

STATE OF MONTANA
AIR QUALITY CONTROL
IMPLEMENTATION PLAN

Subject: Missoula County
Air Quality Control
Program

BEFORE THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES
OF THE STATE OF MONTANA

In the matter of the Application)
of the City of Missoula and the)
County of Missoula for Approval)
of Amendments to its Local Air)
Pollution Control Program)

FINDINGS,
CONCLUSIONS,
AND ORDER

Background

1. On April 30, 1991, the Missoula City-County Air Pollution Control Board (MCCAPCB) filed an application with the Board of Health and Environmental Sciences (Board), seeking approval of substantial amendments to its local air pollution control program. A Stipulation between MCCAPCB and the Department of Health and Environmental Sciences (Department) has been presented to the Board in this proceeding (Stipulation). In the Stipulation the Department and MCCAPCB agree that the local air pollution control program for the City of Missoula and the County of Missoula, as amended by the pending application, should be approved by the Board as consistent with Section 75-2-301, MCA. A copy of this Stipulation is attached to this Order as Exhibit A and by this reference is incorporated herein in its entirety as part of this document.

2. Pursuant to public notice, and on June 28, 1991, at the Cogswell Building, Helena, Montana, the Board conducted a

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1 hearing on the application of MCCAPCB to amend its local air
2 pollution control program. At the hearing, testimony and
3 evidence on the application, including the Stipulation, were
4 presented by MCCAPCB and the Department. An opportunity to
5 be heard was provided to all interested parties at the hear-
6 ing, and testimony and evidence on the application was pre-
7 sented by the public. Based upon the record in this proceed-
8 ing, the Board enters the following Findings of Fact, Conclu-
9 sions of Law and Order.

10
11 Findings of Fact

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13 3. On November 2, 1969, and pursuant to Section
14 69-3919 R.C.M. (now Section 75-2-301, MCA), the Board ap-
15 proved a local air pollution control program for the City of
16 Missoula and County of Missoula. This program is currently
17 under the direction and control of MCCAPCB. In the applica-
18 tion which is the subject of this proceeding, MCCAPCB is
19 seeking approval from the Board of substantial amendments to
20 this program. A copy of the application, which includes the
21 entire local air pollution control program for the City of
22 Missoula and the County of Missoula, is attached to this
23 Order as Exhibit B and by this reference is incorporated
24 herein in its entirety as part of this document.

25 4. In its Order of November 2, 1969, the Board deter-

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1 | mined that the location, character and extent of particular
2 | concentrations of population and air contaminant sources, and
3 | the geographic, topographic and meteorological considerations
4 | involved, and combinations of the foregoing, were such as to
5 | make impracticable the maintenance of appropriate levels of
6 | air quality without an air pollution program whose territor-
7 | ial boundaries included the entire County of Missoula. The
8 | Board also found that a local air pollution control program
9 | with such boundaries was the only acceptable alternative to
10 | direct State administration. The Board reaffirms the appro-
11 | priateness of these findings, as they relate to this proceed-
12 | ing.

13 | 5. In its Order of November 2, 1969, the Board made
14 | its approval of the proposed local air pollution control
15 | program encompassing the County of Missoula conditional upon
16 | the adoption by the County of the necessary local laws and
17 | provisions for enforcement of such local laws. The Board
18 | finds that the local air pollution control program adminis-
19 | tered by MCCAPCB, and as proposed to be amended by the appli-
20 | cation in this proceeding, has been adopted into local law
21 | and includes the necessary provisions for enforcement by ad-
22 | ministrative and judicial process.

23 | 6. The local air pollution control program for the
24 | City of Missoula and the County of Missoula, as amended by
25 | the application in this proceeding, provides for administra-

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1 tive organization, staff, financial and other resources
2 necessary to effectively and efficiently carry out the pro-
3 gram.

4 7. The local laws and ordinances which comprise the
5 local air pollution control program administered by MCCAPCB,
6 and as proposed to be amended by the application in this
7 proceeding, are contained in Exhibit B to this Order. The
8 Board finds that these local laws and ordinances, as amend-
9 ed, are compatible with, more stringent, or more extensive
10 than the corresponding requirements under the Montana Clean
11 Air Act, Title 75, Chapter 2, MCA, and regulations adopted by
12 the Board thereunder.

13 8. There are several sources within the County of
14 Missoula whose complexity and magnitude are beyond the
15 reasonable capability of MCCAPCB, and the control of which
16 may be more efficiently and economically performed at the
17 State level. These sources include the following: the kraft
18 pulp mill at Schilling siding, Mullan Road, currently doing
19 business as Stone Container Corporation; the plywood and
20 lumber mill at Bonner, currently doing business as Champion
21 International Corporation; the particle board plant at 3300
22 Raser Drive, currently doing business as Louisiana-Pacific
23 Corporation. In addition, MCCAPCB has stated in its applica-
24 tion that it is not seeking any authority to regulate these
25 sources subject to ARM 16.8.1412, 16.8.1413, 16.8.1414,

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1 16.8.1419 and 16.8.1501 et seq. Further, the Department
2 should assume and retain control over any source regulated by
3 the Montana Clean Air Act, Title 75, Chapter 2, MCA, for
4 which MCCAPCB has not provided by ordinance or local law for
5 requirements which are at least compatible with those imposed
6 by the Montana Clean Air Act or regulations adopted there-
7 under.

8 9. The Board finds that the assumption or retention of
9 control over any source of air contaminants by the Department
10 pursuant to this Order should not impair in any fashion the
11 emergency powers of MCCAPCB under Section 75-2-402, MCA.

12
13 Conclusions of Law

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15 1. Proper notice and an opportunity to participate in
16 this proceeding has been provided to both the Department and
17 MCCAPCB, and the public. Title 2, Chapters 3 and 4, MCA.

18 2. The local air pollution control program adminis-
19 tered by MCCAPCB, and as amended by the application in this
20 proceeding, meets the requirements set forth by statute for
21 approval by the Board. Section 75-2-301, MCA.

22 3. The Department should assume and retain control
23 over any source regulated by the Montana Clean Air Act, Title
24 75, Chapter 2, MCA, for which MCCAPCB has not provided by
25 ordinance or local law for requirements which are at least

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1 compatible with those imposed by the Montana Clean Air Act or -
2 regulations adopted thereunder.

3 4. Pursuant to statute, and except for the emergency
4 powers provided for in Section 75-2-402, MCA, the Board may
5 not delegate to MCCAPCB the authority to control the follow-
6 ing sources of air contaminants: those that require the
7 preparation of an environmental impact statement pursuant to
8 Title 75, Chapter 1, Part 2, MCA; those that are subject to
9 regulation under the Montana Major Facility Siting Act, Title
10 75, Chapter 20, MCA; those that have the potential to emit
11 250 tons per year or more of any pollutant subject to regula-
12 tion under the Montana Clean Air Act, Title 75, Chapter 2,
13 MCA, including fugitive emissions, unless the authority to
14 control the source was delegated to MCCAPCB prior to Janu-
15 ary 1, 1991. Section 75-2-301(4), MCA.

16 5. The Board may not delegate to MCCAPCB the authority
17 to control those sources whose complexity and magnitude are
18 beyond the reasonable capability of MCCAPCB, or the control
19 of which may be more efficiently and economically performed
20 at the State level. Section 75-2-301(9), MCA.

21 6. The Findings of Fact contained in this Order are
22 hereby adopted as Conclusions of Law.

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24
25

Order

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1 1. The Board approves the local air pollution control
2 program currently being administered by the Missoula City-
3 County Air Pollution Control Board, as amended by the appli-
4 cation in this proceeding.

5 2. The Board directs the Department of Health and
6 Environmental Sciences to assume and retain control over the
7 following sources of air contaminants: those listed in Sec-
8 tion 75-2-301(4), MCA; the kraft pulp mill at Schilling sid-
9 ing, Mullan Road, currently doing business as Stone Container
10 Corporation; the plywood and lumber mill at Bonner, currently
11 doing business as Champion International Corporation; the
12 particle board plant at 3300 Raser Drive, currently doing
13 business as Louisiana-Pacific Corporation, and; those sources
14 subject to ARM 16.8.1412, 16.8.1413, 16.8.1414, 16.8.1419 and
15 16.8.1501 et seq.

16 3. The Board directs the Department of Health and
17 Environmental Sciences to assume and retain control over any
18 source regulated by the Montana Clean Air Act, Title 75,
19 Chapter 2, MCA, for which MCCAPCB has not provided by ordi-
20 nance or local law for requirements which are at least com-
21 patible with those imposed by the Montana Clean Air Act or
22 regulations adopted thereunder.

23 4. The Board orders that the assumption or retention
24 of control over any source of air contaminants by the Depart-
25 ment of Health and Environmental Sciences pursuant to this

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Order shall not impair in any fashion the emergency powers of
MCCAPCB under Section 75-2-402, MCA.

DATED this 28 day of June, 1991.

BY: David W. Simpson
DAVID W. SIMPSON, Chairman
on behalf of the Board of
Health and Environmental
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