



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

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Santa Fe, New Mexico 87502

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Constituent Agencies

- 7 Environment Department
- 8 Office of State Engineer
- 9 Game and Fish Department
- 10 Oil Conservation Division
- 11 Department of Agriculture
- 12 State Parks Division
- 13 Soil and Water Conservation Commission
- 14 Bureau of Geology and Mineral Resources
- 15 Municipal/County Representative
- 16 Members -at Large

Approved 09/14/04

**Minutes of the
New Mexico Water Quality
Control Commission Meeting
August 10, 2004**

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The New Mexico Water Quality Control Commission (WQCC) meeting was held on August 10, 2004, at the New Mexico State Capitol.

MEMBERS PRESENT: August 10, 2004

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

MEMBERS ABSENT: August 10, 2004

- Lynn Brandvold Bureau of Geology and Mineral Resources
- Fred Lujan Member-at-Large

OTHERS PRESENT:

- Zack Shandler, WQCC Counsel Geraldine Madrid-Chavez
- Bruce Gallaher Bill Brancard
- Kelly Bitner Tracy Hughes
- Chuck Noble BJ Brock
- Roderick Ventura Kyle Weswall
- Julia Jarvis George Schurman
- Kevin Myers Mike Bowen

1 Dale Doremus
2 Jim Norton
3 Reymundo Gutierrez
4 Brent Moore
5 Brian Lematta
6 Mike Coffman
7 Cindy Huntsman
8 Joe Ramirez
9 Stuart Butzier
10
11 Christina Kelso
12 Marcy Leavitt
13 Ken Mosley
14 Steve Hattenbach
15 Steve Lauer
16 Ken Mosley
17 Michael Alvidrez
18 Leo Wilson

19 Ms. Derrith Watchman-Moore, Chair, called the meeting of the WQCC to order at 9:05a.m.

20
21 **Item #1 Roll Call**

22 Geraldine Madrid-Chavez took roll and noted a quorum was present.

23 **Item #2 Approval of Agenda**

24 The following change was made:

- 25 • Move item #12 to follow item # 10.

26 **ACTION: Commissioner Hutchinson moved to approve the agenda as amended.**
27 **Commissioner Maitland seconded. Motion carried unanimously.**

28
29 **Item #3 Opening of a 30-day public comment for the draft Upper Rio Grande Part 1**
30 **(Pilar, NM, to Colorado Border) TMDLs, presented by NMED's SWQB**

31 Ms. Lynette Guevarra, SWQB, announced the opening of the 30-day public comment period for the draft Upper Rio Grande Part 1 (Pilar, NM, to Colorado Border) TMDLs.

32 Ms. Guevara informed the Commission that the comment period will end on September 9, 2004.
33 A public meeting in regards to the Upper Rio Grande Part One TMDLs is scheduled for August
34 24, 2004 at 6:00pm in Taos, New Mexico. The Bureau will be seeking approval from the
35 Commission at the regularly scheduled WQCC meeting in October.

36
37 **Item #4 Informational briefing by SWQB on NMED's proposal to seek primacy for**
38 **the NPDES permitting program.**

39 Ms. Marcy Leavitt, SWQB Bureau Chief, gave the Commission a brief overview on NMED's
40 proposal to seek primacy for the National Pollutant Discharge Elimination System (NPDES)
41 permitting program. Ms. Leavitt distributed a handout to the Commission and answered
42 questions by the Commission.
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1 **Item #5 Report on LFC Sunset Committee Meeting.**

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3 Ms. Tracy Hughes, NMED General Counsel, updated the Commission on the LFC Sunset
4 Committee Meeting. Ms. Hughes stated that the recommendation of the Committee would be to
5 keep the Commission the way it is and extend the term for another 6 years.

6
7 **Item #6 Discussion and possible decision on NMED's Motion to Schedule a Hearing –**
8 **In the Matter of Bigger and Better Septic Tanks. WQCC 03-10 (CO)**

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10 Mr. Brent Moore, Assistant General Counsel for NMED, requested the Commission set a hearing
11 in the matter of Bigger and Better Septic Tanks for the October 2004, regularly scheduled
12 meeting.

13
14 Commissioner Olson had questions on the timely filing of this appeal.

15
16 This item was postponed until Zach Shandler, Commission Counsel, could do a review of the
17 prior minutes.

18
19 **Item #7 Appointment of Utility Operators Certification Advisory Board members in**
20 **Accordance with 20.7.4.29 NMAC.**

21
22 Mr. Reymundo Gutierrez and Mr. Ken Mosley joined the Commission for this agenda item.

23
24 Mr. Leo Wilson, Chairman of the Utility Operators Certification Advisory Board, requested the
25 Commission make appointments to fill three regular Board position and one alternate position.
26 These terms begin July 1, 2004 and end on June 30, 2007. The candidates are Ms. Cindy
27 Huntsman, Mr. Kit Roush, Mr. Michael Alvidrez and Mr. Joe Ramirez

28
29 **ACTION: Commissioner Murray moved to approve the recommendation by the Utility**
30 **Operators Certification Advisory Board to appoint 3 regular Board positions**
31 **and one alternate position. Commissioner Glass seconded. Motion carried**
32 **unanimously.**

33
34 **Item #8 Discussion and Vote on Statement of Reasons for Petition to Amend Ground**
35 **Water Quality Standards Contained in 20.6.2 NMAC (including Uranium**
36 **Standards)**

37
38 After lengthy discussion the following changes were made to the Uranium Standards Final Order
39 and Statement of Reasons:

- 40
41
- 42 • Page 1, 1st paragraph, Line 6, delete the word “but” and add the words “except that it.”
 - 43 • Page 1, 1st paragraph, Line 6, insert the word “not” after the word “did.”
 - 44 • Page 1, 1st paragraph, Line 7, insert the word “it” between “and” and “changed.”
 - 45 • Page 5, #4, Line 12 & 13, delete the words “and for which a numeric standard has not
46 been established.”
 - Page 9, #21, Line 1, “Mr. McMullen” should be “Mr. McQuillan.”

- 1 • Page 16, #63, 1st Line, insert the word “Paul” after the word “Dr.”
- 2 • Page 18, #68, 7th Line, delete the “s” in the word “whites.”
- 3 • Page 26, #22, 2nd Line, delete the “s” in the word “contaminations.”
- 4 • Page 27, #23, 2nd Line, insert the word “exists” after the word “data.”
- 5 • Page 27, #23, 7th Line, replace the word “added” with the word “included.”
- 6 • Page 27, #23, 8th Line, replace the word “petition” with the word “action.”
- 7 • Page 27, #27, 1st Line, delete the word “that.”
- 8 • Page 27, #29, 2nd Line, replace the word “as” with the word “has.”
- 9 • Page 28, #32, 2nd Line, insert the word “untreated” after the word “use.”
- 10 • Page 28, #33, 2nd Line, delete the word “treated.”
- 11 • Page 28, #38, 1st Line, insert the words “and numeric” after the word “narrative.”
- 12 • Page 29, #2, 1st Line, change the “U” in the word uranium to a low case “u.”

13
14 **ACTION:** **Commissioner Olson moved to approve the Final Order and Statement of**
15 **Reasons for Petition to Amend Ground Water Quality Standard Contained**
16 **in 20.6.2 NMAC (including Uranium Standards) as amended. Commissioner**
17 **Goad seconded. Motion carried unanimously.**

18
19 At this time Mr. Jim Norton sat in as Chair.

20
21 **Item #9 Discussion and Vote on Environment Department’s Motion to Reconsider**
22 **Partial Final Order for Tyrone Hearing.**

23
24 Each party involved in the Tyrone Hearing was allowed 10 minutes to respond to the
25 Environment Department’s Motion to Reconsider the Partial Final Order for the Tyrone Hearing.
26 Mr. Stephen Hattanbach, Counsel for NMED, supported this motion. Mr. Stuart Butzier,
27 Counsel for Phelps Dodge, opposed this motion. Mr. Roderick Ventura, Counsel for Gila
28 Resource Information Project, supported this motion. Mr. Brian Lematta, Counsel for CGEP,
29 opposed this motion.

30
31 **ACTION:** **Commissioner Vigil moved to deny the Environment Department’s Motion**
32 **to Reconsider Partial Final Order for the Tyrone Hearing. Commissioner**
33 **Sloane seconded.**

34
35 Commissioner Norton stated, “He planned to vote against the motion, because he feels the final
36 order should be clear as to what was intended, because the interpretation is unclear.

37
38 Commissioner Maitland asked to go on record stating, “She feels it is clear as to what was
39 intended and the interpretation is clear.”

40
41 **Motion carried with 1 “No” vote by Commissioner Norton and 2**
42 **“Abstentions” by Commissioner Murray and Commissioner Goad.**

43
44 **Item #10 Discussion and Vote on Final Order for Tyrone Hearing.**

45
46 After discussion the following action was taken:

1
2 **ACTION:** **Commissioner Sloane moved to instruct WQCC Counsel to prepare the Final**
3 **Order as discussed Commissioner Maitland seconded. Motion carried with**
4 **2 “abstention” by Commissioner Murray and Commissioner Hutchinson.**
5 **Commissioner Hutchinson changed his vote from an “abstention” vote to a**
6 **“no” vote with an objection to the authorities listed for 6 thru 19.**
7

8 At this time Commissioner Watchman-Moore returned as Chair.

9
10 **Item #12 Approval of the June 8 & 9, 2004 Meeting Minutes.**

11
12 After discussion and amendments the following action was taken:

13
14 **ACTION:** **Commissioner Sloane moved to approve the June 8 & 9, 2004 meeting**
15 **minutes as amended. Commissioner Bada seconded. Motion carried**
16 **unanimously.**
17

18 At this time the Commission returned to Item #6 (Discussion and possible decision on
19 NMED’s Motion to Schedule a Hearing – In the Matter of Bigger and Better Septic Tanks.
20 WQCC 03-10 (CO))

21
22 Mr. Brent Moore, Assistant General Counsel for NMED, stated he went back to the office and
23 researched the date the compliance order was issued, which was April 25, 2004 and noted a stay
24 was granted and signed by Secretary Ron Curry on July 25, 2004. Mr. Moore stated he would
25 like this hearing to be scheduled so negotiation may begin.

26
27 Mr. Zach Shandler, WQCC Counsel, suggested the Commission table this item until next month
28 and allow the parties due process to argue their points.

29
30 **ACTION:** **Commissioner Olson moved to table item #6 (Discussion and possible**
31 **decision on NMED’s Motion to Schedule a Hearing – In the Matter of Bigger**
32 **and Better Septic Tanks). Commissioner Maitland seconded. Motion**
33 **carried unanimously.**
34

35 **Item #11 Executive Session pursuant to NMSA 1978, Section 10-15-1 (H)(7) for**
36 **Richard’s Septic v. WQCC.**

37
38 **ACTION:** **Commissioner Vigil moved to go into Executive Session pursuant to NMSA**
39 **1978, Section 10-15-1 (H)(7) for Richard’s Septic v. WQCC. Commissioner**
40 **Sloane seconded. A roll call vote was taken and the results are as follows:**
41

42	Commissioner Vigil	Yes
43	Commissioner Goad	Yes
44	Commissioner Hutchinson	Yes
45	Commissioner Sloane	Yes
46	Commissioner Maitland	Yes
47	Commissioner Glass	Yes

1 Commissioner Bada Yes
2 Commissioner Olson Yes
3 Commissioner Murray Yes
4 Commissioner Watchman-Moore Yes
5

6 **ACTION:** **Commissioner Hutchinson moved to come out of Executive Session.**
7 **Commissioner Bada seconded. A roll call vote was taken and the results are**
8 **as follows:**
9

10 Commissioner Vigil Yes
11 Commissioner Goad Yes
12 Commissioner Hutchinson Yes
13 Commissioner Sloane Yes
14 Commissioner Maitland Yes
15 Commissioner Glass Yes
16 Commissioner Bada Yes
17 Commissioner Olson Yes
18 Commissioner Murray Yes
19 Commissioner Watchman-Moore Yes
20

21 Commissioner Olson stated the items discussed in Closed Session were only those listed in the
22 motion.
23

24 **Item #13 Other Business**
25

26 Commissioner Goad asked if a letter has been drafted thanking Mr. Dave Johnson for his service
27 on the Water Quality Control Commission. Commissioner Watchman Moore stated Mr. John
28 Goldstein would prepare the letter and it will be ready by next meeting.
29

30 Commissioner Olson questioned the Stipulated Motions Staying Hearing in regards to Valero
31 and Conocophillips. Commissioner Watchman-Moore stated these were all for information only
32 documents.
33

34 Commissioner Hutchinson requested that discussion on roles and responsibilities of the Soil and
35 Water Conservation Districts be on the September agenda.
36

37 **Item #14 Next Meeting**
38

39 The next meeting of the Water Quality Control Commission is scheduled for September 14,
40 2004.
41

42 **ACTION:** **Commissioner Maitland made a motion to adjourn. Commissioner**
43 **Hutchinson seconded. Motion carried unanimously.**