

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Florida Crushed Stone Company for Determination of Need for a Coal-Fired Cogeneration Electrical Power Plant.)	DOCKET NO. 820460-ED
)	ORDER NO. 11611
)	ISSUED: 2-14-83

The following Commissioners participated in the disposition of this matter:

RECORDED
FEB 21 1983

GERALD L. GUNTER, Chairman
SUSAN W. LEISNER
JOSEPH P. CRESSE

FINAL ORDER

DIV ENVIRONMENTAL
REGULATIONS

BY THE COMMISSION:

Under the Florida Electrical Power Plant Siting Act, Section 403.501 et seq., Florida Statutes, the Commission is charged with the responsibility of determining whether construction of a proposed electrical generating facility is necessary to meet the present or expected need for electricity in all or a part of Florida. The Department of Environmental Regulation must determine whether the proposed plant will comply with all relevant environmental standards while the Department of Community and Veteran Affairs must determine whether the proposed plant is compatible with the State Comprehensive Plan. Weighing all of these determinations, the Governor and Cabinet, sitting as the Power Plant Siting Board, ultimately determine whether approval will be granted for construction of the proposed plant.

The Act applies to any electrical generating facility equal to or greater than 50 MW of capacity (Section 403.506, Florida Statutes). Therefore, on November 5, 1982, Florida Crushed Stone Company (FCS) filed a petition seeking a determination of need for a 125 MW electrical generating facility it proposes to build and operate. The power plant is part of a cogeneration project; FCS intends to interconnect with and sell power to Florida Power Corporation (FPC). FCS was recently granted status as a Qualifying Facility (QF) by the Federal Energy Regulatory Commission (FERC).

The proposed plant would be located near Brooksville in Hernando County, Florida. It would be constructed along with a 600,000 ton per year cement plant. It would be a coal-fired plant, using coal shipped to the site by unit train. FCS anticipates that it will initially need 25 MW of power from the plant, eventually requiring 38 MW of power for its own use. The remainder of the power produced would be sold to FPC. The unit is expected to be in service in November of 1984.

While the Act requires the Commission to determine whether a need exists for the addition of any generating facility of 50 MW or larger, the statute in our opinion, is designed primarily to have the Commission determine whether a need exists for the addition of capacity by a regulated electric utility or by a municipality. It lists five criteria the Commission must consider in determining need:

- 1) the need for electrical system reliability and integrity;
- 2) the need for adequate electricity at a reasonable cost;
- 3) whether the proposed plant is the most cost effective alternative available;
- 4) conservation measures taken or reasonably available that might mitigate the need for new plant; and

DOCUMENT NO.
1334-83

- 5) other matters within the Commission's jurisdiction which it deems relevant (Section 403.519, Florida Statutes).

The Commission's Rules (Rule 25-22.81(3), Florida Administrative Code), require submission of forecasted peaks, number of customers, net energy for load, and load factors to substantiate the need for the proposed plant. All of these criteria put the issue before the Commission as whether the forecasted load, given a utility's present generation resources and the cost of available alternatives to meet the forecasted load, determines whether there is a need for the proposed plant.

However, significantly different issues are raised when a private entity, such as PCS, proposes to build a cogeneration facility. Cogeneration refers to the sequential use of an energy resource such as coal, oil, gas, or other fuels to produce both electricity and forms of useful thermal energy such as heat or steam to be used in an industrial, commercial, or other facility for heating or cooling purposes. Thus it has been governmental policy to encourage cogeneration both because it makes more efficient use of energy resources and because it may lessen the need for public utilities to build additional generating facilities. Under the Florida Energy Efficiency and Conservation Act (Section 366.80 et seq., Florida Statutes) the Commission has determined that cogeneration appears to be a cost effective conservation measure. Therefore, as part of our statutory authority to consider other matters within our jurisdiction we deem relevant to a need determination, we have decided that additional criteria relating to fuel efficiency should be used to evaluate the application of PCS.

A duly noticed hearing was held on PCS's application on January 26, 1983 in Brooksville, Florida. Parties to the proceeding included PCS, FPC, Florida Mining and Materials, Inc., International Minerals Corporation (IMC), The Sierra Club, Mr. Greg Copeland and the Staff. At the commencement of the hearing, comments on the proposed plant were also heard from members of the general public. Mr. Richard Entorf and Mr. Kenneth BuShea testified on behalf of PCS. Mr. Entorf outlined the proposed plant and Mr. BuShea testified concerning the fuel efficiencies the project is expected to achieve. Mr. Karl Wieland testified for FPC concerning the proposed plant's expected impact on system reliability and integrity, and on FPC's generation expansion plan.

Mr. Barney Capehart testified for The Sierra Club. Addressing the subject of fuel efficiency he suggested several methods for measuring fuel efficiency and assessing the relative desirability of this proposed cogeneration facility. Mr. Frank Seidman testified for IMC concerning the need for cogeneration and the impact it might have on the statewide need for additional generation facilities.

Evidence adduced at the hearing showed that the proposed power plant is currently owned by the American Electric Power Company. It began commercial operation in 1949 and has been placed on inactive status by AEC. PCS plans to purchase the plant and move it to its property in Hernando County. There it would become a power source for the cement plant PCS plans to construct. Mr. Entorf testified that a power plant the size of 125 MW was necessary to achieve the desired level of steam extraction for the size of the cement plant. PCS wants to construct. The power plant would produce electricity, steam, and waste heat, the latter known as flue gas. The steam and flue gas would be transferred to the cement plant and would be used to dry

components in the cement production process. Steam condensate and waste heat would be produced as a by-product of the cement production process and would be returned to the power plant to be used in the production of electricity.

The combined facility is referred to as a topping cycle cogeneration facility because the power plant produces both steam and electricity and the steam is fed into the cement plant for use in the cement manufacturing process. It is also a bottoming cycle facility because waste heat from the cement plant is cycled back to the power plant for use in the production of further electricity and steam. A schematic illustration of this process is attached hereto as Appendix A.

With this background we now address the specific issues:

Electric System Reliability and Integrity

The first statutory criteria we must consider is the impact of the proposed plant on the integrity and reliability of the electric system. Mr. Wieland testified that electric system reliability and integrity will be satisfactory both before and after construction of the proposed facility. We find that the addition of 125 MW of generating capacity will enhance system reliability and integrity simply because it will increase the diversity of generating sources; however, this benefit cannot be quantified, and we view it as a minor, but desirable, result of constructing the proposed plant.

The Need for Adequate Electricity at a Reasonable Cost.

The second statutory criteria we must consider is the need for adequate electricity at a reasonable cost. Commission Rule 25-17.82, Florida Administrative Code, requires utilities to purchase electricity produced by a QP at the utilities' full avoided fuel cost. Additionally, our Rules permit a utility and a QP to negotiate for capacity credits if a QP meets certain reliability standards. Thus, if PCS receives full avoided costs for the energy it produces, it will have no impact on the cost of electricity to FPC's ratepayers. We continue to believe that a QP and a utility should be encouraged to negotiate contracts for less than full avoided costs; if this occurred, production of electricity by PCS would lower the cost of power to FPC's ratepayers.

In his direct testimony Mr. Wieland stated that the present generation expansion plan of FPC does not call for the construction of additional capacity until 1993, and that construction of the PCS plant would have no effect on the expansion plan. He also stated that FPC anticipated making no capacity payments to PCS, and urged the Commission to make its determination of need subject to the condition that no capacity payments be made.

Testifying on this point for IMC, Mr. Seidman stated that the additional load growth expected for peninsular Florida, coupled with the retirement of existing plant, led him to conclude that in the foreseeable future Florida has a continuing need for additional capacity.

We find it unnecessary to make a factual finding with respect to this issue given the increased fuel efficiency inherent in cogeneration (depending on the type of fuel used by the cogenerator), the need for additional capacity is irrelevant to a

determination of need such as this, assuming the Commission allows no capacity payments to be passed along to ratepayers where capacity costs are not avoided. It must be emphasized that there is no link between our determination of need and the price to be paid, if any, for the capacity supplied by a QF. Additionally, our finding that the proposed plant will have essentially no impact on the need for an adequate supply of electricity at a reasonable cost is expressly based on the premise that neither the FERC nor the Commission's Rules would require a utility to compensate a QF for any cost associated with either energy or capacity when no energy is purchased or capacity costs are avoided by the utility.

The Most Cost Effective Alternative

The third statutory criteria we are directed to consider is whether the proposed plant is the most cost effective alternative available. We are unable to reach a factual finding on this issue. Whether the proposed plant is the most cost effective alternative available to FCS is a private economic decision not properly reviewed by us. As noted in other parts of this Order, cogeneration appears to be a cost effective conservation measure.

A somewhat related issue was raised by Florida Mining and Materials. It was whether construction or certification of the FCS plant would preempt construction of additional cogeneration facilities. Because we view cogeneration as a cost effective conservation measure, the answer to this question is no.

Other Conservation Measures

The fourth statutory criteria we must consider is whether other conservation measures, reasonably available to FCS, might mitigate the need for the proposed plant. FCS took the position that it knows of no conservation measures which are more cost effective than the proposed plant. Again, because we believe cogeneration to be a cost effective conservation measure, this statutory criterion is satisfied.

Fuel Efficiency

Several issues were raised concerning the fuel efficiency the proposed facility was likely to achieve. Staff suggested that three criteria be used to assess fuel efficiency. First, as a threshold, a proposed cogeneration facility should meet the standard established by FERC for certification as a QF. Second, a proposed cogeneration facility should use less fuel than if its constituent parts were separately constructed. Third, the fuel efficiency of the power plant component of the proposed cogeneration facility should compare favorably to the fuel efficiency achieved by comparable generating facilities operated by public utilities.

Mr. Capehart suggested three performance measures that should be applied to the proposed facility. The first was the percentage of useful thermal energy produced compared to the amount of electric energy produced. In this case this performance measure is the same as the FERC certification standard. The second was the percent of by-product power relative to total power produced. The third standard was the Fuel Chargeable to Power of the power plant. Mr. Capehart indicated that the information necessary to calculate the Fuel Chargeable to Power for the proposed plant was not available but that the net heat rate of the power plant was an acceptable close approximation of it.

The criteria suggested by Staff embody the three elements of fuel efficiency relevant to this situation and we adopt them. To be certified as a QF, PERC requires a topping cycle cogenerator to produce at least 5% useful thermal energy relative to the electricity produced by the facility. The PCS proposed plant will produce 6.8% useful thermal energy. This figure is derived, as shown in Appendix A, by comparing the net steam extracted from the power plant to the useful power output plus the useful thermal energy output of the power plant, or:

$$\frac{31.08 \text{ MMBTU/hour}}{426.5 \text{ MMBTU/hour Power Output} + 31.08 \text{ MMBTU/hour Thermal Output}} = 6.8\%$$

There are no minimum operating standards a QF must meet in order to be certified as a bottoming cycle QF.

The second criteria is the overall fuel efficiency achieved by the cogeneration facility. Mr. Entorf and Mr. BuShea testified that the proposed facility is 9.5% more fuel efficient than if the power plant and the cement plant were separately constructed. This figure recognizes the energy captured from the waste flue gas and cycled to the cement plant and the preheated combustion air returned to the power plant from the cement plant, in addition to the net steam extracted from the power plant. As shown on Appendix A, this means a total of 144.5 MMBTU/hour are reused in the sequential energy process in the cogeneration facility. This constitutes approximately 9.5% of the total combined energy input to both facilities. In other words, the combined energy inputs required for the power plant and the cement plant is 1513.72 MMBTU/hour. If the two plants operated independently rather than as a cogeneration facility, approximately 9.5% of the energy inputs would have been wasted.

Finally, we must consider the fuel efficiency of the power plant itself. Mr. BuShea testified that the net heat rate of the power plant, assuming a cooling water temperature of 92°, is expected to be 9,892 BTU per KWH. Mr. Wieland testified that the average heat rate of PPC's fossil fuel base load plants over the last two fuel adjustment periods was 10,161 - 10,018 BTU per KWH, PPC's average system heat rate was 10,000 - 10,600 BTU per KWH and that he believed a representative heat rate for peninsular Florida generating units was 10,000 - 11,000 BTU per KWH.

Based on this record, we find that the proposed cogeneration facility can be expected to achieve a desirable level of fuel efficiency both because it will use energy that otherwise would be wasted either in the power production or cement manufacture processes and because it will produce electricity at a fuel efficiency level that compares favorably to the fuel efficiencies achieved by public utilities.

In addition to making the above factual findings, The Sierra Club urged us to make a finding as to the relative desirability of this proposed cogeneration facility. Mr. Capehart testified that in his opinion the fuel savings potential of this facility is not great, relative to what can be achieved by cogeneration technology; and that the degree of need for this type of cogeneration facility was low. While we specifically endorse Mr. Capehart's suggested performance measure of Fuel Chargeable to Power, we decline to make any factual findings with respect to the relative desirability of the proposed project. We decline to do so because we do not believe the record is sufficiently

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complete as to what fuel efficiencies we ought to expect from cogeneration facilities that consist of a power plant and a cement plant. Nor was the record sufficiently developed as to the reasonable likelihood of more fuel efficient cogeneration projects than that proposed by PCS being located in Florida. For these reasons we accept The Sierra Club's Proposed Findings of Fact No.s 2, 4, 5, 6, 8, and 9. We reject The Sierra Club's Proposed Findings of Fact No.s 1, 3, 7, and 10 because the record is insufficient with respect to these points. We accept The Sierra Club's Proposed Conclusion of Law No. 1 and reject Proposed Conclusion of Law No. 2 for the same reasons.

Thus, based on the record before us, we conclude that Florida Crushed Stone Company's proposed cogeneration facility, including a 125 MW coal-fired power plant, will enhance electric system reliability and integrity by an unquantified amount, will have no impact on an adequate supply of electricity at a reasonable cost if PCS receives no greater or less than actual avoided costs for the electricity it sells, but will achieve greater fuel efficiency than a generating facility that is not part of a cogeneration facility. Additionally we find that the proposed cogeneration facility appears to be a cost effective conservation measure.

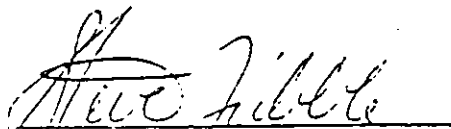
Therefore we conclude that a need exists for the cogeneration facility proposed by Florida Crushed Stone Company. The relief sought by Florida Crushed Stone Company, an affirmative determination of need, will be and the same is hereby granted. It is, therefore,

ORDERED by the Florida Public Service Commission that this Order constitute the final report required by Section 403.507(1)(b), Florida Statutes, the report concluding that a need exists, within the meaning of Section 403.519, Florida Statutes, for the construction of the 125 MW generating facility proposed by Florida Crushed Stone, Inc. It is further

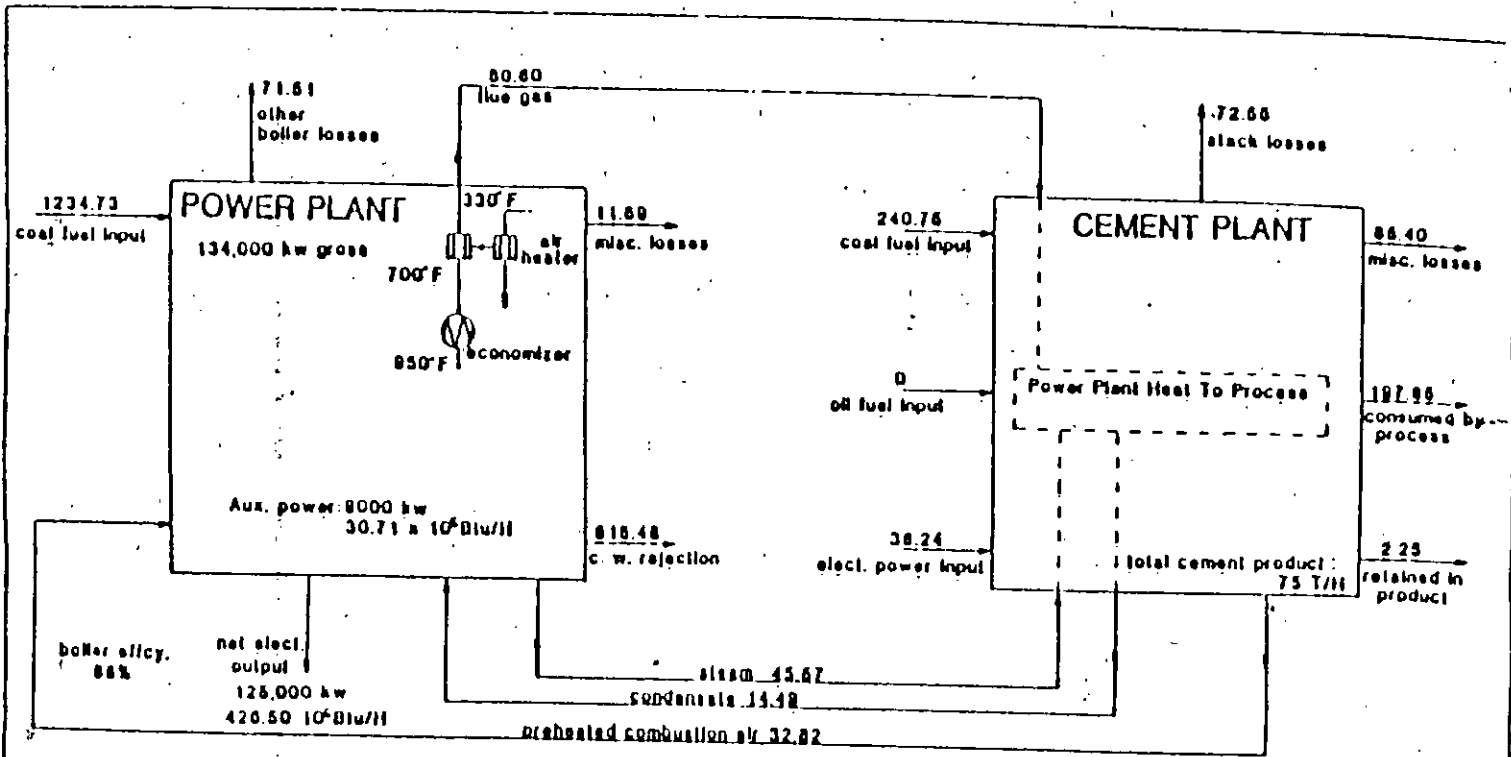
ORDERED that a copy of this Order be furnished to the Department of Environmental Regulation, as required by Section 403.507(1)(b), Florida Statutes.

By ORDER of the Florida Public Service Commission this 14th day of February, 1983.

(S E A L)


STEVE TRIBBLE
COMMISSION-CLERK

BED



Total Fuel Energy Input 10⁶Btu/H : 1234.73

Total Fuel Energy Input 10⁶Btu/H : 278.99

Total Combined Energy Input : 1513.72

Base (ambient) Temp. 70°F

PSC DOCKET NO. 820460-EU

PSC Exhibit No. _____

COGENERATION QUALIFYING FACILITY

Inputs & Outputs in 10⁶Btu/H

Florida Crushed Stone Company

P. O. Box 317

Leesburg, Fla. 32748

NAB Exhibit 1
 PSC Exhibit 1



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IV

345 COURTLAND STREET
ATLANTA, GEORGIA 30365

4AW-AM

JAN 27 1983

Mr. Clair Fancy, P.E.
Deputy Chief
Bureau of Air Quality Management
Florida Department of Environmental
Regulation
Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32301

DER
REGISTRATION

Dear Mr. Fancy:

This letter is in answer to your letter of January 5, 1983 in which you requested an applicability determination under 40CFR Part 60 for an electric steam generating unit.

As you stated in your letter, the situation involves an application to construct a 125 megawatt electric co-generating plant in conjunction with a Portland cement plant. Approximately 100 megawatts will be sold on the Florida electric power grid. The boiler was operated in another state from 1944 to 1977 and has been rebuilt, however the applicant contends that the changes were not of sufficient magnitude to be a reconstruction as defined in 40CFR60.15. Your basic question is whether the proposed power plant would be subject to 40CFR60, Subpart Da?

Based on the information supplied, the power plant would not be subject to Subpart Da, however, we would encourage you to thoroughly investigate the applicant's contention that previous changes were not of sufficient magnitude to be a reconstruction under 40CFR60.15. You might want to ask for cost records from the applicant that would support his contention. I am also enclosing two EPA memorandums which discuss a reconstruction applicability determination previously made for a nitric acid plant. The important point to note in this determination is that a plant cannot be classified as a relocated facility (i.e. existing facility) if the facility is constructed by combining components from two or more existing facilities. If the proposed power plant is constructed by using components from two or more existing units, then the provisions of 40CFR60, Subpart Da would apply.


In addition, under the "modification" section (40CFR60.14), any physical or operational change in an existing facility which results in an increase in the emission rate to the atmosphere of any pollutant to which a standard applies shall be considered a modification within the meaning of Section 111 of the Clean Air Act. Upon modification, an existing facility shall

become an affected facility for each pollutant to which a standard applies and for which there is an increase in the emission rate to the atmosphere. We recommend that previous emission data be obtained to insure that there will be no increase in emissions which would trigger the modification provision of 40CFR60.

We also note from your letter that the power plant may be operated when the cement plant is down, therefore, we recommend that during the compliance demonstration, testing should occur during all modes of operation.

If we can be of further assistance in this matter, please call Mr. Brian Beals of my staff at 404/881-4901.

Sincerely,



James T. Wilburn, Chief
Air Management Branch
Air & Waste Management Division

Enclosure

DEPARTMENT OF ENVIRONMENTAL REGULATION

TWIN TOWERS OFFICE BUILDING
2600 BLAIR STONE ROAD
TALLAHASSEE, FLORIDA 32301 8241



BOB GRAYHAM
GOVERNOR

FRANK J. TSCHINKA
SECRETARY

January 5, 1983

Mr. James T. Wilburn, Chief
Air Management Branch
EPA Region IV
345 Courtland NE
Atlanta, GA 30308

Ref: Request for Applicability Determination.
NSPS for Electric Steam Generating Units, 40 CFR 60,
Subpart Da.

Dear Mr. Wilburn:

The State of Florida has received an application to construct a 125 megawatt electric co-generating plant in conjunction with a 600,000 ton per year Portland cement plant. The two plants are to be constructed on the site of an existing aggregate and lime plant. The 6400 acre site is located 4 miles northwest of Brooksville, Florida, and 12 miles east of Chassahowitzka National Wildlife Refuge (a Class I area).

The co-generating plant has a design output of 125 megawatts of which 25 megawatts will be consumed on site. The remaining 90-100 megawatts will be sold on the Florida electric power grid. The waste heat from the turbines will be used to preheat air to the cement plant kiln and dryer. The steam generating unit has a design heat input of 1234,000 Btu per hour and will be fired with coal having an average sulfur content of 0.75%. The boiler exhaust gases will normally pass through the cement plant dryer and raw mill, then through a baghouse to the atmosphere. The applicant contends that there is a 30-35 percent reduction in SO₂ emissions when operating in this mode. The power plant, however, may be operated when the cement plant is down. Diagrams of the three operating scenarios are attached.

The boiler was operated in another state from 1944 to 1977. The unit was originally designed to accommodate the firing of coal. The unit has been rebuilt and the applicant contends that the changes were not of sufficient magnitude to be a reconstruction as defined in Subsection 40 CFR 60.15. The applicant further contends that, since the boiler was constructed prior to August 1971, the unit is not subject to the Federal New Source Performance Standards (NSPS). The applicant has proposed as BACT

Mr. James T. Wilson, Jr.
January 5, 1983
Page Two

the pollutant emission limits as set forth in the NSPS for Fossil-Fuel-Fired Steam Generators, 40 CFR 60, Subpart D.

The question to EPA is - "Would the Florida Crushed Stone Company proposed power plant be subject to the NSPS for Electric Utility Steam Generating Units, 40 CFR 60, Subpart Da?"

Due to our permitting time clock constraints, a written reply prior to February 1, 1983, would be greatly appreciated. If you require additional information please contact Edward Palagyi or myself at (904)488-1344.

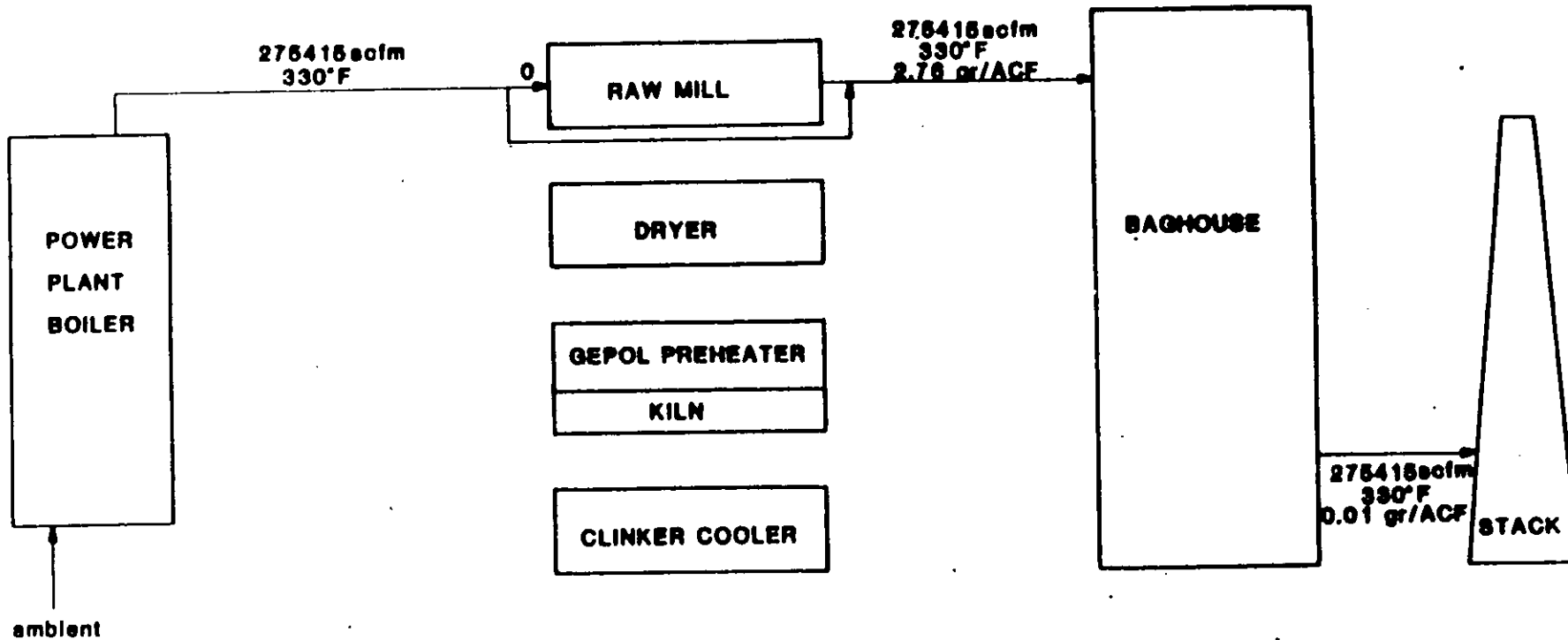
Sincerely yours,



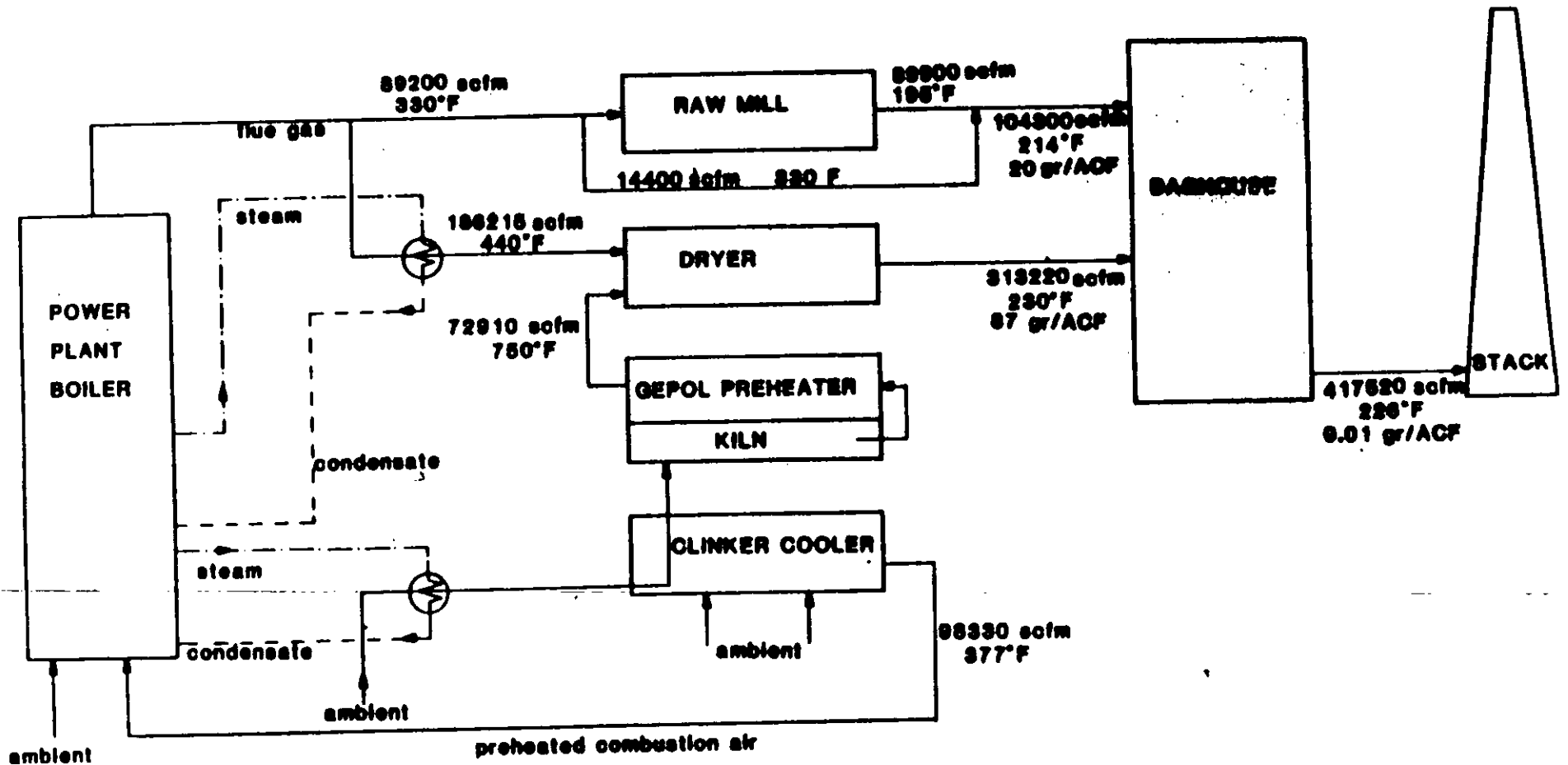
C. H. Fancy, P.E.
Deputy Bureau Chief
Bureau of Air Quality
Management

CHF/EP/bjm

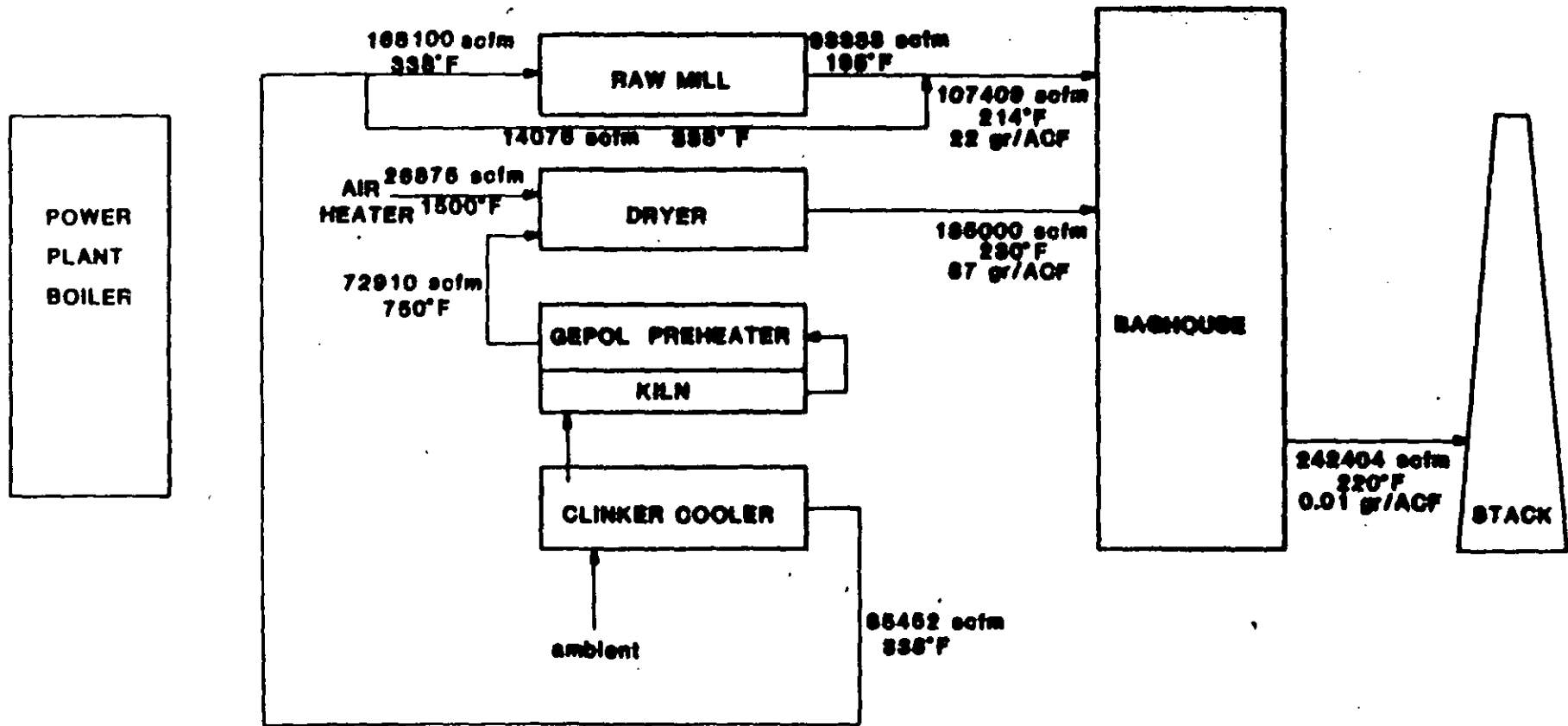
cc: Buck Owen
Dan Williams



POWER PLANT OPERATING/CEMENT PLANT NOT OPERATING



POWER PLANT OPERATING/CEMENT PLANT OPERATING

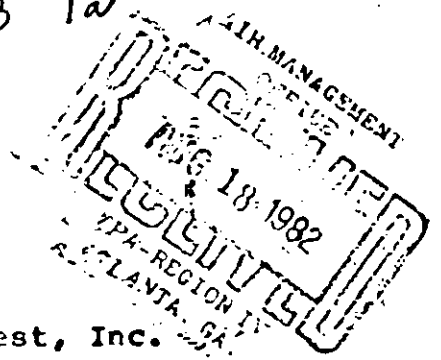


POWER PLANT NOT OPERATING/CEMENT PLANT OPERATING

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

VI B 1a

MAY 12 1982



MEMO

SUBJECT: NSPS Determination for N-PeN Southwest, Inc.
FROM: Director
 Division of Stationary Source Enforcement
TO: Allyn M. Davis, Director
 Air and Waste Management Division, Region VI

This is in response to your April 23, 1982 request for an applicability determination under New Source Performance Standards (NSPS) for nitric acid plants, 40 CFR 60, Subpart G. The question is whether the N-PeN nitric acid plant in Carlsbad, New Mexico is a new source subject to NSPS or simply a relocation of an existing source and a candidate for the exemption in 40 CFR 60.14(e)(6).

The N-PeN plant was constructed in early 1975 and initially started up on December 13, 1975. Catalytic reduction was used to meet the NSPS limit of 3.0 lb per ton of acid produced, but N-PeN discontinued operation of the control system because of its high cost. N-PeN now indicates the plant is composed of existing equipment relocated to the New Mexico site, and claims it should not be subject to the provisions of Subpart G because it is not a reconstruction or new source but rather relocation of an existing source and as such is exempted under §60.14(e)(6).

Additional information was provided by Tom Diggs of your staff in an April 26, 1982 telephone conversation with Robert Myers of my staff. The facility in Carlsbad, New Mexico was constructed in 1975 using components from two existing nitric acid plants as well as several new pieces of equipment. The centrifugal compressor, costing approximately \$230,000 and representing 38% of the total value of all existing equipment relocated to New Mexico, was taken from a plant in Illinois. The remaining existing components, valued at 62% of the total, were moved from an existing plant in Ohio. These included an air heater, reheater, cooler condenser and absorption column. N-PeN also purchased \$168,532 of new equipment for the Carlsbad plant, including gas coolers, gas mixers, a waste heat exchanger, filter tanks and heaters.

PREPARED BY: BMYERS/bf:4/30/82:fm3202:22875:DAVIS
 FINAL 5/12/82

CONCURRENCES

EBOL	EN-341	EN-341				
BURNAME	MYERS	Bird	Roscoe Johnson			
DATE	5/11/82	5-11-82	5-12-82	5/12/82		

Region VI believes that K-REN's Carlsbad plant cannot be classified for NSPS purposes as an existing facility which has been relocated, because it is not an existing facility but rather an entirely new facility consisting of components from other existing facilities. DSSE concurs in this determination. The exemption provided at §60.14(e)(6) states that the relocation or change in ownership of an existing facility is not a modification. An existing nitric acid production unit the §60.2 and §60.70, is any nitric acid production unit the construction of which was commenced before August 17, 1971. The Carlsbad facility did not exist as a production unit before August 17, 1971; rather, it represents a new nitric acid production unit formed from parts of several existing units as well as \$168,532 of new components. Because this plant was constructed after August 17, 1971 (even though some of its components were in existence before that date) it is a new facility and is subject to the requirements of Subpart G.

This response has been prepared with the concurrence of EPA's Office of Air Quality Planning and Standards and Office of General Counsel. Please contact Robert Myers at FTS 382-2875 if you have any questions.

141 Wm Johnson

Joe Edward E. Reich

cc: Tom Diggs
Earl Salo
Graham Fitzsimons
Bob Walsh

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

DATE: APR 23 1982

SUBJECT: NSPS Applicability Determination
N-ReN Southwest, Inc.
/s/ Allyn M. Davis
FROM: Allyn M. Davis, Director
Air and Waste Management Division (6AW), Region 6
TO: Edward Reich, Director
Division of Stationary Source Enforcement (EN-341)

N-ReN Southwest, Inc. owns and operates an ammonia production plant which includes a nitric acid plant located near Carlsbad, New Mexico. The nitric acid plant was constructed in early 1975 and was initially started up on December 13, 1975. The effective date of the New Source Performance Standard (NSPS) for nitric acid plants (Subpart GG) is August 17, 1971.

N-ReN has recently informed the Region that their nitric acid plant is composed of existing equipment relocated to the Carlsbad site. The company has concluded that the plant should not be subject to NSPS emission limitations because it is not a "new source". N-ReN contends that the components of the plant were moved to Carlsbad from other N-ReN facilities in Tuscola, Illinois, and Cincinnati, Ohio, and should not be considered a "modification" as defined under NSPS. They also contend that the total capital equipment costs of the plant as constructed were considerably less than one-half of what a new plant would have cost at the time of construction, and, therefore, cannot be viewed as a "reconstructed" facility under 40 CFR 60.15.

Tom Diggs of my staff has discussed the issue of "relocation" as it relates to N-ReN with Mr. Robert Meyer of your staff. It is our understanding that DSSE's position is that the exemption under the definition of modification 60.14(e)(1) for relocated existing facilities does not allow for existing components from two different locations to be combined in forming one new plant.

N-ReN's nitric acid plant is a composite of components from two plants. The centrifugal compressor, a major component, was moved to Carlsbad from Tuscola, Illinois. This component comprised 38% of the total value of the existing equipment relocated to Carlsbad. The remaining equipment, valued at 62% of the total, was moved from Cincinnati, Ohio.

It is our determination that based on their combining of components from two existing facilities, N-ReN's nitric acid plant cannot be classified as a relocated facility for purposes of NSPS, and, therefore, the NSPS standard for nitric acid plants applies to N-ReN's Carlsbad, New Mexico facility.

In order to proceed with a resolution of this issue with N-ReN, we request your confirmation on this issue by May 3, 1982.

If you have any questions, please contact me or Tom Diggs of my staff at FTS 729-1594.

cc: Robert Meyer (EN-341)