

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION I5 POST OFFICE SQUARE, SUITE 100  
BOSTON, MASSACHUSETTS 02109-3912

FEB 10 2010

Ms. Melissa A. Hoffer, Director  
New Hampshire Advocacy Center  
Conservation Law Foundation  
27 North Main Street  
Concord, NH 03301-4930

RE: Freedom of Information Act Request No. 01-FOIA-00013-10

Dear Ms. Hoffer:

This letter is a partial response to your letter dated October 8, 2009, requesting certain records from the United States Environmental Protection Agency (EPA) pursuant to the Freedom of Information Act (FOIA). EPA has given your FOIA request the number identified above.

Your FOIA request seeks records related to both Clean Air Act and Clean Water Act (CWA) issues. Accordingly, a variety of staff from EPA's Region 1 office in Boston have searched their files for records responsive to your request. Region 1 staff have also contacted you directly regarding their records searches and already provided you with certain responsive documents. This letter addresses your requests for information that relate to, or potentially relate to, the National Pollutant Discharge Elimination System permit program under the Clean Water Act (specifically, items 3 and 4 of your request).

Our search revealed that we have no records responsive to item 3, but do have a small number of records responsive to item 4. Of these responsive records, we have decided to withhold one (actually a "string" of three connected emails), but to release the rest. Copies of the released records are enclosed herewith and are briefly described in the following list:

1. Email String:

- a) 9/9/08 4:08 PM, Email from John King, EPA Region 1, to David Webster and Mark Stein, EPA Region 1, Subject: "Re: Merrimack Wet Scrubber," (reply to email 1.b, below; recounting conversation with Allan Palmer of Public Service of New Hampshire (PSNH)).
- b) 9/9/08, 4:02 PM, Email from David Webster, EPA Region 1, to John King and Mark Stein, EPA Region 1, Subject: "Re: Merrimack Wet Scrubber," (reply to email 1.c, below; regarding possible sending of draft letter).

c) 9/9/08, 8:41 AM, Email from John King, EPA Region 1, to David Webster and Mark Stein, EPA Region 1, Subject: "Re: Merrimack Wet Scrubber," (discussing plans for wet scrubber at Merrimack Station and when to require updating of NPDES permit application, and attaching draft of a possible letter from EPA Region 1 to PSNH seeking information regarding expected discharges from wastewater treatment system for the new scrubber) (draft letter attached).

2. Email String:

a) 4/8/09 3:50 PM, Email from John King, EPA Region 1, to David Webster, EPA Region 1, Subject: "Re: Scrubber Effluent Limitation Meeting" (re meeting attendance) (reply to email 2.b, below).

b) 4/8/09, 2:47 PM, Email from David Webster, EPA Region 1, to John King, EPA Region 1, Subject: "Re: Scrubber Effluent Limitation Meeting," (re meeting attendance) (reply to email 2.c below).

c) 4/8/09, 1:55 PM, Email from John King, EPA Region 1, to [sspanos@des.state.nh.us](mailto:sspanos@des.state.nh.us); [Jeff.Andrews@des.nh.gov](mailto:Jeff.Andrews@des.nh.gov); [palmeag@nu.com](mailto:palmeag@nu.com); and cc: David Webster, EPA Region 1, Subject: "Re: Scrubber Effluent Limitation Meeting," (proposing meeting to discuss effluent limits for proposed wastewater treatment plant for new wet scrubber at Merrimack Station).

3. Email (with attachments)

4/10/09, 1:29 PM, Email from Liz Knowland, NHDES, to Maureen Smith, Esq., Orr & Reno Attorneys, and various cc's at NHDES, Subject: "FW: PSNH WWTF for new Mercury Scrubber," (email discusses the review and release of documents in NHDES files related to the new mercury scrubber waste water treatment plant at Merrimack Station, and attaches a 5/13/08 email from Stergios Spanos, NHDES, to John King, EPA, and various NH DES personnel, as well as a presentation given by PSNH to NHDES on 5/12/09 on the proposed Merrimack Station scrubber project).

4. Email

5/18/09 11:29 AM, Email from John King, EPA Region 1, to David Webster, Mark Stein, and others, all EPA Region 1, Subject: "Merrimack Station Wet Scrubber Meeting" (discussing meeting attended by Mr. King and personnel from NH DES and PSNH to discuss effluent discharges expected from wastewater treatment plant for new wet scrubber).

To avoid any confusion, I want to emphasize that record no. 1.c above includes a draft letter attached to the email. EPA prepared this draft letter potentially to send to Merrimack Station to request information about any wastewater discharges associated with the new wet scrubber to be installed at the facility. EPA ended up deciding, however, that it was premature to send such a letter. Therefore, the letter was never finalized or sent to PSNH.

The single record (actually a string of connected emails) being withheld is briefly described below:

5. Email String:

a) 9/30/09 4:41 PM, Email from John King, EPA Region 1, to David Webster, EPA Region 1, Subject: "Re: Power Plants – Are new FGD units considered new sources? – Opinions?" (offering viewpoint on the "new source" issue posed in email 5.c, below, by responding to the view posited in email 5.b, below, and discussing the issue in context of Flue Gas Desulfurization (FGD) unit proposed for PSNH's Merrimack Station) (reply to email 5.b, below).

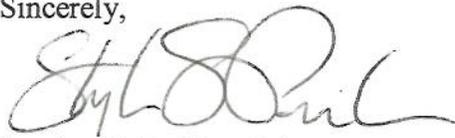
b) 9/30/09 2:37 PM, Email from David Webster, EPA Region 1, to John King, EPA Region 1; Sharon Demeo EPA Region 1; and cc to Evelyn McKnight, EPA Region 3, Subject: "Re: Power Plants – Are new FGD units considered new sources? – Opinions?" (offering possible response to "new source" question posed by email 5.c and relating the question to proposed FGD for PSNH's Merrimack Station facility) (reply to email 5.c below).

c) 9/30/09 11:15 AM, Email from Evelyn McKnight, EPA Region 3, to Marcus Zobrist, EPA Headquarters; David Webster, EPA Region 1; David Hair, EPA Headquarters; and cc to Long list of EPA Region 3 staff, including Region 3 attorney William Smith, Subject: "Re: Power Plants – Are new FGD units considered new sources? – Opinions?" (discussing and seeking views from certain EPA personnel, including EPA attorneys, on whether new FGD units should be considered "new sources" under the CWA for NPDES permitting).

EPA is withholding emails 5.a and 5.b on the basis of the deliberative process privilege and email 5.c on the basis of the deliberative process and attorney/client privileges.

If you have any questions about this response, please call Mark Stein of EPA Region 1's Office of Regional Counsel at 617-918-1077. Thank you for your cooperation.

Sincerely,



Stephen S. Perkins, Director  
Office of Ecosystem Protection

Enclosures

cc: Stergios Spanos, NH DES  
Evelyn McKnight, EPA; Region 3





**FOIA Missing Enclosures**  
**John King** to: MHoffer  
Cc: Mark Stein, David Webster

02/26/2010 10:06 AM

Melissa,

Please find attached the missing enclosures for EPA's FOIA response letter dated February 10, 2010.

I regret any difficulty this may have caused. If you have any further questions, do not hesitate to give me a call at 617.918.1295.

V/R, John



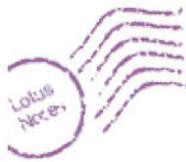
Sections 1-2, 4.pdf



Section 3.pdf



1.a.



John King/R1/USEPA/US  
09/09/2008 04:08 PM

To David Webster/R1/USEPA/US@EPA  
cc Mark Stein/R1/USEPA/US@EPA  
bcc  
Subject Re: Merrimack Wet Scrubber

David,

Based on my conversation with Allan Palmer today at Merrimack Station (I was trying to resolve flow volume inconsistencies), PSNH will not be able to provide any effluent information for at least six months. The design of the wet scrubber is still being developed.

I suggest we still send the letter, then let PSNH officially state the effluent information will not be available for months.

John  
David Webster/R1/USEPA/US

1.b.



David Webster/R1/USEPA/US  
09/09/2008 04:02 PM

To John King/R1/USEPA/US@EPA  
cc Mark Stein/R1/USEPA/US@EPA  
Subject Re: Merrimack Wet Scrubber

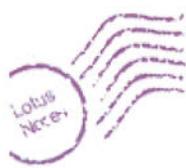
John,

I think the letter is appropriate, but once we do send it and they submit an application, it will be hard not to include this discharge in the new permit based on insufficient data and time. Given the pace of the permit I think its better to still try to include all planned discharges. If we were a month away from a draft I might react differently.

David

John King/R1/USEPA/US

1.c.



John King/R1/USEPA/US  
09/09/2008 08:41 AM

To David Webster/R1/USEPA/US@EPA, Mark Stein/R1/USEPA/US@EPA  
cc  
Subject Merrimack Wet Scrubber

PSNH has committed to installing addition anti-pollution equipment on Merrimack Station's smoke stack to remove mercury. The installation is supposed to be completed by 2013(?). The waste extracted from the stack gas will be process by a wet scrubber treatment system that will have an effluent discharge.

NHDES-WD wants PSNH to update their permit application, so effluent limitations can be developed from the wet scrubber. Does EPA direct PSNH to update the permit now or wait? My inclination is to have PSNH update the permit application, then determine if we have sufficient data and time to develop wet scrubber effluent limits for the draft permit under development.

John



Merrimack Station Wet Scrubber.doc



1.c.

September 3, 2008

William H. Smagula, P.E.  
Director – Generation  
Public Service Company of New Hampshire  
P.O. Box 330  
Manchester, NH 03105-0330

Re: Merrimack Station, Bow  
NPDES Reapplication No. NH0001465

Dear Mr. Smagula:

As you know, the U.S. Environmental Protection Agency is planning to reissue the NPDES permit for Merrimack Station in the near future. As part of this process we plan to develop drafts of the Fact Sheet, the permit and Clean Water Act Section 316(a) and 316(b) determinations.

Since your permit renewal application dated March 10, 1997 is over ten year old, we want to verify that we are using the most recent and accurate information on the wastewater flows and characteristics. It is also our understanding that PSNH is planning to install a new wet scrubber that will generate wastewater, and will require a new wastewater treatment system and outfall.

Accordingly, the purpose of this letter is to request that you provide us with any new information on outfalls, wastewater flows and wastewater characteristics. It may be necessary to submit a revised permit application or certain pages of the application. Please submit this information with 60 days of your receipt of this letter.

If you have any questions on this request please contact John Paul King at (617) 918-1295.

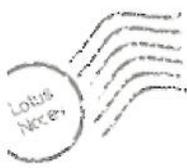
Sincerely,

David Webster, Manager  
Industrial Permit Branch  
Office of Ecosystem Protection

cc: Allan Palmer, PSNH  
Stergios Spanos, P.E., NHDES-WD



2.a.



John King/R1/USEPA/US  
04/08/2009 03:50 PM

To David Webster/R1/USEPA/US@EPA  
cc  
bcc

Subject Re: Scrubber Effluent Limitation Meeting

History: This message has been replied to.

David,

This is a preliminary meeting, and there will be no representatives from DES and PSNH that are at your responsibility level. I feel I am capable of discussing effluent limits with PSNH, and then debriefing you after the meeting.

John  
David Webster/R1/USEPA/US

2.b.



David Webster/R1/USEPA/US  
04/08/2009 02:47 PM

To John King/R1/USEPA/US@EPA  
cc

Subject Re: Scrubber Effluent Limitation Meeting

I've available that day, but may wait to closer to the day to commit.

John King I am proposing meeting at 9:00 on Friday May 1... 04/07/2009 01:55:38 PM

2.c.



John King/R1/USEPA/US  
04/07/2009 01:55 PM

To sspanos@des.state.nh.us, Jeff.Andrews@des.nh.gov,  
palmeag@nu.com  
cc David Webster/R1/USEPA/US@EPA

Subject Scrubber Effluent Limitation Meeting

I am proposing meeting at 9:00 on Friday May 15th at NHDES to discuss effluent limitations for the scrubber's waster treatment plant being constructed at Merrimack Station. PSNH is invited to bring additional staff, as required, for this discussion.

Please advise if this date is amenable.

John



3.



"Knowland, Liz"  
<Liz.Knowland@des.nh.gov>  
04/10/2009 01:29 PM

To <msmith@orr-reno.com>  
cc "Andrews, Jeff" <Jeffrey.Andrews@des.nh.gov>, "Demas, Peter" <Peter.Demas@des.nh.gov>, "Spanos, Stergios" <Stergios.Spanos@des.nh.gov>,  
bcc

Subject FW: PSNH WWTF for new Mercury Scrubber Project

Dear Attorney Smith,

Following our conversation late yesterday afternoon, Jeff Andrews delivered documents from the NPDES file for PSNH. These are the only documents within the file pertaining to the new mercury scrubber waste water treatment plant. Jeff reviewed each of the applicable documents with Attorney Mulholland and no document discussed was deemed privileged or confidential.

Please note in the "Clean Air Project" presentation, on page 9, under the heading of "Upcoming", a Fall 2008 target date included the NPDES Permit for the WWTP addition. To date, the NH Department of Environmental Services has not received an NPDES Permit application from PSNH for this specific project.

If you have any questions regarding the contents of this attachment, we would request that you refer them to Evan Mulholland. If I can be of further assistance, please don't hesitate to contact me.

Sincerely,

Liz Knowland

Elizabeth Knowland  
File Review Coordinator  
(603) 271-8808  
Elizabeth.Knowland@des.nh.gov

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PSNH NPDES INQUIRY.pdf



**Andrews, Jeff**

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**From:** Spanos, Stergios  
**Sent:** Tuesday, May 13, 2008 3:26 PM  
**To:** Drew, Tim; EPA John King (king.john@epa.gov)  
**Cc:** Walls, Michael J.; Heitzler, Paul; Stewart, Harry; Andrews, Jeff  
**Subject:** PSNH meeting yesterday

Hi Tim (& John)

At yesterday's meeting with PSNH on their new \$250M wet scrubber (APC), which Jeff and I attended, I told Alan Palmer of PSNH, in front of PSNH's lawyers and the others in attendance, that they need to update their NPDES permit application with information on the new wastewater stream (namely a stream that will come from their new gypsum slurry that captured SO2 and mercury from their air emissions).

I was talking to John King (the PSNH, and other facility permit writer at EPA) today and talked to him about PSNH. He says he does want PSNH to update their permit application. John will contact Alan, by phone or letter, and convey the need for more information on their new wastewater stream.

Stergios

5/14/2008



The State of New Hampshire  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**



Thomas S. Burack, Commissioner

Pre-Application Meeting

**Proposed Merrimack Station Scrubber Project**  
 By  
**Public Service of New Hampshire**

Convened at  
 The Offices of the  
 New Hampshire Department of Environmental Services  
 Conference Rooms 112-113  
 29 Hazen Drive  
 Concord, NH 03302-0095

May 12, 2008  
 11:00 AM

**ATTENDANCE**

Name	Affiliation	Telephone No.	Email
Jeffrey G. Andrews	NHDES	271-6687	jjandrews@des.state.nh.us
Jeffrey G. Andrews	"	271-2984	jgandrew@des.nh.gov
Arthur Auciadio	PSNH - Merrimack Station	224-4091 x234	AUCIADIA@PSNH.COM
Pamela Monroe	NHDES	271-0882	Pamela.Monroe@des.nh.gov
Michele Andy	NHDES	271-6793	Michele.Andy@des.nh.gov
Craig Wright	NHDES	271-6791	Craig.Wright@des.nh.gov
Allan Palmer	PSNH	634-2439	PALMEAG@NU.COM
Collis Adams	NHDES	271-4054	Cadams@des.nh.gov
Amy Clark	NHDES	271-2973	Amy.Clark@des.nh.gov
Linda Landis	PSNH	634-2700	landil@psnh.com
Mike Walls	DES	271-3806	mwalls@des.nh.gov
ELIZABETH TILLOTSON	PSNH	634-2440	tilloch@nu.com
Laurel Brown	PSNH	634-2331	brownl1@nu.com
Richard Roy	PSNH	224-4081 x247	ROYR@NU.COM
William Smagula	PSNH	603-634-2851	smagula@psnh.com
Michael Hitchko	"	603-224-4081 x189	hitchma@psnh.com
Tim Drew	NHDES	603-271-3306	Timothy.Drew@des.nh.gov
Rene PELLETIER	NHDES	271-2951	Rene.Pelletier@des.nh.gov
			Over, please



# **Clean Air Project**

## **Merrimack Station**

May 12, 2008 - 11AM

DES Presentation



**Public Service  
of New Hampshire**

The Northeast Utilities System

# The Importance of Merrimack Station



Clean Air Project  
Merrimack Station

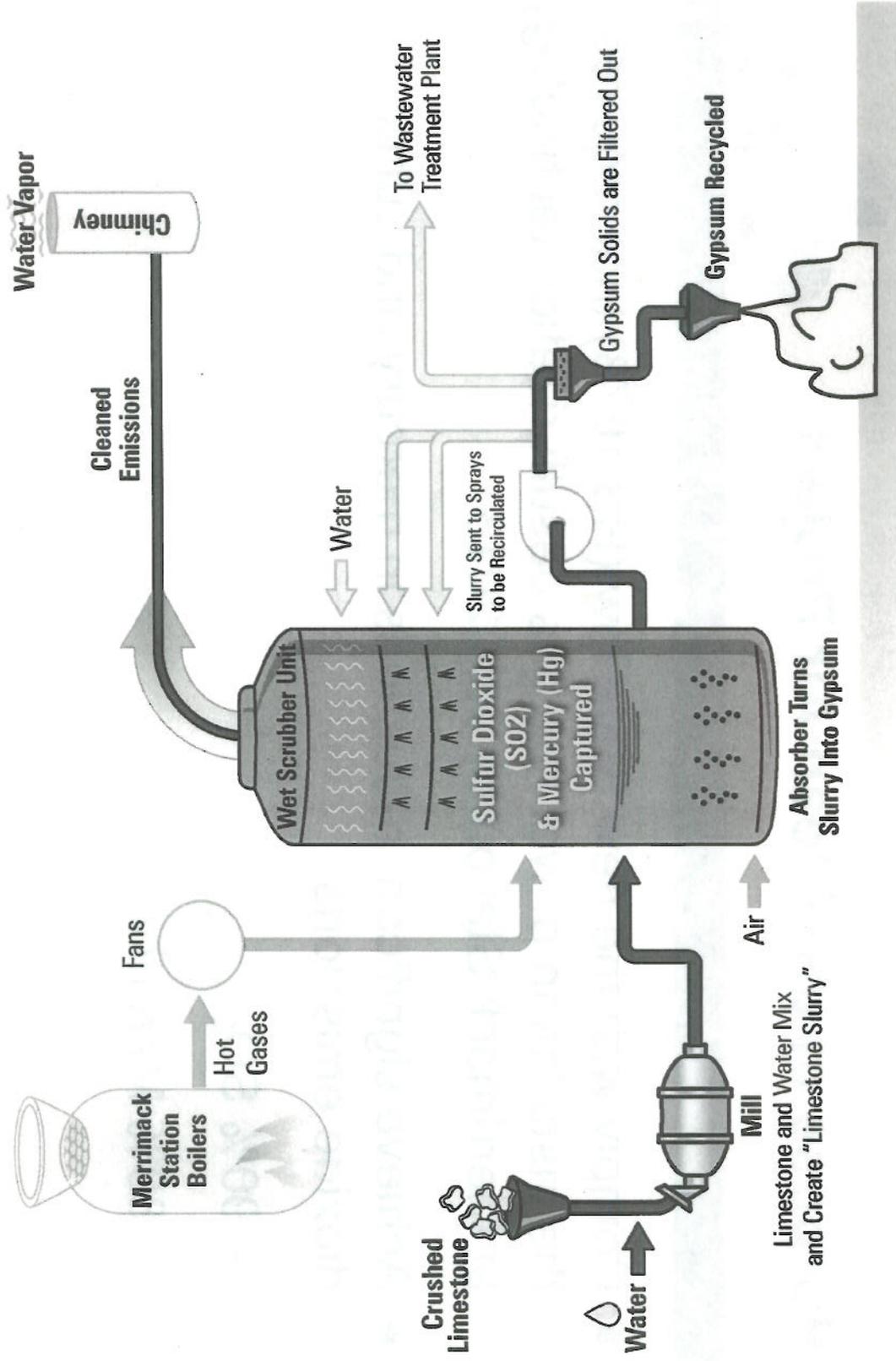
- Largest and lowest cost baseload station
- Generates 40% of PSNH's power - for 190,000 PSNH customers
- PSNH has the lowest energy price in New England
- MK has a long history of progressive environmental actions to reduce emissions
- Removing mercury is a large technical challenge
- Much work has been done and is on-going to remove mercury early
- Future issues - NPDES Permit Renewal and 316 a/b

# Purpose of the Clean Air Project

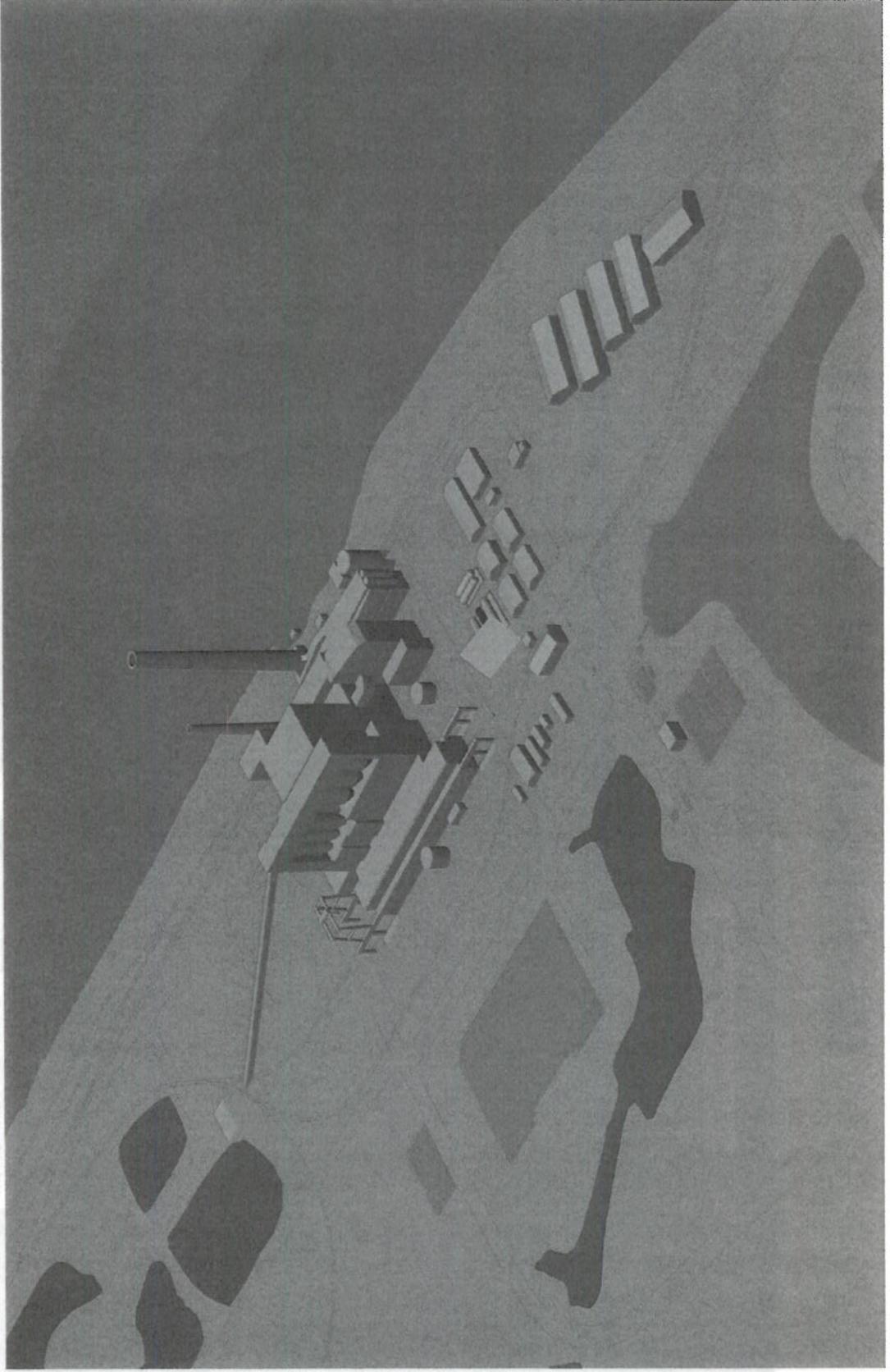


- Comply with the new State law (HB 1673) that requires the installation of wet flue gas desulfurization technology at Merrimack Station by July 2013
- Achieve significant reductions in mercury and sulfur dioxide emissions
  - 90% SO<sub>2</sub>
  - 80% Mercury

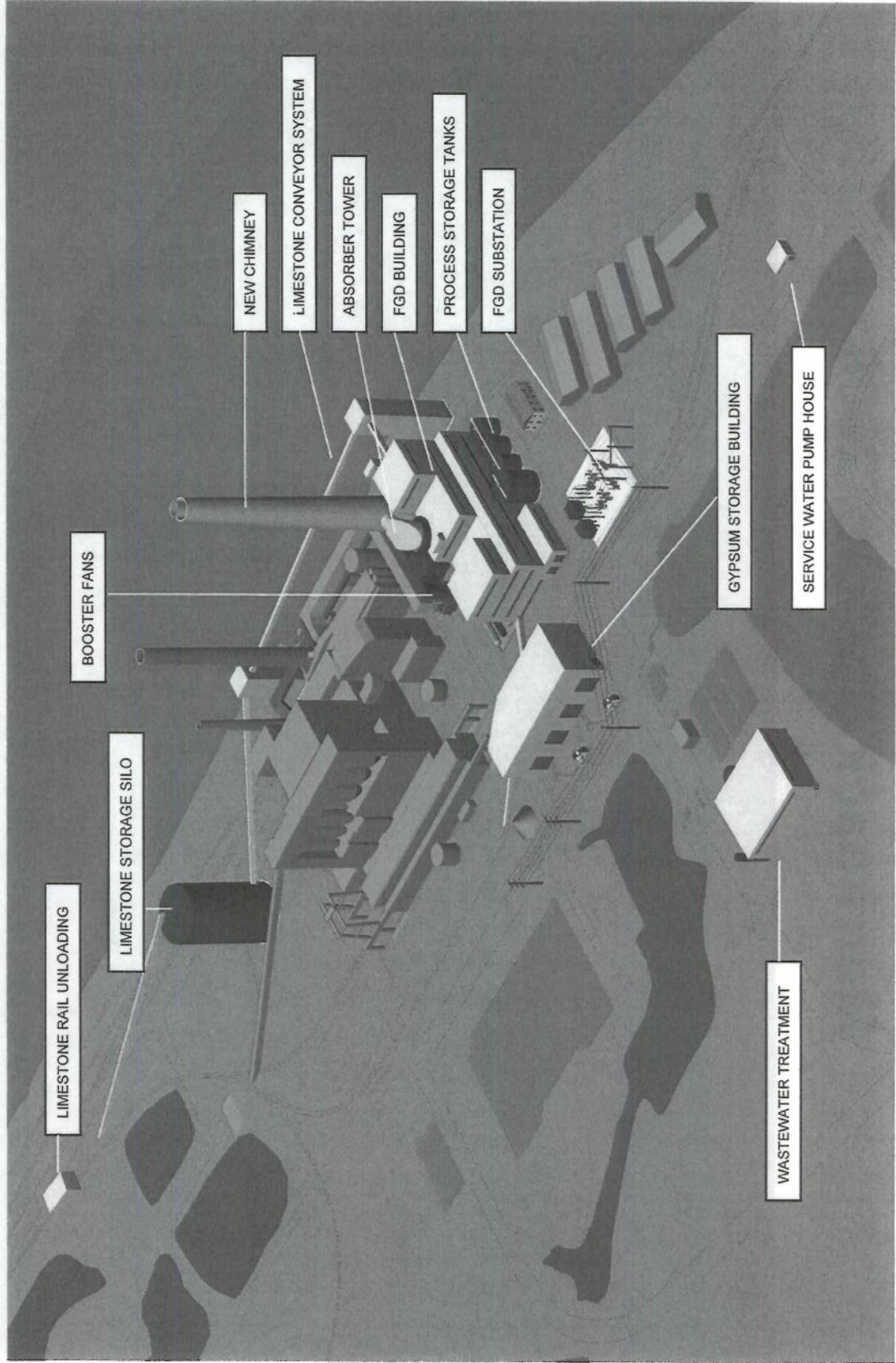
# Wet Flue Gas Desulfurization Technology



# Merrimack Station: 2008



# Merrimack Station: 2013



# Project Schedule



Project	2006	2007	2008	2009	2010	2011	2012	2013
HB 1673	▲							
Preliminary Engineering	■ ■ ■ ■ ■	■ ■ ■ ■ ■						
Program Manager Hired		▲						
Detailed Engineering		■ ■ ■ ■ ■	■ ■ ■ ■ ■	■ ■ ■ ■ ■				
Major Contracts Awarded			■ ■ ■ ■ ■					
Permitting		■ ■ ■ ■ ■	■ ■ ■ ■ ■	■ ■ ■ ■ ■	■ ■ ■ ■ ■	■ ■ ■ ■ ■	■ ■ ■ ■ ■	■ ■ ■ ■ ■
Preliminary Site Prep.			■ ■ ■					
Major Construction				■ ■ ■ ■ ■	■ ■ ■ ■ ■	■ ■ ■ ■ ■	■ ■ ■ ■ ■	
Testing & Commissioning							■ ■ ■ ■ ■	■ ■ ■ ■ ■
In Service								▲

# Air Permit



**Clean Air Project**  
Merrimack Station

- Completed to Date:
  - June 6, 2007 - Application for Temporary Permit submitted
  - August 6, 2007 - Incompleteness Determination issued by ARD
  - September 4, 2007 - additional information submitted
  - February 29, 2008 - Modeling Protocol submitted
  - March 21, 2008 - Response to Protocol issued by ARD
- Upcoming:
  - May 2008 - Addendum to Protocol; submit modeling
  - June/July 2008 - preparation of draft permit; public notice
  - August 2008 - public hearing
  - October 2008 - permit issuance

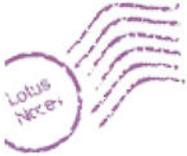
# Water Permits



- Completed to Date:
  - March 10, 2008 - met with Site Specific to discuss strategy
  - April 17, 2008 - received letter from NHB regarding rare species and exemplary natural communities
- Upcoming:
  - Mid-May 2008 - letter to resource agencies regarding NHB findings; meet with Wetlands to discuss strategy
  - June 15, 2008 - Site Specific Permit Application; Wetlands Application; meet with Shoreland to discuss requirements
  - July 15, 2008 - Shoreland Application
  - Fall 2008 - Stormwater NOI; NPDES Permit for WWTP addition; 401 Certification
  - 2009 - River Water Withdrawal Registration



A.



John King/R1/USEPA/US

05/18/2009 11:29 AM

To David Webster/R1/USEPA/US@EPA, Ericp  
Nelson/R1/USEPA/US@EPA, Mark  
Stein/R1/USEPA/US@EPA, Mel Cote/R1/USEPA/US@EPA,

cc

bcc

Subject Merrimack Station Scrubber WTP Meeting

History: This message has been forwarded.

On Friday I attended a meeting at NHDES where PSNH presented initial plans for the stack gas scrubber waste treatment plant (WTP). The scrubber and its associated WTP are due to go into service in 2011/12. PSNH also provided a list of the pollutants that potentially will be components of the scrubber's waste treatment plant effluent.

NHDES explained to PSNH that the State of New Hampshire, based on anti-degradation statutes, could not allow Merrimack Station's scrubber WTP to discharge any pollutant that presently causes impairment of the Merrimack River. NHDES also requested PSNH to provide sampling results of Merrimack Station's Outfall 003 and of the Merrimack River. These samplings would provide the data NHDES needs to make an anti-degradation decision for the WTP. If any of the WTP pollutant components take up more than 20% of the Merrimack River's remaining assimilative capacity for that pollutant, then PSNH would need to undertake an extensive anti-degradation study as delineated in NH Env-Wq 1708. NHDES also stated PSNH had to update their NPDES application to include the scrubber WTP effluent.

PSNH was not pleased with NHDES requirements. PSNH felt they were performing a service for the environment by building the scrubber. They were also perplex why, based on the greater good, the scrubber WTP would not be allowed to discharge a few pounds more per year of a particular pollutant. Finally, PSNH is concerned that even though the WTP effluent would have a non-detect for, as an example, mercury, PSNH could still decide it was present in the scrubber WTP effluent. This means, because the Hooksett Pool is in nonattainment for mercury (from atmospheric sources), NHDES would not certify the scrubber WTP effluent as meeting State surface water quality standards.

NHDES was not enthusiastic to PSNH proposal to lower effluent loading through lower outfall maximum flows.

I stated to NHDES and PSNH that EPA intends to place Merrimack Station's Determination Document, Fact Sheet and Draft Permit on Public notice by September 30, 2009. That EPA was not going to wait for NHDES anti-degradation decision. At some point in the future, when the scrubber WTP effluent components had been quantified, a Statement of Basis that developed effluent limits for the scrubber WTP effluent would be developed and placed on public notice.

John

