The Chair called the meeting to order at 10:00 a.m.

**Item 1. Roll Call**

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

**Item 2. Approval of Agenda**

**Action:** Mr. Tso moved approval of the meeting agenda. Ms. Dillingham seconded. The motion passed unanimously.

**Item 3. Approval of August 4, 2008 meeting minutes**
Action: Mr. Tso moved approval of the August 4, 2008 meeting minutes.
Mr. Peters seconded. The motion passed unanimously.

Item 4. Public Comment

Chair Green called for public comment at which time Tim Tigner, representing TruTouch Technologies, Link Summers, individually, and Carlos Romero, Division Director of NMED’s Environmental Health Division, indicated their respective wish to speak to the Board. Mr. Green stated that each person would have ten minutes to make comments.

Tim Tigner expressed his views with respect to agenda Item 8, EIB 08-14 (R), amendment of OHSB regulations regarding the illegal use of drugs and alcoholic beverages in the workplace. Mr. Tigner stated that in his opinion the regulations should be amended.

Mr. Green invited Mr. Tigner to attend the hearing in this case when the Board sets it on the agenda.

Link Summers spoke to the Board expressing his views regarding what he perceives to be the failure of NMED’s liquid waste programs, bureau staffing, educational programs and ineffective management. He also stated that he had recently seen a number of improperly installed liquid waste systems and distributed photographs of several of those systems to the Board.

Carlos Romero mentioned that he was appearing before the Board to note what the Environmental Health Division considers misrepresentations made by Mr. Summers at the Board’s August 4, 2008 meeting. Mr. Romero specifically noted statements made by Mr. Summers with respect to the circumstances and location of photographs taken of a flooded liquid waste installation site as well as misrepresentations regarding the lack of adequate training of NMED’s staff. Mr. Romero distributed a letter with attached photographs to the Board setting out in detail the Division’s position with respect to Mr. Summers’ statements and allegations.

Item 5. Presentation in re: Idling and Diesel Emission Reductions. Rita Bates and Bob Spillers, NMED/AQB.

Ms. Bates and Mr. Spillers, in conformance with an Executive Order 2006-69, New Mexico Climate Change Action issued by the Governor instructing that “NMED shall submit to the EIB a proposal to develop regulations and guidance for truck stop electrification for anti-idling capability by July 1, 2008,” presented an initial draft proposal in compliance with the Governor’s mandate. There was a lengthy Board discussion with Ms. Bates and Mr. Spillers regarding the feasibility and a general time frame for conformance with the Executive Order.

Item 6. Presentation by Sandra Ely in re: Western Climate Initiative (WCI) and possible impacts on EIB.

Ms. Ely presented a general overview of the WCI conference in Oregon. There was a very lengthy Board discussion with Ms. Ely regarding various solutions that have been proposed to monitor and reduce emissions and the impact of them.
Item 7. Petition for Regulatory Change in re: EIB 08-06 (R), Proposed Revisions to 20.2.71 NMAC, Operating Permit Emissions Fees. Rita Bates, NMED/AQB.

Ms. Bates requested that the Board set a hearing in this matter on its December 1, 2008 agenda. There was Board discussion with Ms. Bates regarding the stakeholder involvement process as well as whether or not the revisions were tied to EPA requirements.

Action: Ms. Dillingham moved that the Board set EIB 08-06 (R) Proposed Revisions to 20.2.71 NMAC for hearing on December 1, 2008. Ms. Herrera seconded.

Roll Call Vote
Ms. Dillingham yes
Mr. Ghassemi yes
Ms. Herrera yes
Mr. Peters yes
Mr. Tso yes
Mr. Green yes

The motion passed unanimously.

It was agreed that Ms. Dillingham would act as hearing officer in this matter.

Mr. Tso moved that the deadline for submission of Notices of Intent to Present Technical Testimony be thirty (30) days in advance of the hearing instead of fifteen (15 days) in advance. Ms. Herrera seconded.

There was a brief Board discussion regarding the impact on interested parties with respect to setting the submission deadline at thirty days instead of fifteen.

Roll Call Vote
Mr. Ghassemi yes
Mr. Peters yes
Mr. Tso yes
Ms. Herrera yes
Ms. Dillingham yes
Mr. Green yes

The motion passed unanimously.

Item 8. Petition to Amend in re: EIB 08-14 (R) amendment of OHSB Regulations 11.5.2, 11.5.3 and 11.5.4 NMAC, illegal use of drugs and alcoholic beverages in the workplace. Tannis Fox, NMED/OGC; Butch Tongate, NMED/OHSB.
Ms. Fox requested that the Board set the hearing on the proposed amendments in this matter on its December 1, 2008 meeting agenda. She noted that these draft amendments were prepared in connection with an initiative by the Governor as a result of a fatal accident at a construction worksite in New Mexico. She indicated that the Governor has asked that these amended regulations be in place by the end of 2008.

There was a brief Board discussion relating to the impact of the proposed changes.

**Action:** Ms. Herrera moved that the Board set EIB 08-14 (R) Amendment of OHSB Regulations 11.5.2, 11.5.3 and 11.5.4 NMAC, illegal use of drugs and alcoholic beverages in the workplace, for hearing on December 1, 2008. Ms. Dillingham seconded.

**Roll Call Vote:**
- Ms. Herrera  yes
- Mr. Tso  yes
- Mr. Peters  yes
- Mr. Ghassemi  yes
- Ms. Dillingham  yes
- Mr. Green  yes

It was agreed that Ms. Herrera would act as hearing officer in this matter.

**Item 9.** Board action relating to the tabled Petition for Hearing in re: EIB 08-13 (R), 20.7.11 NMAC, Proposed Amendments to Liquid Waste Fees. Link Summers, Petitioner; Carlos Romero, NMED/EHD.

Mr. Romero and Mr. Summers reiterated points of agreement that had been reached at a meeting attended by Mr. Romero, Dennis McQuillan, also of the Department’s Environmental Health Bureau, and Mr. Summers on August 26th. It was agreed that the Department would provide the Board with reports on the disbursal of the Liquid Waste Fund. Because of time constraints, the initial report will be made in October, 2008, and will be somewhat less comprehensive than the one that will be made in April, 2009. The April report, and those that follow, will be in significantly greater detail. Mr. Summers stated that he felt it should be noted in future Board minutes that the members have received the reports when they are submitted by the Department.

At Chair Green’s request, Mr. Summers indicated he would withdraw his Petition for Hearing in EIB 08-13 (R).

**Item 10.** Other Business

Mr. Tso mentioned that he would prefer to have all information relating to agenda items sent electronically prior to Board meetings. There was general Board agreement with that request.

Ms. Herrera asked for a Department organizational chart in order to be apprised of the most current staffing. She noted that the Board had not yet received an update on environmental
justice issues. She also mentioned the recent news releases relating to the dramatic reduction in convenience store crime.

Chair Green stated that he would review the Board’s future agendas and allot time for matters such as status reports on issues such as environmental justice. He also clarified with Ms. Herrera that she was just interested in being informed regarding changes in Department division directors, not all Department staffing changes.

**Item 11.** Next meeting: 10:00 a.m. October 6, 2008, State Capitol Room 317.

**Items 12 and 13 are in reverse order.**


**Action:** Ms. Dillingham moved that the Board go into an executive session to discuss the status of the lawsuits set forth in Item 13. Mr. Peters seconded.

**Roll Call Vote**

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<td>Mr. Ghassemi</td>
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<td>Mr. Tso</td>
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The public meeting was reconvened.

**Action:** Ms. Herrera moved that the Board return from executive session to the public meeting. Mr. Ghassemi seconded.

Mr. Green stated that only those matters set forth in Item 13 were discussed in the executive session.

**Roll Call Vote**

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Item 12. Adjournment:

Action: Mr. Peters moved to adjourn the meeting. Mr. Tso seconded.

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Gregory Green, Chair