

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
December 6, 2010 8:30 a.m.
New Mexico State Capitol, Room 317
490 Old Santa Fe Trail
Santa Fe, New Mexico 87501

Members Present:

Gay Dillingham, Chair
Gregory Green, Vice-Chair
Abbas Ghassemi, Member
Leland Gould, Member
James Gollin, Member
John Horning, Member

Members Absent: None

Others Present: Stephen Vigil, Board Counsel
Felicia Orth, Hearing Officer
Laurie Leibowitz, OGC
Others-See attached sign-in sheets

The Chair called the meeting to order at 8:30 a.m.

Item 1. Roll Call

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

Item 2. Approval of Agenda

Action: Mr. Gollin moved Board approval of the agenda, with the understanding that if the Helena parties arrived in time, agenda items 9 and 10 would be switched. Mr. Green seconded.

The motion passed unanimously.

Item 3. Approval of November 2 and November 10, 2010 meeting minutes.

Action: Ms. Dillingham moved Board approval of the November 2 minutes as presented. Mr. Gollin seconded. The motion passed unanimously.

Mr. Horning moved Board approval of the November 10 minutes as presented. Mr. Green seconded. The motion passed unanimously.

Item 4. Public Comment

None offered.

Item 5. Request for Hearing in re: Proposed Revisions to 20.9.2 NMAC, Solid Waste Management, and 20.9.3 NMAC, Solid Waste Facility Permits and Registrations, EIB 10-13 (R), relating to the management and disposal of household pharmaceutical waste.. Jennifer Hower, NMED/OGC, Auralie Ashley-Marx, NMED/SWB.

Action: Ms. Dillingham moved that the Board set the matter for hearing on May 2, 2011. Mr. Green seconded. The motion passed unanimously.

Item 6. Request for Hearing in re: Proposed Revisions to 20.2.74 NMAC, Permits—Prevention of Significant Deterioration, and 20.2.79 NMAC, Permits—Nonattainment Areas, EIB 10-14 (R). Bill Grantham, NMED/OGC.

Action: Mr. Green moved that the Board set the matter for hearing on May 2, 2011. Mr. Gollin seconded. The motion passed unanimously.

Item 7. Deliberation on Request for Final Action, possible decision, order and statement of reasons--NMED Motion to deny renewal of or revoke the license issued to Robert A. Moseley under the Medical Imaging and Radiation Therapy Health and Safety Act for violation of the Parental Responsibility Act, EIB 10-07 (PRA). Carol Parker, NMED/OGC.

Mr. Green moved that the Board go into executive session to discuss the matter. Mr. Gould seconded.

Roll call vote:

| | |
|----------------|-----|
| Mr. Gould | yes |
| Mr. Horning | yes |
| Mr. Gollin | no |
| Mr. Ghassemi | no |
| Mr. Green | yes |
| Ms. Dillingham | yes |

The motion passed four to two.

After the Board came out of executive session, having discussed no other matter, Mr. Green moved that the Board deny the Department's Motion to Deny Renewal or Revoke Mr. Moseley's license. Mr. Ghassemi seconded.

Roll call vote:

| | |
|-----------------------|------------|
| Mr. Gould | no |
| Mr. Horning | no |
| Mr. Gollin | yes |
| Mr. Ghassemi | yes |
| Mr. Green | yes |
| Ms. Dillingham | yes |

The motion passed four to two.

The signed Order and Statement of Reasons in this matter is available from the Board Administrator.

- Item 8. Hearing, possible decision and order and statement of reasons in EIB 10-10 (R), Proposed Amendments to Emission Standards for New Motor Vehicles, 20.7.88 NMAC. Andrew Knight, NMED/OGC and Mary Uhl, NMED/AQB, Petitioner; John Horning, Hearing Officer.**

The hearing in this matter was recorded and transcribed by Cheryl Arreguin of Kathy Townsend Court Reporters. The transcript is available in the office of the Board Administrator.

Following the hearing, Mr. Green moved that the Board approve the proposed amendments, as revised to correct errata. Mr. Horning seconded. Motion passed unanimously.

- Item 9. Board deliberations, possible decision and order and statement of reasons in EIB 10-02 (A) and 10-11 (A), re: Denial of Issuance of Notice of Intent and Refusal to Consider Notice of Intent for Helena Chemical Company Dry Fertilizer Plant. Tannis Fox, NMED/OGC and Robert Soza, Jackson Walker Law Firm; Gregory Green, Hearing Officer.**

The arguments and deliberations in this matter were recorded and transcribed by Cheryl Arreguin of Kathy Townsend Court Reporters. The transcript is available in the office of the Board Administrator.

Following the arguments and deliberations, Mr. Green moved that the Board deny Helena's petition in EIB 10-11, upholding the Department's decision not to consider Helena's second Notice of Intent because the first

NOI (EIB 10-02) was already on appeal to the Board. Mr. Ghassemi seconded. Mr. Gollin abstained from all voting on this item because he had not been able to attend the entirety of the hearing.

Roll call vote:

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|----------------|-----|
| Mr. Gould | no |
| Mr. Horning | yes |
| Mr. Ghassemi | no |
| Mr. Green | yes |
| Ms. Dillingham | yes |

The motion passed three to two.

Mr. Green next moved that the Board deny Helena's petition in EIB 10-02 for failure to prove their case. Mr. Ghassemi seconded.

Roll call vote:

| | |
|----------------|-----|
| Mr. Gould | no |
| Mr. Horning | yes |
| Mr. Ghassemi | yes |
| Mr. Green | yes |
| Ms. Dillingham | yes |

The motion passed four to one.

Item 10. Board deliberations, possible decision and order and statement of reasons in EIB 08-19 (R), Proposed new regulations and amendments to 20.2.1, 20.2.2, 20.2.70 and 20.2.72 NMAC, Statewide Cap on Greenhouse Gas Emissions. Felicia Orth, Hearing Officer.

The deliberations in this matter were recorded and transcribed by Paul Baca of Paul Baca Professional Court Reporters. The transcript is available in the office of the Board Administrator.

Mr. Green moved that the Board approve the proposed new regulations, as amended throughout the Board's discussions. Mr. Gollin seconded. Mr. Horning recused himself from voting.

Roll call vote:

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|----------------|-----|
| Mr. Gould | no |
| Mr. Gollin | yes |
| Mr. Ghassemi | yes |
| Mr. Green | yes |
| Ms. Dillingham | yes |

The motion passed four to one.

Item 11. Adoption of statement of reasons in EIB 10-08 (R), Proposed Amendments to 20.2.70 NMAC, Operating Permits, and 20.2.74 NMAC, Permits—Prevention of Significant Deterioration. Gay Dillingham, Hearing Officer.

Mr. Green moved that the Board approve the Statement of Reasons in this matter. Mr. Gollin seconded. Motion passed unanimously.

Item 12. Adoption of statement of reasons in EIB 10-09 (R), Proposed New Regulations 20.2.300 NMAC, Reporting of Greenhouse Gas Emissions, 20.2.301 NMAC, Greenhouse Gas emissions-Verification Requirements, and Proposed repeal of 20.2.87, Greenhouse Gas emissions Reporting, Gay Dillingham Hearing Officer.

Mr. Green moved that the Board approve the Statement of Reasons in this matter. Mr. Gollin seconded. Motion passed unanimously.

Item 13. Other business.

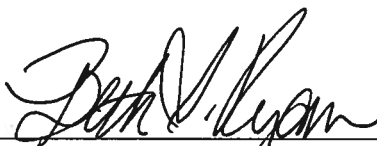
The Board authorizes the Chair to sign the appropriate orders and statements of reasons in connection with the agenda items above.

Item 14. Next meeting.

To be determined.

Item 15. Adjournment.

Moved by Mr. Gollin, seconded by Mr. Green. Meeting adjourned.



Board Chair
Secretary