Date:

September 26, 2018

Case:

EPA PUBLIC HEARING - TEXAS REGION

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6 TRANSCRIPTION OF
7 ENVIRONMENTAL PROTECTION AGENCY
8 PUBLIC HEARING - TEXAS REGIONAL HAZE FIP
9 WEDNESDAY, SEPTEMBER 26, 2018
10 3:30 P.M.
11 UNIVERSITY OF TEXAS
12 JOE C. THOMPSON CONFERENCE CENTER
13 2405 ROBERT DEDMAN DRIVE
14 AUSTIN, TEXAS 78712
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25 REPORTED BY: PAIGE S. WATTS, TEXAS CSR NO. 8311

1 APPEARANCES
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3 ENVIRONMENTAL PROTECTION AGENCY PARTICIPANTS:
4 Mr. Jay Przyborski, Office of Regional Counsel
5 Mr. Guy Donaldson, Chief, Air Branch
6 Mr. Michael Feldman, Chief, Air Planning Section
7 Mr. Josh Olszewski, Office of Regional Counsel
8
9 OTHER ENVIRONMENTAL PROTECTION AGENCY MEMBERS PRESENT:
10 Ms. Jennifer Huser, Environmental Scientist
11 Mr. Clovis Steib, Environmental Scientist
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1 HEARING OFFICER: All right. It's
2 approximately 4:00 p.m. on September 26th, 2018; and
3 this public hearing is now in session. Good afternoon,
4 ladies and gentlemen, and thank you for coming to the
5 public hearing.
6 My name is Jay Przyborski. I'm an
7 attorney from the Environmental Protection Agency
8 Region 6 located in Dallas, Texas; and I am the
9 designated Hearing Officer for this public hearing. My
10 responsibilities include fully developing the public
11 hearing record by taking public comment from interested
12 parties concerning EPA's proposed actions.
13 EPA will consider the public hearing
14 record during its decision-making process. Please note
15 that I do not participate in making the final decision
16 concerning the proposed actions. I merely conduct this
17 hearing.
18 In addition to me, there other EPA
19 representatives this afternoon, including Guy Donaldson,
20 the Chief of the Air Branch of EPA Region 6; and Michael
21 Feldman, Chief of the Air Planning Section of EPA
22 Region 6. Michael's section is primarily responsible
23 for preparing the proposed actions that are the subject
24 of this public hearing. Josh Olszewski is an attorney
25 with Region 6. We have Jennifer Huser, an Environmental

1 Scientist back there; and Clovis Steib is an
2 Environmental Scientist, and he's manning the
3 registration table out front.
4 The purpose of this public hearing is to
5 provide interested parties the opportunity to present
6 information and opinions to EPA concerning our proposal
7 to affirm the October 2017 State Implementation Plan
8 approval and Federal Implementation Plan for Texas, to
9 address certain Clean Air Act Regional Haze
10 requirements. EPA believes that certain aspects of the
11 October 2017 final rule could benefit from additional
12 public input, and we are also taking comment on related
13 policy issues.
14 EPA published notice of these proposed
15 actions and the public hearing in the Federal Register
16 on August 27th, 2018. The Federal Register notice
17 informed members of the public of their opportunity to
18 obtain copies of the information concerning EPA's
19 proposed action, to provide comments on the proposed
20 action, and to participate in the public hearing being
21 held today.
22 I'd now like to invite Guy Donaldson to
23 provide us with a summary of EPA's actions.
24 MR. DONALDSON: Thank you, Jay.
25 I would like to provide some additional

1 background material and go into some more detail on
2 certain aspects of our proposal for those of you who did
3 not get a chance to attend our open house, which
4 preceded this hearing. You may know that the Texas
5 Commission on Environmental Quality submitted a SIP for
6 our review. The term "SIP" -- S-I-P -- stands for State
7 Implementation Plan. A SIP is basically a roadmap for
8 how a State will meet particular Clean Air Act
9 requirements.
10 SIPs generally consist of narratives,
11 regulations, emission limitations, control measures, and
12 schedules for compliance. Sometimes SIPs include other
13 forms of requirements, such as stipulations, agreements,
14 and proponents. SIP narratives describe how the plan,
15 including any rules or any other State requirements,
16 will comply with the Clean Air Act requirements and
17 maintain the National Ambient Air Quality standards or,
18 in this case, address visibility requirements. SIP
19 narratives also sometimes include State promises for
20 future actions, which we call "commitments."
21 Each SIP provision must undergo a
22 reasonable notice of public hearing at the State level.
23 HEARING OFFICER: You want to flip the
24 switch.
25 MR. DONALDSON: All right. Let's see.

1 Each SIP provision must undergo a reasonable notice of
2 the public hearing at the State level before it's
3 submitted to us for review. Once we receive it, we
4 evaluate it to determine if it meets the Clean Air Act's
5 requirements.
6 We'll either propose our decision
7 directly or, like this one, we will propose it with a
8 public comment period and hold a hearing. If a State
9 fails to make a required SIP submittal or if we find
10 that the State's submittal isn't clear or un-approvable,
11 then we must promulgate our own Federal Implementation
12 Plan -- also referred to as a FIP -- to fill this
13 regulatory gap.
14 On October 17th, 2017, the EPA published
15 a final rule, partially approving the 2009 Texas
16 Regional Haze State Implementation Plan, SIP provision,
17 and promulgated a Federal Implementation Plan for Texas
18 to address certain outstanding Clean Air Act Regional
19 Haze requirements. As we believe that certain aspects
20 of our final rule would benefit from additional public
21 comment and input, our August 28th, 2018, proposal
22 affirms our October 2017 rule and seeks public input on
23 certain aspects.
24 During the public comment period -- which
25 ends October 26, 2018 -- anyone can comment on our

1 proposal by either sending their comments to us or by
2 commenting at this hearing. Instructions for submitting
3 comments are available in our notice. We will review
4 the comments we receive and carefully consider them.
5 We'll address those comments in our final decision; and
6 if necessary, modify our proposal to accommodate them.
7 We will publish our final decision in the
8 Federal Register and the final decision is then codified
9 in the Federal Regulation at 40 CFR Part 52. Once we
10 approve a SIP or promulgate a FIP, citizens may enforce
11 the SIP rules, requirements, and commitments in federal
12 court.
13 Because this proposal is mainly about
14 regional haze, I would like to take a moment to provide
15 some background on haze. Haze occurs when light passes
16 through visibility-impairing pollution in the
17 atmosphere. Particles and gases in the atmosphere
18 absorb some of the light traveling from a scene to --
19 from a scene to an observer. Other light is scattered
20 away before reaching the observer. For instance, smoke
21 particles scatter most of the light that strikes them;
22 and black carbon or soot absorbs light. Sulfates,
23 nitrates, soil, organic carbon, and soil dust can
24 scatter light.
25 The more particles in the air, the more

1 light is absorbed or scattered. The absorption,
2 scattering of light reduces the clarity, color, texture,
3 and the form of what the observer is seeing; and that
4 aspect is called "light extinction." There are many
5 sources of haze-causing pollution, including major and
6 minor stationary sources and other sources like fire.
7 In 1977, Congress identified 158 national
8 parks, wilderness areas, international parks, and other
9 areas that were to receive the most stringent protection
10 from air pollution that causes haze. These are known as
11 Class 1 areas. The goal of the Regional Haze Program is
12 to gradually improve visibility, specifically at these
13 Class 1 areas, with a goal of a return to natural
14 visibility conditions by 2064.
15 Class 1 areas, as outlined in the Clean
16 Air Act, are international parks, national wilderness
17 areas, and memorial parks larger than 5,000 acres in
18 size and national parks that exceed 6,000 acres in size
19 and which were in existence when the 1977 Clean Air Act
20 amendments were enacted. About three-quarters of the
21 Class 1 areas are located in western states. Texas has
22 two Class 1 areas: Big Bend National Park and Guadalupe
23 Mountains National Park.
24 The Clean Air Act requires the State
25 Regional Haze Plan to include requirements to ensure

1 Best Available Retrofit Technology, or BART. This
2 applied to large sources of haze-causing pollution from
3 sources built during the time period of 1962 to 1977.
4 On October 17th, 2017, the EPA published a final rule
5 partially approving the 2009 Texas Regional Haze State
6 Implementation Plan submission and promulgated a Federal
7 Implementation Plan for Texas to address certain
8 outstanding Clean Air Act Regional Haze requirements.
9 Because the EPA believes that certain
10 aspects of the final rule could benefit from additional
11 public input, we are proposing to affirm our
12 October 2017 SIP approval and FIP promulgation, but are
13 also providing the public with the opportunity to
14 comment on relevant aspects, as well as other specified
15 related issues.
16 The following overview provides -- well,
17 the following provides an overview of the lengthy and
18 difficult path the Regional Haze Program has taken in
19 Texas. As a first matter, EPA maintains its States are
20 in the best position to provide flexibility and protect
21 the environment while maintaining a strong economic
22 engine. The 2009 Texas Regional Haze SIP relied on the
23 now defunct Clean Air Act Interstate Rule to satisfy the
24 Best Available Retrofit Technology requirements.
25 The D.C. Circuit remanded CAIR to EPA in

1 2009, prior to the State's submission. The CAIR
2 requirements were replaced by the Cross-State Air
3 Pollution Rule in 2011. Because of legal challenges,
4 the Cross-State Rule in its current form does not
5 provide SO2 emission reductions in Texas; and as such,
6 cannot satisfy the BART requirements for SO2 electrical
7 generating units in Texas.
8 Texas has not provided a replacement SIP
9 submission to address BART for SO2 at its EGUs. Because
10 of court deadlines and without a Texas SIP, EPA has been
11 forced to adopt a Federal Implementation Plan to address
12 BART. When EPA proposed a source-specific BART FIP in
13 January 2017, Texas along with other commenters
14 suggested to EPA the concept of a trading program. In
15 close cooperation with Texas, the EPA developed an SO2
16 trading program that we included in our October 2017
17 final rule and adopted in time to meet our court ordered
18 deadline.
19 Texas entered an agreement with EPA to
20 provide a SIP based trading program that would replace
21 the FIP. In the months since EPA promulgated the
22 trading program FIP, Texas has not provided a SIP,
23 leaving it without the benefits of a State program -- a
24 State program it could bring and leaving EPA with little
25 choice but to continue to implement its Federal Plan.

1 On December 15th, 2017, EPA received a
2 petition for reconsideration of the October 2017 rule,
3 requesting that the administrator reconsider certain
4 aspects of the FIP related to the interstate trading
5 program promulgated to address the SO2 BART requirements
6 for EGUs. As stated in our letter in response to that
7 petition -- dated April 30th, 2018 -- we believe certain
8 aspects of the Federal Plan can benefit from further
9 public comment.
10 Therefore on this action, we are
11 soliciting comment on, one, the issuance of a FIP
12 establishing an intrastate trading program, capping
13 emissions of SO2 from certain EGUs in Texas, and our
14 determination that this program meets the requirements
15 for an alternative BART for SO2; two, our finding that
16 BART alternatives in the October 2017 rule-making to
17 address SO2 and NOx BART at Texas EGUs, results in
18 emission reductions, adequate to satisfy the
19 requirements of the Clean Air Act Section 110
20 (A)(2)(D)(ii), with respect to visibility for a number
21 of Acts issued between 1997 and 2010; and, three, our
22 approval of Texas SIP determination that no sources are
23 subject to BART for PM2.5.
24 We are also soliciting comment on
25 specific issues of whether recent shutdowns of sources

1 included in the trading program and the merger or two
2 owners of effective EGUs should impact the allocation
3 methodology for certain SO2 allowances. EPA will
4 consider these comments in the context of our proposal
5 to affirm the SO2 trading program FIP. While soliciting
6 comment on the above three proposed actions, EPA also
7 invites comment on additional issues that could inform
8 our decision-making with regard to SO2 BART obligations
9 for Texas.
10 First, we seek input on whether SO2 BART
11 would be better addressed through a source-by-source
12 approach or source-specific BART. We seek comment on
13 the October 2017 SO2 trading program or some other
14 appropriate BART alternative. Second, EPA requests
15 comment on whether a SIP-based program would serve Texas
16 better than a FIP. Third, we request public comment on
17 whether and how SO2 trading program finalized in
18 October 2017 final -- the trading program as finalized
19 in the October 2017 final rule, addresses the long-term
20 strategy and reasonable progress requirements for Texas.
21 We note that should we decide to act
22 pursuant to any comments we receive on these additional
23 policy questions, we may initiate a new rule-making
24 process with a new proposed rule. All supporting
25 documents are present in our electronic docket, the

1 details of which are included at the beginning of our
2 proposal.
3 With that, I'll turn it back over to Jay.
4 HEARING OFFICER: Thank you, Guy.
5 The procedures for this hearing are very
6 simple and informal. However, the hearing must be
7 conducted in an orderly manner that will allow EPA to
8 obtain and record all relevant and appropriate
9 information related to the proposed action. Tonight's
10 hearing is not an evidentiary hearing or trial. There
11 will be no direct or cross-examination of witnesses.
12 As Hearing Officer, I may ask questions,
13 but only for clarification of the record. Otherwise,
14 persons making comments will not be questioned. This is
15 not a forum for debate or argumentative exchanges; but
16 rather one for gathering of facts, data, information,
17 and opinions regarding proposed actions. You are to
18 direct your comments to the EPA panel, not the audience
19 behind you.
20 EPA will respond to questions and issues
21 raised in the record of tonight's hearing, but those
22 answers will be in writing in a document known as a
23 "Responsiveness Summary." EPA personnel will not
24 respond to questions during the public hearing this
25 evening, but they may respond to informal questions

1 presented outside the public hearing record.
2 If you have not signed a speaker
3 registration form and wish to provide comments, please
4 take a moment to obtain and complete a form provided at
5 the registration table. When I call upon you to give
6 your comments, please state your name; and if you're
7 affiliated with or representing on organization, please
8 identify the organization. I must obtain a clear --
9 there's a ringing -- a clear and uninterrupted record of
10 the hearing. So please do not talk while others are
11 giving their comments. We can only have one person
12 talking at one at a time in order for the court reporter
13 to be able hear accurately record the comments provided.
14 As the Hearing Officer, I can impose time
15 limits on speakers if circumstances warrant. Given the
16 number of people tonight, let's go with -- let's do five
17 minutes per speaker. If you're comments are rather
18 lengthy, I recommend you summarize them and follow your
19 testimony with a request to enter the complete written
20 statement into the record.
21 I'm just going to do the time from up
22 here and when you get down to one minute, I will raise
23 my hand with one finger up to show you that you have one
24 minute left; and if you get to the end of your time,
25 your five minutes have run out, I'll put up my hand like

1 that (indicating) so you'll know it's the end of your
2 time. We will recess from 6:00 p.m. to 6:15 p.m.; and
3 if there are people who arrive late or have not given
4 their remarks, I'll reiterate these opening remarks for
5 their benefit.
6 After the public hearing record closes,
7 EPA will continue to accept written comments. Everyone
8 should note that the public comment period allowing for
9 written comments will remain open until October 26th,
10 2018. Any written comments should be submitted by the
11 methods described in the Federal Register notice.
12 Please note that written comments will be considered
13 with the same weight as oral comments.
14 And with that, we can begin taking
15 testimony. Let me get the timer ready; and while I do
16 that, the first speaker is Steve Hagle.
17 Okay, Mr. Hagle, I'm ready whenever you
18 are.
19 MR. STEVE HAGLE: My name is Steve Hagle.
20 I'm the Deputy Director for the Austin Area at the Texas
21 Commission on Environmental Quality. Thank you for the
22 opportunity to provide comment on EPA's proposal to
23 affirm and take comment on portions of the Regional Haze
24 and Interstate Visibility Transport Federal
25 Implementation Plan for the State of Texas.

1 First, I wanted to thank EPA for their
2 efforts to work with TCEQ to address BART and interstate
3 visibility requirements for Texas. We hope that the
4 cooperative process that ultimately led to the BART FIP
5 alternative trading program will continue. Texas
6 supports the alternative interstate SO2, sulfur dioxide,
7 trading program to address BART for EGUs in Texas. As
8 expressed in our comments on the original January 4th,
9 2017, BART FIP proposal, TCEQ recommended that EPA
10 consider finalizing the FIP based on a source or system
11 cap approach, as allowed under EPA's Regional Haze rule
12 for BART alternatives.
13 TCEQ continues to support such an
14 alternative, as opposed to more source-specific BART
15 controls. TCEQ does have some concerns with some of the
16 program elements that EPA is requesting comment, which
17 most of these will be addressed in our written comments.
18 However, I wanted to mention that our primary concern is
19 that significant changes in the sulfur dioxide trading
20 program should be avoided with imminent start of the
21 program on January 1st of 2019.
22 We understand the proposal to indicate
23 the separate proposed rule would be initiated if the EPA
24 decides to act on any of these issues raised for comment
25 with this proposal; and even if those are made through a

1 separate rule-making, changes during the first year of
2 the program could result in uncertainty and disruption
3 of operations for those EGUs trying to operate under
4 allocations and requirements that may change
5 significantly. Therefore, TCEQ suggests if the EPA
6 decides to make and implement changes to the program,
7 then the effectiveness of the changes should be delayed
8 until at least one full control period after the EPA
9 adopts the changes.
10 Regarding EPA's statement that Texas has
11 not met our commitment to provide a BART SIP as
12 expressed in the August 14th, 2017, memorandum of
13 agreement between EPA and TCEQ, the MOA was submitted to
14 the United States District Court for the D.C. circuit as
15 part of our -- made a request of EPA for more time to
16 finalize an action on BART in Texas. The MOA
17 established a schedule for TCEQ to adopt and submit a
18 BART SIP GPA for approval, rather than EPA finalizing a
19 FIP. The Court did not grant the extension request and
20 EPA promulgated the trading program BART alternative FIP
21 in September of 2017.
22 Therefore, while Texas' commitment in the
23 MOA is no longer applicable, the TCEQ will consider
24 whether to replace the FIP with a State program as we
25 prepare for upcoming SIP revision for the seventh

1 planning period due in July of 2021. The TCEQ and the
2 State of Texas appreciate EPA's continuing effort to
3 restore the principles of cooperative federalism under
4 the Federal Clean Air Act and the primary role of the
5 States in protecting air quality.
6 As the air quality data continues to
7 show, Texas has made great strides in improving
8 visibility in Big Bend and Guadalupe Mountains National
9 Parks. The TCEQ stands ready to maintain this success
10 in the coming years. Thank you for the opportunity to
11 comment.
12 HEARING OFFICER: Thank you for your
13 testimony.
14 The next speaker is Susana Hildebrand.
15 MS. SUSANA HILDEBRAND: Good afternoon.
16 My name is Susana Hildebrand, and I represent Vistra
17 Energy Corp. Vistra is a Texas-based integrated power
18 company with approximately 41,0000 megawatts of
19 generation assets across 12 states. Vistra's retail
20 brands, which include TXU Energy, serve approximately
21 2.9 million residential, commercial, and industrial
22 customers in five states. Luminant, Vistra's
23 subsidiary, is the largest generator of electric power
24 in the Texas market.
25 I'm the Director for Environmental Policy

1 and share in the critical task of ensuring our electric
2 generating units, EGUs, operate within State and Federal
3 guidelines and laws. We are intensely focused on
4 providing safe, reliable power to a growing market; and
5 firmly believe that power generation has balanced Texas'
6 need for reliable, affordable, and environmentally
7 responsible power.
8 We appreciate the opportunity to speak to
9 you today on EPA's recent proposal regarding the Federal
10 Implementation Plan to address the Best Available
11 Retrofit Technology obligations under the Regional Haze
12 rule for Texas EGUs. We support EPA's proposal to
13 affirm the October 2017 BART FIP for Texas.
14 The BART FIP is vital to Texas' long-term
15 strategy for regional haze and to its plan for meeting
16 reasonable progress requirements. Further, the SO2
17 trading program implemented by the BART FIP, fully
18 satisfies the requirements for an alternative and the
19 clear weight of evidence shows that the trading program
20 achieves greater reasonable progress than BART.
21 The trading program will ensure that the
22 multiyear downward trend SO2 emissions from Texas EGUs,
23 will continue into the future. The BART FIP is an
24 important step in finalizing Texas obligations with the
25 first planning period; and, therefore, EPA should affirm

1 its October 2017 BART FIP. We appreciate the
2 opportunity to provide feedback on EPA's proposal today.
3 HEARING OFFICER: Thank you.
4 The next speaker we have is Liana James.
5 MS. LIANA JAMES: My name is Liana James;
6 and I'm Legal Fellow with the Environmental Defense
7 Fund, a nonpartisan environmental organization with more
8 than 1.5 million members nationwide. For decades, the
9 Environmental Defense Fund has worked across the country
10 and in Texas to protect human health and environment
11 from harmful pollution.
12 First, I would thank the EPA for its long
13 bipartisan history of cleaning up air, water, and land,
14 making communities safer and healthier across the United
15 States. EPA has historically taken important steps to
16 ensure that our cherished national parks and wilderness
17 areas have awe-inspiring views, clean and healthy air,
18 and continue to be powerful economic engines for
19 surrounding communities.
20 EPA leadership over the last decade has
21 resulted in visibility improvements at national parks
22 and wilderness areas across the country. Many of these
23 improvements are directly related to the installation of
24 Best Available Retrofit Technology.
25 I am here today to tell the EPA to

1 continue the tremendous leadership it has shown over the
2 past decades and to require source-specific SO2 and PM
3 controls on eligible units in Texas, as it did in its
4 January 2017 proposed FIP. Because my time is short, I
5 will only briefly touch on historical support for the
6 Regional Haze Program, as well as the health and
7 economic importance of ensuring clean air in our
8 nation's national parks and wilderness areas.
9 Starting with the Organic Act in 1916,
10 creating the National Park Service and expanded by the
11 1964 Wilderness Act and the 1977 amendments to the Clean
12 Air Act, Congress has recognized with overwhelming
13 bipartisan support, the need to protect and restore
14 scenic views at national parks and wilderness areas,
15 leaving them unimpaired for the enjoyment of future
16 generations. Affected implementation of the Regional
17 Haze Program will also have collateral and public health
18 benefits by reducing harmful exposure to fine
19 particulate matter, which penetrates deep into people's
20 lungs and can cause premature death, heart attacks,
21 aggravated asthma, and other serious health problems.
22 Restoring air quality in national parks
23 and wilderness areas also has important economic
24 benefits in Texas. According to the National Park
25 Service, there were almost 6 million visits to Texas'

1 national parks last year and those visitors spent over
2 $300 million in surrounding communities. This spending
3 supported over 4,000 jobs and increased overall economic
4 output in the State by $428 million. Moreover, Texas
5 has clean and affordable energy solutions close at hand
6 that would create economic growth.
7 Texas, which currently has the largest
8 amount of installed wind capacity of any state in the
9 country, has a capacity to generate over 5.5 million
10 gigawatt hours of wind energy by 2050. In 2016, Texas'
11 wind energy industry supported up to 23,000 jobs. Texas
12 also has substantial solar wind potential -- or solar
13 energy potential. In 2017, the solar industry supported
14 almost 9,000 jobs in Texas.
15 In closing, I want to reiterate that the
16 EPA should not finalize its proposed rule and should
17 instead require source-specific SO2 and PM controls on
18 eligible units in Texas. Thank you again for the work
19 you do to protect human health and environment and for
20 the opportunity to testify here today.
21 HEARING OFFICER: Thank you.
22 The next speaker is Kristen McConnell.
23 MS. KRISTEN MCCONNELL: Hi. My name is
24 Kristen McConnell; and I am here today as a Regional
25 Council Member of the National Parks Conservation

1 Association, an organization of 1.3 members -- 1.3
2 million -- sorry -- members and supporters that has been
3 advocating for parks across the country since 1919 and,
4 finally, most important, I'm also here in my capacity as
5 a mother.
6 Thank you for holding the hearing today.
7 I'm glad for the opportunity to talk about why the Texas
8 Regional Haze Plan, finalized by the EPA last October,
9 falls short in protecting my family and the parks that I
10 love.
11 So first, a little about myself. I was
12 born in Dallas in 1979, which is notably just two years
13 after Congress officially recognized the need to protect
14 parks and local economies that depend on them from the
15 dangers of air pollution and so instructed the EPA to
16 take steps to restore clean air to these places. I grew
17 up visiting parks in Texas, New Mexico, and beyond with
18 my family on our summer vacations. They are some of the
19 most special places in the world to me.
20 In 1999, just as the EPA finally issued
21 the Regional Haze rule, I took my now husband to Big
22 Bend National Park for the very first time. We sat at
23 the long dining tables in the Chisos Mountain Lodge and
24 shared a Thanksgiving dinner with strangers from around
25 the world. We hiked down the Window Trail and looked

1 out at spectacular view of the Chisos and Maderas del
2 Carmen Mountains. I remember another visitor telling me
3 that you used to be able to see much further and, in
4 fact, on average, visitors currently miss out on roughly
5 half of the view at Big Bend, with more than 70 miles of
6 the incredibly scenic vistas obscured by haze.
7 And it's not just Big Bend. My husband
8 and I have since hiked to the top of Guadalupe
9 Mountains, camped in backcountry of Carlsbad Caverns,
10 and other parts across Texas where the same sources of
11 pollution that deteriorate views, also affect the
12 respiratory health of visitors, park staff, and
13 communities.
14 My daughter was born in 2009, and one of
15 my many things that I love about being her mother is the
16 opportunity to share these special places with her. She
17 loves the outdoors, and we've been camping with her
18 since she was a baby. Unfortunately, 2009 was also the
19 year that Texas finally submitted the proposed plan
20 required by the Regional Haze rule, two years late.
21 That plan was supposed to chart a course toward the
22 elimination of human-caused haze. It's not news that
23 the plan was inadequate, at best, at controlling
24 emissions that damage air quality.
25 The same can be said for the final rule

1 issued by the EPA last October, which requires no SO2
2 reductions and, in fact, allows more emissions than the
3 sources involved emitted in 2016. So here I am, more
4 than 40 years after Congress affirmed that air pollution
5 is among the most serious threats facing national parks,
6 still waiting for a real proposal that relieves parks of
7 the burden of air pollution and brings outdated Texas
8 coal plants into the modern era.
9 We all deserve better than this. My
10 daughter and every visitor to a national park deserves
11 clean air and clean views. The consequences of this
12 pollution are significant and the delay to address it in
13 an effective way is outrageous. You already have lots
14 of data in the record on the consequences of air
15 pollution, much of it from leading scientists and other
16 technical experts. Air pollution affects health,
17 economies, wildlife, and ecosystems and it drives
18 climate change and it's already harming our parks.
19 It makes me crazy that we can't get our
20 act together in Texas and do the things we already know
21 how to do to fix it. Texas is the nation's largest
22 source of dangerous, unhealthy sulfur dioxide pollution.
23 In 2017, our power plants dirtied the air with more
24 sulfur dioxide than 35 other states combined. That's
25 over 150 percent more than the next highest emitting

1 state. Actual controls are basic and widespread outside
2 of Texas. They're in use at more than 450 units in the
3 United States. It's unthinkable to me that our parks
4 and the people who visit them, continue to bear the
5 brunt of air pollution when such obvious controls have
6 long been available.
7 EPA's Regional Haze Plan will do nothing
8 to protect parks in and around Texas from dangerous air
9 pollution. It fails the legal obligation to help
10 restore natural air quality of these places and it puts
11 the interest of polluters over public health. For me,
12 worst of all, it betrays my daughter and future
13 generations. National parks can have a variety in
14 ecosystems and are healthy for visitors, are the
15 greatest inheritance we can give our children; and
16 they're one that I'm proud with can share with the rest
17 of the world. So we have to do more to protect them.
18 Thank you again.
19 HEARING OFFICER: Thank you.
20 The next speaker is Elizabeth Gunter.
21 MS. ELIZABETH GUNTER: Gentlemen, good
22 afternoon. My name is Elizabeth Gunter. I am Senior
23 Counsel for American Electric Power Company, or AEP --
24 excuse me -- here on behalf of two of its subsidiaries,
25 Southwestern Electric Power Company, or SWEPCO, and

1 Public Service Company of Oklahoma, or PSO. These
2 companies own and operate coal-lignite and gas-fueled
3 electric generating units in Texas.
4 SWEPCO is headquartered in Shreveport,
5 Louisiana, and serves 535[sic] customers in the western
6 Arkansas, northwestern Louisiana, and eastern and north
7 Texas. PSO serves 550,000 customers and is
8 headquartered in Tulsa, and serves customers eastern and
9 southwestern Oklahoma.
10 Specifically, EPA's proposal to affirm
11 the October 2017 Federal Implementation Plan, or FIP,
12 and the State Implementation Plan approval directly
13 affect SWEPCO's and PSO's generation in Texas. Since
14 2000, the emissions of SO2 and NOx from our Texas
15 coal-lignite power plants have declined 70 percent and
16 68 percent respectively. SWEPCO supports the EPA's
17 proposal to reaffirm the FIP that establishes an
18 interstate trading program, addressing Texas' SO2
19 Regional Haze obligations as a BART alternative and in
20 lieu of source-specific controls.
21 This program will allow SWEPCO
22 operational flexibility in complying with its BART
23 obligations via trading program based on the Cross-State
24 Air Pollution Rule, or CSAPR, that has been determined
25 to equal to or better than BART in reducing emissions

1 during the first planning period. While SWEPCO would
2 have preferred a State Implementation Plan, or SIP,
3 based on -- a based program administered by the State of
4 Texas to the FIP, we understand time constraints imposed
5 by litigation deadlines, made the State-led approach
6 infeasible in the near term.
7 Generally, SWEPCO supports a SIP approach
8 for compliance with visibility and interstate transport
9 State obligations; but in this instance, supports the
10 FIP approach. SWEPCO appreciates this opportunity to
11 provide these brief comments in this forum, and also
12 intends to submit specific comments in this docket in
13 support of the FIP and to respond to EPA's specific
14 request for comment concerning the unique aspects of the
15 Texas trading program. Thank you.
16 HEARING OFFICER: Thank you.
17 I don't have any more cards up here for
18 speakers. Is there anyone else?
19 Oh, we do have one more card, okay.
20 All right, Christina, you're up next.
21 MS. CHRISTINA MANN: I wasn't here when
22 y'all announced time limits.
23 HEARING OFFICER: We're doing five-minute
24 time limits.
25 MS. CHRISTINA MANN: I can do that.

1 Okay. Hello, my name is Christina Mann, with the Sierra
2 Club. The Sierra Club is a nonprofit corporation with
3 more than 3.5 million members and supporters nationwide,
4 including approximately 127,000 right here in Texas.
5 Sierra Club and our members are deeply concerned about
6 issues related to air quality in our communities and our
7 most treasured places, like national parks; and I
8 appreciate your time here today.
9 We are here to discuss yet another Texas
10 Regional Haze proposal. We rely on EPA to effectively
11 apply the Nation's environmental laws and I am here
12 asking that you do just that and not adopt this proposal
13 and instead adopt a haze plan that actually requires
14 pollution reductions to protect our special places and
15 the people that visit them.
16 This proposal, as EPA admits, is
17 essentially identical to the unlawful final plan EPA
18 adopted without noticing comment last year. That final
19 plan was bad then, and it is bad now. The substance of
20 this proposal ignores the basic requirements to conduct
21 a source-specific technology review or an actual Best
22 Available Retrofit Technology analysis, as required by
23 the Clean Air Act.
24 We know how this is supposed to work
25 because you already did this. EPA already did this

1 analysis correctly as confirmed in the January 2017 EPA
2 Regional Haze Proposal. The records supporting that
3 proposal, contain significant and rigorous analysis that
4 conforms to the prior EPA and federal court reviews.
5 The analysis that supported that January 2017 EPA
6 proposal, found that sulfer dioxide pollution from Texas
7 coal-fired power plants, contributes significantly to
8 haze in national parks and wildlife refuges in Texas,
9 Oklahoma, Arkansas, New Mexico, and other states.
10 The January 2017 EPA Haze Plan would have
11 reduced dangerous sulfur dioxide pollution from Texas
12 coal plants by approximately 194,000 tons per year.
13 These reductions would have resulted in not only clearer
14 skies in places like Big Bend, but also widespread
15 public health benefits in major cities like Dallas,
16 Houston, and Oklahoma City.
17 Texas coal-fired power plants are
18 particularly bad actors with respect to sulfur dioxide
19 pollution because a majority of Texas plants lack modern
20 scrubbers, which have been installed in hundreds of
21 other facilities across the country; and, in fact, the
22 prior 2017 -- January 2017 EPA proposal, required many
23 of Texas' largest and dirtiest plants to meet emission
24 limits for sulfer dioxide consistent with those
25 achievable by modern scrubbers.

1 Instead of requiring Texas' eligible
2 fleet to come into compliance with modern industry
3 standard emission controls, this proposal scraps a
4 commonsense plan in favor of the trading plan that would
5 allow Texas' aging and uncontrolled coal plants to keep
6 polluting at the same harmful levels. The net effect of
7 this proposed weak trading program, which includes
8 emissions from already retired plants, is an unlawful,
9 impractical plan that will not achieve visibility
10 improvements and we'll lose out on the important public
11 health benefits that coincide with a strong legal plan
12 that required, again, actual pollution reductions from
13 the oldest and dirtiest plants in the State.
14 Literally, thousands of comments in
15 support of the January 2017 EPA Haze Plan from Texas,
16 New Mexico, Oklahoma, and Arkansas were submitted in the
17 prior docket. We ask that EPA not finalize this newest
18 proposal -- this new proposal. Source-specific BART
19 works. Please ensure that the Haze Plan for Texas
20 requires actual pollution reductions and conduct a
21 source-specific analysis for Texas' oldest and dirtiest
22 coal plants. We look forward to providing detailed
23 further written comments in this proposal during the
24 comment period. And, again, I thank you for your time.
25 HEARING OFFICER: Thank you.

1 Do we have anyone else who would like to
2 give testimony?
3 All right. Nobody went over their time;
4 but we also have the option of if someone would like to
5 supplement their testimony, you may do so.
6 Okay. So since no one is going to
7 supplement, we can go off the record.
8 (Recess taken)
9 HEARING OFFICER: All right. We'll go
10 back on the record now. We have another speaker who has
11 arrived.
12 And, sir, we're giving each speaker five
13 minutes. Considering since there's no one else here, we
14 might be able to give you some more if you want to
15 supplement that five minutes.
16 We have Dr. Craig Nazor.
17 DR. CRAIG NAZOR: Yes.
18 HEARING OFFICER: Okay.
19 DR. CRAIG NAZOR: I was at the hearing
20 that you held at the Eastview Campus of Austin Community
21 College a number of years ago when this -- the original
22 rule -- went through its process. I spoke in support of
23 it there, and I'm right now speaking against changing it
24 to anything other than what it had been. And the reason
25 I'm doing this, I teach at Austin Community College and

1 I had a student who was of the Hindu faith and he
2 said -- and I can never remember the name, but there's a
3 name for it. It's the true enemies of Krishna were the
4 people who went around and made the unimportant things
5 important. And that just stuck with me. What's
6 important?
7 When the EPA -- well, before the EPA was
8 created, we had a river caught on fire and it couldn't
9 be put out and that was right down the road from me and
10 I saw the river burn that couldn't be put out, the
11 Cuyahoga River. And what we did, we worked hard.
12 People worked hard. It was an amazing time. What they
13 did, is they created the EPA. They created the Clean
14 Water Act, the Clean Air Act, I think the Endangered
15 Species Act. All these things came out because it was
16 to protect our environment, and it was all supposed to
17 be science based.
18 It had to be science based or it wouldn't
19 protect the environment. We had found that out. If you
20 don't base this on science, on what scientists are
21 saying are happening, it won't work. Okay?
22 Now, as a little kid, I also grew up in
23 this town Ashtabula, Ohio, that had a Union Carbide.
24 You may know of them. The little beach in the town I
25 grew up in, is still one of the ten most toxic beaches

1 in the United States. It's a Superfund clean up site
2 that's never been cleaned up because once these people
3 do it and take the profits out, it just doesn't get
4 cleaned up because then the people have to pay and we
5 don't have the money.
6 I came down here to testify. No one is
7 paying me to be here. No, I'm not an any clock. I'm
8 not on any time. I drove through the traffic because
9 this is important to me. Okay?
10 Now, we know that the stuff that's coming
11 out -- the nitrogen oxide, sulfur dioxides, everything
12 we know causes acid rain. It kills forests. We know it
13 causes asthma. When I was a little kid, I had asthma
14 and huge clouds would come into my neighborhood from
15 Union Carbide and I couldn't come outside. The lake
16 where I went swimming, I couldn't go swimming anymore.
17 It was too toxic. Okay?
18 And so the people of America wanted an
19 organization that would look at science and do what's
20 best for this country. Now, what I see happening
21 recently is other things coming into play, like how much
22 money this will cost. That's not science. Like
23 arguments about we can't afford to do this. That's not
24 science. I think science shows us that we can; but it's
25 really, you know economic arguments. People even argue

1 there's a science of economics. Some people say yes.
2 Some people say no. It's more guesswork. I don't know.
3 It's not science.
4 The science says we have global warming.
5 With the planet getting warmer, we have to lower our
6 release of CO2. Now, there's a whole party that's
7 decided that they will ignore science or dispute
8 science; but that's not science either. The science
9 says that if we want the haze to go away in our parks,
10 that we have to limit the amount of gases released,
11 certain kinds of gases released by coal-fired power
12 plants and other kinds of plants that produce those
13 gases. It's as simple as that.
14 Now, it sounds kind of straightforward.
15 I think the people who aren't doing anything else are
16 the true enemies because they're making the unimportant
17 things important. What's important is that we have
18 clean air; it's that we have clean water; it's that we
19 have parks where the air is clear so when you go up to
20 climb to the top of the mountains in the Guadalupe
21 Mountains, you're not hacking and coughing because your
22 asthma is coming back because the air is not very clean.
23 So that would be my expectation. I'm
24 also speaking for the Conservation Committee of the
25 Sierra Club Austin Regional Group and I guarantee you

1 every one of our members agree with what I just said.
2 So please, thank you for being here. Thank you for
3 listening. I know you may not have the easiest job at
4 the moment, and I am sympathetic for that; but this is
5 how I feel, and this is how our organization feels. So
6 thank you very much.
7 HEARING OFFICER: Thank you very much.
8 Okay. I don't believe we have any
9 additional speakers who have arrived, so we can go off
10 the record again.
11 (Recess taken)
12 HEARING OFFICER: And for the sake of
13 consistency, just FYI, when we had speakers earlier, I
14 gave everybody a five-minute time limit. Since nobody
15 is here, we can be a little more flexible on that. So
16 if you need to go a bit over five minutes, that's fine.
17 I will hold my hand up when you're at five minutes so
18 you're aware.
19 MR. BRUCE MELTON: Okay.
20 HEARING OFFICER: All right, go ahead.
21 MR. BRUCE MELTON: My name is Bruce
22 Melton. I'm a registered professional engineer in the
23 State of Texas, and I'm here to talk about the Haze rule
24 that is rescinding of the recently passed or recently
25 promulgated rules that protect our quality. These rules

1 were created to save lives. Now, that they're in place,
2 we have a responsibility to those people whose lives
3 that we're saving with these rules. How is the EPA
4 going to justify the lives that will be lost by removing
5 these rules?
6 And that's, basically, my comment. I can
7 say a lot of things about why -- other things about why
8 it's needed with air quality and aesthetics and quality
9 of life; but I think the bottom line is a quantifiable
10 thing that should be addressed, and this is -- these are
11 a quality of rules that were created to save lives. Now
12 that they are implemented, those lives will be lost.
13 How many lives are going to be lost because of the
14 removal of these rules, and how can the loss of those
15 lives be justified?
16 That's all I've got to say.
17 HEARING OFFICER: Thank you for your
18 testimony. And for the record, could you state your
19 name, please?
20 MR. BRUCE MELTON: Bruce Melton;
21 B-r-u-c-e, M-e-l-t-o-n, professional engineer in the
22 State of Texas.
23 HEARING OFFICER: All right, thank you
24 very much. We have name cards just back there if you
25 can fill that out on your way out, we'd appreciate it.

1 MR. BRUCE MELTON: Thank y'all.
2 HEARING OFFICER: Thank you very much.
3 We can go off the record now.
4 (Recess taken)
5 HEARING OFFICER: It's approximately
6 8:00 p.m., and this hearing is now closed.
7 (Hearing adjourns)
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1 C E R T I F I C A T E

2 STATE OF TEXAS)

3 COUNTY OF TRAVIS)

4 I, Paige S. Watts, Certified

5 Shorthand Reporter in and for the State of Texas, do

6 hereby certify that the above-mentioned matter occurred

7 as hereinbefore set out.

8 I FURTHER CERTIFY THAT the

9 proceedings of such were reported by me or under my

10 supervision, later reduced to typewritten form under my

11 supervision and control and that the foregoing pages are

12 a full, true, and correct transcription of the original

13 notes.

14 IN WITNESS WHEREOF, I have hereunto

15 set my hand and seal this Turn in date 1st day of

16 October, 2018.

17

18

19 Paige S. Watts

20

21 Paige S. Watts, CSR, RPR
CSR No.: 8311

22 Expiration: December 31, 2018
Firm Registration No. 631

23 Kim Tindall & Associates, LLC
16414 San Pedro, Suite 900

24 San Antonio, Texas 78232
Phone 866.672.7880

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