

March 9, 2007

Ms. Stephanie A. Strength, USDA/RD
Engineering and Environmental Staff
1400 Independence Ave. SW
Mall Stop 1570, Room 2244
Washington DC 20250-1570

Comments on Draft Environmental Impact Statement for Proposed Norborne Power Plant,
Associated Electric Cooperative, Inc.

Dear Ms. Strength:

On behalf of the Concerned Citizens of Carroll County and the Sierra Club, Great Rivers Environmental Law Center submits the following comments on the DEIS for AECI's Norborne power plant in Carroll County, Missouri.

Preparation

The Draft EIS was prepared by AECI and its consultants. In Part 7, agency personnel are listed as reviewers but URS Corp., the consultant, provided all the contributors. The Executive Summary, p. 2, notes that the DEIS includes reports prepared by AECI itself, while reports from AECI's consultants are included as appendices. The result is predictable: the DEIS is biased toward the outcome desired by AECI, with far less attention being paid to alternatives.

The EIS is supposed to be prepared by the lead agency or a contractor selected by it, not by the applicant, for the express purpose of avoiding a conflict of interest. 40 CFR § 1506.5(c). A conflict is apparent in this DEIS.

Selection of Alternatives: Conservation and Efficiency

In its Alternatives Report, Parts 4.3.3 and 5.1, AECI takes the position that it is largely powerless to pursue the most important alternatives to new generating capacity: energy conservation and efficiency programs (also known as Demand Side Management (DSM) and load management). The DEIS fails to provide a rigorous exploration and evaluation or a reasonable basis for rejecting such programs as an alternative to be discussed in detail, as required by 40 CFR 1502.14(a).

AECI says it is contractually obligated to provide energy to its customers and that only the distribution coops can do DSM Alternatives Report, part 4.3.3). At the same time, they admit they can and do send "appropriate price signals" to their members, which is a large part of how DSM works — by offering incentives to reduce energy use. AECI does not explain why, if it can contract with its customers to provide electricity, it cannot also contract to provide other energy services. Coops have broad powers under Missouri law over the delivery of energy services. §§ 394.080.1 and 394.310, RSMo.

AECI is a member of the National Rural Electric Cooperatives Association, whose members offer DSM programs; see <http://www.nreca.org/Documents/PressRoom/nationalplanforincreasedenergyeffeciency.pdf> It is also a member of Touchstone Energy Coops, which also touts its members' efficiency programs; <https://touchstoneenergy.cooperative.com/public/programs/EnergyEfficiency.htm>.

Conservation and efficiency are now highly developed methods for significantly displacing demand for new generation, meeting demand in alternative ways and with cost savings. See, e.g., http://www.ornl.gov/info/ornlreview/rev28_2/text/uti.htm; <http://www.aceee.org/press/u071pr.htm>. The surge in DSM activity is largely related to the imperative to avoid dangerous climate change, to be discussed further below. Reducing demand is an indispensable alternative to be considered against building a coal-fired power plant.

Climate Impacts

Looming over every decision to build a coal-fired plant are the consensus that climate change is real and dangerous and the growing certainty that there will soon be government regulation of greenhouse gas (GHG) emissions, especially of carbon dioxide, probably in the form of either a cap-and-trade pollution credits regime or an out-and-out tax on carbon emissions. There are bills in Congress calling for reductions in GHG emissions of as much as 80% below 1990 levels by 2050.

To put it into perspective, the Energy Information Administration of the Department of Energy says that electric power generation accounts for 40% of US energy-related CO₂ emissions, while coal emissions increased 28% between 1990–2005. Since the U.S. accounts for 25% of all GHG emissions, American power plants are responsible for 10% of global GHG emissions. With well over 100 new coal plants in the construction or planning phase here and hundreds more in the rest of the world, each new increment counts.

An EIS must consider the environmental impacts and unavoidable adverse effects of a proposed action. 42 U.S.C. § 4332(2)(C)(i-ii). AECI evades this responsibility by setting the completely unrealistic significance criterion of 1% of total U.S. CO₂ emissions (DEIS Part 3.1.2.3, p. 3-43). No facility in the world could come close to that level, yet every sizeable coal-fired electric plant is a significant source. AECI has defined the problem in a way that dismisses it from consideration.

AECI has also removed from consideration the cumulative impacts of burning coal. Global warming is a cumulative phenomenon by its very nature, but the DEIS refuses to consider these impacts; they are entirely omitted from Part 4, Cumulative Impacts. Yet AECI's estimate that Norborne will supply 0.1% of domestic and 0.03% of global GHG emissions (Part 3.1.2.4.1, p. 3-49) is actually a very impressive figure, one that cannot be so blithely dismissed. More narrowly, USDA/RD should consider the cumulative impacts of the assistance, financial and otherwise, that it gives to coal electric generating projects.

Under NEPA, § 102(2)(C)(iv), the EIS must consider the relationship between short-term, local uses of the environment and long-term productivity. In context, this means 50-odd years of power generation from the Norborne plant versus a long-term loss of environmental productivity due to the potential ravages of climate change, which include severer droughts and stronger, more damaging storms, events that will harm agricultural productivity, the basis of the local economy. DEIS Part 5.2 says that the overall air pollutants, including GHG, will have impacts only “in a very small way.” Set against this the socioeconomic benefits that AECI uses to justify the plant—temporary construction jobs and a small number of permanent jobs mostly not performed by local people (70 of 139 would be newcomers, DEIS Part 3.14.2.3.3) —pale into insignificance. Payouts in lieu of taxes (Part 3.14.2.3.1) would then serve only to fund a welfare economy.

NEPA § 102(2)(C)(v) requires analysis of irreversible and irretrievable commitments of resources. The DEIS, Part 5.1.4, estimates that the Norborne plant will burn 100 million tons of coal in its lifetime; this two-line statement does not attempt to give any rationale at all for disregarding the effects of this commitment. Not only is this an irrevocable addition to GHG in the atmosphere but the investment in coal will displace investment in more advanced renewable generating technologies, conservation and efficiency programs.

AECI’s primary justification for pulverized coal is its cost-effectiveness relative to other options. (DEIS Part 2.2.7 (Jan. 2007); Alternatives Report Part 5.9.) The DEIS briefly notes the prospect of Congressional action on global warming, which would likely result in a cap-and-trade pollution credit system or a straight tax on carbon dioxide emissions (Part 2.2.5.3.1); and the expense and unproven nature of carbon sequestration, also known as carbon capture and storage (CCS), the technique for piping carbon dioxide to a place where it can be safely held underground. (Parts 2.2.5.3.2, pp. 2-54 and 2-61-2; Alternatives Report 5.4.4.2, p. 5-16; ES 8-9.) Bills in Congress rely heavily on CCS to mitigate emissions from power generation, and Sens. Bingaman and Boxer have warned utilities that if their new coal plants are not equipped for CCS they should not count on their being grandfathered in under legislation; see Dallas Morning News, http://www.dallasnews.com/sharedcontent/dws/dn/opinion/viewpoints/stories/DN-bingaman_19edi.ART.State.Edition1.290de70.html.

These are mitigation measures which need to be taken into account under 40 CFR 1502.16(e, f and h) and 1505.2(c), despite their uncertainty; and their costs and uncertainties need to be evaluated as part of the “cost-benefit” analysis under NEPA § 102(2)(B). Ignoring likely future environmental costs could prove to be false economy. Maybe pulverized coal isn’t so cost-effective after all.

The Norborne plant, together with the numerous other new plants, will greatly increase the demand for coal. The effects in terms of GHG, criteria pollutants under the Clean Air Act, and depletion of a nonrenewable resource are direct, indirect and cumulative all at once (40 CFR 1508.7-.8). The impacts of new coal demand need to be evaluated.

Other Cumulative Impacts

The DEIS, Part 3.1.2.4.1, p. 3-47, admits that the cumulative effects of mercury pollution have not been studied. This is important given the bioaccumulative effects of mercury, the widespread contamination of waters leading to statewide advisories against eating fish, and the leading role of coal-fired power plants as a source of mercury.

The air quality impacts of non-carbon pollutants are deemed insignificant (ES, p. 9) without taking into account the cumulative effects of numerous coal plants. The conclusions of the Cumulative Impacts discussion in Part 4.4.1, that modeling is unavailable and that issuance of an air permit will automatically result in no significant impacts, are unacceptable. Also, the radius of 50 km beyond the affected environment is much too small; global warming is a global phenomenon, and other pollutants like SO₂ and NO_x can travel great distances and lead to, for example, acid rain in other states in the north and east.

Missing Information

In many instances AECI has deferred gathering information that is necessary to assess the environmental consequences of the Norborne plant.

Floodplain analysis will admittedly need to be done. (ES 11; Alternatives Report, Part 6.3.2.5, Part 2.4, Table 2-24, p. 3-114.) Wetlands analysis has not been done, (Alternatives Report, Part 6.3.2.2, p. 6-41, Part 6.3.2.5.4, p. 6-64). Pollution controls for particulate matter (PM₁₀) haven't been selected (Alternatives Report, pp. 6-81-2, Part 6.5.2; Part 2.4.9.2). AECI's apparently thorough treatment of mercury pollution, assuming the use of activated carbon injection as a control (Appen. D, Part 1), is undermined by the admission that this has not been decided on as the control technology (Part 3.2.1.4.2, Part 2.4.9.3).

In many instances AECI attempts to excuse its non-compliance with NEPA with the assurance that it will abide by permitting and legal requirements: see Part 3.1.1.2.4, pp. 3-19-20 and Part 3.1.2.3, p. 3-42 for mercury; Part 3.5.2.4.1, p. 3-114, for floodplains; Part 3.7.2 for land use; Part 3.3.2.3, p. 3-77, for groundwater contamination; Alternatives Report, Part 6.5.5 and Part 2.4.6.6 for wastewater disposal; Alternatives Report, Part 6.5.4 for fuel and waste disposal; Part 2.4.8.3 for the landfill; and Part 3.1.2.4.1, p. 3-45 and Part 4.4.1 for criteria air pollutants. NEPA would be practically a nullity if the existence of regulations was sufficient ground to avoid making a statement of environmental impacts.

The DEIS does not weigh the need for action against the uncertainty created by incomplete or unavailable information as required by 40 CFR § 1502.22(b).

“No Action” Alternative

AECI says that if Norborne isn't built its customers' electricity needs will need to be supplied somehow (Part 2.3.2). It is not inappropriate to note that even the no-action alternative will have environmental effects. However, AECI assumes that “no action” means building another Norborne somewhere else. It says, for example, that if the plant isn't built there will still

be acid rain pollution from other power generation (Part 3.1.2.4.1, p. 3-50). But that is true only if the alternative is another pulverized coal plant. This reasoning immediately disqualifies the no-action alternative, which is not why NEPA requires that it be included. The law does not demand a useless exercise; the no-action alternative has a purpose which is nullified if it is the equivalent of 2 of the other 3 alternatives (building Norborne or building the same plant elsewhere).

The no-action void could also be filled by, as discussed earlier, meeting customers' energy needs with conservation and efficiency. That would give the alternative real meaning. AECI is in violation of NEPA and 40 CFR 1514(d) by treating the no-action alternative as the equivalent of the proposed plan.

New Transmission Alternative

Tantalizingly, the Alternatives Report, Part 5.8, mentions new transmission technologies that can avert the need for new capacity. It refers back to Part 5.7 concerning an RFP to supply AECI's capacity and energy needs. AECI says the responses to the RFP were not cost-competitive. This is a conclusion, not an explanation. It does not say that new transmission technologies were actually part of the RFP, nor explain why, as seems highly unlikely, transmission improvements would cost more than a \$1 billion coal plant. Reasons, not conclusions, are required before eliminating an alternative from detailed study. 40 CFR § 1502.14(a).

Thank you very much for your attention to these comments.

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