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VT

MOOSEHORN WILDERNESS
ME

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NH

ROCKY MOUNTAIN CAMPOBELLO
NATIONAL PARK
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MANE-VU Comments on EPA / Bill Harnett Memorandum – “Process for Interstate Consultation on Regional Haze SIP Development”

The Mid Atlantic/Northeast Visibility Union (MANE- VU) thanks the U.S. Environmental Protection Agency (EPA) for the opportunity to submit comments on the above-named memorandum from Bill Harnett to the EPA Regional Office Air Directors. MANE-VU was formed by the Mid-Atlantic and Northeastern states and tribes to coordinate regional haze planning activities for the region.

MANE-VU appreciates EPA’s purpose as explained in the memo to “provide a general overview of the collaborative process we expect States to undertake” as they develop their regional haze State Implementation Plans (SIPs). All participants understand that the required upcoming consultations as delineated in the regional haze regulations, may be difficult as there is no regulatory “stick” requiring resolution of any disagreements. The regulations require simply that consultations occur during the SIP development process, and that they are documented in the states’ SIP submittals. Yet MANE-VU is hopeful that the consultative process may serve as a paradigm for future cost-effective , non-regulatory solutions to the air pollution problems that we realize are regional in nature and involve the transport of pollutants across state boundaries. Accordingly, we too have been working on consultation frameworks to assist our member’s intra- and inter-RPO consultations work.

MANE-VU also appreciates EPA’s effort to develop some sense or order, via the suggested timeframes for certain steps to occur, on the upcoming consultation process. However, MANE-VU does have some concerns regarding some of the steps in EPA’s process, as follows.

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In two of the time periods in the outline, late 2006 through early 2007 and early spring 2007, there are similar bullet items requiring states to “Bring any remaining disagreements forward to EPA.” This statement is inconsistent with the language in the Subpart P regulations where any areas of disagreement are to be outlined in the SIPs when they are submitted. The consultation requirements envision state-to-state consultations. Although we do see both EPA and the FLMs at the consultation table, so that they may follow the discussions and be informed of the issues as they occur, MANE-VU does not see EPA’s role as one of resolving disagreements between the states, however desirable that may or may not be. Rather, in accordance with the regulatory language, EPA’s only regulatory responsibility is either approving or disapproving the SIPs.

For example, in Subpart P State/Tribal-to-State/Tribal consultations are required for developing the reasonable progress goals by the Class I states (40 CFR 51.308(d)(1)(iv)) and the long-term strategies by all contributing states (40 CFR 51.308(d)(3)(i)). Likewise, State/Tribal-to-Federal Land Manager (FLM) consultations are required in person at least 60 days prior to the SIP public hearing (40 CFR 51.308(i)(2)) and on plan revisions and 5-year progress reports (40 CFR 51.308(i)(4)). Nowhere in any of the regulations is EPA mentioned as a participant or mediator. MANE-VU concludes that EPA’s role is that of an observer at the consultations, and our invitation to participate would be extended for this purpose. Which we hope you will accept. We would of course appreciate any feedback EPA has to offer, but any additional role for EPA, or any assumption of additional responsibilities by EPA, is not recommended.

Another concern of MANE-VU is section 5 of the attachment to the memorandum which states that all parties are to sign the documentation of the consultation(s). The above comments apply here as well – the regulations make no mention of EPA taking part in the consultations much less any requirement that any of the parties “sign” the documentation. This suggestion that the documentation be signed may take a great deal of effort and resources, and there is no indication of whose signature would suffice for this purpose. Again, MANE-VU recommends EPA not pursue such a path.

Finally, the memorandum is addressed to EPA Regional Office Air Directors and states that EPA worked with those staffs in developing this memorandum. However, as far as

we know, neither the RPOs nor the states have been contacted regarding their views or needs in this process. While additional communications is a burden, MANE-VU believes that the process that EPA is endeavoring to develop would be better informed with more specific RPO and state input. As discussed on a recent RPO Directors call we recommend EPA meet with the RPO Directors prior to funding this memorandum or making a decision to draft or issue other guidelines.

Thank you again for the opportunity to submit comments on the memorandum. If you have any questions, please feel free to contact me at (202) 508-3840.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Recchia", written over a light blue horizontal line.

Christopher Recchia

Executive Director

Cc: MANE-VU members

RPO Directors