

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

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Constituent Agencies

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

**Draft Minutes
New Mexico Water Quality Control Commission
Regular Meeting
March 13, 2012
9:00 a.m.
New Mexico State Capitol Building Room 317
490 Old Santa Fe Trail
Santa Fe New Mexico 87501**

MEMBERS PRESENT:

Butch Tongate	Chair, Environment Department
Dave Gatterman	State Parks Division
Larry Dominguez	Department of Agriculture
Mike Sloane	Department of Game & Fish
Doug Bland	Bureau of Geology and Mineral Resources
Clark Taylor	Soil and Water Conservation Commission
D.L. Sanders	Office of the State Engineer (until 11:35)
Heidi Krapfl	Department of Health
Daniel Sanchez	Oil Conservation Division
Steve Glass	County of Bernalillo, Municipal/County Representative
Edward Vigil	Member-at-Large
Hoyt Pattison	Member-at Large

MEMBER ABSENT: John Waters Member-at-Large

OTHERS PRESENT:

Please see attached sign-in sheets

Carmella Casados, Commission Administrator
Michael Williams, NM Attorney General's Office

The meeting was called to order by Chair Tongate at 9:06 a.m.

Item 1. Roll Call.

Roll was taken, it was noted that a quorum was present.

Item 2. Approval of Agenda.

Action: Commissioner Sanders moved Commission adoption of the Agenda. Commissioner Sloane seconded the motion. The motion passed unanimously.

Item 3. Approve minutes of January 10, 2012 meeting.

Action: Commissioner Sloane moved adoption of the January 10, 2012 meeting minutes as presented. Commissioner Glass seconded the motion. The motion passed unanimously.

Item 4. Final Approval of the State of New Mexico 2012-2014 Integrated Clean Water Act Section 303(d)/Section 305(b) Report and List of Assessed Surface Waters, Lynette Guevara, James Bearzi, James Hogan, SWQB/NMED.

Action: Mr. Bearzi presented the framework for protecting surface water quality in New Mexico through the development of surface water quality standards, monitoring for exceedances, placement of impaired waters on the Integrated List and the presentation of the List to the Commission every two years.

Ms. Guevara spoke to the reporting cycle highlights, and the top causes of impairment in streams and rivers, lakes and reservoirs. Ms. Guevara then discussed the assessments in several watersheds monitored during this biennial cycle, including Mimbres, Upper Rio Grande, Upper Pecos, and San Juan River, and described the outreach and public participation process. Mr. Bearzi set out the next steps in the process to address impairments. [See attached PowerPoint presentation.]

Mr. Bearzi, Dr. Hogan and Ms. Guevara answered extensive questions from the Commissioners. Mr. Flynn offered a resolution to concerns on pp. 29-30 of the Report, and Dr. Davis spoke to respective jurisdiction over water between the state and the federal government.

Rachel Conn of Amigos Bravos offered a number of comments on the Report, and requested that the jurisdictional language in the Report be retained. Chuck Thomas, Executive Engineer with the Sandoval County Arroyo Flood Control Authority, noted that they are very concerned with

the proposed listing of the stream reach between the 550 bridge and the Alameda Bridge on p. 292. Their written comments are in the record.

Commissioner Sloane moved to strike the word “erosion” and the words “and” through “navigable” such that the first sentence of the section “Clarifying Application of the Clean Water Act” on page 29 was revised to “States throughout the nation are concerned about CWA authority.” The motion was also to revise the last paragraph of this section at the top of page 30 to “Given uncertainty currently surrounding CWA authority, Congress should pass legislation to clarify authority for waters of the United States.” Commissioner Pattison seconded the motion. The motion passed with Commissioner Dominguez dissenting.

Chair Tongate moved to revise the Report to incorporate corrections identified by Commissioner Glass and Commissioner Krapfl:

The references to the “State Laboratory Division” on page 26 and 30 were corrected to “Scientific Laboratory Division.”

“(Reported in miles)” was removed from the title of Table 9, and “(mi)” was inserted in the appropriate table column headings.

“(Reported in acres)” was removed from the title of Table 11, and “(acre)” was inserted in the appropriate table column headings.

In Appendix C, the last two sentences of the first paragraph in the first “SWOB RESPONSE:...” to Comment Set 14 (Truchas Chapter of Trout Unlimited) were removed.

Discussion was had of the revision proposed by Mr. Thomas, but no motion was made.

Commissioner Sloane moved that the Report be approved as amended above by the Commission. Commissioner Glass seconded the motion. The motion passed unanimously. The Commission agreed that the Chair was authorized to sign the Order reflecting Commission approval after review by the Commission Counsel.

Item 5. Approval of Open Meetings Act Resolution 2012; Michael Williams, NMAGO

Action: Commissioner Dominguez asked about changes from the past year’s Resolution. Mr. Williams noted that he had only revised the portion concerning appearance by Commissioners telephonically, in order to mirror the statute. Commissioner Sloane moved approval of the Resolution.

Commissioner Taylor seconded the motion. The motion passed unanimously.

Item 6. Approval of stipulated final order in WQCC 12-03(A), Concerning Vision Mobile Home Compliance Order and general discussion of Chairman's authority regarding stipulated final orders, Jennifer Hower, OGC/NMED, Brad Reid, GWQB/NMED.

Action: Ms. Hower presented the Stipulated Final Order, executed by Vision Mobile Home Park and the Resource Protection Division. The Chair noted that he did not believe he had the authority to sign the Order without Commission approval, and raised the question of whether the Commission desired his approval without a formal vote in future settlements. Mr. Reid answered a Commission question about depth to ground water at the site. Commissioner Sloane moved that the Commission approve the Stipulated Order. Commissioner Dominguez seconded the motion. The motion passed unanimously.

Ms. Hower sought guidance for future settlements. Mr. Williams encouraged the Commission to allow Counsel to look at the question of delegation appropriate under New Mexico law, and requested that the Department bring future settlements requiring Commission approval to the Commission until the question of regulatory authority could be resolved. Ms. Hower agreed to share this guidance with the other Department lawyers.

Item 7. Other business and announcement of any enforcement action taken on behalf of the Commission.

Action: No announcements of enforcement.

Commissioner Sloane noted that the Department of Game and Fish had distributed a Five-Year Report on piscicide applications, and that a hearing to renew approval of piscicide application was occurring in Costilla today.

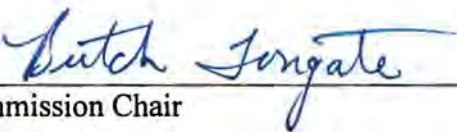
Commissioner Pattison asked about the status of the Elida School District matter. The Chair noted that there was a stay in place, and the Commission would be informed of future developments. Commissioner Pattison asked about the status of dairy permits under the new Dairy Rule. NMED Director Jim Davis noted that one round of public notices for a number of dairies had been sent out, and another round of notices was anticipated shortly. Commissioner Pattison asked about the status of variances under the new Dairy Rule. NMED General Counsel Ryan Flynn answered questions about the procedure for requesting variances and related questions.

Item 8. Next meeting:

April 10, 2012

Item 9. Adjournment.

The Chair adjourned the meeting.


Commission Chair