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## **Environmental Improvement Board Rules that Helena Chemical Co. Must Continue Operating under State Air Quality Permit**

(Santa Fe, NM) –The New Mexico Environment Department prevailed today against Helena Chemical Co. in a decision by the Environmental Improvement Board that requires Helena to continue to come under the regulatory oversight of the department through an air quality permit.

The EIB, which deliberated on Helena’s appeal of its permit today, voted 4 to 1, to uphold the department’s decision to require Helena to maintain its air quality permit. The EIB held seven days of hearing, one in Mesquite, N.M., in which the Environment Department and Helena presented evidence on their positions.

“Helena has been inattentive to environmental laws and disrespectful of its neighbors,” said New Mexico Environment Department Secretary Ron Curry. “The EIB’s decision, affirming that Helena should be subject to air quality protections through a state permit, is the right decision for the environment and the residents of Mesquite.”

Helena, which operates a dry bulk fertilizer processing plant in Mesquite, N.M., has been the subject of three environmental enforcement actions brought by the department. Department permit engineers, who carefully scrutinized Helena’s application, found it deficient in March 2010 and determined Helena had not shown it did not need an air permit. Helena appealed the department’s decision to the EIB.

The department, after hearing residents’ complaints about Helena, notified the company in 2004 that its air emissions required it to obtain an air quality permit from the department to protect human health and the environment. Helena emits particulate matter that can cause respiratory ailments, especially among children and the elderly.

Helena stalled on submitting an application to the department. The department brought an enforcement action against the company to ensure that Helena came with the protections of the Air Quality Control Act. Helena settled that enforcement action by paying a penalty of \$11,500 and implementing “supplemental environmental projects” in the community worth \$181,500. Helena also became subject to an air quality permit issued by the department in 2005 that required the company to protect the environment and residents against excessive air emissions.

The department inspected the Helena facility in the spring of 2007 and discovered that Helena was out of compliance with permit terms and conditions. Helena settled that enforcement action, alleging 10 air quality violations, with the department for \$208,331 in 2009.

In addition to two air quality enforcement actions, Helena has been subject to a ground water enforcement action and a required groundwater cleanup. Helena paid a \$30,000 penalty to the state after the company failed to report a chemical fertilizer spill in September 2006 that threatened groundwater. Helena is currently under an abatement plan as a result of two nitrate plumes which stretch over several acres. The groundwater contaminants above water quality standards and background concentrations include nitrate, sulfate, chloride, total dissolved solids, and fluoride. Nitrate is the main contaminant of concern. No domestic or public wells have been contaminated.

In September 2008, Helena filed an application with the department alleging that its air emissions did not require an air quality permit. Helena had made no modification to its operations and its air emissions had not decreased since the department had issued the permit in 2005.

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