



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

DEC 5 2005

THE ADMINISTRATOR

Ron W. Gore, Chief
Air Division
Alabama Department of
Environmental Management
1400 Coliseum Boulevard
P.O. Box 301463
Montgomery, AL 36110-2059

Dear Mr. Gore:

Thank you for your letter of January 20, 2005, concerning fine particulate matter (PM_{2.5}) designations and Walker County, Alabama. In your letter you requested that the Environmental Protection Agency (EPA) exclude census block group 01-127-0216-2 in Walker County from the Birmingham nonattainment area for the PM_{2.5} National Ambient Air Quality Standards (NAAQS). As the basis for this request, you indicated that the portion of the Gorgas Steam Plant property within that census block group contains no emission stacks. For the reasons discussed herein, EPA denies your request.

In determining an area's designation, EPA must rely on the Clean Air Act (CAA) definition of a nonattainment area in section 107(d)(1)(A)(i): "...an area that is violating an ambient standard or is contributing to a nearby area that is violating the standard." If an area meets this definition, EPA is obligated to designate the area as nonattainment. On April 1, 2003, EPA issued guidance for States and Tribes to use in identifying areas that meet or do not meet EPA's PM_{2.5} NAAQS. In making designations, we used the most recent 3 years of monitoring data. Once we determined that a monitor was recording a violation, the next step was to determine if there were any nearby areas that were contributing to the violation and to include them in the designated nonattainment area. In making this determination, we reviewed all available technical data related to nine factors set out in the April 1, 2003 guidance such as air quality, source locations and emissions, meteorology, terrain, population, commuting, and growth in the area. The technical support analyses for all nonattainment areas are located on EPA's web site at <http://epa.gov/pmdesignations/documents/final/TSD/Ch6.pdf>.

On June 29, 2004, EPA sent letters to the Governors of several States, including to Governor Riley of Alabama, responding to the Governors' designation recommendations and providing the Agency's recommendations for PM_{2.5} designations. EPA's goal was to insure that nonattainment areas include the local emissions sources that are contributing to violations of the NAAQS, including nearby large stationary sources, where appropriate. In many instances, EPA recommended designations of

nonattainment for entire counties containing a single large emitting facility such as a power plant. Most of these facilities were located in counties adjacent to a metropolitan area. In EPA's letter to Governor Riley, EPA recommended that Walker County should be included in the Birmingham PM_{2.5} nonattainment area, primarily due to high SO_x and NO_x emissions from a power plant that contributes to the nearby nonattainment problem. EPA also invited Governor Riley, and other similarly situated Governors, to propose a partial county boundary, encompassing the identified large emitting facility, for inclusion in the nonattainment area.

A number of States responded to this suggestion with a series of connected townships or other unique boundaries. Some States also suggested an alternative approach in which partial county areas for power plants in some cases could be small "free-standing" boundaries that are considered part of the nearby nonattainment area. In this way, it would not be necessary to include additional townships or other minor civil divisions comprising an odd-shaped "land connector" extending from the main part of the nonattainment area to the power plant. The State of Alabama submitted partial county boundary recommendations of each type--one included the Gorgas Steam Plant boundary as a noncontiguous area and the other was contiguous to the Birmingham area.

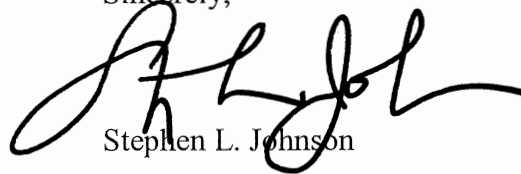
After considering comments from the States, EPA determined that partial county boundaries should be selected by relying on legally recognized governmental boundaries that encompassed the entire property boundary of the identified large emitting facility. These partial county areas could be either free-standing, or contiguous to other designated nonattainment counties. EPA determined that this kind of partial county boundary must include the entire facility property boundary to ensure that all emission sources from the facility were captured, but that the area should not be defined simply by the boundary of the facility. In the case of Walker County, EPA consequently designated census block group identifiers (StateFIPs-CoFIPs-Tract#-Block Group#) 01-127-214-5, 01-127-0215-4, and 01-127-0216-2 as part of the Birmingham nonattainment area.

In drawing the boundaries for Walker County and other similarly situated counties, EPA consistently applied an approach of selecting boundaries that encompassed entire power plant property boundaries. In different parts of the country, this resulted in areas of various sizes due to the different types of legally recognized governmental boundaries available. For example, in northern States, townships were commonly selected as the legally recognized governmental boundary. However, in the southeast, many counties have large spans of unincorporated areas with no townships. Here, the Agency found that Census block group boundaries were the most appropriate type of governmental boundaries to utilize. In many instances, the power plant property boundary was contained within a single census block group; however, the partial county area selected for Walker County included multiple census subdivisions in order to include the entire plant property. Please be aware, however, that the size of the Walker County partial nonattainment area falls near the median among all partial PM_{2.5} nonattainment areas nationwide.

In EPA's view, the Walker County partial nonattainment area, and all partial nonattainment areas, correctly consists of legally recognizable governmental boundaries that encompass the entire property of the identified power plant. This is the standard EPA applied in selecting each of the partial county boundaries nationwide. The fact that the Walker County partial nonattainment area comprises multiple legally recognized governmental boundaries, which provides the convenience of carving out emission-free portions of the plant property, is not a sufficient basis for the Agency to reconsider its selected boundaries. To do so would be inconsistent with the approach we followed for other partial county boundaries and would inequitably provide an opportunity not available to areas where larger governmental boundaries were utilized.

EPA understands Alabama's preference for a smaller nonattainment boundary and further understands your reasons for requesting exclusion of one census block group. The information presented in your letter regarding census block group boundaries, power plant boundaries, and the location of power plant emission sources was available to the Agency at the time it made its decisions on partial nonattainment boundaries and does not persuade the Agency to reconsider its decision. Therefore, your petition for reconsideration is denied.

Sincerely,

A handwritten signature in black ink, appearing to read "S. L. Johnson", written over the typed name.

Stephen L. Johnson

cc: Onis "Trey" Glenn, III, Director
Alabama Department of Environmental Management
1400 Coliseum Boulevard
Montgomery, Alabama 36110-2059

Mr. J.I. Palmer, Jr.
Regional Administrator
EPA Region 4