

October 17, 2008

Mr. David A. Finley, Administrator
Division of Air Quality
Department of Environmental Quality
122 West 25th Street, Herschler Bldg.
Cheyenne, WY 82002

**Re: Supplemental Comments on Permits AP-6044, AP-6045, and AP-6046,
Proposed BART Permits for Trona Plants in Southwestern Wyoming**

Dear Mr. Finley:

Please accept these supplemental comments from the Wyoming Outdoor Council regarding the above-referenced Best Available Retrofit Technology (BART) permits for the FMC Granger, FMC Westvaco, and General Chemicals Green River Works trona mines and mills in Sweetwater County. These comments supplement the comments we submitted to the Wyoming Department of Environmental Quality (DEQ) regarding these proposed permits on September 10, 2008.

We would like for the DEQ to consider the combined impacts of these three plants on visibility in the Bridger Wilderness Area Class I area prior to issuing these permits. Based on data presented in the proposed permits, the three plants would have the following impacts on visibility at baseline conditions, DEQ's proposed BART limits, and based on our proposals made in our earlier comments:

Plant	Baseline visibility	Visibility impairment	Visibility impairment in
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	impairment in 2001 (in deciviews—dv)	in 2001 under DEQ’s proposed BART (dv) (percent reduction from baseline shown in parentheses)	2001 under our proposed BART (dv) (percent reduction from baseline shown in parentheses)¹
FMC Granger	0.327	0.327 (0)	0.209 (36) ²
FMC Westvaco	0.566	0.432 (24)	0.368 (35)
General Chemicals Green River Works	0.840	0.720 (14)	0.530 (37)
Total Impairment	1.73	1.48 (14.5)	1.11 (36)

Clearly existing baseline conditions of visibility impairment represent a situation where these three plants together are causing significant visibility impairment in the Bridger Wilderness Area. And under DEQ’s proposed BART for these three plants this visibility impairment would only be reduced by a little over 14 percent. This is a minor reduction in impairment, and we do not feel this limited proposed regulatory action would meet either the goals or the legal requirements of EPA’s regional haze rule. Under our proposals—requiring BART at some level for the Granger facility rather than totally excluding it from BART requirements as DEQ proposes and requiring post-combustion NO_x controls on the Westvaco and Green River Plants rather than only low NO_x burners as DEQ proposes—would reduce visibility impairment in the Bridger Wilderness Area to a much greater degree, creating conditions that at least approach only 1 dv of impairment.

As we pointed out in our earlier comments, regardless of whether DEQ’s proposed permits may meet the State of Wyoming regulatory requirements expressed in Chapter 6, Section 9 of the Wyoming Air Quality Standards and Regulations (WAQSR), in addition, ultimately, this permitting action must meet the requirements of EPA’s regional haze rule which will be triggered when the State submits its State Implementation Plan (SIP) revision to EPA for approval, as it must, soon. We do not believe that the State’s proposed BART requirements—and in the case of the Granger facility a complete exemption from BART requirements—can meet the requirements for a SIP revision under EPA’s regional haze rule when visibility impairment is reduced only 14 percent and substantial impairment in excess of 1 dv will remain just from these plants alone.

¹ In our September 10 comments we proposed that selective non-catalytic reduction should be used for the Westvaco plant and selective catalytic reduction should be used for the Green River Works to control NO_x emissions.

² We estimated what the likely reductions would be for the Granger Facility if the DEQ were to require some BART. Under our proposals, reductions of 35 percent and 37 percent would occur for the Westvaco and Green River Works facilities, respectively, so we have assumed a reduction of 36 percent could be achieved for the Granger facility if the DEQ were to require some BART.

Under the regional haze rule the State must ensure reasonable progress towards achieving natural visibility conditions by 2064 and must ensure a uniform rate of progress that will achieve this. The reasonable progress goal must ensure improvement of visibility on the 20 percent most impaired days and ensure no degradation in visibility on the 20 percent least impaired days. We doubt that this can be achieved if the DEQ allows for this substantial impairment to remain in place when there are additional readily available measures available that would ensure much greater progress toward natural visibility conditions at a much faster rate. If these additional controls are not required now, what assurance is there they can be in the future? These controls will likely only become more and more expensive over time. Having declined to impose these controls at the first available opportunity it will only be that much harder and perhaps impossible to require them in the future. Maintaining the necessary rate of progress will be difficult or impossible. To achieve natural visibility conditions on the 20 percent least impaired days, the State is going to have to ensure visibility impairment in the Bridger Wilderness is less than 1 dv, a level that would be violated by these plants alone as currently proposed, and of course these plants are only a few of many sources of impairment that no doubt create total impairment much greater than the 1.48 dv of remaining impairment mentioned above. Thus, the state should reduce the impairment resulting from these plants as much as possible in order to have a reasonable chance of meeting the requirements of the regional haze rule.

We recognize the State seems to approach this problem as only needing to ensure that each individual source of emissions—each boiler—does not contribute to visibility impairment of greater than 0.5 dv in order to meet the requirements of State law. But again, ultimately this permitting effort must also pass muster under Federal law. And we feel that approaching this permitting exercise in a way that ignores the overall contribution of these plants to visibility impairment, and the combined contribution of these plants to visibility impairment, is guaranteed to create a myopic view that will make it difficult or impossible to meet the requirements of the EPA regional haze rule, as well as the Clean Air Act's goal of remedying all visibility impairment in Class I Areas. At a minimum, the Westvaco and Granger Plants are owned by the same company, so treating them separately and at the individual boiler level makes little or no sense in our view. It is a classic gambit in air quality regulation to minimize the effects of regulations by defining the problem in the narrowest terms possible so as to create an unfounded finding that air quality impacts are minimal or nonexistent. The DEQ should ensure that it takes a "big picture" look at these plants and the haze they create and not just the narrow view it is currently using in order to meet the requirements of the regional haze rule.

We would also note the following. Wyoming's air quality regulations require that when impairment of visibility in a Class I area has been certified, and the cause of that impairment is attributed to one or a few existing stationary sources that cause or contribute to the impairment, then "[e]ach existing stationary source facility located in Wyoming to which the cause of or contribution to visibility impairment in any Class I area is reasonably attributable, shall install and operate BART as expeditiously as practicable" WAQSR Chapter 9, Sections 2(d)(i)(B) and 2(d)(ii). In our view the DEQ has certified, constructively, that impairment of visibility exists in the Bridger Wilderness Area due to the three trona plants. In addition it has attributed this impairment to the three trona plants. Consequently, under Chapter 9 of the WAQSR all three plants must be subject to BART requirements.

The DEQ has stated unequivocally in the three proposed permits that the three plants are currently causing a baseline visibility impairment of 1.73 dv based on 2001 data. This represents a de facto certification of impairment by DEQ. It has attributed this impairment to each of the three plants—0.327 dv due to the Granger plant, 0.566 dv due to the Westvaco plant, and 0.840 dv due to the Green River Works. Thus, the DEQ has determined that this small group of sources is causing or contributing to visibility impairment in the Bridger Wilderness Area—it has determined that visibility impairment is “reasonably attributable” to this small group of sources. A combined impairment due to a small group of sources that exceeds 1 dv is certainly a “cause” or “contribution” to visibility impairment situation.³ Thus, under the explicit terms of Wyoming’s regulations, the DEQ must require that the three trona plants “shall install and operate BART.”

This requirement has most relevance to the Granger Plant, which the DEQ currently proposes to exempt from BART. We would note that this requirement applies not only to a single existing stationary source but also to a “small group of existing stationary sources,” so that even if the Granger Plant standing alone does not contribute as heavily to visibility impairment as the other two plants, that does not absolve it from BART requirements when the combined effect of this “small group of existing stationary sources” is to impair visibility. Said differently, the “cause or contribution” language in section 9(d)(ii) clearly must be viewed through the lens of a “small group of existing stationary sources” because section 9(d)(i)(B) is explicit in that regard. This is especially true since the three trona plants are in close proximity to each other and two of them are operated by the same company. Likewise, the definitions of cause or contribute found in the regional haze regulations at Chapter 6, Sections 9(d)(i)(A)-C) of the WAQSR, which apply to a “single source,” cannot undercut the provisions in Chapter 9 of the WAQSR for controlling plume impairment because those regulations explicitly state that the attribution of visibility impairment applies to “one or a few existing stationary sources,” not just a “single source.”

The plume impairment regulations in Chapter 9 of the WAQSR apply as surely to this permitting decision as do the regional haze requirements in Chapter 6, Section 9, and when those regulations are considered it is apparent that BART must be required for the Granger facility.

Thank you for considering these comments, and we look forward to remaining involved in these BART permitting decisions as well as the State’s regional haze rule SIP revision.

Sincerely,

Bruce Pendery,

³ “Visibility impairment” means “any humanly perceptible change in visibility (visual range, contrast, coloration) from that which would have existed under natural conditions.” WAQSR Chapter 9, Section 2(c)(ix) (emphasis added). The Western Regional Air Partnership’s Technical Support System website at <http://vista.cira.colostate.edu/tss/> shows that natural visibility on the twenty percent least impaired days in the Bridger Wilderness Area is approximately 0.6 dv.

Staff Attorney

cc: Governor Dave Freudenthal
Wyoming Environmental Quality Council
Wyoming Air Quality Advisory Board
Callie Videtich, EPA
Bruce Polkowsky, National Park Service
Bud Rolofson, Forest Service