

BEFORE THE NORTH CAROLINA
ENVIRONMENTAL MANAGEMENT COMMISSION

STATE OF NORTH CAROLINA)	
)	
COUNTY OF CHATHAM)	
)	SPECIAL ORDER BY CONSENT
IN THE MATTER OF:)	SOC 2020- <u>002</u>
ARAUCO NORTH AMERICA, INC.)	
MONCURE MANUFACTURING SITE)	
)	
[FACILITY ID 1900015])	
)	

This SPECIAL ORDER BY CONSENT (hereinafter referred to as the "ORDER") is made and entered into pursuant to North Carolina General Statute 143-215.110 by and between ARAUCO North America, Inc. (hereafter referred to as "ARAUCO" or "COMPANY") and the ENVIRONMENTAL MANAGEMENT COMMISSION, an agency of the State of North Carolina (hereinafter referred to as the "COMMISSION").

WITNESSETH:

- I. The COMMISSION and ARAUCO hereby stipulate and agree to the following:
 - A. ARAUCO North America, Inc. ("ARAUCO" or "COMPANY") operates a manufacturing site (hereafter referred to collectively as the "FACILITY") that includes a Medium Density Fiberboard Manufacturing Facility ("MDF Facility") in Moncure, Chatham County, North Carolina. The FACILITY currently operates under Air Permit 03449T53 ("PERMIT") which was issued by the North Carolina Division of Air Quality ("DAQ") on June 16, 2020.
 - B. The FACILITY is an affected source subject to requirements under 40 CFR Part 63 Subpart DDDD ("Subpart DDDD" or "MACT") to control hazardous air

pollutants (“HAPs”) and is subject to certain requirements under the Prevention of Significant Deterioration (“PSD”) program. The MACT requirements for the FACILITY are summarized in Section 2.2.A.1. of the PERMIT, and Section 2.2.B.2. of the PERMIT outlines the Best Achievable Control Technology (“BACT”) under the PSD program. These requirements include a condition for 50% Destruction/Removal Efficiency (“DRE”) for Wood Products Protocol 1 Volatile Organic Compounds (“WPP1 VOC”) from the MDF Facility. Section 2.2.B.2.b. requires the COMPANY to demonstrate compliance with the 50% DRE for WPP1 VOC by May 20, 2019, unless an alternate date is approved by the DAQ. The COMPANY did not complete the required testing by May 20, 2019, but instead entered into a Special Order by Consent (SOC 2019-001) as described below.

- C. Air pollutants from the MDF FACILITY are controlled by a series of emission control devices including a Biofilter (Permit ID No. CD-18) (hereafter referred to as the “BIOFILTER”). The BIOFILTER was installed over a three-year period as prescribed under the terms of a prior Special Order by Consent between the COMMISSION and ARAUCO (SOC 2015-02). The BIOFILTER replaced a prior control device, which was a Photo-catalytic Gas Treatment (PGT) system intended to oxidize and thereby destroy volatile organic emissions, including the HAPs formaldehyde and methanol.
- D. The BACT condition of 50% DRE for WPP1 VOC in the PERMIT was based on a PSD modification application submitted by the COMPANY in January 2017. In this application, the COMPANY relied on the BIOFILTER manufacturer

guarantee in its presentation of the BACT analysis for VOC emissions for the MDF FACILITY and its representation that the BIOFILTER would have a DRE of 50% for VOC emissions from the MDF FACILITY.

- E. ARAUCO has experienced significant operational issues with the BIOFILTER since startup in February 2018. Additionally, the COMPANY discovered substantial damage within the BIOFILTER including serious deterioration of the concrete structure. As a result of BIOFILTER operational problems, the FACILITY has documented lower than expected control efficiencies for methanol, a primary WPP1 VOC and HAP associated with the MDF Facility operations.
- F. In 2019, the COMMISSION and ARAUCO entered into another Special Order by Consent (SOC 2019-001) to allow the COMPANY to shut down the BIOFILTER to make required repairs and to identify and implement modifications to improve biological activity and overall system performance (“Remedial Work”). Pursuant to the terms of SOC 2019-001, the COMPANY contracted with the BIOFILTER manufacturer to undertake numerous trial scenarios and pilot studies to maximize the BIOFILTER performance and address the operational issues which were preventing the achievement of the manufacturer’s performance guarantee of 50% VOC destruction.
- G. On December 4, 2019, ARAUCO completed the Remedial Work required under SOC 2019-001. The BIOFILTER repairs and modifications to address the deterioration of the concrete structure have been effective to date.

- H. On February 27, 2020, the COMPANY performed investigatory testing to evaluate the VOC DRE of the BIOFILTER after the Remedial Work. Although the BIOFILTER has met the initial performance demonstration requirements of MACT Subpart DDDD based on its control of formaldehyde emissions, the COMPANY and the BIOFILTER manufacturer have now determined that the BIOFILTER cannot be modified to meet the 50% DRE for WPP1 VOC. This investigatory testing indicated that formaldehyde DRE was greater than 90%, but the methanol DRE was minimal.
- I. Pursuant to SOC 2019-001, the deadline for conducting a compliance test to demonstrate compliance with all applicable PERMIT requirements was June 1, 2020; however, this interim compliance date was extended to September 29, 2020 in a letter to the COMPANY from the DAQ dated May 29, 2020. All requirements of SOC 2019-001 will be superseded by those outlined herein once the new ORDER is executed by the DAQ per Paragraph XV.
- J. Based on additional investigation of the performance issues associated with the BIOFILTER following the February 2020 investigatory testing, ARAUCO has concluded that the biological activity required to meet the methanol destruction condition is not possible due to the high temperatures of the off-gases from the process units and that that biological treatment of the methanol emissions is not feasible for the MDF Facility. ARAUCO has not conducted another performance test on the BIOFILTER to demonstrate compliance with the PERMIT requirements, taking the position that such testing would be futile based on the

COMPANY's determination that the BIOFILTER cannot meet the manufacturer's guaranteed efficiency for destruction of methanol emissions.

- K. By agreeing to enter this ORDER, the COMPANY acknowledges that the MDF Facility is operating in violation of Section 2.2.B.2. of the PERMIT due to the BIOFILTER's inability to meet the 50% DRE for WPP1 VOC. Upon execution of this ORDER, the DAQ will issue a Notice of Violation to the COMPANY for violating the WPP1 VOC DRE requirement in the PERMIT on a continuous basis since December 4, 2019, the date the Remedial Work required under SOC 2019-001 was completed.
- L. In addition to the foregoing, the COMPANY has raised concerns about the urea injection system used to reduce nitrogen oxide ("NOx") emissions from the MDF Facility. In particular, the COMPANY believes that the urea may be interfering with the operation and performance of the BIOFILTER and that modification or elimination of the urea injection system may be necessary to assure proper operation of the BIOFILTER. Modification or elimination of the urea injection system would require additional permitting actions on the part of the COMPANY and the DAQ.
- M. In order to present an updated BACT analysis and to establish BIOFILTER operating requirements based on this updated BACT analysis, the COMPANY requested to enter into this ORDER with the COMMISSION.
- N. During the period of this ORDER, all pollution control equipment at the FACILITY, other than the BIOFILTER that is required by the current air permit shall continue to operate in compliance with applicable requirements.

THEREFORE, the COMMISSION and the COMPANY, desiring to resolve and settle the compliance issues between them, have agreed to enter into this ORDER with the following terms and conditions:

- II. The COMPANY, desiring to operate in a safe and environmentally sound manner in accordance with the rules and regulations of the COMMISSION does hereby agree to perform the following activities:
 - A. If not already submitted as of the effective date of this ORDER, the COMPANY shall, within 30 days, submit a PSD permit application to the DAQ with an updated BACT analysis for the MDF Facility with BACT limits expressed in WPP1 VOC pounds per oven-dried ton processed by the MDF Facility.
 - B. The COMPANY shall operate the MDF Facility with the BIOFILTER to meet the requirements of MACT, except for limited periods of time required for the COMPANY to modify, restart, and/or optimize performance of the BIOFILTER in order to prepare for and meet the requirements of a revised PERMIT.
 - C. Within seven (7) days of any instance in which the COMPANY operates without the BIOFILTER fully operational for the reasons described above in paragraph II.B., the COMPANY shall submit a report to DAQ documenting the time period during which the BIOFILTER was not fully operational and the reason therefore.
 - D. The COMPANY shall submit a test protocol at least 60 days prior to conducting the BIOFILTER performance testing required by Paragraph D below.
 - E. The COMPANY shall conduct engineering evaluation, shakedown, and compliance testing of the BIOFILTER to demonstrate compliance with all applicable revised PERMIT requirements and submit a test report within 180 days

after the DAQ's issuance of a revised PERMIT with updated BACT emission limits with BACT limits expressed in WPP1 VOC pounds per oven-dried ton processed.

III. The COMPANY agrees to pay the following civil penalties:

A. The COMPANY agrees to pay the COMMISSION \$60,000 to settle the final stipulated penalties payment per Paragraph III.A in SOC 2019-001. This amount shall be due and payable within 30 days of the effective date of this ORDER.

IV. In the event that the COMPANY fails to comply with any deadline or requirement as set out in this ORDER or fails to achieve final compliance with any applicable requirement in this ORDER, the COMPANY agrees that, unless excused under Paragraph V, the COMPANY will pay the COMMISSION according to the following schedule:

Deadlines and Requirements	Stipulated Penalties
Failure to comply with any deadline or requirement specified in Paragraph II	\$500 per day for the first 5 days and \$1000 per day thereafter

Stipulated Penalties:

Failure within thirty (30) days of receipt of the Director's written demand to pay the penalties will be grounds for a collection action, which the Attorney General is hereby authorized to initiate. By entering this ORDER, the COMPANY waives any and all defenses and agrees that the sole issues in such action are whether or not thirty (30) days has elapsed and/or whether or not the COMPANY is excused pursuant to Paragraph V of this ORDER. The COMPANY shall pay all costs, including agency and attorney fees, associated with collection of a delinquent stipulated penalty.

- V. The COMPANY's obligation to comply with the requirements set forth in this ORDER for which a stipulated penalty may be assessed, may be delayed or excused only to the extent that noncompliance is caused by circumstances beyond control of the COMPANY, as determined by the DAQ Director ("DIRECTOR"). Contractor delays or failure to obtain funding will not be considered events beyond the COMPANY's control. If any such delaying event occurs, the COMPANY shall notify the DAQ in writing within ten (10) days of encountering or discovering the delaying event, describing in detail the event or delay, the precise cause(s) of the event or delay, the measure(s) taken and to be taken by the COMPANY to prevent or minimize the event or delay, and the schedule by which those measures will be implemented. If the DIRECTOR determines that noncompliance with this ORDER was caused by circumstances beyond the control of the COMPANY, the COMMISSION and the COMPANY jointly may stipulate and agree to a written modification of this ORDER. Any modification shall be subject to the requirements of 15A NCAC 2D .2201 et seq. Extension of any compliance date pursuant to this Paragraph shall not extend any subsequent deadlines established in the ORDER unless the subsequent deadline necessarily is dependent upon completion of the earlier deadline.
- VI. This ORDER resolves the violation(s) described in Paragraph I of this ORDER. Any violation of Air Quality Standards by the COMPANY that is not resolved by this ORDER remains subject to appropriate enforcement action pursuant to N.C.G.S. §§ 143-215.114A, 215.114B and 215.114C.
- VII. The COMPANY agrees to waive any rights it may have to seek judicial review to challenge this ORDER or to seek a stay of enforcement of this ORDER in connection with any judicial review of the State Implementation Plan. The COMMISSION

acknowledges that this waiver does not prohibit the COMPANY from seeking modification of this ORDER if any regulatory standards upon which this ORDER is based are changed subsequent to its execution. In such cases, the COMPANY may petition that the ORDER be modified to reflect those regulatory changes.

VIII. In the event the COMMISSION or the DAQ find that reports, plans, specifications, or permit applications required by Paragraph II are in any respect deficient or if additional information is necessary to comply with the requirements of North Carolina General Statutes 143-215.107 et seq., any regulations promulgated thereunder, or any other applicable laws or regulations, the COMPANY shall be notified by the DAQ as soon as possible. The COMPANY shall be afforded an opportunity to modify, amend or supplement its submissions to make such submissions complete and appropriate.

IX. All notices and reports required by this ORDER shall be delivered to:

Regional Air Quality Supervisor
N.C. Dept. of Environmental Quality – Raleigh Regional Office
3800 Barrett Drive
Raleigh, North Carolina 27609

All payments required from the COMPANY by this ORDER shall be delivered to:

Enforcement Group-Payments
NCDEQ-DAQ
1641 Mail Service Center
Raleigh, North Carolina 27699-1641

X. This ORDER constitutes full and final settlement and satisfaction of all matters addressed herein and any and all claims or prospective claims that the COMMISSION has or may have for violations of regulations described in Paragraph I hereof, as of the date this ORDER is approved by the COMMISSION and continuing until this Order expires as provided in Paragraph XV. This ORDER shall not affect the COMPANY's obligation to comply with any other Federal, State, or local laws or regulations.

- XI. Final approval and entry into this ORDER are subject to the requirements that the COMMISSION give notice of proposed consent decrees to the public, and that the public have at least thirty (30) days within which to comment on the ORDER.
- XII. Should any provision of this ORDER be declared by a court of competent jurisdiction to be inconsistent with Federal or State law and therefore unenforceable, the remaining provisions hereof shall remain in full force and effect.
- XIII. Except as otherwise set forth herein, this ORDER is not and shall not be interpreted to be a permit or modification of an existing permit under Federal, State or local law, and shall not be construed to waive or relieve the COMPANY of its obligations to comply in the future with any permit.
- XIV. In the event of termination of operations and closure of the FACILITY, the COMPANY shall notify the DIRECTOR in writing, within five (5) business days of the earlier of (i) the date of any Workers Adjustment and Retraining Notification Act (WARN) notification, or (ii) FACILITY closure. Receipt of said notification from the COMPANY by the DIRECTOR shall terminate any obligations of the COMPANY pursuant to this ORDER, including those pertaining to stipulated penalties, and this ORDER shall become null and void in its applicability to the COMPANY. The COMPANY acknowledges its responsibilities pursuant to this ORDER from the date of final approval and entry of this ORDER, through the date of receipt by the DIRECTOR of notification of closure required by this Paragraph.
- XV. SOC 2019-001 shall terminate upon the effective date of this ORDER. This new ORDER is effective upon execution by the Division of Air Quality and shall expire on the 180th day after the Division of Air Quality issues a revised PERMIT with updated BACT

emission limits for WPP1 VOC from the MDF Facility or on December 31, 2021,
whichever date comes first.

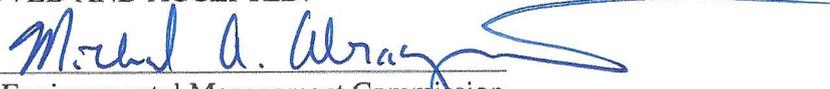
ATTESTED:

ARAUCO NORTH AMERICA, INC.

BY: 
Matt Swinnie
VP HR and EHS
~~Monroec, N.C.~~ ATLANTA, GA.

DATE: 7/28/2020

APPROVED AND ACCEPTED:

BY: 
For the Environmental Management Commission

DATE: 9/10/20