



**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  
June 9, 1998

The New Mexico Water Quality Control Commission (WQCC) held its meeting on June 9, 1998. The meeting began at 9:10 a.m. at the State Capitol Building, Room 317, Paseo de Peralta and Old Santa Fe Trail, Santa Fe, New Mexico. The following members were present.

**Water Quality Control Commission**

**Present:**

- |                   |                                      |
|-------------------|--------------------------------------|
| Bill Kelley       | NMED                                 |
| Thomas C. Turney  | Office of the State Engineer         |
| Bill Olson        | Oil Conservation Division            |
| Ricardo Rel       | Department of Agriculture            |
| Paul Gutierrez    | Member-at-Large                      |
| Howard Hutchinson | Soil & Water Conservation Commission |
| 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 |

**Others Present:**

- |                 |                               |                |                |
|-----------------|-------------------------------|----------------|----------------|
| Debra Gallegos  | WQCC Adm. Secretary           | Karen Breslin  | WQCC Secretary |
| Tannis Fox      | WQCC Legal Counsel-AGO        | Erik Galloway  | SWQB           |
| Steve Pierce    | SWQB                          | Jim Davis      | SWQB           |
| Maxine Goad     | NMED                          | Brian Shields  | Amigos Bravos  |
| Haywood Martin  | NMED                          | Mike Saladen   | LANL           |
| Sterling Grogan | Middle Rio Grande Conservancy | Monte Anderson | MMD            |

**Item 1 - Roll Call**

The WQCC Secretary, Debra Gallegos, took roll call.

**Item 2 - Approval of Agenda.**

Bill Olson moved to table Item 4, for time to review. Paul Gutierrez seconded the motion. The motion passed unanimously.

Paul Gutierrez moved to accept the amended agenda. Lynn Brandvold seconded the motion. The motion passed unanimously.

**Item 3 - Review of the tabled/proposed minutes of December 9, 1997.**

Lynn Brandvold moved to accept the December 9, 1997 minutes with corrections to wording. Bill Olson seconded the motion. The motion passed unanimously.

**Item 4 - Review of the proposed minutes of April 14, 1998.**

Bill Olson moved to table Item 4, for time to review. Paul Gutierrez seconded the motion. The motion passed unanimously.

**Item 5 - Request to amend Sections 108 and 204 of NMAC Title 20 Chapter 7 Part 5 and go to Public Hearing in the Water Quality Control Commission meeting in August.**

Haywood Martin, Chief of the Construction Programs Bureau, gave the WQCC a brief presentation of the 20 NMAC 7.5 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 WQCC reschedule the hearing (originally set for July 14, 1998) for August 11, 1998.

Lynn Brandvold moved to reschedule the hearing date for August 11, 1998 for 20 NMAC 7.5 sections 108 and 204. Ricardo Rel seconded the motion. The motion passed unanimously. (Tape 1 Side 1 Count 141)

**Item 6 - Opportunity for public comment on and discussion of proposed amendments to the State of New Mexico Continuing Planning Process (CPP). The CPP and amendments thereto are in fulfillment of Section 303(e) of the federal Clean Water Act, of 40 CFR 130.5, and of Section 74-6-4 (B) of the New Mexico Water Quality Act. Written comments on the proposed amendments will be accepted until June 15, 1998. Both verbal and written comments will be accepted at the June 9, 1998 commission meeting. Interested persons may obtain more information and may request a copy of the proposed amendments from, and may submit written comments to, Maxine S. Goad, NM Environment Department, Surface Water Quality Bureau, 1190 St. Francis Drive, P. O. Box 26110, Santa Fe, NM 87502, Telephone (505) 827-2156, Fax (505) 827-0160.**

Maxine Goad, Surface Water Quality Bureau (SWQB), reviewed the status of the CPP. The proposed amendments to the CPP were placed on the agenda for the WQCC meeting of January 13, 1998, and on that date the Bureau released the preliminary draft amendments to the Commission and to the public for public response. Comments received on the January draft were from Environmental Protection Agency (EPA), New Mexico Department of Agriculture (NMDA), New Mexico Soil and Water Conservation Commission (NMSWCC), and the New Mexico

Association of Conservation Districts (NMACD). Public notice was issued in late April notifying the public of proposed CPP amendments and the availability of the revised public comment draft, which would be made available on May 15, 1998, with comments to be received by June 15, 1998. The public notice included the announcement that the WQCC would receive public comments at its June 9, 1998, meeting. The Bureau also issued a press release. On May 12, 1998, the Water Quality Control Commission (WQCC) held a joint meeting with NMSWCC. At the joint meeting a detailed presentation on the CPP was presented to the Commissioners and audience. Comments were received from the attending Commissioners. The SWQB on May 15, 1998, sent a revised public comment draft to each Commissioner, to all persons who previously made comments, and to all persons who requested a copy. After consideration of all comments received by the June 15, 1998, deadline, the Environment Department will prepare a final CPP draft and submit it to the Commission for their consideration. The SWQB will then ask the Commission to consider the CPP proposed amendments at the next WQCC meeting to be held in July, 1998. Ms. Goad then asked Chairperson Kelley to open the meeting for public comments for the CPP.

Brian Shields, Executive Director for Amigos Bravos handed the Commissioners copies of Amigos Bravos' written comments on the CPP proposed amendments. Mr. Shields stated that reports to the State Corporation Commission showed part of their mission is to "return Rio Grande watersheds and the New Mexico rivers to drinkable waters." Amigos Bravos has identified several items and issues of concern. Amigos Bravos' May 6, 1998, request for the Commission to delay the proceedings and hold a public hearing on the CPP was never addressed, which resulted in delaying the comment process. Therefore, Amigos Bravos requested that the Commission delay any further action on the issue and withhold the proposal until the Environment Department conducts a public hearing on the matter. Amigos Bravos further requested that the Commission abstain until they could analyze ramifications of the biennial review of the Surface Water Quality standards.

Tannis Fox, WQCC attorney, explained to Mr. Shields that the Commission did request that she respond to the letter received on May 12, 1998. T. Fox explained that she did review very closely the question of whether the WQCC requires a public hearing, and it is clear under federal law that the WQCC is not required to hold a public hearing on amendments to the CPP. (Tape 1 Side 1 Count 409)

Howard Hutchinson stated to Mr. Shields that he will review each comment made by Amigos Bravos, and will be prepared to respond in the next WQCC meeting. (Tape 1 Side 2 Count 111)

Maxine Goad pointed out to the Commission that they mailed all notices including formal notice of the CPP comment period to a list of approximately 170 people. SWQB issued a press release to make contact with any interested parties about the comment period. (Tape 1 Side 2 Count 141)

Bill Olson explained that they discussed the issue regarding the Amigos Bravos letter in the May 12, 1998, WQCC meeting. The Commission considered it adequate for interested parties to submit written comments and for the WQCC to conduct a public participation process at the June 9 meeting. The Commission will consider any comments submitted in the June 9, 1998, meeting and have some discussion in the next scheduled meeting in July. (Tape 1 Side 2 Count 223)

Howard Hutchinson asked M. Goad if any other comments were received, and if so, did she analyze each comment omitted. M. Goad responded that she has reviewed all comments received, and will review any new comments that are received by June 15, 1998. (Tape 1 Side 2 Count 243)

Thomas Turney asked M. Goad about page 22 of the proposed amendments that refers to, "Updates that may or may not affect substantial numbers of people or generate significant public interest." T. Turney asked for an explanation of what is considered "significant public interest," and how the SWQB has dealt with those issues in the past. M. Goad explained she had been working on the CPP since last year and SWQB has made no changes for several years. There are no guidelines to determine what is "significant public interest" to hold a public hearing, that it is decided case by case. T. Fox mentioned that the wording "significant public interest" is not a legal issue, only a policy issue decided by the Commission; it is up to the Commission to decide upon conducting a public hearing. (Tape 1 Side 2 Count 374)

**Item 7 - Nick Van Tol d/b/a Van Tol Dairy, No. WQCC 98-01 and No. 97-01 Compliance Order.**

Tannis Fox briefed the commission on the status of the appeals regarding NMED's denial of Van Tol's application to renew his discharge permit and the Compliance Order issued by NMED to Van Tol for failure to cease discharging from the Van Tol Dairy. The Compliance Order hearing began, but was stayed indefinitely due to settlement of the Compliance Order issues. The discharge permit appeal was also stayed indefinitely. Both appeals were stayed pending satisfactory completion of the site cleanup and closure activities. The cleanup and closure activities must occur within one year, and upon completion the WQCC can dismiss both matters. (Tape 2 Side 1 Count 045)

**Item 8 - Next Meeting.**

Next WQCC schedule meeting for Thursday, July 23, 1998.

**Item 9 - Other Business.**

The Commission suggested placing appointment of a hearing officer for the triennial review in the next scheduled meeting agenda. (Tape 2 Side 1 Count 199)

Bill Olson moved to adjourn the meeting. Paul Gutierrez seconded the motion. The motion passed unanimously.

Meeting adjourned at 10:20 a.m.

  
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Chairperson