



Minnesota Center for Environmental Advocacy

The legal and scientific voice protecting and defending Minnesota's environment

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July 15, 2009

VIA ELECTRONIC AND U.S. MAIL

Commissioner Paul Eger
Minnesota Pollution Control Agency
520 Lafayette Road
St. Paul, 55155

**Re: Emissions Limits for BART-Eligible EGUs
Regional Haze Rule, 40 CFR §§51.300-308**

Dear Commissioner Eger:

These comments are submitted on behalf of the Minnesota Center for Environmental Advocacy ("MCEA") in response to the Minnesota Pollution Control Agency's ("MPCA") apparent failure to ensure that the proposed emissions limits for BART-eligible electric generating units ("EGUs") which will be included in the forthcoming Regional Haze State Implementation Plan ("SIP") will comply with federal regulations. The Friends of the Boundary Waters Wilderness ("Friends"), the National Parks Conservation Association ("NPCA"), and the Voyageurs National Park Association ("VNPA") join with MCEA in the submission of these comments and incorporate these comments as their own.¹

MCEA, Friends, NPCA, and VNPA write to strongly urge the MPCA to reconsider its decision to forgo the required analysis for BART-eligible EGUs and take the time it needs to comply with the Regional Haze Rule in determining emissions limits for BART-eligible EGUs. We understand that MPCA intends to release a revised Haze State Implementation Plan for public comment on Monday,

¹ As indicated in the attached organizational information, each of these organizations has a significant interest in protecting and improving visibility in the Class I areas in Minnesota and in Michigan, including the Boundary Waters Canoe Area Wilderness ("BWCAW"), Voyageurs National Park ("VNP"), and Isle Royale National Park. We submit these comments as significant stakeholders in the outcome of the Minnesota Regional Haze State Implementation Plan.

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July 20, 2009, and send this version of the Haze SIP to EPA without including the legally required analysis or emissions limits for BART-eligible EGUs. We are extremely concerned with the MPCA's apparent decision to ignore its legal obligations to regulate BART-eligible EGUs as required by the Regional Haze Rule, 40 CFR §§51.300-.308.

MCEA, Friends, NPCA, and VNPA submitted comments, dated April 17, 2009, (attached), raising our concern with the apparent failure of the MPCA to comply with the Regional Haze Rule in establishing the BART emissions limits for BART-eligible EGU's. Since submitting these comments, we have had an opportunity to review comments from the National Park Service ("NPS"), dated June 26, 2009, and the Forest Service ("FS"), dated April 28, 2009. The comments from both the NPS and FS indicate that at the time of their review the MPCA had, indeed, failed to comply with its legal obligations under the Regional Haze Rule to ensure that the proposed emissions limits for BART-eligible EGUs comply with federal regulations.

Minnesota's BART-eligible EGU emissions are no longer regulated under the Clean Air Interstate Rule ("CAIR"). As a result, MPCA must demonstrate that the emissions reductions required for BART-eligible EGUs are determined through either the BART analysis for BART-eligible EGUs pursuant to Appendix Y to Part 51 – Guidelines for BART Determinations Under the Regional Haze Rule, 70 Fed. Reg. at 39,156, or through other alternatives which achieve greater reasonable progress toward natural visibility conditions than that achieved through BART emissions reductions pursuant to 40 CFR §51.308(e).

After reviewing the comments from the NPS and FS, it is clear that the Amended Haze SIP reviewed by the NPS and FS did not include the required BART analysis for BART-eligible EGUs or other legally permissible alternatives. We understand that the MPCA intends to release the Amended Haze SIP for limited public comment on Monday, July 20, 2009 without the legally required analysis for BART-eligible EGUs and notwithstanding the significant concerns raised by the NPS and FS regarding the emissions limits for BART-eligible EGUs.

It is our understanding that completing the final steps of the BART analysis and determining the legally required emissions limits for BART-eligible EGUs will not take a significant amount of time or resources. Considering the significant amount of resources and time which the MPCA has invested in developing a comprehensive Haze SIP, we are confused by the MPCA's decision to go forward without including the information needed to ensure that the Haze SIP will comply with the Regional Haze Rule. While we are eager to have a final Haze SIP in place to move us towards the goal of achieving natural visibility conditions in our Class I areas, we believe that the MPCA must take the time it needs to ensure that emissions limits for BART-eligible EGUs comply with federal regulations and protect the air quality of our Class I areas to the maximum extent allowed.

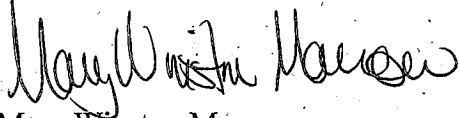
A failure by the MPCA to ensure that emissions limits for BART-eligible EGUs are adequately regulated is not only a failure of the MPCA to comply with its legal obligations to protect our Class I areas, but leaves our Class I areas vulnerable to continued degradation due to visibility impairment.

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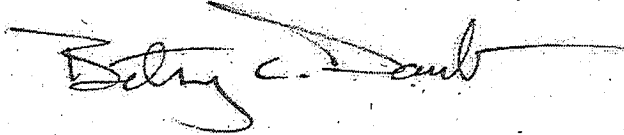
MCEA, Friends, NPCA, and VNPA request that the MPCA postpone the release of the Amended Haze SIP for public comment and complete the required analysis for BART-eligible EGUs prior to releasing the SIP for public review and comment.

Please feel free to contact us with any questions or concerns you would like to discuss.

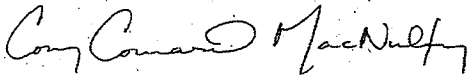
Sincerely,



Mary Winston Marrow
Staff Attorney
Minnesota Center for Environmental Advocacy



Betsy Daub, Policy Director
Friends of the Boundary Waters Wilderness



Cory McNaulty
Executive Director
Voyageurs National Park Association



Lynn McClure
National Park Conservation Association

Cc: David Thornton, Assistant Commissioner, MPCA (via electronic mail)
John Seltz, Air Policy, MPCA (via electronic mail)
Catherine Neuschler, Air Policy, MPCA (via electronic mail)
Cheryl Newton, US EPA (via electronic and U.S. mail)
James W. Sanders, Forest Service
Don Shepherd, National Park Service (via electronic and U.S. mail)
Chris Holbeck, National Park Service (via electronic mail)
Trent Wickman, Forest Service



Minnesota Center for Environmental Advocacy

The Minnesota Center for Environmental Advocacy is a Minnesota-based non-profit environmental organization whose mission is to use law, science, and research to preserve and protect Minnesota's natural resources, wildlife, and the health of its people. MCEA has state-wide membership. MCEA's members live, work, and recreate in the BWCAW, VNP and Isle Royale National Park. The Regional Haze State Implementation Plan (Haze SIP) involves environmental impacts in many of the areas of MCEA's work, including air quality, public health, and protection of natural resources.



The Friends of the Boundary Waters Wilderness ("Friends") is the only organization in the country focused squarely on protecting the Boundary Waters Canoe Area Wilderness. The Friends, a non-profit organization, exists to protect, preserve, and restore the recreational and ecological treasures of the BWCAW, and to defend the BWCAW against pressures created by excessive logging, invasive species, overuse, development, and industrial pollution. The Friends represent nearly 4,500 individuals, family foundations, and organizations, many of whom live adjacent to or regularly visit the BWCAW. Friends' members, along with 258,000 visitors annually, travel to the BWCAW in part to enjoy and seek the health benefits of its clean air. That enjoyment and those health benefits are curtailed on days where high levels of pollutants cause low-visibility and render the air in and around the BWCAW less safe.



Voyageurs National Park Association

Voyageurs National Park Association ("VNPA") is a private, non-profit organization with the mission of protecting and promoting Minnesota's only National Park, Voyageurs National Park ("VNP"). The Voyageurs National Park Association meets its mission through a focus on protecting the park by addressing policy issues, providing direct support to Park projects, and advocating to ensure long-term protection of the Park's resources.



National Parks Conservation Association®

Protecting Our National Parks for Future Generations®

The National Parks Conservation Association ("NPCA") is a national non-profit organization working to protect and enhance America's National Parks for present and future generations. NPCA plays a crucial role in ensuring that these magnificent lands and landmarks are protected. The work of NPCA includes advocating for the national parks and the National Park Service, and educating decision makers and the public about the importance of preserving the parks. NPCA represents more than 330,000 members dedicated to park preservation and ensuring that our parks are protected for present and future generations. The NPCA's Midwest office works to protect national parks in the region, including Voyageurs and Isle Royale.