



May 23, 2008

Via Federal Express

Adam Babich, Director
Tulane Environmental Law Clinic
6329 Freret Street
New Orleans, LA 70118

Dear Mr. Babich:

Entergy Louisiana, LLC is in receipt of your April 1, 2008 Notice of Intent to File Clean Air Act Citizen Suit regarding Entergy Louisiana's Little Gypsy repowering project pursuant to § 304(a)(1) of that Act, 42 U.S.C. § 7604(a). The decision of the United States Court of Appeals for the District of Columbia Circuit in *New Jersey v. EPA*, 517 F.3d 574 (D.C.Cir. 2008), has caused considerable confusion regarding the application of and necessity for a Clean Air Act § 112(g) case-by-case MACT determination for a project such as the Little Gypsy repowering. The lack of EPA guidance to the states compounds this confusion. This letter is to inform your organization that, largely because of the legal uncertainty caused by the D.C. Circuit's decision, Entergy Louisiana has suspended its plans for beginning construction of the Little Gypsy repowering project until either approval is obtained pursuant to § 112(g) or further legal or regulatory proceedings indicate that no such preconstruction approval is required.

Your Notice of Intent to File Suit, including your citation of § 304(a)(1), seems to indicate your belief that Entergy Louisiana already has begun construction of this project. This is incorrect. Your letter also could be read as alleging that Entergy Louisiana's efforts to have this project approved by the Louisiana Public Service Commission somehow violate the Clean Air Act. Entergy Louisiana does not believe that any action it has taken before the Louisiana Public Service Commission has created, or legally could create, a violation of the Clean Air Act such as to create standing for your organization to file a citizen suit under § 304 of the Clean Air Act. Furthermore, because Entergy has not begun construction of this project, and is not "in violation" of any Clean Air Act provision, any permit issued thereunder, or any order issued thereunder by the Administrator or the state, no citizen suit based on your April 1, 2008 Notice of Intent to Sue would be justiciable.

Please take these facts into consideration as you consider whether to file a citizen suit premised on your April 1, 2008 Notice of Intent to Sue, and please realize that Entergy Louisiana would consider filing such a suit to be a violation of Rule 11 of the Federal Rules of Civil

Procedure as frivolous and without basis in law or fact. I am available to discuss the facts of this matter if you so choose.

Sincerely,



Chuck D. Barlow
Assistant General Counsel - Environmental

cc: Administrator Stephen L. Johnson (EPA)
Commissioner Jack A. Blossman, Jr., Chairman
Commissioner Lambert C. Boissiere, III, Vice Chairman
Commissioner Foster L. Campbell
Commissioner James M. Field
Commissioner C. Dale Sittig
Honorable Lawrence C. St. Blanc
Harold Leggett, Ph.D. (LDEQ)
Mary Nagle, Student Attorney
Mr. Richard Green, Regional Administrator (EPA Region 6)
Governor Bobby Jindal
Steve Levine, Esq. (Phelps Dunbar LLP)
David Savage, Esq. (Baker Botts LLP)