

*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*

**MINUTES**  
**Environmental Improvement Board Meeting**  
**August 6, 2012 9:00 a.m.**  
**Room 307, State Capitol Building**  
**490 Old Santa Fe Trail**  
**Santa Fe, New Mexico 87501**

**Members Present:** Deborah Peacock, Chair  
Elizabeth Ryan, Secretary  
Greg Fulfer, Member  
James Casciano, Member  
John Volkerding, Vice-Chair

**Members Absent:** Timothy Morrow, Member

**Others Present:** Mark Reynolds, Board Counsel  
Felicia Orth, Hearing Officer and Acting Administrator  
Sally Worthington, NMED Hearing Clerk  
Cheryl Arreguin, Court Reporter  
Others—See attached sign-in sheets

**Item 1. Roll Call**

Roll was called; a quorum was present.

**Item 2. How Notice Requirements Were Met**

Ms. Orth described how notice requirements were met for the meeting consistent with the Board's Open Meetings Act Resolution.

**Item 3. Approval of Agenda**

**Action:** Ms. Ryan moved to amend the agenda to remove Item #8 and postpone it until another time, considering the anticipated length of the liquid waste rules hearing. Mr. Fulfer seconded the motion. The motion passed unanimously.

**Item 4. Public Comment Unrelated to Agenda Items.**

**Action:** None.

**Item 5. Approval of meeting minutes, July 7, 2012.**

**Action:** Mr. Casciano moved Board approval of the meeting minutes as presented. Ms. Ryan seconded the motion. The motion passed unanimously.

**Item 6. Request for hearing in EIB 12-03 (R), Proposed Revisions to 20.2.99 NMAC- Conformity to the State Implementation Plan of Transportation Plans, Programs and Projects. Bill Grantham, NMED/OGC; Gail Cooke, NMED/AQB.**

Mr. Grantham introduced Gail Cooke from the Air Quality Bureau to request a hearing regarding Proposed Revisions to 20.2.99 NMAC – Conformity to the State Implementation Plan of Transportation Plans, Programs and Projects. Ms. Cooke requested a hearing on January 7, 2013 and estimated that the hearing would take less than an hour.

**Action:** Mr. Casciano moved to grant the hearing on January 7, 2013 and Ms. Ryan seconded. Mr. Volkerding will be the Hearing Officer. The motion passed unanimously.

**Item 7. Request for hearing in EIB 12-04 (R), Proposed Revisions to the Infrastructure State Implementation Plan for the Nitrogen Dioxide National Ambient Air Quality Standard. Bill Grantham, NMED/OGC; Michael Baca, NMED/AQB.**

Mr. Grantham stated that this is another request for a hearing for air quality rulemaking in connection with the January 2013 meeting. He introduced Michael Baca from the Air Quality Bureau to answer questions. This hearing also should not take more than one hour.

**Action:** Ms. Ryan moved to grant the hearing on January 7, 2013 and Mr. Casciano seconded. Mr. Volkerding will be the Hearing Officer. The motion passed unanimously.

**Item 8. Briefing on Liquid Waste Assistance for Indigent Households. Dennis McQuillan, NMED/LWP; Ralph Baker Dotson, POWRA and Jace Ensor, NMOWA.**

**Action:** Postponed until a later date.

**Item 9. Hearing and possible deliberations in EIB 12-01 (R), to Consider Proposed Amendments to the Liquid Waste Disposal and Treatment Regulations, 20.7.3 NMAC. Andrew Knight, NMED/OGC; Dennis Mcquillan, NMED/LWP; Ralph Baker Dotson and Eugene Bassett, POWRA; Carl Stubbs and Jace Ensor, NMOWA; Susan C. Kery, Sheehan & Sheehan, and Dennis F. Hallahan for Infiltrator Systems, Inc. Felicia Orth, Hearing Officer.**

**Action:** The hearing in EIB 12-01 (R) was recorded and transcribed by Cheryl Arreguin of Kathy Townsend Court Reporters. The transcript is available in the office of the Board Administrator.

The hearing ended at 4:20 p.m. and will be continued at the next meeting, August 13, 2012.

**Item 10.** Update on:

Martinez et al. v. EPA      10th Cir. COURT OF APPEALS 11-9567 and associated cases and administrative actions

Petitioners:      Susana Martinez  
New Mexico Environment Department

Respondent:      U.S. Environmental Protection Agency

Intervenors:      WildEarth Guardians  
Public Service Company of New Mexico  
Dine Citizens Against Ruining Our Environment  
National Parks Conservation Association  
New Energy Economy  
San Juan Citizens Alliance  
Sierra Club

Mark Reynolds, N MAGO, and Ryan Flynn, NMED/OGC.

**Action:** Postponed until a later date.

**Item 11.      Executive session to discuss pending litigation. Mark Reynolds, N MAGO**

a.      City of Farmington and Farmington Electric Utility System v. N.M. Environmental Improvement Board      COURT OF APPEALS No. 30,897  
Appeal of EIB 10-04(R): Cap and Trade Provisions.

N.M. Oil and Gas Association v. N.M. Environmental Improvement Board      COURT OF APPEALS No. 30,898  
Appeal of EIB 10-04(R): Cap and Trade Provisions.

<p>Tri-State Generation and Transmission Association, Inc. v. N.M. Environmental Improvement Board</p>	<p>COURT OF APPEALS No. 30,899  Appeal of EIB 10-04(R): Cap and Trade Provisions.</p>
<p>Southwestern Public Service Company v. N.M. Environmental Improvement Board</p>	<p>COURT OF APPEALS No. 30,901  Appeal of EIB 10-04(R): Cap and Trade Provisions.</p>
<p>Public Service Co. Of N.M. v. N.M. Environmental Improvement Board</p>	<p>COURT OF APPEALS No. 30,902  Appeal of EIB 10-04(R): Cap and Trade Provisions.</p>
<p>Independent Petroleum Association of N.M. v. N.M. Environmental Improvement Board</p>	<p>COURT OF APPEALS No. 30,907  Appeal of EIB 10-04(R): Cap and Trade Provisions.</p>
<p>El Paso Electric Co. v. N.M. Environmental Improvement Board</p>	<p>COURT OF APPEALS No. 30,908  Appeal of EIB 10-04(R): Cap and Trade Provisions.</p>
<p>b. Western Resource Advocates, and New Energy Economy v. Environmental Improvement Board</p>	<p>COURT OF APPEALS No. 32,056  Appeal of EIB 11-15(R): Repeal of Rule 3550, Greenhouse Gas Cap-and- Trade Provisions</p>

	Western Resource Advocates, and New Energy Economy v. Environmental Improvement Board	COURT OF APPEALS No. 32,055  Appeal of EIB 11-17(R): Repeal of Rules 300 and 301, Greenhouse Gas Emissions Reporting and Verification Requirements
c.	N.M. Oil & Gas Ass'n. et al. v. N.M. Environmental Improvement Board	COURT OF APPEALS No. 30,952  Appeal of EIB 10-09(R): Greenhouse Gas Reporting
	Tri-State Generation and Transmission Association, Inc. v. N.M. Environmental Improvement Board	COURT OF APPEALS No. 30,953  Appeal of EIB 10-09(R): Greenhouse Gas Reporting
	Independent Petroleum Association of N.M. v. N.M. Environmental Improvement Board	COURT OF APPEALS No. 30,954  Appeal of EIB 10-09(R): Greenhouse Gas Reporting
d.	City of Farmington and Farmington Electric Utility System v. N.M. Environmental Improvement Board	COURT OF APPEALS No. 31,015  Appeal of EIB 08-19(R): New Energy Economy
	Independent Petroleum Association of N.M. v. N.M. Environmental Improvement Board	COURT OF APPEALS No. 31,016  Appeal of EIB 08-19(R): New Energy Economy

	N.M. Oil & Gas Ass'n, et al. v. N.M. Environmental Improvement Board	COURT OF APPEALS No. 31,017  Appeal of EIB 08-19(R): New Energy Economy
	El Paso Electric Co. v. N.M. Environmental Improvement Board	COURT OF APPEALS No. 31,018  Appeal of EIB 08-19(R): New Energy Economy
	Tri-State Generation and Transmission Association, Inc. v. N.M. Environmental Improvement Board	COURT OF APPEALS No. 31,019  Appeal of EIB 08-19(R): New Energy Economy
	Public Service Co. Of N.M. v. N.M. Environmental Improvement Board	COURT OF APPEALS No. 31,020  Appeal of EIB 08-19(R): New Energy Economy
	Southwestern Public Service Company v. N.M. Environmental Improvement Board	COURT OF APPEALS No. 31,021  Appeal of EIB 08-19(R): New Energy Economy
e.	Western Resource Advocates and New Energy Economy v. Environmental Improvement Board	COURT OF APPEALS No. 32,177  Appeal of EIB 11-16 (R), repeal of Part 100, Greenhouse Gas Emissions Cap
f.	Link Summers v. Environmental Improvement Board v. New Mexico Environment Department	COURT OF APPEALS No. 31,774  Appeal re EIB 11-08 (R)

**Action:** Mr. Volkerding moved to enter into executive session to discuss Items 8.a. through 8.f. Mr. Fulfer seconded the motion. The motion was approved unanimously in a roll call vote. The Board went back on the record at 4:08 p.m. The Board took no action during the Executive Session and discussed no other matters.

**Item 12. Other business.**

**Action:** The next meeting on the 13<sup>th</sup> of August will be a hearing in **EIB 12-02**, Appeal of Denial of Relocation Application by KI-Stone Environmental and Ms. Ryan will be the Hearing Officer. Also the hearing in **EIB 12-01** will continue with Ms. Orth as Hearing Officer.

**Item 13. Board Member Comments and Questions.**

**Action:** None.

**Item 14. Next two meetings –**

August 13, 2012, including hearing in EIB 12-02; and

September 4, 2012, including deliberations in EIB 11-18 (R).

Meetings scheduled during the remainder of 2012:

**Action:** Meetings will not be held on the first Monday in October or November; these meetings will be replaced with a meeting on October 29-30, 2012. The December meeting will be held December 3, 2012.

**Item 15. Adjournment.**

Ms. Peacock adjourned the meeting at approximately 4:40 p.m.

  
\_\_\_\_\_  
**Board Secretary**