WEST VIRGINIA ENVIRONMENTAL QUALITY BOARD
CHARLESTON, WEST VIRGINIA

MONONGAHELA POWER COMPANY,

Appellant,

v. **Appeal No.** 14-10-EQB

SCOTT G. MANDIROLA, Director,
Division of Water and Waste Management
West Virginia Department of Environmental Protection,

Appellee.

RECEIVED
MAY - 9 2014
ENVIRONMENTAL QUALITY BOARD
AIR QUALITY BOARD

NOTICE OF APPEAL

Actions Complained Of: Appellant Monongahela Power Company ("MPC") respectfully represents that it is aggrieved by certain terms and conditions of WV/NPDES Permit Modification No. WV0005339-C (attached hereto and made a part hereof as Exhibit A, hereafter the "Modification"), issued on April 8, 2014 by Scott G. Mandirola, Director, Division of Water and Waste Management, West Virginia Department of Environmental Protection ("WVDEP"). The Permit Modification reflects the extensive efforts undertaken by MPC to reconfigure stormwater flows and install new stormwater collection and treatment systems at the Harrison Power Station in Haywood, Harrison County, West Virginia. MPC challenges the following terms and conditions of the Permit as unlawful, unwarranted or otherwise improper:

(1) The imposition of numeric discharge limitations for iron and aluminum at Outlets 012 and 013, as set forth in Sections A.012 and A.013 of the Permit Modification, respectively.

(2) The monitoring frequency for total dissolved solids ("TDS") and sulfate at Outlets 012 and 013, as set forth in Sections A.012 and A.013 of the Permit Modification, respectively.

(3) The establishment of benchmark values for total dissolved solids and sulfate in Condition C.13.c on page 50 of 56 of the Permit Modification.

(4) It is MPC's understanding that only those conditions in Section C that were specifically revised by the Permit Modification will supersede the corresponding provisions of WV/NPDES Permit No. WV0005339 as reissued on May 5, 2011, and therefore that MPC is not required to initiate a new appeal proceeding to preserve its ongoing challenges to the terms and conditions of Section C that are unrelated to the modification.[1] Out of an abundance of caution, however, MPC hereby incorporates by reference those sections of its Notice of Appeal dated June 17, 2011 that relate to provisions of Section C not specifically referenced in Paragraphs (3) and (4), above.

Relief Requested: MPC therefore prays that the West Virginia Environmental Quality Board (the "Board") review this matter pursuant to W. Va. Code § 22-11-21 and grant it the following relief:

(1) Delete the discharge limitations for iron and aluminum at Outlets 012 and 013, and insert "Report Only" requirements with corresponding benchmark values.

(2) Reduce the monitoring frequency for TDS and sulfate at Outlets 012 and 013 from 1/6 months to 1/year, in accordance with the agreement of the parties in Appeal Nos. 11-21-EQB and 11-22-EQB as reflected in the Joint Status Report filed on July 25, 2012 (the "Joint Status Report").

(3) Delete the benchmark values for TDS and sulfate in Condition C.13.c of the Permit Modification, in accordance with the agreement of the parties in Appeal Nos. 11-21-EQB and 11-22-EQB as reflected in the Joint Status Report.

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[1] *See* W. Va. Code R. § 47-10-9.1.a (stating that "[w]hen a permit is modified, only the conditions subject to modification are reopened. All other conditions of the permit shall remain in effect for the duration of the permit"); WVDEP Response to Comments at p.2 (concurring in MPC's interpretation).

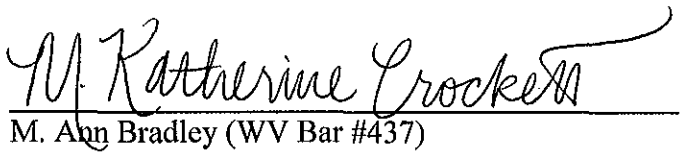
(4) Any other such revisions or relief deemed appropriate by the Board.

Specific Objections: MPC's specific objections, including questions of fact and law to be determined by the Board, are set forth in detail and attached hereto as Exhibit B.

Amendment of this Notice of Appeal may be had only by leave of the Board, and for good cause shown.

Respectfully submitted this 9th day of May, 2014.

MONONGAHELA POWER COMPANY



M. Ann Bradley (WV Bar #437)
M. Katherine Crockett (WV Bar #10799)
Spilman Thomas & Battle, PLLC
300 Kanawha Boulevard, East
Charleston, West Virginia 25301
Telephone: (304) 340-3800
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west virginia department of environmental protection

Division of Water and Waste Management
601 57th Street SE
Charleston, West Virginia 25304-2345
Phone: 304-926-0495
Fax: 304-926-0496

Earl Ray Tomblin, Governor
Randy C. Huffman, Cabinet Secretary
www.dep.wv.gov

April 08, 2014

ENVIRONMENTAL DEPARTMENT
MONONGAHELA POWER COMPANY
800 CABIN HILL DR
GREENSBURG, PA 15601

CERTIFIED RETURN RECEIPT REQUESTED

Dear Permittee:

Enclosed please find WV/NPDES Permit Number WV0005339 dated April 08, 2014.

In response to correspondence, dated the 3rd day of October 2013, presenting comments on the draft WV/NPDES Water Pollution Control Permit modification, the agency provides the following responses.

Comment No. 1 : Limitations at Outlets 012 and 013

As part of the 2011 permit, historical exceedances of benchmarks led to the agency determining reasonable potential (RP) to exceed water quality and limits were imposed at Outfall 011 for aluminum and zinc. Order #7004 was issued in 2011 and required submission of a corrective action plan to identify the causes of the exceedances of benchmarks and to address the exceedances. The permittee has proposed to segregate the storm water associated with industrial activity from the storm water that is in no exposure areas (no area of industrial activity). The permittee will segregate the majority of the contaminated storm water associated with industrial activity and route this wastewater through a series of two ponds with discharge through new Outlet 012. All remaining contaminated storm water associated with industrial activity will be routed through a separate pond for treatment and discharge through new Outlet 013. No exposure storm water will continue to be discharged through existing Outlet 011. This modification serves as the permittee's means of compliance to address high pollutant levels in storm water and to achieve the requirements within the permit. The permittee has taken all storm water previously discharged through Outlet 011 and segregated the areas exposed to industrial activity and routed them through ponds and out newly designated outfall locations (Outlets 012 and 013). The determination of the need for effluent limits at Outlet 011 already occurred as part of the last reissuance. Future monitoring with these limits imposed at Outlets 012 and 013 will determine the efficacy of the permittee's compliance solution. As such, the prior monitoring requirements and limits from Outlet 011 are imposed at new Outlets 012 and 013. Please note that continued monitoring can be used to reassess RP in the future at Outlets 012 and 013. If a finding of no RP can be determined in the future, the agency would remove the limitations and return to benchmarks.

Comment No. 2 : Aluminum Translator

EXHIBIT
A

The pending modification for the aluminum translator has been placed on hold pending the resolution of Appeal No. 11-21-EQB since the Appeal directly impacts aluminum limitations.

Comment No. 3 : Revised Page 2

The agency has included a revised Page 2 with the final modification that reflects the change in outlets.

Comment No. 4 : Section C Conditions

The agency concurs that only the Section C conditions specifically revised and identified in this permit modification are what are being considered for this modification. Only the conditions revised and identified in the modification shall supersede the previous respective Section C conditions. For simplicity, the agency is included a full Section C as an attachment to reflect those conditions that did change as well as all other unchanged conditions.

Comment No. 5 : eDMR Concerns

Monitoring periods in WV/NPDES permits are determined based on EPA's ICIS tracking system. Quarterly monitoring periods are based on a calendar year regardless of the effective date of a reissued permit. Semi-annual and annual monitoring periods are determined from the effective date of the permit. Therefore, if a reissued permit has an effective date of May 1, 2014, then the semi-annual monitoring periods would be from May 1st - October 31st and November 1st - April 30th while an annual monitoring period would be from May 1st - April 30th. This is specifically determined by EPA's ICIS tracking system. The WVDEP does not alter the effective dates for monitoring of outfalls for the rationale of aligning monitoring requirements. The agency could easily simplify monitoring by making all requirements either monthly or quarterly; however, the agency provides the benefit of semi-annual and annual monitoring where deemed appropriate in order to reduce overall monitoring requirements.

Comment No. 6 : Ownership Transfer

The final modification is reflective of the change in ownership.

Please note that a Discharge Monitoring Report (DMR) is to be completed and submitted to this Division each quarter.

Finally note that copies of all future correspondence regarding the permit must be forwarded to the Field Inspector and Field Supervisor at the following address:

Department of Environmental Protection
Environmental Enforcement
2031 Pleasant Valley Road
Fairmont, WV 26554

If you have any questions, please contact Ryan McGlothen, P.E. of this Division at (304) 926-0499 at extension 1092.

Sincerely,

Scott G. Mandirola
Director

SGM:rkm

Enclosures

west virginia department of environmental protection

Division of Water and Waste Management
601 57th Street SE
Charleston, WV 25304
Phone: (304) 926-0495
Fax: (304) 926-0463

Earl Ray Tomblin, Governor
Randy C. Huffman, Cabinet Secretary
www.dep.wv.gov

April 8, 2014

Mr. James E. Graf, Director
Monongahela Power Co.
Harrison Power Station
P.O. Box 600
Haywood, WV 26366

CERTIFIED RETURN RECEIPT REQUESTED

Re: WV/NPDES Permit Modification
WV0005339-C, Harrison County

Dear Mr. Graf:

This correspondence shall serve as Modification No. 3 of your existing WV/NPDES Water Pollution Control Permit No. WV0005339 issued the 4th day of June 2011.

After review and consideration of the information accompanying WV/NPDES Water Pollution Control Permit No. WV0005339, and after consideration of the information submitted on, and with Permit Modification Application No. WV0005339-C, dated the 31st day of January 2013 and other relevant information, the subject Permit is hereby modified to incorporate the following:

1. The permittee may acquire, construct, install, operate and maintain upgrades to the facility's storm water collection, treatment, and disposal systems. The upgrades are generally described as follows and include:

    a. Approximately 45 acres of existing Outlet 011 forested upland storm water area designated as No Exposure Certification (NEC) that will continue to discharge through the existing Outfall 011 structure. This area will be segregated from storm water associated with industrial activity, and monitoring requirements for existing Outlet 011 have been eliminated. Section C.26 has been added to the permit to address future potential changes to land uses within the area currently designated as NEC. Section A.011 is hereby deleted from the permit.

b. Construction of two (2) new sediment basins located just south of the helicopter pad between two existing paved drives. The two basins are constructed in series with a 36-inch diameter pipe with the west basin draining into the east. A new outlet structure with a 48-inch diameter discharge pipe will serve as new Outlet 012. New Outlet 012 will discharge into the NEC water trench for ultimate discharge through existing Outlet 011.

c. A new sediment basin has been constructed south of the two wastewater lagoons, near the discharge of existing Outlet 011. The new sediment basin discharges through new Outlet 013 (identified as proposed Outlet 011A in the modification application) to the West Fork River. New storm sewer lines located to the north and west of the proposed Outlet 013 sediment basin include approximately 2,200 linear feet of 8-inch, 12-inch, and 15-inch pipe, improved ditching and associated catch basin, manholes, and headwalls.

d. During a July 1, 2013 site visit by WVDEP at the facility, a storm water pipe was discovered discharging which was not previously included in the facilities NPDES permit. The pipe is located just north of the existing Outlet 011 and new Outlet 013 locations. The discharge from the pipe consists of non-industrial storm water runoff from the area just west of the existing wastewater treatment lagoon. This discharge is designated as new Outlet 014. No monitoring requirements are being imposed on the new outlet. Section C.26 has been added to the permit to address future potential changes to land uses within the area currently designated as NEC.

2. As a result of these revisions, Section A.012 and Section A.013 are being incorporated into the permit. Monitoring requirements and limitations are the same as what was previously imposed at Outlet 011. This has also resulted in revisions to storm water requirements in Section C.13 of the permit.

3. Also, please note that Section C.17.c has been revised to be consistent with updated certification requirements.

Please find attached revised Page No. 2 of 56, revised Page Nos. 41 and 42 of 56 which incorporates Section A.012, revised Page Nos. 43 and 44 of 56 which incorporates Section A.013, and revised Page Nos. 49 - 53 of 56 with revised Section C – Other Requirements, and new DMRs for Outlets 012 and Outlet 013. These documents shall supersede the ones currently in your possession and should be incorporated, as appropriate, into your existing WV/NPDES Water Pollution Control Permit.

This Modification in no way relieves the permittee of its obligation to comply with all terms and conditions of its WV/NPDES Permit No. WV0005339 and shall not constitute an affirmative defense in any enforcement action brought against the permittee.

All other terms and conditions of the subject WV/NPDES Water Pollution Control Permit No. WV0001112 shall remain in effect and unchanged. Should you have any questions, please contact Mr. Ryan K. McGlothen, P.E. of this office at 304-926-0499 extension 1092.

Sincerely,

Scott G. Mandirola
Director

SGM:rkm

cc: EE Supervisor
EE Inspector
USEPA Region 3

Inspectable Unit	Latitude	Longitude	Receiving Stream	Dist. to Stream Mouth (in Mile)	Milepost
001	39°23'15"	80°19'20"	WEST FORK RV	16.5	N/A
002	39°23'03"	80°19'19"	WEST FORK RV	16.26	N/A
003	39°23'14"	80°19'57"	WEST FORK RV – No Monitoring Required	17.07	N/A
006	39°23'04"	80°20'15"	WEST FORK RV	17.43	N/A
007	39°23'08"	80°20'09"	WEST FORK RV	17.3	N/A
008	39°23'12"	80°20'00"	WEST FORK RV	17.11	N/A
009	39°23'15"	80°19'49"	WEST FORK RV	17.01	N/A
010	39°23'17"	80°19'36"	WEST FORK RV	16.87	N/A
011	39°22'53"	80°19'09"	WEST FORK RV – No Monitoring Required	16.07	N/A
012	39°23'00"	80°19'45"	WEST FORK RV	16.07	N/A
013	39°22'53"	80°19'09"	WEST FORK RV	16.07	N/A
014	39°22'53"	80°19'09"	WEST FORK RV – No Monitoring Required	16.07	N/A
101	39°23'15"	80°19'20"	N/A	16.38	N/A
102	39°23'15"	80°19'20"	N/A	16.38	N/A
INT	39°23'15"	80°19'20"	WEST FORK RV	17.07	N/A

A.012 DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS:

Final Limitations

During the period beginning 4/8/2014 and lasting through midnight 6/30/2015 the permittee is authorized to discharge from Outlet Number(s) 012 (Storm Water Runoff)

Such discharges shall be limited and monitored by the permittee as specified below:

Effluent Characteristic	Discharge Limitations							Monitoring Requirements	
	Quantity		Units		Other Units		Units	Measurement Frequency	Sample Type
50050 - (Flow,in Conduit or thru plant) (Year Round) (ML-1) (RF-B)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mgd	1/quarter	Estimated
00530 - (Total Suspended Solids) (Year Round) (ML-1) (RF-B)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	Rpt Only Max Daily	mg/l	1/quarter	Grab
00400 - (pH) (Year Round) (ML-1) (RF-C)	N/A	N/A	N/A	Rpt Only Inst. Min.	N/A	Rpt Only Inst. Max.	S.U.	1/6 months	Grab
01119 - (Copper, Total Recoverable) (Year Round) (ML-1) (RF-C)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	1/6 months	Grab
01094 - (Zinc, Total Recoverable) (Year Round) (ML-1) (RF-C)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	1/6 months	Grab
71900 - (Mercury, Total (as Hg)) (Year Round) (ML-1) (RF-C)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	ug/l	1/6 months	Grab
01104 - (Aluminum, Total Recoverable) (Year Round) (ML-1) (RF-B)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	0.75 Max. Daily	mg/l	1/quarter	Grab

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s):
Outlet 012 - At the discharge from the two sediment ponds in series prior to discharge to the non-industrial stormwater runoff ditch to Outlet 011.

This discharge shall not cause violation of Title 47, Series 2, Section 3, of the West Virginia Legislative Rules issued pursuant to Chapter 22B, Article 3.

A.012 DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS:

Final Limitations

During the period beginning 4/8/2014 and lasting through midnight 6/30/2015 the permittee is authorized to discharge from Outlet Number(s) 012 (Storm Water Runoff)

Such discharges shall be limited and monitored by the permittee as specified below:

Effluent Characteristic	Discharge Limitations							Monitoring Requirements	
	Quantity		Units		Other Units		Units	Measurement Frequency	Sample Type
00980 - (Iron, Total Recoverable) (Year Round) (ML-1) (RF-B)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	1.5 Max. Daily	mg/l	1/quarter	Grab
00981 - (Selenium, Total Recoverable) (Year Round) (ML-1) (RF-C)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	1/6 months	Grab
00978 - (Arsenic, Total Recoverable) (Year Round) (ML-1) (RF-C)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	1/6 months	Grab
70295 - (Solids, Total Dissolved (TDS)) (Year Round) (ML-1) (RF-C)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	1/6 months	Grab
81020 - (Sulfate) (Year Round) (ML-1) (RF-C)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	1/6 months	Grab
01059 - (Thallium, Total (as Tl)) (Year Round) (ML-1) (RF-C)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	1/6 months	Grab
01220 - (Chromium, Hex. Diss.) (Year Round) (ML-1) (RF-C)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	1/6 months	Grab

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s):
Outlet 012 - At the discharge from the two sediment ponds in series prior to discharge to the non-industrial stormwater runoff ditch to Outlet 011.

This discharge shall not cause violation of Title 47, Series 2, Section 3, of the West Virginia Legislative Rules issued pursuant to Chapter 22B, Article 3.

A.013 DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS:

Final Limitations

During the period beginning 4/8/2014 and lasting through midnight 6/30/2015 the permittee is authorized to discharge from Outlet Number(s) 013 (Storm Water Runoff)

Such discharges shall be limited and monitored by the permittee as specified below:

Effluent Characteristic	Discharge Limitations							Monitoring Requirements	
	Quantity		Units		Other Units		Units	Measurement Frequency	Sample Type
50050 - (Flow,in Conduit or thru plant) (Year Round) (ML-1) (RF-B)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mgd	1/quarter	Estimated
00530 - (Total Suspended Solids) (Year Round) (ML-1) (RF-B)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	1/quarter	Grab
00400 - (pH) (Year Round) (ML-1) (RF-C)	N/A	N/A	N/A	Rpt Only Inst. Min.	N/A	Rpt Only Inst. Max.	S.U.	1/6 months	Grab
01119 - (Copper, Total Recoverable) (Year Round) (ML-1) (RF-C)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	1/6 months	Grab
01094 - (Zinc, Total Recoverable) (Year Round) (ML-1) (RF-C)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	1/6 months	Grab
71900 - (Mercury, Total (as Hg)) (Year Round) (ML-1) (RF-C)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	ug/l	1/6 months	Grab
01104 - (Aluminum, Total Recoverable) (Year Round) (ML-1) (RF-B)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	0.75 Max. Daily	mg/l	1/quarter	Grab

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s):
Outlet 013 - At the discharge from the single sediment pond prior to discharge to the West Fork River via an open channel.

This discharge shall not cause violation of Title 47, Series 2, Section 3, of the West Virginia Legislative Rules issued pursuant to Chapter 22B, Article 3.

A.013 DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS:

Final Limitations

During the period beginning 4/8/2014 and lasting through midnight 6/30/2015 the permittee is authorized to discharge from Outlet Number(s) 013 (Storm Water Runoff)

Such discharges shall be limited and monitored by the permittee as specified below:

Effluent Characteristic	Discharge Limitations							Monitoring Requirements	
	Quantity		Units		Other Units		Units	Measurement Frequency	Sample Type
00980 - (Iron, Total Recoverable) (Year Round) (ML-1) (RF-B)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	1.5 Max. Daily	mg/l	1/quarter	Grab
00981 - (Selenium, Total Recoverable) (Year Round) (ML-1) (RF-C)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	1/6 months	Grab
00978 - (Arsenic, Total Recoverable) (Year Round) (ML-1) (RF-C)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	1/6 months	Grab
70295 - (Solids, Total Dissolved (TDS)) (Year Round) (ML-1) (RF-C)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	1/6 months	Grab
81020 - (Sulfate) (Year Round) (ML-1) (RF-C)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	1/6 months	Grab
01059 - (Thallium, Total (as Tl)) (Year Round) (ML-1) (RF-C)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	1/6 months	Grab
01220 - (Chromium, Hex. Diss.) (Year Round) (ML-1) (RF-C)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	1/6 months	Grab

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s):
Outlet 013 - At the discharge from the single sediment pond prior to discharge to the West Fork River via an open channel.

This discharge shall not cause violation of Title 47, Series 2, Section 3, of the West Virginia Legislative Rules issued pursuant to Chapter 22B, Article 3.

Section C - Other Requirements

01. The permittee shall practice good housekeeping including maintaining the facility grounds. There shall be no scattered parts, equipment, debris, etc. Any and all drums shall be either stored in a covered area or kept upon pallets and properly sealed.

02. The issuance of this permit shall not relieve the permittee of the obligation to comply with any other federal, state or local laws. Compliance with this permit does not relieve the permittee from the obligation of Section 311 of the Clean Water Act. This permit does not authorize spills of hazardous substances/wastes from any permitted outlet into waters of the State. Such incidents are to be reported in accordance with Sections IV.1 and IV.2 of Appendix A of this permit.

03. Upon review of information submitted under terms and conditions of this permit, the permit may be modified to require additional effluent limitations/monitoring requirements and/or improved best management practices.

04. The permittee shall notify the Division of Water and Waste Management immediately when it becomes aware of any migration of any pollutant from any unpermitted source (such as contaminated groundwater and/or storm water) into surface waters of the State.

05. Without prior approval from the agency, the permittee shall not accept and treat wastewater from any other facility.

06. The permittee shall submit each month according to the enclosed format, a Discharge Monitoring Report (DMR) indicating in terms of concentration and/or quantities the values of the constituents listed in Section A analytically determined to be in the plant effluent(s). Additional information pertaining to effluent monitoring and reporting can be found in Section III of Appendix A.

07. The required DMRs shall be received by the agency no later than 20 days following the end of the reporting period in accordance with the following requirements. The agency encourages the permittee to utilize our electronic discharge monitoring report (eDMR) system. If the permittee uses the eDMR system, the permittee is not required to submit hard copies of the DMRs to the addresses listed below. However, if the permittee elects to not use the eDMR system, then the permittee is required to send hard copies to the addresses below. The permittee may contact the agency for more information about the eDMR system. Regardless, in accordance with Appendix A, Section III.6 of this permit, the permittee shall maintain copies of DMRs (either hard copies or electronic copies) at the plant site and the DMRs shall be made readily available upon request from DEP personnel.

    a. Director
    Division of Water and Waste Management
    601 57th Street, SE
    Charleston, West Virginia 25304
    Attn: Permitting Branch

    U. S. Environmental Protection Agency
    Region III, Water Protection Division
    NPDES Enforcement Branch (3WP42)
    1650 Arch Street
    Philadelphia, PA 19103

    Department of Environmental Protection
    Environmental Enforcement
    2031 Pleasant Valley Road, Suite # 1
    Fairmont, West Virginia 26554

08. The permittee shall not use alternate DMRs without prior approval from this Agency.

09. Any "not detected (ND)" results by the permittee must be "ND" at the method detection limit (MDL) for the test method used for that parameter and must be reported as less than the MDL used. The permittee may not report the result as zero, "ND", or report the result as less than a minimum level (ML), reporting limit (RL), or practical quantitation limit (PQL).

    When averaging values of analytical results for DMR reporting purposes for monthly averages, the permittee should use actual analytical results when these results are greater than or equal to the MDL and should use zero (0) when these results are less than the MDL. If all analytical results are non-detect at the MDL (<MDL), then the permittee should use the actual MDL in the calculation for averaging and report the result as less than the average calculation.

Section C - Other Requirements

10. In incidences where a specific test method is not defined, the permittee shall utilize an EPA approved method with a method detection limit (MDL) sensitive enough to confirm compliance with the permit effluent limit for that parameter. If a MDL is not sensitive enough to confirm compliance, the most sensitive approved method must be used. If a more sensitive EPA approved method becomes available, that method shall be used. Should the current and/or new method not be sensitive enough to confirm compliance with the permitted effluent limit, analytical results reported as "not detected" at the MDL of the most sensitive method available will be deemed compliant for purposes of permit compliance. Results shall be reported on the Discharge Monitoring Reports as a numeric value less than the MDL.

11. The Groundwater Protection Plan (GPP) shall be maintained at the plant site and shall be available for inspection by the Division of Water and Waste Management personnel.

12. The permittee shall maintain and implement the storm water pollution prevention plan (SWPPP) for the site. The SWPPP shall be prepared in accordance with good engineering practices. The SWPPP shall identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges associated with the industrial activity. In addition, the plan shall describe and ensure the implementation of practices which are to be used to reduce the pollutants in storm water discharges associated with the industrial activity at the facility and to assure compliance with the terms and conditions of this permit. A copy of this document shall be retained at the site for review upon request.

13. The following storm water requirements apply to Outlet(s) 006, 007, 008, 009, 010, 012, and 013:

    a. Samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Samples shall be taken during the first thirty (30) minutes, or as soon thereafter as practicable, of the storm event.

    b. Each outlet shall be monitored separately.

    c.

Pollutant	Benchmark Value
Total Suspended Solids	100 mg/l
pH	6.0 to 9.0 S.U.
Total Copper	0.0636 mg/l
Total Zinc	0.117 mg/l
Total Aluminum	0.75 mg/l
Total Selenium	0.005 mg/l
Total Iron	1.0 mg/l
Total Arsenic	0.16854 mg/l
Total Mercury	0.0014 mg/l
Total Thallium	0.14 mg/l
Hexavalent Chromium	0.016 mg/l
Total Dissolved Solids	735 mg/l
Sulfate	500 mg/l

    When the concentration results from a minimum of four consecutive samples of a pollutant are all less than the corresponding benchmark value for the pollutant, additional monitoring for the pollutant is not required (all pH values of the samples must be within the range 6.0 to 9.0 S.U.). The facility shall submit, each year, to the Division of Water and Waste Management, in lieu of the monitoring data, a certification (form will be provided upon request) that there has not been a significant change in the industrial activity or the pollution prevention measures in the area of the facility that drains to the outlet for which sampling is to be waived. If the concentration of a pollutant exceeds the corresponding benchmark concentration or a pH value is not within the range of 6.0 to 9.0 S.U., monitoring shall be continued and storm water pollution prevention practices shall be revised and implemented. A letter stating the revised and implemented storm water pollution prevention practices shall be submitted to the Division of Water and Waste Management at the address listed in Section C.07. These requirements do not apply to pollutants with effluent limitations.

14. If there is evidence indicating potential or realized impacts on water quality due to any storm water discharge associated with industrial activity covered by this permit, the permit may be promptly modified and/or reissued to include effluent limitations and/or other requirements to control such storm water discharges.

15. The permittee shall perform quarterly chronic toxicity tests as described below, on the effluent from Outlet 001 & 002:

Section C - Other Requirements

15. a. Such testing will determine if an appropriate dilute effluent sample affects the survival or reproduction of the test species. A 24-hr flow weighted composite samples of the effluent, as prescribed in Section A, shall be collected for testing. An appropriate statistical test shall be used to determine whether differences in control and effluent data are significant.

    i) The permittee shall conduct a three brood (6-8 days) Ceriodaphnia Dubia survival and reproduction toxicity test on the final effluent diluted by appropriate control water. Toxicity will be demonstrated if there is a statistically significant difference at the 95 percent confident level in survival of reproduction between Ceriodaphnia Dubia exposed to an appropriate control water and the final effluent. All test solutions shall be renewed using an approved renewal schedule. If, in any control, more than 20% of the test organisms die, or less than 60% of surviving females in controls produced their third brood, that test shall be repeated.

    ii) The permittee shall conduct a 7-day Pimephales Promelas fathead minnow larval survival and growth toxicity test on the final effluent diluted by appropriate control water. Toxicity will be demonstrated if there is a statistically significant difference at the 95 percent confidence level in survival or growth between fathead minnows exposed to an appropriate control water and the final effluent. All test solutions shall be renewed using an approved renewal schedule. If, in any control, more than 20% of the test organisms die, or average dry weight of surviving controls was less than 0.25 mg/l that test shall be repeated.

    b. Results shall be reported in terms of chronic toxic units (TUc) and shall be submitted with the corresponding monthly Discharge Monitoring Report (DMR).

    TUc= 100/NOEC or NOEL
    Where NOEC (or NOEL) is No Observed Effect Concentration (or Level), which is expressed as percent (volume) effluent in dilution water.
    For Example, if NOEC is 10%, TUc= 100/10=10

    When the effluent demonstrates no toxicity at 100% effluent (no observed effect), the permittee may report zero TUc.

    c. The monitoring required, herein, shall be conducted in accordance with the sample collection, preservation, and analytical procedures specified in 40 CFR 136.

    d. In addition to the monitoring data reporting requirements of 40 CFR 136, the exact age of the test organisms at the initiation of the test shall be reported. Values of less than or equal to 24 hours are acceptable for Pimephales Promelas, fathead minnow. The range of the Ceriodaphnia Dubia used must be reported as a range in hours. All Ceriodaphnia Dubia used in the test must be less than 24 hours of age at test commencement. The age difference between the youngest and oldest Ceriodaphnia Dubia used in the test must not exceed eight (8) hours.

    e. The chronic toxicity testing shall be performed on a quarterly basis. There shall be a minimum of one (1) month between sampling events.

    f. If chronic effluent toxicity testing results in a value exceeding 1.9 TUc at Outlet or 1.66 TUc at Outlet 002, the permittee shall immediately resample and test the effluent. This shall be performed within 30 days of the initial demonstration of the aforementioned exceedance. Copies of the retesting results shall be provided to the Director immediately upon completion of the test.

    If the second test results in a value less than or equal 1.9 TUc at Outlet or 1.66 TUc at Outlet 002, chronic effluent toxicity testing shall continue in accordance with the requirements, as prescribed herein. However, if the second test also shows an exceedance, the Director shall impose further requirements, as may be necessary.

    g. The Director may impose further requirements should the chronic effluent toxicity testing results demonstrate toxicity.

16. Effluent monitoring for the following pollutants shall be conducted using the most sensitive methods and detection levels commercially available and economically feasible.

Section C - Other Requirements

16. a. The following methods are to be used unless the permittee desires to use an EPA Approved Test Method with a listed lower method detection level. Regardless, it is recognized that detection levels can vary from analysis to analysis and that non-detect results at a different MDL for the specified test method would not constitute a permit violation.

Parameter	EPA Method No.	Method Detection Level (ug/l)
Thallium, Total Recoverable	200.8	0.3
Beryllium, Total Recoverable	200.9	0.02
Mercury, Total*	245.7	0.0018
Mercury, Total*	1631	0.0002

*The permittee may use either Method 245.7 or Method 1631 for the analysis of mercury.

b. The permittee may utilize the following test methods for the following pollutants so long as the laboratory achieves the MDLs listed below and reports any non-detect values down to the listed MDL.

Parameter	EPA Method No.	Method Detection Level (ug/l)
Copper, Total Recoverable	200.7	1.0
Lead, Total Recoverable	200.7	1.0
Zinc, Total Recoverable	200.7	4.0
Nickel, Total Recoverable	200.7	3.0
Arsenic, Total	200.7	2.0
Barium, Total Recoverable	200.7	10.0
Antimony, Total Recoverable	200.7	1.0
Selenium, Total Recoverable	200.7	2.0
Aluminum, Total Recoverable	200.7	20.0
Chromium, Hexavalent	SM3500CrB	2.0

c. The analytical test procedures, set forth in 40 CFR Part 136, prescribe colorimetric methods for certain parameters. The digestion process for the performance of total recoverable is not sufficient for the utilization of a colorimetric procedure. Therefore, colorimetric procedures shall not be acceptable for the analysis of parameters prescribed as total recoverable.

17. The following conditions apply only to the package sewage treatment plant:

a. The herein described treatment works, structures, electrical, and mechanical equipment shall be adequately protected from physical damage by the maximum expected twenty-five (25) year flood level, and operability shall be maintained during the ten (10) year flood level.

b. The entire sewage treatment facility shall be adequately protected by fencing.

c. Continuous maintenance and operation of the listed sewage treatment facility shall be performed by, or supervised by, a certified operator possessing at least a Class S certificate, for Waste Water Treatment Plant Operators, issued by the State of West Virginia.

d. The permittee shall connect to a municipal or public service district sewage collection system when one becomes available; however, prior to this connection, the permittee shall obtain written permission from the municipal or public service district sewage system authority which will receive the waste and submit a request along with one (1) copy of the written permission to the Division of Water and Waste Management for approval.

e. Without prior approval from the agency, use of intermediates, by-products, spent solvents or any other materials (except commercial grade materials), containing pollutant(s) that cannot be removed by the wastewater treatment plant is prohibited.

Section C - Other Requirements

18. Available sampling methods for total residual chlorine (TRC) are currently not sensitive enough to confirm compliance with the permit limitations imposed at the facility. Total residual chlorine (TRC) samples shall be taken, preserved and analyzed in accordance with the latest edition of 40 CFR Part 136. Because the permittee does not operate a certified wastewater laboratory at the plant site but still must comply with the instantaneous sample-type requirements, the permittee shall use an EPA Approved Method with at least a method detection level (MDL) of 100 ug/l. Any TRC sampling result reported as less than the MDL stated above shall be assumed to confirm compliance for purposes of permit enforcement. Should a more sensitive EPA approved method become available for field analysis of TRC, the permittee shall perform TRC self-monitoring in accordance with the new method. If the new method is not sensitive enough to determine compliance with specified TRC limits, analytical results reported as "not detected" at the MDL of the new method will be deemed compliant for purposes of permit enforcement.
19. Any overflows from the coal pile runoff control basin, which is designed to handle a 10-year 24-hour rainfall event, shall be reported in accordance with the bypass provisions contained in Appendix A of this permit.
20. There shall be no discharge of polychlorinated biphenyl compounds attributable to operations at the facility through any outfall.
21. The permittee shall dispose of any solids generated by the wastewater treatment plant(s) in conformance with Solid Waste Permit No. WV0075795.
22. Any debris collected at the intake shall not be returned to the waterway.
23. Neither free available chlorine nor total residual chlorine may be discharged from any unit for more than two hours in any one day and not more than one unit in any plant may discharge free available or total residual chlorine at any one time unless the utility can demonstrate to the Regional Administrator or State that the units in a particular location cannot operate at or below this level of chlorination as per Federal Effluent Guidelines 40 CFR 423.12.b.(8) and 40 CFR 423.13.d.(2). Simultaneous multi-unit chlorination is permitted.
24. The permittee shall use analytical test method 2540 C from the the 20th edition of Standard Methods for the analysis of total dissolved solids (TDS).
25. The temperature measurements collected to calculate the difference between the Upstream/Intake temperature and the discharge temperature required in Section A.001 and Section A.002 of this permit shall be collected concurrently. There shall be no more than thirty minutes between temperature monitoring collected at the intake and the discharges.
26. The permittee shall not make any changes pertaining to the land use including new construction, storage of new/additional materials or diversion of additional runoff within the drainage area for stormwater Outlets 011 and 014 without prior notification to the Division of Water and Waste Management.

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Final Limitations

STATE OF WEST VIRGINIA
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
DISCHARGE MONITORING REPORT

FACILITY NAME: (HARRISON POWER STATION) MONONGAHELA POWER COMPA
LOCATION OF FACILITY: HAYWOOD; Harrison County
PERMIT NO.: WV0005339 OUTLET NO.: 012
WASTELOAD FOR THE MONTH OF:

CERTIFIED LABORATORY NAME:
CERTIFIED LABORATORY ADDRESS:
INDIVIDUAL PERFORMING ANALYSIS:

Parameter		Quantity				Other Units						Measurement Frequency	Sample Type
				Units	N.E.				CEL*	Units	N.E.		
50050 (ML-1) RF-B Flow,in Conduit or thru plant Year Round	Reported												
	Permit Limits	N/A	N/A			N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	N/A	mgd		1/quarter	Estimated
00530 (ML-1) RF-B Total Suspended Solids Year Round	Reported												
	Permit Limits	N/A	N/A			N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	N/A	mg/l		1/quarter	Grab
00400 (ML-1) RF-C pH Year Round	Reported												
	Permit Limits	N/A	N/A			Rpt Only Inst. Min.	N/A	Rpt Only Inst. Max.	N/A	S.U.		1/6 months	Grab
01119 (ML-1) RF-C Copper, Total Recoverable Year Round	Reported												
	Permit Limits	N/A	N/A			N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	N/A	mg/l		1/6 months	Grab
01094 (ML-1) RF-C Zinc, Total Recoverable Year Round	Reported												
	Permit Limits	N/A	N/A			N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	N/A	mg/l		1/6 months	Grab
71900 (ML-1) RF-C Mercury, Total (as Hg) Year Round	Reported												
	Permit Limits	N/A	N/A			N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	N/A	ug/l		1/6 months	Grab
01104 (ML-1) RF-B Aluminum, Total Recoverable Year Round	Reported												
	Permit Limits	N/A	N/A			N/A	Rpt Only Avg. Monthly	0.75 Max. Daily	N/A	mg/l		1/quarter	Grab
00980 (ML-1) RF-B Iron, Total Recoverable Year Round	Reported												
	Permit Limits	N/A	N/A			N/A	Rpt Only Avg. Monthly	1.5 Max. Daily	N/A	mg/l		1/quarter	Grab

* CEL = Compliance Evaluation Level

Name of Principal Executive Officer	I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of a fine and imprisonment for knowing violations.	Date Completed
Title of Officer		Signature of Principal Executive Officer or Authorized Agent

WRD 2A-82

STATE OF WEST VIRGINIA
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
DISCHARGE MONITORING REPORT

Final Limitations

FACILITY NAME: (HARRISON POWER STATION) MONONGAHELA POWER COMPA
LOCATION OF FACILITY: HAYWOOD; Harrison County
PERMIT NO.: WV0005339 OUTLET NO.: 012
WASTELOAD FOR THE MONTH OF:

CERTIFIED LABORATORY NAME:
CERTIFIED LABORATORY ADDRESS:
INDIVIDUAL PERFORMING ANALYSIS:

Parameter		Quantity				Other Units						Measurement Frequency	Sample Type
				Units	N.E.				CEL*	Units	N.E.		
00981 (ML-1) RF-C	Reported												
Selenium, Total Recoverable	Permit Limits	N/A	N/A			N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	N/A	mg/l		1/6 months	Grab
Year Round													
00978 (ML-1) RF-C	Reported												
Arsenic, Total Recoverable	Permit Limits	N/A	N/A			N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	N/A	mg/l		1/6 months	Grab
Year Round													
70295 (ML-1) RF-C	Reported												
Solids, Total Dissolved (TDS)	Permit Limits	N/A	N/A			N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	N/A	mg/l		1/6 months	Grab
Year Round													
81020 (ML-1) RF-C	Reported												
Sulfate	Permit Limits	N/A	N/A			N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	N/A	mg/l		1/6 months	Grab
Year Round													
01059 (ML-1) RF-C	Reported												
Thallium, Total (as Tl)	Permit Limits	N/A	N/A			N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	N/A	mg/l		1/6 months	Grab
Year Round													
01220 (ML-1) RF-C	Reported												
Chromium, Hex. Diss.	Permit Limits	N/A	N/A			N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	N/A	mg/l		1/6 months	Grab
Year Round													
									N/A				
									N/A				

* CEL = Compliance Evaluation Level

Name of Principal Executive Officer	I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of a fine and imprisonment for knowing violations.	Date Completed
Title of Officer		Signature of Principal Executive Officer or Authorized Agent

WRD 2A-82

Final Limitations

STATE OF WEST VIRGINIA
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
DISCHARGE MONITORING REPORT

FACILITY NAME: (HARRISON POWER STATION) MONONGAHELA POWER COMPA
LOCATION OF FACILITY: HAYWOOD; Harrison County
PERMIT NO.: WV0005339 OUTLET NO.: 013
WASTELOAD FOR THE MONTH OF:

CERTIFIED LABORATORY NAME:
CERTIFIED LABORATORY ADDRESS:
INDIVIDUAL PERFORMING ANALYSIS:

Parameter		Quantity				Other Units						Measurement Frequency	Sample Type
				Units	N.E.				CEL*	Units	N.E.		
50050 (ML-1) RF-B Flow,in Conduit or thru plant Year Round	Reported								N/A	mgd		1/quarter	Estimated
	Permit Limits	N/A	N/A			N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily					
00530 (ML-1) RF-B Total Suspended Solids Year Round	Reported								N/A	mg/l		1/quarter	Grab
	Permit Limits	N/A	N/A			N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily					
00400 (ML-1) RF-C pH Year Round	Reported								N/A	S.U.		1/6 months	Grab
	Permit Limits	N/A	N/A			Rpt Only Inst. Min.	N/A	Rpt Only Inst. Max.					
01119 (ML-1) RF-C Copper, Total Recoverable Year Round	Reported								N/A	mg/l		1/6 months	Grab
	Permit Limits	N/A	N/A			N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily					
01094 (ML-1) RF-C Zinc, Total Recoverable Year Round	Reported								N/A	mg/l		1/6 months	Grab
	Permit Limits	N/A	N/A			N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily					
71900 (ML-1) RF-C Mercury, Total (as Hg) Year Round	Reported								N/A	ug/l		1/6 months	Grab
	Permit Limits	N/A	N/A			N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily					
01104 (ML-1) RF-B Aluminum, Total Recoverable Year Round	Reported								N/A	mg/l		1/quarter	Grab
	Permit Limits	N/A	N/A			N/A	Rpt Only Avg. Monthly	0.75 Max. Daily					
00980 (ML-1) RF-B Iron, Total Recoverable Year Round	Reported								N/A	mg/l		1/quarter	Grab
	Permit Limits	N/A	N/A			N/A	Rpt Only Avg. Monthly	1.5 Max. Daily					

* CEL = Compliance Evaluation Level

Name of Principal Executive Officer	I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of a fine and imprisonment for knowing violations.	Date Completed
Title of Officer		Signature of Principal Executive Officer or Authorized Agent

WRD 2A-82

STATE OF WEST VIRGINIA
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
DISCHARGE MONITORING REPORT

Final Limitations

FACILITY NAME: (HARRISON POWER STATION) MONONGAHELA POWER COMPA
LOCATION OF FACILITY: HAYWOOD; Harrison County
PERMIT NO.: WV0005339 OUTLET NO.: 013
WASTELOAD FOR THE MONTH OF:

CERTIFIED LABORATORY NAME:
CERTIFIED LABORATORY ADDRESS:
INDIVIDUAL PERFORMING ANALYSIS:

Parameter		Quantity				Other Units						Measurement Frequency	Sample Type
				Units	N.E.				CEL*	Units	N.E.		
00981 (ML-1) RF-C Selenium, Total Recoverable Year Round	Reported								N/A	mg/l		1/6 months	Grab
	Permit Limits	N/A	N/A			N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily					
00978 (ML-1) RF-C Arsenic, Total Recoverable Year Round	Reported								N/A	mg/l		1/6 months	Grab
	Permit Limits	N/A	N/A			N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily					
70295 (ML-1) RF-C Solids, Total Dissolved (TDS) Year Round	Reported								N/A	mg/l		1/6 months	Grab
	Permit Limits	N/A	N/A			N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily					
81020 (ML-1) RF-C Sulfate Year Round	Reported								N/A	mg/l		1/6 months	Grab
	Permit Limits	N/A	N/A			N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily					
01059 (ML-1) RF-C Thallium, Total (as Tl) Year Round	Reported								N/A	mg/l		1/6 months	Grab
	Permit Limits	N/A	N/A			N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily					
01220 (ML-1) RF-C Chromium, Hex. Diss. Year Round	Reported								N/A	mg/l		1/6 months	Grab
	Permit Limits	N/A	N/A			N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily					
									N/A				
									N/A				

* CEL = Compliance Evaluation Level

Name of Principal Executive Officer	I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of a fine and imprisonment for knowing violations.	Date Completed
Title of Officer		Signature of Principal Executive Officer or Authorized Agent

EXHIBIT B

FACTS RELEVANT TO APPEAL

The facts relevant to this appeal and the particular grounds on which this appeal is based, including questions of law and fact to be determined by the Board, are as follows:

1. On April 8, 2014, the West Virginia Department of Environmental Protection ("WVDEP") issued WV/NPDES Permit Modification No. WV0005339-C (the "Permit Modification") to Appellant Monongahela Power Company ("MPC"). The Permit Modification reflects significant efforts undertaken by MPC to reconfigure stormwater flows and install new stormwater treatment systems at the Harrison Power Station in Haywood, Harrison County, West Virginia. The Permit Modification modifies WV/NPDES Permit No. WV0005339, as issued by WVDEP on June 4, 2011 (the "2011 Permit").

2. Although dated April 8, 2014, the Permit Modification was not received by MPC until April 11, 2014. Accordingly, this appeal has been timely filed within 30 days of receipt of the Permit Modification in accordance with W. Va. Code § 22-11-21.

3. With regard to item (1) under "Actions Complained Of" in the Notice of Appeal, MPC objects to the imposition of numeric discharge limitations for iron and aluminum at Outlets 012 and 013 of the Permit Modification, as set forth in Sections A.012 and A.013, respectively. In its response to comments, WVDEP indicates that effluent limitations for iron and aluminum were included for new Outlets 012 and 013 because corresponding limits had been imposed at Outlet 011 in the 2011 Permit. Response to Comments, p. 1. However, as set forth in the Notice of Appeal in the 2011 Permit, MPC objects to the agency's determination that numeric discharge limitations are necessary or justified at the Harrison Power Station's stormwater outfalls. Extensive work has been undertaken at the Station—during prior permit terms as well as during the current term—to reduce pollutant concentrations in the stormwater discharges from the site,

and the upgrades implemented through the instant Permit Modification constitute a significant component of these efforts. Accordingly, the agency's insistence upon the inclusion of numeric discharge limits is unwarranted and contravenes its own policy as set forth in the letter dated May 30, 2012 from Scott Mandirola, Director of the Division of Water and Waste Management, to the West Virginia Chamber of Commerce, West Virginia Manufacturers Association and the Utilities, Telecommunications and Energy Coalition (collectively, the "Associations"), a copy of which is attached hereto as Exhibit C. In that letter to the Associations, Director Mandirola represents that WVDEP's standard practice in permitting stormwater discharges from industrial facilities is to establish benchmark values and require implementation and modification of a stormwater pollution prevention plan ("SWPPP") designed to achieve these benchmarks. Only in "extreme cases where a permittee has not implemented an effective SWPPP" will the agency determine that "water quality-based effluent limits [should be included] on such stormwater discharges if they exhibit a reasonable potential to exceed water quality criteria." Attachment C at 2. Thus, the agency's practice is to impose numeric discharge limitations only as a measure of last resort when a facility has failed to demonstrate an effective SWPPP over an extended period of time. That is not the case here, particularly as Outlets 012 and 013 are new outfalls with no history of exceedances of the benchmark values. Indeed, WVDEP's immediate inclusion of numeric limits in the Permit Modification effectively denies the Station any opportunity to demonstrate achievement of the benchmark values and thereby avoid numeric limits.[2]

Furthermore, with respect to the discharge limitations for aluminum specifically, MPC objects to the agency's refusal to consider the implications of the pending site-wide aluminum translator study, which would directly impact these limits, if not eliminate them entirely based on

[2] This approach also precludes the Station from ever "waiving" the monitoring requirements for aluminum and iron at these outlets through the collection of four consecutive samples below the corresponding benchmark value in accordance with Condition C.13.c of the Permit.

a lack of reasonable potential to cause or contribute to a violation of water quality standards. In its Response to Comments, WVDEP states only that "[t]he pending modification for the aluminum translator has been placed on hold pending the resolution of Appeal No. 11-21-EQB since the Appeal directly impacts aluminum limitations." Response to Comments, p. 2. While MPC understands the agency's desire to effectuate the revisions necessitated by the translator study at the same time that the related issues raised in the 2011 appeal are resolved, a similar delay simply is not justified in the case of the two new outfalls designated by this Permit Modification. This is particularly the case where, as here, WVDEP has indicated that the agency has no substantive objections to the translator, and thereby essentially conceded that the discharge limitations being imposed are unduly stringent. Requiring a second, separate permit modification to implement the translator study for Outlets 012 and 013 is both unreasonable and an inefficient use of all parties' resources.

For all of these reasons, WVDEP's imposition of discharge limitations for iron and aluminum at Outlets 012 and 013 of the Permit Modification is improper, unreasonable and exceeds the agency's authority under the West Virginia Water Pollution Control Act, W. Va. Code §§ 22-11-1 *et seq.*

4. With regard to items (2) and (3) under "Actions Complained Of" in the Notice of Appeal, MPC objects to (a) the monitoring frequency of 1/6 months for total dissolved solids ("TDS") and sulfate at Outlets 012 and 013, and (b) the benchmark values for TDS and sulfate as set forth in Condition C.13.c of the Permit Modification, respectively. MPC notes that the parties have agreed to revisions of these terms in conjunction with the 2011 appeal, as set forth in the Joint Status Report submitted to the Environmental Quality Board on July 25, 2012. Accordingly, MPC has included these items in the instant Notice of Appeal to ensure that these

objections are preserved and to avoid concerns relating to the potential mooting of the original appeal issues by the issuance of the Permit Modification.

QUESTIONS OF FACT

1. What efforts have been undertaken by MPC to reduce concentrations of iron and aluminum present in stormwater discharges from the Harrison Power Station?

2. Does the aluminum translator previously completed for the Harrison Power Station and submitted to WVDEP apply to Outlets 012 and 013?

3. How were the benchmark values for TDS and sulfate set forth in Condition C.13.c. of the Permit derived?

4. What is the justification for the sampling frequency for TDS and sulfate at Outlets 012 and 013?

5. Any other question of fact that may arise during the course of the appeal process relating to the specific terms and conditions challenged in MPC's Notice of Appeal.

QUESTIONS OF LAW

1. Whether the imposition of numeric discharge limitations for iron and aluminum at Outlets 012 and 013 is unreasonable, improper or otherwise constitutes unlawful action by WVDEP?

2. Whether the monitoring frequency required for sampling of TDS and sulfate at Outlets 012 and 013 is unreasonable, improper or otherwise constitutes unlawful action by WVDEP?

3. Whether the adoption of benchmark values for TDS and sulfate at the Station's stormwater outfalls is unreasonable, improper or otherwise constitutes unlawful action by WVDEP?

WEST VIRGINIA ENVIRONMENTAL QUALITY BOARD
CHARLESTON, WEST VIRGINIA

MONONGAHELA POWER COMPANY,

Appellant,

v. **Appeal No.** 14-10-EQB

SCOTT G. MANDIROLA, Director,
Division of Water and Waste Management
West Virginia Department of Environmental Protection,

Appellee.

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MOTION FOR STAY

Pursuant to W. Va. Code § 22B-1-7(d), Monongahela Power Company ("MPC"), by counsel, comes before the Environmental Quality Board (the "Board") and moves for a limited stay of certain terms and conditions of WV/NPDES Permit Modification No. WV0005339-C (the "Permit Modification"), issued to MPC on April 8, 2014 by Scott G. Mandirola, Director, Division of Water and Waste Management, West Virginia Department of Environmental Protection ("WVDEP"). *See* Exhibit A attached to Notice of Appeal, and incorporated by reference herein. Specifically, MPC moves for a stay of the maximum daily discharge limitations for iron and aluminum at Outlets 012 and 013 in Sections A.012 and A.013 of the Permit Modification, respectively, pending MPC's appeal of the legality of these conditions. In support of this Motion, MPC states as follows:

1. MPC has timely appealed certain terms and conditions of the Permit, which was received by MPC on April 11, 2014, and has timely filed this Motion for Stay concurrently with its Notice of Appeal.

2. In its Notice of Appeal of the Permit, MPC has objected to the imposition of numeric discharge limitations for iron and aluminum at Outlets 012 and 013, the two new

stormwater outfalls established by the Permit Modification. MPC contends that the imposition of numeric effluent limitations, rather than "report only" requirements and corresponding benchmark values, for these newly designated outlets is unwarranted and in contravention of stated agency policy relating to stormwater permitting. Moreover, with respect to the aluminum limits specifically, MPC objects to WVDEP's failure to consider the pending site-wide metals translator for the Harrison Power Station, which directly impacts (and would provide relief from) the limitations for aluminum at these outfalls.

3. Pursuant to W. Va. Code § 22B-1-7(d), if the Board determines that "an unjust hardship to the appellant will result from the execution or implementation of [the appealed agency action], [it] may grant a stay or suspension of the . . . permit . . ., and fix its terms." MPC believes that the simplicity of this standard recognizes the inherent unfairness of forcing a permittee to risk permit noncompliance and/or make significant expenditures in order to comply with newly imposed requirements before, at a minimum, it has an opportunity to challenge and be heard on the legality of those conditions.

4. The issue of the propriety of establishing numeric discharge limitations for outfalls discharging only stormwater is not a new one, and is fundamentally related to the pending appeal of similar water quality-based effluent limitations imposed at the remaining stormwater outfalls (Outlets 006, 007, 008, 009, 010 and 011[1]) through the 2011 reissuance of WV/NPDES Permit No. WV0005339. As noted above, Outlets 012 and 013 are new outfalls for which new stormwater collection and treatment systems have been constructed, and therefore the

[1] All monitoring requirements for Outlet 011 have been removed through the issuance of the Permit Modification, due to the reconfiguration of stormwater flows at the Station and certification of the forested upland stormwater area draining to Outlet 011 as No Exposure Certification. WVDEP justifies the imposition of the new discharge limitations at Outlets 012 and 013 on the ground that similar limits previously had been imposed at Outlet 011 in the 2011 reissuance. MPC notes, however, that in the 2011 reissuance these limits were not immediately effective, but rather were subject to a two-year compliance schedule to allow the Station time to make any necessary adjustments to achieve compliance. A similar compliance schedule is not included in the Permit Modification for Outlets 012 and 013.

Station has limited experience relating to the concentrations of iron and aluminum anticipated to be present in these discharges. Because the numeric discharge limitations are immediately effective, absent a stay the Station will be vulnerable to potential violations of the same while its appeal of the legality of these conditions is ongoing. Because the Board agreed to a stay of these limits at the remainder of the Station's existing stormwater outlets following a stay hearing held in conjunction with the 2011 appeal, and given the alignment of the appeal issues, MPC maintains that a corresponding stay is warranted here.[2] Finally, with regard to the pending aluminum translator, WVDEP has indicated that it has no substantive objections to the study or its results, but nevertheless has determined to withhold its application as to new Outlets 012 and 013 only because the appeal of the 2011 reissuance is ongoing. As WVDEP essentially concedes that the limits that have been imposed by the Permit Modification for aluminum at Outlets 012 and 013 are unnecessarily stringent, it would be manifestly unfair to expose the Station to potential violations of these limits as a result of the agency's delay.

5. It is MPC's position that granting this Motion will not jeopardize water quality or the environment. If the requested stay of the discharge limitations is granted, MPC would continue to monitor and report to WVDEP the results for iron and aluminum at Outlets 012 and 013 as required by the Permit Modification.

WHEREFORE, MPC prays that the Board grant a stay of the terms and conditions of the Permit as set forth below:

1. That the new maximum daily discharge limitations for iron and aluminum at Outlets 012 and 013 be stayed pending the Board's final decision in this appeal.

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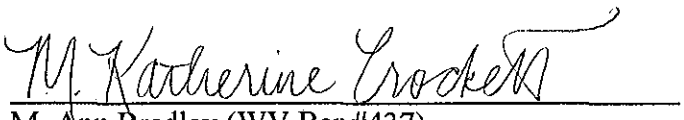
[2] Indeed, MPC anticipates filing a Motion to Consolidate the appeal of the Permit Modification with Appeal Nos. 11-21-EQB and 11-22-EQB in an effort to resolve all of these objections in a coordinated, comprehensive manner. An evidentiary hearing is scheduled for Appeal Nos. 11-21-EQB and 11-22-EQB on September 11, 2014.

Respectfully submitted this 9th day of May, 2014.

MONONGAHELA POWER COMPANY



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WEST VIRGINIA ENVIRONMENTAL QUALITY BOARD
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Division of Water and Waste Management
West Virginia Department of Environmental Protection,

Appellee.

CERTIFICATE OF SERVICE

I, M. Katherine Crockett, counsel for Monongahela Power Company, do hereby certify that I have filed an original and six (6) copies of the foregoing **Notice of Appeal** and **Motion for Stay** with the Environmental Quality Board and have served true and exact copies of the same upon the Appellee, Scott G. Mandirola, Director of the Division of Water and Waste Management, West Virginia Department of Environmental Protection, by hand delivery, on this 9th day of May, 2014, addressed as follows:

Scott G. Mandirola, Director
Division of Water and Waste Management
West Virginia Department of Environmental Protection
c/o Jonathan C. Frame, Office of Legal Services
601 57th Street, S.E.
Charleston, WV 25304

MONONGAHELA POWER COMPANY

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