

STATE OF MISSOURI      Bob Holden, Governor • Stephen M. Mahfood, Director  
**DEPARTMENT OF NATURAL RESOURCES**

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February 5, 2004

Mr. James B. Gulliford  
Regional Administrator  
EPA Region VII  
901 N. 5<sup>th</sup> Street  
Kansas City, KS 66101

Dear Mr. Gulliford:

Thank you for the opportunity to respond to your letters dated December 4 and 12, 2003 regarding Missouri's recommendation for geographic boundaries for nonattainment areas under the national, health-based 8-hour standard for ground-level ozone. Let me emphasize our most important message up front to ensure it is not lost in the details below: we respectfully, but emphatically, disagree with your proposal to include Ste. Genevieve County in the designated nonattainment area for the St. Louis region.

Before addressing specific technical issues, I strongly urge you to consider these comments carefully before you finalize the designations in April. As you know, the Missouri Department of Natural Resources developed the state's recommendation starting from a technical review and progressing through a stakeholder workgroup process, including a formal public hearing before the Missouri Air Conservation Commission. We were gratified by your recognition of this extensive technical and stakeholder involvement process in your December letter:

"The Missouri [DNR's] work with the Kansas City and St. Louis communities and the State of Kansas to develop a community-based recommendation was unique nationally. This working relationship with the communities should be helpful in the future."

We too hope that this working relationship will be helpful in the future. The Environmental Protection Agency's (EPA) response in this process will help determine if stakeholders view such a process as worthwhile. Accordingly, we encourage EPA to weigh any modifications to our recommendation more carefully than if the recommendation were based solely on our agency's technical analysis following EPA's guidance.

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The department's recommendation for area boundaries was based on the most current ozone monitoring data (2000-2002) and the March 28, 2000 EPA guidance for developing 8-hour designation recommendations. The department developed the "Technical Support Document for Determination of Nonattainment Boundaries in Missouri for the 8-hour Ozone National Ambient Air Quality Standard" to gather the information necessary to make this recommendation and address the EPA criteria in detail. Below are the state's responses to EPA on its modifications to Missouri's designation recommendations for St. Louis and Kansas City.

### **St. Louis**

In August 2003, Missouri forwarded its recommendation for nonattainment area designations for the 8-hour ozone standard. The recommendation proposed the same boundaries as the existing 1-hour ozone standard maintenance area which includes the counties of St. Louis, St. Charles, Franklin; Jefferson and the City of St. Louis. As noted above, this proposed recommendation was based on all available technical data, applicable EPA guidance and policy (including EPA's "Eleven Criteria"), as well as extensive stakeholder input. However, after states submitted their recommendations, EPA developed and applied new national policy in evaluating recommendations and making modifications. In particular, we understand that EPA is now applying a new national policy on how proposed emission sources are considered in weighing the "Eleven Criteria." EPA's mid-process policy change makes it difficult to craft a response.

Notwithstanding these concerns, we disagree with EPA's modification of Missouri's recommendation even if the new policy is used. EPA's modification of Missouri's recommendation appears to be based on outdated information related to growth of NOx emissions. Consequently, we believe that EPA's proposal to include Ste. Genevieve County is not justified, even with the application of EPA's new policy.

As stated in our original recommendation, sufficient data exists to support exclusion of Ste. Genevieve County from the nonattainment area. The small population, small VOC emissions, limited vehicular traffic, lack of urbanization, ozone monitoring currently showing compliance, location outside the EPA presumptive boundary, and limited population growth indicate that this county does not meet the guidelines for inclusion. However, as we read your December 4 letter, we discerned some key points that presumably lead to your proposal to include Ste. Genevieve County. What follows is our response to these key points:

1. EPA's December 4, 2003 letter: "A county without a violating monitor that is contiguous to a nonattainment area and includes a large emissions source or significant emission sources, whether pending or actual sources, should be presumed to be contributing to the nonattainment area. Such a county should be designated nonattainment unless the sources have in place or are in the process of actually installing Federally enforceable emission controls, and the source or sources are not subject to a trading program. The Federally enforceable controls must be among the most stringent controls that are used on that type of source category"

MDNR response: There are three facilities of interest (existing/pending) in Ste. Genevieve County. There are two existing lime kilns with pending modifications and one new proposed cement kiln. To our knowledge, there are no other kilns operating in the United States with Federally enforceable controls more stringent than these newly proposed projects. Therefore, the controls that are being proposed *are* among the most stringent controls that are used on that type of source category. In fact, the recently drafted cement kiln permit calls for Selective Non-Catalytic Reduction for control of NO<sub>x</sub> during the ozone season.

2. EPA's December 4 letter: "Due to potential major point source growth [in Ste. Genevieve County] in the near term, NO<sub>x</sub> emissions are expected to grow by at least 10,670 tons per year."

MDNR's response: This information from our earlier recommendation is now out of date. The department recently updated its projected emissions based on additional permit applications and permit conditions. Thus, the current information for the estimated NO<sub>x</sub> growth from "new" point sources since 1999 in Ste. Genevieve County is 3,100 tons during the ozone season, well below the original EPA estimates of 4,500 tons during the ozone season (cited in your December 4 letter as 10,670 tons per year.) The total NO<sub>x</sub> emissions from Ste. Genevieve County, including future potential emissions, represent only 5.6% of the total St. Louis Metropolitan Statistical Area (MSA) emissions. Also, even when considering future growth, the total VOC emissions from Ste. Genevieve remain small, representing about 2% of total MSA emissions.

3. EPA's December 4 letter: ". . . EPA Region 7 has determined that Missouri has not established a convincing position that Ste. Genevieve County should be excluded because of the existence of unaddressed large, potential, and existing emission sources lacking Federally enforceable state-of-the-science emission controls that are among the most stringent used on that type of source category."

MDNR's response: If Ste. Genevieve County was included in the St. Louis 8-hour ozone nonattainment area, a more stringent New Source Review Program would be implemented and the state would conduct an evaluation of NO<sub>x</sub> Reasonably Available Control Technology (RACT) for existing major sources. We do not believe that applying RACT would result in more stringent control requirements. We believe that it is reasonable to expect that a recent Best Available Control Technology (BACT) evaluation is sufficient to meet the NO<sub>x</sub> Reasonably Available Control Technology (RACT) requirements. Therefore, the potential amount of NO<sub>x</sub> emissions available for reduction would be considerably smaller than the total NO<sub>x</sub> emissions from the county. There would likely be little benefit in the amount of additional reduction achieved from major source control on "newly permitted" sources. In short, there is no tangible environmental advantage in adding Ste. Genevieve County into the nonattainment area.

### Kansas City

As noted in your December 12 letter, with EPA's decision that the exceedances of the 8-hour standard recorded on April 11 and 12 should be flagged and thus not counted in the 3-year

average calculation, Kansas City will be in attainment for the 2001-2003 monitoring season. Therefore, I am hereby revising the Kansas City boundary designation recommendation to request Kansas City be designated in attainment with the 8-hour standard for this period. The department acknowledges that the Rocky Creek monitor will very likely be in violation of the 8-hour standard for the 2002-2004 monitoring period. We will contact you on this point at the conclusion of the 2004 monitoring season. We are encouraged by the fact that local officials, in conjunction with the Mid-America Regional Council, are already working to determine how they might improve air quality in the immediate future and for the longer term. Department of Natural Resources staff will keep you informed of the activities and accomplishments of this group.

Additionally, because we are asking Kansas City to be declared in attainment with the 8-hour ozone standard, the issue of including a portion of Cass County becomes moot for now, and therefore we will not go into detail in our response. However, if we were designated a nonattainment area at this time, we would stand on our recommendation calling for inclusion of only the northern part of Cass County (consistent with the metropolitan planning organization boundary.)

### **Summary**

We believe that the information provided above, including the more current technical data, addresses the EPA's basis for modification of Missouri's designation recommendation and provides ample basis for EPA to withdraw its modification. We would not hesitate to accept EPA's modification if we believed it was technically supported and would provide a cost-effective mechanism to achieve clean air for Missourians. However, our goal must be to monitor and manage air quality to assure protection of public health and the environment with least amount of economic impacts to communities and industrial operations in Missouri.

Although we disagree strongly with EPA's modification of Missouri designation recommendation, we do recognize that there are long-term air quality issues in Missouri – both in St Louis and Kansas City areas – that deserve serious attention. In particular, we believe EPA, the State of Missouri and stakeholders need to work together to develop a plan to address upwind VOC and NOx sources, from the areas immediately bounding on St. Louis that may affect the nonattainment area.

The Missouri Department of Natural Resources has had preliminary discussions with the St. Louis Regional Commerce and Growth Association, RegFORM, affected industrial sources and local officials to develop a proposal to address emissions from upwind sources in the counties adjacent to the St. Louis nonattainment area. In the very near future, these discussions will broaden to include additional stakeholders. With the proposal, we are considering additional controls, emission offsets, and air quality analyses beyond the federal Prevention of Significant Deterioration program. Since this program would address multiple sources and multiple counties, we believe it has the potential to produce real air quality benefits.

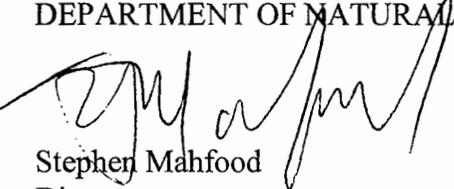
We are excited about the prospect of developing a solution we believe has greater potential to produce real air quality benefits than including Ste. Genevieve County in the nonattainment area. We would like to obtain tangible support and specific commitments from EPA to assist these efforts.

Finally, we request that you continue to accept comments for a full 120 days to ensure a full opportunity for state and public comment. I recognize that you are operating on a court-ordered deadline to complete the designations by April 15, 2004. Nonetheless, we urge you to consider as many comments as possible for as long as possible because of the strong reaction we have heard from various Missouri stakeholders, and the need to ensure that their voices are heard. I understand that Texas state officials have already made a similar request of EPA.

Thank you for the opportunity to comment on EPA's proposed 8-hour ozone boundary designations. Should you have any questions, please contact me at (573) 751- 4732.

Sincerely,

DEPARTMENT OF NATURAL RESOURCES



Stephen Mahfood  
Director

SM/mjb

c: Missouri Congressional Delegation  
Eight-hour ozone standard boundary designation stakeholder workgroup  
Other interested parties