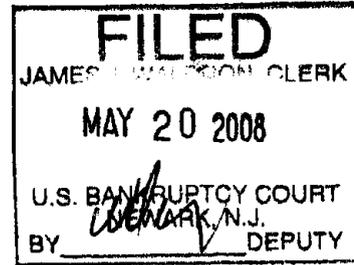


UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-2(c)
**COLE, SCHOTZ, MEISEL,
FORMAN & LEONARD, P.A.**
A Professional Corporation
Court Plaza North
25 Main Street
P.O. Box 800
Hackensack, New Jersey 07602-0800
(201) 489-3000
(201) 489-1536 Telecopier
Michael D. Sirota, Esq.
Gerald H. Gline, Esq.
Attorneys for Marcal Paper Mills, Inc.,
Debtor-in-Possession

In the Matter of:
MARCAL PAPER MILLS, INC.,
Debtor-in-Possession.

Case No. 06-21886 (MS)
Judge: Morris Stern
Hearing Date:



**ORDER APPROVING SETTLEMENT AGREEMENT WITH THE
UNITED STATES PURSUANT TO FED. R. BANKR. P. 9019 AND CERCLA**

The relief set forth on the following page, numbered two (2) through four (4), is hereby

ORDERED.

5/20/08 *[Signature]*

[Signature]

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Debtor: MARCAL PAPER MILLS, INC.
Case No: 06-21886 (MS)
Caption of Order: ORDER APPROVING SETTLEMENT AGREEMENT WITH THE
UNITED STATES PURSUANT TO FED. R. BANKR. P. 9019 AND
CERCLA

THIS MATTER having been opened to the Court by Marcal Paper Mills, Inc., the within debtor and debtor-in-possession, (the "Debtor"), upon a motion (the "Debtor's Motion") pursuant to Federal Rule of Bankruptcy Procedure 9019 and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA") for an Order approving a settlement agreement (the "Settlement Agreement") by and among the Purchasers, as that term is defined in the Settlement Agreement, and the United States, on behalf of the United States Environmental Protection Agency (the "EPA"), the United States Department of the Interior ("DOI"), and the National Oceanic and Atmospheric Administration of the United States Department of Commerce ("NOAA") (the "United States"); and the United States having filed a notice of motion to approve the proposed settlement agreement with Purchasers (the "United States Motion"); and an objection having been filed by the Cooperating Parties Group (the "CPG Objection") and good and sufficient notice of the Motion having been given to all parties-in-interest as evidenced by the Affidavit of Service filed with the Court; and the Court having considered the motion papers, the objections thereto, if any, and the arguments of counsel, if any; and for good cause shown,

IT IS FOUND AS FOLLOWS:

A. The Court has jurisdiction over the Debtor's Motion and United States Motion (collectively the "Motions") pursuant to 28 U.S.C. §§ 157 and ~~1134~~.

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Debtor: MARCAL PAPER MILLS, INC.
Case No: 06-21886 (MS)
Caption of Order: ORDER APPROVING SETTLEMENT AGREEMENT WITH THE
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CERCLA

B. The relief requested in the Motions constitutes a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A),(B),(N) and (O)

C. The Settlement Agreement is fair, reasonable and consistent with the purposes of CERCLA.

D. Based upon the negotiations, the terms of the settlement, the publication of the settlement for public comment, the risks of litigation and the comparative fault, as well as other pertinent factors, the Settlement Agreement is both procedurally and substantively fair.

E. After consideration of whether the settlement furthers the goals of CERCLA, the extent to which the settlement is in the public interest and the relative strength of the parties litigating positions, the Courts finds that the settlement is fair and reasonable.

E. After considering the statutory goals of CERCLA and the public interest, the Court finds that the settlement is consistent with the goals of CERCLA

F. Pursuant to Fed.R.Bankr.P. 9019, the Court having canvassed the issues to determine whether the settlement falls below the lowest point in the range of reasonableness, finds that the Settlement Agreement represents a reasonable exercise of the Debtor's business judgment and is fair and equitable and in the best interests of the estate and its creditors.

THEREFORE, BASED UPON THE FOREGOING, IT IS ORDERED that:

1. The CPG Objection is overruled.

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Debtor:

MARCAL PAPER MILLS, INC.

Case No:

06-21886 (MS)

Caption of Order:

ORDER APPROVING SETTLEMENT AGREEMENT WITH THE
UNITED STATES PURSUANT TO FED. R. BANKR. P. 9019 AND
CERCLA

2. Pursuant to Fed. R. Bankr. P. 9019 and CERCLA, the Settlement Agreement, annexed as Exhibit A to the Application in Support of the Debtor's Motion be and hereby is approved in all respects and shall become immediately effective in accordance with its terms.

3. The Purchasers and the United States are hereby authorized to immediately take any and all actions contemplated by the Settlement Agreement.

4. To the extent any of the foregoing findings of fact are conclusions of law, they shall be deemed to be conclusions of law and to the extent any of the foregoing conclusions of law are findings of fact, they shall be deemed to be findings of fact.

Jerome MacLaughlin
Trial Attorney
Environmental Enforcement Section
Environment and Natural Resources Division
United States Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
(202) 616-7162

Attorney for United States

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

IN RE:

MARCAL PAPER MILLS, INC.,

Debtor.

Chapter 11

Case No.:
06-21886 (MS)

SETTLEMENT AGREEMENT

WHEREAS, on or about November 30, 2006, Marcal Paper Mills, Inc. (the "Debtor") filed a petition for reorganization under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. § 101, et seq., as amended (the "Bankruptcy Code");

WHEREAS, the Bankruptcy Court entered an Order establishing May 15, 2007 as the date by which persons must file a proof of claim against the Debtor and establishing June 14, 2007 as the deadline for filing a proof of claim by a governmental unit (the "Bar Date Order");

WHEREAS, on or about June 14, 2007, the United States, on behalf of the United States Environmental Protection Agency (the "EPA"), the United States Department of the Interior ("DOI"), and the National Oceanic and Atmospheric Administration of the United States

**SETTLEMENT AGREEMENT OF UNITED STATES AND PURCHASERS OF
MARCAL PAPER MILLS**

Department of Commerce ("NOAA"), filed a Proof of Claim against the Debtor pursuant to the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9601 et seq. (the "United States' Claim");

WHEREAS, the Diamond Alkali Superfund Site ("Site") includes: a seventeen mile stretch of the Passaic River and its tributaries from the Dundee Dam to Newark Bay known as the Lower Passaic River Study Area ("LPRSA"); the former pesticides manufacturing facility at 80 Lister Avenue, Newark, New Jersey, and the surrounding property at 120 Lister Avenue; the Newark Bay Study Area, which includes Newark Bay and portions of the Hackensack River, the Arthur Kill, the Kill Van Kull; the areal extent of contamination; and any subsequent expansion of the Site;

WHEREAS, the Proof of Claim was asserted as a general unsecured claim;

WHEREAS, the Court has approved the Sale of Debtor's assets to NexBank, SSB, a Texas State savings bank, in its capacity as agent for the second lien lenders;

WHEREAS, NexBank has formed Marcal Paper Mills, LLC and its subsidiary Marcal Manufacturing, LLC (collectively herein "Purchasers") to acquire the assets of the Debtor;

WHEREAS, the Debtor's assets to be acquired by the Purchasers include the real property located within Elmwood Park, New Jersey at which the Debtor operates its paper recycling mill (the "Facility");

WHEREAS, the Purchasers will acquire the Debtor's assets on the date the Court establishes as the Closing Date;

WHEREAS, hazardous substances are located on the Facility owned by the Debtor to be

**SETTLEMENT AGREEMENT OF UNITED STATES AND PURCHASERS OF
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acquired by the Purchasers;

WHEREAS, the parties hereto, without admission of liability by any party, desire to settle, compromise and resolve the United States' Claim;

NOW, THEREFORE, in consideration of the mutual promises contained herein, and for other good and valuable consideration, receipt of which is hereby acknowledged;

IT IS HEREBY STIPULATED and agreed to by and between the parties hereto, subject to approval by the Bankruptcy Court, as follows:

I. Jurisdiction

1. The Parties agree that the United States Bankruptcy Court for the District of New Jersey will have jurisdiction to approve this Settlement Agreement and that the United States District Court for the District of New Jersey will have jurisdiction pursuant to Section 113(b) of CERCLA, 42 U.S.C. § 9613(b), for any enforcement action or dispute brought with respect to this Agreement.

II. Work at the Facility

2. Prior to the Closing Date, Purchasers shall enter into or cause to be entered into with the State of New Jersey, consistent with New Jersey Department of Environmental Protection (NJDEP) requirements, a Remediation Agreement requiring full compliance under the New Jersey Industrial Site Recovery Act, N.J.S.A. 13:1 K-6 to-14 ("ISRA") for the Facility, as determined by the NJDEP.

3. During the interim time period between entering into this Settlement Agreement and beginning the implementation of remedial activities at the Facility as required by NJDEP

**SETTLEMENT AGREEMENT OF UNITED STATES AND PURCHASERS OF
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under ISRA, Purchasers agree to refrain from taking any actions at the Facility that would exacerbate any existing contamination on the Facility or the impacts of such existing contamination on the Passaic River, including but not limited to:

a. removing any of the impervious cover existing on the Facility as of the Closing Date, except for minor removal of impervious cover for maintenance, or for investigation as required under this Agreement or as required by NJDEP under ISRA; and

b. injecting any material into the shallow groundwater bearing unit at the Facility.

4. Within 60 days of the Closing Date, Purchasers shall submit to EPA for review a description and schedule for implementing the steps listed below to prevent any threatened future releases of existing hazardous substances from the Facility and prevent or limit any exposure to existing hazardous substances at or from the Facility. These steps shall include:

a. appropriate geophysical testing techniques to determine the presence of buried drums, tanks or underground piping or other storage or conveyance structures;

b. installation of wells to determine the extent to which contaminated groundwater from the Facility is entering the Passaic River; and

c. testing of soil and sediment in Lightning Creek at the Facility.

5. EPA will comment on the steps that Purchasers propose, including any schedule for implementing these steps. If EPA comments on, or requests revisions to, the steps that Purchasers propose, the Purchasers will respond within 30 days of receipt of EPA's comments or requests with any necessary revisions to the steps proposed. If Purchasers and EPA cannot agree

**SETTLEMENT AGREEMENT OF UNITED STATES AND PURCHASERS OF
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upon necessary revisions, the dispute will be subject to the Dispute Resolution provisions of this Agreement.

6. For purposes of this Agreement, the steps that Purchasers will implement pursuant to paragraphs 3 and 4 above and any amendments thereto, shall be referred to hereinafter as the "Work."

7. Purchasers shall use best efforts to ensure that the activities required by NJDEP under ISRA for the Facility include the steps outlined in paragraphs 3 and 4 above and any amendments thereto.

8. Purchasers shall implement the activities required by NJDEP under ISRA, including any of the steps outlined in paragraphs 3 and 4 above, and any amendments thereto, if included in the activities required by NJDEP under ISRA. Purchasers shall implement the steps outlined in paragraphs 3 and 4 above, independent and apart from the activities required by NJDEP under ISRA, if not included therein, and shall submit a Work Plan to EPA for those steps not included in the activities required by NJDEP under ISRA.

9. Based upon information obtained during the ISRA cleanup, EPA may request inclusion of additional steps to protect human health or the environment in accordance with 42 U.S.C. § 9621(d). Purchasers shall complete these steps either as part of their ISRA cleanup, or independent of the ISRA cleanup. If Purchasers and EPA cannot agree as to what, if any, additional steps are required, the dispute shall be subject to the Dispute Resolution provisions of this Agreement.

**SETTLEMENT AGREEMENT OF UNITED STATES AND PURCHASERS OF
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III. Successors

10. Purchasers shall provide a copy of this Agreement to any current lessee, sublessee, or other party with rights to use the Facility as of the Closing Date. Prior to entering into any sale, lease, or other agreement giving any party any rights to use the Facility, Purchasers shall provide a copy of this Agreement, the ISRA Remediation Agreement, and any draft or approved work plans developed under the ISRA Remediation Agreement to such party.

11. Upon sale or other conveyance of the Facility or any part thereof, Purchasers shall require that each grantee, transferee or other holder of an interest in the Facility or any part thereof shall provide access and cooperation to EPA, its authorized officers, employees, representatives, and all other persons performing response actions under EPA oversight.

12. Notwithstanding any other provisions of this Agreement, all of the rights, benefits and obligations conferred upon Purchasers under this Agreement may be assigned or transferred to any person with the prior written consent of EPA in its sole discretion. EPA will provide Purchasers and the assignee or transferee with its determination within thirty days of its receipt of a request for such determination. Any failure by EPA to render its determination within thirty days shall be construed as a denial.

13. In the event of an assignment or transfer of the Property or an assignment or transfer of an interest in the Property, the assignor or transferor shall continue to be bound by all the terms and conditions, and subject to all the benefits, of this Agreement except as EPA and the assignor or transferor agree otherwise and modify this Agreement, in writing, accordingly.

Moreover, prior to or simultaneous with any assignment or transfer of the Property, the assignee

SETTLEMENT AGREEMENT OF UNITED STATES AND PURCHASERS OF MARCAL PAPER MILLS

or transferee must consent in writing to be bound by the terms of this Agreement including but not limited to the certification requirement in Section XI of this Agreement in order for the Covenant Not to Sue in Section XI to be available to that party. The Covenant Not To Sue in Section XI shall not be effective with respect to any assignees or transferees who fail to provide such written consent to EPA.

IV. Access

14. Purchasers agree to provide EPA, its authorized officers, employees, and representatives, an irrevocable right of access at all reasonable times to the Facility and to any other property owned or controlled by Purchasers to which access is required for the implementation of the Work, the activities required by NJDEP under ISRA , or any response actions within the Site. Notwithstanding any provision of this Agreement, EPA retains all of its access authorities and rights, including enforcement authorities related thereto, under CERCLA, RCRA, and other authorities.

15. For so long as Purchasers are an owner or operator of the Facility, Purchasers shall require that assignees, successors in interest, and any lessees, sublessees and other parties with rights to use the Facility shall provide access and cooperation to EPA, its authorized officers, employees, representatives, and all other persons performing any Work or the activities required by NJDEP under ISRA , or response actions within the Site. Purchasers shall require that assignees, successors in interest, and any lessees, sublessees, and other parties with rights to use the Facility implement and comply with any land use restrictions and institutional controls imposed on the Facility in connection with the Work or the activities required by NJDEP under

**SETTLEMENT AGREEMENT OF UNITED STATES AND PURCHASERS OF
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ISRA Agreement, and not contest EPA's authority to enforce any land use restrictions and institutional controls on the Facility.

V. Record Retention

16. Purchasers shall preserve all documents and information relating to the Work for 10 years following completion of the Work.

17. Purchasers may assert a business confidentiality claim pursuant to 40 C.F.R. § 2.203(b) with respect to part or all of any information submitted to EPA pursuant to this Agreement or the Work Plan, provided such claim is allowed by Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7). Analytical and other data specified in Section 104(e)(7)(F) of CERCLA shall not be claimed as confidential by Purchasers. EPA shall disclose information covered by a business confidentiality claim only to the extent permitted by, and by means of the procedures set forth at, 40 C.F.R. Part 2 Subpart B. If no such claim accompanies the information when it is received by EPA, EPA may make it available to the public without further notice to Purchasers.

VI. Reports

18. Purchasers shall submit a written progress report to EPA concerning actions undertaken pursuant to this Agreement, including the Work and any activities required by NJDEP under ISRA , quarterly after the date of the first submittal required under paragraph 4 of this Agreement until completion of the Work or all activities required by NJDEP under ISRA , unless otherwise directed in writing by EPA. These reports shall describe all significant developments during the preceding period with respect to the implementation of the Work or the activities required by NJDEP under ISRA , including the actions performed and any problems

SETTLEMENT AGREEMENT OF UNITED STATES AND PURCHASERS OF MARCAL PAPER MILLS

encountered, analytical data received during the reporting period, and the developments anticipated during the next reporting period, including a schedule of actions to be performed, anticipated problems, and planned resolutions of past or anticipated problems.

19. Purchasers shall submit one copy of all plans, reports or other submissions required by this Agreement, or the activities required by NJDEP under ISRA . Upon request by EPA, Purchasers shall submit such documents in electronic form to be specified by EPA.

20. Within 90 days after completion of all actions required by this Agreement, or the activities required by NJDEP under ISRA , Purchasers shall submit for EPA review a final report summarizing the actions taken to comply with this Agreement (the "Final Report"). The Final Report shall include the following information related to the Work or the activities required by NJDEP under ISRA: a statement of actual costs incurred in completing the Work and complying with the activities required by NJDEP under ISRA; a listing of quantities and types of materials removed from the Facility or handled at the Facility pursuant to the Work or the activities required by NJDEP under ISRA; a discussion of removal and disposal options considered for those materials; a listing of the ultimate destination(s) of those materials; and a presentation of the analytical results of all sampling and analyses performed, and accompanying appendices containing all relevant documentation generated during the Work or activities required by NJDEP under ISRA (*e.g.*, manifests, invoices, bills, contracts, and permits).

21. If, after review of the Final Report, EPA determines that additional actions are necessary to protect human health or the environment in accordance with 42 U.S.C. § 9621(d), EPA shall specify such actions in its response to the Final Report and set forth the bases for such

**SETTLEMENT AGREEMENT OF UNITED STATES AND PURCHASERS OF
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actions, and Purchasers shall implement such actions. If Purchasers and EPA cannot agree as to the additional actions required, the dispute shall be subject to the Dispute Resolution provisions of this agreement.

VII. Settlement Payment

22. Within 30 days of the Closing Date, Purchasers shall pay to the United States' on behalf of EPA, DOI, and NOAA a payment of \$1,500,000 (as apportioned between EPA, DOI, and NOAA as set forth in paragraphs 24 and 25 below).

23. The Purchasers' payment to the United States will resolve the United States' Claim against the Debtor, and the United States will withdraw its Motion to Enter the Settlement Agreement with Debtor.

24. The Purchasers' payment to the United States on behalf of EPA for costs of response to hazardous substances shall be in the amount of \$1,080,000. Payment on the EPA Claim shall be made by Electronic Funds Transfer ("EFT" or wire transfer) to the U.S. Department of Justice lockbox bank, referencing EPA Site ID No. 02-96 and DOJ Number 90-11-3-07683/5, in accordance with instructions provided by the United States to Purchasers after execution of this Settlement Agreement. Any EFTs received at the U.S. D.O.J. lockbox bank after 11:00 A.M. (Eastern Time) will be credited on the next business day. Distributions received by the United States on behalf of EPA will be deposited in the Diamond Alkali Operable Unit 3, Fund-lead, Special Account within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by EPA to the EPA Hazardous Substances Superfund. Only the amount of cash

**SETTLEMENT AGREEMENT OF UNITED STATES AND PURCHASERS OF
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received by EPA from Purchasers under this Settlement Agreement shall be credited by EPA to its account for the Site, which credit shall reduce the liability of non-settling potentially responsible parties to EPA for the Site by the amount of the credit. At the time of payment, Purchaser shall also send a notice that payment has been made to EPA in accordance with Section XIII (Notices) and such notice shall reference the EPA Region and Site/Spill ID No. 02-96.

25. The Purchasers' payment to the United States on behalf of DOI and NOAA for costs of natural resource damage assessment shall be in the amount of \$420,000. Payment on the DOI and NOAA Claims shall be made by Purchasers in accordance with instructions provided by the United States to Purchasers after execution of this Settlement Agreement. Only the amount of cash received by DOI and NOAA from Purchasers under this Settlement Agreement shall be credited by DOI and NOAA to their accounts for the Site, which credit shall reduce the liability of non-settling potentially responsible parties to DOI and NOAA for the Site by the amount of the credit.

VIII. Financial Responsibility

26. The Parties agree and acknowledge that, in the event Purchasers cease implementation of or otherwise fail to complete the Work in accordance with this Agreement, Purchasers shall ensure that EPA is held harmless from or reimbursed for all costs required for completion of the Work. For these purposes, Purchasers shall establish and maintain Financial Responsibility for the benefit of EPA in the amount of \$500,000 in one or more of the following forms, each of which must be satisfactory in form and substance to EPA:

**SETTLEMENT AGREEMENT OF UNITED STATES AND PURCHASERS OF
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- a. A surety bond unconditionally guaranteeing payment and/or performance of the Work;
- b. One or more irrevocable letters of credit, payable to or at the direction of EPA;
- c. A trust fund established for the benefit of EPA; or
- d. A policy of insurance that provides EPA with acceptable rights as a beneficiary.

27. The commencement of any Work Takeover pursuant to the Work Takeover

section of this agreement below shall trigger EPA's right to receive the benefit of any Financial Responsibility mechanism(s) provided above, and at such time EPA shall have immediate access to resources guaranteed under any such Financial Responsibility mechanism(s), whether in cash or in kind, as needed to complete the Work .

28. If Purchasers desire to reduce the amount of any Financial Responsibility mechanism(s), change the form or terms of any Financial Responsibility mechanism(s), or release, cancel or discontinue any Financial Responsibility mechanism(s) because the Work has been fully and finally completed in accordance with this Agreement, Purchasers shall make this request to EPA in writing and EPA shall either approve or disapprove the request in writing.

IX. Dispute Resolution

29. Unless otherwise expressly provided for in this Agreement, the dispute resolution procedures of this Section shall be the exclusive mechanism for resolving disputes arising under this Agreement. EPA and Purchasers shall attempt to resolve any disagreements concerning this Agreement expeditiously and informally. If EPA contends that Purchasers are in violation of this Agreement, EPA shall notify Purchasers in writing, setting forth the basis for its position.

**SETTLEMENT AGREEMENT OF UNITED STATES AND PURCHASERS OF
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Purchasers may dispute EPA's position pursuant to this section of this Agreement.

30. If Purchasers dispute EPA's position with respect to Purchasers' compliance with this Agreement or object to any EPA action taken pursuant to this Agreement, Purchasers shall notify EPA in writing of their position unless the dispute has been resolved informally. EPA may reply, in writing, to Purchasers' position within 60 days of receipt of Purchasers' notice. EPA and Purchasers shall have 90 days from EPA's receipt of Purchasers' written statement of position to resolve the dispute through formal negotiations (the "Negotiation Period"). The Negotiation Period may be extended at the sole discretion of EPA. Such extension may be granted orally but must be confirmed in writing.

31. Any agreement reached by the Parties pursuant to this Section shall be in writing and shall, upon signature by both Parties, be incorporated into and become an enforceable part of this Agreement. If the Parties are unable to reach an agreement within the Negotiation Period, an EPA management official at the Strategic Integration Manager level or higher will review the dispute on the basis of the parties' written statements of position and issue a written decision on the dispute to Purchasers. EPA's decision shall be incorporated into and become an enforceable part of this Agreement. Any administrative decision made by EPA pursuant to this paragraph shall be reviewable by the District Court, provided that a motion for judicial review of the decision is filed by the Purchasers with the Court and served on all Parties within 10 days of receipt of EPA's decision. The motion shall include a description of the matter in dispute, the efforts made by the parties to resolve it, the relief requested, and the schedule, if any, within which the dispute must be resolved to ensure orderly implementation of the Work or the

SETTLEMENT AGREEMENT OF UNITED STATES AND PURCHASERS OF MARCAL PAPER MILLS

activities required by NJDEP under ISRA . The United States may file a response to Purchasers' motion. Purchasers' obligations under this Agreement shall not be tolled by submission of any objection for dispute resolution under this Section. Following resolution of the dispute, as provided by this Section, Purchasers shall fulfill the requirement that was the subject of the dispute in accordance with the agreement reached or with EPA's decision or with an order of the Court, whichever occurs.

X. Work Takeover

32. In the event EPA determines that Purchasers have ceased implementation of any portion of the Work , are seriously or repeatedly deficient or late in their performance of the Work , or are implementing the Work in a manner which may cause an endangerment to human health or the environment, EPA may assume the performance of all or any portion of the Work as EPA determines necessary. Prior to taking over the Work , EPA will issue written notice to Purchaser specifying the grounds upon which such notice was issued and providing Purchasers with 60 days within which to remedy the circumstances giving rise to EPA's issuance of the notice. Purchasers may invoke the procedures set forth in the Dispute Resolution section of this Agreement to dispute EPA's determination that takeover of the Work is warranted under this Paragraph. After commencement and for the duration of any Work Takeover, EPA shall have immediate access to and benefit of any Financial Responsibility mechanism provided pursuant to the Financial Responsibility section of this Agreement.

XI. Covenants and Reservations of Rights

33. In consideration of the payments that will be made by Purchasers under the terms

**SETTLEMENT AGREEMENT OF UNITED STATES AND PURCHASERS OF
MARCAL PAPER MILLS**

of this Settlement Agreement, and except as provided in paragraphs 34 and 35 below, the United States covenants not to bring a civil action or take administrative action against Purchasers pursuant to Sections 106 and 107 of CERCLA relating to the Site or the Passaic River. This covenant not to sue is conditioned upon the approval of this Settlement Agreement and complete and satisfactory performance by Purchasers of their obligations under this Settlement Agreement. This covenant not to sue extends only to Purchasers and does not extend to any other person.

34. The covenant not to sue set forth in the previous paragraph does not pertain to any matters other than those expressly specified in the previous paragraph. The United States reserves, and this Settlement Agreement is without prejudice to, all rights against Purchasers with respect to all other matters, including but not limited to claims based on a failure by Purchasers to meet a requirement of this Settlement Agreement. With respect to the Site and the Passaic River, this Settlement Agreement does not address Purchasers' post-Closing Date conduct which would give rise to liability under 42 U.S.C. §§ 9606 and 9607(a)(1)-(4) and the United States reserves all rights it may have with respect to such post-Closing Date conduct; except, however, that this reservation shall not apply to any damage which arises from or is related to: (i) pre-Closing Date conduct; (ii) releases in compliance with applicable permits; or (iii) any migration of hazardous substances where such substances were existing contamination at the Facility as of the Closing Date.

35. By entering into this agreement, Purchasers certify that to the best of their knowledge and belief they have fully and accurately disclosed to the United States all information known to Purchasers and all information in the possession or control of their

**SETTLEMENT AGREEMENT OF UNITED STATES AND PURCHASERS OF
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officers, directors, employees, contractors and agents which relates in any way to any existing contamination at the Facility or any past or potential future release of hazardous substances, pollutants or contaminants into the Passaic River. Purchasers also certify that to the best of their knowledge and belief they have not caused or contributed to a release or threat of release of hazardous substances or pollutants or contaminants into the Passaic River. If the United States determines that information provided by Purchasers is not materially accurate and complete, the Agreement, within the sole discretion of the United States, shall be null and void and the United States reserves all rights it may have.

36. With regard to claims for contribution against Purchasers for matters addressed in this Settlement Agreement, Purchasers are entitled to such protection from contribution actions or claims relating to the Site as is provided by CERCLA Section 113(f)(2), 42 U.S.C. § 9613(f)(2). This protection from contribution actions is conditioned upon the approval of this Settlement Agreement and complete and satisfactory performance by Purchasers of their obligations under this Settlement Agreement.

37. Purchasers covenant not to sue and agree not to assert any claims or causes of action against the United States with respect to the Site, including but not limited to: any direct or indirect claim for reimbursement from the Hazardous Substance Superfund; any claims for contribution against the United States, its departments, agencies or instrumentalities; and any claims arising out of response activities at the Site. Nothing in this Settlement Agreement shall be construed 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).

**SETTLEMENT AGREEMENT OF UNITED STATES AND PURCHASERS OF
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38. Nothing in this Settlement Agreement shall be construed to create any rights in, or grant any cause of action to, any person not a party to this Settlement Agreement. Nothing in this Settlement Agreement shall be construed as defining, or restricting, in any way, the rights of the State of New Jersey to enforce its environmental laws, including but not limited to, the New Jersey Industrial Site Recovery Act, N.J.S.A. 13:1 K-6 to-14 with respect to the Purchasers or their successors.

XII. Public Comment

39. Purchasers' entry into this Settlement Agreement will be subject to Bankruptcy Court approval pursuant to Bankruptcy Rule 9019. Purchasers agree to exercise their best efforts to obtain the approval of the Bankruptcy Court. This Settlement Agreement will be lodged with the Bankruptcy Court and submitted for public comment following notice of the Settlement Agreement in the Federal Register. The United States reserves the right to withdraw or withhold its consent if the public comments regarding the Settlement Agreement disclose facts or considerations which indicate that the Settlement Agreement is inappropriate, or improper, or inadequate.

40. If this Settlement Agreement is not authorized and approved by the Bankruptcy Court or the United States exercises its right to withdraw, or NexBank does not close or terminates the purchase agreement, this Settlement Agreement shall be of no force and effect, whereupon nothing herein shall be deemed an admission of any fact or waiver of any right of either party with respect to the matters contained herein.

**SETTLEMENT AGREEMENT OF UNITED STATES AND PURCHASERS OF
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XIII. Notices

41. Any notices, documents, information, reports, plans, approvals, disapprovals, or other correspondence required to be submitted from one party to another under this Agreement, shall be deemed submitted either when hand-delivered or as of the date of receipt by certified mail/return receipt requested, express mail, or facsimile.

Submissions to Purchasers shall be addressed to:

Chief Executive Officer
Marcal Paper Mills, LLC
One Market Street
Elmwood Park, New Jersey 07407

Submissions to U.S. EPA shall be addressed to:

Diamond Alkali - Lower Passaic River Study Area RPM
U.S. Environmental Protection Agency, Region 2
290 Broadway, 19th Floor
New York, New York 10007

With copies, for notification of any payments, to:

Joe Doogan
U.S. Environmental Protection Agency
26 West Martin Luther King Drive
Cincinnati Finance Center, MS:NWD
Cincinnati, OH 45268

Including an email to both: doogan.joe@epa.gov and AcctsReceivable.CINWD@epa.gov

XIV. Effect of Settlement

42. This Settlement Agreement represents the complete agreement of the parties hereto on the matters referred to herein and supersedes all prior agreements, understandings,

**SETTLEMENT AGREEMENT OF UNITED STATES AND PURCHASERS OF
MARCAL PAPER MILLS**

promises and representations made by the parties hereto concerning the subject matter hereof.

This Settlement Agreement may not be amended, modified or supplemented, in whole or in part, without the prior written consent of the parties hereto and the approval of the District Court or Bankruptcy Court.

43. The effective date of this Settlement Agreement shall be the later of (i) the date upon which it is approved by the Bankruptcy Court following the public comment period and following the United States' request for entry of the Agreement or (ii) the Closing Date.

44. The signatories for the parties each certify that he or she is authorized to enter into the terms and conditions of this Settlement Agreement and to execute and bind legally such Party to this document.

**SETTLEMENT AGREEMENT OF UNITED STATES AND PURCHASERS OF
MARCAL PAPER MILLS**

FOR THE UNITED STATES OF AMERICA

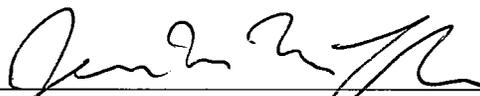
RONALD J. TENPAS
Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice



BRUCE S. GELBER
Section Chief
Environmental Enforcement Section
U.S. Department of Justice

3/27/08

Date



JEROME W. MACLAUGHLIN
Trial Attorney
Environmental Enforcement Section
U.S. Department of Justice

**SETTLEMENT AGREEMENT OF UNITED STATES AND PURCHASERS OF
MARCAL PAPER MILLS**

FOR THE ENVIRONMENTAL PROTECTION AGENCY

3/28/08
DATE



GEORGE PAVLOU
Director
Emergency and Remedial Response Division
U.S. EPA, Region 2

SETTLEMENT AGREEMENT OF UNITED STATES AND PURCHASERS OF
MARCAL PAPER MILLS

FOR THE PURCHASER MARCAL PAPER MILLS, LLC.

3/13/08
Date

W. Carl Moore Jr
Signature of Officer

W. Carl Moore Jr
Name of Officer (please type or print)

President
Title

13455 Noel Road, Suite 800, Dallas TX 75240
Address

(972) 628-4100
Telephone Number

SETTLEMENT AGREEMENT OF UNITED STATES AND PURCHASERS OF
MARCAL PAPER MILLS

FOR THE PURCHASER MARCAL MANUFACTURING, LLC

3/13/08
Date

W. Carl Moore Jr
Signature of Officer

W. Carl Moore Jr
Name of Officer (please type or print)

President
Title

13455 Noel Road, Suite 840, Dallas TX 75246
Address

(972) 628-4100
Telephone Number