



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

W. Tayloe Murphy, Jr.
Secretary of Natural Resources

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Robert G. Burnley
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STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO Clover Power Station Registration Number: 30867

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1300 *et seq.* and 10.1-1185, between the State Air Pollution Control Board and Clover Power Station for the purpose of resolving certain alleged violations of environmental law and/or regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1301 and 10.1-1184.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Order.
6. "Clover Power Station" or "Facility" means the coal-fired electric power generating station in Halifax County near Clover, Virginia, which is owned in

An Agency of the Natural Resources Secretariat

equal 50% undivided interests by Virginia Electric and Power Company and the Old Dominion Electric Cooperative.

7. "Regulations" means the "State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution," which have been incorporated into Title 9 of the Virginia Administrative Code (VAC).

SECTION C: Findings of Fact and Conclusions of Law

1. The Clover Power Station is an electric power generating facility. The Facility was issued a Title V Air Permit dated May 14, 2004, with an effective date of January 1, 2003. Condition III.A.11 of the permit states the following:

III.A.11 Main Coal Boiler Requirements - (ES1 and ES2)

A. Main (Primary) Boiler Limitations

11. Emissions from the operation of each primary coal boiler shall not exceed the limits specified below:

| Criteria Pollutant | lbs/MMBtu | lbs/hr | tons/yr * |
|-------------------------|-----------|--------|-----------|
| PM | 0.020 | 81.7 | 357.8 |
| PM10 | 0.018 | 73.5 | 322.1 |
| SO2 | | | 1,789 ** |
| -annual average * | 0.10 | *** | - |
| -30-day rolling average | 0.156 | *** | - |
| NOx | | | |
| -30-day rolling average | 0.32 | N/A | **** |
| CO | 0.10 | 408.5 | 1,789.2 |
| VOCs | 0.010 | 40.9 | 178.9 |
| Lead | 0.00042 | 1.72 | 7.5 |

* All annual emissions limits are based on an annual capacity factor of 100%. Annual emission limits are to be calculated as the sum of each consecutive twelve (12) month period.

** Based on an SO2 scrubber removal efficiency of either 95 % applied to an annual average coal sulfur content of 1.3 % by weight or an SO2 scrubber removal efficiency of at least 94 % applied to an annual average coal sulfur content of 1.0 % or a combination of both.

*** see Condition III.B.2.

**** Emissions of NOx from the combined operation of the main coal boilers shall not exceed 10,735.4 tons/year. Annual emission limits are to be calculated as the sum of each consecutive twelve (12) month period.

| | |
|------------------------|---------|
| Non-criteria pollutant | lbs/day |
| Beryllium | 0.4 |
| Fluoride (as HF) | 784.8 |
| Mercury | 3.1 |
| Sulfuric Acid Mist | 1,471.2 |

(9 VAC 5-80-110, Conditions I.18, I.19a and I.19c of September 4, 2002 Permit, and 40 CFR Subpart Da))

2. On March 23 and 24, 2004, Clover Power Station conducted stack tests to satisfy conditions 81 and 95 of the consent decree entered by the U.S. District Court in the Eastern District of Virginia with the U.S. EPA. Tests were conducted for both units #1 and #2.
3. On March 29, 2004, Clover Power Station received the test results for the stack-testing event. The results were the following :

| Particulate emissions rate | <u>lbs/hr</u> | <u>lbs/MMBTu</u> |
|----------------------------|---------------|------------------|
| Limit | 81.7 | .02 |
| Unit #1 | 112.89 | .024 |
| Unit #2 | 96.84 | .023 |

These results were taken from a three run average.

4. On March 29, 2004, representatives of the Facility reported their findings by email and by phone.
5. Unit #2 was then re-tested on Thursday, April 1, 2004, under the same operating conditions and using the same test method (Method 17). A different engineering firm was used to perform the tests. Results for this test were received on April 5, 2004. The results were as follows:

| Particulate emissions rate | <u>lbs/hr</u> | <u>lbs/MMBTu</u> |
|----------------------------|---------------|------------------|
| Limit | 81.7 | .02 |
| Unit #2 | 42.59 | .009 |

These results were taken from a three run average and demonstrate that this unit was in compliance with its particulate emissions limits.

6. Unit #1 was shutdown for a scheduled outage on April 3, 2004, and restarted on May 10, 2004.

7. Unit #1 was then re-tested on Thursday May 20, 2004, under the same operating conditions and using Method 5 instead of Method 17. Results of this test were received on June 2, 2004. The results were as follows:

| Particulate emissions rate | <u>lbs/hr</u> | <u>lbs/MMBTu</u> |
|----------------------------|---------------|------------------|
| <i>Limit</i> | <i>81.7</i> | <i>.02</i> |
| Unit #1 | 14.265 | .003 |

These results were taken from a three run average and demonstrate that this unit was in compliance with its particulate emissions limits.

8. The Board finds that the Clover Power Station violated 9 VAC 5-80-110 and 9 VAC 5-50-260 of the Regulations by exceeding its particulate emissions limits outlined in Condition III.A11 of the Title V Permit during the March 23-24, 2004, stack tests. The test results indicated noncompliance with the Title V Permit limits for Units #1 and #2.
9. The Clover Power Station presented additional information during a source meeting on June 2, 2004, including a discussion of the differences in the stack testing methodologies used, the Facility's air pollution control equipment operating and maintenance procedures, and a discussion of certain conditions that existed in the stacks during the March 2004 stack testing event. A discussion was conducted of how these factors may have contributed to the non-complying results.
10. Additional information was then received from the Clover Power Station in a letter dated June 11, 2004. This letter reiterated the Clover Power Station's position and contained new information including a study conducted by US EPA in 1975 that showed the use of in-stack filters during testing of units equipped with wet scrubbers tends to consistently bias the results high as compared to an out-of-stack filtering method.
11. A Notice of Violation was issued to the Facility on June 21, 2004, to address the alleged violations.
12. Representatives of the Clover Power Station and the Department met again on September 8, 2004, at the Facility to discuss a final resolution to this matter.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of its authority under Va. Code §§10.1-1307 D., 10.1-1309, 10.1-1184, §10.1-1316 C., and 10.1-1186.2 orders and the Clover Power Station agrees, solely for the purpose of resolving this matter, that:

1. The Clover Power Station shall pay a civil charge of \$8,064.00 dollars to resolve the issues addressed in the June 21, 2004, Notice of Violation issued by DEQ to the Facility and for the violations described in Section C of this Order.

2. Clover Power Station shall make such payment to the Department of \$8,064.00 within 30 days of the effective date of this Order. Payment shall be by check, certified check, money order, or cashier check payable to "Treasurer of the Commonwealth of Virginia" and sent to:

Receipts Control
Department of Environmental Quality
PO Box 10150
Richmond, Virginia 23240

The Clover Power Station shall include its Federal Identification Number with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this paragraph.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of the Clover Power Station, for good cause shown by the Clover Power Station, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to the Clover Power Station by DEQ on June 21, 2004. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, the Clover Power Station admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. The Clover Power Station consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. The Clover Power Station declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the State Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order, to the extent permitted by law.

6. Failure by the Clover Power Station to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect to the extent permitted by law.
8. The Clover Power Station shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. The Clover Power Station shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. The Clover Power Station shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

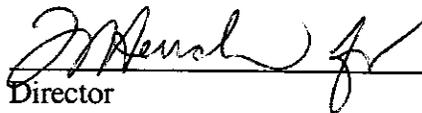
Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by either the Director or his designee and the Clover Power Station. Notwithstanding the foregoing, the Clover Power Station agrees to be bound by any compliance date, which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to the Clover Power

Station. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve the Clover Power Station, from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

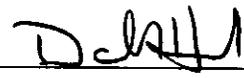
12. By its signature below the Clover Power Station voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of 23rd of November, 2004.



Director
Department of Environmental Quality

The Clover Power Station voluntarily agrees to the issuance of this Order.

By: 

Authorized Representative of the Virginia Electric
and Power Company

Date: 11-19-04

By: 

Authorized Representative of the Old Dominion
Electric Cooperative

Date: 11-22-04

Commonwealth of Virginia

City/County of Henrico

The foregoing document was signed and acknowledged before me this 17th day of November, 2004, by David A. Heacock, who is
(name)

vice president of the Clover Power Station on behalf of the Virginia Electric and Power Company.
(title)

Shirley Mullen
Notary Public *Commissioned as*
Shirley Mullen

My commission expires: October 31, 2005

Commonwealth of Virginia

City/County of Richmond

The foregoing document was signed and acknowledged before me this 22 day of

November, 2004, by J. E. Reason, who is
(name)

President & CEO of the Clover Power Station on behalf of the Old Dominion Electric Cooperative.
(title)

Maureen Mullen
Notary Public

My commission expires: 5-31-06