



**Michelle Lujan Grisham**  
Governor

**Howie C. Morales**  
Lt. Governor

**NEW MEXICO  
ENVIRONMENT DEPARTMENT**  
*Occupational Health and Safety Review  
Commission*

Harold Runnels Building  
1190 St. Francis Drive, PO Box 5469  
Santa Fe, New Mexico 87502-5469  
Telephone: (505) 827-2428

[www.env.nm.gov](http://www.env.nm.gov)



**James C. Kenney**  
Cabinet Secretary

**Jennifer J. Pruett**  
Acting Deputy Secretary

**Occupational Health and Safety Review Commission  
Minutes of January 28, 2020 Public Meeting**

The public meeting of the Occupational Health and Safety Review Commission was held on January 28, 2020, starting at 10:00 a.m. in the Annex Conference Room, L-1015, Runnels Building, 1190 Saint Francis Drive, Santa Fe, New Mexico 87505.

**1. Call to Order.**

Chair William "Brock" Carter, called the meeting to order at 10:02 a.m.

**2. Roll Call.**

A quorum was established by roll call.

Members Present:

William "Brock" Carter, Chair  
Jeff Kokos  
Robert Roehm

Members Absent

Others Present:

John Kreienkamp, Assistant Attorney General (Commission Counsel)  
Cody Barnes, Hearing Clerk (Commission Administrator)  
Kathryn Becker, NMED Office of General Counsel  
Bob Genoway, OHSB Chief  
Greg Marquez, OHSB

**3. Approval of the Agenda.**

**MOTION:** Commissioner Roehm moved to approve the agenda with an amendment to item 5a to allow the Occupational Health and Safety Bureau to motion for approval of the settlement agreement and provide a short statement. Commissioner Kokos seconded the motion. The motion passed by a voice vote.

**4. Approval of the Meeting Minutes from June 20, 2019.**

Commissioner Roehm requested one change to item number 5. The line should read "The proposed Resolution remained the same as the previous year's except for..." instead of "...previous year's expect for..."

**MOTION:** Commissioner Roehm moved to approve the meeting minutes as amended. Commissioner Kokos seconded the motion. The motion passed by a voice vote.

**5. Objection to Proposed Settlement Agreement in McKinley Paper Company (Inspection No. 1402618). Deliberation and Action on Commissioner Roehm's Objection.**

**5a. As no response to the objection was filed by any party or affected employee, the Commission will exclusively deliberate and vote on the objection. No hearing will be conducted.**

Ms. Kathryn Becker explained how the Occupational Health and Safety Bureau addressed the Commissions' concerns regarding the Proposed Settlement Agreement.

**5 b. The Commission may vote to enter closed session pursuant to NMSA 1978, Section 10-15-1(H)(3), the Open Meetings Act exception authorizing closed session for deliberations by a public body in connection with an administrative adjudicatory proceeding.**

**MOTION:** Commissioner Roehm moved to enter closed session pursuant to the Open Meetings Act sections for discussion of pending litigation and administrative adjudications to discuss items 5 and 6 as listed on the agenda. Commissioner Kokos seconded the motion. The motion passed with a roll call vote (Chair Carter: aye; Commission Kokos: aye; Commissioner Roehm: aye).

The Commission entered closed session at 10:11 a.m.

In closed session, pursuant to 10-15-1(H)(3) of the Open Meetings Act, which authorizes deliberations by a public body in connection with an administrative adjudicatory proceeding, the commission only discussed the administrative adjudicatory proceeding in the matter of the Proposed Settlement Agreement in McKinley Paper Company (Inspection No. 1402618).

**6. Discussion of pending litigation: D-101-CV-2017-01285, New Mexico Environment Department, Occupational Health and Safety Bureau v. New Mexico Occupational Health and Safety Review Commission (administrative case OSHA 16-11, NMED v. McCarthy Building Co. NM).**

**6 a. The Commissioners may enter into closed session pursuant to NMSA 1978, Section 10-15-1(H)(7) of the Open Meetings Act, which authorizes the closure of "meetings subject to the attorney-client privilege pertaining to threatened or pending litigation in which the public body is or may become a participant."**

**MOTION:** In item 5, Commissioner Roehm moved to enter closed session pursuant to the Open Meetings Act sections for discussion of pending litigation and administrative adjudications to discuss items 5 and 6 as listed on the agenda. Commissioner Kokos seconded the motion. The motion passed with a roll call vote (Chair Carter: aye; Commission Kokos: aye; Commissioner Roehm: aye).

In closed session, pursuant to 10-15-1(H)(7), which authorizes the closure of "meetings subject to the attorney-client privilege pertaining to threatened or pending litigation in which the public body is or may become a participant," the Commission only discussed pending litigation: D-101-CV-2017-01285, New

Mexico Environment Department, Occupational Health and Safety Bureau v. New Mexico Occupational Health and Safety Review Commission (administrative case OSHA 16-11, NMED v. McCarthy Building Co. NM).

**MOTION:** The Commission returned to open session at 10:27 a.m. as called by the Chair.\

**MOTION:** Commissioner Kokos moved to approve the Proposed Settlement Agreement in the McKinley Paper Company case and direct the Commission Counsel to draft an order to that affect including reference to the information provided y the bureau’s counsel. Commissioner Roehm seconded the motion. The motion passed unanimously with a voice vote.

## **7. Next Meeting**

The Commissioners asked the Commission Administrator for a list of pending OSHA cases. The Commission decided to have the next meeting sometime in April 2020.

No action was taken.

## **8. Adjournment**

**MOTION:** Commissioner Roehm moved for adjournment. Commissioner Kokos seconded the motion. The motion passed by a voice vote.

The meeting was adjourned at 10:32 a.m.

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Chair