Dear Ms. Reiber,

This letter is response to correspondence between the Arkansas Department of Environmental Quality (ADEQ) and LANXESS on May 24, 2017 addressing the requirements for submission of a temporary variance request from LANXESS to discharge effluent from Great Lakes Chemical Company, NPDES permit Outfall 010 via NPDES permit Outfall 002 on an emergency basis. Based on a conference call between ADEQ and LANXESS on January 9, 2017 it was determined that a permit modification could not be made since the Central Plant NPDES permit is currently under administrative hold while a dissolved minerals work plan was being developed by the ADEQ. However, it was also discussed that sources of discharge and limitations had been considered and selected and the ADEQ requested that LANXESS submit a variance request letter on January 18, 2017 detailing this consideration.

Per a meeting with ADEQ and LANXESS on May 23, 2017 it was revealed that the request for variance was incomplete due to a missing form that needed to be submitted with the letter. Upon further investigation by ADEQ, it was revealed that no such form existed. Guidance given by ADEQ in the May 24, 2017 email stated that while no specific form for a variance request existed, LANXESS would be required to address items detailed in Arkansas Code Annotated (ACA) § 8-4-230(b) for consideration of variance request by the director. These items and LANXESS response are detailed below.
ACA §8-4-20(b)(1) states in considering a request for a temporary variance under subdivision (a)(1)(A) of this section, the director shall consider:

*(A) The environmental and public health effects of the temporary variance*

LANXESS response:

During the conference call on January 9, 2017, ADEQ and LANXESS discussed that an oversight had been made during the original NPDES permit application for Central Plant. NPDES Outfall 002 lists sources of discharge as storm water runoff and wastewaters from NPDES Outfalls 001 and 002 – South Plant (NPDES Permit No. AR0000680). South Plant NPDES Outfalls 001 and 002 lists the following sources: storm water runoff, steam condensate, roof drainage, non-contact cooling water, cooling water blowdown, freeze protection, air conditioning drains, reactor jacket water, boiler blowdown, firefighting water, fresh water, and car wash water. These same sources, save sanitary wastewater, were included in the permit modification submitted to ADEQ on December 15, 2016 for Central Plant. Since these sources and their limitations have been considered and established by the ADEQ we are confident we have met expectations in protecting public health and the environment.

During the period of combined discharge from NPDES Outfall 010 with NPDES Outfall 002, some deviations for permit limitations of minimum pH and total dissolved solids (TDS) monthly average and daily maximum were made. Deviations to the permitted minimum pH limitation occurred during the months of January and April 2017 with the lowest measured value of 4.9 standard units (s.u.). TDS deviations occurred during the months of October 2016 and February 2017 with the highest measured value of 818.7 milligrams per liter (mg/L). LANXESS can demonstrate that discharge from NPDES Outfall 010 was not the contributing factor for the deviations as historical data from NPDES Outfall 002 is consistent with minimum pH deviations due to decaying organic matter in the wetlands upstream of the outfall where water accumulation and run off to the outfall occurs. Furthermore, data were continued to be collected during the period of combined discharge from NPDES Outfall 010 revealing no deviations of minimum pH or TDS limitations.
(B) Any economic advantage obtained by the party requesting the temporary variance over other similarly situated facilities that are operating in accordance with similar permit conditions and that have not requested a temporary variance; and

LANXESS response:

No economic advantage would be attained from the requested variance as the location of discharge has no positive economic impact on LANXESS. LAXESS has submitted a permit modification to update NPDES permit AR000171 with the requested items, however due to circumstances outside of LANXESS control our NPDES permit is on administrative hold and cannot be modified at this time.

(C) Whether strict compliance would result in the substantial curtailment or closing down of an existing or proposed business, plant, or operation.

LANXESS response:

Strict compliance with discharge requirements of NPDES Outfall 002 would severely hinder LANXESS ability to conduct business as we would have to curtail or even discontinue processes of certain operational units vital to our operations. In addition with negative economic impact to its business, LANXESS would face the inability to sustain jobs for personnel working in these operational units resulting in their suspension or termination from employment. The negative economic impact on the community through which LANXESS employs would be substantial.

LANXESS is proposing a variance to the types of waste streams being discharged to NPDES Outfall 002 which have already been considered and appropriate limitations have been established which LANXESS will comply.
(2) In addition, the director may take into account the following factors in considering a request:

(A) Whether strict compliance with permit terms is inappropriate because of conditions beyond the control of the person requesting the temporary variance;

LANXESS response:

The construction and maintenance of the Ouachita Joint Pipeline (OJP) through which NPDES Outfall 010 discharges through to the Ouachita River is the responsibility of El Dorado Water Utilities (EWU). Multiple failures in the pipeline and the time to discover and make appropriate repairs have resulted in LANXESS inability to strictly comply with our discharge requirements as the discovery and repair timeline of the pipeline is beyond LANXESS control.

LANXESS would like to modify our permit to include discharge from NPDES Outfall 010 into NPDES Outfall 002 discharge and we have submitted a permit modification request. However, due to circumstances beyond our control, our NPDES permit is currently under administrative hold while a dissolved minerals work plan is being developed by the ADEQ.

(B) Whether the temporary variance request is prompted by recurrent or avoidable compliance problems;

LANXESS response:

As stated above, the construction and maintenance of the OJP is the responsibility of EWU. The ability of LANXESS to comply with our discharge requirements is unavoidable if the OJP is unavailable to receive discharge from NPDES Outfall 010 due to repairs and/or maintenance. It is currently under investigation as to why multiple recurrent failures of the OJP have occurred.
(C) Whether a review of the operational history of the requesting facility reveals relevant information; and

LANXESS response:

Historical data demonstrates LANXESS compliance with NPDES Outfall 010 discharge requirements before the OJP failure, as well as NPDES Outfall 002 limitation requirements compliance, sans the pH and TDS deviations discussed in the response to consideration 1 (A) on Page 2 of this letter, when combined with discharge from NPDES Outfall 010 discharge during interrupted service.

(D) Whether the public interest will be served by a temporary variance.

LANXESS response:

LANXESS is confident public interest is served from the temporary variance request since no negative impact has been made to the environment or public health as confirmed by compliance with NPDES Outfall 002 constituent limitation requirements while combined with discharge from Outfall 010. In addition to no negative impact to public health or the environment, public interest is being served by the continued ability of LANXESS to operate process units vital to our business and the employment of members of the surrounding community in those units.

We would like to thank the ADEQ for its time and consideration of our request for variance of Central Plant NPDES Outfall 002 discharge to include NPDES Outfall 010 discharge when service to the OJP is interrupted. Should any questions or concerns arise, please feel free to contact me at Adriane.Rogers@Chemetura.com or (870) 310-7741.

Yours sincerely,
LANXESS

Adriane Rogers
Environmental Manager