

Mountain View Coalition

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



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COURT STOPS ABQ CITY COUNCIL FROM PURGING PREVIOUS AIR BOARD

Dan Lewis Bills Remain Unenforceable Until Court Determines Their Legality

Santa Fe—First Judicial District Judge Francis Mathew on Thursday, January 25, granted the Albuquerque-Bernalillo County Air Quality Control Board's request for a preliminary injunction blocking the City of Albuquerque from implementing two bills that the Albuquerque City Council passed in December 2023 illegally removing City appointed members of the Air board and putting a moratorium on acting by the Board through February.

The ruling means that, until the Court rules on the issue of whether the City Council's actions interfering with the rulemaking were legal, the Board will essentially function as if the two bills never passed. Judge Mathews said in his review that he found no authority to allow for the City Council's removal of appointed board members. In his ruling the Judge emphasized the high likelihood that the Board will be successful in its case against the City Council on the merits and noted that, in the absence of this injunction, he has concerns about allowing a situation to proceed that may be unlawful.

It is not yet known when the hearing on the merits will take place.

Bernalillo County Attorney Ken Martinez also appeared at the hearing in support of the request for the preliminary injunction, explaining that the Joint Board is not just a City Board; nevertheless the City has chosen to impose requirements on County-appointed Board members and that the most reasonable way to address these issues is to stop the City immediately and allow the County and the City to work together to address any alleged issues with the Board.

The Judge also denied industry's request to intervene in the case, leaving the City of Albuquerque to defend its position on its own. The industry groups that were denied included

NTESS (contractor for Sandia National Labs), the New Mexico Mining Association, the New Mexico Chamber of Commerce and others.

Maslyn Locke, Senior Staff Attorney at New Mexico Environmental Law Center, said, “This is an important first step in addressing the gross overreach of the Albuquerque City Council that we saw in early December as it illegally interfered in a legal rulemaking in an attempt to protect the financial interests of its industry allies. While it’s hard to comprehend how the City can continue to assert that the “lack of a Board doesn’t cause any harm,” to residents of Bernalillo County – a county with some of the worst air quality in the Country – we’re happy that Judge Mathew acted with logic and urgency in issuing his ruling. The Board will now be able to resume protecting the health and welfare of residents in Albuquerque and Bernalillo County, after weeks of being unable to function due to the City Council’s actions. Perhaps even more importantly, members of the City Council will hopefully begin to understand that even elected governing bodies must follow the law.”

Eric Jantz, Legal Director at NMELC, said, “ Judge Mathews’ ruling confirms what all parties and the public knew all along—the City Council acted beyond its authority to intimidate and interfere with a Board process conducted according to state law for the sole reason of appeasing its financial benefactors. Now that polluting industries’ tactic to circumvent the statutory process the New Mexico Legislature has provided has failed, it must now pursue the same appeals process that applies to everyone.”

Marla Painter, President, Mountain View Community Action, said: “We are pleased to see that Judge Matthew based his decision on the law and not on politics. It is refreshing to watch thoughtful consideration as a basis for decision making.”

Katie Dix, Executive Director of Friends of Valle de Oro, said, “This was a gross overstep of the Albuquerque City Council to thwart a legal public hearing. There was overwhelming public support for the HEEI Regulation—residents of Albuquerque were asking for more protection and action from the Air Quality Board, regulators, and public health officials. To witness the City Council claim that ‘lack of a Board doesn’t cause any harm’ was a smack in the face to residents that believe we all have a right to clean air and health.”

Lauro Silva, President, Mountain View Neighborhood Association, said, “The stranglehold from polluting industry on the Albuquerque City Council’s biased policies are accounted for, thanks to community-driven support and clear-minded legal action through our courts. We acknowledge the action of the Air Board to respect its members and defend their rulemaking authority via the court’s decision.”

Richard Moore, Co-coordinator, Los Jardines Institute said, “The Albuquerque City Council should be ashamed of the petty politics that they arrogantly engaged in against the Air Quality Board, and the over 100 people that testified at the hearing in support of protecting our city and county’s health.”

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