

*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**

**January 3, 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  
John Volkerding, Vice Chair  
Elizabeth Ryan, Secretary  
Jeffrey Bryce, Member  
Greg Fulfer, Member  
Timothy Morrow, Member  
James Casciano, Member

**Members Absent:** None

**Others Present:** Stephen Vigil, Board Counsel  
Carmella Casados, Administrator  
Felicia Orth, Hearing Officer  
Denise Kopan, Court Reporter  
Dennis McQuillan, LWB/NMED  
Bill Grantham, OGC/ NMED  
Angela Cross, DWB, NMED  
Jennifer Hower, OGC/ NMED  
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. Casados described how notice requirements were met for the meeting consistent with the Board's Open Meetings Act Resolution.

**Item 3. Approval of Agenda**

Ms. Peacock suggested moving item 7 to item 8, and item 8 to item 7.

**Action:** Ms. Peacock moved Board approval of the agenda. Mr. Volkerding seconded the motion. The motion passed unanimously.

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

**Action:** No public comment offered.

**Item 5. Approval of meeting minutes, November 7, 2011.**

**Action:** Mr. Morrow moved to Board approval of the meeting minutes. Mr. Casciano seconded the motion. The motion passed unanimously.

**Item 6.** Update on progress of stakeholder outreach and consensus development for Liquid Waste Regulation Amendments, Dennis McQuillan, LWB/NMED, Jace Ensor, NMOWA, Ralph Baker, POWRA.

**Action:** Mr. McQuillan updated the Board on the Liquid Waste Program 2011 Stakeholder Outreach Initiative summary of, and responses to, stakeholder recommendations on how to improve the program

The department distributed public notices on its website and by paper copy at each Field Office, and issued a statewide news release announcing public meetings and the opportunity to submit written comments. Notices were sent to stakeholder organizations for distribution to their members. A total of 20 public meetings were held across New Mexico.

**Item 7.** Deliberations of hearing in **EIB 11-13 (R)**, Amendments to Petroleum Storage Tank Regulations, throughout 20.5.1--20.5.18 NMAC and proposed new Part 20.5.19; Jennifer Hower, OGC/ NMED.

**Action:** The deliberations in EIB 11-13 (R) were recorded and transcribed by Denise Kopan of Kathy Townsend Court Reporters. The transcript is available in the office of the Board Administrator.

Ms. Peacock moved to approve Section 20.5.19 as presented with the changes set forth in handout called "Peacock suggested changes", Board exhibit 1. Mr. Bryce seconded the motion. The motion passed unanimously.

Ms. Peacock moved to approve the proposed amendments by the Department in Section 20.5.2. Ms. Ryan seconded the motion. The motion passed unanimously.

Ms. Peacock moved to accept only the changes proposed by the Department in Section 20.5.5. Mr. Volkerding seconded the motion. The motion passed unanimously.

Ms. Peacock moved to approve Section 20.5.6 as proposed by the Department. Mr. Casciano seconded the motion. The motion passed unanimously.

Ms. Peacock moved to approve Section 20.5.7 as proposed by the Department. Mr. Bryce seconded the motion.

Mr. Casciano	No
Mr. Morrow	No
Mr. Fulfer	No
Deborah Peacock	Yes
Elizabeth Ryan	Yes
John Volkerding	Yes
Jeff Bryce	Yes

The motion passed, four votes in the affirmative; three in the negative.

Ms. Ryan moved to approve Sections 20.5.4.19(a) and 20.5.4.38 as proposed by the Department and amended by the Board. Mr. Volkerding seconded the motion. Mr. Casciano opposed the motion. The motion passed.

Ms. Peacock moved to approve Section 20.5.4.3 as proposed by the Department. Ms. Ryan seconded the motion. The motion passed unanimously.

Ms. Peacock moved to approve Section 20.5.4.15 as proposed by the Department. Mr. Casciano seconded the motion. The motion passed unanimously.

Ms. Peacock moved to approve to approve Section 20.5.5.26 as proposed by the Department. Mr. Bryce seconded the motion. The motion passed unanimously.

Ms. Peacock moved to approve Section 20.5.4.29 as proposed by the Department and as amended by the Board. Mr. Casciano seconded the motion. The motion passed unanimously.

Ms. Peacock moved to approve Section 20.5.4.32 as proposed by the Department. Mr. Casciano seconded the motion. The motion passed unanimously.

Mr. Casciano moved to adopt the changes in Section 20.5.4.33 as proposed by the Department. Ms. Ryan seconded the motion. The motion passed unanimously.

Ms. Peacock to approve Section 20.5.4.35 as set forth in Board Exhibit 3. Mr. Casciano seconded the motion. The motion passed unanimously.

Ms. Peacock moved to approve Section 20.5.10 as proposed by the Department. Mr. Bryce seconded the motion. The motion passed unanimously.

Ms. Peacock moved to approve Section 20.5.12 as proposed by the Department. Mr. Volkerding seconded the motion. The motion passed unanimously.

Mr. Casciano moved to approve Section 20.5.13 as proposed by the Department. Ms. Ryan seconded the motion. The motion passed unanimously.

Ms. Peacock moved to approve Section 20.5.14 as proposed by the Department and amended by the Board. Mr. Volkerding seconded the motion. The motion passed unanimously.

Ms. Peacock moved to approve Section 20.5.16 as proposed by the Department. Mr. Casciano seconded the motion. The motion passed unanimously.

Ms. Peacock moved to approve Section 20.5.18 as proposed by the Department. Mr. Casciano seconded the motion. The motion passed unanimously.

Ms. Peacock moved to approve Section 20.5.1 as proposed by the Department and amended by the "Peacock suggested changes, Board Exhibit 2". Mr. Volkerding seconded the motion. The motion passed unanimously.

**Item 8.** Hearing in **EIB 11-18 (R)**, Proposed Revisions to 20.7.10, NMAC Drinking Water Regulations, Bill Grantham, NMED/OGC

The hearing in EIB 11-18(R) was recorded and transcribed by Denise Kopan of Kathy Townsend Court Reporters. The transcript is available in the office of the Board Administrator.

The Board determined to leave the record open, and continue the hearing on May 7, 2012.

**Item 9.** Executive session to discuss pending litigation. Stephen Vigil, NMAGO.

- a. Helena Chemical Co. v. NMED and N.M. Environmental Improvement Board COURT OF APPEALS No. 31,037  
Appeal of EIB 10-02(A); 10-11(A). Air Quality Permit Adjudication.
- b. 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.
- Tri-State Generation and Transmission Association, Inc. v. N.M. Environmental Improvement Board COURT OF APPEALS No. 30,899  
Appeal of EIB 10-04(R): Cap and Trade Provisions.
- Southwestern Public Service Company v. N.M. Environmental Improvement Board COURT OF APPEALS No. 30,901  
Appeal of EIB 10-04(R): Cap and Trade Provisions.
- Public Service Co. of N.M. v. N.M. Environmental Improvement Board COURT OF APPEALS No. 30,902  
Appeal of EIB 10-04(R): Cap and Trade Provisions.

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|    | Independent Petroleum Association of N.M. v. N.M. Environmental Improvement Board                 | COURT OF APPEALS No. 30,907<br>Appeal of EIB 10-04(R): Cap and Trade Provisions. |
|    | El Paso Electric Co. v. N.M. Environmental Improvement Board                                      | COURT OF APPEALS No. 30,908<br>Appeal of EIB 10-04(R): Cap and Trade Provisions. |
| c. | N.M. Oil & Gas Ass'n, et al. v. N.M. Environmental Improvement Board                              | COURT OF APPEALS No. 30,952<br>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<br>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<br>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<br>Appeal of EIB 08-19(R): New Energy Economy        |

<p>Independent Petroleum Association of N.M. v. N.M. Environmental Improvement Board</p>	<p>COURT OF APPEALS No. 31,016</p> <p>Appeal of EIB 08-19(R): New Energy Economy</p>
<p>N.M. Oil &amp; Gas Ass'n, et al. v. N.M. Environmental Improvement Board</p>	<p>COURT OF APPEALS No. 31,017</p> <p>Appeal of EIB 08-19(R): New Energy Economy</p>
<p>El Paso Electric Co. v. N.M. Environmental Improvement Board</p>	<p>COURT OF APPEALS No. 31,018</p> <p>Appeal of EIB 08-19(R): New Energy Economy</p>
<p>Tri-State Generation and Transmission Association, Inc. v. N.M. Environmental Improvement Board</p>	<p>COURT OF APPEALS No. 31,019</p> <p>Appeal of EIB 08-19(R): New Energy Economy</p>
<p>Public Service Co. of N.M. v. N.M. Environmental Improvement Board</p>	<p>COURT OF APPEALS No. 31,020</p> <p>Appeal of EIB 08-19(R): New Energy Economy</p>
<p>Southwestern Public Service Company v. N.M. Environmental Improvement Board</p>	<p>COURT OF APPEALS No. 31,021</p> <p>Appeal of EIB 08-19(R): New Energy Economy</p>

- e. Link Summers v. Environmental Improvement Board v. New Mexico Environment Department COURT OF APPEALS No. 31,774 Appeal re EIB 11-08 (R)

**Action:** The Board came back into open session at 2:30 P.M. The Board took no action in closed session and discussed no other business.

**Item 10. Other business.**

None

**Item 11. Update on:**

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

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

**Item 12. Board Member Comments and Questions.**

None

**Item 13. Next meeting—February 6, 2012**

Coming up:

- a. Deliberations in EIB 11-15/17(R), on February 7, Proposed repeal of regulations requiring greenhouse gas emissions reporting and verification, and the cap and trade program, 20.2.300, -301, -350 NMAC.
- b. Deliberations in EIB 11-16(R) on March 5, Proposed repeal of regulations regarding greenhouse gas reduction program, 20.2.100 NMAC
- c. No meeting on April 2, 2012

**Item 14. Adjournment.**

Ms. Peacock adjourned the meeting.

  
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**Board Secretary**