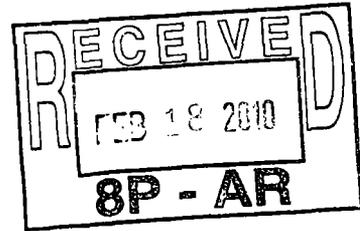




Davis Graham & Stubbs LLP

February 17, 2010



Via Hand Delivery

Ms. Claudia Young Smith
Environmental Scientist
Air and Radiation Program, 8P-AR
U.S. Environmental Protection Agency Region 8
1595 Wynkoop Street
Denver, CO 80202

Re: Supplemental Comments on Florida River Plant Renewal
Title V Operating Permit

Dear Ms. Smith:

I have enclosed three copies of BP America Production Company's ("BP") supplemental comments regarding EPA Region VIII's pending renewal of the Title V Operating Permit for BP's Florida River Plant.

If you need additional copies of the supplemental comments or have any questions, please call me at the number below.

Very truly yours,

Charles L. Kaiser
for
DAVIS GRAHAM & STUBBS LLP

CLK/lrm
Enclosures

cc: Jeff Conrad, w/encl.
John Jacus, w/encl.
Charlie Breer, w/encl.

**Supplemental Comments of BP America Production Company
Regarding The Pending Renewal Title V Operating Permit For
Its Florida River Plant**

**Submitted to EPA Region VIII
February 17, 2010**

NOTE: Certain attachments to these supplemental comments contain or constitute Confidential Business Information within the meaning of 40 CFR Part 2. BP America Production Company specifically reserves all claims of the confidentiality of such material to which it may be entitled, all of which is marked with the legend "Confidential Business Information" on each page.

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INTRODUCTION

BP America Production Company ("BP") submits this memorandum and the attached materials in (i) support of the U.S. Environmental Protection Agency ("EPA") Region VIII's pending issuance of a renewal Title V operating permit for BP's Florida River Plant ("Florida River" or the "Plant") and (ii) opposition to Rocky Mountain Clean Air Action, n/k/a WildEarth Guardians ("WEG"), comments urging EPA to aggregate hundreds or thousands of BP-operated wells across the Northern San Juan Basin ("NSJB") and BP's Wolf Point compressor station in the renewal permit for Florida River.

BP respectfully submits that BP-operated wells and the Wolf Point compressor station should not be aggregated with Florida River on numerous grounds, including the following:

- The aggregation of such sources with Florida River is contrary to the legal requirements for combining sources for Title V and prevention of significant deterioration ("PSD") program purposes;
- EPA's 1980 preamble statements concerning its final PSD regulations defining stationary source (on which source aggregation is based), do not support aggregating such sources;
- Aggregating other sources with Florida River in the pending renewal permit would be contrary to the multiple prior permitting decisions made by EPA and the State of Colorado regarding Florida River, their periodic inspections of the Plant to evaluate its compliance with the Act, and actions following BP's meeting with EPA on oil and gas operations and aggregation nearly a decade ago;
- The wells and other sources WEG seeks to have aggregated are not located on contiguous or adjacent properties and aggregation of those sources does not comport with the "common sense notion of a plant;"
- The aggregation of sources asserted by WEG in its prior comments would confound the efficient administration of Clean Air Act ("CAA" or "Act") operating and PSD permits without reasonably advancing the purposes of the PSD program, contrary to controlling case law;¹

¹ 42 U.S.C. 7401 et seq.

- Aggregating additional sources with Florida River would be an arbitrary and capricious departure from EPA's prior decisions not to aggregate the same facilities under the same governing legal standard; and
- After conducting a legal and factual review of BP's renewal application and WEG's comments, the Southern Ute Indian Tribe ("Southern Utes" or "Tribe") concluded in its own submission to EPA that "emissions of the Florida Facility are properly not aggregated with emissions from other BP facilities and wells on the Reservation because the Florida Facility is not contiguous with or adjacent to those other sources and they do not together constitute a plant, facility or installation." Exhibit A (January 13, 2010 Letter from the Tribe to EPA).

For all of these reasons, BP urges EPA to issue a final renewal operating permit for Florida River that does not aggregate wells and/or other compression facilities, and to reject the source aggregation arguments of WEG as both unsupportable and unworkable.

LEGAL STANDARD

The CAA seeks to protect human health and the environment from emissions that pollute the ambient air by requiring EPA to establish minimum national standards for air quality, and assigns primary responsibility to the states to assure compliance with those standards. Since the adoption of final regulations in 1980, large new sources of air pollution (and, under certain conditions, major modifications to large existing sources) have been subject to preconstruction review and permitting under the CAA. The type of preconstruction review and permitting depends on whether the source will be located in an area that is in "attainment" or in "nonattainment" with any of the National Ambient Air Quality Standards. Large new sources are subject to the PSD program if in an attainment area. If in a nonattainment area, such a source is subject to nonattainment new source review. In either case, the program is focused on permitting major new stationary sources of air pollutants.

Title V of the Act, enacted ten years after the final PSD regulations were promulgated, also focuses on "major sources" of air pollutants, requiring them to obtain a CAA operating

permit.² The main purpose of the Title V operating permit program is to compile into one document all CAA requirements applicable to a particular source.³ Thus, both the PSD and Title V programs define, and apply their requirements to, "major stationary sources."

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.⁴

EPA's regulations implementing Title V rely on a similar definition.⁵ These definitions of major sources for PSD and Title V program purposes establish the three requirements that must be satisfied before aggregating stationary sources under the CAA. All three of these factors must be satisfied in order for separate sources to be properly aggregated, and even then there are additional overarching principles that must be satisfied. The overarching principles are that (i) the source must meet the "common sense notion of a plant" and (ii) a source determined by aggregating emissions from otherwise separate sources must still meet the ordinary meaning of a "building," "facility," "structure" or "installation."⁶

EPA determined in its 1980 PSD regulations that applying the definition of "stationary source" to particular facilities would need to be done on a case-by-case basis.⁷ Much more recently, EPA has issued informal guidance memoranda concerning CAA source determinations

² CAA §§ 501-507, 42 U.S.C. §§ 7661-7661f. The Title V regulations are set forth at 40 C.F.R. Part 70 (state operating permit programs) and Part 71 (federal operating permit programs).

³ 40 C.F.R. § 71.1.

⁴ 40 C.F.R. § 51.166(b)(6).

⁵ 40 C.F.R. § 71.2 (definition of "major source").

⁶ 45 Fed. Reg. 52676, 52694-695 (August 7, 1980).

⁷ 45 Fed. Reg. at 52695.

for the oil and gas industries.⁸ These memoranda, though opposed to one another in some respects, are in agreement that “whether or not a permitting authority should aggregate two or more pollutant-emitting activities . . . remains a case-by-case decision in which permitting authorities retain discretion to consider the factors relevant to the specific circumstances of the permitted activities.”⁹ The most recent of these memoranda states that “source determinations within the oil and gas industries will continue to be complex, involving in some cases in-depth analyses of ownership and operational issues.” It is largely because these determinations remain fact-intensive that BP has submitted these supplemental comments and the attached factual materials for EPA’s consideration in making its source determination for Florida River’s renewal operating permit.¹⁰

FACTS

A. Florida River Plant.

BP’s Florida River Plant (i) compresses coalbed methane gas produced in the region to pressures necessary to meet interstate pipeline specifications and (ii) uses an amine process to reduce CO₂ levels in the gas stream to 2% or less, the interstate pipeline standard. Amoco Production Company (predecessor to BP) first permitted Florida River for construction in 1987 as a true minor source for PSD program purposes by the State of Colorado’s Air Pollution Control Division (“APCD”). By 1991, the facility handled 60 MMSCFD of gas at the tailgate of the Plant. Between 1992 and 1998, the plant added a number of items of equipment and increased the volume of gas being handled to 200 MMSCFD, but was still a PSD minor source,

⁸ See “Source Determinations for Oil and Gas Industries,” memorandum from William L. Wehrum to Regional Administrators (January 12, 2007) and “Withdrawal of Source Determinations for Oil and Gas Industries,” memorandum from Gina McCarthy to Regional Administrators (September 22, 2009).

⁹ 45 Fed. Reg. at 52695.

¹⁰ Certain attached documents are subject to BP’s timely claim of business confidentiality pursuant to 40 C.F.R. § 2.203(b). BP has affixed a prominent legend which reads “**Confidential Business Information**” in large red type on each page of the particular attachments to these comments for which BP seeks to claim and thereby preserve confidentiality, including Exhibits T, U, and V.

as well as a minor source for Title V purposes. El Paso Natural Gas ("EPNG") contemporaneously constructed its own Florida River compression facility on ground leased from Amoco at Florida River using two stationary gas-fired turbines. The El Paso Florida turbines were permitted by the State of Colorado, first as a minor source for both Title V and PSD purposes, and later as a Title V major source and PSD minor source.¹¹ Modifications to each of the facilities (Amoco and EPNG) were also permitted by Colorado. On multiple occasions, EPA considered whether Florida River should be aggregated with other facilities.

1. EPA's aggregation meeting with BP.

In September 2000, BP held a day and a half long meeting with the head of EPA's Region VIII and virtually all (30-40) of Region VIII's air permitting and enforcement personnel to discuss oil and gas operations in the context of aggregation. See Exhibit C (Affidavit of Gordon Reid Smith at ¶5 and attached meeting power point slides). BP's presentation to EPA included a detailed discussion and power point slide of how BP's gas flowed to (i) different compressors, (ii) different gathering lines, (iii) various third party gas plants and BP's Florida River Plant, and (iv) different interstate gas transmission lines. *Id.* at ¶5 (and attached slide of BP operations). Significant purposes of that meeting were to provide EPA with an understanding of the oil and gas exploration and production industry with respect to aggregation and to illustrate why aggregation was not workable for exploration and production operations. *Id.*

2. EPA aggregated BP's Florida River with EPNG's facilities.

After BP purchased EPNG's Florida River facility, EPA and BP agreed that the EPNG turbines should be aggregated with Florida River as one major source under both the PSD and Title V rules. See Exhibit D (February 28, 2001 BP Letter to EPA). That conclusion was

¹¹ See Letter from L. GHearhart, EPNG, to J. Geier, APCD, dated May 19, 1993, and excerpt from the enclosed permit application prepared for EPNG by D. Downard, Pilko & Associates, Inc., dated May 1993 (copy attached as Exhibit B).

appropriate because the facilities were on contiguous or adjacent properties, belonged to the same industrial grouping, BP owned and controlled both sources after the purchase from EPNG, and the facilities were collectively part of a single plant.

3. EPA's additional permitting and inspection activities for Florida River.

EPA has continued to routinely permit and inspect Florida River over the past decade. First, EPA issued a Part 71 permit to BP in June 2001 and a renewal Part 71 operating permit to BP for Florida River on September 21, 2005. Second, in July/August 2001, EPA considered BP's installation of a gas-fired Waukesha L579T lean-burn compressor engine. Third, on June 4, 2004, EPA issued a significant modification to BP's Part 71 permit to establish synthetic minor limits for NOx emissions for 12 diesel generators involving control with selective catalytic reduction and an enforceable NOx emissions limit cap over all of the generators of 39.1 tons per year. Fourth, EPA and Colorado have routinely inspected Florida River for compliance with all CAA requirements.¹² EPA's most recent inspection was in 2008. That representative inspection report is attached as Exhibit F.

Other than the decision to aggregate the former EPNG turbines with Florida River after being acquired by BP, neither Colorado nor EPA has sought to aggregate Florida River and any other facilities for CAA permitting purposes. This is significant in that these permitting and inspection efforts by state and federal regulators were founded upon a thorough understanding of the nature and purpose of BP's operation of the sources permitted at the Plant, as well as sources separate from the Plant but also operated by BP.

¹² See Inter-Office Communication from B. Jorgenson to D. Fox, APCD, re: Final Approval Inspection, dated Feb. 28, 1989 at p. 4 (copy attached as Exhibit E).

B. The Surface And Mineral Estates In The NSJB Are Sharply Divided.

1. Ownership pattern in the greater NSJB area.

The surface and mineral estates in the Northern San Juan Basin are highly fractured and owned by a mix of entities, including the Southern Utes, many federal agencies, State and local governments, and private parties. Maps showing the intermingled Tribal, Federal, State, and private surface and mineral ownership patterns are attached as, respectively, Exhibits G (surface) and H (minerals). The Florida River plant and many of the wells which typically flow to Florida River are located on the Southern Ute Indian Reservation. Ownership of those lands is highly checkerboarded due to conflicting United States land policies toward Native Americans, patents to homesteaders which reserved some minerals but not others, and Supreme Court case law.

In the early 1900s the United States sought to assimilate the Southern Utes by opening up lands previously held by the Tribe to homesteaders. Those lands were typically patented under the 1909 and 1910 Coal Lands Act which reserved coal to the United States but not gas and other minerals. Amoco Production Company v. Southern Ute Indian Tribe, 526 U.S. 865, 870 (1999) (coal estate owner does not own gas estate). The United States later abandoned its assimilationist policy in the 1930s and restored to the Tribe (i) those lands which had not been homesteaded and (ii) the reserved coal. Those lands and minerals returned to the Tribe are held in trust by the United States for the benefit of the Tribe. Ownership of the surface lands remains highly divided due to many years of homesteading. The mineral estate also remains fractured, in part because of the United States' limited mineral reservations, but also because of BP's agreement with the Southern Ute Indian Tribe to, among other things, form Resolution Partners LLP ("Resolution"), a limited partnership in which the Tribe acquired a 32% interest in many BP

wells located on the Reservation. The Tribe's interest in Resolution is in addition to the royalty interest it owns in those lands where the Tribe holds beneficial title to the gas.¹³

2. Ownership pattern in the vicinity of Florida River.

The surface and mineral ownership pattern near Florida River is complex, as evidenced by the fact that BP has over 60 surface use agreements, pipeline agreements, and rights-of-way in the area near Florida River. The mingled surface agreements are shown on a map attached as Exhibit I. It is virtually impossible to move anywhere on the surface without going through the boundary lines of the various agreements. Id. There are also multiple oil and gas leases near Florida River. A map showing the boundaries of the area oil and gas leases is attached as Exhibit J. A few representative leases are attached as Exhibit K. Those representative leases were executed more than a half-century ago, decades before Florida River was constructed. The oil and gas leases, like the surface use agreements, create a maze of boundary lines. See Exhibit J.

C. Gas Wells in the NSJB.

1. Wells in the greater NSJB area.

The entire gas field is approximately 20 miles (north to south) by 30 miles (east to west) and contains thousands of wells. BP-operated wells are spread across a vast area. Some BP wells are located up to 18 miles distant from the Florida River facility while other wells are located in sight of Florida River. Most of the wells in the field, particularly to the north, are coalbed methane wells drilled into the Fruitland coal formation by BP and many other oil and gas companies over the past 25 years. See Exhibit H (map shows coalbed methane wells in green). BP also has many wells located in conventional (non-coal) formations to the south. Id.

¹³ As described supra at 2, the Tribe's position is that Florida River is properly not aggregated with BP-operated wells or with other facilities.

(conventional wells in red). The gas composition among wells varies. Conventional gas typically has liquids which need to be removed. Coalbed methane does not contain liquids, but often has high levels of CO₂ which needs to be removed because it would otherwise mix with moisture and form carbonic acid in the pipelines. The level of CO₂ in coalbed methane varies, with wells in the south having higher levels than wells to the north. Some BP-operated wells are electrified; that is, any wellhead compressors or lift equipment runs on electricity. Other wells use gas-fired compressor engines and lift equipment. Wells in some areas have wellhead compressors whereas in other areas they do not.

2. Well location factors in the greater NSJB area.

The location of gas wells must conform to the spacing area established by the relevant jurisdictional authority.¹⁴ The spacing unit reflects the area one well can efficiently drain. Early coalbed methane wells in the NSJB area were spaced on the basis of two wells per 320 acre spacing unit, or 160 acres. However, the COGCC concluded in a series of orders that technological advances and geological data showed that 80-acre spacing was necessary to maximize recovery and minimize waste for coalbed methane wells drilled in the Fruitland coal seam. See, e.g., COGCC Order Nos. 112-180 and 112-190, attached as Exhibit M.¹⁵ Those spacing orders additionally limit where wells can be drilled within the spacing unit, e.g., wells must be drilled no closer to a unit boundary than 660 feet, and wells must be drilled from a single pad. A memorandum of understanding BP entered into with La Plata County further limits

¹⁴ Spacing in the NSJB area is complicated. The Colorado Oil and Gas Conservation Commission ("COGCC") determines proper spacing on fee and state lands; the Bureau of Land Management ("BLM") has authority to determine spacing on federal lands; and the Southern Ute Tribe has substantial authority over spacing on Tribal lands. Through a memorandum of understanding between the Tribe, the Bureau of Indian Affairs ("BIA"), and BLM, and a separate memorandum of understanding between BLM and COGCC the various authorities allow COGCC to make initial spacing determinations which the Tribe, BIA, and BLM may then accept or not for lands within their respective jurisdiction. See Exhibit L.

¹⁵ The Tribe and BLM concur with 80-acre spacing for the Fruitland formation. See, e.g., Draft Programmatic Environmental Assessment for 80 Acre Infill Oil and Gas Development on the Southern Ute Indian Reservation (2009).

potential well locations and requires the use of existing infrastructure to reduce surface impacts. La Plata County MOU at 5-6, Exhibit N. BP also has its own internal factors for locating wells and will choose those locations with optimal geology, engineering, topography, access, power, and surface owner compatibility.

3. Well location factors for those wells closest to Florida River.

A map showing the BP-operated wells located closest to Florida River is attached as Exhibit O (blue rings represent distances of $\frac{1}{4}$, $\frac{1}{2}$, and $\frac{3}{8}$ miles). Those wells were drilled at various times over the past 25 years. Several of the closest wells were drilled in the mid-1980s, before Florida River was even built, including the Federal Land Bank GU C#1 (1985), Federal Land Bank GU B#1 (1986), and Piccoli Ranches #1 (1987). Those well locations were driven in part by surface owner preferences, as well as spacing orders. See Exhibit P (internal memorandum on Piccoli Ranches #1 asking for "the district's best effort to accommodate the surface owner's wishes in locating the roads and location"). In contrast, other wells located within sight of Florida River were drilled less than a year ago (more than 20 years after Florida River was constructed), including the Federal Land Bank GU B#3, Federal Land Bank GU B#4, and Jefferies GU A#3. The newest wells drilled in 2009 are (i) based on COGCC 80-acre spacing orders, (ii) directionally drilled from a single pad, and (iii) electrified consistent with BP's La Plata County MOU. BP chose the drilling location for the three newest wells due to problems with other locations which included "difficult terrain," "the proximity of residences and property lines," and the "proximity of BP offices and pipelines." Exhibit Q (BP letter to COGCC dated November 4, 2008). Because the new wells are directionally drilled, the bottom hole location is not necessarily where the well pad is located. For example, by directionally drilling the Jefferies GU A#3 1500 feet to the north of the well pad, BP was able to avoid

potential conflicts with the owners of a new house that was being built. See Exhibit R (internal BP email explaining locations); Exhibit O (showing bottom hole locations).

D. Gas Flow.

The flow of gas in the NSJB field is a dynamic process. Gas can be gathered on several gathering lines, including those of BP, Red Cedar Gathering Company (a joint venture between the Southern Ute Indian Tribe and Kinder Morgan) ("Red Cedar"), and Williams Four Corners LLC ("Williams"), and can flow to any number of facilities, including Florida River, Wolf Point, and several other compressor stations and plants owned by BP, Red Cedar, or Williams. See Exhibit S (gas flow chart). A significant portion -- more than one-third -- of the gas produced from BP-operated wells flows to third-party facilities under normal operating conditions. For BP-operated production,

- 63% flows to Florida River;
- 25% flows to Red Cedar's Arkansas Loop;
- 8% flows to Red Cedar's Coyote Gulch;
- 3% flows to Red Cedar's Outlaw facility; and
- 1% flows to Williams.

BP and Red Cedar have significant flexibility in determining where and how gas flows. See Exhibit S. There are dozens of points across the field where BP-gathered gas can be either offloaded to other companies' pipelines and compressors or BP may accept gas from non-BP-operated wells and systems. Representative agreements are attached as Exhibit T.

BP has agreements with other third-party oil and gas gathering companies to accept BP's gas and for BP to accept third-party gas. A redacted copy of BP's standard agreement for gathering third-party gas is attached as Exhibit U. BP has agreements with Red Cedar to gather, compress, and treat gas from BP operated wells. A partially redacted copy of one of those agreements is attached as Exhibit V. Production from hundreds of BP-operated wells flows in the normal course to Red Cedar under that agreement. BP and Williams are also "parties to a

natural gas gathering and processing agreement” which, among other things, includes an “interconnection between BP’s and Williams’ gathering systems at the ... Wolf Point Exchange CDP.” See Exhibit W (January 22, 2010 Letter from Williams).¹⁶

Gas which would normally flow to Florida River can flow to Red Cedar and other third parties if Florida River is off line. Likewise, if Wolf Point shuts down, then gas that normally would flow to Wolf Point can flow to Williams or to Red Cedar. See Exhibit W (Williams Letter) and Exhibit S (gas flow chart). Conversely, if Red Cedar or another third party’s facility shuts down, then that gas can flow to Florida River. See Exhibit V (Red Cedar/BP Agreement at § 2.18).

Whether gas flows to a BP facility or to a third-party facility may also be a function of the gas pressure at any particular point in time. The facility to which the gas flows will change based on increases or decreases in gas pressure as new wells are drilled and older wells are reworked, go into decline, etc. Gas produced from BP operated wells in the Wolf Point area, for example, moves back and forth between Wolf Point and Bondad (owned by Red Cedar) based on pressures. In each instance where “BP gas”¹⁷ is transferred to third parties or BP receives third-party gas, the gatherer takes custody of and assumes liability for the gas while in the gatherer’s possession, the gas is measured by the gatherer, and the shipper verifies those volumes with its own check meter. See Exhibit U (BP Agreement).

E. Wolf Point Compressor Station.

Wolf Point is a compressor station which went on line in May of 2001 operating with three lean-burn compressor engines. Wolf Point is a central delivery point/compressor station

¹⁶ The agreements are confidential and proprietary. Williams was not willing to allow the release of the agreement, but did provide the letter attached as Exhibit W.

¹⁷ “BP gas” refers to gas from BP-operated wells, regardless of BP’s ownership of the gas, if any, apart from its operator status.

for coalbed methane gas produced by BP-operated wells and by third parties. Gas handled by Wolf Point is compressed and dehydrated, and then flows via medium-pressure pipelines (both BP and third-party owned and operated) to Florida River or other third-party owned and operated central delivery points (CDPs). See Exhibit S.

Wolf Point is physically and operationally separate from Florida River. Wolf Point is located approximately 4½ miles away from Florida River and separated by rugged terrain. By vehicle (SUV with four-wheel drive), one can travel from Wolf Point to Florida River in approximately 20 minutes, in good weather. At that distance, the Florida River plant (larger and more visible than Wolf Point) is not easily discernible when viewed from Wolf Point. See Exhibit X (photos of Florida River viewed from Wolf Point without zoom and with a digital zoom). BP personnel responsible for Wolf Point's day-to-day operations are officed in the BP Operations Center, while Florida River plant personnel are officed at the Plant itself.

Because Wolf Point is within the exterior boundaries of the Southern Ute Indian Reservation, and because there is no federal minor source permit program applicable to Wolf Point, BP was required to obtain a Title V operating permit under EPA's Part 71 rules. EPA issued Wolf Point its first operating permit on February 27, 2003. That permit confirmed that Wolf Point was a minor source for PSD program purposes. EPA has continued to handle various permit and facility modifications for Wolf Point in the past several years. The first modification of Wolf Point involved the addition of another lean-burn compressor engine in 2005 by BP, but the facility remained a PSD true minor source. Based on a review of the facility's emission factors for formaldehyde, EPA determined that Wolf Point had become a major source of formaldehyde with the 2005 addition of a fourth engine, and thus had become a major source as defined by the maximum achievable control technology requirements (MACT standards) for

control of HAPs under Subpart ZZZZ of 40 CFR Part 63. In March 2006, BP requested a further modification of Wolf Point for the replacement of all four engines with three new lean-burn engines equipped with oxidation catalyst emission controls and an enforceable formaldehyde limit for the facility. This resulted in a Part 71 significant permit modification which made the facility a synthetic minor source of HAPs, effective July 31, 2006. Installation, start up, and shakedown of the new replacement engines is planned for completion by the end of March 2010, including the decommissioning of the existing engines. EPA has never sought to aggregate Wolf Point with any other facilities or wells.

F. BP Management Structure.

BP has separate personnel and equipment devoted to (i) locating, drilling, producing, and maintaining BP-operated gas wells and (ii) operation and maintenance of Florida River, Wolf Point and other non-well facilities. BP's Plant personnel (team leaders and operators) are responsible for the Plant operations, but not for well production activities, and are officed at the Plant. A separate well production team leader and his "pumpers" are responsible for the operation of wells. In the NSJB, this is the Northwest Production Team Leader. He is officed at the BP Operations Center with personnel on the well production team. Additionally, wells do not share pollution control equipment or other equipment with Florida River or Wolf Point. Equipment and materials for BP-operated wells and Wolf Point are not stored at Florida River (other than some bulk storage of methanol and gasoline). The only tie between these distinct and separate groups is that they report to the same ultimate Florida River Operations Manager for purposes of business efficiency and accountability.

G. WEG Claims.

EPA and/or Colorado have on many occasions issued and amended CAA permits for the Florida River and Wolf Point facilities. Supra at 4-6, 12-14. Most of those permitting decisions

were available for public comment and noticed in the Federal Register or Colorado Register. Despite numerous opportunities to comment, WEG never previously claimed that Florida River should be aggregated with Wolf Point or BP-operated wells. WEG's May 2008 comments on the draft Florida River Title V permit claim for the first time that "EPA has not considered emissions from all interrelated pollutant emitting activities, namely BP's coalbed methane wells and the Wolf Point Compressor Station." WEG comments at 2. WEG asserts that BP's wells in La Plata County should be aggregated with Florida River because (i) "[t]he fact that BP's producing coalbed methane wells are all located primarily within La Plata County strongly indicates these pollutant emitting activities are adjacent to the Florida River Compression Facility for PSD purposes" and (ii) BP's wells "have a functional interrelationship with the Florida River Compression Facility" -- that is, without Florida River, BP's wells "would cease to operate as there would be no means of compressing, processing, and transporting natural gas to market pipelines." *Id.* at 4, 5. WEG further claims that "there is no question that the Wolf Point Compressor Station is interrelated and adjacent to the Florida River Compression Facility" because gas from Wolf Point flows to Florida River. *Id.* at 5.

ANALYSIS

A. EPA Legal Standard For Aggregating Activities.

EPA's PSD regulations define "stationary source" as "any building, structure, facility, or installation which emits or may emit a regulated NSR pollutant." *Supra* at 3; 40 C.F.R. § 51.166(b)(5). The terms "building," "structure," "facility," or "installation" are defined to include the familiar three-part test for aggregation:

[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.

40 C.F.R. § 51.166(b)(6). The Title V permitting regulations identify the same three factors.

40 C.F.R. § 71.2. All three factors must be satisfied for EPA to aggregate the Florida River plant with BP-operated wells and/or the Wolf Point compressor station.

In addition to these three aggregation factors in the regulations, EPA expressly adopted the limits placed upon its ability to aggregate pollutant-emitting activities established by the court in Alabama Power Company v. Costle, 636 F.2d 323 (D.C. Cir. 1980):

In EPA's view, the December opinion of the court in Alabama Power sets the following boundaries on the definition for PSD purposes of the component terms of 'source': (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.'

45 Fed. Reg. at 52694-95. Those additional limits imposed by Alabama Power and adopted by EPA cannot be exceeded even when the three regulatory factors are satisfied. The EPA aggregation standard has remained the same since 1980.

B. The Florida River Plant, The Wolf Point Compressor Station, And BP-Operated Wells Are Not On "Contiguous Or Adjacent Properties."

The common dictionary definition of "adjacent" is "near or close; next to or contiguous." See Random House College Dictionary 17 (rev. ed. 1988). Since "contiguous" generally means "touching," and none of the BP-operated wells have surface sites actually touching the boundary of the Plant, we focus on whether any of the BP-operated wells is "adjacent" to the Plant.

WEG's assertions made in its comments on the draft renewal permit for Florida River bear no relationship whatsoever to the common definition of "adjacent." According to WEG, "[t]he fact that BP's producing coalbed methane wells are all located primarily within La Plata County strongly indicates these pollutant emitting activities are adjacent to the Florida River Compression facility for PSD purposes." WEG comments at 5. The fact that many of BP's NSJB wells are located in La Plata County does not mean they are "adjacent." La Plata County

covers 1692 square miles or nearly 1.1 million acres. See La Plata County Comprehensive Plan. Wells that happen to be co-located within such a large area cannot reasonably be said to be “near or close” to one another. Moreover, WEG says nothing of the (i) vast, intermingled surface and mineral estates throughout the NSJB that separate BP-operated wells, Florida River and Wolf Point or (ii) COGCC spacing orders that dictate the wells’ proximity to each other. Supra at 7-10. Any assertion of adjacency that fails to take these important spatial attributes into account should be rejected as mere argument, and wholly lacking in factual and analytical support.

1. Florida River and Wolf Point are not on contiguous or adjacent properties.

The facts described supra at 7-8, 12-13 are dispositive in showing that Florida River is not adjacent to Wolf Point. Wolf Point is approximately 4½ miles and a 20 minute drive away from Florida River. Wolf Point is located on Tribal lands while Florida River is located on fee lands. There are many intervening surface and mineral properties between the two facilities, and as the photos attached in Exhibit X show, Florida River is not readily visible from Wolf Point. These two facilities are simply not on “adjacent properties” within the plain meaning of that term.

2. Florida River and BP-operated wells are not on contiguous or adjacent properties.

Many of BP’s wells are located a significant distance (up to 18 miles) from Florida River, and so they are not “near or close.” Nor are BP-operated wells and Florida River located on “contiguous or adjacent properties.” BP-operated wells are (i) located on surface lands owned by scores of different public and private landowners and (ii) drilled into mineral estates leased by BP from a vast number of different mineral owners. Supra at 7-11. Maps of surface use agreements and oil and gas leases on lands near Florida River collectively show dozens of different surface use and oil and gas lease agreements. See Exhibits I and J. For the 600 square

mile NSJB field or the more expansive La Plata County area (which WEG uses to define contiguous or adjacent, supra at 14-15), there is an exponential increase in the numbers of surface and mineral estate owners and agreements covering the many properties that separate wells and CDPs by great distances in this wide open, western landscape. Those intervening, separately-owned estates render it impossible for the many individual, widely dispersed wells located on small operating pads to be considered located on “adjacent properties” within the plain meaning of that phrase.

A small handful of BP-operated wells are within sight of Florida River. Their location does not, however, mean they can or should be aggregated with the Plant for CAA permitting purposes. Those BP-operated wells closest to Florida River are depicted on Exhibit O, and are located within the ½ mile line depicted on that map. As discussed supra at 10, several of these wells pre-date the Plant, while others were drilled more than two decades after the Plant was built. Their proximity to the Plant is a function of spacing, surface owner preferences, and other factors, rather than distance from (or relationship to) the Plant. They are no more adjacent to the Plant than other wells much further removed, and should therefore not be aggregated with it. And even if EPA were to decide that these closest BP-operated wells (within ½ mile) are sufficiently “adjacent” to Florida River, there is still no basis for aggregating such wells with the Plant, because (i) together they do not fit within the “common sense notion of a plant,” (ii) their aggregation would not reasonably advance the purposes of PSD, and (iii) aggregating those wells with Florida River would be an arbitrary and capricious departure from EPA’s and Colorado’s longstanding practice.¹⁸

¹⁸ EPA cannot aggregate Florida River, Wolf Point, and BP-operated wells because the facilities are not on contiguous or adjacent properties and EPA cannot aggregate facilities when any of the three elements are missing. Consequently, it is not necessary to address the other elements of (i) common ownership and control and (ii) the standard industrial classification code. With respect to those other factors, the Tribe has a substantial interest in

C. Florida River, BP-Operated Wells, And Wolf Point Do Not Meet The Common Sense Notion Of A Plant.

Even if WEG could successfully show that Florida River, BP-operated wells, and Wolf Point satisfy the three part aggregation standard, WEG must additionally show that aggregating those facilities meets the “common sense notion of a plant.” Florida River, BP-operated wells, and Wolf Point, if aggregated in any combination, do not meet the common sense notion of a plant within the oil and gas industries.

BP’s Florida River, Red Cedar’s Arkansas Loop, and Williams’ Milagro are frequently referred to as “plants” by their respective operators, regulatory agencies, and even the courts.¹⁹ That is the common sense notion of those facilities.²⁰ Individual wells or groups of wells which may flow to any of those plants are not referred to as “plants” and are not referred to as an integral part of those three plants, *i.e.*, that is not the common sense notion among knowledgeable professionals in the industry or the agencies which primarily regulate the industry. Wells which flow to Florida River or other plants in the area are routinely bought and sold, yet those purchases and sales of wells have no bearing on Florida River, again indicating they are not part of the same plant. Indeed, some wells were drilled before Florida River was built, some wells are electrified while other wells are gas-fired, some wells produce gas from conventional formations, while other wells produce coalbed methane. All wells are permitted under a separate regulatory scheme involving individual applications for permits to drill granted by the COGCC and subject to mandatory spacing orders.

many BP-operated wells and those wells are on land and minerals owned by many different entities. Florida River, Wolf Point, and BP-operated wells all have the same SIC code.

¹⁹ See, e.g., Williams Production Co., MMS-02-0007 (2004) (Minerals Management Service referring to “Milagro Plant”); Amoco Production Co. v. Watson, 410 F.3d 722, 727, 730 (D.C. Cir. 2005), aff’d, 127 S.Ct. 638 (2006) (referring to San Juan Basin facilities for removing excess CO₂ as “treatment plants”).

²⁰ The agreement between BP and Red Cedar confirms that common sense notion of a plant. The agreement defines “plant” to mean “one or more of the amine-treating plants that Red Cedar owns, operates, or has contractual rights to deliver gas to be treated for the removal of CO₂, and that are used by Red Cedar to provide services to Producer under this Agreement.” Exhibit V at 5.

Nor does BP treat wells that it operates and Florida River as a single plant. There are completely separate groups of BP employees responsible for (i) drilling and well maintenance and operation and (ii) Florida River operations. The only tie between Florida River and the wells is that there is a connecting pipeline which, depending on the location of the wells and the flow of the gas, may or may not be owned by BP. Moreover, if a mere connecting pipeline were the test, then the gas infrastructure across the entire western United States would be considered a single "plant," given the flow of most NSJB gas to Southern California. It is telling that EPA has never treated BP-operated wells and Florida River as a "plant."

BP-operated wells closest to Florida River also would not comport with the common sense notion of a plant, if aggregated with the Plant for permitting. The locations of those wells were dictated by spacing orders, the preference of surface landowners, topography, and other conflicting uses. Supra at 10-11. The locations of those wells closest to Florida River have nothing to do with the proximity of Florida River. Of the ten wells closest to Florida River, three were drilled even before Florida River was built. Supra at 10. Wells drilled before Florida River was built cannot be part of the same plant. The ten closest wells rely on different fuel sources (four are electrified while six are natural gas-fired), which also tends to indicate they are not all part of the same plant. The three most recent wells were drilled on a single pad north of Florida River. Those wells were drilled on a single pad to satisfy COGCC orders and the La Plata County MOU. Supra at 10. The surface location of the single pad was driven by conflicts with property lines and terrain in other locations. Id. The proximity of the well pad and pumpjacks for several of the most recent wells do not even reflect the downhole location of the wells because the wells were directionally drilled. Supra at 10-11 (e.g., Jefferies GU A#3 directionally drilled 1500' to the north to avoid potential conflicts with a new house being built).

Thus, these locations are not related to Florida River, do not suggest they are part of a single plant, and therefore they should not and cannot properly be aggregated.

Wolf Point and Florida River also do not satisfy the common sense notion of a plant when evaluated for possible aggregation. WEG's claim is that Wolf Point should be aggregated with Florida River because Wolf Point gas flows to Florida River. The fact that gas may flow from one compressor to another or to some other facility can be said of virtually any oil and gas operation across the West, if not the entire country. Such flow does not suggest the existence of a single "plant." Wolf Point gas can flow back and forth with Red Cedar's Bondad station, and Wolf Point gas can flow to Red Cedar's Outlaw station. Wolf Point is also interconnected with the Williams facilities. Supra at 12. Such dynamic and variable gas flow does not comport with the common sense notion of a single plant.

Other factors also show that Florida River and Wolf Point are not the same plant. Florida River was built 15 years before Wolf Point. Florida River and Wolf Point are physically far removed from each other. Supra at 13. Separate teams of BP personnel operate and maintain the Florida River and Wolf Point facilities, respectively. And EPA has never sought to aggregate Wolf Point with Florida River in any prior permitting or inspection decisions for those facilities. Florida River and Wolf Point are two widely separated and distinct facilities which should not now be aggregated for Title V or PSD permitting purposes.²¹

²¹ EPA concluded in its 1980 rulemaking that an additional boundary established by Alabama Power is that the agency also "must avoid aggregating pollutant-emitting activities that as a group would not fit within the ordinary meaning of 'building,' 'structure,' 'facility,' or 'installation.'" 45 Fed. Reg. at 52694-95. Florida River, BP-operated wells, and Wolf Point can no more fit within the ordinary meaning of those terms than they could constitute the "common sense notion of a plant."

D. Aggregating Florida River, Wolf Point, And Numerous Wells Would Not Reasonably Advance The Purposes Of PSD.

According to both EPA and the court in Alabama Power, the determination of a source that involves aggregation “must carry out reasonably the purposes of PSD.” 42 Fed. Reg. at 52694-95. The primary purpose of the PSD program is to address major new sources of air pollutants in nonattainment areas in order to maintain air quality within applicable increments. The program is not focused upon long pre-existing sources that have been duly permitted and inspected, like Florida River and Wolf Point.

Aggregating Florida River, BP-operated wells, and/or Wolf Point would not “carry out reasonably the purposes of PSD” because there would be no appreciable environmental benefit, and trying to treat these long-established and properly permitted sources as if they were new major sources triggering PSD creates far more problems than it could possibly solve. That is because all of the sources being evaluated for source determination purposes as a result of WEG’s comments are already subject to numerous federal, state, and local requirements which effectively control their emissions of air pollutants, in furtherance of the CAA. These include NSPS and NESHAP program standards, as well as state-only requirements adopted very recently under Colorado AQCC Regulations 3 and 7. Such pre-existing control requirements very likely meet or exceed the BACT controls that would be required if these widely dispersed and disparate sources were aggregated for PSD and Title V purposes, so the benefits of such aggregation would be negligible, at best.

WEG-style aggregation in this circumstance would also cause significant practical problems. Permit issuance and administration for EPA would become far more burdensome and complex because permits would be in a constant state of revision, to accommodate each new well or rework, for example, and far more PSD permits would be required. Lead times for such

permits could only get longer, and they are already the longest of any category of CAA permit currently required, for which the PSD/NSR program is often criticized. Such a permitting scheme could even have adverse environmental impacts because it would discourage discrete facility upgrades, and it would discourage investment in this type of energy production due to the significant additional delays and uncertainties in project permitting that it would cause. In short, aggregating sources as WEG has advocated would not “reasonably carry out the purposes of PSD,” and should therefore be rejected by EPA.

E. Functional Interdependence Is Not An Element Of The Proximity Factor.

WEG repeatedly claims that BP-operated wells and the Wolf Point compressor station must be aggregated with Florida River because they “have a functional interrelationship with the Florida River Compression Facility.” WEG comments at 2-6. EPA’s aggregation regulations do not refer to functional interrelationships or interdependence as a factor to consider in determining whether activities should be aggregated. Supra at 15-16. To the contrary, EPA considered and rejected “any assessment of functional interrelationships” in its 1980 PSD rulemaking because it would “have made administration of the definition substantially more difficult” and “embroiled the agency in numerous fine-grained analyses.” 45 Fed. Reg. at 52695. EPA’s only reference to functional interdependence in the preamble is specific to how SIC major group codes may be applied when considering sources with different SIC major codes, but that appear to have some form of functional interdependence. Id. EPA’s entire discussion of primary and support facilities, i.e., functional interrelationships between stationary sources, in the 1980 preamble is confined to how CAA permitting authorities are to evaluate the industrial grouping factor through the application of SIC major group codes. There is nothing in the 1980 preamble providing that a support facility analysis should override or relate in any way to the separate requirement that sources be “contiguous or adjacent.” Given the agency’s decision to reject

interrelatedness in its 1980 preamble and EPA's recent reaffirmation that the 1980 preamble controls source determinations, supra at 23 and n.8, EPA could not now consider interrelatedness as a factor without engaging in new rulemaking.²² Notwithstanding that significant limitation, WEG's claimed interdependence rationale is, in all events, wrong, and not a basis for the aggregation of sources (i) that are not also contiguous or adjacent and (ii) which together do not meet the "common sense notion of a plant."

F. Aggregating Florida River With BP-Operated Wells Or Wolf Point Would Be Arbitrary And Capricious.

EPA's aggregation standard is settled law. The standard has been litigated in Alabama Power and EPA accepted those limitations imposed by the court's decision in the 1980 preamble. 45 Fed. Reg. at 52694-95. The standard has remained unchanged for nearly 30 years and has governed EPA's and/or Colorado's multiple permit, renewal, and inspection/enforcement decisions issued for Florida River and Wolf Point facilities during that time. There is no doubt that when EPA rendered its permitting decisions, the agency understood BP's infrastructure in the NSJB and how BP's gas flowed. BP discussed the Florida River infrastructure with 30-40 EPA Region VIII representatives at an extended meeting on oil and gas in the context of aggregation. Supra at 5. That presentation comprehensively showed how BP's gas flowed in the NSJB. Yet based on the same aggregation standard currently in place and EPA's knowledge of BP's facilities in the context of aggregation, EPA never sought to aggregate any gas wells with Florida River and did not seek to aggregate Florida River with Wolf Point. EPA cannot now change its position without adopting a new aggregation standard or providing a rational basis for departing from its past permitting decisions. There is no new standard and there is no rational

²² See, e.g., Paralyzed Veterans of America v. D.G. Arena L.P., 117 F.3d 579, 586 (1997) ("Once an agency gives its regulation an interpretation, it can only change that interpretation as it would formally modify the regulation itself: through the process of notice and comment rule-making.").

basis for now seeking to aggregate Florida River with wells or Wolf Point when the aggregation standard remains unchanged. The only change over time has been that BP, Red Cedar, and other companies have constructed additional infrastructure to allow gas to flow in more directions, which only further confirms and supports EPA's prior decisions not to aggregate Florida River with other facilities.

CONCLUSION

BP appreciates the opportunity to provide these supplemental comments and the attached factual information to EPA Region VIII in connection with issuance of a renewal Title V operating permit for Florida River. We felt that providing thorough coverage of the issues and the pertinent background materials was necessary given the complexity of the underlying facts. We respectfully request EPA to reject WEG's definition of "adjacent" and characterization of the "common sense notion of a plant." WEG's suggested source aggregation would, among other things, run afoul of Alabama Power by applying an "unreasonable literal application" of what may constitute a "building, structure, facility or installation." We urge EPA to reject WEG's assertions and issue a renewal operating permit for Florida River that does not include BP-operated wells or the Wolf Point CDP as covered sources.



SOUTHERN UTE INDIAN TRIBE

January 13, 2010

Claudia Smith
Part 71 Permit Contact
U.S. Environmental Protection Agency, Region 8
1595 Wynkoop Street (8P-AR)
Denver, Colorado 80202

**Re: BP America Production Company Florida River Compression Facility
Proposed Title V Permit No. V-SU-0022-05.00**

Dear Ms. Smith:

I am writing to express the support of the Southern Ute Indian Tribe for the issuance of the above-referenced proposed Title V permit. The Florida River Compression Facility is an important facility for the processing of coal bed methane gas produced on the Southern Ute Indian Reservation, including gas in which the Tribe has a beneficial ownership interest. In considering the proposed permit, our staff and legal counsel have reviewed BP's Renewal Application, EPA's Statement of Basis for Draft 1st Renewal Permit, EPA's draft proposed permit, as well as the comments on the draft proposed permit submitted by Rocky Mountain Clean Air Action, and BP's response to RMCAA's comments.

Based on that review, we believe that issuance of the proposed permit would be in compliance with applicable Clean Air Act requirements, and we urge EPA to issue the permit. The Tribe specifically concurs with BP's position that emissions of the Florida Facility are properly not aggregated with emissions from other BP facilities and wells on the Reservation because the Florida Facility is not contiguous with or adjacent to those other sources and they do not together constitute a plant, facility or installation.

Sincerely,


Matthew J. Box, Tribal Chairman
Southern Ute Indian Tribal Council

P. O. Box 737 ♦ IGNACIO, CO 81137 ♦ PHONE: 970-563-0100

EXHIBIT A

El Paso
Natural Gas Company

P. O. BOX 1492
EL PASO, TEXAS 79978
PHONE: 915-541-2600

May 19, 1993

RECEIVED

MAY 20 1993

Mr. Jim Geier
Permit Chief
Stationary Source Program (APCD-SS-B1)
Colorado Department of Health
4300 Cherry Creek Drive South
Denver, Colorado 80222-153

AIR POLLUTION DIVISION
STATIONARY SOURCES PROGRAM

Reference: Minor Source Permit Application for Additional Compression at El Paso Natural Gas Company's Florida River Station in La Plata County

Dear Mr. Geier:

Please find enclosed with this letter one copy of an application to install 4,329 additional site horsepower at our existing Florida River Station (90LP014-1). Also please find check #4017 for \$75.00, the APEN fee for the new source.

Because of weather constraints, El Paso Natural Gas needs to start construction sometime in September or sooner if the permitting process can be expedited. If you have any questions or need additional information, please give me a call at 915/541-5341. Thank you.

Sincerely yours,



Loren E. Gearhart, P.E.
Principal Environmental Engineer
Environmental Affairs Department

Attachments

:leg

cc: P. L. Baca w/o attachments
R. A. Duarte w/o attachments
D. M. Kelsey w/o attachments
J. M. Peters w/o attachments
R. I. Trevino
Skip George
Henry Van w/o attachments
File: 5228(air)

EXHIBIT B

Permit Application El Paso Natural Gas Company Florida River Compressor Station Durango, Colorado

For

El Paso Natural Gas Company

For PILKO & ASSOCIATES, INC.



David E. Downard, P.E.

(3022/104885.00)

Revision 0

May 1993

05/17/93

Headquarters:
2707 North Loop West
Suite 900
Houston, TX 77008
(713) 861-1417

West Coast Office:
6351 Owensmouth Avenue
Suite 103
Woodland Hills, CA 91367
(818) 716-9311

East Coast Office:
P. O. Box 4151
Cherry Hill, NJ 08054
(609) 795-9696

Midwest Office:
333 West Wacker Drive
Suite 700
Chicago, IL 60606
(312) 440-2015

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2.0-A **EMISSION SUMMARY** 2-1

1.0 INTRODUCTION

El Paso Natural Gas (EPNG) is proposing the installation of one additional 4329 Site hp Solar Centaur H turbine. The turbine will be owned and operated by EPNG and will be located on 0.9 acres of land leased from Amoco Production Company (Amoco) within Amoco's POD-1 facility. EPNG will be compressing area coal seam gas for transportation through EPNG pipelines. The turbine will operate 24 hours per day, 365 days per year, and increase the pressure of 50 MMSCF per day of coal seam gas by 500 psi. A plot plan and location map for the EPNG facility are shown on Figures 1.0-A and 1.0-B, respectively.

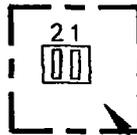
The proposed additional EPNG turbine will be fired by natural gas which contains no fuel-bound nitrogen and only traces of sulfur compounds. The proposed turbine will emit a total of 100.7 tons per year of nitrogen oxides, 20.2 tons per year of carbon monoxide, 0.3 tons per year of sulfur dioxide, 0.9 tons per year of particulates (as PM₁₀), and 7.2 tons per year of volatile organic compounds (VOCs). The proposed EPNG facility is not listed as one of the 28 processes subject to 40 CFR 52 § 52.21(b)(1)(i)(a), which requires a Prevention of Significant Deterioration (PSD) review when pollutants are emitted in quantities greater than 100 tons per year. A PSD review for this project could be required for facilities with emissions greater than 250 tons per year of SO₂, NO_x, or CO (15 tons per year of PM₁₀). A PSD review will not be necessary for this permit application. A PSD review for this specific site would be required under specific Condition Number 10 of Emission Permit Number 90LPO14-1 should the total emissions from the existing turbine and the proposed turbine exceed PSD limits. The total emissions are detailed in Table 2.0-A, Emission Summary. None of the listed criteria pollutants exceed the 250-ton per year threshold, and as such, PSD review does not apply.

'885-1
06-01-93



AMOCO
POD-1
FACILITY

EPNG BOOSTER
COMPRESSORS



EPNG
COMPRESSOR
STATION

LEGEND

RED - PROPOSED

NOTE: NOT TO SCALE

• FIGURE 1.0-A
EL PASO NATURAL GAS
COMPANY
FLORIDA COMPRESSOR STATION
PLOT PLAN
PILKO & ASSOCIATES, INC.

ENVIRONMENTAL PROTECTION AGENCY
REGION VIII

In re)	
)	
BP AMERICA PRODUCTION COMPANY)	AFFIDAVIT OF
FLORIDA RIVER COMPRESSION FACILITY)	GORDON REID SMITH
AIR POLLUTION CONTROL)	
TITLE V PERMIT TO OPERATE)	
V-SU-0022-05.00)	

STATE OF TEXAS)
) ss.
COUNTY OF HARRIS)

Gordon Reid Smith, being duly sworn, deposes and states as follows:

1. I am the Senior GHG Management Advisor for BP. Prior to taking this position about two years ago I was the Senior Environmental Advisor for BP's North America Gas and had oversight for air quality compliance; strategy; advocacy; and technical advice, analysis, and research. In 2000 I was the environmental team leader with air quality oversight responsibilities for facilities in the Durango, Colorado area.

2. Beginning on September 25, 2000, the Environmental Protection Agency ("EPA") hosted a day and a half meeting entitled "Gas Field Training - Energy and Production Air Quality Issues." The meeting provided EPA with information how BP and the oil and gas industry in general conduct oil and gas exploration, production, and processing operations so that EPA could better understand the oil and gas business and properly exercise its legal authority to protect air resources.

3. Participants at the meeting from BP included myself, Dave Brown of BP, Jeffrey Panek and James McCarthy of Gas Technology Institute, and Doug Blewitt, an air consultant. The EPA team was headed up by EPA's Catherine Collins and included virtually everyone from EPA Region 8 with significant air responsibilities. My recollection is that approximately 30-40 EPA employees from all the relevant EPA branches (e.g., permit writing, enforcement) attended the meeting.

4. The first day of the meeting was a full day (8:30-4:30) of presentations by myself and others on oil and gas operations, including well site considerations (e.g., spacing), production, facilities such as compressors, and air permitting for oil and gas equipment and facilities.

5. BP's presentation included a detailed discussion of how gas produced from BP operated wells flowed (i) to various compressors; (ii) through different gathering lines; (iii) to various third party plants and the BP Florida River plant; and (iv) ultimately

to various interstate pipelines. Powerpoint slides from the meeting, including the detailed gas flowchart for BP operated wells and Florida River, are attached as Tab 1. An important purpose of providing the flowchart and similar materials was to (i) provide EPA with an understanding of the exploration and production side of the oil and gas industry with respect to aggregation and (ii) illustrate why aggregation would not be workable for exploration and production operations.

6. In the years following the meeting BP went through various permitting processes for Florida River and other Durango area facilities. However, EPA did not seek to aggregate Florida River with wells or other facilities in the Northern San Juan Basin in any of those permitting processes.

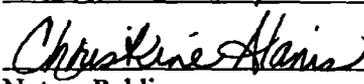
Dated this 17th day of February, 2010.

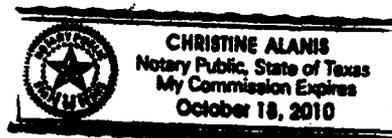

Gordon Reid Smith

STATE OF TEXAS)
) ss.
COUNTY OF HARRIS)

The foregoing instrument was acknowledged before me this 17th day of February, 2010 by Gordon Reid Smith.

Witness my hand and official seal.

My commission expires: October 18, 2010

Notary Public



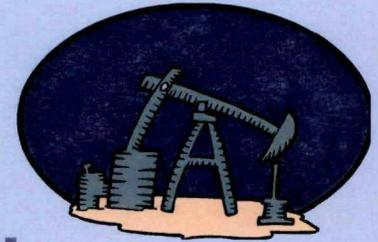
Introduction and Objectives

**Catherine Collins
USEPA Region VIII**

And

**Jeffrey Panek
Gas Technology Institute**

Objectives



- **Obtain an Understanding of Exploration and Production & Transmission and Distribution Activities**
- **Identify Sources of Air Pollutant Emissions Within Typical E&P/TS&D Operations**
- **Understand Typical Controls and Strategies to Reduce/Eliminate Air Emissions**
- **Define Regulated Activities and Understand The Need for Permit Flexibility**

Items To Be Covered



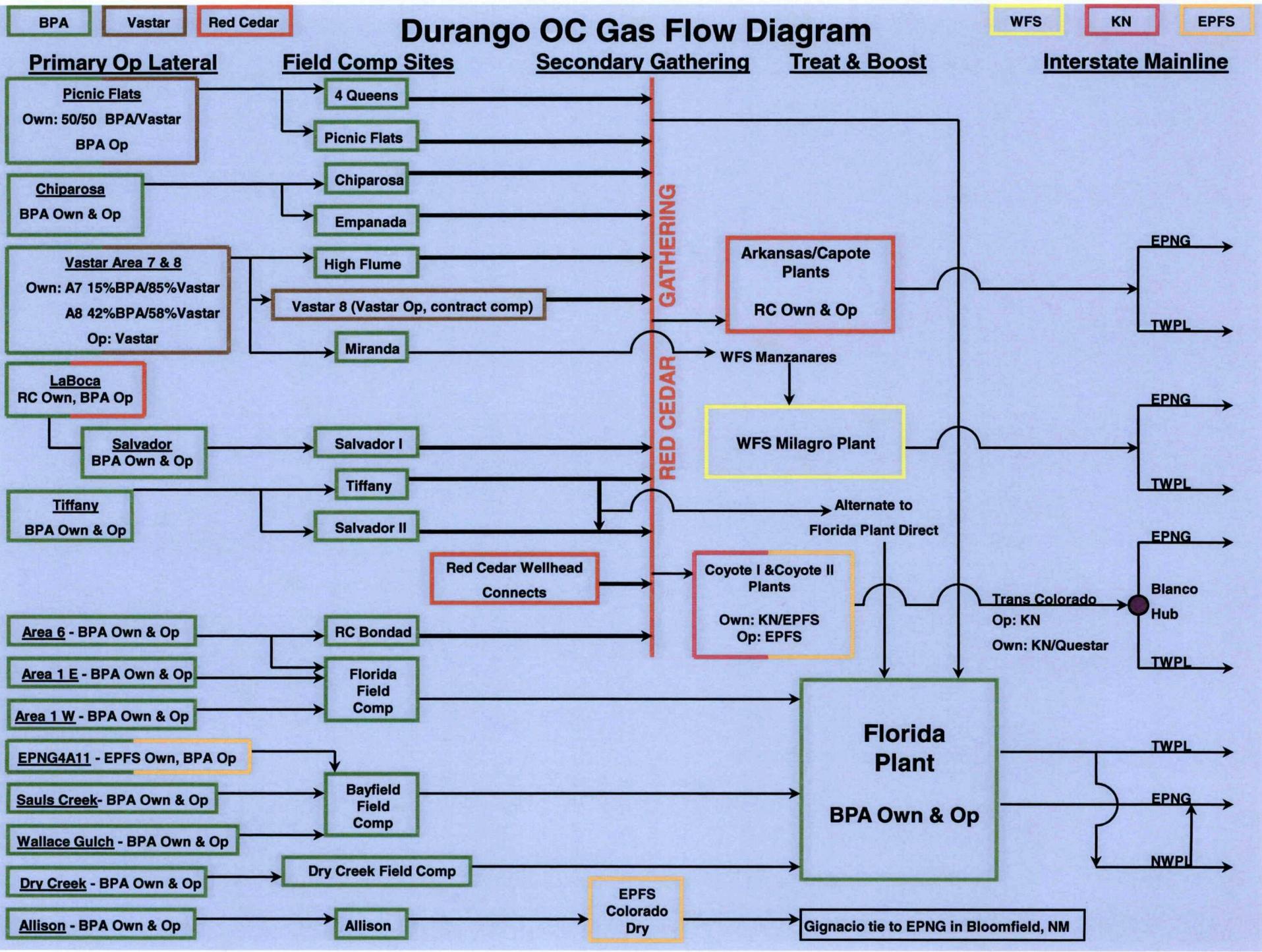
- Overview of Natural Gas Production
- Exploration and Lease Agreements
- Natural Gas Properties and Measurement
- Well Life Cycle
- Production Phase
- Compressors and Other I/C Engines
- Gas Plant Operations
- Typical Air Emissions Sources
- Air Quality Regulations Pertaining to E&P and TS&D Activities
- Transmission and Distribution Overview

Presenters and Contact Info.....

- **Jeff Panek – Gas Technology Institute - Chicago**
Ph: (773) 399-8285
Email: jeffrey.panek@gastechnology.org
- **Jim McCarthy - GTI - Chicago**
Ph: (773) 399-8174
Email: jim.mccarthy@gastechnology.org
- **Reid Smith – BP- Houston**
(281) 366-7515
- **Dave Brown – BP- Denver**
(303) - 830 - 3241

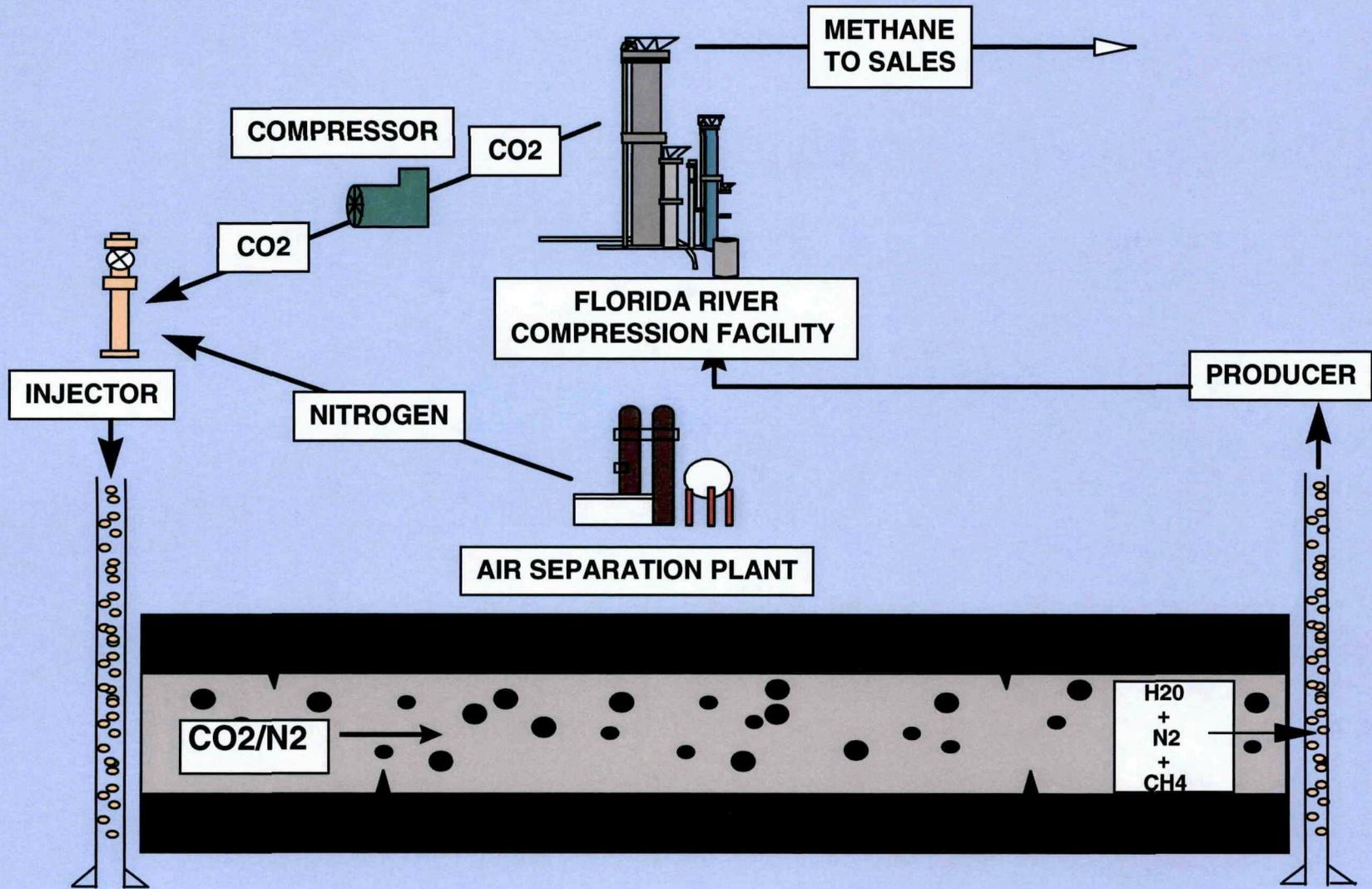


Durango OC Gas Flow Diagram



BP Amoco

CO2 Sequestration & N2 ECBM Project



Well Siting Considerations

- **Geology & Geotechnical**
- **Spacing**
- **Topography**
- **Environmental**
 - **Wildlife Restrictions**
 - **Proximity to Surface Water**
- **Public**
- **Accessibility**

Gas Compression

- **Reciprocating Internal Combustion Engines and Gas Turbines Used to Drive Compressors**
 - Increase pressure to move gas through the pipe
 - Reciprocating Internal Combustion Engines more typical in U.S.
 - Offer load flexibility
 - Excess capacity in interstate pipelines conducive to regular maintenance
 - Lack of excess capacity at gas plants requires operation
 - Some small turbines in use on mainline interstate natural gas pipelines where large, constant baseload exists



Pre-Construction Permitting Major Sources

- **Major Sources >250 Tons/year Which Are Not One of the Listed Sources Need a PSD Permit (e.g. Compressors)**
- **If Major Source >100 Tons/year & 1 of 28 Listed Sources, Need a PSD Permit (e.g. Sour Gas Sulfur Plants)**
- **In Theory Such a Permit Could Be Issued by State, Tribe or EPA (Most Likely State or EPA on Tribal Land)**

Operating Permits

- **For Sources Having Emissions in Excess of 100 Tons/year a Part 70 or 71 Permit Is Required.**
- **Depending on the State Regulations or SIP, Operating Permits May Be Needed for Minor Sources**