

## **STATE WATER CONTROL BOARD ENFORCEMENT ACTION**

### **A SPECIAL ORDER BY CONSENT ISSUED TO**

**BARBARA CAMP**

**Underground Storage Tank Facility # 4009154 and Pollution Complaint #96-4120  
Colonial Beach, Virginia**

#### **SECTION A: Purpose**

This is a Special Order by consent issued under the authority of §§ 62.1-44.15 (8a) and (8d) of the Code of Virginia issued by the State Water Control Board between the Board and Barbara Camp to resolve certain violations of the State Water Control Law and regulations at Underground Storage Tank Facility # 4009154 and regarding Pollution Complaint #96-4120.

#### **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 Code §§ 10.1-1184 and 62.1-44.7.
2. “Code” means the Code of Virginia (1950), as amended.
3. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Code § 10.1-1183.
4. “Director” means the Director of the Department of Environmental Quality.
5. “Facility” means Barbara Camp’s real property and UST facility located at 510 Colonial Avenue in Colonial Beach, Virginia.
6. “Order” means this document, also known as a Consent Special Order.

7. “PRO” means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
8. “UST” means underground storage tank.

### **SECTION C: Findings of Fact and Conclusions of Law**

1. Barbara Camp is the owner of a the Facility located at 510 Colonial Avenue that formerly contained USTs. The facility is subject to Code § 62.1-44.34:20 of the State Water Control Law.
2. Barbara Camp is an UST owner and/or operator within the meaning of Code § 62.1-44.34:8.
3. On January 30, 1996, a local building official notified the Department of a petroleum release from three USTs which were in the process of being removed from the facility.
4. On February 1, 1996, the Department sent a letter to Barbara Camp asking for an initial abatement measures report for the petroleum release that occurred on January 30, 1996.
5. On July 2, 1996, the Department received a letter from the Camps which stated that they had removed USTs from the property and that they did not witness a release during the tank pull.
6. On July 25, 1996, the Department issued a Notice of Violation (NOV) to Barbara Camp for failure to undertake appropriate initial abatement measures, a violation of 9 VAC 25-580-250 (formerly VR 680-13-02 §6.3) and failure to provide a complete site characterization report, a violation of 9 VAC 25-580-260 (formerly VR 680-13-02 § 6.4). Barbara Camp insisted that there was no release from the USTs during the removal process.
7. On January 8, 1997, the Department sent a letter to Barbara Camp informing her that a Department contractor had investigated the site to determine whether a petroleum release occurred. The report stated that analytical results from a sampled drilled and collected adjacent to the former gasoline dispensing island showed that high levels of petroleum were present.
8. On January 28, 1997, the Department issued a second NOV to Barbara Camp for failure to undertake appropriate initial abatement measures, a violation of 9 VAC

25-580-250 and failure to provide a complete site characterization report, a violation of 9 VAC 25-580-260.

9. On July 21, 1997, Department staff met with Barbara Camp and informed her of what was required to resolve the issues. At this time, Barbara Camp stated that she was unable to pay the remediation cost for the Facility.
10. On July 28, 1997, the Department sent Barbara Camp an application for a financial analysis to determine ability to pay a civil charge. The submittal deadline was August 29, 1997.
11. On February 17, 1999, the Department issued a warning letter to Barbara Camp for failure to undertake appropriate initial abatement measures, a violation of 9 VAC 25-580-250, failure to provide a complete site characterization report, a violation of 9 VAC 25-580-260.
12. On July 30, 1999, the Department issued a second warning letter to Barbara Camp for failure to undertake appropriate initial abatement measures, a violation of 9 VAC 25-580-250, failure to provide a complete site characterization report, a violation of 9 VAC 25-580-260.
13. On May 21, 2002, the Department sent a letter to Barbara Camp asking for a meeting to discuss the compliance issues that remain unresolved regarding the petroleum release (PC# 96-4120) from the USTs. The letter included a copy of the July 30, 1999, warning letter. The registered letter went unclaimed, and on June 12, 2002, was resent using regular mail. Barbara Camp called and acknowledged that she had received the Department's letter.
14. On August 6, 2002, the Department met with Barbara Camp to discuss possible corrective actions necessary to comply with the Underground Storage Tank Regulations.

#### **SECTION D: Agreement and Order**

Accordingly, the Board, by virtue of its authority in Code §§ 62.1-44.15 (8a) and (8d), orders Barbara Camp and Barbara Camp agrees:

1. To perform the action described in Appendix A of this Order.

2. In addition, the Board orders Barbara Camp, and Barbara Camp voluntarily agrees to pay a civil charge of \$6,300 in settlement of the violations cited in this Order. Payments shall be made in accordance with the following schedule:

<u>Due Date</u>	<u>Amount</u>
May 1, 2003	\$790.00
August 1, 2003	\$790.00
November 1, 2003	\$790.00
February 1, 2004	\$790.00
May 1, 2004	\$790.00
August 1, 2004	\$790.00
November 1, 2004	\$790.00
February 1, 2005	\$770.00

Payment shall be by check, certified check, money order, or cashier's check payable to "Treasurer of Virginia" and 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 Barbara Camp, for good cause shown by Barbara Camp, or on its own motion after notice and opportunity to be heard.
2. This Order addresses only those violations specifically identified herein. 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 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. Nothing herein shall affect appropriate enforcement actions by other federal, state, or local regulatory authority, whether or not arising out of the same or similar facts.
3. For purposes of this Order and subsequent actions with respect to this Order, Barbara Camp admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Barbara Camp 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. Barbara Camp declares she 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 her 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 Barbara Camp to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall act to 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. Barbara Camp 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. Barbara Camp must show that such circumstances resulting in noncompliance were beyond her control and not due to a lack of good faith or diligence on her part. Barbara Camp shall notify the Director of the Regional Office 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 Director of the Regional Office in writing within 10 days of learning of any condition listed above, which Barbara Camp 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 Barbara Camp. Notwithstanding the foregoing, Barbara Camp 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. Barbara Camp petitions the Regional Director to terminate the Order after she has completed all requirements of the Order. The Director's determination that Barbara Camp has satisfied all the requirements of the

Order is a "case decision" within the meaning of the Virginia Administrative Process Act; or

- b. The Director or the Board may terminate this Order in his or its whole discretion upon 30 days' written notice to Barbara Camp.

Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve Barbara Camp from her obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

- 12. By her signature below, Barbara Camp voluntarily agrees to the issuance of this Order.

And it is so ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
Robert G. Burnley, Director  
Department of Environmental Quality

Barbara Camp voluntarily agrees to the issuance of this Order.

Date: \_\_\_\_\_ By: \_\_\_\_\_

Title: \_\_\_\_\_

Commonwealth of Virginia City/County of

The foregoing document was signed and acknowledged before me this \_\_\_\_\_ day of

\_\_\_\_\_, 2003, by \_\_\_\_\_  
(name)

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

## Appendix A

### Barbara Camp - UST Facility #4009154; PC# 96-4120

Barbara Camp shall:

1. By January 15, 2003, submit a site characterization report in accordance with 9 VAC 25-580-260.
2. By February 15, 2003, undertake initial abatement measures in accordance with 9 VAC 25-580-250.
3. Submit any additional information, monitoring, reports or plans to PRO as requested in accordance with Articles 9 and 11 of the State Water Control Law, Sections 62.1-44.34:8 et seq. and 62.1-44.34:14 et seq. of the Code of Virginia, and Department of Environmental Quality Regulations 9 VAC 25-580-10 et. seq.

**Pursuant to this Order** communications regarding this Order, and its requirements shall be addressed as follows:

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

Barbara Camp shall confirm, in writing, completion of the Order requirements to the above address **within five (5) days of completion**.