US EPA ARCHIVE DOCUMENT

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Richard Schutt
United States Environmental Protection Agency, Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, GA 30303-3104

Re: Improvements to Early Action Compacts in North and South Carolina

Dear Mr. Schutt:

This letter is to update you on the efforts the Southern Environmental Law Center ("SELC") and others are making to improve the Early Action Compacts ("EACs") in North and South Carolina and to solicit your participation in continuing this work.

As you know, after the March 31, 2004 milestone, when EAC groups were required to submit final control measures to the Environmental Protection Agency ("EPA"), a group of environmental and public health organizations, including SELC, worked with EPA to identify EACs that did not meet the minimum requirements of the EAC program. As a result, two EACs from Tennessee were eliminated from the program. While SELC in particular raised serious concerns about the North and South Carolina EACs, ultimately we did not ask EPA to eliminate them from the program at that time, instead choosing to work with the EAC groups to try to improve the EAC documents prior to the December 2004 deadline for incorporating the EAC control measures into each state's State Implementation Plan ("SIP").

During our several conference calls in April 2004, EPA acknowledged that many of the EAC documents were not yet in final form and that their control measures would need to be revised to meet the requirement that the measures be specific, quantifiable, permanent, and enforceable when incorporated into the SIP. While SELC believed at the time, and continues to believe, that the EACs were required to be in final form as of March 15, 2004, we nonetheless agreed to work with the EAC groups in our state to improve the EACs to the extent possible by the December 2004 deadline. EPA expressed support for our efforts, assuring us that if the EACs fail to improve sufficiently by the December 2004 deadline, EPA will consider eliminating additional EACs from the program.

Since the last EAC milestone in April, SELC has worked closely with North Carolina Department of Environment and Natural Resources, Division of Air Quality ("DAQ"), staff to improve existing EAC measures and include new measures as appropriate to make the EAC

program more robust. We have held several meetings and conference calls with DAQ and have submitted extensive documentation, including recommendations for improving specific EAC control measures. In addition, we met with the TRIAD EAC group and held a telephone conference with the Unifour EAC group; we expect to meet with the Fayetteville EAC group in September. We have already scheduled additional meetings with the TRIAD EAC group and will continue to make ourselves available to work with them and the other EAC groups to improve the EAC documents. Similarly, we have met with South Carolina Department of Health and Environmental Control, Bureau of Air Quality ("BAQ"), staff, submitted written recommendations for improving control measures contained in the key South Carolina EACs, and have made ourselves available for meetings or telephone calls with the key South Carolina EAC groups.

We believe there is an opportunity to improve North and South Carolina's EACs by the December deadline. However, the EAC documents all need substantial improvement to meet the minimum standards and it is unclear whether the political will can be generated to make the necessary improvements. Unless all parties actively engage in improving the EACs, SELC will be forced to consider recommending that EPA eliminate some or all of the North and South Carolina EACs from the program. As you are aware, a facial challenge to the EAC program has been filed in the D.C. Circuit Court of Appeals by a coalition of environmental and public health groups, but with the desire to have this issue "stayed" pending a review of the EACs at the December 2004 milestone. It is our hope that all EACs that do not meet minimum standards will be eliminated to avoid the need to seek a judicial ruling on the validity of the EAC program.

We welcome EPA's participation in our efforts on the North and South Carolina EACs to maximize our chance of improving the documents to an acceptable level. Please let us know how EPA plans to address this issue between now and the EAC milestone in December.

Sincerely yours,

David Farren /MN

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