UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

MAR -6 2009

Karen R. Dickinson
Vice President
Crossett Paper Operations, LLC
100 Mill Supply Road
Crossett, AR 71635

Dear Ms. Dickinson:

Acting Regional Administrator Larry Starfield asked that I respond to your February 3, 2009, letter, providing comments and again requesting that the Environmental Protection Agency (EPA) withdraw the report entitled "Use Attainability Analysis and Water Quality Assessment for Coffee Creek, Mossy Lake and Ouachita River" conducted by Parsons Engineering and the University of Arkansas Ecological Engineering Group. I would like to restate EPA's position on the 2007 Use Attainability Analysis (UAA) and respond to some of your comments concerning use designation.

Based on your February 3, 2009, letter and the attached responses, it appears that there is a significant misconception concerning the intent of the 2007 UAA and what the Clean Water Act (CWA) and standards regulation at 40 CFR §131 require. As noted in our August 28, 2008, letter, the 2007 UAA was intended to respond to Representative John Cooksey's March 14, 2002, letter to former Administrator Whitman, expressing concerns regarding the water quality effects resulting from the Georgia-Pacific Crossett Mill discharge. The title of this assessment as a UAA does not mean that it is intended as the only source of supporting documentation that the State must use as a basis for adopting a specific use on Coffee Creek and/or Mossy Lake. The assessment was developed in an effort to provide additional data that will allow EPA and the State to make a determination as to which aquatic life use(s) may be appropriate for Coffee Creek and Mossy Lake.

It also appears that you consider the "use variation" statement currently held in the Arkansas standards as a designated use. EPA's regulation at 40 CFR §131.10 describes the regulatory requirements related to designated uses. Consistent with CWA sections 101(a)(2) and 303(c)(2)(A), 40 CFR §131.10(a) requires States to specify appropriate uses to be achieved and protected. Designated uses are a State's concise statements of its management objectives and expectations for each individual surface water under its jurisdiction. The "no fishable/swimmable or domestic water supply use" variation statement in the State's standards is not identified as a designated use as described in Reg. 2.302 of the Arkansas standards.

In instances where a State has adopted designated uses that do not protect the uses specified in CWA section 101(a)(2), it must re-examine those uses every three years to determine if new information has become available indicating that section 101(a)(2) uses for those waters are now attainable. If new information indicates that a section 101(a)(2) use is now attainable, the State must revise its standards accordingly. (See 40 CFR §131.20(a))

EPA appreciates Georgia-Pacific Crossett Paper Operations comments on the 2007 UAA. While no study is likely to be flawless, EPA continues to believe that this study shows that the Gulf Coastal Ecoregion designated use is attainable in portions of Coffee Creek and in Mossy Lake. As we've previously explained, EPA will not withdraw the assessment document, as it is already a part of the public record and contributes valuable data and analysis that can be utilized by the State of Arkansas in determining the appropriate uses for these waters. We will continue to work with the State of Arkansas to ensure that appropriate designated uses and criteria necessary to protect those uses are established.

If you would like to discuss this matter further, please contact me, Russell Nelson at (214) 665-6646 or Jessica Franks at (214) 665-8335.

Sincerely yours,

Miguel I. Flores
Director
Water Quality Protection Division

cc: Teresa Marks, Director, ADEQ
Steve Drown, Chief, Water Division, ADEQ
Mo Shafii, Assistant Chief, Water Division, ADEQ
Harold Leggett, Ph.D., Secretary, LDEQ