

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
July 9, 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
Jeffrey Bryce, Member
Greg Fulfer, Member
James Casciano, Member

Members Absent: John Volkerding, Vice-Chair
Timothy Morrow, Member

Others Present: Mark Reynolds, NM Attorney General's Office, Board Counsel
Felicia Orth, Hearing Officer and Acting Administrator
Sally Worthington, 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. Peacock noted that Agenda Item 7 will take more than two hours. Mr. Fulfer moved Board approval of the agenda. Ms. Ryan seconded the motion. The motion passed unanimously.

Item 4. Public Comment Unrelated to Agenda Items.

Action: None.

Item 5. Approval of meeting minutes, May 7, 2012.

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

Item 6. Request for hearing by KI-STONE Environmental – Appealing the Denial of Relocation Application No. 3617R3, EIB 12-02 (A). Andrew Frye, Senior Environmental Specialist.

Action: Chris Brosious of Rockcon, filling in for Andrew Frye, stated that they are requesting a hearing based on their appeal letter of June 13, 2012. Their relocation request was denied by the Air Quality Bureau based on a ¼ mile radius requirement in the general permit, although a relocation request had been approved in the past on a similar project. They would like the hearing as soon as possible because the project is an ongoing project as part of the I-10/I-25 corridor reconstruction in Las Cruces.

Andrew Knight of the Office of General Counsel and Ted Schooley of the Air Quality Bureau stated that Appellants are entitled to a hearing within 60 days and in order to comply with that requirement the hearing would have to be held during the August 6th EIB meeting. Ms. Orth and Mr. Reynolds noted that notice requirements would also have to be met.

Mr. Fulfer made the motion to grant the hearing and Ms. Ryan seconded the motion. The motion passed unanimously.

The Board then discussed when to set the hearing. It was agreed that the hearing will be on August 13th in order to fulfill noticing requirements; thus the Board will be meeting on both August 6th and August 13th.

Item 7. Continuation of hearing in EIB 11-18 (R), Proposed Revisions to 20.7.10, NMAC Drinking Water Regulations, Bill Grantham, NMED/OGC; Angela Faye Cross, Andrew Edmondson, NMED/DWB.

Action: The continuation of the hearing in EIB 11-18 (R) was recorded and transcribed by Cheryl Arreguin of Kathy Townsend Court Reporters. The transcript is available in the office of the Board Administrator. An extensive question and answer session took place between the Board, the NMED attorney, and NMED Drinking Water Bureau staff.

The hearing recessed for lunch from 11:48 a.m. to 1:08 p.m. Afterward the Hearing Officer invited public comment before further Board questions.

The hearing ended and the record was closed at 4:09 p.m. Post-hearing submissions are due by close of business on August 13th and the Board will deliberate at its regularly scheduled meeting on September 4th.

Item 8. Executive session to discuss pending litigation. Mark Reynolds, NMAGO

- 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.
- 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.
- Independent Petroleum Association of N.M. v. N.M. Environmental Improvement Board COURT OF APPEALS No. 30,907
Appeal of EIB 10-04(R): Cap and Trade Provisions.

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| | El Paso Electric Co. v. N.M. Environmental Improvement Board | COURT OF APPEALS No. 30,908
Appeal of EIB 10-04(R): Cap and Trade Provisions. |
| b. | Western Resource Advocates, and New Energy Economy v. Environmental Improvement Board | COURT OF APPEALS No. 32,056
Appeal of EIB 11-15(R): Repeal of Rule 3550, Greenhouse Gas Cap-and-Trade Provisions |
| | 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 |

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| 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. 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. Fulfer moved to enter into executive session to discuss Items 8.a. through 8.e. Mr. Casciano seconded the motion. Mr. Reynolds suggested amending the motion as he noticed that case number 32,177 was not listed on the agenda. Mr. Fulfer amended the motion to include case number 32,177, Western Resource Advocates versus the Environmental Improvement Board. The motion was seconded by Mr. Casciano. The motion was approved unanimously after a roll call vote. The Board went back on the record at 5:10 p.m. The Board took no action during the Executive Session and discussed no other matters.

Item 9. 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

Action: None.

Item 10. Other business.

Action: None.

Item 11. Board Member Comments and Questions.

Action: Ms. Peacock said she would like Board members to look at the Board website. There is a lot about cap and trade but not a lot about current hearings.

Item 12. Next meeting—August 6, 2012 in Room 307.

Item 13. Adjournment.

Ms. Peacock adjourned the meeting at approximately 5:13 p.m.



Board Secretary