New cooperation on air pollution

Top Texas regulator and new regional EPA chief work to end longtime feud

By Matthew Tresaugue

In August, after a court ruled in favor of Texas in its pitched fight with the Environmental Protection Agency, the state’s top environmental regulator responded in a familiarly hostile fashion.

Hopefully, Bryan Shaw said, the decision to strike down one of the EPA’s hallmark air-quality rules would lead the agency back to “scientifically based environmental protection” and “away from an agenda based on environmental activism.”

Since the court ruling, the tone has turned conciliatory, with the Texas Commission on Environmental Quality and the EPA pledging cooperation after years of rhetorical sparring over the best way to regulate industrial air pollution.

The reason, officials and observers say, is an aggressive effort to reset the relationship by Ron Curry, the EPA’s new administrator for a five-state region that includes Texas. President Barack Obama appointed the New Mexican to the Dallas-based post in September, replacing Al Armendariz, who resigned amid a furor over his comments about “crucifying” polluters.

The day after Obama won re-election, Curry traveled to Austin to meet individually with TCEQ’s three commissioners, who are appointees of Gov. Rick Perry. Curry has spoken to Shaw about once a month, and the two have agreed to keep their disagreements out of press releases.

“We are not trying to scrub differences,” Curry said. “But we are trying to lower the temperature and build a relationship where things get done.”

Said Shaw: “We are talking and saying the right things about trying to find common ground.”

But both men acknowledge the new dynamic will soon be tested as the EPA seeks stricter limits of smog-forming pollution and new rules for emissions of carbon dioxide and other gases linked to global warming, among other issues.

A rocky road

The relationship between the EPA and Texas has been rocky for years, and it had turned increasingly tense during Obama’s first term and Perry’s unsuccessful campaign for president. At one point, an attorney for industry said his clients felt like children in a custody fight between divorcing parents.

Under the Clean Air Act, the EPA writes the regulations, and the states enforce them. But Texas has disagreed with several new rules and filed lawsuits to block them, while the EPA found some TCEQ-
issued air-pollution permits did not meet federal muster and took the unusual step of seizing the state’s authority to issue permits for emissions of carbon dioxide and other heat-trapping gases.

Into this divide comes Curry, the first non-Texan to hold the EPA’s top post in the region. Insiders said he could hardly be more different than Armendariz, a scientist who came to the job with a history of criticizing the TCEQ as soft on the industry it regulates. He joined the Sierra Club after his resignation, a move opponents said proved a bias against industry.

Curry worked in industry and as a city manager before serving eight years as New Mexico’s environmental secretary under former Gov. Bill Richard-son, a Democrat. His wife is a former Democratic state senator from Las Cruces, N.M.

Different approach

In October, Curry met with environmental regulators from across the five-state region at Dallas’ Love Field airport. His message: I have been in your chairs, working for governors with agendas, and we are going to work with you.

“Curry is very different in approach and style than Armendariz,” who came to the job energized by his research into Texas air pollution, said Tracy Hester, an assistant professor who leads the environment and energy program at the University of Houston Law Center. “He has made every effort not to be confrontational.”

Said Larry Soward, interim director of Air Alliance Houston, an advocacy group: “Ron and Al probably support the same bottom line on the issues, but Ron is more of a diplomat and consensus builder.”

But there are doubts the honeymoon will last. Obama has nominated Gina McCarthy, the EPA’s air quality chief, to lead the agency. McCarthy shepherded some of its most contentious rules during the president’s first term, including regulations curbing smog-and acid rain-forming emissions that the federal appeals court rejected in August at Texas’ urging.

The TCEQ, meanwhile, has joined a new group of 17 state agencies that have squabbled with their federal counterparts over clean-air standards, particularly the push to regulate greenhouse gas emissions.

Unreasonable?

And the TCEQ, in the current issue of its monthly publication, raised concerns that the EPA’s new standards for tiny airborne particles, or soot, are “unreasonably strict and unsupported by available scientific research.” Houston would be in violation of the limit for the first time.
“It’s the same old thing from TCEQ,” said Soward, a former TCEQ commissioner. “If they don’t agree with EPA, they question the science or the environmental benefit.”

Even then, Soward said he is optimistic because the agencies are talking to each other.