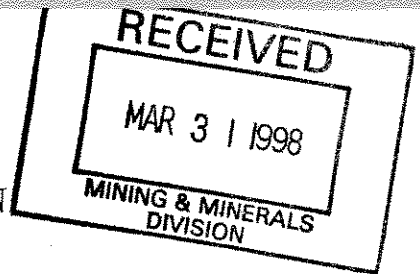


NEW MEXICO MINING COMMISSION



IN THE MATTER OF Chino Mine
and Mill, Permit No. GR009RE

No. 98-01

ORDER

This matter is before the Chair of the New Mexico Mining Commission (Commission) on request by the Mining and Minerals Division (MMD) to hold a pre-hearing conference and on MMD's Motion for More Definite Statement.

Having considered the request for pre-hearing conference, the Chair orders said conference to be held in this matter on April 6, 1998 at 9:00 a.m. at the State Land Office, 310 Old Santa Fe Trail in Santa Fe, New Mexico. The Chair designates, pursuant to an administrative order dated February 27, 1996, Commissioner Bill Brancard as the pre-hearing conference officer and authorizes Commissioner Brancard to rule on all nondispositive pre-hearing procedural issues addressed at the pre-hearing conference.

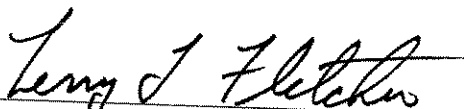
The following matters, at a minimum, shall be addressed at the pre-hearing conference:

- a. contested facts and issues;
- b. proposed stipulations of fact;
- c. discovery and motion deadlines; and
- d. a description of anticipated testimony.

Counsel shall submit no later than April 2, 1998, any proposals for these or other matters to be considered at the pre-hearing conference.

Petitioners shall file any response to MMD's Motion for More Definite Statement by March 30, 1998. MMD shall file any reply by April 2, 1998. Commissioner Brancard shall rule on MMD's motion at the April 6, 1998, pre-hearing conference.

DATED: 3/27/98


Terry L. Fletcher, Chair
New Mexico Mining Commission

BEFORE THE NEW MEXICO MINING COMMISSION

Received

APR 10 1998

IN THE MATTER OF:

Chino Mine and Mill

Permit No. GR009RE

New Mexico Mining Commission

No. 98-01

PRE-HEARING CONFERENCE ORDER

On April 6, 1998, a pre-hearing conference was conducted before the Pre-Hearing Conference Officer, Bill Brancard. The following parties appeared through their counsel: Petitioners Coalition to Save the Kneeling Nun and Local 890 of the Steelworkers of America ("Petitioners") were represented by Douglas W. Wolf; the Mining and Minerals Division of the Energy, Minerals and Natural Resources Department ("MMD") was represented by Carol Leach and Jennifer E. McCumber; and Chino Mines Company ("Chino") was represented by Dalva L. Moellenberg. The parties submitted a stipulation on the procedure for the hearing on the Petition for Review filed by the Petitioners in the above entitled matter and requested the New Mexico Mining Commission ("Commission") to issue a Procedural Order. By the authority of the Commission's Orders of February 27, 1996 and March 27, 1998, the Commission orders the following:

1. An initial hearing on this matter shall commence in Santa Fe during the week of May 18, 1998 or as later ordered by the Commission. The parties agree that a hearing conducted in accordance with this Pre-Hearing Conference Order will be timely and waive any right to a hearing within the time frames set forth in NMSA 1978, §69-36-15 (1993).
2. Doug Bland is designated to serve as Hearing Clerk for the Commission in this appeal.
3. Chino is a party to the appeal and may participate in all proceedings related to the appeal.
4. All persons submitting documents to the Commission in this matter shall file an original and 12 copies with the Hearing Clerk at the following location:

New Mexico Mining Commission
Energy, Minerals and Natural Resources Department
2040 South Pacheco Street
Santa Fe, New Mexico 87505

and shall serve a copy on all other parties of record. Provided that service on other parties is in accordance with this section of the procedural order, a document shall be deemed filed with the Commission on the date it is postmarked. Service on other parties will be same day service by telefax or personal delivery. Every document submitted to the Commission shall be accompanied by a certificate of service by the person serving the document specifying the date, place and manner of service and the names of the persons served.

5. The initial hearing of this matter before the Commission will consist only of oral argument and briefing by counsel for the parties and shall address only legal issues. MMD shall file a statement by April 9, 1998 which shall provide an explanation of the process used by MMD to review the permit application and MMD's interpretation of the Mining Act and Rules with regard to the issues raised in the petition. After MMD files its statement, the parties shall file briefs with the Commission. The briefs shall address the legal issues as raised in the petition and explained in MMD's statement. The parties do not waive their ability to raise legal defenses dispositive of the petition, either in the brief or a motion. Additionally, Petitioners do not waive their ability to challenge the Director's order for insufficient findings or conclusions. Any additional motions, responses or replies made during the initial hearing must be filed concurrently with the briefing schedule. Petitioners shall file an initial brief with the Commission on or before April 22, 1998. MMD and Chino shall file response briefs on or before May 4, 1998. Petitioners may file a reply to the response briefs on or before May 11, 1998. All briefs shall be limited to 20 pages. The parties may designate documents as part of the Commission's record in the initial hearing only after consultation with and the consent of all the parties.

6. The Commission shall hold an initial hearing to hear oral arguments only on the legal issues raised in the briefs. The Commission shall publish notice of the hearing at least 15 days prior to the hearing in accordance with the Commission Order of February 27, 1996. At the hearing each party will be permitted to present its oral argument. Petitioners shall present their oral argument first, followed by MMD and then Chino. Petitioners shall be allowed to make a brief rebuttal after MMD and Chino present their oral arguments. The Commission may establish time limits for oral argument.

7. Within 30 days after the Commission issues an order with findings and conclusions deciding the legal issues, unless the Commission's Order is dispositive of the appeal, the parties agree to attempt to apply the Commission's ruling to the factual issues involved in the appeal and resolve the appeal. If the parties are unable to resolve the appeal within 30 days, the Petitioners will notify the Commission in writing and, within 60 days after the notice, the Commission will hold additional hearings as may be necessary to resolve the case, including an evidentiary hearing if necessary to resolve contested facts.

8. MMD agrees to withdraw the Motion for More Definite Statement filed on March 13, 1998.

9. The Petitioners agree to withdraw the discovery requests served MMD and Chino on March 3, 1998. The Petitioners may refile discovery requests if appropriate prior to any additional hearings before the Commission.

The foregoing is so ordered this 10th day of April, 1998.

NEW MEXICO MINING COMMISSION

By: Bill Brancard
Commissioner Bill Brancard
Pre-Hearing Conference Officer

SUBMITTED AND APPROVED BY:

Douglas W. Wolf
Douglas W. Wolf
Douglas Meldejohn
New Mexico Environmental Law Center
Sanford J. Lewis
Attorneys for Petitioners

4/9/98
Date

Dalva L. Moellenberg
Dalva L. Moellenberg
Gallagher & Kennedy
Attorney for Chino Mines Company

4/9/98
Date

Jennifer E. McCumber
Carol Letch
Jennifer E. McCumber
ATTORNEYS FOR MINING AND NISMETAS DIVISION
Energy, Minerals and Natural Resources Department

4-9-98
Date

RECEIVED
JUN 24 2000
MINING & MINERALS
DIVISION
IN THE MATTER OF
Chino Mine and Mill
Permit No. GR009RE

BEFORE THE NEW MEXICO MINING COMMISSION

Received
JUN 29 2000
No. 98-01
New Mexico Mining Commission

RECEIVED
JUN 29 2000
MINING & MINERALS
DIVISION

ORDER

On Friday, May 26, 2000 the Hearing Officer held a telephonic status conference in this matter. During the course of the status conference the parties represented that they would work cooperatively to establish agreement regarding certain issues related to a permit revision sought by Chino Mines Company (hereinafter "Chino"). The goal of such efforts would be to move matters forward so that the Mining Commission can hear the appeal in a timely manner.

The parties, including Chino, the Energy, Minerals & Natural Resources Department (hereinafter "EMNRD"), and the Petitioners have reached agreements that, in the Hearing Officer's judgment, will advance this matter to resolution. These agreements include the following:

- 1 Chino agrees to prepare and file an application to modify its permit, No. GR009RE, for its existing mining operation. The application for a modification will be submitted to MMD on or before August 31, 2000.
2. MMD will process the application for the permit modification as a proposed permit revision under section 505.B of the Mining Act Rules, 19 NMAC 10.2 § 505.B.
3. Petitioners will not oppose the proposed revision and will not seek a public hearing regarding that proposed revision.
4. Chino and EMNRD will not claim that the Petitioners' appeal is mooted or extinguished in any way by the revision (if approved);

5. Chino and EMNRD will not make any arguments in any ensuing related proceedings (as well as this proceeding) based on the fact of the Petitioners' decision to not oppose the proposed permit revision and to not request a public hearing. For example, Chino and EMNRD will not argue that the Petitioners do not have standing or are not "affected" or "adversely affected" based on the fact that the Petitioners decided not to oppose the proposed permit revision and/or decided not to request a public hearing;

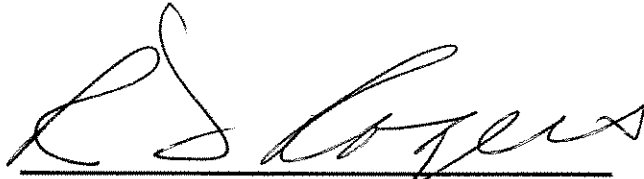
6. The parties will work cooperatively to narrow the issues raised in the appeal in light of the proposed revision (if it is approved). Therefore, based upon the above agreements of the parties, it is ORDERED that::

1. Further Commission hearings on this matter are suspended until after EMNRD takes action on the application for a permit revision to be submitted by Chino.

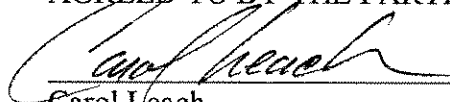
2. Within 30 days after MMD gives notice of its action on the permit application, the parties will meet and confer to attempt to narrow the issues, if any remain, for a hearing on this matter. Within 60 days after MMD gives notice of its action on the permit application, the parties will submit a proposed form of procedural order to the Hearing Officer regarding any further proceedings in this matter and will request the scheduling of a prehearing conference with the Hearing Officer to discuss the proposed procedural order and any disputed procedural issues.

3. Each party reserves the right to request the Commission to set further hearings in this matter at any time for good cause shown. If MMD has not taken final action on the proposed permit modification by March 1, 2001, there will be good cause for resuming the hearing.

Dated: June 27, 2000


Robert Q. Rogers, Jr.
HEARING OFFICER

AGREED TO BY THE PARTIES:


Carol Leach
Mining and Minerals Division of the
Energy, Minerals and Natural Resources
Department
2040 South Pacheco Street
Santa Fe, New Mexico 87505

approved by telephone 6/23/2000
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