

**MINUTES OF THE
NEW MEXICO MINING COMMISSION MEETING**
January 14, 1998

The New Mexico Mining Commission meeting was convened at 9:10 a.m., January 14, 1998 in the OCD Hearing Room at 2040 S. Pacheco St. in Santa Fe, NM. The following members were present:

Bill Brancard	State Land Office
Terry Fletcher	Public Representative
Jim Bailey	Department of Game and Fish
Charles Chapin	NM Bureau of Mines and Mineral Resources
Bob Rogers	State Engineer's Office
Pat Freeman	Alternate
Bob McCaslin	Ex-Officio, NM Agricultural Experiment Station
Robert Light	Alternate
Mark Weidler	Environment Department
Ray Roybal	Ex-Officio, NM Soil and Water Conservation Commission
John Bartlit	Public Representative

1. Roll Call

Each Commissioner announced his name for roll call. New Commission members John Bartlit, Bob Light and Bill Brancard introduced themselves with brief statements.

3. Review of the minutes of the April 16, 1997 meeting

Motion by Mr. Weidler to correct one typographical error and to accept the minutes as amended, with second by Dr. Chapin. Motion passed unanimously.

2. Approval of agenda

Mr. Brancard moved to accept the agenda, with second by Dr. Bailey. Motion passed unanimously.

4. Election of Mining Commission officers

Mr. Weidler moved that Terry Fletcher be elected Chairman. Mr. Bartlit suggested that a diversity of interests be represented in the Chair and Vice Chair positions. Mr. Rogers seconded the nomination. Motion passed unanimously.

Motion by Mr. Weidler with second by Mr. Rogers that the term of the Chair expire at the end of his appointment. Motion passed unanimously.

Motion by Dr. Chapin that Mr. Brancard be elected Vice Chair with second by Mr. Weidler. Motion passed unanimously.

Motion by Mr. Weidler with second by Dr. Bailey that the term of the Vice Chair be concurrent with that of the Chair. Motion passed unanimously.

5. Litigation report

Mr. Simpson provided an update on all cases pending in court.

6. Discussion and possible action on the Mining and Minerals Division's Motion to Reconsider Conditional Order and related issues in the San Pedro Neighborhood Association's appeal (Mining Commission 97-01)

Carol Leach, attorney for MMD, reviewed the orders and motions in this matter, and explained the issues as identified in MMD's motion for reconsideration. The Commission discussed these issues. Mr. Brancard asked whether the Commission can reconsider without provisions in the statute to do so. Ms. Leach explained further that MMD should not be asked to evaluate community impacts because MMD has no jurisdiction or standards for evaluation. Elizabeth German, attorney for the Neighborhood Association, explained her concerns with MMD's motion, and the implications of the motion and the Commission's actions with respect to the case now in district court. Mr. Simpson addressed the appropriateness of reconsideration.

Motion by Mr. Weidler to deny the motion to reconsider because the Commission does not have jurisdiction to address the motion. Second by Mr. Brancard. Motion passed unanimously. Ms. German asked if the Commission will set a new deadline to submit the requested analysis.

Motion by Mr. Rogers to have MMD submit the analysis within 60 days, or by March 16, 1998. Motion passed unanimously.

7. Public hearing on the December 1, 1997 Vecinos del Rio appeal of a decision of the Mining and Minerals Division Director not to require permitting of a basalt rip rap mining site under the Mining Act (Mining Commission 97-07)

Terry Fletcher as hearing officer conducted the hearing.

8. Discussion and possible action on the Vecinos del Rio appeal (Mining Commission

97-07)

Motion by Mr. Freeman to uphold MMD decision with second by Dr. Chapin. The Commission then discussed why and if the Mining Act and Rules are consistent with each other and the Director's decision. Discussion included reference to the fact that the materials mined are actually used in construction. The motion passed by a vote of four in favor and two against, with Mr. Brancard and Mr. Bartlit against and Chairman Fletcher abstaining.

9. **Public hearing on a remand by Santa Fe District Court to the Mining Commission to address whether the Copar South pit pumice operation is exempt from regulation under the Mining Act because it may be classified as sand or gravel. The parties may present evidence of and argument to the Commission on whether the proceedings in this case are moot.**

Terry Fletcher as hearing officer conducted the hearing.

10. **Discussion and possible action on the Santa Fe District Court remand**

Motion by Mr. Bartlit that the issue is not moot because this case is capable of repetition and may have implications beyond this particular case. Second by Dr. Bailey. Motion passed unanimously.

Motion by Mr. Brancard that the Commission uphold MMD's decision to not classify pumice as sand and gravel as used in the Mining Act because of testimony presented by the MMD Director. Second by Dr. Chapin. Motion passed unanimously.

Motion by Mr. Brancard that Mr. Simpson draft an order and circulate the draft to the Commission for individual comment, and that the Chairman will have authority to finalize and sign the order. Second by Mr. Rogers. Motion passed unanimously.

Dr. Chapin thanked Diane Tafoya of the US Forest Service for her information and requested that in the future, if the operation under discussion is on federal land, that a federal representative be present to answer questions.

12. **Other business**

Motion by Mr. Freeman with second by Mr. Weidler that Director Garland prepare a plaque to commend Art Montana and Jeanie Cragin for their service to the Mining Commission.

11. **Mining and Minerals Division's annual report to the Mining Commission**

Motion by Dr. Chapin that the Commissioners take the written report submitted by MMD home, review it, and discuss it at the next meeting. Second by Mr. Weidler. Motion passed unanimously.

Chairman Fletcher asked if MMD has monetary savings due to recent staff vacancies in the Mining Act Reclamation program. Director Garland replied that all fees collected pursuant to the Mining Act are retained in the Mining Act fund and do not revert to the General Fund, and that she would discuss the matter at the next meeting. Mr. Weidler asked about the report on general permits requested by the Commission in late 1996. Dr. Garland replied that the information was in the annual report and would also be discussed at the next meeting.

Motion by Mr. Rogers with second by Mr. Weidler to acknowledge that MMD has submitted the report. Motion passed unanimously.

13. Adjourn

Motion by Chairman Fletcher to adjourn, with second by Mr. Freeman. Motion passed unanimously.

Approved:

Minutes by:

Terry Fletcher, Chairman

Date

Douglas Bland, Clerk