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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

JUN 16, 1981

Mr. R. W. Kreutzen
General Manager
Environmental Affairs
Chevron U.S.A. Inc.
P.O. Box 3069
San Francisco, CA 94119

Dear Mr. Kreutzen:

This is in response to your letter of May 8, 1981, requesting an applicability determination for the Richmond Lube Oil Project. This project will modernize lube oil facilities and increase lube oil manufacturing capacity. Current Offset Policy provisions do not permit construction of this project, since it would result in a significant net increase in emissions in a nonattainment area without an approved SIP. However, EPA has proposed to change the definition of source in nonattainment areas (46 FR 16280, March 12, 1981). Under the new definition, your evidence indicates there would be no significant net increase in VOC emissions at the refinery, and the project would thus not be subject to review under the Offset Policy.

Chevron submitted a permit application for this project to the Bay Area Air Quality Management District (BAAQMD) on March 5, 1981, and the permit is currently undergoing review. Chevron expects that shortly the application will be approved and the district will grant the authority to construct. Your letter requests our determination on a problem regarding the enforceability of this permit.

Section II. A. 7 (v) of 40 CFR 51, Appendix S (45 FR 52742, August 7, 1980) specifics that in determining if a net emissions increase occurs, accompanying decreases in actual emissions occurring at the source are creditable only to the extent that they are federally enforceable. Even though the BAAQMD has approved authority to construct rules pursuant to the Clean Air Act of 1970, rules adopted to comply with the 1977 amendments and EPA implementing regulations have not yet obtained final approval from EPA. Chevron requests EPA concurrence that emission decreases in the Lube Oil Project be considered federally enforceable.

DSSE agrees the decreases would be federally enforceable. Federally enforceable, as defined at 40 CFR 51, Appendix S (II.A.15), means "all limitations and conditions which are enforceable by the Administrator, including those requirements developed pursuant to CFR Parts 60 and 61, requirements within any applicable SIP, and any permit requirements established pursuant to this Ruling, 40 CFR 52.21, or under regulations approved pursuant to 40 CFR 51.18 or 51.24". Provided the original Section 51.18 permit regulations are still in place, these can continue to be used to establish an enforceable permit condition. The important parts of the current and proposed rules are the same, and the change in the Bay area rules does not mean EPA considers the permit no longer federally enforceable. Although concern has arisen over the ability of the BAAQMD to insure that offsets proposed by Chevron are carried out (a concern which arises if EPA adopts a definition of source which allows Chevron to use netting in this situation), this potential problem should be resolved through discussion with the Region IX office.

This determination constitutes an opinion as to whether the permit is enforceable and does not in any way represent a judgment as to the validity

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of any offset or approval of any permit. The permit itself is conditioned upon approval by the BAAQMD with appropriate requirements. Approval to construct can only be given if EPA changes the definition of source in nonattainment areas to one which would enable Chevron to offset the project emissions by obtaining reductions in other areas of the refinery.

Region IX has expressed concern over possible increases in throughput and other factors which may increase the amount of offsets required. We advise you to follow up this response by contacting Region IX, to ensure that any required permits are obtained and all applicable New Source Review Provisions are met. Rick Sugarek is the regional contact and he can be reached at 415-556-3454.

This response has been prepared with the concurrence of EPA's Office of General Counsel.

Sincerely yours,

Edward E. Reich, Director
Division of Stationary
Source Enforcement

cc: Mike Trutna
Bill Pierce
Eric Smith
Rick Sugarek
Nancy Mayer

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Mail Address P.O. Box 3069, San Francisco, CA 94119

R. W. Kreutzen
General Manager
Environmental Affairs

May 8, 1981

Mr. Edward E. Reich (EN-341)
Division of Stationary Source Enforcement
Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20460

Dear Mr. Reich:

Chevron U.S.A. Inc. recently announced plans to modify its major refinery in Richmond, California across the Bay from San Francisco. The modification involves numerous modifications of existing equipment, and additions of new equipment, and is called the "Richmond Lube Oil Project." We would greatly appreciate your confirmation of our conclusions regarding the applicability of certain EPA air pollution regulations to the Project.

The Project will consist of modern lubricating oil manufacturing facilities at the Refinery. The new facilities will increase lube oil base stock manufacturing capacity to about 9,500 barrels per day and will make the lube oils from domestic, rather than imported, crude oil. The Project will replace aging, less efficient facilities that are now used for lube oil manufacture at the Refinery. While Chevron will make a capital investment of $440 million to construct the Project, the Project is only a small part of the Refinery, which refines about 300,000 barrels per day of crude oil. The Project will create about 1,200 construction jobs and about 50 permanent new jobs at the Refinery. By retiring old equipment and adding modern pollution control equipment, the Project will reduce the net emissions of all air pollutants from the whole Refinery, even though lube oil manufacturing capacity is being increased.

Most importantly, the Project will not result in a "significant net

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emissions increase of any pollutant" (as used in 40 C.F.R. 52.21 (b) (2) , 52.24(f) (6)) at the Refinery, if the decreases in actual emissions occurring at the Refinery in connection the Project are "federally enforceable" and hence creditable.[SEE FOOTNOTE 1] We believe that the Project emissions decreases will be "federally enforceable" and we would appreciate your confirmation of our conclusion.

[FOOTNOTE 1] We assume that the "dual source definition (40 C.F.R. Subsection 52.24(f) (3) and related sections) will be eliminated as proposed by EPA (see 46 FR 16280, March 12, 1981). In this letter, we do not consider that issue nor do we ask for any EPA interpretation concerning it.

Our conclusion is based upon the fact that the reductions will be mandated by "limitations and conditions which are enforceable by the Administrator, including . . . requirements within any applicable State Implementation Plan, and any permit requirements established . . . under regulations approved pursuant to 40 C.F.R. 51.18" (40 C.F.R. 52.21(b) (17), 52.24(f) (15)). In order to construct and operate the Project, Chevron must obtain an Authority to Construct and Permit to Operate from the Bay Area Air Quality Management District (BAAQMD). The District Authority to Construct the Project will contain limitations and conditions requiring all Project emission reductions.

The permit application was recently submitted to the BAAQMD and is currently under review. Additional supporting information requested by BAAQMD staff has been provided. As pertinent background information, the following brief chronology of BAAQMD rules and our application to construct is provided:

1. 1972-1975: EPA approves the District Authority to Construct rules, and amendments to the rules, pursuant to the Clean Air Act Amendments of 1970 and 40 C.F.R. 51.18. A copy of the EPA-approved, amended District rules, which we obtained from EPA Region IX and which are marked with EPA's approval dates, is attached as Exhibit A.

2. 1977-1980: The District adopts further amendments to its Authority to Construct rules to comply with the Clean Air Act Amendments of 1977 and EPA implementing regulations. A copy of the current District rules is attached as Exhibit B. Please note that the amendments recodify and generally expand on the EPA-approved earlier version (for example, compare Exhibit A, sections 1301 and 1302 with Exhibit B, sections 2-1-301 and 2-1-302). The amendments have been submitted to EPA Region IX for approval, but we cannot wait any longer for EPA Region IX to act.

3. March 5, 1981: We applied to the District for an Authority to Construct the Project under the currently effective District rules (i.e., Exhibit B). Chevron applied on the basis of a net Refinery-wide decrease of all pollutants emitted by the Project. We expect our application to be deemed complete very soon and the District to grant the Authority to Construct promptly.

You may assume that the BAAQMD will incorporate as conditions of the final Authority to Construct at least all of the offered emission reductions. Such reductions will, therefore, apart from the "federal enforceability" requirement, prevent any "significant net emissions increase" from occurring at the Refinery. Given these assumptions, we ask that you confirm that the Refinery reductions required by the District Authority to Construct the Project will be "federally enforceable" (as used in EPA air pollution regulations).

We are concerned about this matter because of the size, importance

and fast schedule of the Project. Accordingly, we would greatly appreciate your prompt and brief written confirmation of our conclusions, and publication of your confirmation in the Federal Register.

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Sincerely,

RW Kreutzen

Attachments

cc: Mr. K. T. Derr
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Chevron U.S.A. Inc.

Mr. W. J. Price
Senior Vice President, Manufacturing, Supply & Marketing
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