

COAL SURFACE MINING COMMISSION

R. Q. ROGERS, CHAIRMAN

PUBLIC MEETING

December 15, 2004

3:00 P.M.

Porter Hall

Hearing Room of the Energy, Minerals and Natural Resources

Department

1220 South St. Francis Drive, in Santa Fe, New Mexico

AGENDA

- 1. Roll Call**
- 2. Approval of the Agenda**
- 3. Adoption of Minutes of October 24, 2003, Coal Surface Mining Commission Meeting and Hearing**
- 4. Adoption of Open Meetings Act resolution**
- 5. To be advised of proposed Budget and Legislative Changes**
- 6. Other business**
- 7. Adjourn**

**NEW MEXICO COAL SURFACE MINING COMMISSION
MEETING
December 15, 2004**

A New Mexico Coal Surface Mining Commission Public Meeting was held on December 15, 2004 at 3:00 P.M., in Porter Hall Hearing Room of the Energy, Minerals, and Natural Resources Department, on 1220 South St. Francis Drive, Santa Fe, New Mexico.

The following members were present:

Mr. Robert Q. Rogers, Jr.,	Chairman, State Engineer's Office
Ms. Jami Bailey	State Land Office
Ms. Gretchen Hoffman	NM Bureau of Geology and Mineral Resources
Ms. Derrith Watchman-Moore	NM Environment Department
Mr. Craig Walling	Public Member
Dr. Steven Loring	NMSU – Agricultural Experiment Station
Ms. Sally Malave	Assistant Attorney General
Mr. James O'Hara	Clerk
Ms. Stephanie Slone	Court Reporter

The following members were absent:

Mr. J.R. Roybal	Soil & Water Conservation Districts
Mr. Hank Dittmar	Public Member
Ms. Lisa Kirkpatrick	Department of Game & Fish

Also present:

Ms. Rachael Jankowitz	NMG&F
Mr. Ted Apodaca	MMD
Ms. Karen W. Garcia	MMD
Mr. Bill Brancard	MMD

Chairman Rogers calls the meeting to order at 3:00 P.M.

1. Roll call

Chairman Rogers performs the roll call.

2. Approval of the agenda

Chairman Rogers asks if there are any comments/changes to the agenda. Motion to approve agenda by Mr. Walling, second by Ms. Bailey. The motion to approve the agenda passes unanimously on a voice vote.

3. Adoption of minutes of December 13, 2002 New Mexico Coal Surface Mining Commission Meeting

Chairman Rogers asks if there are any changes to the minutes. Commissioner Bailey points out several typographical errors. Mr. Rogers then asks for a motion. A motion to approve the minutes with corrections proposed by Mr. Walling, seconded by Dr. Loring. The motion passes unanimously on a voice vote. Corrections were made to the minutes.

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

Chairman Rogers opened discussion of the adoption of the Open Meeting Act Resolution. Ms. Malave outlined differences between the resolutions used by the Mining Commission versus the CSMC. A difference exists between the two concerning qualifications for a "special" meeting. Ms. Malave advised CSMS either version will work. Dr. Loring proposes a motion to accept the Open Meeting Act Resolution normally used by the CSMC. Ms. Hoffman seconds the motion. The motion passes unanimously on a voice vote.

5. 2005 Legislative Update.

Mr. Brancard gave a summary of efforts to amend the Surface Mining Act. The act will sunset in 2005. MMD attended hearings before the LFC. The LFC is proposing to eliminate the sunset for the Act and to extend the CSMC for another six years.

Mr. Brancard is also proposing an amendment to streamline the appeals process. There are three options currently being proposed all are designed to eliminate the appeals from three to two hearings. A proposal has been sent to the Governor for his approval.

Finally, MMD is proposing to eliminate provisions in the Act that exempt the Director and the CSMC from payment of attorney's fees in the event an appeal or decision is overturned. The amendment is proposed to satisfy the Office of Surface Mining's condition of approval of New Mexico's coal program dating from 1980.

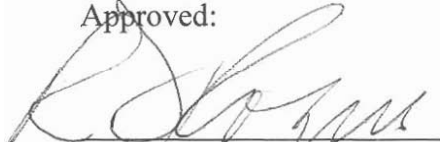
6. Coal Program Highlights for 2004

Mr. O'Hara gave a presentation on the Coal Program highlights from 2004. The program approved four final bond releases and two Phase I bond releases. All bond releases reduced or eliminated performance bonds held by MMD by 19.25 million dollars and returned 2,750 acres of land to the premine owners. Mr. O'Hara also discussed several important permitting actions, pending applications for two new coal mines, MMD ongoing discussion with the Environment Department to apply for NPDES permitting primacy, a new coal fired generation station and the progress on electronic permitting and the recent Academy of Sciences panel convened to evaluate the disposal of coal combustion by-products throughout the country. The panel met on December 6, 2004 in Farmington to review the ash disposal procedures at the San Juan Mine..

8. 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. Walling, seconded by Dr. Loring. The motion passes unanimously on a voice vote. The meeting adjourns at 3:38 P.M.

Approved:

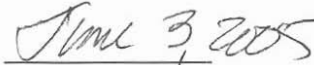


R. Q. Rogers, Chairman

Minutes by:



James O'Hara
Commission Clerk



Date

COAL SURFACE MINING COMMISSION

OPEN MEETINGS RESOLUTION

WHEREAS, the Coal Surface Mining Commission met in regular session on November 29, 2004, 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 29th day of November, 2004


Chairman, Coal Surface Mining Commission

Dec 15, 2004