WEST VIRGINIA ENVIRONMENTAL QUALITY BOARD
CHARLESTON, WEST VIRGINIA

MONONGAHELA POWER COMPANY,[1]

Appellant,

v.

Appeal Nos. 11-21-EQB
11-22-EQB
14-10-EQB

KATHERYN D. EMERY, Director,
Division of Water and Waste Management
West Virginia Department of Environmental Protection,

Appellee.

JOINT STATUS REPORT

At a prehearing conference on October 26, 2023, the Board requested that the parties provide an update on the status of this lengthy appeal. Since that time, counsel for the parties have been investigating where the matter stands.

This turned out to be more complex than counsel expected. Neither of the present attorneys represented our clients when this was originally appealed, or when the initial work on a resolution was being done. In addition, the environmental staff that worked on this for the appellant have retired, and they can't be consulted, resulting in the loss of institutional memory. The parties have done our best to recreate what has happened, so we can respond to the Board's request for information about what is going on now. These efforts are continuing. Accordingly, the parties represent as follows:

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[1] Since the filing of Appeal Nos. 11-21-EQB and 11-22-EQB in 2011, ownership of the Harrison Power Station has been transferred from Allegheny Energy Supply Company, LLC to Monongahela Power Company, and therefore Monongahela Power Company will become the Appellant of record in this matter.

1. The appeal of WV/NPDES Permit No. WV0005339 ("the Permit") was originally filed on June 6, 2011 (Appeal No. 11-22-EQB). The Permit was accompanied by Order No. 7004, which also was appealed June 6, 2011, and became Appeal No. 11-21-EQB.

2. A stay was issued in both appeals at that time that delayed implementation of several conditions, most relating to stormwater management, metals limits or benchmarks, and temperature.

3. Specifically, pursuant to an Order entered by this Board on June 17, 2011 (Attachment 1), the following terms and conditions were stayed:

a. The water quality based effluent limitations ("WQBELs") for iron at Outlet 001 and aluminum at Outlet 002.

b. The two-year compliance schedule for achieving the final discharge limitations for iron at Outlet 002.

c. The two-year compliance schedule for achieving the final discharge limitations for iron, zinc, and aluminum at Outlets 006, 007, 008, 009, and 010.

d. The summer maximum daily WQBELs for effluent temperature at Outlet 001 and Outlet 002.

e. The requirement to install two in-stream temperature monitors in the West Fork River 0.1 miles downstream of Outlet 001 and Outlet 002 within six months of the effective date of the Permit.

f. The requirement in paragraph 1 under Order for Compliance on page 2 of the Order to "immediately take measures to initiate compliance with all terms and conditions" of the Permit and Order, to the extent that said provision applies ot the conditions that are subject to the stay.

4. The stay remains in effect, but monitoring has still occurred, and SWPPPs are being updated.

5. Perhaps the most significant issue in the initial appeal (and subsequently) is the disagreement over whether stormwater benchmarks or stormwater limits are appropriate at the Harrison power plant. Failure to comply with benchmarks triggers a responsibility to revise stormwater pollution prevention plans (SWPPPs) to meet the benchmarks, while noncompliance with limits can result in permit violations. In addition, benchmark monitoring can be reduced or eliminated if there is evidence that benchmarks are being met; that generally is not possible with permit limits. The parties continue to disagree on whether limits or benchmarks are appropriate at certain stormwater outfalls.

6. The Permit was modified in 2014, with the intention of addressing some of the 2011 appeal issues, but not all of them. The modifications involved a revision of the drainage area feeding Outlet 011, and creation of new stormwater Outlets 012 and 013. While the modification reflected changes made to improve stormwater management, it did not resolve the underlying disagreement as to how those stormwater controls should be evaluated. Consequently, portions of the 2014 modification were appealed to this Board as well, in Appeal No. 14-10-EQB.

7. A stay order was entered by the Board on June 5, 2014 (Attachment 2), which stayed the following permit condition:

a. The maximum daily discharge limitations for iron and aluminum at Outlets 012 and 013. Per the stay order, the monitoring and reporting requirements for iron and aluminum remained in effect.

8. The WV/NPES permit that is the subject of the instant appeal expired on June 20, 2015, and has been administratively extended beyond the expiration date pending issuance of the permit renewal, in accordance with W.Va. Code §22-11-11(c).

9. Since filing of the initial appeal the parties have discussed resolution of all appeal issues. Around the time of the 2014 Permit modification, the parties reached agreement that would have allowed dismissal of the appeal. Most appeal issues were resolved, and others (such as stormwater benchmarks or limits) would depend on how the DEP addressed them in the next Permit.

10. Because the WVDEP cannot modify the Permit following the expiration date, and therefore is therefore unable to effectuate any changes to the terms and conditions pursuant to any agreement reached on the appeal issues, it was determined that it was most prudent to effectuate the parties' agreement on the issues through the ongoing renewal process.

11. The DEP proposed a new draft permit on October 17, 2016. As expected, it resolved some of the issues appealed in 2011 and 2014, but not all of them. The attached comments from MPC may provide the best explanation of what has been done at the plant since the appeals were first taken, and the issues that still require resolution (Attachment 3). The comments are evidence of disagreements that remain between the parties, but also recount the continued efforts that are being made to improve stormwater management at the plant site.

12. The Permit has not been re-issued, and at this point the Permit cannot be modified under the WVDEP's and EPA's interpretation of NPDES regulations, prohibiting modification of expired/extended permits. Therefore, even if the parties were to agree on changes to the Permit, they could not be modified into the Permit.

13. The Permit limits and benchmarks that applied in the 2005 Permit are in effect for limits and benchmarks that were stayed in 2011. All other terms and conditions of the 2011 Permit

that were not stayed by the Board remain in effect and are being enforced by the WVDEP, as evidenced by the attached Compliance Evaluation Inspection reports (Attachments 4 and 5).

14. The parties have considered many options for resolving this appeal but believe that the best remains re-issuance of the Permit. That would not resolve all issues, and an appeal of a re-issued Permit may result. However, we believe it would reduce the number of issues, particularly if the parties could meet beforehand to identify areas of agreement and disagreement.

Respectfully submitted this 8th day of December, 2023.

KATHERYN D. EMERY, DIRECTOR DIVISION OF WATER AND WASTE MANAGEMENT, WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION

By: Office of Legal Services

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ATTACHMENT 1

ENVIRONMENTAL QUALITY BOARD

ALLEGHENY ENERGY SUPPLY COMPANY, LLC,

Appellant,

v.

Appeal No. 11-21-EQB
11-22-EQB

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

Appellee.

ORDER GRANTING STAY OF CERTAIN PERMIT TERMS AND CONDITONS AND CERTAIN CONDITIONS OF ORDER 7004

Appeal No. 11-21-EQB and 11-22-EQB were filed with the West Virginia Environmental Quality Board ("Board") on June 3, 2011. Allegheny Energy Supply Company, LLC contemporaneously filed a Motion to Stay certain terms and conditions of both the NPDES permit and Order 7004. On June 7, 2011 the Appellant notified the Board that it would waive the statutory requirement that a hearing on a Motion for Stay be held within five-days of receipt of a request for Stay. A hearing on the request for Stay was held on June 16, 2011 before a court reporter and a quorum of the Board. The Chairman, Edward Snyder, and members Dr. Scott Simonton, Mr. William Gillespie, and Mr. Ted Armbrecht attended the hearing. Ms. Anne Bradley, Esquire and Ms. Kathryn Crockett, Esquire represented that Appellant in this matter. Ms. Sarah Surber, Esquire filed response briefs and represented the Appellee "WVDEP" at the hearing.

The Board considered the briefs, arguments of counsel and evidence offered at the hearing and determined that an unjust hardship would occur if certain terms and conditions of the permit and the order were not stayed pending the outcome of these appeals. The Board therefore GRANTS the

Motions for Stay associated with Appeals 11-21-EQB and 11-22-EQB.

In *Camden-Clark Memorial Hospital v. Turner*, 212 W.Va. 752 (2002), 575 S.E.2d 362, the West Virginia Supreme Court states,

> In making this "balancing" inquiry, we have followed the lead of the Fourth Circuit Court of Appeals: Under the balance of hardship test the [lower] court must consider, in "flexible interplay," the following four factors in determining whether to issue a preliminary injunction: (1) the likelihood of irreparable harm to the plaintiff without the injunction; (2) the likelihood of harm to the defendant with an injunction; (3) the plaintiff's likelihood of success on the merits; and (4) the public interest. *Jefferson County Bd. Of Educ. v. Jefferson County Educ.Ass'n*, 183 W.Va. 15, 24, 393 S.E. 2d 653, 662 (1990) (quoting *Merrill Lynch, Pierce, Fenner & Smith, Inc. v. Bradley*, 756 F.2d 1048, 1054 (4th Cir. 1985) (citation omitted) (additional citations omitted).

"[A] party seeking a stay must show (1) that he will likely prevail on the merits of the appeal, (2) that he will suffer irreparable injury if the stay is denied, (3) that other parties will not be substantially harmed by the stay, and (4) that the public interest will be served by granting the stay." *Long v. Robinson*, 432 F.2d 977, 979 (4th Cir. 1970); see also *Hilton v. Braunskill*, 481 U.S. 770, 776, 107 S.Ct. 2113, 2119 (1987).

The Board finds that the Appellant offered sufficient evidence of investment required to comply with new or tighter permit limits associated with the permit would cause an unjust hardship to be suffered by the Appellant pending the outcome of this appeal. Also the requirement of the enforcement order that Allegheny "immediately" comply with all terms and conditions of the permit would be inconsistent with the Board's stay of certain conditions and therefore that term is also stayed at this time.

The Board finds that because these are changes to the monitoring requirements and limits in the permit that the public interest and the other parties will not be substantially harmed by the stay. The Board declines to make a finding on the likelihood for the Appellant to prevail on the merits given the limited record presented to the Board at this time.

The following terms and conditions are stayed pending the outcome of these appeals before

the Board.

1. The immediately effective water quality based effluent limitations ("WQBELs") for iron at Outlet 001 and aluminum at Outlet 002, as set forth in Sections A.001 and A.002 of the Permit.
2. The two-year compliance schedule for achieving the final discharge limitations for iron at Outlet 002 contained in Sections A.002 and Section B of the Permit.
3. The two-year compliance schedule for achieving the final discharge limitations for iron, zinc, and aluminum at Outlets 006, 007, 008, 009, 010, and all contained in Sections A and B of the Permit.
4. The summer maximum daily WQBELs for effluent temperature at Outlet 001 and Outlet 002 contained in Sections A.001 and A.002 of the Permit.
5. The requirement to install two in-stream temperature monitors in the West Fork River 0.1 miles downstream of Outlet 001 and 002 within six months of the effective date of the Permit, as set forth in Section D.2.b of the Permit on page 54 of 56.
6. The requirement in paragraph 1 under Order for Compliance on page 2 of the Order to "immediately take measures to initiate compliance with all terms and conditions" of the Permit and the Order, to the extent that this provision applies to conditions that are stayed by this Board.

In conclusion, after consideration of the arguments of counsel and the Notice of Appeal and Motion for Stay, Appellee's Response, and testimony of the witnesses, the Board **GRANTS** the Motion for Stay and sets this matter for hearing on September 8, 2011.

It is so **ORDERED** and **ENTERED** this 17th day of June, 2011.

Environmental Quality Board

Dr. Edward Snyder, Chairperson

ATTACHMENT 2

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.

ORDER GRANTING MOTION FOR STAY

Appeal No. 14-10-EQB was filed with the West Virginia Environmental Quality Board (the "Board") on May 9, 2014 by Appellant Monongahela Power Company ("MPC"). MPC has appealed certain terms and conditions of WV/NPDES Permit Modification No. WV0005339-C (the "Permit Modification"), issued to the Harrison Power Station on April 8, 2014 by Scott G. Mandirola, Director, Division of Water and Waste Management, West Virginia Department of Environmental Protection ("WVDEP"). Concurrently with its Notice of Appeal, MPC filed a Motion for Stay of certain discharge limitations imposed by the Permit Modification during the pendency of this appeal.

Counsel for the parties have conferred regarding MPC's pending motion, and WVDEP has indicated that it does not object to the requested stay, subject to the following express conditions:

1. The parties shall conclude all settlement negotiations relating to the instant appeal and Appeal Nos. 11-21-EQB and 11-22-EQB[1] no later than July 31, 2014. At that

[1] As set forth in its Notice of Appeal and Motion for Stay of the Permit Modification, the instant appeal is fundamentally related to the issues raised in Appeal Nos. 11-21-EQB and 11-22-EQB. MPC will file a Motion to Consolidate these appeals in an effort to resolve all objections relating to the

time, the parties shall make a final determination regarding the appeal issues that can be resolved through settlement and the appeal issues that will require an evidentiary hearing. The parties shall make every effort to schedule their final settlement meeting(s) as early as possible during this window to ensure that sufficient time is allowed for productive discussions between the parties in advance of the July 31, 2014 deadline.

2. The parties shall not request any further continuances of the evidentiary hearing date, which is currently set for September 11, 2014,[2] and the parties encourage the Board to proceed as scheduled with the hearing on that date in the event that any of MPC's appeal issues remain unresolved.

Accordingly, based upon the agreement of the parties to the specific terms set forth herein, the Board hereby GRANTS MPC's Motion for Stay as follows:

1. The new maximum daily discharge limitations for iron and aluminum at Outlets 012 and 013 are stayed pending the Board's final decision in this appeal. The monitoring and reporting requirements for iron and aluminum shall remain in effect at Outlets 012 and 013.

WV/NPDES Permit for the Harrison Station in a coordinated, comprehensive manner. An evidentiary hearing is scheduled for Appeal Nos. 11-21-EQB and 11-22-EQB on September 11, 2014.

[2] *See* n.1, above. Although the Board has scheduled the evidentiary hearing in the instant appeal for the EQB's July 2014 docket, MPC's Motion to Consolidate will request that the hearing on all matters be set for September 11, 2014.

It is so **ORDERED** and entered this 5th day of June, 2014.

ENVIRONMENTAL QUALITY BOARD

Dr. Edward Snyder, Chairperson

This Order was prepared by:

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ATTACHMENT 3

MonPower™
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FEDERAL EXPRESS

December 15, 2016

Director, Division of Water and Waste Management
Attn: Lori Devereux - Permitting Section
WV Department of Environmental Protection
601 - 57th Street
Charleston, WV 25304

Harrison Power Station
Harrison County, Haywood, WV
Draft NPDES Permit WV0005339
Comments of Monongahela Power Company

Dear Ms. Devereux:

Monongahela Power Company ("MonPower"), a subsidiary of FirstEnergy Corp, hereby submits the following comments relative to the draft WV/NPDES Permit No. WV0005339 (the "Draft Permit") for the Harrison Power Station (the "Station"), located in Haywood, Harrison County, West Virginia. The Draft Permit was issued for public comment by the West Virginia Department of Environmental Protection ("WVDEP") on October 17, 2016. By correspondence dated November 1, 2016, WVDEP granted MonPower an extension of the deadline to submit comments on the Draft Permit until December 16, 2016. MonPower appreciates the opportunity to offer these comments on the Draft Permit and requests that the agency carefully consider the concerns raised herein prior to issuance of the final permit.

Section A. - OUTLETS 001 AND 002

1. Overview of Outlets 001 and 002.

The Station is equipped with three 660-megawatt generating units that consume on average over 11,300 tons of coal each day, of which 99% comes from West Virginia sources. All non-contact cooling water and process wastewaters produced from these three generating units is directed to a common floor drain trench. The trench gravity flows to one of two wastewater settling lagoons. The lagoons are operated one at a time, with the in-service lagoon accepting wastewater flows from all three units. The out-of-service lagoon is dewatered through the in-service lagoon. The retained solids are allowed time to dry out, then they are removed and landfilled in Harrison's permitted captive coal-combustion residue landfill. The out-of-service lagoon is thereafter held empty until returned to service. The empty, out-of-service lagoon may be used to treat any process wastewaters or spills that require additional treatment (neutralization, polymer feed, etc.), which is then slowly decanted into the in-service lagoon for final settling prior to discharge. When the solids level of the in-service lagoon nears capacity, the lagoons are switched out and wastewater flows are thereafter directed to the empty lagoon. The previously in-service lagoon is then cleaned and the cycle continues.

2. Outlets 001 and 002 - Rationale for imposition of Effluent Limits on arsenic, mercury, and selenium and need for a compliance schedule.

Sections A.001 and A.002 of the Draft Permit impose the following new water quality-based effluent limitations ("WQBELs") for arsenic, mercury, and selenium at Outlets 001 and 002:

Outfalls 001 & 002	Arsenic		Mercury		Selenium	
	Avg. Monthly (mg/L)	Max. Daily (mg/L)	Avg. Monthly (µg/L)	Max. Daily (µg/L)	Avg. Monthly (mg/L)	Max. Daily (mg/L)
Proposed Limits	**0.025** [2 / month]	**0.042** [2 / month]	**0.016** [2 / month]	**0.049** [2 / month]	**0.009** [2 / month]	**0.022** [2 / month]
Discharge Data	0.0070	0.014	0.0027	0.0015	0.0026	0.0091

The Fact Sheet for the Draft Permit explains that these discharge limitations are being imposed because they have a "reasonable potential to exceed water quality criteria at the end of pipe and at the edge of the mixing zone." However, the long term average and maximum values reported on Harrison's Discharge Monitoring Reports (DMRs) since January 1, 2014 are several multiples below the proposed limits. The Fact Sheet did not explain what data were used, nor were the calculations provided to explain how the WVDEP determined that these discharge points have a "reasonable potential" to exceed water quality criteria in the receiving stream.

MonPower disputes that these effluent limitations for arsenic, mercury, and selenium are necessary to protect the water quality of the West Fork River and hereby request these parameters remain as "Monitor Only." Furthermore, MonPower requests the WVDEP provide the data set and formula used for deriving the "reasonable potential" determination for arsenic, mercury, and selenium and allow us sufficient time to review and validate their derivation before issuing a final permit.

As currently drafted, the permit contains new, immediately effective effluent limitations for arsenic, mercury, and selenium. The Station, as an existing discharger, is entitled to a compliance schedule to achieve these new limits. However, the Fact Sheet makes no mention of any need for any such compliance period. Should the agency elect to retain the effluent limitations for arsenic, mercury, and selenium at Outlets 001 and 002 as drafted, MonPower requests a 36-month compliance schedule to allow sufficient time to evaluate whether a treatment technology is truly necessary to comply with the proposed limits and what type(s) of treatment technology(ies) is/are appropriate. Should treatment technology(ies) be necessary to comply, sufficient time to design and engineer the treatment system, as well as install and optimize operations is required. We believe a minimum of 36-month compliance schedule is necessary to properly evaluate, design, engineer, procure, install, and optimize treatment technology(ies) for this application.

3. The effluent limitations for Total Residual Chlorine at Outlets 001 and 002 are inappropriate.

With regard to Item 5 in the Notice of Appeal of the Station's current Permit relating to the requirement found at Condition C.18 in both the current and draft permit to begin use of any more sensitive approved analytical method for Total Residual Chlorine ("TRC") immediately after such method becomes available. The Final Permit must be revised, as agreed, by inserting the following language after the fifth sentence of Condition C.18 on page 30 of 37 of the Draft Permit: "However, the permittee shall not be obligated to commence TRC self-monitoring in accordance with the new method earlier than 90 days after the permittee has received written notification of the new method from the Division."

Section A. - STORMWATER OUTFALLS - OUTLETS 006 - 014

1. The imposition of water quality-based effluent limitations for iron, zinc and aluminum at these outfalls is contrary to the structure and purpose of the NPDES stormwater program.

The Draft Permit proposes to impose the following maximum daily discharge limitations for iron, aluminum, and zinc at the Station's stormwater outfalls (Outlets 006 through 010, 012 and 013):

Parameter	Outfalls	Limits
Iron	006, 007, 008, 009, 010, 012, 013	**1.5 mg/L** [max. daily]
Aluminum	006, 007	**1.9 mg/L** [max. daily]
Zinc	007, 008	**0.25 mg/L** [max. daily]

These final effluent limitations are immediately effective, with no compliance schedule allotted to install treatment. According to the Fact Sheet, these WQBELs have been imposed because MonPower "has historically exceeded the [applicable] benchmark values" at these outfalls, and was provided a compliance schedule under the current permit. However, the compliance schedule was stayed, the permit appeal was never resolved, and the limits never became effective. Since the appeal was filed in 2011 the Station has expended millions of dollars to redirect "no exposure" storm water runoff, install storm water sedimentation ponds where appropriate, and evaluate engineering means of achieving the benchmarks where sampling indicates current steps have not yet succeeded.

The Fact Sheet further states that where historical exceedances of benchmark values have occurred and discharge levels still exhibit a reasonable potential to exceed water quality criteria, effluent limits have been imposed. The imposition of WQBELs in this manner is contrary to the structure and purpose of the NPDES storm water program. This practice, unsupported by sound science, causes potential non-compliances with little confidence that the Station's storm water discharges are actually contributing to violations of water quality standards.

Section 10 of the Fact Sheet references adjustments to the aluminum and zinc limitations based upon stream hardness and translator data. However, that does not ameliorate the improper imposition of numeric limits for these parameters.

The current WV/NPDES Multi-Sector General Water Pollution Control Permit for Stormwater Associated with Industrial Activity ("MSGP"), while not directly applicable to individual WV/NPDES permits, expressly states that benchmark concentrations represent levels of "concern." They "are not effluent limits," but rather targets to achieve through ongoing refinement of site pollution prevention measures. In other words, benchmark values for individual parameters are intended to drive a facility's best management practices ("BMPs"), and to maintain and update these practices as necessary, not to serve as the basis for the ultimate imposition of WQBELs in an individual WV/NPDES permit. Based on our experience and a limited survey of other companies, MonPower is not aware of other states where stormwater benchmark values are translated into effluent limitations in this way. Accordingly, the WQBELs for iron, aluminum, and zinc at Outlets 006 through 010, 012, and 013 should be deleted and replaced with "monitor only" conditions.

On an Outlet-specific level, by letter to Director Mandirola dated March 30, 2016, MonPower certified, under the provisions of Condition C.13.c of the Station's current permit, Outlet 006 to be compliant with the benchmarks for Total Suspended Solids, Copper, pH, Hexavalent Chromium, Arsenic, Thallium, Mercury and Zinc. (The agency has removed the benchmarks for TDS and Sulfate from the draft permit.) Harrison has since achieved at least six consecutive samples below the benchmarks for Aluminum (at <0.75 mg/L) and Iron (at <1.0 mg/L) at Outlet 006 and desires to certify their compliance too. However, the proposed imposition of numeric discharge limits of 1.9 mg/L for Aluminum and 1.5 mg/L for Iron would seemingly preclude this action. MonPower sees this as burdensome and unwarranted, and requests that it be allowed to certify compliance with iron and aluminum at Outlet 006, and that further monitoring of these parameters be terminated.

The draft permit specifies the continued monitoring of Outlet 008. However, effective November, 2013, all industrially impacted storm water was removed from the Outlet 008 watershed and redirected to the Station's in-service wastewater treatment lagoon. Although quarterly monitoring continues, reported values reflect only non-industrially impacted area as stated within the comments provided for each DMR submittal. Therefore, MonPower requests that all monitoring requirements be eliminated and that the Outlet 008 area instead be designated as meeting the No Exposure Criteria (NEC) and be removed from the permit.

The draft permit specifies the continued monitoring of Outlet 009. Effective September, 2015, all of the Station's industrially impacted storm water was redirected from the Outlet 009 watershed to combine and discharge via Outlet 010. Any remaining discharge from Outlet 009 is un-impacted by Station operations. Due to site-specific factors (discharge pipe is often below water level of the West Fork River, and contains river sediments), continued monitoring of the remaining 009 discharge is not possible. For each subsequent DMR reporting period, MonPower has indicated no flow and provided an appropriate comment with DMR submittal. MonPower hereby requests that the proposed monitoring requirements for Outlet 009 be eliminated and that this area be instead designated as meeting the No Exposure Criteria (NEC) and be removed from the permit.

By letter dated March 30, 2016, MonPower certified, under the provisions of Condition C.13.c, Outlets 012 and 013 to be compliant with all applicable benchmark values, including the certification of Iron as <1.0 mg/L. MonPower specifically requests the continuation of this certification and considers the imposition of numeric Iron limits and its associated continual monitoring to be burdensome and unwarranted.

Regarding Outlets 007 and 010, MonPower continues to evaluate and implement Best Management Practices (BMPs) to achieve the designated benchmark parameters and similarly disagrees with the imposition of numeric limits on these storm water discharges.

Should the agency elect to retain WQBELs for these parameters at the storm water outlets, the effluent limitations should be recalculated and revised to correspond with the final maximum effluent limitations established for iron, aluminum and zinc at Outlets 001 and 002. As currently proposed, the Draft Permit appears to allot no mixing zone for these parameters at the Station's storm water outfalls -- rather, West Virginia's water quality criteria are imposed directly at end-of-pipe as maximum daily limitations. The Fact Sheet is silent as to the agency's justification for such unduly stringent limits. *See, e.g.,* Fact Sheet at page 14 of 18 (stating with regard to Outlets 006, 007 and 008 that these WQBELs continue to be imposed due to past benchmark exceedances and a reasonable potential assessment indicating the potential to exceed the applicable water quality criteria). However, it defies logic to impose more stringent effluent limitations for storm water discharges than for discharges of process wastewater *into the same receiving stream.* If the agency's rationale for these more restrictive limitations is based on concerns about the discharge of increased concentrations of these pollutants during rainfall events, then WVDEP effectively is penalizing MonPower for the presence of naturally occurring background concentrations of these parameters, and requiring the Station to ensure the presence of a clean hole in an otherwise dirty stream.

Section B. - Schedule of Compliance

Section B.1. of the draft permit sets a date of May 31, 2017 for submitting a Plan of Action for compliance with the Steam Electric Industries - Effluent Limitation Guidelines (40 CFR 423). While we appreciate the WVDEP's understanding that time is needed to prepare a plan of action, we believe that the time allotted by WVDEP is insufficient for us to prepare an appropriate Plan of Action. Furthermore, the requirement to include a major permit modification, as specified in Section C.25 is inappropriate.

Immediately following publication of the EPA's Effluent Limitation Guidelines Rule ("ELG" or "ELG Rule), we began our review of the Rule's requirements and impacts to the Harrison Power Station. Beginning in early 2016, we engaged site management, operations, maintenance, and engineering to acquire existing facility and operation data, process diagrams, and other pertinent information to assess how the Rule might impact the Station. In the second quarter of 2016, a sampling program (chemistry and flow) was begun to characterize our affected ELG water streams. Due to seasonal and operational variations (i.e. outages, load changes), we believe that a minimum of 12 months of sampling data is required to accurately characterize the ELG water streams. Currently, Station load operations (i.e. boiler load and boilers in service) change with the seasons which can affect

water quality, especially ELG process waters. Ambient air temperatures and precipitation can also affect water quality. In addition, the Station, as of right now, has approximately 80 days of planned outages scheduled for the first half of 2017. The outage conditions will afford us the opportunity to sample and capture the routine, but infrequent, changes that occur to ELG process waters at the Station. It will also allow us to capture and characterize maintenance waters, including, but not limited to metal cleaning washes, that may ultimately affect our final compliance strategy for the ELG rule. Because of the amount of samples and the operational changes, we do not anticipate concluding the sampling and characterization program until May 2017.

Once the ELG process waters are sufficiently characterized, we will then develop a high-level, conceptual ELG compliance alternatives plan for the Station. However, because the process water characterization will not be completed until at least May 2017, we would not be able to begin assessing the Station's ELG compliance alternatives until the first half of 2017. We anticipate this step will take six months. Because the assessment will begin prior to completion of the sampling program, we anticipate concluding the ELG compliance alternatives assessment by August 31, 2017. A report on the Station's Plan of Action would then be prepared and submitted to the WVDEP by September 30, 2017. This report on ELG compliance alternatives would not be final, as these alternatives documented in the report and Plan of Action may change as we continue our evaluation. This list of alternatives will provide the basis for us to perform pilot testing to demonstrate the options feasibility and capability at the Station before we could proceed to comprehensive engineering, procurement, and construction.

Because the conceptual alternatives report may identify one of multiple possibilities that exist for the Station to achieve ELG compliance, we believe that requiring a major permit modification application would be premature. Furthermore, WVDEP has not normally required a major permit modification application ahead of when the permittee knows what their final compliance alternative will be. Instead, such an application would require multiple modifications that would be inefficient, time consuming, and costly for the permittee and the WVDEP. We propose that a single major permit modification application be submitted to the WVDEP once the Station has selected a final alternative and is ready to proceed to comprehensive engineering, procurement, and construction.

Please refer to Attachment A for a histogram of the schedule to submit a comprehensive Plan of Action.

Therefore, we hereby request that the comprehensive Plan of Action be required no sooner than September 30, 2017 and that Section B.1, be changed to reflect this more appropriate date.

Section C. - Other Requirements

Condition C. 25 - Plan of Action Outlining Applicability Date for new ELG Limits

For the reasons outlined above in our comment regarding Part B – Schedule of Compliance for submitting a Plan of Action, we hereby request that the WVDEP delete the following language ***"with a major permit modification application"*** found in Sections C.25 and C.25.b.

Condition C. 25 - ELG Compliance Language

In Section C.25.b., the draft permit states: *"Upon submittal of the plan of action ~~with the major permit modification application~~, the agency will take the information provided into consideration and revise the permit to impose the BAT requirements, effluent limitation, and impose/revise the compliance schedule accordingly."* We believe that the last part of the statement, *"...and impose/revise the compliance schedule accordingly"* is unnecessary and not warranted. A compliance schedule is intended for water quality based effluent limitations that are already in effect. Therefore, the compliance schedule protects the permittee from litigation by providing a permit shield while implementing a means for complying with existing water quality based limits. In the case of the ELGs, the requirements are not yet applicable. The effective date for when the new ELG requirements become applicable for a facility are to be determined by the Director (WVDEP) based on information provided by the facility, in this case Harrison Power Station, in their justification, or "Plan of Action," as WVDEP has termed it. We do not believe that a compliance schedule revision is needed, nor warranted for ELGs, because the limits are not applicable at this time, nor may they become applicable over the life of this reissued permit.

Therefore, we hereby request that WVDEP remove, "...and impose/revise the compliance schedule accordingly" from Section C.25.b. in the final reissued permit.

Condition C. 25 - ELG Alternate Compliance Date

In Section C.25.c, the draft permit states, *"If the permittee fails to submit a plan of action which results in the permit being subsequently modified prior to November 1, 2018; then final compliance with the effluent guideline limitations shall be required by November 1, 2018."* While we believe it is not the WVDEP's intent to impose an applicability date of November 1, 2018 for the new ELG requirements, the language as written could potentially be interpreted to imply that if the permit is not modified by November 1, 2018, then the applicability date for ELG requirements automatically becomes November 1, 2018. Our understanding of the WVDEP's intent of this condition is that the Station is to submit its Plan of Action, along with the proposed requirement to include a major permit modification, by the date required in Section B.1, or the WVDEP will impose an applicability date of November 1, 2018 for the new ELGs.

We propose that the paragraph be reworded as follows, "If the permittee fails to submit a plan of action by the date stated in Section B.1; then final compliance with the effluent guideline limitations shall be required by November 1, 2018."

Condition C.14 - The reopener provision contained in condition C.14 is inappropriate.

Condition C.14 of the Draft Permit authorizes WVDEP to modify and/or reissue the Permit to include effluent limitations and/or other requirements at the Station's storm water outfalls if the agency determines that potential impacts to water quality warrant such action. For all of the reasons discussed above, this condition further reflects WVDEP's ongoing misapplication of the storm water program, which is designed and intended to ensure that a facility will implement, maintain and update its BMPs as needed based on ongoing developments at the site. Because condition C.14 authorizes the agency to

disregard this approach in favor of simply imposing WQBELs, this condition should be deleted from the Final Permit.

In the alternative, MonPower further objects to this provision as potentially exceeding the agency's authority under 47 CSR 10. Specifically, 47 CSR 10-9.2.b lists the grounds upon which WVDEP may unilaterally force the modification of a WV/NPDES permit. Accordingly, the agency should revise condition C.14 following the phrase "the permit may be promptly modified and/or reissued" by inserting the phrase "where authorized in Sec. 9.2.b of 47 CSR 10."

Condition C.23 and Section D.2.d - Temperature monitoring and reporting requirements

Condition C.23 and Section D.2.d are duplicative and unnecessary. Condition C.23 of the Draft Permit provides that the "temperature methods collected to calculate the difference between the Upstream/Intake temperature and the discharge temperature [for Outlets 001 and 002] shall be collected concurrently. There shall be no more than thirty minutes between temperature monitoring collected at the intake and the discharges." A similar requirement is found in Section D.2.d, which requires "[a]ll temperature monitoring prescribed [for Outlets 001 and 002] (upstream, effluent, and downstream) shall be collected concurrently." The requirement to collect samples concurrently is unnecessary and duplicative in light of the requirement under Sections A.001 and A.002 to conduct continuous monitoring for the collection of this temperature data. Accordingly, the language in condition C.26 and Section D.2.d. requiring the concurrent collection of temperature data should be deleted.

Miscellaneous Section C Requirements of Permittee's Concern

Condition C.03 - The reopener provision of condition C.3 is improper.

Condition C.3 provides that *"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."* MonPower objects to this provision as exceeding the authority provided to WVDEP. Permits may only be modified, revoked and reissued, suspended or revoked for the reasons specified in Section 9.1.a of the NPDES regulations, 47 CSR 10. Specifically, Sec. 9.2.b lists the grounds upon which WVDEP may unilaterally force the modification of a permit. For this reason we request the revision of condition C.3 following the phrase *"terms and conditions of this permit"* by inserting the phrase "and where authorized in Sec. 9.2.b of 47 CSR 10."

Condition C.09 - Contravenes laboratory accreditation requirements.

Condition C.09 of the Draft Permit prohibits the permittee from reporting a parameter result as less than the testing laboratory's minimum level ("ML"), reporting level ("RL") or practical quantitation limit ("PQL"). This requirement is in direct opposition to laboratory accreditation requirements (NELAP, WVDEP) that state that a laboratory shall not report to their MDL, but instead must utilize Reporting Levels, or Practical Quantitation Levels when reporting parameter results below these established levels. Accordingly, MonPower requests that the agency revise condition C.09 to add the following sentence at the close of that section: "However, if the results of testing or analysis of environmental samples are

below the ML, RL or PQL, the results may be reported with appropriate data qualifiers to such effect." *See, e.g.*, 25 Pa. Code § 252.402(e)(4) (requiring analogous reporting of data qualification).

Furthermore, the Federal Advisory Committee on Detection and Quantitation Approaches, which was convened by USEPA as a result of ongoing and widespread dissatisfaction with the agency's approach to this issue and is composed of representative stakeholders from state regulatory agencies, municipalities, environmental laboratories, environmental groups and industry, have expressed serious concerns with USEPA's ill-defined procedures for defining appropriate MLs and MDLs for specific test methods. USEPA is expected to propose revisions to its rule at some point in the future. A permit condition that ignores analytical reality and precludes the use of the latest acceptable reporting technology is unacceptable. Accordingly, the agency should revise the language in condition C.09 to address this discrepancy.

Condition C.10 - Should be revised to require notice of new EPA methods.

Section C.10 of the Draft Permit requires the use of an EPA-approved method with a sufficiently sensitive MDL to confirm compliance where a specific test method is not specified by the permit. In cases where an MDL is not sufficient to confirm compliance, the "most sensitive approved method must be used," and "[i]f a more sensitive EPA approved method becomes available, that method shall be used." The agency should insert the following language following the third sentence of condition C.10 of the Draft Permit: "However, the permittee shall not be obligated to commence self-monitoring in accordance with any such new method earlier than 90 days after the permittee has received notification of the new method by the Division." Further, the agency should add the following sentence: "If the permittee already is currently using a test method that is sufficiently sensitive to confirm compliance with the permit effluent limit, the permittee shall not be required to begin use of a subsequently available more sensitive EPA-approved method."

Condition C.15.e - The monitoring frequency for chronic toxicity testing differs from what is specified at Outlets 001 and 002 in Part A.

The monitoring frequency for chronic toxicity testing (Ceridaphinia dubia and Pimephales promales) specified in Part A at Outlets 001 and 002 is once per year. Whereas, condition C.15.e. states that *"chronic toxicity testing shall be performed on a quarterly basis."* The rationale in the Fact Sheet, based on test data from the last permit cycle, concedes *"there is no reasonable potential for the discharge* (Outlets 001 and 002) *to exceed toxicity criteria."* Therefore, please correct the language in condition C.15.e. to correspond with the once per year monitoring frequency specified in Part A for chronic toxicity testing of Outlets 001 and 002.

Condition C.16 - The analytical methods, and corresponding MDLs, set forth in condition C.16 are not feasible.

The first sentence of condition C.16 requires the use of "the most sensitive methods and detection levels commercially available and economically feasible" for the analyses for parameters listed in condition C.16. This provision is objectionable in part because of its use of the term "economically feasible." First of all, this term is so subjective that it is of no value as guidance for any permittee in

determining whether it has met its obligation by using a particular method. Secondly, what is economically feasible for a multi-national chemical company may not be feasible for a smaller operator. Furthermore, as the science of analytical chemistry advances, the detection levels for substances are driven lower and lower. However, the mere fact that more minute concentrations of a substance can be detected should not mean that a permittee must automatically incur the additional cost and effort associated with finding a laboratory that will accurately analyze the substance to that lower level. For all of these reasons, the first sentence of C.16 should be deleted.

With regard to the specific methods listed in condition C.16, we note that the MDLs listed for EPA Method No. 200.8 are "anticipated" default values, based on test method development studies. Actual MDLs are matrix-dependent, and are affected by both the design of the test instrument and its operating conditions. Accordingly, there is no assurance these MDLs could be met by any laboratory utilizing this methodology on the samples of concern.

In addition, the MDLs listed for the EPA Method No. 200.9 are default values that were determined using a *Reagent Water* matrix, representing the best possible scenario for eliminating any matrix affects associated with the analysis. As such, it is very unlikely these MDLs could be replicated or validated using any type of real world wastewater samples. Moreover, MonPower has significant concerns regarding the very limited availability of West Virginia certified laboratories that can perform this analysis. In fact, there are no laboratories listed as certified by West Virginia to perform Method 200.9.

Section D - 316(a) Variance Requirements

1. The species selected for purposes of evaluating impacts to the balanced, indigenous population (BIP) may be inconsistent with information collected by the Station during prior Section 316(a) demonstrations.

Section D.2.a. adds the Golden Redhorse, Smallmouth Bass and Rock Bass to the list of BIP species. These are the species we recommended in our report to the WVDEP because they are the most abundant species upstream and downstream and are more easily sampled. However, we still maintain our objection to logperch and northern hogsucker, as they occur in low numbers upstream and they tend to hide in rocks making them much harder to retrieve when sampling. Please remove logperch and hogsucker from the BIP list.

2. Installation of a downstream temperature probe will not provide the agency with meaningful data, and therefore the requirement should be deleted.

Section D.2.b of the Draft Permit proposes to require MonPower to install, operate and maintain four temperature probes deployed "*approximately 200 feet downstream of Outlet 001 and 002." These probes are to be deployed at two locations approximately ⅓ (DS-1L, DS-2L) and ⅔ (DS-1R, DS-2R) distance from the stream bank.*" The current permit required installation of two in-stream temperature probes. Specifically, "*downstream monitoring shall be conducted at approximately Mile Point 17.19 of the West Fork River for Outlet 001 and Mile Point 16.95 of the West Fork River for Outlet 002 which are approximately 0. l miles downstream of each Outlet.*" This condition requiring installation of in-

stream temperature probes was appealed and stayed by the Environmental Quality Board's June 17, 2011 Order. Our engineering investigation indicates that the cost to install these in-stream temperature probes is quite expensive. Due to their remote location and difficult access to the river, cost estimates of approximately $500,000 were calculated for installation of the two probes, which were originally proposed in the current permit. Now, the WVDEP is proposing we install two probes at each location, a location which differs significantly from what was proposed, appealed, and stayed in the current permit.

Although we believe we may be able to lower this initially estimated $500,000 cost, concerns regarding safety, river access, and the requirement for concurrent collection of data, we anticipate costs will still remain well into six figures.

Furthermore, the Draft Permit provides no schedule for installing these downstream temperature probes. A minimum schedule of six-months would be required to design, engineer, and install such probes, provided weather and river levels were amenable to installation. However, to accommodate weather and river level concerns, should the agency elect to retain the requirement to install in-stream temperature probes downstream of Outlets 001 and 002, we request a 12-month schedule be provided.

These requirements would be imposed despite the fact that there is no demonstrated benefit to monitoring river temperatures at an arbitrary point downstream. Indeed, MonPower is aware of similar probes that were installed at locations downstream of other power plants, including the Willow Island Power Station, where the monitoring results indicated that temperature fluctuations occurred even when these power plants were not operating. This data serves to bear out MonPower's position that river currents, cloud cover, and other factors substantially alter river temperatures at fixed locations independent of power plant discharges, and confirms that this monitoring is of very limited use to the agency (if it is of any use at all). Intake and discharge temperature data, along with discharge and river flow will provide a more accurate and beneficial understanding of the amount of heat discharged into the West Fork River.

Accordingly, WVDEP should delete the requirement in Section D.2.b to install temperature probes downstream of Outlets 001 and 002, and any other references to "downstream" monitoring in Section D.

3. MonPower wishes to confirm that any fish sampling beyond the minimum requirements of Section D.3 will be considered by the agency.

Section D.3 of the Draft Permit requires MonPower to conduct two fish surveys in August 2017 and August 2019 to justify granting continued approval of the Station's Section 316(a) variance. In the event that the company elects to conduct additional sampling beyond the minimum requirements contained in Section D.3, please confirm that WVDEP will review and consider this data in connection with the continuance of the Station's Section 316(a) variance.

Section E - 316(b) Intake Requirements

1. Section E.1. - River Intake Description

The description incorrectly states that the Station's intake structure *"comes into direct contact with fish and other Kanawha River organisms."* Please correct to indicate that the intake structure is on the West Fork River, not the Kanawha River.

2. Section E.2.e. - 40 CFR 122.21(r)(6) - Chosen Method of Compliance

a. Section E.2.e.2. - Intake Screen Description

The description incorrectly identifies the Station's intake screen as *"a Johnson cylindrical wedgewire screen with the following specification:……."*. The Station's intake is actually equipped with three, eight-foot wide traveling water screens with 3/8-inch mesh openings.

b. Section E.2.e.3. - Intake Velocity

Because the intake screen information identified in Section E.2.e.2 above is incorrect and apparently refers to a different facility, the language here in Section E.2.e.3. must be deleted from the final permit. We will identify one of the compliance methods in our 122.21(r)(6) submittal on or before the July 14, 2018 deadline as specified in Section E.2. of the draft permit.

c. Section E.2.e.4. - Monitor Velocity of Intake

The intake screen information identified in Section E.2.e.2 above is incorrect and not appropriate for Harrison Power Station. The language apparently refers to a different facility. Therefore, the language in Section E.2.e.4. must be deleted from the final permit.

3. Section E.2.g. - 40 CFR 122.21(r)(8) – Operation Status

As with Section E.2.e above, the language in this section appears to be for a manufacturing facility, not an electric power generating facility. Please delete this language from the final permit. If the Department plans to replace this section with language appropriate to an electric generating facility, we hereby request an opportunity to review and comment on the language prior to issuance in a final permit.

Conclusion

MonPower appreciates the opportunity to submit these comments for WVDEP's careful consideration. Should you have any questions, or wish to discuss in more detail, please contact me directly at (724) 838-6099.

Sincerely,

Joseph P. Lapcevic
Supervisor, Water Permitting

Enclosure

c: G. J. Dinzeo - WV-HRPS
J. Lockhart - WVDEP
J. A. Meade - G-CH
D. L. Yaussy - Spilman Thomas & Battle

bc: W. E. Cannon - G-CH
J. C. Durbin - WV-HRPS
J. A. Ford - WV-HRPS
D. C. Havalo - A-WAC-B
A.W. Hoalcraft - WV-HRPS
M. J. Jirousek - A-WAC-B2
A. Ruggiero - A-WAC-B2
L.J. Sandolfini - WV-HRPS
M. J. Shipman - WV-HRPS
M. A. Staff - WV-HRPS

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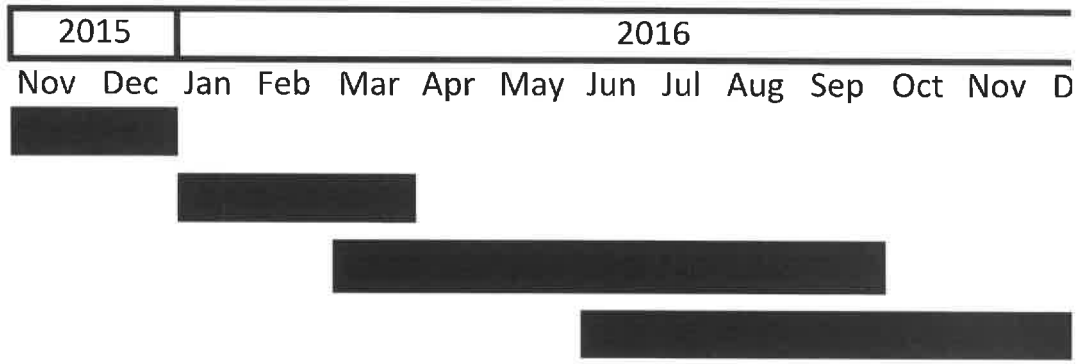

ATTACHMENT 4

west virginia department of environmental protection

Environmental Enforcement
601 57th Street SE
Charleston, WV 25304
Telephone: (304) 926-0470 Fax: (304) 926-0452

Austin Caperton, Cabinet Secretary
dep.wv.gov

April 16, 2020

Monongahela Power Company
Harrison Power Station Environmental Group
Attn: William Cannon
800 Cabin Hill Drive
Greensburg, PA 15601

Certified Return Receipt Requested
#9489 0090 0027 6201 4737 00

Dear Mr. Cannon:

Enclosed is the report for the Compliance Evaluation Inspection conducted at Monongahela Power Company's Harrison Power Station (WV/NPDES Permit No. WV0005339 on March 18, 2020. A copy of this report is being forwarded to the U.S. Environmental Protection Agency and the West Virginia Department of Environmental Protection's Division of Water and Waste Management.

No violations were observed and documented during this inspection.

If you have any questions, please contact James C. Laine Jr at (304) 926-0470.

Sincerely,

David C. Simmons
Assistant Chief Inspector

Enclosure
cc: James C. Laine Jr, Environmental Inspector Supervisor, EE/WW (via e-mail)
Tonya Mather, Environmental Inspector Supervisor, EE/WW (via e-mail)
Douglas A. Kee, Environmental Inspector, EE/WW (via e-mail)
Shyrel Moellendick, MSSS I, EE/WW (via e-mail)

Report of Compliance Evaluation Inspection

At

Monongahela Power Company
Harrison Power Station

P.O. Box 600
Route 20
Haywood, WV 26366

WV/NPDES Permit Number: WV0005339

March 18, 2020

By

Douglas Alan Kee
West Virginia Department of Environmental Protection
Environmental Enforcement
Compliance Monitoring Unit

Introduction

West Virginia Department of Environmental Protection (WVDEP) personnel conducted a Compliance Evaluation Inspection at Monongahela Power Company's Harrison Power Station (Mon Power) in Haywood, Harrison County, WV on March 18, 2020. The inspection began at 9:00 am with the presentation of inspector's credentials and lasted until 2:00 pm. WVDEP personnel present for the inspection included Inspector Douglas Alan Kee. Mon Power personnel present for the inspection included William Cannon/Staff Scientist (724) 838-6099 and Julie Ford/Senior Scientist (304) 584-2329. This narrative report and attachments present the findings and observations made during the inspection.

Permit

Rating: Satisfactory

The current WV/NPDES Permit was issued on May 5, 2011, became effective on June 4, 2011, and was set to expire on June 30, 2015. Since the permit expiration date, WVDEP has issued a series of permit extension letters with most recent issued on December 20, 2019 which extended the permit expiration date to June 30, 2020. No new modifications have been issued since the last inspection. A renewal application for a new permit is under review with WVDEP.

The permittee filed appeals 11-21-EQB and 11-22-EQB with the Environmental Quality Board (EQB) as well as appeal 14-10-EQB. Motions for Stays were granted for these appeals and are in effect pending finding final EQB hearing decisions. Notable stays included:

- Section A. permit limitations for iron at Outlet 001 and aluminum at Outlet 002
- Instream temperature monitors downstream of Outfalls 001 and 002
- The two-year compliance schedule for achieving the final discharge limitations in Sections A and Section B of the Permit for Outfalls 002 and 006 – 011
- The new maximum daily discharge limitations for iron and aluminum at Outfalls 012 and 013.

Records/Reports
Rating: Satisfactory

The Discharge Monitoring Report and accompanying documents for December 2019 were reviewed during this inspection. These documents included monthly, quarterly and semi-annual reporting periods. These records were organized and complete with no errors observed.

Facility Site Review
Rating: Satisfactory

When the current permit was issued, the permittee's name was Allegheny Energy Supply Company, LLC. In 2013, the permit was transferred to Monongahela Power Company, which is a subsidiary of FirstEnergy Company. Each of these names were present at various outlet markers at the facility. With the permit transfer in 2013, all markers are to read, Monongahela Power Company, the current permittee name on record.

Flow Measurement
Rating: Satisfactory

Outlet 001, in service during this inspection, is equipped with two (2) rectangular weirs without end constrictions. Each weir is equipped with a staff gauge and an ultrasonic flow meter. Instantaneous readings taken from the staff gauges during the inspection were compared with the flow meter reading and were within the acceptable 10% degree of error. These meters are checked weekly by personnel during sampling events and calibrated at least annually by plant personnel.

Flow measurement at the sanitary wastewater treatment plant (Outfall 101) is measured using an ultrasonic flow meter installed on a 22.5-degree v-notch weir. The accuracy of this flow meter could not be determined during this inspection due to limited access. This meter is also calibrated at least annually by plant personnel.

Several stormwater outfall flows are determined by bucket and stopwatch estimation while other are equipped with an end of pipe weir where a portable meter and sampler can be installed. Both are acceptable methods of flow determination for stormwater.

Laboratory
Rating: Not Evaluated

The permittee uses multiple laboratories for samples analyses. All of these laboratories are certified by WVDEP's Laboratory Quality Assurance Program. These laboratories, along with their certification number, are:

- FirstEnergy, Haywood, WV-151
- FirstEnergy, Beta Laboratory, Mayfield Village, OH-377
- Reliance Laboratories, Bridgeport, WV-158
- Pace Laboratories, Beaver, WV-060

Records shows appropriate laboratory methods were used as specified in the WV/NPDES Permit. As none of these laboratories were visited during this inspection, this section will not be evaluated.

Effluent/Receiving Waters
Rating: Satisfactory

DMRs were reviewed from August 2018 through January 2020 for Outfalls 001, 002 and the stormwater outfalls. No permit exceedances were documented during this period. Outfall 001, along with multiple stormwater outfalls were observed discharging to the West Fork River during this inspection with no visual concerns observed.

Stormwater
Rating: Not Evaluated

The permittee's stormwater certification letter dated March 14, 2020 in accordance with Section C.13.c of the WV/NPDES Permit documented the outlets whose monitoring data from a minimum of four consecutive stormwater samples that were below benchmark values and waived from further monitoring. Of the seven (7) listed stormwater outfalls in the WV/NPDES Permit, the remaining outfalls and corresponding parameters that require monitoring are:

- Outfall 006-Sulfate and Total Dissolved Solids (TDS)
- Outfall 007-Total Aluminum, Total Iron, TDS and Total Zinc
- Outfall 010-Total Iron and TDS

The Stormwater Pollution Prevention Plan is reviewed and updated on an annual basis as needed.

Sampling
Rating: Not Evaluated

Permanently installed samplers located at Outlets 001 and 002 are programmed to collect flow proportioned samples. Refrigerator temperatures and tubing were acceptable as observed. Portable samplers as well as grab samples are used to collect stormwater samples. As these were not observed during this inspection, this section will not be evaluated.

Compliance Schedule
Rating: Not Applicable

All compliance schedules contained in the WV/NPDES Permit were Stayed by the EQB decisions for appeals 11-21-EQB, 11-22-EQB, and 14-10-EQB pending final hearings.

Self-Monitoring
Rating: Satisfactory

Based upon the records observed and flow measurement, the self-monitoring program is rated as satisfactory.

Operations and Maintenance
Rating: Satisfactory

One of the three (3) generating units was shut down for maintenance during this inspection. Far different from regular operations, periods of shut down often present opportunities for injuries and noncompliance with permit conditions. During this inspection, materials and equipment appeared well staged and steps were taken to protect stormwater. No problems were observed.

As part of normal operations, the lagoons for outlets 001 and 002 are alternated on an annual basis. Outlet 001 was in service during this inspection. No problems were observed during this operation. Bottom ash can be sold for approved beneficial uses or hauled to the Piggot's Run Disposal Facility owned by FirstEnergy. Once at the landfill, the bottom ash can be stored for sale or used in the construction of the drainage layer beneath the landfill.

Compliance Monitoring Evaluation
Rating: Satisfactory

As no deficiencies nor violations were observed during this inspection, the Compliance Monitoring Evaluation is satisfactory.

Summary

1. Stays issued by the EQB decisions for appeals 11-21-EQB, 11-22-EQB, and 14-10-EQB are in effect pending final hearings.

2. The permittee's records are well organized and complete.

3. With the permit transfer in 2013, all markers are to read, Monongahela Power Company, the current permittee name on record.

4. DMRs were reviewed from August 2018 through January 2020 for Outfalls 001, 002 and the stormwater outfalls. No permit exceedances were documented during this period.

5. As per Section C.13.c of the WV/NPDES Permit, four (4) of the seven (7) listed stormwater outfalls in the permit are waived from further monitoring due to monitoring data from a minimum of four consecutive stormwater samples that were below benchmark values.

6. One of the three (3) generating units was shut down for maintenance during this inspection. Materials and equipment appeared well staged and stored to protect stormwater.

UNITED STATES POSTAL SERVICE

April 30, 2020

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	Return Receipt Electronic

Shipment Details	
Weight:	2lb, 13.1oz

Recipient Signature	
Signature of Recipient:	Lict- City/16 CO-19
Address of Recipient:	800 Cabin Hill

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Sincerely,
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Washington, D.C. 20260-0004

ATTACHMENT 5

west virginia department of environmental protection

Environmental Enforcement
Compliance Monitoring
601 57th St SE
Charleston, WV 25304
Phone: 304-926-0470
Fax: 304-926-0452

Harold D. Ward, Cabinet Secretary
dep.wv.gov

January 30 2023

Monongahela Power Company
Harrison Power Station Environmental Group
Attn: William Cannon
800 Cabin Hill Drive
Greensburg, PA 15601

Certified Return Receipt Requested
Cert # 9489 0090 0027 6485 9865 14

Dear Mr. Cannon:

Enclosed is the report for the compliance inspection conducted at Monongahela Power Company's Harrison Power Station (WV0005339) on August 3-4. 2022. A copy of this report is being forwarded to the U.S. Environmental Protection Agency, Region III and the West Virginia Department of Environmental Protection's Division of Water and Waste Management.

The overall operation and maintenance of your facility is in compliance; however, some minor deficiencies were noted during this inspection and should be corrected in a timely manner.

If you have any questions, please contact Gregory Morris at (304) 926-0499.

Sincerely,

David C. Simmons
Assistant Chief Inspector

enclosure
cc: Gregory Morris, Environmental Inspector Supervisor, EE/WW (via e-mail)
Tonya Mather, Environmental Inspector Supervisor, EE/WW (via e-mail)
James McClain, Environmental Inspector, EE/WW (via e-mail)
Shyrel Moellendick, MSSS I, EE/WW (via e-mail)

Report of Compliance Sampling Inspection

At

Monongahela Power Company (Harrison Power Station)

800 Cabin Hill Drive
Greensburg, PA 15601-1689

WV/NPDES Permit Number: WV0005339

December 22, 2022

By

Timothy J. Andrew

West Virginia Department of Environmental Protection
Environmental Enforcement
Compliance Monitoring

Introduction

West Virginia Department of Environmental Protection (WVDEP) personnel conducted a Compliance Sampling Inspection at Monongahela Power Company's Harrison Power Station in, Monongahela County, WV on August 03-04, 2022. The inspection began at 0900 hours with the presentation of inspector's credentials and lasted until August 4th at 1005 hours. WVDEP personnel present for the inspection included Timothy Andrew – Environmental Inspector Specialist. Permittee personnel present for the inspection included Bill Cannon – Staff Scientist (724) 838-6099, Chad Wolf – Environmental Specialist, and Julie Ford / Senior Scientist (304) 584-2329. This narrative report and attachments present the findings and observations made during the inspection.

Intake Characteristics, a Table of Results (A. INT)

Characteristic, Units	Avg. Monthly Limits	Max. Daily Limits	WVDEP Results	Permittee Results
Copper, Total Recoverable, mg/L	Report Only	Report Only	< 0.00064	<0.00436
Zinc, Total Recoverable, mg/L	Report Only	Report Only	0.020	0.01996
Hardness, Total (CaCo3), mg/L	Report Only	Report Only	230	206
Aluminum, Total Recoverable, mg/L	Report Only	Report Only	0.64	0.188
Selenium, Total Recoverable, mg/L	Report Only	Report Only	< 0.00084	<0.0017
Arsenic, Total Recoverable, mg/L	Report Only	Report Only	< 0.00044	0.00117
Temperature, F.	Report Only	Report Only	Not determined	Ave 78.6 Max 80.6

Effluent Characteristics, a Table of Results (A. 001, Cooling, Storm Runoff, and Process Waters)

Characteristic, Units	Avg. Monthly Limits	Max. Daily Limits	WVDEP Results	Permittee Results
Flow, MGD	Report Only	Report Only	Not determined	16.4141
Total Suspended Solids, mg/L Lbs/Day	30 Report Only	100 Report Only	7.0 958	7 958
pH, Standard Units	6 Inst. Min. - 9 Inst. Max.		Not determined	8.54
Chlorine, Total Residual, µg/L	21	41	Not determined	<40
Copper, Total Recoverable, mg/L	N/A	Report Only	0.0054	0.00588
Lead, Total recoverable, mg/L	Report Only	Report Only	< 0.00050	<0.00044
Zinc, Total Recoverable, mg/L	0.114	0.252	0.012	0.01278
Mercury, Total, µg/L	Report Only	Report Only	0.00121 A.	0.00118
Nickel, Total Recoverable, mg/L	Report Only	Report Only	0.0035	0.00817
Aluminum, Total Rec. mg/L	Report Only	Report Only	0.25	0.192
Iron, Total Recoverable, mg/L	1.24	2.17	0.48	0.3895
Chronic Tox. Cerioda. D., TUc	Report Only	Report Only	Not sampled	Not sampled
Chronic Tox. Pimephales P., TUc	Report Only	Report Only	Not sampled	Not sampled
Selenium, Total Recoverable, mg/L	Report Only	Report Only	< 0.00084	<0.0017
Arsenic, Total Recoverable, mg/L	Report Only	Report Only	0.0054	0.00568
Barium, Total, mg/L	Report Only	Report Only	0.11	0.13026
Total Dissolved Solids, mg/L Lbs/Day	Report Only Report Only	Report Only Report Only	855 117,044	1064 145,655
Antimony, Total, mg/L	Report Only	Report Only	< 0.00030	<0.0012
Temp. Diff. Intake / Outlet	Report Only	Report Only	Not determined	12.6 F
Total Rec. Manganese, mg/L	Report Only	Report Only	0.045	0.0455
Temperature, F. (Summer)	Report Only	104.9 B.	Not determined	Not determined
Sulfate, mg/L Lbs/Day	Report Only Report Only	Report Only Report Only	455 62,286.59	403.9000 55,291.32
Thallium, Total, mg/L	Report Only	Report Only	< 0.000081	<0.00016
Beryllium, Total Rec., mg/L	Report Only	Report Only	< 0.00015	<0.000088

Chromium, Hex. Diss., mg/L	Report Only	Report Only	0.000709	<0.003
Oil and Grease, Hex. Ext. mg/L	15	20	< 5.7	<1.4
Lbs/Day	Report Only	Report Only	780.3	<191.7

A. Associated mercury field blank had a concentration of 0.000701 µg/L, which indicates contamination. This number is reported for information only and is not to be used for enforcement (Section 9.4.5.2 of EPA Method 1631 Rev. E.).
B. Limitations stated June 17, 2011 pending EQB appeal hearing.

Effluent Characteristics, a Table of Results (A. 101, Sanitary)

Characteristic, Units	Avg. Monthly Limits	Max. Daily Limits	WVDEP Results	Permittee Results
Flow, MGD	Report Only	0.036	Not Determined	0.00344
BOD, 5-Day, mg/L	30	60	< 2.0	<3
Lbs/Day	9.14	18.28		<0.1
Total Suspended Solids, mg/L	30	60	4.5	6
Lbs/Day	9.14	18.28		0.2
Coliform, Fecal, Cnts/100mL	200 (geo. mean.)	400	< 10	<1
pH, Standard Units	6 Inst. Min. - 9 Inst. Max.		Not determined	8.21
Ammonia Nitrogen, mg/L	15	30	< 0.096	<0.119
Lbs/Day	4.5	9		<0.003

Permit
Rating: Satisfactory

The current WV/NPDES permit (WV0005339) was reissued on May 5, 2011, became effective on June 4, 2011, and was set to expire on June 30, 2015. The permittee applied for permit renewal within the appropriate timeframe, but the permit has not been reissued. Since the permit expiration date, WVDEP has issued a series of extension letters.

No permit modifications have been issued since WVDEP's March 18, 2020 inspection. Permit modifications issued under this permit are not listed as part of this report as they are readily available. As observed, the facility was accurately described by the WV/NPDES permit and modifications.

Since issuance of the current permit, the permittee filed appeals 11-21-EQB, 11-22-EQB and 14-10-EQB with the Environmental Quality Board (EQB). The board granted Stays pending final EQB hearing decisions. Notable stays include:

- Section A. permit limitations for iron at Outlet 001 and aluminum at Outlet 002.
- Instream temperature monitors downstream of Outfalls 001 and 002.
- The two-year compliance schedule for achieving the final discharge limitations in Sections A. and Section B. of the permit for Outfalls 002 and 006-011.
- New maximum daily discharge limitations for iron and aluminum at Outfalls 012 and 013.

Records/Reports
Rating: Marginal

A focused Discharge Monitoring Report (DMRs) review was conducted for the months of May and June 2022. Chain of custody forms and supporting documents were also reviewed. These months included monthly quarterly, and semi-annual reporting periods. These DMRs were complete and accurate.

In addition to the focused review, a DMR summary was reviewed from July 2020 to June 2022. A single concern was noted when reporting the number of exceedances for the quantities of Outlet 101. On occasion, a zero (0), indicating no exceedances, was inadvertently omitted. Reporting the number exceeding is a requirement of Appendix A.III.2.c. of the WV/NPDES permit. As this error was not consistent, it is recommended for the permittee to review these DMRs and make corrections where necessary.

This section rating is reduced to marginal as reporting errors were documented. This section rating will not be further reduced as noted errors were infrequent and did not mask any permit exceedances.

Facility Site Review
Rating: Satisfactory

Good housekeeping practices were observed throughout the facility. Facility grounds were free and clear of clutter. Observed chemicals were stored appropriately in designated areas with secondary containment when necessary. There was no evidence of spills or other releases on the facility grounds. This section is rated as satisfactory.

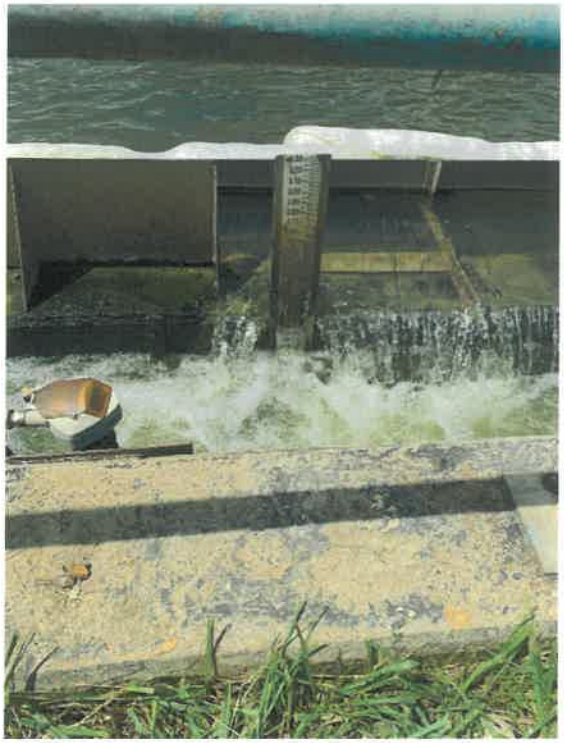
Flow Measurement
Rating: Satisfactory

The facility alternates use of two wastewater treatment lagoons (Outlets 001 and 002). At time of this inspection, the North lagoon (Outlet 001) was in use. Flow is continuously measured at this Outlet with two rectangular weirs without end constrictions measuring three (3) feet across. Each rectangular weir has its own accompanying ultrasonic flow meter, both of which send flow data to the facility Plant Information (PI) system. These flow meters receive calibration, at a minimum, once per year by the facility's Instrumentation and Control group.

Instantaneous head readings were made at both flow meters to verify calibration. Both ultrasonic meters were in agreement with the permanently installed staff gauges with no concerns noted.

Flow at the sanitary wastewater treatment system (Outlet 101) is obtained with a 22.5-degree V-Notch weir and Ultrasonic flow meter which also transmits data to the facility PI system. Due to limited access, calibration of this flow meter could not be evaluated during this inspection.

This section is rated as satisfactory as flow monitoring equipment at Outlet 001 was observed in good order and calibration / maintenance documents were readily available.



Staff gauge at Outlet 001 to verify ultrasonic flow meter.

Laboratory
Rating: Not Evaluated

Monitoring for pH, chlorine, and temperature are performed in-house with equipment maintained by the permittee who operates under WV Laboratory certification number 151. The monitoring equipment observed for pH and chlorine was appropriate for NPDES reporting with calibration / maintenance documents well documented and maintained. Equipment used for temperature reporting was NIST traceable with certifications maintained. The permittee takes appropriate measures for in-house monitoring with no concerns noted.

Samples for NPDES reporting are primarily submitted to First Energy's Beta Laboratory located at 6670 Beta Drive, Mayfield Ohio 44143. This laboratory operates under WVDEP Laboratory Certification No.377.

Parameters with short holding times are typically sent to Pace Analytical Services' Morgantown facility located at 16 Commerce Drive, Morgantown, WV 26501. This laboratory operates under WVDEP Laboratory Certification no. 387.

These laboratories were not evaluated as part of this inspection as they are accredited through WVDEP's Laboratory Quality Assurance Program.

Effluent/Receiving Waters
Rating: Satisfactory

Composite and/or grab samples were collected by the permittee and WVDEP at the facility's intake monitoring location, Outlet 001 and 101. Sample results compared well with no concerns noted.

Discharge monitoring reports were reviewed from August 2020 to July 2022. There were no average monthly or maximum daily permit exceedances documented in the timeframe reviewed, which is commendable. This section is rated as satisfactory.

Lagoon Outlet 001 outfall and marker (no concerns noted)

Stormwater
Rating: Marginal

The WV/NPDES permit describes seven (7) storm water outlets which have specific monitoring requirements listed in Section C.13 which include: 006, 007, 008, 009, 010, 012 and 013. Outlet 009 has been routed to storm water drainage area and monitoring requirements have been removed from Outlets 011via permit modification dated March 24, 2017.

The permittee has met benchmark for select parameters at various stormwater allowing monitoring waivers to be applied where applicable. It was noted that sampling was still required for Outlets: 006 (Sulfate and TDS), 007 (Iron, TDS, and Zinc), 008 (iron and zinc), and 010 (Iron and TDS),

A summary of benchmark exceedances is not listed in this report as the permittee tracks exceedances and appropriately addresses concentrations over listed benchmarks as specified in Section C.13.a of the WV/NPDES permit. This section rating is rated as marginal as pollutant concentrations have not met all respective benchmark values.

Sampling
Rating: Satisfactory

The permittee's grab and/or composite sampling technique was observed at the intake and Outlets 001 and 101. Samples were collected appropriately and were stored in suitable containers. Automatic sampling equipment observed at 001 was appropriately programed to collect representative samples and bottle/tubing materials were compatible with the parameters being collected. Chemical preservatives were included in containers when necessary and samples were refrigerated to appropriate temperatures. The permittee has a satisfactory sampling program.

Compliance Schedule
Rating: Not Applicable
Compliance schedules included in the WV/NPDES permit were stayed by the Environmental Quality Board through appeals 11-21-EQB, 11-22-EQB, and 14-10-EQB pending final hearings.

Self-Monitoring
Rating: Marginal

As observed, the permittee's Flow Measurement, Laboratory, and Sampling programs were representative. Deficiencies noted in the Records / Reports program reduce this section rating to marginal.

Operations and Maintenance
Rating: Satisfactory

The permittee alternates operation of wastewater treatment lagoons 001 and 002. Outlet 001 was discharging at time of the inspection and the Outlet 002 lagoon was dredged and ready to be put into service. No operational concerns were observed with the permittee's environmental controls and a routine maintenance program was well established. The permittee has a quality Operation and Maintenance program, this section is rated as satisfactory.

Sludge Disposal
Rating: Not Evaluated

Coal combustion byproducts generated on site are disposed to the Piggots' Run Disposal Facility which is owned by First Energy. This facility was not evaluated as part of this inspection but is permitted to accept such wastes.

Sludges generated by the sanitary sewer plant are removed as liquid sludge by certified septage haulers. This process was also not evaluated, but as described, is permitted.

Compliance Monitoring Evaluation
Rating: Marginal

Facility site representatives were motivated to implement the NPDES permit as demonstrated by exceptional detail to flow monitoring, laboratory, sampling, and maintenance programs. A minor concern was observed with the recordkeeping/reporting program where select DMRs omitted zeros in the number exceeding column for outlet 101 resulting in a marginal rating for the section. The Stormwater section of this report was also reduced to marginal as stormwater pollutant concentrations have not all met benchmark levels. The Compliance Monitoring Evaluation rating is reduced to marginal as reflected upon the lowest ratings of this report.

Summary

1. A minor reporting error was observed where zeros were inadvertently omitted from the Number Exceeding column. This error reduced the Recordkeeping/Reporting section rating to marginal.

2. Grab and composite samples collected by WVDEP and the permittee during this inspection were well within permit limitations and there were no concerns with effluent visual appearance. DMRs were reviewed from August 2020 to July 2022. No average monthly or maximum daily exceedances were documented, which is commendable.

3. The permittee's SWPPP was up to date. Several storm water pollutant concentrations exceeded corresponding benchmark concentrations. When this occurred, the permittee updated the SWPPP and submit changes as required by Section C.13 of the WV/NPDES permit. The Storm Water program rating was reduced to marginal as reported pollutant concentrations continue to exceed benchmark concentrations.

4. Facility site representatives were motivated to implement the NPDES permit as demonstrated by exceptional detail to sampling, flow monitoring, laboratory, and operation / maintenance programs. Several reporting errors were documented. Storm water reports were reviewed were storm water pollutant concentrations exceeded the

respective benchmark values as specified in Section C.13 of the WV/NPDES permit. Due to the concerns noted, the Self-Monitoring Evaluation rating was reduced to marginal.