

November 1, 2007

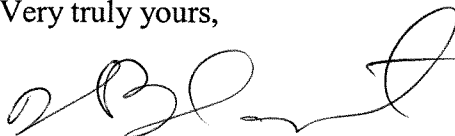
Roderick L. Bremby
Secretary, Kansas Department of Health
and Environment
Curtis State Office Building
1000 S.W. Jackson Street, Suite 540
Topeka, Kansas 66612-1368

Re: KDHE Denial of Sunflower Electric Power Corporation's Application for PSD
Construction Permit
Our File No. 16895-215

Dear Secretary Bremby:

Enclosed and hereby served upon you is Petitioner's Request For Hearing On Denial Of
Permit Application Pursuant To K.S.A. § 65-3012(b)(1) relating to the above-referenced matter.

Very truly yours,



W.C. Blanton

WCB/amm
Enclosure

Cc: Yvonne Anderson, General Counsel, KDHE

**BEFORE THE
KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT**

IN THE MATTER OF:)
)
APPLICATION OF SUNFLOWER) **Case No. _____**
ELECTRIC POWER CORPORATION)
FOR ISSUANCE OF PSD)
CONSTRUCTION PERMIT)
)

**REQUEST FOR HEARING ON DENIAL
OF PERMIT APPLICATION PURSUANT TO K.S.A. § 65-3012(b)(1)**

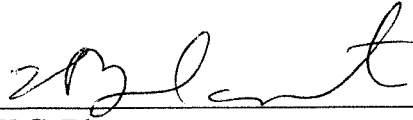
1. Sunflower Electric Power Corporation (“Sunflower”) intends to seek judicial review under K.S.A. § 65-3008a(b) the final permit action and decision dated October 18, 2007, (“Denial Order”) of Roderick L. Bremby, Secretary of the Kansas Department of Health and Environment (“Secretary”), that denied Sunflower’s application for the issuance of a permit authorizing construction of two new electricity generating units at Sunflower’s Holcomb Generating Station in Finney County, Kansas (“Application”).

2. Sunflower believes that the Denial Order is ripe for judicial review and that there are no further administrative remedies that Sunflower must pursue to perfect its rights to judicial review by an appropriate district court under K.S.A. § 77-607, including those rights to a hearing set forth in K.S.A. § 65-3012(d).

3. However, in any event, this request by Sunflower for a hearing on the Denial Order is hereby properly and timely made pursuant to K.S.A. § 65-3012(d), K.S.A. § 77-542, and the terms of the Denial Order, so as to preserve Sunflower’s rights with respect to all current and any future challenges to the Denial Order.

Dated: November 1, 2007

Respectfully submitted,



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Joshua M. Ellwanger	KS # 21537

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**ATTORNEYS FOR APPLICANT,
SUNFLOWER ELECTRIC POWER
CORPORATION**

EXHIBIT A



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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EXHIBIT

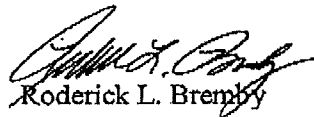
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Wayne Penrod
Page -2-

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(c), 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,

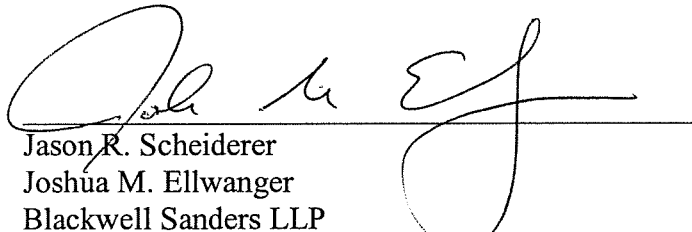

Roderick L. Bremby
Secretary

CERTIFICATE OF SERVICE

Copies of the foregoing **Request For Hearing On Denial Of Permit Application Pursuant To K.S.A. § 65-3012(b)(1)** have been served via United States mail, facsimile, e-mail, and hand-delivery this 1st day of November, 2007, upon:

Roderick L. Bremby
Secretary, Kansas Department of Health and Environment
Curtis State Office Building
1000 S.W. Jackson Street, Suite 540
Topeka, Kansas 66612-1368
Facsimile: (785) 368-6368

Yvonne C. Anderson
General Counsel
Kansas Department of Health and Environment
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