

PRESS RELEASE

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ARPA Motion to Dismiss WildEarth Guardian Lawsuit Denied

April 5, 2012 - Representatives of the Arkansas River Power Authority (ARPA) and the Lamar Utilities Board (LUB) expressed disappointment that their motion to dismiss the lawsuit filed by the WildEarth Guardians (WEG) in early 2011 was denied. ARPA sought to dismiss the lawsuit because the Colorado Department of Public Health and Environment (CDPHE) is already actively addressing the emissions issues at the Lamar Repowering Project.

ARPA and LUB self-reported emissions problems at the Repowering Project to the CDPHE. Following an administrative proceeding, ARPA and the CDPHE entered into a compliance order which directed it to implement corrective action at the project. Modifications were made in the summer of 2011, and preliminary testing showed substantial improvement in the emissions. However, some compliance issues remained when the plant was operating close to full capacity. As a result, ARPA took the plant off-line as soon as the testing was concluded, and has been working with its boiler manufacturer, Babcock and Wilcox (B&W), to engineer a solution for the plant's emission issues.

ARPA General Manager Rick Rigel noted that WEG's lawsuit seeks to take advantage of a loophole in the federal Clean Air Act. Other environmental statutes bar suits by citizen groups where an administrative action is pending. However, no such provision exists under the Clean Air Act. "This loophole allows groups such as WEG, who have a propensity for litigation, to continually file lawsuits even while the regulating authorities are actively engaged in an enforcement action. As a result, ratepayers bear the expense of defending these suits, which do nothing to foster compliance with environmental laws," Rigel said. "We have made the commitment to not operate the plant until it is in full compliance with all its permits. WEG's lawsuit does nothing more than divert resources away from that effort."

ARPA/LUB continues to work with B&W to identify and implement modifications that will result in operations that meet all permit requirements.

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.