

**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. 3131**

**Southwest Organizing Project (SWOP)  
By Juan Reynosa, Environmental Justice Organizer;  
Esther and Steven Abeyta, Members of SWOP, Petitioners**

AQCB Petition No. 2014-4

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**ORDER DENYING DEPARTMENT'S  
MOTION FOR CLARIFICATION OF RULING**

This matter comes before the Albuquerque-Bernalillo County Air Quality Control Board and the Hearing Officer on a Motion filed by the Environmental Health Department (EHD) requesting that the Board clarify its ruling denying EHD's Motion for Summary Disposition. Petitioners filed a Response to the Motion, opposing it, and Permit Applicant Honstein Oil filed correspondence generally in support of the Motion. EHD filed a Reply to Petitioners' Response.

Having considered the Parties' written submittals and input from Board members, the Motion for Clarification of Ruling is denied.

As EHD notes, the Board's discussion prior to its vote on the Motion for Summary Disposition did not identify specific facts they believe to be disputed or any new interpretation of New Mexico's statutes or case law as applied to air quality permitting.

Board members clearly did express an interest in hearing from community members on air quality-related matters of concern to them, noting at the same time that the Board's authority to address those matters was not unlimited, and further noting that the Board would not be changing the law in this case.

The Department is understandably seeking to mitigate the resources it will expend as part of the appeal hearing process, but the Board is not accepting the Department's invitation to set out its interpretation of the Air Quality Control Act or the Board's regulations prior to hearing the evidence that will be presented by the Petitioners at hearing.

Petitioners are reminded that they have the burden of going forward and the burden of proof in this appeal, and will be held accountable for meeting that burden in accordance with existing law and regulation. The Hearing Officer has been tasked with assuring that the Petitioners' evidence at hearing is not enlarged beyond what is contained in their Notice of Intent to Present Technical Testimony (NOI), including any supplement allowed, and appropriate rebuttal.

The Department will be held to the same standard, and will be given time following any supplementation of Petitioners' NOI to supplement its own NOI. Further scheduling details will be handled in teleconferences by the Hearing Officer.

  
Felicia L. Orth, Hearing Officer