



Excerpts from Memo in Support of MTE

“... this narrow civil action fulfilled its purpose and reduced NIC’s H₂S emissions to below the health-based level, and can continue to do so, if this Court enters the Consent Decree.”

“Since the time of the Order, emissions of H₂S from NIC have fallen dramatically, and are consistently far below the 600 and 70 ppb levels. NIC’s own website reports the emissions daily. Levels tend to be far below 10 ppb, and often are zero to one ppb.”

“NIC’s emissions today are well below the 70 ppb health-based number (e.g. in the 0 to 10 ppb range).”

“Since the EPA Order, NIC complied with the operational terms of the EPA Order, including submitting monitoring results and operating plans, and hiring a toxicologist.”

“Also, complaints reported to DHEC have fallen since the EPA Order.”

“NIC has been cooperative in complying with the EPA Order, agreeing to this Court’s injunctive “Consent Order” and its extensions, and agreeing to the Consent Decree and penalty without protracted litigation.

“NIC has spent millions of dollars since the Spring of 2021 on reducing emissions and has committed to spend millions more on future H₂S controls under the Consent Decree.”

“EPA analyzed NIC’s modeling data as submitted to DHEC in August and October of 2021 and confirmed that three monitors, as located, were sufficient to obtain a representative sample of the maximum H₂S concentrations present at NIC’s fence-line, and that additional fence-line monitors were not needed to characterize the maximum H₂S concentrations resulting from NIC’s emissions.”

“It is worth noting that about 42 commenters stated that all paper mills smell bad. And, as stated, this case was never about stopping all odors. An easy way to eliminate all odors would be to shut down the Facility permanently, but no commenter suggested a legal mechanism to do so.”

“After lodging the Consent Decree, the DOJ held its mandatory comment period, and over 600 comments were submitted. The United States reviewed each comment and concluded that there was no disclosure of facts or considerations indicating that the Consent Decree is inappropriate, improper or inadequate, consistent with Paragraph 81 of the C.D. (Dkt. 27-1).”