

OHIO CITIZEN ACTION, ET AL.,)	
)	
Plaintiffs,)	
)	
v.)	
)	Magistrate Judge Norah McCann King
)	
AMERICAN ELECTRIC POWER SERVICE)	
CORP., ET AL.,)	Civil Action No. C2-04-1098
)	
Defendants.)	

**JOINT MODIFICATION TO CONSENT DECREE
WITH ORDER MODIFYING CONSENT DECREE**

WHEREAS On December 10, 2007, this Court entered a Consent Decree in the above-captioned matters.

WHEREAS Paragraph 199 of the Consent Decree provides that the terms of the Consent Decree may be modified only by a subsequent written agreement signed by the Plaintiffs and Defendants. Material modifications shall be effective only upon written approval by the Court.

WHEREAS pursuant to Paragraph 87 of the Consent Decree, by no later than December 31, 2009, American Electric Power is required, *inter alia*, to install and continuously operate a Flue Gas Desulfurization System (FGD) on Amos Unit 1.

WHEREAS pursuant to Paragraph 87 of the Consent Decree, by no later than December 31, 2010, American Electric Power is required, *inter alia*, to install and continuously operate a FGD on Amos Unit 2.

WHEREAS American Electric Power has requested to modify the schedules for the installation and continuous operation of the FGD at Amos Units 1 from December 31, 2009 to December 31, 2010 and for the installation and continuous operation of the FGD at Amos Unit 2 from December 31, 2010 to April 1, 2010.

WHEREAS Amos Unit 2 was shutdown on October 19, 2009 and shall remain shutdown until it is restarted with the FGD.

WHEREAS the Plaintiffs have agreed to American Electric Power's requested modification in exchange for American Electric Power agreeing to comply with an enforceable combined annual cap for the calendar year 2010 at Amos Units 1 and 2 of 32,005 tons of Sulfur Dioxide (SO₂).

WHEREAS all Parties have obtained the necessary approvals to modify the schedule for the installation and continuous operation of the FGDs at Amos Units 1 and 2, and for the enforceable combined annual cap for the calendar year 2010 at Amos Units 1 and 2 of 32,005 tons of SO₂.

For good cause shown, the Parties hereby seek to modify the Consent Decree in this matter, and move that the Court sign and enter the following Order:

1. Modify the dates for installing and continuously operating FGD's at Amos Unit 1 and Amos Unit 2, as listed in the table in Paragraph 87 of the Consent Decree as follows:

87. No later than the dates set forth in the table below, Defendants shall install and Continuously Operate an FGD on each Unit identified therein, or, if indicated in the table, Retire, Retrofit, or Re-power such Unit:

Unit	SO ₂ Pollution Control	Date	Modified Date
Amos Unit 1 & 2	FGD	December 31, 2009	April 2, 2010
Amos Unit 2 & 1	FGD	December 31, 2010	

The remainder of the table in Paragraph 87 of the Consent Decree shall remain the same.

2. Modify Section V (SO₂ Emission Reductions and Controls), to insert Paragraph 88B as follows:

88B. Calendar Year 2010 Combined Annual Cap for Amos Units 1 and 2.

For the calendar year 2010 Defendants shall limit their combined annual SO₂ emissions from Amos Units 1 and 2 to 32,005 tons of SO₂.

3. Modify Section XIII (Stipulated Penalties), by adding item w to the table of "Stipulated Penalties" as follows:

Consent Decree Violation	Stipulated Penalty (Per Day, Per Violation, Unless Otherwise Specified)
w. Failure to comply with the year 2010 combined annual cap for Amos Units 1 and 2	\$5,000 per ton for the first 1000 tons, and \$10,000 per ton for each additional ton above 1000 tons

4. Except as specifically provided in this Order, all other terms and conditions of the Consent Decree remain unchanged and in full effect.

SO ORDERED, THIS 5th DAY OF April, 2010.



HONORABLE EDMUND A. SARGUS, JR.
UNITED STATES DISTRICT COURT JUDGE