

STATE OF MONTANA  
AIR QUALITY CONTROL  
IMPLEMENTATION PLAN

Subject: Yellowstone County  
Air Pollution  
Control Program

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW  
OF THE STATE OF MONTANA

In the Matter of the Application  
of the Department of Health and  
Environmental Sciences for Revision  
of the Montana State Air Quality  
Control Implementation Plan Relating  
to Control of Sulfur Dioxide Emissions  
in the Billings/Laurel Area, Affecting  
the Following Industries: Cenex, Inc.  
(Laurel); Conoco, Inc.; Exxon Company,  
USA; Montana Power Company, (J.E.  
Corette and F. Bird Plants); Montana  
Sulphur & Chemical Company; The  
Western Sugar Company; and Yellowstone  
Energy Limited Partnership.

STIPULATION OF  
DEPARTMENT AND  
MONTANA SULPHUR &  
CHEMICAL COMPANY

The Department of Environmental Quality ("Department"), and Montana Sulphur & Chemical Company ("MSCC"), hereby stipulate to the following paragraphs 1-22, including Exhibit A and Attachment #1, in regard to the above-captioned matter and present the same for consideration and adoption by the Board of Environmental Review ("Board").

Except for the parties' Stipulation of February 2, 1996, which is ratified in Paragraph 1, this Stipulation nullifies and supersedes all Stipulations which were executed by MSCC and the Department in response to the EPA SIP call letter of March 4, 1993.

~~A contested case was initiated on May 19, 1995 by the Board of Health and Environmental Sciences (predecessor to the Board of Environmental Review) at the request of MSCC to hear MSCC's objections to the Department's proposed sulfur dioxide control plan for MSCC. On October 6, 1995, the Board granted petitions to intervene and postpone hearing filed by Exxon, USA (Exxon) and Yellowstone Energy Limited Partnership (YELP). At the request of the intervenors, the contested case hearing was postponed until February 1, 1996. On or about December 26, 1995, YELP, MSCC, and the Department signed a negotiated stipulation for the withdrawal of YELP from the contested case.~~

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1       ~~On February 2, 1996, the Department, MSCC, and Exxon entered into a Stipulation~~  
2       ~~which deferred the contested case hearing and established agreed procedures for~~  
3       ~~developing a sulfur dioxide control plan for MSCC and amending the current sulfur~~  
4       ~~dioxide control plan for Exxon. MSCC entered the February 2, 1996 Stipulation and enters~~  
5       ~~this Stipulation, in part, to preserve MSCC's rights in the apportionment of the airshed~~  
6       ~~resulting from the present SIP revision, and to assist the Department in obtaining a~~  
7       ~~determination that the Billings/Laurel SIP is adequate to attain and maintain national~~  
8       ~~ambient standards. MSCC reserves all issues and objections for all purposes except this~~  
9       ~~settlement and the emission control strategy and rights arising from this settlement. The~~  
10       ~~February 2, 1996 Stipulation is hereby ratified and incorporated herein.~~

11       2.       ~~This Stipulation, together with Exhibit A and Attachment #1, contains the~~  
12       ~~sulfur dioxide control plan for MSCC that has been developed in accordance with the~~  
13       ~~procedures of the February 2, 1996 Stipulation. The Department has reviewed and~~  
14       ~~approved a fluid modeling demonstration of good engineering practice (GEP) stack height~~  
15       ~~for the MSCC 100 meter SRU stack, performed by GPP, Inc. of Fort Collins, Colorado,~~  
16       ~~and has determined that such approved fluid modeling demonstrated that a height of 97.5~~  
17       ~~meters is justified and creditable as good engineering practice height for that stack in~~  
18       ~~accordance with the requirements of 40 CFR Part 51, Subpart F, Section 51.100, including~~  
19       ~~specifically paragraphs (ii), (jj), and (ld)(1) thereof, GEP guidelines, and the~~  
20       ~~corresponding Montana requirements governing GEP. The Department has determined~~  
21       ~~and agrees, for purposes of this Stipulation, Exhibit A, and Attachment #1, that MSCC~~  
22       ~~shall receive credit for such height in the setting of emission limitations. The Department~~  
23       ~~has further determined that the recognition of variable buoyancy flux and/or the emissions~~  
24       ~~shifting in setting emission limits as contemplated and approved by the parties in this~~  
25       ~~Stipulation is not a prohibited or unlawful dispersion technique for MSCC and the~~  
26       ~~Department agrees that MSCC is entitled to and shall receive emission limitation credit~~  
27       ~~recognizing such techniques.~~

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1           3.     On April 30, 1971, the United States Environmental Protection Agency  
2 ("EPA") promulgated national ambient air quality standards ("NAAQS") for Sulfur Oxides  
3 (measured as sulfur dioxide "SO<sub>2</sub>"). The primary annual standard is 80 micrograms per  
4 cubic meter (annual arithmetic mean) or 0.03 parts per million (PPM); the primary 24-hour  
5 standard is 365 micrograms per cubic meter (24-hour maximum concentration) or 0.14  
6 parts per million (PPM), not to be exceeded more than once per year. A secondary  
7 standard for SO<sub>2</sub> was also promulgated by EPA. The secondary standard is 1300  
8 micrograms per cubic meter (maximum 3-hour concentration) or 0.5 PPM of SO<sub>2</sub> not to be  
9 exceeded more than once per year. These standards were promulgated by EPA pursuant to  
10 Section 109 of the Federal Clean Air Act, 42 U.S.C. 7401, as amended by the Clean Air  
11 Act Amendments of 1990 ("Act").

12           4.     Section 110 of the Act requires each state to submit an implementation plan  
13 for the control of each air pollutant for which a national ambient air quality standard has  
14 been promulgated. Since a national standard has been promulgated for sulfur oxides, the  
15 State of Montana is required to submit to EPA an implementation plan for SO<sub>2</sub>.

16           5.     In April, 1979, the Department submitted an addendum to the State  
17 Implementation Plan for the Billings/Laurel area designed to achieve compliance with the  
18 NAAQS for SO<sub>2</sub> (hereafter "Billings/Laurel Plan"). EPA approved the Billings/Laurel  
19 Plan in September, 1979.

20           6.     In a March 4, 1993, letter to the Governor of Montana, EPA stated that it  
21 had determined the Billings/Laurel Plan to be substantially inadequate to attain and  
22 maintain the SO<sub>2</sub> NAAQS and EPA stated that the Plan must be revised. The letter called  
23 for a SIP revision for the Billings/Laurel area to assure attainment and maintenance of the  
24 SO<sub>2</sub> NAAQS.

25           7.     The EPA letter of March 4, 1993, established September 4, 1994, as the  
26 deadline to submit to EPA a revised or new SO<sub>2</sub> plan for the Billings/Laurel area.

27           8.     Utilizing a dispersion modeling analysis, MSCC and the Department have

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1 developed an emission control strategy that, together with similar control strategies for  
2 other Billings/Laurel industries, is intended to assure attainment and maintenance of the  
3 primary and secondary SO<sub>2</sub> NAAQS. MSCC's acceptance of this Stipulation and of the  
4 assumptions and results of the dispersion modeling analysis conducted in this case is for  
5 the sole and exclusive purpose of implementing the SO<sub>2</sub> emission control strategy  
6 contained in this Stipulation, Exhibit A, and Attachment #1. In the event of future  
7 revisions to the SO<sub>2</sub> emission control strategy contained in this Stipulation, Exhibit A, and  
8 Attachment #1, MSCC does not waive and shall not be precluded from raising any objec-  
9 tions it may have including but not limited to those pertaining to the dispersion modeling  
10 analysis.

11 9. The purpose of this Stipulation and the emission limitations and other  
12 limitations contained in Exhibit A and Attachment #1 is to establish an emission control  
13 strategy for MSCC which, together with similar control strategies for the other  
14 Billings/Laurel industries, will assure attainment and maintenance of the primary and  
15 secondary SO<sub>2</sub> NAAQS. The Stipulation, Exhibit A, and Attachment #1 do not address  
16 attainment or maintenance of the Montana Ambient Air Quality Standards (MAAQS).

17 10. Exhibit A, which is attached to this Stipulation and incorporated herein by  
18 reference, contains emission limitations and other conditions, including but not limited to:  
19 methods for determining compliance with emission limitations, requirements by which  
20 such emission limitations are made quantifiable and enforceable by the Department, and  
21 facility modification requirements. MSCC shall comply with the terms of this Stipulation,  
22 the emission limitations and other conditions set forth in Exhibit A and Attachment #1.

23 11. The following Attachment is attached to Exhibit A and is incorporated  
24 therein and in this Stipulation by reference:

25 Attachment #1 : Performance Specifications for Stack Flow Rate Monitors.

26 12. Upon written certification by the Department that Attachment #1 has been  
27 revised in accordance with the requirements of Exhibit A, the revision shall be deemed

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1 incorporated in Exhibit A and this Stipulation by reference, and shall be enforceable from  
2 the date of the Department certification.

3 13. Disputes between the parties, during the development of a revised  
4 Attachment #1, as to whether a draft revision is in accordance with the requirements of  
5 Exhibit A must be submitted to the Board prior to judicial review of the dispute. The  
6 Board will exercise reasonable diligence in rendering a determination on the disputed  
7 matter. This paragraph shall not be construed to preclude the Department from directly  
8 seeking judicial enforcement of the final Attachment or of any other provision of this  
9 Stipulation or Exhibit A.

10 14. For the exclusive purpose of implementing the sulfur dioxide emission  
11 control strategy contained in this Stipulation, Exhibit A, and Attachment #1, ARM  
12 17.8.322 shall be interpreted to mean that no person shall burn solid, liquid, or gaseous  
13 fuels such that the aggregate sulfur content of all fuels burned within a plant during any  
14 day exceeds one pound of sulfur per million BTU fired. The rule shall be interpreted to  
15 allow for a daily deviation of 0.1 pound of sulfur per million BTU fired. The rule shall be  
16 interpreted to allow the blending of all fuels burned in a plant during a given time period in  
17 determining the aggregate sulfur content for purposes of the rule, and it shall not be  
18 construed to require blending or physical mixing of fuels at any given furnace or heater  
19 within the plant complex.

20 15. The Stipulation, Exhibit A, and Attachment #1 shall become effective  
21 immediately upon the issuance of an order by the Board in this proceeding, except where  
22 another effective date is specified in Exhibit A or Attachment #1.

23 16. It is the intent of the parties that this Stipulation, Exhibit A, and Attachment  
24 #1, after adoption and incorporation by Board order, shall be submitted to the  
25 Environmental Protection Agency for review and approval as the MSCC control strategy  
26 for the attainment and maintenance of the primary and secondary SO<sub>2</sub> NAAQS in  
27 Yellowstone County, as part of the State Implementation Plan. The Stipulation

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1 Requirements shall supersede any less stringent corresponding conditions pertaining to SO<sub>2</sub>,  
2 sources in any existing permit currently issued to MSCC.

3 17. The Stipulation, Exhibit A, and Attachment #1 are intended to assure  
4 attainment and maintenance of the primary and secondary NAAQS for SO<sub>2</sub>. The  
5 Stipulation, Exhibit A, and Attachment #1 are not intended to address attainment or  
6 maintenance of the Montana Ambient Air Quality Standards (MAAQS).

7 18. This Stipulation, Exhibit A, or Attachment #1 may be subject to  
8 modification upon the occurrence of certain modifying conditions. Such modifying  
9 conditions include, but are not limited to, the following:

- 10 (a) an EPA determination that the submitted plan is incomplete;  
11 (b) an EPA disapproval, either partial or complete, of the submitted plan;  
12 (c) an EPA conditional approval of the submitted plan;  
13 (d) a determination by EPA that this plan has failed to achieve or maintain the  
14 NAAQS; or  
15 (e) a demonstration by MSCC, utilizing Department and EPA approved dispersion  
16 modeling techniques (provided for in Appendix W of 40 CFR Part 51. These approved  
17 dispersion modeling techniques include, but are not limited to CTDMplus and ISC.), that  
18 the NAAQS can be achieved and maintained by implementing an alternative control plan.

19 Such alternative control plans, include but are not limited to:

- 20 (i) plans based upon a single emission limitation for several sources or stacks  
21 (emission bubbling or trading);  
22 (ii) a stack height of 65 meters; or a taller stack height that MSCC demonstrates,  
23 through a fluid model or field study approved by the Department and EPA, is Good  
24 Engineering Practice;  
25 (iii) an emission limitation that varies in accordance with the buoyancy flux of the  
26 plume; or  
27 (iv) the realignment of emission limitations among the emission points within a

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2 19. Procedures for modification of this Stipulation, Exhibit A, and Attachment  
3 #1 shall be as follows:

4 Board Approval

5 a. Stipulation and Exhibit. All modifications of the text of this Stipulation and  
6 Exhibit A shall require issuance of a revised Board order. Minor and clerical corrections  
7 may be made to this Stipulation and Exhibit A by mutual agreement of the parties, without  
8 the necessity for a revised Board order.

9 b. Attachment #1. As provided in Paragraph 12, upon written  
10 certification by the Department that an Attachment #1 has been revised in accordance with  
11 the requirements of Exhibit A, the revision shall be deemed incorporated in Exhibit A and  
12 this Stipulation by reference, without the necessity for a revised Board order.

13 c. Implementation Approvals. Where Exhibit A or Attachment #1 authorizes  
14 the Department and EPA to approve an alternative requirement or methodology, the  
15 implementation of such approval shall not require issuance of a revised Board order.

16 EPA Approval for SIP Changes

17 d. Stipulation, Exhibit, and Attachment #1. Following EPA approval pursuant  
18 to paragraph 16, all modifications of the text of this Stipulation, Exhibit A, and Attachment  
19 #1 shall require the approval of EPA under either subparagraph 19(f) or (g). To the extent  
20 allowed under federal requirements, minor and clerical corrections may be made by mutual  
21 agreement of the parties, without the necessity for formal approval by EPA.

22 e. Implementation Approvals. Where Exhibit A or Attachment #1 authorizes  
23 the Department and EPA to approve an alternative requirement or methodology, such EPA  
24 approval shall be obtained under either subparagraph 19(f) or (g).

25 f. Title I Procedures. Until the issuance of a Title V operating permit for  
26 MSCC and the adoption of the enabling state administrative rule described in paragraph  
27 19(g), all nonclerical modifications to the text of this Stipulation, Exhibit A, or Attachment

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1 #1 described in paragraph 19(d), and all implementation approvals described in  
2 subparagraph 19(e), shall be submitted to EPA under Title I of the federal Clean Air Act.  
3 The SIP revision procedures contained in 40 CFR Part 51 Subpart F shall not apply to  
4 modifications and approvals under subparagraphs 19(d) and (e) that constitute "minor  
5 modifications" as determined pursuant to subparagraph 19(h).

6 g. Title V Procedures. Title V operating permit revision procedures may be  
7 used to modify the SIP to include textual modifications under subparagraph 19(d) and  
8 implementation approvals under subparagraph 19(e), provided that the following two  
9 conditions are met:

10 (i) MSCC has been issued a Title V operating permit and the State has adopted  
11 an enabling administrative rule that complies with the federal requirements for  
12 modification of SIP requirements through the Title V process; and

13 (ii) the particular modification of the plan or implementation approval pertains  
14 to testing, monitoring, recordkeeping, calculation, reporting, or operating requirements or  
15 methodologies.

16 h. Minor Modifications. When a modification or approval under subparagraph  
17 19(d) or (e) is proposed the Department shall consult with EPA to determine whether the  
18 modification or approval is a "major" or "minor" modification. Such determination shall  
19 be made within 45 days from the submittal of the proposed modification or approval to  
20 EPA.

21 20. MSCC does not waive and expressly reserves its right to contest any Board  
22 order or Department or federal action which, without the written consent of MSCC,  
23 modifies this stipulation, Exhibit A, or Attachment #1.

24 21. Accordingly, the parties agree that the Board shall issue an order adopting  
25 the terms of this Stipulation, including the emission limitations and other conditions  
26 contained in Exhibit A and Attachment #1. Except where another effective date is  
27 provided in Exhibit A or Attachment #1, upon adoption in a Board Order, the Stipulation,

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1 Exhibit A, and Attachment #1 shall be enforceable by the Department.  
 2 ~~22. Notwithstanding any other provision of this Stipulation, MSCC's and the~~  
 3 ~~Department's consent to be bound by the terms of this Stipulation is conditioned upon the~~  
 4 ~~adoption of SO<sub>2</sub> emission control strategies, for all the affected industries in this matter,~~  
 5 ~~which are in their common terms substantially similar to one another. This condition of~~  
 6 ~~substantial similarity extends only to the initial control strategies, adopted by the Board or~~  
 7 ~~by the U.S. EPA as a Federal Implementation Plan, and which are adopted in response to~~  
 8 ~~the EPA letter of March 4, 1997 calling for revision of the Billings/Laurel SO<sub>2</sub> SIP. This~~  
 9 ~~condition of substantial similarity does not extend to subsequent revisions of such initial~~  
 10 ~~emissions control strategies, but does extend to and include any revisions of such emission~~  
 11 ~~control strategies resulting from any challenge or appeal of the initial adopted emissions~~  
 12 ~~control strategies. In the event that an initial control strategy is finally adopted by the~~  
 13 ~~Board or EPA, for any of the affected industries in this matter, which is not substantially~~  
 14 ~~similar in its common terms to this Stipulation or Exhibit A, either MSCC or the Depart-~~  
 15 ~~ment may, in a writing delivered to the other party and to the other affected industries in~~  
 16 ~~this matter within 60 days of receiving written notice of the adoption, withdraw its consent~~  
 17 ~~to this Stipulation.~~

18 Montana Sulphur and  
19 Chemical Company

Montana Department of  
Environmental Quality

20 By [Signature] V.P.  
21

By [Signature]  
22 Mark Simonich  
23 Director

24 Date May 28, 1998

Date 6/9/98

25 Approved as to form:

Approved as to form:

26 By \_\_\_\_\_  
Attorney

By [Signature]  
Attorney

27 Date \_\_\_\_\_

Date 6/9/98

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