



## **FOR IMMEDIATE RELEASE**

Tuesday, June 08, 2010

### **NM SUPREME COURT OVERRULES DISTRICT JUDGE, EIB WILL CONTINUE GREENHOUSE GAS PROCEEDINGS**

*SANTA FE, N.M.*— The New Mexico Supreme Court overruled a district judge’s decision Monday that stopped the Environmental Improvement Board (EIB) from considering a regulatory proposal to limit greenhouse gas emissions. The Court ordered Judge William G. W. Shoobridge of Lovington, NM, to vacate his April decision that the EIB had no authority to consider the petition, to dissolve the preliminary injunction that halted the EIB proceedings, and to dismiss the case.

“This is a tremendous and deserved victory for democracy and the administration of justice in New Mexico,” stated Bruce Frederick, staff attorney of the New Mexico Environmental Law Center, representing New Energy Economy, a Santa Fe non-profit. “The Court’s ruling allows EIB to fully consider the scientific evidence and to learn about all issues surrounding climate change. It also ensures the public will have a seat at the table.” Frederick argued before the Supreme Court, in a packed courtroom, that a Lovington District Court Judge had no jurisdiction or cause to stop EIB’s pending administrative proceeding. Eric Miller of the Attorney General’s Office represented the EIB and also argued that Judge Shoobridge’s decision should be overruled.

Judge William G. W. Shoobridge of Lovington, NM, had denied motions to dismiss and granted a preliminary injunction that stopped the EIB from considering New Energy Economy’s petition to regulate greenhouse gas emissions, before the EIB could begin proceedings. The New Mexico Environmental Law Center responded by filing a petition for a Writ of Superintending Control, for New Energy Economy. The Law Center asked the Supreme Court to order the district court to send the case back to the EIB.

Supreme Court Chief Justice Charles Daniels stated, when announcing the court’s decision, that the case raises serious separation of powers issues and the district court had interfered with an ongoing executive agency proceeding. For that reason, he indicated it is an appropriate matter for superintending control. He also stated there will be a written opinion from the court.

“We were confident that the Supreme Court would put us back on track. We can finally 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,” stated John Fogarty, Executive Director, New Energy Economy.

#### **Background**

In December 2008, the New Mexico Environmental Law Center filed a Petition to the EIB on behalf of

New Energy Economy. The petition now requests statewide limits on greenhouse gas emissions, calling on oil and gas operators and operators of coal-fired power plants to reduce their greenhouse gas emissions by 3% per year, beginning in 2012. EIB heard public comment on the petition and scheduled scientific and expert testimony to begin in June 2010.

However, on January 13, 2010, industry groups, utilities, and four state legislators filed a lawsuit in Lea County to stop EIB from hearing the Petition, arguing that EIB had no authority to even consider the Petition. On April 13th, District Judge Shoobridge adopted all of the industry groups' arguments and ordered the EIB to halt consideration of the Petition.

[www.nmelc.org](http://www.nmelc.org)

*The mission of the New Mexico Environmental Law Center is to protect New Mexico's natural environment and achieve environmental justice for New Mexico's communities through legal representation, policy advocacy and public education. The New Mexico Environmental Law Center's attorneys have handled over 100 critical cases in low-income and minority communities fighting pollution and environmental degradation. The NMELC charges few, if any, fees to its clients, most of who are from Hispanic and Native American communities. The NMELC celebrated its 20<sup>th</sup> anniversary in 2008. Membership and gifts help New Mexico communities protect their natural environment and their health from toxic pollution, the degrading effects of growth and liabilities created by irresponsible mining. Contact: Sebia Hawkins, Director of Development 505-989-9022, ext. 27.*

## **INTERVIEWS AND IMAGES ARE AVAILABLE UPON REQUEST**

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