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Admitted in: ME, MA

August 10, 2018

**VIA U.S. POSTAL MAIL AND ELECTRONIC MAIL**

Jeffrey Crawford  
Maine Department of Environmental Protection  
17 State House Station  
Augusta, ME 04333  
[Jeff.s.crawford@maine.gov](mailto:Jeff.s.crawford@maine.gov)

Re: Clean Air Act Section 176A(a)(2) Ozone Transport Region Petition

Dear Mr. Crawford:

At the Department's July 30, 2018 public hearing on the above-referenced matter, I testified in support for the State of Maine's proposed Clean Air Act Section 176A(a)(2) Ozone Transport Region Petition on behalf of Sappi/S.D. Warren Company, McCain Foods, Dragon Products, Sprague Operating Resources, Portland Pipe Line Corporation, and the Maine Forest Products Council. It is my understanding that each of these companies will submit their own written comments in support of the Petition. I am writing this letter on my own behalf in support of the Petition, as a citizen of the State of Maine and attorney whose practice, for over 30 years, has focused on assisting clients comply with Clean Air Act requirements.

The Department's Petition provides ample technical evidence supporting a finding that Maine meets the requirements set forth in the Clean Air Act for removing a state (or part thereof) from the Ozone Transport Region (OTR). That data and the legal standard in the Clean Air Act speak for themselves. The purpose of this letter is to comment on a few other issues that were mentioned by opponents at the July 30, 2018 public hearing.

(1) Claim: Maine sources contribute to ozone exceedances in Maine.

As I understand it, Maine DEP has analyzed periods when elevated ozone has occurred in Maine and determined that in-state emissions have a negligible impact, at around 1%-3% of the ozone value. It is important to consider that science-based conclusion together with the information in Table 7 of the Petition. Table 7 indicates that, in 2011, stationary sources accounted for less than 23% of NOx and less than 6% of VOC emissions from all anthropogenic sources in Maine. Thus, stationary sources account for only a fraction of the 1%-3% contribution from in-state sources to elevated ozone in Maine. Furthermore, the sources potentially affected by the Petition are only major sources and major modifications which would comprise just a fraction of the overall emissions from in-state stationary sources. Thus, the Petition affects a fraction, of a fraction, of a fraction of emissions affecting ozone levels in Maine.

Taken all together, it is clear that the sources potentially affected by the Petition have a de minimis impact on elevated ozone levels in Maine. In light of this data, continued imposition of the OTR new source review requirements in Maine cannot be supported on



environmental grounds. Testimony at the hearing, and common sense, indicate that LAER and offset requirements impose additional burdens on potential large new investments in Maine. In light of the technical data, these OTR new source review requirements are not justified by a commensurate environmental benefit.

(2) Claim: The Petition will cause Maine to lose leverage with upwind states.

Pursuant to Sections 110(a)(1) and (2) of the Clean Air Act, states are required to develop and implement plans that provide for attainment of national ambient air quality standards (NAAQS). Downwind states, such as Maine, benefit from upwind states, such as Massachusetts and New York, being required to achieve attainment regardless of whether such a downwind state is in the OTR. Further, pursuant to Section 110(a)(2)(D)(i)(I) of the Clean Air Act (a.k.a. the "good neighbor" provision), state plans must contain adequate provisions to ensure emissions from a state do not contribute significantly to nonattainment in, or interfere with maintenance by, any other state with respect to any NAAQS. In addition, Section 126 of the Clean Air Act provides an avenue for Maine to force upwind states to comply with these obligations.

There is no basis to claim that the other OTR states can "rollback" any of their existing requirements due to the Petition. The Petition has no impact on upwind states' obligations under the Clean Air Act provisions cited above.

Further, after 30 years of practice in this area, I am not aware of any instance where membership in the OTR has provided Maine with "leverage" to get upwind states to adopt more stringent ozone precursor regulations than would have otherwise been the case. Thus, in the absence of actual examples of that occurring, in my view this is an empty theory that does not reflect reality and not a sufficient reason to remain in the OTR. By contrast, Section 126 of the Clean Air Act provides authority for any state to petition EPA to determine that an upwind state has inadequate requirements in its plan to meet Clean Air Act requirements, such as the "good neighbor" provision. This statutorily provided "leverage" is real and will remain unaffected by the Petition.

(3) Claim: The Petition will adversely affect Maine citizens' health.

The Department's technical analysis in the Petition as well as the facts in (1) above refute allegations that the Petition will have adverse impacts on elevated ozone levels in the State and, therefore refute allegations the Petition will adversely impact Maine citizens' health. I am not aware of any technical data supporting the opponents' claim.

I am aware of a study by the Indiana Department of Environmental Management which demonstrates no statistically significant relationship between ozone and asthma. See <https://www.cleanairact.org/events/documents/KeithBauques-April5-AirPollutionHealthScienceUpdates.pdf>.

While the evidence suggests that the Petition will not have a significant impact on Maine ozone levels and, therefore, citizens' health, the testimony at the hearing provided ample evidence that the Petition may lead to more investment in Maine businesses than would otherwise be the case if the status quo remains. As Maine's experience of the past few decades has made clear, industrial facilities that do not make investments in upgrades, improvements and expansions often do not survive. When they shut down, people lose

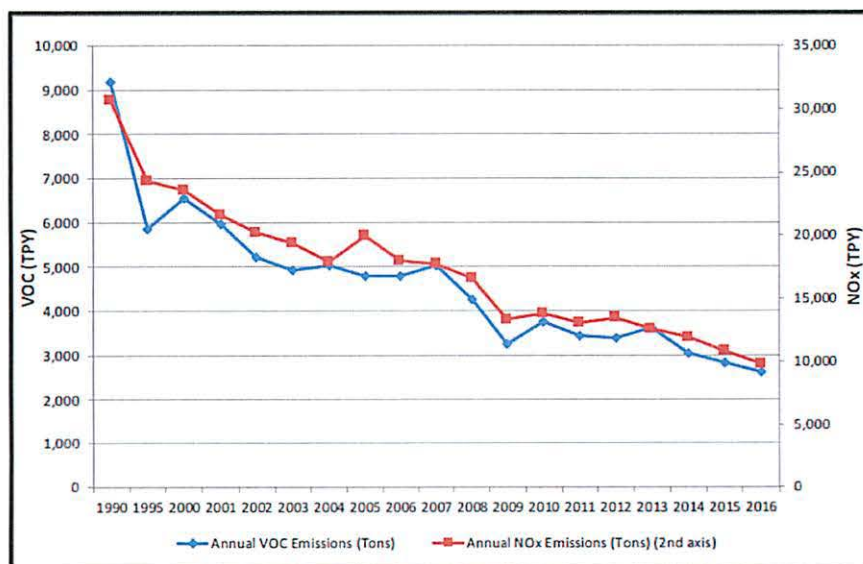
jobs. According to the Maine Center for Economic Policy, there is a link between unemployment, poverty and serious health concerns. Consider the following quote from Maine Center for Economic Policy Report:

“Long-term unemployment and poverty present serious health concerns—both for individuals and their families and for the economy at large. Americans in poverty are twice as likely to suffer a serious mental illness or harbor suicidal thoughts than those significantly above the poverty line. Americans who are unemployed or out of the labor force are also at increased risk of having serious mental health issues....”

“State of Working Maine 2017,” by Maine Center for Economic Policy, Section VII.

Based on this information, it is reasonable to conclude that the Petition will help maintain the economic viability of certain Maine businesses and, therefore, of the health of their employees. Thus, whereas there is no evidence to support the claim the Petition will adversely impact citizens’ health, testimony at the hearing supports a conclusion that removing the OTR new source review hurdles is an important step to encouraging investment and maintaining competitiveness of Maine’s industrial facilities and, therefore, continuing to provide jobs which leads to healthier citizens.

I would also point to the information in Table 10 (copied below) as refuting the claim that the Petition will lead to higher emissions. As the Department is well aware, a waiver from the LAER and offset requirements for NOx has been in place since the mid-1990s. Yet, based on the graph in Table 10, NOx emissions have fallen in parallel with VOC emissions for which there has been no such waiver. This graph dispels the notion that the Petition, which effectively provides a waiver for VOCs, will lead to higher VOC emissions.




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In summary, I too want Maine to have a clean and healthy environment. But, I also acknowledge that a healthy economy is important to preserving a healthy environment. I have experienced many instances of clients shying away, even altogether dropping, projects that would trigger LAER and offsets or accepting license limits that restrain production. An example that I recall too well is the widely reported incident that occurred in the mid-1990s when Louisiana-Pacific announced it was cancelling a potential expansion of its New Limerick facility and, instead, making the investment in a New Brunswick facility due to the cost and unavailability of offsets in Maine. DEP has cited other lost investments in the Petition. As Maine DEP Air Licensing staff is aware, there are a number of examples where facilities have accepted limits on production to avoid triggering the onerous and expensive OTR new source review requirements. Thus, the adverse economic impact on Maine facilities of these requirements is not theoretical – there are many examples. The data and analysis in the Petition demonstrate there is no longer a sufficiently compelling environmental benefit from remaining in the OTR to outweigh these lost economic opportunities.

I appreciate the opportunity to submit these comments for your consideration. If you have any questions, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "Dixon P. Pike", written in a cursive style.

Dixon P. Pike