

**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
State Engineer & Interstate Stream
Commission
Game and Fish Department
Oil Conservation Division
Department of Agriculture
State Parks Division
Soil and Water Conservation Commission
Bureau of Mines and Mineral Resources
Members-at-Large



**Bill Richardson
Governor**

Approved August 9, 2005
**Minutes of the
New Mexico Water Quality Control Commission
Meeting
June 14, 2005**

The New Mexico Water Quality Control Commission (WQCC) meeting was held on June 14, 2005 at the New Mexico State Capitol Building, Room 321:

MEMBERS PRESENT: June 14, 2005

Derrith Watchman-Moore	Acting Chair, New Mexico Environment Department
Cheryl Bada	State Parks Division
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
Ed Martin	Oil Conservation Division (for Mark Fesmire)
Lynn Brandvold	Bureau of Geology and Mineral Resources
Tim Darden	Department of Agriculture
Mike Sloane	Department of Game & Fish
Fred Lujan	Member-at-Large

MEMBERS ABSENT: June 14, 2005

Doug Murray	Office of State Engineer
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OTHERS PRESENT:

Zack Shandler, WQCC Counsel	Tracy Hughes, NMED, OGC
Patty Grice, MVNA	Kathryn Becker, NMED OGC
Barbara Claire, NMED	Julio Dominguez

Jennifer Ickes, SWQB
Christina Kelso, NMED GWQB
Kurt Vollbrecht, NMED GWQB
Bill Olson, NMED GWQB
Gary Larsen, Hinkle Law Firm
Phillip Krepfl, AAA Pumping
Jill Turner, NMED
Pam Homer, NMED GWQB
Shelley Lemon, NMED GWQB
Amanda Wang, NMED OGC
Adrian Vega, NMED OGC
Orlando Rolinas
Cindy Padilla, NMED

Lynette Guevara, NMED SWQB
Heidi Henderson, NMED SWQB
George Schuman, NMED GWQB
Tannis Fox, NMED OGC
Marcy Leavitt, NMED SWQB
Jane DeRose-Bamman, NMED SWQ
Joni Arends, CCNS
Megan Nelson, NMED GWQB
Alan Bolinger
Jennifer H, NMED OGC
B.J. Brock, NMWGI, NMCGA
Tim Davis

Deputy Chair Derrith Watchman-Moore called the meeting of the WQCC to order at 9:35 a.m.

Item #1 Roll Call

Barbara Claire, Administrator, took roll and noted a quorum was present.

Item #2 Approval of Agenda

Item no. 8 Other Business was moved to item #3.

ACTION: Commissioner Murray moved to approve the agenda as amended.
Commissioner Glass seconded. Motion carried unanimously.

Item #3 Other Business

- WQS Rule Corrections - Jane DeRose-Bamman explained the corrections to errors made in the WQS rule 20.6.4 NMAC effective May 23, 2005. The error is being remedied by a Corrections Filing with the Records Center, having conferred with OGC and WQCC Legal Counsel. This is the most expedient process to make the correction.
- Visit to the Rio Santa Barbara - Recommendation by the Environment Department to take a field trip to the Rio Santa Barbara, New Mexico's first Outstanding National Resource Water (ONRW). A mini sampling demonstration and possibly two of the 319 projects for non point source pollution are tentatively scheduled. The trip was scheduled for the Commission's meeting on August 9th.
- DP#1255 Summary – a summary of Discharge Permit #1255 issued to White Sands/NASA, authored by Ms. Daniela Bowman, formerly with the Hazardous Waste Bureau and now with the Radiation Control Bureau. The Deputy Chair asked the Commission to review and comment on the Summary after which the Commission can then decide if this issue will be placed on the Agenda. Tracy Hughes, NMED General Counsel advised the Commission that Ms. Bowman is acting in her individual capacity to publicly speak to the issue. This permit was issued back in 2000 and up for renewal in 2007; it also requires public notice and a public comment period. Mr. Olson, Water Quality Control Bureau Chief, stated that Ms. Bowman's issue of DP#1255 stems from her duties as staff of the Department and she has

not raised this issue with the Bureau. There will be the opportunity to address this issue during the renewal process starting in 2006; the Bureau solicits a renewal application from a permittee at least 180 days in advance. Commissioner Glass questioned why a variance in contaminant levels wasn't caught during the permitting process. Kurt Vollbrecht, NMED GWQB, responsible for issuing and monitoring this permit, explained that risk assessment is not an exact science and that at the time the permit was issued, the Department felt that the limits set were appropriate. The Department is working with NASA and the Hazardous Waste Bureau to maximize the capabilities of the system. When the permit is renewed in 2007 it should be functioning up to standard. The Department conducts ongoing monitoring of the NASA/White Sands discharge and NASA is working to effectively reduce the contaminants in the discharge waters. The discharge system is always run at its maximum capacity; the Department is confident that the contaminants are well below the required limits and the levels are being taken down to non-detectable limits. To suspend DP#1255 at this point would be counter-productive, as it would prevent the Department's work with NASA to reduce the contaminant levels in the discharge water. Commissioner Glass requested a written summary from Bureau Chiefs Bill Olsen (GWQB) and Marcy Leavitt (SWQB) at the next meeting on July 12th for discussion by the Commission under Other Business.

Item #4 Request for hearing for amendments to 20.6.2.7 NMAC and 20.6.2.3108 NMAC pursuant to 2005 statutory change to NMSA 1978, 74-6-5 (HB35) WQCC 05-03 (R) (Tracy Hughes, General Counsel, Office of General Counsel, 5 minutes)

ACTION: Chair Watchman-Moore moved to grant a hearing in the matter on October 11th, 2005. Commissioner Glass offered a Friendly Amendment that Deputy Chair Watchman-Moore sit as Hearing Officer. Commissioner Goad seconded. Motion carried unanimously.

HB35 will become effective June 20th and the provisions in the statutes will be effective at that point. The Commission will be informed by the July 12th meeting if any other issues will be reviewed at that time.

Item #5 Approval of Final Draft of the Upper Pecos Watershed TMDLs (Heidi Henderson, Surface Water Quality Bureau (SWQB))

Commissioner Hutchinson requested that the public mailing list be updated to include community land grant organizations; the mailing list is outdated and lacking land grant association's addresses. There is legislation that recognizes community land grants that should be included on these mailing lists when updated by the Commission Administrator. Commissioner Goad noted that although it was stated earlier in the document that Non-Point Source Controls are enforceable by the state via a compliance order if standards are violated, the emphasis in Appendix E, Response to Public Comments, was placed on lack of enforceability by the EPA. Although Commissioner Goad did not request that this be changed, she did urge the Bureau not to 'soft

pedal' this enforceability issue the next time around and to be clear that there is enforceability by the state.

ACTION: **Commissioner Brandvold moved to approve the Final Draft of the Upper Pecos Watershed as presented. Commissioner Sloan seconded. Motion carried unanimously.**

Item #5b. Approval of Final Draft of the San Juan Watershed (Part One) TMDLs was presented by Lynette Guevara, SWQB.

ACTION: **Commissioner Vigil moved to approve the Final Draft of the San Juan Watershed (Part I) as presented. Commissioner Darden seconded. Motion carried unanimously.**

Item #5c. Approval of Final Draft of the Upper Rio Hondo Nutrient TMDL presented by Shelley Lemon, SWQB. Commissioner Goad commented that the report downplayed actually meeting target loads on page 2, and requested the last sentence be removed. The sentence will be struck as not appropriate.

ACTION: **Commissioner Glass moved to approve the Final Draft of the Upper Rio Hondo as amended. Commissioner Brandvold seconded. Motion carried unanimously.**

Item #6 "Removal of the Cimarron Aluminum TMDL (Approved on December 12, 2000) from the State's Water Quality Management Plan due to re-assessment was presented by Jennifer Ickes, SWQB.

Ms. Ickes informed the Commission that there would be other removals in the future. Ms. Ickes queried the Commission if there were different preferences as to the TMDL draft procedures; the Commission confirmed they were satisfied with the process as it is.

ACTION: **Commissioner Brandvold moved to approve the Removal of the Cimarron TMDL as presented. Commissioner Sloan seconded. Motion carried unanimously.**

Item #7 Approval of the April 12, 2005 Meeting Minutes

ACTION: **Commissioner Sloan moved to approve the April 12, 2005 Minutes as amended. Commissioner Goad seconded. Motion carried unanimously.**

[A copy is available at the Commission's office].

Item #8 Hearing and possible decision In the Matter of the Groundwater Discharge Permit #DP-1471 issued to AAA-Pumping Service, Inc. (WQCC 05-01(A) (NMED Groundwater Quality Bureau; Kathryn Becker, OGC; Mountain View Neighborhood Association, Petitioner.)

Deputy Chair Watchman-Moore was the Hearing Officer for this matter. The hearing was transcribed by a court reporter. Commissioner Hutchinson requested the WQC Administrator send him an electronic copy of the transcript. The record was closed at 2:35 pm and the Commission entered into deliberations.

Commissioner Hutchinson stated the petitioner failed to show the petition had merit. He further stated that ED and AAA exhibited latitude in the matter and asked that a report be issued after an inspection has taken place and report to the Department; the permit requires quarterly monitoring. Commissioner Sloan suggested that a report be made upon notification of a violation. Requiring a report on every permit inspection made would unduly burden the Department. Commissioner Glass noted that since AAA Pumping Service is required to submit a quarterly monitoring report to NMED, they could copy the Mountain View Neighborhood Association (MVNA), creating a positive communication link for the community. Deputy Chair Watchman-Moore commented that where the sign was placed is in an industrial area and it could have been posted where the public would see it. Commissioner Hutchinson stated that the Department should make every effort to post a sign to the utmost benefit to the public. Commissioner Glass commented that the obvious placement of the sign on Second Street, which is a major thoroughfare, being missed by the MVNA over the period of a year, combined with the message from Mountain View Neighborhood Association to Secretary Curry in a March meeting that was never communicated to the Ground Water Bureau working on the permit at the plan, was most unfortunate. There was reference made to the Groundwater Protection Policy and Action Plan, and the declaration under that plan stating that this is a crucial zone, but it has to be acknowledged that this is an advisory and planning document but there is no enforceability and even if the Department had considered it, they could not have forced the issue. It is very important to discount the statement in the MVNA's letter that they felt the Environment Department knowingly did not notify interested parties, that they knowingly excluded the MVNA; the statement should be made and the record reflect that this is not true, that the Environment Department should be commended for going above and beyond the public noticing requirements and the extended comment periods conducted.

ACTION: **Commissioner Glass moved to affirm the Discharge Permit as issued to AAA Pumping with the requirement they provide a copy of each quarterly report to the Mountain View Neighborhood Association. Commissioner Goad seconded. A roll call vote was taken and the Motion passed 9-2.:**

Derrith Watchman-Moore	Yes
Cheryl Bada	Yes
Steve Glass	Yes
Maxine Goad	Yes

Edward Vigil	Yes	
Howard Hutchinson	No	-
Ed Martin	Yes	.
Lynn Brandvold	Yes	
Tim Darden	Yes	
Mike Sloane	No	
Fred Lujan	Yes	

Commissioner Sloan requested that Mr. Shandler, the Commission's Counsel write an Order in this matter.

Item #9 Next regularly scheduled meeting is July 12th.

There are four commissioners who will not attend the meeting due to another professional commitment. Chair Watchman-Moore will notify the Commission if there will be a July meeting or not.

Item #10 Adjournment

There being no other business before the Commission, the meeting was adjourned at 3 pm.

WQCC Chair
Derrith Watchman-Moore, Deputy Chair