

**MINUTES OF THE
NEW MEXICO MINING COMMISSION
REGULAR MEETING AND HEARING
FRIDAY, DECEMBER 13, 2002 and
SATURDAY, DECEMBER 14, 2002**

The New Mexico Mining Commission meeting was convened at 11:06 am, December 13, 2002 in Room 311 of the State Capitol Building (the Roundhouse) in Santa Fe, NM. The meeting and hearing were tape-recorded and the tapes are in the custody of the commission clerk.

The following members were present:

Terry Fletcher	Chairman and Public Representative
Bob Rogers	State Engineer's Office
John D'Antonio, Jr.	Environment Department
Peter Scholle	NM Bureau of Geology and Mineral Resources
Larry Kehoe	State Land Office
Tod Stevenson	Department of Game and Fish
John Bartlit	Public Representative
Steve Loring	Ex-Officio, NM Agricultural Experiment Station
Pat Freeman	Alternate
Bruce Thomson	Alternate
Sally Malavé	Commission Attorney

The following members were absent:

J. R. Roybal	Designee, NM Soil and Water Conservation Comm.
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Announcements: Chairman Fletcher declares a quorum for purposes of conducting the meeting.

Roll call

The Commissioners announce their own names.

Approval of the agenda

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

Adoption of the minutes of the September 13, 2002 Meeting

After the Commission takes a moment to review the minutes, there is a motion by Mr. Rogers to approve the minutes with second by Mr. Scholle. The motion passes unanimously on a voice vote.

Discussion and adoption of the Open Meetings Act Resolution

Mr. Rogers moves to adopt the resolution, with second by Mr. D'Antonio, Jr. Motion passes on a voice vote with all voting yes except Mr. Bartlit.

Discussion and setting of a hearing date for MMD's Petition for Rulemaking (02-05) regarding annual fees

Mr. Freeman moves to set a hearing date on MMD petition 02-05 of March 25, 2003 with second by Mr. Scholle. Motion is then amended to continue the hearing, if needed on March 26. Mr. Scholle seconds amended motion. Motion passes unanimously on a voice vote.

Hearing, deliberation and action on three petitions for review submitted by the Chino Mines Company for their Chino operations (Petition 02-02); Phelps Dodge Tyrone, Inc. for their Tyrone operations (Petition 02-03); and Cobre Mining Company for their Cobre operations (Petition 02-04)

In Petitions 02-02, 02-03, and 02-04, the mine operators requested that the Commission rescind the Mining and Minerals Division's (MMD) Notice of Violation (NoV) or, alternatively, that the Commission find civil penalties associated with missing the October 1, 2002 deadline are unwarranted under the circumstances of these cases. Additionally, the petitions requested that the Commission modify associated abatement schedules.

Note: The hearing on Petitions 02-02, 02-03 and 02-04 started on December 13 in room 311 of the State Capitol, and went from 11:06 am to 6:02 pm. The hearing was continued on December 14th in Porter Hall at the Energy, Minerals and Natural Resources Building, and went from 10:06 am to 8:28 pm.

Hearing began with acceptance by the Commission of the Consolidated Pre-Hearing Stipulation and Procedural Order, which consolidated the hearing record for Petitions 02-02, 02-03, and 02-04, and laid out some procedural details for the hearing.

Hearing continued until 6:02 pm at which time Mr. Rogers moved to adjourn until 10 am Saturday in Porter Hall with second by Mr. D'Antonio, Jr. Motion passes unanimously on a voice vote.

Chairman Fletcher reconvened hearing Saturday, December 14, 2002 at 10:06 am. Roll call was taken: Mr. Thomson, Mr. Freeman, Mr. D'Antonio, Jr., Chairman Fletcher, Mr. Stevenson, Mr. Scholle, and Mr. Bartlit were present. Chairman Fletcher enters into the record that a quorum was present. Hearing continues. Mr. Kehoe arrives at 1:29 pm.

At 7:18 pm the hearing record on Petitions 02-02, 02-03, and 02-04 is closed. After discussion among the Commissioners there is a motion by Mr. Kehoe to reject the petitions, with a second by Mr. Bartlit. After a short discussion among the Commissioners, Chairman Fletcher conducts a roll call vote:

Mr. D'Antonio, Jr. – in favor
Chairman Fletcher – in favor
Mr. Stevenson – in favor
Mr. Kehoe – in favor

Mr. Scholle – in favor

Mr. Bartlit – in favor

The motion to reject the petitions is approved unanimously.

Discussion of the issuance of a final order concludes with a motion by Mr. Scholle stating: NoVs on all three mines are upheld; the abatement schedule will be modified to change the starting date of the 7 (02-02), 9 (02-04) and 12 (02-03) month timelines of the three mines from the date of issuance of the NoVs to the date of issuance of the final discharge plan of NMED for each mine; and the time fixed for abatement may be extended by the MMD director if good cause is shown. Mr. Freeman seconds the motion. Chairman Fletcher conducts a roll call vote:

Mr. Bartlit – in favor

Mr. Scholle – in favor

Mr. Kehoe – in favor

Mr. Stevenson – in favor

Chairman Fletcher – in favor

Mr. D'Antonio, Jr. – in favor

The motion is approved unanimously. The Commission directs the commission counsel to prepare a final order.

Mr. Thomson makes a motion that the Chairman send a formal letter to the NMED expressing concern over the length of time this discharge permit has taken and that the hearing officer give the Commission her best estimate of the date by when these findings will be reviewed.

Chairman Fletcher seconds the motion. Motion passes unanimously on a voice vote.

Presentation of MMD's Annual Report to the Commission

Chairman Fletcher requests the Annual Report in written form and states that he hopes MMD staff will have an opportunity at a later meeting to make a presentation.

Other business

None.

Adjourn

Motion by Mr. Scholle to adjourn with second by Mr. D'Antonio, Jr. Motion passes unanimously on a voice vote. The meeting adjourns at 8:28 P.M.

Approved:

Minutes by:

Gary King, Chairman

Date

John J. Pfeil, Commission Clerk