APPENDIX Q

FINAL GENERAL CONFORMITY DETERMINATION

TABLE OF CONTENTS

Final General Conformity Determination
Phoenix Expansion Project

List of Tables

List of Attachments

1.0 INTRODUCTION TO THE PROPOSED ACTION

On September 15, 2006, Transwestern Pipeline Company, LLC (Transwestern) filed an application with the Federal Energy Regulatory Commission (Commission or FERC) under section 7(c) of the Natural Gas Act and Parts 157 and 284 of the Commission's regulations to expand its existing natural gas transmission pipeline system in New Mexico and Arizona. The FERC is the federal agency responsible for evaluating applications filed for authorization to construct and operate interstate natural gas pipeline facilities. As such, the FERC is the lead federal agency for the preparation of the environmental impact statement (EIS) and the General Conformity Determination for the Phoenix Expansion Project.

Transwestern's proposed facilities and construction schedule are described in detail in section 2.0 of the EIS.

2.0 GENERAL CONFORMITY - REGULATORY BACKGROUND

The U.S. Environmental Protection Agency (EPA) promulgated the General Conformity Rule on November 30, 1993 in Volume 58 of the Federal Register (FR) page 63214 (58 FR 63214) to implement the conformity provision of Title I, section 176(c)(1) of the Clean Air Act (CAA). Section 176(c)(1) requires that the federal government not engage, support, or provide financial assistance for licensing or permitting, or approving any activity not conforming to an approved CAA implementation plan.

The General Conformity Rule is codified in Title 40 Code of Federal Regulations (CFR) Part 51, Subpart W and Part 93, Subpart B, Determining Conformity of General Federal Actions to State or Federal Implementation Plans. The General Conformity Rule applies to all federal actions except programs and projects requiring funding or approval from the U.S. Department of Transportation (DOT), the Federal Highway Administration, the Federal Transit Administration, or the Metropolitan Planning Organization. In lieu of a conformity analysis, these latter types of programs and projects must comply with the Transportation Conformity Rule promulgated by the DOT on November 24, 1993 (58 FR 62197).

2.1 GENERAL CONFORMITY REQUIREMENTS

Title I, section 176(c)(1), of the CAA defines conformity as the upholding of "an implementation plan's purpose of eliminating or reducing the severity and number of violations of the National Ambient Air Quality Standards (NAAQS) and achieving attainment of such standards." Conforming activities or actions should not, through additional air pollutant emissions:

- cause or contribute to new violations of any NAAQS in any area;
- increase the frequency or severity of any existing violation of any NAAQS; or
- delay timely attainment of any NAAQS or interim emission reductions.

The General Conformity Rule establishes conformity in coordination with and as part of the National Environmental Policy Act process. The rule takes into account air pollutant emissions associated with actions that are federally funded, licensed, permitted, or approved, and ensures emissions do not contribute to air quality degradation, thus preventing the achievement of state and federal air quality goals. In short, General Conformity refers to the process of evaluating plans, programs, and projects to determine and demonstrate that they meet the requirements of the CAA and applicable State Implementation Plan (SIP).

2.2 GENERAL CONFORMITY APPLICABILITY

Pursuant to the General Conformity Rule, the lead federal agency, in this case the FERC, must make a General Conformity Determination for all federal actions in nonattainment or maintenance areas where the total of direct and indirect emissions of a nonattainment pollutant or its precursors exceeds levels established by the regulations.

The Phoenix Expansion Project would not be located in any nonattainment or maintenance areas within New Mexico. Portions of the Phoenix Lateral between mileposts (MPs) 101 and 134 and MPs 184 and 191 would be located in a serious particulate matter having an aerodynamic diameter of 10 microns or less (PM_{10}) nonattainment area within Maricopa County, Arizona (the Phoenix Planning Area), as well as a Subpart 1 ozone nonattainment area between MPs 91 and 211 in Maricopa County, Arizona (the Phoenix-Mesa Planning Area). Additionally, the area that would be crossed by the Phoenix Lateral between MPs 101 and 112 in Maricopa County, Arizona was formerly designated as a serious nonattainment area for carbon monoxide (CO) and is now considered a maintenance area. No other portions of the project would be located in nonattainment or maintenance areas. Relevant general conformity plans and regulations for the PM_{10} nonattainment area include the Maricopa Association of Governments (MAG) 1999 Serious Area Particulate Plan for PM-10, revised in February 2000; Arizona Administrative Code Title 18, Chapter 2 adopted on July 11, 2000 addressing Agricultural Best Management Practices by a subsequent revision to the Arizona SIP; and Maricopa County's fugitive dust rule 310. The EPA approved Arizona's SIP for attaining the annual and 24-hour standards for PM_{10} in the Phoenix area on July 25, 2002 (67 FR 48718). The most recent actions regarding the CO maintenance area include the MAG 1999 Serious Area Carbon Monoxide Plan submitted to the EPA on April 18, 2001, followed by the October 9, 2001 EPA determination that the plan was complete, and subsequent September 22, 2003 determination that the Phoenix area had attained compliance with the CO standards. The ozone nonattainment designation went into effect on June 15, 2004, and state and local agencies are working to bring the area into compliance. The 8-hour ozone SIP applicable to the Phoenix-Mesa Planning Area was submitted to the EPA on June 14, 2007; however, it has not yet been approved by the EPA for inclusion in the Arizona SIP (see section 4.0).

With regard to the proposed project, the relevant general conformity pollutant thresholds are:

- PM_{10}: 70 tons per year (tpy) for projects located in serious nonattainment areas;
- ozone precursors: 100 tpy of volatile organic compounds (VOC) or nitrogen oxides (NO_x) for projects located in ozone nonattainment areas that are not within an ozone transport region and are not classified as serious, severe, or extreme;
- CO: 100 tpy for projects located in a CO maintenance area;
- sulfur dioxide (SO_2): 100 tpy for projects located in any classification of nonattainment area; or
- if emissions of a nonattainment pollutant are regionally significant (i.e., emissions of a nonattainment pollutant equal or exceed 10 percent of the nonattainment area emissions of the nonattainment pollutant).

This Final General Conformity Determination has been prepared pursuant to the CAA, section 176(c)(1) to assess whether the emissions that would result from the FERC's action in authorizing the Phoenix Expansion Project would be in conformity with the Arizona SIP.

3.0 ASSESSMENT OF THE PROJECT EMISSIONS

As detailed in sections 2.0 and 4.10 of the final EIS, Transwestern is not proposing any new or expanded sources of operation emissions; therefore, the assessment of the project emissions focuses on those emissions that would be generated during construction of the proposed project in those areas subject to general conformity regulations. Transwestern has provided detailed construction emissions estimates for the Phoenix Expansion Project. The FERC staff compared these emissions to the general conformity pollutant thresholds identified in section 2.2 to determine the need for a general conformity determination.

3.1 CONSTRUCTION EMISSIONS

The estimated air emissions for the Phoenix Expansion Project were prepared using widely accepted methods. Specifically, the construction equipment emissions were estimated using emission factors for criteria pollutants for non-road equipment contained in EPA NONROAD2005. These emission factors were then multiplied for each engine type by the amount of power produced and by operating hours. Mobile source emissions from construction vehicles were estimated using a combination of the procedures contained in the Western Regional Air Partnership "Fugitive Dust Handbook" and EPA AP-42 emission factors. A General Conformity applicability review of the total estimated project emissions for each nonattainment or maintenance pollutant resulting from construction in areas listed as nonattainment or maintenance is provided in table 3.1-1. As discussed in section 2.2, the only portions of the project that would be constructed in nonattainment or maintenance areas would be in Maricopa County, Arizona. Although the Phoenix Expansion Project would be constructed in both 2007 and 2008, the portion of the project in the nonattainment or maintenance areas of Maricopa County would be constructed only in 2008.

TABLE 3.1-1

Estimated Emissions of Criteria Pollutants from Construction of the Phoenix Expansion Project

Area/Year [a]	PM_{10} (tons)	NO_x (tons)	CO (tons)	VOC (tons)
Nonattainment/Maintenance Areas of Maricopa County, Arizona				
2008 Construction Emissions Estimates				
Vehicular Emissions	0.1	6.5	0.8	5.9
Heavy Construction Equipment Emissions	2.2	97.9	3.3	1.0
Fugitive Particulate Emissions	54.7	0.0	0.0	0.0
Total Emissions for 2008	57.0	104.4	4.1	6.9
Conformity Applicability Threshold	70	100	100	100
Exceedance of Threshold	No	Yes	No	No

[a] Project construction would not occur in Maricopa County in 2007.
PM_{10} = Particulate matter having an aerodynamic diameter of 10 microns or less
NO_x = Nitrogen oxides
CO = Carbon monoxide
VOC = Volatile organic compounds

3.2 REGIONAL SIGNIFICANCE

The FERC staff also evaluated the estimated construction emissions to determine if general conformity rules would apply based upon regional significance. A project would be subject to general conformity rules based upon regional significance if the total of the direct and indirect emissions of a pollutant, while not exceeding general conformity pollutant thresholds, would represent 10 percent or

more of a nonattainment or maintenance area's total emissions of a particular pollutant. The most recent available air emissions inventory data from reports prepared by the Maricopa County Environmental Services Department and the MAG were reviewed to determine the regional significance of the emissions estimated for the construction of the Phoenix Expansion Project. This information is included in table 3.2-1. Because no project construction would occur in nonattainment areas in Pinal County, a similar assessment was not needed for that county.

TABLE 3.2-1

Nonattainment/Maintenance Area Emissions Inventory Data - Maricopa County, Arizona

Source Category [a]	PM_{10} (tons)	NO_x (tons)	CO (tons)	VOC (tons)
Point Sources	1,037	3,191	1,617	3,870
Area Sources	33,591	5,146	5,542	37,718
Nonroad Mobile Sources	3,035	20,953	166,308	10,751
Onroad Mobile Sources	30,231	72,691	32,286,720	29,402
Biogenic Sources	0	1,604	0	7,223
Total	67,893	103,585	32,460,187	88,963
Project Construction Emissions – 2008	57.0	104.4	4.1	6.9
Percentage of Nonattainment Area Emissions	0.084	0.101	<0.001	0.008

[a] Maricopa County emissions data taken from "2002 Periodic Emissions Inventory for Ozone Precursors for the Maricopa County, Arizona Nonattainment Area," "2002 Periodic Emissions Inventory for Carbon Monoxide for the Maricopa County, Arizona Nonattainment Area," and "2002 Periodic Emissions Inventory for PM_{10} for the Maricopa County, Arizona Nonattainment Area."

PM_{10} = Particulate matter having an aerodynamic diameter of 10 microns or less
NO_x = Nitrogen oxides
CO = Carbon monoxide
VOC = Volatile organic compounds

3.3 CONCLUSIONS

Based on an evaluation of the direct and indirect emissions associated with construction of the project, the estimated emission rates of NO_x would exceed the 100 tpy applicability threshold in Maricopa County, Arizona by 4.4 tpy in 2008 (see table 3.1-1). As shown in table 3.2-1, the project emissions would represent less than 10 percent of the area emissions of a nonattainment or maintenance pollutant and would, therefore, not be subject to general conformity requirements based upon regional significance. Because no changes to operation emissions are being proposed for the Phoenix Expansion Project, a similar evaluation of operation emissions was not needed. Therefore, a General Conformity Determination is only required for construction of the project.

4.0 GENERAL CONFORMITY DETERMINATION

The 8-hour ozone nonattainment designation for the Phoenix-Mesa Planning Area went into effect on June 15, 2004. The MAG is responsible for developing the draft SIP applicable to Maricopa County that addresses attainment with the federal 8-hour ozone standard. At the time of the draft EIS, the draft 8-hour SIP was still under development; however, in a letter dated March 21, 2007, the MAG indicated a commitment to include the 2008 construction emissions from both ozone precursors (i.e., NO_x and VOC) for the applicable portions of the Phoenix Expansion Project as part of the emissions budgets in the draft SIP (MAG, 2007). This commitment letter is included as Attachment A. Based on the

MAG's commitment, the FERC included a Draft General Conformity Determination in the draft EIS for the Phoenix Expansion Project.

Since that time, the MAG completed the draft 8-hour ozone SIP, placed the document on public notice, completed public hearings, and responded to comments. The 8-hour ozone SIP was adopted by the MAG on June 11, 2007. As had been committed by the MAG, the SIP included construction emissions, as provided by Transwestern, from both ozone precursors (i.e., NO_x and VOC) for the applicable portions of the Phoenix Expansion Project as part of the emissions budgets in the 8-hour ozone SIP for the Phoenix-Mesa Planning Area (ADEQ, 2007a) (see Attachment B). The MAG included these emissions in area-wide air emission modeling that was completed using a modeling protocol developed in support of the federal 8-hour ozone attainment demonstration in the Phoenix-Mesa Planning Area. In accordance with this protocol, the MAG identified past episodes of elevated ozone based upon meteorological data and ozone monitoring data (MAG, 2006). These past episodes were used to predict future ozone levels. The modeling demonstrated attainment of the federal 8-hour ozone standard during 2008. This standard is included in the 8-hour ozone plan (SIP) developed by the MAG. The 8-hour ozone SIP was transmitted by the MAG to the Arizona Department of Environmental Quality (ADEQ), which subsequently submitted it to the EPA on June 14, 2007 for review and approval as a revision to the Arizona SIP.

Although the 8-hour ozone SIP for the Phoenix-Mesa Planning Area has been submitted to the EPA, it will not be considered the "applicable SIP" with respect to Title 40 CFR Part 51 and Title 40 CFR Part 93 until it has been approved by the EPA. Therefore, the "applicable SIP" for ozone for the Phoenix-Mesa Planning area, as defined by Title 40 CFR Part 51 and Title 40 CFR Part 93, is the 1-hour ozone maintenance plan, even though the 1-hour ozone standard has been revoked (EPA, 2004) (see EPA Memorandum included in Attachment C). The FERC asked the MAG and the ADEQ to assess the emissions budgets in the 1-hour ozone maintenance plan to determine if the applicable emissions from the Phoenix Expansion Project, when evaluated with all other emissions in the area, would remain within the emissions budgets in the 1-hour ozone maintenance plan.

The 1-hour ozone maintenance plan, as prepared by the MAG and approved by the EPA on June 14, 2005, used modeling to demonstrate that the 1-hour ozone standard would continue to be maintained through the year 2015. The modeling used three target years (i.e., 1999, 2006, and 2015) and worst-case meteorological conditions to show a continual reduction in NO_x and VOC emissions in the 1-hour ozone maintenance area. By interpolating the expected emissions for 2008 and adding the projected Phoenix Expansion Project emissions to that value, the MAG showed that the 2008 emissions would remain below the 2006 levels, which were, in turn, below the target values for demonstrating attainment. In completing its assessment, the MAG included all of the estimated construction emissions from the Phoenix Expansion Project that would occur in the 8-hour ozone nonattainment area, even though a portion of those emissions would occur outside of the 1-hour ozone maintenance area. The assessment completed by the MAG was provided to the ADEQ, which, acting in its capacity as the state agency responsible for the applicable SIP, concurred with the MAG's analysis and provided it to the EPA (ADEQ, 2007b) (see Attachment C).

Additionally, the ADEQ provided documentation fulfilling the general conformity commitment requirements found in Title 40 CFR Part 51.858(a)(5)(i)(B) and Title 40 CFR Part 93.158(a)(5)(i)(B). Specifically, these regulations outline five items that must be contained in a commitment letter from a state agency responsible for SIP implementation to the EPA relative to the modification of the applicable SIP. These five items are:

1) a specific schedule for adoption and submittal of a revision to the SIP that would achieve the needed emissions reductions prior to the time emissions from the federal action would occur;

2) identification of specific measures for incorporation into the SIP that would result in a level of emissions which, together with all other emissions in the nonattainment or maintenance area, would not exceed any emissions budget specified in the applicable SIP;

3) a demonstration that all existing applicable SIP requirements are being implemented in the area for the pollutants affected by the federal action, and that local authority to implement additional requirements has been fully pursued;

4) a determination that the responsible federal agencies have required all reasonable mitigation measures associated with their action; and

5) written documentation including all air quality analyses supporting the conformity determination.

In the case of the Phoenix Expansion Project, items 1 and 2 were provided to the EPA in the form of the 8-hour ozone SIP, as submitted June 14, 2007. Relative to item 3, the ADEQ provided documentation in an August 9, 2007 submittal (see Attachment C) that the applicable SIP requirements are being implemented. In response to item 4, the ADEQ, in its August 9, 2007 submittal, referenced the mitigation measures included in the draft EIS prepared for the Phoenix Expansion Project as documentation that the FERC has required all reasonable mitigation measures associated with the proposed action. Relative to item 5, the ADEQ, in its August 9, 2007 submittal, referenced the MAG's analysis of the project emissions as compared to the 1-hour ozone maintenance plan as written documentation supporting the conformity determination. The FERC notes that additional documentation of the air quality analyses supporting the conformity determination relative to the 8-hour ozone standard was included in the 8-hour ozone SIP, as provided by the ADEQ to the EPA.

5.0 FINDING OF CONFORMITY

As discussed in section 4.0, documentation supporting a general conformity determination was filed with the FERC in a letter dated August 9, 2007 from the ADEQ to the EPA, Region IX (ADEQ, 2007b) (see Attachment C). The FERC has reviewed and evaluated the demonstration and commitments documented in the letter and determined that the project has demonstrated that it will achieve conformity through compliance with Title 40 CFR Part 51.858(a)(5)(i)(A) and Title 40 CFR Part 93.158(a)(5)(i)(A), as well as Title 40 CFR Part 51.858(a)(5)(i)(B)(1)-(5) and Title 40 CFR Part 93.158(a)(5)(i)(B)(1)-(5).

REFERENCES:

Arizona Department of Environmental Quality. 2007a. Letter dated June 15, from D.L. Arnst (Manager, Air Quality Section) to K.D. Bose (Secretary, Federal Energy Regulatory Commission).

Arizona Department of Environmental Quality. 2007b. Letter dated August 9, from D.L. Arnst (Manager, Air Quality Section) to W. Nastri (Regional Administrator, U.S. Environmental Protection Agency, Region IX).

Maricopa Association of Governments. 2006. Modeling Protocol in Support of an Eight-Hour Ozone Attainment Demonstration for the Maricopa Nonattainment Area. Maricopa Association of Governments, Phoenix, Arizona.

Maricopa Association of Governments. 2007. Letter dated March 21, from C.D. Arthur (Associate) to W.B. Osborne (Environmental Project Manager, Transwestern Pipeline Company).

U.S. Environmental Protection Agency. 2004. Memorandum dated December 3, from L.N. Wegman (Director, Air Quality Strategies and Standards Division, Office of Air Quality Planning and Standards) to S. Rothblatt (Director, Air and Radiation Division, U.S. Environmental Protection Agency, Region V), as included in the August 9, 2007 letter from the Arizona Department of Environmental Quality.

ATTACHMENT A

Letter from the Maricopa Association of Governments (March 21, 2007)

MARICOPA ASSOCIATION of GOVERNMENTS

302 North 1st Avenue, Suite 300 · Phoenix, Arizona 85003
Phone (602) 254-6300 · FAX (602) 254-6490
E-mail: mag@mag.maricopa.gov · Web site: www.mag.maricopa.gov

March 21, 2007

William R. Osborne
Environmental Project Manager
Transwestern Pipeline Company, LLC
5444 Westheimer Road
Houston, Texas 77056

Dear Mr. Osborne:

Your letter to Jo Crumbaker of the Maricopa County Air Quality Department, dated February 22, 2007, states that the Transwestern Pipeline Company is proposing a Phoenix Expansion Project to construct pipeline and ancillary facilities to provide capacity for the transport of natural gas to delivery points in the Phoenix area (Attachment 1). The letter also indicates that the construction-related emissions of nitrogen oxides for the Phoenix Expansion Project exceeded the General Conformity de minimis values in filings made to the Federal Energy Regulatory Commission (FERC).

The Maricopa Association of Governments (MAG) has recently completed the modeling for the Draft Eight-Hour Ozone Plan for the Maricopa nonattainment area. Jon Pollack of TRC Solutions provided MAG with the ozone precursor emissions estimates for the Phoenix Expansion Project (Attachment 2). We understand from Mr. Pollack that the source of the ozone precursor emissions for the Phoenix Expansion Project is construction-related and that construction of the Project will occur entirely during the calendar year of 2008.

For the three modeled ozone episodes in June, July, and August 2008, MAG has added the construction-related emissions for the Phoenix Expansion Project to the daily oxides of nitrogen (NOx) and volatile organic compound (VOC) emissions for every day of the week, except Sunday. For purposes of photochemical grid modeling, the emissions for the Phoenix Expansion Project were apportioned equally across the 4 kilometer by 4 kilometer grid cells in the modeling domain that contain the proposed alignment for the pipeline (as shown in Attachment 2).

According to the Clean Air Act, "Basic" areas such as the Maricopa nonattainment area, must demonstrate that the eight-hour ozone standard will be attained by June 15, 2009. The modeling for the Draft Eight-Hour Ozone Plan, including the additional NOx and VOC emissions from construction of the Phoenix Expansion Project, demonstrates attainment of the eight-hour ozone standard for all three episodes during the ozone season of 2008.

The Draft Eight-Hour Ozone Plan will be available for a 30-day public review and comment period during the first week of April 2007. The Final Plan will be considered for approval by the MAG Regional Council at their meeting on May 23, 2007. After Regional Council approval, MAG will submit the Plan to the Arizona Department of Environmental Quality (ADEQ). It is anticipated that ADEQ will forward the Plan to EPA as a revision to the Arizona State Implementation Plan (SIP) by June 15, 2007.

Please call me if you have additional questions.

Sincerely,

Cathy D. Arthur

Cathy D. Arthur
MAG Associate

Attachments

cc: Jo Crumbaker, Maricopa County Air Quality Department
Diane Arnst, Arizona Department of Environmental Quality

Attachment 1

ENERGY TRANSFER PARTNERS
Transwestern Pipeline Company

February 22, 2007

Jo Crumbaker
Maricopa County Environmental Services Department
1001 North Central Avenue
Phoenix, Arizona 85004

Subject: Transwestern Pipeline Company, LLC -- Phoenix Expansion Project General Conformity Request

Dear Ms. Crumbaker:

Transwestern Pipeline Company, LLC is proposing to construct and operate pipeline and ancillary facilities to provide capacity for the transport of natural gas to delivery points in the Phoenix, Arizona area. In filings to the Federal Energy Regulatory Commission (FERC) for the Phoenix Expansion Project, we estimated project construction emissions of nitrogen oxides (NO_x) that exceed the associated General Conformity *de minimis* value.

In response to our request and as a result of communications with staff from the U.S. Environmental Protection Agency (EPA) and the Maricopa Association of Governments (MAG), we understand that MAG now plans to include the Project's construction-related emissions of NO_x and volatile organic compounds (VOC) in the 2008 8-hour ozone attainment demonstration modeling for the Phoenix-Mesa, Arizona 8-hour ozone nonattainment area.

We need to obtain written confirmation from Maricopa County documenting that the county has agreed to include our Project's estimated construction emissions in the draft State Implementation Plan (SIP) for the Phoenix-Mesa 8-hour ozone nonattainment area. The Project in turn will file a copy of this confirmation with FERC so that FERC can demonstrate that the Project will conform to the SIP. Transwestern Pipeline Company is requesting that Maricopa County provide written confirmation that includes:

5444 Westheimer Road Houston, Texas 77056
P. O. Box 4967 Houston, Texas 77210-4967

- direct mention of the Transwestern project;
- a statement that Maricopa County will include the construction emissions in the draft SIP;
- identity of the type of emissions (i.e., project construction-related emissions of NO_x and VOC) and the year in which the emissions would occur; and
- a brief discussion regarding the schedule for the draft SIP, including when it will be submitted to EPA and when it will be available for public review.

The Project has previously provided Ms. Cathy Arthur of MAG with estimates of our construction-related emissions of NO_x and VOC in the Phoenix-Mesa 8-hour ozone nonattainment area. Please let me know if you require any additional information to proceed with the requested letter.

Thank you for your assistance. Please do not hesitate to contact me at 713/989-2079 or bill.osborne@sug.com if you have any questions.

Sincerely,

Bill Osborne

William R. Osborne
Environmental Project Manager

Attachment 2

Cathy Arthur

From: Pollack, Jon [JPollack@TRCSOLUTIONS.com]
Sent: Thursday, December 28, 2006 2:15 PM
To: Cathy Arthur
Cc: Patterson, Patricia
Subject: General Conformity - Transwestern
Attachments: Figure_17-1_AZ.PDF

Cathy:

It was a pleasure speaking to you on Tuesday.

As you requested, I've put together some summary information relating to construction activities for the Phoenix Expansion Project proposed by Transwestern Pipeline Company, LLC. In particular, the information provided relates to estimates of project construction related emissions within the Phoenix-Mesa, Arizona 8-hour ozone nonattainment area.

Emissions from nonroad construction vehicles were estimated using emission factors obtained from EPA's NONROAD2005 model. Emissions from on road construction vehicles (mostly heavy duty diesel vehicles) were estimated using emission factors obtained from EPA's MOBILE6b model.

The initial estimates were based on a projected construction schedule that called for construction in Maricopa County to occur from December 2007 through March 2008 and for construction in Pinal County to occur in March 2008. As I mentioned to you in our call, factors beyond the control of the project may delay the construction somewhat. As a worst-case for emissions budgeting purposes, we would assume that all of the construction in Maricopa and Pinal Counties could occur during the summer (June through August) 2008 period for which MAG is conducting modeling for the 8-hour ozone SIP. With this in mind, I've taken the construction related emissions estimated previously and assumed that they all would occur during the summer of 2008.

Project construction emissions were calculated for Maricopa County and for Pinal County. Next, the fraction of the proposed pipeline length within the nonattainment portion of each county was determined (relative to the pipeline length within the entire county), and project emissions within the nonattainment portion of each county were scaled from the estimate obtained for the entire county

The results are summarized below.

<u>NOx</u>

Project construction emissions within Maricopa County: 106.14 tons
Project construction emissions within nonattainment portion of Maricopa County: 104.31 tons
Project construction emissions within Pinal County: 39.38 tons
Project construction emissions within nonattainment portion of Pinal County: 0.0 tons
Project construction emissions within 8-hour Phoenix-Mesa ozone nonattainment area: 104.31 tons

<u>VOC</u>

Project construction emissions within Maricopa County: 7.07 tons
Project construction emissions within nonattainment portion of Maricopa County: 6.94 tons
Project construction emissions within Pinal County: 2.98 tons
Project construction emissions within nonattainment portion of Pinal County: 0.0 tons
Project construction emissions within 8-hour Phoenix-Mesa ozone nonattainment area: 6.94 tons

The construction schedule calls for construction to occur for six days per week. If the nonattainment area emissions listed above were allocated to the projected working days during this three month period (it looks like about 77 days), the typical project construction related emissions in the nonattainment area would be approximately:

- 1.35 tons per day of NOx
- 0.09 tons per day of VOC

I've attached a figure that shows the proposed pipeline route.

Please give me a call after you've had a chance to speak to Lindy Bauer about the possibility of either including the project emissions explicitly in the SIP or accommodating them in a SIP budget. I agree that we should also speak with Weinke Tax to make sure that we have a common understanding of how the project would demonstrate conformity.

Let me know if you need any more information. Thanks again!

Jon A. Pollack
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Wannalancit Mills
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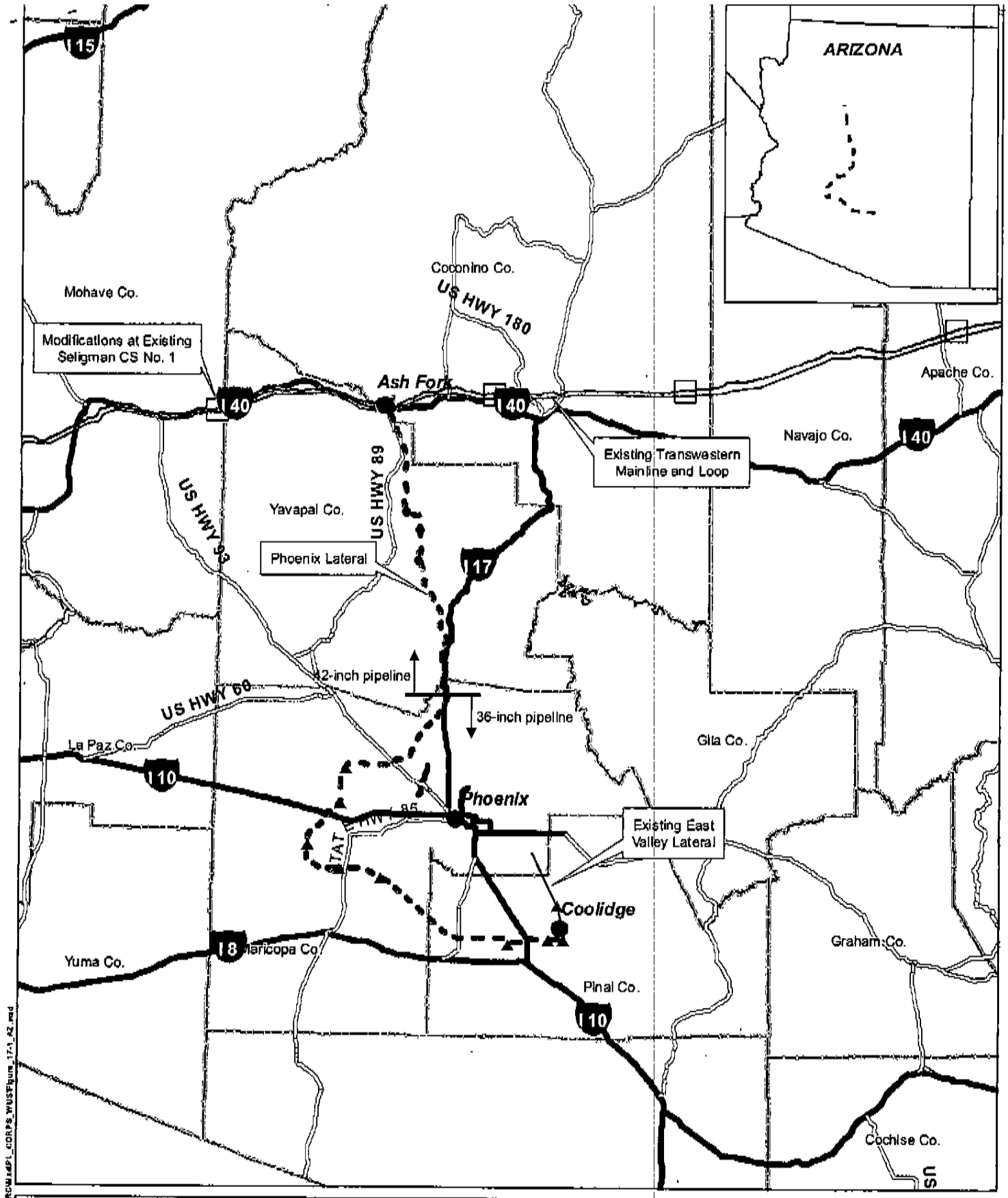
E-mail: jpollack@trcsolutions.com
Phone: 978-656-3670
Fax: 978-453-1995



Meter Station
Tap
Phoenix Lateral
Existing East Valley Lateral
Existing Transwestern Compressor Stations

Major Roads
Limited Access
Highways

0 15 30 60 Miles

Figure 17-1
Phoenix Expansion Project
Project Overview Map
Arizona Facilities

ATTACHMENT B

Letter from the Arizona Department of Environmental Quality (June 15, 2007)

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

1110 West Washington Street • Phoenix, Arizona 85007
(602) 771-2300 • www.azdeq.gov

Janet Napolitano
Governor

Stephen A. Owens
Director

June 15, 2007

ORIGINAL

Ms. Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE, Room 1A
Washington, D.C. 20426

SUBJECT: Docket No. CP06-459-000
Transwestern Pipeline—Phoenix Expansion Project

Dear Ms. Bose:

The Air Quality Division has reviewed the project you have submitted for a Determination of General Conformity in accordance with Clean Air Act § 176(c)(1); Title 40 CFR Part 51, Subpart W, §§ 51.850-860; Title 40 CFR §§ 93.150-160; and Arizona Administrative Code § 18-2-348 (approved into the Arizona State Implementation Plan on April 23, 199; effective June 22, 1999).

Title 40 CFR § 51.852 defines "Applicable implementation plan or applicable SIP" as the SIP approved under Section 110 of the Clean Air Act. Effective June 14, 2005, the Phoenix Metropolitan area was designated attainment for the 1-Hour Ozone standard. EPA revoked the 1-Hour Ozone standard on June 15, 2005.

Effective June 15, 2004, the Metropolitan Phoenix Eight-Hour Ozone Planning Area was classified as a "Basic" nonattainment area subject to requirements of Title I, Part D, Subpart I of the Clean Air Act. The SIP is due June 15, 2007, for this area and EPA will review it for possible approval thereafter.

The Transwestern Natural Gas Pipeline-Phoenix Expansion Project would traverse a portion of the 8-Hour Ozone nonattainment planning area. ADEQ acknowledges that the Metropolitan Phoenix SIP submitted to the U.S. Environmental Protection Agency on June 14, 2007, includes the nonroad construction emissions for this project in the Emissions Inventory for the modeled 2008 episodes that demonstrate attainment for NOx and VOCs.

Pending EPA's approval of this SIP submittal, ADEQ cannot render a General Conformity Determination. As soon as EPA acts upon the 8-Hour Ozone SIP, ADEQ can revisit the matter.

Very truly yours,

Diane L. Arnst, Manager
Air Quality Section

DLA:MBL

cc: Doug Sipe, Federal Energy Regulatory Commission
Jon A. Pollack, TRC Solutions
William R. Osborne, Transwestern Pipeline Company, L.L.C.

ATTACHMENT C

Letter from the Arizona Department of Environmental Quality (August 9, 2007)

Janet Napolitano
Governor

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

1110 West Washington Street • Phoenix, Arizona 85007
(602) 771-2300 • www.azdeq.gov

Stephen A. Owens
Director

ORIGINAL

August 9, 2007

Mr. Wayne Nastri, Regional Administrator
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105

SUBJECT: FERC Docket No. CP06-459-000
Transwestern Pipeline—Phoenix Expansion Project
General Conformity Determination

Dear Mr. Nastri:

The Air Quality Division has reviewed the referenced project submitted for a Determination of General Conformity in accordance with Clean Air Act § 176(c)(1); Title 40 CFR Part 51, Subpart W, §§ 51.850-860; Title 40 CFR §§ 93.150-160; and Arizona Administrative Code § 18-2-348 (approved into the Arizona State Implementation Plan on April 23, 199; effective June 22, 1999).

Title 40 CFR § 51.852 defines "Applicable implementation plan or applicable SIP" as the SIP approved under Section 110 of the Clean Air Act. Effective June 14, 2005, the Phoenix Metropolitan area was designated attainment for the 1-Hour Ozone standard. EPA approved the 1-Hour Ozone Maintenance Plan on June 14, 2005, before EPA revoked the 1-Hour Ozone standard on June 15, 2005.

In a Memorandum dated December 3, 2004, a copy of which is attached to this letter, Lydia Wegman of EPA stated that an approved 1-Hour Ozone SIP could be considered the applicable SIP for the purpose of a general conformity determination because it remains in place until revised. In an electronic mail message dated July 12, 2007, a copy of which is attached to this letter, Rebecca Rosen of EPA Region IX stated that the applicable SIP for purposes of this particular general conformity determination is the 1-Hour Ozone Maintenance Plan. On July 19, 2007, representatives of ADEQ, EPA, FERC, Natural Resources Group and MAG participated in a conference call. Magdalene Manco of FERC subsequently requested on July 23rd that MAG perform an analysis of general conformity to the 1-Hour Ozone Maintenance Plan.

The Maricopa Association of Governments (MAG) has conducted an analysis that appears as Exhibit 1 attached to this letter. MAG concluded that the emissions from the Transwestern

Pipeline Phoenix Expansion Project would not interfere with maintenance of the 1-Hour Ozone NAAQS, if that standard were still in place, nor would it interfere with attainment of the 8-Hour Ozone NAAQS based on emissions trends shown in graphs. No exceedances of the 8-Hour Ozone NAAQS have occurred in 2007, and no violations of the 1-Hour Ozone NAAQS have occurred for seven consecutive years. ADEQ concurs with MAG's analysis.

Although this project may not meet the general conformity criteria in Title 40 CFR § 51.858(A), ADEQ is submitting a written commitment pursuant to Title 40 CFR § 51.858(a)(5)(i)(B).

Effective June 15, 2004, the Metropolitan Phoenix Eight-Hour Ozone Planning Area was classified as a "Basic" nonattainment area subject to requirements of Title I, Part D, Subpart I of the Clean Air Act. That SIP Revision was submitted to EPA by the June 15, 2007, deadline. EPA's implementation rule has been remanded to it by the Court, and review of submitted 8-Hour Ozone SIPs for possible approval is not anticipated until EPA revises its rule. This submittal satisfies the requirements in § 51.858(a)(5)(i)(B)(1) and (2).

Section 51.858(a)(5)(i)(B)(3) requires a demonstration that all existing applicable 1-Hour Ozone Maintenance Plan requirements are being implemented. In EPA's Final Rule redesignating the Phoenix 1-Hour Ozone Planning Area to attainment, EPA stated at 70 Federal Register 34367:

- The improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP (principally, the VOC RACT rules, stage II vapor recovery rules, the enhanced vehicle inspection and maintenance program, and the cleaner burning gasoline program), and applicable Federal air pollution control regulations;...

As part of our overall approval of the Redesignation Request and Maintenance Plan, we approve the following specific plan elements: ...

- Implementation of the following control measures for maintenance purposes: CARB Phase 2 and Federal Phase II Reformulated Gasoline with a maximum 7 psi vapor pressure requirement from May through September, coordination of traffic signal systems, tougher enforcement of vehicle registration and emission test compliance, one-time waiver from vehicle emissions test, development of intelligent transportation systems, phased-in emission test cutpoints, and Maricopa County Rule 348 (related to aerospace manufacturing and rework operations).

The Federal Energy Regulatory Commission (FERC) has met the requirements of § 51.858(a)(5)(i)(B)(4). According to Magdalene Manco of FERC on July 23rd, FERC asked Transwestern Pipeline to explore cleaner construction equipment, reduced operating hours, and

the use of low-sulfur diesel fuel during construction to reduce nitrogen oxide (NOx) emissions during the construction period by 4.4 tons to below the *de minimis* threshold. Although the use of low-sulfur diesel fuel will reduce NOx emissions somewhat, Transwestern has not been able to reduce these emissions by 4.4 tons and is refining its estimated reductions calculations related to this measure.

MAG's Exhibit 1 meets the requirement of § 51.858(a)(5)(i)(B)(5) for written documentation of the air quality analysis supporting the conformity determination.

ADEQ concludes that the Transwestern Pipeline—Phoenix Expansion Project meets the general conformity requirements applicable to it.

Very truly yours,

Diane L. Arnst

Diane L. Arnst, Manager
Air Quality Section

DLA

cc: Kimberly D. Bose, Federal Energy Regulatory Commission
Troy Enright, Natural Resource Group
Lindy Bauer, Maricopa Association of Governments

Exhibit 1
Comparison of Emissions from the Phoenix Expansion Project with the MAG One-Hour Ozone Maintenance Plan

After seven consecutive years with no violations of the one-hour ozone standard, MAG prepared a One-Hour Ozone Redesignation Request and Maintenance Plan that was submitted to EPA in March 2004. EPA approved this Plan on June 14, 2005, a day before revoking the one-hour ozone standard.

The modeling in the One-Hour Ozone Maintenance Plan concluded that the one-hour standard would continue to be maintained through 2015. The total ozone precursor emissions used in validating the model for 1999 and projecting maintenance in 2006 and 2015 are shown in the graphs below.

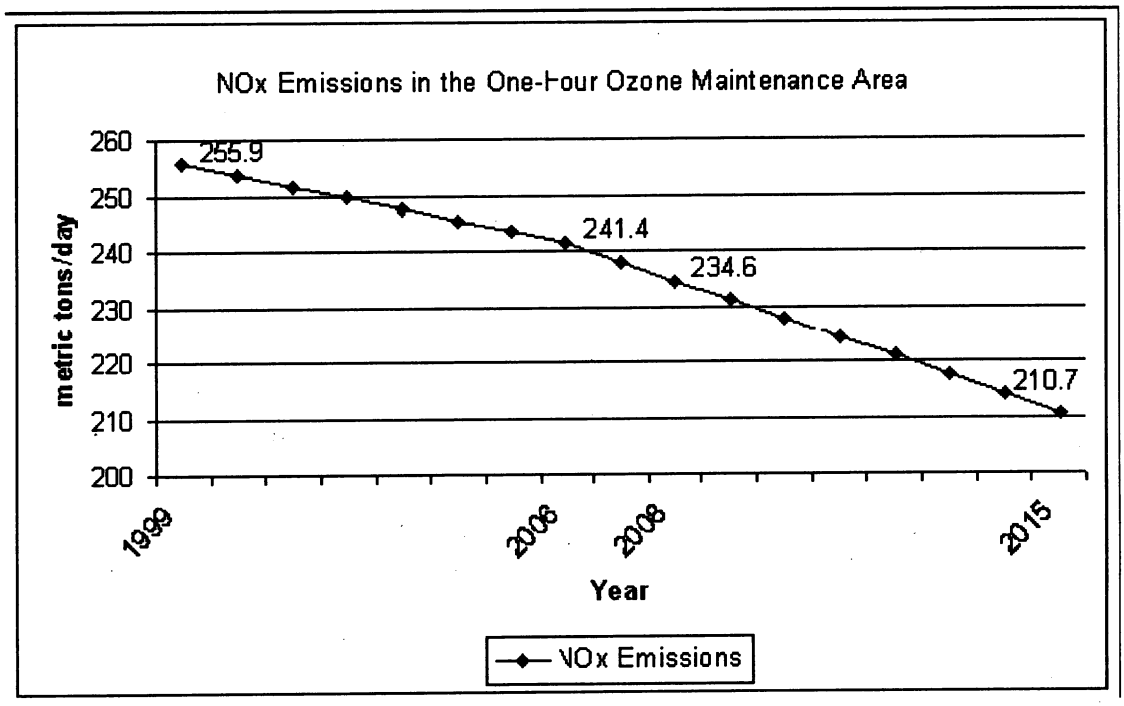
The graphs indicate that there continues to be a downward trend in nitrogen oxides (NOx) and volatile organic compounds (VOC). The maximum one-hour ozone concentrations modeled in the One-Hour Ozone Maintenance Plan were 124 ppb in 2006 and 120 ppb in 2015. According to EPA guidance, the standard is not violated if the maximum modeled one-hour ozone concentration in the nonattainment area is less than125 ppb.

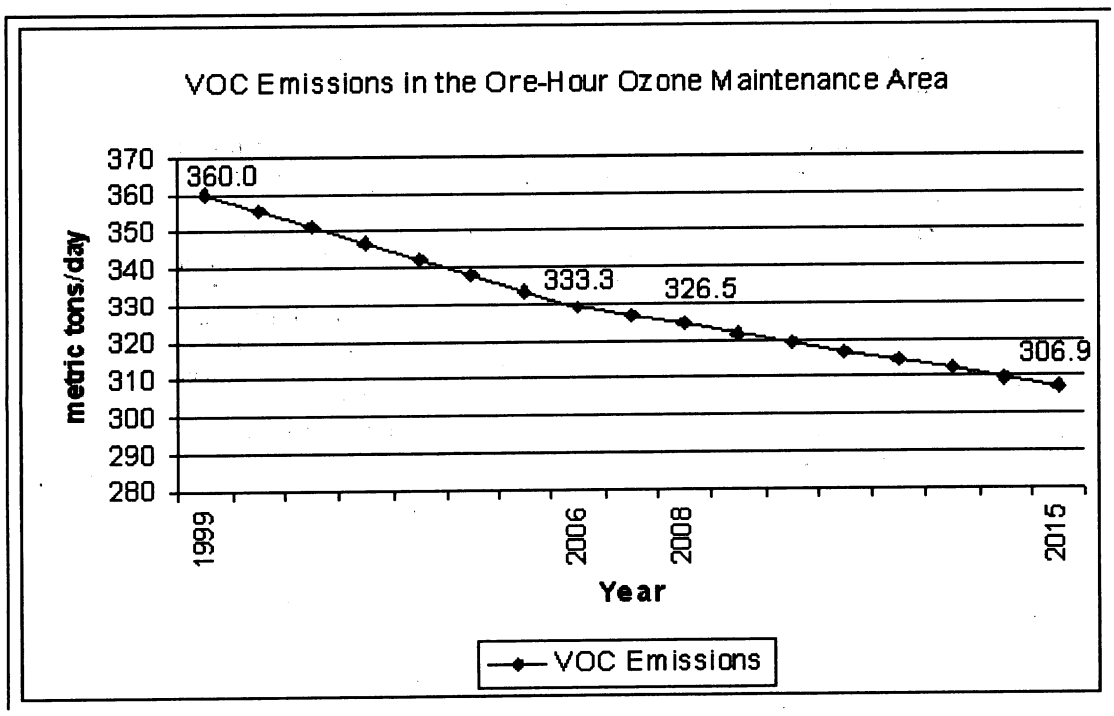
In an e-mail dated December 28, 2006, Jon Pollack of TRC Solutions indicated that the construction equipment emissions attributable to the Phoenix Expansion Project would be: 1.35 tons/day of NOx and 0.09 tons/day of VOC. Conversion from English to metric tons (mt) results in: 1.22 mt/day of NOx and 0.08 mt/day of VOC.

These emissions represent a worst case scenario in which construction of the Project occurs entirely during the ozone season of 2008. The estimates also represent emissions within the eight-hour ozone nonattainment area, which is larger than the one-hour ozone nonattainment area. Based on the map of the pipeline alignment provided by Jon Pollack, it appears that a portion of these construction emissions would occur outside of the one-hour ozone nonattainment area. However, it is not known if this would reduce the NOx emissions below the de minimis level for general conformity.

According to the graphed emissions, the average annual reductions between 2006 and 2015 are 3.41 mt/day for NOx and 2.44 mt/day for VOC. Between 2006 and 2008, the expected reductions in NOx and VOC would be 6.82 mt/day and 4.88 mt/day, respectively. Since the maximum emissions attributable to the Phoenix Expansion Project of 1.22 mt/day for NOx and 0.08 mt/day for VOC are well below the emission reductions expected between 2006 and 2008 and the modeling in the One-Hour Ozone Maintenance Plan indicated that ozone concentrations in 2006 would be less than 125 ppb, it can be concluded that the Phoenix Expansion Project will not result in violations of the one-hour ozone standard in 2008.

Monitors in the nonattainment area have not recorded a violation of the one-hour standard since 1996. The more stringent eight-hour ozone standard has not been violated in the nonattainment area since 2004 and there have been no exceedances of the eight-hour standard so far during the ozone season of 2007. These monitored values corroborate the downward trend in ozone precursor emissions and support the conclusion that the Phoenix Expansion Project will not contribute to a violation of the ozone standards in 2008.





Notes:

1. Source for 1999, 2006, and 2015 emissions is the MAG One-Hour Ozone Redesignation Request and Maintenance Plan for the Maricopa County Nonattainment Area, March 2004.
2. 1999 emissions represent the highest modeled ozone episode day of August 24, 1999; 2006 and 2015 emissions represent a Tuesday in August with the same worst case meteorological conditions occurring on August 24, 1999.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
RESEARCH TRIANGLE PARK, NC 27711

DEC 03 2004

OFFICE OF
AIR QUALITY PLANNING
AND STANDARDS

MEMORANDUM

SUBJECT: Conformity After the 1-hour Ozone Standards Revocation

FROM: Lydia N. Wegman, Director
Air Quality Strategies and Standards Division, OAQPS

TO: Steve Rothblatt, Director
Air and Radiation Division, Region V

This is in response to your electronic correspondence of November 23, 2004, requesting clarification on our policy for conformity determinations before the adoption of the State Implementation Plan (SIP), for the 8-Hour Ozone National Ambient Air Quality Standard. You stated that you need a written statement before December 10, 2004.

The General Conformity Regulations (40 C.F.R. 93.150-160) provide several options for Federal agencies to demonstrate conformity. One of the options in ozone nonattainment areas is to have the State document and determine that the emissions from the action, along with all other emissions in the area, will not exceed the emission budget in the applicable SIP. Since the conformity determination is expected to occur after June 15, 2005 (the date of the revocation of the 1-hour ozone standard) and before the adoption of the SIP for the 8-hour ozone standard, you asked if the existing 1-hour SIP could be considered the applicable SIP for the determination. Even after EPA revokes the 1-hour ozone standard for the area, the 1-hour ozone SIP would remain in place until it is revised. Therefore, we believe that the emission budgets in the 1-hour SIP would be applicable for the O'Hare project conformity determination. We expect that all parties will work together to ensure that the emissions from the airport and the expansion will be included in the 8-hour ozone SIP.

If you have further questions, please contact David Stonefield at (919) 541-5350.

1

Troy Enright

From: Rosen.Rebecca@epamail.epa.gov
Sent: Thursday, July 12, 2007 1:37 PM
To: Troy Enright
Subject: additional General Conformity information

Hello,
I wanted to follow-up on our conversation today regarding your questions on general conformity.
In this case, the applicable SIP would be the 1-hour ozone SIP approved by EPA (i.e., the 1-hour ozone maintenance plan for Phoenix) and that is the SIP that must be considered when meeting the requirement of 51.858 (a)(5)(i)(A).
If the requirement in 51.858(a)(5)(i)(A) cannot be met, then you may want to consider 51.858(a)(5)(i)(B) to satisfy the general conformity requirement. In this case, the revision to the applicable SIP could be the 8-hour ozone SIP revisions that have already been submitted to EPA, as we discussed on the phone. The letter to EPA required in 51.858 (a)(5)(i)(B) should be signed by the Governor's designee (ADEQ), though the data/information will most likely be provided by MAG. The letter must address items 1-5 of 51.858(a)(5)(i)(B). As we discussed, in this case the "showing" in the letter will describe and document the SIP revision (i.e., 8-hour ozone SIP) that has already been submitted to EPA.
If you have any additional questions, please feel free to contact me.
Thanks,
Becky

Rebecca Rosen, Ph.D.
US EPA (AIR-2)
75 Hawthorne St.
San Francisco, CA 94105
Phone: 415.947.4152
Fax: 415.947.3579
Rosen.Rebecca@epa.gov

§ 51.854 Conformity analysis.

Any Federal department, agency, or instrumentality of the Federal Government taking an action subject to this subpart must make its own conformity determination consistent with the requirements of this subpart. In making its conformity determination, a Federal agency must consider comments from any interested parties. Where multiple Federal agencies have jurisdiction for various aspects of a project, a Federal agency may choose to adopt the analysis of another Federal agency or develop its own analysis in order to make its conformity determination.

§ 51.855 Reporting requirements.

(a) A Federal agency making a conformity determination under § 51.858 must provide to the appropriate EPA Regional Office(s), State and local air quality agencies and, where applicable, affected Federal land managers, the agency designated under section 174 of the Act and the MPO a 30 day notice which describes the proposed action and the Federal agency's draft conformity determination on the action.

(b) A Federal agency must notify the appropriate EPA Regional Office(s), State and local air quality agencies and, where applicable, affected Federal land managers, the agency designated under section 174 of the Clean Air Act and the MPO within 30 days after making a final conformity determination under § 51.858.

51.856 Public participation.

(a) Upon request by any person regarding a specific Federal action, a Federal agency must make available for review its draft conformity determination under § 51.858 with supporting materials which describe the analytical methods and conclusions relied upon in making the applicability analysis and draft conformity determination.

(b) A Federal agency must make public its draft conformity determination under § 51.858 by placing a notice by prominent advertisement in a daily newspaper of general circulation in the area affected by the action and by providing 30 days for written public comment prior to taking any formal action on the draft determination. This comment period may be concurrent with any other public involvement, such as occurs in the NEPA process.

(c) A Federal agency must document its response to all the comments received on its draft conformity determination under § 51.858 and make the comments and responses available, upon request by any person regarding a specific Federal action, within 30 days of the final conformity determination.

(d) A Federal agency must make public its final conformity determination under § 51.858 for a Federal action by placing a notice by prominent advertisement in a daily newspaper of general circulation in the area affected by the action within 30 days of the final conformity determination.

§ 51.857 Frequency of conformity determinations.

(a) The conformity status of a Federal action automatically lapses 5 years from the date a final conformity determination is reported under § 51.855, unless the Federal action has been completed or a continuous program has been commenced to implement that Federal action within a reasonable time.

(b) Ongoing Federal activities at a given site showing continuous progress are not new actions and do not require periodic redeterminations so long as such activities are within the scope of the final conformity determination reported under § 51.855.

(c) If, after the conformity determination is made, the Federal action is changed so that there is an increase in the total of direct and indirect emissions above the levels in § 51.853(b), a new conformity determination is required.

§ 51.858 Criteria for determining conformity of general Federal actions.

(a) An action required under § 51.853 to have a conformity determination for a specific pollutant, will be determined to conform to the applicable SIP if, for each pollutant that exceeds the rates in § 51.853(b), or otherwise requires a conformity determination due to the total of direct and indirect emissions from the action, the action meets the requirements of paragraph (c) of this

section, and meets any of the following requirements:

(1) For any criteria pollutant, the total of direct and indirect emissions from the action are specifically identified and accounted for in the applicable SIP's attainment or maintenance demonstration;

(2) For ozone or nitrogen dioxide, the total of direct and indirect emissions from the action are fully offset within the same nonattainment or maintenance area through a revision to the applicable SIP or a similarly enforceable measure that effects emission reductions so that there is no net increase in emissions of that pollutant;

(3) For any criteria pollutant, except ozone and nitrogen dioxide, the total of direct and indirect emissions from the action meet the requirements:

(i) Specified in paragraph (b) of this section, based on areawide air quality modeling analysis and local air quality modeling analysis; or

(ii) Meet the requirements of paragraph (a)(5) of this section and, for local air quality modeling analysis, the requirement of paragraph (b) of this section;

(4) For CO or PM-10—

(i) Where the State agency primarily responsible for the applicable SIP determines that an areawide air quality modeling analysis is not needed, the total of direct and indirect emissions from the action meet the requirements specified in paragraph (b) of this section, based on local air quality modeling analysis; or

(ii) Where the State agency primarily responsible for the applicable SIP determines that an areawide air quality modeling analysis is appropriate and that a local air quality modeling analysis is not needed, the total of direct and indirect emissions from the action meet the requirements specified in paragraph (b) of this section, based on areawide modeling, or meet the requirements of paragraph (a)(5) of this section; or

(5) For ozone or nitrogen dioxide, and for purposes of paragraphs (a)(3)(ii) and (a)(4)(ii) of this section, each portion of the action or the action as a whole meets any of the following requirements:

(i) Where EPA has approved a revision to an area's attainment or maintenance demonstration after 1990 and the State makes a determination as provided in paragraph (a)(5)(i)(A) of this section or where the State makes a commitment as provided in paragraph (a)(5)(i)(B) of this section:

(A) The total of direct and indirect emissions from the action (or portion thereof) is determined and documented by the State agency primarily responsible for the applicable SIP to result in a level of emissions which, together with all other emissions in the nonattainment (or maintenance) area, would not exceed the emissions budgets specified in the applicable SIP;

(B) The total of direct and indirect emissions from the action (or portion thereof) is determined by the State agency responsible for the applicable SIP to result in a level of emissions which, together with all other emissions in the nonattainment (or maintenance) area, would exceed an emissions budget specified in the applicable SIP and the State Governor or the Governor's designee for SIP actions makes a written commitment to EPA which includes the following:

(*1*) A specific schedule for adoption and submittal of a revision to the SIP which would achieve the needed emission reductions prior to the time emissions from the Federal action would occur;

(*2*) Identification of specific measures for incorporation into the SIP which would result in a level of emissions which, together with all other emissions in the nonattainment or maintenance area, would not exceed any emissions budget specified in the applicable SIP;

(*3*) A demonstration that all existing applicable SIP requirements are being implemented in the area for the pollutants affected by the Federal action, and that local authority to implement additional requirements has been fully pursued;

(*4*) A determination that the responsible Federal agencies have required all reasonable mitigation measures associated with their action; and

(*5*) Written documentation including all air quality analyses supporting the conformity determination;

(C) Where a Federal agency made a onformity determination based on a tate commitment under paragraph a)(5)(i)(B) of this section, such a State ommitment is automatically deemed call for a SIP revision by EPA under ection 110(k)(5) of the Act, effective on he date of the Federal conformity de-ermination and requiring response ithin 18 months or any shorter time ithin which the State commits to re-lse the applicable SIP;

(ii) The action (or portion thereof), as etermined by the MPO, is specifically ncluded in a current transportation lan and transportation improvement rogram which have been found to con-orm to the applicable SIP under 40 FR part 51, subpart T, or 40 CFR part , subpart A;

(iii) The action (or portion thereof) lly offsets its emissions within the me nonattainment or maintenance ea through a revision to the applica-e SIP or an equally enforceable meas-e that effects emission reductions ual to or greater than the total of di-ct and indirect emissions from the tion so that there is no net increase emissions of that pollutant;

(iv) Where EPA has not approved a vision to the relevant SIP attain-ent or maintenance demonstration nce 1990, the total of direct and indi-ct emissions from the action for the ture years (described in §51.859(d)) do t increase emissions with respect to e baseline emissions:

(A) The baseline emissions reflect the storical activity levels that occurred the geographic area affected by the oposed Federal action during:

1) Calendar year 1990;

2) The calendar year that is the sis for the classification (or, where e classification is based on multiple ars, the most representative year), if classification is promulgated in 40 R part 81; or

3) The year of the baseline inventory the PM-10 applicable SIP;

(B) The baseline emissions are the al of direct and indirect emissions culated for the future years (de-ibed in §51.859(d)) using the historic ivity levels (described in paragraph (5)(iv)(A) of this section) and appro-ate emission factors for the future rs; or

(v) Where the action involves re-gional water and/or wastewater projects, such projects are sized to meet only the needs of population pro-jections that are in the applicable SIP.

(b) The areawide and/or local air quality modeling analyses must:

(1) Meet the requirements in §51.859; and

(2) Show that the action does not:

(i) Cause or contribute to any new violation of any standard in any area; or

(ii) Increase the frequency or severity of any existing violation of any stand-ard in any area.

(c) Notwithstanding any other re-quirements of this section, an action subject to this subpart may not be de-termined to conform to the applicable SIP unless the total of direct and indi-rect emissions from the action is in compliance or consistent with all rel-evant requirements and milestones contained in the applicable SIP, such as elements identified as part of the reasonable further progress schedules, assumptions specified in the attain-ment or maintenance demonstration, prohibitions, numerical emission lim-its, and work practice requirements.

(d) Any analyses required under this section must be completed, and any mitigation requirements necessary for a finding of conformity must be identi-fied before the determination of con-formity is made.

§51.859 Procedures for conformity de-terminations of general Federal ac-tions.

(a) The analyses required under this subpart must be based on the latest planning assumptions.

(1) All planning assumptions must be derived from the estimates of popu-lation, employment, travel, and con-gestion most recently approved by the MPO, or other agency authorized to make such estimates, where available.

(2) Any revisions to these estimates used as part of the conformity deter-mination, including projected shifts in geographic location or level of popu-lation, employment, travel, and con-gestion, must be approved by the MPO or other agency authorized to make such estimates for the urban area.

(b) The analyses required under this subpart must be based on the latest and most accurate emission estimation techniques available as described below, unless such techniques are inap-propriate. If such techniques are inap-propriate and written approval of the EPA Regional Administrator is ob-tained for any modification or substi-tution, they may be modified or an-other technique substituted on a case-by-case basis or, where appropriate, on a generic basis for a specific Federal agency program.

(1) For motor vehicle emissions, the most current version of the motor ve-hicle emissions model specified by EPA and available for use in the preparation or revision of SIPs in that State must be used for the conformity analysis as specified in paragraphs (b)(1) (i) and (ii) of this section:

(i) The EPA must publish in the FEDERAL REGISTER a notice of availability of any new motor vehicle emissions model; and

(ii) A grace period of three months shall apply during which the motor ve-hicle emissions model previously speci-fied by EPA as the most current version may be used. Conformity anal-yses for which the analysis was begun during the grace period or no more than 3 years before the FEDERAL REG-ISTER notice of availability of the lat-est emission model may continue to use the previous version of the model specified by EPA.

(2) For non-motor vehicle sources, in-cluding stationary and area source emissions, the latest emission factors specified by EPA in the "Compilation of Air Pollutant Emission Factors (AP-42)"[1] must be used for the conformity analysis unless more accurate emission data are available, such as actual stack test data from stationary sources which are part of the conformity anal-ysis.

(c) The air quality modeling analyses required under this subpart must be based on the applicable air quality models, data bases, and other require-ments specified in the most recent version of the "Guideline on Air Qual-ity Models (Revised)" (1986), including supplements (EPA publication no. 450/2-78-027R)[2], unless:

(1) The guideline techniques are inap-propriate, in which case the model may be modified or another model sub-stituted on a case-by-case basis or, where appropriate, on a generic basis for a specific Federal agency program; and

(2) Written approval of the EPA Re-gional Administrator is obtained for any modification or substitution.

(d) The analyses required under this subpart, except §51.858(a)(1), must be based on the total of direct and indi-rect emissions from the action and must reflect emission scenarios that are expected to occur under each of the following cases:

(1) The Act mandated attainment year or, if applicable, the farthest year for which emissions are projected in the maintenance plan;

(2) The year during which the total of direct and indirect emissions from the action is expected to be the greatest on an annual basis; and

(3) any year for which the applicable SIP specifies an emissions budget.

§51.860 Mitigation of air quality im-pacts.

(a) Any measures that are intended to mitigate air quality impacts must be identified and the process for imple-mentation and enforcement of such measures must be described, including an implementation schedule con-taining explicit timelines for imple-mentation.

(b) Prior to determining that a Fed-eral action is in conformity, the Fed-eral agency making the conformity de-termination must obtain written com-mitments from the appropriate persons or agencies to implement any mitiga-tion measures which are identified as conditions for making conformity de-terminations.

(c) Persons or agencies voluntarily committing to mitigation measures to facilitate positive conformity deter-minations must comply with the obli-gations of such commitments.

[1] Copies may be obtained from the Tech-nical Support Division of OAQPS, EPA, MD-14, Research Triangle Park, NC 27711.

[2] See footnote 1 at §51.859(b)(2).