

**Minutes of the  
NEW MEXICO MINING COMMISSION  
Regular Meeting and Hearing  
April 20, 2016**

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

Chairman Heaton convened the New Mexico Mining Commission meeting at 9:00 AM, Wednesday, April 20, 2016, 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 with the following results:

Members present:

Patrick Freeman	Public Representative – Industry
John Heaton, Chair	Public Representative – Environment
Mike Johnson	Office of the State Engineer
Virginia McLemore	Bureau of Geology and Mineral Resources
Charlie Sanchez	NM Soil and Water Conservation Commission
Thomas Skibitski	Environment Department
Roderick Ventura	Alternate for Public Representative - Environment
Matthew Wunder	Department of Game and Fish
Sally Malavé	Commission Attorney

Members absent:

Steve Loring	NM Agricultural Experiment Station
Patrick Padilla	State Land Office

**Approval of the agenda**

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

**Adoption of the minutes of the December 11, 2015, meeting**

Chairman Heaton asked for any changes to the minutes; there was one change to correct an NMAC reference from “9” to “19.” Commissioner McLemore moved to adopt the minutes as amended, seconded by Commissioner Wunder. The motion passed unanimously.

**Consideration and Adoption of the Commission's 2016 Open Meetings Act Resolution**

Chairman Heaton asked for any changes to the resolution; there was one change to correct an NMSA reference from “1” to “10.” Commissioner McLemore moved to adopt the resolution as amended, seconded by Commissioner Wunder. The voice vote to adopt was unanimous.

**Rulemaking Hearing on New Mexico Mining Association’s Petition for Rulemaking (15-02) regarding amending 19.10.3(A) NMAC and 19.10.3.304(A) NMAC (Minimal Impact Rule)**

Chairman Heaton proposed to adjourn the meeting and enter the hearing phase. Commissioner McLemore so moved; seconded by Commissioner Johnson. The voice vote was unanimous.

Chairman Heaton read a formal statement into the record regarding the proposed rule change to 9.10.3.303(A) NMAC and 19.10.3.304(A) NMAC. He also explained that the three notices of intent to present testimony (from New Mexico Mining Association (“NMMA”), Amigos Bravos, and Mining and Minerals Division (“MMD”)) indicated that the parties had met prior to this hearing and agreed on a modification to Petition 15-02 that was a logical and actual outgrowth of the original petition. The modification narrows the scope to five specific minerals and requires the MMD Director to conduct inspections. Chairman Heaton then swore in those parties providing technical testimony.

On behalf of the NMMA, Mike Bowen reiterated the agreement among the interested parties to scale back the scope to include only five minerals (dolomite, garnet, humate, perlite and zeolite), and to provide for annual inspections. Tim Leftwich and Michael Farmar provided technical testimony including stating the advantages brought by this rule change to the mining industry in the State of New Mexico.

Douglas Meiklejohn of the New Mexico Environmental Law Center, on behalf of its client, Amigos Bravos, spoke in support of the modified petition with its narrower scope and inspection requirements.

In response to a question from Commissioner Freeman, MMD Director Fernando Martinez stated MMD’s opinion that the narrowed scope, and annual inspection and concurrent reclamation requirements will continue to ensure minimal environmental impact. And the review process for new applications will continue to include other state agencies to determine whether a new application meets the minimal impact definition. Secretary David Martin thanked the parties involved in this rule change that will benefit the State of New Mexico.

Terence Foreback, New Mexico State Mine Inspector, spoke in favor of the rule change, particularly as it will positively impact operations in Socorro and Truth or Consequences.

**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)**

The Commission members discussed reasons for adopting the rule changes, including the narrowed scope; the exclusion of the more densely populated counties; the potential for positive economic impact, especially in rural areas; and increased revenues from mineral extraction. Commissioner McLemore moved to adopt the modified Petition 15-02 for the reasons discussed; seconded by Commissioner Wunder. The voice vote was unanimous.

Chairman Heaton directed the Commission’s counsel to prepare a draft final order, consistent with the Commission’s reasoning and decision, and volunteered to sign the final order on behalf of the Commission. Commissioner Freeman moved to authorize Chairman Heaton to review and sign the final order prepared by the Commission’s counsel; seconded by Commissioner McLemore. With the Chairman abstaining, the voice vote was unanimous.

**The Mining Act Reclamation Program’s 2014 annual report to the Commission**

Senior Reclamation Specialist David J. Ennis presented the 2014 Annual Report of the Mining Act Reclamation Program during which the Commission asked Mr. Ennis several questions regarding items contained in the report. Chairman Heaton asked if the Commission, or a working group, could be proactive in making the mining industry more robust, perhaps through rule changes and finding more opportunities to compromise, as occurred on Petition 15-02. Director Martinez responded that the Director's Advisory Committee (established in the Mining Act) and the public are the avenues for exploring more rule changes. He stated that MMD has nothing to propose at this time, and that lower commodity prices currently have decreased interest in new mining operations. Mr. Bowen interjected that the Mining Association is constantly reviewing the rules, a very time-consuming process before coming to the Commission with any proposed changes. Mr. Foreback mentioned that the Mining Safety Board conducts its meetings at venues and mine sites around the state, and perhaps this Commission could do that as well. Chairman Heaton suggested that perhaps educational meetings could be held outside of Santa Fe in an effort to understand what conflicts may exist that may be preventing the development of certain mining operations, and to discuss solutions to create development. He noted that hearings, by rule, must be held in Santa Fe.

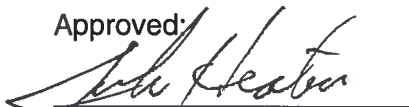
**Other Business**

No other business was introduced.

**Adjourn**


Chairman Heaton adjourned the meeting at 11:07 AM.

Approved:

  
\_\_\_\_\_  
John Heaton, Chair

Date 11/2/17

Minutes by:

  
\_\_\_\_\_  
Jane Tabor, Commission Clerk

