

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

INTERNATIONAL PAPER COMPANY

AI # 328

PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT

LA. R.S. 30:2001, ET SEQ.

* Settlement Tracking No.
* SA-WE-13-0016
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* Enforcement Tracking No.
* WE-PP-11-00679
* WE-PP-11-00679A
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SETTLEMENT

The following Settlement is hereby agreed to between International Paper Company (“Respondent”) and the Department of Environmental Quality (“DEQ” or “the Department”), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. (“the Act”).

I

Respondent is a Corporation that owns and/or operates a Kraft pulp and paper mill, located in Mansfield, Desoto Parish, Louisiana (“the Facility”).

II

On October 20, 2011, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. WE-PP-11-00679, which was based upon the following findings of fact:

On or about December 20, 2010, an inspection of the Mansfield Mill, a Kraft pulp and paper mill, owned and/or operated by International Paper Company (Respondent), was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Water Quality Regulations. The Mansfield Mill is located at 1202 Highway 509 in Mansfield, Desoto Parish,

Louisiana. The Respondent was issued Louisiana Pollutant Discharge Elimination System (LPDES) permit LA0056651 on August 22, 2008, with an effective date of October 1, 2008, and an expiration date of September 30, 2013. Under the terms and conditions of LPDES permit LA0056651, the Respondent is authorized to discharge treated combined process wastewater, process area storm water runoff, landfill leachate, utility wastewaters, non-process area storm water, and previously monitored treated sanitary wastewater (Internal Outfalls 101 and 201) from Outfall 001 to the Red River and from Outfall 002 to Bayou Pierre, thence to the Red River, waters of the state. The Respondent is also authorized to discharge uncontaminated storm water runoff from process and non-process areas, treated fresh water reservoir overflow, steam condensate, incidental treated water from mill water supply pumping operations, and wash water from the employee car wash from Outfall 003 to Bayou Pierre, thence to the Red River, waters of the state; low contamination potential storm water runoff from the northern section of the new solid waste disposal facility from Outfall 005 to Crook All Bayou, thence to the Red River, waters of the state; and, low contamination potential storm water runoff from the southern section of the new solid waste disposal facility and from the mill haul road from Outfall 006 to Red Lake Bayou, thence to Red River, waters of the state.

The following violations were noted during the course of the inspection and a subsequent file review conducted on or about September 21, 2011:

- A. An inspection conducted by the Department on or about December 20, 2010, in response to a citizen's complaint, revealed that the Respondent did cause and/or allow the unauthorized discharge of wastewater from a location not authorized by the permit to Bayou Pierre, waters of the state. Specifically, the discharge line carrying wastewater from the facility to Outfall 001 separated at a flange where the pipeline tressels over Bayou Pierre on or about December

13, 2010. At the time of the inspection, the Respondent stated that approximately three million gallons of treated process wastewater discharged to Bayou Pierre. The inspection revealed black water and dead fish present in the canal at the Louisiana Highway 177 bridge. Black water was not found upstream or downstream of the facility at the time of the inspection. A Dissolved Oxygen reading taken during the inspection revealed a value of 0.18 mg/L. The Respondent reported on or about May 24, 2011, that the three million gallon estimate was based on a “worse case” scenario of the amount of wastewater pumped through the line; however, due to the nature of the leak they felt that 60-70% of the estimated amount was properly transported through the pipe over the gap. The unauthorized discharge of wastewater to waters of the state is a violation of LPDES permit LA0056651 (Part III, Section A.2), La. R.S. 30:2076 (A) (1) (a), and LAC 33:IX.501.D.

- B. An inspection conducted by the Department on or about December 20, 2010, in response to a citizen’s complaint, revealed that the Respondent did cause or allow an adverse impact to aquatic biota. Specifically, the inspection found four (4) dead fish in the black water discharged by the Respondent located in Bayou Pierre at the Louisiana Highway 177 bridge. The fish appeared to be Crappie and Bream. A dissolved oxygen reading taken at the bridge during the inspection revealed a value of 0.18 mg/L. The destruction of aquatic biota is a violation of LPDES permit LA0056651 (Part III, Section A.2), La. R.S. 30:2076 (A) (3), LAC 33:IX.1113.B.1.d, and LAC 33:IX.1113.B.5.
- C. An inspection conducted by the Department on or about December 20, 2010, in response to a citizen’s complaint, revealed that the Respondent failed to properly notify the Department of an unauthorized discharge which caused an emergency condition. Specifically, the Respondent is required to notify the Department of Public Safety (DPS) hotline within one hour of learning of a discharge which can reasonably be expected to endanger the health and safety of the public, cause significant adverse impact to the land, water or air environment, or cause severe damage to property. The Respondent discharged approximately three million gallons of process wastewater to Bayou Pierre on or about December 13, 2010. The facility determined the location and amount of the leak on or about December 14, 2010, and contacted the Department’s Northwest Regional Office concerning the incident. The Respondent did not contact the DPS hotline or the Department’s Single Point of Contact (SPOC). The inspection conducted on or about December 20, 2010, revealed black water characteristic of the facility’s discharge, dead fish, and a dissolved oxygen reading of 0.18 mg/L downstream from the incident at the Louisiana Highway 177 bridge. The failure to properly notify is a violation of LPDES permit LA0056651 (Part III, Sections A.2 and D.6.a), La. R.S. 30:2076 (A) (3), and LAC 33:I.3915.A.1.
- D. An inspection conducted by the Department on or about December 20, 2010, in response to a citizen’s complaint, revealed that the Respondent exceeded the ambient numeric criteria for Total Dissolved Solids (TDS) in Bayou Pierre (subsegment 100606 of the Red River). Specifically, a sample taken during the inspection of the black water discharged by the Respondent in Bayou Pierre at the Louisiana Hwy 177 bridge revealed a value of 781 mg/L. The numerical criteria given in LAC 33:IX.1123, table 3, for subsegment 100606 of the Red

River basin is 500 mg/L. The exceedance of the TDS numerical criteria is a violation of La. R.S. 30:2076 (A) (1) (a) and LAC 33:IX.1123.

- E. An inspection conducted by the Department on or about December 20, 2010, in response to a citizen's complaint, revealed that the Respondent significantly increased the color of the receiving stream over the natural background color levels. Specifically, the Respondent took water samples from several locations in Bayou Pierre on December 14, 2010, shortly after the discovery of the unauthorized discharge. The Respondent reported that the sample taken at the Louisiana Highway 177 bridge revealed a value of 15 PtCO for Color. This sample was taken before the black water discharged by the Respondent had reached this portion of the Bayou. The sample taken during the inspection at the same location revealed a Color value of 386 PtCO. At the time of the inspection, the cloud of black water discharged by the Respondent was located at the Louisiana Highway 177 bridge. Significantly increasing the color of the stream over the natural background color level is a violation of La. R.S. 30:2076 (A) (1) (a) and LAC 33:IX.1113.B.2.
- F. A file review conducted by the Department on or about September 21, 2011, revealed that the Respondent exceeded the effluent limitations contained in LPDES permit LA0056651. Specifically, the Respondent reported a value of 800 col/100ml for the Fecal Coliform Weekly Average on the first quarter of 2011 Outfall 101 DMR. In addition, the Respondent reported a value of 51.9 mg/L for the TOC Daily Maximum on the second quarter of 2011 Outfall 006 DMR. The permitted limits for the two parameters are 400 col/100ml and 50 mg/L, respectively. Each exceedance of the permitted limits is a violation of LPDES permit LA0056651 (Part I, pages 6 and 11 of 11; Part II, Section J; and Part III, Section A.2), La. R.S. 30:2076 (A) (3), and LAC 33:IX.501.A.
- G. A file review conducted by the Department on or about September 21, 2011, revealed that the Respondent submitted an incomplete non-compliance report (NCR). Specifically, the Respondent reported on the Outfall 101 first quarter of 2011 DMR that two exceedances of the Weekly Average limitation occurred; however, the Respondent failed to report the second exceedance on the NCR submitted with the DMR. The failure to submit a complete NCR is a violation of LPDES permit LA0056651 (Part III, Sections A.2 and D.7), La. R.S. 30:2076 (A) (3), and LAC 33:IX.2701.L.7.
- H. A file review conducted by the Department on or about September 21, 2011, revealed that the Respondent failed to submit a timely DMR. Specifically, the Department received the Respondent's Outfall 001 first quarter of 2009 DMR on or about August 11, 2009. The DMR was due to be submitted on April 15, 2009. The failure to submit a timely DMR is a violation of LPDES permit LA0056651 (Part II, Section P and Part III, Sections A.2 and D.4), La. R.S. 30:2076 (A) (3), and LAC 33:IX.2701.L.4.

On April 5, 2013, the Department issued to Respondent an Amended Notice of Potential Penalty, Enforcement No. WE-PP-11-00679A, which amended WE-PP-11-00679, issued October

20, 2011 as follows:

“The Department hereby deletes Paragraph D of Notice Of Potential Penalty WE-PP-11-00679 in its entirety.

The Department incorporates all of the remainder of the original Notice of Potential Penalty, Enforcement Tracking No. WE-PP-11-00679 and Agency Interest No. 328 as if reiterated herein.”

III

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

IV

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of SIXTEEN THOUSAND AND NO/100 DOLLARS (\$16,000.00), of which One Thousand Four Hundred Seventy-Six and 84/100 Dollars (\$1,476.84) represents the Department’s enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to the Department as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

V

Respondent further agrees that the Department may consider the inspection report(s)/permit record(s), the Notice of Potential Penalty and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VI

This agreement shall be considered a final order of the Secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

VII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in La. R. S. 30:2025(E) of the Act.

VIII

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Desoto Parish, Louisiana. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted an original proof-of-publication affidavit and an original public notice to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

IX

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed

or delivered to the attention of Accountant Administrator, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

X

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XI

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his or her respective party, and to legally bind such party to its terms and conditions.

INTERNATIONAL PAPER COMPANY

BY: _____
(Signature)

(Printed)

TITLE: _____

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20 _____, at _____.

NOTARY PUBLIC (ID # _____)

(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Peggy M. Hatch Secretary

BY: _____
Cheryl Sonnier Nolan, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20 _____, at Baton Rouge, Louisiana.

NOTARY PUBLIC (ID # _____)

(stamped or printed)

Approved:  _____
Cheryl Sonnier Nolan, Assistant Secretary