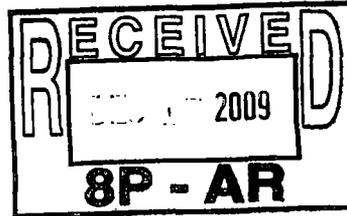


BP America Production Company
380A N. Airport Road
Durango, CO 81303

VIA HAND DELIVERY

December 17, 2009



Ms. Claudia Young Smith
Environmental Scientist
Air and Radiation Program
United States Environmental Protection Agency, Region 8
1595 Wynkoop Street
Mail Code: 8P-AR
Denver, CO 80202-1129

RE: BP America Production Company Florida River Compression Facility proposed
Air Pollution Control Title V Permit to Operate Number V-SU-0022-05.00

Dear Ms. Smith:

BP America Production Company ("BP") appreciates the opportunity to meet with the United States Environmental Protection Agency, Region 8 ("EPA") regarding BP's Florida River Compression Facility ("Facility") Proposed Air Pollution Control Title V Permit to Operate number V-SU-0022-05.000 ("Proposed Permit"). Please find enclosed the following two documents related to the Proposed Permit.

Document 1 - EPA requested BP to provide a description of direct and indirect gas flow from BP's owned and operated wells to the Facility. The requested description is attached as Attachment A.

Document 2 - On May 19, 2008 Rocky Mountain Clean Air Action ("RMCAA") filed comments on EPA's Proposed Permit. RMCAA maintained that EPA is legally required to aggregate the Facility, BP's Wolf Point Compressor Station ("Wolf Point") and BP's coalbed methane wells ("Wells") as a single source. BP's initial response to RMCAA's comments is enclosed as Attachment B. As stated in Attachment B, BP opposes the aggregation of the Facility, Wolf Point and the Wells in this permit application process on factual and legal grounds.

December 17, 2009 J. Best to C. Smith (USEPA Region 8) Letter Concerning Florida River Compression Facility Proposed Air Pollution Control Title V Permit to Operate Number V-SU-0022-05.00 and Transmitting (1) Description of Gas Flow from BP Wells to BP Florida River Compression Facility and Third Party Facilities and (2) Response to Rocky Mountain Clean Air Act Comments on Proposed Permit
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If you have questions regarding this letter and/or the Attachments or require additional information, please call me (970-375-7540) or Rebecca Tanory, BP's air specialist in Houston (281-366-3946).

Sincerely,



Julie Best

attachments (2)

cc: K. Paser, United States Environmental Protection Agency, Region 8, Air and Radiation Program, w/ attachments (via hand delivery)
R. Tanory w/ attachments

Federal Operating Permit Program (40 CFR Part 71)

CERTIFICATION OF TRUTH, ACCURACY, AND COMPLETENESS (CTAC)

**BP America Production Company
Florida River Compression Facility
Proposed Title V Permit Number V-SU-0022-05.00
Description of Facility Gas Flow and Source Determination Considerations**

This form must be completed, signed by the "Responsible Official" designated for the facility or emission unit, and sent with each submission of documents (i.e., application forms, updates to applications, reports, or any information required by a part 71 permit).

A. Responsible Official

Name: (Last) Braun (First) Jeffrey (MI) M.

Title San Juan Performance Unit Leader

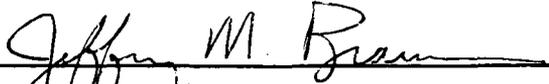
Street or P.O. Box 501 Westlake Park Blvd.

City Houston State TX ZIP 77079 -

Telephone (281) 366 - 5987 Ext. _____ Facsimile (281) 366 - 7981

B. Certification of Truth, Accuracy and Completeness (to be signed by the responsible official)

I certify under penalty of law, based on information and belief formed after reasonable inquiry, the statements and information contained in these documents are true, accurate and complete.

Name (signed) 

Name (typed) Jeffrey M. Braun Date: 12 / 16 / 2009

**INSTRUCTIONS FOR CTAC
CERTIFICATION OF TRUTH, ACURACY, and COMPLETENESS**

This form is for the responsible official to certify that submitted documents (i.e., permit applications, updates to application, reports, and any other information required to be submitted as a condition of a permit) are true, accurate, and complete.

This form should be completed and submitted with each set of documents sent to the permitting authority. It may be used at time of initial application, at each step of a phased application submittal, for application updates, as well as to accompany routine submittals required as a term or condition of a permit.

Section A - Title V permit applications must be signed by a responsible official. The definition of responsible official can be found at • 70.2.

Section B - The responsible official must sign and date the certification of truth, accuracy and completeness. This should be done after all application forms are complete and the responsible official has reviewed the information. Normally this would be the last form completed before the package of forms is mailed to the permitting authority.

ATTACHMENT A

DESCRIPTION OF GAS FLOW FROM BP AMERICA PRODUCTION COMPANY WELLS TO BP AMERICA PRODUCTION COMPANY FLORIDA RIVER COMPRESSION FACILITY AND THIRD PARTY FACILITIES

The majority of the gas from BP America Production Company (BP) owned and operated wells located in BP's San Juan Performance Unit North Asset (SJNA) flows to the BP owned and operated Florida River Compression Facility (Florida Facility) for processing. The rest of the gas from BP owned and operated SJNA wells flows to third party owned and operated gathering facilities (Plants) for processing.

Specifically, gas from the BP owned and operated SJNA wells flows to Low Pressure Pipeline systems (LPP) (both BP and third party owned and operated), then to central points of delivery compressor stations (CDPs) (both BP and third party owned and operated)(the Florida Facility also performs the function of a CDP), then to medium pressure pipeline systems (MPPs) (both BP and third party owned and operated), and then to third party owned and operated Plants or to the Florida Facility.

Gas from BP owned and operated CDPs flows to MPPs, the Florida Facility or third-party owned and operated Plants.

Gas from third-party owned and operated CDPs flows to third-party owned and operated Plants.

The Florida Facility also handles gas from third party gas producers and third party owned and operated gathering systems.

BP routes gas from the Florida Facility to BP owned and operated sales pipelines that connect with third party owned and operated sales pipelines.

Gas from BP owned and operated wells located southwest of the Florida Facility and west of the BP owned and operated Wolf Point CDP (Wolf Point CDP) flows mostly through a BP owned and operated LPP to a third party owned and operated CDP, MPP, and Plant. In the event of a third party owned and operated Plant upset, the gas can flow to the Wolf Point CDP.

Gas from other BP owned and operated wells located southwest of the Florida Facility and near the Wolf Point CDP flows through a BP owned and operated LPP to the Wolf Point CDP or to the Florida Facility.

Gas from the Wolf Point CDP flows to a BP owned and operated MPP that flows to the Florida Facility. Very infrequently a portion of the Wolf Point CDP MPP gas can be routed to a third party owned and operated MPP and Plant.

Gas from the Florida direct connect (DC) pipelines (LPPs) flows to BP owned and operated CDPs and then to the Florida Facility, or to a third party owned and operated CDP and third party owned and operated Plants.

ATTACHMENT B

Source Determination Considerations Associated with the Renewal Title V Operating Permit for BP America Production Company's Florida River Compression Facility

I. Emissions from the Florida Facility are Properly Not Aggregated with Wolf Point and/or BP Wells

Emissions from BP's Florida Facility are properly not aggregated with emissions from the distant Wolf Point station or with numerous BP wells in BP's San Juan Performance Unit North Asset (SJNA) because the Florida Facility is not contiguous with or adjacent to those other BP sources, and they do not together constitute a plant, facility or installation. The EPA and State of Colorado have previously rejected the claim that emissions from the Florida Facility and other facilities or wells should be aggregated. The position of EPA and Colorado is even more compelling today given the manner in which gas wells and the associated infrastructure have been developed over the last several intervening years.

II. Application of the Definition of Stationary Source

EPA's PSD regulations define "stationary source" as "any building, structure, facility, or installation which emits or may emit a regulated NSR pollutant." The regulations also define the terms "building," "structure," "facility," or "installation" to include:

[A]ll 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.

All three of these factors must be satisfied in order for the Florida Facility to be aggregated with Wolf Point station and/or numerous BP wells, and any aggregation of sources must also meet the ordinary meaning of a facility, structure or installation.

With recent issuance of the McCarthy Memo, EPA has emphasized the need to consider all factors and limitations affecting whether to aggregate multiple sources. Such an analysis must also include the statutory limits on the definition of stationary source, which provide that:

(1) it must carry out reasonably the purposes of PSD; (2) it must approximate a common sense notion of 'plant'; and (3) it must avoid aggregating pollutant-emitting activities that as a group would not fit within the ordinary meaning of 'building,' 'structure,' 'facility,' or 'installation.'

These limits of "the common sense notion of a plant" and the ordinary meaning of "structure," "facility" or "installation" cannot be exceeded even when the three factors are satisfied.

III. The Florida Facility's Permitting History

Source Determination Considerations Associated with the Renewal Title V Operating Permit for BP America Production Company's Florida River Compression Facility
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The former El Paso Florida River Compressor Station and the BP Florida River Compression Facility were each individually permitted PSD minor sources. The State of Colorado issued these two facilities their permits, and did not aggregate their emissions with wells or other facilities in so doing. Upon BP's acquisition of the El Paso facility, the combined Florida Facility constituted one stationary major source for PSD and Title V purposes.

Since the former El Paso compressor station is within the exterior boundaries of the Southern Ute Indian Reservation, EPA Region 8 asserted CAA jurisdiction over the combined facilities, and issued an initial part 71 permit for the Florida Facility on June 5, 2001. Notably, that EPA-issued permit also did not aggregate emissions from wells or other compressor stations with the Florida Facility. A contrary decision aggregating Wolf Point and/or BP wells with the Florida Facility would be arbitrary and capricious because the definition has not changed and, as discussed below, development has evolved in a way which only strengthens EPA's past decision to not aggregate.

IV. Gas Flow Through and Around the Florida Facility

As is noted in the attached description of gas flow, BP and third-party gas gathering facilities are highly interlinked to provide overall gathering reliability and to ensure that any one facility being down will not negatively impact production. Gas from BP wells can flow to many different BP owned and third party owned pipelines, CDPs, and facilities. In addition to BP gas, the Florida Facility handles third-party gas and can also accept gas from Red Cedar Gathering. Gas from the Florida Facility can be routed to the El Paso, Northwest, or Transwestern pipelines, and gas can also bypass the Florida Facility and be sent to Red Cedar or Williams for processing. As development continues, this interlinking is expected to grow and add more flexibility and reliability to gathering and production.

V. Application of Factors and Limitations on Aggregation to BP Wells and Wolf Point

Because the SIC Major Grouping is the same for BP's wells, compressors and other gathering facilities (prefix 13), and because BP has common control of these facilities, EPA's analysis must focus primarily on whether BP's facilities are "contiguous or adjacent," would fit within the common sense notion of a plant if aggregated, and when considered together meet the ordinary meaning of a "facility," "structure" or "installation."

BP's wells are widely dispersed across large areas of the SJNA and have become much more dispersed in the last several years. Well sites widely dispersed over many miles are plainly not "contiguous," and defy any reasonable interpretation of "adjacent," *i.e.*, "nearby." The wells are carefully limited in their surface boundaries by the lease terms and governing regulations such as spacing requirements. Moreover, BP must obtain separate permits to drill its wells and those wells are completed separately over long periods of time. Wells in the area are owned by many different companies which require gas to be metered at the well so as to fairly compensate all parties and avoid disputes. Those differences in how and where the wells are owned, located, permitted and operated show that they are individual sources under the CAA.

Source Determination Considerations Associated with the Renewal Title V Operating Permit for BP America Production Company's Florida River Compression Facility

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As described above in Part IV, the Florida Facility's relationship to the Wolf Point station and to numerous BP wells is dynamic, highly interlinked and flexible. This flexibility in gas flow and patterns has only increased in the years since EPA and Colorado determined that the compressor stations and wells should not be aggregated. Given that the law has not changed and the facts only further support the prior decisions to not aggregate, there is no basis for now aggregating the different sources. Such a decision would be arbitrary and capricious.

More specifically, Wolf Point and the Florida Facility are not adjacent and do not together comport with the "common sense notion of a plant." Each facility occupies a discrete surface site that is well-defined and marked by a perimeter fence, and they were constructed at different times. They are simply not a single "plant," "facility" or "installation" in the "common sense" of those terms. With respect to BP's wells, they are located to most effectively produce CBM gas from the producing formation, i.e., where the resource is located. Additionally, their remote locations cause them to operate very differently from true "plants" like the Florida Facility.

VI. Conclusion

Consideration of BP wells and/or the Wolf Point station as part of the Florida Facility "plant" defies common sense, does not turn on their functional relationship to one another, and should not occur because these disparate sources are not contiguous or adjacent.