



October 7, 2003

M. Lea Anderson  
Air and Radiation Law Office (2344A)  
Office of General Counsel  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., N.W.  
Washington, DC 20460

Re: Notice of Proposed Consent Decree; Request for Public Comment, 68 Fed. Reg. 52922 (September 8, 2003)

Dear Ms. Anderson:

The Western Regional Air Partnership strongly supports finalization of the proposed consent decree in *Environmental Defense v. Horinko*, and the deadlines set forth therein. Specifically, that EPA will sign a notice of proposed rulemaking setting forth its proposed regional haze BART regulations and guidelines no later than April 15, 2004, and that EPA will sign a final notice of rulemaking setting forth its BART regulations and guidelines no later than April 15, 2005.

Since 1997, members and participants in the WRAP have devoted considerable time and energy developing, through a consensus process, the regulatory and technical tools required to implement voluntary emissions milestones and a backstop trading program for major stationary sources of SO<sub>2</sub> in the 9-state, Western transport region. The successful result, popularly known as the "Annex" to the Grand Canyon Visibility Transport Commission Report, was recently codified by EPA in the form of amendments to section 309 of the Regional Haze Rule (40 CFR 51.309).

The Annex program provides a mechanism for states and tribes which opt into it to satisfy their BART obligations, in lieu of source-specific BART determinations. As a result, those states and tribes who choose the 309 option have a clear path towards satisfying SO<sub>2</sub> BART, which is a cornerstone of the visibility provisions of the Clean Air Act.

However, in order for all the states and tribes in the WRAP to meet the requirements of the Haze Rule, it is essential to address BART eligible sources in the rest of the WRAP region. This would include states and tribes in the nine-state GCVTC transport region which choose not to opt for section 309, as well as states and tribes that were not eligible for section 309 (Washington, Montana, North Dakota, South Dakota, Alaska, and the tribes therein).

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The WRAP's schedule for submitting regional haze plans for those Class I areas not covered by the Section 309 plans leaves little time for states to respond to a BART rule promulgated in 2005. (Under the Tribal Authority Rule, tribes are not subject to implementation plan deadlines but are encouraged by EPA to coordinate their efforts with state time lines). It is therefore imperative to the success of regional haze planning in the West to have the BART rules in place as soon as possible, preferably before April 15, 2005.

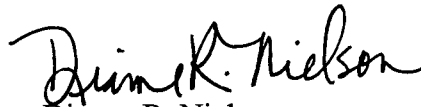
Ideally, the BART rule would have been finalized by December 1997 -- 18 months after the Grand Canyon Visibility Transport Commission issued its final report. Given the long and difficult history of EPA's effort to finalize the rule -- some of which was beyond EPA's control - - we feel that the time frame offered by the proposed consent decree is a reasonable path forward, though we encourage EPA to issue the final rule before April 15, 2005 if possible.

We therefore urge you to finalize the decree and proceed with the rulemaking as expeditiously as possible. Thank you for this opportunity to comment.

Sincerely,



Governor Fred S. Vallo, Sr.  
Pueblo of Acoma  
WRAP Tribal Co-Chair



Dianne R. Nielson  
Executive Director, Utah DEQ  
Designee for WRAP State Co-Chair