



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

Mr. Mark Vickery, P.G.
Executive Director
Texas Commission on
Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087

JAN 24 2011

Re: Las Brisas Energy Center, PSD Permit Nos. PSDTX1138, PAL 41, and HAP 48, Nueces County, Texas

Dear Mr. Vickery,

The Environmental Protection Agency (EPA) has reviewed the permit for the planned Las Brisas Energy Center and we are providing comments to help the Texas Commission on Environmental Quality (TCEQ) assure that the permit is in full compliance with federal requirements and provides an appropriate record to support it. We continue to have strong concerns about the public health and environmental impacts of this project based on our review. Our comments are included in Enclosure 1. The EPA previously wrote to TCEQ about this matter on February 12, 2009, and we are including these letters as Enclosures 2 and 3. Some of the specific concerns that EPA identified are summarized as follows:

- EPA expressed concerns about the lack of consultation with EPA Region 6 and the lack of a proper demonstration that the proposed facility will not cause or contribute to violations of the National Ambient Air Quality Standard (NAAQS) for ozone, and requested that the applicant generate a modeling protocol and provide a copy to EPA for review. (February 12, 2009 – Item #8).
- EPA indicated that there were problems associated with the issuance of a federal plant-wide applicability limit (PAL) to the facility. The Texas PAL provisions were formally disapproved on September 15, 2010. (February 12, 2009 – Item #4).
- EPA provided information for case-by-case Maximum Achievable Control Technology determinations regarding the use of wet flue gas desulfurization and fabric filters to control certain hazardous air pollutants (HAP) emissions at a similar facility. (HAP Letter February 12, 2009 – Items 1 & 2).

In addition, EPA has promulgated new 1-hour nitrogen dioxide (NO₂) and sulfur dioxide (SO₂) NAAQS's that are now in effect, and for which the Clean Air Act (CAA) and Prevention of Significant Deterioration (PSD) regulations require that PSD permit applicants show that the emissions from construction and operation of any proposed new or modified major stationary source will not cause or contribute to a violation of "any" NAAQS, and EPA interprets this to include any NAAQS that is in effect at the time a PSD permit is issued.

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- EPA proposed a revision to the NAAQS for nitrogen dioxide (NO₂) on July 15, 2009 (74 FR 34404), published the new hourly standard on February 9, 2010 (75 FR 6474), and the standard became effective on April 12, 2010.
- EPA proposed a revision to the NAAQS for sulfur dioxide (SO₂) on December 8, 2009 (74 FR 64810), published the new hourly standard on June 22, 2010 (75 FR 35520), and the standard became effective on August 23, 2010.

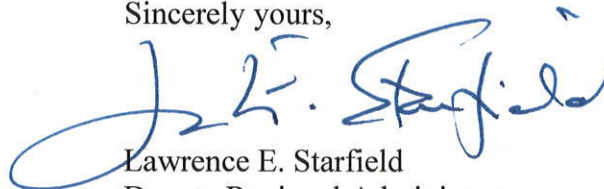
Neither EPA nor the public have had the opportunity to exercise their rights under the CAA to review the proposed source's demonstrations of compliance for these new standards and applicability requirements.

The TCEQ should transmit for review to EPA a copy of an amended permit application or other records which contain demonstrations that the proposed Las Brisas Energy Center will not cause or contribute to any violation of the new hourly standards for NO₂ and SO₂. In addition, the applicant will need to work with EPA to determine whether the proposed Las Brisas Energy Center is subject to the new Greenhouse Gas (GHG) PSD permitting requirements. As you are aware, the EPA is the permitting authority in Texas for GHG regulatory actions at this time. Accordingly, Las Brisas Energy Center should not commence construction of the facility until evaluating the proposed project for PSD applicability of GHG emissions and, if required, receiving a PSD permit for GHG emissions issued by EPA. If the applicant needs a PSD permit for GHG emissions, it will be important for EPA to fully understand TCEQ's permitting record.

EPA is requesting that TCEQ not issue this permit until TCEQ and EPA can resolve the issues with the permit. In addition, I would propose that we have TCEQ and applicant representatives communicate closely with their EPA counterparts on the technical demonstrations needed to show that the proposed facility will not adversely impact public health and will in fact protect all applicable NAAQS's.

Please contact me at (214) 665-2100, or Carl Edlund of my staff at (214) 665-7200, if you should have any questions concerning this matter.

Sincerely yours,



Lawrence E. Starfield
Deputy Regional Administrator

Enclosures

Letter to M. Vickery
Re: Las Brisas Energy
Page 3

cc: TCEQ Commissioners
Mark Vickery, TCEQ Executive Director
Stephanie Bergeron-Perdue, TCEQ
Richard Hyde, TCEQ
Steve Hagle, TCEQ

ENCLOSURE 1

I. Air Quality Impacts Analysis

In the Executive Director's response to comments (RTC) No. 12, the TCEQ stated that the permit applicant performed an ozone analysis consistent with TCEQ modeling guidance and that their guidance does not require permit applicants to conduct formal photochemical modeling. Further, TCEQ stated that photochemical modeling for ozone was not required for NSR permitting purposes. As you are aware, 40 CFR § 51.165 and 51.166 require sources to demonstrate that the proposed permitting action will not cause or contribute to a violation of the ozone National Ambient Air Quality Standard (NAAQS's) per 40 CFR 51.166(k)–(o) and 40 CFR 52.21(k). The current demonstration by TCEQ does not meet this requirement.

Specifically, EPA is concerned about the TCEQ guidance used by the applicant to assess the ozone impacts from the proposed unit. As an example, the applicant determined that, based on the lack of substantial VOC emissions from the source, and given the relatively low quantity of NO_x emissions, the project would not cause a significant increase in ozone formation at or near the site that could result in an exceedance of the NAAQS for ozone. However, TCEQ's Draft ozone procedures/modeling guidance for ozone impacts is not consistent with the scientific principles that Texas's ozone attainment SIPs utilize to lower ozone levels in DFW, Houston, Beaumont and other areas.¹ Based on TCEQ's own photochemical modeling, most of the urban and rural areas of Texas are NO_x-limited, not VOC-limited. TCEQ should evaluate their photochemical modeling databases from recent SIPs for each source ozone impact analysis and determine if the area in which a source is proposing to locate is NO_x- or VOC-limited. Depending on the level of proposed emissions from a source, different techniques are available for estimating ozone impacts. TCEQ and the source should consult with EPA on a case-by-case basis to determine the appropriate technique for conducting an ozone impact analysis in accordance with 40 C.F.R. Part 51 Appendix W 5.2.1.c and Texas Administrative Code Title 30 Part 1 §116.160.

The TCEQ also stated in its RTC that EPA has no preferred model to determine impacts from a single source; no requirement for photochemical modeling; and no requirement for applicant to

¹ TCEQ guidance that was used is based either on early RPM modeling, EKMA tables used in the Scheffe Point Source Screening Tables or other EKMA tables from the 1980s or early 1990s. EKMA information and other photochemical modeling from this time period did not include the emissions from biogenic sources which have been included in photochemical modeling since the mid-1990s. The information that does not include biogenic emissions is scientifically flawed and not valid to be used in current day analyses for ozone impact analysis. Determination of whether a source is either VOC-limited or NO_x-limited should be based on local VOC/NO_x ratios from a local monitor or from photochemical modeling that covers the area of concern, not on the ratio of the source's emissions. If the surrounding atmosphere is NO_x-limited but a source is VOC-limited based on TCEQ's guidance, the proposed source's NO_x emissions would react with the VOCs present in the atmosphere to generate ozone, whereas TCEQ's guidance would conclude that the source impact on ozone levels was 'neutral'. TCEQ's conclusion that the source is ozone neutral based on the ratio of the source's emissions being VOC limited is an erroneous conclusion. Most areas of Texas are actually NO_x-limited based on TCEQ's recent photochemical modeling that has been submitted in State Implementation Plan revisions to EPA.

conduct regional ozone analysis. Our PSD regulations at 40 CFR § 51 Appendix W 5.2.1 recommend models for evaluating ozone impacts. Appendix W 5.2.1.c also indicates that permitting authorities should consult with EPA on estimating the impacts of individual sources to determine the most suitable approach for estimating ozone impacts on a case-by-case basis.² Other permit applicants and permitting authorities in Region 6 (including TCEQ) have worked with us to conduct photochemical modeling to demonstrate that a proposed source would not cause or contribute to a violation of the ozone NAAQS. These projects have typically only taken a few months to conduct and the cost, when a contractor has been used, is minimal with most analyses costing less than the other criteria pollutant modeling.

A conservative analysis based on the NO_x modeling could be done to estimate the potential impacts on ozone levels, if the evaluation of the area determines that the local atmosphere's ozone formation is NO_x limited. A more detailed analysis would significantly lower the potential impact that has been estimated based on experiences of more detailed photochemical modeling sensitivities that have been done in other areas. The EPA does not have an established significant impact level for ozone and TCEQ should not assume that EPA recognizes a 2.0 ppb impact threshold as an "insignificant" impact for ozone when permitting this source.

We acknowledge TCEQ's reference in the RTC to a photochemical modeling study conducted by Texas A & M University – Kingsville: *Analysis of the Impact of a New Emission Source on Air Quality in the Corpus Christi Urban Airshed*. The study indicated Las Brisas' impact on regional ozone attainment. However, this study was not a part of the permit package that was subject to public review and comment. We note that this analysis is limited to only 3 days for evaluation of ozone impacts, but even this very limited analysis indicated a maximum increase in 8-hour ozone levels of 1.1 ppb in the greater Corpus Christi Area.

II. Plantwide Applicability Limit (PAL)

Since EPA disapproved the TCEQ's PAL provisions on September 15, 2010 (75 FR 546424), any PAL permit issued by TCEQ to a new major stationary source may be considered a non-SIP-approved permit by EPA. In addition, we identified in our Federal Register notice that PAL permits can only be issued to *existing* major stationary sources, which precludes applicability of a PAL to a new major stationary source, as required under 40 CFR §§ 51.165(f)(1)(i) and 51.166(w)(1)(i). Without at least 2 years of operating history, a potential source like Las Brisas Energy Center has not established actual emissions to facilitate development of a PAL.

² 40 CFR Part 51 Appendix W, Guideline on Air Quality Models 5.2.1.c states: "*Estimating the Impact of Individual Sources*. Choice of methods used to assess the impact of an individual source depends on the nature of the source and its emissions. Thus, model users should consult with the Regional Office to determine the most suitable approach on a case-by-case basis (subsection 3.2.2)."

III. Particulate Matter (PM) 2.5

We reviewed the TCEQ's Response No. 11 in the RTC, regarding PM_{2.5}. We have concerns regarding TCEQ's reliance on the 1997 PM₁₀ Surrogate Policy absent a case specific demonstration that PM₁₀ is a reasonable surrogate for PM_{2.5} for meeting the requirement for BACT and for demonstrating source compliance with the PM_{2.5} NAAQS. Relevant surrogacy case law provides that such a demonstration is needed to support the use of PM₁₀ as a surrogate for PM_{2.5}, and the applicant should submit a revised application or demonstration addressing PM_{2.5} emissions.³ The additional information should either address PM_{2.5} emissions directly or show how compliance with the PSD requirements for PM₁₀ will serve as an adequate surrogate for meeting the PSD requirements for PM_{2.5} in this specific permit, after considering and identifying any remaining technical difficulties with conducting an analysis of PM_{2.5} directly. The permit record should include a case-specific demonstration to support the use of PM₁₀ as a surrogate for PM_{2.5} for both Las Brisas modeling and the BACT demonstrations. We have worked with other permitting authorities and permit applicants to establish an appropriate PM_{2.5} modeling protocol. If the applicant chooses to model for PM_{2.5} impacts directly, please contact us to develop a methodology that will ensure that an appropriate analysis is performed.

IV. Integrated Gasification Combined Cycle (IGCC) Consideration

The TCEQ indicated in Response No. 22 that neither the applicant nor TCEQ evaluated any other electrical generation methods such as IGCC or pulverized coal boilers. TCEQ indicated that inclusion of IGCC in the Best Available Control Technology (BACT) evaluation would require substantial redesign of the applicant's proposed facility. Later in the same response, TCEQ indicates that it does not require a review of IGCC as part of the BACT review for electric generating units (EGUs).

In a recent decision, the EPA Environmental Appeals Board (EAB) remanded the permit because it did not contain an adequate justification for excluding IGCC from the BACT analysis for a coal fired power EGU. See *Desert Rock Energy Company, LLC*, PSD Appeal Nos. 08-03 et.al. slip. op. at 76-77 (EAB Sept. 24, 2009). This EAB decision was followed by the Title V order for the petition on the American Electric Power Service Corporation, Southwestern Public Service Company John W. Turk order responding to a Title V petition (Petition Number VI-2008-1); there, the EPA Administrator found that the Arkansas Department of Environmental Quality failed to provide an adequate justification to support its conclusion in the PSD BACT analysis that IGCC technology should be eliminated from consideration on the grounds that it would "redefine" the proposed source. See *In the Matter of American Electric Power Service Corporation, Southwest Electric Power Company, John W. Turk Plant*, Petition No. VI-2008-01 (Order on Petition) (December 15, 2009). To meet the applicable legal criteria under the PSD program, a BACT

³ For a discussion of the surrogacy case law, see the February 11, 2010, proposed rulemaking entitled "Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometer (PM_{2.5})"; Notice of Proposed Rulemaking to Repeal Grandfathering Provision and End the PM₁₀ Surrogate Policy" (75 FR 6827 at 6831-32), and the *Louisville Gas and Electric*, Petition No. IV-2008-3 (Order on Petition, pages 42-46).

analysis for each pollutant must consider “application of production processes or available methods, systems, and techniques ... for control of such pollutant.” See 40 C.F.R. §§ 51.166(b)(12) and 40 C.F.R. § 52.21(b)(12). When a potential pollution control strategy is not considered in a BACT analysis, the record should provide a reasoned basis to show why that option is not available in a particular instance. Therefore, the TCEQ and the permit applicant should specifically address any IGCC technology considerations as a part of their BACT analysis and provide a more detailed explanation consistent with the EAB’s position to support any decision to eliminate such an option or to exclude it altogether from a BACT analysis for this proposed source.

V. BACT Limits Based on Clean Fuels

It is unclear if the TCEQ or the applicant considered “clean fuels” in its BACT analysis. Comment 23 in the RTC indicates that commenters stated that the applicant and TCEQ failed to consider alternative fuels to reduce emissions. TCEQ stated in its response that the “applicant proposes the facility to accomplish its objective based upon its business decisions. Those decisions include the applicant’s choice of fuels. TCEQ does not specify the type of fuel to use in a fossil fuel electric generation plant because the cost of fuel is a primary business decision consideration that is up to the applicant to determine.”

We believe the TCEQ should analyze the possibility of cleaner fuels as an alternative primary fuel source in the RTC. The Clean Air Act includes the term “clean fuels” in the definition of BACT after the term “fuel cleaning.” 42 U.S.C. § 7479(3). Thus, when a potential pollution control strategy is not evaluated in detail in a BACT analysis, the record should provide a reasoned basis to show why that option is not “available” in a particular instance. EPA has recognized that “available” options for a particular facility do not necessarily have to include options that would fundamentally “redefine” the source proposed by the permit applicant. *See, e.g., In re: Desert Rock Energy Company, LLC*, PSD Appeal No. 08-03 et al, slip op. at 59-65 (EAB Sept 24, 2009). However, EPA interprets the Act to require a reasoned justification, based on an analysis of the underlying administrative record for each permit, to support a conclusion that an option is not “available” in a given case on the grounds that it would fundamentally “redefine the source.” *Desert Rock*, slip op. at 63-72, 76. Based on the record here, it does not appear that TCEQ has provided a reasoned explanation demonstrating why the option of using cleaner burning fuels is not “available” for this facility.

We believe TCEQ must clearly provide a rationale to explain why you conclude that utilizing fuels other than petroleum coke constitutes “redefining the source”. Further, to the extent this showing cannot be made, the rationale should identify any economic, environmental, or energy impacts that would result from the use of Powder River Basin coals (or lower sulfur petroleum coke) and that would weigh against its selection as BACT. We acknowledge that States with SIP-approved PSD programs have independent discretion and are not necessarily required to follow all EPA policies or interpretations. *See, e.g., 57 FR 28093, 28095* (June 24, 1992). However, States that issue PSD permits under SIP-approved regulations are required to conduct

a BACT analysis that is reasoned and faithful to the statutory framework. See Alaska Dept of Environmental Conservation v. EPA, 540 U.S. 461, 484-91 (2004).

On the question of whether an option may be excluded because it redefines the proposed source, the EAB has developed an analytical framework that EPA uses to assess this issue in its own permitting decisions. See, e.g., *Desert Rock*, slip op. at 59-65. Since the EAB has articulated a foundation for its approach that has been upheld by one U.S. Court of Appeals, we recommend that SIP-approved States follow the framework articulated by the EAB. We are not concluding that the present permit limits do not represent BACT - only that we cannot find in the present permit record a sufficient rationale to demonstrate the adequacy of the BACT determinations for this facility. In addition, we are not expressing a policy preference for utilization of a particular coal type, or coal from a particular coal basin. EPA supports the development and use of a broad range of fuels and technologies across the energy sector, including those that will enable the sustainable use of coal. Our primary concern is the adequacy of TCEQ's response and rationale for excluding Powder River Basin coal or the possibility of utilizing lower sulfur coal or lower sulfur petroleum coke as fuel options.

VI. Greenhouse Gas Emissions

On January 2, 2011, greenhouse gases (GHG's) became pollutants subject to regulation under the Clean Air Act. See, 75 Fed. Reg. 17004 (April 2, 2010). In accordance with section 165 of the Clean Air Act, a source cannot begin construction until certain Clean Air Act requirements are met. PSD permits issued on or after January 2, 2011 must generally include conditions addressing GHG emissions unless the source has emissions of GHG's below particular levels established in the PSD and Title V Greenhouse Gas Tailoring Rule. 75 Fed. Reg. 31514 (June 3, 2010). Since TCEQ did not issue this permit before January 2, 2011, then Las Brisas should consider whether it needs to supplement its PSD permit application to address its GHG emissions. See, 75 Fed. Reg. at 31592-93. Since this source is otherwise subject to PSD for other regulated NSR pollutants, the PSD permitting requirements for GHG emissions will apply if the GHG emissions are equal to or greater than 75,000 tons per year (TPY) carbon dioxide equivalent basis (CO₂e). Las Brisas Energy Center should not commence construction of the facility until evaluating the proposed project for PSD applicability of GHG emissions and, if required, receiving a PSD permit for GHG emissions issued by EPA.

VII. Compliance With NO₂ 1-Hr. Standard and SO₂ 1-Hr. Standard

The 1-hour primary NAAQS for nitrogen dioxide (NO₂) became effective on April 12, 2010. In addition, the 1-hour primary NAAQS for sulfur dioxide (SO₂) became effective on August 23, 2010. We are not aware of Las Brisas or TCEQ assessing the impact this source may have on these standards. Since TCEQ did not issue this permit before the effective date of either of the two new standards, we believe it is necessary for Las Brisas to supplement its permit application to address 1-hour NO₂ and 1-hour SO₂ emissions, and the applicable analyses should go through public participation prior to the permit being issued. We believe

TCEQ has the authority to implement these new standards without further rulemaking. TCEQ regulations at 30 Tex. Admin.Code sec. 116.160(c)(2) incorporate by reference the requirement of 40 CFR 52.21(k) related to a required demonstration of a source impact analysis for any NAAQS standard in any air quality region. Those State regulations were incorporated into the State Implementation Plan and approved by EPA after public notice at both the state and federal level. Further, TCEQ has issued modeling guidance regarding the new 1-hour NO₂ and SO₂ standards (see http://www.tceq.texas.gov/permitting/air/memos/interim_guidance_naaqs.html).⁴ In addition, TCEQ has issued permits, such as the permit for Summit Power's Texas Clean Energy Project, that include an analysis of the proposed facilities' 1-hour NO₂ impacts. Accordingly, EPA believes that the Las Brisas permit is required to include a demonstration of compliance with both the 1-hour NO₂ standard and the 1-hour SO₂ standard.

⁴ TCEQ's "Interim 1-Hour Nitrogen Dioxide (NO₂) NAAQS Implementation Guidance" (July 22, 2010), and "Interim 1-Hour Sulfur Dioxide (SO₂) NAAQS Implementation Guidance" (August 1, 2010).



ENCLOSURE 2

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

FEB 12 2009

Office of the Chief Clerk
Texas Commission on
Environmental Quality (MC-105)
P.O. Box 13087
Austin, TX 78711-3087

RE: Prevention of Significant Deterioration (PSD) Draft Permit, Las Brisas Energy Center,
PSD-TX-1138, HAP48, and PAL41, Nueces County, Texas

To Whom It May Concern:

We have reviewed the draft PSD permit for the Las Brisas Energy Center located in Nueces County, Texas. We received it in our office on January 7, 2009. The draft permit was evaluated to ensure consistency with the Texas PSD State Implementation Plan (SIP) and Federal Clean Air Act requirements. Our comments on the permit are enclosed.

We look forward to working with TCEQ to address the issues identified in our comments and to ensure that the final permit is consistent with the requirements of the Texas PSD SIP. This letter is not a final position by the U.S. Environmental Protection Agency (EPA) concerning the disposition of the application and draft permit. Please contact me at 214-665-7250, or Stephanie Kordzi of my staff at 214-665-7520, if you have questions. Thank you for your cooperation.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Jeff Robinson".

Jeff Robinson
Chief
Air Permits Section

Enclosures

cc: Ms. Toni Oyler
Texas Commission on Environmental Quality
Mr. Steve Hagle
Texas Commission on Environmental Quality

ENCLOSURE

Permit

1. Permit Condition 36 - We recommend that TCEQ consider requiring PM Continuous Emission Monitoring Systems (CEMS) to monitor filterable particulate matter. PM CEMS was mentioned in the Preliminary Determination Summary (See Comment No. 4 below). PM CEMS measures the pollutant of interest, which periodic performance testing also measures, but it provides a greater degree of confidence that the PM control device is operating as intended. We believe PM CEMS for filterable particulate matter have been adequately demonstrated, and we are aware of a number of successful applications in industries such as pulp and paper, hazardous waste incineration, copper smelting, and no fewer than six electric generating units. We are aware of additional plans for installation of PM CEMS on electrical generating units. The capital and operating costs of PM CEMS are comparable to those of Continuous Opacity Monitoring Systems (COMS). Also, we note that revisions to the New Source Performance Standards for electric utility boilers allow PM CEMS to be used in lieu of opacity limits and COMS. Direct, continuous measurement of the pollutant of concern, as can be provided only by PM CEMS, will help ensure proper monitoring of the PM control equipment to the source, the environmental agency, and the public.
2. Permit Condition 11.A. - The permit condition does not contain an annual emissions rate for NOx although one has been included in other permits recently issued to power plants in Region 6. The Calhoun County Navigation District permit contained an annual 12-month rolling average NOx emissions rate of 0.07 lb /MMBtu that applies when the source is burning pet coke. Please explain for the public record why the subject permit does not contain annual average emissions rate for NOx.
3. Page 24, Permit Condition 24.C. - The permit condition states that compliance with the Plantwide Applicability Limit (PAL) will be demonstrated by using CEMS. However, CEMS are not required for PM monitoring. Please reconcile these two statements.
4. Page 24, Permit Condition 24.D. - The permit states that the PAL is subject to the requirements of 30 TAC Chapter 116, Subchapter C. However, EPA is currently reviewing these state regulations and has not yet taken action to approve or disapprove these regulations into the Texas State Implementation Plan (SIP). Accordingly, Texas must demonstrate that all emissions units at this source continue to meet all requirements of the currently approved SIP, including the requirements of any existing permits issued under the approved SIP. If any requirement of an existing permit is changed, the record for this permit action must demonstrate that such change meets the applicable SIP approved requirements in 30 TAC section 116.116. In addition, we strongly encourage TCEQ to ensure that all facets of EPA's PAL provisions are adequately addressed by this permit. (Please see Federal Register, 67 FR 80186, December 31, 2002.)

Preliminary Determination Summary

5. Page 7, PM/PM₁₀ – The PDS states that the permit requires PM CEMS and specifies a PM limit of 0.009 lb /MMBtu, 30-day rolling average, with compliance based on CEMS. However, EPA was unable to locate this emission rate carried over to the permit. See Comment No. 1 above.
6. Page 8, BACT for Emissions during Startup/Shutdown – Please have the permittee forward a final copy of the final Startup/Shutdown written plan, when prepared.

Modeling

7. Page 5-2, Section 5.2, Off Property Sources – EPA is concerned about the statement that Point Source Database (PSDB) sources are being eliminated from the modeling analysis if they do not have a significant impact on the project sources' area. The specific statement of concern is that "the PSDB retrievals did not include facilities that are located adjacent to the site of the Port of Corpus Christi property and are sources of PM₁₀". Please clarify for EPA before issuing the permit and for the public record which sources were eliminated, why they were not considered in the modeling prepared by the company, and how the source has complied with EPA modeling requirements.
8. Page 7-5, Section 7.6, Ozone Analysis - EPA is concerned about the TCEQ guidance referenced by the applicant when assessing the ozone impacts from the proposed unit in its PSD permit application. Specifically, it was determined that the location is ozone neutral. If the TCEQ guidance that was used is based on the Scheffe Point Source Screening Tables, then EPA has commented and provided information to TCEQ on the inaccuracy of using Scheffe Point Source Screening Tables for determining ozone ambient impacts in previous permit comment letters. Use of the Scheffe Point Source Screening Tables or similar screening processes are not EPA-approved methods. TCEQ Air Quality Modeling Guidelines establish a process by which the permit applicant communicates with the TCEQ staff and develops a modeling protocol that will be followed. We could not see where a modeling protocol was developed or submitted by Las Brisas Energy. We have attached the Richard Scheffe letter on the Scheffe Point Source Screening Tables for TCEQ and the source's reference.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
RESEARCH TRIANGLE PARK, NC 27711

JUL 28 2006

Rec'd
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Dial _____
Staff _____

Ms. Abigail Dillen
209 South Willson Avenue
Bozeman, Montana 59715

OFFICE OF
AIR QUALITY PLANNING
AND STANDARDS

Dear Ms. Dillen:

This letter is in response to your inquiry regarding applicability of the Scheffe Point Source Screening Tables.

I developed the screening tables in 1988 as a screening test to estimate the contribution to ambient ozone associated with increased non-methane organic carbon (NMOC) emissions arising from new or modified point sources. The tables never achieved a level of EPA certification associated with EPA guideline models and consequently were not endorsed by the Agency. After publication (non peer reviewed literature) of the tables in 1989, the American Petroleum Institute enlisted renowned atmospheric modeling experts, Drs. John Seinfeld and Panos Georgopoulos of the California Institute of Technology, to review the technique. Based on their input and our own analysis, the EPA decided at that time that the tables did not adhere to an adequate level of scientific credibility to be recommended for their intended purpose.

Ozone science has advanced markedly since 1988 with substantial improvements in the characterization of emissions, meteorological, and atmospheric chemistry processes, paralleling an equivalent improvement in computational processing capability, all of which constitute the principal features of a modeling framework. As a result, the Scheffe method, which was deemed "not adequate" in 1989, would be even less adequate today.

Please do not hesitate to contact me (919-477-7955) regarding any further questions.

Sincerely,

Richard D. Scheffe, PhD
Senior Science Advisor
OAQPS, EPA

cc: Richard Long, Region 8
Tom Curran
Valerie Broadwell



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

FEB 12 2009

Office of the Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087 (MC-105)
Austin, TX 78711-3087

RE: Las Brisas Energy Center (LBEC), Preliminary Determination Summary (PDS),
Permits 85013, HAP48, PAL41 and PSD-TX-1138, Nueces County, Texas

To Whom It May Concern:

We appreciate the opportunity to provide you with information in your efforts to establish a case-by-case maximum achievable control technology (MACT) determination for the proposed construction of the LBEC, 1200 megawatt (MW) power plant, Nueces County, Texas. The Texas Commission on Environmental Quality (TCEQ) is the permitting authority required to make the section 112(g) MACT determination for the construction of the LBEC. However, consistent with EPA's regulations implementing section 112(g), EPA can provide information to permitting authorities if that "information can be expeditiously provided by the Administrator." See 40 C.F.R. §63.43(d) (requiring, among other things, that the 112(g) limit be based on "available information") 40 C.F.R. § 63.41 (defining "available information"). Consistent with these provisions, we are providing the following information for you to consider as you develop the case-by-case section 112(g) MACT standard for the LBEC.

- Item 1 With respect to the proposed MACT to control emissions of Hydrogen Chloride (HCl) from the four circulating fluidized bed (CFB) boilers, in the Preliminary Determination Summary we received on January 9, 2009, LBEC proposes dry flue gas desulfurization (FGD) and fabric filter (FF). One example we have identified is a January 2008 permitting action for a petroleum coke, coal, and biomass fired, 230 MW, CFB boiler unit by the State of Louisiana at Louisiana Generating LLC's, Big Cajun I Power Plant (Unit I) which will utilize dry FGD and FF technology to control emissions of HCL to notably less permitted rates.
- Item 2 With respect to the proposed MACT to control emissions of Hydrogen Fluoride (HF) from the four circulating fluidized bed (CFB) boilers, in the Preliminary Determination Summary we received on January 9, 2009, LBEC proposes dry FGD and FF. One example we have identified is a January 2008 permitting action for a petroleum coke,

coal, and biomass fired, 230 MW, CFB boiler unit by the State of Louisiana at Louisiana Generating LLC's, Big Cajun I Power Plant (Unit I) which will utilize dry FGD and FF technology to control emissions of HF to notably less permitted rates.

Item 3 In addition, with respect to the proposed best available control technology (BACT) to control emissions of Sulfuric Acid (H_2SO_4) from the four circulating fluidized bed (CFB) boilers, in the Preliminary Determination Summary we received on January 9, 2009, LBEC proposes dry FGD and FF. One example we have identified is a January 2008 permitting action for a petroleum coke, coal, and biomass fired, 230 MW, CFB boiler unit by the State of Louisiana at Louisiana Generating LLC's, Big Cajun I Power Plant (Unit I) which will utilize dry FGD and FF technology to control emissions of H_2SO_4 to notably less permitted rates.

Item 4 In addition, with respect to the proposed emission limits table located in the PDS, the table represents the averaging time for each pollutant shown. The majority of the pollutant emission averaging times are represented on an annual average basis only. In order to also insure short term compliance and practical enforceability, the averaging time for each pollutant should also include a shorter averaging time; e.g., at least a 30-day rolling average.

The TCEQ may obtain additional information concerning the above-referenced permitting actions to assist it in the MACT determination for the proposed LBEC plant. See 40 CFR 63.41. Should TCEQ have any questions about the requirements of Section 112(g) of the Clean Air Act, please contact me or Rick Barrett of my staff at (214) 665-7227.

Sincerely yours,



Jeff Robinson
Chief
Air Permits Section

cc: Ms. Toni Oyler
Texas Commission on Environmental Quality
Mr. Steve Hagle
Texas Commission on Environmental Quality