

STATE OF NEW MEXICO
Before the
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

AQCB No. 2014-4

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

**ENVIRONMENTAL HEALTH DEPARTMENT'S
UNOPPOSED MOTION TO REVISE HEARING SCHEDULE**

RECEIVED
ENVIRONMENTAL HEALTH
15 DEC 22 AM 11:32

The Environmental Health Department (Department) files this unopposed motion to revise the schedule for this matter to accommodate motion practice on discovery and to allow Petitioner Southwest Organizing Project (SWOP) more time to submit its supplemental Notice of Intent to Present Technical Testimony (Supplemental NOI). As grounds for this motion, the Department states as follows:

1. The Hearing Officer issued a Revised Scheduling Order (Order) on November 15, 2015.
2. The Order requires that EHD issue its discovery requests by December 14, 2015.
3. The Air Board's adjudicatory rules require that EHD move for an order from the Hearing Officer to allow discovery. 20.11.81.14(J) NMAC.
4. SWOP has informed the Department that it will oppose EHD's motion for discovery and that it will need more time to supplement its Notice of Intent ("Supplemented NOI") than the existing Order allows.

EHD'S UNOPPOSED MOTION TO REVISE SCHEDULE

Motion approved

Felicia Orth by Andrew Daffern

RECEIVED
ENVIRONMENTAL HEALTH
15 DEC -9 PM 3:05

5. To accommodate the Department's motion for discovery and SWOP's need for more time to prepare its Supplemented NOI, the Department proposes the following revisions to the hearing schedule, which are consistent, to the extent possible, with the times provided by the Board's adjudicatory rules and the times currently provided for each action in the Order:

- a. The Department shall file its motion for discovery by December 14, 2015.
- b. SWOP shall file its response to the motion for discovery by December 29, 2015.
- c. The Department shall file a reply in support of the motion for discovery by January 8, 2016.
- d. SWOP shall file its amended NOI by January 29, 2016.¹
- e. The Department shall file its amended NOI by February 19, 2016.
- g. Motions in limine shall be filed by March 18, 2016, responses to motions in limine shall be filed by April 1, 2016, and replies in support of motions in limine shall be filed by April 14, 2016.
- h. The hearing in this matter, including decisions on any motions in limine, shall begin 9:00 a.m, May 2, 2016, and continue as necessary through the days and potentially the evenings of May 3-4, 2016, in the Albuquerque Convention Center in Albuquerque, New Mexico.

6. The Department has consulted with SWOP's counsel and SWOP does not oppose this Motion.

¹ The Department reserves the right to move for additional discovery regarding new information in SWOP's supplemental NOI, if any, which may require further extensions to the Order.

7. The Department has consulted with Mr. Rod Honstein and Mr. Honstein does not oppose this Motion.

WHEREFORE, the Department respectfully requests that the Hearing Officer amend the schedule in this matter as set forth above.

Respectfully submitted,

CITY OF ALBUQUERQUE
Jessica M. Hernandez, City Attorney



Carol M. Parker, Assistant City Attorney
P.O. Box 2248
Albuquerque, NM 87103
(505) 768-4500
cparker@cabq.gov

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this Motion to Revise Schedule was served as described below on December, 9th, 2015:

- 1) The Department's original document was filed with the Hearing Clerk in the above-captioned matter and nine copies were hand delivered to the Hearing Clerk.
- 2) One additional copy was hand-delivered to the Hearing Clerk for delivery to the Hearing Officer Air Board Attorney and one copy was sent by electronic mail to:

Felicia Orth
c/o Andrew Daffern, Hearing Clerk
Control Strategies Section
Environmental Health Department
One Civic Plaza, Room 3023
Albuquerque, NM 87102
orthf@yahoo.com
*Attorney for the Albuquerque-Bernalillo County Air Quality Control Board
and Hearing Officer for AQCB Petition No. 2014-4*

- 3) One hard copy was mailed by first class mail and a copy was sent by electronic mail to:

Jon Block and Eric Jantz
New Mexico Environmental Law Center
1405 Luisa Street, Ste. 5
Santa Fe, NM 87505
jblock@nmelec.org
ejantz@nmelec.org
*Attorneys for Southwest Organizing Project ("SWOP")
And Esther and Steven Abeyta, Petitioners*

Rod Honstein, Managing Member
Honstein Oil & Distributing, LLC
11 Paseo Real
Santa Fe, NM 87507
rod@honsteinoil.com
Pro Se

By: 
Carol M. Parker, Assistant City Attorney

CERTIFICATE OF SERVICE

I hereby certify that I have e-mailed a true and correct copy of the foregoing APPROVAL OF UNOPPOSED MOTION TO REVISE HEARING SCHEDULE on this 22nd day of December, 2015, to the following:

E-mailed

Felicia Orth
orthf@yahoo.com

Attorney for the Albuquerque-Bernalillo County Air Quality Control Board and Hearing Officer for AQCB Petition No. 2014-4

E-mailed

Jon Block
Eric Jantz
New Mexico Environmental Law Center
jblock@nmelc.org
ejantz@nmelc.org

Counsel for Petitioners

E-mailed

Carol M. Parker, Assistant City Attorney,
Air Quality Program
cparker@cabq.gov

Counsel for Respondent

E-mailed

Rod Honstein, Managing Member
Honstein Oil & Distributing, LLC
rod@honsteinoil.com

Applicant

E-mailed

Shawn Boyle
sboyle@bradhallfuel.com

Counsel for Applicant

Respectfully submitted,



Andrew Daffern, AQCB Hearing Clerk