

**MINUTES OF THE
NEW MEXICO MINING COMMISSION MEETING AND HEARING
February 23, 2000**

The New Mexico Mining Commission meeting and hearing was convened at 9:12 a.m., February 23, 2000 in the Oil Conservation Division (OCD) conference room, 2nd floor of the Energy, Minerals and Natural Resources Department building located at 2040 South Pacheco Street in Santa Fe, New Mexico.

The following members were present:

Terry Fletcher	Chairman and Public Representative
Pete Maggiore	Vice Chairman, Environment Department
Peter Scholle	NM Bureau of Mines and Mineral Resources
Tod Stevenson	Department of Game and Fish
Bob Rogers	State Engineer's Office
Larry Kehoe	State Land Office
J. R. Roybal	Designee, NM Soil and Water Conservation Comm.
John Bartlit	Public Representative
Pat Freeman	Alternate
Daniel Rubin	Commission Attorney

The following members were absent:

Bob McCaslin	Ex-Officio, NM Agricultural Experiment Station
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Announcements: Chairman Fletcher declares a quorum for purposes of conducting the meeting. He also announces the retirement of Bob Light from the Commission and the issuance of "Certificates of Appreciation" to former Commission members not previously recognized, including Amy Fisher, Dr. Charles Chapin and Bob Light.

1. Roll Call

The Commissioners announce their own names.

2. Approval of Agenda

Chairman Fletcher adds a new agenda item after item #6 which is the reading of a memo to the Commission by John Pfeil, the Commission Clerk, regarding incomplete and inconsistent submittals by Agronics. Mr. Scholle moves to adopt the agenda as amended, with second by Mr. Freeman. Motion passes unanimously on a voice vote.

3. Adoption of the minutes of the December 15, 1999 Meeting and Hearing

After the Commission takes a moment to review the minutes, there is a motion by Mr. Rogers to approve the minutes, as presented; second by Mr. Kehoe. The motion passes unanimously on a voice vote.

4. Adoption of the minutes of the January 12, 2000 Meeting and Hearing

Motion by Mr. Kehoe to approve the minutes, as presented; second by Mr. Rogers. The motion passes unanimously on a voice vote.

5. Public hearing, deliberation and action on a petition for rulemaking submitted by MMD, the New Mexico Mining Association, Rio Grande Chapter of the Sierra Club, and Harborlite Corporation regarding a formula for reducing fees on substantially reclaimed acreage (99-08)

Doug Bland, Director MMD provides some background information on the petition and requests that the Commission postpones consideration of it until consensus can be reached. He suggests a hearing date in late May. Mr. Bland answers some questions from Mr. Bartlit about the chances that consensus can be reached.

Chairman Fletcher asks Mr. John White with St. Cloud Mining whether he would like to proceed with his testimony. Mr. White states that in light of MMD's request to postpone, he would prefer to postpone his testimony.

Mr. Bland explains timing issues to the Commission.

Motion by Mr. Rogers to postpone the hearing until May 10, 2000; second by Mr. Scholle. Motion passes unanimously on a voice vote.

6. Public hearing, deliberation and action on the Agronics' appeal (99-09) of the Mining and Minerals Division Director's Order not to issue an extension of time for close-out plan completion pursuant to Section 501.D of the Mining Act Rules

After a statement by Chris Schatzman, MMD Attorney, MMD and Agronics stipulate to Agronics limiting their witnesses to Mr. Taylor and their exhibit to those previously submitted; and to move into evidence MMD eight exhibits. Chairman Fletcher moves the Commission enter, through stipulation, MMD's eight exhibits.

After Counsel swears-in Mr. Taylor he presents testimony to the Commission including answering questions posed by his Counsel, Mr. Christopher Shaw, and other questions posed by various Commissioners.

Mr. Schatzman cross-examines Mr. Taylor.

After Counsel swears-in Mr. Bland and Mr. Schatzman presents an introductory statement, Mr. Bland presents testimony to the Commission including answering questions posed by various Commissioners.

Mr. Shaw cross-examines Mr. Bland.

Chairman Fletcher asks for comments from the audience. Cliff Larsen with the Santa Fe Chapter of the Sierra Club makes a statement.

Motion by Mr. Rogers to go into executive session to discuss with Counsel legal aspects of the appeal; second by Mr. Scholle. Motion passes unanimously on a roll call vote.

The Commission goes into executive session.

Motion by Mr. Stevenson to reconvene to open session; second by Mr. Scholle. Motion passes unanimously on a roll call vote and the meeting reconvenes at 11:16 a.m. Chairman Fletcher states that the only issues discussed in closed session were legal advice on petition 99-09 and advice on stay provisions, in general.

Motion by Mr. Maggiore to uphold the MMD Director's decision not to issue an extension of time for close-out plan completion and to direct Counsel to develop an order indicating same; second by Mr. Rogers. Motion passes unanimously on a roll call vote.

A tentative date for the Commission to approve the order is set for March 22, 2000.

7. John Pfeil reads a memo to the Commission regarding incomplete and inconsistent submittals by Agronics (new item added at beginning of meeting)

Mr. Pfeil reads a memorandum to the Commission about incomplete and inconsistent submittals. Mr. Fletcher questions Mr. Taylor about the issues raised in the memo. Mr. Taylor states that he understands and will attempt to meet Commission requirements in future filings.

8. Deliberation and possible action on Agronics' request for a stay from the Commission (00-01)

Clerk's Note: Because the Chairman was utilizing an earlier version of the agenda, this item came up prior to #9 below, which actually occurs first on the final agenda for this meeting.

Mr. Shaw provides an opening statement for Agronics interspersed with several questions by Chairman Fletcher, Mr. Rubin and Mr. Schatzman. Mr. Shaw requests that all Agronics' exhibits be accepted by the Commission. There is some discussion about the numbering of the exhibits when it is determined that the letter of January 26 from Dolan and Domenici be numbered Exhibit 3A and the order of stay be numbered 3B. Chairman Fletcher moves into evidence Agronics' Exhibits 1-5, including 3A and B. Mr. Shaw then continues his testimony by questioning Mr. Taylor.

Mr. Schatzman requests that MMD's Exhibit 1 be entered into the record; seeing no objections Chairman Fletcher enters it into the record. Additionally, Mr. Schatzman states that there are missing pages in some of the Agronics' Exhibits. He then makes some additional comments.

Mr. Bland provides a brief synopsis of the history of the permit process related to the petition. He then directs the Commissioners to various provisions in the Mining Act Rules and Regulations.

Mr. Schatzman requests that MMD's Exhibit 2 be entered into the record; seeing no objections Chairman Fletcher enters it into the record.

Mr. Taylor cross-examines Mr. Bland.

Chairman Fletcher asks for comments from the audience. Cliff Larsen with the Santa Fe Chapter of the Sierra Club makes a statement.

Motion by Mr. Scholle to go into executive session to discuss with Counsel legal aspects of the appeal; second by Mr. Kehoe. Motion passes unanimously on a roll call vote.

The Commission goes into executive session at 12:50 p.m.

Motion by Mr. Kehoe to reconvene to open session; second by Mr. Rogers. Motion passes unanimously on a voice vote and the meeting reconvenes at 1:00 p.m. Chairman Fletcher states that the only issues discussed in closed session were legal advice on a stay related to petition 00-01.

Motion by Mr. Stevenson to deny stay based on a lack of evidence required under provisions of the Mining Act; second by Mr. Rogers. Motion passes unanimously on a roll call vote.

Mr. Rubin states that this is an order that will be in effect, and will remain in effect, until the merits of the case are heard.

9. Discussion and possible setting of a hearing date for Agronics' appeal (00-01) of the director's order regarding Notice of Violation NOV N99-10-3 and Cessation Order C-00-11-1 1/21/00, and associated penalty assessment

There is some discussion of time within which the hearing must occur. Mr. Roybal makes a motion that hearing for the appeal 00-01 take place on March 22, 2000; second by Mr. Scholle. Chairman Fletcher asks Mr. Taylor if this date is acceptable; Mr. Taylor states that it is acceptable. Motion passes unanimously on a voice vote.

10. Report from Counsel on the status of the interim order in Agronics' appeal (99-03)

Mr. Rubin states that the appeal 99-03 is still pending.

11. Other business

None.

12. Adjourn

Motion by Mr. Rogers to adjourn the meeting: second by Mr. Stevenson. Motion passes unanimously on a voice vote. Meeting is adjourned at 1:10 p.m.

Approved:

Minutes by:

Terry Fletcher, Chairman

Date

John J. Pfeil, Commission Clerk