



NORTH CAROLINA  
Environmental Quality

July 11, 2023

ROY COOPER

Governor

ELIZABETH S. BISER

Secretary

RICHARD E. ROGERS, JR.

Director

**CERTIFIED MAIL RETURN**

**RECEIPT REQUESTED 7022 2410 0003 1436 8733**

Mr. James (Jay) Clary, General Manager  
Blue Ridge Paper Products, Inc. dba Evergreen Packaging  
175 Main Street  
Canton, North Carolina 28716

**SUBJECT: NOTICE OF VIOLATION and NOTICE OF INTENT TO ENFORCE (NOV-NOI)**

NPDES Permit: NC0000272

Incident No.: 202300938

Evergreen Packaging – Canton Mill (facility)

NOV-2023-DV-0280

Make any outlets into the waters of the State

Permit Condition Violations – Duty to Mitigate and Duty to Comply

Haywood County, N.C.

**Response deadline: Ten (10) days upon receipt**

Dear Mr. Clary:

Chapter 143, North Carolina General Statutes (NCGS), directs and authorizes the Environmental Management Commission (EMC) of the Department of Environmental Quality (DEQ) to protect and preserve the water and air resources of the State. The Division of Water Resources (DWR) has the delegated authority to enforce water pollution control laws and regulations.

On June 5, 2023, the DWR received a complaint stating that staff at the subject facility were disposing of sodium hydroxide solution and calcium hypochlorite directly into the subject facility's NPDES permitted wastewater treatment system. Photos provided with the complaint show a hose connected to a chemical tote that appears to terminate above a floor drain. In a June 6, 2023 conversation with DWR, facility staff stated that used sodium hydroxide is sometimes diluted before disposal into the NPDES permitted wastewater system. A June 7, 2023 DWR email to facility staff states, "The direct disposal of raw material or product is not covered under your NPDES permit as it is not a wastewater nor a by-product of an industrial process". In a subsequent call on June 9, 2023,



North Carolina Department of Environmental Quality | Division of Water Resources  
Asheville Regional Office | 2090 U.S. Highway 70 | Swannanoa, North Carolina 28778  
828.296.4500

facility staff indicated that raw or unused materials and product (i.e., virgin chemicals) could in fact be disposed of through the wastewater system and that these activities (e.g., discharging unused or raw chemicals) were compliant with their NPDES permit. Additionally, facility representatives stated that this type of process was inherent to the shutdown operations. In a meeting with facility staff shortly after the shutdown was announced, DWR staff specifically stated that the dumping, disposal or discharge of unused or virgin chemical products or materials into the NPDES permitted wastewater system is prohibited.

As a result of the investigation, the following violations were identified:

#### **VIOLATIONS:**

**I. Make any outlets into waters of the State** – G.S. 143-215.1(a) states that no person shall do any of the following things or carry out any of the following activities unless that person has received a permit from the Commission and has complied with all conditions set forth in the permit: G.S. 143-215.1(a)(1) – Make any outlets into the waters of the State.

**II. Duty to Mitigate** - NPDES Standard Conditions, Section B.2. The Permittee shall take reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit with a reasonable likelihood of adversely affecting human health or the environment [40 CFR 122.41(d)].

**III. Duty to Comply** – NPDES Standard Conditions, Section B.1. The Permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the CWA and is grounds for enforcement action, for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application [40 CFR 122.41].

#### **REQUIRED RESPONSE**

The following request for information is being made pursuant to Part II NPDES Standard Conditions, Section B.8.

1. Please provide a description of all raw, virgin or otherwise unused materials or chemicals, including volumes, discharged to the wastewater system from the beginning of the transition shutdown period. Your response should detail the conditions or processes under which the discharge occurred. Your response should also include any discharges by 3<sup>rd</sup> parties at the facility such as contractors;
2. In a June 9, 2023 discussion between DWR and facility staff, facility representatives stated that any unused or raw product (i.e., chemical) remaining in an opened vessel is permitted to be disposed of in the facility's NPDES wastewater system. Please provide a narrative explaining this position and include any relevant documents, rule citations, permit conditions, etc. necessary to support this position; and,



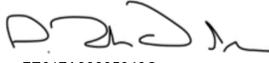
3. Photos submitted to the DWR on June 5, 2023 as part of the complaint and shared with facility staff on June 6, 2023, display a hose connected to the bottom of a chemical tote labelled sodium hydroxide solution. The opposite end of the same hose appears to be positioned over a floor drain. A second chemical tote bearing a similar label is positioned on top of the tote with the hose connection. The second tote has a hose that appears to drain into the top of the lower tote. Please describe in detail the activity captured by the photos. Please provide the names of any facility staff and/or contractors involved in the activity. Please provide a date and time in which the activity occurred and the duration of the activity.

Your response may be submitted via email to [Landon.Davidson@deq.nc.gov](mailto:Landon.Davidson@deq.nc.gov) or mailed to this regional office. **The response is to be received by this office no later than ten (10) calendar days from the date of your receipt of this Notice via certified mail.**

Thank you for your attention to this matter. This Office is considering sending a recommendation for enforcement to the Director of the Division of Water Resources regarding these issues and any future/continued violations that may be encountered. Your above-referenced response to this correspondence will be considered in this process. **This office requires that the violations, as detailed above, be abated immediately. These violations and any future violations are subject to a civil penalty assessment of up to \$25,000.00 per day for each violation.**

Should you have any questions regarding these matters, please feel free to contact me at 828-230-4057 or [Landon.Davidson@deq.nc.gov](mailto:Landon.Davidson@deq.nc.gov).

Sincerely,

DocuSigned by:  
  
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G. Landon Davidson, Regional Supervisor  
Water Quality Regional Operations  
Asheville Regional Office

Ec: Charles Howell, Environmental Manager – Pactiv Evergreen  
Fern Paterson, Pactiv Evergreen  
Billy Clarke – Roberts and Stevens  
DWR Laserfiche

