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September 20, 2013

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Via U.S. Mail and electronic mail to [leeka@dhec.sc.gov](mailto:leeka@dhec.sc.gov)

Re: FinnChem USA Inc. Operating Permit Renewals, permits CM-1900-0172, CM-1900-0206, Public Notice 13-076-CM-RE  
Our File No. 1025/13-0058

Dear Ms. Lee:

On behalf of my client Heath Hill, who owns property adjacent to the FinnChem facilities, we object to the renewal and make the following comments on the above-referenced permits:

1. Co-Location under the Clean Air Act

We believe the Sodium Chlorate Facility located at 200 Wateree Station Road, covered by permit CM-1900-0172 is co-located with the IP Eastover facility at 4001 McCords Ferry Road, as it may be a "support facility" as defined by USEPA. As a result, the Sodium Chlorate Facility and the IP facility is a single "Major Source" as per 40 CFR Part 70, Section 70.2 Definitions:

"Major source" means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties and are under common control of the same person (or persons under common control)) belonging to a single major industrial grouping and that is described in paragraph (1-HAPs), (2-regulated air pollutants in attainment areas), or (3-nonattainment area pollutants) of this definition. For the purposes of defining "major source," a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source



or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit primary SIC code) as described in the Standard Industrial Classification Manual, 1987.

a. **Same Industrial Grouping, or "Support Facility"**: The industrial grouping is based on the first two digits of the Standard Industrial Classification (SIC) code. IP has a number of SIC codes listed on ECHO, and one of them is 2861, Gum and Wood Chemicals. FinnChem has a SIC code of 2819, Industrial Inorganic Chemicals not Elsewhere Classified. Even if the facilities did not share industrial grouping codes, we believe that FinnChem is a "support facility" for IP. The SIC codes do not have to match for support facilities. EPA defines "support facilities" as "those which convey, store, or otherwise assist in the production of the principal product." See Letter to Jennifer B. Schlosstein, Simpson Paper Company, from Matt Haber, Chief, Permits Office (citing 45 FR 52695, August 7, 1980) November 27, 1996.

EPA guidance states that where more than 50% of the output or services provided by one facility are dedicated to another facility that it supports, "then a support facility relationship is presumed to exist."

See [www.epa.gov/region07/air/nsr/nsrmemos/oscar.pdf](http://www.epa.gov/region07/air/nsr/nsrmemos/oscar.pdf). Even where this 50% test is not met, other factors may lead the permitting authority to make a support facility determination such as "(1) the degree to which the supporting activity receives materials or services from the primary activity (which indicates a mutually beneficial arrangement between the primary and secondary activities); (2) the degree to which the primary activity exerts control over the support activity's operations; (3) the nature of any contractual arrangements between the facilities; and (4) the reasons for the presence of the support activity on the same site as the primary activity (e.g., whether the support activity would exist at that site but for the primary activity). Where these criteria indicate a support relationship, permitting authorities may conclude that a support activity contributing more or less than 50% of its output may be classified as a support facility and aggregated with the facility it supports as part of a single source." *Id.*

We believe that the location of FinnChem was for the purposes of supporting IP, and indeed, FinnChem's predecessor, Huron Tech, made a similar decision in locating its Augusta chlorate production plant near another IP plant. See Exhibit 1, 2003 Augusta Chronicle reprint. Indeed, the article describes IP's plant as a "major customer" of FinnChem. Further, the facilities both have railroad spurs that are adjacent to one another. Exhibit 2 shows the location of FinnChem highlighted at the bottom of the map, and IP at the top, with the IP sewage treatment facilities highlighted in the middle. The rail spurs between the two facilities are highlighted in black ink. DHEC has a duty to inquire into the relationship between FinnChem and IP.

We note that the facts of this case are nearly identical to those dealt with in a letter from EPA Region 4 to James Joy, found at <http://www.epa.gov/region07/air/title5/t5memos/19980220.pdf>. The facts relating to the relationship between the cogeneration plant and Westvaco in scenario #1 are very similar to those in this case, and virtually identical to the relationship between Willamette and ECC International in scenario #3, except for the fact that in the case of FinnChem, it does not lease its property from IP.

**b. Contiguous or Adjacent Properties:** While “contiguous” refers to properties that “touch,” “Adjacent” properties are separated and can be miles apart. EPA guidance states that this must be done on a case by case basis, and has held that 20 miles is too far away, but has held that two auto facilities separated by about one mile and connected via private rail were considered one source. See E. Reich to S. Rosenblatt memo, 6/30/81. We have roughly measured the distance from the FinnChem plant to the IP wastewater plant, and it is approximately 1.7 miles. The distance from the FinnChem Plant to the beginning of the private IP rail spur is 2.3 miles. These facts, coupled with the fact that the facilities are connected by private rail spurs support a finding of adjacency.

**c. Common Control:** EPA guidance states that common control can be established by the existence of contractual relationships between the two companies or a support/dependency relationship. If there are contractual relationships between the two companies, if FinnChem sells most of its product to IP, or if FinnChem would have to shut down operations if IP stopped purchasing its chlorate, then this would satisfy the “common control” test.

If a support relationship exists, DHEC would have to treat FinnChem and IP as a single source for Title V and PSD applicability, which would subject FinnChem to Title V and to a review of its processes to determine which MACT standard(s) apply to its HAP generating operations. Additionally, if the plants are determined to be co-located, FinnChem’s boilers will no longer be area sources and the Clean Air Act would require a case-by-case determination of MACT for the Applicant’s industrial boiler under Subpart B of 40 CFR 63. We do not know whether this would also mean that the anode manufacturing facility would be co-located with IP because of the fact that it is already co-located with the chlorate manufacturing facility.

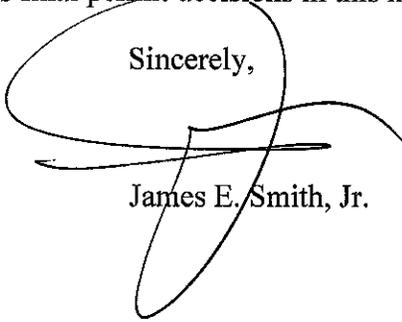
## 2. Possible Increases in Emissions at Both Sources

In the statement of basis for the chlorate production facility it states: “Updated plant production rate so that it’s consistent for all sources at the plant (didn’t result in a substantial difference in emissions).” In the statement of basis for the anode manufacturing facility it states: “Updated the number of batches per day to match the existing permit limit of 17.6 lb/day of HCl” and Updated the acid solution usage rate to match the existing permit limit of three -55 gallon drums per day.”

Please disclose the basis for these changes; they could be construed as “debottlenecking” the facilities. If these changes are meant to represent improvements in emissions estimates, they should be validated.

Please note Mr. Hill’s objection and respond to these comments. I request to also be notified of the Department’s final permit decisions in this matter.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read 'James E. Smith, Jr.', is written over the typed name.

James E. Smith, Jr.

cc: Mr. Heath Hill

Are you searching for "HURON TECH"? Highlight these search terms in the article

Originally created 05/04/03

## Pocket change

### EMPLOYER SPOTLIGHT

#### FINNCHEM USA

**OWNER:** Finnish Chemicals Oy of Aetsa, Finland

**LOCAL OPERATIONS:** Sodium chlorate plant at 2360 Doug Barnard Parkway, south Augusta

**PRODUCT:** Sodium chlorate is used to make chlorine dioxide, a bleaching agent used by paper mills as a more environmentally friendly alternative to traditional chlorine.

**PRODUCTION:** 120,000 tons annually; shipped to paper mills throughout the Southeast via railcar and tanker truck.

**LOCAL EMPLOYEES:** 20 (approximately)

**HISTORY:** Finnchem USA's plant was built in 1995 by Jacksonville's Huron Tech Corp., a company first incorporated in Canada in 1957 as Huron Chemicals Ltd.

Huron built the \$20 million plant in Augusta because of lower electricity costs and proximity to International Paper Co.'s bleached paperboard mill, a major customer. The plant, on a 15-acre site, has undergone two expansions.

Finnish Chemicals, founded in 1937, acquired Huron Tech in December 2000.

**RECENT NEWS:** Finnchem's Augusta plant last week earned the Georgia Department of Labor's Award of Excellence for workplace safety. The award recognizes companies that surpass 250 workdays without a work-related lost-time injury, illness or fatality.

### SCORE TIP

#### Business insurance

Have you reviewed your business insurance policy in the past two years? If not, you should. Too many entrepreneurs suffer losses to fire, theft, natural disasters and other calamities, and then discover that their insurance was outdated or did not cover some or all of the loss.

The Service Corps of Retired Executives, a nonprofit volunteer business counseling organization known as SCORE, advises clients to reassess their insurance needs on a regular basis.

To find out more about business insurance policies, call the Augusta SCORE office at 793-9998 to make an appointment Monday through Thursday from 9 a.m. to noon.

### BIZ BITE

#### Public vs. private

If you're an executive, is it preferable to manage a public or private company?

Private seems to win out for many managers, according to a survey of 943 executives in which 44 percent opted for a private enterprise. Only about a fifth, 21 percent, chose a public company to run, and 35 percent said it didn't matter.

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Pocket change

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"The embattled economy and a year of scandal in high-profile public companies have altered the image of the big, safe, steady U.S. conglomerate," said Jeffrey Christian, chairman and chief executive of Christian & Timbers, an executive search firm.

#### BIZ TRIVIA

##### Pass the ammo

Most know that IBM Corp., the world's largest producer of computer hardware, started out manufacturing punch-card tabulators, time-clocks and typewriters. But few are aware that the company once made bombsights, rifles and engine parts.

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FINNCHEM'S AUGUSTA PLANT FINLAND CHAIRMAN AND CHIEF  
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## Exhibit 2



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