

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. 1655-M1-RV1,
SMITH'S FOOD AND DRUG CENTERS, INC.

PAT TOLEDO, as an individual,

Petitioner,

v.

AQCB Petition No. 2016-1

City of Albuquerque Environmental Health
Department, Air Quality Program,

Respondent.

**SMITH'S FOOD AND DRUG CENTERS, INC.'S RESPONSE TO
ENVIRONMENTAL HEALTH DEPARTMENT AIR QUALITY PROGRAM'S
MOTION TO REVERSE AND REMAND THE PERMIT**

Smith's Food and Drug, Inc. ("Smith's") hereby responds to Environmental Health Department Air Quality Program's ("EHD") Motion to Reverse and Remand the Permit ("Motion") as follows:

1. Smith's is the operator of the gasoline dispensing facility located at 9201 Golf Course Road, Albuquerque, New Mexico. The gas station operates under the original permit and has continued to operate under Permit No. 1655-Ma-RV1 (the "Modified Permit").
2. EHD's Motion requests that the Modified Permit be remanded because EHD failed to provide the required notice of the proposed modification to the City, to Bernalillo County, to the New Mexico Environment Department and to EPA, as required under NMAC §§ 20.11.41.14(B)(8) and (9).

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3. It is Smith's understanding that EHD has requested the remand of the Modified Permit so that it may cure its failure to provide the required notice under NMAC §§ 20.11.41.14(B)(8) and (9).

4. So long as Smith's operations at its facility is allowed to sell gasoline under the original permit, which is Smith's understanding, it does not oppose EHD's Motion.

5. In addition, Smith's requests further and specific clarifications regarding what parts of the permitting process will have to be redone upon remand and regarding what its obligations will be upon remand.

Respectfully submitted,

SUTIN, THAYER & BROWNE
A Professional Corporation

By  _____

Frank C. Salazar
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Inc.*

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I hereby certify that a true and correct copy of the foregoing RESPONSE was sent by:

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on the 7th day of April, 2016.

SUTIN, THAYER & BROWNE
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By 