

**MINUTES OF THE
NEW MEXICO MINING COMMISSION MEETING
July 16, 1996**

The New Mexico Mining Commission meeting was convened at 9:10 a.m., July 16, 1996, in room 307 of the State Capitol building 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
Andrew Sandoval	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

The following member was absent:

Alex Gonzales Ex-Officio, NM Soil and Water Conservation Commission

1. Roll Call

Chairman Montana welcomed Mr. Fletcher and Mr. Freeman in their new positions on the Mining Commission. Each Commissioner announced his name for roll call.

2. Approval of Agenda

Chairman Montana asked that two items be added to the agenda, including discussion of the definition of sand and gravel under item #6, the Update on the Small Miners Initiative, and a discussion of MMD's Data pamphlet under Other Business.

3. Review of the Minutes of the April 24, 1996 Meeting

Ms. Cragin moved to approve the minutes, with second by Dr. McCaslin. Motion passed unanimously.

4. Review and Possible Action on Annual Open Meetings Resolution

After brief discussion, Mr. Weidler moved to adopt the existing Open Meetings Resolution for the

next year without amendment. Second by Ms. Cragin. Motion passed unanimously.

5. Review and Possible Action on Orders of the Mining Commission on United Nuclear Corp. Appeals 95-1, 95-2, 95-3, Hearing Held 4/3/96.

Laura Fashing, Commission Attorney, gave a brief history of the appeal, the hearing and the proposed Orders. Dal Moellenberg, counsel for United Nuclear, then explained his remaining objections to the proposed Orders prepared by MMD. Mr. Moellenberg said that his objections fall into three categories: 1) objections to specific language, 2) substantive disagreements with findings and conclusions, and 3) constitutional issues. He stated that following the Commission's direction on April 24 to work with MMD to resolve objections to the original proposed Orders, MMD had only addressed category 1 concerns. In his opinion, resolving category 2 objections would require re-hearing the case. Ms. McCumber, counsel for MMD stated that, in her opinion, neither the Mining Commission nor MMD had the authority to address the constitutional issues raised by United Nuclear Corp. Ms. McCumber also represented that the tape of the hearing indicated that the Commission did not resolve the constitutional issues. Consequently, the proposed Orders did not address the constitutional issues.

After discussion, Ms. Cragin moved to accept the three proposed Orders, with second by Mr. Weidler. Motion carried with six votes in favor; Mr. Fletcher abstained because of a conflict of interest.

6. Update on the Small Miners Initiative

Dr. Kathleen Garland, Director of MMD, outlined the purpose of the Initiative, and explained that MMD conducted five public meetings across the state and sent a questionnaire to small mining operations, recreational miners, and other interested parties to obtain information on problem areas. Chairman Montana expressed concern about the tone of the questionnaire, which seemed to assume that problems existed with the regulatory process for small miners. Dr. Garland described the information received through the meetings and questionnaire, and summarized the areas in the Mining Act and Rules of greatest concern. She then discussed an Action Plan for addressing these areas. Mr. Weidler and Dr. Chapin endorsed the idea of establishing mechanisms for site-specific evaluation of operations for eligibility for minimal impact status.

Following discussion, it was suggested that MMD submit a Petition for Rulemaking to address issues that can be addressed through Rule changes. Dr. Garland suggested the Commission schedule a meeting in late August to allow this process to be concluded prior to the beginning of the 1997 Legislative session. The next Commission meeting was set for August 20.

Chairman Montana discussed the need for a definition of 'sand and gravel,' and the difficulty in

choosing such a definition. He said the best way may be to regulate these commodities on the basis of end use. Dr. Chapin disagreed. No decision was reached by the Commission as to how to proceed on this issue.

7. Other Business

Chairman Montana asked MMD whether there was an updated version of its *New Mexico Mineral Industries Data 1992* brochure. Doug Bland explained that the publication is updated annually and the 1996 version is currently being compiled and would be available shortly.

Laura Fashing raised the issue of the lack of term lengths for the Mining Commission officers, and the fact that currently there is no Vice Chairperson. After discussion, Mr. Fletcher suggested a Vice Chairperson be elected. Chairman Montana asked that it be included on the agenda for the next meeting.

Mr. Weidler moved to adjourn the meeting, with second by Dr. Chapin. Motion passed unanimously, and the meeting was adjourned at 11:45 a.m.

Approved:

Minutes by:

Art Montana, Chairman

Date

Douglas Bland, Clerk