



Mettiki Coal, LLC
James C. Ashby
Manager, Environmental Affairs

October 26, 2007

Mr. Brian Hug
Division Chief
Air Quality Planning
Maryland Department of the Environment
Air and Radiation Management Administration
1800 Washington Blvd., STE 715
Baltimore, MD 21230-1720

RE: BART

Dear Mr. Hug:

This letter is being submitted to more clearly illustrate how we feel that we are not a BART eligible source. Mettiki asks that you please carefully review this letter and attachments in hopes that by doing so, you will concur with our ineligibility assessment.

Three criteria that must be met for a source to be “eligible” for consideration under the BART provisions of the Haze rule. Applicability is limited to those sources which:

1. Are in one of 26 specific source categories as identified in the Clean Air Act
2. Have units that were in existence on August 7, 1977, but had not been in operation for more than fifteen years as of that date (prior to August 7, 1962);
3. Have a potential to emit 250 tons per year or more of any single visibility impairing pollutant from units that satisfy criterion #2. These pollutants include SO₂, NO_x, VOCs, PM₁₀ and ammonia.

Applicability Qualifier #1:

Mettiki Coal meets the first test under the source category of *Coal Cleaning Plants (thermal dryers) 1100, 2999 305010xx 2.*

Applicability Qualifier #2:

Definition of “in existence”

The BART Guidance attempts to clarify the installation date by broadening the term, stating:

The owner or operator has obtained all necessary preconstruction approvals or permits required by Federal, State or local air pollution emissions and air quality laws or regulations **and** either has (1) begun, or caused to begin, a continuous program of

physical on-site construction of the facility or (2) entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the facility to be completed in a reasonable time. Thus, the term "in existence" means the same as "commence construction" in the PSD regulations.

According to the above definition a source must, by August 7, 1977 have:

- 1) Obtained all necessary preconstruction approvals or permits required by Federal, State, or local air pollution emissions and air quality laws or regulations. AND
- 2) Begun continuous physical on-site construction, OR entered into binding contractual agreements, which cannot be modified without substantial loss to the owner of the property.

According to our records (Attachment 1) we meet the above definition of "in existence" by the August 7, 1977 date however, we did not begin operations of the facility until approximately March, 1978.

Furthermore it is Mettiki's understanding that the purpose of BART under the Haze Rule is to apply emissions controls to sources that were "grandfathered" from the requirements of the 1977 Clean Air Act Amendments (CAA). However, as stated in our PSD permit (Attachment 2) and EPA PSD Approval "Fact Sheet" (Attachment 3), the Mettiki Preparation Plant met all the requirements of the EPA PSD regulations, as amended, on June 19, 1978, therefore post-dating the 1977 CAA Amendments. In fact EPA specifically stated in the final approval determination for the Mettiki PSD permit that while a preliminary approval determination had been made in February of 1978, the final review was not completed until June of 1978 when three additional requirements of the amended PSD regulations were met. The three requirements listed were:

- 1) BACT for all pollutants that have a potential to exceed 100 tpy.
- 2) Impact analysis for visibility, soils and vegetation, and
- 3) Opportunity for public participation.

Having met these three requirements, Mettiki obtained its PSD permit which now serves to demonstrate that the Mettiki Preparation Plant was not "grandfathered" from the CAA Amendments, meets BACT, and ultimately is not subject to BART. The Mettiki Preparation Plant meets all the requirements of the EPA PSD regulations as amended and is therefore not subject to BART.

Lastly, a BART eligible facility refers to a source from one of twenty-six identified source categories that has the potential to emit 250 tons or more of any visibility impairing pollutant and went into operation during the 15 years prior to adoption of the 1977 CAA amendments. Under §169A of the Clean Air Act (CAA) each BART-eligible

source must then be deemed subject to BART by individual states after consideration of the following five factors:

1. The cost of compliance,
2. The energy and non-air quality environmental impacts of compliance,
3. Any existing pollution control technology in use at the source,
4. The remaining useful life of the source, and
5. The degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology.

It is Mettiki's opinion that a review of actual emissions information for the Mettiki Facility (ID # 023-00042) as currently regulated and currently controlled would reveal that the efficacy of imposing additional controls would have only **deminimous** effects on regional haze in the remaining life of the facility which is currently projected to be 2014 .

It is requested that the Mettiki Preparation Plant (Facility ID # 023-00042) be removed from consideration of BART eligibility, based on careful review of the relevant information and documentation hereby submitted. If there are any questions or additional information needed please do not hesitate to call.

Sincerely,



James C. Ashby

cc. Mr. Steve Lang

Enclosures

**METTIKI COAL CORPORATION***a division of mapco inc.*

August 3, 1977

Mr. Stephen R. Wassernug
United States Environmental Protection Agency
Region III
Curtis Building
6th and Walnut Streets
Philadelphia, Pennsylvania 19106

Dear Sir:

In reference to JEN12, the information requested is as follows:

1. The contract was signed on April 26, 1976,
2. The erection crew for the first structure began setup on May 24, 1976,
3. The planned start-up date is March 15, 1978, and
4. The designed process rate is 14,000 tons of run-of-mine coal per day.

The PSD requirements have been reviewed with Environmental Protection Agency representatives. The sulphur dioxide and total suspended particulate levels have been established. Environmental Protection Agency air pollutant emission report forms have been submitted and are currently being reviewed.

If you have any further questions, feel free to contact us at any time.

Very truly yours,

Lonnie V. Waller
Lonnie V. Waller
Chief Engineer

LW/bef

cc: Mr. Glenn Hanson



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
6TH AND WALNUT STREETS
PHILADELPHIA, PENNSYLVANIA 19106

FEB 22 1978

Mr. Lonnie V. Waller
Chief Engineer
Mettiki Coal Corporation
Route Three, Box 124A
Deer Park, Maryland 21550

Re: Application for Approval to Construct a Coal Preparation Facility Pursuant to the EPA Prevention of Significant Air Quality Deterioration Regulations (Title 40, Code of Federal Regulations, Part 52.21) and the Clean Air Act as amended August 1977.

Dear Mr. Waller:

As you know, this office has had to reevaluate your application for approval to construct a coal preparation facility in Garrett County, Maryland. This additional review was necessary because of the changes made to the EPA Prevention of Significant Air Quality Deterioration (PSD) regulations as a result of additional requirements effective under Part C of the Clean Air Act Amendments of 1977 and the additional applications that you submitted by letter of January 13, 1978 from Mr. Dan A. Permenter.

This is to inform you that this office has made a preliminary determination to approve your application for construction of the proposed facility. This preliminary determination is based upon the following findings and air pollution control requirements:

(1) For the control of total suspended particulate matter (TSP) and sulfur dioxide (SO₂), the emission rates specified below have been determined to represent the application of best available control technology. The TSP and SO₂ emission limitations specified below are also required to assure that no violations of the applicable TSP and SO₂ PSD Class II increments will occur. TSP and SO₂ emissions shall not exceed the following limits:

	Particulate (TSP)		Sulfur Oxide (SO ₂)	
	lbs/hr.	Gr/SCFD	lbs/hr.	Gr/SCFD
Plant Emissions	31.8	0.0096	78.6	0.0237

Note: To determine final compliance with the above listed emission requirements, emission stack tests shall be performed by the source owner or operator in accordance with specified EPA and State testing procedures and requirements.

(2) This office's air quality impact modeling analysis reveals that TSP and SO₂ emissions to be emitted, according to the above limits, from the operation of this facility will not cause any violations of the allowable Class II air quality increments for particulate matter and SO₂ as specified by Section 163(b)(2) of the 1977 Clean Air Act. Further, as required under Section 163(b), our analysis reveals that there will be no violations of the TSP and SO₂ National Ambient Air Quality Standards. Therefore, the air quality requirements of Section 163 of the 1977 Clean Air Act will be satisfied.

The PSD regulations require a thirty (30) day public comment period for solicitation of written comments concerning your Company's application for approval to construct the proposed coal preparation plant. Copies of all documents, analyses, etc., used in EPA's evaluation of your application will be available for public inspection, during normal business hours, for this 30 day public comment period at the following locations:

U.S. Environmental Protection Agency, Region III
Air and Hazardous Materials Division
Curtis Building, 10th Floor
6th and Walnut Streets
Philadelphia, Pennsylvania 19106

Garrett County Health Department
Oakland, Maryland 21550

During the public comment period you will be provided with copies of all written comments received by EPA and at the termination of the public comment period you will be afforded an additional ten (10) day period to respond to any and all submitted comments. A copy of the newspaper notice announcing your application for approval to construct is enclosed. This notice is to appear in The Republican the week of February 20, 1978.

Approximately thirty (30) days after the closing of the public comment period a final determination on the approvability of your permit application will be issued by this office. This final determination will consider both relevant public comments and the technical data submitted in support of the ability of the proposed facility to meet the emission limitations for control of TSP and SO₂ as specified above. Should you have any questions regarding this determination, please contact Mr. Edward A. Vollberg of my staff at 215/597-8309.

Sincerely,

Gordon M. Rapier
Gordon M. Rapier, Director
Air and Hazardous Materials Division

Attachments

U.S. Environmental Protection Agency
Title 40, Code of Federal Regulations, Part 52
Clean Air Act Amendments of 1977
Notice of Intent to Construct

Mettiki Coal Corporation

The Mettiki Coal Corporation of Garrett County, Maryland submitted to the Environmental Protection Agency (EPA), pursuant to EPA's regulations for the Prevention of Significant Air Quality Deterioration (40 C.F.R., Part 52.21) and the Clean Air Act (as amended 1977), an application for approval to construct a coal preparation facility in Garrett County, Maryland. The application and EPA's analysis, findings, and determinations are applicable only to the specific requirements of the Prevention of Significant Air Quality Deterioration program.

The EPA Prevention of Significant Air Quality Deterioration regulations require coal preparation plants, such as the proposed facility to satisfy three conditions before approval to construct may be granted by EPA. First, total suspended particulates (TSP) and sulfur dioxide (SO₂) air pollutant emissions must be controlled by best available control technology (BACT). Second, the TSP and SO₂ air pollutant emissions must not cause violations of the allowable annual, twenty-four hour, and three hour air quality class increments as specified under Section 163(b) of the 1977 Clean Air Act applicable in the area where the facility is to be located nor the air quality class increments applicable in any other areas which would be impacted by the facility. Third, the maximum allowable

increase in concentrations of TSP and SO₂ must not cause violations of either the national primary or secondary ambient air quality standards. This requirement is specified under Section 163(b) of the 1977 Clean Air Act.

Presently, all areas which would be impacted by the emissions from the proposed plant are designated as Class II. The allowable Class II annual and twenty-four hour limits for increases in ambient TSP levels, as defined under the Prevention of Significant Air Quality Deterioration regulations and the Clean Air Act Amendments of 1977 are 19 and 37 micrograms per cubic meter respectively. The allowable Class II annual, twenty-four hour, and three hour limits for increases in ambient SO₂ levels are 20, 91, and 512 micrograms per cubic meter respectively. A preliminary review by the EPA of information submitted by the Mettiki Coal Corporation indicates that the construction and operation of the proposed coal cleaning facility will meet all three requirements stated above.

This notice is to solicit written public comment on information submitted by Mettiki in its application for approval to construct the proposed coal preparation plant. Any comments received on or before [30 days from the date of this newspaper notice] will be considered. The Administrator's decision to approve or disapprove the construction of the proposed facility will be based upon the final determination as to whether or not the proposed facility meets all requirements of the Prevention of Significant Air Quality Deterioration regulations. Any final determination made under these regulations will not in anyway relieve Mettiki and the State of Maryland of their obligation to comply with all other requirements applicable to

the approval and operation of the proposed plant.

Copies of all application documents, EPA Analyses, etc., (except information classified confidential) which were used in EPA's evaluation of the Mettiki application, as well as a copy of the preliminary determination, are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III
Air and Hazardous Materials Division
Curtis Building, 10th Floor
6th and Walnut Streets
Philadelphia, Pennsylvania 19106
Contact: Edward A. Vollberg 215/597-8309

All written comments should be addressed to:

Mr. Howard R. Heim, Jr.
Chief, Air Programs Branch, 3AH10
U.S. Environmental Protection Agency, Region III
Curtis Building, 10th Floor
6th and Walnut Streets
Philadelphia, Pennsylvania 19106

Garrett County Health Department
Oakland, Maryland 21550
Contact: Mr. Wendel Beitzel 334-8111 extension 231

Mettiki Coal Corporation
PSD Application
Final Approval Determination

A preliminary determination to approve the Mettiki Coal Corporation application was issued on February 23, 1978 by the Environmental Protection Agency. The determination was made based upon the PSD requirements which were in effect at that time. A subsequent review was completed on June 19, 1978, pursuant to the current PSD regulations which were published on June 19, 1978. As a result it has been determined that the application meets all of the program requirements of these regulations.

These new regulations required EPA to re-evaluate the Mettiki application considering those additional requirements pertaining to the Mettiki Coal facility. There were three specific items to be reconsidered;

- (1) BACT for all pollutants that have a potential to exceed 100 tons/year.
- (2) Impact analysis for visibility, soils and vegetation, and
- (3) Opportunity for public participation.

Review of Mettiki emissions indicated that no additional control was required to comply with the BACT requirement.

The regulations require that, an impact assessment be made of any anticipated adverse effect the source may have on visibility, soils and vegetation. The atmospheric modeling performed for the Mettiki Coal Corporation emissions indicates ambient air pollutant concentrations below the secondary National Ambient Air Quality Standards. Since the secondary standards are based upon protection of public welfare, no adverse impact upon visibility, soils or vegetation is expected from the Mettiki facility operation. Furthermore, there is no indication of the emission of either hazardous pollutants or exotic materials from the facility.

The public participation provisions of the new regulations require that EPA provide the opportunity for public comment on all PSD applications. Also, if requested, a public hearing must be held. After reviewing these requirements, it has been concluded that the public participation requirement has been adequately addressed. This conclusion is supported by the following items:

- (1) Public comments were solicited, on the application and EPA's preliminary approval, by a legal notice in a local newspaper. The comment period was open for 30 days, during which time EPA did not receive any comments on the proposed plant operation.
- (2) The re-evaluation of the application and EPA's subsequent determination that no additional emission limits or analysis would be required, leaves the original review and the preliminary determination essentially unchanged.