



# ALBUQUERQUE-BERNALILLO COUNTY AIR QUALITY CONTROL BOARD



MINUTES – July 9, 2008

## Regular Meeting

Vincent E. Griego Chambers, Albuquerque-Bernalillo County Government Center  
400 Marquette NW, Albuquerque, NM 87102

### AQCB MEMBERS PRESENT

Dr. Matthew Campen (City)  
Mr. Jens Deichmann, Vice Chair, (County)  
Mr. Mike Minturn, Chair (City)  
Dr. Debby Potter, (County)  
Mr. Art Sharpe (City)  
Dr. Gwen Sun (County)

### AQCB MEMBERS ABSENT

Mr. Augustine Grace III, (City)  
Mr. Louis Pacias, BCPC Liaison (non-voting)

### STAFF PRESENT

Mr. Chris Albrecht, Env. Health Manager, AQD  
Ms. Janice Amend, AQCB Liaison, AQD  
Mr. Neal Butt, Env. Health Scientist, AQD  
Mr. Glen Dennis, Mgr. Vehicle Pollution Mgt. Div.  
(VPMD)  
Mr. Bill Grantham, Board Attorney

Ms. Adelia Kearny, Deputy City Attorney  
Mr. Fabian Macias, Env. Health Mgr. AQD  
Ms. Margaret Nieto, Control Strategies Supervisor,  
AQD  
Mr. Isreal Tavarez, Env. Engineering Mgr., AQD

### VISITORS PRESENT

Mr. Matt Cross-Guillen, OEH  
Ms. Patty Grice, Mountain View NA  
Ms. L. Iglesias  
Dr. Margaret Menache, UNM Research  
Ms. Amy Miller, PNM  
Mr. Fernando Ortega  
Mr. Tom Scharmen, NM Dept. of Health  
Mr. Lauro Silva, SYPEJ

## Hearing

Proposal to adopt 20.11.82 NMAC, *Rulemaking Procedures – Air Quality Control Board*.

Hearing Officer Bill Grantham opened the hearing at 5:34 p.m. Ms. Margaret Nieto, AQD Control Strategies Supervisor, provided testimony regarding the Division's proposal to adopt 20.11.82 NMAC, *Rulemaking Procedures – Air Quality Control Board*. Ms. Adelia Kearny, Deputy City Attorney for the Air Quality Division was available for questions from the Board and the public. Hearing Officer closed the hearing at 6:08 p.m.

## Draft Minutes

### CALL TO ORDER

The meeting was called to order at 6:08 p.m. on July 9, 2008 with six Board members present. Board Chairman Mike Minturn presided.

**Item # 1** Approval of the Agenda.

Vice-Chairman Deichmann made the Motion to approve the agenda, which was seconded by Member Potter, and the Motion was carried by a vote of 6-0.

**Item #2** Approval of the May 14, 2008 Meeting Minutes.

Motion was made to approve the minutes by Member Campen, seconded by Member Sharpe and the Motion was carried by a vote of 6-0.

### **ACTION ITEMS**

**Item #3** Decision regarding Proposal to amend 20.11.82 NMAC, *Rulemaking Procedures – Air Quality Control Board*.

Member Campen made a Motion to amend 20.11.82 NMAC, *Rulemaking Procedures – Air Quality Control Board* by incorporating the following language:

Insert a new definition under **20.11.82.7 NMAC, DEFINITIONS**, as follows:

**F. “Environmental justice”** means the fair treatment of all residents (in the City of Albuquerque and Bernalillo County), including communities of color and low income communities, and their meaningful involvement in the development, implementation and enforcement of environmental laws, regulations and policies regardless of race, color, ethnicity, religion, income or education level.

Insert the following language (underlined) under **20.11.82.31.A NMAC, DELIBERATION AND DECISION**:

**A.** As provided in the act at NMSA 74-2-5.E, in making its regulations, the board shall give weight it deems appropriate to all facts and circumstances, including:

- (1) character and degree of injury to or interference with health, welfare, visibility and property;
- (2) the public interest, including the social and economic value of the sources and subjects of air contaminants with due consideration for environmental justice principles; and

Dr. Campen’s Motion to amend was seconded by Member Sun, and was carried by a vote of 6-0.

A Motion was made by Member Potter to adopt Resolution 2008-5 to adopt Albuquerque-Bernalillo County Air Quality Control Board Regulation 20.11.82 NMAC, *Rulemaking Procedures – Air Quality Control Board* with floor amendments and was seconded by Member Sun. The Motion was carried by a vote of 6-0.

### **OTHER BUSINESS**

**Item #6** Discussion of the letter received by Air Quality Control Board from COA Environmental Planning Commission (EPC) regarding Fugitive Dust regulation enforcement.  
(This item was heard out of order, as EPC Chairman Moye arrived to give comment.)

Vice-Chairman Deichmann explained that the letter was regarding fugitive dust located at Coors and Montano NW. He had drafted a response to the letter on behalf of the Board for their review and agreement prior to sending the letter.

EPC Chair, Laurie Moyer acknowledged the legal constraints regarding fugitive dust enforcement on the Westside and said she was looking forward to receiving the letter from the Board. A discussion followed in which both Boards agreed to work closely on the matter. EPC Chair Moyer added that she recently was made aware of the EPC's non-voting position on the Air Board, and that she will work on filling the position.

Chris Albrecht, from AQD responded to questions regarding enforcement issues at the site.

#### ACTION ITEMS (resumed)

##### **Item #4** Decisions on Proposals for Environmental Justice (EJ) actions.

Member Campen offered to incorporate the four sets of proposals (from Chairman Minturn, Vice Chairman Deichmann, Members Dr. Potter and Dr. Sun) into one document. Member Potter made a Motion to accept Dr. Campen's offer to incorporate the proposals into a combined document, to be brought back to the Board, and for review by the City, the County and the Board Attorney. The Motion was seconded by Member Sun. The Motion was carried by a vote of 6-0. Members generally agreed that this document should be properly vetted by the public as well, before any Board action is to be taken.

#### REPORTS Division reports provided in writing.

##### **Item #5** By-Laws Committee update.

Member Potter suggested making the following changes to the bylaws:

Under **ARTICLE II-AUTHORITY**, add the word "public" to the sentence (shown underlined): "The Board's actions will also be guided by principles of environmental justice, which include full public participation in the regulatory process, . . ." etc.;

Under **ARTICLE V-OFFICERS**, specify a nomination process for election of officers;

Under **ARTICLE VII-RULES OF CONDUCT**, add a list of the Board Attorney's responsibilities.

After some discussion, it was concluded that clarification is needed with regard to notice and publication requirements in the City's ordinance on Boards and Commissions, and whether they are applicable to Board bylaws. Additionally, the Chair suggested that staff draft language to capture the issues Dr. Potter raised for consideration when the Bylaws are to be adopted.

##### **Item #7** Reminder of upcoming regulatory hearing to be resumed on August 13, originally opened on Nov. 14, 2007:

Proposal to adopt revisions to the *Section 309 Regional Haze State Implementation Plan element; Albuquerque/Bernalillo County, NM.*

Proposal to amend 20.11.46 NMAC, *Sulfur Dioxide Emissions Inventory Requirements; Western Backstop Sulfur Dioxide Trading Program* to meet the Regional Haze requirements of the federal Clean Air Act and 40 CFR 51, Subpart P Section 309.

Proposal to incorporate an amended Section 309 Regional Haze State Implementation Plan Element: Albuquerque/Bernalillo County, NM, and an amended 20.11.46 NMAC, Sulfur

Dioxide Emissions Inventory Requirements Western Backstop Sulfur Dioxide Trading Program into the New Mexico State Implementation Plan (SIP) for Air Quality.

Neal Butt, EH Scientist, AQD reminded the Board of the hearing, informed them that he will be providing hard copies of documents for review that he had previously provided electronically. He also reminded Board members who were not present at the November hearing to review the transcripts from that hearing in preparation for the August hearing.

**PUBLIC COMMENT**

Dr. Margaret Menache, Mr. Tom Scharmen, and Mr. Lauro Silva spoke on Item #4 when that item was heard. Otherwise, there was no public comment.

**ADJOURNMENT** Chairman Minturn adjourned the meeting at 8:07 p.m.

**NEXT SCHEDULED BOARD MEETING AND HEARING:** The next board meeting is August 13, 2008, 5:30 p.m. in the Vincent E. Griego Chambers, Albuquerque/Bernalillo County Government Center.

SUBMITTED:

READ AND APPROVED:

Isreal J. Tavaréz 8/13/08

Mr. Isreal Tavaréz,  
Board Secretary / Environmental Engineering Manager Air Quality Division  
Environmental Health Department

Mike Minturn 8/13/08

Mr. Mike Minturn  
Board Chair  
Albuquerque-Bernalillo County Air Quality Control Board