

MANISTEE CITY PLANNING COMMISSION
70 Maple Street, Manistee, Michigan 49660
Meeting of Thursday, April 1, 2004
7:00 p.m. - Manistee Middle School - Gym, 550 Maple Street

AGENDA

- I Roll Call
- II Public Hearing
- III Approval of Minutes
 - Planning Commission Meeting (3/4/04)
- IV New Business
- V Unfinished Business
 - 1. Manistee Saltworks Development Corporation - Coal Fired Power Plant
 - a.. Approval of official record for Manistee Saltworks Development Corporation request for a Special Use Permit
 - b. Further discussion
 - c. Action and/or Direction to Staff
 - 2.
- VI Other Communications
 - 1.
- VII Citizen Questions, Concerns and Consideration
(Public Comment Procedures on the Reverse Side)
- VIII Work/Study Session
 - 1.
- IX. Adjournment

Public Comment Procedures

The City of Manistee Planning Commission welcomes public comment in support of its decision-making process. To assure an orderly, fair and balanced process, the Planning Commission asks that participants at all public hearings and during the Public Comment portion of the meeting observe the following rule of procedure:

1. The Chairperson will recognize each speaker. When a speaker has the floor, he/she is not to be interrupted unless time has expired. Persons speaking without being recognized shall be out of order.
2. Each speaker shall state their name and address for the record and may present written comments for the record.
3. Speakers shall address all comments and questions to the Planning Commission.
4. Unless waived by the Planning Commission for a specific meeting or a specific speaker, public comment shall be limited to five (5) minutes per speaker, one time only. If a group of people wish to be heard on one subject, a spokesperson may be designated who may request that more than five (5) minutes be permitted for the collective comments of the group as presented by that speaker.
5. The Chairperson may request that repetitive comments be limited or abbreviated in the interest of saving time and allowing others to speak.
6. The Chairperson may establish additional rules of procedure for particular hearings as he/she determines appropriate.
7. Normal civil discourse and decorum is expected at all times. Applause, shouting, outbursts, demonstrations, name-calling or other provocative speech or behavior is not helpful to the decision-making process and may result in removal from the hearing or an adjournment.

Thank you for your interest in the work of the City of Manistee Planning Commission and for your cooperation with these rules of procedure.

Memo

TO: Planning Commissioners

FROM: Denise Blakeslee 
Administrative Assistant

DATE: March 26, 2004

Enclosed please find a copy of the notes from the Worksession on March 25, 2004. Also enclosed is a copy of the letter requesting an extension that was hand delivered to Mr. Tondou today.

The April 1, 2004 Meeting will be at 7:00 p.m. in the Middle School Gym, 550 Maple Street (agenda enclosed).

If you are unable to attend the meeting please call me at 723-2558.

:djb

TONDU

March 25, 2004

Jon Rose, Community Development Director
City of Manistee
P.O. Box 358
Manistee, Michigan 49660

Dear Jon,

Enclosed please find additional information on the existing conditions at the General Chemical site, including photographs and a copy of the current National Pollutant Discharge Elimination System (NPDES) permit.

General Chemical's existing NPDES permit allows for an outfall of 14,504,000 gallons per day. This includes a maximum of 40,340 pounds of chloride per day (dissolved solids) with the outfall. This outfall is from barometric condenser cooling water, non-contact cooling water, water softener regeneration water, equipment and floor wash water, condensate from compressed air and air conditioning systems, yard drainage, and boiler blow down.

Additional known issues include:

- Rainwater runoff from the existing coal and coke piles.
- Air particles from the coal and coke piles.
- A buried salt waste pile.
- A calcium sulfate disposal area.
- Existing unlined ash disposal area.
- An unlined settling pond.
- A hot spot containing sulfates.
- Caustic substances contained in front of the Bromine Plant.
- Asbestos throughout the facility.
- Akzo is still being held accountable by the DEQ for some issues.
- General Chemical is currently under remediation and monitoring with the DEQ.

All information known at this time has been derived from environmental assessments performed by previous owners. A full environmental assessment of the site will be completed after the purchase of the property.

Please do not hesitate contact me should you need any additional information.

Sincerely,



Jim Tondy
Tondy Corporation

TONDU CORPORATION
14701 ST. MARY'S LANE
SUITE 625
HOUSTON, TX 77079
(832) 379-4222
fax (832) 379-4533

STATE OF MICHIGAN



JOHN ENGLER, Governor
DEPARTMENT OF ENVIRONMENTAL QUALITY

"Better Service for a Better Environment"
HOLLISTER BUILDING, PO BOX 30473, LANSING MI 48909-7973

INTERNET: www.deq.state.mi.us
RUSSELL J. HARDING, Director

26.1

REPLY TO:

SURFACE WATER QUALITY DIVISION
KNAPPS CENTRE
PO BOX 30273
LANSING MI 48909-7773

January 5, 2001

CERTIFIED MAIL -- 7000 0520 0016 5013 1876

General Chemical Industrial Products
90 East Halsey Road
Parsippany, New Jersey 07054

Dear Sir or Madam:

SUBJECT: NPDES Permit No. MI0054992
General Chem Corp-Manistee, 1501 Main Street, Manistee, Michigan, 49660

Your National Pollutant Discharge Elimination System (NPDES) Permit has been processed in accordance with appropriate state and federal regulations. It contains the requirements necessary for you to comply with state and federal water pollution control laws.

REVIEW THE PERMIT EFFLUENT LIMITS AND COMPLIANCE SCHEDULES CAREFULLY. These are subject to the criminal and civil enforcement provisions of both state and federal law. Permit violations are audited by the Michigan Department of Environmental Quality and the United States Environmental Protection Agency and may appear in a published quarterly noncompliance report made available to agencies and the public.

Your monitoring and reporting responsibilities must be complied with in accordance with this permit. If applicable, Discharge Monitoring Report forms will be transmitted to you in the near future. These reports are to be submitted monthly or otherwise as required by your NPDES permit.

Any reports, notifications, or questions regarding the attached permit or NPDES program should be directed to the following address:

Mr. Mike Stifler, District Supervisor
Cadillac District Office, SWQD, DEQ
120 West Chapin Street
Cadillac, Michigan 49601
Telephone: 231-775-3960

Sincerely,

William E. McCracken
William E. McCracken, P.E.
Chief, Permits Section
Surface Water Quality Division
517-373-8088

Attachment: Permit

cc: EPA-Region 5
Mr. Robert Coleman, General Chemical Industrial Products, Ontario
208 Agency - Northwest Michigan Council of Governments
Mr. Mike Stifler, Cadillac District Supervisor, SWQD (2)
PCS Unit, SWQD
Point Source Studies (Grand Rapids District Office), SWQD
Files

PERMIT NO. MI0054992

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY
AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provisions of the Federal Water Pollution Control Act, as amended, (33 U.S.C. 1251 et seq; the "Federal Act"), Michigan Act 451, Public Acts of 1994, as amended (the "Michigan Act"), Parts 31 and 41, and Michigan Executive Orders 1991-31, 1995-4 and 1995-18,

General Chemical Industrial Products.
(formerly Ambar Chemical)
90 East Halsey Road
Parsippany, New Jersey 07054

is authorized to discharge from Ambar Chemical, Inc. located at

1501 Main Street
Manistee, Michigan 49660

designated as General Chem Corp-Manistee

to the receiving water named Manistee Lake in accordance with effluent limitations, monitoring requirements and other conditions set forth in this permit.

This permit takes effect on April 1, 2001. Any person who is aggrieved by this permit may file a sworn petition with the Office of Administrative Hearings of the Michigan Department of Environmental Quality, setting forth the conditions of the permit which are being challenged and specifying the grounds for the challenge. The Department may reject any petition filed more than 60 days after issuance as being untimely. If any condition of this permit is administratively challenged, the entire challenged permit is stayed and the previous permit will remain in effect until the Department takes final action after the Administrative Hearing.

This permit and the authorization to discharge shall expire at midnight, October 1, 2005. In order to receive authorization to discharge beyond the date of expiration, the permittee shall submit an application which contains such information and forms as are required by the Michigan Department of Environmental Quality to the Cadillac District Supervisor of the Surface Water Quality Division by April 1, 2005.

In accordance with Section 324.3118 of the Michigan Act, the permittee shall make payment of a \$200.00 annual storm water fee to the Department, which shall be postmarked no later than March 15 of each year.

This permit is based on a complete application submitted on March 31, 2000. The provisions of this permit are severable. After notice and opportunity for a hearing, this permit may be modified, suspended, or revoked in whole or in part during its term in accordance with applicable laws and rules. On its effective date this permit shall supersede NPDES Permit No. MI0054992, expiring October 1, 2000.

Issued January 3, 2001



William E. McCracken
Chief, Permits Section
Surface Water Quality Division

PART I

Section A. Effluent Limitations And Monitoring Requirements

1. Final Effluent Limitations, Monitoring Point 001A

During the period beginning on the effective date of this permit and lasting until the expiration date of this permit, the permittee is authorized to discharge a maximum of fourteen million five hundred and four thousand (14,504,000) gallons per day of barometric condenser cooling water, noncontact cooling water, water softener regeneration water, equipment and floor wash water, condensate from compressed air and air conditioning systems, yard drainage, and boiler blowdown from Monitoring Point 001A through Outfall 001 to Manistee Lake. Such discharge shall be limited and monitored by the permittee as specified below.

Parameter	Maximum Limits for Quantity or Loading			Maximum Limits for Quality or Concentration			Frequency of Analysis	Sample Type
	Monthly	Daily	Units	Monthly	Daily	Units		
Flow (intake)	(report)	(report)	MGD	---	---	---	Daily	Report Total Daily Flow
Flow (discharge)	(report)	(report)	MGD	---	---	---	Daily	Report Total Daily Flow
Temperature (discharge)	---	---	---	(report)	(report)	°F	3/day	Reading
Total Suspended Solids	(report)	(report)	lbs/day	(report)	(report)	mg/l	Daily	24-Hr Composite
Total Dissolved Solids (intake)	(report)	---	lbs/day	(report)	(report)	mg/l	Daily	24-Hr Composite
Total Dissolved Solids (net discharge) (see Part I.A.1.f.)	40,340	---	lbs/day	(report)	(report)	mg/l	Daily	24-Hr Composite
Total Copper	---	---	---	---	(report)	µg/l	2/Month	24-Hr Composite
Total Copper (Beginning 12/1/2002)	---	8	lbs/day	---	66	µg/l	Weekly	24-Hr Composite
Total Lithium	---	---	---	(report)	(report)	µg/l	2/Month	24-Hr Composite
Oil & Grease	---	---	---	---	(report)	mg/l	Quarterly	Grab
Outfall Observation	(report)	---	---	---	---	---	Daily	Visual
				<u>Minimum Daily</u>	<u>Maximum Daily</u>			
pH	---	---	---	6.5	9.0	S.U.	Daily	Grab
Dissolved Oxygen	---	---	---	4	---	mg/l	2/Month	Grab

- a. Narrative Standard
The receiving water shall contain no unnatural turbidity, color, oil films, floating solids, foams, settleable solids, suspended solids, or deposits as a result of this discharge.

Subject: Northern Lights Water Discharge

The warm water from cooling tower blowdown is not discharged from the plant as an isolated stream. This water is combined with the other plant process wastewater and coal pile runoff water before leaving the site. This combined stream will either be sent to the City of Manistee wastewater treatment plant or treated on-site to the required levels for a permitted discharge into Lake Manistee. This treatment includes meeting State limitations on the allowable differential between the discharge temperature and the lake temperature. The permitted effluent is not allowed to increase the temperature at the edge of a mixing zone more than 3 degrees above ambient temperatures.

The Northern Lights discharge will total less than 1 MGD (millions of gallons per day) in comparison to 14.5 MGD which is currently permitted by General Chemical on the site, their permit includes discharging 20 tons per day of dissolved salt, with no specified temperature differential limit. In addition, Northern Lights will also eliminate the current surface run-off into the lake and total discharge will represent less than one percent of the Little Manistee River's daily flow of 110 MGD. Considering all these factors, the Plant will have very little impact on either the quality or the temperature of Lake Manistee and will be a definite improvement over the existing situation.

**ANNIS
WATER
RESOURCES
INSTITUTE**



**GRAND VALLEY
STATE UNIVERSITY**

MEMORANDUM

TO: Jim Tondu

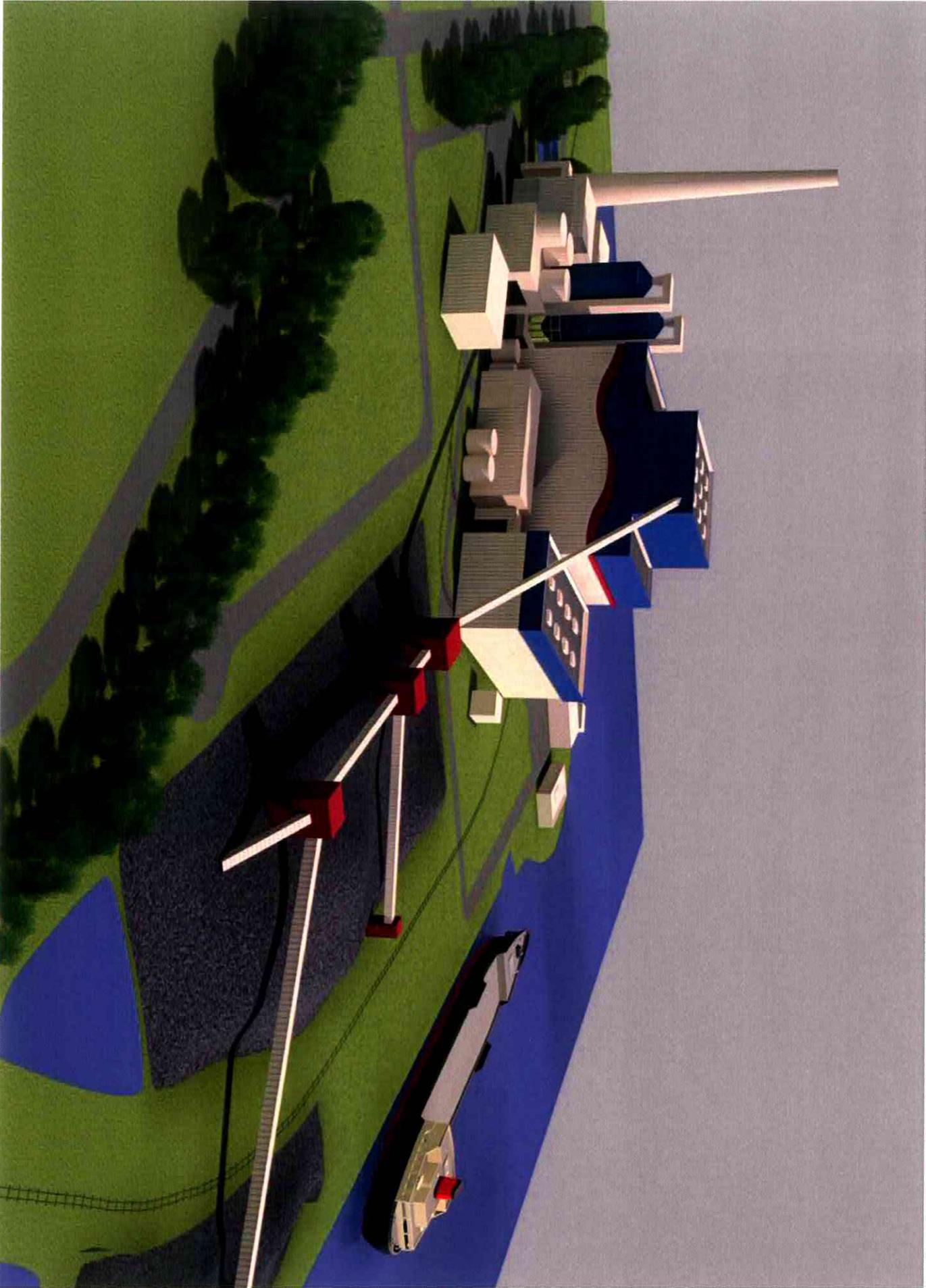
FROM: Richard R. Rediske, Ph.D.
Professor, Water Resources

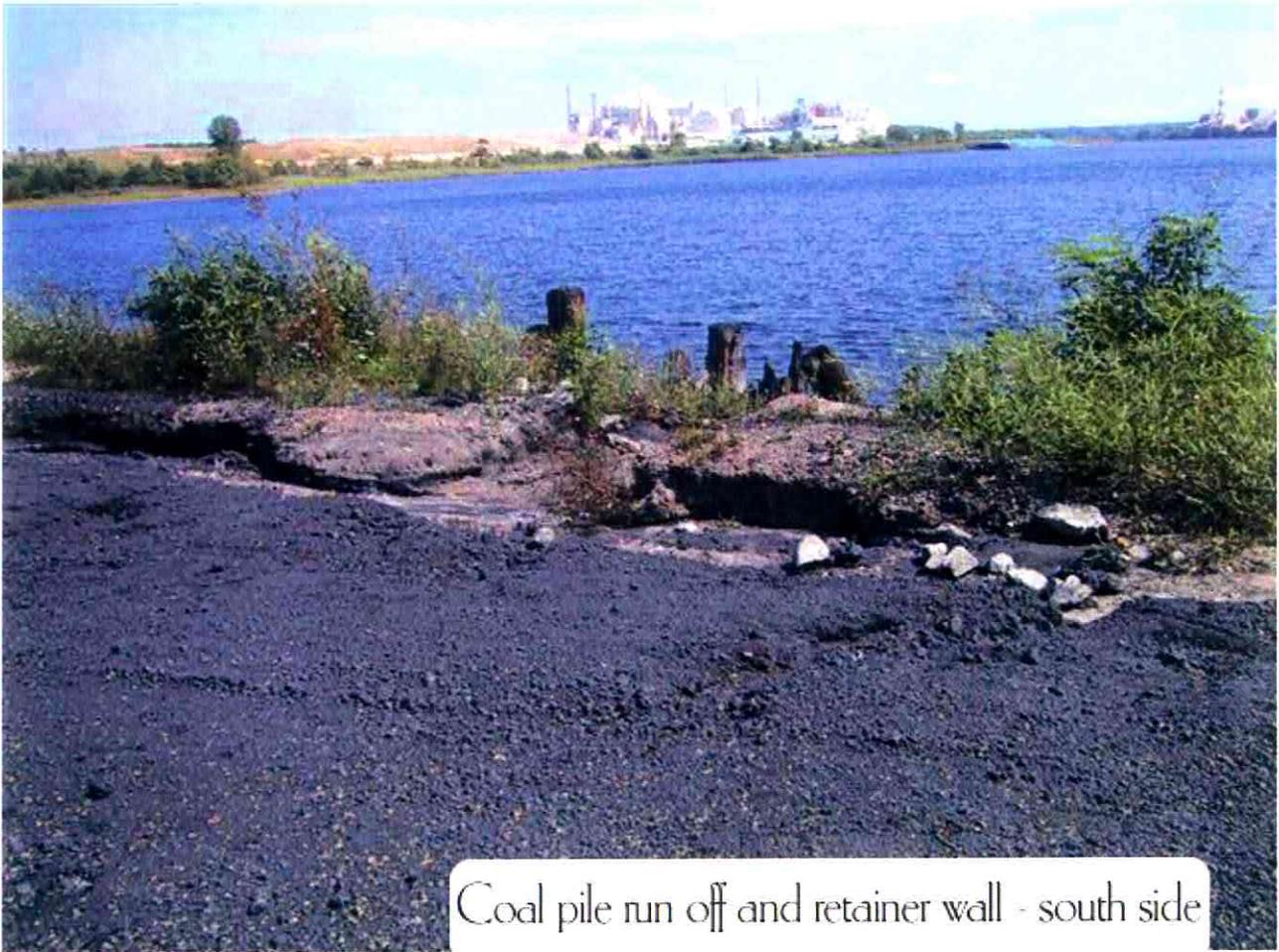
DATE: 1-24-04

FILE:

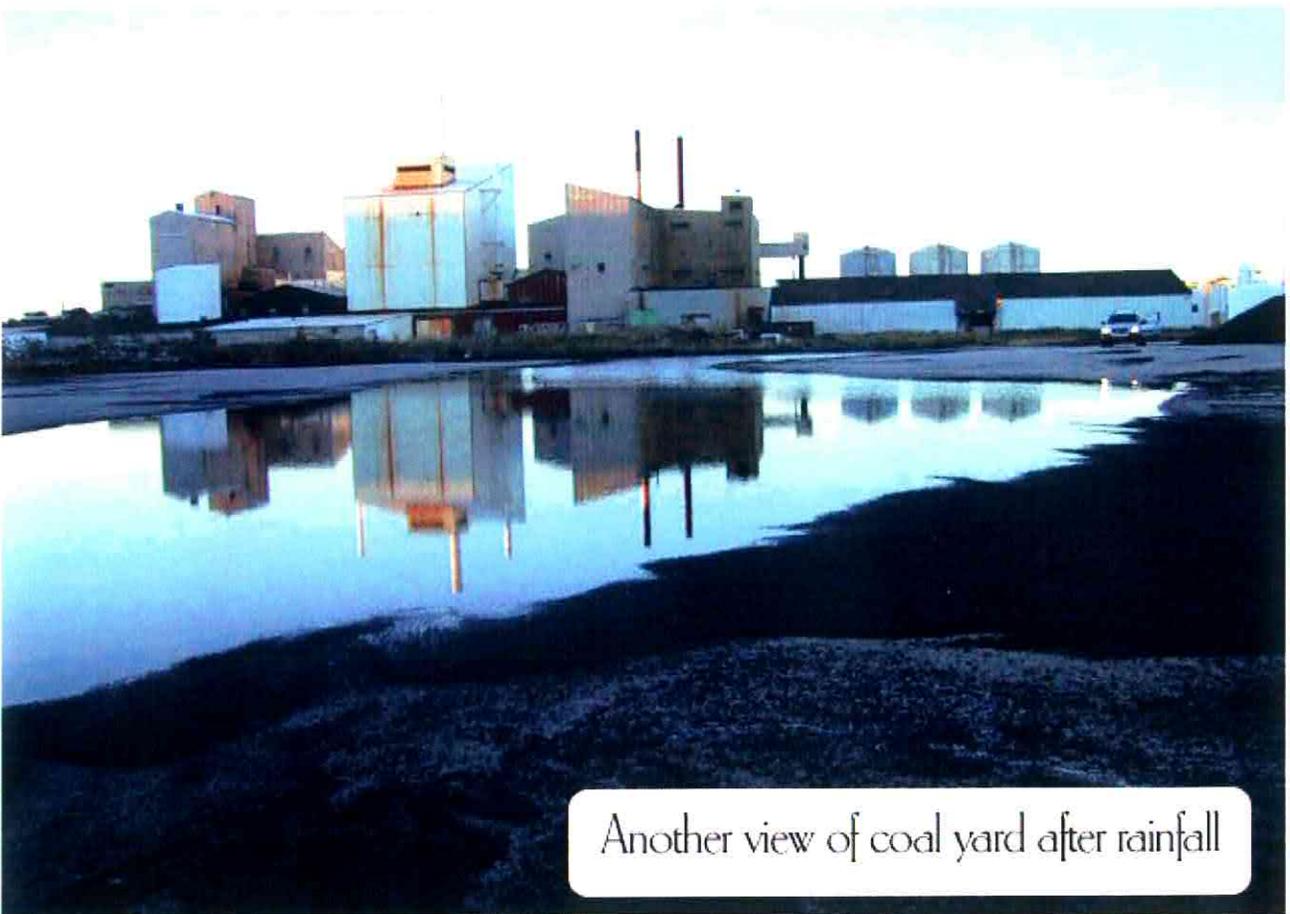
SUBJECT: General Chemical NPDES Permit

I have reviewed provided concerning the NPDES Permit for General Chemical. The permit allows the monthly discharge of 40,340 lbs/d of dissolved solids to Manistee Lake. Based on our previous investigation, Manistee Lake receives sufficient point and nonpoint discharges of dissolved solids to produce a salinity gradient at the bottom of the lake that results in chemical stratification. Chemical stratification adversely impacts the benthic organisms that inhabit the bottom sediment and the general ecology of the lake. The removal of the General Chemical discharge represents an important first step in the reduction of the load of dissolved solids entering Manistee Lake. In the future, I hope that other industries and land owners take a serious look at the amount of salt discharged in Manistee Lake and develop an overall strategy to reduce loadings.





Coal pile run off and retainer wall - south side



Another view of coal yard after rainfall

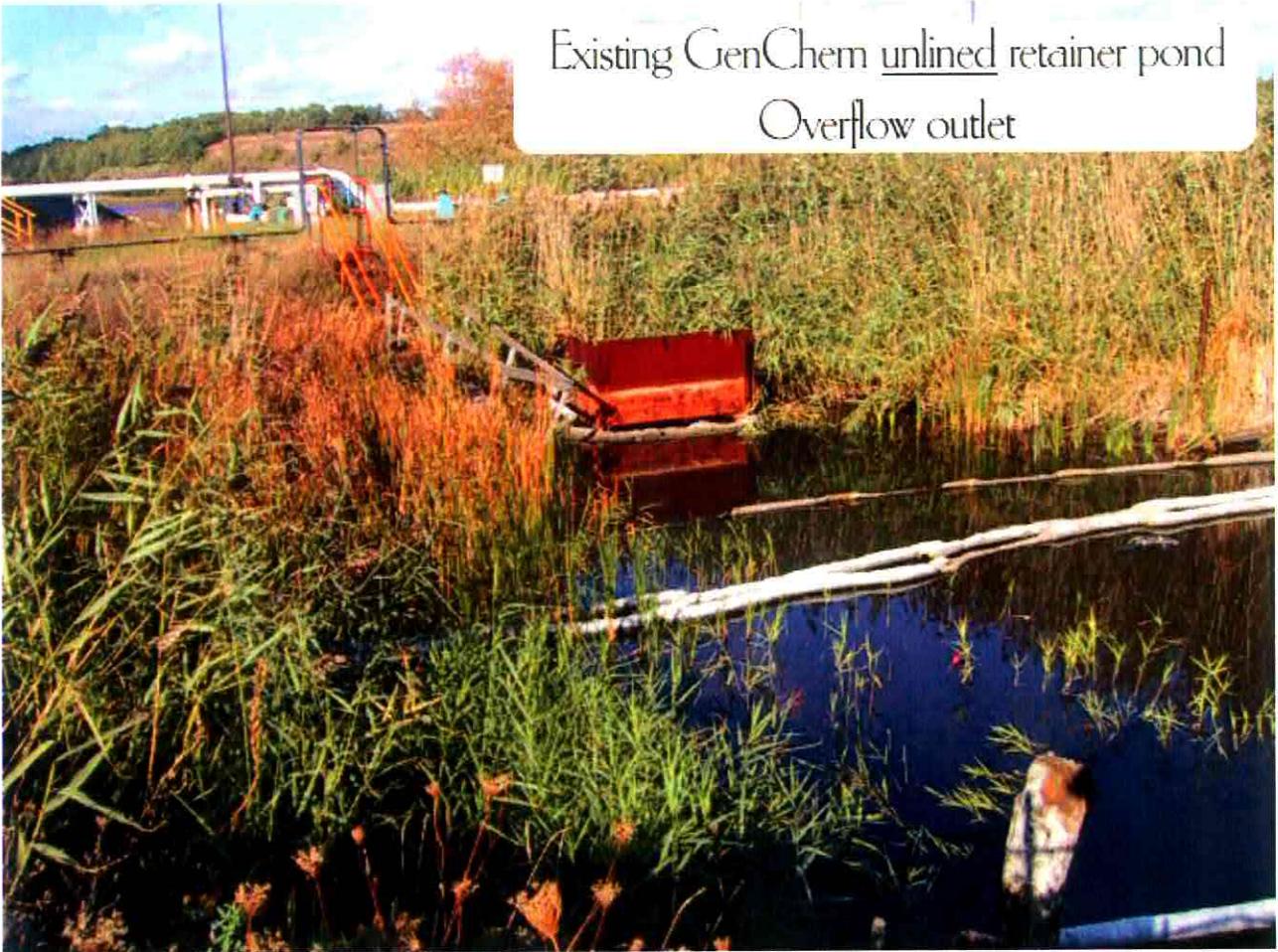


GenChem coal yard after rainfall
with water ponding



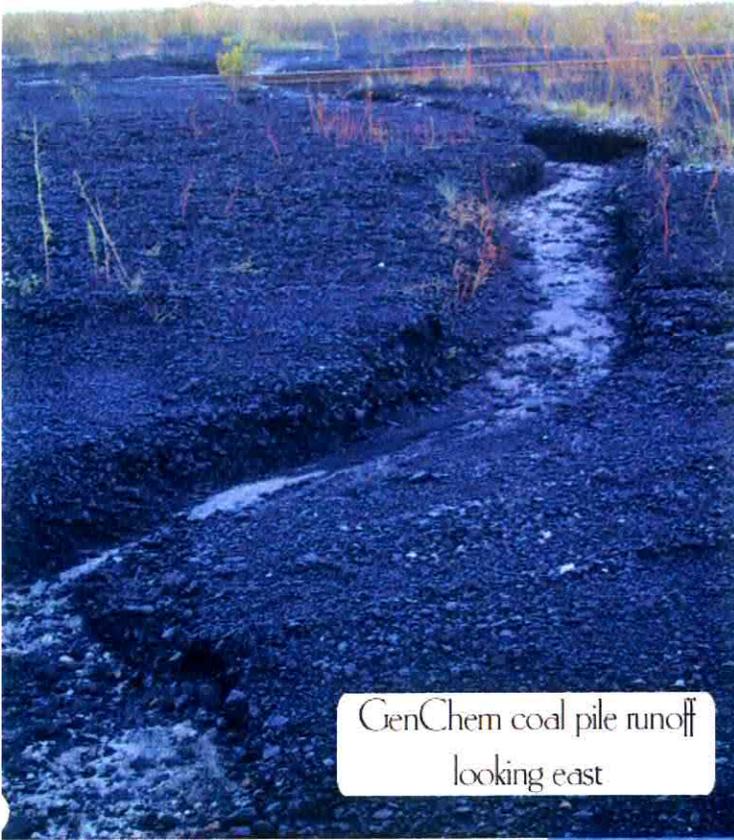
Uncompacted coal pile showing runoff

Existing GenChem unlined retainer pond
Overflow outlet



Unlined retainer pond

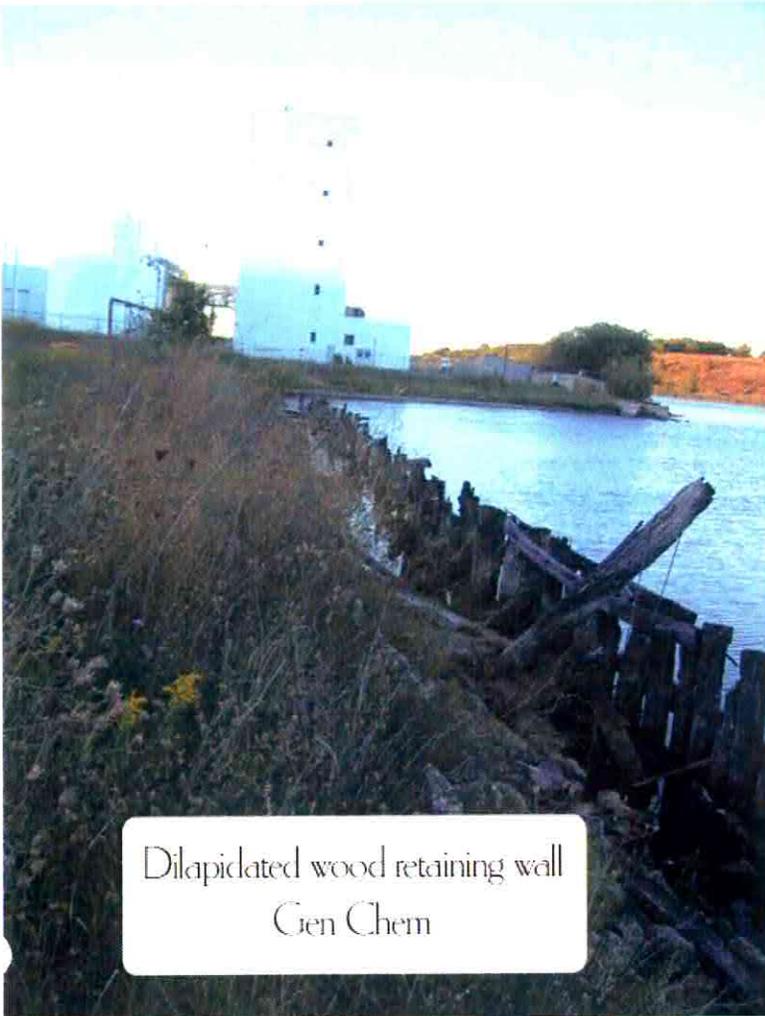




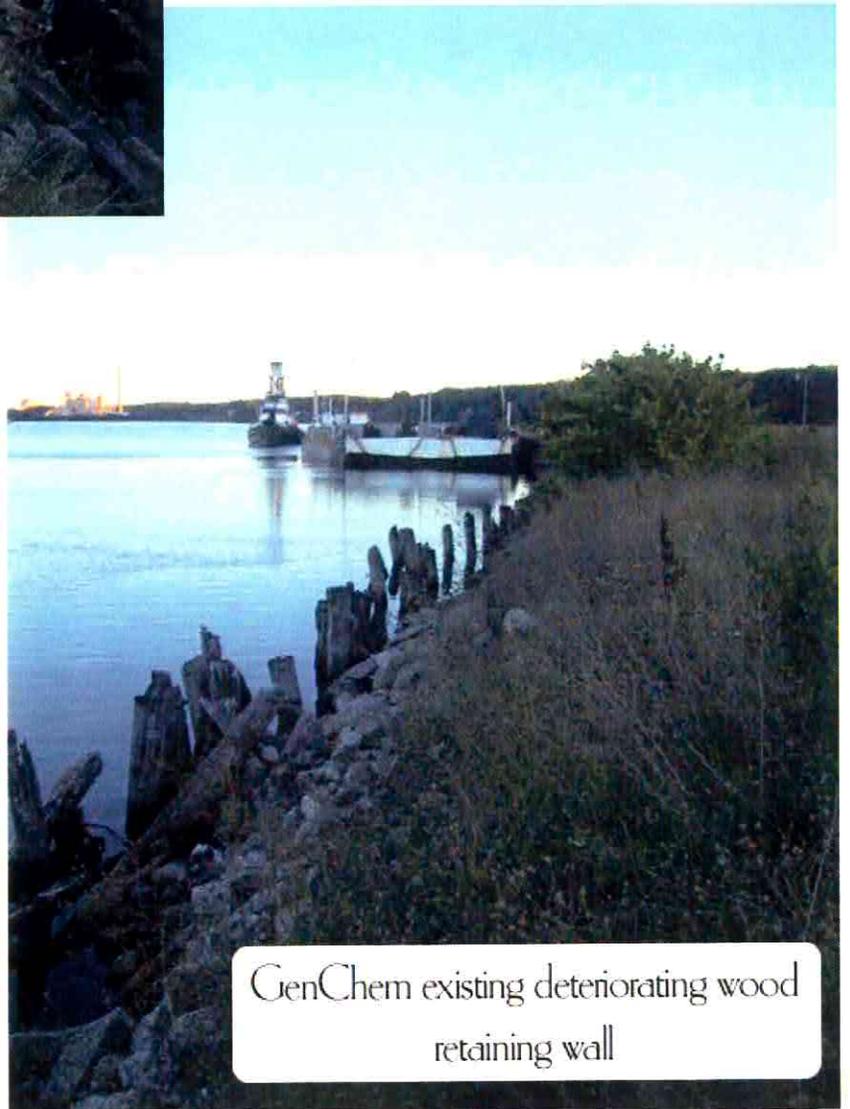
GenChem coal pile runoff
looking east



Another location of GenChem's coal
pile runoff



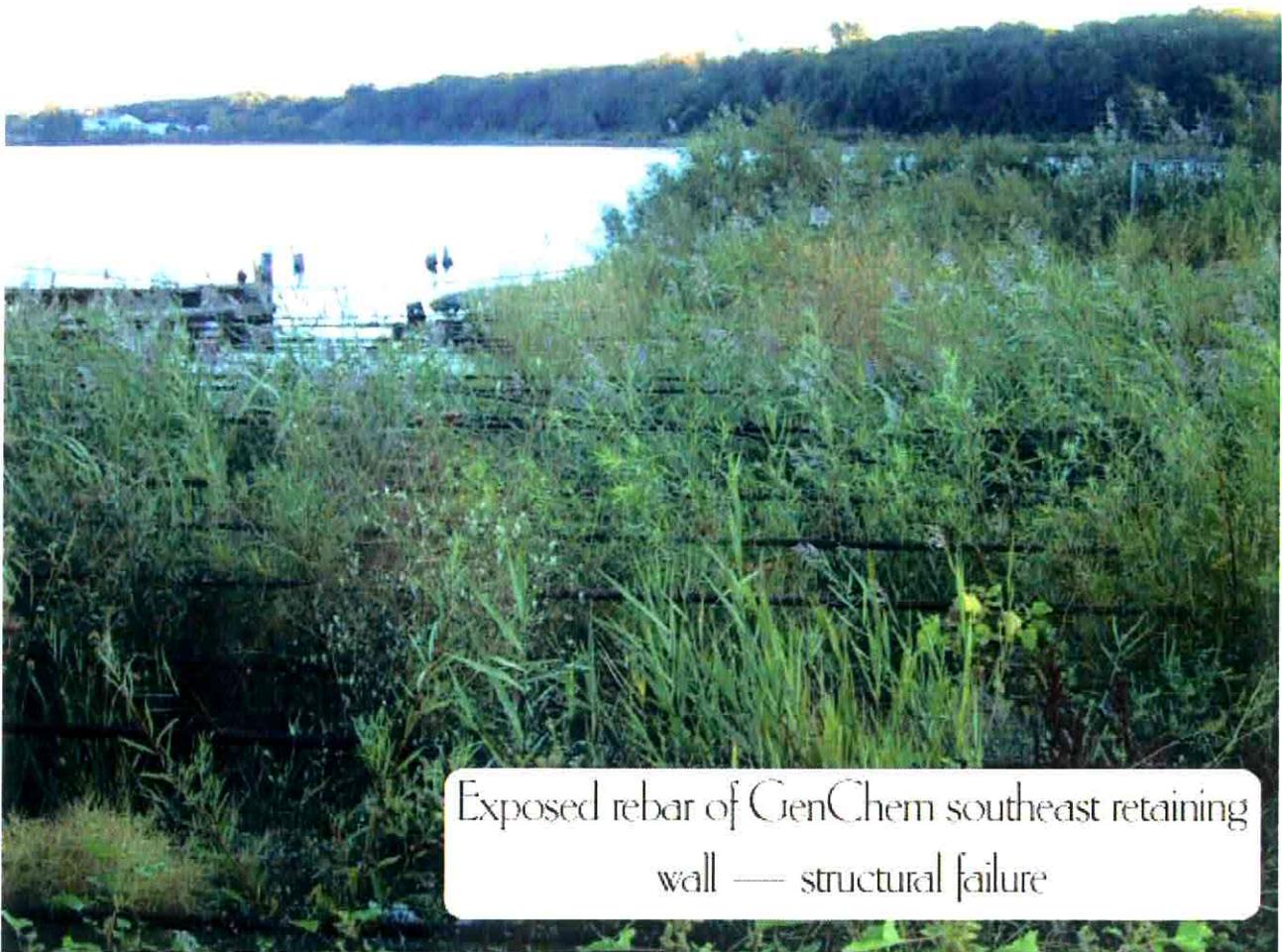
Dilapidated wood retaining wall
Gen Chem



GenChem existing deteriorating wood
retaining wall



GenChem coal pile runoff
looking east



Exposed rebar of GenChem southeast retaining
wall — structural failure

**Items forwarded to the
City of Manistee Planning Commission
March 31, 2004 (Hand Delivered)
Worksession relating to the
Manistee Saltworks Development Corporation**

Correspondence:

Gerard Grabowski, c/o Aurora Association, 10040 Alkire Road, Bear Lake
William P. "Bill" Dean, 282 Lighthouse Circle, Manistee
Shirley Skiera, 1307 24th Street, Manistee w/attachments
Postcard - Peggy Grommons (no address)
Catherine Eubanks, 1295 Greenwich Road, Manistee
Jack Grommons, MD, 17127 Fifth Street, P.O. Box 62, Arcadia
Wilfred Swiecki, Platte Lake Improvement Association, P.O. Box 272, Honor
Bruce Baker, 3376 S. Scottville Road, Scottville
Robert T. Hensel MD, Manistee
e-mail - Marc Gignac
Ed Cieslinski, 16527 E. 52 Mile Road, Tustin
Richard Shotwell, Pine River Association, P.O. Box 184, Tustin
Dennis Douglas, 10607 W. Cadillac Road, Cadillac
Dana Schindler, 2505 Merkey Road, Manistee
Sara Herberger, 409 Oak Street, Manistee
Ron Martin, 6789 Maple Road, Ludington
Madelyn Klusowski, 21 Cottage Lane, Manistee
Letter from William Rastetter (Olson, Bzdok & Howard) dated 3/25/04 and Response Letter from
Jon Rose to Mr. Rastetter dated 3/29/04
Copies of Post Cards in Support submitted by Meagan Kempf 3/31/04

Handouts:

Letter from Rodger Kershner, Howard & Howard to Bruce Gockerman dated 3/19/04
Letter from Jon Rose to Jim Tondou dated 3/26/04 RE: Extension
Fax from Roger Myers, Howard & Howard Attorneys RE: Extension
Fax from Roger Myers, Howard & Howard RE: Manistee Saltworks Development Corporation
Memo from Jon Rose dated 3/30/04 RE: Conference call with DEQ Lansing
Memo from Jon Rose dated 3/31/04 RE: Record
Memo from Jon Rose dated 3/31/04 RE: Extension

March 26, 2004

Letter to the Editor: *Attention Manistee City Planning Commission*

On October 9, 2003, Joe Tondou of Houston, Texas, introduced his Northern Lights Project (NLP) to the Manistee community. Attending this public relations event were key decision-makers from the Manistee City and County governments. Joe Tondou in his opening remarks stated: "There are two approaches we could have chosen. We could have tried to sneak around the public and get things done without people knowing. However, we wanted to be totally open about this." *Manistee News Advocate, October 10, 2003*

Certain events are worth noting as the Manistee City Planning Commission and City Council prepare to make decisions regarding the Tondou Corporation's proposal to build a 425 megawatt coal fired electrical plant in the City of Manistee.

First, Tondou Corporation representatives failed to reveal that tax-exempt municipal utilities were paying his corporation to develop the NLP.¹ Documents obtained through the Freedom of Information Act reveal that the Tondou Corporations' plan was to secure the necessary permits from Manistee, sell his plan to MPPA/MSCPA and then reveal that this facility was to be owned by tax-exempt municipalities. It was only through the suspicions of Manistee officials and citizens that this tax-evading plan was discovered.

Second, on February 19, 2004, Joe Tondou made the following statement during a public hearing regarding this issue: "Tondou Corporation has not entered into any contracts or agreements regarding the Northern Lights proposal." The following week, the Aurora Association submitted for the public record the nine-page Cooperative Agreement signed by Tondou Corporation, MPPA and MSCPA regarding their contractual obligations in developing the NLP.

Third, on March 13, 2004, the Tondou Corporation chose to violate the trust of confidential negotiations with the City of Manistee regarding a Community Service Fee. By releasing to the Manistee News Advocate an outline of the terms of these negotiations, the Tondou Corporation is attempting to unduly influence public opinion, the City Council and Planning Commission, as the City prepares for an upcoming referendum vote on a Waste Water Treatment expansion and its' deadline for issuing a decision on the NLP Special Use Permit.

Finally, the negotiations that Tondou is engaged in with the City of Manistee on behalf of MPPA/MSCPA is an attempt by a privately-owned corporation to use publicly-owned power agencies as proxy owners to avoid legally mandated corporate taxes. In particular, an MPPA official has repeatedly told the Aurora Association that Tondou cannot negotiate any Community Services Fee on MPPA's behalf. The Tondou Corporation is seeking an arrangement where the MPPA & MSCPA would own the electrical facility but Tondou would retain 40% of the NLP output. The Tondou Corporation is attempting to avoid nearly \$10 million of annual tax obligations through this legally questionable arrangement.

A project with such far-reaching economic and environmental implications requires a relationship based on mutual trust. The Tondou Corporation has not been forth-coming about their intentions and has violated the trust of Manistee.

Respectfully,

Gerard Grabowski 231-864-2203

Gerard Grabowski
C/O Aurora Association
10040 Alkire Road
Bear Lake, MI 49614



¹ Michigan Public Power Agency (MPPA) and the Michigan South Central Power Agency (MSCPA)

Friday 26 March 2004

The attached letter, which I wrote to the editor, was published in the Manistee News Advocate Monday 22 March 2004.

The letter is my response to remarks made by Mr. Jim Tondu to students in the Kennedy Elementary School in Manistee.



Wilson P. "Bill" Dean

Retired Toxicologist

Graduate degree (MS) Environmental and Occupational Toxicology.

Emeritus member of The American College of Toxicology

Retired/Full member of the Society of Toxicology

Former County Coordinator of Emergency Preparedness (Michigan)

Over 40 years experience in industry evaluating the safety (toxicology) of pharmaceuticals and chemicals (the last 40 years in consulting and contract toxicology services to industry).



During a recent visit to the Kennedy Elementary School during which he discussed the proposed Northern Lights Plant, Jim Tondou told students "its not going to harm you and its not going to hurt you and its as simple as that". A recent letter to the editor, supporting the project urged the community "to get the facts".

Lets examine "the facts" as applicable to Mr. Tondou's comment to the students.

In 1997 the EPA documented the fact that coal fueled generation plants are the largest source of mercury air pollution in the U.S. Emissions from these plants (such as the Filer City facility) includes elemental mercury. Following a period of months or years the elemental mercury returns to the earths water and wetlands where it is transformed to very toxic methyl mercury. Methyl mercury enters the food chain eventually reaching predator fish, birds, wildlife and man.

The Centers for Disease Control (the nations source of expertise for health and quality of life issues) estimates that 4.9 million women of child bearing age in the U.S. have unsafe levels of mercury in their blood. The unsafe mercury levels result in an estimated 630,000 babies born each year with brain damage which results in neurological deficits and prevents some children from reaching their full intellectual potential.

The mercury causes brain damage in the infant by crossing the placental barrier. The amniotic fluid surrounding the infant will have mercury levels similar to or greater than the mothers blood level. The infant is literally swimming in the mercury that the mother has been exposed to and in fact the fetus may be exposed to higher levels of mercury because the developing infant acts as a storage site for maternal mercury.

The facts are that mercury is a potent toxicant and global environmental pollutant as evidenced in recent studies involving the Common Loon. Loon numbers, according to a National Geographic study, have been decreasing for 30 years. When researchers began to investigate the reason behind the decreased Loon populations they discovered high levels of mercury in the birds blood and feathers. High levels of mercury in birds result in neurological damage to the developing embryos and a weakened immune system making them susceptible to disease.

It is a fact that mercury is harmful to developing fetuses in both human and wildlife populations. The children at Kennedy Elementary need to hear "the facts" regarding human safety and the effects of mercury in the environment.

Studies of mercury have resulted in significant toxicological findings. These findings clearly show that mercury released in the emissions from coal fueled generation plants is extremely harmful to reproduction in human and wildlife populations.

Human health and environmental considerations shape decisions regarding our communities direction. It is unfortunate that sound scientific determinations (risk assessment) is modified by political and economic concerns and the resultant risk management decisions. With regard to coal fueled generation plants, the political and

economic issues are apparently more important to federal and state governments than are the considerations of human and environmental health and welfare. The proposal to roll back the requirements of The Clean Air Act, rolls back the requirement to reduce mercury emissions by 90%.

In a recent letter Tondou stated that all plant emissions will meet federal and state requirements. These requirements are inadequate and do not protect human and wildlife populations or the environment.

Kennedy students, Mr. Tondou was incorrect when he stated that this issue "is as simple as that". This issue is, in fact, a very complex issue that involves many considerations which ultimately effect the quality of life for humans, other living beings and the environment.

It is important that the citizens of Manistee "get the facts" and recognize the effects that the Northern Lights Project will have on our community, mankind and our environment.

It is time for the local citizenry and local government to develop sound public policy regarding Manistee's future and to ensure that these policies are enacted at the local level.

If there is NO coal fueled generation plant, there is NO exposure, there is NO risk or possibility of harm.

Bill Dean
282 Lighthouse Circle
Manistee
231-398-0704

Shirley Skiera
1307 24th Street
Manistee, MI 49660
(231) 723-9680

March 25, 2004

Dear Mr. Tondou,

Recently I had the opportunity to speak with you following the Casmen Academy Open House. Although we have opposing views on the proposed Northern Lights Project I felt our exchange of comments was both interesting and respectful of each another's ideas and feelings toward the project.

I was dismayed, even angered, when I read the paper on Saturday, March 13th regarding your visit to the fifth grade classroom at Kennedy School. The comment from you, in referencing the Northern Lights Project, that provoked these feelings were and I quote "It's not going to harm you and it's not going to hurt you and it is as simple as that." That simply is not true. At the Planning Commission Public Hearings there were an abundance of materials from many health organizations and many people who had done an incredible amount of research, including four physicians' that gave compelling evidence to the contrary. Mr. Sprague even offered his "minutes of talk time" for any medical evidence you could provide that would show that the emissions from the proposed plant would in fact be good for us.

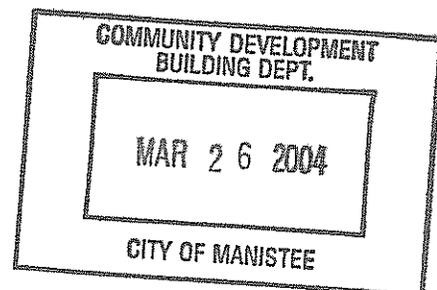
You continue to state that the emissions will be no more or less than the state and federal government permit, yet we all know that presently there are no controls for mercury emissions and that the other emissions will be more tightly controlled in the near future. It is hard to pick up a newspaper or magazine today that does not reference mercury & its affects on the entire food chain - none of it good. (There is an extremely interesting and timely article in the April edition of Field and Stream) It appears that there is a rush on your part to get this facility at least started prior to those controls becoming effective.

When I first read your statement to the students I considered responding with a Letter to the Editor and/or to the Planning Commission, however upon reflection decided to direct my concerns to you personally with copies to them. I am enclosing a copy of a Letter to the Editor from Bill Dean a retired toxicologist which speaks more directly to these health issues.

Sincerely,

Shirley Skiera


cc to: Manistee Planning Commission
Little River Tribe of Ottawa Indians



Manistee resident agrees we need to 'get the facts' in regards to Tondu plant

To the editor,

During a recent visit to the Kennedy Elementary School, during which he discussed the proposed Northern Lights plant, Jim Tondu told students "it's not going to harm you and it's not going to hurt you, and it's as simple as that." A recent letter to the editor, supporting the project, urged the community "to get the facts."

Let's examine "the facts" as applicable to Mr. Tondu's comment to the students.

In 1997, the EPA documented the fact that coal-fueled generation plants are the largest source of mercury air pollution in the U.S. emissions from these plants includes elemental mercury. Following a period of months or years, the elemental mercury returns to the earth's water and wetlands, where it is transformed into very toxic methyl mercury. Methyl mercury enters the food chain, eventually reaching predator fish, birds, wildlife, and man.

The Centers for Disease Control (the nation's source of expertise for health and quality of life issues) estimates that 4.9 million of child-bearing age in the U.S. have unsafe levels of mercury in their blood.

The unsafe mercury levels result in an estimated 630,000 babies born each year with brain damage, which results in neurological deficits and prevents some children from reaching their full intellectual potential.

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ming in the mercury that the mother has been exposed to and in fact, the fetus may be exposed to higher levels of mercury because the developing infant acts as a storage site for maternal mercury.

The facts are that mercury is a potent toxicant and global environmental pollutant as evidenced in recent studies involving the common loon. Loon numbers, according to a National Geographic study, have been decreasing for 30 years. When researchers began to investigate the reason behind the decreased loon populations, they discovered high levels of mercury in the birds' blood and feathers.

High levels of mercury in birds result in neurological damage to the developing embryos and a weakened immune system, making them susceptible to disease.

It is a fact that mercury is harmful to developing fetuses in both human and wildlife populations. The children at Kennedy Elementary need to hear "the facts" regarding human safety and the effects of mercury in the environment.

Studies of mercury have resulted in significant toxicological findings. These findings clearly show that mercury released into the emissions from the coal-fueled generation plant is extremely harmful to reproduction in humans and wildlife populations.

Human health and environmental considerations shape decisions regarding our communities' direction.

It is unfortunate that sound scientific determinations (risk assessment) is modified by political and economic concerns and the resultant risk management decisions.

With regard to coal-fueled generation plants, the political and economic issues are apparently more important to federal and state governments than are the considerations of human

and environmental health and welfare.

The proposal to roll back the requirements of the Clean Air Act, rolls back the requirement to reduce mercury emissions by 90 percent.

In a recent letter, Tondu stated that all plant emissions will meet federal and state requirements. These requirements are inadequate and do not protect human and wildlife populations or the environment.

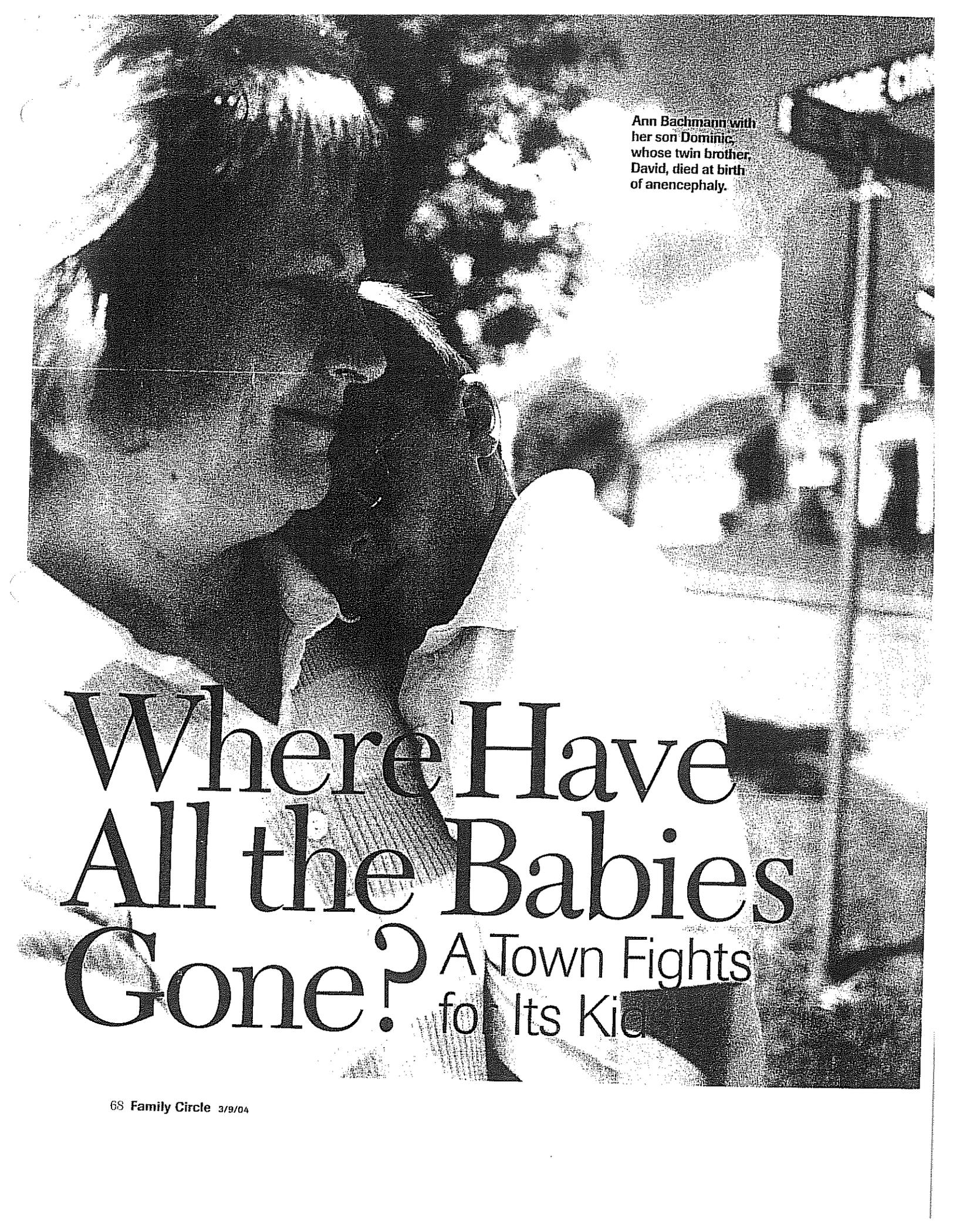
Kennedy students, Mr. Tondu was incorrect when he stated that this issue "is as simple as that." This issue is, in fact, a very complex issue that involves many considerations which ultimately affect the quality of life for humans, other living beings and the environment.

It is important that the citizens of Manistee "get the facts," and recognize the effects that the Northern Lights Project will have on our community, mankind and our environment.

It is time for the local citizenry and local government to develop sound public policy regarding Manistee's future and to ensure that these policies are enacted at the local level.

If there is no coal-fueled generation plant, there is no exposure, there is no risk or possibility of harm.

Bill Dean, Manistee



Ann Bachmann with her son Dominic, whose twin brother, David, died at birth of anencephaly.

Where Have All the Babies Gone?

A Town Fights for Its Kids

Uncommon Courage

By Jeannette Batz Cooperman, Ph.D.

Moving like sleepwalkers, the parents follow the small casket down the aisle and out the doors of Immaculate Conception Catholic Church of Dardenne Prairie, Missouri. They motion to Father Gerry Kleba to go to the cemetery without them; they have to get back to the hospital, where their other newborn struggles to breathe in her ICU tent. Father Kleba nods, but wonders how these parents can grieve the loss of their baby girl while hovering, sick with worry, over her twin.

The voice of a clear alto cuts into his thoughts. "Be not afraid," Ann Bachmann sings, and Father Kleba picks up the refrain. They bury the baby girl next to Shannon E. Breen, born that May and dead by June 23, and the Craig baby, whose gravestone bears no life span at all. Three other babies from the parish died in the past year. Two rows back stands the older gravestone of Ann's baby boy, David Lael Bachmann, buried in 1998 after only 16 hours of life.

At least the church has a proper pall now, one that fits a child's casket. Before they just used a tablecloth. But then again, they never had to bury so many infants in a single year.

It has been over three years since that baby girl's funeral. But like people in select communities across America who believe their town is experiencing a disease cluster (see map, page 74), some folks here wonder why their loved ones are getting sick.

On this particular Saturday, Father Kleba softly enters a hospital room, bends his 6'5" frame and folds a mother into his arms. She and her husband thought their little boy had a mild, survivable form of leukemia; they hadn't braced themselves for him to die.

As he tries to console her, he is flooded with images of other parishioners who have experienced this kind of pain, including this family's next-door neighbors, who lost an infant nine months earlier. He thinks, too, about Ann Bachmann. At least 10 babies have died since hers, and her singing has accompanied many of their funerals. But Ann's grief has also led her to research the links between cancers, brain diseases and the toxins that once polluted this area.

In the spring of 2000 Father Kleba came here as senior associate pastor. What he found shocked him. "This parish has more sick and dying children than I have ever experienced in my thirty-five years as a priest," he told the church's social-concerns committee.

The committee answered with stories of nearby Dardenne Creek running red with TNT from the Weldon Spring Ordnance Works. The largest explosives manufacturer in

America during World War II, this factory crystallized 35 million pounds of TNT a month back then. Older parishioners described thick yellow smoke that burned their eyes when the Atomic Energy Commission took over Weldon Spring to purify uranium for the arms buildup of the Cold War. One woman remembered her aunt brushing away incinerator ash from diapers hanging on the clothesline. The baby who wore those diapers, she added, was diagnosed with cancer in her 30s.

Everybody felt there was more cancer here—and more miscarriages, birth defects, neurological problems. They spoke of how, before the government's nearly \$1 billion cleanup began in the 1980s, kids used to joke that they'd glow if they drank from the water fountains at Francis Howell High School, a quarter mile north of the plant.

Father Kleba gave his first eulogy for an infant in the parish that July. Some weeks later, while he was shaking a sea of hands after Mass, parishioner Chris McNamara asked him, "Can we talk for a while?" Chris described an oily red sheen

and fungus that often coated the creek behind her house, built just nine years before on farmland near the Weldon Spring site. Heidi, their dog, used to splash in that creek until she died of a rare intestinal cancer. Her kids played in the creek too. She had three healthy children when the family moved here. Then her youngest started breaking out in odd rashes. Chris experienced her first miscarriage, then four more. She lost an infant to sudden infant death syndrome. The two babies born here who lived had



"You try to open people's eyes. I just wish this was the only place contaminated like this."

— Father Gerry Kleba

Jeannette Batz Cooperman, Ph.D., is an award-winning author who first reported on this story for the St. Louis weekly "The Riverfront Times."

The Anatomy of a Cancer Cluster

Dan Wartenberg, Ph.D., epidemiologist at the Cancer Institute of New Jersey, has been researching clusters for almost 20 years. A cluster is an unusual number of health problems (e.g., reports of cancer) found within a group of people, a geographic area or period of time. Some clusters are demographic, such as diseases affecting children of a certain age; some are pharmaceutical—everyone took a certain drug; or occupational, caused by workplace exposure to a particular toxin. The trickiest of all are environmental. “Typically researchers don’t have the centralized medical records and

exposures are at a lower level so they are harder to detect.” It’s usually worried citizens who first identify an environmental cluster.

If you think a cluster may be in your community: Gather as much information as you can—what is the disease, how many cases are there, affecting what age group, in what locations, with what possible causes. Be careful of the “Texas sharpshooter” approach—shooting at the barn, then drawing a target circle around the bullet hole. Map the cases logically; be sure to look for a common denominator: How many people live in the area? What is

the expected rate for this illness? Is there a reason to suspect the environment? If you’re still concerned, contact the Centers for Disease Control and Prevention online (www.cdc.gov) or your state health department. Many experts believe true clusters are rare, but Dr. Wartenberg says there’s little reason to dismiss them so readily. Only now are epidemiologists beginning to collect the kind of information necessary to evaluate clusters accurately, thanks to geographic information systems that map and code cases, new efforts to gather data systematically and more sophisticated tests.

Uncommon Courage Continued from page 69

mysterious illnesses: rashes, swollen lymph glands, fevers of unknown origin. She had recently grown suspicious after reading about the environmental causes of some neurological problems. (The McNamaras have since moved.)

The next time Father Kleba met with the committee, they decided to investigate the infant deaths and to start by touring the Weldon Spring site. It was August when they stood at the base of the 45-acre pile of rock. Under layers of clay lay more than 7,044 curies of decaying radioactive waste. The group drove up to the flat top, nearly 75 feet high.

The pollution here had begun in 1941, when the United States Army claimed more than 17,000 acres of St. Charles County to build an explosives plant. While Army corpsmen recrystallized TNT and another explosive, DNT, here, Arthur Holly Compton, Ph.D., a Nobel-laureate physicist at nearby Washington University in St. Louis, was coaxing chemist Edward Mallinckrodt Jr. to find a quick way to refine uranium. To test the chain reaction that could build an atomic pile and win the war, they would need more than 40 tons. By 1942 Mallinckrodt’s St. Louis facility was knee-deep in the highest grade of uranium in the world. Enough was purified to prove the chain reaction, bomb Hiroshima and Nagasaki, and produce nuclear weapons into the 1950s. The radioactive waste or “tailings” from this process eventually wound up at Weldon Spring, and in 1957 the AEC moved the entire operation there. A decade later they shut it down.

In the 1980s, in a blur of Superfund momentum and public pressure, the Department of Energy and the U.S. Army Corps of Engineers agreed to share in the cleanup. As a result, part of the 17,000 poisoned acres became the August A. Busch Memorial Wildlife Area; part was still an Army training site; and the rest was parceled out to the state and to Francis Howell High School.

The DOE arrived first, in 1986, followed by the USACE. Crews encased in protective bodysuits and masks found chemical and radioactive waste riddling the nine-acre rock quarry and four lagoons. “Hot dirt” was scattered throughout; toxins laced the groundwater. The site had absorbed two decades’ worth of its own toxic waste, plus 5,000 truckloads of radioactive waste, rubble and soil from the St.

Louis facility; several thousand barrels of low-level radioactive waste from the Army’s Granite City, Mississippi, arsenal; and hundreds of drums of thorium-230 from a uranium plant outside Cincinnati.

Crews found more than 7,000 curies of radioactivity in total, from uranium plus all its spun-off “daughters”—including radium, thorium and others. Thorium-230 has a half-life of 80,000 years (it takes 80,000 years for half of the material to disintegrate). The site held about 3,800 curies of it. A large medical-research university might use 2 curies total, dividing it among more than 1,000 labs and handling it gingerly, with elaborate safety protocols.

The soil held a large amount of nonradioactive toxins, too: polychlorinated biphenyls (known as PCBs), TNT residues and excesses of arsenic, chromium, lead and more. The water held nitrates, TNT, DNT, uranium, radium, thorium and trichloroethylene (TCE). In 2001 a DOE report confirmed that plutonium had been handled there also. As little as one millionth of an ounce of plutonium can cause cancer.

The DOE removed more than 6,000 drums of contaminants and scraped hot dirt out of deep crags in the quarry. They treated more than 276 million gallons of contaminated water, and released it into the Missouri River. Then they built a cell to hold everything too dangerous to dispose of any other way.

The DOE spent hours answering the parishioners’ questions. Project manager Pamela Thompson gave tours patiently, hoping if people saw the slides often enough, they’d stop worrying. The committee drove home in silence.

Ann Bachmann has shared with Father Kleba the photo of her newborn twins: David wears a baby bonnet that hides the missing top of his head. She has also shared her concerns: “We moved here in 1992 to a brand-new house built on farmland, a couple miles from the Weldon Spring site,” she says. “I didn’t know what had happened there. We always used to run and bike on the Katy Trail.” That trail cuts right behind the site, a quarter mile from the quarry.

In 1993, at 33, she became pregnant with her fourth child. Her first pregnancy in Weldon Spring, she had to go on bed rest. In 1995 she had thyroid tumors. In 1998 she was pregnant with twins and learned one had anencephaly, a rare birth defect. At the same time her 15-year-old developed kid-

Could Your Town Be Toxic?

Red dots indicate communities where official federal or state investigations have been held or local health concerns are documented in major news outlets, according to the nonprofit Trust for America's Health, <http://healthyamericans.org/state/clusters>. For more information about disease clusters, visit www.niehs.nih.gov and <http://cancer.gov>. For cancer registry, visit <http://www.cdc.gov/cancer/npcr/statecon.htm#list>.

Region 1:

Fairfield Center, ME
Farmington, NH
Plainfield, VT
North Haven, CT
Hamden, CT
Saugus, MA
South Boston, MA
Weymouth, MA
Cape Cod, MA
Scituate, MA
Middleboro, MA
South Kingston, RI

Region 2:

Long Island, NY
Staten Island, NY
Buffalo, NY
Tonawanda, NY
Elmira, NY
Hillcrest, NY
Brick Township, NJ
Toms River, NJ
Vieques,
Puerto Rico

Region 3:

King of Prussia, PA
Worman, PA
Evans City, PA
Throop, PA
Dublin, PA
Chesterfield, VA
Northeast
Washington, DC

Region 4:

Camp Lejeune, NC
Horry County, SC
Charleston, SC
Port St. Lucie, FL
Escambia and
Santa Rosa
Counties, FL
Jackson County, MS
Vermilion & Lafay-
ette Parishes, LA
Mossville, LA
Paducah, KY
Oak Ridge, TN
Anniston, AL

Region 5:

Naperville, IL
DuPage County, IL
Chicago, IL
Taylorville, IL
Christian County,
IL
Minneapolis, MN
Milwaukee, WI
Hammond, IN
Great Lakes, MI
Marion, OH
Wellington, OH
Lorain County, OH

Region 6:

San Antonio, TX
Prairie Grove, AR
Sierra Vista, AR
Maryville, AR
Bartlesville, OK
Organ, NM
San Jose, NM
Reno, NV
Fallon, NV

Region 7:

Herculaneum, MO
Sugar Creek, MO
Middletown, IA

Region 8:

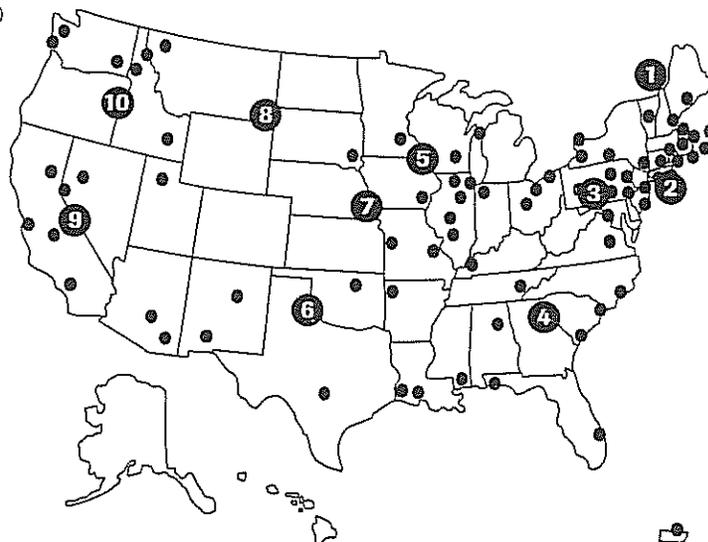
South Weber, UT
Libby, MT
Sioux Falls, SD

Region 9:

Simi Valley, CA
Concord, CA
Daly City, CA
Lassen County,
CA

Region 10:

Nez Perce Cty, ID
Silver Valley, ID
Moreland, ID
Shoalwater Bay
Indian Res., WA
Port Angeles, WA
Hanford, WA



This map was produced by the Trust for America's Health:
<http://healthyamericans.org/state/clusters>

Uncommon Courage

Continued from page 71
ney problems, then her 6-year-old started running high fevers. "They diagnosed him with 'periodic fever syndrome' and said it could be environmentally caused," she recalls.

When Ann researched anencephaly on the Internet, she found several moms who suspected thorium as a cause. She joined a support group, the Center for Loss in Multiple Birth. Months later the president of the group called. They were curious as to how long her street was. The group had three members on that street, all of whom had lost babies.

Her street, Ann said, is only five blocks long.

Ann is repeating this exchange at a café near the church, when the owner comes over to say hello. They share a bond: His baby girl died in 1991 as the result of a neurological degradation the doctors couldn't pinpoint. "Weren't you living near the Weldon Spring site then?" she asks. "Right behind it," he says, drawing no connection.

By now, Bachmann has drawn lots of connections, annotating the list of Weldon Spring contaminants with the latest in medical research. Virtually every contaminant listed is a known carcinogen. And the radioactivity means that for thousands of years these ores will be spinning off atoms, reflecting energy that, if it escapes, could penetrate and damage cells, killing them or disordering their logic so they mutate and reproduce unnaturally. Fetuses in utero, infants and children are particularly at risk.

TCE is suspected of having toxic effects on neurological and reproductive systems. The PCBs and heavy metals could cause developmental, cognitive and immune prob-

lems. And children, with their still-wobbly immune systems and rapidly dividing cells, are 10 times more vulnerable than adults. According to a recent EPA study, exposure to carcinogens early in life can dramatically increase an individual's risk of contracting cancer later on.

Public officials dismissed the parishioners' concerns, saying there were no "exposure pathways" by which the contaminants could reach the residents. The site had been fenced since 1986, with 24-hour guards. The groundwater was contained, and the sludge was buried in the cell. The amount of toxic material that had blown away or bubbled up in area springs was negligible. They believe the deaths are due to chance.

In October 2000 another infant died. On November 1 Father Kleba said the funeral Mass of a young parishioner, Justin Jacobs, dead of leukemia just two weeks shy of seven. Then he called the Missouri Coalition for the Environment and asked for more information for his congregation. They steered him to Kay Drey, whose files on nuclear waste are in a special collection at the University of Missouri library.

Drey, known as Weldon Spring's Joan of Arc, has crusaded for a cleanup since 1979. She is convinced that the DOE, the Army and the Missouri Department of Natural Resources have done their human best. What haunts her is the possibility that in a place like Weldon Spring, it might not be good enough.

Drey gave Father Kleba the history of the site, describing how workers had dumped toxins in the fissured lime-

PATIENT INFORMATION ABOUT

Protopic[®] (tacrolimus) Ointment

Read this important information before you start using PROTOPIC (pro-TOP-ik) Ointment and each time you refill your prescription. There may be new information. This summary is not meant to take the place of your doctor's advice.

What Is PROTOPIC?

PROTOPIC Ointment is a prescription medicine that is used to treat eczema (atopic dermatitis). It is for adults and children age 2 years and older. You can use PROTOPIC for short or intermittent long periods of treatment. Intermittent means starting and stopping repeatedly, as directed by your doctor. You can use it on all affected areas of your skin, including your face and neck.

Who should not use PROTOPIC?

Do not use PROTOPIC if you are

- breastfeeding
- allergic to PROTOPIC Ointment or any of its ingredients. The active ingredient is tacrolimus. Ask your doctor or pharmacist about the inactive ingredients.

Before you start using PROTOPIC, tell your doctor if you are:

- using any other prescription medicines, non-prescription (over-the-counter) medicines, or supplements
- receiving any form of light therapy (phototherapy, UVA or UVB) on your skin
- using any other type of skin product
- pregnant or planning to become pregnant

How Do I Use PROTOPIC?

Use PROTOPIC only to treat eczema that has been diagnosed by a doctor.

- Wash your hands before using PROTOPIC.
- Apply a thin layer of PROTOPIC to all skin areas that your doctor has diagnosed as eczema. Try to cover the affected areas completely. Most people find that a pea-sized amount squeezed from the tube covers an area about the size of a two-inch circle (approximately the size of a silver dollar).
- Apply the ointment twice a day, about 12 hours apart.
- Before applying PROTOPIC Ointment after a bath or shower, be sure your skin is completely dry.
- Do not cover the skin being treated with bandages, dressings or wraps. Unless otherwise instructed by your doctor, do not apply another type of skin product on top of PROTOPIC Ointment. However, you can wear normal clothing.
- Do not bathe, shower or swim right after applying PROTOPIC. This could wash off the ointment.
- If you are a caregiver applying PROTOPIC Ointment to a patient, or if you are a patient who is not treating your hands, wash your

hands thoroughly with soap and water after applying PROTOPIC. This should remove any ointment left on the hands.

- Use PROTOPIC only on your skin. Do not swallow PROTOPIC.

Because 2 strengths of PROTOPIC are available for adult patients, your doctor will decide what strength of PROTOPIC Ointment is best for you.

Many people notice that their skin starts to improve after the first few weeks of treatment. Even though your skin looks and feels better, it is important to keep using PROTOPIC as instructed by your doctor.

If you do not notice an improvement in your eczema or if your eczema gets worse within the first few weeks of treatment, tell your doctor.

What Should I Avoid While Using PROTOPIC?

- Avoid sunlight and sun lamps, tanning beds, and treatment with UVA or UVB light. If you need to be outdoors after applying PROTOPIC, wear loose fitting clothing that protects the treated area from the sun. In addition, ask your doctor what other type of protection from the sun you should use.
- Check with your doctor or pharmacist before you
 - start taking any new medicines while using PROTOPIC.
 - Start using any other ointment, lotions, or creams on your skin.

What Are The Possible Side Effects of PROTOPIC?

The most common side effects of PROTOPIC are stinging, soreness, a burning feeling, or itching of the skin treated with PROTOPIC. These side effects are usually mild to moderate, are most common during the first few days of treatment, and typically lessen if your skin heals.

Less common side effects include acne, swollen or infected hair follicles, headache, increased sensitivity of the skin to hot or cold temperatures, or flu-like symptoms (common cold and congestion (stuffy nose)). Some people may get skin tingling, upset stomach, herpes zoster (chicken pox or shingles), or muscle pain. While you are using PROTOPIC, drinking alcohol may cause the skin or face to become flushed or red and feel hot. Call your doctor if side effects continue or become a problem.

How Should I Store PROTOPIC?

Store PROTOPIC at room temperature (59° to 86°F). For instance, never leave PROTOPIC in your car in cold or hot weather. Make sure the cap on the tube is tightly closed. Keep PROTOPIC out of the reach of children.

General Advice about Prescription Medicines

Do not use PROTOPIC for a condition for which it was not prescribed. If you have any concerns about PROTOPIC, ask your doctor. Your doctor or pharmacist can give you information about PROTOPIC that was written for health care professionals. For more information, you can also visit the Fujisawa Internet site at www.fujisawa.com or call the PROTOPIC Help Line at 1-800-727-7003.

Fujisawa Healthcare, Inc.
Deerfield, IL 60015
www.fujisawa.com

45670
Issued: December 2000

► Uncommon Courage Continued from page 74

stone quarry, then hacked out rock to build roads. They poured chemicals into lagoons and burned buildings soaked in explosives, releasing toxins into the air. They pumped radioactive quarry water into the local creek, used for recreational fishing, and filled unlined pits with toxic sludge. They vented uranium dust with simple bag filters.

All that ended when government workers returned in space suits and "contained" the site. But among several accidents, Drey recalls "the day cleanup workers lost a piece of radioactive pipeline and couldn't figure out whether they'd incinerated it." She doesn't trust the government's tests, either. "Air sampling has been difficult," she says. Radionuclides can whiz by in minuscule amounts and still do damage once inhaled. "Testing," adds Drey, "is tricky." So is mapping groundwater as it filters through porous limestone. Drey also doesn't trust a 75-foot-high disposal cell sited on that limestone in a rapidly growing residential area.

In January 2001, at a heavily attended meeting, Missouri Department of Health officials assured the community that studies revealed no link between the site and area health problems.

Up rose Ann: "No one has asked for my baby's medical records," she said pointedly.

Gil Copley, director of community health and environment, passed out charts showing that this part of St. Charles County had reassuringly normal birth stats and lower infant in-utero death rates than the state average.

Dan McKeel, M.D., a Washington University School of Medicine pathologist, muttered to himself that this was a wealthy area so you'd expect health to be markedly better.

"We baptized 164 children and buried 7," said Ann. That's a 4 percent mortality rate; Missouri's rate is 0.7 percent.

Copley said the state would look into these deaths.

"It's very hard to prove clustering," says William Suk, director, Center for Risk and Integrated Sciences at the National Institute for Environmental Health Sciences. "It's only when you start adding everything together—different cancers, reproductive problems, learning disabilities—which is usually not done in epidemiology, that you get a different picture."

Weldon Spring is an area with a complex history of multiple contaminants. Individual exposures could have been low, but subtle effects can accumulate over time ("body burden," it's called). Yet public-health officials still reach for the medical model, striving to link a specific agent to a specific disease. They're looking for a smoking gun and big fat bullet holes—but toxic chemicals spray shotgun pellets.

As for statistics, they're the bluntest weapon of all. "The tools we use to look at these things are incredibly insensitive," notes David Ozonoff, M.D., chair emeritus of environmental health in the Boston University School of Public Health. "My definition of a public-health catastrophe is a health effect so powerful, even an epidemiological study can detect it."

By February 2002 some of Father Kleba's own parishioners were starting to back off. "It's not right to scare young couples buying their dream house," said one woman. Even Bob Hoing, one of the parish's old stalwarts, hinted that Father Kleba was heading down a foolish path. "Just a quirk of nature," he called the deaths and leukemia spurts.

Father Kleba listened, but couldn't forget that one of Hoing's own grandsons had had a rare brain cancer when he

was four, and the other one needed a pacemaker at three.

Statistically, the leading health problems for St. Charles County are cancers. So just how much exposure is needed to cause cancer?

"Nobody knows," says Dr. Ozonoff. "Generally we believe there is some risk at every level of exposure. Cancer starts with a single cell going bad. It doesn't take much chemical to do that."

What about the dangers of low-level radiation?

"Again," says Dr. Ozonoff, "they're hard to measure." Instead of killing cells outright, low-level radiation merely damages them, throwing cell reproduction askew.

The new frontier for environmental science is the interaction of various toxins, because in a stew like Weldon Spring, they can intensify each other's effects. In Toms River, New Jersey, another town experiencing a cluster, epidemiologists found that things had gotten mixed together, creating a type of styrene (a synthetic chemical used in making plastics, rubber and resins) so unusual there's nothing in the literature about it.

Meanwhile, Father Kleba pushed until the state agreed to issue questionnaires to the bereaved families in his congregation and monitor infant mortality in the area. But Dawn Garzon, a parishioner with a doctorate in nursing and an extensive background in pediatrics and epidemiology, found the state's methodology puzzling. The questionnaires asked nothing that touched on possible exposures to the Weldon Spring site. And the infant mortality rates were compared by census tract—which means they included some people near the site and excluded others, muddling any indication of a correlation.

When the state promised to continue monitoring via the death certificate data, Dawn pointed out that a death certificate

"is only as good as the person who fills it out. Let's say a baby is born with a genetic abnormality and dies because we can't respiration him fully, his lungs aren't developed. Only the primary cause shows up: respiratory failure. That death gets lost."

Nonetheless, in April 2002 Gil Copley announced that a new study showed area residents had no cause for alarm. Taken in context, the infant death rate was normal.

In the fall of 2002 the DOE finished its cleanup and departed. The social-concerns committee regrouped, too, to start a new direction. With Father Kleba assigned to another parish as of July 2003, nothing further has been done.

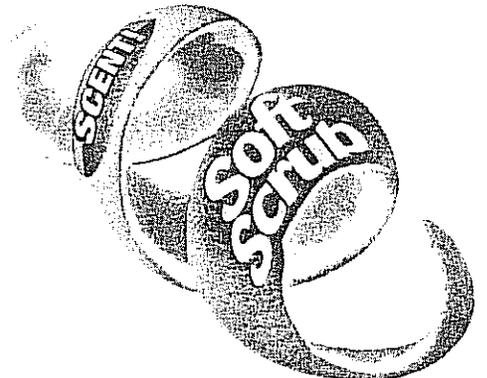
The site now boasts new picnic grounds, a hiking path to the top of the storage cell and an Interpretation Center. Dawn still goes to the meetings now held there. She's not sure the contaminants have migrated in any significant quantity off the site, and she's not sure they've caused any health problems. But she's not sure they haven't. She says Immaculate Conception is one of two local parishes to have a child's pall. Both churches are near Weldon Spring. "That says it all," she adds.

Ann Bachman no longer goes.

"I think it's going to get more hazardous as things decay," says Dr. McKeel with some frustration. "They are hoping everything stays stable and that the uranium plume doesn't migrate down into the well field."

As for Father Kleba, he says, "You try to open other people's eyes. The home builders certainly didn't want anybody to think anything was askew. I just wish the only place in the country contaminated like that was Weldon Spring. These places aren't going away for 25,000 years. They can impact our children's grandchildren's grandchildren." **FC**

Fresh !



3/26/61
To the Manistee Planning Commission:

I am opposed to the Northern Lights coal-fired power plant. I urge the Planning Commission to turn down the application for a Special Use Permit for the facility.

We don't need more Pollution,
dirty water and dirty air.

This would NOT help the People
of Manistee and the surrounding
area.

Peggy J. Gammess

28 March 2004

Dear Manistee Planning Commission:

Just say "No!" to Tondu's Northern Lights proposal. As a Manistee resident, I do not want our city to be the "...largest source of air emissions in the area." I do not want a coal-burning, electric generation plant that will add mercury and other noxious pollutants to our air and water. Benzie and Mason Counties, which have air-monitoring equipment, are labeled "non-attainment areas." It is only reasonable to assume that Manistee County would be too, if our air was monitored. This reason alone is sufficient to deny the Tondu proposal. There are other reasons, as many folks have described at the public hearings.

The Northern Lights proposal is not in compliance with the long-range plan for Manistee. The city has done an excellent job in recent years to attract visitors and new residents. This proposal will not only negatively impact tourism, it will result in lower property values. Who will want to move to a city with serious air and water quality problems? As responsible citizens, we should work to improve our environment, not destroy it. I recommend we work together to attract new businesses to our area that will not be harmful to citizens and the environment.

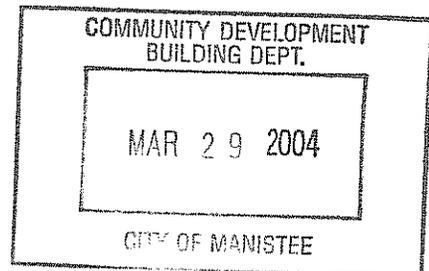
It takes courage to vote "No" in the face of the high-handed tactics used by Joe Tondu, but I urge you to find that courage. You will earn the gratitude and respect of many Manistee and northwestern Michigan residents if you do. Please, just say "No".

Sincerely,



Catherine Eubanks
1295 Greenwich Rd.
Manistee, MI 49660

cc: Manistee County Commissioners



Jack R. Grommons, M. D.
17127 Fifth Street, P.O. Box 62
Arcadia, MI 49613

March 26, 2004

City of Manistee Planning Commission
P. O. Box 358
Manistee, MI 49660

Gentlepersons:

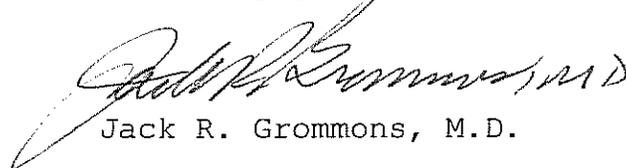
While I am not a resident of the City of Manistee, I am a resident of Manistee county and very interested in the preservation of the unique environment that this area has to offer. The vast number of people who choose this area for summer and retirement homes evidences the great appeal of our lakeshore and adjacent lands. During the past week I have learned that another large development of condominiums is progressing for an area between Onekama and Arcadia.

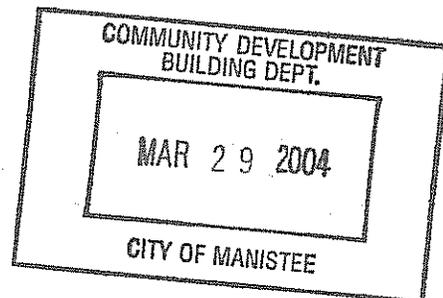
Therefore, I do not believe that a potential source of pollution and other environmental impact, as might be associated with a coal power generation plant is in the best long-term interest of the area.

I urge you to not approve the Special Use Permit for the Northern Lights coal fired power plant.

Thank you for your consideration.

Sincerely yours,


Jack R. Grommons, M.D.



PLATTE LAKE IMPROVEMENT ASSOCIATION
P.O. BOX 272
HONOR, MICHIGAN 49640-0272
March 26, 2004

MANISTEE CITY PLANNING COMMISSION
c/o JON ROSE
P.O. BOX 358
MANISTEE, MI 49660

Subject: Proposed 425 MW Coal fired Power plant.

Dear Manistee City Planning Commissioners:

The Platte Lake Improvement Association, the Lake Association representing Big Platte Lake in Benzie County, Michigan would like to be on the record as opposing the construction and ultimate operation of the proposed 425 MW coal fired power plant.

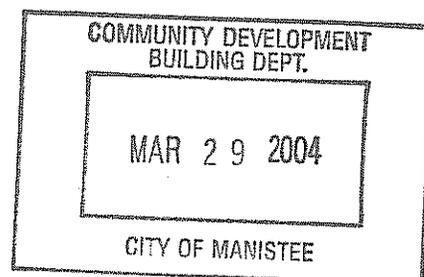
Our concern is with the increase in mercury and other heavy metal emissions being deposited into Platte Lake and the surrounding 193 square mile Platte River watershed as well as the Sleeping Bear Dunes National Lakeshore.

We also urge the Manistee City Planning Commission to delay any approval on this project until a full environmental impact statement can be prepared and thoroughly reviewed.

Sincerely,



Wilfred J. Swiecki, President
Platte Lake Improvement Association



March 29, 2004

Dear Planning Commissioners:

The million-dollar question? No, for Manistee, the Northern Lights project is the \$700 million dollar question. The Manistee Planning Commission and the local residents have voiced and pondered their perceptual views from every angle of their own vision by questioning "What if...." Most of these what if's have been clouded visions and fears. This power plant cannot be compared to with just any old plant in current production. Emissions and efficiency of design in this power plant are of a totally new technology.

The Tondu Corporation has a vision by knowing the many benefits of clean, affordable electricity for the state. Many residents and city officials have asked, "What if Manistee were able to benefit from the electricity of this project?" And Tondu has responded by making this a possibility and offered the community power at a reduced rate. Let us take this line of thinking even further.

The Tondu Corporation has mentioned the possible sale of the steam or warm water byproduct, creating another "what if" scenario. Instead of viewing this heat as thermal pollution, it should be viewed and utilized as a useful commodity, adding to the possibility of industrial expansion and additional opportunities for new employment.

What if the hot water was pumped to the Industrial Park, the vacant Renaissance Park or to heat municipal buildings, schools and non-profit buildings? Think of the business opportunities this creates for industries that utilize warm water or steam. And as the price of natural gas continues to go up, imagine the cost savings of heating these buildings, which are currently heated by our tax dollars.

What if it could be pumped under streets and sidewalks, reducing or eliminating the need for snow and ice removal? What is the dollar value of the elimination of snow removal, less frost damage and reduced slip hazards for the elderly?

What if we pumped some of the hot water to an agricultural area? Green houses could be heated year round; shelled corn could be dried, along with wheat and other grains.

What if a local golf course had an underground grid so the grass remains green and snow free for year round use? Think of how this could help Manistee to be a year round tourist destination.

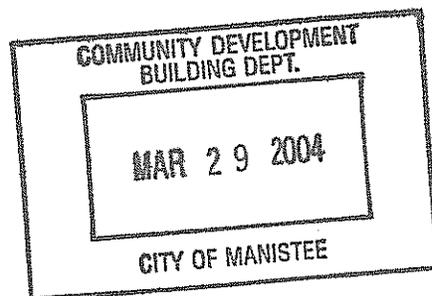
What if Manistee was able to heat a community swimming pool, allowing all families the opportunity to swim even during the winter months.

Government grants may be available for some of these projects. The Northern Lights power plant has the potential to be the foundation of a totally new type of economic growth in this area.

Instead of looking only at the 50 permanent jobs this project will create, let's look at the opportunities this project brings and look at ways of maximizing the potential opportunities. Manistee can utilize the byproducts from this proposed project and expand that vision to make the most of this for everyone. Support for the Northern Lights project and the ability to imagine the possibilities that this project brings to our community must be done. It is more than just a power plant.

What if we guide our children in such a way, so when faced with a situation or challenge, they will think first what they can do rather than what they cannot do. That in itself would make Manistee a more positive place to live.


Bruce Baker
3376 S. Scottville Road
Scottville, MI 49454
757-9075



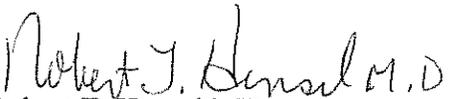
March 29, 2004

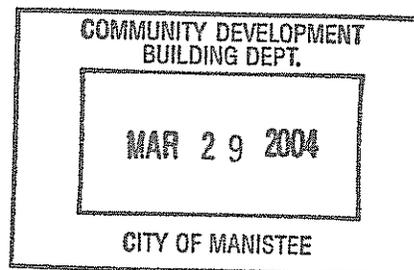
John Rose and the Planning Commission: Re: Mercury Issues Brought Up By
Planning Commission Members

Enclosed is an EPA chapter regarding mercury content in fly ash, scrubber sludge, particulate matter, and boiler slag. There are significant quantities of mercury in these residues of coal burning and the more efficient the pollutant controls, the more mercury is found in the above residues.

Mr. Page suggested the 400 pounds of mercury was an over-estimate and the recalculation to 80 pounds was probably more accurate and the 320 pounds was a "slush fund". I think the recalculation was done utilizing the co-benefits of the nitrous oxide particulate matter and SO₂ pollution control devices. Plants burning Powder River Basin coal (sub-bituminous coal) can get 70 to 80% control of mercury emissions by the pollution control devices for SO₂, NOX and particulate matter.

That means 80% of 400 pounds equals 320 pounds and 20% of 400 pounds equals 80 pounds. So with Tondu's present air pollution control devices 80 pounds still escapes to the atmosphere and 320 pounds ends up in the fly ash, scrubber sludge, boiler slag and particulate matter in the bag house. 70% of this mercury or more will end up in the land fill if it does not escape before it gets there. Up to 30% may get used in other commercial products but the mercury saga is just beginning after it is "trapped" so to speak. Bob's questions were on target. The answers given might be possible but I think the pollution control co-benefits are probably the answer. This means that there will be up to 320 pounds of mercury deposited in the land fill each year in the form of fly ash, scrubber sludge, particulate matter or boiler slag.


Robert T. Hensel MD
889-0021
Manistee, Michigan



March 29, 2004

John Rose and Planning Commission:

Re: Integrated Coal Gasification

The following are several articles regarding IGCC (Integrated Coal Gasification Cycle). The Tampa (Polk) facility has been in production since 1996 and the Wabash facility in West Terre Haute, Indiana was commissioned about the same time. Coal gasification has been used for over one hundreds years to make tar and coal gas. The streets of London were lighted by coal gas in the 1800s. Natural gas took over because it was readily available and cleaner. Now the gas from integrated coal gasification is cleaner and can be used to run an electrical turbine and when combined with combined cycle technology significant efficiencies can be accomplished (70% of available energy to electricity is felt to be feasible). This is compared to 30% with old pulverized coal technology. They have found up to 99% control of some of the pollutants can be accomplished with IGCC.

Re: Pressurized, fluidized bed combustion

This is a second type of coal burning technology commonly used to get a cleaner burn from coal. From what I read there are many such facilities in the US (130 or more).

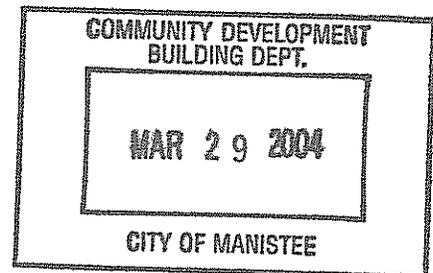
The calculated cost of health care associated with present coal-fired plants meeting BACT standards in the US for particulate matter is felt to cost \$5.3 per megawatt hour (MWH). For an integrated coal gasification combined cycle plant the damage is estimated at \$.53 per MWH. For a natural gas combined cycle plant P.M. damage is \$.37 per MWH. These estimates were made by a United Nations study and calculated in European health care dollars, which are significantly less than US costs. The PM 2.5 microns and less is the biggest problem because these extremely tiny particles become deeply imbedded in the lung tissue and collect over time even at levels that the EPA considers "safe" at this time.



Robert T. Hensel MD

889-0021

Manistee, Michigan



March 29, 2004

John Rose and the Planning Commission: Re: NESHAP Standard Questions

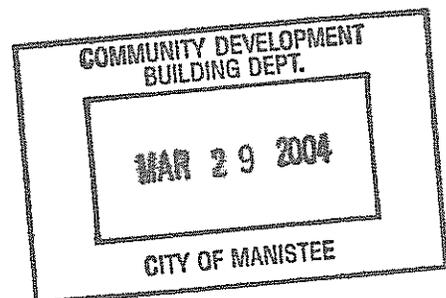
One point that needs to be emphasized is that if new mercury standards come into place there will be standards for existing plants and other standards for new plants. Generally the standards for existing plants are more lax than for new plants, so we would get some controls but not top of the line if this plant is in existence before any new regulations come out.

The EPA has ignored the problems with mercury emissions until the late 90s because any individual plant had less than 10,000 pounds of mercury emitted. This was an arbitrary number the EPA picked and they felt they did not have to make regulations for anything under 10,000 pounds from any one plant. This is a real Pandora's box when it comes to the other 150 hazardous air pollutants because many of these pass under this screening number. Right now mercury is not falling under any controls. The benefits of controlling other pollutants (co-benefits) are all that is going on in electric utilities.

Activated carbon injection is a proven control technology for mercury in municipal waste incinerators. Many of these incinerators are getting control above the 98% range. This technology can be applied to coal-burning utilities and is imperative if you live right next door.



Robert T. Hensel MD
889-0021
Manistee, Michigan

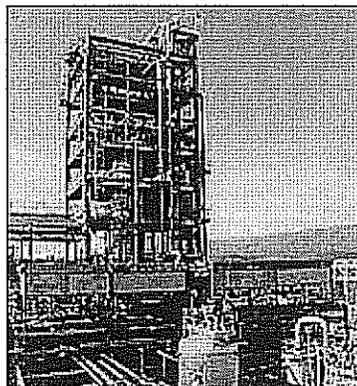


- ▼ Techlines (News)
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Issued on: May 13, 2003

From Coal to Chemicals... Successful Clean Coal-to-Methanol Project Boosts Prospects For "Multi-Product" Coal Plant

Kingsport, Tenn. - It was 35 years ago that a single word in the smash hit, coming-of-age movie *The Graduate* made cinema history: "plastics." As a baby-faced Dustin Hoffman learned, the future was "plastics."



The Kingsport, Tenn., clean coal project operated virtually flawlessly throughout its demonstration period and continues its steady operations today.

Now, largely because of one of the Department of Energy's most successful Clean Coal Technology projects, in the next 35 years, the future may well be "plastics... from coal."

Air Products Liquid Phase Conversion Company, L.P., a partnership between Air Products and Chemicals, Inc. (Air Products), and Eastman Chemical Company (Eastman), has successfully completed a nearly 11-year project to demonstrate an advanced method for making methanol from coal. Eastman uses the methanol as a chemical "building block" for a wide range of consumer products, from the plastics of toothbrush handles to the celluloid of photographic film.

The 69-month government co-funded operating period ended as trouble-free as it began. Since April 1997, when the Liquid Phase Methanol (LPMEOH™) process began its first test runs at Eastman Kingsport, Tenn. chemicals-from-coal complex, the demonstration facility has operated with a remarkable on-stream availability of 97.5 percent, the best of any of the original Clean Coal Technology projects co-funded by the Energy Department in the late 1980s and early 1990s.

During its demonstration period, the facility produced nearly 104 million gallons of methanol from coal gas with a demonstrated plant capacity in excess of 300 tons of methanol per day, more than 15 percent greater than the plant's design rate.

100,000 gal ← 600,000 Gallons

As a result, Eastman is continuing to use the technology to provide a portion of its chemical methanol feedstock requirements, making the project another of the Energy Department's clean coal commercial "success stories."

The demonstration effort was the result of a \$213.7 million cooperative agreement awarded to the Air Products and Eastman partnership by the Energy Department. The federal government provided \$92.7 million while the partnership contributed nearly \$121 million. The project was one of 38 joint government-industry clean coal technology demonstration ventures funded by the Energy Department in a program originally begun during the Reagan

How It Works...

The slurry bubble column reactor differentiates the liquid phase methanol synthesis process from conventional technology.

► Read more about how the process works.



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Administration.

Besides being a current success story, the technology could also offer a preview of future coal plants. One of the Energy Department's top priorities is to develop a "multi-product" coal plant - a plant that would co-produce hydrogen and other chemical compounds simultaneously with the generation of electricity. President Bush recently announced plans to build an emission-free coal plant, named *FutureGen*, that would employ the "multi-product" concept.

Prior to the project, Eastman Chemical made methanol using coal or synthesis gas from its Coal Gasification Facility. The synthesis gas was reacted to methanol in a fixed catalyst bed reactor. The Clean Coal Technology project demonstrated a new and more effective way to carry out the coal gas-to-methanol synthesis step with greatly enhanced feedstock flexibility.

A joint Air Products-Department of Energy research project in the 1980s had showed how the process could be improved by suspending the catalyst in an inert mineral oil and bubbling the coal gases through the slurry.

Tomorrow's Multi-Product Coal Plant...

In Kingsport, Tenn., coal is being gasified and the gases used to make chemicals. In Tampa, Fla., and West Terre Haute, Ind., coal is gasified and the gases used to generate electricity. The ideal coal plant of the future might do both.

Coal gasifiers blast coal with steam and either air or oxygen to break it down into a rich mix of carbon and hydrogen gases. Gasifiers operate best when they run at a steady pace. Gas turbines, which combust the coal gases to generate electricity, can "load follow," or cycle up and down to meet fluctuations in power demand.

A future coal power plant might use the coal gas not required by the turbine during low electricity demand to make methanol. The methanol could be stored and used later as a turbine fuel during peak demand, or it could be marketed separately.

The "slurry bubble column" offered several advantages to the gas phase process. The mineral oil helps dissipate the heat created by the synthesis gas-to-methanol reaction, helping protect the catalyst and prolonging its life. The liquid phase process is also capable of processing a wide variety of feedstock gases from a coal gasifier more efficiently, converting more of the gas to methanol per pass than its conventional counterpart. Moreover, the methanol produced was a higher quality product - generally greater than 97 percent pure with only one percent water by weight when high carbon oxides feedstocks are used. The gas-phase process, by contrast, generally yields a methanol product containing from 4 to 20 percent water by weight and requires a balanced gas feedstock (a unique stoichiometric ratio of carbon oxides and hydrogen).

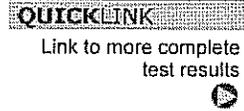
On December 19, 1989, the Energy Department announced that a proposal by Air Products to scale up the LPMEOH™ process to full commercial size had been selected for government co-funding. A cooperative agreement, outlining plans for the project and government-industry cost-sharing arrangements, was awarded on October 18, 1992. Plant construction began in October 1995.

The first production of methanol occurred on April 2, 1997, and stable operations were achieved only four days later. During a key part of the demonstration phase, from 1998 through 2000, the plant's operational reliability topped 99 percent.

Aside from providing a chemical feedstock for Eastman, some methanol from the demonstration unit was made available to seven test locations to study whether coal-derived methanol, free of sulfur and other impurities, could replace petroleum in transportation, or be used as a peaking fuel in combustion turbines, or supply a source of hydrogen for fuel cells. Test results indicate that stabilized (as-produced) methanol from the process can be used directly in fuel flexible vehicles, gas turbines, and diesel generators with little to no penalty on

performance or fuel economy. However, purification of the methanol (similar to gas-phase systems) is needed if it is to be a source of hydrogen for a phosphoric acid fuel cell.

Successful demonstration of the LPMEOH™ technology, and the application of methanol to transportation and power generation systems, adds significant flexibility and dispatch benefits to integrated gasification combined cycle electric power plants. These facilities have traditionally been viewed as strictly baseload power generation technology. Now, central clean coal technology processing plants, making coproducts of electricity and methanol, could simultaneously meet the needs of local communities for dispersed power, transportation fuels and manufactured chemical products.



- End of Techline-

For more information, contact:
David Anna, National Energy Technology Laboratory, 412-386-4646,
anna@netl.doe.gov

Technical Information Contacts
National Energy Technology Laboratory:
Robert Kornosky, 412-386-4521, kornosky@netl.doe.gov

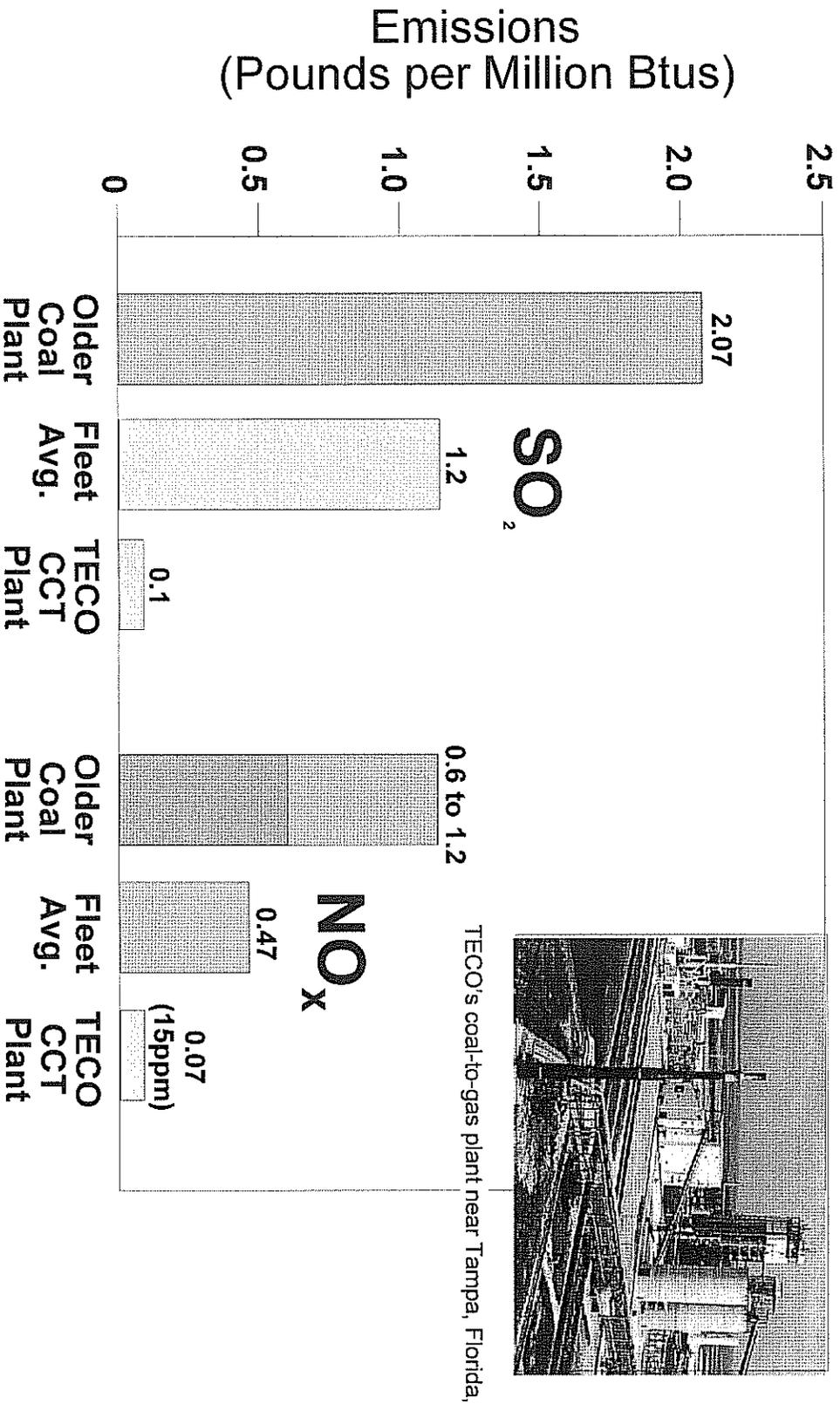
Air Products and Chemicals Inc.:
Edward C. Heydorn, 610-481-7099

Eastman Chemical Company:
Ron D. Lilly, 423-229-6463

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Tampa Electric (TECO) Clean Coal Project A New Path to Clean Air



Tampa Electric
Environmental

LIFE RUNS ON ENERGY™ Search



Tues., March 2

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Power Plants

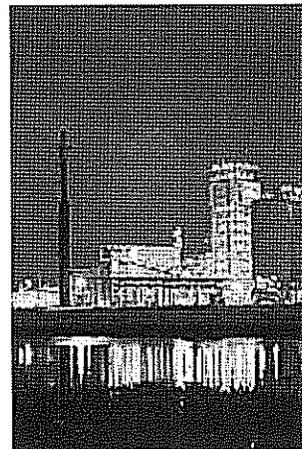
Polk Power Station

Location

Polk Power Station occupies 4,300 acres on State Road 37 in Polk County, Florida. It is located approximately 40 miles southeast of Tampa and about 60 miles southwest of Orlando.

Description

A state-of-the-art integrated coal gasification combined-cycle (IGCC) power plant, Tampa Electric's Polk Power Station produces enough electricity to serve 75,000 homes.



Polk Power Station, along with Tampa Electric's other power plants, serve customers across the West Central Florida service area.

Polk Unit One is located on unmined land surrounded by former phosphate mining land to the east, and a berm developed as a cooling reservoir to the south. The design of the maximized plant water recycling and re-use, and minimized groundwater withdrawal and offsite discharges.

The 250-megawatt IGCC facility began commercial operation in the fall of 1996. Construction on Polk Unit Two began in 1998

Related

- How Electric Created
- How Electric Distributed



and Unit Three in 1999. These two 180-megawatt simple cycle combustion turbines use natural gas and distillate oil to generate electricity. Unit Two and Unit Three started commercial operation in July 2000 and May 2002 respectively.

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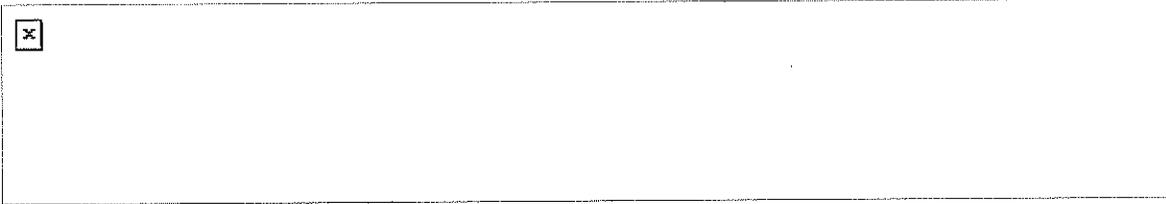
The 250-megawatt IGCC facility began commercial operation in the fall of 1996. Construction on Polk Unit Two began in 1998 and Unit Three in 1999. These two 180-megawatt simple cycle combustion turbines use natural gas and distillate oil to generate electricity. Unit Two and Unit Three started commercial operation in July 2000 and May 2002 respectively.

Technology

The 250-megawatt IGCC facility is among the nation's cleanest, most efficient and most economical power generation units. The plant is a first-of-its-kind combination of two leading technologies.

The first technology is called "coal gasification," which uses coal to create a clean-burning gas. The second technology is called "combined-cycle," which is the most efficient method of producing electricity commercially available today.

The plant combines coal with oxygen in the gasifier to produce the gaseous fuel. After



FOR IMMEDIATE RELEASE
 FOR INFORMATION CONTACT:
 Keith Voight, 202-508-5683
kvoight@eei.org

Coal Gassification on pg 2

Next Generation Power Plants Now Coming On Line *Technology advances boosting efficiency, environmental protection*

Washington, DC (August 8, 2001) - As Congress begins to chart an energy strategy for the 21st century, a host of power plants with advanced generating technology are already coming online. These plants, including those powered by fossil fuel and renewable energy sources, promise to generate electricity more efficiently and with less impact on the environment.

"It's an added benefit that a variety of power plants are seeing technology advances," said Samuel G. Tornabene, Director, Communication Services. "This will help to ensure that we continue to use many different fuel sources to generate electricity. A balanced fuel mix protects consumers against price fluctuations caused by the shortage of any one fuel."

Below is an overview on some of the next generation power plant technologies, as well as a look at some of the new plants coming online:

Renewable Energy Technologies -

- Solar - Newly designed solar electric cells at the Golden (CO) National Renewable Energy Laboratory surpass other cells in the percentage of sunlight they change to electricity: 16.4 percent vs. 15.8 percent. The efficiency of a solar cell is calculated as the percentage of available sunlight the device converts into electricity.
- Wind-The next generation of wind turbines, are targeted for sites with moderate wind speeds. Technology advances enable these turbines to capture more energy from the wind, minimize damaging structural loads, and optimize power produced in constantly varying wind conditions.
- Hydropower - The hydropower industry and the U.S. Department of Energy (DOE) are developing "fish friendly" turbines through the Advanced Hydropower Turbine System program. Advanced turbine technology could reduce fish mortality resulting from turbine passage to less than 2 percent, in comparison with turbine-passage mortalities of 5 to 10 percent for the best existing turbines. The technology could also improve water quality by maintaining downstream dissolved oxygen levels of at least 6 milligrams per liter.

Fossil Fuel Technologies

- Coal - Coal now generates over 50 percent of the country's electricity. The technology focus has been on making this mainstay of electric power generation

cleaner and more efficient. Some key goals are: Low-cost production of electricity, process heat, and high-value fuels and chemicals from a multiplicity of feedstocks (e.g., coal, biomass, and wastes); virtually no pollutant emissions; and efficiencies greater than 60 percent. New advances are:

- o Integrated Gasification Combined-Cycle (IGCC) - Converts coal into a low or medium BTU gaseous fuel, which lends itself to pollutant removal. The now clean, synthetic fuel gas is then combusted in a gas turbine to generate electricity. Excess heat is put to work in a conventional steam turbine generator, producing even more electricity. Gasification offers feedstock and product flexibility, the potential for greater than 60 percent efficiency, and near zero pollutant emissions. The high process efficiency limits carbon dioxide production and because it occurs in concentrated form, allows for its capture. Typically, more than 99 percent of the sulfur pollutants are captured and converted into sulfuric acid or elemental sulfur, both salable by-products. Nitrogen oxide emissions are about one-tenth those of a conventional power plant. Any trace elements in the coal stay with the ash, which is either converted to an inert glass-like slag or a dry solid with cement-like properties. [Note: In the comprehensive energy bill recently passed by the U.S. House of Representatives, clean coal technology provisions provide investment tax credits and production tax credits for up to 7500 MW of advanced coal technology projects. The bill also authorizes a 10-year, \$2 billion clean coal development program.]
- o Fluidized Bed Coal Combustion-Fluidized beds suspend solid fuels on upward-blowing jets of air during the combustion process. The result is a turbulent mixing of gas and solids. The tumbling action, much like a bubbling fluid, provides more effective chemical reactions and heat transfer. More than 95 percent of the sulfur pollutants in coal can be captured inside the boiler. Circulating fluidized bed systems can also use coal wastes, eliminating a by-product of mining.
- o Vision 21 -Under development by DOE's Office of Fossil Energy, the concept envisions a virtually pollution-free energy plant. Unlike today's single purpose power plants that produce only electricity, a Vision 21 plant would produce multiple products - perhaps electricity in combination with liquid fuels and chemicals or hydrogen or industrial process heat. It also would not be restricted to a single fuel type; instead, it could process a wide variety of fuels such as coal, natural gas, biomass, petroleum coke (a waste by-product from oil refineries), and municipal waste. It would generate electricity at unprecedented efficiencies, and coupled with carbon sequestration technologies, it would emit little if any greenhouse gases into the atmosphere.
- Natural Gas - For both environmental and economic reasons, the U.S. Energy Information Administration (EIA) reports that almost two-thirds of the new capacity brought online from 1996 through 1998 (the latest data available) was fired by natural gas or a combination of gas and oil. Likewise, of the 300 gigawatts of new capacity that the country will need by 2020, EIA expects some 90 percent to be fueled by gas.
 - DOE's utility-scale Advanced Turbine System's objectives are to achieve 60 percent efficiency or more in a combined-cycle mode, NOx emission levels less than 9 parts per million, and a 10-percent reduction in the cost of electricity.

Advanced Power Plants - Sample Projects

- Reliant Energy broke ground in June for the first major coal-based power plant

to be built in Pennsylvania in 20 years. The \$800-million, 520-megawatt Seward Power Plant in East Wheatfield Township, Indiana County will use a "clean-coal" technology called circulating fluidized bed (CFB) to burn waste coal while meeting stringent environmental requirements. The new plant, starting up in 2004, will replace an 80-year-old, 200-megawatt facility that will be closed in late 2003.

- Tampa Electric Company, as part of a major expansion over the next decade, has built a 250-MW Integrated Gasification Combined-Cycle (IGCC) facility in Florida. Polk Power Station, Unit 1, began commercial operation in September 1996. Since then, the unit has logged over 15,000 hours and produced over 3,500,000 MWh of electricity on syngas.
- Dominion and Anker Energy Corporation jointly announced plans to develop a new coal and coal waste-fired electric power station and mining complex in Upshur County, W.Va. Under terms of an agreement between the two companies, Dominion would construct, own, and operate the 450-megawatt station, which would utilize state-of-the-art "clean coal" technology and would burn more than 65 percent coal waste. Anker Energy would provide all of the facility's fuel from on-site surface mining operations.
- FPL Energy, LLC, the largest wind generator in the U.S., recently began operation of a 30-MW wind farm near Madison, Wisconsin. The farm features 20 turbines, each capable of producing 1.5 megawatts. FPL Energy, a subsidiary of FPL Group, Inc., has an installed wind generating capacity of 600 megawatts and expects to complete additional projects totaling more than 800 megawatts by year end, including 438 megawatts in Texas, 110 megawatts in Kansas, and nearly 300 megawatts along the Washington-Oregon border.
- Wavegen of Inverness, Scotland, constructed the first commercial-scale plant powered by ocean waves, the Land Installed Marine Powered Energy Transformer (LIMPET), in December 2000. As seawater enters or leaves an inclined concrete tube, it alternately compresses or decompresses air inside the tube. This air movement spins pneumatic turbines, which then generate electricity. The turbines spin in the same direction, regardless of which way the air flows.

###

The Edison Electric Institute (EEI) is the association of U.S. shareholder-owned electric companies, international affiliates and industry associates worldwide. The Institute's U.S. members generate about three-quarters of all the electricity in the United States and service roughly 70 percent of all ultimate customers in the nation.

[Return to Press Release Index](#)

CLEAN AIR TASK FORCE



Reply to: 231 W. Main, Suite 1E Carbondale, IL 62901 (618) 457-0137 (618) 457-0513/fax
Main Office: 77 Summer Street Boston, MA 02110 (617) 292-0234 (617) 292-4933/fax www.catf.us

June 12, 2003

Mr. Jeffery Kitsembel
Public Service Commission of Wisconsin
P.O. Box 7854
Madison, WI 53707-7854

Environmental impact study

Re: PSC docket number 05-CE-130, Comments on the Draft EIS

Dear Mr. Kitsembel:

The Clean Air Task Force is a national environmental organization that is headquartered in Boston and operates across the nation. Our mission is to maintain and restore healthy air. We accomplish this mission through research, advocacy and education. We have been a member of RESET since shortly after its founding.

We welcome the opportunity to comment on the Draft EIS (DEIS) for the of the Elm Road expansion. Because many of our concerns have been raised by other RESET member organizations in their DEIS comments, we will focus on only two issues. These issues are the failure of the DEIS to monetize the health damage associated with $PM_{2.5}$ and the failure of the DEIS to capture the full value of natural gas plants.

Monetizing $PM_{2.5}$ Health Damage

The DEIS makes only passing reference to the health damage associated with fine particles. These particles can be directly emitted by power plants, or they can form downwind of the stack as sulfur dioxide and nitrogen oxide are converted to sulfates and nitrates. The DEIS correctly links fine particles with health impacts such as premature deaths, asthma attacks, and other lung ailments. Scientists generally agree that the response to these pollutants is linear. Therefore, adverse impacts continue at ambient air concentrations that are below national air quality standards. The failure to quantify and monetize these impacts is a major shortcoming in DEIS.

See if available → *

There are several approaches that could be used to quantify the number of deaths and other health impacts associated with coal plant emissions. The approach most applicable to the Oak Creek expansion has been published in peer-reviewed articles by Harvard researchers Jon Levy and Jack Spengler.¹ In this approach, the PM

¹ See Levy, J. I., Spengler, J. D., et al. *Using CALPUFF to Evaluate the Impacts of Power Plant Emissions in Illinois: Model Sensitivity and Implications*. 36 Atmospheric

2000
48000 a day

emissions of specific plants are modeled and a damage function is applied to estimate health endpoints such as premature deaths and asthma attacks. These impacts are monetized using standard EPA protocols. Abt Associates² and USEPA³ used similar approaches to estimate impacts from larger groups of power plants.

Absent detailed modeling, the DEIS could apply a monetization approach used by the United Nations Development Programme⁴. In this approach, PM damage in the United States is estimated using data from the European Commission's ExternE Programme. The UN report identifies \$5.3/MWH of PM damage associated with a conventional coal plants meeting BACT. For an IGCC plant, the damage is about \$.53/MWH, and an NGCC plant has PM damage of \$.37/MWH. Table 8.1 from the UN study that details these findings is attached to these comments.

The values from the UN study may need some adaptation for use in Wisconsin. First, these damage estimates are based upon the low economic valuations for European conditions. This choice places less value on human life and disease than is found in USEPA's valuation methodology. This very conservative choice may understate PM damage in \$/MWH by a factor of three or more. Furthermore, BACT for conventional coal plants in the UN report assumed no SCR and a lower sulfur coal than is proposed at Elm Road. This has the effect of overstating the impact of nitrogen oxides and understating the impact of sulfur dioxide relative to Elm Road's SCPC units.

* The true economic value of natural gas plants is underestimated in the economic analysis found in the DEIS.

* Combined cycle natural gas plants, if properly designed and sited for the purpose, can later be converted to IGCC plants. This conversion might be desirable should the gap between natural gas prices and other fuels as coal or petroleum coke make this switch advantageous. This option has an economic value that is not captured by the DEIS. As a result, the DEIS undervalues natural gas plants. This may skew the EGEAS models away from building combined cycle natural gas plants and toward building SCPC units.

Environment 1063-1075 (2002). and Levy, J. I., Spengler, J.D., *Modeling the Benefits of Power Plant Emission Controls in Massachusetts*, v. 52, 5-18, J. Air & Waste Manage. Assoc., (2002).

² "Death, Disease and Dirty Power", available at <http://www.catf.us/publications/index.php>

³ Clear Skies Act, Technical Support Package, September 2002, available at <http://www.epa.gov/clearskies/technical.html>

⁴ "World Energy Assessment", United Nations Development Programme, Chapter 8, (September 2000). This report is available on the web at <http://www.undp.org/seed/eap/activities/wea/drafts-frame.html>

Why Canada
switching

* This option value is no small matter. The problem with Power the Future is that it locks consumers into paying for capital-intensive coal plants. This is an irreversible decision. If WE Energies predictions about future regulations, gas prices, and construction costs are wrong, the cost of electricity under PTF will be much greater than the company predicts. Because a natural gas plant has the option value of using other fuels when converted to IGCC, consumer's financial risk due to changing conditions is reduced.

The DEIS needs to consider two changes: 1) Adding an option value to the natural gas plants that reflects their higher economic value, and/or 2) Modifying the inputs to the EGEAS modeling so that the model can build combined cycle gas plants and later convert them to IGCC plants.

A scenario with an "NGCC to IGCC" plant would likely have a higher NPV than a pure NGCC scenario or a pure IGCC scenario because the combination plant could generate revenue sooner than a pure IGCC plant and generate more revenue in later years than a pure NGCC plant. Furthermore, because the cost of conversion takes place in later years, the discounted costs for an "NGCC to IGCC" plant might be lower than a pure IGCC plant.

The key technical barriers to the conversion include:

- Using a site that has both rail access for coal and natural gas access.
- Designing from the beginning the natural gas plant so that the power block could later accommodate syngas. The cost of converting the turbine from natural gas to syngas is roughly \$25/KW of installed capacity in today's dollars. The cost of expanding the HRSG is minor if enough space is reserved at the beginning to add additional cooling tubes.

Low up. → The EGEAS modeling in the DEIS assumes availability of the IGCC plant of only 75%-85%. This availability assumption is too low for both the pure IGCC plant considered in DEIS and an "NGCC to IGCC" plant. The 75%-85% availability applies to today's IGCC plants that run on a single gasification train with no spare gasifier. This situation describes the Polk, Florida IGCC plant and the Wabash Plant in West Terre Haute, Indiana. WE Energies proposes a spare gasifier in their WDNR air permit. Gasification plants that have a spare gasifier (such as Eastman Chemicals acetic anhydride plant in Kingsport Tennessee) have availabilities of over 98%. The impact of the low availability assumption is to underestimate the NPV of both the pure IGCC plant and the "NGCC to IGCC" option. The DEIS did not consider the use of petroleum coke in the IGCC plant. Unlike SCPC units, IGCC plants can use this low cost fuel. The sensitivity analysis of the EGEAS modeling should examine the economic impact of this fuel. *

Mr. Jeff Kitsembel
June 12, 2003
Page 4

Thank you in advance for your consideration. If you have questions or need clarifications, please contact me at (618) 457-0137 or jthompson@catf.us

Sincerely,

John Thompson
Advocacy Coordinator

TABLE 8.1. EMISSION RATES FOR AND ESTIMATED COSTS OF ENVIRONMENTAL DAMAGE FROM AIR POLLUTANT EMISSIONS OF FOSSIL FUEL POWER PLANT (LOW VALUATION FOR TYPICAL EUROPEAN CONDITIONS)

Primary air pollutant	Emission rate (grams per kilowatt-hour)		Low estimate of costs of environmental damages (dollars per thousand kilowatt-hours) a				Environmental damage costs relative to NGCC Total
	SO ₂	NO _x	SO ₂	NO _x	PM ₁₀	Total	
Average U.S. coal steam-electric plant, 1997	6.10b	3.47 b	15.9	13.9	0.7	30.5	82
New coal steam-electric plant with best available control technology d	0.46	0.87	1.2	3.5	0.6	5.3	14
Coal IGCC plant e	0.075	0.082	0.2	0.33	0.01	0.54	1.5
NGCC plant f	—	0.092	—	0.37	—	0.37	1

a. Environmental damage costs from power plant air pollutant emissions are assumed to be 25 percent of the median estimates of Rabl and Spadaro (2000) for typical power plant sitings in Europe. (The Rabl and Spadaro calculations were carried out under the European Commission's External Programme. Nearly all the estimated costs of environmental damages are associated with adverse health impacts; the economic values of health impacts were estimated on the basis of the principle of willingness to pay to avoid adverse health effects.) Rabl and Spadaro considered a wide range of pollutants, but the only significant damage costs were from SO₂, NO_x, and PM₁₀, for which their median estimates of damage costs (in dollars per kilogram) were \$10.44, \$16.00, and \$17.00. Damage costs at 25 percent of the median estimates of Rabl and Spadaro (equivalent to one standard deviation below the median) are assumed, to put a conservatism into the calculation to reflect the scientific uncertainty. b. Average emission rates in 1997 for U.S. coal plants, whose average efficiency was 33 percent (EIA, 1998b). c. In 1990 PM₁₀ emissions from U.S. electric utility coal power plants amounted to 245,000 tonnes (Spengler and Wilson, 1996) when these plants consumed 17.1 exajoules of coal (EIA, 1998b), so the PM₁₀ emission rate was 14.34 grams per gigajoule—the assumed emission rate for all steam-electric cases in this table. d. It is assumed that the new coal steam-electric plant is 35.5 percent efficient; that the coal contains 454 grams of sulphur per gigajoule (1.08 percent sulphur by weight), the average for U.S. coal power plants in 1997 (EIA, 1998b); that SO₂ emissions are reduced 95 percent, a commercially feasible rate; and that the NO_x emission rate is 86 grams per gigajoule—achievable with advanced low-NO_x burners that will be commercially available shortly; e. It is assumed that the coal integrated gasifier combined cycle (IGCC) plant is 43.8 percent efficient, based on use of steam-cooled gas turbines (see table 8.4); that the emission rates equal the measured values for the Buggenum coal IGCC plant (Netherlands): 10.0 and 0.3 grams per gigajoule of coal for NO_x and particulates, respectively, as well as 99 percent sulphur recovery (data presented by Co van Liere, KEMA, at the Gasification Technologies Conference in San Francisco, 17–20 October 1999); and that the coal contains 454 grams of sulphur per gigajoule. f. It is assumed that the natural gas combined cycle (NGCC) plant is 54.1 percent efficient, based on use of steam-cooled gas turbines (see table 8.4); and that the NO_x emission rate is 9 parts per million on a dry volume basis (at 15 percent O₂), corresponding to an emission rate of 0.092 grams per kilowatt-hour.

coal cell

The gasifier will supply the fuel, and an electrochemical reaction will generate the power.

by Jeffrey
Winters,
Associate Editor

It's a cliché in discussions about energy generation that coal is the dirtiest fuel around. And, sure, there's a lot of evidence around to support that view. Coal mining is incredibly disruptive, and coal is heavy and bulky, involving rumbling freight trains to transport it. And most of all, to make electricity, coal is burned in boilers, with the exhaust vented through smokestacks and the ash carted to landfills.

The idea that fuel cells are every bit as clean as coal is dirty is just as widespread. Fuel cells, after all, take hydrogen and oxygen, and combine those elements to make electricity and water. Because it is a combustionless reaction, there are no byproducts such as nitrogen oxides, and the whole process promises to be far more efficient than burning fuel.

So, what would you get if you could combine coal and fuel cells? Which attribute would dominate—dirtiness or cleanliness?

That's the question about to be answered in a power plant in Indiana as part of a pilot program, sponsored by the U.S. Department of Energy. The Wabash River Coal Gasification Repowering Project in West Terre Haute is preparing to receive a two-megawatt fuel cell system designed to convert gasified coal into electricity.

and the residue from the gasification process was often toxic. Former gasworks sites are often contaminated with hazardous wastes. Another critical concern was efficiency: Early gasification methods delivered only 25 percent of the coal's original energy content into gas form. Often, gasification was viewed primarily as a means to produce coke rather than gas.

Gasification technology improved in the 1920s and 1930s, yielding more gas and less coke. But by then, natural gas was being piped into industrial areas. Cheaper and cleaner than coal gas, natural gas began to dominate the market wherever they competed head to head.

In places such as Germany, where coal is plentiful and natural gas is rare, gasification remained an important technology. In recent years, coal gas has been produced in the United States for niche applications, such as raw material for chemical plants.

The energy crisis of the 1970s brought an upsurge in interest about portable fuels from coal and other minerals. But the spike in oil prices was too short-lived, and the push for alternative fuels died out. The technological development continued, however, and by the 1990s, the Department of Energy began funding coal gasification research as a possible pathway to reduce carbon dioxide emissions from power plants.

Transforming Wabash River

The program, called the Clean Coal Technology Program, was, in part, an effort to promote commercial-scale integrated gasification combined-cycle, or IGCC, coal power plants in the United States. Two such plants came online in the mid-1990s. The first was a 1950s-vintage pulverized coal-burning boiler in western Indiana, the Wabash River plant, operated by Global Energy of Houston.

The plant was rated at 90 MW and ran at 33 percent efficiency. As part of the demonstration project, the plant was gutted and connected to an advanced gasification system.

The coal is first slurried, then combined with pure oxygen and subjected to high temperatures and pressure. This not only partially oxidizes the slurry, but also melts the coal

ash, enabling it to flow out of the gasification chamber.

The remaining gas moves into a second stage gasifier that enhances its heating value. After the gas is cooled, it's scrubbed of chlorides and sulfides, leaving a mostly pure fuel stream to be piped into a gas turbine.



"We've been running on petroleum coke since 2000," said Phil Amick, director of gasification technology at ConocoPhillips and former project manager of the Wabash River Plant. "It's cheaper than coal, but it's 5.5 percent sulfur. A conventional utility boiler would never have enough gas cleanup to run on a fuel with that much sulfur."

At the Wabash plant, sulfur is transformed from a problem to an asset. "We make about a railroad tank car a day of sulfur," Amick said. "We sell that to a broker, and it ends up in fertilizer."

The system, which included a heat-recovery steam generator, started operations in 1995 and proved to be 40 percent efficient over a four-year demonstration period. What's more, the plant (now rated at more than 260 MW) captured sulfur with more than 99 percent efficiency and generated undetectable amounts of particulate emissions.

Another DOE demonstration project, the Polk Power Station near Tampa, Fla., rated at 250 MW, was started from scratch. The Polk Power Station uses a slightly different gasification technology, but turned out to be every bit as clean; in fact, both plants lay claim to being the cleanest coal-fired generators in the world.

The success of these gasifiers in electrical generating facilities has spurred the DOE to push for more uses of the technology. Gasifiers are seen as potential sources for mass-producing hydrogen for transportation uses. And in February, Secretary of Energy Spencer Abraham unveiled plans for building a billion-dollar prototype fossil fuel power plant that would combine electricity and hydrogen production with the virtual total elimination of harmful emissions, including greenhouse gases.

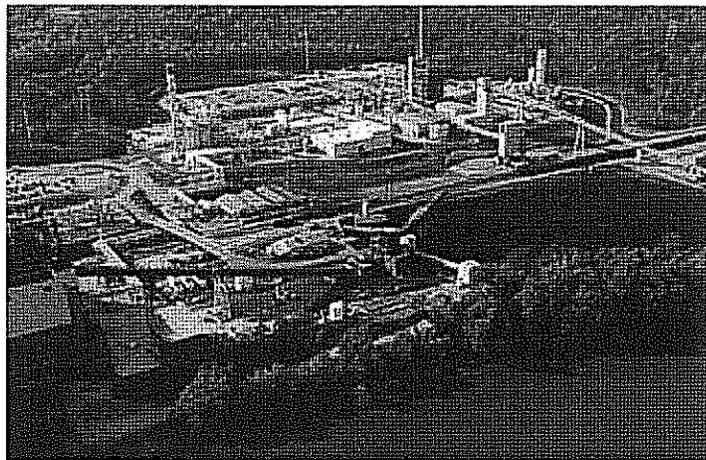
Such a plant, called FutureGen, would have a gasifier at its heart.

"Gasification is the cleanest way to make power from coal," Amick said. "And since you've converted all the energy to a gas and put it in a pipe at pressure, you can

even remove the CO₂. It's still expensive, but it's easier with a gasifier than with anything else."

Coal gas traditionally is made of a mixture—mostly hydrogen and carbon monoxide. Hydrogen can be used in a number of applications, from gas turbines to fuel cells. Carbon monoxide is a bit trickier to deal with. It burns just fine, though it doesn't have as high an energy density as other fuels. But carbon monoxide can foul many fuel cells. It gloms onto the catalysts and destroys their ability to catalyze chemical reactions. For cells such as proton exchange membranes or phosphoric acid fuel cells, CO must be scrubbed from the fuel stream at all costs.

Removing carbon monoxide is not a large problem. It requires making it react with high-temperature steam to make hydrogen and carbon dioxide. But it comes at a price in terms of energy consumption and complexity. Researchers at Ohio University in Athens are working to develop a fuel cell system that can run on normal coal gas.



The Wabash River plant in Indiana will start sending coal gas into a fuel cell early next year.

Professor David Bayless is experimenting with small stacks of planar solid oxide fuel cells, or SOFCs. "With the planar SOFCs, carbon monoxide is not a poison," Bayless said. "It's not as good a fuel as hydrogen—it doesn't have the energy content—but planar SOFCs can use it."

The question, Bayless said, is how many impurities—such as hydrogen sulfide and metals such as mercury—the SOFCs can handle. The greater tolerance they have for impure fuel streams, the cheaper and easier it will be

to connect them to coal gasifiers.

"If this is going to be viable in the long term," Bayless said, "the cost of the fuel cell has to be competitive with other energy conversion systems."

In fact, Bayless envisions gasifiers and fuel cells as pieces of a revamped rural energy system. Coal gas can be separated into two streams: pure hydrogen, which can be used for transportation purposes, and carbon monoxide mixed with trace impurities. If this second stream can be converted directly into energy, it could make rural coal not just a cheap fuel, but a clean and efficient one as well.

"The efficiencies of coal plants right now are about 37 percent," Bayless said. "With fuel cells, you're talking about a theoretical efficiency of 70 percent. So right there, you're almost doubling the energy conversion rate. And if you are using SOFCs, it's hot enough to make steam or to convert into another industrial process, so you have the potential for much higher energy utilization."

"This is good for coal, long-term. If you are using it more efficiently, it makes it a more valuable fuel. And less input for the same usable output just has to be good for the environment."

SOFC = Solid Oxide Fuel Cell

Carbonate Design

The experiment in Indiana starting next year won't involve a solid oxide fuel cell, though. Instead, FuelCell Energy will be installing a molten carbonate fuel cell stack power plant.

One advantage of the carbonate design is in scale. Planar SOFCs are still somewhat experimental and available in stacks on the order of a few thousand watts. Molten carbonate fuel cell stacks routinely weigh in at 250 kilowatts. For the Wabash River demonstration, eight stacks will be combined for a total of 2 MW. George Steinfeld, director of systems development at FuelCell Energy, said it will be the largest carbonate fuel cell power plant operating on coal in the world.

FuelCell Energy has been planning for this sort of project for more than 20 years. "Fifty percent of U.S. power is generated from coal," says Hansraj C. Maru, FuelCell Energy's chief technology officer. "It's a large part of the

market." And FuelCell Energy believes that its technology is well suited to coal gas since it can run directly on methane and carbon monoxide as well as just pure hydrogen. (A carbonate fuel cell needs a carbon fuel to provide the carbon dioxide needed on the cathode side of the cell.)

"The fuel is more dilute than pure methane," Maru said, "so we have to design the fuel cell system for this dilute stream."

One way to increase the energy density of the stream is by methanation. The two major components of coal gas, carbon monoxide and hydrogen, are reacted catalytically to make methane and steam. On the one hand, this adds a processing step and thus unwanted complexity. But the reaction is exothermic—and so is self-sustaining. And the extra heat can help drive other processes, including ones designed to remove trace levels of sulfur from the fuel stream.

Steinfeld said the project is aiming for efficiencies in the 48 percent range, a 20 percent improvement over the efficiency of the current IGCC plant at Wabash River. But that increase will be scarcely noticeable in the overall operation of the plant: The eight fuel cell stacks will be receiving less than 1 percent of the coal gas stream, with the rest being sent on to the turbines. And the cells will operate at times from natural gas rather than coal gas.

Still, if the demonstration proves successful, it might well lead to new plants along this model. (All parties agree that established plants are unlikely to convert to this technology.) This is especially true of new plants in built-up areas, where gas turbines have proven far more popular of late than coal-fired boilers. "The typical image of coal goes away when you combine it with a fuel cell," Steinfeld said.

Indeed, such a power plant probably wouldn't need a traditional smokestack. Trainloads of coal enter; electricity, carbon dioxide, sulfur and various trace metals leave—it sounds less like industry than like magic.

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ASAP:

*Contact all municipalities who are considering getting power from NLP and encourage them NOT to participate.

*Strongly pursue the non-attainment status.

*Talk to MEC (of which SC is a member) and ask that they pressure Granholm's administration and 2020 committee about the plant

*Engage an environmental justice campaign regarding the plant....more on all this ASAP, but for now:

Hello Conservation Committee & Michigan Leaders!

I am forwarding information from the Sierra Midwest Regional office re the extension of the comment period on Bush's proposed rules to increase mercury emissions from coal power plants to April 30, 2004. See below.

We discussed this at the Conservation Committee on Saturday and will submit comments for the Chapter highlighting the potential impact of these rules on the proposed coal power plant in Manistee.

Please contact Eric Uram of the Midwest Office to get more information on what we in Michigan can do. Eric is distributing new post cards for individuals to sign protesting the proposed rules; you can request these from his office. You can also request more information on mercury and its impact on human health, fish, and wildlife. It is very important to act on this issue and we have time to distribute cards and get members to write individual letters protesting a roll back on mercury reduction.

Sorry for duplications.

Anna Holden, Chair, Conservation
Committee
Mackinac Chapter Sierra Club

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 8. U.S. Environmental Protection Agency. *Technical Background Document for the Report to Congress on Remaining Wastes from Fossil Fuel Combustion: Industry Statistics and Waste Management Practices*. Office of Solid Waste and Emergency Response, Washington, DC. 1999. Available at: < <http://www.epa.gov/epaoswer/other/fossil/index.htm> >.

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[This message contained attachments]

Message: 7

Date: Tue, 23 Mar 2004 09:39:51 -0500

From: "Kurt Harvey" <xharvey@camp-arcadia.com>

Subject: points north

All,

You can listen to the recent points north broadcast on the internet at

http://www.publicbroadcasting.net/wiaa/news.newsmain?action=article&ARTICLE_ID=618706

The leading news for that episode was the "Recreation Authority Identifies Properties" but the coal plant discussion is just before that. I have emailed Peter Payette and asked for a transcript or electronic copy of the interview with Mr. Smith. They are checking on the possibility of getting it.

Kurt Harvey

different Hg control technologies. This report will also help identify any potential concerns due to increased environmental risk from the management of CCRs resulting from Hg control measures.

9.6 Future CCR Research Activities and Needs

Coordination with industry and others will continue to identify available data and information that will help to characterize any changes to CCRs as a result of Hg control measures. Different methods are being used to characterize CCRs which result in data of questionable value. The EPA ORD/NRMRL is working closely with EPA/OSW to identify methods for characterizing CCRs to identify potential changes to CCRs as a result of Hg control measures.

Samples of the resulting CCRs from the on-going full-scale field test programs of different Hg control technologies will be collected to characterize the resulting CCRs and to identify any changes occurring to CCRs that would increase environmental risk from waste management and potential commercial applications.

Questions regarding the potential release of Hg from land-disposal result in the need to conduct field test measurements to ensure that Hg is not being emitted through either biological processes or leaching. Opportunities will be identified to help address questions regarding any increased environmental risk due to changes occurring to CCRs.

Questions also exist relating to CCRs being used in high-temperature processes such as cement manufacturing and wallboard production. Effort is needed to determine the amount of Hg that may be released during the manufacturing process and other life-cycle stages, including final disposal in a landfill.

9.7 References

1. American Coal Ash Association. *Coal Combustion Products (CCPs) Production and Use Survey - 2000*. Syracuse, NY. Available at: < <http://216.22.250.39/CCP%20Survey/CCP%20Survey.htm> >.
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3. Ladwig, K. Electric Power Research Institute, Palo Alto, CA. Personal communication presenting total composition of mercury in fly ash based on EPRI's PISCES database, May 29, 2001.

Message: 8

Date: Tue, 23 Mar 2004 09:54:11 -0800
From: "Monica Evans" <imagine@betsievalley.net>
Subject: Re: (unknown)

This is great!! Thanks for the laugh, Fred. I love that squirrel!!
~Monica

----- Original Message -----

From: Fred LaPoint
To: cfrd@yahoogroups.com
Sent: Tuesday, March 23, 2004 6:34 AM
Subject: [cfrd] (unknown)

Thought you might enjoy this.

----- Original Message -----

From: VBrown1072@aol.com
To: Mickikenny@aol.com ; SIRsyko76@aol.com
Sent: Monday, March 22, 2004 1:26 PM
Subject: Fw: SECRETS OF A HAPPY LIFE (safe)

I hope everyone can see these!! They're great!
SECRETS OF A HAPPY LIFE

On May 22, 2000, the EPA made the regulatory determination that the disposal of CCRs does not warrant regulation under subtitle C of RCRA and retained the hazardous waste exemption for these materials provided under RCRA section 3001(b)(3)(C).⁷ However, the EPA also determined that national regulations under subtitle D of RCRA are warranted for CCRs when they are disposed of in landfills or surface impoundments, and that regulations under subtitle D of RCRA [and/or possibly modifications to existing regulations established under authority of the Surface Mining Control and Reclamation Act (SMCRA)] are warranted when these materials are managed in surface or underground mines. The national regulations will apply to disposal of coal combustion wastes that are generated at electric utility and independent power producing facilities and managed in surface impoundments, landfills, and mines.

The EPA will re-evaluate the risk posed by managing coal combustion residues if levels of Hg or other hazardous constituents change due to any future Clean Air Act air pollution control requirements for coal burning utilities. When any rulemaking under the Clean Air Act proceeds to the point where an assessment of the likely changes to the character of CCRs is completed, EPA will evaluate the implications of these changes relative to existing or planned national RCRA regulations governing these materials and take appropriate action.

9.5 Current Status of CCR Research Activities

The EPA/NRMRL is preparing a report on characterization and management of CCRs from coal-fired electric utility power plants. The report examines changes in the Hg content of CCRs that potentially could occur as the result of implementing different control technologies to reduce stack emissions of Hg from coal-fired electric utility power plants. This report is scheduled to be published in the near future.

Test methods to characterize CCRs and to determine Hg volatilization and leaching from CCRs in various management practices are being reviewed by EPA/NRMRL. The goal of this review is to ensure that leaching and volatilization testing conducted by all parties, inside and outside of the EPA, is uniform and appropriate.

Multiple-site, full-scale field test programs are currently being conducted under a DOE/NETL cooperative agreement to obtain performance and cost data for using different Hg control technologies to reduce Hg emissions from existing coal-fired electric utility power plants (discussed in Chapter 7). As part of these test programs, field data are being collected that will help determine changes in the Hg content of CCRs as a result of implementing these Hg controls technologies. In addition, CCR commercial applications requiring elevated temperature processes, such as cement manufacturing and wallboard production, are being evaluated to determine the amount of Hg revolatilization that occurs, and the impacts of this revolatilization on the environment.

The EPA/NRMRL is planning to prepare a report, scheduled for publication in 2003, presenting data and other information relating to changes to CCRs as a result of implementing

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Table 9-4. Commercial uses for CCRs generated in 1999 (source: data from Reference 1).

Commercial Application or Use	Coal Combustion Residue								Nationwide Total (tons)
	Fly ash		Bottom ash		Boiler slag		Wet FGD solids/sludges		
	tons	%	tons	%	tons	%	tons	%	
Concrete/grout	10,000,000	49	700,000	13	11,000	0.5	290,000	6.5	11,000,000
Waste stabilization/solidification	1,900,000	9.3	69,000	1.3	0	0	16,000	0.4	2,000,000
Structural fill	3,200,000	15	1,400,000	26	52,000	2.2	580,000	13	5,200,000
Mining applications	1,500,000	7.3	150,000	2.8	10,000	0.4	230,000	5.2	1,900,000
Raw feed for cement clinker	1,300,000	6.1	160,000	2.9	0	0	0	0	1,500,000
Road base/subbase	1,200,000	5.9	1,100,000	20	5,500	0.2	17,000	0.4	2,300,000
Flowable fill	850,000	4.1	13,000	0.2	0	0	0	0	860,000
Other	460,000	2.2	450,000	8.3	76,000	3.2	180,000	4.1	1,200,000
Mineral filler	160,000	0.8	63,000	1.2	12,000	0.5	0	0	240,000
Soil modification	78,000	0.4	17,000	0.3	13,000	0.5	2,100	<0.1	110,000
Agriculture	78,000	0.4	43,000	0.8	0	0	80,000	1.8	200,000
Snow and ice control	3,200	0.1	1,100,000	20	51,000	2.2	0	0	1,200,000
Blasting grit/roofing granules	0	0	160,000	2.9	2,100,000	90	0	0	2,300,000
Wallboard	0	0	0	0	0	0	3,100,000	69	3,100,000
Nationwide Total ^a	21,000,000	100	5,400,000	100	2,300,000	100	4,500,000	100	33,000,000

(a) Sum of individual values may not equal total due to rounding.

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[This message contained attachments]

Message: 9

Date: Tue, 23 Mar 2004 10:01:58 -0800

From: "Monica Evans" <imagine@betsievalley.net>

Subject: Re: mercury emissions comment period

BlankI think you are absolutely right, Mark. I'll keep everyone posted as to SC's progress and progression.....

~Monica

----- Original Message -----

From: Mark Dougher

To: cfrd@yahoogroups.com

Sent: Tuesday, March 23, 2004 6:22 AM

Subject: RE: [cfrd] mercury emissions comment period

That is very encouraging news. Thank you, Monica. I really believe at this point that our efforts need to be on the municipals and with the state - because I think we have to focus our strategies on the assumption that the Planning Commission will approve the Special Use Permit, and the City Council will ultimately come to terms with Tondou on the Community Services Fee. Those probabilities are not a reflection of our lack of impact as citizens - it is more a reflection of the City's arrogance, cynicism, and desperation for what they perceive to be a 'success.'

Mark

-----Original Message-----

From: Monica Evans [<mailto:imagine@betsievalley.net>]

Sent: Monday, March 22, 2004 8:56 PM

To: cfrd@yahoogroups.com

Subject: [cfrd] mercury emissions comment period

The state chapter of the Sierra Club's conservation committee met this Saturday in Lansing. Here's

(monofill or surface impoundment)

impoundment) or are being used for commercial applications. In the United States in the year 1999, approximately 110 million tons of CCRs were generated. Approximately one-third (31 percent) of these materials were reused or recycled in various commercial uses, with the remainder being land-disposed.

75 million tons in landfills
75 x 10⁶
150 trillion pounds
150 x 10⁹ pounds

9.4.1 Reuse and Recycling of CCRs

The primary commercial uses of CCRs are listed in Table 9-4. The table presents how each of four types of high-volume CCRs were used for commercial application in 1999. The use of fly ash as a replacement ingredient for concrete or grout is the most common use for any CCR. In this application, the fly ash can serve as a replacement for sand or as a partial replacement for Portland cement in the concrete mix. Significant amounts of fly and bottom ash are used for structural fills (e.g., creation of highway embankments). The addition of CCR to form a road base allows for greater long-term strength development than conventional materials. Bottom ash is used as a substitute for salt for road de-icing operations. Almost all of the boiler slag generated in 1999 was used as blasting grit or roofing granules. Wet FGD scrubber solid wastes and sludges that do not contain high levels of fly ash can be used either directly or, with additional processing, in the production of gypsum wallboard. The substitution of wet FGD scrubber solids/sludges for natural gypsum in wallboard manufacturing has been growing rapidly.

For some commercial uses of CCRs, there is concern regarding the potential re-release of Hg, particularly for those uses involving high-temperature processes. In cement manufacturing, for example, the high temperatures in the cement kiln will revolatilize the Hg contained in the coal fly ash that is used as a material substitute. Questions exist regarding the fraction of Hg in the fly ash that may be emitted when fed to a cement kiln. Other commercial processes that expose CCRs to elevated temperatures include wallboard manufacturing (during the drying process) and when CCRs are used as fillers in asphalt.

For some of the other commercial uses, it appears unlikely that significant Hg in CCRs would be re-introduced into the environment. For example, Hg is unlikely to be re-volatilized or leached from concrete, flowable fill, or structural fill. However, the various commercial uses will be evaluated to determine if there is any significant increase in environmental risk as a result of changes occurring to CCRs.

9.4.2 Land-disposal of CCRs

There are currently approximately 600 waste disposal units (monofills or surface impoundments) being used for disposal of CCRs from electric utility coal-fired electric utility power plants in the United States.⁵ The monofills used for these residues may be located either on-site at the power plant or off-site. Surface impoundments are almost exclusively located at the power plant site. While the distribution of units presently is about equal between monofills and surface impoundments, there is an increased trend to use monofills as the primary disposal method.

what the Mackinac Chapter is going to do ASAP:

*Contact all municipalities who are considering getting power from NLP and encourage them NOT to participate.

*Strongly pursue the non-attainment status.

*Talk to MEC (of which SC is a member) and ask that they pressure Granholm's administration and 2020 committee about the plant

*Engage an environmental justice campaign regarding the plant....more on all this ASAP, but for now:

Hello Conservation Committee & Michigan Leaders!

I am forwarding information from the Sierra Midwest Regional office re the extension of the comment period on Bush's proposed rules to increase mercury emissions from coal power plants to April 30, 2004. See below.

We discussed this at the Conservation Committee on Saturday and will submit comments for the Chapter highlighting the potential impact of these rules on the proposed coal power plant in Manistee.

Please contact Eric Uram of the Midwest Office to get more information on what we in Michigan can do. Eric is distributing new post cards for individuals to sign protesting the proposed rules; you can request these from his office. You can also request more information on mercury and its impact on human health, fish, and wildlife. It is very important to act on this issue and we have time to distribute cards and get members to write individual letters protesting a roll back on mercury reduction.

Sorry for duplications.

Anna Holden, Chair, Conservation Committee
Mackinac Chapter Sierra Club

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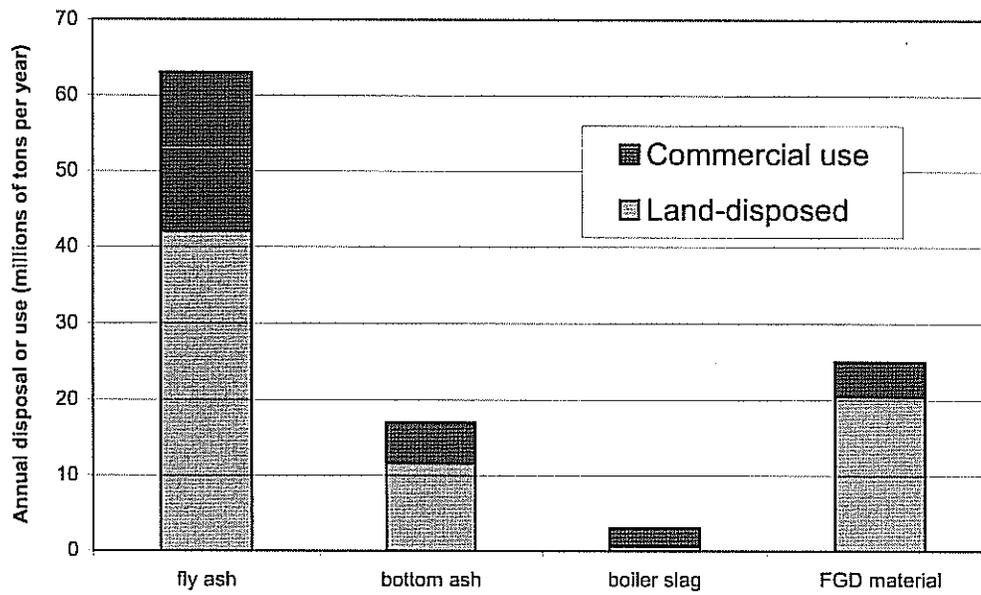


Figure 9-1. Nationwide CCR management practices in the year 1999 (source: graph prepared using data from Reference 1).

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Message: 10

Date: Tue, 23 Mar 2004 15:47:18 -0000

From: "cbpbgp1949" <cbpbgp1949@jackpine.net>

Subject: strategic moves

Mark is right on in his latest posted message. A often used strategy is to introduce plans such as the NLP expecting an initial outcry against it, and over time as the outcry subsides move to go ahead with the plans. This was a particular strategy employed by the previous City Manager, and I suspect the current one as well. A particular breeding ground for my (and maybe your) cynicism is all the closed "executive" sessions city government has in Manistee. Maybe its just me, but I believe that closed sessions are only needed in dealing with matters of personnel problems/decisions. I agree with Monica's group, and especially would push the government on the attainment/non-attainment issue. I believe Tondu came into Manistee with a sucker punch only to run into mcfrd Ali. Chuck

Message: 11

Date: Tue, 23 Mar 2004 11:49:26 -0500

From: "Five Springs Farm" <csafarm@jackpine.com>

Subject: CFRD meeting is WEDNESDAY

Another reminder: The MCFRD meeting will be on Wednesday March 24, since the Dems meet at Dial-a-Ride tonight

Five Springs Farm CSA, <http://fivespringsfarm.itgo.com>
The Community Farm Newsletter, <http://tcf.itgo.com>

[This message contained attachments]

Table 9-3. Summary of available test data on Hg concentrations in major types of CCRs.

Coal Combustion Residue	Test Data Source (Reference)	Number of Samples	Hg Concentration (ppm)					
			Min.	5 th Percentile	Median	Mean	95 th Percentile	Max.
Fly ash	EPRI (Reference 3)	382	0.0002	0.0002	0.09	0.44	1.13	27.7
	UND/EERC (Reference 4)	20	<0.002	0.002	0.076	0.22	1.03	1.24
	EPA (Reference 5) (fine fly ash)	n.r. ^a	0.005	n.r.	0.10	n.r.	n.r.	2.50
	EPA (Reference 5) (mechanical hopper)	n.r.	0.008	n.r.	0.073	n.r.	n.r.	n.r.
	EPA (Reference 5) (1993 data)	n.r.	0.013	n.r.	0.10	n.r.	n.r.	n.r.
Bottom ash	EPA (Reference 5)	12	0.003	n.r.	0.009	n.r.	n.r.	0.040
	EPA (Reference 6) (combined bottom ash and slag)	n.r.	0.005	n.r.	0.023	n.r.	n.r.	4.2
Boiler slag	EPA (Reference 5)	12	0.005	n.r.	0.023	n.r.	n.r.	4.2
Wet FGD solids/sludges	EPA (Reference 5)	15	0.073	n.r.	✓ 4.8	n.r.	n.r.	39.0

(a) n.r. = not reported.

Message: 12

Date: Tue, 23 Mar 2004 11:46:48 -0500

From: "Bill Kracht" <billkracht@chartermi.net>

Subject: article

Hi All -- Thought you might like to read this from Chemical and engineering News -- the official "news magazine" from the American Chemical Society. As you might expect, they tend to be quite supportive of the petrochemical industry in general, which makes this editorial so much more surprising. I scanned it and saved it as a JPEG file... best I could do.

Bill Kracht

[This message contained attachments]

Message: 13

Date: Tue, 23 Mar 2004 13:05:56 -0500

From: "Kurt Harvey" <xharvey@camp-arcadia.com>

Subject: RE: article

Thanks bill! Great article.

Kurt Harvey

-----Original Message-----

From: Bill Kracht [<mailto:billkracht@chartermi.net>]

Sent: Tuesday, March 23, 2004 11:47 AM

To: cfrd@yahoogleroups.com

Subject: [cfrd] article

Hi All -- Thought you might like to read this from Chemical and engineering News -- the official "news magazine" from the American Chemical Society. As you might expect, they tend to be quite supportive of the petrochemical industry in general, which makes this editorial so much more surprising. I scanned it and saved it as a JPEG file... best I could do.

Bill Kracht

--

Table 9-1. Coal combustion residues.

Coal Combustion Residue	Description	Average Quantity Generated Per Ton of Coal Burned ^a	Total Nationwide Quantity Generated in 1999 ^b
Fly ash <i>0.33 PPM</i>	Fine, powdery non-combustible mineral matter in the boiler flue gas and collected by electrostatic precipitator or fabric filter	160 lb/ton	63,000,000 tons
Bottom ash <i>.067 PPM</i>	Dark gray, granular, porous non-combustible mineral matter heavier than fly ash and collected in bottom of the boiler furnace.	40 lb/ton	17,000,000 tons
Boiler slag <i>0.042 PPM</i>	Coarse, black, glassy mineral matter that forms when molten bottom ash contacts quenching waters in wet-bottom furnaces.	100 lb/ton	3,000,000 tons
Wet FGD scrubber solids/sludges <i>0.20 PPM</i>	Solid material or sludge generated by scrubbing processes used to remove sulfur from the flue gases. *	350 lb/ton	25,000,000 tons

Hg Conc.

Hg Conc.

(a) Source: Reference 2.
(b) Source: Reference 1.

*650# crap/ton. coal burned
490# in ash slag solids
160# ~~500~~ fly ash*

Table 9-2. Calculated Hg concentrations in CCRs using EPA ICR data.

Coal Combustion Residue	Hg Concentration (ppm) ^a		
	5th Percentile	Mean	95th Percentile
Fly ash	0.062	0.33	1.2
Bottom ash	0.019	0.067	0.16
Boiler slag	0.012	0.042	0.10
Wet FGD scrubber solids/sludges	0.038	0.20	0.72

(a) Changes in Hg control technology requirements for coal-fired electric utility power plants will cause changes in the Hg concentration in fly ash and wet FGD scrubber solids/sludges.

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Message: 14

Date: Tue, 23 Mar 2004 14:43:06 -0500

From: "Five Springs Farm" <csafarm@jackpine.com>

Subject: speaker needed Wed eve Kiwanis

We need someone to volunteer to go to a Kiwanis Meeting tomorrow evening at 6:30 at 440 West Restaurant on River St to talk to them about our side of this issue. Dale Priester called me at work today to make that request. They have already had Tondy, Meagan, and Mitch talk and sounds like he wants our side of the issue.

Contact Fred for more details

Jim

Five Springs Farm CSA, <http://fivespringsfarm.itgo.com>
The Community Farm Newsletter, <http://tcf.itgo.com>

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the focus of this chapter is on high-volume CCRs. High-volume CCRs include the bottom ash or slag removed directly from the boiler furnace and the fly ash collected by downstream PM control devices. For those coal-fired electric utility boilers using wet FGD scrubbers for SO₂ emissions control, large quantities of scrubber solid wastes and sludges are generated.

Nationwide quantities of high-volume CCRs generated in 1999 from coal combustion are available from data prepared by the American Coal Ash Association (ACAA).¹ Table 9-1 summarizes the characteristics and nationwide generation quantities for the major types of CCRs resulting from combustion of coal in power plants.

9.3 CCR Mercury Concentrations

An initial review by NRMRL indicated that limited laboratory data were available on Hg concentrations in CCRs. Therefore, a nationwide Hg mass balance approach was taken to estimate Hg concentrations in CCRs. This Hg mass balance approach used data from the EPA Parts II and III ICR data bases on coal Hg concentrations and control device Hg capture efficiencies. The EPA ICR data were used with additional ACAA data on CCR generation rates, to estimate Hg concentrations in various CCRs. The Hg concentrations estimated with the nationwide mass balance approach are shown in Table 9-2. Table 9-2 shows calculated mean, 5th percentile, and 95th percentile values for Hg concentrations in CCRs. Mercury concentrations are projected to be highest in fly ash, with a mean value of 0.33 ppm, and a 95th percentile value of 1.2 ppm. Mercury concentrations in wet FGD scrubber solids/sludges are calculated to have a mean value of 0.20 ppm, and a 95th percentile value of 0.72 ppm. Mercury concentrations in bottom ash and boiler slag were calculated to be much lower, with mean values of 0.067 ppm, and 0.042 ppm, respectively.

Coal Combustion Residues

Subsequent to performing the nationwide Hg mass balance to determine Hg concentrations in CCRs, more extensive laboratory data became available from the Electric Power Research Institute (EPRI) and the University of North Dakota Environmental and Energy Research Center (UND/EERC). A summary of available laboratory measurements of Hg in CCRs is shown in Table 9-3. The laboratory measurements in Table 9-3 generally show good correlation with the nationwide mercury mass balance predictions in Table 9-2. For example, the EPRI fly ash data (382 samples) have a mean mercury concentration of 0.44 ppm, with a 95th percentile value of 1.13 ppm, and the UND/EERC data (20 samples) have a mean Hg concentration of 0.22 ppm, and a 95th percentile value of 1.03 ppm. Both these sets of data correlate well with fly ash calculations obtained by the nationwide Hg mass balance, which indicates a mean concentration of 0.33 ppm, and 95th percentile value of 1.2 ppm.

9.4 Nationwide Management Practices

A summary comparison of the quantities and management techniques for various CCRs is presented in Figure 9-1. The CCRs are either land-disposed (in a monofill or surface

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Chapter 9 Coal Combustion Residues and Mercury Control

Fly Ash etc.

9.1 Introduction

The burning of coal in electric utility boilers generates residual materials including fly ash, bottom ash, boiler slag, and wet FGD scrubber solids/sludges. These residual materials are collectively referred to as "coal combustion residues" (CCRs). Currently, about 70 percent of the CCRs are land-disposed and the other 30 percent are reused or recycled for commercial uses such as production of wallboard, cement, and asphalt. Use of Hg emission control technologies on coal-fired electric utility boilers will probably increase the amount of Hg in certain types of CCRs, and could also change the composition and physical properties of these materials, possibly impacting their suitability for commercial reuse and recycling applications. Many of the potential retrofit Hg control technologies for coal-fired electric utility power plants discussed in Chapter 7 remove Hg from the flue gas and concentrate the captured Hg into CCRs (i.e., fly ash collected by PM control devices or solids/sludges generated by wet FGD scrubbers). Concern has been raised as to whether the Hg in the CCRs may later be re-released back to the environment.

*CCR
Coal Combustion Residues*
A life-cycle evaluation is being conducted by NRMRL to help evaluate any potential environmental trade-offs and to ensure that there is not an increased environmental risk for the management of CCRs resulting from Hg control technologies. In support of this evaluation, the NRMRL is gathering data and information to assess future increases in Hg concentrations in CCRs resulting from application of Hg emissions control requirements to coal-fired electric utility boilers. This chapter summarizes some of the CCR information gathered by NRMRL to date and identifies the major data gaps and priorities of EPA's research to ensure that Hg controlled at the coal-fired electric utility power plant stack is not later released from CCRs in an amount that is problematic for the environment.

9.2 CCR Types

The coal combustion process generates many different types of residues. At a given power plant, CCRs can be grouped as those generated on a continuous basis in high-volume quantities and those generated either continuously or intermittently in low-volume quantities. These low-volume CCRs include those resulting from maintenance and coal cleaning. However,

Mitch Deisch

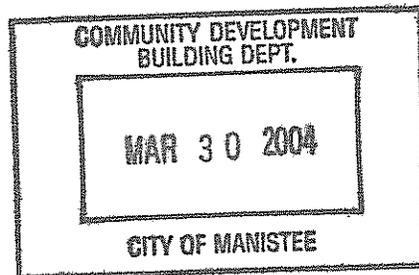
From: Marc Gignac [mgignac@zoominternet.net]
Sent: Monday, March 29, 2004 8:39 PM
To: Mitch Deisch
Cc: schmidt@schmidtoutfitters.com
Subject: potential power plant

To whom it may concern;

As a former Michigan resident and a frequent eco-tourist to the Manistee area, I hope you hear my voice. I am opposed to the proposed coal burning power plant. I have been enjoying the abundant natural resources of this area for many years and in some ways consider it my second home. This has not been inexpensive, but the quality of the experience is fabulous. The quality of this experience is totally dependant upon the health of the environment. The proposed power plant, despite good intentions, puts this ecosystem at risk for serious pollution. In my opinion, putting in a coal burning power plant is too risky for this area already rich in natural resource.

Sincerely Yours,

Marc Gignac



28 MAR 04

ED CIESLINSKI
16527 E. 52 MILE RD
TUSTIN, MI 49688
(231) 775-5374

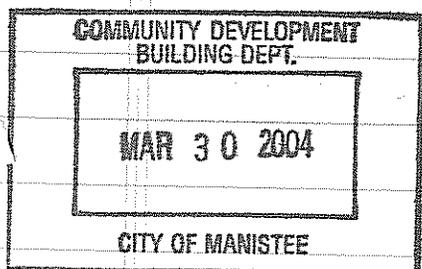
Dear Mr. Yoder

Although I do not live in Manistee, I do live down-wind and I live in northern Michigan by choice, in large part because I do not want to live in the pollution down-state.

Enclosed you will find a copy of an article in the current issue of *Fields and Streams*. I hope it helps to reduce your confusion.

Although, I do not understand why you are confused. Everyone except those who have a vested (financial) interest seems to agree that coal burning plants are worse than just nasty. They seriously pollute and have serious negative effects not only on wildlife, but also humans. Even those who want to burn coal admit that the emissions pollute, they just say the levels of pollution are not harmful. Unfortunately, heavy metals in the environment do not dissipate. They accumulate.

Please read the enclosed article with care. Then ask yourself one question. Would I want to live down-wind from a coal burning power plant?



Sincerely,

Edward D. Cieslinski

F&S SPECIAL REPORT High mercury levels in fish have prompted a new nationwide advisory: The species you bring home could make you sick

DON'T

EAT

THAT

BY HAL HERRING

FISH

It is the most basic of human rights: to fish for food, to take from the bounty of our waters a healthy meal for ourselves and our families. The practice is as old as mankind, from a caveman bent over a river with a sharpened stick to a modern angler powering a cast into the waves with a surf rod. But that right is under a grave threat. • Most fishermen today are familiar with some form of fish consumption advisories, because almost every state has waters that are contaminated by industrial chemicals or other toxic substances such as dioxin or polychlorinated biphenyls (PCBs). Dealing with toxins is one of the sadder facts of being a sportsman in the modern world. And while federal and state agencies have made progress in reducing many kinds of water pollution, one poisonous substance is very much on the increase, and it may turn out to be more dangerous than all the others combined. • That substance is mercury—the most widespread and pervasive

sociated with high levels of mercury in young children, whose nervous systems continue to develop until age 14.

Federal and state advisories focus on how much and what species of fish can be hazardous to women and children, but there are increasing signs that adult men, and women beyond childbearing age, are also at risk. "One of the problems with the advisories is that they can make [mercury] seem like a women's issue only," says Dr. Jane Hightower, an internist at the California Pacific Medical Center in San Francisco, who is conducting extensive research into how elevated levels of methylmercury impact human health. "And that is not correct. I am seeing people that are ill from this all the time."

Hightower believes that we are just beginning to understand how the toxin, at different levels, affects individuals. "We have the data from Minimata Bay and other places regarding the effects of mercury poisoning," she says. "At a certain level of contamination you will see muscular tremors, hair loss, personality disorders, birth defects, inability to concentrate, and various illnesses. We know that for a fact. But the evidence has been trickling in for years that much lower mercury levels are linked to heart attacks, impaired cardiovascular function, muscle and joint problems. I have patients with a host of similar symptoms, who have not been able to get a conclusive diagnosis for what was wrong with them, and the common link we found was elevated mercury levels."

Hightower also says that accumulated mercury undermines the overall function of the body. "Whatever your weakness," she says, "[mercury] will make it worse."

A Threat to Rich and Poor

Hightower's studies have so far focused on upper-income patients from around the San Francisco Bay area—people who eat a lot of big, predatory fish like tuna and swordfish. "But I'd like to work with the sport and subsistence fishermen, too," she says. "This is clearly a growing problem for both the poor who fish for their food, and the wealthy who buy the more expensive kinds of fish."

Hightower worries that many of the advisories available to fishermen are so complicated that they might be ignored. "The California advisory that comes with your fishing license is very good, and if you try to follow those rules, you can catch and eat fish that are healthy for you. But let's be clear about this: If you are eating fish all the time—I had one guy who ate 30 meals of fish a month—you are going to be in trouble. You have got to pay attention. Don't freak out about this; just pay attention. I tell people that they've got to rotate their poisons. Don't eat the same thing day after day."

Coincidentally, the new FDA-EPA fish consumption advisory was issued in the same month that the EPA released new proposed federal regulations to control mercury emissions from coal-fired power plants. Such regulations have never existed.

Mercury Rising?

In 1997, the EPA under the Clinton administration presented a detailed study that revealed the hazards of mercury contamination, pinpointed coal-fired power plants as the leading source of emissions, and promised action. But nothing was done. The EPA had begun work on a plan to address mercury pollution in December 2000; in a 2001 presentation, the agency said that 90 percent of mercury emissions from coal-fired power plants could be cut, using what is known as the Maximum Achievable Control Technology (MACT), by 2008.

Many environmental and fishing organizations expected that, with mercury pollution having attained such a high profile, the Bush administration would follow the MACT plan, but that was not to be. Instead, the EPA has unveiled a very different set of regulations that promises to reduce overall mercury levels by 70 percent by 2018. The new policy places them under a "cap and trade" system, where polluters trade "credits" for complying with the law. According to an EPA press release, this approach will be "the most cost effective way to achieve reductions." Indeed, such a strategy has shown success in reducing the emissions that cause acid rain.

But Felice Stadler, the National Wildlife Federation's national policy coordinator for their Clean the Rain Campaign, has worked on the mercury issue for the past four years and believes that the cap and trade system, as it applies to mercury, is a disaster. "Mercury is far too toxic to be placed under this system," she says. "Under the Bush plan, you will have seven times more mercury released into the waters than if we just simply followed (Continued on page 107)

Mercury and You

Dr. Jane Hightower's research showed that patients—many of whom had mercury levels 10 times the average and were experiencing a wide range of medical problems—reduced their levels significantly by cutting high-mercury-content fish from their diets.

If you are concerned about having elevated mercury levels, you can request a blood test from your physician. The cost should be around \$53.

Many experts say that hair samples more accurately determine long-term mercury exposure than do blood samples. One source from which your doctor can obtain a hair-testing kit is Great Smokies Diagnostic Laboratory, 800-522-4762; www.gsdl.com. —H.H.



THE MERCURY CYCLE: FROM COAL PLANT TO FISHERMAN

(A) Coal-burning power plants emit mercury into atmosphere. (B) Precipitation brings mercury into water. (C) Microorganisms convert mercury to methylmercury. (D) Prey fish eat algae that has been contaminated. (E) Large fish consume prey fish. At this point, mercury could have accumulated to such a high level that it would pose a danger to humans who consume those fish.

Don't Eat That Fish

(Continued from page 76) the Clean Air Act as it is written today. There will be no overall reduction in mercury. Every other major source of pollution has been subject to the requirements of the Clean Air Act, until now. The Bush administration has simply decided that the coal-fired power industry will be exempt."

Several states have already decided that the federal plan is too lax. New Jersey announced in December that it will follow the MACT plan. Massachusetts and Iowa may do the same. Michigan remains undecided. But these are states where the coal industry has less power, and it is extremely doubtful that Montana or Kentucky, both at the edge of a new boom in coal-fired power plant construction, or Texas, which leads the nation in mercury emissions, will follow any stricter regulations than the federal government requires.

Differing Views

Jim Martin is the director of conservation for Pure Fishing, the largest manufacturer of fishing tackle in the world, and is the former chief of fisheries for the state of Oregon. Martin is

among those who believed that the Bush administration would adopt the most stringent controls on mercury emissions, and he is both disappointed and outraged. "The administration would have to try very hard to find a plan that threatens fishing, and fisheries, more than this one," he says. "It is more than irresponsible. We are going to have to stand together and say, 'No, no, no, you cannot do this. This is just too much.'"

EPA spokeswoman Cynthia Bergman says the uproar is hard to understand. "People who say that this is weakening the Clean Air Act are wrong. There has never been a regulation on mercury before. Now we are making an effort to control it, and they are saying, 'It's not good enough.' Well, nothing we do is ever good enough, according to them."

Dr. Jane Hightower tries to remain outside of the politics of the issue. "The only organization I'm a member of is the American Medical Association," she says. But she admits to reservations about the Bush plan. "From what we are learning, I'm not sure it is fair for industry to be allowed to trade mercury emis-

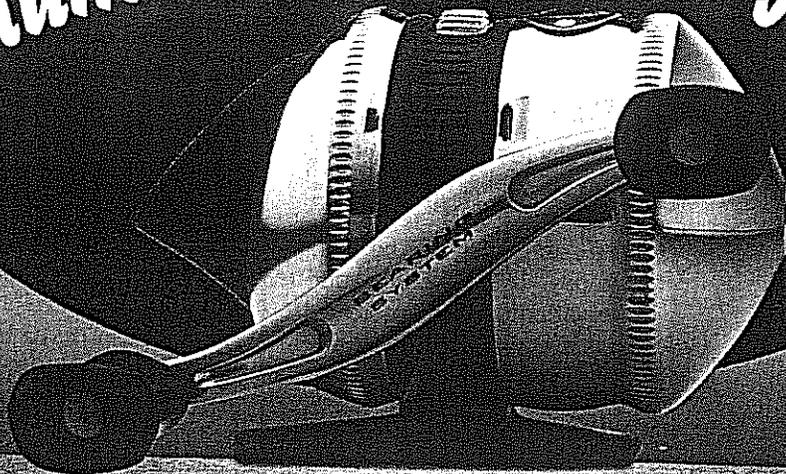
sions. People living outside some power plants will receive high levels of contamination, while others will be protected, just because they happen to live somewhere else. That doesn't seem right."

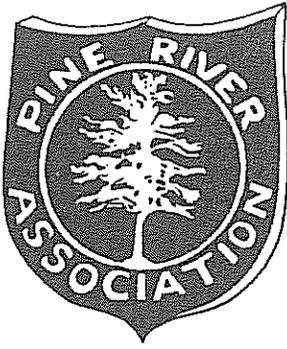
All sources contacted for this story agree that advances in energy technology—and especially energy conservation and efficiency—would be the most practical and effective way to escape our dependence on coal. But our addiction runs long and deep.

In 1272, King Edward I of England proclaimed, "Be it known to all within the sound of my voice, whosoever shall be found guilty of burning coal shall suffer the loss of his head." One unlucky London coal burner was actually caught and executed. Clearly this isn't an option for limiting the amount of mercury getting into our fish. But just as unacceptable is any threat to our absolute right to take a healthy meal from our waters. ES

To read the full text of the new FDA-EPA advisory on the risks of methylmercury in fish, go to www.fda.gov/oc/opacom/mehgadvisory0111.html.

What KIDS DID with their thumbs before video games.





THE PINE RIVER ASSOCIATION

Post Office Box 184, Tustin, Michigan 49688



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March 10, 2004

Manistee City Planning Commission
70 Maple St.
Manistee, MI 49660

Dear Commissioners:

The Pine River Association (PRA) is a conservation organization made up of land owners in the Pine River watershed, located directly west of Manistee, Michigan. For over thirty years, our association has strived to protect and preserve the Pine River and its environs. The PRA strongly opposes the building of the proposed coal burning power plant in Manistee.

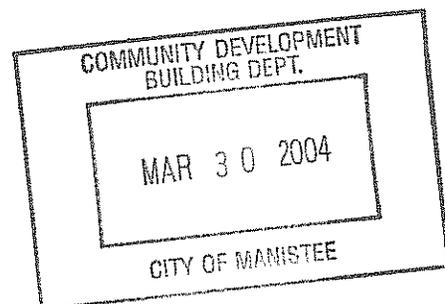
Our members are very concerned about the air pollutants that will result with the operation of this plant. Of particular concern is the enormous amount of mercury that will be cast into the air. This will have an adverse impact on the health of our members and the wildlife that depend on clean air, lakes and streams.

The PRA does support other alternatives in providing electrical power and jobs in the area. We understand the Little River Band of Ottawa Indians is interested in building an environmentally-sensitive energy project based on wind, ethanol, and biomass.

Te PRA urges the Manistee City Planning Committee not to allow this plant to be built in your city. One city, county or region should not make decisions that will adversely impact the quality of life of those living in neighboring regions in the state of Michigan.

Sincerely,

Richard D. Shotwell
President



cc: Governor Granholm
Steve Chester, MDEQ Director
Manistee City Commission
Manistee County Commission

“To preserve and protect the Pine River and its environs”



March 17, 2004

Manistee City Council
70 Maple St.
Manistee, Michigan 49660

Dear Council Members:

I want to thank you for taking such a positive step towards protecting our resources and environment. As someone who is located down wind of Manistee, I can really appreciate your action in the regard of the proposed coal burning facility.

If at some time in the future, a real need for more electrical energy becomes apparent, I'm sure that you will be part of finding a way to get it that will not be as harmful to us as a coal burning facility. It can be done and done well!

Sincerely,

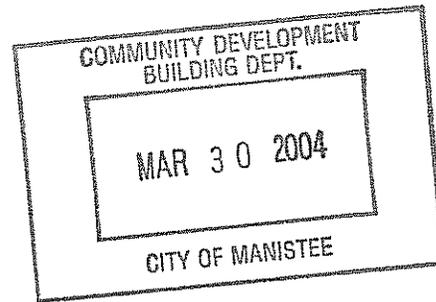
Dennis Douglas



March 29, 2004

2005 Merkey Road
Manistee, Michigan 49660

Denise J. Blakeslee, Recording Secretary
City of Manistee Planning Commission
P.O. Box 358
Manistee, Michigan 49660



Dear Denise,

Re: Public Hearing/Worksession Minutes 2/19/04

I object strenuously to the completely erroneous single sentence summarization of my statement as recorded in the re-convened Public Hearing minutes of 3/4/04 on the Manistee Saltworks Development Corporation.

Never once did I "state opposition to the proposed project." Not once.

My statements, without exception, addressed Planning Commission objectivity in rendering a decision. I addressed ethics.

I stated: "It is the responsibility of the Planning Commission to render its judgment based on findings of fact...*not* the Environmental Assessment ...written by the applicant or consultants on its payroll."

I stated that the scientists, doctors, biologists and engineers who testified – all without any vested interest in plant construction were not "special interest" groups as stated by a member of the Planning Commission.

I spoke as a Citizen Planner having attended the Citizen Planning classes with many of the City Planning Commission members and reiterated the role of a Planner is to seek objectivity in regard to the Special Use conditions by pursuing an unbiased, independent, objective, outside environmental and economic assessment.

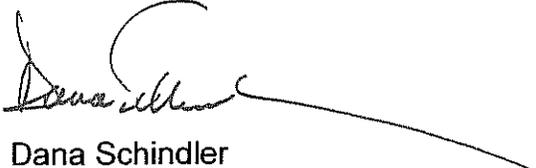
I stated the Planning Commission's responsibility included determination that the health, safety and welfare of the community would be protected without passing the buck to an underfunded, understaffed and overworked state agency that is forced by law to rely on outdated standards.

I suggested the City Planning Commission utilize an Escrow Policy as recommended by the Michigan Society of Planning Officials and Michigan Townships Association as well as others.

Since the summary of my comments in the minutes of public record consist of one sentence that is totally erroneous and inaccurate categorically claiming my opposition, I insist the minutes be officially corrected to *accurately* reflect my comments during the next Planning Commission meeting. I also request this letter become part of the official record during the next Planning Commission meeting.

Attached is a copy of my original statement which can be accurately summarized in the single sentence format by stating that Dana Schindler, presenting as Citizen Planner requested the Planning Commission make its decision based on independent, objective, finding-of-fact and submitted a sample Escrow Policy.

Sincerely,



Dana Schindler

Cc: Roger Yoder

DRAFT
Recording Secretary

abandoned and of a site that was sold and the new owners do not maintain it properly. He spoke of the DEQ and how he feels they do not guarantee a clean environment, follow up on permits and that they do not do their job. Mr. Joseph opposes the proposed power plant (attachment #65).

Kirsten Armstutz - 298 Third Avenue, Manistee - Ms. Armstutz is a teacher and spoke of moving to Manistee and how she loves the area. She spoke of the retirees, tourists, service industry and her concerns about the future of Manistee. She is opposed to the proposed power plant and spoke of the permit standards. She stated that schools must be "mercury free" by 2005 and how the proposed power plant would produce coal.

J. Scott Wing, 811 Mee Street, Filer City - Read a prepared statement in favor of the proposed power plant (attachment #66).

Mark Dougher, 266 Freemont, Manistee - Mr. Dougher gave a power point presentation regarding Brownfields which include Mason Run Housing Development in Monroe Michigan, Brownfields to Parks, and the Fletcher Paper Mill in Alpena. Mr. Dougher submitted a copy of the text from the presentation to the Recording Secretary (attachment #67).

Jan Gavlinski, 2218 Hill Road, Manistee - Spoke of growing up in Manistee and moving back, serving on the Planning Commission, City Council then moving to Manistee Township. She said that she has gone from not caring about the proposed plant, to that it may be ok, to becoming strongly opposed to the project. She said that communities in other states are facing the same issue. The Planning Commission needs to slow down and make sure this is the right decision for us. She has not hear one good reason for the plant to be here. She spoke of being and environmental cancer survivor, she lost her brother to an environmental cancer, and her sister is currently surviving an environmental cancer. Also has five friends she grew up with who have been dealing with environmental cancer. She spoke of legal issues that will arise from the decision and that the Planning Commission should be prepared for them.

Ken Dumas, 4503 Cedar Street, Portage - not in attendance.

Alice Mummey, 12332 Smith Street, Bear Lake - Read a prepared statement in opposition to the proposed power plant (attachment #68).

Tim Granger, 238 West Kott Road, Manistee - Member of Manistee County Audubon Society - Read portions of a Resolution of Opposition to the proposed power plant (attachment #69).

Brad Kolk, 486 Fourth Street, Manistee - Not in attendance. Prepared Statement in support of project left with the Recording Secretary (attachment #70).

Luke Schafer, 4171 Bluegrass, Mt. Pleasant - not in attendance.

Dana Schindler, 2005 Merkey, Manistee - Read a prepared statement in opposition to proposed project (attachment #71).

NORTHERN LIGHTS PROJECT
MANISTEE SALTWORKS DEVELOPMENT CORPORATION
PUBLIC HEARING – FEBRUARY 19 – MARCH 4, 2004
Before the MANISTEE CITY PLANNING COMMISSION
By Dana Schindler as Advanced Citizen Planner

Many of us attended the Citizen Planner Series this past summer offered by MSU Extension in conjunction with the Michigan Society of Planning Officials. We learned our decisions must not be based on opinions, persuasions, favoritism or bias. If a letter circulated by a member of this Commission is any indication, there is concern that this decision could be based on contempt for the general citizenry and constituents who have, in fact, no "special interest" -- for it is not the citizens who have a vested interest in this coal plant, but the applicant. The citizens come bearing reasonable concern and constructive question.

It is the responsibility of this Planning Commission to render its judgment based on findings of fact.

A finding of fact is *not* the Environmental Assessment placed before you that has been written by the applicant or consultants on its payroll.

All written assessments and a multitude of oral presentations by the applicant before this Commission, community service organizations and other boards and committees over the past three years are, *de facto*, *special interest* narratives. A presentation or assessment by any applicant is a treatise of persuasion. It is not objective. Nor is it offered as complete in fact, but often lacks information and ignores specifics --for example in the application before you -- that tiny little matter of a non-existent tax base. It does not serve an applicant's purpose of persuasion to disclose all the downfalls and shortcomings of a project, for its effort is to persuade you to approve the application.

It is your responsibility to seek objectivity. A decision that relies heavily on the applicant's assessment, limits PC knowledge to exactly that which the applicant wants you to hear – a glowing, simplistic, non-specific portrayal.

Findings of fact, not off-the-cuff opinion or judgment, must be applied to the general discretionary standards before you: compatibility, impact, compliance, infrastructure, health safety and welfare.

Findings of fact have been placed before you by citizen comments based on research with trips taken to Lansing, Cadillac, Chicago, Holland and elsewhere in search of accurate information. Citizens who have presented before you have actually read the Special Use Application, Joe's "assessment" and applications to the DEQ. The comments have been studied and intelligent.

If you are not going to base your decision on the science presented to you from those without vested interest who have presented here, then findings of fact upon which to base a decision must come from independent, objective, outside reviews – in this case a *full* independent Environmental Impact Study and a full independent Economic Impact Study. How, in fact, can a community service fee begin to be assessed without an independent, comprehensive economic study? And how can environmental impact be determined without securing a classified “attainment” or “non-attainment” status.

The PC’s environmental review *must not pass the buck* to a State agency that is underfunded, understaffed and overworked – an agency that is forced by law to rely on standards that are outdated and do not protect the public health, as research of the past 20 years clearly indicates, and as has been presented to you. ***The responsibility to protect the health, safety and welfare of this community falls on your shoulders.***

The Michigan Society of Planning Officials, MSU Extension, Michigan Townships Association and others recommend an Escrow Policy to facilitate objective assessment. The PC selects the consulting expert; the applicant pays. The PC would not be acting arbitrarily by asking specific applicants for independent review at applicant expense. Neither would the PC be implementing a reactive rule that hinders a multi-million dollar Corporation. It would be implementing a policy that affords the PC the means to *responsibly* make a decision that protects the economy and welfare of the people you have been commissioned to represent and protect. *It is the people to whom you owe your allegiance. For the corporation it is the cost of doing business.*

The applicant is a Corporation that wants to build a \$114,000,000 coal burning plant that will impact the global community -- not just Manistee, but our entire county, contiguous and non-contiguous states and other continents – with a major impact on our county for the immediate near future of a half-century, and for hundreds of years to come if the scientists, experts and medical doctors who have testified before you are correct. Is this PC so egocentric that it is willing to gamble the statements of the scientists and doctors who have testified before you that *have no vested interest in this project and are not being paid by the applicant?* Relieve yourself of this burden. Do not be so egocentric that you think you have gleaned sufficient knowledge and background from the applicant to make this decision, and do not shortchange and insult the people who are participating in this process in the only way open to them.

It is my understanding there has been a request for a 12 point EIS. Is it enough? You are again limited by your own knowledge or more precisely, lack of knowledge. How do you know what you have asked for completes the picture? You also have an ethical obligation to request input from contiguous Planning Commissions.

Place a full review in the cost of independent experts. The applicant is a developer. He is not an expert in the areas upon which you must make your decision. The cost of a full independent study is a pittance for the corporation, and if it has nothing to hide it will not try to intimidate you as it did in Filer Township with the threat that such action will drive away good business. In fact, red flags should be raised 400 feet into the air if there is any balking.

Prior to making a decision your responsibility is to secure a full, independent, objective, Environmental Impact Study and a full, independent, objective, Economic Impact Study.

The standards for determining if a Special Use Permit is granted do not revolve around the immediacy of 50 jobs. The determination revolves around *your* responsibility to provide for the overall well being of this community for generations yet to come.

Attached are copies of Filer Township's Escrow Policy and the 2002 MTA escrow seminar handout.

Date: June ___, 2003

Charter Township of Filer
2505 Filer City Road
Manistee, MI 49660
231/723-3138; fax 231/723-3191

ESCROW POLICY

In an effort to place the cost of processing an application for Planning Commission or Township Board action where it belongs, on the applicant, the Township has established an Escrow Policy. The escrow policy shall apply to actions for any of the following:

- a. Special uses (including site plan review when a part of special use review)
- b. Planned unit developments
- c. Site condominiums
- d. Private roads
- e. Rezoning or zoning amendments
- f. Permits under Chapter 29, hydrogen sulfide ordinance

The basic application fee covers the following:

1. Applicant's appearance at regular meetings
2. Mailing and Legal Notices required for a public hearing

All other expenses directly incurred in executing and processing the application shall be paid from an escrow account. These expenses include, but are not limited to the following:

1. Costs related to subcommittee meetings
2. Costs related to special meetings
3. Fees related to review, research, consulting, drafting, or meeting appearances by Township Attorney
4. Costs incurred for outside professional consultants for review and consultation on application
5. Township staff time
6. Additional public hearings, required mailing and/or legal notices in the newspapers

The escrow fees will be established at \$500.00 increments commencing with the existing filing fee. The initial fee shall be provided at the time of application. The application will not be processed without this escrow fee. Any excess funds will be refunded with no interest accumulating on those funds. The Township Board shall maintain records and authorize

disbursement of escrow funds. The escrow balance shall not fall below 20% of the initial fee. An additional deposit of \$500.00 minimum shall be required to continue the review. Additional amounts above \$500.00 may be required at the discretion of the Chairperson of the Planning Commission or Township Board.

Any action before the Planning Commission or Township Board must have a current balance in the project's escrow fund. Any balance owing will be cause for the action to be removed from the current agenda and the applicant will not be heard until such time as the funds are current.

No building permit or final approval shall be granted until escrow funds are paid in full.

The Planning Commission or Township Board may, at their sole discretion, waive this escrow policy for a particular application.

G:\WPFILES\RAL\Filer\4831.00 Misc\06-20-03 Escrow Policy.wpd

*Re: MTA Annual Convention
on Escrow Policies*

Date: 8-03

HOW TO SAVE YOUR TOWNSHIP MONEY— ESCROW ZONING AND BUILDING FEES

MICHIGAN TOWNSHIPS ASSOCIATION ANNUAL CONVENTION

Grand Rapids, Michigan

Wednesday, January 16, 2002

**Concurrent Sessions: 1:00-2:15 p.m.
 2:45-4:00 p.m.**

**By: Jeffrey V.H. Sluggett
Clifford H. Bloom
Law, Weathers & Richardson, P.C.
Bridgewater Place
333 Bridge Street, N.W., Suite 800
Grand Rapids, Michigan 49504-5360
(616) 459-1171**

I. Escrow fees

A. What are they?

B. These are in addition to fixed fees

C. The advantages of utilizing an escrow fee policy

1. Lessens the subsidizing of development by township taxpayers
2. Tends to make developers more reasonable
3. Tends to "punish" developers who are unprepared, play games or operate in bad faith
4. Gives those citizens serving on township bodies more professional assistance and tends to lead to more informed decision making
5. Tends to discourage property owners and developers who are not serious

D. Statutory authorization

1. Zoning—MCLA 125.295
2. The Cannon Township lawsuit – See Cornerstone Investments, Inc v Cannon Twp, 231 Mich App 1 (1998); *rev'd*, 459 Mich 908 (1998); *on remand*, 239 Mich App 98 (1999)

E. When should they be applicable?

1. Zoning:

- (a) Special uses
- (b) Site plans
- (c) Planned unit developments
- (d) Rezoning
- (e) Significant variance proceedings
 - The Paragon case

2. Land divisions

F. Setting up accounts to hold the escrow fees

G. Periodic statements sent to the applicant

H. Refunds of excess amounts to the applicant

- I. What can these funds be used to pay for?
 - 1. Only fees and services directly related to the particular matter.
 - 2. Township attorney fees
 - 3. Township planner fees
 - 4. Township engineering fees
 - 5. Extra meetings and miscellaneous costs
- J. Appeal process
- K. Replenishing the escrow fund if it runs low
- L. Must be reasonable!
 - 1. Otherwise, subject to court challenge
 - 2. Be careful not to prompt a backlash
- II. The importance of imposing reasonable fees for township zoning and building services
 - A. Prudent financial practices
 - B. Setting fees high enough prevents township taxpayers from subsidizing developers and development
- III. Procedures for adopting fees in general
 - A. Ordinance authorization
 - 1. Building and other codes
 - 2. Zoning ordinance
 - 3. Other ordinances (mining ordinance, licensing ordinance, liquor control ordinance, land division ordinance, etc.)
 - 4. Example:

The township board shall by resolution establish fees for the administration of the township's zoning ordinance, including all proceedings and matters that may arise hereunder. A listing of current fees shall be available for review by the public during office hours at township hall. Such fees may be changed from time to time by resolution of the township board. The applicant shall pay all applicable fees upon the filing of any application, any proposed site

plan, or any other request or application under this ordinance for which a fee is prescribed. In addition to regularly-established fees, the township board, in its discretion, may also require an applicant to submit to the township (prior to township review of an application or proposed site plan) an amount of money determined by the township to be a reasonable estimate of the fees and costs which may be incurred by the township in reviewing and acting upon such application or related matters. The township shall not charge fees or assess costs to the applicant for the time expended by township employees (except when authorized under appropriate provisions of the Freedom of Information Act) or for incidental costs and expenses, but may charge or assess the applicant for all other reasonable costs and expenses incurred by the township during and in connection with the review process and other related proceedings, whether or not the application is granted. Such costs and expenses to be charged or assessed to the applicant, for reimbursement of the township's reasonable costs and expenses, may include but shall not be limited to township attorney fees, township engineering fees, costs and fees for the services of outside consultants, fees and expenses of other professionals who may assist the township, costs and fees for studies and reports pertaining to the matters in question, special meeting costs, and other reasonable costs and expenses. Such monies shall be retained by the township for reimbursement of such costs and expenses. Any monies paid or deposited by an applicant which are not used or spent by the township shall be refunded to the applicant.

B. Implementation resolutions

1. Do not put fixed fees in ordinances—too difficult to change
2. Be as detailed as necessary
 - (a) Specific fees
 - (b) Use a "catch all" fee at the end
3. Publicizing the fees
 - (a) Posting at township hall
 - (b) Include in handout materials
 - (c) Posting on the township's website (if any)

IV. Fixed zoning and building department fees

A. Statutory authorization

1. Building and other codes—authority has been given under the Michigan Construction Codes, but must still adopt a resolution
2. Zoning fees—MCLA 125.295

“125.295. Fees for zoning permits; additional taxes

Sec. 25. For the purpose of providing funds to carry out this act, the township board of an organized township may require the payment of reasonable fees for zoning permits as a condition to the granting of authority to erect, alter, or locate dwellings, buildings, and structures, including tents and trailer coaches, within a zoning district established under this act, both for the purpose of obtaining advance information as to building operations, locations, and proposed uses, and for the purpose of defraying the cost, in whole or in part, of the enforcement of this act in the township, and if the board has incurred or expects to incur any expense of public funds in carrying out this act, shall, for that purpose, in addition to the revenues of the fees, levy a sufficient tax, in addition to other taxes now authorized by law, upon the real and personal property subject to taxation in the township, and the taxes shall be collected as other taxes are collected. When the taxes or fees are collected, they shall be applied to the payment of any indebtedness incurred by the township subject to this act, and to no other purpose. However, the taxes assessed, levied, and collected shall not cause the limit of taxes established by law to be exceeded.”

- B. Fees must be reasonable and there can be no “profit”
 1. Sanctions by the Michigan Bureau of Construction Codes
 2. Can a township double fees where a violation occurs?
- C. When fees should be collected
 1. Up front
 2. Revocation of a permit for failure to pay fees
- D. Refund policies
 1. This should be set by township board resolution
 2. Take into account costs already incurred by the township

409 Oak Street
Manistee, MI 49660

March 29, 2004

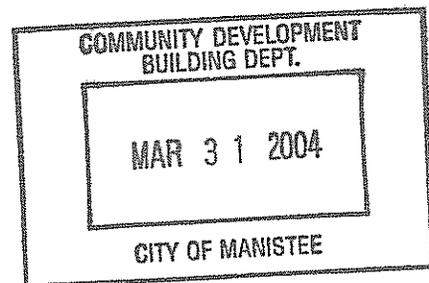
Dear Manistee Planning Commission,

I read the article concerning the report from the MACTEC in the paper on March 26th. I feel that I must speak up and say that when Paul Page discussed the dispersion modeling of the plant as, ¼ mile due west of the proposed facility, he is describing my house. The thought of an additional 80 pounds of mercury per year falling on my infant son sickens me. In fact how can it not feel like a blow straight to the stomach of every parent in this community, considering that the Manistee Middle School is also in the path of the dispersion of the plant? How can we knowingly expose our children to more of this type of toxin? It is simply the wrong thing to do.

I implore you to consider the health and safety of our children and their future and not approve this proposal.

Sara A. Herberger

Sara Herberger



FRIDAY

March 26, 2004



ADVOCATE

50 cents/75 cents Weekend

MACTEC makes report on air quality permit to commission

By **MELISSA J. RENNIE**
Associate Editor

MANISTEE — During Thursday night's planning commission work session, Paul B. Page with MACTEC Engineering and Consulting, discussed with the commissioners their evaluation of the Manistee Saltwork Development's proposed Northern Lights Project.

The report said "the proposed installation of the Northern Lights Project facility will result in a significant source of air emissions, probably the largest source in the area."

Even though the plant will be the largest emitter in the area, the report states that the maximum ground-level pollutant concentrations of particulate matter emissions with a diameter of 10 microns or less (PM10), sulfur dioxide, and nitrogen oxides is far below the National Ambient Air Quality Standards (NAAQS).

The possible emissions are calculated on a "worst-case scenario" with the plant operating at maximum capacity on a continuous basis. The proposed emissions based on the amended EPA permit is 267 tons per

year for PM10, 1,777 tons per year for nitrogen oxide, 2,666 tons per year for sulfur dioxide, and 0.04 tons (80 pounds) of mercury per year.

When discussing the dispersion modeling of the plant, Page said "we would expect the location to be east of the plant" because of the winds from the west, but because of a backdraft with the hill, the dispersion would be due west of the stack. The predicted dispersion, based on the height of the smokestack and other factors, would be a quarter of a mile.

Page said that reviewing the mercury emission rules, it was difficult because they are "changing by the moment." He based his analysis on regulations issued by the Environmental Protection Agency on Jan. 30. Page felt that the new regulations would be "very, very stringent."

The report was based on the plant using Powder River basin coal, which is sub-bituminous coal. In describing controlling mercury, Page said that this type of coal is most likely to produce elemental mercury when it is burned.

Page said that "in conversa-

See MACTEC Page 6A

March 28, 2004

Editor
Manistee News Advocate
75 Maple Street
Manistee, Michigan 49660

Dear Editor:

The sign says "no coal." It's a lot like the signs of the late 1960's – "no nukes" or the recent signs in Mason County declaring "no hog factory farms." The fact of the matter is that there are no for sale signs in the yards of adjacent homes. Property values have not declined by the presence of these projects.

West Olive, near Holland, and Grand Haven have \$200,000 to \$450,000 homes nestled in and around the J.H. Campbell coal fired power plant. This power plant has been burning coal since 1934 and tourism still flourishes in these communities. Quite similar to how protestors said Manistee could not be a tourist town if a prison was here. Manistee has flourished as a tourist destination since the prison was built. And tourists will still come once the Northern Lights power plant is up and running.

The Big Rock Nuclear Power Plant near Charlevoix is only first to be pulled out of service and dismantled. The clock has run out. The life expectancy of nearly all of the nuclear power plants around the nation was only 20 or 30 years. Today, we are well past that time frame.

To date, there is nothing on the drawing board cost effectively replacing the outdated nuclear and old coal fired power plants.

All across the United States natural gas fired power plants are being moth balled or construction stops mid-stream. The ratio of the cost of gas to the price of electrical power is in an imbalance. Such a plant is under construction and test fire here today in Covert, Michigan. The natural gas burning co-generator is the only electrical producer in the plans to take over when our current, oil motivated, government pulls the plug on the nuclear plants or an internal disaster dictates the end of the nuclear plants. Remember – the clock has nearly run out.

If we rely strictly on natural gas to be the primary source of baseload power, then the oil industry will have control of the prices of electrical energy as well. Do you like what you see at the gas pumps today? How much do you think it will cost you to heat your home with natural gas when the same gas is being depleted to produce electrical power?

Even if we had the power to change the oil industries influence over our elected government, it would take some 20 years to put the massive quantities of alternative energy into production or online. This would require a change in elected policy – how long have we been waiting for that energy bill to become law? Next, the funding for research and development - try and find investors to fund uncharted theories during a clouded economy and national deficit – our money is going to Iraq. And then on-site construction of prototypes and years to work out the bugs –look at how many years

passed from the first Atom Bomb being dropped on Japan until the first nuclear power plant went online.

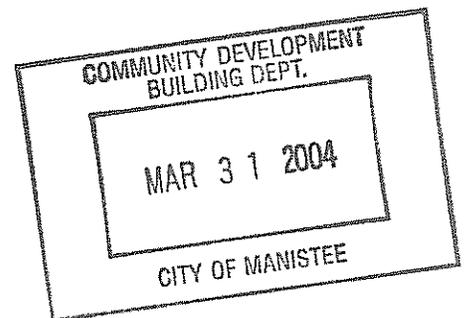
So how many of you started up your automobile and drove it 3 or 4 blocks to wave your "no coal" sign in my backyard? Want to start on the subject of auto emissions? Go ahead, put all of your eggs in one basket and make tourism your bread and butter. Then watch the gas pumps this summer and see if it affects the tourism traffic through your Victorian Village. My guess is that the high price of gas will slow down the number of tourists more than a few more freighters going through the channel and the Northern Lights project.

Sincerely,



Ron Martin
6789 Maple Road
Ludington, Michigan 49660
843-1843

* Copy sent to the Manistee Planning Commission and the Ludington Daily News



Dear Planning Commission,

Please find a way to protect our community from the coal fired power plant like the ones being outlawed in the rest of the country. Once those smokestacks are erected residents will be left to pay for health services, road repairs, bridge repairs and to make up the 40% of property value drop within 20 miles of them. The plant will burden the landfill and water/sewerage system, too.

All of these costs should be born by the city of Holland and the Texas corporation pocketing the billions of dollars produced. Why should sickened Manistee residents be burdened by such a plant? The fair taxation on a project of this size is 16 million dollars. You should fight with your last few healthy breaths the \$2 1/2 million settlement proposed.

Maddyn Klusowski
21 Cottage Lane
Manistee

LAW OFFICES OF
OLSON, BZDOK & HOWARD

A Professional Corporation

James M. Olson *
Christopher M. Bzdok
Scott W. Howard
Karen L. Ferguson ‡
Kristyn J. Houle †
William Rastetter, Of Counsel ◦

420 East Front Street
Traverse City, MI 49686
Telephone: (231) 946-0044
Facsimile: (231) 946-4807
www.envlaw.com

* Admitted in Colorado
‡ Admitted in Hawaii
† Admitted in Louisiana
◦ Admitted in Indiana

March 25, 2004

Jon Rose
Community Development Director
City of Manistee
P.O. Box 358
425 Sixth Street
Manistee, MI 49660

**Via 1st Class Mail &
Fax No. 231-723-1546**

Re: Application for Special Use Permit — Northern Lights Project
Our File N^o. 5311.00

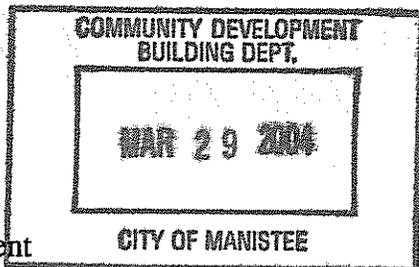
Dear Mr. Rose:

The purpose of this letter is to request that previous correspondence from this office be included in the record of the Planning Commission's consideration and determination of the application for Special Use Permit. Specifically, the previous correspondence (together with attached documents) referenced below related to two categories:

1. **Municipal Planning Act:**
March 9, 2004 letter to Planning Commission from William Rastetter; and
January 29, 2004 letter to Planning Commission from Christopher M. Bzdok
2. **Special Use Permit Standards & Environmental Impacts:**
March 9, 2004 letter to Planning Commission from William Rastetter; and
February 17, 2004 letter to Planning Commission from Christopher M. Bzdok

This letter is prompted by the fact that this referenced correspondence is not included in the packet of written submissions to the Planning Commission obtained yesterday by Gerard Grabowski under the Freedom of Information Act. We presume that the referenced correspondence has been distributed to the members of the Planning Commission; nonetheless we want to assure that the referenced correspondence is included within the administrative record of the Planning Commission's decision concerning the above-referenced application for special use permit. Similarly, we are aware of other written correspondence submitted to the Planning Commission during the period subsequent to the application being deemed "complete," including a submission by Bill Brooks, counsel for the Little River Band of Ottawa Indians, and a letter dated March 18, 2004 from Mark A. Tonello, DNR Fisheries Management Biologist. Any such submissions likewise should be included within the administrative record of the Planning Commission's decision regarding the Northern Lights Project's application for special use permit.

Thank you for your assistance in this matter.



Sincerely,

William Rastetter

WR:sks
xc: Client



70 Maple Street • P.O. Box 358 • Manistee, Michigan 49660

231-723-2558
FAX 231-723-1546

March 29, 2004

William Rastetter
Olson, Bzdok & Howard
420 East Front Street
Traverse City, MI 49686

Dear Mr. Rastetter:

I am in receipt of your letter dated March 25, 2004 regarding Application for Special Use Permit - Northern Lights Project. Please be assured that all correspondence received by this office regarding the Manistee Saltworks Development Corporation project has been forwarded to the Planning Commission and City Council.

The bound volume of submissions to the Planning Commission obtained by Mr. Grabowski was the record of the Public Hearing. As such it included record of testimony and any submissions that were handed into the Planning Commission in conjunction with the testimony.

As you are aware, the Public Hearing concluded on March 4, 2004. Your letters dated March 9th, the document submitted by William Brooks to the Planning Commission on March 18th, and the letter from Mr Tonello likewise dated March 18th would be inappropriate to include with the Record of the Public Hearing. However, they have been included in the official record of the request from Manistee Saltworks Development Corporation.

We share your concern that the record be complete and are doing our utmost to insure this is the case.

Sincerely,

CITY OF MANISTEE

Jon R. Rose
Community Development Director

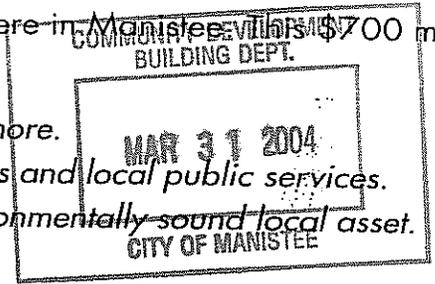
JRR:djb

cc: Gerard Grabowski
Citizens for Responsible Development

NORTHERN LIGHTS & MANISTEE — A WINNING PARTNERSHIP

I support the development of the Northern Lights Project here in Manistee. This \$700 million investment will:

- Create much needed, high paying, permanent jobs and many more.
- Provide millions of dollars in added revenues for local businesses and local public services.
- Transform an unused, contaminated site into a productive, environmentally sound local asset.
- Be the cleanest coal power plant ever built in Michigan.
- Provide, clean, reliable, and affordable energy for Michigan citizens.



COMMENTS:

I think it would be good for the community
Just what Manistee needs jobs

NAME: MARVIN C Lewis JR ADDRESS: PO Box 5 Eastlake MI 49626 PHONE NUMBER: 398-2752

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COMMENTS:

NAME: ANDREW WOJCY ADDRESS: 415 END ST PO 295 EAST LAKE MI 49626 PHONE NUMBER: 398-2069

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COMMENTS: I am a union Ironworker and I would like to work at building this powerplant. I think it would help the economy in Manistee county tremendously. I am in total support of this project.

NAME: Shawn Nelson ADDRESS: 12166 Eleventh street P.O. Box 173 Bear Lake, (231) 864-5246 MI. 49614 PHONE NUMBER:

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COMMENTS: If they don't build this plant, a few years down the road they will wish they had.

NAME: Alan E. Nelson ADDRESS: 12171 Second St Bear Lake, MI PHONE NUMBER: 231 864 3610

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COMMENTS:

I really do hope you build the Northern Lights Project. We need more jobs with better pay - "Go for it"

NAME: Betty J. Nelson ADDRESS: 12171 2nd St. Bear Lake PHONE NUMBER: 864-3610

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COMMENTS:

I DO BELIEVE THAT A DAY WILL COME WHEN ALL OR MOST OF THE NEGATIVE PEOPLE, WILL BE GLAD WE WILL HAVE THE "POWER" TO OPERATE ALL THE GOOD THINGS THAT AN AVAILABLE SOURCE OF ELECTRICITY IS NEEDED

NAME: Wayne Jones ADDRESS: Box 181 PHONE NUMBER: 889-4670
Armadillo

NORTHERN LIGHTS & MANISTEE — A WINNING PARTNERSHIP



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COMMENTS:

Marshall W. Lowe

NAME:

4659 Meadows Rd
Okemos, MI
49675

ADDRESS:

PHONE NUMBER:

NORTHERN LIGHTS & MANISTEE — A WINNING PARTNERSHIP



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COMMENTS:

Manistee needs more jobs. A lot of us made a mistake & did not make it to college. So the job seeking is at it's lowest. The gas prices are so high, its to expensive to travel for a job. Especially when you a single mother.

Johanna M. Stapleton

NAME:

P.O. Box 181 Buehler,
Mi, 49619

ADDRESS:

510-4976

PHONE NUMBER:

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COMMENTS: *I think Northern Lights Project is good for MANISTEE. The project will bring alot of well needed jobs.*

NAME: *MARC EDMONDSON* ADDRESS: *2264 Victory Dr.* PHONE NUMBER: *1231 843-1538*

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COMMENTS: *A great idea, jobs, electricity, a future*

NAME: *Tim Mieski* ADDRESS: *7166 Chief Road, Kalama* PHONE NUMBER: *889-0138*

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COMMENTS:

I am a state licensed Electrician in Michigan and understand the importance of generating electricity needed to meet the ever increasing demand here in Michigan & the USA. This project will give Manistee a needed "shot in the arm" economically. This is a Win-Win situation — lets do this Manistee.

Rod Richmond

7432 Alkire Rd

281-864-2605

NAME:

ADDRESS:

PHONE NUMBER:

Bear Lake MI 49614

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COMMENTS:

I support as well as my wife, the development of the Northern Lights Project. The area needs the jobs, and it will be the cleanest factory in Manistee County.

John E. Mackey Jr
Vicki L. Mackey

8189 LAKEST

231-864-3436

NAME:

ADDRESS:

PHONE NUMBER:

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COMMENTS:

Keep at it - Do NOT

Give up - Need Jobs

NAME: Clay D. Bladzick ADDRESS: Eastlake, MI 212 main PHONE NUMBER: 723-9510

NORTHERN LIGHTS & MANISTEE — A WINNING PARTNERSHIP

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COMMENTS:

Please do all you CAN to get this project started, we all need the jobs it will create.

Clay Bladzick, Laborers Local 355

NAME: Clay Bladzick ADDRESS: P.O. Box 273 Eastlake, MI. PHONE NUMBER: 723-9510

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I have lived in western Michigan for 33 of my 39 year life.

COMMENTS:
The balance has shifted away from industry to tourism.

Tourism alone cannot support this area. I look forward to an increase in responsible industry - I look forward to the construction and operation of the Northern Lights project in Manistee, MI.

Ronald C. Peterson

2454 S. Benedict Rd,

231 843-9360

NAME:

ADDRESS:

Ludington, MI 49431

PHONE NUMBER:

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COMMENTS:

RICHARD BELIC

P.O. Box 41 WELLSTON MI. 845-4465

NAME:

ADDRESS:

PHONE NUMBER:

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LET THE NORTHERN LIGHTS PROJECT

COMMENTS:

BEGIN TIMES A WASTING

Robert H. McHale

NAME:

11163 N. DAWN RD FRESNO MI 48413

ADDRESS:

PHONE NUMBER:

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COMMENTS:

L. Ruth Belie P.O. Box 41 Wellston MI 48093

NAME:

ADDRESS:

PHONE NUMBER:

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COMMENTS:

We need economic growth in this town. I have recently relocated back to this area and it seems there is a very small amount of "middleclass" here, and a large amount of low income & high income. No wonder so many people move away.

Vickey
NAME:

Kennedy
ADDRESS:

1460 Greenwich St. Manistee

PHONE NUMBER:

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COMMENTS:

I believe the new plant would be an economic growth for Manistee.

NAME:

Stan Swidorski

ADDRESS:

5513 Caberfae Hwy
Manistee

PHONE NUMBER:

398-2648

NORTHERN LIGHTS & MANISTEE — A WINNING PARTNERSHIP

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COMMENTS:

PLEASE DONT DEPRIVE THIS AREA BY ALLOWING SPECIAL GROUPS TO STACK MEETINGS IN AN ATTEMPT TO INTIMIDATE THOSE CITIZENS WHO MAKE THE FINAL DECISION ON THIS VALUABLE ISSUE.

WILLIAM G. ATKINS

NAME:

3341 MARINERS

ADDRESS:

ARCADIA, MICH 49613

8893646

PHONE NUMBER:

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COMMENTS:

WE support the building of the Northern Lights Power plant. WE BELIVE IT WILL HAVE A POSITIVE IMPACT ON THE MANISTEE AREA!

Shelby Doyle 644 Division St

Wynne Doyle

NAME:

Eastlake, MI

ADDRESS:

723-5619

PHONE NUMBER:

49626

NORTHERN LIGHTS & MANISTEE — A WINNING PARTNERSHIP

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COMMENTS:

Larry Roels

NAME:

15788 BERTSIE RIVER DR
THOMPSONVILLE MI
49683

ADDRESS:

231-378
2724

PHONE NUMBER:

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COMMENTS:

I am an unemployed citizen currently attending
Boke College of Cadillac for electrical engineering.
I support the development fully.

David M. Young

NAME:

524 Spruce St.
Manistee MI

ADDRESS:

723-7903

PHONE NUMBER:

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COMMENTS:

I HAVE LIVED AND WORKED IN THE MANISTEE AREA FOR 55 YEARS. WE NEED JOBS IN OUR AREA. I PAY TAXES HERE. DO THE TOURISTS?

NAME:

Ken Peppers

ADDRESS:

2992 RIVER RD. MANISTEE

PHONE NUMBER:

723-6485

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COMMENTS:

NAME:

Mike Crudde

ADDRESS:

4204 UNIVERSITY MANISTEE MI 49660

PHONE NUMBER:

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COMMENTS:

LOOKING FORWARD TO HAVING YOU FOR
A NEIGHBOR.

NAME: Jim CABOT

ADDRESS: P.O. Box 287
EASTLAKE, MI 49626

PHONE NUMBER:

NORTHERN LIGHTS & MANISTEE — A WINNING PARTNERSHIP

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COMMENTS:

WELCOME TO THE NEIGHBORHOOD

NAME: GEN CABOT

ADDRESS: 1401 MANISTEE ST.

PHONE NUMBER:

MANISTEE

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COMMENTS: *we need the power this will supply. The jobs will give our kids a way to stay in the area & make a living that will support them*

NAME: *Rae Taylor*

ADDRESS: *412 Elm St.*

PHONE NUMBER: *231 723 8825*

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COMMENTS: *Where would I be without electricity? No TV, washing machine, dryer, computer, sewing machine, microwave, refrigerator, running water. We would be back in the years of our grandparents. We need this new plant!!*

NAME: *Maryann D. Lowe* ADDRESS: *17368 Fourth, Arcadia Mich. 49613* PHONE NUMBER: *231-889-4420*

NORTHERN LIGHTS & MANISTEE — A WINNING PARTNERSHIP

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COMMENTS:

The people in Manistee (older ones) never seem to want anything new to come in. For instance the prison no one wanted that either, its been fine + created jobs. I have children that won't be able to live here due to no jobs.

Darcie Kolt

NAME:

248 4th Ave Manistee

ADDRESS:

231-398-9015

PHONE NUMBER:

Manistee can't survive on just a tourist town. I also sell real estate & the plant would bring new people to Manistee.

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COMMENTS:

Build it!!!
IT MAKES MORE SENSE THAN
concl^os

David Malki

NAME:

385 6th St

ADDRESS:

Manistee

723-5189

PHONE NUMBER:

NORTHERN LIGHTS & MANISTEE — A WINNING PARTNERSHIP

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COMMENTS: IT IS NEEDED. YOU CAN'T ALWAYS PUT THINGS
IN SOME ONE ELSE'S BACKYARD.

NAME: Richard A. Gutowski ADDRESS: 1411 MANISTEE ST. PHONE NUMBER: 723-6350
Richard A. Gutowski MANISTEE

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COMMENTS: I have lived Here all my Life & Have PUT up with
lots of dunks whitch The Commission has let in but
No works. Tourism does not Pay The Taxes That we
Have year around, what a joke.
Fire The Commis'sioners.

NAME: John E. Landis ADDRESS: 1010 Vine ST PHONE NUMBER: 723-3489
Manistee

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COMMENTS:

I read the inclosed information and think it's very ~~th~~ informative. I work at the Casino and have since the opening. Other than us, I have seen no other help with unemployment in this dying town. Hurrah for Tondu, Hurrah for the Unions?

NAME:

ADDRESS:

PHONE NUMBER:

Kami Quick 90 Park Ave Apt 204 398-0335

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COMMENTS:

WE SUPPORT THE NORTHERN LIGHTS PROJECT.

NAME:

ADDRESS:

PHONE NUMBER:

Daryl + Jill Switalski 259 3rd ST. MANISTEE 398-0301

NORTHERN LIGHTS & MANISTEE —

208 Yune St.

Manistee, MI

49660

GRAVE

I support the development of the Northern Lights investment will:

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& Harbor Village and the prison

COMMENTS: The casino was so controversial before it was built, so was the gas pipeline. Now they're in place and few if any complain.

And the casino people, where do they get off swaying the community opinion? They were not welcomed at first, but they are there - they shouldn't make it so difficult for you. Plus they use so much electricity. We need more than retirees & tourists. Our kids need activity and ^{good} jobs - this town is boring for them and not much future. We need diversity - we should all be able to get along. Sandy Killian And others from work agree.

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COMMENTS:

John & Shirley P. Gould

3013 Chippewa Hwy

723-9418

NAME:

ADDRESS:

PHONE NUMBER:

Manistee, MI 49660

NORTHERN LIGHTS & MANISTEE — A WINNING PARTNERSHIP

I support the development of the Northern Lights Project here in Manistee. This \$700 million investment will:

- Create much needed, high paying, permanent jobs and many more.
- Provide millions of dollars in added revenues for local businesses and local public services.
- Transform an unused, contaminated site into a productive, environmentally sound local asset.
- Be the cleanest coal power plant ever built in Michigan.
- Provide, clean, reliable, and affordable energy for Michigan citizens.

COMMENTS:

As my "LATE" Father would tell me "Son you CANNOT stop progress". To me that is very much true today. This state NEEDS more power because of additional homes being built and an increasing population. Also this city NEEDS more jobs and strengthen the tax base.

NAME:

ADDRESS:

PHONE NUMBER:

Philip J. CZARNECKI 11816 MORTON RD. 398-0874
MANISTEE

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COMMENTS:

John & Linda ROZGA

ADDRESS:

PHONE NUMBER:

162 Quincy
Manistee

723-2301

NORTHERN LIGHTS & MANISTEE — A WINNING PARTNERSHIP

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COMMENTS: The reason for being here in Manistee is to live in a small community in the northern country. Manistee has always been an industrial community, for the sole reason that people want to work and live here. It seems the majority that are unsupportive are retiree's and Indians, both of which pollute in one way or another and bring a lot less to the real community.

NAME: Rob Cameron ADDRESS: 2575 Hill Road Manistee PHONE NUMBER: 723-8994

NORTHERN LIGHTS & MANISTEE — A WINNING PARTNERSHIP

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- Provide, clean, reliable, and affordable energy for Michigan citizens.

COMMENTS: I think you've done a fine job with Tondu plant. Bring on Northern Lights Project.

I agree with my husband.

NAME: Jim Willard ADDRESS: 1540 2nd Ave Manistee PHONE NUMBER: 723-76214

NORTHERN LIGHTS & MANISTEE

I support the development of the Northern Lights investment will:

Gustad & Perkins
1761 Olson Road
Manistee, MI 49660



- Create much needed, high paying, permanent jobs
- Provide millions of dollars in added revenues for local businesses
- Transform an unused, contaminated site into a productive, environmentally sound local asset.
- Be the cleanest coal power plant ever built in Michigan.
- Provide, clean, reliable, and affordable energy for Michigan citizens.

COMMENTS:

Good Jobs, Good Benefits, Good Future for Manistee
Good FAX

NAME: ADDRESS: PHONE NUMBER:

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- Provide, clean, reliable, and affordable energy for Michigan citizens.

COMMENTS:

I hope the planning Commission looks At
all the Facts and makes the decision
To Build Northern Lights Project

James A Magner 245 Washington St. 723-5019
NAME: ADDRESS: PHONE NUMBER:

Manistee

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COMMENTS: *I am in complete agreement with the above statements*

I live across from an abandoned contaminated site of a poison gas sweetening plant. Wish someone would clean it up. Anytime you clean up an abandoned contaminated site is a big plus!

NAME: *Risë Jennings*

ADDRESS: *6682 River Rd - Manistee*

PHONE NUMBER:

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- Provide, clean, reliable, and affordable energy for Michigan citizens.

COMMENTS:

Build it!

NAME: *JANICE MAIKI*

ADDRESS: *385 6th St.
Manistee*

PHONE NUMBER: *723-5189*

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- Provide, clean, reliable, and affordable energy for Michigan citizens.

COMMENTS: I support the New coal plant.
Some one else pays for our energy.
let's go!

NAME: Isaac Henrich ADDRESS: 158 13th ST. Apt 3 Manistee PHONE NUMBER: 723-2916

NORTHERN LIGHTS & MANISTEE — A WINNING PARTNERSHIP

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- Provide, clean, reliable, and affordable energy for Michigan citizens.

COMMENTS: want plant will make
more jobs in manistee

NAME: HARVEY YOUNG ADDRESS: 1313 VINE ST Manistee PHONE NUMBER: 723 3298

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COMMENTS: *This town needs Industry and jobs and This is a good opportunity for both IF. This town doesn't grow it will die. This is a chance and we must take advantage of it.*

NAME: *Fran Curtis* ADDRESS: *1404 Manistee St. Manistee* PHONE NUMBER: *723-5589*

NORTHERN LIGHTS & MANISTEE — A WINNING PARTNERSHIP

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COMMENTS: *Work for others, more people in town, more \$ for town*

NAME: *Jenni Carrier* ADDRESS: *1200 Manistee Manistee* PHONE NUMBER: *398-3027*

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COMMENTS:

KEEP OUR AIR + WATER CLEAN
OUR KIDS PLAY IN IT. DO MOON FOR
THEM + US

NAME: PAUL MASTY ADDRESS: 2850 N SHOENHARTS RD PHONE NUMBER: 398-0162
Manistee

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COMMENTS: T-BACT + MACT will assure the environment is properly protected. This area desperately needs the job and economic boost. Our environment will not be compromised based on MDEQ and EPA air quality standards.

NAME: Robert Gutowski ADDRESS: 1048 Brickyard Rd. PHONE NUMBER: 723-4698
Manistee

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COMMENTS:

I HAVE LIVED IN MANISTEE MY WHOLE LIFE ^{44YRS} AND INDUSTRY HAS ALWAYS BEEN HERE UNTIL TOO MANY TOURISTS TRY TO RUN OUR TOWN. I AM VERY MUCH FOR THIS PLANT TO BE HERE WE NEED IT.

RICK ANDERSON 6007 PINE CREEK 231-723-8848
NAME: ADDRESS: PHONE NUMBER:
Manistee

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COMMENTS:

I am in favor I use to work security there and am unemployed, so I agree to open up because of jobs.

Jeremy Blumenschein 1004 Manistee St. 231-690-0750
NAME: ADDRESS: PHONE NUMBER:
Manistee

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COMMENTS:

Manistee has always been a Industry based Community, Look around it's Dying. If it keeps going on this way our Children will be working for Minimum Wage (or Relocate)

NAME:

ADDRESS:

PHONE NUMBER:

Paul R. Smith *2840 Howard Hwy* *(231) 423-8727*
Manistee

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COMMENTS:

I support the development for all of the above reasons.

NAME:

ADDRESS:

PHONE NUMBER:

Lauren Franchowal *1032 Englemar St.* *733-8703*
Manistee

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COMMENTS:

I am totally in favor of this
It will create power and
jobs for a lot of people.

David Dumas

NAME:

481 First St
Manistee

ADDRESS:

PHONE NUMBER:

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- Provide, clean, reliable, and affordable energy for Michigan citizens.

COMMENTS:

This will benefit us all in
the future

Pam Dumas

NAME:

481 First Street
Manistee

ADDRESS:

PHONE NUMBER:

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WE NEED GOOD PAYING JOBS.

COMMENTS:

JAMES K. NOWAK
NAME:

1240 W. FOX FARM RD.
ADDRESS:

723-4053
PHONE NUMBER:

Manistee

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WE ARE A 100% FOR THIS PROJECT.

COMMENTS:

THIS WILL GENERATE DECENT PAYING JOBS - MONEY EARNED IN MANISTEE - STAYS IN MANISTEE. MANISTEE CANNOT SURVIVE ON TOURISTS! THIS PROJECT MIGHT JUST BE THE BOOST THIS TOWN NEEDS!

Cynthia Sorsosa 216 2nd AVE MANISTEE
NAME: ADDRESS: PHONE NUMBER:

Robert L. Sorsosa 216 2nd AVE MANISTEE

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COMMENTS:

TOURIST FINE. WHAT IF GAS
GO UP TO \$2.00 \$2.50 A GALLON.
CASINO FINE WHAT IF THEY PUT SLOTS
TO ALL RACE TRACK'S ~~(I HOPE)~~
NORTHERN LIGHT'S STEADY IN COM CITY
PATRICK O'HEERON 1673 E PARKDALE AVE 723-6431
NAME: ADDRESS: PHONE NUMBER:
Manistee 49060

NORTHERN LIGHTS & MANISTEE — A WINNING PARTNERSHIP

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COMMENTS:
IF WE LET THIS OPPORTUNITY PASS BY US, ALONG
WITH THE OTHER PLANTS, WHO HAVE BEEN DOWN SIZING
FOR THE PAST FEW YEARS. PEOPLE WHO WEAR HARDHATS
MIGHT JUST AS WELL TURN THEM INTO FLOWERS, SO
THE TOURISTS CAN ENJOY THEM. WE NEED TO PROTECT
OUR JOBS, BEFORE THEY'RE SOMETHING IN THE PAST!

Ron Hathaway 1009 VINE ST. 723-7463
NAME: ADDRESS: PHONE NUMBER:

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COMMENTS:

I live in the neighborhood
and the plant would be good
I see no problem with it.

MaryJane Felezyk 182 10th St

NAME:

ADDRESS:

Manistee

723-2460

PHONE NUMBER:

NORTHERN LIGHTS & MANISTEE — A WINNING PARTNERSHIP

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- Provide, clean, reliable, and affordable energy for Michigan citizens.

COMMENTS:

I am in favor of it.

Becky Rohrbach

NAME:

1013 Vine St

ADDRESS:

Manistee

398-0027

PHONE NUMBER:

NORTHERN LIGHTS & MANISTEE — A WINNING PARTNERSHIP

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COMMENTS:

I do support the Northern Lights Project. Its what this town needs. Manistee is a dead zone, & this project will give this town life. I live just a couple of blocks from the proposed project, & it doesn't bother me a bit. It will be an improvement 1000%, from what's there now. I also have no fears about it.

Cheryl Hathaway

ADDRESS:

1009 Vine St.
Manistee

PHONE NUMBER:

723-7463

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COMMENTS:

I have lived in Manistee all my life. I have lived in the Maxwell town area for 21 yrs. I am in favor of the Northern Lights Project. I feel it will benefit the community.

Debra Quade

NAME:

1013 Vine St.

ADDRESS: Manistee

398-0027

PHONE NUMBER:

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COMMENTS:

I lived one block from Noroton
all my life with a big smoke stack
at the end of the alley and they
burned coal all my life.

84 yrs - no health problems
of any kind and my air
pollutions were

NAME:

ADDRESS:

PHONE NUMBER:

L B Gladysch
Manistee
123 2210

NORTHERN LIGHTS & MANISTEE — A WINNING PARTNERSHIP

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COMMENTS:

I live about 2 blocks from the
proposed Northern Lights project. I support
it 100% The economy of Manistee
needs this project and so do our
people.

NAME:

ADDRESS:

PHONE NUMBER:

Ruth Nemierowicz
1510 Vine St
Manistee
123-2026

NORTHERN LIGHTS & MANISTEE — A WINNING PARTNERSHIP

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COMMENTS:

We do need this plant. No body has the right to have any say about what goes on in our town, we are the ones that live here. It would be nice to have other county take care of their own place, we in Manistee don't need no advice from other places. We pay the taxes here they don't. I hope Manistee gives it ok. Another thing people talk about pollution, most of them go to the casino, there is sure pollution in there from smoke Good Suck We need you Tom.

NAME:

ADDRESS:

PHONE NUMBER:

Derek Fortier

1506 Vine Street

Manistee
723-9093

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COMMENTS:

Jobs for regular people are a definite plus
Not just tourists —

NAME:

ADDRESS:

PHONE NUMBER:

SHARON NEWMAN

1022 VINE ST.
MANISTEE

723-6329

NORTHERN LIGHTS & MANISTEE — A WINNING PARTNERSHIP

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COMMENTS: *This is a Manistee project, not Bear Lake, not Benzonia, not Traverse City. Common sense tells you there will be some pollution to any development. Common sense also tells you a new plant will be much more environmentally efficient than the old existing plants. We need electrical power, we need jobs, we need a neglected environmental eyesight cleaned up. THIS WILL BE ACCOMPLISHED.*

Ed Levandoski
NAME:

1175 Merkey Rd
ADDRESS: Manistee

723-3068
PHONE NUMBER:

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- Provide, clean, reliable, and affordable energy for Michigan citizens.

COMMENTS: *You have my support.*

Dan Sprunglow
NAME:

2241 Hill Rd, Manistee
ADDRESS:

398-2661
PHONE NUMBER:

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COMMENTS:

Am in favor of the Northern Lights Project. This will give some more jobs in this town

NAME:

Bladzick

ADDRESS:

186 10th St
Manistee

PHONE NUMBER:

723-3831

NORTHERN LIGHTS & MANISTEE — A WINNING PARTNERSHIP

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COMMENTS:

Manistee needs more businesses like the Northern Light Project. Manistee is trying to turn it all into a resort town with seasonal jobs.

NAME:

Tom Bladzick

ADDRESS:

186 10th St
Manistee

PHONE NUMBER:

231-723-3831

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COMMENTS:

*We need jobs in Manistee its
a dying town. no income
no money in just tourist*

Bradford
NAME:

Bea Lake
ADDRESS:

864-2236
PHONE NUMBER:

NORTHERN LIGHTS & MANISTEE — A WINNING PARTNERSHIP

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COMMENTS:

Bradford

Bea Lake

864-2236

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COMMENTS: I'm working for Ambar Chemical and also for General Chemical. It was not a good feeling to see the faces of men and women who lost their jobs. So please support the Northern Lights project. Help these people to work again here in Manistee.

Alan Edens
NAME:

5570 Temple Rd Manistee MI
ADDRESS:

889-9636
PHONE NUMBER:

NORTHERN LIGHTS & MANISTEE — A WINNING PARTNERSHIP

I support the development of the Northern Lights Project here in Manistee. This \$700 million investment will:

- Create much needed, high paying, permanent jobs and many more.
- Provide millions of dollars in added revenues for local businesses and local public services.
- Transform an unused, contaminated site into a productive, environmentally sound local asset.
- Be the cleanest coal power plant ever built in Michigan.
- Provide, clean, reliable, and affordable energy for Michigan citizens.

COMMENTS: I believe Manistee County needs ^{to be} more than a ~~just~~ town. It also needs to be a manufacturing ¹ County. One that serves its citizens with quality jobs with good incomes. Not service industry jobs that are low paying and seasonal. The Northern Lights Project is a small start to what this ^{country} needs.

Bmeb Edens
NAME:

5570 Temple Rd Manistee
ADDRESS:

231-889-9636
PHONE NUMBER:

NORTHERN LIGHTS & MANISTEE — A WINNING PARTNERSHIP

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- Be the cleanest coal power plant ever built in Michigan.
- Provide, clean, reliable, and affordable energy for Michigan citizens.

COMMENTS:

Approve this plant. We need the jobs. To help Manistee into the 21st Century.

Richard L. Gage

NAME:

80 Grant St
Manistee

ADDRESS:

723-9659

PHONE NUMBER:

NORTHERN LIGHTS & MANISTEE — A WINNING PARTNERSHIP

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- Provide, clean, reliable, and affordable energy for Michigan citizens.

COMMENTS: This will be an important step in the right direction, in light of the loss of manufacturing and energy independence. Proving to the citizens of Michigan that both industry and tourism can co-exist

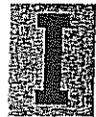
Patric Guzikowski PO Box 424 49675 889-4995

NAME:

ADDRESS:

PHONE NUMBER:

NORTHERN LIGHTS & MANISTEE — A WINNING PARTNERSHIP



support the development of the Northern Lights Project here in Manistee. This \$700 million investment will:

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- Be the cleanest coal power plant ever built in Michigan.
- Provide, clean, reliable, and affordable energy for Michigan citizens.

COMMENTS:

[Faint, illegible handwritten text]

Robert J Coates

NAME:

*14984 Coates Hwy
Beethsen*

ADDRESS:

231-477-5159

PHONE NUMBER:

NORTHERN LIGHTS & MANISTEE — A WINNING PARTNERSHIP



support the development of the Northern Lights Project here in Manistee. This \$700 million investment will:

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- Be the cleanest coal power plant ever built in Michigan.
- Provide, clean, reliable, and affordable energy for Michigan citizens.

COMMENTS:

LOOKING FORWARD TO THIS PARTNERSHIP

HARRY POLEN

123 POLEN RD. MANISTEE

723-8940

NORTHERN LIGHTS & MANISTEE — A WINNING PARTNERSHIP

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- Transform an unused, contaminated site into a productive, environmentally sound local asset.
- Be the cleanest coal power plant ever built in Michigan.
- Provide, clean, reliable, and affordable energy for Michigan citizens.

COMMENTS: MANISTEE HAS ONE OF THE HIGHEST UNEMPLOYMENT RATES IN THE NATION. I HAVE BEEN LAYED OFF FOR THE FIRST TIME IN 12 YEARS. WE NEED THE JOBS! WE ARE REPLACING AN OLD DIRTY FACTORY, WITH A CLEAN, MODERN, HI-TECH NEW ONE, WITH LESS POLLUTION THAN EVER BEFORE. WE NEED THIS PLANT.

NAME: Gene Gjestrum
Gene Gjestrum

ADDRESS: 534 CYPRESS ST.
Manistee

PHONE NUMBER: 510-5510

NORTHERN LIGHTS & MANISTEE — A WINNING PARTNERSHIP

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- Transform an unused, contaminated site into a productive, environmentally sound local asset.
- Be the cleanest coal power plant ever built in Michigan.
- Provide, clean, reliable, and affordable energy for Michigan citizens.

COMMENTS:

NAME: Jon C Lowe

ADDRESS: 14222 ST. PIERRE RD ARCADIA

PHONE NUMBER: 889-0188

NORTHERN LIGHTS & MANISTEE — A WINNING PARTNERSHIP

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- Provide, clean, reliable, and affordable energy for Michigan citizens.

COMMENTS: *I support job creation and clean power*

NAME: *Sue Springborn*

ADDRESS: *363-9th
Manistee*

PHONE NUMBER: *723-7646*

NORTHERN LIGHTS & MANISTEE — A WINNING PARTNERSHIP

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- Transform an unused, contaminated site into a productive, environmentally sound local asset.
- Be the cleanest coal power plant ever built in Michigan.
- Provide, clean, reliable, and affordable energy for Michigan citizens.

COMMENTS: *Do the right thing, move into the future with clean electricity, bring in new jobs.*

NAME: *Donald Springborn*

ADDRESS: *363-9th St*

PHONE NUMBER: *723-7646*

NORTHERN LIGHTS & MANISTEE — A WINNING PARTNERSHIP

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- Transform an unused, contaminated site into a productive, environmentally sound local asset.
- Be the cleanest coal power plant ever built in Michigan.
- Provide, clean, reliable, and affordable energy for Michigan citizens.

Yes, we do need Northern Lights here.

COMMENTS:

Also need jobs here. There is nothing here for the people. We were burning coal for years, and it seem to be all right, now all of a sudden it terrible. People should go out at night when the wood burners are going, that is what you call a smelt that can get in your lungs. We need the coal, badly. My husband and I are for it, also we live two blocks away (over)

NAME: *Jane Fortier*

ADDRESS: *1506 Vico St*

PHONE NUMBER: *723-9093*

ADDRESS:

Citizens for Northern Lights

PO Box 936

Manistee, MI 49660

*from where you are going to put it
We need it, so ^{go} for it, and get it.*

NORTHERN LIGHTS & MANISTEE — A WINNING PARTNERSHIP

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- Be the cleanest coal power plant ever built in Michigan.
- Provide, clean, reliable, and affordable energy for Michigan citizens.

COMMENTS: I BELIEVE JUST ABOUT EVERYONE HAS OR KNOWS SOMEONE OR SOMEONE IN THEIR FAMILY THAT HAS EITHER ^{BEEN} LAID OFF OR TERMINATED FROM THEIR JOB. THE TRUTH IS THERE ARE TOO MANY PEOPLE WITHOUT JOBS, THE BRINGING OF THIS COMPANY WILL FULLFILL MOST OF THIS PROBLEM IN THIS AREA.

NAME: Brandon Wake ADDRESS: 128 Hancock St Manistee PHONE NUMBER: 723-9103

NORTHERN LIGHTS & MANISTEE — A WINNING PARTNERSHIP

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- ✓ Provide millions of dollars in added revenues for local businesses and local public services.
- ✓ Transform an unused, contaminated site into a productive, environmentally sound local asset.
- ✓ Be the cleanest coal power plant ever built in Michigan.
- ✓ Provide, clean, reliable, and affordable energy for Michigan citizens.

COMMENTS: I am in agreement

NAME: WARNER ADDRESS: 607 KOSCIUSKO ST MANISTEE PHONE NUMBER: 723 4817

Howard & Howard

law for business

Direct dial: 248.723.0421

Rodger A. Kershner

email: RKershner@howardandhoward.com

March 19, 2004

Via Facsimile
(231) 723-3888

Mr. Bruce C. Gockerman, Esq.
Gockerman, Wilson, Saylor & Hesslin, P.C.
414 Water Street
P.O. Box 537
Manistee, MI 49660

Re: Manistee Salt Works Development Corporation

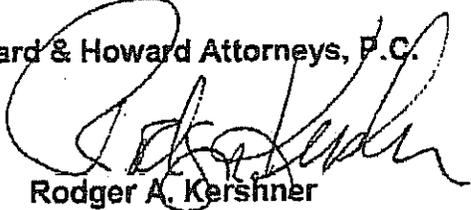
Dear Mr. Gockerman:

You previously received correspondence from Mr. Rodger Myers of this firm seeking consideration by the City of Manistee of a Community Services Contribution offer by Manistee Salt Works Development Corporation in regard to the proposed Northern Lights Generating Station. Manistee Salt Works and all of us involved in the development of Northern Lights are disappointed that the City has not seen fit to take advantage of what we consider to be an extraordinarily generous offer.

The action of the City Council of March 16, 2004, however, sends a strong message. For that reason, and with regret, Manistee Salt Works hereby withdraws the offer, without prejudice, communicated to you by Mr. Myers initially in his letter of January 28, 2004 and as modified by subsequent communications.

Very truly yours,

Howard & Howard Attorneys, P.C.


Rodger A. Kershner

RAK:smr



70 Maple Street • P.O. Box 358 • Manistee, Michigan 49660

231-723-2558
FAX 231-723-1546

March 26, 2004

Jim Tondu
Manistee Saltworks Development Corporation
14701 St. Mary's Lane, Suite 625
Houston, TX 77079

VIA FAX #231-723-5303

Dear Mr. Tondu:

The City of Manistee Planning Commission hereby requests an extension from April 5, 2004 through May 6, 2004 (regularly scheduled May Planning Commission Meeting). This will extend the 60 day period for a decision regarding your request for a Special Use Permit. Under Section 8607 of the Zoning Ordinance an extension can be granted if mutually agreed to between the applicant and Commission.

The Planning Commission will need a response prior to the April 1, 2004 meeting. Thank you for your consideration.

Sincerely,

CITY OF MANISTEE

Jon R. Rose
Community Development Director

JRR:djb

cc: Planning Commissioners
City Council

TRANSMISSION VERIFICATION REPORT

TIME : 03/26/2004 14:07
NAME : CITY OF MANISTEE
FAX : 2317231546
TEL : 2317232558

DATE, TIME	03/26 14:06
FAX NO./NAME	07235303
DURATION	00:00:33
PAGE(S)	01
RESULT	OK
MODE	STANDARD ECM

Howard & Howard

law for business

FACSIMILE TRANSMITTAL SHEET

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TO:

FROM:

Jon Rose

Roger Myers

COMPANY:

DATE:

MARCH 31, 2004

FAX NUMBER:

231.723.1546

TOTAL NO. OF PAGES INCLUDING COVER:

3

PHONE NUMBER:

SENDER'S TELEPHONE NUMBER:

(734) 222-1099

CLIENT NUMBER:

SENDER'S FAX NUMBER:

(734) 761-5957

RE:

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:

HOWARD & HOWARD ATTORNEYS, P.C.
 ONE NORTH MAIN
 SUITE 430
 101 NORTH MAIN STREET
 ANN ARBOR, MICHIGAN 48104-1475

Ann Arbor Bloomfield Hills Kalamazoo Lansing Peoria

Howard & Howard

law for business

direct dial, 734.222.1099

Roger L. Myers

email: Rmyers@howardandhoward.com

March 31, 2004

John H. Gretzinger, Esq.
Nantz, Litowich, Smith & Girard
2025 E. Beltline Ave. SE, Ste. 600
Grand Rapids, MI 49546

VIA FACSIMILE ONLY**RE: Manistee Salt Works Development Corporation ("MSWDC")**

Dear Mr. Gretzinger:

I am writing on behalf of our client, Manistee Salt Works Development Corporation, to respond to the letter from Jon R. Rose, City of Manistee Community Development Director, dated March 26, 2004 requesting an extension of the 60-day period by which the Planning Commission must render a decision regarding the special use permit under § 8607 of the City's zoning ordinance. MSWDC hereby grants an extension for a period of 14 additional days until April 15, 2004, but only on the condition that the Planning Commission refuse to allow any discussion of the project during the call to the public session of the Planning Commission's April 1, 2004 regular meeting. While granting the extension requested by the City, our client should not be obligated to expend the resources to send representatives to the April 1, 2004 meeting to monitor and/or respond to the defamatory statements and misinformation that has been disseminated in previous public meetings. Comments from the call to the public can be received by the Planning Commission at the April 15, 2004 meeting, when representatives of MSWDC will be present for the decision by the Planning Commission.

If the terms of the foregoing extension are acceptable to the City, please acknowledge such acceptance by signing below and returning a fully executed copy of this letter to me via facsimile.

John H. Gretzinger, Esq.

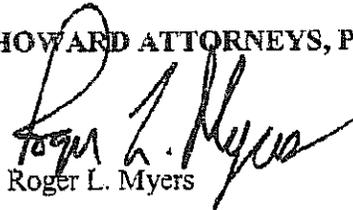
March 31, 2004

Page 2

Should you have any questions, please do not hesitate to contact me.

Very truly yours,

HOWARD & HOWARD ATTORNEYS, P.C.



Roger L. Myers

RLM:cjh

cc: Jon R. Rose (via facsimile only 231-723-1546)

UNDERSTOOD AND ACCEPTED:

John H. Gretzinger

G:\at-v\Tonda\Gretzinger rc ext 3-31-04.doc

Howard & Howard

law for business

FACSIMILE TRANSMITTAL SHEET

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TO:	FROM:
City of Manistee Planning Commission	Roger Myers
COMPANY:	DATE:
	MARCH 31, 2004
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER:
231.723.1546	9
PHONE NUMBER:	SENDER'S TELEPHONE NUMBER:
	(734) 222-1099
CLIENT NUMBER:	SENDER'S FAX NUMBER:
	(734) 761-5957
RE:	

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:

HOWARD & HOWARD ATTORNEYS, P.C.
 ONE NORTH MAIN
 SUITE 450
 101 NORTH MAIN STREET
 ANN ARBOR, MICHIGAN 48104-1475

Ann Arbor Bloomfield Hills Kalamazoo Lansing Peoria

Howard & Howard

law for business

direct dial: 734.222.1099

Roger L. Myers

email: Rmyers@howardandhoward.com

March 31, 2004

VIA FACSIMILE/REGULAR MAIL

John H. Gretzinger, Esq.
Nantz, Litowich, Smith & Girard
2025 E. Beltline Ave. SE, Ste. 600
Grand Rapids, MI 49546

RE: Manistee Salt Works Development Corporation ("MSWDC")

Dear Mr. Gretzinger:

As you know, this firm represents MSWDC in connection with its application for a special use permit for the Northern Lights power plant project. I am writing as follow-up to our recent discussion regarding this matter and to address the report prepared by Williams and Works dated March 10, 2004 regarding the same. Specifically, MSWDC disagrees with certain comments that have been made by City of Manistee officials to the media, and conclusions reached by Mr. Jay Kilpatrick of Williams and Works in the report, regarding the scope of conditions which the City may permissibly attach to the special use permit.

It is important to understand at the outset that we are in agreement with the report's conclusion that a power plant is a use permitted by right under the City's I-2 zoning classification, the district in which the subject property is located. Further, as Williams and Works notes on page 2 of its report, there are only three aspects of the proposed project which require special use approval: (1) Activity outside an enclosed building; (2) discharge of treated process water to Manistee Lake and (3) alteration of the Manistee Lake shoreline. However, in spite of the limited scope of items relating to the project that are subject to special use approval, the Williams and Works report improperly concludes that "it is appropriate for the Planning Commission to consider the entire proposal . . . under the special land use provisions of Article 86." We completely disagree with such conclusion, which is beyond the scope of the City's authority and contrary to Michigan law. This faulty conclusion has mired down and confused deliberation over the special use permit in areas that may well be of valid concern of the community, but have no proper place in any decision to approve or deny the special use permit.

Section 4a of the City and Village Zoning Act (the "Act"), MCL 125.584a, provides the statutory basis upon which the City may regulate certain land uses and activities through a special land use approval process:

John H. Gretzinger, Esq.

March 31, 2004

Page 2

- (1) A city or village may provide in a zoning ordinance for special land uses which shall be permitted in a zoning district only after review and approval by the Commission appointed to formulate and subsequently administer the zoning ordinance, an official charged with administering the ordinance, or the legislative body. **The ordinance shall specify** the following:
 - (a) The special land uses and **activities eligible for approval consideration** and the body or official charged with reviewing special land uses and granting approval.
 - (b) The **requirements and standards upon which decisions** on requests for special land use approval **shall be based**.
 - (c) The procedures and supporting material required for application, review, and approval. [MCL 125.584a(1) (emphasis added)].

The scope of the City's authority to attach conditions to a special land use approval are set forth in section 4c of the Act, which provides, in pertinent part:

- (1) If a city or village zoning ordinance authorizes the consideration and approval of special land uses or planned unit developments pursuant to Sections 4a or 4b, or otherwise provides for discretionary decisions, **the requirements upon which the decisions are made shall be specified in the ordinance.**

* * *

- (2) Reasonable conditions may be required in conjunction with the approval of a special land use, planned unit development, or other land uses or activities permitted by discretionary decision. . . . **Conditions imposed shall do all** of the following:

* * *

- (b) **Be related to the valid exercise of the police power** and purposes which are affected by the proposed use or activity.
- (c) Be necessary to meet the intent and purpose of the zoning regulations; **be related to the standards established in the ordinance for the land use or activity under consideration**; and be necessary to assure compliance with those standards. [MCL 125.584c (emphasis added)].

John H. Gretzinger, Esq.

March 31, 2004

Page 3

The only sensible meaning of these provisions is that the planning commission may attach to the permit such reasonable conditions as it finds are appropriate to address only those characteristics of the proposed use that are not shared with a use that is permitted by right, such as a power plant which is fully enclosed, not discharging treated water to the lake and not altering the lake shoreline, for which the owner is entitled to use the property without any special use conditions as a matter of law. Any other interpretation of the Act would permit the imposition of any condition for all land uses, regardless of whether the condition restricted uses permitted by right. Such an interpretation would be tantamount to repealing the zoning ordinance and conferring complete discretion over all land use on the planning commission. The Act certainly does not authorize such a result.

Contrary to Williams and Works' conclusion that the entire project is subject to special land use provisions of the City's ordinance, a power plant is unambiguously allowed as a permitted use within the I-2 district. Although the project includes three elements identified in the ordinance as subject to special use approval, conspicuously absent from the ordinance are any specific requirements or standards upon which the City could attempt to regulate all other aspects of the power plant through a special land use approval process. Thus, any conditions to the special use permit must "be related to the standards established in the ordinance for [the three components] under consideration." MCL 125.584c(2)(c).

The suggestion that the City may attach conditions that are unrelated to the three characteristics of the proposed project which give rise to special use consideration is unquestionably contrary to section 4c of the Act. Thus, by way of illustration only, mandating an "acceptable" community service fee, regulating air quality standards, and imposing site remediation criteria are clearly beyond the scope of the City's authority under the Act. The fact that MSWDC's proposal includes outside storage of coal does not grant the City a license to arbitrarily regulate other elements of the project over which the City has no authority.

Similarly, although the City's ordinance identifies the discharge of treated process water to Manistee Lake as an activity subject to special use approval, the City cannot lawfully exclude an on-site wastewater treatment plant, regulate the discharge limits of such a private plant, or mandate that MSWDC contribute millions of dollars to the City to increase the capacity of its plant. As the Michigan Court of Appeals recently confirmed in *Lake Isabella Development, Inc. v. Dep't of Environmental Quality* and *City of Brighton v. Twp of Hamburg*, such regulation by local governments are unconstitutional and preempted by the Natural Resources and Environmental Protection Act (NREPA), MCL 324.101, *et seq.* Indeed, the Williams and Works report acknowledges the applicability of the *City of Brighton* decision on page 4.

MSWDC also disagrees with the advice on page 5 of the Williams and Works report that the Planning Commission consider the impact on properties beyond those that share a common boundary with the project in determining compatibility with adjacent land uses under section 8604(3) of the ordinance. The report recognizes that in land use planning, "adjacent land uses are contiguous, sharing a common boundary." Despite that accepted limitation on the scope of adjacent

John H. Gretzinger, Esq.
March 31, 2004
Page 4

uses to be considered, it then erroneously suggests the Planning Commission "broaden the scope of consideration somewhat." Williams and Works' suggestion that the City deviate from the accepted limitation on "adjacent land uses" to be considered (without even attempting to define the scope of "somewhat") represents nothing more than an invitation to impose arbitrary conditions in the absence of specific standards, contrary to MCL 125.584c(2)(c). Thus, any attempt to condition special use approval on an acceptable community service fee because of the perceived impacts to the community at large constitutes a clear violation of the limited statutory authority possessed by the City under the Act.

Williams and Works, at the conclusion of its report, identifies several proposed restrictions for consideration by the planning commission as conditions to the issuance of a special use permit. Based upon the analysis set forth above, MSWDC objects to many of the conditions suggested in the report because they exceed the scope of the City's authority under sections 4a and 4c of the Act. However, while certain other conditions proposed in the report exceed the scope of the City's authority, MSWDC does not object to such conditions to the extent they are reasonable as clarified herein. The following represents the list of specific conditions proposed by Williams and Works and MSWDC's response to the same:

- a. Submission of final engineered site plan appropriately addressing elements such as, but not limited to, site lighting, landscaping (including maintenance), on-site circulation, appropriate fire separation distances, and other site-related issues.

MSWDC response:

No objection.

- b. Approved NPDES permit for discharge of process water and disclosure of discharge limits, unless the City determines that discharge of process water to the municipal wastewater system is in the best interest of the community.

MSWDC response:

To the extent an NPDES permit is required for the development and operation of the project, MSWDC will secure approval of such permit. To the extent this condition suggests that the City may prohibit an on-site waste water treatment plant, MSWDC objects to such condition as beyond the scope of the City's legal authority.

- c. Fuel source limited to low-sulfur coal only from the Power River basin or another source of low sulfur coal.

MSWDC response:

John H. Gretzinger, Esq.

March 31, 2004

Page 5

Although this condition is beyond the scope of the City's legal authority, MSWDC does not object to this condition if restated as follows: "Fuel limited to low-sulfur coal only from the Powder River Basin or another source of low sulfur coal as more fully defined in the air quality permit issued to the facility".

- d. Per applicant's assertion, mercury removal systems to incorporate maximum achievable control technology.

MSWDC response:

Although this condition is beyond the scope of the City's legal authority, MSWDC does not object to this condition if restated as follows: "Per applicant's assertion, mercury removal systems to incorporate maximum achievable control technology, as defined in the air quality permit issued to the facility".

- e. Approved MDEQ and EPA air emission permit and disclosure of emission limits.

MSWDC response:

No objection.

- f. Copy of an approved Army Corps of Engineers permit and MDEQ permit for shoreline improvements and disclosure of the permits particulars.

MSWDC response:

No objection. This is a reasonable condition to regulate the alteration of the Manistee Lake Shoreline.

- g. Submission of a MDEQ-approved site remediation plan including all site clean-up standards as established by the City and MDEQ.

MSWDC response:

MSWDC will secure approval of a site remediation plan in accordance with standards established by the MDEQ, but MSWDC objects to the proposed obligation to secure approval of such plans in accordance with standards established by the City, which exceeds the scope of the City's legal authority and usurps the authority of the state.

John H. Gretzinger, Esq.
March 31, 2004
Page 6

- h. Executed agreement or other documentation committing to pay a community service fee in an amount acceptable to the City, the terms of which shall include agreement to provide the City with copies of the annual audited financial statements.

MSWDC response:

MSWDC objects to this condition because it is beyond the scope of the City's legal authority.

- i. Agreement to provide the City with copies of periodic air and water quality monitoring reports that may be required under any permits issued.

MSWDC response:

MSWDC objects to this condition because it is beyond the scope of the City's legal authority. In addition, the City is entitled to secure this information from the regulating agencies under applicable Freedom of Information Acts.

- j. Install groundwater monitoring wells to acquire baseline contaminate information and provide quarterly monitoring of groundwater quality to the City.

MSWDC response:

MSWDC objects to this condition because it is beyond the scope of the City's legal authority. However, MSWDC shall install groundwater monitoring wells to the extent they are required by EPA and/or MDEQ.

- k. Noise levels to be maintained below 65 decibels at the property line and applicant to provide the City with a sound meter for monitoring purposes.

MSWDC response:

MSWDC does not object to maintaining plant equipment noise levels below 65 decibels at the property line. However, MSWDC objects to an obligation to provide the City with a sound meter for monitoring purposes. The City is entitled to conduct its own periodic sound testing to monitor compliance with this standard.

John H. Gretzinger, Esq.

March 31, 2004

Page 8

this condition. To the extent this condition proposes to obligate MSWDC to provide funding, training, and/or equipment to the City's fire department, MSWDC objects to such condition because it is beyond the scope of the City's legal authority and, therefore, no lawful control.

- p. All coal freighters shall be prohibited from discharging ballast water in the Manistee River Channel or in Manistee Lake.

MSWDC response:

MSWDC objects to this condition because it is beyond the scope of the City's legal authority. The extent to which coal freighters may discharge ballast water is regulated by the United States Coast Guard, over which the City possesses no regulatory authority.

- q. The applicant shall agree to pay all bridge opening fees necessitated by its operation.

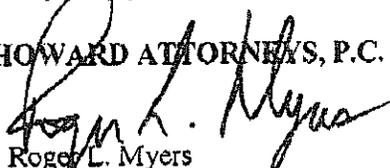
MSDWC response:

MSWDC objects to this condition because it is beyond the scope of the City's legal authority. In addition, even if this item were subject to regulation under the special use approval standards, the City's attempt to impose operating fees against MSWDC while not similarly assessing all other watercraft that necessitate bridge openings would constitute unlawful discrimination.

I trust that the foregoing information clearly delineates the extent to which the City may attach permissible conditions to the special use permit sought by MSWDC. Should you have any questions or need additional information, please do not hesitate to contact me. We would welcome the opportunity to review and discuss with you any special conditions the planning commission appears prepared to adopt prior to formal action by the commission in an effort to avoid any misunderstanding about the state of the facts, the law or the intentions of either party.

Very truly yours,

HOWARD & HOWARD ATTORNEYS, P.C.


Roger L. Myers

RLM:cjh

cc: City of Manistee Planning Commission (via facsimile only 231.723.1546)

GM-v\Tondra\Gretzinger 3-31-04.doc

Howard & Howard

approve the special use with conditions or to deny the special use. The following paragraphs establish an approach to either alternative.

1. Conditional approval of the special use permit will require that the Planning Commission outline the various conditions to be achieved to comply with the standards of Section 8609. At a minimum, we suggest the following list of conditional elements. In many instances, the details of these conditions will require further input from the Planning Commission, the City staff and potentially from the applicant:
 - a. Submission of final engineered site plan appropriately addressing elements such as, but not limited to, site lighting, landscaping (including maintenance), on-site circulation, appropriate fire separation distances, and other site-related issues.
 - b. Approved NPDES permit for discharge of process water and disclosure of discharge limits, unless the City determines that discharge of process water to the municipal wastewater system is in the best interest of the community.
 - c. Fuel source limited to low-sulfur coal only from the Powder River Basin or another source of low sulfur coal.
 - d. Per applicant's assertion, mercury removal systems to incorporate maximum achievable control technology.
 - e. Approved MDEQ and EPA air emissions permit and disclosure of emission limits.
 - f. Copy of an approved Army Corps of Engineers permit and MDEQ permit for shoreline improvements and disclosure of the permits particulars.
 - g. Submission of a MDEQ-approved site remediation plan including all site clean-up standards as established by the City and MDEQ.
 - h. Executed agreement or other documentation committing to pay a community service fee in an amount acceptable to the City, the terms of which shall include agreement to provide the City with copies of the annual audited financial statements.
 - i. Agreement to provide the City with copies of periodic air and water quality monitoring reports that may be required under any permits issued.
 - j. Install groundwater monitoring wells to acquire baseline contaminate information and provide quarterly monitoring of groundwater quality to the City.
 - k. Noise levels to be maintained below 65 decibels at the property line and applicant to provide the City with a sound meter for monitoring purposes.
 - l. Establishment of a Performance Bond to the benefit of the City to assure either satisfactory completion of the facility in accord with the requirements of all permits, the special land use permit and the site plan, or in the event the construction is abandoned prior to

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law for business

direct dial: 734.222.1099

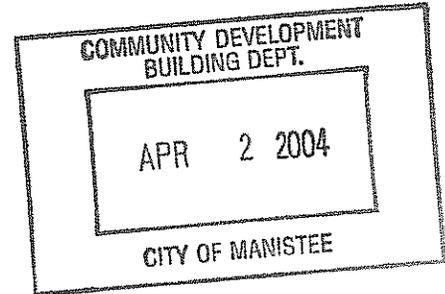
Roger L. Myers

email: Rmyers@howardandhoward.com

March 31, 2004

VIA FACSIMILE/REGULAR MAIL

John H. Gretzinger, Esq.
Nantz, Litowich, Smith & Girard
2025 E. Beltline Ave. SE, Ste. 600
Grand Rapids, MI 49546



RE: Manistee Salt Works Development Corporation ("MSWDC")

Dear Mr. Gretzinger:

As you know, this firm represents MSWDC in connection with its application for a special use permit for the Northern Lights power plant project. I am writing as follow-up to our recent discussion regarding this matter and to address the report prepared by Williams and Works dated March 10, 2004 regarding the same. Specifically, MSWDC disagrees with certain comments that have been made by City of Manistee officials to the media, and conclusions reached by Mr. Jay Kilpatrick of Williams and Works in the report, regarding the scope of conditions which the City may permissibly attach to the special use permit.

It is important to understand at the outset that we are in agreement with the report's conclusion that a power plant is a use permitted by right under the City's I-2 zoning classification, the district in which the subject property is located. Further, as Williams and Works notes on page 2 of its report, there are only three aspects of the proposed project which require special use approval: (1) Activity outside an enclosed building; (2) discharge of treated process water to Manistee Lake and (3) alteration of the Manistee Lake shoreline. However, in spite of the limited scope of items relating to the project that are subject to special use approval, the Williams and Works report improperly concludes that "it is appropriate for the Planning Commission to consider the entire proposal . . . under the special land use provisions of Article 86." We completely disagree with such conclusion, which is beyond the scope of the City's authority and contrary to Michigan law. This faulty conclusion has mired down and confused deliberation over the special use permit in areas that may well be of valid concern of the community, but have no proper place in any decision to approve or deny the special use permit.

Section 4a of the City and Village Zoning Act (the "Act"), MCL 125.584a, provides the statutory basis upon which the City may regulate certain land uses and activities through a special land use approval process:

- (1) A city or village may provide in a zoning ordinance for special land uses which shall be permitted in a zoning district only after review and approval by the Commission appointed to formulate and subsequently administer the zoning ordinance, an official charged with administering the ordinance, or the legislative body. **The ordinance shall specify** the following:
 - (a) The special land uses and **activities eligible for approval consideration** and the body or official charged with reviewing special land uses and granting approval.
 - (b) The **requirements and standards upon which decisions** on requests for special land use approval **shall be based**.
 - (c) The procedures and supporting material required for application, review, and approval. [MCL 125.584a(1) (emphasis added)].

The scope of the City's authority to attach conditions to a special land use approval are set forth in section 4c of the Act, which provides, in pertinent part:

- (1) If a city or village zoning ordinance authorizes the consideration and approval of special land uses or planned unit developments pursuant to Sections 4a or 4b, or otherwise provides for discretionary decisions, **the requirements upon which the decisions are made shall be specified in the ordinance**.

* * *
- (2) Reasonable conditions may be required in conjunction with the approval of a special land use, planned unit development, or other land uses or activities permitted by discretionary decision. . . . **Conditions imposed shall do all** of the following:

* * *

 - (b) **Be related to the valid exercise of the police power** and purposes which are affected by the proposed use or activity.
 - (c) Be necessary to meet the intent and purpose of the zoning regulations; **be related to the standards established in the ordinance for the land use or activity under consideration**; and be necessary to assure compliance with those standards. [MCL 125.584c (emphasis added)].

The only sensible meaning of these provisions is that the planning commission may attach to the permit such reasonable conditions as it finds are appropriate to address only those characteristics of the proposed use that are not shared with a use that is permitted by right, such as a power plant which is fully enclosed, not discharging treated water to the lake and not altering the lake shoreline, for which the owner is entitled to use the property without any special use conditions as a matter of law. Any other interpretation of the Act would permit the imposition of any condition for all land uses, regardless of whether the condition restricted uses permitted by right. Such an interpretation would be tantamount to repealing the zoning ordinance and conferring complete discretion over all land use on the planning commission. The Act certainly does not authorize such a result.

Contrary to Williams and Works' conclusion that the entire project is subject to special land use provisions of the City's ordinance, a power plant is unambiguously allowed as a permitted use within the I-2 district. Although the project includes three elements identified in the ordinance as subject to special use approval, conspicuously absent from the ordinance are any specific requirements or standards upon which the City could attempt to regulate all other aspects of the power plant through a special land use approval process. Thus, any conditions to the special use permit must "be related to the standards established in the ordinance for [the three components] under consideration." MCL 125.584c(2)(c).

The suggestion that the City may attach conditions that are unrelated to the three characteristics of the proposed project which give rise to special use consideration is unquestionably contrary to section 4c of the Act. Thus, by way of illustration only, mandating an "acceptable" community service fee, regulating air quality standards, and imposing site remediation criteria are clearly beyond the scope of the City's authority under the Act. The fact that MSWDC's proposal includes outside storage of coal does not grant the City a license to arbitrarily regulate other elements of the project over which the City has no authority.

Similarly, although the City's ordinance identifies the discharge of treated process water to Manistee Lake as an activity subject to special use approval, the City cannot lawfully exclude an on-site wastewater treatment plant, regulate the discharge limits of such a private plant, or mandate that MSWDC contribute millions of dollars to the City to increase the capacity of its plant. As the Michigan Court of Appeals recently confirmed in *Lake Isabella Development, Inc. v. Dep't of Environmental Quality* and *City of Brighton v. Twp of Hamburg*, such regulation by local governments are unconstitutional and preempted by the Natural Resources and Environmental Protection Act (NREPA), MCL 324.101, *et seq.* Indeed, the Williams and Works report acknowledges the applicability of the *City of Brighton* decision on page 4.

MSWDC also disagrees with the advice on page 5 of the Williams and Works report that the Planning Commission consider the impact on properties beyond those that share a common boundary with the project in determining compatibility with adjacent land uses under section 8604(3) of the ordinance. The report recognizes that in land use planning, "adjacent land uses are contiguous, sharing a common boundary." Despite that accepted limitation on the scope of adjacent

uses to be considered, it then erroneously suggests the Planning Commission "broaden the scope of consideration somewhat." Williams and Works' suggestion that the City deviate from the accepted limitation on "adjacent land uses" to be considered (without even attempting to define the scope of "somewhat") represents nothing more than an invitation to impose arbitrary conditions in the absence of specific standards, contrary to MCL 125.584c(2)(c). Thus, any attempt to condition special use approval on an acceptable community service fee because of the perceived impacts to the community at large constitutes a clear violation of the limited statutory authority possessed by the City under the Act.

Williams and Works, at the conclusion of its report, identifies several proposed restrictions for consideration by the planning commission as conditions to the issuance of a special use permit. Based upon the analysis set forth above, MSWDC objects to many of the conditions suggested in the report because they exceed the scope of the City's authority under sections 4a and 4c of the Act. However, while certain other conditions proposed in the report exceed the scope of the City's authority, MSWDC does not object to such conditions to the extent they are reasonable as clarified herein. The following represents the list of specific conditions proposed by Williams and Works and MSWDC's response to the same:

- a. Submission of final engineered site plan appropriately addressing elements such as, but not limited to, site lighting, landscaping (including maintenance), on-site circulation, appropriate fire separation distances, and other site-related issues.

MSWDC response:

No objection.

- b. Approved NPDES permit for discharge of process water and disclosure of discharge limits, unless the City determines that discharge of process water to the municipal wastewater system is in the best interest of the community.

MSWDC response:

To the extent an NPDES permit is required for the development and operation of the project, MSWDC will secure approval of such permit. To the extent this condition suggests that the City may prohibit an on-site waste water treatment plant, MSWDC objects to such condition as beyond the scope of the City's legal authority.

- c. Fuel source limited to low-sulfur coal only from the Power River basin or another source of low sulfur coal.

MSWDC response:

Although this condition is beyond the scope of the City's legal authority, MSWDC does not object to this condition if restated as follows: "Fuel limited to low-sulfur coal only from the Powder River Basin or another source of low sulfur coal as more fully defined in the air quality permit issued to the facility".

- d. Per applicant's assertion, mercury removal systems to incorporate maximum achievable control technology.

MSWDC response:

Although this condition is beyond the scope of the City's legal authority, MSWDC does not object to this condition if restated as follows: "Per applicant's assertion, mercury removal systems to incorporate maximum achievable control technology, as defined in the air quality permit issued to the facility".

- e. Approved MDEQ and EPA air emission permit and disclosure of emission limits.

MSWDC response:

No objection.

- f. Copy of an approved Army Corps of Engineers permit and MDEQ permit for shoreline improvements and disclosure of the permits particulars.

MSWDC response:

No objection. This is a reasonable condition to regulate the alteration of the Manistee Lake Shoreline.

- g. Submission of a MDEQ-approved site remediation plan including all site clean-up standards as established by the City and MDEQ.

MSWDC response:

MSWDC will secure approval of a site remediation plan in accordance with standards established by the MDEQ, but MSWDC objects to the proposed obligation to secure approval of such plans in accordance with standards established by the City, which exceeds the scope of the City's legal authority and usurps the authority of the state.

- h. Executed agreement or other documentation committing to pay a community service fee in an amount acceptable to the City, the terms of which shall include agreement to provide the City with copies of the annual audited financial statements.

MSWDC response:

MSWDC objects to this condition because it is beyond the scope of the City's legal authority.

- i. Agreement to provide the City with copies of periodic air and water quality monitoring reports that may be required under any permits issued.

MSWDC response:

MSWDC objects to this condition because it is beyond the scope of the City's legal authority. In addition, the City is entitled to secure this information from the regulating agencies under applicable Freedom of Information Acts.

- j. Install groundwater monitoring wells to acquire baseline contaminate information and provide quarterly monitory of groundwater quality to the City.

MSWDC response:

MSWDC objects to this condition because it is beyond the scope of the City's legal authority. However, MSWDC shall install groundwater monitoring wells to the extent they are required by EPA and/or MDEQ.

- k. Noise levels to be maintained below 65 decibels at the property line and applicant to provide the City with a sound meter for monitoring purposes.

MSWDC response:

MSWDC does not object to maintaining plant equipment noise levels below 65 decibels at the property line. However, MSWDC objects to an obligation to provide the City with a sound meter for monitoring purposes. The City is entitled to conduct its own periodic sound testing to monitor compliance with this standard.

- l. Establishment of a Performance Bond to the benefit of the City to assure either satisfactory completion of the facility in accord with the requirements of all permits, the special land use permit and the site plan, or in the event the construction is abandoned prior to completion, removal of existing and any new structures or parts of structures and complete reclamation of the site in accord with an approved remediation plan.

MSWDC response:

MSWDC objects to this condition because it is beyond the scope of the City's legal authority.

- m. Establishment of an escrow bond or other surety satisfactory to the City to support the ultimate decommissioning of the facility and the reclamation of the site in accord with the then existing City of Manistee Master Plan.

MSWDC response:

MSWDC objects to this condition because it is beyond the scope of the City's legal authority.

- n. All coal conveyors to include dust mitigation and fire suppression systems, including the self-unloading equipment on the freighters.

MSWDC response:

This is a reasonable condition to regulate activity outside an enclosed building insofar as it regulates the plant and its activities. MSWDC is also able and willing to insist that the boats delivering coal to the plant are equipped with covered unloading conveyors and to provide dust suppression and fire control equipment at the point of delivery of the coal.

- o. Final approval of the fire suppression system by the City Fire Chief and fulfilling of the training and equipment requirements associated with the establishment of the plan, as outlined by the City Fire Chief.

MSWDC response:

The scope of this proposed condition is unclear. However, to the extent this condition requires final approval by the City's Fire Chief of the fire suppression systems referenced in condition n above and compliance by the power plant with all of the state's fire codes, MSWDC has no objection to

this condition. To the extent this condition proposes to obligate MSWDC to provide funding, training, and/or equipment to the City's fire department, MSWDC objects to such condition because it is beyond the scope of the City's legal authority and, therefore, no lawful control.

- p. All coal freighters shall be prohibited from discharging ballast water in the Manistee River Channel or in Manistee Lake.

MSWDC response:

MSWDC objects to this condition because it is beyond the scope of the City's legal authority. The extent to which coal freighters may discharge ballast water is regulated by the United States Coast Guard, over which the City possesses no regulatory authority.

- q. The applicant shall agree to pay all bridge opening fees necessitated by its operation.

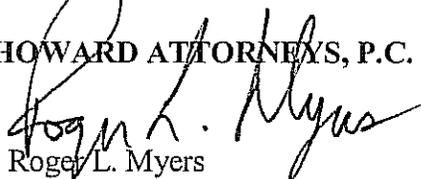
MSDWC response:

MSWDC objects to this condition because it is beyond the scope of the City's legal authority. In addition, even if this item were subject to regulation under the special use approval standards, the City's attempt to impose operating fees against MSWDC while not similarly assessing all other watercraft that necessitate bridge openings would constitute unlawful discrimination.

I trust that the foregoing information clearly delineates the extent to which the City may attach permissible conditions to the special use permit sought by MSWDC. Should you have any questions or need additional information, please do not hesitate to contact me. We would welcome the opportunity to review and discuss with you any special conditions the planning commission appears prepared to adopt prior to formal action by the commission in an effort to avoid any misunderstanding about the state of the facts, the law or the intentions of either party.

Very truly yours,

HOWARD & HOWARD ATTORNEYS, P.C.


Roger L. Myers

RLM:cjh

cc: City of Manistee Planning Commission (via facsimile only 231.723.1546)

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MEMO

TO: Planning Commissioners

FROM: Jon R. Rose 
Community Development Director

DATE: March 30, 2004

RE: Clarifications/Questions

We held a conference call with Lansing DEQ yesterday to discuss attainment and monitoring. From Lansing were Vince Halweg, Division Chief; Bob Sills and Mike Depa, Toxicologists; John Vial, Permit Engineer; James Haywood, Dispersion Modeler; Mary Maupin and Craig Fitzner, Air Quality and Attainment Monitors. From Manistee; Jon Rose and Roger Yoder.

Air Quality Monitors were originally set up along Lake Michigan Shorelines to evaluate ozone transport from Wisconsin. The selection of Benzie and Mason Counties probably had more to do with shoreline configuration than any other reason. After three years of data collections the DEQ makes recommendation to EPA regarding attainment -vs- non-attainment. DEQ has made recommendations to EPA regarding Benzie and Mason Counties. EPA should is expected to make their designation determination on June 13, 2004. Because Manistee has not data, it cannot be designated non-attainment.

The Little River Band of Ottawa Indians has been in discussions with the EPA regarding installation of a monitor in Manistee County. The Tribe has offered to purchase the equipment and is discussing site placement and operations with the EPA.

From the EPA website the following paragraph describes National Ambient Air Quality Standards. "The Clean Air Act establishes two types of National Ambient Air Quality Standards. Primary standards set limits to protect public health, including the health of "sensitive" population such as asthmatics, children, and the elderly. Secondary air quality standards set limits to protect public welfare including protection against decreased visibility and damage to animals, crops, vegetation, and buildings."

Representatives of the EPA have told the DEQ that the proposed Northern Lights Project must meet proposed resource emission limits on mercury even if the limits have not been adopted.

JRR:djb

MEMO

TO: Planning Commissioners

FROM: Jon R. Rose 
Community Development Director

DATE: March 31, 2004

RE: Record

We have discussed with the Attorney procedures that we will be following regarding the record of all information that has been submitted for the Manistee Saltworks Development Corporation request for a Special Use Permit. Each original item that has been submitted or generated in response to the request is filed. A separate inventory has been created for Manistee Salt Works Development Corporation Special Use Permit application. This record reflects all documentation relating to this application.

Any item that is in *bold and italicized* is a copy of door signs, public notices, postings and response letters that have been sent to each person who submits information in writing to the Planning Commission. You have not received copies of these but they are retained within the record.

The attorney would like the Planning Commission to approve this as the official record for Manistee Saltworks Development Corporation request for a Special Use Permit. The list of Items #1 through #420 is enclosed for your review.

JRR:djb

**List of Items Submitted in Response to
the application from Manistee Saltworks Development Corporation
for a Special Use Permit for a Coal Fired Power Plant
All items are retained in binders in the
Community Development Office
City of Manistee**

Item #	Description	# Pages	x copied
1	First Draft of Special Use Permit Application Mailed to Planning Commission for meeting on 10/2/03	20 pages	24
2	Agenda from Planning Commission meeting 10/2/03	1 page	50
3	Minutes from Planning Commission meeting 10/2/03	6 pages	26
4	Memo to Planning Commission Members dated 10/2/03	1 page	24
5	<i>Copy of Public Notice posted on 10/2/03</i>	<i>1 page</i>	<i>2</i>
6	Notes from Planning Commission Worksession 10/8/03	2 pages	26
7	Public Meeting Announcement (Tondu) - handout	1 page	24
8	Contact Information (Tondu) - handout	1 page	24
9	Memo to Planning Commission Members dated 10/10/03	1 page	24
10	Northern Lights Project Information - handout	24 pages	24
11	Agenda from Planning Commission Worksession 10/16/03	1 page	50
12	Notes from Planning Commission Worksession 10/16/03	4 pages	24
13	Hazardous Substances Reporting Form for Site Plan Review - handout during worksession	2 pages	24
14	<i>Copy of Public Notice Posting 10/21/03</i>	<i>1 page</i>	<i>2</i>
15	Memo to Planning Commission dated 10/21/03	1 page	24
16	Noise Levels in our Environment Fact Sheet	3 pages	24
17	Notes from Planning Commission Worksession 10/23/03	2 pages	26
18	Memo to Planning Commission dated 10/28/03	1 page	24
19	Fax from Frank Beaver, County Planner - Landfill Information	2 pages	24
20	Memo - Erickson Power Plant Tour	1 page	24

Item #	Description	# Pages	x copied
21	Lansing Board of Water and Light - Erikson Station	brochure	0
22	<i>Public Notice dated 10/23/03</i>	<i>1 page</i>	<i>2</i>
23	<i>Door Sign</i>	<i>1 page</i>	<i>2</i>
24	Memo to Planning Commission Members dated 10/31/03	1 page	24
25	Agenda Planning Commission Meeting of 11/6/03	1 page	50
26	Minutes Planning Commission Meeting of 11/6/03	4 pages	26
27	Memo from Jay Kilpatrick dated 10/29/03	4 pages	24
28	Letter from Steve Klein to Planning Commission With Attachments	21 pages	24
29	Special Use Permit Application	22 pages	24
30	Memo to Planning Commission Members dated 11/14/03	1 page	24
31	Memo from Jon Rose dated 11/14/03	1 page	24
32	Memo from Jay Kilpatrick dated 11/13/03	15 pages	24
33	Correspondence from Brian Sousa dated 11/12/03	4 pages	24
34	Memo from Sid Scrimger dated 11/7/03	1 page	24
35	Memo from Sid Scrimger dated 11/14/03	1 page	24
36	Memo from Jon Rose Attachment - Health Statistics	13 pages	24
37	Correspondence from Shirley Skiera With Attachments	18 pages	24
38	Correspondence from Charles Dumanois	1 page	24
39	Correspondence from Helen Ann Yunis	2 pages	24
40	Correspondence from Alan Marshall With Attachments	20 pages	24
41	Correspondence from Richard & Linda Albee	3 pages	24
42	<i>Door Sign</i>	<i>1 page</i>	<i>3</i>
43	Agenda Public Hearing/Special Meeting of the Planning Commission 11/20/03	2 pages	125

Item #	Description	# Pages	x copied
44	Handout - Response to Frequently Asked Questions Manistee Saltworks Development Corporation Coal Fired Power Plant	4 pages	125
45	Minutes from Public Hearing/Special Meeting 11/20/03	71 pages	26
46	Open Letter to the City of Manistee Planning Commission from Lee Sprague, Ogema, Little River Band of Ottawa Indians	8 pages	24
47	Correspondence from Steve Klein	1 page	24
48	Correspondence from Paul & Jan Gavlinski, William & Mary Kracht, Jane Reynolds, Shirley Galloway and Sharon Lapp	1 page	24
49	Correspondence from Robert Yates and Laura Horvat	1 page	24
50	Correspondence from Mark Sanford	1 page	24
51	Correspondence from Tom Kaminski, County Controller/Administrator	1 page	24
52	Correspondence from Ronald Schramski	1 page	24
53	Memo to Planning Commission dated 11/26/03	1 page	24
54	Attachment List	1 page	24
55	Memo from Jon Rose dated 11/26/03	1 page	24
56	Boat Traffic Information	4 pages	24
57	Questions from the Public Hearing/Special Meeting 11/20/03	1 page	24
58	Article - Siting Electricity Generation Facilities	5 pages	24
59	Correspondence from William & Martha Day	3 pages	24
60	Correspondence from Jim Nordlund Jr., Nordlund & Associates	2 pages	24
61	Correspondence from Judith Cunningham	1 page	24
62	Correspondence from Kristin Penzyl	1 page	24
63	Correspondence from M. Jo Miller	1 page	24
64	Correspondence from Jim Sluyter	2 pages	24
65	Fax/Correspondence from Frank J. Fahey	3 pages	24
66	Correspondence from Kurt Harvey	2 pages	24
67	Correspondence from Bob & Beth Polidan	3 pages	24

Item #	Description	# Pages	x copied
68	Correspondence from Dana Schindler	1 page	24
69	Correspondence from Mark Dougher	1 page	24
70	Correspondence from Nancy McCaslin	1 page	24
71	Correspondence from Jimmy Mitchell	1 page	24
72	Correspondence from Marty Holtgren	1 page	24
73	Correspondence from William & Martha Day	3 pages	24
74	Correspondence from Francis Johnston	1 page	24
75	Correspondence from Mark Knee	1 page	24
76	Correspondence from Mark Sanford	2 pages	24
77	Correspondence from William & Mary Kracht	1 page	24
78	Correspondence from April Saad	1 page	24
79	Correspondence from Helen Ann Yunis	1 page	24
80	Correspondence from Nate Suoboda	1 page	24
81	Correspondence from Jan Sapak	2 pages	24
82	Correspondence from Patricia Didion	1 page	24
83	Correspondence from Ellyn Niesen	1 page	24
84	Correspondence from Kurt Harvey	1 page	24
85	Correspondence from Shirley Skiera	1 page	24
86	Correspondence from Carol Pasco	1 page	24
87	Correspondence from Roberta Szpiet	1 page	24
88	Correspondence from Gerard Grabowski	4 pages	24
89	Correspondence from Bernard Ware Jr.	2 pages	24
90	Correspondence from Jan Shireman	1 page	24
91	Correspondence from Sandee Ware	1 page	24
92	Correspondence from Fred LaPoint	3 pages	24
93	Correspondence from Ned Atkins	1 page	24

Item #	Description	# Pages	x copied
94	Correspondence from Lee Sprague, Ogema, Little River Band of Ottawa Indians with attachment	5 pages	24
95	<i>Response letter from Jon Rose & mailing list</i>	<i>3 pages</i>	33
96	<i>Copy of letter from Jon Rose & Letter from Gerard Grabowski</i>	<i>2 pages</i>	2
97	Agenda from Planning Commission Meeting 12/4/03	2 pages	150
98	Page listing items forwarded to the City of Manistee Planning Commission at their meeting of 12/4/03	1 page	24
99	Answers to Questions asked during the Public Hearing 11/20/03 - Prepared by Jon Rose	2 pages	24
100	Response to questions from the Public Hearing, compiled by Jay Kilpatrick 11/30/03 - prepared by Tondu	3 pages	24
101	Memo from City Manager, Mitch Deisch	2 pages	24
102	Letter from Mayor Richard Mack to Lee Sprague, Ogema, Little River Band of Ottawa Indians	2 pages	24
103	Letter from Todd Harland, Manistee County Landfill	2 pages	24
104	Coal Fired Power Plants Truth Sheets - prepared by Tondu	8 pages	24
105	Response to Memo from Paul Gavlinski, Response to Memo from Charles Dumanois, Response to Memo from Richard and Linda Albee, Response to the Letter from Helen Ann Yunis, Response to the memo from Shirley Skiera - prepared by Tondu	10 pages	24
106	Memo from Meagan Kempf & Jim Tondu	4 pages	24
107	Correspondence from Dan Hornkohl	1 page	24
108	Correspondence from David R. Adams, Northwest Michigan Council of Government	1 page	24
109	Correspondence from John F. Caudell, NTH Consultants, Ltd	3 pages	24
110	<i>Door Sign</i>	<i>1 page</i>	5
111	Correspondence from Dorothy Kerr	1 page	24
112	Memo to Planning Commission dated 12/5/03	1 page	24
113	Minutes from Planning Commission Meeting 12/4/03	47 pages	26

Item #	Description	# Pages	x copied
114	Current Automotive Exhaust Along US 31 in Downtown Manistee Creates Air Concentrations similar to the Northern Lights Plant, Smoking is significantly more hazardous than living near a coal-fired power plant, There is not substantiated link between industrial emissions and disease rates in Manistee County - Handout from Tondu	3 pages	24
115	Tondu - Our response to Environmental Questions Received by the Planning Commission	6 pages	24
116	Correspondence from Yvonne & Pat Gorman	3 pages	24
117	Memo to Planning Commission dated ½/04	1 page	24
118	Agenda to Planning Commission Meeting 1/7/04	2 pages	200
119	List of Items Forwarded to Planning Commission ½/04	1 page	24
120	Memo from Jon Rose to Planning Commission RE: Conflicts of Interest, Letter from Mitch Deisch to Chris Bzdok, and Correspondence from Olson, Bzdok & Howard on behalf of the Citizens for Responsible Development/Conflicts of Interest	8 pages	24
121	Letter from R.J. Tondu to Planning Commission and Northern Lights Project Environmental Assessment	13 pages	24
122	Letter from Brian Sousa to Tondu Corporation RE: Environmental Assessment	2 pages	24
123	Letter from Mayor Mack to Lee Sprague, Ogema, Little River Band of Ottawa Indians	1 page	24
124	Correspondence from Dick Landback,	1 page	24
125	Correspondence from Daniel Behring	4 pages	24
126	Correspondence from Brown Township Board	1 page	24
127	Correspondence and Resolution from Manistee Conservation District	2 pages	24
128	Correspondence from Arlene Montgomery	2 pages	24
129	Correspondence and Resolution from Traverse Group of Sierra Club	2 pages	24
130	Correspondence from Pine River Chapter of Trout Unlimited	1 page	24
131	Correspondence from West Michigan Plumbers, Fitters and Service Trades Local Union No. 174	2 pages	24
132	Correspondence from Douglas Busch	1 page	24

Item #	Description	# Pages	x copied
133	Correspondence from Chippewa Ottawa Resource Authority	3 pages	24
134	Correspondence from Richard Anderson	2 pages	24
135	Correspondence from Patrick Guzikowski	1 page	24
136	Correspondence from Aaron Vankampen	1 page	24
137	Correspondence from Brett Hamilton	1 page	24
138	Correspondence from Timothy Colyer	1 page	24
139	Correspondence from Judy Colyer	1 page	24
140	Correspondence from James Andrews	1 page	24
141	<i>Response Letter mailed 1/6/04 and Mailing List</i>	2 pages	12
142	List of items forwarded to the Planning Commission 1/8/04	1 page	24
143	Memo from Mitch Deisch RE: Dr. Gunderson's questions/concerns	1 page	24
144	Correspondence from Robert Malhiot, Director, Portage Lake Environmental Association	1 page	24
145	E-mail from Charles Patten	1 page	24
146	Correspondence from Bill & Katy Ramsey with attachment	42 pages	24
147	Correspondence from Harless Feagins with attachment	3 pages	24
148	Correspondence from Tim Joseph, Manistee County Democratic Party	1 page	24
149	Minutes from Planning Commission Meeting 1/8/04	80 pages	26
150	<i>Response Letter Mailed 1/12/04 and Mailing List</i>	2 pages	5
151	Letter dated 1/15/04 from Jon Rose to Jim Tondu with fax verification sheets	7 pages	24
152	List of items forwarded to Planning Commission in their packets 1/16/04	1 pages	24
153	Correspondence from Carol Pasco	1 page	24
154	Resolution from Pleasanton Township	1 page	24
155	Correspondence from Mickey McCann	1 page	24
156	Letter dated 1/15/04 from Jon Rose to Jim Tondu	4 pages	24

Item #	Description	# Pages	x copied
157	Letter dated 1/15/04 from Mitch Deisch to Carol Pasco	1 page	24
158	List of items forwarded to Planning Commission at the 1/22/04 Worksession	1 page	24
159	Letter dated 1/20/04 from Mitch Deisch to Brian Sousa w/attachment	2 pages	24
160	Page 34 of report "Mercury Falling"	1 page	24
161	Correspondence from Steve Klein	1 page	24
162	Correspondence from Pat Didion	1 page	24
163	Correspondence from David Vavra	1 page	24
164	Correspondence from Daniel Behring	4 pages	24
165	Correspondence from Helen Ann Yunis	3 pages	24
166	Correspondence from Larry Lidroth	1 page	24
167	Correspondence from Christopher Bzdok, Olson Bzdok & Howard	6 pages	24
168	Door Sign for Worksession 01/22/04	1 page	3
169	Worksession Notes 01/22/04	2 pages	26
170	Memo to Planning Commission dated 1/29/04	1 page	24
171	Planning Commission Agenda 2/5/04	2 pages	200
172	List of Items mailed to Planning Commission 01/29/04	1 page	24
173	Memo from Jon Rose dated 01/27/04	1 page	24
174	Letter dated 01/22/04 from R.J. Tondu with attachments	11 pages	24
175	Memo from Jon Rose - Amendment to letter from R.J. Tondu dated 01/22/04	2 pages	24
176	Letter dated 01/26/04 from R.J. Tondu	5 pages	24
177	Letter dated 01/23/04 from Jon Rose to Matt Somsel with attachment	3 pages	24
178	Article "What is a Megawatt?"	2 pages	24
179	Resolution from Bear Lake Township	1 page	24
180	Correspondence from Pat Guzikowski	2 pages	24
181	Correspondence from Jay Kilpatrick, Williams & Works	1 page	24

Item #	Description	# Pages	x copied
182	<i>Response Letter (Conflict of Interest) & mailing list mailed 2/1/04</i>	2 pages	6
183	List of Items distributed to the Planning Commission at their meeting of 2/5/04	1 page	24
184	Correspondence from John Gretzinger dated 2/2/04 RE: Planning Commission Member Potential Conflict of Interest	23 pages	24
185	Memorandum from Jay Kilpatrick dated 2/5/04 RE: Northern Lights Special Use and Site Plan Application Completeness	4 pages	24
186	Article submitted by the Little River Band of Ottawa Indians <i>"Evaluation of the Tondu Corporation Environmental Assessment for the Northern Lights Power Plant Project as Submitted to the City of Manistee Planning Commission on 12/17/2003"</i>	7 pages	24
187	Article submitted by the Little River Band of Ottawa Indians <i>"Alex J. Sagady & Associates, Environmental Consultant to LRBOI RE: Tondu Environmental Assessment, Northern Lights Project"</i>	6 pages	24
188	Correspondence from Christopher Bzdok	3 pages	24
189	Correspondence from Tom Shea	1 page	24
190	Correspondence from Craig Grigonis	1 page	24
191	Correspondence from Sandee Ware	1 page	24
192	Correspondence from Daniel Behring	1 page	24
193	Correspondence from Audrea Dean	1 page	24
194	Correspondence from Nancy Behring	1 page	24
195	Correspondence from Pamela F. Smith	1 page	24
196	Correspondence from Ed Levandoski	1 page	24
197	Correspondence from Daniel Behring	4 pages	24
198	Correspondence from Christopher Bzdok	2 pages	24
199	Correspondence from Anne & George Kaminski	1 page	24
200	Correspondence from Nathan Svoboda	2 pages	24
201	Correspondence from Kathleen Hibbard	1 page	24
202	Resolution from Asthma Coalition of Northwest Michigan	1 page	24
203	Correspondence from Francis Johnston	1 page	24

Item #	Description	# Pages	x copied
204	<i>Response Letter Mailed 2/6/04 and Mailing List</i>	<i>2 pages</i>	<i>15</i>
205	Minutes from the 2/5/04 Planning Commission Meeting Minutes	231 pages	26
206	<i>Public Hearing Paperwork (affidavit, letter, mailing list, notices, affidavit)</i>	<i>13 pages</i>	<i>1</i>
207	Memo to Planning Commission dated 2/13/04	1 page	24
208	Public Hearing/Worksession Agenda 2/13/04	1 page	24
209	List of items forwarded to Planning Commission in their packets mailed 2/13/04	1 page	24
210	Memo to Planning Commission Members dated 2/13/04 from Jon Rose w/attachment Category S Baseline Environmental Assessment	372 pages	18
211	Correspondence from Judy Girard	2 pages	24
212	e-mail from Daniel Behring w/attachments	3 pages	24
213	e-mail from Daniel Behring w/attachments	5 pages	24
214	e-mail from Daniel Behring w/attachments	4 pages	24
215	Correspondence from Donald Jankwietz	2 pages	24
216	Correspondence from Donald Chartier	1 page	24
217	Correspondence from Richard & Linda Albee	2 pages	24
218	List of Items forwarded to Planning Commission at the Public Hearing 2/19/04	1 page	24
219	Memo from Sid Scrimger dated 2/13/04	1 page	24
220	Correspondence from Thomas Cichy	1 page	24
221	Correspondence from DeAnn Loll	1 page	24
222	Correspondence from Mary Russell	2 pages	24
223	Correspondence from Brian Allen	1 page	24
224	Correspondence from Daniel Behring	2 pages	24
225	Information submitted by Liz Laskey	11 pages	24
226	Correspondence from Little Manistee Watershed Conservation Council	1 page	24

Item #	Description	# Pages	x copied
227	Correspondence from Christopher Bzdok	13 pages	24
228	Correspondence from Diana Riemersma	1 page	24
229	Correspondence from Hope Hogan	1 page	24
230	e-mail from Christine Hnatiw w/attachment	4 pages	24
231	Correspondence from Brett Hamilton	1 page	24
232	Correspondence from Ron Hathaway	1 page	24
233	Correspondence from Cheryl Hathaway	1 page	24
234	Correspondence from Klaus & Lisa Kutschke	1 page	24
235	Correspondence from Kim Hamilton	1 page	24
236	Correspondence from Mike Fatke & Molly Cichy	1 page	24
237	Correspondence from Ruth Niemerowicz	1 page	24
238	Fax from Ian Burns	2 pages	24
239	Fax from Local Physicians (Alan Fark M.D., Paul Antal M.D., Donald Albrecht M.D., Klaus Kutschke M.D., Michael Reines M.D., Michael Barna M.D., John Oliver D.O., Cheryl Dionne M.D., Robert Barry M.D. and Steven Frelier M.D.)	1 page	24
240	Correspondence from Laurie Michel	1 page	24
241	Correspondence from Adolph Krauz	2 pages	24
242	Correspondence from Bruce Monroe & Cynthia Giacobone	2 pages	24
243	Correspondence from Carl Rutske, Manistee County Board of Commissioners	1 page	24
244	Correspondence from Steve Darpel, Mark Schrock & Kim Perrin	2 pages	24
245	Correspondence from Sue Wilson	2 pages	24
246	Correspondence from Robert Wilson	1 page	24
247	Correspondence from Katherine & Gerald Ebbeling	2 pages	24
248	Correspondence from Krystal Johnston, MD	1 page	24
249	Correspondence from Robert Hensel, MD	2 pages	24
250	fax from David & Fran Wallace	1 page	24

Item #	Description	# Pages	x copied
251	List of Postcards received in opposition	4 pages	24
252	<i>Response Letter w/ mailing list</i>	<i>3 pages</i>	<i>34</i>
253	<i>Notice of Meeting location change</i>	<i>2 pages</i>	<i>2</i>
254	Memo dated 2/20/04 RE: Public Hearing Continuance	1 page	24
255	<i>Public Notice Posting - Public Hearing Continuance</i>	<i>1 page</i>	<i>2</i>
256	<i>Ad - Public Notice - Public Hearing Continuance (no affidavit)</i>	<i>1 pages</i>	<i>1</i>
257	<i>Door Signs - Public Hearing Continuance</i>	<i>1 page</i>	<i>6</i>
258	List of Items forwarded to the Planning Commission at the continuation of the Public Hearing 2/26/04	1 page	24
259	Correspondence from Ross Vartian	2 pages	24
260	Correspondence from Gary Bell	1 page	24
261	Correspondence from Evelyn Koller	1 page	24
262	Correspondence from Sara Herberger	1 page	24
263	Correspondence from Daniel Behring w/attachments	8 pages	24
264	Correspondence from Dennis Douglas	1 page	24
265	Correspondence from R. A. Comstock	1 page	24
266	Correspondence from Richard & Linda Albee	1 page	24
267	Correspondence from George & Anne Kaminski	2 pages	24
268	Correspondence from Phillip Carleton, Morton Salt	2 pages	24
269	e-mail from Daniel Behring	2 pages	24
270	Correspondence from Ronald & Sharon Muszynski	2 pages	24
271	Correspondence from Christine Polenciewicz	1 page	24
272	e-mail from Ross Vartian to City Council	3 pages	24
273	e-mail information mailed by Little Manistee Watershed Conservation Council	2 pages	24
274	Correspondence from Mike Beveridge & Kitty Hodge	1 page	24
275	Correspondence from Nan Guzikowski	1 page	24

Item #	Description	# Pages	x copied
276	Correspondence from Luke Guzikowski	1 page	24
277	Correspondence from J. Dwight Poffenberger Jr., Esquire	1 page	24
278	Correspondence from Ted Fairbanks	2 pages	24
279	Correspondence from Gail Tooley	2 pages	24
280	Correspondence from David Smith	2 pages	24
281	Correspondence from William & Elizabeth Hainstock	1 page	24
282	List of Postcards Received in Opposition	3 pages	24
283	Letter from Jon Rose dated 2/23/04 to Richard & Linda Albee	3 pages	24
284	Letter from James A. Ford, Managing Partner, Tondu with Attachment 2/19/04 Presentation	44 pages	5
285	<i>Response letter w/ mailing list 2/26/04</i>	<i>2 pages</i>	<i>20</i>
286	Memo to Planning Commission	1 page	24
287	Agenda for March Meeting	2 pages	200
288	<i>Public Notice Posting (Continuation of Public Hearing)</i>	<i>1 page</i>	<i>3</i>
289	<i>Door Signs</i>	<i>1 page</i>	<i>6</i>
290	<i>Ad for Continuation of Public Hearing w/ affidavit</i>	<i>3 pages</i>	<i>1</i>
291	List of Items forwarded to Planning Commission 3/4/05	1 page	24
292	Correspondence from Judith Cunningham	4 pages	24
293	Correspondence from Ed Risdon	2 pages	24
294	Correspondence from Allan & Susan Anderson	1 page	24
295	Correspondence from Shirley Byrd	20 pages	24
296	Correspondence from Patrick & Kimberly Culter	1 page	24
297	Correspondence from Daniel Straubel	1 page	24
298	Correspondence from Dave McIntire, Little Manistee Watershed Conservation Council	2 pages	24
299	Correspondence from Janet Zwiefka	2 pages	24
300	Correspondence from Steve & Nancy Thorp	2 pages	24

Item #	Description	# Pages	x copied
301	Correspondence from Patricia Gillis, Michigan Interfaith Climate and Energy Campaign	2 pages	24
302	Correspondence from Patricia Berghoff	1 page	24
303	Correspondence from Mary Grover, League of Women Voters - Grand Traverse Area	2 pages	24
304	Correspondence from Daniel Behring	2 pages	24
305	Correspondence from Janet Cordes	1 page	24
306	Correspondence from Joyce E. Delamarter	1 page	24
307	List of postcards received in opposition	3 pages	24
308	<i>Response Letter w/Mailing List dated 3/5/04</i>	<i>2 pages</i>	<i>15</i>
309	Record of Public Hearing 2/19/04 concluded 3/4/04	482 pages	26
310	Minutes from 3/4/04 Planning Commission Meeting	2 pages	26
311	<i>Copy of Public Notice Worksession 3/11/04, 3/18/04 and 3/25/04</i>	<i>1 page</i>	<i>1</i>
312	List of items forwarded to Planning Commission 3/11/04	1 page	24
313	Correspondence from Joel & Kathy Smith	2 page	24
314	Correspondence from Francis Ward (Denny) Johnston	1 page	24
315	Correspondence from Carolyn Peters	1 page	24
316	Correspondence from Dick Landback	1 page	24
317	Correspondence from Ron Bauman	2 pages	24
318	Correspondence from Gary Wolfe	2 pages	24
319	e-mail from Charles Dumanois, MD	1 page	24
320	Correspondence from William Rastetter - Olson, Bzdok & Howard	5 pages	24
321	Correspondence from William Rastetter - Olson, Bzdok & Howard	19 pages	24
322	Correspondence from Daniel Behring w/attachments	6 pages	24
323	Correspondence from Michael & Kelly Ignace	1 page	24
324	List of Postcards received in Opposition	2 pages	24
325	<i>Response Letter w/ mailing List dated 3/11/04</i>	<i>2 pages</i>	<i>13</i>

Item #	Description	# Pages	x copied
326	Worksession Agenda (March 11, 2004, March 18, 2004, March 25, 2004)	1 page	150
327	Memo from Jay Kilpatrick 3/10/04 RE: Summary of Key issues Relative to the Proposed Northern Lights Coal-Fueled Power Plant	2 pages	24
328	Memo from Jay Kilpatrick 3/10/04 RE: Special Land Use and Site Plan Review Procedure for Proposed Northern Lights Coal-Fueled Power Plant, Manistee Saltworks Development Corporation	7 pages	24
329	Worksession Notes 3/11/04	2 pages	24
330	Memo from Jon Rose to Planning Commission RE: Questions from 3/11/04 Worksession with attachments	8 pages	24
331	List of items forwarded to Planning Commission 3/18/04	2 pages	24
332	Copy of letter from David C. Hollister, Department of Labor and Economic Growth dated 3/10/04	2 pages	24
333	Memo from Jon Rose dated 3/11/04 RE: Excerpt from Michigan Land Use Institute Article	2 pages	24
334	Memo from Jon Rose dated 3/12/04 RE: Site Plan/Plant Elevation Preliminary Plans	3 pages	24
335	Correspondence from Todd Yaple	1 page	24
336	Correspondence from Bruce Berghoff	1 page	24
337	Correspondence from Frank Fahey	1 page	24
338	Correspondence from Mike Ripley, Chippewa Ottawa Resource Authority	2 pages	24
339	Correspondence from Karl Wagner	1 page	24
340	e-mail from Judy Cunningham	1 page	24
341	e-mail from Gary W. Timm	1 page	24
342	Correspondence from Charles Dumanois, MD	1 page	24
343	fax from Tom Boensch, Michigan State Building and Construction Trades Council	2 pages	24
344	Correspondence from Alfred F. Hegerich	1 page	24
345	Correspondence from Lynise Hensel	2 pages	24

Item #	Description	# Pages	x copied
346	Correspondence from Judy Cunningham	2 pages	24
347	Correspondence from Wayne Frohriep	1 page	24
348	Correspondence from Jim Sluyter	1 page	24
349	Correspondence from Amanda Grace Campbell	1 page	24
350	Correspondence from Wayne Frohriep w/attachment	2 pages	24
351	Correspondence from Michael Reines, MD	1 page	24
352	Correspondence from Richard Shotwell, The Pine River Association	1 page	24
353	Listing of Postcards received in opposition	2 pages	24
354	Memo from Jay Kilpatrick dated 3/16/04 RE: Special Use Permits	1 page	24
355	Information from Press Conference held prior to Council Meeting 3/16/04 Manistee Citizens for Responsible Development - Press release Aurora Association - Press release Article by Keith Schneider - Great Lakes Bulletin News Service Midwest Alliance of Sovereign Tribes Resolution No: 04-03	9 pages	24
356	Items mailed to Planning Commissioners 3/16/04 Memo from Jon Rose dated 3/16/04 Letter from Jim Tondou to Jon Rose dated 3/15/04 Copy of Special Use Permit Application (referenced in letter)	24 pages	24
357	<i>Citizen Response Letters w/ mailing list dated 3/18/04</i>	<i>2 pages</i>	<i>12</i>
358	Answers to Questions from 3/11/04 Worksession w/attachments Memo from Fire Chief Sid Scrimger to Jon Rose dated 3/17/04 w/attachments Memo from Brian Sousa to Planning Commission dated 3/18/04 Memo from Jack Garber to Maple Street Bridge & US 31 Bridge dated 8/7/02 w/attachments Response from Mark Tonello, Fisheries Management Biologist, Michigan Department of Natural Resources to letter sent by Jon Rose 3/12/04 Response from John Gretzinger dated 3/18/04 "Fall Area" prepared by Jon Rose 3/17/04 Response from Jim Tondou dated 3/17/04 Memo from Denise Blakeslee to Planning Commissioners dated 3/18/04	21 pages	24
359	Tondou Press Release dated 3/17/04	1 page	24

Item #	Description	# Pages	x copied
360	e-mail from Robert Sills, Michigan Dept of Environmental Quality	2 pages	24
361	Memo dated 3/19/04	1 page	24
362	Worksession Notes 3/18/04	3 pages	24
363	Letter from Jon Rose to Jim Tondu dated 3/19/04 (hand delivered)	1 page	24
364	Memo and Mac Tech Report	40 pages	24
365	List of items forwarded to Planning Commission 3/25/04	1 page	24
366	Letter from John Gretzinger dated 3/18/04 RE: Planning Commission Issues	1 page	24
367	Letter from John Gretzinger dated 3/18/04 RE: Environmental Impact of Tondu Application	3 pages	24
368	Testimony of William Brooks	14 pages	24
369	e-mail from Charles O'Brien	1 page	24
370	Correspondence from Daniel Behring	2 pages	24
371	Correspondence from Barbara Bernier	2 pages	24
372	Correspondence from Jim Sluyter	1 page	24
373	Copies of Post Cards in Support submitted by Meagan Kempf 3/23/04	11 pages	24
374	Correspondence from David Kamaloski w/attachments	4 pages	24
375	Correspondence from Kurt Edenburn	1 page	24
376	Correspondence from Douglas R. Jackson	1 page	24
377	Correspondence from Elaine McWatt	2 pages	24
378	e-mail from Meagan Bobier Kempf	2 pages	24
379	Correspondence from Michael Bajtka	2 pages	24
380	Correspondence from Jim Maturen, MI Wild Turkey Hunters Assoc.	2 pages	24
381	Report: Environmental Issues of Concern with Regard to Construction and Operation of the Northern Lights Power Plant; Powell & Associates, Robert Powell	3 pages	24
382	<i>Citizen Response Letter w/ mailing list</i>	<i>2 pages</i>	<i>12</i>

Item #	Description	# Pages	x copied
383	List of Late Submittals handed out to Planning Commission 3/25/04	1	24
384	Letter from Julie Beardslee, City Assessor dated 3/25/04	2	24
385	Letter and Memo from Meagan Kempf dated 3/24/04	3	24
386	Correspondence w/attachment Robert T. Hensel, MD	2	24
387	Handout from MACTEC Consultant <i>Michigan Mercury Electric Utility Workgroup</i>	1	24
388	Memo from Brian Sousa - 3/25/05 Estimated life of proposed haul-route roads	3	24
389	Worksession Notes 3/25/05	3	26
390	Letter from Jon Rose to Jim Tondu dated 3/26/04 requesting extension (hand delivered)	1	24
391	Memo to Planning Commission dated 3/26/04	1	24
392	Agenda for 4/1/04 Planning Commission Meeting	2	200
393	Letter dated 3/25/04 from Jim Tondu with Attachments to Jon Rose included in mailing to Planning Commission 3/26/04	13	2
394	List of submittals hand delivered 3/31/04	1	24
395	Correspondence from Gerard Grabowski	1	24
396	Correspondence from Bill Dean	2	24
397	Correspondence from Shirley Skiera	4	24
398	Correspondence from Peggy Grommons	1	24
399	Correspondence from Catherine Eubanks	1	24
400	Correspondence from Jack Grommons MD	1	24
401	Correspondence from Wilfred Swiecki, Platte Lake Improvement Association	1	24
402	Correspondence from Bruce Baker	1	24
403	Correspondence from Robert Hensel MD	19	24
404	e-mail from Marc Gignac	1	24
405	Correspondence from Ed Cieslinski	2	24

406	Correspondence from Richard Shotwell, The Pine River Association	1	24
407	Correspondence from Dennis Douglas	1	24
408	Correspondence from Dana Schindler w/attachments	7	24
409	Correspondence from Sara Herberger	2	24
410	Correspondence from Ron Martin	2	24
411	Correspondence from Madeline Klusowski	2	24
412	Letter from William Rastetter (Olson, Bzdok & Howard) dated 3/25/04 and response letter from Jon Rose to Mr. Rastetter dated 3/29/04	2	24
413	Copies of Post Cards in Support submitted by Meagan Kempf 3/31/04	23	24
414	Letter from Rodger Kershner, Howard & Howard to Bruce Gockerman dated 3/19/04	1	24
415	Letter from Jon Rose to Jim Tondu dated 3/26/04 RE: Extension	1	24
416	Fax from Roger L. Myers, Howard & Howard Attorneys, P.C. dated 3/31/04 RE: Extension	3	24
417	Fax from Roger L. Myers, Howard & Howard Attorneys, P.C. dated 3/31/04 RE: Manistee Saltworks Development Corporation w/attached possible conditions (Page 6 & 7) Memo from Jay Kilpatrick to Jon Rose dated 3/20/04	11	24
418	Memo from Jon Rose to Planning Commissioners dated 3/30/04 RE: Conference call with Lansing DEQ	1	24
419	Memo from Jon Rose to Planning Commissioners dated 3/31/04 RE: Record	20	24
420	Memo from Jon Rose to Planning Commissioners dated 3/31/04 RE: Extension	1	24

) Memo

TO: Planning Commissioners
FROM: Jon R. Rose 
Community Development Director
DATE: March 31, 2004
RE: Extension

We received a fax from Roger Myers to John Gretzinger regarding an extension for Manistee Saltworks Development Corporation. We are unable to accept the extension with the condition imposed upon it. We are now operating under the assumption that a decision will need to be made tomorrow regarding the request for a Special Use Permit Application.

Enclosed you will find a copy of all correspondence that has been submitted up until 5:00 p.m. Wednesday, March 31, 2004. This information is being hand delivered in order to give you the opportunity to review it prior to the meeting.

) JRR:djb

**Items forwarded to the
City of Manistee Planning Commission
at the April 1, 2004
Meeting relating to the
Manistee Saltworks Development Corporation**

Correspondence:

Faxed copy of Onekama Township - Resolution concerning Northern Lights Project

Faxed copy of Michigan Townships Association, Manistee County, Chapter - Resolution
Concerning Northern Lights Project

Commentary from Alexander Sagady, Environmental Consultant RE: Air pollution and
environmental issues posed by the Northern Lights Project.

Handouts:

Fax from Roger Myers, Howard & Howard dated 4/1/04

Memo from Denise Blakeslee dated 4/1/04 RE: Record update

ONEKAMA TOWNSHIP

RESOLUTION CONCERNING NORTHERN LIGHTS PROJECT

No. 2004-2

WHEREAS, the primary functions of local government are to serve community by promoting and protecting the health, safety and welfare of its citizens;

WHEREAS, the primary functions of corporations are to grow and show a profit to its shareholders;

WHEREAS, in democracy it is imperative to have unbiased information to enable local officials the opportunity to fully execute their responsibility to separate and prioritize the facts and make a fully informed decision;

NOW THEREFORE IT IS HEREBY RESOLVED that a decision to issue a special use permit at this time is premature, and;

BE IT FURTHER RESOLVED that Onekama Township is against the issuance of a special use permit to Manistee Saltworks Development Corporation, Northern Lights Project until an independent economic assessment and an environmental impact statement have been completed and analyzed.

The foregoing resolution was adopted on February 3, 2004 by the Township of Onekama

David Meister

David Meister Supervisor

Helen Mathieu

Helen Mathieu Clerk



**MICHIGAN TOWNSHIPS ASSOCIATION, MANISTEE COUNTY, CHAPTER
RESOLUTION CONCERNING NORTHERN LIGHTS PROJECT**

WHEREAS, the primary functions of local government are to serve community by promoting and protecting the health, safety and welfare of its citizens;

WHEREAS, in democracy it is imperative to have unbiased information to enable local officials the opportunity to fully execute their responsibility to separate and prioritize the facts and make a fully informed decision;

NOW THEREFORE IT IS HEREBY RESOLVED that a decision to issue a special use permit without an independent economic assessment and an environmental impact statement is premature and;

BE IT FURTHER RESOLVED that the Manistee County Chapter of the Michigan Townships Association is against the issuance of a special use permit to Manistee Saltworks Development Corporation, Northern Lights Project until an independent economic assessment and an environmental impact statement have been completed and analyzed.

The foregoing resolution was adopted on March 24, 2004
By Manistee County Chapter of the Michigan Townships Association

Fred Alkire
Fred Alkire President

Becky Dinsen CMC
Becky Dinsen Secretary



Alex J. Sagady & Associates

P.O. Box 39, East Lansing, MI 48826-0039 - 657 Spartan Ave., East Lansing, MI 48823 (FEDEX/UPS)
(517) 332-6971 (517) 332-8987 (fax) ajs@sagady.com http://www.sagady.com

April 1, 2004

**TO: Lee A. Sprague, Ogema
Little River Band of Ottawa Indians**

**From: Alexander J. Sagady
Environmental Consultant**

Attorney William Brooks asked me to provide some commentary and perspective on some key air pollution and environmental issues posed by the "Northern Lights Project" coal-fired electric utility plant proposed for siting on the former General Chemical brine/salt facility. He also asked me to review the recent MACTEC report that was provided to the Planning Commission of the City of Manistee and provide any reaction.

The following narrative attempts to respond to Attorney Brooks' request. Please note that much of the discussion in this memorandum must still be considered as preliminary and subject to some change with additional review and analysis as my analytical work on the application is still ongoing and will not be complete for some time. In general, dialog with Michigan DEQ Air Quality staff and continued review will frequently influence final technical analysis, critiques of shortcomings of state review and overall emphasis on priority issues.

1 Process Technology, Emission Characterization and Emission Control Technology

1.1 Particulate Emissions Characterization

In its January 6, 2004 letter amending the previous permit application, the Applicant has portrayed that it was reducing particulate emissions from 711 tons per year to 266.6 tons per year. This represented a change from 0.04 lbs PM/million BTU heat input in the original application to 0.015 lbs PM/million BTU. However, a careful reading of their letter indicates that the 0.04 lbs/million BTU/711 tons per year represented a particulate emission compliance method that totaled both "front half" and "back half" particulate matter. The 0.015 lbs PM/million BTU, however, appears to represent only "front half" particulate matter.

In the emission measurement sample testing train, the “front half” collected particulate generally refers to particulate as solid particles, otherwise known as “filterable” particulate matter. The “back half” of the particulate sampling train cools flue gases sufficiently that high boiling point vapors are allowed to condense to particles. The contribution of flue gases to forming particles in the “back half” is important to particulate emission characterization because stack emissions of the vapors will condense very quickly after leaving the stack and leaving out “back half” particulate matter will understate particulate ambient impacts around the plant.

It appears that the Applicant’s January 6, 2004 depiction of the reduction of particulate emissions is mostly illusory because it depends on neglecting the “back half” condensibles in compliance tests. The Applicant then requests that the condensible particulate matter be unregulated with no emission limitation even when it is a valid PSD pollutant.

“Since we have not been able to locate reliable emissions test data that would support a front/back half emission limitation, we request that our PM 10 emission limitation be revised to 0.015 pounds per million BTU heat input, based on Method 5¹ testing requirements. This revision would be consistent with the most recently (October 2003) permit in EPA region V for this source category AND should be attainable in the event that additional reagents are eventually used to meet the Mercury emission limitation.”

The Applicant does not say that EPA actually approved this approach, however; in Region V, all states issue their own permits and the one referred to by the Applicant simply wasn’t challenged. In fact, EPA does not approve this approach. EPA has recognized that..

“condensable emissions are also PM10, and that emissions that contribute to ambient PM10 concentrations are the sum of in-stack PM10 and condensable emissions.”²

¹ Method 5 only requires a “front half” determination.

² 55 Fed. Reg. 12426 (March 17, 1990). See also 55 Fed. Reg. 14246 (April 17, 1990) (“emissions that contribute to ambient PM10 concentrations are the sum of in-stack [non-condensable] PM10 . . . and condensable emissions.”); 55 Fed. Reg. 41546 (October 12, 1990) (“condensable particulate matter (CPM) emissions form very fine particles in the PM10 size range and are considered PM10 emissions”); 56 Fed. Reg. 65433 (December 17, 1991) (same).

Similarly, EPA's Office of Air Quality Planning and Standards has stated unequivocally that "[s]ince CPM is considered PM-10 and, when emitted, can contribute to ambient PM-10 levels, applicants for PSD permits must address CPM if the proposed emission unit is a potential CPM emitter."³ In light of studies showing that condensables can account for as much as 75% of the PM10 emitted from a coal-fired boiler,⁴ the Northern Lights Plant will clearly a "potential CMP emitter." EPA has repeatedly required permitting authorities to include condensable PM10 limits and testing methods in permits.⁵ The agency also insists that condensable PM10 be considered in the applicant's BACT analysis, and in the permitting authority's review of that analysis.⁶

This is a strategy that is clearly not allowed by U.S. EPA. I have not yet had an opportunity to determine if only filterable particulate was used as an input in the air quality modeling effort, but if this was the case, it would have the effect of the modeling outputs significantly understating particulate emission ambient impacts from the proposed facility.

The issue of condensible particulate emissions is not just an academic one. A high rate of condensible particulate emissions can cause significant visible emissions from a stack, including the formation of "detached" plumes which form after a short time of airborne cooling after emission. The mix between "front half" and condensible particulate emissions can change with emission control technologies that lower flue gas temperatures, such as wet scrubbing. The Applicant has not discussed this issue in the application and has not volunteered for a visible emission limitation from the main combustion stack. Such visible emissions should not exceed 10%, apart from visible water vapor emissions.

³ March 31, 1994 letter from Thompson Pace, SO2/Particulate Matter Program Branch, EPA Office of Air Quality Planning and Standards to Sean Fitzsimmons, Iowa Department of Natural Resources

⁴ See, e.g., Louis A. Corio and John Sherwell, "In-Stack Condensible Particulate Matter Measurements and Issues," Air & Waste Management Association, Vol. 50 (February 2000).

⁵ See, e.g., In re: AES Puerto Rico L.P., PSD Appeal Nos. 98-29, 98-30, 98-31 (EAB, May 27, 1999), at 31-34.

⁶ See, e.g., In re: Steel Dynamics, Inc., PSD Appeal Nos. 994, 995 (EAB, June 22, 2000), at 25-31.

1.2 Considerations of Best Available Control Technology Review

I have reviewed the air permit application concerning the proposed facility and a significant defect in the application is the failure to conform to the U.S. Environmental Protection Agency's methodologies for "top down" selection of the Best Available Control Technology (BACT) emission limitations on the main combustion stack and the simultaneous failure to consider how selection of control technology options and the setting of criteria pollutant emission limitations would affect non-criteria pollutant emissions.

Best available control technology is required for all "criteria air pollutants" emitted that exceed 100 tons per year at new facilities. In general, BACT requires the maximum degree of emission control achievable on a case by case basis taking into account energy, environmental and economic concerns.

In a "top down" BACT determination, the most stringent controls are first postulated and then control options are dropped in top down succession depending on the energy, environment and economic review. The first control option that is not eliminated on the basis of energy, environment and economic implications is then selected as Best Available Control Technology. Under the environmental analysis portion of a "top down" BACT determination, matters such as the long range transport of ozone to Manistee County and the potential for the Northern Lights facility to adversely affect downwind air quality could mitigate for a more stringent NOX BACT emission limitation that would be closer to what would really be required in an ozone nonattainment area – Lowest Achievable Emission Rate (LAER).

1.3 Sulfur Dioxide BACT Determination

The application talks about a flue gas desulfurization (FGD) system for the facility, but the application never specifies exactly what FGD system will be used. The potential implication is that a spray dryer will be used because all of the units cited in a BACT review document use these systems, but the Applicant never comes right out and states the exact FGD system to be used.

The combination of spray dryers and fabric filter particulate emission controls has become a dominant technology for power plants burning western low sulfur coal. In a dry scrubbing system, a solution of calcium oxide and water or other reactant is sprayed into a chamber down flue stream from the boiler. The design intent is to have the calcium hydroxide formed in the lime solution to react with sulfur dioxide,

hydrogen chloride and other acid gases and to have all of the water in the sprayed solution evaporate leaving only reactant particulate matter to be collected by the fabric filter.

The problem with the sulfur dioxide BACT determination for this facility is that the Applicant never considered wet scrubbing and sorbent injection and never ruled out combinations of spray dryer control, wet scrubbing and dry sorbent injection on the basis of any energy, environment or economic consideration. Implicit in the fluoride BACT environmental review of wet scrubbing and sorbent injection would be the inherent control of pollutants not regulated by the prevention of significant deterioration rules such as mercury, arsenic and others. Mercury cannot be a PSD pollutant by provision of the 1990 amendments to the Clean Air Act, but the attendant control of mercury when selecting BACT sulfur dioxide emission control systems and emission limitations must be considered in the BACT environmental factor analysis. The Applicant has evaded the requirement to show their analysis of these issues in their application.

The potential exists for a wet scrubbing system to increase emission control efficiencies for mercury, arsenic, chlorinated dibenzo-dioxins/furans, hydrogen fluoride, hydrochloric acid and sulfuric acid aerosol and other flue gas toxicants. Lower flue gas temperatures achieved through wet scrubbing can increase mercury collection efficiencies in additional downstream control systems. The Applicant's sulfur dioxide BACT determination environmental review never considered these issues and showed how they would affect the sulfur dioxide BACT selection process..

1.4 NOX BACT Determination

The Applicant decided to use selective catalytic reduction (SCR) and low NOX burners as a BACT technology for controlling NOX. With SCR, flue gases are passed through a catalyst bed with simultaneous injection of ammonia or other nitrogenous material. The objective is to convert NOX to molecular nitrogen. Although the Applicant was aiming at a NOX emission target of 0.01 lbs NOX per million BTU which is a potential candidate for consideration of a BACT level, it is possible to increase the size of the catalyst bed to achieve greater NOX reduction efficiency and lower subsequent NOX emissions. The SCR catalysts have the potential to increase overall mercury control efficiencies by converting more elemental mercury to ionic mercury compounds which are easier to collect in downstream flue gas air pollution control systems. However, SCR catalysts also have the potential to increase oxidation of sulfur dioxide to sulfuric acid aerosol.

The Applicant didn't review in their NOX BACT environmental analysis the effect of these technologies on mercury and sulfuric acid aerosol emissions and there was no BACT environmental analysis that considered the existing air quality problems for ozone in the setting of the NOX emission limitation. Under a case by case NOX BACT review of the environmental implications of a BACT decision, the Applicant must consider an important environmental matter such as the pre-existing ozone air quality problem.

1.5 Other Mercury Controls and Mercury Fate Issues

The Applicant dismisses dry sorbent injection for mercury control. However, it is clear that sorbents made with activated carbon have the potential to achieve significant reductions in flue gas mercury. Control efficiencies will vary with temperature and the presence of halogens in both the sorbent and in flue gases; these factors vary, in turn, with the selected BACT emission control technology system. In the absence of a detailed discussion of the technical feasibility and control efficacy in the application of dry sorbent injection for mercury control, the MDEQ Air Quality Division review do not address requirements under the Natural Resources and Environmental Protection Act to consider all feasible and prudent alternatives to the emissions of a pollutant capable of causing pollution, impairment and destruction of the State's natural resources.

Other mercury emission control strategies can emphasize conversion of elemental mercury vapor to more easily collectable ionic mercury compounds through flue gas treatment through physical and chemical means. I intend to do further research on this issue for future development.

All of the consideration of mercury emissions and impacts from the facility center on the main combustion stack emissions. However, the potential exists for mercury emissions from ash handling systems where collected fly ash remains at an elevated temperature. Particle bound mercury from uncombusted carbon in the fly ash has the potential to desorb if maintained at an elevated temperature. This type of process might have the potential to occur in a fly ash silo with emissions from vents in such silo systems. The fly ash conveyor and silo system will only be controlled with fabric filters which will have no control efficiency for mercury vapor. There isn't sufficient information on the design of this system to adequately determine the potential for fly ash silo mercury emissions.

Because of the failure of the State of Michigan to do environmental impact review, multi-media aspects of the proposal have not been evaluated. Use of fly ash from the plant for daily cover material and co-mingling with municipal solid waste creates the potential for mercury emissions and effluents. Although the lime content of fly ash would create particle agglomeration and some cement-like binding properties, assurances of fugitive particle emissions of mercury-bearing particles (and other toxicants like arsenic) at the landfill cannot be discounted from vehicle movement, trackout and wind erosion at the landfill. In addition, co-mingling of power plant fly ash with municipal solid waste cannot ensure maintenance of high alkalinity in the overall mixture. In generally, high alkalinity is necessary to ensure that most metallic toxicants contained in fly ash do not become aqueously mobile in landfill leachate collection systems.

1.6 Summary Dismissal of IGCC Technology

The Applicant has chosen a very conventional process technology involving pulverized coal combustion technology for the proposed facility. However, it is now clear that superior coal-fueled electrical generating technology exists and consideration of such alternate process technology is required in a prevention of significant deterioration review. The Applicant has summarily rejected such alternate process technology.

With Integrated Gasification Combined Cycle coal plant technology, coal is gasified in a high temperature, high pressure process to produce gas which is cleaned, desulfurized and burned in a combined cycle gas turbine. This technology produces significantly less emissions of both criteria pollutants and airborne toxicants. Instead of producing large amounts of ash, the process produces fused aggregate which can be immediately used as a product. The process also produces molten sulfur which can be utilized in fertilizer applications. The overall thermal energy to electricity conversion efficiency is considerably higher than a conventional pulverized coal plant. A plant of this design was recently permitted in Ohio and Kentucky and other plants are currently operating.

The Applicant has rejected this type of gasification technology without adequate justification implicitly required by the control technology selection process.

1.7 Fuel Switching and Fuel Characteristics

Proper Prevention of Significant Deterioration BACT review procedures require consideration of alternate fuels. The application contains reference to a "low BTU, high ash, high S" fuel (See appendix A, page 2 of 2), but there is no narrative on whether or not this fuel will be used and how it would be delivered to the site. The applicant has not indicated any consideration of low sulfur southern coal which will have a higher BTU value in its sulfur dioxide BACT determination.

1.8 Other Emission Units

The applicant has not proposed numerical emission limitations and has not done a proper BACT review for particulate emissions from the lime handling and ash handling equipment. These units should receive numerical particulate emission limitations, but none have been proposed and/or analyzed. The applicant has proposed 10% opacity visible emissions from these emission units when 5% should be more appropriate. The MACTEC report expressed some concern about variance in potential predicted fugitive emission controls for the coal piles. This concern is well placed as elevated moisture on the pile will be a challenge to maintain during hot summertime conditions. In fact, the emission calculation should have considered potential changes in seasonal emissions based on material moisture.

The proposed cooling tower particulate emissions are calculated with a 0.000050 factor or 0.005% for drift control efficiency. However, other air quality jurisdictions have permitted cooling tower emissions with a 0.0005% drift control efficiency, so it is doubtful that the proposed cooling tower PM emissions represent BACT. Cooling tower PM emissions occur when water droplets (as opposed to water vapor) are emitted and the associated dryout of such droplets yields the dissolved solids going to airborne particles. Nothing in the application shows the expected compliance determination method, such as cooling tower water dissolved solids testing, for such cooling tower emissions.

1.9 Other Lingering Control Technology Determination Issues

In the absence of a finally promulgated Maximum Achievable Control Technology (MACT) determination, the state must at a minimum perform a technology determination for Toxics Best Available Control Technology. It simply isn't clear to me that the federal power plant mercury rule will be finalized by the time

of potential permit issuance. The Applicant has also apparently reserved the right to have a higher emission limit than 80 lbs/year if it would be allowed by the federal emission standard when finally promulgated. I've not yet reviewed the issue of whether this plant is subject to a case by case MACT review under CAA Section 112. However, I do expect that the federal rule will run into a buzzsaw of federal appeals court litigation and may not be finalized for many years. The Applicant does not appear to want to finalize the ultimate mercury emission limitation in the permit until the final promulgation of the federal standard at a time after permit issuance; however, such a strategy essentially eviscerates the pre-MACT-setting state requirement for T-BACT and the further affirmative duty of the state to determine the amount of pollution, impairment and destruction of natural resources such a permitting action would cause and the consideration of alternatives to such an action.

I'm aware that the Planning Commission has been told by its advisors that it has the authority to place conditions reflecting air pollution control requirements into the special use permit that is being requested by the Applicant. As a result, the Planning Commission might consider establishing and enforcing a permit requirement for mercury control that would exceed expected minimum federal/state requirements. Such a requirement, for example, might limit the maximum mercury content to the lowest range typical for powder river basin coal, to prohibit fuel switching to higher mercury coal at a future time and/or to require that the Applicant obtain mercury stack emission reduction offsets from other Manistee Lake area dischargers before operation of the facility may commence. The Planning Commission might consider establishing a user fee to support surveillance and compliance activities and engineering review of the facility on mercury and other questions.

2 Air Pollution and Air Toxics Impact Review

2.1 Common Criteria Pollutants

The MACTEC report expressed some concern and implied skepticism about the predicted high annual average impact being 400 meters to the west of the main combustion stack. However this result isn't quite as surprising as might first be indicated. The air quality impact report indicates that presence of 60-70 feet of terrain elevation between the base of the stack and locations to the west where elevated terrain occurs close to populated areas of the City of Manistee. Where terrain is elevated in this fashion, there will be less plume dilution before the elevated

plume reaches the ground during conditions when plume rise is decreased due to higher wind speeds and neutral to unstable air conditions.

Although the air quality modeling projects that existing sulfur dioxide and particulate national ambient air quality standards will be met, it should also be understood that such standards are not fully protective of public health in their present form. For example, the American Lung Association has shown that the current EPA 24 hour average sulfur dioxide national ambient air quality standard doesn't protect asthmatics who exercise from high 10 minute to one hour exposures associated with inducement of adverse asthmatic episodes. There is also widespread agreement that the current national ambient air quality standards for PM-10 and PM-2.5 do not protect against increased exacerbation of pre-existing lung diseases and asthma and that concentrations of particulate matter below current national standards are associated with increases in hospitalization for asthmatic conditions and increased rates of bronchitic and respiratory diseases. There is also evidence that exposure to fine particulate matter is associated with increased incidence of mortality and that there is no threshold below which such effects do not occur.

The air quality impact review submitted by the Applicant indicates that the modeled impact of the facility for sulfur dioxide and particulate matter exceeds the minimum monitoring thresholds for an exemption from the preconstruction monitoring requirement under the regulations. However, the application indicates the MDEQ Air Quality Division agreed not to require such preconstruction sulfur dioxide and particulate matter monitoring. No other records found in MDEQ files support this decisionmaking by MDEQ; more transparency on this issue by MDEQ Air Quality Division would be appropriate on such a controversial proposed facility.

The federal air quality regulations can also be interpreted to require ambient ozone preconstruction monitoring. In many cases, applicants are allowed to proceed without such monitoring on the basis that other area air quality monitors show typical and expected baseline air quality. However in the present case, the nearest ozone monitoring stations show expected violations of the National Ambient Air Quality Standard for ozone.

Although this issue has first been vetted in the context of the proposed ozone designations for Manistee County, neither MDEQ nor the Applicant can be allowed under the federal new source review regulations to disregard this problem within the actual permitting process. The regulations require that new PSD sources must not interfere with attainment and maintenance of National Ambient Air Quality Standards if they are sited in areas meeting the air quality standards. The Clean Air Act also has

provisions requiring that areas that do not meet air quality standards maintain reasonable further progress towards attainment. No analysis has been presented by the applicant to show the effect of the proposed facility on attainment and maintenance of the ozone standard and on reasonable further progress in downwind areas where nonattainment designations are presently expected.

Given the ability of the Planning Commission to impose conditions in its special use permit, consideration should be given to permit conditions which ensure that the facility conducts pre-construction ambient air quality monitoring for ozone and other pollutants if it appears that EPA and MDEQ will not enforce federal rules on such monitoring. Perhaps, the Planning Commission could also insist on a level of NOX control that would be equivalent to the federal Lowest Achievable Emission Rate requirement that would be in place if Manistee County was formally designated as nonattainment.

2.2 Airborne Toxicants

On March 16, 2004, the MDEQ Air Quality Division wrote to the Applicant asking that a multi-pathway risk analysis be submitted for mercury, chlorinated dibenzo-dioxins/furans and lead. As a result, a 120 day clock on the review and issuance of the proposed air permit has been stopped until such an analysis has been submitted. This means that the Applicant's submittal before the MDEQ Air Quality Division is not deemed as being complete.

The risk analysis for mercury is highly sensitive to assumptions about the physical/chemical form of mercury discharged by the proposed source. Mercury discharged in elemental vapor form is considerably less likely to be subject to wet and dry deposition as compared to emissions of ionic mercury and particle bound mercury. I haven't yet completed analysis of the Applicant's submittals on this key issue.

Exactly how the multipathway risk analysis will be done is subject to many questions as MDEQ has no rules on how non-inhalation risk assessments are supposed to be completed. There are questions on whether all valid toxicant pathways will be analyzed. Other unanswered question involves the matter of whether the environmental fate analysis of the toxicants will account for buildup over time in, for example, Manistee Lake and all physical, chemical and biological process by which mercury and other toxicants are cycled in lake and wetland systems. Still other questions involve the catchment area for wet and dry deposition.

The proposed facility has a potential to emit nearly one half ton of arsenic emissions, but Michigan DEQ is not planning on requiring a multipathway risk assessment for this toxicant.

2.3 Lake Michigan Shoreline Effects on Air Pollution

There are three well known "mesoscale" meteorological effects known to occur in the shoreline zones of the Great Lakes which adversely affect dispersion of air pollution from sources sited near such shorelines. Two of these effects involve the potential for "fumigation" of air pollution plumes in which such plumes aloft are rapidly mixed to the ground during spring, summer and fall. The fumigation phenomena occur during both gradient onshore windfield flow and during lake breeze circulations that set up underneath gradient windfield flow. A third effect involves trapping of plumes under very limited mixing heights of approximately 500 feet during springtime in unstable layers that form under a stable temperature inversion aloft.

None of these adverse shoreline effects on air pollution dispersion have been considered or evaluated in the air pollution impact assessment for the proposed facility.

3 Some Key Issues of Local Planning Significance

3.1 Nuisance Fog and Icing from Cooling Towers

Because traditional pulverized coal-fired boilers and electrical generation apparatus only have a thermal to electrical conversion efficiency about 35%, the facility must dispose large amounts of waste heat. Most of this waste heat will be emitted by cooling tower water vapor emissions, followed by cooling tower recirculating water blowdown. No analysis has been done concerning the potential for the cooling tower water vapor emissions to cause adverse fog and icing conditions on off-site locations nearby. Fog and icing can adversely affect home owners and create safety hazards for area vehicle traffic.

3.2 Nuisance Noise and Lighting

This plant will be a base load facility which means it will be running 24 hours a day and 7 days a week. Many operations at such a facility will emit significant noise from operation of conveyors, fans and coal pile dozer operations. Sometimes such plants must shed load and such operations may be accompanied by very loud steam blowdown operations unless such steam blowdown occurs through muffler technology.

Large scale plant site lighting can also interfere with the small town/country ambience for residents located near the facility.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Office of Air Quality Planning and Standards
Research Triangle Park, North Carolina 27711
March 31, 1994

Mr. Sean Fitzsimmons
Iowa Department of Natural Resources
Wallace state office Building
Des Moines, IA 50319

Dear Mr. Fitzsimmons:

This is in response to your letter of January 25, 1994 requesting responses to certain questions regarding PM-10 condensibles. Here are your questions and our responses:

1. Does the Environmental Protection Agency (EPA) definition for PM-10 include condensible particulate matter (CPM)?
 - Yes, the definition of PM-10 includes CPM. CPM is of potential importance to attainment of the PM-10 national ambient air quality standards because it usually is quite fine and thus falls primarily within the PM-10 fraction (see e.g., "PM-10 SIP Development Guideline," June 1987, USEPA EPA-450/2-86-001 at p. 5-32 and 56 FR 65432, December 17, 1991). The EPA ambient monitoring method for the determination of PM-10 in the atmosphere is intended to include any particles that are caught by the filter at "ambient" conditions and thus, in providing for the determination of ambient PM-10 concentrations, includes any CPM (see 40 CFR part 50, Appendix J).
2. In evaluating compliance tests for determining ambient PM-10 levels in PSD permits,
 - a. Are the States required to compute PM-10 as the sum of in stack and condensible PM-10?
 - Since CPM is considered PM-10 and, when emitted, can contribute to ambient PM-10 levels, applicants for PSD permits must address CPM if the proposed emission unit is a potential CPM emitter.

- b. Are the States required to use Method 202 to determine condensible PM-10 emissions unless EPA has approved an acceptable alternative?
- Yes, States must use Method 202, unless the EPA Administrator approves the use of an alternative method (see 40 CFR part 51.212, subpart K. This requirement in the part 51 rules is applicable to plans EPA has approved or promulgated under section 110 of the Clean Air Act, which includes PSD plans.
- c. Would EPA consider it an acceptable alternative to waive Method 202 testing in source categories where CPM emissions are known to be significant?
- No, where CPM emissions are likely to be significant, the calculation of PM-10 emissions from a source must include in-stack PM-10 emissions and CPM. As noted above, Method 202 is the recommended method, although the use of alternatives as approved is allowed.
3. In evaluating compliance tests for determining ambient PM-10 levels as required in synthetic minor permits (where the source agrees to federally enforceable permit conditions which limit its allowable emissions to amounts lower than the major source threshold).
- a. Are the states required to compute PM-10 as the sum of in-stack and condensible PM-10?
- Yes, CPM emissions must be addressed. Accounting for CPM is particularly important at sources that emit significant CPM since not addressing it will underestimate the sources ambient PM-10 impact.
- b. Are the States required to use method 202 to determine Condensible PM-10 emissions unless EPA has approved an acceptable alternative?
- Yes (see answer no. 2b above).
- c. Would EPA consider it an acceptable alternative to waive Method 202 testing in source categories where CPM emissions are known to be significant?
- No (see answer no. 2c above).

4. Typically the permit engineer establishes the potential to comply with air quality regulations with the aid of emissions factors. If a definition of PM-10 that includes CPM is adopted by the States, is it EPA's position that currently available PM-10 emission factors are adequate for establishing the potential to comply?
- The emission factors for PM-10 in the current AP-42 may not adequately characterize CPM. Because emission factors in AP-42 are usually based upon the results of emission test reports and because Method 202 was only recently developed, AP-42 emission factors may only adequately characterize in stack, filterable PM-10. Recent AP-42 additions have used a clearer nomenclature for the various particulate fractions, separating "filterable" PM-10 and CPM. To the extent that condensible particulate information is available in AP-42, this portion of total PM-10 emissions will be specifically identified as either "condensible organic particulate,, and/or "condensible inorganic particulate." In many AP-42 sections the filterable PM-10 and the condensible fractions will be summed *and* presented as "total PM-10." It is reasonable to assume that where AP-42 is not clear on whether the emission factor is for total PM-10 the PM-10 emission factor only includes the filterable portion of total PM-10. As a result, the permit engineer should evaluate the potential CPM emissions based upon additional data or engineering judgement.

I appreciate this opportunity to be of service and trust this information will be helpful to you.

Sincerely,

Thompson G . Pace
Acting Chief
SO2/Particulate Matter Programs Branch

cc: Chris Stoneman
Lisa Haugen, Region VII

Ann Arbor Bloomfield Hills Kalamazoo Lansing Peoria

Howard & Howard

law for business

direct dial: 734.222.1099

Roger L. Myers

email: Rmyers@howardandhoward.com

April 1, 2004

John H. Gretzinger, Esq.
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Grand Rapids, MI 49546

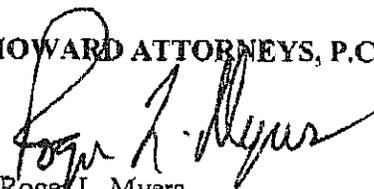
VIA FACSIMILE ONLY**RE: Manistee Salt Works Development Corporation ("MSWDC")**

Dear Mr. Gretzinger:

This letter shall confirm our discussion earlier this morning, during which I indicated that MSWDC agrees to grant an extension of time by which the Planning Commission must render a decision on the special use permit application for a period of 14 additional days until April 15, 2004, without the condition referenced in my letter to you yesterday.

Should you have any questions, please do not hesitate to contact me.

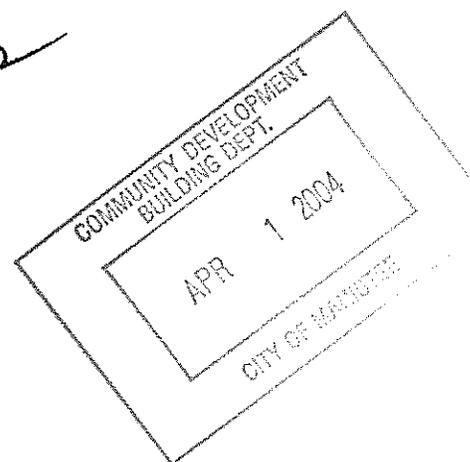
Very truly yours,

HOWARD & HOWARD ATTORNEYS, P.C.
Roger L. Myers

RLM:cjh

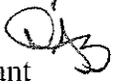
cc: Jon R. Rose (via facsimile only 231-723-1546)

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MEMO

TO: Planning Commissioners

FROM: Denise Blakeslee 
Administrative Assistant

DATE: April 1, 2004

RE: Record Update

Enclosed is the reminder of the Record through the meeting of April 1, 2004 for your review (Items 421 through #426).

:djb

Item #	Description	# Pages	x copied
406	Correspondence from Richard Shotwell, The Pine River Association	1	24
407	Correspondence from Dennis Douglas	1	24
408	Correspondence from Dana Schindler w/attachments	7	24
409	Correspondence from Sara Herberger	2	24
410	Correspondence from Ron Martin	2	24
411	Correspondence from Madeline Klusowski	2	24
412	Letter from William Rastetter (Olson, Bzdok & Howard) dated 3/25/04 and response letter from Jon Rose to Mr. Rastetter dated 3/29/04	2	24
413	Copies of Post Cards in Support submitted by Meagan Kempf 3/31/04	23	24
414	Letter from Rodger Kershner, Howard & Howard to Bruce Gockerman dated 3/19/04	1	24
415	Letter from Jon Rose to Jim Tondu dated 3/26/04 RE: Extension	1	24
416	Fax from Roger L. Myers, Howard & Howard Attorneys, P.C. dated 3/31/04 RE: Extension	3	24
417	Fax from Roger L. Myers, Howard & Howard Attorneys, P.C. dated 3/31/04 RE: Manistee Saltworks Development Corporation w/attached possible conditions (Page 6 & 7) Memo from Jay Kilpatrick to Jon Rose dated 3/20/04	11	24
418	Memo from Jon Rose to Planning Commissioners dated 3/30/04 RE: Conference call with Lansing DEQ	1	24
419	Memo from Jon Rose to Planning Commissioners dated 3/31/04 RE: Record	20	24
420	Memo from Jon Rose to Planning Commissioners dated 3/31/04 RE: Extension	1	24
421	<i>Response Letter w/ mailing list</i>	2	13
422	List of Items forwarded to Planning Commission 4/1/04	1	24
423	Faxed copy of Onekama Township - Resolution concerning Northern Lights Project	1	24
424	Faxed copy of Michigan Townships Association, Manistee County, Chapter - Resolution Concerning Northern Lights Project	1	24

Item #	Description	# Pages	x copied
425	Commentary from Alexander Sagady, Environmental Consultant RE: Air pollution and environmental issues posed by the Northern Lights Project.	16	24
426	Copy of Fax from Roger Myers, Howard & Howard	1	24
427	Memo from Denise Blakeslee dated 4/1/04 RE: Record updated	3	24

MEMO

TO: Planning Commissioners

FROM: Jon R. Rose 
Community Development Director

DATE: April 1, 2004

RE: Staff Recommendation

First I would like to express my appreciation to the Members of the Planning Commission. It is important to point out the Planning Commission members receive no compensation for their service to our community. So far in relation to the Manistee Saltworks Development Corporation (MSDC) Special Use Permit Application you have; attended 17 meetings/worksession, listened to approximately 17 hours of testimony, and received over 2,300 pages of information.

At the end of the March 25, 2004 Worksession, I was instructed to attempt to get an extension for further deliberation on the request. A letter was delivered on March 26, 2004 to Jim Tondou requesting an extension through the regular meeting of May 6, 2004 or 31 days.

A response to the request was received from Attorney Roger Myers of Howard and Howard VIA FAX yesterday Wednesday, March 31, 2004 around noon. MSDC offered an extension through April 15, 2004 with the condition that "...the Planning Commission refuse to allow any discussion of the project during the call to public session of the Planning Commissions April 1, 2004 regular meeting."

After discussion Attorney John Gretzinger via phone declined the extension offer because the condition was illegal. At approximately 10 a.m. this morning a fax arrived offering a fourteen day extension without conditions. At approximately 5:00 p.m. today MSDC verbally agreed to an extension to the next regularly scheduled meeting (May 6, 2004).

Also arriving around noon on Wednesday, March 31, 2004 was another letter from MSDC attorney Roger Myers of Howard and Howard. This eight page letter took issues with the majority of items which were considered for conditions of approval from Jay Kilpatrick's memo of March 10, 2004. Of the 17 conditions compiled by Mr. Kilpatrick MSDC found 4 acceptable, 3 needed clarification or change in wording and the remaining 10, Mr. Myers objected as being "beyond the scope of the City's legal authority". Among the conditions to which MSDC objects are:

- ◆ A condition that a Community Service Fee be agreed upon.
- ◆ A condition that the fuel source be limited to the Powder River basin Coal.
- ◆ A condition that the Applicant be required to connect to the City's Waste Water Treatment Plant and pay for related expansion costs.
- ◆ A condition that the Applicant remediate the site to a level approved by the City.

- ◆ A condition that a performance bond be established to insure satisfactory completion of the project.
- ◆ A condition that the Applicant pay for bridge openings.

In short the applicant has taken issue with almost every condition proposed except those which are already mandated by State or Federal Law. Those conditions which staff has recommended as being a method of making an otherwise dubious project acceptable have been rejected by the applicant.

This wholesale rejection of the conditions leaves Staff no alternative except to recommend that the Planning Commission deny the request.

JRR:djb

cc: City Council