

*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 8, 2009**  
**10:00 a.m.**  
**New Mexico State Capitol Room 317**  
**490 Old Santa Fe Trail**  
**Santa Fe, New Mexico 87501**

**Members Present:**

Gregory Green, Chair  
Soren Peters, Vice-Chair  
Harold Tso, Secretary  
Neri Holguin, Member  
Frank Simms, Member

**Members Absent:**

Abbas Ghassemi, Member  
Gay Dillingham, Member

**Others Present:**

Andrew Knight, NMED/OGC	Kerwin Singleton, NMED/AQB
Ralph Richards, Jobe Materials	Rhonda Mitchell, Tri-State G&T
Liz Keuhn, NMED/AQB	David Heath, NMED/AQB
Trais Kliphuis, NMED/AQB	Dallas Rippy, NMSLO
Chuck Noble, NMED/OGC	Dennis McQuillan, NMED/EHD
Ned Findey	Paul Nazaryh
Raul Carrillo, Esq., Jobe Materials	Patrick Lyons, NM Land Commissioner
Kevin Ellis, Jobe Materials	David Cabe, Jobe Materials
Adrian Terry, Atty. General's Office	Link Summers, individually and POWRA

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 the Agenda**

Following discussion relating to Agenda Item 8, EIB 09-07 (A) and the fact that a Petitioner in the matter had notified the Department that no one would be attending on

Petitioners' behalf it was agreed that statements by the witnesses for Jobe Materials would be taken following Item 4, Public Comment, and the remaining agenda items would follow in the appropriate order.

**Action:** Mr. Simms moved Board approval of the Agenda. Mr. Tso seconded. The motion passed unanimously.

**Item 3.** Approval of August 3, 2009 minutes.

**Action:** Mr. Peters moved Board approval of the meeting minutes. Ms. Holguin seconded. Mr. Tso abstained. The motion passed.

**Item 4.** Public Comment

None

**Item 8.** Hearing on Appeal Petition in re: Application of Jobe Materials, LP for an Air Quality Construction Permit for the Vado Crusher, Permit No. 3640, EIB 09-07 (A). Daniel Guillen and Miguel Castro, Petitioners; Andrew Knight, NMED/OGC.

Raul Carrillo, Esq., appearing on behalf of Jobe Materials, LP (“the Company”), introduced himself, Pat Lyons, NM State Land Commissioner, Stanley Jobe and Ralph Richards, also of Jobe Materials, as well as several out-of-state witnesses who were prepared to testify on behalf of the Company.

Mr. Carrillo explained the Company’s position with respect to the need to move forward in exercising its rights under the Air Quality Permit and initiating the production of aggregate at the mine site as quickly as possible.

At the request of the Chair, Mr. Carrillo noted those issues which the Company considered insufficient regarding the lack of substantive information from the Petitioners relating to their specific concerns with respect to the operation of the mine under permit number 3640 and what relief they were seeking in this appeal proceeding.

Mr. Lyons then discussed at some length the financial importance to the State of New Mexico of allowing the Company to proceed under the permit with the production of aggregate, noting revenue benefits as well as employment benefits to the State.

Mr. Jobe described the chronology of the Company’s involvement in the aggregate mine property. He went on to note the crucial financial importance of the Company being allowed to mine the aggregate as quickly as possible. He further noted the approximate dollar amount that the Company has already expended in meeting requirements imposed by the Department.

A lengthy Board discussion followed.

Mr. Guillen and Ms. Castro unexpectedly arrived at the meeting. There was a brief discussion. The Chair asked the parties in this case to move outside the meeting room to confer and attempt to reach an agreement.

Mr. Green resumed conduct of the meeting announcing that Agenda Item 5. would be considered next by the Board.

**Item 5. Request for Hearing in re: Proposed Adoption of 20.2.50 NMAC, Ozone Control Areas, and 20.2.51 NMAC, Nitrogen Dioxide Emissions in Ozone Control Areas, EIB 09-10 (R). Bill Grantham, NMED/OGC; Kerwin Singleton, NMED/AQB.**

Andrew Knight, NMED/OGC, stated that he was appearing on behalf of Mr. Grantham to request that the Board set a hearing in EIB 09-10 (R). He then introduced Kerwin Singleton, from the Department's Air Quality Bureau. Mr. Singleton explained why the regulations were necessary.

A Board scheduling discussion followed the Bureau's hearing request.

Mr. Green suggested that, if possible, those Board members who have the time, spend an additional day in the Farmington area visiting various gas, oil and electrical production facilities.

**Action: Mr. Simms moved that the Board schedule the hearing requested on December 7, 2009, in Farmington, NM. Mr. Ghassemi was designated as the Hearing Officer for EIB 09-10 (R), the Proposed Adoption of 20.2.50 NMAC, Ozone Control Areas, and 20.2.51 NMAC, Nitrogen Dioxide Emissions in Ozone Control Areas. Mr. Tso seconded. The motion passed unanimously.**

**Item 6. Petition for Public Hearing to Consider Proposed Amendments to the Liquid Waste Disposal and Treatment Regulations, 20.7.3 NMAC, excepting 20.7.3.904 NMAC, EIB 09-11 (R). Link Summers, Petitioner, on behalf of himself and POWRA; Chuck Noble, NMED/OGC.**

Mr. Summers requested that a hearing be set in this matter at the Board's earliest convenience. The Chair and Mr. Summers discussed the content of the petition and whether it could be combined with the November hearing in EIB 09-08 (R). It was determined that the cases should not be heard at the same time.

Mr. Noble set forth the Department's position with respect to Mr. Summers' petition, noting that the Department does not oppose the petition.

There was a lengthy Board discussion with the interested parties regarding the content and the scheduling issues involved in this case.

Mr. Green volunteered to act as Hearing Officer and further stated that there would be a pre-hearing conference scheduled in February, 2010.

**Action:** Mr. Peters moved that a hearing in EIB 09-11 (R), Proposed Amendments to the Liquid Waste Disposal and Treatment Regulations, 20.7.3 NMAC, excepting 20.7.3.904 NMAC, EIB 09-11 (R) be set on March 1 and 2, 2009, with Mr. Green acting as Hearing Officer. Mr. Tso seconded. The motion passed unanimously.

**Item 7.** Petition for Public Hearing to Consider Proposed Amendments to the Liquid Waste Disposal and Treatment Regulations, 20.7.11 NMAC, EIB 09-12 (R). Link Summers, , Petitioner on behalf of himself and POWRA; Chuck Noble, NMED/OGC.

Mr. Summers requested that a hearing be set in this matter at the Board's earliest convenience. The Chair and Mr. Summers discussed the content of the petition. Mr. Summers noted that this case involved disposal fees.

Mr. Noble stated that the Department did not oppose Mr. Summers' petition for hearing.

**Action:** Mr. Tso moved that a hearing in EIB 09-12 (R), Proposed Amendments to the Liquid Waste Disposal and Treatment Regulations, 20.7.11 NMAC, also be set on March 1 and 2, 2010, with Mr. Green acting as Hearing Officer. Mr. Simms seconded. The motion passed unanimously.

**Item 8., continued:**

Following a short break, the Board resumed consideration of EIB 09-07 (A), Appeal Petition of Daniel Guillen and Miguel Castro relating to Air Quality Construction Permit No. 3640 for the Vado Crusher.

**Action:** An agreement was reached by the parties in this case. Jobe Materials, LP, set out the location of mining operations and fencing agreements reached by the parties. Through Ms. Castro, acting as English-to-Spanish interpreter, Mr. Guillen stated his agreement to the withdrawal of the Appeal Petition.

The Chair expressed the Board's appreciation for the professional manner and the speed with which agreement by the parties had been reached.

**Item 9.** Other business

None.

**Item 10.** Next meeting: October 5, 2009, 10:00 a.m. State Capitol Building,  
Room 317, 490 Old Santa Fe Trail, Santa Fe, New Mexico 87501.

**Item 11. Adjournment.**

**Item 12. Mr. Peters moved for adjournment. Ms. Holguin seconded.  
The motion passed unanimously.**

*Signature on file*

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Gregory Green, Chair