

STATE OF MICHIGAN
CIRCUIT COURT FOR THE 30TH JUDICIAL CIRCUIT
INGHAM COUNTY

ATTORNEY GENERAL DANA
NESSEL, on behalf of the People of the
State of Michigan, and the STATE OF
MICHIGAN,

Plaintiffs,

v

OX PAPERBOARD WP, LLC and
WHITE PIGEON MILLS, LLC

Defendants.

No. 24-880-CZ

HON. JUDGE WANDA M. STOKES

COMPLAINT

RECEIVED

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30TH CIRCUIT COURT

Polly A. Synk (P63473)
Danielle Allison-Yokom (P70950)
Assistant Attorneys General
Environment, Natural Resources, and
Agriculture Division
P.O. Box 30755
Lansing, MI 48909
517-335-7664
synkp@michigan.gov
allisonyokomd@michigan.gov

Joseph M. Callow, Jr.
Gregory M. Utter
Special Assistant Attorneys General
Callow + Utter Law Group
8044 Montgomery Road, Ste. 170
Cincinnati, Ohio 45236
513-659-3130
jcallow@callowandutter.com
gmutter@callowandutter.com

Adam J. Levitt
Amy E. Keller (P74015)
Daniel R. Flynn
Special Assistant Attorneys General
Anna Claire Skinner
DiCello Levitt
10 North Dearborn St., 6th Floor
Chicago, IL 60602
312-214-7900

Richard W. Fields
Special Assistant Attorney General
Martin F. Cunniff
Fields Han Cunniff PLLC
1701 Pennsylvania Avenue NW, Ste. 200
Washington, D.C. 20006
833-382-9816
fields@fieldslawpllc.com
martincunniff@fieldslawpllc.com

alevitt@dicellolevitt.com
akeller@dicellolevitt.com
dflynn@dicellolevitt.com
askinner@dicellolevitt.com

There is no other pending or resolved civil action arising out of the transaction or occurrence alleged in the complaint. MCR 2.113(A); MCR 1.109(D)(2)(a)(i).

COMPLAINT

Plaintiffs Attorney General Dana Nessel, on behalf of the People of the State of Michigan, and the State of Michigan (collectively, the State), for their Complaint against Defendants Ox Paperboard WP, LLC and White Pigeon Mills, LLC (collectively, Ox Paperboard) state as follows:

NATURE OF THE CASE

1. This is a civil action for injunctive and declaratory relief that will protect the waters of the state by requiring Ox Paperboard, located at 15781 River Street in White Pigeon, Michigan (Site) to: (a) properly close the wastewater lagoons at the Site; (b) cease its unpermitted and unauthorized discharges to the waters of the state at the Site; and (c) pay civil fines to resolve its violations of Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act (NREPA), MCL 324.3101 *et seq.* (Part 31), the Part 21, Wastewater Discharge Permits, administrative rules promulgated pursuant to Part 31, Mich Admin Code, R 323.2101 *et seq.* (Part 21 Rules), and the Part 22, Groundwater Quality, administrative rules promulgated pursuant to Part 31, Mich Admin Code,

R 323.2201 *et seq.* (Part 22 Rules) at the Site. The State also seeks additional relief described below.

2. The State brings this action under Part 31.

3. The State brings this action after years of inaction by Ox Paperboard.

As outlined below, Ox Paperboard owns the Site and has owned the Site since June of 2020. Ox Paperboard bought the Site knowing that there were environmental issues at the Site, which Ox Paperboard has not adequately addressed and remedied since June of 2020. Ox Paperboard has also poorly and negligently operated the Site and created environmental problems at and around the Site since June of 2020. In particular, Ox Paperboard is responsible for a series of unauthorized and unpermitted discharges into the waters of the state, including the Pigeon River and groundwater. Ox Paperboard has not adequately addressed and remedied environmental issues that it created since June of 2020.

4. The State has issued a series of Violation Notices to Ox Paperboard outlining the problems and violations at the Site, including:

- a. an October 8, 2020 Violation Notice (VN-011113; Ex A);
- b. a May 3, 2021 Violation Notice (VN-011733; Ex B);
- c. an October 13, 2021 Violation Notice (VN-012170; Ex C);
- d. an October 28, 2022 Violation Notice (VN-013656; Ex D);
- e. a June 8, 2023 Second Violation Notice (SVN-01358; Ex E);
- f. an August 29, 2023 Response (Ex F);
- g. a December 20, 2023 Violation Notice (VN-015487; Ex.G);

and

- h. a March 22, 2024 Second Violation Notice (SVN-01533; Ex H).

Ox Paperboard also took responsibility for responding to issues raised in a June 25, 2020 Violation Notice issued to the prior owner of the Site, GPI Midwest, LLC. (VN-010781; Ex I).

5. To date, Ox Paperboard has failed to adequately address all the issues identified in the Violation Notices, necessitating this litigation.

6. The State seeks injunctive and declaratory relief as well as an assessment of statutory fines and penalties; recovery of attorneys' fees; payment of past and future enforcement costs; and other relief, costs, and damages under Part 31.

JURISDICTION AND VENUE

7. This Court has jurisdiction over the subject matter of this action pursuant to Section 3115(1) of the NREPA, MCL 324.3115(1), and Section 605 of the Revised Judicature Act, MCL 600.605.

8. This Court has personal jurisdiction over the Ox Paperboard who own and operate the Site, which is located in this Judicial Circuit.

9. Venue is appropriate in this Court pursuant to Section 3115(1) of the NREPA, MCL 324.3115(1).

PARTIES

10. Plaintiffs Attorney General Dana Nessel, on behalf of the People of the State of Michigan, and the State of Michigan, have the authority to bring an action to enforce Part 31.

11. The Michigan Department of Environment, Great Lakes, and Energy (EGLE)¹ is a department within the State of Michigan responsible for “protect[ing] and conserve[ing] the water resources of the state.” MCL 324.3103 and Executive Order 2019-06.

12. Defendant Ox Paperboard WP, LLC has its principal place of business at 600 West Elm Avenue, Hanover, Pennsylvania 17331 and is the current operator of the mill at the Site.

13. Defendant White Pigeon Mills, LLC has its principal place of business at 600 West Elm Avenue, Hanover, Pennsylvania, 17331 and is the current owner of the Site.

14. Ox Paperboard WP, LLC and White Pigeon Mills, LLC have common ownership and are jointly and severally liable for the liabilities identified in this Complaint.

¹ EGLE is the successor agency to the former Michigan Department of Environmental Quality (MDEQ).

STATUTORY AND REGULATORY BACKGROUND

15. Michigan enacted Part 31 to protect and conserve the water resources of the state and to control pollution of surface waters of the state. MCL 324.3103.

16. Section 3101(z) of NREPA, MCL 324.3101(z), provides: “Waters of the state’ means groundwaters, lakes, rivers, and streams and all other watercourses and waters, including the Great Lakes, within the jurisdiction of this state.”

17. Section 3109(1) of the NREPA, MCL 324.3109(1), states:

(1) A person shall not directly or indirectly discharge into the waters of the state a substance that is or may become injurious to any of the following:

- (a) To the public health, safety or welfare.
- (b) To domestic, commercial, industrial, agricultural, recreational, or other uses that are being made or may be made of such waters.
- (c) To the value or utility of riparian lands.
- (d) To livestock, wild animals, birds, fish, aquatic life, or plants or to their growth or propagation.
- (e) To the value of fish and game.

18. Under Part 31, a person shall not discharge any waste or waste effluent into the waters of the state unless the person is in possession of a valid permit from EGLE. MCL 324.3112(1).

19. Similarly, Congress created the Clean Water Act to “restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.” 33 USC 1251(a).

20. The Clean Water Act establishes a system of cooperative federalism that “recognize[s], preserve[s], and protect[s] the primary responsibilities and rights of States to prevent, reduce, and eliminate pollution, [and] to plan the development

and use (including restoration, preservation, and enhancement) of land and water resources[.]” 33 USC 1251(b).

21. A cornerstone of the Clean Water Act is the National Pollutant Discharge Elimination System (NPDES), which is a point source discharge permitting program that controls and limits the discharge of pollutants into surface waters. See 33 USC 1342(a)(1). The Clean Water Act establishes requirements for NPDES permits, including that they contain discharge limits necessary to meet federal water quality standards. *Id.*

22. Under the Clean Water Act, the United States Environmental Protection Agency (EPA) can approve state NPDES permit programs for states that have sufficient standards and resources. 33 USC 1342(b).

23. In October 1973, the EPA first authorized Michigan to implement the NPDES permitting program.

24. In addition to its authority to issue and enforce permits under Part 31, Michigan also issues and enforces NPDES permits with the EPA’s approval under the Clean Water Act.

25. EGLE has promulgated rules under Part 31 to maintain federal approval of Michigan's NPDES permitting program. See Mich Admin Code, R 323.2101 *et seq.*

26. The Part 31 rules establish a framework for obtaining permit authorization for storm water discharges associated with specified industrial activity. Mich Admin Code, R 323.2161(1)(a).

27. Under that framework, all facilities with a standard industrial classification code of 3441 whose storm water discharges to waters of the state and that involve industrial materials or industrial activities exposed to precipitation must obtain an industrial storm water discharge permit. Mich Admin Code, R 323.2104(u); Mich Admin Code, R 323.2161(1)(a).

28. EGLE, in accordance with requirements of the Clean Water Act, makes a general permit available for all such facilities.

29. The general permit requires permittees to develop Storm Water Pollution Prevention Plans (SWPPPs), which include written procedures that permittees follow to minimize the amount of industrial material exposed to storm water.

30. In particular, SWPPPs identify potential sources of contamination and describes how to control them.

31. In addition, the general permit also establishes monitoring requirements to prevent the discharge of storm water in unnatural quantities that are, or may become, injurious to any designated use.

32. The general permit also establishes reporting requirements for permittees to communicate certain information to EGLE to ensure that the agency can, among other things, respond quickly and appropriately in emergencies and be aware of atypical and potentially harmful discharges to waters of the state.

33. General permits expire after five years.

34. Storm water permitting fees received by EGLE support the agency's efforts to safeguard surface water. MCL 324.3119.

35. Under Part 21 rules, EGLE cannot reissue a storm water discharge permit without first being assured by the permittee that it is in compliance with or has substantially complied with the terms, conditions, requirements, and schedules of compliance of the existing permit, such as resolving any past unpermitted discharge violations. Mich Admin Code, R 323.2151(2)(a).

FACTUAL ALLEGATIONS

36. White Pigeon Mills, LLC is the current owner of the Site. Ox Paperboard is a facility with a standard industrial classification code of 3441.

37. Prior to 2019, the Site was owned by the Artistic Carton Company. Artistic Carton Company was the owner of the Site operated by the White Pigeon Paper Company.

38. The Artistic Carton Company was issued a Groundwater Discharge Permit, GW1810025, that was set to expire on December 1, 2019, and was extended by EGLE because it received a permit reissuance application on April 16, 2019.

39. The White Pigeon Paper Company was issued Industrial Storm Water Certificate of Coverage (COC) No. MI5210492.

40. On or about July 22, 2019, Artistic Carton Company sold the property to GPI Midwest, LLC, a wholly owned subsidiary of Graphic Packaging International, LLC. On or about August 1, 2019, GPI Midwest, LLC became the owner and operator of the Site.

41. On July 29, 2019, EGLE received a request to transfer Groundwater Discharge Permit, GW1810025, from the Artistic Carton Company to GPI Midwest, LLC (Graphic Packaging International, LLC). Before the transfer request was processed, Ox Paperboard purchased the Site from GPI Midwest, LLC.

42. The Industrial Storm Water COC No. MI5210492 was transferred from White Pigeon Paper Company to GPI Midwest, LLC (Graphic Packaging International, LLC) effective August 23, 2019.

43. Although Groundwater Discharge Permit, GW1810025, was not transferred from Artistic Carton Company, GPI Midwest, LLC (Graphic Packaging International, LLC) submitted Discharge Monitoring Reports (DMRs) indicating that it discharged wastewater to the lagoons on Site during its ownership.

44. In August of 2019, an assessment of the Site identified the presence of contaminants known as PFAS² in 19 groundwater monitoring wells. Various hydrogeologic studies also identified PFOA³, PFOS⁴, ammonia, iron, manganese,

² PFAS (Per- and polyfluoroalkyl substances) is a class of man-made chemicals, which have varying impacts on human health. The toxicity of PFAS has been evaluated in many human and laboratory animal studies. Epidemiological studies suggest associations between PFAS exposure and several health outcomes including pregnancy-induced hypertension, increases in serum liver enzymes, increases in serum lipids, decreased antibody response to vaccines, and small decreases in birth weight.

³ Perfluorooctanoic acid (PFOA) is one of the PFAS substances for which Michigan has established groundwater cleanup criteria and water quality values.

⁴ Perfluorooctanesulfonic acid (PFOS) is one of the PFAS substances for which Michigan has established groundwater cleanup criteria and water quality values.

sodium, lead, zinc, Total Dissolved Solids (TDS), and cyanide at the Site, all above applicable Part 201 criteria.

45. On March 9, 2020, and in response to the August 2019 site assessment, Water Resources Division (WRD) of EGLE initiated a Compliance Sampling Inspection (CSI) and an Industrial Storm Water Permitted Facility Inspection (ISW-PFI) and performed wastewater, storm water, and surface water sampling at the Site.

46. On June 25, 2020, WRD issued Violation Notice 010781 (Ex I) to Graphic Packaging International, LLC, the owner and operator at the Site at the time, documenting noncompliance with Part 31 and the Industrial Storm Water COC No. MIS210492, and a list of environmental issues observed during the March 9, 2020 inspection, including unauthorized discharges and sampling results that exceeded applicable standards.⁵

47. On June 29, 2020, WRD received a call from a representative of Ox Paperboard indicating that White Pigeon Mills, LLC Ox Paperboard had purchased the Site from GPI Midwest, LLC.

48. During the June 29, 2020 call, the representative of Ox Paperboard represented that Ox Paperboard was aware of and had a copy of VN-010781 and that Ox Paperboard would respond to VN-010781.

⁵ Although Groundwater Discharge Permit GW1810025 was never transferred to GPI Midwest, LLC, GPI Midwest, LLC continued to submit DMRs and act as if GPI Midwest, LLC was the permittee. The violation notice additionally stated that GPI Midwest, LLC was not in compliance with Groundwater Discharge Permit GW1810025.

49. On July 20, 2020, GPI Midwest, LLC submitted a written response to VN-010781 confirming that Ox Paperboard had purchased the Site and agreed to assume certain liabilities from GPI Midwest, LLC, including response to the violations identified in VN-010781.

50. The Industrial Storm Water COC No. MI5210492 was not transferred from GPI Midwest, LLC to Ox Paperboard until December of 2021, and was effective on April 1, 2022.

51. The Groundwater Discharge Permit, GW1810025, was not transferred from Artistic Carton Company to Ox Paperboard in June of 2020, and was never transferred from Artistic Carton Company to Ox Paperboard at any time thereafter.

52. VN-010781 requested a response by August 1, 2020. On August 25, 2020, Ox Paperboard submitted a partial response to VN-010781 by providing a Wastewater Lagoon Assessment report.

53. On August 2, 2020, Ox Paperboard improperly diverted wastewater during maintenance of a clarifier that resulted in an unauthorized discharge to the settling basins/seepage pond (also referred to as lagoons) and the groundwater in violation of Part 31 and the Part 22 Rules. Ox Paperboard estimated that there were 800,000 gallons of contents in the clarifier at the time of the discharge and that 400,000 gallons was “raw paper stock.”

54. Ox Paperboard admitted in a written report that the discharge of 800,000 gallons of water and raw paper stock to the settling basins/seepage pond

and groundwater was intentional after its plan to store the 800,000 gallons in the basement during the repair process was deemed not feasible.

55. On September 1, 2020, Ox Paperboard submitted the remaining response to VN-010781.

56. Ox Paperboard's actions in response to VN-010781 did not achieve or maintain compliance with the requirements of Part 31 and the Part 22 Rules. Ox Paperboard failed to complete all corrective actions outlined in their response to VN-010781, including closure of the wastewater lagoons.

57. On September 30, 2020, Ox Paperboard submitted a draft lagoon closure plan related to VN-010781 that was subsequently determined by EGLE to be inadequate.

58. On October 8, 2020, the State issued Violation Notice 011113 (Ex A) to Ox Paperboard related to the intentional August 2, 2020 unauthorized discharge.

59. VN-011113 alleged that the discharge by Ox Paperboard was intentional.

60. VN-011113 confirmed that Ox Paperboard did not have a permit to discharge wastewater to groundwater.

61. VN-011113 confirmed that the unauthorized discharge was a violation of Section 324.3112(1) of Part 31 of NREPA.

62. In VN-011113, the State requested additional information regarding the August 2, 2020 unauthorized discharge.

63. In VN-011113, the State directed Ox Paperboard to take immediate action to achieve and maintain compliance with the requirements of Part 31 and the Part 22 Rules.

64. Ox Paperboard responded to VN-011113 on November 2, 2020. Ox Paperboard took actions in attempt to prevent future unauthorized discharges in response to VN-011113, including adding a lock to the valve system that allows the transfer of water from the clarifier to the lagoons and conducting staff training, however, the actions did not achieve compliance with the requirements of Part 31 and the Part 22 Rules.

65. On January 28, 2021, the WRD of EGLE performed an inspection and reviewed Ox Paperboard's SWPPP and records regarding inspections and training.

66. On March 29, 2021, the State received notice from Ox Paperboard that it discharged 1,277 gallons of wastewater from the clarifier to the ground and to the storm drain that discharges to the Pigeon River, in violation of Part 31 and the Part 22 Rules.

67. On May 3, 2021, the State issued Violation Notice 011733 (Ex B) to Ox Paperboard related to the January 28, 2021 inspection and to the March 29, 2021 unauthorized discharge. As the State outlined in VN011733:

Storm Water Exposure: Areas of storm water exposure to significant materials were discovered during the inspection as outlined below:

- a. Areas with high potential for erosion need best management practices implemented (EGLE notes that the inspection was conducted in January). Failure to implement soil erosion and sedimentation control as part

of the SWPPP is a violation of the Permit [General Permit No. MIS21000].

- b. Storm water catch basins with direct discharge into Pigeon River has sediment build up with some unprotected in sand/gravel areas. Failure to reduce sediment migration with storm water is a violation of the Permit and can lead to Part 31 water quality violations.
- c. The clarifier, located next to the Pigeon River, had paper sludge on the sides and splattered around the bottom. This was also observed during the March 9, 2020 inspection. Failure to minimize storm water exposure to industrial activities and materials is a violation of the Permit and discharges of wastewater are violations of Part 31 of the NREPA and the Permit.

68. VN-011733 confirmed that the storm water exposure violations were violations of Part 31 and the Industrial Storm Water COC No. MIS210492 and confirmed that the violations were ongoing.

69. VN-011733 confirmed the unauthorized discharge was a violation of Part 31 and the Industrial Storm Water COC No. MIS210492.

70. In VN-011733, the State requested that Ox Paperboard submit a response describing what Ox Paperboard was planning to do to comply with Part 31 and to specifically address storm water exposure and permanent corrective actions to handle sludge and wastewater and to eliminate releases and discharges to the waters of the state.

71. Ox Paperboard responded to VN-011733 via email and the Site's MiEnviro Portal account (EGLE's online permitting tool) and described some corrective action that it was going to take.

72. EGLE reviewed the plan and informed Ox Paperboard that the proposed corrective actions made in its response to VN-011733 would address the violation.

73. Ox Paperboard took initial action to address the violations identified in VN-011733, including installation of a water level sensor on the clarifier, but those actions were insufficient to maintain compliance with the terms and conditions of Part 31. Ox Paperboard has not achieved or maintained compliance with Part 31 since receiving VN-011733.

74. On October 13, 2021, the State issued Violation Notice 012170 (Ex C) and provided Ox Paperboard with monitoring well sampling results confirming high concentrations of PFOA, PFOS, ammonia, arsenic, iron, manganese, sodium, lead, Total Dissolved Solids (TDS), and cyanide in groundwater that exceeded applicable Part 201 criteria. VN-012170 referenced similar exceedances that were contained in VN-010781.

75. VN-012170 confirmed that:

The unauthorized discharges of wastewater from the clarifier and unlined settling ponds to groundwater at the Site is a violation of Part 22 of the NREPA, and the discharges of surface water and storm water above Water Quality Values from the Site is a violation of Part 31 of the NREPA and ISW Certificate of Coverage No. MIS210492.

76. VN-012170 requested Ox Paperboard meet with EGLE to discuss the violations of Part 31 and the Part 22 Rules identified in the letter.

77. As requested in VN-012170, on November 30, 2021, the State had a meeting with Ox Paperboard to discuss VN-012170 and to discuss Ox Paperboard's

operations, storm water issues, and closure of the lagoons on the Site, including the lagoon closure plan submitted to EGLE on September 30, 2020. As a result of the meeting, Ox Paperboard decided to revise the September 30, 2020, lagoon closure plan prior to EGLE review.

78. On January 30, 2022, Ox Paperboard reported another unauthorized discharge of wastewater into the Pigeon River in violation of Part 31.

79. On August 17, 2022, Ox Paperboard submitted a revised lagoon closure plan.

80. On September 7, 2022, Ox Paperboard reported another unauthorized discharge of wastewater into the Pigeon River in violation of Part 31.

81. On October 28, 2022, the State issued Violation Notice 013656 (Ex D).

82. VN-013656 confirmed that the unauthorized discharges were a violation of Part 31.

83. VN-013656 confirmed that Ox Paperboard had not taken actions to address the violations to the satisfaction of the State.

84. VN-013656 confirmed that PFOS was detected in surface water downstream of the unauthorized discharges that exceeded applicable standards.

85. Ox Paperboard took initial action to address the violations but was unable to maintain compliance with the requirements of Part 31 and the Part 22 Rules after receiving VN-013656 and has not achieved or maintained compliance with Part 31 or the Part 22 Rules since receiving VN-013656.

86. On February 17, 2023, the State had a meeting with Ox Paperboard to discuss its concerns with the Site and the August 17, 2022 revised lagoon closure plan. EGLE confirmed that Ox Paperboard still had not provided an appropriate plan for closure of the lagoons. EGLE provided detailed information on what was required in a lagoon closure plan under the Part 22 Rules to assist Ox Paperboard.

87. On April 5, 2023, Ox Paperboard had a rupture in its clarifier and discharged 14,136 gallons of process wastewater to the ground and the Pigeon River in violation of Part 31 and the Part 22 Rules.

88. On April 6, 2023, the State performed another inspection of the Site. The inspection included an inspection of the clarifier, areas on the ground impacted by the release of wastewater, and wastewater sampling.

89. On June 8, 2023, the State issued Second Violation Notice 01358 (Ex E) related to the inspection and wastewater sampling.

90. SVN-01358 confirmed that “[t]he unauthorized discharge of untreated wastewater to a surface water of the state is a violation of Part 31 of the NREPA.”

91. SVN-01358 confirmed that the violations identified in the Notice, including the April 5, 2023 discharge, were unauthorized and were additional violations of Part 31.

92. SVN-01358 confirmed that the State “reserves its right to take all necessary and appropriate enforcement actions for all violations observed to date and any violations that occur in the future.” SVN-01358 also provided notice to Ox

Paperboard that the matter was being evaluated for escalated enforcement given the continued history of spills at the Site.

93. Ox Paperboard took some corrective action to address the violations in SVN-01358.

94. Ox Paperboard continued to fail to achieve and maintain compliance with the requirements of Part 31 and the Part 22 Rules.

95. On August 29, 2023, EGLE informed Ox Paperboard via written letter that the August 17, 2022 revised lagoon closure plan was insufficient (as previously discussed with Ox Paperboard during the February 17, 2023 meeting), because the plan lacked significant detail including disposal methods for the lagoon water, sludges, and any residual soils that may be contaminated due to lagoon operations. The letter also stated that EGLE determined the sludges associated with the lagoons are not considered inert based on review of the analytical results from the wastewater lagoon sludge sampling summarized in the Wastewater Lagoons Assessment report dated August 25, 2020. In addition, the letter stated that all sludges must be properly characterized and disposed of at a licensed and permitted facility, under Part 115, Solid Waste Management, of the NREPA, MCL 324.11501 *et seq.* The letter requested a revised lagoon closure plan by October 30, 2023.

96. On December 20, 2023, the State issued Violation Notice 015487 (Ex G). VN-015487 confirmed that Ox Paperboard had not submitted a revised lagoon closure plan by October 30, 2023 (nor before December 20, 2023) and the violations

of Part 31 and the Part 22 Rules are continuing. The State requested a revised lagoon closure plan by January 15, 2024.

97. On January 26, 2024, Ox Paperboard requested an extension to submit the revised lagoon closure plan, requesting a deadline of December 1, 2024.

98. EGLE determined that the requested extension to submit the revised lagoon closure plan was not acceptable due to the amount of time and compliance assistance EGLE had already provided to Ox Paperboard to prepare a sufficient lagoon closure plan.

99. On March 22, 2024, the State issued Second Violation Notice 01533 (Ex H). SVN-01533 confirmed that Ox Paperboard had not submitted a revised lagoon closure plan acceptable to the State and that the requested extension to submit the plan in response to VN-015487 was not acceptable.

100. SVN-01533 confirmed that Ox Paperboard was not in compliance with Part 31 and the Part 22 Rules, and that the violations in VN-015487 were continuing.

101. SVN-01533 confirmed that the State “reserves its right to take all necessary and appropriate enforcement actions for all violations observed to date and any violations that occur in the future” and that “[t]his may include civil action seeking fines, enforcement costs, injunctive relief, and potential criminal prosecution.”

102. SVN-01533 confirmed that the State was evaluating the matter for escalated enforcement given the severity of Ox Paperboard’s non-compliance.

103. Since Ox Paperboard purchased the Site in June of 2020, Ox Paperboard has continuously been in violation of Part 31 and the Part 22 Rules, and has had numerous, specific unauthorized discharges to the waters of the state, as identified above.

104. As of the time of filing of this Complaint, Ox Paperboard has failed to submit a lagoon closure plan acceptable to the State.

105. As of the time of filing this Complaint, Ox Paperboard has not addressed all the violations set forth in the Violation Notices or Second Violation Notices identified above.

106. As of the time of filing this Complaint, Ox Paperboard has repeatedly failed to take appropriate action to achieve and maintain compliance with Part 31 or the Part 22 Rules.

107. As of the time of filing this Complaint, Ox Paperboard continues to violate Part 31 and the Part 22 Rules.

108. As of the time of filing this Complaint, Ox Paperboard has repeatedly failed to implement plans necessary at the Site to comply with Part 31 and the Part 22 Rules.

109. As of the time of filing this Complaint, Ox Paperboard has repeatedly failed to remedy past violations and prevent future violations of Part 31 and the Part 22 Rules.

110. EGLE has determined that Ox Paperboard's actions and inactions described above have posed and continue to pose an imminent and substantial endangerment to the public health, safety, or welfare, or of the environment.

CLAIMS FOR RELIEF

COUNT I—VIOLATIONS OF PART 31: WATER RESOURCES PROTECTION REQUEST FOR INJUNCTIVE AND DECLARATORY RELIEF

111. Paragraphs 1 through 110 of this Complaint are re-alleged and incorporated herein by reference.

112. Section 3109(1) of Part 31, MCL 324.3109(1), prohibits a person from directly or indirectly discharging to the waters of the state a substance that is or may become injurious to public health or natural resources.

113. Section 3112 of Part 31, MCL 324.3112, states in relevant part:

- (1) A person shall not discharge any waste or waste effluent into the waters of this state unless the person is in possession of a valid permit from the department.
- (2) If the department determines that a person is causing or about to cause unlawful pollution of the waters of this state, the department may notify the alleged offender of its determination and enter an order requiring the person to abate the pollution or refer the matter to the attorney general.

114. "Discharge" is defined in Rule 2102(n) of the Part 21 rules, Mich. Admin Code, R. 323.2102(n), as "any direct or indirect discharge of any waste, waste effluent, wastewater, or pollutant; or cooling waters into any of the waters of the state or upon the ground."

115. “Waste” is defined at Rule 323.2104(aa) of the Part 21 rules, Mich. Admin Code, R. 323.2104(aa) as “any waste, wastewater, waste effluent, or pollutant that is discharged into water, including any of the following: . . . (ii) solid waste . . . (viii) chemical wastes . . . (xvi) industrial, municipal, and agriculture waste . . .”

116. “Waters of the state” is defined at Section 3101(aa), MCL 324.3101(aa), as “groundwaters, lakes, rivers, and streams and all other watercourses and waters, including the Great Lakes, within the jurisdiction of this state.”

117. Ox Paperboard’s poor and negligent operating and management practices at the Site have allowed for multiple unauthorized and unpermitted discharges into the waters of the state.

118. Ox Paperboard has repeatedly failed to (a) properly close the wastewater lagoons at the Site; (b) cease their illicit discharges at the Site; and (c) remedy past violations and prevent future violations of Part 31 and the Part 22 Rules.

119. Ox Paperboard has repeatedly failed to take appropriate actions in response to the multiple Violation Notices identified above to achieve and maintain compliance with Part 31 and the Part 22 Rules.

120. Section 3115(1) of Part 31, MCL 324.3115(1), provides that the Attorney General may commence a civil action for appropriate relief, including permanent or temporary injunction, for violations of Part 31 or its rules.

121. The State seeks injunctive and declaratory relief under Part 31 and respectfully requests that the Court:

A. Declare that Ox Paperboard has violated and is in violation of Part 31 and the Part 22 Rules;

B. Permanently enjoin Ox Paperboard from violating Part 31 and its associated rules;

C. Order Ox Paperboard to cease its unpermitted and unauthorized discharges of wastewater to the waters of the state; and

D. Order Ox Paperboard to submit a plan to EGLE for its review and approval to properly close the lagoons at the Site in compliance with Part 31 and the Part 22 Rules within 30 days of this Court's order.

COUNT II—VIOLATIONS OF PART 31: WATER RESOURCES PROTECTION (CIVIL FINES)

122. Paragraphs 1 through 121 of this Complaint are re-alleged and incorporated herein by reference.

123. Ox Paperboard's poor and negligent operating and management practices at the Site have allowed for multiple unauthorized discharges into the waters of the state in violation of Part 31 and its associated rules.

124. Ox Paperboard repeatedly failed to implement best management practices at the Site satisfactory to the State to prevent violations of Part 31 and its associated rules.

125. Ox Paperboard has repeatedly failed to (a) properly close the wastewater lagoons at the Site; (b) cease their illicit discharges at the Site; and (c) remedy past violations and prevent future violations of Part 31 and the Part 22 Rules.

126. Ox Paperboard has repeatedly failed to take appropriate actions in response to the multiple Violation Notices identified above to achieve and maintain compliance with Part 31 and the Part 22 Rules.

127. Section 3115(1) of Part 31, MCL 324.3115(1), provides that the Attorney General may commence a civil action for violations of Part 31 and its rules and, in addition to declaratory and injunctive relief, may seek civil penalties.

128. Specifically, Section 3115(1) of Part 31, MCL 324.3115(1) provides:

In addition to any other relief granted under this subsection, the court, except as otherwise provided in this subsection, shall impose a civil fine of not less than \$2,500.00 and the court may award reasonable attorney fees and costs to the prevailing party. However, all of the following apply:

- (a) The maximum fine imposed by the court shall be not more than \$25,000.00 per day of violation.
- (b) For a failure to report a release to the department or to the primary public safety answering point under section 3111b(1), the court shall impose a civil fine of not more than \$2,500.00.
- (c) For a failure to report a release to the local health department under section 3111b(2), the court shall impose a civil fine of not more than \$500.00.

129. Additionally, Section 3115(3) of Part 31, MCL 324.3115(3) provides:

Upon a finding by the court that the actions of a civil defendant pose or posed a substantial endangerment to the public health, safety, or welfare, the court shall impose, in addition to the

sanctions set forth in subsection (1), a fine of not less than \$500,000.00 and not more than \$5,000,000.00.

130. As explained above, Ox Paperboard is responsible for multiple unauthorized and unpermitted discharges from the Site and into the waters of the state. Ox Paperboard's direct or indirect discharge of storm water and process wastewater at the Site into the waters of the state constitutes a violation of Section 3112(1) of Part 31, MCL 324.3112(1).

131. Ox Paperboard's unauthorized discharges of storm water into the waters of the state are injurious to public health, fish, plants, aquatic life and other designated uses of the waters of the state constitutes a violation of Section 3109(1) of Part 31, MCL 324.3109(1).

132. Ox Paperboard's unauthorized discharges and continued failure to comply Part 31 and the Part 22 Rules potentially pose a substantial endangerment to the public health, safety, or welfare.

133. The State seeks civil penalties under Part 31 of the NREPA for Ox Paperboard's ongoing violations of Part 31 and its associated rules and respectfully requests that the Court:

A. Order Ox Paperboard to pay a civil fine of not less than \$2,500 per day and not more than \$25,000 per day of violation of Part 31 of the NREPA and the associated administrative rules;

B. Order Ox Paperboard to pay reasonable attorneys' fees, costs of litigation, and costs of sampling and enforcement resulting from Ox

Paperboard 's violations of Part 31 and the associated administrative rules;
and

C. Order Ox Paperboard to pay an additional civil fine of not less than \$500,000.00 and not more than \$5,000,000.00 for the substantial endangerment posed to the public health, safety, or welfare by Ox Paperboard's unauthorized discharges to waters of the state and other violations of Part 31.

REQUEST FOR RELIEF

WHEREFORE, the State respectfully requests that the Court enter judgment awarding the following relief:

A. Declare that Ox Paperboard has violated and is in violation of Part 31 and the Part 22 Rules;

B. Permanently enjoin Ox Paperboard from violating Part 31 and its associated rules;

C. Order Ox Paperboard to cease its unpermitted and unauthorized discharges of wastewater to the waters of the state;

D. Order Ox Paperboard to submit a plan to EGLE for its review and approval to properly close the lagoons at the Site in compliance with Part 31 and the Part 22 Rules within 30 days of this Court's order;

E. Order Ox Paperboard to implement the EGLE approved lagoon closure plan;

F. Order Ox Paperboard to pay a civil fine of not less than \$2,500 per day and not more than \$25,000 per day of violation of Part 31 of the NREPA and the associated administrative rules;

G. Order Ox Paperboard to pay reasonable attorneys' fees, costs of litigation, and costs of sampling and enforcement resulting from Ox Paperboard 's violations of Part 31 and the associated administrative rules;

H. Order Ox Paperboard to pay an additional civil fine of not less than \$500,000.00 and not more than \$5,000,000.00 for the substantial endangerment posed to the public health, safety, or welfare by Ox Paperboard's unauthorized discharges to waters of the state and other violations of Part 31: and

I. Grant such other relief as the Court deems just and proper.

Respectfully submitted,

/s/ Gregory M. Utter

Joseph M. Callow, Jr.

Gregory M. Utter

Special Assistant Attorneys General

Callow + Utter Law Group

8044 Montgomery Road, Ste. 170

Cincinnati, Ohio 45236

513-659-3130

jcallow@callowandutter.com

gmutter@callowandutter.com

Polly A. Synk (P63473)

Danielle Allison-Yokom (P70950)

Assistant Attorneys General

Environment, Natural Resources, and

Agriculture Division

P.O. Box 30755

Lansing, MI 48909

517-335-7664

synkp@michigan.gov
allisonyokomd@michigan.gov

Adam J. Levitt
Amy E. Keller (P74015)
Daniel R. Flynn
Special Assistant Attorneys General
Anna Claire Skinner
DiCello Levitt LLC
10 North Dearborn St., 6th Floor
Chicago, IL 60602
(312) 214-7900
alevitt@dicellolevitt.com
akeller@dicellolevitt.com
dflynn@dicellolevitt.com
askinner@dicellolevitt.com

Richard W. Fields
Special Assistant Attorney General
Martin F. Cunniff
Fields Han Cunniff PLLC
1701 Pennsylvania Avenue NW, Ste.
200
Washington, D.C. 20006
833-382-9816
fields@fieldslawpllc.com
martincunniff@fieldslawpllc.com

Dated: October 31, 2024

EXHIBIT A



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND ENERGY
KALAMAZOO DISTRICT OFFICE



LIESL EICHLER CLARK
DIRECTOR

October 8, 2020

VN No. VN-011113

VIA EMAIL & CERTIFIED MAIL -RETURN RECEIPT REQUESTED

Mr. Kevin Hayward, President/CEO
Ox Industries
Ox Paperboard WP, LLC
600 West Elm Avenue
Hanover, Pennsylvania 17331

Dear Mr. Hayward:

SUBJECT: Violation Notice – Unpermitted Discharge
Ox Paperboard WP, LLC – St. Joseph County

The Michigan Department of Environment, Great Lakes, and Energy (EGLE), Water Resources Division (WRD), has determined that Ox Paperboard WP, LLC (WPM), located at 15781 River Street, White Pigeon, St. Joseph County, Michigan, is in violation of Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), MCL 324.3101 *et seq.*, and the administrative rules for groundwater quality promulgated under Part 31 of the NREPA, Michigan Administrative Code, R 323.2201 *et seq.*, (Part 22 Rules). Ox Paperboard WP, LLC, is located at the paper mill formerly owned by Graphics Packaging International, LLC, and Artistic Carton Company. A Permitted Facility Ownership Transfer Request for National Pollutant Discharge Elimination System Permit No. MIS210492 submitted on September 1, 2020, indicates Ox Paperboard WP, LLC, obtained ownership of the paper mill on June 23, 2020.

On August 18, 2020, Mr. Edward J. O'Donnell, IV, General Counsel to Ox Industries Holding Company, LLC, notified EGLE that a discharge of process wastewater from the clarifier to the pond occurred on August 2, 2020. A written report of the incident was requested and was submitted by Mr. O'Donnell, IV, on August 26, 2020. The written report states, "WPM estimates that of the approximately 800,000 gallons of contents in the clarifier, approximately half of that volume consisted of raw paper stock. WPM estimates that approximately 400,000 gallons of water were removed to the pond, with the remainder of approximately 400,000 gallons being raw paper stock." Mr. O'Donnell indicated the reason Ox Paperboard WP, LLC, initiated the discharge was to repair a broken rake in the clarifier. Mr. O'Donnell, IV also indicated the initial intent was to discharge the wastewater from the clarifier to the basement of the facility and return the wastewater back to the clarifier upon completion of repairs. Mr. O'Donnell, IV indicated

that it was subsequently determined that moving the wastewater product was not feasible and therefore a decision was made to discharge to the pond.

Groundwater Discharge Permit No. GW1810025 was issued to Artistic Carton Company on November 2, 2014. Groundwater Discharge Permit No. GW1810025 authorized Artistic Carton Company to discharge a maximum of 500,000 gallons per day and 21,900,000 gallons per year of process wastewater that has been treated by a clarifier and settling ponds prior to discharge to a seepage pond. A request for transfer of Groundwater Discharge Permit No. GW1810025 has not been submitted. Ox Paperboard WP, LLC, is not authorized to discharge wastewater to waters of the State.

Discharge to waters of the State without required authorization is a violation of Section 324.3112(1) of Part 31 of the NREPA which states, "A person shall not discharge any waste or waste effluent into the waters of this state unless the person is in possession of a valid permit from the department."

EGLE is requesting additional information pertaining to the unpermitted discharge to be submitted by **November 1, 2020**:

1. Provide clarification on the volume and characterization/content of the discharge from the clarifier to the pond.
2. Provide a written description of structural deficiencies in the mill basement that could result in an unauthorized discharge to groundwater.
3. The written report refers to the location of the unlawful discharge as the "the pond". Provide specific details, included a map or diagram, as to the where the wastewater and raw paper stock were discharged.
4. Indicate if wastewater or associated content was not contained fully within the pond, and if any wastewater and/or associated content was discharged offsite or directly to the adjacent river.
5. Indicate if Ox Paperboard WP, LLC has had any additional unpermitted discharges to groundwater or surface waters since taking ownership.
6. The written notification states, "WPM will not reclaim the water and, instead, will introduce fresh water into the system for future operations." Please provide clarification as to what is being indicated or intended by introduction of fresh water into the system.
7. Provide written indication of steps and/or practices to prevent this type of incident from occurring in the future.

The violation identified in this Violation Notice has ceased.

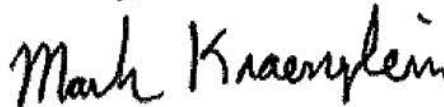
The violation identified in this Violation Notice are violations of Part 31 of the NREPA, and the Part 22 administrative rules.

Ox Paperboard WP, LLC should take immediate action to achieve and maintain compliance with the terms and conditions of Part 31 of the NREPA, and the Part 22 administrative rules.

If you have any factual information you would like us to consider regarding the violations identified in this Violation Notice, please provide them with your written response.

We anticipate and appreciate your cooperation in resolving this matter. Should you require further information regarding this Violation Notice or if you would like to arrange a meeting to discuss it, please contact me at 269-491-8693; KraenzleinM@michigan.gov; or Michigan Department of Environment, Great Lakes, and Energy, WRD, 7953 Adobe Road, Kalamazoo, Michigan 49009-5025.

Sincerely,



Mark Kraenzlein
Kalamazoo District Office
Water Resources Division

MK:DMM

cc: Ms. Kerri Kahlmorgan, Ox Industries
Mr. Edward J. O'Donnell, O'Donnell & Barr
Ms. Nikki Stiles, O'Donnell & Barr
Mr. Jon Russel, EGLE
Mr. Dave Pingel, EGLE
Ms. Chris Alexander, EGLE
Ms. Stephanie Kammer, EGLE
Ms. Kristine Rendon, EGLE
Ms. Katelyn Wysocki, EGLE
Mr. Eric Chatterson, EGLE
Mr. Thomas Berdinski, EGLE
Ms. Jen Klang, EGLE
Ms. Ann Gilcrest, EGLE
Ms. Terri Shattuck, EGLE

EXHIBIT B



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND ENERGY
KALAMAZOO DISTRICT OFFICE



LIESL EICHLER CLARK
DIRECTOR

May 3, 2021

Violation Notice No. VN-011733

VIA EMAIL

Mr. Kevin Hayward, President/CEO
Ox Paperboard WP, LLC
600 West Elm Avenue
Hanover, Pennsylvania 17331

Mr. Mark Wallace, EVP of Operations
White Pigeon Mills, LLC
600 West Elm Avenue
Hanover, Pennsylvania 17331

Dear Messrs. Hayward and Wallace:

SUBJECT: Violation Notice
National Pollutant Discharge Elimination System (NPDES)
Certificate of Coverage (COC) No. MIS210492
Designated Name: White Pigeon Mill

On January 28, 2021, the Michigan Department of Environment, Great Lakes, and Energy (EGLE), Water Resources Division (WRD), staff performed an inspection at White Pigeon Mill located at 15781 River Street in White Pigeon, St. Joseph County, Michigan 49099 (Facility), owned by White Pigeon Mills, LLC, and operated by Ox Paperboard WP, LLC. The purpose of this inspection was to determine compliance with Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, MCL 324.3101 *et seq.* and the Administrative Rules promulgated thereunder being 2006 AACS R 323.2101 *et seq.*, as amended (NREPA); the and the Facility's NPDES COC No. MIS210492, issued and effective on June 29, 2018, and expiring on April 1, 2022, issued under General Permit No. MIS210000 (Permit).

Inspection participants included Mr. John Richter, Mr. Clayton Staley, and Ms. Kerri Kahlmorgan, of Ox Industries, Ms. Jessica Black and Mr. David Filipiak, of Fishbeck, and Mr. Mark Kraenzlein and Ms. Ann Gilchrist of EGLE. The inspection included an introduction, discussion, and a site inspection. Ms. Gilchrist performed an off-site review of the Storm Water Pollution Prevention Plan (SWPPP) and a records review including routine and comprehensive inspections, visual assessments, and trainings records review.

Please note that these findings are only related to the Industrial Storm Water Inspection and other EGLE correspondence may follow. The following items were noted during the inspection and/or document review and are detailed in the attached Inspection Report and Photo Log.

1. **Storm Water Exposure:** Areas of storm water exposure to significant materials were discovered during the inspection as outline below:
 - a. Areas with high potential for erosion need best management practices implemented (EGLE notes that the inspection was conducted in January). Failure to implement soil erosion and sedimentation control as part of the SWPPP is a violation of the Permit.
 - b. Storm water catch basins with direct discharge into White Pigeon River had sediment build up with some unprotected in sand/gravel areas. Failure to reduce sediment migration with storm water is a violation of the Permit and can lead to Part 31 water quality violations.
 - c. The clarifier, located next to the White Pigeon River, had paper sludge on the sides and splattered around the bottom. This was also observed during the March 9, 2020, inspection. Failure to minimize storm water exposure to industrial activities and materials is a violation of the Permit and discharges of wastewater are violations of Part 31 of the NREPA and the Permit.
2. **Unauthorized Discharge:** On March 29, 2021, EGLE received notification of an overflow of approximately 1,277 gallons of wastewater from the clarifier to the ground and storm drain which discharges to the White Pigeon River. The discharge of the clarifier spill materials is an unauthorized discharge and as such, is a violation of Part 31 and the Permit.
3. Due to the Facility's proximity to the White Pigeon River, EGLE WRD staff completed a review of the historical discharges (2009-present) to the White Pigeon River.
 - a. **September 2, 2009:** Sump pump failure causes release of an estimated 100 gallons of wastewater to White Pigeon River.
 - b. **September 20, 2012:** Fire hydrant emptied on drive causes aluminum phosphate migration to White Pigeon River, bank and shore were cleaned.
 - c. **May 16, 2013:** Clarifier leak discharges approximately 500 gallons of wastewater to White Pigeon River.
 - d. **February 9, 2015:** Leaking underground pipe from clarifier to pump house, discharges unknown quantity.
 - e. **March 9, 2020:** An unauthorized discharge to surface waters was observed from a metal pipe to the White Pigeon River originating at the back of the Pumphouse and there was evidence that the clarifier had recently overflowed. The exterior of the clarifier had wastewater residuals along its sides and on the nearby ground surface.
 - f. **August 2, 2020:** Unauthorized discharge to seepage ponds of 400,000 gallons of raw paper sludge and 400,000 gallons of wastewater.
 - g. **March 29, 2021:** Clarifier overflow causes discharge of 1,277 gallons of wastewater to White Pigeon River. This was properly reported, and a ten

(10) day compliance report was submitted as required, however any unauthorized discharge to surface waters of the state is a violation of the Permit. Further, any discharge of untreated wastewater is a violation of Part 31 and the Permit.

The violations identified in this Violation Notice are violations of the Permit and Part 31. The storm water exposure violations are continuing; however, the March 29, 2021, discharge has stopped.

The Facility must take immediate action to achieve and maintain compliance with the terms and conditions of Part 31 of the NREPA and the General Permit.

Please submit a response to this office via MiWaters **on or before May 31, 2021**, describing what has been done to achieve compliance. At a minimum, the response shall include:

1. Storm Water Exposure:

- a. Areas of bare soil and gravel must have soil erosion and sedimentation controls in place to mitigate migration of sediment with storm water to the White Pigeon River. Submit photo documentation of best management practices implemented to reduce erosion.
- b. Storm water catch basins in areas of sand and gravel areas must have best management practices implemented. Submit photo documentation of the BMPs installed in catch basins in these areas.
- c. Photo documentation that areas of paper sludge spillage have been appropriately cleaned up from the clarifier and surrounding area.

- 2. Permanent Corrective Actions:** In twelve (12) years, the Facility has had seven (7) known and documented releases to the White Pigeon River. EGLE requests White Pigeon Mill review the processes and procedures for handling sludge and wastewater to determine if a more environmentally responsible location could be found for the clarifier and/or if best management practices could be implemented between the clarifier and the White Pigeon River to eliminate the potential for continued releases to the Waters of the State. EGLE recommends that at a minimum the Facility pursue structural controls to eliminate the potential to release wastewater and paper sludge to the White Pigeon River. Please submit a plan with a timeline for implementation to eliminate the potential to discharge wastewater and paper sludge to the White Pigeon River.

The Storm Water Annual Permit Fee for Industrial Storm Water fiscal year 2020 remains outstanding. The current balance with interest accrued is \$285.35. Please pay the overdue fee.

If the Facility has any factual information the WRD should consider regarding the violation(s) identified in this Violation Notice, please provide them with the written response.

The WRD anticipates and appreciates your cooperation in resolving this matter. Should you require further information regarding this communication or if you would like information on storm water compliance, please contact me at 269-251-5157; GilchristA@michigan.gov; or Michigan EGLE, WRD, Kalamazoo District Office, 7953 Adobe Road, Kalamazoo, Michigan 49009-5025.

Sincerely,



Ann Gilchrist
Kalamazoo District Office
Water Resources Division

AG:DMM

Attachments

cc: Mr. John Richter, Ox Industries
Mr. Clayton Staley, Ox Industries
Ms. Kerri Kahlmorgan, Ox Industries
Mr. E. Steve O'Donnell IV, General Council
Ms. Jessica Black, Fishbeck
Mr. David Filipiak, Fishbeck
Mr. Thomas Berdinski, EGLE
Ms. Jennifer Klang, EGLE
Mr. Jeremy Rubio, EGLE

EXHIBIT C



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND ENERGY
KALAMAZOO DISTRICT OFFICE



LIESL EICHLER CLARK
DIRECTOR

October 13, 2021

Violation Notice No. VN-012170

VIA E-MAIL AND U.S. MAIL

Mr. Kevin Hayward, President/CEO
Ox Paperboard WP, LLC
600 West Elm Avenue
Hanover, Pennsylvania 17331

Mr. Mark Wallace, EVP of Operations
White Pigeon Mills, LLC
600 West Elm Avenue
Hanover, Pennsylvania 17331

Dear Mr. Hayward and Mr. Wallace:

SUBJECT: National Pollutant Discharge Elimination System (NPDES)
Industrial Storm Water (ISW) Certificate of Coverage No. MIS210492
Designated Name: White Pigeon Mill
Unauthorized Groundwater Discharge
Part 201 Facility Notification, Part 31 and Part 22 Rules Violation Notice

The Michigan Department of Environment, Great Lakes, and Energy (EGLE), Water Resources Division (WRD), received monitoring well sampling results indicating environmental contamination is present in the property owned by White Pigeon Mills, LLC, located at 15781 River Street in White Pigeon, Michigan (Site). Ox Paperboard WP, LLC, operates the wastewater treatment plant on the Site. White Pigeon Mills, LLC, purchased the Site from GPI Midwest, LLC, on June 23, 2020. Michigan's Environmental Cleanup law, Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA); MCL 324.20101 *et seq.*, and the Part 22, Groundwater Quality Administrative Rules, R 323.2201 *et seq.* (Part 22 Rules), promulgated pursuant to Part 31, Water Resources Protection, of the NREPA; MCL 324.3101 *et seq.*, identify actions or precautions an entity needs to take with respect to environmental contamination. Owners and operators of contaminated property may have responsibilities associated with that contamination.

Concentrations of perfluorooctanoic acid (PFOA), perfluorooctanesulfonic acid (PFOS), ammonia, arsenic, iron, manganese, sodium, lead, zinc, Total Dissolved Solids (TDS), and cyanide in groundwater have been identified in concentrations that exceed applicable Part 201 criteria in compliance monitoring wells at the Site. The monitoring well sample results exceeding groundwater protection criteria are summarized below in bold and italics:

Table 1: Summary of Part 201 Exceedances in Groundwater Monitoring Wells (PFAS)								
White Pigeon Paper Company ⁽¹⁾								
Parameter	MW-2	MW-3	MW-4S	MW-5	MW-6	MW-7	Part 201 Generic Residential Drinking Water Criteria	Part 201 Generic Groundwater Surface Water Interface Criteria
Perfluorooctanoic acid (ng/l) (PFOA)	230	87	360	570	910	13	8	<i>12,000(X)</i>
Perfluorooctanesulfonic acid (ng/l) (PFOS)	610	230	2,000	3,100	5,100	35	16	<i>12(X)</i>

Notes:

MW-4D was not sampled for Per- and Polyfluoroalkyl Substances (PFAS).

(1) – Results are from Table B-5: Summary of PFAS in Groundwater-White Pigeon Paper Co., and Figure 9: 2019 Groundwater PFAS Detections-GPI Midwest, LLC (Ramboll, October 2019).

BOLD: Results exceed the Generic Part 201 Residential Drinking Water Criteria.

Italics: Results exceed the Generic Groundwater Surface Water Interface Criteria (GSI).

(X) – The GSI criteria shown in the generic clean-up criteria tables is not protective of surface water used as a drinking water source.

White Pigeon Mill
Certificate of Coverage No. MIS210492
Unauthorized Groundwater Discharge
Violation Notice No. VN-012170
October 13, 2021
Page 3

White Pigeon Paper Company ⁽¹⁾										
Parameter	MW-2	Sample Date	MW-4S	Sample Date	MW-4D	Sample Date	MW-5	Sample Date	Part 201 Generic Residential Drinking Water Criteria	Part 201 Generic Groundwater Surface Water Interface Criteria
Ammonia (mg/l)	13.8	8/2/2012	13	11/9/2018	9.52	11/21/2011	6.5	5/11/2020	10	(CC)
Arsenic (mg/l) ⁽²⁾	0.091	2/7/2013	0.186	8/22/2012	0.108	2/7/2013	<0.01	NA	0.01	0.01
Iron (mg/l) ^(2,3)	21.3	2/4/2014	29.1	2/1/2012	17.3	11/21/2011	7.85	11/1/2012	0.3/2.0 ⁽⁴⁾	NA
Manganese (mg/l) ⁽²⁾	0.098	5/2/2012	0.485	5/9/2013	0.146	11/21/2011	0.179	11/1/2012	0.05/0.86 ⁽⁴⁾	(G,X)
Sodium (mg/l) ⁽²⁾	377	2/4/2014	443	11/6/2013	308	11/21/2011	248	11/21/2011	230	NA
Lead (mg/l) ⁽²⁾	<0.001	NA	0.096	2019 ⁽⁵⁾	<0.001	NA	0.017	2019 ⁽⁵⁾	0.004	(G,X-0.047) ⁽⁶⁾
Zinc (mg/l) ⁽²⁾	0.841	5/9/2013	1.83	5/9/2013	<0.02	NA	0.85	2019 ⁽⁵⁾	2.4	(G-0.223) ⁽⁶⁾
TDS (mg/l)	1480	2/4/2014	1660	6/9/2013	1630	5/12/2016	1320	11/21/2011	500	(EE)
Cyanide (ug/l)	10	5/12/2016	12	11/2/2017	8	5/12/2016	12	11/21/2011	200	5.2

Notes:

(1) – Results represent maximum reported concentrations at downgradient groundwater monitoring wells on Discharge Monitoring Reports (DMRs) submitted between November 2011 and August 2020, and/or from Table B-4: Summary of Metals, PCBs, SVOCs, and VOCs in Groundwater Sampling Results-White Pigeon Paper Co., and Figure 8: 2019 Groundwater Metals, PCBs, SVOCs, and VOCs Exceedances-GPI Midwest, LLC (Ramboll, October 2019).

(2) – No analytical data is available on DMRs after February 4, 2014.

(3) – Iron concentrations in the DMRs were to be reported in micrograms per liter (ug/l). However, results were reported in milligrams per liter (mg/l). See the groundwater sampling results and laboratory data sheets in the Groundwater Discharge Hydrogeologic Investigation Report for White Pigeon Paper Company (FTC&H, April 2002).

(4) – Analytes have both aesthetic and health-based drinking water criteria.

(5) – Results are from Table 1, Summary of Metals in Groundwater Sampling Results, GPI Midwest – White Pigeon, Michigan, Notice of Migration of Contamination (Form EQP4482, Rev. 4/16) received October 31, 2019.

(6) – Criterion in parentheses taken from Table B-4: Summary of Metals, PCBs, SVOCs, and VOCs on Groundwater Sampling Results-White Pigeon Paper Co. (Ramboll, 2019). Criterion

was calculated using an assumed hardness of 223 mg CaCO₃/L (using Pigeon River data via <http://www.mcgi.state.mi.us/miswims/details.aspx?DetailType=2&Id=750289>).

BOLD: Results exceed the Generic Part 201 Residential Drinking Water Criteria.

Italics: Results exceed the Generic Groundwater Surface Water Interface Criteria (GSI).

(CC) – The generic GSI criteria are based on the toxicity of unionized ammonia.

(G) – GSI criterion is dependent upon the pH or hardness, or both, of the receiving water.

(X) – The GSI criteria shown in the generic clean-up criteria tables is not protective of surface water used as a drinking water source.

(EE) – 500 mg/l is the generic GSI criteria, as required by Section 20120e of the NREPA.

Groundwater that exceeds the applicable criteria in a property defines that property as a "Facility" under Part 201. **This Violation Notice (VN) serves as formal notification that groundwater at the Site is contaminated above applicable Part 201 criteria**, meaning the Site is a "Facility" as that term is defined by Part 201.

Owners and operators who have knowledge their property is a Part 201 Facility are required to take certain measures, commonly called due care, to ensure that the contamination on the property does not cause unacceptable risks and is not exacerbated. The due care provisions are found in Section 20107a of Part 201, and include:

- * Preventing exacerbation of the existing contamination.
- Preventing unacceptable human exposure and mitigating fire and explosion hazards to allow for the intended use of the Facility in a manner that protects the public health and safety.
- Taking reasonable precautions against the reasonably foreseeable acts or omissions of a third party.
- Providing cooperation and access to authorized persons to conduct response activities.
- Complying with any land use or resource use restrictions in connection with response activities.

Additional guidance on complying with due care is found in Part 10 (Compliance with Section 20107a) of the Part 201 Administrative Rules, Mich Admin Code, R 299.1 *et seq.*

Further, on June 25, 2020, EGLE sent Violation Notice No. VN-010781 to GPI Midwest, LLC, the owner of the Site at the time of the inspection. This VN transmitted the results of the March 9, 2020, Compliance Sampling Inspection (CSI) and ISW Permitted Facility Inspection

White Pigeon Mill
Certificate of Coverage No. MIS210492
Unauthorized Groundwater Discharge
Violation Notice No. VN-012170
October 13, 2021
Page 6

surface water and storm water above WQVs from the Site is a violation of Part 31 of the NREPA and ISW Certificate of Coverage No. MIS210492.

WRD encourages Ox Paperboard WP, LLC, and White Pigeon Mills, LLC, representatives to become familiar with Part 201, Part 31 of the NREPA, and the Part 22 Rules, and requests that Ox Paperboard WP, LLC, and White Pigeon Mills, LLC, take the necessary steps to comply with Part 201, Part 31 of the NREPA, and the Part 22 Rules. Ox Paperboard WP, LLC, and White Pigeon Mills, LLC, may want to confer with an environmental consultant to assist in its compliance requirements.

The explanations of Part 201, Part 31 of the NREPA, and the Part 22 Rules requirements in this VN should not be considered a complete listing of the Ox Paperboard WP, LLC's, and White Pigeon Mills, LLC's, legal obligations under the law.

Information used to prepare this VN is available for review under the Freedom of Information Act (FOIA) and through MiWaters. If Ox Paperboard WP, LLC, or White Pigeon Mills, LLC, wish to review file information or meet with EGLE staff, COVID-19 protocols require that meetings and other communications be done by remote means such as by phone, e-mail, or online meetings.

Compliance with the terms of this VN does not relieve Ox Paperboard WP, LLC, or White Pigeon Mills, LLC, of any liability, past or present, from the failure to meet the conditions specified in, or failure to comply with, ISW Certificate of Coverage No. MIS210492, Part 31 of the NREPA, Part 22, or the Part 201 Rules.

EGLE is hereby offering to resolve the violations detailed herein through entry of an Administrative Consent Order (ACO). EGLE believes that entry into an ACO as allowed under Sections 3106 and 3112 of Part 31 of the NREPA, offers the best mechanism to establish a mutually agreed-upon compliance plan and schedule to address pollution EGLE considers to be unreasonable and against the public interest, including a path/process to comply with the Part 22 Rules lagoon closure requirements, and to bring the storm water and surface water discharges into compliance with Part 31 of the NREPA and the WQV.

EGLE is offering a meeting to discuss the proposed ACO process as well as the details of this letter. **If Ox Paperboard WP, LLC, and White Pigeon Mills, LLC, would like EGLE to set up the meeting, please contact me by November 1, 2021. Alternatively, if Ox Paperboard WP, LLC, and White Pigeon Mills, LLC, are amenable to entry of an ACO, please let me know by November 1, 2021, and EGLE will prepare the draft ACO and mail it under separate cover for consideration.**

Sincerely,



Stephanie Kammer, Manager
Emerging Pollutants Section
Water Resources Division
517-897-1597
kammers@michigan.gov

White Pigeon Mill
Certificate of Coverage No. MIS210492
Unauthorized Groundwater Discharge
Violation Notice No. VN-012170
October 13, 2021
Page 7

sk/sea

cc: Mr. E. Steve O'Donnell, O'Donnell & Barr (electronic)
Mr. Walter E. Bowles, GPI Midwest, LLC (electronic)
Mr. Peter Traeger, Artistic Carton Company (electronic)
Mr. Jon Russell, EGLE
Mr. Dave Pingel, EGLE
Ms. Jen Klang, EGLE
Mr. Jeremy Rubio, EGLE
Ms. Anne Gilchrist, EGLE
Mr. Thomas Berdinski, EGLE
Mr. Eric Chatterson, EGLE
Ms. Sydney Ruhala, EGLE
Mr. David Harn, EGLE
Mr. Ray Spaulding, EGLE
Ms. Bree Bennett, EGLE
Mr. Nathan Whitmyer, EGLE
Ms. Cyndi Mollenhour, EGLE

EXHIBIT D



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND ENERGY
KALAMAZOO DISTRICT OFFICE



LIESL EICHLER CLARK
DIRECTOR

October 28, 2022

Violation Notice No. VN-013656

VIA E-MAIL AND CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Kevin Hayward, President/CEO
Ox Paperboard WP, LLC
600 West Elm Avenue
Hanover, Pennsylvania 17331

Mark Wallace, EVP of Operations
White Pigeon Mills, LLC
600 West Elm Avenue
Hanover, Pennsylvania 17331

Dear Kevin Hayward and Mark Wallace:

SUBJECT: National Pollutant Discharge Elimination System (NPDES)
Industrial Storm Water (ISW) Certificate of Coverage (COC) No. MIS210492
Designated Name: White Pigeon Mill
Violation Notice – Unpermitted Discharge

On September 9, 2022, the Michigan Department of Environment, Great Lakes, and Energy (EGLE), Water Resources Division (WRD), staff performed an inspection at the White Pigeon Mill facility located at 15781 River Street, White Pigeon, Michigan 49099 (hereinafter "Facility"). The purpose of this inspection was to determine compliance with Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, MCL 324.3101 *et seq.* and the Administrative Rules promulgated thereunder being 2006 AACS R 323.2101 *et seq.*, as amended (NREPA); and the Facility's NPDES COC No. MIS210492, issued on December 2, 2021, effective on April 1, 2022, and expiring on April 1, 2027, under General Permit No. MIS210000 (collectively "Permit"); and in response to a call to the Pollution Emergency Alerting System (PEAS) regarding a discharge to the White Pigeon River of untreated wastewater.

The September 9, 2022, inspection participants included Kerri Kahlmorgan, of Ox Industries, and Sydney Ruhala and Rikki Oden, of EGLE. The inspection included visual observation of the clarifier and area of the spill, and surface water sampling in the Pigeon River upstream of the site (PR01), downstream of the site of the spill (PR02), and a sample of the wastewater inlet from the clarifier to the screens (WW01). EGLE did not access to the interior of the building, therefore Ox Industries staff collected WW01.

An additional site visit was conducted on September 12, 2022, and the inspection participants included Kerri Kahlmorgan, Jeff Lyman, and Clayton Staley, of Ox Industries, and Daniel Burlingame, of EGLE. The inspection included a physical tour to observe process water flow, clarifier spill areas of impact, and observation of the discharge lagoon, a review of Permit-required documents, and discussion regarding Ox Industries discontinuation of discharge to the lagoon system and instead implementing a "closed loop" system for wastewater flow.

Inspection Findings Summary

Items identified and/or discussed during the inspection are included in the enclosed Inspection Report and the Environmental Laboratory Report with the per- and polyfluoroalkyl substances (PFAS) results and are summarized below:

On September 7, 2022, White Pigeon Mill representatives called the PEAS line to report (PEAS-25243) a discharge of an unknown quantity of untreated wastewater from the clarifier to the White Pigeon River through the storm drain on-site. The discharge of untreated wastewater to a surface water of the state is a violation of Part 31 of the NREPA.

EGLE issued Violation Notice No. VN-012070 on October 13, 2021, for a clarifier overflow on March 29, 2021, during the Facility start up. There was another clarifier failure reported on January 30, 2022. Including the September 7, 2022, the Facility has had three (3) untreated wastewater discharges to the White Pigeon River from clarifier spills.

WRD Water Sampling Results

Perfluorooctane sulfonate (PFOS) was detected in surface water sample PR02, downstream of the spill area on site, at a concentration that exceeded the applicable Water Quality Value (WQV) for PFOS of 12 nanogram per liter (ng/L), developed in accordance with Part 31 of the NREPA; MCL 324.3101 *et seq.* (Part 31); the Part 4 Administrative Rules for Water Quality Standards, promulgated pursuant to Part 31 of the NREPA; Mich. Admin Code, R 323.1041 *et seq.*, as amended (WQS Rules). The PFOS results are summarized below. A complete listing of the PFAS analytical results is included in the enclosed laboratory report.

Sampling Location	Location Description	PFOS Results (ng/l)
PR01	Pigeon River, upstream of site	Non-detect
PR02	Pigeon River, downstream of spill area on-site	31
WW01	Wastewater in inlet from clarifier to AES screens	110

The violations identified in this Violation Notice are continuing violations of Part 31 of the NREPA, the rules promulgated pursuant to Part 31, and the Permit.

Please respond via **MiWaters** to the items listed above on or before **November 15, 2022**. At minimum, your response shall include:

1. A plan with timing to implement structural controls to permanently eliminate discharges from the clarifier into the White Pigeon River during operations of the Mill.

Please be aware that a discharge of hazardous substances to soil or groundwater constitutes a release under Part 201, Environmental Remediation, and is a violation of Part 22 Rules. Groundwater Quality, promulgated under Part 31 of the NREPA.

If the Facility has any factual information the WRD should consider regarding the violation(s) identified in this Violation Notice, please provide them with the written response.

Compliance with the terms of this Violation Notice does not relieve Ox Industries of any liability, past or present, from the failure to meet the conditions specified in, or failure to comply with, NPDES COC No. MIS210492 and Part 31 of the NREPA. EGLE reserves its right to take all necessary and appropriate enforcement actions for all violations observed to date and any violations that occur in the future.

The WRD appreciates the Facility's prompt attention to this matter. Should you have any questions regarding this Violation Notice or the storm water regulations, please contact me at 269-251-5157; gilchrista@michigan.gov; or EGLE, WRD, Kalamazoo District Office, 7953 Adobe Road, Kalamazoo, Michigan 49009-5025. If you have any PFAS/PFOS questions or would like to discuss the water sample results, please contact Sydney Ruhala at RuhalaS@michigan.gov or 517-599-5356.

Sincerely,



Ann Gilchrist
Kalamazoo District Office
Water Resources Division

AG:DMM

Enclosures

cc: Kerri Kahlmorgan, Ox Industries
E. Steve O'Donnell, O'Donnell & Barr
Nikki Stiles, O'Donnell & Barr
Susan Doty, EGLE
Kaitlyn Wysocki, EGLE
Kristine Rendon, EGLE
Sydney Ruhala, EGLE
Dave Harn, EGLE
Ray Spaulding, EGLE
Chelsea Hayden, EGLE
Jen Klang, EGLE
Daniel Burlingame, EGLE
Terri Shattuck, EGLE

EXHIBIT E



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND ENERGY
KALAMAZOO DISTRICT OFFICE



AARON B. KEATLEY
ACTING DIRECTOR

June 8, 2023

Second Violation Notice No. SVN-01358

VIA E-MAIL AND CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Kevin Hayward, President/CEO
Ox Paperboard WP, LLC
600 West Elm Avenue
Hanover, Pennsylvania 17331

Mark Wallace, EVP of Operations
White Pigeon Mills, LLC
600 West Elm Avenue
Hanover, Pennsylvania 17331

Dear Kevin Hayward and Mark Wallace:

SUBJECT: Second Violation Notice – Unpermitted Discharge
National Pollutant Discharge Elimination System (NPDES)
Industrial Storm Water (ISW) Certificate of Coverage (COC) No. MIS210492
Designated Name: White Pigeon Mill

On April 6, 2023, the Michigan Department of Environment, Great Lakes, and Energy (EGLE), Water Resources Division (WRD), performed an inspection at the White Pigeon Mill facility located at 15781 River Street, White Pigeon, Michigan 49099 (hereinafter "Facility"). The purpose of this inspection was to determine compliance with Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, MCL 324.3101 *et seq.* and the Administrative Rules promulgated thereunder being 2006 AACS R 323.2101 *et seq.*, as amended (NREPA); and the Facility's NPDES COC No. MIS210492, issued on December 2, 2021, effective on April 1, 2022, and expiring on April 1, 2027, under General Permit No. MIS210000 (collectively "Permit"); and in response to a call to the Pollution Emergency Alerting System (PEAS) regarding a discharge of untreated wastewater to the Pigeon River.

Inspection participants included Kerri Kahlmorgan and Clayton Staley, of Ox Industries, and Ann Gilchrist and Jeremy Rubio, of EGLE. The inspection included a physical observation of the ruptured clarifier, areas on the ground impacted by the release of wastewater, the intake area within the Pigeon River, and a discussion of potential locations for wastewater sampling. Based on discussions with Ox Industries staff regarding how the spill occurred, it was determined that representative samples of the wastewater that was discharged could be retrieved from the trough connecting the large clarifier to the ruptured clarifier. The ruptured clarifier had multiple patches from past repairs and reduced capacity due to compromised structural integrity and was scheduled for decommissioning by the end of May 2023. Also discussed was the "closed loop" water system internal water balancing timing of the end of May 2023 to eliminate wastewater discharges from the clarifiers.

Items identified and/or discussed during the inspection are included in the enclosed Inspection Report.

1. The clarifier rupture was discovered at 3:00 p.m. on April 5, 2023, and approximately 14,136 gallons of process wastewater was discharged to the freshwater intake structure within the Pigeon River and to the ground.
2. Multiple discharges of untreated wastewater have occurred at this site.
 - a. EGLE issued VN-013656 for an unpermitted discharge of wastewater released through a storm sewer to the Pigeon River following a weir becoming plugged on September 7, 2022.
 - b. EGLE issued Violation Notice No. VN-012070 for a clarifier overflow on March 29, 2021.
 - c. There was a clarifier failure reported on January 30, 2022.

The Facility has had four (4) untreated wastewater discharges to the Pigeon River from clarifier failures in the last three (3) years. The discharge of untreated wastewater to a surface water of the state is a violation of Part 31 of the NREPA.

WRD Water Sampling Results

Perfluorooctane sulfonate (PFOS) was detected in the wastewater sample at a concentration that exceeded the applicable Water Quality Value (WQV) for Perfluorooctane Sulfonic Acid (PFOS) of 12 nanogram per liter (ng/L), developed in accordance with Part 31 of the NREPA; MCL 324.3101 *et seq.* (Part 31); the Part 4 Administrative Rules for Water Quality Standards, promulgated pursuant to Part 31 of the NREPA; Mich. Admin Code, R 323.1041 *et seq.*, as amended (Water Quality Standards Rules). The PFOS results are summarized below. A complete listing of the per- and poly-fluoroalkyl substances (PFAS) analytical results is included in the attached laboratory report.

Sampling Location	Location Description	PFOS Results (ng/L)
CW	Wastewater in trough between clarifiers	40

In accordance with the terms of Part 31 of the NREPA, Section 324.3109(1), which states in part: "A person shall not directly or indirectly discharge into the waters of the state a substance that is or may become injurious to any of the following:

- (a) To the public health, safety, or welfare.
- (b) To domestic, commercial, industrial, agricultural, recreational, or other uses that are being made or may be made of such waters.
- (c) To the value or utility of riparian lands.
- (d) To livestock, wild animals, birds, fish, aquatic life, or plants or to their growth or propagation.
- (e) To the value of fish and game."

The violations identified in this Second Violation Notice are violations of Part 31 of the NREPA, the Part 4, Water Quality Standards, rules promulgated pursuant to Part 31, and the Permit, and have ceased.

Please respond via **MiEnviro Portal** to the items listed above on or before **July 15, 2023**. At minimum, your response shall include:

1. A plan with timing to implement structural controls to permanently eliminate discharges from the clarifiers into the Pigeon River during operations of the Mill.

Please be aware that a discharge of hazardous substances to soil or groundwater constitutes a release under Part 201, Environmental Remediation, of the NREPA, and is a violation of the Part 22, Groundwater Quality, administrative rules promulgated pursuant to Part 31, Mich. Admin Code, R 323.2201 et seq. (Part 22 Rules).

If the Facility has any factual information the WRD should consider regarding the violation(s) identified in this Second Violation Notice, please provide them with the written response.

Compliance with the terms of this Second Violation Notice does not relieve Ox Industries of any liability, past or present, from the failure to meet the conditions specified in, or failure to comply with, NPDES COC No. MIS210492 and Part 31 of the NREPA. EGLE reserves its right to take all necessary and appropriate enforcement actions for all violations observed to date and any violations that occur in the future.

Due to the continued history of spills at this facility, this matter is being evaluated for escalated enforcement.

The WRD appreciates the Facility's prompt attention to this matter. Should you have any questions regarding this Second Violation Notice or the storm water regulations, please contact me at 269-251-5157; GilchristA@michigan.gov; or EGLE, WRD, Kalamazoo District Office, 7953 Adobe Road, Kalamazoo, Michigan 49009-5025. If you have any PFAS/PFOS questions or would like to discuss the water sample results, please contact Sydney Ruhala at RuhalaS@michigan.gov or 517-599-5356.

Sincerely,



Jennifer Klang
District Supervisor
Kalamazoo District Office
Water Resources Division

JK:AG:DMM

Attachments

cc: Clay Staley, Ox Industries
Kerri Kahlmorgan, Ox Industries
E. Steve O'Donnell, O'Donnell & Barr
Nikki Stiles, O'Donnell & Barr
Dave Harn, EGLE
Ray Spaulding, EGLE
Stephanie Kammer, EGLE
Susan Doty, EGLE
Kristine Rendon, EGLE
Sydney Ruhala, EGLE
Kaitlyn Wysocki, EGLE
Chelsea Hayden, EGLE
Daniel Burlingame, EGLE
Jeremy Rubio, EGLE
Terri Shattuck, EGLE
Ann Gilchrist, EGLE

EXHIBIT F



STATE OF MICHIGAN
DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND ENERGY
LANSING

EGLE

GRETCHEN WHITMER
GOVERNOR

PHILLIP D. ROOS
DIRECTOR

August 29, 2023

VIA EMAIL

Kevin Hayward, President/CEO
Ox Paperboard WP, LLC
600 West Elm Avenue
Hanover, Pennsylvania 17331

Mark Wallace, EVP of Operations
White Pigeon Mills, LLC
600 West Elm Avenue
Hanover, Pennsylvania 17331

Dear Kevin Hayward and Mark Wallace:

SUBJECT: Designated Name: White Pigeon Mill
Lagoon Closure Plan
The Michigan Department of Environment, Great Lakes, and Energy (EGLE)
Response

On October 13, 2021, EGLE, issued Violation Notice No. VN-012170 to Ox Paperboard WP, LLC and White Pigeon Mills, LLC, in part due to an unauthorized discharge to groundwater at the White Pigeon Mill located at 15781 River Street in White Pigeon, Michigan (Site). The unauthorized discharge to groundwater occurred when process wastewater from the clarifier was discharged to the unlined settling ponds (i.e., wastewater lagoons) on August 2, 2020. Ox Paperboard WP, LLC and White Pigeon Mills, LLC do not currently have an issued Groundwater Discharge Permit for the Site and therefore do not have authorization to discharge wastewater to the groundwater of the state. The wastewater lagoons on Site shall be closed following the Part 22, Groundwater Quality Administrative Rules, R 323.2201 et seq. (Part 22 Rules), promulgated pursuant to Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA).

EGLE previously received the "Wastewater Lagoons Assessment, White Pigeon Mills, LLC, White Pigeon, Michigan," dated August 25, 2020, and the draft "Closure Plan for Wastewater Lagoons, White Pigeon Mills, LLC," dated September 30, 2020, prepared for White Pigeon Mills, LLC by their consultant, Fishbeck. EGLE met with Ox Paperboard WP, LLC and White Pigeon Mills, LLC on November 30, 2021, to discuss current operations at the Site and ongoing compliance issues with Part 31 and Part 22. It was decided at the meeting that Ox Paperboard WP, LLC and White Pigeon Mills, LLC, would revise and resubmit the draft "Closure Plan for Wastewater Lagoons, White Pigeon Mills, LLC." On August 17, 2022, EGLE received the revised "Closure Plan for Wastewater Lagoons", dated August 11, 2022 (Lagoon Closure Plan). The Lagoon Closure Plan proposes a staged implementation approach, consisting of a Feasibility Study (FS)/Evaluation of Treatment and Disposal Options, Response Activity Plan/Implementation Plan, Implement the Closure of the Lagoons, and Post-Closure Activities.

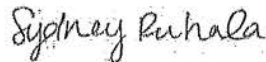
After review of the Lagoon Closure Plan, EGLE determined that the plan is lacking significant detail including disposal methods for the lagoon water, sludges, and any residual soils that may be contaminated due to lagoon operations. Therefore, **the Lagoon Closure Plan is not approved. Please submit a revised Lagoon Closure Plan by October 30, 2023, via MiEnviro.**

Please note, the Lagoon Closure Plan is referenced as a Response Activity Plan throughout the document. This is not an appropriate reference and should be removed. EGLE is requesting a Lagoon Closure Plan under the Part 22 lagoon closure process per Rule 323.2226. The Lagoon Closure Plan does not meet the requirements for a Response Activity Plan under Part 201, Environmental Remediation, of the NREPA.

In addition, EGLE's Materials Management Division reviewed the analytical results from the wastewater lagoon sludge sampling summarized in the "Wastewater Lagoons Assessment, White Pigeon Mills, LLC, White Pigeon, Michigan," dated August 25, 2020. Based on the exceedances identified in the report, the sludges associated with the lagoons are not considered inert. **Therefore, all sludges must be properly characterized and disposed of at a licensed and permitted facility, under Part 115, Solid Waste Management, of the NREPA.** Sludge disposal shall be incorporated in the revised Lagoon Closure Plan.

EGLE appreciates your effort in addressing this matter. Should you require further information regarding this letter or if you would like to arrange a meeting to discuss the Lagoon Closure Plan, please contact me at 517-599-5356; RuhalaS@Michigan.gov; or EGLE, WRD, Emerging Pollutants Section, P.O. Box 30473, Lansing, Michigan 48909-7973.

Sincerely,



Sydney Ruhala, Senior Geologist
Emerging Pollutants Section
Water Resources Division, EGLE

cc: Steve O'Donnell, O'Donnell & Barr
Clay Staley, Ox Paperboard WP, LLC
Stephanie Kammer, EGLE
Eric Chatterson, EGLE
Jennifer Klang, EGLE
Susan Doty, EGLE
Dave Harn, EGLE
Bree Bennett, EGLE
Ray Spaulding, EGLE
Chelsea Hayden, EGLE
Cyndi, Mollenhour, EGLE

EXHIBIT G



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND ENERGY
LANSING



PHILLIP D. ROOS
DIRECTOR

December 20, 2023

VN No. VN-015487

VIA EMAIL

Kevin Hayward, President/CEO
Ox Paperboard WP, LLC
600 West Elm Avenue
Hanover, Pennsylvania 17331

Mark Wallace, EVP of Operations
White Pigeon Mills, LLC
600 West Elm Avenue
Hanover, Pennsylvania 17331

Dear Kevin Hayward and Mark Wallace:

SUBJECT: Violation Notice
Designated Name: White Pigeon Mill

On October 13, 2021, the Michigan Department of Environment, Great Lakes, and Energy (EGLE), Water Resources Division (WRD), issued Violation Notice No. VN-012170 to Ox Paperboard WP, LLC and White Pigeon Mills, LLC, in part due to an unauthorized discharge to groundwater at the White Pigeon Mill located at 15781 River Street in White Pigeon, Michigan (Site). The unauthorized discharge to groundwater occurred when process wastewater from the clarifier was discharged to the unlined settling ponds (i.e., wastewater lagoons) on August 2, 2020. Ox Paperboard WP, LLC and White Pigeon Mills, LLC do not currently have an issued Groundwater Discharge Permit for the Site and therefore do not have authorization to discharge wastewater to the groundwater of the state. The wastewater lagoons on Site shall be closed following the Part 22, Groundwater Quality Administrative Rules, R 323.2201 et seq. (Part 22 Rules), promulgated pursuant to Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA).

EGLE previously received the "Wastewater Lagoons Assessment, White Pigeon Mills, LLC, White Pigeon, Michigan" report, dated August 25, 2020, and the draft "Closure Plan for Wastewater Lagoons, White Pigeon Mills, LLC," dated September 30, 2020, prepared for White Pigeon Mills, LLC by their consultant, Fishbeck. EGLE met with Ox Paperboard WP, LLC and White Pigeon Mills, LLC on November 30, 2021, to discuss current operations at the Site and ongoing compliance issues with Part 31 and Part 22. It was decided at the meeting that Ox Paperboard WP, LLC and White Pigeon Mills, LLC, would revise and resubmit the draft "Closure Plan for Wastewater Lagoons, White

Kevin Hayward
Mark Wallace
Page 2
December 20, 2023

Pigeon Mills, LLC." On August 17, 2022, EGLE received the revised "Closure Plan for Wastewater Lagoons", dated August 11, 2022 (Lagoon Closure Plan).

On August 29, 2023, EGLE notified Ox Paperboard WP, LLC and White Pigeon Mills, LLC, via written letter that the Lagoon Closure Plan was not approvable because the plan was lacking significant detail including disposal methods for the lagoon water, sludges, and any residual soils that may be contaminated due to lagoon operations. EGLE requested a revised Lagoon Closure Plan be submitted via MiEnviro by October 30, 2023. As of December 20, 2023, WRD has not received a revised Lagoon Closure Plan.

The Part 22 Rules violations identified in Violation Notice No. VN-012170 are continuing.

Ox Paperboard WP, LLC and White Pigeon Mills, LLC should take immediate action to achieve and maintain compliance with the terms and conditions of Part 31 of the NREPA and the Part 22 Rules.

Please submit a revised Lagoon Closure Plan via MiEnviro by January 15, 2024.
At a minimum, the response shall include:

1. Disposal methods for the lagoon water, sludges, and any residual soils that may be contaminated due to lagoon operations.
2. Please note, the Lagoon Closure Plan is referenced as a Response Activity Plan throughout the August 11, 2022, document. This is not an appropriate reference and should be removed. EGLE is requesting a Lagoon Closure Plan under the Part 22 lagoon closure process per Rule 323.2226. The Lagoon Closure Plan does not meet the requirements for a Response Activity Plan under Part 201, Environmental Remediation, of the NREPA.
3. In addition, EGLE's Materials Management Division reviewed the analytical results from the wastewater lagoon sludge sampling summarized in the "Wastewater Lagoons Assessment, White Pigeon Mills, LLC, White Pigeon, Michigan," dated August 25, 2020. Based on the exceedances identified in the report, the sludges associated with the lagoons are not considered inert. Therefore, all sludges must be properly characterized and disposed of at a licensed and permitted facility, under Part 115, Solid Waste Management, of the NREPA. Sludge disposal shall be incorporated in the revised Lagoon Closure Plan.

If you have any factual information you would like us to consider regarding the violations identified in this Violation Notice, please provide them with your written response.

Kevin Hayward
Mark Wallace
Page 3
December 20, 2023

Compliance with the terms of this Violation Notice does not relieve Ox Paperboard WP, LLC, or White Pigeon Mills, LLC, of any liability, past or present, from the failure to meet the conditions specified in, or failure to comply with Part 31 of the NREPA, or the Part 22 Rules.

We anticipate and appreciate your cooperation in resolving this matter. Should you require further information regarding this Violation Notice or if you would like to arrange a meeting to discuss it, please contact me at 517-599-5356; RuhalaS@michigan.gov; or EGLE, WRD, Emerging Pollutants Section, P.O. Box 30473, Lansing, Michigan 48909-7973.

Sincerely,



Sydney Ruhala, Senior Geologist
Emerging Pollutants Section
Water Resources Division, EGLE

cc: Steve O'Donnell, O'Donnell & Barr
Clay Staley, Ox Paperboard WP, LLC
Stephanie Kammer, EGLE
Eric Chatterson, EGLE
Jennifer Klang, EGLE
Susan Doty, EGLE
Dave Harn, EGLE
Bree Bennett, EGLE
Ray Spaulding, EGLE
Chelsea Hayden, EGLE
Cyndi, Mollenhour, EGLE

EXHIBIT H



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND ENERGY
LANSING



PHILLIP D. ROOS
DIRECTOR

March 22, 2024

VIA EMAIL

SVN No. SVN-01533

Kevin Hayward, President/CEO
Ox Paperboard WP, LLC
600 West Elm Avenue
Hanover, Pennsylvania 17331

Mark Wallace, EVP of Operations
White Pigeon Mills, LLC
600 West Elm Avenue
Hanover, Pennsylvania 17331

Dear Kevin Hayward and Mark Wallace:

SUBJECT: Second Violation Notice
Designated Name: White Pigeon Mill

The Department of Environment, Great Lakes, and Energy (EGLE), Water Resources Division (WRD), issued a Violation Notice, VN-015487, on December 20, 2023, to White Pigeon Mills, LLC and Ox Paperboard WP, LLC in response to violations of Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), MCL 324.3101 et seq., and the Part 22, Groundwater Quality Administrative Rules, R 323.2201 et seq., promulgated pursuant to Part 31 (Part 22 Rules). White Pigeon Mills, LLC and Ox Paperboard WP, LLC have not provided an adequate response to the Violation Notice.

On January 26, 2024, White Pigeon Mills, LLC and Ox Paperboard WP, LLC responded to the Violation Notice requesting an extension for submittal of the required Lagoon Closure Plan to December 1, 2024. WRD staff have reviewed the response and determined it is not approvable at this time. White Pigeon Mills, LLC and Ox Paperboard WP, LLC have failed to address the items outlined in the Violation Notice.

The violation(s) identified in the Violation Notice are continuing. White Pigeon Mills, LLC and Ox Paperboard WP, LLC shall take immediate action to achieve and maintain compliance with the terms and conditions of Part 31 and the Part 22 Rules.

If you have any factual information you would like to share with us regarding the violations identified in the Violation Notice, please provide them in a written response.

Kevin Hayward
Mark Wallace

2

March 22, 2024

Compliance with the terms of this Second Violation Notice does not relieve White Pigeon Mills, LLC and Ox Paperboard WP, LLC of any liability, past or present, from the failure to comply with Part 31 and the Part 22 Rules.

The WRD reserves its right to take all necessary and appropriate enforcement actions for all violations observed to date and any violations that occur in the future. This may include civil action seeking fines, enforcement costs, injunctive relief, and potential criminal prosecution. Due to the severity of the noncompliance, the matter is being evaluated for escalated enforcement.

We anticipate and appreciate your cooperation in resolving this matter. Should you require further information regarding this Second Violation Notice or if you would like to arrange a meeting to discuss it, please contact Sydney Ruhala, 517-599-5356; RuhalaS@michigan.gov; or EGLE, WRD, Emerging Pollutants Section, P.O. Box 30473, Lansing, Michigan 48909-7973.

Sincerely,



Stephanie Kammer, Manager
Emerging Pollutants Section
Water Resources Division
517-897-1597

cc: Steve O'Donnell, O'Donnell & Barr
Clay Staley, Ox Paperboard WP, LLC
Dave Harn, EGLE
Jennifer Klang, EGLE
Bree Bennett, EGLE
Eric Chatterson, EGLE
Cyndi Mollenhour, EGLE
Kailey Schoen, EGLE
Chelsea Hayden, EGLE
Sydney Ruhala, EGLE
Ray Spaulding, EGLE
Madison Miles, EGLE

EXHIBIT I



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND ENERGY
KALAMAZOO DISTRICT OFFICE



LIESL EICHLER CLARK
DIRECTOR

June 25, 2020

VN No. VN-010781

VIA EMAIL AND CERTIFIED MAIL WITH RETURN RECEIPT REQUESTED

Mr. Walter Bowles, VP Environmental Health & Safety
Graphics Packaging International, LLC
1500 Riveredge Parkway, Suite 100
Atlanta, Georgia 30328

Dear Mr. Bowles:

SUBJECT: Violation Notice
State Groundwater Discharge Permit No. GW1810025
Storm Water Industrial/Commercial Certificate of Coverage (COC)
No. MIS210492
Designated Name: GPI Midwest-White Pigeon

The Department of Environment, Great Lakes, and Energy (EGLE), Water Resources Division (WRD), has determined that GPI Midwest-White Pigeon ("GPIM-WP") is in violation of Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), the State Groundwater Discharge Permit No. GW1810025 issued on November 21, 2014, effective on December 1, 2014, and National Pollutant Discharge Elimination System (NPDES) COC No. MIS210492, issued on July 18, 2012, effective July 18, 2012. The State Groundwater Discharge Permit and NPDES Storm Water Industrial/Commercial COC were transferred to Graphics Packaging International GPI on August 1, 2019.

On March 9, 2020, EGLE, WRD initiated a Compliance Sampling Inspection (CSI) and an Industrial Storm Water Permitted Facility Inspection (ISW-PFI), and performed wastewater and surface water sampling at GPIM-WP located at 15781 River Street, White Pigeon, Michigan 49099, owned by Graphics Packaging International, LLC ("GPI"). The site inspection portions of the CSI and ISW-PFI were completed on March 9, 2020, but document reviews and other follow-up inspection activities were conducted subsequently over the phone and via email. The CSI and ISW-PFI were conducted to evaluate the GPIM-WP's compliance with Part 31 of the NREPA, State Groundwater Discharge Permit No. GW1810025 and your NPDES Storm Water Industrial/Commercial COC No. MIS210492.

All wastewater and surface water samples were collected on March 9, 2020, and were analyzed for per- and polyfluoroalkyl substances (PFAS) listed in the enclosed PFAS Minimum Laboratory Analyte List. PFAS sampling was conducted in response to the site assessment conducted in August 2019 prior to the sale of the White Pigeon Paper Company property to GPI, which identified PFAS in all 19 monitoring wells. The highest on-site perfluorooctanoic acid (PFOA) + perfluorooctane sulfonate (PFOS) concentration detected in groundwater was 15,400 nanograms per liter (ng/l), which exceeds EGLE's groundwater criterion of 70 ng/l for PFOA plus PFOS.

Inspection Findings Summary

Compliance Sampling Inspection:

The following are areas of noncompliance associated with GPIM-WP's State Groundwater Discharge Permit No. GW1810025.

1. GPIM-WPs' seepage pond was observed as being noncompliant with Part I.9., Facility Operation and Maintenance, of Groundwater Discharge Permit No. GW1810025, which requires the following:

- a) Pond Inspection

These inspections shall include:

- i. the pond dikes for erosion, slumping, animal burrowing or breakthrough;
- ii. the depth of the water and the freeboard with a minimum two (2) feet of freeboard being maintained at all times;
- iii. the control structures and pump stations to assure that valves, gates and alarms are set correctly and properly functioning;
- iv. the pond security fence and warning signs.

- a) Pond Maintenance

The permittee shall implement a Pond Facility Maintenance Program that incorporates the following management practices unless otherwise authorized by EGLE.

- i. Dike damage caused by erosion, slumping or animal burrowing shall be corrected immediately, and steps taken to prevent occurrences in the future.
- ii. A schedule for the inspection and maintenance of the collection system, lift stations, mechanical and electrical systems, transfer stations, and control structures shall be developed and implemented.

The seepage pond appeared to lack the required two (2) feet of freeboard. Dike damage caused by erosion and slumping was observed on several areas of the seepage pond dikes.

2. GPIM-WP is noncompliant with Part I.13., Request for Discharge of Water Treatment Additives, of Groundwater Discharge Permit No. GW1810025, which requires a permittee proposing to discharge water treatment additives (WTAs) to groundwater to submit a request to EGLE for approval prior to its use. During an April 8, 2020, telephone call in follow-up to the March 9, 2020, site inspection, Ms. Kerri Kahlmorgan, Technical Director, GPIM-WP, indicated that a WTA is added to the wastewater stream to aid in flocculation within the clarifier. GPIM-WP does not have EGLE WRD approval for use of a WTA.
3. GPIM-WP is noncompliant with Part II.8., Instrumentation, of Groundwater Discharge Permit No. GW1810025, which states "the permittee shall periodically calibrate and perform maintenance procedures on all monitoring instrumentation at intervals to ensure accuracy of measurements." During the aforementioned April 8, 2020 phone conversation, Ms. Kahlmorgan indicated she was not aware of this requirement and was not aware of when or if the measuring devices at the clarifier, settling basin, Parshall flume, or seepage pond had been calibrated, but she would inquire to other staff. An April 9, 2020, a follow-up e-mail was sent to Ms. Kahlmorgan asking for the frequency of device calibrations. The e-mail received in response on May 5, 2020, did not provide this information.

4. GPIM-WP's method for measuring flows to the seepage pond is inconsistent with Section 2.5 of GPIM-WP's approved Operation and Maintenance (O&M) Manual which states "The groundwater discharge permit requires flow monitoring of the wastewater being discharged from the settling basins into the final treatment seepage pond. This is done using a Parshall Flume." A review of discharge monitoring reports for GPI-WP indicates that location IF-1 is being used to measure flows, as opposed to location EQ-1, which is located at the Parshall flume. Comments added to discharge monitoring reports by GPI-WP staff indicate EQ-1 was not functioning due to high water levels. In a May 5, 2020 response e-mail, GPI-WP stated, "Due to the periodic flooding, we will revise the O&M Manual to include this alternate flow measurement." An updated O&M Manual must be submitted for review, and approval, reflecting current staffing and operational practices. Please be aware that current documentation submitted for reissuance of Groundwater Discharge Permit No. GW1810025 does not indicate IF-1 as a monitoring location.
5. GPIM-WP is noncompliant with Part II. 16., Facilities Operation, of Groundwater Discharge Permit No. GW1810025 which states "the permittee shall, at all times, properly operate and maintain all treatment or control facilities or systems installed or used by the permittee to achieve compliance with the terms and conditions of this permit. Proper operation and maintenance includes adequate laboratory controls and appropriate quality assurance procedures." A review of laboratory reports for the months of April, August, and December of 2019, identified the following qualifiers for Carbonaceous Biological Oxygen Demand, 5-day sample results.
 - The dissolved oxygen depletion of the dilution water blank exceeded 0.2 milligrams per liter.
 - Sample is potentially toxic.
 - Analyte recovery in the laboratory control sample (LCS) was above Quality Control limits. Results for this analyte in associated sample may be biased high.
 - The relative percent difference between valid samples dilutions exceeded 30 percent.

These qualifiers indicate that adequate laboratory controls and/or appropriate laboratory quality assurance was not achieved for these samples.

6. GPIM-WP is noncompliant with Part II. 16., Facilities Operation, of Groundwater Discharge Permit No. GW1810025 which states "the permittee shall, at all times, properly operate and maintain all treatment or control facilities or systems installed or used by the permittee to achieve compliance with the terms and conditions of this permit." There was evidence that the clarifier had recently overflowed. The exterior of the clarifier had wastewater residuals along its sides and on the nearby ground surface. During the site inspection, Ms. Kahlmorgan indicated that this most likely occurred when GPIM-WP had a contractor remove solids from the top of the clarifier to allow the weir to function.
7. GPIM-WP was observed as being noncompliant with Part 31, Section 324.3109, of the NREPA. Section 3109 (1) of Part 31 of the NREPA states "A person shall not directly or indirectly discharge into the waters of the state a substance that is or may become injurious to any of the following:
 - a) To the public health, safety, or welfare.

- b) To domestic, commercial, industrial, agricultural, recreational, or other uses that are being or may be made of such waters.
- c) To the value of riparian lands.
- d) To livestock, wild animals, birds, fish, aquatic life, or plants or the growth of propagation.
- e) To the value of fish and game.”

An unauthorized discharge to the surface waters occurred when the Pumphouse door was opened and water was released to the ground with some reaching the Pigeon River. The water was turbid and warm to the touch. Ms. Kahlmorgan indicated in the April 8, 2020, phone conversation that the release occurred due to a break in a water line which was repaired later that day. On May 5, 2020, Ms. Kahlmorgan provided an invoice of repairs conducted.

8. GPIM-WP was observed to be noncompliant with Part III.1., Discharge to Surface Waters, of Groundwater Discharge Permit No. GW1810025, which states “this permit does not authorize any discharge to the surface waters. The permittee is responsible for obtaining any permits required by federal or state laws or ordinances.” An unauthorized discharge to surface waters was observed from a metal pipe to the Pigeon River originating at the back of the Pumphouse. On April 9, 2020, an e-mail was sent to Ms. Kahlmorgan requesting a description of this discharge. The response e-mail received on May 5, 2020, did not provide information pertaining to this discharge.

Industrial Storm Water Permitted Facility Inspection:

The following are areas of noncompliance associated with GPIM-WP's Industrial Storm Water (ISW) General Permit Certification of Coverage (COC) No. MIS210492.

Permit Related Documentation:

9. Storm Water Pollution Prevention Plan (SWPPP) Site Map:
- a) The facility is currently in noncompliance with Part I.B.2.a.(2) of the general permit which states that storage and/or disposal areas of significant materials should be identified on the site map. During the inspection EGLE staff were given a map titled, “Significant Material Storage- Outdoors” that depicted some outdoor locations for storage and/or disposal areas; however, other significant material storage areas were observed on-site and should be either contained to the areas listed on the map, or the map should be edited to represent the current storage areas onsite. This updated map should be added to the facility's SWPPP.
 - b) The facility is currently in noncompliance with Part I.B.2.a.(3) of the general permit which states that secondary containment structures and a description of the significant materials contained within the primary containment structures shall be listed within the site map. The “Significant Material Storage-Outdoors” map provided during the inspection had this information listed and should be included in the facility's SWPPP.
 - c) The facility is currently in noncompliance with Part I.B.2.a.(8) of the general permit which states that structural controls or storm water treatment facilities shall be identified within the site map. Structural controls listed within SWPPP are not identified on the site map.

10. SWPPP Significant Materials Inventory:

- a. The facility is currently in noncompliance with Part I.B.2.b.(2) of the general permit which states that the identification of storm water discharge point(s) and inlet(s) through which significant materials could discharge if released shall be included within the significant materials inventory. The inlets identified in Table 3 within the facility SWPPP does not represent all inlets that have the potential to be impacted by the significant materials listed. Additionally, areas observed on-site to be storing significant materials were not indicated in Section 1 (loading, unloading, and other material handling operations) of Table 3.
- b. The facility is currently in noncompliance with Part I.B.2.b.(3)(a) of the general permit which states that an evaluation of the reasonable potential for contribution of significant materials to storm water should be conducted at loading, unloading, and other significant material-handling operations. Track-out from buildings 2 and 3A indicates that significant material handling operations are conducted at these buildings and are not listed within Table 3.

11. SWPPP Nonstructural Controls:

- a) The facility is currently in noncompliance with Part I.B.3.a of the general permit which states that preventive maintenance procedures shall describe routine inspections and maintenance of storm water management and control devices (e.g., cleaning of oil/water separators and catch basins, routine housekeeping activities, etc.), as well as inspecting and testing plant equipment and systems to uncover conditions that could cause breakdowns or failures, resulting in discharges of pollutants to the storm sewer system or the surface waters of the state. Although preventative maintenance procedures are included in the SWPPP, observations made during the site inspection (i.e. evidence of overflowing from the clarifier, the unpermitted discharge from the Pumphouse, etc.) indicate that this program needs significant revisions.
- b) The facility is currently in noncompliance with I.B.3.b of the general permit which states good housekeeping procedures shall include routine inspections that focus on the areas of the facility that have a reasonable potential to contaminate storm water entering the property. Although good housekeeping procedures are included within the SWPPP, evidence of significant noncompliance to these procedures was observed during the inspection (i.e. recyclable materials outside unloading dock, significant track out from building 3A in close proximity to outfall 1, etc.).
- c) The facility is currently in noncompliance with Part I.B.3.c.4.b of the general permit which states that a written report and corrective actions shall be retained within the comprehensive inspection report for any evidence of, or the potential for, pollutants to discharge to the drainage system or receiving waters and the condition of and around the storm water discharge point, including flow dissipation measures needing maintenance or repairs. Noncompliance with the implementation of the procedures was observed during the site evaluation and was not indicated as such on the most recent inspection report. On the most recent comprehensive inspection report dated November 6, 2020 Ms. Kerri Kahlmorgan stated that all storm sewer catch basins were free of debris and there was no evidence of any unpermitted discharges; however, during EGLE's inspection, multiple catch basins on-site that discharge to the on-site storm sewer system had significant sedimentation issues present that

appeared to be a persistent issue and should have been noted during the comprehensive inspection noted above.

- d) The facility is currently in noncompliance with Part I.B.3.e of the general permit which states that the identification of areas that, due to topography, activities, or other factors, have a high potential for significant soil erosion should be listed within the SWPPP. Gravel lots shall be included. The SWPPP shall also identify measures used to control soil erosion and sedimentation. Soil erosion and sedimentation control procedures within the facility's SWPPP do not acknowledge all the areas onsite that may contribute to surface waters via the on-site storm sewer system.

12. SWPPP Visual Assessments:

- a) The facility is currently in noncompliance with Part I.B.3. c.7.(d) of the general permit which states that visual assessments shall be documented and retained in accordance with Part 1.C.1 of the general permit. An email was sent to Ms. Kerri Kahlmorgan on April 21, 2020 requesting visual assessment documentation be provided to EGLE for review. To date, EGLE has not received any visual assessment documentation.

13. SWPPP Structural controls:

- a) The facility is currently in noncompliance with Part I.B.4 of the general permit which states that when implementation of the measures required by Nonstructural Controls does not control storm water discharges in accordance with Part I.C.2. (Water Quality Standards) the SWPPP shall provide a description of the location, function, design criteria, and installation/construction schedule of structural controls for prevention and treatment. Structural controls listed within the SWPPP and implemented on-site do not prevent uncontaminated storm water from contacting or being contacted by significant materials and discharging to surface waters of the state. As stated in Table 5 within the facility SWPPP, structural controls observed on-site are as follows:
 - i. Drainage within Building 3A is directed to the processed wastewater system.
 - ii. Concrete retaining wall along the southern boundary of wastepaper reject roll-off staging area
 - iii. Concrete pad for trash roll-off
 - iv. Catch basin located near secondary containment for diesel ASTs and outside maintenance area discharges to the process wastewater system.

Although these controls are being utilized on-site to prevent additional discharges, significant materials (i.e. paper sludge particulate tracked-out from building 3A, significant soil erosion issues near catch basins, etc.) were observed to have the potential to discharge to surface waters of the state.

Outdoor Exposure:

14. The facility is currently in noncompliance with Part I.A.1 of the general permit which states that the receiving water shall contain no turbidity, color, oil films, floating solids, foams, settleable solids, suspended solids, or deposits as a result of a discharge in unnatural quantities that are or may become injurious to any designated use. During the

inspection multiple areas on-site were observed containing significant materials that have the potential to enter into the on-site storm sewer system and discharge to the Pigeon River during a storm event. In addition to increased nonstructural and structural controls, these materials should be removed, relocated to an area that does not discharge to surface waters, or covered to prevent storm water contamination. Please review the enclosed Industrial Storm Water PowerPoint and Inspection Report for all areas of concern.

15. Significant soil erosion and sedimentation control issues were identified in multiple locations on-site that, during a storm event, have the potential to discharge sediment laden water to surface waters of the state. Please review the enclosed Industrial Storm Water PowerPoint and Inspection Report for all areas of concern.

WRD Surface Water Sampling Results

Shallow groundwater flows from the GPIM-WP site to the southwest towards the Pigeon River so surface water sampling was performed to determine how the PFAS contaminated groundwater is impacting the surface water in the Pigeon River. As noted in Items 7 and 8 above, during the site inspection WRD staff observed unauthorized surface water discharges from GPIM-WP; therefore, these were included in the sampling event. Samples were collected in accordance with EGLE Surface Water PFAS Sampling Guidance document (MDEQ 2018). See the enclosure labeled "Pigeon River PFAS Surface Water Investigation Map" for the approximate surface water sample locations. Sample locations were chosen to characterize PFAS concentrations upstream of GPIM-WP (PR-0070, PR-0080), at locations where surface water discharges from GPIM-WP were occurring (Pumphouse, Pipe), at locations adjacent to the site (PR-0060, PR-0061), the wetland adjacent to the seepage pond (Wetland), and downstream of GPIM-WP (PR-0010, PR-0020, PR-0050).

The Rule 323.1057 (Rule 57) Water Quality Standard (WQS) for surface water discharges of PFOS is 12 ng/l and for PFOA is 12,000 ng/l for non-drinking water sources. Only PFOS results were near or above the WQS. Note that at the locations labeled Pumphouse, Pipe and Wetland, PFOS exceeded the Rule 57 WQS. The results of the surface water PFOS analyses are summarized below. The complete listing of PFAS analytical results are included in the attached laboratory reports.

Sample Location from Map (Lab ID, if different)	PFOS Results (ng/l)
PR-0010	5.1
PR-0020	5.5
PR-0050	3.4
PR-0060	3.8
PR-0061	4.4
PR-0070	<2.0
PR-0070 Duplicate	<1.7
PR-0080	<1.7
Wetland ("WPP Wetland")	790
Pumphouse	170
Pipe ("Filterscreen Pipe")	130

WRD Wastewater, Storm Water and In-plant Sampling Results

Wastewater samples were collected at GPIM-WP's Groundwater Discharge Permit No. GW1810025 Monitoring Point EQ-1 and the surge tank return line. GPIM-WP was not discharging from EQ-1 at the time of sample collection but because PFAS and, in particular PFOS and PFOA, are persistent chemicals, the samples were collected to estimate PFAS concentrations that may be contained in a discharge of this wastewater. Samples were also collected from the pressure tank which contained water from GPIM-WP's production well. This sample was collected to determine if production well water could be a source of PFAS. Storm water was sampled at SW1, which appeared to discharge periodically during the sampling event. A diagram showing the approximate sample locations is contained in enclosure labeled "GPIM-WP Plant Sampling Results". The results of the PFAS analyses for PFOS and PFOA are summarized in the table below. The complete listing of analytical results is included in the enclosed laboratory reports. Note that the samples taken from EQ-1 and the surge tank return line would exceed the EGLE groundwater criterion of 70 ng/l for PFOS plus PFOA.

Sample Location from Diagram (Lab ID if different)	PFOS Results (ng/l)	PFOA Results (ng/l)	PFOS + PFOA Result (ng/l)
EQ-1	420	180	600
Surge Tank Return Line ("Clarifier")	68	70	138
Pressure Tank	<1.7	2.6	<4.3
Pressure Tank Duplicate	<1.7	2.4	<4.1
SW1*	26	5.4	31.4

*Note that the PFOS sampling result at SW1 was 26 ng/l which exceeds the WQS of 12 ng/l. Exceedance of the WQS is a violation of Section 3109 of Part 31 of the NREPA, the 1979 AC R 323.1041 *et seq.*, Part 4, Water Quality Standards Rules, promulgated pursuant to Part 31 of the NREPA, as amended (WQS Rules), and Permit COC No. MIS210492.

WRD Permit Status

PFOS and PFOA sampling data were not required by EGLE's application form for the groundwater discharge permit that was issued to Artistic Carton Company on November 21, 2014, and transferred to Graphics Packaging International (GPI) on August 1, 2019, nor was PFOS/PFOA apparently known to be in the discharged effluent at that time by Artistic Carton Company or EGLE. As noted above, there was no discharge from EQ-1 at the time of the inspection, but EQ-1 and the surge tank return line contained significant concentrations of PFAS, and it is likely that PFOS and PFOA would be present in a discharge from EQ-1 at concentrations exceeding EGLE's groundwater criterion of 70 ng/l for PFOA plus PFOS.

State Groundwater Discharge Permit No. GW1810025 is up for renewal. However, due to permit noncompliance, violations of Part 31 of NREPA, and the PFOS/PFOA issues summarized above, reissuance of this permit would be difficult. Also, during the last groundwater permit issuance process, the previous owners were notified that a NPDES surface water discharge permit would be required for wastewater discharges upon expiration of the groundwater permit, and that additional treatment would be required to meet surface water discharge limits.

In the email dated May 5, 2020, Ms. Kerri Kahlmorgan stated that recycle paperboard manufacturing at GPIM-WP will cease June 30, 2020, and steps will be taken to properly close the facility. You are reminded that Part II.20 of Groundwater Discharge Permit No. GW1810025, Treatment System Closure, states that, "In the event that discharges from a treatment system are planned to be eliminated, the permittee shall comply with all applicable provisions of Rule 323.2226."

Ms. Kahlmorgan also indicated that separate notifications for closure of associated permits would be made in the upcoming months. Please be reminded that Part II.24 of Groundwater Discharge Permit No. GW1810025, Termination, states that, "This permit shall remain in full force and effect until terminated by a written Termination Notice (TN) issued by EGLE. Prior to issuance of a written TN, the Permittee shall submit a written request to EGLE for termination of this permit." Similarly, Part I.C.9 of NPDES COC No. MIS210492, Termination of General Permit Coverage, states that, "A permittee may submit a request to EGLE to terminate the COC for a facility when:

1. all storm water discharges authorized by Part I.A.1. (Final Effluent Limitations and Monitoring Requirements), above, are eliminated, or
2. industrial activity has ceased, and no significant materials remain or are exposed to storm water."

Compliance with these permit conditions will be required to process your termination requests.

Proper closure of the GPIM-WP facility is likely to be a complicated process. EGLE staff are willing to meet with your staff to provide guidance on the closure and permit termination processes.

Responses Required

The violations identified in this Violation Notice are continuing violations of Part 31 of the NREPA, State Groundwater Discharge Permit No. GW1810025 and NPDES COC No. MIS210492.

GPI should take immediate action to achieve and maintain compliance with the Part 31 of the NREPA, State Groundwater Discharge Permit No. GW1810025 and NPDES COC No. MIS210492. Please respond via MiWaters to the items listed above on or before **August 1, 2020**. At minimum, your response shall include:

1. A written response to the violations identified in Items 1-15 of the "WRD CSI and ISW-PFI Inspection Findings" section above. Indicate in the written response corrective actions taken and proposed to resolve the noncompliance. Include a schedule for completion for any corrective actions not completed by August 1, 2020.
2. A written confirmation of your intention to terminate State Groundwater Discharge Permit No. GW1810025 and NPDES COC No. MIS210492 by submitting a Groundwater Notice of Termination and NPDES Permit Notice of Termination request in MiWaters.
3. An updated version of the facility SWPPP and a completed checklist to ensure all items have been properly completed for EGLE's review and approval.

4. Photo documentation of the removal, relocation, or covering of all significant materials that have the potential to discharge to surface waters of the state during a storm event.
5. Photo documentation of the remediation to all areas where soil erosion and sedimentation control issues were identified.

If you have any factual information you would like us to consider regarding the violations identified in this Violation Notice, please provide them with your written response.

Compliance with the terms of this Violation Notice does not relieve GPI of any liability, past or present, from the failure to meet the conditions specified in, or failure to comply with, State Groundwater Discharge Permit No. GW1810025, NPDES COC No. MIS210492 and Part 31 of the NREPA. EGLE reserves its right to take all necessary and appropriate enforcement actions for all violations observed to date and any violations that occur in the future.

We anticipate and appreciate your cooperation in resolving this matter. Should you require further information regarding this Violation Notice, have questions concerning the State Groundwater Discharge Permit, or if you would like to arrange a meeting to discuss plans for the wastewater system decommissioning, please contact Mr. Mark Kraenzlein at 269-491-8693, KraenzlienM@michigan.gov. Please contact Ms. Alexis Gronda at 269-330-8647, GrondaA@michigan.gov with NPDES ISW COC questions, or Mr. Thomas Berdinski at 616-356-0212, BerdinskiT@michigan.gov with PFAS questions.

Sincerely,



Jennifer Klang, District Supervisor
Kalamazoo District Office
Water Resources Division
269-568-2697
KlangJ@michigan.gov

KL:MK:AG:DMM

Enclosures

cc: Ms. Kerri Kahlmorgan, Graphics Packaging Midwest, LLC
Mr. John Richter, Graphic Packaging Midwest, LLC
Mr. Dave Pingel, Manager, Enforcement Unit, EGLE-WRD
Ms. Katelyn Wysocki, Enforcement Unit, EGLE-WRD
Ms. Chris Alexander, Manager, Permit Section, EGLE-WRD
Mr. Eric Chatterson, Groundwater Permits Unit, EGLE-WRD
Mr. Brandon Armstrong, Surface Water Assessment Section, EGLE-WRD
Ms. Sarah Bowman, Surface Water Assessment Section, EGLE-WRD
Ms. Stephanie Kammer, Emerging Pollutants Section, EGLE-WRD
Mr. Thomas Berdinski, Emerging Pollutants Sections, EGLE-WRD
Mr. Mark Kraenzlein, Kalamazoo District Office, EGLE-WRD
Ms. Alexis Gronda, Kalamazoo District Office, EGLE-WRD
Ms. Terri Shattuck, Kalamazoo District Office, EGLE-WRD

