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Washington, DC 200004

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Re: Petition to the EPA Administrator on the Title V 14-00003 Penn State
University Operating Permit Renewal

Dear Administrator McCarthy,

According to information posted on <http://www.epa.gov/reg3artd/permitting/petitions2.htm> the next procedural deadline for Penn State University's Title V renewal TVOP1400003 PADEP comments is Sept 30, 2013. On Sept 26 a PADEP press release announced that a public hearing on the proposed 14-00003f downtown West College Steam Plant (WCSP) gas conversion amendment to this TVOP1400003 renewal was scheduled for Oct 30, 2013 with an additional written comment period ending Nov 12, 2013. Since as of Friday September 27 no action has yet been taken by PADEP on my original TVOP1400003 comments, I must reluctantly file the following in order to preserve certain due process rights. The TVOP 14-00003 renewal should be modified as suggested in this filing and resubmitted for a new 30 day comment period.

However, as I discuss in my petition here, I am hopeful that EPA and PADEP can find a way to further a productive resolution of these matters.

Thank you.

David Stone 9/27/2013

cc via FEDEX Muhammad Q. Zaman Air Quality Williamsport PADEP
via email Kathleen Cox EPA Region 3
via hand delivery Mr. Salada Penn State University Park

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY**

BEFORE THE ADMINISTRATOR

IN THE MATTER OF)	
)	Petition for Objection
Penn State University Title V)	
)	TVOP 14-00003
Operating Permit Renewal)	
)	AFS. 42-027-00008
)	

Petition to the EPA Administrator on the Title V 14-00003

Penn State University Operating Permit Renewal

According to information posted on <http://www.epa.gov/reg3artd/permitting/petitions2.htm> the next procedural deadline for TVOP1400003 PADEP comments is Sept 30, 2013. Since as of Friday September 27 no action has yet been taken by PADEP, I must reluctantly file the following in order to preserve certain due process rights. (selections from my original TVOP1400003 comments in italics except where otherwise noted. Comment numbers are from the original comment containing the selection. Subsection letters added for clarity.)

- 1) a. *Approval of this Title V renewal must not preclude an opportunity for public comment, public hearing, Environmental Hearing Board (EHB) and court review of any subsequent modification or new source application such as the proposed 14-00003f West College Steam Plant (WCSP) gas conversion application.*

On Sept 26 a PADEP press release announced that a public hearing on the proposed 14-00003f downtown West College Steam Plant (WCSP) gas conversion application was scheduled for Oct 30, 2013 with an additional written comment period ending Nov 12, 2013.

Insofar as issues raised by petitioner's TVOP1400003 comments and their restatement in my 1400003f comments can be addressed by this enhanced public input, it should not be necessary to discuss them at length here.

Furthermore, although none of the Title V permit conditions requested in my 1400003 were accepted, denied, ruled not specific, or otherwise addressed, the new round of comments and responses probably can redress this assuming that the Title V issues can still be raised insofar as they are integral or otherwise apply to the 1400003f amendment. Otherwise, my original objections stand and a revised TVOP1400003 review memo should be issued and a new 30 day comment period started specifically to deal with those comments which cannot be otherwise dealt with in the new 1400003f comment period.

But to be on the safe side, petitioner needs to reassert his TVOP 1400003 contentions here and urge that EPA resolve them with PADEP outside of the new 1400003f hearing and comment process.

The public hearing and new comment period established by PADEP can go a long way to help do that if a wide enough scope is allowed to deal with the TVOP1400003 and 1400003f mutually dependent data and findings.

So many of the procedural and due process defects I have now alleged may now be moot assuming that there is no intention or subsequent effort by EPA, PADEP, or the applicant to insist on some technical legal firewall between contentions directed to the TVOP1400003 and the proposed 1400003f gas conversion amendment.

Otherwise, my original objections stand and a revised TVOP1400003 review memo should be issued and a new 30 day comment period started specifically to deal with those comments which cannot be otherwise dealt with in the new 1400003f comment period.

.The October 30 PADEP Public Hearing and subsequent written comment period ending Nov 12 should create a formal record sufficient to justify PADEP and EPA [using its regulatory discretion to further a productive reconsideration by PSU of those project components which are problematical as a response to EPA policy and are in actual violation of BAT, MACT and Clean Air Act, local zoning, and administrative law.

At this point it is primarily the EPA MACT deadline which is preventing a reconsideration of Penn State's plans to convert the old West Campus Steam Plant (WCSP) to natural gas. And since Penn State (PSU) is already assuming that it will be granted the one year extension by PADEP, further project timing flexibility rests in the hands of the EPA.

1) b. Generally put, the [TVOP1400003] approval is flawed, unless it is made explicit that no pre-judgement of future modifications is somehow implied by the two step approval process or sequence.

This is still a problem and an explicit statement that no pre-judgement of the 14-00003f amendment should be included in the TVOP1400003.

1) c. *The regular right to comment and intervene on all aspects of future changes, such as those in 14-00003f, should not be otherwise truncated through administrative action.*

Proper conduct of the public hearing on 14-00003f, the written comment period ending Nov 12, 2013 and the ensuing comment and response document should address this concern.

The public hearing and new comment period established by PADEP should suffice if broad enough scope is allowed to deal with the TVOP1400003 and 1400003f mutually dependent data and findings.

2) a. *Similarly, the applicant (Penn State) should not be locked into any other pending permit application such as 14-00003f, by this Title V renewal of the existing energy infrastructure.*

The applicant (Penn State) now seems to regard itself as locked into the 14-00003f approach by the multi-step approval process.

2) b. *Approval of the 14-00003 Title V renewal should not restrict Penn State's options in meeting current or future MACT, BACT, or greenhouse gas emissions standards, or be in anyway construed to limit such compliance measures to the 14-00003f West Campus Steam Plant (WCSP) alternative currently proposed, but not yet approved.*

Certain limitations in the TVOP14-00003 indicate that is closely coupled with the 1400003f permit which went out for public comment just after the end of 1400003 comment period but before comments postmarked at the end of the 1400003 comment period could even be received.

The July 8, 2013 **EPA Comments on Proposed Title V Renewal Permit 14-00003 For Pennsylvania State University**

Prepared by Gerallyn Duke Office of Permits and Air Toxics 3 AP10 includes this comment

4. Control C01 – Based on the PTE table provided in the review memo, these fabric filters may be subject to CAM. The review memo should address the applicability of CAM to the filters on the WCSP boilers.

The fact that the PADEP TVOP review memo did not address the applicability of CAM to the filters on the WCSP boilers provides basis for petitioner's assertion that the TVOP1400003 renewal improperly presupposes and locks in the WCSP gas conversion alternative. This is because the baghouse and its filters are not required as part of the WCSP 1400003f gas conversion. Thus if the TVOP renewal does not include the CAM analysis then only a MACT deadline solution which does not utilize a baghouse and filters is being considered. This restricts PSU options such as a low build/no build energy efficiency "all of the above" "mix and match" strategy to move toward MACT compliance, even as part of a negotiated compliance time extension or other consent agreement.

The EPA Comments contains substantial mutually agreed upon (EPA and PADEP) revisions to the TVOP1400003 permit application. Several of them seem quite profound and could also have significant bearing on the 1400003f permit application itself. A revised TVOP1400003 file review memo is in order.

Another example provided here as basis. Under these circumstances PSU could be expected to perform

and then to submit an alternatives analysis as part of the NSR or as a step in preparing and offering this Title V renewal 1400003 as a platform as it were upon which to build the 1400003f gas retrofit amendment 1400003f.. see **42 USC § 7503 - Permit requirements.** Also **42 USC § 7502 (b)(6)** An alternatives analysis requirement or its equivalent is also contained in the attainment NSR (PSD) sections of the CAA under **Section 165(a)(2)** and under the PSD regulations in **40 CFR Part 51.166(q)(2)(v).**

In fact PSU has stated publically time and again (as documented in internet archived video of PSU Trustee, State College Borough Planning Commission and other meetings) that they have performed an extensive alternative analysis. This is a recurrent theme of PSU's public relations: that they have in fact performed extensive analyses of many alternatives to the gas conversion at WCSP. But PSU, although a State land grant institution is not subject to "right to know" under current PA law, did not submit such an analysis as part of the TVOP1400003 application. So no basis has been given for why an alternative energy, energy efficiency, low build or no build (eg just burning gas at the WCSP without conversion plus energy efficiency) were not included in the TVOP1400003 renewal.

DEP and EPA should require Penn State to submit the extensive Alternatives Analysis that it claims is the basis for the WCSP gas conversion decision as part of this TVOP1400003 renewal. At the TVOP1400003 permit stage the prospect of the 1400003f gas retrofit is apparently assumed. PSU should be required to do an alternatives analysis before making the choice of how to meet the impending MACT deadline. Now PSU may argue that because of the way it does its "netting analysis" it is exempt from that requirement since in 1400003f WCSP gas conversion it uses ERC's to avoid Non-attainment (New Source Review) NSR for NOx (and VOC), and they "netted out" to avoid PSD/NSR for other pollutants, so that the provisions of 173(a) and 165(a)(2) wouldn't need to kick in. But the "netting analysis" , use of ERC's -and whatever other argument PSU could make for not performing and submitting an alternatives analysis- would only be done at the 1400003f permit application stage and would not be a basis for non-inclusion here in TVOP1400003.

But in so far as TVOP renewal assumes that a gas conversion amendment will be forthcoming, as in fact it was, much sooner than this petitioner could have anticipated, it should be noted that the 1400003f application's exemption could not be applied to TVOP1400003 since at the Title V renewal stage there can be no inevitable locked-in 1400003f approval. The decision that TVOP1400003 just renews the coal based status quo without the kind of permit conditions or clarifications I have proposed must be based on something - and that should be the analysis set out in the regulations cited above.

Otherwise, the renewal of TVOP1400003 - and whatever its use could be as a "permit shield" - would be "arbitrary and capricious" if for no other reason than that the public could not review, comment on, receive responses and take to the Environmental hearing Board, and the Courts the basis for the status quo TVOP renewal.

The same pattern as we saw with the baghouse filters CAM analysis.

But the TVOP14-00003 permit renewal should stand on its own and not presuppose an amendment in this case 1400003f which may or may not be approved.

2) c. *The Title V renewal or other previous DEP action should not be interpreted to paint Penn State future energy choices "into a corner" because of perceived regulatory or timing constraints.*

PSU spokespersons such as Steve Maruszewski, Rob Cooper, Paul Moser, and Ford Stryker often publically maintained that no other WCSP downtown gas conversion alternative can now be considered given the MACT Jan 2016 deadline.

In fact as it stands, as previously stated, the current 1400003f proposal already relies on the 1 year extension being granted by PADEP. So EPA and PADEP may need to offer regulatory flexibility beyond that in order to promote a solution.

The following line of argument can be summed up as "IF NOT NOW WHEN?"

3) a. *As a basis for regulatory and project timing flexibility, modifications of this Title V application should be included to enable and encourage Penn State to use its existing infrastructure on an interim basis to improve air quality and reduce green gas emissions even prior to the completion of any subsequent new source such as the proposed 14-00003f WCSP gas conversion. This should help qualify Penn State for an extension of the MACT deadline saving millions of dollars of extra overtime and winter season construction costs.*

b. *In particular, the current West Campus Steam Plant (WCSP) setup includes tri-fuel boilers which can utilize up to 20% gas in combination with coal. Addition of clean biomass is possible, perhaps well beyond 15%. Diesel backup capability is available, and is planned to be expanded anyway. Above all, aggressive building and steam tunnel efficiency can be pursued, and will be advantageous (BACT/MACT in effect) regardless of the future status of the WCSP under the proposed 14-00003f or other alternative. In addition, the recently re-tubed East Campus Steam Plant (ECSP) can already burn natural gas to replace much of the WCSP coal use. Expansion of the ECSP gas capacity can occur while other system changes are ongoing.*

6) *It should be made clear that the much discussed heat pump or geothermal option - whether just building specific or utilizing the chiller loop to eventually include up to 65 buildings- is not pre-emptively ruled out by this Title V renewal. In fact, this geothermal option option, or its equivalent, could be required in order to begin to address future air quality and greenhouse gas limits.*

Neither comment 3 or 6 have as yet been addressed or otherwise responded to. Insofar as they are not addressed by the 1400003f gas conversion review or the public comment period ending Nov 12, 2013, a new 1400003 file review memo should be written to incorporate them and a new 1400003 specific comment period started.

Because of the back to back timing of the TVOP1400003 and 1400003f applications, proposed air quality and greenhouse gas mitigations which should have been considered as part of the 1400003 Title V renewal could not be evaluated prior to the start of the 1400003f comment period. That is, if license conditions were feasible as part of the Title V renewal which could have reduced HAP air emissions and greenhouse gases for example with a no build/low build approach then the baseline for evaluating a further amendment such as the 1400003f changes. This affects, for example, the ERC offsets with which the applicant can be credited.

Whereas the 1400003f application could in fact still be rejected or significantly modified, it is the underlying Title V 1400003 which could most readily contain conditions which would meet many of the MACT requirements without resorting to the heavy PSU financial commitment to the 1400003f retrofit approach. This no build/low build compliance strategy would change the baseline from which the 1400003f application calculates its ERC's and other offsets and credits. As would any errors in emissions reported as part of the TVOP1400003 application (see #)

An alternatives analysis (as discussed above) should have been submitted as part of the TVOP1400003 application and reviewed by PADEP.

It is my understanding that permit conditions and minor amendments could later be added to the TVOP renewal or some future permit major amendment offered, if 1400003f is rejected or substantially scaled down. If this is not correct, explicit TVOP permit conditions should be required now as part of a suitable negotiated solution to the MACT deadline problem. A revised PADEP review memo and 30 day comment period should be required.

7) *There are two versions of the public notice for TVOP 14-00003. (see attachments) One is reflected in the original Pa Bulletin notice of June 15, 2013 which refers to "139.2 tons per year of hazardous air pollutants" (HAP) The other is shown in the July 2, 2013 Centre Daily Times legal notice which refers instead to "61.5 tons of hazardous air pollutants." There are other smaller differences in VOCs and GHGs. But the major shift in volume seems to be from the hazardous air pollutant category to the carbon monoxide category: compare June 15's 266.5 tons carbon monoxide to the July 2 legal notice's 349.2 tons carbon monoxide. Since the June 10, 2013 Notice of Intent to Issue (see attach.) actually uses same figure that the July 2 legal notice will eventually use, a detailed explanation for the June 15, 2013 PA Bulletin notice discrepancy is in order. Commenter maintains that these HAP and other emission differences reveal an underlying substantive issue which should be resolved as part of the 14-00003 Title V renewal. In particular, the earlier and more conservative analysis behind the higher HAP number reflected in the earlier June 15 PA Bulletin notice should stand, and whatever regulatory consequences which flow from that should be dealt with directly here.*

[attachments referenced above not included here for this EPA petition. Please see original PADEP comments if they are needed]

No explanation has yet been made for this odd Pennsylvania Bulletin notice discrepancy. This perhaps should be seen in the light of other PSU emissions correction and changes. [for example see attachments]

[expand]

In any event since the explanation affects reliability the 1400003f gas conversion application and the underlying assumptions of TVOP 1400003 which 1400003f is designed to amend, the issue can be raised in the context of the new 1400003f comment period. If not then it should be addressed as part of a TVOP file memo revision and PADEP comment and respond document.

8) a. *The TVOP 14-00003 application miscategorizes the location of Penn State University as*

College Township. Most of the University buildings and student population is in fact within State College Borough. The coal burning West Campus Steam Plant, the major source of emissions at issue here, is in the Borough not the Township. To be sure, the 40+ acre site of the currently much smaller gas burning East Campus Steam Plant is in College Township. Much of the rest of the College Township portion of campus is otherwise open space or seasonal sports complexes.

b. The applicant's primary location should be clarified in the 14-00003 Title V permit. The current incorrect designation understates State College Borough's jurisdictional and stakeholder status.

The University Park Post Office is also in State College Borough.

As far as I know no correction has yet been made. This should be made as part of a TVOP 1400003 revision.

This error is not minor in this case. The State College Borough Home Rule Charter to includes a rights based provision on clean air and other clauses which enhance a member of the public's standing to enforce those provisions. Nationally, these new kinds of Home Rule Charters and rights based environmental laws have not yet seen substantial court review. This could happen, and the local jurisdictional question and related notification issues may become significant.

**State College Borough Home Rule Charter
Section 1102.**

Right to Clean Air

All residents, natural communities and ecosystems in State
College Borough possess a fundamental and
inalienable right to breathe air untainted by toxins,
carcinogens, particulates and other substances
known to cause harm to health

College Township has no such provision in its charter of incorporation. The incorrect designation of project location as College Township in this 14-00003 and other PSU permits limits the compliance of the required notices without the accurate location in them.

David Stone

David Stone
539 E Foster Ave State College Pa 16801 814-234-0489
Sept 27, 2013

Petitioner is a State College Borough resident who lives near the PSU campus.