

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. 3136 ISSUED TO
SMITH'S FOOD AND DRUG CENTERS, INC.

Arthur Gradi, Ruth A. McGonagil, Jerri Paul-Seaborn,
Bernice Ledden, Susan Kelly, Americo Chavez,
and Pat Toledo, Petitioners

No. AQCB 2014-3

AFFIDAVIT

I, Andrew Daffern, Air Quality Control Board Hearing Clerk certify that on September 30, 2014, ninety-three (93) *Notices of Hearing* were mailed, and thirty-three (33) *Notices of Hearing* were emailed to the parties and interested participants regarding the hearing in the above-captioned matter. The *Notice of Hearing* will be published in the *Albuquerque Journal* on Wednesday, October 1, 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

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CERTIFICATE OF SERVICE

I hereby certify that I have e-mailed or mailed a true and correct copy of the foregoing AFFIDAVIT on this 30th day of September, 2014, to the following:

E-mailed

Felicia Orth

orthf@yahoo.com

Attorney and Hearing Officer for Air Quality Control Board

E-mailed

Carol M. Parker, Assistant City Attorney

cparker@cabq.gov

Attorney for City of Albuquerque,
Air Quality Program

E-mailed

Frank Salazar, Esq.

Tim Adler, Esq.

Sutin, Thayer & Browne, APC

TJA@sutinfirm.com

FCS@sutinfirm.com

Attorneys for Applicant

E-mailed

Arthur Gradi

artagradi@gmail.com

Petitioner

E-mailed

Ruth A. McGonagil

rmcgonagil@gmail.com

Petitioner

E-mailed

Jerri Paul-Seaborn

jpseaborn@gmail.com

Petitioner

E-mailed

Pat Toledo

pinkopatrick@gmail.com

Petitioner

E-mailed and Mailed

Susan Kelly
susankellyabq@gmail.com
713 Camino Espanol NW
Albuquerque, NM 87107
Petitioner

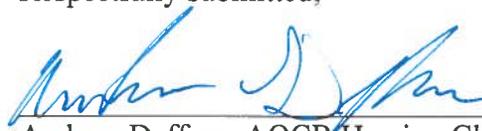
Mailed

Bernice Ledden
427 Mullen Road NW,
Los Ranchos, NM 87107
Petitioner

Mailed

Americo Chavez
721 Camino Español NW
Albuquerque, NM 87107
Petitioner

Respectfully submitted,



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. 3136 ISSUED TO SMITH'S FOOD AND DRUG CENTERS, INC.; ARTHUR GRADI, RUTH A. MCGONAGIL, JERRI PAUL- SEABORN, BERNICE LEDDEN, SUSAN KELLY, AMERICO CHAVEZ, AND PAT TOLEDO, PETITIONERS (PETITION NO. AQCB 2014-3)

A hearing before the Albuquerque-Bernalillo County Air Quality Control Board (Air Board) regarding Air Permit No. 3136 issued to Smith's Food and Drug Centers, Inc. has been scheduled to begin on **Wednesday, November 12, 2014** at 9:00 a.m. and continue as necessary through **November 13th**. The hearing will be held downtown at the Albuquerque Convention Center, Lower Level, East Complex, in the Galisteo conference room, 401 2nd Street NW, Albuquerque, NM 87102.

Smith's Food & Drug Centers, Inc. submitted an Authority-to-Construct permit 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 6310 4th St. NW, Albuquerque, NM 87107. Permit #3136 was issued by the Program on May 29, 2014.

An appeal of the issuance of Permit #3136 was filed by petitioners Arthur Gradi, Ruth A. McGonagil, Jerri Paul-Seaborn, Bernice Ledden, Susan Kelly, Americo Chavez, and Pat Toledo (Petition No. AQCB 2014-3) on July 1, 2014. 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>.

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, November 12, 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 October 7, 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 October 28, 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 October 7, 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.

MOTION HEARING: In the event pre-hearing motions are timely filed, the Air Board will conduct a motion hearing on October 22, 2014.

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.

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<u>Color</u>	<NONE>		
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Affidavits
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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. 3138 ISSUED TO SMITH'S FOOD AND DRUG CENTERS, INC.: ARTHUR GRADI, RUTH A. MCGONAGIL, JERRI PAUL-SEABORN, BERNICE LEDDEN, SUSAN KELLY, AMERICO CHAVEZ, AND PAT TOLEDO, PETITIONERS (PETITION NO. ACCB 2014-3)

A hearing before the Albuquerque-Bernalillo County Air Quality Control Board (Air Board) regarding Air Permit No. 3138 issued to Smith's Food and Drug Centers, Inc. has been scheduled to begin on Wednesday, November 12, 2014 at 9:00 a.m. and continue as necessary through November 13th. The hearing will be held downtown at the Albuquerque Convention Center, Lower Level, East Complex, in

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ALBUQUERQUE-BERNALILLO COUNTY AIR QUALITY CONTROL BOARD IN THE MATTER OF THE PETITION FOR A HEARING ON THE MERITS REGARDING AIR QUALITY PERMIT NO. 3138 ISSUED TO SMITH'S FOOD AND DRUG CENTERS, INC.: ARTHUR GRADI, RUTH A. MCGONAGIL, JERRI PAUL-SEABORN, BERNICE LEDDEN, SUSAN KELLY, AMERICO CHAVEZ, AND PAT TOLEDO, PETITIONERS (PETITION NO. AQCS 2014-3)

A hearing before the Albuquerque-Bernalillo County Air Quality Control Board (Air Board) regarding Air Permit No. 3138 issued to Smith's Food and Drug Centers, Inc. has been scheduled to begin on Wednesday, November 12, 2014 at 9:00 a.m. and continue as necessary through November 13th. The hearing will be held downtown at the Albuquerque Convention Center, Lower Level, East Complex, in the Galisteo conference room, 401 2nd Street NW, Albuquerque, NM 87102.

Smith's Food & Drug Centers, Inc. submitted an Authority-to-Construct permit 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 6310 4th St. NW, Albuquerque, NM 87107. Permit #3138 was issued by the Program on May 29, 2014.

An appeal of the issuance of Permit #3138 was filed by petitioners Arthur Gradi, Ruth A. McGonagil, Jerri Paul-Seaborn, Bernice Ledden, Susan Kelly, Americo Chavez, and Pat Toledo (Petition No. AQCB 2014-3) on July 1, 2014. 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-controlboard/petitions/related-documents>.

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-

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Account Number

1007580

Ad Order Number

0001176967

CITY OF ALB-ENVIRONMENTAL HEAL

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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 Daffern, P.O. Box 1299, 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.

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