

# SOUTHERN ENVIRONMENTAL LAW CENTER

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*Via email*

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**RE: CPI Roxboro SOC**

Dear Mr. Stewart and Mr. Hall:

On behalf of Clean Air Carolina and the Sierra Club, we write to support the special order by consent (“SOC”) DEQ has proposed for the CPI Roxboro facility in Person County. For over a decade, CPI Roxboro has been allowed to evade its duties under the Clean Air Act and emit as much harmful sulfur dioxide as much larger coal-fired power plants. The burden of this pollution has fallen hardest on the plant’s neighbors, a community made up predominantly of low-income residents and people of color. These vulnerable residents have lived with the dangerous pollution from this waste incinerator operating as a power plant long enough. The SOC ensures that this pollution will end, and provides a measure of protection to the neighboring community for the remaining life of the plant. We wish only that this protection had been provided earlier. But now, we urge DEQ to approve the SOC without delay and ensure that CPI Roxboro’s pollution ends next year.

The relief the SOC provides is long overdue. CPI avoided the required PSD permitting for its Roxboro facility for more than a decade after it modified the facility to burn more tires and wood waste. For several years afterward, CPI failed to even adequately track its air pollution. DEQ previously proposed to give CPI a do-over, belatedly issuing a draft PSD permit last summer. That draft permit, however, failed to secure the protections of the Clean Air Act and minimize harm to the already-burdened community surrounding the plant. DEQ has rightly changed course and pursued appropriate enforcement action against CPI for modifying its facility without complying with the Clean Air Act.

*Requirement to shut down in March 2021*

The most important protection this consent order achieves is the plant's retirement early next year. CPI Roxboro has skated on the edge of viability for years. As the company admitted when it retrofitted the plant to burn less coal and more wood and shredded tire waste, the plant could only continue to operate if it qualified as a "renewable" energy facility from which Duke Energy would need to purchase power. But that new economic lifeline for the plant drastically increased sulfur dioxide pollution, and never should have happened without proper permitting and installation of the Best Available Control Technology. Instead, CPI extended the plant's operation for another ten years while escaping the costs of appropriate scrubber technology. With this consent order, DEQ appropriately recognizes that CPI's outdated, polluting practices have gone on long enough. We approve of the requirement that CPI Roxboro shut down in March 2021. *See* Special Order By Consent at I(O), I(P), II(B).

*Strengthened Sulfur Dioxide Limit*

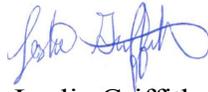
The consent order also recognizes that CPI cannot continue business as usual and ensures some interim protection for the neighboring community for the next year. *See* Special Order By Consent at II(A) (requiring the Company to adhere to a revised emission limit for SO<sub>2</sub>). For years, the sulfur dioxide limit for CPI Roxboro has been so lax that the company did not even need to operate the furnace sorbent injection system it had installed to meet the standard. The company has apparently read the writing on the wall and begun to operate that system in the past few months, modestly reducing its sulfur dioxide emissions. This consent order ensures that the plant will continue to do so and significantly strengthens the applicable sulfur dioxide limit. The pollution control an FSI system provides is far less than what could have been achieved by a scrubber system—a 20–50 percent reduction compared to a 90 percent reduction, by the company's own analysis. CPI USA North Carolina, LLC, PREVENTION OF SIGNIFICANT DETERIORATION (PSD) AIR PERMIT APPLICATION (RESUBMITTED), 2-5, 5-12, 5-15 (Aug. 2017). However, the consent order appropriately recognizes that the pollution control system already in place can immediately provide increased protection for Roxboro's residents for the remaining months the plant will operate. *See* Special Order By Consent at I(N), I(P), II(A).

*Penalty*

Finally, we approve of the agency's decision to impose a penalty as part of the consent order—although a larger penalty certainly would have been appropriate. *See* Special Order By Consent at I(J), I(P), V. Although this penalty is minor compared to the benefit CPI has gained for escaping PSD permitting and appropriate environmental protections for a decade, it is an important recognition that the company's actions were unlawful. The consent order cannot merely paper over the past and improve protections in the months to come; it must acknowledge the harm CPI's unlawful operations have caused in the past and deter future bad actions. This penalty, though a fraction of the penalties that could have accrued over the last ten years, is a step toward that acknowledgment.

We appreciate the opportunity to comment on this consent order. If you have any questions, please contact me at (919) 945-7120 or lgriffith@selcnc.org.

Sincerely,



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