

BEFORE THE ADMINISTRATOR
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

IN THE MATTER OF)	
KING FINISHING)	
DOVER, GEORGIA)	
COTTON FABRIC FINISHING)	
PETITION IV-2001-6)	ORDER RESPONDING TO REMAND
)	
)	
PERMIT No. 2261-251-0008-V-01-0)	
ISSUED BY THE GEORGIA)	
ENVIRONMENTAL PROTECTION)	
DIVISION)	
)	

ORDER GRANTING REMANDED ISSUE ON PETITION TO OBJECT

I. Summary of Title V Petition and Court Remand

On October 9, 2001, the United States Environmental Protection Agency (“EPA”) received a petition from the Georgia Center for Law in the Public Interest on behalf of the Sierra Club (“Petitioner”), requesting that EPA object to the permit issued by the Georgia Environmental Protection Division (“EPD”) to King Finishing for its facility located in Dover, Screven County, Georgia. The permit is a state operating permit issued on July 9, 2001, pursuant to title V of the Clean Air Act (“CAA” or “the Act”), 42 U.S.C. §§ 7661-7661f.¹ Petitioner challenged the adequacy of the public participation process and the public notice of the draft

¹Since the original King Finishing title V permit was issued in 2001, the facility’s name was changed from King Finishing to King America Finishing, Inc., and its ownership changed from Spartan Mills to Westex Holding, Inc. By an administrative amendment, EPD revoked and reissued the original permit (Permit No. 2261-151-0008-V-01-0) and a prior administrative amendment (Permit No. 2261-251-0008-V-01-1), as Permit No. 2261-251-0008-V-02-0 to reflect these changes. See EPD Narrative for King America Finishing, Inc., Application No. TV-13506, § II(A). This order uses the “King Finishing” name to refer to the facility. The permit conditions that were included in the original permit and that are raised in the petition were not changed in connection with the changes in facility name and ownership. In January 2006, a renewal application was submitted to EPD for the King America Finishing, Inc. facility. EPD is currently processing this renewal application.

permit, the permit's alleged limitations on enforcement authority and the use of credible evidence, the adequacy of the permit's reporting requirements, and the validity of the use of prediction methodology for nitrogen oxides emissions monitoring. With regard to the adequacy of the public participation process for the draft permit, Petitioner asserted that EPD's failure to use a mailing list to notify the public of the draft permit was not in compliance with EPA's title V regulations. On October 9, 2002, EPA's Administrator issued a final Order ("EPA's 2002 Order) rejecting all of these challenges and denying the petition to object to the King Finishing permit. In the Matter of King Finishing, Dover, Georgia, Cotton Fabric Finishing, Petition IV-2001-6 (October 9, 2002).

Pursuant to section 502(b) of the CAA, Petitioner subsequently filed a petition for review in the U.S. Court of Appeals for the Eleventh Circuit (the "Court"). On January 20, 2006, the Court partially granted the petition for review concluding that "EPA abused its discretion and acted arbitrarily and capriciously when it failed to object to the King Finishing permit based on Georgia EPD's failure to comply with the mailing list requirement set out in 40 C.F.R. § 70.7(h)(1)." *Sierra Club v. EPA*, 11th Cir., No. 03-10262, Jan. 20, 2006. The Court vacated EPA's 2002 Order with regard to the mailing list issue and remanded the matter to EPA for further consideration.

II. Re-examination of Remanded Issue Regarding Use of Mailing list

In light of the Court's January 20, 2006, decision, EPA is granting Petitioner's request that EPA object to the King Finishing permit for the failure of EPD to use a mailing list. EPA's October 9, 2002, denial of all other issues raised by Petitioner in its petition was unaffected by the Court's decision.

Although EPA is objecting to the King Finishing permit for the failure of EPD to use a mailing list, EPA recognizes that in June 2001, shortly after the King Finishing draft permit was noticed for public comment, EPD began regularly using a mailing list to notify interested parties of those title V permitting activities that require public notice. See Electronic Message from Jimmy Johnston, EPD, to Art Hofmeister, EPA Region 4 (June 19, 2001). EPD continues to use a mailing list for its title V permitting activities. See, Electronic Message from Anna Aponte, EPD, to Art Hofmeister, EPA Region 4 (June 26, 2006). For King Finishing in particular, EPD has already used its mailing list in conjunction with the facility's significant permit modification and intends to use it again during the facility's permit renewal process which is currently ongoing. Id.

III. Conclusion

As directed by the Court, I have re-examined the remanded issue and hereby grant the petition to object to the King Finishing permit pursuant to section 505(b) of the CAA, 42 U.S.C. § 505(b), and 40 CFR § 70.8(d), on the sole issue relating to the use of a mailing list. EPD is directed to continue the use of its mailing list and to use the mailing list during the upcoming public notice process for the King America Finishing, Inc. title V renewal permit.

So ordered.

Dated: September 21, 2006

Stephen L. Johnson
Administrator