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STATE OF NEW MEXICO
BEFORE THE ENVIRONMENTAL IMPROVEMENT BOARD

IN THE MATTER OF PROPOSED NEW REGULATIONS,
20.2.300 NMAC – Reporting of Greenhouse Gas Emissions
20.2.301 NMAC – Greenhouse Gas Emissions – Verification Requirements
AND EXISTING REGULATION,
20.2.87 NMAC – Greenhouse Gas Emissions Reporting

No. EIB 10-09(R)

REBUTTAL TESTIMONY OF JIM NORTON

As described in my direct testimony, the greenhouse gas reporting rules proposed today are an important part of the state’s efforts to address climate change. These rules will not only serve as the foundation for a regional greenhouse gas cap-and-trade system through the Western Climate Initiative, but are important in preparing New Mexico for an eventual federal program as well. It is for this reason that the Department rejects the notion on page 35 of Mr. Price’s testimony that the proposed rules “should be conditional on New Mexico participating in an active regional GHG cap-and-trade program”. Moreover, even if New Mexico were not participating in an active regional program, it would still need reporting rules to track emissions for other purposes.

Mr. Price also states at page 35 of his testimony that the rules “should have a sunset clause that will void these proposed rules if EPA develops reporting requirements for a national cap-and-trade program.” Reporting of verified emissions data is necessary prior to initiation of a regional cap-and-trade program in order to prepare baseline emissions for cap facilities. In the event that the state ceases to participate in a regional trading program or such participation is superseded by a federal program, the reporting of GHG emissions would still be necessary to

1 inform the state in the development of complementary measures. As a result, the Department
2 does not agree with sunseting Part 300. However, in the event that Part 350 is sunsetted, the
3 Department agrees that verification of emissions reports would no longer be necessary.
4 Therefore, the Department proposes to revise Part 301 to state that in the event that 20.2.350
5 NMAC is sunset under Section 20.2.350.15 NMAC, no owner or operator of any facility shall be
6 required to obtain annual verification. Such facilities may voluntarily verify their emissions if
7 they choose and therefore the Department proposes to leave the verification rule in place to
8 provide guidance.

9 Mr. Price on page 9 of his testimony states that emissions reports submitted to EPA under
10 the federal reporting rule should satisfy the state reporting requirement. It is important to
11 remember that the EPA reporting rules were not designed to support a cap-and-trade program.
12 By contrast, the proposed rules before you today were specifically designed for this purpose.
13 Because every ton of emissions in a cap-and-trade program translates into a financial obligation
14 or benefit, it is necessary to have a higher degree of reporting accuracy than may be provided by
15 the federal reporting rule. Reliability of these emissions data is essential for credibility of the
16 system, as well as to New Mexico's ability to link with other WCI jurisdictions and external
17 emissions trading programs.

18 Finally, let me address the issue of the timing of these proposed rules. Mr. Price on page
19 3 of his testimony complains that the 45 days between the Department's filing of technical
20 testimony on August 31, 2010, and the deadline for submitting responsive testimony on October
21 15, 2010 was insufficient to evaluate the proposed rules. It should be noted that 45 days exceeds
22 the normal 30 day period for submitting responsive testimony. On July 9, 2010, nearly two

1 months earlier, the Department issued the proposed rules for public comment, and on August 16,
2 2010, filed the proposed rules with its petition to the Board. In addition, the WCI documents on
3 which the Department's rules are based - the *WCI Draft Essential Requirements for Mandatory*
4 *Reporting* and *The General Provisions for Verification* - were issued for public comment more
5 than one year earlier. NMOGA had ample opportunity over the past year to provide comment
6 on the supporting WCI documents and the draft language for these rules, and to draft testimony
7 on the draft rules filed with the Board two months earlier.