



February 3, 2014

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The Honorable Bernice Johnson
Ranking Minority Member
Committee on Science, Space and Technology
U.S. House of Representatives
394 Ford Building
Washington, DC 20515

Re: “Examining the Science of EPA Overreach” Hearing

Dear Representative Johnson:

On behalf of Air Alliance Houston, the leading grassroots air quality, environmental health and community advocacy organization in the Houston region, I am writing to express our fullest support for a continuing strong and aggressive Environmental Protection Agency (EPA) role in the enforcement of federal environmental laws in Texas. Without continuation of such a role by the EPA, it is problematic whether Texas will routinely strive to attain and maintain compliance with applicable air quality standards vital for the protection of our environment, our public health and our economy.

Since the federal Clean Air Act (FCAA) was enacted in 1970, the EPA has worked diligently to reduce air pollution and protect air quality across the entire United States by setting clean air standards, adopting regulations, enforcing standards and regulations, and providing technical and financial assistance to state efforts toward reducing air pollution. Even though the FCAA is a federal law regulating air pollution across the entire country, it recognizes that states have an important lead role in carrying out its requirements. Accordingly, the EPA allows a state, such as Texas, to elect responsibility for compliance with and regulation of federal requirements within its own borders by adopting and enforcing an EPA-approved state implementation plan (SIP). The state receives significant funding assistance from the EPA to implement and enforce the regulations, programs and policies prescribed in its SIP.

Texas fully availed itself of this voluntary responsibility by aggressively seeking and receiving delegation from the EPA of all air permitting authority within its borders. In doing so, Texas agreed to all the applicable FCAA conditions: (1) that it may have stronger air pollution controls, but not weaker pollution controls than the minimum criteria set for the whole country by the EPA; (2) that the EPA retains over-sight authority over all state-delegated programs, and must approve each SIP; (3) that if a SIP does not meet the necessary FCAA requirements, it is not approvable by the EPA; as a result of any such SIP disapproval, the EPA can issue sanctions against the state, and, if necessary, resume its ultimate responsibility under the FCAA for air permitting and enforcement; and (4) that the EPA retains oversight of all state-issued air permits to ensure that they meet minimum national standards, and if they do not, that the EPA shall object to its

issuance, and, if the state agency fails to correct the deficiencies, then the EPA itself shall issue or deny the permit.

For several years now, Texas has continued to receive all the benefits of its delegated authority, including the significant amounts of federal funding attached, while, on numerous occasions, failing or refusing to abide by the commitments and responsibilities it agreed to when it sought and received the delegation. When the EPA has carried out its statutory duties and responsibilities under the FCAA --- setting national air quality standards; adopting regulations; enforcing standards and regulations; and retaining over-sight authority over all state-delegated programs by reviewing/approving SIPs and ensuring that all state-issued air permits meet minimum national standards --- Texas has challenged the EPA at every turn. While other states have routinely participated in the development of new federal initiatives and regulations, and the EPA has incorporated experiences and lessons learned from existing state programs, Texas has chosen not to participate. Instead, Texas has doggedly opposed almost every new federal environmental standard and regularly and routinely sued the EPA rather than work with the agency to address reasonable concerns and find consensus solutions.

The EPA has done nothing more than simply carry out its statutory duties and responsibilities under the FCAA --- duties and responsibilities Texas understood and agreed to when it accepted the administration of the federal clean air program within its borders. What we really have in Texas is nothing more than a federal agency, the EPA, telling a state, Texas, that it must comply with federal laws, as that state committed to do when it accepted the responsibilities of administering the FCAA within its borders. Likewise, it is the federal agency, the EPA, undertaking the duties, responsibilities and obligations it is charged with under federal law when a state does not meet the statutory and regulatory requirements that state agreed to uphold when it accepted administration of the federal clean air program.

Yet, despite all the bureaucratic conflict, litigation and resulting stalemate, progress has been made in cleaning up our air in Texas, primarily for two reasons. First, because the continuing Texas/EPA disputes foster regulatory uncertainty and have stalled some operations and planned expansions, many Texas industries have quietly worked behind the scenes with the EPA to ensure their compliance with all FCCA requirements and EPA regulations. Secondly, and most importantly, the clean air strategies that are currently working in Texas have been put in place over the years primarily because of federal requirements to do so and the reality of federal authority to act if the State fails to effectively act. As a former Commissioner of the Texas Commission on Environmental Quality, I can attest that had the EPA not been actively overseeing Texas' clean air efforts over the past decade, we would not have the improved air quality we see today. Further, only if the EPA continues its strong and active role will we have any real assurance that Texas will continue to strive further to clean up our air consistent with all applicable federal requirements. Texas can and should be the national leader in developing strategies and solutions to address environmental issues, but until it fully and freely accepts that responsibility, a strong and active EPA role must continue if we are to achieve a cleaner and healthier environment and maintain a strong and growing economy in Texas.

Thank you for allowing us to submit these comments.

Sincerely,



Larry R. Soward
President, Board of Directors

cc: The Honorable Lamar Smith, Chairman
House Committee on Science, Space and Technology