

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

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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

Minutes

New Mexico Water Quality Control Commission

Regular Meeting

April 10, 2012

9:00 a.m.

New Mexico State Capitol Building Room 307

490 Old Santa Fe Trail

Santa Fe New Mexico 87501

MEMBERS PRESENT:

Butch Tongate	Chair, Environment Department
Dave Gatterman	State Parks Division
Larry Dominguez	Department of Agriculture
Mike Sloane	Department of Game & Fish
Doug Bland	Bureau of Geology and Mineral Resources
Clark Taylor	Soil and Water Conservation Commission
D.L. Sanders	Office of the State Engineer (arrived at 9:08 a.m.)
Heidi Krapfl	Department of Health
Daniel Sanchez	Oil Conservation Division
Steve Glass	New Mexico Municipal Environmental Quality Association
Edward Vigil	Member-at-Large (arrived at 9:17 a.m.)
John Waters	Member-at-Large
Hoyt Pattison	Member-at Large

MEMBER ABSENT: None

OTHERS PRESENT:

Please see attached sign-in sheets

Sally Worthington, NMED Office of the Hearing Officer

Felicia Orth, NMED Hearing Officer

Mark Reynolds, NM Attorney General's Office

The meeting was called to order by Mr. Tongate at 9:00 a.m.

Item 1. Roll Call.

Roll was taken, it was noted that a quorum was present.

Item 2. Approval of Agenda.

Action: Mr. Waters moved approval of the Agenda. Mr. Gatterman seconded the motion. The motion passed unanimously.

Item 3. Approve minutes of March 13, 2012 meeting.

Action: Mr. Pattison had a question on page 4 that didn't have to do with the changes of the minutes but it says on line 176 Commissioner Pattison asked about the status of the Elida School District matter. The Chair noted that there was a stay in place. When did that stay come before the Commission? Ms. Orth stated that she didn't believe the stay motion came before the Commission; she believes the Chair signs that because it was an undisputed motion. She said she didn't have the Elida School District file in front of her but she would be happy to send him an email after the meeting but when there is a joint motion for stay, the Chair signs that typically as a ministerial act without making it an agenda item. Mr. Pattison thanked her and said he would appreciate getting that information.

Mr. Pattison moved to approve the March 13, 2012 meeting minutes. Ms. Krapfl seconded the motion. The motion passed unanimously.

Item 4. Set for hearing WQCC 12-04(V), a Petition for Variance from certain provisions of 20.6.6 NMAC, the Dairy Rule, filed by De Smet Dairy. Michael De Smet, Petitioner, and Misty Braswell for NMED.

Action: Ms. Braswell introduced herself, Kathie Deal from the Groundwater Quality Bureau and Michael De Smet the Petitioner and owner of the De Smet Dairy. De Smet Dairy filed a petition for a variance from requirement in the Dairy Rule to install a manure solid separator. Actually they filed a petition for variance from numerous provisions of the Dairy Rule but following discussions with the Department they withdrew the petition with the exception of the two remaining requested variances and that is the requirement to install a mechanical solid separator and the associated requirement to submit plans and specifications for the separator. The Department filed its answer supporting the petition. The purpose of a manure solid separator is to insure that you minimize the build-up of manure solids in your wastewater impoundment and because De Smet is proposing a very small scale dairy operation, approximately 25 to 50 head, with a mobile milking parlor, they will be able to remove manure from the milking parlor manually and spread it on the grazing fields; therefore mechanical manure solid separator is not required in this facility. The

reason you want to minimize the build-up of manure solids in the impoundment is to make sure that you maintain adequate wastewater storage capacity.

Your adjudicatory procedures require that if the Department recommends approval of a requested variance then a hearing must be held within 90 days of the Department's response. Therefore we are here this morning with Mr. De Smet to request that a hearing be set in this matter to be held in conjunction with your next regularly scheduled meeting which is on May 8, 2012.

Mr. Pattison had a question about the list of variances applied for and then withdrawn. Mr. De Smet described the process they were going to use and upon further questioning by Mr. Pattison Chair Tongate pointed out that these questions were beyond the scope of setting the hearing date.

Mr. Glass made a motion to set the hearing for May 8th and that the Chair be the hearing officer. Mr. Taylor seconded the motion and the motion passed unanimously. Chair Tongate stated that he would try to talk Ms. Orth into being the hearing officer.

Item 5. Hearing in WQCC 11-05 (R), Petition to Amend Use for Lower Dry Cimarron River and to Establish Water Quality Standards for Lakes, 20.6.4 NMAC, Ryan Flynn, OGC/NMED and James Bearzi, Tim Michael and Deborah Serabis, SWQB/NMED, for Petitioner.

Action: The hearing in WQCC 11-05(R) was recorded and transcribed by Cheryl Arreguin of Kathy Townsend Court Reporters. The transcript is available in the office of the Commission Administrator.

Mr. Sanders moved to adopt the amendments to the water quality standards for the Dry Cimarron and to provide the Chairman with the authority to sign order and statement of reasons. Mr. Glass seconded. The motion passed unanimously.

Item 6. Other business.

Action: Ms. Orth informed the Commissioners that Carmella Casados is no longer with the Department and that she is now Acting Administrator again until a new administrator is hired.

Mr. Flynn wanted to draw the Commission's attention to a report that the Department has published on its webpage. It's an enforcement activity report for the calendar year of 2011. All of the enforcement activities that have been taken by the Environment Department are available and specified by bureau so in our efforts to be transparent and to provide more information to the public that document exists. As a point of clarity respectfully it is the Department's position that we don't take enforcement actions on behalf of the Water Quality Commission, we take them on behalf of the Department. Often we have to come to the Commission as a result of enforcement actions. Secretary Martin has required the bureaus to provide us with

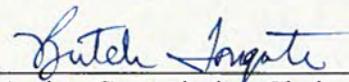
information on all their enforcement activities and we compile them at 6 months and 12 months and file a report on an annual basis.

Item 8. Next meeting:

May 8, 2012

Item 9. Adjournment.

The Chair adjourned the meeting at 11:56 am.



Acting Commission Chair