



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

SEP 29 2010

REPLY TO THE ATTENTION OF:

WN-16J

Mr. George Elmaraghy, P.E.
Chief, Division of Surface Water
Ohio Environmental Protection Agency
Post Office Box 1049
Columbus, Ohio 43216-1049

RE: Dayton Power and Light
J.M. Stuart Station
Permit Number OH0004316

Dear Mr. Elmaraghy:

The U.S. Environmental Protection Agency has reviewed the revised National Pollutant Discharge Elimination System permit for the Dayton Power and Light J.M. Stuart Station sent by the Ohio Environmental Protection Agency (Ohio EPA) on September 16, 2010.

We have determined that there is an inadequate record to support the Clean Water Act (CWA) § 316(a) alternate thermal limitation proposed in the revised permit. Specifically, there is an inadequate basis in the administrative record to support the proposed alternate thermal limitation of 11,000 Million British Thermal Units/Hour as assuring the protection and propagation of a balanced and indigenous population of shellfish, fish and wildlife in and on Little Three Mile Creek.

In accordance with 40 C.F.R. § 123.44, and for the reasons set forth below, EPA is objecting to the revised permit. As provided by 40 C.F.R. § 123.44(b)(2)(ii), we are indicating the actions that must be taken by the State to eliminate the objection, including conditions which the permit would include if it were issued by EPA. To eliminate the objection Ohio EPA must either:

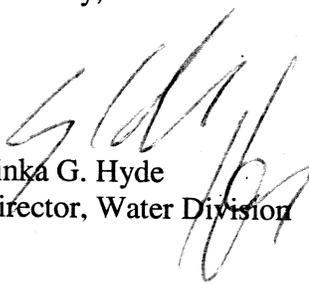
- 1) supplement the administrative record to support the proposed alternate thermal limitation in accordance with CWA § 316(a); or
- 2) propose a new alternate thermal limitation that ensures the CWA § 316(a) requirements will be satisfied and is supported by a CWA § 316(a) demonstration and any additional information; or
- 3) propose limitations based upon the appropriate water quality criteria for Little Three Mile Creek.

If EPA were to issue the permit, EPA would propose thermal effluent limitations based upon the appropriate water quality standards for Little Three Mile Creek. EPA has reviewed the 1976 CWA § 316(a) demonstration submitted by Dayton Power and Light for the J.M. Stuart Station and the additional information that was provided. EPA finds that the existing

demonstration and additional information has not satisfied the requirements under CWA § 316(a) that would allow for the establishment of alternate thermal effluent limitations.

Under 40 C.F.R § 122.4(c) the State may not issue this permit over an EPA objection. We look forward to working with Ohio EPA as it revises the permit to ensure that it complies with the CWA and EPA's implementing regulations. In accordance with 40 C.F.R. § 123.44(e), the State or any interested person may request that a public hearing be held by the Regional Administrator on these objections. Following such a hearing, if one is held, the Regional Administrator will reaffirm the original objection, modify the terms of the objection, or withdraw the objection. The Regional Administrator may issue the permit if Ohio EPA does not timely resubmit a permit revised to meet EPA's objections. If you have any questions please contact Kevin Pierard of my staff at (312) 886-4448.

Sincerely,



Tinka G. Hyde
Director, Water Division

cc: Mr. David Orme
Station Manager, Dayton Power & Light