

MINUTES – October 9, 2024

This Albuquerque-Bernalillo County Air Quality Control Board (“Board”) meeting was conducted in a hybrid format with both in-person and remote participation via Zoom video conference.

1. CALL TO ORDER

Member Richards (as Acting Chair) called the meeting to order at 5:32 p.m.

Board Liaison Anita SdeArmijo called roll and the Member Richards determined a quorum was present.

Present: 5 – Judy Calman (virtual attendee), Jane Cudney-Black, Thomas De Pree, Elis Eberlein, Kitty Richards

Absent: 1 – Joseph Galewsky

2. CONSENT AGENDA *(Items may be removed at the request of any Board Member)*

A. Approval of the October 9, 2024 Meeting Agenda

B. Approval of the August 14, 2024 and September 3, 2024 Minutes

Member Richards asked if there were any objections to the consent agenda. Hearing none, she asked for a motion for approval. Member Cudney-Black moved for approval. Member Eberlein seconded. The motion passed by the following vote:

For: 6 – Armijo, Calman, Cudney-Black, De Pree, Eberlein, Richards,
Against: 0 Abstain: 0 Absent: 1 - Galewsky

Member Armijo arrived at 5:35 p.m.

3. AIR QUALITY PROGRAM (AQP)

A. Ozone presentation at November board meeting

Air Program Administrator Catalina Lehner announced that a presentation on ozone will be given at the November board meeting.

B. Health Equity Environmental Impacts (HEEI) implementation update

Public Health Compliance Manager Maria Gallegos gave an update on the development of the overburdened areas map. She then stood for questions.

Member Richards asked the new board members to introduce themselves. Jane Cudney-Black and Thomas De Pree gave brief statements.

4. FIRST PUBLIC COMMENT OPPORTUNITY

Member Richards read aloud a public comment regarding ozone at 28:50.

5. DISCUSSION & ACTION ITEMS

Member Richards then turned the meeting over to Member Armijo as the hearing officer. Member Armijo then went over the ground rules for the hearing.

- A. Presentation, discussion, deliberation, and decision of AQCB 2024-01: Petition to Amend Existing Rule 20.11.8 NMAC- Ambient Air Quality Standards.

Assistant city attorney Mahlon Wigton gave a brief opening statement. Regulation Development Coordinator Allen Smith gave a brief presentation on AQCB 2024-01 the Petition to Amend Existing Rule 20.11.8 NMAC-Ambient Air Quality Standards.

Pro Se Party Nicholas Maxwell gave a brief statement after the presentation. Mr. Maxwell declined the opportunity for cross examination.

Mr. Smith then stood for questions from the Board. Mr. Wigton and Mr. Maxwell declined to give closing statements.

After a brief deliberation, Member Cudney-Black moved to approve the amendments. Member Eberlein seconded. The motion passed by the following vote:

For: 6 – Armijo, Calman, Cudney-Black, De Pree, Eberlein, Richards,
Against: 0 Abstain: 0 Absent: 1 – Galewsky

Member Richards asked Council Sedillo-Lopez to prepare an order reflecting the Board's vote.

- B. Presentation, discussion, deliberation and decision of AQCB 2024-02: Petition to Amend Existing Rule 20.11.42 NMAC- Operating Permits, limited to removal of affirmative defense provisions.

Mr. Wigton gave a brief opening statement and Ms. Lehner gave the presentation for AQCB 2024-02, the Petition to repeal and replace 20.11.42 NMAC-Operating Permits.

Mr. Maxwell gave a brief statement after the presentation. Mr. Maxwell declined the opportunity for cross examination.

Ms. Lehner then stood for questions from the Board. Mr. Wigton and Mr. Maxwell declined to give closing statements.

After a brief deliberation, Member Cudney-Black moved to accept the petition regarding 20.11.42 NMAC Operating Permits as described. Member Armijo seconded. The motion passed by the following vote:

For: 5 – Armijo, Cudney-Black, De Pree, Eberlein, Richards,
Against: 0 Abstain: 0 Absent: 2 – Galewsky, Calman

Member Richards asked Board attorney Ms. Sedillo-Lopez to prepare an order reflecting the Board's vote.

- C. AQCB 2024-04: Petition to Amend Existing Rule 20.11.63 NMAC-New Source Performance Standards (NSPS) for Stationary Sources

Ms. Lehner gave a brief presentation on items 5.C and 5.D and asked the Board to grant a hearing on the petition and determine pre-hearing logistics. She then stood for questions.

After a few questions, Member Cudney-Black moved to hold a hearing on AQCB 2024-04 the Petition to Amend Existing rule 20.11.63 NMAC-New Source Performance Standards for Stationary Sources. Member Richards seconded. The motion passed by the following vote:

For: 6 – Armijo, Calman, Cudney-Black, De Pree, Eberlein, Richards,
Against: 0 Abstain: 0 Absent: 1 – Galewsky

After a brief discussion, Member Armijo moved to hold the hearing for 20.11.63 on Tuesday December 10, 2024 at 5:30 p.m. Member Cudney-Black seconded. The motion passed by the following vote:

For: 6 – Armijo, Calman, Cudney-Black, De Pree, Eberlein, Richards,
Against: 0 Abstain: 0 Absent: 1 – Galewsky

Member Armijo moved to amend his previous motion to have the prehearing order mimic a previous pre-hearing order that mentions all the logistics. Member Cudney-Black seconded. The motion passed by the following vote.:

For: 6 – Armijo, Calman, Cudney-Black, De Pree, Eberlein, Richards,
Against: 0 Abstain: 0 Absent: 1 – Galewsky

Member Armijo volunteered to be the hearing officer.

Member Richards asked Board attorney Ms. Sedillo-Lopez to prepare an order reflecting the Board's vote.

D. AQCB 2024-05: Petition to amend existing rule [20.11.64 NMAC](#)-Emission Standards for Hazardous Air Pollutants for Stationary Sources

Member Cudney-Black moved to proceed with the hearing for the petition to amend existing rule 20.11.64 NMAC. Member Eberlein seconded. The motion passed by the following vote:

Member Richards asked Board attorney Ms. Sedillo-Lopez to prepare an order reflecting the Board's vote.

Member Armijo moved to model the pre-hearing order for 20.11.64 with the same logistics components as the one for 20.11.63. Member Richards seconded. The motion passed by the following vote:

For: 6 – Armijo, Calman, Cudney-Black, De Pree, Eberlein, Richards,
Against: 0 Abstain: 0 Absent: 1 – Galewsky

Member Richards asked Board attorney Ms. Sedillo-Lopez to prepare an order reflecting the Board's vote.

E. The Board will consider whether or not to go into closed session with the Board Attorney to discuss i) pending litigation: AQCB and BCC of Bernalillo County vs. CoA (202-CV-2-23-

09295) and GCC Rio Grande et al vs AQCB and CoA (D-202-CV-2023-09435), and ii) appeals of Clean Cars II regulations and the HEEI regulation.

- The board will discuss, make a motion with reasonable specificity, and vote whether or not to go into closed session, following procedures outlined in Section 10-15-1 (I) of the OMA. Exceptions to open meetings are outlined in Section 10-15-1 (H).

After a brief discussion, Member Armijo moved to go into closed session. Member Eberlein seconded. The motion passed by the following vote:

For: 6 – Armijo, Calman, Cudney-Black, Eberlein, Richards,

Against: 0 Abstain: 1 – De Pree Absent: 1 – Galewsky

- If there is a closed session, the Board will announce what was discussed and will make any motions based on the closed session discussion. *Topics discussed during a closed session are limited to those expressly excepted from the open meeting requirements.*

The board was in closed session from 6:50 p.m. to 7:24 p.m. Member Richards stated that only the pending litigation was discussed and no decisions were made.

6. SECOND PUBLIC COMMENT OPPORTUNITY

No comments

7. OTHER BUSINESS

Discussion Regarding Replacement of Board Attorney. Board attorney Ms. Sedillo-Lopez stated that she has requested an overlap of one month when a new attorney is hired and to stay on for the appeals.

Managing City Attorney Brian Rowland answered questions regarding the process of advertising and interviewing for the position.

Possible Future Agenda Items

- Committee for selecting new board attorney
- Setting 2025 meeting dates

8. ADJOURNMENT

Member Richards adjourned the meeting at 7:37 p.m.

NEXT SCHEDULED BOARD MEETING: November 13, 2024 at 5:30 p.m. (virtual).

SUBMITTED:

READ AND APPROVED:

Paul J. Rogers, Director
Environmental Health Department

Mr. Joseph Galewsky, Chair
Albuquerque-Bernalillo County Air Quality
Control Board