

**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  
Department of Health  
State Parks Division  
-Soil and Water Conservation Commission  
Bureau of Geology and Mineral Resources  
Municipal/County Representative  
Members-at Large

**New Mexico Water Quality Control Commission Meeting**

**May 12, 2009**

**9:00 a.m.**

**New Mexico State Capitol Building, Rm. 317**

**490 Old Santa Fe Trail**

**Santa Fe, New Mexico 87501**

**MEMBERS PRESENT:**

Jon Goldstein	NMED/Deputy Secretary
Greg Lewis	Office of the State Engineer
Cheryl Bada	State Parks Division
Larry Dominguez	Department of Agriculture
Howard Hutchinson	Soil and Water Conservation Commission
Brad Jones	Oil Conservation Division
Steve Glass	County of Bernalillo, Municipal/County Representative
Peggy Johnson	Bureau of Geology and Mineral Resources
Mike Sloane	Department of Game & Fish
Joseph Chavarria	Member-at-Large
Maxine Goad	Member-at-Large

**MEMBERS ABSENT:**

Edward Vigil	Member-at-Large
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**OTHERS PRESENT:**

Glenn Saums, NMED/SWQB	Abraham Franklin, NMED/SWQB
Dennis Romero, Esq.	Rick Edelman
Adolfo Mendez, NMED/OGC	Tannis Fox, NMED/OGC
Jay Lazarus, Galisteo Geoscience	Link Summers
Zachary Shandler, Asst. Atty. Gen.	Joyce Medina, NMED

The meeting was called to order by Mr. Goldstein at 9:00 a.m.

**Item 1. Roll Call:**

The Commission administrator took roll and noted a quorum was present.

**Item 2. Approval of Agenda**

Mr. Goldstein asked if there were changes in today's agenda. Mr. Mendez, on behalf of the Department as well as on behalf of Mr. Domenici, attorney for Faria Dairy East, requested that the Commission change the order of Items 5 and 6, handling Item 6 first. There were no objections to that revision.

**Action: Mr. Dominguez moved Commission approval of the agenda as amended. Mr. Sloane seconded. The motion passed unanimously.**

**Item 3. Approval of meeting minutes of April 14, 2009.**

**Action: Mr. Hutchinson moved to approve the minutes. Mr. Lewis seconded. Because they did not attend the April 14, 2009 meeting, Messrs. Sloane and Chavarria and Ms. Johnson abstained. The motion passed unanimously.**

**Item 4. Update on Nonpoint Source Management Program planning Document. Abraham Franklin, NMED/SWQB.**

Mr. Franklin briefly explained the process relating to the Surface Water Quality Bureau's submission to the Commission at its June meeting of the Nonpoint Source Management Program Planning Document. He also noted that the public comment period closes on Friday, May 15, 2009.

There was discussion between Mr. Franklin and Commission members regarding the planning document.

**Item 6. In the Matter of the Appeal by Sebastiao Faria (Faria Dairy East) of Permit Conditions in re: DP 923, WQCC 08-09 (A); possible Commission decision regarding Faria East's Motion for Order Requiring De Novo Hearing; possible Commission decision in re: Faria Dairy East's Motion to Open Record to Allow Written Submissions. Pete V. Domenici, Jr., Esq., Faria Dairy East; Adolfo Mendez, NMED/OGC .**

Mr. Mendez, on behalf of the Department and on behalf of Mr. Domenici, counsel for Faria Dairy East, asked the Commission to postpone any action on the outstanding motions in this matter until its June 9, 2009 meeting to allow the parties time to negotiate a possible settlement.

**Action: Mr. Hutchinson moved that the Commission postpone any action in this matter until the Commission's June 9, 2009 meeting. Mr. Sloane**

seconded. The motion passed unanimously.

**Item 5. Continuation of Appeal Petition for Record Review and possible Commission decision in re: WQCC 07-11 (A) Groundwater Discharge Permit No. 1498, Alta Vista Subdivision, Taos County. Dennis Romero, Esq., for Appellant/Applicant Alta Vista; Tannis Fox, NMED/OGC; Michael Freebourn, Carol Richman, Sheila Shepard and Link Summers, pro se Intervenors.**

There was a brief discussion relating to going into executive session. The Commission agreed to do so to deliberate this matter.

**Action: Mr. Lewis moved that the Commission go into executive session. Mr. Sloane seconded.**

**Roll Call Vote:**

<b>Mr. Jones</b>	<b>yes</b>
<b>Mr. Lewis</b>	<b>yes</b>
<b>Ms. Bada</b>	<b>yes</b>
<b>Mr. Glass</b>	<b>yes</b>
<b>Mr. Dominguez</b>	<b>yes</b>
<b>Mr. Sloane</b>	<b>yes</b>
<b>Mr. Hutchinson</b>	<b>yes</b>
<b>Ms. Johnson</b>	<b>yes</b>
<b>Ms. Goad</b>	<b>yes</b>
<b>Mr. Chavarria</b>	<b>yes</b>
<b>Mr. Goldstein</b>	<b>yes</b>

Mr. Romero asked whether or not he would have the opportunity to respond to the Department's and Intervenors' arguments in this matter.

Ms. Fox objected to Mr. Romero's request on the basis that final arguments had been held.

Mr. Goldstein indicated that Mr. Romero's request would be discussed in executive session.

The Commission went into executive session at 9:40 a.m.

The Commission returned to the public meeting at 10:45 a.m.

**Action: Mr. Hutchinson moved that the Commission return to open session. Ms. Bada seconded.**

**Roll Call Vote:**

<b>Mr. Dominguez</b>	<b>yes</b>
<b>Mr. Glass</b>	<b>yes</b>
<b>Ms. Bada</b>	<b>yes</b>
<b>Mr. Lewis</b>	<b>yes</b>
<b>Mr. Jones</b>	<b>yes</b>

<b>Mr. Sloane</b>	<b>yes</b>
<b>Mr. Hutchinson</b>	<b>yes</b>
<b>Ms. Johnson</b>	<b>yes</b>
<b>Ms. Goad</b>	<b>yes</b>
<b>Mr. Chavarria</b>	<b>yes</b>
<b>Mr. Goldstein</b>	<b>yes</b>

Mr. Shandler asked the Chair to acknowledge that only those matters relating to the Appeal Petition in WQCC 07-11 (A) were discussed during the executive session. Mr. Goldstein confirmed that only those matters were discussed. Mr. Shandler additionally noted that the Commissioners who had not been present at the April 14, 2009 meeting had read the record in the case and were qualified and eligible to vote.

Mr. Goldstein stated that this matter would be tabled until the June 9, 2009 meeting. He further stated that the Commission had requested that Mr. Shandler develop and present options for resolving this matter at the June meeting.

Mr. Goldstein additionally stated that Mr. Romero's request to provide additional closing argument was denied.

**Item 7. Next public meeting: June 9, 2009, 9:00 a.m. State Capitol Building Room 317, 490 Old Santa Fe Trail, Santa Fe.**

**Item 8. Other business**

None.

**Item 9. Adjournment**

**Action: The Chair adjourned the meeting at 11:10 a.m.**

*Signature on file*

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Jon Goldstein, Acting Chair