AQD EXHIBIT
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PENGAD 800-631-6989

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

JAN 3 1 2013

Ms. Margaret Nieto
City of Albuquerque
Environmental Health Department
Air Quality Division
One Civic Plaza, Room 3047
Albuquerque, NM 87103

Re: Proposed NO_2 Infrastructure State Implementation Plan (SIP)

Dear Ms. Nieto:

Thank you for the opportunity to review and comment on the proposed State Implementation Plan (SIP) revision "Infrastructure Requirements of Section 110(a)(2)(A-M) of the Clean Air Act (CAA) to Implement the 2010 Nitrogen Dioxide (NO_2) National Ambient Air Quality Standards (NAAQS)." The Environmental Protection Agency (EPA) appreciates the efforts of the Albuquerque-Bernalillo County Air Quality Control Board to meet this important CAA requirement. The EPA Region 6 offers the following comments on the proposed SIP revision:

Comment 1:

Sections 110(a)(2)(C) and (E) of the certification matrix in the Proposal do not include any discussion of where the Air Quality Division (AQD) is granted authority to enforce permitting provisions and implement the SIP. The Bernalillo County Ordinance 88-45 provides the AQD with authority to enforce permitting provisions, and provides for assessment of administrative enforcement actions and administrative penalties for violations of those permit terms and conditions. The EPA approved Ordinance 88-45 into the Albuquerque/Bernalillo County SIP in a June 1, 1999 rulemaking (64 FR 29235). The Albuquerque/Bernalillo County has since amended the ordinance and re-codified it as Bernalillo County Ordinance 94-5. Since Ordinance 88-45 no longer exists, we encourage the submittal of the amended ordinance as a SIP revision. We will act on this amended ordinance in a future rulemaking. The Joint Air Quality Control Board Ordinance 94-5 is also cited as legal authority in 20.11.1.3 NMAC, which is SIP-approved. Please update the matrix to include a discussion of the above.

Comment 2:

The EPA finalized the $PM_{2.5}$ PSD Increment—SILs—SMC Rule (75 FR 64864, October 20, 2010) to provide additional regulatory requirements under the PSD SIP program regarding the implementation of the $PM_{2.5}$ NAAQS for NSR. As a result, the $PM_{2.5}$ PSD Increment— SILs—SMC Rule required states to submit SIP revisions to adopt the required PSD increments by July 20, 2012. This requirement applies to the Albuquerque/Bernalillo County. Specifically, the October 20, 2010 $PM_{2.5}$ Rule requires states to adopt and submit for EPA approval a PSD SIP revision that implements the $PM_{2.5}$ increments pursuant to section 166(a) of the Clean Air Act (CAA) to prevent significant deterioration of air quality in areas meeting the NAAQS. The EPA will not be able propose a full approval of the Infrastructure SIP for the PSD related components of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II), and 110(a)(2)(J) until the

Albuquerque/Bernalillo County submits a SIP revision addressing the $PM_{2.5}$ PSD increments requirements and the EPA approves the SIP revision.

We recognize that on January 22, 2013 the U.S. Court of Appeals for the District of Columbia Circuit Court (Court) vacated and remanded to the EPA portions of the October 20, 2010 $PM_{2.5}$ Rule establishing PSD significant impact levels (SILs) and significant monitoring concentrations (SMCs) for $PM_{2.5}$. However, the $PM_{2.5}$ PSD increment requirements from our October 20, 2010 $PM_{2.5}$ Rule were not subject of the Court's decision and remain in place. Furthermore, we also recognize that the Albuquerque/Bernalillo County has proposed SIP revisions dated December 5, 2012 (for 20.11.60 NMAC Prevention of Significant Deterioration and 20.11.61 NMAC Permitting in Nonattainment Areas) addressing the $PM_{2.5}$ PSD increment requirements and we encourage finalizing and submitting to the EPA that rulemaking. Please address the $PM_{2.5}$ PSD increment requirements in the matrix outlining the requirements of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II), and 110(a)(2)(J))(II), of the CAA.

Comment 3:

The discussion in section 110(a)(2)(D) for Interstate Transport states that based on monitored NO_2 concentrations, and the lack of NO_2 nonattainment areas in the Bernalillo County or within close proximity, the AQD has concluded that NO_2 emissions from the Bernalillo County:

1) Do not significantly contribute to nonattainment or interfere with maintenance for any other state with regards to the NO_2 NAAQS;
2) Do not interfere with the measures required to implement prevention of significant deterioration or for the protection of visibility in any other state; and
3) Do not preclude the state from insuring compliance with CAA Sections 126 and 115.

We appreciate that this proposal addresses CAA 110(a)(2)(D)(i)(I) requirements. However, at this time, we are not treating a SIP submission addressing these requirements as a "required" SIP submission until EPA has defined a state's obligations in accordance with the August 21, 2012 United States Court of Appeals for the District of Columbia Circuit decision vacating the Cross-State Air Pollution Rule. If Albuquerque/Bernalillo county still wishes to address the CAA 110(a)(2)(D)(i)(I) requirements, we recommend that this discussion be supplemented with information regarding the number of actual NO_2 monitors in Albuquerque/Bernalillo County (i.e., 1 NCOR site) and the maximum values monitored at that site during the past three years (e.g., 2010-2012). We also recommend that you supplement the discussion with what monitors/receptors were considered outside of Albuquerque/Bernalillo County as potential nonattainment or maintenance receptors and include any technical analyses supporting the conclusions. EPA's guidance for $PM_{2.5}$ and Ozone for 110(a)(2)(D) and EPA's recent actions in review of these SIPs in other states provide examples of the types of technical analysis that can be utilized. While the conclusion may remain the same, the additional information provides support for that conclusion.

Thank you for your efforts to meet this important CAA requirement. We offer our assistance during the SIP revision process. If you have any questions or need additional clarification, please contact Mr. John Walser of my staff at 214-665-7128. Please let us know how we may be of further assistance.

Sincerely yours,

Guy Donaldson
Chief
Air Planning Section