

**MINUTES OF THE
NEW MEXICO MINING COMMISSION MEETING**

February 4, 1997

The New Mexico Mining Commission meeting was convened at 9:00 a.m., February 4, 1997, in the OCD Hearing room of the Energy, Minerals and Natural Resources building at 2040 S. Pacheco St. in Santa Fe, NM. The following members were present:

Art Montana	Chairman and Public Representative
Mark Weidler	Environment Department
Larry Kehoe	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
Jeanie Cragin	Alternate
Pat Freeman	Alternate
Bob McCaslin	Ex-Officio, NM Agricultural Experiment Station
Ray Roybal	Ex-Officio, NM Soil and Water Conservation Commission

1. Roll Call

Each Commissioner announced his name for roll call. Chairman Montana introduced Mr. Pat Simpson, Assistant Attorney General, who will replace Mr. Brancard as attorney for the Commission.

2. Approval of agenda

Ms. Cragin moved to accept the agenda, with second by Mr. Weidler. Motion passed unanimously.

3. Review of the minutes of the November 12-13, 1996 meeting

Dr. Bailey suggested a few changes to the minutes. Chairman Montana requested additional material be added regarding the discussion of adding the Secretary of Energy, Minerals and Natural Resources to the Mining Commission. Motion by Dr. Bailey to accept the minutes as amended, with second by Dr. McCaslin. Motion passed unanimously.

4. Update on pending litigation involving the Mining Commission

Mr. Brancard gave a brief update of the status of litigation pending before the Commission.

5. Discussion of Executive Orders 49 and 53 and their implementation

Dr. Kathleen Garland, MMD Director, explained the contents and intent of the two executive orders, and gave a summary of the current status of their implementation, stating that Executive Order 49 had been superseded by Executive Order 53. Mr. Weidler provided additional material regarding the December 17, 1996 agreement between the Secretaries of Environment and Energy, Minerals and Natural Resources which addresses Executive Order 53.

7. Legislative news - - Mining Act

Motion by Dr. Chapin to address agenda item 7 before number 6. Second by Ms. Cragin. Motion passed unanimously.

Chairman Montana discussed the effort led by the New Mexico Mining Association to develop a legislative proposal to modify the Mining Act, explaining that the Association was involved in negotiations with the environmental community to develop a consensus bill endorsed by all factions.

6. Discussion of procedural issues, including scheduling a hearing, involving a petition for review submitted by the San Pedro Neighborhood Association (Mining Commission 97-01).

Beth German, president and attorney for the Neighborhood Association, identified her preferences for the hearing, indicating her willingness to waive the 60-day requirement if necessary to have a quorum of the Commission. When discussing dates for the hearing, the Commission also decided to hold hearings on the two rulemaking petitions (agenda items 8 and 9) at the same time.

Motion by Ms. Cragin with second by Dr. Chapin to schedule a meeting that will include all three hearings at 9:10 a.m. on April 16, continuing on April 17, 1997 if necessary. Motion passed unanimously.

8. Discussion of whether to hold a public hearing on the January 24, 1997 Petition for Rulemaking submitted by the Mining and Minerals Division (Mining Commission 97-03) and date for the hearing, if any. The Commission may make decisions on procedural matters related to the hearing.

The Commission discussed this item under agenda item 6.

9. Discussion of the October 23, 1996 Petition for Rulemaking submitted by the Department of Game and Fish and date for the hearing. The Commission may make decisions on procedural matters related to the hearing.

The Commission discussed this item under agenda item 6.

10. Discussion of other pending adjudicatory matters

The Commission discussed the January 22, 1997 petition for review submitted by Agronics, Inc., and when to hold a hearing on the petition. Mr. Taylor of Agronics indicated he was not willing to waive the 60-day requirement to set a hearing.

Motion by Ms. Cragin with second by Mr. Fletcher to hold the hearing at 9:00 a.m. on March 4, 1997. Motion passed unanimously.

Mr. Brancard discussed other appeals still pending before the Commission which have been stayed indefinitely. Chairman Montana asked Mr. Brancard or Mr. Simpson to draft letters to the petitioners requesting an update on their intended actions regarding the appeals. Mr. Simpson indicated he would draft the letters.

11. Public hearing on the December 19, 1996 petition for the review of an Order of the Director submitted by Agronics, Inc. (Mining Commission 96-07).

Chairman Montana as hearing officer conducted the hearing. Mr. Simpson acted as counsel to the Commission for the hearing.

12. Possible discussion and action on the December 19, 1996 petition for the review of an Order of the Director submitted by Agronics, Inc.

Motion by Dr. Chapin with second by Ms. Cragin for the Commission to go into executive session. Motion passed unanimously.

Mr. Rogers moved to go back into open session, with second by Mr. Roybal. Motion passed unanimously. The only matters discussed in executive session were legal issues related to the Commission's decision on the Agronics petition.

Mr. Weidler moved to uphold the Notice of Violation and associated revised Penalty Assessment issued to Agronics, Inc. related to the December 19, 1996 petition. Ms. Cragin seconded the motion. Dr. Chapin explained why the petition should be denied, saying that the issue was clear and the regulations require Agronics to pay annual fees for the Clodbuster mine. Motion passed unanimously.

Mr. Simpson stated that he will propose written findings and conclusions within one week and invited written input from Mr. Taylor and MMD. Motion by Ms. Cragin with second by Dr. Bailey that the Commission request Mr. Simpson to propose findings and conclusions in this matter. Motion passed unanimously.

13. Other business

Ms. Cragin briefly discussed the reclamation activities being conducted at LAC's Cunningham Hill mine, and urged Commission members to visit the site to see first-hand the state-of-the-art reclamation at the site. The Commission discussed arranging site visits.

14. Adjourn

Motion by Mr. Weidler to adjourn, with second by Dr. Chapin. Motion passed unanimously.

Approved:

Minutes by:

Art Montana, Chairman

Date

Douglas Bland, Clerk