

Testimony of a public hearing of the Town of Union Planning Board held at the Town Office Building, 3111 East Main Street, Endwell, New York, Tuesday, February 27, 2007, at 7:00 P.M.

PRESENT: Sue McLain, Chairman  
Ralph Signorelli  
Ada Elwood  
Lisa Miller  
Jeff Rotella  
Beth Seliga  
Alan Pope  
Paul Nelson  
Marina Lane

Jim Mulligan, AES Westover  
Gary Ganoung, AES Westover  
John Cooper, AES Westover  
Kevin Maher, AES Westover

Nancy LeBare, Town of Union Board Member  
Gene LeBare, Town of Union Assemblyman

MS. MCLAIN: We are ready for the Public Hearing. I will read the announcement. The Town of Union Planning Board will conduct a Public Hearing relative to a Special Permit application for development in an Aquifer District by AES Westover, LLC for the installation of Multi-Pollutant Control (MPC) system equipment at the AES Westover generating station. The facility is located at 720 Riverside Drive, Johnson City (property tax map number 143.70-1-1.2) and is situated in an Aquifer District. The public hearing will take place on Tuesday, February 27, 2007 at 7:00 p.m. in the Town Board meeting room on the second floor of the Town of Union Office Building located at 3111 East Main Street, Endwell, New York. Is there anyone from the public here or is it just the Board and AES?

MS. LANE: And Nancy (LeBare).

MS. MCLAIN: And Nancy – welcome. Do you have a presentation you would like to make to refresh our memory?

MR. MAHER: We would like to thank the Board for meeting with us once again on this project, which is a good project for the region, a good project for the plant. Essentially this is a project which we are referring to as the MPC project – a Multi-Pollutant Control project. AES has entered into an agreement with the DEC to install pollution control equipment on their existing Unit 8 boiler at the Westover Plant. The equipment will result in significant reductions in sulfur, nitrogen oxide emissions, particulate emissions and mercury emissions from the plant, as well as

some other pollutants. The installation of the equipment, once operational, will bring the facility on par with some of the cleanest coal plants in the U.S. It will really be a significant help to the regional air quality benefits. We are happy to bring this project before you. As I mentioned before, it is being done in coordination with the DEC. It will help AES comply with existing and future potential improvements in the regulations in terms of air quality emissions. AES, as part of the discussions with the DEC, AES reviewed its future for this plant and this plant is important to the corporation as a whole and they believe that the installation of this equipment will continue the use of this facility well into the future, so the plant essentially is a key part of AES' energy portfolio and they feel that this is an excellent project, is good for AES, is good for the Town and the region and will result in a significant reduction in air quality benefits. I'd like to bring up John Cooper to take you through the process of how everything works and then we can field any questions after that.

MR. COOPER: Good evening, folks. Thank you for letting us come in and present our project. I think it is going to be a good project for our community and our company. We are bringing our plant up to today's standards. It will be as good as a plant that you were building today and that's what we are trying to do. What we're going to do is we're going to remove the sulfur dioxide, we're going to do that with the catalytic

converters – not much different than what is underneath the automobile. The only thing we are going to do is we are going to enhance it with anhydrous ammonia, which makes it work better. The raw flue gas will come out of the combustion process, go through the FCR, we'll add ammonia to it, it will work through the catalyst and what will go in nitrogen oxide will come out nitrogen and water. We'll have a chemical reaction. The catalyst has to be replaced every three years, every 24,000 operating hours. From there the catalyst ... the gas goes back into the plant and the gas goes through the air heaters, the energy is absorbed from the hot flue gas and then it goes into the turbo sort. In the turbo sort, what it's going to do is the dry scrubber is going to remove the sulfur from the flue gas stream. We're going to lime neutralize it, with hydrated lime here, we'll be putting hydrated lime and water and it will have a venturi effect as the flue gas is being pulled through the system and by hydrating the fly ash with the lime, it will all be removed, all the particulate and sulfur dioxide will be removed in the bag house. The bag house will replace our electrostatic precipitators and the fly ash will be removed and be sent to Pennsylvania mine reclamation. In order to do this, we have a lot more equipment than we normally have. We'll have a booster fan that will allow us to pull all this gas through all the new equipment. Those are the major components. There is a little NOx building that is

a monitor building. We'll be looking for our performance out of that building, how everything's working, the controls will be in there.

MR. MAHER: John, will you describe the ammonia tank?

MR. COOPER: You've got an ammonia tank here, 15,000 gallons, 85% of working capacity. It will contain 110% of that tank. We also suffered during the flood this spring, so the elevation of this will be at the 2006 flood level. So we learned our lesson, if you will. All of the safety features ... the control room is manned 24/7. There will be alarms in the control room, there will be an audible alarm out at the tank and a visual alarm, a light. When we unload ammonia, we'll have a plant person at the station with the truck driver, we will monitor what's going on. The truck driver will do the hook up, unhook but we will monitor it. We wouldn't leave them out there by themselves. The control operator will also monitor.

MR. MAHER: The truck will pull into a dyked area, so not only the truck but the offloading area will be dyked to capture any potential release from the truck as well.

MR. COOPER: That's ramped, so it will slide back into the main containment. Any questions?

MR. NELSON: You mentioned the height of the containment for the ammonia tanks being at the 2006 levels, I think when Marina and I were looking at this there was a significant difference between the old flood elevations and what we think may be the new ones. It appears that you are

going to be about six inches over that. Is there any reason why you were only going six inches over instead of the foot? Typically our ordinance requires a foot above the base flood elevation and I was just curious with how you came up with that six inches over the top.

MR. COOPER: Why? I guess I don't have a real good answer for that other than the fact that it was supposed to be the more than 500 year flood, we thought another six inches would have to fill the whole valley to get to that. That was our thought, be it right, be it wrong. But another six inches is certainly a lot more value and stuff is going to fill before it gets above that.

MR. NELSON: I'm going to ask you ... I thought maybe there was a structural reason or ... some other reason that it interferes with other ...

MR. COOPER: We were real technical when we did it. We marked on the bricks where the flood was and went six inches above. That's what we did with that.

MR. NELSON: Right now you more than meet the existing flood plain standards, that's not the issue ... you might want to consider going to one foot above where your existing flood level was.

MR. COOPER: That's not an issue. It will probably be easier to do it now than it would be to do it later.

MR. NELSON: The second question, we received a letter regarding approaching the Susquehanna River Basin Commission. Is that a modification of an existing permit that we have or is that a new application?

MR. MAHER: The existing facility is currently under the SRBC regulations and thus the need to go to the SRBC for amended regulations and the facility will be ... the air pollution control will result in a consumptive use in that some of the water that John mentioned that is being ejected in with the lime to capture the NOx and the SOx will go out the stack instead of being redirected back to the river. What is called a consumptive use, 20,000 gallons, most will go to the SRBC ... to obtain approval to operate the plant.

MR. NELSON: 20,000 is what you were previously ...

MR. MAHER: The existing facility ...

MR. NELSON: So you will be putting 90 gallons per minute?

MR. MAHER: 90 gallons per minute.

MR. COOPER: That would be the maximum.

MR. NELSON: If for whatever reason, they said you couldn't have the permit, as I understand it you could also petition Johnson City to allow water from their facility to be used in place of ...

MR. COOPER: That back up will be in place for the new system.

MS. LANE: I wrote to Bob Bennett and he never wrote back.

MR. MAHER: We met with the SRBC a number of times and we have submitted an application to them, there is no indication ... they support the project as they see the quality benefits that it provides.

MR. NELSON: Assume you get advance that we will have another flood event. What types of events happen at your end as far as your emergency

preparedness plan for this new facility and storage tanks. I understand that there is some equipment that will actually be at grade, some of the fans ... what needs to be done with that in advance of a flood event?

MR. COOPER: The fan will be at grade, the bearings will be above flood stage, the barrel of the fan could be in the water. We would be offline at that time. What would harm us is if it got up into the bearings, up into the motors that are above flood stage, so what we would have to do once the water receded, we would open up the drum, clean it out and go on.

MR. NELSON: There's nothing that you would have to remove from that?

MR. COOPER: All the structures, they are all on structural steel above grade, even the monitoring facility will be up on a platform above flood stage.

MR. ROTELLA: The receiving, the containment dock itself where the truck backs in. Typically that's a contained unit and it recesses back like a loading dock would and then there is a trench drain or a capture system or something ... where does that product go if there is a spill?

MR. COOPER: There will be a dock that will open up there, our station operator will open. They'll open that dock, through our unloading if there was a spill, it would go into large containment and from there there is a sump in there and we would hire a company to come in and take the material out.

MR. ROTELLA: So that gets manually opened every time the truck backs in and then closes. In regards to the moat around the vertical tank. That is going to be open, it is not covered, so where does the snow and the ice and all that ... what happens to that?

MR. COOPER: The operator, it will be just like our soil containment that we have around the plant. The operator or laborer would go out and look at it, if there is no oil or anything in there other than water, then there's no treatment.

MR. ROTELLA: It just discharges on the ground?

MR. COOPER: It will discharge into our draining system.

MR. MAHER: We have sent an application to the DEC that that ammonia tank will be installed on site, that will account for it in the plant's operational SPEDES permit.

MR. ROTELLA: So volume waste goes down the sewer pipe?

MR. COOPER: No, we collect it and treat it.

MR. ROTELLA: The stormwater that is collected in that moat?

MR. COOPER: Yes, sir.

MR. ROTELLA: Is that tank tied down?

MR. COOPER: Yes, it will be bolted down to the ...

MR. ROTELLA: If you put an underground storage tank in at a gas station and you have a water problem and the tank's not full and water comes up, the tank will pop up out of the ground and I'm just curious if there are

provisions for that tank in case there is a flood or is it an elevation of the tank that isn't high enough that say it was down on volume ...

MR. COOPER: We feel that the elevation is high enough but the tank would also be bolted to the foundation.

MR. ROTELLA: That's enough to hold it in place so it wouldn't become buoyant?

MR. COOPER: Yes.

MR. ROTELLA: Just being it's so close to the river. Sometimes you would cable them down as well as bolt them with some ballast of some sort.

MS. LANE: So when the truck is bringing in the aqueous ammonia, the procedure would be then that they drain the pipes but not open pipes. The dyke would be open wherever the valve was ... the pipe has to go into the ... this is closed it looks like?

MR. COOPER: Yes. There would be a pipe over the top, a loading station, the trailer would have to be vented and there will be a liquid line to pump into the top of the tank, the tank will back into the trailer. The full procedure will be that the truck will stop at the guardhouse, the guard will notify the plant operator, an operator will go out and the truck will proceed to the unloading station. Our operator will open the valve for the containment. The truck will back in, the truck driver will hook up the hoses and we will unload. Once it is unloaded, the truck driver will disconnect his hoses, our operator will control the vent or drain.

MS. LANE: What if someone had a heart attack? Are those pipes ever open without being secured?

MR. COOPER: No.

MS. LANE: Is there any possible way for there to ever be a spill?

MR. COOPER: The compressor is on the truck, so the truck is forcing the fluid off and it flows from the top of the tank, so you're filling from the top.

MR. SIGMORELLI: Any type of waste from the site? Are those also trucked out? Does anything go off from rail from that site?

MR. COOPER: No.

MR. SIGMORELLI: Other than coal?

MR. COOPER: Coal comes in.

MR. SIGMORELLI: By rail, right?

MR. COOPER: Yes.

MR. SIGMORELLI: But all chemicals in and out of the site are by truck?

MR. COOPER: Yes, sir.

MR. SIGMORELLI: And the route in and out is not through the residential neighborhood?

MR. MULLIGAN: We go by service road to Riverside Drive and then onto Route 17.

MS. LANE: I just wanted to mention that I met with the Wellhead Advisory Committee and we spent an hour discussing the ammonia tanks and how it might affect the aquifer district and Rick Miller from the Village of Endicott and Bob Bennett from the Village of Johnson City plus Doug Garner, who is in Environmental Safety for BAE were present and John presented. They had no concerns. Bob Bennett had seen it several other times also and they had no concerns about it affecting the wellheads in Johnson City nor the aquifer recharge area.

MS. MCLAIN: The Planning Department received today from the County some questions from the Broome County Environmental Management Council that they thought we might want to ask. (Read into record as follows): Broome County Environmental Management Council (EMC) staff reviewed the above-referenced applications. We are excited and pleased to know that installation of mitigating multi-pollution controls at the AES Facility will soon happen by means of a NYSDEC consent decree. We do not have significant issues with the above-referenced approvals being requested. However, we pose a few questions for the Town's consideration before final site plan, special use permit, and building permit approvals are issued.

#### **Long Environmental Assessment Form**

Item B2 of the long EAF notes that natural material to be removed from the site is equal to an amount "to be determined", and that "the project intends to have a balance of cut and fill". It is unclear what the last statement means. It was not clear in the documentation if the project will involve the placement of fill in the regulated floodplain.

MR. COOPER: It will be a minimal amount of material. The piles that will be placed in the ground to support all the structure, there will be a small amount of earth that has to be moved for the pile caps, you drive the piles in and then you form for the pile caps, so a small amount of earth has to be removed and that will be all in the blacktopped area, there won't be any grass disturbed. All of this is on the north end of the building in

the blacktopped area. Once we get the forms in, the concrete in and we remove the forms, then we will be backfill and compact to bring back to the normal elevation.

MS. MCLAIN: So you'll be using the same earth that you dug up when you were making the holes for the pylons. Will you have to bring in any additional?

MR. COOPER: I think there will probably be some that has to be brought in, yes.

MS. MCLAIN: Item 16B does not disclose locations where the ash by-product will be disposed for potential beneficial reuses. Is the facility at liberty to disclose this information? Will there be instances where the ash must be deposited in a landfill, and if so what landfill will be used?

MR. COOPER: It will be going to Pennsylvania mine reclamation.

MS. MCLAIN: Item B17 notes that "Any soils which may potentially be contaminated will be tested and disposed of at an appropriate facility by an approved, licensed contractor." Is there reason to believe that there are currently contaminated soils on the site, and what is the source of potential contamination?

MR. COOPER: I would say very little source of NYSEG working on their transmission line that would be nothing more than soil, which is what we have seen there to this point. We had test wells all along that creek that runs along that and there is nothing showing up in those test wells. If we did dig in there and found oil, we would handle it correctly and contact

the DEC. We would have it removed and take it to an appropriate landfill.

MS. MCLAIN: Vegetation: Understanding that minimal non-native vegetation will be removed from the site (1,000 square foot area of lawn and landscaping along the northern portion of the construction area), what are plans to provide for improved landscaping, or in other words, will the vegetation that is removed be replaced in an alternate location on the site? The applicant states that post-development run-off will not exceed pre-development conditions. How will this be achieved if not through re-establishment of removed vegetation?

MR. MAHER: The reason that there will not be an increase in impervious surfaces due to the removal of the currently grassed area where the ammonia storage tank is going to be is that any rainfall, which we discussed earlier, that reaches the secondary containment area is going to be contained within that area, so there will be no increase in runoff from that small portion where the ammonia facilities will be developed, so that's one of the ways where that is achieved and that's a very small area, but any rainfall would hit these now pervious areas and will be retained within that structure. So there will be no increase in runoff.

MS. MCLAIN: What about the vegetation?

MR. COOPER: The vast majority as we say is all on blacktop, ammonia is here (indicates on map) ...

MR. MAHER: And right now a lot of it is blacktop and there really is only grass and I think ... where the ammonia storage tank will be located, so it is all 98% macadam.

MS. LANE: And it's pretty much screened from the residences ... is there screening over there on that side?

MR. MAHER: There is screening along the Choconut Creek.

MS. LANE: That's the only reason why you would want to add trees – for screening.

MS. MCLAIN: And because trees are good for the environment. They are concerned about spills. It is not clear if a Spill Prevention and Response Plan exists for this operation. If not, one should be created and posted conspicuously in the facility for all personnel to access in the event of accidental releases during delivery of product (aqueous ammonia and hydrated lime), or natural events beyond human control. If a spill response plan already exists, the applicant must ensure that it is appropriately modified to account for changes in overall operations.

MR. COOPER: There will be (a spill response plan).

MR. MAHER: A Spill Response Plan is a requirement of the ammonia storage tank registration. It's primarily a construction permit, but we need to provide registration to the DEC for the tank and part of that is that AES have on site a Spill Response Plan for that. That will be drafted to the DEC as well.

MR. ROTELLA: What regulatory agency puts the standards in place for the offloading and containment system. In other words, is there somebody who designs the containment system ...?

MR. COOPER: The architect is designing all of the equipment and there are architectural engineers ...

MR. ROTELLA: I guess my question is ... who ... you buy the bulk storage tank probably from the people who supply the product ...

MR. COOPER: No.

MR. ROTELLA: They typically have a rule of thumb as to what is acceptable in that particular state. Who is responsible for the design of the containment and the control valve and the volume and all of that ... who comes up with that?

MR. COOPER: Babcock Power.

MR. GANOUNG: The volume is by regulation. It is 110% of total capacity ...

MR. MAHER: I believe there also are standards ...

MR. ROTELLA: Well, HDM is the tank itself. I guess what I'm saying is you have a trench drain there and a pipe that leads to that moat that is going to go around the tank, I'm just curious to know who comes up with that, whether it be a manual or automated system, who designs that, or does Babcock since their name is on that paper, they assume responsibility for it.

MR. COOPER: They assume responsibility for it. It will be their PE stamp that's on it.

MR. ROTELLA: I guess the other question I have is the same, I'm sticking on that, let's say you get a flood, how high is this moat in comparison to the last highest water you had?

MS. LANE: That's reported on the flood plain report. From the previous and it's three-and-a-half feet above the flood elevation level.

MR. ROTELLA: But the last flood you had was six inches.

MR. COOPER: We are six inches above the 2006 flood.

MR. ROTELLA: So, the whole back of the building is now engulfed in water, I don't know how many feet that would have been, but you say you marked it on the wall.

MR. COOPER: It was over my head.

MR. ROTELLA: So does this tank have a fail safe where it's shut down, because you would not be able to get back there unless you were in a rowboat to get back there and manually shut ... in other words is there something in place that closes this thing down?

MR. COOPER: There are automated valves that close and inlet pumps.

MR. ROTELLA: If a flood did occur again?

MR. COOPER: If we were going to have a flood, we would shut it down.

MR. ROTELLA: You would shut it down previous.

MR. COOPER: Yes and we would check it out and save everything that we could save.

MS. LANE: Gary mentioned to me that actually the toxicity of this aqueous ammonia equals the farmers fertilizer ... just to keep it in perspective.

MR. ROTELLA: 15,000 gallons of it.

MS. LANE: What are the chances of 15,000 gallons of it leaking out?

MR. COOPER: Farmers fertilizer is 99% pure, this material is 19% pure. Hydrous ammonia is 99.5% ... one the facilities I worked at we put in hydrous ammonia. We didn't try to put in hydrous ammonia in here because of the geographical location in the city.

MS. MCLAIN: Are there any other questions before I close the public hearing? The public hearing is closed.

Hearing concluded 7:47 p.m.

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I, KATHLEEN C. CARNEY, do hereby certify that the foregoing transcript of a public hearing of the Town of Union Planning Board is a true, accurate and complete transcript of my stenographic notes/tape taken at the above time and place.

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KATHLEEN C. CARNEY