



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

May 13, 2010

Dr. Alfredo Armendariz
Regional Administrator
U.S. Environmental Protection Agency, Region VI
1445 Ross Avenue
Dallas, TX 75202

Re: Construction and Permitting of New Coal-Fired Power Plants in Texas

Dear Dr. Armendariz:

It has come to my attention that there appears to be a concerted effort to rapidly permit and construct additional coal-fired power plants in the State of Texas. As of April 1, 2010, there were six permit applications for coal-fired plants pending before the Texas Commission on Environmental Quality (TCEQ) totaling over 4700 MW. In addition, it appears that TCEQ has already permitted seven additional coal-fired plants that are at various stages of construction totaling over 5000 MW.

There is reason for concern with the sheer number of proposed plants and process being employed for their approval. Although these new coal-fired plants have, at a minimum, the potential to adversely affect air quality in Oklahoma, the TCEQ did not provide Oklahoma with timely notice of the facilities' permit applications as required by 42 U.S.C. Section 7426(a)(1)(B) and the Title 30, Section 116.134 of the Texas Administrative Code. While Texas provided some after-the-fact information on these approved and pending applications in response to an inquiry from the Oklahoma Department of Environmental Quality, TCEQ has not adequately addressed the potential impacts on air quality in Oklahoma.

These new coal-fired plants are projected to emit millions of tons of carbon dioxide, thousands of tons of sulfur dioxide and nitrogen oxide, and thousands of pounds of mercury annually into the atmosphere. This is in addition to emissions from a large number of existing coal-fired plants already operating in Texas. I am greatly concerned that emissions from these new sources will adversely impact air quality, public health and economic growth in Oklahoma. Emissions from these sources may cause or

contribute to nonattainment of the National Ambient Air Quality Standards in Oklahoma. Oklahoma is currently very close to exceeding some NAAQS and current emissions from Texas are impacting that attainment status. The impacts of these emissions will likely be even more severe if the federal ozone NAAQS are lowered.

Additionally, sources in Texas are already having an impact on visibility impairment in the Wichita Mountains Wildlife Refuge Area, a Class I Area. In fact, modeling conducted by the Central Regional Air Planning Association and reported in Oklahoma's Regional Haze Implementation Plan (2-2-10 Revision) demonstrates that Texas sources contribute more to visibility impairment in this Class I Area than Oklahoma sources. According to page 9 of the Implementation Plan:

This modeling attributes visibility impairment at the Wichita Mountains mainly to anthropogenic emissions of sulfurous and nitrate pollutants. Sources in Oklahoma contribute less than one-seventh of visibility impairment at the Wichita Mountains; emissions from Texas alone account for almost twice the impairment as those from all of Oklahoma.

Oklahoma is committed to protecting and improving air quality. The permitting and construction of these additional coal-fired plants in Texas may have significant adverse effects on air quality in Oklahoma. Texas should be required to demonstrate that these new plants will not impact air quality and attainment status in Oklahoma in order to proceed with permitting and construction. As reductions from existing sources in Texas are already necessary to protect air quality in Oklahoma, it is highly unlikely that such a demonstration is possible.

At this stage, Oklahoma has not filed a petition under Section 126 of the Clean Air Act with your agency and is not involved in legal challenges to the permits. However, unless action is taken to address the impacts of existing and proposed coal-fired plants in Texas on air quality in Oklahoma, the State may be forced to pursue all available remedies to protect public health and welfare. Accordingly, I am hopeful that you review this issue at your earliest convenience and take action to resolve the issue for the benefit of all interested parties.

Sincerely,



W.A. Drew Edmondson
Attorney General

WAE:seh

cc: Governor Brad Henry
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