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. Fulfier 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. Fulfier seconded the motion. The motion passed unanimously.

Mr. Casciano moved that Ms. Ryan be appointed as the Hearing Officer. Mr. Fulfier 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. Fulfier 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 passed 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 deleted 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.

- 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

- N.M. Oil and Gas Association v. N.M. Environmental Improvement Board
  - COURT OF APPEALS No. 30,898
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- Southwestern Public Service Company v. N.M. Environmental Improvement Board
- Public Service Co. Of N.M. v. N.M. Environmental Improvement Board
- Independent Petroleum Association of N.M. v. N.M. Environmental Improvement Board
- El Paso Electric Co. v. N.M. Environmental Improvement Board
- c. N.M. Oil & Gas Ass'n. et al. v. N.M. Environmental Improvement Board
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COURT OF APPEALS No. 30,953

Appeal of EIB 10-09(R): Greenhouse Gas Reporting

Independent Petroleum Association of N.M. v. N.M. Environmental Improvement Board

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Appeal of EIB 10-09(R): Greenhouse Gas Reporting

d. City of Farmington and Farmington Electric Utility System v. N.M. Environmental Improvement Board

COURT OF APPEALS No. 31,015

Appeal of EIB 08-19(R): New Energy Economy

Independent Petroleum Association of N.M. v. N.M. Environmental Improvement Board

COURT OF APPEALS No. 31,016

Appeal of EIB 08-19(R): New Energy Economy

N.M. Oil & Gas Ass'n, et al. v. N.M. Environmental Improvement Board

COURT OF APPEALS No. 31,017

Appeal of EIB 08-19(R): New Energy Economy

El Paso Electric Co. v. N.M. Environmental Improvement Board

COURT OF APPEALS No. 31,018

Appeal of EIB 08-19(R): New Energy Economy
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. 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

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

Amigos Bravos, League of Women Voters of NM and Center of Southwest Culture vs. Judge Linda M. Vanzi; Public Service Co. of N.M. and N.M. Environmental Improvement Board, real parties in interest

Verified Emergency Petition for Writ of Superintending Control or Other Appropriate Writ
Relates to COURT OF APPEALS No. 31,020
f. State (ex rel) THIRD JUDICIAL DISTRICT
Hanosh v. N.M. Environmental Improvement Board

Clean Car Rules

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

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. Adjournment.

Ms. Peacock adjourned the meeting.

[Signature]
Board Secretary