

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

IN THE MATTER OF:	)	
	)	
ADEQ Draft Operating Air Permit	)	
No. 0597-AOP-R19	)	
	)	Permit No. 0597-AOP-R19
For Georgia-Pacific Crossett LLC	)	
	)	
Prepared by the Arkansas Department of	)	
Environmental Quality	)	

**PETITION TO OBJECT TO THE TITLE V OPERATING PERMIT FOR  
GEORGIA-PACIFIC CROSSETT LLC’S CROSSETT, ARKANSAS PULP MILL**

Pursuant to section 505(b)(2) of the Clean Air Act, 42 U.S.C. § 7661d(b)(2), and 40 C.F.R. § 70.8(d), Crossett Concerned Citizens for Environmental Justice (“CCCEJ”) hereby respectfully petitions the Administrator of the U.S. Environmental Protection Agency (“EPA”) to object to the above-referenced draft Title V permit (“the permit”) prepared by the Arkansas Department of Environmental Quality (“ADEQ”) for the Georgia-Pacific Crossett LLC pulp mill (“the G-P mill”) located at 100 Mill Supply Road, Crossett, Arkansas 71635.

ADEQ forwarded this permit to EPA for its 45-day review period on November 6, 2017, prior to the start of the public comment period. On December 8, 2017, CCCEJ, through Earthjustice, requested an extension of the comment deadline.<sup>1</sup> On December 14, 2017 and January 4, 2018, CCCEJ submitted timely comments on the draft permit during the public comment period, which ended on January 4, 2018.<sup>2</sup> CCCEJ also provided comments on the permit at the public hearing held on December 14, 2017. In December and January, ADEQ was contacted on behalf of CCCEJ to request that ADEQ withdraw the permit from EPA review while ADEQ considered whether CCCEJ’s comments warranted revisions to the permit.<sup>3</sup> ADEQ refused.<sup>4</sup> Thus, EPA’s 45-day review period concluded on December 21, 2017, and the 60-day period during which members of the public may petition the EPA Administrator to object to the proposed permit commenced immediately thereafter. As a result, in order not to lose its statutory right to petition EPA for an objection, CCCEJ has no choice but to file this petition before receiving ADEQ’s response to CCCEJ’s comments on the permit and before ADEQ decides whether to revise the permit in light of those comments.

---

<sup>1</sup> See Attachment 1, CCCEJ Extension Request to ADEQ, Dec. 8, 2017.

<sup>2</sup> See Attachment 2, CCCEJ Written Comments to ADEQ, Dec. 14, 2017 (referred to herein as “CCCEJ Comments”); Attachment 3, CCCEJ Supplemental Comments to ADEQ, Jan. 4, 2018 (referred to herein as “CCCEJ Supplemental Comments”).

<sup>3</sup> See Attachment 4, Dec. 19, 2017 e-mail to ADEQ; Attachment 5, E-mail correspondence with ADEQ.

<sup>4</sup> *Id.*, Attachment 5.

As detailed below, ADEQ's concurrent review process and refusal to wait until after considering public comments to submit a proposed permit to EPA violate the Clean Air Act. For that reason alone, EPA must grant this petition and object to the permit. Furthermore, and as shown below, the permit suffers from an additional procedural flaw and many significant substantive defects, which also compel EPA's objection.

## BACKGROUND

### I. Factual Background

The G-P mill sits in the heart of Crossett, Arkansas, near homes and schools, including some at the mill's fence line. According to the most recent U.S. Census data, there are 5,389 residents in the town of Crossett, 45.3% of whom are classified as minority and 22.8% of whom are classified as living in poverty.<sup>5</sup> As shown by EPA's environmental justice mapping tool, EJSCREEN, 1,964 of those residents live within just one mile of the G-P mill, and of those residents 63% are classified by the U.S. Census data as minority,<sup>6</sup> and 67% are classified as low-income. According to the latest Toxics Release Inventory ("TRI") data summarized in EPA ECHO, in 2016 the G-P mill alone added 962,714 pounds of TRI-reported chemicals into Crossett's air, along with other dangerous pollutants listed in the permit.<sup>7</sup>

### II. Petitioner: Crossett Concerned Citizens for Environmental Justice

For years, the G-P mill has released harmful air pollution into the Crossett community.<sup>8</sup> Members of the community formed CCCEJ to advocate for strong health and environmental protections for the families in Crossett. CCCEJ is a community-based nonprofit organization in Crossett, Arkansas, whose mission is to seek to improve the quality of life of low-income residents in the Crossett area, including for its members, by encouraging active civic

---

<sup>5</sup> ACS Demographic and Housing Estimates: 2012-2016 American Community Survey 5-Year Estimates, U.S. CENSUS BUREAU, 2014, accessible at <https://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml>.

<sup>6</sup> In comparison to the average national, EPA regional, and state percentage: 38%, 50%, and 26%, respectively. See Attachment 6, EJSCREEN ACS Summary Report\_Georgia-Pacific Pulp Mill\_One Mile Radius.

<sup>7</sup> ECHO, Enforcement and Compliance History Online, ENVIRONMENTAL PROTECTION AGENCY, <HTTPS://ECHO.EPA.GOV/DETAILED-FACILITY-REPORT?FID=110000450921>; Letter enclosing final copy of Crossett Paper Operations Air Permit # 0597-AOP-R16 from Tammera Harrelson, ADEQ Interim Deputy Director, to Sarah Ross, Georgia Pacific LLC Environmental Department, (March 11, 2015), available at <https://www.adeg.state.ar.us/downloads/WebDatabases/PermitsOnline/Air/0597-AOP-R16.pdf> (last visited 9/19/2016); Facility Profile Report (2015 Dataset), UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, Sept. 2016, accessible at <https://echo.epa.gov/facilities/facility-search>.

<sup>8</sup> *Id.* ECHO report. There is also a new film describing the community's longstanding concerns about the air pollution from the G-P mill. See *Company Town* (2017), <http://www.companytownfilm.com/> (film created by Penn Road Productions, Inc., providing footage summarizing community concerns and steps EPA has taken to acknowledge and begin to evaluate those concerns); Sue Sturgis, *Koch Industries Plant Linked to Cancer Epidemic in Arkansas community* (video), FACING SOUTH: A VOICE FOR A CHANGING SOUTH, Oct. 12, 2011, available at <https://www.facingsouth.org/2011/10/koch-industries-plant-linked-to-cancer-epidemic-in-arkansas-community-video>.

participation, and to make sure safety precautions are being taken to effectively keep the environment clean.

In furtherance of their aim, CCCEJ has actively engaged with ADEQ and EPA for years to inform these agencies of the ongoing adverse and disproportionate health effects suffered by Crossett residents, and to seek solutions that would mitigate these burdens and reduce toxic air emissions from the G-P mill.<sup>9</sup> As part of this permitting process, CCCEJ collected and shared personal accounts of various pollution-related challenges that members of the Crossett community living near the G-P mill have confronted. These include, but are not limited to, death, cancers and other diseases, breathing problems, skin and eye irritation, costly health care visits, property damage, persistent foul smells, and concerns about accidental chemical releases.<sup>10</sup> Partly as a result of the concerns raised by CCCEJ in its advocacy, ADEQ, the Arkansas Department of Health, and EPA Region 6 are conducting ambient air monitoring in Crossett. However, this ambient monitoring only assesses hydrogen sulfide.<sup>11</sup> Although the preliminary monitoring data show health concerns as discussed in CCCEJ's Supplemental Comments, the agencies have not yet released the full results, and so far this monitoring has not led to additional air pollution controls or permit limits. The G-P mill emits many other air pollutants, including hazardous air pollutants that can cause cancer and adverse health effects even at low levels.<sup>12</sup>

### III. General Title V Permit Requirements

To protect public health and the environment, the Clean Air Act prohibits stationary sources of air pollution from operating without or in violation of a valid permit, which must be designed to include and assure implementation and compliance with health-based emission standards and all other applicable requirements. 42 U.S.C. §§ 7661a, 7661c. To that end, Title V permits must include such conditions as necessary to assure compliance with all applicable requirements. 40 C.F.R. § 70.6(a)(1); 42 U.S.C. § 7661c(a), (c). As defined, “applicable requirements” include all standards, emissions limits, and requirements of the Clean Air Act. 40 C.F.R. § 70.2. “The permit is crucial to implementation of the Act: it contains, in a single, comprehensive set of documents, all CAA requirements relevant to the particular polluting source.” *Virginia v. Browner*, 80 F.3d 869, 873 (4th Cir. 1996) (purpose of Title V permit is to provide “a source-specific bible for Clean Air Act compliance”); *Sierra Club v. EPA*, 536 F.3d 673, 674-75 (D.C. Cir. 2008) (“But Title V did more than require the compilation in a single document of existing applicable emission limits...It also mandated that each permit...shall set forth monitoring requirements to assure compliance with the permit terms and conditions.”). Thus, Title V requirements aim to “enable the source, States, EPA, and the public to understand better the requirements to which the source is subject, and whether the source is meeting those

---

<sup>9</sup> See, e.g., EPA, Environmental Justice Collaborative Action Plan (Arkansas Community) at 23-24 (Jan. 26, 2017), [https://www.epa.gov/sites/production/files/2017-03/documents/qtrly\\_update\\_ar\\_ej\\_action\\_plan\\_1-26-17.pdf](https://www.epa.gov/sites/production/files/2017-03/documents/qtrly_update_ar_ej_action_plan_1-26-17.pdf).

<sup>10</sup> See CCCEJ Comments at pp. 4-6.

<sup>11</sup> Hydrogen Sulfide Testing at Georgia-Pacific in Crossett, ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY, Sept. 2016, available at [https://www.adeq.state.ar.us/air/compliance/georgia\\_pacific.aspx](https://www.adeq.state.ar.us/air/compliance/georgia_pacific.aspx).

<sup>12</sup> See sources cited note 7, *supra*.

requirements.” *Operating Permit Program, Final Rule*, 57 Fed. Reg. 32,250, 32,251 (July 21, 1992).

Title V permits must include compliance certification, testing, monitoring, reporting, and recordkeeping requirements that sufficiently assure compliance with the terms and conditions of the permit. 42 U.S.C. § 7661c(c); 40 C.F.R. § 70.6(c)(1). In accordance with 40 C.F.R. § 70.7(a)(5), “the permitting authority shall provide a statement that sets for the legal and factual basis for the draft permit conditions.” This “statement of basis” must include, among other things, a reasoned explanation for why the selected monitoring, recordkeeping, and reporting requirements are sufficient to assure the facility’s compliance with each applicable requirement.<sup>13</sup>

Title V regulations include several procedural requirements to ensure that members of the public have a meaningful opportunity to review and comment on a draft permit. A Title V permit may not be issued unless all of the public participation requirements set forth in 40 C.F.R. § 70.7(h) are satisfied. 40 C.F.R. § 70.7(a)(1)(ii). Among other things, the issuing state authority must maintain a mailing list of interested persons and use it to provide notice of the public review period and the public hearing. 40 C.F.R. § 70.7(h)(1). Furthermore, the permitting authority must offer a draft of the permit for public review and comment, and provide at least 30 days for public comment and notice of any public hearing at least 30 days in advance of the hearing. 40 C.F.R. § 70.2, § 70.7(h)(4); *see also* 42 U.S.C. § 7661a(b)(6). Following public review, the permitting authority is to prepare a proposed permit in light of its consideration of public comments, and send the permit that it proposes to issue to EPA for a 45-day review period. 42 U.S.C. § 7661d(a), (b)(1); 40 C.F.R. § 70.8(a), (c); *see also* 40 C.F.R. § 70.2 (defining “proposed permit” as “the version of a permit that the permitting authority proposes to issue and forwards to the Administrator for review in compliance with § 70.8.”).

If a state submits a Title V permit that fails to include and assure compliance with all applicable Clean Air Act requirements, EPA must object to the issuance of the permit before the end of the 45-day review deadline. 42 U.S.C. § 7661d(b)(1); 40 C.F.R. § 70.8(c). If EPA does not object to a Title V permit, “any person may petition the Administrator within 60 days after the expiration of the Administrator’s 45-day review period... to take such action.” 42 U.S.C. § 7661d(b)(2); 40 C.F.R. § 70.8(d). The Clean Air Act provides that EPA “shall issue an objection...if the petitioner demonstrates to the Administrator that the permit is not in compliance with the requirements of the” Act. 42 U.S.C. § 7661d(b)(2); 40 C.F.R. § 70.8(c)(1); *see also N.Y. Pub. Interest Group v. Whitman*, 321 F.3d 316, 333 n.12 (2d Cir. 2003) (explaining that under Title V, “EPA’s duty to object to non-compliant permits is nondiscretionary”). EPA must grant or deny a petition to object within 60 days of its filing. 42 U.S.C. § 7661d(b)(2); 40 C.F.R. § 70.8(d).

---

<sup>13</sup> *See, e.g., In re Los Medanos Energy Center*, EPA Order in Response to Petition (May 24, 2004), available at [https://www.epa.gov/sites/production/files/2015-08/documents/los\\_medanos\\_decision2001.pdf](https://www.epa.gov/sites/production/files/2015-08/documents/los_medanos_decision2001.pdf).

## GROUNDS FOR OBJECTION

For all the reasons set forth below, the G-P mill permit fails to comport with procedural and substantive requirements of the Clean Air Act. Each of these objections was raised fully in the public comments that CCEEJ submitted to ADEQ by the January 4, 2018 deadline.<sup>14</sup>

### **I. ADEQ’s Process for Issuing the Permit Does Not Comply with the Clean Air Act’s Procedural Requirements.**

In an apparent rush to issue the G-P permit, ADEQ circumvented important Clean Air Act requirements designed to ensure that interested members of the public, including CCCEJ, have an adequate, meaningful opportunity to engage in this permitting process. ADEQ’s actions have undermined the ability of CCCEJ and other members of the public to have their significant concerns regarding the permit considered and addressed by ADEQ and EPA, and lessened the value of public input, in contravention of the Clean Air Act. For these reasons, detailed below, EPA must object to the permit. 40 C.F.R. § 70.7(a)(1)(ii) (a Title V permit “may be issued only if ... the permitting authority has complied with the requirements for public participation”).

#### **A. ADEQ’s Concurrent Review Process Violates the Clean Air Act’s Procedural Requirements and Undermines Public Participation.<sup>15</sup>**

The Clean Air Act and EPA’s Title V regulations establish a clear order of action for Title V permitting that require to ADEQ to first solicit public comment on the draft permit, and then, based on consideration of those comments, send EPA a subsequent version that ADEQ formally proposes to issue. *See* 42 U.S.C. § 7661d(a) and (b); 40 C.F.R. § 70.2, § 70.7, § 70.8. In direct contravention of these requirements, ADEQ sent a *draft* permit to EPA for review two days before the public comment process even began, and then refused to withdraw that permit from EPA’s review after receiving public comments and a request for a hearing on the draft permit. ADEQ’s process not only violates the plain language of the Clean Air Act’s requirements, it effectively renders the public’s input on this permit irrelevant and deprives CCCEJ and other members of the Crossett community of the opportunity to participate in the permitting process as afforded by the Act. It also leaves EPA to review the so-called “proposed” permit as well as this petition without a full permit record that includes the public’s comments and ADEQ’s responses to those comments.

By its plain terms, the Clean Air Act does not allow ADEQ to submit a draft permit to EPA to review to start EPA’s 45-day review period before ADEQ has received, reviewed, and responded to public comments. A “draft permit” is not a “proposed permit.” The Act clearly distinguishes between them, requiring ADEQ to provide an opportunity for public comment and a hearing on a “draft permit,” and then—after consideration of public comments and deciding the content of the permit the state proposes to issue—provide EPA with a “proposed permit.”

---

<sup>14</sup> Specific citations to CCCEJ’s comments and supplemental comments are provided in footnotes to the heading for each objection below.

<sup>15</sup> *See* CCCEJ Supplemental Comments at pp. 1-5.

In particular, both the Act and EPA’s Title V regulations require that the State must give EPA 45 days to review the “proposed permit” and decide whether to issue an objection. 42 U.S.C. §§ 7661d(a) and (b); 40 C.F.R. §70.8; 70.7(a)(1)(v). It does not satisfy these requirements to submit a *draft* permit to EPA. The Act makes clear that a state permitting authority must transmit to the Administrator “a copy of each permit *proposed* to be issued and issued as a final permit,” and the “proposed permit” is the version of the permit upon which EPA will base its 45-day review. 42 U.S.C. § 7661d(a)(1)(B),(b)(1) (emphasis added).

Likewise, EPA’s regulations plainly and deliberately distinguish between a “draft permit” and a “proposed permit,” and specify review requirements for each. A “draft permit” is the version of the permit that the permitting authority submits for public review and comment pursuant to 40 C.F.R. § 70.7(h). 40 C.F.R. § 70.2 (“Draft permit means the version of a permit for which the permitting authority offers public participation under § 70.7(h) or affected State review under § 70.8 of this part.”). By contrast, a “proposed permit” is “the version of the permit that the permitting authority proposes to issue and forwards to the Administrator for review in compliance with § 70.8.” *Id.*; *see also* 40 C.F.R. § 70.8(a)(1) (requiring that the permitting authority “provide to the Administrator a copy of each permit application . . . , each proposed permit, and each final part 70 permit”); *id.* § 70.8(a)-(c) (illustrating that “draft permit” which is provided “to any affected State on or before the time that the permitting authority provides this notice to the public,” and “proposed permit,” which must be provided “to the Administrator,” are different documents, and making clear that the EPA Administrator’s 45-day review period applies to the “proposed permit”); 40 C.F.R. § 70.8(c)(1) (“No permit... shall be issued if the Administrator objects to the issuance in writing within 45 days of receipt of the *proposed permit* and all necessary supporting information.”) (emphasis added). The regulations clearly refer to the “draft” when describing the version of the permit that exists prior to the close of the 30-day public comment period, and “proposed” when describing the version that follows the close of the 30-day public comment period.

In designing the Clean Air Act Title V process in this way, Congress paid particular attention to the importance of public participation and promised “[a]dequate” and “reasonable procedures...for public notice, including an opportunity for public comment and a hearing.” 42 U.S.C. § 7661a(b)(6). A “proposed permit” is one that a state has created after assuring those opportunities, precisely to make sure both that the state considers any public comments *before* deciding what permit to propose to EPA, and to make sure that EPA also considers any public comments while deciding whether to object to a permit proposed by a state. Indeed, Congress clearly intended for state permitting authorities to consider and resolve public concerns about a draft permit *before* it proposes the permit, and before EPA determines whether to object to the “proposed permit.” Section 502(b)(2) provides that a petition to object “shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the permitting agency (unless the petitioner demonstrates in the petition to the Administrator that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period).” 42 U.S.C. § 7661d(b)(2). Relatedly, EPA’s regulations provide that the “permitting authority shall keep a record of the commenters and also of the issues raised during the public participation process so that the Administrator may fulfill his obligation under section 505(b)(2) of the Act to determine whether a citizen petition may be granted.” 40 C.F.R. § 70.7(h)(5).

The Act and the regulations differentiate between a “draft” permit and a “proposed” permit for important reasons that are central to implementation of Title V and its purpose. Because a “draft permit” has not yet been subject to public scrutiny, it does not (and cannot) correct any defects and/or account for any improvements identified by members of the public, or an affected state. The “proposed permit,” on the other hand, is issued after the permitting authority’s consideration of any public comments (or other state comments) submitted during the comment period on the draft permit, and is therefore a version that the state creates after considering and addressing the public’s concerns (as well as any concerns of other affected states).

The United States District Court of the District of Columbia has explained how the Title V permitting process is required to work. In *Sierra Club v. Whitman*, the Court held that a state’s submission of a “draft” permit to EPA “did not commence the Administrator’s 45-day review period.” *Sierra Club v. Whitman*, No. 01-01991-ESH, Slip Op. at 16-17 (D.D.C. Jan 30, 2002) (Attachment 7). There, the Court considered whether a state’s submission of a draft permit for EPA review just one day after the permit was made available for public review triggered EPA’s 45-day review period under the Act, as EPA contended. Rejecting EPA’s argument that its 45-day review period began when the permitting authority submitted a “draft” permit to EPA, the Court held that it is incorrect and unlawful to treat a “draft” permit that has not been subject to public review as the “proposed” permit for purposes of EPA’s review. *Id.* (citing 42 U.S.C. § 7661d(a)(1), (b)(1), (b)(6)); 40 C.F.R. § 70.7(h)(4)). The Court explained that the Act and the Title V regulations clearly distinguish between “draft” permits and “proposed” permits based on whether the public comment period was completed at the time the document was provided to EPA. *Id.* The Court’s ruling confirmed that a “proposed” permit that triggers EPA’s 45-day review period is the version prepared by the permitting authority *after* it has had an opportunity to consider all of the concerns raised about the “draft” permit during the public comment period and hearing. *Id.* As the Court explained, the state permitting agency “simply did not have the statutory authority to submit a proposed permit before the close of the 30-day public comment period.” *Id.* at 17 (citing 42 U.S.C. § 7661d(a)(1); 40 C.F.R. § 70.7(h)).

Significantly, the Court also explained that “permitting EPA review prior to the close of the public comment period would undermine the ability of the public to participate in the permitting process and thereby frustrate the purposes of the Act.” Slip Op. at 17. Citing Congress’ promise of “[a]dequate” public notice and comment procedures, the Court noted that a “permit program would not be ‘adequate’ if it allowed the permitting authority to pass on and EPA to review a draft permit that had never been subjected to public scrutiny.” *Id.* In particular, a “procedure that allows for simultaneous permit review by the public and the EPA provides little time to address public comments that may raise serious questions about a draft permit. Such a process also signals the irrelevance of public input, which clearly contravenes the intent of Title V.” *Id.* at 17-18.

Thus, concurrent review, which treats a draft permit as a proposed permit, is unlawful. Such a process violates the plain text of the statute and EPA regulations designed both to ensure adequate EPA review and to allow for meaningful public participation and consideration of public comments by the permit decisionmakers (the state and EPA).

In addition, and alternatively, even if ADEQ's process were not clearly defective *alone*, due to its submission of only a draft (not a proposed) permit to EPA as is shown above, at a bare minimum here, ADEQ was required to withdraw the permit from EPA's review once public comments were received and testimony was provided at the public hearing on the draft permit. ADEQ's refusal to withdraw the permit from EPA's review once it was clear that ADEQ would need to consider changing the permit in order to meet its obligation to consider and respond to public comments is flatly inconsistent with the Clean Air Act provisions cited above. EPA must object to the permit at the very least because public comments have been received and a public hearing has been held, thus changing the permit record in ways that ADEQ must consider and address before submitting a proposed permit to EPA for its 45-day review. ADEQ's refusal to withdraw the permit from EPA's review indicates that ADEQ will not consider or address the public comments it has received at all, and is a blatant violation of Title V and the public participation requirements cited above.

In addition, and in the alternative, EPA must object because not requiring ADEQ to withdraw the draft permit, consider and address public comments, and then submit a proposed permit to EPA is inconsistent with EPA's own Title V policies and practice. Concurrent review is unlawful in any circumstance, as explained above, and the fact that EPA has sometimes considered a draft permit from a state where there was no public comment or hearing (and where no commenter challenged it) does not make it lawful. Regardless, at least in the circumstances at issue here, EPA must require that based on its own practice, the draft permit must be withdrawn and the state must only issue a proposed permit to EPA after considering and addressing public comments.

In particular, at least in instances where public comments were received and a hearing was held on the draft permit, EPA has generally recognized that Title V and public participation requirements require the permitting authority to withdraw the permit from EPA's review because the public's input through their comments and the hearing require consideration and change the permit record. *See, e.g.*, EPA, Approval of Revisions and Notice of Resolution of Deficiency for Clean Air Act Operating Permit Program in Texas, 70 Fed. Reg. 16,134, 16,137 (Mar. 30, 2005) (approving state program that ensured "that EPA's review period may not run concurrently with the State public review period if any comments are submitted or if a public hearing is requested" after finding this "consistent with section 505(b) of the Act and 40 CFR 70.8"). For example, in 2016, in proposing to change the Title V regulations to ensure no state could try to avoid the proposed permit requirement, EPA explained that, under the agency's longstanding practice, a permit cannot be considered "proposed" if submitted before the public participation process has been completed and if the permitting authority receives comment on the draft permit which would require "revisions to the permit or permit record," including an "RTC," which is the permitting authority's response to any such comments. EPA, Revisions to the Petition Provisions of the Title V Permitting Program, 81 Fed. Reg. 57,822, 57,839 (Aug. 24, 2016); *id.* at 57,844-45 (proposing revisions to 40 C.F.R. § 70.8(a)(1) and stating that "[t]he agency considers both the statement of basis and the written RTC to be integral components of the permit record.").

Notably, EPA has even previously informed ADEQ that a draft permit cannot be considered as a proposed permit where public comments are received, and directed ADEQ to provide EPA an opportunity to review, as the statute requires, whenever public comment or other changes occur



to the permit record. See EPA, ADEQ Title V Operating Permit Program Evaluation, July 2017 at pdf p. 3 (“EPA is highlighting that to re-start EPA’s 45-day review timeline a significant gap in time is not necessary and applies to all actions that require revisions to the permit *or permit record.*”) (emphasis added); *id.* at Appendix at pdf p. 85-86 (email from EPA to ADEQ explaining that “[if] a permitting authority receives a significant public comment during the comment period (even if in response to that comment no substantive changes are made to the draft permit), [EPA has] historically said that the permit process has to revert back to the process whereby the 45 day review period comes AFTER the close of the 30 day comment period,” and therefore stating that “[w]ith this direction, I would like the opportunity to review the proposed permit prior to the final being issued.”) (emphasis in original).<sup>16</sup> Thus, EPA only allows ADEQ to operate its program if ADEQ properly submits a proposed permit to EPA *after* considering and addressing public comment, and submitting a proposed permit to EPA so it can review the proposed permit in concert with such comments that are part of the permit record.

In sum, if EPA were to allow concurrent review of the permit absent public comment, EPA would violate the Clean Air Act. EPA must object to the permit because ADEQ has not met the requirement to submit a proposed permit to EPA. That ADEQ has refused to withdraw the draft permit and submit a proposed permit only after it has considered and addressed the actual comments and testimony received at the public hearing puts its Title V violations into stark relief. ADEQ’s process violates the Title V requirements and denies CCCEJ and other public commenters a meaningful opportunity to have their comments considered and addressed by ADEQ and EPA. Finally, to be consistent with its own practice and interpretation, EPA must object to the permit given the circumstances at issue here, based on all of the legal reasoning and facts EPA has previously found important in following its practice. See, e.g., *F.C.C. v. Fox Television Stations, Inc.*, 556 U.S. 502, 516 (2009) (explaining that an agency’s failure to acknowledge a change and provide a reasoned explanation would be arbitrary and capricious, and where a new policy rests on factual findings that contradict a prior policy, a “more detailed justification that would suffice for a new policy created on a blank slate” is required).

The concurrent review process that ADEQ has used for this permit plainly does not satisfy the Clean Air Act’s Title V statutory and regulatory requirements. And EPA does not meet its review requirement by considering a “draft” permit rather than a “proposed” permit. Accordingly, EPA must object to this permit and direct ADEQ to not issue the permit before it has considered the public comments and has submitted a proposed permit for EPA’s full 45-day review period as required.

**B. ADEQ did not properly develop and utilize a mailing list to inform interested members of the public of the draft Title V permit and the opportunity to comment on it.<sup>17</sup>**

EPA’s Title V regulations provide that notice of the public comment period “shall be given to persons on a mailing list developed by the permitting authority using generally accepted methods (e.g., hyperlink sign-up function or radio button on an agency Web site, sign-up sheet at a public

---

<sup>16</sup> Available at [https://www.epa.gov/sites/production/files/2017-09/documents/final\\_title\\_v\\_adeq\\_evaluation\\_report\\_with\\_transmittial\\_letter\\_and\\_summary\\_082517.pdf](https://www.epa.gov/sites/production/files/2017-09/documents/final_title_v_adeq_evaluation_report_with_transmittial_letter_and_summary_082517.pdf).

<sup>17</sup> See CCCEJ Supplemental Comments at pp. 5-6.

hearing, etc.) that enable interested parties to subscribe to the mailing list.” 40 C.F.R. § 70.7(h)(1). ADEQ’s Title V regulations state that notice of the public’s opportunity to comment on a draft Title V permit shall be provided “[t]o persons on a mailing list developed by the Department, including those who request in writing to be on the list,” and “[b]y other means if necessary to assure adequate notice to the affected public.” Code Ark. R. 014.01.2-6, Reg. 26.602(A)(6)(7).

ADEQ has long been aware that many members of CCCEJ and the Crossett community have significant concerns about air pollution from the G-P mill permit, *supra* at 3, yet it did not directly notify CCCEJ when the draft permit was published for public comment. On December 8, 2017, when requesting an extension of the public comment period on behalf of CCCEJ, Earthjustice explicitly asked ADEQ to “promptly provide any future notices on the Georgia-Pacific Crossett facility” by e-mail to Pastor Bouie, a representative of CCCEJ, and Earthjustice.<sup>18</sup> Then, on December 14, 2017, when submitting CCCEJ’s comments, Earthjustice again asked that ADEQ provide e-mail notice of any further permit actions for the G-P facility to Pastor Bouie and Earthjustice.<sup>19</sup> There can be no question that e-mail is a “generally accepted method” by which interested parties should be able to subscribe to a mailing list. Nonetheless, when ADEQ extended the comment deadline to January 4, 2018, it did not provide direct e-mail notice of that action to CCCEJ or Earthjustice (and instead only provided this information orally and then in writing *only* after receiving another email requesting this). Nor, after repeated requests to be added to a mailing list did ADEQ inform these interested parties of any other method by which they could receive notices regarding the G-P Crossett facility. Thus, it is clear that ADEQ is not satisfying its mailing list obligations. That CCCEJ learned of the comment extension without the direct mail notice, does not excuse the violation of these requirements. Indeed, “[t]he Clean Air Act and EPA’s own regulations do not allow EPA unfettered discretion to ignore obvious violations of Title V permit program requirements.” *Sierra Club v. Johnson*, 436 F.3d 1269, 1280 (11th Cir. 2006) (rejecting EPA’s “not much harm, not much foul” argument that a mailing list notice defect was not grounds to object to the permit because Sierra Club did not show that the defect resulted in less meaningful public participation).

## **II. ADEQ’s Permit Does Not Comply with the Clean Air Act’s Substantive Requirements.**

As explained above, EPA must immediately object to the permit based on ADEQ’s unlawful concurrent review approach. Petitioner is compelled to file this petition to request that EPA object to the permit due to ADEQ’s illegal process, before Petitioner has the benefit of seeing any response by ADEQ to its timely-filed comments or the permit that ADEQ actually proposes to issue after consideration of such comments. Therefore, Petitioner raises some additional issues herein, but also maintains all objections it has presented on the permit and reserves its right to raise any issues regarding the permit that are not corrected once ADEQ has properly issued a proposed permit to EPA for its review in accordance with the process required by the Clean Air Act.

---

<sup>18</sup> See Attachment 8, e-mail from Earthjustice to ADEQ, Dec. 8, 2017; *see also* Attachment 1 at 2 .

<sup>19</sup> See Attachment 9, e-mail from Earthjustice to ADEQ, Dec. 14, 2017.

Title V requires every permit to include operational requirements and limitations that assure compliance with all applicable Clean Air Act requirements at the time the permit is issued. 40 C.F.R. § 70.6(a)(1). Yet ADEQ's permit for the G-P mills falls short of satisfying that fundamental requirement in numerous, significant ways.

**A. The permit must clarify that all monitoring data may be used for enforcement actions by ADEQ as well as EPA and the public.<sup>20</sup>**

As explained above, every condition in a Title V permit must be “enforceable,” meaning that the permit conditions are enforceable not just by ADEQ, but also by EPA and members of the public via citizen suits.<sup>21</sup> Indeed, a key function of a Title V permit is to aid such enforcement by ensuring that the permitted facility performs monitoring, recordkeeping, and reporting sufficient to document its compliance with applicable requirements.<sup>22</sup> All Title V monitoring reports must be made publicly available and can be used for enforcement purposes by both government regulators and the public.

Nonetheless, the draft permit appears to attempt to restrict use of much of the monitoring data produced pursuant to this permit to use in enforcement actions brought by ADEQ. Specifically, throughout the permit, ADEQ periodically states that certain monitoring records “may be used by the Department for enforcement purposes,” or “at the discretion of the Department, [may] be used to determine violations of the emissions limits or conditions of this permit,” or other similar language. Not only does such language indicate that *only* ADEQ may use these monitoring reports for enforcement purposes, but such language also could be misinterpreted to mean that if ADEQ does not identify a particular monitoring record as available for use by ADEQ in enforcement actions, that such record may not be used for enforcement purposes. Neither is correct. Such limitations are contrary to EPA's credible evidence rule, which states that any credible evidence can be used to establish any violation.<sup>23</sup> They also contravene sections 304(a) and 113(e)(1) of Clean Air Act by infringing on the ability of other persons to bring enforcement actions, and on the authority of the courts to determine whether violations have occurred, and if appropriate, issue injunctive relief or impose civil penalties and other remedies authorized by the Act's enforcement provisions. *See, e.g.*, 42 U.S.C. § 7604(a)(1) (providing for civil enforcement); 42 U.S.C. § 7413(e)(1) (providing for penalties).

The permit must be corrected to clarify that all monitoring records required under a Title V permit will be made publicly available and can be used in an enforcement action by ADEQ, EPA, and members of the public. In addition, the language throughout the permit that identifies only particular monitoring records as suitable for use in enforcement actions must be removed,

---

<sup>20</sup> *See* CCCEJ Comments at 6-8.

<sup>21</sup> 42 U.S.C. § 7661c(a) (“Each permit issued under this subchapter shall include enforceable emission limitations and standards”); 40 CFR §70.6(b)(1) (“All terms and conditions in a part 70 permit, including any provisions designed to limit a source's potential to emit, are enforceable by the Administrator and citizens under the Act.”).

<sup>22</sup> 40 CFR § 70.6(c)(5)(ii) (a Title V permit must include “a means for monitoring the compliance of the source with its emissions limitations, standards, and work practices.”).

<sup>23</sup> EPA Interim Policy and Guidance on the Use of “Credible Evidence” in Air Enforcement Activities (April 1997), available at <https://www.epa.gov/sites/production/files/documents/credevinterim.pdf>.

and the permit must clearly state that all monitoring records required under the permit may be used in an enforcement action (regardless of who brings the action).

Examples of objectionable language that could be read to restrict the use of monitoring results for enforcement by EPA and the public are presented below. ADEQ must identify and address any other similarly defective provisions in the permit.

**Section IV, Specific Conditions: Woodyard; Specific Condition 7 (p. 72):** “These records ... may be used by the Department for enforcement purposes.”

**Section IV, Specific Conditions: Woodyard; Specific Condition 9 (p. 72):** Records “may be used by the Department for enforcement purposes.”

**Section IV, Specific Conditions: Pulp Mill; Specific Condition 23 (p. 88):** “These records ... may be used by the Department for enforcement purposes.”

**Section IV, Specific Conditions: Pulp Mill; Specific Condition 30 (p. 90):** “These records ... may be used by the Department for enforcement purposes.”

**Section IV, Specific Conditions: Pulp Mill; Specific Condition 38 (p. 93):** “These records ... may be used by the Department for enforcement purposes.”

**Section IV, Specific Conditions: Bleach Plant; Specific Condition 47 (p. 101):** “These records ... may be used by the Department for enforcement purposes.”

**Section IV, Specific Conditions: Liquor Recovery; Specific Condition 72 (p. 111):** “These records ... may be used by the Department for enforcement purposes.”

**Section IV, Specific Conditions: Liquor Recovery (SN-26 and SN-96); Specific Condition 79 (p. 113):** “All continuous monitoring data may, at the discretion of the Department, be used to determine violations of the emissions limits or conditions of this permit.”

**Section IV, Specific Conditions: Causticizing (SN-25); Specific Condition 105 (p. 131):** Records of daily calcium oxide production “may be used by the Department for enforcement purposes.”

**Section IV, Specific Conditions: Causticizing (SN-25); Specific Condition 112 (p. 132):** “All continuous monitoring data may, at the discretion of the Department, be used to determine violations of the emissions limits or conditions of this permit.”

**Section IV, Specific Conditions: Fine Paper Machines (SN-62, 63, 139); Specific Condition 150 (p. 153):** “These records ... may be used by the Department for enforcement purposes.”

**Section IV, Specific Conditions: Steam Generation (SN-22); Specific Condition 290 (p. 216):** “Continuous monitoring data from the continuous monitoring instrumentation may, at the discretion of the Department, be used to determine violations of the emission limits or conditions of this permit.”

**Section IV, Specific Conditions: Steam Generation (SN-03); Specific Condition 366 (p. 250):** “All continuous monitoring data for O<sub>2</sub> may, at the discretion of the Department, be used to determine violations of NO<sub>x</sub> or CO emission limits.”

**B. The Permit fails to incorporate a compliance schedule as required by the Clean Air Act.<sup>24</sup>**

40 C.F.R. § 70.6(c)(3) provides that any Title V permit issued to a source that is not in compliance with an applicable requirement as of the date of permit issuance must include an enforceable compliance schedule including dates and milestones needed to bring the source into compliance. *See New York Public Interest Group, Inc. v. Johnson*, 427 F.3d 172, 182-83 (2d Cir. 2005) (concluding that EPA was obligated to object to a permit that failed to include a compliance schedule). The G-P mill has been and is currently the subject of several enforcement actions or investigations concerning its compliance with Clean Air Act requirements. Although the permit includes a section titled “Compliance Plan and Schedule” (section V), neither that section nor any other section of the permit includes any compliance schedules.<sup>25</sup>

To satisfy the compliance schedule requirement, ADEQ was required, but failed, to review all consent decrees, consent administrative orders, and other commitments made by G-P to remedy non-compliance and ensure that those obligations are incorporated into the permit with an enforceable compliance schedule.<sup>26</sup> To the extent that ongoing violations involve requirements that are not currently in the permit, those requirements must be added, along with monitoring, recordkeeping, and reporting necessary to assure G-P mill’s compliance with all applicable requirements. For example, according to Consent Administrative Order No. 16-045, issued on May 13, 2016, Georgia-Pacific prepared a “[c]oncise plan of action to prevent upset conditions” to address exceedances of the permitted maximum oxygen (O<sub>2</sub>) limits during full and reduced natural gas loads at the 10A boiler on a number of occasions in 2013 and 2014.<sup>27</sup> That Order requires Georgia-Pacific to maintain records through at least May 13, 2018 documenting that it is undertaking these measures, and continue to take measures to prevent upset conditions.<sup>28</sup> ADEQ must incorporate these, and all other, “applicable requirements” as enforceable conditions in the permit, 40 C.F.R. 70.6(a), and require monitoring, recordkeeping, and reporting sufficient to document the G-P mill’s compliance with these requirements. In addition, ADEQ was required, but failed, to address whether G-P’s record of noncompliance warrants enhanced monitoring,

---

<sup>24</sup> *See* CCCEJ Comments at pp. 29-31; CCCEJ Supplemental Comments at pp. 8-9.

<sup>25</sup> Section V merely includes correspondence from G-P characterizing ongoing enforcement actions.

<sup>26</sup> Several examples of non-compliance are listed in CCCEJ Comments at pp. 30-31; *see also* CCCEJ Supplemental Comments at pp. 8-9.

<sup>27</sup> Executed Consent Administrative Order (CAO) LIS: 16-045, AFIN: 02-00013, Permit No. 0597-AOP-R15, ADEQ at 3 (June 1, 2016) (Attachment 10).

<sup>28</sup> *Id.* at 6.

including continuous, or at least more frequent, monitoring and reporting of monitoring information.

**C. The permit fails to ensure that the six-month monitoring reports include the results of all required monitoring.<sup>29</sup>**

EPA's regulations require a permittee to submit "reports of any required monitoring at least every 6 months." 40 C.F.R. § 70.6(a)(3)(iii)(A). Various conditions in the draft permit state that the G-P mill shall submit its monitoring results pursuant to General Provision 7, which requires the permittee to "submit reports of all required monitoring every six (6) months." *See, e.g.*, Permit, Units SN-57, 101, 102, and 114, Specific Condition 7 (p. 72); Units SN-33, 34, 60, 61, 75a-c, 97 and 124, Specific Condition 16(d) (p. 84), Specific Condition 23 (p. 88), Specific Condition 30 (pp. 90-91). But many other monitoring and recordkeeping provisions do not mention G-P mill's obligation to submit results every 6 months, and others suggest that the G-P mill need only provide records to ADEQ upon request. *See, e.g.*, Units SN-57, 101, 102, and 114, Specific Condition 5 (p. 72) (requiring opacity observation records to be "made available to Department personnel upon request."). *See also* Permit, Units SN-57, 101, 102, and 114, Specific Condition 7 (p. 72), Specific Condition 9 (p. 72), Specific Condition 10 (p. 73), Specific Condition 11 (p. 73); Units SN-33, 34, 60, 61, 75a-c, 97 and 124, Specific Condition 15 (p. 83), Specific Condition 17(e) (p. 85), Specific Condition 23 (p. 88), Specific Condition 28 (p. 90), Specific Condition 31(c) (p. 91). Any provisions in the permit that do not expressly refer to the General Provision 7 requirement must be clarified and corrected to ensure that reports of *all* monitoring results, including the results of parametric monitoring, must be submitted to ADEQ every 6 months as required by 40 C.F.R. § 70.6(a)(3)(iii)(A).

**D. Various permit conditions lack enforceable monitoring and recordkeeping requirements necessary to assure compliance.<sup>30</sup>**

The Clean Air Act requires every Title V permit to contain enforceable permit conditions that require the facility to perform monitoring, recordkeeping, and reporting sufficient to assure the facility's ongoing compliance with applicable requirements. 42 U.S.C. § 7661c(a) ("Each permit issued under this subchapter shall include enforceable emission limitations and standards . . . and such other conditions as are necessary to assure compliance with applicable requirements of this chapter, including the requirements of the applicable implementation plan."); 42 U.S.C. § 7661c(c) ("Each permit issued under this subchapter shall set forth inspection, entry, monitoring, compliance certification, and reporting requirements to assure compliance with the permit terms and conditions."); *see also* 40 C.F.R. § 70.6(c)(1). Additionally, a Title V permit is required to explain the original and legal authority for each permit condition, and how the permit's monitoring, recordkeeping, and reporting requirements are sufficient to assure the facility's compliance with all applicable requirements. 40 C.F.R. §70.7(a)(5) (each draft Title V

---

<sup>29</sup> *See* CCCEJ Supplemental Comments at pp. 7-8.

<sup>30</sup> *See* CCCEJ Comments at pp. 6-26.

permit must be accompanied by “a statement that sets forth the legal and factual basis for the draft permit conditions.”<sup>31</sup>

As shown below, numerous provisions set forth in “Section IV: Specific Conditions” of the permit are far too general and fail to include enforceable conditions to assure the G-P mill complies with applicable Clean Air Act requirements for inspection, work practice, throughput limit, recordkeeping, reporting, operation, and maintenance. EPA must object to these deficiencies.

**a. Woodyard Provisions**

- **Specific Condition 3 (p. 71):** The permittee “shall use a totally enclosed building to control particulate emissions within the screen room.”

This language is insufficient to assure that the facility performs regular inspections and engages in work practices designed to ensure that the screen room is actually “totally enclosed” at all times. Such work practices must be accompanied by recordkeeping and reporting adequate to document the facility’s ongoing compliance.

- **Specific Conditions 4-5 (pp. 71-72):** For “Temporary Chipper and Debarker” units, the facility must perform opacity monitoring to assure compliance with the applicable 20% opacity limit when the facility is used for more than a 24-hour period. The specified monitoring consists of “daily observations” that are “conducted by personnel familiar with the permittee’s visible emissions.” The condition explains that “[i]f visible emissions [in] excess of the permitted opacity are detected, then a Method 9 reading is required.”

This condition is insufficient to assure the G-P mill’s compliance with the applicable opacity standard. First, the condition lacks adequate specificity regarding what the daily observation shall consist of, the timing of such observation, and the length of time the observation must be performed. Second, the draft permit fails to explain how the observer is to identify whether “visible emissions [in] excess of the permitted opacity” are occurring without performing a Method 9 test. Third, the draft permit condition fails to provide a specific, enforceable timeframe for the facility to perform a Method 9 test whenever the facility observer does in fact observe visible emissions in excess of the 20% opacity standard. For this condition to be enforceable and assure the facility’s compliance with the 20% opacity standard, the permit must include these details as enforceable requirements. Such monitoring must be supported by a reasoned explanation in the statement of basis for why it is adequate to assure the facility’s ongoing compliance with the 20% opacity standard.

---

<sup>31</sup> See also Letter from Stephen Rothblatt, U.S. EPA, to Robert F. Hodanbosi, Ohio EPA, dated Dec. 20, 2001 (EPA Statement of Basis Guidelines), available at <https://www.epa.gov/sites/production/files/2015-08/documents/sbguide.pdf>.

- **Specific Conditions 6-7 (p. 72):** The facility “shall not process in excess of 8,400 tons of wet wood as received in the Woodyard per day, 30-day rolling average.” The facility shall keep records that demonstrate compliance with that limit, and that “[a] twelve month total and each individual month’s data shall be submitted in accordance with General Provision #7.”

The provisions in Specific Condition 7 are insufficient to assure compliance with the throughput limit in Specific Condition 6. First, Specific Condition 6 fails to identify how the G-P mill shall actually monitor the daily throughput of the woodyard. Second, Specific Condition 7 fails to require the facility to produce records that demonstrate the G-P mill’s compliance over the relevant timeframe for the applicable requirement. In particular, the limit is a daily limit, based on a 30-day rolling average. This means that every day, the facility needs to perform the monitoring needed to determine the throughput that day, and then needs to calculate the average daily throughput based on that day and the 29 previous days. To assure the G-P mill’s compliance, the permit must specify how the facility will track daily throughput and require the facility to maintain records showing (1) the actual throughput for each day, (2) the average daily throughput over the past 30 days. The permit must require the facility to promptly report any deviation (as reflected by the daily monitoring and recordkeeping requirements). “Promptly” must be within a timeframe that is less than that required for the six-month monitoring report—preferably within 2 to 10 days of the occurrence. *See, e.g., New York Public Interest Group, Inc.*, 427 F.3d at 185. Furthermore, any such deviation must be identified in the 6-month monitoring reports and accounted for in the facility’s annual compliance certification.

- **Specific Condition 8 (p. 72):** Requires that the facility utilize water sprays in the discharge from the conveyance system (SN-57BL and SN-57BN) in the woodyard area.

To be enforceable, this permit condition must specify the circumstances under which a water spray must be utilized (continuously) and require recordkeeping and reporting to document the G-P mill’s compliance.

- **Specific Condition 9 (p. 72):** The permittee “shall not operate either the debarker or the chipper engine in excess of 2,160 hours.”

This permit condition is unenforceable because it fails to identify the time period over which compliance with this limit is determined, *e.g.*, an annual limit rolled daily. The required recordkeeping also must be adjusted to reflect whatever rolling period is selected, *e.g.*, if the limit is an annual limit rolled daily, the permit must require the facility to calculate its total hours of operation each day, add it to the hours of operation from the previous 364 days, and to promptly report any exceedance of the limit.

- **Specific Condition 11 (p.73):** The permittee “shall operate and maintain the engines and control equipment according to the manufacturer’s written instructions or procedures developed by the owner or operator that are approved by the engine manufacturer.”



To be enforceable, this permit condition must specify the required operation and maintenance procedures along with monitoring, recordkeeping, and reporting to demonstrate the facility's compliance.

**b. Pulp Mill Provisions**

- **Specific Conditions 12-13 (p. 78):** These two draft permit conditions establish pounds per hour (lb/hr) and tons per year (tpy) emission limits for VOC, TRS, PM<sub>10</sub>, PM<sub>2.5</sub>, and an array of hazardous air pollutants. Both conditions state that “[c]ompliance with this Specific Condition shall be demonstrated by compliance with Specific Conditions #14 and 46.” Condition 14 provides that “total dissolved solids shall not exceed 750 mg/L for SN-124.” Condition 15 then provides generally that “[t]he permittee shall monitor and maintain monthly records which demonstrate compliance with the limits set in Specific Condition #14.” Condition 46 establishes a throughput limit of “2,150 air dried tons of bleached pulp per day, 30-day rolling average.” Like Condition 15, Condition 47 then generally provides that the permittee “shall maintain records which demonstrate compliance with” the throughput limit in Specific Condition 46.

These permit conditions are insufficient to assure the G-P mill's compliance with the lb/hr and tpy limits in Specific Conditions 12 and 13. First, ADEQ has not provided a reasoned explanation in the statement of basis for why the “total dissolved solids” and daily bleached pulp throughput limit are sufficient to assure the facility's compliance with the applicable lb/hr and tpy limits. ADEQ is required to explain how the limits relate to the facility's hourly and annual emissions and demonstrate that the facility will not exceed the hourly and annual limits if they comply with the total suspended solids and daily bleached pulp throughput limits.

Second, Specific Conditions 15 and 47 impermissibly fail to specify how the facility will monitor the total suspended solids and throughput limits, and likewise, fail to provide adequate specificity regarding the content of the records that the facility must maintain for purposes of demonstrating compliance. To comply with Title V's monitoring requirements, the permit must include the specific monitoring requirements as enforceable permit conditions, not simply instruct the facility to perform monitoring and keep records.

Third, draft permit conditions 15 and 47 fail to specify an adequate timeframe for records to be updated. Specifically, while the total suspended solids limit in Condition 14 appears to apply continuously, Condition 15 merely states that the facility shall “maintain monthly records.” Likewise, Specific Condition 47 states that “records shall be updated on a monthly basis,” despite the fact that the throughput limit is an hourly limit. It is unclear how updating records monthly would be adequate to demonstrate the facility's compliance with a daily throughput limit that is averaged on a rolling 30-day basis. Rather, to assure compliance, the permit must require the facility to update records daily by providing the daily total throughput and the 30-day average as of that day.

- **Specific Condition 16 (p. 83):** This condition limits discharge of gases from the incinerator that contain TRS in excess of 5 ppm by volume, “unless the conditions of 40 CFR §60.283(a)(1)(i)-(vi) are met.”

ADEQ should have determined whether any of the conditions that would exempt the incinerator from the 5 ppm TRS emission limit have been met. The permit must clarify exactly what the G-P mill’s obligations are under this regulatory provision. At a minimum, such information is required in the statement of basis accompanying the permit.

- **Specific Condition 17 (pp. 84-85):** Specific condition 17(a) states that the G-P mill “will utilize the continuous compliance monitoring system and parameters as set forth in GP’s December 31, 2015, Notice of Compliance Status found in Appendix 3 of GP’s proposal.”

For this condition to be enforceable and assure the G-P mill’s compliance with the applicable 11.0 lb MeOH/ODT limit, the permit must specify the required monitoring system in the permit itself, as well as the parameters. ADEQ must ensure that the permit requires monitoring, recordkeeping, and reporting sufficient to assure that the facility operates within the required parameters.

Specific Condition 17(b) instructs the G-P mill to “implement a leak detection and repair (LDAR) monitoring program ... to ensure that any fugitive emissions from the washers do not exceed the emissions levels measured during the December 2015 test referenced in GP’s CCA June 28, 2016, initial submission.”

For this condition to be enforceable and assure the G-P mill’s compliance with the applicable requirement, ADEQ must amend the permit to specify the emissions levels measured during the December 2015 stack test.

In addition, ADEQ must provide an explanation in the statement of basis for why the very limited leak detection and repair provisions specified in Condition 17(c) and (d) are adequate to assure compliance with the applicable limit.

- **Specific Conditions 18- 20, 22-23 (pp. 87-88):** Specific Conditions 18, 19 and 20 set forth lb/hr and tpy emission limits for VOC, TRS, and an array of hazardous air pollutants. All three conditions state that compliance shall be demonstrated by compliance with Specific Condition 22, which provides that “[t]he permittee shall not process in excess of 8,757 tons of wood chips per day, 30 day rolling average.”

These conditions are insufficient to assure the G-P mill’s compliance with the applicable limits for several reasons. First, ADEQ fails to provide a reasoned explanation for why the daily wood chip limit (rolling 30-day average) is sufficient to assure compliance with a lb/hr limit. For both the lb/hr limit and the tpy limit, ADEQ must demonstrate the relationship between the daily wood chip production and facility emissions such that

compliance with the daily average wood chip limit equates to compliance with the lb/hr and tpy limits in Specific Conditions 18, 19, and 20.

Second, while the wood chip limit applies on a daily (30-day rolling daily average) basis, Condition 23 states that the facility shall update records on a “monthly basis.” To assure compliance with the daily limit, the permit must require the facility to update records on a daily basis, including the daily total and calculation of the daily average over the most recent 30 days. The permit must instruct the G-P mill to promptly report any deviation from the daily average limit.

Finally, the permit must specify how the facility will track the amount of wood chips it processes each day. Simply instructing the facility to “maintain records which demonstrate compliance” does not satisfy Title V monitoring requirements.

- **Specific Condition 21 (p. 88):** The G-P mill “shall not cause to be discharged into the atmosphere from the digester system any gases which contain TRS in excess of 5 ppm by volume on a dry basis, corrected to 10 percent oxygen.”

Monitoring requirements are needed to demonstrate the G-P mill’s ongoing compliance with this limit. Furthermore, for clarity, the permit requires explanation of how the public and ADEQ will be informed if the G-P mill determines that it meets the requirements of 40 CFR §60.283(a)(1)(i)-(vi) and therefore does not need to meet this limit.

- **Specific Conditions 27-28 (p. 90):** These conditions set forth a 20 percent opacity limit as well as monitoring requirements that are nearly identical to the opacity monitoring requirements that appear in Specific Condition 5 (applicable to the woodyard).

As explained above, these monitoring requirements are insufficient to assure the facility’s compliance with the 20% opacity standard.

- **Specific Conditions 29-30 (pp. 90-91):** Specific Condition 29 provides that natural gas may be used as a backup fuel for the Incinerator, and Condition 30 provides that the facility shall maintain records of the periods that the facility utilizes natural gas.

The permit must include an explanation in the statement of basis regarding how natural gas usage impacts the G-P mill’s emissions and its ability to comply with applicable emission limits, and also how the records showing periods of natural gas usage relate to demonstrating the G-P mill’s compliance with applicable requirements.

- **Specific Condition 31 (p. 91):** Specific Condition 31(b) provides that the incinerator shall be operated maintaining a 3-hour average pH of at least 7.6 in the scrubber liquid. Regarding monitoring, Condition 31(c) simply provides that “[t]he permittee shall monitor and maintain records to demonstrate compliance with Special Condition #31 (a) and (b).”

To comply with Title V's monitoring requirements, the permit must include the specific monitoring requirements in the permit as enforceable conditions, not just state that monitoring must be performed. Such provisions need to include how the monitoring is performed (*e.g.*, with what type of device), the frequency of the monitoring, and what must be included in the records.

- **Specific Conditions 33-36 (p. 92):** These special conditions provide that the G-P mill must test its emissions of VOCs, SO<sub>2</sub>, CO, and NO<sub>x</sub> once every five years, and perform that test within 10 percent of the rated throughput capacity. Since these emission limits appear to be set at the G-P mill's maximum capacity, this testing apparently serves to confirm that the G-P mill's maximum capacity remains at these emission levels. However, each testing condition provides that "[i]f 90 percent of the rated through[put] capacity cannot be achieved, the permittee shall be limited to 10 percent above the actual tested throughput."

Presumably, the G-P mill has already undertaken at least one round of these tests on the facility. If at least 90 percent of rated throughput capacity was not achieved in the most recent test, the permit needs to specify the throughput limit. Especially since a Title V permit must be renewed every five years, and this testing is only done every 5 years, it should not be difficult to add such limit to the permit if such limit is warranted based on the most recent testing. If a throughput limit applies, the permit also must include additional monitoring, recordkeeping, and reporting requirements sufficient to demonstrate the facility's compliance with such limits.

- **Specific Conditions 37-38 (pp. 92-93):** Specific Condition 37 states that incineration of NCGs must occur at a minimum temperature of 1200 F for at least 0.5 seconds, whereas the NESHAP requires incineration at a minimum temperature of 1600 F for at least 0.75 seconds. Condition 38 provides that "[t]he permittee shall maintain records which demonstrate compliance with Specific Condition #37."

To assure the G-P mill's compliance and properly implement Title V monitoring requirements, the permit must specify the monitoring method and frequency that the facility must utilize to demonstrate compliance with these limits, and also specify what must be included in the facility's reports.

### c. Bleach Plant Provisions

- **Specific Conditions 41, 43-47 (pp. 98-101):** These Specific Conditions establish lb/hr and tpy emission limits for VOC, TRS, PM<sub>10</sub>, PM<sub>2.5</sub>, CO, and an array of hazardous air pollutants. Specific Conditions 41 and 43 state that "[c]ompliance with this Specific Condition shall be demonstrated by compliance with Specific Condition [sic] #44 and 46." Condition 44 provides that "total dissolved solids shall not exceed 750 mg/L for SN-125." Condition 45 then provides generally that "[t]he permittee shall monitor and maintain monthly records which demonstrate compliance with the limits set in Specific Condition #44." Condition 46 establishes a throughput limit of "2,150 air dried tons of bleached pulp per day, 30-day rolling average." Like Condition 45, Condition 47 then

generally provides that the permittee “shall maintain records which demonstrate compliance with” the throughput limit in Specific Condition 46.

These permit conditions are insufficient to assure the G-P mill’s compliance with the lb/hr and tpy limits in Specific Conditions 41 and 43. First, ADEQ has not provided a reasoned explanation in the statement of basis for why the “total dissolved solids” and daily bleached pulp throughput limit are sufficient to assure the facility’s compliance with the applicable lb/hr and tpy limits. ADEQ must explain how the limits relate to the facility’s hourly and annual emissions and demonstrate that the facility will not exceed the hourly and annual limits if they comply with the total suspended solids and daily bleached pulp throughput limits.

Second, draft permit Conditions 45 and 47 impermissibly fail to specify how the G-P mill will monitor the total suspended solids and throughput limits, and likewise, fail to provide adequate specificity regarding the content of the records that the facility must maintain for purposes of demonstrating compliance. To comply with Title V’s monitoring requirements, the draft permit must include the specific monitoring requirements as enforceable permit conditions, not simply instruct the facility to perform monitoring and keep records.

Third, draft permit Conditions 45 and 47 fail to specify an adequate timeframe for records to be updated. Specifically, while the total suspended solids limit in Condition 44 appears to apply continuously, Specific Condition 45 merely states that the facility shall “maintain monthly records.” Likewise, Specific Condition 47 states that “records shall be updated on a monthly basis,” despite the fact that the throughput limit is an hourly limit. It is unclear how updating records monthly would be adequate to demonstrate the facility’s compliance with a daily throughput limit that is averaged on a rolling 30-day basis. Rather, to assure compliance, the permit must require the facility to update records daily by providing the daily total throughput and the 30-day average as of that day.

- **Specific Condition 42 (p. 98):** This condition establishes lb/hr and tpy CO limits for the Bleach Plant, and states that compliance shall be demonstrated by compliance with Specific Condition 46 (the daily throughput limit on bleached pulp).

As with respect to the other limits discussed above, these permit conditions are insufficient to assure the G-P mill’s compliance with the applicable lb/hr and tpy CO limits because (a) ADEQ has not provided a reasoned explanation for how the throughput limit assures compliance with the emission limits, (2) the draft permit does not specify how the facility will monitor throughput, and (3) the draft permit’s requirement that the records include a “twelve month total and each individual month’s data” does not correlate with the timeframe of the applicable requirement, which is a daily limit calculated based on a 30-day rolling average.

- **Specific Condition 48 (p. 101):** This condition requires the G-P mill to test its CO emissions once every five years, and perform that test within 10 percent of the rated throughput capacity. It further provides that “[i]f 90 percent of the rated through[put]

capacity cannot be achieved, the permittee shall be limited to 10 percent above the actual tested throughput.”

Presumably, the G-P mill has been tested at least once. If at least 90 percent of rated throughput capacity was not achieved in the most recent test, the permit must specify the throughput limit. Especially since a Title V permit must be renewed every five years, and this testing is only done every 5 years, it should not be difficult to add such limit to the permit if such limit is warranted based on the most recent testing. If a throughput limit applies, ADEQ also must add monitoring, recordkeeping, and reporting sufficient to demonstrate the facility’s compliance with such limit.

- **Specific Condition 49 (pp. 101-102):** This condition sets out the requirements of 40 CFR Part 63, Subpart S. Condition 49(c) states that the owner “of each bleaching system subject to paragraph (a)(2) of 40 CFR §63.445 shall comply with paragraph(d)(1) or (d)(2) of 40 CFR §63.445 to reduce chloroform air emissions to the atmosphere, except where the owner or operator of each bleaching system complying with extended compliance under 40 CFR § 63.440(d)(3)(ii) shall comply with paragraph (d)(1) of 40 CFR § 63.445.”

The permit must specify whether this facility is “complying with extended compliance.”

#### **d. Liquor Recovery Provisions**

- **Specific Conditions 69-70, 72 (pp. 111-112):** These conditions place fuel use limits on the recovery furnace, measured “per twelve consecutive months,” and require the facility to maintain records of fuel usage that include a “twelve-month total and each month’s individual data.”

To be enforceable, the permit must specify that compliance with the fuel limits in Specific Conditions 69 and 70 is based on a twelve-month total that is rolled monthly. To comply with Title V monitoring, recordkeeping, and reporting requirements, the permit must also specify that the G-P mill must calculate the 12-month total at the end of each month, to promptly report any deviation from the 12-month rolling limits to ADEQ, and to account for any such deviations in the facility’s six-month monitoring report and annual compliance certification. Finally, the permit must provide a reasoned explanation in the statement of basis for how these limits assure the facility’s compliance (either alone or in combination with other specified conditions) with the lb/hr and tpy emission limits in Specific Conditions 58-66.

- **Specific Condition 71 (p. 111):** This condition authorizes the facility to fire “[s]pecification grade oil, ultra-low sulfur diesel, natural gas and glycerin” in the 8R Recovery Furnace during startup and to supplement black liquor solids firing during periods deemed necessary by operations.

Insofar as any of these fuels would cause the unit to emit more of any of the air pollutants identified in Specific Conditions 58-66, the draft permit’s lack of any limit on the total

amount of time that the facility can fire these fuels could impact the facility's compliance with the applicable emission limits. The permit must include an explanation in the statement of basis for why the amount of time that the facility utilizes these alternative fuels will not impact the facility's compliance with any of the permit's emission limits. If ADEQ concludes that some of these alternative fuels could in fact impact the facility's ability to comply with the applicable emission limits, the permit must include additional necessary limits on use of these fuels, along with monitoring, recordkeeping, and reporting requirements sufficient to demonstrate compliance.

- **Specific Conditions 75-76 (pp. 112-113):** These conditions require the G-P mill to test the 8R Recovery Furnace every 5 years to verify PM, SO<sub>2</sub>, VOC, NO<sub>x</sub>, CO and SAM emissions. The source must be operated within 10 percent of the rated throughput capacity during the test. If 90 percent of rated throughput capacity cannot be achieved, the unit shall be limited to 10 percent above the actual tested throughput.

At least one round of tests has already been completed for this unit. If 90 percent of throughput capacity was not achieved, the permit must include the applicable throughput limit, along with monitoring, recordkeeping, and reporting to verify compliance with that throughput limit.

- **Specific Conditions 81 and 84 (pp. 114-115):** These conditions establish lb/hr and tpy limits on an array of air pollutants from the Smelt Dissolving Tanks (East and West), and state that compliance shall be demonstrated by compliance with Specific Condition #69. Specific Condition 69 states that the facility "shall not fire in excess of 1.095 million tons of black liquor solids to the recovery furnace per twelve consecutive months."

As explained above, to make the fuel limit in Specific Condition 69 enforceable, the permit must clarify that compliance is determined monthly based on a 12-month rolling average. Also, the recordkeeping requirement set forth in Specific Condition 72 is insufficient to demonstrate compliance because it fails to expressly require the facility to calculate a 12-month total at the end of each month. Finally, it is unclear how compliance with the 12-month fuel restriction in Condition 69 demonstrates compliance with the lb/hr limits in Condition 81. ADEQ must provide a reasoned explanation in the statement of basis for why compliance with the 12-month limit demonstrates compliance with the lb/hr emission limits for this unit. ADEQ also must demonstrate that the fuel restriction is sufficient to ensure that the facility meets the applicable tpy emission limits in Conditions 81 and 84.

- **Specific Conditions 85-86 (pp. 118-119):** These conditions set forth a 20 percent opacity limit as well as monitoring requirements that are nearly identical to the opacity monitoring requirements that appear in Specific Condition 5 (applicable to the woodyard).

As explained above, *supra* at 15-16, these monitoring requirements are insufficient to assure the G-P mill's compliance with the 20% opacity standard.

- **Specific Condition 90 (p. 120):** States that “[a]cceptable alternative methods and procedures are given in paragraph (f) of this section.”

There is no paragraph (f). To avoid confusion, this sentence must be removed from Specific Condition 90.

- **Specific Conditions 91-92 (pp. 120-121):** As discussed above with respect to similar 5-year testing requirements, if 90 percent of rated throughput capacity was not achieved during the last test, the permit must include a throughput limit equal to 10 percent above the actual tested throughput. If such limit applies, the permit must include that requirement as enforceable condition as well as monitoring, recordkeeping and reporting to verify compliance with that limit.
- **Specific Conditions 93-94 (p. 122-123):** These conditions place lb/hr and tpy limits on the black liquor storage basin and storage tanks, and explain that “[e]missions are limited by the production levels of the mill.”

To the extent this refers to the “maximum achievable” production levels (on both an hourly and an annual basis), the permit needs to include this clarification. If these emission levels are not reflective of the maximum achievable emissions for these units, the permit must include additional enforceable production level limits.

#### e. Causticizing Provisions

- **Specific Conditions 99-100 (p. 128):** These conditions set forth a 20 percent opacity limit as well as monitoring requirements that are nearly identical to the opacity monitoring requirements that appear in Specific Condition 5 (applicable to the woodyard).

As explained above, these monitoring requirements are insufficient to assure the G-P mill’s compliance with the 20% opacity standard.

- **Specific Conditions 104-105 (p. 131):** These provisions limit calcium oxide production to 632.4 tons/day, maximum, and 550 tons/day on an annual average. Special Condition 105 requires the facility to maintain a record of daily calcium oxide production, and submit a “twelve month total and each individual month’s data.”

For the 550 tons/day limit to be enforceable, the permit must specify that the limit is based on a 365-day average, rolled daily. Regarding reporting, it does not make sense for the G-P mill to report a twelve-month total. Rather, the important record is the actual and average daily calcium oxide production. This is the information that would serve to document the G-P mill’s compliance and that must be submitted to ADEQ and made publicly available. To assure the facility’s compliance, the permit must require reporting for the appropriate (daily) time period.



- **Specific Conditions 108-109 (pp. 131-132):** As discussed above with respect to similar 5-year testing requirements, if 90 percent of rated throughput capacity was not achieved during the last test, the permit must include a throughput limit equal to 10 percent above the actual tested throughput. If such limit applies, the permit must include monitoring, recordkeeping and reporting to verify compliance with that limit.
- **Specific Condition 114 (pp. 133-134):** This condition provides numerous lb/hr and tpy emission limits for various units, and states that compliance is demonstrated by compliance with Specific Conditions #104 and 120. Specific Condition 104 limits calcium oxide production to 632.4 tons/day, maximum, and 550 tons/day on an annual average. Specific Condition 120 specifies that diesel fuel shall be the only fuel used for the backup lime kiln rotation engine. It is unclear how Specific Conditions 104 and 120 assure the facility's compliance with the lb/hr emission limits in Specific Condition 114.

ADEQ must provide a reasoned explanation in the statement of basis for why these conditions are sufficient to assure compliance with the lb/hr emission limits, and also explain how the restrictions in Specific Conditions 104 and 120 correlate to the facility's compliance with the tpy emission limits in Specific Condition 114.

- **Specific Conditions 115-116 (pp. 134-140):** These conditions establish lb/hr and tpy emission limits for various air pollutants released by causticizing units. Both conditions provide that compliance "is demonstrated by compliance with Specific Condition #104." Specific Condition 104 limits calcium oxide production to 632.4 tons/day, maximum, and 550 tons/day on an annual average.

It is unclear how Specific Condition 104 assures the facility's compliance with the lb/hr emission limits in Specific Conditions 115 and 116. ADEQ must provide a reasoned explanation in the statement of basis for why these conditions are sufficient to assure compliance with the lb/hr emission limits, and also explain how the restrictions in Specific Condition 104 correlate to the facility's compliance with the tpy emission limits in Specific Conditions 115 and 116.

- **Specific Conditions 117-119 (pp. 140-141):** These conditions set forth a 20 percent opacity limit as well as monitoring requirements that are nearly identical to the opacity monitoring requirements that appear in Specific Condition 5 (applicable to the woodyard).

As explained above, these monitoring requirements are insufficient to assure the facility's compliance with the 20% opacity standard.

- **Specific Condition 126 (p. 144):** This condition states that "[t]he permittee is not required to conduct an initial performance test as a unit for which a performance test has been previously conducted."

This permit must clarify whether a performance test has been previously conducted. For this provision to be enforceable, it must clearly state whether a performance test is required during the permit term.

**f. Fine Paper Machine Provisions**

- **Specific Conditions 144, 146 (pp. 150-153):** Conditions 144 and 146 are not enforceable because rather than expressly limiting the lb/hr and tpy emissions from the fine paper machines, the conditions merely state that “[t]he permittee estimates the emission rates set forth in the following table will not be exceeded.” Likewise, the conditions state that “[t]he pollutant emission rates are effectively limited by Specific Condition #149.” Concluding that the emissions are “effectively limited” by another condition is insufficient to make the limits in Specific Conditions 144 and 146 enforceable and to assure the facility’s compliance with the emission limits in those conditions.

These provisions must be revised to unambiguously require compliance (and assure compliance with) the emission limits on the table. Insofar as ADEQ believes that compliance with Specific Condition 149 equates to compliance with the emission limits in Specific Conditions 144 and 146, ADEQ must provide a reasoned explanation in the statement of basis for how a daily limit on paper production (averaged over 30 days) is sufficient to assure the facility’s compliance with the lb/hr emission limits in Conditions 144 and 146. ADEQ must also provide emissions data correlating compliance with the paper production limit with the tpy limits in Conditions 144 and 146.

- **Specific Condition 145 (p. 151):** This condition establishes lb/hr and tpy VOC emission limits for the fine paper machines, and declares that compliance with Specific Condition 149 will demonstrate the facility’s compliance with these limits.

ADEQ must provide a reasoned explanation in the statement of basis for how a daily limit on paper production (averaged over 30 days) is sufficient to assure the facility’s compliance with the lb/hr emission limits in Condition 145. ADEQ must also provide emissions data correlating compliance with the paper production limit with the tpy limits in Condition 145.

- **Specific Conditions 147-148 (p. 153):** These conditions set forth a 20 percent opacity limit as well as monitoring requirements that are nearly identical to the opacity monitoring requirements that appear in Specific Condition 5 (applicable to the woodyard).

As explained above, these monitoring requirements are insufficient to assure the facility’s compliance with the 20% opacity standard.

- **Specific Condition 150 (pp. 153-154):** This condition provides that the G-P mill “shall maintain records which demonstrate compliance with the paper production limits, VOC annual emission limits in tpy, and VOC BACT limits in lb/MDT listed in Specific Conditions #145 and #149.”

To satisfy Title V monitoring requirements, the permit must specify the monitoring method that the G-P mill must use to demonstrate compliance with each applicable requirement as well as the contents and timing of recordkeeping and reporting requirements. ADEQ must provide a reasoned explanation in the statement of basis for why the selected monitoring is sufficient to assure the facility's compliance with the applicable requirements. Simply instructing the facility to "maintain records which demonstrate compliance" is insufficient to satisfy ADEQ's obligation to include monitoring in the permit sufficient to assure the facility's compliance. Furthermore, while Specific Condition only mentions the tpy VOC limits from Specific Condition 145, Specific Condition 145 also sets forth lb/hr VOC limits, and the facility must also perform monitoring, recordkeeping and reporting to demonstrate compliance with those limits.

**g. Board Machine Provisions**

- **Specific Conditions 151 and 153 (pp. 156-157):** These conditions establish lb/hr and tpy limits on an array of air pollutants emitted from Board Machine No. 3 and its burners, and the Board Machine Starch Silo. Each condition states that compliance "shall be demonstrated by compliance with Specific Conditions #155 and #158." Specific Condition 155 states that natural gas shall be the only fuel used in the burners. Specific Condition 158 states that the facility "shall not produce in excess of 850 machine dried tons of paper per day, 30 day rolling average, from the Board Machine No. 3." Condition 159 provides that the facility "shall maintain records which demonstrate compliance with the paper production limits, VOC annual emissions in tpy, and VOC BACT limits listed in Specific Conditions #152 and #158," and instructs that the facility must submit a "twelve month rolling total and each individual month's data."

These conditions are insufficient to assure the G-P mill's compliance with the lb/hr and tpy limits in Specific Conditions 151 and 153. First, it is not clear how the daily paper production limit (30 day rolling average) assures compliance with the lb/hr emission limits in Specific Conditions 151 and 153. ADEQ must provide a reasoned explanation in the statement of basis for the relationship between the lb/hr emission limits and the paper production limit, and also show that compliance with the paper production limit and use of natural gas as fuel correlates with compliance with the applicable tpy limits.

Second, the recordkeeping requirements in Condition 159 are inadequate to assure compliance with the paper production limit because, while the paper production limit is a daily limit, 30-day rolling average, the permit instructs the facility to submit a twelve-month tolling total. To assure compliance with a daily limit, 30-day rolling average, the permit must require the facility to update its records on a daily basis with that day's actual production rate as well as the average daily rate over the most recent 30 days.

Third, the draft permit's general instruction that the facility "maintain records which demonstrate compliance with the paper production limits, VOC annual emissions in tpy, and VOC BACT limits listed in Specific Conditions #152 and #158" does not satisfy

Title V's periodic monitoring requirements. The permit must specifically identify how the facility must monitor its compliance with each applicable requirement, and also specify what must be included in the monitoring records and how frequently they must be submitted.

Finally, it is unclear why Specific Condition 159 requires that the facility monitor compliance with the tpy VOC limits but not the lb/hr limits provided on the same table. ADEQ must ensure that the permit requires adequate monitoring to assure compliance with all emission limits, including the lb/hr limits.

- **Specific Conditions 156-157 (p. 158):** These conditions set forth a 20 percent opacity limit as well as monitoring requirements that are nearly identical to the opacity monitoring requirements that appear in Specific Condition 5 (applicable to the woodyard).

As explained above, these monitoring requirements are insufficient to assure the facility's compliance with the 20% opacity standard.

#### **h. Tissue Mill Converting Provisions**

- **Specific Conditions 160-161 (pp. 161):** These conditions establish lb/hr and tpy limits on an array of air pollutants emitted from tissue machines and related units. The condition states that compliance "shall be demonstrated by compliance with Specific Conditions #167, #168 and #169. Specific Condition 161 establishes lb/hr and tpy limits on PM<sub>10</sub> and VOC emitted from Tissue Machine No. 4. The condition states that compliance "shall be demonstrated by compliance with Specific Conditions #168 and #169. Specific Condition 167 states that natural gas shall be the only fuel used in the tissue machine burners. Specific Condition 168 states that the facility "shall not produce in excess of 173 machine dried tons of paper per day, 30 day rolling average, from the Tissue Machine No. 4." Condition 169 provides that the facility "shall maintain records which demonstrate compliance with the paper production limits, VOC annual emission, and VOC BACT limits listed in Specific Conditions #161 and #168," and instructs that the facility must submit a "twelve month rolling total and each individual month's data."

These conditions are insufficient to assure the G-P mill's compliance with the lb/hr and tpy limits in Specific Condition 160. First, it is not clear how the daily paper production limit (30 day rolling average) assures compliance with the lb/hr emission limits in Specific Conditions 160 and 161. ADEQ must provide a reasoned explanation in the statement of basis for the relationship between the lb/hr emission limits and the paper production limit, and also show that compliance with the paper production limit and use of natural gas as fuel correlates with compliance with the applicable tpy limits.

Second, the recordkeeping requirements in Condition 169 are inadequate to assure compliance with the paper production limit because, while the paper production limit is a daily limit, 30-day rolling average, the permit instructs the facility to submit a twelve-month rolling total. To assure compliance with a daily limit, 30-day rolling average, the

permit must require the facility to update its records on a daily basis with that day's actual production rate as well as the average daily rate over the most recent 30 days.

Third, the draft permit's general instruction that the facility "maintain records which demonstrate compliance with the paper production limits, VOC annual emissions in tpy, and VOC BACT limits listed in Specific Conditions #161 and #168" does not satisfy Title V's periodic monitoring requirements. The permit must specifically identify how the G-P mill must monitor its compliance with each applicable requirement, and also specify what must be included in the monitoring records and how frequently they must be submitted.

Finally, it is unclear why Specific Condition 169 requires that the facility monitor compliance with the tpy VOC limits but not the lb/hr limits provided on the same table. The permit must clearly require adequate monitoring to assure compliance with all emission limits, including the lb/hr limits.

- **Specific Condition 162 (pp. 161-162):** Condition 162 is not enforceable because, rather than expressly limiting the lb/hr and tpy emissions from the tissue machine and related units, the condition merely states that "[t]he permittee estimates the emission rates set forth in the following table will not be exceeded." Likewise, the conditions state that "[t]he pollutant emission rates are effectively limited by Specific Conditions #167 and #168." Concluding that the emissions are "effectively limited" by another condition is insufficient to make the limits in Specific Condition 162 enforceable and to assure the facility's compliance with the emission limits in those conditions.

This permit provision must unambiguously require compliance (and assure compliance with) the emission limits on the table. Insofar as ADEQ believes that compliance with Specific Conditions 167 and 168 equates to compliance with the emission limits in Specific Condition 162, ADEQ must provide a reasoned explanation in the statement of basis for how a daily limit on paper production (averaged over 30 days) is sufficient to assure the facility's compliance with the lb/hr emission limits in Condition 162. ADEQ must also provide emissions data correlating compliance with the paper production limit with the tpy limits in Condition 162.

- **Specific Conditions 163 and 164 (p. 163):** These conditions set forth a 20 percent opacity limit for SN-67 as well as monitoring requirements that are nearly identical to the opacity monitoring requirements that appear in Specific Condition 5 (applicable to the woodyard).

As explained above, these monitoring requirements are insufficient to assure the facility's compliance with the 20% opacity standard.

- **Specific Conditions 165, 176, 188, 200, 218 (pp. 163, 167, 172, 177, 184):** ADEQ must provide a reasoned explanation in the statement of basis for why a once weekly opacity check is sufficient to assure the facility's ongoing compliance with the 20% opacity standard, which applies at all times.

In addition, more detail is needed in the permit regarding how the visual check is to be performed, for example, the amount of time that the visual check must be performed and the conditions under which the observation should be performed. The permit must also specify the timeframe during which the facility must perform a Method 9 test whenever the facility observes visible emissions. Finally, the permit must clarify what happens if the facility fails the Method 9 test, takes corrective action, but then also fails the second Method 9 test. Once the G-P mill fails a Method 9 test, allowing the facility to revert back to a once weekly test is obviously insufficient to assure the facility's continuous compliance.

- **Specific Conditions 170, 181 (pp. 164, 168-169):** Both conditions state that the “scrubber liquid flow rate shall be measured daily.”

ADEQ must provide a statement of basis for why measuring the scrubber liquid flow rate daily is adequate to assure the facility's compliance with a 70 gal/min limit.

- **Specific Conditions 171-173, 179-180 (pp. 165-167, 168-169):** These conditions establish lb/hr, tpy and lb/MMBtu limits on an array of air pollutants emitted from tissue machines and related units. The conditions state that compliance shall be demonstrated by compliance with Specific Conditions #178, #179 and 180. Specific Condition 179 states that the facility “shall not produce in excess of 97 machine dried tons of paper per day, 30 day rolling average, from the Tissue Machine No. 5.” Condition 180 provides that the facility “shall maintain records which demonstrate compliance with the paper production limits, VOC annual emission, and VOC BACT limits listed in Specific Conditions #172 and #179,” and instructs that the facility must submit a “twelve month rolling total and each individual month's data.” These conditions are insufficient to assure the facility's compliance with the lb/hr and tpy limits in Specific Conditions 171-179.

First, it is not clear how the daily paper production limit (30-day rolling average) assures compliance with the lb/hr and lb/MMBtu emission limits in Specific Conditions 171-173. ADEQ must provide a reasoned explanation in the statement of basis for the relationship between the lb/hr and lb/MMBtu emission limits and the paper production limit, and also show that compliance with the paper production limit and use of natural gas as fuel (in Specific Condition 178) correlates with compliance with the applicable tpy limits.

Second, the recordkeeping requirements in Condition 180 are inadequate to assure compliance with the paper production limit, because while the paper production limit is a daily limit, 30-day rolling average, the permit instructs the facility to submit a twelve-month rolling total. To assure compliance with a daily limit, 30-day rolling average, the permit must require the facility to update its records on a daily basis with that day's actual production rate as well as the average daily rate over the most recent 30 days.

Third, the draft permit's general instruction that the G-P mill “maintain records which demonstrate compliance with the paper production limits, paper machine VOC annual

emission, and paper machine VOC BACT limits listed in Specific Conditions #172 and #179” does not satisfy Title V’s periodic monitoring requirements. The permit must specifically identify how the facility must monitor its compliance with each applicable requirement, and also specify what must be included in the monitoring records and how frequently they must be submitted.

Finally, it is unclear why Specific Condition 180 requires that the G-P mill to monitor compliance with the tpy VOC limits but not the lb/hr limits provided on the same table. The permit must include adequate monitoring to assure compliance with all of the emission limits, including the lb/hr limits.

- **Specific Conditions 182, 194, 225, 300-302, 375, 376 (pp. 169, 174, 186-187, 218, 252-253):** The permit must clarify whether the facility achieved 90% capacity during the last test and if not, include an enforceable production limit in the permit.
- **Specific Conditions 183-185, 191-193 (pp. 170-174):** As discussed above with respect to similar emission limits in Specific Conditions 171-173, the draft permit conditions are inadequate to assure the G-P mill’s compliance with these limits. The permit must correlate the referenced conditions that purportedly demonstrate compliance with these conditions with facility emissions, in lb/hr, lb/MMBtu, and tpy. It must also specify exactly how the facility is to monitor compliance with these limits and what information must be included in the G-P mill’s recordkeeping and reported to ADEQ (and made publicly available).
- **Specific Conditions 185, 197, 215, 241 (pp. 171-172, 175-176, 183-184, 192):** These conditions are not enforceable because rather than expressly limiting the lb/hr and tpy emissions from the fine paper machines, the conditions merely state that “[t]he permittee estimates the emission rates set forth in the following table will not be exceeded.” Likewise, the conditions state that “[t]he pollutant emission rates are effectively limited by” compliance with other conditions.

Concluding that the emissions are “effectively limited” by another condition is insufficient to make the limits enforceable and to assure the facility’s compliance with these limits. The permit conditions must unambiguously require compliance (and assure compliance with) the emission limits on the table. Insofar as ADEQ believes that compliance with other specified conditions equates to compliance with these emission limits, ADEQ must provide a reasoned explanation in the statement of basis for how compliance with the referenced conditions is sufficient to assure the facility’s compliance with the lb/hr emission limits on the tables. ADEQ must also provide emissions data correlating compliance with the referenced conditions with the tpy limits on the tables.

- **Specific Conditions 195-196, 202-204, 207-209, 220-222, 228, 230, 240-246, 280-281, 294-296, 303-305, 311, 368-372, 414-417 (pp. 175, 178, 180-181, 185, 188, 192-196, 211-212, 217, 219-220, 223-224, 251-252, 268):** As discussed above with respect to similar emission limits in Specific Conditions 171-173, all of these draft permit conditions are inadequate to assure the G-P mill’s compliance with these limits. The

permit correlates the referenced conditions that purportedly demonstrate compliance with these conditions with the G-P mill's emissions, in lb/hr, lb/MMBtu, and tpy. The permit must also specify exactly how the facility is to monitor compliance with these limits and what information must be included in the facility's recordkeeping and reported to ADEQ (and made publicly available).

## CONCLUSION

For the reasons set forth herein, EPA must object to the Title V permit prepared by ADEQ for the G-P mill in Crossett, Arkansas.

Respectfully submitted on February 19, 2018, on behalf of Crossett Concerned Citizens for Environmental Justice,

/s/ Khushi Desai

Khushi Desai  
Staff Attorney  
Emma Cheuse  
Staff Attorney  
Earthjustice  
1625 Massachusetts Ave., N.W., Suite 702  
Washington, DC 20036-2243  
T: (202)745-5224  
kdesai@earthjustice.org  
echeuse@earthjustice.org

/s/ Keri Powell

Keri Powell  
Of Counsel, Earthjustice  
Powell Environmental Law  
315 W. Ponce de Leon Ave., Suite 842  
Decatur, GA 30030  
T: (678) 902-4450  
kpowell@powellenvironmentallaw.com

CC:

Becky Keogh, Director, ADEQ Office of Air Quality, keogh@adeq.state.ar.us  
Stuart Spencer, Associate Director, ADEQ Office of Air Quality, spencer@adeq.state.ar.us  
Michael McAlister, Managing Attorney, ADEQ, mcalister@adeq.state.ar.us  
John Mazurkiewicz, ADEQ Engineer, mazurkiewicz@adeq.state.ar.us  
Thomas Rheaume, ADEQ Air Division Manager, rheaume@adeq.state.ar.us  
Jeffrey Robinson, EPA Region 6 Section Chief, robinson.jeffrey@epa.gov  
Michael Lee, EPA Headquarters, lee.michaelg@epa.gov  
Sarah Ross, Georgia-Pacific LLC, Environmental Department, sarah.ross@gapac.com