



Ohio Environmental Council

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For Immediate Release
May 20, 2009

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OEC Court Victory: Cinergy Corp. Violated Clean Air Act

Coal-based power plant 100 miles upwind of Cincinnati one of nation's dirtiest

Indianapolis, IN – Last night, the Ohio Environmental Council, the U.S. EPA, and a coalition of other states, public health and citizens' groups scored a legal victory for clean air and residents' health in Cincinnati and southern Ohio.

A jury in the federal district court in Indianapolis found that the Cinergy Corporation broke the law when it made major unpermitted changes to its Gallagher coal-based power plant.

At the heart of the lawsuit are major physical changes the company made to two units at the Gallagher plant located in Floyd County Indiana, about 100 miles upwind of Cincinnati, Ohio.

The significant changes are estimated to have significantly increased the plant's air emissions of sulfur dioxide – a pollutant that causes acid rain, and also the small particles that harm human health. Gallagher dates from the late 1950s and is mostly uncontrolled for its air pollution – the plant is understood to be among the dirtiest plants in the United States, in terms of air pollution per unit of energy produced.

The 25,000 additional tons of pollution per year that Gallagher has emitted since completing the unlawful projects are associated with significant health impacts, on the order of a thousand asthma attacks, on the order of 100 heart attacks, and 100 additional emergency room visits or hospitalizations per year.

In response to the verdict, Trent Dougherty, an attorney with the Ohio Environmental Council, one of the groups representing local communities in the lawsuit, said "on behalf of all those who live and breathe in Ohio, we are thrilled with the jury's decision, and hopeful that this will mean significantly cleaner air for the region."

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Ann Weeks, Senior Counsel for Clean Air Task Force, a non-profit law and policy organization which represented both Ohio Environmental Council and the Indiana-based Hoosier Environmental Council, stated: “We are very pleased that the jury has agreed that Cinergy broke the law when it failed to seek a permit and install air pollution controls at units 1 and 3 at Gallagher. There will now be an additional round of legal proceedings to determine what the Company must do to make up for the fact that Gallagher has spewed 25,000 tons of pollution per year into the air that it should not have, since the projects were undertaken, causing significant health and environmental impacts in the region and downwind of this plant.”

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The mission of the Ohio Environmental Council (OEC) is to secure healthy air, land, and water for all who call Ohio home. The OEC is Ohio’s leading advocate for fresh air, clean water, and sustainable land use. The OEC has a 40-year history of innovation, pragmatism, and success. Using legislative initiatives, legal action, scientific principles, and statewide partnerships, the OEC secures a healthier environment for Ohio’s families and communities. For more information, visit www.theOEC.org.