COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
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STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO AQUATIC COMPANY FOR AQUATIC COMPANY – SOUTH BOSTON Registration Number 30794

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1309 and -1316, between the State Air Pollution Control Board and Aquatic Company, regarding Aquatic Company-South Boston, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the applicable permit and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Aquatic Company" means Aquatic Company - South Boston, a corporation authorized to do business in Virginia and its affiliates, partners, subsidiaries, and parents. Aquatic Company is a "person" within the meaning of Va. Code § 10.1-1300

2. "Board" means the State Air Pollution Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1301.

3. "BRRO" means the Blue Ridge Regional Office of DEQ, located in Lynchburg, Virginia.

4. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.

5. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

6. "Facility" means the Aquatic Company –South Boston facility, located at 1100 Industrial Park Rd. in South Boston in Halifax County, Virginia.

7. "Notice of Violation" or "NOV" means a type of Notice of Violation under Va. Code § 10.1-1309.

8. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the Virginia Air Pollution Control Law.

9. "PCE" means a partial compliance evaluation by DEQ staff.

10. "Permit" means the Title V permit to operate a fiberglass bath fixture manufacturing facility, which was issued under the Virginia Air Pollution Control Law and the Regulations to Aquatic Company on June 3, 2010.

11. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" means 9 VAC 5 Chapters 10 through 80.

12. "Va. Code" means the Code of Virginia (1950), as amended.

13. "VAC" means the Virginia Administrative Code.

14. "Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 *et seq.*) of Title 10.1 of the Va. Code.

SECTION C: Findings of Fact and Conclusions of Law

1. Aquatic Company owns and operates the Facility in Halifax County, Virginia. The Facility is the subject of the Permit which allows the operation of a fiberglass bath fixture manufacturing facility.

2. On June 9, 2011, Department staff conducted a PCE of the stack test report submitted by Aquatic Company for compliance with the requirements of the Virginia Air Pollution Control Law, the Permit, and the Regulations. Based on the evaluation and follow-up information, Department staff made the following observations:

    a. The test report demonstrated VOC destruction efficiency of 88.7% for the RTO from the fiberglass open-mold process.

3. Condition IV.A.4a of the Permit requires that: "The RTO will destroy at least 95% of the organic compounds and vapors entering the unit."

4. On June 21, 2011, based on the evaluation and follow-up information, the Department issued a Notice of Violation AWCRO No. 8019 for the violation described in paragraphs C(2) and C(3) above.

5. On June 24, 2011, Aquatic Company submitted a written response to the NOV.

6. On June 30, 2011 and July 8, 2011, conference calls were held between DEQ and Aquatic Company representatives to discuss the NOV.

7. Based on the results of the June 9, 2011 evaluation, the June 30 and July 8, 2011 conference calls and the documentation submitted on June 24, 2011, the Board concludes that Aquatic Company has violated condition IV.A.4a of the Permit as described in paragraph C(3) above.

8. In order for Aquatic Company to complete its return to compliance, Department staff and representatives of Aquatic Company have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and -1316, the Board orders Aquatic Company and Aquatic Company agrees to:

1. Perform the actions described in Appendix A of this Order, and

2. Pay a civil charge of $7,332 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Aquatic Company shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF).

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Aquatic Company for good cause shown by Aquatic Company, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.

2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.

3. For purposes of this Order and subsequent actions with respect to this Order only, Aquatic Company admits the jurisdictional allegations, and agrees not to contest, but does not admit, the findings of fact and conclusions of law contained herein.

4. Aquatic Company consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.

5. Aquatic Company declares it has received fair and due process under the Administrative Process Act and the Virginia Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.

6. Failure by Aquatic Company to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.

8. Aquatic Company shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Aquatic Company shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Aquatic Company shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

   a. the reasons for the delay or noncompliance;

   b. the projected duration of any such delay or noncompliance;

   c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and

   d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

   Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the Aquatic Company intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.

10. This Order shall become effective upon execution by both the Director or his designee and Aquatic Company. Nevertheless, Aquatic Company agrees to be bound by any compliance date which precedes the effective date of this Order.

11. This Order shall continue in effect until:

    a. Aquatic Company petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or

    b. the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Aquatic Company.

    Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Aquatic Company from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Aquatic Company and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.

13. The undersigned representative of Aquatic Company certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Aquatic Company to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Aquatic Company.

14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.

15. By its signature below, Aquatic Company voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 13th day of October, 2011.

Robert J. Weld, Regional Director
Department of Environmental Quality

Aquatic Company voluntarily agrees to the issuance of this Order.

Date: 9/29/11 By: _____ (Person), Sr. PLANT MANAGER (Title)

Commonwealth of Virginia,
City/County of Halifax

The foregoing document was signed and acknowledged before me this 29th day of

Sept., 2011, by Scott Hartman (name), who is

Sr. Plant Manager (title) of Aquatic Company on behalf of the Corporation.

Carol Anderson Wade
Notary Public

141225
Registration No.

My commission expires: 3/31/2014

Notary Seal: Carol Anderson Wade
Commonwealth of Virginia
Notary Public
Commission No. 141225
My Commission Expires 3/31/2014

Federal ID # 36-4284100

Aquatic
1100 Industrial Park Road
South Boston Va. 24592

APPENDIX A
SCHEDULE OF COMPLIANCE

1. **Aquatic Company shall:**

   (a) Within 60 days of signing the Order, Aquatic Company shall retest the inlet and outlet of the air pollution control system and the inlet and outlet of the RTO. Specific details of the testing shall be coordinated with the DEQ BRRO. The test results shall be submitted within 45 days of the completed test.

   (b) If the test results do not demonstrate the required efficiency, as outlined in condition IV.A.4a of the Permit, Aquatic Company shall submit a Form 7 permit application within 60 days of submitting the test results. The application shall include, but not be limited to, the request to evaluate the current air pollution control devices, emission limits and the destruction efficiency and/or capture and control efficiency of the total system that are currently in the facility's permit.

2. **Certification of Documents and Reports:**

In accordance with 9 VAC 5-20-230(A), in all documents or reports, including, without limitation, submitted to DEQ pursuant to this Consent Order, Aquatic Company, shall by its officers, sign and certify under penalty of law that the information contained in such document or report is true, accurate, and not misleading by signing the following statement:

> "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering and evaluating the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

3. **DEQ Contact:**

Unless otherwise specified in this Order, Aquatic Company shall submit all requirements of Appendix A of this Order to:

James D. Puckett, Jr.
Compliance Enforcement Specialist Sr.
VA DEQ-BRRO Lynchburg
7705 Timberlake Road
Lynchburg, VA 24502
(434) 582-6231
james.puckett@deq.virginia.gov