



## Department of Energy

Bonneville Power Administration  
P.O. Box 3621  
Portland, Oregon 97208-3621

PUBLIC AFFAIRS

March 23, 2007

In reply refer to: DK-7

Mr. Irion Sanger  
Attorney at Law  
Davison Van Cleve, PC  
333 SW Taylor, Suite 400  
Portland, OR 97204

RE: FOIA Request 07-016

Dear Mr. Sanger:

This is in response to your request for information that you made to the Bonneville Power Administration (BPA), under the Freedom of Information Act (FOIA), 5 U.S.C. 552.

BPA has provided, in their entirety, the responsive facility determinations for Ponderay Paper Company and for James River Corporation and Pope & Talbot Incorporated. There are no responsive documents for Diashowa because it is a single facility and therefore, no facility determination was needed or completed.

If you are dissatisfied with our determination, you may make an appeal within thirty (30) days of receipt of this letter to Director, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW, Washington, D.C. 20585. Both the envelope and the letter must be clearly marked "Freedom of Information Act Appeal."

There will be no charges associated with processing your request. I appreciate the opportunity to assist you with this matter. If you have any questions about this response, please contact me or Laura M. Atterbury, FOIA Specialist, at (503) 230-7305.

Sincerely,

*/s/ Christina J. Brannon*

Christina J. Brannon  
Freedom of Information Act Officer

Enclosures: (Responsive documents in their entirety)

JAN 16 1995

PKL

Mr. James McCampbell, Manager  
Pend Oreille County PUD  
130 N. Washington Ave., Box 190  
Newport, WA 99156

Dear Mr. McCampbell:

Bonneville Power Administration (BPA) has reviewed Pend Oreille County PUD's (Pend Oreille) November 14, 1984, facility determination letter. Subject to BPA's review of Pend Oreille's contracts with Ponderay Paper Company (Ponderay) (expected spring of 1985) BPA concurs with Pend Oreille's finding that Ponderay's thermomechanical wood pulp (TMP) and paper mill facilities will be two separate facilities. If completed in accordance with the submitted diagrams and proposed plan of service, the Ponderay facilities meet the separate facility determination criteria in section 8(a) of BPA's utility power sales contract proposed to Pend Oreille. Upon completion the two facilities will (1) produce different products, (2) be administered under separate contracts, (3) be metered and billed separately, and (4) will be electrically independent.

BPA also agrees that, if the actual energy consumption at the two facilities occurs, as stated in Pend Oreille's letter, only the load at the TMP facility would become a New Large Single Load. The statutory test and the test in section 8(b) of the 5(b) power sales contract is an actual energy consumption test. Pend Oreille has the responsibility to monitor the load at each of the Ponderay facilities, during each consecutive 12-month period, from the agreed upon date of commercial operation. The actual energy consumption of the load at the facilities will be the deciding factor in determining when and how much of the load or load growth at either facility has become a New Large Single Load.

Should you have any questions concerning this facility determination, please contact Janet McLennan at (503) 230-5154.

Sincerely,

(SGD) Peter T. Johnson

Administrator

# JAMES A. SEWELL & ASSOCIATES

## Branch Office

710 Hutton Bldg.  
Spokane, WA. 99204  
(509) 747-5784

CONSULTING ENGINEERS  
NEWPORT, WASHINGTON 99154  
(509) 447-3424

## Newport Office

James A. Sewell C.E.  
Fellow A.S.C.E.  
Joe M. Olmstead C.E.  
Member A.S.C.E.

•System Studies    •Power Analysis    •Civil Engineering    •Load Surveys

November 14, 1984

Department of Energy  
Bonneville Power Administration  
U.S. Courthouse, Room 561  
W. 920 Riverside  
Spokane, Washington 99201

Attn: Mr. Arthur W. Harlow, Area Power Manager

Subject: BPA-Proposed Paper Mill

Dear Art:

In our negotiations for the power sales contract for the proposed paper facility construction by the Ponderay Paper Company in Pend Oreille County, they have indicated that they plan two separate facilities. These would be a thermomechanical pulp (TMP) facility and a paper mill facility. (See Attachment 1, Site Plan).

The first facility would produce thermomechanical (TMP) wood pulp, which is a commercially saleable product and is also a raw material for the paper mill facility. Commercial sales of such pulp are currently made from mills operated by Finlay Forest Industries, Ltd. and Quesnel River Paper Co. in British Columbia. The primary raw materials for the TMP facility are wood chips and bleaching chemicals. (See Attachment 5, Flow Chart). The TMP load during the first twelve months is anticipated to be less than ten average megawatts, therefore that portion of the TMP load would not then or thereafter be a New Large Single Load. It is anticipated that the TMP load growth during the second twelve month period might exceed ten average megawatts, in which case that load growth and future load growth would be a New Large Single Load. (See Attachment 3, Planned Startup Schedule.)

The second facility (paper mill) would produce newsprint paper. The primary raw materials for the paper mill are TMP pulp and kraft pulp, which would be purchased from outside suppliers. (See Attachment 5, Flow Chart.) The paper mill load during the first twelve months is anticipated to be less than ten average megawatts, and the load growth during the second twelve months is anticipated to be less than ten average megawatts; thus this facility would not be a New Large Single Load. Ponderay Paper Company plans to monitor and control the paper mill load so that the ten average megawatt limit would not be exceeded. (See Attachment 4, Planned Startup Schedule.)

November 14, 198

Page 2

Each facility would operate independently of the other and service to each facility would be provided by the District under separate contracts and would have separate metering and billing. The two points of delivery would be electrically independent. (See Attachment 2, One-line Electrical Diagram.)

Tender of a Power Sales Contract and the construction schedule for the facilities is dependent upon completion of the Environmental Impact Statement as required by the Washington State Environmental Protection Act and obtaining of the required state and local permits. The District would notify BPA of the date of commercial operation of each facility so that the load of each facility can be monitored.

We hope you will consider the above information and that BPA will concur with the District's determination that these are two separate facilities and that, under the startup plan outlined herein, only the portion of the ~~TMP load that exceeds the ten average megawatt load growth limit in a~~ consecutive twelve month period and future load growth at the TMP facility, would be a New Large Single Load. Thus any power purchased for this portion of the TMP facility from BPA would be billed under the New Resource Rate, while all other power purchased from BPA would be under the Priority Firm Power Rate.

Please feel free to call me if you have any questions. We would appreciate a letter confirming your agreement in the near future.

Very truly yours,

PUBLIC UTILITY DISTRICT NO. 1  
of Pend Oreille County, Wash.

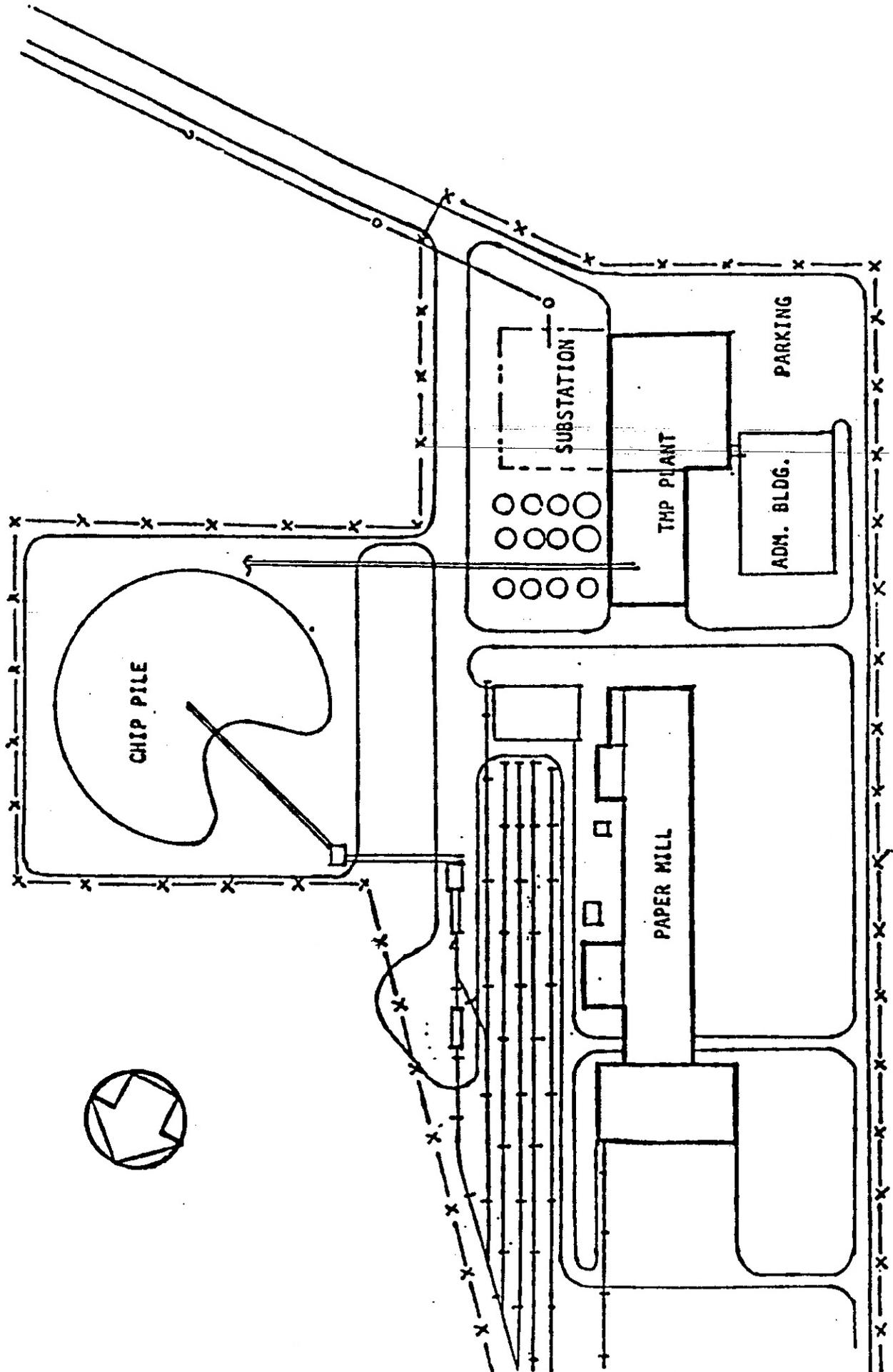
By

  
James A. Sewell, Engineer

JAS:jvz

cc: PUD  
File

Enclosure



PONDERAY PAPER COMPANY  
 CUSICK, WASHINGTON  
 SITE PLAN

PUD 230KV LINE

# SUBSTATION

230KV/13.8KV TRANSFORMERS

RETAIL METER

SHGR

RETAIL METER

SHGR

RETAIL METER

SHGR

RETAIL METER

SHGR

TOTALIZER FOR DEMAND AND USAGE

TOTALIZER FOR DEMAND AND USAGE

DATA TRANSMISSION

DATA TRANSMISSION

13.8KV

13.8KV

13.8KV

13.8KV

REFINERS DISTRIBUTION

**TMP PLANT**

CENTRAL DATA LOGGING, MONITORING STATION, LOAD CONTROL

MACHINE AND DISTRIBUTION

**PAPER MILL**

CENTRAL DATA LOGGING, MONITORING STATION, LOAD CONTROL

PUBLIC UTILITY DISTRICT NO.1 OF PEND OREILLE COUNTY, WASHINGTON

ONE LINE DIAGRAM - PONDERAY PAPER ON SITE FACILITIES

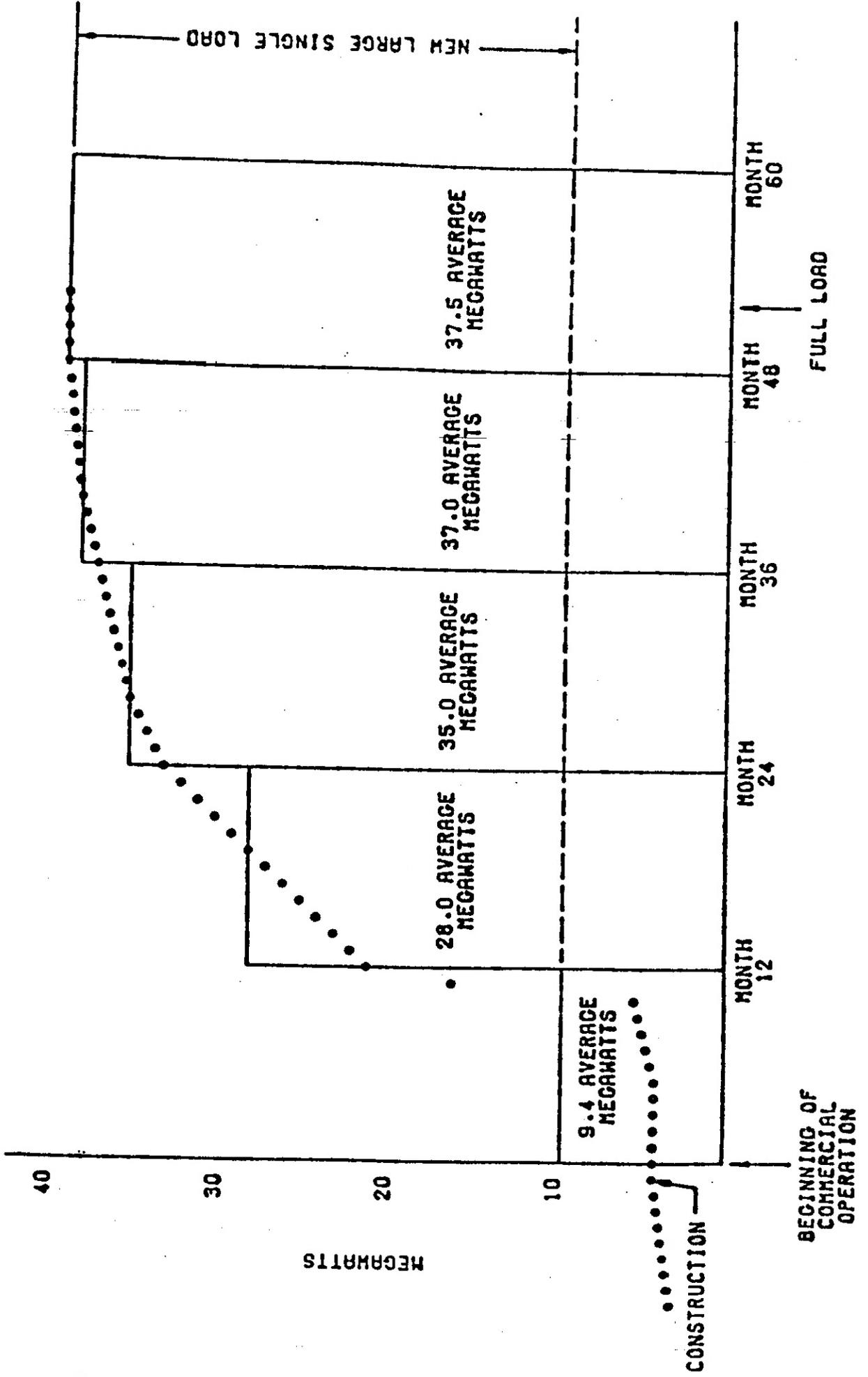
SCALE: N/A

DATE: 10-12-84

APPROVED:

ATTACHMENT 2

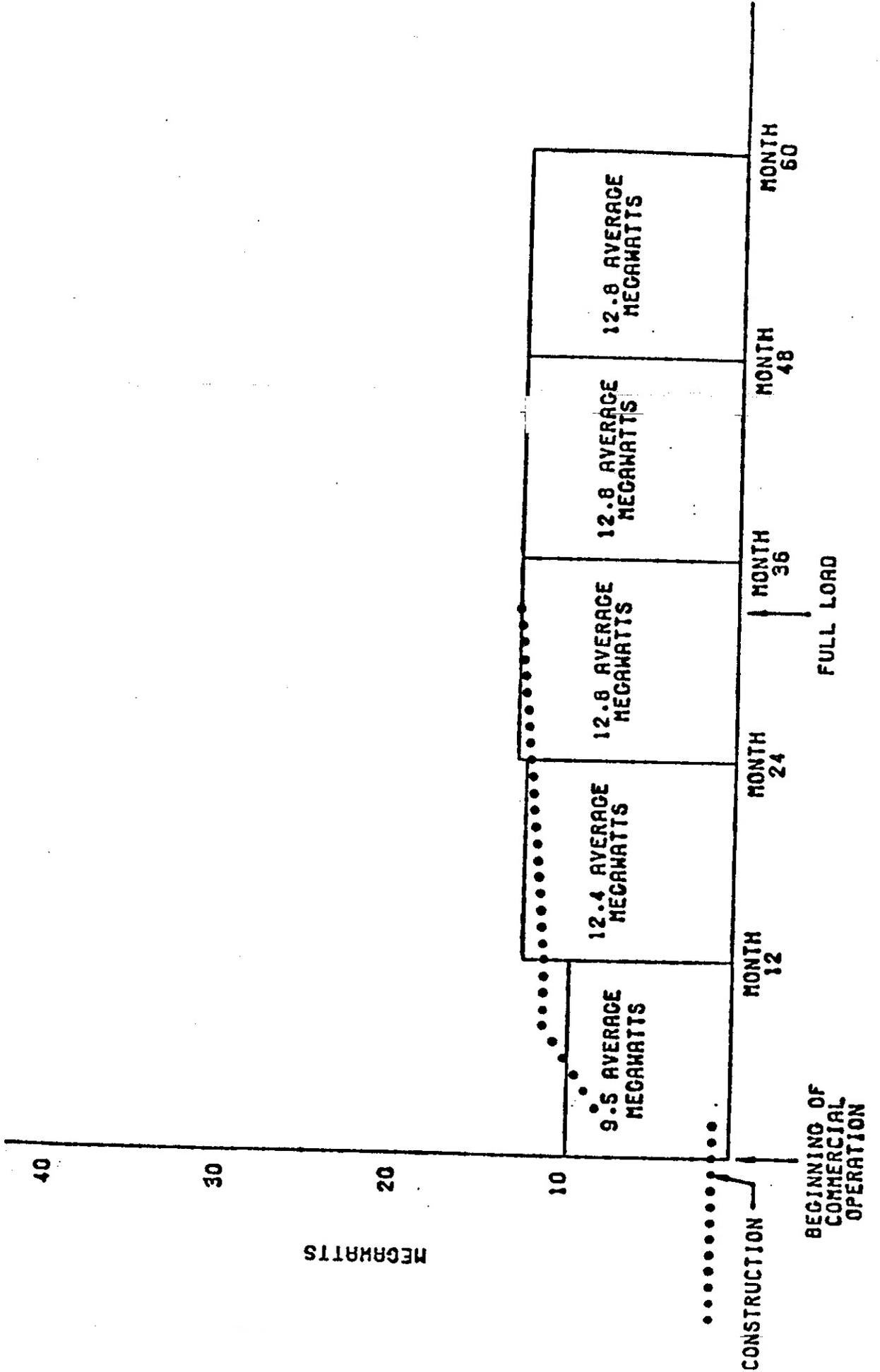
PLANNED STARTUP SCHEDULE



PONDERAY PAPER COMPANY  
PAPER MILL  
CUSICK, WASHINGTON

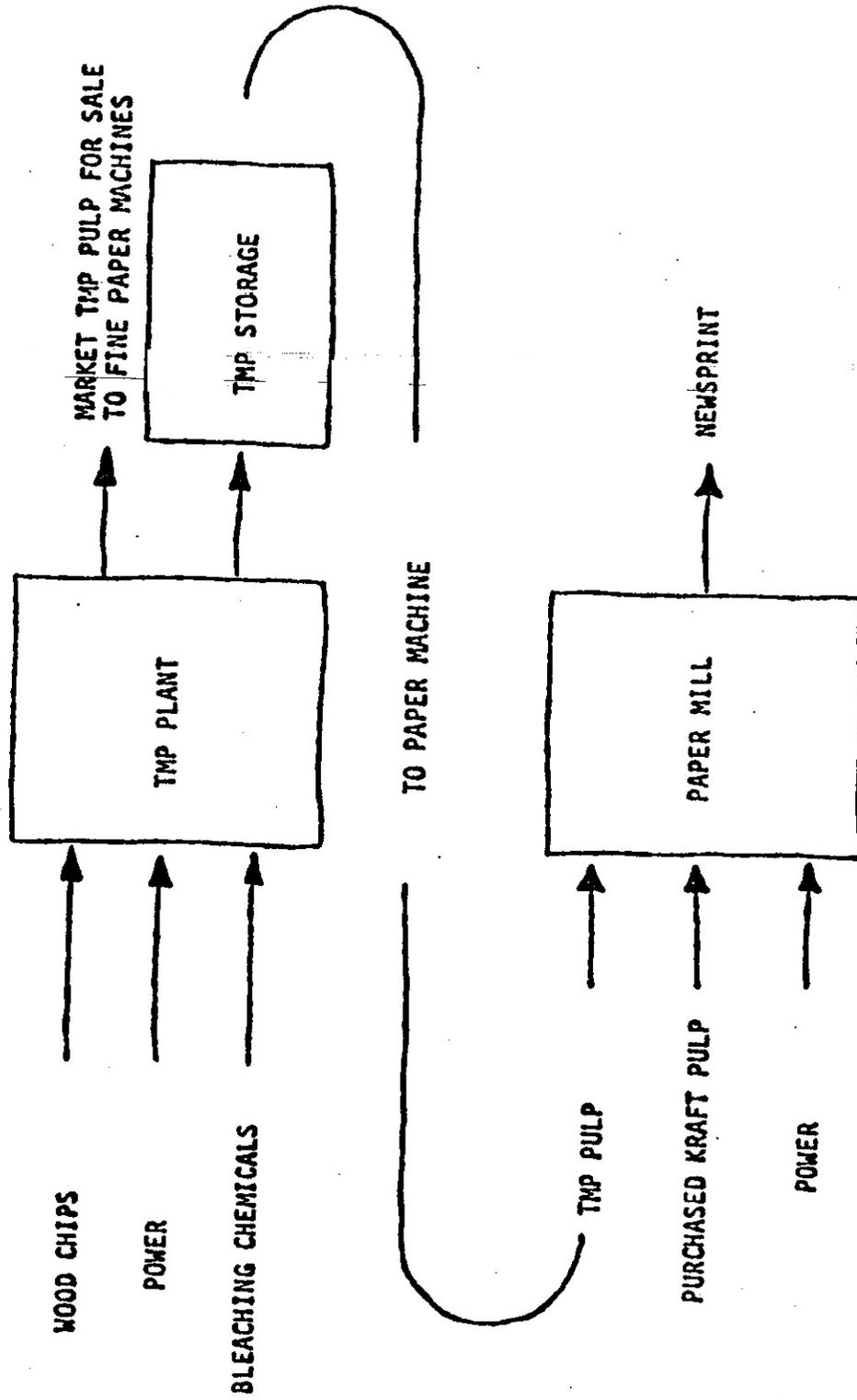
HDE

PLANNED STARTUP SCHEDULE



POWDERAY PAPER COMPANY - CUSICK, WASHINGTON

RAW MATERIAL AND PRODUCT FLOW CHART



JUN 15 1962

PMC

Mr. Jerry D. Miller  
Director Power System Services  
Pacific Power & Light Company  
920 SW. Sixth Avenue  
Portland, OR 97208

Dear Mr. Miller:

The Bonneville Power Administration (BPA) has reviewed Pacific Power & Light's (Pacific) request for a facility determination, under section 8(a) of the Pacific's power sales contract with BPA (PSC), for James River Corporation (James River) and Pope & Talbot Incorporated (Pope & Talbot) existing and planned operations at Halsey, Oregon. Based on our review and the information developed in consultation with Pacific and James River and Pope & Talbot, BPA has determined that James River and Pope & Talbot's operations consist of two existing facilities under the PSC. The operations which are separate facilities are as follows: the existing converting plant and paper mill including the proposed new secondary fiber plant (including any expansions planned by James River), and the existing pulp facility which produces bleached kraft pulp, using wood chips and sawdust as a raw material (including any expansions planned by Pope & Talbot).

BPA has made this determination by reviewing all of the facts and arguments submitted and evaluating them based on the criteria listed in section 8(a) of the PSC:

- (1) whether the load is operated by a single consumer;
- (2) whether the load is in a single location;
- (3) whether the load serves a manufacturing process which produces a single product or type of product;
- (4) whether separable portions of the load are interdependent;
- (5) whether the load is contracted for, served or billed as a single load under the individual Purchaser's customary billing and service policy;
- (6) consistent application of the foregoing criteria in similar fact situations; and
- (7) any other factors the parties determine to be relevant.

In determining that James River and Pope & Talbot operations are separate facilities, BPA has reached the following conclusions:

- (1) The James River and Pope & Talbot operations are operated by two separate and independent companies and consumers, James River and Pope & Talbot.

(2) The load is in a single location, with James River's existing converting plant, paper mill and proposed secondary fiber plant located on one parcel of land, and the Pope & Talbot pulp facilities located on an adjacent parcel of land, all of which are in Halsey, Oregon.

(3) The load consists of the following separate processes:

Pope & Talbot produces bleached kraft pulp using wood chips and sawdust as a raw material;

James River produces parent rolls of towel and tissue using secondary fiber and pulp as the raw material. The converting operation uses parent rolls of towel and tissue papers to produce finished paper towels, napkins, and tissue.

The products of the above processes are, respectively, kraft pulp, and parent rolls of towel and tissue paper. Pulp and paper are recognized within the industry as different products, are different in chemical composition, have different physical properties and qualities, and have different markets. They are therefore different types of products.

There are separate and individual markets currently in existence for the purchase and sale of parent rolls of towel and tissue paper, and for pulp. Pope & Talbot sells approximately 65 percent of the pulp it produces to other customers and James River buys a substantial amount of pulp it uses from other suppliers.

(4) Each of the separate processes is independent from the other, in that each: has a separate owner; is based upon the use of different raw material inputs; is recognized, organized, and operated as an independent profit center; may operate without input from the other onsite process; and does not depend on the other process physically or economically.

Shared services, such as water pumping, compressed air delivery, steam generation, natural gas supply, administrative functions and effluent treatment, are also shared as a matter of economy, all of which could be independently provided by each owner and do not reflect the interdependence of the separate processes.

(5) The pulp mill, paper mill, converting facilities and secondary fiber plant are all billed as a single load by Pacific. However, James River and Pope & Talbot submeter their usage and on the basis of the difference between the Pacific meter and its own meter readings, James River bills Pope & Talbot for Pope & Talbot's power usage. Both parties are served pursuant to an addendum to Pacific's power sales contract with James River executed in July 1987, signed by both James River and Pope & Talbot. BPA has required separate loads to be separately metered so that measurement of load increases at facilities are both accurate and easy to review. The current submetering differs from this requirement such that this determination is made with two understandings. First, Pope & Talbot has planned modifications to the electric distribution system for this load which will permit separate metering in the future. Second, absent

separate metering of these loads, PP&L, James River and Pope & Talbot understand and agree that the current metering will not support any additional facilities at this site in the future. This unique historical submetering arrangement is not in any way a new norm or precedent for BPA's future facility determinations which will continue to require separate metering for separate loads.

(6) The determination that James River and Pope & Talbot operations are separate facilities is consistent with BPA's previous facility determinations with the understanding that these loads will be separately metered in the future.

(7) Neither Pacific nor BPA has identified any other factors that are relevant to this decision.

Based on BPA's determination that James River and Pope & Talbot operations are two separate facilities, each of the facilities will be treated and monitored as a separate load for purposes of new large single load (NLSL) determinations under section 8 of the PSC.

This facility determination is not a determination that any of James River and Pope & Talbot's loads is a NLSL. Whether any of the separate facilities becomes an NLSL depends on the actual energy consumption at each facility. The statutory test of a NLSL, and the test included in the PSC at section 8(b), is an actual consumption test. Pacific will be expected to monitor the load at each facility during each 12-month period from the agreed-upon date of either energization or commercial operation for each facility, as selected by Pacific with BPA's concurrence. The actual consumption at each facility during each 12-month period will be the deciding factor in determining whether the load at any facility has become a NLSL.

If you have any questions concerning this facility determination, please contact Dennis Metcalf on 230-4554 at the Lower Columbia Area Office.

Sincerely,

(Redacted Signature)

Senior Assistant Administrator

GBell:rs:3556:05/26/92 (VS10-PMCG-9755b)

# DECISION PAPER

## NLSL Facility Determination - James River and Pope & Talbot

### INTRODUCTION

Following preliminary inquiries Pacific Power & Light Company (Pacific) requested that BPA concur with Pacific's determination that the two existing operations at Halsey, Oregon are separate facilities under section 8(a) of Pacific's power sales contract with BPA. Pacific submitted its request by letter, accompanied by pages of data, descriptive material and attachments. After reviewing the materials submitted, BPA staff requested additional information. BPA staff reviewed all of the information submitted.

Pacific has identified the following operations as separate facilities: James River Corporation's (James River) existing converting plant and paper mill with a present load of about 11.59 average megawatts (aMW) which is expected to increase by 4 or 5 MW once the proposed secondary fiber plant is completed; and Pope & Talbot Pulp Inc.'s (Pope & Talbot) existing pulp facilities, with a present load of about 11.20 aMW.

This decision paper assembles the facts concerning James River's and Pope & Talbot's operations and describes the application of the facility determination criteria in section 8(a) of the power sales contract to these operations.

### DESCRIPTION OF OPERATIONS

On September 14, 1967, American Can Company (American Can) began construction of a \$40 million pulp and paper mill in Halsey, Oregon. The converting department of the pulp and paper mill began operation in 1968, and on April 13, 1969, the first paper machine started operating. The second paper machine began operation on August 20, 1969. On September 7, 1969, the pulp mill began operations. On March 4, 1970, the Halsey mill began operating at full production levels. The pulp plant's normal production capacity at the beginning was approximately 130,000 tons annually. Of this about 90,000 tons were delivered to the paper mill and the rest was sold to outside purchasers. The plant was served with electric power under a contract entered into between American Can and Pacific dated March 7, 1969.

#### Sale to James River and Pope & Talbot

On March 1, 1978, American Can sold a half interest in the pulp mill to Pope & Talbot. The co-owners of the facilities agreed that American Can would continue to operate the pulp plant as well as the paper plant. On July 2, 1982, James River purchased the Pulp and Paper Division of American Can. Included in that purchase was a lease of the Halsey paper operation. By lease dated July 7, 1982, American Can leased the paper mill and converting operation to James River for a term of 7 years with an option to buy the paper mill and converting operation at a stated price. Under the terms of the lease, James River also undertook American Can's obligation to manage the pulp facility. In May 1983, Pope & Talbot exercised its option to purchase the

remaining one-half of the pulp mill from American Can. Pope & Talbot elected to have James River, acting as agent for American Can, continue in the role of pulp facility manager. In 1985, James River and Pope & Talbot renegotiated the terms of their agreements so that the contracts for purchase of, and management of, the pulp facility ran directly between James River and Pope & Talbot. On October 27, 1986, James River exercised its option to buy the paper mill and converting operation from American Can.

On May 1, 1989, Pope & Talbot exercised its right to assume management of the pulp mill. Today, Pope & Talbot owns and operates the pulp mill in its entirety, and James River Corporation owns the converting operation and paper mill in its entirety and operates that facility.

In conjunction with its converting plant and paper mill, James River is constructing a secondary fiber plant which is scheduled to begin operations in March 1992. The converting operation, the paper mill, and the secondary fiber facility will be operated together as one facility for the production of paper.

The scope of the requested facility determination is limited to the existing facilities and the planned expansion.

#### **CRITERIA FOR FACILITY DETERMINATIONS**

Under its power sales contract with Pacific, BPA evaluates requests for facility determinations using certain general criteria. The criteria are listed in section 8(a) of the power sales contract. Specifically, the criteria are:

- (1) whether the load is operated by a single Consumer;
- (2) whether the load is in a single location;
- (3) whether the load serves a manufacturing process which produces a single product or type of product;
- (4) whether separable portions of the load are interdependent;
- (5) whether the load is contracted for, served or billed as a single load under the individual Purchaser's customary billing and service policy;
- (6) consistent application of the foregoing criteria in similar fact situations; and
- (7) any other factors the parties determine to be relevant.

The analysis of the circumstances of this requested facility determination under these criteria is discussed below.

#### **FACTUAL BASIS FOR APPLICATION OF FACILITY DETERMINATION CRITERIA**

##### **Operation by a Single Consumer**

The operations which are the subject of this determination are or will be owned and operated by James River or Pope & Talbot. The two existing operations previously were owned by a single consumer and were operated independently by American Can until the operations were acquired by James River and Pope & Talbot.

All of the plants and operations which were the subjects of previous facility determinations finding multiple facilities have been owned and operated by a single consumer.

### Single Location

All of the James River and Pope & Talbot operations at Halsey, Oregon are or will be located on adjacent parcels of property. The paper mill, the new converting operations and the proposed secondary fiber plant occupy one parcel. The existing pulp processing plant occupies the other parcel. Each operation occupies its own separate building or buildings.

All of the subjects of previous facility determinations finding multiple facilities have also been sited at single locations.

### Manufacturing Process Producing A Single Product or Type of Product

The James River paper mill produces parent rolls of towel and tissue (approximately 6 feet in diameter and 8 feet long) using secondary fiber and pulp as the raw material. The James River converting operation uses parent rolls of towel and tissue papers to produce finished paper towels, napkins, and tissue ready for sale to retail merchants and commercial buyers. The price James River pays Pope & Talbot for pulp is determined by a calculation based on the open market price for pulp. James River's paper mill, converting operation and secondary fiber operation, and Pope & Talbot's pulp facility are not interdependent operationally (but are electrically). If the paper mill is inoperable for any reason, Pope & Talbot may sell its pulp production during the period on the open market to other customers. Conversely, if the pulp mill is not operating, James River continues to operate the paper mill with pulp purchased from other suppliers or other James River facilities.

Past facility determinations have found separate facilities for manufacturing processes producing products which may be sold in different actual or potential markets. For example, a plant producing powdered potatoes has been distinguished from one producing french fries and hash browns (Carnation), a liquid silane plant was distinguished from one producing polycrystalline silicon (Union Carbide), a TMP plant was distinguished from a newsprint paper mill (Ponderay Paper), and a plant producing crystalline sodium chlorate was distinguished from one producing mixed solutions of sodium chlorate and other chemicals (KemaNord). The extensive information presented by the Pacific and James River and Pope & Talbot, including existing and potential separate markets and purchasers for towel and tissue paper and pulp, suggest that it is reasonable to conclude that the two paper products and the two pulp products have separate markets. A showing of a separate viable economic market for the product has been a basis for finding distinct loads serving manufacturing processes in past determinations. For example, the KemaNord determination was based on a specific showing by the company that the markets for the products were separate and did not overlap.

### Interdependence Among Portions of the Load

The Pope & Talbot and James River facilities share certain common services such as water pumping, effluent treatment, compressed air delivery, steam generation, and natural gas supply. However, none of these services depend on

simultaneous operation of the two facilities. All the services can continue for whichever plant is operating when another is not. Costs of these common services are allocated between James River and Pope & Talbot on the basis of formulas specified in their agreements. It should be noted that James River is presently in the process of constructing a wastewater treatment plant, and has applied to the Department of Environmental Quality for its own water discharge permit further indicating the increasing separation of the functions of the two plants. See also the discussion regarding operational and electrical interdependence under "Manufacturing Process," above.

### Electric Power Service

As previously stated, James River owns and operates the paper mill, converting operation, and will own and operate the secondary fiber plant at the Halsey site. Pope & Talbot owns and operates the pulp mill at Halsey. Based on historic reasons, however, both the Pope & Talbot and James River facilities are metered at a single Pacific meter. James River and Pope & Talbot submeter their usage and on the basis of the difference between the Pacific meter and its own meter readings, James River bills Pope & Talbot for Pope & Talbot's power usage. Both parties are served pursuant to an addendum to Pacific's power sales contract executed in July 1987 signed by both James River and Pope & Talbot.

Thus, each production process has a separate owner with independent management. Prior determinations discuss this criterion. The determinations for Union Carbide and Ponderay Paper addressed only electrical independence, finding in each case that the proposed facilities were electrically independent. The facility determinations for Newmont and KemaNord addressed economic and physical interdependence in addition to electrical independence, and found that the proposed facilities in each case were independent, based on independent economic evaluation by the consumer of the separate facilities, as well as the physical separation and operational independence of the proposed facilities.

### Contracting, Service, or Billing as a Single Load

The pulp mill, paper mill, converting facilities and secondary fiber plant are all billed as a single load now by Pacific. Pacific owns the substation and metering facilities which were installed at the time American Can built the facilities. James River receives and pays Pacific's bill for the combined services and makes the allocation. The single billing was approved by the Oregon Public Utility Commission with knowledge by the Commission that the facilities were operated as separate entities, when the Commission approved the 1987 addendum to the American Can/Pacific contract. BPA has required separate loads to be separately metered so that measurement of load increases at facilities are both accurate and easy to review. The current submetering differs from this requirement such that this determination is made with two understandings. First, Pope & Talbot has planned modifications to the electric distribution system for this load which will permit separate metering in the future. Second, absent separate metering of these loads, PP&L, James River and Pope & Talbot understand and agree that the current metering will not support any additional facilities at this site in the future. This unique

historical submetering arrangement is not in any way a new norm or precedent for BPA's future facility determinations which will continue to require separate metering for separate loads.

### Consistency with Previous Facility Determinations in Similar Fact Situations

BPA has made six previous facility determinations. Two potato processing operations owned by Carnation were found to be separate facilities in February 1983. Operations planned by Union Carbide for the production of liquid silane and polycrystalline silicon were determined to be separate facilities in April 1984. Ponderay Paper Company's planned pulp mill and paper plant were determined to be separate facilities in January 1985. Newmont Gold Company's gold milling and leaching operations were determined to be separate facilities in March 1989. Also in March 1989, two operations planned by KemaNord, Inc., for the production, respectively, of sodium chlorate crystals and mixed solutions of sodium chlorate and other chemicals were found to be separate facilities.

The section 8(a) criteria are to be applied consistently in similar fact situations. The Newmont determination included a finding that the fact situation involved in that case was unique and significantly different from previous determinations. Consistency among facility determinations must be evaluated in light of all of the criteria together, and not by comparison of individual facts pertaining to individual criteria in isolation. This approach is necessary because a facility determination is not based on any single criterion, but on the cumulative effect of the facts of the situation under all of the criteria.

This requested determination differs from all previous determinations in that this determination involves two consumers. The factual situation concerning James River and Pope & Talbot in some ways resembles Daishowa and Ponderay Paper determinations in several respects. All three deal with pulp and paper operations and in all cases some of the output of the pulp operation goes to the paper plant, but may be sold to other purchasers.

The James River and Pope & Talbot determination differs from both Daishowa and Ponderay in that the separate operations have separate owners. The Daishowa differs from the Ponderay Paper determination in that the proposed facilities include two separate operations which produce two types of pulp. The Ponderay Paper determination included a single pulp operation in a single proposed facility.

The determinations differ with respect to analysis of the marketability of pulp. For the Ponderay Paper determination, no specific information was presented on the capability to market pulp. The information provided was that markets existed for Ponderay Paper's pulp output, but that all pulp produced at the site would be committed to on-site paper production. On the other hand, Daishowa showed that the planned pulp operations have potential markets aside from the N-1 paper mill and will be equipped to transport their products to off-site markets if Daishowa chose to do so. Similarly, Pope & Talbot can and does sell pulp to off-site markets.

Based on the similarities between the James River fact situation and the Daishowa and Ponderay Paper facility determination and the consistency between

determinations required under this criterion, the paper mill should be a separate facility from the pulp plant. A determination that the pulp plant is a separate facility is also consistent with the Ponderay Paper and Daishowa determinations, because the separation of a newsprint mill from pulp facilities in the Ponderay Paper determination and the determination that the two pulp operations proposed by Daishowa also could be separate facilities does not preclude James River and Pope & Talbot operations from being divided into separate facilities.

The Carnation, Union Carbide, and Ponderay Paper determinations concerned vertically integrated operations where different parts of the production sequence were found to be separate facilities. In the Union Carbide and Ponderay Paper determinations, actual markets were shown to exist for the products of the separate facilities. Based on these previous determinations and the information on the existence of markets for the products, the pulp plant and the paper mill are separate and independent stages in the production sequence, with existing or potential markets, and should be separate facilities under this criterion.

The KemaNord and Newmont determinations concerned parallel production processes, where the proposed facilities produced different products side by side from similar raw materials. In the KemaNord determination, two similar processes were found to be separate facilities based in part on a showing that the actual markets for the products of the two parallel processes were separate from one another. In the Newmont determination, the two operations would have been a single facility based on the fact that both processes produced inputs to the production of a single marketable product, gold, but were found to be separate facilities based on their independence and other relevant factors identified, including the unique characteristics of an extractive mining operation and the independent economic evaluation of the two operations by its owners, substantially predating the request for a facility determination.

Based on these precedents, the existing paper mill and pulp plant should be separate facilities because James River and Pope & Talbot have shown the existence of separate markets for pulp and paper. James River and Pope & Talbot have also shown the independence of production operations from each other, economically, operationally, administratively, and although electrically integrated, this alone for the reasons stated above does not in this instance weigh against finding separate loads between the two current production processes. This is also consistent with prior determinations.

#### Other Relevant Factors

No additional relevant factors have been identified to date.

#### DETERMINATION

Section 8(a) of the power sales contract provides that BPA and Pacific are to make a reasonable determination of what constitutes a single facility. This determination is to be based on the seven criteria discussed above. BPA has previously interpreted this provision to mean that BPA will base its decision upon a review of the best information provided by the customer about the

proposed loads. Regarding the seven criteria, BPA's policy has been and continues to be that all criteria are viewed as a whole and none given greater weight than the others. Pacific has proposed two single facilities, one for James River and one for Pope & Talbot. These will be discussed under each criterion below. References to facts cited are provided in the factual analysis above.

### Single Ownership

The first criterion is whether the proposed facilities are under a single ownership. Clearly, the operations presented here have two owners, James River and Pope & Talbot. The two existing plants, i.e., the paper mill and the pulp processing plant, previously were under single ownership and were purchased separately by James River and Pope & Talbot. In each of BPA's previous facility determinations, there has been only one owner of the proposed multiple facilities. Single ownership often contradicts separate facilities and indicates a need for a facility determination. Since the two facilities have separate ownership, this criterion would suggest that two facilities exist, consisting of one facility for each of the owners.

### Single Site

The second criterion is location at a single site. Although the operations are adjacent to each other each has its individual location. The facilities have existed at their same sites for many years. In one sense the facilities occupy the same general location. However, the operations are located close together to maximize economies. In all prior determinations, the facilities have been located in close proximity to each other, and this criterion does not suggest any particular number of facilities. Therefore, two facilities may exist upon the same general site.

### Separate Products

The third criterion addresses whether the load of a manufacturing process produces separate products. Previous facility determinations have evaluated information presented under this criterion on the basis of whether a purported product has a separate identifiable market, either potential or existing, which is both recognized by the industry and capable of being used by the consumer. Evaluation of this criterion in light of all the information presented indicates that there are two facilities for the following reasons:

Paper Mill. Regarding the existing tissue paper mill, an identifiable market has been demonstrated. The previous owners, American Can, sold towel and tissue paper to an actual market prior to the presently requested determination. James River and Pope & Talbot have presented information which establishes that the market for towel and tissue paper is distinct from other pulp markets.

Pulp Processing Operations. Regarding the pulp processing facility, Pacific and James River and Pulp & Talbot have shown an identifiable market exists.

Based upon the foregoing, an analysis of the third criterion establishes that there are two products being produced by the proposed manufacturing processes, each with a separate and distinct existing or potential market. Indeed, some

of those markets are well established and have been served by some of these production processes for many years. These separate products which the loads at each of the manufacturing processes produce are towel and tissue paper and pulp.

### Interdependent Loads

The fourth criterion concerns whether the loads are interdependent, that is, dependent upon each other. As discussed above, BPA has previously interpreted this criterion as addressing whether the load for each proposed facility is electrically and economically independent of the other(s).

The two existing plants, the paper mill and the pulp processing plant, have historically been one economic profit center and a single load when the plant had one owner, American Can. However, since James River and Pope & Talbot have become successors in interest the ownership and operation was divided. James River and Pope & Talbot indicate that both will continue to be separate and distinct economically and electrically (via submetering) from each other and from the new plants. Each will be expanded in its sphere of operations. Regarding each of the plants, they are planned as separate profit centers, to be administered and evaluated separately. Each proposed facility has the ability to operate independently of the others to supply external market. This flexibility is essential to the operation of each process has an independent profit center. Additionally, each of the plants will be separated electrically through submetering.

BPA considered and rejected a conclusion that the loads are interdependent because some services are shared. BPA was persuaded by James River and Pope & Talbot's showing that none of the services depend on simultaneous operation of the two facilities.

The integration of administrative services is based upon efficiency and economy of scale. This criterion should not be interpreted to discourage recovery of usable waste byproducts and thereby reduce technological efficiency, nor should it be interpreted to create financial waste by artificially requiring greater capital investment or outlay to deprive business of otherwise available economies of scale. This criterion indicates that each of the proposed facilities is independent from the others in operation and they are therefore not loads which are interdependent with each other.

### Contracting and Metering

The fifth criterion regards whether the load is or will be served under separate contract and metering arrangement, and billed by the utility separately from other loads. The paper mill and the pulp processing plant have previously been served by Pacific under the same contract with American Can. This contract was continued with James River and Pope & Talbot. Both James River and Pope & Talbot signed a new contract with Pacific. Although Pacific will only bill James River, James River will bill Pope & Talbot using submetering to figure the amount to charge Pope & Talbot. This arrangement is consistent with the administration of each plant as a separate profit center. This criterion suggests that each of the plants are under separate contract

and will in the future be metered and billed separately by the utility based on planned changes to the electric service to the site.

### Consistent Application of the Criteria in Similar Fact Situations

The sixth criterion regards the consistent application of the foregoing criteria in similar fact situations. Each successive facility determination has presented new fact situations for BPA to consider. The volume of information made available to BPA by the utility and consumer about markets, products, plans, and processes has increased with each request. BPA therefore has interpreted this criterion to mean that a general consistency is required based on the facts of each case. As BPA refines its evaluation of these criteria, it will use them as a guideline for future determinations.

A review of prior determinations shows that BPA has found separate facilities for manufacturing processes producing products which may be sold into actual or potential markets. For example, a processing plant which produces powdered potatoes has been identified as a separate facility from a plant producing french fries and hash browns (Carnation), liquid silane has been identified as a distinct product from polycrystalline silicon (Union Carbide), TMP pulp was found to be a separate product from newsprint (Ponderay Paper), crystalline pure sodium chlorate was distinguished from sodium chlorate and other chemicals in liquid solution (KemaNord). The earlier determinations also show that BPA found separate facilities based upon electrical independence between the existing or planned loads (Union Carbide and Ponderay Paper), and upon economic independence of loads as individual profit centers (Newmont Mine and KemaNord).

BPA's present determination is consistent with its prior determinations in that the interpretations of the third criterion and the fourth criterion discussed above are the same as in prior determinations. Neither has the first, second, or fifth criterion been applied differently with the noted proviso regarding separate metering and future planned service to these loads. The most similar fact situation was the Ponderay Paper facility determination. In that determination, BPA found that a planned paper mill and a planned TMP pulp process were two separate facilities because the load for each manufacturing process produced a separate product with different actual or potential markets, and were not interdependent loads. BPA has applied the same standard to similar facts in this determination.

### Other Relevant Factors

Regarding the seventh criterion, Pacific and James River and Pope & Talbot did not identify any other factors which should be considered.

### CONCLUSION

All the criteria are to be viewed on the whole and no single criterion is to be given greater weight than another. Based on the foregoing analysis of the facts presented by Pacific and James River and Pope & Talbot to BPA, the criteria may be summarized as follows: The first criterion suggest a finding of two facilities exist on the Halsey site. The second criterion suggests that there are two facilities. The third, fourth, and fifth criteria support

a finding of two facilities for the reasons stated. The sixth criterion suggests that a finding of two facilities would be consistent with prior determinations and particularly with the one earlier determination that a newsprint paper mill and a pulp production process were separate facilities. The seventh criterion was not applicable. Therefore, the criteria on the whole support a finding of two facilities.

Based upon the foregoing analysis and the facts set forth above, BPA has determined that the James River and Pope & Talbot operations at Halsey, Oregon consist of two facilities which are: the existing paper mill and the pulp process.

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