MEMBERS PRESENT:

*Jon Goldstein  NMED/Deputy Secretary
Cheryl Bada    State Parks Division
Greg Lewis     Office of the State Engineer
Larry Dominguez Department of Agriculture
Peggy Johnson  Bureau of Geology and Mineral Resources
Steve Glass    City of Albuquerque – Municipal/County Representative
Howard Hutchinson Soil and Water Conservation Commission
Mike Sloane    Department of Game & Fish
Len Flowers    Health Department
Maxine Goad    Member-at-Large
Edward Vigil   Member-at-Large
Joseph Chavarria Member-at-Large
*Jim Norton    Environment Department

*Mr. Goldstein was present for Agenda Items 1 through 7.
*Mr. Norton was present for Agenda Item 8 only.

MEMBERS ABSENT:

Glenn Von Gonten Oil Conservation Division
OTHERS PRESENT:

Glenn Saums, NMED/SWQB   Richard E. Powell, NMED/SWQB
Steve Vernis, LANL   Terrill Lemke, LANL
Mike Saladan, LANL   Paul Bauer, NM Tech
Megan Anderson, WELC   Louis Rose, Esq., Montgomery Law Firm
Charles de Saillan, NMED/OGC   Sally Malave, Asst. Atty. General
Zachary Shandler, Asst. Atty. General   Joyce Medina, NMED

The meeting was called to order by Mr. Goldstein at 9:00 a.m. He then introduced Joseph Chavarria, the Commission’s newest member, appointed on October 8, 2008 by Governor Richardson as a member-at-large.

Item 1. Roll Call:

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

Item 2. Approval of Agenda

Action: Mr. Hutchinson moved approval of the agenda. Mr. Glass seconded. The motion passed unanimously.

Item 3. Approval of meeting minutes of August 11, 2008 and September 8, 2008.

Mr. Glass noted several wording corrections to be made.

Action: Mr. Glass moved to approve both sets of meeting minutes as revised. Mr. Lewis seconded. The motion passed unanimously.

Item 4. Petition for Review in re: WQCC 08-07 (A), Review of State Certification of NPDES Permit No.NM00300759. Commission decision regarding NMED’s Motion to Dismiss the Petition for Review as well as a Commission decision with respect to the Petition for Review if the motion to dismiss is denied. Louis Rose, Esq., USDOE and LANS, LLC; Charles de Saillan, NMED/OGC.

The Chair noted that on September 9, 2009, Petitioners LANS, LLC and the USDOE filed an Opposed Motion to Vacate Setting in this matter. On September 10, 2008, the Environment Department filed its Response in Opposition to Motion to Vacate. On September 10, 2008, the Commission Chair signed and filed an Order Denying Petitioners’ Motion to Vacate Setting.

After some discussion regarding the documents noted above, the Chair asked the parties to present their respective arguments regarding the Petition for Review and the Motion to Dismiss the Petition for Review.

Mr. de Saillan and Mr. Rose each set forth the respective positions of their clients.
A lengthy discussion ensued among the Commissioners, Mr. de Saillan and Mr. Rose.

**Action:** Mr. Sloane moved that the Motion to Dismiss the Petition for Review in WQCC 08-07 (A), Review of State Certification of NPDES Permit No. NM00300759, be granted. Ms. Bada seconded.

The Chair requested a roll call vote.

<table>
<thead>
<tr>
<th>Roll Call Vote</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mr. Lewis</td>
</tr>
<tr>
<td>Ms. Bada</td>
</tr>
<tr>
<td>Mr. Glass</td>
</tr>
<tr>
<td>Mr. Dominguez</td>
</tr>
<tr>
<td>Mr. Sloane</td>
</tr>
<tr>
<td>Mr. Hutchinson</td>
</tr>
<tr>
<td>Ms. Johnson</td>
</tr>
<tr>
<td>Ms. Flowers</td>
</tr>
<tr>
<td>Ms. Goad</td>
</tr>
<tr>
<td>Mr. Vigil</td>
</tr>
<tr>
<td>Mr. Goldstein</td>
</tr>
</tbody>
</table>

The motion passed.

**Item 5.** Other Business:
None

**Item 6.** Next Meeting: November 12, 2008, Room 317 State Capitol Building.

**Item 7.** Adjournment

Action: The Chair adjourned the public meeting at 10:45 a.m.

**Item 8.** Resumption of deliberations and possible decision in re: Phelps Dodge Tyrone remand hearing, WQCC 03-12 (A) and WQCC 03-13 (A). Sally Malave, Asst. Atty. General, Commission Counsel.

---

*Signature on File*

Jon Goldstein, Acting Chair