

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

September 2, 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
Elizabeth Ryan, Secretary
Jeffrey Bryce, Member
Greg Fulfer, Member
Timothy Morrow, Member
James Casciano, Member

Members Absent: John Volkerding, Vice Chair

Others Present: Stephen Vigil, Board Counsel
Carmella Casados, Administrator
Felicia Orth, Hearing Officer
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. 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. Vigil suggested tabling Item 8 rather than deleting from agenda.

Mr. Morrow moved Board approval of the agenda. Mr. Casciano seconded the motion. The motion passed unanimously.

Item 4. Public Comment Unrelated to Agenda Items

Action: None.

Item 5. Approval of meeting minutes, August 1-2, 2011.

Action: Mr. Peacock moved the adoption of August 1-2, 2011 meeting minutes with changes to striking lines 193-235 and adding language to line 237. Ms. Ryan seconded the motion. The motion passed unanimously.

Mr. Casciano moved to approve the minutes as amended. Mr. Fulfer seconded the motion. The motion passed unanimously.

Item 6. Request for Hearing in EIB 11-18 (R), Proposed Revisions to 20.7.10, NMAC, Drinking Water Regulations, Bill Grantham, NMED/OGC.

Action: Bill Grantham requested that the Board set for hearing EIB 11-18 (R), the proposed revisions to 20.7.10, NMAC, Drinking Water Regulations on January 3, 2012.

Mr. Bryce moved to set the hearing for January 3, 2012. Mr. Fulfer seconded the motion. The motion passed unanimously.

Mr. Casciano moved that Ms. Ryan be appointed as the Hearing Officer. Mr. Fulfer seconded the motion. The motion passed unanimously.

Item 7. Deliberations in EIB 11-03 (R), Liquid Waste Regulations re: licensure (Section 904). Andrew Knight, 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: The deliberations in EIB 11-03(R) were recorded and transcribed by Cheryl Arreguin of Kathy Townsend Court Reporters. The Transcript is available in the office of the Board Administrator.

Ms. Peacock moved to approve the addition definition of (5) for orphaned advanced treatment system. Mr. Bryce seconded the motion. The motion passed unanimously.

Ms. Peacock moved to approve 20.7.3.904A as amended per the suggested language changes. Mr. Fulfer seconded the motion. The motion passed unanimously.

Ms. Peacock move to approve language of definition of “qualified homeowner.” Mr. Bryce seconded the motion. The motion passed unanimously.

Ms. Peacock moved to approve 20.7.3.401C as suggested with amendments. Mr. Bryce seconded the motion. The motion passed unanimously.

Ms. Peacock moved to accept the proposed language in 20.7.3.401K. Mr. Casciano seconded the motion. The motion passed unanimously.

Ms. Peacock moved to approve the proposed language to add two commas in the first line of 20.7.3.401L. Ms. Ryan seconded the motion. The motion passed unanimously.

Ms. Peacock moved to approve the deletion of B, C, D, and E from 20.7.3.402. Mr. Bryce seconded the motion. The motion passed unanimously.

Mr. Casciano moved to accept the changes for 20.7.3.902 as outlined in the Department’s proposal. Ms. Peacock seconded the motion. The motion passed unanimously.

Ms. Ryan moved to approve 20.7.3.902F as proposed. Mr. Fulfer seconded the motion. The motion passed unanimously.

Ms. Peacock moved to accept the proposed changes for 20.7.3.904B (1) with the amendment of add “subsection E of” before “20.7.3.902 NMAC” in the second line. Ms. Ryan seconded the motion. The motion passes unanimously.

Ms. Peacock moved to approve the language as proposed to be amended in 20.7.3.904 B(1) adding “subsection E of 20.7.902”, in (2)(b) adding “registered” in front of “professional engineer”, (2)(e) adding “similar accreditation or certification and/ or” before “a combination of training and experience as approved by the department.” And then changing (2)(f) to (B)(3), “inspection of advanced wastewater treatment systems shall be performed only by persons qualified pursuant to subsection C of 20.7.3.904.” Mr. Fulfer seconded the motion. The motion passed unanimously.

Ms. Peacock moved to approve the language as proposed in 20.7.3.904(C)(2) with the suggested amendment. “or their authorized trainers.” Ms. Ryan seconded the motion. The motion passed unanimously.

Ms. Peacock moved to approve the language as proposed in 20.7.3.904(C)(3). Ms. Ryan seconded the motion. The motion passed unanimously.

Ms. Peacock moved to approve the language as proposed to be amended in 20.7.3.904(D). Mr. Bryce seconded the motion. The motion passed unanimously.

Ms. Peacock moved to approve the language as proposed to be amended and change 20.7.3.904(D) to “(E).” Ms. Ryan seconded the motion. The motion passed unanimously.

Ms. Peacock moved to accept language in 20.7.3.401J as proposed. Ms. Ryan seconded the motion. The motion passed unanimously.

Ms. Peacock moved to delete G, H, and I of 20.7.401 as proposed. Mr. Fulfer seconded the motion. The motion passed unanimously.

Ms. Peacock moved to approve the proposed amendments to 20.7.3 as modified by the board. Mr. Bryce seconded the motion. The motion passed unanimously.

Item 12. Executive session to discuss pending litigation. Stephen Vigil, NMAGO.

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| 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. |
| | N.M. Oil and Gas
Association v.
N.M.
Environmental
Improvement
Board | COURT OF APPEALS No. 30,898

Appeal of EIB 10-04(R): Cap and
Trade Provisions. |

<p>Tri-State Generation and Transmission Association, Inc. v. N.M. Environmental Improvement Board</p>	<p>COURT OF APPEALS No. 30,899 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 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 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 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 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 Appeal of EIB 10-09(R): Greenhouse Gas Reporting</p>

<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>

<p>Tri-State Generation and Transmission Association, Inc. v. N.M. Environmental Improvement Board</p>	<p>COURT OF APPEALS No. 31,019 Appeal of EIB 08-19(R): New Energy Economy</p>
<p>Public Service Co. Of N.M. v. N.M. Environmental Improvement Board</p>	<p>COURT OF APPEALS No. 31,020 Appeal of EIB 08-19(R): New Energy Economy</p>
<p>Southwestern Public Service Company v. N.M. Environmental Improvement Board</p>	<p>COURT OF APPEALS No. 31,021 Appeal of EIB 08-19(R): New Energy Economy</p>
<p>e. New Energy Economy, Inc. v. Judge Linda M. Vanzi; Public Service Co. of N.M. and N.M. Environmental Improvement Board, real parties In interest</p>	<p>Verified Emergency Petition for Writ of Superintending Control or Other Appropriate Writ (Sup. Ct. 33,074) Relates to COURT OF APPEALS Nos. 31,020, 30,902 and 31,191</p>
<p>Amigos Bravos, League of Women Voters of NM and Center of South- west Culture vs. Judge Linda M. Vanzi; Public Service Co. of N.M. and N.M. Environmental Improvement Board, real parties In interest</p>	<p>Verified Emergency Petition for Writ of Superintending Control or Other Appropriate Writ Relates to COURT OF APPEALS No. 31,020</p>

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| f. | State (ex rel)
Hanosh v. N.M.
Environmental
Improvement
Board | THIRD JUDICIAL DISTRICT
D-0307-CV-200702708

Clean Car Rules |
| g. | Mesquite
Community Action
Committee v.
Hon. Michael E.
Vigil, and Helena
Chemical Co.,
NM Environment
Department,
NM Environmental
Improvement
Board. | SUPREME COURT No. 33,116

Verified Emergency Petition for Writ
of Superintending Control or Other
Appropriate Writ |

Action: The Board came back into open session at approximately at 1:00 P.M.

The Board took no action in closed session and discussed no other business.

Item 13. Other business.

None

Item 14. Board Member Comments and Questions.

None

Item 15. Next meeting—November 8, 2011

Coming up:

- a. Hearings beginning **November 8** in **EIB 11-15/17**, proposed repeal of regulations requiring greenhouse gas emissions reporting and verification, and the cap and trade program, 20.2.300, -301, -350 NMAC.
- b. Hearings beginning **December 5** in **EIB 11-16**, proposed repeal of regulations on greenhouse gas emissions reductions, 20.2.100 NMAC.
- c. Hearing in **EIB 11-18 (R)** on **January 3**, Proposed Revisions to 20.7.10, NMAC Drinking Water Regulations, Bill Grantham, NMED/ OGC.

Item 16. Adjourment.

Ms. Peacock adjourned the meeting.



Board Secretary

