



EARTHJUSTICE

ALASKA CALIFORNIA FLORIDA MID-PACIFIC NORTHEAST NORTHERN ROCKIES
NORTHWEST ROCKY MOUNTAIN WASHINGTON, DC INTERNATIONAL

Via Certified Mail

October 27, 2011

John F. Young, President and CEO
Energy Future Holdings Corp.
Energy Plaza
1601 Bryan Street
Dallas, TX 75201

David Campbell, CEO
Luminant Generation Company, LLC
Lincoln Plaza
500 N. Akard
Dallas, TX 75201

Wayne Harris, Director (Plant Manager)
Off FM 127 8 MI SW of Mt. Pleasant
Mount Pleasant, TX 75455

Registered Agent for Luminant Generation Company, LLC
c/o C T Corporation System
350 North St. Paul St. Suite 2900
Dallas, TX 75201-4234

**RE: Notice of Intent to Sue for Violations of the Clean Air Act at the Monticello
Steam Electric Station in Titus County, Texas**

Dear Mr. Young, Mr. Campbell, Mr. Harris and Registered Agent:

We are writing, on behalf of the Sierra Club and its members, to provide you with notice of intent to file suit for significant and ongoing violations of the Clean Air Act ("Act") at the Monticello Steam Electric Station ("Monticello plant") located in Titus County, Texas. This notice is being provided pursuant to the Clean Air Act, 42 U.S.C. §7604(b).

Monticello's three units, all of which began operating in the 1970s, have a combined generating capacity of 1,880 megawatts. The plant's fuel source is lignite coal, which is supplemented by Powder River Basin coal. According to the U.S. Environmental Protection Agency ("EPA"), last year, Monticello alone emitted nearly 58,000 tons of sulfur dioxide, over 10,000 tons of nitrogen oxides, over 15 million tons of carbon dioxide, making it a very large

source of pollution. Sierra Club provides this notice after discovering thousands of violations of the plant's federal opacity limits, which serves as a proxy limit for particulate matter pollution.

Citizens are entitled to bring suit in order to enjoin violations of an emission standard or limitation under the Act. 42 U.S.C. §7604(a). In accordance with §7604(a)(1) of the Act, we are writing to notify you that, at any time sixty (60) days after the this letter's postmarked date, the Sierra Club intends to file suit in federal district court to enjoin the violations described below and to ensure future compliance. Additionally, the Sierra Club will seek recovery of attorney fees and costs, and any other appropriate relief.

I. Violations of Opacity Limit Contained in the Texas SIP and the Monticello Plant's Title V, Federal Operating Permit.

Emissions from Monticello Units 1, 2 and 3 have repeatedly violated, and continue to violate, federal opacity limits aimed at protecting public health and the environment. Opacity is a measure of the amount of soot emitted in a smokestack's gas stream. This measurement is used to ensure compliance with emission standards for particulate matter ("PM"). Particulate matter is a mixture of small particles, including organic chemicals, metals, and ash, which can cause health and environmental problems. Once inhaled, PM can cause serious health problems, especially in the heart and lungs. 52 Fed. Reg. 24663 (July 1, 1987).

Numerous scientific studies have linked particulate matter exposure to increased respiratory symptoms, such as irritation of the airways; coughing and difficulty breathing; decreased lung function; aggravated asthma; development of chronic bronchitis; irregular heartbeat; heart attacks; and premature death in people with heart or lung disease. Additionally, PM can be carried long distances and may result in acidic lakes and streams, nutrient imbalances in aquatic systems, and damage to forests and farmlands.

30 TAC 111.111, as incorporated into the SIP and Monticello's Title V permit, states that "[o]pacity shall not exceed 30% averaged over a six-minute period." *Id.* at §111.111(a)(1)(A). The regulation further states that "[o]pacity shall not exceed 20 percent averaged over a six-minute period for any source on which construction was begun after January 31, 1972." *Id.* at §111.111(a)(1)(B). These limits are incorporated into Texas's State Implementation Plan ("SIP") (61 Fed. Reg. 20734) and Monticello's Title V, Federal Operating, Permit (Title V Permit no. 064, Sections 3(A) and 3(B)) ("Title V Permit").

We are notifying you of a total of separate violations of the Monticello Plant's opacity limits, occurring between Quarter 3 of 2006 and Quarter 4 of 2010:

- Emissions at Unit 1 violated the 30% opacity limit 3,639 times;
- Emissions at Unit 2 violated the 30% opacity limit 2,129 times; and

- Emissions at Unit 3 violated the 20% opacity limit 4,129 times.

Each of these violations also constitutes a separate violation of Monticello's Title V Permit.

A chart summarizing the number of violations per unit per quarter can be found in Attachment A. Unless and until these violations cease, they will continue to harm, the health, aesthetic, and economic interests of the Sierra Club and its members. These violations are ongoing, and the harm is traceable to the violations. Redressing the violations will redress the harm.

The SIP allows for one exemption per hour: "visible emissions ... may exceed the limits set forth in this section for a period aggregating not more than six minutes in any 60 consecutive minutes." The regulation designates a series of acceptable reasons for these emissions event exemptions; however, for the purposes of this notice letter, we have exempted one six-minute opacity exceedance per hour, regardless of the reason for the event.

Each opacity violation, including the date and time, is provided in Attachment B (see enclosed compact disc) which consists of copies of Luminant's Opacity Excess Emissions Reports for the Monticello Plant. Attachment A includes spreadsheet data showing the number of six minute violations for each opacity exceedance incident, the number of exempt six minute periods for each incident, and the total non-exempt violations for each incident. We arrived at the number of violations covered by this notice letter in the following manner: The 30 TAC 111.111 opacity limit allows for one exception "not more than six minutes in any 60 consecutive minutes" for "the cleaning of a firebox or the building of a new fire, soot blowing, equipment changes, ash removal, and rapping of precipitators." In calculating the number of violations covered by this notice letter, we have conservatively excepted one opacity violation per hour, under the generous assumption that the reason for the exceedance may fall under one of the allowable exceptions. Thus, this notice letter covers all opacity deviations/exceedances which you have reported, less one 6-minute deviation/exceedance per hour.

II. Offer to Review Information

To the extent you have evidence that shows, contrary to the allegations in this letter, that Monticello Steam Electric Station is in full compliance with applicable requirements, we urge you to provide it to us so that we may potentially avoid, or at least limit, litigation of these issues.

III. Conclusion

Sierra Club intends to file suit to enjoin the violations described above and to ensure future compliance, recover attorney fees and costs of litigation, and obtain other appropriate relief. We would be happy to discuss the allegations in this notice, and look forward to hearing from you if you believe any of the foregoing information to be in error, wish to discuss the

exchange of information consistent with the suggestion above, or would otherwise like to discuss settlement or any aspect of this matter prior to initiation of litigation. Please contact the Sierra Club through its counsel, Suma Peesapati, at 510-550-6725.

Sincerely,

Suma Peesapati
Staff Attorney

Enclosures

CC:

Administrator Lisa P. Jackson
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