



**ALBUQUERQUE-BERNALILLO COUNTY  
AIR QUALITY CONTROL BOARD**



**MINUTES – February 13, 2013**

**Regular Meeting**

**Vincent E. Griego chambers**

**Albuquerque-Bernalillo County Government Center**

**One Civic Plaza NW, Albuquerque, NM 87102**

**AQCB MEMBERS PRESENT**

Dr. Dona Upson (City), Chair  
Dr. Margaret Menache, Vice Chair  
(County)  
Mr. Stephen Baca (County)  
Ms. Kelsey Curran (City)  
Dr. Naomi Kistin (County)  
Mr. Jack Sullivan (City)

**AQCB MEMBERS ABSENT**

Mr. Toby Atencio (BCPC Liaison)

**STAFF PRESENT**

Mr. Charles Aragon, Field Operations  
Officer, AQD  
Mr. Neal Butt, EH Scientist, AQD  
Mr. Mark Dimenna, Deputy Director,  
EHD  
Mr. Glen Dennis, EH Manager, VPMD  
Mr. Bill Grantham, Air Board Attorney  
Ms. Liz Jones, AQCB Liaison  
Ms. Adelia Kearny, Deputy City Attorney  
Ms. Mary Lou Leonard, Director, EHD  
Mr. Fabian Macias, Air Quality Official  
Mr. Danny Nevarez, EH Technical  
Program Manager II, EHD  
Ms. Margaret Nieto, AQCB Secretary,  
EH Supervisor

Ms. Felicia Orth, Hearing Officer  
Mr. Damon Reyes, EH Enforcement Supervisor  
Mr. Isreal Tavarez, EH Manager, Permitting  
Mr. Bill Westmoreland, Deputy Director, EHD

**VISITORS PRESENT**

Mr. Tim Atler, Smith's Food & Drug Centers, Inc.  
Mr. James Berge  
Mr. Andy Carrasco  
Ms. Melissa Clark, KAFB  
Mr. Matt Cross-Guillen, Bernco. EH  
Ms. Diane Dolan, Councilor Isaac Benton COA  
Mr. Pete Domenici Jr., Attorney for Andy  
Carrasco  
Mr. Brad D. Hall, Representing Andy Carrasco  
Ms. Elise Kapran, NM Compass  
Mr. Dave McCoy  
Mr. Dennis Neff  
Ms. Georgianna E. Peña-Kues  
Mr. Frank Salazar, Smith's Food & Drug Centers,  
Inc.  
Mr. Pat Toledo  
Mr. Doug Vancil  
Ms. Julie Vancil

**Hearing**

In the matter of the Hearing on the Merits Regarding the Denial of a Wood Burning Exemption, Michael S. Fulp, Petitioner (AQCB Petition No. 2013-2)

Hearing Cancelled due to absence of Mr. Michael Fulp, Petitioner.

## Meeting Minutes

### CALL TO ORDER

The meeting was called to order by Chair Dr. Dona Upson at 5:35 pm on February 13, 2013 with six Air Quality Control Board (Board) members present: Chair Dr. Dona Upson, Vice Chair Dr. Margaret Menache, Mr. Steve Baca, Ms. Kelsey Curran, Dr. Naomi Kistin, and Mr. Jack Sullivan.

#### **Item #1 Approval of Agenda (Chair)**

Dr. Dona Upson proposed to amend the agenda by moving Item # 5, Hearing on Smith's Food and Drug Centers, Inc.'s Motion for a Stay of Air Quality Control Board's Final Order, to the next Board meeting scheduled for March 13, 2013. A discussion commenced between Board members and the parties affected by postponement of the hearing. A motion to approve the agenda as amended was made by Member Baca, seconded by Member Sullivan and approved by a unanimous vote of 6-0.

#### **Item #2 Approval of January 9, 2013 Meeting Minutes (Chair)**

A motion to approve the January 9, 2013 minutes was made by Member Curran and seconded by Dr. Menache. Member Baca requested that the minutes be amended to reflect Counsel's advice that was given during the January meeting. Hearing Officer Orth suggested, and the Board decided, that the January 9 minutes should be amended to state that the transcript of the deliberations is available for review at the office of the Hearing Clerk. A motion to approve the minutes as amended was made by Member Baca, seconded by Member Kistin and approved with a vote of 5 in favor and one abstention, which was made by Member Sullivan.

### PUBLIC COMMENT

Public comment was made by Ms. Georgianna Peña-Kues regarding the air quality in China.

### ACTION ITEMS

#### **Item #3 Decision in the matter of the Hearing on the Merits Regarding the Denial of a Wood Burning Exemption, Michael S. Fulp, Petitioner (AQCB Petition No. 2013-2)**

The hearing was cancelled due to the absence of Mr. Fulp, therefore a decision on the matter was not necessary.

#### **Item #4 Proposed Final Order consistent with reasons for Reversal of COA's Issuance of Minor Source Air Quality Authority-to-Construct Permit No. 2037-M1 with Conditions to Smith's Food and Drug Centers, Inc.**

Board Attorney Mr. Bill Grantham noted for the record that the Proposed Final Order was filed on February 7, 2013 and that all parties have had a chance to review it. Member Curran stated for the record that she did not agree with the decision made during the January meeting, but she would still vote on the Final Order. A motion to approve the Final Order and Statement of Reasons was made by Member Baca, seconded by Member Kistin and carried with a vote of 3-in favor (Mr. Stephen Baca, Dr. Naomi Kistin, Mr. Jack Sullivan), 2-against (Ms. Kelsey Curran, Dr. Dona Upson) and 1-abstention (Dr. Margaret Menache).

**Item #5      Hearing on Smith's Food and Drug Centers, Inc.'s Motion for Stay of Air Quality Control Board's Final Order.**

The hearing was postponed until the Board Meeting on March 13, 2013. Questions were posed by the parties regarding deadlines and procedures.

**Item #6      Request for hearing on Petition to Amend 20.11.60 NMAC, *Permitting In Nonattainment Area*; 20.11.61 NMAC, *Prevention of Significant Deterioration*; and 20.11.42 NMAC, *Operating Permits*. The Amendments to 20.11.42 NMAC Are Proposed As a Revision to the Title V Operating Permit Program, and the Amendments to 20.11.60 NMAC and 20.11.61 NMAC Are Proposed As a Revision to the New Mexico State Implementation Plan for Air Quality (SIP) (AQCB Petition No. 2013-1) – Neal Butt, Environmental Health Scientist, AQD.**

Member Curran moved to grant the request for a hearing and to hire a court reporter. The motion was seconded by Member Kistin and passed with a unanimous vote of 6-0.

**REPORTS**      No comments or questions were made.

**OTHER BUSINESS**

No Other Business

**ADJOURNMENT**


Chair, Dr. Dona Upson, adjourned the meeting at 6:14 pm.


**NEXT SCHEDULED BOARD MEETING:**

- March 13, 2013 5:30 pm.

SUBMITTED:

READ AND APPROVED:

  
Ms. Margaret Nieto      3/13/13      date  
Board Secretary/Env. Health Supervisor, Control Strategies Section  
Air Quality Div., Environmental Health Department

  
Dona Upson M.D.      3/13/13      date  
Chair  
Albuquerque – Bernalillo County Air Quality Control Board