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BEFORE THE ALBUQUERQUE-BERNALILLO COUNTY
AIR QUALITY CONTROL BOARD

IN THE MATTER OF THE PETITION TO ADOPT A STATE IMPLEMENTATION PLAN (SIP) FOR NITROGEN DIOXIDE (NO_2) TO ADDRESS SECTIONS 110(a)(1) AND (2) OF THE FEDERAL CLEAN AIR ACT (CAA), 42 U.S.C. § 7410(a)(1) AND (2) HEREAFTER REFERRED TO AS THE "NO_2 INFRASTRUCTURE SIP"

AQCB Petition No. 2013-3

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 Air Quality Division ("the Division") of the City of Albuquerque's Environmental Health Department, hereby submits its Notice of Intent (NOI) 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.**

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; B.A. Environmental Planning & Design, UNM; 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 15 + years; the last 12 of which have been in the Air Quality Division.

Chief responsibility is to promulgate air quality regulations and plans through the Albuquerque – Bernalillo County Air Quality Control Board for implementation within the County of Bernalillo, including research, drafting and editing of technical documents, hearing preparation, testifying, and submittal to EPA for approval.

Ken Lienemann. Air Monitoring Supervisor, Air Quality Division. M.S. Remote Sensing, University of Tennessee and B.S. Mechanical Engineering, University of Nebraska. Employed by the City of Albuquerque's Environmental Health Department, Air Quality Division for 7 years. Previously employed by the State of New Mexico's Air Quality Bureau, Control Strategies (2001-2006). Mr. Lienemann oversees operation of the Bernalillo Co. Ambient Air Monitoring Network to ensure that equipment produces requisite data quantity and quality. Mr. Lienemann also interprets Bernalillo County air data in the context of local conditions and EPA national standards.

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 13 + years. Previously employed by the State of New Mexico, Air Quality Bureau (1997-2000).

Mr. Rocha's chief responsibility is to supervise and direct staff in the Permitting & Technical Analysis Section for the Air Quality Division; assign air quality permit applications for NSR and Title V air permitting programs; make applicability determinations for air quality

permitting; review and approve portable stationary source relocations within Bernalillo County; prepare air quality permits for minor and major stationary sources; ensure all air quality permits for minor and major stationary sources are issued or denied within their respective regulatory or statutory timeframes; and ensuring that stationary source air quality emissions inventories are prepared in accordance with 40 CFR 51 Subpart A.

3. Summary and Estimated Duration of Testimony

Mr. Butt's written testimony is attached as AQD Exhibit # 4. Mr. Butt will testify that the NO_2 NAAQS Infrastructure SIP should be adopted and submitted to EPA, as revision to the SIP. The Division is petitioning the Board to adopt the NO_2 NAAQS Infrastructure SIP, for the following reasons:

A. 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 ("SIP"s) under NMSA 1978, Section 74-2-5.B(2).

B. On January 22, 2010, EPA Administrator, Lisa Jackson, promulgated a new national ambient air quality standard (NAAQS) for NO_2, effective April 12, 2010 [FR Vol. 75, No. 26, 6474-6537, February 9, 2010]. Based on its review of the air quality criteria for oxides of nitrogen and the primary NAAQS for oxides of nitrogen as measured by nitrogen dioxide (NO_2), EPA has made revisions to the primary NO_2 NAAQS in order to provide requisite protection of public health. Specifically, EPA has established a new 1-hour standard at a level of 100 parts per billion (ppb), based on the 3-year average of the 98th percentile of the yearly

distribution of 1-hour daily maximum concentrations, to supplement the existing annual standard of 0.053 parts per million (ppm) (i.e. 53 ppb).

"As part of the NAAQS rulemaking, the EPA promulgated revisions to requirements for minimum numbers of ambient NO_2 monitors that included new monitoring near major roads in larger urban areas. In addition, these monitoring requirements included requirements to characterize NO_2 concentrations representative of wider spatial scales in larger urban areas (area-wide monitors), and monitors intended to characterize NO_2 exposures of susceptible and vulnerable populations."

Pursuant to Sections 110(a)(1) and 110(a)(2) of the CAA, each State is required to submit a plan to provide for the implementation, maintenance, and enforcement of a newly promulgated or revised NAAQS within 3 years of promulgation of a new or revised standard. Section 110(a)(1) of the CAA addresses the timing requirement for the submissions of any "Infrastructure SIP" revisions, while Section 110(a)(2) of the CAA lists the required elements that comprise the "Infrastructure SIP". Therefore, this plan or "Infrastructure SIP" addressing the requirements of Sections 110(a)(2)(A)--(M) of the CAA was due February 9, 2013. This "Infrastructure SIP" is a compilation of elements that demonstrates how Albuquerque-Bernalillo County will implement, maintain and enforce the revised NO_2 NAAQS, including: enforceable emission limitations and control measures, air quality monitoring and modeling, a permitting program, adequate funding and personnel, authority under state law to carry out the plan, emissions reporting, emergency powers, public participation, and fee collection.

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

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

The Division recommends adoption of the proposed NO_2 NAAQS Infrastructure SIP; as proposed in the Public Review Draft shown as AQD Exhibit 1a; as amended by Staff Proposed Floor Amendments shown as AQD Exhibit #5.

5. List and Description of Exhibits

The Division has attached the following exhibits to this NOI:

Exhibit Number	Title of Exhibit
AQD Exhibit 1	Petition to adopt a State Implementation Plan (SIP) for NO_2 to address Sections 110(a)(1) and (2) of the federal Clean Air Act (CAA), 42 U.S.C. § 7410(a)(1) and (2) hereafter referred to as the "NO_2 Infrastructure SIP".
AQD Exhibit 1a	Public Review Draft {attached to AQD Exhibit 1} showing proposed "NO_2 Infrastructure SIP"
AQD Exhibits 2 a/b/c	Notice of Proposed Rulemaking: Including the legal advertisement of this hearing in the Albuquerque Journal {2a}; the New Mexico Register {2b}; and the Air Quality Announce List Serve {2c}
AQD Exhibit 3 a/b	Comments: Received from EPA, January 31, 2013 {3a}; AQD response, February 26, 2013 {3b}
AQD Exhibit 4	Direct Testimony by Neal Butt, Air Quality Division
AQD Exhibit 5	Staff proposed floor amendments

6. Reservation of Rights

This NOI is based on the Division's Petition to Amend. 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 May 28, 2013, an original and 15 copies of this NOI, with attached exhibits were delivered to the following person for filing.

Elizabeth Jones
Air Quality Control Board Liaison
Air Quality Division
Environmental Health Department
One Civic Plaza, NW, Room 3023
Albuquerque, New Mexico 87103

And that on May 28, 2013, a copy of this NOI with attached exhibits was sent to the Attorney for the Board, Bill Grantham, at the following e-mail address:

wggrantham@gmail.com

Neal Butt
Environmental Health Scientist
Air Quality Division
Environmental Health Department