



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 AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO

LAND VENTURE II, L.L.C.
DEQ Registration No. 73269, 73298, 73297

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1316.C, 10.1-1307.D and 10.1-1309, between the State Air Pollution Control Board (SAPCB) and Land Venture II, L.L.C. for the purpose of resolving certain alleged violations of the air permits and regulations as specified in SECTION C of this Order.

SECTION B: Definitions

Unless the context clearly 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 Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in VA Code §§ 10.1-1301 and 10.1-1184.
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 Order.
6. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
7. "Land Venture II, L.L.C." refers to a Nonmetallic Processing Plant which is headquartered in Manassas, Virginia and which is a Limited Liability Company registered and authorized to do business in Virginia.
8. "Regulations" refers to the Regulations for the Control and Abatement of Air Pollution for the Commonwealth of Virginia.
9. "VAC" means Virginia Administrative Code. Permanent.
10. "ICL" means Informal Correction Letter.
11. "NOV" means Notice of Violation.

SECTION C: Findings of Fact

1. Land Venture II, L.L.C. operates a Nonmetallic Processing Plant under U.S. E.P.A. Title 40 CFR Part 60 Subpart OOO, which is headquartered in Manassas, Virginia. Land Venture II, L.L.C. conducts crusher screening operations in various parts of the state.
2. Land Venture II, L.L.C. owns four portable crushing units which are permitted through DEQ. Units 73269, 73297, and 73298 are the subject of this Order.
3. The April 2, 2004 permit for equipment registered under 73269 includes one Portable Nordberg LT 105 Mobile Crushing Plant, one Caterpillar Engine 3306B, and one Radial Stacking Conveyor. The permit designates home base for this set of equipment as Titan Virginia Ready Mix LLC, located in Sterling, Virginia.
4. The December 28, 2004 permit for equipment registered under 73297 includes one Nordberg NW300hps secondary cone crusher, one Caterpillar 3406C engine, one Nordberg triple deck screen, one Nordberg feed conveyor, one Nordberg return conveyor, one Nordberg discharge conveyor, two Mellot Enterprises stacking conveyors and one Peerless stacking conveyor. The home base for this set of equipment is 8303 Quarry Road, Manassas, Virginia.
5. The December 28, 2004 permit for equipment registered under 73298 includes one Brown Lenox primary jaw crusher, one Brown Lenox vibrating feeder with

hopper, one Brown Lenox discharge conveyor, and one Caterpillar 3306 Turbocharged Industrial Engine. The home base for this set of equipment is 8303 Quarry Road, Manassas, Virginia.

6. On May 11, 2007, from an off-site location, DEQ staff observed visible emissions from portable crushing equipment at the site of a former truck stop located on US Route 17 in Falmouth, Virginia. This site was under construction for a Target department store scheduled to open in the Fall of 2007. Onsite, DEQ observed the operating equipment. DEQ observed no use of wet suppression on the materials being crushed or conveyed to the stockpiles resulting in excess visible emissions.
7. A follow up site inspection was conducted by DEQ on May 14, 2007. DEQ observed no use of wet suppression, resulting in excess visible emissions. DEQ conducted two six minute EPA Reference Method 9 visible emission evaluations of the crushing plant's conveyor to conveyor transfer point.
8. DEQ issued an NOV on June 1, 2007 to address compliance issues associated with permitted equipment 73269. The NOV cited the following alleged violations:
 - Violation of Condition 3 of Land Venture II, L.L.C.'s April 2, 2004 Air Operating Permit which requires that particulate matter emissions from the portable crusher be controlled by wet suppression
 - Violation of 40 CFR Part 60§§60.8, 60.11, 60.675 and Condition 14 of Land Venture II, L.L.C.'s Air Operating Permit that requires the owner or operator to conduct three hours (thirty 6-minute averages) of visible emission evaluations (30 sets of twenty-four consecutive observations) within 6- days after achieving the maximum production rate at which the facility will be operated but in no event later than 180 days after start-up of the permitted facility and furnish DEQ with a written report of the test results.
 - Violation of Condition 17 of Land Venture II, L.L.C.'s Air Operating Permit that requires notification be submitted to DEQ at least fifteen days prior to each time the permitted equipment is relocated.
 - Violation of 40 CFR Part 60§60.7(a) and Condition 20 of Land Venture II, L.L.C.'s Air Operating Permit requiring notification to DEQ of the construction date, actual start-up date or anticipated date of performance tests.

- Violation of Condition 28 of Land Venture II L.L.C.'s Air Operating Permit requiring that the permittee keep a copy of the permit on the premises of the facility to which it applies.
9. Following the issuance of the June 1, 2007 NOV, DEQ met with the facility for an initial enforcement meeting on June 28, 2007, and for a follow-up enforcement meeting on August 17, 2007. During the August 17, 2007 meeting DEQ became aware that the facility owner held three other permits for portable crushing equipment with DEQ.
10. Following the August 17, 2007 meeting, DEQ conducted a review of all four permits held by the facility. DEQ determined that there were compliance deficiencies associated with permits 73297 and 73298. DEQ subsequently issued two separate NOVs to address these deficiencies on October 9, 2007. Both NOVs cited the following alleged violations:
- Violation of Condition 18.b of Land Venture II, L.L.C.'s Air Operating Permit requiring that Land Venture II, L.L.C. submit quarterly emission records starting from the time of initial operation.
 - Violation of 40 CFR Part 60 §§60.8, 60.11, and 60.675 and Permit Condition 19 of Land Venture II, L.L.C.'s Air Operating Permit requiring that the facility conduct Visible Emission Evaluations on the permitted equipment.
 - Violation of 40 CFR Part 60 §60.7(a) and Condition 24 of Land Venture II, L.L.C.'s Air Operating Permit requiring that written notification be sent to DEQ detailing the construction date or the actual start up date.
11. Land Venture submitted the following documents to resolve the regulatory deficiencies addressed in the June 1, 2007 and October 9, 2007 NOVs:
- The test protocol for the Visible Emission Evaluations for permitted equipment 73269 and 73297 was submitted to DEQ on April 16, 2008, and the test protocol for permitted equipment 73298 was submitted to DEQ on April 30, 2008.
 - Visible Emission Evaluations (VEEs) were performed in accordance with 40 CFR Part 60, Appendix A, Method 9 on April 17, 2008 for permitted equipment 73269 and 73297 and on May 6, 2008 for permitted equipment 73298. All three portable crushers passed the VEEs.
 - Initial start up dates for permitted equipment 73269, 73297, and 73298 were submitted to DEQ on April 22, 2008.

- A written Operations and Maintenance (O&M) Plan was submitted to DEQ on April 24, 2008. This Plan addressed the use of wet suppression during operation of the portable crushing equipment. The Facility shall continue to maintain the O&M Plan onsite.
- A written training plan including the training of all operators in the proper operation of the portable crushing equipment as well as a plan to familiarize the operators with the written Operations and Maintenance Plan was submitted to DEQ on March 31, 2008, and subsequently implemented by the Facility. The Facility will continue to maintain the records of the training provided, including the names of the trainees, the date of the training, and the nature of the training onsite.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code § 10.1-1316(C), orders Land Venture II, L.L.C. and Land Venture II, L.L.C. agrees, to comply with the specific actions given in Appendix A of this Order. In addition, the Board orders Land Venture II, L.L.C., and Land Venture II, L.L.C. also agrees, to pay a civil charge in the amount of \$9,280.00 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 payable to the "Treasurer of Virginia", delivered to:

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

Either on a transmittal letter or as a notation on the check, Land Venture II, L.L.C. shall indicate that this payment is submitted pursuant to this Order and shall include the Federal Identification Number for Land Venture II, L.L.C.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Land Venture II, L.L.C., for good cause shown by Land Venture II, L.L.C., 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 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 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.

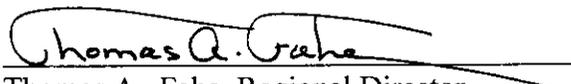
3. For purposes of this Order and subsequent actions with respect to this Order, Land Venture II, L.L.C. admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Land Venture II, L.L.C. consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Land Venture II, L.L.C. declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the State 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 enforce this Order.
5. Failure by Land Venture II, L.L.C. 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.
6. 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.
7. Land Venture II, L.L.C. 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. Land Venture II, L.L.C. shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Land Venture II, L.L.C. shall notify the DEQ- NRO 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 or has resulted in the impossibility of compliance, shall constitute a waiver of any claim of inability to comply with a requirement of this Order.

8. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
9. This Order shall become effective upon execution by both the Director or his designee and Land Venture II, L.L.C.. Notwithstanding the foregoing, Land Venture II, L.L.C. agrees to be bound by any compliance date that precedes the effective date of this Order.
10. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Land Venture II, L.L.C.. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Land Venture II, L.L.C. from their obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
11. By its signature below, Land Venture II, L.L.C. voluntarily agrees to the issuance of this Order.
12. The undersigned representative of Land Venture II, L.L.C. 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 Land Venture II, L.L.C. to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Land Venture II, L.L.C..

And it is so ORDERED this day of July 7, 2008.


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

Land Venture II, L.L.C. voluntarily agrees to the issuance of this Order.

By: [Signature]
Title: MGR
Date: 7-1-08

Commonwealth of Virginia
City/County of Prince William

The foregoing document was signed and acknowledged before me this 1st day of July, 2008, by Thomas Knight, who is (Tom Knight)

Managing Member of Land Venture II, L.L.C., on behalf of the Corporation.
(Owner)

Melissa A White
Notary Public

My commission expires: 2-28-11

Notary ID: 7095143



APPENDIX A

Land Venture II, L.L.C. shall:

- 1) Submit to DEQ NRO by September 1, 2008 a letter requesting a revision or modification to Permit 73269 to reflect the current home base of the permitted equipment.