

1 *Approved September 25, 2006*

2 **Occupational Health & Safety Review Commission**
3 **MINUTES OF THE May 10, 2006 MEETING**
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5 The meeting of the New Mexico Occupational Health & Safety Review Commission was
6 held on May 10, 2006, starting at 9:45 A.M. at the Wendell Chino Building, Porter Hall,
7 1220 St. Francis Drive, in Santa Fe, New Mexico.

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9 **Item #1: Call to Order**

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

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13 **Item #2: Roll Call**

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15 Members Present:

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17 Mr. John Dunphy, Chair
18 Mr. Filo Sedillo

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20 Members Absent:

21 Mr. Martin Dominguez

22
23 Others Present:

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25 Corliss Thalley, AGO
26 Sally Worthington, NMED
27 Carol Parker, OGC, NMED
28 Tannis Fox, OGC, NMED

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30 **Item #3: Approval of Agenda**

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32 **ACTION: Mr. Sedillo made a motion to approve the Agenda as presented.**

33 **Motion carried unanimously.**

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

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

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

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45 Chair Dunphy announced that there were no appearances from any of the parties in this
46 matter. It was determined that Kelly Stevenson is a compliance officer for the

47 Occupational Health and Safety Bureau and is stationed in Las Cruces. Under 11.5.5.606
48 B.(1) "In addition, the party intending to take the deposition shall have the deponent
49 served a subpoena, except that no subpoena shall be required for any person who is a
50 party or an officer, agent or employee of a party." Finding that the motion was
51 unopposed, Chair Dunphy called for a motion to issue subpoenas for depositions of
52 Robert Rodriguez and Sam Jacobs as requested and the order shall contain the provisions
53 requested by the complainant, 5 (A) (B) and (C) except that subparagraph (C) shall read
54 that the Commission specifically authorizes the designated hearing officer to resolve any
55 disputes that may arise in the course of the depositions and he would want those in
56 writing.

57

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

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

70

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

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

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77 **Item #7 Other Business**

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79 None at this time.

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81 **Item #8 Next Meeting**

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83 To be announced at a later time.

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85 **Item #9 Adjournment**

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87 **The meeting adjourned at 10 A.M.**

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91 **John Dunphy, OSHA Chair**

