



Angel Martinez Jr., Director

# Albuquerque-Bernalillo County Air Quality Control Board



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## MINUTES – April 12, 2023 Regular Hybrid Meeting

This meeting was conducted in a hybrid format with both in-person and remote participation via Zoom video conference.

### 1. CALL TO ORDER

Chair Meiklejohn called the meeting to order at 5:33pm and took a moment to welcome Dr. Joseph Galewski to the Board. Dr. Galewski, a professor of atmospheric sciences at the University of New Mexico, briefly introduced himself. Air Board Liaison Anita SdeArmijo then called roll.

Present: 7 - Judy Calman, Elis Eberlein, Joseph Galewski, Johnnye Lewis, Lauren Meiklejohn, Maxine Paul, Kitty Richards

### 2. CONSENT AGENDA

- a. Approval of the April 12, 2023 meeting agenda
- b. Approval of the March 8, 2023 meeting minutes

Before taking up the consent agenda, Chair Meiklejohn noted that EHD had filed an objection to the meeting agenda and asked Board Counsel Antoinette Sedillo Lopez if she had any thoughts about EHD's concerns. Ms. Sedillo Lopez went through the issues raised in the objection and gave her opinion on them, identifying some concerns she felt the Board should address. Chair Meiklejohn thanked her and then pivoted to the March 8, 2023 meeting minutes, suggesting the following correction:

Where the minutes state, "Chair Meiklejohn stated that the Board is currently reviewing information on the alternatives that were proposed and approved by the Parties," replace "Board" with "ad hoc hearing officer recommendation committee of the Board."

Member Richards moved to approve the agenda and minutes with the suggested correction. Member Calman seconded. The motion passed by the following vote:

For: 7 - Calman, Eberlein, Galewski, Lewis, Meiklejohn, Paul, Richards

### 3. AIR PROGRAM REPORT

EHD staff stood for questions from Board members regarding the April Air Quality Program report.

### 4. FIRST PUBLIC COMMENT OPPORTUNITY

Nine members of the public gave comment during the first comment opportunity, including Jonathan Juarez-Alonzo, Robert Caldwell, Marla Painter, Nora Garcia, John Acosta, Stan Harris, Lauro Silva, Anni Hanna, and Xavier Barraza.

## 5. REPORTS/DISCUSSION/ACTION ITEMS

### a. Election of Air Quality Control Board Chair and Vice Chair Positions for 2023-2024 (Chair)

Election of Chair

Chair Meiklejohn declined the nomination to serve another term as Chair that was made by Member Richards at the March 8, 2023 meeting and opened the floor for further nominations. She then nominated Vice Chair Paul to serve as Chair for 2023-2024. Members Calman and Eberlein seconded. The nomination was approved by the following vote:

For: 7-Calman, Eberlein, Galewsky, Lewis, Meiklejohn, Paul, Richards

Following the election, Member Meiklejohn turned the gavel over to Chair Paul to preside over the remainder of the meeting.

Election of Vice Chair

Chair Paul nominated Member Richards to serve as Vice Chair for 2023-2024. Member Lewis seconded. The nomination was approved by the following vote:

For: 6 - Calman, Eberlein, Galewsky, Lewis, Meiklejon, Paul

Abstain: 1 - Richards

Chair Paul concluded the elections by thanking Member Meiklejohn for her service as Chair and for the many volunteer hours she has put in during her time on the Board. She then stated that the Board would discuss item 5.d next.

### d. Discussion and Possible Action on [Docket Entry 24: Motion Seeking Alternative Methods of Recording](#), AQCB Petition No. 2022-3, In the Matter of the Petition to Amend Title 20, Chapter 11 of the New Mexico Administrative Code to Require Review and Consideration of Health, Environment and Equity Impacts (Board)

Louis Rose, representing GCC Rio Grande et al., stated the the motion was not ripe for a decision because it had not been fully briefed yet. Ms. Sedillo Lopez suggested that the Board hear from the proponent and then decide whether it would like further briefing on the issue. Mr. Rose objected, and Chair Paul stated that the Board would hear from the proponent and others would then be given time for rebuttal. Maslyn Locke, representing the Mountain View Coalition, argued in support of the petitioners' motion. Jazmine Johnston, representing EHD, summarized the department's concerns and made several requests related to the recording of the proceedings. Pete Domenici, representing Albuquerque Asphalt et al., emphasized the importance of a written transcript and offered to share the cost with the other parties. Stan Harris, representing NTESS, joined in Mr. Domenici's suggestion that the costs be shared between the parties. Kelsea Sona, representing EHD, indicated that the department could not partake in the sharing of costs as it would be a violation of the anti-donation clause.

Following some discussion, the Board took a short break at approximately 7:00 p.m., and Member Calman left the meeting to attend to a family matter. Chair Paul called the meeting back to order at 7:10 p.m., and Ms. Sedillo Lopez disclosed an off-the-record conversation with the City during the break. Chair Paul then moved to continue using Zoom as the official method of recording the proceedings, and if possible use a backup audio recording method at future meetings where matters pertaining to the rulemaking are discussed. Member Meiklejohn seconded. The motion passed by the following vote:

For: 6 - Eberlein, Galewsky, Lewis, Meiklejohn, Paul, Richards

Absent: 1 - Calman

Member Calman rejoined the meeting after the vote at approximately 7:20 p.m.

**b. Discussion and Possible Action on Docket Entry 14: Amended Request for Hearing (on Motion to Disqualify Board Member Judy Calman, Motion to Disqualify Board Member Kitty Richards, and Motion to Disqualify Board Member Lauren Meiklejohn), AQCB Petition No. 2022-3, In the Matter of the Petition to Amend Title 20, Chapter 11 of the New Mexico Administrative Code to Require Review and Consideration of Health, Environment and Equity Impacts (Board)**

Chair Paul stated that the correct reference for this agenda item was the motions to disqualify and confirmed that the parties were ready to deal with the motions. Mr. Domenici then argued in support of Albuquerque Asphalt et al.'s motions to disqualify Member Calman, Member Meiklejohn and Member Richards. Ms. Locke stated petitioners' opposition to the motions. Mr. Harris restated that NTESS joins all of the motions, and Ms. Johnston said EHD takes no position on them. Ms. Sedillo Lopez then gave her opinion on the motions and asked Member Meiklejohn, Vice Chair Richards and Member Calman whether they have any pre-judgment or bias against or for any of the parties or if they have otherwise prejudged the matter. All three answered no. Chair Paul then asked if there were any motions from Board members to disqualify Member Meiklejohn, Member Calman or Vice Chair Richards. Hearing none, she stated that Albuquerque Asphalt et al.'s motions to disqualify Member Meiklejohn, Member Calman and Vice Chair Richards failed and asked Ms. Sedillo Lopez to prepare an order.

**c. Discussion and Possible Action on Docket Entry 23: Notice of Filing Air Board/USEPA Negotiations Which Invalidate the Rulemaking Process and Demonstrate Pre-Judgement and Bias; and Supplemental Motion to Disqualify and Request for Hearing, AQCB Petition No. 2022-3, In the Matter of the Petition to Amend Title 20, Chapter 11 of the New Mexico Administrative Code to Require Review and Consideration of Health, Environment and Equity Impacts (Board)**

Mr. Domenici argued in support of Albuquerque Asphalt et al.'s filing requesting that the entire Board recuse themselves or be disqualified. At approximately 7:45 p.m., shortly after he Mr. Domenici began speaking, he mentioned a draft informal resolution agreement from EPA pertaining to the pending Title VI complaint against EHD and the Board, and Vice Chair Richards left the meeting because she has recused herself from all matters pertaining to the Title VI complaint. Ms. Locke stated petitioners' opposition to the motion and asked that it be denied. Ms. Johnston stated that EHD takes no position on the motion. Ms. Sedillo Lopez gave her opinion on the motion and stated that, in her opinion, none of the Board members have a conflict

of interest that would disqualify them from participating in the rulemaking. Chair Paul then opened the floor for discussion.

Following the discussion, Member Lewis moved to deny the supplemental motion and request for hearing in terms of Docket Entry 23. Member Eberlein seconded. The motion passed by the following vote:

For: 5 - Calman, Eberlein, Galewsky, Lewis, Paul

Abstain: 1 - Meiklejohn

Absent: 1 - Richards

Vice Chair Richards rejoined the meeting after the discussion and vote at approximately 8:05 p.m.

**e. Discussion and Possible Action on Delegation of Authorities to the Hearing Officer, AQCB Petition No. 2022-3, In the Matter of the Petition to Amend Title 20, Chapter 11 of the New Mexico Administrative Code to Require Review and Consideration of Health, Environment and Equity Impacts (Board)**

Counsel Sedillo Lopez presented a draft order delegating authority to the hearing officer that she had prepared based on the Board's discussion of the matter at its March 30, 2023 special meeting and stood for questions from the Board. Chair Paul then opened the floor for discussion. Member Richards moved to amend the first and second sentences of item number 4 to add "and Board" immediately after "The Hearing Officer...". Member Meiklejohn seconded. The motion passed by the following vote:

For: 7 - Calman, Eberlein, Galewsky, Lewis, Meiklejohn, Paul, Richards

Following further discussion, Chair Paul postponed the matter to a time TBD.

**f. Discussion and Possible Action on Topics of Pre-Hearing Conferences, AQCB Petition No. 2022-3, In the Matter of the Petition to Amend Title 20, Chapter 11 of the New Mexico Administrative Code to Require Review and Consideration of Health, Environment and Equity Impacts (Board)**

Member Meiklejohn presented an index the parties could use as a starting point for pre-hearing negotiations. The Board then discussed the index and other ideas and issues relating to the pre-hearing process and how they might affect the Board's delegation of authority to the hearing officer, and heard comments from Mr. Domenici, Ms. Locke, Ms. Johnston, Mr. Harris, and Mr. Rose. Chair Paul then postponed the matter, along with item 5.e, to the next meeting and asked Ms. Sedillo Lopez to prepare a new draft order delegating authority to the hearing officer considering everything the Board had discussed.

**g. Update on Hearing Officer Contract Status, AQCB Petition No. 2022-3, In the Matter of the Petition to Amend Title 20, Chapter 11 of the New Mexico Administrative Code to Require Review and Consideration of Health, Environment and Equity Impacts (Board Liaison)**

Ms. SdeArmijo gave an update on EHD’s progress getting Mr. Richard Virtue under contract to serve as the hearing officer for the rulemaking and then stood for questions from the Board.

**h. Discussion of Possible Future Agenda Items (Board)**

Members requested that the following items be included on the agenda for the next meeting or future meeting:

- Repeat of items 5.e and 5.f as one agenda item (Paul)
- Deadline for submitting motions before Board meetings (Paul)
- Updates to the Board’s Rulemaking Process Guidebook (Paul)
- Discussion and possible action on the Board’s hybrid meeting policies (Paul)
- Approval of the final 2021 Regional Sulfur Dioxide and Emissions Milestone Report (EHD)
- Consideration of EHD’s motion to amend the final order entered in the New Mexico Terminal Services matter (AQCB Docket No. 2020-1) (EHD)

**6. SECOND PUBLIC COMMENT OPPORTUNITY**

No members of the public gave comment during the second comment opportunity.

**7. OTHER BUSINESS**


Ms. Sona introduced new Assistant City Attorney Nathan Mulvihill to the Board. The Board then presented Member Meiklejohn with a small gift in appreciation of her time serving on the Board.

**8. ADJOURNMENT**

Chair Paul adjourned the meeting at 9:21 p.m.

**NEXT SCHEDULED BOARD MEETING:** May 10, 2023 at 5:30 p.m.


SUBMITTED:

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Mr. Angel Martinez Jr.  
 Director  
 Environmental Health Department

READ AND APPROVED:

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Ms. Lauren Meiklejohn  
 Chair  
 Albuquerque-Bernalillo County Air Quality  
 Control Board