

EXHIBIT NO. 1

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|---------------|--------------------|--------|------------------|
| To:           | Mayor Kerry Donley | From:  | Jim Wamsley      |
| Organization: | City of Alexandria | Date:  | January 13, 2003 |
| Fax:          | (703) 838-6433     | Pages: | 3 to follow      |
| Phone:        |                    | Re:    |                  |

Dear Mayor Donley,

You may be aware that Congress is considering a rider to weaken the Clean Air Act, which could have major implications for the Washington area. Specifically, the proposed rider would allow EPA to issue clean air deadline extensions without reclassifications, which could leave the DC area in the "serious" category, without needed controls on air pollution.

The Sierra Club and other environmental groups are asking local officials from Maryland, DC and Virginia to sign on to the following letter to Congress, opposing such a rider. We are hoping to send the letter out by Wednesday, January 15<sup>th</sup>. Following the letter is more background information about the rider.

Please let me know if you can sign on to this letter. You can reach me at (703) 751-6086; [jawamsley@comcast.net](mailto:jawamsley@comcast.net). Thanks.

Sincerely,

Jim Wamsley  
Transportation Chair  
Sierra Club, Virginia Chapter

**200 North Glebe Road, Suite 905, Arlington, VA 22203  
TEL: 703-312-0533 FAX: 703-312-0508**

The Honorable Ted Stevens  
Chair, Appropriations Committee  
United States Senate  
Washington, DC 20510

The Honorable Robert Byrd  
Ranking Member, Appropriations Committee  
United States Senate  
Washington, DC 20510

The Honorable Bill Young  
Chair, Appropriations Committee  
United States House of Representatives  
Washington, DC 20515

The Honorable David Obey  
Ranking Member, Appropriations Committee  
United States House of Representatives  
Washington, DC 20515

Dear Senators Stevens and Byrd and Congressmen Young and Obey:

We understand that officials from the Environmental Protection Agency (EPA) may be supporting attempts to block anti-smog requirements for the Washington, DC area and other cities across the country. We are concerned about the impact that this would have on the health of our region's residents, and urge you not to include EPA's proposal in the FY2003 omnibus appropriations bill, or any of the FY2004 appropriations bills.

Specifically, we understand that EPA may be seeking a statutory change to the Clean Air Act that would codify the agency's practice of extending air quality attainment deadlines without imposing new pollution control measures. The 1990 Clean Air Act allowed EPA to extend a city's deadline for complying with air quality standards, but in return required the agency to demand stronger pollution control measures. EPA's practice of extending cities' deadlines without imposing new pollution controls has forced communities like the national Capitol region to live with dirtier air.

As local and state elected officials, we have long been concerned with the quality of our region's air. Last summer the Washington, DC area suffered its worst ozone pollution in more than a decade, including two "code purple" days, nine "code red" days and 19 "code orange" days. This severe pollution poses special threats to residents with asthma and other respiratory diseases, including more than 53,000 asthmatic children. In addition, it would negatively impact communities outside the Washington, DC area, such as Baltimore, that are already complying with tighter pollution control requirements.

Enacting legislation that weakens the Clean Air Act would send our region down a path toward dirtier air at a time when we should be finding ways to improve public health in our communities. We urge you not to include any proposals that would weaken anti-smog requirements in the FY2003 omnibus appropriations bill, or any other bills.

Sincerely,

Briefing Paper by David Baron, Earthjustice, January 10, 2003

### **EPA Rider to Roll Back Clean Air Protections for Polluted Cities**

Reports have surfaced that EPA is planning to offer a rider to weaken anti-smog requirements for cities that missed clean air deadlines. Such a roll back would threaten the health of millions of Americans living in those cities and in downwind states:

- \* Ozone, a principal component of urban smog, is a severe lung irritant even to healthy adults. It can cause shortness of breath, chest pains, increased risk of infection, aggravation of asthma, and significant decreases in lung function. Elevated ozone levels have been linked to increased hospital admissions and emergency room visits for respiratory causes. Ozone presents a special health risk to small children, the elderly, persons with lung ailments, and adults who are active outdoors.
- \* The 1990 Clean Air Act, signed by the first President Bush, classified cities as marginal, moderate, serious or severe based on the severity of their ozone pollution problem. Areas with higher classifications were given more time to meet clean air standards, but also had to adopt stronger anti-pollution measures. The clean air deadline for moderate areas was 1996, for serious areas 1999 and for severe areas 2005.
- \* Where a city missed its clean air deadline, the Act required that it be reclassified ("bumped") to the next highest classification. For example, if a serious area failed to meet standards by 1999, it was to be reclassified to severe. It would then be given until 2005 to meet standards, but would also have to adopt the stronger pollution controls required for severe areas.
- \* EPA has illegally extended the clean air deadlines for a number of cities *without* bumping them up to higher pollution categories. These include the Washington, D.C. (a "serious" area), Atlanta (serious), Beaumont-Port Arthur Texas (moderate), Baton Rouge LA (serious), and St. Louis (moderate).<sup>1</sup>
- \* As a result of EPA's illegal deadline extensions, the air in these cities is substantially dirtier than it should be. Reclassification triggers stronger pollution control requirements for industry as well as additional measures to reduce pollution from car and truck exhaust. These stronger measures are already required in numerous cities throughout the nation, including Chicago, Milwaukee, Baltimore, Philadelphia, New York, Wilmington, and Trenton.
- \* The courts have consistently ruled that EPA's extension policy violates the language and purpose of the Clean Air Act. Rather than accepting the judgment of the courts, however, EPA is now apparently seeking a rider to validate its policy.
- \* EPA claims that deadline extensions and bump up waivers for the above areas are justified because those areas are impacted somewhat by pollution transported from other areas (generally

<sup>1</sup> The state has requested redesignation of St. Louis to "attainment" for ozone. If the area is redesignated to attainment, the issue of the extension policy will be moot there.

within the same state). But other cities with higher classifications (and therefore stronger local pollution control requirements) are *also* impacted by transported pollution – in some cases to a much greater extent. For example, transported emissions account for a smaller percentage (24%) of the ozone problem in the Washington D.C. area than in severe areas such as Baltimore (56%), Philadelphia (32%), or New York (45%).

\* If revived by Congress, EPA's extension policy would delay the adoption of badly needed antipollution measures in the affected communities. Last summer, the Washington, DC area suffered from the worst ozone pollution in more than a decade, with 9 "code red" (unhealthful) days, and 19 "code orange" days (unhealthful for children and persons with lung ailments).

\* Adoption of the EPA policy would also make it harder for *other* communities to meet clean air standards. Pollution from cities like Washington, DC, Atlanta, Beaumont, and Baton Rouge can be transported elsewhere, where it contributes to ozone violations. Cities like Baltimore, Philadelphia, and New York that have already adopted more protective "severe" area measures should not have to put up with pollution from upwind cities that have failed to adopt the same level of control.