

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF: )
West Fraser US EWP LLC ) CONSENT ORDER NO: 25-XXX-CAP
Lanett, Chambers County, Alabama )
Air Facility ID No. 302-0018 )

PREAMBLE

This Special Order by Consent is made and entered into by the Alabama Department of Environmental Management ("Department" or "ADEM") and West Fraser US EWP LLC ("Permittee") pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 to 22- 22A-17, as amended, the Alabama Air Pollution Control Act, Ala. Code §§ 22-28-1 to 22-28-23, as amended.

STIPULATIONS

- 1. The Permittee owns and operates West Fraser EWP - Huguley, an Oriented Strandboard (OSB) manufacturing facility, ADEM Air Facility ID No. 302-0018 (hereinafter, the "Facility") located at 4400 Barton Industrial Boulevard, Lanett, Chambers County, Alabama.
2. The Department is a duly constituted department of the State of Alabama pursuant to Ala. Code §§ 22-22A-1 to 22-22A-17, as amended.
3. Pursuant to Ala. Code § 22-22A-4(n), as amended, the Department is the state air pollution control agency for the purposes of the federal Clean Air Act, 42 U.S.C. 7401 to 7671q, as amended. In addition, the Department is authorized to administer and enforce the provisions of the Alabama Air Pollution Control Act, Ala. Code §§ 22-28-1 to 22-28-23, as amended.

4. On December 21, 2022, the Department issued Air Permit No. X044 to the Permittee, which authorizes the operation of baghouse 8 (“BGHS8”), used to control emission from the transition between dryer zone 3 and the dry storage bins.

5. On December 21, 2022, the Department issued Air Permit No. X045 to the Permittee, which authorizes the operation of three closed-loop gasification system boilers (“CLGS”) with a dry electrostatic precipitator (“ESP”).

6. On December 21, 2022, the Department issued Air Permit No. X046 to the Permittee, which authorizes the operation of baghouse 1 (“BGHS1”), used to control emissions from the sawline, and baghouse 7 (“BGHS7”), used to control emissions from the dry bin area.

7. On December 21, 2022, the Department issued Air Permit No. X047 to the Permittee, which authorizes the operation of baghouse 9 (“BGHS9”), used to control emissions from the sander and tongue and groove operations.

8. General Permit Proviso No. 13 of Air Permit No. X044 requires emissions tests be conducted on BGHS8 for Particulate (“PM”) and Volatile Organic Compounds (“VOC”).

9. General Permit Proviso No. 12 of Air Permit No. X045 requires emissions tests be conducted on the ESP stack for PM, VOC, Carbon Monoxide (“CO”), and Nitrogen Oxides (“NO<sub>x</sub>”).

10. General Permit Proviso No. 13 of Air Permit No. X046 requires emissions tests be conducted on BGHS1 and BGHS7 for PM and VOC.

11. General Permit Proviso No. 11 of Air Permit No. X047 requires emissions tests be conducted on BGHS9 for PM and VOC.

12. Unit Specific Proviso No. 1(b) of Air Permit Nos. X044, X045, X046 and X047 outlines the applicable requirements of ADEM Admin. Code. r. 335-3-14-.04, “Air Permits

Authorizing Construction in Clean Air Areas (Prevention of Significant Deterioration Permitting (PSD))”, respectively.

13. Unit Specific Proviso No. 2(l) of Air Permit No. X044 limits VOC emissions from BGHS8 to 2.04 lb/hr.

14. Unit Specific Proviso No. 2(e) of Air Permit No. X045 limits NO<sub>x</sub> emissions from the ESP stack to 50.49 lb/hr.

15. Unit Specific Proviso No. 2(i) of Air Permit No. X046 limits PM emissions from BGHS1 to 0.32 lb/hr.

16. Unit Specific Proviso No. 2(j) of Air Permit No. X046 limits volatile VOC (as propane) emissions from BGHS1 to 1.38 lb/hr.

17. Unit Specific Proviso No. 2(k) of Air Permit No. X046 limits PM emissions from BGHS7 to 0.12 lb/hr.

18. Unit Specific Proviso No. 2(l) of Air Permit No. X046 limits VOC (as propane) emissions from BGHS7 to 3.30 lb/hr.

19. Unit Specific Proviso No. 2(e) of Air Permit No. X047 limits PM emissions from BGHS9 to 0.12 lb/hr.

20. Unit Specific Proviso No. 2(m) of Air Permit No. X044, Unit Specific Proviso No. 2(i) of Air Permit No. X045, Unit Specific Proviso No. 2(m) of Air Permit No. X046, Unit Specific Proviso No. 2(g) of Air Permit No. X047, Unit Specific Proviso No. 2(f) of Air Permit No. X050 and Unit Specific Proviso No. 2(i) of Air Permit No. X051 limit the Facility’s Hazardous Air Pollutant (HAP) emissions to 10 tons of any individual HAP and 25 tons combined HAP during any consecutive 12-month period.

DEPARTMENT'S CONTENTIONS

21. On June 28, 2023, the Department received a self-disclosure letter on behalf of the Permittee which stated that the emission factors utilized in the Facility's Air Permits were outdated and that the Facility may need to be permitted as a major source of HAP. It also stated that the facility may be subject to 40 CFR 63 Subpart DDDD (PCWP MACT) and 40 CFR 63 Subpart DDDDD (Boiler MACT).

22. On November 27, 2023, the Department received the results of stack tests performed at the Facility on October 24-26, 2023. Test results for BGHS1 indicated a PM average of 0.37 lb/hr and a VOC average of 2.54 lb/hr, both of which exceeded the applicable emission limits for this unit. Test results for BGHS7 indicated a PM average of 0.17 lb/hr and a VOC average of 4.26 lb/hr, both of which exceeded the applicable emission limits for this unit. Test results for BGHS9 indicated a PM average of 0.13 lb/hr, which exceeded the applicable emission limit for this unit.

23. On February 7, 2024, the Department issued a Notice of Violation ("NOV") to the Permittee for failure to comply with the applicable PM and VOC emission limits established in Air Permit Nos. X046 and X047. The Department requested a written response to the NOV be received no later than March 6, 2024.

24. In the March 5, 2024, response to the NOV, the Permittee acknowledged the facility's non-compliance with applicable PM and VOC emission limits. The response stated that the facility is working to prepare a permit application with updated emission factors that will more accurately reflect the Facility's current operating conditions.

25. On June 11, 2024, the Department received the results of stack tests performed at the facility on May 7- 8, 2024. Test results for the ESP stack indicated a NO<sub>x</sub> average of 55.89 lb/hr, which exceeded the applicable emissions limit for this unit.

26. On July 03, 2024, the Department received the results of stack tests performed at the Facility on May 30-31, 2024. Test results for BGHS8 indicated a VOC average of 2.26 lb/hr, which exceeded the applicable emissions limit for this unit.

27. On August 22, 2024, the Department received Air Permit applications from the Permittee to have the Facility permitted as a major source of HAP. The applications show that the Facility would be subject to the PCWP MACT and the Boiler MACT.

28. Pursuant to Ala. Code § 22-22A-5(18)c., *as amended*, in determining the amount of any penalty, the Department must give consideration to the seriousness of the violations, including any irreparable harm to the environment and any threat to the health or safety of the public; the standard of care manifested by such person; the economic benefit which delayed compliance may confer upon such person; the nature, extent and degree of success of such person's efforts to minimize or mitigate the effects of such violations upon the environment; such person's history of previous violations; and the ability of such person to pay such penalty. Any civil penalty assessed pursuant to this authority shall not exceed \$25,000.00 for each violation, provided however, that the total penalty assessed in an order issued by the Department shall not exceed \$250,000.00. Each day such violation continues shall constitute a separate violation. In arriving at this civil penalty, the Department has considered the following:

A. SERIOUSNESS OF THE VIOLATION: The Permittee failed to comply with the Particulate, Volatile Organic Compounds, and/ or Nitrogen Oxides emission standards set forth by Air Permit Nos. X044, X045, X046 and X047 for the ESP stack and Baghouses 1, 7, 8, and 9. The Permittee exceeded the synthetic minor HAP limits established in Air Permit Nos. X044, X045, X046, X047, X050, and X051. The Permittee failed to comply with the PCWP MACT. The Permittee failed to comply with the Boiler MACT. The Department considers the failure to comply with the emissions standards to be serious violations.

B. THE STANDARD OF CARE: The Permittee did not exhibit a standard of care commensurate with applicable regulatory requirements and Permit conditions by exceeding the operating limitations of its Air Permits and by failing to comply with the PCWP MACT and Boiler MACT.

C. ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED: The Department is not aware of any economic benefit the Permittee may have gained as a result of the violations referenced herein.

D. EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION UPON THE ENVIRONMENT: There are no known environmental effects to mitigate as a result of the alleged violations. Upon purchase of the Facility, the Permittee conducted a review of the permits, processes, and emission factors used to determine potential emissions from the Facility and provided a report to the Department characterizing the outcome of this assessment, with the intent to resolve the included issues and request new permits.

E. HISTORY OF PREVIOUS VIOLATIONS: The Permittee has no previous history of violations with the Department relative to this matter. On August 25, 2023, the Permittee did receive a NOV for failing to maintain recordkeeping as required by its Air Permits.

F. THE ABILITY TO PAY: The Permittee has not alleged an inability to pay the civil penalty.

G. OTHER FACTORS: It should be noted that this Special Order by Consent is a negotiated settlement and, therefore, the Department has compromised the amount of the penalty warranted in this matter in the spirit of cooperation and the desire to resolve this matter amicably, without incurring the unwarranted expense of litigation.

29. The Department has carefully considered the six statutory penalty factors enumerated in Ala. Code § 22-22A-5(18)c., *as amended*, as well as the need for timely and

effective enforcement, and has concluded that a civil penalty herein is appropriate (*See* “Attachment A”, which is hereby incorporated into the Department’s Contentions).

30. The Department neither admits nor denies the Permittee’s Contentions, which are set forth below. The Department has agreed to the terms of this Consent Order in an effort to resolve the alleged violations cited herein without the unwarranted expenditure of State resources in further prosecuting the above violations. The Department has determined that the terms contemplated in this Consent Order are in the best interests of the citizens of Alabama.

*PERMITTEE’S CONTENTIONS*

31. The Permittee neither admits nor denies the Department’s Contentions. By entering into this Consent Order without adjudication of law, fact, or liability, the Permittee makes no admission of liability for any violation of statute or regulation. The Permittee consents to abide by the terms of this Consent Order and to pay the civil penalty assessed herein.

32. The Permittee purchased the Facility from the prior owner in December of 2022. After conducting an environmental assessment of the newly acquired Facility, the Permittee identified and voluntarily self-disclosed to the Department the inaccuracies of the emission factors used to prepare the permit applications for the air emission sources at the Facility. The inaccurate emission factors are the basis for the exceedances of the permitted emission limits.

33. The Permittee did not improperly operate or fail to properly maintain the emissions sources that are the subject of this Order.

34. The Permittee did not gain an economic benefit as a result of the exceedances of the permitted emission limits.

35. The actual air emissions from the exceedances of the permitted emission limits were very low and did not cause irreparable harm to the environment or create a threat to the health or safety of the public.

36. The Permittee has installed electronic pressure drop gauges to improve monitoring of the function of the baghouses following the performance tests.

37. The Permittee has cooperated with the Department and will continue to cooperate to resolve the issues identified herein.

ORDER

THEREFORE, the Permittee, along with the Department, desires to resolve and settle the compliance issues cited above. The Department has carefully considered the facts available to it and has considered the six penalty factors enumerated in Ala. Code § 22-22A-5(18)c., *as amended*, as well as the need for timely and effective enforcement, and the Department has determined that the following conditions are appropriate to address the violations alleged herein. Therefore, the Department and the Permittee agree to enter into this Consent Order with the following terms and conditions:

A. The Permittee agrees to pay the Department a civil penalty in the amount of \$160,000.00 for the violations cited herein within forty-five days from the effective date of this Consent Order. Failure to pay the civil penalty within forty-five days from the effective date may result in the Department's filing a civil action in the Circuit Court of Montgomery County to recover the civil penalty.

B. The Permittee agrees that all penalties due pursuant to this Consent Order shall be made payable to the Alabama Department of Environmental Management by certified or cashier's check and shall be remitted to:

Office of General Counsel  
Alabama Department of  
Environmental Management  
P.O. Box 301463  
Montgomery, Alabama 36130-1463



C. The Permittee agrees to comply with all requirements of ADEM Administrative Code div. 335-3 and its revised Air Permits immediately upon the issuance of the revised Air Permits and continuing every day thereafter.

D. The parties agree that this Consent Order shall apply to and be binding upon both parties, their directors, officers, and all persons or entities acting under or for them. Each signatory to this Consent Order certifies that he or she is fully authorized by the party he or she represents to enter into the terms and conditions of this Consent Order, to execute the Consent Order on behalf of the party represented, and to legally bind such party.

E. The parties agree that this Consent Order, subject to the terms of these presents and subject to provisions otherwise provided by statute, is intended to operate as a full resolution of the violations which are cited in this Consent Order.

F. The Permittee agrees that it is not relieved from any liability if it fails to comply with any provision of this Consent Order.

G. For purposes of this Consent Order only, the Permittee agrees that the Department may properly bring an action to compel compliance with the terms and conditions contained herein in the Circuit Court of Montgomery County. The Permittee also agrees that in any action brought by the Department to compel compliance with the terms of this Agreement, the Permittee shall be limited to the defenses of *Force Majeure*, compliance with this Agreement and physical impossibility. A *Force Majeure* is defined as any event arising from causes that are not foreseeable and are beyond the reasonable control of the Permittee, including its contractors and consultants, which could not be overcome by due diligence (i.e., causes which could have been overcome or avoided by the exercise of due diligence will not be considered to have been beyond the reasonable control of the Permittee) and which delays or prevents performance by a date required by the Consent Order. Events such as unanticipated or increased costs of performance, changed economic

circumstances, normal precipitation events, or failure to obtain federal, state, or local permits shall not constitute *Force Majeure*. Any request for a modification of a deadline must be accompanied by the reasons (including documentation) for each extension and the proposed extension time. This information shall be submitted to the Department a minimum of ten working days prior to the original anticipated completion date. If the Department, after review of the extension request, finds the work was delayed because of conditions beyond the control and without the fault of the Permittee, the Department may extend the time as justified by the circumstances. The Department may also grant any other additional time extension as justified by the circumstances, but it is not obligated to do so.

H. The Department and the Permittee agree that the sole purpose of this Consent Order is to resolve and dispose of all allegations and contentions stated herein concerning the factual circumstances referenced herein. Should additional facts and circumstances be discovered in the future concerning the Site which would constitute possible violations not addressed in this Consent Order, then such future violations may be addressed in Orders as may be issued by the Director, litigation initiated by the Department, or such other enforcement action as may be appropriate, and the Permittee shall not object to such future orders, litigation or enforcement action based on the issuance of this Consent Order if future orders, litigation or other enforcement action address new matters not raised in this Consent Order.

I. The Department and the Permittee agree that this Consent Order shall be considered final and effective immediately upon signature of all parties. This Consent Order shall not be appealable, and the Permittee does hereby waive any hearing on the terms and conditions of same.

J. The Department and the Permittee agree that this Order shall not affect the Permittee's obligation to comply with any Federal, State, or local laws or regulations.

K. The Department and the Permittee agree that final approval and entry into this Order are subject to the requirements that the Department give notice of proposed Orders to the public, and that the public have at least thirty days within which to comment on the Order.

L. The Department and the Permittee agree that, should any provision of this Order be declared by a court of competent jurisdiction or the Environmental Management Commission to be inconsistent with Federal or State law and therefore unenforceable, the remaining provisions hereof shall remain in full force and effect.

M. The Department and the Permittee agree that any modifications of this Order must be agreed to in writing, signed by both parties.

N. The Department and the Permittee agree that, except as otherwise set forth herein, this Order is not and shall not be interpreted to be a permit or modification of an existing permit under Federal, State or local law, and shall not be construed to waive or relieve the Permittee of its obligations to comply in the future with any permit.

Executed in duplicate, with each part being an original.

WEST FRASER US EWP LLC

  
\_\_\_\_\_  
(Signature of Authorized Representative)

*Philip H. Skerrett, Jr*  
\_\_\_\_\_  
(Printed Name)

*General Manager*  
\_\_\_\_\_  
(Printed Title)

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

\_\_\_\_\_  
Lance R. LeFleur  
Director

Date Signed: 10. 9. 2021

Date Executed: \_\_\_\_\_

# ATTACHMENT A

## West Fraser US EWP LLC Lanett, Chambers County, AL

Violation*	Number of Violations*	Seriousness of Violation*	Standard of Care*	History of Previous Violations*	
Exceeding synthetic minor HAP emissions limits	1	\$20,000	\$5,000	\$0	
Failure to comply with the PCWP MACT	1	\$20,000	\$5,000	\$0	
Failure to comply with the Boiler MACT	1	\$20,000	\$5,000	\$0	
Failure to comply with applicable emission limitations	7	\$70,000	\$35,000	\$0	
					<b>Total of Three Factors</b>
<b>TOTAL PER FACTOR</b>		<i>\$130,000</i>	<i>\$50,000</i>	<i>\$0</i>	<i>\$180,000</i>

Adjustments to Amount of Initial Penalty	
Mitigating Factors (-)	
Ability to Pay (-)	
Other Factors (+/-)	-\$20,000
Total Adjustments (+/-) <i>Enter at Right</i>	-\$20,000

Economic Benefit (+)	\$0
Amount of Initial Penalty	\$180,000
Total Adjustments (+/-)	-\$20,000
<b>FINAL PENALTY</b>	<b>\$160,000.00</b>

Footnotes

\* See the "Department's Contentions" portion of the Order for a detailed description of each violation and the penalty factors.