

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL REGULATION

In Re:)	OGC File No.:	86-0123
)		86-0124
AGRICO CHEMICAL COMPANY,)		86-0125
)		86-0126
)		
)		

ORDER

On December 2, 1985, Agrico Chemical Company requested a 48 month extension of the expiration dates of Agrico's state construction permits, made by Mr. Edward E. Mayer, Environmental Engineer. I have reviewed the request and find that it must be denied for the following reasons.

In 1981, state applications for permits to construct were reviewed and construction permits issued for the four sources listed below. The permits were issued based on the air pollution control regulations in effect on January 30, 1981. Time required to construct the sources was listed in the applications. The state permits issued allowed sufficient time for construction or modification, start of operations, and compliance testing as required by Florida Administrative Code Rule 17-2.210. This data is summarized in the following table:

<u>Permit No.</u>	<u>Sources</u>	<u>Construction Time</u>	<u>Issue Date</u>	<u>Expiration Date</u>
AC53-34868	Phos. Acid Plant	15 Months	1/30/81	6/30/82
AC53-34871	Sulfuric Acid Plant	24 Months	1/30/81	3/30/83
AC53-34861	DAP Plant	22 Months	1/30/81	1/30/83
AC53-34865	DAP Storage/ Shipping	22 Months	1/30/81	1/30/83

Upon request dated June 2, 1982, the Department extended the expiration dates of the four construction permits until December 31, 1985.

DER

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Agrico has chosen not to construct the sources pursuant to the permits, even though those permits have now been in effect for more than 5 years. There have been no technical problems which required Agrico to suspend construction. Rather, Agrico felt it was not in its best economic interest to commence construction. Agrico has also expressed to the department that it does not intend to commence construction until economic conditions are such that it will be in Agrico's interest to do so.

I find that Agrico has been granted a more than reasonable amount of time to construct the permitted facilities. Florida Administrative Code Rule 17-2.210(1) provides in part that "the construction permit shall be issued for a period of time sufficient to allow construction of the source and operation while the new or modified source is beginning operation and conducting tests..." The amount of time granted in the permits has been more than sufficient, given reasonable diligence, to complete those activities. In addition, 40 CFR 52.1,(r)(2) states, "approval to construct shall become invalid if construction is not commenced within 18 months after receipt of approval, if construction is discontinued for a period of 18 months or more, or if construction is not completed within a reasonable time." The Department does not consider a self imposed moratorium on construction based on economic decisions entirely in the control of the applicant to be valid grounds for a second extension of a permit, particularly in the absence of any intent to commence construction.

Having carefully considered Agrico's request for extension of its permits together with the factual background for the request, and being otherwise fully advised, it is therefore,

ORDERED that the request for further extension of permit Nos. AC53-34868, AC53-34861, AC53-34871 and AC53-34865 is DENIED.

Persons whose substantial interests are affected by the above agency action have a right, pursuant to Section 120.57, Florida Statutes, to petition for an administrative determination (hearing) on the action. The petition must conform to the

requirements of Chapter 17-103 and 28-5, Florida Administrative Code, and must be filed (received) with the Department's Office of General Counsel, 2600 Blair Stone Road, Tallahassee, Florida 32301, within fourteen (14) days of receipt of this notice. Failure to file a petition within the fourteen (14) days constitutes a waiver of any right such person has to an administrative determination (hearing) pursuant to Section 120.57, Florida Statutes.

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the proposed agency action. Persons whose substantial interests will be affected by any decision of the Department have the right to intervene in the proceeding. A petition for intervention must be filed pursuant to Model Rule 28-5.207, Florida Administrative Code, at least five (5) days before the final hearing and be filed with the Hearing Officer if one has been assigned at the Division of Administrative Hearings, Department of Administration, 2009 Apalachee Parkway, Tallahassee, Florida 32301. If no Hearing Officer has been assigned, the petition is to be filed with the Department's Office of General Counsel, 2600 Blair Stone Road, Tallahassee, Florida 32301. Failure to petition to intervene within the allowed time frame constitutes a waiver of any right such person has to an administrative determination (hearing) under Section 120.57, Florida Statutes.

DONE AND ORDERED this 11th day of ^{Feb}~~January~~, 1986, in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL REGULATION

FILING AND ACKNOWLEDGEMENT
FILED, on this date, pursuant to S120.52 (9),
Florida Statutes, with the designated Department
Clerk, receipt of which is hereby acknowledged.

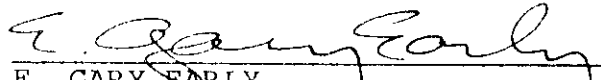
Peggy L. Blawie 2-12-86
Clerk Date

VICTORIA J. TSCHINKEL
Secretary

Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32301
Telephone: (904) 488-4805

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Order has been furnished by U.S. Mail to J.C. Lahman, Plant Manager, Agrico Chemical Company, Post Office Box 1969, Bartow, Florida 33830, this 13 day of January, 1986.


E. GARY EARLY
Senior Attorney

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL REGULATION

Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32301
Telephone: (904) 488-9730

DEPARTMENT OF ENVIRONMENTAL REGULATION

**ROUTING AND
TRANSMITTAL SLIP**

ACTION NO

ACTION DUE DATE

1. TO: (NAME, OFFICE, LOCATION)

Chair Nancy

Initial

Date

2.

D-306

2/14

Initial

Date

3.

~~Bill Davis~~; ~~Ed Hickey~~

Initial

Date

4.

~~Pradeep Raval~~; J. Le

Initial

Date

REMARKS:

*~~William~~
Pradeep: make sure SW district
received a copy.
Clair*

INFORMATION

Review & Return

Review & File

Initial & Forward

DISPOSITION

Review & Respond

Prepare Response

For My Signature

For Your Signature

Let's Discuss

Set Up Meeting

Investigate & Report

Initial & Forward

Distribute

Concurrence

For Processing

Initial & Return

DER

FEB 12 1986

BAQM

FROM:

E. Mary Early

DATE

2/12/86

PHONE

8-9730