



STATE OF NEW MEXICO
WATER QUALITY CONTROL COMMISSION
1190 St. Francis Drive, Room N-4075
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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 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
May 12, 1998

The New Mexico Water Quality Control Commission (WQCC) held its meeting on May 12, 1998, along with the Soil & Water Conservation Commission. The joint meeting began at 9:00 a.m. at the Farm & Ranch Heritage Museum, 4100 Dripping Springs Road, Las Cruces, New Mexico. The following members were present.

Water Quality Control Commission

Present:

Ed Kelley	NMED
Thomas C. Turney	State Engineer Office
Bill Olson	Oil Conservation Division
Frank DuBois	Department of Agriculture
Howard Hutchinson	Soil & Water Conservation Bureau
Lynn Brandvold	Bureau of Mines & Mineral Resources
Irene Juliana Lee	Member-at-Large

Members Not Present:

Alberto Gutierrez	Member-at-Large
David Johnson	State Parks Division
Andrew Sandoval	Department of Game & Fish
Paul Gutierrez	Member-at-Large

Soil & Water Conservation Commission

Present:

Dusty Hunt	Region III
Ray J.R. Roybal	Region II
Doug Screws	Region V
Tony Popper	Commissioner at Large
Gretchen Samms	Region IV
Shelby Gilmore	Region VI
Alex Gonzales	Region I

Others Present:

Debra Gallegos	WQCC Adm. Secretary	Ricardo Chavez Rel	Dept. of Agriculture
Patrick Simpson	WQCC Legal Counsel-AGO	Michael Embesi	WSTF/NASA
Steve Pierce	SWQB	Cory Elson	NMDA
Marcy Leavitt	NMED	Robert Gutierrez	SC Pueblo Env. Dept.
Maxine Goad	NMED	Jeff Lewis	NM Dept. of Agriculture

Glenn Saums	NMED/SWQB	Dave Kascht	USDA/NRCS
Jenny Way	Spade Ranches	Brent Hunt	Holloman AFB
Fred Fisher	Holloman AFB	Steven Loring	Ag. Experiment Station
Mike Chavarria	SC Environmental Dept.	Andy Nunez	NMSU College of Ag.
Jim Wanstall	NMDA	Jack King	Sun-News
Trina Witter	Border Env. Health Coalition	Charles Trujillo	AWSD
Haywood Martin	NMED	Cheryl James	Anthony Water & Sanit. Dept.
Valecia Gavin	Border Env. Health Coalition & DACPZC		

Dusty Hunt, Commissioner Soil & Water Conservation called the joint meeting to order beginning with Salute to the Flag of New Mexico. J. R. Roybal lead the Invocation. (Tape 1 Side 1 Count 019)

Ed Kelley, WQCC Chairperson asked Commission members to introduce themselves with a brief background history, beginning with Frank DuBois.

Frank DuBois, Director NM Department of Agriculture. Secretary of the Agriculture for New Mexico, has a bachelors & master degree from NMSU, his family is from Corona, New Mexico.

Lynn Brandvold, Designee of the Bureau of Mines & Mineral Resources located at New Mexico Tech, Socorro, NM. Designee for Director, Dr. Charles Chapin. Chemist for the Bureau of Mines & Mineral Resources and runs the chemical laboratory.

Irene Lee, Member-at-Large for the WQCC. Has a degree in business administration from UNM. Involved with agriculture farming all her life and was born and raised in Albuquerque, NM.

Howard Hutchinson, Designee for the Soil & Water Conservation Commission. Lives in Glenwood, New Mexico, and has a background in water resources for 20 years.

Ed Kelley, Chairperson for the Water Quality Control Commission. Director for the Water Waste Management Division for New Mexico Environment Department. Holds a bachelor's degree in biology with a minor in geology. Masters degree in ecology with a minor in climatology. Ph.D. in Mine Reclamation, with a minor in geochemistry. A consultant for 8 years in reclamation and range ecology, range and forestry evaluations. Bureau Chief for the Coal Surface Mining Program. Director of Mining & Minerals Division for the Energy, Minerals & Natural Resources Department. Began working on Hazardous Waste issues for military facilities and numerous consultant firms through out the country regarding hazardous waste clean up evaluations and investigations.

Dusty Hunt, Chairman for Soil & Water Conservation and Region III, for southwestern part of state. Has a bachelors in zoology, studied chemistry at the Western New Mexico University. Has a master degree in Wild Life Management from New Mexico State University. A biologist for the State of New Mexico Game & Fish. Is part of the Grant of Soil & Water District, and is now a coordinator for the Gila Monster Water Shed. Owns and operates a ranch with cows & calves in Malaga Springs, New Mexico.

Thomas Turney, New Mexico State Engineer. Has a master degree from New Mexico State University and a master degree and bachelors in civil engineering, specializing in water.

Bill Olson is a hydrologist for the Oil Conservation Division. Works on ground water clean up of refineries, gas plants, oil activities. Has bachelors in geology. A master degree in hydrology from New Mexico Tech, and works on enforcement of Water Quality Control Commission Regulations at oil field facilities.

Ray J.R. Roybal, from Pojoaque. Commissioner for Region II and District Supervisor for the Santa Fe Pojoaque Soil & Water Conservation Service. Commissioner for the Region II, north portion of the state. Serves on the Mining Commission, and retired from Los Alamos, Fire Protection department back in 1972-1981.

Doug Screws, Commissioner for Region V, eastern part of the State. Supervisor for the Central Correctional Water Conservation District. Farms & ranches west of Clovis and is a father of two boys ages 10 and 6 years old.

Tony Popper, Commissioner at Large, and currently living in Rio Rancho, New Mexico. Originally from New York. Serves on city council, is retired and has recently gone back to work in his printing business.

Gretchen Samms, Commissioner for Region IV is a rancher and retiree.

Shelby Gilmore, Commissioner for Region VI, and supervisor for his district and is presently serving on the commission.

Alex Gonzales, Commissioner for Region I. Supervisor on the Weed and Land Division and retired from the State of New Mexico.

Chairman Hunt, introduced Ann Coleman, Commission Secretary for the Soil & Water Conservation who coordinates all the Soil & Water Conservation meetings.

Chairman Kelley, introduced Debra Gallegos, Commission Secretary for the Water Quality Control Commission who coordinates the Water Quality Control Commission meetings.

Chairman Kelley, introduced Pat Simpson who serves as the Counsel for the Water Quality Control Commission. (Tape 1 Side 1 Count 152)

Item 1 - Roll Call.

Ann Coleman began roll call for the Soil & Water Conservation:

Dusty Hunt	present	Gretchen Samms	present
Tony Popper	present	Doug Screws	present
Alex Gonzales	present	Shelby Gilmore	present
Ray "JR" Roybal	present		

Debra Gallegos called roll for the Water Quality Control Commission:

Frank DuBois	present	Ed Kelley	present
Lynn Brandvold	present	Thomas Turney	present
Irene Lee	present	Bill Olson	present
Howard Hutchinson	present		

Item 2 - Approval of Agenda.

Chairman Kelley, introduced Glenn Saums with the Surface Water Quality Bureau, who will be giving a presentation on Water Quality Law & Regulations.

Glenn Saums, Health Program Manager I, handed out booklets to all Commissioners. Mr. Saums presented an outlook on the Water Quality Law & Regulations with issues followed by a brief discussion.

There was a discussion between Howard Hutchinson, and Mr. Saums regarding Clean Water Act (CWA) percentages of pollution and the most recent updated percentages listed. Mr. Saums requested specific information to be forwarded to Mr. Hutchinson and all interested parties.

There was a discussion between Howard Hutchinson, and Marcy Leavitt, Bureau Chief for the Ground Water Quality Bureau regarding the process to grant a variance, and the history. The last Variance Hearing was handled two years ago through the WQCC. Ms. Leavitt indicated another process of an Alternative Abatement Standard (AAS), which also falls under a variance. The AAS involves ground water contamination, which is cleaned up to a certain level other than WQCC standards. The Ground Water Bureau will be seeing more AAS that will be handled in the next few years.

Frank DuBois moved to express the Commission's appreciation for the presentation made by Glenn Saums. Howard Hutchinson seconded the motion. The motion carried. (Tape 1 Side 2 Count 099)

Ed Kelley entertained a motion to move minutes to Item 10. Item 5 will be move to Item 2, and make Item 10 to Item 6. Howard Hutchinson moved to amend the agenda, Item 3 to Item 6 and Item 5 to move up to Item 3. Frank DuBois seconded the motion. The motion carried. (Tape 1 Side 2 Count 136)

Dusty Hunt, Chairman for the Soil & Water Conservation (SWC) handed out packets to all Commissioners, and gave a background history of their mission. The Soil & Water Conservation Districts was originally formed in 1937.

Mission and Goals:

- Credit for practice on contour plowing/leadership.

- Viewed as a mechanism to provide local leadership to make organizations, like Soil & Water Conservation districts.
- Promote conservation on private land.
- Promote conservation on public land.
- Conserve natural resources for the sake of sustained yields in the future.

The Soil & Water Conservation Commission packet contains a three page handout which includes the New Mexico Statutes, Soil & Water District Act dated 1978, Chapter 73-20-25 through 73-20-49. Legislative determination and purpose of the Act listed below:

- Control and prevent soil erosion.
- Prevent floodwater and sediment damage.
- Further the conservation, development, and beneficial application for fish and proper disposal of water.
- Promote the use of impounded water for recreation, propagation of fish and wildlife, irrigation and for urban and industrial needs.
- By the application of these measures, conserve and develop the natural resources of the state, provide for flood control, preserve wildlife, protect the tax base and promote the health, safety and general welfare of the people of New Mexico.

Examples are:

Flood Control	Land Erosion	Water Impoundment	Wildlife Habitat
Stabilize Streambanks	Plant Snow Fences	Range Drills	Plant native grasses in damaged areas

Chairman Hunt explained how the Commission considers and approves of Terrain Management practices for subdivisions, most of the technical support comes from the Natural Resource Conservation Service formally, Soil & Water Conservation Service represented by Dave Cash. Mesa District near Roy, New Mexico is the first Soil & Water District in New Mexico, and recently celebrated their 60th anniversary, and it formed in 1938.

- Each Commissioner is appointed by the Governor to serve and reflects the philosophy of the Governor. The Governor selects Commissioners from the Soil & Water Conservation District Supervisors.
- Each District is made of 5 to 7 supervisors, two supervisors are appointed by the Soil & Water Conservation Commission.
- Each supervisor stands for public election every 3 years.
- There are 47 districts in the State.
- There are 300 supervisors.
- There are 13,000 cooperators.
- Each cooperator is an agricultural producing family, and request technical assistance from our partnership.

The Soil & Water Conservation Commission sits on the:

- Coal Surface Mining Commission, represented by Roy "J.R." Roybal.
- Hard Rock Mining, represented by Roy "J.R." Roybal.
- New Mexico Relief Board, represented by Alex Gonzales.

➤ **Water Quality Control Commission, represented by Howard Hutchinson.**

The Commission is a conduit by which natural resource issues occurring on private land can be conveyed to the Governor, and followed through the Secretary of Agriculture, Frank DuBois. District Commissioners come from the ranks of the supervisors.

Districts throughout the State are able to collect mill levy's following a successful referendum. The Commission is able to approve the rate of a levy in each district annually, and is able to approve the boundaries and where they lay. The district in the past several years received \$265,000.00 dollars from the legislature and is allowed to allocate the dollars. Dividing funds in half allows funds to be utilized into projects, and the other half into district operations. Districts are able to generate \$1,750,000 of mill levy dollars, and \$2,730,000 of grant dollars which is focused on natural resources throughout the state.

Tony Popper indicated that each district supervisor is mandated to submit a subdivision report along with the Highway Commission report presented to the County. (Tape 2 Side 1 Count 258)

There was a discussion and description on Supervisors duties in each District. Among the Commissioners, Gretchen Samms expressed concerns regarding landowners and the process of approving the plans. Shelby Gilmore expressed how supervisors are involved in farm programs and issues, and the process in conjunction with Farm Service Agency (FSA) and Natural Resource Conservation Service (NRCS). Alex Gonzales mentioned how the supervisors oversee the funding, and the distribution of the funds, and how they inform cooperators of all changes and the availability of funds. Tony Popper mentioned that supervisors are national guardians for watersheds. Roy Roybal, stated supervisors in each district are involved with flood control and responsible for maintaining flood control lands. Results of flooding can require an overhaul of areas due to deterioration and mud sliding, pipe linings, and river diversions. One large issue is educating the public. (Tape 2 Side 2 Count 028)

Mr. Turney explained that there was a change in the state Statutes last year regarding water rights and forfeiture. The Statute requires forfeiture if water rights were not used for four consecutive years before 1965. After 1965, the State Engineer has to give notification that the water rights will be forfeited if not put to use within one year. A statutory change made this year gives organizations and individuals the ability to place their water rights in a water conservation program, approved by the State Engineer's Office. This water conservation program protects against the forfeiture of water rights.

Mr. Turney also mentioned a weather modification and its potential impact in the eastern half of New Mexico. Currently, the underground water is declining, and \$100,000 dollars has been set aside by the ISC for long-range studies concerning rainfall enhancement. Reports in Texas have indicated an increase of 1 to 2 inches of rain a year from rainfall enhancement. This funding will continue in the next several years to see if this method will enhance precipitation. (Tape 2 Side 2 Count 107)

Chairman Kelley suggested a 10-minute break.

Thomas Turney gave a brief summary regarding the Forest Guardians (FG) lawsuit on compacts on four interstate rivers - the Rio Grande River, Pecos River Basin, Upper Colorado River Basin, and the Rio Costilla Creek.

Forest Guardians claims the compact Commissions are conducting federal actions.

This conclusion is apparently based on the statute creating the compacts, passed in New Mexico and adopted by Congress.

FG is claiming Commissions are not in compliance with the "Clean Water Act" (CWA), the "Endangered Species Act" (ESA), and "National Environmental Policy Act" (NEPA). FG filed a notice of intent to sue, unless the Commissions begin to obviate FG concerns by initiating preparation of environmental impact statements, prepare a mutually agreeable schedule of compliance, and initiate formal consultation with the U.S. Fish & Wildlife. The New Mexico Environment Department was served with a formal notice on May 11, 1998 of their intent to file citizen suits to correct. (Tape 2 side 2 Count 296)

Chairperson Kelley asked the audience for comments and to express their concerns regarding issues in front of both Commissions and the Joint Meeting. None were expressed. (Tape 2 Side 2 Count 332)

Chairman Hunt referred to the study and SWCC agenda regarding the "Improving communication and coordination of the legislative agenda prior to the legislative session". Mr. Dubois suggested developing a team that will present language changes regarding issues that will be considered brought forwarded to the legislative. The second suggestion is to coordinate a team to communicate with the interim-committee. Chairman Kelley recommended developing a team immediately and to involve specific agencies with specific jobs related and to meet on a regular basis before the legislative session. (Tape 3 Side 1 Count 019)

Chairman Hunt referred to the second item on the SWCC agenda, "Developing a protocol of communication between constituent agencies within the Water Quality Control Commission and the SWCC in order to become more productive", Chairman Hunt attained a motion to have the WQCC and the Soil & Water Conservation meet jointly once a year. Chairman Kelley encouraged a motion to have a joint meeting once a year.

Gretchen Samms moved for the Soil & Water Conservation to have a Joint Meeting once a year. Shelby Gilmore seconded the motion. The motion carried. (Tape 3 Side 1 Count 121)

Howard Hutchinson moved for the Water Quality Control Commission and the Soil & Water Conservation Commission to have a Joint Meeting once a year. Irene Lee seconded the motion. The motion carried. (Tape 3 Side 1 Count 125)

Frank DuBois expressed his appreciation towards the Joint Meeting brought today and the issues discussed.

Chairman Hunt announced that the next Joint Meeting will be at this time next year. At this point in time the Soil & Water Conservation Commission will conduct their regular meeting separately. The Water Quality Control Commission will proceed with their regular meeting in the same conference room. (Tape 3 Side 1 Count 373)

There was a discussion between Howard Hutchinson, Chairman Kelley, Frank DuBois, Patrick Simpson, Lynn Brandvold, and Thomas Turney regarding a "Litigation Fund" that will support and defend the states rights, and the resources of the people in the state of New Mexico against lawsuits brought before the State. The Litigation Fund would be available to all state agencies according to the merits of the case.

The idea is to develop and present the "Litigation Fund" to legislators and express the importance of the fund and reasons for approval.(Tape 3, Side 1 Count 407)

Joint Meeting adjourned at 12:00 p.m.

The Water Quality Control Commission regular meeting began at 1:40 p.m. on May 12, 1998.

Item 2 - Approval of the Agenda

Chairman Kelley made a recommendation to move Item 8 to be Item 5. Item 7 will be Item 6. Item 6 will be Item 7. Item 3 will be Item 8. Item 9 will be Item 9. Review of the April 14, 1998 minutes was tabled.

Item 1- Roll Call. **Item 2 -** Federal Clean Water Act. **Item 3 -** Approval of the Agenda. **Item 4 -** Other Business. **Item 5 -** Request to amend sec. 108 & 204 of 20 NMAC7.5 public hearing. **Item 6 -** Update of Triennial Review. **Item 7 -** Update by SWQB on proposed CPP. **Item 8 -** Review of the December 9, 1997/January 13, 1998/March 10, 1998 minutes. **Item 9 -** Next Meeting. Review of the April 14, 1998 minutes will be deleted.

Lynn Brandvold moved to revise the agenda requested by Chairman Kelley. Bill Olson seconded the motion. The motion carried. (Tape 3 Side 2 Count 041)

Item 5 - Request to amend Sections 108 and 204 of NMAC Title 20 Chapter 7 Part 5, and go to Public Hearing.

Haywood Martin, Chief of the Construction Programs Bureau, gave the Commission a handout and a brief presentation that requested a hearing of the amended sections 108 and 204. The purpose of the amendments to the regulations is to allow the NMED to fund combination loan/grants to eligible communities in New Mexico under 20 NMAC 7.5. Mr. Martin requested the Commission set a hearing date of July 14, 1998.

Howard Hutchinson moved to set a hearing date on July 14, 1998 for 20 NMAC 7.5 sections 108 and 204. Bill Olson seconded the motion. The motion carried. (Tape 3 Side 2 Count 149)

Item 6 - Update on the Triennial Review of the New Mexico "Standards for Interstate and Intrastate Streams" and request for a hearing date.

Steve Pierce, Surface Water Quality Bureau, presented information concerning the ongoing triennial review of the New Mexico water quality standards. He also requested a hearing date of September 21, 1998, with public notice to be provided on or before June 8.

This notice would cover a period of 105 days, with proposals from all parties for changes to the water quality standards being due to the WQCC by 5:00 p.m., July 22. All parties intending to provide technical testimony at the hearing must file a notice of intent (NOI) by 5:00 p.m., August 21. (Tape 3 Side 2 Count 257)

Chairman Kelley asked whether, during the last triennial review, the hearing was presided over by the Commission or by a hearing officer, with members of the Commission being present. Mr. Pierce responded that a hearing officer presided during the last triennial review.

Lynn Brandvold moved to have a hearing officer for the triennial review hearing. Howard Hutchinson seconded the motion. The motion carried.

Bill Olson moved to accept the department's petition and set the triennial review hearing on September 21, 1998. Lynn Brandvold seconded the motion. The motion carried. (Tape 3 Side 2 Count 351)

Item 7 - Update by the Surface Water Quality Bureau (SWQB) on proposed amendments to the Continuing Planning Process (CPP), including the expanded section concerning the plan for implementation of stream standards. For information on the CPP and implementation plan please contact Maxine Goad, SWQB, 1190 St. Francis Drive, Santa Fe, NM 87502, Telephone (505)827-2156.

Maxine Goad, Surface Water Quality Bureau (SWQB), gave a presentation on proposed amendments to the "State of New Mexico Continuing Planning Process" (CPP). She explained the legal background of the CPP, the amendments being proposed to the 1987 CPP now in effect, and the public participation process to lead up to adoption of the amendments. A draft of proposed amendments had been provided to the Commission and released to the public for comment on January 13, 1998. A new draft, which takes into consideration comments received on the January draft, including comments received today, will be released on May 15, 1998 for public comment. As was announced in the public notice of proposed amendments to the CPP, the written comment period on these new draft amendments is to extend from May 15, 1998 through 5:00 p.m. on June 15, 1998. Both written and verbal comments will be accepted at the regularly scheduled Commission meeting of June 9, 1998. Following the June 15, 1998 close of the comment period and consideration of comments received, a final draft will be prepared and submitted to the Commission for consideration for adoption at its regular meeting of July 14, 1998.

Several Commissioners asked questions, made corrections and offered suggestions to improve the proposed amendments to the CPP.

Commissioner Bill Olson asked about the letter to the Commission from Amigos Bravos dated May 6, 1998 requesting an extension of the comment period and a public hearing on the proposed amendments to the CPP. Ms. Goad explained that Environment Department attorney Greg Ridgley, regular Commission attorney Tannis Fox, and representatives of the federal Environmental Protection Agency all agreed that a formal public hearing was not required for amendment of the CPP, and that the public participation described above exceeds the public participation requirements for this document. Patrick Simpson, attorney for the Commission for this meeting, concurred. Chairman Kelly proposed, and other Commissioners agreed, to ask Tannis Fox, Commission attorney, to respond to Amigos Bravos and explain to them that the ongoing and planned public participation procedures were adequate. (Tape 4 Side 2 Count 131)

Item 8 - Review of the Proposed minutes of December 9, 1997, January 13, 1998 and March 10, 1998.

The Chairman requested review of the December 9, 1998, minutes be postponed until the next meeting.

Frank DuBois moved to adopt the January 13, 1998, amended minutes. Lynn Brandvold seconded the motion. The motion carried.

Bill Olson moved to adopt the March 10, 1998, amended minutes. Frank DuBois seconded the motion. The motion carried. (Tape 4 Side 2 Count 581)

Item 9 - Next Meeting.

Next meeting is scheduled for Tuesday June 9, 1998.

Irene Lee moved to adjourn the meeting. Frank DuBois seconded the motion. The motion carried.
Meeting adjourned at 3:45 p.m.

Peter Maggiore 12/15/98

Chairperson