

Executive Summary – Enforcement Matter – Case No. 59124

Woodville Pellets, LLC

RN106205032

Docket No. 2020-0449-AIR-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Absence of management practices designed to ensure compliance.

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Woodville Mill, 164 County Road 1040, Woodville, Tyler County

Type of Operation:

Wood pellet manufacturing plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: Commenters have expressed an interest in this case and have indicated a desire to speak at Agenda.

Texas Register Publication Date: September 17, 2021

Comments Received: Two comments were received. One comment from Amy Catherine Dinn from Lone Star Legal Aid, representing Woodville Community resident Dustin Stafford. One comment was received by Patrick J. Anderson from the Environmental Integrity Project, on behalf of the Lone Star Chapter of the Sierra Club.

Penalty Information

Total Penalty Assessed: \$517,068

Total Paid to General Revenue: \$258,534

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$258,534

Name of SEP: Texas Congress of Parents and Teachers dba Texas PTA (Third-Party Pre-Approved)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014 and January 2021

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Docket No. 2020-0449-AIR-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: February 27, 2020, February 2, 2021, and March 1, 2021

Date(s) of NOE(s): March 10, 2020, February 11, 2021, and March 12, 2021

Violation Information

1. Failed to route the filtered emissions from the Dry Hammermill and Cooler Air Aspiration System to an Regenerative Thermal Oxidizer ("RTO") [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), New Source Review ("NSR") No. 98014, Special Conditions ("SC") No. 10, Federal Operating Permit ("FOP") No. 03609, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 7, and TEX. HEALTH & SAFETY CODE § 382.085(b)].
2. Failed to route the filtered emissions from the Dry Hammermill and Cooler Air Aspiration System to an RTO [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), NSR Permit No. 98014, SC No. 10, FOP No. 03609, GTC and STC No. 7, and TEX. HEALTH & SAFETY CODE § 382.085(b)].
3. Failed to certify compliance for at least each 12-month period following initial permit issuance and failed to submit a permit compliance certification ("PCC") within 30 days of any certification period [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(1)(A) and (2), FOP No. 03609, GTC and STC No. 10, and TEX. HEALTH & SAFETY CODE § 382.085(b)].
4. Failed to timely submit a permit renewal application at least six months but no earlier than 18 months before the date of permit expiration and failed to obtain an FOP [30 TEX. ADMIN. CODE §§ 122.121, 122.143(4), 122.133(2), and 122.241(b) and (g) and TEX. HEALTH & SAFETY CODE §§ 382.054 and 382.085(b)].
5. Failed to report all instances of deviations [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), FOP No. 03609, GTC, and TEX. HEALTH & SAFETY CODE § 382.085(b)].
6. Failed to comply with either of the requirements for any bypass of the control device subject to Compliance Assurance Monitoring [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), NSR Permit No. 98014, SC No. 35, FOP No. 03609, GTC and STC Nos. 6.F and 7, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

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Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures:

- a. On September 15, 2020, submitted an FOP application to authorize the emission units; and
- b. On April 8, 2021, obtained an amendment for NSR Permit No. 98014 to change the control device for the filtered emissions from the Dry Hammermill and Cooler Air Aspiration System from an RTO to a Regenerative Catalytic Oxidizer.

Technical Requirements:

- 1. The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).
- 2. The Order will also require the Respondent to:
 - a. Immediately, until such time that FOP No. 04246 is obtained or until 180 days, whichever is earlier, comply with the provisions in expired FOP No. 03609, including recordkeeping, reporting, and compliance certification requirement with respect to the Plant's continuing operations.
 - b. Within 15 days, submit written certification to demonstrate compliance with a.
 - c. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the application for FOP No. 04246 by any deadline specified in writing.
 - d. Within 30 days:
 - i. Submit the PCC for the September 17, 2019 through March 16, 2020 certification period;
 - ii. Implement measures and/or procedures designed to ensure that the PCCs are submitted in a timely manner;
 - iii. Submit a revised deviation report for the September 17, 2019 through March 16, 2020 reporting period to report the deviation for the non-reportable emissions event that occurred from January 10, 2020 through January 11, 2020;

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iv. Implement measures and/or procedures designed to ensure that all instances of deviations are reported; and

v. Either install a flow indicator that records and verifies zero flow for the furnace at least once every 15 minutes immediately downstream of each valve that if opened would allow the furnace vent stream to bypass the control device and be emitted, either directly or indirectly, to the atmosphere; or once a month, inspect the valves verifying the position of the valves and the condition of the car seals/lock-out tags that prevent the furnace flow out of the bypass and maintain records of each inspection; or install an electronic position indicator that records and verifies the open or closed position, at least once every 15 minutes, of each valve or damper that if opened would allow the furnace vent stream to bypass the control device and emitted, either directly or indirectly, to the atmosphere, in accordance with NSR Permit No. 98014.

e. Within 45 days, submit written certification to demonstrate compliance with d.

f. Within 180 days, submit written certification that either FOP No. 04246 has been obtained or that operations have ceased until such time that appropriate authorization is obtained.

g. By May 1, 2022, route the filtered emissions from the Dry Hammermill and Cooler Air Aspiration System to an Regenerative Catalytic Oxidizer that achieves 95 percent or greater destruction efficiency for organic compounds emissions.

h. By May 16, 2022, submit written certification to demonstrate compliance with g.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Toni Red, Enforcement Division, Enforcement Team 4, MC 219, (512) 239-1704; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565

SEP Third-Party Administrator: Texas PTA, 408 West 11th Street, Austin, Texas 78701

Respondent: Bryan Davis, Plant Manager, Woodville Pellets, LLC, 164 County Road 1040, Woodville, Texas 75979

Rain Silivask, Vice President/Chief Financial Officer, Woodville Pellets, LLC, 1100 Louisiana Street, Suite 4000, Houston, Texas 77002

Respondent's Attorney: Marcella Burke, King & Spalding LLP, 1100 Louisiana, Suite 4100, Houston, Texas 77002

TCEQ Interoffice Memorandum

To: Commissioners

Thru: *SJ* Susan M. Jablonski, P.E., Deputy Director for Enforcement Division

From: Michael De La Cruz, Manager, Enforcement Division

Date: January 24, 2022

Subject: Response to Comments Received Concerning Proposed Agreed Enforcement Order
Woodville Pellets, LLC, Woodville, Tyler County
RN106205032; Docket No. 2020-0449-AIR-E; Enforcement Case No. 59124

In response to a publication in the Texas Register on September 17, 2021, two comments have been received regarding a proposed agreed enforcement order requiring certain actions of Woodville Pellets, LLC. The comments were received within the thirty-day public comment period.

The proposed agreed order includes six violations documented during record reviews conducted on February 27, 2020, February 2, 2021, and March 1, 2021. The violations addressed in the proposed order include:

- 1) Failed to route the filtered emissions from the Dry Hammermill and Cooler Air Aspiration System to a regenerative thermal oxidizer, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), New Source Review ("NSR") Permit No. 98014, Special Conditions ("SC") No. 10, Federal Operating Permit ("FOP") No. O3609, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 7, and TEX. HEALTH & SAFETY CODE § 382.085(b);
- 2) Failed to route the filtered emissions from the Dry Hammermill and Cooler Air Aspiration System to a regenerative thermal oxidizer, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), NSR Permit No. 98014, SC No. 10, FOP No. O3609, GTC and STC No. 7, and TEX. HEALTH & SAFETY CODE § 382.085(b);
- 3) Failed to certify compliance for at least each 12-month period following initial permit issuance and failed to submit a permit compliance certification within 30 days of any certification period, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(1)(A) and (2), FOP No. O3609, GTC and STC No. 11, and TEX. HEALTH & SAFETY CODE §§ 382.054 and 382.085(b);
- 4) Failed to timely submit a permit renewal application at least six months but no earlier than 18 months before the date of permit expiration and failed to obtain an FOP, in violation of 30 TEX. ADMIN. CODE §§ 122.121, 122.143(4), 122.133(2), and 122.141(b) and (g), FOP No. O3609, GTC and STC No. 11, and TEX. HEALTH & SAFETY CODE §§ 382.054 and 382.085(b);
- 5) Failed to report all instances of deviations, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), FOP No. O3609, GTC, and TEX. HEALTH & SAFETY CODE § 382.085(b); and
- 6) Failed to comply with either of the requirements for any bypass of the control device subject to Compliance Assurance Monitoring, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), NSR Permit No. 98014, SC No. 35, FOP No. O3609, GTC and STC Nos. 6.F and 7, and TEX. HEALTH & SAFETY CODE § 382.085(b).

The proposed agreed order assesses a penalty in the amount of \$517,068. The amount of \$258,534 shall be conditionally offset by Woodville Pellets, LLC's completion of a Supplemental Environmental Project. Some of the comments received are not limited to the provisions of the proposed order addressing the violations. No changes to the proposed agreed order were made in response to the comments. A summary of the comments and staff response to the comments are provided below:

- Comment – The penalty does not recover Woodville Pellets, LLC's economic benefit of non-compliance.

Response – An economic benefit was calculated for each violation and an economic benefit enhancement was calculated in accordance with the applicable TCEQ Penalty Policy at the time the enforcement case was developed. For each violation, the economic benefit was calculated based on the actual or delayed costs of compliance from the date of the violation to the date of compliance or the estimated date of compliance.

- Comment – The revised assessed administrative penalty is less than the initial proposed administrative penalty.

Response – The initial proposed penalty for the failure to route the filtered emissions from the Dry Hammermill and Cooler Aspiration System to an RTO was assessed as an Actual Release/Major Harm because human health or the environment has been exposed to significant amounts of unauthorized volatile organic compounds that exceeded levels that were protective of human health or environmental receptors. During negotiations of the proposed agreed order, Woodville Pellets, LLC demonstrated that the uncontrolled volatile organic compounds did not exceed levels that were protective of human health or the environmental receptors. Therefore, the penalty for the failure to route the filtered emissions from the Dry Hammermill and Cooler Aspiration System to an RTO was revised to an Actual Release/Moderate Harm in accordance with the applicable TCEQ Penalty Policy. Although additional violations were documented and addressed in the revised proposed agreed order, the total administrative penalty of \$526,500 in the initial proposed agreed order was reduced to \$517,068 in the revised proposed agreed order because the penalty for the failure to route the filtered emissions from the Dry Hammermill and Cooler Aspiration System to an RTO was revised from an Actual Release/Major Harm to an Actual Release/Moderate Harm.

- Comment – The proposed agreed order authorizes Woodville Pellets, LLC to continue to operate without a FOP.

Response – The proposed agreed order requires Woodville Pellets, LLC to comply the terms and conditions in expired FOP No. O3609 until such time that FOP No. O4246 is obtained. The proposed agreed order also requires that Woodville Pellets, LLC obtain FOP No. O3609 with due diligence; otherwise, Woodville Pellets, LLC must certify that they have ceased operations.

- Comment – The proposed agreed order fails to address ongoing green hammermill violations.

Response – Since June 18, 2019, the TCEQ Beaumont Regional Office has not documented any violations in regards to the green hammermill. The proposed agreed order addresses

the violations that were documented during record reviews conducted on February 27, 2020, February 2, 2021, and March 1, 2021, including the failure to route the filtered emissions from the Dry Hammermill and Cooler Air Aspiration System to an RTO. Since the failure to comply with any permitted emissions rates for the green hammermill was not documented during these record reviews, this alleged violation was not addressed in the proposed agreed order. Woodville Pellets, LLC provided a proper notice of its intent to conduct an environment audit and a certified disclosure of violations in accordance with the Texas Environment, Health, and Safety Audit Privilege Act ("the Audit Privilege Act"). Woodville Pellets, LLC disclosed four violations related to the operation and associated emissions from the wet mill aspiration cyclone stacks. After further review, immunity under the Audit Privilege Act may not be recognized for all of the violations that were disclosed on December 31, 2020 by Woodville Pellets, LLC. Since the TCEQ was made aware of the failure to obtain a Minor New Source Review Permit and failure to obtain a Prevention of Significant Deterioration Permit for the potential emissions from the wet aspiration cyclone stacks before the violations were disclosed via certified mail, these disclosed violations may be referred to the TCEQ Beaumont Regional Office to determine if a formal enforcement action is warranted.

- Comment – Citizens or the United States Environmental Protection Agency cannot enforce the order.

Response – Per TEX. WATER CODE § 7.071, an agreed administrative order issued by the TCEQ is not admissible against a party to that order in a civil proceeding unless the proceeding is brought by the Attorney General's Office. The violations in the proposed agreed order does not preclude the United States Environmental Protection Agency from conducting its own investigation and pursuing a civil action.

- Comment – The penalty assessment for the violations regarding the failure to route the filtered emissions from the Dry hammermill and Cooler Air Aspiration System to an RTO was too low.

Response – Since June 18, 2019, the TCEQ Beaumont Regional Office conducted numerous investigations and did not document any impacts to human health or environmental receptors. During the record reviews conducted on February 27, 2020, February 2, 2021, and March 1, 2021 and during negotiations of the proposed agreed order, Woodville Pellets, LLC demonstrated that the uncontrolled volatile organic compounds did not exceed levels that were protective of human health or the environmental receptors. Therefore, the penalties for the failure to route the filtered emissions from the Dry Hammermill and Cooler Aspiration System to a regenerative thermal oxidizer were assessed as Moderate Harm and the violation events were assessed as monthly events in accordance with the applicable TCEQ Penalty Policy.

- Comment – The violation for the failure to timely submit a permit renewal application at least six months but no earlier than 18 months before the date of permit expiration and failure to obtain an FOP should have been assessed as 39 weekly events.

Response – Although the applicable TCEQ Penalty Policy allows the penalty for continuing programmatic major violations to be assessed up to daily events, the TCEQ has assessed prior enforcement cases with the same violation as monthly events.

- Comment – Woodville Pellets, LLC regularly used its bypass controls.

Response – Since June 18, 2019, the TCEQ Beaumont Regional Office did not document any nuisance dust, smoke, or soot conditions nor any impacts to human health or environmental receptors. The alleged violation in the proposed agreed order addresses the failure to comply with either of the requirements for any bypass of the control device subject to Compliance Assurance Monitoring. Since Woodville Pellets, LLC has not complied with either of the requirements for any bypass of the control device subject to Compliance Assurance Monitoring, the penalty for this violation was assessed as a potential release at moderate harm. The TCEQ Penalty Policy defines a potential release at moderate harm as human health or the environment could be exposed to significant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors. Although the fifth revision of the TCEQ Penalty Policy allows the penalty for continuing potential release at moderate harm violations to be assessed up to monthly events, the number of violation days was determined to be 26 days which is considered to be one monthly or one quarterly event. If the residents are being adversely impacted by the operations at Woodville Pellets, LLC, the residents may continue to file complaints with the TCEQ Beaumont Regional Office. The TCEQ Beaumont Regional Office will continue to investigate all citizen complaints within the TCEQ's jurisdiction. If the TCEQ Beaumont Regional Office documents additional violations during later investigations, the alleged violations will be evaluated in accordance with the TCEQ Enforcement Initiation Criteria to determine the appropriate level of enforcement to pursue. Since an agreement was reached between Woodville Pellets, LLC and the TCEQ, the TCEQ has scheduled the agreed order for consideration by the TCEQ Commissioners at an upcoming Commissioners' Agenda, in accordance with 30 TEX. ADMIN. CODE § 70.10(c). During the Commissioners' Agenda, the TCEQ Commissioners can propose changes or other recommendations regarding the proposed agreed order. Upon adoption of the agreed order by the TCEQ Commissioners, the TCEQ will continue to monitor Woodville Pellets, LLC's compliance with the TCEQ rules, regulations, and agreed order and initiate additional enforcement actions as appropriate.

A copy of the comments, and the staff response to the comments, are attached for your consideration. In summary, the commentor's questions are expressing concerns that the assessed administrative penalty is insufficient and that Woodville Pellets, LLC is continuing to operate without an FOP. Staff's position, as reflected in the response, is that the Penalty Policy was used to assess the penalty fairly. Accordingly, the Enforcement Division recommends that you adopt this proposed order.

Attachments

cc: Sarah Kirksey, Air Section Manager, Beaumont Regional Office
Toni Red, Coordinator, Enforcement Division, MC 219
Central Records, MC 213, Building E, 1st Floor
AIR CP_106205032_CP_20220124_Enforcement
Enforcement Division Electronic Reader File

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Toby Baker, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

January 24, 2022

Ms. Amy Catherine Dinn, Attorney
Lone Star Legal Aid
P.O. Box 398
Houston, Texas 77001-0398

Re: Comment Received, Proposed Agreed Enforcement Order
Woodville Pellets, LLC; RN106205032
Docket No. 2020-0449-AIR-E; Enforcement Case No. 59124

Dear Ms. Dinn:

We received your comments submitted on behalf of Mr. Dustin Stafford, dated October 18, 2021 concerning the proposed agreed enforcement order for the Woodville Pellets, LLC wood pellet manufacturing plant ("Plant") in Tyler County, Texas. I have forwarded your letter to our Beaumont Regional Office for their information and to our General Counsel's Office so that the Commissioners can consider your comments regarding the proposed order.

Texas Commission on Environmental Quality ("TCEQ") staff and Woodville Pellets, LLC agreed on the terms of the proposed order on August 3, 2021 which includes an administrative penalty of \$517,068. Woodville Pellets, LLC has paid \$258,534 of the administrative penalty. The amount of \$258,534 shall be conditionally offset by Woodville Pellets, LLC's completion of a Supplemental Environmental Project. In addition to the penalty, the order recognizes that Woodville Pellets, LLC has submitted a Federal Operating Permit ("FOP") application to authorize the emission units at the Plant and obtained an amendment for New Source Review Permit No. 98014 to change the control device for the filtered emissions from the Dry Hammermill and Cooler Air Aspiration System from a Regenerative Thermal Oxidizer ("RTO") to a Regenerative Catalytic Oxidizer ("RCO").

The technical requirements in the proposed agreed order require Woodville Pellets, LLC to comply with the provisions in expired FOP No. 03609 until such time that FOP No. 04246 is obtained; respond completely and adequately to all requests for information concerning the application for FOP No. 04246; submit the permit compliance certification ("PCC") for the September 17, 2019 through March 16, 2020 certification period; implement measures and/or procedures designed to ensure that the PCCs are submitted in a timely manner; submit a revised deviation report for the September 17, 2019 through March 16, 2020 reporting period to report the deviation for the non-reportable emissions event that occurred from January 10, 2020 through January 11, 2020; implement measures and/or procedures designed to ensure that all instances of deviations are reported; either install a flow indicator that records and verifies zero

flow for the furnace at least once every 15 minutes immediately downstream of each valve that if opened would allow the furnace vent stream to bypass the control device and be emitted, either directly or indirectly, to the atmosphere, or once a month, inspect the valves verifying the position of the valves and the condition of the car seals/lock-out tags that prevent the furnace flow out of the bypass and maintain records of each inspection, or install an electronic position indicator that records and verifies the open or closed position, at least once every 15 minutes, of each valve or damper that if opened would allow the furnace vent stream to bypass the control device and emitted, either directly or indirectly, to the atmosphere; and route the filtered emissions from the Dry Hammermill and Cooler Air Aspiration System to an RCO that achieves 95 percent or greater destruction efficiency for organic compounds emissions. The proposed agreed order addresses the violations that were documented during record reviews conducted on February 27, 2020, February 2, 2021, and March 1, 2021 and requires Woodville Pellets, LLC to achieve compliance within specified timeframes.

In your comments, Mr. Stafford expressed concerns related to the penalty assessment for the violations regarding the failure to route the filtered emissions from the Dry Hammermill and Cooler Air Aspiration System to an RTO, the type and number of violation events assessed for the violation for the failure to timely submit a permit renewal application at least six months but no earlier than 18 months before the date of permit expiration, the failure to obtain an FOP, and Woodville Pellets, LLC regularly using its bypass controls. The TCEQ appreciates Mr. Stafford's concerns, and these are our responses to his concerns.

Mr. Stafford had concerns with the penalty assessment for the violations regarding the failure to route the filtered emissions from the Dry Hammermill and Cooler Air Aspiration System to an RTO. Since June 18, 2019, the TCEQ Beaumont Regional Office conducted numerous investigations and did not document any impacts to human health or environmental receptors. During the TCEQ record reviews conducted on February 27, 2020, February 2, 2021, and March 1, 2021 and during negotiations of the proposed agreed order, Woodville Pellets, LLC demonstrated that the uncontrolled volatile organic compounds did not exceed levels that were protective of human health or the environmental receptors. Therefore, the penalties for the failure to route the filtered emissions from the Dry Hammermill and Cooler Aspiration System to an RTO were assessed as Moderate Harm and the violation events were assessed as monthly events in accordance with the applicable TCEQ Penalty Policy.

Mr. Stafford had a concern with the type and number of violation events assessed for the violation for the failure to timely submit a permit renewal application at least six months but no earlier than 18 months before the date of permit expiration and failure to obtain an FOP. Although the applicable TCEQ Penalty Policy allows the penalty for continuing programmatic major violations to be assessed up to daily events, the TCEQ has assessed prior enforcement cases with the same violation as monthly events.

Mr. Stafford had a concern that Woodville Pellets, LLC regularly used its bypass controls. Since June 18, 2019, the TCEQ Beaumont Regional Office did not document any nuisance dust, smoke, or soot conditions nor any impacts to human health or environmental receptors. The alleged violation in the proposed agreed order addresses the failure to comply with either of the requirements for any bypass of the control device subject to Compliance Assurance Monitoring. Since Woodville Pellets, LLC has not complied with either of the requirements for any bypass of the control device subject to Compliance Assurance Monitoring, the penalty for this violation was assessed as a

January 24, 2022

potential release at moderate harm. The TCEQ Penalty Policy defines a potential release at moderate harm as human health or the environment could be exposed to significant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors. Although the fifth revision of the TCEQ Penalty Policy allows the penalty for continuing potential release at moderate harm violations to be assessed up to monthly events, the number of violation days was determined to be 26 days which is considered to be one monthly or one quarterly event. If the residents are being adversely impacted by the operations at Woodville Pellets, LLC, the residents may continue to file complaints with the TCEQ Beaumont Regional Office. The TCEQ Beaumont Regional Office will continue to investigate all citizen complaints within the TCEQ's jurisdiction. If the TCEQ Beaumont Regional Office documents additional violations during later investigations, the alleged violations will be evaluated in accordance with the TCEQ Enforcement Initiation Criteria to determine the appropriate level of enforcement to pursue. Since an agreement was reached between Woodville Pellets, LLC and the TCEQ, the TCEQ has scheduled the agreed order for consideration by the TCEQ Commissioners at an upcoming Commissioners' Agenda, in accordance with 30 TEX. ADMIN. CODE § 70.10(c). During the Commissioners' Agenda, the TCEQ Commissioners can propose changes or other recommendations regarding the proposed agreed order. Upon adoption of the agreed order by the TCEQ Commissioners, the TCEQ will continue to monitor Woodville Pellets, LLC's compliance with the TCEQ rules, regulations, and agreed order and initiate additional enforcement actions as appropriate.

We appreciate your input into the enforcement action currently pending against Woodville Pellets, LLC. The proposed agreed order is expected to be considered at an upcoming Commissioners' Agenda. Ms. Toni Red is the Enforcement Coordinator assigned to this case. If you have further concerns or comments related to the order, please do not hesitate to call Ms. Red at (512) 239-1704. For complaints related to Woodville Pellets, LLC's current operating conditions or procedures, you should continue to contact our Beaumont Regional Office at (409) 898-3838.

Sincerely,



Susan M. Jablonski, P.E.
Deputy Director for Enforcement Division
Office of Compliance and Enforcement
Texas Commission on Environmental Quality

SMJ/tr

cc: Ms. Marcella Burke, Partner, King & Spalding LLP, 1100 Louisiana, Suite 4100, Houston, Texas 77002

**DOCKET NO. 2020-0449-AIR-E
ENFORCEMENT CASE NO. 59124**

IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
WOODVILLE PELLETS, LLC	§	
RN106205032	§	ENVIRONMENTAL QUALITY

COMMENTS ON PROPOSED AGREED ORDER

TO THE HONORABLE COMMISSIONERS:

Concerned Woodville Community Member, Dustin Stafford (“Stafford” or “Commenter”), offers these comments on the proposed agreed order with Woodville Pellets, LLC (“Woodville Pellets”) which is the subject of this enforcement docket (the “Agreed Order”).

SUMMARY

The TCEQ is finally acting to reprimand Woodville Pellets for inappropriate, illegal operations at wood pellet manufacturing plant in Woodville in Tyler County, Texas (the “Regulated Facility” or “Woodville Mill”) which have been going on since Woodville Pellets bought the pellet mill and began operating it in June of 2019. Stafford thanks the TCEQ for this enforcement action.

However, as a closer scrutiny of the proposed Agreed Order reveals, the Agency is still cutting sweetheart deals for industry as opposed to sending a message to operators who continually skirt the law and the Clean Air Act.

The Agency’s stated purpose of its amendments to its Penalty Policy at the beginning of this year was to increase penalties to bring facilities into compliance with its regulations. Yet we find, for serious polluters, the Agency is still using its discretion to minimize penalties by deviating from its own Penalty Policy. This practice needs to stop.

Stafford files these comments since the Agreed Order fails to address the community's concerns regarding an appropriate penalty for this Regulated Facility given Woodville Pellets' conduct in operating the facility by engaging in illegal bypasses of its pollution controls since Woodville Pellets began operating in July 2019. Moreover, for a substantial portion of the penalized period, the facility lacked any Federal Operating Permit ("FOP"). Finally, the Facility has emitted in an 18-month period more than 396 tons of Volatile Organic Compounds (VOCs) which is far beyond the Regulated Facility's permitted limit of 64 tons per year (tpy). These actions need to be penalized properly pursuant to the agency's enacted Penalty Policy for the relevant time period. Unfortunately, despite a pending Citizen Suit initiated by Commenter and the Sierra Club covering the some of the same conduct because the Agency failed to act timely,¹ the Agency seems to have done what it can to minimize the resulting penalty reflected in the Agreed Order.

FACTUAL BACKGROUND

Woodville Pellets operates the Woodville Mill (the "Facility") in Woodville, Texas, which has an estimated population of 2,614 and covers approximately 3.21 square miles for its city limits. The Facility is the only regulated facility in the Woodville area that emits significant quantities of particulate matter (PM), volatile organic compounds (VOCs), hazardous air pollutants (HAPs), nitrogen oxides, and carbon monoxide. These emissions have an impact on the local residents, like Commenter Stafford.

Stafford is a fourth-generation resident of Woodville, Texas in Tyler County, who lives less than one mile from the Woodville Mill. He currently resides at 888 County Road 4260, Woodville, Texas, where his family has owned property and lived for many generations. Mr.

¹ See First Amended Complaint in Civil Action No. 9:20-cv-00178 against Woodville Pellets, LLC dated December 30, 2020, filed by Commenter and the Sierra Club, attached as Exhibit 1.

Stafford himself was born and raised at this address, leaving only to attend college and to work, and has resided at this home since 2013.

Over the last several years, Mr. Stafford, along with his mother and other residents of Woodville, have regularly complained to TCEQ regarding Woodville Pellets and its operations. Mr. Stafford has observed the Facility on a near daily basis, during the day and at night, and experienced negative impacts because of Woodville Pellets' operations. Mr. Stafford is thus intimately aware of Woodville Pellets' activities, as well as the real harms caused by the Facility's unauthorized emissions. On January 30, 2020, the Woodville community held a town meeting and invited TCEQ representatives to attend so they could hear firsthand the concerns regarding the Facility expressed by residents. Some of the TCEQ staff attending were the same staff from Beaumont Regional Office responding to the community's complaints about the Facility. During that meeting, TCEQ generally acknowledged that the Facility had never followed its permit since it was issued, which is why the TCEQ was requiring emissions controls, specifically a Regenerative Thermal Oxidizer ("RTO") to be installed at the Facility. Controls that, pursuant to the terms of this Agreed Order, will not be installed until May of 2022. The Commission should understand that Mr. Stafford and his community of Woodville in Tyler County have waited a long time for the proposed relief reflected in the Agreed Order. This long period also involved suffering through unlawful, unwarranted excess emissions that have severely impacted the health of Stafford and his family members.

A. Impacts from the Woodville Pellets' Operations

Mr. Stafford has directly experienced significant and negative impacts and observed harmful impacts on his family and other Woodville residents, because of Woodville Pellets' operations. These impacts include exposure to unhealthy air pollutants and environmental nuisances, fear of adverse health consequences, and damage to real and personal property.

1. Exposure to Unhealthy Air Pollutants and Environmental Nuisances

Woodville Pellets’ operations have exposed—and continue to expose—Mr. Stafford to unhealthy air pollutants and environmental nuisances. On numerous occasions, Mr. Stafford has witnessed and documented many “bypass” events, when Woodville Pellets releases emissions directly from bypass stacks on its furnaces and wood dryers rather than sending them to existing air pollution controls. During these bypass events:

- Mr. Stafford has seen large amounts of smoke migrate from the Facility into his neighborhood, including looming over his property. Mr. Stafford knows that he is witnessing smoke, rather than steam, because the emissions are frequently darker in color and the particles linger in the air after being released.
- Soot, dust, and particulate matter from the Facility also coat Mr. Stafford’s real property, as well as the surface of his car, during the bypass events.
- Mr. Stafford has smelled smoke and chemical odors from the Facility.

Even during what seem to be Woodville Pellets’ normal operations, Mr. Stafford has frequently witnessed steam plumes from the Facility traveling over or near his property. He and other Woodville residents have also noticed that the skies are hazy in the region and smell smoke and chemical odors from the Facility outside of bypass events. In addition, Woodville Pellets’ activities are extremely loud and disruptive, creating a noise nuisance. At his property, Mr. Stafford has recorded loud noises from the Facility in excess of 80 dB while the Woodville Mill is operating. The noise is disruptive and interferes with the sleep of Mr. Stafford and his family members.

2. Fear of Adverse Health Consequences

Mr. Stafford fears that living so close to Woodville Pellets and breathing the unhealthy air will have adverse health consequences to himself, his family members, and his pets and livestock. Woodville Pellets emits VOCs and HAPs, which can be toxic or carcinogenic even in small quantities. HAPs can also cause irritation of the eyes, nose, and throat, headaches,

dizziness, and damage to the liver, kidneys, and central nervous system. Moreover, breathing in smoke and fine particulate matter can cause premature death, aggravated asthma, and increased respiratory symptoms such as irritation of the airways, coughing, and difficulty breathing.

In the past two years, Mr. Stafford has developed a constant runny nose, and a sore, itchy throat. These symptoms persist to the present day and are unlike anything he has previously experienced previously. Mr. Stafford has noticed that these conditions worsen if he spends significant time outside when the Facility is operating, and these conditions generally improve if he leaves the Woodville area of the Facility is not operating. The onset of these respiratory issues increases Mr. Stafford's fear.

Mr. Stafford also fears the long-term health impacts that Woodville Pellets may have on his family members, including his young son and mother. Mr. Stafford's son already has allergies, and his allergy symptoms worsen when he comes to visit Mr. Stafford in Woodville and the Facility is operating. Similarly, Mr. Stafford's mother, who lives next door to Mr. Stafford, has asthma and has suffered severe respiratory symptoms since the Facility began operating, as well as nosebleeds, headaches, constant congestion, and skin rashes. Because Mr. Stafford's son and mother have preexisting respiratory issues, Mr. Stafford fears that exposure to air pollution can aggravate their conditions.

Mr. Stafford further fears that Woodville Pellets may have adverse health consequences on his pets and livestock. In the past few years, Mr. Stafford's two dogs have begun developing breathing issues. At the same time, geese and chickens that Mr. Stafford raises have died, sometimes as frequently as every week. Each time, Mr. Stafford has had to console his son and explain why the chickens are dying. This continued loss of livestock is abnormal, and Mr. Stafford attributes these adverse effects to animals who live on his property near the Facility.

3. *Damage to Real and Personal Property*

Because of Woodville Pellets' operations, Mr. Stafford and other Woodville residents have suffered the loss of use and enjoyment of their property. Mr. Stafford restricts the time that he spends outside in his yard or on other parts of his property that are outdoors when the Facility is operating, due to the fears of breathing in harmful air pollution caused by Woodville Pellets. When Mr. Stafford's son visits, Mr. Stafford also restricts the time his son plays outside, especially when bypass events occur, out of concern for his son's health. Similarly, Mr. Stafford's mother, who normally enjoys gardening and spending time on her porch or yard, restricts the time she spends outside.

Mr. Stafford believes that Woodville Pellets' operations have harmed his real property value. As previously mentioned, Mr. Stafford's property has been coated by soot and dust on numerous occasions that appear to have migrated from Woodville Pellets. These incidents normally overlapped with days Mr. Stafford had observed emissions from the Facility's bypass stacks. In addition, the Facility's activities have also harmed Mr. Stafford's personal property, such as his car, which is constantly covered in soot and dust.

As a result of Woodville Pellets' operations and the adverse consequences Mr. Stafford has suffered, Mr. Stafford now feels he must relocate from his property, which has been passed down in his family for four generations, to escape the harmful effects of the Facility's unauthorized emissions and to protect himself and his son.

B. Ongoing Concerns Regarding the Facility

The Woodville Mill has been out of compliance with the Clean Air Act and Texas' federally enforceable State Implementation Plan Permit No. 98014 ("SIP Permit") each day it has operated since it began operating in 2013. As acknowledged in July 15, 2020 Correspondence to Woodville Pellets with a proposed agreed order suggesting that the Facility

cease operating until certain controls are installed, TCEQ is aware of the serious noncompliance issues at the Facility, which directly result in the negative impacts on Mr. Stafford and his community discussed above. These issues are now reflected in the Agreed Order dated July 22, 2021, an agreement that took the agency over a year to negotiate.

First, there are known issues with the Facility exceeding its permit limits for VOCs. The Facility's key units emit more than 500 tons of unpermitted VOCs per year and dozens of tons of unpermitted HAPs per year when operating. The Facility's previous owner acknowledged the excess VOC emissions in 2015 and, in 2018, agreed to install additional air pollution control technology to remedy the noncompliance. Instead of bringing the plant into compliance as quickly as possible after acquiring the plant on June 18, 2019; however, the terms of the proposed Agreed Order do not require Woodville Pellets to install the air pollution controls, "an RCO" needed to achieve compliance with VOC and HAP limits until May 2022. The TCEQ has already acknowledged the VOC emissions from the Dry Hammermill and Cooler Air Aspiration System are in excess of permitted limits and will require the installation of emission control technology to ensure that there is an appropriate limitation on these emissions. Despite this determination, the TCEQ extended the deadline for the installation of these needed controls—until 28 months after the January 2020 town hall meeting. Without that additional control technology installed and operating, the Facility violates the Clean Air Act.

Second, since acquiring the Facility, Woodville Pellets has utilized "bypass stacks" on dozens of occasions to circumvent existing and effective air pollution controls that reduce emissions from the Facility's furnaces and wood dryers. The Facility's SIP Permit does not authorize use of these bypass stacks. When Woodville Pellets uses the bypass stacks, it emits large amounts of PM, VOCs, HAPs, nitrogen dioxides, carbon monoxide, sulfur dioxide, smoke,

and soot from the Facility's furnaces and wood dryers directly to the atmosphere. These releases from uncontrolled and unpermitted bypass events often last many hours, harming the health and welfare of the surrounding community. The TCEQ's action reflected in the Agreed Order is insufficient to address these known and regularly reported violations of the SIP Permit.

Third, based on information and belief, neither German Pellets nor Woodville Pellets, have ever conducted any compliance testing for HAP emissions. While the current SIP permits limits emissions of any individual HAP to less than 10 tpy and total HAP emissions to less than 25 tpy, there is no evidence that the Woodville Mill is complying with these limits added into the SIP permit for the first time with its amendment in 2019. Based on available industry data, when the Woodville Mill is operating at fully capacity, these limits are exceeded. Only by reducing its Facility's operations may Woodville Pellets avoid exceeding these limits. Estimates calculated by the Environmental Integrity Project suggest that any production of 11,000 tons of pellets or more in a twelve-month period will exceed the 25 tpy total HAP limits.²

Finally, Woodville Pellets allowed the Facility's Federal Operating Permit, also known as a Clean Air Act Title V Permit (the "Title V Permit"), to expire on September 17, 2020. Under federal Title V regulations, "[p]ermit expiration terminates the source's right to operate." 40 C.F.R. § 70.7(c)(1)(ii). Despite expiration of the Title V Permit and the legal requirement to cease operations, Woodville Pellets has continued and is continuing to operate without a new Title V Permit.

CONCERNS REGARDING THE AGREED ORDER

For years, the community has been waiting on the TCEQ to correct its original permitting mistake in allowing the Woodville Mill to operate in excess of its permit limits for years.

² See August 8, 2020 Comments on Draft Title V Permit Renewal No. 03609 for the Woodville Pellets, LLC Wood Pellet Manufacturing Facility submitted by the Environmental Integrity Project at 7.

Although the TCEQ recognized emission controls needed to be put in place to bring the Facility into compliance with its permitted limits, the TCEQ has granted extensions to Woodville Pellets for the installation of these controls, leaving the community without hope that they will ever be installed. All the while, the community has suffered the impacts of this illegal pollution.

Further, throughout this period, TCEQ, has taken little action to bring Woodville Pellets into compliance with environmental laws—or even its own permit requirements—despite hearing from Mr. Stafford and many other residents of Woodville. The Agreed Order finally definitely addresses the lack of controls on the Facility, a known concern of public comments since 2017. The Agreed Order is another step towards remedying many of the issues with the Regulated Facility’s operators, but Commenters feel it does not go far enough to penalize Woodville Pellets’ noncompliance with its permit. There are four main concerns that Commenter has with the Agreed Order:

- First Violation No. 1: The Regulated Facility Caused Actual Major Harm by Releasing Unauthorized 210.87 Tons of VOCs in a 9-Month Period;
- Second Violation No. 1: The Regulated Facility Caused Actual Major Harm by Releasing 186.76 Tons of VOCs in a 9-Month Period;
- Violation No. 3: The Regulated Facility Did Not Have a Valid FOP; and
- Third Violation No. 1: The Regulated Facility Regularly Used its Bypass Controls.

DETAILED COMMENTS

First Violation No. 1: The Regulated Facility Caused Actual Major Harm by Releasing Unauthorized 210.87 Tons of VOCs in a 9-Month Period.

The First Violation No. 1 in the Agreed Order cites the Regulated Facility’s failure “to route the filtered emissions from the Dry Hammermill and cooler Air Aspiration System to an RTO” from June 18, 2019 to March 18, 2020, resulting in the release of 210.87 tons of unauthorized VOC emissions to the atmosphere. The date of the violations in the stated penalty

should mean that the 2014 Penalty Policy applies.

The release of 210.87 tons of VOCs in a 9-month period is more than 3 times of VOCs what the Regulated Facility was originally permitted to release in a single year (64 tpy). These unauthorized emissions are significant, and during the duration of the stated penalty, have had significant impacts on the environment, property and human-health of Commenter and other residents in Tyler County as chronicled above. For these reasons, Commenter requests that the Agency consider recharacterizing this impact as “Actual Major Harm” as opposed to “Actual Moderate Harm.” The recalculation of base penalty with the proper classification would be \$25,000. **Thus, the Violation Base Penalty should be \$25,000 for Violation No. 1.**

Under the 2014 Penalty Policy, the Agency may assess an “Up to Daily” penalty for a continuing Actual Major Harm event at a 100% Penalty. For the 274 days, the Penalty Calculation Worksheet (“PCW”) for Violation No. 1 states 9 violation events based on a monthly rate. Although the 2014 Penalty Policy allows for an “Up to Daily” Penalty for Actual Major Harm Events, Commenter suggests that the penalty should be assessed at an “Up to Weekly” frequency (which is consistent with the 2021 Penalty Policy for an Actual Moderate Harm event). **Thus, the Number of Violation Events should be 39 weeks for Violation No. 1.**

Therefore, the Violation Subtotal for Violation No. 1 should be \$975,000 (\$25,000 x 39).

Second Violation No. 1: The Regulated Facility Caused Actual Major Harm by Releasing 186.76 Tons of VOCs in a 9-Month Period.

The Second Violation No. 1 in the Agreed Order cites the Regulated Facility’s failure “to route the filtered emissions from the Dry Hammermill and cooler Air Aspiration System to an RTO” from March 19, 2020 to December 31, 2020, resulting in the release of 186.76 tons of unauthorized VOC emissions to the atmosphere. The date of the violations in the stated penalty

should mean that the 2021 Penalty Policy applies.

The release of 186.76 tons of VOCs in a 9-month period is more than 3 times of VOCs what the Regulated Facility was originally permitted to release in a single year (64 tpy). These unauthorized emissions are significant, and during the duration of the stated penalty, have had significant impacts on the environment, property and human-health of Commenter and other residents in Tyler County as chronicled above. For these reasons, Commenter requests that the Agency consider recharacterizing this impact as “Actual Major Harm” as opposed to “Actual Moderate Harm.” The recalculation of base penalty with the proper classification would be \$25,000. **Thus, the Violation Base Penalty should be \$25,000 for Violation No. 1.**

Under the 2021 Penalty Policy, the Agency may assess an “Up to Daily” penalty for a continuing Actual Major Harm event at a 100% Penalty. For the 287 days, the PCW for the Second Violation No. 1 erroneously states 10 violation events based on a monthly rate. Commenter maintains that the penalty should be assessed at an “Up to Weekly” frequency, which is consistent with the 2021 Penalty Policy for an Actual Moderate Harm event. There is no justification for using an “Up to Monthly” calculation under the 2021 Penalty Policy other than to discount the amount of the penalty.³ **Thus, the Number of Violation Events, at a minimum, should be 41 weeks for Violation No. 1.** Therefore, the Violation Subtotal for Violation No. 1 should be \$1,025,000 (\$25,000 x 41) if Actual Major Harm Event or \$512,500 (\$12,500 x 41) if Actual Moderate Harm Event.

Violation No. 3: The Regulated Facility Did Not Have a Valid Federal Operating Permit.

Violation No. 3 in the Agreed Order cites the Regulated Facility’s failure “to timely submit a permit renewal application at least six months but no earlier than 18 months before the date of the permit expiration and failed to obtain an FOP.” Woodville Pellets lacked an FOP

³ “Up to Weekly” is the number of events for an Actual Release of Moderate Harm. See 2021 Penalty Policy at 14.

from September 17, 2020 and continued to operate the Regulated Facility without an FOP. The date of the violations in the stated penalty should mean that the 2021 Penalty Policy applies.

Woodville Pellets has not had a valid FOP since September 17, 2020, but it has continued to operate anyway. Under Federal Title V regulations, “[p]ermit expiration terminates the source’s right to operate.” 40 C.F.R. § 70.7(c)(1)(ii). Woodville Pellets’ failure to submit a timely renewal of its FOP, yet continued operations to make a profit means all of the emission from September 17, 2020 to date were unauthorized. These unauthorized emissions are significant, and during the duration of the stated penalty, have had significant impacts on the environment, property and human-health of Commenter and other residents in Tyler County as chronicled above. The Agency has properly characterized this FOP deficiency as a Major Programmatic Violation. However, it has only assesses an “up to monthly” penalty as opposed to an “up to daily” penalty as allowed under the 2021 Penalty Policy. Importantly, Woodville Pellets chose to keep operating its Regulated Facility without a FOP for 170 days in violation of the Federal and Texas Clean Air Acts. Under applicable law, the Regulated Facility should have had to cease its operations but decided to keep operating anyway and made profits throughout this period from its operations. 40 C.F.R. § 70.7(c)(1)(ii). The Regulated Facility should not be allowed *to benefit* from operating without a proper permit by making profits without any FOP. If there was ever a reason to impose a penalty for illegal action, here it is.

Under the 2021 Penalty Policy, the Agency may assess an “Up to Daily” penalty for a Major Programmatic Violation. For the 170 days, the PCW for Violation No. 3 erroneously states 6 violation events based on a monthly rate. Commenter maintains that the penalty should be assessed at an “Up to Daily” frequency, which is more consistent with both the 2014 and 2021 Penalty Policy for a Major Programmatic Violations. There is no justification for using an “Up to

Monthly” calculation under the 2021 Penalty Policy other than to discount the amount of the penalty.⁴ **Thus, the Number of Violation Events, at a minimum, should be 170 days for Violation No. 3.** Therefore, the Violation Subtotal for Violation No. 1 should be \$850,000 (\$5,000 x 170 days) or at least \$120,000 (\$5,000 x 24 weeks). The assessed penalty of \$70,419 under the 2021 Penalty Policy is insufficient to deter or penalize such flagrant conduct that violates the Federal Clean Air Act. TCEQ can do better to keep industry, who chooses to violate federal law, accountable in a meaningful way.

Third Violation No. 1: The Regulated Facility Regularly Used its Bypass Controls.

The Third Violation No. 1 in the Agreed Order cites the Regulated Facility’s failure “to comply with either the requirements for any bypass of the control device subject to Compliance Assurance Monitoring.” The date of the screening suggests the 2021 Penalty Policy applies.

Since Woodville Pellets took over operating the Regulated Facility in June 2019, it began using its bypass stacks on a regular basis. Such emissions are illegal under its SIP Permit. The Woodville Mill’s SIP Permit provides that:

No person shall discharge from any source whatsoever one or more air contaminants... in such concentration and of such duration as are or may tend to be injurious to or adversely affect human health or welfare, animal life, vegetation or property, or as to interfere with the normal use and enjoyment of animal life, vegetation, property.

30 TEX. ADMIN. CODE § 101.4, approved by EPA into Texas’ SIP at 37 Fed. Reg. 10,895 (May 31, 1972). However, these emissions cannot be tracked fully, because as this violation documents, Woodville Pellets did not have a flow indicator installed on the furnace emissions bypass. Thus, none of these bypass emissions were able to be tracked or measured.

⁴ “Up to Daily” is the appropriate number of events for a Programmatic Major Violation. *See* 2021 Penalty Policy at 14.

Since it acquired the Facility in June 2019, when Woodville Pellets uses the Woodville Mill's bypass stacks, it emits PM, smoke, soot and wood dust into the surrounding community. These emissions "adversely affect" human health and welfare and interfere with the normal use and enjoyment of nearby properties, like Commenter Stafford's property.

Complaints have been made by Tyler County residents, like Stafford, about the Facility's regular bypass of its emissions controls for over two years because the harmful impacts that the Regulated Facility has had because of the actual emissions released from the Regulated Facility. From July 2019 to the end of 2020, bypass stack releases have been observed or documented at the Facility on over sixty separate dates. For the first six months of 2021, Woodville Pellets has continued such practice on at least a monthly, if not weekly basis. These unauthorized emissions occurred either by Woodville Pellets using the dryer bypass stack or furnace bypass stack. During these events, Commenter has documented visible smoke on his property and have ceased recreating outdoors during such events to avoid breathing harmful emissions. Additionally, Commenter's property has been repeatedly coated in dust and soot from these bypass events.

This violation resulted in Actual Releases, not just Potential Releases because the Agency is fully aware of and has documented many of these bypass violations. Further, the harm inflicted on the nearby residents was not just moderate but constituted illegal emissions of Hazardous Air Pollutants (HAPs) and Volatile Organic Compounds (VOCs) in amounts that exceeded standards protective of human health. When the TCEQ failed to act, these bypass stack emissions triggered the need for Stafford to file a Citizen Suit concerning the multiple violations of the Federal Clean Air Act.⁵ Thus, assessing a mere quarterly penalty for "potential moderate harm" is wholly insufficient to reflect the true violations here given the agency's

⁵ See First Amended Complaint in Civil Action No. 9:20-cv-00178 against Woodville Pellets, LLC dated December 30, 2020 filed by Commenter and Sierra Club, attached as Exhibit 1.

awareness of this issue well before the screening date of March 27, 2021. This violation justifies Actual Major Harm.

Under the 2021 Penalty Policy, the Agency may assess an “Up to Daily” penalty for a continuing Actual Major Harm event at a 100% Penalty. For the 26 days, the PCW for the Third Violation No. 1 erroneously states a single violation events based on a quarterly rate. Commenter maintains that the penalty should be assessed at an “Up to Daily” frequency, which is consistent with the 2021 Penalty Policy for an Actual Major Harm event. There is no justification for using an “Up to Quarterly” calculation under the 2021 Penalty Policy other than to discount the amount of the penalty.⁶ **Thus, the Number of Violation Events, at a minimum, should be 26 days for the Third Violation No. 1.** Therefore, the Violation Subtotal for Third Violation No. 1 should be \$650,000 ($\$25,000 \times 100\% \times 26$) if Actual Major Harm Violation or \$30,000 ($\$25,000 \times 30\% \times 4$) if Potential Major Harm Event.

EXHIBITS

In further support of these comments, Stafford attaches the following evidence:

1. First Amended Complaint in Civil Action No. 9:20-cv-00178 against Woodville Pellets, LLC dated December 30, 2020.

Stafford also incorporates by reference his previously submitted comments on file with the agency concerning: (1) Woodville Pellets’ Federal Operating Permit No. O4246 (Woodville Pellets’ Title V Permit) dated May 26, 2021, and (2) Woodville Pellets’ Amendment for Permit No. 98014 dated July 19, 2021. Copies of these comments are available upon request.

CONCLUSION

Although he is thankful that the TCEQ and Woodville Pellets have a date certain of May 1, 2022 for installing emissions controls identified as necessary for the Regulated Facility since

⁶ “Up to Quarterly” is the number of events for a Potential Release of Minor Harm. *See* 2021 Penalty Policy at 14.

before 2019, Stafford urges the TCEQ to re-think the logic and calculations underlying this proposed Agreed Order which appears inconsistent with the agency's amendment of its Penalty Policy in early 2021. The penalty the proposed Agreed Order will impose is inadequate given the flagrancy of the violations and Woodville Pellets' indifference to operating without a FOP, a violation of federal law, or bypassing its emission controls with impunity, a violation of its SIP Permit. Further, the Woodville Mill has not been a good neighbor to Stafford and other Woodville community members because of the actual harm caused to the environment and human health from these measured releases far beyond its permitted limits.

For these reasons, Stafford requests that the Agency consider these comments and revised calculations before entering the Agreed Order.

Dated: October 18, 2021

Respectfully submitted,

/s/ Amy Catherine Dinn

Amy Catherine Dinn

Texas State Bar No. 24026801

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**ATTORNEY FOR WOODVILLE
COMMUNITY RESIDENT, DUSTIN
STAFFORD**

**EXHIBIT 1 TO
STAFFORD COMMENTS**

(“HAPs”), nitrogen oxides, sulfur dioxide, and carbon monoxide. These emissions are subject to regulation under State Implementation Plan (“SIP”) Permit No. 98014.

4. The Facility has been out of compliance with the Clean Air Act and Texas’ federally enforceable SIP each day it has operated since it began operating in 2013.

5. First, the Facility’s key units emit more than 500 tons of unpermitted VOCs per year and dozens of tons of unpermitted HAPs per year when operating. The Facility’s previous owner acknowledged the excess VOC emissions in 2015 and, in 2018, agreed to install additional air pollution control technology to remedy the noncompliance. Instead of bringing the plant into compliance as quickly as possible after acquiring the plant on June 18, 2019, however, Woodville Pellets will not even *begin* construction of the air pollution controls needed to achieve compliance with VOC and HAP limits until April 2022. Further, Woodville Pellets has not committed to a firm date for when the control will be installed and operating. Without that additional control technology installed and operating, the Facility continues to violate the Clean Air Act and the Texas SIP each day it operates.

6. Second, since acquiring the Facility, Woodville Pellets has utilized “bypass stacks” on dozens of occasions to circumvent existing and effective air pollution controls that reduce emissions from the Facility’s furnaces and wood dryers. The Facility’s SIP Permit does not authorize use of these bypass stacks. When Woodville Pellets uses the bypass stacks, it emits large amounts of PM, VOCs, HAPs, nitrogen dioxides, carbon monoxide, sulfur dioxide, smoke, and soot from the Facility’s furnaces and wood dryers directly to the atmosphere. These releases from uncontrolled and unpermitted bypass events often last many hours, harming the health and welfare of the surrounding community.

7. Finally, Woodville Pellets allowed the Facility's Federal Operating Permit, also known as a Clean Air Act Title V Permit (the "Title V Permit"), to expire on September 17, 2020. Under federal Title V regulations, "[p]ermit expiration terminates the source's right to operate." 40 C.F.R. § 70.7(c)(1)(ii). Despite expiration of the Title V Permit and the legal requirement to cease operations, Woodville Pellets has continued and is continuing to operate without a new Title V Permit.

8. By this suit, Plaintiffs seek injunctive relief, imposition of civil penalties, and associated costs of the litigation (including court costs, attorney's fees, and expert witness fees and costs) for the Defendant's repeated violations of emissions standards in its permit issued pursuant to Sections 110 and 112 of the Clean Air Act, 42 U.S.C. §§ 7610, 7412, and for the Defendant's operation of the Facility without a Title V operating permit in violation of Section 502(a) of the Act, 42 U.S.C. § 7661a(a).

II. PARTIES

A. PLAINTIFFS

9. Plaintiff Sierra Club sues on behalf of its members. The Sierra Club is a non-profit public interest organization organized under the laws of the State of California, with its principal offices in San Francisco, California. The Lone Star Chapter is dedicated to protecting Texas' natural resources, the health of its people, and preserving the state's many beautiful and unique natural landscapes. In this matter, the Sierra Club seeks to protect the air quality in and around Woodville, and to protect its members' health and their ability to safely pursue and enjoy outdoor activities in the Woodville area.

10. Plaintiff Dustin Stafford is an individual and resident of the State of Texas, who lives and resides at 888 Country Road 4260, Woodville, Texas, 75979, located in Tyler County, Texas. Mr.

Stafford is a “citizen” and a person as defined under the Clean Air Act, Section 302(e). 42 U.S.C. § 7602(e). Dustin Stafford is also a member of the Sierra Club.

11. Plaintiff Abbie Luman is an individual and resident of the State of Texas, who owns real property at 190 Private Road 8278, Woodville, Texas 75979, and previously resided with her son, Dustin Stafford, at 888 County Road 4260, Woodville, Texas 75979, located in Tyler County, Texas. Ms. Luman is a “citizen” and a person as defined under the Clean Air Act, Section 302(e). 42 U.S.C. § 7602(e). Abbie Luman is also a member of the Sierra Club.

12. In addition to Dustin Stafford and Abbie Luman, Sierra Club has at least one other member who lives or spends significant time in close proximity (less than 3.5 miles) to Woodville Pellets (hereafter, “Sierra Club’s members”).

13. The individual citizens and Sierra Club’s members reside, own property, breathe the air, and/or use areas near the Facility in Woodville, Texas. They use and enjoy the benefits of natural resources into which Defendant has emitted, and continues to emit, air pollutants, including substantial levels of unpermitted PM, VOCs, HAPs, smoke, soot, and wood dust. The interests of the individual citizens and Sierra Club’s members have been, are being, and will be adversely affected by Defendant’s emission of pollutants into the air in violation of its SIP Permit and of federally enforceable air pollution standards.

B. DEFENDANT

14. Defendant Woodville Pellets, LLC is a limited liability company organized under the laws of the State of Delaware. Woodville Pellets, LLC has appeared and answered this suit. Since June 18, 2019, Woodville Pellets has owned and operated the wood pellet manufacturing facility at issue after it purchased the Facility from the previous owner and operator, German Pellets Texas, LLC (“German Pellets”).

15. Woodville Pellets is a “person” within the meaning of Section 302(e) of the Clean Air Act. 42 U.S.C. § 7602(e).

C. SERVICE TO OTHER REQUIRED PARTIES

16. The U.S. Attorney General and the U.S. EPA Administrator will be served with a copy of this Amended Complaint as required by the citizen suit provisions of the Clean Air Act. 42 U.S.C. § 7604(c)(3).

D. EFFECTS OF WOODVILLE PELLETS’ UNPERMITTED AIR POLLUTION ON PLAINTIFFS

17. Woodville Pellets operates its Facility in Woodville, Texas, which has an estimated population of 2,614 and covers approximately 3.21 square miles for its city limits.

18. The Facility is the only regulated facility in the Woodville area that emits significant quantities of PM, VOCs, HAPs, nitrogen oxides, and carbon monoxide.

19. Woodville Pellets is subject to regulatory limitations imposed by SIP Permit No. 98014, which lists the type and amount of air pollutants the Facility is allowed to release, while establishing that any air contaminant not named in the permit, or those in excess of the limits established therein or from emission points other than those authorized therein, are strictly prohibited from being emitted in any volume. These emission restrictions mitigate the potential adverse health and environmental impacts of the Facility’s air pollution on the surrounding community.

20. VOCs are gases which may adversely affect the health of those exposed to them in the short- and long-term. VOCs combine with nitrogen oxides and sunlight to create ground level ozone and smog; breathing ground level ozone is harmful for any person, but especially for the elderly, children, and those with health issues like asthma. VOCs also directly cause breathing difficulty and irritation to the respiratory system. Finally, VOCs encompass many harmful toxic or carcinogenic pollutants that are also regulated as HAPs, discussed below.

21. Defendant's unlawful emissions of excess VOCs into the air contributes to elevated levels of VOCs, ground level ozone, and smog in the area surrounding Defendant's Facility, including greater Woodville. The individual citizens and Sierra Club's members have repeatedly and intermittently suffered injury from the Facility's unlawful VOC pollution since it began operating in 2013 and since Defendant acquired the Facility in June 2019.

22. HAPs, also known as air toxics, are those substances which are known or suspected to cause cancer, or other serious health side effects such as birth defects. Specifically, HAPs are pollutants that the U.S. Congress has listed as toxic or carcinogenic even in small quantities. HAPs emitted from wood pellet processing facilities include acetaldehyde, acrolein, formaldehyde, hydrochloric acid, methanol, phenol, and propionaldehyde.

23. The Facility's current SIP Permit limits emissions of any single HAP to no more than 10 tons per year and limits total HAP emissions to no more than 25 tons per year. The purpose of these limits is to restrict the Facility's emissions to below the "major source" level set forth in Clean Air Act § 112(a)(1), 42 U.S.C. § 7412(a)(1), thereby enabling the Facility to avoid more stringent HAP control requirements. The Facility is currently exceeding these emission limits on HAPs.

24. These excess emissions of HAPs into the air contribute to elevated levels of HAPs in the area surrounding the Facility. The individual citizens and Sierra Club's members have repeatedly and intermittently suffered injury from the Facility's unlawful HAP pollution since the facility began operating in 2013 and since Defendant acquired the Facility in June 2019.

25. However, neither Woodville Pellets, nor the prior owner German Pellets, has conducted any emissions testing to demonstrate compliance with limits on HAP emissions.

26. The most reliable testing from this industry indicates that the Facility has the potential to emit HAPs at rates far higher than the 10 and 25 ton per year limits. Specifically, Enviva, the largest pellet company in the world, released information based on stack tests at numerous comparable pellet plants that indicate a facility the size of Woodville Pellets' emits around 130 tons of total HAPs per year, including 83 tons per year of methanol, 21 tons per year of acrolein, 14 tons of formaldehyde, and many other HAPs at lower rates.

27. Based on Enviva's comparable emissions data, the Facility has exceeded the applicable limits of 10 tons per year of any individual HAP and 25 tons per year of total HAP on a regular basis and will continue to do so until it installs additional control technology.

28. Dustin Stafford is an individual plaintiff. He has lived within one mile of the Facility since 2013. Mr. Stafford lives, works, recreates, and conducts other activities in Woodville, Texas in proximity to the Facility.

29. Abbie Luman is also an individual plaintiff. She has lived within one mile of the Facility since 2017. Ms. Luman lives, recreates, and conducts other activities in Woodville, Texas in proximity to the Facility. Ms. Luman is also Mr. Stafford's mother, who lived with her son between 2017 and 2019, and currently lives next door to Mr. Stafford.

30. Since the Facility began operating in 2013, Mr. Stafford and Ms. Luman have seen adverse effects on the environment and on their health, as well as on the health of members of their community. The Facility produces both visible air pollution, in the form of smoke, soot, and dust, as well as odors and unseen air pollution, which impact Mr. Stafford and Ms. Luman at their respective homes.

31. Since Defendant acquired the Facility on June 18, 2019, Mr. Stafford, Ms. Luman, and other Sierra Club members have personally witnessed and documented many "bypass" events

when Woodville Pellets emits air pollution directly from its furnaces and wood dryers rather than sending emissions to existing air pollution controls, in violation of the Facility's SIP Permit.

32. When these bypass events occur, visible emissions of PM, smoke, soot, and wood dust from the Facility often migrate into the surrounding community, including the homes and properties of Mr. Stafford, Ms. Luman, and Sierra Club's members.

33. Mr. Stafford, Ms. Luman, and Sierra Club's members smell odors from the Facility during these bypass events.

34. Mr. Stafford is aware that air pollutants of the type emitted by Woodville Pellets are associated with adverse health effects. He fears that Woodville Pellets' unauthorized emissions of these pollutants threatens his health and that of his family members and pets.

35. Ms. Luman is aware that air pollutants of the type emitted by Woodville Pellets are associated with adverse health effects. She fears that Woodville Pellets' unauthorized emissions of these pollutants threaten her health and that of her family members.

36. Likewise, Sierra Club's members who live, work, or recreate near the Woodville Pellets' Facility fear that the Facility's unauthorized emissions harm their health and that of their families.

37. Mr. Stafford, Ms. Luman, and Sierra Club's members have experienced adverse health issues that they believe are related to the Facility's violations of its SIP Permit, the Texas SIP, and the Act. These health issues include both allergies and respiratory problems.

38. In addition to harm to Mr. Stafford, the Facility's permit violations have harmed and will continue to harm Mr. Stafford's seven-year-old son when he stays with his father and visits his grandmother, who lives next door.

39. Over the winter of 2019-2020, after the Facility restarted operations under Woodville Pellets' ownership, Mr. Stafford developed breathing issues, including a constant runny nose and

a sore, itchy throat. These symptoms persist to the present day and are unlike anything Mr. Stafford has experienced previously.

40. Mr. Stafford believes air pollution from Woodville Pellets causes or aggravates these symptoms.

41. Mr. Stafford has also considered moving away from the Facility because of the impact on both his property values and his health.

42. Since 2019, Ms. Luman developed numerous health issues, including nosebleeds, headaches, constant congestion, and severely swollen and irritated sinuses.

43. Ms. Luman's respiratory issues have worsened since she moved to Woodville, Texas. Ms. Luman was diagnosed with asthma as a child, but had outgrown the need to use an inhaler as an adult. After moving to Woodville, Ms. Luman experienced shortness of breath that required her to begin using an inhaler again. Ms. Luman's respiratory issues have only become more severe recently such that Ms. Luman used up to two inhalers in one month. These symptoms are unlike anything Ms. Luman has previously experienced in her adult life.

44. In recent months, Ms. Luman developed red rashes on her skin whenever she was outdoors working on her yard for around an hour. Her skin improved once Ms. Luman went inside her house.

45. Ms. Luman believes air pollution from Woodville Pellets causes or aggravates these symptoms. On the occasions when Ms. Luman leaves Woodville, including because of her respiratory issues, Ms. Luman's symptoms typically improve.

46. Ms. Luman has considered moving away from the Facility because of the impact on both her health and her property values.

47. The Plaintiffs have, with the aid of environmental monitoring organizations, placed air monitors manufactured by Purple Air around the Facility and have also used handheld monitors manufactured by Atmotube to assess the air quality near the Facility. These air monitors have indicated the presence of PM pollution and VOCs in the area and increases in measured rates of PM and VOC that correlate to visible emissions during observed bypass events.

48. Plaintiffs have been injured by Woodville Pellets' unpermitted and uncontrolled release of pollution into the atmosphere. These injuries include, but are not limited to, pollution of their real and personal property, exposure to unhealthy air quality, and fear that the Facility's unlawful pollution is and will adversely impact their health and the health of their family members and pets. Sometimes the conditions are created by the Facility are severe enough that Plaintiffs refrain from outdoor activities.

49. Mr. Stafford, Ms. Luman, and Sierra Club's members near the plant have an interest in seeing the Facility's violations of its SIP Permit, the Texas SIP, and the Act prosecuted so as to preserve their right to the enjoyment of their homes and land without interference and to safeguard their health. Mr. Stafford also has an interest in protecting the health of his son and mother. Ms. Luman has an interest in protecting the health of her son and grandson.

50. Based on the authority provided under the Clean Air Act for the Court to issue injunctive relief to prevent emissions in excess of permitted limits, a favorable decision by this Court will force Woodville Pellets to cease, desist, and abate unpermitted air pollution from its Woodville, Texas Facility. Imposition of civil penalties would likewise discourage Woodville Pellets from engaging in future activities that result in the Facility's release of unpermitted air pollution.

E. EFFECTS OF WOODVILLE PELLETS' CONTINUED OPERATIONS WITHOUT A TITLE V PERMIT

51. In 1990, Congress enacted Title V of the Clean Air Act to address widespread noncompliance issues at large sources of air pollution around the nation. The key feature of Title V is the requirement that major sources of air pollution like Woodville Pellets must obtain and operate according to a Title V permit, also known as a Federal Operating Permit. These permits must be written in manner such that they assure compliance with each applicable requirement of the Clean Air Act, including requirements contained in SIP permits.

52. In order to assure compliance with the Clean Air Act, Title V permits must contain adequate monitoring, recordkeeping, and reporting requirements to ensure the source complies with each applicable requirement of the Clean Air Act.

53. Likewise, the Title V program requires that sources submit semiannual deviation reports and annual compliance certifications. These reports and certifications are designed so that sources, regulatory agencies, and the public may identify and remedy instances of noncompliance.

54. Title V permits are issued for a term of no more than five years, and sources must submit an application to renew their Title V permit at least six months prior to permit expiration. Title V applications must either certify that the source is in full compliance at the time of the application, or identify areas of noncompliance and include a compliance schedule that will bring the facility into full compliance.

55. Likewise, Title V permits issued for sources that are out of compliance must include a compliance schedule to promptly remedy noncompliance.

56. In the first instance, Plaintiffs are harmed by all of the air pollution emitted by the Defendant as it continues to operate unlawfully without a Title V Permit. Woodville Pellets' Title V Permit, Federal Operating Permit No. O3609, which was issued on September 17, 2015, expired

on September 17, 2020 without being renewed. If the Facility had shut down when its Title V Permit expired, as required by law, Plaintiffs would no longer be harmed by Defendant's air pollution, especially air pollution emitted beyond SIP permit limits.

57. Plaintiffs are further harmed by the delay caused by Woodville Pellets' failure to submit a timely Title V renewal application. Because Woodville Pellets is emitting hundreds of tons of unlawful air pollution each year, the renewed Title V Permit must include a compliance schedule to remedy this noncompliance. Defendant's failure to submit a timely Title V renewal application has delayed issuance of the Title V Permit and requisite compliance schedule. The renewed Title V Permit has yet to be issued.

58. Further, when Woodville Pellets did finally submit its first Title V renewal application, less than three months before its permit expired, Woodville Pellets falsely certified that the Facility was in full compliance with the Clean Air Act. Woodville Pellets only acknowledges its unlawful emissions in its second Title V renewal application, submitted in September 2020, more than six months after the deadline to submit a renewal application. Woodville Pellets' failure to comply with administrative deadlines further delayed the implementation of a compliance schedule.

59. In the meantime, Plaintiffs will continue to be harmed by all of the air pollution emitted by the Facility that legally should not be operating, and especially harmed by the pollution that exceeds the limits in the SIP permit.

60. Finally, Plaintiffs are harmed by the fact that Woodville Pellets is no longer subject to the compliance assurance measures contained in the expired Title V Permit, such as monitoring, recordkeeping, and reporting requirements as well as the requirement to submit semiannual deviation reports and annual compliance certifications. For instance, Woodville Pellets is not under any duty to submit semiannual deviation reports while it does not hold a Title V Permit, nor to

submit annual compliance certifications. These compliance-assurance measures would reduce the likelihood of noncompliance and their absence therefore harms Plaintiffs. Further, Plaintiffs rely on these requirements to be informed about the compliance status of Woodville Pellets.

III. AUTHORITY TO BRING SUIT, JURISDICTION, AND VENUE

61. Plaintiffs' action against Woodville Pellets arises under the Clean Air Act for past and ongoing violations of its SIP Permit, the Texas SIP, and the Act. Plaintiffs' action is related to Woodville Pellets' operation of a wood pellet manufacturing facility in Woodville, Texas, which is regulated by the Texas Commission on Environmental Quality ("TCEQ").

62. Plaintiffs have authority to bring the specific claims alleged below under 42 U.S.C. § 7604. Specifically, 42 U.S.C. § 7604(a)(1) authorizes civil action against "any person . . . who is alleged to have violated (if there is evidence that the alleged violation has been repeated) or to be in violation of . . . an emission standard or limitation under this chapter."

63. The Clean Air Act's citizen suit provision defines "emission standard or limitation under this chapter" as to include an "emission limitation, standard of performance or emission standard." 42 U.S.C. § 7604(f)(1). The Act additionally defines "emission standard or limitation under this chapter" to include "any other standard, limitation, or schedule established under any permit issued pursuant to subchapter V [Title V] or under any applicable State implementation plan approved by the Administrator, any permit term or condition, and any requirement to obtain a permit as a condition of operations." 42 U.S.C. § 7604(f)(4).

64. The specific claims alleged below arise from repeated and ongoing violations of emission limits and standards set forth in SIP Permit No. 98014 issued pursuant to Texas' federally-approved SIP, and these violations are therefore enforceable under 42 U.S.C. § 7604(f)(1) and § 7604(f)(4).

65. Additionally, as a major source of air pollutants, Woodville Pellets must apply for and obtain a Title V operating permit that assures its compliance with all applicable requirements under the Clean Air Act, and comply with the operating permit's terms and conditions. 42 U.S.C. § 7661a(a). Until September 17, 2020, Woodville Pellets was subject to Federal Operating Permit No. O3609, which required that the "[p]ermit holder shall comply the requirements of New Source Review authorizations issued or claimed by the permit holder for the permitted area, including permits," and that requirements of such New Source Review permits "are incorporated by reference into this [Title V] permit as applicable requirements." Federal Operating Permit No. O3609, Condition 7 (Sep. 17, 2015).

66. SIP Permit 98014 is a New Source Review permit that was incorporated into Federal Operating Permit No. O3609, and therefore violations of the conditions of SIP Permit 98014 occurring between September 17, 2015 and September 17, 2020 are also enforceable through Title V pursuant to 42 U.S.C. § 7604(f)(4).

67. The Clean Air Act also prohibits facilities subject to Title V from operating without a Title V operating permit. 42 U.S.C. § 7661a(a). Federal Operating Permit No. O3609, issued September 17, 2015, expired on September 17, 2020, without being renewed. Violations arising from operating after the expiration of Federal Operating Permit No. O3609 are thus enforceable through Title V pursuant to 42 U.S.C. § 7604(f)(4).

68. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1331 (federal question jurisdiction) and 42 U.S.C. § 7604(a) (Clean Air Act jurisdiction). An actual, justiciable controversy exists between Plaintiffs and Defendant Woodville Pellets.

69. The citizen suit provision of the Clean Air Act grants jurisdiction to United States District Courts to issue an injunction remedying violations of the Clean Air Act, to impose appropriate

civil penalties for violations of the Clean Air Act, and to award costs of litigation (including reasonable attorney and expert witness fees).

70. Venue is properly vested in the Eastern District of Texas, Lufkin Division, pursuant to Section 304(c)(1) of the Clean Air Act, 42 U.S.C. § 7604(c)(1), as Woodville Pellets' Facility is located in this District.

IV. NOTICE

71. On May 5, 2020, Plaintiffs Sierra Club and Dustin Stafford gave notice by certified mail to Woodville Pellets of the violations alleged in this complaint and their intent to sue over Counts One through Five, set forth below, under the Clean Air Act as required by 42 U.S.C. § 7604(b). Plaintiffs also sent copies of the notice letter by certified mail to the United States Environmental Protection Agency ("EPA"), the Regional Administrator of EPA, Region 6, the Director of the TCEQ, and the Attorney General of Texas.

72. The notice letter provided sufficient information to allow Woodville Pellets to identify and attempt to correct its violations of its federally enforceable SIP Permit, the Texas SIP, and the Act.

73. More than sixty days have elapsed since the notice described in the preceding paragraph was properly served, and neither EPA nor TCEQ has commenced diligent prosecution of a civil or criminal action in a court to address the violations.

74. On October 23, 2020, Plaintiffs Sierra Club, Dustin Stafford, and Abbie Luman gave separate notice by certified mail to Woodville Pellets of an additional Clean Air Act violation alleged in this complaint—operating without a required Title V Permit, set forth below as Count Six—and Ms. Luman's intent to join the litigation, as well as their intent to sue under the Clean Air Act as required by 42 U.S.C. § 7604(b). Plaintiffs also sent copies of the second notice letter by certified mail to the EPA, the Regional Administrator of EPA, Region 6, the Director of the

TCEQ, and the Attorney General of Texas. A copy of the Second Notice Letter is attached to this Amended Complaint as Exhibit A and incorporated by reference herein.

75. Woodville Pellets has done nothing to stop or reduce its continuing discharge of unpermitted VOCs and HAPs that occur each day the plant operates.

76. The Facility has likewise continued to utilize its unauthorized bypass stacks to emit PM, VOCs, HAPs, nitrogen oxides, carbon monoxide, and sulfur dioxide, smoke, soot, and dust.

77. The Facility has continued to operate the Facility despite the expiration of its Title V Operating Permit and in the absence of a renewal of its Title V Operating Permit.

V. STATUTORY AND REGULATORY BACKGROUND

78. A central purpose of the Clean Air Act is “to protect and enhance the quality of the Nation’s air resources so as to promote the public health and welfare and the productive capacity of its population.” 42 U.S.C. § 7401(b)(1).

79. To achieve this and other purposes, the states bear primary responsibility under the Clean Air Act for regulating sources of air pollution and attaining ambient air quality standards. *See, e.g.*, 42 U.S.C. §§ 7401 (state responsibility) and 7410 (state implementation plan).

80. Under Section 110(a) of the Clean Air Act, 42 U.S.C. § 7410(a), states implement many of the regulatory requirements of the Clean Air Act under SIPs. SIP provisions must satisfy the requirements of the Clean Air Act before they are approved by EPA. 42 U.S.C. § 7410(k).

81. Section 110 of the Act, 42 U.S.C. § 7410, provides that each state shall adopt and submit for EPA approval a SIP. The SIP is intended to implement, maintain, and enforce national primary and secondary air quality standards with respect to the specific needs of each state. *See, e.g.*, 42 U.S.C. § 7410(a)(2)(C) (explaining that each SIP shall provide for the “regulation of the

modification and construction of any stationary source . . . to assure that national ambient air quality standards are achieved”).

82. In general, SIPs consist of state laws, regulations, and permits, and must provide for attainment and maintenance of the National Ambient Air Quality Standards. Once approved by EPA, SIPs become federal law and are enforceable by the state, EPA, and citizens under the Clean Air Act. 42 U.S.C. § 7410 (approval of SIPs); 42 U.S.C. § 7604(f)(4) (enforceability of SIPs).

83. Texas regulations that have been approved by EPA as part of the state’s federally enforceable SIP are identified at 40 C.F.R. § 52.2270. Texas issues permits to new and modified sources of air pollution pursuant to 30 Tex. Admin. Code Chapter 116, which has been approved by EPA into Texas’ SIP. 40 C.F.R. § 52.2270(c).

84. In addition to the SIP program, the Clean Air Act’s Title V provisions require major stationary sources of air pollution to obtain and periodically renew operating permits which must incorporate all applicable requirements, including those contained in SIP permits. 42 U.S.C. §§ 7661-7661f. A Title V permit must include monitoring, recordkeeping, reporting, and compliance certification requirements sufficient to “assure compliance” with all applicable requirements under the Act. 42 U.S.C. § 7661c. Major stationary sources cannot lawfully operate without a Title V operating permit. 42 U.S.C. § 7661a(a).

85. The federal regulations implementing Title V are published at 40 C.F.R. Part 70. These regulations establish the minimum requirements that state Title V programs must meet to receive federal approval.

86. EPA has granted Texas approval to administer the Title V program for sources located in Texas. 40 C.F.R. pt. 70 app. A. Texas’ federally-approved Title V regulations appear in 30 Tex. Admin. Code Chapter 122.

87. The term of a Title V permit cannot exceed five years. 42 U.S.C. § 7661a(b)(5)(B). A source cannot continue operating after expiration of its Title V permit unless it “has submitted a timely and complete application” for a permit renewal. 42 U.S.C. § 7661b(d). *See also* 40 C.F.R. § 70.7(c)(1)(ii) (“Permit expiration terminates the source’s right to operate unless a timely and complete renewal application has been submitted...”); 30 Tex. Admin. Code § 122.241(g) (“Permit expiration terminates the owner's or operator's right to operate, unless a timely and complete renewal application has been submitted.”). A “timely” permit renewal application “is one that is submitted at least 6 months prior to the date of permit expiration” 40 C.F.R. § 70.5(a)(1)(iii). *See also* 30 Tex. Admin. Code § 122.133(2) (defining “timely” for purposes of permit renewal applications as at least six months and no more than eighteen months prior to the permit expiration date). If a Title V permit holder submits a timely and complete renewal application, the permit holder “may continue to operate under the terms and conditions of the previously issued permit until final action is taken on the permit renewal application.” 30 Tex. Admin. Code § 122.241(g).

88. Section 304(a) of the Clean Air Act, 42 U.S.C. § 7604(a), authorizes citizens to bring suit for violation of any “emission standard or limitation” which is in effect under the Act.

89. Section 304(f)(4) of the Act, 42 U.S.C. § 7604(f)(4), defines “emission standard or limitation,” to include any standard or limitation which is applicable under an approved SIP, any standard or limitation established under Title V, any requirement under section 112 relating to HAPs, and “any requirement to obtain a permit as a condition of operations.”

90. Conditions of Title V permits are enforceable by citizens under 42 U.S.C. § 7604(f)(4).

VI. FACTS

A. THE FACILITY AND ITS EMISSIONS

91. Woodville Pellets manufactures wood pellets that are exported overseas to be burned as fuel in power plants.

92. Woodville Pellets is designed to produce approximately 72 tons of pellets per hour and is authorized to operate continuously for 8,000 hours per year.

93. The Facility's annual production capacity is approximately 576,000 tons per year.

94. The Woodville Pellets Facility was constructed by German Pellets beginning in 2012 and began operating in 2013. Woodville Pellets LLC, a subsidiary of Estonia-based Graanul Invest, acquired the Facility on June 18, 2019.

95. The manufacturing process involves four main steps, each of which is a significant source of air pollution. First, wood is processed in green (or "wet") hammermills to produce small chips; second, the chips are dried in two large wood dryers heated by two industrial, wood-burning furnaces; third, the chips are again reduced in size in dry hammermills, producing "microchips"; finally, the microchips are pelletized in pellet presses, which raises the temperature of the wood significantly, requiring the use of pellet coolers.

96. From the time the plant was constructed to the present, the Facility has operated several air pollution controls on the various units: the green hammermills, dry hammermills, and pellet coolers each are equipped with cyclones or baghouses for control of PM; these units have no controls to reduce VOC and HAP emissions. The furnaces and dryers vent emissions to a wet electrostatic precipitator for PM control and a regenerative thermal oxidizer ("RTO") for control of VOCs and HAPs.

97. When German Pellets designed and constructed this Facility in 2011 and 2012, the industrial wood pellet industry was less than a decade old, and knowledge of emissions, especially

VOCs (and by extension, HAPs, because most HAPs at issue are also VOCs), was limited. German Pellets estimated the entire Facility would emit just 64 tons of VOCs per year, and therefore sought and received a “minor” New Source Review permit pursuant to 30 Tex. Admin. Code §§ 116.110-116.128 rather than a “major” New Source Review permit pursuant to 30 Tex. Admin. Code §§ 116.160-169. The emissions threshold for triggering major New Source Review applicability for this type of facility is 250 tons per year of any New-Source-Review-regulated air pollutant, which includes VOCs.

98. In 2014, German Pellets began an audit of its emissions after testing at similar plants showed much higher than expected VOC emissions. In 2015, German Pellets admitted to TCEQ that the Facility actually emitted at least 580 tons of VOCs per year at full production. The additional 516 tons of VOCs were due to previously unknown emissions from the dry hammermills and pellet coolers. These units are frequently referred to as “post-dryer” units because they follow the dryer in the manufacturing process.

99. As a result of the excess VOC emissions, German Pellets and TCEQ recognized that the Facility was emitting vastly higher levels of VOCs than permitted and also that the Facility should have been permitted as a major, rather than minor, source under the applicable New Source Review provisions.

100. To remedy the noncompliance due to excess VOC emissions, German Pellets agreed to install an additional RTO control on the post-dryer units—the dry hammermills and pellet coolers—but had not begun installation of this control prior to selling the plant to Woodville Pellets.

101. RTOs typically reduce VOC and HAP emissions from dry hammermills and pellet coolers by at least 95%. Accordingly, installation of an RTO on the post-dryer units would reduce Facility-

wide VOC emissions to below the 250 ton-per-year major New Source Review threshold, enabling the Facility to avoid complying with major New Source Review requirements.

102. As originally designed and as currently operated, each of the four dry hammermills and each of the two pellet coolers exhaust through individual stacks. With the proposed new RTO, all of these stacks will be combined and controlled by the new RTO and emitted through a single new RTO stack.

103. Woodville Pellets has not begun construction of the new RTO, but continues to operate the Facility.

B. SIP PERMITTING HISTORY

104. As the owner and operator of the Facility, Woodville Pellets LLC is in possession of permits issued by TCEQ which authorize a limited release of VOCs, HAPs, and other pollutants.

105. Woodville Pellets is subject to the conditions of SIP Permit No. 98014, first issued on February 1, 2012, and most recently amended March 30, 2020.

106. The SIP Permit specifies that any emission in excess of permit limits, from emission points other than those identified in the permit and/or containing contaminants not listed in the permit are violations of the permit.

107. From the initial issuance of the SIP Permit until an April 5, 2019 permit amendment, the SIP Permit did not authorize any VOC or HAP emissions from the green hammermills, dry hammermills, and pellet coolers.

108. The April 5, 2019 permit amendment authorized the construction of the new RTO, incorporated VOC limits for the new RTO, and implemented a Facility-wide HAP limit. Neither the April 5, 2019 permit amendment nor the March 30, 2020 amendment authorize the individual dry hammermills and pellet coolers, nor the green hammermills, to emit any VOCs or HAPs.

C. THE SIP PERMIT’S PROHIBITIONS ON EXCESS EMISSIONS

109. Special Condition No. 1 of the SIP Permit states that “[t]his permit covers only those sources of emissions listed in the attached table entitled “Emission Sources—Maximum Allowable Emission Rates.”

110. General Condition 8 of the SIP Permit states that “[t]he total emissions of air contaminants from any of the sources of emissions must not exceed the values stated on the table attached to the permit entitled “Emission Sources—Maximum Allowable Emission Rates.”

111. Texas’ federally-approved and federally-enforceable SIP provides that “[t]he total emissions of air contaminants from any of the sources of emissions at a facility must not exceed the values stated on the table attached to the permit.” 30 Tex. Admin. Code § 116.115(b)(2)(F), most recently approved by EPA at 77 Fed. Reg. 65,119 (Oct. 25, 2012).

112. In short, any emission of a contaminant that is (a) not listed in the Maximum Allowable Emission Rates (“MAER”) table, (b) from a source not identified on the MAER table, or (c) in excess of the rates listed on the MAER table violates the SIP Permit and Texas’ SIP. As set forth below, Woodville Pellets’ emission of numerous air contaminants has exceeded and continues to exceed the authorized emissions set forth in the MAER table attached to Woodville Pellets’ SIP Permit.

D. WOODVILLE PELLETS’ EXCESS EMISSIONS

1. Post-Dryer VOC Limits and Emissions

113. The MAER table in the current version of the SIP Permit, as amended April 5, 2019 and March 30, 2020, only authorizes a combined VOC emission rate for the dry hammermills and pellet coolers—as controlled by the future RTO—of 6.55 lb/hr and 26.25 tons per year (“tpy”) (on a 12-month rolling basis).

114. That limit applies specifically to the new RTO stack, which has not yet been installed.

115. The MAER table in the current version of the SIP Permit does not authorize any VOC emissions from the existing stacks that vent directly from the dry hammermills and pellet coolers.

116. These units in fact emit substantial amounts of VOCs when in operation.

117. Woodville Pellets, in response to a TCEQ investigation, recently referenced stack testing conducted in February 2015, which produced an emission factor of 1.491 lb/ton of pellets. With that emission factor, hourly and annual post-dryer emissions at maximum capacity are 107 lb/hr and 429 tpy, respectively.

118. Alternatively, after German Pellets conducted its audit in 2014 and 2015, the company reported to TCEQ that the post-dryer emission rates from operations at full capacity are as follows:

Post-Dryer VOC Emissions		
Source	Pounds Per Hour	Tons Per Year
Dry Mill Ia	4.32 lb/hr	17.27 tpy
Dry Mill Ib	4.32 lb/hr	17.27 tpy
Dry Mill Ic	4.32 lb/hr	17.27 tpy
Dry Mill Id	4.32 lb/hr	17.27 tpy
Cooler IIa	55.77 lb/hr	223.08 tpy
Cooler Iib	55.77 lb/hr	223.08 tpy
Total Emissions:	128.82 lb/hr	515.24 tpy

119. The rates reported by German Pellets to TCEQ are approximately 20% higher than the rates Woodville Pellets reported from the 2015 stack test.

2. *Green Hammermill VOC Limits and Emissions*

120. Woodville Pellets operates seven green hammermills, permitted as Emission Points No. IIIa through IIIg. The SIP Permit has never authorized any VOC emissions from these units, including the most recently amended version of the permit.

121. Information from other wood pellet plants demonstrates that green hammermills are a significant source of VOC emissions.

122. For instance, most pellet plants that operate green hammermills and are permitted as synthetic minor sources for major New Source Review avoidance (i.e. pellet plants that must limit facility-wide VOC emissions to less than 250 tpy) utilize RTOs to control VOCs from their green hammermills.

123. Based on information and belief, each facility that has conducted stack testing on its green hammermills has shown significant emission rates, as shown below:

Stack Test Results for VOC Emissions for Green Hammermills			
Facility	Emission Factor (lb/oven dried ton)	Emissions at Woodville Pellets Assuming 72 tons/hour Production Rate and 8,000 hours/year	
		Hourly	Annual
MRE Crossville	0.58	41.8 lb/hr	167 tpy
Enviva Amory	0.29	20.9 lb/hr	84 tpy
Enviva Sampson	0.203	14.6 lb/hr	58 tpy
Enviva Wiggins	0.2	14.4 lb/hr	58 tpy

124. There is no evidence in the permitting record for this Facility that Woodville Pellets' green hammermills operate any differently from or emit fewer VOCs than those at other plants, nor is there any plausible claim that Woodville Pellets' green hammermills emit zero VOCs.

3. HAP Emissions and Limits

125. The 2019 amendment to the SIP Permit included, for the first time, Facility-wide limits on HAP emissions in the MAER table, limiting emissions of any individual HAP to less than 10 tpy and limiting the total HAP emissions to less than 25 tpy.

126. Prior to the 2019 amendment, the SIP Permit only contained HAP limits for the dryer outlet RTO stack, meaning no other units were authorized to emit any HAPs.

127. Neither German Pellets nor Woodville Pellets have conducted any emissions testing to demonstrate compliance with limits on HAP emissions.

128. The most comprehensive set of emission factors for this industry, however, shows that Woodville Pellets' HAP emissions greatly exceed the 10 and 25 tpy limits in the 2019 SIP Permit.

129. Enviva, the largest wood pellet manufacturing company in the world with eight existing plants, has developed emission factors for pellet plants comparable to the Woodville Pellets Facility based on numerous tests at its various facilities.

130. Enviva recently reported, based on those emission factors, that a pellet plant comparable to Woodville Pellets emits 149 tpy of total HAPs.

131. Specifically, applying the Enviva emission factors to Woodville Pellets' operations (at full capacity) show the following emission rates:

Woodville Pellets Facility-Wide HAP Emissions		
Pollutant	Emission Factor (lb/oven dried ton)	Annual Emissions at Full Capacity (576,000 tpy)
Total HAPs	0.454	130 tpy
Methanol	0.252	72.8 tpy
Acrolein	0.064	18.4 tpy
Formaldehyde	0.043	12.3 tpy
Phenol	0.033	9.6 tpy
Propionaldehyde	0.029	8.4 tpy
Acetaldehyde	0.022	6.3 tpy

4. Dryer and Furnace Bypass Emissions and Limitations

132. Woodville Pellets' two furnaces and two wood dryers each feature a bypass stack (for a total of four bypass stacks) that, when used, emit air contaminants directly to the atmosphere rather than to the existing pollution controls and the authorized emission point (the authorized emission point is permitted as Emission Point IV, "Dryers 1 and 2 WESP and RTO Stack").

133. None of the four bypass stacks is listed in the MAER table as an authorized emission point, and therefore emissions of any pollutants from these stacks are unauthorized.

134. When Woodville Pellets utilizes the bypass stacks, the Facility emits VOCs, HAPs, PM, nitrogen oxides, carbon monoxide, and sulfur dioxide through the bypass stacks rather than through the existing, effective pollution control technology installed on the furnaces and dryers.

135. Without the use of the pollution control technology, emissions of VOCs and HAPs from the furnaces and dryers are approximately 20 times higher than normal operations, and PM emissions are approximately 100 times higher than normal operations.

136. Woodville Pellets has utilized its bypass stacks on dozens of occasions since acquiring the Facility.

E. WOODVILLE PELLETS' OPERATING AND PRODUCTION INFORMATION

137. The precise quantity of Woodville Pellets' excess emissions (other than from bypass events) is dependent on the Facility's production rate, in that higher production rates directly cause higher emissions.

138. Woodville Pellets has not made the Facility's actual production rates public, other than one report to TCEQ wherein Woodville Pellets states that between April 5, 2019 and January 31, 2020, the Facility produced 341,388 tons of pellets. This number was not broken down into hourly, daily, or monthly rates, but works out to an average of 34,501 tons per month, 1,134 tons per day, and 47 tons per hour.

139. Separately, German Pellets reported emission rates to TCEQ covering the period between November 2018 (when the plant restarted operations after being idled for more than a year) and April 2019 indicating the Facility had produced approximately 117,155 tons of pellets during that period.

140. Although Plaintiffs do not have access to more refined production rates, those records are maintained by Woodville Pellets.

F. WOODVILLE PELLETS' TITLE V PERMITTING HISTORY

141. Woodville Pellets' Title V Permit, Federal Operating Permit No. O3609, issued on September 17, 2015, authorized the Facility's operations for a five-year term, ending on September 17, 2020.

142. To enable continued operation of the Facility under Federal Operating Permit No. O3609 after September 17, 2020, Woodville Pellets was required to submit a timely and complete permit renewal application. Because Texas law defines a "timely" application as no later than six months before the date of permit expiration, the latest Woodville Pellets could submit a timely permit renewal application was by March 17, 2020.

143. Woodville Pellets did not submit a permit renewal application for Federal Operating Permit No. O3609 until July 1, 2020, less than three months before the Operating Permit's expiration date and more than three months after the deadline for submitting a timely permit renewal application.

144. Because Woodville Pellets did not submit a timely and complete Title V permit renewal application by the applicable deadline, Federal Operating Permit No. O3609 expired on September 17, 2020.

145. Moreover, Woodville Pellets' July 1, 2020 application included a false certification of compliance, claiming the Facility was in full compliance. Yet the Facility emits hundreds of tons of illegal VOCs per year, and Woodville Pellets submitted its Title V application more than three months late.

146. Woodville Pellets submitted a new application for a Title V operating permit, Federal Operating Permit No. 4246, on September 15, 2020, two days before Federal Operating Permit No. O3609 expired.

147. Texas has not yet issued a new Title V Operating Permit to Woodville Pellets.

148. Based on information and belief, Woodville Pellets has continued operations at the Facility from September 17, 2020 to the present without a valid Title V Permit.

VII. CAUSES OF ACTION

COUNT ONE: VIOLATIONS OF FEDERAL AND STATE PERMITTING REQUIREMENTS FOR UNAUTHORIZED VOC EMISSIONS FROM THE DRY HAMMERMILL AND PELLET COOLER UNITS

149. The Plaintiffs hereby reallege and incorporate by reference each and every allegation set forth in paragraphs 1 through 148, as if the same were repeated verbatim herein.

1. The Facility is not authorized to emit any VOCs from the Hammermill and Pellet Cooler Units.

150. The April 5, 2019 SIP Permit Amendment authorizing VOC emissions from the post-dryer units applies only to the RTO emission point; this emission point does not yet exist.

151. No version of the SIP Permit, including the April 9, 2019 SIP Permit nor the most recent March 30, 2020 SIP Permit, has ever authorized the four individual dry hammermills and two pellet cooler stacks to emit VOCs.

152. Accordingly, all VOC emissions from the dry hammermills and pellet coolers are unauthorized and constitute violations of Special Condition No. 1 and General Condition No. 8 of Permit 98014 and the Texas SIP, 30 Tex. Admin. Code § 116.115(b)(2)(F).

153. As discussed above in paragraphs 113-119, both the dry hammermills and pellet coolers in fact emit significant amounts of VOCs. At the full production capacity of 72 tons per hour, the pellet coolers and dry hammermills emit 2,574 pounds of VOCs per day based on the emission factor from the 2015 stack test.

154. Each day Woodville Pellets has operated any of the four dry hammermills (permitted as Emission Point Nos. Ia, Ib, Ic, and Id, and alternatively as Source Name: Dry Mill Filter No. 1 through 4 Baghouse Stacks) since acquiring the plant on June 18, 2019, and each day Woodville

Pellets continues to operate any of these dry hammermill units, is an individual violation. Operation of each individual dry hammermill is an individual violation.

155. Each day Woodville Pellets has operated either or both of the two pellet coolers (permitted as Emission Point Nos. IIa and IIb, and alternatively as Source Name: Cooler Air Aspiration Filter No. 1 and No.2 Baghouse Stack) since acquiring the plant on June 18, 2019, and each day Woodville Pellets continues to operate either or both of these pellet cooler units, is an individual violation. Operation of each individual pellet cooler is an individual violation.

156. Although Plaintiffs do not have access to precise production data, at a minimum Woodville Pellets reported to TCEQ that the Facility produced 341,388 tons of pellets between April 5, 2019 and January 31, 2020, which equates to an average pellet production rate of 1,134 tons per day.

157. Upon information and belief, Woodville Pellets has operated these post-dryer units on a continuing basis since January 31, 2020.

158. Upon discovery of the specific operating information for these post-dryer units, known to Woodville Pellets, Plaintiffs will be able to determine the dates that these specific violations have occurred.

2. *In the alternative, if the new RTO Stack limits apply, the Facility has exceeded its VOC emission limits for the Hammermill and Pellet Cooler Units on numerous occasions.*

159. Alternatively, if the MAER limits applicable to the yet-to-be-constructed RTO stack set forth in the in the April 2019 version of the Facility's SIP Permit – an hourly limit of 6.55 lb/hr and annual limit of 26.25 tpy (on a 12-month rolling basis) – are considered applicable to emissions vented directly from the Facility's dry hammermill and pellet cooler stacks, Woodville Pellets has exceeded these limits and will continue to do so if the Facility continues operating.

a. The Facility has exceeded its annual limit for the post-dryer units if the RTO Stack limits apply.

160. Based on the emission factors reported from the 2015 stack testing, each month the Facility's rolling 12-month pellet production rate exceeds or has exceeded 35,212 tons, Woodville Pellets emits and has emitted VOCs in quantities that exceed the annual MAER VOC limit of 26.25 tpy.

161. Specifically, the 2015 stack testing produced an emission factor for all of the post-dryer units of 1.491 pounds of VOC emissions for every ton of pellets produced. Therefore, when the Facility produces 35,212 tons of pellets in a 12-month period, the post-dryer units emit 26.25 tons of VOCs.

162. Based on emissions information provided by German Pellets to TCEQ, when Woodville Pellets acquired the plant in June 2019, the Facility's rolling 12-month production rate was at least 117,244 tons based on production between November 2018 and April 2019.

163. The Facility then produced 341,388 tons of pellets between April 5, 2019 and January 31, 2020, an average of 34,501 tons per month.

164. Upon information and belief, Woodville Pellets has continued to operate at similar or higher production rates since January 31, 2020.

165. Based upon the foregoing, Woodville Pellets' 12-month rolling production rate has vastly exceeded 35,212 tons in each month since Woodville Pellets acquired the plant on June 18, 2019.

166. Therefore, Woodville Pellets has violated the annual MAER VOC limit each month since acquiring the plant and will continue to violate the annual MAER VOC limit each month the Facility's 12-month rolling production rate exceeds the 35,212 tpy threshold.

b. The Facility has routinely exceeded its hourly limit for both post-dryer units if the RTO Stack limits apply.

167. Based on the emission factors from the 2015 stack test, each day that the post-dryer units produce or have produce more than 4.39 tons in any single hour, Woodville Pellets' post-dryer VOC emissions exceed the 6.55 lb/hour limit on VOCs emissions.

168. Specifically, the 2015 stack testing produced an emission factor for all of the post-dryer units of 1.491 pounds of VOC emissions for every ton of pellets produced. Therefore, whenever the post-dryer units produce 4.39 tons of pellets in one hour, the post-dryer units emit 6.55 pounds of VOCs.

169. Based on information and belief, the Facility produces far more than 4.39 tons of pellets per hour every hour that it operates under normal circumstances. For instance, the average hourly production rate between April 5, 2019 and January 31, 2019 was 47 tons per hour, and the Facility has the capacity to produce up to 72 tons per hour.

170. As a result, between acquiring the plant and the date of filing, Woodville Pellets has violated the hourly emission limit for VOCs in SIP Permit No. 98014 for thousands of hours based on its operations of the Dry Hammermill and Pellet Cooler Units.

171. Each day the Facility has operated these units at a production rate greater than 4.39 tons per hour is an individual violation.

172. Woodville Pellets has not publicly reported the actual tonnage of pellets the Facility has produced on an hourly basis since acquiring the plant, therefore Plaintiffs are unable to provide each specific date of violation.

173. However, upon discovery of the operating information, known to Woodville Pellets, Plaintiffs will be able to determine the dates that these specific violations have occurred.

3. *Relief requested to redress Count One (applicable to each asserted claim under this Count, including the alternative claim)*

174. As described above, Woodville Pellets has repeatedly exceeded the hourly and annual emission standards for VOCs in the Facility's SIP Permit based on its operations of the Dry Hammermill and Pellet Cooler Units. These exceedances violate SIP Permit No. 98014.

175. Defendant's violations of its SIP Permit, the Texas SIP, and the Act are continuing and/or intermittent.

176. Because of this extensive history of violations, Plaintiffs believe and allege that, without the appropriate civil penalties and the issuance of an injunction, Woodville Pellets will continue to violate its SIP Permit, the Texas SIP, and the Act.

177. Woodville Pellets is subject to an injunction ordering it to cease its violations of its SIP Permit, the Texas SIP, and the Act.

178. Woodville Pellets is subject to an assessment of civil penalties for its violations of its SIP Permit, the Texas SIP, and the Act, pursuant to Sections 113(e) and 304(a) and (g), 42 U.S.C. §§ 7413(e) and 7604(a) and (g).

179. For the purpose of assessing the maximum penalty for which Woodville Pellets may be liable, each instance of Woodville Pellets' violation of its SIP Permit, the Texas SIP, and the Act, constitutes a separate violation of Section 304 pursuant to Sections 304(a), 113(b), and 113(e)(2) of the Act, 42 U.S.C. §§ 7604(a), 7413(b)(1) and 7413(e)(2), for each day on which it has occurred, and is presumed to continue for each day and every day on and after the giving of Plaintiffs' notice of intent to sue.

COUNT TWO: UNLAWFUL VOC EMISSIONS FROM THE GREEN HAMMERMILLS

180. The Plaintiffs hereby reallege and incorporate by reference each and every allegation set forth in paragraphs 1 through 179, as if the same were repeated verbatim herein.

181. The SIP permit does not authorize any VOC emissions from the seven green hammermills.

182. Because the green hammermills are a significant source of VOCs as described in paragraphs 121-124, each day the plant has operated or operates the green hammermills, Woodville Pellets violates and has violated Special Condition No. 1 and General Condition No. 8 of the SIP Permit and the Texas SIP itself, 30 Tex. Admin Code § 116.115(b)(2)(F).

183. Operation of each of the seven green hammermills (permitted as Emission Point Nos. IIIa through IIIg, and alternatively as Source Name: Wet Mill Aspiration Cyclone No. 1 through 7 Stacks) is an individual violation.

184. Defendant's violations of its SIP Permit, the Texas SIP, and the Act are continuing and/or intermittent.

185. Because of this extensive history of violations, Plaintiffs believe and allege that, without the appropriate civil penalties and the issuance of an injunction, Woodville Pellets will continue to violate its SIP Permit, the Texas SIP and the Act.

186. Woodville Pellets is subject to an injunction ordering Woodville Pellets to cease its violations of its SIP Permit, the Texas SIP, and the Act.

187. Woodville Pellets is subject to an assessment of civil penalties for its violations of its SIP Permit, the Texas SIP, and the Act, pursuant to Sections 113(e) and 304(a) and (g), 42 U.S.C. §§ 7413(e) and 7604(a) and (g).

188. For the purpose of assessing the maximum penalty for which Woodville Pellets may be liable each instance of Woodville Pellets' violation of its SIP Permit, the Texas SIP, and the Act, constitutes a separate violation of Section 304 pursuant to Sections 304(a), 113(b), and 113(e)(2) of the Act, 42 U.S.C. §§ 7604(a), 7413(b)(1) and 7413(e)(2), for each day on which it has occurred,

and is presumed to continue for each day and every day on and after the giving of Plaintiffs' notice of intent to sue.

**COUNT THREE: VIOLATIONS OF PERMIT LIMITS ON
FACILITY-WIDE HAP EMISSIONS**

189. The Plaintiffs hereby reallege and incorporate by reference each and every allegation set forth in paragraphs 1 through 188, as if the same were repeated verbatim herein.

1. The Facility has exceeded its Facility-wide HAP emission limits.

190. The April 5, 2019 SIP Permit Amendment instituted Facility-wide limits on total HAP emissions (25 tpy) and individual HAP emissions (10 tpy) for the purpose of restricting the Facility's emissions to below the "major source" level set forth in Clean Air Act § 112(a)(1), 42 U.S.C. § 7412(a)(1).

191. These limits apply Facility-wide and on a 12-month rolling basis.

192. Using the Enviva emission factors discussed above in paragraphs 129-131, based on information and belief, Woodville Pellets exceeds the 25 tpy total HAP limits whenever it produces 111,000 tons of pellets or more in a 12-month period.

193. Based on the same Enviva emission factors, the Facility also exceeds the individual HAP limit of 10 tpy whenever 12-month production rates equal or exceed the following amounts: methanol emissions exceed 10 tpy at a production rate of 80,000 tpy, acrolein emissions exceed 10 tpy at a production rate of 315,000 tpy, and formaldehyde emissions exceed 10 tpy at a production rate of 475,000 tpy.

194. Each month the Facility's rolling 12-month production of pellets exceeds or has exceeded any of these production rates, Woodville Pellets violates and has violated the total and/or individual annual HAP limits in Permit 98014, Special Condition No. 1 and General Condition No. 8 of the SIP Permit, and 30 Tex. Admin. Code § 116.115(b)(2)(F).

195. As noted above, Woodville Pellets has a production capacity of approximately 576,000 tpy.

196. While Plaintiffs do not have access to precise production rates, production records submitted to the TCEQ by Woodville Pellets for the period of April 5, 2019 through January 31, 2020 (wherein the Facility produced a total of 341,388 tons of pellets during that period) show that, at a minimum, Woodville Pellets has exceeded the MAER limit on total HAPs and the individual HAP limit for methanol and acrolein.

197. Upon information and belief, the Facility has continued operating and producing pellets each month since January 31, 2020.

198. Upon information and belief, the Facility's 12-month rolling production has exceeded 111,000 tons in each month from April 2019 (inclusive) to the present.

199. Upon information and belief, the Facility's total HAP emissions has exceeded the 25 tpy limit on total HAP in each month from June 2019 (inclusive) to the present.

200. Upon discovery of more specific operating information and production rates for the Facility, known to Woodville Pellets, Plaintiffs will be able to identify the specific dates of Defendant's violations of the Facility-wide HAP limits for individual HAPs.

2. In the alternative, if the Facility-Wide HAP limits do not apply, the Facility has exceeded its HAP Emission Limits for the Green Hammermill, Dry Hammermills, and Pellet Cooler Units.

201. Alternatively, if the Facility-wide 10 tpy and 25 tpy limits do not apply under the theory that those limits are premised on the installation of the new RTO control, then the green hammermills, dry hammermills, and pellet coolers are not authorized to emit *any* amount of HAPs.

202. Each of the units listed in the previous paragraph emit significant amounts of individual HAPs, specifically acetaldehyde, acrolein, formaldehyde, methanol, phenol, and propionaldehyde.

203. Because each of these units in fact emits significant levels of the individual HAPs listed in previous paragraph, each day Woodville Pellets operates and has operated these units it violates and has violated Special Condition No. 1 and General Condition 8 of the SIP Permit and the Texas SIP, 30 Tex. Admin. Code § 116.115(b)(2)(F).

204. Emissions of each individual HAP from each individual unit is an individual violation.

3. *Relief requested to redress Count Three (applicable to each asserted claim under this count, including the alternative claim)*

205. Because of this extensive history of violations, Plaintiffs believe and allege that, without the appropriate civil penalties and the issuance of an injunction, Woodville Pellets will continue to violate its SIP Permit, the Texas SIP, and the Act.

206. Woodville Pellets is subject to an injunction ordering Woodville Pellets to cease its violations of its SIP Permit, the Texas SIP, and the Act.

207. Woodville Pellets is subject to an assessment of civil penalties for its violations of its SIP Permit, the Texas SIP, and the Act, pursuant to Sections 113(e) and 304(a) and (g), 42 U.S.C. §§ 7413(e) and 7604(a) and (g).

208. For the purpose of assessing the maximum penalty for which Woodville Pellets may be liable, each instance of Woodville Pellets' violation of its SIP Permit, the Texas SIP, and the Act, constitutes a separate violation of Section 304 pursuant to Sections 304(a), 113(b), and 113(e)(2) of the Act, 42 U.S.C. §§ 7604(a), 7413(b)(1) and 7413(e)(2), for each day on which it has occurred, and is presumed to continue for each day and every day on and after the giving of Plaintiffs' notice of intent to sue.

**COUNT FOUR: VIOLATIONS OF THE SIP PERMIT RELATED TO
UNAUTHORIZED RELEASE OF POLLUTANTS THROUGH THE BYPASS STACKS**

209. The Plaintiffs hereby reallege and incorporate by reference each and every allegation set forth in paragraphs 1 through 208, as if the same were repeated verbatim herein.

210. Woodville Pellets is in violation of Special Condition No. 1 and General Condition No. 8 of the SIP Permit and the Texas SIP itself, 30 Tex. Admin Code § 116.115(b)(2)(F) each time it utilizes and has utilized the dryer and furnace bypass stacks to release emissions.

211. Based on information and belief, these releases have occurred on or about the dates specified in the table below with a designation of which type of bypass stack Woodville Pellets utilized:

Date (on or about)	Dryer Bypass Stack Utilized	Furnace Bypass Stack Utilized
7/5/2019	X	
7/6/2019	X	
7/9/2019	X	
7/13/2019		X
7/15/2019		X
7/24/2019	X	
7/25/2019	X	
7/31/2019	X	
8/2/2019	X	
8/5/2019	X	
8/6/2019	X	
8/9/2019	X	
8/14/2019	X	X
8/15/2019	X	X
9/6/2019	Either or both.	

Date (on or about)	Dryer Bypass Stack Utilized	Furnace Bypass Stack Utilized
9/19/2019	X	X
9/20/2019	X	X
9/22/2019		X
10/18/2019	X	X
11/11/2019		X
11/26/2019	Either or both.	
11/27/2019	Either or both	
12/22/2019	Either or both	
12/29/2019	X	X
1/3/2020	X	
1/6/2020	X	X
1/7/2020	X	X
1/9/2020	X	X
1/10/2020		X
1/11/2020	Either or both	
1/21/2020	X	X
1/22/2020	X	
1/29/2020		X
2/6/2020	X	X
2/7/2020		X
2/9/2020		X
2/10/2020	X	X
2/15/2020	Either or both	
2/16/2020	X	X
2/17/2020		X
2/18/2020	X	X
2/21/2020		X
2/22/2020	X	X
3/1/2020	X	
3/16/2020	X	X
3/17/2020	X	
3/21/2020	X	
4/11/2020	X	X
4/28/2020		X

Date (on or about)	Dryer Bypass Stack Utilized	Furnace Bypass Stack Utilized
5/24/2020	X	X
6/8/2020		X
6/11/2020	X	X
7/6/2020	X	
8/14/2020	X	
9/18/2020	X	
10/23/2020	X	
10/27/2020	X	
11/24/2020	X	
11/30/2020	X	
12/10/2020	X	

212. Upon discovery of more specific operating information for the Facility, known to Woodville Pellets, Plaintiffs will be able to determine additional dates which indicate release of emissions via the dryer or furnace bypass stacks and to verify the dates identified above.

213. Because of this extensive history of violations, Plaintiffs believe and allege that, without the appropriate civil penalties and the issuance of an injunction, Woodville Pellets will continue to violate its SIP Permit, the Texas SIP, and the Act.

214. Woodville Pellets is subject to an injunction ordering Woodville Pellets to cease its violations of its SIP Permit, the Texas SIP, and the Act by utilizing the dryer bypass stack or the furnace bypass stack.

215. Woodville Pellets is subject to an assessment of civil penalties for its violations of its SIP Permit, the Texas SIP, and the Act, pursuant to Sections 113(e) and 304(a) and (g), 42 U.S.C. §§ 7413(e) and 7604(a) and (g).

216. For the purpose of assessing the maximum penalty for which Woodville Pellets may be liable each instance of Woodville Pellets' violation of its SIP Permit, the Texas SIP, and the Act,

constitutes a separate violation of Section 304 pursuant to Sections 304(a), 113(b), and 113(e)(2) of the Act, 42 U.S.C. §§ 7604(a), 7413(b)(1) and 7413(e)(2), for each day on which it has occurred, and is presumed to continue for each day and every day on and after the giving of Plaintiffs' notice of intent to sue.

COUNT FIVE: VIOLATION OF SIP RULE 30 TEX. ADMIN. CODE § 101.4 RELATED TO BYPASS STACK RELEASES

217. The Plaintiffs hereby reallege and incorporate by reference each and every allegation set forth in paragraphs 1 through 216, as if the same were repeated verbatim herein.

218. The Texas SIP, as approved by the EPA, states:

No person shall discharge from any source whatsoever one or more air contaminants . . . in such concentration and of such duration as are or may tend to be injurious to or to adversely affect human health or welfare, animal life, vegetation or property, or as to interfere with the normal use and enjoyment of animal life, vegetation, or property.

30 Tex. Admin. Code § 101.4, approved by EPA into Texas' SIP at 37 Fed. Reg. 10,895 (May 31, 1972).

219. Since it acquired the Facility in June 2019, when Woodville Pellets uses the Facility's bypass stacks, it emits PM, smoke, soot, and wood dust into the surrounding community. These emissions "adversely affect" human health and welfare and interfere with normal use and enjoyment of nearby properties, including Stafford's and Luman's properties.

220. On the dates listed above in Paragraph 211, the Facility emitted PM, smoke, soot, and wood dust from the bypass stacks which interfered with neighbors' normal use and enjoyment of their property and adversely affected human health and welfare.

221. Discovery into Defendants' operating records may reveal additional dates in which the Facility utilized its bypass stacks – either the furnace bypass stacks or dryer bypass stacks – thereby

adversely affecting human health and welfare and interfering with the normal use and enjoyment of nearby properties.

222. Plaintiffs and nearby residents have documented visible smoke on their property during these events and have ceased recreating outdoors during such events to avoid breathing harmful emissions.

223. Additionally, Plaintiffs' properties have been repeatedly coated in dust and soot from these events.

224. Further, Plaintiffs reasonably believe that their property values will be substantially impacted if these events continue to occur with the frequency and duration observed in the past year.

225. These harms constitute a violation of the SIP's prohibition of emitting air pollution that is "injurious to or to adversely affect human health or welfare, animal life, vegetation or property, or as to interfere with the normal use and enjoyment of animal life, vegetation, or property." 30 Tex. Admin. Code § 101.4.

226. All of these interferences cannot be dismissed as "trifles" or "petty annoyances" but rather must be understood to destroy the comfort of persons owning and occupying neighboring properties. Under these circumstances, these interferences with the use and enjoyment of Plaintiffs' land are unreasonable.

227. As a direct result of these interferences, Mr. Stafford, Ms. Luman, and Sierra Club's members have sustained actual damages as a result of the injury to them individually and their ability to use and enjoy their property.

228. Moreover, despite the Facility's existence since 2012, Woodville Pellets' operation of the Facility beginning in the Summer of 2019 is a change in ownership that constitutes a change in conditions at the Facility.

229. Further, based on information and belief, the prior operator German Pellets was not utilizing the bypass stacks in this manner in a way that was injurious to or adversely affected human health or welfare, animal life, vegetation or property and interfered with the normal use and enjoyment of animal life, vegetation, or property in violation of Texas SIP Rule, 30 Tex. Admin. Code § 101.4.

**COUNT SIX: VIOLATIONS OF FEDERAL AND STATE PROHIBITIONS AGAINST
OPERATING WITHOUT A TITLE V PERMIT**

230. The Plaintiffs hereby reallege and incorporate by reference each and every allegation set forth in paragraphs 1 through 229, as if the same were repeated verbatim herein.

231. Title V of the Clean Air Act states:

[I]t shall be unlawful for any person . . . to operate an affected source (as provided in subchapter IV-A), . . . , except in compliance with a permit issued by a permitting authority under this subchapter.

42 U.S.C. § 7661a(a).

232. Texas laws implementing Title V of the Clean Air Act state that a Title V Federal Operating Permit "shall expire no later than five years from initial issuance or renewal." 30 Tex. Admin. Code § 122.241(a). "Permit expiration terminates the owner's or operator's right to operate, unless a timely and complete renewal application has been submitted." 30 Tex. Admin. Code § 122.241(g). If a permit holder submits a timely and complete permit renewal application, "the permit holder may continue to operate under the terms and conditions of the previously issued permit until final action is taken on the permit renewal application." *Id.*

233. A timely permit renewal application is defined as follows:

[O]ne that is submitted . . . at least six months, but no earlier than 18 months, before the date of permit expiration;

30 Tex. Admin. Code § 122.133(2).

234. Woodville Pellets' Title V Permit, Federal Operating Permit No. O3609, which was issued on September 17, 2015, expired on September 17, 2020.

235. Woodville Pellets did not submit a permit renewal application for a Federal Operating Permit No. O3609 until July 1, 2020. Because this date was less than six months before the permit's expiration date, the permit renewal application was not timely. Moreover, the July 1, 2020 application was not complete because it failed to contain a compliance schedule and falsely certified that the facility was in full compliance with the Clean Air Act.

236. Because Woodville Pellets did not submit a timely and complete renewal application, Woodville Pellets could not continue operating after the expiration date of its Title V Permit.

237. Woodville Pellets submitted a new permit application for a Title V operating permit, Federal Operating Permit No. O4246, on September 15, 2020. This permit has not yet been issued.

238. Based on information and belief, Woodville Pellets has continued operating the Facility even after Federal Operating Permit No. O3609 expired on September 17, 2020 and without a new Title V Permit.

239. Each day that Woodville Pellets has operated and continues to operate the Facility in the absence of a Title V Permit violates the Clean Air Act.

240. Each day that Woodville Pellets has operated and continues to operate the Facility in the absence of a Title V Permit injures Mr. Stafford, Ms. Luman, and Sierra Club's members. If Woodville Pellets had submitted a timely and complete application for a renewal permit, its operations would continue to be governed by the terms of Federal Operating Permit No. O3609,

including the requirements to promptly report any deviation from a permit condition, submit a report summarizing the results of monitoring at least every six months, and file an annual certification of compliance with permit conditions that is signed by a responsible official. 42 U.S.C. § 7661c(c), 40 C.F.R. 70.6(3). Under Title V, all such reports and certifications must be publicly available. 42 U.S.C. § 7414(c). These requirements, along with the permit's monitoring, recordkeeping, and reporting requirements, are designed to assure the Facility's compliance with applicable Clean Air Act requirements. 42 U.S.C. § 7661c.

241. If the Facility were still subject to the terms of Federal Operating Permit No. O3609, Plaintiffs could enforce those terms against Woodville Pellets in federal court. Due to Woodville Pellets' failure to submit a timely and complete permit renewal application, the Facility's Federal Operating Permit has expired, and, thus, Plaintiffs no longer receive the benefit of Title V's compliance assurance mechanisms. The loss of these benefits denies Plaintiffs access to reliable information regarding the Facility's emissions. Moreover, in the absence of a Federal Operating Permit designed to hold Woodville Pellets accountable for complying with applicable emission limitations, it is more likely that Woodville Pellets will violate such limitations, thereby increasing Plaintiffs' risk of being exposed to unhealthy air quality.

242. Further, Woodville Pellets' failure to submit a timely Title V application delayed the issuance of a renewed Title V permit that would necessarily include a compliance schedule that would speed the process of bringing Woodville Pellets into compliance, meaning it is likely that Plaintiffs will be exposed to the Facility's unlawful air pollution for a greater time period.

243. Finally, because expiration of Federal Operating Permit No. O3609 on September 17, 2020 terminated Woodville Pellets' right to operate, Plaintiffs should not have been exposed to any air pollution from the Facility after that date. Accordingly, Plaintiffs suffer an injury each day that

Woodville Pellets persists in operating without a valid Federal Operating Permit designed to protect the public from unlawful air pollution.

VIII. EXHIBITS

244. Plaintiffs attach and incorporate by reference the following exhibits identified in this Complaint:

Exhibit A Second Notice of Intent to Sue

IX. JURY DEMAND

245. Plaintiffs, by and through the undersigned, hereby demand a trial by jury on all issues triable under law.

X. PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs pray for judgment against Defendant based on the following prayer:

- (a) Declare that Defendant has violated and is in continuing violation of its SIP Permit No. 98014, the Texas SIP, and the Clean Air Act and its applicable regulations;
- (b) Declare that Defendant has violated federal law by failing to possess a valid Title V operating permit from September 17, 2020 to the time its new application for a Title V operating permit, Permit No. 4246, is approved, if at all;
- (c) Permanently enjoin Defendant from operating its Facility in Woodville, Texas in such a manner that will result in further violations of its SIP Permit, the Texas SIP, and the Clean Air Act and its applicable regulations;
- (d) Permanently enjoin Defendant from operating without a valid Title V Operating Permit;
- (e) Order Woodville Pellets to comply with all emission standards and limitations of its SIP Permit, the Texas SIP, and the Clean Air Act and its applicable regulations;

- (f) Order the Defendant to take appropriate actions to remedy, mitigate or offset the harm to public health and the environment caused by the violations of the Clean Air Act and its applicable regulations alleged above;
- (g) Assess a civil penalty against Defendant of up to \$101,430 per day for each violation of its SIP Permit, the Texas SIP, and the Clean Air Act and its applicable regulations, as provided by 42 U.S.C. §§ 7413(e) and 7604(a) and (g), and the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461 and 40 C.F.R. § 19.4;
- (h) Assess a civil penalty against Defendant of up to \$25,000 per day for each day the Facility operates without a Title V Operating Permit from September 17, 2020 until its application for a new Title V Operating Permit is approved.
- (i) Order Defendants to pay Plaintiffs' reasonable attorney's fees and costs (including expert witness fees and costs) as provided by 42 U.S.C. § 7604(d);
- (j) Award Plaintiffs their costs of suit as provided by 42 U.S.C. § 7604(d);
- (k) Award pre- and post-judgment interest at the highest rates recoverable under applicable law; and
- (l) Grant Plaintiffs any such other and further relief as the Court deems just and proper.

Dated: December 30, 2020.

Respectfully submitted,

/s/ Patrick J. Anderson

Patrick J. Anderson (Lead)

Admitted pro hac vice

Georgia State Bar No. 226260

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**ATTORNEYS FOR PLAINTIFFS
DUSTIN STAFFORD AND ABBIE LUMAN**

CERTIFICATE OF SERVICE

I certify that a true and correct copy of Plaintiffs' First Amended Complaint was served on the counsel stated below, pursuant to the Federal Rules of Civil Procedure, through the Eastern District of Texas CM/ECF E-File System on December 30, 2020:

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**ATTORNEYS FOR DEFENDANT
WOODVILLE PELLETS, LLC**

/s/ Amy Catherine Dinn
Amy Catherine Dinn

Exhibit A



October 23, 2020

Via Certified Mail, Return Receipt Requested

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CEO and Responsible Official
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164 County Road 1040
Woodville, Texas 75979

Administrator Andrew Wheeler
U.S. Environmental Protection Agency
Mail Code 1101A
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Washington, DC 20460

Ms. Sarah Stephens
Environmental Health and Safety Manager
Woodville Pellets, LLC
164 County Road 1040
Woodville, Texas 75979

Toby Baker
Executive Director
Texas Commission on Environmental Quality
Mail Code 109
P.O. Box 13087
Austin, Texas 78711

Re: Notice of Intent to Sue for Additional Clean Air Act Violations at Woodville Pellets

Dear Mr. Kirjanen, Ms. Stephens, Administrator Wheeler, and Executive Director Baker:

Pursuant to 42 U.S.C. § 7604(b), we are writing on behalf of the Sierra Club, Dustin Stafford, and Abbie Luman (the “Citizens”) to provide you with notice of intent to file suit for significant, repeated, and ongoing violations of the Clean Air Act at the Woodville Pellets manufacturing facility, located at 164 County Road 1040, Woodville, Texas. Woodville Pellets, LLC owns and operates the facility and is responsible for these violations.

On May 5, 2020, two of the Citizens, Sierra Club and Mr. Stafford, sent a notice letter to Woodville Pellets identifying five serious types of violations occurring at the facility, including numerous violations of emission limits and the requirement to utilize existing pollution control technology.¹ These same Citizens subsequently filed suit against Woodville Pellets, LLC on August 18, 2020, alleging these same five claims.² This letter incorporates by reference and adopts all claims outlined in the May 5, 2020 notice letter on behalf of the remaining Citizen, Abbie Luman, who intends to join the Lawsuit and also assert these original claims after the expiration of the 60-day notice period.

¹ Letter from Patrick Anderson, Keri Powell, and Amy Din, counsel for Citizens, to Raul Kirjanen, CEO, Woodville Pellets (May 5, 2020) (Attachment A).

² *Sierra Club v. Woodville Pellets*, EDTX Case No. 9:20-cv-000178 (the “Lawsuit”).

Thereafter, on October 15, 2020, Citizens learned of another type of serious Clean Air Act violation occurring at Woodville Pellets: operating without a required Title V permit. This letter provides notice of the Citizens' intent to sue Woodville Pellets for this additional set of violations, and notice by Ms. Luman that she intends to join the Lawsuit based on the originally noticed claims and the aforementioned additional violations. Specifically, Citizens intend to amend the complaint in the Lawsuit to include the violations set forth below.

Background

The Woodville Pellets facility is a major source of air pollution, both under Title I (New Source Review) and Title V of the Clean Air Act. Because the facility is subject to Title V, the previous owners, German Pellets, received the necessary Title V permit on September 17, 2015. This permit is known as Federal Operating Permit ("FOP") No. O3609.³ Woodville Pellets acquired the facility and its permits, including FOP No. O3609, from German Pellets on June 18, 2019.

FOP No. O3609 was set to expire five years after issuance—September 17, 2020—unless Woodville Pellets submitted a timely renewal application. To qualify as timely, a renewal application must be submitted at least six months prior to expiration, which fell on March 17, 2020. Woodville Pellets failed to submit a renewal application prior to this date, and in fact only submitted a renewal application on or about July 1, 2020—more than three months after the deadline.⁴ Because Woodville Pellets failed to submit a timely renewal application, FOP No. O3609 expired on September 17, 2020.

The Clean Air Act is clear that, for sources subject to Title V, no source may operate unless it holds a Title V permit or has timely applied for one. Here, Woodville Pellet's Title V permit expired on September 17, 2020, and the facility has not been issued a new Title V permit. Therefore, each day the facility has operated and continues to operate after September 17, 2020, is a violation of the Clean Air Act. Citizens understand that the facility has continued to operate and intends to continue operating despite this clear prohibition.

I. Specific Clean Air Act Violations Alleged: Operating Without A Required Title V Permit.

Under Title V of the Clean Air Act, a facility is considered a major source subject to Title V if the facility emits or has the potential to emit 100 tons per year or more of certain regulated pollutants.⁵ It is undisputed that Woodville Pellets is a major source under Title V; its potential emissions include at least 580 tons of volatile organic compounds and 175 tons of nitrogen oxide.⁶

A Title V major source must apply for a Title V permit within 12 months of commencing operations,⁷ and no source subject to Title V "may operate after the time that it is required to submit a timely and complete application . . . except in compliance with a permit" issued under the Title V regulations.⁸ However, a source that "submits a *timely* and complete application for permit issuance (including for renewal))" is allowed to continue operating without a permit "until the permitting authority takes final action on the permit application," unless "the applicant fails to

³ Federal Operating Permit No. O3609 (Sep. 17, 2015) (Excerpt attached as Attachment B).

⁴ TCEQ Commissioners' Integrated Database, Search Term: Woodville Pellets (Accessed Oct. 15, 2020); *see also*, TCEQ Revised Notice of Draft Federal Operating Permit (July 7, 2020) (Attachment C).

⁵ 40 C.F.R. § 70.2.

⁶ *See* TCEQ, Air Permit No. 98014, Maximum Allowable Emission Rate Table (Apr. 5, 2019).

⁷ 40 C.F.R. § 70.5(a)(1).

⁸ 40 C.F.R. § 70.7(b); *see* 42 U.S.C. § 7661a(a).

submit by the deadline specified in writing by the permitting authority any additional information identified as needed to process the application.”⁹ Under both Clean Air Act and Texas’ implementing regulations, Title V permits may only be issued for a term of no more than five years, as was the case with FOP No. O3609.¹⁰ In order to renew a Title V permit, sources must submit a renewal application at least six months prior to the permit expiration, or else the permit shall expire.¹¹

Specifically, under federal Title V regulations, “[p]ermit expiration terminates the source’s right to operate.”¹² As discussed above, Woodville Pellets’ Title V permit expired on September 17, 2020, because the company failed to submit a timely renewal application.¹³

Woodville Pellets’ illegal operations without a Title V permit are ongoing and will continue until a new Title V permit is obtained. Specifically, each day Woodville Pellets has operated and continues to operate the facility after September 17, 2020 is a violation of 42 U.S.C. § 7661a(a) and § 7661b(a); 40 C.F.R. § 70.1(b), § 70.7(b), and § 70.7(c)(1)(ii); as well as Texas’ Federal Operating Permit regulations at 30 TAC § 122.121 and § 122.241(g).¹⁴ These violations are enforceable under the Clean Air Act’s citizen suit provision.¹⁵ While Citizens do not have specific dates that Woodville Pellets has operated the facility, this information is known to Woodville Pellets. To Citizens’ knowledge, Woodville Pellets has operated the plant on numerous dates since September 17, 2020 and intends to continue operating the plant, and this letter provides notice of a violation for each such date.

II. Authority to Bring Suit

Section 304 of the Clean Air Act authorizes citizens to sue for operating without a required Title V permit. Specifically, the Act authorizes citizens to sue for violations of an “emission standard or limitation,”¹⁶ which includes “any other standard, limitation, or schedule established . . . under any applicable state implementation plan approved by the Administrator, or any permit term or condition, and **any requirement to obtain a permit as a condition of operations.**”¹⁷ As set out above, Woodville Pellets has violated Title V of the Clean Air Act and its implementing regulations by operating without a Title V permit and will continue to do so each day it operates until obtaining a Title V permit.

⁹ 40 C.F.R. § 70.7(b) (emphasis added). *See also* 42 U.S.C. 7661b(d) (“if an applicant has submitted a *timely* and complete application for a permit required by this subchapter (including renewals), but final action has not been taken on such application, the source’s failure to have a permit shall not be a violation of this chapter, unless the delay in final action was due to the failure of the applicant to submit information required or requested to process the application”) (emphasis added).

¹⁰ 42 U.S.C. § 7661a(c)(iii)(5)(B); 30 T.A.C. § 122.241(a).

¹¹ 40 C.F.R. § 70.5(a)(1)(iii); 30 T.A.C. § 122.133(2). When a source does submit a timely renewal application but the permit has not been renewed, the facility may continue operating under the terms of the existing Title V permit until the permit is renewed. This is often referred to as the “application shield.” Because Woodville Pellets failed to submit a timely renewal application, they are not able to take advantage of this application shield.

¹² 40 C.F.R. § 70.7(c)(1)(ii) (emphasis added).

¹³ *See, supra*, Notes 3-4.

¹⁴ EPA granted full approval of Texas’ Title V Operating Permit program effective November 30, 2001. *See* 40 C.F.R. Appendix A to Part 70.

¹⁵ 42 U.S.C. § 7604(a)(1); *id.* § (f)(4) (defining “emission standard of limitation” to include “any requirement to obtain a permit as a condition of operations”).

¹⁶ 42 U.S.C. § 7604(a)(1).

¹⁷ 42 U.S.C. § 7604(f)(4) (emphasis added).

Citizens intend to file suit seeking injunctive relief to require Woodville Pellets to prevent the violations discussed above from continuing to occur, civil penalties, recovery of costs of litigation and attorney's fees, and other appropriate relief as allowed by Clean Air Act § 304. At least 60 days before filing suit, § 304 requires a citizen-suit plaintiff to provide notice of the violation.¹⁸ This letter is that notice.

Please direct all communication regarding this notice letter to the undersigned. We are happy to discuss any aspect of the allegations in this letter and would like to know if you believe any of the above information is incorrect or if you are interested in discussing a resolution of the violations described in this letter prior to our filing suit.

Respectfully,

/s/ Patrick Anderson

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¹⁸ 42 U.S.C. § 7604(b)(1)(A).

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CC (Via Certified Mail):

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EPA Region 6 Administrator
1201 Elm Street, Suite 500
Dallas, Texas 75270

Governor Greg Abbott
Office of the Governor
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Austin, Texas 78711

CT Corporation System
Registered Agent
1999 Bryan St., Suite 900
Dallas, Texas 75201

Attachment A



May 5, 2020

Via Certified Mail, Return Receipt Requested

Mr. Raul Kirjanen
CEO and Responsible Official
Woodville Pellets, LLC
164 County Road 1040
Woodville, Texas 75979

Administrator Andrew Wheeler
U.S. Environmental Protection Agency
Mail Code 1101A
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Mr. Bryan Davis
Plant Manager
Woodville Pellets, LLC
164 County Road 1040
Woodville, Texas 75979

Toby Baker
Executive Director
Texas Commission on Environmental Quality
Mail Code 109
P.O. Box 13087
Austin, Texas 78711

Re: Notice of Intent to Sue for Clean Air Act Violations at Woodville Pellets

Dear Mr. Kirjanen, Mr. Davis, Administrator Wheeler, and Executive Director Baker:

Pursuant to 42 U.S.C. § 7604(b), we are writing on behalf of the Environmental Integrity Project, the Sierra Club, and Dustin Stafford (the “Citizens”) to provide you with notice of intent to file suit for significant, repeated, and ongoing violations of the Clean Air Act at the Woodville Pellets manufacturing facility, located at 164 County Road 1040, Woodville, Texas. Woodville Pellets, LLC owns and operates the facility and is responsible for these violations.

The facility holds Air Permit No. 98014 issued pursuant to Texas’ federally approved and federally enforceable state implementation plan (hereafter, the “SIP permit”), as well as Federal Operating Permit No. 03609. The most recent version of the SIP permit establishes hourly and annual limits on emissions of volatile organic compounds (“VOCs”) on specified emission units, as well as facility-wide annual limits on hazardous air pollutants (“HAPs”). For sources not subject to an emission limit, the permit does not authorize any emissions.

As discussed below, the Woodville Pellets facility has exceeded these limits and emitted substantial amounts of unauthorized emissions since it was constructed and continues to do so each day the plant operates. Further, the facility has frequently utilized unauthorized bypass stacks which bypass existing pollution controls, sending smoke and other harmful air pollution directly into neighboring communities.

Background

When this facility was constructed in 2012, it was limited to just 64 tons of VOC emissions per year. In 2014 and 2015, the prior owners of the plant, German Pellets, began an audit under Texas' Environmental, Health, and Safety Audit Privilege Act,¹ the results of which showed the facility actually emits 580 tons of VOCs per year when operated at the plant's intended production rate. The excess emissions, totaling 515 tons of VOCs per year, were from units known as the dry hammermills and pellet coolers that follow the wood dryers in the manufacturing process (hereafter, the "post-dryer" units). As a result of these emissions, German Pellets conceded the facility as built should have been permitted as a major source subject to Prevention of Significant Deterioration (PSD), rather than minor source permitting.

Five years later, nothing has changed at the plant to reduce these unlawful emissions (nor has the facility obtained a major source PSD permit), although the Texas Commission on Environmental Quality ("TCEQ") has directed the installation of a new pollution control (a regenerative thermal oxidizer, or "RTO") to bring the plant into compliance. Woodville Pellets submitted the winning bid to purchase the facility in May 2019 with full knowledge of this issue (and likely at a discounted price to account for the cost of the new control).² Despite that, the company then requested a delay until April 2022 (nearly three years after bidding on the plant) to *begin* installation of the new pollution control and has indicated to TCEQ that it may be seeking to avoid the installation altogether.³ TCEQ granted this request in March 2020. Notably, many, if not most, of Woodville Pellets' competitors have installed this same control, and in a much faster timeframe.⁴ In the meantime, Woodville Pellets continues to operate, and each day the plant operates it emits substantial amounts of unpermitted VOCs from its post-dryer units.

Aside from the facility's dry hammermills and pellet coolers, units known as green (or "wet") hammermills also emit large quantities of unpermitted VOCs. These units are not authorized to emit any VOCs, however emissions testing from numerous other pellet plants show green hammermills emit significant quantities of VOCs. In fact, most of Woodville Pellets' competitors in this industry operate VOC controls on these units due to their substantial VOC emissions (Woodville Pellets does not).

The facility is also currently exceeding emission limits on HAPs, which are pollutants that Congress has listed as toxic or carcinogenic even in small quantities. The facility's current SIP permit limits emissions of any single HAP to no more than 10 tons per year and limits total HAP emissions to no more than 25 tons per year. Notably, this facility has never conducted

¹ Tex. Health & Safety Code, Title 13, Ch. 1101.

² Filings in German Pellets' ongoing bankruptcy list a closing date of June 18, 2019.

³ Woodville Pellets has informed TCEQ that they are looking at alternatives to installing the control required by TCEQ. Apparently the company wishes to utilize a new and unproven technique that involves cooling the wood chips prior to dry hammermilling. Such a control scheme does not exist in this industry in the U.S., nor to our knowledge anywhere else, and we are highly skeptical that such a technique will reduce emissions sufficient to bring the plant into compliance.

⁴ For instance, Georgia Biomass came forward to admit excess post-dryer VOCs in June of 2012; Georgia issued a consent order requiring new post-dryer VOC controls in March 2013, and those controls (RTOs/RCOs) were installed and operating by October 2013. That's 15 months from the date of acknowledging the violation to the time the controls were in operation; for comparison, Woodville Pellets seeks to wait a total of 33 months from the date it acquired the plant—and 78 months after the facility acknowledged the noncompliance—to even begin construction on the new control. Further, there is no firm deadline to actually operate the controls thereafter.

compliance testing for HAPs; however, the most reliable testing from this industry indicates Woodville Pellets has the potential to emit more than 130 tons of HAPs per year, meaning the plant has almost certainly exceeded these emission limits on a regular basis and will continue to do so until it installs additional control technology.

Finally, on numerous occasions since acquiring the plant, Woodville Pellets has vented emissions from its furnaces and dryers through unauthorized bypass stacks rather than sending these emissions to the existing and effective pollution controls. When these bypass events occur, the facility sends large quantities of smoke and other harmful, uncontrolled pollution into the surrounding neighborhoods, creating a nuisance condition and impacting the health of numerous individuals.

I. Woodville Pellets' Emissions and Applicable Emission Standards and Limitations.

Woodville Pellets is subject to the conditions of SIP Permit No. 98014, and Special Condition No. 1 of that permit states that “[t]his permit covers only those sources of emissions listed in the attached table entitled ‘Emission Sources – Maximum Allowable Emission Rates,’ and those sources are limited to the emission rates and other conditions in the table.”⁵ General Condition 8 of the SIP permit provides a similar condition.⁶ Additionally, Texas’ federally-approved and federally-enforceable SIP provides that “[t]he total emissions of air contaminants from any of the sources of emissions [at a facility] must not exceed the values stated on the table attached to the permit.” 30 Tex. Admin. Code § 116.115(b)(2)(F), approved by EPA at 77 Fed. Reg. 65,119 (Oct. 25, 2012).

In short, any emissions not listed in the Maximum Allowable Emission Rates (“MAER”) table, or emissions that exceed the rates listed therein, are violations of the SIP permit and Texas’ SIP. As set out below, Woodville Pellets’ emissions of numerous pollutants has exceeded and continue to exceed the authorized emissions in the MAER table attached to Woodville Pellets’ SIP permit.

Woodville Pellets is also subject to SIP provision 30 Tex. Admin. Code § 101.4, approved by EPA at 37 Fed. Reg. 10,895 (May 31, 1972), which prohibits emitting air pollution in sufficient quantities to interfere with human health and enjoyment of property. When Woodville Pellets utilizes its bypass stacks, it sends smoke, soot, and air pollution into neighboring communities, violating this provision of the SIP.

A. Post-Dryer VOC Limits and Emissions.

The MAER table in the current version of the SIP permit, as amended April 5, 2019, only authorizes a combined VOC emission rate for the dry hammermills and pellet coolers of 6.55 lb/hr and 26.25 tpy (on a 12-month rolling basis).⁷ That limit applies specifically to the new RTO stack, which has not yet been installed.⁸ Prior to that permit amendment, no version of the SIP

⁵ TCEQ, Air Permit No. 98014, Special Condition 1 (Issued Feb. 1, 2012, most recently amended Apr. 5, 2019) (hereafter, the “April 2019 SIP Permit”).

⁶ General Condition 8, “Maximum Allowable Emission Rates,” provides that “[t]he total emissions of air contaminants from any of the sources of emissions must not exceed the values stated on the table attached to the permit entitled ‘Emission Sources—Maximum Allowable Emission Rates.’”

⁷ April 2019 SIP Permit, MAER Table, Emission Point No. Ia-IIb.

⁸ *Id.*

permit listed an emission limit for VOCs from the dry hammermills and pellet coolers; thus no VOC emissions were authorized for these units.

After German Pellets conducted its audit in 2014 and 2015, the company quantified the post-dryer emission rates from operations at full capacity as follows:⁹

Post-Dryer VOC Emissions		
Source	Pounds Per Hour	Tons Per Year ¹⁰
Dry Mill Ia	4.32 lb/hr	17.27 tpy
Dry Mill Ib	4.32 lb/hr	17.27 tpy
Dry Mill Ic	4.32 lb/hr	17.27 tpy
Dry Mill Id	4.32 lb/hr	17.27 tpy
Cooler IIa	55.77 lb/hr	223.08 tpy
Cooler Iib	55.77 lb/hr	223.08 tpy
Total Emissions:	128.82 lb/hr	515.24 tpy
MAER Limit in 2019 Amended SIP Permit:	6.55 lb/hr	26.25 tpy

Based on these hourly emission rates, we calculate an emission factor of 1.79 lb/ton of pellets produced by the post-dryer units. This emission factor is based on the hourly emission rates from German Pellets (128.82 lb/hr) divided by an hourly pellet production rate of 72 tons/hour.¹¹ Because German Pellets considered the production information for its Texas plant to be confidential, this hourly production rate is derived from German Pellets' application for its sister facility, German Pellets Louisiana, which the company labelled as "identical" and which was not covered by confidentiality.¹²

Alternatively, Woodville Pellets, in response to a TCEQ investigation, recently referenced stack testing conducted in February 2015, which produced an emission factor of 1.45 lb/ton of

⁹ German Pellets Texas, PSD Application, Appendix A, Emission Calculations, Summary of Hourly Emissions (Oct. 3, 2016).

¹⁰ Assumes 8,000 hours/year per Special Condition 8 of SIP Permit No. 98014.

¹¹ This emission factor is based on the hourly emission rates from German Pellets (128.82 lb/hr) divided by an hourly pellet production rate of 72 tons/hour. Because German Pellets considered the production information for its Texas plant to be confidential, this hourly production rate is derived from German Pellets' application for its sister facility, German Pellets Louisiana, which the company labelled as "identical" and which was not covered by confidentiality. If the hourly production rate utilized by German Pellets to calculate the above emission rates is lower, then the emission factor would be higher and exceedances of the emission limits would occur at lower production rates.

¹² German Pellets Louisiana, LDEQ Prevention of Significant Deterioration Initial Permit Application (Dec. 2012).

pellets.¹³ With that emission factor, hourly and annual emissions at maximum capacity are 105 lb/hr and 419 tpy, respectively.¹⁴

B. Green Hammermill VOC Limits and Emissions.

Woodville Pellets operates seven green hammermills, permitted as Emission Points No. IIIa through IIIg. The SIP Permit has never authorized any VOC emissions from these units, including the most recently amended version of the permit.¹⁵ The wood pellet industry as a whole now understands that green hammermills are a significant source of VOC emissions. For instance, most pellet plants that operate green hammermills and are permitted as synthetic minor sources for PSD avoidance (i.e. pellet plants that must limit facility-wide VOC emissions to less than 250 tpy) utilize regenerative thermal oxidizers to control VOCs and HAPs from their green hammermills.¹⁶ Additionally, each facility we are aware of that has conducted stack testing on their green hammermills has shown significant emission rates, as shown below:

Stack Test Results for VOC Emissions for Green Hammermills			
Facility	Emission Factor (lb/oven dried ton)	Emissions at Woodville Pellets Assuming 72 tons/hour Production Rate	
		Hourly	Annual ¹⁷
MRE Crossville ¹⁸	0.31	22.3 lb/hr	89 tpy
Enviva Amory ¹⁹	0.29	20.9 lb/hr	84 tpy
Enviva Sampson ²⁰	0.203	14.6 lb/hr	58 tpy
Enviva Wiggins ²¹	0.2	14.4 lb/hr	58 tpy

¹³ In response to a TCEQ investigation into post-dryer VOC emissions, Woodville Pellets self-reported emission factors from testing conducted February 18, 2015. Email from Sarah Stephens, EHS Manager, Woodville Pellets, to Jillian Layton (Feb. 7, 2020). Based on those emission factors, which sum to 1.421 lb/metric ton of pellets produced, Woodville Pellets exceeds the hourly emission limit when it produces 4.85 tons of pellets per hour, and the annual emission limit when it has produced 38,801 tons of pellets in any 12-month period.

¹⁴ Based on an hourly capacity of 72 tons/hr and an annual capacity of 576,000 tpy.

¹⁵ April 2019 SIP Permit, MAER Table. Note that the MAER table *does* authorize particulate matter emissions, but no other pollutants.

¹⁶ For instance, the following pellet mills control (or are adding controls) for green hammermills VOC emissions: Drax's LaSalle BioEnergy (Louisiana, installed), Enviva Southampton (Virginia, under construction), Enviva Sampson (North Carolina, installed), Enviva Hamlet (North Carolina, installed), Enviva Northampton (North Carolina, under construction), Enviva Greenwood (South Carolina, installed), Enviva Lucedale (Mississippi, under construction), Enviva Epes, under construction).

¹⁷ Assumes 8,000 hours/year per Air Permit No. 98014, Special Condition 8.

¹⁸ Alliance Source Testing, Source Test Report, MRE Crossville (Test Dates July 30 – Aug. 1, 2019), available by searching under Master Id. No. 37531 on Alabama Department of Environmental Management's eFile database, uploaded Oct. 19, 2019. (Excerpt attached as Exhibit A). Emission factor calculated by dividing hourly emission rate of 4.4 lb/hr by average production rate on day of testing, 14.19 tons/hour.

¹⁹ Air Control Techniques, Air Emission Test Report, Enviva Amory (Oct. 31, 2013), available at: https://files.nc.gov/ncdeq/Air%20Quality/permits/files/Wood_Pellets_Industry/Sampson/2017_Enviva_Pellets_Sampson_Cont.pdf. (Excerpt attached as Exhibit B).

²⁰ Air Control Techniques, Emission Test Report, Enviva Sampson (May 30, 2017), available at: <https://drive.google.com/file/d/1ys-nArQySH1zJTiz46juksqfleMVfOed/view?usp=sharing>. (Excerpt attached as Exhibit C).

²¹ Air Control Techniques, Air Emission Test Report, Enviva Wiggins (Oct. 31, 2013), available at: <https://drive.google.com/file/d/1MYejf1j4r603Ts0SBstYeuhV4fmNL13B/view?usp=sharing> (Excerpt attached as Exhibit D).

There is no evidence in the permitting record for this facility that Woodville Pellets' green hammermills operate any differently from or emit fewer pollutants than those at other plants, nor is there any plausible claim that Woodville Pellets' green hammermills emit zero VOCs.

C. HAP Emissions and Limits

The 2019 amendment to the SIP permit implemented, for the first time, facility-wide limits on HAP emissions in the MAER table, limiting emissions of any individual HAP to less than 10 tpy and limiting the total HAP emissions to less than 25 tpy.²² Prior to the 2019 amendment, the SIP permit only contained HAP limits for the dryer outlet RTO stack, meaning no other units were authorized to emit any HAPs.²³ Neither German Pellets nor Woodville Pellets has ever conducted compliance testing for HAP emissions. The most comprehensive set of emission factors for this industry, however, show that Woodville Pellets' HAP emissions greatly exceed the 10 and 25 tpy limits in the 2019 SIP permit. Enviva, the largest pellet company in the world with eight existing plants, has developed emission factors for pellet plants comparable to Woodville Pellets based on numerous tests at its various facilities.²⁴ Enviva recently reported, based on those emission factors, that a pellet plant comparable to Woodville Pellets emits 149 tpy of total HAPs (as a result, North Carolina regulators required the company to retroactively conduct a new MACT determination and add new controls).²⁵ In terms of individual HAP emissions, Enviva calculated that its mill emits 83 tpy of methanol, 21 tpy of acrolein, and 14 tons of formaldehyde, in addition to emissions of many other individual HAPs.²⁶ The Enviva facility is essentially identical to Woodville Pellets in that it only controls the dryers for VOCs and HAPs; dry hammermills and pelletizers at both plants are uncontrolled.

While the Enviva plant is about 10% larger than Woodville Pellets, these emission factors demonstrate that Woodville Pellets cannot comply with the 10 tpy and 25 tpy unless it severely restricts production far below nameplate capacity. Specifically, applying the Enviva emission factors to Woodville Pellets' operations (at full capacity) show the following emission rates:²⁷

²² April 2019 SIP Permit, MAER Table, "Site-Wide HAPs."

²³ See, e.g. the MAER table attached to SIP Permit 98014 as issued June 5, 2015.

²⁴ Enviva Sampson, PSD Permit Modification for the Softwood Expansion Project, Appendix C, Potential Emission Calculations (Mar. 16, 2018) (hereafter, "Enviva Sampson PSD Application"), available at https://files.nc.gov/ncdeq/Air%20Quality/permits/files/Wood_Pellets_Industry/Sampson/Enviva_Sampson_PSD_Application_March_19_2018.pdf. (Excerpt attached as Exhibit E). Enviva has utilized essentially the same emission factors for its Enviva Lucedale application (Mississippi) and Enviva Epes application (Alabama), although the post-dryer units at these two plants are controlled by RTOs/RCOs, so total emission rates are reduced by 95%.

²⁵ *Id.*; see also, Letter from William Willets, Division of Air Quality, North Carolina DEQ, to Steven Schaar, Plant Manager, Enviva Pellets Sampson (Mar. 1, 2019) (Explaining that because the facility originally estimated just 5.93 tpy of HAPs from its pellet coolers but now quantified 120 tpy, the initial case-by-case MACT determination was flawed and that Enviva must redo its initial case-by-case MACT determination).

²⁶ Enviva Sampson PSD Application., *supra*, note 24, Table 3.

²⁷ Emission factors calculated by dividing the facility-wide HAP emission rate from the Enviva Sampson PSD Application, *supra*, note 24, by Enviva Sampson's production capacity of 657,000 tpy.

Woodville Pellets Facility-Wide HAP Emissions		
Pollutant	Emission Factor (lb/oven dried ton)	Annual Emissions at Full Capacity (576,000 tpy)
Total HAPs	0.453	130 tpy
Acrolein	0.064	18.4 tpy
Formaldehyde	0.043	12.2 tpy
Methanol	0.253	72.8 tpy

D. Dryer and Furnace Bypass Emissions and Limitations

Woodville Pellets’ two furnaces and two wood dryers each feature a bypass stack (for a total of four bypass stacks) that, when used, emit pollutants directly to the atmosphere rather than to the pollution controls and the authorized emission point (the authorized emission point is permitted as Emission Point IV, “Dryers 1 and 2 WESP and RTO Stack”). None of the four bypass stacks is listed in the MAER table as an authorized emission point, and therefore emissions of any pollutants from these stacks are unauthorized.²⁸ When Woodville Pellets utilizes the bypass stacks, the facility emits VOCs, HAPs, particulate matter, nitrogen oxides, carbon monoxide, and sulfur dioxide through the bypass stacks.

E. Texas SIP Condition 30 Tex. Admin. Code § 101.4

The Texas SIP provides the following anti-nuisance provision:

No person shall discharge from any source whatsoever one or more air contaminants . . . in such concentration and of such duration as are or may tend to be injurious to or to adversely affect human health or welfare, animal life, vegetation or property, or as to interfere with the normal use and enjoyment of animal life, vegetation, or property.

30 Tex. Admin. Code § 101.4, approved by EPA at 37 FR 10895 (May 31, 1972). As discussed below, when Woodville Pellets uses its bypass stacks, it emits smoke, soot, and other pollutants into the surrounding community. These emissions “adversely affect” human health and welfare and interfere with the normal use of neighbors’ property.

II. Specific Violations

Claim 1: Hourly and Annual VOC Violations at Woodville Pellets’ Dry Hammermill and Pellet Cooler Units.

As discussed above, the dry hammermills and pellet coolers emit substantial amounts of VOCs—515 tons per year at full production rates, according to German Pellets’ emission quantifications. Woodville Pellets does not hold any permit, including the SIP permit, that authorizes these emissions, or at least not in excess of the MAER limits in the 2019 version of the SIP permit.

²⁸ TCEQ noted in a recent investigation that these stacks do “not have any authorizations or permits that allow for the release of emissions to the atmosphere,” and that “all the emissions [from these stacks] are unauthorized.” See TCEQ Investigation Report No. 1550259, Track No. 707288 (Mar. 26, 2019).

Because Woodville Pellets has not yet installed the new RTO listed in the 2019 permit, and because the RTO outlet is the specific emission point subject to the MAER VOC limits in that permit, we believe all VOC emissions from the dry hammermills and pellet coolers are unauthorized and constitute violations of Special Condition No. 1 and General Condition No. 8 of Permit 98014 and the Texas SIP, 30 Tex. Admin. Code § 116.115(b)(2)(F). In particular, each day Woodville Pellets has operated these post-dryer units since acquiring the facility on June 18, 2019, and each day the company continues to operate these post-dryer units, are individual violations.

Alternatively, if the MAER limits on the post-dryer units set forth in the most recently-amended version of the SIP permit do apply—6.55 lb/hr and 26.25 tons in any 12-month period—Woodville Pellets has exceeded these limits and will continue to do so if the plant continues operating. Specifically, based on the emission factors from the 2015 stack test,²⁹ each day that pellet production exceeds or has exceeded 4.85 tons in any single hour, Woodville Pellets violates and has violated the hourly MAER limits on VOCs. Likewise, each month the plant's rolling 12-month pellet production exceeds or has exceeded 38,801 tons, Woodville Pellets violates and has violated the annual MAER limits on VOCs.³⁰ In fact, Woodville Pellets' 12-month rolling production has exceeded this threshold each month since the company acquired the plant on June 18, 2019 and has therefore violated the annual MAER limits each month since then—as of April 30, 2020, Woodville Pellets' 12-month production rates could be no lower than 341,388 tons.³¹ Finally, we note that the emission factors from the 2015 stack test are lower than the emission rates quantified by German Pellets, and therefore exceedances of the MAER limits may occur at even lower production rates.³²

Because Woodville Pellets has not publicly reported the actual tonnage of pellets the facility has produced on a daily or monthly basis since acquiring the plant, the Citizens are unable to provide each specific date of violations. However, that operating information is known to Woodville Pellets, and the notice provided herein is sufficient for Woodville Pellets to determine the dates that the specific violations alleged in Claim 1 occurred.³³

²⁹ See, *supra*, note 13.

³⁰ Specifically, each day during such month represents an individual violation.

³¹ Although the public does not have access to actual production records for individual days or months, emissions records produced by German Pellets for the months of November 2018 through April 2019 show the plant produced approximately 117,155 tons of pellets during that period. This is based on back-calculating production rates by dividing reported emissions of CO, NO_x, and SO₂ and the emission factors used to report these emissions. Specific months' production rates were approximately as follows: November 2018: 15,010 tons; December 2018: 22,300 tons; January 2019: 14,230 tons; February 2019: 12,047 tons; March 2019: 23,080 tons; April 2019: 30,487 tons. Additionally, Woodville Pellets itself stated that it produced 309,702 metric tons (341,388 short tons) of pellets between April 5, 2019, and January 31, 2020. See Email from Sarah Stephens, EHS Manager, Woodville Pellets, to Jillian Layton (Feb. 7, 2020). As such, the rolling 12-month production rate through April 31, 2020 could be no lower than 341,388 tons, and that would not account for any pellets produced after January 31, 2020.

³² See *supra*, note 9. Based on the German Pellets emission rates as quantified in its PSD application, which sum to 1.79 lb/ton of pellets produced, Woodville Pellets exceeds the hourly emission limit when it produces 3.7 tons of pellets per hour, and exceeds the annual emission limit when it has produced 29,500 tons of pellets in any 12-month period.

³³ This letter provides notice of violations that occurred after Woodville Pellets acquired the plant on approximately June 18, 2019. However, violations of the 12-month rolling emission limits incorporate emissions from the 12 months of operations prior to Woodville Pellets' acquisition.

Claim 2: VOC Violations at Woodville Pellets' Green Hammermills Units.

As discussed above, the SIP permit does not authorize *any* VOC emissions from the seven green hammermills. Because green hammermills are in fact significant sources of VOCs, each day the plant has operated or operates the green hammermills Woodville Pellets violates and has violated Special Condition No. 1 and General Condition No. 8 of the SIP permit and the Texas SIP itself, 30 Tex. Admin. Code § 116.115(b)(2)(F). Citizens do not have access to Woodville Pellets' operating records and thus cannot provide each specific date of violations. However, that operating information is known to Woodville Pellets, and the notice provided herein is sufficient for Woodville Pellets to determine the specific dates of the violations alleged in Claim 2.

Claim 3: Facility-Wide HAP Violations at Woodville Pellets.

As currently permitted, Woodville Pellets is subject to a 25 tpy emission limit for total HAP emissions and 10 tpy emission limit for any individual HAP emission (both limits are on a 12-month rolling basis).³⁴ These limits apply facility-wide.³⁵ Using the Enviva emission factors discussed above, we calculate that Woodville Pellets exceeds the 25 tpy total HAP limits whenever it produces 111,000 tons of pellets or more in a 12-month period.³⁶ The facility also exceeds the individual HAP limit of 10 tpy whenever 12-month production rates equal or exceed the following amounts: methanol emissions exceed 10 tpy at a production rate of 80,000 tpy, acrolein emissions exceed 10 tpy at a production rate of 315,000 tpy, and formaldehyde emissions exceed 10 tpy at a production rate of 475,000 tpy.³⁷ Each month the plant's rolling 12-month production of pellets exceeds or has exceeded any of these production rates, Woodville Pellets violates and has violated the total and/or individual annual HAP limits in Permit 98014, Special Condition No. 1 and General Condition No. 8 of the SIP permit, and 30 Tex. Admin. Code § 116.115(b)(2)(F).³⁸

While Citizens do not have access to precise production rates, production records submitted by Woodville Pellets for the period of April 5, 2019 through January 30, 2020 (wherein the facility produced 341,388 tons of pellets) show that, at a minimum, Woodville Pellets has exceeded the MAER limit on total HAPs and the individual HAP limit for methanol and acrolein.³⁹ More specific production and operating information is known to Woodville Pellets, and the notice provided herein is sufficient for Woodville Pellets to determine the specific dates of the violations alleged in Claim 3.

Alternatively, if the facility-wide 10 tpy and 25 tpy limits do not apply under the theory that those limits are premised on the installation of the new regenerative thermal oxidizer control, then the green hammermills, dry hammermills, and pellet coolers are not authorized to emit *any*

³⁴ April 2019 SIP Permit, MAER Table, "Site-Wide HAPs."

³⁵ *Id.*

³⁶ For emission factors, *see supra*, note 27. At a production rate of 111,000 tpy, the Enviva emission factor results in a facility-wide emission rate of 25.2 tpy of total HAPs.

³⁷ *Id.* At a production rate of 80,000 tpy, methanol emissions are 10.1 tpy; at a production rate of 315,000 tpy, acrolein emissions are 10.1 tpy; at a production rate of 475,000 tpy, formaldehyde emissions are 10.1 tpy.

³⁸ I.e., if the facility's 12-month production rate in a given month is 500,000 tons, then the facility has violated the 25 tpy limit on total HAPs, as well as the individual 10 tpy limit for methanol, acrolein, and formaldehyde emissions, and each pollutant represents separate violations. For every month emissions violate these limits, each day is an individual violation.

³⁹ *Supra* note 31, explaining that Woodville Pellets itself reported a total pellet production of 341,388 short tons between April 5, 2019 and January 31, 2020.

amount of HAPs.⁴⁰ Because each of these units in fact emits significant levels of HAPs,⁴¹ each day Woodville Pellets operates and has operated these units it violates and has violated Special Condition No. 1 and General Condition 8 of the SIP permit and the Texas SIP, 30 Tex. Admin. Code § 116.115(b)(2)(F).

Claim 4: Woodville Pellets' Unauthorized Release of Pollutants Through its Bypass Stacks Violates its SIP Permit and SIP Rule 30 Tex. Admin. Code § 116.115(b)(2)(F).

On numerous instances since acquiring the facility, Woodville Pellets has vented furnace and dryer emissions through bypass stacks directly to the atmosphere, bypassing pollution controls designed to reduce particulate matter, VOC, and HAP emissions by 95% or more, and that likely also reduce carbon monoxide emissions significantly. Woodville Pellets' use of these bypass stacks frequently lasts hours and blankets the surrounding community in smoke and other pollutants.

None of these four bypass stacks is listed in the MAER table as an authorized emission point.⁴² Therefore each day the plant emits pollutants (specifically, any or all of the following: particulate matter, VOCs, HAPs, nitrogen oxides, carbon monoxide and sulfur dioxide) from these stacks Woodville Pellets violates Special Condition No. 1 and General Condition No. 8 of the SIP permit and the Texas SIP, 30 Tex. Admin. Code § 116.115(b)(2)(F). Because each of these pollutants is regulated separately by TCEQ and by Permit 98014, each unauthorized emission of each pollutant is a separate violation of the permit. Specific alleged violations have occurred on the following dates:⁴³

1. On or about July 5 and July 6, 2019 (dryer bypass stacks utilized).
2. On or about July 9, 2019 (dryer bypass stacks utilized).
3. On or about July 13, 2019 (furnace bypass stacks utilized).
4. On or about July 15, 2019 (furnace bypass stacks utilized).
5. On or about July 24, 2019 (dryer bypass stacks utilized).
6. On or about December 29, 2019 (furnace and dryer bypass stacks utilized),
7. On or about January 3, 2020 (dryer bypass stacks utilized),

⁴⁰ This is because, prior to the April 2019 amendment, the SIP permit's MAER table only authorized HAP emissions from the dryer outlet stack (EP N. IV); the MAER table attached to prior versions of the SIP permit did not authorize any other units to emit HAPs.

⁴¹ For dry hammermills and pellet coolers, see Enviva Sampson PSD Application, *supra*, note 24. For green hammermill HAP emissions, see Enviva Wiggins Stack Test Report, *supra*, note 21.

⁴² TCEQ noted in a recent investigation that these stacks do "not have any authorizations or permits that allow for the release of emissions to the atmosphere," and that "all the emissions [from these stacks] are unauthorized." See TCEQ Investigation Report No. 1550259, Track No. 707288 (Mar. 26, 2019).

⁴³ Dates of bypass events one through five are from Woodville Pellets' Federal Operating Permit Deviation Report for the period of Mar. 17, 2019 through Oct. 16, 2019. Bypass events six through 19 are based on eyewitness reports.

8. On or about January 7, 2020 (furnace bypass stacks utilized),
9. On or about January 9, 2020 (dryer bypass stacks utilized),
10. On or about January 22, 2020 (dryer bypass stacks utilized),
11. On or about January 29, 2020 (furnace bypass stacks utilized),
12. On or about February 10, 2020 (furnace bypass stacks utilized),
13. On or about February 16, 2020 (furnace and dryer bypass stacks utilized),
14. On or about February 17, 2020 (furnace bypass stacks utilized),
15. On or about February 18, 2020 (dryer bypass stacks utilized),
16. On or about March 16, 2020 (furnace bypass stacks utilized),
17. On or about March 17, 2020 (dryer bypass stacks utilized),
18. On or about March 21, 2020 (dryer bypass stacks utilized),
19. On or about April 28, 2020 (furnace bypass stacks utilized),
20. Any other dates when Woodville Pellets' operating records show the facility emitted pollutants through the furnace or dryer bypass stacks.

Claim 5: Woodville Pellets' Bypass Stack Releases Violate SIP Rule 30 Tex. Admin. Code § 101.4.

The Texas SIP provides the following anti-nuisance provision:

No person shall discharge from any source whatsoever one or more air contaminants . . . in such concentration and of such duration as are or may tend to be injurious to or to adversely affect human health or welfare, animal life, vegetation or property, or as to interfere with the normal use an enjoyment of animal life, vegetation, or property.

30 Tex. Admin. Code § 101.4, approved by EPA at 37 Fed. Reg. 10,895 (May 31, 1972). On the dates listed above under Claim 4, smoke, soot, dust, VOCs, HAPs, and other pollutants emitted from the bypass stacks interfered with neighbors' normal use and enjoyment of their property and adversely affected human health and welfare. Residents have documented visible smoke on their property during these events and have ceased recreating outdoors during such events to avoid breathing harmful emissions. Additionally, residents' properties have been repeatedly coated in dust and soot from these events. Further, residents reasonably believe that their property values will be substantially impacted if these events continue to occur with the

frequency and duration observed in recent months. These harms constitute a violation of the SIP's prohibition of creating a nuisance condition under 30 Tex. Admin. Code § 101.4.

III. Authority to Bring Suit

Section 304 of the Clean Air Act authorizes citizens to sue for violations of an “emission standard or limitation under this chapter.” 42 U.S.C. § 7604(a)(1). That section defines “emission standard or limitation under this chapter” in relevant part as any “any permit term or condition . . . which is in effect . . . under an applicable implementation plan.” *Id.* § 7604(f)(4). As set out above, Woodville Pellets has repeatedly violated and continues to violate Special Condition No. 1 and General Condition 8 of SIP Permit 98014, as well as the SIP rule 30 Tex. Admin. Code § 116.115(b)(2)(F). Those permit conditions and the SIP provision establish that only emissions listed in the MAER table are authorized, and emission rates that exceed the limits therein are violations of the permit and the SIP. Additionally, the unauthorized emissions have caused nuisance conditions in violation of the SIP's anti-nuisance provision, 30 Tex. Admin. Code § 101.4. Each of these provisions is federally enforceable—and therefore subject to citizen suit enforcement—under the Clean Air Act.

Additional information that the Citizens have not been able to obtain before sending this letter, including information in the possession of Woodville Pellets and the most recent deviation reports, may reveal additional details about the violations described above and may reveal additional similar violations of the Clean Air Act at the Woodville Pellets Facility. This letter covers all such violations.

Citizens intend to file suit seeking injunctive relief to require Woodville Pellets to prevent the violations discussed above from continuing to occur, civil penalties, recovery of costs of litigation and attorney's fees, and other appropriate relief as allowed by Clean Air Act § 304. At least 60 days before filing suit, § 304 requires a citizen-suit plaintiff to provide notice of the violation of emission limitations. 42 U.S.C. § 7604(b)(1)(A). This letter is that notice.

Please direct all communication regarding this notice letter to the undersigned. We are happy to discuss any aspect of the allegations in this letter and would like to know if you believe any of the above information is incorrect or if you are interested in discussing a resolution of the violations described in this letter prior to our filing suit.

Respectfully,

/s/ Patrick Anderson

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Dustin Stafford
888 County Rd. 4260
Woodville, Texas 75979

CC (Via Certified Mail):

Ken McQueen
EPA Region 6 Administrator
1201 Elm Street, Suite 500
Dallas, Texas 75270

Governor Greg Abbott
Office of the Governor
P.O. Box 12428
Austin, Texas 78711

CT Corporation System
Registered Agent
1999 Bryan St., Suite 900
Dallas, Texas 75201

Attachment B

Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

September 17, 2015

MR PETER LEIBOLD
CEO
GERMAN PELLETS TEXAS LLC
164 COUNTY ROAD 1040
WOODVILLE TX 75979

Re: Effective Permit Approval
Initial Issuance
Permit Number: 03609
Expiration Date: September 15, 2020
German Pellets Texas LLC
Woodville Mill
Woodville, Tyler County
Regulated Entity Number: RN106205032
Customer Reference Number: CN603945254
Account Number: TJ-A004-D

Dear Mr. Leibold:

The effective federal operating permit (FOP) for German Pellets Texas LLC, Woodville Mill is enclosed. This FOP constitutes authority to operate the emission units identified in the FOP application.

All site operating permits are subject to public petition for 60 days following the expiration of the 45-day U.S. Environmental Protection Agency (EPA) review. The public petition period for the FOP extends from August 29, 2015 until October 27, 2015. If the EPA receives a valid petition and objects to the above-referenced permit, you will be notified promptly by the Texas Commission on Environmental Quality (TCEQ).

It should be noted that from the date of this letter German Pellets Texas LLC, Woodville Mill must operate in accordance with the requirements of Title 30 Texas Administrative Code Chapter 122 (30 TAC Chapter 122) and the FOP. Some of the terms and conditions contained in the FOP include recordkeeping conditions, reporting conditions (which includes deviation reporting), and compliance certification conditions. All reports, along with any questions regarding the reports, shall be forwarded to the Texas Commission on Environmental Quality, Beaumont Regional Office, 3870 Eastex Fwy, Beaumont, Texas 77703-1830.

Consistent with 30 TAC Chapter 122, Subchapter C, the permit holder shall submit an application to the Air Permits Division (APD) for a revision to an FOP for those activities at a site which change, add, or remove one or more FOP terms or conditions. The permit holder shall also submit an application to the APD for a revision to a permit to address the following: the adoption of an applicable requirement previously designated as federally enforceable only;

Mr. Peter Leibold
Page 2
September 17, 2015

the promulgation of a new applicable requirement; the adoption of a new state-only requirement; or a change in a state-only designation.

Consistent with 30 TAC §122.133 and 30 TAC §122.134, a complete renewal application must be submitted to the agency no later than six months, but no earlier than 18 months, before the expiration of this permit.

Thank you again for your cooperation in this matter. If you have questions concerning the review or this notice, please contact Ms. Erin Guerra, E.I.T. at (512) 239-1354.

This action is taken under authority delegated by the Executive Director of the TCEQ.

Sincerely,



Michael Wilson, P.E., Director
Air Permits Division
Office of Air
Texas Commission on Environmental Quality

MPW/eg

cc: Mr. Carl Einer Leonhard, Project Manager, German Pellets Texas LLC, Wismar
Air Section Manager, Region 10 - Beaumont

Enclosure: Effective Permit

cc: Air Permit Section Chief, U.S. Environmental Protection Agency, Region 6, Dallas

Project Number: 19494

FEDERAL OPERATING PERMIT

A FEDERAL OPERATING PERMIT IS HEREBY ISSUED TO

German Pellets Texas LLC

AUTHORIZING THE OPERATION OF

Woodville Mill
Wood Products

LOCATED AT

Tyler County, Texas

Latitude 30° 44' 29" Longitude 094° 25' 54"

Regulated Entity Number: RN106205032

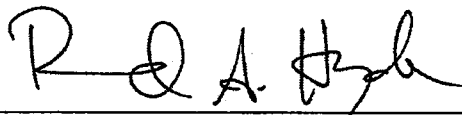
This permit is issued in accordance with and subject to the Texas Clean Air Act (TCAA), Chapter 382 of the Texas Health and Safety Code and Title 30 Texas Administrative Code Chapter 122 (30 TAC Chapter 122), Federal Operating Permits. Under 30 TAC Chapter 122, this permit constitutes the permit holder's authority to operate the site and emission units listed in this permit. Operations of the site and emission units listed in this permit are subject to all additional rules or amended rules and orders of the Commission pursuant to the TCAA.

This permit does not relieve the permit holder from the responsibility of obtaining New Source Review authorization for new, modified, or existing facilities in accordance with 30 TAC Chapter 116, Control of Air Pollution by Permits for New Construction or Modification.

The site and emission units authorized by this permit shall be operated in accordance with 30 TAC Chapter 122, the general terms and conditions, special terms and conditions, and attachments contained herein.

This permit shall expire five years from the date of issuance. The renewal requirements specified in 30 TAC § 122.241 must be satisfied in order to renew the authorization to operate the site and emission units.

Permit No: 03609 Issuance Date: September 17, 2015



For the Commission

Attachment C

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Revised Notice of Draft Federal Operating Permit

Draft Permit No.: O3609

Application and Draft Permit. Woodville Pellets, LLC, 164 County Road 1040, Woodville, TX 75979-6753, has applied to the Texas Commission on Environmental Quality (TCEQ) for a renewal of Federal Operating Permit (herein referred to as Permit) No. O3609, Application No. 30670, to authorize operation of the Woodville Mill, an All Other Miscellaneous Wood Product Manufacturing facility. The area addressed by the application is located at 164 County Road 1040 in Woodville, Tyler County, Texas 75979-6753. This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For exact location, refer to the application. You can find an electronic map of the facility at:

<http://www.tceq.texas.gov/assets/public/hb610/index.html?lat=30.741388&lng=-94.431666&zoom=13&type=r>. This application was received by the TCEQ on July 1, 2020.

The purpose of a federal operating permit is to improve overall compliance with the rules governing air pollution control by clearly listing all applicable requirements, as defined in Title 30 Texas Administrative Code § 122.10 (30 TAC § 122.10). The draft permit, if approved, will codify the conditions under which the area must operate. The permit will not authorize new construction. The executive director has completed the technical review of the application and has made a preliminary decision to prepare a draft permit for public comment and review. The executive director recommends issuance of this draft permit. The permit application, statement of basis, and draft permit will be available for viewing and copying at the TCEQ Central Office, 12100 Park 35 Circle, Building E, First Floor, Austin, Texas 78753; the TCEQ Beaumont Regional Office, 3870 Eastex Fwy, Beaumont, Texas 77703-1830; and the Allan Shivers Library and Museum, 302 N Charlton St, Woodville, Texas 75979-4806, beginning the first day of publication of this notice. The draft permit and statement of basis are available at the TCEQ Website:

www.tceq.texas.gov/goto/tvnotice

At the TCEQ central and regional offices, relevant supporting materials for the draft permit, as well as the New Source Review permits which have been incorporated by reference, may be reviewed and copied. Any person with difficulties obtaining these materials due to travel constraints may contact the TCEQ central office file room at (512) 239-2900.

Public Comment/Notice and Comment Hearing. Any person may submit written comments on the draft permit. Comments relating to the accuracy, completeness, and appropriateness of the permit conditions may result in changes to the draft permit.

A person who may be affected by the emission of air pollutants from the permitted area may request a notice and comment hearing. The purpose of the notice and comment hearing is to provide an additional opportunity to submit comments on the draft permit. The permit may be changed based on comments pertaining to whether the permit provides for compliance with 30 TAC Chapter 122 (examples may include that the permit does not contain all applicable requirements or the public notice procedures were not satisfied). The TCEQ may grant a notice and comment hearing on the application if a written hearing request is received within 30 days after publication of the newspaper notice. The hearing request must include the basis for the request, including a description of how the person may be affected by the emission of air pollutants from the application area. The request should also specify the conditions of the draft permit that are inappropriate or specify how the preliminary decision to issue or deny the permit is inappropriate. All reasonably ascertainable issues must be raised and all reasonably available arguments must be submitted by the end of the public comment period. If a notice and comment hearing is granted, all individuals that submitted written comments or a hearing request will receive written notice of the hearing. This notice will identify the date, time, and location for the hearing.

Written public comments and/or requests for a notice and comment hearing should be submitted to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087, or electronically at www14.tceq.texas.gov/epic/eComment/

and be received within 30 days after the date of newspaper publication of this notice. Please be aware that any contact information you provide, including your name, phone number, email address and physical address will become part of the agency's public record.

A notice of proposed final action that includes a response to comments and identification of any changes to the draft permit will be mailed to everyone who submitted public comments, a hearing request, or requested to be on the mailing list for this application. This mailing will also provide instructions for public petitions to the U.S. Environmental Protection Agency (EPA) to request that the EPA object to the issuance of the proposed permit. After receiving a petition, the EPA may only object to the issuance of a permit which is not in compliance with the applicable requirements or the requirements of 30 TAC Chapter 122.

Mailing List. In addition to submitting public comments, a person may ask to be placed on a mailing list for this application by sending a request to the Office of the Chief Clerk at the address above. Those on the mailing list will receive copies of future public notices (if any) mailed by the Chief Clerk for this application.

Information. For additional information about this permit application or the permitting process, please contact the Texas Commission on Environmental Quality, Public Education Program, MC-108, P.O. Box 13087, Austin, Texas 78711-3087 or toll free at 1-800-687-4040. Si desea información en Español, puede llamar al 1-800-687-4040.

Further information may also be obtained for Woodville Pellets, LLC by calling Mr. Mihkel Jugaste at (409) 331-9823.

Notice Issuance Date: July 7, 2020

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Toby Baker, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

January 24, 2022

Mr. Patrick J. Anderson
Environmental Integrity Project
c/o Powell Environmental Law
315 West Ponce de Leon Avenue, Suite 842
Decatur, Georgia 30030

Re: Comment Received, Proposed Agreed Enforcement Order
Woodville Pellets, LLC; RN106205032
Docket No. 2020-0449-AIR-E; Enforcement Case No. 59124

Dear Mr. Anderson:

We received your letter dated October 18, 2021 that was submitted on behalf of the Lone Star Chapter of the Sierra Club and the Environmental Integrity Project concerning the proposed agreed enforcement order for the Woodville Pellets, LLC wood pellet manufacturing plant ("Plant") in Tyler County, Texas. I have forwarded your letter to our Beaumont Regional Office for their information and to our General Counsel's Office so that the Commissioners can consider your comments regarding the proposed order.

Texas Commission on Environmental Quality ("TCEQ") staff and Woodville Pellets, LLC agreed on the terms of the proposed order on August 3, 2021 which includes an administrative penalty of \$517,068. Woodville Pellets, LLC has paid \$258,534 of the administrative penalty. The amount of \$258,534 shall be conditionally offset by Woodville Pellets, LLC's completion of a Supplemental Environmental Project. In addition to the penalty, the order recognizes that Woodville Pellets, LLC has submitted a Federal Operating Permit ("FOP") application to authorize the emission units at the Plant and obtained an amendment for New Source Review Permit No. 98014 to change the control device for the filtered emissions from the Dry Hammermill and Cooler Air Aspiration System from a Regenerative Thermal Oxidizer ("RTO") to a Regenerative Catalytic Oxidizer ("RCO").

The technical requirements in the proposed agreed order require Woodville Pellets, LLC to comply with the provisions in expired FOP No. 03609 until such time that FOP No. 04246 is obtained; respond completely and adequately to all requests for information concerning the application for FOP No. 04246; submit the permit compliance certification ("PCC") for the September 17, 2019 through March 16, 2020 certification period; implement measures and/or procedures designed to ensure that the PCCs are submitted in a timely manner; submit a revised deviation report for the September 17, 2019 through March 16, 2020 reporting period to report the deviation for the non-reportable emissions event that occurred from January 10, 2020

through January 11, 2020; implement measures and/or procedures designed to ensure that all instances of deviations are reported; either install a flow indicator that records and verifies zero flow for the furnace at least once every 15 minutes immediately downstream of each valve that if opened would allow the furnace vent stream to bypass the control device and be emitted, either directly or indirectly, to the atmosphere, or once a month, inspect the valves verifying the position of the valves and the condition of the car seals/lock-out tags that prevent the furnace flow out of the bypass and maintain records of each inspection, or install an electronic position indicator that records and verifies the open or closed position, at least once every 15 minutes, of each valve or damper that if opened would allow the furnace vent stream to bypass the control device and emitted, either directly or indirectly, to the atmosphere; and route the filtered emissions from the Dry Hammermill and Cooler Air Aspiration System to an RCO that achieves 95 percent or greater destruction efficiency for organic compounds emissions. The proposed agreed order addresses the violations that were documented during record reviews conducted on February 27, 2020, February 2, 2021, and March 1, 2021 and requires Woodville Pellets, LLC to achieve compliance within specified timeframes.

In your comments, you expressed concerns related to the penalty not recovering Woodville Pellets, LLC's economic benefit of non-compliance, the revised assessed administrative penalty is less than the initial proposed administrative penalty, the proposed agreed order authorizes Woodville Pellets, LLC to continue to operate without a FOP, the proposed agreed order fails to address ongoing green hammermill violations, and citizens or the United States Environmental Protection Agency ("U.S. EPA") cannot enforce the order. The TCEQ appreciates your concerns, and these are our responses to your concerns.

You had a concern that the penalty does not recover Woodville Pellets, LLC's economic benefit of non-compliance. However, an economic benefit was calculated for each violation and an economic benefit enhancement was applied in accordance with the applicable TCEQ Penalty Policy at the time the enforcement case was developed. For each violation, the economic benefit was calculated based on the actual or delayed costs of compliance from the date of the violation to the date of compliance or the estimated date of compliance.

You had a concern that the revised assessed administrative penalty is less than the initial proposed administrative penalty. The initial proposed penalty for the failure to route the filtered emissions from the Dry Hammermill and Cooler Aspiration System to an RTO was assessed as an Actual Release/Major Harm because human health or the environment has been exposed to significant amounts of unauthorized volatile organic compounds that exceeded levels that were protective of human health or environmental receptors. During negotiations of the proposed agreed order, Woodville Pellets, LLC demonstrated that the uncontrolled volatile organic compounds did not exceed levels that were protective of human health or the environmental receptors. Therefore, the penalty for the failure to route the filtered emissions from the Dry Hammermill and Cooler Aspiration System to an RTO was revised to an Actual Release/Moderate Harm in accordance with the applicable TCEQ Penalty Policy. Although additional violations were documented and addressed in the revised proposed agreed order, the total administrative penalty of \$526,500 in the initial proposed agreed order was reduced to \$517,068 in the revised proposed agreed order because the penalty for the failure to route the filtered emissions from the Dry Hammermill and Cooler Aspiration System to an RTO was revised from an Actual Release/Major Harm to an Actual Release/Moderate Harm.

You had a concern that the proposed agreed order authorizes Woodville Pellets, LLC to continue to operate without a FOP. The proposed agreed order requires Woodville Pellets, LLC to comply the terms and conditions in expired FOP No. O3609 until such time that FOP No. O4246 is obtained or until 180 days after the effective date of the order, whichever is earlier. Within 180 days after the effective date of the order, Woodville Pellets, LLC must demonstrate that it has obtained FOP No. O3609 or cease operations.

You had a concern that the proposed agreed order fails to address ongoing green hammermill violations. Since June 18, 2019, the TCEQ Beaumont Regional Office has not documented any violations in regards to the green hammermill. The proposed agreed order addresses the violations that were documented during record reviews conducted on February 27, 2020, February 2, 2021, and March 1, 2021, including the failure to route the filtered emissions from the Dry Hammermill and Cooler Air Aspiration System to an RTO. Since the failure to comply with any permitted emissions rates for the green hammermill was not documented during these record reviews, this alleged violation was not addressed in the proposed agreed order. Woodville Pellets, LLC provided a proper notice of its intent to conduct an environment audit and a certified disclosure of violations in accordance with the Texas Environment, Health, and Safety Audit Privilege Act ("the Audit Privilege Act"). Woodville Pellets, LLC disclosed four violations related to the operation and associated emissions from the wet mill aspiration cyclone stacks. After further review, immunity under the Audit Privilege Act may not be recognized for all of the violations that were disclosed on December 31, 2020 by Woodville Pellets, LLC. Since the TCEQ was made aware of the failure to obtain a Minor New Source Review Permit and failure to obtain a Prevention of Significant Deterioration Permit for the potential emissions from the wet aspiration cyclone stacks before the violations were disclosed via certified mail, these disclosed violations may be referred to the TCEQ Beaumont Regional Office to determine if a formal enforcement action is warranted.

You had a concern that citizens or the U.S. EPA cannot enforce the order. The language in Section III Paragraph No. 10 cannot be revised as you suggested because per TEX. WATER CODE § 7.071, an agreed administrative order issued by the TCEQ is not admissible against a party to that order in a civil proceeding unless the proceeding is brought by the Attorney General's Office. The violations in the proposed agreed order does not preclude the U.S. EPA from conducting its own investigation and pursuing a civil action.

Since an agreement was reached between Woodville Pellets, LLC and the TCEQ, the TCEQ has scheduled the agreed order for consideration by the TCEQ Commissioners at an upcoming Commissioners' Agenda, in accordance with 30 TEX. ADMIN. CODE § 70.10(c). During the Commissioners' Agenda, the TCEQ Commissioners can propose changes or other recommendations regarding the proposed agreed order. Upon adoption of the agreed order by the TCEQ Commissioners, the TCEQ will continue to monitor Woodville Pellets, LLC's compliance with the TCEQ rules, regulations, and agreed order and initiate additional enforcement actions as appropriate.

We appreciate your input into the enforcement action currently pending against Woodville Pellets, LLC. The proposed agreed order is expected to be considered at an upcoming Commissioners' Agenda. Ms. Toni Red is the Enforcement Coordinator assigned to this case. If you have further concerns or comments related to the order, please do not hesitate to call Ms. Red at (512) 239-1704. For complaints related to Woodville Pellets, LLC's current operating

Mr. Patrick J. Anderson
Page 4
January 24, 2022

conditions or procedures, you should continue to contact our Beaumont Regional Office at (409) 898-3838.

Sincerely,

A handwritten signature in black ink that reads "Susan M. Jablonski". The signature is written in a cursive style with a small dot at the end.

Susan M. Jablonski, P.E.
Deputy Director for Enforcement Division
Office of Compliance and Enforcement
Texas Commission on Environmental Quality

SMJ/tr



October 18, 2021

By Fax and Electronic Mail to

Texas Commission on Environmental Quality
Office of the Chief Clerk
MC-105
P.O. Box 13087
Austin, Texas 78711-3087

RE: Comments on the Draft Agreed Order for Woodville Pellets, LLC, Docket No. 2020-0449-AIR-E.

Dear Texas Commission on Environmental Quality:

On behalf of the Lone Star Chapter of the Sierra Club and itself, Environmental Integrity Project hereby submits these comments on the Draft Agreed Order for Woodville Pellets, LLC, Docket No. 2020-0449-AIR-E for **Woodville Pellets, LLC, located at 164 County Road 1040, Woodville, Tyler County, Texas**, prepared by the Texas Commission on Environmental Quality (“TCEQ”).

While we appreciate that TCEQ has proposed to penalize Woodville Pellets for some of the facility’s ongoing and significant non-compliance, the draft Agreed Order is fundamentally inadequate for several reasons. Most significantly, the Agreed Order fails to recover even half of Woodville’s economic benefit it enjoyed as a result of just *one* of the violations addressed by the draft Agreed Order. The draft Order would penalize Woodville to the tune of \$517,068 for a total of five violations, including the failure to install an RTO. Woodville itself, however, has calculated that it saved \$1.2 million by delaying the installation of the RTO. As such, unless the penalty is increased to at least \$1.2 million, Woodville will have benefited substantially from its willful and intention non-compliance with the Clean Air Act and Texas’ law. Further, the draft Agreed Order is deficient in several other important respects, as discussed below.

Background

Woodville Pellets is a large, industrial wood pellet manufacturing facility located in the community of Woodville, Texas. Since its construction in 2013, the facility has been emitting hundreds of tons of illegal VOCs each year, which include a significant quantity of pollutants listed by Congress as particularly toxic or carcinogenic, known as ‘hazardous air pollutants’ (HAPs).

Specifically, when originally constructed, the facility was limited to 64 tons of VOCs per year, later increased to 90 tons per year.¹ As a result of stack tests in 2015 and 2021, we now know the facility emits vastly more; in 2020, the facility calculated that it emitted more than 530 tons of VOCs that year.² The facility's total 'potential to emit,' relevant under the Clean Air Act's prevention of significant deterioration (PSD) requirements, is north of 850 tons per year.³ Thus, both actual and potential emissions from the facility vastly exceed the 250 ton per year threshold that requires PSD permitting, which requires the use of the 'best available control technology.' Despite this fact, the facility has never obtained a PSD permit.

As a result of this noncompliance, EIP and Sierra Club engaged with the permitting process in 2017, urging TCEQ to require the installation of the same pollution controls, known as RTOs (or a comparable control known as an RCO), as used by Woodville's competitors, to reduce VOC emissions by at least 95%. TCEQ agreed with EIP and Sierra Club, and, in 2018, informed the facility that it would have to install those controls.

Graanul Invest, the world's second largest player in the booming wood pellet industry, owning more than a dozen manufacturing facilities and power plants in Estonia, Latvia, and Lithuania, acquired the Woodville facility out of bankruptcy in 2019.⁴ This, of course, was well after TCEQ had issued the permit requiring the installation of the new RTO.

Rather than install the new RTO prior to beginning operations of the facility, the facility has been operated illegally without the RTO, emitting around 500 tons of illegal VOCs in both 2019 and 2020.

In May of 2020, Sierra Club sent a Notice of Intent to Sue (the "Notice Letter") to Woodville Pellets, TCEQ, and EPA.⁵ This Notice Letter set out not only the excess VOCs emitted by the Facility's post-dryer units, which the facility had acknowledged in a 2015 environmental audit, but also excess VOC emissions from the facility's wet or 'green' hammermills (the units are not permitted to emit any VOCs), amongst other violations. Sierra Club then filed suit in federal court against Woodville in August 2020, alleging each of the same violations listed in the Notice Letter.

Shortly thereafter, TCEQ released a draft renewal Title V permit for Woodville for public notice and comment. EIP and Sierra Club again noted the lack of any deadline to install the RTO, as well as the excess wet hammermill VOC emissions, which neither Woodville nor TCEQ had yet acknowledged.⁶

Three days after EIP and Sierra Club's Title V comments, Woodville informed TCEQ it was initiating an environmental audit under the Texas' Environmental, Health, and Safety Audit Privilege Act. This audit resulted in stack tests, conducted in early 2021, that confirmed EIP and

¹ New Source Review Permit No. 98014, as amended April 5, 2019.

² Woodville Pellets, LLC, 2020 Emissions Inventory, at 4 (Mar. 2021) (Exhibit 3).

³ *Id.* at 5, 19 (listing emission factors for the dry hammermills, pellet coolers, and wet mills, which total 3.13 pounds of VOCs for every ton of pellets produced; the facility has the capacity to produce around 570,000 tons per year)

⁴ See <https://graanulinvest.com/about/#introduction>.

⁵ Attached as Exhibit 4.

⁶ EIP *et al.*, Comments on Draft Title V Permit Renewal No. O3609 for the Woodville Pellets, LLC Wood Pellet Manufacturing Facility (Aug. 8, 2020).

Sierra Club's accusations regarding the wet hammermills.⁷ The tests showed the wet hammermills had the potential to emit nearly 500 tons of VOCs per year, making them the largest source of VOCs and HAPs at the facility.⁸ Woodville also submitted emissions inventories for 2019 and 2020 that showed these units emitted more than 250 tons of VOCs in both 2019 and 2020.⁹ Although Woodville only quantified these two years, there is no reason to doubt that the units emitted similar quantities each year of operation since construction in 2013.

A month or so after filing its Title V comments, EIP and Sierra Club learned that Woodville had committed yet another serious violation of the Clean Air Act: it had failed to submit a timely Title V renewal application, and the application it did submit falsely certified complete compliance with the Act. As such, Woodville's Title V permit fully expired on September 17, 2020, which "terminated the source's right to operate." Because Woodville was still operating regardless, Sierra Club amended its complaint to include operating without a Title V permit as a claim.

In the meantime, shortly after extending the deadline to install the new control, TCEQ began an administrative enforcement action against Woodville for failing to install the RTO. In July 2020, TCEQ sent Woodville a draft Agreed Order that would require a penalty payment of \$526,500, and simultaneously require the facility to cease operations until it installed the RTO and could comply with emission limits.¹⁰ This draft Agreed Order did not address any violations other than the failure to install the RTO.

The current revised draft Agreed Order, however, includes not only additional days of violation for failing to install the RTO, but four additional classes of violations unrelated to the RTO, including the failure to submit a timely Title V permit and continued operations after the subsequent expiration of the Title V permit.

Despite the addition of many more violations, the revised draft Agreed Order imposes a lower penalty than first proposed in the July 2020 draft. Moreover, the draft Agreed Order does not require Woodville to install the required controls before it continues to operate.

Finally, as discussed below, as part of Sierra Club's lawsuit against Woodville, it hired an expert in economic benefit related to environmental noncompliance. Jonathan Shefftz, who developed EPA's model to calculate economic benefit, still in use today with few modifications, calculated that Woodville's delay in installing the RTO saved the company nearly \$1.5 million.¹¹ Woodville essentially agreed with Mr. Shefftz' calculation, quibbling only over technical details. Woodville's expert calculated that the delay saved the company \$1.2 million.¹²

I. The Draft Agreed Order Fails to Punish Woodville Because the Penalty Does Not Recover Woodville's Economic Benefit of Non-Compliance.

⁷ 2020 Emissions Inventory, *supra* note 2, at 1-1.

⁸ *Id.* at 19. The emission factor for the wet mills is 1.64 lbs/ton, and the facility is capable of producing approximately 570,000 tons of pellets per year, for a total potential emission rate of 467 tons per year.

⁹ *Id.* at 1-1.

¹⁰ Draft Agreed Order (July 2020).

¹¹ Excerpt of Mr. Shefftz' Report attached as Exhibit 2.

¹² Expert Report of Charles Finch (July 7, 2021) (Excerpt attached as Exhibit 1).

First and foremost, the draft Agreed Order is deficient because it would require a penalty payment of just \$517,068, which is far below the amount that the company saved by delaying compliance. This is especially troubling because Graanul Invest is a large, sophisticated global corporation capable of weighing the risks of future enforcement against the benefits of continued violations.

Specifically, when Graanul decided to purchase the Woodville facility in 2019, it owned and operated 11 wood pellet plants and six power plants in Europe.¹³ Despite its resources and experience in the industry, Graanul has operated the Woodville plant unabated, emitting hundreds of tons of illegal VOCs, including tens-of-thousands of pounds of hazardous air pollutants, from its stacks that sit within a few hundred feet of homes and businesses.¹⁴

This move saved Graanul at least \$1.2 million in delayed costs and operating expenses, a number calculated by Woodville's own expert witness in the ongoing federal litigation.¹⁵ Sierra Club's expert in that case, meanwhile, placed the amount of money saved by Graanul at closer to \$1.5 million.¹⁶

Regardless of whose number is right, one thing is clear: the \$517,068 penalty proposed by TCEQ is plainly not adequate to punish Woodville for just *one* of the violations addressed by the draft Agreed Order. Penalties only work to deter violations if they actually punish the bad actor. If the bad actor enjoys a benefit even after 'punishment,' such as saving money by violating the law, then the punishment has failed as a deterrent. This common-sense proposition is reflected in EPA's penalty policy, which states that a "cornerstone of EPA's civil penalty program is recapture of the economic benefit that a violator may have gained from illegal activity."¹⁷

Although commenters recognize that TCEQ has a penalty policy that diverges from EPA's policy, we still believe it is fundamental that violators, especially repeat violators like Woodville, should not enjoy monetary joy on the back of illegal and harmful conduct.

II. Despite Woodville Committing More Violations, the Draft Agreed Order Would Impose a Lower Penalty Than TCEQ Initially Proposed.

When TCEQ first sent a draft Agreed Order to Woodville in July of 2020, it proposed a penalty of \$526,500 for only the violation of failing to install the RTO. None of the other violations addressed by the current draft were a part of that draft Agreed Order. Despite the fact that TCEQ alleged both additional violations for failing to install the RTO *and* four other new violations, the penalty amount is now somehow lower than it was in 2020. Commenters recognize that Agreed Orders are the result of negotiations with the violator, but the fact that TCEQ added numerous new violations to the Agreed Order yet now imposes a lower penalty is another sign of the deficiency of the proposed penalty.

¹³ See *supra*, note 4.

¹⁴ See *supra*, note 2.

¹⁵ See *supra*, note 12.

¹⁶ See *supra*, note 11.

¹⁷ EPA, Identifying and Calculating Economic Benefit that Goes Beyond Avoided and/or Delayed Costs, at 2 (May 25, 2003), available at: <https://nepis.epa.gov/Exe/ZyPDF.cgi/94004Z4W.PDF?Dockey=94004Z4W.PDF>.

III. Woodville Purports that the Draft Agreed Order Authorizes Continued Operations Despite the Clear Mandate to Cease Operations Upon Expiration of a Title V Permit.

The draft Agreed Order gives Woodville 180 days after issuance of the Agreed Order to certify either that it has obtained a Title V permit or it has ceased operating. This provision is problematic on two levels. First, the CAA and TCEQ's rules clearly prohibit operations without an effective Title V permit.¹⁸ Second, it is unclear whether this provision actually requires Woodville to cease operations after 180 days if it has not obtained a Title V permit by that time.

The Clean Air Act is crystal clear that expiration of a source's Title V permit "terminates the source's right to operate."¹⁹ Likewise, TCEQ's rules state that a source "shall not operate emissions unit" at a site "without a permit issued or granted under this chapter."²⁰ Authorizing any continued operations would be contrary to the federal Clean Air Act and TCEQ's own regulations prohibiting such operations. TCEQ should amend the Order to clarify that it in no way excuses Woodville's operation without a Title V permit and without required controls.

Further, the provision itself is ambiguous as to whether it orders Woodville to cease operations if it does not obtain a Title V permit. The draft Agreed Order requires only that Woodville shall "[w]ithin 180 days after the effective date of this Order, submit written certification that either [the Title V permit] has been obtained or that operations have ceased."²¹ Taken literally, this clause means TCEQ could only enforce the terms of the Agreed Order against Woodville for failing to submit a certification, which is far different than a violation for operations without a Title V permit. For instance, failing to submit a certification would be a one-time event, whereas operating without a Title V permit would be a daily violation, subject to far higher penalties and/or injunctive action. The Order should clearly require Woodville to cease operations until such time as it has a valid Title V operating permit.

IV. The Order Fails to Address Ongoing Green Hammermill Violations

After Sierra Club and EIP raised the issue of green hammermill VOC violations in its notice letter, complaint, and Title V comments, Woodville initiated an audit under Texas' Audit Act to investigate.²² Testing eventually showed that the green hammermills were the largest source of VOCs and HAPs at the facility, despite being limited to zero VOC emissions.²³ The VOC emissions from these units are so large that their potential-to-emit is more than three-times the 250 ton per year PSD threshold.²⁴

Although commenters recognize that Woodville may argue it is immune from TCEQ's penalties for these violation under the Audit Act, TCEQ should recognize that Woodville's audit was not

¹⁸ Specifically, under federal and Texas Title V regulations, "[p]ermit expiration terminates the source's right to operate." 40 C.F.R. § 70.7(c)(1)(ii); 30 Tex. Admin. Code § 122.241(g) ("Permit expiration terminates the owner's or operator's right to operate, unless a timely and complete renewal application has been submitted.").

¹⁹ *Id.*

²⁰ 30 Tex. Admin. Code 122.121.

²¹ Draft Agreed Order at 4.

²² *See supra*, note 2, at 1-1.

²³ *Id.* at 4 (the seven "wet mills," as Woodville calls them, each emitted 38.9 tons of VOCs in 2020, for a total of 272 tons of VOCs, more than any other source at the Facility).

²⁴ *See supra*, note 8.

truly “voluntary,” as required by the Act, because the violations were identified by Sierra Club and EIP before the audit occurred (per Sierra Club’s May 2020 Notice Letter), which predated Woodville’s Notice of Audit by almost six months. Further, even if Woodville were immune from penalties, TCEQ could readily order Woodville to comply with a deadline to remedy this ongoing non-compliance by routing emissions to the existing RTO, which would reduce VOC and HAP emissions by 95% or more.

IV. The Order is Also Defective Because Citizens Cannot Enforce It.

Paragraph 9 of Section III of the draft Agreed Order states that “[t]his order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding.” This statement effectively bars any enforcement by EPA and citizens. This is contrary to both the plain language of the Clean Air Act and the intent encompassed therein. Specifically, Clean Air Act Section 304, authorized citizens to enforce an “order issued by the Administrator or a State.”²⁵ As such, Congress clearly intended for citizens to be able to enforce Orders such as the one at issue here. Texas may not circumscribe the ability of citizens to enforce TCEQ’s orders in federal court. Therefore TCEQ should revise Paragraph 9 to instead read that the order “shall not be admissible against the Respondent in a civil proceeding *in state court*.”

Conclusion

As discussed above, the draft Agreed Order is fundamentally flawed in that it lets a sophisticated, global corporation profit, quite literally, from intentionally and knowingly breaking the laws of Texas and the United States. TCEQ should also revise the draft Agreed Order to address the other deficiencies discussed above.

Respectfully submitted,

/s/ Patrick Anderson

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c/o Powell Environmental Law
315 W. Ponce de Leon Ave, Suite 842

²⁵ 42 U.S.C. § 7604(a)(1).

Decatur, GA 30030

On behalf of the Lone Star Chapter of the Sierra Club.

Attachments: Exhibits 1 through 4.

Exhibit 1: Excerpt of Woodville Pellets' Expert Report of Charles Finch

(at the request of Woodville Pellets, certain non-relevant material has been redacted)



**Sierra Club,
Plaintiff,**

v.

**Woodville Pellets LLC,
Defendant.**

**In the United States District Court
For the Eastern District of Texas
Lufkin Division
Civil Action Number: 9:20-CV-00178**

**Expert Report of
Charles E. Finch, CVA**

July 7, 2021

11. Just prior to the permitted construction extension, a TCEQ investigation report dated February 27, 2020, noted VOC emission violations from the Dry Hammermill and Cooler Air Aspiration Systems. Plaintiff has asserted this investigation violation report subjects Woodville to alleged damages beginning as of the date they purchased the Facility and has retained Mr. Jonathan S. Shefftz (“Shefftz”) to “provide an expert analysis of financial economic factors relevant to the setting of a civil penalty and to the determination of injunctive relief costs.”⁶
12. Shefftz alleges that Woodville’s “economic benefit from failing to implement” compliance measures ranges from \$2.3 million to \$5.7 million in present value terms as of May 26, 2021.⁷

V. SUMMARY OF OPINIONS

13. Shefftz’s opinion that an economic benefit of \$2.3 million to \$5.7 million⁸ flowed to Woodville as a result of failing to prevent the violations at issue is flawed and inaccurate for several reasons, as will be explained herein.
14. Woodville has received approval to install a Regenerative Catalytic Oxidizer (“RCO”) from the TCEQ, which will be more efficient and environmentally sound relative to the RTO that the previous owner contemplated installing. The permit authorizing construction of the RCO was approved on April 8, 2021, with an allowance of 18 months to begin construction of the RCO. The on-time compliance date cannot be prior to the construction commencement date called for in the newest TCEQ-approved permit, which is October 8, 2022, and, thus, there is no delayed compliance and no economic benefit from delayed compliance. Woodville has an executed supply contract in place to complete construction of the RCO prior to the current deadline to commence construction.
15. Even if Shefftz’s on-cost compliance date is correct (which Woodville denies), Shefftz’s economic benefit analysis is flawed, and I have provided a corrected version of Shefftz’s model making necessary changes to address the shortcomings in his analysis.

⁶ Expert report of Jonathan S. Shefftz, May 26, 2021, p. 1.

⁷ *Ibid.*

⁸ *Ibid.*

16. First, I corrected Shefftz's use of an industry weighted average cost of capital ("WACC"). A WACC is not an appropriate discount rate at which to measure the economic impact of the alleged delayed capital outlays and avoided expenses because it contains a risk component. The use of a WACC also fails to consider Woodville's least expensive source of funds and the most likely use/source of the funds associated with the alleged delayed capital expenditures. [REDACTED]

[REDACTED] Using Woodville's after-tax cost of debt is the more appropriate rate at which to measure the alleged economic benefit in this matter as it is the least expensive source of funding and is supported by a citation in Shefftz's own report.

17. Second, I corrected Shefftz least-cost compliance examples to account for the actual cost of the RCO installation and operating and maintenance costs.

18. Incorporating these first two necessary corrections into Shefftz's model reduces the alleged economic benefit to approximately \$1.2 million using Woodville's actual after-tax cost of debt prior to offsetting for any penalties.¹⁰

19. However, I understand that Woodville is in discussions with the TCEQ to monetarily address violations alleged in this matter. All penalties and expenses paid by Woodville will offset any alleged economic benefit associated with the same violations alleged here. Such penalties are expected to be settled by the TCEQ and Woodville in the near future, and I reserve the right to revise or amend my report upon finalization of an agreement with the TCEQ.

VI. ANALYSIS OF OPINIONS

A. Shefftz's calculation of an alleged economic benefit is flawed due to an inappropriate on-time compliance date.

20. It is my understanding from counsel that Woodville is working with the TCEQ to address the violations noted in the February 27, 2020 investigation report. Woodville has received approval

9 [REDACTED]

¹⁰ See Exhibit C.

Exhibit 2: Excerpt of Sierra Clubs' Expert Report of Jonathan Shefftz

(at the request of Woodville Pellets, certain non-relevant material has been redacted)

Supplemental and Rebuttal:
Expert Opinion of Jonathan S. Shefftz

**Economic Benefit of Noncompliance
and
Economic Impact of Penalty Payment and Injunctive Relief Costs**

July 22, 2021

1. Summary of Opinion

I have been asked by Counsel for Plaintiff in this matter to provide an expert analysis of financial economic factors relevant to the setting of a civil penalty and to the determination of injunctive relief costs.

I previously submitted an initial expert report in this matter on May 26, 2021 that addressed:

- The economic benefit of environmental regulatory noncompliance that potentially accrued to Defendant Woodville Pellets, LLC.
- The economic impact on Defendant of a penalty payment and injunctive relief costs.

Since the time of my initial expert report, I have received a report from Defendant's witness Charles E. Finch ("Finch Report"), dated July 7, 2021. Based on that report, and other newly considered material produced since the time of my initial expert report, this supplemental and rebuttal report provides new economic benefit results and a revised economic impact assessment. This report is intended to be able to be read on its own, without reference to my initial expert report.

My opinion is as follows:

- Based on my analysis of compliance measures and associated costs estimates produced by Defendant in this case, Defendant's economic benefit from failing to implement these measures in a timely manner is approximately \$1.47 million.
- All of my economic benefit calculations and results are present value figures calculated as of July 22, 2021, i.e., the date of this expert report. Therefore the economic benefit will continue to grow after this date until Defendant effectively pays back the economic benefit in the form of a civil penalty. I

provide details in my report for the monthly increase in my economic benefit results for each month of delay in paying any penalty past my present value date.

- In contrast with my \$1.47 million economic benefit result, Defendant's Finch report calculates a lower \$1.2 million economic benefit. The differences in our calculations are attributable almost entirely to the different rate that we apply for our present value adjustments. As presented in more detail in this report, I disagree with the basis for the rate that the Finch report applies to its calculations, and also note that the Finch report ignores Defendant's actual borrowing cost over the entire period of noncompliance.

- [REDACTED]

- As I wrote in my initial expert report, for civil penalties to achieve financial deterrence, their value must exceed the economic benefit that companies realize by delaying and/or avoiding adequate pollution control. Because not all violations are detected, prosecuted, and ultimately penalized, to achieve adequate deterrence, a civil penalty should also be adjusted by probability of detection, prosecution, and ultimate payment, as explained in further detail in this supplemental and rebuttal report. This is necessary to achieve a goal to deter further violations.

I reserve the right to supplement and revise the opinions contained herein as new or additional information becomes available to me. Note that as I am an economist – not an attorney – my report does not provide any independent expert opinion in this case on liability or other legal issues.

Exhibit 3: Woodville Pellets' 2020 Emissions Inventory

2020 EMISSIONS INVENTORY DOCUMENTATION



Woodville Pellets, LLC / Woodville Pellet Mill

Prepared By:

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Project 204404.0073



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1. INTRODUCTION

Woodville Pellets, LLC (Woodville Pellets) owns and operates a wood pellet mill in Woodville, Tyler County, Texas (Woodville Pellet Mill). Woodville Pellets has been assigned Texas Commission on Environmental Quality (TCEQ) Customer Number (CN) 605690569. The Woodville Pellet Mill has been assigned TCEQ Regulated Entity Number (RN) 106205032. The mill has received TCEQ Permit No. 98014. The Woodville Pellet Mill is located in Tyler County, Texas. Tyler County is currently classified as an attainment/unclassified area for all criteria pollutants.¹

This submittal includes an air emissions inventory (EI) for the 2020 calendar year for the Woodville Pellets' Woodville Pellet Mill. A process description of the Woodville Pellet Mill operations is included in Section 2 of this report, and the EI emission calculations are included in Section 3 of this submittal.

In addition, the Woodville Pellet Mill conducted a confidential and privileged audit of air emissions under the Texas Environmental Health and Safety Audit Privilege Act. During the audit, volatile organic compound (VOC) emissions from wet mills' stacks were identified. The VOC emissions associated with the wet mills are included in this 2020 calendar year EI. Additionally, calculations for and a summary of the wet mills' VOC emissions from the 2019 calendar year are included in Section 4 of this submittal.

¹ Per Title 40 Code of Federal Regulations (40 CFR) §81.344, http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=4ce839bfc909360c9490f1614004bdf5&mc=true&n=pt40.18.81&r=PART&ty=HTML#se40.18.81_1344, Date Accessed: March 2021.

2. PROCESS DESCRIPTION

The mill utilizes raw material in the form of logs, chips, sawdust/shavings, bark, or forest residue (hog fuel). Most of the raw material is delivered by truck in the form of tree length logs. The Woodville Pellet Mill also uses wood chips, bark, and hog fuel as raw material which are delivered to the mill by truck in large vans.

The wood pellet production process begins by feeding wet logs into a drum debarker (Emission Point Number [EPN] XII). As the drum debarker rotates, the abrasion between the logs and the drum walls removes the bark from the log. The bark removed from the logs is released through the bottom of the drum and sent to a bark storage pile.

Debarked logs are converted to chips using a large, multi-knife disc chipper (EPN XI). The supplemental chips delivered using trucks and the chips formed in the chipper are screened and the oversized chips (delivered to the site or chipped at the site) are reduced in size using a rechipper (EPN X). Fugitive emissions are released from material handling of the wet wood (EPN HANDLING).

The chips produced on-site as well as the supplemental chips and shavings/sawdust are transferred from their storage areas into the wet hammermills. From the wet hammermills, the coarse sawdust is conveyed to a metering bin at the infeed of the dryer. The exhaust air from each mill is directed to a cyclone. Emissions from each individual cyclone are routed to the associated cyclone's stack (EPNs IIIa through IIIg). Fugitive emissions are released from material handling of the wet wood (EPN HANDLING).

The coarse sawdust is conveyed from the metering bins into one of two dryers. The wood pieces are conveyed and dried through the dryer by the combination of mechanical and pneumatic transport. After exiting the dryers, the dry, coarse sawdust is carried by the dryer exhaust through cyclones. These cyclones separate dry, coarse sawdust from the dryer exhaust gases. The exhaust gas from both dryers is first directed to a single wet electrostatic precipitator (WESP) and then to a regenerative thermal oxidizer (RTO) (EPN IV). Fugitive emissions are released from material handling of ash from the dryers and dry, coarse sawdust from the cyclones (EPN HANDLING).

The dry, coarse sawdust is screened and conveyed into dry hammermills. From the dry hammermills, dry milled sawdust is conveyed to two pre-pelletizing storage silos, which are also referred to as sawdust silos. There will be a dedicated baghouse associated with each dry hammermill. Emissions from each individual baghouse are routed to the associated baghouse's stack (EPNs Ia through Id). The exhaust air from the sawdust silos is directed to baghouses (EPNs IIa and IIb). Starch is pneumatically loaded from the delivery truck to the receiving tank (EPN VII) and is added to the sawdust exiting the sawdust silos. Fugitive emissions are released from material handling (transfers and storage) of dry, coarse sawdust (EPN HANDLING).

Following the dry milling process, water and starch are combined with the sawdust and conveyed to pellet machines. The pellet machines compress the sawdust into pellets by rolling and squeezing the material through holes in a die. Immediately after the pellets are produced they are directed to a pellet cooler. Exhaust air from this pellet press system and cooling process is controlled using baghouses (EPNs IIa and IIb).

Finish, cooled pellets are screened and transported by conveyor to storage silos (EPNs IXa through IXd) to await shipment by truck. Fugitive emissions are released from material handling of the finished product (EPN HANDLING). Truck loadout is controlled by baghouses (EPNs IIa and IIb).

The mill utilizes an emergency generator (EPN Va) and a fire water pump (EPN Vb) for emergency operations.

3. EMISSION CALCULATIONS

This section of the emissions inventory report includes supporting emission calculations for the Woodville Pellet Mill operations. This section contains detailed emissions calculations and example equations utilized in generating the actual emissions.

The Woodville Pellet Mill is located in Tyler County, which is included in the list of Texas counties that must calculate daily ozone season emission rates. The ozone season for TCEQ EI reporting purposes corresponds to the period from May 1 through September 30.²

The following is a summary of sources that are considered to have insignificant emissions and are therefore not included in this EI.

- ▶ Activities that qualify as “de minimis”
- ▶ Fuel tanks
- ▶ Diesel Emission Fluid Tank
- ▶ NaOH Tank
- ▶ WESP Recirculation Tank
- ▶ Defoaming Canister

The emission calculations for the Woodville Pellet Mill follow.

² TCEQ, *2020 Emission Inventory Guidelines*, RG-360/19, Revised January 2021.

Woodville Pellets, LLC - Woodville Mill
EI Basis

2020 Calendar Year

Annual Days of Production (days/yr)	Ozone Season Days of Production (May 1 - September 30) (days/ozone season)	Annual Hours of Production ¹ (hr/yr)	Percentage Maximum Capacity ²
315	127	7,560	57.76%

¹ Annual hours of production are calculated based on 24 hours/day for each day of production. Actual production hours or hours of individual emission units may be less than this calculation.

² Percent maximum capacity is estimated.

Products, Raw Materials, Fuels

Material	Annual Rate		Ozone Season Rate (May 1 - September 30)	
	Value	Units	Value	Units
Pellet Production	332,697	metric tons/yr	142,417	metric tons/ozone season
Dryer Wood Fuel	56,715	metric tons/yr	24,100	metric tons/ozone season
Logs Into Debarker	337,056	green metric tons/yr	152,883	green metric tons/ozone season
Wet Logs Into Chipper	303,350	green metric tons/yr	137,595	green metric tons/ozone season
Wet Chips Received by Truck	322,120	green metric tons/yr	130,149	green metric tons/ozone season
Wet Bark From Debarker	33,706	green metric tons/yr	15,288	green metric tons/ozone season
Wet Bark/Residues Received by Truck	23,010	green metric tons/yr	8,811	green metric tons/ozone season
Wet Chips to Wet Mills / Wet Dryer Input	625,470	green metric tons/yr	267,744	green metric tons/ozone season
Course Sawdust - Wet Mills to Pile	106	green metric tons/yr	46	green metric tons/ozone season
Dry Dryer Output	330,942	metric tons/yr	141,646	metric tons/ozone season
Ash from Dryers	2,069	kg/yr	834	kg/ozone season
Starch	1,755	metric tons/yr	771	metric tons/ozone season

Hours of Operation

EPN	Description	Hours of Operation	
		Annual	Ozone Season (May 1 - September 30)
Va	Emergency Generator	348.4	140
Vb	Fire Water Pump	26.5	11
TEMPHEAT	Temporary or Portable Heaters	0	0
BURNER	Gas Burner	7,560	3048
IV	On-Line RTO Bake-Outs	10.45	4
IV	Off-Line RTO Bake-Outs	0	0

Woodville Pellets, LLC - Woodville Mill
EI Basis

Piles

Description	Stockpile Area (Acres)	Active Days (More than 8 hrs Activity)	
		Annual	Ozone Season
Sitewide Sawdust Piles	0.000	0	0
Coarse Sawdust Pile - From Wet Mills	0.000	0	0

Definitions/conversions

Units	Description
metric ton	1.102 short (English) tons
Mcf	thousand cubic feet
green metric ton	wet metric ton

Wind Speed (mph)	Reference
0.63	<p>The 2020 average wind speed is based on weather stations located near Woodville, Texas. The closest weather station to Woodville, Texas (KTXWOODV5) only collected wind speed data from March to December. Therefore, in order to prepare an annual average, wind speed data for the rest of the year is from weather station KTXWOOD6.</p> <p>https://www.wunderground.com/dashboard/pws/KTXWOODV5, Date Accessed: January 25, 2021.</p> <p>https://www.wunderground.com/dashboard/pws/KTXWOODV6, Date Accessed: January 25, 2021.</p>

Woodville Pellets, LLC - Woodville Mill
EI Summary

Summary of Ozone Season Emissions

				Ozone Season Emissions (lb/day)													
EPN/Group ID	FIN	CIN	Description	PM U	PM ₁₀ U	Total PM _{2.5}	CO	NO _x	SO ₂	VOC - Total	VOC U	Formaldehyde	Acrolein	Acetaldehyde	Phenol	Propionaldehyde	Methanol
Ia	12	Ia	Dry Mill Aspiration Filter 1	1.4221	1.4221	1.4221	-	-	-	46.5115	45.3948	0.1488	0.1508	0.2986	0.0691	0.0503	0.3991
Ib	12	Ib	Dry Mill Aspiration Filter 2	1.4221	1.4221	1.4221	-	-	-	46.5115	45.3948	0.1488	0.1508	0.2986	0.0691	0.0503	0.3991
Ic	12	Ic	Dry Mill Aspiration Filter 3	1.4221	1.4221	1.4221	-	-	-	46.5115	45.3948	0.1488	0.1508	0.2986	0.0691	0.0503	0.3991
Id	12	Id	Dry Mill Aspiration Filter 4	1.4221	1.4221	1.4221	-	-	-	46.5115	45.3948	0.1488	0.1508	0.2986	0.0691	0.0503	0.3991
IIa	14	IIa	Cooler Air Aspiration Filter 1	2.5209	2.5209	2.5209	-	-	-	600.8260	586.3997	1.9226	1.9486	3.8567	0.8931	0.6495	5.1557
IIb	16	IIb	Cooler Air Aspiration Filter 2	2.5209	2.5209	2.5209	-	-	-	600.8260	586.3997	1.9226	1.9486	3.8567	0.8931	0.6495	5.1557
IIIa	9	IIIa	Wet Mill Aspiration Cyclone 1	4.1194	2.9730	2.5485	-	-	-	218.1010	218.1010	-	-	-	-	-	-
IIIb	9	IIIb	Wet Mill Aspiration Cyclone 2	4.1194	2.9730	2.5485	-	-	-	218.1010	218.1010	-	-	-	-	-	-
IIIc	9	IIIc	Wet Mill Aspiration Cyclone 3	4.1194	2.9730	2.5485	-	-	-	218.1010	218.1010	-	-	-	-	-	-
IIId	9	IIId	Wet Mill Aspiration Cyclone 4	4.1194	2.9730	2.5485	-	-	-	218.1010	218.1010	-	-	-	-	-	-
IIIe	9	IIIe	Wet Mill Aspiration Cyclone 5	4.1194	2.9730	2.5485	-	-	-	218.1010	218.1010	-	-	-	-	-	-
IIIf	9	IIIf	Wet Mill Aspiration Cyclone 6	4.1194	2.9730	2.5485	-	-	-	218.1010	218.1010	-	-	-	-	-	-
IIIg	9	IIIg	Wet Mill Aspiration Cyclone 7	4.1194	2.9730	2.5485	-	-	-	218.1010	218.1010	-	-	-	-	-	-
IV	11	WESP and RTO	Dryer Outlet	20.3153	20.3153	20.3153	234.7578	243.3845	11.1472	72.3783	69.7130	1.1590	0.2347	0.4646	0.1076	0.0782	0.6211
IV	RTO		RTO On-Line and Off-Line Bake-Outs	0.0744	0.0744	0.0744	0.0091	0.0108	0.0001	0.2644	0.2644	-	-	-	-	-	-
GRPENG	GRPENG		Emergency Generator and Fire Water Pump	0.2374	0.2374	0.2374	8.4248	10.4844	1.1875	1.4312	1.4268	0.0044	-	-	-	-	-
VII	13	ENCLOSURE WATER	Starch Silo	0.0007	0.0007	0.0007	-	-	-	-	-	-	-	-	-	-	-
IXa	15		Storage Silo 1	0.5441	0.2573	0.0390	-	-	-	-	-	-	-	-	-	-	-
IXb	15		Storage Silo 2	0.5441	0.2573	0.0390	-	-	-	-	-	-	-	-	-	-	-
IXc	15		Storage Silo 3	0.5441	0.2573	0.0390	-	-	-	-	-	-	-	-	-	-	-
IXd	15		Storage Silo 4	0.5441	0.2573	0.0390	-	-	-	-	-	-	-	-	-	-	-
X	4		Rechipper	0.1050	0.0350	0.0058	-	-	-	-	-	-	-	-	-	-	-
XI	4		Chipper	0.1686	0.0562	0.0135	-	-	-	-	-	-	-	-	-	-	-
XII	2		Debarker	1.3214	0.6056	0.1454	-	-	-	-	-	-	-	-	-	-	-
HANDLING	HANDLING		Material Handling	0.1507	0.0713	0.0108	-	-	-	-	-	-	-	-	-	-	-
MSSFUG	MSSFUG		Blowing and Sweeping	0.0002	0.0001	0.0000	-	-	-	-	-	-	-	-	-	-	-
TEMPHEAT	TEMPHEAT	Temporary or Portable Heaters	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	-	-	-	-	-	
BURNER	BURNER	Gas Burner	0.2969	0.2969	0.2969	3.2812	3.9062	0.0234	0.2148	0.2148	-	-	-	-	-	-	
Total				64.4130	54.2633	49.8259	246.4729	257.7859	12.3582	2,988.6937	2,952.7046	5.6038	4.7351	9.3724	2.1702	1.5784	12.5289

Woodville Pellets, LLC - Woodville Mill
EI Summary

Summary of Annual Emissions

				Annual Emissions (tpy)													
EPN/Group ID	FIN	CIN	Description	PM U	PM ₁₀ U	Total PM _{2.5}	CO	NO _x	SO ₂	VOC - Total	VOC U	Formaldehyde	Acrolein	Acetaldehyde	Phenol	Propionaldehyde	Methanol
Ia	12	Ia	Dry Mill Aspiration Filter 1	0.2542	0.2542	0.2542	-	-	-	8.3121	8.1125	0.0266	0.0270	0.0534	0.0124	0.0090	0.0713
Ib	12	Ib	Dry Mill Aspiration Filter 2	0.2542	0.2542	0.2542	-	-	-	8.3121	8.1125	0.0266	0.0270	0.0534	0.0124	0.0090	0.0713
Ic	12	Ic	Dry Mill Aspiration Filter 3	0.2542	0.2542	0.2542	-	-	-	8.3121	8.1125	0.0266	0.0270	0.0534	0.0124	0.0090	0.0713
Id	12	Id	Dry Mill Aspiration Filter 4	0.2542	0.2542	0.2542	-	-	-	8.3121	8.1125	0.0266	0.0270	0.0534	0.0124	0.0090	0.0713
IIa	14	IIa	Cooler Air Aspiration Filter 1	0.4505	0.4505	0.4505	-	-	-	107.3735	104.7954	0.3436	0.3482	0.6892	0.1596	0.1161	0.9214
IIb	16	IIb	Cooler Air Aspiration Filter 2	0.4505	0.4505	0.4505	-	-	-	107.3735	104.7954	0.3436	0.3482	0.6892	0.1596	0.1161	0.9214
IIIa	9	IIIa	Wet Mill Aspiration Cyclone 1	0.7362	0.5313	0.4554	-	-	-	38.9768	38.9768	-	-	-	-	-	-
IIIb	9	IIIb	Wet Mill Aspiration Cyclone 2	0.7362	0.5313	0.4554	-	-	-	38.9768	38.9768	-	-	-	-	-	-
IIIc	9	IIIc	Wet Mill Aspiration Cyclone 3	0.7362	0.5313	0.4554	-	-	-	38.9768	38.9768	-	-	-	-	-	-
IIId	9	IIId	Wet Mill Aspiration Cyclone 4	0.7362	0.5313	0.4554	-	-	-	38.9768	38.9768	-	-	-	-	-	-
IIIe	9	IIIe	Wet Mill Aspiration Cyclone 5	0.7362	0.5313	0.4554	-	-	-	38.9768	38.9768	-	-	-	-	-	-
IIIf	9	IIIf	Wet Mill Aspiration Cyclone 6	0.7362	0.5313	0.4554	-	-	-	38.9768	38.9768	-	-	-	-	-	-
IIIg	9	IIIg	Wet Mill Aspiration Cyclone 7	0.7362	0.5313	0.4554	-	-	-	38.9768	38.9768	-	-	-	-	-	-
IV	11	WESP and RTO	Dryer Outlet	3.6306	3.6306	3.6306	41.9535	43.4952	1.9921	12.9347	12.4584	0.2071	0.0420	0.0830	0.0192	0.0140	0.1110
IV	RTO		RTO On-Line and Off-Line Bake-Outs	0.0141	0.0141	0.0141	0.0017	0.0020	0.00001	0.0502	0.0502	-	-	-	-	-	-
GRPENG	GRPENG		Emergency Generator and Fire Water Pump	0.0450	0.0450	0.0450	1.5986	1.9894	0.2253	0.2716	0.2707	0.0008	-	-	-	-	-
VII	13		Starch Silo	0.0001	0.0001	0.0001	-	-	-	-	-	-	-	-	-	-	-
IXa	15		Storage Silo 1	0.0972	0.0460	0.0070	-	-	-	-	-	-	-	-	-	-	-
IXb	15		Storage Silo 2	0.0972	0.0460	0.0070	-	-	-	-	-	-	-	-	-	-	-
IXc	15		Storage Silo 3	0.0972	0.0460	0.0070	-	-	-	-	-	-	-	-	-	-	-
IXd	15		Storage Silo 4	0.0972	0.0460	0.0070	-	-	-	-	-	-	-	-	-	-	-
X	4		Rechipper	0.0188	0.0063	0.0010	-	-	-	-	-	-	-	-	-	-	-
XI	4	ENCLOSURE	Chipper	0.0284	0.0095	0.0023	-	-	-	-	-	-	-	-	-	-	-
XII	2	WATER	Debarker	0.2229	0.1021	0.0245	-	-	-	-	-	-	-	-	-	-	-
HANDLING	HANDLING		Material Handling	0.0270	0.0128	0.0019	-	-	-	-	-	-	-	-	-	-	-
MSSFUG	MSSFUG		Blowing and Sweeping	0.0000	0.0000	0.0000	-	-	-	-	-	-	-	-	-	-	-
TEMPHEAT	TEMPHEAT		Temporary or Portable Heaters	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	-	-	-	-	-	-
BURNER	BURNER		Gas Burner	0.0563	0.0563	0.0563	0.6226	0.7412	0.0044	0.0408	0.0408	-	-	-	-	-	-
Total				11.5032	9.6977	8.9094	44.1764	46.2278	2.2218	534.1303	527.6985	1.0015	0.8464	1.6750	0.3880	0.2822	2.2390

Woodville Pellets, LLC - Woodville Mill
Dust Collectors EI Emissions Calculations

Dust Collector Parameters

Parameter	Value	Units
Dry Mill Particulate Matter Emission Factor ¹	6.11E-03	lb PM/metric ton pellet produced
Cooler Air Particulate Matter Emission Factor ¹	5.42E-03	lb PM/metric ton pellet produced
Dry Mill VOC Emission Factor ²	0.200	lb VOC/metric ton pellet produced
Cooler Air VOC Emission Factor ²	1.291	lb VOC/metric ton pellet produced
Pellet Production ³	332,697	metric tons/yr
	142,417	metric tons/ozone season

¹ Cooler Air and Dry Mill Particulate Matter Emission Factors are based on stack tests conducted on January 10-11, 2014 and February 11, 2014 for EPNs IIa and Ia, respectively, and air flowrates provided on March 26, 2015. Stack test results provided by email correspondence from Carl-Einer Leonhard, German Pellets, GmbH, to Deborah Walden-Hersh, Trinity Consultants, on March 6 and March 24, 2014. It is assumed that the stack test data for the tested EPNs is representative for all EPNs in the same equipment group.

² Cooler Air and Dry Mill VOC Emission Factors are based on stack tests conducted on February 18, 2015, and production rates provided on March 4, 2015. Stack test results provided by email correspondence from Carl-Einer Leonhard, German Pellets, GmbH, to Deborah Walden-Hersh, Trinity Consultants, on February 18 and February 19, 2015. It is assumed that the stack test data for the tested EPNs is representative for all EPNs in the same equipment group.

³ Per actual throughput data in the Products, Raw Materials, Fuels table.

Dust Collection System Emission Rates

EPN	FIN	Description	Control Device	PM/PM ₁₀ /PM _{2.5} Emissions ^{1, 2}		VOC Emissions ¹	
				(lb/day) ³	(tpy) ⁴	(lb/day) ³	(tpy) ⁴
Ia	12	Dry Mill Aspiration Filter 1	Filter	1.4221	0.2542	46.5115	8.3121
Ib	12	Dry Mill Aspiration Filter 2	Filter	1.4221	0.2542	46.5115	8.3121
Ic	12	Dry Mill Aspiration Filter 3	Filter	1.4221	0.2542	46.5115	8.3121
Id	12	Dry Mill Aspiration Filter 4	Filter	1.4221	0.2542	46.5115	8.3121
Total				5.6886	1.0166	186.0462	33.2483
IIa	14	Cooler Air Aspiration Filter 1	Filter	2.5209	0.4505	600.8260	107.3735
I Ib	16	Cooler Air Aspiration Filter 2	Filter	2.5209	0.4505	600.8260	107.3735
Total				5.0418	0.9010	1,201.6521	214.7471

¹ Pellet production is a site wide measurement. It is assumed that emissions generated during production are evenly distributed between the emission paths.

² PM₁₀ and PM_{2.5} emissions are assumed to equal PM emissions.

³ Ozone Season Emissions (lb/day) = Emission Factor (lb /metric ton pellet produced) * Pellet Production (metric tons/ozone season) * (1 / Number of Filters or Paths) * (ozone season/153 days)

Dry Mill Aspiration Filter 1 PM/PM₁₀/PM_{2.5} Ozone Season Emissions (lb/day) =

6.11E-03 lb PM	142,417 metric tons	1	ozone season	=	1.4221 lb/day
metric ton	ozone season	4	153 days		

⁴ Annual Emissions (tpy) = Emission Factor (lb /metric ton pellet produced) * Pellet Production (metric tons/yr) * (1 / Number of Filters or Paths) * (1 ton/2,000 lb)

Dry Mill Aspiration Filter 1 PM/PM₁₀/PM_{2.5} Annual Emissions (tpy) =

6.11E-03 lb PM	332,697 metric tons	1	1 ton	=	0.2542 tpy
metric ton	yr	4	2,000 lb		

Dust Collection System HAP Ozone Season Emission Rates

EPN	FIN	Description	Ozone Season Emissions ¹ (lb/day)					
			Formaldehyde ²	Acrolein	Acetaldehyde	Phenol	Propionaldehyde	Methanol
Ia	12	Dry Mill Aspiration Filter 1	0.15	0.15	0.30	0.07	0.05	0.40
Ib	12	Dry Mill Aspiration Filter 2	0.15	0.15	0.30	0.07	0.05	0.40
Ic	12	Dry Mill Aspiration Filter 3	0.15	0.15	0.30	0.07	0.05	0.40
Id	12	Dry Mill Aspiration Filter 4	0.15	0.15	0.30	0.07	0.05	0.40
IIa	14	Cooler Air Aspiration Filter 1	1.92	1.95	3.86	0.89	0.65	5.16
I Ib	16	Cooler Air Aspiration Filter 2	1.92	1.95	3.86	0.89	0.65	5.16
Total			4.44	4.50	8.91	2.06	1.50	11.91

¹ HAP emissions except for formaldehyde are assumed to be the same proportion of total VOC as the dryer HAP emissions.

² Formaldehyde emissions are assumed to be the same proportion of total VOC emissions for wood pellet manufacturing for hammermills and pellet coolers without steam injection or extraction, as recommended by Georgia Department of Natural Resources, Environmental Protection Division (January 2013), for the dry mill aspiration filters and cooler air aspiration filters, respectively.

Dust Collection System HAP Annual Emission Rates

EPN	FIN	Description	Annual Emissions ¹ (tpy)					
			Formaldehyde ²	Acrolein	Acetaldehyde	Phenol	Propionaldehyde	Methanol
Ia	12	Dry Mill Aspiration Filter 1	0.03	0.03	0.05	0.01	8.99E-03	0.07
Ib	12	Dry Mill Aspiration Filter 2	0.03	0.03	0.05	0.01	8.99E-03	0.07
Ic	12	Dry Mill Aspiration Filter 3	0.03	0.03	0.05	0.01	8.99E-03	0.07
Id	12	Dry Mill Aspiration Filter 4	0.03	0.03	0.05	0.01	8.99E-03	0.07
IIa	14	Cooler Air Aspiration Filter 1	0.34	0.35	0.69	0.16	0.12	0.92
I Ib	16	Cooler Air Aspiration Filter 2	0.34	0.35	0.69	0.16	0.12	0.92
Total			0.79	0.80	1.59	0.37	0.27	2.13

¹ HAP emissions except for formaldehyde are assumed to be the same proportion of total VOC as the dryer HAP emissions.

² Formaldehyde emissions are assumed to be the same proportion of total VOC emissions for wood pellet manufacturing for hammermills and pellet coolers without steam injection or extraction, as recommended by Georgia Department of Natural Resources, Environmental Protection Division (January 2013), for the dry mill aspiration filters and cooler air aspiration filters, respectively.

Woodville Pellets, LLC - Woodville Mill
Emergency Generators EI Emissions Calculations

Emergency Generator Design

Parameter	Value	Units
Make/Model ¹	Generac Perkins Model SD400	-
Engine Power ¹	619	hp
Fuel Consumption ¹	27.8	gal/hr
Diesel Heating Value ²	19,300	Btu/lb
Heat Input ³	3.92	MMBtu/hr
Hours of Operation	140.47	hr/ozone season
	348.4	hr/yr
Type of Fuel ¹	Ultra Low Sulfur Diesel #2	-

¹ Per manufacturer data sheet provided in an email correspondence from Carl-Einer Leonhard, German Pellets GmbH, to Deborah Walden-Hersh, Trinity Consultants, on September 23, 2013.

² Per U.S. EPA, AP-42, Section 3.3, *Gasoline and Diesel Industrial Engines*, Table 3.3-1, footnote c (Diesel Fuel), October 1996.

³ Heat Input (MMBtu/hr) = Fuel Consumption (gal/hr) * (7.3 lb/gal) * Diesel Heating Valu (Btu/lb) * (1 MMBtu/10⁶ Btu)

Emergency Generator Emission Factors

Pollutant	Emission Factors		
	(lb/MMBtu)	(g/kW-hr)	(lb/hp-hr)
SO ₂ ¹	-	-	2.05E-03
CO ³	-	5	0.015
PM ³	-	0.14	4.14E-04
NO _x ^{3, 4}	-	6.2	0.018
VOC ^{1, 2}	-	-	2.51E-03
Formaldehyde ¹	1.18E-03	-	7.47E-06

¹ Per U.S. EPA, AP-42, Section 3.3, *Gasoline and Diesel Industrial Engines*, Tables 3.3-1 and 3.3-2 (Diesel Fuel), October 1996. Formaldehyde emission factor converted from units of lb/MMBtu to lb/hp-hr based on the following equation.
Emission Factor (lb/hp-hr) = Emission Factor (lb/MMBtu) * Heat Input (MMBtu/hr) / Engine Power (hp)

² The emission factor for total organic compounds (TOCs) is conservatively assumed to be equal to the emission factor for VOCs.

³ Per 40 CFR §1042.101(a)(2)(iv) and Table 2, as reference by 40 CFR §60.4202(f)(1). Emission factors converted from units of g/kW-hr to lb/hp-hr based on the following equation.
Emission Factor (lb/hp-hr) = Emission Factor (g/kW-hr) * (1 lb/ 453.59 g) * (1.34 hp / 1 kW)

⁴ Title 40 CFR §1042.101 Table 2, as reference by 40 CFR §60.4202(f)(1), provides a NO_x+HC emission rate which is less than the NO_x emission rate in U.S. EPA, AP-42, Section 3.3, *Gasoline and Diesel Industrial Engines*, Table 3.3-1. Therefore, the NO_x+HC emission rate is assumed to be all NO_x.

Emergency Generator Emissions

Group ID	EPN	FIN	Description	Pollutant	Season Emissions ¹	Annual Emissions ²
					(lb/day)	(tpy)
GRPENG	Va	EMER-GEN	Emergency Generator	SO ₂	1.1650	0.2211
				CO	8.4006	1.5940
				PM/PM ₁₀ /PM _{2.5} ³	0.2352	0.0446
				NO _x	10.4168	1.9765
				VOC	1.4287	0.2711
				Formaldehyde	0.0042	0.0008

¹ Ozone Season Emissions (lb/day) = Emission Factors (lb/hp-hr) * Engine Power (hp) * Hours of Operation (hr/ozone season) * (ozone season / 153 days)

SO ₂ Ozone Season Emissions (lb/day) =	2.05E-03 lb	619 hp	140.47 hr	ozone season	=	1.1650 lb/day
	hp-hr		ozone season	153 days		

² Annual Emissions (tpy) = Emission Factors (lb/hp-hr) * Engine Power (hp) * Hours of Operation (hr/yr) * (1 ton / 2,000 lb)

Annual SO ₂ Emissions (tpy) =	2.05E-03 lb	619 hp	348.4 hr	1 ton	=	0.2211 tpy
	hp-hr		yr	2,000 lb		

³ PM₁₀ and PM_{2.5} emissions are assumed to equal PM emissions.

Woodville Pellets, LLC - Woodville Mill
Fire Water Pump EI Emissions Calculations

Fire Water Pump Design

Parameter	Value	Units
Make/Model ¹	John Deere Clarke Model JU4H-UFADY8	-
Engine Power ¹	157	hp
Fuel Consumption ²	10.6	gal/hr
Diesel Heating Value ³	19,300	Btu/lb
Heat Input ⁴	1.49	MMBtu/hr
Hours of Operation	10.68	hr/ozone season
	26.5	hr/yr
Type of Fuel ²	Diesel	-

¹ Per John Deere data sheet provided in an email correspondence from Carl-Einer Leonhard, German Pellets GmbH, to Deborah Walden-Hersh, Trinity Consultants, on April 12, 2013.

² Per Clarke data sheet for Model JU4H-UFADY8.

³ Per U.S. EPA, AP-42, Section 3.3, *Gasoline and Diesel Industrial Engines*, Table 3.3-1, footnote c (Diesel Fuel), October 1996.

⁴ Heat Input (MMBtu/hr) = Fuel Consumption (gal/hr) * (7.3 lb/gal) * Diesel Heating Value (Btu/lb) * (1 MMBtu/10⁶ Btu)

Fire Water Pump Emission Factors

Pollutant	(lb/MMBtu)	Emission Factors (g/hp-hr)	(lb/hp-hr)
SO ₂ ¹	-	-	2.05E-03
CO ²	-	1.0	2.20E-03
PM ²	-	0.09	1.98E-04
NO _x ²	-	2.8	0.006
VOC ^{2, 3}	-	0.1	2.20E-04
Formaldehyde ¹	1.18E-03	-	1.12E-05

¹ Per U.S. EPA, AP-42, Section 3.3, *Gasoline and Diesel Industrial Engines*, Tables 3.3-1 and 3.3-2 (Diesel Fuel), October 1996. Formaldehyde emission factor converted from units of lb/MMBtu to lb/hp-hr based on the following equation.

Emission Factor (lb/hp-hr) = Emission Factor (lb/MMBtu) * Heat Input (MMBtu/hr) / Engine Power (hp)

² Per emissions data sheet provided in email correspondence from Carl-Einer Leonhard, German Pellets GmbH, to Deborah Walden-Hersh, Trinity Consultants, on April 12, 2013. Emission factors converted from units of g/hp-hr to lb/hp-hr based on the following equation.

Emission Factor (lb/hp-hr) = Emission Factor (g/hp-hr) * (1 lb/ 453.59 g)

³ The emission factor for total organic compounds (TOCs) is conservatively assumed to be equal to the emission factor for VOCs.

Fire Water Pump Emissions

Group ID	EPN	FIN	Description	Pollutant	Ozone Season Emissions ¹ (lb/day)	Annual Emissions ² (tpy)
GRPENG	Vb	FP-ENG	Fire Water Pump	SO ₂	0.0225	0.0043
				CO	0.0242	0.0046
				PM/PM ₁₀ /PM _{2.5} ³	0.0022	0.0004
				NO _x	0.0677	0.0128
				VOC	0.0024	0.0005
				Formaldehyde	0.0001	0.0000

¹ Ozone Season Emissions (lb/day) = Emission Factors (lb/hp-hr) * Engine Power (hp) * Hours of Operation (hr/ozone season) * (ozone season / 153 days)

$$\text{SO}_2 \text{ Ozone Season Emissions (lb/day)} = \frac{2.05\text{E-}03 \text{ lb}}{\text{hp-hr}} \times \frac{157 \text{ hp}}{\text{hp-hr}} \times \frac{10.68 \text{ hr}}{\text{ozone season}} \times \frac{\text{ozone season}}{153 \text{ days}} = 0.0225 \text{ lb/day}$$

² Annual Emissions (tpy) = Emission Factors (lb/hp-hr) * Engine Power (hp) * Hours of Operation (hr/yr) * (1 ton / 2,000 lb)

$$\text{Annual SO}_2 \text{ Emissions (tpy)} = \frac{2.05\text{E-}03 \text{ lb}}{\text{hp-hr}} \times \frac{157 \text{ hp}}{\text{hp-hr}} \times \frac{26.5 \text{ hr}}{\text{yr}} \times \frac{1 \text{ ton}}{2,000 \text{ lb}} = 0.0043 \text{ tpy}$$

³ PM₁₀ and PM_{2.5} emissions are assumed to equal PM emissions.

Woodville Pellets, LLC - Woodville Mill
Material Handling EI Emissions Calculations

Material Handling Emission Factors

EPN	Open, Enclosed, or Controlled Transfer	Moisture Content ¹ (%)	Emission Factor ^{2, 3} (lb/short ton)		
			PM	PM ₁₀	PM _{2.5}
HANDLING	Open	40	2.43E-06	1.15E-06	1.74E-07
	Open	50	1.78E-06	8.42E-07	1.28E-07
	Enclosed	40	6.20E-06	2.93E-06	4.44E-07
	Enclosed	50	4.54E-06	2.15E-06	3.25E-07
	Controlled	6	1.06E-04	5.02E-05	7.60E-06

¹ The chips will have a moisture content of 50% before the drying operations and a moisture content of 10% after it exits the dryers. The bark will have a moisture content between 40-50% (40% conservatively used for calculations). The ash exiting the bottom of the dryers will have a moisture content of 40%. The finished wood pellets product will have a moisture content of 6%.

² Per U.S. EPA, AP-42, Section 13.2.4, *Aggregate Handling and Storage Piles*, November 2006.

Emission Factor for Drop Points (lb/ton) = k * 0.0032 * [(Mean Wind Speed (mph) / 5)^{1.3} / (Material Moisture Content (%) / 2)^{1.4}]

where:

k = particle size multiplier (dimensionless) for PM =	0.74
k = particle size multiplier (dimensionless) for PM ₁₀ =	0.35
k = particle size multiplier (dimensionless) for PM _{2.5} =	0.053
Open Drop Wind Speed (mph) ⁴ =	0.63
Enclosed Drop Wind Speed (mph) =	1.30
Cyclone Exhaust Velocity (mph) ⁵ =	15.00

³ The emissions from controlled material handling are calculated based on a control efficiency of 95%

⁴ Open Drop Wind Speed obtained as the average mean wind speed in Woodville, Texas during 2020 calendar year from Wunderground.com, <https://www.wunderground.com/dashboard/pws/KTXWOODV5>, Date Accessed: January 25, 2021.
<https://www.wunderground.com/dashboard/pws/KTXWOODV6>, Date Accessed: January 25, 2021.

⁵ Emissions from the sawdust conveyors will be vented to a cyclone causing an induced draft. The highest wind speed in range for the emission factor equation is used.

Material Handling Emissions

EPN	Description ¹	Process Rate ²		Ozone Season Emissions ³ (lb/day)			Annual Emissions ⁴ (tpy)		
		(metric tons/ozone season)	(metric tons/yr)	PM	PM ₁₀	PM _{2.5}	PM	PM ₁₀	PM _{2.5}
HANDLING	Open material handling, 40% moisture content	465,127	1,148,928	0.0082	0.0039	0.0006	0.0015	0.0007	0.0001
	Open material handling, 50% moisture content	810,678	1,857,641	0.0104	0.0049	0.0007	0.0018	0.0009	0.0001
	Enclosed material handling, 40% moisture content	72,299	170,145	0.0032	0.0015	0.0002	0.0006	0.0003	0.0000
	Enclosed material handling, 50% moisture content	535,488	1,250,941	0.0175	0.0083	0.0013	0.0031	0.0015	0.0002
	Controlled material handling, 6% moisture content	141,646	330,942	0.1082	0.0512	0.0078	0.0193	0.0091	0.0014
Total Material Transfer Emissions				0.1475	0.0698	0.0106	0.0264	0.0125	0.0019

¹ Per process flow diagram provided in email correspondence from Carl-Einer Leonhard, German Pellets, GmbH, to Deborah Walden-Hersh, Trinity Consultants, on July 7, 2011; information provided in email correspondences from Carl-Einer Leonhard, German Pellets, GmbH, to Deborah Walden-Hersh, Trinity Consultants, on October 25, 2012; information provided in email correspondence from Christian Parzer, German Pellets, to Deborah Walden-Hersh, Trinity Consultants, on February 8, 2016; and information provided in email correspondence from Mihkel Jugaste, Graanul Invest, to Deborah Walden-Hersh, Trinity Consultants, on October 29, 2019.

² Per actual throughput data in the Products, Raw Materials, Fuels table. Ash is converted from kg to metric tons and assumed to be evenly distributed between the dryers based on the following equation:

Process Rate (metric tons/ozone season) = Process Rate (kg/ozone season) * (1 metric ton / 1,000 kg) / 2 dryers

³ Ozone Season Emissions (lb/day) = Process Rate (metric tons/ozone season) * Emission Factor (lb/short ton) * 1.102 (short tons/metric tons) * (ozone season / 153 days)

Open material handling, 50% moisture content PM Ozone Season	810,678 metric tons	1.78E-06 lb	1.102 short tons	ozone season	=	0.0104 lb/day
Emissions (lb/day) =	ozone season	short ton	metric tons	153 days		

⁴ Annual Emissions (tpy) = Process Rate (metric tons/yr) * Emission Factor (lb/short ton) * 1.102 (short tons/metric tons) * (1 ton / 2,000 lb)

Open material handling, 50% moisture content PM Annual Emissions	1,857,641 metric tons	1.78E-06 lb	1.102 short tons	1 ton	=	0.0018 tpy
(tpy) =	yr	short ton	metric tons	2,000 lb		

Woodville Pellets, LLC - Woodville Mill
Stockpile EI Emissions Calculations

Stockpile Parameters

EPN	Description	Control Factor ¹	Stockpile Area (acres)	PM Emission Factor ²		Active Days in Operation ³		Inactive Days in Operation ³	
				Active Stockpile (lb/acre-day)	Inactive Stockpile (lb/acre-day)	(days/ozone season)	(days/yr)	(days/ozone season)	(days/yr)
HANDLING	Sitewide Sawdust Piles	1.0	0.000	13.2	3.5	0.00E+00	0.00E+00	153	365
HANDLING	Coarse Sawdust Pile - From Wet Mills	0.50	0.000	13.2	3.5	0.00E+00	0.00E+00	153	365

¹ TCEQ Air Permits Division, *Rock Crushing Plants*, Draft RG 058 (February 2002), Table 7, No Controls and Wet Material.

² TCEQ Air Permits Division, *Rock Crushing Plants*, Draft RG 058 (February 2002), Table 5.

³ Per TCEQ Air Permits Division, *Rock Crushing Plants*, Draft RG 058 (February 2002), active stockpiles are those piles that have 8 to 12 hours of activity per 24 hours. Inactive stockpiles are those affected by wind erosion only.

Stockpile Emissions

EPN	Description	Ozone Season Emissions (lb/day)			Annual Emissions (tpy)		
		PM ¹	PM ₁₀ ²	PM _{2.5} ³	PM ⁴	PM ₁₀ ²	PM _{2.5} ³
HANDLING	Sitewide Sawdust Piles	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
HANDLING	Coarse Sawdust Pile - From Wet Mills	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Total		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000

¹ PM Ozone Season Emissions (lb/day) = Control Factor * Stockpile Area (acres) * [PM Emission Factor for Active Stockpile (lb/acre-day) * Active Days in Ozone Season (days/ozone season) + PM Emission Factor for Inactive Stockpile (lb/acre-day) * Inactive Days in Ozone Season (days/ozone season)] * ozone season / 153 days

Sitewide Sawdust Piles PM Ozone Season Emissions (lb/day) =

1.0

0.000 acres

13.2 lb

acre-day

0 days

ozone season

+

3.5 lb

acre-day

153 days

ozone season

ozone season

153 days

= 0.0000 lb/day

² PM₁₀ emissions are 50% of PM emissions per TCEQ Air Permits Division, *Rock Crushing Plants*, Draft RG 058 (February 2002), Table 5.

Sitewide Sawdust Piles PM₁₀ Ozone Season Emissions (lb/day) =

0.0000 lb PM

day

50%

100

= 0.0000 lb/day

³ PM_{2.5} emissions are calculated by dividing the PM₁₀ emissions by the ratio of PM₁₀ to PM_{2.5} particle size multipliers (k). The Particle size multipliers are from U.S. EPA, AP-42, Section 13.2.4, *Aggregate Handling and Storage Piles*, November 2006, table following Equation 1.

⁴ PM Annual Emission Rate (tpy) = Control Factor * Stockpile Area (acres) * [PM Emission Factor for Active Stockpile (lb/acre-day) * Annual Active Days (days/yr) + PM Emission Factor for Inactive Stockpile (lb/acre-day) * Annual Inactive Days (days/yr)] * (1 ton / 2,000 lb)

Sitewide Sawdust Piles PM Annual Emission Rate (tpy) =

1.0

0.000 acres

13.2 lb

acre-day

0 days

yr

+

3.5 lb

acre-day

365 days

yr

1 ton

2,000 lb

= 0.0000 tpy

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**Woodville Pellets, LLC - Woodville Mill
Storage Silos EI Emissions Calculations**

Storage Silo Emission Factors

EPN	Description	Emission Factor ¹ (lb/short ton)		
		PM	PM ₁₀	PM _{2.5}
IXa	Storage Silo 1	2.12E-03	1.00E-03	1.52E-04
IXb	Storage Silo 2	2.12E-03	1.00E-03	1.52E-04
IXc	Storage Silo 3	2.12E-03	1.00E-03	1.52E-04
IXd	Storage Silo 4	2.12E-03	1.00E-03	1.52E-04

¹ Per U.S. EPA, AP-42, Section 13.2.4, *Aggregate Handling and Storage Piles*, November 2006.

Emission Factor for Drop Points (lb/ton) = $k * 0.0032 * [(Mean\ Wind\ Speed\ (mph) / 5)^{1.3} / (Material\ Moisture\ Content\ (\%) / 2)^{1.4}]$

where:

k = particle size multiplier (dimensionless) for PM = 0.74

k = particle size multiplier (dimensionless) for PM₁₀ = 0.35

k = particle size multiplier (dimensionless) for PM_{2.5} = 0.053

Wind Speed ² (mph) = 15.00

Moisture Content of Pellets ³ (%) = 6.00

² Per phone conference between Carl-Einer Leonhard, German Pellets, GmbH, and Deborah Walden-Hersh, Trinity Consultants, on July 6, 2011; the storage silos will be aerated with fans causing an induced draft. The highest wind speed in range for the emission factor equation is used. No controls are utilized.

³ Per phone conference between Carl-Einer Leonhard, German Pellets, GmbH, and Deborah Walden-Hersh, Trinity Consultants, on July 6, 2011; pellets will have a moisture content of approximately 6-8%. Conservatively, the lower moisture content is used for emission calculations.

Storage Silo Emissions

EPN	Description	Pellet Production ¹		Ozone Season Emissions ² (lb/day)			Annual Emissions ³ (tpy)		
		(metric tons/ozone season)	(metric tons/yr)	PM	PM ₁₀	PM _{2.5}	PM	PM ₁₀	PM _{2.5}
IXa	Storage Silo 1	35,604	83,174	0.5441	0.2573	0.0390	0.0972	0.0460	0.0070
IXb	Storage Silo 2	35,604	83,174	0.5441	0.2573	0.0390	0.0972	0.0460	0.0070
IXc	Storage Silo 3	35,604	83,174	0.5441	0.2573	0.0390	0.0972	0.0460	0.0070
IXd	Storage Silo 4	35,604	83,174	0.5441	0.2573	0.0390	0.0972	0.0460	0.0070
Total				2.1763	1.0293	0.1559	0.3889	0.1840	0.0279

¹ Per actual throughput data in the Products, Raw Materials, Fuels table. Pellet production is a site wide measurement. It is assumed that emissions generated during production are evenly distributed between the emission paths.

² Ozone Season Emissions (lb/day) = Process Rate (metric tons/ozone season) * Emission Factor (lb/short ton) * 1.102 (short tons/metric tons) * (ozone season / 153 days)

PM Ozone Season Emissions (lb/day)	2.12E-03 lb	35,604 metric tons	1.102 short tons	ozone season	=	0.5441 lb/day
=	short ton	ozone season	1 metric ton	153 days		

³ Annual Emissions (tpy) = Process Rate (metric tons/yr) * Emission Factor (lb/short ton) * 1.102 (short tons/metric tons) * (1 ton / 2,000 lb)

PM Annual Emissions (tpy) =	2.12E-03 lb	83,174 metric tons	1.102 short tons	1 ton	=	0.0972 tpy
	short ton	yr	1 metric ton	2,000 lb		

Woodville Pellets, LLC - Woodville Mill
Blowing and Sweeping EI Emissions Calculations

MSS Blowing and Sweeping Emission Factors (EPN MSSFUG)

MSS Activity	Blowers or Sweep Transfer ¹	Moisture Content ² (%)	Emission Factor ³ (lb/short ton)		
			PM	PM ₁₀	PM _{2.5}
Cleaning of equipment and other surfaces with blowers	Blowers	6	2.12E-03	1.00E-03	1.52E-04
Cleaning of surfaces by sweeping	Sweep	6	3.47E-05	1.64E-05	2.48E-06

¹ Dust is generated during blowing and sweeping activities.

² The finished wood pellets product will have a moisture content of 6%. It is conservatively assumed that all wood dust removed during cleaning activities will have a moisture content of 6%.

³ Per U.S. EPA, AP-42, Section 13.2.4, *Aggregate Handling and Storage Piles*, November 2006.

Emission Factor for Drop Points (lb/ton) = k * 0.0032 * [(Mean Wind Speed (mph) / 5)^{1.3} / (Material Moisture Content (%) / 2)^{1.4}]

where:

k = particle size multiplier (dimensionless) for PM =	0.74
k = particle size multiplier (dimensionless) for PM ₁₀ =	0.35
k = particle size multiplier (dimensionless) for PM _{2.5} =	0.053
Blowers Drop Wind Speed (mph) =	15.00
Sweep Drop Wind Speed (mph) =	0.63

MSS Blowing and Sweeping Emissions

MSS Activity	Wood Dust Removed ¹		Ozone Emissions ² (lb/day)			Annual Emissions ³ (tpy)		
	(metric tons/ozone season)	(metric tons/yr)	PM	PM ₁₀	PM _{2.5}	PM	PM ₁₀	PM _{2.5}
Cleaning of equipment and other surfaces with blowers	14.24	33.27	0.0002	0.00010	0.00002	0.00004	0.000018	0.000003
Cleaning of surfaces by sweeping	14.24	33.27	0.00000	0.00000	0.000000	0.00000	0.000000	0.000000
Total MSS Emissions EPN MSSFUG			0.0002	0.0001	0.00002	0.00004	0.00002	0.000003

¹ Per email correspondence from Christian Rasmussen, German Pellets, GmbH, to Deborah Walden-Hersh, Trinity Consultants, on November 21, 2011, the amount of wood dust to be removed from the mill in any 24 hour period is 0.01% of production.

² Ozone Season Emissions (lb/day) = Wood Dust Removed (metric tons/ozone season) * Emission Factor (lb/short ton) * 1.102 (short tons/metric tons) * (ozone season / 153 days)

Cleaning of equipment and other surfaces with blowers

14.2417 metric tons	2.12E-03 lb	1.102 short tons	ozone season
ozone season	short ton	metric tons	153 days

= 0.0002 lb/day

³ Annual Emissions (tpy) = Wood Dust Removed (metric tons/yr) * Emission Factor (lb/short ton) * 1.102 (short tons/metric tons) * (1 ton / 2,000 lb)

Cleaning of equipment and other surfaces with blowers

33.27 metric tons	2.12E-03 lb	1.102 short tons	1 ton
yr	short ton	metric tons	2,000 lb

= 0.00004 tpy

**Woodville Pellets, LLC - Woodville Mill
Rechipper EI Emissions Calculations**

Rechipper Design and Operational Parameters

Parameter	Value	Units
Emission Factors ¹		
PM	3.60E-03	lb/metric ton
PM ₁₀	1.20E-03	lb/metric ton
PM _{2.5}	2.00E-04	lb/metric ton
Throughput ²	4,462	metric tons/ozone season
	10,425	metric tons/yr

¹ Per data provided in the manufacturer's guarantee dated July 26, 2011, which was provided in email correspondence from Mikael Nielsen, German Pellets GmbH, to Deborah Walden-Hersh, Trinity Consultants, on July 27, 2011.

Emission Factor (lb/metric ton) = Emission Rate (lb/hr) / Rechipper Nominal Throughput (metric tons/hr)

² Calculated based on the actual wet chips throughput data in the Products, Raw Materials, Fuels table multiplied by the ratio of the rechipper nominal rate to the wet chips conveyor rate.

Rechipper Emissions

EPN	Description	Pollutant	Emissions	
			(ozone season lb/day) ¹	(tpy) ²
X	Rechipper	PM	0.1050	0.0188
		PM ₁₀	0.0350	0.0063
		PM _{2.5}	0.0058	0.0010

¹ Ozone Season Emissions (lb/day) = Throughput (metric tons/ozone season) * Emission Factor (lb/metric ton) * (ozone season / 153 days)

PM Ozone Season Emissions (lb/day) =	4,462 metric tons	3.60E-03 lb	ozone season	= 0.1050 lb/day
	ozone season	metric ton	153 days	

² Annual Emissions (tpy) = Throughput (metric tons/yr) * Emission Factor (lb/metric ton) * (1 ton / 2,000 lb)

PM Annual Emissions (tpy) =	10,425 metric tons	3.60E-03 lb	1 ton	= 0.0188 tpy
	yr	metric ton	2,000 lb	

**Woodville Pellets, LLC - Woodville Mill
Chipper EI Emissions Calculations**

Chipper Design and Operational Parameters

Parameter	Value	Units
Uncontrolled Emission Factors ¹		
PM	3.75E-03	lb/metric ton
PM ₁₀	1.25E-03	lb/metric ton
PM _{2.5}	3.00E-04	lb/metric ton
Throughput ²	137,595	metric tons/ozone season
	303,350	metric tons/yr
Partial Enclosure Control Factor ^{3, 4}	95	%

¹ Per data provided in the manufacturer's guarantee dated July 8, 2011, which was provided in email correspondence from Carl-Einer Leonhard, German Pellets GmbH, to Deborah Walden-Hersh, Trinity Consultants, on July 11, 2011.

² Per actual throughput data in the Products, Raw Materials, Fuels table.

³ Per email correspondence from John Godfrey, ForesTech Energy, to Deborah Walden-Hersh, Trinity Consultants, on July 13, 2011, the chipper is located in a partial enclosure.

⁴ Per telephone conversation between Patrick Agumadu, TCEQ, and Deborah Walden-Hersh, Trinity Consultants, on July 13, 2011, emission and control factors for debarking emissions from TCEQ's *Draft Wood Industry Emission Factors* guidance document, dated May 9, 2005, can be used for chipping emissions.

Chipper Emissions

EPN	Description	Pollutant	Ozone Season Emissions ¹ (lb/day)	Annual Emissions ² (tpy)
XI	Chipper	PM	0.1686	0.0284
		PM ₁₀	0.0562	0.0095
		PM _{2.5}	0.0135	0.0023

¹ Ozone Season Emissions (lb/day) = Throughput (metric tons/ozone season) * Emission Factor (lb/metric ton) * (1 - (Partial Enclosure Control Factor (%) / 100)) * (ozone season / 153 days)

PM Ozone Season Emissions (lb/day) =	137,595 metric tons ozone season	3.75E-03 lb metric ton	(1 - (95% / 100))	ozone season 153 days	= 0.1686 lb/day
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² Annual Emissions (tpy) = Throughput (metric tons/yr) * Emission Factor (lb/ton) * (1 - (Partial Enclosure Control Factor (%) / 100)) * (1 ton / 2,000 lb)

PM Annual Emissions (tpy) =	303,350 metric tons yr	3.75E-03 lb metric ton	(1 - (95% / 100))	1 ton 2,000 lb	= 0.0284 tpy
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Woodville Pellets, LLC - Woodville Mill
Debarker EI Emissions Calculations

Debarker Emission Factors

Emission Factor (lb/short ton of logs debarked)		
PM ¹	PM ₁₀ ¹	PM _{2.5} ²
0.024	0.011	0.003

¹ Per TCEQ Draft Wood Industry Emission Factors guidance document, dated May 9, 2005.

² The emission factor for PM_{2.5} is determined based on the ratio of the PM_{2.5} to PM₁₀ emissions from the chipper. The PM₁₀ and PM_{2.5} emissions from the chipper were provided from the manufacturer and is representative of emissions at the Woodville Mill.

Debarker Emissions

EPN	Description	Ton of Logs Debarked ¹		Wet Storage of Logs Control Factor ^{2,3} (%)	Ozone Season Emissions ⁴ (lb/day)			Annual Emissions ⁵ (tpy)		
		(metric tons/ozone season)	(metric tons/yr)		PM	PM ₁₀	PM _{2.5}	PM	PM ₁₀	PM _{2.5}
XII	Debarker	152,883	337,056	95	1.3214	0.6056	0.1454	0.2229	0.1021	0.0245

¹ Per actual throughput data in the Products, Raw Materials, Fuels table.

² Per phone conference between John Godfrey, ForesTech Energy, and Deborah Walden-Hersh, Trinity Consultants, on July 13, 2011, there is wet storage of logs prior to debarking.

³ Wet storage of logs control factor is from TCEQ Draft Wood Industry Emission Factors document, dated May 9, 2005.

⁴ Ozone Season Emissions (lb/day) = Ton of Logs Debarked (metric tons/ozone season) * Emission Factor (lb/short ton of logs debarked) * (1 - (Wet Storage of Logs Control Factor (%) / 100)) * (ozone season / 153 days)

PM Ozone Season Emissions (lb/day)	152,883 metric tons	0.024 lb	1.102 short tons	(1 - (95% / 100))	ozone season	=	1.3214 lb/day
=	ozone season	short ton of logs debarked	metric ton		153 days		

⁵ Annual Emissions (tpy) = Ton of Logs Debarked (metric tons/yr) * Emission Factor (lb/short ton of logs debarked) * (1 - (Wet Storage of Logs Control Factor (%) / 100)) * (1 ton / 2,000 lb)

PM Annual Emissions (tpy)	337,056 metric tons	0.024 lb	1.102 short tons	(1 - (95% / 100))	1 ton	=	0.2229 tpy
=	yr	short ton of logs debarked	metric ton		2,000 lb		

Single Pass Dryer Operation Parameters

Parameter	Value	Units
Pellet Production ¹	142,417	metric tons/ozone season
	332,697	metric tons/yr

¹ Per actual throughput data in the Products, Raw Materials, Fuels table.

Single Pass Dryer Emission Factors

Pollutant	Emission Factors (lb/metric ton)
SO ₂ ¹	1.20E-02
CO ¹	2.52E-01
PM/PM ₁₀ /PM _{2.5} ¹	2.18E-02
NO _x ¹	2.61E-01
VOC ¹	7.78E-02
Formaldehyde ^{2, 3}	1.25E-03
Acrolein ^{2, 3}	2.52E-04
Acetaldehyde ^{2, 3}	4.99E-04
Phenol ^{2, 3}	1.16E-04
Propionaldehyde ^{2, 3}	8.41E-05
Methanol ^{2, 3}	6.67E-04

¹ Dryer Outlet Emission Factors based on a stack test conducted on February 6-7, 2014. Results provided by email correspondence from Carl-Einer Leonhard, German Pellets, GmbH, to Deborah Walden-Hersh, Trinity Consultants, on March 28, 2014.

² Based on the ratio of potential hourly emissions from or represented for Permit No. 98014, dated March 13, 2014, multiplied by the VOC Dryer Outlet Emission Factor. Emission factors were calculated based on the following equation:

Emission Factor (lb/metric ton) = (HAP Potential Emission Rate (lb/hr) / VOC Permitted Emission Rate (lb/hr)) * VOC Emission Factor (lb/metric ton)

³ No further speciation is available for the dryers. U.S. EPA, AP-42, Section 10.6.1, *Waferboard/Oriented Strandboard Manufacturing*, March 2002, Table 10.6.1-3, shows all speciated VOCs, other than those included in this table, for a RTO controlled rotary dryer, direct wood-fired, softwood, are below detection limits.

Woodville Pellets, LLC - Woodville Mill
Rotary Dryer EI Emissions Calculations

Dryer Emission Rates

EPN	Description	Ozone Season Emissions (lb/day) ¹					Annual Emissions (tpy) ²				
		PM/PM ₁₀ /PM _{2.5}	VOC	CO	NO _x	SO ₂	PM/PM ₁₀ /PM _{2.5}	VOC	CO	NO _x	SO ₂
IV	Dryer Outlet	20.3153	72.3783	234.7578	243.3845	11.1472	3.6306	12.9347	41.9535	43.4952	1.9921

¹ Ozone Season Emissions (lb/day) = Pellet Production (metric tons/ozone season) * Emission Factor (lb/metric ton) * (ozone season / 153 days)

PM/PM₁₀/PM_{2.5} Ozone Season Emissions (lb/day) = $\frac{142,417 \text{ metric tons}}{\text{ozone season}} \times \frac{2.18\text{E-}02 \text{ lb}}{\text{metric ton}} \times \frac{\text{ozone season}}{153 \text{ days}} = 20.3153 \text{ lb/day}$

² Annual Emissions (tpy) = Pellet Production (metric tons/yr) * Emission Factor (lb/metric ton) * (1 ton / 2,000 lb)

PM/PM₁₀/PM_{2.5} Annual Emissions (tpy) = $\frac{332,697 \text{ metric tons}}{\text{yr}} \times \frac{2.18\text{E-}02 \text{ lb}}{\text{metric ton}} \times \frac{1 \text{ ton}}{2,000 \text{ lb}} = 3.6306 \text{ tpy}$

HAP Dryer Emission Rates

			Ozone Season Emissions (lb/day) ¹	Annual Emissions (tpy) ²
EPN	Description	HAP		
IV	Dryer Outlet	Formaldehyde	1.1590	0.2071
		Acrolein	0.2347	0.0420
		Acetaldehyde	0.4646	0.0830
		Phenol	0.1076	0.0192
		Propionaldehyde	0.0782	0.0140
		Methanol	0.6211	0.1110
Total HAPs			2.6653	0.4763

¹ Ozone Season Emissions (lb/day) = Dry Dryer Output (metric tons/ozone season) * Emission Factor (lb/metric ton) * (ozone season / 153 days)

Formaldehyde Ozone Season Emissions (lb/day) = $\frac{142,417 \text{ metric tons}}{\text{ozone season}} \times \frac{1.25\text{E-}03 \text{ lb}}{\text{metric ton}} \times \frac{\text{ozone season}}{153 \text{ days}} = 1.1590 \text{ lb/day}$

² Annual Emissions (tpy) = Dry Dryer Output (metric tons/yr) * Emission Factor (lb/metric ton) * (1 ton / 2,000 lb)

Formaldehyde Annual Emissions (tpy) = $\frac{332,697 \text{ metric tons}}{\text{yr}} \times \frac{1.25\text{E-}03 \text{ lb}}{\text{metric ton}} \times \frac{1 \text{ ton}}{2,000 \text{ lb}} = 0.2071 \text{ tpy}$

Woodville Pellets, LLC - Woodville Mill
RTO On-Line Bake-Out EI Emissions Calculations

RTO On-Line Bake-Out Parameters

Parameter	Value	Units
RTO Bake-out duration	4	hr/ozone season
RTO Bake-out duration	10	hr/yr
Additional bake-out fuel input ¹	4	MMBtu/hr
Natural gas heating value ²	1,020	MMBtu/10 ⁶ scf
Emission Factors		
PM/PM ₁₀ /PM _{2.5} ³	2.70	lb/hr
VOC ³	9.60	lb/hr
CO ²	84	lb/10 ⁶ scf
NO _x ²	100	lb/10 ⁶ scf
SO ₂ ²	0.6	lb/10 ⁶ scf

¹ Per phone conversation between Zlatko (Zo) Savovic, TSI, Inc., Carl Leonhard, German Pellets GmbH, and Deborah Walden-Hersh, Trinity Consultants, in March 2013.

² Per AP-42, Section 1.4, *Natural Gas Combustion*, July 1998.

³ Per email communication from Zlatko (Zo) Savovic, TSI, Inc., to Carl Leonard, German Pellets GmbH, on April 2, 2013, emissions from PM/PM_{2.5}/PM₁₀ and VOC are up to 3 times of emissions from normal operation during RTO on-line bake-outs. Emissions from normal operation are accounted for in the dryer emissions calculations based on stack test data. Additional emissions during on-line bake-outs are based on 2 times the emissions from a stack test conducted on February 6-7, 2014. Results provided by email correspondence from Carl-Einer Leonhard, German Pellets, GmbH, to Deborah Walden-Hersh, Trinity Consultants, on March 28, 2014. Emission factors were estimated using the following equation:

Emission Factor (lb/hr) = Dryer Emissions During Stack Test (lb/hr) * 2

RTO On-Line Bake-Out Emissions ¹

MSS Activity	Ozone Season Emissions (lb/day)					Annual Emissions (tpy)				
	PM/PM ₁₀ /PM _{2.5} ²	VOC ²	CO ³	NO _x ³	SO ₂ ³	PM/PM ₁₀ /PM _{2.5} ⁴	VOC ⁴	CO ⁵	NO _x ⁵	SO ₂ ⁵
RTO On-Line Bake-Out	0.0744	0.2644	0.0091	0.0108	0.0001	0.0141	0.0502	0.0017	0.0020	0.0000

¹ The RTO on-line bake-out emissions represent the additional emissions generated during an on-line bake-out in addition to those emissions concurrently generated from normal operation. Therefore, emissions included here are only the additional emissions generated exclusively from the RTO on-line bake-out and do not include emissions for normal operation.

² Ozone Season Emissions (lb/day) = Emission Factor (lb/hr) * RTO Bake-Out Duration (hr/ozone season) * (ozone season/153 days)

PM/PM₁₀/PM_{2.5} Ozone Season Emissions (lb/day) = $\frac{2.70 \text{ lb}}{\text{hr}} \times \frac{4 \text{ hr}}{\text{ozone season}} \times \frac{\text{ozone season}}{153 \text{ days}} =$

³ Ozone Season Emissions (lb/day) = Emission Factor (lb/10⁶ scf) * RTO Bake-Out Duration (hr/ozone season) * Additional Bake-Out Fuel Input (MMBtu/hr) / Natural Gas Heating Value (MMBtu/10⁶ scf) * (ozone season/153 days)

CO Ozone Season Emissions (lb/day) = $\frac{84 \text{ lb}}{10^6 \text{ scf}} \times \frac{4 \text{ hr}}{\text{ozone season}} \times \frac{4 \text{ MMBtu}}{\text{hr}} \times \frac{10^6 \text{ scf}}{1,020 \text{ MMBtu}} \times \frac{\text{ozone season}}{153 \text{ days}} = 0.0091 \text{ lb/day}$

⁴ Annual Emissions (tpy) = Emission Factor (lb/hr) * RTO Bake-Out Duration (hr/yr) * (1 ton/2,000 lb)

PM/PM₁₀/PM_{2.5} Annual Emissions (tpy) = $\frac{2.70 \text{ lb}}{\text{hr}} \times \frac{10 \text{ hr}}{\text{yr}} \times \frac{1 \text{ ton}}{2,000 \text{ lb}} = 0.0141 \text{ tpy}$

⁵ Annual Emissions (tpy) = Emission Factor (lb/10⁶ scf) * RTO Bake-Out Duration (hr/yr) * Additional Bake-Out Fuel Input (MMBtu/hr) / Natural Gas Heating Value (MMBtu/10⁶ scf) * (1 ton/2,000 lb)

CO Annual Emissions (tpy) = $\frac{84 \text{ lb}}{10^6 \text{ scf}} \times \frac{10 \text{ hr}}{\text{yr}} \times \frac{4 \text{ MMBtu}}{\text{hr}} \times \frac{10^6 \text{ scf}}{1,020 \text{ MMBtu}} \times \frac{1 \text{ ton}}{2,000 \text{ lb}} = 0.0017 \text{ tpy}$

Woodville Pellets, LLC - Woodville Mill
RTO Off-Line Bake-Out EI Emissions Calculations

RTO Off-Line Bake-Out Parameters

Parameter	Value	Units
RTO Bake-out duration	0	hr/ozone season
RTO Bake-out duration	0	hr/yr
RTO fuel input ¹	16	MMBtu/hr
Natural gas heating value	1,020	MMBtu/10 ⁶ scf
Emission Factors		
PM/PM ₁₀ /PM _{2.5} ³	1.35	lb/hr
VOC ³	4.80	lb/hr
CO ²	84	lb/10 ⁶ scf
NO _x ²	100	lb/10 ⁶ scf
SO ₂ ²	0.6	lb/10 ⁶ scf

¹ RTO fuel input capacity per email correspondence from Carl-Einer Leonhard, German Pellets, GmbH, to Deborah Walden-Hersh, Trinity Consultants, on June 21, 2011.

² Per AP-42, Section 1.4, *Natural Gas Combustion*, July 1998.

³ Emissions from PM/PM_{2.5}/PM₁₀ and VOC during off-line bake-outs are anticipated tto be no higher than during normal operation since there is no production during an off-line bake-out. Therefore, emissions are conservatively assumed to be equal to the emissions from a stack test conducted on February 6-7, 2014. Results provided by email correspondence from Carl-Einer Leonhard, German Pellets, GmbH, to Deborah Walden-Hersh, Trinity Consultants, on March 28, 2014.

RTO Off-Line Bake-Out Emissions

MSS Activity	Ozone Season Emissions (lb/day)					Annual Emissions (tpy)				
	PM/PM ₁₀ /PM _{2.5} ¹	VOC ¹	CO ²	NO _x ²	SO ₂ ²	PM/PM ₁₀ /PM _{2.5} ³	VOC ³	CO ⁴	NO _x ⁴	SO ₂ ⁴
RTO Off-Line Bake-Out	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000

¹ Ozone Season Emissions (lb/day) = Emission Factor (lb/hr) * RTO Bake-Out Duration (hr/ozone season) * (ozone season/153 days)

PM/PM₁₀/PM_{2.5} Ozone Season Emissions (lb/day) =
$$\frac{1.35 \text{ lb}}{\text{hr}} \times \frac{0 \text{ hr}}{\text{ozone season}} \times \frac{\text{ozone season}}{153 \text{ days}} = 0 \text{ lb/day}$$

² Ozone Season Emissions (lb/day) = Emission Factor (lb/10⁶ scf) * RTO Bake-Out Duration (hr/ozone season) * RTO Fuel Input (MMBtu/hr) / Natural Gas Heating Value (MMBtu/10⁶ scf) * (ozone season/153 days)

CO Ozone Season Emissions (lb/day) =
$$\frac{84 \text{ lb}}{10^6 \text{ scf}} \times \frac{0 \text{ hr}}{\text{ozone season}} \times \frac{16 \text{ MMBtu}}{\text{hr}} \times \frac{10^6 \text{ scf}}{1,020 \text{ MMBtu}} \times \frac{\text{ozone season}}{153 \text{ days}} = 0 \text{ lb/day}$$

³ Annual Emissions (tpy) = Emission Factor (lb/hr) * Bake-Out Duration (hr/yr) * (1 ton/2,000 lb)

PM/PM₁₀/PM_{2.5} Annual Emissions (tpy) =
$$\frac{1.35 \text{ lb}}{\text{hr}} \times \frac{0 \text{ hr}}{\text{yr}} \times \frac{1 \text{ ton}}{2,000 \text{ lb}} = 0 \text{ tpy}$$

⁴ Annual Emissions (tpy) = Emission Factor (lb/10⁶ scf) * RTO Bake-Out Duration (hr/yr) * RTO Fuel Input (MMBtu/hr) / Natural Gas Heating Value (MMBtu/10⁶ scf) * (1 ton/2,000 lb)

CO Annual Emissions (tpy) =
$$\frac{84 \text{ lb}}{10^6 \text{ scf}} \times \frac{0 \text{ hr}}{\text{yr}} \times \frac{16 \text{ MMBtu}}{\text{hr}} \times \frac{10^6 \text{ scf}}{1,020 \text{ MMBtu}} \times \frac{1 \text{ ton}}{2,000 \text{ lb}} = 0 \text{ tpy}$$

Woodville Pellets, LLC - Woodville Mill
Wet Mills EI Emissions Calculations

Wet Mill Parameters

Parameter	Value	Units
Wet Mill Emission Factor ¹	0.031	lb PM/metric ton pellet produced
	0.022	lb PM ₁₀ /metric ton pellet produced
	0.019	lb PM _{2.5} /metric ton pellet produced
Wet Mill VOC Emission Factor ²	1.640	lb VOC/metric ton pellet produced
Pellet Production ³	332,697	metric tons/yr
	142,417	metric tons/ozone season

¹ Wet Mill Emission Factors based on a stack test conducted on March 6, 2014, and air flowrates provided on March 26, 2015. Stack test results provided by email correspondence from Carl-Einer Leonhard, German Pellets, GmbH, to Deborah Walden-Hersh, Trinity Consultants, on March 28, 2014. It is assumed that the stack test data for the tested EPNs is representative for all EPNs in the same equipment group.

² Wet Mill VOC Emission Factor is based on a stack test conducted on January 27, 2021, and production rates provided on March 18, 2021. Stack test results provided by email correspondence from Paula Metz, Alliance Source Testing, to Deborah Walden-Hersh, Trinity Consultants, on March 15, 2021. It is assumed that the stack test data for the tested EPNs is representative for all EPNs in the same equipment group.

³ Per actual throughput data in the Products, Raw Materials, Fuels table.

Wet Mill Emission Rates

EPN Description		Ozone Emissions ^{1, 2}				Annual Emissions ^{1, 3}			
		PM (lb/day)	PM ₁₀ (lb/day)	PM _{2.5} (lb/day)	VOC (lb/day)	PM (tpy)	PM ₁₀ (tpy)	PM _{2.5} (tpy)	VOC (tpy)
IIIa	Wet Mill Aspiration Cyclone 1	4.1194	2.9730	2.5485	218.1010	0.7362	0.5313	0.4554	38.9768
IIIb	Wet Mill Aspiration Cyclone 2	4.1194	2.9730	2.5485	218.1010	0.7362	0.5313	0.4554	38.9768
IIIc	Wet Mill Aspiration Cyclone 3	4.1194	2.9730	2.5485	218.1010	0.7362	0.5313	0.4554	38.9768
IIId	Wet Mill Aspiration Cyclone 4	4.1194	2.9730	2.5485	218.1010	0.7362	0.5313	0.4554	38.9768
IIIe	Wet Mill Aspiration Cyclone 5	4.1194	2.9730	2.5485	218.1010	0.7362	0.5313	0.4554	38.9768
IIIf	Wet Mill Aspiration Cyclone 6	4.1194	2.9730	2.5485	218.1010	0.7362	0.5313	0.4554	38.9768
IIIg	Wet Mill Aspiration Cyclone 7	4.1194	2.9730	2.5485	218.1010	0.7362	0.5313	0.4554	38.9768
Total		28.8361	20.8110	17.8394	1,526.7069	5.1533	3.7191	3.1881	272.8376

¹ Throughput is a site wide measurement. It is assumed that emissions generated during production are evenly distributed between the emission paths.

² Ozone Season Emissions (lb/day) = Emission Factor (lb Pollutant/metric ton pellet produced) * Pellet Production (metric tons/ozone season) * (1 / Number of Filters or Paths) * (ozone season/153 days)

Wet Mill Aspiration Cyclone 1 PM Ozone Season Emissions (lb/day) =

0.031 lb PM

142,417 metric tons

1

ozone season

metric ton pellet

ozone season

7

153 days

=

4.1194 lb/day

³ Annual Emissions (tpy) = Emission Factor (lb Pollutant/metric ton pellet produced) * Pellet Production (metric tons/yr) * (1 / Number of Filters or Paths) * (1 ton/2,000 lb)

Wet Mill Aspiration Cyclone 1 Annual Emissions (tpy) =

0.031 lb PM

332,697 metric tons

1

1 ton

metric ton pellet

yr

7

2,000 lb

=

0.7362 tpy

**Woodville Pellets, LLC - Woodville Mill
Starch Silo EI Emissions Calculations**

Starch Silo Design and Operational Parameters

Parameter	Value	Units
Emission Factor ¹	7.65E-07	lb PM/metric ton pellet
Pellet Production ²	332,697	metric tons/yr
	142,417	metric tons/ozone season

¹ Based on permitted hourly emissions from Permit No. 98014, dated March 13, 2014, divided by the maximum pellet production rate represented in the initial permit application for Permit No. 98014.

² Per actual throughput data in the Products, Raw Materials, Fuels table.

Starch Silo Emissions

EPN	Description	PM/PM ₁₀ /PM _{2.5} Emissions ^{1, 2}	
		(lb ozone season/day)	(tpy)
VII	Starch Silo	0.0007	0.0001

¹ Ozone Season Emissions (lb/day) = Emission Factor (lb PM/metric ton) * Pellet Production (metric tons/ozone season) * (ozone season / 153 days)

$$\text{Ozone Season Emissions (lb/day)} = \frac{8\text{E-}07 \text{ lb PM}}{\text{metric ton}} \times \frac{142,417 \text{ metric tons}}{\text{ozone season}} \times \frac{\text{ozone season}}{153 \text{ days}} = 0.0007 \text{ lb/day}$$

² Annual Emissions (tpy) = Emission Factor (lb PM/metric ton) * Pellet Production (metric tons/yr) * (1 ton / 2,000 lb)

$$\text{Annual Emissions (tpy)} = \frac{7.65\text{E-}07 \text{ lb PM}}{\text{metric ton}} \times \frac{332,697 \text{ metric tons}}{\text{yr}} \times \frac{1 \text{ ton}}{2,000 \text{ lb}} = 0.0001 \text{ tpy}$$

Woodville Pellets, LLC - Woodville Mill
EI Emission Calculations for Temporary or Portable Heaters for Dryer Burners Refractory Replacement

Temporary or Portable Heaters (EPN TEMPHEAT) Operation Parameters

Parameter	Value	Unit
Total rated capacity ¹	80	MMBtu/hr
Hours of Operation ²	0	hr/yr
	0	hr/ozone season
Natural gas heating value ³	1,020	MMBtu/MMscf
LPG Heat Content ⁴	91.5	MMBtu/10 ³ gal
Natural Gas flowrate	-	-
Ozone season flowrate ⁵	0.00	MMscf/ozone season
Annual flowrate ⁶	0.00	MMscf/yr

¹ For conservatism, it is represented that a total of 80 MMBtu/hr can be used at any given time for maintenance purposes. This could be the result of combination of any number of temporary or portable heaters not to exceed an individual rated capacity of 40 MMBtu/hr.

² Per actual hours of operation in the Hours of Operation table.

³ Per U.S. EPA, AP-42, Section 1.4, *Natural Gas Combustion*, Section 1.4.1, July 1998.

⁴ Per U.S. EPA AP-42, Section 1.5, *Liquefied Petroleum Gas Combustion*, Section 1.5.1, July 2008.

⁵ Ozone Season Flowrate (MMscf/ozone season) = Total Rated Capacity (MMBtu/hr) / Natural Gas Heating Value (MMBtu/MMscf) * Hours of Operation (hr/ozone season)

⁶ Annual Flowrate (MMscf/yr) = Total Rated Capacity (MMBtu/hr) / Natural Gas Heating Value (MMBtu/MMscf) * Hours of Operation (hr/yr)

Woodville Pellets, LLC - Woodville Mill
EI Emission Calculations for Temporary or Portable Heaters for Dryer Burners Refractory Replacement

Emission Factors for Criteria Pollutants

Pollutant	Emission Factors	
	Natural Gas ¹	LPG ^{2, 3}
	(lb/MMscf)	(lb/10³ gal)
PM/PM ₁₀ /PM _{2.5}	7.6	0.7
VOC	5.5	1.0
NO _x	100	13
SO ₂	0.6	1.0
CO	84	7.5

¹ Per U.S. EPA, AP-42, Section 1.4, *Natural Gas Combustion*, Tables 1.4-1 & 1.4-2 for uncontrolled small boilers, July 1998.

² Per AP-42, Section 1.5, *Liquefied Petroleum Gas Combustion*, Table 1.5-1 (propane), July 2008.

³ The SO₂ emission factor is dependent of sulfur content of the LPG, expressed in gr/100 scf. A conservative sulfur content of 10 gr/100 scf was used to calculate emissions from the temporary or portable heaters. The actual sulfur content of LPG will vary and may be higher than represented; however, SO₂ emissions from the heaters will be within the PBR limits even if 10 times or more of the sulfur content used in these calculations. The SO₂ emission factor is calculated as follows:

$$\text{SO}_2 \text{ Emission Factor (lb/10}^3 \text{ gal)} = 0.10 * \text{LPG Sulfur Content (gr/100 scf)}$$

Woodville Pellets, LLC - Woodville Mill
EI Emission Calculations for Temporary or Portable Heaters for Dryer Burners Refractory Replacement

Total Temporary or Portable Heaters Criteria Pollutant Emissions

Pollutant	Ozone Season Emissions (lb/day)			Annual Emissions (tpy)		
	Natural Gas ¹	LPG ²	Maximum ³	Natural Gas ⁴	LPG ⁵	Maximum ³
PM/PM ₁₀ /PM _{2.5}	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
VOC	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
NO _x	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
SO ₂	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
CO	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000

¹ Natural Gas Ozone Season Emissions (lb/day) = Ozone Season Flowrate (MMscf/ozone season) * Emission Factor (lb/MMscf) * (ozone season / 153 days)

$$\text{PM/PM}_{10}/\text{PM}_{2.5} \text{ Ozone Season Emissions (lb/day)} = \frac{0.000 \text{ MMscf}}{\text{ozone season}} \times \frac{7.6 \text{ lb}}{\text{MMscf}} \times \frac{\text{ozone season}}{153 \text{ days}} = 0.0000 \text{ lb/day}$$

² LPG Ozone Season Emissions (lb/day) = Emission Factor (lb/10³ gal) * Total Rated Capacity (MMBtu/hr) / LPG Heat Content (MMBtu/10³ gal) * Hours of Operation (hr/ozone season) * (ozone season / 153 days)

$$\text{PM/PM}_{10}/\text{PM}_{2.5} \text{ Ozone Season Emissions (lb/hr)} = \frac{0.7 \text{ lb}}{10^3 \text{ gal}} \times \frac{80 \text{ MMBtu}}{\text{hr}} \times \frac{10^3 \text{ gal}}{91.5 \text{ MMBtu}} \times \frac{0 \text{ hr}}{\text{ozone season}} \times \frac{\text{ozone season}}{153 \text{ days}} = 0.0000 \text{ lb/day}$$

³ The temporary or portable heaters will combust sweet natural gas or LPG. For conservatism, the maximum emissions estimated for either fuel is used as the maximum emission rate from the temporary or portable heaters.

⁴ Natural Gas Annual Emissions (tpy) = Annual Flowrate (MMscf/yr) * Emission Factor (lb/MMscf) * (1 ton / 2,000 lb)

$$\text{PM/PM}_{10}/\text{PM}_{2.5} \text{ Annual Emissions (tpy)} = \frac{0.00 \text{ MMscf}}{\text{yr}} \times \frac{7.6 \text{ lb}}{\text{MMscf}} \times \frac{1 \text{ ton}}{2,000 \text{ lb}} = 0.0000 \text{ tpy}$$

⁵ LPG Annual Emissions (tpy) = Emission Factor (lb/10³ gal) * Total Rated Capacity (MMBtu/hr) / LPG Heat Content (MMBtu/10³ gal) * Hours of Operation (hr/yr) * (1 ton / 2,000 lb)

$$\text{PM/PM}_{10}/\text{PM}_{2.5} \text{ Annual Emissions (tpy)} = \frac{0.7 \text{ lb}}{10^3 \text{ gal}} \times \frac{80 \text{ MMBtu}}{\text{hr}} \times \frac{10^3 \text{ gal}}{91.5 \text{ MMBtu}} \times \frac{0 \text{ hr}}{\text{yr}} \times \frac{1 \text{ ton}}{2,000 \text{ lb}} = 0.0000 \text{ tpy}$$

**Woodville Pellets, LLC - Woodville Mill
Gas Burner EI Emissions Calculations**

Small Gas Burner (EPN BURNER) Operation Parameters

Parameter	Value	Unit
Maximum Firing Rate ¹	2	MMBtu/hr
Hours of Operation	7,560	hr/yr
	3,048	hr/ozone season
Natural gas heating value ²	1,020	Btu/scf
Fuel flow rate	-	-
Hourly flowrate ³	0.002	MMscf/hr
Annual flowrate ⁴	14.82	MMscf/yr

¹ Per manufacturer data sheet received from Paul Radtke, German Pellets, to Deborah Walden-Hersh, Trinity Consultants, via email dated October 13, 2016.

² Per U.S. EPA, AP-42, Section 1.4, *Natural Gas Combustion*, Section 1.4.1, July 1998.

³ Hourly Flowrate (MMscf/hr) = Total Rated Capacity (MMBtu/hr) / Natural Gas Heating Value (Btu/scf)

⁴ Annual Flowrate (MMscf/yr) = Hourly Flowrate (MMscf/hr) * Hours of Operation (hr/yr)

Natural Gas Emission Factors for Criteria Pollutants

Pollutant	Emission Factors ¹ (lb/MMscf)
PM/PM ₁₀ /PM _{2.5}	7.6
VOC	5.5
NO _x	100
SO ₂	0.6
CO	84

¹ Per U.S. EPA, AP-42, Section 1.4, *Natural Gas Combustion*, Tables 1.4-1 & 1.4-2 for uncontrolled small boilers, July 1998.

Total Gas Burner Criteria Pollutant Emissions

Pollutant	Ozone Season Emissions ¹ (lb/day)	Annual Emissions ² (tpy)
PM/PM ₁₀ /PM _{2.5}	0.2969	0.0563
VOC	0.2148	0.0408
NO _x	3.9062	0.7412
SO ₂	0.0234	0.0044
CO	3.2812	0.6226

¹ Ozone Season Emissions (lb/day) = Hourly Flowrate (MMscf/hr) * Emission Factor (lb/MMscf) * Hours of Operation (hr/ozone season) * (ozone season/153 d)

$$\text{PM/PM}_{10}/\text{PM}_{2.5} \text{ Ozone Season Emissions (lb/day)} = \frac{0.002 \text{ MMscf}}{\text{hr}} \times \frac{7.6 \text{ lb}}{\text{MMscf}} \times \frac{3048 \text{ hr}}{\text{ozone season}} \times \frac{\text{ozone season}}{153 \text{ days}} = 0.2969 \text{ lb/day}$$

² Annual Emissions (tpy) = Annual Flowrate (MMscf/yr) * Emission Factor (lb/MMscf) / 2,000 (lb/ton)

$$\text{PM/PM}_{10}/\text{PM}_{2.5} \text{ Annual Emissions (tpy)} = \frac{14.82 \text{ MMscf}}{\text{yr}} \times \frac{7.6 \text{ lb}}{\text{MMscf}} \times \frac{\text{ton}}{2,000 \text{ lb}} = 0.0563 \text{ tpy}$$

Woodville Pellets, LLC - Woodville Mill
2020 Emission Event Summary

Start	End	Duration	CO (lb) RQ = 5,000	NOx (lb) RQ = 5,000	PM (lb) RQ = 100	PM ₁₀ (lb) RQ = 100	PM _{2.5} (lb) RQ = 100	SO ₂ (lb) RQ = 500	VOC (lb) RQ = 100	Issue	EPN
1/6/20 13:30	1/7/20 23:00	33:30	52.4900	42.8700	36.4800	32.9800	28.6100	2.1900	1.4900	Conveyor went down	GRPVI
1/9/20 12:10	1/9/20 13:30	1:20	3.8900	3.1800	2.7000	2.4400	2.1200	0.1600	0.1100	Bad outfeed airlock in dryers	GRPVI
1/9/20 19:00	1/10/20 3:00	8:00	11.6600	9.5300	8.1100	7.3300	6.3600	0.4900	0.3300	Metal in drum	GRPVI
1/21/20 17:45	1/22/20 14:35	20:50	30.3750	24.8063	21.1106	19.0856	16.5544	1.2656	0.8606	510 conveyor chain broke	GRPVI
2/6/20 6:30	2/6/20 10:00	3:30	3.5200	2.8800	2.4500	2.2100	1.9200	0.1500	0.1000	WESP caused inlet pressure sensor to show positive briefly	GRPVI
2/7/20 16:25	2/7/20 17:00	0:35	1.2800	1.0400	0.8900	0.8000	0.7000	0.0500	0.0400	Hydraulic unit line busted	GRPVI
2/9/20 20:40	2/9/20 20:42	0:02	0.0500	0.0400	0.0300	0.0300	0.0300	0.0000	0.0000	Back pressure	GRPVI
3/1/20 21:20	3/1/20 21:25	0:05	0.4900	0.4000	0.3400	0.3100	0.2600	0.0200	0.0100	Burner tripped	GRPVI
3/16/20 16:33	3/16/20 17:00	0:27	1.6416	1.3406	1.1409	1.0315	0.8947	0.0684	0.0465	Power outage	GRPVI
3/17/20 17:50	3/17/20 18:50	1:00	6.3051	6.5368	10.9125	10.9125	10.9125	0.2994	38.8783	Burner A tripped	GRPVI
3/20/20 22:06	3/21/20 19:29	21:23	62.6454	51.1604	43.5386	39.3622	34.1417	2.6102	1.7750	RTO Burner tripped	GRPVI
4/10/20 17:10	4/10/20 17:55	0:45	5.4300	5.0600	6.7100	6.5400	6.3200	0.2400	17.5700	Air pressure loss	GRPVI
4/11/20 15:20	4/11/20 21:30	6:10	56.1600	45.8600	39.0300	35.2900	30.6100	2.3400	1.5900	Air pressure loss	GRPVI
4/13/20 23:00	4/14/20 13:05	14:05	34.9900	28.5800	24.3200	21.9900	19.0700	1.4600	0.9900	510 conveyor broke	GRPVI
4/19/20 4:25	4/19/20 4:50	0:25	1.0500	1.0900	1.8200	1.8200	1.8200	0.0500	6.4800	510 conveyor tripped	GRPVI
4/21/20 14:30	4/21/20 15:30	1:00	10.0900	10.4600	17.4600	17.4600	17.4600	0.4800	62.2100	Cleaned strainers	GRPVI
4/28/20 1:00	4/30/20 12:45	59:45	50.3010	41.0792	34.9592	31.6058	27.4140	2.0959	1.4252	WESP was brought offline for maintenance	GRPVI
5/8/20 14:25	5/8/20 14:30	0:05	0.1200	0.1000	0.0800	0.0800	0.0700	0.0100	0.0000	Electrical issues	GRPVI
5/24/20 3:05	6/9/20 13:30	394:25	3.3500	2.7400	2.3114	2.0914	1.8114	0.1401	0.0920	Power outage due to transformer going out	GRPVI
5/24/20 3:05	6/9/20 13:30	394:25	700.0000	3,240.0000	220.0000	220.0000	220.0000	220.0000	260.0000	Temporary engines during power outage	GRPENG

Woodville Pellets, LLC - Woodville Mill
2020 Emission Event Summary

Start	End	Duration	CO (lb) RQ = 5,000	NOx (lb) RQ = 5,000	PM (lb) RQ = 100	PM ₁₀ (lb) RQ = 100	PM _{2.5} (lb) RQ = 100	SO ₂ (lb) RQ = 500	VOC (lb) RQ = 100	Issue	EPN
6/10/20 16:50	6/10/20 19:30	2:40	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	High temperature in Dryer 2	GRPVI
6/11/20 18:30	6/12/20 2:30	8:00	3.1600	2.5800	2.2000	1.9800	1.7200	0.1300	0.0900	RTO communications issue	GRPVI
6/14/20 16:20	6/14/20 16:25	0:05	0.2400	0.2000	0.1700	0.1500	0.1300	0.1000	0.1000	TR 2 tripped	GRPVI
6/14/20 16:45	6/14/20 16:50	0:05	0.2400	0.2000	0.1700	0.1500	0.1500	0.1000	0.1000	TR 3 ripped	GRPVI
6/22/20 11:00	6/22/20 11:55	0:55	2.6730	2.1830	1.8577	1.6795	1.4568	0.1114	0.0757	RTO pressure sensor C&D showed to be low	GRPVI
6/25/20 5:15	6/25/20 23:20	18:05	78.5511	64.1501	54.5930	49.3563	42.8103	3.2730	2.2256	RTO burner tripped due to fire on conveyor belt	GRPVI
6/25/20 4:00	6/25/20 10:00	6:00	0.2400	0.1960	0.1668	0.1508	0.1308	0.0100	0.0068	Fire on conveyor belt	IIa
6/25/20 4:00	6/25/20 10:00	6:00	0.2400	0.1960	0.1668	0.1508	0.1308	0.0100	0.0068	Fire on conveyor belt	IIb
6/30/20 22:38	7/1/20 13:15	14:37	18.2250	14.8838	12.6664	11.4514	9.9326	0.7594	0.5164	PLC issue	GRPVI
7/3/20 17:15	7/3/20 17:37	0:22	6.4152	5.2391	4.4586	4.0309	3.4963	0.2673	0.1818	WESP tripped	GRPVI
7/20/20 9:10	7/20/20 10:00	0:50	2.4300	1.9800	1.6900	1.5300	1.3200	0.1000	0.0700	Air pressuere loss	GRPVI
7/21/20 8:00	7/21/20 12:00	4:00	0.1400	0.1200	0.1000	0.0900	0.0800	0.0100	0.0000	530 chain broke	GRPVI
8/4/20 0:35	8/4/20 10:30	9:55	14.4600	11.8100	10.0500	9.0800	7.8800	0.6000	0.4100	510 conveyor broke	GRPVI
8/14/20 18:15	8/14/20 21:15	3:00	11.7274	12.1584	20.2972	20.2972	20.2972	0.5569	72.3137	Air pressure loss	GRPVI
8/18/20 5:00	8/18/20 5:10	0:10	0.9700	0.7900	0.6800	0.6100	0.5300	0.0400	0.0300	Accident E-stop tripped	GRPVI
8/21/20 18:22	8/21/20 18:27	0:05	0.4900	0.4000	0.3400	0.3100	0.2600	0.0200	0.0100	T/R 3-4 tripped	GRPVI
8/29/20 14:00	8/29/20 16:25	2:25	4.6200	3.7700	3.2100	2.9000	2.5200	0.1900	0.1300	After maintenance, dryers were brought back online, and emissions went out abort stacks before routing to controls	GRPVI
8/30/20 22:45	8/31/20 8:15	9:30	27.7000	22.6200	19.2500	17.4100	15.1000	1.1500	0.7800	TR 1 tripped	GRPVI
9/4/20 13:45	9/4/20 14:45	1:00	2.9200	2.3800	2.0300	1.8300	1.5900	0.1200	0.0800	PLC issue	GRPVI

Woodville Pellets, LLC - Woodville Mill
2020 Emission Event Summary

Start	End	Duration	CO (lb) RQ = 5,000	NOx (lb) RQ = 5,000	PM (lb) RQ = 100	PM ₁₀ (lb) RQ = 100	PM _{2.5} (lb) RQ = 100	SO ₂ (lb) RQ = 500	VOC (lb) RQ = 100	Issue	EPN
9/8/20 10:22	9/8/20 11:00	0:38	1.7500	1.4300	1.2200	1.1000	0.9500	0.0700	0.0500	Communcation error	GRPVI
9/18/20 9:15	9/18/20 15:30	6:15	11.2995	9.2279	7.8532	7.0999	6.1582	0.4708	0.3202	Dryer 2 WESP inlet damper broke	GRPVI
9/20/20 21:00	9/21/20 10:00	13:00	25.5150	20.8373	17.7329	16.0319	13.9057	1.0631	0.7229	Dryer One Screw Issues	GRPVI
9/26/20 4:07	9/26/20 4:25	0:18	2.1900	1.7900	1.5200	1.3700	1.9000	0.0900	0.0600	Repair Leaky Valve	GRPVI
9/30/20 7:20	9/30/20 7:25	0:05	0.6100	0.5000	0.4200	0.3800	0.3300	0.0300	0.0200	RTO Back Pressure	GRPVI
10/7/20 0:45	10/7/20 0:55	0:10	0.4900	0.4000	0.3400	0.3100	0.2600	0.0200	0.0100	RTO Back Pressure	GRPVI
10/7/20 11:20	10/7/20 11:22	0:02	0.1000	0.0800	0.0700	0.0600	0.0550	0.0000	0.0000	RTO Back Pressure	GRPVI
10/9/20 8:05	10/9/20 8:15	0:10	1,22	0.9900	0.8400	0.7600	0.6600	0.5000	0.3000	RTO Back Pressure	GRPVI
10/10/20 4:00	10/10/20 9:00	5:00	3.4100	2.7800	5.1400	2.1300	1.8500	0.1400	0.0900	RTO Burner A Tripped	GRPVI
10/20/20 19:20	10/20/20 20:00	0:40	3.8900	3.1800	2.7000	2.4400	2.1200	0.1600	0.1100	Burner B Tripped	GRPVI
10/22/20 2:45	10/23/20 1:30	22:45	95.3200	77.84	66.2400	59.8900	51.9500	3.9700	2.7000	Sparks in Dryer	GRPVI
10/23/20 13:58	10/23/20 15:18	1:20	4.8600	3.97	3.3800	3.0500	2.6500	0.2000	0.1400	Grecon Issues due to weather	GRPVI
10/27/20 12:30	10/27/20 13:40	1:10	3.4000	2.78	2.3600	2.1400	1.8500	0.1400	0.1000	RTO Burner A Tripped	GRPVI
10/28/20 9:20	10/28/20 9:50	0:30	1.4600	1.19	1.0100	0.9200	0.7900	0.0600	0.0400	RTO Burner B Tripped	GRPVI
10/29/20 2:05	10/29/20 2:20	0:15	1.4600	1.19	1.0100	0.9200	0.7900	0.0600	0.0400	PLC Reset	GRPVI
10/29/20 7:55	10/29/20 19:30	11:35	35.4200	29.28	26.3200	24.0600	21.2500	1.4900	11.0700	Maintenance on WESP	GRPVI
11/4/20 14:20	11/4/20 18:00	3:40	8.0200	6.55	5.5700	5.0400	4.3700	0.3300	0.2300	Dryer 1 Offline	GRPVI
11/11/20 9:30	11/11/20 9:50	0:20	0.9700	0.79	0.6800	0.6100	0.5300	0.0400	0.0300	PLC	GRPVI
11/16/20 8:49	11/16/20 9:55	1:06	3.2100	2.62	2.2300	2.0200	1.7500	0.1300	0.0900	RTO Issues	GRPVI
11/18/20 18:35	11/18/20 18:50	0:15	0.3600	0.30	0.2500	0.2300	0.2000	0.0200	0.0100	HVU Oil Low	GRPVI
11/21/20 4:25	11/21/20 4:45	0:20	1.9400	1.59	1.3500	1.2200	1.0600	0.0800	0.0600	Burner tripped	GRPVI

Woodville Pellets, LLC - Woodville Mill
2020 Emission Event Summary

Start	End	Duration	CO (lb) RQ = 5,000	NOx (lb) RQ = 5,000	PM (lb) RQ = 100	PM ₁₀ (lb) RQ = 100	PM _{2.5} (lb) RQ = 100	SO ₂ (lb) RQ = 500	VOC (lb) RQ = 100	Issue	EPN
11/21/20 16:34	11/21/20 16:39	0:05	0.4900	0.40	0.3400	0.3100	0.2600	0.0200	0.0100	RTO Pressure / Heat	GRPVI
11/21/20 17:05	11/21/20 17:20	0:15	1.4600	1.19	1.0100	0.9200	0.7900	0.0600	0.0400	RTO Pressure / Heat	GRPVI
11/24/20 9:00	11/24/20 10:30	1:30	5.8300	4.76	4.0500	3.6600	3.1800	0.2400	0.1700	E-Stop Dryer Conveyor	GRPVI
11/25/20 10:51	11/25/20 11:20	0:29	2.8200	2.30	1.9600	1.7700	1.5400	0.1200	0.0800	E-Stop Dryer Conveyor	GRPVI
11/26/20 10:00	11/26/20 10:02	0:02	0.2900	0.31	0.5100	0.5100	0.5100	0.0100	1.8100	RTO Pressure	GRPVI
12/1/20 10:15	12/1/20 19:00	8:45	4.4100	4.58	7.6400	7.6400	7.6400	0.2100	27.2100	480 Conveyor Chain Broke	GRPVI
12/2/20 14:25	12/2/20 19:00	4:35	6.6800	5.46	4.6400	4.2000	3.6400	0.2800	0.1900	Dryer Offline	GRPVI
12/6/20 5:50	12/6/20 5:56	0:06	1.0300	1.07	1.7900	1.7900	1.7900	0.0500	6.3800	RTO Pressure1.03	GRPVI
12/6/20 13:00	12/6/20 14:00	1:00	3.7800	3.92	6.5500	6.5500	6.5500	0.1800	23.3300	Heat Loss in Dryer	GRPVI
12/10/20 12:30	12/10/20 15:20	2:50	0.7300	0.60	0.5100	0.4600	0.4000	0.0300	0.0200	Burner tripped	GRPVI
12/10/20 15:00	12/10/20 15:20	0:20	0.7300	0.6000	0.5100	0.4600	0.4000	0.0300	0.0200	Loss Air Pressure	GRPVI
Total Emissions (tpy):			0.7226	1.9296	0.3931	0.3683	0.3393	0.1260	0.2733		
Total EPN GRPVI Emissions (tpy):			0.3724	0.3094	0.2830	0.2581	0.2292	0.0160	0.1433		
Total EPN IIa Emissions (tpy):			0.0001	0.0001	0.0001	0.0001	0.0001	0.0000	0.0000		
Total EPN IIb Emissions (tpy):			0.0001	0.0001	0.0001	0.0001	0.0001	0.0000	0.0000		
Total EPN GRPENG Emissions (tpy):			0.3500	1.6200	0.1100	0.1100	0.1100	0.1100	0.1300		

Number of Reportable Emission Events 0
Number of Non-Reportable Emission Events 71

4. HISTORICAL WET MILLS VOC EMISSIONS

This section of the emissions inventory report includes supporting emission calculations for the wet mills' VOC emissions from the 2019 calendar year, which were identified as part of a confidential and privileged audit of air emissions under the Texas Environmental Health and Safety Audit Privilege Act. This section contains detailed emissions calculations and example equations utilized in generating the actual emissions for the 2019 calendar year.

A summary of the emissions and the calculations follow.

Woodville Pellets, LLC - Woodville Mill
Wet Mills Historical VOC Emissions Calculations

Wet Mill Parameters

Parameter	Value	Units
Wet Mill VOC Emission Factor ¹	1.640	lb VOC/metric ton pellet produced
2019 Pellet Production ²	319,263	metric tons/yr
	139,229	metric tons/ozone season

¹ Wet Mill VOC Emission Factor is based on a stack test conducted on January 27, 2021, and production rates provided on March 18, 2021. Stack test results provided by email correspondence from Paula Metz, Alliance Source Testing, to Deborah Walden-Hersh, Trinity Consultants, on March 15, 2021. It is assumed that the stack test data for the tested EPNs is representative for all EPNs in the same equipment group.

² Per actual throughput data in 2019.

Wet Mill Emission Rates

EPN	Description	2019 VOC Emissions ¹	
		(lb/day) ²	(tpy) ³
IIIa	Wet Mill Aspiration Cyclone 1	213.2188	37.4029
IIIb	Wet Mill Aspiration Cyclone 2	213.2188	37.4029
IIIc	Wet Mill Aspiration Cyclone 3	213.2188	37.4029
IIId	Wet Mill Aspiration Cyclone 4	213.2188	37.4029
IIIe	Wet Mill Aspiration Cyclone 5	213.2188	37.4029
IIIf	Wet Mill Aspiration Cyclone 6	213.2188	37.4029
IIIg	Wet Mill Aspiration Cyclone 7	213.2188	37.4029
Total		1,492.5317	261.8206

¹ Throughput is a site wide measurement. It is assumed that emissions generated during production are evenly distributed between the emission paths.

² Ozone Season Emissions (lb/day) = Emission Factor (lb VOC/metric ton pellet produced) * Pellet Production (metric tons/ozone season) * (1 / Number of Filters or Paths) * (ozone season/153 days)

$$\begin{array}{rcl}
 \text{2019 Wet Mill Aspiration Cyclone 1 VOC Ozone Season Emissions (lb/day)} & = & \frac{1.640 \text{ lb PM}}{\text{metric ton pellet}} \times \frac{139,229 \text{ metric tons}}{\text{ozone season}} \times \frac{1}{7} \times \frac{\text{ozone season}}{153 \text{ days}} = 213.2188 \text{ lb/day}
 \end{array}$$

³ Annual Emissions (tpy) = Emission Factor (lb VOC/metric ton pellet produced) * Pellet Production (metric tons/yr) * (1 / Number of Filters or Paths) * (1 ton/2,000 lb)

$$\begin{array}{rcl}
 \text{2019 Wet Mill Aspiration Cyclone 1 VOC Annual Emissions (tpy)} & = & \frac{1.640 \text{ lb PM}}{\text{metric ton pellet}} \times \frac{319,263 \text{ metric tons}}{\text{yr}} \times \frac{1}{7} \times \frac{1 \text{ ton}}{2,000 \text{ lb}} = 37.4029 \text{ tpy}
 \end{array}$$

Exhibit 4: Sierra Club's May 2020 Notice Letter



May 5, 2020

Via Certified Mail, Return Receipt Requested

Mr. Raul Kirjanen
CEO and Responsible Official
Woodville Pellets, LLC
164 County Road 1040
Woodville, Texas 75979

Administrator Andrew Wheeler
U.S. Environmental Protection Agency
Mail Code 1101A
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Mr. Bryan Davis
Plant Manager
Woodville Pellets, LLC
164 County Road 1040
Woodville, Texas 75979

Toby Baker
Executive Director
Texas Commission on Environmental Quality
Mail Code 109
P.O. Box 13087
Austin, Texas 78711

Re: Notice of Intent to Sue for Clean Air Act Violations at Woodville Pellets

Dear Mr. Kirjanen, Mr. Davis, Administrator Wheeler, and Executive Director Baker:

Pursuant to 42 U.S.C. § 7604(b), we are writing on behalf of the Environmental Integrity Project, the Sierra Club, and Dustin Stafford (the “Citizens”) to provide you with notice of intent to file suit for significant, repeated, and ongoing violations of the Clean Air Act at the Woodville Pellets manufacturing facility, located at 164 County Road 1040, Woodville, Texas. Woodville Pellets, LLC owns and operates the facility and is responsible for these violations.

The facility holds Air Permit No. 98014 issued pursuant to Texas’ federally approved and federally enforceable state implementation plan (hereafter, the “SIP permit”), as well as Federal Operating Permit No. 03609. The most recent version of the SIP permit establishes hourly and annual limits on emissions of volatile organic compounds (“VOCs”) on specified emission units, as well as facility-wide annual limits on hazardous air pollutants (“HAPs”). For sources not subject to an emission limit, the permit does not authorize any emissions.

As discussed below, the Woodville Pellets facility has exceeded these limits and emitted substantial amounts of unauthorized emissions since it was constructed and continues to do so each day the plant operates. Further, the facility has frequently utilized unauthorized bypass stacks which bypass existing pollution controls, sending smoke and other harmful air pollution directly into neighboring communities.

Background

When this facility was constructed in 2012, it was limited to just 64 tons of VOC emissions per year. In 2014 and 2015, the prior owners of the plant, German Pellets, began an audit under Texas' Environmental, Health, and Safety Audit Privilege Act,¹ the results of which showed the facility actually emits 580 tons of VOCs per year when operated at the plant's intended production rate. The excess emissions, totaling 515 tons of VOCs per year, were from units known as the dry hammermills and pellet coolers that follow the wood dryers in the manufacturing process (hereafter, the "post-dryer" units). As a result of these emissions, German Pellets conceded the facility as built should have been permitted as a major source subject to Prevention of Significant Deterioration (PSD), rather than minor source permitting.

Five years later, nothing has changed at the plant to reduce these unlawful emissions (nor has the facility obtained a major source PSD permit), although the Texas Commission on Environmental Quality ("TCEQ") has directed the installation of a new pollution control (a regenerative thermal oxidizer, or "RTO") to bring the plant into compliance. Woodville Pellets submitted the winning bid to purchase the facility in May 2019 with full knowledge of this issue (and likely at a discounted price to account for the cost of the new control).² Despite that, the company then requested a delay until April 2022 (nearly three years after bidding on the plant) to *begin* installation of the new pollution control and has indicated to TCEQ that it may be seeking to avoid the installation altogether.³ TCEQ granted this request in March 2020. Notably, many, if not most, of Woodville Pellets' competitors have installed this same control, and in a much faster timeframe.⁴ In the meantime, Woodville Pellets continues to operate, and each day the plant operates it emits substantial amounts of unpermitted VOCs from its post-dryer units.

Aside from the facility's dry hammermills and pellet coolers, units known as green (or "wet") hammermills also emit large quantities of unpermitted VOCs. These units are not authorized to emit any VOCs, however emissions testing from numerous other pellet plants show green hammermills emit significant quantities of VOCs. In fact, most of Woodville Pellets' competitors in this industry operate VOC controls on these units due to their substantial VOC emissions (Woodville Pellets does not).

The facility is also currently exceeding emission limits on HAPs, which are pollutants that Congress has listed as toxic or carcinogenic even in small quantities. The facility's current SIP permit limits emissions of any single HAP to no more than 10 tons per year and limits total HAP emissions to no more than 25 tons per year. Notably, this facility has never conducted

¹ Tex. Health & Safety Code, Title 13, Ch. 1101.

² Filings in German Pellets' ongoing bankruptcy list a closing date of June 18, 2019.

³ Woodville Pellets has informed TCEQ that they are looking at alternatives to installing the control required by TCEQ. Apparently the company wishes to utilize a new and unproven technique that involves cooling the wood chips prior to dry hammermilling. Such a control scheme does not exist in this industry in the U.S., nor to our knowledge anywhere else, and we are highly skeptical that such a technique will reduce emissions sufficient to bring the plant into compliance.

⁴ For instance, Georgia Biomass came forward to admit excess post-dryer VOCs in June of 2012; Georgia issued a consent order requiring new post-dryer VOC controls in March 2013, and those controls (RTOs/RCOs) were installed and operating by October 2013. That's 15 months from the date of acknowledging the violation to the time the controls were in operation; for comparison, Woodville Pellets seeks to wait a total of 33 months from the date it acquired the plant—and 78 months after the facility acknowledged the noncompliance—to even begin construction on the new control. Further, there is no firm deadline to actually operate the controls thereafter.

compliance testing for HAPs; however, the most reliable testing from this industry indicates Woodville Pellets has the potential to emit more than 130 tons of HAPs per year, meaning the plant has almost certainly exceeded these emission limits on a regular basis and will continue to do so until it installs additional control technology.

Finally, on numerous occasions since acquiring the plant, Woodville Pellets has vented emissions from its furnaces and dryers through unauthorized bypass stacks rather than sending these emissions to the existing and effective pollution controls. When these bypass events occur, the facility sends large quantities of smoke and other harmful, uncontrolled pollution into the surrounding neighborhoods, creating a nuisance condition and impacting the health of numerous individuals.

I. Woodville Pellets' Emissions and Applicable Emission Standards and Limitations.

Woodville Pellets is subject to the conditions of SIP Permit No. 98014, and Special Condition No. 1 of that permit states that “[t]his permit covers only those sources of emissions listed in the attached table entitled ‘Emission Sources – Maximum Allowable Emission Rates,’ and those sources are limited to the emission rates and other conditions in the table.”⁵ General Condition 8 of the SIP permit provides a similar condition.⁶ Additionally, Texas’ federally-approved and federally-enforceable SIP provides that “[t]he total emissions of air contaminants from any of the sources of emissions [at a facility] must not exceed the values stated on the table attached to the permit.” 30 Tex. Admin. Code § 116.115(b)(2)(F), approved by EPA at 77 Fed. Reg. 65,119 (Oct. 25, 2012).

In short, any emissions not listed in the Maximum Allowable Emission Rates (“MAER”) table, or emissions that exceed the rates listed therein, are violations of the SIP permit and Texas’ SIP. As set out below, Woodville Pellets’ emissions of numerous pollutants has exceeded and continue to exceed the authorized emissions in the MAER table attached to Woodville Pellets’ SIP permit.

Woodville Pellets is also subject to SIP provision 30 Tex. Admin. Code § 101.4, approved by EPA at 37 Fed. Reg. 10,895 (May 31, 1972), which prohibits emitting air pollution in sufficient quantities to interfere with human health and enjoyment of property. When Woodville Pellets utilizes its bypass stacks, it sends smoke, soot, and air pollution into neighboring communities, violating this provision of the SIP.

A. Post-Dryer VOC Limits and Emissions.

The MAER table in the current version of the SIP permit, as amended April 5, 2019, only authorizes a combined VOC emission rate for the dry hammermills and pellet coolers of 6.55 lb/hr and 26.25 tpy (on a 12-month rolling basis).⁷ That limit applies specifically to the new RTO stack, which has not yet been installed.⁸ Prior to that permit amendment, no version of the SIP

⁵ TCEQ, Air Permit No. 98014, Special Condition 1 (Issued Feb. 1, 2012, most recently amended Apr. 5, 2019) (hereafter, the “April 2019 SIP Permit”).

⁶ General Condition 8, “Maximum Allowable Emission Rates,” provides that “[t]he total emissions of air contaminants from any of the sources of emissions must not exceed the values stated on the table attached to the permit entitled ‘Emission Sources—Maximum Allowable Emission Rates.’”

⁷ April 2019 SIP Permit, MAER Table, Emission Point No. Ia-IIb.

⁸ *Id.*

permit listed an emission limit for VOCs from the dry hammermills and pellet coolers; thus no VOC emissions were authorized for these units.

After German Pellets conducted its audit in 2014 and 2015, the company quantified the post-dryer emission rates from operations at full capacity as follows:⁹

Post-Dryer VOC Emissions		
Source	Pounds Per Hour	Tons Per Year ¹⁰
Dry Mill Ia	4.32 lb/hr	17.27 tpy
Dry Mill Ib	4.32 lb/hr	17.27 tpy
Dry Mill Ic	4.32 lb/hr	17.27 tpy
Dry Mill Id	4.32 lb/hr	17.27 tpy
Cooler IIa	55.77 lb/hr	223.08 tpy
Cooler Iib	55.77 lb/hr	223.08 tpy
Total Emissions:	128.82 lb/hr	515.24 tpy
MAER Limit in 2019 Amended SIP Permit:	6.55 lb/hr	26.25 tpy

Based on these hourly emission rates, we calculate an emission factor of 1.79 lb/ton of pellets produced by the post-dryer units. This emission factor is based on the hourly emission rates from German Pellets (128.82 lb/hr) divided by an hourly pellet production rate of 72 tons/hour.¹¹ Because German Pellets considered the production information for its Texas plant to be confidential, this hourly production rate is derived from German Pellets' application for its sister facility, German Pellets Louisiana, which the company labelled as "identical" and which was not covered by confidentiality.¹²

Alternatively, Woodville Pellets, in response to a TCEQ investigation, recently referenced stack testing conducted in February 2015, which produced an emission factor of 1.45 lb/ton of

⁹ German Pellets Texas, PSD Application, Appendix A, Emission Calculations, Summary of Hourly Emissions (Oct. 3, 2016).

¹⁰ Assumes 8,000 hours/year per Special Condition 8 of SIP Permit No. 98014.

¹¹ This emission factor is based on the hourly emission rates from German Pellets (128.82 lb/hr) divided by an hourly pellet production rate of 72 tons/hour. Because German Pellets considered the production information for its Texas plant to be confidential, this hourly production rate is derived from German Pellets' application for its sister facility, German Pellets Louisiana, which the company labelled as "identical" and which was not covered by confidentiality. If the hourly production rate utilized by German Pellets to calculate the above emission rates is lower, then the emission factor would be higher and exceedances of the emission limits would occur at lower production rates.

¹² German Pellets Louisiana, LDEQ Prevention of Significant Deterioration Initial Permit Application (Dec. 2012).

pellets.¹³ With that emission factor, hourly and annual emissions at maximum capacity are 105 lb/hr and 419 tpy, respectively.¹⁴

B. Green Hammermill VOC Limits and Emissions.

Woodville Pellets operates seven green hammermills, permitted as Emission Points No. IIIa through IIIg. The SIP Permit has never authorized any VOC emissions from these units, including the most recently amended version of the permit.¹⁵ The wood pellet industry as a whole now understands that green hammermills are a significant source of VOC emissions. For instance, most pellet plants that operate green hammermills and are permitted as synthetic minor sources for PSD avoidance (i.e. pellet plants that must limit facility-wide VOC emissions to less than 250 tpy) utilize regenerative thermal oxidizers to control VOCs and HAPs from their green hammermills.¹⁶ Additionally, each facility we are aware of that has conducted stack testing on their green hammermills has shown significant emission rates, as shown below:

Stack Test Results for VOC Emissions for Green Hammermills			
Facility	Emission Factor (lb/oven dried ton)	Emissions at Woodville Pellets Assuming 72 tons/hour Production Rate	
		Hourly	Annual ¹⁷
MRE Crossville ¹⁸	0.31	22.3 lb/hr	89 tpy
Enviva Amory ¹⁹	0.29	20.9 lb/hr	84 tpy
Enviva Sampson ²⁰	0.203	14.6 lb/hr	58 tpy
Enviva Wiggins ²¹	0.2	14.4 lb/hr	58 tpy

¹³ In response to a TCEQ investigation into post-dryer VOC emissions, Woodville Pellets self-reported emission factors from testing conducted February 18, 2015. Email from Sarah Stephens, EHS Manager, Woodville Pellets, to Jillian Layton (Feb. 7, 2020). Based on those emission factors, which sum to 1.421 lb/metric ton of pellets produced, Woodville Pellets exceeds the hourly emission limit when it produces 4.85 tons of pellets per hour, and the annual emission limit when it has produced 38,801 tons of pellets in any 12-month period.

¹⁴ Based on an hourly capacity of 72 tons/hr and an annual capacity of 576,000 tpy.

¹⁵ April 2019 SIP Permit, MAER Table. Note that the MAER table *does* authorize particulate matter emissions, but no other pollutants.

¹⁶ For instance, the following pellet mills control (or are adding controls) for green hammermills VOC emissions: Drax's LaSalle BioEnergy (Louisiana, installed), Enviva Southampton (Virginia, under construction), Enviva Sampson (North Carolina, installed), Enviva Hamlet (North Carolina, installed), Enviva Northampton (North Carolina, under construction), Enviva Greenwood (South Carolina, installed), Enviva Lucedale (Mississippi, under construction), Enviva Epes, under construction).

¹⁷ Assumes 8,000 hours/year per Air Permit No. 98014, Special Condition 8.

¹⁸ Alliance Source Testing, Source Test Report, MRE Crossville (Test Dates July 30 – Aug. 1, 2019), available by searching under Master Id. No. 37531 on Alabama Department of Environmental Management's eFile database, uploaded Oct. 19, 2019. (Excerpt attached as Exhibit A). Emission factor calculated by dividing hourly emission rate of 4.4 lb/hr by average production rate on day of testing, 14.19 tons/hour.

¹⁹ Air Control Techniques, Air Emission Test Report, Enviva Amory (Oct. 31, 2013), available at: https://files.nc.gov/ncdeq/Air%20Quality/permits/files/Wood_Pellets_Industry/Sampson/2017_Enviva_Pellets_Sampson_Cont.pdf. (Excerpt attached as Exhibit B).

²⁰ Air Control Techniques, Emission Test Report, Enviva Sampson (May 30, 2017), available at: <https://drive.google.com/file/d/1ys-nArQySH1zJTiz46juksqfleMVfOed/view?usp=sharing>. (Excerpt attached as Exhibit C).

²¹ Air Control Techniques, Air Emission Test Report, Enviva Wiggins (Oct. 31, 2013), available at: <https://drive.google.com/file/d/1MYejf1j4r603Ts0SBstYeuhV4fmNL13B/view?usp=sharing> (Excerpt attached as Exhibit D).

There is no evidence in the permitting record for this facility that Woodville Pellets' green hammermills operate any differently from or emit fewer pollutants than those at other plants, nor is there any plausible claim that Woodville Pellets' green hammermills emit zero VOCs.

C. HAP Emissions and Limits

The 2019 amendment to the SIP permit implemented, for the first time, facility-wide limits on HAP emissions in the MAER table, limiting emissions of any individual HAP to less than 10 tpy and limiting the total HAP emissions to less than 25 tpy.²² Prior to the 2019 amendment, the SIP permit only contained HAP limits for the dryer outlet RTO stack, meaning no other units were authorized to emit any HAPs.²³ Neither German Pellets nor Woodville Pellets has ever conducted compliance testing for HAP emissions. The most comprehensive set of emission factors for this industry, however, show that Woodville Pellets' HAP emissions greatly exceed the 10 and 25 tpy limits in the 2019 SIP permit. Enviva, the largest pellet company in the world with eight existing plants, has developed emission factors for pellet plants comparable to Woodville Pellets based on numerous tests at its various facilities.²⁴ Enviva recently reported, based on those emission factors, that a pellet plant comparable to Woodville Pellets emits 149 tpy of total HAPs (as a result, North Carolina regulators required the company to retroactively conduct a new MACT determination and add new controls).²⁵ In terms of individual HAP emissions, Enviva calculated that its mill emits 83 tpy of methanol, 21 tpy of acrolein, and 14 tons of formaldehyde, in addition to emissions of many other individual HAPs.²⁶ The Enviva facility is essentially identical to Woodville Pellets in that it only controls the dryers for VOCs and HAPs; dry hammermills and pelletizers at both plants are uncontrolled.

While the Enviva plant is about 10% larger than Woodville Pellets, these emission factors demonstrate that Woodville Pellets cannot comply with the 10 tpy and 25 tpy unless it severely restricts production far below nameplate capacity. Specifically, applying the Enviva emission factors to Woodville Pellets' operations (at full capacity) show the following emission rates:²⁷

²² April 2019 SIP Permit, MAER Table, "Site-Wide HAPs."

²³ See, e.g. the MAER table attached to SIP Permit 98014 as issued June 5, 2015.

²⁴ Enviva Sampson, PSD Permit Modification for the Softwood Expansion Project, Appendix C, Potential Emission Calculations (Mar. 16, 2018) (hereafter, "Enviva Sampson PSD Application"), available at https://files.nc.gov/ncdeq/Air%20Quality/permits/files/Wood_Pellets_Industry/Sampson/Enviva_Sampson_PSD_Application_March_19_2018.pdf. (Excerpt attached as Exhibit E). Enviva has utilized essentially the same emission factors for its Enviva Lucedale application (Mississippi) and Enviva Epes application (Alabama), although the post-dryer units at these two plants are controlled by RTOs/RCOs, so total emission rates are reduced by 95%.

²⁵ *Id.*; see also, Letter from William Willets, Division of Air Quality, North Carolina DEQ, to Steven Schaar, Plant Manager, Enviva Pellets Sampson (Mar. 1, 2019) (Explaining that because the facility originally estimated just 5.93 tpy of HAPs from its pellet coolers but now quantified 120 tpy, the initial case-by-case MACT determination was flawed and that Enviva must redo its initial case-by-case MACT determination).

²⁶ Enviva Sampson PSD Application., *supra*, note 24, Table 3.

²⁷ Emission factors calculated by dividing the facility-wide HAP emission rate from the Enviva Sampson PSD Application, *supra*, note 24, by Enviva Sampson's production capacity of 657,000 tpy.

Woodville Pellets Facility-Wide HAP Emissions		
Pollutant	Emission Factor (lb/oven dried ton)	Annual Emissions at Full Capacity (576,000 tpy)
Total HAPs	0.453	130 tpy
Acrolein	0.064	18.4 tpy
Formaldehyde	0.043	12.2 tpy
Methanol	0.253	72.8 tpy

D. Dryer and Furnace Bypass Emissions and Limitations

Woodville Pellets’ two furnaces and two wood dryers each feature a bypass stack (for a total of four bypass stacks) that, when used, emit pollutants directly to the atmosphere rather than to the pollution controls and the authorized emission point (the authorized emission point is permitted as Emission Point IV, “Dryers 1 and 2 WESP and RTO Stack”). None of the four bypass stacks is listed in the MAER table as an authorized emission point, and therefore emissions of any pollutants from these stacks are unauthorized.²⁸ When Woodville Pellets utilizes the bypass stacks, the facility emits VOCs, HAPs, particulate matter, nitrogen oxides, carbon monoxide, and sulfur dioxide through the bypass stacks.

E. Texas SIP Condition 30 Tex. Admin. Code § 101.4

The Texas SIP provides the following anti-nuisance provision:

No person shall discharge from any source whatsoever one or more air contaminants . . . in such concentration and of such duration as are or may tend to be injurious to or to adversely affect human health or welfare, animal life, vegetation or property, or as to interfere with the normal use and enjoyment of animal life, vegetation, or property.

30 Tex. Admin. Code § 101.4, approved by EPA at 37 FR 10895 (May 31, 1972). As discussed below, when Woodville Pellets uses its bypass stacks, it emits smoke, soot, and other pollutants into the surrounding community. These emissions “adversely affect” human health and welfare and interfere with the normal use of neighbors’ property.

II. Specific Violations

Claim 1: Hourly and Annual VOC Violations at Woodville Pellets’ Dry Hammermill and Pellet Cooler Units.

As discussed above, the dry hammermills and pellet coolers emit substantial amounts of VOCs—515 tons per year at full production rates, according to German Pellets’ emission quantifications. Woodville Pellets does not hold any permit, including the SIP permit, that authorizes these emissions, or at least not in excess of the MAER limits in the 2019 version of the SIP permit.

²⁸ TCEQ noted in a recent investigation that these stacks do “not have any authorizations or permits that allow for the release of emissions to the atmosphere,” and that “all the emissions [from these stacks] are unauthorized.” See TCEQ Investigation Report No. 1550259, Track No. 707288 (Mar. 26, 2019).

Because Woodville Pellets has not yet installed the new RTO listed in the 2019 permit, and because the RTO outlet is the specific emission point subject to the MAER VOC limits in that permit, we believe all VOC emissions from the dry hammermills and pellet coolers are unauthorized and constitute violations of Special Condition No. 1 and General Condition No. 8 of Permit 98014 and the Texas SIP, 30 Tex. Admin. Code § 116.115(b)(2)(F). In particular, each day Woodville Pellets has operated these post-dryer units since acquiring the facility on June 18, 2019, and each day the company continues to operate these post-dryer units, are individual violations.

Alternatively, if the MAER limits on the post-dryer units set forth in the most recently-amended version of the SIP permit do apply—6.55 lb/hr and 26.25 tons in any 12-month period—Woodville Pellets has exceeded these limits and will continue to do so if the plant continues operating. Specifically, based on the emission factors from the 2015 stack test,²⁹ each day that pellet production exceeds or has exceeded 4.85 tons in any single hour, Woodville Pellets violates and has violated the hourly MAER limits on VOCs. Likewise, each month the plant's rolling 12-month pellet production exceeds or has exceeded 38,801 tons, Woodville Pellets violates and has violated the annual MAER limits on VOCs.³⁰ In fact, Woodville Pellets' 12-month rolling production has exceeded this threshold each month since the company acquired the plant on June 18, 2019 and has therefore violated the annual MAER limits each month since then—as of April 30, 2020, Woodville Pellets' 12-month production rates could be no lower than 341,388 tons.³¹ Finally, we note that the emission factors from the 2015 stack test are lower than the emission rates quantified by German Pellets, and therefore exceedances of the MAER limits may occur at even lower production rates.³²

Because Woodville Pellets has not publicly reported the actual tonnage of pellets the facility has produced on a daily or monthly basis since acquiring the plant, the Citizens are unable to provide each specific date of violations. However, that operating information is known to Woodville Pellets, and the notice provided herein is sufficient for Woodville Pellets to determine the dates that the specific violations alleged in Claim 1 occurred.³³

²⁹ See, *supra*, note 13.

³⁰ Specifically, each day during such month represents an individual violation.

³¹ Although the public does not have access to actual production records for individual days or months, emissions records produced by German Pellets for the months of November 2018 through April 2019 show the plant produced approximately 117,155 tons of pellets during that period. This is based on back-calculating production rates by dividing reported emissions of CO, NO_x, and SO₂ and the emission factors used to report these emissions. Specific months' production rates were approximately as follows: November 2018: 15,010 tons; December 2018: 22,300 tons; January 2019: 14,230 tons; February 2019: 12,047 tons; March 2019: 23,080 tons; April 2019: 30,487 tons. Additionally, Woodville Pellets itself stated that it produced 309,702 metric tons (341,388 short tons) of pellets between April 5, 2019, and January 31, 2020. See Email from Sarah Stephens, EHS Manager, Woodville Pellets, to Jillian Layton (Feb. 7, 2020). As such, the rolling 12-month production rate through April 31, 2020 could be no lower than 341,388 tons, and that would not account for any pellets produced after January 31, 2020.

³² See *supra*, note 9. Based on the German Pellets emission rates as quantified in its PSD application, which sum to 1.79 lb/ton of pellets produced, Woodville Pellets exceeds the hourly emission limit when it produces 3.7 tons of pellets per hour, and exceeds the annual emission limit when it has produced 29,500 tons of pellets in any 12-month period.

³³ This letter provides notice of violations that occurred after Woodville Pellets acquired the plant on approximately June 18, 2019. However, violations of the 12-month rolling emission limits incorporate emissions from the 12 months of operations prior to Woodville Pellets' acquisition.

Claim 2: VOC Violations at Woodville Pellets' Green Hammermills Units.

As discussed above, the SIP permit does not authorize *any* VOC emissions from the seven green hammermills. Because green hammermills are in fact significant sources of VOCs, each day the plant has operated or operates the green hammermills Woodville Pellets violates and has violated Special Condition No. 1 and General Condition No. 8 of the SIP permit and the Texas SIP itself, 30 Tex. Admin. Code § 116.115(b)(2)(F). Citizens do not have access to Woodville Pellets' operating records and thus cannot provide each specific date of violations. However, that operating information is known to Woodville Pellets, and the notice provided herein is sufficient for Woodville Pellets to determine the specific dates of the violations alleged in Claim 2.

Claim 3: Facility-Wide HAP Violations at Woodville Pellets.

As currently permitted, Woodville Pellets is subject to a 25 tpy emission limit for total HAP emissions and 10 tpy emission limit for any individual HAP emission (both limits are on a 12-month rolling basis).³⁴ These limits apply facility-wide.³⁵ Using the Enviva emission factors discussed above, we calculate that Woodville Pellets exceeds the 25 tpy total HAP limits whenever it produces 111,000 tons of pellets or more in a 12-month period.³⁶ The facility also exceeds the individual HAP limit of 10 tpy whenever 12-month production rates equal or exceed the following amounts: methanol emissions exceed 10 tpy at a production rate of 80,000 tpy, acrolein emissions exceed 10 tpy at a production rate of 315,000 tpy, and formaldehyde emissions exceed 10 tpy at a production rate of 475,000 tpy.³⁷ Each month the plant's rolling 12-month production of pellets exceeds or has exceeded any of these production rates, Woodville Pellets violates and has violated the total and/or individual annual HAP limits in Permit 98014, Special Condition No. 1 and General Condition No. 8 of the SIP permit, and 30 Tex. Admin. Code § 116.115(b)(2)(F).³⁸

While Citizens do not have access to precise production rates, production records submitted by Woodville Pellets for the period of April 5, 2019 through January 30, 2020 (wherein the facility produced 341,388 tons of pellets) show that, at a minimum, Woodville Pellets has exceeded the MAER limit on total HAPs and the individual HAP limit for methanol and acrolein.³⁹ More specific production and operating information is known to Woodville Pellets, and the notice provided herein is sufficient for Woodville Pellets to determine the specific dates of the violations alleged in Claim 3.

Alternatively, if the facility-wide 10 tpy and 25 tpy limits do not apply under the theory that those limits are premised on the installation of the new regenerative thermal oxidizer control, then the green hammermills, dry hammermills, and pellet coolers are not authorized to emit *any*

³⁴ April 2019 SIP Permit, MAER Table, "Site-Wide HAPs."

³⁵ *Id.*

³⁶ For emission factors, *see supra*, note 27. At a production rate of 111,000 tpy, the Enviva emission factor results in a facility-wide emission rate of 25.2 tpy of total HAPs.

³⁷ *Id.* At a production rate of 80,000 tpy, methanol emissions are 10.1 tpy; at a production rate of 315,000 tpy, acrolein emissions are 10.1 tpy; at a production rate of 475,000 tpy, formaldehyde emissions are 10.1 tpy.

³⁸ I.e., if the facility's 12-month production rate in a given month is 500,000 tons, then the facility has violated the 25 tpy limit on total HAPs, as well as the individual 10 tpy limit for methanol, acrolein, and formaldehyde emissions, and each pollutant represents separate violations. For every month emissions violate these limits, each day is an individual violation.

³⁹ *Supra* note 31, explaining that Woodville Pellets itself reported a total pellet production of 341,388 short tons between April 5, 2019 and January 31, 2020.

amount of HAPs.⁴⁰ Because each of these units in fact emits significant levels of HAPs,⁴¹ each day Woodville Pellets operates and has operated these units it violates and has violated Special Condition No. 1 and General Condition 8 of the SIP permit and the Texas SIP, 30 Tex. Admin. Code § 116.115(b)(2)(F).

Claim 4: Woodville Pellets' Unauthorized Release of Pollutants Through its Bypass Stacks Violates its SIP Permit and SIP Rule 30 Tex. Admin. Code § 116.115(b)(2)(F).

On numerous instances since acquiring the facility, Woodville Pellets has vented furnace and dryer emissions through bypass stacks directly to the atmosphere, bypassing pollution controls designed to reduce particulate matter, VOC, and HAP emissions by 95% or more, and that likely also reduce carbon monoxide emissions significantly. Woodville Pellets' use of these bypass stacks frequently lasts hours and blankets the surrounding community in smoke and other pollutants.

None of these four bypass stacks is listed in the MAER table as an authorized emission point.⁴² Therefore each day the plant emits pollutants (specifically, any or all of the following: particulate matter, VOCs, HAPs, nitrogen oxides, carbon monoxide and sulfur dioxide) from these stacks Woodville Pellets violates Special Condition No. 1 and General Condition No. 8 of the SIP permit and the Texas SIP, 30 Tex. Admin. Code § 116.115(b)(2)(F). Because each of these pollutants is regulated separately by TCEQ and by Permit 98014, each unauthorized emission of each pollutant is a separate violation of the permit. Specific alleged violations have occurred on the following dates:⁴³

1. On or about July 5 and July 6, 2019 (dryer bypass stacks utilized).
2. On or about July 9, 2019 (dryer bypass stacks utilized).
3. On or about July 13, 2019 (furnace bypass stacks utilized).
4. On or about July 15, 2019 (furnace bypass stacks utilized).
5. On or about July 24, 2019 (dryer bypass stacks utilized).
6. On or about December 29, 2019 (furnace and dryer bypass stacks utilized),
7. On or about January 3, 2020 (dryer bypass stacks utilized),

⁴⁰ This is because, prior to the April 2019 amendment, the SIP permit's MAER table only authorized HAP emissions from the dryer outlet stack (EP N. IV); the MAER table attached to prior versions of the SIP permit did not authorize any other units to emit HAPs.

⁴¹ For dry hammermills and pellet coolers, see Enviva Sampson PSD Application, *supra*, note 24. For green hammermill HAP emissions, see Enviva Wiggins Stack Test Report, *supra*, note 21.

⁴² TCEQ noted in a recent investigation that these stacks do "not have any authorizations or permits that allow for the release of emissions to the atmosphere," and that "all the emissions [from these stacks] are unauthorized." See TCEQ Investigation Report No. 1550259, Track No. 707288 (Mar. 26, 2019).

⁴³ Dates of bypass events one through five are from Woodville Pellets' Federal Operating Permit Deviation Report for the period of Mar. 17, 2019 through Oct. 16, 2019. Bypass events six through 19 are based on eyewitness reports.

8. On or about January 7, 2020 (furnace bypass stacks utilized),
9. On or about January 9, 2020 (dryer bypass stacks utilized),
10. On or about January 22, 2020 (dryer bypass stacks utilized),
11. On or about January 29, 2020 (furnace bypass stacks utilized),
12. On or about February 10, 2020 (furnace bypass stacks utilized),
13. On or about February 16, 2020 (furnace and dryer bypass stacks utilized),
14. On or about February 17, 2020 (furnace bypass stacks utilized),
15. On or about February 18, 2020 (dryer bypass stacks utilized),
16. On or about March 16, 2020 (furnace bypass stacks utilized),
17. On or about March 17, 2020 (dryer bypass stacks utilized),
18. On or about March 21, 2020 (dryer bypass stacks utilized),
19. On or about April 28, 2020 (furnace bypass stacks utilized),
20. Any other dates when Woodville Pellets' operating records show the facility emitted pollutants through the furnace or dryer bypass stacks.

Claim 5: Woodville Pellets' Bypass Stack Releases Violate SIP Rule 30 Tex. Admin. Code § 101.4.

The Texas SIP provides the following anti-nuisance provision:

No person shall discharge from any source whatsoever one or more air contaminants . . . in such concentration and of such duration as are or may tend to be injurious to or to adversely affect human health or welfare, animal life, vegetation or property, or as to interfere with the normal use an enjoyment of animal life, vegetation, or property.

30 Tex. Admin. Code § 101.4, approved by EPA at 37 Fed. Reg. 10,895 (May 31, 1972). On the dates listed above under Claim 4, smoke, soot, dust, VOCs, HAPs, and other pollutants emitted from the bypass stacks interfered with neighbors' normal use and enjoyment of their property and adversely affected human health and welfare. Residents have documented visible smoke on their property during these events and have ceased recreating outdoors during such events to avoid breathing harmful emissions. Additionally, residents' properties have been repeatedly coated in dust and soot from these events. Further, residents reasonably believe that their property values will be substantially impacted if these events continue to occur with the

frequency and duration observed in recent months. These harms constitute a violation of the SIP's prohibition of creating a nuisance condition under 30 Tex. Admin. Code § 101.4.

III. Authority to Bring Suit

Section 304 of the Clean Air Act authorizes citizens to sue for violations of an “emission standard or limitation under this chapter.” 42 U.S.C. § 7604(a)(1). That section defines “emission standard or limitation under this chapter” in relevant part as any “any permit term or condition . . . which is in effect . . . under an applicable implementation plan.” *Id.* § 7604(f)(4). As set out above, Woodville Pellets has repeatedly violated and continues to violate Special Condition No. 1 and General Condition 8 of SIP Permit 98014, as well as the SIP rule 30 Tex. Admin. Code § 116.115(b)(2)(F). Those permit conditions and the SIP provision establish that only emissions listed in the MAER table are authorized, and emission rates that exceed the limits therein are violations of the permit and the SIP. Additionally, the unauthorized emissions have caused nuisance conditions in violation of the SIP's anti-nuisance provision, 30 Tex. Admin. Code § 101.4. Each of these provisions is federally enforceable—and therefore subject to citizen suit enforcement—under the Clean Air Act.

Additional information that the Citizens have not been able to obtain before sending this letter, including information in the possession of Woodville Pellets and the most recent deviation reports, may reveal additional details about the violations described above and may reveal additional similar violations of the Clean Air Act at the Woodville Pellets Facility. This letter covers all such violations.

Citizens intend to file suit seeking injunctive relief to require Woodville Pellets to prevent the violations discussed above from continuing to occur, civil penalties, recovery of costs of litigation and attorney's fees, and other appropriate relief as allowed by Clean Air Act § 304. At least 60 days before filing suit, § 304 requires a citizen-suit plaintiff to provide notice of the violation of emission limitations. 42 U.S.C. § 7604(b)(1)(A). This letter is that notice.

Please direct all communication regarding this notice letter to the undersigned. We are happy to discuss any aspect of the allegations in this letter and would like to know if you believe any of the above information is incorrect or if you are interested in discussing a resolution of the violations described in this letter prior to our filing suit.

Respectfully,

/s/ Patrick Anderson

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/s/ Amy Catherine Dinn

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Dustin Stafford
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CC (Via Certified Mail):

Ken McQueen
EPA Region 6 Administrator
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Governor Greg Abbott
Office of the Governor
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Austin, Texas 78711

CT Corporation System
Registered Agent
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Dallas, Texas 75201

February 1, 2022

Via Email

Texas Commission on Environmental Quality

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Re: Sierra Club's Comments on Proposed Agreed Order No. 2020-0449-AIR-E and Draft Title V Permit No. O4246 for Woodville Pellets, LLC.

To Whom It May Concern:

Woodville Pellets, LLC ("Woodville") owns and operates a wood pellet manufacturing facility in Woodville, Texas. The facility is currently seeking issuance of a requisite Federal Operating Permit, also known as a Title V permit (the "Title V Permit") and renewal of its New Source Review ("NSR") Permit No. 98014. On May 11, 2021, the Texas Commission on Environmental Quality ("TCEQ") released draft Title V Permit No. O4246 for public notice and comment. The second notice period for the NSR renewal application ended January 24, 2022. Sierra Club, a non-profit environmental advocacy organization, submitted written comments objecting to the

issuance of the Title V permit as drafted.¹ Sierra Club has not submitted comments objecting to the NSR permit renewal application.

Likewise, due to alleged environmental non-compliance at Woodville, TCEQ released a proposed Agreed Order (the “AO”), AO No. 2020-0449-AIR-E, for public notice and comment on September 17, 2021. Sierra Club similarly submitted comments objecting to issuance of the AO as drafted.²

In August 2020, Sierra Club initiated a federal Clean Air Act citizen suit against Woodville in the United States District Court for the Eastern District of Texas pursuant to 42 U.S.C. § 7604, alleging Clean Air Act violations. Sierra Club’s opposition to TCEQ’s issuance of Woodville’s draft Title V permit and the proposed AO was based on the failure of these documents to adequately resolve those alleged violations. Sierra Club and Woodville have now entered into the attached proposed Consent Decree resolving Sierra Club’s citizen suit claims and the bases for Sierra Club’s previous opposition to Woodville’s draft Title V permit and the proposed AO. On January 5, 2022, the U.S. Department of Justice advised the parties and the United States District Court for the Eastern District of Texas that it does not object to entry of the proposed Consent Decree. The Court entered the Consent Decree on January 28, 2022.³

As such, and pursuant to Paragraph 21 of the Consent Decree, Sierra Club hereby notifies EPA and TCEQ that it agrees that the AO should be entered and that it does not oppose issuance of the current draft Title V permit or issuance of an NSR permit renewal in conformity with the application submitted by Woodville in May 2021.

If you have any questions or concerns regarding this matter, please contact me.

Sincerely,

/s/ Patrick Anderson
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Counsel for Sierra Club

Cc:

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Marcella Burke, King & Spalding LLP, Attorney for Defendant, mburke@kslaw.com;

¹ Comments submitted May 28, 2021.

² Comments submitted October 18, 2021

³ Attached as Exhibit A.

Keri Powell, Attorney for Plaintiff, kpowell@powellenvironmentallaw.com;
George Hays, Attorney for Plaintiff, georgehays@mindspring.com;
Kelly Haragan, UT Env. Law Clinic, Attorney for Plaintiff, kharagan@law.utexas.edu;
Naomi Melver, Attorney for Plaintiff, nmelter@gmail.com;
Reed Zars, Attorney for Plaintiff, reed@zarslaw.com;

Exhibit A

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION**

SIERRA CLUB,)	
)	
Plaintiff)	Case No. 9:20-cv-00178
)	Judge Michael Truncale
vs.)	
)	CONSENT DECREE AND
WOODVILLE PELLETS, LLC,)	ORDER
)	
Defendant.)	

In accordance with the Court's Order Granting Joint Motion to Enter Consent Decree [Dkt. 209], the Court hereby enters the following Consent Decree and Order:

Date lodged in Court: November 17, 2021

Date entered by Court: January 28, 2022

CONSENT DECREE AND ORDER

WHEREAS, Sierra Club (“Plaintiff”) brought this action (the “Complaint”) against Woodville Pellets, LLC (“Defendant”) (collectively, the “Parties”) under the federal Clean Air Act (the “Act”), 42 U.S.C. § 7401, et seq., for declaratory and injunctive relief and assessment of civil penalties for certain alleged violations of the Act at the Woodville Pellets’ wood pellet manufacturing facility at 164 County Road 1040, Woodville, Texas 75979 (the “Facility”);

WHEREAS, the Facility was constructed in 2012 by German Pellets, LLC;

WHEREAS, Defendant has owned and operated the Facility since June 19, 2019, from which date Plaintiff alleges that the Facility has operated in violation of the Act;

WHEREAS, Plaintiff alleges that Defendant has violated federal and state permitting requirements at the Facility through unauthorized emissions of volatile organic compounds and hazardous air pollutants from the dry hammermills, pellet cooler units, and green hammermills; unauthorized release of pollutants from the bypass stacks; and continued operation following expiration of the Facility’s Title V permit on September 20, 2020;

WHEREAS, Defendant denies Plaintiff’s allegations and maintains that it is not liable for civil penalties or injunctive relief, and nothing herein shall constitute an admission of liability;

WHEREAS, the Texas Commission on Environmental Quality (“TCEQ”) and Defendant have negotiated an Agreed Order resolving an enforcement action regarding the Facility under the authority of Texas Health & Safety Code ch. 382 and Texas Water Code

ch. 7 and have presented the Agreed Order to the TCEQ as the fully integrated agreement of TCEQ and Defendant with respect to Re: Woodville Pellets, LLC, Docket No. 2020-0449-AIR-E. The Agreed Order assesses a penalty in the amount of \$517,068 against Defendant. Half of the penalty is conditionally offset based on Woodville's implementation and completion of a Supplemental Environmental Project ("SEP") in the form of a \$258,534 contribution by Woodville to the "Texas Congress of Parents and Teachers dba Texas PTA" to help fund the "Texas PTA Clean School Bus Replacement Program." Woodville has remitted payment for the SEP to the Texas PTA and \$258,534 to TCEQ in the amount of \$258,534;

WHEREAS, the Parties desire to settle all matters by this Consent Decree and avoid the costs, delay, and uncertainty of litigation;

WHEREAS, the Parties agree that the settlement of this action through this Consent Decree without further litigation is in the public interest, and is a fair, reasonable, and appropriate means of resolving the matter;

WHEREAS, the Parties further anticipate that actions taken by the Defendant, consistent with this Consent Decree, will result in significant reductions of emissions from the Facility;

WHEREAS, pursuant to 42 U.S.C. § 7604(c)(3) of the Clean Air Act ("Act"), this Consent Decree is being forwarded to the United States Department of Justice and to the United States Environmental Protection Agency ("EPA") for the statutorily mandated forty-five (45) day review period; and

WHEREAS, the Parties consent to the entry of this Consent Decree without trial of any issues.

NOW, THEREFORE, it is hereby ORDERED AND DECREED as follows:

I. JURISDICTION, VENUE, AND APPLICABILITY

1. This Court has jurisdiction over the Parties to and the subject matter of this action under Section 304 of the Act, 42 U.S.C. § 7604 and under 28 U.S.C. §§ 1331.
2. Venue is proper in this Judicial District under Section 304(c) of the Act, 42 U.S.C. § 7604(c), and under 28 U.S.C. § 1391.
3. The Parties consent to entry of this Consent Decree without further notice.
4. Upon the Date of Entry, the provisions of this Consent Decree shall apply to, be binding upon, and inure to the benefit of the Parties.
5. The Court shall retain jurisdiction of this case after entry of this Consent Decree to enforce compliance with the terms and conditions of this Consent Decree and to take any action necessary or appropriate for its enforcement.
6. The provisions of this Consent Decree shall apply to and be binding upon Plaintiff and Defendant, and their successors, assigns, officers, employees, and agents solely in their capacities as such. In any action to enforce this Consent Decree, Defendant shall not assert as a defense the failure of its officers, directors, employees, servants, agents, or contractors to take actions necessary to comply with this Consent Decree, unless Defendant establishes that such failure resulted from a Force Majeure Event as defined in this Consent Decree.

II. DEFINITIONS

7. Unless otherwise expressly provided herein, terms used in this Consent Decree that are defined in the Clean Air Act, 42 U.S.C. § 7401, *et seq.*, or regulations implementing the Clean Air Act, shall have the meaning set forth in the Clean Air Act or those regulations.

8. Whenever the terms set forth below are used in this Consent Decree, the following definitions shall apply:

(a) “Bypass Event” means any time any time Special Conditions 10 or 11 of Permit 98014 (April 8, 2021) (herein “SIP Permit 98014” attached hereto as Exhibit A) are violated or when (1) the dry hammermill and Cooler Air Aspiration System are operated without routing all filtered emissions to an operational RCO as described in Special Condition 10, or (2) dryers 1 and 2 are operated without routing all emissions to a WESP followed by an RTO as described in Special Condition 11, or (3) furnaces 1 and 2 are operated without routing all emissions to a WESP followed by an RTO. A “Bypass Event” does not include bypasses that are otherwise covered by Permit by Rule 106.263.

(b) “Clean Air Act,” “CAA,” or “Act” shall mean the federal Clean Air Act, 42 U.S.C. §§ 7401-7671q, and its implementing regulations.

(c) “Date of Entry” shall mean the date this Consent Decree is signed and entered by the United States District Court Judge.

(d) “Date of Lodging” shall mean the date this Consent Decree is filed for lodging with the Clerk of the Court for the United States District Court for the Eastern District of Texas.

(e) “EPA” shall mean the United States Environmental Protection Agency.

(f) “Facility” shall have the meaning set forth in the recitals.

(g) “Parties” shall have the meaning set forth in the recitals.

(h) “RCO” shall mean a Regenerative Catalytic Oxidizer.

(i) “RTO” shall mean a Regenerative Thermal Oxidizer.

(j) “WESP” shall mean a Wet Electrostatic Precipitator.”

(k) “TCEQ” shall mean the Texas Commission on Environmental Quality.

III. COMPLIANCE AND REPORTING REQUIREMENTS

9. Subject to Force Majeure Events, if within one-hundred-eighty (180) days from the Date of Entry, Defendant has not obtained a Federal Operating Permit under Title V of the Clean Air Act, Defendant shall cease operations of its Facility until such time that such permit is obtained.

10. Subject to Force Majeure Events, Defendant agrees to install an RCO to control emissions from its Dry Hammermill and Cooler Air Aspiration System (as described in SIP Permit 98014) and have it operating no later than May 1, 2022.

11. Subject to Force Majeure Events, no later than the earlier of (a) ninety (90) days after TCEQ’s issuance of a permit authorizing construction, or (b) one-hundred-

eighty (180) days from the Date of Entry, Defendant agrees to fully enclose and keep under negative pressure the existing wet mills and existing conveyance from the wet mills to the dryers such that all emissions associated with the process will not be emitted from the existing stacks. The aspiration filters and cyclones associated with the wet mills will also be removed. All emissions from the wet mills will be routed to the existing dryers' exhaust stream, prior to the WESP and RTO. If TCEQ has not issued a permit authorizing the construction described in this Paragraph within ninety (90) days of the Date of Entry, Defendant may invoke the Force Majeure provisions in Section VIII of this Consent Decree to seek an extension of the 180-day deadline described in this Paragraph, if appropriate.

12. As provided in Special Condition 25 of SIP Permit 98014, within sixty (60) days of achieving maximum production after start of operation of the RCO described in Paragraph 10, but no later than one-hundred-eighty (180) days after commencement of operation of the RCO, Defendant shall conduct a stack test for volatile organic compounds "VOC" to determine compliance with the Maximum Allowable Emission Rates Table ("MAERT limits") and the emission performance levels specified in SIP Permit 98014. Defendant shall supply Plaintiff and TCEQ with a copy of the stack test report within sixty (60) days after sampling is completed.

13. Within sixty (60) days of achieving maximum production after routing emissions from the wet mills to the Facility's existing RTO as required by Paragraph 11, but no later than one-hundred-eighty (180) days after completing the work specified in Paragraph 11, Defendant shall conduct a stack test for VOCs to determine compliance

with the Maximum Allowable Emission Rates Table and the emission performance levels specified in the permit authorizing such construction. Defendant shall supply Plaintiff and TCEQ with a copy of the stack test report within sixty (60) days after sampling is completed.

14. If either of the stack tests required by the previous Paragraphs show that the applicable MAERT limits or emission performance levels were violated, then within sixty (60) days of Defendant's receipt of the stack test report, Defendant shall present a report to Plaintiff describing its plan for resolving the violation.

15. Within five (5) years of performing the testing required in Paragraphs 12 and 13 above, and every five years thereafter, Defendant shall conduct stack testing to determine compliance with MAERT limits. This periodic testing shall include testing of the RTO outlet for nitrogen oxide, carbon monoxide, particulate matter, VOCs and hazardous air pollutants ("HAPs") (acetaldehyde, acrolein, formaldehyde, methanol, phenol, propionaldehyde), and testing of the RCO outlet for particulate matter, VOCs, and HAPs (acetaldehyde, acrolein, formaldehyde, methanol, phenol, propionaldehyde). Testing shall occur while the facility operates in a manner representative of maximum actual emissions, i.e. maximum throughput achieved in practice at the Facility. Within one-hundred-eighty (180) days of the Date of Entry, Defendant will file an application requesting that TCEQ revise its Title V permit to include stack testing requirements that are at least as stringent as described in this Paragraph. The requirements of this Paragraph shall terminate upon incorporation of stack testing requirements in Defendant's Title V permit that are at least as stringent as described in this Paragraph.

16. Within sixty (60) days from the Date of Entry, Defendant will host the first of six quarterly community public meetings. The purpose of the meetings is to facilitate communication between the community and Defendant. At the meetings, Defendant will update the community on Defendant's progress in installing the RCO and routing the green hammermill emissions to the RTO and will disclose Bypass Events that occurred since the prior meeting with the related causes. No meeting shall exceed two hours in length, and sufficient time shall be allocated to provide for the receipt of comments and questions from the public. Meetings shall be scheduled on a weekday evening after regular business hours and not during the week of a federal holiday. Defendant shall post a notice on its website and shall publish a notice in the *Tyler County Booster* announcing the time, date, and location of the quarterly meeting at least thirty (30) days before each meeting. Subsequent quarterly meetings shall take place no sooner than ninety (90) days after the prior meeting and no longer than one-hundred-and-twenty (120) days after the prior meeting.

17. Within three months after the Date of Entry, Defendant shall establish and publicize a phone number and email address (or web portal) that community members can use to raise concerns regarding facility operations. Defendant shall compile concerns reported to the hotline for review at the community meeting referenced in Paragraph 16. Defendant shall include hotline information in the public notices described above.

18. Beginning six months after Date of Entry, and every 6 months thereafter until termination, Defendant shall submit to Plaintiff a written report on its compliance with all requirements in in Sections III, IV, V, and VI of this Consent Decree.

19. Defendant will not seek any extensions of the deadlines set forth in this Section absent a Force Majeure Event.

20. Plaintiff shall not initiate or participate in any judicial or administrative proceeding, or submit written comments, challenging any permit changes necessary for Defendant to effectuate the commitments in this Section, including, but not limited to, the Facility's renewed and amended Title V permit and provisions of the Agreed Order, except that nothing in this Consent Decree shall preclude any Party from commenting on or objecting to any administrative, legislative or regulatory action, proposed action, approval or proposed approval that is inconsistent with the requirements of this Consent Decree. In no event shall a delay in permitting or other administrative action occasioned by any such comments or objections place Defendant in violation of this Consent Decree. Defendant agrees that its applications for permit changes necessary to effectuate the commitments in this Section shall not be packaged together with requests to make changes at the Facility that would result in an increase of any regulated air pollutant, except insofar as such increase relates to its compliance with the requirements of this Consent Decree. Defendant further agrees that if an application needed to obtain an approval or permit required to effectuate its obligations under this Consent Decree is bundled with an unrelated request, Defendant will request that the unrelated request be

separated if TCEQ represents to Defendant that such unrelated request is interfering with prompt issuance of the required permit or approval.

21. Plaintiff agrees to formally notify TCEQ and EPA that it agrees that the Agreed Order should be entered and that it does not oppose issuance of the current draft Title V Permit or issuance of a permit authorizing Defendant to make the changes to the Facility needed for Defendant to comply with Paragraph 11.

IV. CIVIL PENALTY

22. Within thirty (30) calendar days of entry of this Consent Decree, Defendant shall pay to the United States a civil penalty in the amount of \$200,000, pursuant to guidance to be provided by the United States Department of Justice and the United States Attorney's Office for the Eastern District of Texas. At the time of payment, Defendant shall provide notice of payment to Plaintiff as provided in Section VII (Notices) of this Consent Decree.

23. Failure to timely pay the civil penalty shall subject Defendant to interest accruing from the date payment is due until the date payment is made at the rate prescribed by 28 U.S.C. § 1961.

V. ENVIRONMENTAL BENEFIT PAYMENT

24. Not later than thirty (30) days after the Date of Entry, Defendant shall deposit in the Court's registry the sum of \$483,000 for use on one or more projects relating to the reduction, mitigation, and/or remediation of the effects of air pollution in East Texas (the "Environmental Benefit Payment"). The selected project[s] shall be mutually agreed to by the Parties and shall be expensed upon joint motion[s] of the

Parties. If the Parties fail to file such motion[s] within one year of entry of this Consent Decree, the Environmental Benefit Payment or any remainder thereof shall be forwarded from the Court's registry to the U.S. Department of Treasury as a civil penalty. None of the Environmental Benefit Payment shall be disbursed to Plaintiff.

VI. STIPULATED PENALTIES

25. Beginning ninety (90) days after the Date of Entry, Defendant will pay a stipulated penalty to the United States Treasury for each Bypass Event that emits either particulate matter or VOCs. The penalty amount shall be on the basis of a dollar-per-pound of pollutant as follows: Defendant shall calculate the total quantity of particulate matter and VOCs emitted by any of the Facility's bypass stacks during the Bypass Event, and the stipulated penalty shall be in the amount of \$100 for each pound of each pollutant emitted (per the equation set out below). Emissions shall be calculated consistent with the attached worksheets (Exhibit B).

$$[\text{pounds of PM emitted during event}] + [\text{pounds of VOCs emitted during event}] * \$100 = \text{penalty amount}$$

In no event shall Defendant's total responsibility for stipulated penalties under this Section exceed \$200,000. Plaintiff agrees that it will not invoke the Dispute Resolution provisions of this Consent Decree to recover, or by any other means attempt to enforce, Defendant's payment of stipulated penalties totaling in excess of \$200,000 under this Section. Notwithstanding the foregoing, if Defendant's Bypass Events exceed amounts that in turn would exceed the payment of \$200,000 under this Section, Plaintiff may utilize 42 U.S.C. § 7604(b) to issue a 60-day notice letter and then to initiate

a separate action as permitted under the Clean Air Act to address such excess Bypass Events. Defendant reserves all of its rights, defenses, arguments and remedies with respect to any such notice letter or separate action.

26. Defendant shall accrue and pay on a monthly basis, without demand, all stipulated penalties due to the United States for Bypass Events occurring in the preceding thirty (30)-day period, unless Defendant elects within twenty (20) days of a Bypass Event to dispute the accrual of stipulated penalties in accordance with the Dispute Resolution provisions of this Consent Decree.

27. Stipulated penalties shall be paid by electronic funds transfer ("EFT") to the United States Department of Justice, in compliance with current EFT procedures, referencing the civil action case name and case number referenced in the caption of this Consent Decree. The costs of such EFT shall be Defendant's responsibility. Payment shall be made in compliance with instructions provided to Defendant by the Financial Litigation Unit of the U.S. Attorney's Office for the Eastern District of Texas. Any funds received after 4:00 p.m. (CST) shall be credited on the next business day. At the time of payment, Defendant shall provide notice of payment to Plaintiff consistent with Section VII herein.

28. Plaintiff shall be entitled to review on a quarterly basis the Facility's completed CAM sheets for the period of the preceding quarter. Should Plaintiff demonstrate that Defendant has not timely paid the stipulated penalty due and owing for any Bypass Event documented in the Facility's CAM sheets, Defendant shall pay the stipulated penalty within ten (10) days of the Parties' agreement that the stipulated

penalty is due and owing in accordance with the instructions set forth in Paragraph 27, with interest accruing from the date payment was due until the date payment is made at the rate prescribed by 28 U.S.C. § 1961.

29. Disputes between the Parties regarding payment of stipulated penalties under this Section shall be resolved using the Dispute Resolution provisions of this Consent Decree. During the pendency of a dispute between the Parties regarding Defendant's obligation to pay stipulated penalties under this Section, Defendant shall deposit the disputed amount into the court registry.

30. Defendant's obligation to pay stipulated penalties pursuant to this Section extends only to Bypass Events occurring between ninety (90) days after the Date of Entry and eighteen (18) months from the Date of Entry. This Section does not alter any rights, defenses, arguments, remedies, or sanctions available to Plaintiff or Defendant under applicable law with respect to Bypass Events occurring after eighteen (18) months following the Date of Entry.

VII. NOTICES

31. All notifications, submittals, reports, and other information required by this Consent Decree ("Notices" or "Notice") shall be sent by email to the individuals at the addresses specified below, with receipt acknowledged by the individuals. If receipt is not acknowledged within seven (7) days of the emailed notice, the notice shall be sent to the individual by U.S. mail at the addresses specified below. Any change to the individuals to be noticed as set forth below shall be provided to the other Parties in writing by U.S. Mail and email.

For the Plaintiff:

Keri N. Powell
Powell Environmental Law
315 W. Ponce de Leon Ave., Suite 842
Decatur, GA 30030
Email: kpowell@powellenvironmentallaw.com

Aaron Isherwood
Coordinating Attorney
Sierra Club
2101 Webster St., Suite 1300
Oakland, CA 94612
Email: aaron.isherwood@sierraclub.org

For Defendant:

Craig Stanfield
King & Spalding LLP
1100 Louisiana
Suite 4100
Houston, TX 77002
Email: cstanfield@kslaw.com

VIII. FORCE MAJEURE

32. A “Force Majeure Event” for the purposes of the Consent Decree is defined as any event arising from causes beyond the control of Defendant or any entity controlled by Defendant (including, without limitation, Defendant’s contractors and subcontractors, and any entity in active participation or concert with Defendant), that delays or prevents or can reasonably be anticipated to delay or prevent compliance with the deadlines in Section III of this Consent Decree, and occurs despite Defendant's best efforts to meet such deadlines. “Best efforts” means the diligence a reasonable person would use under the circumstances. The requirement that Defendant exercise best

efforts to meet the deadline includes using best efforts to avoid any Force Majeure Event before it occurs, and using best efforts to mitigate the effects of any Force Majeure Event as it is occurring, and after it has occurred, such that any delay is minimized to the greatest extent possible using such efforts.

33. Without limitation, unanticipated or increased costs or changed financial circumstances shall not constitute a Force Majeure Event. The absence of any administrative, regulatory, or legislative approval shall constitute a Force Majeure Event so long as Defendant demonstrates that, as appropriate to the approval: (a) it made timely and complete applications for such approval(s) to meet the deadline(s); (b) it reasonably complied with all requirements to obtain such approval(s); (c) it diligently sought such approval; (d) it diligently and timely responded to all requests for additional information; and (e) without such approval, Defendant would be required to act in violation of law to meet one or more of the deadlines set forth in this Consent Decree.

34. If Defendant seeks to assert a Force Majeure Event, Defendant shall notify Plaintiff in writing within thirty (30) days of the time Defendant first knew that the event is likely to cause a delay (but in no event later than the deadline itself). Within thirty (30) days of such notice, Defendant shall provide in writing to Plaintiff a report containing: (a) an explanation and description of the reasons for the delay; (b) the anticipated length of the delay; (c) a description of the activity(ies) that will be delayed; (d) all actions taken and to be taken to prevent or minimize the delay; (e) a timetable by which those measures will be implemented; and (f) a schedule that fully describes when

Defendant proposes to meet any deadlines in this Consent Decree which have been or will be affected by the claimed Force Majeure Event. Defendant shall include with any notice documentation sufficient to support its claim of a Force Majeure Event. At all times Defendant shall have the burden of proof to establish each element of its asserted Force Majeure Event.

35. If Plaintiff agrees that a Force Majeure Event has occurred, the Parties shall stipulate to an extension of the deadline for the activity(ies) as is necessary to complete the activity(ies). Plaintiff shall take into consideration, in stipulating to any new deadline(s), evidence presented by Defendant relating to weather, outage schedules and remobilization requirements. If Plaintiff does not agree in its sole discretion that some or all of the delay or anticipated delay has been or will be caused by a Force Majeure Event, it will notify Defendant in writing of this decision within twenty (20) days after receiving Defendant's report alleging a Force Majeure Event. The Parties shall spend ten (10) days making a good faith attempt to resolve the matter. If the parties fail to resolve the matter within the ten (10)-day good faith negotiation period, then on the fourteenth day thereafter, each party will file with the Court its position with respect to Defendant's asserted Force Majeure Event and proposed remedy. Such briefing statements will be no more than 15 pages in length, and no further briefing shall be allowed. In such filings, each party shall alert the Court to this provision in the Consent Decree and request that the Court expeditiously resolve the existence and remedy of the asserted Force Majeure Event.

36. No party shall be entitled to monetary damages or penalties for resolution of any asserted Force Majeure Event governed by this Section. The sole remedy available for resolution of any asserted Force Majeure Event governed by this Section, in lieu of any monetary damages, penalties, fees, costs or expenses, shall be specific performance applicable to any deadlines subject to an asserted Force Majeure Event. The dispute resolution provisions in Section IX of this Consent Decree shall not apply to disputes concerning asserted Force Majeure Events.

37. Failure by Defendant to fulfill in any way the notification and reporting requirements of this Section shall constitute a waiver of any claim of a Force Majeure Event as to which proper notice and/or reporting was not provided.

38. Any extension of one deadline based on a particular incident does not necessarily constitute an extension of any subsequent deadline(s) unless agreed to by the Parties.

39. If one or more Force Majeure Events delays, or is proposed by Defendant to delay, Defendant's compliance with a deadline in Section III of this Consent Decree more than six (6) months, Plaintiff may seek further relief from the Court to fulfill the purposes of this Consent Decree.

IX. DISPUTE RESOLUTION

40. Other than the deadlines in Section III of this Consent Decree that are expressly identified as subject to the Force Majeure provisions in Section VIII, the dispute resolution procedure provided by this Section shall be the sole and exclusive mechanism to resolve all other disputes arising under this Consent Decree, provided

that the Party making such application has first made a good faith attempt to resolve the matter with the other Party.

41. The dispute resolution procedure required herein shall be invoked by a Party giving written notice to the other Party advising of a dispute. The notice shall describe the nature of the dispute and shall state the noticing Party's position with respect to such dispute. The Party receiving such a notice shall acknowledge receipt of the notice, and the Parties shall expeditiously schedule a meeting to discuss the dispute informally not later than fourteen (14) days following receipt of such notice. The Party invoking the dispute resolution procedure will provide the other Party with an opportunity to remedy any asserted violation of the Consent Decree within thirty (30) days of such meeting, or, in the case of a claimed breach which cannot be reasonably remedied within a thirty (30) day period, an opportunity to take reasonable action to remedy the claimed violation within such thirty (30) day period and, thereafter, diligently complete the activities necessary to remedy the claimed breach.

42. Disputes submitted for resolution under this Section shall, in the first instance, be the subject of informal negotiations among the Parties. Such period of informal negotiations shall not extend beyond forty-five (45) calendar days from the date of the first meeting among the Parties' representatives unless they agree to shorten or extend this period.

43. If the Parties are unable to reach agreement during the informal negotiation period, either Party may file with this Court a petition that describes the nature of the dispute. The responding party shall file its response with this Court within

twenty-one (21) days. Where the nature of the dispute is such that a more timely resolution of the issue is required, the time periods set out in this Section may be shortened upon motion of one of the Parties.

44. This Court shall not draw any inferences nor establish any presumptions adverse to either Party as a result of invocation of this Section or the Parties' inability to reach agreement.

45. The Court shall decide all disputes pursuant to applicable principles of law for resolving such disputes. The Parties, in their initial filings with the Court under this Section shall state their position regarding what the applicable standard of law should be for resolving the particular dispute.

46. No party shall be entitled to monetary damages or penalties for any breach of this Consent Decree or resolution of any dispute governed by this Section. Except for the payment of stipulated penalties pursuant to Section VI of this Consent Decree, the sole remedy for any breach of this agreement or resolution of any dispute governed by this Section, in lieu of any monetary damages, penalties, fees, costs, or expenses, will be specific performance.

X. SALES OR TRANSFERS OF OWNERSHIP INTERESTS

47. If Defendant proposes to sell or transfer its ownership interest in the Facility before termination of this Consent Decree, Defendant shall notify Plaintiff of such proposed sale or transfer at least thirty (30) days before such proposed sale or transfer; shall advise the purchaser, successor-in-interest, or transferee in writing of the existence of this Consent Decree prior to such sale or transfer; shall require as a

condition of such proposed sale or transfer that the purchaser, successor-in-interest, or transferee shall be bound by the terms of the Consent Decree applicable to Defendant and shall submit with regard to any action or proceeding under the Consent Decree, generally and unconditionally, to the jurisdiction of this Court, and shall require that the purchaser, successor-in-interest, or transferee provide written confirmation to Plaintiff pursuant to Section VII (Notices) of this Consent Decree acknowledging the terms of the Consent Decree and that the purchaser, successor-in-interest, or transferee will be bound by those terms. No further approval by the Court will be required for the sale or transfer of ownership interest pursuant to the terms of this Paragraph. Plaintiff shall maintain the confidentiality of any information in such notice that is identified and supported by Defendant as business confidential in compliance with 40 C.F.R. Part 2.

XI. MODIFICATION

48. Except as provided in Section X (Sales or Transfers of Ownership Interests), this Consent Decree may be modified only by a subsequent written agreement signed by all the Parties. Where the modification constitutes a material change to any term of this Consent Decree, it shall be effective only upon approval by the Court.

XII. EFFECT OF SETTLEMENT AND RESERVATION OF RIGHTS

49. This Consent Decree represents full and final settlement among the Parties. This Consent Decree resolves, and Plaintiff releases and waives, any and all civil claims, causes of action, demands, actions and/or rights of action, that Plaintiff may have against Defendant for violations alleged in the Complaint, First Amended

Complaint, and Second Amended Complaint occurring on and before the Date of Entry of this Consent Decree by the Court.

50. The Parties further agree that the Consent Decree resolves, and Plaintiff releases and waives, any and all civil penalties and injunctive relief related to alleged violations of the Act or regulatory provisions alleged in the Complaint, First Amended Complaint, and Second Amended Complaint that may have occurred from the date the Complaint was filed through eighteen months from the Date of Entry, except as expressly provided in Paragraph 25.

51. Notwithstanding termination of this Consent Decree pursuant to Section XV, the requirements of this Paragraph are permanent and shall survive termination of this Consent Decree.

52. Plaintiff shall not fund any third-party litigation involving any claims settled, released and waived by this Consent Decree.

53. The failure of any Party to comply with any requirement contained in this Consent Decree will not excuse the obligation to comply with other requirements contained herein.

XIII. ATTORNEYS FEES AND COSTS

54. Plaintiff shall file any motion for fees and costs pursuant to 42 U.S.C. § 7604(d) within thirty (30) days of the Date of Entry. Plaintiff agrees that it will not file such motion for fees and costs if the Parties reach an agreement resolving Plaintiff's claim for fees and costs prior to thirty (30) days of the Date of Entry.

XIV. RETENTION OF JURISDICTION

55. Until termination of this Consent Decree, this Court shall retain jurisdiction over both the subject matter of this Consent Decree and the Parties to this Consent Decree to enforce the terms and conditions of this Consent Decree. Following termination, the Court shall retain jurisdiction to enforce the provisions and obligations set forth herein that are permanent.

XV. TERMINATION

56. After a period of no less than 18 months from the Date of Entry, and after the requirements in Paragraphs 9-13 and 16 of this Consent Decree have been met, Defendant may move the Court to terminate the Consent Decree provided that Defendant certifies that it is in compliance with all the requirements of the Consent Decree. In no event may the Consent Decree be terminated if Defendant has not performed testing as described in Paragraphs 12-13 demonstrating the Facility's compliance with the MAERT limits and emission performance levels specified in the relevant TCEQ permits. Termination of this Consent Decree shall not affect the requirements of Paragraph 15, nor any matter expressly set forth in this Consent Decree that is to survive as an agreement among the Parties.

XVI. LODGING AND ENTRY OF CONSENT DECREE

57. The Parties agree to cooperate in good faith to obtain the Court's review and entry of this Consent Decree.

58. Pursuant to 42 U.S.C. § 7604(c)(3), this Consent Decree will be lodged with the Court and simultaneously presented to the United States for its review and

comment for a period of forty-five (45) days. After the review period has elapsed, the Consent Decree may be entered by the Court. If the Consent Decree is not entered by the Court, the Parties shall retain all rights they had in this litigation before the Date of Lodging.

59. The Parties agree to cooperate in good faith to expeditiously obtain EPA and United States Attorney General (Department of Justice, or “DOJ”) review and District Court approval. If DOJ or EPA comments upon the terms of this Consent Decree, the Parties agree to discuss such comments to support the entry of the Consent Decree or to make any revisions to the Consent Decree as the Parties determine may be appropriate.

XVII. SIGNATORIES

60. Each undersigned representative of a Party to this Consent Decree certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Decree and to execute and legally bind such Party to this Consent Decree.

61. The Parties hereby agree not to oppose entry of this Consent Decree by this Court or challenge any provision of this Consent Decree.

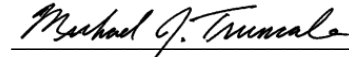
XVIII. COUNTERPARTS

62. This Consent Decree may be signed in counterparts.

THE UNDERSIGNED Parties enter into this Consent Decree and submit it to this Court for approval and entry.

SO ORDERED:

SIGNED this 28th day of January, 2022.



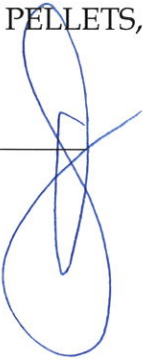
Michael J. Truncala
United States District Judge

FOR PLAINTIFF SIERRA CLUB:

Neil J. Cannon
[NAME]

Date: November 12, 2021

FOR DEFENDANT WOODVILLE PELLETS, LLC:

Paul Kyron, CEO 

Date: 13/11/2021



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision September 1, 2019

DATES	Assigned	16-Mar-2020			
	PCW	21-May-2021	Screening	18-Mar-2020	EPA Due 6-Sep-2020

RESPONDENT/FACILITY INFORMATION

Respondent	Woodville Pellets, LLC		
Reg. Ent. Ref. No.	RN106205032		
Facility/Site Region	10-Beaumont	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	59124	No. of Violations	1
Docket No.	2020-0449-AIR-E	Order Type	Findings
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Toni Red
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$67,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	84.0%	Adjustment	Subtotals 2, 3, & 7	\$56,700
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Notes: Enhancement for two NOV's with the same or similar violations, three NOV's with dissimilar violations, one agreed order containing a denial of liability, and one count of criminal conviction. Reduction for one disclosure of violations.

Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	50.0%	Enhancement*	Subtotal 6	\$33,750
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Total EB Amounts \$69,694
Estimated Cost of Compliance \$352,825
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$157,950
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$157,950
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$157,950
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$157,950
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Screening Date	18-Mar-2020	Docket No.	2020-0449-AIR-E	PCW
Respondent	Woodville Pellets, LLC			
Case ID No.	59124			
Reg. Ent. Reference No.	RN106205032			
Media	Air			
Enf. Coordinator	Toni Red			

Policy Revision 4 (April 2014)

PCW Revision September 1, 2019

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	2	10%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	1	50%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	1	-2%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 84%

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for two NOVs with the same or similar violations, three NOVs with dissimilar violations, one agreed order containing a denial of liability, and one count of criminal conviction. Reduction for one disclosure of violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 84%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 84%

Screening Date	18-Mar-2020	Docket No.	2020-0449-AIR-E	PCW
Respondent	Woodville Pellets, LLC			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	59124			<i>PCW Revision September 1, 2019</i>
Reg. Ent. Reference No.	RN106205032			
Media	Air			
Enf. Coordinator	Toni Red			
Violation Number	1			
Rule Cite(s)	30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), New Source Review ("NSR") Permit No. 98014, Special Conditions No. 10, Federal Operating Permit No. O3609, General Terms and Conditions and Special Terms and Conditions No. 7, and Tex. Health & Safety Code § 382.085(b)			
Violation Description	Failed to route the filtered emissions from the Dry Hammermill and Cooler Air Aspiration System to a Regenerative Thermal Oxidizer ("RTO"). Specifically, the RTO was not installed and the Respondent continued to operate the Dry Hammermill and Cooler Air Aspiration System without routing the filtered emissions from the Dry Hammermill and Cooler Air Aspiration System to an RTO from June 18, 2019 through March 18, 2020, resulting in the release of 210.87 tons of unauthorized volatile organic compounds emissions to the atmosphere.			
		Base Penalty	\$25,000	

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual		x		Percent 30.0%
	Potential				

>> Programmatic Matrix

Matrix Notes		Falsification	Major	Moderate	Minor	
						Percent 0.0%
		Human health or the environment has been exposed to significant amounts of pollutants which did not exceed levels that are protective of human health or the environmental receptors as a result of this violation.				

Adjustment	\$17,500
	\$7,500

Violation Events

Number of Violation Events	9	Number of violation days	274
	<div style="display: flex; flex-direction: column; align-items: center;"> <div style="background-color: #a6c1ee; padding: 2px 5px; margin-bottom: 2px;">daily</div> <div style="background-color: #a6c1ee; padding: 2px 5px; margin-bottom: 2px;">weekly</div> <div style="background-color: #a6c1ee; padding: 2px 5px; margin-bottom: 2px;">monthly</div> <div style="background-color: #a6c1ee; padding: 2px 5px; margin-bottom: 2px;">quarterly</div> <div style="background-color: #a6c1ee; padding: 2px 5px; margin-bottom: 2px;">semiannual</div> <div style="background-color: #a6c1ee; padding: 2px 5px; margin-bottom: 2px;">annual</div> <div style="background-color: #a6c1ee; padding: 2px 5px;">single event</div> </div>		
		x	

	Violation Base Penalty	\$67,500
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Nine monthly events are recommended for the period of non-compliance from June 18, 2019 through March 18, 2020.

Good Faith Efforts to Comply

	0.0%		Reduction	
				\$0
	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer		
Extraordinary				
Ordinary				
N/A	x			
Notes	The Respondent does not meet the good faith criteria for this violation.			

	Violation Subtotal	\$67,500
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Economic Benefit (EB) for this violation

	\$69,694		Statutory Limit Test	
Estimated EB Amount		Violation Final Penalty Total		\$157,950
		This violation Final Assessed Penalty (adjusted for limits)		\$157,950

Economic Benefit Worksheet

Respondent Woodville Pellets, LLC
Case ID No. 59124
Reg. Ent. Reference No. RN106205032
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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Delayed Costs

Equipment	\$341,800	18-Jun-2019	1-May-2022	2.87	\$3,271	\$65,426	\$68,697
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$11,025	18-Jun-2019	8-Apr-2021	1.81	\$997	n/a	\$997
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Actual costs to obtain an amendment for NSR Permit No. 98014 to change the control device for the filtered emissions from the Dry Hammermill and Cooler Air Aspiration System from an RTO to a Regenerative Catalytic Oxidizer ("RCO") and to route the filtered emissions from the Dry Hammermill and Cooler Air Aspiration System to an RCO that achieves 95 percent or greater destruction efficiency for organic compounds emissions. The Dates Required are the date of the ownership change and the Final Dates are the date the permit amendment was obtained and the estimated date of compliance.

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$352,825

TOTAL

\$69,694



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	24-Feb-2021	Screening	6-Mar-2021	EPA Due	10-Aug-2021
	PCW	20-Jul-2021				

RESPONDENT/FACILITY INFORMATION			
Respondent	Woodville Pellets, LLC		
Reg. Ent. Ref. No.	RN106205032		
Facility/Site Region	10-Beaumont	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	59124	No. of Violations	4
Docket No.	2020-0449-AIR-E	Order Type	Findings
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Toni Red
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$160,250
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	76.0%	Adjustment	Subtotals 2, 3, & 7	\$121,790
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Notes: Enhancement for one NOV with same or similar violations, one NOV with dissimilar violations, one agreed order containing a denial of liability, and one count of criminal conviction. Reduction for one notice of intent to conduct an audit.

Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	50.0%	Enhancement*	Subtotal 6	\$70,478
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Total EB Amounts	\$70,478
Estimated Cost of Compliance	\$361,325

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$352,518
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$352,518
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$352,518
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$352,518
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Screening Date	6-Mar-2021	Docket No.	2020-0449-AIR-E	PCW
Respondent	Woodville Pellets, LLC			
Case ID No.	59124			
Reg. Ent. Reference No.	RN106205032			
Media	Air			
Enf. Coordinator	Toni Red			

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	1	50%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 76%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes Enhancement for one NOV with same or similar violations, one NOV with dissimilar violations, one agreed order containing a denial of liability, and one count of criminal conviction. Reduction for one notice of intent to conduct an audit.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 76%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 76%

Screening Date 6-Mar-2021 Respondent Woodville Pellets, LLC Case ID No. 59124 Reg. Ent. Reference No. RN106205032 Media Air Enf. Coordinator Toni Red	Docket No. 2020-0449-AIR-E	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
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Violation Number	1		
Rule Cite(s)	30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), New Source Review ("NSR") Permit No. 98014, Special Conditions No. 10, Federal Operating Permit ("FOP") No. 03609, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 7, and Tex. Health & Safety Code § 382.085(b)		
Violation Description	Failed to route the filtered emissions from the Dry Hammermill and Cooler Air Aspiration System to a Regenerative Thermal Oxidizer ("RTO"). Specifically, the RTO was not installed and the Respondent continued to operate the Dry Hammermill and Cooler Air Aspiration System without routing the filtered emissions from the Dry Hammermill and Cooler Air Aspiration System to an RTO from March 19, 2020 through December 31, 2020, resulting in the release of 186.76 tons of unauthorized volatile organic compounds emissions to the atmosphere.		
Base Penalty		\$25,000	

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	x	<input type="text"/>	Percent <input style="width: 50px;" type="text" value="50.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input style="width: 50px;" type="text" value="0.0%"/>
Matrix Notes	Human health or the environment has been exposed to significant amounts of pollutants which did not exceed levels that are protective of human health or environmental receptors as a result of the violation.				
Adjustment					\$12,500

	\$12,500
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Violation Events

Number of Violation Events	10	287	Number of violation days
	daily	<input type="text"/>	
	weekly	<input type="text"/>	
	monthly	x	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input type="text"/>	
Violation Base Penalty		\$125,000	

Ten monthly events are recommended for the period of non-compliance from March 19, 2020 through December 31, 2020.	
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Good Faith Efforts to Comply

	0.0%		
	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text"/>	<input type="text"/>	
N/A	x	<input type="text"/>	
Notes	The Respondent does not meet the good faith criteria for this violation.		
Violation Subtotal		\$125,000	

Economic Benefit (EB) for this violation

Statutory Limit Test	
Estimated EB Amount	\$69,694
Violation Final Penalty Total	\$237,619
This violation Final Assessed Penalty (adjusted for limits)	
\$237,619	

Economic Benefit Worksheet

Respondent Woodville Pellets, LLC
Case ID No. 59124
Reg. Ent. Reference No. RN106205032
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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Delayed Costs

Equipment	\$341,800	18-Jun-2019	1-May-2022	2.87	\$3,271	\$65,426	\$68,697
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$11,025	18-Jun-2019	8-Apr-2021	1.81	\$997	n/a	\$997
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Actual costs to obtain an amendment for NSR Permit No. 98014 to change the control device for the filtered emissions from the Dry Hammermill and Cooler Air Aspiration System from an RTO to a Regenerative Catalytic Oxidizer ("RCO") and to route the filtered emissions from the Dry Hammermill and Cooler Air Aspiration System to an RCO that achieves 95 percent or greater destruction efficiency for organic compounds emissions. The Dates Required are the date of the ownership change and the Final Dates are the date the permit amendment was obtained and the estimated date of compliance.

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$352,825

TOTAL

\$69,694

Screening Date 6-Mar-2021 Respondent Woodville Pellets, LLC Case ID No. 59124 Reg. Ent. Reference No. RN106205032 Media Air Enf. Coordinator Toni Red	Docket No. 2020-0449-AIR-E	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
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Violation Number	2	Rule Cite(s)	
		30 Tex. Admin. Code §§ 122.143(4) and 122.146(1)(A) and (2), FOP No. 03609, GTC and STC No. 10, and Tex. Health & Safety Code § 382.085(b)	
Violation Description		Failed to certify compliance for at least each 12-month period following initial permit issuance and failed to submit a permit compliance certification ("PCC") within 30 days of any certification period. Specifically, the PCC for the September 17, 2019 through March 16, 2020 certification period was due by April 15, 2020, but was not submitted.	

Base Penalty	\$25,000
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>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual				Percent 0.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
		x			Percent 20.0%
Matrix Notes	100% of the rule requirements were not met.				

Adjustment	\$20,000
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	\$5,000
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Violation Events

Number of Violation Events	1	325	Number of violation days
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	daily		Violation Base Penalty \$5,000
	weekly		
	monthly		
	quarterly		
	semiannual		
	annual		
	single event	x	

One single event is recommended.

Good Faith Efforts to Comply

0.0%	Reduction \$0
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	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer	
Extraordinary			
Ordinary			
N/A	x		
Notes	The Respondent does not meet the good faith criteria for this violation.		

Violation Subtotal	\$5,000
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Economic Benefit (EB) for this violation

Statutory Limit Test	
Estimated EB Amount	\$158
Violation Final Penalty Total	\$26,419
This violation Final Assessed Penalty (adjusted for limits) \$26,419	

Economic Benefit Worksheet

Respondent Woodville Pellets, LLC
Case ID No. 59124
Reg. Ent. Reference No. RN106205032
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$1,500	15-Apr-2020	1-Feb-2022	1.80	\$135	n/a	\$135
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	15-Apr-2020	1-Feb-2022	1.80	\$23	n/a	\$23

Notes for DELAYED costs

Estimated costs to submit the PCC for the September 17, 2019 through March 16, 2020 certification period (\$250) and to implement measures and/or procedures designed to ensure that the PCCs are submitted in a timely manner. The Dates Required are the date the PCC was due and the Final Dates are the estimated dates of compliance.

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,750

TOTAL

\$158

Screening Date 6-Mar-2021 Respondent Woodville Pellets, LLC Case ID No. 59124 Reg. Ent. Reference No. RN106205032 Media Air Enf. Coordinator Toni Red	Docket No. 2020-0449-AIR-E	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
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Violation Number	3	Rule Cite(s)	
		30 Tex. Admin. Code §§ 122.121, 122.143(4), 122.133(2), and 122.241(b) and (g) and Tex. Health & Safety Code §§ 382.054 and 382.085(b)	
Violation Description		Failed to timely submit a permit renewal application at least six months but no earlier than 18 months before the date of permit expiration and failed to obtain an FOP. Specifically, the Respondent did not submit a renewal application for FOP No. O3609 by March 16, 2020, FOP No. O3609 expired on September 17, 2020, and the Respondent continued to operate the emission units at the Plant prior to obtaining an FOP.	

Base Penalty	\$25,000
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>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual				Percent 0.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
		x			Percent 20.0%
Matrix Notes	100% of the rule requirements were not met.				

Adjustment	\$20,000
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	\$5,000
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Violation Events

Number of Violation Events	6	170	Number of violation days
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	daily				Violation Base Penalty \$30,000
	weekly				
	monthly	x			
	quarterly				
	semiannual				
	annual				
	single event				

Six monthly events are recommended from the September 17, 2020 FOP expiration date through the March 6, 2021 screening date.	
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Good Faith Efforts to Comply

	0.0%	
	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	
Notes	The Respondent does not meet the good faith criteria for this violation.	

Violation Subtotal	\$30,000
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Economic Benefit (EB) for this violation

Estimated EB Amount	\$468	Statutory Limit Test
		Violation Final Penalty Total
		\$70,419
This violation Final Assessed Penalty (adjusted for limits)		\$70,419

Economic Benefit Worksheet

Respondent Woodville Pellets, LLC
Case ID No. 59124
Reg. Ent. Reference No. RN106205032
Media Air
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$5,000	17-Sep-2020	1-Aug-2022	1.87	\$468	n/a	\$468
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain an FOP to authorize the emission units at the Plant. The Date Required is the date FOP No. O3609 expired and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$468

Screening Date 6-Mar-2021 Respondent Woodville Pellets, LLC Case ID No. 59124 Reg. Ent. Reference No. RN106205032 Media Air Enf. Coordinator Toni Red	Docket No. 2020-0449-AIR-E	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
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Violation Number	4	Rule Cite(s)	30 Tex. Admin. Code §§ 122.143(4) and 122.145(2)(A), FOP No. O3609, GTC, and Tex. Health & Safety Code § 382.085(b)
Violation Description	Failed to report all instances of deviations. Specifically, the deviation report for the September 17, 2019 through March 16, 2020 reporting period did not include a deviation for the non-reportable emissions event that occurred from January 10, 2020 through January 11, 2020.		

Base Penalty	\$25,000
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>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	[]	[]	[]	
	Potential	[]	[]	[]	

0.0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	[]	[]	[]	x	

1.0%

Matrix Notes	Less than 30% of the rule requirements were not met.
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Adjustment	\$24,750
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	\$250
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Violation Events

Number of Violation Events	1	325	Number of violation days
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	daily	[]	Violation Base Penalty
	weekly	[]	
	monthly	[]	
	quarterly	[]	
	semiannual	[]	
	annual	[]	
	single event	x	

\$250

One single event is recommended.

Good Faith Efforts to Comply

0.0%	Reduction	\$0
	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	[]	[]
Ordinary	[]	[]
N/A	x	[]
Notes	The Respondent does not meet the good faith criteria for this violation.	

Violation Subtotal	\$250
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Economic Benefit (EB) for this violation

Estimated EB Amount	\$158	Statutory Limit Test
		Violation Final Penalty Total
		\$18,059
This violation Final Assessed Penalty (adjusted for limits)		\$18,059

Economic Benefit Worksheet

Respondent Woodville Pellets, LLC
Case ID No. 59124
Reg. Ent. Reference No. RN106205032
Media Air
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$1,500	15-Apr-2020	1-Feb-2022	1.80	\$135	n/a	\$135
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	15-Apr-2020	1-Feb-2022	1.80	\$23	n/a	\$23

Notes for DELAYED costs

Estimated costs to submit a revised deviation report for the September 17, 2019 through March 16, 2020 reporting period to report the deviation for the non-reportable emissions event that occurred from January 10, 2020 through January 11, 2020 (\$250) and to implement measures and/or procedures designed to ensure that all instances of deviations are reported (\$1,500). The Dates Required are the date the deviation should have been reported and the Final Dates are the estimated dates of compliance.

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,750

TOTAL

\$158



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	17-Mar-2021	Screening	27-Mar-2021	EPA Due	
	PCW	20-Jul-2021				

RESPONDENT/FACILITY INFORMATION

Respondent	Woodville Pellets, LLC		
Reg. Ent. Ref. No.	RN106205032		
Facility/Site Region	10-Beaumont	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	59124	No. of Violations	1
Docket No.	2020-0449-AIR-E	Order Type	Findings
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Toni Red
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$3,750
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	76.0%	Adjustment	Subtotals 2, 3, & 7	\$2,850
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Notes: Enhancement for one NOV with same or similar violations, one NOV with dissimilar violations, one agreed order containing a denial of liability, and one count of criminal conviction. Reduction for one notice of intent to conduct an audit.

Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$9,196
Estimated Cost of Compliance: \$50,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$6,600
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$6,600
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$6,600
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$6,600
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Screening Date 27-Mar-2021

Docket No. 2020-0449-AIR-E

PCW

Respondent Woodville Pellets, LLC

Policy Revision 5 (January 28, 2021)

Case ID No. 59124

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN106205032

Media Air

Enf. Coordinator Toni Red

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	1	50%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 76%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same or similar violations, one NOV with dissimilar violations, one agreed order containing a denial of liability, and one count of criminal conviction. Reduction for one notice of intent to conduct an audit.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 76%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 76%

Screening Date	27-Mar-2021	Docket No.	2020-0449-AIR-E	PCW
Respondent	Woodville Pellets, LLC	Policy Revision 5 (January 28, 2021)		
Case ID No.	59124	PCW Revision February 11, 2021		
Reg. Ent. Reference No.	RN106205032			
Media	Air			
Enf. Coordinator	Toni Red			
Violation Number	1			
Rule Cite(s)	30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), NSR Permit No. 98014, SC No. 35, FOP No. 03609, GTC and STC Nos. 6.F and 7, and Tex. Health & Safety Code § 382.085(b)			
Violation Description	<p>Failed to comply with either of the requirements for any bypass of the control device subject to Compliance Assurance Monitoring. Specifically, the Respondent provided documentation demonstrating that if the furnace emissions bypass the control device that a flow indicator was not installed that records and verifies zero flow at least once every fifteen minutes immediately downstream of each valve that if opened would allow a vent stream to bypass the control device and be emitted to the atmosphere or that the valves are not inspected once a month verifying the position of the valves and the condition of the car seals/lock-out tags that prevent flow out of the bypass and maintain records of each inspection.</p>			
Base Penalty			\$25,000	
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual			
	Potential		x	
Percent			15.0%	
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
Percent			0.0%	
Matrix Notes	Human health or the environment will or could be exposed to significant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.			
Adjustment			\$21,250	
			\$3,750	
Violation Events				
Number of Violation Events		1	26	Number of violation days
	daily			
	weekly			
	monthly			
	quarterly	x		
	semiannual			
	annual			
	single event			
Violation Base Penalty			\$3,750	
One quarterly event is recommended from the March 1, 2021 record review date to the March 27, 2021 screening date.				
Good Faith Efforts to Comply		0.0%	Reduction \$0	
		Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer	
	Extraordinary			
	Ordinary			
	N/A	x		
Notes	The Respondent does not meet the good faith criteria for this violation.			
Violation Subtotal			\$3,750	
Economic Benefit (EB) for this violation				
Statutory Limit Test				
Estimated EB Amount		\$9,196	Violation Final Penalty Total \$6,600	
This violation Final Assessed Penalty (adjusted for limits)			\$6,600	

Economic Benefit Worksheet

Respondent Woodville Pellets, LLC
Case ID No. 59124
Reg. Ent. Reference No. RN106205032
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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Delayed Costs

Equipment	\$50,000	18-Jun-2019	1-Feb-2022	2.63	\$438	\$8,758	\$9,196
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to install a flow indicator that records and verifies zero flow for the furnace at least once every fifteen minutes immediately downstream of each valve that if opened would allow the furnace vent stream to bypass the control device and be emitted to the atmosphere or to inspect the valves once a month verifying the position of the valves and the condition of the car seals/lock-out tags that prevent the furnace flow out of the bypass and maintain records of each inspection. The Date Required is the initial date of non-compliance and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$50,000

TOTAL

\$9,196

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

Compliance History Report for CN605690569, RN106205032, Rating Year 2019 which includes Compliance History (CH) components from September 1, 2014, through August 31, 2019.

Customer, Respondent, or Owner/Operator: CN605690569, Woodville Pellets, LLC **Classification:** SATISFACTORY **Rating:** 24.00

Regulated Entity: RN106205032, WOODVILLE MILL **Classification:** SATISFACTORY **Rating:** 24.00

Complexity Points: 9 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 164 COUNTY ROAD 1040 IN WOODVILLE, TYLER COUNTY, TEXAS

TCEQ Region: REGION 10 - BEAUMONT

ID Number(s):

PETROLEUM STORAGE TANK REGISTRATION
REGISTRATION 14859

AIR NEW SOURCE PERMITS PERMIT 119665

AIR NEW SOURCE PERMITS AFS NUM 4845700014

AIR EMISSIONS INVENTORY ACCOUNT NUMBER TJA004D

ON SITE SEWAGE FACILITY PERMIT 2292004

TAX RELIEF ID NUMBER 21136

AIR NEW SOURCE PERMITS PERMIT 98014

AIR NEW SOURCE PERMITS REGISTRATION 160471

STORMWATER PERMIT TXR05EK70

ON SITE SEWAGE FACILITY PERMIT 2292005

AIR OPERATING PERMITS PERMIT 3609

Compliance History Period: September 01, 2014 to August 31, 2019 **Rating Year:** 2019 **Rating Date:** 09/01/2019

Date Compliance History Report Prepared: May 26, 2020

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: May 26, 2015 to May 26, 2020

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Toni Red

Phone: (512) 239-1704

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

1 Effective Date: 12/03/2019 ADMINORDER 2018-1204-AIR-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)

30 TAC Chapter 122, SubChapter B 122.146(2)

5C THSC Chapter 382 382.085(b)

Rqmt Prov: General Terms and Conditions OP

Special Terms and Conditions 10 OP

Description: Failure to submit a Permit Compliance Certification (PCC) within 30 days after the end of the reporting period.

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)

30 TAC Chapter 122, SubChapter B 122.145(2)(A)

5C THSC Chapter 382 382.085(b)

Rqmt Prov: General Terms and Conditions OP

Description: Failure to submit accurate Title V Semiannual Deviation Reports (SDRs) within 30 days after the end of the reporting periods.

B. Criminal convictions:

1 Conviction Date: 03/30/2017

Type of Action:
COURTORDERClassification: Moderate
Rqmt Prov:

Citation: 2A TWC Chapter 7, SubChapter A 7.147

Description: On March 30, 2017, German Pellet LLC plead to one count of an unauthorized discharge in violation of Texas Water Code §7.147.

German Pellet LLC was ordered to pay a \$30,000 fine.

The case was prosecuted by the Travis County Attorney's Office. An investigation conducted by TPWD and TCEQ Environmental Crimes Units determined that the plant manager authorized the discharge of liquid waste which resulted in an unauthorized discharge of pollutants into water in the state. Case No. C-1-CR-17-4011

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 9 April 02, 2020 (1633681)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1 Date: 11/14/2019 (1604160)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition 21 PERMIT
Special Terms and Conditions 7 OP

Description: Failure to conduct annual calibration for the Regenerative Thermal Oxidizer (RTO) combustion temperature monitoring device. EIC Category B18g(1); Moderate(G)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition 18 PERMIT
Special Terms and Conditions 6(a) OP
Special Terms and Conditions 7 OP

Description: Failure to conduct annual calibration for each baghouse monitoring device. EIC Category B18g(1); Moderate(G)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition 20 PERMIT
Special Terms and Conditions 6(a) OP
Special Terms and Conditions 7 OP

Description: Failure to conduct annual calibration for the WESP secondary current monitoring device. EIC Category B18g(1); Moderate(G)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition 20 PERMIT
Special Terms and Conditions 6(a) OP
Special Terms and Conditions 7 OP

Description: Failure to conduct annual calibration for the WESP secondary voltage monitoring device. EIC Category B18g(1); Moderate(G)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.144(1)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
Special Conditions 39C PERMIT
Special Conditions 39D PERMIT
Special Terms and Conditions 3A, 3B, 3C OP

- Special Terms and Conditions 7 OP
Description: Failure to maintain records of quarterly visible emission observation monitoring. EIC Category C3; Minor (C)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition 19 PERMIT
Special Terms and Conditions 6(a) OP
Special Terms and Conditions 7 OP
- Description: Failure to maintain the minimum secondary voltage at the WESP. EIC Category B18g(1); Moderate(G)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition 20 PERMIT
Special Terms and Conditions 6(a) OP
Special Terms and Conditions 7 OP
- Description: Failure to maintain secondary current (amperage) levels at the WESP. EIC Category B18g(1); Moderate(G)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.146(1)(A)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
- Description: Failure to accurately certify a Permit Compliance Certification. EIC Category B3, Moderate (B)
- 2 Date: 02/27/2020 (1630995)
Self Report? NO Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
Description: Failure by Woodville Pellets to prevent the discharge of waste into or adjacent to waters of the state.
- 3 Date: 02/28/2020 (1626177)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition 27 PERMIT
Special Terms and Conditions 7 OP
Description: Failure to conduct quarterly observations for visible emissions for the property line.
- 4 Date: 04/24/2020 (1631309)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter F 101.222(h)
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(G)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
NSR 98014 General Condition 1 PERMIT
NSR 98014 General Condition 10 PERMIT
NSR 98014 Special Condition 1 PERMIT
O3609 General Terms and Conditions OP
O3609 Special Condition 7 OP
Description: Failure to authorize planned startup emissions from the furnaces.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
NSR 98014 Special Condition 35 PERMIT
O3609 General Terms and Conditions OP
O3609 Special Condition 7 OP
Description: Failure to comply with permit conditions for a bypass of a control device.
- 5 Date: 05/08/2020 (1631074)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter F 101.221(a)
30 TAC Chapter 116, SubChapter B 116.115(c)

30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
Special Condition 7 OP
Special Condition 16 OP
Description: Failure to meet permit conditions for control of particulates. EIC B18(g)(1)]
MOD 2D

F. Environmental audits:

Notice of Intent Date: 10/02/2014 (1229789)

Disclosure Date: 10/01/2015

Viol. Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.160(a)

Description: Failed to obtain authorization prior to construction and operation of the Woodvill Pellet Mill (as of February 1, 2012) and the Woodville Saw Mill (as of March 4, 2015).

Viol. Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.10(b)

Description: Failed to include VOC emissions in the 2013 and 2014 Emissions Inventory submitted by German Pellets.

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

Component Appendices

Appendix A

All NOVs Issued During Component Period 5/26/2015 and 5/26/2020

- 1 Date: 07/20/2015 (1261757) Classification: Moderate
- Self Report? NO For Informational Purposes Only
- Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
Special Condition 1 PERMIT
- Description: Failure to maintain emissions below the authorized emissions limits during Incident 213444.
- 2 Date: 03/04/2016 (1300751) Classification: Minor
- Self Report? NO For Informational Purposes Only
- Citation: 30 TAC Chapter 335, SubChapter A 335.4
- Description: Failure to comply with General Prohibitions requirements regarding the disposal of industrial solid waste.
- Classification: Moderate
- Self Report? NO For Informational Purposes Only
- Citation: 40 CFR Chapter 279, SubChapter I, PT 279, SubPT C 279.22(c)
- Description: Failure to label the used oil container with the "Used Oil" label.
- Classification: Moderate
- Self Report? NO For Informational Purposes Only
- Citation: 30 TAC Chapter 324, SubChapter A 324.22(d)(3)(D)
- Description: Failure to remove water from the used oil container storage area within 24 hours.
- Classification: Moderate
- Self Report? NO For Informational Purposes Only
- Citation: 30 TAC Chapter 111, SubChapter B 111.201
5C THSC Chapter 382 382.085(b)
- Description: Failure to comply with the outdoor burning requirements within the State of Texas.
- 3 Date: 06/30/2017 (1401875) Classification: Moderate
- Self Report? NO For Informational Purposes Only
- Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition 39.C. PERMIT
Special Condition 39.D. PERMIT
Special Terms and Conditions 3A(iv)(3) OP
Special Terms and Conditions 3C(iii)(2) OP
Special Terms and Conditions 7 OP
- Description: Failure to maintain records of Quarterly Visible Emissions Observations.
- Classification: Moderate
- Self Report? NO For Informational Purposes Only
- Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.144(1)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
Special Condition 21 PERMIT
Special Condition 40A PERMIT
Special Terms and Conditions 7 OP
- Description: Failure to maintain records of daily Combustion Chamber Temperature measurements in the Regenerative Thermal Oxidizer (RTO).
- Classification: Moderate
- Self Report? NO For Informational Purposes Only
- Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Description:	30 TAC Chapter 122, SubChapter B 122.143(4)	Classification:	Moderate
	30 TAC Chapter 122, SubChapter B 122.144(1)		
	5C THSC Chapter 382 382.085(b)		
	General Terms and Conditions OP		
	Special Condition 18 PERMIT		
	Special Condition 19 PERMIT		
	Special Condition 20 PERMIT		
	Special Condition 40A PERMIT		
	Special Terms and Conditions 7 OP		
Self Report?	NO	For Informational Purposes Only	
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c)		
	30 TAC Chapter 122, SubChapter B 122.143(4)		
	5C THSC Chapter 382 382.085(b)		
	Special Condition 19 PERMIT		
	Special Terms and Conditions 6(A) OP		
	Special Terms and Conditions 7 OP		
Description:	Failure to maintain the Secondary Voltage above the minimum authorized level in the Wet Electrostatic Precipitator (WESP).	Classification:	Moderate
Self Report?	NO	For Informational Purposes Only	
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c)		
	30 TAC Chapter 122, SubChapter B 122.143(4)		
	5C THSC Chapter 382 382.085(b)		
	Special Condition 20 PERMIT		
	Special Terms and Conditions 6(A) OP		
	Special Terms and Conditions 7 OP		
Description:	Failure to maintain the Secondary Current above the minimum authorized level in the Wet Electrostatic Precipitator (WESP).	Classification:	Moderate
Self Report?	NO	For Informational Purposes Only	
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c)		
	30 TAC Chapter 122, SubChapter B 122.143(4)		
	5C THSC Chapter 382 382.085(b)		
	Special Condition 21 PERMIT		
	Special Terms and Conditions 6(A) OP		
	Special Terms and Conditions 7 OP		
Description:	Failure to maintain the Combustion Chamber Temperature above the minimum authorized level in the Regenerative Thermal Oxidizer (RTO).	Classification:	Moderate
Self Report?	NO	For Informational Purposes Only	
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c)		
	30 TAC Chapter 122, SubChapter B 122.143(4)		
	5C THSC Chapter 382 382.085(b)		
	Special Condition 18 PERMIT		
	Special Terms and Conditions 6(A) OP		
	Special Terms and Conditions 7 OP		
Description:	Failure to maintain the Pressure Drop within the authorized range on six Baghouses.	Classification:	Moderate
Self Report?	NO	For Informational Purposes Only	
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c)		
	30 TAC Chapter 122, SubChapter B 122.143(4)		
	30 TAC Chapter 122, SubChapter B 122.147(a)(1)		
	5C THSC Chapter 382 382.085(b)		
	Special Condition 19 PERMIT		
	Special Condition 20 PERMIT		
	Special Condition 21 PERMIT		
	Special Terms and Conditions 6(A) OP		
Description:	Failure to conduct annual calibrations on the measuring devices on the Wet Electrostatic Precipitator (WESP) and the Regenerative Thermal Oxidizer (RTO).	Classification:	Moderate
Self Report?	NO	For Informational Purposes Only	
Citation:	30 TAC Chapter 122, SubChapter B 122.143(4)		
	30 TAC Chapter 122, SubChapter B 122.145(2)(A)		

30 TAC Chapter 122, SubChapter B 122.145(2)(C)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
Special Terms and Conditions 6.B. OP
Description: Failure to submit accurate Title V Semiannual Deviation Reports (SDRs) within 30 days after the end of the reporting periods.

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.146(2)
30 TAC Chapter 122, SubChapter B 122.146(5)(D)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
Special Terms and Conditions 10 OP

Description: Failure to submit an accurate Annual Compliance Certification (ACC) within 30 days after the end of the reporting period.

4

Date: 08/14/2018 (1499927)

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.144(1)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
Special Condition 18 PERMIT
Special Condition 19 PERMIT
Special Condition 20 PERMIT
Special Condition 21 PERMIT
Special Condition 40A PERMIT
Special Terms and Conditions 7 OP

Description: Failure to maintain required records.

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition 19 PERMIT
Special Terms and Conditions 6(A) OP
Special Terms and Conditions 7 OP

Description: Failure to maintain the Secondary Voltage above the minimum authorized level in the Wet Electrostatic Precipitator (WESP).

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition 20 PERMIT
Special Terms and Conditions 6(A) OP
Special Terms and Conditions 7 OP

Description: Failure to maintain the Secondary Current above the minimum authorized level in the Wet Electrostatic Precipitator (WESP).

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition 18 PERMIT
Special Terms and Conditions 6(A) OP
Special Terms and Conditions 7 OP

Description: Failure to maintain the Pressure Drop within the authorized range on one Baghouse.

5*

Date: 03/01/2019 (1548963)

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(E)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 30 TAC Chapter 122, SubChapter B 122.144(1)
 5C THSC Chapter 382 382.085(b)
 General Terms and Conditions OP
 Special Condition 2(G) OP
 Special Condition 39(F) PERMIT
 Special Condition 7 OP

Description: Failure to maintain records of Maintenance Startup and Shutdown (MSS).

EIC B3 MOD 2D

6

Date: 11/14/2019 (1604160)

Classification: Moderate

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Special Condition 21 PERMIT
 Special Terms and Conditions 7 OP

Description: Failure to conduct annual calibration for the Regenerative Thermal Oxidizer (RTO) combustion temperature monitoring device. EIC Category B18g(1); Moderate(G)

Classification: Moderate

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Special Condition 18 PERMIT
 Special Terms and Conditions 6(a) OP
 Special Terms and Conditions 7 OP

Description: Failure to conduct annual calibration for each baghouse monitoring device. EIC Category B18g(1); Moderate(G)

Classification: Moderate

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Special Condition 20 PERMIT
 Special Terms and Conditions 6(a) OP
 Special Terms and Conditions 7 OP

Description: Failure to conduct annual calibration for the WESP secondary current monitoring device. EIC Category B18g(1); Moderate(G)

Classification: Moderate

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Special Condition 20 PERMIT
 Special Terms and Conditions 6(a) OP
 Special Terms and Conditions 7 OP

Description: Failure to conduct annual calibration for the WESP secondary voltage monitoring device. EIC Category B18g(1); Moderate(G)

Classification: Minor

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 30 TAC Chapter 122, SubChapter B 122.144(1)
 5C THSC Chapter 382 382.085(b)
 General Terms and Conditions OP
 Special Conditions 39C PERMIT
 Special Conditions 39D PERMIT
 Special Terms and Conditions 3A, 3B, 3C OP
 Special Terms and Conditions 7 OP

Description: Failure to maintain records of quarterly visible emission observation monitoring.

EIC Category C3; Minor (C)

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition 19 PERMIT
Special Terms and Conditions 6(a) OP
Special Terms and Conditions 7 OP

Description: Failure to maintain the minimum secondary voltage at the WESP. EIC Category B18g(1); Moderate(G)

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition 20 PERMIT
Special Terms and Conditions 6(a) OP
Special Terms and Conditions 7 OP

Description: Failure to maintain secondary current (amperage) levels at the WESP. EIC Category B18g(1); Moderate(G)

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.146(1)(A)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP

Description: Failure to accurately certify a Permit Compliance Certification. EIC Category B3, Moderate (B)

7

Date: 02/27/2020 (1630995)

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)

Description: Failure by Woodville Pellets to prevent the discharge of waste into or adjacent to waters of the state.

8

Date: 02/28/2020 (1626177)

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition 27 PERMIT
Special Terms and Conditions 7 OP

Description: Failure to conduct quarterly observations for visible emissions for the property line.

9

Date: 04/24/2020 (1631309)

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 101, SubChapter F 101.222(h)
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(G)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
NSR 98014 General Condition 1 PERMIT

NSR 98014 General Condition 10 PERMIT
NSR 98014 Special Condition 1 PERMIT
O3609 General Terms and Conditions OP
O3609 Special Condition 7 OP

Description: Failure to authorize planned startup emissions from the furnaces.

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 NSR 98014 Special Condition 35 PERMIT
 O3609 General Terms and Conditions OP
 O3609 Special Condition 7 OP

Description: Failure to comply with permit conditions for a bypass of a control device.

10 Date: 05/08/2020 (1631074)

Classification: Moderate

Self Report? NO

Citation: 30 TAC Chapter 101, SubChapter F 101.221(a)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 General Terms and Conditions OP
 Special Condition 7 OP
 Special Condition 16 OP

Description: Failure to meet permit conditions for control of particulates. EIC B18(g)(1)]
 MOD 2D

* NOVs applicable for the Compliance History rating period 9/1/2014 to 8/31/2019

Appendix B

All Investigations Conducted During Component Period May 26, 2015 and May 26, 2020

Item 1	July 20, 2015**	(1261757)
Item 2	October 26, 2015**	(1286758)
Item 3	March 30, 2017**	(1429645)
Item 4	June 26, 2017**	(1401875)
Item 5	September 27, 2017**	(1437275)
Item 6	August 14, 2018**	(1499927)
Item 7	December 12, 2018**	(1531924)
Item 8	February 27, 2019**	(1548963)
Item 9	March 26, 2019**	(1550259)
Item 10	May 03, 2019**	(1557156)
Item 11	May 13, 2019**	(1558776)
Item 12	November 13, 2019	(1604160)
Item 13	February 27, 2020	(1630995)

(1631496)

Item 14

March 10, 2020

For Informational Purposes Only

(1631071)

Item 15

April 02, 2020

For Informational Purposes Only

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2014 and 08/31/2019.

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

Compliance History Report for CN605690569, RN106205032, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, or Owner/Operator: CN605690569, Woodville Pellets, LLC **Classification:** SATISFACTORY **Rating:** 30.90
Regulated Entity: RN106205032, WOODVILLE MILL **Classification:** SATISFACTORY **Rating:** 34.00
Complexity Points: 10 **Repeat Violator:** NO
CH Group: 14 - Other
Location: 164 COUNTY ROAD 1040 IN WOODVILLE, TYLER COUNTY, TEXAS
TCEQ Region: REGION 10 - BEAUMONT

ID Number(s):

AIR OPERATING PERMITS PERMIT 4246	AIR OPERATING PERMITS ACCOUNT NUMBER TJA004D
AIR NEW SOURCE PERMITS PERMIT 98014	AIR NEW SOURCE PERMITS PERMIT 119665
AIR NEW SOURCE PERMITS REGISTRATION 160471	AIR NEW SOURCE PERMITS AFS NUM 4845700014
PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 14859	ON SITE SEWAGE FACILITY PERMIT 2292005
ON SITE SEWAGE FACILITY PERMIT 2292004	STORMWATER PERMIT TXR05EK70
AIR EMISSIONS INVENTORY ACCOUNT NUMBER TJA004D	TAX RELIEF ID NUMBER 21136

Compliance History Period: September 01, 2015 to August 31, 2020 **Rating Year:** 2020 **Rating Date:** 09/01/2020

Date Compliance History Report Prepared: July 20, 2021

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: July 20, 2016 to July 20, 2021

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Toni Red

Phone: (512) 239-1704

Site and Owner/Operator History:

- | | |
|--|-----|
| 1) Has the site been in existence and/or operation for the full five year compliance period? | YES |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO |

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- | | | |
|---|--|--|
| 1 | Effective Date: 12/03/2019 | ADMINORDER 2018-1204-AIR-E (1660 Order-Agreed Order With Denial) |
| | Classification: Moderate | |
| | Citation: 30 TAC Chapter 122, SubChapter B 122.143(4) | |
| | 30 TAC Chapter 122, SubChapter B 122.146(2) | |
| | 5C THSC Chapter 382 382.085(b) | |
| | Rqmt Prov: General Terms and Conditions OP | |
| | Special Terms and Conditions 10 OP | |
| | Description: Failure to submit a Permit Compliance Certification (PCC) within 30 days after the end of the reporting period. | |
| | Classification: Moderate | |
| | Citation: 30 TAC Chapter 122, SubChapter B 122.143(4) | |
| | 30 TAC Chapter 122, SubChapter B 122.145(2)(A) | |
| | 5C THSC Chapter 382 382.085(b) | |
| | Rqmt Prov: General Terms and Conditions OP | |
| | Description: Failure to submit accurate Title V Semiannual Deviation Reports (SDRs) within 30 days after the end of the reporting periods. | |

B. Criminal convictions:

1 Conviction Date: 03/30/2017

Type of Action:
COURTORDERClassification: Moderate
Rqmt Prov:

Citation: 2A TWC Chapter 7, SubChapter A 7.147

Description: On March 30, 2017, German Pellet LLC plead to one count of an unauthorized discharge in violation of Texas Water Code §7.147.

German Pellet LLC was ordered to pay a \$30,000 fine.

The case was prosecuted by the Travis County Attorney's Office. An investigation conducted by TPWD and TCEQ Environmental Crimes Units determined that the plant manager authorized the discharge of liquid waste which resulted in an unauthorized discharge of pollutants into water in the state. Case No. C-1-CR-17-4011

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 9 April 02, 2020 (1633681)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1 Date: 02/11/2021 (1625147)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP

Description: Failure to report all instances of deviations in a timely manner.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.133(2)
30 TAC Chapter 122, SubChapter C 122.241(b)
30 TAC Chapter 122, SubChapter C 122.241(c)(3)
5C THSC Chapter 382 382.085(b)
Permit Face OP

Description: Failure to submit a timely renewal application.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
Special Condition 30 PERMIT
Special Terms and Conditions 7 OP

Description: Failure to maintain Wet Electrostatic Precipitator (WESP) secondary current (amperage) operating range.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)
30 TAC Chapter 101, SubChapter F 101.201(b)(2)(E)
30 TAC Chapter 101, SubChapter F 101.201(b)(2)(F)
30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)
30 TAC Chapter 122, SubChapter B 122.145(2)(D)
General Terms and Conditions OP
Special Terms and Conditions 2 F. OP

Description: Failure to accurately record non-reportable events.

2 Date: 06/30/2021 (1724954)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 325, SubChapter A 325.4(1)

Description: Failure to provide appropriate storage for used oil storage. EIC C4/(3)(D)MIN

F. Environmental audits:

Notice of Intent Date: 08/11/2020 (1679051)

No DOV Associated

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

Component Appendices

Appendix A

All NOV's Issued During Component Period 7/20/2016 and 7/20/2021

1

Date:06/30/2017(1401875)

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation:30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition 39.C. PERMIT
Special Condition 39.D. PERMIT
Special Terms and Conditions 3A(iv)(3) OP
Special Terms and Conditions 3C(iii)(2) OP
Special Terms and Conditions 7 OP

Description: Failure to maintain records of Quarterly Visible Emissions Observations.

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation:30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.144(1)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
Special Condition 21 PERMIT
Special Condition 40A PERMIT
Special Terms and Conditions 7 OP

Description: Failure to maintain records of daily Combustion Chamber Temperature measurements in the Regenerative Thermal Oxidizer (RTO).

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation:30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.144(1)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
Special Condition 18 PERMIT
Special Condition 19 PERMIT
Special Condition 20 PERMIT
Special Condition 40A PERMIT
Special Terms and Conditions 7 OP

Description: Failure to maintain required records.

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation:30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition 19 PERMIT
Special Terms and Conditions 6(A) OP
Special Terms and Conditions 7 OP

Description: Failure to maintain the Secondary Voltage above the minimum authorized level in the Wet Electrostatic Precipitator (WESP).

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation:30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition 20 PERMIT
Special Terms and Conditions 6(A) OP
Special Terms and Conditions 7 OP

Description: Failure to maintain the Secondary Current above the minimum authorized level in the Wet Electrostatic Precipitator (WESP).

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation:30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

Special Condition 21 PERMIT
Special Terms and Conditions 6(A) OP
Special Terms and Conditions 7 OP
Description: Failure to maintain the Combustion Chamber Temperature above the minimum authorized level in the Regenerative Thermal Oxidizer (RTO).
Classification: Moderate

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition 18 PERMIT
Special Terms and Conditions 6(A) OP

Special Terms and Conditions 7 OP
Description: Failure to maintain the Pressure Drop within the authorized range on six Baghouses.
Classification: Moderate

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.147(a)(1)
5C THSC Chapter 382 382.085(b)
Special Condition 19 PERMIT
Special Condition 20 PERMIT
Special Condition 21 PERMIT
Special Terms and Conditions 6(A) OP
Special Terms and Conditions 7 OP

Description: Failure to conduct annual calibrations on the measuring devices on the Wet Electrostatic Precipitator (WESP) and the Regenerative Thermal Oxidizer (RTO).
Classification: Moderate

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)
30 TAC Chapter 122, SubChapter B 122.145(2)(C)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
Special Terms and Conditions 6.B. OP

Description: Failure to submit accurate Title V Semiannual Deviation Reports (SDRs) within 30 days after the end of the reporting periods.

Classification: Moderate

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.146(2)
30 TAC Chapter 122, SubChapter B 122.146(5)(D)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
Special Terms and Conditions 10 OP

Description: Failure to submit an accurate Annual Compliance Certification (ACC) within 30 days after the end of the reporting period.

2

Date: 08/14/2018 (1499927)

Classification: Moderate

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.144(1)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
Special Condition 18 PERMIT
Special Condition 19 PERMIT
Special Condition 20 PERMIT
Special Condition 21 PERMIT
Special Condition 40A PERMIT
Special Terms and Conditions 7 OP

Description: Failure to maintain required records.

Classification: Moderate

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition 19 PERMIT
Special Terms and Conditions 6(A) OP
Special Terms and Conditions 7 OP
Description: Failure to maintain the Secondary Voltage above the minimum authorized level in the Wet Electrostatic Precipitator (WESP).

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition 20 PERMIT
Special Terms and Conditions 6(A) OP
Special Terms and Conditions 7 OP

Description: Failure to maintain the Secondary Current above the minimum authorized level in the Wet Electrostatic Precipitator (WESP).

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition 18 PERMIT
Special Terms and Conditions 6(A) OP
Special Terms and Conditions 7 OP

Description: Failure to maintain the Pressure Drop within the authorized range on one Baghouse.

3 Date: 03/01/2019 (1548963)

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(E)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.144(1)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
Special Condition 2(G) OP
Special Condition 39(F) PERMIT
Special Condition 7 OP

Description: Failure to maintain records of Maintenance Startup and Shutdown (MSS).

EIC B3 MOD 2D

4* Date: 11/14/2019 (1604160)

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition 21 PERMIT
Special Terms and Conditions 7 OP

Description: Failure to conduct annual calibration for the Regenerative Thermal Oxidizer (RTO) combustion temperature monitoring device. EIC Category B18g(1); Moderate(G)

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition 18 PERMIT
Special Terms and Conditions 6(a) OP
Special Terms and Conditions 7 OP

Description: Failure to conduct annual calibration for each baghouse monitoring device. EIC Category B18g(1); Moderate(G)

Classification: Moderate

Self Report? NO For Informational Purposes Only
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Special Condition 20 PERMIT
 Special Terms and Conditions 6(a) OP
 Special Terms and Conditions 7 OP
 Description: Failure to conduct annual calibration for the WESP secondary current monitoring device. EIC Category B18g(1); Moderate(G)
 Classification: Moderate

Self Report? NO For Informational Purposes Only
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Special Condition 20 PERMIT
 Special Terms and Conditions 6(a) OP
 Special Terms and Conditions 7 OP
 Description: Failure to conduct annual calibration for the WESP secondary voltage monitoring device. EIC Category B18g(1); Moderate(G)
 Classification: Minor

Self Report? NO For Informational Purposes Only
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 30 TAC Chapter 122, SubChapter B 122.144(1)
 5C THSC Chapter 382 382.085(b)
 General Terms and Conditions OP
 Special Conditions 39C PERMIT
 Special Conditions 39D PERMIT
 Special Terms and Conditions 3A, 3B, 3C OP
 Special Terms and Conditions 7 OP
 Description: Failure to maintain records of quarterly visible emission observation monitoring. EIC Category C3; Minor (C)
 Classification: Moderate

Self Report? NO For Informational Purposes Only
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Special Condition 19 PERMIT
 Special Terms and Conditions 6(a) OP
 Special Terms and Conditions 7 OP
 Description: Failure to maintain the minimum secondary voltage at the WESP. EIC Category B18g(1); Moderate(G)
 Classification: Moderate

Self Report? NO For Informational Purposes Only
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Special Condition 20 PERMIT
 Special Terms and Conditions 6(a) OP
 Special Terms and Conditions 7 OP
 Description: Failure to maintain secondary current (amperage) levels at the WESP. EIC Category B18g(1); Moderate(G)
 Classification: Moderate

Self Report? NO For Informational Purposes Only
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 30 TAC Chapter 122, SubChapter B 122.146(1)(A)
 5C THSC Chapter 382 382.085(b)
 General Terms and Conditions OP
 Description: Failure to accurately certify a Permit Compliance Certification. EIC Category B3, Moderate (B)

5* Date: 02/27/2020 (1630995)
 Classification: Moderate

Self Report? NO For Informational Purposes Only
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)

Description: Failure by Woodville Pellets to prevent the discharge of waste into or adjacent to waters of the state.

6*

Date: 02/28/2020 (1626177)

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition 27 PERMIT
Special Terms and Conditions 7 OP

Description: Failure to conduct quarterly observations for visible emissions for the property line.

7*

Date: 04/24/2020 (1631309)

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 101, SubChapter F 101.222(h)
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(G)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
NSR 98014 General Condition 1 PERMIT
NSR 98014 General Condition 10 PERMIT
NSR 98014 Special Condition 1 PERMIT
O3609 General Terms and Conditions OP
O3609 Special Condition 7 OP

Description: Failure to authorize planned startup emissions from the furnaces.

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 64, SubChapter C, PT 64 64.3(a)(2)
5C THSC Chapter 382 382.085(b)
NSR 98014 Special Condition 35 PERMIT
O3609 General Terms and Conditions OP
O3609 Special Condition 7 OP

Description: Failure to comply with permit conditions for a bypass of a control device.

8*

Date: 05/08/2020 (1631074)

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 101, SubChapter F 101.221(a)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
Special Condition 7 OP
Special Condition 16 OP

Description: Failure to meet permit conditions for control of particulates. EIC B18(g)(1)]
MOD 2D

9

Date: 02/11/2021 (1625147)

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP

Description: Failure to report all instances of deviations in a timely manner.

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 122, SubChapter B 122.133(2)
30 TAC Chapter 122, SubChapter C 122.241(b)

30 TAC Chapter 122, SubChapter C 122.241(c)(3)
 5C THSC Chapter 382 382.085(b)
 Permit Face OP

Description: Failure to submit a timely renewal application.
 Classification: Minor

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 General Terms and Conditions OP
 Special Condition 30 PERMIT
 Special Terms and Conditions 7 OP

Description: Failure to maintain Wet Electrostatic Precipitator (WESP) secondary current (amperage) operating range.
 Classification: Minor

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)
 30 TAC Chapter 101, SubChapter F 101.201(b)(2)(E)
 30 TAC Chapter 101, SubChapter F 101.201(b)(2)(F)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
 30 TAC Chapter 122, SubChapter B 122.145(2)(D)
 General Terms and Conditions OP
 Special Terms and Conditions 2 F. OP

Description: Failure to accurately record non-reportable events.

10 Date: 06/30/2021 (1724954)
 Classification: Minor

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 325, SubChapter A 325.4(1)

Description: Failure to provide appropriate storage for used oil storage. EIC C4/(3)(D)MIN

* NOVs applicable for the Compliance History rating period 9/1/2015 to 8/31/2020

Appendix B

All Investigations Conducted During Component Period July 20, 2016 and July 20, 2021

Item 1	March 30, 2017**	(1429645) For Informational Purposes Only
Item 2	June 26, 2017**	(1401875) For Informational Purposes Only
Item 3	September 27, 2017**	(1437275) For Informational Purposes Only
Item 4	August 14, 2018**	(1499927) For Informational Purposes Only
Item 5	December 12, 2018**	(1531924) For Informational Purposes Only
Item 6	February 27, 2019**	(1548963) For Informational Purposes Only
Item 7	March 26, 2019**	(1550259) For Informational Purposes Only
Item 8	May 03, 2019**	(1557156) For Informational Purposes Only
Item 9	May 13, 2019**	(1558776) For Informational Purposes Only
		(1604160)

Item 10	November 13, 2019**	For Informational Purposes Only (1630995)
Item 11	February 27, 2020**	For Informational Purposes Only (1631496)
Item 12	March 10, 2020**	For Informational Purposes Only (1631071)
Item 13	April 02, 2020**	For Informational Purposes Only (1656930)
Item 14	June 30, 2020**	For Informational Purposes Only (1663557)
Item 15	July 30, 2020**	For Informational Purposes Only (1625147)
Item 16	February 11, 2021	For Informational Purposes Only (1699254)
Item 17	March 12, 2021	For Informational Purposes Only (1737479)
Item 18	July 15, 2021	For Informational Purposes Only

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2015 and 08/31/2020.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
WOODVILLE PELLETS, LLC
RN106205032**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2020-0449-AIR-E

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Woodville Pellets, LLC (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent, represented by Marcella Burke of the law firm of King & Spalding LLP, presented this Order to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a wood pellet manufacturing plant located at 164 County Road 1040 in Woodville, Tyler County, Texas (the "Plant"). The Plant consists or consisted of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. During a record review conducted on February 27, 2020, an investigator documented that the Regenerative Thermal Oxidizer ("RTO") was not installed and the Respondent continued to operate the Dry Hammermill and Cooler Air Aspiration System without routing the filtered emissions from the Dry Hammermill and Cooler Air Aspiration System to an RTO from June 18, 2019 through March 18, 2020, resulting in the release of 210.87 tons of unauthorized volatile organic compounds ("VOC") emissions to the atmosphere.
3. During a record review conducted on February 2, 2021, an investigator documented that:

- a. The RTO was not installed and the Respondent continued to operate the Dry Hammermill and Cooler Air Aspiration System without routing the filtered emissions from the Dry Hammermill and Cooler Air Aspiration System to an RTO from March 19, 2020 through December 31, 2020, resulting in the release of 186.76 tons of unauthorized VOC emissions to the atmosphere.
 - b. The permit compliance certification ("PCC") for the September 17, 2019 through March 16, 2020 certification period was due by April 15, 2020, but was not submitted.
 - c. The Respondent did not submit a renewal application for Federal Operating Permit ("FOP") 03609 by March 16, 2020, FOP No. 03609 expired on September 17, 2020, and the Respondent continued to operate the emission units at the Plant prior to obtaining an FOP.
 - d. The deviation report for the September 17, 2019 through March 16, 2020 reporting period did not include a deviation for the non-reportable emissions event that occurred from January 10, 2020 through January 11, 2020.
4. During a record review conducted on March 1, 2021, an investigator documented that the Respondent provided documentation demonstrating that if the furnace emissions bypass the control device that a flow indicator was not installed that records and verifies zero flow at least once every fifteen minutes immediately downstream of each valve that if opened would allow a vent stream to bypass the control device and be emitted to the atmosphere or that the valves are not inspected once a month verifying the position of the valves and the condition of the car seals/lock-out tags that prevent flow out of the bypass and maintain records of each inspection.
 5. The Executive Director recognizes that the Respondent implemented the following corrective measures at the Plant:
 - a. On September 15, 2020, submitted an FOP application to authorize the emission units at the Plant.
 - b. On April 8, 2021, obtained an amendment for New Source Review ("NSR") Permit No. 98014 to change the control device for the filtered emissions from the Dry Hammermill and Cooler Air Aspiration System from an RTO to a Regenerative Catalytic Oxidizer ("RCO").

II. CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, the Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, the Respondent failed to route the filtered emissions from the Dry Hammermill and Cooler Air Aspiration System to an RTO, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), NSR No. 98014, Special

Conditions ("SC") No. 10, FOP No. 03609, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 7, and TEX. HEALTH & SAFETY CODE § 382.085(b).

3. As evidenced by Finding of Fact No. 3.a, the Respondent failed to route the filtered emissions from the Dry Hammermill and Cooler Air Aspiration System to an RTO, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), NSR Permit No. 98014, SC No. 10, FOP No. 03609, GTC and STC No. 7, and TEX. HEALTH & SAFETY CODE § 382.085(b).
4. As evidenced by Finding of Fact No. 3.b, the Respondent failed to certify compliance for at least each 12-month period following initial permit issuance and failed to submit a PCC within 30 days of any certification period, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(1)(A) and (2), FOP No. 03609, GTC and STC No. 10, and TEX. HEALTH & SAFETY CODE § 382.085(b).
5. As evidenced by Finding of Fact No. 3.c, the Respondent failed to timely submit a permit renewal application at least six months but no earlier than 18 months before the date of permit expiration and failed to obtain an FOP, in violation of 30 TEX. ADMIN. CODE §§ 122.121, 122.143(4), 122.133(2), and 122.241(b) and (g) and TEX. HEALTH & SAFETY CODE §§ 382.054 and 382.085(b).
6. As evidenced by Finding of Fact No. 3.d, the Respondent failed to report all instances of deviations, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), FOP No. 03609, GTC, and TEX. HEALTH & SAFETY CODE § 382.085(b).
7. As evidenced by Finding of Fact No. 4, the Respondent failed to comply with either of the requirements for any bypass of the control device subject to Compliance Assurance Monitoring, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), NSR Permit No. 98014, SC No. 35, FOP No. 03609, GTC and STC Nos. 6.F and 7, and TEX. HEALTH & SAFETY CODE § 382.085(b).
8. Pursuant to TEX. WATER CODE § 7.051, the TCEQ has the authority to assess an administrative penalty against the Respondent for violations of state statutes within the TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
9. An administrative penalty in the amount of \$517,068 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent paid \$258,534 of the penalty. Pursuant to TEX. WATER CODE § 7.067, \$258,534 of the penalty shall be conditionally offset by the Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the attached SEP Agreement ("Attachment A", incorporated herein by reference). The Respondent's obligation to pay the conditionally offset portion of the penalty shall be discharged upon full compliance with all the terms and conditions of this Order, which includes the timely and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed a penalty as set forth in Conclusion of Law No. 9 for violations of state statutes and rules of the TCEQ. The payment of this penalty and the Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations that are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Woodville Pellets, LLC, Docket No. 2020-0449-AIR-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall implement and complete an SEP as set forth in Conclusion of Law No. 9. The amount of \$258,534 of the assessed penalty is conditionally offset based on the Respondent's implementation and completion of the SEP pursuant to the terms of the SEP Agreement, as defined in Attachment A. Penalty payments for any portion of the SEP deemed by the Executive Director as not complete shall be paid within 30 days after the date of the Executive Director demands payment.
3. The Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order, until such time that FOP No. O4246 is obtained or until 180 days after the effective date of this Order, whichever is earlier, comply with the provisions in expired FOP No. O3609, including recordkeeping, reporting, and compliance certification requirement with respect to the Plant's continuing operations.
 - b. Within 15 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provision No. 3.a, as described in Ordering Provision No. 3.h.
 - c. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the application for FOP No. O4246 by any deadline specified in writing.
 - d. Within 30 days after the effective date of this Order:
 - i. Submit the PCC for the September 17, 2019 through March 16, 2020 certification period;

- ii. Implement measures and/or procedures designed to ensure that the PCCs are submitted in a timely manner;
 - iii. Submit a revised deviation report for the September 17, 2019 through March 16, 2020 reporting period to report the deviation for the non-reportable emissions event that occurred from January 10, 2020 through January 11, 2020;
 - iv. Implement measures and/or procedures designed to ensure that all instances of deviations are reported; and
 - v. Either install a flow indicator that records and verifies zero flow for the furnace at least once every 15 minutes immediately downstream of each valve that if opened would allow the furnace vent stream to bypass the control device and be emitted, either directly or indirectly, to the atmosphere; or once a month, inspect the valves verifying the position of the valves and the condition of the car seals/lock-out tags that prevent the furnace flow out of the bypass and maintain records of each inspection; or install an electronic position indicator that records and verifies the open or closed position, at least once every 15 minutes, of each valve or damper that if opened would allow the furnace vent stream to bypass the control device and emitted, either directly or indirectly, to the atmosphere, in accordance with NSR Permit No. 98014.
- e. Within 45 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provision No. 3.d, as described in Ordering Provision No. 3.h.
 - f. Within 180 days after the effective date of this Order, submit written certification that either FOP No. 04246 has been obtained or that operations have ceased until such time that appropriate authorization is obtained, as described in Ordering Provision No. 3.h.
 - g. By May 1, 2022, route the filtered emissions from the Dry Hammermill and Cooler Air Aspiration System to an RCO that achieves 95 percent or greater destruction efficiency for organic compounds emissions.
 - h. By May 16, 2022, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.g. The certification shall be signed by the Respondent and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe

that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Air Section Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1830

4. All relief not expressly granted in this Order is denied.
5. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Plant operations referenced in this Order.
6. If the Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed above.
8. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms in this Order.

9. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
10. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
11. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
12. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

Date

01/14/2022

Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Signature

Rain Silivask

Name (Printed or typed)
Authorized Representative of
Woodville Pellets, LLC

Date

January 5th, 2022

Title

CFO, Vice President

☐ If mailing address has changed, please check this box and provide the new address below:

Instructions: Send the original, signed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Ordering Provision 1 of this Order.

Attachment A
Docket Number: 2020-0449-AIR-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Woodville Pellets, LLC
Payable Penalty Amount:	\$517,068
SEP Offset Amount:	\$258,534
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Texas Congress of Parents and Teachers dba Texas PTA
Project Name:	<i>Texas PTA Clean School Bus Replacement Program</i>
Location of SEP:	Texas Air Quality Control Region 106: Southern Louisiana-Southeast Texas - Preference for Tyler County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas Congress of Parents and Teachers dba Texas PTA** for the *Texas PTA Clean School Bus Replacement Program*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the contribution will be used to reduce nitrogen oxides, volatile organic compounds, carbon monoxide, and particulate matter emissions by replacing older diesel buses with newer buses that meet more stringent emission standards. The Third-Party Administrator shall use the SEP Offset Amount for up to 100% of the purchase price of a model year 2010 or newer bus to replace a diesel school bus that is model year 2002 or older. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director (“ED”), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This SEP will directly benefit air quality by reducing harmful exhaust emissions which contribute to the formation of ozone and may cause or exacerbate many respiratory diseases, including asthma. In addition, by encouraging less school bus idling, this SEP contributes to public awareness of environmental matters.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Texas Congress of Parents and Teachers SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texas PTA
408 West 11th Street
Austin, Texas 78701

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount due to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality"; and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent, must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. Recognition

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.