

BEFORE THE NEW MEXICO MINING COMMISSION

IN RE THE APPEAL OF SAN PEDRO
NEIGHBORHOOD ASSOCIATION FROM
PERMIT No. SF001RE

No. 97-01

ORDER

THIS MATTER is before the Commission on the Energy, Minerals and Natural Resources Department, Mining and Minerals Division's Motion for Reconsideration. The Commission, through Commissioner Fletcher acting as hearing officer, previously ordered a change to Conclusion of Law 5 prior to the Petitioner's appeal to District Court. The full Commission now considers the other aspects of the Motion and, after consideration of all the evidence and circumstances and being otherwise duly apprised,

ORDERS that the Division's Motion is denied because:

a. pursuant to *Armijo v. Save 'n Gain*, 108 N.M. 281,285, 771 P.2d 989, 993 (Ct. App. 1989), the Commission may not reconsider its orders absent express or clearly implied authority to do so; and

b. pursuant to *Kelly Inn No. 102, Inc. v. Kapnison*, 113 N.M. 231, 241, 824 P.2d 1033, 1043 (1992), the Commission loses jurisdiction to act on substantive matters affecting an order on appeal.

The Commission further **ORDERS** the Division to comply with the July 1, 1997, Final Order on or before March 16, 1998.

DATED 2/18/98

BY:


Terry L. Fletcher, Chair
NEW MEXICO MINING COMMISSION