



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

APR 28 2009

REPLY TO THE ATTENTION OF:

A-18J

Robert Hodanbosi, Chief
Air Pollution Control Division
Ohio Environmental Protection Agency
122 South Front Street
P.O. Box 1049
Columbus, Ohio 43266-1049

Re: AMP Ohio Permit and Permitting Process

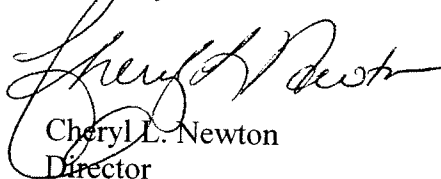
Dear Mr. Hodanbosi:

We recently became aware of various oral statements provided by your staff during the State of Ohio Environmental Review Appeals Commission proceedings on January 20-21, 2009. We understand that these proceedings are necessary steps in resolving the appeal by the Natural Resource Defense Council of the proposed AMP-Ohio power plant permit. Of specific concern to the U. S. Environmental Protection Agency are two types of statements made by the Ohio Environmental Protection Agency (OEPA) staff in those proceedings: 1) that comments provided to OEPA by Region 5 staff during the public comment period are not considered by OEPA to be reflective of EPA's official position; and 2) that OEPA made assumptions about EPA's view of the merits of our comments based on the fact that EPA chose not to appeal the permit.

In our efforts to support efficiency in State permitting processes and moving the processes forward in an expeditious manner, in lieu of sending signed hard copies, it has been EPA's long-standing practice (with limited exceptions) to send official comments during the public comment period via email. As long as this practice has been in place, no state agency has ever questioned whether our comments were representative of EPA's official position. To support national consistency in a very complex sector, utility permit comments in particular undergo a rigorous EPA review prior to submittal to the State. Upon submittal, it has been our practice to engage in dialogue with you to discuss and resolve our comments prior to final issuance of the permit. However, in this instance the final permit was issued without reaching resolution on our concerns.

Please keep in mind that while EPA did not appeal this particular permit we have not waived any rights to enforce against the AMP-Ohio power plant permit if Ohio fails to address the issues raised during the public comment process. We look forward to working with you to resolve our concerns regarding these and other matters resulting from the permitting process in this case.

Sincerely,

A handwritten signature in black ink, appearing to read "Cheryl L. Newton", written over the printed name.

Cheryl L. Newton
Director

Air and Radiation Division