

**Minutes of the
NEW MEXICO MINING COMMISSION
Regular Meeting
December 11, 2015**

Note: Draft minutes subject to review and approval by the Commission

Chairman Heaton convened the New Mexico Mining Commission meeting at 9:00 AM, Friday, December 11, 2015, in Porter Hall (1st floor of the Wendell Chino Building), Energy, Minerals and Natural Resources Department, 1220 South St. Francis Drive in Santa Fe, NM. The meeting was recorded and the digital audio files are in the custody of the Commission clerk.

Roll call

Commission clerk Jane Tabor called the roll with the following results:

Members present:

John Heaton, Chair	Public Representative – Environment
Matthew Wunder	Department of Game and Fish
Virginia McLemore	Bureau of Geology and Mineral Resources
Thomas Skibitski	Environment Department
Mike Johnson	Office of the State Engineer
Patrick Padilla	State Land Office
Patrick Freeman	Public Representative – Industry
John Brack	Alternate for Public Representative – Industry
Sally Malavé	Commission Attorney

Members absent:

Roderick Ventura	Alternate for Public Representative - Environment
Steve Loring	NM Agricultural Experiment Station
Charlie Sanchez	NM Soil and Water Conservation Commission

Approval of the agenda

Chairman Heaton asked for any changes to the agenda; there were none. Commissioner Padilla made a motion to adopt the minutes, seconded by Commissioner McLemore. The motion passed unanimously.

Adoption of the minutes of the June 22, 2015, meeting

Chairman Heaton asked for any changes to the minutes; there were none. Commissioner McLemore made a motion to adopt the minutes, seconded by Commissioner Johnson. The motion passed unanimously.

Action on New Mexico Mining Association's Petition for Rulemaking (15-02) regarding amending 19.10.3.303(A) NMAC and 19.10.3.304(A) NMAC (Minimal Impact Rule).

Chairman Heaton explained the process of determining if a hearing will occur and whether it will be presided over by a hearing officer or the Mining Commission. He then asked the petitioner, New Mexico Mining Association ("NMMA"), to briefly explain the reasoning for the proposed change ("*...to amend the rules for Minimal Impact Operations, 19.10.3 NMAC ("Minimal Impact Rule"). NMMA's proposed Minimal Impact Rule ("PMIR"), attached to this Petition as Attachment 1, would amend 19.10.3.303(A) NMAC and 19.10.3.304(A) NMAC to expand the disturbance area for minimal impact mining operations for non-energy fuel minerals that lack the potential for significant acid drainage*").

from ten acres to forty acres in all areas of New Mexico except Bernalillo County, Dona Ana County, and Santa Fe County.’). Mike Bowen spoke on behalf of the NMMA, assisted by Stuart Butzier, and recapped the petition contents and answered some questions from commissioners.

Douglas Meiklejohn of the New Mexico Environmental Law Center (“NMELC”), on behalf of its client, Amigos Bravos, spoke in opposition to holding a hearing because the amendments sought in Petition 15-02 were addressed in the hearing for Petition 13-01, where the Commission voted to expand the area of disturbance for minimal impact humate mines. He pointed out that these larger minimal impact operations, if approved, allow for very little public notice or input. He also raised the concern that Petition 15-02’s proposed rule changes could be interpreted to not exclude uranium, which has uses other than as an energy fuel mineral. He requested that, if a hearing is scheduled, it be heard by the entire Commission, and not be scheduled until after mid-April 2016 due to the unavailability of an expert witness they would call on.

Mr. Butzier expressed his client’s willingness to work with NMELC to address the objections and to tweak the language in the petition. Commission counsel, Sally Malavé, explained that to the extent any proposed revised language stayed within the spirit of the petition, the petitioner and NMELC could work together and make changes to the petition and proposed rule amendments before the proposed amendments are published 60 days prior to any hearing. Then the Commission would decide at the hearing whether to incorporate them.

Terence Foreback, New Mexico State Mine Inspector, spoke in favor of a hearing and of the minimal impact rule change; and Fernando Martinez, Mining and Minerals Division Director, spoke in favor of a hearing.

Commissioner Freeman made a motion to hold a hearing before the Mining Commission and to set a date at today’s meeting, seconded by Commissioner McLemore. The motion passed unanimously. Commissioner McLemore asked that the meeting occur after April 15, 2016, to accommodate expert witnesses’ unavailability at earlier dates and to avoid any appearance of bias. A two-day block of time for the hearing was suggested due to the possibility of a lengthy hearing. The meeting was set for April 20-21, 2016, at a location to be determined and announced in the 60-day public notice.

Other Business

No other business was introduced.

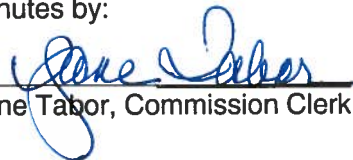
Adjourn

Chairman Heaton adjourned the meeting at 9:45 AM.

Approved:


Date 4-20-16
John Heaton, Chairman

Minutes by:


Jane Tabor, Commission Clerk