



**STATE OF NEW MEXICO
WATER QUALITY CONTROL COMMISSION
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CONSTITUENT AGENCIES

**Environment Department
Game and Fish Department
Department of Agriculture
State Parks Division
Bureau of Mines and Mineral Resources**

**State Engineer & Interstate Stream Commission
Oil Conservation Division
Department of Health
Soil and Water Conservation Commission
Members-at-Large**

**Meeting Minutes
New Mexico Water Quality Control Commission
Regular Meeting
April 9, 2019
9:00 a.m.
State Capitol Building, Room 307
490 Old Santa Fe Trail
Santa Fe, New Mexico 87501**

MEMBERS PRESENT:

Larry Dominguez
David Certain

Howard Hutchinson
Jennifer Pruett
Kirk Patten
Stacey Timmons

Gabriel Wade
Dr. Abinash Achrekar

Chair, Department of Agriculture
State Parks Division, Energy, Minerals and Natural
Resources Department
Soil and Water Conservation Commission
New Mexico Environment Department
New Mexico Game and Fish
New Mexico Bureau of Geology and Mineral
Resources
Oil Conservation Division
Department of Health

MEMBERS ABSENT:

OTHERS PRESENT:

John Gruebsic
Pam Castañeda

Commission Counsel
Commission Administrator

Please see attached sign-in-sheet for others present.

The Chair called the meeting to order at 9:20 a.m.

The Chair asked the new Commissioners to introduce themselves. Two previous Commissioners, John Waters and Eddie Vigil, were also present.

Item 1. Roll Call.

The Administrator called the roll; a quorum was present.

Item 2. Approval of the Draft Agenda.

Action: Ms. Pruett moved to approve the draft agenda. Mr. Hutchinson seconded the motion. The motion passed unanimously.

Item 3. Approval of meeting minutes from December 11, 2018.

Action: Mr. Hutchinson moved to approve the draft meeting minutes for December 11, 2018. Ms. Pruett seconded the motion. The motion passed unanimously.

Item 4. Adoption of the 2019 WQCC Open Meetings Act Resolution.

Action: Commission Counsel John Grubestic presented the WQCC Open Meetings Act Resolution for 2019. Mr. Hutchinson moved to adopt the Open Meetings Act Resolution. Mr. Achrekar seconded the motion. The motion passed unanimously.

Item 5. Election of a Commission Chair and Vice Chair pursuant to NMSA 1978, §74-6-3(C).

Action: The Chair opened the floor for nominations. Dr. Achrekar moved to elect Ms. Pruett to serve as the Chair. Mr. Hutchinson seconded the motion. The motion passed unanimously. The Commission thanked Mr. Dominguez for his service as Chair. Chair Pruett suggested postponing a vote on the Vice Chair until the new members at large were present. Mr. Dominguez moved to table the election of the Vice Chair. Mr. Certain seconded the motion. The motion passed unanimously.

Item 6. Approval of revision of State of New Mexico Nonpoint Source Management Program and incorporation into the Statewide Water Quality Management Plan and Continuing Planning Process.

Action: Abe Franklin of the Surface Water Quality Bureau gave a brief presentation regarding the State of New Mexico Nonpoint Source Management Program and incorporation into the Statewide Water Quality Management Plan and Continuing Planning process.

Peter Vigil, District Manager for the Taos Soil and Water Conservation District, provided public comment.

The Commission questioned Mr. Franklin.

Mr. Dominguez moved to approve the Plan as presented. Mr. Hutchinson seconded the motion. The motion passed unanimously.

Item 7. WQCC 19-02 (A). In the Matter of two Petitions for Review of Discharge Permit No. 1840 for the Copper Flat Mine (DP-1840) Elephant Butte Irrigation District, Turner Ranch Properties, L.P., Hillsboro Pitchfork Ranch, LLC, and Gila Resources Information Project, Petitioners. Appointment of a Hearing Officer.

Action: Chair Pruett suggested appointing Richard Virtue as the Hearing Officer. Mr. Certain so moved. Mr. Wade seconded the motion. The motion passed unanimously.

Item 8. WQCC 18-05 (A). Petition for Review of the New Mexico Secretary of the Environment's Decision Granting Groundwater Discharge Permit DP-1132 in Proceeding Ground Water Bureau 17-20 (P). Motion to Vacate Agency Decision and Remand the Petition for Review of DP-1132.

Action: Denise Kopan, of Albuquerque Court Reporting Service, LLC recorded and transcribed this agenda item, WQCC 18-05 (A) the Petition for Review of the New Mexico Secretary of the Environment's Decision Granting Groundwater Discharge Permit DP-1132 in Proceeding Ground Water Bureau 17-20(P). Motion to Vacate Agency Decision and Remand the Petition for Review of DP-1132. The transcript is available in the office of the Commission Administrator.

Mr. Lindsay A. Lovejoy Jr., Jonathan M. Block, New Mexico Environmental Law Center; Stuart R. Butzier and Christina C. Sheehan, Modrall Sperling Roehl Harris & Sisk, PA; on behalf of Communities for Clean Water, and John Verheul, on behalf of the New Mexico Environment Department provided oral argument and briefing regarding the above case.

The Commission took a short break at 10:51 a.m. and reconvened at 11:00 a.m.

The Commission deliberated.

Mr. Wade moved that the motion be denied. Mr. Hutchinson seconded for further discussion of the motion. Following questions of Commission counsel and further discussion, the Chair asked the Administrator to take a roll call vote. Mr. Certain, Ms. Timmons, Mr. Patten, Mr. Hutchinson, Mr. Wade, and Mr. Dominguez voted "Aye." Dr. Achrekar voted "Nay." Ms. Pruett abstained. The vote was 6 Ayes, 1 nay and 1 abstention. The motion to remand was denied.

Item 9. Update on Pending Litigation. The Commission may enter into closed session under the Open Meetings Act, NMSA 1978, Section 10-15-1(H)(7).

- a. Rio Hondo v. WQCC, A-1-CA-36039, New Mexico Court of Appeals.*
- b. Amigos Bravos and Gila Resources Information Project v. WQCC, A-1-CA-37531, New Mexico Court of Appeals. WQCC 17-03 (R).*
- c. Villalpando v. N.M. Environment Dep't, A-1-CA-37623, New Mexico Court of Appeals. WQCC 17-07 (A). Creekside Dairy.*
- d. Villalpando v. N.M. Environment Dep't, A-1-CA-37619, New Mexico Court of Appeals. WQCC 17-08 (A). Rockhill Dairy.*

Action: Mr. Dominguez moved that the Commission go into closed executive session under the Open Meetings Act NMSA 10-15-1(H)(7) to go over pending litigation as outlined on the agenda.

Chair Pruett asked the Commission Administrator to take a roll call vote. The vote was 8 yes and 0 nay. The motion passed unanimously. The time was 11:57 a.m. when the meeting entered closed session.

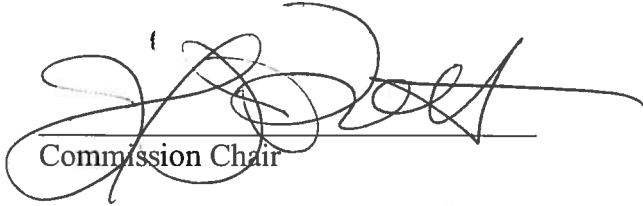
The Commission reconvened into open session at 12:33 a.m. and reconvened the regular meeting. Chair Pruett stated that the matters discussed in closed executive session were limited to only those specified in the motion for closure. No action was taken. Commission Counsel noted that Mr. Waters and Mr. Vigil were present for the entire meeting and did not act on any of the votes. Mr. Waters and Mr. Vigil had not received their termination letters from the Governor's Office and wanted to fulfill their obligations.

10. Next meeting and upcoming matters proposed for Tuesday May 14, 2019

Action: No action taken.

Item 10. Adjournment.

Action: The meeting adjourned approximately at 12:34 p.m.


Commission Chair