

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

VALENTINE PAPER, INC.

PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT

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

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* **Enforcement Tracking No.**
* **WE-CN-02-0426**
*
* **Docket No. 2003-0395-EQ**
*
* **AI# 11287**

SETTLEMENT

The following Settlement is hereby agreed to between Valentine Paper, Inc. ("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 who owns and/or operates a nonintegrated fine papers mill located off of La. Hwy. 308 at Joe Brown Road in Lockport, Lafourche Parish, Louisiana.

II

Inspections were conducted by the Department on or about the following dates to determine Respondent's compliance with its Louisiana Pollutant Discharge Elimination System (LPDES) permit. These inspections and further file review revealed the following alleged violations:

- A. An inspection conducted by the Department on or about April 28, 2000, and a subsequent file review conducted by the Department on or about May 28, 2002, indicated that on or about July 21, 1999, the Respondent did cause and or allow the unauthorized discharge of approximately 290 gallons of sodium hypochlorite to a conveyance ditch which leads to the facility's treatment pond that discharges to Forty Arpent Canal. The spill occurred when a line connected to a sodium hypochlorite bleach storage tank became disconnected. The

Respondent's unauthorized discharge is in violation of LWDP permit WP0999 (Part II, Item 2 and Part III, Section A.1), La. R.S. 30:2076 (A) (1), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.501.D, and LAC 33:IX.2355.A.

- B. An inspection conducted by the Department on or about December 20, 2000, indicated that the Respondent did not perform twenty-four hour composite sampling three times a week as required by LPDES permit LA0006131 on the following dates during 2000: January 18, February 17, February 29, March 7, March 23, March 28, May 30, October 3, October 17, October 25, and October 26. Each failure to sample is in violation of LPDES permit LA0006131 (Part I, Page 2 and Part III, Section A.2), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, and LAC 33:IX.2355.A.
- C. An inspection conducted by the Department on or about December 20, 2000, indicated that the Respondent had not analyzed BOD₅ duplicates as required by LPDES permit LA0006131. Each failure to follow approved laboratory methods is in violation of LPDES permit LA0006131 (Part II, Item D and Part III, Section A.2), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, and LAC 33:IX.2355.A.

III

Concerning the Findings of Fact as alleged in Paragraph II (A) above, Respondent contends as follows:

“The 290 gallons of sodium hypochlorite entered the conveyance ditch during a rainfall event of approximately 1.5 inches per hour. The conveyance ditch flows into two separate ditches of approximately 2 miles in length. These ditches then lead to a series of waste treatment ponds of approximately 565.55 acres that provide treatment prior to discharge. Although it is highly unlikely that any measurable amount of sodium

hypochlorite was discharged into the receiving waters, the spill was reported to LDEQ and corresponding agencies. The ditch was neutralized, flushed with water, and corrective measures were implemented.”

IV

The Respondent was issued **WARNING LETTER WE-L-01-0070** on or about December 11, 2001, regarding an inspection conducted by the Department on or about December 20, 2000. The warning letter stated that the Respondent should take any and all steps to ensure compliance with all environmental regulations at the facility. The Respondent submitted a response to **WARNING LETTER WE-L-01-0070** on or about December 28, 2001.

V

An inspection conducted by the Department on or about January 31, 2002, indicated that the Respondent had expired pH calibration standards for the pH meter.

VI

An inspection conducted by the Department on or about January 31, 2002, indicated that the Respondent had incorrectly calculated and reported BOD₅ on the DMRs. Specifically, the monthly average for loading was incorrectly calculated by dividing the total pounds of pollutant by the number of days in the month, instead of the number of days a sample was collected. The Respondent's inaccurate reporting is in violation of LPDES permit LA0006131 (Part III, Section A.2), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, and LAC 33:IX.2355.A.

VII

The Respondent was issued **WARNING LETTER WE-L-02-0426** on or about May 28, 2002, regarding an inspection conducted by the Department on or about January 31, 2002. The warning letter stated that the Respondent should take any and all steps to ensure compliance with all

environmental regulations at the facility. The Respondent submitted a response to **WARNING LETTER WE-L-02-0426** on or about June 24, 2002.

VIII

A file review conducted by the Department on or about October 15, 2002, indicated that the Respondent had an excursion of 3,296 lbs/day for Total Suspended Solids for the monitoring period of July 1999. The permit excursion is in violation of LPDES permit LA0006131 (Part I, Section A and Part III, Section A.2), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.501.D, and LAC 33:IX.2355.A.

IX

As a result of the violations alleged above, the Department issued to Respondent Consolidated Compliance Order and Notice of Potential Penalty WE-CN-02-0426 on or about November 26, 2002. Respondent made a timely request for a hearing.

X

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

XI

Nonetheless, the 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 One Thousand and 00/100 (\$1,000.00) Dollars, of which Four Hundred Ninety-Eight and 00/100 (\$498.00) Dollars 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).

XII

Respondent, in addition to the penalty amount specified in Paragraph X above and as part of this Settlement, agrees to expend the amount of Six Thousand Eight Hundred Seventy-Five (\$6,875.00) Dollars to implement and/or perform the following beneficial environmental project:

- A. Respondent will reduce fiber discharge from the facility by improving the existing fiber recovery system. Currently, the system consists of a tank that holds broke consisting of water, clay, cellulose fibers, and supplemental chemicals that are recycled into the manufacturing process. Under present normal operations, paper machines #1 and #2 send discarded broke to the tank, and when two grades are incompatible, the broke from one machine is discarded to the sewer. The proposed project will separate the discharge from the two paper machines into separate tanks, thereby reducing the need to discharge waste broke into the sewer when incompatible grades are manufactured. Respondent estimates recycling approximately 70 tons of broke, resulting in a significant decrease of fiber, chemicals and water from the manufacturing process into the waste stream. Respondent will complete the project on or before October 1, 2004.
- B. Respondent shall submit monthly reports regarding its progress on the projects. The first shall be due on the 5th of the month following the date Respondent receives notice of the finality of the Settlement. Monthly reports shall be submitted on the 5th of every month thereafter until the project is completed. Each such monthly report shall include a description of the project, tasks completed, tasks remaining, the percentage completed, and money expended on each project through the date of the report. Upon completion of all projects required under this Settlement, Respondent

shall submit a final report to include a summary of all the information previously submitted and a total amount spent on the projects listed above. It shall also contain a certification that the projects were completed as described.

- C. If Respondent does not spend the amount of \$6,875.00, then it shall, in its final report, propose additional projects for the Department's approval or pay to the Department in an amount equal to the difference between the amount of money agreed to be spent and the amount of money actually spent.

The total amount of money expended by Respondent on cash payments to DEQ and on beneficial environmental projects, as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30: 2050.7(E)(1).

XIII

Respondent further agrees that the Department may consider the inspection report(s), the Compliance Order and 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 the 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.

XIV

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.

XV

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 LSA- R. S. 30:2025(E) of the Act.

XVII

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Lafourche Parish. 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 a proof-of-publication affidavit 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.

XVIII

Payment is to be made within ten (10) days from notice of the Assistant Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Penalties are to be made payable to the Department of Environmental Quality and mailed to the attention of Darryl Serio, Office of Management and Finance, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303.

XIX

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

XX

Each undersigned representative of the parties certifies that he or she is fully authorized

to execute this Settlement Agreement on behalf of his/her respective party, and to legally bind such party to its terms and conditions.

WITNESSES:

Virginia C. Sampey

Susan B. Baultert

RESPONDENT

BY: Thomas C. Bingham
(Signature)

Thomas C. Bingham
(Printed)

TITLE: Plant Manager

THUS DONE AND SIGNED in duplicate original before me this 12th day of
November, 20 03, in Colquhart, LA.

Logan K. Soud
NOTARY PUBLIC

WITNESSES:

Harley Smith
Jessy M. Hatch

STATE OF LOUISIANA

Mike D. McDaniel, Ph.D., Secretary
Department of Environmental Quality

BY: Harold Leggett
Harold Leggett, Ph.D., Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 4th day of
May, 20 09, in Baton Rouge, Louisiana.

AP. II
NOTARY PUBLIC

Approved: R. Bruce Hammatt
R. Bruce Hammatt, Assistant Secretary



CHARLES C. FOTI, JR.
ATTORNEY GENERAL

State of Louisiana
DEPARTMENT OF JUSTICE
P.O. BOX 94005
BATON ROUGE
70804-9005

RECEIVED
APR 21 2004
LA. DEPT. OF ENV. QUALITY
LEGAL AFFAIRS DIVISION

April 19, 2004

Mike D. McDaniel, Secretary
La. Department of Environmental Quality
Office of the Secretary
P.O. Box 4301
Baton Rouge, LA 70821-4301

Re: Review of DEQ Settlement;
Valentine Paper, Inc.
WE-CN-02-0426

Dear Secretary McDaniel:

Pursuant to the authority granted to me by R.S. 30:2050.7(E)(2)(a), I approve the above referenced settlement.

Sincerely,


NICHOLAS GACHASSIN
First Assistant Attorney General

NG/cbw