



**STATE OF NEW MEXICO
WATER QUALITY CONTROL COMMISSION**

1190 St. Francis Drive, Room N2150

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Santa Fe, New Mexico 87502

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Constituent Agencies

Environment Department
Office of State Engineer
Game and Fish Department
Oil Conservation Division
Department of Agriculture
State Parks Division
Soil and Water Conservation Commission
Bureau of Geology and Mineral Resources
Municipal/County Representative
Members -at Large

Approved: April 14, 2004

**Minutes of the
New Mexico Water Quality
Control Commission Meeting
January 13 & 14, 2004**

The New Mexico Water Quality Control Commission (WQCC) meeting was held on January 13, 2004, at the New Mexico PERA Building, Apodaca Hall in Santa Fe, New Mexico.

MEMBERS PRESENT: January 13, 2004

Derrith Watchman-Moore	Acting Chair, New Mexico Environment Department
Cheryl Bada	State Parks Division
Mike Sloane	Department of Game and Fish
Steve Glass	City of Albuquerque - Municipal/County Representative
Maxine Goad	Member-at-Large
Edward Vigil	Member-at-Large
Howard Hutchinson	Soil and Water Conservation Commission
Greg Lewis	for Doug Murray, Office of State Engineer
Lynn Brandvold	Bureau of Geology and Mineral Resources
Bill Olson	Oil Conservation Division

MEMBERS ABSENT: January 13, 2004

Fred Lujan	Member-at-Large
Julie Maitland	Department of Agriculture

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Derrith Watchman-Moore	Acting Chair, New Mexico Environment Department
Cheryl Bada	State Parks Division
Mike Sloane	Department of Game and Fish
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Maxine Goad	Member-at-Large
Howard Hutchinson	Soil and Water Conservation Commission
Lynn Brandvold	Bureau of Geology and Mineral Resources

Bill Olson

Oil Conservation Division

MEMBERS ABSENT: January 14, 2004

Fred Lujan Member-at-Large
Julie Maitland Department of Agriculture
Edward Vigil Member-at-Large
Greg Lewis for Doug Murray, Office of State Engineer

OTHERS PRESENT:

Zack Schandler, WQCC Counsel	Geraldine Madrid-Chavez
Peter Wilkinson	Yvette Paroz
David Propst	Lynette Guevara
Roderick Ventura	Brian Shields
Jerry Schoeppner	Dal Moellenberg
Kit Roush	Brian Lematta
Charles Lundstrom	Fred Fisher
Ana Marie Ortiz	David Mercer
Christina Kelso	Brad Reid
Maura Hanning	Fred Kalish
Paul Halajian	Clint Marshal
Charlie de Saillen	John Kelly
Stuart Butzier	Ann McCampbell, Via Telephone
Jim Norton	

Ms. Derrith Watchman-Moore, Acting Chair, called the meeting of the WQCC to order at 9:00 a.m.

Item #1: Roll Call

Geraldine Madrid-Chavez took roll and noted a quorum was present.

Item #2: Approval of the Agenda

ACTION: Commissioner Sloane moved to approve the agenda as presented. Commissioner Brandvold seconded. Motion carried unanimously.

Item #3: Presentation by New Mexico Game & Fish on the status update of the Gila Trout and Rio Grande Cutthroat Trout Restorations.

Mr. Peter Wilkinson, Mr. David Propst and Ms. Yvette Paroz gave a power point presentation to the Commission on the status update of the Gila Trout and Rio Grande Cutthroat Trout Restoration. The following handouts were discussed and distributed to the Commission:

- Restoration of Costilla #1 Creek to Rio Grande Cutthroat Trout July 2002 – October 2003
- Renovation of West Fork Gila River for Restoration of Gila Trout – September 28 – October 3

- Reintroduction of Rio Grand Cutthroat Trout Into the Waters of Costilla #1 Creek in Colorado and New Mexico
- Environmental Assessment for Restoration of Gila Trout to the Upper West Fork Gila River, Catron County, New Mexico.

Item #4: Formal approval and adoption into the State’s Water Quality Management Plan of the revised Cieneguilla Creek metals (chronic aluminum), turbidity, and fecal coliform TMDLs.

Ms. Lynette Guevara, Surface Water Quality Bureau, requested approval and adoption into the State’s Water Quality Management Plan of the revised Cieneguilla Creek metal, turbidity and fecal coliform TMDLs. Ms. Guevara informed the Commission the reason for the revisions is that the Village of Angel Fire Waste Water Treatment Plant plans to discharge treated effluent into Cieneguilla Creek. When these TMDLs were originally developed and approved, there were not point sources in Cieneguilla Creek. The TMDLs needed to be revised in order to include waste load allocation for aluminum, fecal coliform and turbidity and to examine potential surface water quality impacts associated with this point source. Ms. Guevara noted that the 30-day public comment period started October 14th and ended November 13th.

ACTION: Commissioner Olson moved to approve and adopt into the State’s Water Quality Management Plan of the revised Cieneguilla Creek metals (chronic aluminum), turbidity, and fecal coliform TMDLs. Commissioner Sloane seconded. Motion carried unanimously

At this time Mr. Kit Roush and Ms. Cindy Huntsman joined the Commission for the briefing and presentation of proposed amendments to the Utility Operator Certification Act.

Item #5: Briefing on proposed amendments to the Utility Operator Certification Act – Presenters Ana Marie Ortiz & Charles Lundstrom

Mr. Charles Lundstrom, Division Director of Water Waste Management, and Ms. Ana Marie Ortiz, Director of NMED Field Operation Division, gave a briefing on the proposed amendments to the Utility Operator Certification Act. Mr. Lundstrom noted that the Utility Operators Certification Board has had input in the draft of the amendments. The Board approved the attachments.

At this time Mr. Jim Norton sat in for Ms. Derrith Watchman-Moore as Acting Chair.

Item #6: Deliberations and Possible Decision In the matter of Richard’s Septic Service.

After deliberations and amendments the following action was taken:

ACTION: **Commissioner Olson moved that the Commission accept the facts as presented by the Environment Department that the incidents did occur. Commissioner Sloane seconded. Motion carried unanimously.**

ACTION: **Commissioner Goad moved Richard's Septic Service be instructed, if they wish to make the ability to pay argument, they need to submit all required information within 35 days to the Environment Department. If adequate information is not received by the 35th day the Garcias have forgone their opportunity to make the financial ability to pay argument. If Richard's Septic does submit the information the Environment Department should go ahead and use their usual procedures. Commissioner Sloan seconded. Motion carried unanimously.**

ACTION: **Commissioner Olson moved the Commission uphold the Environment Departments fine for the River Property (violations 1, 2 & 6) in the amount of \$40,000. Commission Goad seconded. Motion carried unanimously.**

ACTION: **Commissioner Glass moved to reduce the penalty for violations 3 – 5, disposal into an open tank in the Mountain Property to \$1500 per occurrence for a total of \$4,500. Commissioner Hutchinson seconded. A roll call vote was taken and the results are as follows:**

Commissioner Vigil	Yes
Commissioner Goad	No
Commissioner Brandvold	Yes
Commissioner Hutchinson	Yes
Commissioner Sloane	No
Commissioner Glass	Yes
Commissioner Bada	No
Commissioner Olson	Yes
Commissioner Lewis	Recused
Commissioner Norton	No

Vote is 5 – 4; with 1 Recusal. Motion failed.

ACTION: **Commissioner Olson moved to assess a fine of \$4500, based upon a major deviation, for each violation totaling \$13,500 for a fine to be assessed on the Mountain Property for discharge violations. Commissioner Glass seconded. A roll call vote was taken and the results are as follows:**

Commissioner Vigil	Yes
Commissioner Olson	Yes
Commissioner Goad	Yes
Commissioner Brandvold	Yes
Commissioner Hutchinson	Yes
Commissioner Sloane	No

Commissioner Glass	Yes
Commissioner Bada	Yes
Commissioner Norton	No

Vote is 7 –2; Motion Carried.

At this time Ms. Derrith Watchman-Moore returned as Acting Chair.

Item #7: Deliberations and Possible Decision In the Matter of Tyrone’s Motions

A. Tyrone’s Motion to Disqualify Commissioner Goad

Commissioner Goad removed herself from the Commission for the above listed item.

After oral arguments, discussion and deliberations the following action was taken:

ACTION: Commissioner Hutchinson moved the Commission deny Tyrone’s Motion to Disqualify Commissioner Goad. Commissioner Olson seconded. A roll call vote was taken and the results are as follows:

Commissioner Vigil	Yes
Commissioner Olson	Yes
Commissioner Brandvold	No
Commissioner Hutchinson	Yes
Commissioner Sloane	No
Commissioner Glass	Yes
Commissioner Bada	Yes
Commissioner Watchman-Moore	Yes

Motion carries with a 6-2 vote.

B. Tyrone’s Motion for Closing Arguments

After oral arguments, discussion and deliberations the following action was taken:

ACTION: Commissioner Sloane moved to allow 45 minutes by each party for Closing Oral Arguments with no questions by the Commission. Commissioner Olson seconded. A roll call vote was taken and the results are as follows:

Commissioner Vigil	No
Commissioner Olson	Yes
Commissioner Goad	Yes
Commissioner Brandvold	No
Commissioner Hutchinson	No
Commissioner Sloane	Yes
Commissioner Glass	No

Commissioner Bada No
Commissioner Watchman-Moore Yes

Motion failed with a vote of 4-5.

ACTION: Commissioner Brandvold moved to allow 45 minutes by each party for Closing Oral Arguments and to allow the Commission to ask questions limited to the record. Commissioner Vigil seconded. A roll call vote was taken and the results are as follows:

Commissioner Vigil Yes
Commissioner Olson No
Commissioner Goad Yes
Commissioner Brandvold Yes
Commissioner Hutchinson Yes
Commissioner Sloane No
Commissioner Glass Yes
Commissioner Bada No
Commissioner Watchman-Moore No

Motion failed with a vote of 5-4.

ACTION: Commissioner Hutchinson moved to reconsider Commissioner Sloane's original motion. Commissioner Olson seconded. A roll call vote was taken and the results are as follows:

Commissioner Vigil Yes
Commissioner Goad Yes
Commissioner Brandvold Yes
Commissioner Hutchinson Yes
Commissioner Sloane Yes
Commissioner Glass Yes
Commissioner Bada Yes
Commissioner Olson Yes
Commissioner Watchman-Moore Yes

Motion carries unanimously.

ACTION: Commissioner Sloane moved to allow 45 minutes by each party for Closing Oral Arguments with no questions by the Commission. Commissioner Olson seconded. A roll call vote was taken and the results are as follows:

Commissioner Vigil No
Commissioner Goad Yes
Commissioner Brandvold Yes
Commissioner Hutchinson Yes

Commissioner Sloane	Yes
Commissioner Glass	Yes
Commissioner Bada	No
Commissioner Olson	Yes
Commissioner Watchman-Moore	Yes

Motion carries with a vote of 7-2.

C. The Department’s Motion to Exclude the Testimony of Brian McDonald

After oral arguments, discussion and deliberations the following action was taken:

ACTION: Commissioner Brandvold moved to deny the Department’s Motion to Exclude the Testimony of Brian McDonald. Commissioner Hutchinson seconded. Motion carried unanimously.

D. The Department’s Motion for Partial Dismissal

After oral arguments, discussion and deliberations the following action was taken:

ACTION: Commissioner Glass moved to deny the Department’s Motion for Partial Dismissal. Commissioner Hutchinson seconded. Motion failed with a vote of 5 – 3 vote. “NO” votes were by Commissioner Olson, Commissioner Goad and Commissioner Watchman-Moore.

ACTION: Commissioner Glass moved to reconsider his original motion. Commissioner Hutchinson seconded. Motion carried unanimously.

ACTION: Commissioner Glass moved to deny the Department’s Motion for Partial Dismissal. Commissioner Hutchinson seconded. Motion carried with a vote of 6 – 2. “NO” votes were by Commissioner Olson & Commissioner Goad.

Item #8: Approval of the October 14, 2003 & November 12, 2003 Meeting Minutes.

ACTION: Commissioner Brandvold moved to approve the October 14, 2003 minutes as presented. Commissioner Goad seconded. Motion carried with one abstention by Commissioner Bada.

ACTION: Commissioner Sloane moved to approve the November 12, 2003 minutes as amended. Commissioner Hutchinson seconded. Motion carried with one abstention by Commissioner Olson.

Item #9: Other Business

Mr. Zach Shandler, Counsel for the Commissioner, explained handouts that were previously passed out to each Commissioner.

Item #10: Next Meeting

The next meeting of the Water Quality Control Commission is scheduled for March 9 & 10, 2004.

ACTION: Commissioner Sloane moved to adjourn. Commissioner Brandvold seconded. Motion carried unanimously.

WQCC Chair