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
August 09, 2016
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
Matthias Sayer Vice Chair, Department of Game and Fish
Scott Dawson Oil Conservation Division
Edward Vigil Member-at-Large
Jane DeRose-Bamman Water Utility Authority
Howard Hutchinson Soil and Water Conservation Commission
Deborah Dixon Office of the State Engineer
Hoyt Pattison Member-at-Large
John Waters Member-at-Large
Michael Vonderheide New Mexico Environment Department

MEMBERS ABSENT:
Christy Tafoya State Parks Division, Energy, Minerals and Natural Resources Department

OTHERS PRESENT:
Jeffrey N. Holappa Administrative Law Judge
Morris Chavez Hearing Officer
Pam Castañeda Commission Administrator

Please see attached sign-in-sheet for others present.
The Chair called the meeting to order at 9:05 a.m.

**Item 1. Roll Call.**

Roll was taken; a quorum was present.

**Item 2. Approve the Agenda.**

*Action:* The Chair proposed to revise Item 4 to include the election of a Vice Chair. The Chair also proposed to revise Item 7 to reflect that the Commission may commence deliberations immediately following the hearing consistent with the public notice. Mr. Waters moved to approve the agenda as amended. Mr. Vigil seconded the motion. The motion passed unanimously.

**Item 3. Approval of meeting minutes from June 14, 2016.**

*Action:* The Chair entertained a motion to approve the meeting minutes from June 14, 2016. Mr. Hutchinson so moved. Mr. Dawson seconded the motion. The motion passed unanimously.

**Item 4. Election of a Commission Chair pursuant to NMSA 1978, §74-6-3(C).**

*Action:* Mr. Vonderheide nominated Mr. Dominguez to serve as Chair. Mr. Pattison moved to elect Mr. Dominguez by acclamation. Mr. Hutchinson seconded. The motion passed unanimously. The Chair entertained a motion to nominate Mr. Sayer as Vice Chair. Mr. Hutchinson so moved. Mr. Vigil seconded the motion. The motion passed unanimously.

**Item 5. Appointment by the Commission of three regular board members and one alternate board member to the Utility Operator Advisory Board.**

*Action:* Joe Harvey and Joe Bailey, Utility Operator Advisory Board members, sat with the Commissioners.

Anne Keller, Acting Certification Officer with the Utility Operator Certification Program, respectfully requested the Commission to appoint three regular board members and one alternate board member to the Utility Operator Advisory Board. Ms. Keller gave a brief presentation of how the nominees were chosen during a Utility Operator Advisory Board meeting on June 10, 2016. The Utility Operator Advisory Board members voted to recommend to the Commission the appointment of Cathy Eisen with the Mescalero Apache Tribe Utility, Dale Graham with the Ruidoso Downs, and Ivan Abell with the City of Carlsbad as the regular Advisory Board Members, and Maria Gilvary with the Las Vegas Water Utilities (Las Vegas) as the alternate board member. Their terms expire on June 30, 2019. Mr. Waters moved for appointment of the three regular board members and one alternate board member. Ms. DeRose-Bamman seconded the motion. The motion passed unanimously.
Item 6.  WQCC 16-03 (R). In the Matter of Proposed Rulemaking Rules for the Commission, 20.1.6 NMAC. Request for Hearing.

Action: Andrew Knight, Office of General Counsel, gave a brief presentation regarding the Commission’s Rulemaking Guidelines. Mr. Knight requested an October 11, 2016 hearing for the Proposed Rulemaking Rules for the Commission, 20.1.6 NMAC. The Chair proposed to set the hearing for October 11, 2016, and allow him to appoint a Hearing Officer at a later date. Ms. De Rose-Bamman so moved. Ms. Dixon seconded the motion. The motion passed unanimously.


Action: Joe Harvey and Joe Bailey, Utility Operator Advisory Board members, sat with the Commissioners.

Jeffrey N. Holappa the Administrative Law Judge conducted the hearing in accordance with the Commission’s Rulemaking Guidelines.

Cheryl Arreguin of Kathy Townsend Court Reporters recorded and transcribed the public hearing for WQCC 16-01 (R). The transcript is available in the office of the Commission Administrator.

Annie Maxfield, Office of General Counsel, represented the Utility Operator Certification Program. Ms. Maxfield provided a brief opening statement.

Anne Keller, Acting Certification Officer with the Utility Operator Certification Program and Cathie Eisen, Chair of the Utility Operator Certification Advisory Board provided testimony. Kit Roush, Mike Coffman, Ted Fites, and the Commission questioned Ms. Keller and Ms. Eisen.

Mr. Roush provided public comment.

Ms. Maxfield provided a closing statement.

The Commission and the two Utility Operator Advisory Board members deliberated on the proposed rule. Mr. Hutchinson proposed to amend 16(B). Mr. Pattison moved to adopt the code of professional conduct and include the amendment as suggested by Mr. Hutchinson in 16(B). Mr. Waters seconded. The motion passed unanimously. The Chair entertained a motion to approve the Proposed Statement of Reasons adding an additional statement addressing the amendment to 16(B). Ms. DeRose-Bamman so moved. Mr. Hutchinson seconded the motion. The motion passed unanimously.

**Action:**
The Chair entertained a motion to enter into closed executive session pursuant to NMSA 1978, §10-15-1(H)(1)(2) to discuss matters related to pending litigation as set forth in the meeting agenda. Mr. Hutchinson so moved. Mr. Waters seconded the motion. The motion passed unanimously following a roll call vote.

The Commission returned to open session at 1:57 p.m. The Chair stated that the record should reflect that the matters discussed in closed executive session were limited to legal issues subject to attorney-client privilege in the pending legal matter listed as agenda Item 8.

Item 9. WQCC 14-05 (R). In the Matter of Proposed Amendments to Standards for Interstate and Intrastate Waters, 20.6.4 NMAC. Continued Deliberations.

**Action:**
The Commission continued deliberations on WQCC 14-05 (R).

Cheryl Arreguin of Kathy Townsend Court Reporters recorded and transcribed the continued deliberations for WQCC 14-05 (R). The transcript is available in the office of the Commission Administrator.

Mr. Hutchinson moved to have the Hearing Officer review the Order and complete the changes that the Commission presented. Mr. Sayer seconded the motion. Mr. Hutchinson amended his motion to include a request to accept the changes that had been proposed through the deliberations and ask the Hearing Officer to contact Chino Mines and the New Mexico Environment Department to point out the information in the record that could alleviate the inconsistencies. Mr. Sayer seconded for additional discussion on the amended motion. The Chair asked the Commission for a voice vote or a roll call vote. The amended motion was defeated by a voice vote.

Item 10. Next meeting September 13, 2016.

**Action**
The Chair asked the Commission Administrator about agenda items for September 13, 2016. Mr. Waters requested an update from the New Mexico Environment Department on the Gold King Mine Spill. The New Mexico Attorney General’s Office may appoint Commission Counsel.
Item 11.  Adjournment.

Action: The Chair entertained a motion to adjourn. Ms. Dixon moved to adjourn the meeting. Mr. Dawson seconded the motion. The meeting adjourned at approximately 4:12 p.m.

Commission Chair