

# **BERNADETTE**

**Plumbing & Heating Co., Inc.**  
4915 Pan American Place NE  
Albuquerque, New Mexico 87109-4322

Phone (505) 344-3012  
Fax (505) 345-9289

NM License #1787  
MM-98 GF-09 LP-05

**February 27, 2014**

**Margaret Nieto**  
Albuquerque Bernalillo Air Quality Control Board  
P.O. Box 1293  
Albuquerque NM 87103-1293

**Re: upcoming SWOP petition**

**Dear Ms. Nieto:**

**Just a note to ask you to disallow this petition.**

**The provisions outlined in this petition are prejudiced against low income and minority neighborhoods. If allowed to become policy, the result would be to discourage new construction and job creation within said areas.**

**The oppressive requirements to new construction would become another reason for a prospective business to not bother establishing or expanding themselves in our city. The time (12 Months) to gather information on air quality monitoring data in a given area, if not already available, would put off almost all new construction and/or remodel. The cost of gathering this data would give the prospective new company another reason to not come to Albuquerque.**

**The requirement to show medical effects on pregnant women and the aged is speculative at best, even for the medical profession.**

**Our present economy cannot stand another blow to the construction industry and the jobs that go with it.**

**The information from Virginia, California and Washington DC may apply there, but our own needs should be our priority.**

**Please do not let this SWOP petition become the way Albuquerque conducts itself.**

**Sincerely**



**Thomas W. Bernadette**



## New Mexico Chapter

March 1, 2014

Margaret Nieto, Control Strategies Supervisor  
Albuquerque Bernalillo Air Quality Control Board  
PO Box 1293  
Albuquerque, New Mexico 87103

RE: Southwest Organizing Project's petition to the Bernalillo Air Quality Board to adopt a new air quality regulation

Dear Ms. Nieto,

Associated Builders and Contractors of New Mexico is a construction trade organization that has been in existence here in New Mexico for the past 34 years. We represent the merit shop construction industry and our membership is comprised of general contractors, sub-contractors, suppliers and associates who serve the construction industry.

Associated Builders and Contractors of New Mexico is writing this letter in support of the ACI and NAIOP response to the Southwest Organizing Project's petition to amend the New Mexico Administrative Code by adopting a new air quality regulation. This regulation requires, as a condition to issuing an air permit, that any person who is planning to construct, modify, or operate a source within Bernalillo County first conduct a "cumulative impacts analysis". We support the request that the Board deny the Southwest Organizing Project's request.

Requiring any person seeking an application for an air permit under the Air Quality Control Act, would entail that entity pay for a "cumulative impacts analysis", consisting of, among other things, twelve months of air quality monitoring for specified air emissions within a five mile radius of the proposed project. A detailed health effects study and cumulative effects analysis would also have to be conducted as part of the "cumulative impacts analysis" and related application process. This requirement is more stringent than the federal regulation which does not include this monitoring requirement.

This regulation would impose an unnecessary and expensive regulatory burden not only on our members but on anyone doing business in the City of Albuquerque and parts of Bernalillo County. The construction industry in New Mexico has been heavily impacted by the lagging economy. To impose yet another burdensome, expensive regulation on an already crippled industry is unwarranted.

Sincerely,

Roxanne Rivera-Wiest

# New Mexico Bid Depository System, Inc.

March 3, 2014

Albuquerque Air Quality Control Board  
Environmental Health Department  
c/o Ms. Margret Nieto  
P.O. Box 1293  
Albuquerque, NM 87103

Honorable Members of the Board:

This letter is in regard to the Petition to Amend Title 20, Chapter 11 of the New Mexico Administrative Code to Require and Consideration of Cumulative Air Impacts. The hearing is scheduled on March 12, 2014 at the Albuquerque Air Quality Control Board meeting.

The New Mexico Bid Depository echoes the statement made by the Association of Commerce and Industry of New Mexico (ACI) and the New Mexico Chapter of the National Association of Industrial and Office Properties (NAIOP) in opposing amending the New Mexico Administrative Code.

The New Mexico Bid Depository works daily with general contractors, mechanical contractors and electrical contractors. We work daily with contractors who are bidding public works projects and often see that many times bids are rejected or rebid due to increasing costs of materials and labor. If the amendment takes place it is potentially an item that would increase the cost of the project, placing contractors at a disadvantage and adding money to the customer's cost. Our industries are continually fine tuning their methods of building projects to promote clean air and a healthy environment. An example of this would be installing heating and cooling equipment that are 95% efficient, plumbing equipment that conserves water, promoting the use of solar electricity and geo-thermal heating, promoting green building codes and continued environmental improvements in all aspects of construction. In the last several years the

down turn in the economy has been devastating to our industry. Currently we are 50 to 60 percent unemployed forcing our highly trained crafts men and women to leave New Mexico to seek employment in other states.

There is hope on the horizon the industry has heard there are potential business ventures looking to locate to New Mexico. The Albuquerque metro area is a prime location for business such as TESLA who is looking at New Mexico to build a 10 million square foot plant to build electric cars. This project would provide hundreds of construction jobs and when completed, provide up to 6,500 full time jobs building electric cars. These cars will assist in eliminating the use of fossil fuels thus protecting the environment and providing a future for New Mexico.

The New Mexico Bid Depository and New Mexican's strongly believe that if the proposed regulations are adopted it will not only put New Mexico at a disadvantage for the TESLA plant and any future manufacturing plants, It will further devastate our industry and only serve to prolong the deep recession for our industry. We respectfully ask the Albuquerque Air Quality Board to deny the request to amend the Title 20, Chapter of the New Mexico Administrative Code.

Respectfully,

A handwritten signature in black ink, reading "Anna Montañó". The signature is written in a cursive style with a large initial "A" and a long, sweeping underline.

Anna Montañó  
Administrative Assistant



March 3, 2014

Albuquerque Air Quality Control Board  
Environmental Health Department  
c/o Margret Nieto  
P.O. Box 1293  
Albuquerque, New Mexico 87103

Honorable Members of the Board:

This letter is in regard to the Petition to Amend Title 20, Chapter 11 of the New Mexico Administrative Code to Require and Consideration of Cumulative Air Impacts. The hearing is scheduled on March 12, 2014 at the Albuquerque Air Quality Control Board meeting.

The New Mexico Chapter of SMACNA (SMACCA of NM) echoes...  
The Sheet Metal and Air Conditioning Contractors Association of New Mexico (SMACNA-NM) echoes the statement made by the Association of Commerce and Industry of New Mexico (ACI) and the New Mexico Chapter of the National Association of Industrial and Office Properties (NAIOP) in opposing the Petition Request to amend the New Mexico Administrative Code.

SMACCA of NM represents sheet metal contractors and suppliers. A majority of our membership are New Mexico born second and third generation companies. We as an industry take protecting our air, water and environment seriously. We want to provide a future of clean air, water and environment for our children, our employees' children, and our clients. Our industry is in the forefront of this initiative by installing heating and cooling equipment that can be up to 95% efficient, plumbing equipment that conserves water, the promotion and use of solar electricity and geothermal heating, and supporting sound and reasonable green building codes and environmental improvements in all aspects of construction.

In the last several years the down turn in the economy has been devastating to our industry. Currently Sheet Metal Workers are 50 to 60 percent unemployed forcing our highly trained Craftsmen and women to leave New Mexico to seek employment in other states.

SMACCA of NM believes there is hope on the horizon. The industry has heard there are potential business ventures looking to locate in New Mexico. The Albuquerque metro area is a prime location for businesses such as TESLA who is considering New Mexico as one of four other locations to build a 10 million square foot plant to build batteries for their electric cars. This project would provide hundreds of construction jobs and when completed provide up to 6,500 full time jobs building these batteries and maintaining the facility. These cars will assist in reducing our dependence on foreign fossil fuels and create a cleaner environment for the country and the future of New Mexico.

SMACCA of NM strongly believes that if the proposed regulations are adopted it will not only put New Mexico at a disadvantage for the TESLA plant as well as any future manufacturing plants, It will further devastate our industry and only serve to prolong the deep recession for our industry and all New Mexicans.

Therefore, SMACCA of NM respectfully asks the Albuquerque Air Quality Board to deny the request to amend the Title 20, Chapter of the New Mexico Administrative Code.

Respectfully,



Ronda Gilliland,  
Assistant Executive Director  
Sheet Metal & Air Conditioning Contractors Association of NM

# Mechanical Contractors Association

OF NEW MEXICO, INC.



March 3, 2014

Albuquerque Air Quality Control Board  
Environmental Health Department  
c/o Margret Nieto  
P.O. Box 1293  
Albuquerque, New Mexico 87103

Honorable Members of the Board:

This letter is in regard to the Petition to Amend Title 20, Chapter 11 of the New Mexico Administrative Code to Require and Consideration of Cumulative Air Impacts. The hearing is scheduled on March 12, 2014 at the Albuquerque Air Quality Control Board meeting.

The Mechanical Contractors Association of New Mexico (MCA of NM) echoes the statement made by the Association of Commerce and Industry of New Mexico (ACI) and the New Mexico Chapter of the National Association of Industrial and Office Properties (NAIOP) in opposing amending the New Mexico Administrative Code.

The MCA of NM represents plumbing and mechanical contractors and suppliers. A majority of our membership are New Mexico born second and third generation companies. We as an industry take protecting our air, water and environment seriously. We want to provide a future of clean air, water and environment for our children, our employee's children and our clients. Our industry has and is taking steps to provide that future by installing heating and cooling equipment that are 95% efficient, plumbing equipment that conserves water, promoting the use of solar electricity and geo-thermal heating, promoting green building codes and continued

environmental improvements in all aspects of construction. In the last several years the down turn in the economy has been devastating to our industry. Currently we are 50 to 60 percent unemployed forcing our highly trained crafts men and women to leave New Mexico to seek employment in other states.

There is hope on the horizon the industry has heard there are potential business ventures looking to locate to New Mexico. The Albuquerque metro area is a prime location for business such as TESLA who is looking at New Mexico to build a 10 million square foot plant to build electric cars. This project would provide hundreds of construction jobs and when completed provide up to 6,500 full time jobs building electric cars. These cars will assist in eliminating the use of fossil fuels thus protecting the environment and providing a future for New Mexico.

The MCA of NM and New Mexican's strongly believe that if the proposed regulations are adopted it will not only put New Mexico at a disadvantage for the TESLA plant and any future manufacturing plants, It will further devastate our industry and only serve to prolong the deep recession for our industry. We respectfully ask the Albuquerque Air Quality Board deny the request to amend the Title 20, Chapter of the New Mexico Administrative Code.

Respectfully,

A handwritten signature in black ink, appearing to read 'Steve Crespín', with a long horizontal flourish extending to the right.

Steve Crespín, Executive Director  
Mechanical Contractors Association of New Mexico

cc: MCA of NM Board of Directors

# CITY OF ALBUQUERQUE



March 3, 2014

Albuquerque-Bernalillo County  
Air Quality Control Board  
1 Civic Plaza, Room 3023  
Albuquerque, NM 87103

Subject: Southwest Organizing Project's Petition to Require  
Review and Consideration of Cumulative Air Impacts.

Dr. Dona Upson, Chair  
Members of the Air Quality Board;

I am the Director of the Economic Development Department of the City of Albuquerque. The Economic Department works to create, diversify, and enhance job growth and promote business development and stability here in the City. Economic development is vital – it is essential to the health, safety, and welfare of Albuquerqueans because economic growth broadens and strengthens state and local tax bases, and provides meaningful employment opportunities; thereby enhancing the quality of life.

PO Box 1293

Albuquerque is recovering from recession. The Economic Development Department must be able to continue to stimulate investment and job opportunities and the retention of sustainable existing employment for the general welfare of the inhabitants of our City. The actions requested by this Petition would detract greatly from moving the City forward.

Albuquerque

NM 87103

The Petitioners' are asking this Board to consider a Petition that would require every small businessman that has even the most minor air permit source, to collect extreme amounts of data prior to initiating any commerce at all. No other city or state anywhere in the United States has this type of regulatory barrier.

www.cabq.gov

I am convinced that just holding a hearing on this outrageous request would send the wrong message to commerce considering relocating to our city – that we would spend precious resources of our time and City money to entertain this extreme proposition. Therefore, I respectfully request that your decide tonight is deny the Southwest Organizing Project's Petition to amend the air quality regulations to require data collection, and the review and consideration of cumulative air impacts.

A handwritten signature in blue ink, appearing to read 'Gary Oppedahl'.

Thank you.

Gary Oppedahl, Director  
Economic Development  
City of Albuquerque



March 4, 2014

Dr. Dona Upson, Chair  
Albuquerque-Bernalillo County Air Quality Board  
P.O. Box 1293  
Albuquerque, NM 87103

Dear Dr. Upson:

We write regarding the petition filed by Southwest Organizing Project requesting the Albuquerque-Bernalillo County Air Quality Control Board to adopt new air quality regulation. The petition, as we understand it, would require that as a condition to issuing an air permit, that any person who is planning to construct, modify, or operate a source within Bernalillo County first conduct a "cumulative impact analysis." We request that the Board deny the Petitioner's request.

Our request for denial is based on a "Response in Opposition to Petition to Amend New Mexico Administrative Code" prepared and submitted jointly by ACI and NAIOP. As an industry partner with substantial interest in the real estate development sector, we are concerned about procedures that substantially exceed Federal Air Quality standards and impose severe penalty to the development process.

While our members are primarily engaged in facilitating the buying and selling of residential real estate, we feel that this petition impacts the ability to create jobs – a malady that is severely hindering a true economic recovery in Albuquerque. We believe that the proposed changes would impose an unnecessary and expensive regulatory burden on those doing business and contemplating doing business in the City of Albuquerque and the unincorporated areas of Bernalillo County.

In closing, we request that the Board deny the Petitioner Southwest Organizing Project's request to adopt a new air quality regulation.

Sincerely,

John Kynor, President

1635 University Blvd. NE, Albuquerque, NM 87102 - Phone: 505-842-1433 Fax: 505-842-0448 -  
[www.gaar.com](http://www.gaar.com)

## **Nieto, Margaret E.**

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**From:** Joe Farr <jfarr@rosemontrealty.com>  
**Sent:** Tuesday, March 04, 2014 5:50 PM  
**To:** Nieto, Margaret E.  
**Subject:** Petition to Amend Title 20, Chapter 11 of the NM Administrative Code

Ms. Nieto,

I would like to provide input and respectfully request that the Air Quality Board deny the "Petition to Amend Title 20, Chapter 11 of the NM Administrative Code", submitted by Southwest Organizing Project. Having been in the real estate business for decades, I believe I have a decent understanding of business and real estate issues. I would like to remind the Board that we don't operate in a vacuum and we, as a local economy, are in constant competition for new business with other locations. Having said that, with the recent announcement that Tesla is looking to build a plant that would provide for 6,500 local jobs, and we're in competition with 3 other locations in different states, I would really like you to consider how a company like that might look at this? You might be making their site selection process easier by eliminating New Mexico from the list of possible sites and I really don't think that's what the State really wants to do.

This proposed Petition would be a major hurdle for various business interests, particularly those such as Tesla which are comparing various locations and considering New Mexico in relation to other sites. With the extraordinarily costs and time issues this would all but guarantee that those jobs go elsewhere. Although the Petition claims to be interested in improving the quality of life in low-income and minority neighborhoods, its proposed mandates would, in fact, eliminate new jobs and services by driving new and expanding businesses out of the city and county. They would also create a disincentive to improve existing properties since remodels would trigger the need for a new air permit, thereby requiring conformance with the new mandates. These requested regulations would not only hurt low income and minority neighborhoods, they will severely damage the economic viability of the city and county as a whole. We need to create jobs in this state, not eliminate them. The scope of businesses which would be affected by this would be vast and the consequences disastrous.

In the area of legality, I would support the "Response in Opposition to Amend NM Administrative Code" prepared by the Association of Commerce and Industry of NM (ACI). Their understanding of the legislation and its impact appears to be extremely well-substantiated. It is clear that the proposed regulations would exceed the standards of the federal Clean Air Act. ACI has also addressed many of our concerns on the negative economic impacts of the proposed regulations. We strongly urge you to consider their official challenge to the Petition.

Finally, I appeal to your common sense that this Petition, as it is a serious threat to our economy. I urge you to deny the Petition at the March 12th meeting.

**Joe Farr, CCIM**  
*Portfolio Director,*  
*National Asset Management*

**Rosemont Realty**  
Albuquerque Office | 320 Gold SW, Suite 400 | Albuquerque, NM 87102  
Santa Fe Office | 330 Garfield Street | Santa Fe, NM 87501

**(505) 246-9800 Albuquerque | 505-992-5145 Santa Fe | (505) 463-6915 mobile | (505) 848-3726 fax**  
[jfarr@rosemontrealty.com](mailto:jfarr@rosemontrealty.com)

# NAIOP

COMMERCIAL REAL ESTATE  
DEVELOPMENT ASSOCIATION  
NEW MEXICO CHAPTER

March 5, 2014

Attn: Margaret Nieto, Control Strategies Supervisor  
Albuquerque Bernalillo County Air Quality Control Board  
PO Box 1293  
Albuquerque, NM 87103

Dear Air Quality Control Board Members:

NAIOP, the Commercial Real Estate Development Association, respectfully requests that the Air Quality Control Board deny the "Petition to Amend Title 20, Chapter 11 of the NM Administration Code", submitted by Southwest Organizing Project. NAIOP is a non-profit organization with members from a broad spectrum of the business community, but specifically those involved in commercial real estate...engineers, architects, developers, brokers, contractors, financiers, land use and water attorneys, title companies and others. Our goal is to build the places where people work, play and live. Ultimately, if we are successful, we create new jobs, not only for our companies but for the community.

This proposed Petition would be a major hurdle to a wide range of commercial developments, due to both added, exorbitant costs and time issues. Although the Petition claims to be interested in improving the quality of life in low-income and minority neighborhoods, its proposed mandates would, in fact, eliminate new jobs and services by driving new and expanding businesses out of the city and county. They would also create a disincentive to improve existing properties since remodels would trigger the need for a new air permit, thereby requiring conformance with the new mandates. These requested mandates would not only hurt low income and minority neighborhoods, they will severely damage the economic viability of the city and county as a whole.

Although the Board, I am sure, is fully conversant with the scope of Air Quality Permits, I believe it is worth mentioning, for the benefit of others, that this Petition would not only affect small businesses like dry cleaners but also any business engaged in manufacturing. It would affect most buildings over 6 stories and many medical facilities since most must have a generator for life safety issues, and generators require a permit. It would affect any construction projects which must apply for a Fugitive Dust Permit which, according to city staff, is a form of an Air Quality Permit. This Petition's reach would be sweeping and devastating.

In the area of legality, NAIOP supports and endorses the "Response in Opposition to Amend NM Administrative Code" prepared by ACI (Association of Commerce and Industry of NM). Their arguments, we believe, are cogent and extremely well substantiated. In our opinion, they have more than ably addressed the legal side of this issue. It is clear that the proposed regulations would exceed the standards of the Clean Air Act.

## NEW MEXICO CHAPTER 2014 Board of Directors

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Bohannon Huston, Inc.  
Chris Youngblood  
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Lynne Andersen

**NM CHAPTER VICE PRESIDENT:**  
John Gallegos

# NAIOP

COMMERCIAL REAL ESTATE  
DEVELOPMENT ASSOCIATION  
NEW MEXICO CHAPTER

PAGE 2

ACI has also addressed many of our concerns on the negative economic impacts of the proposed regulations. We strongly urge you to consider their official challenge to the Petition.

Finally, we appeal to your common sense that this Petition, however, well-intentioned does significant harm and little, if any, good. It is a serious threat to our fragile economy and, again, we urge you to deny the Petition at the March 12<sup>th</sup> meeting.

Sincerely,



Jim Chynoweth  
2014 NAIOP Chair

Cc: NAIOP Board of Directors

## NEW MEXICO CHAPTER 2014 Board of Directors

**CHAIR:**  
Jim Chynoweth  
CBRE

**CHAIR ELECT:**  
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AIC General Contractors

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Bank of Albuquerque  
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Rosemont Realty  
Tim MacEachen  
Colliers International  
Keith Meyer  
NAI Maestas & Ward  
Rich Reif  
Bridgers & Paxton Consulting Engineers  
Cynthia Schultz  
Bradbury Stamm Construction  
Joe Sierra  
Century Bank  
Paul Silverman  
Geltmore LLC  
Jeanie Springer  
Springer 5 Investments  
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Consensus Planning, Inc.  
James Topmiller  
Bohannon Huston, Inc.  
Art Tatum  
FBT Architects AIA, Ltd.  
Jim Trump  
Build NM  
Paul Wymer  
Bohannon Huston, Inc.  
Chris Youngblood  
Chavez-Grievens Consulting Engineers  
**NATIONAL NAIOP DIRECTOR:**  
Dale Dekker  
Dekker/Perich/Sabatini  
**NM CHAPTER PRESIDENT:**  
Lynne Andersen  
**NM CHAPTER VICE PRESIDENT:**  
John Gallegos





March 5, 2014

Margaret Nieto, Control Strategies Supervisor  
Albuquerque Bernalillo County Air Quality Control Board  
PO Box 1293  
Albuquerque, NM 87103

Dear Ms. Nieto:

NAIOP, the Commercial Real Estate Development Association, respectfully requests that the Air Quality Board deny the "Petition to Amend Title 20, Chapter 11 of the NM Administrative Code", submitted by Southwest Organizing Project. NAIOP is a non-profit organization with members from a broad spectrum of the business community, but specifically those involved in commercial real estate; Engineers, Architects, Developers, Brokers, Contractors, Financiers, Land Use & Water Attorneys, Title Companies and others. Our goal is to build the places where people work, play and live. Ultimately, if we are successful we create new jobs, not only for our companies but for the community.

This proposed Petition would be a major hurdle to a wide range of commercial developments and every private sector construction single project due to both added exorbitant costs and time issues. Although the Petition claims to be interested in improving the quality of life in low-income and minority neighborhoods, its proposed mandates would, in fact, eliminate new jobs and services by driving new and expanding businesses out of the city and county. They would also create a disincentive to improve existing properties since remodels would trigger the need for a new air permit, thereby requiring conformance with the new mandates. These requested regulations would not only hurt low income and minority neighborhoods, they will severely damage the economic viability of the City and County as a whole.

Although the Board, I am sure, is fully conversant with the scope of Air Quality Permits, I believe it is worth mentioning for the benefit of others, that this Petition would not only affect small businesses like dry cleaners but also any business engaged in manufacturing. It would affect most buildings over 6 stories and many medical facilities since most must have a generator for life safety issues, and generators require a permit. It would affect any construction projects which must apply for a Fugitive Dust Permit and which, according to city staff, is a form of an Air Quality Permit. This Petition's reach would be sweeping and devastating.

In the area of legality, NAIOP supports and endorses the "Response in Opposition to Amend NM Administrative Code", prepared by the Association of Commerce and Industry of NM (ACI). Their arguments, we believe, are cogent and extremely well-substantiated. In our opinion, they have more than ably addressed the legal side of this issue. It is clear that the proposed regulations would exceed the standards of the federal Clean Air Act. ACI has also addressed many of our concerns on the negative economic impacts of the proposed regulations. We strongly urge you to consider their official challenge to the Petition.

KLINGER CONSTRUCTORS, LLC

8701 Washington NE • Albuquerque, NM 87113 • P.O. Box 90850 (87199) • 505.822.9990 • fax 505.821.0439  
www.klingerllc.com • New Mexico License 89629

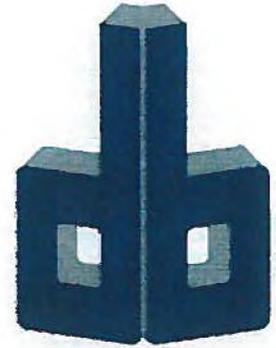


Finally, we appeal to your common sense that this Petition, however, well-intentioned, does significant harm and little, if any, good. It is a serious threat to our fragile economy, and again, we urge you to deny the Petition at the March 12th meeting.

Sincerely,

Raymond J. Smith, President  
Klinger Constructors, LLC  
Direct Phone: (505) 856-8206  
Email Address: rays@klingerllc.com

RJS: la



**DURA BILT**  
**Products, Inc.**

[www.dbabq.com](http://www.dbabq.com)

March 5, 2014

Margaret Nieto, Control Strategies Supervisor  
Albuquerque Bernalillo County Air Quality Control Board  
PO Box 1293  
Albuquerque, NM 87103

Re: Petition filed by Southwest Organizing Project requesting that the Albuquerque-Bernalillo County Air Quality Control Board adopt a new air quality regulation.

Dear Albuquerque-Bernalillo Country Air Quality Control Board,

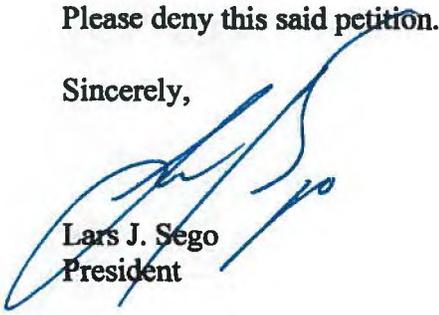
As a concerned businessman in Albuquerque and Bernalillo County, I have reviewed the said petition and am vehemently opposed to the adoption of the same. I do not believe that the facts support the petitioner's basis for this action. Furthermore I believe that this petition would be a "train wreck" for our local economy and would not improve the quality of life for anyone in the City, County, State or Country. In addition to causing a tremendous and over burdensome hardship to our economy, it would ultimately most hurt those people who it purports to be helping.

This ill conceived petition is a "wolf in sheep's clothing" that would penalize every member of our economy through significant over burdensome and unrealistic regulations and requirements. Additionally it would provide a cart blanch invitation for a few professionals to litigate over an unsupported position that low income minority neighborhoods are disproportionately affected by pollution.

Last but not least the Air Quality Control Act does not give the board authority to adopt the proposed regulation.

Please deny this said petition.

Sincerely,

  
Lars J. Sego  
President

March 5, 2014

Albuquerque Bernalillo Air Quality Board  
P.O. Box 1293  
Albuquerque, NM 87103

Re: Southwest Organizing Project Petition

Dear Air Quality Board,

We are the Albuquerque Economic FORUM, a group of one hundred business CEOs involved in regional economic and quality of life issues for more than three decades.

We have reviewed the Southwest Organizing Project Petition currently before your Board and have serious concerns. The petition proposes unreasonable and unrealistic guidelines significantly above and beyond Federal EPA air quality guidelines for our City and County causing unfair and unnecessary constraints on metropolitan Albuquerque businesses and the regional economy. We ask that you not adopt the Petition.

Further, we are in full support of the "Response in Opposition" filed by the Association of Commerce and Industry which offers numerous reasons to reject the SWOP proposal including the requirement of a "cumulative impacts analysis". This proposed requirement is far reaching and potentially catastrophic for the regional economy.

We strongly urge your rejection of the proposed Petition, thank you for your consideration.

  
Bob Murphy  
Executive Director  
Economic Forum

RECEIVED  
ENVIRONMENTAL HEALTH  
14 MAR -5 AM 10:25

## Nieto, Margaret E.

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**From:** Thompson David E. <dthomp@thuntek.net>  
**Sent:** Wednesday, March 05, 2014 1:27 PM  
**To:** Nieto, Margaret E.  
**Subject:** Deny AQCB Petition 2014-1

Margaret Nieto, Control Strategies Supervisor  
Albuquerque Bernalillo County Air Quality Control Board  
PO Box 1293  
Albuquerque, NM

Dear Ms. Nieto:

I am writing to oppose the Petition to Amend New Mexico Administrative Code (AQCB Petition 2014-1). I have read the Petition, and I find it extremely counterproductive to the citizens of New Mexico. It would stifle business, create loss of jobs, and violate the NM Air Quality Control Act of 1978-2013. There is no factual support for its adoption by the Board, and the proposed regulation does not even fall under the authority of the Board. It further violates the time limitation for a final decision within 90 or 180 days for decisions on construction permits. Further, the proposed regulation is vague, and does not provide any quantifiable standards for air pollution that directly affects the public welfare, nor any scientific basis for such regulation as regards the public health.

The proposed Petition provides for a continuous 12-month period of monitoring and reporting over a 5-mile radius around any applicant site, said monitoring to be paid for by the applicant. Afterwards, it would allow anyone to file a lawsuit who merely BELIEVED that they would be harmed. This sounds like a litigious bombshell for any proposed business. Why would anyone want to build a business here under such conditions without some scientific basis with regards to public welfare?

I have also read the opposition to this petition put forward by Beverlee McClure, President of the Association of Commerce and Industry of New Mexico dated Feb.25th, 2014. I wholeheartedly support the position of the ACI in opposition to the Petition. The proposed Petition is a serious threat to our fragile economy, and would result in significant harm with no positive effect.

I am a citizen, a scientist and engineer, and the founder of a new startup manufacturing business here in New Mexico. I shudder to think of the impact this would have on the manufacturing we are attempting to bring to NM, and this gives me pause about the efficacy of establishing our operations here. I appeal to your *vulgaris voluntis* (common sense) to deny the Petition at your March 12th meeting.

Laos Deo,  
Dave Thompson

---

David E. Thompson, PhD  
President, Metric Echo Inc.  
Fellow, American Society of Mechanical Engineering  
President, NM Section of the Soc. Advancement of Material & Process Engineering

Professor Emeritus, Mechanical Engineering  
Professor Emeritus, Computer Science  
Dean Emeritus, College of Engineering  
University of Idaho  
[dthomp@uidaho.edu](mailto:dthomp@uidaho.edu)  
<http://www.engr.uidaho.edu/thompson/>

57 Via Entrada  
Sandia Park, NM 87047



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JOHN GARCIA



Margaret Nieto, Control Strategies Supervisor  
Albuquerque Bernalillo County Air Quality Control Board  
PO Box 1293  
Albuquerque, NM 87103  
3/5/2014

Ms. Nieto,

On behalf of the Home Builders of Central New Mexico (HBACNM) and its members, we ask that you deny the request by the Southwest Organizing Project concerning their petition to amend "Title 20: Chapter 11 of the Administrative Code" because of the significant negative impact this would have on the building community right here in the heart of New Mexico. Currently we are recovering from one of the worst economic downturns in recent history with housing permits at 8600 in 2005 to now less than 1450 housing permits in 2013. Considering the state of our economy as a whole and our building community as a real measure of the economy, this policy would only work against creating jobs and encouraging economic growth when we need it most.

If this petition request moves forward with its burdensome requirements on development in the name of protecting our communities "low income and minority populations", it will only serve to distance these citizens from their rights and privileges that are afforded to all citizens of having a good job and an honest income. By starving business you leave the less fortunate with even less. Home Builders are literally the backbone of our construction community, and seeing what is being proposed by this petition will only cause undue regulations on small business any cause unnecessary costs and delays on projects all the while asking for a standard more stringent than Federal guidelines.

The Home Builders of Central New Mexico (HBACNM) is an association made up of small and medium businesses that serve the local community. We are production builders, custom builders and remodelers who employ skilled-craft men and women and we have over 600 members in the Albuquerque area. Our Board of Directors has met to discuss the significant negative impact this policy change would have on our businesses and we ask that you consider our appeal in denying this petition. We support the Association of Commerce and Industry's response in opposition to this petition and hope you will consider our perspective as well.

Sincerely,  
  
John A. Garcia  
Executive Vice President

**BUILDERS OF THE AMERICAN DREAM**  
Affiliated with the National Association of Home Builders since 1947  
4100 Walcott Ave. NE, Suite B • Albuquerque, NM 87109  
(505) 344-3294 • Fax: (505) 345-3795  
mailto:mailbox@hvacnm.com • www.hvacnm.com

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March 5, 2014

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14 MAR -5 PM 3:06

Margaret Nieto, Control Strategies Supervisor  
Albuquerque Bernalillo County Air Quality Control Board  
PO Box 1293  
Albuquerque, NM 87103

Dear Ms. Nieto:

I am writing on behalf of the members and Board of AGC New Mexico, representing our state's commercial construction industry. AGC New Mexico's participation in our state's history, economy, and communities runs broad, deep, and diverse. We respectfully request that the Albuquerque-Bernalillo County Air Quality Control Board oppose and deny the petition from the Southwest Organizing Project and New Mexico Environmental Law Center, which seeks highly suspect new and additional permitting requirements. We support and agree with the New Mexico Association of Commerce & Industry's response and legal analysis, outlining the petition's defects and negative consequences.

Given our local industry's and economy's recent and persisting challenges, the impact of this petition's overreach would add a devastating barrier to income security and employment prospects for our local workforce. With tens of thousands of New Mexico construction jobs already lost since the economic downturn, unfounded measures such as these promise to threaten remaining commercial and industrial activities, let alone recovering or pursuing any new economic development and job opportunities.

Please do not adopt any new air quality permitting requirements and procedures outside statutory scope, unsupported by rigorous and data-driven analysis, and counter-productive to both regulatory and stated goals.

We appreciate your judicious and deliberate consideration.

Respectfully,

Vicki Mora

**Associated General  
Contractors**

New Mexico Building Branch  
1615 University Blvd., NE  
Albuquerque • NM • 87102-1791

505-842-1462  
Fax: 505-842-1980  
email: [reception@agc-nm.org](mailto:reception@agc-nm.org)

[www.agc-nm.org](http://www.agc-nm.org)

**Nieto, Margaret E.**

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**From:** Robert <youngnc@hotmail.com>  
**Sent:** Thursday, March 06, 2014 8:45 AM  
**To:** Nieto, Margaret E.  
**Subject:** Petition to Amend Title 20, Chapter 11 of the NM Administrative Code

Dear Ms. Margaret Nieto,

I strongly oppose this petition as it does little good and a lot of harm. Why do we need additional regulations?

Bob Young  
Albuquerque

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THE UNIVERSITY OF NEW MEXICO • HEALTH SCIENCES CENTER

UNM HOSPITALS

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14 MAR -6 AM 11:29

March 6, 2014

Via Hand Delivery

Dr. Dona Upson, Chair  
Albuquerque-Bernalillo County Air Quality Control Board  
1 Civic Plaza  
Albuquerque, NM 87103

Re: AQCB Petition No. 2014-1 University of New Mexico Hospital Statement in Opposition to Petition

Dear Chair Upson and Board Members:

The University of New Mexico Hospital (UNMH) has reviewed Petition 2014-1 filed by Petitioner Southwest Organizing Project (the "Petition") requesting that the Albuquerque-Bernalillo Air Quality Control Board (the "Board") adopt a new Air Quality Regulation (the "Regulation"). UNMH submits this statement pursuant to NMAC 20.11.82.22B. UNMH believes that Petitioner's proposed Regulation will create long permitting delays, additional expense for the regulated community and new avenues for litigation while providing sparse evidence of any improved public health outcomes. UNMH respectfully asks the Board to deny Petitioner's request.

University of New Mexico Hospital

UNMH operates New Mexico's only Level I Trauma Center, treating nearly 90,000 emergency patients and more than 450,000 outpatients annually. The Barbara & Bill Richardson Pavilion, which opened in the spring of 2007, added nearly 500,000 square feet of emergency and clinical space uniquely configured for medical efficiency and patient safety, and fitted with cutting-edge imaging, laboratory and surgical technology.

UNMH serves as the primary teaching hospital for the UNM School of Medicine and participates in hundreds of advanced clinical trials annually. It also is the home of the highly regarded UNM Children's Hospital and the National Cancer Institute-designated UNM Cancer Center. The UNM Hospital system includes Carrie Tingley Hospital, UNM Children's Psychiatric Center and UNM Psychiatric Center; and shares missions and resources with UNM's College of Nursing and College of Pharmacy as well as the New Mexico Poison Center.

In addition to the main hospital, the UNM system operates 43 off-site clinics throughout the state, including the UNM Cancer Center South in Las Cruces, NM. The hospital further expands into

New Mexico's rural communities through a nationally recognized Telemedicine/Telehealth network, linking patients and physicians throughout the state to the most up-to-date research and medical information available.

The UNM Hospital system serves all New Mexicans' needs for routine medical procedures, chronic disease management and catastrophic health events. From central New Mexico to the four corners of the state, UNM Hospitals and all of its clinical components strive to identify and solve the most important questions of human health in our communities through education, scholarship and service.

### Proposed Regulation

If adopted by the Board, the proposed Regulation would impose an unprecedented expense on anyone intending to apply for an operating permit in Bernalillo County. A person applying for such a permit would be required to design, conduct and pay for a "cumulative impact analysis" that includes twelve months of air quality monitoring for a lengthy list of specified air emissions within a five mile radius of the proposed project. The data collected would result in a detailed health effects study and cumulative impact analysis. The results of the impact analysis could be used as the basis for denial of an air permit. The Regulation also takes the unprecedented step of inviting litigation against air permit applicants by way of citizen initiated lawsuits in which attorney's fees would be awarded by the court.

Obviating the need for Petitioner's proposed Regulation is that Albuquerque, Bernalillo County and the State of New Mexico already have a robust comprehensive regulatory regime regulating air quality permitting. The stationery source provisions of the federal Clean Air Act, 42 U.S.C. Sections 7401 *et seq.* (CAA) requires the federal Environmental Protection Agency (the "EPA") to adopt standards for any pollutant which has an adverse impact on public health or welfare. After EPA standards are adopted, the CAA requires states to develop and submit for EPA approval, plans for implementation, maintenance and enforcement of the standards. New Mexico's Air Quality Control Act, NMSA 1978, Section 74-2-1 *et seq.* (the "AQCA") parallels the CAA. For its part, the Board is required under the AQCA to adopt regulations to attain and maintain national ambient air standards that are as stringent as, but no more stringent than EPA's federal performance standards.

Petitioner's proposed Regulation is expansive well beyond the already broad boundaries of existing law regulating air emissions. A permit could be denied irrespective of compliance with existing National Ambient Air Quality Standards. The proposed Regulation requires monitoring time frames that are significantly longer than existing statutory deadlines for air permitting. Moreover, the proposed Regulation does not establish any standards by which to determine whether cumulative effects related to a source might affect public health. This vague proposed Regulation, lacking fundamental standards, is somehow meant to be enforced in part by citizen initiated suits with attorney fees awarded by the court.

Impact on University of New Mexico Hospital

Petitioner's proposed Regulation does not address the impact on UNMH and its 450,000 outpatients and 90,000 emergency room patients who visit the Hospital each year. The proposed Regulation's lengthy and extensive monitoring and cumulative impact studies will greatly increase the time it takes to obtain an air permit for generators and equipment needed to run the Hospital and keep patients safe. In order to maintain the required level of patient safety in providing emergency, intensive and acute care services UNMH is mandated by State and Federal regulatory agencies to provide "redundancy +1" for its essential operating utility systems. This is a rigorous standard used by hospitals to set power reliability minimums.

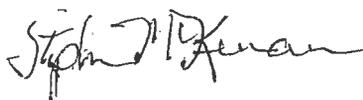
In part to meet these safety mandates, UNM Hospital currently operates three large boilers and five emergency generators. All are permitted through the City of Albuquerque's Environmental Health Department and are in compliance with National Ambient Air Quality Standards. As this equipment needs replaced or modified, timely and efficient permitting becomes critical for patient care. In the case of emergency generators, the lack of timely permitting could be catastrophic. For example, great harm to patients could result if because of delay due to mandated year-long "cumulative impact studies" an emergency generator was not available in the event that other sources of power failed.

The Petition does not consider costs of compliance to the regulated community. Year-long wide-ranging air monitoring coupled with health and cumulative impact studies is likely to be very expensive. The proposed Regulation requires monitoring of more than nine hundred listed constituents from the California Cancer or Reproductive Toxicity Chemical List. Monitoring this vast number of constituents, at great expense, is likely to overwhelm even well designed air monitoring plans. Even if only a portion of the more than nine-hundred mandated constituents are monitored, costs will be enormously increased over current air permitting costs.

#### Conclusion

UNMH respectfully requests that the Board deny Petitioner's request. The proposed Regulation will greatly increase delays in permitting, increase regulatory costs and increase the likelihood of extended litigation over permitting matters. There is little evidence in the Petition of any improvement of public health outcomes from adopting the proposed Regulation. In the worst case, the proposed Regulation could result in negative impacts to the safe and efficient management of the hospital and its patient care obligations.

Sincerely,



Stephen McKernan  
Chief Executive Officer, UNM Hospitals  
Chief Operating Officer, Health System



National Utility Contractors Association of New Mexico

March 6, 2014

Margaret Nieto  
Albuquerque Bernalillo Air Quality Control Board  
PO Box 1293  
Albuquerque, NM 87103

Dear Ms. Nieto,

On behalf of the National Utility Contractors Association of New Mexico (NUCA of NM), I would like to inform you of our support for the ACI and NAIOP's Response in Opposition to Petition To Amend New Mexico Administrative Code Title 20, Chapter 11. The proposed petition would kill job creation, raise costs for all new and remodel projects, adversely effect small business and services in all neighborhoods and will absolutely shut down growth and infrastructure improvements.

NUCA of NM members respectfully request that the Albuquerque Bernalillo Country Air Quality Control Board deny the Petitioner's request.

- The petition requires any person seeking an application for an air permit under the AQCA would be required to pay for a "cumulative impact analysis" consisting of twelve months of air quality monitoring for specified air emissions within a five mile radius of the proposed project, as well as a detailed health effects study and cumulative analysis.
- Exorbitant costs of compliance for submitting an application for a permit, and the delay of the project while monitoring, testing and analysis is being done, will stifle growth and improvements in these communities. The negative economic impact on growth, infrastructure improvements and jobs in the area would be devastating.

Please deny the Petitioner's request.

Sincerely,

Jane Jernigan, Executive Director  
NUCA of NM

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14 MAR - 6 PM 12: 12

**Nieto, Margaret E.**

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**From:** EDWARD JUNKER <edwardjunker@msn.com>  
**Sent:** Thursday, March 06, 2014 1:24 PM  
**To:** Nieto, Margaret E.  
**Subject:** Amendment to Title 20 Chap 11 NM Admin Code

Margaret Nieto, Control Strategies Supervisor  
Albuquerque Bernalillo County Air Quality Control Board  
PO Box 1293  
Albuquerque, NM 87103

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14 MAR -6 PM 1:52

*Dear Ms. Nieto:*

*I wish to respectfully register my concern regarding the Air Quality Board's review of the "Petition to Amend Title 20, Chapter 11 of the NM Administrative Code".*

*New Mexico and Albuquerque do not have an air quality problem and the Petition to Amend is little more than grandstanding by the petitioners, Southwest Organizing Project.*

*Why fix a problem that doesn't exist and in the process add layers of red tape to an economic environment that is already polluted to the point of discouraging businesses out of New Mexico?*

*I wish to see this amendment defeated.*

*Respectfully submitted,*

*Edward Junker*

*Applied Civil Science*

*Bernalillo, N. m.*

**Nieto, Margaret E.**

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**From:** DaveCWill@aol.com  
**Sent:** Thursday, March 06, 2014 3:21 PM  
**To:** Nieto, Margaret E.  
**Subject:** Oppose SWOP petition

Dear Ms Nieto:

I am writing to urge the Air Quality Board to reject the "Petition to Amend Title 20, Chapter 1 of the NM Administrative Code", submitted by Southwest Organizing Project. There is little evidence that Albuquerque's air is sufficiently polluted to justify the onerous regulations the petition recommends; there is little evidence that the recommended regulations would significantly improve air quality and there is a great deal of evidence that these requirements would hurt many small businesses and other beneficial activities. The associated costs would be all out of proportion to any possible benefits even if our economy were booming. In the present sluggish economic environment with high unemployment, seriously considering the petition is indefensible.

Sincerely,

David C. Williams, Ph. D.  
8252 Raintree Dr. NE  
Albuquerque, NM 87122  
Tel. (505)-797-9466(home), 259-7107(cell)  
e-mail: [davecwill@aol.com](mailto:davecwill@aol.com)

11 MAR 2014 3:28 PM  
ENVIRONMENTAL HEALTH SERVICES

# SMALL BUSINESS REGULATORY ADVISORY COMMISSION

## CITY OF ALBUQUERQUE

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Vice Chairman:  
Ex-Officio Commissioner:

Anthony Trujillo  
Beverly Chavez  
Gary Oppedahl

Commissioners:

Alex Romero  
Don Kaufman  
Larry Garcia  
Larry Rainosek  
Scott Throckmorton



March 6, 2014

Albuquerque-Bernalillo County  
Air Quality Control Board  
1 Civic Plaza, Room 3023  
Albuquerque, NM 87103

Subject: Southwest Organizing Project's Petition to Require  
Review and Consideration of Cumulative Air Impacts.

Dr. Dona Upson, Chair  
Members of the Air Quality Board;

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The Mayor and City Council created the Small Business Regulatory Advisory Commission (Commission) to assess regulatory burdens on small businesses that are a result of any new or revised City Ordinance, Resolution, Rule, Regulation or Administrative Policy. The Commission has reviewed the petition from the Southwest Organizing Project (SWOP) sent to the Air Quality Control Board and believes that this regulation would be a huge, in fact insurmountable, regulatory burden for small business in Albuquerque and Bernalillo County. Additionally the Commission believes this regulation, if adopted, has the potential to halt new small business start-ups requiring an air quality permit in Albuquerque and Bernalillo County.

The proposed regulation would require our small business community with limited resources, to commit thousands of dollars to test the air prior to applying for an air permit. This proposed regulation requires twelve months of air quality monitoring within a five mile radius of the proposed project. This proposal will cause a significant and negative economic impact for small business within our community. Small business simply cannot afford the cost or delay of projects this Regulation would require.

Prosperity for Albuquerque and Bernalillo County is dependent upon a vibrant business climate which cannot succeed with unnecessary and expensive regulatory burdens placed on those doing business or contemplating doing business in the City and County.

On behalf of the Small Business Regulatory Advisory Commission we respectfully request that you deny a public hearing on this petition tonight.

Thank you.

Anthony D. Trujillo  
Chairman

**From:** "[mizdix@comcast.net](mailto:mizdix@comcast.net)" <[mizdix@comcast.net](mailto:mizdix@comcast.net)>  
**Date:** March 7, 2014 at 7:45:22 AM MST  
**To:** "Nieto, Margaret E." <[mnieto@cabq.gov](mailto:mnieto@cabq.gov)>  
**Subject:** Re: Defeat this Petition!

SWOP's

Sent from my iPad

On Mar 6, 2014, at 5:33 PM, "Nieto, Margaret E." <[mnieto@cabq.gov](mailto:mnieto@cabq.gov)> wrote:

Thank you for your comment. Just to be clear, please state which petition are you referencing, and we will get your comment to the Air Board.

Margaret Nieto  
Control Strategies Supervisor  
Air Quality, Environmental Health Dept.  
(505) 768-2637

-----Original Message-----

**From:** [mizdix@comcast.net](mailto:mizdix@comcast.net) [<mailto:mizdix@comcast.net>]  
**Sent:** Thursday, March 06, 2014 5:31 PM  
**To:** Nieto, Margaret E.  
**Subject:** Defeat this Petition!

Isn't NM bad enough off without letting outsiders who have never even been in this state dictate to us? Everyone who even considers this must be out of their mind!  
Dixie L Burch

Sent from my iPad

**From:** <[RandJDuffy@aol.com](mailto:RandJDuffy@aol.com)>  
**Date:** March 6, 2014 at 8:39:53 PM MST  
**To:** <[mnieto@cabq.gov](mailto:mnieto@cabq.gov)>  
**Subject:** Southwest Organizing Petition

Dear Ms.Nieto,

I strongly oppose the petition of the Southwest Organizing Petition. I believe that it will have a detrimental effect on the encouragement of business in the Albuquerque community. Business is already hampered by delays and permit requirements. We have too many people in Albuquerque who are in need of jobs.

Ruth Duffy  
907 Poco Cerro Ct. SE  
Albuquerque, NM 87123