October 7, 1985

Louis M. Chamberlain
Division of Air Quality
Minnesota Pollution Control Agency
1935 West County Road B-2
Roseville, Minnesota 55113

Dear Mr. Chamberlain:

This is in response to your August 29, 1985 letter to Ronald Van Mersbergen of my staff which inquires about the new source review rules which apply to the conversion to coal at the Hibbard Station Units 3 and 4.

We concur with the conclusion that the change in Units 3 and 4 to burn coal is exempted from the new source performance standards (NSPS) 40 CFR Part 60, Subpart Da. We do not agree, however, with all of the arguments supporting the NSPS exemption in the attachment to your letter.

It does appear, however, that the conversion to coal of Units 3 and 4 will cause the plant to be subject to the prevention of significant deterioration (PSD) regulations for SO2 if the new source equals or exceeds a 40 TPY increase in SO2 emissions. A superficial reading of the PSD rules in 40 CFR 52.21 (b) (2) (iii) (e) would seem to indicate that the source would be exempted from PSD review for a conversion to coal if the source could have burned coal before January 6, 1975. However, a more considered reading reveals that the rule should be read as though it said the exemption could only apply if the source would have "continuously" had the capability of accommodating coal as a fuel since before January 6, 1975. As you can see from the rule, a source is disqualified from using the exemption if a change to coal is prohibited under a federally enforceable permit condition which was established after January 6, 1975, pursuant to 40 CFR 52.21 (the federally promulgated PSD rules) or which was established pursuant to 40 CFR 51.18 or 40 CFR 51.24 (the general SIP rules or approved SIP rules for PSD).

With respect to fuel switching, there are only two cases that could arise for units which fired coal before January 6, 1975: first, sources which had a continued coal firing capability since before January 6, 1975, and second, sources which have lost their capability to fire coal. A permit condition prohibiting the use of coal as a fuel is only relevant in the first case because there would be no need to legally prohibit the firing of coal in a unit in which coal burning is physically prohibited. It is therefore reasonable to assume that the exemption provision is only there for sources or units which have continued coal firing capability from before January 6, 1975, and can only be used if there is no enforceable permit condition prohibiting the burning of coal. Since the coal firing equipment was removed from the Hibbard Station in 1973, the source does not qualify for the exemption in 40 CFR 52.21 (b) (2) (iii) (e) and may, therefore, be subject to the PSD rules for SO2.

Furthermore, USEPA has interpreted the term "capable of accommodating" as being continuously capable based upon design specifications. In order for the plant to be capable of accommodating coal, the company must show not only the design (i.e., construction specifications) for the source contemplated the coal handling and firing equipment, but also that the equipment actually was installed and still remains in existence. Otherwise, it cannot reasonably be concluded that the use of coal was "designed into the source." In other words, a demonstration of continuous coal firing capability is necessary to show that the source was designed to accommodate

coal.

Again, since the source could not be fired with coal after 1973, it does not have continuous coal firing capability and therefore cannot qualify for the exemption from the PSD regulations provided in 40 CFR 52.21 (b) (2) (iii) (e).

With respect to the construction ban, if the source is a new major source or a major modification but is located in a secondary nonattainment area, the construction ban would not apply even though the State does not have an approved new source review plan. The ban only applies in primary nonattainment areas where a plan must be approved by a date specified by the Clean Air Act.

Since (1) the source appears to be a major source for particulates, having potential emissions greater than 100 TPY, (2) the source is in an area that is a nonattainment area for particulates, (3) the State does not have an approved nonattainment new source review rule, and (4) the area is nonattainment for the secondary standard only, then USEPA finds that the permit for the modification must be reviewed in accordance with the "emission offset policy", Appendix S of 40 CFR 51.18. However, it is possible, as we discussed, to limit the potential emissions from the existing source to less than 100 tons per year, thereby making the existing source minor and thus allowing a new emission increase of up to 100 tons per year before a nonattainment review would be required. This can be accomplished by limiting the potential emissions from Units 1 and 2 so that the total potential emissions of Units 3 and 4 before the modification and the permit-limited potential emissions of Units 1 and 2 are less than 100 TPY. The source should be advised, that it cannot be allowed in the future increases in emissions from Units 1 and 2 during a contemporaneous period or some other reasonable period without being viewed as circumventing the "offset" rules.

If you have additional questions concerning this matter, please call Ron Van Mersbergen of my staff at (312) 886-6056.

Sincerely yours,

Steve Rothblatt, Chief
Air and Radiation Branch (5AR-26)

5AMD:ARB:TAS:CTU:RYM:10/2/85

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