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

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)

The Environmental Health Department of the City of Albuquerque, by and through the Air Quality Division (AQD), asks the Albuquerque-Bernalillo County Air Quality Control Board (Air Board) for a hearing at which the Air Board will hear the Air Quality Divisions' request to adopt amendments to 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 will be submitted to EPA as a revision to the Title V Operating Permit Program, and the Amendments to 20.11.61 NMAC and 20.11.1 NMAC will be submitted to EPA as a revision to the SIP. This Petition includes a request for a hearing on these matters and permission to provide a court reporter and hearing officer for the hearing. As grounds, Petitioner states the following:

1. The New Mexico Air Quality Control Act (Air Act), NMSA 1978, Sections 74-2-4 and 74-2-5.B(1) [1967 as amended through 2007] authorizes and requires the Air

Board to adopt, amend, or replace air quality regulations and to adopt air quality plans (SIPs) under NMSA 1978, Section 74-2-5.B(2).

2. The proposed amendments are required pursuant to the *Prevention of Significant Deterioration* (PSD) *& Title V Greenhouse Gas* (GHG) *Tailoring Rule* [FR 6/3/10, Vol. 75, No. 106, 31514-31608], which "tailors" permitting requirements to ensure only the largest sources of GHG-facilities must 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.

3. It is anticipated that the hearing will take approximately 1 hour or less.

4. The proposed Public Review Drafts of 20.11.61 NMAC, *Prevention of Significant Deterioration*; 20.11.42 NMAC, *Operating Permits*; and 20.11.1 NMAC, *General Provisions*, are attached as AQD Exhibits #1a, 1b, & 1c respectively.

Respectfully submitted,

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CERTIFICATION

I hereby certify that a copy of this Petition to Amend 20.11.61 NMAC, *Prevention Of Significant Deterioration*; 20.11.42 NMAC, *Operating Permits*; and 20.11.1 NMAC, *General Provisions*, was delivered to the following person on September 28, 2010.

Janice Wright
Air Quality Control Board Liaison
Environmental Health Department
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Albuquerque, New Mexico 87103

Mary Lou Leonard
Director, Environmental Health Department