

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

.....  
In the matter of the Application )  
of Butte-Silver Bow Council of )       STIPULATION  
Commissioners for Approval of )  
its Local Air Pollution Control )  
Program )  
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This Stipulation is made and entered into by and between the Butte-Silver Bow Council of Commissioners (BSCC), and the Montana Department of Health and Environmental Sciences (Department). The parties submit this Stipulation to the Board of Health and Environmental Sciences (Board) for its review and approval, and consideration as part of the application of BSCC for approval of its local air pollution control program.

1. Section 75-2-301, NCA, provides for the establishment of local air pollution control programs.

2. On August 3, 1988, and after a public hearing, the BSCC adopted an ordinance implementing a control program for the regulation of emissions from residential wood burning. On March 6, 1991, and after a public hearing, the BSCC adopted Council Resolution No. 1307, establishing sanding and chip seal material standards and street sweeping and flushing

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1 policies to be followed by the City and County of Butte-  
2 silver Bow, in an effort to regulate emissions from re-  
3 entrained road dust.

4 3. On July 24, 1991, and upon proper public notice,  
5 the BSCC conducted a public hearing on both the ordinance and  
6 resolution described above in Paragraph 2, and the establish-  
7 ment of a local air pollution control program encompassing  
8 the City of Butte and that portion of Silver Bow County with-  
9 in the immediate vicinity of the boundaries of the City of  
10 Butte, excluding the municipality of Walkerville. Upon con-  
11 clusion of the hearing, the BSCC reaffirmed the adoption of  
12 the above-mentioned ordinance and resolution, and approved  
13 the creation of the local air pollution control program de-  
14 scribed above. Council Resolution No. 1307, dated March 6,  
15 1991; Council Bill No. 330, Ordinance No. 330, dated August  
16 3, 1991. A map and legal description of the area covered by  
17 the proposed local air pollution control program is attached  
18 as Exhibit A and by this reference is incorporated into this  
19 Stipulation.

20 4. On Oct. 1, 1991, the BSCC filed an application  
21 with the Board, seeking approval of **its** proposed local air  
22 pollution control program, pursuant to Section 75-2-301, MCA.  
23 The Department has engaged in a thorough review of the appli-  
24 cation submittal, and several meetings have been held between  
25 the Department and BSCC.

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5. Based upon the Department's review of the proposed Butte-Silver Bow Air Pollution Control Program, the parties to this Stipulation agree as follows:

a. the location, character and extent of particular concentrations of population and air contaminant sources, and the geographic, topographic and meteorological considerations involved, and combinations of the foregoing, are such as to make impracticable the maintenance of appropriate levels of air quality without an air pollution program such as that proposed by the BSCC application;

b. a local air pollution control program which includes the boundaries proposed in the BSCC application is an acceptable alternative to direct state administration;

c. the proposed local air pollution control program provides for administrative organization, staff, financial and other resources necessary to effectively and efficiently carry out the program;

d. the proposed local air pollution control program has been adopted into local law and includes the necessary provisions for enforcement by administrative and judicial process;

e. the local ordinance constituting the proposed local air pollution control program which is the subject

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1 of this proceeding, is compatible with, more stringent,  
2 or more extensive than the corresponding requirements  
3 under the Montana Clean Air Act, Title 75, Chapter 2,  
4 MCA, and regulations adopted by the Board thereunder.

5 6. The parties recognize and agree that as to any  
6 source which is regulated under the Montana Clean Air Act,  
7 Title 75, Chapter 2, MCA, if the BSCC has not provided by  
8 ordinance or local law for requirements compatible with, more  
9 stringent than, or more extensive than those imposed by the  
10 Board concerning that source, then regulation of that source  
11 should be retained for the Department.

12 7. There are several sources within the boundaries of  
13 the proposed Butte-Silver Bow Air Pollution Control Program  
14 whose complexity and magnitude is beyond the reasonable capa-  
15 bility of the program, and the control of which may be more  
16 efficiently and economically performed at the state level.  
17 These sources include the following: the copper and  
18 molybdenum mine and concentrator located in Butte, currently  
19 doing business as Montana Resources; the elemental phosphor-  
20 ous plant located at Silver Bow, currently doing business as  
21 Rhbne-Poulenc; and the asphalt plants located in Butte, cur-  
22 rently doing business as Rite-Way asphalt, Gilman Excavat-  
23 ing, and Butte/Silver Bow Asphalt. Further, under Section  
24 75-2-301(4), MCA, there are several types of sources for  
25 which the Board may not delegate regulatory authority to  
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BSCC. Accordingly, the parties to this Stipulation agree that the Department should assume and retain full control of these sources.

0. In addition, the BSCC has limited the scope of its proposed local air pollution control program as follows:

This Ordinance applies to all persons, agencies, institutions, businesses, industries or government entities living in or located within the [boundaries described above in Paragraph 3]. Stationary sources with the potential to emit more than 25 tons per year of any pollutant, with the exception of five (5) tons per year of lead, regulated under the Montana Clean Air Act, are not subject to this Ordinance.

Council Bill No. 330, Ordinance No. 330, dated August 3, 1991, Section 3, entitled "Scope". Accordingly, the parties to this Stipulation agree that the Department should assume and retain full control over those sources which are not intended to be covered by the proposed local air pollution control program, as described above.

9. The parties to this Stipulation agree that the BSCC shall be responsible for emergency powers as provided in Section 75-2-402, MCA, in regard to those sources governed by the proposed local air pollution control program, and the Department shall retain such emergency powers over all other

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STATE OF MONTANA  
AIR QUALITY CONTROL  
IMPLEMENTATION PLAN/

Subject: Butte/Silver Bow  
Air Quality Control  
Program

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sources.

BUTTE-SILVER BOW  
COUNCIL OF COMMISSIONERS

MONTANA DEPARTMENT OF  
HEALTH AND ENVIRONMENTAL  
SCIENCES

BY:

*Thomas Brophy*  
THOMAS BROPHY  
Chairman

BY:

*Dennis Iverson*  
DENNIS IVERSON  
Director

DATE:

DATE:

*10/8/91*

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