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MAY 18 2005

BUREAU OF AIR REGULATION

May 16, 2005

0437576

Florida Department of Environmental Protection
Department of Air Resources Management
2600 Blair Stone Road, MS 5500
Tallahassee, FL 32399-2400

Attention: Mr. Jeffery Koerner, P. E.

RE: UNITED STATES SUGAR CORPORATION (U.S. SUGAR)
REQUEST TO COMBINE CLEWISTON AND BRYANT MILLS INTO A SINGLE
MAJOR FACILITY
FACILITY ID NOS. 0510003 AND 0990061

Dear Mr. Koerner:

The purpose of this letter is to request that the United States Sugar Corporation (U.S. Sugar) Clewiston and Bryant Mills be combined into a single facility for purposes of Title V and prevention of significant deterioration (PSD) new source review (NSR). These two facilities, although currently permitted as two individual facilities, are under common ownership, are under the same two-digit Standard Industrial Classification (SIC) code, and are located contiguous or adjacent to each other. Further, the two facilities are interrelated and have interdependence.

Attached are the results of researching the U.S. Environmental Protection Agency (EPA) rules and guidance memorandums on the subject of combining two facilities for purposes of Title V and PSD permitting, as well as the Florida Department of Environmental Protection (FDEP) rules. Supportive documentation is attached. In the case of the Clewiston and Bryant sugar mills, there is a clear "tie" (railroad line) and "dependence" (raw sugar and bagasse shipped from the Bryant Mill to the Clewiston Mill, sugarcane shipped from the Clewiston sugarcane fields to the Bryant Mill, and sharing of personnel), that would allow these two Mills to be designated as a single source (facility) at this time.

As you, know, U.S. Sugar has announced the closing of the Bryant Mill, effective April 2007. The Mill will be shutdown, dismantled, and then used as a railroad staging facility. All of the sugarcane processing now conducted at Bryant would be moved to Clewiston.

It is intended to relocate Boiler No. 5 from Bryant to Clewiston. The boiler will be derated from its current operating rate in order to improve performance of the boiler. It will primarily be used as a base-loaded boiler to allow the other boilers at the Clewiston Mill to operate at a lower, more efficient operating rate (i.e., approx. 80 percent of maximum load as opposed to 100 percent of maximum load).



The consolidation of the Clewiston and Bryant Mills into a single mill at Clewiston is expected to have the following effects.

Improved Air Quality

Three existing, older boilers now operating at Bryant would shutdown, while the fourth boiler (Boiler No. 5) would be relocated to Clewiston. The amount of sugarcane processed between Bryant and Clewiston, totaling about 6.9 million tons, would not change. However, the sugarcane will be processed more efficiently at the consolidated Clewiston Mill, using boilers with lower emissions. In order to estimate the net improvement in air quality, a comparison of current and future emissions was performed.

A comparison of potential emissions for the two separate facilities (current conditions) and those from the consolidated facility is presented in Table 1. As shown, there is estimated to be a net decrease in the potential future emissions for all pollutants. The decrease is significant for all pollutants, with the most dramatic decrease in emissions of carbon monoxide (CO). This is a direct result of the consolidated facility's use of more modern boilers.

The derivation of the current potential emissions from the two separate facilities is contained in Appendix A, Tables A-1 and A-2. The potential emissions were, in general, obtained from the facility's current Title V operating permits, as well as any current construction permits that have not yet been incorporated into the Title V permits.

The derivation of the future potential emissions from the consolidated Clewiston facility is contained in Appendix A, Table A-3. The potential emissions were, in general, the same as those for the current Clewiston facility, but with the inclusion of the relocated Bryant Boiler No. 5 (Boiler No. 9 at Clewiston). The Clewiston Boiler No. 9 is expected to have improved combustion controls and therefore improved emissions compared to the relocated Boiler No. 5 at Bryant. Also note that the existing diesel generator units at Clewiston will be shutdown as part of the consolidation.

A comparison of actual emissions for the two separate facilities (current conditions) and those expected from the consolidated facility is presented in Table 2. As shown, there is estimated to be a net decrease in the future actual emissions of the consolidated Clewiston facility for all pollutants except nitrogen oxides (NO_x). For NO_x there is a slight increase projected of 142 tons per year (TPY). This is a result of the improved combustion in the Clewiston boilers, which results in higher NO_x emissions.

The derivation of the current actual emissions from the two separate facilities is contained in Appendix A, Tables A-4 and A-5. The current actual emissions were obtained from the facility's Annual Operating Reports (AORs) submitted to FDEP. Also shown in the tables are the actual steam production and heat input for the boilers.

The derivation of the future actual emissions from the consolidated Clewiston facility is contained in Appendix A, Table A-6. Shown in this table are the current actual emissions from the Clewiston Mill, along with the average pounds of pollutant emitted per thousand pounds of steam generated (lb/1,000 lb steam) for each boiler. These ratios were used to project the future actual emissions for Boiler Nos. 1, 2, 4, and 7. For Boiler No. 8, recent initial compliance testing on the boiler was used to generate the lb pollutant/1,000 lb steam ratios. For Boiler No. 9, the ratios were based on the expected future emissions from the relocated Boiler No. 5.

In order to project the future actual emissions, it was assumed that the current ratio of pounds of steam per ton of sugarcane ground would apply in the future as well. This is a conservative assumption since the milling improvements implemented as part of the consolidation should decrease the amount of steam required per ton of sugarcane ground. Based on this assumption, approximately 4 million tons of steam will be required to grind and process 6.9 million tons of sugarcane (this includes the refinery operations as well). This total amount of steam was apportioned to the future boilers based approximately on their nominal future steaming rates.

In summary, the consolidated Clewiston Mill is expected to exhibit lower actual emissions than the current separate mills (except for NO_x), while processing the same total amount of sugarcane. Overall, total potential pollutant emissions will decrease by about 28,000 TPY, while total actual pollutant emissions are expected to decrease by about 7,700 TPY.

Affect on Title V Fees

Title V fees are calculated on the basis of allowable emission limits and actual operating data. Annual fees are based on \$25/ton of pollutant emitted, up to maximum of 4,000 TPY for each pollutant (\$125,000 per year per pollutant).

In 2004, Clewiston paid approximately \$70,000 in fees, while Bryant paid about \$111,000. No individual pollutant approached the \$125,000 cap. These fees will continue to be paid on an annual basis. When Bryant is closed, the combined annual fees will be reduced somewhat due to the lower allowable emissions for some pollutants (reflective of the improvement in air quality).

Affect on Past PSD Permitting

If the two facilities had been permitted as one facility in the past, additional permitting or PSD NSR review would not have been triggered. This is because no changes have been made to the boilers at Bryant that would have resulted in a modification or triggered PSD review. The Clewiston Mill has undergone a number of PSD permitting projects, which have included Boiler No. 4, the sugar refinery, Boiler No. 7, and Boiler No. 8.

Other Environmental Effects

Several additional environmental effects will result from consolidating the two facilities. These include:

- A reduction in solid waste (ash) generated due to improved combustion efficiency in the boilers at Clewiston, which results in less ash generation.
- Reduction in boiler scrubber water usage for the consolidated facility versus the two separate facilities.
- Reduction in wastewater generation for the consolidated facility versus the two separate facilities.
- Elimination of truck traffic due to bagasse transport from Bryant to Clewiston (approx. 90,000 TPY, equivalent to about 4,500 truck trips per year).

Over the past 10 years, U.S. Sugar has implemented several environmental air quality-related improvements at the Clewiston Mill, at significant expense to U.S. Sugar. This includes:

- Building two state-of-the art bagasse-fired boilers with modern air pollution controls, including: electrostatic precipitators (ESPs) for particulate matter (PM) control; modern combustion furnaces with underfire/overfire air systems, with significantly lower CO, volatile organic compound (VOC) and organic hazardous air pollutant (HAP) emissions; and

a selective non-catalytic reduction (SNCR) system for NO_x control (implemented on one boiler).

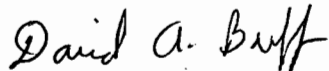
- Installing new No. 2 fuel oil burners on all boilers and utilizing fuel oil with a maximum sulfur content of 0.05 percent (project will be completed later this year).
- Increasing the stack heights on three existing boilers to lower air quality impacts.

U.S. Sugar is planning additional improvements to two existing boilers at Clewiston, to be implemented in the near future (air permit applications expected in the fall of 2005). These improvements should result in lower emissions from these boilers.

In summary, we believe the consolidation of the Bryant and Clewiston Mills will have significant benefits in terms of efficiency of processing operations and reduction in overall environmental impacts. We request your consideration that these two facilities be considered as a single facility for purposes of Title V and PSD permitting. Please call or e-mail me if you have any questions concerning this request.

Sincerely,

GOLDER ASSOCIATES INC.



David A. Buff, P.E., Q.E.P.
Principal Engineer

DB/nav

Enclosures

cc: Don Griffin
Peter Briggs
Ron Blackburn, DEP

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Table 1. Comparison of Current Potential Emissions to Future Potential Emissions (TPY) -
Clewiston and Bryant Mills

Pollutant	Current Potential (TPY)			Future Potential	Net Change
	Clewiston	Bryant	Total	Clewiston (TPY)	
PM	1,409	978	2,387	1,740	(647)
PM ₁₀	1,320	909	2,229	1,628	(602)
SO ₂	881	1,165	2,046	988	(1,058)
NO _x	2,053	1,523	3,576	2,341	(1,235)
VOC	4,176	4,631	8,806	4,837	(3,969)
CO	38,779	24,008	62,787	42,085	(20,702)
				Total =	(28,213)

Note: TPY = tons per year.

Table 2. Comparison of Current Actual Emissions to Future Actual Emissions- Clewiston and Bryant Mills

	Current Actuals			Future Actuals	Net Change
	Clewiston	Bryant	Total	Clewiston	
<u>Pollutant (TPY)</u>					
PM	496	318	813	766	(47)
PM ₁₀	460	295	756	728	(28)
SO ₂	187	99	286	269	(17)
NO _x	686	441	1,127	1,269	142
VOC	860	1,039	1,899	1,473	(427)
CO	17,471	11,839	29,309	21,977	(7,332)
				Total =	(7,709)
Steam Production (TPY)	2,084,001	1,385,580	3,469,581	4,036,417	566,836
Total Heat Input (MMBtu/yr)	8,800,878	5,579,451	14,380,329		
Sugarcane Processed (TPY)	3,562,467	3,240,835	6,803,302	6,900,000	96,698

APPENDIX A

Table A-1. Clewiston Mill Current Potential Emissions (TPY)

Pollutant	Crop Season (210 days)					Off-Season (155 days)					Sugar		Total
	Boiler 1 ^a	Boiler 2 ^a	Boiler 4 ^a	Boiler 7 ^a	Boiler 8 ^b	Boiler 1 ^a	Boiler 2 ^a	Boiler 4 ^a	Boiler 7 ^a	Boiler 8 ^b	Refinery	DG1&2	
PM	311.9	281.6	216.0	55.8	59.0	230.2	207.9	--	--	25.6	21.4	--	1,409
PM ₁₀	290.0	261.9	200.9	55.8	59.0	214.1	193.3	--	--	23.8	21.4	--	1,320
SO ₂	74.8	67.6	86.4	316.4	141.5	55.2	49.9	--	--	61.5	2.0	25.5	881
NO _x	199.6	180.2	288.0	465.5	330.2	147.3	133.0	--	--	143.5	13.0	152.9	2,053
VOC	873.2	788.5	720.0	394.1	117.9	644.5	582.0	--	--	51.2	4.4	--	4,176
CO	8,108	7,322	9,360	1,301	896.3	5,985	5,404	--	--	389.4	13.0	--	38,779

^a Title V Permit No. 0510003-017-AV issued October 18,2004.

SO₂ for Boiler Nos. 1, 2 and 4 reflect 0.05% sulfur oil, which results in bagasse having the highest SO₂ emissions @ 0.06 lb/MMBtu.

^b Permit no. 0510003-024-AC/PSD-FL-333A, issued 11/04/2004.

Table A-2. Bryant Mill Current Potential Emissions (TPY)

Pollutant	Crop Season (210 days)				Total
	Boiler 1 ^a	Boiler 2 ^a	Boiler 3 ^a	Boiler 5 ^a	
PM	274.4	274.4	274.4	154.3	978
PM ₁₀	255.2	255.2	255.2	143.5	909
SO ₂ ^b	359.5	359.5	359.5	86.2	1,165
NO _x	411.6	411.6	411.6	288.0	1,523
VOC	1372.1	1372.1	1372.1	514.2	4,631
CO	5,946	5,946	5,946	6,170	24,008

^a Title V Permit No. 0990061-005-AV issued May 21, 2001. Based on 4,752 hr/yr operation.

^b Based on application for Title V revision, April 2004. Reflects 0.7% sulfur fuel oil.

Table A-3. Clewiston Mill Future Potential Emissions (TPY)

Pollutant	Crop Season (210 days)						Off-Season (155 days)						Sugar Refinery	Total
	Boiler 1 ^a	Boiler 2 ^a	Boiler 4 ^a	Boiler 7 ^a	Boiler 8 ^b	Boiler 9 ^c	Boiler 1 ^a	Boiler 2 ^a	Boiler 4 ^a	Boiler 7 ^a	Boiler 8 ^b	Boiler 9 ^c		
Pollutant (TPY)														
PM	311.9	281.6	216.0	55.8	59.0	190.2	230.2	207.9	--	--	25.6	140.4	21.4	1,740
PM10	290.0	261.9	200.9	55.8	59.0	176.9	214.1	193.3	--	--	23.8	130.6	21.4	1,628
SO ₂	74.8	67.6	86.4	316.4	141.5	76.1	55.2	49.9	--	--	61.5	56.2	2.0	988
NO _x	199.6	180.2	288.0	465.5	330.2	253.6	147.3	133.0	--	--	143.5	187.2	13.0	2,341
VOC	873.2	788.5	720.0	394.1	117.9	380.5	644.5	582.0	--	--	51.2	280.8	4.4	4,837
CO	8,108	7,322	9,360	1,301	896.3	1902.3	5,985	5,404	--	--	389.4	1404.1	13.0	42,085

TPY = tons per year

^a Title V Permit No. 0510003-017-AV, issued October 18, 2004.

SO₂ for Boiler Nos. 1, 2 and 4 reflect 0.05% sulfur oil, which results in bagasse having the highest SO₂ emissions @ 0.06 lb/MMBtu.

^b Permit no. 0510003-024-AC/PSD-FL-333, issued November 4, 2004.

^c Based on projected emissions from Bryant Boiler No. 5 relocated to Clewiston.

Table A-4. Bryant Mill Current Actual Emissions (TPY)

	Boiler 1	Boiler 2	Boiler 3	Boiler 5	Diesel Generators 1&2	Total	
Pollutant (TPY)	<u>2004</u>						
PM	63.5	66.3	74.3	74.7	0.56	279.4	
PM ₁₀	59.1	61.6	69.1	69.5	0.47	259.8	
SO ₂	30.4	28.4	29.7	2.3	2.72	93.5	
NO _x	110.5	112.7	91.5	114.1	14.52	443.3	
VOC	116.0	391.2	378.2	478.7	0.51	1,364.6	
CO	1,555	2722.8	3,123	3,949	4.76	11,354.0	
Steam Production (TPY)	315,738	289,544	306,491	425,001		1,336,773	
Total Heat Input (MMBtu/yr)	1,198,767	1,114,588	1,179,633	1,867,327		5,360,315	
Pollutant (TPY)	<u>2003</u>						
PM	74.7	63.4	85.8	131.5	0.48	355.9	
PM ₁₀	69.5	59.0	79.8	122.3	0.41	331.0	
SO ₂	32.4	32.2	34.0	2.8	2.35	103.8	
NO _x	109.8	84.0	138.7	92.8	12.70	438.0	
VOC	73.8	240.5	156.7	242.0	0.44	713.4	
CO	1,641	3069.3	3,460	4,150	4.11	12,323.6	
Steam Production (TPY)	332,933	319,753	334,753	446,950		1,434,388	
Total Heat Input (MMBtu/yr)	1,266,079	1,256,739	1,311,962	1,963,807		5,798,587	
Pollutant (TPY)	<u>2003-2004 Average</u>					<u>Average</u>	<u>lb/1000 lb steam</u>
PM						317.6	0.229
PM ₁₀						295.4	0.213
SO ₂						98.6	0.071
NO _x						440.7	0.318
VOC						1,039.0	0.750
CO						11,838.8	8.544
Steam Production (TPY)						1,385,580	
Total Heat Input (MMBtu/yr)						5,579,451	

Table A-5. Clewiston Mill Current Actual Emissions (TPY)

	Boiler 1	Boiler 2	Boiler 3	Boiler 4	Boiler 7	Sugar Refinery	Diesel Gens. 1&2	Total
2004								
Pollutant (TPY)								
PM	110.4	99.9	54.2	204.1	24.6	12.9	0.14	506
PM ₁₀	102.3	92.5	50.2	189.8	22.8	12.8	0.12	471
SO ₂	39.3	63.6	38.5	7.2	25.9	0.9	0.66	176
NO _x	70.1	76.5	52.1	113.1	331.5	9.7	3.96	657
VOC	149.0	155.5	55.5	403.1	56.5	3.8	0.13	824
CO	4,127.4	6,194.1	1,359.4	4,034.8	973.4	9.7	1.21	16,700
Steam Production (TPY)	312,772	316,576	152,591	497,390	784,445			2,063,773
Total Heat Input (MMBtu/yr)	1,292,061	1,342,282	618,541	2,187,917	3,283,687			8,724,488
2003								
Pollutant (TPY)								
PM	117.0	159.4	45.7	124.4	23.9	13.5	0.85	485
PM ₁₀	108.4	147.8	42.2	115.6	21.9	13.3	0.71	450
SO ₂	45.1	70.3	40.7	5.9	31.6	1.3	3.91	199
NO _x	75.5	91.4	57.8	138.9	317.5	11.4	23.35	716
VOC	157.2	192.6	62.8	430.2	49.0	4.3	0.76	897
CO	4,354.8	7,670.6	1,538.6	3,812.4	846.7	11.4	7.18	18,242
Steam Production (TPY)	332,542	387,332	162,348	460,774	761,233			2,104,228
Total Heat Input (MMBtu/yr)	1,373,731	1,640,891	664,294	2,011,831	3,186,521			8,877,268
2003-2004 Average								
Pollutant (TPY)								
PM	113.7	129.6	49.9	164.3	24.2	13.2	0.5	496
PM ₁₀	105.4	120.1	46.2	152.7	22.4	13.0	0.4	460
SO ₂	42.2	66.9	39.6	6.5	28.7	1.1	2.3	187
NO _x	72.8	84.0	55.0	126.0	324.5	10.5	13.7	686
VOC	153.1	174.1	59.2	416.6	52.8	4.1	0.4	860
CO	4,241.1	6,932.3	1,449.0	3,923.6	910.0	10.5	4.2	17,471
Steam Production (TPY)	322,657	351,954	157,469	479,082	772,839			2,084,001
Total Heat Input (MMBtu/yr)	1,332,896	1,491,587	641,418	2,099,874	3,235,104			8,800,878

Table A-6. Determination of Clewiston Mill Future Actual Emissions

Pollutant (TPY)	Clewiston Current Actuals								Clewiston Future Actuals									
	Boiler 1	Boiler 2	Boiler 3	Boiler 4	Boiler 7	Sugar Refinery	Diesel Gens. 1 & 2	Total	Boiler 1	Boiler 2	Boiler 3	Boiler 4	Boiler 7	Boiler 8	Boiler 9	Sugar Refinery	Diesel Gens.	Total
PM	113.7	129.6	49.9	164.3	24.2	13.2	0.5	496	142.3	148.7	0	207.6	24.0	25.4	204.6	13.2	0	766
PM ₁₀	105.4	120.1	46.2	152.7	22.4	13.0	0.4	460	131.8	137.8	0	193.0	22.2	25.4	204.6	13.0	0	728
SO ₂	42.2	66.9	39.6	6.5	28.7	1.1	2.3	187	46.8	46.8	0	8.3	28.5	55.7	81.8	1.1	0	269
NO _x	72.8	84.0	55.0	126.0	324.5	10.5	13.7	686	91.1	96.3	0	159.2	322.0	317.3	272.7	10.5	0	1,269
VOC	153.1	174.1	59.2	416.6	52.8	4.1	0.4	860	191.5	199.6	0	526.5	52.4	27.9	470.7	4.1	0	1,473
CO	4,241.1	6,932.3	1,449.0	3,923.6	910.0	10.5	4.2	17,471	5,305.5	7,950.4	-	4,958.6	903.1	804.1	2,044.9	10.5	0	21,977
Steam Prod. (lb/hr)									175,000	175,000	-	260,000	330,000	500,000	276,000			1,716,000
Percent of Total Steam Production									0.10	0.10		0.15	0.19	0.30	0.16			1.00
Total Heat Input (MMBtu/yr)	322,657	351,954	157,469	479,082	772,839	-	-	2,084,001	403,642	403,642	-	605,463	766,919	1,210,925	645,827			4,036,417
Sugarcane Processed (TPY)								3,562,467										6,900,000
Emissions (lb/1000 lb steam)																		
PM	0.352	0.368	0.317	0.343	0.031				0.352	0.368	-	0.343	0.031	0.021	0.317 ^a			
PM ₁₀	0.327	0.341	0.293	0.319	0.029				0.327	0.341	-	0.319	0.029	0.021	0.317 ^a			
SO ₂	0.131	0.190	0.251	0.014	0.037				0.116	0.116	-	0.014	0.037	0.046	0.127 ^a			
NO _x	0.226	0.239	0.349	0.263	0.420				0.226	0.239	-	0.263	0.420	0.262	0.422 ^a			
VOC	0.475	0.495	0.376	0.870	0.068				0.475	0.495	-	0.870	0.068	0.023	0.729 ^a			
CO	13.144	19.697	9.202	8.190	1.178				13.144	19.697	-	8.190	1.178	0.664	3.166 ^a			

^a Based on projected maximum emissions from Bryant Boiler No. 5 relocated to Clewiston.

Note: Future actual SO₂ emissions in lbs/1000 lb steam for Boiler Nos. 1 and 2 were adjusted to reflect burning 0.05% S fuel oil in the future, i.e., max emissions due to bagasse firing @ 0.06 lb/MMBtu.

**DOCUMENTATION ON COMBINING THE
CLEWISTON AND BRYANT MILLS
INTO A SINGLE MAJOR SOURCE**

U.S. SUGAR CORPORATION
COMBINING THE CLEWISTON AND BRYANT MILLS
INTO A SINGLE MAJOR SOURCE

Introduction

United States Sugar Corporation (USSC) is requesting to combine the Clewiston and Bryant Mills into a single stationary source as defined under New Source Review (NSR) and Title V regulations. Currently, each mill is treated as a separate source and has its own Title V permit. This request is based on a review of the Florida Department of Environmental Protection (FDEP) and U.S. Environmental Protection Agency (EPA) regulations and EPA policy and guidance memorandums and letters regarding the definition of source published by EPA, as well as historical determinations in the State of Florida. The EPA database is maintained by EPA Region VII in Kansas City, Missouri.

Background

The locations of the Clewiston Mill and Bryant Mill are shown in Figure 1. The sugarcane fields owned by USSC are also shown in this figure.

The Clewiston Mill (Facility ID No. 0510003) is located at W.C. Owens Avenue and State Road (SR 832), Clewiston, Hendry County. The facility processes sugarcane into raw sugar. A sugar refinery processes the raw sugar into refined sugar. Steam for this operation is provided by five boilers that burn bagasse, with No. 6 (residual) fuel oil and No. 2 (distillate) fuel oil used as a supplemental fuel. Bagasse, which is the remaining fiber of the sugarcane stalk after the sugarcane has been ground in the mills, is produced as a co-product of the sugarcane processing operations. There are additional emissions units located at the Clewiston Mill, including two diesel electric generators, three fuel storage tanks, and a lime silo.

The Standard Industrial Classification (SIC) codes for the Clewiston facility are 2061 and 2062. The SIC code of 2061 is for establishments primarily engaged in manufacturing raw sugar, syrup, or finished (granulated or clarified) cane sugar from sugarcane. The SIC code of 2062 is for establishments primarily engaged in refining sugar from purchased raw cane sugar or sugar syrup.

The Bryant Mill (Facility ID No. 0990061) is located at Bryant Mill Road off U.S. Highway 98, Palm Beach County. This facility performs the same function as the Clewiston Mill, i.e., the facility processes sugarcane into raw sugar. Steam for this operation is furnished by four boilers that burn

bagasse and No. 6 (residual) fuel oil as supplemental fuel. There are additional emissions units at Bryant, including two diesel electric generators, fuel oil storage tanks, and other equipment.

The SIC code for the Bryant Mill is 2061, which is also one of the SIC codes for the Clewiston Mill. The Bryant Mill does not have a sugar refinery.

Both the Clewiston and Bryant Mills operate during the sugarcane processing season, which typically lasts from 5 to 6 months per year (October through April). The sugar refinery located at the Clewiston Mill operates year around.

Although the two USSC Mills are located about 20 miles apart, the sugarcane fields owned by USSC span a wide area of western Palm Beach and eastern Hendry Counties. Much of this land is contiguous or adjacent to each other, while some lands are separated by up to 6 miles of one another (see Figure 1). All of the sugarcane harvested from the fields located to the north and east of Belle Glade is currently railed to the Bryant Mill. Most of the sugarcane harvested from the fields located to the south and west of Belle Glade is currently railed to the Clewiston Mill, while some of this sugarcane is railed to the Bryant Mill.

Typically, the sugarcane processing operations at the Bryant Mill produce excess bagasse, i.e., bagasse that is not burned in the boilers and remains at the end of the processing season. This excess bagasse is sent to the Clewiston Mill to be burned in the boilers to support the off-season sugar refinery operations.

A railroad connects the two Mills, and is used to transport raw materials, fuel, and products between the two sites. A portion of the railroad is owned by Florida East Coast Railway Company (FEC), a portion of the railroad is owned by USSC on the Clewiston Mill property. However, USSC has a long-term (20-year) lease with FEC to operate and maintain the FEC portion of the railway. USSC also own railroads within its property at both Mill sites that connect to the FEC railroad.

Currently, the majority of the raw sugar USSC produces at the Bryant Mill is shipped by rail to the Clewiston Mill for refining in the sugar refinery. The remaining raw sugar is shipped to a refinery located in Savannah, under an existing long-term contract that is ending within the next month. After that time (beginning mid-2005), all of the raw sugar produced at the Bryant Mill will be shipped to the Clewiston Mill for refining.

In addition to these 'interrelationships' between the two Mills, the two Mills are supported by common personnel in the areas of administrative support, purchasing, accounting, and human resources. Employees in these areas routinely travel to both facilities to conduct work. Quality assurance/quality control personnel and safety personnel also travel between the two Mills to perform the same tasks. In addition, repair crews from Bryant can be used at Clewiston, primarily in the off-season, for maintenance activities.

The Title V operating permit responsible official is the same person for both Mills (Mr. William Raiola). This person often travels back and forth between the two Mills.

Definitions

The FDEP definitions for "facility" and "emissions unit" are found in Rule 62-210, Florida Administrative Code (F.A.C.). These definitions are similar to the EPA definitions for source under Section 40 of the Code of Federal Regulations (40 CFR) 52.21. In Rule 62-210.200(112), F.A.C., "facility" is defined as:

"All of the emissions units which are located on one or more contiguous or adjacent properties, and which are under the control of the same person (or persons under common control)."

An "emissions unit" is defined in Rule 62-210.200(102), F.A.C., as:

"Any part or activity of a facility that emits or has the potential to emit any air pollutant."

Further, the FDEP regulations define "Major Source of Air Pollution" or "Title V Source" in Rule 62.210.200(159)(b) through (d) as:

"...emissions unit or group of emissions units, all belonging to the same two-digit Major Group as described in the Standard Industrial Classification Manual, 1987, ..."

By comparison, in 40 CFR Part 52.21(b)(5), under EPA's new source review prevention of significant deterioration (PSD) regulations, "stationary source" is defined 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....”

Thus, EPA’s definition of source is essentially equivalent to FDEP’s definition of facility.

Based on these definitions of facility (source), the criteria for determining whether separate facilities can be considered as a single facility (stationary source) for purposes of PSD preconstruction review or Title V operating permits, is based on the following:

- Both facilities are under common control,
- Both facilities belong to the same SIC “Major Group”, and
- Both facilities are located on one or more contiguous or adjacent properties.

Discussion

Common Control

Because both the Clewiston and Bryant Mills are wholly-owned and managed by USSC, these two Mills are under common control.

Industrial Grouping

The two Mills have the same SIC code of 2061, which includes “establishments primarily engaged in manufacturing raw sugar, syrup, or finished (granulated or clarified) cane sugar from sugarcane.” In addition, the Bryant Mill can be considered as a support facility for the Clewiston Mill. Presently, excess bagasse generated at Bryant is sent to Clewiston to provide additional fuel. In the future, it will ship all of the raw sugar produced to the Clewiston Mill to be refined. Common support personnel are used at both facilities.

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. According to an EPA Region IV memorandum of May 19, 1999, regarding two bulk terminals (*Applicability of Title V Permitting Requirements to Gasoline Bulk Terminals Owned by William Energy Ventures (WEV)*), from EPA Region IV to Mecklenburg County Department of Environmental Protection, North Carolina; see Attachment A), EPA has never specifically defined by regulation an exact separation distance that would cause two facilities to not be considered as located on adjacent or contiguous properties. Case-by-case variations preclude a “one-size-fits-all” definition that would be reasonable in every instance. The memorandum summarizes some of the numerous EPA documents that are available as guidance for PSD and nonattainment area determinations as well as Title V operating permit determinations. Although the memorandum discusses applicability under Title V, the Title V definition of major source is an outgrowth of the definitions used for PSD and nonattainment area new source review purposes.

In the May 19, 1999, memorandum, EPA references a conference call made on January 25, 1996, with respect to contiguous and adjacent properties by stating:

“There are some other factors you may wish to consider when evaluating sources which are physically separated: *like whether there are any unique structures (i.e., private rail lines, pipelines, etc.) that ‘tie’ the sources together.*” (Emphasis added)

The EPA memorandum also references a memorandum dated August 27, 1996, from the Office of Air Quality Planning and Standards (OAQPS) to EPA Region VIII relating to a brewery and an associated wastewater disposal land farm separated by a distance of about 6 miles and connected by a pipeline (see Attachment B). The OAQPS opinion states in part:

“A specific distance between emitting activities has never been established by EPA for determining when facilities should be considered separate or one source for PSD purposes. Whether facilities are contiguous or adjacent is *determined on a case-by-case basis, based on the relationship between the facilities.*”

In addition, the May 19, 1999, memorandum cites an EPA Region VIII letter to the Utah Division of Air Quality dated May 21, 1998, regarding guidance in defining “adjacent” with respect to PSD and Title V source aggregation (see Attachment C). EPA recommended that “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'." EPA then posed several questions that could be used in the evaluation, not all of which needed positive answers 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 upon 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?"

Based on the current and future operations of the Clewiston and Bryant Mills, the responses to these questions are primarily positive to further support the determination that the two facilities could be considered adjacent to one another.

The letter on the gasoline bulk terminals concludes:

"...based primarily on *the lack of interdependence*, we conclude that the two WEV terminals can be considered as two separate sources for Title V (Part 70) permit applicability purposes."

The OAQPS reference advises to note the "relationship between facilities", while the EPA conference call further emphasizes evaluating "whether there are any unique structures...that 'tie' the sources together". The EPA conclusion that the WEV terminals are separate sources due to the "lack of interdependence" implies that the terminals would have been one source if a "tie" existed or the

sources were “interdependent”. In the case of the Clewiston and Bryant sugar mills, there is a clear “tie” (railroad line) and “dependence” (raw sugar and bagasse shipped from the Bryant Mill to the Clewiston Mill, sugarcane shipped from the Clewiston sugarcane fields to the Bryant Mill, and sharing of personnel), that would allow them to be designated as a single source.

Finally, EPA Region II again restated the principles noted above on October 11, 2000 (see Attachment D), with respect to St. Lawrence Cement’s proposed Greenport Project and its existing Catskill Facility by stating:

“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.”

EPA Region II references the preamble to the promulgation of the PSD regulations:

“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).”

And further states:

“...limited functional interrelationship between the two facilities does not outweigh that the two facilities do not meet the ‘common sense’ notion of a single plant.”

These statements suggest that if the notion of “common sense” is a criterion that applies, then there would be a functional inter-relationship between the Clewiston and Bryant Mills, based on the amount of sugarcane, bagasse, and raw sugar shipped between the Bryant and Clewiston Mills, particularly in the near future using the railroad connecting the two Mills.

State of Florida Historic Determinations

In Florida, there are several facilities that are permitted as a “single facility” even though their operations are located over large distances. For example, the IMC Phosphates Company (now Mosaic Fertilizer) owns and operates the Central Florida Minerals Operations (CFMO) facility under the Title V Air Operation Permit No. 1050034-012-AV. As shown in Figure 2, the facility has plants located at five contiguous sites in four adjacent counties that cover an area that extends about 19 miles in the east-west direction and about 12 miles in the north-south direction. The five sites include:

- Fort Green Mine, east of SR 37, approximately 8 miles south of Bradley Junction, Polk County;
- Four Corners Mine, SR 37 South, Duette, south of Bradley Junction; Manatee and Hillsborough Counties;
- Kingsford Mine, Doc Durrance Road, Bradley Junction, Polk County;
- Lonesome Mine, Fort Lonesome Plant Road, Lithia, Hillsborough County; and
- Noralyn Mine, Bartow, Polk County.

Also included in the CFMO facility are five unregulated sites: Agroock, Clear Springs, Payne Creek, Phosphoria, and Pierce. Note that specific emissions units have been removed from the Kingsford Mine.

The CFMO facility consists of a variety of operations in which phosphate rock is mined and then processed to extract phosphate for the fertilizer industry. At the Fort Green Mine site, the operations include a soda ash and handling system, a soda ash mix tank and transfer system, and a flocculation system. At the Four Corners Mine site, the operations include a boiler, magnetite and ferrosilicon storage bins, and a flocculation system. At the Noralyn Mine site, the operations include two phosphate rock dryers, an unground phosphate rock railcar loadout station, a dry unground rock truck loadout, four phosphate rock storage silos, two ball mills, a railcar phosphate rock loadout system, and a dry phosphate rock transfer system.

Although the facility is described as “located at five contiguous sites”, there are areas within the facility that are not owned by IMC, such as public roads that separate the sites.

Another example is the Mosaic Fertilizer, LLC, facility that consists of the Bartow and Mulberry Plant sites. A draft Title V permit has been issued for the “single facility” (Draft Permit No. 1050046-018-AV, December 2004) that combines the Bartow Plant site (Permit No. 1050046-003-AV) with the Mulberry Plant site (Permit No. 1050048-001-AV). As shown in Figure 3, the facility is located at adjacent sites but separated by a public road.

This facility consists of one phosphoric acid plant (two trains) and one diammonium phosphate/monoammonium phosphate (DAP/MAP) plant, located at the Mulberry site; one DAP fertilizer plant, located at the Bartow site; and a sulfuric acid plant, a fertilizer shipping plant, a boiler, and molten

sulfur storage and handling systems, located at each site. Sulfuric acid produced at the Mulberry facility is transported to the Bartow facility for further processing.

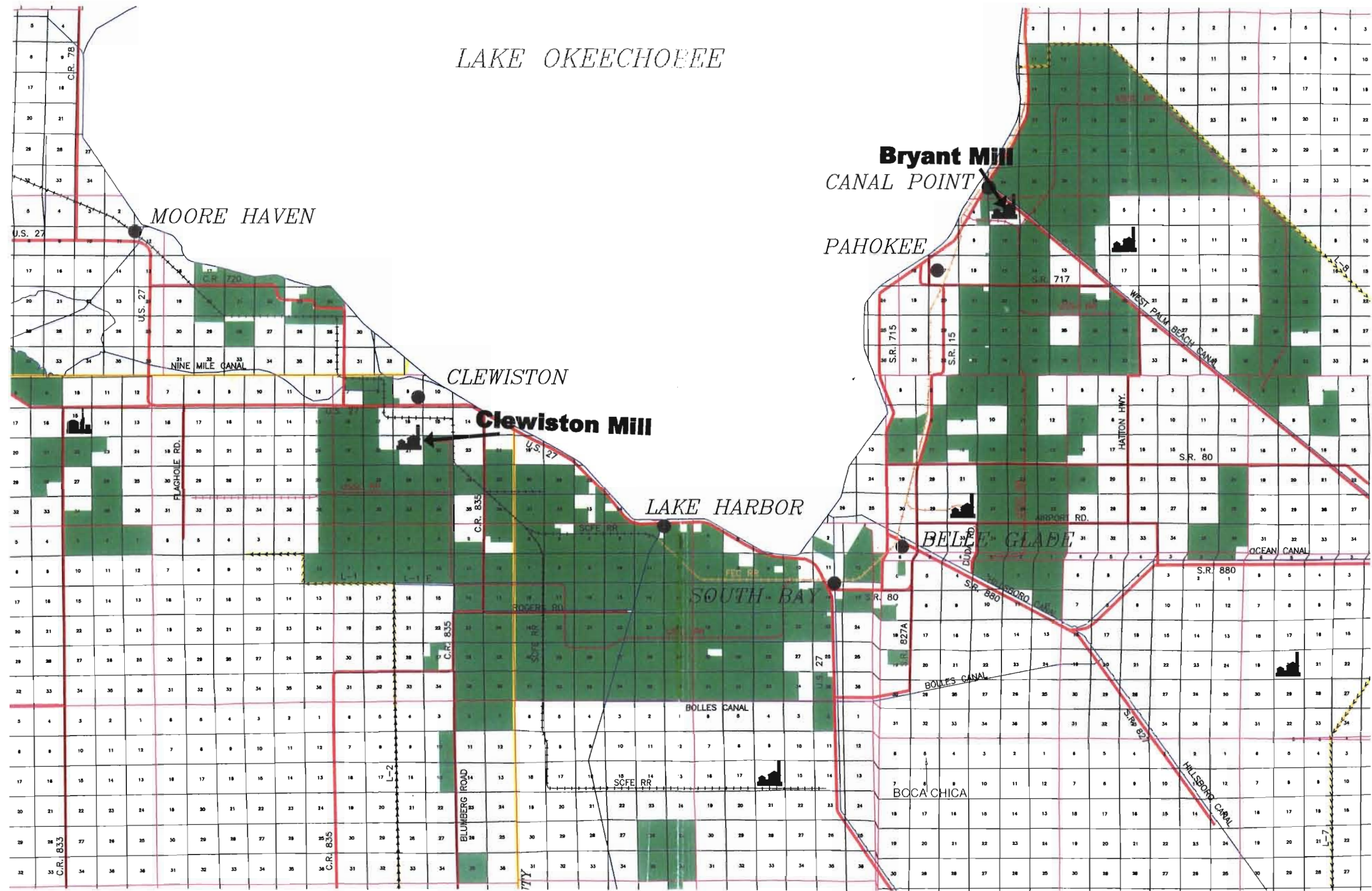


Figure 1
Sugarcane Fields Owned by U.S. Sugar

Source: Golder, 2005.



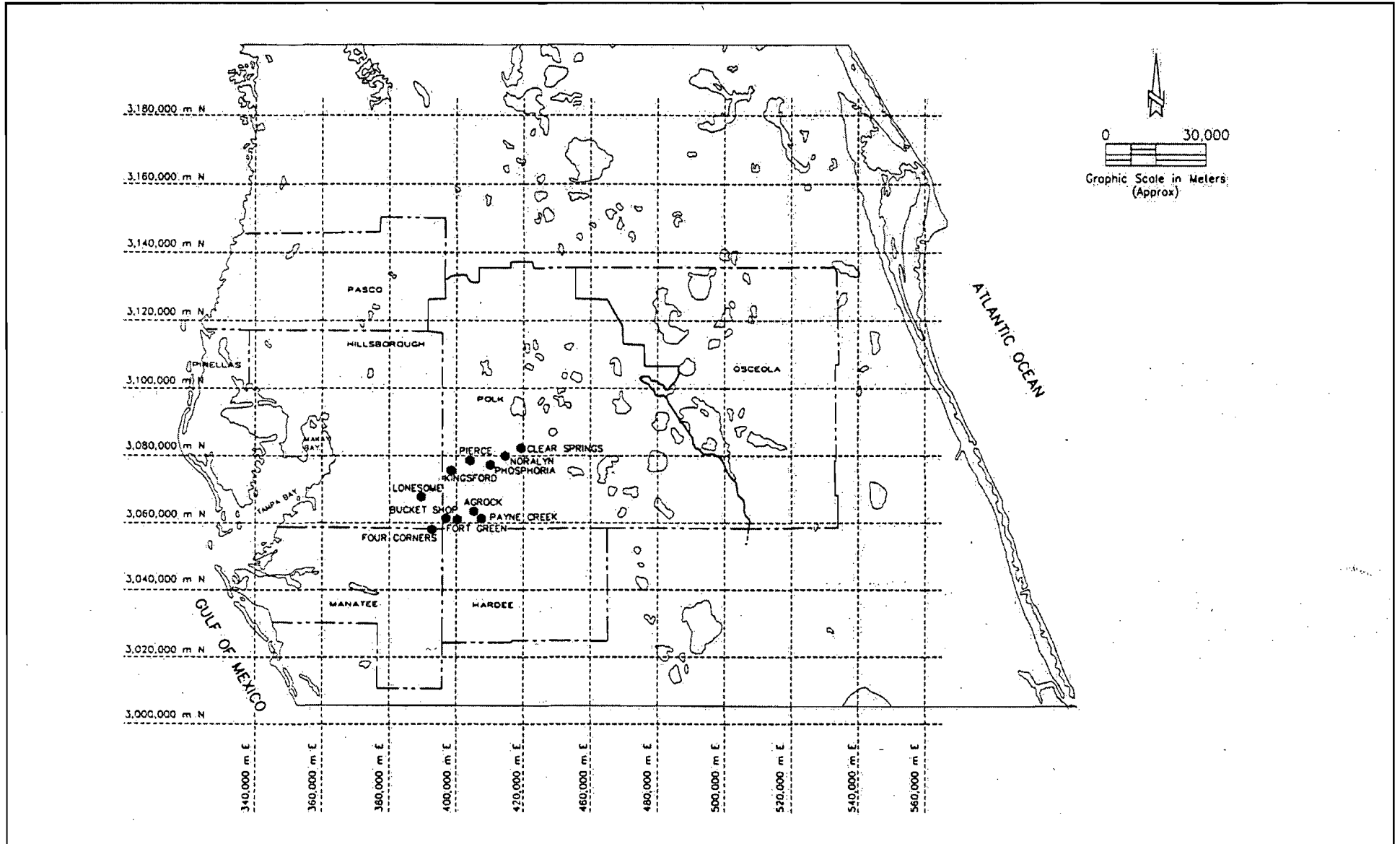


Figure 2
Locations of IMC Phosphates (Now Mosiac) Facilities
Within a Single Title V Source

Source: Foster Wheeler Environmental Corporation, 2001; Golder, 2005.



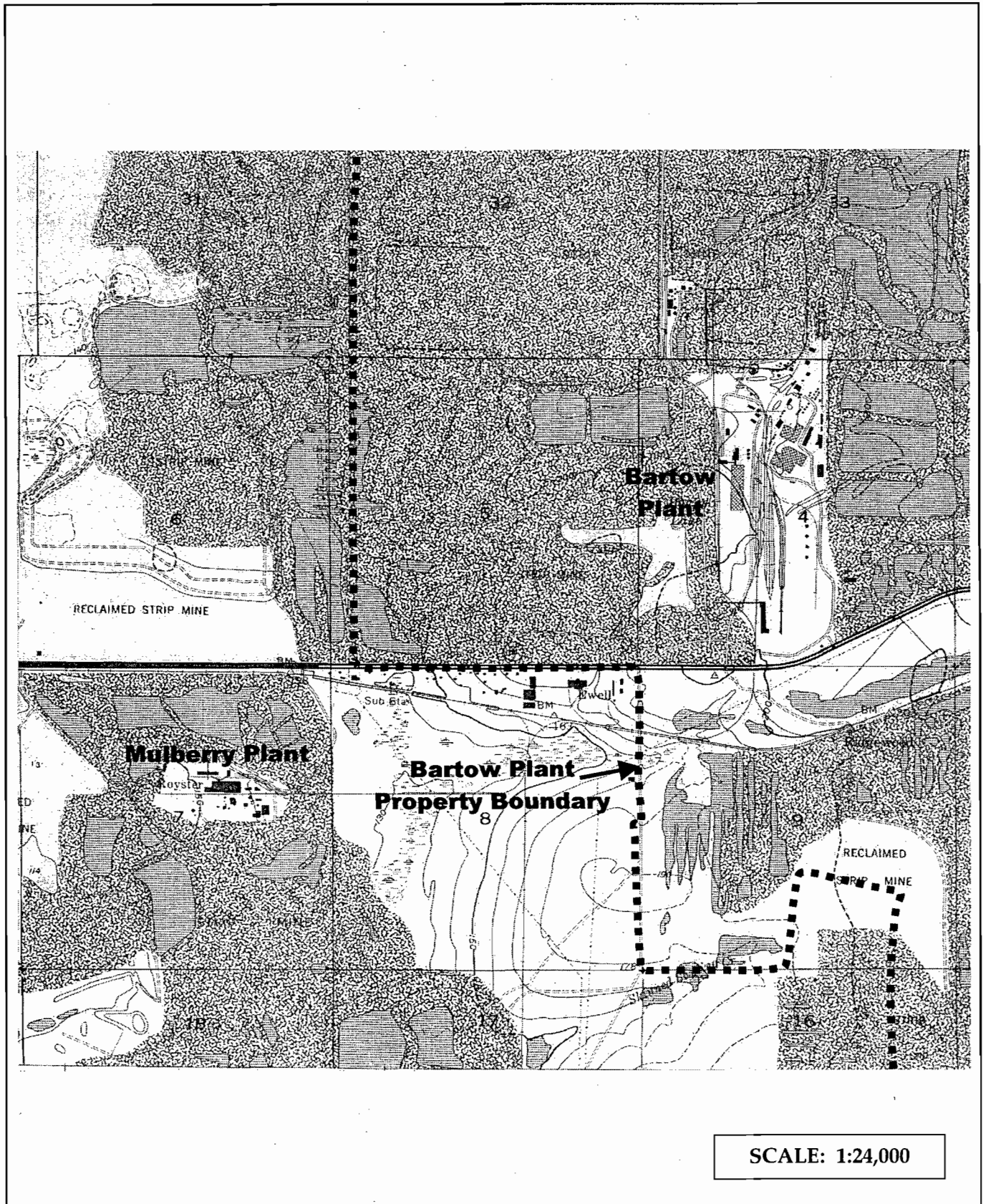


Figure 3
Mosaic Fertilizer Bartow and Mulberry Plants

Source: Golder, 2005.



ATTACHMENT A

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

May 19, 1999

4APT-ARB

Mr. Randy C. Poole
Air Hygienist II
Mecklenburg County Department of Environmental Protection
700 N. Tryon Street, Suite 205
Charlotte, North Carolina 28202-2236

SUBJ: Applicability of Title V Permitting Requirements to Gasoline Bulk Terminals
Owned by Williams Energy Ventures, Inc.

Dear Mr. Poole:

Thank you for your letter of April 15, 1999 requesting an opinion on the applicability of Title V major source operating permit requirements to two bulk gasoline terminals owned by Williams Energy Ventures, Inc. (WEV) in the Paw Creek area of Mecklenburg County. The specific question is whether emissions from the two terminals should be aggregated for Title V applicability purposes. Our determination is that the terminals can be considered as separate sources without aggregation of emissions, subject to certain qualifications.

Background

Under the Title V permit program, a major source is defined in 40 CFR 70.2 as follows:

“Major source means any stationary source (or any group of sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person (or persons under common control)) belonging to a single major industrial grouping and that are described in paragraph (1), (2), or (3) of this definition. For the purposes of defining ‘major source,’ a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987.”

Paragraph (1) referred to in this definition pertains to major source classification based on potential emissions of hazardous air pollutants; paragraph (2) pertains to major source classification based on

potential emissions of any air pollutant in amounts of 100 tons per year or more; and paragraph (3) pertains to major source classification based on emissions of regulated pollutants in ozone, carbon monoxide, and particulate matter nonattainment areas.

The Environmental Protection Agency (EPA) Region 4 understands that Mecklenburg County Department of Environmental Protection (MCDEP) has determined conclusively that the two WEV terminals are under "common control of the same person" and belong "to a single major industrial grouping." The remaining question is whether they should be considered as "located on one or more contiguous or adjacent properties." In developing our determination, we have taken note of the following information presented in your letter, in the letter from Williams Energy Services attached to your letter, and during telephone calls to you to obtain additional information.

- The two terminals are approximately nine-tenths of a mile apart "by public road." (The quoted phrase is from your April 15, 1999 letter.) We assume that this is the approximate straight-line separation distance as well.
- The only operating relationship between the two terminals currently is that some WEV employees have responsibilities at both terminals and the terminals are served by common delivery pipelines. The two terminals are not connected by pipelines or other utilities that allow the terminals to exchange liquid fuels or utilities such as water and electric power. Therefore, neither terminal is a support facility for the other, and each terminal can be operated independently.
- Other terminals occupy most of the land area between the two WEV terminals.
- If the two WEV terminals were combined as one source, the combination would be a major Title V source for volatile organic compounds but not for hazardous air pollutants.

Further, although not specifically stated in either your letter or the Williams Energy letter, we assume that WEV does not own, lease, or otherwise control the properties between the two terminals.

Regulatory and Policy Guidance

EPA has never specifically defined by regulation an exact separation distance that would cause two facilities to be considered as located on adjacent or contiguous properties. Case-by-case variations preclude a "one size fits all" definition that would be reasonable in every instance. Nevertheless, regulatory and policy guidance exists to help us develop a determination in response to your request. The following discussion summarizes some of the numerous EPA documents that are available as guidance. The ordering of these documents is chronological and not degree of importance. We can provide copies of any or all of these documents at your request. Also, please note that some

of these documents refer to prevention of significant deterioration (PSD) and to nonattainment area determinations and not to Title V determinations specifically. Use of documents not directly related to Title V is appropriate because the Title V definition of major source is an outgrowth of the definitions used for PSD and nonattainment area new source review purposes.

The Williams Energy letter included with your request letter refers to a discussion with a representative of the Georgia Environmental Protection Division (GA EPD) concerning decisions that the agency might make in the future. Since GA EPD has no jurisdiction over terminals in Charlotte, North Carolina, the comments Williams Energy may have received during this discussion with GA EPD are neither persuasive nor relevant.

Summary of documents:

1. Preamble to the August 7, 1980 final PSD regulations.

The preamble language at 45 FR 52695 is often cited as confirmation that “contiguous and adjacent” assessments are case-by-case and that two facilities separated by a distance of 20 miles would be too far apart to treat as one source. Relevant language in the preamble includes the following: “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.”

2. Memo dated June 30, 1981 from EPA Division of Stationary Source Enforcement to EPA Region 5 concerning treatment of two separated facilities as one source. (This is document No. 3.18 in the New Source Review (NSR) Guidance Notebook series.)

The situation addressed in this memo consisted of two General Motors plants separated by a distance of approximately 4,500 feet. One plant made auto bodies that were transported to the other plant by truck for use in final assembly. Additionally, the two plants were the only facilities served by a rail spur for materials delivery. The Division concurred that the two General Motors plants should be considered as one source “Based on the unique set up of these facilities,” namely, that they “are approximately one mile apart, have a dedicated railroad line between them and are programmed together to produce one line of automobiles.”

3. Letter dated May 18, 1995 from EPA Region 4 to the GA EPD regarding two separated fuel terminals in the context of Title V (part 70) applicability.

The two terminals in question were under common ownership and located approximately one-half mile apart. In addition, diesel fuel and water pipelines linked the two terminals. EPA concluded that the two facilities should be treated as one source based on the following

reasoning: “Based on the information provided, we have concluded the two facilities are in close proximity and should be treated as one source under Part 70. Additionally, we have noted that both facilities use the same access road, share diesel fuel and water pipelines, and interestingly, have their storage tank numbers listed sequentially on the air quality permits issued to both facilities.” Physical proximity was the main factor in the determination.

4. EPA summary discussing the topics for a January 25, 1996 conference call on contiguous or adjacent properties as related to Title V.

This summary contains the following comments:

“A physical separation of property does not in itself constitute separate sources, for example, the fact that some property at a plant site is divided by a highway or railroad right-of-way does not create separate and distinct sources;”

“EPA made a determination that two GM auto plants, separated from each other by approximately one mile (and connected by a private rail), could be considered one major source;” [The referenced determination is discussed above.]

“Region 4 determined that two bulk gasoline terminals located approximately one-half mile from each other should be considered one source primarily based upon geographic proximity and secondarily upon shared diesel and water pipelines;” [The referenced determination is discussed above.]

“There are some other factors you may wish to consider when evaluating sources which are physically separated: like whether there are any unique structures (i.e., private rail line, pipelines, etc.) that ‘tie’ the sources together;”

5. Memo dated August 27, 1996 from the Office of Air Quality Planning and Standards (OAQPS) to EPA Region 8 concerning whether a brewery and an off-site land farm under common ownership should be treated as a single source.

This memo concerned a brewery and an associated wastewater disposal land farm separated by a distance of about 6 miles and connected by a pipeline. OAQPS agreed with Region 8 that the land farm and brewery should be considered a single source for PSD applicability purposes. The opinion from OAQPS reads in part as follows:

“A specific distance between pollutant emitting activities has never been established by EPA for determining when facilities should be considered separate or one source for PSD purposes. Whether facilities are contiguous or adjacent is determined on a case-by-case basis, based on the relationship between the facilities. The EPA considers the

brewery and land farm to be contiguous or adjacent since the land farm operation is an integral part of the brewery operations, i.e., land application at the land farm is the means chosen by Anheuser-Busch to dispose of the ethanol contaminated process water from the brewery operations. Without a means of waste water disposal the brewery cannot operate. The additional fact that a pipeline physically connects the brewery and land farm strengthens the conclusion that the brewery operation is dependent on land farm operations. For this case, the distance between the brewery and land farm does not support a PSD determination that the brewery proper and the land farm constitute separate sources for PSD purposes.”

6. Letter dated March 13, 1998, from EPA Region 5 to the Illinois Environmental Protection Agency regarding a NSR permitting action.

The facilities addressed in this letter were two steel mill facilities located 3.7 miles apart. One of EPA’s concluding statements is as follows: “Although the two sites are separated by Lake Calumet, landfills, I-94, and the Little Calumet River, ISOPIA 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.”

7. Letter dated May 21, 1998, from EPA Region 8 to the Utah Division of Air Quality responding to a request for guidance in defining “adjacent” for Title V and NSR source aggregation purposes.

The issue involved can be summarized by the following statement from the letter: “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.” In providing a response to the state agency, EPA first stated that deciding what “adjacent” means should take into account a “common sense notion” of source. (This phrase appears in the August 7, 1980 final PSD rule preamble discussed above and in the prior *Alabama Power* court case.) The letter then goes on to recommend that the state agency ask the following questions to decide if the two facilities should be considered “adjacent” and therefore one source:

“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 farther 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 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?”

The letter concludes by saying that, if the facilities are treated as 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.”

Determination

Before restating our determination, we list first some of the considerations on which our determination is based:

- For this and future such determinations, our position is that separate facilities could be considered a single source for Title V permit applicability purposes strictly on the basis of proximity without regard to whether the facilities are dependent on each other or physically connected in some way.
- The separation distance of nine-tenths of a mile between the two WEV terminals certainly does not eliminate consideration of the two facilities as one source. Many of EPA’s past determinations that two separated facilities should be treated as one source have involved situations where the separation distance was considerably more than a mile.
- In most of the EPA documents we reviewed, the key factor in deciding that separate facilities should be considered as one source was that the facilities were interdependent or linked in some sense. Our understanding of the WEV terminals is that they can and do operate independently, that one terminal does not act as a support operation for the other, and that they are not physically connected by a structure such as a pipeline dedicated to the transfer of material or energy between the two terminals. Although this understanding is based solely on information supplied by MCDEP and Williams Energy and not independently verified, it is supported by the fact that the two terminals were at one time under separate ownership and presumably operated independently when

owned separately.

EPA Region 4 considers the separation distance of nine-tenths of a mile close enough for the two terminals to be considered one source; however, based primarily on the lack of interdependence, we conclude that the two WEV terminals can be considered as two separate

sources for Title V (part 70) permit applicability purposes. Furthermore, we add the following qualifications to our determination:

1. If MCDEP does in fact separate the two terminals for Title V purposes, WEV (or any future owner) will not be allowed to use emission decreases at one terminal in a netting analysis to avoid major or minor source NSR permitting for a future modification at the other facility.
2. WEV must notify MCDEP if property is purchased to expand the boundaries of either terminal. Likewise, WEV must notify MCDEP if partial or total ownership interest is acquired in any of the other liquid fuels terminals in the Paw Creek area. Upon receipt of such notifications, MCDEP should determine whether to reopen the question of Title V permit applicability.
3. If WEV adds a physical link between the two terminals or otherwise changes operations to increase the interrelationships between the two terminals, the determination in this letter is no longer applicable.

If you have any questions or comments concerning this letter, please contact Jim Little at (404) 562-9118 or Kelly Fortin at (404) 562-9117.

Sincerely,

Winston A. Smith
Director
Air, Pesticides and Toxics
Management Division

ATTACHMENT B



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
RESEARCH TRIANGLE PARK, NC 27711

OFFICE OF
AIR QUALITY PLANNING
AND STANDARDS

AUG 27 1996

MEMORANDUM

SUBJECT: Analysis of the Applicability of Prevention of Significant Deterioration (PSD) to the Anheuser-Busch, Incorporated Brewery and Nutri-Turf, Incorporated Landfarm at Fort Collins, Colorado

FROM: Robert G. Kellam, Acting Director
Information Transfer & Program Integration
Division, OAQPS (MD-12)

TO: Richard R. Long, Director
Air Program, Region VIII (8P2-A)

This is in response to your April 3, 1996 letter requesting PSD single stationary source determination for Anheuser-Busch's Fort Collins, Colorado brewery and Nutri-Turf landfarm. The Environmental Protection Agency (EPA) Headquarters considered the applicability of the PSD rules at 40 CFR 52.21 to the Anheuser-Busch, Inc. (Anheuser-Busch) brewery and the Nutri-Turf, Inc. (Nutri-Turf) landfarm in Fort Collins, Colorado.

PSD Applicability

The EPA Headquarters concurs with Region VIII's conclusion that the brewery and landfarm are considered a single stationary source for PSD applicability purposes. Specifically, we conclude that the brewery and landfarm are commonly owned by Anheuser-Busch, the brewery and landfarm are on contiguous or adjacent properties, and the landfarm is a support facility for the brewery. In fact, the landfarm, which disposes of the brewery's waste water, is part of the brewery. The background information and details of the EPA's analysis follow.

Background

Anheuser-Busch received a PSD permit from EPA Region VIII on March 15, 1984 to construct a new brewery at Fort Collins, Colorado. The brewery was determined to be a major stationary source with potential emissions that exceeded significant emissions rates for nitrogen oxides, sulfur dioxide, and

particulates. Potential volatile organic compound (VOC) emissions from the brewery were reported by Anheuser-Busch to be less than the PSD significant emissions rate of 40 tons per year. Anheuser-Busch did not report any air emissions from its Nutri-Turf landfarm in its original PSD application.

The brewery and landfarm are about 6 miles apart and are physically connected by a pipeline. Anheuser-Busch owns the brewery and landfarm. The landfarm was purchased and modified by Anheuser-Busch during the time the brewery was under construction for disposing of waste water from the brewery. The brewery waste water stream, containing hydrocarbons, is piped to the landfarm and disposed of by land application. The subsequent VOC emissions at the landfarm are a direct result of brewery operations. Land application of the waste water stream from the brewery at the landfarm began concurrently with-brewery production in 1988.

In 1986, the Colorado Department of Health (CDH) became the PSD permitting authority in Colorado, replacing EPA. In July 1993 the CDH issued a notice of violation to Anheuser-Busch for constructing VOC emitting units without valid permits at its Fort Collins brewery. Since the issuance of the PSD permit, the EPA and CDH determined that Anheuser-Busch did not include all of its potential VOC emissions at the brewery in its original PSD application. The VOC emissions from the brewery, excluding emissions from the landfarm, exceed the 40 tons per year significant emissions threshold for PSD applicability. An accurate calculation of potential VOC emissions from the landfarm has not yet been completed.

In response to an August 19, 1993 request from CDH, the EPA Region VIII determined in an October 23, 1993 letter that the brewery and landfarm are considered a single stationary source for PSD applicability. In January 31, 1995, and July 6, 1995 letters to CDH, Anheuser-Busch presented its position that the brewery and landfarm are two separate sources for PSD applicability purposes. After reviewing the positions presented by Anheuser-Busch, EPA Region VIII clarified and reaffirmed its previous single source determination in a letter to CDH dated September 20, 1995. Since EPA was the PSD permitting authority at the time the brewery was permitted, EPA is the responsible Agency for enforcement of any PSD violations at the brewery and landfarm based on the current-plant configurations.

PSD Definition of Source

The PSD requirements apply to the construction of major stationary sources and major modifications at major stationary

sources. See 40 CFR 52.21(i). The PSD regulations define stationary sources as any building, structure, facility, or installation that emits, or may emit any air pollutant subject to regulation under the Clean Air Act. See 40 CFR 52.21(b)(5). The regulations go on to define "building, structure, facility, or installation" as:

all of the pollutant emitting activities that belong to the same industrial grouping, are 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 will be considered as part of the same industrial grouping if they belong to the same "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 (U.S. Government Printing Office stock number 4101-0066 and 003-005-00176-0, respectively) [40 CFR 52.21(b)(6)].

The regulations do not expressly address how to classify a source composed of more than one grouping of pollutant emitting activities. However, in the preamble to these regulations, EPA explained that each source is to be classified according to its primary activity, which is determined by its principal product or group of products produced or distributed, or services rendered. Thus, one source classification encompasses both primary and support facilities, even when the latter includes units with a different two-digit SIC code. Support facilities are typically those that convey, store, or otherwise assist in the production of the principal product or group of products produced or distributed, or services rendered. Where a unit is used to support two otherwise distinct sets of activities, the unit is to be included within the source that, most heavily relies on its support. See 45 FR 52676, 52695 (August 7, 1980).

The criteria for defining a stationary source under the PSD regulations as they apply to the Anheuser-Busch brewery and landfarm situation are discussed below.

Contiguous or Adjacent

A specific distance between pollutant emitting activities has never been established by EPA for determining when facilities should be considered separate or one source for PSD purposes. Whether facilities are contiguous or adjacent is determined on a case-by-case basis, based on the relationship between the facilities. The EPA considers the brewery and landfarm, to be

contiguous or adjacent since the landfarm operation is an integral part of the brewery operations, i.e., land application at the landfarm is the means chosen by Anheuser-Busch to dispose of the ethanol contaminated process water from the brewery operations. Without a means of waste water disposal the brewery cannot operate. The additional fact that a pipeline physically connects the brewery and landfarm strengthens the conclusion that the brewery operation is dependent on landfarm operations. For this case, the distance between the brewery and landfarm does not support a PSD determination that the brewery proper and the landfarm constitute separate sources for PSD purposes.

SIC Code

As noted, EPA's contemporaneous interpretation of the PSD regulations is that each source is to be classified according to its primary activity that is determined by its principal product or group of products. Thus, one source classification encompasses both primary and support facilities, even when it includes units with a different two-digit SIC code. Without an acceptable means of waste water disposal the brewery cannot produce beer. Land application at the landfarm is the waste water disposal means chosen by Anheuser-Busch for the brewery. Upon further review of the October 23, 1993, letter from Region VIII to CDH, the EPA believes that the landfarm is a support facility to the brewery since landfarm operations assist in the primary activity of the brewery. Even if the landfarm, has a separate two-digit SIC code from the brewery, the landfarm is still a support facility for the brewery and considered part of the brewery. In other words, support activities are aggregated with their associated primary activity regardless of dissimilar SIC codes.

Common Control

Both the brewery and landfarm are under common control since they (as well as the pipeline connecting them) are owned by Anheuser-Busch. The landfarm was purchased and modified by Anheuser-Busch before the operation of the brewery.

This analysis has been reviewed by EPA's Office of Enforcement and Compliance Assurance and EPA's Office of General Counsel. If you have any questions please contact Mike Sewell of the Integrated Implementation Group at (919) 541-0873.

I appreciate this opportunity to be of service and trust this information will be helpful to you.

ATTACHMENT C