



K A N S A S

RODERICK L. BREMBY, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

DEPARTMENT OF HEALTH AND ENVIRONMENT

October 18, 2007

Sunflower Electric Power Corporation
Mr. Wayne Penrod
Senior Manager
301 W. 13th
Hays, KS 67601

Dear Mr. Penrod:

It is my duty as Secretary of the Kansas Department of Health and Environment, as authorized by the Kansas air quality act, K.S.A. 65-3001 et seq. to protect the public health and environment from actual, threatened or potential harm from air pollution.

The secretary has broad authority under the act and the regulations adopted thereunder to achieve protection of the health of the people and the environment. . The secretary has authority under K.S.A. 65-3008a(b) to affirm, modify or reverse a decision on an air quality permit after the public comment period or public hearing. The secretary also has authority under K.S.A. 65-3012 as interpreted by the Attorney General of the state of Kansas, to take such action as is necessary to protect the health of persons or the environment, notwithstanding a permit applicant's compliance with all other existing provisions of the Kansas air quality act, upon receipt of information that the emission of air pollution presents a substantial endangerment to the health of person or the environment. The endangerment may be a threatened or potential harm as well as an actual harm.

The Supreme Court of the United States found in Massachusetts v. E.P.A., 127 S.Ct. 1438 (April 2, 2007) that carbon dioxide, a greenhouse gas, meets the broad definition of air pollutant under the Clean Air Act. The Kansas air quality act similarly has a broad definition of what constitutes air pollution. The Court also recognized the significant existing national and international information available on the deleterious impact of greenhouse gases on the environment in which we live.

I have given due consideration to the scientific and technical information related to carbon dioxide including but not limited to many oral and written comments submitted in the public hearing and comment period. The information provides support for the position that emission of air pollution from the proposed coal fired plant, specifically

OFFICE OF THE SECRETARY

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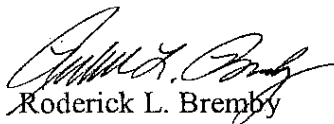
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carbon dioxide emissions, presents a substantial endangerment to the health of persons or to the environment.

Based on this information, the permit is denied. Pursuant to K.S.A. 65-3008b(e), the permit applicant has the right to appeal this decision within fifteen (15) days and request an administrative hearing under the Kansas administrative procedures act set forth at K.S.A. 77-501 *et seq.*

Sincerely,



Roderick L. Bremby
Secretary