



Maricopa County

Air Quality Department

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Roger Ferland
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RE: Regulatory Status of Mesquite Power LLC Unpaved Road

Dear Mr. Ferland:

Mesquite Power LLC (Mesquite) operates a power generation facility in Arlington, Arizona. The facility is a Major Source subject to Title V permitting requirements and Prevention of Significant Deterioration (PSD) review under Title I of the Clean Air Act (CAA). Mesquite operates the facility under permit V99-017. The Maricopa County Air Quality Department has reviewed the permit status of an unpaved road owned by Mesquite. Specifically, the Maricopa County Air Quality Department has reviewed whether the road is a source that must be included as part of Mesquite's Title V permit. For the reasons set out below Maricopa County Air Quality Department has determined that, based on the totality of the circumstances, the unpaved road is not part of Mesquite's Title V source and does not need to be included in the Title V permit for the power plant.

The unpaved road in question is approximately 2.5 miles long and approximately two miles from the Mesquite Power Plant. The road is used to service five electric groundwater pumps. Since the pumps in question are electric there are no emissions associated with them. The unpaved road is a source of fugitive dust that is traveled approximately two times per day to inspect and service the water well pumps. The road currently has a bare dirt surface; however, an engineered surface is planned. The estimated emissions from the dirt road are 750 lbs/yr of PM-10, assuming two vehicle trips per day and a 15 mph speed limit. If an engineered surface is installed the emissions would be approximately 320 lbs/yr. Maricopa County Air Quality Department encourages Mesquite to install a durable engineered surface on the road such as chipsealing which will both further reduce the emissions. The wells are serviced by personnel from the Mesquite power plant.

According to Title V of the CAA and Maricopa County regulations, a source is defined as a building, structure, facility or installation that may cause or contribute to air pollution. Building, Structure, Facility or Installation is in turn defined to include all the pollutant emitting equipment and activities that belong to the same industrial grouping,

that are located on one or more contiguous or adjacent properties.¹ In order to determine whether the unpaved road must be considered part of Mesquite's Title V facility, Maricopa County Air Quality Department reviewed whether the road and the power plant have common ownership or control, belong to the same industrial group, and are contiguous or adjacent.² Recent EPA guidance suggests that in making the determinations above an agency should "... (2) approximate a common sense notion of a "plant"; and (3) avoid aggregating pollutant-emitting activities that as a group would not fit within the ordinary meaning of "building" "structure" "facility" or "installation".³

EPA has stated repeatedly in various policy memos that "whether or not a permitting authority should aggregate two or more pollutant-emitting activities into a single major stationary source for the purposes of NSR and Title V remains a case-by-case decision considering the factors relevant to the specific circumstances."⁴

In reviewing the unpaved road in light of the guidance listed above, the road and the Mesquite power plant are owned and controlled by the same company, and both would be covered by the same SIC code. In determining whether the two sites were sufficiently contiguous or adjacent to be considered a single source, Maricopa County Air Quality Department noted that fugitive emissions related to movement of passenger vehicles are specifically listed as trivial activities in Appendix E of the Maricopa County Air Pollution Control Regulations. Mesquite uses passenger vehicles to monitor and perform work on the pumps. Pursuant to County Rule 200, §309.2 a Title V source is not required to list trivial activities in its application nor include emissions from trivial activities. The estimated emissions from the unpaved road are well below stationary source permitting thresholds. No additional requirements would apply to the unpaved road beyond those contained in Rule 310 of the Maricopa County Air Pollution Control Regulations if it were considered part of the Title V facility. Thus, considering the *common sense idea*⁵ of a facility, Maricopa County Air Quality Department determined that a trivial source of fugitive emissions 2 miles from the Title V permitted Mesquite power plant was not sufficiently contiguous or adjacent to be considered part of the Title V source.

It is also relevant, that the source(s) are outside both the County's particulate nonattainment area, outside the more urbanized Area A, and over 50 miles from any Class I PSD area.

Consequently, based on the totality of the circumstances, including, but not limited to the trivial amount of emissions from the road, (less than 0.89 lbs/day), the 2 mile distance between the sources, the lack of any required regulatory controls on the unpaved road beyond those contained in our Rule 310 *even* if it were considered part of the Title V facility, and the "zero emissions" from the electric wells served by the road, Maricopa County Air Quality Department has determined that the unpaved road is *not*

¹ Maricopa County Air Pollution Control Regulation I, Rule 100, §200.26 and 40 CFR §52.21(b)(5).

² Letter dated September 18, 1995, from William A Spratlin US EPA Region VII to Peter R. Hamlin Air Quality Bureau Chief, Iowa Department of Natural Resources (Hamlin Letter).

³ Memorandum dated January 12, 2007, from William L. Wehrum, Acting Assistant Administrator, US EPA to Regional Administrators regarding Source Determinations for Oil and Gas Industries. (Wehrum Memo)

⁴ Id.

⁵ Id.

part of Mesquite's Title V source and does not need to be included in the Title V permit for the power plant.

If you have any questions concerning this determination, please contact Kevin Costello of the Maricopa County Attorney's Office.

Sincerely,



Lawrence Odle, Director
Maricopa County Air Quality Department

cc: Colleen, McKaughan, USEPA, Region IX
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