



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

DEC 21 2012

REPLY TO THE ATTENTION OF:

WN-16J

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:

By letter dated September 29, 2010 the U.S. Environmental Protection Agency objected to the Dayton Power and Light J.M. Stuart Station draft permit in accordance with 40 C.F.R. §123.44(c). Due to the high level of public interest in this matter, EPA provided the public with an opportunity to provide written comments on the objection. EPA also held a public hearing on the objection in accordance with 40 CFR §123.44(f). EPA prepared a Response to Comments document to respond to and address the comments received.

On September 28, 2011 EPA reaffirmed the objection to the draft permit. The Ohio Environmental Protection Agency (OEPA) submitted a revised draft permit on October 27, 2011. OEPA public noticed this revised draft permit and held a public hearing in February 2012.

EPA has reviewed the revised draft permit and the comments received during the OEPA public comment period. For the reasons set forth in the enclosed document that is entitled "Explanation for Withdrawal of Permit Objection", EPA is withdrawing its objection to the above-referenced draft permit in accordance with 40 CFR §123.44(g).

If you have any questions, please contact Kevin Pierard of my staff at (312) 886-4448 or via email at pierard.kevin@epa.gov.

Sincerely,

  
Tinka G. Hyde  
Director, Water Division

Enclosure

cc: Scott Arentsen, Dayton Power and Light

## **Explanation for Withdrawal of the Dayton Power and Light J.M. Stuart Station Permit Objection**

On September 29, 2010 the U.S. Environmental Protection Agency objected to issuance of the NPDES permit for the Dayton Power and Light (DP&L) J.M. Stuart Station by the Ohio Environmental Protection Agency (OEPA) on the grounds that the permit as drafted included a Clean Water Act §316(a) alternate thermal limitation that did not assure the protection and propagation of a balanced and indigenous population of fish, shellfish and wildlife in and on Little Three Mile Creek (LTMC). The draft permit proposed to authorize a discharge of heat in the amount of 11,000 million british thermal units per hour. LTMC is a tributary to the Ohio River and has a critical flow of 0 cubic feet per second. Water quality standards for temperature for LTMC are specified in the Ohio Administrative Code 3745-1-07. OEPA began to develop permit conditions that would address EPA's objection and allow OEPA to issue the permit for the DP&L J. M. Stuart Station.

DP&L requested a public hearing on the objection and EPA held a public hearing in March 2011 in Georgetown, OH. EPA requested public comments in conjunction with the hearing and received comments in support and against the objection. EPA prepared a Response to Comments document to respond to and address the comments received. On September 28, 2011 EPA reaffirmed the objection to the draft permit as EPA did not receive any new information during the public comment period or at the public hearing that would support modifying or withdrawing the objection. OEPA in accordance with 40 C.F.R. §123.44(h)(3) was required to submit a revised permit to satisfy the objection within 30 days from the date of EPA's letter.

On October 27, 2011 OEPA submitted a revised draft permit to meet the objection. OEPA public noticed the revised draft permit and received additional comments and held a public hearing on the revised draft permit in February 2012. The revised draft permit included temperature limitations based upon water quality standards and authorized a schedule for compliance to allow the facility time to install treatment technology or move the discharge to the Ohio River. EPA requested clarification from OEPA on the revised draft permit on certain conditions including the temperature limitations and conditions for the thermal discharge. DP&L also requested that OEPA allow more time to achieve compliance with the draft temperature limitations that were public noticed.

On December 10, 2012 OEPA transmitted a proposed permit to EPA. This permit addresses EPA's objection to the temperature limitations by including limits based upon water quality standards consistent with those submitted in the October 27, 2011 revised draft permit. The proposed permit continues to authorize a schedule of compliance to allow the facility time to install treatment technology or move the discharge to the Ohio River. The proposed permit also includes more stringent conditions to address the discharge of flue gas desulphurization wastewater and landfill leachate. Two compliance schedules for meeting limits on discharges from the fly ash pond and sewage treatment plant were removed from the permit. EPA has determined that the proposed permit complies with federal requirements and satisfies the objection issued in 2010. EPA therefore is withdrawing its objection and allowing OEPA to issue the NPDES permit for the DP&L J.M. Stuart Station.