United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510–6175

July 14, 2010

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Re: Recent Clean Air Act Activities by Region 6

Dear Administrator Jackson:

I have been made aware of a number of actions initiated by the Region 6 Administrator, Dr. Al Armendariz, which have alarmed state and local officials and regulated entities. These actions, discussed below, seem to contradict the relationship between the EPA and state and local agencies developed over forty years pursuant to the Clean Air Act. Further, I am concerned about the costs and impacts of various actions on regulated businesses and their employees. I have not been made aware of any information that these actions would further in any meaningful way the primary goal of the Clean Air Act, improving air quality. I request that you indicate whether you support these actions and if they are part of any national initiative or policy.

On May 10, 2010, Dr. Armendariz convened a meeting at EPA Region VI Dallas Headquarters. Participating in the meeting were state environmental and natural resource regulatory authorities, representatives of the oil and gas industries, and representatives from industry trade associations. I will not detail the many statements or conclusions offered by EPA Region VI staff and Dr. Amendariz with which the invited participants disagree or question, but instead, I will focus on the request by Dr. Armendariz for a region-wide speciated inventory of VOC and NOx air pollutants for the purported purpose of preparing for the impending ozone NAAQS.

1. In asking for a speciated inventory, which will be costly, is EPA contemplating providing credit for the reactivity of various pollutants in the formation of ozone? Otherwise what is the purpose?
2. The request was made on a region-wide basis but only included the States of Texas, Oklahoma, Arkansas, and Louisiana. Why was New Mexico excluded?
3. The inventory was requested on a county-by-county basis to be gathered by the relevant trade associations from their oil and gas industry exploration and production members as

a voluntary undertaking ignoring traditional state involvement. Should the industry decline to participate, Dr. Armendariz threatened to issue Clean Air Act Section 114 requests. Such threats do not make the request a voluntary effort. Further, since the revised Ozone NAAQS has not been made final and work on the 2008 Ozone NAAQS has essentially been halted by EPA, non-attainment areas for the new NAAQS have not been designated and the EPA Rule on how to implement the New NAAQS, the Implementation Rule, has not been made final, it would seem unreasonable to issue a 114 request for the requested information. Do you believe that a 114 request is reasonable at this time?

4. Since more than 9 companies will be required to supply information, I request that you supply to me the Paperwork Reduction Act documents indicating clearance by OMB for this request.
5. What is the basis for only requesting information from the oil and gas production and exploration industry?
6. The focus of the information appears to be on areas with shale production and exploration? Is there a national effort to examine air emissions from shale gas operations?
7. Dr. Armendariz requested well site equipment counts and a company level forecast of production and drilling schedules for the next ten years. I would like to know the purpose of this request with regard to an as yet final ozone NAAQS.
8. Producing this information will be redundant and an unnecessary cost as the sources will be required to submit formal information as part of the SIP development process conducted by the States once a new ozone NAAQS has been promulgated. Do you agree with this assessment?
9. I would like an explanation as to the purpose of excluding the state and local regulatory authorities. In addition, I seek your commitment to follow the requirements of the Clean Air Act's federal-state partnership in addressing air quality issues – a partnership which has been successfully implemented and developed over 40 years.

In addition to these issues, I am aware that Dr. Armendariz has threatened to federalize the Texas air permitting program on the grounds that the Texas air program is deficient. Please provide any documents describing the nature of these threats and EPA discussions with Texas authorities on the nature of the deficiencies and consequences of the failure to correct such deficiencies.

It has also been reported that Region VI is in the process of hiring at least 8 engineers or other staff specialties to operate the Texas program. What is the source of funds for this hiring? Do the positions reduce staff levels in other EPA or Region VI programs?

Finally, Oklahoma Gas and Electric Company (OG&E) recently made a proposal for an alternative visibility SIP. The proposal would avoid the costly installation of Sulfur dioxide control equipment (scrubbers) by replacing coal with natural gas. Dr. Armendariz has been

quoted (informally) as stating that he would deny the OG&E SIP proposal. The substitution of gas for coal is a cost-effective alternative to installing expensive scrubber technology. I would like to know the current status of the proposal and to be kept informed of any pending or final action by EPA or Region VI on the OG&E proposal.

Should you have any questions please do not hesitate to contact Ryan Jackson at 202-224-0152 or George Sugiyama at 202-224-0146.

Sincerely,

JAMES M. INHOFE
Ranking Member

Cc: Dr. Al Armendariz
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