

*State of New Mexico*  
**ENVIRONMENTAL IMPROVEMENT BOARD**  
*Harold Runnels Building, N-2150*  
*1190 S. St. Francis Drive, P. O. Box 26110*  
*Santa Fe, New Mexico 87502*

**Environmental Improvement Board Meeting**  
**March 4, 2008**  
**9:00 a.m.**  
**State Capitol Building, Room 317**  
**490 Old Santa Fe Trail**  
**Santa Fe, New Mexico 87501**

**Members Present:** Gregory Green, Chair  
Kathi Bearden, Vice-Chair  
Dolores Herrera, Member  
Soren Peters, Member  
Gay Dillingham, Member

**Members Absent:** Abbas Ghassemi, Member  
Harold Tso, Secretary

**Others Present:**

Andy Berger, NMED/AQB	Tracy Hughes, General Counsel NMED
Louis Rose, Montgomery Law Firm	Scott Garrett
David Herzenberg	Stephanie Reid
Kathy Clark	Andrew Scott
Daniela Bowman, NMED/RCB	Rudy Fernandez
Branden Marshall, NMED/EHP	Raj Solomon, NMED/EHD
Leslie Barnhart, NMED/OGC	Eugene R. Knight, NMED
Jennifer Ickes, NMED	Sheila A. Holley, City of Clovis
Rob Carter, City of Clovis	Bret Blanchard, Defined Fitness
Shawn Gale, Defined Fitness	Jennifer Pruett, NMED/PSTB
Beth Gillia, NMED/PSTB	Jim Davis, NMED/PSTB
Bill Scott, Modrall Law Firm	Alan Sena, NMED
Johnny Feely, NM Sports & Wellness	Zachary Shandler, Atty. General's Office

**Item 1. Roll Call**

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

**Item 2. Approval of Agenda**

**Action:** Ms. Herrera moved approval of the agenda. Mr. Peters seconded. The motion passed unanimously.

**Item 3. Approval of January 7, 2008 meeting minutes**

**Action:** Ms. Bearden moved approval of the January 7, 2008 meeting minutes. Mr. Peters seconded. The motion passed unanimously.

**Item 4. Approval of the Board's 2008 Open Meetings Act Resolution.**

**Action:** Ms. Herrera moved approval of the Board's 2008 Open Meetings Act Resolution. Ms. Bearden seconded. The motion passed unanimously.

**Item 5. Board meeting date schedule – 2008.**

There was a brief discussion regarding meeting dates. The Board agreed that meetings would be held on the first Monday of each month, convening at 10:00 a.m., unless the first Monday was a holiday, in which event, the Board would meet on the first Tuesday of that particular month, also convening at 10:00 a.m.

**Item 6. Public Comment**

There was no public comment.

**Item 7. Petition for Regulatory Change in re: EIB 08-07 (R), Proposed Revisions to 20.2.70 NMAC, Operating Permits. Leslie Barnhart, NMED/OGC; Gail Cooke, NMED/AQB.**

Staff from the Air Quality Bureau requested that a hearing in this matter be scheduled to take place at the Board's June 2, 2008 meeting because this matter and the issue already set for hearing at the June meeting were related.

There was a brief discussion by the Board regarding scheduling.

**Action:** Ms. Bearden moved that the Board set the hearing in EIB 08-07 (R), Proposed Revisions to 20.2.70 NMAC, Operating Permits, on the June 2, 2008 agenda. Mr. Peters seconded. The motion passed unanimously.

**Item 8. Board approval of Order Granting Motion for Reconsideration of the Decision to Impose the Original Transcription Costs of Hearing on Petitioners in re: EIB 07-05 (A) NM Environmental Law Center Opposed Motion and Brief in Support Re: Reconsideration of the Decision to Impose the Original Transcription Costs of Hearing on Appellants. Zachary Shandler, Board Counsel, Office of the Attorney General.**

Mr. Shandler requested that the Board approve the Order in this matter.

Ms. Bearden noted a revision she felt should be made in the Order at paragraph 12, regarding the fact that the meeting room in Clovis had been paid for by NMED and was a

relevant factor in the denial by the Hearing Officer of the Law Center's motion requesting that the Department pay the fees for the hearing transcript.

**Action:** Ms. Herrera moved that the Order be approved as amended. Mr. Peters seconded. The motion passed, four affirmative votes; one negative vote by Ms. Bearden.

**Item 9.** Board approval of Order and Statement of Reasons for Adoption of Regulations in re: EIB 07-11 (R) Petroleum Storage Tank Bureau Petition for Regulatory Change. Zachary Shandler, Board Counsel, Office of the Attorney General.

Mr. Shandler requested that the Board approve the Order and Statement of Reasons in this matter. However, he noted that there were text omissions in the Order and indicated that he would take the necessary steps to insert the omitted language and also correct any typographical errors that might be found.

**Action:** Mr. Green moved that the Board approve the Order and Statement of Reasons in EIB 07-11 (R) and instruct the Board counsel to make the revisions and corrections that were discussed. Ms. Dillingham seconded. The motion passed unanimously.

**Item 10.** Board approval of the Order and Statement of Reasons for Adoption of Regulations in re: EIB 07-13 (R), Adoption of 20.2.86 NMAC, Mercury Control Strategies for New Coal-Fired Power Plants, Zachary Shandler, Board Counsel, Office of the Attorney General.

Mr. Shandler requested that the Board approve the Order and Statement of Reasons in this matter.

**Action:** Ms. Bearden moved that the Board approve the Order and Statement of Reasons in EIB 07-13 (R). Ms. Dillingham seconded. The motion passed unanimously.

**Item 11.** Board executive session pursuant to NMSA 1978 § 10-15-1(H)(7) in re: *New Mexico Cattlegrowers Association v. EIB*, New Mexico Court of Appeals; *George Hanosh, et al., v. EIB*, New Mexico Court of Appeals, and *Zangara Dodge, et al., v. EIB*, U. S. District Court. Zachary Shandler, Board Counsel, Office of the Attorney General.

The Chair asked for a motion regarding the Board executive session. Mr. Shandler noted that the Board would go into the executive session pursuant to NMSA 1978, § 10-15-1(H)(7).

**Action:** Ms. Bearden moved that the Board go into an executive session. Ms. Herrera seconded.

**Roll Call Vote:**

<b>Ms. Bearden</b>	<b>yes</b>
<b>Ms. Dillingham</b>	<b>yes</b>
<b>Mr. Green</b>	<b>yes</b>
<b>Ms. Herrera</b>	<b>yes</b>
<b>Mr. Peters</b>	<b>yes</b>

The Board concluded the executive session and the meeting was reconvened at 9:45 a.m.

**Action: Ms. Herrera moved that the Board return to its scheduled agenda.  
Mr. Peters seconded.**

It was noted by Ms. Dillingham that the only issues discussed during the executive session were the court cases listed at Item 11 on today's agenda.

**Roll Call Vote:**

<b>Ms. Bearden</b>	<b>yes</b>
<b>Ms. Dillingham</b>	<b>yes</b>
<b>Mr. Green</b>	<b>yes</b>
<b>Ms. Herrera</b>	<b>yes</b>
<b>Mr. Peters</b>	<b>yes</b>

Mr. Green turned the meeting over to Mr. Peters, the designated hearing officer for Item 12 on the agenda.

**Item 12. Hearing in re: Petition for Amendment of 7.18.2, 7.18.3 and 7.18.4 NMAC, Swimming Pool Program, EIB 07-12 (R). Jennifer Hower, NMED/OGC; Raj Solomon, NMED/OGC.**

At 9:50 a.m. the hearing in EIB 07-12(R), Petition for Amendment of 7.18.2, 7.18.3 and 7.18.4 NMAC, Swimming Pool Program commenced. Kathy Townsend Court Reporters transcribed the hearing. The transcript is available for review in the Office of the Environmental Improvement Board Administrator, New Mexico Environment Department, 1190 St. Francis Drive, Runnels Building Room N-2150, Santa Fe, New Mexico 85701.

The meeting reconvened briefly at 12:10 p.m. at which time the Chair announced that the Board would recess for lunch and the hearing would continue following lunch.

The hearing was reconvened at 1:30 p.m.

The hearing concluded at 2:10 p.m. At the end of the hearing, the Board agreed to leave the record open with respect to the specific issues relating to proposed requirements regarding number of lifeguards as well as size and use of a pool.

The meeting was then reconvened.

**Item 13. Other Business**

There was a brief discussion regarding whether or not Board members felt it necessary to have business cards printed. The Board concluded that cards were probably not a necessity, however, Ms. Bearden stated that she would like to have something that would substantiate her Board membership for use when checking into hotels in order to be granted a government lodging rate. It was noted that any member wanting business cards could contact the Board Administrator to place an order.

**Item 14. Next Meeting: April 7, 2008, State Capitol Room 307 at 10:00 a.m.**

**Item 15. Adjournment**

The Chair adjourned the meeting.

*Signature on File*

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Gregory Green, EIB Chair