Approved March 16, 2011

Occupational Health & Safety Review Commission
MINUTES OF THE April 27, 2010 MEETING

The meeting of the New Mexico Occupational Health & Safety Review Commission was held on April 27, 2010 starting at 9:40 a.m. at the Marquez Plaza Building Training Room, 525 Camino de Los Marquez, Santa Fe, NM.

Item #1: Call to Order

Chair Dunphy called the meeting to order at 9:40 a.m.

Item #2: Roll Call

Members Present:

Mr. John Dunphy, Chair
Mr. Martin Dominguez
Mr. Arturo Archuleta

Others Present:

Adrian Terry, AGO
Sally Worthington, NMED
Robert Genoway, NMED OHSB
Butch Tongate, NMED OHSB
Tracy Hughes, NMED OGC
Jennifer Hower, NMED OGC
Ricardo Yquierdo
Wayne Bingham, Esq.
Shane Youzt Esq.
Leslie Daniel
Janelle Haught
Jeremiah Ambabo
David Jablonski

Item #3: Approval of Agenda

ACTION: Mr. Dominguez made a motion to approve the Agenda. Mr. Archuleta seconded. Motion carried unanimously.

Item #4: Approval of the August 19, 2009 Meeting Minutes

ACTION: Mr. Dominguez made a motion to approve the minutes. Mr. Archuleta seconded. Motion carried unanimously.
Item #5: Adoption of OHSRC Open Meetings Act 2010 Resolution

ACTION: Mr. Archuleta made a motion to approve the Open Meetings Act 2010 Resolution and Mr. Dominguez seconded. Motion carried unanimously.

Item #6 In the matter of NMED v. Salls Brothers Construction, Inc., OSHA 09-039; pending motions re: Motion for Default Judgment and Motion to Disallow Respondent’s Answer, Supplemental Answer and Request for Hearing (parties will be allowed oral argument)

A transcript of the proceedings was made by Kathy Townsend Court Reporters and the transcript will be in the custody of the Administrator. It is available for viewing upon request.

Item #7 In the matter of NMED v. NMDC, OSHA 10-007; re: AFSCME Council 18’s Objection to Settlement Agreement (parties will be allowed oral argument)

A transcript of the proceedings was made by Kathy Townsend Court Reporters and the transcript will be in the custody of the Administrator. It is available for viewing upon request.

Item #8 The Commissioners may adjourn into Closed Executive Session to discuss motions in the matter of NMED v. Salls Brothers Construction, Inc., docketed as OSHA 09-039, and the Objection to Settlement Agreement in the matter of NMED v. NMDC, docketed as OSHA 10-007, pursuant to Section 10-15-1(H)(3), NMSA 1978 of the Open Meetings Act.

ACTION: Mr. Dominguez made a motion to go into Executive Session pursuant to Section 10-15-1(H)(3) NMSA 1978 of the Open Meetings Act to consider the adjudicatory matters that are presented on Item #8 of today’s agenda. Mr. Archuleta seconded the motion. Motion carried unanimously.

The Commission came out of Executive Session. Chair Dunphy certified that the only matters discussed today in Executive Session were those matters that are listed in Item #8 of today’s agenda. In the matter of NMED v. Salls Brothers Construction, OSHA 9-039, Mr. Dominguez moved that the Commission grant the Department’s Motion for Default Judgment. Mr Archuleta seconded the motion. The motion carried unanimously. In the matter of NMED v. NMDC, OSHA 10-007, Mr. Archuleta moved to disapprove the Settlement Agreement based on concerns related to the audit. Mr. Dominguez seconded the motion. The motion carried unanimously. The Chair stated that because the Motion for Default Judgment was granted, the Motion to Disallow was moot.
Item #9 Other Business

Ms. Hughes asked the Commission for a rule interpretation on the deadline for the Dept. of Corrections to file a Notice of Contest if they should choose to do that. Chair Dunphy stated that they would reset the time and allow 15 days.

Mr. Bingham had a procedural question about whether their 30 days to appeal to District Court started running today? Mr. Terry stated that the 30 days would start from the date of the written Order that will be sent to the respondent.

Item #10 Next Meeting

To be announced as needed.

Item #11 Adjournment

ACTION: Mr. Dominguez made a motion to adjourn. Mr. Archuleta seconded the motion. Motion carried unanimously.

The meeting adjourned at 11:15 am.

John Dunphy, OHSRC Chair