

**MINUTES OF THE
NEW MEXICO MINING COMMISSION MEETING
JUNE 13-17, 1994**

The meeting of the New Mexico Mining Commission was convened at 10:22 a.m. June 13, 1994 in the Energy, Minerals and Natural Resources second floor conference room. The following members were present:

Judith Espinosa	Chairwoman, Environment Department
Eluid Martinez	State Engineer
Bob McCaslin	Agriculture Experiment Station; Ex-Officio
H.M. Conger	Alternate
H.E. Whitacre	Public Representative
Val Green	Academic Representative
Jeanie Cragin	Alternate
Bob Langsenkamp	Deputy State Land Commissioner
Dick McCleskey	Game and Fish Department
Art Montana	Public Representative

Item 1: Roll Call.

Doug Bland from the Mining and Minerals Division took roll call.

Item 2: Review of the Minutes of February 24, 1994, May 5, 1994 and May 23, 1994 Mining Commission meetings.

Judith Espinosa proposed changes to the minutes of the February 24, May 5, and May 23, 1994 meetings.

Mr. Martinez moved to adopt the minutes with proposed changes of the February 24, 1994 meeting. Mr. Montana seconded the motion. It passed unanimously.

Mr. Whitacre moved to adopt the May 5, 1994 minutes with proposed changes. Mr. McCleskey seconded the motion, and all members present voted in favor.

Mr. Langsenkamp moved to adopt the minutes of May 23, 1994, Mr. Montana seconded the motion, and all members present voted in favor.

Item 3: Consideration of Pending Motions.

Mr. Brancard commenced discussing changes and amendments to previously submitted testimony or submittals. The first was the MMD errata sheet to the June 06, 1994 proposed rules. The second was from the New Mexico Mining Association because two copies of page nine and no page ten were included with the original submission.

Also there was mention of two submittals from Mr. John Robb. One was submitted on behalf on Quivira Mining Company and the other on behalf on Centex American Gypsum Company. These were submitted as amendments to their post-hearing submittals.

Chairwoman Espinosa asked if the Modrall Law Firm submittal could be considered an errata sheet; Mr. Brancard replied by stating that the two companies had not seen a copy of MMD's revisions of the June 06, 1994 regulations, and did not submit these amendments on time.

Mr. Doug Mieklejohn, testifying on behalf of the Concerned Citizens Del Norte, the Sierra Club, and the New Mexico Wilderness Study Committee, asked that the letters from the two companies not be accepted into the record. Ms. Theresa Hughes representing the Environment Department also objected to including the letters into the record.

A motion was made by Art Montana to re-open the record to allow the two errata sheet submittals for MMD and the New Mexico Mining Association. The motion was seconded by Mr. McCleskey. The discussion was postponed until the afternoon, at which time submittals by Mr. John Robb would also be addressed as Mr. Robb was not present at this time.

Mr. Eluid Martinez requested that Mr. Andy Core represent him in his absence and allow Mr. Core voting rights.

Chairwoman Espinosa and Mr. Brancard then gave an overview of the function and the role each commissioner plays, including their voting rights.

Chairwoman Espinosa then asked the Commission if they felt Ex-officio members should be able to make motions for adoption, deletion, changes, etc.

Commissioner McCleskey motioned to allow all members to make motions and Mr. Art Montana seconded the motion. A vote was taken and the motion passed unanimously.

Mr. Brancard gave an overview regarding his position with the commission as legal counsel.

Mr. Art Montana moved to adopt the MMD regulations with the understanding that the commission would revise various parts during the next few days.

A motion was made by Commissioner Montana to meet from 9:30 - 5:00 each day, seconded by Commissioner McCleskey and unanimously passed.

The motion to adopt the MMD regulations was revisited and called for again by Commissioner Montana. Seconded by Commissioner Whitacre.

Discussion of the motion by commissioners and counsel commenced to assure that the commission can alter and/or amend the regulations as they feel necessary. The motion was tabled.

Commencement of Amending the Regulations

Motion: A motion was made by Commissioner McCleskey to re-word the definition of "Acid/Acid Drainage".

Section: 1.1

Final Reading:

"Acid/Acid Drainage" means water that is discharged from an area affected by mineral exploration, mining or reclamation, with a pH of less than 5.5 and in which total acidity exceeds total alkalinity as defined by the latest edition of Standard Methods for the Examination of Water or Wastewater.

Action: Motion was passed with Commissioner Green seconding the motion, Commissioner Whitacre opposing, and Commissioner Core abstaining.

Commissioner McCleskey motioned to re-open the record to address the two letters from Mr. Robb. Commissioner Green seconded the motion and it passed unanimously.

Mr. Robb then read a submittal on behalf of Centex American Gypsum Corp. This was a submittal based on changes made by MMD on their June 06, 1994 regarding the word "Gypsum" in the regulations.

Mr. McCleskey motioned to not accept the letter, and Mr. Montana seconded. The commission voted on the June 08, 1994 submittal by Mr. Robb; the motion passed to exclude the letter with Commissioner Whitacre opposed and Commissioner Langsenkamp abstaining.

The commission then heard the June 10, 1994 letter to the commission from Mr. Robb regarding the phrase "Parent Guarantee".

Mr. Montana then made a motion to not accept the letter, with Commissioner McCleskey seconding.

Commissioner Whitacre opposed the motion, but the motion was passed to not accept the aforementioned letter.

The commission then returned to discussion of the regulations.

Motion: A motion was made by Commissioner Montana to include "exploration or reclamation" in place of "activities" to the definition of "**Contaminated**" at the end of the definition. The motion was seconded by Commissioner Langsenkamp.

Section: 1.1

Action: The motion unanimously passed.

Commissioner Montana then called for the vote on his motion to adopt the MMD June 6, 1994 regulations with the provision that they may be amended. The motion passed with Commissioner Espinosa abstaining, and the regulation were adopted, along with the MMD errata sheet.

Motion: A motion was made by Commissioner McCleskey and seconded by Commissioner Montana to add the word "ecological" before "or commercial" to the definition of "**Important Wildlife**".

Section: 1.1

Action: The motion passed with Whitacre and Core voting no.

Motion: A motion was made by Commissioner Green and seconded by Commissioner Montana to delete the words "aggregate" and "such as gypsum, pumice, scoria and perlite" and "as rock particles or mineral grains" from the definition of "**Quarry rock used as aggregate in construction**", and include "rock" in place of "aggregate".

Section: 1.1

Action: The motion was passed unanimously.

Motion: A motion was made by Chairwoman Espinosa and seconded by Montana to add a definition of "**PERMIT BY RULE**" to read:

Permit by Rule means an authorization to engage in mining activities

without obtaining an individual permit under this Act provided that the conditions specified in Section 3.1.B of these Rules are met.

Section: 1.1

Action: The motion passed with Commissioner Core abstaining.

Motion: A motion was made by Chairwoman Espinosa and seconded by Montana to delete the words "that do not violate" and replace them with "that would ensure compliance with", and add ", regulations and standards" after "laws" in the definition of "**Post-Mining Land Use**".

Section: 1.1

Action: The motion was passed with Commissioner Conger opposing.

Motion: A motion was made by Commissioner McCleskey and seconded by Conger to delete the words "with limited distribution" in the definition of "**Sensitive wildlife species**".

Section: 1.1

Action: The motion was passed unanimously.

Motion: A motion was made by Chairwoman Espinosa and seconded by Montana to add an additional sentence to the end of the definition of "**Riparian area**" which reads:

"For the purposes of these regulations, "Riparian area" does not include areas in or adjacent to man-made bodies of water which neither were originally created in a natural watercourse nor resulted in an impoundment of a natural watercourse."

Commissioner McCleskey motioned and Commissioner Langsencamp seconded to include "perennial or intermittent" before "stream" and delete "but does not include temporary man-made structures" in the same definition.

Section: 1.1

Action: Both motions passed unanimously.

Motion: A motion was made by Chairwoman Espinosa and seconded by Conger to add an additional sentence to the definition of "**Wetlands**" which reads:

"For the purposes of these regulations, "Wetlands" does not include areas in or adjacent to man-made bodies of water which neither were originally created in a natural watercourse nor resulted in an impoundment of a natural watercourse."

Section: 1.1

Action: The motion was passed unanimously.

June 14, 1994

Motion: Motion was made by Commissioner Conger and second by Commissioner McCleskey to include "mining or exploration" before "permit", add a comma after "permit", strike "for a new or existing mining operation" and replace it with "except that minimal impact operations need not comply with public notice requirements contained in this rule."

Section: Page 9-1, Section A1.

Final Reading:

Application for issuance, renewal or revision of a mining or exploration permit, except that minimal impact mines need not comply with public notice requirements contained in this rule.

Action: Motion was unanimously passed.

Motion: Motion was made by Commissioner Conger and second by Commissioner Whitacre to delete 9-1 A(3).

Section: Pg. 9-1, A.3

Action: Motion was unanimously passed.

Motion: Made by Commissioner Montana, second by Commissioner Conger to re-number 9.1.A.4 as 9.1.A.3. Passed unanimously.

Motion: Motion was made by Commissioner Green and second by Commissioner McCleskey and amended by Commissioner McCaslin to add "and tribal organizations" after "counties" in 9.3.B and delete 9.3.E.

Section: 9.3.B and 9.3.E

Final Reading:

Action: Passed unanimously

Motion: Motion was made by Commissioner Conger and second by Commissioner Green to add "modified," before "vacated".

Section: 11.2.A.3

Final Reading:

Action: Motion was unanimously passed.

Motion: Motion was made by Commissioner Conger and second by Commissioner Whitacre to add "that an owner or operator is in violation of a requirement" in place of "that a condition or practice exists at any operation that may be a violation".

Section: 11.2.B.1

Final Reading:

When the Director determines that an owner or operator is in violation of a requirement of the Act,....

Action: Motion was passed unanimously.

Motion: Motion was made by Commissioner Conger and second by Commissioner Whitacre to strike the words "or order" in both places it appears, strike "or the order", add "or" after "Rules," in line 2, add "or the" in place of "a" in line 4, and delete the comma after "permit" in line 4.

Section: 11.2.C, Pg. 11-3

Final Reading:

Action: Motion was passed unanimously.

Motion: Motion was made by Commissioner Montana and second by Commissioner Langsenkamp to strike "or his designee".

Section: 11.4.A

Final Reading:

A notice of violation shall be in writing, signed by the Director and shall set forth:

Action: Motion was passed unanimously.

Motion: Motion was made by Commissioner Conger and opened for discussion by Commissioner McClesky to propose the points and penalty schedules as proposed by the NM Mining Association.

Section: 11.6 and 11.7

Action: Motion failed, with Whitacre and Core voting yes.

Motion: Motion was made and amended by Chairwoman Espinosa and second by Commissioner Montana to add "In no event shall the Director assess or accept a penalty of less than the economic benefit realized as a result of a failure to comply" before the last sentence.

Section: 11.9.A

Action: Motion passed unanimously.

Motion: Motion was made by Commissioner Conger and second by Commissioner Green to delete MMD rules 2.1, 2.2 and 2.3 and substitute with NMMA's proposed fees in post-hearing record except that cap fees in 2.1.A and 2.1.B are changed from \$9,000 and \$15,000 to \$18,000 and \$30,000 respectively, and the cap of \$13,000 in 2.2.A is changed to \$26,000. In addition, the maximum ranges stated in 2.3.B and 2.3.C are doubled from those stated in NMMA's post-hearing record. The motion also stated that the Mining Commission will review this fee schedule prior to 12/31/94.

Section: Rules 2.1, 2.2 and 2.3

Action: Motion was unanimously passed.

Motion: Made by Commissioner McKleskey and second by Commissioner McCaslin to delete the paragraph after item 9. in the definition of "**Minimal impact mining operation**", and delete ", except as set forth below," in the first paragraph.

Section: 1.1

Action: Motion passed with Commissioner Core abstaining.

Motion: Regarding the definition of "**Minimal impact mining operation**", Commissioner Espinosa motioned with second by Commissioner Langsenkamp to add "or intermittent" before "streams" and ", except those excluded by Rule 3.1.A." after "areas" in item 1. In item 3., add "Area of Critical Environmental Concern," after "Study Area,".

Section: 1.1

Action: Motion passed with Commissioner Core abstaining.

Motion: Commissioner McCaslin motioned with second by Commissioner Whitacre to replace "10" with "5" and "100 feet" with "200 yards" in 3.1.B.2 and 3.1.B.3.

Section: 3.1.B.2 and 3.1.B.3.

Action: Motion passed with Commissioner McKleskey voting no and Commissioner Core abstaining.

Motion: A motion was made by Commissioner Conger and seconded by Commissioner Whitacre to replace "500" with "5,000" in 3.2.A.

Section: 3.2.A

Action: The motion failed with Commissioners Whitacre, Montana and McCleskey voting in favor and Commissioners Espinosa, Langsenkamp and Core voting against.

Motion: A motion was made by Commissioner McCleskey and seconded by Commissioner Montana to replace "500" with "2,500" in 3.2.A.

Section: 3.2.A

Action: The motion failed with Commissioners Whitacre, Montana and McCleskey voting in favor and Commissioners Espinosa, Langsenkamp and Core voting against.

The meeting was adjourned at 5 p.m.

June 15, 1994

The meeting reconvened at 9:30 a.m. with Commissioner Gonzales absent. The Commission began with continued discussion of Rule 3.

Motion: A motion was made by Commissioner Conger and seconded by Commissioner Whitacre to strike 3.3.F.

Section: 3.3.F

Final Reading: Stayed the same.

Action: Item was tabled.

Motion: A motion was made by Commissioner Conger to eliminate \$5,000 flat fee from 3.3.F and lower per acre fee from \$2,500 per acre to \$500 per acre.

Section: 3.3.F

Final Reading: Stayed the same

Action: Item was withdrawn after discussion.

Motion: A motion was made by Commissioner Espinosa and seconded by Commissioner Montana to add to subpart "5" to 3.3.K.

Section: 3.3.K.5

Final Reading:

"the Secretary of Environment has provided a written determination stating that the permit applicant has demonstrated that the activities to be permitted or authorized will be expected to achieve compliance with all applicable air, water quality and other environmental standards if carried out as described in the closeout plan. This determination will address applicable standards for air, surface water and ground water protection enforced by the Environment Department or for which the Environment Department is otherwise responsible. The determination shall be made within the 20 day period provided in Section 3.3.I, or the requirement is waived.

Action: Item was passed with Commissioners Espinosa, Montana, McClesky,

Langsenkamp, and Whitacre agreeing, and Commissioners Core and Green abstaining.

Motion: A motion was made by Commissioner Cragin and seconded by Commissioner Langsenkamp to replace "permanent roads and" with "pre-existing roads and" from first sentence of 3.4A.

Section: 3.4A - Minimal Impact New Mining Operations

Final Reading:

"pre-existing roads and"

Action: Item was passed with Commissioners Espinosa, Montana, McClesky, Langsenkamp, Green, and Whitacre in agreement. Commissioner Core abstained.

Motion: A motion was made by Commissioner Conger to strike the last sentence from 3.4.D.1 and add "and the land" to the end of the previous sentence. Also to strike similar wording from other applicable parts of minimal impact.

Section: 3.4.D.1

Final Reading:

"the name and address of the applicant, and if different, the name and address of the owner of the operation and the land."

Action: The item was passed with Commissioners Espinosa, Montana, McClesky, Green, and Whitacre in agreement and Commissioners Core, and Langsenkamp abstaining.

Motion: A motion was made by Commissioner Montana and seconded by Commissioner McClesky to strike "that" from the second sentence of 3.4.J.4.b.

Section: 3.4.J.4.b

Final Reading:

"If a violation occurred prior to the initiation of a legal relationship between the permit applicant and the violator, it shall not be considered for this purpose; and"

Action: Item was passed unanimously.

Motion: A motion was made by Commissioner Espinosa, and seconded by Commissioner Conger to add subpart "6" to 3.4.J, same as 3.3.K.5.

Section: 3.4.J.6

Final Reading:

"the Secretary of Environment has provided a written determination stating that the permit applicant has demonstrated that the activities to be permitted or authorized will be expected to achieve compliance with all applicable air, water quality and other environmental standards if carried out as described in the closeout plan. This determination shall address applicable standards for air, surface water and ground water protection enforced by the Environment Department or for which the Environment Department is otherwise responsible. The determination shall be made within the 20 day period provided in section 3.4H, or the requirement is waived."

Action: The motion was passed with Commissioner Core abstaining.

Motion: A motion was made by Commissioner Whitacre and seconded by Commissioner McCleskey to replace "500" with "1,000" in 3.2.A.

Section: 3.2.A

Action: The motion passed with Commissioner Montana voting against and Commissioners Green and Core abstaining.

Motion: A motion was made by Commissioner Conger and seconded by Commissioner Whitacre to accept NMMA'S 4.2.B.2 and add a new #3.

Section: 4.2.B.2

Action: Motion failed, with Commissioners Montana, McClesky and Langsenkamp opposed, Commissioners Espinosa, Green and Core abstaining.

Motion: A motion was made by Commissioner Langsenkamp and seconded by Commissioner Conger to add "Information in the application which the applicant desires to keep confidential shall be clearly indicated and submitted separately from the rest of the application" at the end of 4.2.B.

Section: 4.2.B

Action: Motion passed unanimously.

Motion: A motion was made by Commissioner Conger and seconded by Commissioner McCleskey to make confidentiality information consistent throughout regs.

Action: Motion passed unanimously.

Motion: A motion was made by Commissioner Whitacre and seconded by Commissioner Conger to add confidentiality information as a new #3.

Section: 4.2.B.3

Final Reading: "When request is made for public review of information designated as confidential, the Director shall notify the operator within 24 hours of the request, and shall provide written notification by certified mail."

Action: Motion passed unanimously.

Motion: A motion was made by Commissioner Montana seconded by Commissioner

Conger to delete "or larger," after "(1:24,000)".

Section: 4.2.D.5

Action: Motion passed unanimously.

Motion: A motion was made by Commissioner Espinosa and seconded by Commissioner Conger to insert ", springs, wetlands, and riparian areas" after "surface water".

Section: 4.2.D.5

Action: Motion passed unanimously.

Motion: A motion was made by Commissioner Cragin with Commissioner Langsenkamp seconding, to add ", and a listing of all mining operations within the United States owned, operated or directly controlled by the applicant, owner or operator and by persons or entities that directly control the applicant and the names and addresses of regulatory agencies with jurisdiction over the environmental aspects of those operations and that could provide a compliance history for those operations over the preceding ten years." after "Commission".

Section: 4.2.D.2

Action: Motion passed with Commissioner Whitacre opposing and Commissioner Core abstaining.

Motion: A motion was made by Commissioner Conger to delete Paragraph E and substitute with Amendment 80 from NMMA post-hearing submittal.

Section: 4.2.E

Action: Motion did not pass, opposed by Commissioners Montana, McCleskey, Langsenkamp and Core, with Commissioner Green abstaining.

Motion: A motion was made by Commissioner Conger and seconded by Commissioner Whitacre to strike 4.3.E.

Section: 4.3.E

Action: Motion passed with Commissioners Langsencamp and Green abstaining.

Motion: A motion was made by Commissioner Espinosa and seconded by Commissioner Montana to add "and wetlands" after both occurrences of "areas" in the new 4.3.F.

Section: new 4.3.F

Action: Motion passed unanimously.

Motion: A motion was made by Commissioner Conger with Commissioner Whitacre seconding the motion which was to replace "Measures shall be taken to minimize impacts on wildlife and wildlife habitat." with "Measures shall be taken during exploration and reclamation to minimize adverse impacts on wildlife and important habitat.", and delete "Important habitat will require increased protective measures.", and replace "wildlife" with "important" in the last sentence.

Section: new 4.3.G

Action: Motion passed unanimously.

Motion: Motion made by Commissioner Cragin with Commissioner Montana seconding the motion to add a new paragraph L which reads: "Blasting shall be conducted to prevent injury to persons or damage to property not owned by the operator. Fly rock shall be confined to the permit area. The Director may require a detailed blasting plan, pre-blast surveys or specific blast design limits to control possible adverse effects to structures."

Section: new 4.3.L

Action: Motion passed with Commissioner Whitacre opposed.

Motion: A motion was made by Commissioner Espinosa and seconded by Commissioner Montana to add "unless the Director grants a nonrenewable extension of time not to exceed two years for good cause shown" after "1997".

Section: 5.1.C

Action: Motion passed unanimously.

Motion: A motion was made by Commissioner Conger and seconded by Commissioner Whitacre to replace 5.2.D.3 with "A statement of the basis on which the applicant has the right to enter the property to conduct the mining and reclamation. The applicant will allow the Director to examine, if necessary, the documents which establish such basis."

Section: 5.2.D.3

Action: Motion passed unanimously.

Motion: A motion was made by Commissioner Whitacre and seconded by Commissioner Conger to strike all of Paragraph B.

Section: old 5.4.B

Action: Motion passed with Commissioner Espinosa opposed.

Motion: Motion made by Commissioner Core with second by Commissioner Conger to

add "by the Director" after "reviewed".

Section: new 5.4.B

Action: Motion passed unanimously.

Motion: A motion was made by Commissioner Espinosa and seconded by Commissioner Montana to strike out "The determination shall be limited to compliance with regulatory programs administered by the Environment Department under authority of laws other than the Act, and shall not impose additional reviews or requirements."

Section: 5.6.J.5

Action: Motion passed, with Commissioner Green abstaining.

The meeting was adjourned at 5 p.m.

June 16, 1994

The meeting was reconvened at 9:30 a.m. with Commissioner Gonzales absent.

Motion: Motion was made by Commissioner Conger and seconded by Commissioner Montana to replace "Prevention" with "Minimization" in the title, and replace "prevent" with "minimize", and add "topsoil stockpiles" after "dumps," in 5.7.C.2.g.

Section: 5.7.C.2.g.

Action: Motion passed unanimously.

Motion: Motion was made by Commissioner Espinosa and second by Commissioner McCleskey to insert "and wetland" after "riparian" in the title and both places it appears in 5.7.C.2.h.

Section: 5.7.C.2.

Action: Motion passed with Commissioner Langsenkamp abstaining.

Motion: Motion was made by Commissioner Conger and second by Commissioner Whitacre to strike out the words "and cumulative" after "long-term".

Section: 6.2.D.13.d.(4)

Action: Motion passed with Commissioner Langsenkamp opposed.

Motion: Motion was made by Chairwoman Espinosa and second by Commissioner Conger to strike out words "rivers, creeks, other" and insert "all watercourses," before the first occurrence of "lakes", and add "and wetland" after "riparian" in the second sentence, and add "watercourses, lakes, springs and riparian and wetland areas" in place of "all streams or tributaries".

Section: 6.2.D.13.g.(1)

Action: Motion passed unanimously.

Motion: Motion was made by Chairwoman Espinosa and second by Commissioner McCleskey to replace g.(3) with "lithology and thickness of each geologic unit below the site indicating which units are water bearing, cross sections and potentiometric maps indicating the location of wells and the ground water flow direction in the vicinity of the site, and references or sources for this information", and to replace g.(4) with "a description of the aquifer characteristics including total dissolved solids concentration, maximum and minimum depths to ground water, direction of flow and gradients, transmissivity and storativity, and a general description of ground water quality, and references or sources for this information; and"

Section: 6.2.D.13.g.(3) and 6.2.D.13.g.(4)

Action: Motion passed unanimously.

Motion: Motion made by Commissioner Conger and seconded by Commissioner Whitacre to replace "A procedure for addressing" with "A contingency plan to mitigate impacts to wildlife when there has been an", and to replace "which includes:" with "that may impact wildlife," in the first sentence of d. Also to delete all of items (1) and (2) in d.

Section: 6.2.D.15.d

Action: Motion passed unanimously.

Motion: Motion by Commissioner Conger and seconded by Commissioner Montana to add "meet the following requirements established to" after "shall" in the first sentence.

Section: 6.3.C

Action: Motion passed with Commissioner Langsenkamp abstaining.

Motion: Motion made by Commissioner Conger with second by Commissioner Montana to replace the first 2 sentences with "Measures shall be taken to minimize adverse impacts on wildlife and important habitat."

Section: 6.3.C.2

Action: Motion passed with Commissioners Langsenkamp and Core abstaining.

Motion: Motion made by Commissioner Conger with second by Commissioner Whitacre to replace this subpart with "If revegetation is a component of the reclamation plan and if sufficient topsoil is present in the disturbed or borrow areas, it shall be collected and preserved to the extent practicable. Sufficient topsoil means that it is of sufficient quality to conform to the definition of topsoil. Any necessary topdressing may be obtained from areas to be disturbed or borrow areas and shall be salvaged separately from other materials as needed for reclamation."

Section: 6.3.E.2

Action: Motion passed with Commissioner Green abstaining.

Motion: Motion made by Commissioner Espinosa with second by Commissioner Conger to delete the last sentence which reads: "The determination shall be limited to compliance with regulatory programs administered by the Environment Department and shall not impose additional reviews or requirements."

Section: 6.6.B.3

Action: Motion passed unanimously.

Motion: Motion made by Commissioner McCleskey with second by Commissioner Cragin to delete 6.8.F, and to delete the identical subpart in Rule 5.

Section: 6.8.F and 5.5.F

Action: Motion passed with Commissioner Core opposed.

Motion: Motion made by Commissioner Conger with second by Commissioner Whitacre to replace 7.1.A with "If, due to a temporary cessation of mining operations exceeding 180 days, a permittee desires to suspend reclamation pursuant to a permit for an existing or new mining operation, the permittee shall submit an applicaiton for a permit revision for standby status pursuant to this Rule and Rule 5.5 or 6.8."

Section: 7.1.A

Action: Motion passed with Commissioners Espinosa and Langsenkamp abstaining.

Motion: Made by Commissioner Core with second by Commissioner Espinosa to delete last sentence in 7.1.F.2.

Section: 7.1.F.2

Action: Motion passed unanimously.

The meeting was adjourned at 5 p.m.

June 17, 1994

The meeting reconvened at 9:30 a.m. with Commissioner Gonzales absent. Discussion began with Rule 2.

Motion: Motion was made by Commissioner Langsenkamp with second by Commissioner Conger to strike column labeled "Range (existing)" and strike "(new)" on remaining column header in Section 2.3.B, and to increase \$18,000 to \$28,000 in Section 2.1.A.

Section: 2.1 and 2.3

Action: Motion was passed unanimously.

Motion: Motion was made by Commissioner Whitacre, second by Commissioner McCaslin to add "or guarantor" after "company" in line 2 of E.1, and line 1 of E.2.

Section: 12.7.E.1 and 12.7.E.2

Action: Motion was passed unanimously.

Motion: Motion was made by Commissioner Whitacre to add "or country" after "state".

Section: 12.8.D.3

Action: Motion was passed unanimously.

Motion: Motion was made by Commissioner Conger and second by Commissioner Whitacre to delete ", whether pollution of surface and ground water is occurring, the

probability of future occurrence of such pollution, and the estimated cost of abating such pollution."

Section: 12.10.B

Action: Motion passed, with abstentions made by Commissioners Langsenkamp, Green and Core.

Motion: Motion was made by Commissioner Espinosa and second by Commissioner Core to add "at a public meeting with opportunity for public comment" at the end of the sentence.

Section: 13.1

Action: Motion passed unanimously.

Motion: Motion was made by Commissioner Conger and second by Commissioner Whitacre to add new section 13.3 as outlined in NMMA post-hearing submittal amendment number 237.

Section: new 13.3

Action: Motion failed, with Commissioner Whitacre in favor and abstentions from Commissioners Espinosa and Core.

Motion: Motion was made by Commissioner Conger and second by Commissioner Whitacre to add a new section 13.3 as follows:

"13.3 Coordination Among Agencies

A. Avoidance of duplicative and conflicting requirements will be accomplished through coordinated procedures that address the following:

1. Avoid imposing requirements which are duplicative of or which conflict with any other applicable state or federal law, regulation or standard.

2. Enforcement of other statutes or regulations to be conducted by the agency charged with that responsibility under the applicable state or federal statute or regulation.

3. Information provided to other agencies may be provided to the director to partially or completely meet these requirements.
4. Financial assurance required under the Act shall not duplicate nor be less comprehensive than federal or state financial requirements.
5. Maintain a location or locations for maps and other information to assist in the determination of whether lands are not subject to minimal impact exploration and mining.
6. Coordination of inspections with other regulatory agencies.

B. Coordination of Review

The Director shall, as appropriate, consult with the staff of other federal and state agencies responsible for the review of mining operation for compliance with other applicable laws and the issuance of permits for the mining operations, for the purpose of avoiding duplication and conflicting requirements of the Act and these Rules."

Section: new 13.3

Action: Motion unanimously passed.

Motion: Motion was made by Commissioner Cragin and second by Commissioner Montana to add a new rule 14 for new mines only.

Section: new 14

Action: Motion withdrawn.

Motion: Motion was made by Commissioner Langsenkamp to replace "30 days" with "60 days" in subparts 1 and 2.

Section: 12.10.C.1 and 12.10.C.2

Action: Motion withdrawn.

The Commission then discussed scheduling of the next possible meeting for final adoption of the New

Mexico Mining Regulations. The second week of July seemed to be the favorite.

Commissioner Conger motioned to adjourn, the commission agreed and the meeting adjourned at 12:30 p.m. on June 17, 1994.