



**STATE OF NEW MEXICO
 WATER QUALITY CONTROL COMMISSION
 1190 St. Francis Drive, Suite S-2102
 Santa Fe, New Mexico 87505
 Phone: (505) 827-2425
 Fax: (505) 827-2836**

CONSTITUENT AGENCIES

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

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**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
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OTHERS PRESENT:

Jeffrey N. Holappa	Administrative Law Judge
Morris Chavez	Hearing Officer
Pam Castafeda	Commission Administrator

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

34 The Chair called the meeting to order at 9:05 a.m.

35

36 **Item 1. Roll Call.**

37

38 Roll was taken; a quorum was present.

39

40 **Item 2. Approve the Agenda.**

41

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

47

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

49

50 **Action:** The Chair entertained a motion to approve the meeting minutes from June 14,
51 2016. Mr. Hutchinson so moved. Mr. Dawson seconded the motion. The motion
52 passed unanimously.

53

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

55

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

61

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

64

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

67

68 Anne Keller, Acting Certification Officer with the Utility Operator Certification
69 Program, respectfully requested the Commission to appoint three regular board
70 members and one alternate board member to the Utility Operator Advisory Board.
71 Ms. Keller gave a brief presentation of how the nominees were chosen during a
72 Utility Operator Advisory Board meeting on June 10, 2016. The Utility Operator
73 Advisory Board members voted to recommend to the Commission the
74 appointment of Cathy Eisen with the Mescalero Apache Tribe Utility, Dale
75 Graham with the Ruidoso Downs, and Ivan Abell with the City of Carlsbad as the
76 regular Advisory Board Members, and Maria Gilvarry with the Las Vegas Water
77 Utilities (Las Vegas) as the alternate board member. Their terms expire on June
78 30, 2019. Mr. Waters moved for appointment of the three regular board members
79 and one alternate board member. Ms. DeRose-Bamman seconded the motion.
80 The motion passed unanimously.

81

82 **Item 6. WQCC 16-03 (R). In the Matter of Proposed Rulemaking Rules for the**
83 **Commission, 20.1.6 NMAC. Request for Hearing.**
84
85 **Action:** Andrew Knight, Office of General Counsel, gave a brief presentation regarding
86 the Commission's Rulemaking Guidelines. Mr. Knight requested an October 11,
87 2016 hearing for the Proposed Rulemaking Rules for the Commission, 20.1.6
88 NMAC. The Chair proposed to set the hearing for October 11, 2016, and allow
89 him to appoint a Hearing Officer at a later date. Ms. De Rose-Bamman so moved.
90 Ms. Dixon seconded the motion. The motion passed unanimously.
91
92 **Item 7. WQCC 16-01 (R). In the Matter of Proposed Adoption of new Mexico**
93 **Certified Utility Operator Code of Professional Conduct 20.7.4.16 NMAC.**
94 **Public Hearing.**
95
96 **Action:** Joe Harvey and Joe Bailey, Utility Operator Advisory Board members, sat with
97 the Commissioners.
98
99 Jeffrey N. Holappa the Administrative Law Judge conducted the hearing in
100 accordance with the Commission's Rulemaking Guidelines.
101
102 Cheryl Arreguin of Kathy Townsend Court Reporters recorded and transcribed
103 the public hearing for WQCC 16-01 (R). The transcript is available in the office
104 of the Commission Administrator.
105
106 Annie Maxfield, Office of General Counsel, represented the Utility Operator
107 Certification Program. Ms. Maxfield provided a brief opening statement.
108
109 Anne Keller, Acting Certification Officer with the Utility Operator Certification
110 Program and Cathie Eisen, Chair of the Utility Operator Certification Advisory
111 Board provided testimony. Kit Roush, Mike Coffman, Ted Fites, and the
112 Commission questioned Ms. Keller and Ms. Eisen.
113
114 Mr. Roush provided public comment.
115
116 Ms. Maxfield provided a closing statement.
117
118 The Commission and the two Utility Operator Advisory Board members
119 deliberated on the proposed rule. Mr. Hutchinson proposed to amend 16(B). Mr.
120 Pattison moved to adopt the code of professional conduct and include the
121 amendment as suggested by Mr. Hutchinson in 16(B). Mr. Waters seconded. The
122 motion passed unanimously. The Chair entertained a motion to approve the
123 Proposed Statement of Reasons adding an additional statement addressing the
124 amendment to 16(B). Ms. DeRose- Bamman so moved. Mr. Hutchinson
125 seconded the motion. The motion passed unanimously.
126

127 **Item 8.** **WQCC 15-07 (A); Ct. App. No. 35253. In the Matter of the Court of Appeals**
128 **of the State of New Mexico Communities for Clean Water, Appellant vs. New**
129 **Mexico Water Quality Control Commission, Appellee, and New Mexico**
130 **Environment Department and Los Alamos National Security, LLC,**
131 **Intervenors. Request for closed executive session to discuss the matter**
132 **pursuant to the Open Meetings Act, NMSA 1978, § 10-15-1(H)(1)(2).**
133
134 **Action:** The Chair entertained a motion to enter into closed executive session pursuant to
135 NMSA 1978, §10-15-1(H)(1)(2) to discuss matters related to pending litigation
136 as set forth in the meeting agenda. Mr. Hutchinson so moved. Mr. Waters
137 seconded the motion. The motion passed unanimously following a roll call vote.
138
139 The Commission returned to open session at 1:57 p.m. The Chair stated that the
140 record should reflect that the matters discussed in closed executive session were
141 limited to legal issues subject to attorney-client privilege in the pending legal
142 matter listed as agenda Item 8.
143
144 **Item 9.** **WQCC 14-05 (R). In the Matter of Proposed Amendments to Standards for**
145 **Interstate and Intrastate Waters, 20.6.4 NMAC. Continued Deliberations.**
146
147 **Action:** The Commission continued deliberations on WQCC 14-05 (R).
148
149 Cheryl Arreguin of Kathy Townsend Court Reporters recorded and transcribed
150 the continued deliberations for WQCC 14-05 (R). The transcript is available in
151 the office of the Commission Administrator.
152
153 Mr. Hutchinson moved to have the Hearing Officer review the Order and
154 complete the changes that the Commission presented. Mr. Sayer seconded the
155 motion. Mr. Hutchinson amended his motion to include a request to accept the
156 changes that had been proposed through the deliberations and ask the Hearing
157 Officer to contact Chino Mines and the New Mexico Environment Department to
158 point out the information in the record that could alleviate the inconsistencies. Mr.
159 Sayer seconded for additional discussion on the amended motion. The Chair
160 asked the Commission for a voice vote or a roll call vote. The amended motion
161 was defeated by a voice vote.
162
163 **Item 10.** **Next meeting September 13, 2016.**
164
165 **Action** The Chair asked the Commission Administrator about agenda items for
166 September 13, 2016. Mr. Waters requested an update from the New Mexico
167 Environment Department on the Gold King Mine Spill. The New Mexico
168 Attorney General's Office may appoint Commission Counsel.
169

170 **Item 11. Adjournment.**

171

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

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177


Commission Chair