Meeting Minutes
New Mexico Water Quality Control Commission
Regular Meeting
04/10/18
9:00 a.m.
State Capitol Building, Room 307
490 Old Santa Fe Trail
Santa Fe, New Mexico 87501

MEMBERS PRESENT:
Larry Dominguez Chair, Department of Agriculture
David Certain State Parks Division, Energy, Minerals and Natural Resources Department
Jane DeRose-Bamman Municipal and County Representative
Howard Hutchinson Soil and Water Conservation Commission
J.C. Borrego New Mexico Environment Department
Scott Dawson Oil Conservation Division
Edward Vigil Member-at-Large
Jacob Payne New Mexico Game and Fish
Nelia Dunbar New Mexico Bureau of Geology and Mineral Resources

MEMBERS ABSENT:
John Waters Member-at-Large

OTHERS PRESENT:
Stephen Vigil Commission Counsel
Pam Castañeda Commission Administrator

Please see attached sign-in-sheet for others present.
The Chair called the meeting to order at 9:03 a.m.

**Item 1. Roll Call.**

Roll was taken; a quorum was present.

**Item 2. Approve the Agenda.**

**Action:** There was a request to switch item 6 and 7. The Chair entertained a motion to approve the agenda as amended. Mr. Hutchinson so moved. Ms. Dunbar seconded the motion. The motion passed unanimously.

**Item 3. Approval of meeting minutes from March 13, 2018.**

**Action:** Ms. DeRose-Bamman requested a revision to page 5 line 179, “at” following approximately should be stricken. Mr. Borrego suggested on line 170 between Ground and Water “and” needed to be stricken. On line 70 should state Office of General Counsel not Office of the General Counsel, “the” should be stricken. On line 42 needed to state why Mr. Hutchinson couldn’t attend the meeting “because he was in Washington D.C.” needed to be added. Between line 121 and 125 Commissioner DeRose-Bamman raised an issue regarding the EPA’s approval and technical supporting document this needed to be noted on the minutes clarify that she raised this issue. “Ms. De Rose-Bamman raised concern that EPA’s technical support document did not accurately reflect the Commission’s decision and suggested that the Commission send EPA a letter to document the issue”, this sentence needed to be added after the period on line 122. Ms. De Rose-Bamman requested on lines 54 through 56 page 2, Dr. Dail not Dial needed to be corrected. Mr. Hutchinson moved to approve the minutes as amended. Mr. Borrego seconded the motion. The motion passed unanimously.

The Chair introduced Commissioner Certain, with the State Parks Division. He will be replacing Commissioner Tafoya.

**Item 4. Update and Approval of WQCC communication regarding the 2013 Triennial Review and associated Technical Support Document.**

**Action:** In the March meeting there was much discussion from the update given by the New Mexico Environment Department on the triennial review. There was discussion about the back and forth between NMED and EPA region 6 and the need for clarification from EPA Region 6 regarding their first technical support document. As noted in the Minutes Ms. DeRose-Bamman had thought there needed to be clarity placed in the record. The Commission took no action on this item in March. Based on the Commissions discussion and concerns, the Chair worked with Commission Counsel and with the New Mexico Environment Department on drafting a letter. The letter was routed to the Commission for review. The Commission discussed changes to the letter. There were some revisions made during the meeting. Ms. Fullam provided more information to
assist with the letter. The Commission asked Ms. Fullam questions. Mr. Hutchison moved to approve the changes to the letter. Ms. Dunbar seconded the motion. The motion passed unanimously. The letter will be finalized and the Chair will sign on behalf of the Commission.

Item 5. WQCC 17-09 (A). In the Matter of La Vista Del Canyon Mobile Home Park, Moses Anserlian, Alice Apelian, and Champs Investments III, LLC., Owners. Deliberations and possible decision.

Action: The Chair entertained a motion to close the meeting in accordance with the Open Meetings Act 10-5-1 (H)(3) for discussion relating to WQCC 17-09 (A) In the Matter of La Vista Del Canyon Mobile Home Park, Moses Anserlian, Alice Apelian, and Champs Investments III, LLC, Owners. Mr. Payne so moved. Ms. DeRose-Bamman seconded the motion. The motion passed unanimously.

The Chair asked the Commission Administrator to take a roll call vote. The vote was 9 yes and 0 nay. The motion passed unanimously. When the Commission went into closed session the time was 9:49 a.m.

The Commission returned to open session at 12:15 p.m. and reconvened the regular meeting. The Chair stated that the record should reflect that the matters discussed in closed executive session were limited to only those specified in the motion for closure.

The Commission recessed for lunch at 12:17 p.m. and reconvened the meeting at 1:20 p.m.

Mr. Payne moved to accept with amendment the Administrative Compliance Order issued by the New Mexico Environment Department, specifically in the Compliance Order findings of 74-83 with the amendment to 82 regarding the fine of $28,500.00 be held in abeyance with any remediation for fixing the problems outlined by the Department. The cost of those remediation’s to be subtracted from that total amount. If not in compliance the full amount be applied and the amount of $28,500 would be paid as a fee in 30 days of non-compliance. Ms. DeRose-Bamman seconded the motion.

The Chair asked the Commission Administrator to take a roll call vote. The vote was 9 yes and 0 nay. The motion passed unanimously.

Mr. Payne moved to incorporate New Mexico Environment Department’s proposed findings of facts and conclusions of law in the Commission’s decision. Mr. Dawson seconded the motion. The motion passed unanimously.

Mr. Hutchinson moved for the Chair to sign the Final Order and Findings of Facts and Law. Ms. DeRose-Bamman seconded. The motion passed unanimously.

Action: Erin Anderson the Administrative Law Judge conducted the hearing in accordance with the WQCC Commission 20.1.3 Adjudicatory procedures NMAC.

Cheryl Arreguin recorded and transcribed the public hearing for WQCC 17-07 (A). The transcript is available in the office of the Commission Administrator.

Christopher Atencio, Office of General Counsel, gave an opening statement and introduced Ms. Nancy McDuffie, Program Manager for the New Mexico Environment Department’s Agricultural Program.

Ms. McDuffie testified.

The Commission examined Ms. McDuffie.

Mr. Atencio and Mr. Villalpando cross-examined Ms. McDuffie.

Mr. Abel Villalpando gave an opening statement and testified. Carol Irvin, Discharge Manager and Office manager for Rockhill Dairy testified.

Mr. Atencio cross-examined Ms. Irvin

The Commission took a short break at 2:02 p.m. and reconvened at 2:13 p.m.

The Commission examined Mr. Villalpando.

There was no public comment.

The parties are to file Findings of Fact and Conclusion of law 30 days after the conclusion of the hearing and closing of the record.

The Commission asked the Hearing Officer to prepare a Hearing Officer’s Report including a review of the civil penalties and a recommended decision to the Commission. Ms. DeRose-Bamman motioned. Mr. Hutchinson seconded the motion. The motion passed unanimously.


Action: Due to limited time the hearing is rescheduled for the next WQCC meeting. Both parties consented to rescheduling the hearing for May 8, 2018.

Action: WQCC 17-03 (R) deliberations and possible decision. WQCC 17-08 (A) Rockhill Dairy, WQCC 18-01 (R) Petition for a rule change and WQCC 18-02 (A) Request for hearing.

Item 9. Adjournment.

Action: The Chair entertained a motion to adjourn. Mr. Hutchinson so moved to adjourn the meeting. Mr. Dawson seconded the motion. The motion passed unanimously. The meeting adjourned at approximately 5:30 p.m.