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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

MEMORANDUM:

DATE: July 21, 1978

SUBJECT: PSD Permit for Marblehead Lime Company

FROM: Director
Division of Stationary Source Enforcement (EN-341)

TO: Robert L. Duprey, Director
Air and Hazardous Materials Division,
Region V

This is in response to your letter of June 15, 1978. You asked whether EPA should allow Marblehead Lime Company to amend its PSD permit of January 3, 1978, for its proposed new kiln, to reflect an increase from 1200 tons/day to 1600 tons/day, to be offset by closure of old kilns. We disagree with your conclusion that this can be handled by an amendment to the original permit.

The Agency's recently promulgated PSD regulations do not make any provision for amending a permit issued prior to March 1, 1978. It seems possible that under some circumstances a minor change could be incorporated in a PSD permit through an amendment. However, for a significant change, such as the 33% increase involved here, amending the permit will not suffice. In fact, the increase requested amounts to a "major modification," as defined in Section 52.21 (b) (2), and a new permit would have been required even if the new kiln, as originally proposed, had already been completed.

The amended Clean Air Act is quite specific about requiring opportunity for a public hearing, making no exceptions for lack of public interest. While we sympathize with your desire to avoid wasteful procedures, there does not seem to be any way to escape the legal requirements of the Act. It is possible, of course, that citizens may wish to address the issues related to the significantly larger plant, and so the opportunity for a public hearing should be provided. In addition, the process of issuing a new permit will allow EPA to reconsider the proper level of control. It seems possible in theory, at least, that the change in size of the plant could affect the BACT determination.

If you have any further questions on this matter, please call Dave Rochlin (FTS-755-2542) of my staff.

CONGRESS OF THE UNITED STATES
House of Representatives
Washington, DC 20515

June 29, 1978

Mr. Douglas M. Costle
Administrator
Environmental Protection Agency
401 M Street, S.W.
Washington, DC 20460

Dear Mr. Costle:

I am writing to you concerning the Marblehead Lime Company plant that is located in my District. The company received a permit from EPA to construct a 1200-ton-per-day lime kiln. Shortly after the permit was issued, Marblehead had an opportunity to purchase a 1600 ton kiln that would replace the 1200 ton kiln as well as a 450 ton kiln that was already in operation.

Marblehead contacted the Midwest office of the EPA and asked them to grant a permit for the 1600 kiln. The Midwest Office conducted the necessary evaluations and recommended that a permit be granted. Not only was the 1600 kiln technically acceptable, but it would actually improve the environmental conditions in the area.

Unfortunately, EPA's General Counsel ruled that a permit could not be granted for the 1600 ton kiln because Marblehead did not meet administrative requirements that are necessary when applying for a permit. I must point out that the EPA's denial has no relationship to Marblehead's environmental status.

EPA's refusal to grant Marblehead a permit for a 1600 ton kiln will cost my District at least 250 jobs. In addition, Marblehead's inability to produce lime may further endanger the employment picture in the steel industry which relies heavily on lime. I would like to point out that my Congressional District has been severely impacted by massive layoffs and cutbacks in the steel industry. Any future loss of jobs would only further dampen an already bleak economic picture in my District.

Mr. Douglas M. Costle
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I am not asking EPA to overlook any environmental standards in this matter. As I mentioned earlier, the construction of the 1600 ton kiln would actually be more advantageous to the environment than the previous kilns. In addition, Marblehead Lime has a record second to none in obeying the law as it pertains to environmental control.

I am troubled that EPA does not show a greater concern for the impact of its decisions. The loss of hundreds of jobs simply because of an administrative requirement is ludicrous. I strongly recommend that EPA reconsider its decision concerning Marblehead Lime and grant a permit for the 1600 ton kiln.

Thank you for your assistance in this matter, and I am looking forward to a prompt response.

Sincerely,

Morgan F. Murphy
Member of Congress

MFK:ktf:nmg