

July 27, 2007

Paul O. Swartz
Executive Director
Susquehanna River Basin Commission
1721 North Front Street
Harrisburg, PA 17102-2391

**Eric Joseph Epstein's Notice of Intent to File A Petition
in Opposition to PPL Susquehanna, LLC Application for
Surface Water Withdrawal Request to Modify Application
19950301-EPUL-0572**

Dear Mr. Swartz:

Eric Joseph Epstein is presently a Petitioner before the United States Regulatory Commission's ("NRC") in the matter of the PPL Susquehanna LLC ("PPL") Proposed Amendment Requests for the Susquehanna Steam Electric Station's 1 & 2 Would Increase Thermal Power to 3,952 Mega-Watts Which is 20% Above the Original Rated Thermal Power (RTP) 3293 MWt, and Approximately 13% Above the Current RTP of 3,489 MWt, Docket Nos. 50-387 PLA-6110 and 50-388, officially announces his intent to file a Petition in Opposition to PPL Susquehanna's, LLC Application for Surface Water Withdrawal Request to Modify Application 19950301-EPUL-0572, on August 1, 2007.

After repeated requests and attempts to resolve numerous water use, water safety, and interagency issues with PPL Susquehanna and the Nuclear Regulatory Commission, it has become apparent to Mr. Epstein through filings, petitions, responses, and oral argument, that neither the NRC or PPL will address outstanding issues and noncompliance violations. The NRC has either relegated water use, water safety, and interagency issues to the domain of the Susquehanna River Basin Commission ("SRBC"), or deemed these challenges outside the scope of the present Nuclear Regulatory Commission uprate proceeding.

It is important that the SRBC has ample time to evaluate Mr. Epstein's contentions while a parallel NRC proceeding has deferred or failed to act on water use, water safety and interagency. (1) Unfortunately, no “agreement” or “understanding” between the NRC and the SRBC has been executed relating to the conduct of “respective reviews in a cooperative, coordinated manner.” (2)

1 On June 12, 2007, PPL and NRC filed Responses in opposition to Mr. Epstein’s Contentions on June 5, 2007. Mr. Epstein’s technical Contention 1 stated:

PPL failed to consider the impact of the proposed uprate on certain state and federal water use issues, and the potential impact these regulations will have on water flow, water volume and surface water withdrawal for the SSES’s cooling systems. The traditional implications of the Pennsylvania Public Utility Commission (“Pa PUC”) policy and regulations relating to “withdraw and treatment” of water, i.e., referred to as "cost of water" under the Public Utility Code, Title 66, have to be factored in this application absent a PUC proceeding as well as Act 220 water usage guidelines. PPL has not established (nor has the NRC reviewed) compliance milestones for EPA’s Act 316 (a) or 316 (b) and their impact on power uprates at the Susquehanna Electric Steam Station. (5) State and federal regulations which many impact, constrict or restrict water flow that would adversely impact cooling systems at the plant, and lead to health and safety challenges for local communities.

NRC staff alleged that Mr. Epstein’s contention (T-1) is “outside of the scope” and “not material” to this proceeding, and that there is not enough information to establish a “genuine dispute.” Furthermore, the NRC erroneously alleged that “vague data” and references to “anticipated enactment of state regulations” do not provide sufficient information. (NRC Staff, p. 8) NRC Staff misinterpreted and omitted contrary findings relating to state, Basin and federal regulations, and creates a specious syllogism by stating, “Petitioner offers no support for his assertion that PPL must anticipate a future a law...” (Staff, p. 10.)

2 “Timing of SRBC Project Approvals Vis-à-Vis Signatory Approvals,” Policy No. 9501, May 11, 1995.

However, many of the water use, water safety and interagency issues Mr. Epstein raised in the NRC proceeding are **not** covered in PPL's Application For Surface Water Withdrawal Request to Modify Application 19950301-EPUL-0572 (Enclosure 1). Unfortunately, the NRC staff remains steadfast in their opposition to follow-up meetings or conversations with the SRBC to resolve outstanding water use, water safety, and interagency issues. During the Prehearing Conference convened on July 10, 2007, Susan Uttal, Counsel to the NRC, was clear that the staff has **no intention of following up and meeting with the SRBC to resolve these outstanding issues.** (3)

Absent artificial financial deadlines established by the applicant (4), there is no rush to approve PPL's SRBC's application dated December 20, 2006 until all outstanding issues are properly vetted and examined. PPL's financial calculation to factor the "increased generation output into its projected long-term compound annual growth rate of 11% and its 2010 earnings target of \$3.50 per share" (5) should not come at the expense of a thorough and exhaustive due diligence review by the SRBC.

PPL failed to consider the impact of the proposed uprate on state and federal water use issues, and the potential impact these regulations will have on water flow, water volume and surface water withdrawal for the SSES's cooling systems as well water safety and numerous state and federal interagency issues.

3 PPL Susquehanna's requests before the NRC and the SRBC would extend the license of Susquehanna Unit 1 and 2 for an additional 20 years beyond the current expiration dates on July 17, 2022 and March 23, 2024.

4 U.S. Nuclear Regulatory Commission Atomic Safety & Licensing Board Panel, Initial Prehearing Conference In the Matter of the PPL Susquehanna LLC, (Susquehanna Steam Electric Station, Units 1 and 2), Docket Nos. 50-387 and 50-388-OLA, ASLBP No. 07854-01-BD01, July 10 2007: Judge G. Paul Bolwerk, III, Chairman.

5 PPL Press release, October 17, 2006.

Mr. Epstein's Petition will be filed on August 1, 2007 and request that PPL's request be held in abeyance until:

1) PPL files a formal request with the Susquehanna River Basin Commission for the 2001 uprate increase at the SSES. PPL neglected to seek approval for the 2001 uprate at the SSES.

PPL never received approval from Susquehanna River Basin Commission for the "The proposed license amendment would revise the FOLs and Technical Specifications (TS) of SSES, Units 1 and 2, to allow the licensee to increase the licensed core power level from 3441 MWt to 3489 MWt, which represents a 1.4 percent increase in the allowable thermal power."

PPL is currently in violation of SRBC regulations." (6) The Commission has a charge to enforce **§ 803.42 and § 803.44 relating to** approval and a reporting requirement for surface water withdrawal. PPL's existing surface water withdrawal **predates the effective date of SRBC 803.44. However the increase in water withdrawal from the River and Cowanesque Lake, triggers commission review and approval.**

2) Applicable penalties are assessed and published consistent with PPL's failure to apply and receive necessary approvals for the SRBC. These sanctions should be based on the Peach Bottom Model (Enclosure 2), and be consistent with Policy No. 92-01, Clarification of Current Consumptive Water Use Regulation, November 19, 1992.

6 Mr. Epstein has found no public documents that indicate PPL Susquehanna filed an application for review and received approval form before the SRBC. Please refer to Enclosure 3: "PPL Susquehanna, LLC; Susquehanna Steam Electric Station Environmental Assessment and Finding of No Significant Impact [Federal Register: June 25, 2001 (Volume 66, Number 122)] [Notices] [Page 33716-33717] From the Federal Register Online via GPO Access [wais.access.gpo.gov] [DOCID:fr25jno1-100], NUCLEAR REGULATORY COMMISSION , [Docket Nos. 50-387 and 50-388], PPL Susquehanna, LLC; Susquehanna Steam Electric Station, Environmental Assessment and Finding of No Significant Impact."

3) PPL and the NRC must coordinate with the SRBC and address the 2001 uprate. This “inaction” establishes a deleterious precedent and could constitute *de facto* approval of PPL’s original water use permits. Failure of the SRBC to act on 2001 uprate could be viewed as a pretext to circumvent state (Act 220) and federal statutes (316 (a) and 316 (b)).

4) The SRBC must investigate the impact of the Environmental Protection Agency’ (EPA) 316 (a) and 316 (b) compliance milestones on PPL’s present request. PPL has not established (**nor has the NRC reviewed**) compliance milestones for EPA’s Act 316 (a) or 316 (b), and their impact on power uprates at the Susquehanna Electric Steam Station.

5) The PUC must be consulted. The traditional implications of the Pennsylvania Public Utility Commission (“Pa PUC”) policy and regulations relating to “withdraw and treatment” of water, i.e., referred to as “cost of water” under the Public Utility Code, Title 66, have to be factored in this application absent a PUC proceeding. “Reasonableness of cost” and permission to charge a rate to any customer class (based on the provision of “reasonable service”) has been absented from the SRBC and NRC applications. PPL Susquehanna requires permission to withdraw water, but it also uses public water as a key component in a profit making enterprise.

6) The SRBC must examine the impact of possible water budget enacted by Act 220 on the on PPL’s 2006 uprate request. Act 220 of 2002 mandates that the Department of Environmental Protection update the state water plan by 2008. “The Environmental Quality board will adopt regulations addressing water use registration, period reporting and record keeping (Section 3118), and the DEP is authorized “to enforce the Act.” It also “establishes the duty of any person to proceed diligently in compiling with orders of the DEP.” (Section 3133)

PPL will need to provide an action plan or water amendment in the event the proposed uprate creates competing water demands in “water budgeted” areas. Mr. Epstein is seeking to include an evaluation of the Uprate on Act 220, SRBC § 803.42 and § 803.44, and the potential of the uprate to harm a fragile, unique and endangered aquatic system that is the Susquehanna River.

Respectfully submitted,

Eric Joseph Epstein, *Pro se*
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I hereby certify that on July 27 , 2007, a copy of Eric Joseph Epstein’s Notice of Intent to File A Petition in Opposition to PPL Susquehanna’s, LLC Application for Surface Water Withdrawal Request to Modify Application 19950301-EPUL-0572 the matter of the PPL Susquehanna LLC Proposed Amendment Requests for the Susquehanna Steam Electric Station’s 1 & 2 was sent via electronic mail and by overnight delivery with tracking numbers to:

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