
**UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF AIR QUALITY**

In the Matter of:

Petition for Review
New Crude Oil and Natural Gas Production
Tank Battery Ute Tribal 5-14-4-1W;
Approval Order Number DAQE-
AN155210002-16 (Newfield)

ORDER OF DISMISSAL

March 8, 2018

This is an order dismissing the Petition for Review filed by Lionel Trepanier and Utah Tar Sands Resistance (“Petitioners”) on May 19, 2016, regarding the New Crude Oil and Natural Gas Production Tank Battery Ute Tribal 5-14-4-1W; Approval Order Number DAQE-AN15521002-16 (“Petition for Review”). As the Executive Director of the Utah Department of Environmental Quality, I have authority to “issue orders to enforce state laws and rules established by the department.” Utah Code Ann. § 19-1-202(2)(a). No request has been made of me to appoint an Administrative Law Judge (“ALJ”) in this matter and no ALJ has been appointed to conduct a special adjudicative proceeding. Utah Code Ann. § 19-1-301.5(5). For these reasons, I dismiss this Petition for Review on the following grounds:

1. Members of the public and special interest groups may become parties to a special adjudicative proceeding only if granted intervention by an ALJ. *See* UAC R307-7-207(1); Utah Code Ann. § 19-1-301.5(7)(a). The rules require potential intervenors to file a Petition to Intervene within “30 days after the day on which the Permit Order being challenged was issued” UAC R305-7-204(2). The Division of Air Quality (“DAQ”) issued the Permit Order (DAQE-AN155210002-16) on April 6, 2016. To date, Petitioners have not filed a Petition to Intervene, and any future filing would be late under the 30-day provision in the rules.

Consequently, Petitioners could never proceed with a Petition for Review, and it must be dismissed.

2. UAC R305-7-203(5) requires that the Division Director (in this case, the DAQ Director) receive a Petition for Review to contest an Approval Order “within 30 days of the date the Permit Order being challenged was issued” Failure to timely file a Petition for Review “waives any right to contest the permit order or to seek judicial review.” UAC R305-7-203(6). The DAQ Director received the Petition for Review on May 19, 2016, which is 13 days after the May 6, 2016, deadline. The Petition for Review is untimely and must be dismissed.

Therefore, on these grounds and for these reasons, I hereby dismiss the Petition for Review as of the date of this final order.

March 8, 2018.



Alan Matheson, Executive Director

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of March, 2018, a true and correct copy of the foregoing **ORDER OF DISMISSAL** was served via e-mail upon each of the following persons:

Lionel Trepanier
Utah Tar Sands Resistance
1059 East 4500 South
Salt Lake City, Utah 84117
LionelTrepanier@gmail.com
UtahTarSandsResistance@gmail.com

Bryce Bird, Director
Division of Air Quality
195 North 1950 West
P.O. Box 144820
Salt Lake City, Utah 84114-4820
bbird@utah.gov

Robert Hammer
Newfield Production Company
4 Waterway Square Place, Suite 100
The Woodlands, Texas 77380
bjhammer@newfield.com

Amanda Smith
Holland & Hart, L.L.P.
222 South Main Street, Suite 2200
Salt Lake City, Utah 84101
asmith@hollandhart.com

Christian Stephens
Marina Thomas
Utah Attorney General's Office
195 North 1950 West
P.O. Box 140873
Salt Lake City, Utah 84114-0873
cstephens@agutah.gov
marinathomas@agutah.gov

Administrative Proceedings Records Officer
DEQAPRO@utah.gov



Shane R. Bekkemellom,
Administrative Legal Secretary