



JIM FOSTER
DALLAS COUNTY JUDGE

August 31, 2007

The Honorable Rick Perry
Governor of Texas
State Capitol
PO Box 12428
Austin, Texas 78711

Dear Governor Perry:

As you know, the Dallas-Ft. Worth area has not been able to meet the air quality standards of the Clean Air Act for over 16 years. This failure has resulted in widespread public health harms and large public health costs in North Texas. It has also resulted in great economic harm.

After losing the chance to host both the Toyota truck plant and Boeing headquarters in part or whole because of our failure to comply with the Clean Air Act, it is apparent that bad air is bad for business as well as human health.

Our status as a "non-attainment" area is costing North Texas valuable new corporate citizens, jobs and tax revenue. It means lost productivity from employees who are literally sickened by the air they breathe, or must take care of their children or parents who are also adversely affected by "level orange" and "level red" days." There is no longer any need to debate the choice between having healthy air to breathe and creating economic growth. In 2007, economic growth in North Texas is tied to our being able to breathe air that will not harm us.

In adopting a new State Implementation Plan for ozone pollution in Dallas-Ft. Worth on May 23rd that would still leave large parts of the North Texas area out of compliance with the Clean Air Act, the Texas Commission on Environmental Quality did not help solve our long-standing air quality problem. It is now obvious that the TCEQ adopted plan falls so short of its intended goal that the Regional EPA cannot approve it. A recent independent academic report on the approved plan demonstrated that the reductions in pollution it outlined would not be able to clean the air sufficiently to meet the requirements of the Clean Air Act.

What is more discouraging still is the recent news from EPA's own science advisory committee that the current air pollution standard that the TCEQ plan so unsuccessfully strives to attain with its new plan is itself now considered unhealthy and will need to be replaced. To achieve truly clean air, we must

exceed the existing standard, a standard that has so far eluded all attempts by the state to meet it.

Part of the problem with the approved TCEQ plan is that it did not include all of the recommendations from the local advisory group, the North Texas Clean Air Steering Committee, passed in October of last year. This committee, with members from local governments, businesses and local public health and environmental groups, met for almost two years and voted overwhelmingly for a series of progressive clean air measures, only to see many of those recommendations ignored by the TCEQ in its final plan. These included proposals to pilot test advanced controls on the Midlothian cement plants, a major industrial source of air pollution in North Texas, requiring the same level of pollution controls on power plants in East and Central Texas as are now required of the same kinds of plants in the DFW area, and adopting California's automobile emissions standards.

In not including these and other recommendations put forth by local officials and citizens in its final plan, the TCEQ would seem to be stifling local control of our own air quality destiny. If the much-considered suggestions from those on the ground here in DFW are not adopted, and weaker measures substituted by the state, there is little motive for anyone in North Texas to keep cooperating with the state in trying to reach the goal of clean, and legal air. The TCEQ will simply do what it wants to do anyway, regardless of the input of local authorities and experts. This is not the path to cleaner air.

Local North Texas governments and the state need to continue to work with each other if we are ever to achieve compliance with the Clean Air Act. This is especially true at a time when the TCEQ and EPA are still discussing what, if any, additional measures are necessary to amend to the TCEQ approved plan to make it successful.

In order to get back on track and produce a DFW air plan that will actually result in cleaner air, I urge you to take the following actions:

- 1) Appoint an official or citizen knowledgeable in local air quality issues from North Texas to the now vacant third seat of the Texas Commission on Environmental Quality. North Texas has not had a representative on a state environmental agency since the late Buck Wynne served over a decade and half ago on the Texas Water Commission, a predecessor to the TCEQ. There is no greater air quality challenge facing the TCEQ right now than the job of getting North Texas into attainment under the Clean Air Act. Having someone who is already familiar with the particulars of our air problem and the personalities of the local officials would help expedite this task.
- 2) Charge the TCEQ's new Chairman, Buddy Garcia, with scheduling a North Texas "SIP Summit" that would bring all the interested parties to the table in order to produce a clean air plan that is approvable by the EPA and will reduce air pollution in the real world as well as on paper. At such a summit, local officials, citizens, and state legislators would be able to converse directly with EPA Regional Administrator Richard Greene and Chairman Garcia. This kind of direct communication is long overdue.

- 3) Make clear to all three of your TCEQ appointees that the inclusion of all local recommendations by the North Texas Clean Air Steering Committee that do not require legislative action is a priority in the amended DFW clean air plan now being assembled by TCEQ and EPA. Because the current TCEQ plan will not meet Clean Air Act standards, it needs more pollution reduction measures added to it to succeed, especially ones as well thought-out and significant as those passed by the Committee. These measures may not be a silver bullet, but they are certainly part of the solution to the chronic DFW air pollution problem.

I hope you will consider these suggested actions in the spirit of cooperation in which they are offered. DFW needs your help and the help of your appointees on the TCEQ in order to provide air that will not make us sick and cost us jobs. Public health and continued economic development in North Texas demands that we solve the air pollution problem that has plagued us for almost 20 years now. I urge you to move immediately to see that a solution is forthcoming from the state agency members appointed by you to provide it.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Foster". The signature is fluid and cursive, with a long horizontal stroke at the end.

Jim Foster
County Judge