

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

51
52 **Item 4. Public Comment**

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

58
59 Tim Tigner expressed his views with respect to agenda Item 8, EIB 08-14 (R), amendment of
60 OHSB regulations regarding the illegal use of drugs and alcoholic beverages in the workplace.
61 Mr. Tigner stated that in his opinion the regulations should be amended.

62
63 Mr. Green invited Mr. Tigner to attend the hearing in this case when the Board sets it on the
64 agenda.

65
66 Link Summers spoke to the Board expressing his views regarding what he perceives to be the
67 failure of NMED's liquid waste programs, bureau staffing, educational programs and ineffective
68 management. He also stated that he had recently seen a number of improperly installed liquid
69 waste systems and distributed photographs of several of those systems to the Board.

70
71 Carlos Romero mentioned that he was appearing before the Board to note what the
72 Environmental Health Division considers misrepresentations made by Mr. Summers at the
73 Board's August 4, 2008 meeting. Mr. Romero specifically noted statements made by Mr.
74 Summers with respect to the circumstances and location of photographs taken of a flooded liquid
75 waste installation site as well as misrepresentations regarding the lack of adequate training of
76 NMED's staff. Mr. Romero distributed a letter with attached photographs to the Board setting
77 out in detail the Division's position with respect to Mr. Summers' statements and allegations.

78
79 **Item 5. Presentation in re: Idling and Diesel Emission Reductions. Rita Bates**
80 **and Bob Spillers, NMED/AQB.**

81
82 Ms. Bates and Mr. Spillers, in conformance with an Executive Order 2006-69, New Mexico
83 Climate Change Action issued by the Governor instructing that "NMED shall submit to the EIB
84 a proposal to develop regulations and guidance for truck stop electrification for anti-idling
85 capability by July 1, 2008," presented an initial draft proposal in compliance with the Governor's
86 mandate. There was a lengthy Board discussion with Ms. Bates and Mr. Spillers regarding the
87 feasibility and a general time frame for conformance with the Executive Order.

88
89 **Item 6. Presentation by Sandra Ely in re: Western Climate Initiative (WCI)**
90 **and possible impacts on EIB.**

91
92 Ms. Ely presented a general overview of the WCI conference in Oregon. There was a very
93 lengthy Board discussion with Ms. Ely regarding various solutions that have been proposed to
94 monitor and reduce emissions and the impact of them.

95

96 **Item 7. Petition for Regulatory Change in re: EIB 08-06 (R), Proposed Revisions**
97 **to 20.2.71 NMAC, Operating Permit Emissions Fees. Rita Bates,**
98 **NMED/AQB.**
99

100 Ms. Bates requested that the Board set a hearing in this matter on its December 1, 2008 agenda.
101 There was Board discussion with Ms. Bates regarding the stakeholder involvement process as
102 well as whether or not the revisions were tied to EPA requirements.
103

104 **Action: Ms. Dillingham moved that the Board set EIB 08-06 (R) Proposed**
105 **Revisions to 20.2.71 NMAC for hearing on December 1, 2008. Ms.**
106 **Herrera seconded.**
107

108 **Roll Call Vote**

109 Ms. Dillingham	yes
110 Mr. Ghassemi	yes
111 Ms. Herrera	yes
112 Mr. Peters	yes
113 Mr. Tso	yes
114 Mr. Green	yes

115
116 **The motion passed unanimously**
117

118 It was agreed that Ms. Dillingham would act as hearing officer in this matter.
119

120 **Mr. Tso moved that the deadline for submission of Notices of**
121 **Intent to Present Technical Testimony be thirty (30) days in**
122 **advance of the hearing instead of fifteen (15) days in advance.**
123 **Ms. Herrera seconded.**
124

125 There was a brief Board discussion regarding the impact on interested parties with respect to
126 setting the submission deadline at thirty days instead of fifteen.
127

128 **Roll Call Vote**

129 Mr. Ghassemi	yes
130 Mr. Peters	yes
131 Mr. Tso	yes
132 Ms. Herrera	yes
133 Ms. Dillingham	yes
134 Mr. Green	yes

135
136 **The motion passed unanimously.**
137

138 **Item 8. Petition to Amend in re: EIB 08-14 (R) amendment of OHSB Regulations**
139 **11.5.2, 11.5.3 and 11.5.4 NMAC, illegal use of drugs and alcoholic beverages**
140 **in the workplace. Tannis Fox, NMED/OGC; Butch Tongate, NMED/OHSB.**
141

142 Ms. Fox requested that the Board set the hearing on the proposed amendments in this matter on
143 its December 1, 2008 meeting agenda. She noted that these draft amendments were prepared in
144 connection with an initiative by the Governor as a result of a fatal accident at a construction
145 worksite in New Mexico. She indicated that the Governor has asked that these amended
146 regulations be in place by the end of 2008.

147
148 There was a brief Board discussion relating to the impact of the proposed changes.

149
150 **Action:** Ms. Herrera moved that the Board set EIB 08-14 (R) Amendment of
151 OHSB Regulations 11.5.2, 11.5.3 and 11.5.4 NMAC, illegal use of drugs
152 and alcoholic beverages in the workplace. for hearing on December 1,
153 2008. Ms. Dillingham seconded.

154
155 **Roll Call Vote:**

156	Ms. Herrera	yes
157	Mr. Tso	yes
158	Mr. Peters	yes
159	Mr. Ghassemi	yes
160	Ms. Dillingham	yes
161	Mr. Green	yes

162
163 It was agreed that Ms. Herrera would act as hearing officer in this matter.

164
165
166 **Item 9. Board action relating to the tabled Petition for Hearing in re: EIB**
167 **08-13 (R), 20.7.11 NMAC, Proposed Amendments to Liquid Waste**
168 **Fees. Link Summers, Petitioner; Carlos Romero, NMED/EHD.**

169
170 Mr. Romero and Mr. Summers reiterated points of agreement that had been reached at a meeting
171 attended by Mr. Romero, Dennis McQuillan, also of the Department's Environmental Health
172 Bureau, and Mr. Summers on August 26th. It was agreed that the Department would provide the
173 Board with reports on the disbursal of the Liquid Waste Fund. Because of time constraints, the
174 initial report will be made in October, 2008, and will be somewhat less comprehensive than the
175 one that will be made in April, 2009. The April report, and those that follow, will be in
176 significantly greater detail. Mr. Summers stated that he felt it should be noted in future Board
177 minutes that the members have received the reports when they are submitted by the Department.

178
179 At Chair Green's request, Mr. Summers indicated he would withdraw his Petition for Hearing in
180 EIB 08-13 (R).

181
182 **Item 10. Other Business**

183
184 Mr. Tso mentioned that he would prefer to have all information relating to agenda items sent
185 electronically prior to Board meetings. There was general Board agreement with that request.

186
187 Ms. Herrera asked for a Department organizational chart in order to be apprised of the most
188 current staffing. She noted that the Board had not yet received an update on environmental

189 justice issues. She also mentioned the recent news releases relating to the dramatic reduction in
190 convenience store crime.

191
192 Chair Green stated that he would review the Board's future agendas and allot time for matters
193 such as status reports on issues such as environmental justice. He also clarified with Ms. Herrera
194 that she was just interested in being informed regarding changes in Department division
195 directors, not all Department staffing changes.

196
197 **Item 11. Next meeting: 10:00 a.m. October 6, 2008, State Capitol Room 317.**

198
199 **Items 12 and 13 are in reverse order.**

200
201 **Item 13. Board executive session pursuant to NMSA 1978 §10-15 (H)(7),**
202 **in re: status report in Court of Appeals matters relating to EIB**
203 **07-09 (R), Vehicle Emission Standards - Hanosh, et al., v. EIB**
204 **Ct. of Appeals #28,175; NM Cattlegrowers, et al., v. EIB, Ct. of**
205 **Appeals #28,196 and U.S. District Court Cause #07 CV-1305**
206 **ACT/LFG, Zangara Dodge, et al., v. NMED, et al. Adrian**
207 **Terry, Asst. Atty. General, Board Counsel.**

208
209 **Action: Ms. Dillingham moved that the Board go into an executive**
210 **session to discuss the status of the lawsuits set forth in Item 13.**
211 **Mr. Peters seconded.**

212
213 **Roll Call Vote**
214 **Mr. Ghassemi** yes
215 **Ms. Herrera** yes
216 **Mr. Tso** yes
217 **Mr. Peters** yes
218 **Ms. Dillingham** yes
219 **Mr. Green** yes

220
221 The public meeting was reconvened.

222
223 **Action: Ms. Herrera moved that the Board return from executive session**
224 **to the public meeting. Mr. Ghassemi seconded.**

225
226 Mr. Green stated that only those matters set forth in Item 13 were discussed in the executive
227 session.

228
229 **Roll Call Vote**
230 **Ms. Dillingham** yes
231 **Ms. Herrera** yes
232 **Mr. Ghassemi** yes
233 **Mr. Peters** yes
234 **Mr. Tso** yes
235 **Mr. Green** yes

236

237 **Item 12. Adjournment:**

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

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Gregory Green, Chair

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