



STATE OF NEW MEXICO
WATER QUALITY CONTROL COMMISSION
1190 St. Francis Drive
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CONSTITUENT AGENCIES:

Environment Department
State Engineer & Interstate Stream Commission
Game and Fish Department
Oil Conservation Division
Department of Agriculture
State Parks Division
Soil and Water Conservation Commission
Bureau of Mines and Mineral Resources
Members-at-Large

Minutes of the
New Mexico Water Quality Control Commission Meeting
January 9, 2001

The New Mexico Water Quality Control Commission held its meeting on January 9, 2001, at 9:00 a.m. at the State Education Building, Mabry Hall, 300 Don Gaspar, Santa Fe, New Mexico. Chairman Maggiore called the meeting to order at approximately 9:07 a.m.

Members Present:

Peter Maggiore	New Mexico Environment Department
John Whipple	State Engineer & Interstate Stream Commission
Bill Olson	Oil Conservation Division
David Johnson	State Parks Division
Julie Maitland	Department of Agriculture
Jack Kelly	Department of Game & Fish
Howard Hutchinson	Soil & Water Conservation Commission
Lynn Brandvold	Bureau of Mines & Mineral Resources
Paul Gutierrez	Member-at-Large
Conrad Keyes	Member-at-Large
Irene Juliana Lee	Member-at-Large

Others Present:

Daniel Rubin	WQCC Counsel
Tamella L. Lakes	WQCC Administrator
Gail Stockton	U.S. Army Corps of Engineers
Erik Galloway	NMED
Kelly Bitner	Neptune & Company
Mary Bernstein	Private Citizen
Jeff Lowry	NMSH&TD
Mike Saladen	LANL
Greg Lewis	NMED
Jay Lazarus	Glorieta Geo Science
J. Steven Glass	NM Municipal Env. Quality Association
Jim Davis	NMED
Peter Wilkinson	DG&F

Item 1 - Roll Call.

Tamella L. Lakes, WQCC Administrator took roll call.

Item 2 - Approval of the Agenda

Ms. Brandvold moved to approve the agenda. Mr. Hutchinson seconded the motion. The motion passed unanimously.

Item 3 – Approval of the minutes of the December 12, 2000, meeting.

Ms. Brandvold moved to approve the December 12, 2000, minutes as amended. Mr. Keyes seconded the motion. The motion passed unanimously.

Item 4 – Petition for hearing to amend 20.6.4 NMAC – Standards for Interstate and Intrastate Surface Waters, Ms. Mary Bernstein, Petitioner.

Ms. Mary Bernstein stated that she would like to classify the perennial reaches of San Pedro Creek. San Pedro Creek would be included in segment 20.6.4.111 NMAC, which currently includes Las Huertas creek in the Rio Grande Basin.

Mr. Johnson asked Dr. Davis if there has been any background or assessment work done by the Department on San Pedro Creek. Dr. Davis stated that the Bureau worked with Ms. Bernstein beginning in 1998 and conducted some survey work during summer in 1999 and 2000. The Bureau deployed thermographs and collected water quality samples. A very brief electro-fishing survey was conducted to see if the creek supported any fish.

Mr. Rubin asked the Commission Secretary to add the appropriate language change to Ms. Bernstein's original petition, which would be [20.6.4.111, Rio Grande Basin – Perennial reaches of Las Huertas and San Pedro creek.]

Mr. Keyes asked the Commission Secretary to add wildlife habitat to the second line of the second paragraph of Ms. Bernstein's original petition.

Mr. Keyes moved to set a hearing date for Ms. Bernstein's petition for the Commission's regular June 12, 2001, meeting. Mr. Johnson seconded the motion. The motion passed unanimously.

Item 5 – Approval and adoption of the WQCC Open Meetings Resolution.

Mr. Olson moved to re-adopt the Commission's current Open Meetings Resolution for the year 2001. Mr. Hutchinson seconded the motion. The motion passed unanimously.

Item 6 – As per Order (Section 6) of the Water Quality Control Commission, the New Mexico Department of Game and Fish will brief the Commission on Pre- and Post-treatment assessment monitoring and on the success of the antimycin treatments on the South Ponil Creek and White Creek Projects conducted during the year 2000.

Mr. Peter Wilkinson and Ms. Amber Hobbs with the Department of Game and Fish (DG&F) gave a Power Point presentation regarding the follow-up treatment on South Ponil and White creeks.

Ms. Hobbs stated that during the summer of 2000 the upper 4.8 kilometers of White Creek were renovated for Gila trout, which is a federally endangered and State-listed fish. The first renovation occurred in June and followed proper protocol. After the treatment and detoxification, 3,035 fish were removed from the creek and

buried. A live car was established 200 meters below the last detoxification station, there were 12 fish in it and they all survived.

Invertebrate samples were taken and the results are still being processed. The second treatment was done in July and followed the established protocol. No fish were found in the creek, and no dead invertebrates were noticed. Mayflies and Caddisflies were numerous. In October 1000 Gila trout from the Mescalero National Fish Hatchery were stocked in the vicinity of Half Moon Park.

Ms. Hobbs stated that the Gila trout recovery team comprised of people from the DG&F, the Forest Service, Arizona Game and Fish, and other various entities met in December. This recovery team will formally recommend the down-listing of the Gila trout to the Fish and Wildlife Service sometime this year.

Mr. Wilkinson stated that the Antimycin treatment is for the restoration of the Rio Grande Cutthroat Trout to South Ponil Creek. The purpose is to establish a population of the Canadian River drainage strain of Rio Grande Cutthroat in South Ponil Creek. The chemical option (Antimycin A) was selected to remove the fish because of its short-term effects, no persistent residues or byproducts; it does not form new compounds, and does not constitute a health hazard. Antimycin A is an antibiotic and is effective at dosages measured in parts per billion by inhibiting respiration of all gill-breathing animals. Antimycin does not effective non-gill breathing organisms. During the application of Antimycin, all personnel were trained and state-certified in the deployment of piscicides. The Department also provided all required legal and public notification and consulted with the U.S. Fish and Wildlife Service concerning Section 7 of the Endangered Species Act. All precautions were taken during the treatment.

Mr. Wilkinson stated that after the treatment the Department electrofished a couple of times and to date, approximately four miles of stream have been surveyed. No fish were observed. Macroinvertebrate numbers were reduced following the treatment.

Mr. Wilkinson stated that the DG&F would introduce approximately 500 Rio Grande cutthroat trout to the creek in the spring.

Mr. Hutchinson asked if other fish or salmonids were killed during the treatment. Mr. Wilkinson said no.

Item 7 – Pursuant to 6.4.12.F NMAC, the New Mexico Department of Game and Fish will re-submit written petitions for hearings to the Commission for the use of antimycin on the Poso Creek and Costillo Creek Projects, which are scheduled for the 2001 field season.

Mr. Rubin stated that the Commission has before them a re-petition for treatment of two out of four creeks that was approved by the Commission last year. At the last meeting the Commission allowed the re-petition, and discussed taking administrative notice of what transpired at the last hearing for the two creeks. The Environment Department has 60 days from the date the petition was submitted to make a recommendation to the Commission on whether to proceed to hearing. After that, the Commission has to set a hearing date within 90 days on any recommended portion of the petition.

Dr. Jim Davis, Chief of the Surface Water Quality Bureau, stated that the re-petition is the same document that the Bureau reviewed last year. The only change is the updated registration for antimycin. Therefore, the Bureau's review and recommendation would be the same as was submitted to the Commission last year.

Mr. Rubin stated that, based on Dr. Davis's recommendation, the Commission must set a hearing within 90 days, and a motion must be made to take administrative notice of the last hearing.

Mr. Rubin also stated that the Standards require that the hearing be held in the affected area; that requirement was satisfied the last time by holding the hearing in Taos, New Mexico. The Commission must also decide on a hearing officer and whether or not to have a formal transcript of the hearing produced.

Mr. Gutierrez moved to take administrative notice of the last hearing record, to appoint a Hearing Officer to hold the hearing in Taos, New Mexico in March, and to review the Hearing Officer's report and make a decision on the petition at the Commission's next meeting. Mr. Hutchinson seconded the motion. The motion passed unanimously.

Mr. Hutchinson moved to appoint the Department's Hearing Officer, to have the Hearing Officer set the date for sometime in March, and to have the hearing tape-recorded. Mr. Keyes seconded the motion. The motion passed unanimously.

Mr. Olson asked that the Commissioners be given advanced notice of the hearing so they may attend if possible.

Item 8 – Other Business.

Dr. Davis listed items that will be brought before the Commission in the near future.

1. A change to the way turbidity is handled in the Standards.
2. A change in a number of classified reaches to limit designated fishery uses to perennial waters.
3. A change in the designation of certain creeks in the Cimarron Watershed area and unclassified waters in the Canadian River Watershed.
4. Proposing site-specific criteria on total phosphorus for the Rio Hondo.
5. Minor language changes in the anti-degradation policy.
6. Removal of the criteria for total organic carbon (TOC).

Dr. Davis stated that 48 TMDLs need to be developed for calendar year 2001.

Mr. Hutchinson asked Dr. Davis if the Commission could expect an answer from EPA on the changes to the Standards. Dr. Davis stated that the Bureau remains hopeful that EPA will send an answer to the changes in the near future.

Mr. Rubin stated that if EPA rejects any of the changes to the Standards, the state has 90 days to respond by either changing the Standards or taking some other action. If the state does nothing, EPA must promulgate replacement language.

Mr. Hutchinson asked Dr. Davis if there was any progress on the Middle Rio Grande TMDL for fecal coliform. Dr. Davis stated that there has been progress made and the Bureau may be able to give the Commission an update at the April meeting.

Chairman Maggiore stated that he just received a letter from EPA Region 9 recognizing that USEPA has received a program authorization application from the Navajo Nation for the Clean Water Act §303 - Water Quality Standards and §401- Certification Programs. The Department has 30 days to respond to the application. Chairman Maggiore stated that he received the letter in his capacity as Cabinet Secretary and not as the Chairman of the WQCC.

Item 9 – Next Meeting.

The next meeting of the WQCC will be held on April 10, 2001 in Santa Fe, New Mexico.

Mr. Olson moved to adjourn the meeting. Ms. Maitland seconded the motion. The motion passed unanimously.



Chairperson