

**MINUTES OF THE  
NEW MEXICO MINING COMMISSION MEETING AND HEARING**  
December 16, 1998

The New Mexico Mining Commission meeting was convened at 9:13 a.m., December 16, 1998 in Mabry Hall, State Education Building, Santa Fe, NM. The following members were present:

Terry Fletcher	Chairman and Public Representative
Bill Brancard	Vice Chairman, State Land Office
Amy Fisher	Department of Game and Fish
Charles Chapin	NM Bureau of Mines and Mineral Resources
Bob Rogers	State Engineer's Office
Ed Kelley	Environment Department
John Bartlitt	Public Representative
Bob McCaslin	Ex-Officio, NM Agricultural Experiment Station
J. R. Roybal	Designee, NM Soil and Water Conservation Commission
Robert Light	Alternate
Pat Simpson	Commission Attorney

The following members were absent:

Pat Freeman	Alternate
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**Announcements** Chairman Fletcher congratulates Doug Bland on becoming Mining and Minerals Division (MMD) Director; and announces that Ed Kelley will be leaving the Commission, thanking him for his years of service.

- 1. Roll Call**  
The Commissioners announce their own names.
- 2. Approval of agenda**  
Chairman Fletcher requests that an item be added to the agenda: a litigation report by Pat Simpson and a discussion by Bill Brancard of the Chino hearing. Mr. Bartlitt moves to accept the agenda as amended, with second by Dr. Kelley. Motion passes unanimously.
- 3. Adoption of the Minutes of October 8, 1998**  
After the Commission took a short time to review the minutes, Mr. Light moves to accept the minutes, with second by Dr. Chapin. Motion passes unanimously.
- 4. Discussion and Adoption of the Open Meetings Act and Resolution**  
After some discussion of the Open Meetings Act and Resolution, Mr. Light moves to adopt the Resolution as presented, with second by Dr. Kelley. Motion passes unanimously.
- 5. Discussion of the Code of Conduct**  
After some discussion of the Code of Conduct, including whether the Mining Act Rules duplicates the Code being considered and some proposed changes by Mr. Brancard, Dr. Kelley moves to table the Code of Conduct and remand it to Pat Simpson for further changes, with second by Mr. Light. Motion passes unanimously.

**New Agenda Items: Litigation Discussion by Pat Simpson and Chino Hearing Discussion by Bill Brancard**

Pat Simpson discusses the status of several pending cases including Copar Pumice, Sierra Club, Agronics, and United Nuclear Corporation.

Bill Brancard discusses Chino stating that the process is moving very slowly and that the parties are not yet ready to request a hearing before the Commission. Chairman Fletcher states that based on the upcoming legislative session and other factors that the pace seems acceptable. Mr. Bartlitt states that there are members of the audience that may want to speak on the subject. Carol Leach of MMD, General Council for EMNRD, states that MMD is working as expeditiously as possible to move the process forward. Doug Wolf agrees that all parties are working diligently at narrowing the issues that will come before the Commission. Mr. Light makes a statement the "swift justice", as contemplated by our forefathers, is no longer swift. Chairman Fletcher agrees with Mr. Light but states that under the circumstances the pace is appropriate.

**6. Mining and Minerals Division Update on Industry and Regulatory Program**

Doug Bland, MMD Division Director, provides the Commission with an update of MMD regulatory programs and an industry status report that he explains is an add-on to his presentation provided in the previous Commission meeting. He includes in his discussion a description of the Abandoned Mine Lands program, the Coal Mine Regulatory program, administrative support program and the Office of the Director. He then discusses the status of the mineral industry in New Mexico stating that both the copper industry and molybdenum have had substantial cutbacks and layoffs. He discusses the status of the permitting program of the Mining Act Reclamation program and provides the Commission with deadline information stating that it appears that both the industry, with a couple exceptions, and MMD will meet all their regulatory deadlines. He said for those parties refusing to work with MMD, notices of violation will be written. Chairman Fletcher asks if Mr. Bland is contemplating making changes in program heads at MMD; Mr. Bland states that he is not. Mr. Light asks a series of questions including whether the Commission can extend the regulatory deadlines, whether MMD is contemplating changes to the NM Mining Act, and if so, that the Commission be kept informed. Mr. Brancard states that he is aware of some potential changes on the appeals process that are being contemplated. Dr. Chapin asks about the annual resources report and about the "mines, mills and quarries" publication. Mr. Bland states that the annual resources report will be produced in a new format and should be available about the time of the legislative session. Mr. Bland also states that he would like to meet with Bureau of Mines staff after the first of the year to discuss the "mines, mills and quarries" publication. Chairman Fletcher states that Dr. Chapin will be stepping down in the near future from his current position and thanks him for his service to the Commission.

**7. Hearing, Deliberation and Action on the September 03, 1998 Petition for Rulemaking submitted by the Mining and Minerals Division (Mining Commission 98-04)**

Carol Leach provides a summary stating that the 12-7-98 is the most recent draft. She explains the background of the review process and that the draft before the Commission is a consensus draft and that all members of the team are to be congratulated for their hard work in developing it. She states that sections 907 and 1112 will have to be repealed and that the definitions will have to be moved. She then discusses the particulars of changes to the document with emphasis on certain sections which were the most controversial including: section 1405 which deals with the effective date of the Director's decision; 1410 which concerns filing, service and the form of documents; 1421 which concerns financial assurance; 1424 which concerns intervention; and 1434 which concerns participation by the public. Some discussion ensues about the specifics of the Revised Petition. Mr. Brancard suggests that the Commissioners should contemplate how the revisions may effect the Commission and discusses specifics of several sections that concern him; he also offers some suggestions for revisions. Dr. Chapin suggests a flowchart should be developed. Concern is expressed by several Commissioners about their availability on a short-term basis. Doug Wolf makes a statement regarding the Revised Petition and responds to some of the specifics raised in earlier discussions. He requests that the Commission provide input and direction if they want the Petition further revised. Andrew Murphy of the NM Mining Association

endorses the Petition and urges its adoption. Chairman Fletcher asks for a motion. Mr. Light makes a motion that the Petition be remanded to MMD for further revisions based on the meeting discussion. Mr. Brancard make an amendment to the motion that the record be kept open for 30 days for further input. Dr. Kelley seconds the motion. Motion passes unanimously.

**8. Other Business**

A future meeting date will be decided at the end of the 30-day period.

**9. Adjourn**

The Chairman asks for a motion to adjourn. Dr. Kelley motions to adjourn with second by Dr. Chapin. Motion passes unanimously. Meeting is adjourned at 12:05 PM.

Approved:

Minutes by:

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Terry Fletcher, Chairman

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Date

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John J. Pfeil, Commission Clerk