021, immediately following the WQCC
199 meeting for that day, and to ask Chair Pruett to appoint a hearing
200 officer. Commissioner Hutchinson seconded the motion. The Chair
201 called a roll call vote. Commissioner Candelaria: aye;
202 Commissioner Certain: aye; Commissioner Cornwell: aye;
203 Commissioner Dominguez: aye; Commissioner Hutchinson: aye;
204 Commissioner McWilliams: aye; Commissioner Musharrafiieh:
205 aye; Commissioner Patten: aye; Commissioner Rader: aye;
206 Commissioner Thomson: aye; Commissioner Timmons: aye; Vice
207 Chair Wade: aye. Chair Pruett: aye. Commissioner Sypher:
208 absent. The motion passed 13-0 with 1 Commissioner absent.

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210 A brief recess was taken, and the meeting resumed at 11:02am
211 after taking a roll call. All Commissioners were present with the
212 exception of Commissioner Sypher who remained absent.

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Item 7. WQCC 20-51: *Triennial Review*. Status Update. Gregory Chakalian, Office of Public Facilitation Administrative Law Judge and Hearing Officer.

Action: Gregory Chakalian, OPF Administrative Law Judge, gave an update on the status of the Triennial Review. He stated that new parties entered appearances in this matter and so he amended the original procedural order to extend dates to submit testimony but keep the hearing date on July 13, 2021.

There was discussion about consolidating WQCC 20-51 with WQCC 21-16 *Triad's Petition for Rulemaking to Amend 20.6.4 NMAC*. Commissioner Thomson asked Mr. Chakalian why the need to consolidate, and Mr. Chakalian explained it was a matter of efficiency.

Chair Pruett said there is no action to be taken on Agenda Item #7.

Item 8. WQCC 21-16: *Triad National Security, LLC and U.S. Department of Energy Petition for Rulemaking to Amend 20.6.4 NMAC*. Louis Rose, Kari Olson, Montgomery and Andrews, P.A., Counsel for Petitioners. Maxine McReynolds, Office of General Counsel, Los Alamos National Laboratory, Counsel for Triad National Security, LLC., Silas R. DeRoma, U.S. Department of Energy, Counsel for U.S. Department of Energy. Schedule Public Hearing and appoint Hearing Officer.

Action: Louis Rose, Counsel for Petitioners explained the Petition and asked that the issues be heard at the Triennial Review. He stated it was not in anyone's best interests to have 2 separate hearings. He asked the Commission to hold the hearing at the same time as the Triennial Review.

Tannis Fox, Counsel for Amigos Bravos, stated that consolidation was not noticed in the Public Notice.

Chair Pruett said to leave WQCC 20-51 as scheduled and hold the hearing in July but don't hear any logical outgrowth issues. Schedule WQCC 21-16 separately to hear the set-aside issues from the July hearing.

Commissioner Dominguez moved that the Commission accept the Petition for Rulemaking in WQCC 21-16 and appoint Gregory

258 Chakalian as Hearing Officer. Commissioner Thomson seconded
259 the motion. The Chair called a roll call vote. Commissioner
260 Candelaria: aye; Commissioner Certain: aye; Commissioner
261 Cornwell: aye; Commissioner Dominguez: aye; Commissioner
262 Hutchinson: aye; Commissioner McWilliams: aye; Commissioner
263 Musharrafieh: aye; Commissioner Patten: aye; Commissioner
264 Rader: aye; Commissioner Thomson: aye; Commissioner
265 Timmons: aye; Vice Chair Wade: aye. Chair Pruett: aye.
266 Commissioner Sypher: absent. The motion passed 13-0 with 1
267 Commissioner absent.

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269 **Item 9.** **WQCC 20-18.** *San Miguel County, The Village of Pecos, The New*
270 *Mexico Acequia Association, Molino de La Isla Organics, LLC and*
271 *The Upper Pecos Water Association's Petition to Designate the*
272 *Waters of the Upper Pecos Watershed as Outstanding National*
273 *Resource Waters.* Petitioners' Notice of Withdrawal of Amended
274 Petition. Commission Chair Jennifer Pruett will note the filing and
275 cancellation of the scheduled hearing.

276
277 **Action:** Chair Pruett gave an overview of why the hearing in this matter
278 was cancelled. Commissioners discussed and commented on the
279 amount of time spent preparing for the hearing only to have it
280 cancelled.

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282 **Item 10.** Next meeting and expected upcoming matters.
283
284 It was discussed that there is currently no business scheduled to
285 be heard at the May 11, 2021 WQCC meeting.

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287 **Item 11.** Adjournment

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Commission Chair Jennifer Pruett