

**MINUTES OF THE
NEW MEXICO MINING COMMISSION MEETING AND HEARING
May 10, 2001**

The New Mexico Mining Commission meeting was convened at 10:00 A.M., May 10, 2001 in the Oil Conservation Division (OCD) conference room on 1st floor of the Energy, Minerals and Natural Resources Department building located at 1220 South Saint Francis Drive in Santa Fe.

The following members were present:

Terry Fletcher	Chairman, Public Representative
Peter Maggiore	Vice Chairman, Environment Department
Pat Freeman	Alternate, Public Representative
Tod Stevenson	Department of Game and Fish
Bob Rogers	State Engineer's Office
Larry Kehoe	State Land Office
John Bartlit	Public Representative
Dinus Briggs	NMSU Agricultural Experiment Station
Bruce Thomson	Alternate, Public Representative
J. R. Roybal	NM Soil and Water Conservation Commission
Daniel Rubin	Commission Attorney

The following members were absent:

Peter Scholle	NM Bureau of Mines and Mineral Resources
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1. Roll call

The Commissioners announce their own names.

2. Approval of agenda

Mr. Rogers moves to approve the agenda, with second by Mr. Kehoe. Motion passes unanimously on a voice vote.

3. Adoption of the minutes of the February 27, 2001 Meeting and Hearing

Mr. Kehoe moves to adopt the minutes, with second by Mr. Rogers. The motion passes unanimously on a voice vote.

4. Discussion on the tenure of the NM Mining Commission Chairman

Chairman Fletcher recuses himself. Turned over to Vice Chairman Maggiore. Mr. Bartlit states that Chairman Fletcher's term as Commissioner has expired. Mr. Rubin

states that Commission is awaiting appointment by Governor's office. Mr. Freeman clarifies that term is until the end of 2002. After brief comments, Mr. Stevenson moves to nominate Chairman Fletcher for a 2 year term as Chairman, with second by Mr. Rogers. The motion passes unanimously on a voice vote.

5. Discussion of Section 301 C. of the Commission's Guidelines for Rulemaking relating to the need for a public meeting to set a hearing date on a petition

Mr. Rubin requests MMD bring a petition to amend the Guidelines. Mr. Bartlit requested to then asked for comments from audience. Mr. Rubin asked that MMD's petition be added to agenda of next meeting.

6. Update on Chino appeal 98-01

MMD Director Bland explained timeline and asked if Commission had a direction. Chairman Fletcher pointed out that Mr. Rogers is Hearing Officer. Mr. Bartlit asked about parties involved. Mr. Freeman asks about possibility and effects of Closeout Plan and Financial Assurance not being submitted by end of year. Director Bland stated he is optimistic it will happen before end of year and that a Cessation Order is not appropriate. Joe Bruner of Phelps Dodge stated that revisions to Closure Plan addresses concerns of Petitioners.

7. Public hearing and possible action on MMD's petition for rulemaking (01-01) submitted February 2, 2001 relating to modifying and extending fee collections for two years

Director Bland discussed petition, submitting Exhibits 1, 2 and 3 to the record. Chairman Fletcher asked for objections and approved Exhibits 1, 2 and 3 for recording. Director Bland amends testimony to include further discussion on Fee Schedule.

11:23 am – Call for break by Chairman Fletcher

11:33 am – Call back to order by Chairman Fletcher

After further discussion by Director Bland, Chairman Fletcher asks for questions from the Commissioners. Director answers questions from all Commissioners. Mr. Thomson requests to amend second paragraph of Section 202.A.4 and second paragraph of Section 202.B.3 to include of the prior year after December 31 in regards to acreage disturbed calculation. Mr. Rubin states that no separate motion is needed for this amendment. Further questions from the Commissioners are answered by Director Bland. Discussion is opened to audience. Mike Bowen, representing the Mining Association, stated that the Mining Association participated in hearings on this issue and that the Association, including all 6 mines facing surcharge, respectfully recommend passage of rule change. Mr. Bartlit commends MMD on holding hearings on petition and Chairman Fletcher echoes praise on behalf of entire Commission. Mr. Rogers moves to accept Petition for Rulemaking (01-01) as amended, with second by Mr. Kehoe. The motion passes by unanimous vote.

Mr. Rubin states that Game and Fish amendment to Fee Schedule is not on agenda; Public Notice covered MMD petition for change but not Game and Fish petition.

1:10 pm – Commissioner Maggiore leaves.

Petition does not have to be refiled by Game and Fish, but must be Public Noticed and be added to next meeting. Game and Fish waived requirement for 60 day deadline to hold Commission Meeting on Petition.

8. Public hearing and possible action on a petition for review of the Director's order submitted by the Gila Resources Information Project (GRIP) on February 27, 2001 (01-02) relating to permit revisions to the Little Rock mine in Grant County

Council for MMD, Ted Apodaca states that the Petition (01-02) has been settled prior to the Meeting. Mr. Rubin states that Commissioners have faxed copy of Settlement Agreement, not original before them. Mr. Apodaca states that original does not vary from faxed copy and that original will be filed with Commission Clerk immediately following the Meeting. Mr. Apodaca states that council for GRIP and Little Rock Mine are not present because both are out of town, and explains details of Settlement Agreement. Mr. Rogers makes a motion to approve the Settlement Agreement, second by Mr. Stevenson. The motion passes by unanimous vote.

9. Discussion of pending litigation

Chairman Fletcher states that there is no need to adjourn to executive session. Mr. Rubin comments on two matters of litigation. First regarding UNC: case is before the Court of Appeals, and there has been no change. Second regarding COPAR: Court of Appeals supported Commission's ruling and litigation moved on to Supreme Court; Mr. Rubin has filed on behalf of Commission and is awaiting response

10. Other business

None

11. Adjourn

Motion to adjourn by Mr. Briggs; second by Mr. Rogers. Motion passes by unanimous vote. Meeting adjourns at 1:20 P.M.

Approved:

Minutes by:

Terry Fletcher, Chairman

Date

Alysia J. Leavitt, Acting Commission Clerk