



DEPARTMENT OF JUSTICE

NOTICE OF LODGING OF PROPOSED CONSENT DECREE  
UNDER THE CLEAN AIR ACT

On April 22, 2013, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Western District of Wisconsin in the lawsuit entitled *United States, et al. v. Wisconsin Power and Light, et al.*, Case. No. 13-cv-266 (W.D. Wis.). The Sierra Club is a co-plaintiff in the case.

In this civil enforcement action under the federal Clean Air Act (“Act”), the United States alleges that Wisconsin Power and Light, Inc. (“WPL”), Wisconsin Public Service Corporation (“WPSC”), Madison Gas and Electric (“MGE”), and Wisconsin Electric Power Company (“We Energies”) (collectively “Defendants”), failed to comply with certain requirements of the Act intended to protect air quality at three Wisconsin power plants: the Columbia Generating Station located near Portage in Columbia County, Wisconsin; the Edgewater Generating Station located near Sheboygan in Sheboygan County, Wisconsin; and the Nelson Dewey Generating Station located near Cassville in Grant County. WPL is the operator and co-owner of the power plants; the remaining defendants are current or former co-owners. The Complaint seeks injunctive relief and civil penalties for violations of the Act’s Prevention of Significant Deterioration (“PSD”) provisions, 42 U.S.C. §§ 7470-92, and the Act’s Title V permit provisions (“Title V”), 42 U.S.C. §§ 7661a-76661f, and related state and federal implementing regulations at the three coal-fired power plants. Specifically, the

Complaint alleges that the Defendants modified various units at the Columbia, Edgewater, and Nelson Dewey plants under the PSD program, and that the Defendants thereafter operated the plants, as modified, without complying with Best Available Control Technology (“BACT”) requirements for sulfur dioxide (“SO<sub>2</sub>”), nitrogen oxides (“NO<sub>x</sub>”), and/or particular matter (“PM”).

The Complaint further alleges that WPL failed to submit a complete application for Title V operating permits for the Columbia, Edgewater, and Nelson Dewey Generating Stations and identify all applicable requirements, accurately certify compliance with such requirements, and include a compliance plan for all applicable requirements for which each source was not in compliance (including the requirement to meet BACT pursuant to a determination under the PSD program). Similarly, the Complaint alleges that WPL failed to obtain proper or adequate Title V operating permits for the three plants that contained emission limitations for SO<sub>2</sub>, NO<sub>x</sub>, and/or PM that met BACT. Finally, the Complaint alleges that WPL thereafter operated the three power plants without meeting such emission limitations and without having a valid operating permit that required compliance with such limitations or that contained a compliance plan for all applicable requirements for which the source was not in compliance.

The proposed Consent Decree would resolve violations for certain provisions of the Act through December 31, 2018, and would require the Defendants to reduce harmful SO<sub>2</sub>, NO<sub>x</sub>, and PM emissions, at the three power plants. The emission reductions would be achieved through emission control requirements and limitations

specified by the proposed consent decree, including installation and operation of pollution controls; retirement, refueling, or repowering of certain generating units; and annual emission caps at the power plants. The Defendants will also spend \$8.5 million to fund environmental mitigation projects that will further reduce emissions and benefit communities adversely affected by the pollution from the three plants, and pay a civil penalty of \$2.45 million.

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States, et al. v. Wisconsin Power and Light, et al.*, Case No. 13-cv-266 (W.D. Wis.), D.J. Ref. No. 90-5-2-1-09878. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by e-mail or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By e-mail	pubcomment-ees.enrd@usdoj.gov
By mail	Assistant Attorney General U.S. DOJ - ENRD P.O. Box 7611 Washington, D.C. 20044-7611

During the public comment period, the proposed Consent Decree may be examined and downloaded at this Justice Department website:

[http://www.usdoj.gov/enrd/Consent\\_Decrees.html](http://www.usdoj.gov/enrd/Consent_Decrees.html). The Justice Department will

provide a paper copy of the proposed Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library  
U.S. DOJ - ENRD  
P.O. Box 7611  
Washington, D.C. 20044-7611.

Please enclose a check or money order for \$ 34.75 (25 cents per page reproduction cost) payable to the United States Treasury.

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