

COAL SURFACE MINING COMMISSION

R. Q. ROGERS, CHAIRMAN

PUBLIC MEETING

DECEMBER 13, 2002

9:30 A.M.

**ENERGY MINERALS AND NATURAL RESOURCES
DEPARTMENT
OFFICE OF THE SECRETARY CONFERENCE ROOM
SANTA FE, NEW MEXICO**

- 1. Roll call**
- 2. Approval of the agenda**
- 3. Adoption of minutes of November 16, 2001 New Mexico Coal Surface Mining Commission Meeting and Hearing**
- 4. Discussion and possible adoption of the Open Meetings Act Resolution**
- 5. Other business**
- 6. Adjourn**

**NEW MEXICO COAL SURFACE MINING COMMISSION
MEETING**

December 13, 2002

A New Mexico Coal Surface Mining Commission Public Meeting was held on December 13, 2002 at 9:30 a.m., in the Oil Conservation Division conference room on 1220 So. St. Francis Drive, Santa Fe, New Mexico.

The following members were present:

Mr. Robert Q. Rogers, Jr.,	Chairman, State Engineer's Office
Mr. Greg Lewis	Environment Department
Mr. Tod W. Stevenson	Department of Game & Fish
Mr. Dushan P. Milovich	Public Member
Dr. Dinus Briggs	Agricultural Experiment Station
Ms. Gretchen Hoffman	Bureau of Mines & Mineral Resources
Ms. Catherine T. Aimone-Martin	Public Member
Mr. Steven Loring	NMSU – Agricultural Experiment Station
Ms. Sally Malave	Assistant Attorney General

The following members were absent:

Ms. Jami Bailey	State Land Office
Mr. J.R. Roybal	Soil & Water Conservation Districts

Also present:

Mr. Doug Bland	Mining & Minerals Division Director
Ms. Carol Leach	Attorney, Mining & Minerals Division
Ms. Karen Garcia	Mining & Minerals

Chairman Rogers calls the meeting to order at 9:20 a.m.

1. Roll call

Chairman Rogers performs the roll call

2. Approval of the agenda

Chairman Rogers asks if there are any changes to the agenda. Motion by Mr. Tod Stevenson to approve the agenda; second by Mr. Dushan Milovich. The motion passes unanimously on a voice vote.

3. Adoption of minutes of November 16, 2001 New Mexico Coal Surface Mining Commission Meeting and Hearing

Chairman Rogers asks if there is a motion to accept the minutes of November 16, 2001. Amendments and corrections were made to the minutes. With these changes a motion by Mr. Stevenson to accept the minutes; second by Ms. Catherine Aimone-Martin. The motion passes unanimously on a voice vote.

4. Discussion and possible adoption of the Open Meetings Act.

Chairman Rogers opened discussion of the adoption of the Open Meeting Act Resolution. A motion to accept the Open Meeting Act Resolution was made by Mr. Milovich; second by Mr. Lewis. The motion passes unanimously on a voice vote.

5. Other business

Chairman Rogers asked what kind of progress has been made on the Zuni appeals to the court? Ms. Carol Leach responded to the commission that the Fence Lake appeal is pending in front of the district judge, it's exactly the same place. There's been no decision from the district judge yet, so there's no real progress on that front. On the appeal on the permit renewal, there have been a number of discovery motions and motions for summary judgments and things of that nature, Doug Bland the MMD Director has ruled on those. Mr. Chairman asked for any other business? Ms. Carol Leach had one announcement: Mr. Bland will be leaving MMD and his last day of work with us will be December 31st. Chairman Rogers thanked Mr. Bland for all his hard work and wished him well. Mr. Tod Stevenson had a few words for Director Doug Bland, "I would like to put in the record from my standpoint as a Commissioner, I have been very appreciative of the Director Bland's guidance with that, and your commitment both to this Commission with the information that you continue to do, and the way that you have dealt with the public out there on the ground, both from the mine perspective and the other interested parties." Mr. Bland thanked the Commissioner and the Commission for their consideration of matters over the years. Thank you.

6. Adjourn

Chairman Rogers asks if there is any other business before the Commission. After hearing none he asks if there is a motion to adjourn. Motion to adjourn by Mr. Stevenson, second by Mr. Loring. The motion passes unanimously on a voice vote. The meeting adjourns at 9:42 a.m.

Approved:

Minutes by:

R. Q. Rogers, Chairman

Date

Veronica G. Aragon
Commission Clerk

COAL SURFACE MINING COMMISSION

OPEN MEETINGS RESOLUTION

WHEREAS, the Coal Surface Mining Commission met in regular session on December 13, 2002, as per law; and

WHEREAS, Section 10-15-1(B) of the Open Meetings Act (NMSA 1978, Sections 1-15-1 through 10-15-4) states that, except as may be otherwise provided in the Constitution or the provisions of the Open Meetings Act, all meetings of a quorum of members of any board, council, commission or other policy-making body of any state agency held for the purpose of formulating public policy, discussing public business or for the purpose of taking any action within the authority of or the delegated authority of such body, are declared to be public meetings open to the public at all times; and

WHEREAS, any meetings subject to the Open Meetings Act at which the discussion or adoption of any proposed resolution, rule, regulation or formal action occurs shall be held only after reasonable notice to the public; and


WHEREAS, Section 10-15-1(C) of the Open Meetings Act requires the New Mexico Coal Surface Mining Commission to determine annually what constitutes reasonable notice of its public meetings;

NOW, THEREFORE, BE IT RESOLVED by the Coal Surface Mining Commission that:

1. All meetings shall be held in the City of Santa Fe or as indicated on the meeting notice.
2. Regular meetings shall be held as needed at the call of the Chairperson or a majority of commissioners. A proposed agenda will be available from the New Mexico Energy, Minerals and Natural Resources Department during the week before the meeting. Items on which the Commission may take action may be added to the agenda up to twenty-four (24) hours prior to the meeting. Notice of regular meetings will be given ten (10) days in advance of the meeting date.
3. Special meetings may be called by the Chairperson or a majority of the members upon three (3) days notice.
4. Emergency meetings will be called only under circumstances which demand immediate action to protect the health, safety and property of citizens. The Coal Surface Mining Commission will avoid emergency meetings whenever possible. Emergency meetings may be called by the Chairperson or a majority of the members upon twenty-four (24) hours notice, unless threat of personal injury or property damage require less notice.

5. For the purposes of regular meetings described in paragraph 2 of this resolution, notice requirements are met if notice of the date, time, place and general subject matter to be discussed is placed in newspapers of general circulation in the state. The Coal Surface Mining Commission shall also mail copies of the written notice to those broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation which have made a written request for notice of public meetings. Notice shall also be mailed to those who have previously requested advance notice of such meetings and whose names and addresses are on a mailing list maintained by the Energy, Minerals and Natural Resources Department. The notice shall indicate where the public may obtain a copy of the proposed agenda.
5. For the purposes of special meetings and emergency meetings described in paragraphs 3 and 4 of this resolution, notice requirements shall be met by posting notices in the main office of the Energy, Minerals and Natural Resources Department in Santa Fe, and by telephonic notice to those broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made a written request for notice of public meetings.
6. Members of the New Mexico Coal Surface Mining Commission may participate in a meeting of the Commission by means of a conference telephone or similar communications equipment when it is otherwise difficult or impossible for the member to attend in person, provided that each member participating by conference telephone can be identified when speaking, all participants are able to hear each other at the same time, and members of the public attending the meeting are able to hear any member of the Commission who speaks during the meeting.
7. The Coal Surface Mining Commission may close a meeting to the public only if the subject matter of such discussion or action is exempted from the open meeting requirement under Section 10-15-1(E) of the Open Meetings Act.
 - (a) If any meeting is closed during an open meeting, such closure shall be approved by a majority vote of a quorum of the Coal Surface Mining Commission taken during the open meeting. The authority for the closure and the subjects to be discussed shall be stated in the motion for closure and the vote on closure of each individual member shall be recorded in the minutes. Only those subjects specified in the motion may be discussed in a closed meeting; and
 - (b) If the decision to hold a closed meeting is made when the Coal Surface Mining Commission is not in an open meeting, the closed meeting shall not be held until public notice, appropriate under the circumstances and stating the specific provision of law authorizing the closed meeting and the subjects to be discussed, is given to the members and to the general public, and
 - (c) Except as provided in Section 10-15-1(E), any action taken as a result of discussions in a closed meeting shall be made by vote of the Coal Surface Mining Commission in an open public meeting.

Passed by the New Mexico Coal Surface Mining Commission this 13th day of December, 2002



Chairman, Coal Surface Mining Commission