STATE OF NEW MEXICO
BEFORE THE ENVIRONMENTAL IMPROVEMENT BOARD

No. EIB 11-02(R)

IN THE MATTER OF PROPOSED REVISIONS
TO THE STATE IMPLEMENTATION PLAN
TO SATISFY THE REQUIREMENTS OF
CLEAN AIR ACT 110(a)(2)(D)(i)(II)
WITH RESPECT TO VISIBILITY

TRANSCRIPT OF PROCEEDINGS

BE IT REMEMBERED that on the 2nd day of June, 2011,
this matter came on for hearing before the Environmental
Improvement Board, taken at the San Juan College, Room
7103, 4601 College Boulevard, Farmington, New Mexico, at
the hour of 12:33 p.m.
APPEARANCES

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The New Mexico Environmental Improvement Board:

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GREGORY H. FULFER
JAMES R. CASCIANO
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EXHIBITS ADMITTED

NEW MEXICO ENVIRONMENT DEPARTMENT:

1. Clean Air Act Section 110
2. Federal Register Notice, January 5, 2011
3. Universal Air Quality Permit Application with cover letter and attachments
4. Testimony of Mary Uhl
5. Public notices
6. NSR Permit No: 0063-M6R2 for San Juan Generating Station

KATHY TOWNSEND COURT REPORTERS
110 Twelfth Street, Northwest, Albuquerque, New Mexico 87102
(505) 243-5018 - Fax (505) 243-3606
MS. ORTH: We're moving now -- excuse me.

Thank you.

We're moving now to a second hearing, proposed revisions to the State Implementation Plan to satisfy the requirements of Clean Air Act Section 110(a)(2)(D)(i)(II), with respect to visibility. The last hearing was primarily about NO\textsubscript{x}. This one is about ozone, PM\textsubscript{10} and PM\textsubscript{2.5}. It's docketed by the administrator as EIB 11-02.

Board members, you will have noticed from the materials we sent you that we have just one witness providing technical testimony in this hearing. That's Ms. Uhl on behalf of the Department.

There were other parties who entered appearances, including PNM and Mr. Rose's client, and the Western Environmental Law Center. However, none of them proposed to present technical testimony. The only technical testimony we'll hear is from Ms. Uhl.

I will then ask if anyone has nontechnical public comment to offer.

We expect this hearing to be a much shorter hearing than the one we've just come through.

Ms. Uhl, Mr. Grantham.

MR. GRANTHAM: Thank you, Madam Hearing Officer, members of the Board.
To refresh your memory, this hearing is very closely related to the hearing that we've just conducted. It is to approve a SIP in Section 110(a)(2)(D) of the Clean Air Act, which is the good neighbor provision.

The impetus for this SIP revision is the fact that EPA used this provision of the Clean Air Act in order to make their BART -- proposed BART determination for San Juan Generating Station under the theory that because other states -- let me back up.

110(a)(2)(D), the good neighbor provision, requires a state to address emissions from within the state for various purposes, including the impact that those emissions would have on visibility measures in other states.

It was EPA's determination in their -- in their proposed BART determination that because other states in the region, such as Colorado, Arizona, Utah, were relying on an emission rate of .27 to .28 pounds per million BTU of NOx and for SO2 of .15 pounds per million BTU, it was necessary to have some provision to enforce those requirements, in the absence of a regional haze plan from the state.

With that, I would like to examine our only witness in this case.
MARY UHL

having been first duly sworn or affirmed, was
examined and testified as follows:

DIRECT EXAMINATION

BY MR. GRANTHAM:

Q. Please state your name for the record.
A. My name is Mary Uhl.

Q. And what is your employment?
A. I work for the New Mexico Environment
Department. I'm the Occupational Health and Safety
Bureau chief.

Q. And how long have you been in that position?
A. This is my 30th day in that position.

Q. And what was your position prior to that?
A. My position prior to that was the Air Quality
Bureau chief for the New Mexico Environment Department.

Q. And as Air Quality Bureau chief, did you
submit written testimony in the -- to be included in the
notice of intent in this matter?
A. Yes, I did.

Q. And do you have any changes to the written
testimony that you submitted?
A. No, I do not.

Q. Then do you adopt that testimony under oath
here today?
A. I do.

Q. And have there been any changes or any new developments since the petition in this matter was filed?

A. Yes.

On May 16th, the Air Quality Bureau issued a revision to the permit for the San Juan Generating Station, and that revision required the San Juan Generating Station to limit their SO\(_2\) emissions to .15 pounds per million BTU of sulfur dioxide.

That is equivalent to the presumptive limit of -- for BART for sulfur dioxide. Despite the fact that there was no BART determination for SO\(_2\) for PNM's San Juan Generating Station, that is equivalent to the presumptive limit, which is the same as the limit that EPA proposed in their Federal Implementation Plan on 110(a)(2)(D).

MR. GRANTHAM: Madam Hearing Officer, I have copies of that permit I would like to submit as NMED Exhibit 6.

MS. ORTH: 6. All right.

Are there objections from the other parties to the admission of 6?

MR. ALVIDREZ: No objection.

MS. ORTH: No?
All right. It's admitted.

(Exhibit NMED 6 admitted into evidence.)

MS. ORTH:

Q. (BY MR. GRANTHAM) Ms. Uhl, is there anything else you would like to add?

A. So that the objective that the Department needs to -- needs to achieve here for submission to USEPA is that for the PNM San Juan Generating Station the NO\textsubscript{x} emissions will be less than .27 to .28 pounds per million BTU of nitrogen oxides.

And with the previous approval of that SIP submission, we achieved that. We actually achieved the presumptive limit, which is .23 pounds per million BTU. So we are -- we are more than achieving what is expected by other states for NO\textsubscript{x} emissions, and we are achieving the .15 pounds per million BTU of SO\textsubscript{2} that is expected by other states in the region.

So the State of New Mexico will not interfere with efforts to protect visibility in other states and will, in fact, exceed what other states would have expected the state to achieve.

MR. GRANTHAM: Thank you.

I have no more questions.

MS. ORTH: All right.

Do any of the other parties have questions of
Ms. Uhl based on her testimony?

MR. ALVIDREZ: No questions. Thank you.

MR. ROSE: No questions.

MS. ORTH: Anyone else?

Board members, do you have questions of Ms. Uhl?

EXAMINATION

BY THE BOARD:

MR. CASCIANO: Just to clarify the numbers that you used, other states are expecting 0.28?

MS. UHL: 0.27 to 0.28. That was actually what the Western Regional Air Partnership projected as emissions for the San Juan Generating Station.

MR. CASCIANO: And we'll be achieving --

MR. GRANTHAM: .23, which is the --

MR. CASCIANO: During what time frame?

MS. UHL: In five years. Yeah.

MR. CASCIANO: Okay. Thank you.

MS. ORTH: Other Board questions?

MR. VOLKERDING: I was going to say the same thing that Mr. Casciano pointed out, that our previous decision works well with this and that we, obviously, are not impacting other states negatively with that decision, and that it will help other states in meeting their obligations, as well.
So I just wanted to make sure we pointed that out.

MS. ORTH: Anything else from the Board?

Were there objections to Exhibits 1 through 5 which were attached to the Department's NOI?

MR. ALVIDREZ: No objection.

MS. ORTH: No?

All right. Exhibits 1 through 5 are also admitted.

(Exhibits NMED 1 through 5 admitted into evidence.)

MS. ORTH: Is there anything else, Mr. Grantham.

MR. GRANTHAM: No, Madam Hearing Officer. I think that Ms. Uhl's stated the case as succinctly as possible.

MS. ORTH: All right. Thank you, Ms. Uhl and Mr. Grantham.

Let me ask now if anyone has nontechnical public comment they would like to offer in EIB 11-02. Ma'am.

THE REPORTER: Would you mind coming over here, please.

MS. GANNON: Oh, okay.

THE REPORTER: Thank you.
MAUREEN GANNON

having been first duly sworn or affirmed, was examined and testified as follows:

DIRECT TESTIMONY

THE REPORTER: Would you state and spell your full name, please.


THE REPORTER: Thank you.

MS. GANNON: EIB Board, Chairman, thank you for giving me an opportunity to talk.

My name is Maureen Gannon. I'm the director of environmental services for Public Service Company of New Mexico.

PNM stands in support of the proposed SIPs for Section 110(a)(2)(D), the good neighbor provisions of the Clean Air Act. With the previous adoption of the state regional haze SIP by the Board, we will be able to meet the presumptive limit as we talked about for NO\textsubscript{x}, .23 pound per MBTU which satisfies the good neighbor provisions.

In addition, we have filed a permit revision to achieve a lower SO\textsubscript{2} emission rate of 0.15 pound per MBTU, and so we are, you know, willing to live with those requirements.
And so we just want to state our support of this -- this second proposed SIP.

And that’s all.

MS. ORTH: Board, do you have questions of Ms. Gannon?

Thank you very much.

Is there anyone else who would like to offer nontechnical comment in EIB 11-02?

Hearing nothing else, we will close the evidentiary record.

And, Madam Chair, we’ll continue back to you.

MS. PEACOCK: And we’ll open up for deliberations.

Any comments?

Or motions?

MS. RYAN: I move to approve the SIP under the good neighbor provision.

MR. FULFER: Second.

MS. PEACOCK: All in favor.

(Simultaneous responses.)

MS. PEACOCK: Unanimous.

MS. ORTH: Thank you.

MS. PEACOCK: Approved.

(Proceedings adjourned at 12:45 p.m.)
STATE OF NEW MEXICO  )

) ss.

COUNTY OF BERNALILLO  )

I, CHERYL ARREGUIN, the officer before whom the foregoing proceeding was taken, do hereby certify that the witnesses whose testimony appears in the foregoing transcript were duly sworn or affirmed; that I personally recorded the testimony by machine shorthand; that said transcript is a true record of the testimony given by said witnesses; that I am neither attorney nor counsel for, nor related to or employed by any of the parties to the action in which this proceeding is taken, and that I am not a relative or employee of any attorney or counsel employed by the parties hereto or financially interested in the action.


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