

FOIA MARKER

This is not a textual record. This is used as an administrative marker by the William J. Clinton Presidential Library Staff.

Collection/Record Group: Clinton Presidential Records
Subgroup/Office of Origin: Council on Environmental Quality
Series/Staff Member: Kathleen (Katie) McGinty
Subseries:

OA/ID Number: 2892
FolderID:

Folder Title:
California - Clean Air

Stack:	Row:	Section:	Shelf:	Position:
S	61	5	11	2

Todd Stern did for Podesta
How did this get just together?
he wants your input on response.
Pls fill CA Clean Air
PM

Federal Clean Air Plans in California

Today the Supreme Court challenged EPA to work collaboratively with the State of California to develop clean air plans for Los Angeles, Sacramento, and Ventura County. Today's court action effectively directs EPA to lead a process that will ensure compliance with the Federal Clean Air Act in these areas.

- o Under the Clean Air Act, each state is responsible for developing and implementing plans to achieve federal requirements for air quality. If the states fail to do so, then the federal government must issue its own rules, essentially taking over some or all of the state's responsibilities.
- o Because of the extremely serious smog problems in California, major pollution reductions from plants, vehicles and consumer products are needed. Although they pursued very aggressive policies, California state and local agencies were unable to demonstrate they could meet the smog standards by the statutory deadline of 1987.
- o EPA was successfully sued by environmental groups to develop and implement federal plans for the Los Angeles Area, Ventura County and Sacramento. EPA has argued that passage of the 1990 Clean Air Act Amendments superseded these obligations by establishing new planning requirements and deadlines, but its position was successfully challenged in federal court. As a result of the Supreme Court decision not to review this case, EPA will have to proceed to develop the required plans.
- o While EPA believes that state and local governments are better able to develop and implement clean air plans, we will proceed to implement the court's decisions. In doing so, the Agency will rely to the maximum extent possible on work completed or underway by the California agencies. Nevertheless, the severity of the smog problem will demand that EPA consider stringent new controls on virtually every pollution source, including measures to accelerate the introduction of very clean motor vehicles and very stringent Inspection and Maintenance programs for motor vehicles.

Suggested Response:

"Both the Federal government and the State of California are committed to clean air and will work together to determine the best steps to take to achieve that goal."

**PHOTOCOPY
PRESERVATION**

Staff Secretary
OFFICE OF PRESIDENTIAL SCHEDULING

Fax Cover Sheet

TO:

Kathleen McGinty

FROM:

TODD STERN

SUBJECT:

NUMBER OF PAGES (including cover sheet):

2

**PHOTOCOPY
PRESERVATION**

Questions?? Please call 202/456-2823

x 6231

* If Supreme Court will not hear case

FACT SHEET

Federal Clean Air Plans in California

Current Status

On February 22, 1993, the U.S. Supreme Court announced that it will not hear the Solicitor General's appeal of a decision by the U.S. Court of Appeals for the Ninth Circuit requiring the U.S. Environmental Protection Agency (U.S. EPA) to create and enforce federal clean air plans for three California areas.

The Supreme Court decision covers three separate cases: Environmental Council of Sacramento v. EPA, Coalition for Clean Air v. EPA, and Citizens to Preserve the Ojai v. EPA. As a result of the decision, U.S. EPA will face court orders to promulgate federal implementation plans (FIPs) for the Los Angeles air basin and the greater Sacramento and Ventura metropolitan areas.

History

The federal Clean Air Act Amendments of 1977 required all areas of the country to submit plans to U.S. EPA in 1979 and 1982 demonstrating attainment of federal health-based standards for ozone and carbon monoxide by 1987. Because of the massive emission reductions needed for attainment in several areas of California, the state government and local air quality agencies acknowledged that some of their plans would not result in attainment by the Act's deadline. U.S. EPA took no action to disapprove the attainment demonstrations since the plans' failure to meet the 1987 deadline was not the result of a failure to pursue aggressive controls. Environmental groups successfully challenged U.S. EPA's failure to disapprove the 1982 state ozone and carbon monoxide plans for the South Coast (the greater Los Angeles area) and the ozone plans for the Ventura and Sacramento metropolitan areas, and then won court orders requiring U.S. EPA to promulgate replacement federal implementation plans (FIPs). In compliance with settlement agreements, U.S. EPA proposed a FIP for the South Coast and published advance notices of FIPs for Sacramento and Ventura.

Following amendments to the Clean Air Act in November 1990, however, U.S. EPA argued that the agency no longer had the obligation or authority to issue the FIPs, since Congress had established comprehensive new state planning requirements and attainment deadlines. In February 1991, the U.S. District Court for the Central District agreed with U.S. EPA and effectively vacated the orders for both the South Coast and Ventura FIPs. However, in December 1991 the District Court for the Eastern District (with jurisdiction over the Sacramento FIP) concluded that the FIP obligation remained. Both cases were appealed, and in July 1992 the U.S. Court of Appeals for the Ninth Circuit ruled against U.S. EPA. The Ninth Circuit stayed the issuance of the mandates in both cases pending final disposition by the U.S. Supreme Court.

2/22/93

The Supreme Court today denied to hear EPA's appeal on the California air quality plan, meaning that EPA will have to work with California to develop a suitable air quality plan for Sacramento, Los Angeles, and Ventura. Administrator Browner will be beginning that process. Fact sheet attached.

Two versions of the fact sheet have been produced to correspond to either possible Supreme Court outcome. In addition, a communication strategy document has been attached to outline the responsibilities and timing of outreach efforts. While the fact sheet can be distributed from HQ in response to press calls, we suggest routine forwarding of calls to Bill Glenn in the Region 9 office of Public Affairs in order to make use of the expertise of those who are working full-time on the FIPs.

Confirmation of Major Themes

It is essential that there be consensus within the agency on EPA's public position if the Supreme Court affirms the FIP obligation. It is especially important that we confirm that our message is consistent with the new administration's approach to this issue. The themes contained in the fact sheet can be highlighted as follows:

- * While we continue to believe that state and local governments are better able to develop and implement clean air plans, EPA will perform its responsibilities as mandated by the appellate courts;
- * In developing FIPs, EPA will work with state and local officials to minimize socioeconomic impacts and federal intrusion as much as possible; and,
- * Achieving clean air in these heavily polluted areas is an important environmental goal that may require stringent controls on many sources of air pollution.

