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
January 11, 2010
10:00 a.m.
New Mexico Energy, Minerals and Natural Resources Department
Chino Building, Porter, Hall
1220 S. St. Francis Drive
Santa Fe, New Mexico 87505

Members Present:

Gregory Green, Chair
Gay Dillingham, Member
Frank Simms, Member
Neri Holguin (arrived at 10:25 a.m.)

Members Absent:

Abbas Ghassemi, Member

Others Present:

Chuck Noble, NMED/OGC
Carlos Romero, NMED/EHD
William Winter, Esq., POWRA
Eugene Bassett, POWRA
Bill Grantham, NMED/OGC
Ralph Baker Dotson, POWRA
Stephen Vigil, Asst. AG Board Counsel
Dennis McQuillan, NMED/EHD
Ralph Baker Dotson, POWRA
Louis Rose, Esq., Montgomery & Andrews
Tom Brandt, NMED/EHD
Gail Cooke, NMED/AQB
Melanie Teeter, NM Homebldrs. Assn.
Link Summers, Pro Se

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

Item 1. Roll Call

Roll was taken and it was noted that a quorum was not present.

In view of the lack of a quorum, the Chair suggested moving on to Agenda Items 4 and 5.

Item 4. Public Comment

None.

Item 5. Request for Hearing in re: Revision of 20.2.1 NMAC, General

Provisions, EIB 09-14 (R). Bill Grantham, NMED/OGC; Gail Cooke, NMED/AQB.

Mr. Grantham introduced Ms. Cooke who explained the need for the requested revisions and asked that the Board set a hearing in the matter on its April 5, 2010 Agenda.

There was brief Board discussion relating to scheduling.

With Ms. Holguin arrived at 10:25 a.m., a quorum was present.

Action: **Ms. Dillingham moved Board approval of setting the hearing in EIB 09-14 (R), Revision of 20.2.1 NMAC, General Provisions, on the April 5, 2010 Agenda. Mr. Simms seconded. The motion passed unanimously.**

Mr. Simms volunteered to act as Hearing Officer in this matter.

Item 2. **Approval of the Agenda**

Action: **Mr. Simms moved Board approval of the Agenda. Ms. Holguin seconded. The motion passed unanimously.**

Item 3. **Approval of November 2009 minutes.**

Action: **Ms. Holguin moved for approval of the minutes. Mr. Simms seconded. The motion passed unanimously.**

Item 6. **Consideration of NMED's Motion for Reconsideration and for Order and Statement of Reasons for Denial in re: EIB cases 09-08 (R) and 09-08 (R) A.**

Chuck Noble, Asst. General Counsel for the Department stated that the Department's position was clearly set out in its Motion for Reconsideration.

Mr. Winter, Esq., on behalf of POWRA stated POWRA's opposition to the Department's Motion for Reconsideration.

There was Board discussion relating to its power, or lack thereof, to reconsider decisions that had been made.

A lengthy discussion relating to various primary and peripheral issues with respect to this case ensued and the need for the parties to work together to reach an amicable solution.

Action: **Mr. Simms moved that the Board deny the Motion for Reconsideration. Mr. Green seconded.**

Roll Call Vote:

Ms. Dillingham	**abstained**
Ms. Holguin	**yes**
Mr. Simms	**yes**
Mr. Green	**yes**

The motion to deny was passed.

A discussion followed relating to the postponement of the scheduled March 1, 2010 hearings in two additional liquid waste cases involving the Department, POWRA and Mr. Summers, EIB 09-11 (R) and EIB 09-12 (R). Mr. Green noted that he had signed the Orders postponing the hearings. It was agreed that those hearings would be tentatively scheduled to be heard in August.

Item 6. a **Board discussion in re: NMED Letters of Non-Enforcement**

A lengthy discussion relating to the Department's issuance of such letters and the basis and procedures for such non-enforcement was conducted.

Item 7. **Adoption by the Board of the Order and Statement of Reasons in re: EIB cases 09-08 (R) and 09-08 (R) A. Stephen Vigil, Board Counsel, NM Attorney General's Office.**

Board discussion of the Order and Statement of Reasons was held.

Action: **Mr. Simms moved that the Board accept the Order and Statement of Reasons Denying Amendment of the Regulations in EIB 09-08 (R) and EIB 09-08 (R) A, including acceptance of the correction of minor typographical errors that were noted. Mr. Green seconded. The motion passed. Ms. Dillingham abstained.**

Item 8. **Approval of 2010 Open Meetings Act Resolution**

Action: **Ms. Dillingham moved Board approval of the Open Meetings Act Resolution for 2010. Ms. Holguin seconded. The motion passed unanimously.**

Item 9. **Election of Officers**

Following a suggestion by Ms. Dillingham, it was agreed that elections would be postponed until the March meeting when the entire Board would be present to vote. In the meantime however, it was agreed that electing a temporary vice-chair was necessary.

Action: **Mr. Simms moved that the Board elect Ms. Dillingham as interim**

Vice-Chair to act until full Board elections are held at the Board's March 1, 2010 meeting. Ms. Holguin seconded.

Roll-Call Vote:

Ms. Dillingham	**yes**
Ms. Holguin	**yes**
Mr. Simms	**yes**
Mr. Green	**yes**

Item 10. Other business

Mr. Green asked if there was other business to be conducted.

Ms. Melanie Teeter, on behalf of the New Mexico Homebuilders Association, asked that the Board direct the Department to work with the Homebuilders on revision of the liquid waste regulations She went on to state that the Association had been subjected to what it considered slanderous allegations by POWRA relating to the Department's interactions with the Association. She further noted that the Association represents the largest number of septic installers in the State.

Mr. Green explained that the Board could not direct the Department to work with any specific party. He did, however, note that the Board always asks the Department to work with all parties with respect to revising or promulgating new regulations. He further stated that he hoped the Association would continue to work with the Department since it is the Association's right to do so.

There was additional Board discussion regarding the issue of stakeholder involvement as well as POWRA's allegations.

Mr. Green, as Board Chair, requested that the Department include and work with all stakeholders in the processes relating to EIB cases 09-08 (R) and EIB 09-08 (R) A. The Chair additionally requested that the Association participate fully in the August hearings relating to the two referenced consolidated cases and also the drafting of the regulations relating to them.

Mr. Tso, former member of the Board, expressed his thanks and appreciation to the members for their help and kindness during the time he served as a member. He further encouraged the Board to continue its good work. He then noted that the Governor had appointed him to serve as an at-large-member on the Water Quality Control Commission. Members responded by thanking him for his insights and wisdom during his years of service on the Board.

Item 11. Next meeting: March 1, 2010 at 10:00 a.m. NM Regulation and Licensing Department, Toney Anaya Building, Rio Grande Room, 2550 Cerrillos Road, Santa Fe, New Mexico 87505.

Ms. Dillingham noted that the public comment period relating to EIB 08-19 (R), the Proposed Adoption of New Regulations in re: 20.2.1, 20.2.2, 20.2.70 and 20.2.72 NMAC, specifically that comment will be taken from 10:00 a.m. to 5:00 p.m. on March 1, 2010 with at least a one hour lunch break.

Item 12. Adjournment.

Action: Mr. Simms moved for adjournment. Ms. Holguin seconded. The motion passed unanimously.

Gregory Green, Chair