VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF NORFOLK

NEWDUNN ASSOCIATES,
DUNEDIN ASSOCIATES, L.L.P.,
JAMES M. CAPLAN, AND
LAWRENCE E. FLEDER

Petitioners,

V.

CHANCERY NUMBER: C01-2121
CH02-769

STATE WATER CONTROL BOARD

Respondent.

DISMISSAL ORDER

This day came the Parties, by counsel, and represented to the Court that the issues presented in this matter have been resolved by agreement of the parties. Accordingly, it is

ADJUDGED, ORDERED and DECREED that this matter be and hereby is dismissed with prejudice.

The Clerk shall send certified copies to all counsel upon entry of this Order.

ENTERED this 19th day of Sept., 2005

Circuit Court Judge
LYDIA CALVERT TAYLOR, JUDGE

COPY TESTE:
GEORGE B. SCHAEFER, CLERK
NORFOLK CIRCUIT COURT
BY
Charles Mathews, Deputy Clerk
Authorized to sign on behalf
of George B. Schaefer
Date: 9/20/05

WE ASK FOR THIS:

COUNSEL FOR:
NEWDUNN ASSOCIATES,
DUNEDIN ASSOCIATES, L.L.P.,
JAMES M. CAPLAN, AND
LAWRENCE E. FLEDER

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Counsel for Newdunn Associates, L.L.P.,
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James M. Caplan and Lawrence Fleder

SEEN AND

Counsel for
STATE WATER CONTROL BOARD

John K. Byrum, Jr., Esq.
Rick Linker, Esq
Assistant Attorney General
Office of the Attorney General
900 East Main St.
Richmond, VA 23219

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF NEWPORT NEWS

STATE WATER CONTROL BOARD,	)	
Petitioners,	)	
v.	)	Chancery No.: CH01-3415W01
NEWDUNN ASSOCIATES, L.L.P., DUNEDIN ASSOCIATES, L.L.P., JAMES M. CAPLAN, And LAWRENCE FLEDER,	)	
Respondents.	)	

CONSENT DISMISSAL ORDER

Upon the request of the parties, the State Water Control Board (the "Board" or the "Commonwealth"), and Newdunn Associates, L.L.P., Dunedin Associates, L.L.P., James M. Caplan and Lawrence Fleder (collectively, "Newdunn"), and for good cause shown, the Court hereby **ORDERS** the following:

1. Newdunn shall comply with the terms of the Consent Decree entered by the United States District Court for the Eastern District of Virginia in United States of America v. Newdunn Associates, Orion Associates and Northwest Contractors, Civil Action 2:01cv508.

2. In accordance with the Consent Decree referenced in paragraph 1 above, Newdunn shall pay a civil penalty in the total amount of $150,000.00 as follows:

a. Newdunn shall pay $15,000.00 within 30 days of the entry of this Order or the entry of the Order referenced in paragraph 1, whichever is later, 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 10150
Richmond, Virginia 23240

b. Newdunn shall pay $90,000.00 within 30 days of the entry of this Order or the entry of the Order referenced in paragraph 1, whichever is later, by check, certified check, money order or cashier's check payable to the "The Elizabeth River Project" for the purpose of restoring wetlands at the Southern Branch of the Elizabeth River, delivered to:

The Elizabeth River Project
Attn: Marjorie Mayfield Jackson
Executive Director
475 Water Street, Suite 103A
Portsmouth, Virginia 23704

c. Newdunn shall pay $45,000.00 within 30 days of the entry of this Order or the entry of the Order referenced in paragraph 1, whichever is later, by check, certified check, money order or cashier's check payable to "Wetlands Watch, Inc." for the purpose of promoting compliance with environmental laws and regulations for the protection of wetlands, delivered to:

Wetlands Watch, Inc.
P.O. Box 9335
Norfolk, Virginia 23505

d. The checks referenced in subparagraphs a. through c. above shall bear a notation in the comment section that reads: "SWCB v. Newdunn et al."

3. Upon written demonstration to the Court that Newdunn has satisfied the conditions of paragraph 2 above, the Court shall enter an Order dismissing the Commonwealth's Bill of Complaint, Chancery No. CH01-3415W01, with prejudice.

IT IS SO ORDERED.

Entered this 19th day of May, 2005

Judge
LYDIA CALVERT TAYLOR, JUDGE

We ask for this:

COPY TESTE:
GEORGE E. SCHAEFER, CLERK
NORFOLK CIRCUIT COURT
BY
Charles Mathews, Deputy Clerk
Authorized to sign on behalf
of George E. Schaefer
Date: 5/20/05

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