

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 Minutes
April 3-4, 2007 Meeting
9:00 a.m.
Alamosa Multi-Service Center, Meeting Room A
6900 Gonzales Road, SW
Albuquerque, New Mexico 87121

Members Present: Gay Dillingham, Chair
Gregory Green, Vice-Chair
Dolores Herrera, Secretary
Kathi Bearden, Member
Harold Tso, Member

Members Absent: Soren Peters, Member
Mr. Peters was absent April 3, 2007, was present April 4, 2007

Member Resigned: Ken Marsh

Others Present:

Mike Garrett, PNM	Cassandra Bloedel, Navajo EPA
Buddy Shaw, BP America	Marlene Feuer, Waste Management
Natalie Howard, City of Albuquerque	Art De La Cruz, City of Albuquerque
Sofia Martinez, NMEJWG/SWEEJ	Patrick Shay, the Rodey Law Firm
Andy Berger, NMED/AQB	Robert Spillers, NMED/AQB
Rita Trujillo, NMED/AQB	Bill Grantham, NMED/OGC
Rafael Valdepena, SWLF	Terry Ross, CEED
I. Keith Gordon, GEI	Lorraine Hollingsworth, the Domenici Law Firm
English Bird, NM Recycling Coalition	G. Paul Gallegos, NM Recycling Coalition
Joseph Ellis, EVSNA	Joy Esparsen, NM Association of Counties
Elizabeth Shields, NMCGA/NMWGI	Zachary Shandler, Attorney General's Office.
Cassandra Ladle, Navajo Nation RCRA	John Stockdale, SFSWMA
Randall Kippenbrock, PE, SFSWMA	Nancy Norem, PNM
Barbara Walz, Tri-State G & T	

Chair Gay Dillingham called the meeting to order at 9:15 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 January 3-5, 2007 meeting minutes.

Action: Mr. Green moved that the minutes of the meeting be approved. Mr. Tso seconded. The motion passed unanimously.

Item 4. Public Comment

Ms. Herrera mentioned that the use of the Multi-Service Center by the Board was made possible by the City of Albuquerque and on behalf of the Board thanked Mayor Chavez and the City representatives present at the meeting for the use of the Center.

Item 5. Hearing re: the revised Solid Waste Management Plan, 20.9.4. NMAC, EIB 06-03 (R). Misty Braswell, NMED/OGC; Auralie Ashley-Marx, NMED/SWB; Douglas Meiklejohn, NM Environmental Working Group, et al.; I. Keith Gordon, P.E. and Mark Turnbough, Ph.D. Dolores Herrera, Hearing Officer.

The Chair of the Board then announced that the hearing would commence and that Ms. Herrera 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 Bldg. Rm. N-2150, Santa Fe, New Mexico 87505.

The hearing commenced.

The hearing having been completed, the Chair reopened the Environmental Improvement Board meeting requesting that Board deliberations on case EIB 06-03 (R) begin.

Ms. Bearden moved that a change be made on page 29 of the Solid Waste Management Plan (SWMP) at Section 8.1 Environmental Justice Goals. She stated that she felt the first bullet under Section 8.1 should be changed to read “Promote regulations and policies that include requirements to ensure compliance with the Executive Order. NMED Solid Waste Bureau is committed to affording the residents of the State including communities of color and low-income communities, fair treatment and involvement, regardless of race, color, ethnicity, religion, income or educational level and is committed to providing the opportunity to participate in the appropriate language.” Mr. Green seconded.

The Chair restated the motion asking Ms. Bearden if her motion was to accept all of the Department’s proposed Solid Waste Management Plan with the

one change set forth by Ms. Bearden. Ms. Bearden stated that the Chair's restatement was correct.

Mr. Green proposed a friendly amendment stating that Ms. Bearden's motion relate just to the language changes she had proposed to the first bullet item in Section 8.1 and not include the acceptance of the entire text of the Department document. Ms. Bearden agreed to Mr. Green's amendment. Ms. Dillingham seconded.

Mr. Shandler asked for clarification from Ms. Bearden regarding her proposed changes and whether they related just to the first clause of 8.1. Ms. Bearden confirmed that the changes related only to the first clause.

The motion passed unanimously.

Mr. Shandler discussed with Ms. Bearden her reasons for preferring the language she suggested. She stated that because both parties had agreed to the language and because it closely mirrors the introduction to the Environmental Justice Component and the Executive Order. Mr. Shandler noted that the language did not exactly mirror the language mentioned. Ms. Bearden stated that because this is not a law-making or rule-making matter, it is an actual plan, references to rule-making are not applicable.

There was a lengthy Board discussion relating to the addition of text to the Plan proposed by Mr. Green as supplemented by Ms. Herrera and Ms. Bearden.

Action: Mr. Green moved the addition of text at Page 23, Chapter 6.3.3, fourth bullet, stating "Create and foster stakeholder relationships to identify funding streams to support early and meaningful participation by diverse non-governmental organizations and community members." Ms. Herrera seconded. The motion passed unanimously.

Action: Mr. Green moved the addition of text at Page 22, Chapter 6.3.1, eleventh bullet, stating "A goal of updating the website to include permit applications and/or make them available electronically." Ms. Herrera seconded.

Mr. Shandler noted that the Board was moving into the areas of funding and permits. He asked Mr. Green if he was aware that those issues may not have been vetted through all of the stakeholders. Mr. Green stated that he was aware of that but that he found it persuasive that as a logical outgrowth of the testimony to include these matters. Mr. Green explained that in his view the goal to be attained consisted of educating the public to improved access to the permit itself thereby allowing people to educate themselves with respect to the permit. Mr. Shandler asked if there was a specific timeline attached to the word "goal" or if Mr. Green intended it to be permissive. Mr. Green noted that it was his intention that it be a permissive goal.

There was additional discussion of the proposed language by the Board. The Chair requested that Mr. Green restate his motion.

Mr. Green restated the addition of text at Page 22, Chapter 6.3.1, eleventh bullet, stating “A goal of updating the website to include permit applications and/or make them available electronically.”

Following discussion, a roll-call vote was taken and the motion passed; 3 in the affirmative, 1 in the negative:

Board vote
Ms. Bearden **no**
Ms. Dillingham **yes**
Mr. Green **yes**
Ms. Herrera **yes**
Mr. Tso was absent for this vote

Action: Mr. Green moved the acceptance of the Solid Waste Management Plan proposed by NMED as amended. Ms. Herrera seconded.

There was Board discussion regarding the future impact of the Board’s approval of the Plan.

Following discussion, a roll-call vote was taken and the motion passed unanimously:

Board vote
Ms. Bearden **yes**
Ms. Dillingham **yes**
Mr. Green **yes**
Ms. Herrera **yes**
Mr. Tso was absent for this vote

The meeting was recessed to reconvene at 9:00 a.m. Wednesday, April 4, 2007.

The Vice-Chair, Gregory Green, reconvened the meeting on April 4, 2007. He asked if there was anyone present who wished to make public comment. There was no public comment.

Ms. Herrera requested that a thank-you letter to Mary Smith be sent acknowledging her efforts on behalf of the Board in EIB 03-12, (the convenience store case) that had been before the Board and had gone up to the Court of Appeals.

Additionally, Mr. Tso requested that a letter be sent to Ken Marsh thanking him for his years of service as a member of the Board.

Item 6. Hearing re: Adoption of 20.2.85 NMAC (mercury emissions) and Revisions to 70.2.71, 74 and 84 NMAC, EIB 06-15 (R). Bill Grantham, NMED/OGC; Andy Berger, NMED/AQB. Soren Peters, Hearing Officer.

The Vice-Chair of the Board then announced that the hearing would commence and that he would preside as Hearing Officer in lieu of Mr. Peters 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 Bldg. Rm. N-2150, Santa Fe, New Mexico 87505.

The hearing commenced.

The hearing having been completed, the Chair reopened the Environmental Improvement Board meeting requesting that Board deliberations on case EIB 06-15 (R) begin.

There was lengthy Board discussion regarding a wide-range of issues relating to this matter.

Action: Mr. Green moved for the adoption of the amendment changing monitoring fees from \$8.88 to \$17.76. Mr. Peters seconded.

There was lengthy Board discussion regarding the fee structure and various Board members reactions to this proposal as a new issue that had not been discussed during the hearing and the lack of cost analysis information.

Action: Following discussion, a roll-call vote was taken and the motion failed; 4 votes in the negative, 2 in the affirmative:

<u>Board vote</u>	
Ms. Bearden	no
Ms. Dillingham	no
Mr. Green	yes
Ms. Herrera	no
Mr. Peters	yes
Mr. Tso	no

Action: Ms. Dillingham moved the approval of the regulations as proposed by NMED in EIB 06-15 (R), the adoption of 20.2.85 NMAC and the revisions to 20.2.71, 77 and 84 NMAC. Mr. Green seconded. The motion passed unanimously.

Item 7. Hearing re: Revisions to 20.2.78 and 20.2.82 NMAC, EIB 06-16 (R). Bill Grantham, NMED/OGC; Robert Spillers, NMED/AQB. Soren Peters, Hearing Officer.

The Vice-Chair of the Board then announced that the hearing would commence and that he would preside as Hearing Officer in lieu of Mr. Peters 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 Bldg. Rm. N-2150, Santa Fe, New Mexico 87505.

The hearing commenced.

The hearing having been completed, the Chair reopened the Environmental Improvement Board meeting requesting that Board deliberations on case EIB 06-16 (R) begin.

Mr. Green moved Board approval and adoption of NMED's revisions to 20.2.78 and 20.2.82 NMAC. Ms. Bearden seconded.

There was a brief Board discussion.

The motion passed unanimously.

Item 8. Other business

Ms. Herrera mentioned that CNM, formerly TVI has offered the EIB the use of meeting facilities in the event the Board should need a venue in Albuquerque.

Mr. Tso asked that Ms. Herrera convey the Board's gratitude and thanks to the manager of the Alamosa Multi-Service Center for allowing the Board to use the facility.

Ms. Dillingham asked that the Board Administrator write a letter of thanks and appreciation to Mr. Marsh for his dedication and service to the Board.

Item 9. Next meeting – May 1, 2007 - Santa Fe

Item 10. Adjournment

Action: Mr. Green moved for adjournment at 5:45 p.m. Ms. Bearden seconded. The motion passed unanimously.

Signature on file

Gay Dillingham, EIB Chair