

Mountain View Coalition

Mountain View Neighborhood Association • Mountain View Community Action •
Friends of Valle de Oro National Wildlife Refuge



Press Release

Friday, April 14, 2023

AIR QUALITY CONTROL BOARD DENIES ALL MOTIONS TO DISQUALIFY MEMBERS REGARDING THE PROPOSED HEALTH, ENVIRONMENT & EQUITY IMPACTS (HEEI) REGULATION

Industry Filed 4 Meritless Motions to Disqualify Air Board Members for Alleged Bias

Mountain View Coalition's Motion for the Air Board to Consider Alternative Recording Methods due to Exorbitant Costs to the Coalition for Hearing Transcription Was Approved

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ALBUQUERQUE, NM—The Albuquerque-Bernalillo County Air Quality Control Board denied all four motions filed by industrial businesses attempting to disqualify three Air Board members and the Board in its entirety from participating in the upcoming rulemaking for a cumulative impacts regulation over air quality in Bernalillo County. The proposed regulation is called the Health, Environment & Equity Impacts (HEEI) Regulation and can be accessed [here](#).

The proposed HEEI regulation would require industry and regulatory agencies to take into account the health and environmental impacts of air pollution from existing and anticipated facilities when evaluating new air pollution permit applications. The regulation would be a significant step toward protecting the health of already overburdened communities.

The votes occurred during the Air Board's monthly meeting on Wednesday, April 12th. The [zoom recording](#) is accessible from the Air Board's [website](#).

During public comments, half a dozen community members spoke against the motions to disqualify as frivolous delay tactics and in favor of the Mountain View Coalition's motion for the Board to accept alternative recording methods for the upcoming hearing. People representing

Earth Care, YUCCA and Los Jardines Institute all spoke in support of the Mountain View Coalition.

John Acosta, who works for Earth Care, and is a South Broadway homeowner, spoke especially poignantly, saying, “I’m tired of the generational cancer; I’m tired of breathing in death; I’m tired of the environmental racism.”

Attorney Pete Domenici Jr., representing several industry interests that emit air contaminants, argued that Air Board members Kitty Richards, Lauren Meiklejohn and Judy Calman, and the entire Board, had shown bias and pre-judgment on the proposed regulation and thus parties couldn’t expect them to render a fair decision on the matter. Domenici stated that Meiklejohn’s father-in-law was the founder of NMELC; that Richards had served as an expert witness in an unrelated case before the Air Board put forth by the SouthWest Organizing Project and had served on the board for NMELC; and that Calman had told another board member that there is a need to address environmental justice issues.

NMELC Staff Attorney Maslyn Locke, on behalf of the Mountain View Coalition, argued that Industry had presented no evidence that the members had an “unalterably closed mind,” the standard for recusal in this case.

The Air Board, after receiving advice from their attorney, Antoinette Sedillo Lopez, voted down all three motions.

Another Industry motion to disqualify the entire Air Board also failed.

Lauro Silva, President of Mountain View Neighborhood Association, said, “The Albuquerque-Bernalillo County Air Quality Control Board at the Wednesday April 12th, 2023 meeting has moved forward for the vital hearing on cumulative impacts regulation entitled ‘Health, Environment, and Equity’! **This is a huge step in providing cleaner and healthier breathing from environmental toxins in Bernalillo County.**”

The Mountain View Coalition, represented by the New Mexico Environmental Law Center, also raised concerns about the exorbitant costs they have been asked to pay for a court transcript of the upcoming public hearing, which would cost a minimum of \$13,000. The Mountain View community is a low-income community of color and an EPA-designated environmental justice community. Requiring petitioners to pay for these costs, Locke argued, is an environmental justice issue, and that the Air Board has the discretion to allow for alternative recording methods, including via Zoom, a digital recording device, or preferably, the Environmental Health Department (EHD) would cover court transcription costs.

However, the EHD unequivocally refused to pay for court transcription, which would benefit the public. Meanwhile, two attorneys representing industry offered to share the costs of the transcription 5 ways, between the petitioner, the opposing parties and the City. In response, EHD’s attorney said the City is absolutely not willing to share the costs.

Marla Painter, President of Mountain View Community Action, said, “As a Mountain View resident and party to the petition to the Air Board to adopt the proposed Health, Environment, and Equity Impacts regulation, I was in shock at the April 12 ABQ-Bernalillo County Air Quality

Control Board meeting. The Air Program at the City/County Environmental Health Department has positioned itself in opposition to this community-led effort to find a remedy to the relentless development of industrial pollution in already overburdened communities. **Instead of finding a remedy to this critical problem, the City has decided to undermine the efforts of the people suffering from air pollution.** They are placing unreasonable demands on a low-income community to pay for the recording and transcription of the hearings on the proposed regulation, delaying to provide of the Air Board with demographic health data so they can make a reasoned decision on the proposed regulation, and generally putting up roadblocks to the process of solving the problem of too many air permits issued in specifically low-income residential neighborhoods. This is inequitable, prejudicial, and irresponsible. Shame on the Keller administration for allowing their Environmental Health Department to operate irresponsibly and unfairly toward the most vulnerable people in the City and County."

Maslyn Locke, NMELC Staff Attorney, said, "We were pleased to see the Air Quality Control Board exercise its authority as regulators to make the right decision to not recuse themselves. This is the only way the Board can continue their work in preventing and abating air pollution, taking into consideration the unique needs and circumstance of Bernalillo County."

Locke continued, "However, EHD's actions leading up to and during the meeting last night are disappointing, if the mayor and the department really mean it when they say they support this community-led effort. Their responses and actions point only to a desire to further delay this proceeding. **To see them question whether or not Mountain View is an overburdened and low-income community is incredibly disheartening, since we know that this community is a designated EJ community by EPA.** We would encourage this administration to walk their talk."

The next Air Board meeting is scheduled for May 10, 2023 at 5:30pm.

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