

*State of New Mexico*  
**ENVIRONMENTAL IMPROVEMENT BOARD**  
*Harold Runnels Building, N-2150*  
*1190 St. Francis Drive, P. O. Box 5469*  
*Santa Fe, New Mexico 87502*

**Environmental Improvement Board Meeting**  
**June 1, 2009**  
**10:00 a.m.**  
**New Mexico State Capitol Room 317**  
**490 Old Santa Fe Trail**  
**Santa Fe, New Mexico 87501**

**Members Present:**

Gregory Green, Chair  
Gay Dillingham, Member  
Harold Tso, Secretary  
Soren Peters, Member  
Abbas Ghassemi, Member

**Members Absent:**

None

**Others Present:**

|   |  |
|---|--|
| Denise Miller, NM Farmers' Market Assn.   | Clark de Schweinitz, Farm to Table, Inc.   |
| Cynthia Thomas, NMED/EHD                  | Jennifer Hower, NMED/OGC                   |
| Bill Grantham, NMED/OGC                   | Mary L. LaCasse, NMED                      |
| Kerwin Singleton, NMED/AQB                | Dawn Matson, Assn. of Bldrs. & Contractors |
| Gail Cooke, NMED/AQB                      | Misty Braswell, NMED/OGC                   |
| Joseph Gonzales, NMED                     | Nick Gilbert, NMED                         |
| Butch Tongate, NMED/OHSB                  | Tracy Hughes, NMED/General Counsel         |
| Fiona Sinclair, Vecinos de la Rio la Casa | Link Summers, POWRA                        |
| Adrian Terry, Atty. General's Office      |  |

The Chair called the meeting to order at 10:05a.m.

**Item 1. Roll Call**

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

The Chair mentioned that Ms. Herrera and Ms. Bearden had resigned their positions as members of the Board.

**Item 2. Approval of the Agenda**

**Action: Mr. Tso moved that the Board accept the agenda as written. Ms. Dillingham seconded. The motion passed unanimously.**

The Chair stated that the Board would wait until Mr. Ghassemi arrived before approving the April 6 and May 4 meeting minutes and that the Board would move to Item 4, Public Comment.

**Item 4. Public Comment**

Link Summers, on behalf of POWRA, presented his views regarding deficiencies in statewide liquid waste certification requirement issues and mentioned a lawsuit filed by POWRA in Santa Fe County District Court against the Environment Department relating to those issues.

There was a brief discussion relating to Mr. Summers' public comment.

**Item 3. Approval of the April 6, 2009 and May 4, 2009 meeting minutes.**

**Action: Ms. Dillingham moved Board approval of the April 6, 2009 meeting minutes. Mr. Tso seconded. The motion passed unanimously.**

**Action: Mr. Peters moved Board approval of the May 4, 2009 meeting minutes. Mr. Ghassemi seconded. The motion passed unanimously.**

**Item 5. Election of officers**

**Action: Mr. Tso moved for approval of the election of Soren Peters as Vice-Chair of the Board. Mr. Ghassemi seconded.**

**Roll Call Vote:**

|                       |                  |
|-----------------------|------------------|
| <b>Ms. Dillingham</b> | <b>yes</b>       |
| <b>Mr. Peters</b>     | <b>abstained</b> |
| <b>Mr. Tso</b>        | <b>yes</b>       |
| <b>Mr. Ghassemi</b>   | <b>yes</b>       |
| <b>Mr. Green</b>      | <b>yes</b>       |

**The motion passed.**

**Item 6. Request to set hearing date and perform public notice: In the Matter of Petition for Hearing on Air Quality Permit for Stephen's Construction & Ready Mix, Inc., EIB 08-17 (A). Lorraine Hollingsworth, Esq. for Petitioner Scott Dickerman; Bill Grantham, NMED/OGC**

Mr. Grantham noted that he had contacted the applicant in this case and was informed that the applicant had contacted the petitioner and was told that petitioner was under the

impression that the petition for hearing had been withdrawn. Mr. Grantham further stated that he had attempted to talk with the petitioner's attorney to determine whether the petition should have been withdrawn but was unsuccessful in contacting Ms. Hollingsworth.

Because of the circumstances, Mr. Grantham asked that the Board continue this matter until it is established whether or not the petitioner wants to withdraw the petition. Mr. Grantham briefly mentioned the background and timeline of document filings in the case.

There was Board discussion with Mr. Terry regarding the disposition of this matter.

It was agreed that a hearing would be set on the Board's July 7, 2009 agenda contingent upon determining whether or not the petitioner wished to withdraw his petition for hearing.

**Item 7. Request for hearing in re: Petition for Proposed Changes to 7.6.2 NMAC, to Allow Home-Processing of Non-Potentially Hazardous Foods, EIB 09-05 (R). Denise Miller, NM Farmers Market Assn.; Clark de Schweinitz, Esq., NM Food and Agriculture Policy Council; Le Adams and Pamela Roy, Farm-to-Table.**

Mr. de Schweinitz introduced himself and briefly stated the position of the respective entities relating to the need for this rule change.

The Chair asked the parties to discuss what they perceive to be the impact of these changes upon the citizens of New Mexico.

A discussion followed wherein the Petitioners' expressed their views relating to the need for the requested rule changes as well as the impact of those changes on the public.

The Petitioners' discussion was followed by a lengthy exchange between Board members and the parties.

**Action: Mr. Ghassemi moved that the Board set a hearing in EIB 09-05 (R), Petition for Proposed Changes to 7.6.2 NMAC to Allow Home-Processing of Non-Potentially Hazardous Foods on the October 5, 2009 meeting agenda. Ms. Dillingham seconded. The motion passed unanimously.**

**Item 8. Request for hearing in re: Petition for Reconsideration by Vecinos de la Rio la Casa to the Environmental Improvement Board, EIB 09-06 (A). Fiona Sinclair, Ph.D. for Vecinos de la Rio la Casa.**

Ms. Sinclair set out the position of the members of Vecinos de la Rio la Casa who are opposed to the location of a mobile gravel plant, which would be operated by Sangre de

Cristo Gravel Products, being located and functioning in the County under NMED Air Quality Bureau Permit #3450.

After lengthy discussion relating to Permit #3450, it was established that the permit had not yet been issued by the Air Quality Bureau.

**Action:**

It was agreed that Ms. Sinclair would withdraw the Petition for Reconsideration at this time and when the permit has been issued by the Bureau she will then re-file. Additionally, Mr. Terry noted that the Petition did not include the individuals that comprise Vecinos de la Rio la Casa and that information would need to be included in any Petition re-filed by Ms. Sinclair.

**Item 9. Per Board request at the April 6, 2009 meeting: discussion relating to review of EIB regulations for public involvement in petitions before the Board. Adrian Terry, Asst. Attorney General and Board Counsel.**

Mr. Terry noted that this item had been prompted by conversations that had taken place at an earlier meeting relating to the Board instituting requirements to be undertaken by an individual or an entity filing a petition with the Board that are not required by statute or the Board's rules. He additionally discussed the statutes that pertain to this issue as indicated on the copies of the specific statutes which had been distributed to Board members.

Mr. Green briefly discussed electronic accessibility to documents by the public on the Board's and the Department's web sites.

**Item 10. Deliberations in re: Proposed amendments to 11.5.2, 11.5.3 and 11.5.4 NMAC, Illegal Drugs or Alcoholic Beverage Use regulations, EIB 08-14 (R). Tannis Fox, NMED/OGC; Butch Tongate, NMED/OHSB; Ron Smock, Chief Toxicologist and Forensic Scientist, Forensic and Criminalistic Testing, Inc.**

The Chair, in initiating discussion, deferred to Mr. Peters who had acted as Hearing Officer in this case. Mr. Peters provided the Board with background information relating to the case and its current status.

A lengthy discussion ensued among Board members and Mr. Terry regarding the content of the proposed amendments and the ramifications and applicability of those amendments.

**Action: Mr. Ghassemi moved that the Board accept the proposed Amendments to 11.5.2, 11.5.3 and 11.5.4 NMAC, Illegal Drugs**

or Alcoholic Beverage Use regulations, EIB 08-14 (R). Mr. Tso seconded.

**Roll Call Vote:**

|              |     |
|--------------|-----|
| Mr. Peters   | no  |
| Mr. Tso      | no  |
| Mr. Ghassemi | yes |
| Mr. Green    | no  |

**The motion failed.**

**Action:** Mr. Green moved that the Board reject the proposed amendments to 11.5.2, 11.5.3 and 11.5.4 NMAC, Illegal Drugs or Alcoholic Beverage Use Regulations, EIB 08-14 (R).

**Roll Cal Vote:**

|              |     |
|--------------|-----|
| Mr. Ghassemi | no  |
| Mr. Peters   | yes |
| Mr. Tso      | yes |
| Mr. Green    | yes |

**The motion passed.**

**Item 11. Other business**

There was discussion regarding the issue of the time for the Board meetings to convene noting that in the past the members had complied with the wishes of the member who traveled the longest distance. Mr. Terry stated that in his opinion there was nothing to prevent changing the time as long as adequate notice was given to all interested parties and the general public.

It was agreed that the July meeting would convene at 9:00 a.m. instead of 8:00 a.m. Additionally, Mr. Tso agreed to act as hearing officer in EIB 09-02 (A), Air Quality Permit No. 0039M5 issued to DCP Midstream, LP, Linam Ranch Gas Plant.

There was a brief discussion relating to how issues and allegations are resolved that are brought before the Board during the Public Comment period at Board meetings.

**Item 12. Next meeting: 9:00 a.m. July 7, 2009, State Capitol Room 317, 490 Old Santa Fe Trail, Santa Fe, New Mexico 87501**

**Item 13. Adjournment**

**Action:** Mr. Tso moved that the meeting be adjourned. Mr. Ghassemi seconded. The motion passed unanimously.

The meeting adjourned at 12:40 p.m.

*Signature on File*

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Gregory Green, Chair