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ILLINOIS POLLUTION CONTROL BOARD

STATE OF ILLINOIS
Pollution Control Board

XCTC LIMITED PARTNERSHIP,)	
)	
Petitioner,)	
)	
v.)	PCB 01-46
)	(Permit Appeal – Air, Third Party)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	
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GEORGIA-PACIFIC TISSUE, L.L.C.)	
)	
Petitioner,)	
)	
v.)	PCB 01-51
)	(Permit Appeal – Air, Consolidated)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

AMENDED PERMIT APPEAL FROM
TITLE V - CLEAN AIR ACT PERMIT PROGRAM (CAAPP) PERMIT

Application No. 95090118
I.D. No. 031003ADF
Date Issued: August 4, 2000

COMES NOW the Petitioner, Georgia-Pacific Tissue, L.L.C. ("G-P Tissue"), by its attorneys Michael S. McCauley, Monica M. Tynan and Quarles & Brady LLP, and appeals the decision of the Illinois Environmental Protection Agency ("IEPA") to impose certain terms and conditions in the above-captioned Title V Clean Air Act Permit.

1. Chicago Tissue Company, formerly known as FSC Paper Company, built, owned and operated the tissue mill which is the subject of the above-captioned Permit from 1988 to November, 1995.

2. Chicago Tissue Company sold the facility to Wisconsin Tissue Mills Inc. on October 19, 1995.

3. Following the sale, Chicago Tissue Company changed its name to XCTC, Inc.

4. On September 8, 1995, Chicago Tissue Company submitted an application for a Title V Permit.

5. On October 5, 1999, Wisconsin Tissue transferred the facility to Georgia-Pacific Tissue, L.L.C., which owned and operated the facility until March 3, 2001.

6. On March 20, 2000, IEPA issued a draft permit and public notice and invited comments thereon.

7. On April 24, 2000, G-P Tissue submitted comments on the draft permit, specifically reserving its rights to object to certain conditions purporting to find that "this source is subject to 35 IAC Part 203."

8. No hearing has been held on the permit.

9. On August 4, 2000, IEPA issued the subject Permit.

10. The subject Permit contains Section 5.2.7, which states:

5.2.7 New Source Review Regulations

a. This source is subject to 35 IAC Part 203: Major Stationary Source Construction and Modification, which states that:

i. No person shall cause or allow the operation of a new major stationary source or major modification subject to the requirements of 35 IAC 203, Subpart C, except as in compliance with applicable LAER provisions established pursuant to 35 IAC 203.301 for such source or modification [35 IAC 203.601]; and

ii. No person shall cause or allow the operation of a new major stationary source or major modification where the owner or operator has demonstrated that

it would not interfere with reasonable further progress by providing emission offsets pursuant to 35 IAC 203.302 without maintaining those emissions offsets or other equivalent offsets [35 IAC 206.603].

- b. The fugitive emissions shall not be included in determining whether this source is a major stationary source [35 IAC 203.206(e)]. For this purpose, fugitive VOM emissions includes emissions as defined in 35 IAC 203.124, to the extent that such emissions are determined according to the applicable test methods in 35 IAC 218 or other methods approved by the Illinois EPA and USEPA.
- c. Pursuant to Section 39.5(6)(p)(iii) and (iv) of the Act, a compliance schedule for these requirements is established in Condition 7.1.13(b).

11. The Permit further contains Condition 7.1.13 Compliance Schedule, which states:

7.1.13 Compliance Schedule

- a. The following is for informational purposes only: The Permittee was sent Violation Notice A-1999-00113 by the Illinois EPA and Notice of Violation EPA-5-98-IL-10 by the USEPA for allegedly failing to comply with 35 IAC Part 203 and 35 IAC Part 218, Subpart TT for the wastepaper recycling plant. Notwithstanding Condition 8.1 of this permit, compliance with this permit does not shield the Permittee from compliance with these requirements or from any future measures or requirements established as a result of the resolution of the alleged violation or any other violation. In addition, compliance with this permit does not serve as proof of compliance for the emission units or activities addressed in this pending enforcement action. The Permittee shall, if needed, subsequently apply for revision of this permit to address the resolution of any such outstanding issues (e.g., include a compliance schedule, identify appropriate applicable requirements, establish new requirements).
- b. The Permittee shall comply with the following schedule of compliance to address compliance with the alleged violations of 35 IAC Part 203 (see also Condition 5.2.8) for the affected tissue paper mill:

Milestone	Timing
Submit to the Illinois EPA an evaluation of Lowest Achievable Emission Rate (LAER) for VOM emissions (See Condition 5.2.8)	[Received on January 20, 2000]
Achieve full compliance with all requirements resulting from resolution of enforcement issues regarding the alleged violation of 35 IAC Part 203	No later than any schedule established pursuant to resolution of the pending enforcement action pertaining to the alleged violation of 35 IAC Part 203

- c. The Permittee shall comply with the following schedule of compliance to address compliance with 35 IAC 218.986 (see also Condition 7.1.5) for the affected tissue paper mill:

Milestone	Timing
Submit to the Illinois EPA an "alternative control plan" (See Condition 7.1.5(b))	No later than 90 days from the date the Illinois EPA issues a final determination of the LAER evaluation
Achieve full compliance with all requirements resulting from resolution of enforcement issues regarding the alleged violation of 35 IAC Part 218, Subpart TT	No later than any schedule established pursuant to resolution of the pending enforcement action pertaining to the alleged violation of 35 IAC Part 218, Subpart TT

- d. Submittal of Progress Reports

A Progress Report shall be submitted every six months, beginning six months from the date of issuance of this permit. The Progress Report shall contain at least the following:

- i. The required timeframe for achieving the milestones in the schedules for compliance, and actual dates when such milestones were achieved.
- ii. Any explanation of why any required timeframe in the schedule of compliance were not met, and any preventive or corrective measures adopted.

12. The Permit further contains Condition 7.1.3.c. which states:

"The affected tissue paper mill is subject to 35 IAC 218, Subpart G: Use of Organic Material, which specifies that no person shall cause or allow the discharge of more than 3.6 kg/hr (8 lbs/hr) of organic material into the atmosphere from any emission unit, except as provided in 35 IAC 218.302, 218.303, 218.304 and the following exception: If no odor

nuisance exists the limitation of 35 IAC 218, Subpart G shall apply only to photochemically reactive material [35 IAC 218.301].”

13. Said terms and conditions are arbitrary, capricious, and contrary to law.

The facility is not subject to the requirements of 35 IAC Part 203, Major Stationary Source Construction and Modification because the point source emissions from the facility did not exceed the applicable threshold levels for either the construction of a new source or a major modification to an existing major source. In addition, the facility is in compliance with 35 IAC Part 218, Subpart TT and 35 IAC Part 218, Subpart G, or, in the alternative, 35 IAC Part 218, Subpart TT and 35 IAC Part 218, Subpart G, do not apply to the facility.

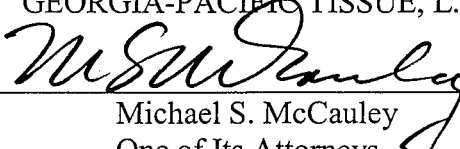
WHEREFORE, G-P Tissue requests a hearing on this Permit Appeal and an Order reversing and remanding the matter to the Agency for reissuance of the Permit, with a determination that the provisions of Parts 203 and 218 are not applicable to this facility and/or a determination that the facility is in compliance with the provisions of Parts 203 and 218.

Dated this 17th day of November, 2003.

Respectfully submitted,

GEORGIA-PACIFIC TISSUE, L.L.C.

By: _____


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CERTIFICATE OF SERVICE

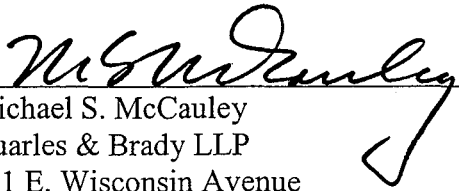
I hereby certify that true copies of the foregoing Amended Petition were mailed, first class, to each of the following on November 19, 2003.

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