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

Meeting Minutes
New Mexico Water Quality Control Commission
Regular Meeting
11/18/14
New Mexico State Capitol Room 321
490 Old Santa Fe Trail
Santa Fe, New Mexico 87501

MEMBERS PRESENT:

Ryan Flynn	Chair, Environment Department
Larry Dominguez	Department of Agriculture
Tony Delfin	State Forestry Division
Dan Brooks	Department of Game & Fish
Scott Dawson	Oil Conservation Division
John Waters	Member-at-Large
Edward Vigil	Member-at-Large
Jane DeRose-Bamman	Water Utility Authority
Ghassan Musharrafieh	Office of the State Engineer

MEMBER ABSENT:

Clark Taylor	Soil and Water Conservation Commission
Hoyt Pattison	Member-at Large

OTHERS PRESENT:
Joshua Granata, New Mexico Attorney General's Office, Counsel for the Commission
Wade Jackson, General Counsel, NM Economic Development Department, Counsel for the Commission
Pam Castañeda, Administrator
Please see attached sign-in-sheet

The meeting was called to order by Mr. Flynn at 9:05 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 adoption of the agenda. Mr. Vigil seconded the motion. The motion passed unanimously.

Item 3. **Approval of minutes of September 9, 2014, meeting.**

Action: Three corrections were pointed out by members of the Commission. Mr. Water's requested amendment of item #6 to add suggestion by Mr. Waters to have New Mexico Environment Department (NMED) staff communicate with local government officials in advance of any official action taken. Mr. Dominguez requested amendment of item #7, line 125, to show the Coalition argued for the public hearing to be held in in Santa Fe rather than Las Cruces. Ms. DeRose-Bamman requested amendment of item #7, line 124, to reflect the correct acronym for the Dairy Industry Group for a Clean Environment as "DIGCE." The Chair entertained a motion to approve the minutes of September 9, 2014, as amended. Mr. Delfin moved approval the amended minutes. Mr. Dominguez seconded. The motion passed unanimously.

Item 4. **Election of a Commission Chair pursuant to NMSA 1978, § 74-6-3(C).**

Action: Mr. Delfin moved nomination of Mr. Flynn as the chair for the Water Quality Control Commission. Mr. Waters seconded. The motion passed unanimously.

Item 5. **Discussion of ongoing legal representation of the Commisson.**

Action: The Chair gave a brief description of the legal advice prescribed by NMSA 1978, § 74-6-3.1. The Commission discussed selecting a new legal representation for the Commission. The Chair recommended Wade Jackson, General Counsel of the Economic Development Department who previously represented the Commission in the Copper Rule, act as Commission counsel pursuant to § 74-6-3.1. Mr. Vigil noted that the Commission may revisit the Commission's legal representation in upcoming cases with respect to the establishment of the newly elected attorney general's administration.

Mr. Dominguez moved the Commission obtain legal counsel from another state agency that is not a member of the Commission and leave the discretion to select such legal counsel to the Chair until the Commission can revisit this issue at a later date. Mr. Vigil seconded. The motion passed unanimously. Mr. Granata was excused from representing the Commission.

BREAK

The meeting resumed at 9:37 a.m.

Mr. Jackson served as counsel to the Commission for the remainder of the meeting.

The Chair noted after the break that the WQCC statute allows other officers to be elected. Election of a Vice Chair was not on this agenda, but will be on the next agenda for December 9, 2014.

Item 6. **WQCC 14-15 (R) Proposed Amendment to 20.6.2.50004 NMAC and Adoption of 20.6.2.5300 through 20.6.2.5305 NMAC.**

Action: Ms. Denise McWatters, Senior Vice President and General Counsel for the Holly Frontier Company, gave a brief presentation and overview on Proposed Amendment to 20.6.2.50004 NMAC and Adoption of 20.6.2.5300 through 20.6.2.5305 NMAC. Ms. McWatters requested a hearing be set in this matter for April 14, 2015. Mr. Delfin moved to set the hearing for May 12, 2015. Mr. Delfin amended his motion to authorize the Chair with authority to assign a Hearing Officer. Mr. Waters seconded. The motion passed unanimously.

Item 7. **WQCC 14-05 (R) Proposed Standards for Interstate and Intrastate Waters 20.6.4 NMAC. Appointment of Hearing Officer.**

Action: Mr. Kevin Powers, Assistant General Counsel with the NMED, and Ms. Kristine Pintado with the Surface Water Quality Bureau requested appointment of a Hearing Officer for the April 14, 2015 meeting. The Chair moved to delegate authority to appoint a Hearing Officer in the matter to the Chair. Mr. Dominguez seconded. The motion passed unanimously.

Item 8. **Closed Executive Session to discuss pending legal matters against the Commission pursuant to NMSA1978, §10-15-1(H)(7) of the Open Meetings Act.**

Action: The Chair moved that the New Mexico Water Quality Control Commission enter into closed executive session pursuant to NMSA 1978,§10-15-1(H)(7) to discuss matters related to pending litigation as set forth in the meeting agenda. Mr. Brooks seconded. Roll call was taken all were unopposed.

The Commission came back into open session at 10:45 a.m. The record reflected that matters discussed in executive session were limited only to those specified in

motion for closure specifically pending legal matters against the commission pursuant to NMSA 1978,§10-15-1(H)(7).

Item 9. **Discussion of impact of pending legal matters against the Commission on the currently scheduled Dairy Rule Hearing (WQCC 12-09 (R) and WQCC 13-08 (R)) and potential implications on notice requirements.**

Action: The hearing in WQCC 12-09 (R) and WQCC 13-08 (R) was recorded and transcribed by Bean & Associates. The transcript is available in the office of the Commission Administrator.

There will be a hearing at the First Judicial District Court for November 25, 2014, regarding whether the Commission can proceed to hold the Dairy Rule hearing in Roswell. The Commission intends to move forward with the hearing in Roswell beginning on December 9, 2014, pending the outcome of the judicial hearing. If the decision by the First Judicial District Court were to prohibit the hearing from being held in Roswell, the Commission will address the decision at their regularly scheduled meeting in December.

Item 10. **(WQCC 12-09 (R) and WQCC 13-08 (R) Proposed Amendment to 20.6.6 NMAC (Dairy Rule). Prehearing motions.**

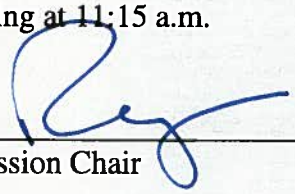
Mr. Delfin moved the Commission to delegate oral arguments and evidence to the Hearing Officer, Chris Saucedo. The Chair amended Mr. Delfin's motion and added that decisions and written orders on the pre-hearing motions also be delegated to the Hearing Officer. Mr. Brooks seconded the motion as amended. The motion passed unanimously.

Item 11. **Next Meeting**

Action: **December 9, 2014**

Item 12. **Adjournment**

The Chair adjourned the meeting at 11:15 a.m.



Commission Chair