

RECEIVED
ENVIRONMENTAL HEALTH
14 AUG -6 PM 2:17

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. 3135 ISSUED TO
SMITH'S FOOD AND DRUG CENTERS, INC.

Margaret M. Freed, Mary Ann Roberts, and Pat Toledo, Petitioners

No. AQCB 2014-2

AFFIDAVIT

I, Andrew Daffern, Air Quality Control Board Hearing Clerk certify that on August 6, 2014, seventy-one (71) *Notices of Hearing* were mailed, and fifteen *Notices of Hearing* were emailed to the parties and interested participants regarding the hearing in the above-captioned matter. The *Notice of Hearing* was published in the *Albuquerque Journal* on Sunday, August 3, 2014.

Respectfully submitted,



Andrew Daffern, Hearing Clerk
Air Quality Program
Environmental Health Department
P.O. Box 1293
One Civic Plaza NW, Room 3023
Albuquerque, New Mexico 87103

CERTIFICATE OF SERVICE

I hereby certify that I have e-mailed a true and correct copy of the foregoing
AFFIDAVIT on this 6th day of August, 2014, to the following:

E-mailed

Felicia Orth

Attorney and Hearing Officer for Air Quality Control Board

orthf@yahoo.com

E-mailed

Carol M. Parker, Assistant City Attorney

cparker@cabq.gov

Attorney for City of Albuquerque,

Air Quality Program

E-mailed

Pete V. Domenici, Jr., Esq.

Lorraine Hollingsworth, Esq.

Domenici Law Firm, P.C.

pdomenici@domenicilaw.com

lhollingsworth@domenicilaw.com

Attorneys for Petitioners

E-mailed

Frank Salazar, Esq.

Tim Adler, Esq.

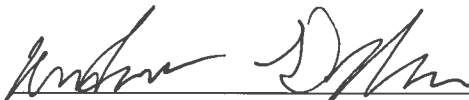
Sutin, Thayer & Browne, APC

TJA@sutinfirm.com

FCS@sutinfirm.com

Attorneys for Applicant

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Andrew Daffern', is written over a horizontal line.

Andrew Daffern, AQCB Hearing Clerk

PUBLIC NOTICE

ALBUQUERQUE-BERNALILLO COUNTY AIR QUALITY CONTROL BOARD IN THE MATTER OF THE PETITION FOR A HEARING ON THE MERITS REGARDING AIR QUALITY PERMIT NO. 3135 ISSUED TO SMITH'S FOOD AND DRUG CENTERS, INC., MARGARET M. FREED, MARY ANN ROBERTS, AND PAT TOLEDO, PETITIONERS (PETITION NO. AQCB 2014-2)

Smith's Food & Drug Centers, Inc. submitted an Authority-to-Construct application to the Air Quality Program (Program) of the City of Albuquerque Environmental Health Department for a proposed gasoline dispensing facility with an annual gasoline throughput of 7,000,000 gallons per year, to be located at 6941 Montgomery Blvd. NE, Albuquerque, NM 87109. Permit #3135 was issued by the Program on April 30, 2014. The application may be reviewed in the Program's office, located in Suite #3047 on the third floor of the City-County Government Building, 400 Marquette Ave. NW, Albuquerque, NM 87102. The permit and the Petition for Hearing may be viewed on the Program's website at the following link: <http://www.cabq.gov/airquality/air-quality-control-board/petitions/related-documents>.

An appeal of the issuance of Permit #3135 has been filed by petitioners: Margaret M. Freed, Mary Ann Roberts, and Pat Toledo (Petition No. AQCB 2014-2). A hearing before the Albuquerque-Bernalillo County Air Quality Control Board (Air Board) has been scheduled to begin on **Wednesday, September 10, 2014** at 9:00 a.m. and continue as necessary through **Sept. 11**. The hearing will be held downtown at the Albuquerque Convention Center, Lower Level, West Complex, in the Taos conference room, 401 2nd Street NW, Albuquerque, NM.

Hearings and meetings of the Air Board are open to the public and all interested persons are encouraged to participate. All persons who wish to testify regarding the subject of the hearing will be given a reasonable opportunity to submit relevant evidence, data, views, and arguments, orally or in writing, to introduce exhibits and to examine witnesses in accordance with the City of Albuquerque Joint Air Quality Control Board Ordinance Section 9-5-1-6 ROA 1994; Bernalillo County Ordinance 94-5, Section 6; and 20.11.81 NMAC *Adjudicatory Procedures – Air Quality Control Board* and orders of the Hearing Officer.

PUBLIC COMMENT of a non-technical nature: Wednesday, September 10, 2014, 5:00 pm to 5:30 pm or longer as necessary to accept all public comment offered (per 20.11.81.14.I.(2)). Public comment will be accepted. The Hearing Officer may take public comment at other times throughout the hearing as necessary.

TECHNICAL TESTIMONY: Any person who intends to present technical evidence or testimony opposing the issuance of the permit at the hearing must file a notice of intent (NOI) to present technical testimony by August 8, 2014. City of Albuquerque, Permittee and others supporting the issuance of the permit who intend to present technical evidence or testimony must file an NOI by August 29, 2014. Any person, other than petitioners, the City, or Permittee, who wishes to be treated as an interested participant must file an entry of appearance with the hearing clerk and serve the entry of appearance on all parties by August 8, 2014, per 20.11.81.14.I NMAC.

Technical evidence or testimony means scientific, engineering, economic or other specialized evidence or testimony. It does not mean legal argument, general comments or statements of policy. NOIs must identify the person filing the statement; identify each witness,

including name, affiliation, education and work background; include the testimony of each witness in full narrative fashion, particularly any opinion to be offered by each witness and an explanation of the basis for the opinion; include technical materials relied upon by each witness in forming opinions; estimate the length of each witness' presentation; and identify all exhibits that will be referred to that are part of the administrative record maintained by the City of Albuquerque and attach a copy of any exhibit not in the administrative record. PowerPoint and other slide presentations or displays which are demonstrative and based on technical evidence timely submitted may be shown at the hearing regardless of inclusion in the NOI. Copies no larger than 8 ½ by 11 inches shall replace large charts and maps in the record after the hearing. Failure to file a timely and complete NOI will preclude a person from presenting that technical evidence or testimony sought to be offered. NOIs shall be filed with the Hearing Clerk at the following address: Attn: Mr. Andrew Daffern, P.O. Box 1293, Albuquerque, NM 87103; or in person at the Environmental Health Department's office, located in Suite #3023 on the third floor of the City-County Government Building, 400 Marquette Ave. NW, Albuquerque, NM.

POST HEARING PROCESS AND BOARD DECISION: Upon conclusion of the evidentiary hearing, the hearing officer will announce the post hearing process. At a later date, the Board will deliberate and decide whether the permit appeal will be granted, either in whole or in part, or be denied.

NOTICE TO PERSONS WITH DISABILITIES: If you have a disability and require special assistance to participate in this process, please call 311 (Voice) and special assistance will be made available to you to receive any public meeting documents, including agendas and minutes. TTY users may request special assistance by calling 1-800-659-8331.

Albuquerque Publishing Company
 7777 Jefferson N.E. Albuquerque, New Mexico 87109
 P.O. Drawer J-T Albuquerque, New Mexico 87103
 (505) 823-7777

Account Number

1007580

Ad Order Number

0001164548

Ad Proof / Order Confirmation

CITY OF ALB-ENVIRONMENTAL HEAL
 P O BOX 1293
 ALBUQUERQUE NM 87103

<u>Ordered By</u>	ANDREW DAFFERN	<u>Customer Phone</u>	505-768-2600	<u>Pickup #</u>
<u>Customer EMail</u>		<u>PO Number</u>	701374	<u>Joint Ad #</u>
<u>Ad Cost</u>	\$123.48	<u>Sales Rep</u>	dnoel	
<u>Tax Amount</u>	\$8.64	<u>Order Taken by:</u>	dnoel	
<u>Total Amount</u>	\$132.12	<u>Payment Method</u>		
<u>Amount Due</u>	\$132.12	<u>Payment Amount</u>	\$0.00	

Product Albuquerque JournalAd Number 0001164548-01Ad Type APC-LegalsAd Size : 1.0 X 196 LiColor <NONE>Run Dates 8/3/2014PlacementClassificationSort Text

Legal Notices

Government-0000

PERMIT 3135 APPEAL

Affidavits

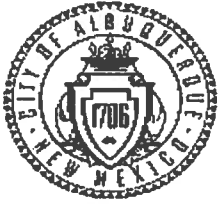
0

**PUBLIC NOTICE**

**ALBUQUERQUE-BERNALILLO
 COUNTY AIR QUALITY
 CONTROL BOARD**
 IN THE MATTER OF THE
 PETITION FOR A HEARING ON
 THE MERITS REGARDING AIR
 QUALITY PERMIT NO. 3135
 ISSUED TO SMITH'S FOOD AND
 DRUG CENTERS, INC.,
 MARGARET M. FREED, MARY
 ANN ROBERTS, AND PAT T
 GLEDO, PETITIONERS
 (PETITION NO. AQCB 2014-2)

Smith's Food & Drug Centers, Inc. submitted an Authority-to-Construct application to the Air Quality Program (Program) of the City of Albuquerque Environmental Health Department for a proposed gasoline dispensing facility with an annual gasoline throughput of 7,000,000 gallons per year, to be located at 6941 Montgomery Blvd, NE, Albuquerque, NM 87109. Permit #3135 was issued by the Program on April 30, 2014. The application may be reviewed in the Pro-

Albuquerque Publishing Company
 7777 Jefferson N.E. Albuquerque, New Mexico 87109
 P.O. Drawer J-T Albuquerque, New Mexico 87103
 (505) 823-7777



PUBLIC NOTICE

**ALBUQUERQUE-BERNALILLO
 COUNTY AIR QUALITY
 CONTROL BOARD
 IN THE MATTER OF THE
 PETITION FOR A HEARING ON
 THE MERITS REGARDING AIR
 QUALITY PERMIT NO. 3135
 ISSUED TO SMITH'S FOOD AND
 DRUG CENTERS, INC.,
 MARGARET M. FREED, MARY
 ANN ROBERTS, AND PAT T
 OLEDO, PETITIONERS
 (PETITION NO. AQCB 2014-2)**

Smith's Food & Drug Centers, Inc. submitted an Authority-to-Construct application to the Air Quality Program (Program) of the City of Albuquerque Environmental Health Department for a proposed gasoline dispensing facility with an annual gasoline throughput of 7,000,000 gallons per year, to be located at 6941 Montgomery Blvd. NE, Albuquerque, NM 87109. Permit #3135 was issued by the Program on April 30, 2014. The application may be reviewed in the Program's office, located in Suite #3047 on the third floor of the City-County Government Building, 400 Marquette Ave. NW, Albuquerque, NM 87102. The permit and the Petition for Hearing may be viewed on the Program's website at the following link:
<http://www.cabq.gov/airquality/air-quality-control-board/petitions/related-documents>

An appeal of the issuance of Permit #3135 has been filed by petitioners: Margaret M. Freed, Mary Ann Roberts, and Pat Toledo (Petition No. AQCB 2014-2). A hearing before the Albuquerque-Bernalillo County Air Quality Control Board (Air Board) has been scheduled to begin on Wednesday, September 10, 2014 at 9:00 a.m. and continue as necessary through Sept. 11. The hearing will be held downtown at the Albuquerque Convention Center, Lower Level, West Complex, in the Taca conference room, 401 2nd Street NW, Albuquerque, NM.

Hearings and meetings of the Air Board are open to the public and all interested persons are encouraged to participate. All persons who wish to testify regarding the subject of the hearing will be given a reasonable opportunity to submit relevant evidence, state views, and arguments, orally or in writing, to introduce exhibits and to examine witnesses in accordance with the City of Albuquerque Joint Air Quality Control Board Ordinance Section 9-5-1-5, ROA 1994; Bernalillo County Ordinance 94-5, Section 6; and 20.11.81 NMAC Adjudicatory Procedures - Air Quality Control Board and orders of the Hearing Officer.

PUBLIC COMMENT of a non-technical nature: Wednesday, September 10, 2014, 5:00 pm to 5:30 pm or longer as necessary to

Ad Proof / Order ConfirmationAccount Number

1007580

Ad Order Number

0001164548

CITY OF ALB-ENVIRONMENTAL HEAL

accept all public comment offered (per 20.11.21.14.1(2)). Public comment will be accepted. The Hearing Officer may take public comment at other times throughout the hearing as necessary.

TECHNICAL TESTIMONY. Any person who intends to present technical evidence or testimony opposing the issuance of the permit at the hearing must file a notice of intent (NOI) to present technical testimony by August 8, 2014. City of Albuquerque, Permittees and others supporting the issuance of the permit who intend to present technical evidence or testimony must file an NOI by August 29, 2014. Any person, other than petitioners, the City, or Permittee, who wishes to be treated as an interested participant must file an entry of appearance with the hearing clerk and serve the entry of appearance on all parties by August 8, 2014, per 20.11.21.14.1 NMAC.

Technical evidence or testimony means scientific, engineering, economic or other specialized evidence or testimony. It does not mean legal argument, general comments or statements of policy. NOIs must identify the person filing the statement; identify each witness, including name, affiliation, education and work background; include the testimony of each witness in full narrative fashion, particularly any opinion to be offered by each witness and an explanation of the basis for the opinion; include technical materials relied upon by each witness in forming opinions; estimate the length of each witness' presentation; and identify all exhibits that will be referred to that are part of the administrative record maintained by the City of Albuquerque and attach a copy of any exhibit not in the administrative record. PowerPoint and other slide presentations or displays which are demonstrative and based on technical evidence timely submitted may be shown at the hearing regardless of inclusion in the NOI. Copies no larger than 8 1/2 by 11 inches shall replace large charts and maps in the record after the hearing. Failure to file a timely and complete NOI will preclude a person from presenting that technical evidence or testimony sought to be offered. NOIs shall be filed with the Hearing Clerk at the following address: Attn: Mr. Andrew Gallen, P.O. Box 1293, Albuquerque, NM 87103; or in person at the Environmental Health Department's office, located in Suite #3023 on the third floor of the City-County Government Building, 400 Marquette Ave. NW, Albuquerque, NM.

POST HEARING PROCESS AND BOARD DECISION: Upon conclusion of the evidentiary hearing, the hearing officer will announce the post hearing process. At a later date, the Board will deliberate and decide whether the permit appeal will be granted, either in whole or in part, or be denied.

NOTICE TO PERSONS WITH DISABILITIES: If you have a disability and require special assistance to participate in this process, please call 311 (Voice) and special assistance will be made available to you to receive any public meeting documents, including agendas and minutes. TTY users may request special assistance by calling 1-800-859-8331.
Journal: August 3, 2014