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west virginia department of environmental protection

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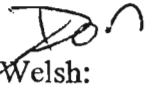
Executive Office  
601 57<sup>th</sup> Street SE  
Charleston, WV 25304

Joe Manchin III, Governor  
Stephanie R. Timmermeyer, Cabinet Secretary  
[www.wvdep.org](http://www.wvdep.org)

February 21, 2005

Donald S. Welsh  
Regional Administrator  
U.S. EPA Region III  
1650 Arch Street (3RA00)  
Philadelphia, PA 19103-2029

Re: Supplemental Request for Revision to  
Designations for Specific West Virginia  
Counties Under the PM<sub>2.5</sub> Standards

Dear Mr.  Welsh:

The State of West Virginia is herein requesting that the U.S. Environmental Protection Agency (EPA) revise its air quality designations for two counties. We are requesting that the full counties of Mason and Pleasants, including the Tax Districts of Graham and Grant, respectively, be designated as Unclassifiable/Attainment for the PM<sub>2.5</sub> air quality standards. The West Virginia Department of Environmental Protection (WVDEP) worked closely with EPA Region III senior staff to develop designation recommendations based upon certified data for the period 2001-2003. We followed the relevant guidance when we excluded these counties from our initial nonattainment recommendation last year (February 2004).

At EPA's insistence, we amended our original recommendation to designate as nonattainment, portions of these two counties that contained power plants. The EPA alleged that emissions from these plants contributed to nonattainment in nearby violating counties without any verifying data. The agency subsequently designated part of Mason County (Graham Tax District), and part of Pleasants County (Tax District of Grant) as nonattainment for PM<sub>2.5</sub>. We now believe that EPA exceeded its authority by expanding the respective nonattainment areas to include these two partial counties. The EPA departed from its established policies and acted inconsistently in determining many of the nonattainment areas and associated boundaries, including the two aforementioned partial counties. There is no monitoring data that indicates a violation of the PM<sub>2.5</sub> air quality standard in either area. The areas have been targeted solely because of the presence of power plants. The EPA chose to disregard meteorological data provided by the State that contradicts EPA's position. Furthermore, the agency's own modeling results indicate the areas attain under the Clean Air Interstate Rule (CAIR) which EPA expects to release in a matter of weeks. The EPA has erred on several points, including but not limited to:

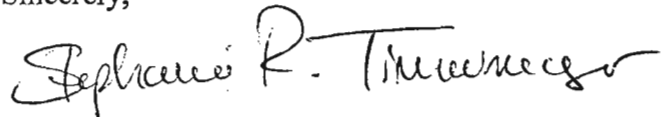
Promoting a healthy environment.

Donald S. Welsh  
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- EPA has not based its decision upon quality assured, monitored air quality data
- EPA failed to perform atmospheric modeling that shows violations of the PM<sub>2.5</sub> standards in these areas
- EPA has inappropriately applied CAA Section 107(d)(4)(A) in establishing boundary criteria
- EPA has ignored the State's authority to regulate sources deemed "significantly contributing" whether or not such sources are located in designated nonattainment areas
- EPA disregards its own promotion of emission trading programs, especially for electric utility facilities, by unnecessarily placing these areas in nonattainment.

There are other legal arguments as well which indicate that EPA is acting outside of its legal authority by designating these areas as nonattainment. Therefore, we are formally requesting that EPA revise the designation of both areas to Unclassifiable/Attainment for the PM<sub>2.5</sub> air quality standards. If you or your staff have any questions or would like additional information, please feel free to contact me or John Benedict, Director of WVDEP's Division of Air Quality.

Sincerely,



Stephanie R. Timmermeyer  
Cabinet Secretary

cc: Ms. Judith M. Katz, Director  
Air Protection Division  
John Benedict, Director,  
WVDEP Division of Air Quality