

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

1190 St. Francis Drive, Room N2150

Post Office Box 26110

Santa Fe, New Mexico 87502

Telephone (505) 827-2425 Fax (505) 827-0310



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

September 11, 2007

9:00 a.m.

New Mexico Energy, Minerals and Natural Resources Department

Wendell Chino Building, Porter Hall

1220 S. St. Francis Drive

Santa Fe, New Mexico 87505

MEMBERS PRESENT:

Cindy Padilla	NMED/Deputy Secretary, Acting Chair
Greg Lewis	Office of the State Engineer
Larry Dominguez	Department of Agriculture
Mike Sloane	Department of Game & Fish
Len Flowers	Department of Health
Howard Hutchinson	Soil and Water Conservation Commission
Peggy Johnson	Bureau of Geology and Mineral Resources
Steve Glass	City of Albuquerque – Municipal/County Representative
Maxine Goad	Member-at-Large

MEMBERS ABSENT:

Cheryl Bada	State Parks Division
Mark Fesmire	Oil Conservation Division
Fred Lujan	Member-at-Large
Edward Vigil	Member-at-Large

OTHERS PRESENT:

Eric Ames, NMED/OGC	Richard Rose, NMED/CPB
Sheila Dealy	Jennifer Evans, Modrall Law Firm

Dal Moellenberg, Gallagher & Kennedy
John Kelly, Modrall Law Firm
Joyce Medina, NMED/OOTS

Leslie Padilla, Modrall Law Firm
Kevin Myers, NMED/GWB

Acting Chair Cindy Padilla called the meeting of the WQCC to order at 9:10 a.m. She asked the Commission, as well as meeting attendees, to observe a moment of silence in observation of the sixth anniversary of the attack on New York's twin towers in 2001.

Item 1. Roll Call:

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

Item 2. Approval of Agenda

Ms. Padilla noted that there was a request for review of Discharge Permit #1629 issued to the Chamisa Hills Golf and Country Club and stated the review request should be added to the agenda as Item 4 changing the numbers of all subsequent agenda items.

Action: Mr. Hutchinson moved to approve the agenda as amended. Mr. Glass seconded. The motion passed unanimously.

Item 3. Approval of the August 14, 2007 meeting minutes.

There were several corrections and additions to made in the minutes as noted by the Commissioners.

Action: Mr. Hutchinson moved to approve the minutes as amended. Mr. Sloane seconded. Mr. Glass abstained. The motion passed.

Item 4. Request for Review by Chamisa Hills Golf and Country Club re: Ground Water Discharge Permit #1629. Harry Apodaca, Chamisa Hills; Chuck Noble, NMED/OGC.

There was Commission discussion regarding Mr. Apodaca's request as well as the letter sent to Mr. Apodaca pointing out the need for compliance with Commission filing requirements relating to requests for hearing or for review.

Action: Mr. Hutchinson moved to table the Chamisa Hills Golf and Country Club request for review until the Commission's October 9, 2007 meeting.

Mr. Glass asked if moving the item to the October agenda would have an impact on the Commission's deadline response times.

Mr. Noble noted that Mr. Apodaca's request was actually for review, not an appeal, and that there was no violation of notice issues in moving the item to October 9, 2007. Additionally, he suggested that the Commission appoint a hearing officer to handle this case.

Mr. Hutchinson amended his motion to include the appointment by the Commission of Ms. Padilla as hearing officer in this case. The motion, as amended, passed unanimously.

Prior to convening the hearing in WQCC 07-04 (R), Ms. Padilla noted the arrival of Commissioner Len Flowers to the meeting.

Item 5. Hearing on Petition for Regulatory Change – Amendments to 20.7.5 NMAC, Wastewater Facility Construction Loans, WQCC 07-04 (R). Eric Ames, NMED/OGC; Richard Rose, NMED/CPB. Hearing Officer Cindy Padilla

The Chair stated that the hearing would commence and that she would preside as Hearing Officer for this agenda item. Kathy Townsend Court Reporters transcribed the hearing. All Notices of Intent to Present Technical Testimony were timely filed and are available for review, as well as any public comment correspondence and the hearing transcript, in the office of the Environmental Improvement Board Administrator, New Mexico Environment Department, 1190 St. Francis Drive, Runnels Bldg, Rm. N-2150, Santa Fe, New Mexico 87505.

The meeting reconvened at 10:50 a.m.

Ms. Padilla stated that she thought the Commission deliberations in WQCC 07-04 (R) would probably take until noon and that, if the Commission agreed, it would be appropriate to announce that the Tyrone Remand hearing would reconvene at 1:00 p.m. That announcement was made.

Deliberations commenced on the Construction Program Bureau's Petition for Regulatory Change, WQCC 07-04 (R).

Ms. Padilla asked Mr. Hutchinson to review the changes the Commission suggested be made in the draft Statement of Reasons and Final Order. He noted several text changes as set out below:

At page 3, under item 2. Proposed New Subsection A(4), line 5, delete the words "or as authorized by" and substitute the words "in accordance with."

At page 4, under item 2. Proposed Change to Subsection C(2), line 2, insert the word "total" between the word "the" and the word "administrative."

Additionally, there would be a paragraph setting out the Commission's determination that the proposed revisions adopted at the hearing, supported by the testimony of Dr. Rose, are necessary and appropriate to implement the Act. This paragraph would be added to the Statement of Reasons.

There was a brief Commission discussion regarding the changes.

Action: Mr. Glass moved to approve the Statement of Reasons and Final Order as amended. Mr. Hutchinson seconded.

The Chair requested a roll-call vote.

Mr. Hutchinson proposed a friendly amendment authorizing Ms. Padilla to sign the Statement of Reasons and Final Order. Mr. Glass accepted the friendly amendment.

Commission Vote

Ms. Flowers	yes
Ms. Goad	yes
Ms. Johnson	yes
Mr. Hutchinson	yes
Mr. Sloane	yes
Mr. Dominguez	yes
Mr. Glass	yes
Mr. Lewis	yes
Ms. Padilla	yes

The motion to approve the Statement of Reasons and Final Order, as amended, passed unanimously.

Item 5. Other business

Mr. Glass mentioned that he wished to apprise the Commission of some very interesting reasearch work being done in Arizona by the Arid West Water Quality Reaserach Project. He noted that this group has produced very informative data with respect to setting aquatic standards for ephemeral streams as well as looking at the ecology and protection of those streams. He stated that he has been in touch with a Project staff member who had indicated that she was willing to come before the WQCC and make a presentation relating to the Project's findings. He indicated that if there was Commission interest he would make arrangements for the presentation. It was noted that the Commissioners were very interested in having the pesentation made at a future meeting.

The Chair brought up a matter that had been discussed at the Commission's August meeting relating to the Interim Committee of the New Mexico Finance Authority and the possibility of the Commission appearing before the Committee to explain its function as well as general scope and areas of authority. There was a lengthy discussion relating to the need for expanding recognition of the Commission's existence and duties and perhaps making such a presentation before the Committee could further those goals. It was agreed that the Chair should initiate contact with the Committee to establish a date and time when a presentation could be made by the Commission.

The Chair also mentioned an email that had been sent out by the Governor's office asking that all boards and commissions refrain from proposing legislation for consideration during the 2008 thirty day session.

Ms. Padilla noted that her schedule would necessitate changing the October 9-12 dates previously agreed upon for reconvening the Tyrone remand hearing. She requested that members review their calendars for alternate dates in order to set new dates when the Commission reconvenes the Tyrone remand hearing today at 1:00 p.m.

Following a number of questions by Mr. Lewis regarding Department involvement in the Water and Natural Resources Interim Committee, Ms. Padilla noted that while the Department was not permanently involved, Department staff would be present at an October 29th meeting on non-native phreatophytes together with several other interested departments. Mr. Lewis stated that he felt it was important for the Commission to be more actively involved in water related meetings, seminars and presentations. A brief discussion was held relating an appropriate time frame for initiating Commission presentations.

Item 5. Next Regular Meeting: October 9, 2007 in Santa Fe.

Item 6. Adjournment:

Mr. Sloane moved to adjourned the meeting at 11:35 a.m. Mr. Dominguez seconded. The motion passed unanimously.

Signature on File

Cindy Padilla, Acting Chair
Water Quality Control Commission