AQD EXHIBIT
4
PENGAD 800-631-6989

[Direct Testimony regarding Petition for Hearing 20.11.46 NMAC, *Sulfur Dioxide Emissions Inventory Requirements; Western Backstop Sulfur Dioxide Trading Program*]

Slide 1 Caption

Thank you Mister Hearing Officer, Chairman XXXXXX, and members of the Board. My name is Neal Butt. I am an Environmental Health Scientist with the Air Quality Division, Control Strategies Section. I am here

IN THE MATTER OF THE PETITION TO AMEND 20.11.46 NMAC, SULFUR DIOXIDE EMISSIONS INVENTORY REQUIREMENTS; WESTERN BACKSTOP SULFUR DIOXIDE TRADING PROGRAM, AND INCORPORATE SAID AMENDMENTS INTO THE NEW MEXICO STATE IMPLEMENTATION PLAN (SIP) FOR AIR QUALITY

AQCB Petition No. 2011-1

SLIDE 2 Background

On November 12, 2003, the Albuquerque - Bernalillo County Air Quality Control Board ("Air Board") adopted 20.11.46 NMAC, which implements the Western Backstop ("WEB") Sulfur Dioxide (SO_2) Trading Program provisions as required by the federal

Clean Air Act, the federal Regional Haze Rule at 40 CFR § 51.309 ("Section 309"), and the concomitant Albuquerque-Bernalillo County element of the State of New Mexico's regional haze implementation plan ("Regional Haze SIP"). Section 309 of the federal Regional Haze Rule establishes mandatory requirements that must be incorporated into the SIP, including regional SO_2 milestones, SO_2 emissions tracking requirements and a backstop regional cap-and-trade program for SO_2.

SLIDE 3 Background

20.11.46 NMAC includes emissions inventory requirements for tracking compliance with the SO_2 milestones. The emissions inventory and tracking requirements for SO_2 were included as enforceable provisions in 20.11.46 NMAC. 20.11.46 NMAC contains the requirements that would apply to major industrial sources (i.e. 100 tons or more per year) of SO_2 emissions as a "backstop" regulatory program if specified SO_2 milestones were exceeded. If the milestones are exceeded, numerous mandatory requirements of 20.11.46 NMAC will be triggered, including the procedures and compliance requirements for sources in the trading program. However, the mandatory provisions that will be triggered by exceeding the milestones may never be implemented if the goal of meeting the regional SO_2 milestones through voluntary means is achieved.

SLIDE 4 Reasons for Proposed Amendments to 20.11.46 NMAC, SULFUR DIOXIDE EMISSIONS INVENTORY REQUIREMENTS; WESTERN BACKSTOP SULFUR DIOXIDE TRADING PROGRAM

Continued compliance with 40 CFR § 51.309 and associated legal challenges has necessitated revisions to the Regional Haze SIP and 20.11.46 NMAC. Hence, after first being adopted by the Air Board in 2003, 20.11.46 NMAC was subsequently amended on August 13, 2008, after a public review period and corresponding public hearings held on November 14, 2007 and August 13, 2008. These amendments became effective locally on September 15, 2008; but neither the 2003 nor the 2008 SIP submittals have been approved by the U.S. Environmental Protection Agency ("EPA"). In order for the backstop trading rules to be approved by EPA, they must be consistent across all "309 states" (i.e. New Mexico, Utah, and Wyoming). Therefore, EPA is requiring that 20.11.46 NMAC be amended a third time, in order to bring it into alignment with the model rule language currently utilized by the other "309 states".

SLIDE 5 Changes to 20.11.46 NMAC, SULFUR DIOXIDE EMISSIONS INVENTORY REQUIREMENTS; WESTERN BACKSTOP SULFUR DIOXIDE TRADING PROGRAM

Therefore, the following amendments to 20.11.46 NMAC are being proposed:

1. Removing definitions for: "Allowance Tracking System"; "Allowance Tracking System Account"; and" Emissions Tracking Database";

2. Adding definitions for: "WEB Emissions and Allowance Tracking System" / "WEB EATS"; and "WEB EATS Account";

3. Clarifying that "retirement" of a source must be "permanent";

SLIDE 6 Changes to 20.11.46 NMAC

4. Modifying language at 20.11.46.14 NMAC, *Allowance Allocations*; 20.11.46.15 NMAC, *Establishment of Accounts*; 20.11.46.16 NMAC, *Monitoring, Record Keeping and Reporting*; 20.11.46.18 NMAC, *Use Of Allowances From A Previous Year;* and 20.11.46.20 NMAC, *Special Penalty Provisions For Year 2018 Milestone*; to align with Utah's trading rule (*Western Backstop Sulfur Dioxide Trading Program*, R307-250-6);

5. Modifying language at 20.11.46.21 NMAC, *SO_2 Monitoring of Fuel Gas Combustion Devices* and 20.11.46.22 NMAC, *Predictive Flow Monitoring Systems For Kilns With Positive Pressure Fabric Filter*, to align with Wyoming's trading rule (Appendix A: WEB Chapter 14, Section 2, Monitoring Protocols); and

6. Correcting cross-references, improving style, and increasing readability.

SLIDE 7 Request

This hearing has been legally noticed as shown by AQD Exhibits 2a, 2b and 2c. Comments were received from EPA and the Division has responded to these comments as shown by AQD Exhibit 3. Therefore, the Environmental Health Department of the City of Albuquerque, by and through the Air Quality Division (AQD), respectfully requests the Albuquerque-Bernalillo County Air Quality Control Board (Air Board) adopt

amendments to 20.11.46 NMAC, *Sulfur Dioxide Emissions Inventory Requirements; Western Backstop Sulfur Dioxide Trading Program*, shown as AQD Exhibit 1a, as amended by Staff Proposed Floor Amendments, shown as AQD Exhibit 5, and submit said amendments to EPA as a revision to the SIP.

SLIDE 8 Questions

That concludes my testimony, and I would like to move exhibits 1 through 6 into the record and I stand for questions