BLUE RIDGE ENVIRONMENTAL DEFENSE LEAGUE

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September 6, 2003

Keith Overcash, Director
Division of Air Quality
1641 Mail Service Center
Raleigh, NC 27699-1641

Re: Weyerhaeuser Company Elkin Plant, Permit No. 05678T25
Facility ID No. 04/86/00108

Dear Mr. Overcash:

On behalf of the Board of Directors of the Blue Ridge Environmental Defense League and our members in Surry County, I write to comment on the proposed Title V permit for Weyerhaeuser in Elkin.

The Weyerhaeuser plant in Elkin is a major source of air pollutants. Annual emissions are 197 tons of particulates, 129 tons of nitrogen oxides, 1,051 tons of carbon monoxide, and 1,019 tons of volatile organic compounds. The permit as drafted fails to require emission source monitoring and must be revised.

As you know, Title V permits are meant to reduce confusion by including all applicable requirements that apply to a given source. The operating permit program is designed to define compliance, not just applicable standards. The permit must list all applicable requirements including monitoring, methods of testing, semi-annual reporting, and annual compliance certification. Compliance is determined by monitoring conditions with respect to an associated standard. If there is no federal standard for monitoring requirements, averaging times, or record keeping, Title V directs the state to determine them. This monitoring provision allows the state, the operator, and the public to know if the facility is in compliance with emission standards. According to the US EPA OAQP&S, "In effect, Title V makes compliance a matter of corporate responsibility."

Permit conditions must be practically enforceable, that is, they must make it possible to determine whether a plant is complying with the rules. The permit must clearly explain how the requirements apply to the facility. If one cannot tell what the facility is required to do to comply with permit limits, it is not practically enforceable. With limited exceptions, a facility must comply with regulations at all times. The public may use any credible evidence to show a facility is violating its permit. Evidence may include air sampling tests taken at the property line of the facility.

The proposed permit as written grants Weyerhaeuser-Elkin an improper release from monitoring of stack emissions. In response to a request by the permittee, the DAQ's July 29, 2003 review states:

> 8. We concur and have removed stack test requirements. There is a history stack tests that show compliance with the PSD/BACT limits. The results also show there is a considerable margin of compliance comparing actual test data to the limits. The factors established from tests are used to calculate emission rates and demonstrate compliance with the limits. (Air Permit Application Review, II. Background Information)

The PSD section of the proposed permit leaves indefinite the requirements for emissions testing. For example, the draft permit states:

> b. If emissions testing is required, the testing shall be performed in accordance with 15A NCAC 2D .0501(c)(3) and General Condition JJ. If the results of this test are above the limit given above, the Permittee shall be deemed in noncompliance with 15A NCAC 2D .0530. (Permit Section 2.1.B, Specific Limitations and Conditions, page 22)

In order to determine if a given facility is complying with the law, adequate periodic monitoring, recordkeeping, and reporting is required to be stipulated in the Title V permit. In addition to production limits and other measures, the operating permit must require the facility to monitor stack emissions. This is the only means available to assure the DAQ and the public that the facility is complying with its permit. Without periodic monitoring, it is impossible to determine if a facility is violating air quality standards or emission limits for best available control technology.

Past performance and a wide margin of compliance in previous testing may inform how testing should be done, but cannot be made a substitute for prospective compliance as the DAQ has outlined in its permit review. The requirement for periodic monitoring is found in Clean Air Act Section 504 which states that permits must have, "conditions as are necessary to assure compliance." Also, the Code of Federal Regulations requires, "monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance" [40 CFR 70.6 (a)(3)] and that Title V permits contain "testing, monitoring, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit." [40 CFR 70.6 (c)(1)].

For the above reasons, the draft permit fails to meet minimum requirements under the Clean Air Act and must be revised.

Respectfully submitted,

Louis Zeller

Cc:
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