

NEWS



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Sunflower files to reverse KDHE denial of Holcomb expansion air permit

HAYS, Kan.—November 16—Sunflower Electric Power Corporation filed several lawsuits today to vacate the denial order and issue the air permits for the Holcomb Station expansion.

Sunflower filed the suits against the Kansas Department of Health and Environment in both the Kansas Court of Appeals and the District Court of Finney County. The two lawsuits are in addition to the administrative appeals filed with KDHE on Nov. 1.

“We firmly believe the secretary’s decision was wrong as matter of law and we are confident that the courts will overturn this arbitrary and capricious decision,” said Mark Calcara, Sunflower’s vice president and general counsel. “Our legal position, as well as our project, stands on its own merits.”

The secretary’s denial order set aside KDHE staff’s recommendation to issue the permit and disregarded the extensive and exhaustive work by KDHE staff to ensure that public health and the environment are protected, public concerns were addressed, and strict state and federal laws were followed.

In the Court of Appeals case, Sunflower argues that KDHE and the secretary had no authority under the law to apply K.S.A. § 65-3012 to the Holcomb Station expansion air permitting process. The secretary applied the statute to prospective air emissions, while K.S.A. § 65-3012 applies only to current air emissions. Sunflower is asking the court of appeals to make a legal determination that the K.S.A. § 65-3012 is not applicable to the Holcomb air permitting process.

In the District Court filing, Sunflower argues that the denial order improperly, and without support of law, denied Sunflower the right to construct the power plants in Finney County, Kansas. Both lawsuits were necessary. Should it ultimately be determined that jurisdiction to review the denial order is not within the Court of Appeals, then the jurisdiction venue is proper in the District Court.

“We have filed both of these actions to make sure Sunflower is not precluded from making its case as to the law,” said Calcara.

As a first step to appeal the denial order, Sunflower previously filed a request for an administrative hearing before KDHE. However, Sunflower believes that, as an applicant for a permit that has been denied, it was not required to file this request.

In separate filings, the Finney County Board of County Commissioners and the Garden City Chamber of Commerce filed suit to vacate the denial order in the Kansas Court of Appeals. Tri-State Generation and Transmission Association, a Westminster, Colo.-based generation and transmission cooperative and participant in the Holcomb Station expansion, also filed suit in both the Kansas Court of Appeals and the Kansas District Court in Finney County.

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About Sunflower—

Sunflower Electric Power Corporation is a regional wholesale power supplier that operates a 1,203 MW system of wind, gas, and coal-based generating plants and a 2,300-mile transmission system for the needs of its six member cooperatives who serve more than 400,000 customers living in central and western Kansas. Visit Sunflower's website at <http://www.sunflower.net>

Sunflower's member cooperatives include Lane-Scott Electric Cooperative, Dighton; Pioneer Electric Cooperative, Ulysses; Prairie Land Electric Cooperative, Norton; Victory Electric Cooperative Association, Dodge City; Western Cooperative Electric Association, WaKeeney; and Wheatland Electric Cooperative, Scott City, Kansas.