

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Office of Air Quality Planning and Standards
Research Triangle Park, North Carolina 27711

Jul 3 2001

Mr. Peter Hamlin
Bureau Chief, Air Quality Bureau
Iowa Dept. of Natural Resources
7900 Hickman Road, Suite 1
Urbandale, Iowa 50322

Dear Mr. Hamlin:

This is in response to your letter of January 12, 2001, seeking guidance from the Environmental Protection Agency (EPA) concerning the Prevention of Significant Deterioration (PSD) program. The question concerns the relationship between Alliant Power and Climax Molybdenum with regard to a source determination for five 1600 KW diesel-fired backup generators. Specifically, you asked whether the generators would be considered to be under common control with the rest of the Climax Molybdenum facility, or whether they would be considered under the control of Alliant Power and therefore a separate source from Climax Molybdenum. We have been working with your staff to understand this issue in detail.

We have carefully studied the terms of the 1994 contract between Alliant Power and Climax Molybdenum; Administrative Order No. 1999-AQ-39 entered into with the Iowa Department of Natural Resources (IDNR) by Climax Molybdenum on December 6, 1995; the IDNR site visit file memorandum entitled "Site visit to Climax Molybdenum in Fort Madison, IA on November 14, 1996"; the letter from Alliant Energy to me of February 23, 2001; and other information pertaining to this issue as provided to us by both Alliant Power and IDNR.

Our review of the above information leads us to the conclusion that the terms of the Administrative Order cited above require certain actions on the part of Climax Molybdenum that are inconsistent with the terms of the 1994 contract. IDNR's site visit confirmed that where such an inconsistency exists, Climax Molybdenum is complying with the terms of the Administrative Order. Specifically, the contract requires that IEA (now Alliant Energy) retains control over operating and maintaining the generators and purchasing fuel. (A Climax Molybdenum operator would be able to turn on the generators, but only with permission from IEA). The Administrative Order, however, specifies that Climax procedures call for Climax Molybdenum to start the generators at any time that the weather forecast indicates that a power interruption could be anticipated. The IDNR's site visit confirmed that Climax Molybdenum's procedures allow for Climax personnel to operate the generators without consultation with Alliant Power.

Therefore the conditions of the Administrative Order and the evidence presented by IDNR's site visit lead us to conclude that for all practical purposes, the generators appear to be under the control of Climax Molybdenum. It appears that, because the terms of the Administrative Order pre-empt the contract between Climax Molybdenum and Alliant Power, the facilities are operating in a manner consistent with the Administrative Order. Presuming this is true, we believe it is reasonable for Iowa to conclude that the generators are under common control with the rest of the Climax Molybdenum facility.

I appreciate the opportunity to be of service and trust the information provided is helpful. If you have any questions regarding this correspondence, please contact Kathy Kaufman of my staff at (919) 541-0102.

Sincerely,

signed by Thomas C. Curran for

John S. Seitz
Director
Office of Air Quality Planning
and Standards

CERTIFIED MAIL

John Seitz
Office of Air Quality Planning and Standards
Mail Drop 10
U.S. Environmental Protection Agency
Research Triangle Park, NC 27711

Re: PSD question concerning common control, Alliant Energy and Climax Molybdenum.

Dear Mr. Seitz:

The Iowa Department of Natural Resources (Department) is seeking guidance from EPA concerning the Prevention of Significant Deterioration (PSD) program. The specific question is in regards to the issue of a support facility and what constitutes common control.

Situation:

Climax Molybdenum is a major source for PSD. It normally receives its electricity from the local utility (Alliant Power). However, there are times when power is not available to the facility. For the periods when power is not available Climax Molybdenum has five 1600-KW diesel-fired backup generators on its property. The units were installed in 1995. Having backup generators is typical for many companies. However, the difference in this case is that instead of owning these generators, Climax Molybdenum leases these units from Alliant Power as part of an arrangement with the utility for interruptible power. There are, therefore, two situations when power is not available to Climax from the utility and these generators provide power to Climax. These times are unscheduled outages (lightning strikes, ice storms, etc.) and utility ordered curtailments. The generators are designed to startup and operate automatically when their sensors detect the absence of utility power. The units can also be started remotely by Alliant Power for use by Climax or by Alliant. However, only Climax has ever used the power generated by these generators. In addition, Climax personnel can start and have manually started the generators when they became aware of a potential power outage. The one advantage to manual start-up before a power outage occurs, but is anticipated, is continuity of electrical power to minimize impact on Climax operations. In the automatic mode startup sequence, it takes several minutes for the detection system to sense the utility outage, automatically startup the generators, and bring them up to operating speed so they can take over the electrical load.

The Department has previously told both companies that the generators are considered a support facility since Climax Molybdenum has the ability to startup the units and in the Department's view this would constitute common control. This is discussed in an April 10, 1997, Departmental memo by Chris Roling. A copy of this memo is included in Packet 1 of the information that the Department is including with this letter. Also enclosed is a copy of a 1996 letter from EPA Region VII to the Department written in response to the Department's request for guidance in this particular case. The Department's determination is further supported by guidance from EPA Region VII concerning another situation in Iowa with Penford Products and Alliant Power. The documentation for this situation is included in Packet 2 of information that is included with this letter. In that situation, Penford Products did not have the ability to manually operate the units in question from the Penford Products plant and EPA Region VII still felt Alliant Power's facility was a support facility. It should also be noted that one of Alliant Power's arguments for the boilers located at Penford Products not being a support facility is that Penford Products has no control on the operation of the units.

Alliant Power and Climax Molybdenum question the Department's decision that the generators are a support facility for Climax Molybdenum. One of the reasons is that EPA Region V told the State of Wisconsin in a similar situation that on-site generators did not constitute a support facility to the underlying plant. A copy of this letter is included in Packet 1 of the supporting documentation.

Also attached is a copy of a September 29, 2000, letter authored by Alliant's attorney, setting out Alliant's position. The Department does not agree with the assertions made in that letter that Climax does not generate, operate, control or supervise operation of the generators. In fact, the Department takes the position that the ability of Climax personnel to manually start the generators in anticipation of a loss of power, which is the only way to avoid a temporary absence of power, is the most important aspect of preventing an excess emissions incident such as the two incidents which resulted in the issuance of Administrative Order No. 95-HC-08; 95-AQ-46 to Climax in 1995. A copy of that order, and Administrative Consent Order No. 1999-AQ-39, which resolved the appeal of Administrative Order No. 95-HC-08; 95-AQ-46, is also attached. The Administrative Consent Order states on page 3:

“(3) Standby Generators. In 1995, Alliant installed back-up generators at the Climax facility. One of the effects of Alliant's installation of the back-up generators was to minimize the possibility of power interruptions at the acid plant. Climax procedure now calls for starting the diesel-fired engines of the generators any time an electrical storm is forecast and any other time the weather forecast indicates that a power interruption can reasonably be anticipated.”

The Department takes the position that Climax's manual control of the generators gives Climax common control of those generators because it gives Climax "the power to manage the pollutant-emitting activities of the facilities at issue", as well as its other emissions units. (August 2, 1996, memo from EPA Headquarters referenced in August 25, 1999, EPA Region V letter concerning Oscar Mayer Foods plant in Madison, Wisconsin.)

There appears to be an inconsistency between these neighboring EPA Regions. Alliant Power and Climax Molybdenum have asked to be treated the same as the Oscar Mayer Foods facility in Madison, Wisconsin was treated by the State of Wisconsin and EPA Region V. However, the Department's viewpoint and guidance from EPA Region VII point to a different conclusion. In order for the PSD program to be legitimate there must be consistency. Therefore, the Department is requesting EPA Headquarters to give some guidance on this situation. This is an important determination. There have been significant changes to the way businesses operate since the PSD program was created and leasing backup generators from utilities is becoming a common practice. The EPA guidance in this area very badly needs to be updated to help the states keep up with changing business practice.

The Department requests a response from EPA by April 6, 2001 as this determination is holding up the construction permitting process for these five "as-built" generators and the issuance of the Title V operating permits for the two facilities involved (Alliant Power and Climax Molybdenum). If the Department does not receive a response by this date, it will assume EPA Headquarters concurs with the Department's determination and require PSD permit applications for the five generators. If you have any questions regarding this project please feel free to call Chris Roling of my staff at (515) 242-6002.

Sincerely,

Peter Hamlin
Bureau Chief
Air Quality Bureau, IDNR

Attachments

C: Don Toensing, EPA Region VII
Bherat Mathur, EPA Region V
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