AQD EXHIBIT 3a

PENGAD 800-631-6989

Butt, Neal T.

From: Donaldson.Guy@epamail.epa.gov

Sent: Monday, April 19, 2010 2:23 PM

To: Butt, Neal T.

Cc: Robinson.Jeffrey@epamail.epa.gov; Penland.Catherine@epamail.epa.gov; Young.Carl@epamail.epa.gov; Shar.Alan@epamail.epa.gov

Subject: EPA Comments on Draft Revisions to the PSD and NNSR Rules and the Draft Infrastructure SIP for Ozone and PM2.5

Follow Up Flag: Follow up

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Attachments: EPA R6 Comments to AQD 4 19 10.doc

Neal,

Thank you for the opportunity to comment on the draft revisions to the PSD and NNSR rules and the draft Infrastructure SIP for Ozone and PM2.5. We really appreciate your continued efforts to meet these Clean Air Act requirements. Attached please find our comments on the draft documents.

4/19/10

EPA Region 6 Comments on the Albuquerque Air Quality Division Draft Revisions to the Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR) Rules and the Draft Infrastructure State Implementation Plan (SIP) for Ozone and Fine Particulate Matter (PM2.5)

Revisions to the PSD and NNSR Rules

We support revising the PSD and NNSR rules for ozone as discussed below. We suggest that the Division focus on these revisions dealing with nitrogen oxides (NOx) as a precursor for ozone. We suggest you move forward on other PSD and NNSR revisions including PM2.5 revisions at a later date when there is more regulatory certainty on implementation.

1997 and 2008 NAAQS for Ozone

Just a clarification for the first paragraph: On April 30, 2004 EPA finalized designations for the 1997 ozone standard (69 FR 23858) and issued the first of its implementation regulations for the 8-hour ozone standard (69 FR 23951).

Elements of § 110(a)(2) (Infrastructure SIP Elements)

General Comments

We appreciate the Division's work in protecting air quality and your commitment to ensure that the National Ambient Air Quality Standards (NAAQS) continue to be met through planning, permitting, enforcement and monitoring.

§110(a)(2)(C) Enforcement and Stationary Source Permitting

We recommend that a statement be added that the SIP is being revised to address the NOx as an ozone precursor requirements found in phase 2 implementation rule for the 1997 ozone NAAQS (November 29, 2005 Federal Register, 70 FR 71612).

We support the PSD regulations (20.11.61 NMAC) including:

- NOx as a precursor for ozone;
- requiring net emissions increase or potential to emit, a rate of emissions that equals or exceeds 40 tons per year of NOx to be considered significant (40 CFR 51.166(b)(23)); and
- stating that any net emissions increase of 100 tons per year of NOx subject to PSD would require an ambient impact analysis, including the gathering of air quality data (40 CFR 51.166(i)(5)(i)(e)).

We support revising the NNSR regulations (20.11.60 NMAC) to address NOx as a precursor for ozone. These regulations should also ensure appropriate emission offsets for NOx.

§110(a)(2)(E) Resources, Conflict of Interest, and Emergency Backstop

We recommend that this section focus more on the Division having adequate resources and authority for implementing the SIP for the NAAQS. Specifically, we request a statement that the Division assures EPA that it will have adequate personnel, funding and authority to carry out the SIP and is not prohibited by any provision of law from carrying out the SIP.

On June 1, 1999 we approved City of Albuquerque ordinances to address Clean Air Act section 128 requirements on representing the public and conflicts of interest (CAA 110(a)(2)(E)(ii)). We request a statement that the ordinances approved in 1999 are still in effect. (Alternatively, revisions to the ordinances could be submitted as a revision to the SIP).

§110(a)(2)(F) Stationary Source Emissions Monitoring and Reporting

We request a statement clarifying that 20.11.42 NMAC, Operating Permits is not part of the SIP, but has been submitted to EPA for approval under Title V of the Clean Air Act.

§110(a)(2)(G) Emergency Powers and Contingency Plans

We recognize our approval of the Air Pollution Episode Contingency Plan for Bernalillo County (40 CFR 52.1639(b)). If appropriate, please include a statement that the area has not monitored PM2.5 levels greater than 140.4 ug/m3 since 2006. (EPA guidance of September 25, 2009 states that if this level is not exceeded no specific emergency episode plans for PM2.5 are necessary at this time).

§110(a)(2)(H) SIP Revision for Revised Air Quality Standards or New Attainment Methods

We appreciate the Division's commitment to revise the SIP as appropriate. We recommend that the narrative be updated to reflect that revisions to the Federal General Conformity rule were published in the April 5, 2010 Federal Register (75 FR 17254).

§110(a)(2)(J) Consultation and Public Notification

We appreciate the Division's commitment to consultation, public notification and prevention of significant deterioration. Even though it is discussed earlier, we request that the Division briefly discuss its commitment to visibility protection though development and submittal of the regional haze SIP submitted to EPA on September 5, 2008.

§110(a)(2)(L) Major Stationary Source Permitting Fees

Please include a statement that the major stationary source permitting fee requirements of 110(a)(2)(L) are implemented through 20.11.2 NMAC (Fees). Also, we found reference to an "additional fee" confusing. Is the additional fee associated with annual fees required under 20.11.2 NMAC?