

Approved September 6, 2005

ENVIRONMENTAL IMPROVEMENT BOARD

MINUTES OF THE August 2, 2005 MEETING

The New Mexico Environmental Improvement Board (EIB) Meeting was held on August 2, 2005, starting at 9:45 am at the New Mexico State Capitol Building Room 321 in Santa Fe, New Mexico.

Item #1: Roll Call

Members Present: Ms. Gay Dillingham, Chair
Ms. Dolores Herrera, Member
Mr. Harold Tso, Member
Mr. Gregory Green, Secretary

Members Absent: Mr. Clifford Stroud, Vice Chair
Mr. Ken Marsh, Member
Mr. Soren Peters, Member

Others Present:

Gino Zamora, Atty.	Barbara Claire, EIB Administrator
	Leslie Barnhart, NMED

Item #2: Approval of Agenda

ACTION: Mr. Tso made a motion to approve the Agenda as presented. Ms. Herrera seconded. Motion carried unanimously.

Item #4: Public Comment Period

Former Chief Counsel to the Governor, Mr. Geno Zamora of Gallagher & Kennedy introduced himself to the Board. He explained that some of his clients, who include Phelps Dodge and Intel, have a keen interest in the Board's activities.

Item #3: Request for a hearing on Proposed Amendments to 20.2.74 and 79 NMAC EIB 05-09 (R) (Rita Trujillo, AQB; Leslie Barnhart, OGC; 5 minutes)

The new EPA rules were challenged by several states when issued in 2002; the case was recently decided in June 24, 2005, the state of NM was waiting to see what the decision was before implementing rules under the federal guidelines. There were three things the Court rejected from the federal rules and retained the rest; NMED is incorporating all the rules the Court retained and left out the new rules the Court rejected or vacated; the

newly submitted petition (filed on July 18, 2005) in EIB 05-09 (R) reflects this. The Department assumes there will be public interest in this matter and therefore ask the hearing be scheduled for two days. NMED will have two to three witnesses, and will try to keep their presentation to three hours at the most. Member Herrera asked for a comparable presentation by NMED, showing what EPA required of NMED in rule changes; she suggested using same tact used in the technical testimony in the liquid waste hearing as an example, specifically the redlined color-coded rules. Member Green asked to see the old rule and what it did for New Mexico and the EPA required change and the resulting consequences for New Mexico; basically an analysis of the consequences of the changes before the Department proceeds with the technical testimony. Chair Dillingham asked for an overview before the start of the technical testimony. Member Green also remarked that the EPA rules are weakening of what rules the state now in effect and he would like it delineated what those consequences are. The Bureau uses a PowerPoint presentation and will use it at the hearing, the outcome of the changes. Member Tso asked if there will be public meetings conducted by the Bureau; Ms. Barnhart replied that the Department has met with stakeholders, and all public members affected have been notified. A hearing date of November 1-2, 2005 was granted; the hearing time is estimated to be to two days. Member Ken Marsh was appointed by Chair Dillingham to sit as hearing officer. Ms. Barnhart also stated that there is background information contained in *The State of New York v. the EPA* (referenced above) for the clean air act and why the changes were made to the rules that may beneficial to the Board. She will forward the URL to the Board's counsel, Mary Smith. The EIB Administrator will forward the information to Member Tso.

ACTION: **Ms. Herrera made a motion to grant a hearing November 1-2, 2005. Mr. Green seconded. Motion carried unanimously.**

Item #5 **Approval of the June 7th, 2005 meeting minutes**

ACTION: **Member Green made a motion to approved the June 7th, 2005 minutes as presented. Member Herrera seconded. Motion carried unanimously.**

Item #5a **Approval of the July 5th, 2005 meeting minutes.**

ACTION: **Member Green made a motion to approved the July 5th, 2005 minutes as presented. Member Herrera seconded. Motion carried unanimously.**

Item #7: **Other Business**

1 Member Herrera requested that the NMED liaison for the Environmental
2 Justice Committee arrange for an update presentation to the Board;
3 Member Herrera noted that there are meetings scheduled for public
4 comment in Washington, DC .
5

6 **Item 8: Next Meeting**

7 The next regularly scheduled meeting of the Environmental Improvement
8 Board is September 6, 2005. EIB 05-10 (R), the EIB Rules amendments,
9 is set for hearing that day.
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11 **Item #9: Adjournment**

12 As there was no other business before the Board, the meeting was
13 adjourned.
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15 **ACTION: Member Herrera made a motion to Adjourn. Mr. Green seconded.**
16 **Motion carried unanimously.**
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19 **The meeting adjourned at 10:01 am.**
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24 **Gay Dillingham, EIB Chair**
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