

22 April 2020

Mr Richard Bean
Chief Executive Officer
NSW Environment Protection Authority

By email only: richard.bean@epa.nsw.gov.au

Dear Mr Bean

Vales Point Power Station – EPL 761

We confirm that the NSW Environment Protection Authority (**the EPA**) intends to conduct an investigation into Sunset Power International Pty Ltd t/s Delta Electricity (**Delta Electricity**) operation of the Vales Point power station.

We write on behalf of the undersigned to request that EPA's investigation includes all possible breaches of the *Protection of Environment Operations Act 1997* (**the Act**) and breaches of the Vales Point Power Station [EPL 761](#).

Unexplained increases in emissions of particulates

We refer to the National Pollutant Inventory Report for the period 2018-2019 release on 31 March 2020 (**the NPI Data**).

The NPI Data shows the Vales Point power station has:

- Increased emissions of:
 - PM₁₀ by 121% on the previous reporting period;
 - PM_{2.5} by 181% on the previous reporting period; and
- Generated less electricity than during the previous reporting period; and
- Increased emissions of PM_{2.5} by 3000% since the 2012-2013 reporting period, while electricity production increased by only 63% over the same period.

We refer to the statement of Delta Electricity dated 2 April 2020 ([the Statement](#)).

In the Statement, Delta Electricity seek to explain the increase in emissions of PM₁₀ and PM_{2.5} (**Particulates**) on the basis that:

'The tests were conducted in March and April of 2019. During this time the diminished performance of a number of filter bags was identified with scheduled bag replacement subsequently occurring'.

Delta Electricity goes on further to state that:

'In addition to the annual test, particulate emissions are monitored continuously throughout the year using opacity monitors to ensure compliance with environmental licence limits'.

We note that EPL 761 requires continuous monitoring of PM_{2.5}.

We further note that the above extracts are logically inconsistent, as is explained further below.

We acknowledge that the EPA has previously drawn a distinction between the NPI Data and a polluter's compliance with their licence and the Act. However, the steep and unexplained rise in particulate emissions from Vales Point warrants investigation.

Matters for investigation

If Delta Electricity were monitoring Vales Point's emissions of PM_{2.5} continuously, then the failure of the fabric filters would have been apparent before the March/ April testing as emissions of particulates increased over time.

Alternatively, Delta Electricity was aware that the fabric filters were failing before the testing was undertaken in March and April 2019.

In view of the above, it appears that Delta Electricity has failed to operate and or maintain plant and equipment at Vales Point in a proper and efficient manner, which has caused air pollution.

The linkages between particulate pollution and human health are well established. There is no known safe limit of exposure. The list of human health impacts to which air pollution contributes continues to grow and includes heart disease, stroke, asthma attacks, low birth weight of babies, lung cancer and type 2 diabetes.¹

PM_{2.5} is considered to have the strongest effect on human health. The NPI Data shows that coal fired power stations are the dominant source of PM_{2.5} pollution.

¹ See list references in Ewald, Dr Ben (2018). *The health burden of fine particle pollution from electricity generation in NSW*. < https://www.envirojustice.org.au/wp-content/uploads/2018/11/Ewald_B_2018_The_health_burden_of_fine_particle_pollution_from_electricity_generation_in_NSW.pdf> Accessed 7 April 2020

The conduct of Delta Electricity may also have resulted in material harm to the environment because the increase in particulate pollution involves actual or potential harm to the health and safety of human beings that is not trivial.

In view of the above, we request that the EPA investigates the following possible breaches of the Act and breaches of the Vales Point Power Station [EPL 761](#):

1. Breach of Licence condition O2.1 (a)

Failure to maintain plant and equipment in a proper and efficient condition.

2. Breach of Licence condition O.2.1 (b)

Failure to operate plant and equipment in a proper and efficient manner..

3. Breach of licence condition O3.2.

Failure to carry out all operations and activities occurring at the premises in a manner that minimises the emissions of dust from the premises.

4. Breach of licence condition M2.3.

Failure to monitor emissions of PM2.5 continuously.

5. Breach of section [64](#) of the Act

Failure to comply with a licence condition.

6. Breach of section [115](#) of the Act.

Wilfully or negligently disposing of waste to the environment in a manner that harms or is likely to harm the environment.

7. Breach of section [124\(a\)](#) of the Act.

Operating plant in a manner so as to cause air pollution caused by failing to maintain the plant in an efficient condition.

8. Breach of section [124\(b\)](#) of the Act.

Operating plant in a manner so as to cause air pollution caused by the failure to operate the plant in a proper and efficient manner.

9. Breach of section [148\(2\)](#) of the Act.

Failure to notify any relevant authorities of a pollution incident which involves actual or potential material harm to the environment.

We further request that the EPA notify the NSW Health Minister of the above pursuant to section [9\(3\)](#) of the *Public Health Act 2010* on the basis that increase in emissions of particulates are a risk or are likely to be a risk to public health.

We request you confirm receipt of this letter and confirmation that you will investigate Delta Electricity's conduct, with a view to prosecuting Delta Electricity for any breaches of the Act and that you will notify the NSW Health Minister of the risk to public health.

Please telephone our [Nick Witherow](#) on 03 8341 3109 to discuss any aspect of the above. We otherwise look forward to your priority response.

Yours faithfully,

Environmental Justice Australia

Also on behalf of:



KEEP LAKE MACQUARIE CLEAN – "KLMC"



Protecting our Children's Legacy

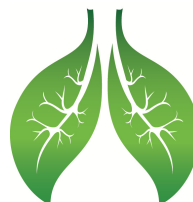


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