

CLEARWATER PAPER CORP

FORM 8-K (Current report filing)

Filed 01/11/18 for the Period Ending 01/05/18

Address	601 WEST RIVERSIDE AVENUE SUITE 1100 SPOKANE, WA, 99201
Telephone	509.344.5900
CIK	0001441236
Symbol	CLW
SIC Code	2631 - Paperboard Mills
Industry	Paper Products
Sector	Basic Materials
Fiscal Year	12/31

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

**Pursuant to Section 13 or 15(d) of the
Securities Exchange Act of 1934**

Date of Report (Date of earliest event reported): January 5, 2018

CLEARWATER PAPER CORPORATION
(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction
of incorporation)

001-34146
(Commission File Number)

20-3594554
(IRS Employer
Identification No.)

601 West Riverside Ave., Suite 1100
Spokane, WA
(Address of principal executive offices)

99201
(Zip Code)

Registrant's telephone number, including area code: (509) 344-5900

Not Applicable

(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instructions A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§ 230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§ 240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Item 1.01. Entry into a Material Definitive Agreement .

On January 5, 2018, Clearwater Paper Corporation (the “Company”) entered into substantially similar amendments to each of the following credit agreements to which it is a party (the “Amendments”): (i) the credit agreement dated as of October 31, 2016, with Wells Fargo Bank, National Association, as administrative agent, and the lenders party thereto (the “Commercial Bank Agreement”); and (ii) the credit agreement dated as of October 31, 2016, with Northwest Farm Credit Services, PCA, as administrative agent, and the lenders party thereto (together with the Commercial Bank Agreement, the “Credit Agreements”).

While the Company was in compliance with the previous financial covenants, the purpose of the Amendments is to allow greater flexibility during the periods set forth below in the event that there is a need for additional future borrowings to fund the Company’s ongoing major capital projects, including in particular the new tissue machine and related converting equipment under construction at the Company’s facility in Shelby, North Carolina. The Amendments involve the following changes to the Credit Agreements:

- increasing the consolidated total leverage ratio from 4.00 to 1.00 to (i) 4.50 to 1.00 for the quarter ending December 31, 2017 and for each quarter ending in 2018, and (ii) 4.25 to 1.00 for each quarter ending in 2019; thereafter the consolidated leverage ratio would revert back to 4.00 to 1.00; and
- decreasing the consolidated interest coverage ratio from 2.25 to 1.00 to 1.75 to 1.00 through the end of 2020; thereafter the consolidated leverage ratio would revert back to 2.25 to 1.00.

The foregoing description of the Amendments is qualified in its entirety by reference to the Amendment to Commercial Bank Agreement which is attached hereto as Exhibit 10.1, and the Amendment to Farm Credit Agreement which is attached hereto as Exhibit 10.2, each of which is incorporated by reference herein.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibit Index

<u>Exhibit</u>	<u>Description</u>
10.1	<u>Amendment to Commercial Bank Agreement, effective as of December 31, 2017, by and among the financial institutions signatory thereto, Wells Fargo Bank, National Association and Clearwater Paper Corporation.</u>
10.2	<u>Amendment to Farm Credit Agreement, effective as of December 31, 2017, by and among the financial institutions signatory thereto, Northwest Farm Credit Services, PCA, and Clearwater Paper Corporation.</u>

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Date: January 11, 2018

CLEARWATER PAPER CORPORATION

By: /s/ Michael S. Gadd
Michael S. Gadd, Corporate Secretary

AMENDMENT TO THE CREDIT AGREEMENT

This AMENDMENT TO THE CREDIT AGREEMENT (this “Amendment”), effective as of December 31, 2017, is entered into by and among (1) CLEARWATER PAPER CORPORATION, a Delaware corporation (the “Borrower”); (2) Lenders (as defined below) constituting the Required Lenders (as defined in the Credit Agreement referred to below); and (3) WELLS FARGO BANK, NATIONAL ASSOCIATION (“Wells Fargo”), as administrative agent for the Lenders (in such capacity, the “Administrative Agent”):

WHEREAS, the Borrower, the lenders from time to time party thereto (the “Lenders”) and the Administrative Agent have previously entered into that certain Credit Agreement, dated as of October 31, 2016 (as in effect immediately prior to the date hereof, the “Existing Credit Agreement”) and as the same may be amended, restated, supplemented or otherwise modified and in effect from time to time, including, but not limited to, by this Amendment, the “Credit Agreement”);

WHEREAS, the Borrower has requested that the Administrative Agent and the Required Lenders make amendments to the Existing Credit Agreement as set forth in this Amendment; and

WHEREAS, the Administrative Agent and the Lenders that are signatories hereto, constituting Required Lenders, are willing to grant such request on the terms and subject to the conditions set forth in this Amendment.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. **Definitions**. Capitalized terms are used in this Amendment as defined in the Credit Agreement unless otherwise defined herein.

2. **Amendments to the Existing Credit Agreement**. On the terms of this Amendment and subject to the satisfaction of the conditions precedent set forth in Section 3 below:

(a) Section 8.13 of the Existing Credit Agreement is hereby amended and restated in its entirety as follows:

(a) **Consolidated Total Leverage Ratio**. Beginning with the fiscal quarter ending December 31, 2017, as of the last day of any fiscal quarter, permit the Consolidated Total Leverage Ratio to be greater than the ratio set forth opposite such fiscal quarter below;

<u>Fiscal Quarter Ending:</u>	<u>Ratio:</u>
December 31, 2017	4.50:1.00
March 31, 2018	4.50:1.00
June 30, 2018	4.50:1.00
September 30, 2018	4.50:1.00

December 31, 2018	4.50:1.00
March 31, 2019	4.25:1.00
June 30, 2019	4.25:1.00
September 30, 2019	4.25:1.00
December 31, 2019	4.25:1.00
March 31, 2020 and thereafter	4.00:1.00

provided that if the Borrower or any of its Subsidiaries consummates an Acquisition or series of related Acquisitions within a twelve-month period with an aggregate consideration in excess of \$125,000,000, then the ratio set forth above shall be deemed to be 4.50:1.00 as of the last day of each of the four fiscal quarters ending after the most recent such Acquisition (and such adjustment shall apply to the fiscal quarter most recently ended for which financial statements have been delivered hereunder solely for purposes of calculating compliance with this Section 8.13(a) on a Pro Forma Basis pursuant to clause (d) of the definition of Permitted Acquisition). Notwithstanding the foregoing, if the proviso to the previous sentence has been applicable with respect to the last day of four consecutive fiscal quarters, it shall be disregarded and given no effect as of the last day of each of the two fiscal quarters immediately following such four consecutive fiscal quarter period (regardless of any Acquisitions consummated in the interim).

(b) Consolidated Interest Coverage Ratio. Beginning with the fiscal quarter ending December 31, 2017, as of the last day of any fiscal quarter, permit the Consolidated Interest Coverage Ratio to be less than the ratio set forth opposite such fiscal quarter below:

<u>Fiscal Quarters Ending:</u>	<u>Ratio:</u>
Prior to December 31, 2020	1.75:1.00
December 31, 2020 and thereafter	2.25:1.00

3. Conditions Precedent to the Effectiveness of this Amendment. This Amendment shall be deemed effective, and shall have retroactive effect to December 31, 2017 (the “Amendment Effective Date”), upon satisfaction of the following conditions:

(a) The Administrative Agent shall have received, on behalf of the Lenders, this Amendment, duly executed and delivered by the Borrower, the Required Lenders and the Administrative Agent (and consented to by the Guarantors) by no later than 12:00 p.m. (New York City time) on January 5, 2018;

(b) The Administrative Agent shall have received a corresponding amendment to the FCS Facility, duly executed by each party thereto (and consented to by the Guarantors) as

defined under the FCS Facility)) in form and substance reasonably satisfactory to the Administrative Agent ;

(c) No Default or Event of Default shall have occurred and be continuing; and

(d) The representations and warranties set forth in this Amendment shall be true and correct in all material respects as of the Amendment Effective Date (except to the extent any such representation and warranty is expressly stated to have been made as of a specific date, in which case it shall be true and correct as of such specific date).

4. **Representations and Warranties**. In order to induce the Administrative Agent and the Lenders to enter into this Amendment and to amend the Existing Credit Agreement in the manner provided in this Amendment, the Borrower represents and warrants to the Administrative Agent and each Lender as follows:

(a) Authorization of Agreements; Enforceability. The Borrower has the right, power and authority and has taken all necessary corporate and other action to authorize the execution, delivery and performance of this Amendment in accordance with its terms. This Amendment has been duly executed and delivered by duly authorized officers of the Borrower and constitutes the legal, valid and binding obligation of the Borrower, enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar state or federal Debtor Relief Laws from time to time in effect which affect the enforcement of creditors' rights in general and the availability of equitable remedies.

(b) Representations and Warranties in the Credit Agreement. The Borrower confirms that as of the Amendment Effective Date, (i) the representations and warranties contained in Article VI of the Credit Agreement are true and correct in all material respects (except to the extent any such representation and warranty is expressly stated to have been made as of a specific date, in which case it shall be true and correct as of such specific date) and (ii) no Default or Event of Default has occurred and is continuing.

5. **Miscellaneous**.

(a) Reference to and Effect on the Existing Credit Agreement and the other Loan Documents.

(i) Except as specifically amended by this Amendment and the documents executed and delivered in connection herewith, the Credit Agreement and the other Loan Documents shall remain in full force and effect and are hereby ratified and confirmed by the Borrower in all respects.

(ii) The execution and delivery of this Amendment and performance of the Credit Agreement shall not, except as expressly provided herein, constitute a waiver of any provision of, or operate as a waiver of any right, power or remedy of the Administrative Agent or the Lenders under, the Existing Credit Agreement or any of the other Loan Documents.

(iii) Upon the conditions precedent set forth herein being satisfied, this Amendment shall be construed as one with the Existing Credit Agreement, and the Existing Credit Agreement shall, where the context requires, be read and construed throughout so as to incorporate this Amendment.

(iv) If there is any conflict between the terms and provisions of this Amendment and the terms and provisions of the Credit Agreement or any other Credit Document, the terms and provisions of this Amendment shall govern.

(b) Expenses. The Borrower expressly acknowledges its obligations under Section 11.3 of the Credit Agreement (Expenses; Indemnity) with respect to this Amendment.

(c) Headings. Section and subsection headings in this Amendment are included for convenience of reference only and shall not constitute a part of this Amendment for any other purpose or be given any substantive effect.

(d) Counterparts. This Amendment may be executed in any number of identical counterparts, any set of which signed by all the parties hereto shall be deemed to constitute a complete, executed original for all purposes. Delivery of an executed counterpart of this Amendment by electronic mail shall be equally as effective as delivery of an original executed counterpart of this Amendment.

(e) Governing Law. This Amendment shall be governed by and construed in accordance with the laws of the State of New York.

6. **Loan Documents**. This Amendment is a Loan Document as defined in the Credit Agreement, and the provisions of the Credit Agreement generally applicable to Loan Documents are applicable hereto and incorporated herein by this reference.

[This Space Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed as of the date first above written.

BORROWER:

**CLEARWATER PAPER CORPORATION ,
a Delaware corporation**

By: /s/ John Hertz

Name: John D. Hertz

Title: Senior Vice President, CFO

[Signature Page to Amendment – Clearwater]

**WELLS FARGO BANK, NATIONAL ASSOCIATION,
as Administrative Agent and a Lender**

By: /s/ Thomas M Thoen
Name: Thomas M. Thoen
Title: Vice President

**BANK OF AMERICA , N.A. ,
as a Lender**

By: /s/ Daryl K. Hogge
Name: Daryl K. Hogge
Title: Senior Vice President

**JPMORGAN CHASE BANK, N.A. ,
as a Lender**

By: /s/ Alex Rogin
Name: Alex Rogin
Title: Executive Director

**GOLDMAN SACHS BANK USA ,
as a Lender**

By: /s/ Chris Lam
Name: Chris Lam
Title: Authorized Signatory

**U.S. BANK NATIONAL ASSOCIATION ,
as a Lender**

By: /s/ Glenn Leyrer
Name: Glenn Leyrer
Title: Vice President

The undersigned hereby acknowledge and consent to the foregoing Amendment and confirm and agree that the Guaranty executed by the undersigned in connection with the Credit Agreement remains in full force and effect in accordance with its terms and is hereby reaffirmed, confirmed and ratified by the undersigned, and the undersigned hereby confirm that the representations and warranties contained in such Guaranty (including any incorporated by reference to the Credit Agreement) are (before and after giving effect to this Amendment) true and correct in all material respects (except to the extent any such representation and warranty is expressly stated to have been made as of a specific date, in which case it shall be true and correct in all material respects as of such specific date); provided that, if a representation and warranty is qualified as to materiality, the materiality qualifier set forth above shall be disregarded with respect to such representation and warranty for purposes of this confirmation .

GUARANTORS:

CELLU TISSUE HOLDINGS, INC.

By: /s/ John Hertz
Name: John D. Hertz
Title: Senior Vice President, CFO

CELLU TISSUE - LONG ISLAND, LLC

By: /s/ John Hertz
Name: John D. Hertz
Title: Senior Vice President, CFO

CELLU TISSUE-CITYFOREST LLC

By: /s/ John Hertz
Name: John D. Hertz
Title: Senior Vice President, CFO

CELLU TISSUE CORPORATION-NEENAH

By: /s/ John Hertz
Name: John D. Hertz
Title: Senior Vice President, CFO

CELLU TISSUE CORPORATION — OKLAHOMA CITY

By: /s/ John Hertz
Name: John D. Hertz
Title: Senior Vice President, CFO

CELLU TISSUE - THOMASTON, LLC

By: /s/ John Hertz
Name: John D. Hertz
Title: Senior Vice President, CFO

CLEARWATER FIBER, LLC

By: /s/ John Hertz
Name: John D. Hertz
Title: Senior Vice President, CFO

TRULY BRANDS, LLC

By: /s/ John Hertz
Name: John D. Hertz
Title: Senior Vice President, CFO

MANCHESTER INDUSTRIES INC. OF VIRGINIA

By: /s/ John Hertz
Name: John D. Hertz
Title: Senior Vice President, CFO

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WHEREAS, the Borrower, the lenders from time to time party thereto (the “Lenders”) and the Administrative Agent have previously entered into that certain Credit Agreement, dated as of October 31, 2016 (as in effect immediately prior to the date hereof, the “Existing Credit Agreement”) and as the same may be amended, restated, supplemented or otherwise modified and in effect from time to time, including, but not limited to, by this Amendment, the “Credit Agreement”);

WHEREAS, the Borrower has requested that the Administrative Agent and the Required Lenders make amendments to the Existing Credit Agreement as set forth in this Amendment; and

WHEREAS, the Administrative Agent and the Lenders and Voting Participants that are signatories hereto, constituting Required Lenders, are willing to grant such request on the terms and subject to the conditions set forth in this Amendment.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. **Definitions**. Capitalized terms are used in this Amendment as defined in the Credit Agreement unless otherwise defined herein.

2. **Amendments to the Existing Credit Agreement**. On the terms of this Amendment and subject to the satisfaction of the conditions precedent set forth in Section 3 below:

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provided that if the Borrower or any of its Subsidiaries consummates an Acquisition or series of related Acquisitions within a twelve-month period with an aggregate consideration in excess of \$125,000,000, then the ratio set forth above shall be deemed to be 4.50:1.00 as of the last day of each of the four fiscal quarters ending after the most recent such Acquisition (and such adjustment shall apply to the fiscal quarter most recently ended for which financial statements have been delivered hereunder solely for purposes of calculating compliance with this Section 8.13(a) on a Pro Forma Basis pursuant to clause (d) of the definition of Permitted Acquisition). Notwithstanding the foregoing, if the proviso to the previous sentence has been applicable with respect to the last day of four consecutive fiscal quarters, it shall be disregarded and given no effect as of the last day of each of the two fiscal quarters immediately following such four consecutive fiscal quarter period (regardless of any Acquisitions consummated in the interim).

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December 31, 2020 and thereafter	2.25:1.00

3. Conditions Precedent to the Effectiveness of this Amendment. This Amendment shall be deemed effective, and shall have retroactive effect to December 31, 2017 (the “Amendment Effective Date”), upon satisfaction of the following conditions:

(a) The Administrative Agent shall have received, on behalf of the Lenders, this Amendment, duly executed and delivered by the Borrower, the Required Lenders and the Administrative Agent (and consented to by the Guarantors);

(b) The Administrative Agent shall have received a corresponding amendment to the Commercial Bank Facility, duly executed by each party thereto (and consented to by the Guarantors (as defined under the Commercial Bank Facility)) in form and substance reasonably satisfactory to the Administrative Agent;

(c) No Default or Event of Default shall have occurred and be continuing ;

(d) The representations and warranties set forth in this Amendment shall be true and correct in all material respects as of the Amendment Effective Date (except to the extent any such representation and warranty is expressly stated to have been made as of a specific date, in which case it shall be true and correct as of such specific date); and

(e) Receipt by the Administrative Agent and the Lenders of all fees due and payable in connection with this Amendment, including, without limitation, the legal fees and expenses of counsel to the Administrative Agent.

4. **Representations and Warranties** . In order to induce the Administrative Agent and the Lenders to enter into this Amendment and to amend the Existing Credit Agreement in the manner provided in this Amendment, the Borrower represents and warrants to the Administrative Agent and each Lender as follows:

(a) Authorization of Agreements; Enforceability . The Borrower has the right, power and authority and has taken all necessary corporate and other action to authorize the execution, delivery and performance of this Amendment in accordance with its terms. This Amendment has been duly executed and delivered by duly authorized officers of the Borrower and constitutes the legal, valid and binding obligation of the Borrower, enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar state or federal Debtor Relief Laws from time to time in effect which affect the enforcement of creditors' rights in general and the availability of equitable remedies.

(b) Representations and Warranties in the Credit Agreement . The Borrower confirms that as of the Amendment Effective Date, (i) the representations and warranties contained in Article VI of the Credit Agreement are true and correct in all material respects (except to the extent any such representation and warranty is expressly stated to have been made as of a specific date, in which case it shall be true and correct as of such specific date) and (ii) no Default or Event of Default has occurred and is continuing.

5. **Miscellaneous** .

(a) Reference to and Effect on the Existing Credit Agreement and the other Loan Documents .

(i) Except as specifically amended by this Amendment and the documents executed and delivered in connection herewith, the Credit Agreement and the other Loan Documents shall remain in full force and effect and are hereby ratified and confirmed by the Borrower in all respects.

(ii) The execution and delivery of this Amendment and performance of the Credit Agreement shall not, except as expressly provided herein, constitute a waiver of any provision of, or operate as a waiver of any right, power or remedy of the Administrative Agent or the Lenders under, the Existing Credit Agreement or any of the other Loan Documents.

(iii) Upon the conditions precedent set forth herein being satisfied, this Amendment shall be construed as one with the Existing Credit Agreement, and the Existing Credit Agreement shall, where the context requires, be read and construed throughout so as to incorporate this Amendment.

(iv) If there is any conflict between the terms and provisions of this Amendment and the terms and provisions of the Credit Agreement or any other Credit Document, the terms and provisions of this Amendment shall govern.

(b) Expenses. The Borrower expressly acknowledges its obligations under Section 11.3 of the Credit Agreement (Expenses; Indemnity) with respect to this Amendment.

(c) Headings. Section and subsection headings in this Amendment are included for convenience of reference only and shall not constitute a part of this Amendment for any other purpose or be given any substantive effect.

(d) Counterparts. This Amendment may be executed in any number of identical counterparts, any set of which signed by all the parties hereto shall be deemed to constitute a complete, executed original for all purposes. Delivery of an executed counterpart of this Amendment by electronic mail shall be equally as effective as delivery of an original executed counterpart of this Amendment.

(e) Governing Law. This Amendment shall be governed by and construed in accordance with the laws of the State of New York.

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IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed as of the date first above written.

BORROWER:

**CLEARWATER PAPER CORPORATION ,
a Delaware corporation**

By: /s/ John Hertz

Name: John D. Hertz

Title: Senior Vice President, CFO

[Signature Page to First Amendment to Credit Agreement – Clearwater]

**NORTHWEST FARM CREDIT SERVICES, PCA ,
as Administrative Agent, with the consent
of the Required Lenders**

By: /s/ Suann Harris

Name: Suann Harris

Title: Relationship Manager, VP

[Signature Page to First Amendment to Credit Agreement – Clearwater]

The undersigned hereby acknowledge and consent to the foregoing Amendment and confirm and agree that the Guaranty executed by the undersigned in connection with the Credit Agreement remains in full force and effect in accordance with its terms and is hereby reaffirmed, confirmed and ratified by the undersigned, and the undersigned hereby confirm that the representations and warranties contained in such Guaranty (including any incorporated by reference to the Credit Agreement) are (before and after giving effect to this Amendment) true and correct in all material respects (except to the extent any such representation and warranty is expressly stated to have been made as of a specific date, in which case it shall be true and correct in all material respects as of such specific date); provided that, if a representation and warranty is qualified as to materiality, the materiality qualifier set forth above shall be disregarded with respect to such representation and warranty for purposes of this confirmation .

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