

**WEST VIRGINIA ENVIRONMENTAL QUALITY BOARD
CHARLESTON, WEST VIRGINIA**

**APPALACHIAN POWER COMPANY
d/b/a American Electric Power,**

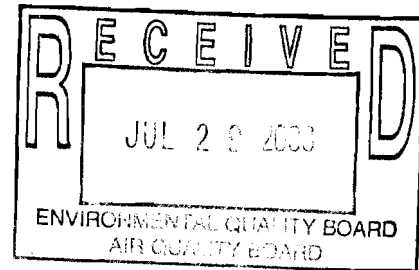
Appellant,

v.

Appeal No. 07-19-EQB

**DIRECTOR, DIVISION OF WATER AND
WASTE MANAGEMENT, WEST VIRGINIA
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,**

Appellee.



AGREED ORDER

The parties hereby agree, and the Board does hereby find and order as set forth below:

1. Appalachian Power has initiated an engineering program that will result in the elimination of Outlet 001 (fly ash pond discharge to Little Scary Creek).
2. The U.S. Army Corps of Engineers ("USACE") is in receipt of a Jurisdictional Determination report regarding the stream and wetland impacts associated with raising the impoundment of the Amos Plant fly ash pond. Preliminary feedback from the USACE indicates the stream that will be affected as a result of this project would not be considered jurisdictional.
3. It is anticipated that the operational changes associated with raising the fly ash pond impoundment at Amos Plant will eliminate Outlet 001 by December 2010.
4. A 24-month compliance schedule from the date of permit issuance of July 17, 2007 for Outlet 001 will not provide adequate time to allow for the construction program to eliminate this outlet.
5. A 36-month compliance schedule from the date of permit issuance of July 17, 2007

for Outlet 001 will provide time to allow for the construction program to eliminate this outlet. The parties recognize that a 36-month compliance schedule will end on July 18, 2010, prior to the date that Appalachian Power anticipates Outlet 001 to be eliminated.

6. Certain of the metals that are required to be monitored and reported in this permit are eligible for development of a dissolved translator and the agency will be receptive to future discussions about whether an appropriate translator can be developed relative to Amos Plant and its discharges.

7. The FGD upgrade is scheduled for completion by January 2009, as opposed to that which was originally reported in the permit application as June 1, 2008. This change will impact certain of the permit conditions which are triggered by the start-up of the FGD as stated in conditions C.33.c, d, and f.

8. There are several stormwater outlets that are subject to the permit which will be significantly reconfigured as the result of construction changes at the plant that are coinciding with the FGD installation.

9. The current 24-month compliance schedule set forth in the permit for the stormwater outfalls will not provide adequate time to implement the necessary changes that will lead to implementation of an effective stormwater pollution prevention plan and compliance with final effluent limitations.

10. A 36-month compliance schedule will allow adequate time to implement the necessary construction changes that will lead to implementation of an effective stormwater pollution prevention plan and compliance with final effluent limitations.

11. For those stormwater outlets that are currently subject to this permit that are either eliminated or determined not to be regulated industrial activities, the permittee may seek a

modification of the permit.

12. Average monthly and maximum daily effluent limitations are required for continuous discharges (40 CFR 122.45 (d)); however, average monthly limitations are not required for intermittent or non-continuous discharges. Outlets 010-011, 013-015, 018-019, 021-027, 032-033, and 035 discharge stormwater only and are not continuous discharges. As such, average monthly limitations are not required. All average monthly permit limitations for iron, aluminum, and zinc at the aforementioned outfalls shall be revised to be "Report Only." All maximum daily limitations for iron and aluminum at the aforementioned outfalls shall be revised to 1.5 mg/l and 0.75 mg/l, respectively. The maximum daily limitation for zinc at Outlet 027 shall be revised to 0.106 mg/l.

13. Construction activities at the plant shall be managed pursuant to the general permit for construction activities as appropriate, rather than pursuant to the permit that is subject to this appeal, WV/NPDES Permit No. WV0001074. However, these construction activities shall not cause or contribute to pollutant concentrations in the stormwater discharges in WV/NPDES Permit No. WV0001074 in excess of benchmark values listed in said permit.

Accordingly, the parties agree and the Board hereby ORDERS:

1. The schedule of compliance for Outlet 001 shall be 36 months from the date of issuance of the permit. The final compliance schedule date at Outlet 001 shall be July 18, 2010. No extensions of this date shall be requested or granted.

2. At the point in time when the effluent data from the pollution control system discharge at Outlet 003 is deemed by the parties to be representative of typical operations, the permittee may request, through a permit modification, an updated reasonable potential analysis and reevaluation of effluent limits.

3. The June 1, 2008 date listed in Section C—Other Requirements under 33.a of the permit shall be revised to January 9, 2009. The schedule of compliance for Outlet 003 shall be 24 months from the projected dates of FGD start-up of January 9, 2009.

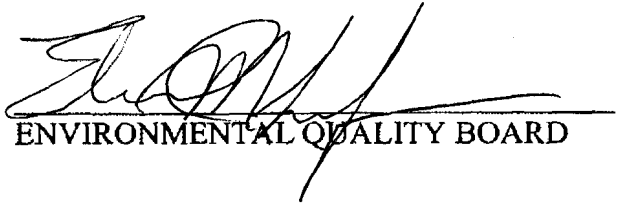
4. Average monthly and maximum daily effluent limitations are required for continuous discharges (40 CFR 122.45 (d)); however, average monthly limitations are not required for intermittent or non-continuous discharges. Outlets 010-011, 013-015, 018-019, 021-027, 032-033, and 035 discharge stormwater only and are not continuous discharges. As such, average monthly limitations are not required. All average monthly permit limitations for iron, aluminum, and zinc at the aforementioned outfalls shall be revised to be "Report Only." All maximum daily limitations for iron and aluminum at the aforementioned outfalls shall be revised to 1.5 mg/l and 0.75 mg/l, respectively. The maximum daily limitation for zinc at Outlet 027 shall be revised to 0.106 mg/l.

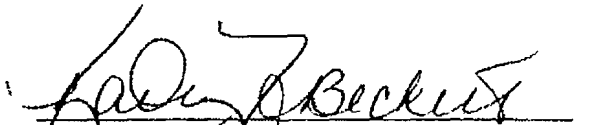
5. Construction activities at the plant shall be managed pursuant to the general permit for construction activities as appropriate, rather than pursuant to the permit that is subject to this appeal, WV/NPDES Permit No. WV0001074. However, these construction activities shall not cause or contribute to pollutant concentrations in the stormwater discharges in WV/NPDES Permit No. WV0001074 in excess of benchmark values listed in said permit.

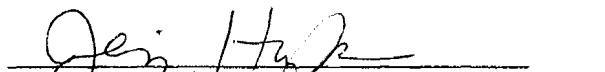
6. A 36-month compliance schedule beginning from the effective date of this permit shall be provided to allow time to implement the construction changes that will impact stormwater outlets. The final compliance schedule date at Outlets 010-011, 013-015, 018-019, 021-027, 032-033, and 035 shall be July 18, 2010. No extensions of this date shall be requested or granted.

7. This appeal is hereby dismissed and all parties shall bear their own costs.

ENTERED this 1st day of August, 2008.


ENVIRONMENTAL QUALITY BOARD


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