October 24, 2003

J.I. Palmer, Jr., Esq.
Regional Administrator
U.S. EPA, Region 4
Sam Nunn Federal Center
61 Forsyth Street, SW
Atlanta, GA 30303-8960

Re: Designation of North Carolina Nonattainment Areas under the Revised 8-hour Ozone Standard

Dear Mr. Palmer:

The Southern Environmental Law Center ("SELC") submits these comments on behalf of the Southern Alliance for Clean Energy and Environmental Defense in response to the July 15, 2003 submission of North Carolina to the U.S. Environmental Protection Agency ("EPA") concerning the proposed boundaries for areas within the State to be designated as nonattainment under the revised 8-hour standard for ozone. These organizations and SELC, a non-profit regional environmental organization dedicated to the protection of natural resources in North Carolina and throughout the Southeast, have worked extensively on air quality issues in North Carolina and are committed to ensuring that nonattainment boundaries for the revised 8-hour standard are set in a manner that is consistent with the requirements and intent of the Clean Air Act ("CAA") to protect public health with an adequate margin of safety. For this reason, we strongly support EPA's presumptive boundaries for nonattainment areas as set out in its 2000 guidance document, "Boundary Guidance on Air Quality Designations for the 8-Hour Ozone National Ambient Air Quality Standards," over the limited and insufficiently protective boundaries proposed by North Carolina. The policy and legal reasons for our position are set out below.

Introduction

Pursuant to the CAA, EPA is required to set National Ambient Air Quality Standards ("NAAQS") sufficient to protect the public health with an adequate margin of safety. 42 U.S.C. § 7409 (a) & (b). In 1997, EPA revised the NAAQS for ozone from .12 parts per million ("ppm") measured over 1-hour intervals ("the 1-hour standard") to .08 ppm measured over 8-hour intervals ("the 8-hour standard") in order to reflect the best scientific evidence available on the public health effects of ozone. Implementation of the 8-hour standard was delayed, however, by several years of litigation, culminating in the Supreme Court ruling in Whitman v. American Trucking Associations, 531 U.S. 457 (2001), which upheld the 8-hour standard and determined that the CAA allows only consideration of public health effects, and not cost, in setting the NAAQS.

Along with many areas of the country, North Carolina has a serious problem with ozone pollution that is threatening the health and well being of its citizens, and damaging its environment. According to monitoring data used to identify both EPA's and DAQ's proposed boundaries, 23 of 33 counties monitored were found in violation of the 8-hour ozone standard for the years 2000-2002. That is, monitors in those counties showed a three-year average of the annual fourth highest value at levels of .085 ppm or higher, in violation of the 8-hour standard. Included in these 23 counties were several of the state's most populated areas, as well as the Great Smoky Mountains National Park. In the recently released American Lung Association 2003 State of the Air Report,[1] also based on the 8-hour standard, North Carolina was found to host 3 of the 25 most ozone-polluted cities in the country and received failing air quality grades for 27 of 33 counties studied. Thus, while all areas of the State are currently attaining the 1-hour ozone standard, this gives a false sense of security, obscuring the fact that under the best scientific knowledge available, much of our State's population is breathing air that is damaging to its health.

Nonattainment designations provide areas with important tools to help bring themselves into compliance with the federal health-based air quality standards. For stationary sources, these tools include additional pollution control technology requirements for existing and new sources of pollution, and pollution offset requirements for new sources of pollution. For mobile sources, the primary source of ozone pollution in most of North Carolina's metro areas, a nonattainment designation brings with it the important tool of transportation conformity.

Thus, while North Carolina has taken aggressive action to combat air pollution from the state's coal fired power plants through the passage of the Clean Smokestacks Act in 2002, North Carolina's responsibility to ensure clean air for its citizens does not end there. Particularly for those citizens living in nonattainment areas, the State should use all measures at its disposal to reduce ozone pollution to safe levels. It is EPA's role to ensure that North Carolina take all appropriate steps to demonstrate the State's commitment to cleaning the air in these areas to the level of the health-based standard by establishing an appropriate designation of nonattainment areas for the eight-hour ozone standard. For the following reasons, we urge EPA to apply its presumptive boundaries to define North Carolina's nonattainment areas for the 8-hour standard.

[1] Available at http://www2.lungusa.org

By doing so, you will greatly enhance the State's ability to address the serious problem of ozone pollution and implement the standards as intended by Congress.

I. The Clean Air Act Requires Nonattainment Designations to Include Areas Surrounding Violating Monitors, Plus Nearby Areas That Contribute to Violations of the Eight-Hour Standard.

Pursuant to § 107(d)(1)(A) of the CAA, governors are required to submit to EPA proposed designations of all areas of the state as attainment, nonattainment, or unclassifiable following the promulgation of new or revised NAAQS. Governors are required to designate as nonattainment "any area that does not meet (or that contributes to ambient air quality in a nearby area that does not meet) the national primary or secondary ambient air quality standard for the pollutant." 42 U.S.C. § 7407(d)(1)(A)(i) (emphasis added). EPA may then "make such modifications as the Administrator deems necessary" in promulgating the final nonattainment boundary designations. Id. § 7407(d)(1)(B)(ii). In its report on the 1990 Amendments, the United States Senate highlighted Congress' intent that nonattainment areas be defined broadly, noting that "[t]he bill explicitly provides that EPA may include within the boundary [of a nonattainment area] an area that may cause or contribute to nonattainment in another area, regardless of whether pollutant concentrations in the first area exceed the standard." S. Rep. No.228, 101 st. Cong., 2nd Sess. 15, reprinted in 1990 CAA Legislative History 8338, 8353.

Even prior to the 1990 Amendments, which made explicit the breadth of EPA's duty to designate nonattainment areas, EPA designated and courts upheld broad nonattainment boundaries in order to fulfill the basic purposes of the Act. In Western Oil and Gas Ass'n v. United States Environmental Protection Agency, 767 F.2d 603 (9th Cir. 1985), for example, the Ninth Circuit rejected an industry challenge to the inclusion of counties without violating monitors in a designated nonattainment area. The EPA included the disputed counties because they contributed significantly to the monitored violations of the ozone and carbon monoxide standards in neighboring counties. In upholding EPA's decision, the court agreed with the agency's reasoning that a nonattainment area should be large enough to allow for the imposition of needed control measures on the sources that are contributing to the violation of an air quality standard. The court also agreed that the alternative – narrowly defined boundaries – risked over-control of sources within the nonattainment area and probable under-control of sources outside of the area. This, in turn, could result in an economically and technically unreasonable pollution control strategy.

Likewise, in State of Ohio v. Ruckelshaus, 776 F.2d 1333, 1340 (6th Cir. 1985), Ohio petitioned EPA for the redesignation of a portion of the Cleveland ozone nonattainment area to attainment because air quality monitors there did not show violations. In upholding EPA's denial of the petition, the court reasoned:

> It appears a permissible exercise of [its] authority for EPA to deny redesignation with respect to a component of a nonattainment area which produces a substantial portion of the area's pollution even though the air within that component tests at an acceptable level. If it were otherwise, the fortuitous circumstance that pollutants and

> precursors emitted within a county are moved by prevailing winds to a neighboring county would deprive EPA of the tools Congress provided for attacking pollution in the area of which the county is logically a part.

776 F. 2d at 1340. See also, United States Steel Corp. v. United States Environmental Protection Agency, 605 F.2d 283 (7th Cir. 1979), cert. denied, 444 U.S. 1035 (1980), (upholding EPA's designation of a broad nonattainment area based on monitoring and modeling results showing air quality violations in the area).

II. EPA Should Follow its Own Guidance and Designate the Metropolitan Statistical Area, or County in Non-MSA Areas, Surrounding Violating Monitors as the Boundaries of Nonattainment Areas.

EPA's 2000 guidance for implementation of the eight-hour ozone standard closely follows the statutory requirements and legislative intent in calling for broadly drawn nonattainment boundaries:

> The EPA believes that any county with an ozone monitor showing a violation of the NAAQS and any nearby contributing area needs to be designated as nonattainment. In reducing ozone concentrations above the NAAQS, EPA believes it is best to consider controls on sources over a larger area due to the pervasive nature of ground level ozone and transport of ozone and its precursors. Thus, EPA recommends that the Metropolitan Statistical Area or the Consolidated Metropolitan Statistical Area (C/MSA) serve as the presumptive boundary for 8-hour NAAQS nonattainment areas. We believe this approach will best ensure public health protection from the adverse effects of ozone pollution caused by population density, traffic and commuting patterns, commercial development, and area growth. In the past, areas within C/MSAs have generally experienced higher levels of ozone concentrations and ozone precursor emissions than areas not in C/MSAs. In addition the 1990 Amendments to the CAA established the C/MSA as the presumptive boundary for ozone nonattainment areas classified as serious, severe and extreme.

2000 Guidance at 3 (emphasis added). In addition, "[i]n areas where the 1-hour NAAQS still applies, EPA's presumption is that the designated 8-hour nonattainment boundary will be the C/MSA or the 1-hour nonattainment area, whichever is larger." Id. at 6.

Thus, in order to "best ensure public health protection from the adverse effects of ozone pollution," EPA's guidance applies the following presumptions:

- Any MSA with a violating monitor will be designated nonattainment in its entirety.
- Any non-MSA county with a violating monitor will be designated nonattainment in its entirety.
- Any area in violation of the 1-hour standard with a violating monitor will be

designated nonattainment in its entirety unless the C/MSA is larger.

- Any county contributing to a violation will be designated nonattainment in its entirety, even if the contributing area shows attainment.

EPA *may* allow a state to deviate from these presumptive boundaries if the state addresses each of eleven factors identified in the guidance and demonstrates that "the resulting recommendation is consistent with § 107(d)(1) of the Act." Id. at 4. North Carolina attempts to take advantage of this narrow exemption and apply it to all but one of the State's eight non-attainment areas under the 8-hour standard. Analysis of the data provided by North Carolina in its July 15, 2003 submission, however, demonstrates that it has provided minimal justification for its substantial departure from EPA's presumptive use of full counties and MSAs. In fact, the most important factors identified in EPA's 2000 guidance, including population density, commuting patterns, monitoring data, locations of emissions sources, expected growth, jurisdictional boundaries and meteorology, reinforce rather than refute the use of EPA's presumptive boundaries.

Indeed, many of the areas for which North Carolina has proposed boundaries smaller than EPA's guidance are considered high-growth areas. One egregious example is the Rocky Mount area. While EPA would designate the entire Rocky Mount MSA, including all of Edgecombe and Nash counties, North Carolina proposes to designate only the single township in Rocky Mount where the violating monitor is located, a tiny speck in Edgecombe County. Such a designation would allow Rocky Mount to induce industry to locate immediately outside of the small nonattainment designation, exacerbating rather than helping to control air pollution by encouraging industrial site location anywhere in the MSA as long as it is outside of the small designated area. The proposed designation is also inconsistent with addressing mobile source pollution through transportation planning in the metro area.

Other examples of insufficient justifications for partial county designations in high growth areas are found in Johnston, Randolph, and Catawba counties. North Carolina's own data shows that these three counties, which are all parts of MSAs and would be designated in full under EPA's guidance but are designated only partially by the State, have large population bases and high rates of vehicle miles traveled ("VMT"). These two factors alone would indicate that these counties should be included within the nonattainment boundary in full in order to reap the benefits of coordinated transportation and land-use planning. The Triad and the Triangle have already been ranked as the United States' second and third most sprawling metro areas in a recent report by researchers at Rutgers and Cornell Universities.[2] Nonattainment designations and transportation conformity should be seen as an opportunity to cure this problem rather than simply shift it further into outlying areas.

As illustrated by these examples, using the boundaries of MSAs to delineate nonattainment areas is not only consistent with EPA's 2000 Guidance, but it also promotes both air quality benefits and economic fairness. The general concept of an MSA "is that of a core area containing a large population nucleus, together with adjacent communities having a high degree of economic and social integration with that core." U.S. Bureau of the Census,

[2] See Ewing, Pendall & Cheng, "Measuring Sprawl and its Impact" (available at http://www.smartgrowthamerica.com/sprawlindex/MeasuringSprawl.PDF).

Population Estimates Program, Population Division (1997). Given the high degree of economic and social integration of communities within an MSA, there is an equally high degree of probability that sources throughout the MSA, including the cars of commuters traveling to the population nucleus, contribute to air quality violations within particular portions of the MSA. As mentioned in the Rocky Mount example above, it is also likely that these areas will share recruiting for key industries. It would produce absurd air quality results, as well as inequitable distribution of economic costs and benefits, if industries were more encouraged to locate in the southeastern corner of Catawba County, which North Carolina has proposed to designate as attainment, but not a couple of miles away in the surrounding non-attainment areas of Catawba, Lincoln, or Iredell counties. Such a result would not only add point source pollution, but additional mobile source pollution due to increased commuting distances. Under EPA's broader designations, such bizarre attainment area "cutouts" would not exist.

Furthermore, under the Early Action Compact program currently being undertaken in four areas of the State proposed for nonattainment status, counties have entered into cooperative agreements to work together to locally control air pollution in order to avoid the consequences of nonattainment designation under the 8-hour standard. In order to maintain the cooperation and integration encouraged by this program, we believe that entire EAC areas should be designated as non-attainment. In many areas, this will simply involve designating the MSA, as presumed by EPA guidance. For example, Burke, Caldwell, Alexander, and Catawba counties are all signatories to the Unifour EAC and parts of the Hickory-Morganton MSA, yet under North Carolina's proposal only part of each county is listed as a nonattainment area. Similarly, in the Triad EAC, which boasts 11 county signatories, Randolph, and Davie counties have only partial inclusion in North Carolina's proposed boundaries. Non-MSA counties that should be designated in full by virtue of their participation in an EAC and the presence of a violating monitor within the county include Caswell, Haywood, and Rockingham counties.

To the degree that North Carolina wants to depart from EPA's guidance, any recommendation to exclude part of an MSA or county surrounding a violating monitor from the designated nonattainment area should be supported by air quality modeling that demonstrates that these areas do not violate the standard and that sources within the excluded portions of the MSA or county do not contribute to ozone formation in the nonattainment area under any weather conditions. It should also include a reasoned and convincing analysis based on the other EPA guidance factors demonstrating that exclusion is appropriate. North Carolina's submission fails to meet this standard.

III. North Carolina Must Also Include In Its Proposal Areas That Contribute to Ambient Air Quality In a Nearby Area That Does Not Meet The 8-Hour Standard

The materials made available by North Carolina provide no information about sources outside of counties with nonattaining monitors that may contribute to nonattainment areas, and hence, by the terms of the statute, must be included in the nonattainment boundaries. Such information must be made available to EPA and be considered during the nonattainment boundary recommendation process.

As stated previously, under 42 U.S.C. § 7407(d)(1)(A) and EPA guidance, if North Carolina has reason to believe that sources contribute to ozone violations in nearby areas, it must

draw the nonattainment boundaries to capture these sources. It is inadequate for North Carolina simply to promise that appropriate control strategies and regulations will be developed for such sources in the event that they are excluded from the nonattainment area.

The purpose of giving EPA the authority to broadly define nonattainment areas is to better equip the state and EPA with tools necessary to clean up sources contributing to violations of air quality standards. As the Sixth Circuit noted in rejecting a scheme identical to that now being proposed by North Carolina, "were [it] otherwise, the fortuitous circumstance that pollutants and precursors emitted within a county are moved by prevailing winds to a neighboring county would deprive EPA of the tools Congress provided for attacking pollution in the area of which the county is logically a part." State of Ohio v. Ruckelshaus, 776 F.2d at 1340.

IV. An Area By Area Analysis of North Carolina's Proposed Restrictive Boundaries Demonstrates That They Are Not Supported by the Factors in EPA's Guidance.

North Carolina attempts to deviate from EPA's presumptive boundaries through an area-by-area discussion of the eleven factors in the EPA Guidance to justify smaller boundaries for all but one of the 8-hour non-attainment areas in North Carolina. In all cases, the proposed nonattainment area boundaries have been artificially circumscribed by ignoring or discounting important data, which actually supports EPA's presumptive boundaries. For the reasons set out below, proper application of the factors to each area would result in significant expansion of the proposed boundaries for each of the nonattainment areas.

A. Charlotte/ Gastonia/ Rock Hill Area

Portions of several counties that are part of the Charlotte MSA have been arbitrarily excluded from the proposed nonattainment area. Rather, the entire MSA should be designated, including all of York County, S.C., as well as adjoining counties with violating monitors that contribute to non-attainment in the area.

For example, the northeastern portion of Cabarrus County is excluded by North Carolina's proposal, even though it is directly adjacent to a monitor in Rowan County (Rockwell) with a design value of 98 parts per billion ("ppb"), which is well above the 85 ppb 8-hr threshold. Another close by monitor (Enochville) registers an even higher 101 ppb. Thus, it is unreasonable to conclude that this area of Cabarrus County is in attainment. In addition, Cabarrus County is rapidly growing with a projected population increase of 28 percent between 2000 and 2010. Further, all of Cabarrus County is within the Charlotte MPO jurisdiction, demonstrating that the entire county is a growth area and should be considered as a whole for planning purposes.

Similarly, North Carolina proposes to omit a portion of northwest Rowan County even though the two monitors in the county register 98 and 101 ppb, respectively. Rowan County is also a high growth area with a projected increase of 16 percent this decade and the entire county is included in the MPO planning boundary. The excluded northwest portion of the county is immediately adjacent to the Interstate 40 corridor, meaning that this area is especially likely to experience future growth and serve as an attractive site for industrial facilities.

North Carolina also proposes to include only approximately the southern third of Iredell county, even though the county is also surrounded on all sides by five violating monitors in adjoining counties, simply because there is no monitor in Iredell County itself. In addition, North Carolina fails to analyze population density and trends for this county in its attempt to support the partial designation. This is particularly inappropriate because Iredell County is immediately adjacent to Mecklenburg county, the core county in the MSA, and is rapidly growing, especially along the Interstate 77 corridor into the northern part of the county, which connects the area directly with downtown Charlotte and has a high number of commuters into Charlotte. For these reasons, Iredell County is one of the fastest growing in the State with a projected growth rate of 26 percent.

North Carolina fails to include the western half of Lincoln County in its proposed designation even though a monitor just east of the proposed boundary line registers 94 parts per billion (Crouse). It is unreasonable to assume that areas immediately to the west of the monitor abruptly drop off to below 85 ppb. Also, Lincoln County is another high growth area with an expected population increase of 22 percent over this decade.

Union County also should be designated in its entirety rather than only its western half given that it has a violating monitor in the central portion of the county (Monroe). In addition, this is another very rapidly growing county with an expected population increase over the next decade of a phenomenal 35.7 percent. The area is served by several major U.S. highways, making the area even more attractive for residential and industrial development.

Further, York County South Carolina, which is part of the Charlotte MSA, should be included in the designation as urged by the City of Charlotte, to allow for coordinated air quality planning throughout the metropolitan area.

B. Greensboro/ Winston-Salem/ High Point Area

The entire Greensboro/ Winston-Salem/ High Point MSA, and contributing counties with violating monitors, should be designated nonattainment rather than the recommendation submitted by North Carolina, which includes partial counties. It is noteworthy that this larger area is participating in EPA's Early Action Compact ("EAC") program and it would be arbitrary and unworkable from the planning perspective not to include the entire EAC area as the proposed nonattainment area.

Stokes County is part of the MSA but has been omitted from the proposed nonattainment area simply because it has no monitor. A monitor just south of the county line, however, registers a design value of 92 ppb (Shilo Church). In addition, this county contributes substantial NO_x emissions to the nonattainment area. In fact, it has a power plant which produces one of the highest levels of NO_x emissions in the State. The county emits 339.65 tons per day – over ten percent of the entire state. Clearly, this satisfies EPA's standard to include areas with emissions "contributing to" nonattainment in the area, which North Carolina does not even attempt to rebut in its submission. In addition, Stokes County has the second highest number of commuters into Forsyth County, a core MSA County, and a projected 16.2 percent growth rate for the decade.

Similarly, Yadkin County, which is also part of the MSA but has no monitor, is arbitrarily excluded from the proposed designation in its entirety. The county is surrounded by

violating monitors, making it highly unlikely that the County does not exceed the ozone standard. This is another high-growth county with a projected 17.7 percent population increase over the next decade, and also immediately adjacent to the core Forsyth County. The fact that it is bisected by two major roads (I-77 and U.S. 421) make the County especially attractive for further industrial and residential development.

North Carolina recommends that only one township in Davie County be included in the non-attainment area because this township has the sole monitor in the county. The monitor has a design value of 95 ppb, making it exceedingly unlikely that the rest of the county is in attainment of the 8-hour standard. In addition, the County has a projected 20 percent growth rate over the next decade, is immediately adjacent to Forsyth County and is bisected by Interstate 40.

Caswell County is not in the MSA but is immediately adjacent to it and has a monitor showing a violation at 91 ppb (Cherry Grove). Similarly, Rockingham County, another adjacent non-MSA county, has a violating monitor registering a design value of 90 ppb (Bethany). It is arbitrary to include only the townships with these monitors, especially given the equally close proximity of other portions of the counties to the MSA.

C. Raleigh/ Durham/ Chapel Hill Area

The entire Raleigh/ Durham/ Chapel Hill MSA, which measures the third highest ozone values in the state, should be included in its entirety. The entire counties of Chatham, Franklin, Granville, Johnson and Person should be designated as nonattainment, rather than only portions of these counties.

Franklin County is an MSA county but North Carolina recommends including only two townships. This proposal would capture only approximately a third of the county population, which is very rapidly growing with a 24.8 percent growth rate expected over the next decade.

Johnson County is another MSA County for which the State recommends only partial designation. This county is not only immediately adjacent to Wake County, the most populous in the MSA, but also is bisected by Interstate 95 and served by Interstate 40. Consequently, the county has a phenomenal 38 percent growth rate projected for the next decade.

Chatham County is another MSA county, but the State recommends designating only three northeastern townships and omitting townships with equal population density and more industry. Although the Pittsboro monitor currently barely shows attainment of the 8-hour standard, the county is very fast growing with a projected rate of 21.8 percent over the next decade and has many commuters into the adjoining counties along two major U.S. highways leading to Durham/ Chapel Hill and Raleigh. Significantly, the State's analysis fails to register the number of commuters into Orange County, the closest major employment center. Further, there are several major industrial facilities in the county near Moncure, which contribute large amounts of NO_x emissions, which would not be included in the State's proposed designation.

The State proposes to designate only a tiny portion of Granville County, a non-MSA county, consisting of a single township. The Granville County monitor, however, is the highest in the entire Triangle area with a design value of 94 ppb. The county, which borders Durham and is readily accessible to Raleigh, has many commuters to these cities along major highways,

including Interstate 85, which bisects the county. Also, the county has a high 20 percent growth rate projected for the next decade.

Person County is not an MSA county, but is immediately adjacent to a monitor which exceeds the 8-hour standard (Bushy Fork). North Carolina proposes to include only the southwest corner of the county. The county contributes a whopping 221 tons per day of NO_x to the region, most of which come from two major sources, both of which are outside of North Carolina's proposed boundaries. In addition, the county is rapidly growing, with a 14 percent growth projection over the next decade, producing an increasing number of commuters into the core of the Triangle region.

D. Rocky Mount/ Edgecombe MSA

The State recommends including only the tiny area of Leggett rather than the entire two county Rocky Mount MSA, which consists of Edgecombe and Nash counties. North Carolina's designation of only the small area of the MSA where the monitor happens to be located is extremely arbitrary. North Carolina's rationale that the area produces less pollution than Raleigh/ Durham must be rejected as irrelevant. It will be impossible to take any steps within this tiny area to have an appreciable effect on ozone in the Rocky Mount MSA. In fact, much of the pollution comes from the area along Interstate 95 in the MSA, which is outside the proposed boundary.

E. Hickory/ Morgantown MSA

North Carolina recommends including only the area within the MPO boundary rather than the four-county area. North Carolina and EPA, however, have already established that the entire four-county area is the relevant air quality planning airshed when it established this larger boundary as the Early Action Compact area. The significant level of NO_x emissions in the four-county area (150 tons per day) also indicates that the larger designation is appropriate.

F. Asheville MSA and Mountain Sites

North Carolina proposes to exclude Madison County, even though it is a rapidly growing area within the MSA boundary. Although much of the area is currently rural, the completion of a new interstate bisecting the County and connecting it with downtown Asheville ensures rapid growth and future industrial development potential. In addition, adjoining Haywood County has a violating monitor and should be added to the nonattainment area.

The inclusion of only areas above 4000 feet adjacent to Great Smoky Mountain National Park is arbitrary and unworkable. North Carolina does not even attempt to justify this boundary based on EPA's 2000 guidance and EPA must reject this submission in favor of county-wide boundaries, given the existence of violating monitors in Haywood, Yancey, and Jackson Counties. Designating only elevations above 4000 feet, where there is no development or industry, will do absolutely nothing to improve air quality.

V. Conclusion

North Carolina has failed to justify its circumscribed boundaries for nonattainment areas based on either the language and intent of Section 107(d) of the Clean Air Act or the eleven factors in EPA's 2000 guidance. To the contrary, the law favors expansive boundaries. It is imperative that EPA ensure that North Carolina continue to act decisively to protect our health and natural resources from ozone pollution. It can do so by insisting on appropriate designations for the State's many nonattainment areas for the 8-hour ozone standard. For all the foregoing reasons, we urge EPA to adhere to its presumptive boundaries in designating each of these areas.

We thank you for the opportunity to submit these comments. In addition, we request a meeting with you and your staff at your earliest convenience to discuss our grave concerns with North Carolina's submission.

Respectfully submitted,

J. David Farren, Senior Attorney

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