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September 12, 1988

Mr. John W. Boston
Vice President
Wisconsin Electric Power Company
Post Office Box 2046
Milwaukee, Wisconsin 52301

Dear Mr. Boston:

As you know, the State of Wisconsin has asked the Environmental Protection Agency (EPA) Region V to review certain issues regarding the applicability of the Clean Air Act's (Act's) prevention of significant deterioration (PSD) requirements to the proposed life extension project at the Port Washington electric generating station, which is owned and operated by Wisconsin Electric Power Company (WEPCO). In responding to that request, EPA Region V discovered that the Port Washington project also raises questions regarding the applicability of the Act's new source performance standards (NSPS) to the Port Washington facilities as a result of the life extension project. The purpose of this letter is to inform you of the results of our inquiry.

Because the Port Washington life extension project involves matters of importance to EPA as well as WEPCO, Region V sought assistance from EPA Headquarter's offices in Washington, D.C., and Durham, North Carolina. At the request of Region V and Headquarters staffs, WEPCO submitted extensive information regarding the Port Washington project and related interpretive issues, and I wish to thank you for WEPCO's cooperation in this regard. In addition, at WEPCO's request, meetings were held in Durham and Washington between WEPCO and EPA representatives, and those meetings were helpful in our deliberations. Based on the information provided by WEPCO, the State, and EPA's own files, EPA Headquarters has furnished me with a memorandum detailing EPA's position regarding the issues pertaining to the Port Washington life extension project. A copy of this memorandum, signed by Don R. Clay, Acting Assistant Administrator, is enclosed. A copy is also being furnished to the State.

As explained in the enclosed memorandum, EPA has reached a number of conclusions regarding the issues of legal interpretation surrounding the Port Washington life extension project. These views should be helpful to WEPCO in understanding the potential applicability of the Act's new source provisions to the Port Washington project, and in assessing its options with respect to that project. Based on EPA's legal interpretations and the facts available at this time, it appears likely that the project, if it were carried out as proposed, would involve a substantial and nonroutine renewal of the Port Washington facilities that may significantly increase potential emissions of air pollutants for a period well beyond the current life expectancy of those facilities. As such, this would be the type of project that Congress intended to be subject to both PSD and NSPS requirements. However, because certain critical factual information which would dictate how the EPA's legal interpretations would actually apply in this case are lacking, it is not possible at this time to provide a final determination of either PSD or NSPS applicability to the Port Washington life extension Project. Additional information would be necessary in three general areas. (In addition, as a preliminary matter, WEPCO should submit a formal request for an NSPS determination pursuant to 40 CFR 60.5 if it desires a final NSPS applicability determination.)

First, both the PSD and NSPS programs apply to modifications on a pollutant-specific basis, and EPA has not been furnished with sufficient data to firmly assess the impact of the proposed Port Washington renovations on emissions from the facilities. The WEPCO would need to provide such data before EPA could finally determine whether emissions increases potentially triggering PSD and NSPS applicability would occur.

Second, WEPCO may lawfully avoid both PSD and NSPS requirements by adding or enhancing pollution control equipment, or, in the case of PSD, restricting operations below maximum potential, such that the emission increases necessary to trigger applicability would not occur. Based on information supplied by WEPCO, it is our understanding that the company already intends some enhancement of pollution control equipment, and WEPCO may desire to undertake a combination of the measures outlined above rather than subject itself to the Act's new source requirements. If this is indeed the case, WEPCO should so inform me so that appropriate discussions may be held between WEPCO, this office, and the State, regarding the steps that would be necessary to render the project not subject to PSD and NSPS.

Third, with respect to NSPS applicability to unit 1 at Port Washington, additional information regarding the work to be performed is necessary to determine whether a physical or operational change would occur that could trigger applicability.

Again, I want to thank you for WEPCO's cooperation in this matter. If you have any questions, please feel free to contact me.

Sincerely,

David A. Kee
Director
Air Management Division

Enclosure

cc: [Appropriate officials in Wisconsin]

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