

**STATE OF NEW MEXICO
ALBUQUERQUE-BERNALILLO COUNTY AIR QUALITY CONTROL BOARD**

IN THE MATTER OF THE PETITION FOR
A HEARING ON THE MERITS REGARDING
AIR QUALITY PERMIT NO. 1677-M2

Andy Carrasco, Dempsey Power,
and Pat Toledo,

Petitioners,

v.

AQCB Petition No. 2013-6

The City of Albuquerque and Smith's Food
& Drug Centers, Inc.,

Respondents.

ORDER SCHEDULING REMAND HEARING

Following receipt of the Mandate to the Air Quality Control Board from the New Mexico Court of Appeals, dated April 9, 2015, the Hearing Officer conferred with Counsel for all parties, Mr. Toledo and City staff on April 30, 2015.

All were agreed that a hearing on the merits would be scheduled for July 8, 2015, in connection with the Board's regularly scheduled meeting beginning at 5:30 p.m. Pursuant to paragraph 17 of the Court's Memorandum Opinion of November 26, 2014, the scope of the Board's inquiry at the hearing is limited to "whether Petitioners Toledo and Carrasco's request for a public hearing, together with the emailed questions received by the EHD from the local neighborhood associations, constituted 'significant public interest' to necessitate a public hearing." Accordingly, the evidence and testimony presented at the hearing shall be limited to that which is relevant to this specific question.

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In order to provide the Board with the evidence the Parties will be presenting in time for their review prior to the hearing, and to provide the parties with notice of, and an opportunity to object to, each other's anticipated witnesses and exhibits, the following deadlines are set for witness and exhibit lists: Petitioners shall submit their witness and exhibit list by close of business June 10, 2015. Written objections to Petitioners' witness and exhibit list shall be filed by close of business June 17, 2015. The City and Smith's shall submit their witness and exhibit lists by close of business June 24, 2015. Written objections to the City's or Smith's witness and exhibit lists shall be filed by close of business July 1, 2015. The Hearing Officer will hold a telephonic hearing on July 2, 2015 at 1 p.m. to hear argument and rule upon any timely submitted pre-hearing objections.

Witness and exhibit lists shall include the names and narrative testimony of all proposed witnesses presenting testimony, and all proposed exhibits intended to be offered shall be attached.

The City shall timely publish and mail notice of the July 8, 2015 hearing.

To the extent not otherwise addressed in this Order, the July 8, 2015 hearing shall be governed by the Board's adjudicatory procedures set forth in 20.11.81 NMAC.

Felicia Orth by Andrew Daffern
Felicia L. Orth, Hearing Officer

CERTIFICATE OF SERVICE

I hereby certify that I have e-mailed a true and correct copy of the foregoing ORDER SCHEDULING REMAND HEARING on this 19th day of May, 2015, to the following:

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Respectfully submitted,



Andrew Daffern, AQCB Hearing Clerk