Message

From: Lofton, Jim (ENRD) [Jim.Lofton@usdoj.gov]
Sent: 6/6/2013 3:47:20 PM
To: McClintock, Katie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2d5346d5556d4911a85e6ac0501c65db-McClintock, Katie]
Subject: RE: St. Gobain

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Attorney Client / Ex. 5

Deliberative Process / Ex. 5

From: Schnepp, Jason [mailto:Jason.Schnepp@Illinois.gov]
Sent: Friday, May 31, 2013 2:19 PM
To: Ogulei, David
Cc: Romaine, Chris
Subject: RE: St. Gobain

David,

I think it's time to pull one of the attorneys, as you have offered. St. Gobain is claiming their emissions before the CD were compliant. However, they have not adjusted this baseline to consider the control system that will be required on December 31, 2014 by the CD (presumably because they are not required to "currently comply"). I think this is your primary issue with the baseline, right? Can you make this contact with the attorneys?

Thanks.
Jason

From: Ogulei, David [mailto:Ogulei.David@epa.gov]
Sent: Friday, May 31, 2013 7:55 AM
To: Schnepp, Jason
Cc: Romaine, Chris
Subject: RE: St. Gobain

Jason,

I don't think the paragraph cited by Environ below has anything to do with adjusting the baseline actual emissions per § 52.21(b)(48)(ii)(b) and (c). I believe that provision relates to whether St. Gobain can use the emission rate, after the application of controls, to claim an emission reduction in Step 2 of the PSD applicability analysis. Also, Environ's last response below only addresses § 52.21(b)(48)(ii)(b). It does not address § 52.21(b)(48)(ii)(c), which states, "The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must currently comply, had such major stationary source been required to comply with such limitations during the consecutive 24-month period." If the poposed control equipment is required by an applicable requirement (e.g., a CD), a corresponding adjustment to the baseline actual emissions needs to be made unless the CD expressly states that such adjustment is not required.

On anothor note, it appears that St. Gobain is prohibited from claiming contemporaneous reductions associated with other unit in the netting analysis. The CD provides on page 111 that:
"For any and all actions taken by SGCI to comply with the requirements of this Consent Decree, any emission reductions shall not be considered a creditable contemporaneous emission decrease for the purpose of obtaining netting reductions and offsets under the PSD and Clean Air Act's Nonattainment NSR programs respectively. This includes any decreases from the closure of the Carteret Facility and the Port Allegany Furnace #2." http://www.epa.gov/compliance/resources/decrees/civil/caa/saintgobain10-cd.pdf
Let me know if you need us to discuss this further over the phone. We could also probably pull in any one of the attorneys who worked on this CD.

David

From: Schnepp, Jason
Sent: Thursday, May 30, 2013 1:28 PM
To: Ogulei, David
Cc: Romaine, Chris
Subject: FW: St. Gobain

FYI

From: Mike Wieczorek [mailto:mwieczorek@environcorp.com]
Sent: Thursday, May 30, 2013 1:22 PM
To: Schnepp, Jason; Hunt, Robert A.
Cc: Romaine, Chris
Subject: RE: St. Gobain

Jason,

Thanks for the clarification.

Regarding downward adjustment of baseline emissions, the emission factors and emission rates SGCI used to determine baseline emissions were in compliance with applicable limits in effect during the baseline period and thus no downward adjustment is needed.

Please don't hesitate to let Rob and me know if you feel further discussion is needed.

Regards,
Mike

[cid:image001.jpg@01CE5DE2.4B82D2E0]<http://www.environcorp.com/>
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From: Schnepp, Jason [mailto:Jason.Schnepp@Illinois.gov]
Sent: Thursday, May 30, 2013 7:40 AM
To: Mike Wieczorek; Hunt, Robert A.
Cc: Romaine, Chris
Subject: RE: St. Gobain

Mike,
I don't think USEPA was questioning the ability to use the credits generated by the control system. Rather, I believe their concern was how much of the baseline was compliant. For example, if a unit emits 100 tons but only 90 is allowed and then they implement an expansion and control project, is the baseline 100 or 90? USEPA is pointing to regulation that says you are unable to include noncompliant emissions in your baseline. I don't believe there is any argument in you taking credit for reduction of compliant emissions as is allowed by the CD.

Thoughts?

Thanks.

From: Mike Wieczorek [mailto:mwieczorek@environcorp.com]
Sent: Wednesday, May 29, 2013 2:59 PM
To: Schnepp, Jason; Hunt, Robert A.
Cc: Romaine, Chris
Subject: RE: St. Gobain

Jason:

In negotiating the Consent Decree, USEPA agreed that the installation of controls to comply with the Consent Decree did not require downward adjustment of the baseline. USEPA expressly agreed that SGCI could use the emission reductions from installation of controls to net out of NSR. See page 111 of the Consent Decree, which states:

"Nothing in this Consent Decree is intended to prohibit SGCI from seeking to utilize emission reductions from the Installation of Controls required by this Consent Decree in determining whether a project on the same Furnace that includes both the Installation of Controls under this Consent Decree and other simultaneous construction that is permitted at the same time (either a single permit or multiple permits), triggers New Source Review."

If someone at USEPA is now raising the question of downward adjustment of the baseline, please let us know so that SGCI can put that person in touch with the USEPA headquarters staff who actively participated in the Consent Decree negotiations.

Regards,
Mike

[cid:image001.jpg@01CE5DE2.4B82D2E0]<http://www.environcorp.com/>
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From: Schnepp, Jason [mailto:Jason.Schnepp@Illinois.gov]
Sent: Wednesday, May 29, 2013 7:45 AM
To: Mike Wieczorek
Cc: Romaine, Chris
Subject: FW: St. Gobain

Mike,
USEPA has asked if downward adjustment to the baseline actual emissions was made. I think this is a reasonable request given that St Gobain has entered into a Consent Decree. Please address as quickly as possible.
Thanks.
Jason

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