

Approved May 26, 2009

**Occupational Health & Safety Review Commission
MINUTES OF THE September 25, 2008 MEETING**

The meeting of the New Mexico Occupational Health & Safety Review Commission was held on September 25, 2008, starting at 1:05 P.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 1:05 P.M.

Item #2: Roll Call

Members Present:

Mr. John Dunphy, Chair
Mr. Martin Dominguez

Others Present:

Adrian Terry, AGO
Elaine Lujan, AGO
Sally Worthington, NMED
Robert Genoway, NMED OHSB
Butch Tongate, NMED OHSB
Bill Grantham, NMED OGC
Richmond Neely, Counsel for Carolyn Schroedle-Wojatske
Randy Bartell, Counsel for Pojoaque Terrace Mobile Home Park
Carolyn Schroedle-Wojatske, Intervenor

Item #3: Approval of Agenda

ACTION: Mr. Dominguez made a motion to amend the Agenda, renumbering Item #7 (second one) as Item #8 and then amending Item #8-f. as opposed to 30 minutes for oral argument change to 15 minutes. Chair Dunphy seconded. Motion carried unanimously.

Item #4: Approval of the August 8, 2008 Meeting Minutes

ACTION: Mr. Dominguez made a motion to approve the minutes. Chair Dunphy seconded. Motion carried unanimously.

Item #5: Adoption of OHSRC Open Meetings Act 2008 Resolution

ACTION: Mr. Dominguez made a motion to approve Item #5 of the Agenda, Adoption of OHSRC Open Meetings Act 2008 Resolution. Chair Dunphy seconded. Motion carried unanimously.

Item #6 Adoption of Statement of Reasons and Decision in the matter of NMED v. Darrell Julian Construction, Inc., OSHA 07-047

ACTION: Mr. Dominguez made a motion to approve Item #6 on the Agenda, more specifically Adoption of Statement of Reasons and Decision in the matter of NMED v. Darrell Julian Construction, Inc., OSHA 07-047. Chair Dunphy seconded. Motion carried unanimously.

Item #7 Decision in regard to OSHA 08-022, Well 2 Web, Inc., for Motion for Default Judgment

ACTION: Discussion including Adrian Terry's scenario of sequence of filings. According to the rules and regulations the Motion for Default is an appropriate remedy here and the Notice of Contest should be dismissed and the action specified in the Citation Notification of Penalty should be imposed. Mr. Dominguez made a motion to adopt the Motion for Default Judgment in OSHA 08-022, Well 2 Web, Inc. Chair Dunphy seconded. Motion carried unanimously.

Item #8 In the matter of NMED v. Pojoaque Terrace Mobile Home Park, OSHA 08-026; pending motions including:

- a) Carolyn Schroedle-Wojatske's Notice of Intervention/ Response to Notice of Contest
 - b) NMED's Motion to Strike the Notice of Intervention of Carolyn Schroedle-Wojatske
 - c) Respondent's Motion to Strike Notice of Intervention
 - d) Intervenor's Response to Motions to Strike Notice of Intervention and Motion to Intervene
 - e) NMED's Response to Motion to Intervene of Carolyn Schroedle-Wojatske
 - f) Respondent's Response to Motion to Intervene
- (each party will be allowed 15 minutes for oral argument)

ACTION: Mr. Richmond Neely, Counsel for Carolyn Schroedle-Wojatske, spoke in favor of the Motion to Intervene. Mr. Randy Bartell, Counsel for Pojoaque Terrace Mobile Home Park, spoke in opposition to the Motion to Intervene. Mr. Bill Grantham, Counsel for NMED, spoke in agreement with the Respondent in its opposition to the Motion to Intervene.

Item #9 The Commissioners may adjourn into Closed Executive Session to discuss motions in the matter of NMED v. Pojoaque Terrace Mobile Home Park, docketed as OSHA 08-026, 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 discuss the

motions in the matter of NMED v. Pojoaque Terrace Mobile Home Park, OSHA 08-026. A roll call vote was taken:

Chair Dunphy: Yes
Commissioner Dominguez: Yes

The Commission came out of Executive Session. Mr. Dominguez certified that the only matters discussed were those involving NMED v. Pojoaque Terrace Mobile Home Park, OSHA 08-026, pursuant to Section 10-15-1(H)(3), NMSA 1978 of the Open Meetings Act.

ACTION: Chair Dunphy stated that the Commission in Executive Session did not feel that there was a sufficient reason to permit the Motion to Intervene. Mr. Dominguez made a motion to deny the Motion to Intervene by the Intervenor and to grant the Motion to Strike by the Respondent and the Department. Chair Dunphy seconded those motions. A roll call vote was taken:

Commissioner Dominguez: Yes
Chair Dunphy: Yes

Item #10 Other Business

ACTION: Mr. Terry will draft the Order for Well 2 Web, Inc., OSHA 08-022, Order of Default.

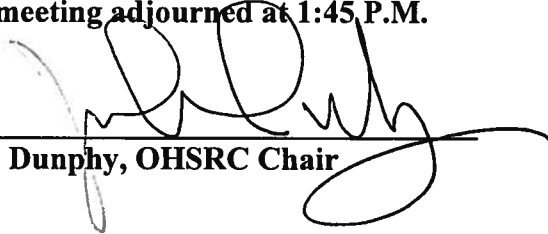
Item #11 Next Meeting

ACTION: We will need to set a meeting for United Drilling, OSHA 08-024 for a hearing. After checking calendars it was agreed that the Commissioners would contact the Administrator, Sally Worthington, and an agreeable date will be set for the hearing. Also, two other matters, OSHA 08-045 and OSHA 08-050, awaiting final orders and Mr. Terry will be drafting those for the Chair's signature.

Item #12 Adjournment

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

The meeting adjourned at 1:45 P.M.



John Dunphy, OHSRC Chair