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STATE OF ILLINOIS
Pollution Control Board

Congress of the United States
Washington, DC 20515

November 15, 2000

Mr. Thomas Skinner
Director
Illinois Environmental Protection Agency
1021 N Grand Ave East
Springfield, Illinois 62794-9039

201-9
P.C. #11

Dear Thomas:

The Illinois Pollution Control Board (PCB), under unnecessary expedited review, is considering Rulemaking your Agency proposed that would negatively impact economic development in Illinois while at the same time inhibit (or even prevent) newer, cleaner sources of electricity from being installed. These PCB considerations may be concluded by as early as mid-November. As described in detail on the attachments; your proposed rules would favor the incumbent Electric Generating Units (EGU) while penalizing the cleaner sources trying to bring significant jobs to South Central Illinois where the need is great.

The vast majority of the incumbent EGU import their fuel from outside our State thereby further reducing jobs in Illinois. The incumbents' air emissions are significantly higher than new units; thereby doing little to actually reduce NOx emissions. Those operations should not be subsidized at the expense of new, startup companies trying to locate in our State.

As you are aware, the Federal Environmental Protection Agency has essentially 'granted' each State NOx allowances to be used during the summer 'Ozone' season equivalent to about 0.15 pounds of NOx for every million Btu (0.15 lb/mmBtu) used to generate electricity. The Illinois General Assembly provided that all available allowances should be allocated on a pro rata basis to all EGU; less a 5% per year set aside for new sources.

Many public, private and non-profit organizations, including the American Lung Association, have submitted extensive, detailed written and oral testimony challenging your proposed Rule. We hope you will consider the following simple revisions that are consistent with the Federal Implementation Plan (FIP) for NOx (Ozone) reductions:


- The yearly 5% new source set aside shall be maintained and not reduced in future years as you propose.
- 'New Sources' become EGU after their first year of operation and are allocated NOx allowances on a pro rata 0.15 lb/mmBtu basis along with all 'old' EGU.
- Implement American Lung Association and other testimony advocating granting allowances on the functionally equivalent output basis of 1.5 pounds per kW-Hour of


electrical output instead of 0.15 lb/mmBtu input.

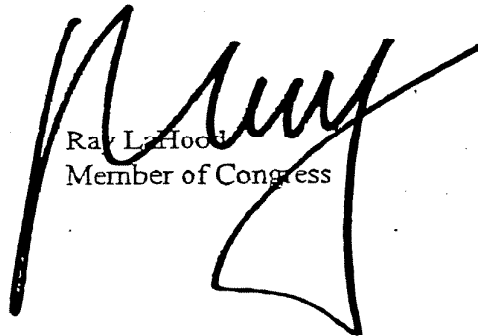
We hope you will positively consider the above revisions and welcome the chance to further discuss this issue with stakeholders should you deem it necessary. Thank you for your consideration of this important matter.

Sincerely,


Jerry F. Costello
Member of Congress


John Shimkus
Member of Congress

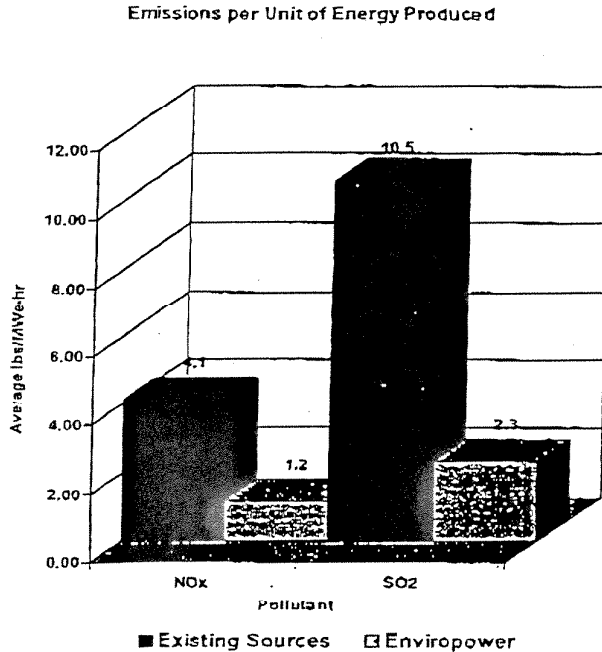

David Phelps
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About EnviroPower of Illinois

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EnviroPower of Illinois is a new company formed in the year 2000 for the purpose of developing, owning and operating independent electrical generation facilities fueled by coal or coal tailings (gob). EnviroPower's first Illinois project involves the construction of a new nominal 550 megawatt ("MW") independent power facility in Franklin County, Illinois. The project is designed to serve the base-load market and will include two 275 MW circulating fluidized bed boilers. The project will utilize the best available control technology ("BACT") and the plant's projected NO_x emission rate will not exceed 0.125 lbs/ million Btu. In fact, the NO_x emission rate may be as low as 0.07 lbs/million Btu after optimal performance of our NO_x control system is achieved.

Through the use of state of the art emission control systems EnviroPower will have significantly lower emissions per unit of power produced than existing generating facilities. EnviroPower will emit about 3 times less NO_x than the statewide average of existing fossil fuel generating facilities and about 4 times less SO₂ emissions.

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EnviroPower's proposed power facility is also intended to benefit public interests above and beyond the generation of power.

- The facility will convert a closed coal mine (presently subject to restoration and related maintenance requirements) into a productive, fiscally-responsible, long-term business

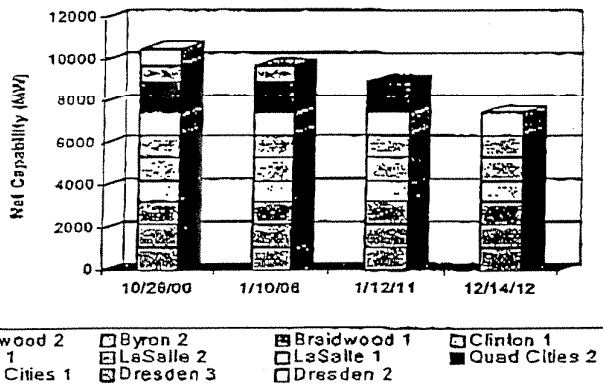
operation which will ensure the return of hundreds of jobs to the community.

- The use of mine tailings (*i.e.*, the removal of the mine tailing piles) at the site, as well as from many similar sites in Illinois will greatly reduce the ancillary detriments associated with otherwise allowing those piles to remain.
- This project will create a much needed base-load generating facility utilizing clean-coal technology and state of the art pollution control equipment to serve the electricity demand for the growing Illinois population for decades to come.

The Illinois Pollution Control Board is considering a rulemaking which does not adequately allow for the development of new clean-coal technology. The NO_x Trading Program Rule, as proposed by the IEPA, encourages the continued reliance on older more inefficient existing facilities while in effect precluding the development of newer clean-coal facilities burning Illinois coal such as that proposed by EnviroPower.

The Illinois EPA Proposed New Source Set Aside Prevents Growth in Electrical Generation Capacity and Can Prevent Construction of New Illinois Coal Fueled Plants

Illinois Nuclear Power Generation
Scheduled Permit Expirations



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Multiple nuclear facilities currently serving the Illinois base-load market will need to be replaced within the next ten to fifteen years. By December 2012, Illinois will need to replace 3,083 MW or 9.5% of utility and nonutility base-load generation capacity. This assumes other nuclear facilities are not retired early like both Zion reactors. According to U.S. Department of Energy ("DOE") Projections, "no new nuclear units are expected to become operable by 2020, because natural gas and coal-fired plants are projected to be more economical." *D.O.E. Annual Energy Outlook 2000* at 68, (December 1999).
Replacing retired nuclear generating facilities will require at least six clean-coal facilities to

make up the loss in base-load generating capacity. These six **EnviroPower** style clean-coal generation facilities will require 7,214 allotments in each control period (May 1 through Sept. 30 annually). This is in addition to the annual MAIN and MAPP baseload growth of 2,000 MW.

Because the Illinois legislature established a statutory cap on the new source set aside of 5%, only 1,535 tons of allotments is available to all new sources for 2003 through 2005. After that time, the new source allotment is reduced to 2% or 614 tons.

The new source set aside will be distributed on a first come first serve basis to all new sources. Presently, construction permit applications for over 130 gas-fired turbines have been submitted to the IEPA. These are mainly for "peaker" plants, which do not contribute to base-load generation capacity and have relatively short construction times compared to coal-fired facilities. If only 70 of these peaker facilities were built they will require 4,500 tons of seasonal allotments.

Existing sources are under no obligation to sell excess seasonal allotments. Since allotments are given to existing sources, by withholding allotments from the market or demanding an unreasonable price, existing sources can essentially prevent the construction of newer cleaner electrical generation facilities while maintaining reliance on older less efficient facilities.

The Proposed Illinois EPA NO_x SIP Rule Will Restrict Development of Independent Power Projects In Illinois

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he proposed Illinois rule protects the in-terests of existing sources by creating a system where ex-isting utilities can control inde-pendent power producers by con-trolling the prices and availability of allowances. Furthermore there are no requirements for existing sources to create additional allow-ances for sale. The Illinois rules are not consistent with underlying federal guidance.

New sources, for a substancial fee, may be able to obtain allowances from the new source set aside. However, existing sources have the ability to drive up the fees by withholding allowances from the market.

In a normal market the issue of fees might not be a large concern; how-ever, the current energy market is not typical. Illinois has embarked on deregulating electrical power generation. As a result, several bills have been submitted to the Illinois legislature (PA 90-0561) as well as Congress to encourage the development of new affordable generating capacity. This cannot take place unless changes are made to the proposed NO_x trading rule, changes that remove the reliance on older less effi-cient power generation and encourage the development of new cleaner technologies such as those pro-posed by EnviroPower.

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EnviroPower encourages the Illinois General Assembly, the Illinois Pollution Control Board, the Illinois Environmental Protection Agency and the Illinois Commerce Commission to step back from the current proposed rulemaking and revise the proposed rulemaking to make it consistent with the energy goals of the state, keeping Illinois economically competitive with neighboring states also subject to the NO_x SIP call, and improving the environment by encourage the development of new, clean generating capacity.

Recommended Improvements to the Proposed Illinois EPA NO_x Program Rule

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he Illinois EPA NO_x trading rule can be modified to make it fundamentally fair for both existing sources and new sources. EnviroPower believes that by making the proposed rule unbiased toward any one class of sources the rule will promote and encourage free market competition which will not only provide lower electrical costs, but reduce NO_x emissions within the state. Lower electrical costs are essential to providing a sound infrastructure for economic development in the state of Illinois.

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EnviroPower has the following recommended improvements to the proposed NO_x program rule:

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he new source set aside is set too low to adequately support the closure of retired nuclear facilities, while supporting growth in Illinois' baseload power generating demand of over 2,000 MW per year. The current set aside was established by the state legislature which must amend the act (PA 91-0631) to remove the 5% cap on the new source set aside. EnviroPower believes that a revised new source set aside should be established as the result of public hearings held by the Illinois Pollution Control Board where interested parties can participate in the process. PA 91-0631 was enacted before deregulation and did not include input from independent power producers.

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nder the proposed rule, allowances are tied to heat input (lbs NO_x/mmBtu). If allowances were based on an electrical output-based standard, such as lbs NO_x/ MWe-hr, then the issuance of allowances could encourage those sources that produced more electricity per

pound of NO_x emitted and help to reduce emissions.

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If an electrical output-based standard is not adopted, similar results could be obtained by issuing all allowances based on 0.15 lb/mmBtu. This would provide both existing and new sources the ability to sell excess allowances and share in the program which currently is reserved just for existing utilities. This would also be consistent with the Federal Implementation Plan (FIP)

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EnviroPower believes that there is a fundamental unfairness in new sources having to pay existing sources in order to operate. Paying fees to existing sources in order to generate power in Illinois amounts to nothing more than a monopoly designed to protect existing sources and discourage the development of competitive sources in the state.