

**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**

**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 Krapfl	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	Jennifer Evans, Modrall Law Firm
Nicola Ulibarri	Lisa Cummings, DOE
Basia Miller	Anna Hansen
Rene Horvath	Susan Rodriguez

Jolene McCaleb, Taylor and McCaleb  
Geoff Grubbs  
Guy Bralley  
Pete Domenici, Domenici Law Firm  
Jonathan Block, NMELC  
Donna Gonzales  
Bill Olson, NMED/GWQB  
Stuart Butzier, Modrall Law Firm  
Cecilia Abeyta, NM Farm Bureau  
Dal Moellenberg, Gallagher and Kennedy  
Robert Gensemer  
Will Barnes, SF Girls School  
S. Roch  
Joe Mauser  
John Turner  
Tracy Hughes, NMED General Counsel  
Beverly Fikse  
Glen Saums, NMED/SWQB  
Tim Estep  
Adolfo Mendez, II, NMED/OGC  
Shelly Drinkard, NMED/SWQB  
Michael Jensen, Amigos Bravos  
Heidi Henderson, NMED/SWQB  
Pamela Gilchrist  
Deborah Sarabia  
Tim Michael, NMED/GWQB  
Jill Wick  
Rachel Conn, Amigos Bravos  
Louis Rose, Montgomery and Andrews  
Jane DeRose Bamman  
Julian Jones  
Mark Ericson  
Delores Reano  
Steve Veenis  
Steve Mora  
David Bacon  
Felicia Orth, NMED  
Marcie Leavitt, NMED/SWQB  
T. J. Trujillo, Gallagher and Kennedy

Phil Wardwell, LANL  
Ben Parkhurst  
Jerry and Rogelia Nivens  
Mark Turnbough  
Josh Smith, Hubert and Hernandez  
Cynthia Blackwell  
Jay Lazarus, Glorieta Geosciences  
James Hogan, NMED  
Pamela Homer, NMED/GWQB  
Rhett Larson, Gallagher and Kennedy  
Bruce Gallaher  
John Cochran  
Karen Agogino  
Jon Klingel  
Mike Saladon  
Janet Greenwald, CARD  
Jeffrey Birnbauer  
Lisa Bacon  
Lyn Lande  
Sheila Deely  
Kyle Howard  
Erik Schlenker-Goodrich, Western Law Center  
Brian Shields, Amigo Bravos  
Joni Arends  
Sarah Holcombe  
Terra Manusio, NMED/GWQB  
Toni Chiri  
Eric Patterson  
Eric Ames, NMED/OGC  
Tom Potts  
Jeffrey Torinio  
Harvey Thanes  
Dianha Chavanih  
Derryn Gachupin  
Nora Patterson  
Wil Star  
Tannis Fox, NMED/OGC  
Jerry Dickinson, NMED/OGC  
Joyce Medina, NMED

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**

**Item 7. Request for hearing on Appeal Petition in re: WQCC 09-11 (A), Notice of Deficiency of Stage 1 Abatement Plan, Tom Visser, Tom Visser Dairy. Peter V. Domenici, Jr., Esq., Tom Visser 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 26<sup>th</sup>. 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.**

**Item 9.** Hearing in re: WQCC 08-13 (R), Triennial Review of Standards for Interstate and Intrastate Surface Waters, 20.6.4 NMAC. Eric Ames, NMED/OGC; Pamela Homer, NMED/SWQB; Stuart Butzier, Esq., Peabody Energy; Rhett Larson, Esq., Freeport-McMoRan; T.J. Trujillo, Esq., Freeport-McMoRan and Dairy Producers of NM; Jolene McCaleb, Esq., San Juan Water Commission; Megan Anderson, Esq., Amigos Bravos; Louis W. Rose, Esq., Chevron Mining; Joshua L. Smith, Esq. and John Hernandez, Elephant Butte Irrigation District; Nancy Long, Esq., Buckman Direct Diversion Board; Edmund Kendrick, Esq. and Phillip Wardwell, Esq., Los Alamos National Security; Lisa Cummings, Esq., US Dept. of Energy; Lesley Weinstock, Agua es Vida Action Team; Janet Greenwald, Citizens for Alternatives to Radioactive Dumping. Felicia Orth, Hearing Officer

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.**

  
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Jon Goldstein, Acting Chair