

**Press Release**

**For Immediate Release – September 29, 2006**

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**TXU on notice that planned coal-fired power plant  
violates state and federal clean air standards**

AUSTIN, TEXAS – CleanCOALition and Robertson County Our Land Our Lives, through their attorney Rick Addison of Locke Liddell and Sapp LLP, have teed up a citizen’s suit against three TXU companies based on multiple alleged violations of state and federal clean air standards relating to TXU’s planned Oak Grove Steam Electric Station. The Oak Grove Steam Electric Station – a proposed coal-fired energy plant to be located in Robertson County – has applied to the Texas Commission on Environmental Quality (TCEQ) for air permits, which Texas administrative judges recently recommended be denied.

Earlier this week, the two citizen groups sent the TXU companies a notice letter describing the alleged violations. As Albert Huddleston, President of CleanCOALition, said, “We have given TXU notice that we plan to sue in federal court to establish the permit application, in its present form, is in violation of the Clean Air Act. While CleanCOALition supports energy production in all forms, facilities producing energy must comply with applicable laws and must incorporate Best Available Control Technology. The Oak Grove Facility does neither. We are joining with the Coalition of Cities, Public Citizen, Environmental Defense, and Robertson County Our Land Our Lives to stop the permitting, construction, and operation of coal-fired facilities of the type TXU seeks to permit across Texas. We hope TXU will join us in the twenty-first century and provide responsible leadership by example to the power generation community.”

“The anticipated suit contends TXU’s application for the Oak Grove plant does not comply with federal or state air quality standards,” said Tom “Smitty” Smith, Director of Public Citizen. “Further, TXU’s application fails to analyze the impact of plant emissions on downwind cities, does not consider the cumulative impact of other proposed coal-fired plants, does not provide information regarding health costs, and does not analyze other technologies which could reduce pollutants by 60% to 90% such as ‘integrated gasification combined cycle’ [IGCC] or ‘circulating fluidized bed’ [CFB] technology. The notice also alleges TXU should be examining CO<sub>2</sub> emissions.”

Another red flag raised by the notice letter concerns proposed mercury emissions. “One of the important issues in all of the coal plant cases is toxic mercury pollution. Coal power plants are the largest source of mercury pollution in the nation,” said Karen Hadden, Director of SEED Coalition. “TXU has refused to use the best available control technology to reduce mercury emissions in these proposed plants. As a result they will pollute our lakes with mercury, putting our children’s health at risk. There are already 12 bodies of water in Texas so contaminated with mercury that people are warned not to eat some of the fish. One in six women in Texas currently has high enough mercury levels in her blood that her baby is at risk of suffering brain damage.”

The notice letter – which gives the TXU companies sixty days to rectify the violations – is a first step toward a citizen’s suit based on the Clean Air Act and related state and federal laws. "We are taking this action to protect our community," says Paul Rolke, founder of Robertson County Our Land Our Lives. "Unless TXU remedies the violations, we will be asking the federal courts to intervene to prevent significant negative health impacts resulting from the acid gases and other pollutants that will be emitted by the plant under the plans currently proposed by TXU. TXU chose to propose coal instead of natural gas to fuel the Oak Grove plant, but we believe TXU failed to analyze more effective, available ways to reduce the harmful emissions that a coal-fired plant will produce. These modern technologies would only add an additional fraction to the estimated cost of building and operating the Oak Grove plant, but would significantly reduce the risk to the health of our citizens and our livestock."

“If our state regulators fail to take action to protect our citizens and our environment; we will ask the courts to step up to do the job.”

A copy of the notice letter sent to the TXU companies by CleanCOALition and Robertson County Our Land Our Lives is attached.

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September 26, 2006

**By First Class U.S. Certified Mail, RRR**

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Re: Notice of Intent to File Suit Pursuant to Clean Air Act, Related Standards and Limitations, and Related Orders With Respect to Standards and Limitations

Dear Sir/Madam:

Please be informed we represent CleanCOALition and Robertson County Our Land, Our Lives (the "Noticing Citizens") in connection with their claims against Oak Grove Management Company LLC ("OGMC"), TXU Power, and TXU Corporation ("TXU"). This is the Noticing Citizens' Notice of Intent to File Suit pursuant to the Clean Air Act, related standards and limitations, and related orders with respect to standards and limitations.

After 60 days, if the violations set forth in this Notice have not been cured, the Noticing Citizens will bring a citizen's suit against OGMC, TXU Power, and TXU for civil penalties,

injunctive relief, and attorneys' fees in a United States District Court under the Clean Air Act (the "Citizen Suit"). See 42 U.S.C. § 7604. Pursuant to Section 7604, and pursuant to 40 C.F.R. §§ 54.2 and 54.3, this Notice is provided to OGMC, TXU Power, and TXU. Please be further informed that should OGMC, TXU Power, or TXU elect to resolve any of the violations set forth herein outside the context of the Citizen Suit, or because of it, the Noticing Citizens intend to seek appropriate relief and attorneys' fees as the "catalyst" for such resolution.

#### Entities to which notice is provided

Notice is provided to OGMC, TXU Power, and TXU. OGMC seeks permit(s) to construct and operate the Oak Grove Steam Electric Station in Robertson County, Texas, approximately 12 miles east of Bremond, Texas, and 12 miles north of Franklin, Texas ("Oak Grove Plant"). TXU Power has submitted documents on behalf of OGMC in, and otherwise participated in, seeking permit(s) for the Oak Grove Plant, as well as participating in the planning and implementation of plans for the Oak Grove Plant expansion. TXU is coordinating plans for multiple coal-fired power plants across Texas (including the Oak Grove Plant), has had input regarding the Oak Grove Plant, has rendered assistance to OGMC regarding the Oak Grove Plant, and is financially interested in the Oak Grove Plant. The registered agent in Texas for OGMC, TXU Power, and TXU is CT Corporation. See 40 C.F.R. § 54.2(c).

#### Violations for which notice is provided

The Noticing Citizens hereby provide notice of violations detailed below. Each violation described is separate from and independent of the others.

### **I. STATUTORY BACKGROUND**

The Clean Air Act is designed to protect and enhance the quality of the nation's air, so as to promote the public health and welfare in the productive capacity of its population. Section 101(b) of the Clean Air Act (hereinafter the "Act"). The U.S. Environmental Protection Agency ("USEPA") has established National Ambient Air Quality Standards ("NAAQS") to protect human health and the environment from six "criteria pollutants." 42 U.S.C. § 7602(u); 40 C.F.R. part 50.<sup>1</sup> An area that meets the NAAQS for a particular criteria pollutant is deemed to be in "attainment" for that pollutant. 42 U.S.C. § 7407(d). An area that does not meet the NAAQS is a "non-attainment" area. *Id.* An area that cannot be classified due to insufficient data is "unclassifiable," a designation that allows an area to be treated for regulatory purposes as though it were an attainment area for the particular criteria pollutant in question. *Id.* The Oak Grove Plant is located in an area that has been classified as attainment or unclassified for all criteria pollutants.

Pursuant to 42 U.S.C. § 7410, each state must adopt and submit to USEPA for approval a State Implementation Plan ("SIP"). Among other things, the SIP provides for the attainment and

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<sup>1</sup> The six "criteria pollutants" are sulfur dioxide, particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>), carbon monoxide, ozone, nitrogen oxides, and lead.

