



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TEXAS 75202-2733

FEB 24 2016

Ms. Ellen Carpenter
Chief, Water Division
Arkansas Department of Environmental Quality
5301 Northside Dr.
Little Rock, AR 72118-5317

Re: Notice of Proposed Administrative Penalty Assessment
Docket Number CWA-06-2016-1735
NPDES Permit AR0001210

Dear Ms. Carpenter:

Enclosed is a copy of the Administrative Complaint (Complaint) which the Environmental Protection Agency (EPA) is issuing to Georgia Pacific, LLC (Respondent), pursuant to Section 309(g) of the Clean Water Act (CWA) 33 U.S.C. § 1319(g). EPA is issuing the Complaint to administratively assess a Class I civil penalty of \$10,000.00 against the Respondent for violation of the CWA. Because the violation has occurred in the State of Arkansas, I am offering you an opportunity to confer with us regarding the proposed penalty assessment.

You may request a conference within two weeks of receipt of this letter. The conference may be in person or by telephone and may cover any matters relevant to the proposed penalty assessment. If you wish to request a conference or if you have any comments or questions regarding the matter, please contact Anthony M. Loston, of my staff, at (214) 665-3109.

Sincerely,

A handwritten signature in black ink, appearing to read "John Blevins", is written over the typed name and title.

John Blevins
Director
Compliance Assurance and
Enforcement Division

Enclosure

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6

FILED
2016 FEB 24 AM 9:41

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EPA REGION VI

In the Matter of

Georgia-Pacific, LLC,
a Georgia Company,

Respondent

NPDES Permit No. AR0001210

§ Docket No. CWA-06-2016-1735
§
§
§ Proceeding to Assess a Class I
§ Civil Penalty under Section 309(g)
§ of the Clean Water Act
§
§ ADMINISTRATIVE COMPLAINT
§

I. Statutory Authority

This Administrative Complaint ("Complaint") is issued under the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA") by Section 309(g) of the Clean Water Act ("Act"), 33 U.S.C. § 1319(g). The Administrator of EPA delegated the authority to issue this Complaint to the Regional Administrator of EPA Region 6, who delegated this authority to the Director of the Compliance Assurance and Enforcement Division of EPA Region 6 ("Complainant"). This Class I Complaint is issued in accordance with, and this action will be conducted under, "the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits," including rules related to administrative proceedings not governed by Section 554 of the Administrative Procedures Act, 40 C.F.R. § 22.50 through 22.52.

Based on the following Findings, Complainant finds that Georgia Pacific, LLC ("Respondent") has violated the Act and the regulations promulgated under the Act and should be ordered to pay a civil penalty.

II. Findings of Fact and Conclusions of Law

1. Respondent is a corporation incorporated under the laws of the State of Georgia, and as such, Respondent is a "person," as that term is defined at Section 502(5) of the Act, 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2.

2. At all times relevant to the violations alleged herein ("relevant time period"), Respondent owned or operated a paper mill located at 100 Mill Supply Road in Crossett, Arkansas ("facility") and was, therefore, an "owner or operator" within the meaning of 40 C.F.R. § 122.2.

3. During the relevant time period, the facility acted as a "point source" of a "discharge" of "pollutants" with its wastewater through Outfall 001 to the upper reaches of Mossy Lake, then into Coffee Creek, and then into the Quachita River in Segment 2D of the Quachita River Basin. The facility is also authorized to discharge its wastewater through Stream Monitoring Station 002 to the transition from Mossy Lake to Coffee Creek, then into the Quachita River in Segment 2D of the Quachita River Basin, which are considered "waters of the United States," within the meaning of Section 502 of the Act, 33 U.S.C. § 1362, and 40 C.F.R. § 122.2.

4. Because Respondent owned or operated a facility that acted as a point source of discharges of pollutants to waters of the United States, Respondent and the facility were subject to the Act and the National Pollutant Discharge Elimination System ("NPDES") permit program.

5. Under Section 301 of the Act, 33 U.S.C. § 1311, it is unlawful for any person to ~~discharge any pollutant from a point source to waters of the United States, except with the~~ authorization of, and in compliance with, an NPDES permit issued pursuant to Section 402 of the Act, 33 U.S.C. § 1342.

6. Section 402(a) of the Act, 33 U.S.C. § 1342(a), provides that the Administrator of EPA may issue permits under the NPDES program for the discharge of pollutants from point sources to waters of the United States. Any such discharge is subject to the specific terms and conditions prescribed in the applicable permit.

7. Respondent applied for and was issued NPDES Permit Number AR0001210 ("permit") under Section 402 of the Act, 33 U.S.C. § 1342, which became effective on November 1, 2010. The first modification to the permit became effective July 1, 2011. During the relevant time period, Respondent was authorized to discharge pollutants in their industrial wastewater discharges from the facility to waters of the United States but only in compliance with the specific terms and conditions of the permit.

8. At the request of EPA Region 6, EPA's National Enforcement Investigations Center conducted a multimedia compliance investigation of Georgia-Pacific, LLC, in Crossett, Arkansas, from February 3 through 12, 2015. As a result of the inspection, the findings specified in the following paragraphs were made.

9. Part III.C.3 of the permit requires Respondent to monitor in accordance with test procedures approved under 40 C.F.R. Part 136 and Part II, "Other Conditions, 8." requires Respondent to use specified EPA Methods when testing bleach plant effluent as specified for Internal Outfalls 101, 102, and 103, that include 2, 3, 7, 8- Tetrachlorodibenzo-p-dioxin ("TCDD") and 2, 3, 7, 8- Tetrachlorodibenzofuran ("TCDF").

10. Respondent violated Part III.C.3 and Part II, "Other Conditions, 8." of the permit by failing to monitor for TCDD and TCDF at Internal Outfalls 101, 102, and 103.

11. Pursuant to Part III.C.3 and Part II, "Other Conditions, 8." of the permit, Respondent is required to use only glass or fluoropolymer tubing when manually compositing samples of bleach plant effluent at Internal Outfalls 101, 102, and 103 (EPA Method 1613).

12. Respondent violated Part III.C.3 and Part II, "Other Conditions, 8." of the permit by using plastic tubing that was not made of glass or fluoropolymer when collecting manual composites of bleach plant effluent at Internal Outfalls 101, 102, and 103.

13. Pursuant to Part I.A of the permit applicable to Outfall 001, Respondent is required to take a "24-hour composite sample" and is required to collect a sample proportional to flow or to be flow-weighted regarding the specified effluent characteristics.

14. Respondent violated Part I.A of the permit by failing to collect a "24-hour composite sample" at Outfall 001 when it failed to collect samples proportional to flow or to be flow-weighted.

15. Pursuant to Part II, "Other Condition, 9." of the permit regarding Best Management Practices (BMPs), Respondent is required to develop and implement the BMP plan.

Respondent's BMP plan required that the alarm for the continuous conductivity meter at the North 50% tank sump in the paper operations recovery area be set at 15,000 uMHOs on the Respondent's distributed control system. Respondent violated Part II, "Other Condition, 9." by setting the alarm for the continuous conductivity meter at the North 50% tank sump in the paper operations recovery area at 20,000 uMHOs on the Respondent's distributed control system instead of 15,000 uMHOs as specified in the BMP plan.

16. Each violation of the conditions of the permit or regulations described above is a violation of Section 301 of the Act, 33 U.S.C. § 1311.

17. Under Section 309(g)(2)(A) of the Act, 33 U.S.C. § 1319(g)(2)(A), Respondent is liable for a civil penalty in an amount not to exceed \$16,000 per day for each day during which a violation continues, up to a maximum of \$37,500.00.

18. EPA has notified the Arkansas Department of Environmental Quality of the issuance of this Complaint and has afforded the State an opportunity to consult with EPA regarding the assessment of an administrative penalty against Respondent as required by Section 309(g)(1) of the Act, 33 U.S.C. § 1319(g)(1).

19. EPA has notified the public of the filing of this Complaint and has afforded the public thirty (30) days in which to comment on the Complaint and on the proposed penalty as required by Section 309(g)(4)(A) of the Act, 33 U.S.C. § 1319(g)(4)(A). At the expiration of the notice period, EPA will consider any comments filed by the public.

III. Proposed Penalty

~~20. Based on the foregoing Findings, and pursuant to the authority of Sections 309(g)(1)~~

and (g)(2)(B) of the Act, 33 U.S.C. § 1319(g)(1) and Section (g)(2)(B), EPA Region 6 hereby proposes to assess against Respondent a penalty of ten thousand dollars (\$10,000.00).

21. The proposed penalty amount was determined based on the statutory factors specified in Section 309(g)(3), 33 U.S.C. § 1319(g)(3), which includes such factors as the nature, circumstances, extent and gravity of the violation(s), economic benefits, if any, prior history of such violations, if any, degree of culpability, and such matters as justice may require.

IV. Failure to File an Answer

22. If Respondent wishes to deny or explain any material allegation listed in the above Findings or to contest the amount of the penalty proposed, Respondent must file an Answer to this Complaint within thirty (30) days after service of this Complaint whether or not Respondent requests a hearing as discussed below.

23. The requirements for such an Answer are set forth at 40 C.F.R. § 22.15. Failure to file an Answer to this Complaint within thirty (30) days after service of the Complaint shall constitute an admission of all facts alleged in the Complaint and a waiver of the right to hearing. Failure to deny or contest any individual material allegation contained in the Complaint will constitute an admission as to that finding or conclusion under 40 C.F.R. § 22.15(d).

24. If Respondent does not file an Answer to this Complaint within thirty (30) days after ~~service of this Complaint, a Default Order may be issued against Respondent pursuant to~~ 40 C.F.R. § 22.17. A Default Order, if issued, would constitute a finding of liability, and could make the full amount of the penalty proposed in this Complaint due and payable by Respondent without further proceedings sixty (60) days after a final Default Order is issued.

25. Respondent must send its Answer to this Complaint, including any request for hearing, and all other pleadings to:

Regional Hearing Clerk (6RC-D)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Respondent shall also send a copy of its Answer to this Complaint to the following EPA attorney assigned to this case:

Efren Ordonez (6RC-EW)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

26. The Answer must be signed by Respondent, Respondent's counsel, or other representative on behalf of Respondent and must contain all information required by 40 C.F.R. §§ 22.05 and 22.15, including the name, address, and telephone number of Respondent and Respondent's counsel. All other pleadings must be similarly signed and filed.

V. Notice of Opportunity to Request a Hearing

27. Respondent may request a hearing to contest any material allegation contained in this Complaint, or to contest the appropriateness of the amount of the proposed penalty, pursuant to Section 309(g) of the Act, 33 U.S.C. § 1319(g). The procedures for hearings are set out at 40 C.F.R. Part 22, with supplemental rules at 40 C.F.R. § 22.38.

28. Any request for hearing should be included in Respondent's Answer to this Complaint; however, as discussed above, Respondent must file an Answer meeting the requirements of 40 C.F.R. § 22.15 in order to preserve the right to a hearing or to pursue other relief.

29. Should a hearing be requested, members of the public who commented on the issuance of the Complaint during the public comment period will have a right to be heard and to present evidence at such hearing under Section 309(g)(4)(B) of the Act, 33 U.S.C. § 1319(g)(4)(B).

VI. Settlement

30. EPA encourages all parties against whom civil penalties are proposed to pursue the possibility of settlement through informal meetings with EPA. Regardless of whether a formal hearing is requested, Respondent may confer informally with EPA about the alleged violations or the amount of the proposed penalty. Respondent may wish to appear at any informal conference or formal hearing personally, by counsel or other representative, or both. To request an informal

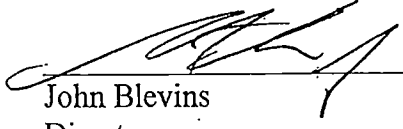
conference on the matters described in this Complaint, please contact Mr. Anthony M. Loston, of my staff, at (214) 665-3109.

31. If this action is settled without a formal hearing and issuance of an opinion by the Presiding Officer pursuant to 40 C.F.R. § 22.27, this action will be concluded by issuance of a Consent Agreement and Final Order ("CAFO") pursuant to 40 C.F.R. § 22.18(b). The issuance of a CAFO would waive Respondent's right to a hearing on any matter stipulated to therein or alleged in the Complaint. Any person who commented on this Complaint would be notified and given an additional thirty (30) days to petition EPA to set aside any such CAFO and to hold a hearing on the issues raised in the Complaint. Such a petition would be granted and a hearing held only if the evidence presented by the petitioner's comment was material and was not considered by EPA in the issuance of the CAFO.

32. Neither assessment nor payment of a penalty in resolution of this action will affect Respondent's continuing obligation to comply with all requirements of the Act, the applicable regulations and permits, and any separate Compliance Order issued under Section 309(a) of the Act, 33 U.S.C. § 1319(a), including one relating to the violations alleged herein.

FEB 23 2016

Date



John Blevins
Director
Compliance Assurance and
Enforcement Division

CERTIFICATE OF SERVICE

I certify that the foregoing Class I Administrative Complaint was sent to the following persons, in the manner specified, on the date below:

Original hand-delivered:

Regional Hearing Clerk (6RC-D)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Copy by certified mail,
return receipt requested:

Mr. Gary Kaiser
Vice-President of Operations
Georgia-Pacific, LLC
100 Mill Supply Road
Crossett, AR 71635

Ms. Sarah M. Ross
Environmental Mill Services Manager
Georgia-Pacific, LLC
100 Mill Supply Road
Crossett, AR 71635

Copy by Mail:

Ms. Ellen Carpenter
NPDES Enforcement
Arkansas Department of Environmental Quality
5301 North Shore Drive
Little Rock, AR 72118-5317

Copy hand-delivered:

Efren Ordonez (6RC-EW)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

February 24, 2016

Jacqui Allen



United States

Environmental Protection Agency

Region 6

1445 Ross Ave, Ste 1200

Dallas, Tx 75202-2733

<http://www.epa.gov/region6>

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Ms. Ellen Carpenter
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Little Rock, AR 72118