UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VIII
999 18th STREET - SUITE 500
DENVER, COLORADO 80202-2466

May 21, 1998

Ref: 8P2-A

Lynn Menlove, Manager
New Source Review Section
Utah Division of Air Quality
P.O. Box 144820
Salt Lake City, UT 84114-4820

Re: Response to Request for Guidance in Defining Adjacent with Respect to Source Aggregation

Dear Mr. Menlove:

This is in response to your letter of January 15, 1998, to Mike Owens of my staff, requesting guidance and/or specific recommendations in the matter of Utility Trailer Manufacturing Company. For the purpose of determining if two Utility Trailer facilities should or should not be aggregated into a single source under Clean Air Act Title V and New Source Review permitting programs, you asked what is the specific physical distance associated with the definition of "adjacent." The word "adjacent" is part of the definition of "source" in the Utah SIP regulations, at R307-1-1. The SIP definition follows the Federal definition found in 40 CFR 51.166.

In brief, our answer is that the distance associated with "adjacent" must be considered on a case-by-case basis. This is explained in the preamble to the August 7, 1980 PSD rules, which says "EPA is unable to say precisely at this point how far apart activities must be in order to be treated separately. The Agency can answer that question only through case-by-case determinations." After searching the New Source Review Guidance Notebook, and after querying the other Regions and EPA's Office of Air Quality Planning and Standards, we have found no evidence that any EPA office has ever attempted to indicate a specific distance for "adjacent" on anything other than a case-by-case basis. We could not find any previous EPA determination for any case that is precisely like Utility Trailer, i.e., two facilities under common control, with the same primary 2-digit SIC code, located about a mile apart, both producing very similar products, but claimed by the company to be independent production lines.

Utah SIP regulations do not define "adjacent." The definition in the 1995 edition of Webster's New College Dictionary is: 1. Close to; nearby, or 2. Next to; adjoining. We realize this leaves considerable gray area for interpretation; however, since the term "adjacent" appears in the Utah SIP as part of the definition of "source," any evaluation of what is "adjacent" must relate to the guiding principle of a common sense notion of "source." (The phrase "common

sense notion" appears on page 52695 of the August 7, 1980 PSD preamble, with regard to how to define "source.") Hence, a determination of "adjacent" should include an evaluation of whether the distance between two facilities is sufficiently small that it enables them to operate as a single "source." Below are some types of questions that might be posed in this evaluation, as it pertains to Utility Trailer. Not all the answers to these questions need be positive for two facilities to be considered adjacent.

-- Was the location of the new facility chosen primarily because of its proximity to the existing facility, to enable the operation of the two facilities to be integrated? In other words, if the two facilities were sited much further apart, would that significantly affect the degree to which they may be dependent on each other?

-- Will materials be routinely transferred between the facilities? Supporting evidence for this could include a physical link or transportation link between the facilities, such as a pipeline, railway, special-purpose or public road, channel or conduit.

-- Will managers or other workers frequently shuttle back and forth to be involved actively in both facilities? Besides production line staff, this might include maintenance and repair crews, or security or administrative personnel.

-- Will the production process itself be split in any way between the facilities, i.e., will one facility produce an intermediate product that requires further processing at the other facility, with associated air pollutant emissions? For example, will components be assembled at one facility but painted at the other?

One illustration of this type of evaluation involved Great Salt Lake Minerals in Utah, which we wrote to you about on August 8, 1997, in response to your inquiry. (See enclosure #1.) We recommended, as EPA guidance, that you treat the two GSLM facilities as a single source (i.e., "adjacent"), despite the fact that they are a considerable distance apart (21.5 miles). We based that advice on the functional inter-relationship of the facilities, evidenced in part by a dedicated channel between them. We wrote that the lengthy distance between the facilities "is not an overriding factor that would prevent them from being considered a single source."

Another illustration is ESCO Corporation in Portland, Oregon, which operates two metal casting foundries (a "Main Plant" and a "Plant 3"), a couple of blocks apart. All castings produced by foundries at both facilities are coated, packaged and shipped at the "Main Plant". EPA Region 10 wrote to the State of Oregon on August 7, 1997 (see enclosure #2), that the guiding principle in evaluating whether the two facilities are "adjacent" is "the common sense notion of a plant. That is, pollutant emitting activities that comprise or support the primary product or activity of a company or operation must be considered part of the same stationary source." EPA determined that the two ESCO facilities must be considered a single major stationary source, since they function together in that manner, even though the Plant 3 foundry operates independently from the Main Plant foundry.

Another illustration is Anheuser-Busch in Fort Collins, Colorado, which operates a brewery and landfarm about six miles apart. A memo from OAQPS to our Regional Office, dated August 27, 1996 (see enclosure #3), stated that with regard to "contiguous or adjacent," the facilities should be treated as one source, due to their functional inter-relationship (landfarm as an integral part of the brewery operations), evidenced in part by a disposal pipeline between them. The fact that they are a considerable distance apart "does not support a PSD determination that the brewery proper and the landfarm constitute separate sources for PSD purposes."

Another illustration is Acme Steel Company, which operates an integrated steel mill consisting of coke ovens and blast furnaces at a site in Chicago, Illinois, along with basic oxygen furnaces, casting and hot strip mill operations at a site in Riverdale, Illinois, about 3.7 miles away. The blast furnace in Chicago produces hot metal that is transported via commercial rail to the BOF shop in Riverdale for further processing into steel. EPA Region 5 wrote to the State of Illinois on March 13, 1998 (see enclosure #4), that "Although the two sites are separated by Lake Calumet, landfills, I-94, and the Little Calumet River, USEPA considers that the close proximity of the sites, along with the interdependency of the operations and their historical operation as one source, as sufficient reasons to group these two facilities as one."

Therefore, in the matter of Utility Trailer, we recommend you evaluate, using questions such as those we posed above, whether the two facilities (one existing and one proposed for construction) will, in fact, operate independently of each other, as the company has claimed. Athough Utility Trailer writes that "The present facility is not capable of conversion to the new trailer manufacturing process," they also write that the existing facility is "an inefficient manufacturing process which has made this facility less cost-competitive." This suggests to us the possibility that the existing facility could become a support facility for the new one. The company should be advised that if the two facilities are later discovered by the State and/or EPA to be actually operating as a single major source, and no Title V or PSD permit applications have been submitted where required by regulation, the company could become subject to State or EPA enforcement action or citizen suit.

Finally, please be aware that if the facilities are treated as two separate sources, no emission netting between them can be allowed, to avoid major source NSR permitting at either facility, in the event of future facility modifications.

We hope this letter will be helpful. It has been written only as guidance, as it remains the State's responsibility to make source aggregation determinations under EPA-approved State programs and regulations. This letter has been reviewed by specialists at OAQPS, by our Office of Regional Counsel, and by Office of General Counsel at EPA Headquarters. We apologize for the delay in getting our response to you.

If you have questions, please contact Mike Owens. He is at at (206) 553-6511 until late June, after which he may be reached at (303) 312-6440.

Sincerely,

Richard R. Long
Director
Air Program

Enclosures (4)

cc: Rick Sprott, Utah DAQ
Scott Manzano, Utah DAQ
Jose Garcia, Utah DAQ

ATTACHMENT D

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 Broadway
New York, NY 10007-1866

October 11, 2000

Mr. John T. Higgins, P.E., Director
Bureau of Application Review and Permitting
Division of Air Resources
New York State Department of
Environmental Conservation
50 Wolf Road
Albany, New York 12233

Re: St. Lawrence Cement's (SLC's) Proposed Greenport Project and its Relationship with its Existing Catskill Facility Located 6 Miles Apart for the Purpose of New Source Review (NSR)/Prevention of Significant Deterioration of Air Quality (PSD) Applicability

Dear Mr. Higgins:

This is in response to the New York State Department of Environmental Conservation's (NYSDEC's) request for guidance regarding St. Lawrence Cement's (SLC's) pending permit application for its Hudson Valley Operation. SLC has expressed to NYSDEC and the Region 2 Office of the U.S. Environmental Protection Agency (EPA) its position as to why SLC's Catskill and Greenport facilities should be treated as one single source.

EPA's definition of a source is based on the "common sense" notion of a plant. See 45 Fed. Reg. 52676, 52695 (August 7, 1980). EPA has reviewed the information and arguments presented by SLC and Young, Sommer, Ward, Ritzenberg, Wooley, Baker & Moore, LLC (representing Friends of Hudson), to assess whether SLC's Catskill and Greenport facilities meet the "common sense" notion of a plant. As you are aware, such determinations are made on a case-by-case basis, and in some situations can require a careful weighing of the specific facts at hand to reach a conclusion. We recognize that with respect to the Catskill and Greenport facilities, the question of whether these two facilities comprise one or two sources is a difficult one. However, based upon this review, EPA Region 2, in coordination with our HQ's Office of Air Quality Planning and Standards and Office of General Counsel, has concluded that the best decision, in this particular case, is that the Catskill and Greenport facilities should be treated as two separate sources. Our reasoning is explained below.

Background

St. Lawrence Cement (SLC) has manufactured cement in the Hudson Valley of New York for over 25 years. SLC's current operations in the Hudson Valley consists of two facilities located on separate sides of the Hudson River approximately 6 miles apart: the Greenport facility located in the towns of Greenport and Hudson, NY and the Catskill facility located in Catskill, NY. SLC has proposed to modify its current cement manufacturing operations by shutting down its existing clinker manufacturing activities at the Catskill facility which utilizes the wet process and constructing a new, "technologically-advanced" facility at the Greenport facility which utilizes the dry process. The proposed project at the Greenport facility would include the following: the construction of a new cement plant in Greenport; the rehabilitation and expansion of SLC's existing Hudson River dock in the City of Hudson; the construction of a conveyor system connecting the Greenport plant to the dock; and the construction of a number of storage and other structures at the Greenport facility. The proposed new plant would manufacture up to 2.6 million tons of clinker per year.

SLC plans to shut down its existing plant for manufacturing clinker at the Catskill facility. However, SLC intends to continue limited operations at the Catskill facility consisting of: cement grinding; packaging; storage and shipping. In addition, SLC will continue to operate its existing landfill at Catskill to dispose of cement kiln dust.

Discussion

Since the NYSDEC has a PSD-delegated program, the federal definitions under 40 CFR 52.21 apply. 40 CFR Part 52.21(b)(5) defines "stationary source" as:

> ...any building, structure, facility, or installation which emits or may emit any air pollutant subject to regulation under the Act.

Furthermore, 40 CFR Part 52.21(b)(6) defines "building, structure, facility or installation," in pertinent part, as:

> ...all of the pollutant emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the "Major Group" (i.e., which have the same first two digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement....

Common Control

Because both the Greenport and Catskill facilities are wholly-owned and managed by SLC, these two facilities are under common control.

Industrial Grouping

In its permit application, SLC states that the Greenport and Catskill facilities currently have the same standard industrial classification (SIC) code of 3241 (Hydraulic Cement) which means "establishments primarily engaged in manufacturing hydraulic cement, including portland, natural, masonry, and pozzolana cements." Although it appears that the Greenport and Catskill facilities belong to the same industrial grouping at this time, there is some question whether the Catskill facility will continue to be classified as SIC code of 3241 once SLC shuts down the clinker manufacturing operations at the site. However, even assuming that the two facilities fall within different SIC codes, the Catskill facility could well be viewed as a support facility for the Greenport facility. Regardless, the SIC code is not a determining factor in this case because of the adjacency discussion that follows below.

Contiguous/Adjacent Location

Over the years, EPA has issued guidance in a number of cases regarding the question of whether two facilities should be considered contiguous or adjacent. As SLC has noted, there is no bright line, numerical standard for determining how far apart activities may be and still be considered "contiguous" or "adjacent." As explained in the preamble to the August 7, 1980 PSD rules, such a decision must be made on a case-by-case basis. Moreover, in further explaining this factor, EPA has noted that whether or not two facilities are adjacent depends on the "common sense" notion of a source and the functional inter-relationship of the facilities and is not simply a matter of the physical distance between the two facilities. However, the physical distance between two facilities is obviously a factor to be considered in deciding whether the two are close enough to be considered one source in a given situation.

The vast majority of the past EPA single-source decisions have involved operations that are situated less than 6 miles apart. Thus, the distance separating SLC's operations is distinctly farther than the majority of the past EPA single-source decisions. Where EPA has made single-source decisions in situations involving facilities separated by 6 or more miles, these cases have tended to involve a clear physical connection via a pipeline or dedicated conveyance. For example:

1. American Soda Commercial Mine and processing plant - Distance: approximately 35-40 miles, connected by a 44-mile long pipeline. (See April 20, 1999 letter from Richard R. Long, EPA Region 8, to Mr. Dennis Myers, Colorado Department of Public Health and Environment.)

2. Great Salt Lake Minerals plant and a pump station - Distance: 21.5 miles, connected by a dedicated channel or "pipeline." (See August 8, 1997 letter from Richard R. Long, EPA Region 8, to Lynn R. Menlove, Utah Department of Environmental Quality.)

3. Anheuser-Busch brewery and the Nutri-Turf, Inc. landfarm - Distance: approximately 6 miles apart, connected by a pipeline. (See August 27, 1996 letter from Robert Kellam, EPA OAQPS, to Richard R. Long, EPA Region 8.)

In each of these cases, although the facilities were separated by a number of miles, the two operations were physically connected by a pipeline or dedicated conveyance. We believe that this physical connection in these cases was a salient factor, demonstrating an integral connectedness between the facilities that led EPA to conclude that the facilities operated as one source. In the case of SLC, the two facilities are located approximately 6 miles apart, there is no pipeline or dedicated conveyance between the two operations, and the two facilities are separated by the Hudson River.

In this particular case, EPA has weighed the information before it and concluded that the two facilities are not close enough to be considered one source under the circumstances for purposes of NSR/PSD. No one factor was determinative in reaching this conclusion. Rather, we took into account a number of factors specific to the case at hand. As noted above, the two SLC facilities are located a greater distance from one another than many of the facilities which EPA has considered to be adjacent or contiguous. Although EPA has found facilities located 6 or more miles apart to be one source in a limited number of cases based on the specific circumstances of those cases, the actual physical connection between the facilities in those cases tends to suggest a high degree of functional interrelationship. Although a physical connection such as a dedicated pipeline is absent here, EPA did consider whether there were additional factors showing a functional relationship between the two facilities such that the two could be considered close enough to operate as one source. Specifically, it appears that cement kiln dust from the Greenport facility will be disposed of at the waste disposal operation at the Catskill facility, and that SLC expects to operate the two facilities in such a way as to create some functional interrelationship between them. However, given the six miles and the Hudson River separating the two facilities, it is EPA's opinion that SLC's somewhat generalized explanation of a limited functional interrelationship between the two facilities does not outweigh the evidence that the two facilities do not meet the "common sense" notion of a single plant.

Conclusion

Based on the totality of the above factors, we have concluded that SLC's Catskill and Greenport facilities do not meet the "common sense" notion of a single source and that they

should be treated as two separate facilities when NYSDEC conducts its NSR and PSD applicability determination, and Title V permitting. This letter is not a final agency action on the part of EPA. Rather, we hope that it will assist the state to properly carry out its applicability review of SLC's PSD permit application.

If you have any questions, please call me at (212) 637-4074 or Frank Jon, of my staff, at (212) 637-4085.

Sincerely yours,

/s/

Steven C. Riva, Chief
Permitting Section
Air Programs Branch

cc: Thomas S. West, Attorney
LeBoeuf, Lamb, Greene & MacRae, L.L.P.

Leon Sedefian, NYSDEC - Albany

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue
Seattle, WA 98101

October 5, 1999

Reply To
Attn Of: OAQ-107

MEMORANDUM

SUBJECT: EPA Determination Regarding the Consistency of the Elmendorf ENVVEST/XL Project Proposal and EPA's Guidance for Military Installations

FROM: David C. Bray, Senior Air Pollution Scientist
Office of Air Quality, Region 10

TO: Elmendorf ENVVEST/XL Project Team

The Elmendorf ENVVEST/XL Project proposes to consider the Base as eleven (11) separate stationary sources for purposes of Title V permitting. EPA has reviewed the proposal and has determined that it is consistent with EPA's guidance regarding "Major Source Determinations for Military Installations under the Air Toxics, New Source Review, and Title V Operating Permit Programs of the Clean Air Act (Act)," dated August 2, 1996.

Under the August 2, 1996 guidance, military installations may consider pollutant-emitting activities that are under the control of different military services *not* to be under common control and therefore treated as separate stationary sources. Similarly, leased activities at military installations may be considered to be under separate control from activities under the control of the military controlling entities and therefore treated as separate sources. More importantly, pollutant emitting activities under the control of a military service may be identified and distinguished in the same way that industrial and commercial sources are distinguished. That is, "industrial groupings" at a military installation may be assigned an appropriate 2-digit SIC code (as if they were non-military facilities) and classified into "primary" and "support" activities. As is done with non-military sources, support activities would be aggregated with their associated primary activity regardless of dissimilar 2-digit SIC codes. However, in accordance with EPA guidance on support activities, a support activity may be considered to be a separate source, in and of itself, if it does not provide more than 50% of its output to any single primary activity.

The attached document, prepared by the Air Force and EPA, describes the 11 primary and support activities which currently comprise the Elmendorf Air Force Base. Nine of these activities are under the control of the Air Force; one is under the control of the House Armed Services Committee, and one is a contract-for-service asphalt batch plant that works for all of the military entities and tenant organizations on the Base and is not under the control of any single entity. EPA has determined that the proposed categorization of pollutant-emitting activities within the Base is consistent with EPA's guidance for military installations and that the Elmendorf Base may be treated as eleven separate sources for Title V permitting purposes.

Attachment

Controlling Entities and Standard Industrial Classification (SIC) Code Divisions for Elmendorf AFB

The current Alaska operating permit program would treat the entire Elmendorf Air Force Base as a single air contaminant emission source for the purpose of determining if a state-issued Clean Air Act Title V permit is required. The 1996 Base emissions inventory, prepared by a contractor in support of the Base's Title V permit application, lists 106 sources of regulated air pollutant emissions that would need to be addressed in the permit.

EPA released a policy document, entitled "Major Source Determinations for Military Installations under the Air Toxics, New Source Review, and Title V Operating Permit Programs for the Clean Air Act" ("Major Source Guidance"), dated August 2, 1996. This Major Source Guidance recognizes that military installations possess unique characteristics warranting flexibility in major source determinations. The Major Source Guidance allows military installations to divide by military controlling entities, and within a controlling entity, into functionally distinct emitting activities. The activities can be classified as either primary or support activities. To that end, the Base has utilized the Major Source Guidance to divide the 106 emission sources into eleven functionally distinct emitting activities based on the controlling entities and the Standard Industrial Classification (SIC) Code manual.

ACTIVITIES UNDER THE CONTROL OF ENTITIES OTHER THAN THE AIR FORCE

SIC Code 55, Gasoline Service Station

The Gasoline service station is operated by the Army Air Force Exchange Service (AAFES), a part of the House Armed Services Committee, and is not under the control of the Air Force or even the Department of Defense. The station is open to all active duty and retired military, reserve, national guard, and coast guard members in the Anchorage area. There are roughly 6,675 active duty military members assigned to Elmendorf AFB and approximately 9,000 retired military in the local area.

SIC Code 16, Contract Street Construction (Asphalt Batch Plant)

The asphalt batch plant is owned and operated by a private contractor. It operates on a contract-for-service basis and performs work for all of the military entities and tenant organizations on the Base. While it is allowed by the Air Force to reside within the boundaries of the Base, it is not under the control of the Air Force.

ACTIVITIES UNDER THE CONTROL OF THE AIR FORCE

The following primary and support SIC codes were used to divide the activities under the control of the Air Force:

SIC CODE	Type of Activity
45, Flight Line	Primary
48, Communications	Primary
80, Health Service	Primary
87, Admin/Engineering	Primary
97, National Security	Primary
49, Power Plant	Support
65, Real Estate	Support
75, Automotive Repair	Support
92, Safety/Fire Prevention	Support

PRIMARY ACTIVITIES

SIC Code 45, Flight Line

The flight line is considered a primary activity. The emission sources for the flight line grouping are those directly associated with flight operations and maintenance. The purpose of these sources is to allow Elmendorf AFB to accomplish its mission of conducting aircraft flight operations. Included in the SIC code division are sources such as boilers used for heating hangers and spray booths for painting of aircraft parts. Flight line operations are one of the fundamental defense functions performed of Elmendorf AFB.

SIC Code 48, Communications

Communications are considered a primary activity. The emission sources listed under this SIC Code primarily exist for communication functions such as satellite communications, Electronic Security and intelligence functions that are located on the installation. These missions and the sources associated with them could be located elsewhere; therefore, this SIC code division is considered a primary activity.

SIC Code 80, Health Service

Health Services is considered a primary activity. The mission of the hospital is to provide centralized expert health care to military members throughout the Pacific Rim. The location of the hospital on Elmendorf AFB is incidental to its ability of perform its mission. The independent nature of this activity warrant its designation as a primary activity.

SIC Code 87, Admin/Engineering

Administration and Engineering is considered a primary activity. The emission sources

listed under this SIC code support "Command and Control" for the Alaska Command "ALCOM". The ALCOM Commander has the responsibility for directing the activities of all North American military forces in the Pacific theater to include the Canadian military. Elmendorf AFB houses these facilities for the DOD/Air Force command structure. These facilities could easily operate independently of Elmendorf AFB to meet their mission responsibilities. Their function is somewhat like that of a small Pentagon. Because the sources associated with this SIC code can be performed independent of the installation boundary, they are considered as primary.

SIC Code 97, National Security

National Security is considered a primary activity. The emission sources listed under this SIC code are primarily from activities for which no other appropriate SIC code exists, for example, recycling of CFC refrigerants and asbestos remediation and removal. In accordance with the Major Source Guidance, these activities do not correlate to any other functional activity, and are considered as one of the primary activities for Elmendorf AFB.

SUPPORT ACTIVITIES

SIC Code 65, Real Estate

Real estate is considered a support activity. The emission sources listed under this SIC code provide service to military family housing. On Elmendorf AFB, military family housing provides support to active duty military personnel and their families from the US Air Force, Army, and Navy, as well as Canadian military members assigned to the base.

With an assumed equal distribution of housing unit, at the most only 44 percent of the units on Elmendorf AFB would be occupied by personnel that support the flight line. Additionally, there are several tenant organizations as well as members from other services that reside in base housing. The dynamics of residency include the service member's rank, family size, and date of assignment to Elmendorf AFB. These changes will cause slight variations in the percentages over time but no attempt is made to control which military members working to support any one activity have access to base housing.

With the number of military members distributed among a range of functional activities, it is unlikely that housing supports any one SIC code activity with greater than 50 percent of its service.

SIC Code 75, Automotive Repair

Automotive Repair is considered a support activity. This SIC code provides service to the entire base fleet of government vehicles. The services are also provided to tenant organizations. Roughly 31 percent of the base fleet (including leased vehicles) are assigned to support engineering and administration. Another 25 percent of the fleet directly support the flight line. No single activity has a 50 percent majority of vehicles on base which use the services provided by this SIC code source division.

SIC Code 92, Safety/Fire Prevention

Safety and fire prevention are considered a support activity. The services provided by the fire department are equally distributed in support of all SIC codes on Elmendorf. The fire department will respond to fire emergencies across the base population. Responsibilities include housing fires, structural fires for all Elmendorf AFB (3rd Wing) and tenant organizations on base, as well as flight line emergencies. Elmendorf AFB has an extremely varied population and a wide range of real estate usage. The base is, in essence, a small city with industrial areas, retail shops and services, as well as housing and recreation areas. Fire and safety services are not provided to or support any individual activity with more than 50 percent of their service.

SIC Code 49, Power Plant

Power Production is considered a support activity. Elmendorf AFB has performed an analysis to determine that the "product" provided by this activity does not support more than 50 percent of any one of the other SIC code activities.

SIC Code	Percentage of Power from CH&PP
45, Flight Line	14
48, Communications	3
80, Health Services	17
87, Admin/Engineering	26
97, National Security	2
65, Real Estate	33
75, Automotive Repair	4
92, Safety/Fire Prevention	<1
49, Power Plant	1