

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

Environmental Improvement Board Meeting
August 7, 2007 Meeting
9:00 a.m.
New Mexico State Capitol Building, Room 321
490 Old Santa Fe Trail
Santa Fe, New Mexico 87501

Members Present: Gay Dillingham, Chair
Kathi Bearden, Member
Gregory Green, Vice-Chair
Soren Peters, Member
Harold Tso, Member
Abbas Ghassemi, Member

Members Absent: Dolores Herrera, Secretary

Others Present:

Diane Wood, ACLU	Jessica Joseph, Modrall Law Firm
Charles Henson, NMADA	Pat Shay, Rodey Law Firm
Chuck Noble, NMED/OGC	Bill Grantham, NMED/OGC
Mary Martinez, Realtors Assn. of NM	Lauren Ketcham, Environment New Mexico
Neal Butt, Alb. Air Quality Division	Mary Uhl, NMED/AQB
Gail Cooke, NMED/AQB	James Bearzi, NMED/HWB
Zachary Shandler, NM AG's Office	Link Summers, POWRA

Chair Gay Dillingham called the meeting to order at 9:05 a.m.

Item 1. Roll Call

The Board administrator took the roll and noted a quorum was present.

Item 2. Approval of Agenda

Action: Mr. Green moved that the agenda be approved. Ms. Bearden seconded. The motion passed unanimously.

Item 3. Approval of minutes of July 11, 2007 meeting.

The Chair noted an error in the spelling of Mr. Ghassemi's name.

Action: Mr. Peters moved that the Board approve the July 11, 2007 meeting minutes as amended. Mr. Tso seconded. The motion passed unanimously.

Item 4. Public Comment

Link Summers of POWRA expressed his opinion to the Board of discrepancies he perceives relating to NMED liquid waste related rules as well as the Department's lack of enforcement and understanding of its own rules.

Mr. Green noted that Mr. Summers had been asked at the July 11, 2007 meeting, during which Mr. Summers had appeared by telephone, to put his concerns in writing so NMED could be afforded the opportunity to specifically address each of those concerns. Mr. Summers stated that he felt he had devoted enough time to these problems and was not inclined to expend additional time putting them in writing.

The Chair asked if anyone from the Department would like to respond to Mr. Summers. Mr. Noble, on behalf of NMED, noted that the Department's view of matters mentioned by Mr. Summers was quite different and that the only issue he was able to speak to at this time was that of installer licensing. Mr. Noble went on to state that the Department had been informed by the New Mexico Construction Industries Board that it has authority over construction licensing, which includes liquid waste system contractors, and that the Department could not impose requirements beyond those imposed by the Construction Industries Board.

The Chair then welcomed Abbas Ghassemi, the EIB's newest Board member to the meeting, noting that he had previously been a member of the Board.

Several members of the public commented on issues to be heard before the Board in the future, specifically, the proposed clean car air standards and proposed clandestine drug operation remediation rules.

Item 5. Request for hearing setting on Petition for Regulatory Change, adoption of proposed 20.2.88 NMAC – Emission Standards for Motor Vehicles, EIB 07-09 (R). Bill Grantham, NMED/OGC; Gail Cooke, NMED/AQB and Mary Uhl, NMED/AQB.

Ms. Cooke requested that the Board hold a hearing on the proposed regulation at its November, 2007 regular meeting.

There ensued Board discussion regarding the amount of time to be allotted for the requested hearing as well as the genesis of the request for the proposed regulation.

There was additional discussion between the Board and individuals representing New Mexico's automobile industry with respect to stakeholder involvement in the regulation process.

Action: The Chair moved that a hearing in EIB 07-09 (R), be set on November 14 and 15, 2007. Mr. Green seconded. The motion passed unanimously.

Ms. Bearden moved that Ms. Dillingham be designated as Hearing Officer in EIB 07-09 (R). Mr. Peters seconded. The motion passed unanimously.

Item 6. Request for hearing setting on Petition for Public Hearing to Consider a Proposed Rule for the Remediation of Clandestine Drug Laboratories by Property Owners pursuant to the Environmental Improvement Act and the Hazardous Waste Act, EIB 07-10 (R). Charles F. Noble, NMED/OGC; James Bearzi, NMED/HWB.

Mr. Noble asked the Board for a hearing setting in October. Mr. Bearzi explained the need for handling this matter as quickly as possible. Mr. Bearzi noted that the proposed regulation deals solely with the issue of remediation.

There was a lengthy Board discussion relating to the need for an October hearing setting. Additionally, the Board discussed the necessity for the Department's individual bureaus to communicate with each other in order to prevent hearing scheduling situations such as this in which the calendars become very crowded and demanding in terms of Board member time.

Action: The Chair moved that a hearing in EIB 07-10 (R) be set October 22 and 23, 2007. Ms. Bearden seconded. The motion passed, five votes in the affirmative; one vote in the negative by Mr. Green.

Item 7. Hearing and possible decision in the matter of the Petition for Hearing to Consider Proposed State Implementation Plan (SIP) revisions, EIB 07-02 (R), Bill Grantham, NMED/OGC. Hearing Officer: Soren Peters

The Chair announced that the hearing in the above-referenced matter would commence and that Mr. Peters would act as Hearing Officer for this agenda item. Kathy Townsend Court Reporters transcribed the hearing. All Notices of Intent to Present Technical Testimony were filed and are available for review, as well as public comment correspondence and the hearing transcript in the office of the Environmental Board Administrator, New Mexico Environment Department, 1190 St. Francis Drive, Runnels Building Room 2150, Santa Fe, New Mexico 87505.

The hearing concluded and the Board reconvened its meeting.

Board counsel distributed copies of a proposed Order and Statement of Reasons to each Board member for review. The Chair called a five minute break to allow members to review the document.

Action: Mr. Green moved that the Board approve the Order and Statement of Reasons, with any necessary non-substantive corrections, as presented. Ms. Bearden seconded. The motion passed unanimously.

Item 8. Other business

The Board discussed a series of scheduling matters.

Mr. Green noted the general procedures and time frame that he would implement during the course of the August 20 and 21, 2007 hearing in EIB 07-04 (A) to be held in Moriarty. Additionally, Mr. Green summarized the scope of the case.

There was lengthy Board discussion relating to scheduling a regular meeting during the month of September, 2007. It was agreed that a regular meeting would be held September 10, 2007 and one agenda item would be deliberations in EIB 07-04 (A).

Mr. Tso stated that he would like the Board to send a letter to Secretary Curry requesting that NMED appoint an individual to coordinate hearing scheduling with the various bureaus to eliminate, as much as possible, the problem of overcrowding the Board's meeting schedule.

The Chair noted that, while she concurred with Mr. Tso's request, setting up such a procedure could work in terms of rule-making matters but would not be feasible with respect to adjudicatory cases. She also noted that Mr. Tso's request should be passed along to Secretary Curry.

Mr. Green and Mr. Peters mentioned that they felt it was necessary for the Board to have some control over scheduling priorities. Ms. Dillingham pointed out that it was always an option of the Board's to refuse a request for a hearing.

There was Board discussion relating to Mr. Summers' allegations regarding Department activities and/or the lack thereof. Mr. Green pointed out that the Board is not an oversight entity and that some care should be taken in dealing with oral allegations made by members of the public.

It was agreed that it was important to allow both the Department and members of the public to set out their respective positions with respect to contentious issues.

Ms. Dillingham asked Board members to introduce themselves to Mr. Ghassemi and give him a brief personal background.

Item 9. Next regular meeting - September 10, 2007; Hearing in EIB 07-05 (A)
September 27 and 28 in Santa Fe or Clovis, venue to be determined by August 20, 2007.

Item 10. Adjournment

**Action: The Chair moved for adjournment at 11:25 a.m. Ms. Bearden seconded.
The motion passed unanimously.**

Signature on File

Gay Dillingham, EIB Chair