



JANET T. MILLS
GOVERNOR

047
STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



GERALD D. REID
COMMISSIONER

IN THE MATTER OF:

ND PAPER INC.)	
RUMFORD, MAINE)	ADMINISTRATIVE CONSENT
OXFORD COUNTY)	AGREEMENT
OIL DISCHARGE PREVENTION AND)	(38 M.R.S. § 347-A)
POLLUTION CONTROL)	
EIS DOCKET # 2019-322-O)	

This Agreement, by and among ND Paper Inc., and the State of Maine, Department of Environmental Protection (“DEP”), as approved by the Maine Board of Environmental Protection (“Board”), and Office of the Attorney General (“AG”), is entered into pursuant to the laws concerning the Department’s Organization and Powers, 38 M.R.S. §§ 347-A(1) and 341-D(6).

THE PARTIES AGREE AS FOLLOWS:

1. ND Paper Inc. (“ND Paper”) owns and operates a paper products manufacturing facility located at 35 Hartford Street in Rumford, Maine (“Site”), and is organized and existing under the laws of Delaware and is in good standing with the Secretary of State.
2. Throughout the period of time addressed by this Agreement, ND Paper was subject to the following Maine environmental laws:
 - A. *Oil Discharge Prevention and Pollution Control law*, 38 M.R.S. § 543. “The discharge of oil into or upon any coastal waters, estuaries, tidal flats, beaches and lands adjoining the seacoast of the State, or into or upon any lake, pond, river, stream, sewer, surface water drainage, ground water or other waters of the State or any public or private water supply or onto lands adjacent to, on, or over such waters of the State is prohibited.”
 - B. *Oil Discharge Prevention and Pollution Control law*, 38 M.R.S. § 548. “Any person discharging or suffering the discharge of oil in the manner prohibited by section 543 shall immediately undertake to remove that discharge to the commissioner’s satisfaction.”
3. On November 6, 2019, staff from the Department’s Division of Response Services received an anonymous report of an oil release at the ND Paper facility. The complainant reported that the oil had not been cleaned up completely and that white foam was observed discharging into the Androscoggin River from an unspecified drain at the Site. The complainant also reported that the drain was possibly associated with an area where

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688 FAX: (207) 287-7826

BANGOR
106 HOGAN ROAD, SUITE 6
BANGOR, MAINE 04401
(207) 941-4570 FAX: (207) 941-4584

PORTLAND
312 CANCO ROAD
PORTLAND, MAINE 04103
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769
(207) 764-0477 FAX: (207) 760-3143

ND PAPER INC.)	
RUMFORD, MAINE)	ADMINISTRATIVE CONSENT
OXFORD COUNTY)	AGREEMENT
OIL DISCHARGE PREVENTION AND)	(38 M.R.S. § 347-A)
POLLUTION CONTROL)	
EIS DOCKET # 2019-322-O)	

equipment was decontaminated during the oil spill cleanup activities. The DEP did not receive a report of an oil spill from ND Paper.

4. Staff from the Department visited the Site on November 8, 2019 and met with ND Paper environmental personnel. While onsite, ND Paper informed Department staff that approximately three weeks earlier, according to ND Paper’s internal reporting system, the facility experienced an approximately 50-gallon discharge of No. 6 oil from a leaking aboveground bulk oil storage tank (“AST”). The discharge was contained within the bulk AST’s secondary containment earthen berm as well as other secondary containment structures within the facility. DEP staff was escorted by ND Paper staff to the spill site near the blockhouse where the discharge reportedly had occurred. After seeing that the volume of oil within the AST’s secondary containment earthen berm was significantly larger than what was internally reported, ND Paper environmental staff indicated that the spill should have been reported to the DEP according to the spill reporting procedures in the facility’s SPCC plan.

5. Following the initial visit by DEP staff on November 8, 2019, ND Paper undertook an investigation to determine the cause of the discharge. ND Paper informed Department staff that a series of equipment failures had led to the discharge of No. 6 oil into the bulk AST’s secondary containment earthen berm as well as other secondary containment structures within the facility.

6. According to the ND Paper investigation report received by the Department on December 17, 2019, the level began to drop in the No. 6 oil bulk AST at a rate of 0.188 inches per hour between October 18, 2019 and October 20, 2019 with a total change in inventory of 14,014 gallons. Of this quantity, a discharge of approximately 8,628 gallons to secondary containment was caused by a steam coil failure located inside the bulk AST’s secondary containment earthen berm that resulted in a discharge of No.6 oil from condensate drains located within that structure.

7. During a review of the events, ND Paper reported the existence of two additional prior discharges within the facility’s secondary containment concrete structures. An additional prior discharge of approximately 157 gallons occurred in a blockhouse next to the bulk AST due to a pressure gauge failure. Some of the oil traveled out a floor drain and discharged into the bulk AST’s secondary containment earthen berm as designed. In addition, approximately 506 gallons was lost to secondary containment surrounding two 20,000-gallon day tanks. This additional prior release was caused by level control valves failing to seal when closed. ND Paper reported that high level alarms designed to alert operators of overfills to the 20,000 gallon day tanks were active but the alarm controls for the emergency high level switches had been de-activated by ND Paper. According to the investigation report, ND Paper’s subsequent investigation determined that approximately 9,291 gallons were recovered in total from all three discharges – each of which had been

ND PAPER INC.)	
RUMFORD, MAINE)	ADMINISTRATIVE CONSENT
OXFORD COUNTY)	AGREEMENT
OIL DISCHARGE PREVENTION AND)	(38 M.R.S. § 347-A)
POLLUTION CONTROL)	
EIS DOCKET # 2019-322-O)	

contained by secondary containment structures. According to ND Paper staff, the remaining inventory change in the bulk tank was accounted for within the two day tanks. The three prior discharges had not been reported by ND Paper to the Department within 2 hours of discovery. While ND Paper initiated cleanup activities, it did not remove those discharges to the satisfaction of the Commissioner from October 18, 2019, until at least November 8, 2019.

8. ND Paper believes that decontamination of equipment associated with cleanup of these discharges took place in a location that drains to the facility’s wastewater treatment system. Although ND Paper’s wastewater treatment system was not originally designed to treat oil, the system is capable of containing oil through mechanical recovery systems.
9. ND Paper has indicated that they have completed internal corrective actions including activating the emergency high level alarm controls on the 20,000 gallon day tanks to address the equipment in question and have installed new monitoring equipment to prevent future discharges.
10. The discharges of oil at ND Paper, as described in Paragraphs 3-7 of this Agreement, are each prohibited discharges of oil in violation of 38 M.R.S. § 543.
11. The failure by ND Paper to immediately initiate removal of the prohibited oil discharges described in Paragraphs 3-7 of this Agreement to the Commissioner’s satisfaction, resulted in violations of 38 M.R.S. § 548 during the October 18, 2019, to at least November 8, 2019 time frame.
12. On April 2, 2020, the Department issued ND Paper a Notice of Violation for the activities described in Paragraphs 3-7 of this Agreement, in accordance with 38 M.R.S. § 347-A(1)(B).
13. This Agreement shall become effective only if it is approved by the Board and the AG.
14. To resolve the violations referred to in Paragraphs 3-7 of this Agreement, ND Paper agrees to:
 - A. Within 30 days, provide the Department with drawings or other documentation showing the drainage system where equipment was decontaminated during cleanup activities;
 - B. Within 30 days, provide the Department with the date, agenda, and attendance list of the training required in the NOV corrective actions;

ND PAPER INC.)
RUMFORD, MAINE)
OXFORD COUNTY)
OIL DISCHARGE PREVENTION AND)
POLLUTION CONTROL)
EIS DOCKET # 2019-322-O)

**ADMINISTRATIVE CONSENT
AGREEMENT
(38 M.R.S. § 347-A)**

- C. Immediately upon signing this agreement, pay to the *Treasurer, State of Maine c/o the Maine Ground and Surface Waters Clean-up and Response Fund*, a civil monetary penalty in the amount of ninety thousand dollars (\$90,000.00); and
 - D. Pay to the *Treasurer, State of Maine*, upon demand by the Department, a civil monetary penalty in the sum of one hundred dollars (\$100.00) per day per violation, of any of the terms of this Agreement, as determined by and at the sole discretion of the Department.
15. The Department and AG grant a release of their causes of action against ND Paper for the specific violations listed in Paragraphs 3-7 of this Agreement on the express condition that all actions listed in Paragraph 14 of this Agreement are completed in accordance with the express terms and conditions of this Agreement, except that no release is granted for any contamination of surface waters, ground waters, soils, sediment or ambient air as a result of the violations set forth in this Agreement and that no releases are granted for damages and injury to Maine’s natural resources. In the event that contamination from any oil discharge described above is found to threaten public health, safety or the environment, this Agreement shall not prohibit the Department from requiring additional corrective measures or other remedial actions necessary to protect public health, safety, or the environment. This release shall not become effective until all requirements of this Agreement are satisfied.
 16. Non-compliance with this Agreement voids the release set forth in Paragraph 15 of this Agreement and may lead to an enforcement action pursuant to 38 M.R.S. §§ 347-A(1)(A), 347-A(5), or 348, as well as pursuit of other remedies.
 17. Actions taken pursuant to this Agreement shall be completed in accordance with the requirements of all applicable local, state, and federal laws, rules, and orders including but not limited to licensing requirements.
 18. The provisions of this Agreement shall apply to, and be binding on, the parties and their officers, agents, servants, employees, successors, and assigns, and upon those persons in active concert or participation with them who receive actual notice of this Agreement.

ND PAPER INC.)
RUMFORD, MAINE)
OXFORD COUNTY)
OIL DISCHARGE PREVENTION AND)
POLLUTION CONTROL)
EIS DOCKET # 2019-322-O)

**ADMINISTRATIVE CONSENT
AGREEMENT
(38 M.R.S. § 347-A)**

IN WITNESS WHEREOF the parties hereto have executed this Agreement consisting of five (5) pages:

ND PAPER INC.

 DATE: 8/31/20

RANDALL CHICOINE, V.P. AND GENERAL MANAGER, MAINE OPERATIONS

MAINE BOARD OF ENVIRONMENTAL PROTECTION

BY: _____ DATE: _____

MARK C. DRAPER, CHAIR

MAINE OFFICE OF THE ATTORNEY GENERAL

BY: _____ DATE: _____

SCOTT W. BOAK, ASSISTANT ATTORNEY GENERAL

THIS PAGE INTENTIONALLY LEFT BLANK