New Mexico Water Quality Control Commission Meeting
May 11, 2010
9:00 a.m.
New Mexico State Capitol Building Room 317
490 Old Santa Fe Trail
Santa Fe New Mexico 87505

MEMBERS PRESENT:

Sarah Cottrell            Acting Chair
Cheryl Bada               State Parks Division
Larry Dominguez           Department of Agriculture
Howard Hutchinson         Soil and Water Conservation Commission
Steve Glass               County of Bernalillo, Municipal/County Representative
Doug Bland                Bureau of Geology and Mineral Resources
Brad Jones                Oil Conservation Division
Greg Lewis                Office of the State Engineer
Heidi Krapfl              Department of Health
Mike Sloane               Department of Game & Fish
Maxine Goad               Member-at-Large
Edward Vigil              Member-at-Large
Joseph Chavarria          Member-at-Large
Harold W. Tso             Member-at-Large

MEMBERS ABSENT:

None

OTHERS PRESENT:

Chet & Cathy Wyant        Charles Lakin, Esq. Domenici Firm
Felicia Orth, NMED        Mary P. Carlson
Rebecca Onchaga           Scott McKitrick, SMA
Josh Smith, Esq., Hubert & Humphrey Firm   Jerry & Rogelia Nivens, CCC
The meeting was called to order by Ms. Cottrell at 9:00 a.m.

Item 1. Roll Call:

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

Item 2. Approval of Agenda

The Chair requested that the order of Items 6 and 7 on the revised agenda be switched. It was agreed that Item 7 would be heard prior to Item 6.


Item 3. Approval of the meeting minutes of April 13-16, 2010.

Action: Mr. Tso moved Commission approval of the April 13-16, 2010 meeting minutes. Mr. Glass seconded. The motion passed unanimously.

Item 4. Election of Chairperson.

Action: Ms. Bada moved that Ms. Cottrell be elected Commission Chair. Mr. Jones seconded. The motion passed unanimously.

Item 5. Request for hearing in Appeal Petition WQCC 10-06 (A), Notice of Deficiency of Stage 1 Abatement Plan, Dona Ana Dairies, Petitioner. Charles Lakin, Esq., Domenici Law Firm, for Petitioner; Tannis Fox, NMED/OGC.

There was lengthy Commission discussion with Mr. Lakin and Ms. Fox regarding scheduling of the requested hearing.

Action: Mr. Glass moved that the deliberations in WQCC 09-13 (R) Dairy Regulations be set on August 9, 10 and 11 and the hearing in WQCC 10-06 (A), Notice of Deficiency of Stage 1 Abatement Plan, Dona Ana Dairies be set for hearing on August 12 and 13, 2010 and continue each matter as necessary. Mr. Hutchinson seconded. The motion passed unanimously.

It was noted that a hearing officer had not been appointed.

Action: Mr. Lewis moved Commission appointment of Felicia Orth as

a. Motion to Dismiss Request for Order Hearing in WQCC 10-03 (A), Gail MacQuesten, NMEMNRD/OGC.

b. I & W Motion to Quash Purported Compliance Order in WQCC 10-03 (A). Thomas Hnasko, Esq., Hinkle Law Firm for Respondent.

Mr. Shandler stated that I & W was now under federal bankruptcy protection and that the Commission no longer had any authority to act in this matter. He further noted that the attorneys in this case requested that it be tabled until the Bankruptcy Trustee authorizes the Commission to take up the matter again. He further indicated that Ms. MacQuesten had stated that she would notify the Commission of that authorization.

Action: Mr. Glass moved that the Commission table WQCC 10-03 (A). Mr. Tso seconded. The motion passed unanimously.

Item 6. Discussion of previously tabled Request for Record Review in re: WQCC 08-05 (A), Appeal by ParaSol Dairy-Discharge Permit DP 1641. Pete Domenici, Esq., Domenici Law Firm, for Petitioner; Joshua L. Smith, Esq., Elephant Butte Irrigation District; Jerry Nivens, Caballo Concerned Citizens; Chris Rich and Steve Hanson, USDI/BOR; Tracy Hughes, NMED/OGC.

The Chair stated that because she had not been present during discussions relating to this case, that Carlos Romero, NMED/EHD, would replace her on behalf of the Department. Ms. Bada and Mr. Sloane recused themselves from the deliberations.

Mr. Shandler noted that the Commission had previously conducted deliberations in this matter in executive session.

Action: Mr. Bland moved that the Commission go into executive session to deliberate this matter. Mr. Vigil seconded.

Roll Call Vote:

- Mr. Lewis: yes
- Mr. Jones: yes
- Mr. Glass: yes
- Mr. Dominguez: yes
- Mr. Hutchinson: no
- Mr. Bland: yes
Ms. Krapfl    yes
Mr. Tso      no
Ms. Goad     yes
Mr. Vigil    yes
Mr. Chavarria yes
Mr. Romero   yes

The motion passed ten in the affirmative, 2 in the negative.

The Commission moved into executive session.

The Commission returned to open meeting status.

Action: Mr. Dominguez moved that the Commission return to its open meeting. Mr. Hutchinson seconded

Roll Call Vote:

Mr. Lewis     yes
Mr. Jones     yes
Mr. Glass     yes
Mr. Dominguez yes
Mr. Hutchinson yes
Mr. Bland     yes
Ms. Krapfl    yes
Mr. Tso       yes
Ms. Goad      yes
Mr. Vigil     yes
Mr. Chavarria yes
Mr. Romero    yes

The motion passed unanimously.

Mr. Romero stated that the only matters discussed by the Commission in its executive session were those relating to WQCC 08-05 (A), ParaSol Dairy’s Request for Record Review.

Action: Mr. Vigil moved that the Commission table this matter until its next meeting on June 8, 2010. Mr. Chavarria seconded. The motion passed unanimously.

Item 8. Other business
None

Item 11. Next meeting: June 8, 2010, 9:00 a.m., Location: State Capitol Room 317, 490 Old Santa Fe Trail, Santa Fe, NM 87501.
Item 12. Adjournment

Action: The meeting was adjourned by the Chair at 11:55 a.m.

Signature on file

Sarah Cottrell, Acting Chair