



new energy economy

Opportunity for New Mexico
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Lovington Judge Adds Obstacle to Clean Energy Transition

In a court in Lovington, NM, Judge Shoobridge sided with industry and ruled to halt the administrative proceeding that was to consider greenhouse gas pollution regulation. Public Service Company of New Mexico (PNM), other utilities, conservative legislators, and the oil and gas industry spent hundreds of thousand of dollars to challenge the NM Environmental Improvement Board's (EIB) authority to hear New Energy Economy's Petition and won for now. "New Energy Economy will appeal this decision. It is our democratic right to petition for the health of New Mexico: to flourish economically, to protect our environment and physical well-being, but this ruling favored a bankrupt business-as-usual scenario," said a determined Mariel Nanasi, Senior Policy Advisor, New Energy Economy. New Energy Economy is represented by the New Mexico Environmental Law Center and is seeking pollution regulation from New Mexico's biggest oil, gas and coal companies for their contribution to global warming, which New Energy Economy describes as "a nuisance that is causing severe harms to the people of New Mexico."

PNM, alone, has spent hundreds of thousands of dollars of rate-payers money to fight any regulation of carbon pollution despite the mainstream science that requires a diversification in energy production to avoid global warming. PNM and the oil and gas industry has discredited and mislead the public with respect to the need to change course in energy policy and their delay tactics have prevailed temporarily. But the public remains at risk because industries and refineries continue contributing to pollution that is contaminating the water, destroying clean air and making it hard for children to breathe. "Dirty industries are maintaining a public nuisance without meaningful oversight. New Energy Economy will keep litigating ever more creatively to ensure that the law is followed so that New Mexico can take advantage of the clean energy prosperity and protect the land we love," vowed Nanasi.

The legislature created the EIB and authorized it to hold public hearings for the purpose of considering air pollution regulation and public welfare protection, however they have been hampered by this ruling. "Industry wanted business-as-usual, which is, frankly, further bad economic news – New Energy Economy is fighting to put in place an environmental policy that will stimulate the economy. New Mexico is poised to create new jobs once we limit carbon pollution." said New Energy Economy Senior Policy Advisor Mariel Nanasi.

"Industry is politically and financially powerful, and the Court ruled to disrupt an ongoing administrative proceeding that was considering regulation of emissions from the oil, coal, and other extractive industries that are responsible for the impact of global warming because they emit thousands of tons of greenhouse gases," said Bruce Frederick, attorney representing New Energy Economy. "We were hoping that the EIB could pursue the normal channels – follow the democratic process – and hear the case on its merits," said Bruce Frederick, attorney with the New Mexico Environmental Law Center. "We have been delayed, but not deterred; we will continue to move ahead to create clean energy jobs, provide a level playing field for small business and the renewable energy industry, and prove that solving global warming will catalyze job creation," observed John Fogarty, Executive Director, New Energy Economy.

Background on the Petition

New Energy Economy filed a Petition with the EIB asking the Board to set a cap on global warming emissions. New Energy Economy's Petition would require fossil fuel industries to reduce greenhouse gas (GHG) emissions based on a theory that GHG emissions constitute "air pollution" and threaten the health of people and natural resources, under the Air Quality Control Act. Further, the Petition requests that the EIB impose a cap on GHG emissions pursuant to its authority to abate and prevent nuisances¹ under the Environmental Improvement Act. Urgent strong EIB regulations are needed to protect public welfare. "The battle of a lifetime is underway—to cap carbon, to stop global warming, and to put Americans back to work rebuilding our clean energy economy. Entrepreneurs are waiting for a clear policy signal from government that investment in research and development are promising for clean technology," says Mariel Nanasi, senior policy advisor with New Energy Economy.

The public testified in March at a hearing and there will be further testimony from scientific experts, as well as continued public input set for June 21st. At the March hearing, New Mexicans from all walks of life and from diverse areas of the state expressed their concerns about further climate change inaction. They testified that they are worried about pollution from coal, oil and gas destroying sources of drinking water, making it hard to breathe, sickening their cows, farm animals and fish, and creating toxic agricultural conditions. People want jobs here in New Mexico, where the sun is strong, in the new energy economy and don't want to see green industries flourishing in China because the government here was too afraid to change course. "By acting now we will unleash the ingenuity of New Mexicans in developing green technologies that reduce greenhouse gas emissions and revitalize the local economy. The future of renewable energy development in New Mexico will strongly depend on policy decisions the EIB makes," claims John Fogarty, Executive Director, New Energy Economy

¹ On September 21, 2009, the 2nd Circuit Court of Appeals reinstated a case filed by eight states, New York City and three land trusts against fossil-fueled-fired-power plants claiming that their carbon dioxide emissions significantly contributed to global warming and caused a public nuisance, threatening human health and natural resources, under federal and state nuisance law.