COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
PIEDMONT REGIONAL OFFICE
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L. Preston Bryant, Jr.
Secretary of Natural Resources

David K. Paylor
Director

Gerard Seeley, Jr.
Regional Director

STATE WATER CONTROL BOARD ENFORCEMENT ACTION
SPECIAL ORDER BY CONSENT
ISSUED TO
PLANTATION PIPE LINE COMPANY

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code §§ 10.1-1185 and 62.1-44.5 and .15, and 62.1-44.34:18 and 44.34:20, between the State Water Control Board and Plantation Pipe Line Company, for the purpose of resolving certain alleged violations of environmental law and regulations.

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 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. "Kinder Morgan" means Kinder Morgan Operating L.P. "D" operator of the Pipeline (defined below).

6. "Order" means this document, also known as a Consent Special Order.

7. "Pipeline" means Plantation's 101 mile long, 12 inch diameter petroleum product transportation pipe that originates at the Richmond Junction Pump Station in

Chesterfield County and terminates at the Newington Pump Station in Fairfax County. The pipeline is part of a 3,100 mile long pipeline network operated by Kinder Morgan.

8. "Plantation" means Plantation Pipe Line Company, owner of the Pipeline and certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.

9. "Site" means the location of the pipeline rupture in the Barrington Subdivision located in Henrico County, Virginia.

10. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.

SECTION C: Findings of Fact and Conclusions of Law

1. Plantation owns a pipeline that runs through the State of Virginia. Kinder Morgan operates the pipeline. On April 17, 2006, Plantation reported a ruptured pipeline in the Barrington Subdivision off Church Road in Henrico County. The rupture released approximately 23,226 gallons of oil (jet fuel A) into the environment. The release affected the property of several private homes and flowed into Stony Run a small tributary of Lake Loraine.

2. The rupture was reported by Plantation at 4:30 p.m. on April 17, 2006. DEQ, notified by the Virginia Emergency Operations Center at 6:30 p.m., arrived at the scene and met Henrico Fire Department Chief, Henrico Hazmat, EPA, Plantation and Kinder Morgan personnel. Environmental cleanup crews were on site. The discharge of jet fuel A was stopped by 5:30 p.m.

3. Three private properties and homes were impacted by the jet fuel after the rupture sent product up to 30 feet in the air. DEQ and EPA walked the stream to observe the impacted area. Henrico Fire had multiple booms deployed across the creek and constructed an underflow dam below the bridge crossing on Church Road. The jet fuel created a sheen on Stony Run that extended 100 feet from the spill site.

4. A preliminary investigation conducted by the Pipeline and Hazardous Materials Safety Administration (PHMSA) had indicated that the pipe had a seam failure and issued a Corrective Action Order on April 20, 2006.

5. On May 5, 2006, the Department issued an Notice of Violation to Plantation citing them for a discharge of oil to state waters. Releases of oil to state waters and lands are prohibited under Va. Code §62.1-44.34:18.

6. As owner of the Pipeline, Plantation has assumed responsibility for the release and related remediation and any civil charges.

7. The following was observed by the Department during the abatement and remediation process:

   - Jet fuel was observed entering state waters as a result of the ruptured pipeline. A macro-invertebrate survey conducted by the Department shortly after the discharge found no living organisms downstream of the discharge while healthy stream ecology was present upstream. Due to the extent of the discharge, it was necessary to remove parts of the stream bed as well as place underflow dams along part of the stream.

   - At the request of the Department, one home was provided drinking water until it was connected to public drinking water on November 6, 2006.

   - Jet fuel impacted three homes and caused contamination of the surrounding soils and groundwater.

   - The discharge created indoor vapors extensive enough to require the temporary relocation of several residents.

8. Va. Code § 62.1-44.34:18 requires that any person discharging or causing the discharge of oil, to clean up the discharge or threat of discharge.

9. A site characterization report "SCR" was submitted to the Department on August 23, 2006. Remedial activities on impacted homes are continuing under the supervision of DEQ and EPA.

10. As of December 7, 2006, the Department has expended $18,341.00 on the pipeline rupture initial abatement and remediation.

SECTION D: Agreement and Order

By virtue of the authority granted it pursuant to Va. Code §§ 62.1-44.15, 62.1-44.34:18, 62.1-44.34:20 and upon consideration of Va. Code § 10.1-1186.2, the Board orders Plantation, and Plantation agrees, to perform the actions described below and in Appendix A of this Order. In addition, the Board orders Plantation and Plantation voluntarily agrees, to a civil charge of $650,000 in settlement of the alleged violations cited in this Order.

1. Corrective action and remediation shall be conducted under an Administrative Order issued by the EPA on September 6, 2006. The Department retains the right to seek additional injunctive relief should the site remediation prove to be inadequate.

2. Plantation shall pay $450,000 of the civil charge within 30 days of the effective date of 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 Plantation's Federal ID number and shall identify that payment is being made as a result of this Order.

3. Plantation shall satisfy $200,000 of the civil charge by satisfactorily completing the Supplemental Environmental Project (SEP) described in Appendix A of this Order.

4. The net project cost of the SEP to Plantation shall not be less than the amount set forth in Section D.3. of this Order. If it is, Plantation shall pay the remaining amount in accordance with Section D.2 of this Order, unless otherwise agreed to by the Department. "Net project costs" means the net present after-tax cost of the SEP, including tax savings, grants, and first-year cost reductions and other efficiencies realized by virtue of project implementation. If the proposed SEP is for a project for which the party will receive an identifiable tax savings (e.g., tax credits for pollution control or recycling equipment), grants, or first-year operation cost reductions or other efficiencies, the net project cost shall be reduced by those amounts. The costs of those portions of SEPs that are funded by state or federal low-interest loans, contracts, or grants shall be deducted.

5. By signing this Order, Plantation certifies that it has not commenced performance of the SEP.

6. Plantation acknowledges that it is solely responsible for completing the SEP project. Any transfer of funds, tasks, or otherwise by Plantation to a third party, shall not relieve Plantation of its responsibility to complete the SEP as described in this Order.

7. In the event it publicizes the SEP or the SEP results, Plantation shall state in a prominent manner that the project is part of a settlement of an enforcement action.

8. The Department has the sole discretion to:

   a. Authorize any alternate, equivalent SEP proposed by the Facility; and

   b. Determine whether the SEP, or alternate SEP, has been completed in a satisfactory manner.

9. Should the Department determine that Plantation has not completed the SEP, or alternate SEP, in a satisfactory manner; the Department shall so notify Plantation in writing. Within 30 days of being notified, Plantation shall pay the amount specified, as provided in Paragraph D.3., above.

10. Submit a separate payment of $18,341.00 within 30 days of the effective date of the Order to reimburse DEQ for its costs incurred during the course of the investigation and remediation. The payment shall note that it is being made pursuant to this Order and shall note the Federal Identification Number for Plantation. Payment shall be by check,

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

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

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Plantation, for good cause shown by Plantation, or on its own motion after notice and opportunity to be heard.

2. This Order only addresses and resolves those alleged violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Plantation by DEQ on May 5, 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 unrelated to the alleged violations described herein; (2) seeking additional injunctive relief should the site remediation prove to be inadequate 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. In the interest of resolving this matter without delay and expense of litigation Plantation agrees to the entrance of this Consent Order, and admits the jurisdictional allegations of the Order but neither admits nor denies the Findings of Fact or the Conclusions of Law herein.

4. Plantation 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. Plantation 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 Plantation 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. Plantation 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. Plantation shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Plantation 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 72 hours of learning of any condition above, which Plantation 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. This Order shall become effective upon execution by both the Director or his designee and Plantation. Notwithstanding the foregoing, Plantation agrees to be bound by any compliance date which precedes the effective date of this Order.

11. This Order shall continue in effect until:

    a. Plantation 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 notice to Plantation; or
    c. The completion of all the requirements in Section D of this Order.

    Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve Plantation 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, Plantation voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of June 29, 2007.

Gerard Seeley Jr, Regional Director
Department of Environmental Quality

Plantation voluntarily agrees to the issuance of this Order.

By: _____

Date: 4/19/07

JERRY E MILHORN

Commonwealth of Virginia

City/County of Harris County, Houston, TX

The foregoing document was signed and acknowledged before me this 19th day of

April, 2007, by Jerry E. Milhorn (name), who is

Vice President (title) of Plantation, on behalf of the Corporation.

THERESIA L. OLSON
Notary Public
STATE OF TEXAS
My Comm. Exp. 09-30-2010

Notary Public

My commission expires: September 30, 2010

APPENDIX A

Plantation shall perform the SEP identified below in the manner specified in this Appendix.

1. The SEP to be performed by Plantation is to provide funding to Henrico County Fire Department for the purchase of hazardous material spill response equipment. The funds shall be used by the County for the following purchases:

Item	Estimated Cost
Tier II Manager Software	49,600
ProPac Medical Monitor	6,600
Zumbro Decontamination Showers	11,800
Rae Rapid Deployment Kit System	39,000
Plume Rae Software	30,000
Plume Rae Weatherpack	14,000
Motorola XTS 5000 Portable Radios and Accessories	23,400
ACU-1000 Interoperable Switching Station	22,400
Motorola XTL 2500 Mobile Radio	3,200
Total	200,000

2. Plantation shall submit a written final report on the SEP, verifying that the SEP has been completed in accordance with the terms of this Order, and certified by the County of Henrico. A certified statement from the County itemizing costs, invoices and proof of payment, or similar documentation shall be included in the report. Plantation shall submit the final report and certification to the Department no later than thirty days after completion of the SEP.

3. The SEP to be performed shall be completed when funds have been remitted to the County and the final report is submitted to the Department. Performance of the SEP shall be completed no later than thirty days of the effective date of this Order, and the final report shall be due no later than thirty days after completion of the SEP.

4. If the SEP has not or cannot be completed as described in the Order, Plantation shall notify DEQ in writing no later than thirty days after the effective date of this Order. Such notification shall include:
   a. submission of an alternate SEP proposal for approval by the Department, or
   b. payment of the amount specified by the Department as described in Section D.3.
   If an alternate SEP is not approved by the Department, then payment of the amount specified in Section D.3 shall be provided by Plantation to the Department within 10 days of receiving notice from the Department that the alternate SEP has not been approved.

5. Plantation hereby consents to reasonable access by DEQ to property or documents under the party's control, for verifying progress or completion of the SEP.

6. Documents to be submitted to the Department, other than the civil charge payment described in Section D. of the Order, shall be sent to:

Frank Lupini
Department of Environmental Quality
Piedmont Regional Office
4949-A Cox Road
Glen Allen, Virginia 23060