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From: Amanda Bugatto [mailto:Amanda.Bugatto@rayberndtson.ca]
Sent: Thursday, January 23, 2003 11:33 AM
To: Commission@ottawa.ijc.org
Subject: Air Quality

January 23, 2003
The Rt. Hon. Herb Gray, P.C. Q.C.
Chairman, Canadian Section
International Joint Commission
234 Laurier Avenue West
Ottawa K1P 6K6

Dear Mr. Gray:

Thank you for your letter of December 16, 2002 requesting the Ontario Clean Air Alliance's comments on the International Joint Commission's (IJC's) Air Quality Agreement: 2002 Progress Report with respect to the 1991 Canada-United States Air Quality Agreement.

According to page 8 of the report, The Ozone Annex to the 1991 Canada-United States Air Quality Agreement, which was signed in December, 2000, is "expected to result in significant reductions of emissions of NO_x and VOCs, the precursor pollutants to ground-level ozone, the major component of smog."

On page 10 of the report the IJC states that southern Ontario's fossil power plants will comply with the Ozone Annex's 39 kilotonne (kt) NO₂ cap by 2007:

"Canada will comply with its commitment to achieve a 39 kt NO₂ emissions cap in the Ontario portion of the Pollutant Emission Management Area (PEMA) by 2007 from fossil fuel-fired electricity generators with capacities larger than 25 megawatts. New regulated electricity sector emission caps in Ontario took effect January 1, 2002."

In fact, there are no Ontario or Canadian emission caps which require southern Ontario's power plants to achieve compliance with the Ozone Annex's 39 kt NO₂ cap.

Nitrogen oxides (NO_x) emissions can be measured either as nitrogen dioxide (NO₂) or nitric oxide (NO). The Government of Ontario's regulations measure NO_x as NO. The Ozone Annex's 39 kt NO₂ cap is equivalent to a NO cap of 25.49 kt.

The Government of Ontario's regulations which took effect on January 1, 2002 cap the nitrogen oxides emission allowances of southern Ontario's power plants at 25.6 kt of NO or 39.168 kt of NO₂.¹ Furthermore, Ontario's emissions trading rules permit the fossil plants' NO_x emissions to exceed this level if they buy emission reduction credits. The emission reduction credits permit the fossil power plants to increase their emissions by 33%.² Therefore, Ontario's regulations cap the total (allowances and emission reduction credits) nitrogen oxides emissions of southern Ontario's power plants at 34.048 kt of NO or 52.093 kt of NO₂, not 25.49 kt of NO or 39 kt of NO₂ as is required by the Ozone Annex. That is, the Ontario regulations permit southern Ontario's power plants to exceed the Ozone Annex's cap by 33.6%.

Finally, to add insult to injury, the fossil plants can buy their emission reduction credits from companies that have not reduced their total emissions.³

Canada's Federal Minister of the Environment has repeatedly requested the Government of

Ontario to bring its nitrogen oxides emission regulations for southern Ontario's fossil power plants into compliance with the Ozone Annex.⁴ Unfortunately, the Government of Ontario has not responded positively to these requests.

Pursuant to Article IX of the Air Quality Agreement, the IJC is responsible for inviting public comments on its 2002 Progress Report and then synthesizing the views received and releasing this synthesis to the public after its submission to the two governments. The Ontario Clean Air Alliance recommends that the IJC's report should tell the Governments of Canada and the United States that Ontario's nitrogen oxides regulations do not ensure that the southern Ontario power plants will be in compliance with the Ozone Annex's 39 kt NO₂ cap in 2007. Specifically, the report should note that the Ontario regulations permit the power plants' emissions to exceed the Ozone Annex's cap by 33.6%.

The Ontario Clean Air Alliance also requests that the IJC recommend to the Government of Canada that it use its authority under the Canadian Environmental Protection Act to establish regulations which will cap the nitrogen oxides emissions of the southern Ontario power plants at 39 kt of NO₂ commencing in 2007.

Yours truly,

Amanda Bugatto

1 Ontario Ministry of the Environment, Emissions Trading and NO_x and SO₂ Emissions Limits for Ontario's Electricity Sector: A Technical Description Of The Regulations, (2001), p. 3.

2 Emissions Trading, p. 5.

3 Ontario Clean Air Alliance, Weak Emission Limits, (May, 2001), p. 5.

4 John Spears, "Smog plan not enough, Ottawa says", Toronto Star, (October 26, 2001); Dennis Bueckert, "Clean-up deadline for coal-fired plants", Toronto Star, (November 28, 2001); and letter from the Honourable David Anderson to the Honourable Chris Stockwell, Ontario Minister of Environment and Energy, July 18, 2002.

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