



**STATE OF NEW MEXICO
WATER QUALITY CONTROL COMMISSION
1190 St. Francis Drive, Suite S-2102
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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

**Meeting Minutes
New Mexico Water Quality Control Commission
Regular Meeting
August 14-15, 2018
9:00 a.m.
State Capitol Building, Room 309
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
Edward Vigil	Member-at-Large
Jacob Payne	New Mexico Game and Fish
Nelia Dunbar	New Mexico Bureau of Geology and Mineral Resources
Scott Dawson	Oil Conservation Division (Teleconference)

MEMBERS ABSENT:

John Waters	Member-at-Large
Barbara Toth	Department of Health

OTHERS PRESENT:

Gideon Elliot	Commission Counsel
Pam Castañeda	Commission Administrator

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

The Chair called the meeting to order at 9:00 a.m.

Item 1. Roll Call.

Roll was taken; a quorum was present.

Item 2. Approval of the Draft Agenda.

Action: Ms. DeRose-Bamman moved to approve the Draft Agenda. Mr. Hutchinson seconded the motion. The motion passed unanimously.

Item 3. Approval of meeting minutes from July 10-11, 2018.

Action: Ms. DeRose-Bamman requested a revision to item 4-page 2 line 63, strike the word “at” and add “since”. On page 5 line 201-202 after B add “other sections with references to 4103”. Mr. Borrego added that the language should reference just be 4103 and not A and B. The Chair asked to revise on page 5, line 209 the reference to (H)(3) by striking “3” and adding “7”. Mr. Borrego requested on page 3 line 115 to add “and” or a semicolon after “taken”. The Chair entertained a motion to approve the minutes as amended. Mr. Hutchinson moved to approve the minutes as amended. Mr. Borrego seconded the motion. The motion passed unanimously.

Item 4. WQCC 17-07 (A). Creekside Dairy GWQB 17-02 (CO). Deliberations and Possible Decision. The commission may deliberate in closed session pursuant to Section 10-15-1(H)(3) of Open Meetings Act pertaining to administrative adjudicatory hearings, provided that the commission shall reach a final decision in open session. See 20.1.3.21(D) NMAC

Action: Cheryl Arreguin, of Kathy Townsend Court Reporters, recorded and transcribed WQCC 17-07 (A) Creekside Dairy GWQB 17-02 (CO). Deliberations and Possible Decision. The transcript is available in the office of the Commission Administrator.

The Chair provided Mr. Villalpando an opportunity to give closing comments to the Hearing Officer’s Report.

Mr. Villalpando provided comment.

The Chair entertained a motion to close the meeting in accordance with the Open Meetings Act 10-15-1 (H)(3) for the Commission to enter into discussions relating to WQCC 17-07 (A) Creekside Dairy GWQB 17-02 (CO), deliberations and possible decision. Mr. Hutchinson so moved. Mr. Certain 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. When the Commission went into closed session the time was 9:27 a.m.

The Commission returned to open session at 10:01 a.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 that was passed to go into executive session.

Mr. Payne moved to accept the Hearing Officer's recommendation and to authorize the Chair to approve and sign any Order on behalf of the Commission. Mr. Hutchinson 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.

Item 5. WQCC 17-08 (A). Rockhill Dairy GWQB 17-03 (CO). Deliberations and Possible Decision.

Action: Cheryl Arreguin, of Kathy Townsend Court Reporters, recorded and transcribed WQCC 17-08 (A). Rockhill Dairy GWQB 17-03 (CO). The transcript is available in the office of the Commission Administrator.

Mr. Villalpando provided comment.

The Chair entertained a motion to close the meeting in accordance with the Open Meetings Act 10-15-1 (H)(3) for the Commission to enter into discussions relating to WQCC 17-08 (A) Rockhill Dairy GWQB 17-03 (CO), deliberations and possible decision. Mr. Hutchinson so moved. Mr. Borrego 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. When the Commission went into closed session the time was 10:06 a.m.

The Commission returned to open session at 10:26 a.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 that was passed to go into executive session.

Mr. Payne moved to adopt the Hearing Officer's Recommendation and to authorize the Chair to approve and sign any Order on behalf of the Commission. Mr. Hutchinson 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.

The Commission will mail an Order to Mr. Villalpando it will outline timelines for payment within 60 days after receipt of the order.

The Commission recessed for a break at 10:30 a.m. and reconvened at 10:40 a.m.

Item: 6. WQCC 18-01 (R). In the Matter of Proposed Amendment to 20.7.5 NMAC, Wastewater Facility Construction Loans. Appointment of substitute hearing officer.

Action: The Chair reported to the Commission that the appointed Hearing Officer, Erin Anderson, had a scheduling conflict and was unable to be at the Commission meeting.

The Chair entertained a motion that the Commission appoint Felicia Orth as the substitute Hearing Officer. Ms. DeRose-Bamman so moved. Mr. Hutchinson seconded the motion. The motion passed unanimously. The Chair will sign an Order.

Item 7. WQCC 18-01 (R). In the Matter of Proposed Amendments to 20.7.5 NMAC, Wastewater Facility Construction Loans. Public Hearing.

Action: Ms. Orth, Hearing Officer, conducted the hearing in accordance with WQCC 20.1.6 NMAC.

On August 6, 2018, Erin Anderson, Hearing Officer, granted the New Mexico Environment Department's Motion for recording of Rulemaking Hearing.

The Hearing was recorded and not transcribed by a Court Reporter.

Christopher Atencio, Office of General Counsel ("NMED"), provided an opening statement. Rhonda Holderman, Financial Manager for loans and grants, New Mexico Environment Department Construction Programs Bureau, provided testimony. Judith Kahl, Bureau Chief, New Mexico Environment Department Construction Programs Bureau, was a witness and was present for any questions by the Commission.

The Commission crossed examined Rhonda Holderman.

The Commission asked Ms. Kahl questions.

Mr. Atencio provided a closing statement.

No public comment.

The record was closed.

The Commission deliberated.

Mr. Vigil moved to accept the proposed revisions to 20.7.5 NMAC and the proposed statement of reasons submitted by the Department. Dr. Dunbar 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. The Chair entertained a motion to give the Commission Administrator the

authority to sign the transmittal form on behalf of the Commission. Ms. DeRose-Bamman so moved. Mr. Hutchinson seconded the motion. The motion passed unanimously.

The Commission recessed for lunch at 11:23 a.m. and reconvened the meeting at 12:30 p.m.

Item 8. WQCC 17-03 (R). In the Matter of: Proposed Amendments to Ground and Surface Water Protection Regulations, 20.6.2 NMAC. AB/GRIP Memorandum on Logical Outgrowth and Deliberations and possible decision on 4103. Oral arguments will be limited to 10 minutes.

Action: Cheryl Arreguin of Kathy Townsend Court Reporters recorded and transcribed WQCC 17-03 (R). The transcript is available in the office of the Commission Administrator.

Jaime Park, New Mexico Law Center, on behalf of AB/GRIP; John Verheul, on behalf of the New Mexico Environment Department; Dalva L. Mollenberg, on behalf of Dairy Producers of New Mexico, the Dairy Industry Group for a Clean Environment and the New Mexico Mining Association; Louis W. Rose, Montgomery & Andrews, P.A., on behalf of Los Alamos National Security provided oral argument.

The Commission discussed the Memorandum and Logical Outgrowth.

Mr. Payne moved to deny AB/GRIP's motion to exclude New Mexico Environment Department and Mining Association's proposed language for 20.6.2.4103. Mr. Borrego 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.

The Commission recessed for a break at 1:37 p.m. and reconvened at 1:50 p.m.

Item 9. WQCC 17-03 (R). In the Matter of: Proposed Amendments to Ground and Surface Water Protection Regulations, 20.6.2 NMAC. Deliberations and possible decision.

Action: Cheryl Arreguin, of Kathy Townsend Court Reporters, recorded and transcribed WQCC 17-03 (R). In the Matter of Proposed Amendments to Ground and Surface Water Protection Regulations, 20.6.2 NMAC deliberations and possible decision. The transcript is available in the office of the Commission Administrator.

The Commission continued deliberations from the July 10-11, 2018 meeting.

The Commission discussed a process to move through deliberations by only voting on proposed amendments that had split decisions. Proposed amendments

with general agreement would move forward and there would be a vote on the entire rule at the close of deliberations.

The Commission discussed Section 4103 and the rules that weren't approved. The Commission had a consensus for 4103.A.1 and 2. Mr. Payne moved to approve the compromised language proposed by the New Mexico Environment Department for 20.6.2.4103.A. Mr. Borrego seconded the motion. The Chair asked the Commission Administrator to take a roll call vote. The vote was 8 yes and 1 nay. The motion passed.

The Commission discussed Section 4103.B. The Commission concurred on 4103.B as proposed by the New Mexico Environment Department.

The Commission discussed Section 4103 revised subsection D and new subsections E and F. Mr. Dawson moved to approve the New Mexico Environment Department's language for D, E, and F for 4103. Mr. Payne 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.

The Commission concurred by consensus to adopt changes to Sections 3114 (NMED's changes to Table 1); 4105.B and C.2; 4109.A, B, C and D and 4114.A. (also strike "Paragraph (4) of")

The Commission recessed for a break at 3:32 p.m. and reconvened at 3:45 p.m.

The Chair went over the rules that the Commission had a consensus on and the rules that were voted on during deliberations.

The Chair entertained a motion that the Commission adopt the proposals that were voted on or agreed upon during the deliberations on 20.6.2 NMAC. Mr. Borrego so moved. Mr. Hutchinson 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. The Chair entertained a motion for Commission Counsel to work on a Statement of Reasons and Final Order and the Chair will sign on behalf of the Commission. Mr. Hutchinson so moved. Dr. Dunbar seconded the motion. The motion passed unanimously.

Item 11. and Item 10. were switched. Item 11 was heard on August 15, 2018.

Item 10. Approval of the State of New Mexico Clean Water Act 2018-2020 §303 (d)/§305(b) Integrated Report and List.

Action: John Verheul, Office of General Counsel, introduced Lynette Guevara, Assessment Coordinator, with the New Mexico Environment Department, Surface Water Quality Bureau. Ms. Guevara gave a presentation on the Approval of the State of New Mexico Clean Water Act 2018-2020 §303(d)/§305(b) Integrated Report and List.

The Commission questioned Ms. Guevara.

Rachel Conn, Projects Director, Amigos Bravos, provided public comment. The Chair introduced Gideon Elliot, Commission Counsel filling in for Stephen Vigil.

Mr. Hutchinson moved approval of the State of New Mexico Clean Water Act 2018-2020 §303(d)/§305(b) Integrated Report and List. Dr. Dunbar seconded the motion. The motion passed unanimously.

The meeting of August 14, 2018 adjourned at 5:21 p.m.

Item 11. Approval of the Final Draft Tecolote Creek TMDL.

Action: The meeting reconvened on August 15, 2018 at 9:00 a.m. Ms. DeRose-Bamman, Dr. Dunbar and Mr. Dawson were on teleconference.

Roll was taken; a quorum was present.

John Verheul, Office of General Counsel, introduced Rachel Jankowitz and Heidi Henderson with the New Mexico Environment Department, Surface Water Quality Bureau. Ms. Jankowitz gave a brief presentation on approval of the Final Draft Tecolote Creek TMDL. The Commission questioned Ms. Jankowitz. Mr. Hutchinson moved for approval of the Final Draft Tecolote TMDL. Mr. Borrego seconded the motion. The motion passed unanimously. Commissioner Vigil was not present for the vote.

Item 12. Next meeting and forthcoming matters. September 11, 2018.

Action: The Chair asked the Commission Administrator if there were any items for the September Commission meeting. The Commission Administrator reported two items: a public hearing for WQCC 18-03 (R). Petition for a variance to approve alternative abatement standards for the Pecos Mine Operable Unit and Appointment by the Commission of two regular board members to the Utility Operator Certification Advisory Board.

Item 13. Adjournment.

Action: The Chair entertained a motion to adjourn the meeting. Mr. Dawson moved to adjourn the meeting. Mr. Hutchinson seconded the motion. The motion passed unanimously. The meeting was adjourned at 9:45 a.m.


Commission Chair