

**MINUTES OF THE
NEW MEXICO MINING COMMISSION
REGULAR MEETING
THURSDAY, NOVEMBER 2, 2017**

Chairman Heaton convened the New Mexico Mining Commission meeting at 9:00 AM, Thursday, November 2, 2017, in Porter Hall (1st floor of the Wendell Chino Building), Energy, Minerals and Natural Resources Department, 1220 South St. Francis Drive in Santa Fe, New Mexico. 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:

Members present:

Patrick Freeman	Public Representative – Industry
John Heaton, Chair	Public Representative – Environment
Virginia McLemore	Bureau of Geology and Mineral Resources
Dennis McQuillan	Environment Department
Ghassan Musharrafi	Office of the State Engineer
Matthew Wunder	Department of Game and Fish
Stephen Wust	State Land Office
Charlie Sanchez	NM Soil and Water Conservation Commission
Roderick Ventura	Alternate for Public Representative – Environment
Sally Malavé	Commission Attorney

Members absent:

Steve Loring	NM Agricultural Experiment Station
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Approval of the agenda

Chairman Heaton asked for any changes to the agenda; there were none. Commissioner McLemore moved to adopt the minutes; seconded by Commissioner McQuillan, the motion passed unanimously (7-0).

Adoption of the minutes of the April 20, 2016, meeting and hearing

Chairman Heaton asked for any changes to the minutes; there were none. Commissioner Wunder moved to adopt the minutes; seconded by Commissioner McLemore, the motion passed (4-0-3), with commissioners Musharrafi, Wust and McQuillan abstaining as they are new designees to the Commission and were not present at that hearing.

Consideration and Adoption of the Commission's 2017 Open Meetings Act Resolution

Two versions were considered: The first version is the same as previous years, including advertising in newspapers, along with other electronic and mail notifications to interested parties. The second version requires posting upcoming regular meeting notices to the Commission's webpage, along with other electronic and mail notifications to interested parties,

but does not require newspaper advertisements. Chairman Heaton asked for any changes to both versions of the resolution. Commissioner McQuillan moved to change paragraph 6 to include posting special meetings and emergency meetings notices to the Commission's website; seconded by Commissioner McLemore, the motion passed unanimously. Commissioner McQuillan moved to change paragraph 4 to read "to protect the health, safety, or property of citizens" in the first sentence, and to add "imminent threat" in the third sentence. Seconded by Commissioner McLemore, the motion passed unanimously. Commissioner Freeman moved that the minimal language required by rule for regular meeting notices (paragraph 5) be used in newspaper advertisements to reduce those costs. Seconded by Commissioner McQuillan, the motion passed unanimously. Commissioner McLemore moved to adopt the first version of the resolution (requiring newspaper advertising for regular Commission meetings) as amended. Seconded by Commissioner McQuillan, the roll call vote to adopt was unanimous (7-0).

Deliberation and action on New Mexico Mining and Minerals Division's Petition for Rulemaking (17-01) regarding adopting proposed rule 19.10.15 NMAC

EMNRD-MMD counsel, Gabriel Wade, and EMNRD General Counsel, Bill Brancard, presented a brief overview of the rule precipitated by the passage in the 2017 legislative session of House Bill 58, Rulemaking Requirements. EMNRD-MMD's *Guidelines for Rulemaking* already followed most of the procedures laid out in this rule. The new rule expands the requirements for sending public notices for rulemaking hearings not only to the division website, interested parties email or mailing lists, the New Mexico Register and newspapers of general circulation in the state, but also to the Sunshine Portal and the Legislative Council. Mr. Brancard pointed out that HB 58 is in effect since July 1, 2017. Chairman Heaton asked for any public comment and Mr. Stuart Butzier remarked that this is not a controversial rule. Chairman Heaton called for a motion and Commissioner McLemore moved to hold a Commission-run hearing. Seconded by Commissioner McQuillan, the motion passed unanimously (7-0). A regular meeting and hearing is set for February 23, 2018.

The Mining Act Reclamation Program's annual report to the Commission

David (DJ) Ennis presented the [MARP report for calendar year 2015](#) that included a general description of mining operations, a general description of reclamation practices, financial assurance update, 2015 amendments to the Mining Act Rules, and 2015 state mineral production statistics. Two changes to the Mining Act Rules were proposed in 2015. Petition 15-01, approved in June 2015, allows for the submittal of multiple financial assurance release applications per year per mine, rather than one per year. Petition 15-02, approved in April 2016, expanded minimal impact mining operations for nonenergy fuel minerals that lack the potential for significant acid drainage from 10 to 40 acres in all areas of New Mexico except Bernalillo County, Doña Ana County, and Santa Fe County. A modified proposal refined the language to operations extracting dolomite, garnet, humate, perlite and zeolite.

Chairman Heaton asked if salt as it relates to brine extraction is covered under the Mining Act. Holland Shepherd, MARP Program Manager, said it is not. Commissioner Wunder asked the same question about sand for fracking. Mr. Ennis said that sand is exempt from the Mining Act. Commissioner Sanchez expressed concerns about the sand and gravel industry, especially regarding dust control and damage to county roads from heavy truck traffic. Chairman Heaton asked if Coal Mine Reclamation Program federal funds are still available for non-coal mine reclamation. Holland Shepherd explained that some funds are available but can only be used for safeguarding hard rock mining sites, not reclamation. The Commissioners complimented MARP on its report, and for its well-maintained and informative website.


Other business

There was no other business.

Adjourn


Commissioner Heaton called for a motion to adjourn at 10:35 AM. So moved by Commissioner McLemore and seconded by Commissioner Wust; the motion passed unanimously (7-0).

Approved:


John Heaton, Chair

Date 2/23/18

Minutes by:


Jane Tabor, Commission Clerk