



**STATE OF NEW MEXICO
ENVIRONMENTAL IMPROVEMENT BOARD
Harold Runnels Building, Suite S-2102
1190 St. Francis Drive
Santa Fe, New Mexico 87505
Phone: (505) 827-2428**

**NEW MEXICO ENVIRONMENTAL IMPROVEMENT BOARD
NOTICE OF PUBLIC HEARING
EIB 21-48**

The New Mexico Environmental Improvement Board (“Board”) will hold a public hearing beginning at 9:00 a.m. MST on February 23, 2022 and continuing on consecutive days as needed via the web application WebEx. This time-sensitive hearing is being held via WebEx due to restrictions currently in place by the Governor’s Executive Orders and various emergency public health orders designed to protect the public and prevent the spread of COVID-19. The hearing location may change prior to the hearing date, and the Board may hold the hearing in person if circumstances allow. Even if the Board holds the hearing in person, the Board Administrator will provide teleconference or virtual access to those wishing to participate without being at the hearing in person. Those interested in attending should contact the Board Administrator or visit the NMED Calendar at www.env.nm.gov/events-calendar/. Go to the start date of the hearing and click on the entry about this hearing for instructions on how to participate. The purpose of the hearing is to consider the appeal petition (“Petition”) filed by Earth Care New Mexico, by Miguel Acosta Muñoz, and Linda Marianiello, as an individual, (collectively “Petitioners”), through counsel, the New Mexico Environmental Law Center, in EIB 21-48.

In EIB 21-48, Petitioners challenge the approval of Air Quality Permit No. 8585, issued by the New Mexico Environment Department (“Department”) to Associated Asphalt and Materials, LLC (“AAM”) for the Santa Fe Facility at 86 Paseo de River, Santa Fe, NM 87505 in Santa Fe County, New Mexico. Petitioners contend the Department’s decision approves a definition of ambient air that is contrary to the law. Petitioners further contend the air dispersion modeling is deficient, violating of the Bureau’s Air Dispersion Modeling Guidelines, U.S. Environmental Protection Agency (EPA) Guidance, and applicable law. Petitioners claim the Department’s hearing process violated Title VI of the 1964 Civil Rights Act and the Department’s own policy by violating limited English proficient (LEP) community members’ right to meaningfully participate in the hearing.

The Petition and related documents may be viewed on the Department’s docketed matters website under the Environmental Improvement Board dropdown, in the section for EIB 21-48 Appeal Petition – Permit No. 8585 Associated Asphalt and Materials, LLC. The Department’s docketed matters website is at <https://www.env.nm.gov/opf/docketed-matters/>.

The Hearing will be conducted in accordance with the Board’s Adjudicatory Procedures (20.1.2 NMAC); the New Mexico Air Quality Control Act, NMSA 1978, Sections 74-2-1 through -22; the State Rules Act, NMSA 1978, Section 14-4-5.3; and other applicable procedures.

All interested persons will be given a reasonable opportunity at the hearing to submit relevant evidence, data, views, and arguments, orally and in writing; to introduce exhibits; and to examine witnesses. Any person wishing to submit a non-technical written statement for the record in lieu of oral testimony must file such statement prior to the close of the hearing.

TECHNICAL TESTIMONY

Any person who wishes to present technical evidence at the hearing shall file a statement of intent by February 8, 2022. The statement of intent to present technical evidence shall include: (i) the name of the person filing the statement; (ii) an indication of whether the person filing the statement supports or opposes the petition at issue; (iii) the name of each witness; (iv) an estimate of the length of the direct testimony of

each witness; (v) a list of exhibits, if any, to be offered into evidence at the hearing; and (vi) a summary or outline of the anticipated direct testimony of each witness.

ENTRY OF APPEARANCE

Any person who wishes to be treated as an interested participant and to cross-examine witnesses at the hearing shall file and serve upon all parties an entry of appearance on or before February 8, 2022. A timely statement of intent shall be considered an entry of appearance. The entry of appearance must identify the person wishing to be treated as an interested participant and any individual who may appear on behalf of that person.

Those wishing to submit non-technical testimony prior to the hearing may submit relevant evidence, data, views, and arguments to:

Environmental Improvement Board Administrator
New Mexico Environment Department
Harold Runnels Building
P.O. Box 5469
Santa Fe, NM 87502

Those submitting non-technical public comment at the hearing or a non-technical written statement in lieu of oral testimony at or before the hearing should reference docket number EIB 21-48. Public comment and non-technical testimony may also be submitted to the Board Administrator at public.facilitation@state.nm.us.

If any person requires assistance, an interpreter, or an auxiliary aid to participate in this process, please contact the Board Administrator no later than Wednesday, February 9, 2022, at 1190 St. Francis Drive, P.O. Box 5469, Santa Fe, NM 87502, telephone (505) 660-4305, or email public.facilitation@state.nm.us (TDD or TTY users please access the number via the New Mexico Relay Network, 1-800-659-1779 (voice); TTY users: 1-800-659-8331).

Notice of Nondiscrimination

The Department does not discriminate on the basis of race, color, national origin, disability, age or sex in the administration of its programs or activities, as required by applicable laws and regulations. The Department is responsible for coordination of compliance efforts and receipt of inquiries concerning non-discrimination requirements implemented by 40 C.F.R. Part 7, including Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, and Section 13 of the Federal Water Pollution Control Act Amendments of 1972. If you have any questions about this notice or any of the Department's non-discrimination programs, policies or procedures, you may contact: Kathryn Becker, Non-Discrimination Coordinator, New Mexico Environment Department, 1190 St. Francis Dr., Suite N4050, P.O. Box 5469, Santa Fe, NM 87502, (505) 827-2855, nd.coordinator@state.nm.us. If you believe that you have been discriminated against with respect to a Department program or activity, you may contact the Non-Discrimination Coordinator identified above. You may also visit the Department's website at <https://www.env.nm.gov/non-employee-discrimination-complaint-page/> to learn how and where to file a complaint of discrimination.