

MINUTES OF THE
NEW MEXICO MINING COMMISSION MEETING
October 27, 1995

The New Mexico Mining Commission meeting was convened at 9:10a.m., October 27, 1995 in Room 318 of the State Capitol Building. The following members were present:

Art Montana	Chairman and Public Representative
Bob Rogers	State Engineer Office
Tracy Hughes	Environment Department
David Vackar	State Land Office
H.M. Conger	Public Representative
Jim Bailey	Department of Game & Fish
Charles Chapin	NM Bureau of Mines & Minerals Resources
Bob McCaslin	Ex-Officio
Jeanie Cragin	Alternate
Terry Fletcher	Alternate

1. Roll Call

Each Commission Member announced his name for roll call.

2. Approval of the agenda

To accomodate scheduling conflicts, it was proposed that agenda item #5 be addressed after lunch.

Motion was made by Mr. Conger to approve the agenda as amended. Second by Mr. Vackar. Motion passed unanimously.

3. Approval of the Minutes of the August 4, 1995 Meeting

Motion was made by Mr. Vackar to approve the minutes of the August 4, 1995 meeting as amended. Second by Mr. Conger. Motion passed unanimously.

4. Report on Pending Litigation

Mr. Brancard, Commission Attorney, proposed to go into executive session. Motion was made by Mr. Vackar to go into executive session to discuss pending litigation on Mining Act Rules. Second by Mr. Cragin. Motion passed unanimously on a roll call vote. In executive session, discussion was limited to items listed in the motion for closure.

6. Public hearing on:

A) Proposed amendments to the Mining Act Rules mandated by the New Mexico Administrative Code.

Motion was made by Mr. Bailey with second by Ms. Cragin to remove the second sentence from Section 105 of the proposal regarding the objective of the regulations. Motion passed unanimously.

Motion was made by Ms. Hughes with second by Mr. Conger to add to Section 105. "This Part is designed to promote responsible utilization and reclamation of lands affected by exploration, mining or the extraction of minerals that are vital to the welfare of New Mexico." Motion passed unanimously.

Motion was made by Ms. Cragin to accept the amendments proposed by the Mining and Minerals Division as amended by the Commission. Second by Mr. Conger. Motion passed unanimously.

B) Proposed amendments to Mining Act Rule 1 - Definitions (New Mexico Mining Association, Petitioner).

Motion was made by Mr. Vackar to adopt the proposed amendment to Rule 1, Definitions as amended by the Environment Department. Second by Mr. Conger. Motion passed unanimously.

For both hearings, a verbatim recording was made and is available from the Commission Clerk.

7. Deliberation and possible action on the proposed amendments to Rule 2 - Fees (hearing held September 5-6, 1995).

Mr. Brancard gave a brief history of the Fees issue, and discussed the four fee proposals which have been submitted. Motion was made by Mr. Bailey to take notice of NM Court of Appeals opinion in the Commission's deliberations on Rule 2 - Fees. Second by Mr. Fletcher. The Commission discussed which fees in the Joint Final Proposal comply with the court opinion, and what options it had for adoption of certain fee provisions.

The Commission discussed the Joint Final Proposal and whether all provisions complied with the Court of Appeals opinions.

Motion was made by Mr. Conger with second by Ms. Cragin to adopt all fee provisions in the Joint Final Proposal submitted by MMD and the Mining Association except Rules 2.1A(4), 2.1C, 2.1H through 2.1L, and 2.2F. The motion also stated that the hearing record would be reopened for comment and additional proposals on these Rules. Motion passed unanimously.

Motion was made by Mr. Conger to set a November 15, 1995 deadline for submittal of additional proposals, and for November 29, 1995 as the date to hear testimony on the proposals. Motion

passed unanimously. Motion was made by Mr. Bailey to amend Rule 2 by adding Rule 2.5, Surcharge for Game and Fish Activities. Suggested language was passed out by Mr. Bailey.

Motion was seconded by Mr. Vackar. Discussion ensued regarding the merits of this amendment and whether to include a similar proposal by the Office of Cultural Affairs. Motion passed with a 4 to 3 vote; Commissioners Chapin, Conger and Rogers voted against.

Motion was made by Mr. Conger not to adopt the petition by the Office of Cultural Affairs. Second by Mr. Vackar. Motion passed unanimously.

5. Discussion and possible action on procedural matters, including scheduling a public hearing, regarding the September 7, 1995 petition for review filed by United Nuclear Corporation.

Motion was made by Mr. Vackar to approve the consolidated pre-hearing stipulation and order and to appoint Chairman Montana as the Hearing Officer. Second by Mr. Conger. Passed unanimously. Mr. Montana set Wednesday, April 3, 1996 as the date for the public hearing.

8. Other business

Mr. Vackar asked if someone from the Mining and Minerals Division could provide a briefing on possible legislative initiatives at the next Commission meeting. Ms. Carol Leach from EMNRD agreed to give a presentation.

Motion was made by Mr. Montana to adjourn. Second by Mr. Chapin. Passed unanimously.

Meeting was adjourned at 2:41p.m.



Chairman Art Montana

Minutes by:



Frances Garcia