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COURT DENIES VERMONT REQUEST TO HALT IP TEST BURN

In a brief decision released this morning, the Second Circuit Court of Appeals has denied the State of Vermont's petition requesting that the Court stop the International Paper Company's test burn of tire-derived fuel scheduled to begin on Monday, November 6th. The State had requested that the Court enjoin IP from conducting the test burn while the State's separate petition to the federal Environmental Protection Agency (EPA) challenging New York State's permit for the test burn was under consideration. Vermont argued that the proposed test burn violated the Clean Air Act.

Federal law allows members of the public to file a petition with EPA challenging a state-issued air pollution permit and affirmatively requires that EPA issue a written decision on the petition and take appropriate action. It also provides for review by a court of law of that decision. However, it provides that EPA has 60 days to respond to a petition after a permit is issued. Given that the test burn was scheduled to begin before the 60-day period elapsed, Vermont asked the Court to halt the test burn at least until EPA issued a decision.

"This is a real disappointment", stated Attorney General William Sorrell. "We saw this as the most appropriate and viable means of stopping the test burn and effectuating the rights that Congress gave to the public in the Clean Air Act and holding EPA accountable under the Act. It now appears that IP will be burning tires on Monday." Sorrell, whose Office has waged the

battle to stop the test burn in the courts, states that the Attorney General's Office will continue to work with the Vermont Agency of Natural Resources and concerned citizens to prevent any further burning of tire-derived fuel at the IP plant in Ticonderoga unless and until proper pollution control equipment is in place. "The test burn and any further plan by IP to burn tire-derived fuel will be subject to intense scrutiny by the State of Vermont and we will continue to pursue all appropriate legal actions to protect the citizens of Vermont."

The decision of the Second Circuit Court of Appeals can be viewed at:

<http://www.atg.state.vt.us/admin/redirect.php?ID=1212>