



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
RESEARCH TRIANGLE PARK, NC 27711

JUN 07 2002

Mr. Rick Sprott
Co-Chairman, Western Regional Air Partnership
Initiatives Oversight Committee
State of Utah - Division of Air Quality
150 North 1950 West
Salt Lake City, Utah 84116

OFFICE OF
AIR QUALITY PLANNING
AND STANDARDS

Dear Mr. Sprott:

It has come to my attention that there may be some concern or confusion about the effects of a recent decision by the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) on implementation of Section 309 of the regional haze rule. The purpose of this letter is to provide you with the U. S. Environmental Protection Agency's (EPA) views on this issue. The letter reflects Jeff Holmstead's views on this matter.

On May 24, 2002, the D.C. Circuit ruled on several petitions regarding the regional haze rule. The Court upheld the overall structure of the regional haze rule, rejecting claims by industry petitioners regarding the rule's requirements for States to make reasonable progress towards natural visibility conditions and to ensure no degradation in visibility. The Court vacated the best available retrofit technology (BART) provisions of the rule, finding that States should have the ability to exempt individual sources from the BART requirement, and to determine that applying BART controls in a particular case would not enhance visibility in downwind Class I areas.

The EPA is engaged in serious discussions with the U. S. Department of Justice on whether to seek rehearing on this aspect of the Court's decision on BART. We are also moving forward to develop a regulatory response to the Court's decision in the event rehearing is not sought or granted. Whether or not we seek rehearing, and whether or not it is ultimately granted, the EPA believes strongly that the State-initiated Western Regional Air Partnership (WRAP) process is fully consistent with the Court's ruling. Accordingly, the EPA intends to complete its rulemaking to incorporate the WRAP Annex into the regional haze rule. We see no impediments to States moving forward with implementation of Section 309.

I hope this information is useful to you. If you have further questions on this issue, please contact me at 919-541-5505, or Tim Smith of my staff at 919-541-4718.

Sincerely,

A handwritten signature in black ink, appearing to read "Lydia N. Wegman".

Lydia N. Wegman
Director
Air Quality Strategies and
Standards Division