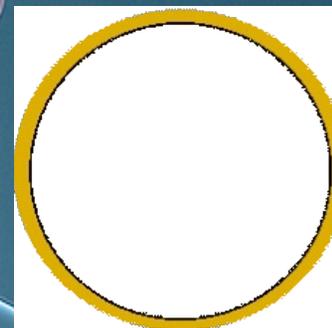


Special Agent Jay M. Green
EPA Criminal Investigation Division

Special Investigator Tod Dickerson
TCEQ Special Investigations Section

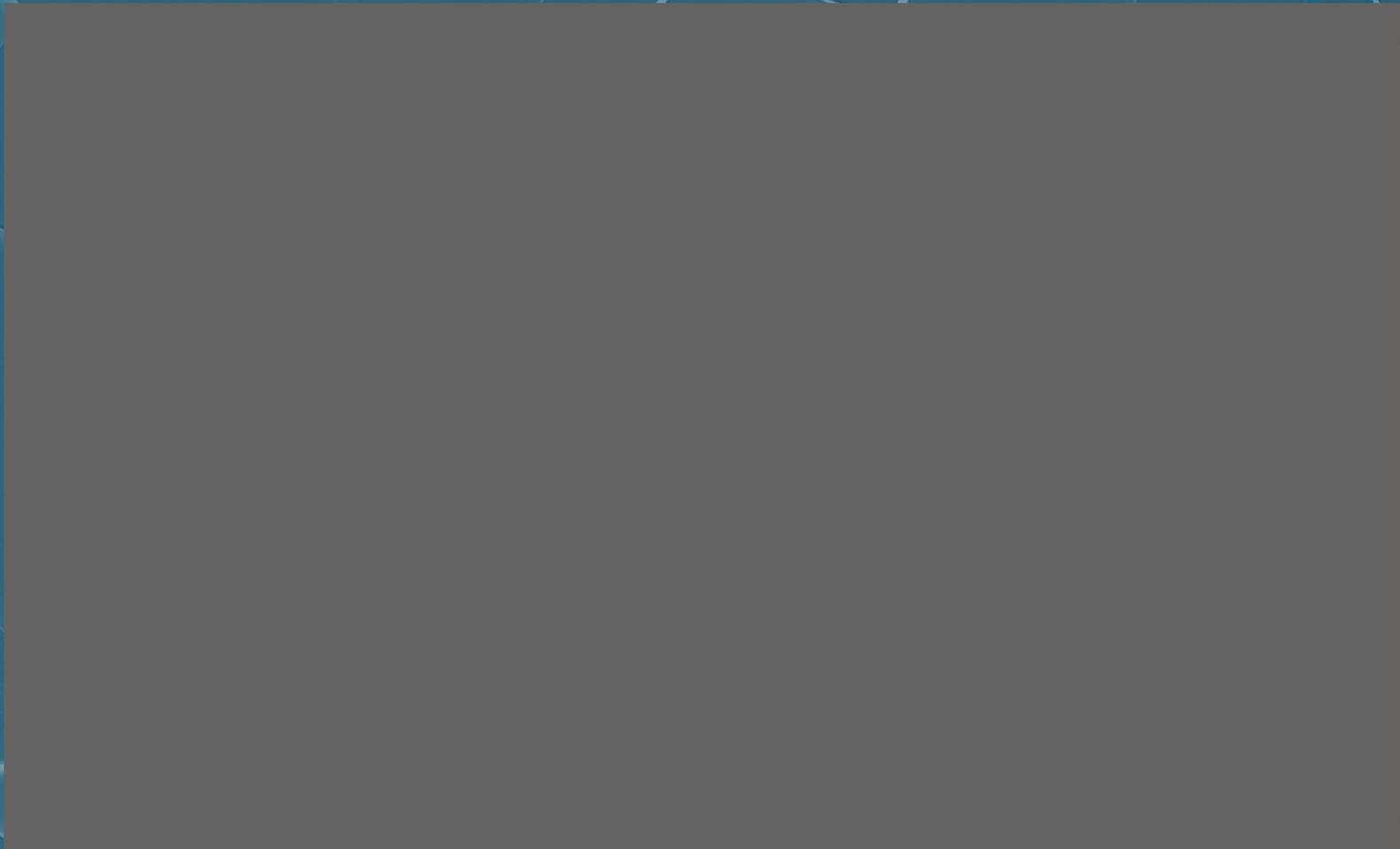


Tyler Pipe Company: The Case of the Missing Grandfather



Tyler Pipe Company

- How does a foundry work?



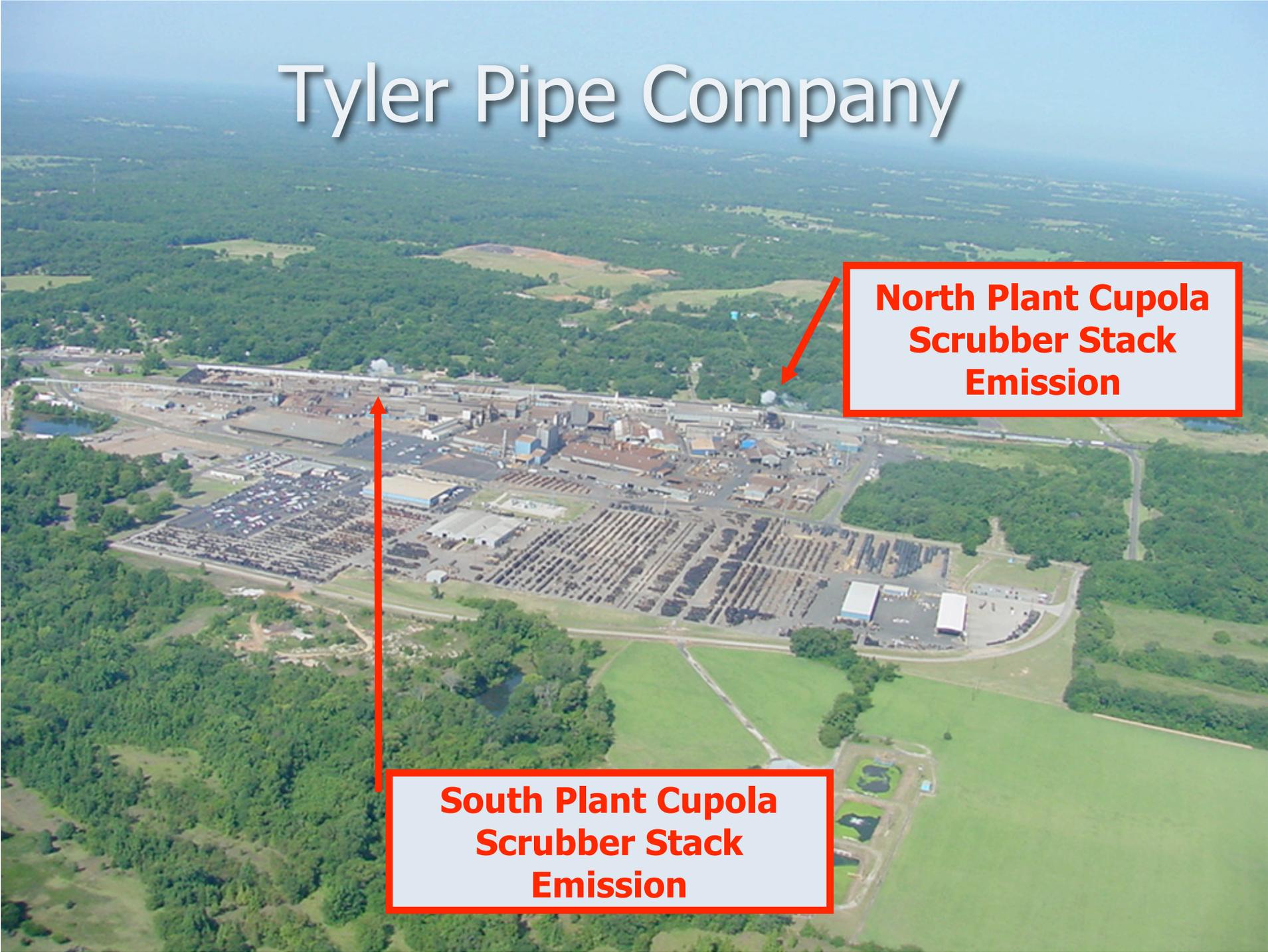


Tyler Pipe Company

- Company History

- ◆ Tyler Pipe Company (TPC), located in Tyler, TX, was founded in 1935
- ◆ One of the largest foundries in the U.S. – actually “two-foundries-in-one”
- ◆ Manufacture gray and ductile iron pipes and fittings
- ◆ Central to their process are TPC’s 60-foot North and South Plant cupolas

Tyler Pipe Company

An aerial photograph of the Tyler Pipe Company industrial facility. The facility consists of numerous large industrial buildings, a large parking lot filled with cars, and several large stacks of pipe. The facility is surrounded by green fields and dense forests. Two red callout boxes with white text and red borders are overlaid on the image. One box, located in the upper right, points to a stack in the northern part of the facility. The other box, located in the lower center, points to a stack in the southern part of the facility. The sky is clear and blue.

**North Plant Cupola
Scrubber Stack
Emission**

**South Plant Cupola
Scrubber Stack
Emission**



Tyler Pipe Company

- Company History, cont.
 - ◆ North Plant Cupola initially constructed in 1950
 - ◆ South Plant Cupola initially constructed in December, 1970
 - ◆ No “Major Modifications” to cupolas post CAA, thus, considered by EPA and Texas to be **GRANDFATHERED**



Tyler Pipe Company

- Company History, cont.
 - ◆ Purchased by McWane, Inc., subsidiary in December of 1995
 - ◆ December 1995 Layoffs – Entire plant reduced from three 8-hour shifts to two 12-hour shifts, hundreds of employees laid off
 - ◆ Technical Services (i.e., Environmental) Department hit hard – 17 experienced employees, which included an in-house laboratory, reduced initially to 3 employees then to 1 employee before the end of 1998
 - ◆ New “McWane Way” driving TPC was emboldened by the management attitude “never let a permit get in your way”



Tyler Pipe Company

- Company History, cont.
 - ◆ At time of purchase by McWane, Inc., TPC had multiple “minor” NSR permits covering individual pieces of post 1970s process equipment, but NO Title V permit(s) or PSD permits
 - ◆ Just prior to the purchase by McWane, Inc., TPC was granted a modification to NSR permit 4851, which allowed for a 47% increase in the South Plant’s molten iron holding capacity and pipe manufacturing capacity
 - ◆ On December 11, 1995, Charles “Barry” Robinson, the Vice President for Environmental Affairs at McWane, Inc., wrote a letter to the TNRCC in which he stated that the Mcwane, Inc., subsidiary “...has also purchased and will operate...units...under their grandfathered status...”



Tyler Pipe Company

- TCEQ begins to suspect that the South Plant cupola's **GRANDFATHER** is missing
 - ◆ Inspections
 - ◆ Filings



Tyler Pipe Company

● Inspections

- ◆ June, 1999, TCEQ "Federal Operating Permit" inspection
 - ◆ Abbreviated Title V permit application had been submitted in January, 1998
 - ◆ Complete Title V Application due in July, 1999
 - ◆ TPC officials told inspectors that "...Tyler Pipe has not made any modifications prompting PSD Permitting requirements..." and claimed the South Plant cupola remained grandfathered
- ◆ March, 2000, multi-media inspection
 - ◆ Air inspectors noted visible emissions from South Plant cupola's "hammerhead"
 - ◆ TPC officials told inspectors in-person and later in writing that the hammerhead had been replaced in December, 1998
 - ◆ TCEQ Air Inspectors requested documentation as to the extent of the hammerhead replacement, which TPC officials NEVER provided



Tyler Pipe Company

- Inspections, cont.

- ◆ October, 2002, multi-media inspection
 - ◆ Among other violations, air inspectors believe TPC's South Plant cupola lost its grandfathered status as evidenced by
 - ◆ (1), the 1994 permitted increase in ductile iron production;
 - ◆ (2), the subsequent increase in emissions from pipe manufacturing lines that derive their molten iron from the South Plant cupola



Tyler Pipe Company

● Filings

- ◆ July, 1999, initial Title V permit application
 - ◆ Assert South Plant cupola was constructed "prior to 1971" and is grandfathered
- ◆ August, 2001, "permit by rule"
 - ◆ Request to authorize the replacement of the 1960s model Venturi water scrubber controlling emissions from the South Plant cupola with a baghouse
- ◆ August 31, 2001, Voluntary Emission Reduction Permit (VERP)
 - ◆ To permit the "grandfathered" South Plant cupola
 - ◆ VERP permit in exchange for a voluntarily reduction in emissions
 - ◆ VERPs could not authorize an increase in emissions
 - ◆ VERPs offered "limited amnesty" for failing to obtain NSR authorization for previous modifications to the grandfathered source



Tyler Pipe Company

- **Filings, cont. (Title V Updates)**
 - ◆ **June 26, 2002**, TCEQ requested entire, updated Title V permit application
 - ◆ **July 25, 2002**, TPC submitted only a Change of Responsible Official Information (Executive VP, McWane, Inc.) and one Application Compliance Plan and Schedule that indicated one South Plant pipe line may have been improperly permitted
 - ◆ **September 19, 2002**, TPC submits two Delegation of Responsible Official forms, delegating authority for signing the Title V application to the Assistant General Manager of the North and South Plants



Tyler Pipe Company

- Filings, cont. (Title V Updates)

- ◆ September 20, 2002, TPC Environmental Manager submitted the remainder of the updated Title V permit application
 - ◆ TPC listed the South Plant cupola as grandfathered
 - ◆ But now provided eleven Application Compliance Plan and Schedules for emissions units that may be operating out of compliance
 - ◆ Eleventh Application Compliance Plan and Schedule was for South Plant cupola - document noted that "Maintenance activities on S. Plant cupola may have triggered modification of grandfathered source." The listed corrective action stated "Plant applied for a voluntary emissions reduction permit in August, 2001"



Tyler Pipe Company

- Criminal Investigation
 - ◆ Initiated in January, 2003, after witnesses interviewed by the New York Times
 - ◆ Dozens of witness interviews conducted
 - ◆ Hundreds of thousands of documents obtained and reviewed



Tyler Pipe Company

- Criminal Investigation
 - ◆ Interviewees indicated that:
 - ◆ From December, 1998, through January, 1999, TPC razed its old South Plant cupola and replaced it with a new cupola
 - ◆ TPC management rebuked employee suggested air permitting
 - ◆ Employees feared for their jobs in regards to disclosing the existence of the new cupola to TCEQ air inspectors



Tyler Pipe Company

- Criminal Investigation

- ◆ Records indicated that:

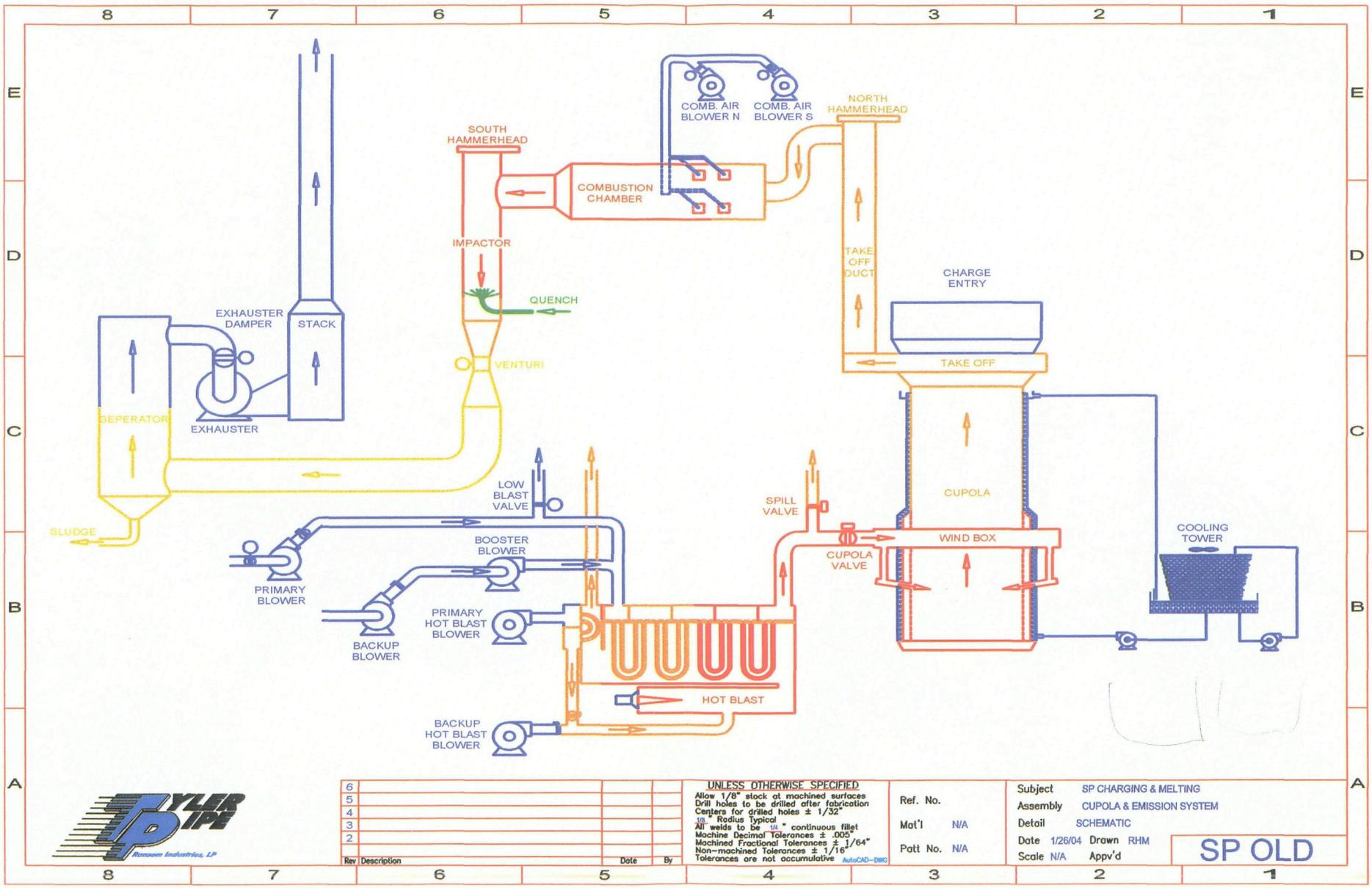
- ◆ New cupola not like kind replacement (water jacket vs. water cascade)
- ◆ New cupola cost more than \$2 million
- ◆ Significant net emissions increase observed for PM and PM₁₀
- ◆ New cupola did not employ BACT but rather was connected to the existing 1960s model Venturi water scrubber
- ◆ Thus, new cupola was not exempt from PSD permitting and review as routine maintenance, repair, or replacement, and was a major modification subject to PSD preconstruction review and permitting



Tyler Pipe Company

- August 4, 2004 - TPC attorneys meet with U.S. Prosecutors

“This is all a big misunderstanding – the new cupola is better for the environment”



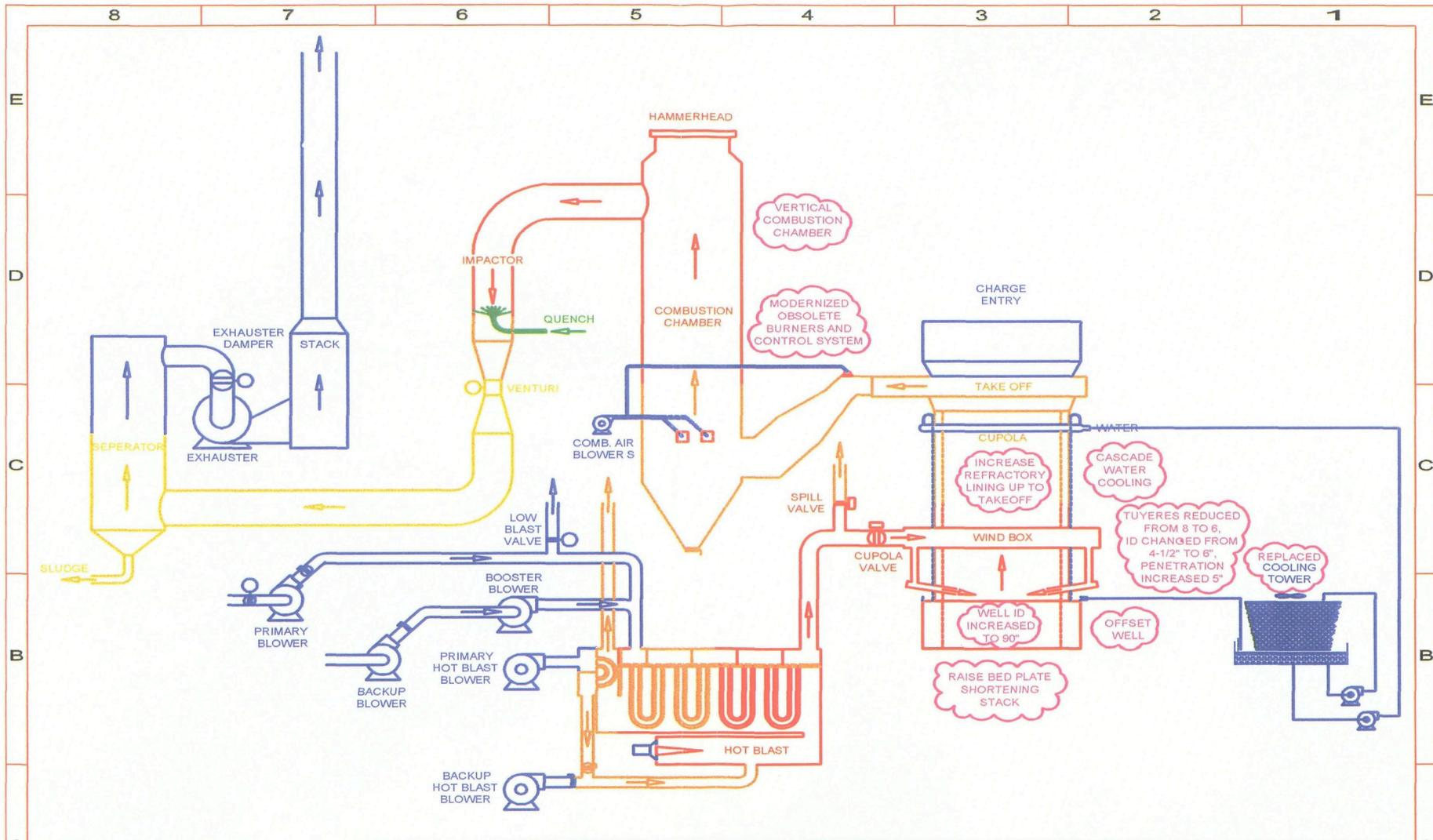
6					
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Rev	Description	Date	By		

UNLESS OTHERWISE SPECIFIED
 Allow 1/8" stock at machined surfaces
 Drill holes to be drilled after fabrication
 Centers for drilled holes ± 1/32"
 .015" Radius Typical
 All welds to be SMA continuous fillet
 Machine Decimal Tolerances ± .005
 Machine Fractional Tolerances ± 1/64"
 Non-machined Tolerances ± 1/16"
 Tolerances are not accumulative AutoCAD-DWG

Ref. No.
 Mat'l N/A
 Patt No. N/A

Subject SP CHARGING & MELTING
 Assembly CUPOLA & EMISSION SYSTEM
 Detail SCHEMATIC
 Date 1/26/04 Drawn RHM
 Scale N/A Appv'd

SP OLD



Rev	Description	Date	By
6			
5			
4			
3			
2			

UNLESS OTHERWISE SPECIFIED
 Allow 1/8" stock at machined surfaces
 Drill holes to be drilled after fabrication
 Centers for drilled holes ± 1/32"
 R = Radius Typical
 All welds to be ^{1/8"} continuous fillet
 Machine Decimal Tolerances ± .005"
 Machined Fractional Tolerances ± 1/64"
 Non-machined Tolerances ± 1/16"
 Tolerances are not accumulative AutoCAD-DWG

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 Assembly CUPOLA & EMISSION SYSTEM
 Detail SCHEMATIC
 Date 1/26/04 Drawn RHM
 Scale N/A App' d

SP NEW



Tyler Pipe Company

- THE SMOKING GUN

- ◆ 1 page handwritten note of a TPC consultant dated July 19, 2001, (days before VERP permit submitted)

“...From a legal perspective the VERP does provide much amnesty - But none for PSD, which is Federal / under Title V - It's now life under a microscope...Work on best case we can make for pre-1971!! - They won't grant 139,000 tons if they know there was a modification...”



Tyler Pipe Company

- On March 22, 2005, TPC pled guilty to a two count Information, with Count One charging that TPC engaged in a scheme to cover up material facts from the TCEQ, while Count Two charged that TPC knowingly constructed and operated the new South Plant cupola without applying for a PSD permit from the TCEQ
- TPC sentenced to pay a fine of \$4.5 million and to serve a five year probationary period
- As a condition of probation, TPC is required to comply with the provisions of a compliance agreement issued by EPA Region 6 which includes mandatory air pollution control upgrades