



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

1190 St. Francis Drive, Room N2150

Post Office Box 26110

Santa Fe, New Mexico 87502

Telephone (505) 827-2425 Fax (505) 827-0310

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 June 10, 2003

**Minutes of the
New Mexico Water Quality
Control Commission Meeting
May 13-14, 2003**

The New Mexico Water Quality Control Commission (WQCC) meeting was held on May 13-14, 2003, at the New Mexico State Capitol Building, Room 317 in Santa Fe, New Mexico.

MEMBERS PRESENT:

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

MEMBERS ABSENT:

David Johnson	State Parks Division
Wilfred Garcia	Member-at-Large

OTHERS PRESENT:

Zack Schandler, WQCC Counsel	Jolene L. McCaleb
Geraldine Madrid-Chavez, WQCC Administrator	Marcy Leavitt
Steve Lauer	Tricia Johnson
Stacy Sabol	John Trummel
Mark Plessinger	Andrew Lemert

Kevin Myers
Paul Robinson
Charles Lundstrom
Mike Bowen
Marcelle Shoop
Kelly Tinford
Joe Brunner
Fred Fisher
Jim Davis
Peter Balleau
Kelly Bitner
Joni Arends
Roderick Ventura
Peter Luthiger
Terry Fletcher
Jon Goldstein
Charles de Saillen
Sam Anderson

David Hogge
Tim Dolan
Stephanie Stringer
Mr. Brock
Gerry Grisak
Steve Hattenbach
Daniel Gonzales
Mike Saladen
Phil Wardwell
Dennis McQuillan
Dal Moellenberg
Louis Rose
Leanne Padilla Hocker
Paul Goranson
William Goranson
Herman Fidel Padilla
Barbara Bernacik

Acting Chair Derrith Watchman-Moore called the meeting of the WQCC to order at 9:10 a.m.

Item #1: Roll Call

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

Item #2: Approval of the Agenda

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

Item #3: The SWQB seeks direction on the draft language delegating approval authority of the State's 303(d) list back to the Commission.

Mr. David Hogge, Program Manager of the Monitor and Assessment Section, requested the Commission take action on revised 303(d) listing language in the Surface Water Quality Standards.

After discussion between the Commission and the Department the following action was taken:

ACTION: Commissioner Brandvold moved not to adopt any of the changes to the current 303(d) list language in the standards. Commissioner Olson seconded. Motion carried unanimously.

Item #4: Request by the Environment Department, Surface Water Quality Bureau, to approve and adopt the revised Introduction and Work Element 11 (Public Participation Program) of the New Mexico Statewide Water Quality Management Plan as amended with public comments incorporated.

Dr. Jim Davis and Ms. Stephanie Stringer of the Surface Water Quality Bureau requested that the Commission approve and adopt the revised Introduction and Work Element 11 of the Water Quality Management Plan as amended to incorporate comments.

Commissioner Glass complimented the Department on their excellent response to the public.

Joni Arends, Concerned Citizens for Nuclear Safety, asked the Department to include information about where documents can be found on the web.

Jolene McCaleb, Counsel for San Juan Water Commission, stated she appreciates the fine work the Department has done and requested replacing the word “Department” with “Commission” in 20.6.4.8 A2 (NMAC).

After discussion between the Commission and the Department the following action was taken:

ACTION: **Commissioner Sloane moved to adopt the revised Introduction and Work Element 11 as amended. Commissioner Maitland seconded.**

Commissioner Olson offered the following friendly amendments:

Pg. 4 – Item A(g) insert double **.

Pg. 4 – (i) delete the phrase “to be appointed by the Governor.”

Pg. 5 – add double ** and add language from the Act that states, the Soil and Water Conservation Commission designee is a supervisor of the Soil and Water Conservation District.

Pg. 16 – Sixth line down replace the word “Department” with “Commission.”

Commissioner Glass offered the following friendly amendments:

Pg. 3 – Paragraph 3 – “New Mexico” to “The New Mexico Legislature.”

Pg. 8 – Paragraph 1 – replace the words “operation certification training” with “operator training and certification.”

Pg. 8 – 1st bullet – after the word “systems” in the first paragraph under Field Operations Division, insert the phrase “under the authority of the Environmental Improvement Board.”

Pg. 8 – In the last paragraph of the Drinking Water Bureau Section after the word “system” insert the phrase “under the authority of the Environmental Improvement Board.”

Pg. 10 – item (H) end of paragraph add a sentence to read, “Work Element 11 addresses public participation in detail.”

Pg. 15 – 1st sentence – 1st paragraph – replace the work “classification” with the word “criteria.”

Pg. 16 – 2nd paragraph – add a sentence to read, “The guidelines for WQCC regulation hearings are available on the Environment Department’s web site.”

Pg. 16 – paragraph 5 – Capitalize the words “Department and Commission.” Capitalize “Continuing Planning Process.” Capitalize the title for the

document “Guideline for Water Quality Control Commission Regulation Hearings.”

Pg. 20 – In the table – delete the words “optional.”

Pg. 21 – Bottom of the table – last sentence – replace the words “go above and beyond the minimum requirements” with “implement both required and optional steps.”

Commissioner Sloane and Commissioner Maitland accepted all friendly amendments.

Commissioner Goad offered the following friendly amendments:

Pg. 8 – insert new bullet to read, “Environmental Protection Division (EPD).” Under this bullet include the Petroleum Storage Tank Bureau (PSTB) and the Solid Waste Bureau (SWB). From NMED’s web site, cut and paste the information on each of these Bureaus.

Pg. 18 – last paragraph – strike the word “required” and replace it with “including those” after the word “WQMP.”

Pg. 18 – last paragraph – line 5, add the word “are” after the word “documents.”

Pg. 20 – Table – insert another bullet under the Continuing Planning Process to read “Placement on the WQCC agenda and discussion at a Commission meeting.”

Pg. 20 – Table - Under the Water Quality Standards, add the phrase “and Water Quality Control Commission Regulations.”

Under the heading WQMP add to the 1st bullet “and discussion at a Commission Meeting.”

Motion carried unanimously.

Item #5: Petition by Gila Resources Information Project – Setting for hearing in the matter of the Appeal Petition on Phelps Dodge Tyrone Inc.’s Company Proposed Ground Water Supplemental Discharge Permit for Closure – DP 1341. (WQCC 03-07A)

Mr. Roderick Ventura, Counsel for Gila Resources Information Project (GRIP), requested that a hearing be set for the July regularly scheduled meeting in the matter of the Appeal Petition on Phelps Dodge Tyrone Inc.’s Company Proposed Ground Water Supplemental Discharge Permit for Closure – DP 1341.

ACTION: Commissioner Olson moved to set the above matter for hearing at the July 8-9, 2003 regularly scheduled meeting and to designate the Chair of the Commission as hearing officer. Commissioner Glass seconded. Motion carried unanimously.

Item #6 was postponed until the arrival of the Hearing Officer.

Item #7: Approval of the April 8, 2003 Meeting Minutes.

The Commission made amendments to the minutes. Due to some confusion with items 9 and 10 the following action was taken:

ACTION: Commissioner Hutchinson moved to table agenda item #7 until the return of legal counsel. Commissioner Olson seconded. Motion carried unanimously.

Legal Counsel returned and the following action was taken:

ACTION: Commissioner Vigil moved to remove item #7 from the table. Commissioner Sloane seconded. Motion carried unanimously.

After discussion between the Commission and Legal Counsel the following action was taken:

ACTION: Commissioner Olson moved to approve the minutes as amended. Commissioner Brandvold seconded. Motion carried with 1 abstention by Commissioner Hutchinson.

Item #6: Hearing and possible decision in the matter of the petition for Alternative Abatement Standards for the L-Bar Uranium Mill Tailings Site. (WQCC 02-24A)

A public hearing was held at the New Mexico State Capitol Building in Santa Fe on May 13, 2003 regarding Petition No. WQCC 02-24(A) beginning at approximately 1:30 pm. In attendance was Tracy Hughes, Hearing Officer, and the Commissioners listed above. The following Commissioners were absent: Commissioner Watchman-Moore, Commissioner Garcia & Commissioner Johnson. This hearing was transcribed and the record will be in the custody of the Commission Administrator. It is available upon request.

May 14, 2003

Roll Call

Carolyn Vigil, Hearing Clerk, took roll and noted a quorum was present.

Continuation of Item #6 – Hearing and possible decision in the matter of the petition for Alternative Abatement Standards for the L-Bar Uranium Mill Tailing Site. (WQCC 02-24A.

Hearing Officer Olson announced that the record in this case is now closed.

Item #8: Authorization for Interstate Stream Commission to represent WQCC in Defenders of Wildlife and Forest Guardians v. United States Environmental Protection Agency.

ACTION: **Commissioner Brandvold moved to table item #8. Commissioner Sloane seconded. Motion carried unanimously.**

Item #9: Executive Session pursuant to NMSA 1978, Section 10-15-1(H)(7) to discuss Defenders of Wildlife and Forest Guardians v. United States Environmental Protection Agency.

ACTION: **Commissioner Hutchinson moved to go into executive session pursuant to NMSA 1978, Section 10-15-1 (H)(7) to discuss Defenders of Wildlife and Forest Guardians v. United States Environmental Protection Agency. Commissioner Brandvold seconded. A roll call vote was taken and the results are as follows:**

Commissioner Sloane	Yes
Commissioner Goad	Yes
Commissioner Glass	Yes
Commissioner Hutchinson	Yes
Commissioner Brandvold	Yes
Commissioner Vigil	Yes
Commissioner Murray	Yes
Commissioner Olson	Yes

Motion carried unanimously.

ACTION: **Commissioner Brandvold moved to return to Open Session. Commissioner Sloane seconded. A roll call vote was taken and the results are as follows:**

Commissioner Murray	Yes
Commissioner Olson	Yes
Commissioner Glass	Yes
Commissioner Sloane	Yes
Commissioner Hutchinson	Yes
Commissioner Brandvold	Yes
Commissioner Goad	Yes
Commissioner Vigil	Yes

Motion carried unanimously.

Commissioner Sloane stated that the matters discussed in the closed session were only those noted in the motion to go into closed session.

ACTION: **Commissioner Glass moved to direct counsel to take an active role in the Defenders of Wildlife and Forest Guardians v. EPA case pending Attorney General's authorization. Commissioner Murray seconded. The motion carried with one abstention by Commissioner Goad.**

ACTION: **Commissioner Glass moved to remove item #8 from the table. Commissioner Hutchinson seconded. Motion carried unanimously.**

ACTION: **Commissioner Hutchinson moved to authorize Dan Ruben to be part of the legal team in the Defenders of Wildlife and Forest Guardians v. EPA case, contingent on the Attorney General's approval. Commissioner Brandvold seconded. Motion carried unanimously.**

Item #9 Other business

No other business was discussed at this time.

Item #10 Next meeting

The next meeting of the Water Quality Control Commission will be June 10-11, 2003 in Santa Fe, New Mexico.

ACTION: **Commissioner Hutchinson moved to adjourn. Commissioner Glass seconded. Motion carried unanimously.**

Chair, Water Quality Control Commission