

State of New Mexico
ENVIRONMENTAL IMPROVEMENT BOARD
Harold Runnels Building, N-2150
1190 St. Francis Drive, P. O. Box 5469
Santa Fe, New Mexico 87502

Environmental Improvement Board Meeting
November 2, 2009
9:00 a.m.
New Mexico State Capitol Room 317
490 Old Santa Fe Trail
Santa Fe, New Mexico 87501

Members Present:

Gregory Green, Chair
Soren Peters, Vice-Chair
Abbas Ghassemi, Member
Gay Dillingham, Member
Frank Simms, Member
Harold W. Tso, Secretary (arrived at 9:25 a.m.)
Neri Holguin (arrived at 10:10 a.m.)

Members Absent:

Others Present:

Chuck Noble, NMED/OGC	Dennis McQuillan, NMED/EHD
Carlos Romero, NMED/EHD	Ralph Baker Dotson, POWRA
William Winter, Esq., POWRA	Mark Ish, Esq., POWRA
Eugene Bassett, POWRA	Glen Saums, NMED/SWQB
Adrian Hanson, POWRA	Ralph Baker Dotson, POWRS
Jennifer Ickes, NMED/EHD	Edrynn Mestas
Tony Mestas	Melanie Teeter, NM Home Builders
Tom Brandt	Jim Vincent, NMED/EHD
Robert Italiano, NMED/EHD	Elizabeth West
Brian Schall, NMED/EHD	Andrew Knight, NMED/OGC
Mary Martinek, RANM	Jeff Vinyard, SW Water
Raj Solomon, NMED/EHD	Bill Grantham, NMED/OGC
Richard Jennings	Link Summers, Pro Se
Stephen Vigil, Asst. AG Board Counsel	

The Chair called the meeting to order at 9:00 a.m.

Item 1. Roll Call

Roll was taken and it was noted that a quorum was present.

Item 2. Approval of the Agenda

Action: Ms. Dillingham moved Board approval of the Agenda. Mr. Simms seconded. The motion passed unanimously.

Item 3. Approval of October 5, 2009 minutes.

Action: Ms. Dillingham moved for approval of the minutes. Mr. Peters seconded. Mr. Simms abstained. The motion passed.

Item 4. Public Comment

None

Prior to the commencement of the Agenda Item 5 hearing, Chair Green initiated discussion relating to POWRA's Motion to Dismiss Petition or, in the Alternative, Stay Proceedings filed October 27, 2009, by Mark Ish, Esq. and William Winter, Esq. on behalf of POWRA. Mr. Winter briefly explained POWRA's position relating to its perceived view of an existing conflict with respect to a current Santa Fe County District Court case and the Board instituting new regulations. Mr. Green noted that the Board considered the conflict issue disposed of at a previous meeting. He further noted that POWRA's Motion to Dismiss had not been filed within time deadlines prescribed by Board rules and would require a suspension of those rules by the Board in order to consider and vote on the matter.

A discussion relating to various primary and peripheral issues with respect to this case ensued.

Action: Mr. Peters moved that the Board suspend its rules and allow Board consideration of POWRA's Motion to Dismiss Petition or, in the Alternative, Stay Proceedings.

Discussion regarding suspending the rules and the ramifications of possible precedential impact was conducted.

Mr. Ghassemi seconded.

Roll Call Vote:

Mr. Simms	yes
Mr. Peters	yes
Mr. Ghassemi	yes
Ms. Dillingham	yes
Mr. Green	no

The motion passed.

Mr. Winter then presented POWRA's position regarding the Motion to Dismiss Petition or, in the Alternative, Stay Proceedings.

Mr. Noble, on behalf of NMED, set out the Department's position in direct opposition to that of POWRA.

Mr. Vigil, Board counsel, presented his analysis of the issues being set forth by the parties.

Chair Green asked for a Board motion relating to the Motion to Dismiss Petition or, in the Alternative, Stay Proceedings. No motion was made, Chair Green then declared the Motion to Dismiss Petition, or in the Alternative, Stay Proceedings as failed.

Item 5. Hearing in re: Proposed Amendments to Liquid Waste Disposal and Treatment Regulations 20.3.7 NMAC, EIB 09-08 (R), filed by the NM Environment Department, Chuck Noble, NMED/ OGC; Carlos Romero, NMED/EHD, consolidated with Petition for Hearing in re: Proposed Amendments to 20.3.7.904 EIB 09-08 (A), filed by POWRA and by Link Summers, Pro Se.

The Chair stated that Mr. Peters, as Hearing Officer, would now conduct the hearing in this case.

At 9:45 a.m. the hearing in consolidated cases EIB 09-08 (R) and EIB 09-09 (R) A, Proposed Amendments to Liquid Waste Disposal and Treatment Regulations 20.3.7 NMAC, commenced. Kathy Townsend Court Reporters transcribed the hearing. The transcript is available for review in the Office of the Environmental Improvement Board Administrator, New Mexico Environment Department, 1190 St. Francis Drive, Runnels Building Room N-2150, Santa Fe, New Mexico 85701.

During the course of the hearing, Ms. Dillingham became ill and went home.

The hearing concluded at 4:45 p.m. The meeting reconvened and Mr. Green noted that deliberations in these consolidated cases were now in order.

Board deliberations were then conducted. All members discussed their various concerns with the amendments as requested by the parties to this case.

Action: Mr. Green moved that the Board deny both Petitions for Proposed Amendments to Liquid Waste Disposal and Treatment Regulations 20.3.7, NMAC as proposed by NMED and by POWRA and Mr. Summers in consolidated cases EIB 09-08 (R) and EIB 09-08 (R) A. Mr. Simms seconded.

Roll Call Vote:

Ms. Holguin	yes
Mr. Simms	yes
Mr. Tso	yes
Mr. Peters	yes
Mr. Ghassemi	yes
Mr. Green	yes

Item 6. Other business

Mr. Green noted that the December 7, 2009 hearing in Farmington had been cancelled and consequently there would not be a December meeting.

Item 7. Next meeting: January 11-12, 2010. Time: 10:00 a.m. Location: TBA.

Item 8. Adjournment.

Action: Mr. Peters moved for adjournment. Mr. Simms seconded. The motion passed unanimously.

Signature on File

Gregory Green, Chair