

NEW MEXICO COAL SURFACE MINING COMMISSION

Robert Q. Rogers, Jr., Chairman

SPECIAL MEETING

October 12, 1999

1:30 P.M.

**Room 321 of the State Capitol Building
Santa Fe, New Mexico**

AGENDA

1. Roll Call
2. Approval of the Agenda
3. Approval of the Minutes of the September 2, 1999 Special Open Meeting
4. Discussion and possible action on issues related to legal representation on pending litigation in Santa Fe County District Court Cause No. 98-30(c) Pueblo of Zuni v. New Mexico Coal Surface Mining Commission, et al. Possible Executive Session on same
5. Other Business
6. Adjourn

**MINUTES
NEW MEXICO COAL SURFACE MINING COMMISSION
SPECIAL MEETING**

October 12, 1999

A New Mexico Coal Surface Mining Commission Special Meeting was held on October 12, 1999 at 1:30 p.m. in Santa Fe, New Mexico in Room 321 of the State Capital building.

The following members were present:

Mr. Robert Q. Rogers, Jr.	Chairman, State Engineer's Office
Ms. Gretchen Hoffman	Bureau of Mines and Mineral Resources
Mr. Robert McCaslin	Agricultural Experiment Station
Ms. Jami Bailey	State Land Office
Mr. Pete Maggiore	Environment Department
Mr. Dushan P. Milovich	Public Member

The following members were absent:

Mr. J. R. Roybal	N. M. Soil and Water Conservation Districts
Ms. Amy Fisher	Department of Game and Fish
Mr. John Bokich	Public Member

Also Present:

Mr. John Pfeil	Commission Clerk
Mr. James O. Browning	Browning and Peifer Law Firm
Mr. Cody K. Kelley	Browning and Peifer Law Firm
Mr. Mark Smith	Rodey Law Firm
Ms. Rebecca Dempsey	White, Koch, Kelly Law Firm
Mr. Richard Mertz	NMED
Ms. Carol Leach	EMNRD
Mr. Bruce Rogoff	EMNRD
Mr. Doug Bland	EMNRD-MMD
Ms. Kerrie Neet	EMNRD-MMD
Ms. Maria Louisa Corral	Chihuahua, Mexico

Chairman Rogers calls the meeting to order at 1:30 p.m.

1. Roll Call

Chairman Rogers asks the Clerk to perform the roll call.

2. Approval of the Agenda

Chairman Rogers asks if there are any comments/changes to the agenda. He then states that the agenda has an incorrect time and that AM should be replaced with PM. Motion by Mr. Maggiore to accept agenda with change, second by Mr. McCaslin. The motion to approve the agenda passes unanimously on a voice vote.

3. Approval of the Minutes of the September 2, 1999 Special Open Meeting

Chairman Rogers asks if there are any comments/changes to the minutes. Motion by Mr. Milovich to accept minutes without changes, second by Mr. Maggiore. The motion to approve the minutes passes unanimously on a voice vote.

4. Adjourn to Executive Session: Discussion of Pending Litigation

Chairman Rogers requests statements from several attorneys who were present at the September 28, 1999 hearing in the District Court. After statements by Carol Leach, Rebecca Dempsey and Mark Smith, Chairman Rogers asks if there is a motion to adjourn to executive session. Mr. Maggiore makes a motion to adjourn to executive session and to invite Mr. Browning and Mr. Cody K. Kelley to the session; second by Mr. McCaslin. Chairman Rogers then conducts a roll call vote on the motion. The motion passes unanimously and the Commission goes into executive session at approximately 1:40 p.m. Chairman Rogers tells the audience that the session will last about one hour.

The Commission goes into executive session.

5. Return to Open Session

Chairman Rogers reopens the meeting on a motion by Mr. Maggiore, second by Mr. McCaslin at about 2:10 p.m. The meeting returns to open session on a unanimous roll call vote. Chairman Rogers states that the Commission Council has a statement.

Mr. James O. Browning of Browning and Peifer Law Firm states that the Commission adjourned to executive session pursuant to NM Statute 10-13-1(H)(3) to discuss pending litigation. He also states that the Commission asked the Browning and Peifer Law Firm to represent them in the District Court case. He states the Commission also authorized the law firm: to seek a commission from the Attorney General's Office to represent the Commission; to seek authority from the District Court authorizing the law firm to represent the Commission; to seek to vacate the hearing date set for Friday on the Pueblo's motion to add evidence to the record; and to litigate and represent the Commission on two issues, 1) to secure representation for the Commission, and 2) to resolve any funding issues as to how council will be paid. He states that the Commission has authorized the law firm to take all actions on behalf of the Commission that are reasonably related to those issues, until they are resolved.

There is some discussion between Mark Smith and Jim Browning about the specifics and order of the actions to be taken by the law firm.

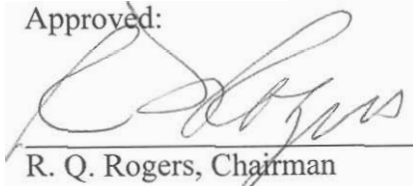
6. Other Business

Doug Bland introduces Kerrie Neet, MMD's Regulatory Bureau Chief, to the Commission.

7. Adjourn

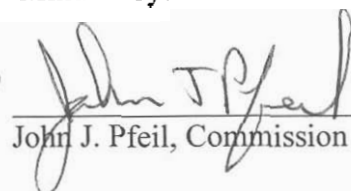
Mr. McCaslin moves to adjourn the meeting, second by Ms. Hoffman. Meeting is adjourned at 2:20 p.m. on a voice vote.

Approved:


R. Q. Rogers, Chairman


Date

Minutes by:


John J. Pfeil, Commission Clerk