

September 7, 2007

*Via Overnight Delivery*

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*Via Hand Delivery*

Richard Greene  
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Re: Petition for Objections to Arkansas Department of Environmental Quality Draft  
Operating Air Permit No. 2123-AOP-R0, John W. Turk Power Plant (AFIN: 29-  
00506)

Dear EPA Representatives:

I write on behalf of the Hempstead County Hunting Club, Dr. Mary O'Boyle, YCR Limited Partnership, and F. Patrick Schultz (collectively, "Petitioners") regarding Arkansas Department of Environmental Quality ("ADEQ") Draft Operating Air Permit No. 2123-AOP-R0 (the "Proposed Operating Permit"). The Proposed Operating Permit will authorize American Electric Power/Southwestern Electric Power Company ("SWEPSCO") to operate the John W. Turk Power Plant (the "Proposed Plant" or "Plant") in Hempstead County, Arkansas.

For reasons discussed below, Petitioners request that EPA object to the Proposed Operating Permit pursuant to Clean Air Act ("CAA") section 505, 42 U.S.C. § 7661d.

## I. STATUTORY BACKGROUND

Under Title V of the CAA, 42 U.S.C. §§ 7661-7661f, Arkansas is required to issue operating permits to authorize operation of regulated CAA facilities. CAA section 505(a)(1)(B), 42 U.S.C. § 7661d(a)(1)(B), requires Arkansas to submit any "proposed" Title V operating permit to EPA for review.

EPA then has the obligation to review any proposed permit within 45 days and object to "permit provisions that are . . . not in compliance with the applicable requirements of [the CAA] . . ." 42 U.S.C. § 7661d(b)(1); 40 C.F.R. 70.8(c). If the EPA fails to object to noncompliant provisions in proposed operating permits, CAA section 505(b)(2) authorizes "any person" to petition the EPA to do so. See 42 U.S.C. § 7661d(b)(2); 40 C.F.R. 70.8(d).

Persons have 60 days after the expiration of the EPA's 45-day review period to submit a petition. With limited exceptions, a petition must be based only on objections to a proposed operating permit that were raised with reasonable specificity during a public comment period for the proposed permit.

Under CAA section 505(b)(2), the EPA must grant or deny a petition within 60 days after it is filed, and the EPA shall object to a proposed operating permit within that period if the petitioner demonstrates the permit does not comply with the CAA.

## II. FACTUAL BACKGROUND

Hempstead County Hunting Club was formed over 100 years ago and owns over four thousand acres of bottomland hardwood swamp in close proximity to SWEPCO's Proposed Plant. The Hempstead County Hunting Club members own property, reside, and/or recreate nearby and directly downwind from the Proposed Plant.

Dr. Mary O'Boyle is a member of the Hempstead County Hunting Club, and enjoys the benefits of use, residence, and recreation in aquatic and other areas near SWEPCO's Proposed Plant.

YCR Limited Partnership owns real property contiguous to and downwind from the Plant. F. Patrick Schultz is a limited partner in YCR, and enjoys the recreational opportunities and aesthetics associated with property ownership in the "Little River Bottoms," also downwind of the Proposed Plant.

SWEPCO's Proposed Plant is contemplated as a 600-MW net, ultra supercritical, coal-fired power plant. The primary fuel will be subbituminous coal from the Power River Basin in Wyoming. Coal will be delivered to the Proposed Plant using unit trains, and water necessary for Plant operations will be obtained from Millwood Reservoir in Hempstead County, Arkansas via the beds and banks of the Little River and an intake structure adjacent to the Proposed Plant.

SWEPCO applied for a Prevention of Significant Deterioration ("PSD") permit in August 2006.<sup>1</sup> The ADEQ, consolidating the PSD permitting process with the Title V operating permit process, issued the Proposed Operating Permit on May 25, 2007.<sup>2</sup>

The EPA's 45-day review period expired on or about June 9, 2007 without the EPA objecting to the Proposed Operating Permit. The 60-day period for "any person" to petition the EPA under CAA section 505 expires on or after September 7, 2007.

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<sup>1</sup> See Trinity Consultants, PSD Permit Application, Coal-Fired Power Generation Facility, Southwestern Electric Power Company, Hempstead Co. Project, August 9, 2006 (Exhibit A hereto).

<sup>2</sup> See ADEQ Draft Operating Air Permit, Permit No.: 2123-AOP-RO, Hwy. 335, 2 Miles North of Fulton, Fulton, AR 71838, Hempstead County, AFIN: 29-00506, June 2007 and ADEQ Air Permit Application Process Data Files for the SWEPCO Plant (Exhibits B hereto).

### III. SUMMARY OF PERMIT DEFICIENCIES

Petitioners submitted public comments to the ADEQ on July 31, 2007, opposing the Proposed Operating Permit. The comments included objections that the Proposed Operating Permit does not comply with the CAA PSD Requirements (CAA Part C, Subchapter I); PSD Regulations (46 C.F.R. Part 5 2.2.1); Arkansas State Implementation Plan; Arkansas Operating Permit Program; National Ambient Air Quality Standards (40 C.F.R. Part 50 *et seq.*); New Source Performance Standards for Electric Utility Steam Generating Units and Ancillary Equipment and Operations (46 C.F.R. Part 60); minimum federal requirements regarding Title V operating permits (40 C.F.R. Part 70); and the National Emissions Standards for Hazardous Air Pollutants (40 C.F.R. Part 61 and 63).

Specifically, the Best Available Control Technology determination is flawed and inadequate. ADEQ has failed to adequately conduct the required impacts analysis to determine whether the Proposed Plant will cause or contribute to a violation of National Ambient Air Quality Standards. Similarly, ADEQ has not determined whether modeling for visibility impacts to Class I areas is adequate. Further, the Proposed Operating Permit fails to assure compliance with and practical enforceability of the emission limits and standards required by, *inter alia*, CAA Title V.

Modeling for emissions also is inadequate and deficient. The technical review and analysis by ADEQ continued even after Petitioners submitted their comments on the Proposed Operating Permit. SWEPCO also continued to run additional models that were not timely available. Petitioners objected to this process because the only appropriate method for moving forward was to require SWEPCO to provide all necessary data for a complete technical review to ADEQ and the public. After that had occurred, a new public notice should have been issued and a second 30-day comment period commenced.

Petitioners' objections are discussed in detail in the enclosed Petition for Objections to Draft Operating Air Permit ("Petition"), which is timely submitted under CAA section 505.

As required by CAA section 505, the "permitting authority" (ADEQ) and "applicant" (SWEPCO) are being served with a copy of this letter and the accompanying Petition.

Regards,

MUNSCH HARDT KOPF & HARR, P.C.

By:



Nolan C. Knight

Enclosure

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