BEFORE THE ALBUQUERQUE-BERNALILLO COUNTY
AIR QUALITY CONTROL BOARD

IN THE MATTER OF THE PETITION TO AMEND 20.11.61 NMAC, *PREVENTION OF SIGNIFICANT DETERIORATION*; 20.11.42 NMAC, *OPERATING PERMITS*; AND 20.11.1 NMAC, *GENERAL PROVISIONS.* THE AMENDMENTS TO 20.11.42 NMAC ARE PROPOSED AS A REVISION TO THE TITLE V OPERATING PERMIT PROGRAM, AND THE AMENDMENTS TO 20.11.61 NMAC AND 20.11.1 NMAC ARE PROPOSED AS A REVISION TO THE NEW MEXICO STATE IMPLEMENTATION PLAN FOR AIR QUALITY (SIP).

AQCB Petition No. 2010-4

Air Quality Division,
Environmental Health Department,
City of Albuquerque, Petitioner

CITY OF ALBUQUERQUE'S NOTICE OF INTENT TO PRESENT TECHNICAL TESTIMONY

Pursuant to 20.11.82 NMAC, *Rulemaking Procedures – Air Quality Control Board*, The City of Albuquerque Environmental Health Department, Air Quality Division ("the Division") hereby submits its Notice of Intent to present technical testimony in this proceeding.

1. **<u>The person for whom the witness will testify.</u>**

City of Albuquerque Environmental Health Department, Air Quality Division

2. **<u>The name and qualifications of each technical witness.</u>**

Neal T. Butt. Environmental Health Scientist, Control Strategies Section, Air Quality Division. M.S. Biology (Wildlife Biology), University of North Dakota; B.S. Biology (Zoology), University of New Mexico; A.A.S. Criminal Justice, Central New Mexico Community College; A.A.S. Environmental Protection Technology, CNM; WERC Waste Management Certificate, UNM Chemical & Nuclear Engineering Department. Employed by the City of Albuquerque's Environmental Health Department for 13 + years; the last nine of which

have been in the Air Quality Division. Chief responsibility is the promulgation of air quality regulations for implementation within the County of Bernalillo.

Isreal Tavarez. Environmental Engineering Manager, Air Quality Division. M.S. Chemical Engineering, New Mexico State University; B.S. Chemical Engineering, NMSU. Registered Professional Engineer (New Mexico). Employed by the City of Albuquerque's Environmental Health Department, Air Quality Division for 13 + years. Previously employed by the State of New Mexico, Air Quality Bureau (1994-1996).

Dario Rocha. Supervisor, Permitting and Technical Analysis Section, Air Quality Division. B.S. Mechanical Engineering, New Mexico State University. Employed by the City of Albuquerque's Environmental Health Department, Air Quality Division for 9 + years. Previously employed by the State of New Mexico, Air Quality Bureau (1997-2000). Chief responsibility is to supervise Permitting and Technical Analysis Section.

3. Summary and Estimated Duration of Testimony

Mr. Butt's written testimony is attached as AQD Exhibit # 5. Mr. Butt will testify that this revision to the SIP should be approved.

The proposed amendments are required pursuant to the *Prevention of Significant Deterioration* (PSD) *& Title V Greenhouse Gas* (GHG) *Tailoring Rule* which became effective August 2, 2010 [FR 6/3/10, Vol. 75, No. 106, 31514-31608], which "tailors" permitting requirements to ensure that only the largest sources of GHG-facilities are required to obtain air permits for GHGs. Potential sources in Bernalillo County include power plants, refineries, cement manufacturing, etc. In addition, language found at 20.11.42.12.A.(2) NMAC, *Timely*

Application, has been deleted to conform to 40 CFR 70.5, *Permit Applications*, and 20.2.70 NMAC, *Operating Permits* (State of New Mexico).

The Clean Air Act (CAA) PSD and Title V permitting thresholds (triggers) for criteria pollutants (lead, sulfur dioxide, nitrogen dioxide, carbon monoxide, ozone and particulate matter) are 100 and 250 tons per year (tpy) respectively, depending upon the type of emissions. Although these thresholds are appropriate triggers for criteria pollutant permits, they are too low for an effective permit trigger for GHG emissions because GHGs are emitted in significantly greater volumes (i.e. 75,000-100,000 tpy).

Under existing federal law, unless states and local agencies adopt the Tailoring Rule amendments by January 2, 2011, stationary sources that emit as little as 100 or 250 tpy of GHGs will automatically trigger (require) complex new Title V permits or PSD permits (that require best available control technology or "BACT"). This has the potential to affect many sources within Bernalillo County, including sources that otherwise would only be required to obtain minor source permits (e.g., 20.11.41 NMAC, *Authority-to-Construct*) or no permit at all.

Step 1 of the Tailoring Rule (1/2/11-6/30/11): **PSD permits**: no new Tailoring Rule permitting actions will be triggered based solely on GHG emissions. Only sources taking permitting actions "anyway" for other pollutants must also address GHGs under the Tailoring Rule; the "anyway" sources will be subject to PSD requirements only if the sources increase GHG emissions by 75,000 tpy CO_2e or more. **Title V permits**: Only sources that have already have Title V permits, or that must obtain a new Title V permit for non-GHG pollutants must address GHGs in Step 1.

Step 2 of the Tailoring Rule (7/1/11-6/30/13): **PSD permits**: GHG sources that emit or have potential to emit at least 100,000 tpy CO_2e will be subject to PSD requirements. If a physical change or a change in the method of operation at a 100,000 tpy $C0_2e$ source will result in a net GHG increase by at least 75,000 tpy CO_2e, the source also will be subject to PSD permitting. **Title V permits**: Sources subject to GHG permitting under Step 1 will continue to be subject to

GHG permitting requirements under Step 2. GHG sources that emit or have potential to emit at least 100,000 tpy CO_2e will be subject to Title V requirements.

Step 3, **PSD and Title V**: In the Tailoring Rule, EPA commits to complete another rulemaking by 7/1/12, after soliciting comment on streamlining and exclusion of certain sources. Step 3 will not require permitting of sources with GHG emissions less than 50,000 tpy CO_2e before 4/30/16.

Mr. Butt's testimony is anticipated to take approximately 30 minutes.

4. Text of Recommended Revisions to the New Mexico State Implementation Plan

The Division recommends adoption of the proposed amendments to 20.11.61 NMAC, *Prevention of Significant Deterioration*; 20.11.42 NMAC, *Operating Permits*; and 20.11.1 NMAC, *General Provisions,* as proposed in the Public Review Drafts, shown as AQD Exhibits #1a, #1b and #1c respectively, which are attached to the Petition to Amend, filed September 28, 2010, shown as AQD Exhibit # 1, and as amended by the Staff Proposed Floor Amendments shown as AQD Exhibit #7.

5. List and Description of Exhibits

The Division has attached the following exhibits to this Notice of Intent:

Exhibit Number	Title of Exhibit
AQD Exhibit 1	Petition to Amend 20.11.61 NMAC, *Prevention of Significant Deterioration*; 20.11.42 NMAC, *Operating Permits*; and 20.11.1 NMAC, *General Provisions*

AQD Exhibit 1a	Public Review Draft 20.11.61 NMAC, *Prevention of Significant Deterioration* {attached to AQD Exhibit 1}
AQD Exhibit 1b	Public Review Draft 20.11.42 NMAC, *Operating Permits* {attached to AQD Exhibit 1}
AQD Exhibit 1c	Public Review Draft 20.11.1 NMAC, *General Provisions* {attached to AQD Exhibit 1}
AQD Exhibits 2a/b/c	Notice of Proposed Rulemaking: Albuquerque Journal, 10/17/10 {2a}; NM Register, 10/29/10 {2b}; and the Air Quality Announce List Serve {2c}
AQD Exhibit 3a/b/c	EPA Correspondence: Dr. Armendariz, Regional Administrator, EPA Region VI to EHD Director Mary Lou Leonard, 7/16/10 {3a}; Dr. Amendariz to Director Leonard, 9/2/10 {3b}; Director Leonard to Dr Armendariz, 9/17/10 {3c}
AQD Exhibit 4	Public Comments: Chavez, 9/29/10 {4a}
AQD Exhibit 5	Direct Testimony
AQD Exhibit 6	Draft Agenda
AQD Exhibit 7	Staff Proposed Floor Amendments

6. **Reservation of Rights**

This Notice of Intent to Present Technical Testimony is based on the Division's Petition. The Division reserves the right to call any person to testify and to present any exhibit in response to another notice of intent or public comment filed in this matter or to any testimony or exhibit offered at the public hearing. The Division also reserves the right to call any person as a rebuttal witness and to present any exhibit in support thereof.

Respectfully submitted,

Neal Butt
Environmental Health Scientist
Air Quality Division
Environmental Health Department
One Civic Plaza, NW, Suite 3023
Albuquerque, New Mexico 87103
(505) 768-2660

CERTIFICATION

I hereby certify that on November 19, 2010, an original and nine copies of this Notice of Intent to present technical testimony (NOI), with attached exhibits were delivered to the following person for filing.

Janice Wright
Air Quality Control Board Liaison / Hearing Clerk
Environmental Health Department
One Civic Plaza, NW, Room 3023
Albuquerque, New Mexico 87103

And that on November 19, 2010, a copy of this NOI with attached exhibits was sent to the Attorney for the Board, Bill Grantham, at the following e-mail address:

Bill.grantham@state.nm.us

Neal Butt
Environmental Health Scientist
Air Quality Division
Environmental Health Department