

State of New Mexico
ENVIRONMENTAL IMPROVEMENT BOARD
Harold Runnels Building, N-4084
1190 St. Francis Drive, P. O. Box 26110
Santa Fe, New Mexico 87505

Approved October 3, 2006
Minutes of the
Environmental Improvement Telephonic Board Meeting
September 7, 2006 Meeting
9:00 a.m.

New Mexico Environment Department
1190 St. Francis Drive, Harold Runnels Building
Room N-2167
Santa Fe, New Mexico 87505

Members Present: Gay Dillingham, Chair

Members Present by Telephone: Kathi Bearden, Member
Ken Marsh, Member
Soren Peters, Member
Gregory Green, Vice-Chair

Members Absent: Harold Tso, Member
Dolores Herrera, Secretary

Others Present:

Zachary Shandler, AG's Office
Ana Marie Ortiz, NMED/EHD
Chuck Noble, NMED/OGC
Dennis McQuillan, NMED/EHD
E. Gifford Stack, NMED/SWB

Others Present by Telephone: Melanie Teeters, NM Homebuilders Assn.
Chris Wolpert, Rodey Law Firm

Chair Gay Dillingham called the meeting to order at 9:00 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. Marsh moved that the agenda be approved as presented. Ms. Bearden seconded. The motion carried unanimously.

Item 3: Approval of August 1, 2006 meeting minutes.

Action: Mr. Green moved that the minutes of the August 1, 2006 meeting be approved. Mr. Marsh seconded.

A roll-call vote was taken and the motion passed; four affirmative one abstention.

Board vote

Kathi Bearden	yes
Gay Dillingham	yes
Gregory Green	yes
Ken Marsh	yes
Soren Peters	abstain

Item 4: Public Comment

The Chair announced the public comment period and asked Ms. Teeters and Mr. Wolpert if either of them wished to make comments; both parties declined. No others indicated they would like to make public comment.

Item 5: NMED Petition for Public Hearing to Consider Proposed Amendment to the Liquid Waste Disposal and Treatment Regulations in Title 20, Chapter 7, Part 3, NMAC, EIB 06-06 (R). Chuck Noble, NMED/OGC

Professional On-Site Wastewater Re-Use Association (POWRA) Petition for Hearing to Consider Proposed Amendment to the Liquid Waste Disposal and Treatment Regulations in Title 20, Chapter 7, Part 3, NMAC, EIB 06-07 (R). Link Summers, POWRA

The Chair announced that Mr. Noble would speak on behalf of NMED's petition for hearing. Mr. Noble noted that in addition to the Professional On-Site Wastewater Re-Use Association's request for a hearing to consider amendments to these NMAC rules, the New Mexico Homebuilders Association had also filed a request for hearing proposing amendments to the same rules. The Association's petition was filed on September 7, 2006. Both POWRA and the Association propose language that is different from that proposed by NMED. Following Board scheduling discussions, Mr. Noble suggested that the Board consolidate these cases and set the hearing on the amendments on the Board's January 3, 2007 agenda, allowing the Board to utilize January 4 and 5, 2007, if necessary to finish the hearing.

Action: The Chair moved that the Board schedule the hearing on agenda Item 5, as consolidated, on January 3, 4 and 5, 2007. Mr. Green seconded.

Mr. Shandler brought up the question of who would bear the cost of publishing the

notice of public hearing. There was Board discussion relating to this problem since two of the three petitioners were private entities. Mr. Noble suggested that he discuss the public notice with the other parties to resolve the issue in a manner that would be workable for all petitioners. The Chair requested that he report to the Board at the October meeting regarding resolution of the problem. Mr. Noble agreed.

Mr. Shandler pointed out that the New Mexico Homebuilders Association petition was not indicated on the Board's agenda and asked Mr. Noble if he had any objection to the Association being included in the consolidation of the cases. Mr. Noble stated that he had no objection to the consolidation including the Association.

Mr. Shandler went on to mention the necessity for appointing a hearing officer, not only for the hearing, but to be available for pre-hearing motions since there are three petitioners to be dealt with in this case.

The Chair requested that a member of the Board act as hearing officer in this matter. Mr. Green agreed to do so.

A roll-call vote was taken and the motion passed unanimously.

<u>Board vote</u>	
Kathi Bearden	yes
Gay Dillingham	yes
Gregory Green	yes
Ken Marsh	yes
Soren Peters	yes

Item 6: Petition for Public Hearing to Consider Replacement Rule for Tire Recycling Regulations in Title 20, Chapter 9, Part 2 NMAC, EIB 06-08 (R). Chuck Noble, NMED/OGC

Mr. Noble stated that in 2005 the NM Legislature passed the Recycling and Illegal Dumping Act. He noted that the passage of that Act has changed the manner in which recycled tires, a recycled tire grant fund, illegal dumping and other items are handled. As a result of those changes and the necessity for replacing current regulations, Mr. Noble requested that the Board set a two day hearing in this matter on December 5 and 6, 2006.

Action: The Chair moved that the Board schedule the hearing on Item 6, as consolidated, on December 5 and 6, 2006. Mr. Peters seconded.

A roll-call vote was taken and the motion passed unanimously.

<u>Board vote</u>	
Kathi Bearden	yes
Gay Dillingham	yes
Gregory Green	yes

Ken Marsh **yes**
Soren Peters **yes**

The Chair requested that a member of the Board act as hearing officer in this matter. Mr. Peters agreed to do so.

Other business:

The Chair mentioned that in view of the October 3, 2006 agenda the meeting would probably last at least one and one-half days. The Board informally agreed that one and one-half days be allocated for the October meeting.

Mr. Green requested an up-date on the convenience store law suit as well as asking if any information is available regarding a report on the Intel shut-down, noting that the Intel issue had been discussed at some length at the August meeting.

The Chair noted that with respect to the Intel report, she would distribute it to the Board and have discussion of the report placed on the next meeting agenda. She then turned the question of the convenience store suit over to Mr. Shandler.

Mr. Shandler stated that the case has been briefed and the parties are currently awaiting a decision from the court.

Item 7: Next Meeting – October 3, 2006 in Santa Fe.

Item 8: Adjournment

The Chair moved to adjourn the meeting. Mr. Peters seconded. The motion carried unanimously. The meeting adjourned at 9:45 a.m., September 7, 2006.

Gay Dillingham, EIB Chair