



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OCT 16 1996

OFFICE OF  
AIR AND RADIATION

Mr. George Frampton  
Assistant Secretary for Fish and Wildlife and Parks  
U.S. Department of the Interior  
1849 C Street, N.W.  
Washington, D.C. 20240

Dear Mr. Frampton:

This letter confirms the recent discussions between your office and the U.S. Environmental Protection Agency (EPA) regarding the Merck XL project. I understand that the information contained in this letter will enable the U.S. Department of Interior (DOI) to fully support the Merck XL project. As you know, Project XL is a key element of the Administration's Reinventing Environmental Regulation initiative. I appreciate the dedication of you and your staff in working with EPA, Merck and other stakeholders toward final agreement on the Merck XL project.

The Merck XL project offers substantial benefits to the Shenandoah National Park. Through Merck's conversion of its powerhouse from coal to natural gas, emissions of sulfur dioxide (SO<sub>2</sub>) and nitrogen oxides (NO<sub>x</sub>) will be reduced by over 900 tons per year. Merck will permanently retire 300 tons per year of emissions by establishing the sitewide cap for criteria pollutants at a level 20% lower than recent actual emissions. These reductions in SO<sub>2</sub> and NO<sub>x</sub> emissions, pollutants associated with adverse impact on Park resources, will have an immediate and lasting benefit for the Park. Other benefits of the project include a reduction of hazardous air pollutant (HAP) emissions by 40 tons per year (55%), full compliance with all future HAP regulations, periodic modeling of non-HAP volatile organic compounds (VOCs), and comprehensive monitoring, recordkeeping and reporting. This XL project also offers an important role for the DOI, the community and other stakeholders in the ongoing evaluation of the project and determination of any needed changes to the project.

While we believe that the Merck XL project offers important environmental benefits relative to what would be mandated under the current regulatory system, this XL project is not meant immediately to establish precedent for other companies. Project XL is designed to implement alternative approaches to environmental regulation on a site-specific experimental basis. The projects are intended to test new approaches that could one day conceivably apply more broadly after future evaluation. However, the decision to proceed with a project does not

reflect a change in overall Agency policy, or in interpretations of statutes and regulations, for any facility except the one specifically involved in the project. Rather, it is a unique project, not intended at this time to be broadly precedential, that will allow EPA and others to evaluate new approaches to environmental regulation. Among other things, during EPA's future evaluation of the Merck XL project to determine its transferability to other sources, EPA will consider the advantages and disadvantages of this project with respect to protection of air quality related values (AQRVs). We plan to continue working closely with you and other Federal Land Managers whenever an XL project involves Class I area issues. It is our intent that all such XL projects provide benefits to Class I areas as the Merck project does.

EPA intends to include the following language in the preamble to the Merck XL site-specific rule:

Under Section 6.2.1 of the permit, if the stakeholders agree that Merck's VOC emissions are the cause of adverse impact on any AQRVs at the Federal Class I area, Merck shall implement mitigation measures that are agreed to by the project stakeholders. However, Merck does not have the obligation under the permit to mitigate if its VOC emissions, along with those of other sources, are contributing to the AQRV adverse impact.

EPA believes that it has the authority under the Clean Air Act to address adverse impacts on AQRVs in Federal Class I areas from both new and existing sources. EPA intends to undertake a future rulemaking to require State Implementation Plans to prevent significant deterioration of air quality by adopting mitigation measures to address such adverse impacts. Merck agrees that EPA should undertake the rulemaking approach, described above, to address environmental problems indicated by adverse impacts on AQRV's in Federal Class I areas.

Our discussions about this XL project have led to some important realizations about our current system for protecting AQRVs in Federal Class I areas. EPA is committed to continue working with your office to establish the best approach for protection of AQRVs. The Agency believes that the Clean Air Act provides authority to address adverse impacts on AQRVs in Federal Class I areas from both new and existing sources. EPA plans to initiate a rulemaking that will set forth the affirmative obligation for states to protect AQRVs as part of their duty under the Clean Air Act to implement a program to prevent significant deterioration of air quality. This approach would require the protection of AQRVs as part of State Implementation Plans (SIPs). Our goal is to propose such a rule by the end of 1997. We look forward to working with your office, and other Federal Land Managers (FLMs), in the development of this rulemaking. EPA also looks forward to working with the FLMs in their efforts to better define

AQRVs, so that the concept of using SIPs to address adverse impacts will be an effective tool to achieve environmentally beneficial results.

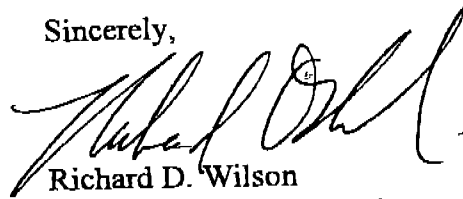
EPA fully supports the DOI's goal to further the understanding of the impacts of VOCs on resources in Shenandoah National Park. EPA agrees that this is an important research area and would like to work with you in this effort. EPA will assist in assuring that appropriate monitoring, sampling or other appropriate analyses of VOCs and derivative pollutants are conducted in Shenandoah National Park to evaluate their potential for impacts on AQRVs. We look forward to working with your staff to determine the details of this research effort.

To address your questions about whether the FLM will be able to obtain information about Merck's emissions, I would like to clarify that the draft permit does require Merck to share such information. The draft permit contains the following provisions related to emissions information:

- Conditions A.1 and A.2 of Table 4.2 require Merck to keep monthly records of the 12-month rolling total for all criteria pollutant emissions regulated under the sitewide cap.
- Condition 4.8 requires Merck to submit to the project stakeholders, including the DOI, an annual progress report. This annual report must include a summary of the site's actual emissions and other information about Merck's operation under the permit.
- Condition 6.2.2 requires Merck to conduct modeling if VOC emissions reach specified levels to determine whether non-HAP VOC emissions at the site are protective of public health. If VOC emissions reach the specified levels, Merck must provide to the project stakeholders, including the DOI, a list of the non-HAP VOCs that were emitted from the facility in the previous 12 months.
- In addition, nothing in the Final Project Agreement (FPA), draft permit, or site-specific rule will limit the Agency's information gathering authorities under the Clean Air Act.

As you are aware, the Administration would like quickly to finalize this important project. I would appreciate hearing from you as soon as possible to confirm that DOI fully supports the Merck XL project. The next step is to complete the FPA in the next few weeks. We look forward to your continued support in completing this project.

Sincerely,



Richard D. Wilson  
Deputy Assistant Administrator