

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

March 4, 1997

The New Mexico Mining Commission meeting was convened at 9:30 a.m., March 4, 1997, in Mabry Hall of the State Education Building at 300 Don Gaspar, in Santa Fe, NM. The following members were present:

Art Montana	Chairman and Public Representative
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
Pat Freeman	Alternate
Bob McCaslin	Ex-Officio, NM Agricultural Experiment Station
Ray Roybal	Ex-Officio, NM Soil and Water Conservation Commission

The following members were absent:

Mark Weidler	Environment Department
Jeanie Cragin	Alternate

1. Roll Call

Each Commissioner announced his name for roll call.

3. Review of the minutes of the February 4, 1997 meeting

Motion by Dr. Chapin to accept the minutes, with second by Dr. Bailey. Motion passed unanimously.

2. Approval of agenda

Chairman Montana moved to accept the agenda. Motion passed unanimously.

4. Legislature update

Kathleen Garland, Director of Mining and Minerals, gave a brief summary of the provisions of House Bill 1095, which proposes to amend the Mining Act, and the status of the bill in the Legislature.

5. Review and possible action on letters to petitioners who have appeals pending before the Commission that have been stayed indefinitely

Pat Simpson, counsel for the Commission, stated that he hasn't had time to finalize the letters yet, and asked that this item be included on the agenda for the April 16, 1997 Mining Commission meeting. The Commission agreed.

6. Public hearing on the January 22, 1997 petition for the review of an Order of the Director submitted by Agronics, Inc. (Mining Commission 97-02).

Motion by Dr. Bailey, with second by Mr. Kehoe to elect Chairman Montana as hearing officer for today's hearing. Motion passed unanimously.

Motion by Dr. Bailey, with second by Dr. Chapin to elect Chairman Montana as hearing officer for the three hearings scheduled for April 16 and April 17, 1997. Motion passed unanimously.

Chairman Montana and Mr. Simpson briefly talked about the merits of discussing the draft findings and conclusions for the February 4, 1997 hearing on the December 19, 1996 appeal by Agronics, Inc. Because of its possible relevance to the hearing scheduled for today, the Commission chose to address the draft at this time. Copies of the draft were given to Mr. Taylor of Agronics and Jenny McCumber of the Energy, Minerals and Natural Resources Department for review. Mr. Taylor had concerns with Finding No. 1, stating that the mill portion of the Clodbuster mine is currently operational. After discussion with Mr. Taylor and MMD, the Commission decided to strike the phrase "but is not now operational" from the end of Finding No. 1.

Motion by Dr. Bailey, with second by Dr. Chapin to adopt the proposed findings and conclusions, as amended, for the February 4, 1997 Agronics hearing. Motion passed unanimously. As hearing officer for that hearing, Chairman Montana signed the Order.

Chairman Montana as hearing officer for the March 4, 1997 hearing, conducted today's hearing. Mr. Simpson acted as counsel to the Commission.

7. Possible discussion and action on the January 22, 1997 petition for the review of an Order of the Director submitted by Agronics, Inc. (Mining Commission 97-02)

Motion by Dr. Chapin, with second by Mr. Fletcher to deliberate and take action on the petition by Agronics at this time. Motion passed unanimously.

Motion by Mr. Fletcher with second by Mr. Kehoe for the Commission to go into executive session. Motion passed unanimously.

Mr. Rogers moved to go back into open session, with second by Dr. Bailey. Motion passed unanimously. The only matters discussed in executive session were legal issues

related to the Commission's decision on the Agronics petition.

Mr. Rogers moved to uphold the Notice of Violation and associated Penalty Assessment issued to Agronics, Inc. related to the January 22, 1997 petition, and for counsel to prepare draft findings and conclusions based on the hearing record. Dr. Bailey seconded the motion. Mr. Kehoe stated that the issue of whether the San Miguel site is actually located in Section 26 or 27 is not the determining factor in the hearing and decision facing the Commission. The main point is that mining has been conducted without proper permitting, and something needs to be done regarding the site. Motion passed unanimously.

Mr. Simpson stated that he will propose written findings and conclusions, and asked the parties to submit proposed findings and conclusions within two weeks to Doug Bland, hearing clerk, with a copy to Mr. Simpson. Mr. Simpson asked that discussion of the proposed decision and order be placed on the agenda for the April 16, 1997 meeting.

Dr. Chapin complimented MMD on their presentation and preparation for the hearing, and advised future petitioners to be better organized for such hearings than Mr. Taylor. Dr. Chapin stated that he was frustrated with the content and organization of Mr. Taylor's presentation.

8. Field trip to Ortiz

Chairman Montana mentioned that a mine tour of the Ortiz mine has been scheduled for April 15, 1997, and invited participation by MMD.

9. Other business, adjourn

There being no further business, Dr. Chapin moved to adjourn, with second by Dr. Bailey. The motion passed unanimously.

Approved:

Minutes by:

Art Montana, Chairman

Date

Douglas Bland, Clerk