New Mexico Water Quality Control Commission Meeting
December 8-11, 2009
9:00 a.m.
New Mexico State Capitol Building, Rm. 309
490 Old Santa Fe Trail
Santa Fe, New Mexico 87501

MEMBERS PRESENT:

Jon Goldstein  NMED/Deputy Secretary
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 Krapf  Department of Health
Maxine Goad  Member-at-Large
Edward Vigil  Member-at-Large

MEMBERS ABSENT:

Joseph Chavarria  Member-at-Large
Mike Sloane  Department of Game & Fish

OTHERS PRESENT:

Kelly Collins
Nicola Ulibarri
Basia Miller
Rene Horvath

Jennifer Evans, Modrall Law Firm
Lisa Cummings, DOE
Anna Hansen
Susan Rodriguez
Due to inclement weather conditions the meeting was called to order by Mr. Goldstein at 11:05 a.m. instead of 9:00 a.m.

Item 1. Roll Call:

The Commission administrator took roll and noted a quorum was present.
Item 2. Approval of Agenda

Action: Mr. Glass moved Commission adoption of the Agenda. Mr. Dominguez seconded. The motion passed unanimously.

Item 3. Approval of the meeting minutes of August 11, 2009.

Action: Mr. Glass moved Commission approval of the August 11, 2009 meeting minutes. Mr. Lewis seconded. The motion passed unanimously.

Item 4. Request for hearing on NMED Utility Operator Certification Program and the New Mexico Utility Operator Advisory Board in re: WQCC 09-12 (R) to Amend the Utility Operator Certification Regulations, Sections 20.7.4.13 and 29.7.4.14 NMAC. Jerry Dickinson, NMED/OGC; Glen Saums, NMED/SWQB; Marcie Leavitt, NMED

Mr. Dickinson requested that the Commission set the hearing in this matter on the Commission’s April agenda.

Action: Mr. Glass moved that the Commission approve a hearing setting in WQCC 09-12 (R), Utility Operators Certification Program, on the Commission’s April 13, 2010 agenda. Mr. Hutchinson seconded. The motion passed unanimously.

Item 5. Request for hearing on Appeal Petition in re: WQCC 09-06 (A), Notice of Deficiency of Stage 1 Abatement Plan, Rick Schaap, Rockview Dairy.

Peter V. Domenici, Jr., Esq., Rockview Dairy; Tannis Fox, NMED/OGC

Ms. Fox on behalf of all parties requested that the Commission handle scheduling hearings relating to Items 5, 6 and 7 collectively. Mr. Goldstein stated that discussing and setting the three hearings now would be acceptable.

Item 6. Request for hearing on Appeal Petition in re: WQCC 09-07 (A), Notice of Deficiency of Stage 1 Abatement Plan, Eddie Schaap, High Lonesome Dairy.

Peter V. Domenici, Jr., Esq., High Lonesome Dairy; Tannis Fox, NMED/OGC

Ms. Fox stated that she and Mr. Domenici had discussed possible dates for scheduling the hearings back-to-back. She noted that they would both be available the week of April 26th. There was Commission discussion regarding scheduling. Mr. Hutchison mentioned that motions to intervene had been filed in WQCC 09-06 (A) and WQCC 09-07 (A) and asked whether the Commission should hear those motions at this time. Mr. Goldstein stated that the motions were an issue that could be handled by the Hearing Officer. He further stated that he had asked Felicia Orth if she was available to act as Hearing Officer in these cases and she had indicated that she was able to do so.
Action: Mr. Glass moved that the Commission set the hearings in WQCC 09-06 (A) on April 26, 2010, WQCC 09-07 (A) on April 27, 2010 and WQCC 09-11 (A) on April 28, 2010. Mr. Hutchinson seconded. The motion passed unanimously.

Item 8. Request for record review in re: Continuation of WQCC 08-05 (A), Verified Appeal Petition, GWQB Discharge Permit DP 1641, for Parasol Dairy. Pete Domenici, Jr., Esq., for Applicant, Parasol Dairy; Tracy Hughes, General Counsel, NMED; Robert Maxwell, US Bureau of Reclamation; Joshua Smith, Esq., Elephant Butte Irrigation District and Jerry Nivens, Caballo Concerned Citizens Group.

Mr. Domenici indicated that he would like the Commission to set a date for review of the record in this case. Ms. Fox appearing on behalf of the Department in lieu of Ms. Hughes, stated that the Department did not object to setting the matter for review. Mr. Domenici noted that this matter had been before the Commission at an earlier date and the Commission had remanded it back to the Department to take additional evidence. There was discussion regarding scheduling issues.

Mr. Vigil moved that the Commission set the request for record review in WQCC 08-05 (A), Parasol Dairy Appeal Petition, on the March 9, 2010 agenda. Mr. Hutchinson seconded.

Mr. Glass offered a friendly amendment to the motion setting a time limit of one hour for each party's argument before the Commission. Mr. Vigil accepted the friendly amendment.

The motion passed unanimously.


At 11:35 a.m. the Chair announced that the hearing in the above-referenced case would commence and that Felicia Orth would act as Hearing Officer in this matter. Ms. Orth then noted that due to a commitment she had made relating to the commencement time of the hearing that the Commission would recess for lunch and reconvene at 1:00 p.m.
The Commission reconvened at 1:00 p.m.

Ms. Goad announced that due to weather and road conditions she would be leaving at approximately 4:20 p.m. each day but noted that she would read the transcript relating to the time periods she would miss.

The Commission and Hearing Officer discussed scheduling and submission of various documents by parties in the case.

The hearing convened.

Kathy Townsend Court Reporters transcribed the hearing. All Notice of Intent to Present Technical Testimony were filed and are available for review, as well as public comments 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 concluded at 1:15 p.m. on Friday, December 11, 2009.

Item 10. Next meeting: January 12, 2010, 9:00 a.m., Location: TBA

Item 11. Other business

None.

Item 12. Adjournment

Action: The meeting was adjourned by the Chair.

Jon Goldstein, Acting Chair