

## **Mitchell Environmental Issues**

2/10/14

### Title V Permit Compliance

- Title V permit renewal application was submitted to the WVDAQ this past fall. Permitting activities will occur this spring.
- Minor NSR and Title V permit are currently being revised by the DAQ to reflect a change we requested on auxiliary boiler limitations. We are asking the DAQ to remove the 876 hours/year limitation (10% capacity factor) and replace it with one that is based either on annual heat input or fuel usage.
- The facility is currently experiencing a problem with the PM monitor installed on Unit 2 under the NSR consent order. This is the second significant outage since the monitor was placed into service in late 2012. The monitor did not pass a recent Relative Response Audit (RRA). I&C Engineering has provided a plan to the facility to get the monitor back in operating order and then to complete a new RRA.
- PM Compliance tests for the Mitchell Units are past due. The DAQ is aware of our efforts to complete the tests. The tests were originally scheduled in early Dec. 2013 but one of the units tripped due to a turbine vibration problem before the tests could be started. To complete the testing, we need to be able to perform the testing on both units at full load during a 7 day period. The turbine vibration trip problems have continued to plague the unit as well as a failed ID fan motor which kept the unit curtailed for a number of days. We have kept the DAQ informed and are committed to completing a particulate compliance test soon after both units are capable of reliably operating under full load conditions.

### Allowance Management

- Emission allowances at Mitchell have been transferred in our Allowance Management System (AMS) into separate business units. Thus, the allowances are managed similar to other jointly-owned plants where the allowances are in the same facility account, but AMS distinguishes the ownership.
- In addition, we previously created Regulated and Unregulated Cleartrust Entitlements, so company personnel can be restricted from accessing both reg and unreg records as applicable. While the Designated Representative (DR) and Alternate DR as well as their agents in Environmental Services have access to both types of records, other groups including trading and settlements can only access the records they are permitted to see as assigned by their Cleartrust Entitlement.

### Mitchell Landfill

- Dry Fly Ash system is under construction and projected to be operational in June 2014.
- DFA dedicated haul road to the new landfill on CRI site is complete.
- Waste placement in cell 1A projected for July 1, 2014
- Construction underway but significantly slowed these past few months, working under the SWPP and SW/NPDES permits.

- QA / QC submittals are required to be submitted to regulators at various stages of landfill construction completion.
- Background groundwater sampling complete, semi-annual sampling and reporting starting this spring.
- Annual solid waste management report due to WVDEP in January.

#### Conner Run Impoundment

- Semi-annual groundwater sampling and reporting show ongoing history of Statistically Significant Increases and exceedances of the site-specific groundwater DMR limits, which are much lower than the WV Groundwater Protection Standards.
- A few recent exceedances of the WV Groundwater Protection Standard for arsenic in one well (this has since dropped back below limits).
- Ongoing Geochemical study investigating the impact that the East Hillside construction (push out) has / had on the groundwater quality. (CEC, Inc.)
- Ongoing study of the change in chemistry of the emergent springs (seeps) above Fish Creek Road. (Geosyntech)
- Next phase of the East Hillside construction is designed to relocate current outfall, close the gap between current East Hillside placement and the main dam, attempting to significantly reduce the volume of water being produced by the emergent springs (seeps) above Fish Creek Road.
- Attempting to transfer the MSHA, WV Dam Safety and NPDES permit to Murray American Energy.
- Annual solid waste management report due to WVDEP and WV Dam Safety in January.

#### NPDES Permit

- There are two pending NPDES permit actions to 1) incorporate the terms of the settlement reached regarding an appeal of the reissued permit, and 2) carve out all provisions associated with the Connor Run Impoundment and create a stand-alone permit. The latter is being done to facilitate the transfer of the impoundment to Murray American Energy. WVDEP is evaluating comments received from the Company and USEPA.
- Two major activities that are running in parallel with the modifications are: 1) completion of the dry fly ash conversion project and construction of the new landfill, and 2) a study of the seepage emanating from the hillside of the impoundment along Fish Creek. The study is required to characterize the quantity, quality and extent of the seepage, and characterize the level of environmental risk. That work is on target to meet the required submittal date of March 3, 2015.
- There is also a third pending NPDES modification that was recently submitted to reflect changes to the plant's wastewater system due to the rerouting of cooling tower blowdown from the Connor Run Impoundment to the plant's bottom ash pond complex. Again, this is being done to facilitate the transfer and ultimate isolation of the impoundment from any plant sources. There are also changes due to the dry fly ash conversion project incorporated in this modification request.
- Eventually, the plant's NPDES renewal application is due January 1, 2015 and Environmental Services has begun preparatory work for the required effluent sampling.
- Environmental Services is working with Legal regarding the potential filing of a third party lawsuit on behalf of several environmental groups regarding perceived violations of the plant's

NPDES permit. The core issue is that the Agency has failed to take final action on our permit requests (mainly the modification that reflects the appeal settlement) and has authorized an extension of the compliance schedule via "Administrative Orders" on an interim basis until the permit modifications are complete. The third party plaintiffs do not recognize this administrative action as valid and believe that the new, more stringent effluent limits are already in effect and that the plant's effluent data where the results are above those limits therefore represent violations. Company representatives met with the agency and the environmental groups on Feb. 5 in an attempt to expedite issuance of the final permit actions and expect their response no later than Feb. 12.

#### Mitigation

- WVDEP has indicated that Mitchell may need to provide mitigation for the loss of public access (for recreational fishing) along the shoreline in the area where the barge fleeting area was expanded for the FGD project in 2005. The Agency is using convoluted logic associated with its prior issuance of a "Section 410 Water Quality Certificate" associated with the Corps of Engineers permit that was received for the expansion. Their argument is that the state water quality standards are based on designated uses of each waterbody and that the Ohio River has a recreational use classification. Therefore, limiting access to the shoreline negatively affects recreation and is therefore subject to compensation via mitigation. Environmental Services is working with Legal and Security to investigate the argument that federal law requires us to limit this access under Homeland Security.