



**STATE OF NEW MEXICO  
WATER QUALITY CONTROL COMMISSION  
1190 St. Francis Drive  
P.O. Box 26110  
Santa Fe, New Mexico 87502  
(505) 827-2842**

**CONSTITUENT AGENCIES:**

Environment Department  
State Engineer & Interstate Stream Commission  
Game and Fish Department  
Oil Conservation Division  
Department of Agriculture  
State Park & Recreation Division  
Soil and Water Conservation Bureau  
Bureau of Mines and Mineral resources  
Member-at-Large

Minutes of the  
New Mexico Water Quality Control Commission Meeting  
December 9, 1997

The New Mexico Water Quality Control Commission (WQCC) held its meeting on December 9, 1997, at 9:00 a.m. at the State Capitol Building, Paseo de Peralta and Old Santa Fe Trail, Santa Fe, New Mexico. The following members were present.

Bill Kelley	NMED
Brian James	State Engineer Office
Bill Olson	Oil Conservation Division
David Johnson	State Parks & Recreation Division
Ricardo Chavez Rel	NM Department of Agriculture
Andrew Sandoval	Department of Game & Fish
Howard Hutchinson	Soil & Water Conservation Commission
Charles Chapin	Bureau of Mines & Mineral Resources
Alberto Gutierrez	Member-at-Large
Paul Gutierrez	Member-at-Large
Robert Castillo	Member-at-Large

Others

Debra Gallegos	WQCC Adm. Secretary	Joseph Bonaguidi	
Pamela Farnham	Financial Specialist III	Mark Blakeslee	BLM
Patrick Simpson	WQCC Legal Counsel - AGO	Richard Virtue	Virtue, Najjar & Butell
Erik Galloway	NMED	Sharon Lombardi	Dairy Produce
Marcy Leavitt	NMED	Charles Fink	Sandia Labs
Dale Doremus	NMED	Jon Harcum	Tetra Tech
James Davis	NMED		

**Item 1 - Roll Call. (Tape 1 - Side 1 Count 010)**

**Item 2 - Approval of the Agenda (Tape 1 - Side 1, Count 021)**

Agenda change to Item 6. Postponed for next scheduled meeting.

David Johnson moved to approve the amended agenda. H. Hutchinson seconded the motion. Motion passed unanimously.

**Item 3 - Review minutes for August 12, 1997 (Tape 1 - Side 1, Count 021)**

Brian James moved to approve the August 12, 1997, minutes. David Johnson seconded the motion. The motion passed unanimously.

**Item 4 - Review minutes for October 14, 1997 (Tape 1 - Side 1, Count 028)**

B. Olson asked to review the October 14, 1997, tape recording. B. Olson stated a correction to the October 14, 1997, meeting on page 2, Item 3, 3rd paragraph, 2nd sentence. Recommend to Strike after "Mr. Simpson" in the second sentence, Strike: "should proceed with intervene," Instead read: "Should a Stay not be forthcoming." Mr. Simpson would inform the parties that the WQCC intends to intervene pending the Triennial Review process. Corrections to October 14, 1997. (Tape 1 Side 1 - 065)

B. Olson moved to table the minutes to review the tape recording for October 14, 1997. D. Johnson seconded the motion. The motion passed unanimously. (Tape 1 Side 1- 069)

**Item 5 - Pecos River Update.**

E. Galloway introduced himself to the Commission as Program Manager for NMED Surface Water Quality Bureau, Evaluation and Planning section. Mr. Galloway gave the Commissioners materials on the Pecos River water quality TMDL based on accumulated information for the Pecos River water quality TMDL studies thus set forth in the consent decree signed and negotiated between EPA, Forest Guardians, and Southwest Environmental Center.

Mr. Galloway presented the project area that runs from Fort Sumner Reservoir down to Brantley Reservoir. Areas in question consist of two segments as designated in the WQCC, approved Standards for Interstate and Intrastate Streams.

**Segments are 2207 and 2206.** (E. Galloway referred the Commission members to handouts and a graphic display on a projected screen).

USGS water quality data - data available for Acme and Artesia stations (1980-1992) approximately quarterly sampling.

NMED - Intensive surveys of the Pecos River from Lake Sumner to Brantley Lake, in April, July, and November 1997. 11 Pecos River stations.

## Water Quality Segments, Designated Uses, and 303(d) Listing Criteria

### Pecos River Segment 2207 - Sumner Dam to Acme, NM

Designated uses	Probable causes of Non-support
Irrigation	Siltation
Limited warm water fishery	
Livestock watering	
Wildlife habitat	
Secondary contact	
Fish culture	

### Pecos River Segment 2206 - Acme, NM to Brantley Reservoir

Designated uses	Probable causes of Non-support
Irrigation	Siltation
Livestock watering	Metals (Mercury)
Wildlife habitat	Ammonia
Secondary contact	Total dissolved solids
Warm water fishery	Dissolved oxygen

Galloway gave a brief breakdown of each constituent.

**Dissolved Oxygen** - recommendation that this should be removed as an incorrect listing from both the 305(b) and 303(d) list.

**Total Dissolved Solids (TDS)** - recommend to WQCC that this parameter be removed from the 305(b) and 303(d).

**Siltation** - letter from the U.S. Fish and Wildlife Service, documents their opinion that sediment is not an adverse condition to the endangered species or the native fishery in the segments of the Pecos River. Recommendation that siltation be removed from the 305(b) and 303(d).

**Mercury** - recommendation that mercury be taken off the 305(b) and 303(d) list for the Pecos.

**Ammonia** - recommendation consists of four conclusions.

- 1) Based on the information presented, it is the conclusion of the SWQB that these reaches currently meet New Mexico water quality standards as defined by their designated uses. Recommendation that the 303(d) listings for Pecos River segments 2206 and 2207 be withdrawn. There is no basis for conducting TMDL's for these reaches.
- 2) Continue long-term water quality trend monitoring at Acme and Artesia stations. At a minimum the Artesia station should be maintained.
- 3) Continue regulatory programs currently enforced in the area. (CAFO, groundwater protection, NPDES, etc.)

- 4) Implement non-point source projects directed at reducing ammonia loads through implementation of voluntary BMPs.

B. James and E. Galloway had a discussion on the consent decree targeting the Pecos river to get TDML standards. E. Galloway will provide Forest Guardians, and the EPA updated data regarding the Pecos river. (Tape 1 - Side 1 - 296)

#### REVISED WORDING

Mr. Sandoval stated to E. Galloway, that there are flushing releases from Fort Sumner down to Brantley, specifically for the protection of endangered species. Do you see any correlation with that flushing of the system in terms of impact it has had on water quality. Mr. Galloway introduced Willie Lane who is an EPA employee on assignment to the NMED and who participated in the July and November surveys. W. Lane explained that there were different flow conditions during each of the surveys. During the April survey flow was high due to rainfall events in the upper watershed but releases from Fort Sumner were low. During this event there were slightly elevated levels of ammonia as compared to the other surveys. The July survey was a low flow condition with no releases from Fort Sumner Reservoir or rainfall conditions. Ammonia levels during this event were low, less than 1200 CFS release which began at 07:30 the morning our survey began. Ammonia levels during this survey were also very low, less than 0.2 mg/l. (Tape 1 Side 1 - 345)

#### Tape 1 Side 2 - Count 001

Mr. Sandoval requested clarification on the differences in terms of water quality standards between high and low-flow regimes. (Tape 1 Side 2 - 006)

Willie Lane gave his explanation on flow conditions by referring to the graph. Rainfall events in the watershed cause the high-flow conditions, and the increases of ammonia are evident.

C. Chapin asked if the increase of ammonia during rainfall events is a natural-occurring ammonia. Mr. Galloway feels there are various non-point sources that contribute, and will continue testing to decide causes. (Tape 1 Side 2 - 045)

H. Hutchinson asked how can the natural occurrence of ammonia be gauged. Willie Lane explained to the Commission how such estimates could be made using the data from the three surveys. During dry weather flow where there are minimal influences on the system ammonia levels were generally less than 0.2 mg/l. This is compared to levels of 0.5 to 0.6 mg/l during high flow caused by a storm event in the upper watershed. Based only on this information we would estimate that naturally occurring levels of ammonia in the river would be expected to be less than 0.2 mg/l. (Tape 1 Side 2 - 097)

A. Gutierrez asked E. Galloway how he planned to address the issue in compliance that your detection limit is higher than the chronic criteria by an order of magnitude, you have non detects at 0.2 verses 0.012 for the criteria. E. Galloway stated that 0.2 part per million is the laboratory detection for that method. (Tape 1 Side 2 - 107)

B. James asked Mr. Galloway if the lower Rio Grande is next on the consent decree. EPA hired Tetra Tech under contract to handle this project beginning in February 1998. Results of tests should be available by the end of the fiscal year. (Tape 1 Side 2 - 202)

Mr. Sandoval asked Mr. Galloway in general terms to describe the protocol for these evaluations handled by NMED and how far back they have recorded data. Mr. Galloway gave an explanation on data going back five years. (Tape Side 2 - 222)

**Item 6 - Information only update from William J. LeMay, Director, New Mexico Oil Conservation Commission regarding changes to OCC regulations.**

Postponed to the next scheduled meeting. (Tape 1 Side 1 - 080)

**Item 7 - Discussion/Possible Action Request by the New Mexico Soil & Water Conservation Commission regarding applicability of National Environmental Policy Act to implementation of prior TMDL settlement. (Tape 1 Side 2 - Count 224)**

Mr. Hutchinson and Mr. Simpson discussed point source, and non-point sources of impacts, and the benefits to the environment and social-economic conditions. (Tape 1 Side 2- 382)

**Tape 2 Side 1 - Count 000**

Discussion regarding the October 13, 1997, letter sent to EPA from the Soil & Water Conservation Department, and the EPA's letter dated November 12, 1997, response to the October 13, 1997, letter to the Soil & Water Conservation Department.

Stated: The agreements to which your letter refers concern development of total maximum daily loads under CWA §303(d), 33 U.S.C. §1313(d), not funding treatment plants or issuing "new source" discharge permits. Regardless of whether they would otherwise be considered major federal actions significantly affecting the human environment under NEPA or CEQ regulations, they may not be "deemed" such actions consistent with CWA 511(3) (1). Therefore, EPA will not prepare an environment impact statement on them.

B. James moved to receive, and file the letter from EPA dated November 12, 1997. B. Olson seconded the motion. The Motion passed unanimously. (Tape 1 Side 2 - 003)

**Item 8 - Next Meeting**

Chairperson Kelley introduced, and publicly welcomed Mr. Jim Davis, hired by the Environment Department to be Chief of the Surface Water Quality Bureau. (Tape 2 Side 1 - 025)

M. Leavitt explained her interest in a presentation given by Patrick Simpson regarding the Nick Van Tol case, and recommended scheduling it for the next meeting in January.

P. Simpson explained to the Commission the conditions for the Appeal Petition by Nick Van Tol. Mr. Simpson asked the Commission to make a motion for Mr. Nick Persampieri to be the authority for setting up hearing dates. The Commission took no action on this request. (Tape 2 Side 1 - 132)

Next meeting scheduled for January 13, 1998, Wednesday at 9:00 A.M..

**Item 9 - Other Business**

P. Simpson updated the Commission on the Forest Guardians and EPA. There was a brief discussion between Commission members and P. Simpson regarding a Stay. (Tape 2 Side 1 - 308)

B. James moved to adjourn the meeting. A. Sandoval seconded the motion. The motion passed unanimously. (Tape 2 - Side 1 - 313)

**Meeting adjourned at 10:20 a.m.**

  
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**Chairperson**