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Interoffice Communication

To Distribution
From Bradley I. Raffle, Houston Legal
Date June 16, 1981
Subject AIR POLLUTION PERMIT ACTIVITIES IN THE WESTLAKE COMPLEX

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for CCP

INTRODUCTION

As all of you know, the current negotiations between Conoco and Concarb concerning the Lake Charles carbon black plant have created a great deal of uncertainty with respect to air pollution permit strategies for the Lake Charles chemical complex and refinery. Of particular concern is the proper allocation of emission reductions associated with the recent shutdown of the Concarb facility.

This memorandum summarizes the regulatory provisions governing allocation of the Concarb emission reductions. I have concluded that the regulations give Conoco the legal flexibility to allocate the Concarb reductions to either the chemical complex or the refinery. It may also be possible for both the refinery and the chemical complex to obtain credit for these reductions. An estimate of these reductions is shown in Table 1.

Using this memorandum as a general regulatory guide, chemicals and refinery management should estimate the respective benefits which they would realize from being able to take credit for these emission reductions. These estimates will enable senior management to select a course of action which provides the optimal benefit to Conoco.

To be most useful, the analyses which chemicals and refining prepare should be organized as follows:

- 1) An emissions summary which tabulates the annual tonnages of SO₂, particulates, NO_x, CO, hydrocarbons and reduced sulfur compounds associated with currently planned projects;
- 2) A summary of all contemporaneous/creditable emission reductions which have been or can be utilized to offset the planned increases;

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- 3) An estimate of the costs associated with PSD permitting for each of the planned projects; costs can be divided into three components:

Costs involved in satisfying BACT requirements

Costs associated with preparing the PSD application

Costs attributable to added delay - PSD review can add 3-5 months to the permit approval process for a typical project.

In addition to cost elements, your analysis should discuss the added uncertainties associated with PSD review. These uncertainties are related primarily to the possibility of permit denial due to ambient air quality constraints.

REGULATORY FRAMEWORK

The regulatory provisions which provide the framework for this analysis are the federal PSD regulations of August 7, 1980. 40 CFR §52.21. These regulations impose stringent review procedures on "major modifications". The term "major modification" refers to a plant alteration and expansion project which would result in a "significant net emissions increase" of one or more pollutants. The annual tonnages shown in Table 2 represent the net emissions increase levels that are considered "significant".

The regulations establish an elaborate "bubble" procedure for determining the net emissions increase (or decrease) accompanying a proposed modification. First, the applicant must quantify the emissions increase attributable to the proposed modification itself. If emissions from the proposed modification would exceed any of the levels shown in Table 2, the applicant must then quantify certain prior emissions increases and decreases which have occurred at the source. Only those increases and decreases that are "contemporaneous" with the proposed modification are to be considered in this second-step analysis. To be "contemporaneous", a prior increase or decrease must have occurred no more than five years before the proposed modification project is to commence construction.

If prior emission decreases at a source are sufficient to offset both the proposed increase and other contemporaneous/creditable increases, such that the resulting net increase at the source does not exceed an applicable significance

of the Lake Charles Chemical Complex for PSD applicability and bubble purposes. This conclusion is based upon the agency's judgment that the Concarb plant:

- 1) Is adjacent to the chemical complex;
- 2) Is under the control of Conoco, Inc., - "in common" with the chemical plant; and
- 3) Has the same two-digit SIC code as the Lake Charles Chemical Complex.*

The significance of the Concarb issue for Chemicals during these negotiations was that the carbon black plant installed a waste heat boiler in 1977 which increased the plant's SO₂ emissions by nearly 2,000 tons per year. The only way the Chemical Plant could avoid counting this "contemporaneous" emissions increase (and thereby avoid a lengthy PSD preconstruction review for the normal paraffins project) was to limit the SO₂ emissions from the normal paraffins modification to less than 40 tons per year (tpy) i.e., the "significant" level for SO₂. Limiting the SO₂ emissions increase to less than 40 tpy for the modified normal paraffins heaters would entail a potentially expensive fuel control program. Were it not for having to consider the Concarb increase, such a fuel control program would not be needed to avoid PSD review because prior SO₂ decreases that have occurred within the Chemical Complex will more than offset the SO₂ increases associated with the normal paraffins modification as well as other contemporaneous (non-Concarb) increases of SO₂.

IMPLICATIONS OF THE PROPOSED CONCARB PURCHASE

The transaction being negotiated between Conoco and Concarb would involve the purchase of the Concarb plant by Conoco, Inc., followed by the physical incorporation of the Concarb site into the Lake Charles Refinery. Once the Concarb site was formally annexed to the Refinery, it is my opinion that it would become part of the refinery for purposes of PSD

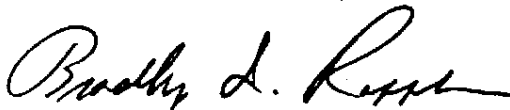
*The SIC Code for carbon black plants is 2895-a division of the Chemicals and Allied products Major Group (#28).

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applicability. In other words, following the annexation, the former Concarb site would become part of the same "stationary source" as the refinery since it would (1) be adjacent to the refinery (2) under common ownership with the refinery and (3) share the same two-digit SIC code with the refinery.*

Upon annexation, the chemical complex would no longer be able to take Concarb into account for PSD purposes. At this point, the refinery would be able to take credit for the unused portion of the Concarb decrease. If the creditable NO_x reduction were sufficient to offset the NO_x increase from the refinery's proposed reformer, refining could withdraw its PSD application for the reformer.

*The PSD rules provide no meaningful guidance for defining the exact date of "annexation". It is most likely, therefore, that Conoco would be able to establish a date by internal actions.



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TABLE 1

Preliminary Estimate of Emissions*
Reduction Due to Shutdown

Pollutant	Annual Emission Rate (Tons/Yr) (Averaged over 1978-1980)
Particulate Matter (PM)	54
Sulfur Dioxide (SO ₂)	648
Nitrogen Oxides (NO _x)	546
Hydrocarbons (HC)	62
Carbon Monoxide (CO)	32
Hydrogen Sulfide (H ₂ S)	4

*Please note that these are preliminary estimates only.
The actual values will have to be developed through negotiations
between Conoco and EPA.

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TABLE 2

Significant Emission Levels

Carbon monoxide: 100 tons per year (tpy)
Nitrogen oxides: 40 tpy
Sulfur dioxide: 40 tpy
Particulate matter: 25 tpy
Ozone: 40 tpy of volatile organic compounds
Lead: 0.6 tpy
Asbestos: 0.007 tpy
Beryllium: 0.0004 tpy
Mercury: 0.1 tpy
Vinyl chloride: 1 tpy
Hydrogen sulfide (H₂S): 10 tpy
Fluorides: 3 tpy
Sulfuric acid mist: 7 tpy
Total reduced sulfur (including H₂S): 10 tpy
Reduced sulfur compounds (including H₂S): 10 tpy

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