BEFORE THE ALBUQUERQUE-BERNALILLO COUNTY
AIR QUALITY CONTROL BOARD

IN THE MATTER OF THE PETITION TO AMEND
20.11.42 NMAC, *OPERATING PERMITS,* AND SUBMIT AMENDMENTS TO EPA AS AN UPDATE TO THE TITLE V PROGRAM

AQCB Petition No. 2009-2

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 (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; 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 12 + years; the last eight of which have been with the Air Quality Division. Chief responsibility is the promulgation of air quality regulations for implementation within the County of Bernalillo.

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.

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). Chief responsibility is the oversight of the regulatory programs in the Air Quality Division.

Angela Duran. Environmental Health Scientist, Permitting and Technical Analysis Section, Air Quality Division. B.S. Biology, University of New Mexico. Employed by the City of Albuquerque's Environmental Health Department, Air Quality Division for 10+ years. Previously employed by the United States Environmental Protection Agency, Region 6 (1997-1998). Chief responsibilities are reviewing and writing new source review permits and operating permits for air pollutant sources located within the County of Bernalillo.

3. Summary and Estimated Duration of Testimony

Mr. Butt's written testimony is attached as AQD Exhibit # 6. Mr. Butt will testify that this proposed amendment to 20.11.42 NMAC and concomitant revision to the Title V Operating Permit Program should be approved.

The Division is petitioning the Board to amend 20.11.42 NMAC, *Operating Permits*, for the following reasons:

1. To change the definition of "Major Source". Currently, source categories subject to Section 111 of the Clean Air Act, entitled *New Source Performance Standards* (NSPS), or subject to Section 112 of the Act, entitled *National Emission Standards for Hazardous Air Pollutants* (NESHAPs), are required to include their fugitive emissions in addition to their stack emissions when calculating their total emissions. If/when their total combined emissions reach the threshold of 100 Tons per Year (TPY) of a pollutant, then the source is deemed a "Major Source", which would require a Title V operating permit. The proposed amendment would remove this requirement to include fugitive emissions as part of their total emissions, for those

source categories subject to NSPS and NESHAPs promulgated after August 7, 1980, and that don't already fall within one of the listed source categories at 20.11.42.7.R.(2).(a)-(y) NMAC.

2. To delete the language at Subsection D of 20.11.42.2 NMAC, '*Existing major sources, which are not required to have a permit under 20.11.41 NMAC*'. This language was originally developed when the Division's Title V program first began, and was designed to capture "grandfathered" major sources. However, currently all major sources have either submitted a timely application or have already been permitted, thus this provision is no longer needed. In addition, this language is not approvable by EPA as shown by their comments in AQD Exhibit 5a.

3. To amend language in 20.11.42 NMAC to bring it into alignment with language in 40 CFR 70, *State Operating Permit Programs*; and

4. To fix style and formatting.

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 the amendments to 20.11.42 NMAC, as proposed in the Public Review Draft shown as AQD Exhibit #1a as amended by 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' filed on April 28, 2009

AQD Exhibit 1a	Public Review Draft {attached to AQD Exhibit 1} showing proposed amendments to 20.11.42 NMAC;
AQD Exhibit 2	November 27, 2001 Federal Register Notice which stipulates the changes made to the federal definition of "Major Source"
AQD Exhibit 3	Electronic copy of 40 CFR 70, *State Operating Permit Programs*
AQD Exhibit 4 a/b/c	Public notices of hearing, including the legal advertisement of this hearing in the Albuquerque Journal {4a} and the New Mexico Register {4b}, as well as the 'Notice of Availability of the Public Review Draft' which was sent to the Air Quality Announce List Serve as well as a list of those individuals' e-mail addresses {4c}
AQD Exhibit 5a	Comments received from EPA
AQD Exhibit 5b	Division's rebuttal to EPA comments and EPA's subsequent response
AQD Exhibit 6	Direct Testimony and PowerPoint slides
AQD Exhibit 7	Air Quality Division staff proposed floor amendments
AQD Exhibit 8	Draft Agenda, Air Quality Control Board, for July 8, 2009

6. **Reservation of Rights**

This Notice of Intent to Present Technical Testimony 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,

Isreal Tavarez
Environmental Engineering Manager
Air Quality Division
Environmental Health Department
One Civic Plaza, NW, Suite 3047
Albuquerque, New Mexico 87103
(505) 768-1965

CERTIFICATION

I hereby certify that on June 23, 2009, 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 Amend
Air Quality Control Board Liaison / Hearing Clerk
Environmental Health Department
One Civic Plaza, NW, Suite 3023
Albuquerque, New Mexico 87103

And that on June 23, 2009, 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

Isreal Tavarez
Environmental Engineering Manager
Air Quality Division