

STATE OF NEW MEXICO
Before the
ALBUQUERQUE-BERNALILLO COUNTY
AIR QUALITY CONTROL BOARD

IN THE MATTER OF THE PETITION FOR
A HEARING ON THE MERITS REGARDING
AIR QUALITY PERMIT NO. 3131 [Honstein Oil]

SouthWest Organizing Project [SWOP]
by Juan Reynosa, Environmental Justice Organizer;
Esther and Steven Abeyta, Members of SWOP,
Petitioners

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PETITION FOR A HEARING

Pursuant to Chapter 74, Article 2, Section 7.G-I, NMSA 1978, and 20.11.81.14 NMAC, Petitioners, by and through counsel Jon Block and Eric Jantz, New Mexico Environmental Law Center, hereby request a hearing on the above captioned permit for the reasons of fact and law below. Petitioners also set forth below the hearing request information required by regulation, and have provided the Clerk or designated person with an original and nine copies of the Petition with the permit attached as Exhibit 'A' and a certificate of service, and will serve stamped copies on (or to a designated person for) Department counsel, Board Counsel, Hearing Officer and Permittee. Petitioners and Counsel have below certified they attest to the truth of the information in this petition.

A. Notice of the Department's granting of the permit was served on Petitioners by certified mailing on July 16, 2014. This Petition is filed with the Clerk on August 12, 2014, less than 30 consecutive days from the date notice was given to Petitioners of the permitting action taken by the department that this Petition contests.

B. Contact Information for Petitioners and Petitioners' Attorneys:

Petitioners:

1. Southwest Organizing Project ("SWOP")

Juan Reynosa, Environmental Justice Organizer
Southwest Organizing Project
222 Tenth Street, S.W.
Albuquerque, NM 87102
(505) 247-8832
Juan Reynosa, SWOP <juan@swop.net>

2. Representative SWOP Members from the community affected by the permit at issue:

Esther and Steven Abeyta
2419 William SE
Albuquerque, NM 87102
(505) 440-1669
Esther Abeyta <sjna1@live.com>
Steven Abeyta <stevenabeyta@gmail.com>

Counsel for Petitioners:

Attorneys for the Petitioners:

Jon Block and Eric Jantz
New Mexico Environmental Law Center
1405 Luisa Street, Ste. 5
Santa Fe, NM 87505
(505) 989-9022 (Voice)
(505) 989-3769 (Faximile)
jblock@nmelc.org
ejantz@nmelc.org

C. Statement of the manner of Petitioners' participation in the permitting action that was pending before the department and how the petitioner is adversely affected by the permitting action taken by the department:

Petitioners submitted written and oral comments during the Public Information Hearing. Petitioners have also obtained information concerning the permit at issue through the IPRA process. Petitioner organization SWOP, by and through representative members Esther and Steven Abeyta who live in the South Valley in the San Jose Community, an United States Environmental Protection Agency recognized Environmental Justice community, are directly affected by the permitting action in that it allows an addition to the already existing cumulative impacts upon them from the polluted air they breathe in that community.

D. (i) The specific permitting action appealed from, (ii) specify the portions of the permitting action to which petitioner objects, and (iii) state the factual and legal basis of petitioner's objections to the permitting action taken by the department:

(i) Air Quality Permit No. 3131 ~ Honstein Oil Distributing, LLC (Honstein), Authority-to-Construct Permit - 101 Anderson Ave. SE, Effective date: June 16, 2014.

(ii) Petitioners object to issuing the entire permit without consideration of health and safety of the affected community given cumulative impacts on air quality from industrial facilities in the South Valley, particularly the San Jose community; no attempt was made to assess cumulative impacts despite some evidence of excess emissions; no attempt was made to assess the public health and safety aspects of granting another permit for the type of emissions the facility at issue emits; no consideration in the permitting process for the Honstein facility was given to the adverse impacts issuing the

permit has on the quality of life-- particularly in relation to existing permitted cumulative impacts--in the San Jose community, and Petitioner SWOP, by and through its San Jose community members Esther and Steven Abeyta. Petitioners object to the Albuquerque-Bernalillo Air Quality Bureau failing to take any investigative steps to assess the impacts of continued permitting of facilities such as Honstein's upon the quality of life of persons living in proximity to the facility, particularly those of the San Jose Community in which SWOP members Ester and Steven Abeyta reside. Petitioners object to the Albuquerque-Bernalillo Air Quality Bureau failing to take any investigative steps to assess the cumulative impacts of continued permitting of facilities such as Honstein's upon the air quality for persons living in proximity to the facility, particularly those of the San Jose Community in which SWOP members Ester and Steven Abeyta reside.

(iii) Relying upon the facts as set forth above, statutory basis for this Petition is contained in Chapter 74, Article 2, NMSA 1978, the Air Quality Control Act, and, in pertinent part, but not limited to the following, "The ... local board shall prevent or abate air pollution." *Id.* at 74-2-5.A; *see also* 74-2-5.1.A (local agency "shall" develop facts and make investigations and studies consistent with the Air Quality Control Act..."); 74-2-7.C and D (under state law, a permit could be issued with a condition that requires continuous air monitoring at the site to assure compliance with federal Clean Air Act standards), *and see Colonias Development Council v. Rhino Environmental Services*, 2005-NMSC-024 at ¶¶30-35 (requiring consideration of quality of life and cumulative impacts in making a permitting determination).

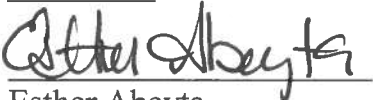
E. The remedy Petitioners seek, the legal basis for the remedy, and how granting the remedy is within the air quality jurisdiction of the board:

Petitioners seek rescinding the permit until a cumulative impact assessment on the effects upon air quality in the San Jose community due to granting yet another permit such as the Honstein permit may be conducted. The impact should assess cumulative air emissions on this community from the aspect of public health and safety, particularly to children, the elderly, and persons with handicapped conditions. Additionally, if a permit is issued for the facility, the permit can be conditioned to require continuous monitoring at the permit site for any exceedance of the federal Clean Air Act standards. Petitioners contend that the New Mexico Air Quality Control act authorizes and provides jurisdiction for the Board to take such actions as are necessary to assure public health and safety by regulating air emissions and that consideration of cumulative impacts is a prudent and necessary consideration in the granting or denying of an air emissions permit. *See generally* statutes and law cited above.

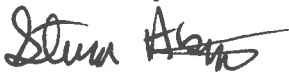
F. A copy of the permit at issue is attached to this Petition as Exhibit 'A'

Petitioners and Counsel hereby certify and attest that the foregoing is true and correct to the best of our knowledge and belief:

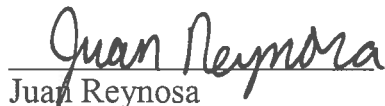
Petitioners:



Esther Abeyta



Steven Abeyta



Juan Reynosa

Counsel for Petitioners:



Jon Block



Eric Jantz





AIR QUALITY AUTHORITY TO CONSTRUCT PERMIT #3131
FACILITY CDS # NM/001/02259
 Facility ID: FA0005668 Record ID: PR0006305



Richard J. Berry, Mayor

Mary Lou Leonard, Director

Issued to: Honstein Oil & Distributing, LLC
 Company Name

Certified Mail # 7010 3090 0001 4486 6999
 Return Receipt Requested

11 Paseo Real
 Mailing Address

Santa Fe
 City

NM
 State

87507
 Zip

Responsible Official: Rod Honstein, Managing Member
 Authorized Representative

Pursuant to the New Mexico Air Quality Control Act, Chapter 74, Article 2 New Mexico Statutes Annotated 1978 (as amended); the Joint Air Quality Control Board Ordinance, 9-5-1 to 9-5-99 ROA 1994; the Bernalillo County Joint Air Quality Control Board Ordinance, Bernalillo County Ordinance 94-5; the Albuquerque-Bernalillo County Air Quality Control Board (AQCB) regulation, Title 20, New Mexico Administrative Code (20 NMAC), Chapter 11, Part 40 (20.11.40 NMAC), Source Registration; and AQCB regulation, Title 20, NMAC, Chapter 11, Part 41 (20.11.41 NMAC), Authority to Construct.

Honstein Oil Company ("permittee") is hereby issued this **AUTHORITY TO CONSTRUCT PERMIT** as a **NEW STATIONARY SOURCE**.

This **AUTHORITY TO CONSTRUCT** Permit Number 3131 has been issued based on the review of the applications received by the Albuquerque Environmental Health Department (Department), Air Quality Program (Program) on October 3, 2013 and May 15, 2014 and additional information received December 13, 2013, which was deemed complete on December 17, 2013, and on the National Ambient Air Quality Standards, New Mexico Ambient Air Quality Standards, and Air Quality Control Regulations for Albuquerque/Bernalillo County, as amended. As these standards and regulations are updated or amended, the applicable changes will be incorporated into this Air Quality Permit Number 3131 and will apply to the facility. This facility is authorized to construct and operate the following type of process at:

Facility Name & Address	UTM Coordinates	Process Description	SIC	NAICS
Honstein Oil 101 Anderson Avenue SE Albuquerque, New Mexico 87102	349473 Easting 3881234 Northing	Bulk Gasoline Plant ¹	5171	424710

¹Bulk Gasoline Plant means any gasoline storage and distribution facility that receives gasoline by pipeline, ship or barge, or cargo tank, and subsequently loads the gasoline into gasoline cargo tanks for transport to gasoline dispensing facilities, and has a gasoline throughput of less than 20,000 gallons per day.

Issued on the 12th day of June, 2014
Israel L. Tovar Israel L. Tovar
 Print Name Sign Name

Air Quality Protection Programs - Permitting Section
 Air Quality Program
 City of Albuquerque Environmental Health Department

1. AUTHORITY TO CONSTRUCT PERMIT THRESHOLD (74-2-7.A.(1) NMSA). By regulation, the local board shall require a person intending to construct or modify any source, except as specifically provided by regulation, to obtain a construction permit from the local agency prior to such construction or modification. This permit recognizes the construction and operation of the following equipment:

Unit Number	Unit Description	Storage Capacity in gallons	Installation Date	Product Stored	Minimum Required Emissions Control ¹
1	Underground Storage Tank	6,000	Unknown	Regular Unleaded Gasoline	Stage I Vapor Balanced, Submerged Filling

¹ **TRANSPORT AND DELIVERY OF GASOLINE BY MOBILE TANK TRUCKS OR TRAILER:** No person shall unload gasoline into any underground storage tank with a capacity of 3,000 gallons or more unless such tank is equipped with an approved vapor loss control system, including a submerged fill pipe, in which displaced vapors from the underground storage tank are either contained or are processed such that final emissions to the atmosphere do not exceed 1.15 pounds of VOCs per 1,000 gallons of gasoline loaded. [Albuquerque-Bernalillo Air Quality Control Board Regulation 20.11.65.14.A.(1) NMAC, Volatile Organic Compounds.]

2. COMPLIANCE ASSURANCE.

A. All air pollution emitting facilities within Bernalillo County are subject to all applicable Albuquerque/Bernalillo County Air Quality Control Regulations, whether listed in this permit or not.

B. The issuance of an Authority to Construct permit does not relieve the Company from the responsibility of complying with the provisions of the state air quality control act, federal clean air act, or any applicable regulations of the board. (20.11.41.17 NMAC)

C. Any term or condition imposed by the department in an Authority to Construct permit shall apply to the same extent as a regulation of the board. (20.11.41.18.C NMAC)

D. Whenever two or more parts of the Air Quality Control Act, or the laws and regulations in force pursuant to the Act, limit, control or regulate the emissions of a particular air contaminant, the more restrictive or stringent shall govern.

E. The department is authorized to issue a compliance order requiring compliance and assessing a civil penalty not to exceed Fifteen Thousand and no/100 Dollars (\$15,000) per day of noncompliance for each violation, commence a civil action in district court for appropriate relief, including a temporary and permanent injunction. (74-2-12 NMSA).

3. SUBSTITUTION. Substitution of equipment is authorized provided the equipment has the same or lower process capacity as the piece of equipment being substituted. The department shall be notified in writing within 15 days of equipment substitution. Equipment that is substituted shall comply with the requirements in the Section 4 Gasoline Unit Emission Limits table.

4. GASOLINE UNIT EMISSION LIMITS. Allowable annual gasoline throughput. Allowable ton per year (tpy) emissions.

Unit	Unit Description	Daily Throughput Threshold of Gasoline (in gallons) ¹	Allowable Annual Throughput of Gasoline (in gallons) ²	Allowable Annual Emissions of Volatile Organic Compounds (VOC's) ²
1	Underground Storage Tank	≤20,000	For Stage I Vapor Recovery 250,000	2.26 tons per year

¹ Daily throughput threshold is the maximum calculated design throughput for any day, and is not an average

² Based on the annual gasoline throughput requested in the permit application

5. EMISSIONS INVENTORY REQUIREMENTS (20.11.47 NMAC). Subsection 20.11.47.14.A.(1) – Applicability - requires an emissions inventory of any stationary source in Bernalillo county that has an active permit issued pursuant to 20.11.41 NMAC Authority to Construct. Subsection 20.11.47.14.B.(1) – Reporting Requirements – requires the submittal of an emissions inventory report annually. Therefore, an annual emissions inventory (in pounds or tons per calendar year) shall be submitted to the department by March 15 each year.

6. MODIFICATION.

A. Any future physical changes or changes in the method of operation which result in an increase in the pre-controlled emission rate may constitute a modification. Change in the method of control of emissions or in the character of emissions shall not be made unless submitted to the department as a modification to this permit. 20.11.41.7.H NMAC defines proposed changes to a facility that may constitute a permit modification. Compliance will be based on department inspections and the submittal of a new permit application for any modification. No modification shall begin prior to issuance of a permit and shall be processed in accordance with 20.11.41 NMAC.

B. This facility shall obtain a permit modification and comply with the requirements of 40 CFR 63 Subpart CCCC – National Emission Standards for Hazardous Air Pollutants for Source Categories: Gasoline Dispensing Facilities if the facility dispenses gasoline into the fuel tank of a motor vehicle, motor vehicle engine, nonroad vehicle, or nonroad engine, including a nonroad vehicle or nonroad engine used solely for competition.

7. MONITORING and RECORDKEEPING (20.11.41.18.B.(8)NMAC). Monitor and maintain a log of the total monthly gasoline throughput for the facility. These records must be retained for the most recent five-year period for the facility.

8. REPORTING.

A. The following reporting requirements, in accordance with 20.11.41.18, 20.11.41.20, 20.11.47 and 20.11.49 NMAC, to allow the department to determine compliance with the terms and conditions of the permit. Compliance will also be based on timely submittal of the reports. The permittee shall notify the department in writing of:

1. Any change in control or ownership, within 15 days of the change in control or ownership. In the event of any such change in control or ownership, the permittee shall notify the succeeding owner of the permit. The permit conditions apply in the event of any change in control or ownership of the facility. At minimum, an administrative permit modification is required to address any change in control or ownership of the facility;

2. Any substitution of equipment, within 15 days of equipment substitutions. Equipment may only be substituted if it has the same or lower process capacity as the piece of equipment being substituted, and there are no other federal, state, or local air quality permit requirements triggered by the introduction of the substituted piece of equipment. Substituted equipment shall comply with the Section 4 Gasoline Unit Emission Limits table;

3. The annual (January 1 through December 31 of previous year) throughput of gasoline and emission inventory, by March 15 of every year; and

4. Any breakdown of equipment or air pollution control devices or apparatus so as to cause emissions of air contaminants in excess of limits set by permit conditions. Any breakdown or abnormal operating conditions shall be reported to the department by submitting the following reports on forms provided by the department:

a) Initial Report: The permittee shall file an initial report, no later than the end of the next regular business day after the time of discovery of an excess emission pursuant to 20.11.49.15.A.(1) NMAC;

b) Final Report: The permittee shall file a final report, no later than 10 days after the end of the excess emission. If the period of an excess emission extends beyond 10 days, the permittee shall submit the final report to the department within 72 hours of the date and time the excess emission ceased. This condition is pursuant to 20.11.49.15.A.(2) NMAC and 20.11.49.15.C NMAC; and

c) Alternative Reporting: If the facility is subject to the federal reporting requirements of 40 CFR Parts, 60, 61, or 63 and the federal requirements duplicate the requirements of 20.11.49.15 NMAC, then the federal reporting requirements shall suffice. This condition is pursuant to 20.11.49.15.D NMAC.

B. The emission of a regulated air pollutant in excess of the quantity, rate, opacity, or concentration specified in an air quality regulation or permit condition that results in an excess emission is a violation of the air quality regulation or permit condition and may be subject to an enforcement action. The owner or operator of a source having an excess emission shall, to the extent practicable, operate the source, including associated air pollution control equipment, in a manner consistent with good air pollution control practices for minimizing emissions. This condition is pursuant to 20.11.49.14 NMAC.

9. **PERFORMANCE TEST REQUIREMENTS.** Each owner or operator, at the time of installation, of a vapor loss control system required under 20.11.65.14.A.(1) NMAC and every 3 years thereafter, must comply with the requirements below:

A. You must demonstrate compliance with the leak rate and cracking pressure requirements, specified in item 1(g) of Table 1 of 40 CFR Part 63, Subpart CCCCCC, for pressure-vacuum vent valves installed on your gasoline storage tank(s) using one of the test methods below:

1. California Air Resources Board Vapor Recovery Test Procedure TP-201.1E.—Leak Rate and Cracking Pressure of Pressure/Vacuum Vent Valves, adopted October 8, 2003 (incorporated by reference, see §63.14); or
2. Use alternative test methods and procedures in accordance with the alternative test method requirements in §63.7(f).

B. You must demonstrate compliance with the static pressure performance requirement, specified in item 1(h) of Table 1 of 40 CFR Part 63, Subpart CCCCCC, for your vapor loss control system by conducting a static pressure test on your gasoline storage tank(s) using one of the test methods below:

1. California Air Resources Board Vapor Recovery Test Procedure TP-201.3.—Determination of 2-Inch WC Static Pressure Performance of Vapor Recovery Systems of Dispensing Facilities, adopted April 12, 1996, and amended March 17, 1999 (incorporated by reference, see §63.14); or
2. Use alternative test methods and procedures in accordance with the alternative test method requirements in §63.7(f).

10. **INSPECTION (74-2-13 NMSA).**

A. The department may conduct scheduled and unscheduled inspections, and, upon presentation of credentials:

1. Shall have a right of entry to, upon, or through any premises on which an emission source is located or on which any records required to be maintained by regulations of the board or by any permit condition are located; and
2. May, at reasonable times:
 - a) Have access to and copy any records required to be established and maintained by regulations of the board or any permit condition;
 - b) Inspect any monitoring equipment and method required by regulations of the board or by any permit condition; and
 - c) Sample any emissions that are required to be sampled pursuant to regulation of the board or any permit condition.

B. Any credible evidence may be used to establish whether the facility has violated or is in violation of any regulation of the board, or any other provision of law. Credible evidence and testing shall include, but is not limited to 20.11.41.26.A and B NMAC as follows:

1. A monitoring method approved for the source pursuant to 20.11.42 NMAC, Operating Permits, and incorporated into an operating permit;
2. Compliance methods specified in the regulations, conditions in a permit issued to the facility, or other provision of law;
3. Federally enforceable monitoring or testing methods, including methods in 40 CFR parts 51, 60, 61, 63 and 75; and
4. Other testing, monitoring or information-gathering methods that produce information comparable to that produced by any CFR method and approved by the department and the USEPA.

C. Compliance will be based on department inspections of the facility, reviews of production records, submission of appropriate permit applications for modification, and timely notification to the department regarding equipment substitutions and relocations.

11. **FEDERAL RULEMAKING.** In addition to Albuquerque-Bernalillo Air Quality Control Board Regulation 20.11.65 NMAC, *Volatile Organic Compounds*; 40 CFR Part 63, Subpart BBBB3B3B – National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Distribution Bulk Plants applies to this facility. Based on the requested annual throughput for gasoline, this facility's daily throughput would amount to 20,000 gallons or less of gasoline. Therefore, the permittee shall ensure the applicable requirements of 40 CFR Part 63, Subpart BBBB3B3B, §63.11085 and §63.11086 are met as well as the Subpart A – General Provisions of 40 CFR Part 63.

A. **GENERAL APPLICABLE REQUIREMENTS.**

1. §63.11085(a) You must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions.
2. §63.11086(d) You must not allow gasoline to be handled in a manner that would result in vapor releases to the atmosphere for extended periods of time. Measures to be taken include, but are not limited to, the following:
 - (d)(1) Minimize gasoline spills;
 - (d)(2) Clean up spills as expeditiously as practicable;
 - (d)(3) Cover all open gasoline containers and all gasoline storage tank fill-pipes with a gasketed seal when not in use; and
 - (d)(4) Minimize gasoline sent to open waste collection systems that collect and transport gasoline to reclamation and recycling devices, such as oil/water separators.

B. **SUBMERGED FILLING OF GASOLINE STORAGE TANKS (§63.11086).**

1. §63.11086(a) You must only load gasoline into storage tanks and cargo tanks at your facility by utilizing submerged filling, as defined in §63.11100, and as specified in paragraph (a)(1) or (a)(2) of this section:
 - (a)(1) Submerged fill pipes installed on or before November 9, 2006, must be no more than 12 inches from the bottom of the tank; or
 - (a)(2) Submerged fill pipes installed after November 9, 2006, must be no more than 6 inches from the bottom of the tank.

C. **LEAK INSPECTION REQUIREMENTS.**

1. §63.11086(e) You must perform a monthly leak inspection of all equipment in gasoline service according to the requirements specified in §63.11089(a) through (d).
2. §63.11089(a) You shall perform a monthly leak inspection of all equipment in gasoline service, as defined in §63.11100. For this inspection, detection methods incorporating sight, sound, and smell are acceptable.
3. §63.11089(b) A log book shall be used and shall be signed by the owner or operator at the completion of each inspection. A section of the log book shall contain a list, summary description, or diagram(s) showing the location of all equipment in gasoline service at the facility.
4. §63.11089(c) Each detection of a liquid or vapor leak shall be recorded in the log book. When a leak is detected, an initial attempt at repair shall be made as soon as practicable, but no later than 5 calendar days after the leak is detected. Repair or replacement of leaking equipment shall be completed within 15 calendar days after detection of each leak, except as provided in §63.11089(d).
5. §63.11089(d) Delay of repair of leaking equipment will be allowed if the repair is not feasible within 15 days. The owner or operator shall provide in the semiannual report specified in §63.11095(d), the reason(s) why the repair was not feasible and the date each repair was completed.

D. NOTIFICATIONS.

1. **§63.11086(e)** You must submit an Initial Notification that you are subject to this subpart by May 9, 2008. The notification must be submitted to the applicable EPA Regional Office and the delegated State authority as specified in §63.13. The Initial Notification must contain the information specified in paragraphs (e)(1) through (3) of this section as follows:

(e)(1) the name and address of the owner and the operator;

(e)(2) the address (i.e., physical location) of the bulk plant; and

(e)(3) a statement that the notification is being submitted in response to this subpart and identifying the requirements in paragraphs (a), (c) and (d) of §63.11086 that apply to you;

2. **§63.11086(f)** You must submit a Notification of Compliance Status to the applicable EPA Regional Office and the delegated State authority, as specified in §63.13, by May 9, 2008. The Notification of Compliance Status must be signed by a responsible official who must certify its accuracy and must indicate whether the source has complied with the requirements of this subpart. If your facility is in compliance with the requirements of this subpart at the time the Initial Notification required under paragraph (e) of this section is due, the Notification of Compliance Status may be submitted in lieu of the Initial Notification provided it contains the information required under paragraph (e) of this section.

3. Sources in Bernalillo county that are in compliance with a 20.11.41 NMAC. Authority to Construct should be meeting the 20.11.65 NMAC. Volatile Organic Compounds requirements for submerged fill pipe and vapor loss control system for loading of fuel storage tanks and vapor recovery, and therefore should not have to submit an Initial Notification or a Notification of Compliance Status. **Since all gasoline dispensing facilities permit through 20.11.41 NMAC, Initial Notifications and Notifications of Compliance Status are met through the permitting process and through the inspection program.**

E. RECORDKEEPING.

1. **§63.11085(b)** - You must keep records and submit reports as specified in **§63.11094(g)** and **§63.11095(d)**.

2. **§63.11094(g)** - Each owner or operator of an affected source under this subpart shall keep records as specified in paragraphs (g)(1) and (2) of this section:

(g)(1) Records of the occurrence and duration of each malfunction of operation (i.e., process equipment) or the air pollution control and monitoring equipment.

(g)(2) Records of actions taken during periods of malfunction to minimize emissions in accordance with §63.11085(a), including corrective actions to restore malfunctioning process and air pollution control and monitoring equipment to its normal or usual manner of operation.

3. **§63.11095(d)** - Each owner or operator of an affected source under this subpart shall submit a semiannual report including the number, duration, and a brief description of each type of malfunction which occurred during the reporting period and which caused or may have caused any applicable emission limitation to be exceeded. The report must also include a description of actions taken by an owner or operator during a malfunction of an affected source to minimize emissions in accordance with §63.11085(a), including actions taken to correct a malfunction. Owners or operators are not required to submit reports for periods during which no malfunctions occurred.

12. **FEES (20.11.2 NMAC).** Every owner or operator of a source that is required to obtain an Authority to Construct permit shall pay an annual emission fee pursuant to 20.11.2 NMAC. The annual emission fee for maintenance of this permit will be based on the greater of a base annual fee or a per ton fee rate based on the per ton allowable annual emissions of volatile organic compounds (VOC's) given in the Section 4 – Gasoline Unit Emission Limits table.

13. **PERMIT CANCELLATION.** The department may cancel any permit if the construction or modification is not commenced within one (1) year from the date of issuance or if, during the construction or modification, work is suspended for a total of one (1) year. (20.11.41.19.A and B NMAC)

14. **INFORMATION SUBMITTALS [Air Quality Program contact numbers: (505) 768-1972 (voice); 1-800-659-8331 (NM Relay)].**

- Completed forms can be hand delivered to 1 Civic Plaza – Room 3047 (8:00am – 4:30pm Mon. – Fri. except city holidays) or can be mailed to:

Albuquerque Environmental Health Department
Air Quality Program
Permitting Section
P.O. Box 1293
Albuquerque, New Mexico 87103

- Test protocols and compliance test reports shall be submitted to:

Albuquerque Environmental Health Department
Air Quality Program
Attention Enforcement Supervisor
P.O. Box 1293
Albuquerque, New Mexico 87103

- All reports shall be submitted to:

Albuquerque Environmental Health Department
Air Quality Program
Attention Compliance Officer
P.O. Box 1293
Albuquerque, New Mexico 87103

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SouthWest Organizing Project [SWOP]
by Juan Reynosa, Environmental Justice Organizer;
Esther and Steven Abeyta, Members of SWOP,
Petitioners

CERTIFICATE OF SERVICE

On this 12th day of August, 2014, I, Jon Block, counsel for Petitioners, caused to be served by hand the original and nine (9) copies of the Petition with Exhibit 'A' (the contested permit) and this certificate of service upon the Clerk or designated person for Albuquerque Bernalillo Air Quality Board, City Hall, Rm. 3023, and to the office of counsel for the Environmental Health Department, Rm. 4072; said Clerk or designated person accepted service for Board Counsel and Hearing Officer. I also caused service to be made on this day by United States Postal Service, certified Priority Mail, postage prepaid mail. of the above described matter to the permittee Ron Honstein, Managing Member, Honstein Oil & Distributing, LLC, 11 Paseo Real, Santa Fe, NM 87507 (Certified Article Number: 7007 3020 0001 2496 0690).


Jon Block, Staff Attorney
New Mexico Environmental Law Center
1405 Luisa Street, Ste. 5
Santa Fe, NM 87505
(505) 989-9022, Ext. 22
jblock@nmelc.org