

**COAL SURFACE MINING COMMISSION**

**R. Q. ROGERS, CHAIRMAN**

**SPECIAL MEETING  
NOVEMBER 28, 2000  
2:00 P.M.**

**ENERGY MINERALS AND NATURAL RESOURCES  
DEPARTMENT  
OIL CONSERVATION DIVISION CONFERENCE ROOM  
SANTA FE, NEW MEXICO**

- 1. Roll call**
- 2. Approval of the agenda**
- 3. Adoption of minutes of July 14, 2000 Coal Surface Mining Commission Meeting and Hearing**
- 4. Discussion and possible adoption of the Open Meetings Act Resolution**
- 5. Update on pending litigation**
- 6. Other business**
- 7. Adjourn**

**NEW MEXICO COAL SURFACE MINING COMMISSION**  
**MEETING and HEARING**  
November 28, 2000

A New Mexico Coal Surface Mining Commission Public Meeting was held on November 28, 2000 at 2:00 p.m., in the Oil Conservation Division conference room on 2040 South Pacheco Street, Santa Fe, New Mexico.

The following members were present:

|                            |                                       |
|----------------------------|---------------------------------------|
| Mr. Robert Q. Rogers, Jr., | Chairman, State Engineer's Office     |
| Ms. Jami Bailey            | State Land Office                     |
| Mr. Greg Lewis             | Environment Department                |
| Mr. Tod W. Stevenson       | Department of Game and Fish           |
| Mr. Dushan P. Milovich     | Public Member                         |
| Dr. Dinus Briggs           | Agricultural Experiment Station       |
| Ms. Gretchen Hoffman       | Bureau of Mines and Mineral Resources |

The following members were absent:

|                 |                                     |
|-----------------|-------------------------------------|
| Mr. John Bokich | Public Member                       |
| Mr. J.R. Roybal | Soil & Water Conservation Districts |

Also present:

|                  |  |
|------------------|--|
| Mr. Pat Simpson  | Assistant Attorney General             |
| Mr. Jim O'hara   | MMD                                    |
| Mr. Bruce Rogoff | Attorney, Mining and Minerals Division |

Chairman Rogers calls the meeting to order at 2:00 p.m.

**1. Roll call**

Chairman Rogers performs the roll call.

**2. Approval of the agenda**

Chairman Rogers asks if there are any changes to the agenda. Motion by Mr. Dinus Briggs to approve the agenda; second by Mr. Greg Lewis. The motion passes unanimously on a voice vote.

### **3. Adoption of minutes of July 14, 2000 Coal Surface Mining Commission Meeting and Hearing**

Chairman Rogers asks if there is a motion to accept the minutes of July 14, 2000. Amendments and correction were made to the minutes. With these changes a motion by Mr. Stevenson to accept the minutes; second by Ms. Jami Bailey. The motion passes unanimously on a voice vote.

### **4. Discussion and possible adoption of Open Meetings Act resolutions.**

Ms. Bailey had a couple of questions; does this resolution allow meeting notices to be sent by e-mail, which would be a lot faster and cheaper than regular mail, and whether Energy and Minerals posts meeting notices and agendas on their website for the Commission. Jim O'Hara - to answer the second question yes, they are posted on the website. Jim also mentions that as far as e-mail we could adopt an e-mail strategy if the Commission would like. Pat Simpson rounded out the discussion. The Open Meetings Act, although it was recently amended two or three years ago, hasn't caught up with the electronic information age yet, there is not specific prohibition against or encouragement of e-mail notice. E-mail would be to the benefit of the Department with respect to their specific mailing list that they maintain. Pat mentioned that it would be up to the department and their policy whether or not they solicit these people on their mailing through e-mail or regular mail.

Ms. Jami Bailey made a motion that the department solicit input on whether people would like to be on the mailing, either hard copy or e-mail. Definitely the commissioners who attend would be on the e-mail list; second by Dinus Briggs. The motion passes unanimously on a voice vote.

A motion to adopt the Open Meetings Act Resolutions as presented was made by Mr. Dinus Briggs; second by Ms. Jami Bailey. The motion passes unanimously on a voice vote.

### **5. Update on pending litigation**

A memorandum was sent to all Commissioners regarding pending litigation. Pat Simpson provided a brief overview. Pat mentioned that everything was on hold right now and as far as he understood it, everything has been fully briefed. The district courts are very reluctant to set substantial hearing during the holiday season. Pat thought a date of sometime early January would be a point for an oral argument. Chairman Rogers advised the Commission that Karen Fisher from the Environment Department will be the attorney representing us.

### **6. Other business**

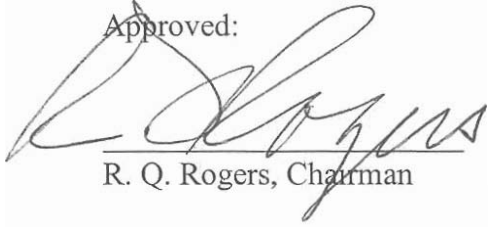
No other business.

### **7. Adjourn**

Chairman Rogers asks if there is any other business before the Commission. After hearing none he asks if there is a motion to adjourn. Motion to adjourn by Mr. Dinus Briggs, second by Mr.

Tod Stevenson. The motion passes unanimously on a voice vote. The meeting adjourns at 2:20 p.m.

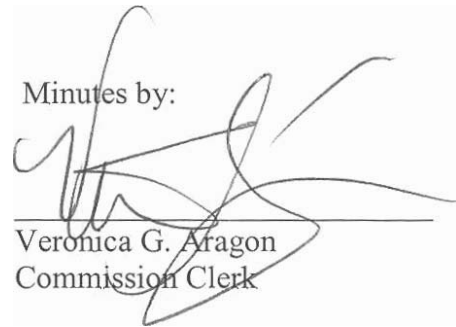
Approved:



R. Q. Rogers, Chairman

Nov 15, 2001  
Date

Minutes by:



Veronica G. Aragon  
Commission Clerk

**COAL SURFACE MINING COMMISSION**  
**OPEN MEETINGS RESOLUTION**

WHEREAS, the Coal Surface Mining Commission met in regular session on November 28, 2000, as per law; and

WHEREAS, Section 10-15-1(B) of the Open Meetings Act (NMSA 1978, Sections 1-15-1 through 10-15-4) states that, except as may be otherwise provided in the Constitution or the provisions of the Open Meetings Act, all meetings of a quorum of members of any board, council, commission or other policy-making body of any state agency held for the purpose of formulating public policy, discussing public business or for the purpose of taking any action within the authority of or the delegated authority of such body, are declared to be public meetings open to the public at all times; and

WHEREAS, any meetings subject to the Open Meetings Act at which the discussion or adoption of any proposed resolution, rule, regulation or formal action occurs shall be held only after reasonable notice to the public; and

WHEREAS, Section 10-15-1(C) of the Open Meetings Act requires the New Mexico Coal Surface Mining Commission to determine annually what constitutes reasonable notice of its public meetings;


NOW, THEREFORE, BE IT RESOLVED by the Coal Surface Mining Commission that:

1. All meetings shall be held in the City of Santa Fe or as indicated on the meeting notice.
2. Regular meetings shall be held as needed at the call of the Chair or a majority of commissioners. A proposed agenda will be available from the New Mexico Energy, Minerals and Natural Resources Department during the week before the meeting. Items on which the Commission may take action may be added to the agenda up to twenty-four (24) hours prior to the meeting. Notice of regular meetings will be given ten (10) days in advance of the meeting date.
3. Special meetings may be called by the Chairperson or a majority of the members upon three (3) days notice.
4. Emergency meetings will be called only under circumstances which demand immediate action to protect the health, safety and property of citizens. The Coal Surface Mining Commission will avoid emergency meetings whenever possible. Emergency meetings may be called by the Chairperson or a majority of the members upon twenty-four (24) hours notice, unless threat of personal injury or property damage require less notice.
5. For the purposes of regular meetings described in paragraph 2 of this resolution, notice requirements are met if notice of the date, time, place and general subject

matter to be discussed is placed in newspapers of general circulation in the state. The Coal Surface Mining Commission shall also mail copies of the written notice to those broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation which have made a written request for notice of public meetings. Notice shall also be mailed to those who have previously requested advance notice of such meetings and whose names and addresses are on a mailing list maintained by the Energy, Minerals and Natural Resources Department. The notice shall indicate where the public may obtain a copy of the proposed agenda.

6. For the purposes of special meetings and emergency meetings described in paragraphs 3 and 4 of this resolution, notice requirements shall be met by posting notices in the main office of the Energy, Minerals and Natural Resources Department in Santa Fe, and by telephonic notice to those broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made a written request for notice of public meetings.
7. The Coal Surface Mining Commission may close a meeting to the public only if the subject matter of such discussion or action is exempted from the open meeting requirement under Section 10-15-1(E) of the Open Meetings Act.
  - (a) If any meeting is closed during an open meeting, such closure shall be approved by a majority vote of a quorum of the Coal Surface Mining Commission taken during the open meeting. The authority for the closure and the subjects to be discussed shall be stated in the motion for closure and the vote on closure of each individual member shall be recorded in the minutes. Only those subjects specified in the motion may be discussed in a closed meeting; and
  - (b) If the decision to hold a closed meeting is made when the Coal Surface Mining Commission is not in an open meeting, the closed meeting shall not be held until public notice, appropriate under the circumstances and stating the specific provision of law authorizing the closed meeting and the subjects to be discussed, is given to the members and to the general public, and
  - (c) Except as provided in Section 10-15-1(E), any action taken as a result of discussions in a closed meeting shall be made by vote of the Coal Surface Mining Commission in an open public meeting.

Passed by the New Mexico Coal Surface Mining Commission this 28<sup>th</sup> day of November, 2000



Chairman, Coal Surface Mining Commission