Occupational Health & Safety Review Commission

MINUTES OF THE May 10, 2006 MEETING

The meeting of the New Mexico Occupational Health & Safety Review Commission was held on May 10, 2006, starting at 9:45 A.M. at the Wendell Chino Building, Porter Hall, 1220 St. Francis Drive, in Santa Fe, New Mexico.

Item #1: Call to Order

Chair Dunphy called the meeting to order at 9:45 A.M.

Item #2: Roll Call

Members Present:

Mr. John Dunphy, Chair
Mr. Filo Sedillo

Members Absent:
Mr. Martin Dominguez

Others Present:
Corliss Thalley, AGO
Sally Worthington, NMED
Carol Parker, OGC, NMED
Tannis Fox, OGC, NMED

Item #3: Approval of Agenda

ACTION: Mr. Sedillo made a motion to approve the Agenda as presented. Motion carried unanimously.

Item #4: Approval of the February 2, 2006 and March 9, 2006 Meeting Minutes

ACTION: Mr. Sedillo made a motion to approve the February 2, 2006 and March 9, 2006 Meeting Minutes as presented. Motion carried unanimously.

Item #5 In the matter of NMED v. K. Barnett and Son, Inc., OSHA 05-066; pending motions including Motion for Order of Hearing Officer to Take Depositions and Motion for Extension of Time for Hearing

Chair Dunphy announced that there were no appearances from any of the parties in this matter. It was determined that Kelly Stevenson is a compliance officer for the
Occupational Health and Safety Bureau and is stationed in Las Cruces. Under 11.5.5.606 B.(1) “In addition, the party intending to take the deposition shall have the deponent served a subpoena, except that no subpoena shall be required for any person who is a party or an officer, agent or employee of a party.” Finding that the motion was unopposed, Chair Dunphy called for a motion to issue subpoenas for depositions of Robert Rodriguez and Sam Jacobs as requested and the order shall contain the provisions requested by the complainant, 5 (A) (B) and (C) except that subparagraph (C) shall read that the Commission specifically authorizes the designated hearing officer to resolve any disputes that may arise in the course of the depositions and he would want those in writing.

**ACTION:** Mr. Sedillo made the motion as previously stated and the motion carried unanimously.

Concerning the request for records from Culver Repaving, the respondent shall provide to the complainant the copy of any records provided to the respondent in response to the Subpoena Duces Tecum within five business days of receipt of the records or documents. A written order will be prepared promptly and served on the parties. The second motion involves the scheduling of the hearing. The respondent wants to hold the hearing after June 15th and the State wants to hold the hearing in about 90 days or mid-August. Chair Dunphy states that he thinks it would be appropriate to try to schedule the hearing somewhere in mid to late July so we will try to set it up for then and if the parties have any problem with that then they can file the appropriate motions at the time.

**Item #6** In the matter of NMED v. Warwick Construction Inc., OSHA 05-048: pending motions including Motion to Compel and Motion For Continuance

**ACTION:** Mr. Sedillo made a motion to approve the Unopposed Motion for continuance. The motion carried unanimously. This case will be set for hearing.

**Item #7** Other Business

None at this time.

**Item #8** Next Meeting

To be announced at a later time.

**Item #9** Adjournment

The meeting adjourned at 10 A.M.

[Signature]

John Dunphy, OSHA Chair