



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

NOV 24 2010

REPLY TO THE ATTENTION OF:

AR-18J

John Melby, Jr., Director
Bureau of Air Management
Wisconsin Department of Natural Resources
P.O. Box 7921
Madison, Wisconsin 53707-7921

Re: Draft Permits #111003090-P23 and #10-KLF-055 for the Wisconsin Power and Light (WPL) Columbia Energy Center

Dear Mr. Melby:

This letter concerns the draft construction permit and Title V operation permit revision for the WPL Columbia Energy Center (Columbia), which the Wisconsin Department of Natural Resources (WDNR) issued for public comment on September 22, 2010. It is our understanding that WDNR is proposing to issue these draft permits in response to the U.S. Environmental Protection Agency's October 8, 2009 Order that responded to a petition filed by the Sierra Club on the Title V renewal operating permit #111003090-P20 for Columbia.

In the October 2009 Order, EPA stated that, in regard to whether a 2006 project replacing the economizer/superheater on a boiler triggered major construction permitting, "EPA grants the petition on this issue and finds that WDNR misapplied the regulatory standard for determining whether the replacement of the economizer/superheater in 2006 resulted in a significant net emission increase." *In the Matter of Wisconsin Power and Light Columbia Generating Station*, Petition No. V-2008-1 (Order), at 7. EPA directs WDNR to "reevaluate the physical change in light of the correct prevention of significant deterioration (PSD) standards for determining actual emissions from the physical change at an electric utility steam generating unit. The WDNR must also do a proper applicability determination based on the correct post-project emissions standard, and clearly explain its analysis in the permit record. If WDNR concludes that the physical change, in fact, resulted in a significant net emissions increase for SO₂, WDNR must require WPL to obtain a PSD permit for the modification and will have to make appropriate changes to the source's Title V permit and the permit record." *Id.* at 10. In addition, EPA directed that, "[i]n its reevaluation, WDNR must consider and address Petitioner's assertions regarding underestimated emissions increases attributable to the project. For example, WDNR should address and resolve Petitioner's assertion of an apparent conflict related to calculations of the hourly heat input and the estimate of regained hours of operation due to the physical change." *Id.* at 12.

Based on our review of the draft permits and accompanying record, we do not believe that Wisconsin's proposal is responsive to our Order. The draft construction permit that WDNR has issued for public comment is an after-the-fact "synthetic minor" construction permit for modifications that have already taken place. A "synthetic minor" permit contains limits that restrict potential emissions at an otherwise major source to levels below major source applicability thresholds. First, it is not clear from the current draft permits that WDNR has addressed the point noted above regarding the potential underestimation of emissions. It is also unclear whether WDNR has performed a proper applicability determination based on the correct post-project emissions standard as enunciated in the Order.

More importantly, the Wisconsin State Implementation Plan (SIP) prohibits the construction of a modification to a stationary source prior to compliance with the New Source Review requirements set forth, *inter alia*, in NR 405.07 and NR 406.03. WDNR's interpretation of its SIP to allow for an after-the-fact "synthetic minor" permit is contrary to the Clean Air Act and PSD regulations, and therefore, not available. Wisconsin has an obligation to fully respond to our Order and we encourage the State to do so before proposing draft permits.

We would appreciate a response to this letter, and are available to work with your staff in responding to our Order. If you have any further questions, please feel free to contact me or Susan Kraj of my staff at 312-353-2654.

Sincerely,

Michael Harris *for C.N*

Cheryl L. Newton
Director
Air and Radiation Division