



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ENVIRONMENTAL QUALITY

NORTHERN VIRGINIA REGIONAL OFFICE  
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L. Preston Bryant, Jr.  
Secretary of Natural Resources

David K. Paylor  
Director

~~Jeffery A. Steers~~  
Regional Director

## STATE WATER CONTROL BOARD

### SPECIAL ORDER BY CONSENT

### ISSUED TO

### BALTIMORE TANK LINES, INC.

#### **SECTION A: Purpose**

This is a Consent Special Order issued under the authority of Va. Code § 62.1-44.34:20 between the State Water Control Board and Baltimore Tank Lines, Inc. for the purpose of resolving certain violations of the State Water Control Law and regulations.

#### **SECTION B: Definitions**

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

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Special Order.
6. "Baltimore" means Baltimore Tank Lines, Inc., certified to do business in Virginia, and its affiliates, partners, subsidiaries, and parents.

7. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.

### **SECTION C: Findings of Fact and Conclusions of Law**

1. Baltimore Tank Lines, Inc. owns and operates a trucking company that delivers fuel oil to customers including Mirant, Inc.'s Potomac River Generating Station ("Mirant") located in Alexandria, VA.
2. On February 19, 2008, DEQ-NRO received notification from the Virginia Department of Emergency Management Emergency Operations Control Center that a release of fuel oil from a Baltimore tanker occurred at Mirant. DEQ-NRO staff arrived at the Mirant facility and were advised by Mirant personnel that a tanker owned by Baltimore and delivering 7500 gallons of No. 2 fuel oil struck a solid waste dumpster while driving in reverse. The impact ruptured the tanker resulting in the release of approximately 6000 gallons of fuel oil to the ground.
3. A portion of the released fuel did enter storm water drain inlets located on the Mirant property and the fuel did enter the Potomac River.
4. Mirant personnel instructed the tanker driver to move the ruptured tanker into the facility's coal pile area, which contained the leaking oil within a concrete bermed area. In addition, oil spill response personnel placed booms in the Potomac River and facility storm drains to contain the oil and used vacuum trucks to recover oil. Affected storm drains were also protected by using absorbent materials to create dikes at the storm drain inlets. As a result of these actions, approximately 5,273 gallons of free product was recovered; additional product was captured within solid material or absorbants.
5. DEQ-NRO contacted the President of Baltimore, Mr. H. William Molner, on March 11, 2008 to discuss the events of February 19, 2008. DEQ-NRO requested Mr. Molner submit Baltimore's spill prevention and spill response procedures. On March 19, 2008, Mr. Molner submitted Baltimore's handbook, which per Mr. Molner is issued to all company drivers and owner operators that are employed by Baltimore. The manual did set forth spill prevention and spill response procedures that must be followed by company drivers.
6. Based on the foregoing information collected by DEQ, the State Water Control Board concludes that Baltimore Tank Lines, Inc., by releasing approximately 6,000 gallons of oil, violated the following statutory and/or regulatory provisions:
  - VA Code § 62.1-44.34:18, which prohibits the discharge of oil into or upon state waters, lands, or storm drain systems.

7. DEQ-NRO issued a Notice of Violation (NOV) to Baltimore Tank Lines, Inc. on March 7, 2008 citing the foregoing violation.

#### **SECTION D: Agreement and Order**

By virtue of the authority granted it in Va. Code § 62.1-44.34:20, the Board orders Baltimore Tank Lines, Inc. and Baltimore Tank Lines, Inc. agrees, to pay a civil charge of \$4,200.00 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", delivered to:

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

The payment shall include Baltimore Tank Lines, Inc.'s Federal ID number and shall indicate that this payment is submitted pursuant to this Order.

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of Baltimore Tank Lines, Inc., for good cause shown by Baltimore Tank Lines, Inc., or on its own motion after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified herein. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking action regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce this Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities, whether or not arising out of the same or similar facts, for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Baltimore Tank Lines, Inc. admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Baltimore Tank Lines, Inc. 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. Baltimore Tank Lines, Inc. declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the State Water 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 Baltimore Tank Lines, Inc. to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall act to waive or bar 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.
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. Baltimore Tank Lines, Inc. 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 other such occurrence. Baltimore Tank Lines, Inc. must show that such circumstances resulting in noncompliance were beyond its control and not due to a lack of good faith or diligence on its part. Baltimore Tank Lines, Inc. shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of this 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 Director of the Regional Office in writing within 24 hours of learning of any condition above, which Baltimore Tank Lines, Inc. intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim of 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. Any plans, reports, schedules or specifications attached hereto or submitted by Baltimore Tank Lines, Inc. 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.

11. This Order shall become effective upon execution by both the Director or his designee and Baltimore Tank Lines, Inc. Notwithstanding the foregoing, Baltimore Tank Lines, Inc. agrees to be bound by any compliance date which precedes the effective date of this Order.
12. This Order shall continue in effect until:
  - a. Baltimore Tank Lines, Inc. 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 Baltimore Tank Lines, Inc..

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

- 13. By its signature below, Baltimore Tank Lines, Inc. voluntarily agrees to the issuance of this Order.
- 14. The undersigned representative of Baltimore Tank Lines, Inc. 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 Baltimore Tank Lines, Inc. to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Baltimore Tank Lines, Inc.

And it is so ORDERED this 17 day of October, 2008.

Thomas A. Faha

Thomas A. Faha, Regional Director  
Northern Department of Environmental Quality

Baltimore Tank Lines, Inc. voluntarily agrees to the issuance of this Order.

By: H. Willou Molner

Title: President

Date: 7/25/08

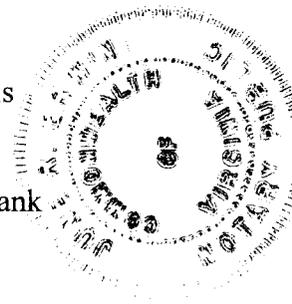
Commonwealth of Virginia

City/County of Prince William County

The foregoing document was signed and acknowledged before me this 25<sup>th</sup> day of July, 2008, by H. Willou Molner, who is  
(name)

President  
(title) of Baltimore Tank Lines, Inc., on behalf of Baltimore Tank

Lines, Inc.



Jan R. Ensi # 7089810  
Notary Public

My commission expires: 9/30/2011