UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

FEB 15 2017

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Amy Feldhaus
Environmental Engineer
DP&L J.M. Stuart Generating Station
P.O. Box 468
Aberdeen, Ohio 45101

Re: Notice and Finding of Violation
Dayton Power & Light Company- J.M. Stuart Generating Station
Aberdeen, Ohio

Dear Ms. Feldhaus:

The U.S. Environmental Protection Agency is issuing the enclosed Notice of Violation and Finding of Violation (NOV/FOV) to The Dayton Power and Light Company (you) under Section 113(a) of the Clean Air Act (CAA), 42 U.S.C. § 7413(a). We find that you have violated the Ohio State Implementation Plan and Title V of the CAA, 42 U.S.C. § 7401 *et seq.*, including the requirements of the Title V operating permit issued to you for the J.M. Stuart Generating Station in Aberdeen, Ohio.

Section 113 of the Clean Air Act gives us several enforcement options. These options include issuing an administrative compliance order, issuing an administrative penalty order and bringing a judicial civil or criminal action.

We are offering you an opportunity to confer with us about the violations alleged in the NOV/FOV. The conference will give you an opportunity to present information on the specific findings of violation, any efforts you have taken to comply and the steps you will take to prevent future violations. In addition, in order to make the conference more productive, we encourage you to submit to us information responsive to the NOV/FOV prior to the conference date. Please plan for your facility's technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

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The EPA contact in this matter is Patrick Miller. You may call him at (312) 886-4044 to request a conference. You should make the request within 10 calendar days following receipt of this letter. We should hold any conference within 30 calendar days following receipt of this letter.

Sincerely,

Edward Nam
Director
Air and Radiation Division

Enclosure

cc: JoAnne C. Rau
Director, Environment and Safety Management
The Dayton Power and Light Company

Robert Hodanbosi, Chief
Division of Air Pollution Control
Ohio Environmental Protection Agency

Cindy Charles, Director
Air Pollution Unit
Portsmouth City Health Department

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:	)	
	)	
Dayton Power and Light	)	**NOTICE OF VIOLATION and**
J.M. Stuart Generating Station	)	**FINDING OF VIOLATION**
Aberdeen, Ohio	)	
	)	**EPA-5-17-OH-09**
Proceedings Pursuant to	)	
the Clean Air Act	)	
42 U.S.C. §§ 7401 *et seq.*	)	

NOTICE OF VIOLATION AND FINDING OF VIOLATION

The Dayton Power and Light Company (DP&L) owns and operates an electric power generating facility, known as the J.M. Stuart Generating Station, located on U.S. Highway 52 in Aberdeen, Ohio (facility or Stuart Station). According to the Title V operating permit for the Stuart Station, DP&L operates, among other things, four coal-fired boilers identified as emission units B001, B002, B003, and B004. Emissions from these boilers are routed through control equipment and then exit through the wet stack.

The U.S. Environmental Protection Agency is sending this Notice of Violation and Finding of Violation to notify DP&L that it is in violation of the visible particulate emission limits at the Stuart Station as specified in the Ohio State Implementation Plan (SIP) and DP&L's Title V operating permit. Violations of these visible particulate emission limits constitute violations of the Clean Air Act (CAA), 42 U.S.C. §§ 7401 *et seq.*

STATUTORY AND REGULATORY BACKGROUND

1. Section 110 of the CAA, 42 U.S.C. § 7410, requires each state to adopt and submit to EPA for approval a plan that provides for the implementation, maintenance, and enforcement of the primary and secondary National Ambient Air Quality Standards in the state. Upon approval by EPA, the plan becomes part of the applicable SIP for the state, and is federally enforceable under Section 113 of the CAA, 42 U.S.C. § 7413.

2. Pursuant to Section 502(a) of the CAA, 42 U.S.C. § 7661a(a), it is unlawful for any person to, among other things, operate a major source subject to Title V except in compliance with a Title V permit after the effective date of any permit program approved or promulgated under Title V of the Act. EPA first promulgated regulations governing state operating permit programs on July 21, 1992. *See* 57 *Fed. Reg.* 32295; 40 C.F.R. Part 70.

Ohio State Implementation Plan – Opacity Regulations

3. EPA approved Ohio Administrative Code (OAC) Chapter 3745-17-07(A)(1) as part of the federally enforceable Ohio SIP effective June 27, 1994. 59 *Fed. Reg.* 27464 (May 27, 1994). EPA approved minor revisions to the rule effective December 27, 2010. 75 *Fed. Reg.* 65567.

4. OAC 3745-17-07(A)(1) of the Ohio SIP requires that "visible particulate emissions from any stack shall not exceed twenty percent opacity, as a six-minute average. [The]... visible particulate emissions from any stack may exceed twenty percent opacity, as a six-minute average, for not more than six consecutive minutes in any sixty minutes, but shall not exceed 60% opacity, as a six-minute average, at any time."

Title V Requirements

5. EPA fully approved Ohio's Title V operating permit program effective October 1, 1995. *See* 40 C.F.R. Part 70, Appendix A; 60 *Fed. Reg.* 42045 (August 15, 1995). The Ohio regulations governing the Title V operating permit program are codified at OAC 3745-77.

6. On March 23, 2016, Ohio Environmental Protection Agency issued a renewal Title V Permit (effective April 13, 2016) to DP&L for operation of the Stuart Station in accordance with OAC 3745-77. Condition C.1.b(1)(a) of the Title V permit specifies that visible particulate emissions from emission units B001, B002, B003, and B004 shall not exceed 20% opacity as a 6-minute average, except as provided by OAC rule 3745-17-07(A).

7. Condition C.1.f(1)(a) of DP&L's Title V Permit specifies that compliance with the visible particulate emission limitation shall be demonstrated through visible emission observations performed in accordance with the methods and procedures specified in 40 C.F.R. Part 60, Appendix A, Method 9 (EPA Reference Method 9) and OAC 3745-17-03(B)(1).

EXPLANATION OF VIOLATIONS

8. On November 10, 2016, from 11:30 AM to 12:14 PM, a representative of EPA visually determined the opacity of emissions in accordance with EPA Reference Method 9 from the wet stack at DP&L's Stuart Station. During this time period, the EPA representative observed opacity in excess of 20% as a 6-minute average for more than thirty consecutive minutes. He further noted that the opacity of emissions from the stack in excess of 20% appeared to continue beyond EPA's Method 9 observation period.

9. Based on the excess opacity observations described in paragraph 8, above, DP&L violated and continues to violate the applicable opacity limits contained in OAC 3745-17-07(A) of the Ohio SIP, and Condition C.1.b(1)(a) of DP&L's Title V Permit.

ENVIRONMENTAL IMPACT OF VIOLATIONS

10. Violation of opacity standards increases public exposure to particulate matter. Particulate matter, especially fine particulate, contributes to respiratory problems, lung damage and premature deaths.

2/15/17
Date

Edward Nam
Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Kathy Jones, certify that I sent a Notice and Finding of Violation, No. EPA-5-17-OH-09, by Certified Mail, Return Receipt Requested, to:

Amy Feldhaus
Environmental Engineer
DP&L J.M. Stuart Generating Station
P.O. Box 468
Aberdeen, Ohio 45101

I also certify that I sent copies of the Notice of Violation and Finding of Violation by first-class mail to:

JoAnne C. Rau
Director, Environment and Safety Management
The Dayton Power and Light Company
1065 Woodman Drive
Dayton, Ohio 45432

Robert Hodanbosi
Chief, Division of Air Pollution Control
Ohio Environmental Protection Agency
1800 WaterMark Drive
Columbus, Ohio 43215

Cindy Charles
Director, Air Pollution Unit
Portsmouth City Health Department
605 Washington Street, Third Floor
Portsmouth, Ohio 45662

On the 16th day of February 2017.

Tina Robinson

Loretta Shaffer
Program Technician
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER: 7009 1680 0000 7660 7070