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ARPA Responds to U.S. District Court Ruling

On September 28, 2012, the U.S. District Court in Denver issued a ruling that the Arkansas River Power Authority (ARPA) and Lamar Utilities Board (LUB) violated the Clean Air Act by operating the Lamar Repowering Project without a determination that it met the “maximum achievable control technology” standard. ARPA and LUB have been litigating this issue for the last two years with an environmental group calling itself the “WildEarth Guardians”.

“We are surprised and disappointed by the ruling,” said ARPA general manager Rick Rigel. “We have been working with the state on our permitting for the Lamar Repowering Project, and the state has determined that the maximum achievable control technology (MACT) standard does not apply to the plant because it is too small of a facility.”

WildEarth Guardians had argued in its lawsuit that the Lamar plant was a “major source” of hazardous air pollutants (HAPS) as part of its overall campaign to stop the use of coal for the generation of electricity. The state has determined the Lamar plant is not a “major source,” stating “LUB provided the required data and the Division has determined, through analysis of the LRP’s actual and potential emissions, that the facility has never emitted HAPS at levels triggering the MACT requirements of Section 112 (g).” The Air Pollution Control Division went on to say, “The Division agrees with LUB that the LRP has never exceeded MACT thresholds and so a MACT determination is not required.”

In light of these findings by the state, the district court found that the Lamar plant is no longer in violation of the Clean Air Act and denied WildEarth Guardians motion for an injunction against operating the plant.

The court has ordered the parties to set a date for trial to determine if penalties should be assessed for the previous violations. ARPA and LUB intend to appeal the decision as to whether any violations of the Clean Air Act ever occurred at the Lamar plant.

The Arkansas River Power Authority is a joint action agency formed in 1979 to provide reliable wholesale electricity to the Colorado communities of Holly, La Junta, Lamar, Las Animas, Springfield and Trinidad.