

*State of New Mexico*  
**ENVIRONMENTAL IMPROVEMENT BOARD**  
*Harold Runnels Building, N-2150*  
*1190 S. St. Francis Drive, P. O. Box 26110*  
*Santa Fe, New Mexico 87502*

**Environmental Improvement Board Meeting**  
**December 3, 2007**  
**9:00 a.m.**  
**State Capitol Building, Room 317**  
**490 Old Santa Fe Trail**  
**Santa Fe, New Mexico 87501**

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

**Members Absent:** Soren Peters

**Others Present:**

Bill Grantham, NMED/OGC	Bill Scott, Modrall Law Firm
Chuck Noble, NMED/OGC	Pat Shay, Rodey Law Firm
Richard Goodyear, NMED/AQB	Felicia Orth, NMED
Bruce Frederick, NMELC	

**Item 1. Roll Call**

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

**Item 2. Approval of Agenda**

Mr. Tso requested that Item 6, Election of Officers, be moved to follow Item 10, Other Business, on today's agenda.

**Action: Mr. Green moved that Item 6, Election of Officers, follow Item 10, Other Business, on today's agenda. Ms. Bearden seconded. The motion passed unanimously.**

**Item 3. Board deliberations in re: EIB 07-05 (A) ConAgra/Clovis Ethanol Facility permit. Zachary Shandler, Asst. Attorney General, Board Counsel. Time estimate: open-ended**

At 9:10 a.m. the deliberations in EIB 07-05 (A), ConAgra/Clovis Ethanol Facility permit commenced. Kathy Townsend Court Reporters transcribed the deliberations. The transcript is available for review

in the office of the Environmental Improvement Board Administrator, New Mexico Environment Department, 1190 St. Francis Drive, Runnels Building Room N-2150, Santa Fe, New Mexico 87505.

Following the hearing, the Chair reconvened the meeting. There was a short discussion relating to Mr. Ghassemi having read the transcript of the hearing and was therefore eligible to participate in the decision of the Board.

Mr. Shandler noted that the Board had the option of going into an executive session to discuss permit issues.

It was agreed that the Board would remain in open session. [note, the Board later went into executive session as appears in the transcript]

There was lengthy Board discussion regarding several specific areas that concerned the Board with respect to a number of contentious issues, including but not limited to, environmental justice matters, perceived defects in public notice provisions as well as the scope of public involvement.

**Action:** **Mr. Green moved that the Board remand this matter back to the Department Secretary for a limited hearing on new evidence only and that: the limited hearing be properly noticed to all residences within a one-half mile radius of the facility; said notice should specifically set out the facility's exact location; the hearing be conducted within sixty days; new modeling be done to include mobile sources and, all newspaper notice requirements be met.**

**Ms. Herrera proposed a friendly amendment assuring those members of the public that have work schedules that limit their availability to be present at the limited hearing be provided a time during the proceedings to be heard.**

**Mr. Green accepted the amendment and added that he also wanted to include in his motion that the limited hearing be held in Clovis.**

**Ms. Dillingham suggested that the limited hearing should be held within sixty days pursuant to regulations or as soon as possible pursuant to regulations.**

**Mr. Green accepted Ms. Dillingham's suggestion.**

**Roll Call Vote:**

<b>Mr. Tso</b>	<b>yes</b>
<b>Ms. Herrera</b>	<b>yes</b>
<b>Mr. Green</b>	<b>yes</b>
<b>Mr. Ghassemi</b>	<b>yes</b>
<b>Ms. Bearden</b>	<b>no</b>
<b>Ms. Dillingham</b>	<b>abstained</b>

**The motion passed.**

**Item 4. Approval of October 2, 2007 and October 23, 2007 meeting minutes**

**Action: Mr. Green moved the approval of the minutes.**

**Mr. Tso noted an error in the October 23<sup>rd</sup> minutes and proposed a friendly amendment correcting that error. Mr. Green accepted the friendly amendment.**

**Mr. Tso seconded Mr. Green's motion as amended with respect to the October 23<sup>rd</sup> minutes. The motion passed unanimously.**

**Item 5. Public Comment**

Felicia Orth expressed her thanks and appreciation for the gift of a bracelet which she had received from the Board. Additionally, she mentioned that she is compiling a history of EIB and will distribute it when it is completed. She also expressed her appreciation for the Board's hard work and dedication.

**Item 7. Board approval of Statement of Reasons in EIB 07-06 (R) Amending 20.2.2 NMAC and 20.2.73; adoption of 20.2.87 Greenhouse Gas Emissions Reporting. Zachary Shandler, Asst. Atty General, Board counsel**

Mr. Shandler requested approval of the Statement of Reasons which he previously presented to the Board.

**Action: Mr. Green moved the approval of the Statement of Reasons as written. Mr. Tso seconded. The motion passed unanimously.**

**Item 8. Board approval of Statement of Reasons in EIB 07-10 (R) Proposed Rule for Remediation of Clandestine Drug Laboratories by Property Owners. Zachary Shandler, Asst. Atty General, Board counsel**

Mr. Shandler requested approval of the Statement of Reasons which he previously presented to the Board.

**Action: Ms. Herrera moved the approval of the Statement of Reasons as written. Mr. Green seconded. The motion passed unanimously.**

**Item 9. Discussion of *State of New Mexico, ex rel., et al., v. New Mexico Environmental Improvement Board*, State of New Mexico, Third Judicial District Court, Dona Ana County, Cause No. CV 2007-2708. Possible executive session by the Board pursuant to NMSA 1978 §10-15-1-H7. Zachary Shandler, Asst. Attorney General, Board Counsel.**

**Action: Mr. Green moved that the Board go into an executive session. Ms.**

**Herrera seconded.**

**Roll Call Vote:**

<b>Ms. Bearden</b>	<b>yes</b>
<b>Ms. Dillingham</b>	<b>yes</b>
<b>Mr. Ghassemi</b>	<b>yes</b>
<b>Mr. Green</b>	<b>yes</b>
<b>Ms. Herrera</b>	<b>yes</b>
<b>Mr. Tso</b>	<b>yes</b>

**Action:** **Mr. Green moved that the Board reconvene in open session noting that Agenda Item 9 was the only matter discussed in the executive session. Ms. Dillingham seconded. The motion passed unanimously.**

**Item 10. Other Business**

The Chair stated that there were two items of interest that the Board might wish to discuss. The first, the recent letter prepared by Dennis McQuillen of the Environmental Health Division addressing Link Summers complaints to the Board regarding the Environment Department and, the second, the Board's 2008 schedule.

There was a brief discussion regarding Mr. McQuillen's letter to Mr. Summers. It was agreed that the correspondence was self-explanatory.

There was a lengthy discussion regarding the 2008 schedule as well discussion about moving Board meetings from the second Tuesday of each month and the possibility of meetings convening at 10:00 a.m.

It was agreed that the January meeting would take place on the 7<sup>th</sup> and 8<sup>th</sup> and the March meeting would take place on the 4<sup>th</sup>. The remaining meeting dates will be established at a later time.

**Item 6. Election of Officers**

There was Board discussion regarding electing officers.

**Action:** **Ms. Dillingham moved that the Board approve the election of Gregory Green as Chair of the Board. Ms. Bearden seconded. The motion passed unanimously.**

**Mr. Green moved that the Board approve the election of Kathi Bearden as Vice-Chair of the Board. Mr. Ghassemi seconded. The motion passed unanimously.**

**Ms. Dillingham moved that the Board approve the election of Harold Tso as Secretary. Ms. Bearden seconded. The motion passed unanimously.**

**Item 11.** The next regular meeting will be held January 7 and 8, 2008; Location: NM Energy, Minerals and Natural Resources Department, Wendell Chino Bldg., Porter Hall, 1220 South St. Francis Drive, Santa Fe, NM 8705.

**Item 12. Adjournment**

**Action: The Chair moved for adjournment at 1:20 p.m. Mr. Green seconded. The motion passed unanimously.**

*Signature on File*

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Gay Dillingham, EIB Chair