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DAVE MARTIN  
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BUTCH TONGATE  
Deputy Secretary

February 10, 2012

Dr. Al Armendariz  
Regional Administrator (6-A)  
U.S. Environmental Protection Agency, Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733

Dear Dr. Armendariz:

It has come to my attention that the portions of the November 2, 2006 and May 2, 2007 New Mexico submittals under the Clean Air Act, specifically, as they relate to the New Mexico State Implementation Plan (SIP), were submitted in error. Accordingly, I wish to correct the record with this letter.

I am withdrawing from your consideration as a SIP submittal the following portions of the November 2, 2006 and May 2, 2007 submittals:

- 20.2.70 NMAC Operating Permits submitted November 2, 2006 (Pt 70 (OPP))
- 20.2.84 NMAC Acid Rain Permits submitted May 2, 2007 (NM St Pt 84 Acid Rain)

As is further explained in the enclosure to this letter, these sections remain before you for consideration as updates to the New Mexico Title V program. Further, I understand that our withdrawal of these two sections will be taken into account under the settlements with WildEarth Guardians, Civil Action No. 09-cv-02148. To assist in this effort, I have parenthetically noted the descriptor of each submittal as referenced in the settlements.

Thank you for your consideration of this clarification. If there are any questions, please contact Rita Bates at (505) 476-4304.

Sincerely,

Dave Martin  
Secretary

Enclosure

cc: Jeff Robinson, EPA Region 6

Dr. Al Armendariz  
February 10, 2012  
Enclosure

Both the November 2, 2006 and May 2, 2007 submittals included adoption of or revisions to one or more regulations that:

- (1) are part of the SIP (under Title I of the Clean Air Act),
- (2) are part of the New Mexico operating permit program under Title V of the Clean Air Act, or allow delegation of the implementation of federal emissions standards to the state.

Although these categories of regulations are distinct and do not overlap, interactions between them are common. The specific program status of each submitted regulation is:

<b>Submittal Date</b>	<b>Regulation</b>	<b>Program Status</b>
November 2, 2006	20.2.3 NMAC - Ambient Air Quality Standards	SIP
	20.2.70 NMAC - Operating Permits	Title V
	20.2.72 NMAC - Construction Permits	SIP
	20.2.99 NMAC - [Transportation Conformity]	SIP
May 2, 2007	20.2. 71 NMAC - Operating Permit Emissions Fees	Title V
	20.2.77 NMAC - New Source Performance Standards	Delegation of Emissions Standards
	20.2.84 NMAC - Acid Rain Permits	Title V
	20.2.85 NMAC - Mercury Emission Standards and Compliance Schedules for Electric Generating Units	SIP

The November 2, 2006 submittal was in effect both a revision of the SIP and a revision of the Title V program and amended 20.2.3, 20.2.70, 20.2.72, and 20.2.99 NMAC. To the extent that this dual-revision aspect of the submittal was not adequately described in the submittal letter, I would like to clarify that only the amendments to 20.2.3, 20.2.72 and 20.2.99 NMAC were intended to be considered as a SIP revision, and the amendments to 20.2.70 NMAC are intended to be considered as a Title V program revision. Submitting the same package as both a SIP and Title V revision made sense from the basis that the respective rule changes provide context for one another and were made in the same hearing. However, efficiency can also create confusion. Therefore, we are withdrawing 20.2.70 NMAC Operating Permits (Pt 70 OPP) from further SIP consideration. The submittal of 20.2.70 NMAC remains before you for consideration as a Title V program update.

With regards to the May 2, 2007 submittal, which amended 20.2.71, 20.2.77 and 20.2.84 NMAC, and adopted 20.2.85 NMAC, I withdraw this as a SIP submittal entirely. We are currently planning to rescind 20.2.85 NMAC, which is the only SIP rule in that submittal. Although the cover letter referred to amendments to 20.2.84 NMAC – Acid Rain Permits as addressing the Clean Air Mercury Rule, the amendments are best described as addressing federal revisions to the Acid Rain program. The May 2, 2007, submittal of 20.2.84 NMAC (NM St Pt 84 Acid Rain) remains before you for consideration as a Title V program update.

With regards to all aspects of each of these packages that were and continue to be submitted as revisions to the Title V program, the submittals are consistent with and meet the public participation and all other applicable requirements of our approved Title V program and with the original Attorney General's submittal for that program.