

Environmental Protection Agency, the Department also administers and enforces the National Pollutant Discharge Elimination System (NPDES) Permitting Program, which was established in the Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.*

2. The Defendant in this matter, FirstEnergy, is an Ohio limited liability company qualified to do business in Pennsylvania. It formerly was known as FirstEnergy Generation Corp., an Ohio corporation, but as set forth in Paragraph B of the Consent Decree it converted to a limited liability company and “[a]ll rights and liabilities associated with FirstEnergy’s ownership and operation of the disposal impoundment, including without limitation under this Consent Decree [continued], uninterrupted and unchanged, through any such conversion.”

3. FirstEnergy owns and operates a solid waste disposal impoundment known as “Little Blue Run” (the Impoundment). The Impoundment is located primarily in Greene Township, Beaver County, Pennsylvania, and partly in Hancock County, West Virginia. FirstEnergy also operates the Bruce Mansfield Generating Station. Wastes generated at Bruce Mansfield are disposed of at and into the Impoundment.

4. The Court entered the Consent Decree in this matter on December 14, 2012. The Consent Decree imposes performance obligations and establishes a schedule for accomplishing them. It also imposes a civil penalty for past violations and provides for stipulated penalties should FirstEnergy fail to meet the obligations of the Consent Decree in a timely manner.

5. Paragraph No. 22 of the Consent Decree provides that “The Department and FirstEnergy shall submit to the Court, within eighteen (18) months following entry of this Consent Decree, jointly or individually, a status report describing the progress of FirstEnergy in implementing the Consent Decree and related plans for the Impoundment.”

6. Attached hereto as **Exhibit A** and incorporated by reference as if fully set forth herein is a detailed summary of the primary compliance requirements of the Consent Decree, followed by FirstEnergy's summary of its activities associated with those requirements. The Department, while unable to adopt all representations set forth in Exhibit A, and while noting that some issues remain under investigation, does not disagree that FirstEnergy is currently in general or substantial compliance with its obligations under the Consent Decree.

Respectfully submitted,


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EXHIBIT A

FIRSTENERGY GENERATION, LLC
LITTLE BLUE RUN DISPOSAL AREA

STATUS REPORT PURSUANT TO PARAGRAPH 22
OF THE CONSENT DECREE ENTERED BY THE COURT
ON DECEMBER 14, 2012 IN THE MATTER
COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF ENVIRONMENTAL
PROTECTION V. FIRSTENERGY GENERATION CORP.
(W.D. PA, CA. NO. 2:12-CV-01061-NBF)

June 2014

1.0 INTRODUCTION

This progress report was prepared pursuant to Paragraph 22 of the Consent Decree entered by the Court on December 14, 2012 in the matter Commonwealth of Pennsylvania, Department of Environmental Protection v. FirstEnergy Generation Corp. (W.D. PA, CA. No. 2:12-cv-01061-NBF) (the Consent Decree). As stated in Paragraph 22 of the Consent Decree, “The Department and FirstEnergy shall submit to the Court, within eighteen (18) months following entry of this Consent Decree, jointly or individually, a status report describing the progress of FirstEnergy in implementing the Consent Decree and related plans for the Impoundment.”

In this report, FirstEnergy Generation Corp. (now known as FirstEnergy Generation, LLC) (“FirstEnergy”) describes its progress in implementing the Consent Decree by listing the primary compliance requirements of the Consent Decree, followed by a summary of the FirstEnergy activities associated with those requirements.

2.0 SUMMARY OF COMPLIANCE ACTIVITIES

Paragraphs 1 through 9 of the Consent Decree are administrative in nature and do not require a compliance response. Each primary requirement from Section II, “Compliance Requirements”, of the Consent Decree has been listed below in italics, and is followed with a summary of FirstEnergy’s compliance activities.

Paragraph 10.a. SEEP MONITORING AND IDENTIFICATION

Quarterly seep reconnaissance has been conducted in accordance with Paragraph 10.a.i of the Consent Decree since the third quarter 2012. Since the effective date of the Consent Decree, FirstEnergy has notified the Pennsylvania Department of Environmental Protection (the “Department”) in writing within seven days of identifying a new spring/seep. In addition, since the effective date of the Consent Decree, all newly mapped springs/seeps were sampled within thirty days of discovery per the requirements of Paragraph 10.a.ii of the Consent Decree. Quarterly sampling has been conducted in accordance with Paragraph 10.a.iii of the Consent Decree since the fourth quarter 2012.

The analytical results for newly mapped springs/seeps have been provided to the Department within 60 days of sampling and the results of the quarterly monitoring events have been submitted to the Department in the Quarterly Groundwater and Surface Water Monitoring Reports in accordance with Paragraph 10.a.iv of the Consent Decree.

Paragraph 10.b. SEEP MANAGEMENT

In accordance with Paragraph 10.b of the Consent Decree, FirstEnergy has, within 30 days of receiving notice from the Department, or FirstEnergy’s own determination (whichever occurred earlier), that a seep is or has become contaminated by the Impoundment, submitted a written plan to the Department describing the means by which FirstEnergy will manage the seep.

Paragraph 10.c. WATER SUPPLY PROTECTION

With regard to Paragraphs 10.c.i. and 10.c.ii of the Consent Decree, the Department has not yet directed FirstEnergy to monitor any other drinking water wells or to restore or replace affected water supplies within one-half mile of the ultimate waste disposal limits of the Impoundment (other than those set forth in Paragraph 10.c.iii of the Consent Decree).

With regard to the water supplies set forth in Paragraph 10.c.iii of the Consent Decree, FirstEnergy is entering into an agreement with Chester Water Department to provide water to the applicable West Virginia residents. FirstEnergy has offered water supply to residents on Cullen Drive and Red Dog Road, but only a few residents have accepted FirstEnergy’s offer. Some of the residents also are plaintiffs in the case Rick and Patty Anderson, et al. v. FirstEnergy Generation, LLC: Civil Action No. 2:13-cv-1733, which was filed in the United States District

Court for the Western District of Pennsylvania by twenty six named plaintiffs. FirstEnergy continues to discuss these issues with the residents, and the results of these discussions may, by agreement, supplant the need for the provision of alternative water supplies.

Paragraph 10.d. LAWRENCEVILLE SEEP COLLECTION REPAIR ACTIVITIES
Paragraph 10.e LAWRENCEVILLE SEEP COLLECTION IMPROVEMENT ACTIVITIES

FirstEnergy has continued to implement all approved seep collection repair and improvement activities for the Lawrenceville seeps as required by Paragraphs 10.d and 10.e of the Consent Decree.

Paragraph 10.f INVESTIGATION OF MEASURES TO REDUCE OR PREVENT
GROUND WATER IMPACTS

FirstEnergy submitted “The Investigation and Economic/Technical Feasibility Assessment” (Feasibility Study) to the Department on January 31, 2013, and supplemented it with additional information dated April 30, 2013. Further revisions were submitted in December 2013 and March 2014 in response to Department requests for information. FirstEnergy also submitted a revised workplan for Arsenic Abatement Strategies, dated January 13, 2014. These materials, which address all of the investigative actions required by Paragraph 10.f of the Consent Decree, were approved by the Department as part of a Major Permit Modification (for closure) issued on April 3, 2014.

Paragraph 10.g PROTECTION OF GROUNDWATER AND SURFACE WATERS

Quarterly monitoring of seeps/springs, surface water, domestic water supply wells and monitoring wells has been conducted in accordance with Paragraph 10.a.iii of the Consent Decree. Springs/seeps determined to be “contaminated by the Impoundment” have been managed pursuant to Paragraph 10.b of the Consent Decree since its effective date. These measures are for the purpose of ensuring that “existing and designated uses of surface waters, including but not limited to Little Blue Run, receiving any contaminants from the Impoundment, are protected, and that water quality criteria in such surface waters achieve applicable regulatory standards for all parameters” in accordance with Paragraph 10.g.i of the Consent Decree.

In accordance with Paragraph 10.g.ii of the Consent Decree, NPDES permit limits have not been exceeded at permitted Outfalls during this period.

With regard to Paragraph 10.g.iii of the Consent Decree, groundwater abatement at Little Blue Run has been conducted in compliance with the April 5, 2006 Consent Order and Agreement as required since 2006. In addition, FirstEnergy has installed a groundwater management system in the vicinity of Cove M of the LBR disposal impoundment, including a soil-bentonite slurry wall, a groundwater collection trench and drain and a groundwater pumping well to intercept constituents from LBR. FirstEnergy also has taken steps to install two pumping wells at the top

of the “Laughlin Valley,” to design and install a slurry wall or other appropriate technology near the Cullen Drive development, to implement a three-prong plan to address apparently elevated Arsenic concentrations downstream of the dam, and to take other steps to address ground water matters as set forth in the Major Permit Modification (for closure) issued on April 3, 2014.

Paragraph 10.h CLOSURE PLAN FOR THE IMPOUNDMENT

In accordance with Paragraph 10.h of the Consent Decree, FirstEnergy submitted to the Department on March 29, 2013 an application for a Major Permit Modification to the permit for the impoundment proposing a closure plan. Additional revisions were submitted in May 2013, December 2013, January 2014, and March 2014 in response to comments from the Department. The Department issued the Major Permit Modification (for closure) on April 3, 2014.

Paragraph 10.i DEPARTMENT APPROVED PLANS

FirstEnergy has remained in compliance with all plans and schedules submitted and approved by the Department with respect to any requirement of the Consent Decree, as required by Paragraph 10.i of the Consent Decree.

Paragraph 10.j INFORMATION TO AND INVOLVEMENT BY COMMUNITY

Copies of all seep reconnaissance reports, Consent Decree Progress Reports, the Feasibility Study, and the Major Permit Modification Application have been provided to the Secretary of Greene Township and the Hancock County Commissioners.

In addition, a public meeting was held on August 15, 2013 by FirstEnergy and the Department where members of the public were informed of the proposed closure plan and had an opportunity to ask questions of the Department and FirstEnergy. FirstEnergy representatives also attended a public meeting on November 21, 2013 to inform residents of the proposed alternate water supply being offered to residents of the Cullen Drive, Pennsylvania and the Lawrenceville, West Virginia areas per the Consent Decree.

As required, FirstEnergy is reimbursing Greene Township for up to \$20,000 in professional consulting fees incurred by the Township for closure plan review.

Paragraph 10.k AIR QUALITY

In accordance with Paragraph 10.k.i of the Consent Decree, FirstEnergy submitted a Dustfall Monitoring Plan to the Department for approval on March 11, 2013. As required by the Consent Decree, plan implementation was initiated within 60 days of Department approval. The Dustfall Monitoring Plan was revised and submitted to the Department as part of the Major Permit Modification Application revisions submitted in December 2013. This version of the plan was

approved by the Department as part of the Major Permit Modification (for closure) issued on April 3, 2014.

In accordance with Paragraph 10.k.ii of the Consent Decree, FirstEnergy has used a hydrogen sulfide meter to monitor hydrogen sulfide levels around the impoundment on a weekly basis and within 24 hours of receiving a report of odors emanating from the Impoundment since January 11, 2013. FirstEnergy submitted an Odor Control Plan to the Department on February 12, 2013. In response to Department comments, FirstEnergy submitted a revised Odor Control Plan to the Department on March 29, 2013 and August 9, 2013. The plan was approved as part of the Major Permit Modification (for closure) issued on April 3, 2014.

In accordance with Paragraph 10.k.iii of the Consent Decree, FirstEnergy submitted a proposed location for hi-volume air sampling equipment in a letter dated January 10, 2013 and completed construction of the equipment infrastructure prior to May 30, 2013. The sampler has continued to operate and FirstEnergy has continued to reimburse the Department for the costs of filters and laboratory analysis of hi-volume air sampling.

Paragraph 10.1 CESSATION OF WASTE DISPOSAL

In accordance with Paragraph 10.k.iii of the Consent Decree, FirstEnergy will cease disposing waste materials at the Impoundment no later than December 31, 2016.

Paragraphs 11 and 12 of the Consent Decree are administrative in nature and do not require a compliance response.

Paragraph 13 PROGRESS REPORTS

As required by Paragraph 13 of the Consent Decree, FirstEnergy has submitted to the Department a semi-annual progress report in both paper and electronic format every six months.

Paragraph 14 TRANSFER OF IMPOUNDMENT

This item is not applicable at this time – no transfer or contemplated transfer of any legal or equitable interest in the impoundment has occurred.

Paragraph 15 *CIVIL PENALTY*

FirstEnergy has paid the civil penalties which have come due to date as required by Paragraph 15 of the Consent Decree.

Paragraph 16 *STIPULATED CIVIL PENALTIES*

On May 16, 2013, in accordance with Paragraph 16.a of the Consent Decree, FirstEnergy paid a stipulated civil penalty of \$7,500 for Notices of Violation dated April 25 and 29, 2013 and May 2, 2013 for allegedly failing to respond to an odor complaint within 24 hours (three violations at \$2,500 each).

Paragraphs 17 through 21 of the Consent Decree are administrative in nature and do not require a compliance response from FirstEnergy

Paragraph 22 *STATUS REPORT TO THE COURT*

This report satisfies the requirements of Paragraph 22 of the Consent Decree.