

# United States Senate

WASHINGTON, DC 20510

January 14, 2011

The Honorable Lisa Jackson, Administrator  
U.S. Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue N.W.  
Washington, DC 20004

Dear Administrator Jackson:

I am deeply concerned regarding the basis of EPA's lawsuit against Ameren Corporation for alleged New Source Review (NSR) violations under the Clean Air Act. In its suit, EPA claims that Ameren's nearly decade-old construction on its Rush Island coal plant in Festus, MO represented a "major modification" that triggers best available technology control (BACT) requirements under NSR.

However, it is my understanding that these construction projects were considered routine maintenance and in some cases, efficiency improvements. Some examples of these projects were routine repair and replacement work, and even modifications of the plant enabling it to switch to burning low-sulfur coal. It is particularly puzzling that EPA would punish Ameren for making improvements clearly aimed at actually reducing emissions.

It would not be difficult to draw the conclusion that this recent lawsuit is another backdoor method used by the EPA to broadly penalize the use of coal in the United States. This is especially offensive to Missourians, whose economy relies on coal to produce more than 80% of the state's electricity. EPA appears to be construing the major modification requirement so broadly that it stretches the agency's authority under NSR to limits well beyond those envisioned by Congress. Forcing utilities to undergo new and duplicative BACT assessments would serve to discourage them from achieving the very efficiency and emissions reduction projects that the EPA purportedly intends to promote. This is a counterintuitive, disingenuous, and irresponsible action by a federal agency and it deserves the utmost scrutiny by the United States Congress.

Due to its acknowledged negative impact on the economy by legislators from both parties, legislation related to cap and trade has been spurned by federal lawmakers. Politically-driven efforts by federal agencies to circumvent the will of Congress through regulatory action should be closely examined by the House and Senate.

I respectfully request that you respond to this letter with answers to the following inquiries:

- 1) How many site visits did EPA regulators make to the Rush Island plant to determine the basis for the lawsuit in question?
- 2) On which dates were these visits made?


- 3) What specific guidance did the EPA provide to Ameren regarding the legality of its proposed construction project?
- 4) Are the emissions from the Rush Island plant less clean as a result of its modification?
- 5) What effort did the EPA make to determine the economic cost to ratepayers should the proposed construction fail to occur?

Elected officials are both constitutionally and morally burdened with the responsibility of broadly examining policies to determine what is in the best interest of their constituents, an obligation that has recently been at odds with the activities of federal regulators. In particular, a tsunami of regulations from the EPA threatens to significantly hamper our nation's access to cost-efficient and reliable energy. A North Electric Reliability Corporation (NERC) study found that should only a handful of the pending EPA regulations be enacted, significant potential impacts to reliability would result and that up to 70 GW of electricity capacity would be retired by 2015. The result would be increased electricity rates, economic damage, and lost jobs. This is hardly in the economic interests of my constituents in Missouri.

To the extent that the EPA's efforts to deter the use of coal through executive fiat are furthered through the lawsuit against Ameren and its modification program at the Rush Island plant, I intend to closely examine the motives behind this legal action. Americans are deeply and increasingly frustrated with actions taken by this Administration with little regard for their economic well-being. I intend to ensure that Congress, not the EPA, legislates on their behalf.

I look forward to your prompt response. Please feel free to contact Downey Palmer at (202) 224-5721 if you have any questions regarding this letter or these inquiries.

Sincere regards,



Roy Blunt