



For Immediate Release

December 1, 2020

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## **South Valley Neighborhood Appeals City's Air Permit for Proposed Asphalt Plant**

### **Mountain View Neighborhood Association & Mountain View Community Action Ask Air Quality Control Board to Void Permit for New Mexico Terminal Services Hot Mix Asphalt Batch Plant**

ALBUQUERQUE, NM--The Mountain View Neighborhood Association and Mountain View Community Action along with representative petitioners Lauro Silva and Nora Garcia filed a petition last week to the Albuquerque Bernalillo County Air Quality Control Board asking for a hearing regarding the permitting of a proposed hot mix asphalt batch plant which is slated to be built at 9615 Broadway SE. The petition was filed just before the Thanksgiving holiday, on Wednesday, November 25.

The City of Albuquerque Environmental Health Department issued a permit for New Mexico Terminal Services to build the asphalt plant on October 26, 2020, in spite of the land being currently zoned A-1 for Agricultural use only.

The co-petitioners, represented by the New Mexico Environmental Law Center, claim that the permitting of this asphalt plant is **discrimination** against the residents of the Mountain View neighborhood, a community that has already borne the brunt of polluting industry in Bernalillo County. Mountain View is located southeast of Albuquerque, between the Rio Grande river and I-25, south of Rio Bravo Boulevard.

Marla Painter, a member of Mountain View Community Action, explains, "Currently, the Environmental Health Department permits an unlimited amount of polluting industry in our neighborhood without regard for human health. There is a dangerous concentration

of unhealthy industrial activity adjacent to a community that has existed a lot longer than industrial activity in this community.”

Without even having the proper zoning or special use permit in place, the City of Albuquerque Environmental Health Department approved the permit, once again placing the environmental burden on an EPA-designated environmental justice community.

“This is yet another clear example of environmental racism,” said Eric Jantz, staff attorney with the NM Environmental Law Center. “The City of Albuquerque Environmental Health Department (EHD) rarely, if ever, issues similar permits for polluting industry in predominantly affluent and White neighborhoods who are similarly not zoned for industrial uses. Yet, the EHD issued a permit for this neighborhood comprised primarily of people of color who are already overburdened by air pollution,” said Jantz.

Other claims in the petition include:

- The right to **due process** for community members was violated by the City of Albuquerque numerous times, especially when the Hearing Officer at a previous Public Information Hearing failed to let residents challenge a company spokesperson who falsely claimed the site was zoned for industrial use. The Hearing Officer called their request to speak “irrelevant.”
- The make and model number of the asphalt equipment NM Terminal Services plans to use has not been made public, making it nearly impossible to determine accurate emissions data. This **lack of transparency** endangers the health of the community and makes the permitting process woefully inadequate.
- The City of Albuquerque Environmental Health Department issued an Air Quality Permit for New Mexico Terminal Services to build a hot asphalt batch plant in violation of Bernalillo County Zoning law as well as Clean Air Act law, effectively permitting an **illegal land use**.
- The City of Albuquerque Environmental Health Department failed to follow the Air Quality Board’s **Modeling Guidelines** requiring that particulate matter from nearby facilities must be taken into account when evaluating the permit. The Department should have also considered cumulative VOC impacts.

“Cumulative impacts are a basic tenet of environmental justice,” said Jantz, “and the burden the City of Albuquerque expects residents to bear is unacceptable. This particular company’s application for a permit must be seen within the wider context of other polluting industries within the same neighborhood.”

Community members are concerned about adverse health impacts from breathing polluted air, asphalt fumes and odors which affect health, quality of life, and property values. Residents also assert that the asphalt plant will impact the quiet enjoyment of their property due to increased traffic, light, noise and dust.

According to Jantz, “With all the challenges we are currently facing from the COVID-19 pandemic, this proposed asphalt plant by New Mexico Terminal Services is piling on to the multiple health risks already faced by the community, as we know that COVID-19 is hitting people of color exponentially higher in terms of both deaths and cases.”

Very close to the proposed Asphalt Batch Plant site are three facilities located on Bates Road: Soilutions, Barela Landscaping Materials, and New Mexico Compost Products.

According to Painter, these businesses send a lot of particulate matter into the air on a regular basis. “I often walk my dogs on the ditch nearby,” she says, “and observe the dust. Also, compost sometimes catches fire and burns slowly, sending up lots of smoke.”

In addition, nearby there are oil terminal sites, unregulated auto and heavy equipment salvage sites, a sewage treatment plant, contractor's yards, recycling facilities (some of which crush and burn materials), chemical storage facilities (including chlorine distribution), asphalt, concrete crushing facilities, oil and gas transportation transloading facilities, and existing asphalt batch plants.

Painter asks, “What kind of local government would permit the building of an asphalt batch plant down the road from a National Wildlife Refuge?”

Painter continues, “There must be a limit to the amount of polluting industry allowed in Mountain View. The EHD never denies an air polluting permit, no matter if it is next door to a community center, an elder’s home or a school. Public health must be taken into account when sanctioning unlimited industrial development within a historically agricultural and residential community. This asphalt plant now has a permit to operate on land zoned for agricultural use—that is crazy and illegal.”

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### **About the New Mexico Environmental Law Center**

The New Mexico Environmental Law Center has been defending environmental justice since 1987. It is our mission to work with New Mexico’s communities to protect air, land and water in the fight for environmental justice. <https://nmelc.org/>