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COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

W. Tayloe Murphy, Jr.
Secretary of Natural Resources

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Virginia Beach, VA 23462
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Robert G. Burnley
Director

Francis L. Daniel
Tidewater Regional Director
(757) 518-2000

STATE WATER CONTROL BOARD ENFORCEMENT ACTION

SPECIAL ORDER BY CONSENT WITH HAMPTON UNIVERSITY

SECTION A: Purpose

This is a Consent Special Order issued under the authority of §62.1-44.15(8a) and §62.1-44.15(8d) of the Code of Virginia, between the State Water Control Board and Hampton University, for the purpose of resolving certain violations of environmental law and/or regulations.

SECTION B: Definitions

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

1. "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 the 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 the 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. "TRO" means the Tidewater Regional Office of DEQ, located in Virginia Beach, Virginia.
7. "Hampton" means Hampton University, certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.

SECTION C: Findings of Fact and Conclusions of Law

1. Hampton University has owned and operated a small horse stable (3-5 horses), located on Strawberry Banks Road in Hampton, VA, since July 2001. The horse stable is located adjacent to the inlet of John's Creek.
2. Section 62.1-44.5.A of the Code states, "Except in compliance with a certificate issued by the Board, it shall be unlawful for any person to discharge into state waters...other wastes...or otherwise alter the physical, chemical, or biological properties of such state waters and make them detrimental to public health, or to animal or aquatic life..."
3. Section 62.1-44.5.B of the Code states, "Any person required to obtain a permit or certificate pursuant to this chapter, who discharges or causes or allows a discharge of...other wastes...into state waters, shall, upon learning of the discharge, promptly notify the Board, the Director of the Department of Environmental Quality, or the coordinator of emergency services..."
4. On March 6, 2002, DEQ received a report from Virginia Marine Resources Commission concerning the disposal of horse manure in John's Creek located at Hampton University.
5. On March 7, 2002, DEQ Compliance staff (Staff) inspected the site and found two piles of horse manure mixed with straw and other material on the bank of John's Creek. Hampton states these manure piles were left by the previous property owner. In addition, a PVC pipe was found near the piles of manure and was traced back to the horse stables owned by Hampton University. Ms. Gail Bishop, manager of Hampton's stable, stated the wash water from the barn drained through the pipe into John's Creek. Ms. Bishop stated a screen was put over the mouth of the pipe in the stables to reduce the amount of solid material entering the pipe. The barn is washed every day. Mr. Lowell Middleton, Director of Buildings and Grounds, stated that Hampton replaced the pipe after purchasing the stables because it had clogged.
6. On March 11, 2002, Staff conducted another inspection and found that the screen covering the pipe had been removed.
7. Hampton does not have a permit to discharge wastewater from the horse stables.
8. Notice of Violation No. 02-03-TRO-002 was issued to Hampton on March 19, 2002, regarding the discharges from the horse stables to John's Creek.
9. On April 1, 2002, DEQ received a letter from Hampton stating the pipe had been capped and the two manure piles had been moved across the street away from the bank of John's Creek. Hampton has connected the horse stables to the City of Hampton's sewer system.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code § 62.1-44.15(8a) and (8d), orders Hampton, and Hampton agrees to pay a civil charge of \$2,000 within 30 days of the effective date of the Order in settlement of the violations cited in this Order. The payment shall include Hampton's Federal Identification Number. Payment shall be made by check,

certified check, money order, or cashier's check payable to the "Treasurer, Commonwealth of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Hampton, for good cause shown by Hampton, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Hampton by DEQ on March 19, 2002. 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 as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Hampton admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Hampton 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. Hampton 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 enforce this Order.
6. Failure by Hampton 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 unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Hampton 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. Hampton shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on his part. Hampton shall notify the DEQ Regional

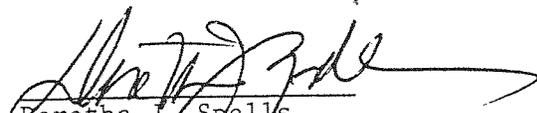
Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

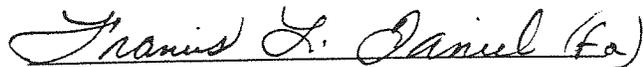
- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend 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 Hampton. Notwithstanding the foregoing, Hampton agrees to be bound by any compliance date, which precedes the effective date of this Order.
- 11. This Order shall continue in effect until Hampton 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.
- 12. By its signature below, Hampton voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of Jan. 9 ~~October 10~~, 2002 ^{3 540}


 Doretha J. Spells
 Vice President for Buinses
 Affairs and Treasurer

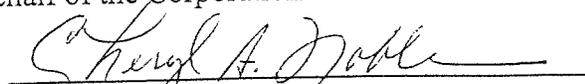

 Robert G. Burnley, Director
 Department of Environmental Quality

Commonwealth of Virginia

City/County of Hampton, VA

The foregoing document was signed and acknowledged before me this 10th day of October, 2002, by Doretha J. Spells, who is (name)

V. P. for Business Affairs/Treasurer of Commercial, on behalf of the Corporation.
(title)


 Notary Public

My commission expires: My commission expires May 31, 2005.