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
August 16-20, 2010 10:00 a.m.
PERA Building
33 Plaza La Prensa
Santa Fe, New Mexico 87501

Members Present:

Gay Dillingham, Chair
Gregory Green, Vice-Chair
Frank Simms, Secretary
Abbas Ghassemi, Member
John Horning, Member
James Gollin, Member
Leland Gould, Member

Members Absent:

None

Others Present:

Please see attached meeting sign-in sheets

Tannis Fox, NMED/OGC
Bill Grantham, NMED/OGC
Michelle Garcia, AG's Office
William Harvey, NM Board of Pharmacy
Stephen Vigil, Asst. AG Board Counsel
Mary Uhl, NMED/AQB
Jim Norton, NMED/EPD
Mary Smith, Asst. AG
Rita Bates, NMED/AQB

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

Item 1. Roll Call

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

Item 2. Approval of Agenda

Action: Mr. Green moved Board approval of the agenda. Mr. Gollin seconded.

The motion passed unanimously.

Item 3. **Approval of June 21, 2010 and July 6-9, 2010 meeting minutes.**

Mr. Gollin noted a correction in the June 21, 2010 minutes.

Action: **The Chair moved Board approval of the minutes with correction as noted in the June 21, 2010 minutes. Mr. Green seconded.**

The motion passed unanimously.

Item 4. **Public Comment**

None.

Item 5. **New Mexico Environment Department request for the Board to issue a Notice of Contemplated Action to Robert Moseley proposing to revoke his certification as a Radiographic Radiologic Technologist for failure to comply with the Parental Responsibility Act. Carol Parker, NMED/OGC**

Ms. Parker set out the circumstances relating to this somewhat unusual case. She briefly discussed the Parental Responsibility Act (PRA) and its connection to the Department and Mr. Moseley's noncompliance under the PRA to make child support payments. She noted the various documents attached to the Notice of Contemplated Action that confirms his lack of compliance with established regulations.

Board discussion followed relating to the regulations involved in revoking Mr. Moseley's certification as a Radiographic Radiologic Technologist. Mr. Green requested copies of the pertinent statutes be provided to the Board for review. Ms. Parker indicated that she would provide those documents at a later time.

Discussion relating to this matter was recessed until Ms. Parker's return.

Item 6. **Request for Hearing in re: Proposed Amendments, 20.2.70 NMAC, Operating Permits and 20.2.74 NMAC, Permits-Prevention of Significant Deterioration (PSD), EIB 10-08 (R). Eric Ames, NMED/ OGC; Mary Uhl, NMED/AQB.**

Mr. Ames introduced Ms. Uhl, Bureau Chief of NMED's Air Quality Bureau. Mr. Ames set out the Department's position with respect to the hearing request and explained the necessity for setting the hearing in November.

The Board discussed various scheduling options with respect to November and December. Mr. Ames noted that the Department was willing to move EIB 10-10 (R),

Proposed Amendments to 20.2.88 NMAC, Emissions Standards for New Motor Vehicles to the Board's December meeting agenda.

Action: **The Chair moved that the Board set a hearing in EIB 10-08 (R) Proposed Amendments to 20.2.70 NMAC, Operating Permits and 20.2.74 NMAC, Permits – Prevention of Significant Deterioration (PDS) to commence on November 8, 2010, and further, that Mr. Gollin be designated as hearing officer. Mr. Horning seconded.**

The motion passed unanimously.

Mr. Ames noted that a Scheduling Order was attached to the hearing request in this case setting out various filing requirements and deadlines. He requested that the Board act on the Order because of various publishing time constraints.

Action: **The Chair moved that the Board accept the Department's Scheduling Order but altering the deadlines, with the exception of the Department's August 31, 2010 deadline for filing its NOI. The remaining filing deadlines will be moved ahead one week and the hearing will take place November 8, 2010. Mr. Simms seconded.**

The motion passed unanimously.

Item 7. **Request for Hearing in re: Proposed New Regulations, 20.2.300 NMAC, Reporting of Greenhouse Gas Emissions; 20.2.301 NMAC, Amendments, 20.2.301 NMAC, Greenhouse Gas Emissions – Verification Requirements and Proposed Repeal of Regulation 20.2.87 NMAC, Greenhouse Gas Emissions Reporting, EIB 10-09 (R). Eric Ames, NMED/OGC; Mary Uhl, NMED/AQB.**

Mr. Ames explained the Department's position with respect to this matter. He advocated using the same document submission deadlines as those required in EIB 10-08 (R). He went on to discuss various issues relating to the objections submitted by parties opposed to the scheduling order.

Mr. Green requested that all documents pertinent to EIB 10-09 (R) be submitted to the Board on October 25, 2010, two weeks prior to the November 8, 2010 hearing date.

The Chair then invited comment from Louis Rose, Esq., speaking on behalf of NMOGA. Mr. Rose stated his client's position with respect to the proposed hearing schedule particularly when considered in light of the several cases before the Board in which NMOGA is a party.

Action: **Mr. Green moved that the Board set the hearing in the matter of the Proposed New Regulations, 20.2.300 NMAC, Reporting of Greenhouse Gas Emissions; 20.2.301 NMAC, Greenhouse Gas Emissions – Verification Requirements and Proposed Repeal of Regulation 20.2.87 NMAC, Greenhouse Gas Emissions Reporting, EIB 10-09 (R) on November 8, 9 and 10, 2010, following the hearing in EIB 10-08 (R). Mr. Green volunteered to act as hearing officer in 10-09 (R). Mr. Simms seconded.**

The motion passed, six votes in the affirmative, one in the negative by Mr. Gould.

Item 8. **Request for Hearing in re: Proposed Amendments, 20.2.88 NMAC Emissions Standards for New Motor Vehicles, EIB 10-10 (R). Eric Ames, NMED/OGC; Mary Uhl, NMED/AQB.**

Mr. Ames explained that the federal government had adopted emissions standards that are consistent with the standards adopted by the Board several years ago and as a result, the Department is proposing to waive the State standards and conserve its resources for other matters. He went on to note that the State rules should no longer be controlling in this area and that the federal rules should prevail. He mentioned that the Department was willing to schedule this hearing in December adding that it was anticipated that the hearing would be very short.

There was a brief Board scheduling discussion. Mr. Horning volunteered to be the hearing officer in EIB 10-10 (R) and also EIB 10-06 (R).

Action: **Mr. Green moved that the Board set the hearing in EIB 10-10 (R), Proposed Amendments, 20.2.88 NMAC, Emissions Standards for New Motor Vehicles on the December 6, 2010 Agenda. Mr. Ghassemi seconded.**

The motion passed unanimously.

Item 9. **Resumption of the hearing EIB 08-19 (R), Petition for Hearing to adopt New Regulations and Amend Various Sections of 20.2.1, 20.2.2, 20.2.70 and 20.2.72 NMAC, Statewide Cap on Greenhouse Gas Emissions. Bruce Frederick, Esq., Jonathan Block, Esq., NMELC; Eric Groten, Esq., Bryan Moore, Esq., El Paso Electric; Timothy Van Valen, Esq., Doug Roark, Esq.; Mark Matthews, Esq.; Bret Fox, Esq.; Grupo Cementos de Chihuahua; Louis Rose, Esq., Holly Corp./NM Oil and Gas Association; John Curl, Esq., Victoria Mandell, Esq., Western Resource Advocates; Richard Alvidrez, Esq., Public Service Co. of NM and Southwestern Public Service Co.; Karin Foster, Esq., Independent Petroleum Producers of NM; Sunny Nixon, Esq., City of Farmington and Farmington Electric**

Utility System; Brent Moore, Esq., Allison Wood, Esq., Tauna Szymanski, Esq. and Dennis Gucciardo, Tri-State Generation and Transmission Assn.; Howard Hutchinson, Coalition of Arizona and New Mexico Counties. Time estimate: multiple days

Ms. Dillingham asked the parties to be respectful of each other in spite of the contentiousness of the issues involved in this case and then introduced Ms. Felicia Orth the Hearing Officer to convene the hearing.

Kathy Townsend Court Reporters transcribed the hearing. All Notice of Intent to Present Technical Testimony were filed and are available for review, as well as public comments correspondence and the hearing transcript in the office of the Water Quality Control Commission Administrator, New Mexico Environment Department, 1190 St. Francis Drive, Runnels Building Room 2150, Santa Fe, New Mexico 87505.

Continuation of Item 5.

Item 5. **New Mexico Environment Department request for the Board to issue a Notice of Contemplated Action to Robert Moseley proposing to revoke his certification as a Radiographic Radiologic Technologist for failure to comply with the Parental Responsibility Act. Carol Parker, NMED/OGC**

Action: **The Chair moved for Board approval of the issuance of the Notice of Contemplated Action to Robert Moseley. Mr. Green seconded**

The motion passed unanimously.

Item 10. **Other business**

None

Item 11. **Adjournment**

The Chair adjourned the meeting at 8:00 p.m.

Gay Dillingham, Board Chair