



STATE OF NEW MEXICO  
WATER QUALITY CONTROL COMMISSION  
1190 St. Francis Drive  
P.O. Box 26110  
Santa Fe, New Mexico 87502  
(505) 827-2425

**CONSTITUENT AGENCIES:**

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

Minutes of the  
New Mexico Water Quality Control Commission Meeting  
October 10, 2000

The New Mexico Water Quality Control Commission held its meeting on October 10, 2000, at 9:00 a.m. at the State Capitol Building, Room 321, Corner of Paseo de Peralta and Old Santa Fe Trail, Santa Fe, New Mexico. Chairman Maggiore called the meeting to order at approximately 9:00 a.m.

**Members Present:**

Peter Maggiore	New Mexico Environment Department
John Whipple	State Engineer
Bill Olson	Oil Conservation Division
Jack Kelly	Department of Game & Fish
Howard Hutchinson	Soil & Water Conservation Bureau
Lynn Brandvold	Bureau of Mines & Mineral Resources
Paul Gutierrez	Member-at-Large
Irene Juliana Lee	Member-at-Large
Conrad Keyes	Member-at-Large

**Members Absent:**

Julie Maitland	Department of Agriculture
David Johnson	State Parks Division

**Others Present:**

Daniel Rubin	WQCC Counsel
Tamella L. Lakes	WQCC Administrator
Pat Hanson	NMED/SWQB
Dr. Jim Davis	Chief NMED/SWQB
David Hogge	NMED/SWQB
Susan Kery	Sheehan, Sheehan and Assoc.
Jay Lazarus	Glorieta Geoscience
Karen Browne	NMED/SWQB
Bruce Thomson	
Kristen Dors	NMED/EPA
Maura Hanning	NMED/GWQB
Erik Gallaway	NMED
Mundo Gutierrez	City of Albuquerque

Robert George	NMSU/WUTAP
Steven Glass	City of Albuquerque
Mike Saladen	LANL
Edward Belmares	LFC
Olivia Tsosie	Santa Fe Watershed Association
Robert Hogrife	City of Albuquerque

**Item 1 - Roll Call.**

Tamella L. Lakes, WQCC Administrator took roll call. Chairman Maggiore introduced Mr. John Whipple who was appointed by the State Engineer as his designee on the Commission.

**Item 2 - Approval of the Agenda**

Mr. Keyes moved to approve the agenda. Ms. Brandvold seconded the motion. The motion passed unanimously.

**Item 3 - Approval of the minutes of the September 12, 2000, meeting.**

Ms. Brandvold moved to approve the September 12, 2000, minutes as amended. Mr. Keyes seconded the motion. The motion passed unanimously.

**Item 4 - Review and approval of the Order and Statement of Reasons in the hearing on 20 NMAC 6.2 - Ground Water Discharge Permit Fees.**

Mr. Rubin distributed a proposed Order and Statement of Reasons that included a dissent from Commissioner Hutchinson. Mr. Rubin received some comments from the Commissioners; those comments were incorporated into the document.

Ms. Brandvold stated that she has a problem with item number ten; she thought that the testimony reflected that the fees would cause an undue burden on permittees.

Mr. Hutchinson stated that written testimony was received from the New Mexico Public Lands Council, the Dairy Producers, the NM Cattle Growers, St. Cloud Mining, PNM, and the NM Wool Growers stating that the fees would be an undue burden or an undue increase.

Ms. Brandvold stated that there is a difference between the fee increase being necessary and being reasonable. She voted for the fees because she felt they were necessary, but in some cases the increase is not necessarily reasonable.

Mr. Olson stated that the fees would not be a burden in all circumstances. The dissenting comments came from a small portion of permit holders. They feel that the fees will impact them in some types of activities, but not in others.

Mr. Rubin stated that he would have to consult with other attorneys on whether item number ten needs to be included in the Statement of Reasons. Item ten was included to make the statement more likely to withstand judicial review.

Chairman Maggiore stated that item ten, as written, is more of a subjective or a personal opinion than a finding of fact. The Statement of Reasons could refer to the fee increase as relative to fees of adjacent states.

Ms. Maura Hanning, Program Manager with the Ground Water Quality Bureau, (GWQB), stated that the Bureau does not have any time constraints and could wait until the Commission approved the Statement of Reasons.

Chairman Maggiore asked Mr. Hutchinson about item number two in his dissent regarding the statement, "Testimony indicates that the increase in activity is internally driven." Chairman Maggiore stated that it was his understanding that the increase in activity is entirely externally driven. Permit applications are continually coming into the Department from individuals and facilities that want to operate in New Mexico.

Mr. Hutchinson stated that item number two was in relationship to a question he asked regarding an increase in requirements from EPA. The GWQB responded that there were no requirements at all, and testimony at the hearing reflected an internal expansion of activity in the Bureau. Mr. Hutchinson stated that he agreed with the Chairman that there is an increase in external activity as well as an internal expansion, and the item could be changed to reflect that.

Chairman Maggiore stated that the GWQB did testify on other sources of revenue received in the Bureau and did provide some passing testimony on what those funds are used for.

Chairman Maggiore asked the Commission Administrator to provide the Commission with a copy of the hearing transcript.

Mr. Olson moved to table the approval of the Order and Statement of Reasons until the November 14, 2000, meeting. Mr. Hutchinson seconded the motion. The motion passed unanimously.

**Item 5 - Request for Hearing to consider amendments to the Utility Operator Certification Regulations (20.7.4 NMAC).**

Mr. Robert George and Mr. Reymundo Gutierrez, members of the Utility Operator Certification Advisory Board, joined the Commission for item number five.

Dr. Jim Davis, Chief, Surface Water Quality Bureau (SWQB), stated that the Bureau has met with the Utility Operators Certification Advisory Board since the request for public hearing dated September 28, 2000, was distributed to the Commission. As a result of that meeting some minor changes were made to the proposed regulations.

Mr. Patrick Hanson, Program Manager SWQB, stated that the principle reason for the changes are to meet the requirements of the federal guidelines on operator certification adopted by the EPA under the 1996 amendments to the Safe Drinking Water Act. The Bureau would like to request that a hearing be held at the Commission's regular meeting on December 12, 2000.

Ms. Brandvold moved to hold the hearing at the Commissions regular meeting on December 12, 2000 and to have Chairman Maggiore preside as Hearing Officer. Mr. Hutchinson seconded the motion. The motion passed unanimously.

Mr. Hutchinson moved to not have a verbatim transcript made of the hearing and have the hearing tape recorded. Ms. Brandvold seconded the motion. The motion passed unanimously.

**Item 6 – Start the 30-day public comment period for the Santa Fe River D.O. & pH TMDLs, Cieneguilla Creek metals TMDL, Rayado Creek stream bottom deposits TMDL and the Cimarron River metals TMDL.**

Mr. David Hogge, SWQB State TMDL coordinator, stated that the Bureau is requesting no action be taken by the Commission today, it is only the start of the 30-day comment period on the draft TMDLs.

The draft TMDLs being opened today are the Santa Fe River for dissolved oxygen and pH, Cieneguilla Creek for aluminum, Rayado Creek for stream bottom deposits and Cimarron River for aluminum. The public participation process and comment period starts October 10, 2000, and ends on November 9, 2000, at 5:00 p.m. MDT. The notice was mailed to the WQCC mailing list, the Nonpoint Source Task Force, and the Acequia Association. The announcement of the comment period was e-mailed to the Bureau e-mail list that contains approximately 100 addresses. A press release was sent to the Taos News, Sangre de Cristo Chronicle, the Albuquerque Journal North and the Santa Fe New Mexican. The TMDLs and public notices were posted on the NMED website on October 10, 2000. A public meeting on the draft documents for Cieneguilla Creek, Rayado Creek and Cimarron River are scheduled for October 26, 2000, in Cimarron, New Mexico. A public meeting is scheduled for November 2, 2000, in Santa Fe, New Mexico for the Santa Fe River draft document.

**Item 7 – Update on the Status of the Middle Rio Grande TMDL comment period.**

Dr. Davis stated that at the September meeting of the Commission the 30-day comment period was opened for the Middle Rio Grande TMDL; that comment period will expire on October 11, 2000. During the last several days the Bureau met with the Middle Rio Grande Counsel of Governments and in addition, the Bureau had received a number of comments concerning the TMDL in writing and verbally from interested parties. On Tuesday, October 3, 2000, the Bureau met with representatives from the City of Albuquerque and the Albuquerque Metropolitan Arroyo and Flood Control Authority in Santa Fe to discuss some of the technical issues of the TMDL. At that meeting they requested that the 30-day comment period be extended for an additional 30-days, until November 10, 2000. The Bureau granted the 30-day extension. Additional meetings have been planned with interested parties concerning the technical issues contained in the TMDL.

Ms. Susan Kery, representing the Middle Rio Grande Conservancy District, stated that they are in agreement with a 30-day extension.

John Kelly, Executive engineer with the Albuquerque Metropolitan Arroyo and Flood Control Authority, stated that they are in agreement with the 30-day extension.

Mr. Robert Hogrefe, Albuquerque Public Works Department, stated that a 30-day extension should be enough time to complete the TMDL.

Gary O'Day, Counsel for the City of Albuquerque, stated that he has talked to Forest Guardians and they will not oppose a 30-day extension on the comment period for the TMDL.

**Item 8 – Forest Guardian's Notice of Intent to Sue, filed on July 28, 2000, regarding the WQCC's recent adoption of the New Mexico Water Quality Standards.**

Mr. Rubin stated that he did not have anything further to add.

Dr. Davis stated that he spoke with USEPA Region 6 (EPA) and they are proceeding with administrative review of the standards. EPA believes that the NOI and the 60-day calendar for review of the Standards are coincident, and will expire or come due on October 17, 2000. EPA anticipates being able to approve most of the Standards within the proper timeline.

Ms. Kery asked Dr. Davis if he knew what portions of the standards would not be approved.

Dr. Davis stated that one issue of particular concern with EPA is the exemption from numeric standards for five constituents that may result from the normal operation of irrigation and flood control facilities.

**Item 9 – Other Business.**

Mr. Rubin stated that he attended the last meeting of the Utility Operators Certification Advisory Board. They adopted an Open Meetings Resolution and kept minutes of the meeting. The Board appears to be in full compliance with the Open Meetings Act.

Mr. Rubin stated that the WQCC does have an Open Meetings Resolution.

**Item 10 – Next Meeting.**

The next meeting of the WQCC will be held on November 14, 2000, in Santa Fe, New Mexico.

Mr. Hutchinson moved to adjourn the meeting. Ms. Lee seconded the motion. The motion passed unanimously.

The meeting adjourned at approximately 3:00 p.m.



Chairperson