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March 21, 2014

Mr. George S. Aburn
Director
MDE – Air & Radiation Management Administration
1800 Washington Boulevard
Baltimore, MD 21230

Dear Tad:

On behalf of the Midwest Ozone Group, Gene Trisko and I would like to thank you for the opportunity to meet with you on March 12, 2014 to discuss the “good neighbor” requirements of the Clean Air Act. We particularly appreciate your insight into these issues and your vision about how these issues might be resolved.

Following our meeting, we prepared a discussion paper that sets forth a framework for consideration of three specific action items that you raised. That discussion paper is enclosed for your review. We hope we have fairly characterized these discussion items. We share your hope that by acting now, it might be possible for both upwind and downwind states not only to provide a basis for resolving the pending 176A petition, but also to lay the groundwork for resolving the new transport rule being developed by USEPA.

We are providing a copy of this letter to Rob Kaleel of LADCO and John Hornback of SESARM/Metro 4 as part of our initial effort to create a dialogue on these matters.

We look forward to working with you on this important issue during the months ahead.

Very truly yours,

A handwritten signature in blue ink that reads 'David M. Flannery'. The signature is fluid and cursive, with a large, looping 'D' at the beginning.

David M. Flannery

DMF/vlr

cc: Eugene M. Trisko, Esquire
Rob Kaleel, LADCO
John Hornback, SESARM/Metro 4

DISCUSSION PAPER:
ELEMENTS OF A “GOOD NEIGHBOR” OZONE SIP

USEPA’s development of a new ozone transport rule and the recent filing of a petition to expand the Ozone Transport Region, again raise the question of what, as a practical matter, is needed to satisfy the “good neighbor” provisions of the Clean Air Act.

Reductions in emissions from many source categories and related improvements in air quality in much of the nation suggest that significant progress is being made in achieving the nation’s air quality goals and in addressing the good neighbor responsibilities of each state.

Additional action, however, may be needed to address certain matters if agreement is to be reached on how the good neighbor provision might need to be applied at this time. These additional discussion items include:

1. In response to an invitation to join the Ozone Transport Region, several upwind states submitted letters in the summer of 2013 which detailed the nature of their regulatory programs and how these programs addressed their good neighbor responsibilities. It would be an appropriate next step for states to document the nature of their current programs and to point out the extent to which the air quality progress they have seen, and expect to see, has been and will be the result of enforceable measures.

2. It is generally understood that significant additional emission reductions from EGUs are likely to occur over the next few years in direct response to the shutdown or curtailment of operations of many units caused by economic and/or regulatory factors. It would be an appropriate next step for states to document which units have been or are likely to be shutdown or curtailed and for the air quality impact of those emission reductions to be assessed.

3. It is recognized that consistent with applicable regulatory requirements, EGU operators have the flexibility in operating their facilities while meeting NOx emission limitations to which they are subject. This raises a question about how NOx control equipment at EGUs is operated during certain parts of the ozone season – namely June 15 through August 15 and what, if any, air quality impacts may be associated with the manner of operation of that equipment. Once an analysis of this issue has been completed, depending on the results of the analysis, the discussion could turn to how any significant findings might be addressed.

Resolution of these issues and discussion of SIP development reflecting such a result may well provide a basis for resolving individual state responsibilities for addressing the good neighbor provisions of the Clean Air Act.