

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

1190 St. Francis Drive, Room N2150

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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

September 14-17, 2010

9:00 a.m.

New Mexico State Capitol Building Room 307

490 Old Santa Fe Trail

Santa Fe New Mexico 87505

MEMBERS PRESENT:

Carlos Romero	Acting Chair
Bruce Thompson	State Parks Division, in lieu of Cheryl Bada
Larry Dominguez	Department of Agriculture
Steve Glass	County of Bernalillo, Municipal/County Representative
Doug Bland	Bureau of Geology and Mineral Resources
Heidi Krapfl	Department of Health
Mark Fesmire	Oil Conservation Division, in lieu of Brad Jones
Mike Sloane	Department of Game & Fish
Howard Hutchinson	Soil and Water Conservation Commission
Edward Vigil	Member-at-Large
Maxine Goad	Member-at-Large
Harold W. Tso	Member-at-Large

MEMBERS ABSENT:

Greg Lewis	Office of the State Engineer
Joseph Chavarria	Member-at-Large

OTHERS PRESENT:

Please see attached meeting sign-in sheets.

The meeting was called to order by Mr. Romero 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 announced that Item 6, Consideration and Adoption of Statement of Reasons in re: the Triennial Review had been removed from the Agenda. He also noted that moving Item 8, Other Business and Item 9, Next Meeting, for action prior to the hearing convening would be in order given the anticipated length of the hearing. He then requested a motion for approval of the agenda as amended.

Action: Mr. Sloane moved Commission adoption of the Agenda as amended. Mr. Glass seconded.

The motion passed unanimously.

Item 3. Approve minutes of August 10, 2010 meeting.

Mr. Tso moved Commission approval of the August 10, 2010 meeting minutes. Mr. Glass seconded. Messrs. Hutchinson, Sloane, Fesmire and Thompson abstained.

The motion passed.

Item 4. Request for Hearing in re: Picacho Hills Appeal Petition, WQCC 10-08 (A).

It was noted that this item should also be removed from the Commission's Agenda.

Item 5. Reopening of deliberations and possible decision in re: WQCC 09-12 (R), Amendment of Utility Operators Certification Rule 20.7.4.13 and 20.7.4.14 NMAC. Jerry Dickinson, NMED/OGC and Mike Coffman NMED/SWQB.

The Chair noted that two designees from the Utility Operators Board, Cindy Huntsman and Cathie Eisen would be joining the Commission as voting members with respect to this item.

Because they were not present during the hearing of this matter, Messrs. Hutchinson, Sloane, Fesmire and Thompson recused themselves from participation.

Mr. Shandler noted the reasons for reopening deliberations in this case. There was discussion regarding the specific text errors in the Commission's previous decision and proposed remedies.

Mr. Shandler stated that the Commission needed to formally reopen deliberations.

Action: Mr. Glass moved that the Commission reopen deliberations in WQCC 09-12 (R), Amendment of Utility Operators Certification Rule 20.7.4.13 and 20.7.4.14 NMAC. Ms. Goad seconded.

The motion passed unanimously.

The Chair asked for Commission discussion.

Mr. Glass stated that at 20.7.4.13 (C) NMAC the Commission had adopted the following language “applicable national pollutant discharge elimination system permit or 40 CFR, Part 136.” He went on to suggest that the words “national pollutant discharge elimination system permit” be replaced with the words “applicable discharge permit.” Which would cover both NPDES and ground water discharge permits.

Action: Mr. Glass moved Commission approval of replacement language in WQCC 09-12 (R), at 20.7.4.13 (C) as set forth above.

Ms. Huntsman mentioned that there had been lengthy Utility Advisory Board discussion relating to the section being scrutinized.

Action: She moved that since requirements of this rule were covered in other areas, that the section be stricken entirely from the rules.

The Chair clarified the motions currently on the table, noting that Mr. Glass’s motion died for lack of a second and that the Commission now had Ms. Huntsman’s motion to consider.

Ms. Eisen seconded.

There was a lengthy discussion relating to the methods analysts would use in the laboratory and the ramifications of striking the subject language.

The Chair requested a roll-call vote on the motion.

Roll Call Vote:

Mr. Fesmire	abstain
Mr. Glass	yes
Mr. Dominguez	yes
Mr. Sloane	abstain
Mr. Hutchinson	abstain
Mr. Bland	yes
Ms. Krapfl	yes
Mr. Tso	yes
Mr. Thompson	abstain
Ms. Goad	yes
Ms. Huntsman	yes
Ms. Eisen	yes
Mr. Romero	abstain

**The motion passed, eight votes in the affirmative;
five abstentions.**

Mr. Shandler stated that the Department's Office of General Counsel would prepare a Statement of Reasons in this matter to be signed by the Acting Commission Chair, Mr. Romero.

Item 6. Consideration and Adoption of Statement of Reasons in re: WQCC 08-13 (R). Item removed from the Agenda.

Item 8. Other business

None.

Item 9. Next meeting, October 12, 2010, 9:00 a.m., State Capitol Room 317, 490 Old Santa Fe Trail, Santa Fe, NM

Item 10. Adjournment

The Chair adjourned the meeting at 9:25 a.m.

Item 7. Hearing in re: WQCC 10-01 (R), Petition to Nominate Surface Waters in Forest Service Wilderness as Outstanding National Resource Waters. Tannis Fox, NMED/OGC; Sonny Suazo, EMNRD/OGC; James Karp, G&F/General Counsel; Samantha Ruscavage-Barz, Esq., WildEarth Guardians; Erik Schlenker-Goodrich, Esq., Amigos Bravos; Caren Cowan, NM Cattlegrowers Assn.; Ernest Torrez, individually; Doug Moore for the Otero County Commission; Dan Dolan, Esq., NM Cattlegrowers Assn., Nacimiento Community Ditch Assn., La Jara Ditch Assn. and Individual Citizens of NM; San Juan Water Commission, Jolene McCaleb, Esq.

The Chair introduced the Hearing Officer, Ms. Felicia Orth. Ms. Orth convened the hearing at 9:25 a.m.

Kathy Townsend Court Reporters transcribed the hearing. All Notices of Intent to Present Technical Testimony were filed and are available for review, as well as public comment correspondence and the hearing transcript in the office of the Water Quality Control Commission Administrator, New Mexico Environment Department, 1190 St. Francis Drive, Runnels Building Room 2150, Santa Fe, New Mexico 87505.

The hearing was recessed at 2:45 p.m. September 17, 2010 to resume October 12, 2010.



Carlos Romero, Acting Chair