



STATE OF NEW MEXICO
WATER QUALITY CONTROL COMMISSION
1190 St. Francis Drive, Room N-4075
Post Office Box 26110
Santa Fe, New Mexico 87502
(505) 827-2425

CONSTITUENT AGENCIES:

Environment Department
State Engineer & Interstate Stream Commission
Game and Fish Department
Oil Conservation Division
Department of Agriculture
State Park & Recreation Division
Soil and Water Conservation Bureau
Bureau of Mines and Mineral resources
Member-at-Large

**Minutes of the January 12, 1999 Meeting of the
New Mexico Water Quality Control Commission**

The New Mexico Water Quality Control Commission (WQCC) meeting was held on January 12, 1999 at 9:00 a.m. in the State Education Building, Mabry Hall, 300 Don Gaspar, Santa Fe, New Mexico.

The following members were present:

Peter Maggiore	WQCC Chair, Environment Department (NMED)
Jay Groseclose	Office of the State Engineer
Bill Olson	Oil Conservation Division
Recardo Rel	Department of Agriculture
Howard Hutchinson	Soil and Water Conservation Commission
Lynn Brandvold	Bureau of Mines and Minerals Resources
Paul Gutierrez	Member-At-Large
David Johnson	State Parks Division
Andrew Sandoval	Department of Game and Fish
Irene Lee	Member-At-Large

Members absent:

Alberto Gutierrez Member-At-Large

Others present:

Karen Breslin	WQCC Administrative Secretary
Tannis Fox	WQCC Legal Counsel/AGO
Marcy Leavitt	NMED/GWQB
Mike Saladen	LANL
Steven Pierce	NMED/SWQB
Jim Davis	NMED/SWQB
Larry Coons	Daniel B. Stephens & Associates, Inc.
Weldon L. Merritt	NMED
Maxine Goad	Self
David Douglas	Self
Charles Remke	NMED
Ramona Rael	NMED
Peter Monahan	NMED
Ernie Atencio	Amigos Bravos
Mary E. Humphrey	Attorney, Questa Citizens
Mary Elizabeth Wolf	Amigos Bravos

Matt Bishop	Western Environmental Law Center
John Trummel	Kennecott Energy
Katherine Yuhas	NMED
Scott McKittrick	NMED
Ralph Vail	Vail Engineering
Dale Doremus	NMED
Sterling Grogan	Middle Rio Grande Conservancy District
Karen McCormack	NMED
D. Shoemaker	Molycorp, Inc.
Richard Schwartz	Crowell & Moring
Geyza Lorinezi	Molycorp, Inc.
Lawrence Cata	San Juan Pueblo
Charles Lujan	Office of Environmental Affairs
Amanda Ashford	Ashford & Associates
Patricio Guerrerortiz	City of Santa Fe
Joe A. Cisneros	C.C. Del Norte

Chair Peter Maggiore called the meeting to order at 9:10 a.m.

Item 1: Roll call.

Karen Breslin, Administrative Secretary, took roll call.

Item 2: Approval of the agenda.

Mr. Maggiore suggested that agenda item 7 and 8 be placed after item number 4. Howard Hutchinson moved to adopt the suggestion; David Johnson seconded the motion. The motion passed unanimously.

Item 3: Review of the December 8, 1998 minutes.

Lynn Brandvold moved to approve the October 13, 1998 minutes as amended. Bill Olson seconded the motion. The motion passed unanimously.

Item 4: Proposed legislative amendments to the Water Quality Act and sunset of the WQCC.

Susan McMichael, Attorney for NMED, addressed NMED's proposed amendment to section 74-6-5 of the Water Quality Act, which concerns appeals to the WQCC. NMED's proposed amendment differs from the previous proposal, adopted by the WQCC, in that the proposal does not include the "diverse public interest" language or that penalty amounts are placed into the Hazardous Waste Emergency Fund.

Mr. Olson asked Ms. McMichael if the appeal to the WQCC would include an opportunity for parties to submit briefs to the WQCC. Ms. McMichael believed that the current WQCC rules allow for briefs.

Ms. Lee stated that the WQCC represents a very diverse group and the "diverse public interest" language may cause problems.

Mr. Johnson moved to endorse NMED's proposed amendment to section 74-6-5, to let stand all other proposals previously adopted by the WQCC, and to appoint a member to represent the WQCC at the legislature. Mr. Olson seconded the motion. All voted in favor except Commissioner Lee.

Mr. Hutchinson stated that there are differences of opinion among the constituent agencies and that each agency should go before the legislature with its views on the WQCC and the sunset.

Ms. Fox suggested that the WQCC draft a letter for the legislature setting forth its position rather than appointing a member to lobby. Mr. Johnson moved to adopt Ms. Fox's suggestion. Andrew Sandoval seconded the motion. Mr. Hutchinson stated that he would endorse the motion if the letter reflected his negative vote on certain issues. The motion passed unanimously.

Item 5: Request for order hearing of Molycorp, Inc./appointment of hearing officer/action on NMED's motion to dismiss Molycorp's request for order hearing.

The WQCC heard argument on NMED's motion to dismiss. Nick Persampieri, assistant general counsel, NMED, and Charles DeSalin, Attorney General's Office, appeared on behalf of NMED. Richard Schwartz and Amanda Ashford appeared on behalf of Molycorp.

After argument from counsel, the WQCC allowed comments from the audience. Mary Humphrey, counsel for citizens of Questa, stated that the issue before the WQCC is purely legal, and that Molycorp filed its appeal too late.

Mr. Persampieri moved for admission of two McKitrick affidavits, the affidavit of Ms. Leavitt, the current WQCC regulations and the WQCC regulations in effect in 1995.

Ernie Atencio, Amigos Bravos, stated there was considerable contamination from the mine, and that one domestic well is so contaminated that the owner cannot drink from it. John Lovato, stated that that Red River is still very polluted from the mine. Joe Sisneros stated that the Red River is still polluted from the mine and is killing the trout.

Mr. Olson moved to go into closed session to deliberate an administrative adjudicatory hearing. Mr. Sandoval seconded the motion.

Ms. Breslin took roll call:

Peter Maggiore	Y
Ricardo Rel	Y
Paul Gutierrez	Y
Howard Hutchinson	Y
Andrew Sandoval	Y
Bill Olson	Y
Irene Lee	Y
Jay Groseclose	Y
David Johnson	Y
Lynn Brandvold	Y

Mr. Maggiore called the WQCC in regular session, and stated that only matters set forth in the motion to close were discussed and that no action was taken. Mr. Groseclose moved to grant the motion to dismiss. Mr. Hutchinson seconded the motion. The motion passed unanimously.

Item 6: City of Santa Fe's petition for hearing to amend 20 NMAC 6.1.2000 to allow for site specific ammonia standards for segment 2-110 of the Santa Fe River.

Mr. Johnson took over as acting chair because Mr. Maggiore had a commitment to attend to.

Patricio Guerrerortiz, City of Santa Fe Public Utilities Director, and Sherry Tippit, attorney for the City, requested the WQCC to hold a hearing on the City's proposed amendments to the WQCC rules for a site-specific ammonia standard for segment 2-110 of the Santa Fe River. This is where the City discharges treated effluent from the waste water treatment plant.

Mr. Sandoval asked Jim Davis, Chief of the NMED Surface Water Quality Bureau, if the substance of the City of Santa Fe's petition is already being addressed in the Triennial Review. Dr. Davis said no. Mr. Johnson asked the City if it agreed with the dates for submitting technical testimony and for hearing in a memorandum dated January 12, 1999 from Dr. Davis. The City agreed.

Ms. Brandvold moved to grant the City's request for hearing and to follow the time table in Dr. Davis' memorandum. Mr. Hutchinson seconded the motion. The motion passed unanimously.

Mr. Paul Gutierrez moved to appoint Weldon Merritt as hearing officer. Mr. Rel seconded the motion. The motion passed unanimously.

Item 7. Action on proposed amendments to the priority ranking system for the Clean Water State Revolving Loan Fund.

Charles Remke, NMED Construction Programs Bureau, and Stacy Sabol, NMED Groundwater Quality Bureau, explained the proposed amendments to the Clean Water State Revolving Loan Fund. Mr. Remke stated that the Construction Programs Bureau administers the fund that is available to municipalities, counties, Indian tribes, water and sanitation districts and other similar districts to mitigate water pollution in New Mexico.

NMED wishes to allow the priority rating system to evaluate non-point source projects as well as point source projects. The proposed amendments were submitted for public comment and the comments received were incorporated by NMED.

Mr. Hutchinson asked Mr. Remke if point sources and non-point sources would compete with each other to be placed on the ranking list. Mr. Remke stated that there is an initiative that the Environmental Protection Agency supports that would make at least 10% of the funding available to non-point source projects. The revision to the Priority Rating System tries to include factors that take account of non-point sources without excluding the majority of the point source projects. Mr. Groseclose asked NMED if the priority ranking system could include a component to evaluate available cost sharing so that the projects could be more cost effective. Ramona Rael, NMED Construction Programs Bureau, stated that this was not currently included, but could be. Mr. Sandoval asked how population is factored in the rating system. Mr. Remke stated that the population has only been considered in the point source component of the integrative priority rating system. Mr. Olson asked how the proposed amendments would affect the rankings already on the list. Mr. Remke stated that the new ranking system would not sacrifice one project for another for the foreseeable future.

Mr. Sandoval moved to approve the changes to the Priority Ranking System for the Clean Water State Revolving Loan Fund. Mr. Olson seconded the motion. The motion passed unanimously.

Item 8: Work element 13, Water Quality Management Plan, and accountability of and reports from designated agencies.

Dr. Davis handed out a report that had been requested during the November 10, 1998 meeting, setting forth the various management agencies under the Water Quality Management Plan, the agencies' responsibilities and reporting requirements, and whether a memorandum of understanding was in effect. Mr. Hutchinson asked each Commissioner to report to their respective agencies, evaluate the document, and revise it where necessary. Dr. Davis stated that the Water Quality Management Plan Work Element 13 would be updated within the next six months.

Mr. Johnson stated that the Water Quality Management Plan Work Element 13 would be put on the April agenda after each Commissioner had a chance to discuss the issue with their constituent agencies. Mr. Johnson asked the Surface Water Quality Bureau to be present at that meeting to update the WQCC on the status of the revisions to the document.

Item 9: Adoption of Open Meetings Resolution.

Ms. Fox asked the WQCC to review and adopt the draft Open Meetings Resolution. Mr. Rel moved to adopt the Resolution. Ms. Brandvold seconded the motion. The motion passed unanimously.

Item 10: Other business.

There was no other business.

Item 11: Report on litigation and adjudicatory matters.

Ms. Fox had no litigation or adjudicatory matters to report.

Item 12: Next meeting.

The next WQCC meeting is scheduled for April 13, 1999.

Mr. Johnson adjourned the meeting.



Chair