

Testimony of Badlands Conservation Alliance
SB 2238 – Amended version 2/11/21
11 February 2021
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Chairman Kreun and Members of the Energy and Natural Resources Committee:

I've had some time to review the "Christmas Tree" version of SB 2238 that included amendments introduced by Senator Bell.

From my perspective, the bill was improved by the deletions. However, it is still problematic and BCA remains opposed.

The language in new paragraph 3 (P. 2, lines 27-31, P. 3, lines 1-3) "the department may not require controls the department has determined serve only to increase total costs with little corresponding visibility benefit" is problematic. How is little corresponding visibility benefit defined? Who defines it? This language still would require ND DEQ to consider total cost, which has been consistently rejected by EPA. Again, the EPA has very clear guidelines in the Regional Haze Rule regarding the four factor analysis that is required to determine if there are reasonable controls available for reducing visibility-impairing emissions. (As I enumerated earlier, the four factors considered are: cost of compliance, time necessary for compliance, energy and non-air quality environmental impacts, and remaining useful life of the source.) This section clearly unlawfully contradicts Clean Air Act requirements, by skewing a control cost analysis to weigh such impermissible considerations as assessing the impacts of an individual control.

New paragraph 5 (P. 3, lines 7-8), reads "Any new control measures mandated by the state regional haze plan are effective only upon final approval by the environmental protection agency," is also in conflict with the CAA, which requires that the SIP itself include *enforceable* emission limitations.

Thank you for the opportunity to provide additional testimony this afternoon. BCA urges this committee to give SB 2238 a Do Not Pass recommendation.