

**BEFORE THE ADMINISTRATOR
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

IN THE MATTER OF)	
POTLATCH CORPORATION)	
(IDAHO) TITLE V PERMITS)	ORDER RESPONDING TO PETITIONERS'
)	REQUEST THAT THE ADMINISTRATOR
PERMITS 069-00003)	OBJECT TO ISSUANCE OF STATE
(CLEARWATER) AND)	OPERATING PERMITS
069-00001 (IPPD AND CPD))	
ISSUED BY THE)	
IDAHO DEPARTMENT OF)	
ENVIRONMENTAL QUALITY)	
_____)	

**ORDER DENYING
PETITION FOR OBJECTION TO PERMITS**

In December 2002, the State of Idaho Department of Environmental Quality (“IDEQ”) issued separate State Tier I operating permits, pursuant to title V of the Clean Air Act (“CAA” or “Act”), 42 U.S.C. §§ 7661-7661f, CAA §§ 501-507, to three divisions owned and operated by Potlatch Corporation (“Potlatch”). On December 10, 2002, IDEQ issued a Tier I/Title V¹ permit to Potlatch’s Clearwater Wood Products facility (“Clearwater”), Permit No. 069-0003. On December 17, 2002, IDEQ issued separate Tier I/Title V permits to Potlatch’s Idaho Pulp and Paperboard Division (“IPPD”) and Potlatch’s Consumer Products Division (“CPD”), although IDEQ determined that IPPD and CPD constituted a single Tier I/Title V facility and issued both permits under Permit No. 069-00001. On February 7, 2003, the Environmental Protection Agency (“EPA”) received a title V petition from Mr. Mark Solomon, representing the Idaho Conservation League, Friends of the Clearwater, and himself (collectively, “Petitioners”). The petition requests that EPA object to the issuance of the permits pursuant to section 502(b)(2) of the CAA, the federal implementing regulations, 40 C.F.R. part 70.8, and the State of Idaho implementing regulations, “Rules For The Control Of Air Pollution In Idaho,” IDAPA 58.01.01.366.04.

¹ IDEQ refers to permits that it issues under title V of the CAA as “Tier I” permits. EPA will therefore refer to such permits in this Order as “Tier I/Title V permits.”

The petition alleges that:

- (1) the three Potlatch divisions should be covered by a single Tier I/Title V permit because they are part of the same source; and
- (2) IDEQ used the wrong model in determining the ambient air quality impacts at the Potlatch facilities.

EPA has reviewed these allegations pursuant to the standard set forth in section 505(b)(2) of the CAA, which places the burden on the petitioner to “demonstrate to the Administrator that the permit is not in compliance” with the requirements of the Act. See 40 C.F.R. § 70.8(c)(1); *New York Public Interest Research Group, Inc. v. Whitman*, 321 F.3d 316, 333 n. 11 (2nd Cir. 2002) (*NYPIRG*). In doing so, EPA considered the information in the record, including the Potlatch Tier I/Title V permits; the statement of basis for the permits (referred to as the “Technical Basis Memorandum” or “Tech Memo” in Idaho); and information provided by Petitioners in the petition. Based on a review of all the information before me, I deny Petitioners’ request to object to the Potlatch permits for the reasons set forth in this Order.

I. STATUTORY AND REGULATORY FRAMEWORK

Section 502(d)(1) of the CAA requires each State to develop and submit to EPA an operating permit program to meet the requirements of title V. EPA granted interim approval to the title V operating permit program submitted by the State of Idaho effective January 6, 1997, 61 FR 64622 (December 6, 1996), and full approval effective November 5, 2001, 66 FR 50574 (October 4, 2001). See 40 C.F.R. part 70, appendix A. Major sources of air pollution and other sources covered by title V are required to apply for an operating permit that includes emission limitations and such other conditions as are necessary to assure compliance with applicable requirements of the CAA. See CAA §§ 502(a) and 504(a).

The title V operating permit program does not generally impose new substantive air quality control requirements (which are referred to as “applicable requirements”), but does require permits to contain monitoring, recordkeeping, reporting and other compliance requirements when not adequately required by existing applicable requirements to assure compliance by sources with existing applicable emission control requirements. 57 FR 32250, 32251 (July 21, 1992). One purpose of the title V program is to enable the source, the permitting

authority, EPA and the public to better understand the applicable requirements to which the source is subject and whether the source is meeting those requirements. Thus, the title V operating permits program is a vehicle for ensuring that existing air quality control requirements are appropriately applied to facility emission units and that compliance with these requirements is better assured.

Under section 505(a) of the CAA, and 40 C.F.R. § 70.8(a), permitting authorities are required to submit all proposed title V operating permits to EPA for review. Section 505(b)(1) of the CAA authorizes EPA to object if a permit contains provisions not in compliance with applicable requirements. Section 505(b)(2) of the CAA states that if EPA does not object to a permit, any person may petition the Administrator, within 60 days of the expiration of EPA's 45-day review period, to object to the permit. To justify exercise of an objection by EPA to a title V permit pursuant to section 505(b)(2), a petitioner must demonstrate that the permit is not in compliance with the requirements of the CAA. *See* 40 C.F.R. § 70.8(c)(1); *NYPIRG*, 321 F.3d at 333 n.11.

Petitions must be based “only on objections to the permit that were raised with reasonable specificity during the public comment period...unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for the objection arose after such period.” 40 C.F.R. § 70.8(d); *see also* CAA § 505(b)(2). If EPA objects to a permit in response to a petition and the permit has been issued, the permitting authority or EPA will modify, terminate, or revoke and reissue such a permit using the procedures in 40 C.F.R. §§ 70.7(g) for reopening a permit for cause. The permitting authority has 90 days from receipt of EPA's objection letter to propose a determination of termination, modification, or revocation and reissuance, as appropriate, in accordance with EPA's objection. 40 C.F.R. § 70.7(g)(4). If the permitting authority fails to resolve EPA's objection, EPA will terminate, modify, or revoke and reissue the permit after providing at least 30 days' notice to the permittee. 40 C.F.R. § 70.7(g)(5)(i).

II. BACKGROUND

Potlatch owns and operates three separate divisions in Lewiston, Idaho, which are located at a single industrial site. Clearwater manufactures lumber and wood trim from logs. IPPD

manufactures pulp and paperboard from wood waste. Four power boilers, two recovery boilers, and two temporary boilers located at IPPD and permitted as part of IPPD produce steam and/or power (electricity). CPD manufactures tissue paper products using IPPD's pulp. All of the wood waste generated by Clearwater is sent to power boiler #4 or the IPPD operation as raw material for making pulp. The remainder of the fuel for power boiler #4 is shipped to the plant from off-site. Steam and power produced by the power boilers, the recovery boilers and the temporary boilers are delivered to Clearwater, IPPD, CPD, and the grid for sale.

Historically, IPPD and CPD, along with the recovery boilers, temporary boilers, and power boilers have been considered a single facility by IDEQ for air permitting purposes, whereas Clearwater has been considered a separate facility. Potlatch submitted title V permit applications for the three divisions on May 26, 1995. In letters dated August 6 and December 20, 1996, Potlatch requested IDEQ's determination regarding whether Clearwater, on the one hand, and IPPD/CPD, on the other hand, were considered separate facilities under Idaho's Tier I/Title V program. On February 6, 1997, IDEQ determined that Clearwater and IPPD/CPD were separate facilities for purposes of Idaho's Tier I/Title V program and would receive separate permits. Based on a belief that actual emissions from Clearwater were less than the title V major source thresholds, on January 8, 1999, Potlatch submitted a Tier II (state minor source) operating permit application to IDEQ so that Clearwater could be considered a synthetic minor source and avoid the Tier I/Title V permitting requirements. On June 11, 2002, Potlatch notified IDEQ that Clearwater was in fact a major source subject to Tier I/Title V permitting. IDEQ issued a draft Tier I/Title V permit for Clearwater with a public comment period ending on September 4, 2002. IDEQ then issued draft Tier I/Title V permits to IPPD and CPD as separate documents, with both public comment periods ending on October 23, 2002. IDEQ issued the IPPD and CPD permits under a single permit number, however, to reflect that IDEQ considered IPPD and CPD a single facility for permitting purposes and IDEQ also made this clear in the Tech Memos for the IPPD and CPD permits.

During the public comment period on the Clearwater permit, Petitioner Mark Solomon submitted comments requesting that Clearwater not be considered a separate source from IPPD and CPD. After responding to comments received on the Clearwater permit, IDEQ submitted the proposed Clearwater Tier I/Title V permit to EPA on October 23, 2002. EPA received the

proposed Tier I/Title V permits for IPPD and CPD on November 7, 2002. EPA's 45-day review period ended on December 7, 2002, for Clearwater and on December 22, 2002 for IPPD and CPD. By letter dated December 17, 2002, EPA notified IDEQ that EPA would not be reviewing the proposed permits for IPPD or CPD and that the permits were therefore ready for issuance. IDEQ issued the final Clearwater permit on December 10, 2002, and the final IPPD and CPD permits on December 17, 2002.

The 60th day following EPA's 45-day review period was February 9, 2003, for the Clearwater permit and February 20, 2003, for the IPPD and CPD permits. The petition, dated February 5, 2003, was received by EPA on February 7, 2003. Accordingly, EPA finds that this petition was timely.

III. ISSUES RAISED BY PETITIONERS

A. Issuance of Separate Permits for Clearwater and IPPD/CPD

Petitioners requested that EPA object to issuance of separate Tier I/Title V permits for the Clearwater division and the IPPD/CPD divisions. The petition asserts that IDEQ did not have the necessary data to determine that Clearwater is not a support facility for IPPD/CPD; that Clearwater is in fact supported by IPPD/CPD because it derives 100% of its process heat from the boilers at IPPD/CPD; and that IDEQ erroneously interpreted EPA guidance on aggregation of facilities in IDEQ's response to comments. Petitioner "seeks to have the individual Tier I permits for Clearwater and IPPD/CPD rescinded, and a single, facility-wide Tier I permit issued. . . ." Petition at 7.

It is well established that a title V permitting authority may issue multiple title V permits to a single title V source so long as each facility's compliance obligations are clear. See, e.g., 40 C.F.R. § 70.2 ("Part 70 permit ... means any permit or group of permits covering a part 70 source ..."); In re: Shaw Industries, Inc., Plant No. 80, Dalton, Georgia Carpet Manufacturing, Pet. No. IV-2001-9 (November 15, 2002), at 4-5; In re: Shaw Industries, Inc., Plant No. 2, Dalton, Georgia Carpet Manufacturing, Pet. No. IV-2001-10 (November 15, 2002), at 4-5. In their petition, the Petitioners did not identify any applicable requirements that were omitted because IDEQ issued separate permits to Clearwater and IPPD/CPD. Nor did the Petitioners identify in their petition any aspects of the permits that are not in compliance with the Act. Further, EPA

does not believe the permits would contain any different requirements if the facilities had been treated as a single source. For example, because Clearwater and IPPD/CPD are each major sources of hazardous air pollutants under Section 112 of the Act, treating all three facilities as a single major source would not change the applicability of any Section 112 standards. Thus, for the above-stated reasons, EPA denies the petition on this issue. See CAA section 505(b)(2)(objection required if “Petition demonstrates to the Administrator that the permit is not in compliance with the requirements of the [CAA]... .”); 40 C.F.R. § 70.8(c) and (d) (“The Administrator will object to the issuance of any proposed permit determined by the Administrator not to be in compliance with applicable requirements or requirements under this part [70].”); *NYPIRG*, at 333, n. 11.

B. Incorrect Model Used For Ambient Air Quality Impacts

Petitioners also allege that IDEQ failed to follow its own guidance and used the wrong model, ISCST3, to predict ambient air quality impacts at the Potlatch facility. Petitioners assert that ISCST3 is not suitable for use in a canyon environment, such as the Lewiston area; that the data used in the modeling exercise was incompatible with ISCST3; and that IDEQ failed to follow its guidance by not requiring appropriate meteorological data necessary to ensure the adequacy of ambient air computer modeling.

As discussed above, petitions must be based on objections to the permit that were raised with reasonable specificity during the public comment period on the draft permit, unless the petitioner demonstrates that it was impracticable to raise such objections within the public comment period or unless the grounds for the objection arose after the public comment period. See 40 C.F.R. § 70.8(d). EPA has reviewed the comments made by Petitioners during the public comment period on the draft Tier I/Title V permits at the state level. Petitioners’ comments were limited solely to the issue of whether the Potlatch facilities should be covered by a single Tier I/Title V permit. Petitioners did not raise the modeling issue during the public comment period on the draft Tier I/Title V permits. In fact, in commenting on the draft Tier I/Title V permits at the state level, Petitioners specifically incorporated by reference comments Petitioners submitted in previous permitting actions regarding the Potlatch facilities, yet in doing so specifically omitted the section of the comments that addressed the modeling issue. Response to Comments on Clearwater Permit, pg. 3 (“I request that the comments previously submitted by myself and

the Land and Water Fund of the Rockies during the Tier II application public comment period be incorporated by reference in regards to the issue of facility separation.”) EPA has also reviewed comments submitted by other parties, and determined that this issue was not raised by those comments either.

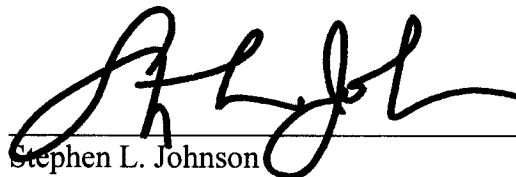
Petitioners also did not demonstrate in their petition to EPA that it was impracticable to raise their concerns with the modeling during the public comment period on the draft Tier I/Title V permits. Nor does it appear that grounds for this objection arose after the close of the public comment period. EPA therefore finds that, with respect to Petitioners’ concerns with the modeling, Petitioners have not met the procedural requirements of 40 C.F.R. § 70.8(d) for petitioning EPA to object to the permit on this basis and EPA is not obligated to respond to this issue. EPA therefore denies the petition on this issue.

III. CONCLUSION

For the reasons set forth above and pursuant to section 505(b)(2) of the Clean Air Act, EPA is denying the petition.

MAY - 7 2007

Dated



Stephen L. Johnson
Administrator