UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
March 16, 1979

MEMORANDUM

SUBJECT: Definition of Source

FROM: Director
Division of Stationary Source Enforcement

TO: Diana Dutton, Director
Enforcement Division, Region VI

This is in response to Howard Bergman's memo of January 9, 1979, requesting a determination as to whether the International Paper Company's paper mill and the Arizona Chemical Company's Plant, both located on the same piece of property in Springhill, Louisiana, constitute a single source or two separate Sources. The Arizona Chemical Company is a joint venture half owned by the International Paper Company and half owned by the American Cyanamid Company. The piece of property on which both plants are located is owned by International Paper.

The PSD regulations define "source" as,

> any structure, building, facility, equipment, installation, or operation (or combination thereof) which is located on one or more contiguous or adjacent properties and which is owned or operated by the same person (or by persons under common control)." (43 FR 26404, June 19, 1978.)

The PSD regulations offer no guidance on what is meant by "common control". However, the newly amended Interpretative Ruling states on page 3279 that for purposes of both the Interpretative Ruling and PSD, the guidelines for determining common control are as follows:

> "For the time being, determinations of what entities control, are controlled by, or are under common control with, the applicant will be made on a case-by-case basis. However, to save time and resources of both applicants and decision makers, EPA Proposes to establish criteria for determining issues of common control. For example, any person
>
> with a ten percent voting interest in an entity, or with the power to make or veto decisions by the entity to implement major emission control measures, might be deemed to control the entity. Such criteria would also be used for determining whether facilities are part of the same source..." (44 FR 3279, January 16, 1979.)

We must decide this issue case-by-case until EPA has completed review of the public comments submitted in regard to the amended Interpretative Ruling, and has taken final action on it. It is my feeling that a person who has as much as 50% voting interest in an entity should be considered to control the entity. Therefore, until the Agency responds to the public on this issue, a person with 50% voting interest in an entity will be considered to have control.

If the International Paper Company has 50% voting interest in the Arizona Chemical Company, it can be considered "in control" for PSD (and IR) purposes, and the International Paper mill and Arizona Chemical plant, both located at the Springhill, Louisiana complex, can be considered as a single source.

I will inform you immediately of any EPA response to any public comment on this issue. The period of public comment on this issue will end March 19, 1979.

Should you have any further questions, please contact Libby Scopino at FTS 755-2564.

Edward E. Reich

cc: Darryl Tyler, CPDD
Mike James, OGC
Paul Traina, Region IV
Kent Berry, OAQPS

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

DATE: January 9, 1979

SUBJECT: PSD Determination - Definition of Source

FROM: Howard G. Bergman
Director
Enforcement Division (6AE)

TO: Edward E. Reich
Director, Division of
Stationary Source Enforcement (EN-340)

We have been contacted by the International Paper Company (IP) concerning proposed construction at their Springhill, Louisiana, paper mill complex. The pulp and paper plant is being shut down. The container plant and finishing and shipping operations will continue. IP proposes to construct a wood products plant at the complex. IP plans to apply for a PSD permit for the wood products plant. Because there will be a net decrease in emissions, IP will be exempt from the air quality analysis and the monitoring requirement.

At the complex on IP's land, Arizona Chemical Company makes a product from black liquor soap produced at other IP pulp and paper mills. Arizona Chemical is a joint venture, half owned by IP. Arizona Chemical is independently managed from IP. An IP steam boiler has supplied steam to Arizona Chemical but this boiler will be shut down. Arizona Chemical plans to build its own boiler. This boiler will be subject to the PSD regulations by itself.

IP claims that the Springhill mill complex should be treated as one source - that Arizona Chemical is part of the Springhill mill. This would allow IP and Arizona Chemical to make one PSD application and receive one permit and, more importantly, use the decrease in emissions of the old boiler against the new boiler so that the new boiler would also be exempt from air quality analysis and monitoring. This will make a difference of several months in when the PSD permit(s) would be issued.

It appears that the issue turns on the interpretation of "source" in the PSD regulations: are there two sources here or only one? Attached is the information provided by IP.

We have learned that Region 4 has an almost identical situation with IP and Arizona Chemical. Therefore, we believe that your office should be involved in the determination. If you have any questions, please contact Jim Veach of my staff at 729-2760.

cc: EPA - Region 4
Phaff (4AAH-AP)