



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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Office of the Regional Administrator

February 15, 2013

Pat Vincent-Collawn
CEO and President
Public Service Company of New Mexico
PNM Resources
Alvarado Square
Albuquerque, NM 87158

F. David Martin
Secretary
New Mexico Environment Department
PO Box 5469
Santa Fe, New Mexico 87502-5469

Dear Pat Vincent-Collawn & David Martin:

I appreciate the significant investment of time and resources by you and your staff working with EPA over the last several months to address Clean Air Act requirements applicable to the San Juan Generating Station (SJGS). We believe that the term sheet and the corresponding timeline for action, signed by representatives of EPA, NMED, and Public Service Company of New Mexico (“PNM”) on 15 February 2013 reflect significant progress in our shared efforts to resolve outstanding issues. EPA agrees that the parties’ signing of the term sheet (“Term Sheet”) and corresponding timeline should be presented to the 10th Circuit Court of Appeals to demonstrate that the parties have made progress towards settling the issues before the court.

EPA stands ready to assist the State of New Mexico as it works towards developing a successful Revised SIP for submission to EPA. This includes a commitment by EPA to consider parallel processing of this action to expedite the time required to propose action, should the State make such a request. There are many stakeholders interested in the success of this process, and we recognize that important work lies ahead.

If NMED submits a Revised SIP (including a BART determination for SJGS) that is consistent in content with the term sheet and by the time frame contemplated in the timeline, then EPA will act expeditiously to propose approval of the Revised SIP and to propose withdrawal of the FIP. Upon the State’s request and adequate exchange of information, EPA will expedite processing of the Revised SIP by proposing approval based on the State’s proposal (parallel processing). EPA can then finalize action on the proposed SIP approval, if the proposed SIP revision does not change based on public comment. EPA recognizes that the State will have to devote significant resources to promulgate the Revised SIP by the date contemplated in the timeline. Further, EPA recognizes that PNM may defer taking steps to comply with the technology-based NO_x emissions limits in the FIP to meet the current FIP compliance

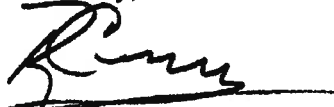
date while the State develops the Revised SIP and goes through the regulatory process required to *submit the Revised SIP to EPA.*

EPA also acknowledges that there are several State and other regulatory approvals, including approval of the proposed Revised SIP by the N.M. Environmental Board ("EIB") and approvals of PNM's applications to the N.M. Public Regulation Commission relating to implementation of the Revised SIP, which if not forthcoming, could make completion of a Revised SIP, or EPA's approval of the Revised SIP, impractical or impossible. If the Revised SIP is not submitted by the State or approved by the EPA as anticipated in the Term Sheet, then PNM will require additional time to install the technology necessary to comply with the FIP. If the State does not submit a Revised SIP to EPA by October of 2013 or EPA does not approve a Revised SIP despite good faith efforts to implement the terms of the Term Sheet or due to circumstances outside the control of NMED or PNM, then, EPA will work with the State and PNM to create a reasonable FIP compliance schedule to reflect the time expended by the State to develop the Revised SIP by taking appropriate measures in accordance with law, and the spirit of this letter.

Throughout our discussions, it has been apparent that some of the issues addressed in the Term Sheet are highly complex, resulting from technical variables unique to SJGS. We have also been mindful that the statutory and regulatory framework for the BART requirement generally demands a detailed and comprehensive review of retrofit options on a source-specific basis. The BART determination contained in a new SIP submission from New Mexico will be specific to the unique conditions that apply at the San Juan Generating Station, just as any BART determination under EPA's BART Guidelines (40 CFR part 51 appendix Y) is specific to its subject source.

These conditions include the specific facts concerning the technology already installed on San Juan, the technology-based opportunities for additional emissions control and their cost, the non-air and other impacts related to the fact that the revised plan includes the shutdown of two units, and the visibility impacts of the technology options. EPA's action on the Revised SIP will not change the terms of the BART Guidelines and is not intended create any precedent for future EPA action on other SIP submissions dealing with other sources with their own unique set of conditions. We look forward to working with you to submit the Revised SIP in the near future. If you have any questions concerning this letter, please feel free to contact David Garcia, Acting Director, Multimedia Planning and Permitting Division, or Suzanne Murray, Regional Counsel.

Sincerely,



Ron Curry
Regional Administrator

cc: Ron Talbert
PNM Resources

Gina McCarthy
Assistant Administrator