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SECRETARY

State of Louisiana

DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF THE SECRETARY

December 17, 2010

The Honorable Lisa P. Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460-2403

Dear Administrator Jackson:

I am writing you today on several topics that are of particular import to the State of Louisiana. My desire is to discuss these matters with you in person prior to the end of the year. However, if your schedule does not allow for a face-to-face meeting in the near term, I will gladly arrange for a conference call when our schedules permit.

First, I am concerned that undue resources of Region 6 are being devoted to oversight of the Texas Commission on Environmental Quality (TCEQ). I understand that addressing the perceived deficiencies in TCEQ's air permitting procedures is a priority for your agency; however, doing so should not come at the expense of other states. Until such time as your concerns with TCEQ's program have been largely resolved, I ask that you devote additional agency resources to assist the other states in the region, whether that be by means of increasing staffing within Region 6 itself or temporarily assigning staff in other regional offices to work with Region 6 states. I will discuss specific ways in which LDEQ has been impacted by the present state of affairs when we meet.

Second, I am seeking EPA's concurrence with LDEQ's best available control technology (BACT) determination for greenhouse gas (GHG) emissions as set forth in the proposed PSD permit for Nucor Steel Louisiana's Direct Reduced Iron (DRI) Plant. EPA's position on what very well may be the first BACT determination for GHG emissions must not remain ambiguous, especially given the limited data currently available regarding control of these compounds. As case in point, EPA's "PSD and Title V Permitting Guidance For Greenhouse Gases," published November 10, 2010, acknowledges that:

> "[T]here is little history of BACT analyses for GHG at this time …" [1]
>
> In the initial phase of PSD permit reviews for GHGs, background information about certain emission control strategies may be limited and technologies may still be under development. [2]
>
> This guidance is being issued at a time when add-on control technologies for certain GHGs or emissions sources may be limited in number and in various stages of development and commercialization. [3]

[1] Pg. 44.
[2] Pg. 34.
[3] Pg. 36.

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In addition to the guidance noted above, EPA has released a number of technical "white papers" summarizing readily available information on control techniques and measures to reduce GHG emissions from specific industrial sectors. One such paper targets the iron and steel industry. [4] Notably, this document does not address control techniques or measures to mitigate GHG emissions from facilities that produce DRI, though an integrated DRI/EAF steelmaking facility was highlighted as an "emerging technology." [5] Moreover, the iron and steel industry sector is not addressed in EPA's Greenhouse Gas Mitigation Strategies Database, nor is relevant data located in EPA's RACT/BACT/LAER Clearinghouse.

The DRI plant to be constructed by Nucor will utilize natural gas, not coal, in order to produce the iron product ultimately used in the steelmaking process. Thus, it represents an "inherently lower-polluting process" when compared to traditional facilities that employ coke ovens and blast furnaces.

EPA's "PSD and Title V Permitting Guidance For Greenhouse Gases" stresses the use of "lower-polluting processes/practices."

> The application of methods, systems, or techniques to increase energy efficiency is a key GHG-reducing opportunity that falls under the category of "lower-polluting processes/practices." Use of inherently lower-emitting technologies, including energy efficiency measures, represents an opportunity for GHG reductions in these BACT reviews. [6]
>
> For these reasons, EPA encourages permitting authorities to use the discretion available under the PSD program to include the most energy efficient options in BACT analyses for both GHG and non-GHG regulated NSR pollutants. While energy efficiency can reduce emissions of all combustion-related emissions, it is a particularly important consideration for GHGs since the use of add-on controls to reduce GHG emissions is not as well-advanced as it is for most combustion-derived pollutants. [7]

Locating the plant in the United States also allows for federal and state oversight of the facility's GHG emissions, thus requiring Nucor to maintain and operate the facility in the most efficient manner possible. This is important because EPA has noted that:

> (1) Unlike most traditional air pollutants, GHGs become well mixed throughout the global atmosphere so that the long-term distribution of GHG concentrations is not dependent on local emission sources. Instead, GHG concentrations tend to be relatively uniform around the world.
>
> (2) As a result of this global mixing, GHGs emitted anywhere in the world affect climate everywhere in the world. U.S. GHG emissions have climatic effects not only in the U.S. but in all parts of the world, and GHG emissions from other countries have climatic effects in the U.S. [8]

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[4] "Available and Emerging Technologies for Reducing Greenhouse Gas Emissions from the Iron and Steel Industry," October 2010, available at http://www.epa.gov/nsr/ghgpermitting.html.

[5] Ibid., pg. 40 of 69.

[6] Pg. 30.

[7] Ibid.

[8] "Regulating Greenhouse Gas Emissions Under the Clean Air Act," Advance Notice of Proposed Rulemaking, July 30, 2008, at 73 FR 44401.

Consequently, construction of this facility overseas, where environmental oversight may be lax and GHG regulation nonexistent, would be more detrimental from a climate change perspective than if the facility was constructed in Convent. Further, the citizens of Louisiana and the United States would not reap the jobs and other social and economic benefits that an investment of this magnitude will generate.

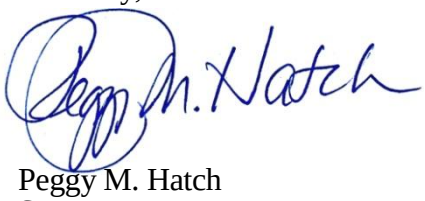
In sum, EPA's 45-day review period required for Part 70 permits ends on January 7, 2011. There will undoubtedly be public comments on the proposed permits that will necessitate another review period by Region 6. However, given:

- the paucity of data available to permitting authorities concerning potentially applicable technologies and measures to reduce GHG emissions;
- that the DRI product will be produced using clean-burning natural gas;
- that EPA will have access to all public comments received; and
- the importance of Nucor's proposal to both the Louisiana and the United States;

EPA should be proactive in concurring with LDEQ that the BACT for GHG emissions set forth in proposed Permit No. PSD-LA-751 meets all requirements of the Clean Air Act on or before the close of the agency's initial review period on January 7, 2011.

I can be reached by phone at (225) 219-3950 or by e-mail at peggy.hatch@la.gov. I would be appreciative if you would contact me at your earliest convenience. Thank you for your attention to this request.

Sincerely,



Peggy M. Hatch
Secretary

c: Dr. Alfredo Armendariz, Regional Administrator, U.S. EPA Region 6
Gina McCarthy, Assistant Administrator, USEPA Office of Air and Radiation
Senator Mary Landrieu
Senator David Vitter
Congressman Rodney Alexander
Congressman Charles Boustany
Congressman William Cassidy
Congressman John Fleming
Congressman Steve Scalise
Congressman Charlie Melancon
Congressman Joseph Cao