

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 3, 2008
10:00 a.m.
State Capitol Building, Room 317
490 Old Santa Fe Trail
Santa Fe, New Mexico 87501

Members Present: Gregory Green, Chair
Kathi Bearden, Vice-Chair
Harold Tso, Secretary
Gay Dillingham, Member
Abbas Ghassemi, Member
Dolores Herrera, Member
Soren Peters, Member

Members Absent: None

Others Present:

Louis Rose, Esq., NMOGA	Deborah Seligman, NMOGA
Bruce Gantner, NMOGA	Nancy Norem, PNM
Maureen Gannon, PNM	Thomas Ruiz, NMED/OOTS
Mike Eisenfeld, San Juan Citizens	Samantha Ruscavage-Barz, Wild Earth Guardians
Stuart Butzier, Esq., Modrall Law Firm	Douglas Meiklejohn, NMELC
Milton Bluehouse, Jr., NMED/OOTS	Tracy Hughes, NMED, General Counsel
Andrew Knight, NMED/AQB	Mary Uhl, NMED/AQB
Adolfo Mendez, NMED/OGC	Phillip Goetze, Glorieta Geo
Beverly Fiske, DPNM	Lourdes Monserrat, NMED/EHD
Sofia Martinez, SWOP	Fred Ocheskey, SW Public Affairs
Felicia Orth, NMED/OOTS	Jeremy Nichols, Wild Earth Guardians
Richard Moore, SNEEJ	Letty Belin, Wild Earth Guardians
Sayuri Yamad, PNM	Gary King, NMED/IT
Adrian Terry, Atty. General's Office	

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

Item 3. Approval of October 6, 2008 meeting minutes

Action: Mr. Tso moved approval of the October 6, 2008 meeting minutes. Ms. Herrera seconded. The motion passed unanimously.

Item 4. Public Comment

Louis Rose, Esq., representing the New Mexico Oil and Gas Association noted that the Oil and Gas Association was concerned about Items 7 and 8 on today's agenda. He explained that his client was concerned with what it considered to be a premature introduction of the issue of ozone levels before the Board at this time. Mr. Rose introduced his colleague, Bruce Gantner, also from the New Mexico Oil and Gas Association, who discussed the need for a fair and balanced examination of the ozone issue.

Chair Green then introduced the New Mexico Environment Department Secretary, Ron Curry.

Secretary Curry extended his compliments and appreciation to the Board members for the important work they do and for the dedication they display. He also noted the Environment Department's desire to continue and further the aims of the Governor's directive relating to environmental justice and the Board's awareness of the obligations inherent in dealing with those matters.

Following Secretary Curry's comments, Board members extended their thanks and appreciation to the Secretary for the excellent work done by Department staff prior to bringing issues before the Board and also for the high standards exhibited by the staff in dealing with the Board.

Ms. Herrera noted specifically that Mary Day had been very instrumental in the early stages of the environmental justice mandate being carried out and she wanted to recognize Ms. Day for her efforts.

Item 5. Presentation in re: status of New Mexico's efforts relating to environmental justice by Milton Bluehouse, Jr., NMED/OOTS and Tom Ruiz, NMED/OOTS.

Messrs. Bluehouse and Ruiz, from NMED's Office of the Secretary, set out the current status of the Department's environmental justice program for the Board, noting accomplishments in several areas and also noting areas in which more time and effort will be required. One area specifically targeted for attention was expansion of staff training relating to assessment and processing environmental justice issues. Additionally, Mr. Bluehouse and Mr. Ruiz mentioned that New Mexico had been given an achievement award by EPA for excellence in environmental justice.

This presentation was followed by a lengthy Board discussion relating to environmental justice issues and the impact of those issues upon the citizens of New Mexico.

Item 6. Presentation by the Department’s Air Quality Bureau regarding environmental justice and Department regulations. Mary Uhl, NMED/AQB

Ms. Uhl discussed the role of the Department’s Air Quality Bureau with respect to environmental justice as well as a number of issues that must be taken into consideration relating to air pollution and the bureau’s permitting process. She also mentioned the restrictions imposed by the Air Quality Control Act, specifically noting that environmental justice is not mentioned in the Act as a reason for the Bureau to deny an applicant a permit. However, she noted that the Bureau processes hundreds of enforcement actions yearly and that many of them do involve environmental justice issues. She went on to discuss programs that are currently in place in the Bureau that directly address those issues.

A lengthy Board discussion with Ms. Uhl regarding ways to improve the State’s ability to deal with environmental justice matters followed.

Mr. Richard Moore, Director of the Southwest Network for Environmental and Economic Justice, expressed that, in his view, there were critical environmental justice issues to be dealt with relating to problems at the New Mexico-Mexico border. Additionally, he noted that feed-lots and dairies in the southern portion of the State continue to impact water quality in that region.

Sofia Martinez discussed what she views as the critical importance of increased efforts to provide an environmental justice program that will function on behalf of all of the citizens of New Mexico.

Item 7. Presentation in re: Opportunities to Proactively Reduce Ozone and Protect Public Health in the San Juan Basin of New Mexico. Jeremy Nichols, Climate Control and Energy Program Director, WildEarth Guardians.

Mr. Nichols stated that he was representing WildEarth Guardians in its efforts to address the issue of ozone reduction in the Farmington/San Juan Basin area proactively.

Mr. Nichols discussed at some length the need for immediate action relating to controlling ozone emission levels in the Farmington/San Juan County area of New Mexico. He noted that Wyoming and Colorado provide good examples of what states can do to reduce emissions. He specifically mentioned several areas in which New Mexico could begin developing strategies to reduce emissions. He stated that, in his view, the New Mexico Environment Department could play a crucial role in dealing with the ozone emission problem.

The Board discussed emissions issues with Mr. Nichols following his presentation.

Item 8. Presentation by Department’s Air Quality Bureau in response to WildEarth Guardians’ discussion relating to ozone reduction. Mary Uhl, NMED/AQB.

Ms. Uhl agreed with Mr. Nichols’ observation that there is a problem in the Farmington/San Juan County area of New Mexico with respect to ozone emissions. She noted that the

Department has been very active in the area with the Four-Corners Air Quality Task Force. She stated that the Department agrees that it is imperative to start working on the problem as soon as possible. She also mentioned that legal counsel for NMED and the New Mexico Department of Health have issued opinions indicating that EIB is prohibited, by New Mexico Statute, from adopting performance standards such as those that Colorado has adopted. She also mentioned that the Department is tracking the effectiveness of the Wyoming and Colorado regulations. She stated that the Department is very aware of the need to confront the ozone emission issues.

There was Board discussion with Ms. Uhl following her presentation.

The Chair then asked Louis Rose if he, or the Public Service Company of New Mexico representative, had comments regarding the presentations.

Mr. Rose noted that the issues that had been discussed were quite complicated and would only be resolved by the collaborative efforts of all parties. He also stated that he hoped that the Board would look at all sources of emission problems in the area and also that the issue of the Board's authority would be determined.

Mr. Mike Eisenfeld, representing the San Juan Citizens' Alliance in Farmington, stated that the Alliance felt that the community's air quality is over-burdened and the options for mitigating that situation are now quite limited. He noted the increase in industrial expansion in the area in the past several years and the decrease in air quality during the same time period. He stated that the Alliance disagreed with the premise that the industrial plants were contributing only a small percentage of the increase in pollution levels. He asked the Board's assistance in cleaning-up the air quality in the San Juan Basin and improving public health.

Item 9. Other business

There was a brief discussion relating to the date of the January, 2009 meeting. It was agreed that the meeting would be held January 5, 2009.

Item 10. Adjournment

Action: Mr. Tso moved that the meeting adjourn. Ms. Bearden seconded. The motion passed unanimously.

Gregory Green, Chair