



# 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 ENFORCEMENT ACTION

### A SPECIAL ORDER BY CONSENT

#### ISSUED TO

#### PILOT TRAVEL CENTERS LLC

#### FOR THE

#### PILOT OIL CENTER #291

*(VPDES Permit No. VA0085871)*

#### SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code § 62.1-44.15 (8a) and (8d) and 10.1-1185, between the State Water Control Board and Pilot Travel Centers LLC regarding the Pilot Oil Center #291, 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 meanings assigned to them below:

1. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia as described in Va. Code § 62.1-44.7 and 10.1-1184.
2. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
3. "Director" means the Director of the Department of Environmental Quality.
4. "Facility" means the travel center, conducting retail sales of fuels; including a convenience store and fast food restaurant known as Pilot Oil Center #291 located in Caroline County, Virginia.

5. "NVRO" means the Northern Virginia Regional Office of the Department.
6. "Order" means this document, also known as a Consent Special Order.
7. "Permit" means Virginia Pollutant Discharge Elimination Permit System (VPDES) Permit No. VA0085871, issued April 9, 2001 and reissued on April 11, 2006.
8. "Pilot" means Pilot Travel Centers LLC.
9. "Va. Code" means the Code of Virginia (1950), as amended.

SECTION C: Findings of Facts and Conclusions of Law

1. Pilot Travel Centers LLC is headquartered in Knoxville, Tennessee and owns and operates the Pilot Oil Center #291 located in Caroline County, Virginia and is subject to Permit No. VA0085871.
2. Pursuant to the Permit, the Facility discharges wastewater to an unnamed tributary of Polecat Creek, which is located in the York River Basin.
3. The Board has evidence to indicate that Pilot has violated Va. Code § 62.1-44.5, 9 VAC 25-31-50.A, and Part I.A.1., Part I.D.2., and Part II.Q. of the Permit. The violations are referenced in the following items, including Warning Letters (WLs) and Notices of Violation (NOVs):
  - WL No. W2005-04-N-1009, dated April 12, 2005, citing a violation of the Permit; the February 2005 exceedence of the weekly concentration average maximum limit for Total Petroleum Hydrocarbons (TPH).
  - WL No. W2005-10-N-1007, dated October 12, 2005, citing a violation of the Permit; the August 2005 exceedence of the weekly concentration average maximum limit for TPH.
  - WL No. W2005-11-N-1011, dated November 10, 2005, citing a violation of the Permit; the September 2005 exceedence of the monthly maximum concentration limit for TPH.
  - WL No. W2005-12-N-1009, dated December 12, 2005, citing a violation of the Permit; the October 2005 exceedence of the monthly maximum concentration limit for TPH.
  - NOV No. W2006-01-N-0004, dated January 6, 2006 citing a violation of the Permit; the November 2005 exceedence of the monthly maximum concentration limit for TPH.
  - NOV No. W2006-02-N-0004, dated February 24, 2006, citing violations of the Permit; the submission of oil and grease data instead of TPH data for the

life of the Permit, an outdated Storm Water Pollution Prevention Plan (SWPPP), and improper certification of the pH meter temperature probe.

- NOV No. W2006-06-N-0002, dated June 7, 2006, citing a violation of the Permit; the April 2006 exceedence of the monthly maximum concentration limit for TPH.
  - The June 2006 exceedence of the monthly maximum concentration limit for TPH.
  - NOV No. W2006-07-N-0004, dated July 11, 2006, citing violations of the Permit; the May 2006 exceedence of the monthly maximum concentration limit for TPH and failure to submit the Operation and Maintenance (O&M) Manual review by May 31, 2006.
  - The July 2006 exceedence of the monthly maximum concentration limit for TPH.
  - WL No. W2006-08-N-1039, dated August 16, 2006, citing a violation of the Permit; failure to submit the O&M Manual review by May 31, 2006.
  - NOV No. W2006-09-N-0002, dated September 8, 2006, citing violations of the Permit; the July 2006 failure to meet the monthly concentration minimum limit for pH, the July 2006 exceedence of the monthly maximum concentration limit for TPH, failure to submit the O&M Manual review by May 31, 2006, and the unauthorized use of a liquid degreaser.
4. Between February and November 2005, Pilot reported five exceedences of the TPH Permit limits in its Discharge Monitoring Report (DMR) submissions to DEQ.
  5. On January 27, 2006, DEQ conducted a site inspection of the Facility. Many of the documents requested by DEQ during the inspection were not available, as the Facility was undergoing renovation.
  6. Over the next few weeks, the owner began submitting the requested documents to DEQ for review. During its review, DEQ discovered that the DMR data being submitted as TPH results had been misreported and were actually oil and grease results. This has been the case each month since the Permit was issued in April 2001.
  7. In addition, the document review revealed that the SWPPP site map had not been updated to reflect the current conditions and the pH meter temperature probe was not certified with a National Institute of Standards and Technology (NIST) traceable thermometer, as required.
  8. At a meeting at DEQ on March 10, 2006, Groundwater & Environmental Services, Inc. (GES), Pilot's consultant, and DEQ discussed the violations at the Facility. GES said that the oil and grease reporting was unintentional, and likely resulted from a mistake early on when a wrong lab test was requested. This errant test for oil and

grease was repeated sample after sample, month after month, and went undetected until DEQ brought this to Pilot's attention with the February 24, 2006 NOV.

9. On March 27, 2006, DEQ received a letter from GES dated March 22, 2006, in response to the NOV. The NOV response letter indicated that the site map and personnel have been updated in the on-site SWPPP and that the pH meter has been certified at a laboratory with an NIST traceable thermometer.
10. On June 20, 2006, DEQ conducted a meeting with Pilot and GES to discuss a draft Order that addressed the known violations to that date. Minor modifications to the draft Order were agreed upon, and Pilot returned a signed Order to DEQ on June 30, 2006.
11. After the correct tests for TPH were commenced in April 2006, TPH levels were reported above the Permit limits between April and July 2006. In addition, Pilot failed to submit the O&M Manual review by May 31, 2006 as required by the Permit.
12. In accordance with the draft Order, Pilot cleaned the oil and water separator on July 6, 2006. Samples collected on July 12 and July 21, 2006 reflected TPH concentrations of 77 mg/L and 41 mg/L, respectively; the Permit limit is 10 mg/L.
13. On August 24, 2006, DEQ called GES to discuss the high TPH values and the possibility of removing the draft Order from the September 2006 Board meeting agenda. During the call, GES said that detergents may be in use at the Facility, and that they would verify this and report the findings back to DEQ.
14. On August 29, 2006, DEQ visited the Facility and observed an industrial liquid degreaser at the site called FLASH for power washing of the truck fueling areas. The use of such a detergent is strictly prohibited by the Permit. DEQ removed the draft Order from the September 2006 agenda.
15. At a meeting with DEQ on September 25, 2006, Pilot stated that use of the degreaser had ceased at the Facility in May or June of 2006. Also during the Sept 2006 meeting, Pilot and GES indicated that the O&M Manual review had been submitted to DEQ in April 2006 by a subcontractor. DEQ had no receipt of this document. GES left a copy of the O&M Manual review for DEQ during the meeting. The pH violation was thought to be caused by heavy rains that lowered the overall pH.

#### SECTION D: Agreement and Order

Accordingly, the Board, by virtue of its authority granted in Va. Code § 62.1-44.15 (8a) and (8d), orders Pilot, and Pilot agrees to pay a civil charge of \$5,700.00 within 30 days of the effective date of the Order, and to perform the actions described in Appendix A of this Order in settlement of the violations cited in this Order.

Payment of civil charges shall be by check, certified check, money order, or cashier's check payable to "Treasurer of Virginia" and shall include Pilot's federal identification number. Payment shall be sent 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 Pilot, for good cause shown by Pilot, or on its own motion after notice and opportunity to be heard.
2. This Order addresses and resolves those violations specifically identified herein, including those matters described in Section C.3. of this Order. This Order shall not preclude the Board or 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; and/or (3) taking subsequent action to enforce the terms of this 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, Pilot admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Pilot 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. Pilot declares it has received fair and due process under the Virginia Administrative Process Act, Code §§ 2.2-4000 *et seq.*, and the State Water Control Law, and waives the right to any hearing or other administrative proceeding authorized or required by law or regulation and to 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 Pilot to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall 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. 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. Pilot shall be responsible for failing to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake,

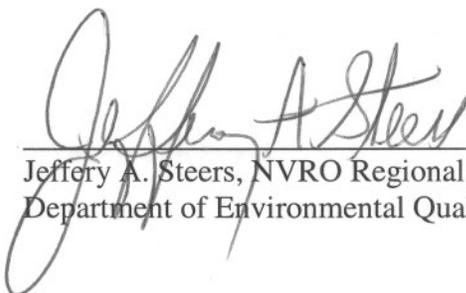
flood, other acts of God, war, strike, or such other occurrence. Pilot must show that such circumstances resulting in noncompliance were beyond its control and not due to a lack of good faith or diligence on its part. Pilot shall notify the Director of NVRO in writing when circumstances are anticipated 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 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 listed above, which Pilot 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. This Order shall become effective upon execution by both the Director or his designee and the Pilot. Notwithstanding the foregoing, Pilot agrees to be bound by any compliance date that proceeds the effective date of this Order.
11. This Order shall continue in effect until the Director or the Board terminates this Order in his or its sole discretion upon 30 days' written notice to Pilot. Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve Pilot from its obligation to comply with any statute, regulation, Permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By its signature below, Pilot voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 18<sup>th</sup> day of December, 2006.

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

Pilot Travel Centers LLC voluntarily agrees to the issuance of this Order.

By: James T. Asbury

Date: 10-6-06

State/Commonwealth of Tennessee

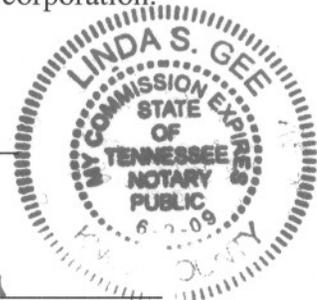
City/County of Memphis/Knox

The foregoing document was signed and acknowledged before me this 6<sup>th</sup> day of

October, 2006, by James T. Asbury who is  
(name)

Env. Facilities Mgr. of Pilot Travel Centers LLC, on behalf of said corporation.  
(title)

Linda S. Gee  
Notary Public



My commission expires: 6-9-09

**APPENDIX A**  
**SCHEDULE OF COMPLIANCE**

Pilot shall:

1. Thoroughly clean the oil and water separator within 7 calendar days of receiving any laboratory results where the monthly TPH level is  $\geq 10.0$  mg/L. Pilot shall also note any cleaning of the oil and water separator on the cover letter submitted with the next DMR.
2. Within 90 days of the effective date of this Order, submit an updated O&M Manual to DEQ that includes a procedure for cleaning in the oil & water separator that will minimize the amount of TPH released after cleaning. The updated procedure may include filling the discharge chamber prior to each cleaning.
3. Provide DEQ with a completed Chain of Custody & Certificate of Analysis for each monitoring event required by the Permit in each DMR.