

CASE STUDY

Elm Road Cooling Water Intake System



Sunrise over Lake Michigan

Project Summary

As part of its Power the Future generation expansion project in the early 2000s, We Energies proposed to construct two new 650-megawatt coal boilers adjacent to the site of its existing Oak Creek power plant. The utility designed the plant to use once-through (open-cycle) cooling, a technology that was no longer allowed for new facilities under the Clean Water Act. We Energies maintained that the new coal units were an “expansion” of an existing facility and therefore should not be subject to Clean Water Act new facility rules that would require the use of cooling towers, a more expensive but less environmentally damaging solution.

Clean Wisconsin challenged the water-discharge permit for the new facility. At the same time our permit challenge was proceeding through the state contested case process, Riverkeeper and other groups had a case pending in the 2nd Circuit Court of Appeals. This case, if successful, would validate our claims that Clean Water Act rule applied to the new Elm Road units.

After three years and several decisions from an administrative law judge and the Dane County Circuit Court, we were in a strong position. National investment companies began calling Clean Wisconsin to gauge whether we intended to continue to pursue this litigation, and at one point several investment advisors came to Milwaukee to discuss our plans going forward. As a result of their concerns, We Energies became interested in engaging in settlement discussions, and eventually the parties reached an agreement that resulted in the shutdown of two coal units in Michigan’s Upper Peninsula, shareholder funds to create a voluntary greenhouse gas reduction program, investment in solar installations, a biomass plant, and \$4 million per year for 25 years to support the Fund for Lake Michigan, a grant-making organization to support Great Lakes restoration and improvement work in southeastern Wisconsin.

Project Details

Date 2004-'08

Location Oak Creek, Wis.

Project Type Clean Water Act litigation



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