

“Still Toxic After all These Years” Update, June, 2007

*The Upcoming Permit for Blue Ridge Paper, and The Myth of a Clean-up of
Water and Air Quality*

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Tennessee, and The Tennessee Clean Water Network*

Introduction

After months of delays in preparing for North Carolina’s most controversial wastewater permit, the regulatory process may be close to emerging into its public stage. The permit for Blue Ridge Paper Products’ Canton Mill on the Pigeon River, formerly owned by Champion International, has been the focus of one of the nation’s longest-lasting water quality struggles, with challenges from downstream Tennessee dating back long before the Clean Water Act, starting soon after Mill operations started almost 100 years ago. The incongruity of a huge pulp mill on a small, pristine mountain river will continue to generate pressure to restore the downstream stretch of the Pigeon River until it is returned to high quality aquatic habitat, free of the color, odor and toxics of paper pulp production.

National Pollution Discharge Elimination System (NPDES) permits were created in 1972 by the Clean Water Act, with the intent of reducing pollutants in each five year permit renewal until all of America’s rivers, streams and lakes were “fishable and swimmable” by 1985. Now over 6 months late, Blue Ridge Paper’s permit renewal is impatiently awaited by the company, whose sale to a prospective New Zealand based private equity firm is under discussion, by NC Water Quality officials who are clearly wary of the expected controversy, and by environmentalists and downstream TN activists. The longer the old permit is “administratively extended” the more time passes before renewed progress toward the clean up of the River, which a new permit could require.

In February, Clean Water Expected in East Tennessee and Clean Water for North Carolina released a report, “***Blue Ridge Paper Products: Still Toxic After All These Years,***” summarizing the history of the Pigeon River, including the role of downstream activists, environmentalists and TN officials in challenges to the permit that resulted in significant water quality improvements since the late 1980s. Not surprisingly, because the report noted the extensive resistance of NC Water Quality officials to achieving this progress, the NPDES permit writer, Sergei Chernikov, responded to the authors that the report was “full of emotion,” not acknowledging that much of the report was based on regulatory information that was publicly available, nor that the agency had advocated against stronger permits for decades. When asked by Clean Water for North Carolina for specific comments and criticisms of the report, he did not respond.

This report is a brief update to that February report, including our projection of expected timeline and activities for the upcoming permitting process, as well as some more recent

regulatory information on water and air emissions from the mill. In April, at an Air Quality hearing in Canton on the renewal Title V air permit of Blue Ridge Paper, western NC's largest toxic emitting industry, local public officials and local business associates of Blue Ridge praising the company for "cleaning up" air and water, a claim that the information from public databases does not support. As mythmaking only contributes to public confusion and weak implementation of regulations, the authors believe that it is critical to include this information and again call for the regulatory processes to be responsive to public interest, rather than corporate profitability. It has always been our goal to make jobs more sustainable at the Canton Mill, through genuine environmental progress, not to eliminate them, but the myths and stereotyping used by industry, and even by regulators, make such progress even more difficult.

What's happening in the permitting process for Blue Ridge Paper's wastewater discharge?

The permitting process is more complex for the Canton Mill than for any other discharge in North Carolina, because of a 1997 Settlement Agreement resulting from a challenge to the Mill's NPDES permit just over ten years ago. That Agreement created an Environmental Protection Agency (EPA) "Tech Team" to evaluate further opportunities for continued color reductions and feasibility for implementation. This EPA team's work has been part of the delay for this permit renewal, with the result that the company, state regulators and environmentalists have all had to wait. In February, months after the previous permit expired, the Tech Team carried out an evaluation at the mill and has been writing a detailed report, which has been sent to Blue Ridge as part of a fact checking process.

The next step, which should proceed quickly, is for the Technical Review Workgroup, made up of two representatives from Tennessee, North Carolina and Region 4 EPA in Atlanta, to review and comment on the Tech Team report. As soon as the Tech Team has responded to those comments, the final report will be available to the public and the NC Division of Water Quality permit writer, who will then finish drafting the permit.

In late June or early July, we expect the announcement of a 30 day public comment period, with a public hearing scheduled soon thereafter. Downstream advocates in Tennessee are calling for a hearing in east Tennessee as well as one in western NC.

Has Blue Ridge Paper really cleaned up the Pigeon River and air quality?

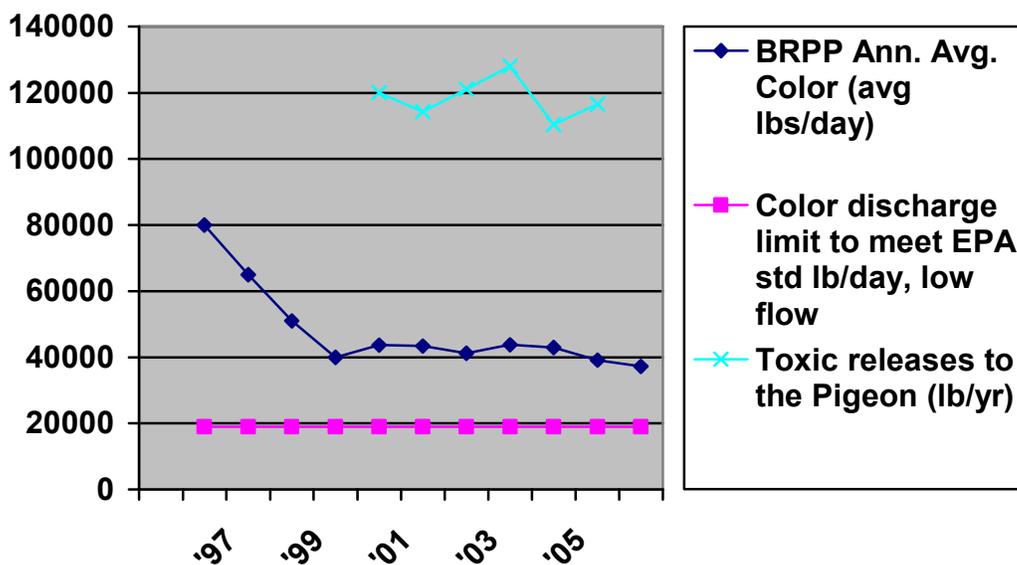
In frequent PR messages to the media, Blue Ridge has referred to its "environmental stewardship," and its "environmental spending," often blurring the line between the company's accomplishments and those of its predecessor, Champion International. While the company frequently cites a figure of \$400 million in spending on environmental projects, that spending was overwhelmingly by Champion for its early 1990's "modernization" at the Mill. In fact, Blue Ridge Paper's 2006 "Color Compliance

Report” shows only about \$6 million in water-related spending, including studies and improvements to its system for recycling process liquids. State regulators and advocates for the company often refer to “progress since the early 1990’s” or “progress during the last two permit cycles,” while the evidence indicates a near cessation of progress since the ownership change in 1999.

Repeated frequently by business allies and local officials who spoke at an April Air Quality is that the Blue Ridge should be praised for “cleaning up air and water.” Based on data submitted to state and federal agencies by the company itself, the authors of this report contend that there’s no evidence for a clean up of either air or water, and that the releases of waste products to both water and air continue to have a major effect on public health and quality of life both downwind in western North Carolina and downstream in east Tennessee.

Color and toxic compounds in Blue Ridge Paper’s wastewater discharge have shown little progress during the 8 years of the company’s ownership. As shown in the graph below, since the “Buyout” from Champion in 1999, Blue Ridge has reduced color in its discharge by less than 10% (dark blue line), not sufficient during low River flows to meet a proposed EPA standard of 50 instream “color units.” Instead of a daily limit that would ensure the Mill would meet that standard (see purple line in graph), Blue Ridge has been allowed to operate on a limit which is calculated as an annual average, meaning that conditions can be extreme on a daily basis without resulting in a violation.

The discharge of toxic compounds to the River since 2000 (light blue line), the first full year of operations under the new ownership, has varied from 110,000 to 128,000 pounds per year, with no general trend. In fact, the latest data available on the federal Toxic Releases Inventory shows that toxic releases to the River actually increased from 110,000 pounds in 2004, to over 116,000 pounds in 2005.



Sergei Chernikov, the NC Division of Water Quality Permit Engineer assigned to draft the NPDES permit, has commented on the original report, “There are a number of toxic compounds that have been released...But would you rather have the mill or shut it down?” There is no evidence that reductions in toxic releases have cost jobs in most industries, and EPA studies have indicated that each wave of pollution reduction has actually stimulated economic development in new sectors. It’s a stunning refutation of the purpose of the Clean Water Act to tell the public that they must tolerate toxic pollution of our waterways by implying that clean water activists are trying to shut down the plant or eliminate jobs.

Dr. Norman Leiberger, a Canadian paper industry expert, worked as consultant on a joint study by environmentalists and Blue Ridge Paper in 2001. In that study, he looked at stepwise implementation of oxygen-based bleaching and pulping as a path to reducing the company’s pollution of the Pigeon River. The report on that study indicated several process changes that could cost effectively reduce color and chemical usage, but the 2001 Division of Water Quality permit did not require them or a significant amount of reduction in color.

In a follow up study of process improvements by Dr. Leiberger, in 2006, contracting only with BRPP, the Mill is praised for implementing “optimization” changes on its hardwood and softwood lines that reduced color per ton of production by about 30%. Noteworthy, however, is Lieberger’s statement that for undetermined reasons, the overall reduction in color discharged to the River is less than 10%, consistent with our calculations from state data. He states that further improvements are likely to be only marginal, a contention that differs considerably from the results of his 2001 study, and his statements to environmental groups. What matters to the public is the impact on the final discharge to the River, and not internal improvements that the company may have achieved that have not resulted in significant benefits in actual River water quality.

Leiberger does not mention the fact that some of the major oxygen-based process changes he had studied in 2001 could have been implemented under the 2001 permit, but that failure to include an enforceable requirement for such process changes resulted in delays in achieving pollutant reductions. The results in actual discharge performance are clear. A table on page 11 of the 2006 Lieberger Study, comparing Blue Ridge Paper’s performance with other mills, all the comparisons are given for each pollutant PER TON OF PRODUCTION. It is critical to understand as a measure of industrial, but not necessarily environmental performance, where the discharge is into a small mountain river. It is clear that simply producing a larger amount of pulp can easily swamp any reductions in pollutants per ton of pulp produced, resulting in little or no net improvement for the River.

Every state is required by the Clean Water Act to implement “Narrative Standards” as well as limits for specific pollutant chemicals and physical conditions like temperature and turbidity. NC has no measurable standard for color, despite years of EPA recommendations and advocacy by Clean Water for North Carolina and other groups.

Nor does the state have any methodology for determining whether it is meeting its other narrative standards, including “acceptable” odor, or “palatability” of fish, or any condition which would keep the river from meeting its “Class C” designated uses, aquatic habitat and non-contact recreation. Clean water advocates in NC have frequently objected to the state’s acceptance of standards that are not protective enough to achieve water quality good enough for swimming or other direct contact.

The claim that Blue Ridge Paper has cleaned up air quality in the years of operation since the 1999 Buyout is also not supported overall by regulatory data submitted to the NC Toxic and Hazardous Air Emissions Inventory. “Fugitive” toxic air emissions from Blue Ridge Paper’s equipment, those resulting from unpermitted releases or leaks, rather than from “smokestacks,” have increased by 10% between 2000, the first full year of Blue Ridge Paper’s operations, and 2005. Smokestack emissions have, however, decreased by about 10% during the same period.

Major or “Criteria” pollutants are measured in tons, rather than pounds, and include NOX (nitrogen oxides), SOX (sulfur oxides) and particulate emissions, which are significant contributors to asthma and cardiovascular disease. For 2005, the most recent year of data from the NC Division of Air Quality, Blue Ridge Paper’s criteria pollutant emissions were 17,828.0 tons, a slight increase from 2004 and 5% above the company’s emissions in 2000, the first full year of operations under the new ownership. The failure to reduce these emissions, at the same time that coal-fired electric power plants are being required to do so on a large scale, means that the Canton Mill’s air emissions contribute an even larger proportion of emissions known to contribute to health and life-threatening conditions than before.

What information do we have about the intentions of Blue Ridge Paper for the upcoming permit?

Blue Ridge Paper’s 2006 “Color Compliance Report” and NC regulators refer to “color” as “only an aesthetic problem,” though under the Clean Water Act, such conditions should not be allowed to interfere with the intended uses of a river. In the conclusion to its report, Blue Ridge says that the color in the River “complies with the North Carolina Color Standard,” a subjective statement, based on no and asks that DWQ discontinue the Color Variance at the end of the current permit. Further, Blue Ridge Paper has requested that its new permit be issued with the same annual average color discharge requirements of its current permit.

Conclusion

If NC regulators are allowed to drop the color variance without requiring significant further enforceable reductions in color, daily limits instead of annual ones, and a credible review of compliance with all of the state’s narrative standards, it will be a defeat for the restoration of full uses for the public’s waterways. If it had not been for strong pressure from the public downstream of this toxic discharger, the NC Division of Water Quality’s

decades-long resistance to reducing pollution would have succeeded in writing off the River as a public resource except for limited forms of recreation far downstream. As the Mill approaches 100 years of operations, it will again be up to the public to ensure that the long held goal of restoring the Pigeon River is finally realized.