

APPROVED September 7, 2004

ENVIRONMENTAL IMPROVEMENT BOARD

MINUTES OF THE AUGUST 12 & 13, 2004

The New Mexico Environmental Improvement Board (EIB) Meeting was held on August 12, 2004, at the New Mexico State Capitol in Santa Fe, New Mexico.

Item #1: Roll Call

Members Present: Ms. Gay Dillingham, Chair
Mr. Clifford Stroud, Vice Chair
Mr. Gregory Green, Secretary
Mr. Harold Tso, Member
Mr. Ken Marsh, Member
Ms. Dolores Herrera, Member (Present for Hearing)

Members Absent: Ms. Gwen Wardwell, Member

Others Present:	Geraldine Madrid-Chavez	Mary Smith, AGO
	Lany Weaver, NMED	Sandra Ely, NMED
	Leslie Barnhart, NMED	Jack Maddox
	Anna Marie Ortiz	Mary Martinez
	Dennis McQuillan	Jack Milarch
	Susan Kery	BJ Brock
	Thomas Skibitski	Tim Harkness
	Gary Alsup	Richard Minzner
	Don Webber	Justin Stockdan
	Mr. Cohen	

Item #2: Approval of Agenda

The following changes were made:

- Move item #14 before item #3 and renumber.

Item #3: Approval of the June 11, 2004 & July 6, 2004 Meeting Minutes

ACTION: **Mr. Tso made a motion to approve the June 11, 2004 meeting minutes as presented. Ms. Dillingham seconded. Motion carried unanimously.**

ACTION: **Mr. Tso made a motion to approve the July 6, 2004 meeting minutes as presented. Mr. Green seconded. Motion carried unanimously.**

Item #4: Public Comment Period – 9:30 am – 10:00 am

None at this time.

Item #5: Petition for Public Hearing on Proposed revisions to:

- a. **20.2.71 NMAC – Operating Permit Emissions Fees (EIB 04-08)**
- b. **20.2.2 NMAC – Definitions (EIB 04-09)**
- c. **20.2.70 NMAC – Operating Permits (EIB 04-10)**

Ms. Rita Trujillo, requested the Board set a public hearing on proposed revisions to 20.2.71 NMAC – Operating Permit Emissions Fees (EIB 04-08), 20.2.2 NMAC – Definitions (EIB 04-09) and 20.2.70 NMAC – Operating Permits (EIB 04-10) for the November regularly scheduled meeting.

ACTION: Mr. Green made a motion to set for EIB 04-08, EIB 04-09 & EIB 04-10 on November 4, 2004. Mr. Stroud seconded. Motion carried unanimously. Mr. Marsh will sit in as Hearing Officer.

Mr. Eric Ames, NMED Counsel, request that Notice of Intents be filed 30 days prior to the hearing instead of the standard 10-day filing.

ACTION: Mr. Stroud made a motion to have all parties file Notice of Intents to Present Technical Testimony 30 days prior to the Hearing instead of the regular 10-day filing. Mr. Green seconded. Motion carried unanimously.

Item #6: Petition for Public Hearing to Consider Adoption of 20.2.66 NMAC – Cotton Gins. (EIB 04-06)

Ms. Lany Weaver, Air Quality Bureau, requested the Board set a hearing for October 5, 2004 in Las Cruces, New Mexico to consider Adoption of 20.2.66 NMAC – Cotton Gins. Ms. Weaver stated that there are three things that are different in this request.

1. The Hearing is held in Las Cruces.
2. Requesting a 30-day public notice instead of a 60-day public notice.
3. The Department is still working on a section of the Rule that might need to be slightly changed based on comments that were received.

ACTION: Ms. Dillingham made a motion to set a Hearing for October 5, 2004, to be held in Las Cruces with a 30-day public notice instead of the regular 60-day public notice regarding case number EIB 04-06. Mr. Tso seconded. Motion carried with 1 “No” vote by Mr. Marsh. Ms. Wardwell will sit as Hearing Officer.

Item #7: Petition for Public Hearing by NMED to Consider a Proposed Replacement to the Liquid Waste Disposal Regulations in Title 20, Chapter 7, Part 3 of the New Mexico Administrative Code. (EIB 04-07)

Item #8: Petition for Public Hearing by the Professional Onsite Wastewater Reuse Association of New Mexico to consider Revisions to the Liquid Waste Disposal Regulations in Title 20, Chapter 7, Part 3 of the New Mexico Administrative Code. (EIB 04-07)

Item #9: Petition for Public Hearing by the New Mexico Home Builders Association to Consider Revisions to the Liquid Waste Disposal Regulations in Title 20, Chapter 7, Part 3 of the New Mexico Administrative Code. (EIB 04-07)

Item numbers 7, 8, & 9 have been consolidated for the purpose of requesting a hearing.

Ms. Hilga Schimkat, NMED Assistant General Counsel, requested the Board set a hearing to consider a Proposed Replacement to the Liquid Waste Disposal Regulations in Title 20, Chapter 7, Part 3 of the New Mexico Administrative Code (EIB 04-07). Ms. Schimkat stated the hearing would take three days.

Mr. Jack Milarch, New Mexico Home Builders Association (NMHB), informed the Board that the New Mexico Home Builders is withdrawing their petition (Item #9).

ACTION: Mr. Green made a motion to set a Hearing for December 7, 8 & 9, 2004 regarding case number EIB 04-07. Mr. Marsh seconded. Motion carried unanimously. Mr. Green will sit as Hearing Officer.

Item #10: Petition for Public Hearing by John Dobson, President Hondo Mesa HOA, Regarding Objections to Air Quality Permit N. 3032 (EIB 04-11)

Item #10 was postponed until a representative of Hondo Mesa was present.

Item #11: Petition for Public Hearing to Consider Proposed New Swimming Pool Regulations in Title 7, Chapter 18 of the New Mexico Administrative Code. (EIB 04-12)

Ms. Leslie Barnhart, NMED Assistant General Counsel, request a hearing be set to repeal the current swimming pool rule, 7.18.2 NMAC and replace it with four new proposed parts of New Swimming Pool Regulations in Title 7, Chapter 18 of the New Mexico Administrative Code.

Mr. Thomas Skibitski, NMED District Manager Albuquerque Office, informed the Board the current swimming pool rule was adopted in 1995 and needs to be completely revised to take into account the many changes in safety and technology that have developed over

the past decade. In addition, the current rule does not address water parks and other bathing attractions that are regulated by NMED.

ACTION: **Mr. Green made a motion to set a Hearing for January 4, 2005 to Consider Proposed New Swimming Pool Regulations in Title 7, Chapter 18 of the New Mexico Administrative Code. Mr. Marsh seconded. Motion carried unanimously. Mr. Green will sit as Hearing Officer.**

Item #12: **Petition for Hearing on NSR Permit No. 3709, GulfTerra Energy Partners, LP and El Paso Field Services Company (Blanco C& D Compressor Station). (EIB 04-13)**

Ms. Dillingham requested to go back to Item #10 to set the hearing for EIB 04-11.

Counsel for GulfTerra Energy Partners was not present. Ms. Dillingham requested the Board return to Item #10 and set a Hearing for EIB 04-11 before setting the Hearing Item #12 EIB 04-13.

ACTION: **Mr. Tso made a motion to set a Hearing on September 20, 2004 regarding Air Quality Permit N. 3032. Mr. Marsh seconded. Motion carried unanimously. Ms. Dillingham will sit as Hearing Officer.**

ACTION: **Ms. Dillingham made a motion to set a Hearing on September 20, 2004 regarding NSR Permit No. 3709 (EIB 04-13). Mr. Marsh seconded. Motion carried unanimously. Ms. Herrera will sit as Hearing Officer.**

Item #13: **Deliberation and possible decision on NMED's Motion to Require Parties to Produce Exhibits Prior to the Convenience Store Rule Amendment Hearing. (EIB 03-12)**

Ms. Leslie Barnhart, Assistant General Counsel for NMED, requested that the Board require all parties submitting Notices of Intent to present technical testimony to submit their exhibits to all other parties no later than five days before the September 7th hearing.

Mr. Richard Minzner requested that the documents be in by Thursday the 26th of August.

After discussion of the Board and the parties the following action was taken:

ACTION: **Mr. Stroud made a motion to have all Notices of Intent to present technical testimony in the Convenience Store Rule Hearing be filed no later than 5:00 pm on August 23, 2004 & Exhibits listed in their Notices shall be submitted no later than 12 noon on August 26, 2004. Also all parties filing Notices of Intent shall submit any rebuttal exhibits no later than 12:00 noon on September 2, 2004. Mr. Marsh seconded. Motion carried unanimously.**

Item #14: Continuation of Hearing and Deliberation and possible decision in the matter of Air Quality Permit issued to Northeast New Mexico Biomass L.L.C. (NENMB) Permit # 2939. (EIB 04-03P)

The Board Continued the Hearing of Air Quality Permit issued to Northeast New Mexico Biomass L.L.C. (NENMB) Permit #2939. (EIB 04-03P) This hearing was transcribed and the transcripts will be in the custody of the Administrator. It is available for viewing upon request.

Mr. Cohen made a motion to dismiss the Hearing. Mr. Cohen's motion was denied.

August 13, 2004

Item #14: Continuation of Hearing and Deliberation and possible decision in the matter of Air Quality Permit issued to Northeast New Mexico Biomass L.L.C. (NENMB) Permit # 2939. (EIB 04-03P)

Continuation of Biomass Hearing.

Mr. Stroud announced that the record is now closed and the Board will deliberate at their regularly scheduled September 7 & 8, 2004 meeting.

Item #15: Other Business

Mr. Eric Ames & Mr. Clay Clarke Assistant General Counsel for NMED will be working on an update of the Rules Committee. Mr. Louis Rose and Doug Meiklejohn will also be involved in the update of the Rules Committee. Ms. Dillingham appointed Mr. Clifford Stroud as Chair for the Rules Committee.

Item #16: Next Meeting

The next regularly scheduled meeting of the Environmental Improvement Board is scheduled for September 7 & 8, 2004.

Item #17: Adjourn

ACTION: Mr. Marsh made a motion to adjourn. Mr. Stroud seconded. Motion carried unanimously.