BEFORE THE ALBUQUERQUE-BERNALILLO COUNTY
AIR QUALITY CONTROL BOARD

IN THE MATTER OF THE PETITION TO AMEND 20.11.2 NMAC, *FEES*, AND INCORPORATE AN AMENDED 20.11.2 NMAC INTO THE NEW MEXICO STATE IMPLEMENTATION PLAN (SIP) FOR AIR QUALITY.

AQCB Petition No. 2010-3

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. **The person for whom the witness will testify.**

City of Albuquerque Environmental Health Department, Air Quality Division

2. **The name and qualifications of each technical witness.**

Margaret Nieto, Environmental Health Supervisor, Air Quality Division. Master of Public Administration, Texas Christian University, B. A. English, University of Texas at Arlington. Professional background in the area of local government financial legislation includes having worked for the City of Fort Worth, Texas as a Budget Analyst, City Council staff, and Assistant to two Mayors; and she has been employed by the City of Albuquerque for 15 years, the first 10 of which were in the Office of City Council Services as a Legislative /Budget Analyst, and the last five of which have been in the Air Quality Division in the Control Strategies Section. Chief responsibility as Control Strategies Supervisor is to oversee Air Board

operations, to coordinate work of the Regulation Development Committee and 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; currently manages the Permitting Section of the Division. Previously employed by the State of New Mexico, Air Quality Bureau (1994-1996).

Christella Armijo. Management Analyst II, Air Quality Division. B. S. Nuclear Engineering, University of New Mexico. Employed by the City of Albuquerque's Environmental Health Department, Air Quality Division for 3 years with primary responsibility in her current position for providing financial analysis for all fee and grant related programs. Ms. Armijo has more than 15 years of experience working in the environmental field for state, local and tribal governmental agencies in New Mexico and Arizona.

John Liberatore. Environmental Health Supervisor, Small Business Program, Air Quality Division. B. A. in Earth Science/Biology, Western Connecticut State College. Employed by the City of Albuquerque for 26+ years, 19 of which have been in the Air Quality Division, and 15 of which have been in the Air Quality Assistance Program for small business.

Damon R. Reyes. Environmental Health Supervisor, Enforcement Section, Air Quality Division. B.S. Environmental Science, College of Santa Fe. Employed by the City of Albuquerque's Environmental Health Department, Air Quality Division for 5 years. Previously employed by the State of New Mexico, Air Quality Bureau (2001 - 2005). Chief responsibility is

to supervise the Enforcement Section, which includes regulating both Fugitive Dust and Stationary Sources.

3. Summary and Estimated Duration of Testimony

Ms. Nieto's written testimony is attached as AQD Exhibit # 7. Ms.Nieto will testify that this rule amendment and revision to the SIP should be approved.

Proposed amendments to 20.11.1 NMAC, *Fees* constitute increases to some fees, regular annual adjustments consistent with the Consumer Price Index (CPI), and some language changes for the following reasons:

- Federal and New Mexico laws require or authorize, depending on the type of permit, collection of fees to cover specific costs. Current fees are insufficient and resulted in a projected budget deficit in FY/10 and will result in yet another budget deficit in FY/11 if unchanged.
- Fee fund balance has covered program cost deficits in past years, but the fund balance is now depleted.
- The scope and objectives sections of the current fee regulation require updating and revision to be consistent with the New Mexico Air Quality Control Act.
- Some current fees are base on theoretical maximum emissions rather than the maximum requested by the applicant. The proposed fees will be charged only for what industry requests on a permit application.
- Programs have increased in both volume and complexity.
- Personnel and operating costs have increased steadily since the current fee structures were put in place between 1997 and 2004.

- To date, fees have not been adjusted for CPI increases, although such adjustments are authorized. CPI adjustments will be applied going forward in the proposed regulation.
- Refund and appeal processes need clarification.

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

The Division recommends adoption of the proposed amendments to 20.11.2 NMAC, *Fees,* as proposed in the Public Review Draft, shown as AQD Exhibit #1b, which is attached to the Petition to Amend, filed September 28, 2010, shown as AQD Exhibit # 1a. Ms. Nieto's testimony is anticipated to take approximately 30 minutes.

5. List and Description of Exhibits

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

Exhibit Numbers and Titles	
AQD Exhibits 1a/b	Request for Hearing: Petition to Amend 20.11.2 NMAC, *Fees* (1a), Public Review Draft 20.11.2 NMAC, *Fees* (1b)
AQD Exhibits 2a/b/c	Notice of Proposed Rulemaking: Albuquerque Journal, 10/17/10 (2a), NM Register, 10/29/10 (2b), Legal Ad sent to the Air Quality Announce List Serve, 10/14/10 (2c)
AQD Exhibits 3a/b/c/d/e/f	Stakeholder Outreach: 6-25-10 Stakeholder Letter (3a); 6-25-10 ListServe Stakeholder Meeting Announcement (3b); 6-29-10 Follow-up Stakeholder Letter (3c); 6-29-1- ListServe Follow-up Stakeholder Meeting

Announcement with Change of Comment Date (3d); List Serve email list and mailing list (3e);7-20-10 Stakeholder Meeting Agenda and Sign-in Sheets (3f)

AQD Exhibits 4a/b/c/d/e/f/g/h/i/j

Stakeholder comments:

6-25-10 and 7-13-10 comments from David Mitchell, Bernalillo County, and 8-6-10 AQD response (4a); 7-16-10 comment from American Gypsum (4b); 7-19-10 comment from Lynne Andersen, NAIOP, and 8-6-10 AQD response (4c); 7-19-10 comment from Kirtland AFB, and 8-6-10 AQD response (4d); 7-19-10 comment from PNM, and 8-6-10 AQD response (4e); 8-16-10 comment from jyatt@aol.com (4f); 8-26-10 comment from Albuquerque City Councilor-District 8, Trudy Jones (4g); 9-1-10 comments from Gerald Romero, City Council Services (4h); 9-10-10 comment from Albuquerque City Councilor-District 2, Debbie O'Malley (4i); and 9-15-10 comment from Albuquerque City Councilor-District 6, Rey Garduno (4j)

AQD Exhibit 5a

Public Comment:

11-19-10 Comment from Matthew Cross-Guillen, Bernalillo County, and 11-23-10 AQD response

AQD Exhibits 6a/b/c/d/e/f/g/h/i/j/k

Supporting Documents:

	Summary of Proposed Fee Increases Table (6a); AQD Permit Program FY/06 – FY/11 Program Costs vs. Revenues (6b); Annual Emission Fee Comparisons with Other Jurisdictions (6c); Air Quality Operating Permit Program Requirements (6d); Changes in CPI 1997 to 2010 (6e); Request for Policy Direction, EHD Director to COA Chief Administrative Officer (6f); FY/10 and FY/11 Air Pollution Control Grant Information (6g); Application Review Fees Received vs. Annual Emissions Fees (6h); Stationary Source Application Review Process Diagram (6i); Current Schedule of NAAQS Review (6j); List of Pending NSR Rulemaking Actions as of 7-14-10 (6k).
AQD Exhibit 7	Direct Testimony
AQD Exhibit 8	12-8-10 AQCB Draft Agenda

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,

Margaret Nieto
Control Strategies Supervisor
Air Quality Division
Environmental Health Department
One Civic Plaza, NW, Suite 3023
Albuquerque, New Mexico 87103
(505) 768-2637

CERTIFICATION

I hereby certify that on November 23, 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 23, 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

Margaret Nieto
Control Strategies Supervisor
Air Quality Division
Environmental Health Department