AQD EXHIBIT
2b

Notices of Rulemaking and Proposed Rules

ALBUQUERQUE-BERNALILLO COUNTY AIR QUALITY CONTROL BOARD

ALBUQUERQUE-BERNALILLO COUNTY AIR QUALITY CONTROL BOARD
NOTICE OF HEARING

On July 14, 2010, at 5:30 PM, the Albuquerque-Bernalillo County Air Quality Control Board (Air Board) will hold a public hearing in the Vincent E. Griego Chambers located in the basement level of the Albuquerque-Bernalillo County Government Center, 400 Marquette Avenue NW, Albuquerque, NM. The hearing will address:

Proposal to adopt amendments to 20.11.60 NMAC, *Permitting in Nonattainment Areas*; 20.11.61 NMAC, *Prevention of Significant Deterioration;* and the *State Implementation Plan for Air Quality, to Address Infrastructure Requirements of Section 110(a)(2)(A)-(M) of the Clean Air Act (CAA) to Implement the 1997 and 2006 $PM_{2.5}$ NAAQS and the 1997 and 2008 Ozone NAAQS* (otherwise known as the "Infrastructure SIP"); and to submit said amendments to EPA as revisions to the SIP, for the following reasons:

Sections 110(a)(1) and (2) of the CAA, 42 U.S.C. § 7410(a)(1) and (2) hereafter referred to as the "Infrastructure SIP" requirements, obligates states to submit an implementation plan to the United States Environmental Protection Agency (EPA) Administrator that demonstrates their ability and authority to implement, maintain, and enforce each National Ambient Air Quality Standard (NAAQS). 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.

These elements include: enforceable emission limitations and other control measures; air quality monitoring, compilation, data analysis, and reporting; enforcement and stationary source permitting; interstate transport; resources, conflict of interest, and emergency backstop; stationary source emissions monitoring and reporting; emergency powers and contingency plans; SIP revision for revised air quality standards or new attainment methods; SIP revisions for new nonattainment areas; consultation and public notification; air quality modeling and reporting; major stationary source permitting fees; and consultation with local entities.

On August 15, 2006, the EPA issued guidance on what states should submit in order to comply with Section 110(a)(2)(D)(i) of the CAA. Subsequently, on October 2, 2007, the EPA issued guidance on what states should submit in order to comply with the remaining non-transport-related requirements of Section 110(a)(2) for both the 1997 8-hour ozone and 1997 $PM_{2.5}$ NAAQS.

The Air Quality Division acting as agent for the Air Board utilized both of these guidance documents to comply with the "Infrastructure SIP" requirements for the 1997 8-hour ozone and 1997 $PM_{2.5}$ NAAQS in the following three ways:

(1). On September 12, 2007, the Air Board adopted an Interstate Transport SIP to comply with the requirements of §110(a)(2)(D)(i). The Air Quality Division submitted this SIP to EPA on October 24, 2007.

(2). On December 11, 2007, the Director of the Environmental Health Department submitted a "certification letter" to the Regional Administrator for EPA Region VI, certifying that Bernalillo County's infrastructure is adequate to enforce the "new" 1997 8-hour ozone NAAQS. However, on March 27, 2008, EPA published the "Completeness Findings for Section 110(a) State Implementation Plans for the 8-hour Ozone NAAQS" [FR Vol. 73, No. 60, 16205-16211]. Their finding for New Mexico, including Bernalillo County, was that:

"New Mexico: As required by Section 110(a)(2)(C) and (J), the State of New Mexico has failed to submit a SIP addressing changes to the Part C PSD permit program required by the November 29, 2005 [70 FR 71612, page 71699] final rule that made NO_X a precursor for ozone in the Part C regulations at 40 CFR 51.166 and in 40 CFR 52.21."

Therefore, the Air Board's *Prevention of Significant Deterioration* rule, 20.11.61 NMAC must be amended to correct this deficiency.

(3). As of 2004, states (including New Mexico and Bernalillo County) still had not submitted complete SIPs to satisfy all of the Section 110(a)(2) requirements for the 1997 $PM_{2.5}$ NAAQS (as well as for the aforementioned 8-hour ozone NAAQS). On March 4, 2004, Earth Justice submitted a notice of intent to sue, related to EPA's failure to issue 'findings of failure to submit' related to these requirements. Consequently, EPA entered into a Consent Decree with Earth Justice which required EPA, among other things, to sign a notice for publication in the Federal Register no later than October 5, 2008, announcing EPA's determinations pursuant to Section 110(k)(1)(B) as to whether each state has made complete submissions to meet the requirements of Section 110(a)(2) for the 1997 $PM_{2.5}$ NAAQS.

On April 7, 2008, the Governor of New Mexico, on behalf of the Air Board, submitted an "Infrastructure SIP" to EPA, which addressed all the non-transport-related elements of Section 110(a)(2) with respect to the $PM_{2.5}$ NAAQS.

Through these efforts, the Air Quality Division determined that it had the ability to implement the "Infrastructure SIP" requirements outlined in the EPA's guidance documents with respect to both the 1997 8-hour ozone and 1997 $PM_{2.5}$ NAAQS. Furthermore, these actions by the Air Quality Division, acting as agent for the Air Board, satisfied the timing requirement under the Consent Decree for the Section 110(a)(2) elements for the 1997 8-hour ozone and 1997 $PM_{2.5}$ NAAQS.

Then on October 22, 2008, the EPA published its "Completeness Findings for Section 110(a) State Implementation Plans Pertaining to the Fine Particulate Matter ($PM_{2.5}$) NAAQS", [Vol. 73, No. 205, 62902-62906]. Their finding was as follows:

"The following states have been determined by EPA to have made complete SIP submissions that address all of the Section 110(a)(2) requirements as of the signature date of this notice: Region VI: Arkansas, Louisiana, New Mexico, Texas."

Thus, EPA is satisfied with Air Quality Division's basic infrastructure for enforcement of the $PM_{2.5}$ NAAQS. However, in reviewing the Code of Federal Regulations, the Air Quality Division discovered that there were updates to the federal rule language that had not yet been incorporated into the Air Board rules entitled *Permitting in Nonattainment Areas*, 20.11.60 NMAC, and *Prevention of Significant Deterioration, 20.11.61 NMAC.* The amendments that are proposed to bring these rules into alignment with the CFR, are shown in the Public Review Drafts of these rules.

The proposed Public Review Drafts for the "*Albuquerque-Bernalillo County Air Quality Control Board, State*

Implementation Plan for Air Quality (SIP), to Address Infrastructure Requirements of Section 110(a)(2)(A)-(M) of the Clean Air Act to Implement the 1997 and 2006 $PM_{2.5}$ NAAQS and the 1997 and 2008 Ozone NAAQS"; Permitting in Nonattainment Areas, 20.11.60 NMAC; and *Prevention of Significant Deterioration, 20.11.61 NMAC* are posted at http://www.cabq.gov/airquality/aqcb/public-review-drafts

Following the hearing, the Air Board will hold its regular monthly meeting during which the Air Board is expected to consider adopting the aforementioned proposals. Meetings of the Air Board are open to the public and all interested persons are encouraged to participate. All persons who wish to testify regarding the subject of the hearing may do so at the hearing and will be given a reasonable opportunity to submit relevant evidence, data, views, and arguments, orally or in writing, to introduce exhibits and to examine witnesses in accordance with the Joint Air Quality Control Board Ordinances, Section 9-5-1-6 ROA 1994 and Bernalillo County Ordinance 94-5, Section 6, and 20.11.82 NMAC, Rulemaking Procedures -- Air Quality Control Board.

Anyone intending to present technical testimony at this hearing is required by 20.11.82.20 NMAC to submit a written Notice Of Intent to testify (NOI) before 5:00pm on June 29, 2010, to: Attn: Hearing Clerk, Ms. Janice Wright, Albuquerque Environmental Health Department, P.O. Box 1293, Albuquerque, NM 87103, or, you may deliver your NOI to the Environmental Health Department, Suite 3023, 3rd Floor, 400 Marquette Avenue NW. The NOI shall: 1. identify the person for whom the witness or witnesses will testify; 2. identify each technical witness the person intends to present and state the qualifications of that witness, including a description of their educational and work background; 3. summarize or include a copy of the direct testimony of each technical witness and state the anticipated duration of the testimony of that witness; 4. include the text of any recommended modifications to the proposed regulatory change; and 5. list and describe, or attach, all exhibits anticipated to be offered by that person at the hearing, including any proposed statement of reasons for adoption of rules.

In addition, written comments to be incorporated into the public record for this hearing should be received at the above P.O. Box, or Environmental Health Department office, before 5:00 pm on July 7, 2010. Comments shall include the name and address of the individual or organization submitting the statement. Written comments may also be submitted electronically to jcwright@cabq.gov and shall include the required name and address information. Interested persons may obtain a copy of the proposed regulation at the Environmental Health Department office, or by contacting Ms. Janice Wright electronically at jcwright@cabq.gov or by phone (505) 768-2601, or by downloading a copy from the City of Albuquerque Air Quality Division website http://www.cabq.gov/airquality/aqcb/public-review-drafts.

NOTICE FOR PERSON WITH DISABILITIES: If you have a disability and/or require special assistance please call (505) 768-2600 [Voice] and special assistance will be made available to you to review any public meeting documents, including agendas and minutes. TTY users call the New Mexico Relay at 1-800-659-8331 and special assistance will be made available to you to review any public meeting documents, including agendas and minutes

NEW MEXICO ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

NOTICE OF RULE MAKING

STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
SANTA FE, NEW MEXICO
Natural Heritage Conservation Act implementation

The State of New Mexico, Energy, Minerals and Natural Resources Department (EMNRD) hereby gives notice that they will conduct two public hearings concerning adoption of a new rule, 19.1.3 NMAC, to implement the Natural Heritage Conservation Act, including application and selection procedures for conservation projects that may receive grants from the Natural Heritage Conservation Fund. This rule will have statewide application.

The hearings will be (1) during 3:30-6:30 PM on Monday, June 21, 2010 in Porter Hall (First Floor), Wendell Chino Building, 1220 South St. Francis Drive, Santa Fe, New Mexico (parking in lot adjacent to building), and (2) during 3:30-6:30 PM on Wednesday, June 23, 2010 in the conference room at New Mexico Department of Agriculture building, 3190 S. Espina, Las Cruces, New Mexico (parking in free lot at corner of Knox and Gregg streets). Copies of the text of the proposed rule are available from Bruce Thompson at 505-476-3213 or from the Energy, Minerals and Natural Resources Internet web site at **http://www.emnrd.state.nm.us.**

Written comments and oral comments will be accepted at the public hearings on June 21 and June 23 and written comments will be accepted until June 28, 2010 at 5:00PM by mail or e-mail. Comments are most helpful when they include specific suggested additions or deletions and where they apply in the proposed rule. Please mail written comments to Bruce Thompson, EMNRD, 1220 S. St. Francis Drive, Santa Fe, NM 87505 or submit them by e-mail to bruce.thompson@state.nm.us.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing, please contact Bruce Thompson at 505-476-3213 at least one week prior to the hearing or as soon as possible. Public documents can be provided in various accessible formats. Please contact Bruce Thompson at 505-476-3213, through Relay New Mexico at 1-800-489-8536 Voice/ TTY, if a summary or other type of accessible format is needed.

NEW MEXICO GENERAL SERVICES DEPARTMENT
RISK MANAGEMENT DIVISION

RISK MANAGEMENT DIVISION
PUBLIC MEETING
AND RULE MAKING NOTICE

On **Monday June 28, 2010**, beginning at **2 p.m.** at the Joseph Montoya Building, 1100 St. Francis Drive, First Floor Bid Room, Santa Fe, NM 87502-0110, the Risk Management Division, General Services Department, will conduct a Public Meeting to hear and consider comments on the following proposed rule:

TITLE 1 GENERAL GOVERNMENT ADMINISTRATION
CHAPTER 6 RISK MANAGEMENT
PART 6 DEFINING TORT CLAIMS COVERAGE FOR COMMUNITY LAND GRANTS AND EXCLUDING COVERAGE FOR BUSINESS ENTERPRISE ACTIVITIES

The proposed rule is being promulgated pursuant to a newly-enacted statutory provision, effective July 1, 2010: NMSA 1978 Section 41-4-30 (2010). The statute directs the Risk Management Division to determine activities of community land grants that are business enterprises, and are therefore excluded from tort claims coverage provided to community land grants. The text of the newly-enacted statute provides: