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Legal Notice Points to Violation of Air Pollution Laws by Martin Drake and Ray D. Nixon Coal Plants

Potential Lawsuit on Pollution Controls Further Exposes Colorado Springs Utilities to Financial Risks Stemming From Its Use of Coal

Colorado Springs, CO – Colorado Springs Utilities has been actively making major modifications to the Martin Drake and Ray D. Nixon coal fired plants without obtaining necessary permits or installing the pertinent industry standard pollution controls required by the Clean Air Act, according to a formal legal notice letter sent today by the Sierra Club to the utility provider. The Sierra Club identified 37 separate projects between 1987 and 2011 where Colorado Springs Utilities failed to obtain proper permits that would have required the plants to meet industry standards that comply with modern pollution control laws.

The operation of the 50-year old Martin Drake and the 32-year old Ray Nixon coal plants without modern pollution controls constitutes a serious violation of federal law and a menace to public health. Colorado Springs Utilities faces enormous capital costs to bring the plants into compliance, and the utility may also be required to pay severe penalties for its past and on-going violations of the Clean Air Act.

“Alterations to these plants have been made without regard to federal law” said Bryce Carter, Organizer for Sierra Club. “This is done at the expense of public health just so CSU can continue to use coal. They recently had the opportunity to launch a decommissioning study which would have paved the way to retire these old, dangerous, and financially risky coal plants and transition to the use of clean energy. Yet they chose to go the opposite direction, going as far as committing $120 million to extend the life of the Martin Drake plant with the installation of the experimental and unproven NeuStream technology without fully exploring all their available options.”

The Sierra Club sent a 60-day “notice of intent to sue” to Colorado Springs Utilities, the U.S. EPA and the Colorado Department of Public Health and the Environment stating that the environmental organization will seek legal action if necessary to compel Colorado Springs Utilities, the entity that owns and manages the Martin Drake and Ray D. Nixon coal-fired power plants, to comply with federal law under the Clean Air Act.
CSU’s use of coal to generate power continues to pose alarming public health and financial risks. According to data collected by the Environmental Protection Agency, the Martin Drake coal fired power plant emitted 3,415 tons of nitrogen oxides, 6,035 tons of sulfur dioxide, and 11 pounds of mercury into the heart of downtown Colorado Springs in 2010. That same year, Ray Nixon contributed 1,999 tons of nitrogen oxides, 4,078 tons of sulfur dioxide, and 15 pounds of mercury into the air we breathe. Similar amounts of pollution are released from the two coal plants every year. This pollution can lead to short term and chronic respiratory diseases including asthma, bronchitis, emphysema, and can exacerbate the effects of heart disease, which can lead to increase hospital visits and premature death. Based on a risk-based analysis of Martin Drake and Ray Nixon’s emissions, an estimated $97 million can be attributed to public health impacts that burdened families in 2010.

Under the Clean Air Act, existing coal-fired power plants are required to obtain construction permits and install modern industry standard pollution controls when making major modifications to the facility. The program, known as “Prevention of Significant Deterioration” or PSD, allows public officials to make sure that plants are upgraded with the latest pollution control technologies, which reduce the threat to public health and the environment. Proven industry standard pollution controls can reduce air pollutants like nitrogen oxides upwards of 90 percent.

The potential lawsuit is the latest in a series of financial challenges the aging coal plants face as a result of their use of coal. The City of Colorado Springs also risks potential ‘nonattainment’ status from the federal government as regional air quality models have shown sulfur dioxide (SO₂) levels above the federal limit and nearby monitoring stations have shown ozone levels above the federal limit. Coal-fired power plants like Martin Drake and Ray D. Nixon are a leading source of pollutants that contribute to regional SO₂ and ozone pollution. A non-attainment designation by the EPA could have a disastrous effect on the already depressed local economy and future businesses by severely limiting the availability of permits for large projects, thereby suppressing economic development.

“Colorado Springs Utilities has irresponsibly put public health and the local economy at risk. Their violation of the Clean Air Act, the potential for regional nonattainment status, and their embrace of near certain financial risk to pursue experimental technologies without proper alternative research demonstrates reckless management by CSU,” said Carter. “This legal notice will help bring public accountability to their actions.”

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