



ALBUQUERQUE-BERNALILLO COUNTY AIR QUALITY CONTROL BOARD



MINUTES – July 10, 2013

Regular Meeting

Vincent E. Griego chambers

Albuquerque-Bernalillo County Government Center

One Civic Plaza NW, Albuquerque, NM 87102

AQCB MEMBERS PRESENT

Dona Upson, M.D. (City), Chair
Ms. Kelsey Curran (City), Vice Chair
Mr. Jens Deichmann (County)
Robert A. Goldstein, M.D. (County)
Lenton Malry, Ph.D. (BCPC Liaison)
Mr. Jack Sullivan (City)

AQCB MEMBERS ABSENT

Ms. Jane Cudney-Black (City)
Naomi Kistin, M.D. (County)

STAFF PRESENT

Mr. Neal Butt, EH Scientist, AQD
Mr. Bill Grantham, Air Board Attorney
Ms. Donna Griffin, Assistant City Attorney
Ms. Adelia Kearny, Deputy City Attorney
Ms. Mary Lou Leonard, Director, EHD
Ms. Angela Lopez, Small Business Assistance Program Supervisor, AQD
Mr. Fabian Macias, Air Quality Official
Mr. Danny Nevarez, Acting Deputy Director, EHD
Ms. Margaret Nieto, AQCB Secretary, EH Supervisor
Ms. Felicia Orth, Hearing Officer
Mr. Damon Reyes, EH Supervisor, Enforcement
Mr. Dario Rocha, EH Supervisor, AQD
Mr. Matt Stebleton, Compliance Supervisor, AQD
Mr. Isreal Tavarez, EH Manager, Permitting
Mr. Danny Zamora, Sr. Environmental Scientist, EHD

VISITORS PRESENT.

Mr. Jarrett Airhart, Trinity Consultants
Mr. Tim Adler for Smith's Food & Drug Centers
Mr. Andy Carrasco
Ms. Melissa Clark, KAFB
Mr. Martin Dominguez, CST Brands, Inc.
Mr. Andrew Frye, Aggregate Industries
Mr. Vern Hershberger, Trinity Consultants for Cummins Rocky Mountain
Mr. John Hughes, MSCI
Mr. Don Kaufman, Chair, COA Small Business Regulatory Advisory Commission
Dr. Margaret Menache
Mr. Matt Nowarkowski, General Mills
Mr. Larry Rainosen, COA Small Business Regulatory Advisory Commission
Mr. Frank Salazar for Smith's Food & Drug Centers
Mr. Kyle Silfer, Greater Gardner NA
Mr. Raj Solomon, TRC
Mr. Charles Steele, Eclipse Aerospace, Inc.
Mr. Pat Toledo
Ms. Jeanne Torres, Verizon Wireless
Mr. Mark Williams, PNM
Mr. John Willrout, CST Brands Inc.

Draft Meeting Minutes

CALL TO ORDER

The meeting was called to order by Chair Dr. Dona Upson at 5:32 pm on July 10, 2013 with five Board members and the BCPC liaison present: Chair Dona Upson, M.D., Ms. Kelsey Curran, Mr. Jens Deichmann, Robert A. Goldstein, M.D., and Mr. Jack Sullivan; Lenton Malry, Ph.D., BCPC liaison.

Item #1 Approval of Agenda (Chair)

Chair Dr. Upson proposed to amend the agenda to move agenda item #3, Request for a hearing in the Matter of the Petition for a Hearing on the Merits regarding Air Quality Permit No. 1677-M2, to precede the Hearing in the Matter of the Second Amended Petition to Repeal and Replace 20.11.41 NMAC. A motion to approve the agenda as amended was made by Chair Dr. Upson, seconded by Member Sullivan and approved by a unanimous vote of 5-0.

PUBLIC COMMENT

No public comment was made.

ACTION ITEMS

Item #3 Request for a hearing in the Matter of the Petition for a Hearing on the Merits Regarding Air Quality Permit No. 1677-M2 – Petitioners: Pete Domenici, Jr. on behalf of Dempsey Power, Pat Toledo, and Andy Carrasco; Respondents: for City of Albuquerque, Adelia Kearny, Deputy City Attorney and Danny Nevarez, Air Quality Programs, Deputy Director, Environmental Health Department; Permittees: Frank Salazar, Timothy Atler on behalf of Smith’s Food and Drug Centers, Inc.

Mr. Pete Domenici, Jr. on behalf of Dempsey Power, Pat Toledo, and Andy Carrasco requested a hearing on the merits before the Board regarding Air Quality Permit No. 1677-M2. A motion was made by Member Curran and seconded by Dr. Goldstein to grant the request for a hearing, appoint Ms. Felicia Orth as Hearing Officer, and to hire a court reporter. The motion was approved by a vote of 4 in favor, 0 against, and 1 abstention (Member Sullivan). Newly appointed Hearing Officer Orth consulted with all parties and the decision was made to schedule the hearing on October 1 & 2, 2013 and to set up a conference call to establish procedures and deadlines.

HEARING

In the Matter of the Second Amended Petition to Repeal Currently Effective 20.11.41 NMAC, *Authority to Construct*; Adopt Proposed Replacement 20.11.41 NMAC, *Construction Permits*; and Incorporate the Replacement 20.11.41 NMAC into the New Mexico State Implementation Plan (SIP) for Air Quality (AQCB Petition No. 2013-5) - Isreal Tavarez, AQD Manager

Hearing Officer Felicia Orth opened the hearing at 5:50 pm. Mr. Isreal Tavarez, Environmental Manager Permitting Section, AQD, provided testimony and answered questions posed by the Board, the Hearing Officer and the public. Mr. Dario Rocha, Environmental Health Supervisor, AQD, answered questions posed to the Air Quality Division. Mr. Kyle Silfer, Greater Gardner Neighborhood Association, and Mr. Vern Hershberger, Trinity Consultants for Cummins Rocky Mountain Dealership, provided testimony and answered questions posed by the Board, the Hearing Officer and the public. Public comment was made by Mr. Don Kaufman, Chair COA SBRAC; Mr. Andrew Frye, Aggregate Industries; Ms. Angela Lopez, Small Business Assistance Program Supervisor, AQD; and Dr. Margaret Menache. Hearing Officer Orth then closed the hearing record.

ACTION ITEMS

Item #2 Approval of June 12, 2013 Meeting Minutes (Chair)

A motion was made by Member Curran and seconded by Member Sullivan to approve the June 12, 2013 minutes. The motion was approved by a unanimous vote of 5-0.

Item #4 Decision on the Second Amended Petition to Repeal Currently Effective 20.11.41 NMAC, *Authority to Construct*; Adopting Proposed Replacement 20.11.41 NMAC, *Construction Permits*; and Incorporating the Replacement 20.11.41 NMAC into the New Mexico State Implementation Plan (SIP) for Air Quality (AQCB Petition No. 2013-5) - Isreal Tavarez, AQD Manager

A motion was made by Member Curran and seconded by Member Deichmann to approve Resolution 2013-5, Repealing Currently Effective 20.11.41 NMAC, *Authority to Construct*; Adopt Proposed Replacement 20.11.41 NMAC, *Construction Permits*; and Incorporate the Replacement 20.11.41 NMAC into the New Mexico State Implementation Plan (SIP) for Air Quality, and discussion followed.

A motion was made by Member Curran and seconded by Member Deichmann to amend the regulation per Exhibit 2d, page 8, lines 47 & 48 to include “as required” language to the reference of “Air dispersion model” and “models executed under protocol.” The motion was approved by a unanimous vote of 5-0.

A motion was made by Member Curran and seconded by Member Deichmann to amend the regulation per Exhibit 2r, floor amendment 3, to read “the department shall mail a copy of the public notice by regular or electronic mail to all municipalities, Indian tribes, and counties that are within one-half mile of the exterior boundaries of the property on which the source is or is proposed to be located.” The motion was approved by a unanimous vote of 5-0.

