



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 R. R. BEASLEY, INC.

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code §§ 10.1-1185 and 62.1-44.15(8a) and (8d), between the State Water Control Board and R.R. Beasley, Inc., for the purpose of resolving certain 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. "Order" means this document, also known as a Consent Special Order.
6. "Beasley Concrete" means R. R. Beasley, Inc, certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.

7. "Facility" means the Beasley Concrete ready-mix plant located in Kilmarnock, Virginia.
8. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
9. "Permit" means VPDES General Permit No. VAG11 for ready mix concrete facilities.
10. "O&M" means operations and maintenance.
11. "SWPPP" means stormwater pollution prevention plan.

SECTION C: Findings of Fact and Conclusions of Law

1. Beasley Concrete owns and operates a ready mix concrete Facility in Kilmarnock, Virginia. This Facility has applied for coverage under a VPDES General Permit No. VAG11, which allows Beasley Concrete to discharge treated wastewater into an unnamed tributary of Norris Prong in strict compliance with terms, limitations and requirements outlined in the permit. The application is pending.
2. On June 20, 2006, Department staff inspected the facility and observed that Beasley Concrete did not have a VPDES permit authorizing discharges from the facility. Beasley Concrete staff stated that they did not need a VPDES permit because the cement trucks hauled their wastewater to another Beasley Concrete facility that is permitted for discharge. Department staff then observed a truck discharge wastewater with a pH of 10.0 into State waters.
3. On June 28, 2007, DEQ issued Notice of Violation No. W2007-06-P-0003 to Beasley Concrete for the violation of Va. Code §62.1-44.15:20.A. and 9 VAC 25-210-50.A.
4. On July 12, 2007, the Department met with Beasley Concrete to discuss the violations. The owner stated that he was willing to comply with any requirement necessary to come into compliance with all environmental regulations.

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 Beasley Concrete, and Beasley Concrete agrees, to perform the actions described in Appendix A of this Order. In addition, the Board orders Beasley Concrete, and Beasley Concrete voluntarily agrees, to pay a civil charge of \$6,850 in settlement of the violations cited in this Order in accordance with the following schedule:

<u>Due Date</u>	<u>Amount</u>
May 15, 2008	\$3,425
August 15, 2008	\$3,425

The payment shall note that it is being made pursuant to this Order and shall note the Federal Identification Number for Beasley Concrete. 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 Beasley Concrete, for good cause shown by Beasley Concrete, 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 Beasley Concrete by DEQ on June 28, 2007. 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. In the interest of resolving this matter without delay and expense of litigation Beasley Concrete 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. Beasley Concrete 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. Beasley Concrete 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 Beasley Concrete 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. Beasley Concrete 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. Beasley Concrete shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Beasley Concrete 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 Beasley Concrete 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 Beasley Concrete. Notwithstanding the foregoing, Beasley Concrete agrees to be bound by any compliance date which precedes the effective date of this Order.

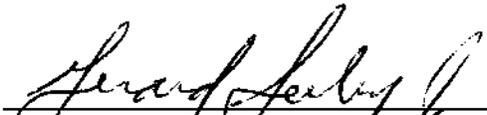
11. This Order shall continue in effect until:

- a. Beasley Concrete 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 Beasley Concrete.

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

And it is so ORDERED this day of April 16, 2008.



Gerard Seeley, Jr., Regional Director
Department of Environmental Quality

Beasley Concrete voluntarily agrees to the issuance of this Order.

By: R Kay Beasley

Date: 2-20-08

Commonwealth of Virginia

City/County of Caroline

The foregoing document was signed and acknowledged before me this 20th day of

February, 2008, by R Kay Beasley, who is

R Kay Beasley

(name)

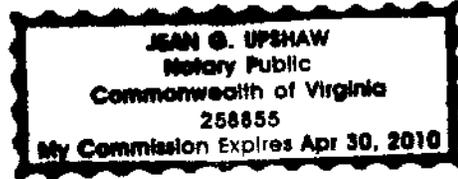
Secretary
(title)

of Beasley Concrete, on behalf of the Corporation.

Jean D Upshaw

Notary Public

My commission expires: April 30, 2010



APPENDIX A

Beasley Concrete must:

1. Immediately cease discharging waste concrete and process wastewater from the Facility.
2. On or before April 15, 2008 submit to the Department for review and approval plans and specifications, prepared by a licensed professional engineer for the construction of a settling basin to be used for treatment and control of process wastewater and commingled storm water. The settling basin must be lined with concrete or some other impermeable material and designed to accommodate all process waters and any stormwater up to a 25-year 24-hour rainfall event.
3. On or before October 15, 2008, complete construction of the settling basin in accordance with the Department approved plans and specifications.
4. On or before October 15, 2008, develop an O&M manual and SWPPP for this Facility. Upon completion, immediately implement the protocols in the O&M manual and SWPPP and submit a copy of each to the Department.

Beasley Concrete must not commence process water discharges from this Facility until Appendix A items 1-4 are completed and written approval is received from the Department.

Pursuant to this Order communications regarding this Order Appendix and its requirements must be addressed as follows:

Frank Lupini
Department of Environmental Quality
Piedmont Regional Office
4949-A Cox Road
Glen Allen, Virginia 23060
Phone: (804) 527-5093
Fax: (804) 527-5106
Email: felupini@deq.virginia.gov

Beasley Concrete must confirm, in writing, completion of the Order requirements to the above address **within five (5) days of completion.**