

State of New Mexico
ENVIRONMENTAL IMPROVEMENT BOARD
Harold Runnels Building, N-4084
1190 St. Francis Drive, P. O. Box 26110
Santa Fe, New Mexico 87502

Approved September 7, 2006
Environmental Improvement Board Meeting
August 1, 2006 Meeting
9:00 a.m.

Room 321, State Capitol Building
490 Old Santa Fe Trail
Santa Fe, New Mexico 87501

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

Members Absent: Ken Marsh, Member
Mr. Harold Tso, Member

Others Present:

Luis Ito, El Paso Electric	Lester Drapela
Rita Trujillo, NMED/AQB	Mary Uhl, NMED/AQB
Eric Groten, El Paso Electric	Louis Rose, Montgomery & Andrews
Edward V. Pineda	Lynne Kinis
Pat Nelson	Robert Spillers, NMED/AQB
Pat Shay, Rodey Law Firm	Tannis Fox, NMED/OGC

Chair Gay Dillingham called the meeting to order at 9:00 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 as presented. Ms. Bearden seconded. The motion carried unanimously.

Item 3: Approval of July 6, 2006 meeting minutes.

Action: Mr. Green moved that the minutes of the meeting be approved.

Mr. Peters seconded. The motion carried unanimously.

Item 4: Public Comment

Ms. Lynne Kinis of Corrales, New Mexico, discussed her concerns regarding local air pollution which she attributes to Intel Corporation. Ms. Kinis specifically mentioned the change in Intel's NMED status from a major to a minor source permit prior to completion of a substantial expansion of the corporation's production capacity which status change she felt did not make sense. She stated that Intel had recently evacuated its plant and shut down production because of an electrical problem but that there was no community notification of the closure by Intel or any explanation regarding the closure. She asked that the Board examine the circumstances surrounding the corporation's permit designation as a minor rather than a major source and additionally look into the shut-down issue.

The Chair suggested that Ms. Kinis arrange to meet with Mary Uhl of the Department's Air Quality Bureau to further discuss her questions and concerns.

Mr. Edward V. Pineda of Rio Rancho, New Mexico, stated his conviction that Intel has polluted and is currently polluting the air in the geographic area of Rio Rancho, Corrales and Albuquerque. Mr. Pineda cited his background as an engineer and scientist and his donation of time as a consultant to several non-profit organizations that promote clean air. Additionally, Mr. Pineda also stated his desire to know, among other things, why Intel recently totally shut-down operations without issuing a public statement explaining the closure. Mr. Pineda stated that he personally felt the public hearing and public meeting notification procedures used by the Department and the Commission were grossly inadequate.

The Chair suggested to Mr. Pineda that he communicate directly with Department staff to obtain answers to his various questions and requested that he let the Chair know if he received those answers.

Department staff noted that the Intel shut-down matter was currently under investigation.

Mr. Green stated that the Board should be kept informed of the progress and ultimate outcome of the investigation relating to the Intel closure. Additionally, he stated that the results of the investigation should be presented at a Board meeting so that members of the public would have an opportunity to comment on those results as well as other issues pertaining to Intel.

Discussion continued with Ms. Kinis and Mr. Pineda expressing their views relating to air pollution by Intel and what they felt the Department should do to mitigate the health impacts of that pollution.

Item 5: Hearing and possible decision In the Matter of the Petition to Consider Proposed Amendments to 20.2. Parts 3 and 70 NMAC, Air Quality Rules, Operating Permits, EIB 05-12(R). Tannis Fox, NMED/OGC; Mary Uhl and NMED/AQB.

The Chair announced that the hearing would commence and that Ms. Bearden 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 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 Building, Rm. 2150, Santa Fe, New Mexico 87505.

The hearing concluded and the Board reconvened its meeting.

Action: Mr. Green moved that the amendments to the Air Quality Rules, Operating permits regulations, 20.2. 3 and 70 NMAC, including El Paso Electric Company's amendment, admitted as Exhibit 1, be approved by the Board. The Chair seconded.

Mr. Shandler asked Mr. Green for his rationale in making the motion to approve the amendments under consideration. Mr. Green stated that he believed the amendments would protect health and human safety as well as clarify and provide precise rules for the regulated community and the public. Additionally, he stated that the amendments apply to formerly unregulated facilities and the consequence of the amendments would be improvement in the air quality of the State.

Mr. Shandler also asked Mr. Green if social and cultural values as well as environmental justice had been considered in his motion for approval. Mr. Green stated that he saw no evidence that the amendments would cause any environmental injustices or any adverse social or cultural impact in the State.

Mr. Shandler then asked Mr. Green if technical testimony had been presented in a manner that would permit the regulated industry to comply with the amendments. Mr. Green stated that industry was well represented and presented testimony that it could comply with the amendments.

Ms. Herrera complimented the Air Quality Bureau on its presentation, particularly addressing the environmental justice issues as well as the bureau's openness in communicating with the public.

Mr. Peters and Ms. Bearden also complimented the bureau on its coordination and clarification of the rules and their eventual impact on the Department and industry.

Following comments, a roll call vote was taken and the motion to amend the Air Quality Rules, Operating permits regulations, 20.2. 3 and 70 NMAC, including El Paso Electric Company's amendment, admitted as Exhibit 1, was

approved unanimously by the Board.

Board vote

Kathi Bearden	yes
Gay Dillingham	yes
Gregory Green	yes
Dolores Herrera	yes
Soren Peters	yes

Item 6: Other business

Ms. Herrera commended Mary Day for her involvement with the Department, the University of New Mexico Law Center as well as other universities and environmental entities in organizing an environmental justice forum at the UNM Law Center. Additionally, Ms. Herrera asked if it would be appropriate for her to speak directly with Tracy Hughes, NMED's General Counsel, in furtherance of the development of protocols relating to agenda item document submissions to the Board by Departmental bureaus. She also mentioned that she thought it would be helpful for the Board to discuss upcoming meeting dates and agendas through January, 2007.

The Chair requested an opinion from Mr. Shandler regarding Ms. Herrera speaking directly to Ms. Hughes regarding document submission protocols. Mr. Shandler stated that he had no objection to such discussions.

The Chair pointed out that as of August 1, 2007 there was nothing on the Board's September 7 meeting date calendar. Board discussion followed regarding deliberations on the Solid Waste Management regulations in October. Discussion continued relating to tentative November, December and January agenda items and meeting dates.

Mr. Shandler stated that he would prepare the Statement of Reasons relating to today's hearing in EIB 05-12 (R), for the Board's review and final vote. He also stated that it was his understanding that he would prepare the Statement of Reasons and the Department would compile the new rule including the latest amendment and send it to him electronically. Additionally, he requested confirmation from Mr. Green that his earlier motion included all three of the rules that had been proposed by the bureau. Mr. Green confirmed the inclusion of all three of the proposed rules.

Mr. Green asked Department staff when a report relating to the Intel plant shut-down would be available. Mary Uhl stated that it was in progress but would not be available until after the Board's September meeting date. After discussion, Mr. Green suggested that the Chair, following receipt of the report, determine when it would be placed on the Board calendar. Ms. Herrera pointed out that Albuquerque would be the best place to hold the meeting at which the report would be discussed because it would allow more members of the public to attend than would be able to attend a meeting in Santa Fe.

Item 7: Next Meeting – September 7, 2006 in Albuquerque.

Item 8: Adjournment

Mr. Green moved to adjourn the meeting. Mr. Peters seconded. The motion carried unanimously, the meeting adjourned at 1:10 p.m. July 6, 2006.

Signature on File

Gay Dillingham, EIB Chair