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EPA Reconsiders Bush-era Move to Ease Clean Air Rule in Alabama

ATLANTA, Georgia, April 10, 2009 (ENS) - The U.S. Environmental Protection Agency today asked a federal appeals court to return to the agency a Bush administration decision that had weakened an Alabama air pollution regulation, in order to allow the current administration to reconsider.

EPA's action reflects a decision by the Obama administration not to defend the Bush administration action in a lawsuit filed by four citizen groups alleging that EPA had no authority to ease restrictions on the amount of smoke that sources such as power plants may emit in the heavily polluted Birmingham area.

In August 2008, the EPA announced that the Birmingham area was failing to meet minimum federal air quality standards for fine particles, commonly called soot. These airborne, microscopic solids and liquid droplets, made up of acids, organic chemicals, metals, and other matter, can lodge deep in the lungs and bloodstream, aggravating a number of heart and lung diseases.

At the same time, the Tennessee Valley Authority, which operates two large coal-fired power plants in Alabama, and Alabama Power, which operates six more, were lobbying EPA heavily to ease standards governing the amount of smoke that large air pollution sources may emit.

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The coal-fired James H. Miller power plant operated by Alabama Power (Photo courtesy Alabama Power)

A federal court in 2007 had already found that TVA had violated the smoke-control standard, also known as the opacity standard, over 3,000 times, and TVA feared the court would impose additional controls if the standard was not weakened. So TVA turned to the Bush administration to weaken the rules and simultaneously weaken the enforcement lawsuit.

Last October, the Bush administration succumbed to industry pressure, disregarded basic legal standards, and agreed to weaken Alabama's opacity rule, even though EPA had long acknowledged that opacity standards are a basic control measure for soot pollution.

The Alabama Environmental Council, the Natural Resources Defense Council, Sierra Club, and Our Children's Earth Foundation represented by GreenLaw, filed a lawsuit challenging the Bush Administration action.

Today EPA asked the Eleventh Circuit Court of Appeals to send the rule back to EPA to allow the agency to reconsider the entire matter, in a legal filing requesting "voluntary remand" of the rule.

"We welcome EPA's decision not to defend this harmful rule in court and appreciate the Obama administration's willingness to reconsider it," said John Walke, Clean Air Director for the Natural Resources Defense Council.

"The Bush administration rushed this dirty decision out the door just before leaving office to satisfy the demands of two of the biggest polluters in America," said Walke. "Alabama's residents deserve better protections, and we are

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optimistic that today's news signals the promise of healthier air."

Michael Churchman, executive director for the Alabama Environmental Council, said, "Alabama polluters had to comply with stronger standards for 30 years, so the idea that the rule needed to be weakened for them to comply was absurd. Many of those polluters are using control equipment which is aging and degrading instead of using up to date technology that can perform much better. Hopefully EPA's action today will lead them to clean up their act and the state's air."

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