

since the FACILITY became operational, the RTO had deteriorated to the point of imminent catastrophic failure. The RTO operated under Conditions 2.1.A, 2.1.B, 2.2.B.2, and 2.2.C of the PERMIT.

- D. Since commencement of manufacturing operations at the FACILITY in October 2001, the COMPANY has rebuilt and/or replaced most of the major components of the RTO. The upper half of the shell was replaced in 2005; due to continuing deterioration, it would require replacement by late 2011 or 2012. The remaining original components of the RTO would require repair or rebuilding within the next 24 months in order to continue operation of the RTO. For calendar years 2005-2010, the COMPANY expended over \$7.5 million on maintenance, repair, and rebuilding of the RTO. In addition to these maintenance, repair, and rebuilding costs, the COMPANY installed a mesh pad mist eliminator system – in an attempt to reduce moisture entering the RTO – and a larger fan to overcome the additional pressure drop from the mist eliminator and the degrading RTO media, at a cost of \$2.4 million in 2009. Continued operation of the RTO would require substantial additional maintenance, repair, and replacement expenditures, approximately \$4 million dollars during the next 24 months.
- E. Operation of the RTO over this ten-year period has demonstrated the difficulties of using and maintaining an RTO to control VOC emissions and other pollutants from the THDF Line. Byproducts from the THDF manufacturing process are extremely corrosive and result in early and frequent failures of both the control materials and structural elements of the RTO. The results are frequent repair and replacement of RTO components. Similar results have been reported by other wood products facilities that have utilized RTOs for emissions control.
- F. In addition to operational problems, the RTO consumes substantial quantities of natural gas. The natural gas consumption in the RTO is approximately 170,000 decatherms per year with an annual cost ranging as high as \$2 million or more.
- G. Operation of the RTO creates significant nitrogen oxides (NOx) emissions from the natural gas fired in the RTO. The FACILITY is located in proximity to the southern boundaries of the former Triad and Triangle ozone nonattainment areas. While both

- areas currently attain the existing ozone National Ambient Air Quality Standard (NAAQS), they may not attain the new standard that EPA is expected to establish in 2011. Continuing NO_x emissions from the FACILITY would adversely impact the two areas and their ability to attain a new, lower ozone NAAQS. Eliminating the RTO will eliminate this source of NO_x emissions from the FACILITY.
- H. Combustion of natural gas and VOCs in the RTO also creates substantial emissions of carbon dioxide (CO₂), along with additional Greenhouse Gas (GHG) emissions – including N₂O and methane – approximately 10,000-15,000 tons per year (tpy) Carbon Dioxide Equivalent (CO₂e). Eliminating the RTO will eliminate this source of GHG emissions from the FACILITY.
- I. Consequently, the primary purpose of the PSD application was to establish permit requirements to eliminate the need for operation of the RTO and obtain approval for the SCRUBBER control system at the FACILITY.
- J. The application was deemed complete by the Division of Air Quality (DAQ) on October 25, 2010. The COMPANY documented in the application that a significant emissions increase in Volatile Organic Compound (VOC) emissions would occur and thus submitted the PSD application to authorize the increased VOC emissions. As a part of this application, the COMPANY also provided information showing that continued operation of the RTO was cost ineffective and thus the RTO would not be deemed Best Available Control Technology (BACT) for the FACILITY. The COMPANY also demonstrated that the SCRUBBER would be BACT for VOC emissions and that the SCRUBBER would also control Hazardous Air Pollutants (HAPs) and TAPs to emission levels that comply with MACT and NC TAP requirements.
- K. On March 30, 2011, the COMPANY met with staff of the DAQ to discuss the operations and safety issues associated with the RTO. The COMPANY presented evidence of maintenance and repairs performed over the last nine years on the RTO. The COMPANY indicated that a total rebuild of the RTO was necessary due to corrosive conditions in the RTO. The COMPANY also requested that UNILIN be allowed to disconnect and remove the RTO and replace it with the new SCRUBBER.

- L. On April 14, 2011, the DAQ issued a Notice of Violation (NOV) to the facility for violation of MACT Subpart DDDD, and 15A NCAC 2D .0530, "Prevention of Significant Deterioration," by operating the THDF Line without the RTO. The NOV became effective upon RTO shutdown.
- M. This ORDER authorizes the operation of the FACILITY without use of the RTO for the period of time necessary for DAQ to evaluate the PSD application and issue the revised permit and for the COMPANY to construct, evaluate, and test the new SCRUBBER.
- N. During the period of this ORDER, all other pollution control equipment at the FACILITY required by the PERMIT, including the existing wet scrubber, will continue in full operation.

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 the following:
 - A. Within 30 days of permit issuance, the COMPANY shall submit a petition to the US Environmental Protection Agency (EPA) for site-specific operating parameter(s) for the SCRUBBER to be established during the performance test.
 - B. The COMPANY shall sign the necessary contract(s) for the purchase and installation of the new SCRUBBER to be installed on the THDF Line. This activity is to be completed within 2 months of permit issuance.
 - C. The COMPANY shall commence construction on the installation of the new SCRUBBER according to the specifications in the contract(s) signed as stipulated in Paragraph II.B. This activity is to be completed within 8 months of permit issuance.
 - D. The COMPANY shall complete the work associated with installation of the new SCRUBBER according to the terms of the contract(s) signed as stipulated in Paragraph II.B. This activity is to be completed within 14 months of permit issuance.

- E. The COMPANY shall conduct engineering evaluation, shakedown and a performance test on the new SCRUBBER demonstrating compliance with MACT Subpart DDDD and, if needed, the NC state air toxics rules. The testing shall be conducted in compliance with 15A NCAC 2D .2600. The source test(s) is to be completed and the test report is to be submitted within 20 months of permit issuance.
 - F. In the event that, after full review and completion of the PSD application process, DAQ does not issue the requested revised permit, the COMPANY shall follow the ALTERNATE CONTROL TECHNOLOGY SCHEDULE, as specified in Appendix A. In that event, the term of this ORDER shall be as specified in the ALTERNATE CONTROL TECHNOLOGY SCHEDULE, in order to provide the time necessary for the installation, shakedown, and compliance testing of the ALTERNATE CONTROL TECHNOLOGY.
 - G. The COMPANY agrees to pay the COMMISSION thirty thousand dollars (\$30,000). This amount shall be due and payable within thirty (30) days of the effective date of this ORDER.
- III. The COMPANY shall submit no later than fourteen (14) days after the deadline for completing each increment required in Paragraph II written certification to the Air Quality Regional Supervisor, Fayetteville Regional Office, Division of Air Quality, whether such increment has been performed.
- IV. In the event that the COMPANY fails to comply with any deadline 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 submit a petition to the EPA for site-specific operating parameters for the SCRUBBER in accordance with Paragraph II.A.	\$100 per day for the first 5 days and \$500 per day thereafter.

Deadlines and Requirements	Stipulated Penalties
Failure to sign the necessary contract(s) for the purchase and installation of the new SCRUBBER in accordance with Paragraph II.B.	\$100 per day for the first 5 days and \$500 per day thereafter.
Failure to begin work under the signed contract to install the new SCRUBBER in accordance with Paragraph II.C.	\$100 per day for the first 5 days and \$500 per day thereafter.
Failure to complete work according to the terms of the signed contract to install the new SCRUBBER Paragraph II.D.	\$500 per day for the first 5 days and \$1000 per day thereafter.
Failure to conduct a performance test and submit results demonstrating compliance MACT Subpart DDDD in accordance with Paragraph II.E.	\$500 per day for the first 5 days and \$1000 per day thereafter.

Stipulated Penalty:

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 into this Order, the COMPANY waives any and all defenses and agrees that the sole issue in such an action will be whether thirty (30) days has elapsed. The COMPANY shall pay all costs, including agency and attorney fees, associated with the 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 Director of the DAQ (hereinafter referred to as the "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 non-compliance 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. 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 shall pertain only to that equipment, sources, and operations described in Paragraph I.B of this ORDER. Any violation of Air Quality Standards resulting from these emission units or any other sources or equipment for which the COMPANY is responsible, shall subject the COMPANY to appropriate enforcement action pursuant to North Carolina General Statute 143-215.114A.
- 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 from the COMPANY by this ORDER shall be mailed, first class postage prepaid, to:

Steven Vozzo, Regional Air Quality Supervisor
N.C. Dept. of Environment and Natural Resources
225 Green Street Suite 714
Fayetteville, North Carolina 28301

All payments required from the COMPANY by this ORDER shall be mailed, first class postage prepaid to the following address:

Enforcement Group - Payments
NCDENR – DAQ
Mail Service Center 1641
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. This ORDER shall not affect the COMPANY's obligation to comply with any 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. Any modifications of this ORDER must be agreed to in writing signed by both parties.
- XIV. 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.

XV. 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 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.

XVI. This ORDER shall expire as specified in Paragraphs II.E and F and Appendix A.

This the _____ day of _____, 2011.

ATTESTED: Unilin Flooring, N.V.

BY: _____
Guenter Heyen, President and CEO
149 Homanit USA Road
Mount Gilead, NC 27306

APPROVED AND ACCEPTED:

BY: _____
Environmental Management Commission

DATE: _____

APPENDIX A

**ALTERNATE CONTROL TECHNOLOGY SCHEDULE – IF PSD PERMIT
AUTHORIZING SCRUBBER IS NOT ISSUED:**

<u>TASK</u>	<u>COMPLETION DATE – AFTER PERMIT DENIAL</u>
TESTING & EVALUATION OF ALTERNATE CONTROL TECHNOLOGY	9 MONTHS
SUBMIT PERMIT APPLICATION FOR ALTERNATE CONTROL TECHNOLOGY	13 MONTHS

<u>TASK</u>	<u>COMPLETION DATE – AFTER PERMIT ISSUANCE</u>
SIGN CONTRACTS FOR PURCHASE AND INSTALLATION OF CONTROL TECHNOLOGY	2 MONTHS
COMMENCE CONSTRUCTION ON CONTROL TECHNOLOGY	8 MONTHS
COMPLETE CONSTRUCTION	14 MONTHS
CONDUCT ENGINEERING EVALUATION, SHAKEDOWN AND PERFORMANCE TESTING	20 MONTHS