



AR-1202

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October 12, 2011

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Regional Freedom of Information Officer
U.S. Environmental Protection Agency
Region I (OARM01-6)
5 Post Office Square, Suite 100
Boston, MA 02109-3912

National Freedom of Information Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2822T)
Washington, DC 20460

RE: Freedom of Information Act Request

Dear FOIA Officer:

We represent Public Service Company of New Hampshire ("PSNH"). Pursuant to the Freedom of Information Act, 5 U.S.C. § 552 ("FOIA"), and FOIA regulations at 40 C.F.R. Part 2, please accept this request for information from the United States Environmental Protection Agency ("EPA") relating to National Pollutant Discharge Elimination System ("NPDES") Permit No. NH0001465, originally issued to PSNH's Merrimack Station located in Bow, New Hampshire, by the EPA and the New Hampshire Department of Environmental Services ("DES") on June 25, 1992 ("Existing Permit"), and the Draft NPDES Permit No. NH0001465 intended to be re-issued to the same facility following the Public Notice period from September 30 to November 30, 2011 ("Draft Permit"). The Existing Permit was scheduled to expire on June 25, 1997, but remains in effect because it was administratively continued as a result of PSNH's timely application for renewal. Once effective, the Draft Permit will supplant the 1992 NPDES Permit.

Among other requirements, the Existing Permit and the Draft Permit impose conditions and limitations on Merrimack Station's thermal discharges to the Merrimack River pursuant to Section 316(a) of the Clean Water Act (CWA), as well as conditions and limitations on its withdrawals of water from the river pursuant to CWA Section 316(b). 33 U.S.C. § 1326(a), (b). The Draft Permit also imposes technology-based effluent limitations for discharges of wastewater from Merrimack Station's flue gas desulfurization system pursuant to CWA Section 301, 33 U.S.C. §§ 1311.

We are requesting records relied upon by EPA in formulating, drafting and incorporating the requirements described above in the Existing Permit and/or Draft Permit for Merrimack Station. This request includes, but is not limited to:

- (1) Any and all agency records, including but not limited to studies, reports, data, guidance documents, analyses, communications and other documents since the year 1960 supporting, refuting, regarding, or otherwise relating to any determination or decision made by EPA relating to any condition or limitation on Merrimack Station's thermal discharges under CWA Section 316(a).
- (2) Any and all agency records, including but not limited to studies, reports, data, guidance documents, analyses, communications and other documents since the year 1960 supporting, refuting, regarding, or otherwise relating to any determination or decision made by EPA relating to any condition or limitation on Merrimack Station's withdrawals of water from Merrimack River under CWA Section 316(b).
- (3) Any and all agency records, including but not limited to studies, reports, data, guidance documents, analyses, communications and other documents since the year 1960 supporting, refuting, regarding or otherwise relating to any determination or decision made by EPA relating to an FGD system at Merrimack Station. This includes but is not limited to any agency records supporting, refuting, regarding, or otherwise relating to any decision or recommendation as to any effluent limitation or guideline, standard of performance, condition or other requirement under the Clean Water Act associated with FGD wastewater discharges contained in the Draft Permit; and any agency records supporting, refuting, regarding or otherwise relating to any determination or position taken regarding any FGD wastewater treatment technology or alternative considered for use at the Merrimack Station.
- (4) For any and all guidance documents supporting, refuting, regarding or otherwise relating to any decision or determination as described in paragraphs (1) through (3) above, any and all agency records, including but not limited to studies, reports, data, analyses, communications, and other documents relating to the development of such guidance documents or relating to the application thereof to any decision or determination made by EPA as described in paragraphs (1) through (3) above. This request also includes any other guidance documents relating to the development or application of any guidance document described in paragraphs (1) through (3) above.

For the purposes of this request, "records" includes all books, papers, maps, photographs, machine readable materials, electronic materials, or other documentary materials, regardless of physical form or characteristics, including all communications, letters, memoranda, notations,

copies, e-mails, diagrams, studies, charts, minutes, tables, spreadsheets, formulas, directives, observations, impressions, contracts, letters, messages, mail, drafts, and tapes in the possession of EPA or its legal department. *See* 44 U.S.C. § 3301.

We are requesting agency records as described above from any and all EPA offices, including headquarters and regional offices. We would suggest that Region 1 may have a substantial amount of the requested records, but we do not limit our request to that office.

I am willing to pay the applicable fees for this request. Please contact me if you need any clarification or other information to process this request. You can reach me at (205) 226-8733 or via email at rfowler@balch.com.

Sincerely,

Robert P. Fowler

RPF:ts

cc: Linda T. Landis, Esq., PSNH