

**MINUTES OF THE
NEW MEXICO MINING COMMISSION
REGULAR MEETING AND HEARING
Thursday, September 18, 2003 and continued on
Friday, September 19, 2003 and Monday, November 17, 2003**

The New Mexico Mining Commission meeting was convened at 10:11 A.M., September 18, 2003 in Room 307 of the State Capitol Building (the Roundhouse) in Santa Fe, NM. The meeting was tape-recorded and the tapes are in the custody of the commission clerk.

The following members were present:

Gary King	Chairman and Public Representative
Bob Rogers	State Engineer's Office
Derrith Watchman-Moore for Ron Curry	Environment Department
Jim Barker for Peter Scholle	NM Bureau of Geology and Mineral Resources
Larry Kehoe	State Land Office
Lisa Kirkpatrick	Department of Game and Fish
Leroy Apodaca	Public Representative
Hank Saxe	Alternate
Sally Malavé	Commission Attorney

The following members were absent:

Steve Loring	Ex-Officio, NM Agricultural Experiment Station
J. R. Roybal	Designee, NM Soil and Water Conservation Comm.
Leroy Dugger	Alternate

Roll call

The Commissioners announce their own names.

Approval of the agenda

Chairman King asks if there are any changes to the agenda; hearing none and with no opposition the agenda is approved.

Adoption of the minutes of the July 9, 2003 meeting

Chairman King asks if there are any changes to the minutes; hearing none and with no opposition the minutes are approved.

Hearing, deliberation and action on MMD's petition for rulemaking (03-01) regarding financial assurance.

All witnesses testifying regarding petition are sworn in.

Bill Brancard, Director of the Mining and Minerals Division (MMD), provides testimony to the Commission on the need for changes to Part 12 of the Mining Act Rules as provided in MMD's petition 03-01. Chairman King enters all MMD exhibits into the record.

Rod Ventura and Jim Kuipers testify on behalf of the Gila Resources Information Project (GRIP) on petition 03-01. Chairman King enters all GRIP exhibits into the record.

Cliff Larsen testifies on behalf of the Rio Grande Chapter of the Sierra Club on petition 03-01.

Mike Bowen testifies on behalf of the NM Mining Association on petition 03-01.

Hearing is dismissed for the day at 6:45 P.M.

Friday, September 19, 2003

The hearing on petition 03-01 is continued in Room 307 of the State Capitol Building and called to order by Chairman King at 9:01 A.M.

Francisco Apodaca of Amigos Bravos reads a written statement into the record.

Chairman King opens a Commission discussion on the proposed language changes and calls Bill Brancard to the table to discuss amendments to proposed language.

The Commission adopted certain changes to Part 12 of the Rules, and rejected other changes. The amendments are shown in the attached Part 12 and the reasons for the changes are provided in the attached Order.

Chairman King requests that the hearing be continued to address only the issues of net present value calculations and third-party guarantees.

Motion by Mr. Rogers to continue the hearing on Nov. 17, 2003 in Porter Hall, second by Mr. Kehoe. Motion passes unanimously on a voice vote. The parties to the hearing are requested to work together on reaching consensus. The parties may submit revised language on net present value and third-party guarantees by October 27, 2003.

Discussion on Governor's Performance review and possible 2004 legislation

Bill Brancard provides information on the possibility of combining the New Mexico Mining Commission with the Coal Surface Mining Commission

Other business

None

Recess

Mr. Rogers moves to recess until November 17, with second by Ms. Watchman-Moore. Motion passes unanimously on a voice vote. Meeting recesses at approximately 10:25 A.M.

Continuation of the Public Hearing petition 03-01 on the topics of net present value calculations and third-party guarantees occurred on Monday, November 17, 2003 in Porter Hall (Oil Conservation Division conference room) 1st floor of the Energy, Minerals and Natural Resources Department building located at 1220 South St. Francis Dr. in Santa Fe.

The following members were present:

Gary King	Chairman and Public Representative
Bob Rogers	State Engineer's Office
Derrith Watchman-Moore for Ron Curry	Environment Department
Peter Scholle and Jim Barker	NM Bureau of Geology and Mineral Resources
Larry Kehoe	State Land Office
Lisa Kirkpatrick	Department of Game and Fish
Leroy Apodaca	Public Representative
Hank Saxe	Alternate
Sally Malavé	Commission Attorney

The following members were absent:

Steve Loring	Ex-Officio, NM Agricultural Experiment Station
J. R. Roybal	Designee, NM Soil and Water Conservation Comm.
Leroy Dugger	Alternate

Roll Call

The Commissioners announce their own names.

Continuation of hearing, deliberation and possible action on MMD Petition 03-01 regarding financial assurance - - limited to net present value (NPV) calculations and third-party guarantees (from September 18 and 19, 2003).

Chairman King calls the hearing to order at 10:10 A.M.

Bill Brancard testifies.

After an introduction by Dal Moellenberg, Stan Rideout, Joe Brunner and John Kelly testify on behalf of Phelps Dodge.

Rod Ventura, on behalf of the Gila Resources Information Project (GRIP), states that GRIP is withdrawing its proposed language changes and is supporting Sierra Club's proposed language.

Cliff Larsen testifies on behalf of the Rio Grande Chapter of the Sierra Club.

Lou Rose of Montgomery and Andrews, and Abe Jacobson, both as members of the public, provide comments on MMD's proposal.

Subsection C of 19.10.12.1205: Motion by Mr. Kehoe to change “ten” to “five” in the MMD proposal, second by Mr. Rogers, voice vote unanimous in favor of changing proposed language.

Paragraph 1 of Subsection C of 19.10.12.1205: Motion by Ms. Watchman-Moore to change “may” to “shall” in the last sentence of the MMD proposal and to add “within one year of the effective date of this rule” to the end of the sentence, second by Mr. Scholle. A roll call vote was taken to make the above changes to the proposed language prior to voting whether or not to adopt the changes, which yielded the following results: Apodaca, no; Kehoe, yes; Rogers, yes; Kirkpatrick, no; Scholle, yes; Watchman-Moore, yes; King, yes. Changes to proposed language are adopted by a 5/2 vote.

Motion by Ms. Watchman-Moore to adopt the MMD proposed rule change language as amended above, second by Mr. Apodaca. Motion passes unanimously on a roll call vote.

Motion by Mr. Kehoe to adopt MMD’s proposed language in Paragraph 1 of Subsection G of 19.10.12.1208 (including a and b), second by Mr. Rogers. A roll call vote yielded the following result: Apodaca, no; Kehoe, yes; Rogers, yes; Kirkpatrick, yes; Scholle, yes; Watchman-Moore, yes; King, no. Changes are adopted by a 5/2 vote.

Motion by Mr. Kehoe not to adopt MMD’s proposed language in Subparagraph c of Paragraph 8 of Subsection G of 19.10.12.1208, second by Mr. Rogers. Motion passes unanimously on a roll call vote. Changes not adopted.

Motion by Mr. Rogers not to adopt MMD’s proposed language in Paragraph 3 of Subsection G of 19.10.12.1208, second by Mr. Scholle. Motion passes without opposition.

Motion by Mr. Rogers to give authority to the MMD Director to make needed typographical changes to the rule, second by Mr. Scholle. Motion passes without opposition.

Adjourn

Mr. Apodaca moves to adjourn, with second by Mr. Rogers. Motion passes unanimously on a voice vote. Meeting adjourns at approximately 4:10 P.M.

Approved:

Minutes by:

Gary King, Chairman

Date

John J. Pfeil, Commission Clerk