

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 7, 2011 9:00 a.m.
Room 307, State Capitol Building
490 Old Santa Fe Trail
Santa Fe, New Mexico 87501

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
Carmella Casados, Administrator
Felicia Orth, Hearing Officer
Cheryl Arreguin, Court Reporter
Jennifer Pruett, PSTB, NMED
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. Casados described how notice requirements were met for the meeting consistent with the Board's Open Meetings Act Resolution.

Item 3. Approval of Agenda

Action: Mr. Fulfer moved Board approval of the agenda. Ms. Ryan seconded the motion. The motion passed unanimously.

Item 4. Public Comment Unrelated to Agenda Items

Action: No public comment offered.

Item 5. Approval of meeting minutes, October 3, 2011.

Action: Mr. Morrow moved to Board approval of the meeting minutes. Mr. Fulfer seconded the motion. The motion passed unanimously.

Item 6. Continuation of hearing in **EIB 11-13 (R)**, Amendments to Petroleum Storage Tank Regulations, throughout 20.5.1--20.5.18 NMAC and proposed new Part 20.5.19; Jennifer Hower, OGC/ NMED.

Action: The hearing in EIB 11-13(R) was recorded and transcribed by Cheryl Arreguin of Kathy Townsend Court Reporters. The transcript is available in the office of the Board Administrator.

The Board determined to leave the record open and continue the hearing and deliberations on January 3, 2012.

Item 7. Consideration of motion to reconsider language of the Statement of Reasons approved in **EIB 11-08(R)**, Proposed Amendments to Liquid Waste Treatment and Disposal Fees. Carol Parker, NMED/OGC; Dennis McQuillan, NMED/FOB; Link Summers; Ralph Baker Dotson and Eugene Bassett, Professional Onsite Wastewater Reuse Association of New Mexico; Jace Ensor, New Mexico Onsite Wastewater Association.

Action: Mr. Casciano moved to approve the statement of reasons in EIB 11-08(R) as amended. Ms. Ryan seconded the motion. The motion passed unanimously.

Item 8. Executive session to discuss pending litigation. Stephen Vigil, NMAGO.

- a. Helena Chemical Co. v. NMED and N.M Environmental Improvement Board COURT OF APPEALS No. 31,037 Appeal of EIB 10-02(A); 10-11(A). Air Quality Permit Adjudication.
- b. City of Farmington and Farmington Electric Utility System v. N.M. Environmental Improvement Board COURT OF APPEALS No. 30,897 Appeal of EIB 10-04(R): Cap and Trade Provisions.

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| <p>N.M. Oil and Gas Association v. N.M. Environmental Improvement Board</p> | <p>COURT OF APPEALS No. 30,898</p> <p>Appeal of EIB 10-04(R): Cap and Trade Provisions.</p> |
| <p>Tri-State Generation and Transmission Association, Inc. v. N.M. Environmental Improvement Board</p> | <p>COURT OF APPEALS No. 30,899</p> <p>Appeal of EIB 10-04(R): Cap and Trade Provisions.</p> |
| <p>Southwestern Public Service Company v. N.M. Environmental Improvement Board</p> | <p>COURT OF APPEALS No. 30,901</p> <p>Appeal of EIB 10-04(R): Cap and Trade Provisions.</p> |
| <p>Public Service Co. of N.M. v. N.M. Environmental Improvement Board</p> | <p>COURT OF APPEALS No. 30,902</p> <p>Appeal of EIB 10-04(R): Cap and Trade Provisions.</p> |
| <p>Independent Petroleum Association of N.M. v. N.M. Environmental Improvement Board</p> | <p>COURT OF APPEALS No. 30,907</p> <p>Appeal of EIB 10-04(R): Cap and Trade Provisions.</p> |
| <p>El Paso Electric Co. v. N.M. Environmental Improvement Board</p> | <p>COURT OF APPEALS No. 30,908</p> <p>Appeal of EIB 10-04(R): Cap and Trade Provisions.</p> |
| <p>c. N.M. Oil & Gas Ass'n, et al. v. N.M. Environmental Improvement Board</p> | <p>COURT OF APPEALS No. 30,952</p> <p>Appeal of EIB 10-09(R): Greenhouse Gas Reporting</p> |

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| <p>Tri-State Generation and Transmission Association, Inc. v. N.M. Environmental Improvement Board</p> | <p>COURT OF APPEALS No. 30,953 Appeal of EIB 10-09(R): Greenhouse Gas Reporting</p> |
| <p>Independent Petroleum Association of N.M. v. N.M. Environmental Improvement Board</p> | <p>COURT OF APPEALS No. 30,954 Appeal of EIB 10-09(R): Greenhouse Gas Reporting</p> |
| <p>d. City of Farmington and Farmington Electric Utility System v. N.M. Environmental Improvement Board</p> | <p>COURT OF APPEALS No. 31,015 Appeal of EIB 08-19(R): New Energy Economy</p> |
| <p>Independent Petroleum Association of N.M. v. N.M. Environmental Improvement Board</p> | <p>COURT OF APPEALS No. 31,016 Appeal of EIB 08-19(R): New Energy Economy</p> |
| <p>N.M. Oil & Gas Ass'n, et al. v. N.M. Environmental Improvement Board</p> | <p>COURT OF APPEALS No. 31,017 Appeal of EIB 08-19(R): New Energy Economy</p> |
| <p>El Paso Electric Co. v. N.M. Environmental Improvement Board</p> | <p>COURT OF APPEALS No. 31,018 Appeal of EIB 08-19(R): New Energy Economy</p> |

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| | Tri-State Generation and Transmission Association, Inc. v. N.M. Environmental Improvement Board | COURT OF APPEALS No. 31,019 Appeal of EIB 08-19(R): New Energy Economy |
| | Public Service Co. of N.M. v. N.M. Environmental Improvement Board | COURT OF APPEALS No. 31,020 Appeal of EIB 08-19(R): New Energy Economy |
| | Southwestern Public Service Company v. N.M. Environmental Improvement Board | COURT OF APPEALS No. 31,021 Appeal of EIB 08-19(R): New Energy Economy |
| e. | State (ex rel) Hanosh v. N.M. Environmental Improvement Board | THIRD JUDICIAL DISTRICT D-0307-CV-200702708 Clean Car Rules |
| f. | Regional Haze Rules | Possible litigation, action or appeal regarding EPA decision |

Action: The Board came back into open session at 3:20 P.M. The Board took no action in closed session and discussed no other business.

Item 9. Statement of reasons in **EIB 11-14(R)**, Board Rulemaking Procedures, 20.1.1 NMAC. Felicia Orth, NMED/ Hearing Officer; Douglas Meiklejohn, Jonathan Block, R. Bruce Frederick, and Eric Jantz, NMELC.

Action: Mr. Volkerding moved to approve the statement of reasons in EIB 11-14(R) as amended. Mr. Bryce seconded the motion. The motion passed unanimously.

Item 10. Other business.

None

Item 11. Board Member Comments and Questions.

None

Item 12. Next meeting—January 3, 2011

Coming up:.

- a. Hearing in **EIB 11-18 (R)** on **January 3**, Proposed Revisions to 20.7.10, NMAC Drinking Water Regulations, Bill Grantham, NMED/ OGC.
- b. Deliberations in **EIB 11-13(R)** on **January 3**, Amendments to Petroleum Storage Tank Regulations, throughout 20.5.1--20.5.18 NMAC and proposed new Part 20.5.19, Jennifer Hower, OGC/ NMED.
- c. Deliberations in **EIB 11-15/17(R)**, on **February 7**, Proposed repeal of regulations requiring greenhouse gas emissions reporting and verification, and the cap and trade program, 20.2.300, -301, -350 NMAC.

Item 13. Adjournment.

Ms. Peacock adjourned the meeting.



Board Secretary