



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

VIRGINIA WASTE MANAGEMENT BOARD ENFORCEMENT ACTION

ORDER BY CONSENT

ISSUED TO

MARTIN RESNICK EAST, LLC

d.b.a. THE LAUNDRY SALON

SECTION A: Purpose

This is a Consent Order issued under the authority of Section 10.1-1455 of the Code of Virginia between the Virginia Waste Management Board and Martin Resnick East, LLC, for the purpose of resolving certain violations of environmental laws and regulations.

SECTION B: Definitions:

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

1. "Board" means the Virginia Waste Management Board, a permanent citizens' board of the Commonwealth of Virginia and described in Va. Code §§ 10.1-1401 and 10.1-1184.
2. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in § 10.1-1183.
3. "Director" means the Director of the Department of Environmental Quality.
4. "Facility" means the laundry and dry cleaning business owned by Martin Resnick East, LLC, known as The Laundry Salon located in Woodbridge, Virginia.
5. "NVRO" means the Northern Virginia Regional Office of DEQ, located in Woodbridge, Virginia.
6. "Order" means this document, also known as a Consent Order.

7. "PCE" means perchloroethylene, also known as tetrachloroethylene or "perc".
8. "Va. Code" means the Code of Virginia (1950), as amended.

SECTION C: Finding of Facts and Conclusions of Law

1. Martin Resnick East, LLC owns and operates The Laundry Salon, a coin-operated laundry and dry cleaning business located at 13522 Jefferson Davis Highway in Woodbridge, Virginia.
2. Martin Resnick, with an office located at 11400 Rockville Pike, Suite 200, in Rockville, Maryland, is a Member of Martin Resnick East, LLC, and, as such, serves as the authorized representative of the corporation for the purposes of this Order.
3. Mr. Resnick claims that a dry cleaning machine was located on the property when he purchased it over 20 years ago and he continues to operate it on a limited basis for the convenience of his customers.
4. On October 21, 2004, DEQ received notification from the Prince William County Fire Services Department that a release of PCE at The Laundry Salon had caused the evacuation of the neighboring Dixie Bones Restaurant. According to Mr. Resnick, a small amount of PCE overflowed from the dry cleaning machine because his employee had failed to clean out the lint trap. Fumes from this release traveled into the adjacent restaurant. Mr. Resnick explained that after cleaning up the spill with towels, the towels were put through the dry cleaning machine to remove the PCE. Mr. Resnick added that spills had occurred in the past when the lint trap had not been cleaned out.
5. DEQ hazardous waste compliance staff inspected the business on October 22, 2004 and discovered a number of violations of the hazardous waste regulations.
6. DEQ received two subsequent Pollution Response Program (PReP) reports from Prince William County regarding releases of PCE at the Facility on December 16, 2004 and July 1, 2005. Mr. Resnick asserts that those complaints were caused by odors only and that no spill of PCE occurred in either case.
7. On January 7, 2005, DEQ issued a Notice of Violation (NOV) that set forth the following violations observed during the October 2004 site inspection:
 - 40 CFR 262.11 requires all generators of solid waste to determine if it is hazardous waste. The dry cleaning operation generates hazardous waste in the form of lint waste, separator contact water, and spent machine wastes that contain PCE. DEQ alleges that The Laundry Salon failed to determine that these wastes were hazardous and manage them appropriately.

- 40 CFR 262.12 requires a generator to obtain an EPA identification number to dispose or transport hazardous waste. During the inspection, Mr. Resnick explained that he generates approximately two spent dry cleaning machine filters per month which he transports to another dry cleaning business for disposal. Additionally, Mr. Resnick stated that he had been disposing of separator water in a planter box located outside the building. This improper disposal of filters and separator water is believed to have continued for more than 20 years. Mr. Resnick asserts that he did not know that the separator water was contaminated with PCE and was thus a hazardous waste. Mr. Resnick did not obtain an EPA identification number for these activities.
 - 40 CFR 262.20 requires a generator of hazardous waste to prepare a Manifest for all transport of hazardous waste for off-site disposal. The Laundry Salon apparently had not manifested any of its hazardous waste.
 - 40 CFR 262.34(c)(1) and 40 CFR 265.173(a) require all hazardous waste containers to be labeled as such and to be closed. During the inspection, DEQ observed that Mr. Resnick was using an empty laundry detergent bottle to collect separator water from the dry cleaning machine. The laundry detergent bottle was neither labeled as containing hazardous waste nor was it closed.
 - 40 CFR 262.34(d)(5) contains specific requirements for emergency preparedness and response procedures for hazardous waste generators. The Laundry Salon failed to meet these requirements because it had not designated an emergency coordinator, had not ensured that all employees were familiar with proper waste handling and emergency procedures, and had not notified the National Response Center when the spill occurred.
 - 40 CFR 265.31 requires that "facilities must be maintained and operated to minimize the possibility of... any unplanned sudden or non-sudden release of hazardous waste..." During the inspection and in a letter dated February 1, 2005, Mr. Resnick admitted that PCE overflowed from the dry cleaning machine because the operator did not clean out the lint trap.
 - 40 CFR 265.37 requires an owner or operator to attempt to make arrangements to familiarize police, fire departments, and emergency response teams with the hazards at the Facility. Mr. Resnick apparently failed to do this before this incident.
 - 40 CFR 273.13(d)(2) requires a facility to immediately clean up and place in a container any lamp that shows evidence of breakage, leakage, or damage that could cause the release of mercury or other constituents to the environment. During the inspection, DEQ observed broken fluorescent lamps on the floor.
8. Mr. Resnick responded to the January 2005 NOV by a letter dated February 1, 2005. He did not dispute any of the alleged violations, and informed DEQ that he had remedied all of the cited operational deficiencies by: (1) properly collecting the dry cleaning lint, used filters and separator water and having them picked up by a licensed transporter; (2) labeling and taping shut the bottle

used to collect separator water; (3) preparing an emergency preparedness and response procedure for the business; and (4) making arrangements with local emergency response authorities.

9. On May 25, 2005, DEQ issued a second NOV to Mr. Resnick based on the same October 22, 2004 inspection. That NOV cited The Laundry Salon for operating an unpermitted hazardous waste disposal facility by virtue of having disposed of the PCE contaminated separator water into the planter box outside of The Laundry Salon.
10. On September 30, 2005, DEQ sent Mr. Resnick a draft Consent Order to resolve the violations that had occurred at The Laundry Salon to that date. DEQ received a response from Mr. Resnick's counsel on October 12, 2005. Upon further discussion, the draft Order was modified, and a revised draft Order was mailed to Mr. Resnick on November 30, 2005. On December 12, 2005, DEQ received another response from Mr. Resnick, requesting further changes to the Order.
11. On the same day that the response letter arrived at DEQ, December 12, 2005, DEQ received another complaint from the owner of Dixie Bones regarding PCE vapors entering the restaurant. DEQ staff conducted a site inspection that day to verify the complaint and documented numerous violations, many of which were also observed during the October 22, 2004 site inspection.
12. A meeting was held between DEQ and Mr. Resnick on December 21, 2005 to discuss the December 2005 inspection, with emphasis on the as yet outstanding items that Mr. Resnick claimed had been addressed in his February 2005 letter to DEQ. DEQ informed Mr. Resnick that because violations were observed a second time, the Consent Order would be modified to include the additional violations and the civil charge would also be increased. At the meeting, Mr. Resnick commented that he was in the process of deciding whether or not to continue dry cleaning services at The Laundry Salon because he was questioning whether providing this service to his customers and the revenue it generated was worth the efforts needed to follow the regulatory requirements.
13. On April 3, 2006, DEQ issued an NOV that set forth the following violations observed during the December 2005 site inspection:
 - Lint waste from the dry cleaning machine was observed in the trash, demonstrating that the Facility was improperly disposing of hazardous waste.
 - The hazardous waste storage containers contained PCE and PCE-contaminated hazardous wastes and were not sealed.
 - Because the storage containers were not sealed, PCE vapors were allowed to evaporate. Allowing the evaporation of hazardous waste is a method of treatment and disposal, and the Facility does not have a permit to operate as a Treatment, Storage, or Disposal (TSD) facility.

14. The April 2006 NOV cited 40 CFR 261.5(g)(3) by which to be considered a Conditionally Exempt Small Quantity Generator (CESQG) and be excluded from full regulation, a generator that disposes of hazardous waste on-site must be authorized to manage hazardous waste or ensure delivery to an off-site facility that is authorized to treat, store, or dispose of hazardous waste. The NOV also cited 40 CFR 262.11 by which a generator is required conduct a hazardous waste determination, which was not completed, as evidenced by the disposal of lint waste in the trash can. Martin Resnick East, LLC and its counsel contend that The Laundry Salon is a CESQG and is, by definition, exempt from many of the regulatory requirements for hazardous waste generators and TSD facilities. To be considered a CESQG, the Facility must generate no more than 100 kilograms of hazardous waste a month, and must determine its generator status on a monthly basis. However, because Mr. Resnick has not demonstrated proper disposal of all hazardous waste generated by the facility and had not provided DEQ with hazardous waste Manifests or a Manifest history (which would document the amount of hazardous waste generated) prior to January 1, 2005, DEQ considers the Facility to be a SQG. Therefore, The Laundry Salon is subject to regulation under parts 262 through 266, 268, and parts 270 and 123 of 40 CFR.
15. DEQ also asserts that The Laundry Salon is a TSD facility and is subject to TSD regulations found in Part 264 of 40 CFR based on the following: statements from Mr. Resnick that employees of The Laundry Salon had disposed of lint in the dumpster on the property, and separator water in the planter boxes outside the building, and DEQ's observation of lint that was found in the trash can during both inspections.
16. DEQ also informed Mr. Resnick of additional violations documented at the Facility that were not presented in the NOV's that include: the failure to remedy the deterioration of the divider wall between The Laundry Salon and Dixie Bones, the failure to maintain adequate space to safely maneuver near the satellite storage area, the failure to transfer the separator water from a container in poor condition to one in good condition, and the failure to properly manage the planter box and dumpster that acted as surface impoundments.
17. At a meeting between DEQ, Martin Resnick East, LLC, and its counsel on June 22, 2006, Martin Resnick East, LLC, provided DEQ with additional information, including a copy of the Manifest history from January 1, 2005 to May 1, 2006.

SECTION D: Agreement and Order

Accordingly, the Virginia Waste Management Board, by virtue of the authority granted it in Va. Code §§ 10.1-1182 *et seq.* and §§ 10.1-1402, 10.1-1405, and 10.1-1455, orders Martin Resnick East, LLC and Martin Resnick East, LLC agrees that:

1. Martin Resnick East, LLC shall perform the actions described in Appendix A to this Order to remedy the alleged violations described above and bring the Facility into compliance with the Regulation.

2. Martin Resnick East, LLC shall pay a civil charge of \$13,000 in settlement of the alleged violations cited in this Order in four quarterly installments. The payments will be made according to the following schedule:

1st payment of \$4,000 will be paid on or before November 30, 2006;
2nd payment of \$3,000 will be paid on or before February 28, 2007;
3rd payment of \$3,000 will be paid on or before May 31, 2007; and
4th payment of \$3,000 will be paid on or before August 31, 2007.

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

With each payment, either on a transmittal letter or as a notation on the check, Martin Resnick East, LLC shall indicate that the payment is submitted pursuant to this Order and shall include the Federal Identification Number for Martin Resnick East, LLC.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Martin Resnick East, LLC, for good cause shown by Martin Resnick East, LLC, 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 Section C and the NOV's issued on January 7, 2005, May 25, 2005, and April 3, 2006. 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 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 the purpose of this Order only, Martin Resnick East, LLC admits the jurisdictional allegations in the Order, but does not admit the factual allegations or legal conclusions contained herein.
4. Martin Resnick East, LLC 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. Martin Resnick East, LLC declares it has received fair and due process under the Administrative Process Act, Va. Code §2.2-4000 *et seq.*, and the Virginia Waste Management Act, and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and, for purposes of this Consent Order, 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 Martin Resnick East, LLC 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. Martin Resnick East, LLC 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. Martin Resnick East, LLC shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Martin Resnick East, LLC 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:

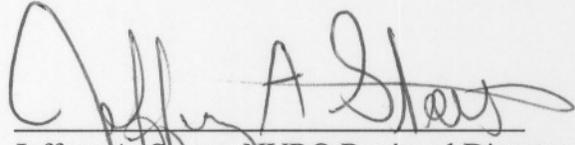
- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will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

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which Martin Resnick East, LLC 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. Any plans, reports, schedules, permits, or specifications attached hereto or submitted by Martin Resnick East, LLC 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 Martin Resnick East, LLC. Notwithstanding the foregoing, Martin Resnick East, LLC agrees to be bound by any compliance date, which precedes the effective date of this Order.
12. 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 Martin Resnick East, LLC. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Martin Resnick East, LLC from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
13. By signature of its authorized representative below, Martin Resnick East, LLC voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 19th day of OCTOBER, 2006.



Jeffery A. Steers, NVRO Regional Director
Department of Environmental Quality

Martin Resnick East, LLC voluntarily agrees to the issuance of this Order.

Martin Resnick East, LLC
d.b.a. The Laundry Salon

By: Martin Resnick
Martin Resnick

Date: 8/8/6

STATE of MARYLAND
~~Commonwealth of Virginia~~

City/County of MONTGOMERY

The foregoing document was signed and acknowledged before me this 08th day of

August, 2006, by Martin Resnick.



George Michael Gnall
Notary Public George Michael Gnall

My commission expires: November 1st 2008

APPENDIX A SCHEDULE OF COMPLIANCE

1. Within 45 days of the effective date of this Order, Martin Resnick East, LLC shall submit a plan and schedule (Investigation Plan) to investigate the area where dry cleaning separator water had been disposed to determine if there is any contamination in the soils or groundwater from PCE or its degradation products. The investigation shall include the collection of soil and groundwater samples and their analysis for chlorinated solvents and their degradation products using EPA Method 8260B. The investigation plan shall follow the ASTM Standards Related to the Phase II Environmental Site Assessment Process (Second Edition, 2001).
2. After DEQ review of the Investigation Plan, Martin Resnick East, LLC shall provide any additional requested information with 20 days of receipt of said request and implement the Investigation Plan within 30 days after receiving written approval from DEQ.
3. Within 90 days after receiving DEQ approval to proceed with the Investigation Plan, Martin Resnick East, LLC shall report the results of the investigation to DEQ in accordance with the approved Investigation Plan.
4. If the investigation reveals any contamination from PCE or its degradation products at a concentration in excess of the level deemed acceptable by the Department, Martin Resnick East LLC shall prepare and implement a plan upon Department approval, to determine the nature and extent of the contamination (Nature and Extent Study). A report detailing the results of the Nature and Extent Study shall be submitted to the Department within 45 days of receiving Department approval to implement the Nature and Extent Study. The report shall also contain a plan and schedule to perform any required remediation (Remediation Plan).
5. Upon approval by DEQ, the Investigation Plan and Remediation Plan, if necessary, shall become part of this Order and enforceable as such.
6. Within 30 days of the effective date of this Order, Martin Resnick East, LLC shall remove and cease all operation of the existing dry cleaning machine identified in Section C.3 within the Commonwealth of Virginia, unless and until the Department thereafter expressly authorizes the operation of that machine in writing.
7. Martin Resnick East, LLC shall demonstrate that the existing dry cleaning machine has been properly decontaminated prior to removal from the facility. Martin Resnick East, LLC shall also provide disposal receipts demonstrating that the existing dry cleaning machine has been disposed of and is not being reused at another facility.
8. Within 45 days of the effective date of this Order, Martin Resnick East, LLC shall remove from The Laundry Salon (including appropriate transport and subsequent disposal) all spent cartridges, all lint, used/spent solvent, and all separator water associated with prior operation of that existing dry cleaning machine identified in Section C.2. Documentation demonstrating proper disposal of all spent filter cartridges, lint waste, used/spent solvent, and all separator water associated with the operation of the

existing dry cleaning machine shall be submitted to the Department within 60 days of the date of disposal.

9. Should Martin Resnick and/ or Martin Resnick East, LLC replace the dry cleaning machine or install another dry cleaning machine at any of his facilities located within the Commonwealth of Virginia, Martin Resnick will participate in a hazardous waste management training class at least 7 days prior to installation of the new machine(s). Before registering for the class, Martin Resnick shall submit a brief course description to DEQ for approval. Mr. Resnick shall submit proof of course completion to DEQ within 30 days of taking the class.
10. All information, including plans, reports, and other documents (excluding the civil charge payment) required by this Consent Order shall be addressed to:

Enforcement Division
DEQ NVRO
13901 Crown Court
Woodbridge, VA 22193