From:	Robert
To:	Rivera, Shirley
Cc:	aquuitania.manny@epamail.epa.gov; "Roy Zeagler"; a[redacted]ll@gmail.com
Subject:	Telephone Conference
Date:	Sunday, November 03, 2013 10:50:28 PM
Attachments:	13A-A006-DEQ-0184.pdf 13A-A006-DEQ-0186.pdf 13A-A006-DEQ-0187.pdf compiled.docx COVER.docx

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11/3/2013
Ms. Rivera,

Last week I spoke with Mr. Manny Aquitania concerning the proposed Rosemont copper project and the air-quality permit. Mr. Aquitania said that he would discuss with you a time perhaps on Tuesday that we could have a teleconference to discuss some concerns.
My friend and neighbor, Roy Zeagler, and I were two of the appellant's on the granting of the air-quality permit. For three days now I have struggled with the necessity to reduce the information I'm going to send you with this e-mail. Attached are three of the briefs (post hearing briefs) that point out some of the questions concerning the air-quality permit. I have noticed that many of our concerns were your concerns earlier in the process.

My initial question for Mr. Aquitania was why did ADEQ use R9–3– 521 because the title for that is related to existing sources. With the new SIP concerning new sources they face much more rigorous permitting oversight. I have always felt that the Rosemont copper project should've been classified a major source instead of a synthetic minor.

I will be available on my cell phone tomorrow if you and Mr.
Aquitania can schedule a Tuesday teleconference. My cell number is area code 520-[redacted]
if you need to contact me otherwise simply send me an e-mail with time and phone number.

Yours truly,
Robert W Harris
Vail Arizona
[redacted]

Attached Initial Letter to Mr. Manny Aquitania

Sir,
I'm involved in the appeals concerning the air-quality permit granted by the state of Arizona (ADEQ) for the Rosemont copper project proposed.
If possible I would like to call and discuss some e-mails that were transmitted on September 12, 2012 concerning the ADEQ Rosemont SIP plan.

The specific question would deal with R9-3-521 .
My understanding of this is that applies to an existing source not a new source.
My appreciations in advance.
Thank you
Robert Harris
520-[redacted]

From: Manny Aquitania

To: Balaji Vaidyanathan; Latha K. Toopal
Cc: Shirley Rivera; Andrew Chew; Cleveland Holladay; Gerardo Rios
Subject: ADEQ_Rosemont SIP Rule disscussion for 9/12 telecon
Date: Wednesday, September 12, 2012 10:47:09 AM

Balaji/Latha,

At the call today, we'd like to talk about the differences of ADEQ's and Pima's SIP Rules. Please reconcile differences between ADEQ's SIP Rules and Pima 's SIP Rules as they apply to the Rosemont permit. We flagged the Pima SIP and AZ SIP rules reference in either the draft permit or TSD.

The following lists those Pima County rules referenced in ADEQ's draft permit or TSD -

__ SIP rule 344
__ SIP rule 343
__ P.C.C. Section 17.16.165 (local; may not be SIP)
__ P.C.C. Section 17.16.430

The following lists those ADEQ rules referenced in ADEQ's draft permit or TSD -

__ AZ SIP R9-3-521

TIMELINE

2010 07 29	Cover letter for application
2010 07 29	Rosemont site maps
2010 07 29	application filed with PDEQ for class II permit
2010 09 23	Rosemont was advised application was incomplete
2010 10 08	Rosemont furnished information to PDEQ
2010 11 30	Rosemont was advised application was incomplete
2011 05 12	information requested
2011 06 01	Rosemont furnished information to PDEQ
2011 06 30	Rosemont threatens lawsuit against Pima County
2011 08 29	PDEQ gave notice proposed permit prepared
2011 08 29	proposed permit posted
2011 09 02	Rosemont lawsuit started
2011 09 28	permit denied PDEQ
2011 11 01	Rosemont, now claims state ADEQ has authority not Pima County
2011 11 23	letter lawyer Hiser to ADEQ Hiser to Eric Massey
2011 12 19	air-quality hearing board ruled against Rosemont
2012 03 19	JBR env amendment to class II application sent to ADEQ
2012 06 14	letter ADEQ to EPA , district 9 requesting change in SIP
2012 06 15	EPA partial approval of SIP change reques
2012 06 27	Fed Register SIP changes 40 CFR 52
2012 07 05	court decision concerning Rosemont case C20120242
2012 07 19	letter C Huckleberry concerning case C20120242 court decision attached
2012 08 03	letter from ADEQ to PDEQ taking controL Eric C Massey Ursula Kramer
2012 08 03	ADEQ news release proposing giving Rosemont permit
2012 08 03	ADEQ news release concerning comments
2012 08 06	draft permit issued
2012 08 06	draft permit technical support document attached section E dust control date 2011 11
2012 08 28	new study M3 eng M3-PN08036

Excerpts air-quality hearing

2013 07 24 testimony of Mr. Massey during OAH hearing:

The question was posed, if you have an application that evidence through modeling suggests that there would be a NAAQS violation, what action would you take? Would you require, for example, significant control technologies to try to reduce the NAAQS violations or would you just simply let it go?
Answer: ADEQ's history and in support of its mission is to work with applicants to request voluntary controls that will reduce or eliminate the observed potential violation that modeling is suggesting could occur. But absent – – well, I wouldn't say absent, what I would say is that ADEQ has no direct authority to require those controls based on the modeling analysis itself. So where we have no ability to control, we attempt to weld influenced by asking sources to voluntarily control those omissions and work with them on strategies that could reduce them.
Question. If an applicant submits an application or if through modeling their shown that there will be a violation, all you can do is ask the applicant to increase its control, you can't prohibit or you can't deny the permit, can you?

Answer. You are correct, we cannot deny the permit.

2013 07 25 Testimony of Mr. Massey during OAH hearing :

So in Rosemont's case, my understanding is we would have an inspector out there at least once every couple of years.

ADEQ has offered PDEQ enforcement rights but PDEQ said no

2013 07 25 Massey testimony excerpt:
date of 2011 November 23 was granted as being the received date of the application to ADEQ. Question concerning licensing timeframe, first phase is administrative completeness. 60 business days.
Question Did ADEQ issue a decision on administrative completeness for the Rosemont project?
Answer my recollection is that we allowed the timeframe to expire so we did not actively make a decision.

July 24, 2013 Mr. Massey entered into the office of administrative hearing official record:
Question I'm just asking about whether or not in the consideration of public health you are also saying that you are unable to consider such matters if indeed they suggest there's a possibility of a negative impact on public health?

A. That is correct. There's nothing specific in our rules today that allow us to hold the national ambient air quality standards as an applicable requirement for an individual facility, what we would call a stationary source. And the one thing I would characterize is that there's no federal law that forces ADEQ to do that.

In the interest of trying to ensure that I don't make this longer than it has to be, I will simply state that Mr. Massey's testimony (in my opinion) appears to not be entirely crystal clear as to definitions

and appears to point a finger of blame at the EPA. Perhaps it would be best if you were to read the record yourselves. ADEQ (in my opinion) is actively reorganizing their organization to generate permits faster and with less personnel, they're quite adamant with their new procedure that the Arizona citizen is not their primary customer but the corporations e.g. mining companies are.There was a great deal of discussion concerning major and minor categories in the definitions for each trying to point out the conversations would entail page after page of testimony but it is something interesting to read and perhaps you could give me a better comprehension of the decision to make it a synthetic minor.

Mr. Massey stated quite plainly in his testimony that modeling was not required but in his letter to PDEQ, Ms. Ursula Kramer, he stated that ADEQ did require modeling. This was in his letter asserting jurisdiction over the Rosemont project. When confronted with the letter he stated that it was an unfortunate choice of words. The second place that the comment was made that modeling was required was in the fact sheet released in August 2012 by ADEQ.

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The testimony of Balaji stated that ADEQ is not responsible for public health.

BY MR. ZEAGLER:
Q. I think you can probably see where I'm going is Rosemont can't operate as a uranium mine. If they discover uranium or if uranium is extracted as a result of the blasting process and they just simply throw it in their tailings pile, then we have a potential here to emit all kinds of radon, Rn-222, et cetera, et cetera, which is a huge problem for public health.
MR. HISER: Is there a question?
ADMINISTRATIVE LAW JUDGE: Again, Mr. Zeagler, is there a question here?
MR. ZEAGLER: Yes.
BY MR. ZEAGLER:
Q. So the department's mission is to protect the public health. This potential is very real and yet the department can't address it because EPA doesn't have thresholds. But, again, the mission statements says public health. So how would you answer that? How are you protecting the public health by letting a large stack sit there and emit radon?
A. Our mission doesn't imply any kind of a broad mandate for us to do what we need to do to protect health. We are governed by rules and regulations and that's what we're going by. That's the bottom line. The regs are clear. I'm sorry for my response is brief, but that's truly my position.
Q. No, I understand your rules and regulations and you are guided by that. So I just wanted to bring that up so it's part of the record and we'll move on.
A. Okay