Minutes of the
New Mexico Water Quality
Control Commission Meeting
December 7 and 8, 1999

The New Mexico Water Quality Control Commission (WQCC) meeting was held on December 7 and 8, 1999, at 9:00 a.m. in the State Capitol Building, Room 305, Old Santa Fe Trail and Paseo de Peralta, Santa Fe, New Mexico.

Members present:

- Paul Ritzma: WQCC Acting Chair, Environment Department (NMED)
- Tom Turney: State Engineer & Interstate Stream Commission
- Jack Kelly: Department of Game and Fish
- Bill Olson: Oil Conservation Division
- Ricardo Rel: Department of Agriculture
- Dave Johnson: State Parks Division
- Howard Hutchinson: Soil and Water Conservation Commission
- Lynn Brandvold: Bureau of Mines and Mineral Resources
- Alberto Gutierrez: Member-at-Large
- Paul Gutierrez: Member-at-Large
- Irene Lee: Member-at-Large

Others present:

- Daniel Rubin: WQCC Counsel
- Tamella Lakes: WQCC Administrator
- David Hogge: NMED
- James Davis: NMED
- Steven Pierce: NMED
- Jolene McCaleb: Taylor & Murray
- Randy Kirkpatrick: San Juan Water Commission
- Eric Ames: NMED/OGC
- Kelly Bitner: Neptune and Co.
- Mike Saladen: Los Alamos National Laboratory
- Brian Shields: Amigos Bravos
- Maxine Goad: Citizen
- Caren Cowan: New Mexico Cattle Growers Assoc.
- Alvin Garcia: Office of the Attorney General
Item 1: Roll call.
Tamella L. Lakes, WQCC Administrator took roll call.

Item 2: Approval of the agenda.
Mr. Johnson moved to approve the agenda. Mr. Hutchinson seconded the motion. The motion passed unanimously.

Item 3: Approval of the November 9, 1999, minutes.
Mr. Olson moved to approve the November 9, 1999, minutes. Mr. Kelly seconded the motion. The motion passed unanimously.

Item 4: Deliberation and decision on Hearing officers’ proposed Conclusions of Law and ruling on Hearing 20 NMAC 6.1, Section 1102.F
Mr. P. Gutierrez moved to accept the Hearing Officer’ recommended ruling. Mr. Olson seconded the motion.

Mr. P. Gutierrez stated that the Commission should have the Department of Game and Fish bring the specific statutory change to the legislature for review.

Ms. Brandvold stated that the legislature should clearly state that a variance could be granted, with limited time, from a standard.

The motion passed unanimously.

The Hearing Officer stated that Proposed Findings of Fact and Conclusions of Law are due by December 28, 1999. The Hearing Officer’s Report will be submitted by January 7, 1999.

Item 5: Approval of amendments to the NPS Management Program document pertaining to the Office of the State Engineer
Ms. Maryann McGraw, Surface Water Quality Bureau, presented an amendment to the NPS Management Program pertaining to the Office of the State Engineer.

Mr. P. Gutierrez moved to approve the proposed amendment. Mr. Johnson seconded the motion. The motion passed unanimously.
Item 6: Briefing on State’s 1999 Compliance with TMDL Consent Decree Schedule
Mr. David Hogge, State TMDL Coordinator briefed the Commission on the State’s compliance with the 1999 TMDL consent decree schedule. Mr. Hogge stated that a total of 28 TMDLs were written for 1999.

Item 7 was moved to the end of the agenda.

Item 8: Other Business
Mr. Davis stated that the Soil and Water Conservation Commission would like to meet in January with the WQCC, prior to the session, to discuss legislative issues.

Mr. Rel moved to put the joint meeting with the Soil and Water Conservation Commission on the January agenda. Ms. Brandvold seconded the motion. The motion passed unanimously.

The Commission Administrator read a statement into the record by the La Cienguilla Residents Group regarding their concerns for wastewater facility safeguards. This statement may be obtained by contacting the Commission Administrator at 1190 St. Francis Drive, room N-4075, (505) 827-2425.

Ms. Kery moved to reconsider the Hearing Officer’s scheduling order in 20 NMAC 6, 1102.F. Ms. Kery stated that alternative language could be agreed to by all parties and submitted by the January meeting of the WQCC. Given this fact, commenting on the current proposal through Findings of Facts and Conclusions of Law would not be helpful if an alternative proposal, agreed to by all the parties, could be submitted. Ms. Kery stated that the hearing was tape-recorded, and a transcript is not available to the parties. This makes it difficult for the parties to create Findings of Facts.

Mr. Ritzma, Hearing Officer, set a date of December 17, 1999, for the submission of Joint Findings of Fact and Conclusions of Law, with alternative language, agreed to by all parties. If the parties do not reach an agreement by this date, the Hearing Officer will issue a supplemental Order on scheduling, so the Commission can consider the issue with a proper record.

Item 9: Next Meeting
Mr. A. Gutierrez moved to set the next WQCC meeting on January 11, 1999. Ms. Brandvold seconded the motion. The motion passed unanimously.

Item 7: Deliberation and adoption of proposed changes to 20 NMAC 6.1, Standards for Interstate and Intrastate Streams (Triennial Review)
The WQCC deliberated on the proposed changes to 20 NMAC 6.1 (Triennial Review)

Sections 1000 through 1007 TT were adopted as amended by a consensus vote of the Commission. No roll call was taken to adopt these sections.

Section 1007 UU, Existing definition of “Water(s) of the State”
“Surface water(s) of the State” means all interstate waters including interstate wetlands, and all intrastate waters, such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, reservoirs or natural ponds and all tributaries of such waters the use, degradation, or destruction of which would affect interstate or foreign commerce.
Surface waters of the State also means any manmade bodies of water which were originally created in surface waters of the State or resulted in the impoundment of surface waters of the State. Waste treatment systems, including treatment ponds or lagoons designed to meet requirements of the Water Quality Act (other than cooling ponds as defined in 40 CFR 423.11(m) which also meet the criteria of this definition), are not surface waters of the State.

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<th>Name</th>
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<td>Paul Ritzma</td>
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<td>Tom Turney</td>
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<td>Jack Kelly</td>
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<td>Alberto Gutierrez</td>
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<td>Irene Lee</td>
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Vote: 6 for, 5 against. The definition passed.

Sections 1007 VV through 2100 were adopted as amended by a consensus vote of the Commission. No roll call was taken to adopt these sections.

Section 2101
Mr. P. Gutierrez moved to make only technical changes to this section, with the exception of one pH level change to 9.0. The WQCC will direct the NMED Hearing Officer to re-open the record, for this section only, for the submission of additional evidence on splitting the stream segment. Mr. Rel seconded the motion. The motion passed unanimously.

Sections 2102 through 4000 were adopted as amended by a consensus vote of the Commission. No roll call was taken to adopt these sections.

Mr. Olson moved to approve 20 NMAC 6.1, Standards for Interstate and Intrastate Streams as amended. Mr. Johnson seconded the motion. The motion passed unanimously.

Mr. Johnson moved to direct Counsel for the WQCC to produce a Statement of Reasons for Amendment of the Standards. Ms. Brandvold seconded the motion. The motion passed unanimously.

The Hearing transcript and the final regulation may be reviewed by contacting the Commission Administrator at 1190 St. Francis Drive, Room N-4075, (505) 827-2425.

The meeting was adjourned on December 8, 1999, at 11:30 am.

Chairperson