

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN
GREEN BAY DIVISION

UNITED STATES OF AMERICA and the
STATE OF WISCONSIN

Plaintiffs,

v.

NCR CORPORATION, *et al.*,

Defendants.

Civil Action No. 10-C-910

The Honorable William C. Griesbach

**CONSENT DECREE
WITH NEWPAGE WISCONSIN SYSTEM INC.**

**CONSENT DECREE
WITH NEWPAGE WISCONSIN SYSTEM INC.**

A. The United States and the State of Wisconsin filed a complaint in this matter pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9606 and 9607 (“CERCLA”), seeking various forms of relief regarding the Lower Fox River and Green Bay Superfund Site (the “Fox River Site” or the “Site”),¹ including the recovery of certain response costs² incurred in connection with releases and threatened releases of hazardous substances at and from the Site. The responsible natural resource trustees also contend that they have claims for recovery of natural resource damages (including for recovery of natural resource damage assessment costs)³ and the Plaintiffs’ complaint seeks recovery of such damages. This Consent Decree sets forth the terms of a civil settlement among the Plaintiffs, the responsible natural resource trustees, and NewPage Wisconsin System Inc. (“NewPage Wisconsin”) and certain of its current and former affiliates.⁴

¹ As used herein, the terms “Fox River Site” and “Site” shall mean the Lower Fox River and Green Bay Superfund Site, which encompasses: (i) approximately 39 miles of the Lower Fox River from the outlet of Lake Winnebago downstream to the mouth of the Fox River at the City of Green Bay; and (ii) the bay of Green Bay from the mouth of the Fox River at the City of Green Bay to the point where the bay enters Lake Michigan. A map of the Site is attached as Appendix A to this Consent Decree.

² As used herein, the term “response costs” shall mean all costs of “response” as that term is defined by Section 101(25) of CERCLA, 42 U.S.C. § 9601(25).

³ As used herein, the term “natural resource damages” means any damages recoverable by the United States or the State on behalf of the public, or by the Tribes, for injury to, destruction of, or loss or impairment of Natural Resources at the Site as a result of a release of hazardous substances, including but not limited to: (i) the costs of assessing such injury, destruction, or loss or impairment arising from or relating to such release; (ii) the costs of restoration, rehabilitation, or replacement of injured or lost natural resources or of acquisition of equivalent resources; (iii) the costs of planning such restoration activities; (iv) compensation for injury, destruction, loss, impairment, diminution in value, or loss of use of natural resources; and (v) each of the categories of recoverable damages described in 43 C.F.R. § 11.15 and applicable state and tribal law.

⁴ The relevant current and former affiliates are: Chillicothe Paper Inc.; Escanaba Paper Company; Luke Paper Company; NewPage Canadian Sales LLC; NewPage Consolidated Papers Inc.; NewPage Corporation; NewPage Energy Services LLC; NewPage Group Inc.; NewPage Holding Corporation; NewPage Port Hawkesbury Holding LLC; Rumford Paper Company; Upland Resources, Inc.; and

B. On September 7, 2011 (the “Petition Date”), each of the Debtors filed with the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”) a voluntary case under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”), which were consolidated for procedural purposes and jointly administered as *In re NewPage Corporation, et al.*, Case No. 11-12804 (the “Bankruptcy Cases”).

C. On January 25, 2012, this Court entered a Decision and Order confirming the ability of the United States and the State to continue the pursuit of their CERCLA claims against NewPage Wisconsin in this case pursuant to the “police and regulatory” exception to the bankruptcy automatic stay, 11 U.S.C. § 362(b)(4) [E.D. Wis. Docket No. 297].

D. The United States, on behalf of the United States Environmental Protection Agency (the “EPA”) and the United States Department of the Interior (the “DOI”), has filed a proof of claim in the Bankruptcy Cases (Claim No. 2659) (the “U.S. Proof of Claim”), contending that NewPage Wisconsin is liable under CERCLA for costs incurred and to be incurred by the United States in response to releases and threats of releases of hazardous substances at or in connection with the Site, as well as natural resource damages and costs of assessment at or in connection with the Site.

E. The U.S. Proof of Claim asserts the aforementioned response cost liability and natural resource damage liability as unsecured non-priority claims, except to the extent: (i) any rights of setoff secure the claims; and (ii) any secured/trust interest exists in insurance, indemnity, or escrow proceeds.

F. The claims alleged in the U.S. Proof of Claim overlap substantially with the

Wickliffe Paper Company LLC (collectively, the “Related Affiliates”). For the avoidance of doubt, any reference to the “Related Affiliates” shall include the foregoing entities individually and collectively, but only in their capacity as affiliates of New Page Wisconsin. Further, when referring to acts or events during the period when NewPage Wisconsin and the Related Affiliates were debtors and debtors in possession, the entities will be referred to as the “Debtors.”

claims against NewPage Wisconsin alleged in this case by the United States and the State of Wisconsin.

G. But for this proposed settlement, NewPage Wisconsin would dispute, in whole or in part, the U.S. Proof of Claim and the allegations against NewPage Wisconsin in the Plaintiffs' complaint in this case.

H. NewPage Wisconsin, the United States, and the State wish to resolve their differences with respect to the U.S. Proof of Claim and the allegations against NewPage Wisconsin in this case, as provided herein.

I. Consistent with CERCLA Section 122(j)(1), 42 U.S.C. § 9622(j)(1), EPA also has notified the members of the Fox River / Green Bay Natural Resource Trustee Council (the "Trustees") of negotiations with NewPage Wisconsin regarding this settlement as it relates to injuries to natural resources under Federal, State, and Tribal trusteeship at the Site. The Trustees have participated in the negotiation of this Consent Decree and support this Consent Decree. The Oneida Tribe of Indians of Wisconsin and the Menominee Indian Tribe of Wisconsin (the "Tribes") are additional signatories to this Consent Decree.

J. The Bankruptcy Court confirmed the *Debtors' Modified Fourth Amended Joint Chapter 11 Plan* in the Bankruptcy Cases (the "Reorganization Plan" or "Plan") [Bankruptcy Case Docket No. 2904] in an Order (the "Confirmation Order") entered on December 14, 2012 [Bankruptcy Case Docket No. 2945], and the Reorganization Plan became effective on December 21, 2012. This Consent Decree provides for a distribution under the Reorganization Plan as a Class 3A Claim from an agreed reserve (the "Fox River Reserve") established pursuant to the *Order Approving Stipulation By and Among the Debtors and the United States of America Establishing Agreed Reserve for Plan Distribution* [Docket No. 2933]. The Fox River Reserve is

currently being administered by the litigation trust created under the Reorganization Plan (the “NP Creditor Litigation Trust” or the “Litigation Trust”).

K. The Parties⁵ recognize, and the Court by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Parties in good faith, that implementation of this Consent Decree will expedite the cleanup and restoration of the Site and will avoid or minimize prolonged and complicated litigation, and that this Consent Decree is procedurally and substantively fair, reasonable, and in the public interest.

THEREFORE, with the consent of the Parties to this Consent Decree, it is ORDERED, ADJUDGED, and DECREED:

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1345 and 42 U.S.C. § 9613(b), and also has personal jurisdiction over NewPage Wisconsin. NewPage Wisconsin consents to and shall not challenge the terms of this Consent Decree or this Court’s jurisdiction to enter and enforce this Consent Decree.

2. By entering into this Consent Decree, the mutual objectives of the Parties are to reach a final settlement with respect to the Site that allows NewPage Wisconsin (as well as its Related Affiliates) to resolve all of its alleged civil liability under Section 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607, for response costs and natural resource damages incurred and to be incurred at or in connection with the Site, thereby reducing litigation relating to the Site, and to provide for full and complete contribution protection for NewPage Wisconsin (as well as its Related Affiliates) with regard to the Site pursuant to Section 113(f)(2) of CERCLA, 42 U.S.C. §§ 9613(f)(2), or as may be otherwise provided by law.

⁵ As used herein, the term “Parties” shall mean the United States, the State of Wisconsin, the Tribes, and NewPage Wisconsin, as well as NewPage Wisconsin’s Related Affiliates and the Litigation Trust insofar as they are assenting to the covenants contained in Paragraph 24 of this Consent Decree.

3. The United States on behalf of EPA shall have an Allowed Claim (as that term is used in the Plan) of \$475,300.50 for the Fox River Site (the “EPA Allowed Claim”), to be paid from the Fox River Reserve as an Allowed GD Class 3A General Unsecured Claim against NewPage Wisconsin under Plan Article III.

4. The State on behalf of WDNR shall have an Allowed Claim (as that term is used in the Plan) of \$475,300.50 for the Fox River Site (the “WDNR Allowed Claim”), to be paid from the Fox River Reserve as an Allowed GD Class 3A General Unsecured Claim against NewPage Wisconsin under Plan Article III.

5. The United States on behalf of DOI shall have an Allowed Claim (as that term is used in the Plan) of \$206,653.00 for the Fox River Site (the “DOI Allowed Claim”), to be paid from the Fox River Reserve as an Allowed GD Class 3A General Unsecured Claim against NewPage Wisconsin under Plan Article III.

6. The EPA Allowed Claim, the WDNR Allowed Claim, and the DOI Allowed Claim shall receive the same treatment under the Plan, without discrimination, as all other Allowed GD Class 3A General Unsecured Claims against NewPage Wisconsin under Plan Article VII, with all attendant rights provided by the Bankruptcy Code and other applicable law, and shall not be entitled to any priority in distribution over other Allowed GD Class 3A General Unsecured Claims against NewPage Wisconsin; provided, however, that the EPA Allowed Claim, the WDNR Allowed Claim, and the DOI Allowed Claim shall be paid out of the Fox River Reserve and nothing herein creates or results in a new, non-bankruptcy claim against NewPage Wisconsin or the Related Affiliates. In no event shall the EPA Allowed Claim, the WDNR Allowed claim, or the DOI Allowed Claim be subordinated to any other Allowed GD Class 3A General Unsecured Claims against NewPage Wisconsin pursuant to any provision of

the Bankruptcy Code or other applicable law that authorizes or provides for subordination of allowed claims, including, without limitation, Sections 105, 510, and 726(a)(4) of the Bankruptcy Code.

7. To the extent that, at any time after this Consent Decree is lodged with this Court, NewPage Wisconsin recovers insurance proceeds on account of the Fox River Site in excess of NewPage Wisconsin's costs of pursuing such insurance proceeds, NewPage Wisconsin may retain 50% of such excess insurance proceeds, and NewPage Wisconsin shall pay 50% of such excess insurance proceeds to the United States and the State. For any such excess insurance proceeds paid to the United States and the State, 41% of the proceeds shall be treated as an additional payment on the EPA Allowed Claim, 41% of the proceeds shall be treated as an additional payment on the WDNR Allowed Claim, and 18% shall be treated as an additional payment on the DOI Allowed Claim. NewPage Wisconsin shall instruct its insurer(s) to transmit such excess insurance proceeds, on NewPage Wisconsin's behalf, directly to the United States and the State in accordance with Paragraphs 14 and 15, but any failure or refusal by the insurer(s) to comply with NewPage Wisconsin's instruction shall in no way relieve NewPage Wisconsin of the payment obligation set forth in the first sentence of this Paragraph 7. NewPage Wisconsin agrees to allocate in writing any excess insurance proceeds on a fair and equitable basis among sites, based upon all of the facts and circumstances, including, but not limited to, any defenses asserted by insurers, and with deference to any allocation by a court or in an approved settlement document. In allocating NewPage Wisconsin's cost of pursuing insurance proceeds among sites, NewPage Wisconsin shall use the same percentage allocation of costs as is used in NewPage Wisconsin's allocation of recovery of excess insurance proceeds. To the extent that excess insurance proceeds are allocable to sites or claims other than the Fox River

Site, no payment need be made to the United States or the State from the excess insurance proceeds allocable to other sites or claims. The United States and the State reserve the right to petition the Bankruptcy Court for an adjustment of NewPage Wisconsin's allocation based upon all of the facts and circumstances. The payments required to be made under this Paragraph 7 shall be in addition to the distributions required to be made under Paragraphs 3, 4, and 5. However, under no circumstances may the payments required to be made under this Paragraph 7 (when combined with the distributions received under Paragraphs 3, 4, and 5), exceed the amount of the Allowed Claims under Paragraphs 3, 4, and 5. In the event that the excess insurance proceeds sharing requirements of this Paragraph 7 would otherwise result in such an exceedance, NewPage Wisconsin may receive and retain the additional amount of excess insurance proceeds necessary to avoid such an exceedance.

8. EPA shall deposit any cash distributions it receives pursuant to this Consent Decree, and any portion of the proceeds of any non-cash distributions it receives pursuant to this Consent Decree, into an EPA special account established for the Fox River Site within the Hazardous Substance Superfund established pursuant 25 U.S.C. § 9507, to be retained and used to conduct or finance response actions at or in connection with the Fox River Site, or to be transferred to the Hazardous Substance Superfund.

9. WDNR shall deposit any cash distributions it receives pursuant to this Consent Decree, and any portion of the proceeds of any non-cash distributions it receives pursuant to this Consent Decree, into a segregated fund under the direction of WDNR, to be retained and used to conduct or finance response actions at or in connection with the Fox River Site. If any such funds remain after completion of the response action at the Site, WDNR shall transfer all remaining funds to the EPA Hazardous Substance Superfund.

10. DOI shall deposit any cash distributions it receives pursuant to this Consent Decree, and any portion of the proceeds of any non-cash distributions it receives pursuant to this Consent Decree, into a Site-specific subaccount within the DOI Natural Resource Damage Assessment and Restoration Fund established for the Fox River Site, to be managed by DOI for the joint benefit and use of the members of the Fox River/Green Bay Natural Resource Trustee Council to pay for natural resource restoration projects jointly selected by the Trustee Council and/or to be applied toward natural resource damage assessment costs incurred by DOI.

11. Only the amount of cash received by EPA (and net cash received upon sale of any non-cash distributions) pursuant to this Consent Decree for the EPA Allowed Claim, and not the total amount of the EPA Allowed Claim, shall be credited by EPA to its account for the Fox River Site, which credit shall reduce the response cost liability of non-settling potentially responsible parties for the Site by the amount of the credit.

12. Only the amount of cash received by WDNR (and net cash received upon sale of any non-cash distributions) pursuant to this Consent Decree for the WDNR Allowed Claim, and not the total amount of the WDNR Allowed Claim, shall be credited by WDNR to its account for the Fox River Site, which credit shall reduce the response cost liability of non-settling potentially responsible parties for the Site by the amount of the credit.

13. Only the amount of cash received by DOI (and net cash received upon sale of any non-cash distributions) pursuant to this Consent Decree for the DOI Allowed Claim, and not the total amount of the DOI Allowed Claim, shall be credited by DOI to its account for the Fox River Site, which credit shall reduce the natural resource damage liability of non-settling potentially responsible parties for the Site by the amount of the credit.

14. Cash distributions to the United States pursuant to this Consent Decree shall be made at <https://www.pay.gov> or by FedWire Electronic Funds Transfer in accordance with instructions, including a Consolidated Debt Collection System (“CDCS”) number, to be provided to NewPage Wisconsin and the Litigation Trust by the Financial Litigation Unit of the United States Attorney’s Office for the Eastern District of Wisconsin.

15. Cash distributions to the State pursuant to this Consent Decree shall be made in accordance with payment instructions to be provided to NewPage Wisconsin and the Litigation Trust by the Wisconsin Department of Justice.

16. At the time of any distribution pursuant to this Consent Decree, NewPage Wisconsin or the Litigation Trust shall transmit written confirmation of such distribution to the United States and the State at the addresses specified below, with a reference to E.D. Wis. Case No. 10-cv-910, the CDCS number, and Site/Spill ID Number A5 65:

As to the United States:

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, DC 20044
Ref. DOJ File No. 90-5-2-1-06444/1

Richard Murawski
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Blvd.
Chicago, IL 60604

John Carlucci
Division of Parks and Wildlife
Office of the Solicitor
U.S. Department of the Interior
1849 C Street, N.W.
Washington, DC 20240

As to the State:

Cynthia R. Hirsch
Assistant Attorney General
Wisconsin Department of Justice
P.O. Box 7857
Madison, WI 53707-7857

Kenneth Johnson
Administrator, Division of Water
Wisconsin Department of Natural Resources
P.O. Box 7921
Madison, WI 53707-7921

17. Notwithstanding any other provision of this Consent Decree, and except as provided under applicable non-bankruptcy law, there shall be no restrictions on the ability and right of EPA, WDNR, or DOI to transfer or sell all or a portion of any securities distributed to it pursuant to the Reorganization Plan.

18. In consideration of the distributions that will be made under the terms of this Consent Decree, and except as specifically provided in Paragraphs 21-23, the United States, on behalf of EPA and DOI, covenants not to file or pursue a civil action or take administrative action against NewPage Wisconsin (or its Related Affiliates or the Litigation Trust) pursuant to Sections 106 or 107 of CERCLA, 42 U.S.C. §§ 9606 or 9607, or Section 311(f) of the Clean Water Act, 33 U.S.C. § 1321(f), relating to the Fox River Site. This covenant is conditioned upon the satisfactory performance by NewPage Wisconsin (by and through the Litigation Trust) of its obligations under this Consent Decree.

19. In consideration of the distributions that will be made under the terms of this Consent Decree, and except as specifically provided in Paragraphs 21-23, the State, on behalf of WDNR, covenants not to file or pursue a civil action or take any administrative action against NewPage Wisconsin (or its Related Affiliates or the Litigation Trust) pursuant to Section 107 of

CERCLA, 42 U.S.C. § 9607, Section 311(f) of the Clean Water Act, 33 U.S.C. § 1321(f), or Wisconsin statutory or common law, relating to the Fox River Site. This covenant is conditioned upon the satisfactory performance by NewPage Wisconsin (by and through the Litigation Trust) of its obligations under this Consent Decree.

20. In consideration of the distributions that will be made under the terms of this Consent Decree, and except as specifically provided in Paragraphs 21-23, the Tribes covenant not to file or pursue a civil action against NewPage Wisconsin (or its Related Affiliates or the Litigation Trust) for natural resource damages pursuant to Section 107 of CERCLA, 42 U.S.C. § 9607, Wisconsin statutory or common law, or tribal law, relating to the Site. This covenant is conditioned upon the satisfactory performance by NewPage Wisconsin (by and through the Litigation Trust) of its obligations under this Consent Decree.

21. The covenants set forth in Paragraphs 18, 19, and 20 extend only to NewPage Wisconsin and its Related Affiliates and the Litigation Trust – and to their directors, officers, employees, agents, contractors, successors, and assigns, but only to the extent that the alleged liability of such person is based on the alleged liability of NewPage Wisconsin or based on acts and/or omissions which occurred in the scope of the person's employment or capacity as an officer, director, employee, elected or appointed official, or shareholder of NewPage Wisconsin – and do not extend to any other person. Nothing in this Consent Decree is intended as a covenant for any person or entity other than NewPage (and its Related Affiliates and the Litigation Trust), the United States, the State, and the Tribes. The United States, the State, the Tribes, and NewPage Wisconsin and its Related Affiliates and the Litigation Trust expressly reserve all claims, demands, and causes of action, either judicial or administrative, past, present, or future, in law or equity, which they may have against all other persons, firms, corporations, or

entities for any matter arising from or relating in any manner to the Fox River Site. Further, nothing in this Consent Decree diminishes the rights of the United States and the State, pursuant to Section 113(f)(2) and (3) of CERCLA, 42 U.S.C. § 9613(f)(2)-(3), to enter into any settlement that gives rise to contribution protection for any person not a party to this Consent Decree.

22. The covenants set forth in Paragraphs 18, 19, and 20 do not pertain to any matters other than those expressly specified therein. Subject to the Reorganization Plan and the Confirmation Order, the United States, the State, and the Tribes expressly reserve, and this Consent Decree is without prejudice to, all rights against NewPage Wisconsin (and its Related Affiliates and the Litigation Trust) with respect to all matters other than those set forth in Paragraphs 18, 19, and 20. The United States, the State, and the Tribes also specifically reserve, and this Consent Decree is without prejudice to, any action based on a failure to meet a requirement of this Consent Decree. In addition, the United States, the State, and the Tribes reserve, and this Consent Decree is without prejudice to, all rights against NewPage Wisconsin (and its Related Affiliates and the Litigation Trust, as applicable), with respect to the Fox River Site for liability under federal, state, or tribal law for future disposal of Waste Material at the Site by NewPage Wisconsin (or its Related Affiliates or the Litigation Trust) that occurs after the date of lodging of this Consent Decree.

23. Nothing in this Consent Decree shall be deemed to limit the authority of the United States or the State to take any response action under Section 104 of CERCLA, 42 U.S.C. § 9604, or any other applicable statute or regulation, or to alter the applicable legal principles governing judicial review of any action taken by the United States or the State pursuant to such authority, provided, however, that nothing in this sentence affects the covenants set forth in Paragraphs 18, 19, and 20. Nothing in this Consent Decree shall be deemed to limit the

information-gathering authority of the United States under Sections 104 and 122 of CERCLA, 42 U.S.C. §§ 9604 and 9622, or any other applicable statute or regulation, or to excuse NewPage Wisconsin (and its Related Affiliates and the Litigation Trust) from any disclosure or notification requirements imposed by CERCLA or any other applicable statute or regulation.

24. NewPage Wisconsin (and its Related Affiliates and the Litigation Trust) covenant not to sue and agree not to assert or pursue any claims or causes of action against the United States, the State, or the Tribes, including any department, agency, or instrumentality of the United States, the State, or the Tribes, with respect to the Fox River Site, including, but not limited to: (i) any direct or indirect claim for reimbursement from the Hazardous Substance Superfund established pursuant to 26 U.S.C. § 9507; (ii) any claim under Sections 107 or 113 of CERCLA, 42 U.S.C. §§ 9607 or 9613, or Section 7002(a) of RCRA, 42 U.S.C. § 6972(a); or (iii) any claims arising out of response activities or natural resource injuries at the Fox River Site. Nothing in this Consent Decree shall be deemed to constitute preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

25. Notwithstanding any other provision of this Consent Decree, NewPage Wisconsin and its Related Affiliates and the Litigation Trust reserve, and this Consent Decree is without prejudice to, any and all claims and defenses against the United States in the event any claim is asserted by the United States against NewPage Wisconsin or its Related Affiliates or the Litigation Trust pursuant to any of the reservations set forth in Paragraph 22, other than for failure to meet a requirement of this Consent Decree, but only to the extent that the claims of NewPage Wisconsin or its Related Affiliates or the Litigation Trust arise from the same response action, response costs, or damages that the United States is seeking pursuant to the applicable reservation.

26. Notwithstanding any other provision of this Consent Decree, NewPage Wisconsin and its Related Affiliates and the Litigation Trust reserve, and this Consent Decree is without prejudice to, any and all claims and defenses against the State in the event any claim is asserted by the State against NewPage Wisconsin or its Related Affiliates or the Litigation Trust pursuant to any of the reservations set forth in Paragraph 22, other than for failure to meet a requirement of this Consent Decree, but only to the extent that the claims of NewPage Wisconsin or its Related Affiliates or the Litigation Trust arise from the same response action, response costs, or damages that the State is seeking pursuant to the applicable reservation.

27. Notwithstanding any other provision of this Consent Decree, NewPage Wisconsin and its Related Affiliates and the Litigation Trust reserve, and this Consent Decree is without prejudice to, any and all claims and defenses against the Tribes in the event any claim is asserted by the Tribes against NewPage Wisconsin or its Related Affiliates or the Litigation Trust pursuant to any of the reservations set forth in Paragraph 22, other than for failure to meet a requirement of this Consent Decree, but only to the extent that the claims of NewPage Wisconsin or its Related Affiliates or the Litigation Trust arise from the same damages that the Tribes are seeking pursuant to the applicable reservation.

28. The Parties hereto agree, and by entering this Consent Decree the Court finds, that this Consent Decree constitutes a judicially-approved settlement for purposes of Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), and that NewPage Wisconsin and its Related Affiliates and the Litigation Trust are entitled to protection from contribution actions or claims as provided by Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), or as may be otherwise provided by law, for “matters addressed” in this Consent Decree. The “matters addressed” in this Consent Decree are all response actions taken or to be taken, and all response costs incurred

or to be incurred, at or in connection with the Fox River Site by the United States, the State, or any potentially responsible parties, as well as damages for injuries to natural resources at the Fox River Site; provided, however, that, if the United States, the State, or the Tribes exercise rights under the reservations in Paragraph 22, other than for failure to meet a requirement of this Consent Decree, the “matters addressed” in this Consent Decree shall no longer include those response costs, response actions, or damages that are within the scope of the exercised reservation.

29. NewPage Wisconsin’s entry into this Consent Decree shall be conditioned on obtaining the approval of the Bankruptcy Court. NewPage Wisconsin shall promptly seek such approval under Bankruptcy Rule 9019 or applicable provisions of the Bankruptcy Code of an order in the form attached hereto as Appendix B.

30. NewPage Wisconsin shall not amend the Plan in a manner inconsistent with the terms and provisions of this Consent Decree, or take any other action in the Bankruptcy Cases that is inconsistent with the terms and provisions of this Consent Decree. NewPage Wisconsin shall timely serve the other Parties to this Consent Decree with any motion to amend the Plan after the date of lodging of this Consent Decree. The United States, the State, and the Tribes shall not oppose any term or provision of the Plan that is addressed by and consistent with this Consent Decree. The Parties reserve all other rights and defenses they may have with respect to the Plan.

31. This Consent Decree shall be lodged with this Court and shall thereafter be subject to a period of public comment following publication of notice in the *Federal Register*. After the conclusion of the public comment period, the United States will file with this Court any comments received, as well as the United States’ responses to the comments, and at that time, if

appropriate, the United States will request approval of the Consent Decree. The United States reserves the right to withdraw or withhold its consent if the comments regarding the Consent Decree disclose facts or considerations which indicate that the Consent Decree is not in the public interest.

32. If for any reason (a) the Consent Decree is withdrawn by the United States as provided in Paragraph 31, (b) the Bankruptcy Court does not approve NewPage Wisconsin's entry into this Consent Decree, or (c) the Consent Decree is not approved by this Court:

(i) this Consent Decree shall be null and void, and the Parties hereto shall not be bound under the Consent Decree or under any documents executed in connection herewith; (ii) the Parties shall have no liability to one another arising out of or in connection with this Consent Decree or under any documents executed in connection herewith; and (iii) this Consent Decree and any documents prepared in connection herewith shall have no residual or probative effect or value.

33. This Consent Decree constitutes the sole and complete agreement of the Parties hereto with respect to the matters addressed herein.

34. This Consent Decree may not be amended except by a writing signed by all the Parties and approved by this Court.

35. This Consent Decree may be executed in counterparts, each of which shall constitute an original, and all of which shall constitute one and the same agreement.

36. This Court shall retain jurisdiction over the subject matter of this Consent Decree and the Parties hereto for the duration of the performance of the terms and provisions of this Consent Decree for the purpose of enabling any of the Parties to apply at any time for such further order, direction, and relief as may be necessary or appropriate for the construction or interpretation of this Consent Decree or to effectuate or enforce compliance with its terms.

37. The Effective Date of this Consent Decree shall be the date upon which it is entered by the Court.

38. The undersigned representatives of NewPage Wisconsin, the United States, the State, and the Tribes each certify that he or she is fully authorized to enter into the terms and conditions of this Consent Decree and to execute and legally bind such Party to this document. The undersigned representative of NewPage Wisconsin also certifies that he or she is fully authorized to assent to the covenants contained in Paragraph 24 of this Consent Decree on behalf of NewPage Wisconsin's Related Affiliates. The undersigned representative of the Litigation Trust certifies that he or she is fully authorized to assent to the covenants contained in Paragraph 24 of this Consent Decree on behalf of the Litigation Trust.

39. Upon approval and entry of this Consent Decree by the Court, this Consent Decree shall constitute a final judgment between and among the United States, the State, the Tribes, and NewPage Wisconsin. The Court finds that there is no just reason for delay and therefore enters this judgment as a final judgment under Fed. R. Civ. P. 54 and 58.

SO ORDERED

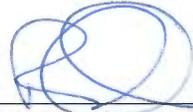
*THE COURT'S APPROVAL AND ENTRY OF THIS
CONSENT DECREE SHALL BE SIGNIFIED BY ENTRY OF
A SEPARATE ORDER IN ACCORDANCE WITH THE
COURT'S ELECTRONIC CASE FILING POLICIES AND
PROCEDURES MANUAL*

WILLIAM C. GRIESBACH, Chief Judge
United States District Court - WIED

THE UNDERSIGNED PARTY agrees to the terms of this Consent Decree with NewPage Wisconsin System Inc. in the matter of *United States and the State of Wisconsin v. NCR Corporation, et al.*, relating to the Lower Fox River and Green Bay Superfund Site:

FOR THE UNITED STATES OF AMERICA

Date: 3/18/14



ROBERT G. DREHER
Acting Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice

Date: 3/26/2014



RANDALL M. STONE, Senior Attorney
JEFFREY A. SPECTOR, Senior Attorney
KRISTIN A. FURRIE, Trial Attorney
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, DC 20044-7611
Telephone: 202-514-1308
Facsimile: 202-616-6584
E-Mail: randall.stone@usdoj.gov

JAMES L. SANTELLE
United States Attorney

SUSAN M. KNEPEL
Assistant United States Attorney
Office of the United States Attorney
517 E. Wisconsin Avenue, Room 530
Milwaukee, WI 53202

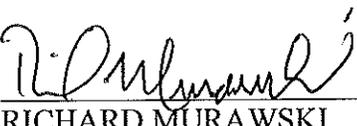
THE UNDERSIGNED PARTY agrees to the terms of this Consent Decree with NewPage Wisconsin System Inc. in the matter of *United States and the State of Wisconsin v. NCR Corporation, et al.*, relating to the Lower Fox River and Green Bay Superfund Site:

Date: 3/19/2014



for RICHARD C. KARL
Superfund Division Director
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, IL 60604

Date: March 12, 2014



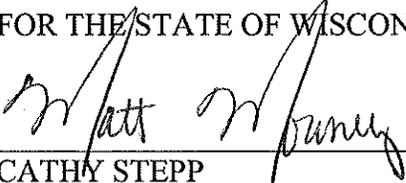
RICHARD MURAWSKI
Associate Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, IL 60604

THE UNDERSIGNED PARTY agrees to the terms of this Consent Decree with NewPage Wisconsin System Inc. in the matter of *United States and the State of Wisconsin v. NCR Corporation, et al.*, relating to the Lower Fox River and Green Bay Superfund Site:

Date:

3/24/14

FOR THE STATE OF WISCONSIN



CATHY STEPP

Secretary

Wisconsin Department of Natural Resources

101 South Webster Street

Madison, WI 53703

Date:

3/24/14



CYNTHIA R. HIRSCH

Assistant Attorney General

Wisconsin Department of Justice

123 W. Washington Avenue

Madison, WI 53702

THE UNDERSIGNED PARTY agrees to the terms of this Consent Decree with NewPage Wisconsin System Inc. in the matter of *United States and the State of Wisconsin v. NCR Corporation, et al.*, relating to the Lower Fox River and Green Bay Superfund Site:

FOR THE
MENOMINEE INDIAN TRIBE OF WISCONSIN

Date: 3/13/14

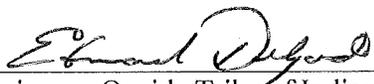


Chairman, Menominee Indian Tribe of Wisconsin
Menominee Tribal Offices
P.O. Box 910
Keshena, WI 54135

THE UNDERSIGNED PARTY agrees to the terms of this Consent Decree with NewPage Wisconsin System Inc. in the matter of *United States and the State of Wisconsin v. NCR Corporation, et al.*, relating to the Lower Fox River and Green Bay Superfund Site:

FOR THE
ONEIDA TRIBE OF INDIANS OF WISCONSIN

Date: 3-13-14


Chairman, Oneida Tribe of Indians of Wisconsin
P.O. Box 365
Oneida, WI 54155

THE UNDERSIGNED PARTY agrees to the terms of this Consent Decree with NewPage Wisconsin System Inc. in the matter of *United States and the State of Wisconsin v. NCR Corporation, et al.*, relating to the Lower Fox River and Green Bay Superfund Site:

FOR NEWPAGE WISCONSIN SYSTEM INC.
and its Related Affiliates

Date:

February 26, 2014

David L. Santez
Signature

Typed Name: David L. Santez

Title: Vice President, General Counsel and Secretary

Address: 8540 Gander Creek Drive

Miamisburg, OH. 45342

Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Typed Name: Greg A. Hadley

Title: Assistant Secretary and Assistant General Counsel

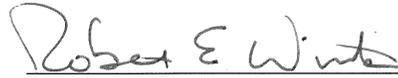
Address: 8540 Gander Creek Drive

Miamisburg, OH. 45342

THE UNDERSIGNED PARTY hereby assents to the covenants contained in Paragraph 24 of this Consent Decree with NewPage Wisconsin System Inc. in the matter of *United States and the State of Wisconsin v. NCR Corporation, et al.*, relating to the Lower Fox River and Green Bay Superfund Site:

FOR THE NP CREDITOR LITIGATION TRUST

Date: _____



Signature

Typed Name: Robert E. Winter

Title: Counsel to Litigation Trustee of
NP Creditor Litigation Trust

Address: Paul Hastings LLP
875 15th St., NW
Washington, DC 20005

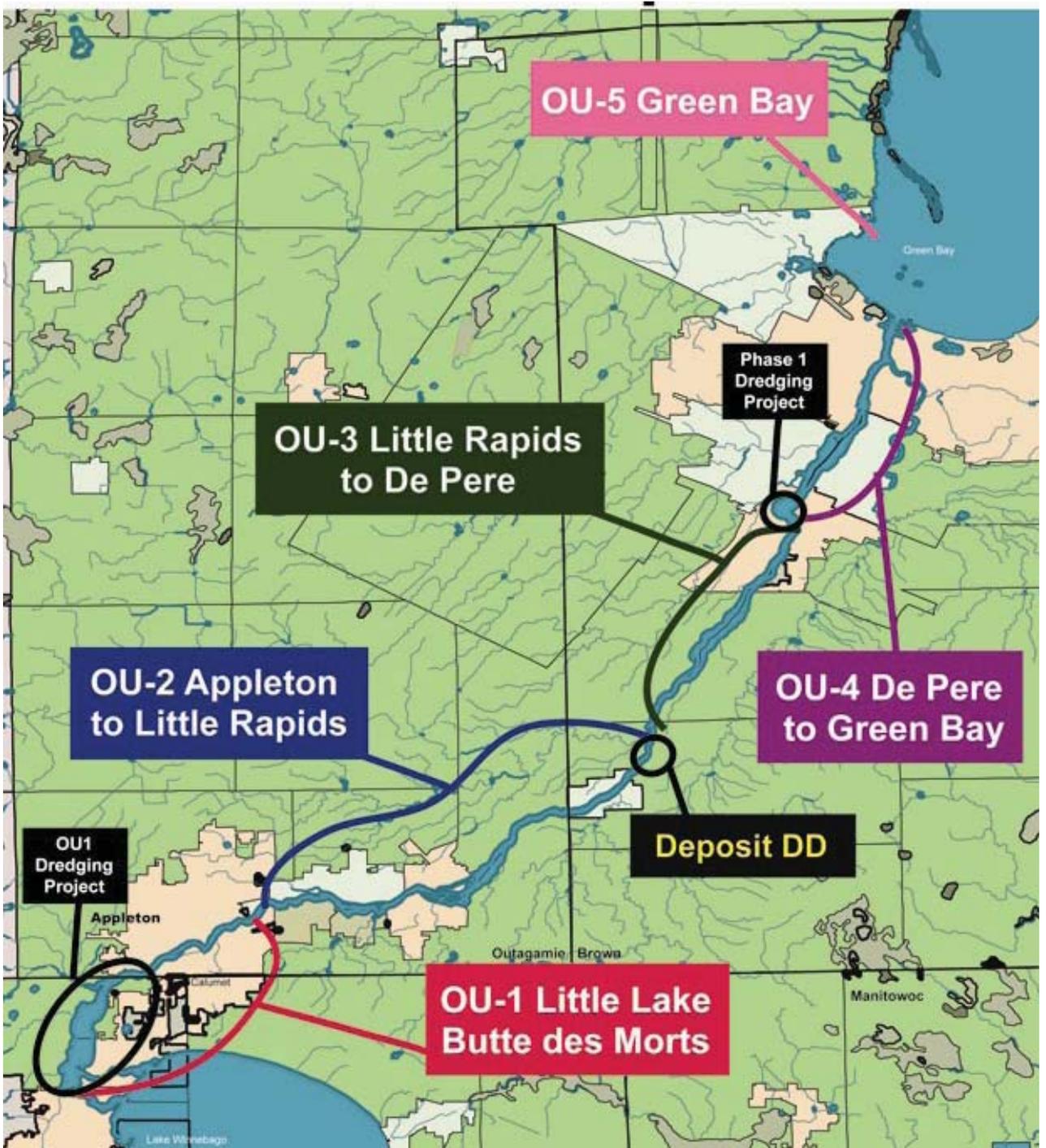
Agent Authorized to Accept Service on Behalf of Above-Signed Party:

Typed Name: Robert E. Winter

Title: Counsel to Litigation Trustee of
NP Creditor Litigation Trust

Address: Paul Hastings LLP
875 15th St., NW
Washington, DC 20005

Appendix A: Map of the Site



Appendix B: Form of Bankruptcy Court Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

-----X
In re : **Chapter 11**
: **Case No. 11-12804 (KG)**
NEWPAGE CORPORATION, *et al.*, : **Jointly Administered**
: **Reorganized Debtors.**¹
:
:
-----X

**ORDER PURSUANT TO BANKRUPTCY RULE
9019 APPROVING CONSENT DECREE WITH THE
UNITED STATES OF AMERICA AND THE STATE OF WISCONSIN**

Upon the motion dated March [__], 2014 (the “Motion”)² for an order pursuant to Bankruptcy Rule 9019 approving the Consent Decree, all as more fully described in the Motion; and this Court having subject matter jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. § 1334; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided, and it appearing that no other or further notice need be provided; and this Court having found and determined that the relief sought in the Motion and its legal and factual bases establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is:

ORDERED that the Motion is granted as may be modified herein; and it is further

¹ The Reorganized Debtors are: Chillicothe Paper Inc. (6154), Escanaba Paper Company (5598), Luke Paper Company (6265), NewPage Consolidated Papers Inc. (8330), NewPage Corporation (6156), NewPage Energy Services LLC (1838), NewPage Wisconsin System Inc. (3332), Rumford Paper Company (0427), Upland Resources, Inc. (2996), and Wickliffe Paper Company LLC (8293). The Reorganized Debtors’ corporate headquarters is located at 8540 Gander Creek Drive, Miamisburg, OH 45342.

² Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.

ORDERED that the Consent Decree is hereby approved pursuant to Bankruptcy Rule 9019; and it is further

ORDERED that upon approval and entry of the Consent Decree by the U.S. District Court for the Eastern District of Wisconsin in the case captioned *United States and the State of Wisconsin v. NCR Corp., et al.*, No. 10-CV-910 (E.D. Wis.), the following Allowed Claims (as that term is used in the Plan) shall be paid from the Fox River Reserve as Allowed GD Class 3A General Unsecured Claims against NPWSI: (i) the United States, on behalf of the EPA, will have an Allowed Claim of \$475,300.50 (the “EPA Allowed Claim”); (ii) the State of Wisconsin, on behalf of WDNR, will have an Allowed Claim of \$475,300.50 (the “WDNR Allowed Claim”); and (iii) the United States, on behalf of the DOI, will have an Allowed Claim of \$206,653.00 (the “DOI Allowed Claim”); and it is further

ORDERED that the Litigation Trust is authorized and directed to make an initial distribution, on the terms set forth in the Consent Decree, the EPA Allowed Claim, the WDNR Allowed Claim, and the DOI Allowed Claim (each as defined in the Consent Decree) from the Fox River Reserve; provided, further, that the Litigation Trust is authorized and directed to make any subsequent distributions on the EPA Allowed Claim, the WDNR Allowed Claim, and the DOI Allowed Claim in the same manner and time as all other allowed unsecured claims; and it is further

ORDERED that upon the initial distribution on the EPA Allowed Claim, the WDNR Allowed Claim, and the DOI Allowed Claim as outlined in the Consent Decree, the Litigation Trust shall be authorized to release the remaining funds in, and shall no longer be required to maintain, the Fox River Reserve; provided, however, that the EPA Allowed Claim,

the WDNR Allowed Claim, and the DOI Allowed Claim shall thereafter be treated the same as all other allowed unsecured claims; and it is further

ORDERED that the terms and conditions of this Order shall be immediately effective and enforceable upon its entry; and it is further

ORDERED that this Court shall retain jurisdiction with respect to all matters arising from or relating to the interpretation or implementation of this Order.

Dated: _____, 2013
Wilmington, Delaware

The Honorable Kevin Gross
Chief Judge, United States Bankruptcy Court