



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

APR 16 2009

REPLY TO THE ATTENTION OF:

(AR-18J)

Ms. Gina Bozzer (P62688)
Zimmerman, Kuhn, Darling, Boyd,
Taylor and Quandt, PLC
Counsel for Summit Petroleum
412 South Union Street
P.O. Box 987
Traverse City, Michigan 49685

Dear Ms. Bozzer:

This letter is a follow up on your January 18, 2006, request for a Title V major source determination. You asked the U.S. Environmental Protection Agency Region 5, for a determination on whether the sour gas wells and the gas sweetening plant, owned and operated near Rosebush, Michigan by Summit Petroleum Corporation (Summit), constitute a single stationary source for purposes of Title V applicability under the Clean Air Act (CAA).

On April 26, 2007, we sent you a letter, requesting additional information necessary to make the determination. Specifically, we requested a map showing the location of all the emission units, the potential to emit¹ (PTE) of all criteria air pollutants from each emission unit located within a one-mile radius of the sweetening plant, identification of each emission unit located further than one mile from the processing plant that has a PTE of five tons per year or higher for any criteria pollutant, and the supporting calculations and any assumptions made. Following a conversation initiated by us, you sent EPA a letter on April 18, 2008, explaining that Summit initially believed that no response to our April 2007 correspondence was required. In the April 18, 2008, letter, you included some additional information, however, you did not provide all of the information for which we asked. For example, we asked for a map with the locations of (all) the emission units within one mile of the processing plant, not only the

¹ As defined in 40 C.F.R. § 70.2

sour gas wells. You stated that there are no sour gas wells located within the one-mile of the plant and did not identify any other emission units. However, in Table 2, which purports to show the calculations for individual emission units within a one-mile radius from the plant, you included an unidentified number of "field flares" with a PTE of 3.1 tons per year of sulfur dioxide. In addition, based upon data from the Office of Geological Survey, the Michigan Department of Environmental Quality (MDEQ) believes that the claim that no sour gas wells are located within a one-mile radius from the plant is incorrect.

Additionally, the information you provided is difficult to interpret. One example of the difficulty of interpretation is the data in Table 2 and 3, which you invite us to cross-reference. Table 3 contains the name, location, and manufacturing and capacity information for 29 wells, while Table 2 contains the emission summary for the incinerator, field flares, burners, dehydrator, and tanks and truck loading. Further, in the Rosebush Plant Flow Diagram (Figure 3), it appears that the two field production areas ("field production 1" and "field production 2") are connected to the processing plant, but in Figure 1, you state that there are three fields: Wise Oil Field, Leaton Oil Field, and Rosebush Oil Field. It is not clear how figure three figure one are related, please explain. It is also unclear why in Table 1, PTE Summary, you grouped the criteria pollutant emissions by type of equipment instead of by emission unit.

In addition to the above mentioned obstacles in making a determination, your initial letter dated January 18, 2006, claims that Summit should not be considered a single source for Title V purposes for the following reasons:

- 1) Michigan State Rule R 336.211;
- 2) The definition of "facility" in 40 C.F.R. Part 63, Subpart HH; and
- 3) The distance between the wells and the processing plant.

We disagree with these reasons, as presented. First, the definition in a state rule does not have relevance here because, as discussed below, the sweetening plant and sour gas wells are located in Indian country, and are thus not

subject to state jurisdiction.

In regards to the definition of "facility", EPA's objective is to arrive at a reasonable interpretation that would prevent the aggregation of small, scattered hazardous air pollutants (HAPs) emission points, but not preclude the aggregation of significant HAP emission points in the source category. However, aggregation of criteria pollutants emissions for Title V purposes is not subject to this definition. In addition, we were told by MDEQ that Summit does not have HAPs data. Please certify that Summit does not have any HAP emissions, in a letter signed by a responsible official. If Summit does have HAP emissions, please provide HAP PTEs for each emissions unit in a letter signed by a responsible official.

Regarding the distance between the wells and processing plant, you assert in your April 18, 2008, letter, that EPA never has established a specific distance between pollutant emitting activities for determining when facilities should be considered separate sources or a single source for prevention of significant deterioration (PSD) and Title V purposes. Generally, EPA determines whether two facilities are "adjacent" based on a "common sense" notion of a source² and the functional interrelationship of the facilities, rather than simply on the physical distance between the facilities.³ In this case, the production wells supply the gas to the gas sweetening plant located within the same oil field; therefore we believe that the sites do meet the common sense notion of a plant.

Based on our review of the information provided in your letters,⁴ and information provided by MDEQ, we are unable to conclude with certainty if the wells and the plant constitute a single source for Title V purposes. Our inability to make a Title V determination - because of a lack of specific information - does not affect your

² The common sense notion of a plant is explained in the preamble to the 1980 PSD regulations at 45 Fed. Reg. 52676, 52693 (August 7, 1980) and in *Alabama Power Co. v. Costle*, 636 F.2d 323, 397 (D.C.Cir. 1979).

³ January 15, 1999, EPA Region 3 letter to John Slade, Pennsylvania DEP.

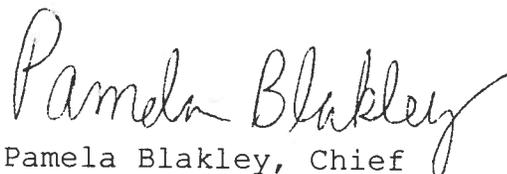
⁴ Please note that we have not reviewed the default values in Table 1. Both you and the MDEQ provided EPA with calculations, and you did not request in your determination request that EPA review the validity of the values.

obligation to comply with both the PSD and Title V permitting requirements. It is the source's responsibility to obtain the appropriate air permits prior to construction and operation.

Finally, it is our understanding that the gas sweetening plant and most of the sour gas wells are located within the Saginaw Chippewa Tribe's Isabella Reservation. The area within the exterior boundaries of an Indian reservation is considered "Indian country." Because MDEQ's PSD and Title V program authority does not extend to sources within Indian country, EPA would be the permitting authority in this case. Accordingly, EPA will issue to Summit Petroleum under 40 C.F.R. § 52.21 and part 71 any permit necessary under the PSD and Title V programs of the CAA, respectively. We ask that you contact us as soon as possible, after you receive this letter, so that we may discuss the requirements of the PSD and Title V permit applications for sources located on tribal lands.

If you have any questions regarding this letter, please free to contact Laura L. Cossa of my staff at (312) 886-0661, or email at cossa.laura@epa.gov.

Sincerely yours,



Pamela Blakley, Chief
Air Permits Section

cc: Chris Hare, MDEQ
Mary Ann Dolehanty, MDEQ