

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
June 1, 2011 9:00 a.m.
Room 307, State Capitol Building
490 Old Santa Fe Trail
Santa Fe, New Mexico 87501

June 2, 2011 9:00 a.m.
Room 7103, San Juan College
4601 College Blvd.
Farmington, New Mexico 87402

Members Present: Deborah Peacock, Chair
John Volkerding, Vice-Chair
Elizabeth Ryan, Secretary
Jeffrey Bryce, Member
Greg Fulfer, Member
Timothy Morrow, Member
James Casciano, Member

Members Absent: None

Others Present: Stephen Vigil, Board Counsel
Felicia Orth, Hearing Officer and Acting Administrator
Laurie Leibowitz, OGC (June 1, 2011)
Sally Worthington, Hearing Clerk (June 2, 2011)
Cheryl Arreguin, Court Reporter
Others-See attached sign-in sheets

Item 1. Roll Call

Roll was called; a quorum was present.

Item 2. How Notice Requirements Were Met

Ms. Orth described how notice requirements were met for the meeting, consistent with the Board's Open Meetings Act Resolution.

Item 3. Approval of Agenda

Action: Ms. Peacock suggested moving Items 7-11 to after Item 12, and then moved Board approval of the agenda with the changes. Mr. Casciano seconded the motion. The motion passed unanimously.

Item 4. Public Comment

Action: Several questions on the procedures of how public comment is to be given and presented with requests for specific instructions to be posted on the Board website.

Item 5. Approval of meeting minutes, May 2, 2011.

Action: Mr. Fulfer moved Board approval of the meeting minutes as presented. Ms Peacock seconded the motion. The motion passed unanimously.

Item 6. Request for Hearing: Proposed Amendments to the Liquid Waste Disposal and Treatment Regulations, 20.7.3 NMAC, EIB 11-12 (R), Ralph Baker Dotson and Eugene Bassett, POWRA.

Action: The Board unanimously approved the consolidation of this hearing with the other liquid waste hearings scheduled for hearing on September 1-3, 2011 and encouraged the parties to work together prior to the hearing.

The Board discussed postponing the liquid waste hearings from September 1-3, 2011 to December 5, 6, & 7, 2011, following requests to do so by the Department and two industry organizations. Ms. Orth discussed requests, questions, resistance, and concerns received from the general public as well as some participants concerning the September 1-3 hearing dates, the close proximity to Labor Day weekend, and the ability of all parties as well as the public to adequately participate. Board sought input from other Petitioners. Link Summers stated his personal reasons why he did not want the hearings moved to December, 2011: he plans to move out of state before then, and feels he has waited a long time to get to a hearing. Dennis McQuillan stated NMED's position and reasons for postponing hearings until December: more time to conduct stakeholder meetings and an opportunity to respond to recommendations in the Small Business Task Force Report issued in April. Mr. Baker Dotson stated POWRA's position on the hearing dates. The Board conducted further discussion of the pros and cons of postponement.

Mr. Casciano moved that the Board reset the liquid waste programs to December, 2011. Ms. Peacock seconded the motion. The motion failed 2-5 with Ms. Ryan, Mr. Volkerding, Mr. Morrow, Mr. Bryce, and Mr. Fulfer opposing.

Ms. Ryan moved that POWRA's hearing be set and heard in September, 2011 with the other liquid waste hearings scheduled. Mr. Bryce seconded the motion. The motion passed unanimously.

Item 12. Hearings in EIB 11-01 (R), Proposed Revisions to the State Implementation Plan for Regional Haze, and 11-02 (R), Proposed Revisions to State Implementation Plan to Satisfy Requirements of Clean Air Act 110(a)(2)(D)(i)(II) with Respect to Visibility. Note: Part of each hearing will be held in Santa Fe, and part in Farmington. The Board may choose to deliberate on the proposed revisions in Farmington on June 2, 3 or 4. Bill Grantham, Mary Uhl, Rita Bates for Petitioner NMED; Richard Alvidrez and Galen Buller for Public Service Company of New Mexico; Charles Roybal for San Juan Coal Company; Louis Rose for M-S-R Public Power Agency; Erik Schlenker-Goodrich for NRDC, San Juan Citizens Alliance and WildEarth Guardians.

Action: The hearing and Board deliberations in EIB 11-01 (R) were recorded and transcribed by Cheryl Arreguin of Kathy Townsend Court Reporters. The first part of the hearing convened in Santa Fe at approximately 9:40 a.m. and recessed at 1:47 p.m. The hearing reconvened in Farmington at approximately 9:08 a.m. on June 2, 2011, and adjourned at 12:33 p.m. The transcript is available in the office of the Board Administrator.

Following the hearing on EIB 11-01 (R), Mr. Morrow moved to approve the SIP. Ms. Ryan seconded the motion. Motion passed unanimously.

Upon approval of the SIP, the Board moved to begin the hearing on EIB 11-02 (R). The hearing and Board deliberations in EIB 11-02 (R) were recorded and transcribed by Cheryl Arreguin of Kathy Townsend Court Reporters. The hearing convened in Farmington at approximately 12:33 p.m. on June 2, 2011, and adjourned at 12:45 p.m. The transcript is available in the office of the Board Administrator.

Following the hearing on EIB 11-02 (R), Ms. Ryan moved to approve the SIP under the good neighbor provision. Mr. Fulfer seconded the motion. Motion passed unanimously.

Item 7. Approval of Statement of Reasons for Proposed Revisions to Air Quality Regulations 20.2.74 NMAC, Permits—Prevention of Significant Deterioration; and 20.2.79 NMAC, Permits—Nonattainment Areas, EIB 10-14 (R), Stephen Vigil, NMAGO.

Action: The Board discussed Statement of Reasons prepared by Stephen Vigil. Mr. Fulfer moved to approve the Statement of Reasons. Ms. Peacock seconded the motion. Motion passed unanimously.

Item 8. Approval of Statement of Reasons for Proposed Revisions to Solid Waste Regulations, 20.9.2 and 20.9.3 NMAC, EIB 10-13 (R). Stephen Vigil, NMAGO.

Action: The Board discussed Statement of Reasons prepared by Stephen Vigil. Mr. Fulfer moved to approve the Statement of Reasons with changes to reflect the voluntary nature of the provisions. Ms. Ryan seconded the motion. Motion passed unanimously.

Item 9. Executive session to discuss pending litigation. Stephen Vigil, NMAGO.

- a. Helena Chemical Co. v. N.M. Env't Dep't: COURT OF APPEALS Appeal of EIB 10-02(A); 10-11(A). Air Quality Permit Adjudication.
- b. City of Farmington, et al. v. N.M. Env'tl. Improvement Bd.: COURT OF APPEALS No. 30,897, etc. Appeal of EIB 10-04(R), Cap & Trade.
- c. N.M. Oil & Gas Ass'n, et al. v. N.M. Env'tl. Improvement Bd.: COURT OF APPEALS No. 30,952, etc. Appeal of EIB 10-09(R), Greenhouse Gas Reporting.
- d. City of Farmington, et al. v. N.M. Env'tl. Improvement Bd.: COURT OF APPEALS No. 31,015, etc. Appeal of EIB 08-19(R): New Energy Economy.
- e. State (ex rel) Hanosh v. N.M. Env'tl. Improvement Bd.: THIRD JUDICIAL DISTRICT, D-0307-CV-2007-02708. Clean Car Rules.

Action: Mr. Volkerding moved that the Board go into executive session. Mr. Fulfer seconded the motion. Motion passed unanimously. Roll call was taken, with all members in attendance. The Board entered into executive session at 1:10 p.m. The Board discussed no other matters in executive session.

Item 10. Other Business.

It was requested that a member of the Board become a member of the Arroyo Senate Memorial. Ms. Peacock moved that Mr. Casciano be nominated. Mr. Bryce seconded the motion. Motion passed unanimously.

Ms. Ryan had questions related to EIB rulemaking procedures. Ms. Orth stated she would ask Ryan Flynn if he would bring information to the next meeting on July 11, 2011.

Ms. Peacock requested addition of language in the future to the Public Comment item on the Agenda to include “not related to the items on the Agenda.”

The Board thanked Ms. Orth for handling the hearings smoothly.

Item 11. Board Member Comments and Questions.

Mr. Morrow commented that he would like documents for hearings submitted to the Board sooner than right before a hearing.

Item 13. Next meeting—July 11.

Coming up:

- a. Hearing on July 11 in EIB 11-03 (R), Liquid Waste Regulations re: licensure (Section 904).
- b. Hearings on August 1, in EIB 11-04 (R), Air Quality Regulations re: NSPS, NESHAPS and MACT updates; and EIB 11-07 (R), SIP for Infrastructure of Lead NAAQ; and EIB 11-08, Liquid Waste Fees.
- c. Hearings on September 1-3 in EIB 11-09 (R), EIB 11-10 (R), EIB 11-11 (R), and EIB 11-12 (R), Liquid Waste Disposal and Treatment Regulations, 20.7.3.

Item 14. Adjournment.

Meeting adjourned at 1:28 p.m.



Board Secretary

