



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

L. Preston Bryant, Jr
Secretary of Natural Resources

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David K. Paylor
Director

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Regional Director

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION A SPECIAL ORDER BY CONSENT ISSUED TO Tire Energy Corporation Registration No. 21415

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code § 10.1-1307.D, 10.1-1309, and 10.1-1184, and § 10.1-1316.C, between the State Air Pollution Control Board and Tire Energy Corporation, for the purpose of resolving certain violations of State Air Pollution Control Laws 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 Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1301 and 10.1-1184.
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 Order.

6. "Tire Energy Corporation" or "TEC" means the corporation certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.
7. "Facility" means the structure located at Industrial Park Drive in Ridgeway, Virginia.
8. "WCRO" means the West Central Regional Office of DEQ, located in Roanoke, Virginia.
9. "Permit" means the Stationary Source Permit to Construct and Operate dated October 15, 2003, as amended September 22, 2004.

SECTION C: Findings of Fact and Conclusions of Law

1. Tire Energy owns and operates a facility located at Industrial Park Drive in Ridgeway, Virginia. The facility was issued a Stationary Source Permit to Construct and Operate on October 15, 2003, as amended September 22, 2004. This permit authorizes the facility to operate a steam production facility.
2. On December 21 and 22, 2005, Trigon Engineering Consultants, Incorporated conducted stack testing for PM-10, sulfur dioxide, nitrogen oxides, carbon monoxide, volatile organic compounds, hydrogen chloride, formaldehyde, mercury, naphthalene, lead compounds, and opacity from the rotary kiln baghouse exhaust stack. This testing was conducted to determine compliance with the lb/hr, ppm and lb/MMBTU emission limits specified in Condition #15 of the September 22, 2004 air permit.
3. Stack test results were received in the WCRO on February 3, 2006. A review of the report indicated that the facility failed to demonstrate compliance for lb/MMBTU and lb/hr for the following pollutants: PM-10, sulfur dioxide, nitrogen dioxide and lead compounds.
4. Trigon Engineering Consultants, Incorporated, also conducted a Relative Accuracy Test Audit on the continuous monitoring system at this time. This testing was conducted in accordance with Conditions #24 of the September 22, 2004 permit.
5. The results of the RATA were received in the WCRO on February 3, 2006. A review of the report indicated that the carbon monoxide monitor failed to achieve, the required, twenty percent relative accuracy.
6. On February 27, 2006, a Notice of Violation was issued.

SECTION D: Agreement and Order

Accordingly the State Air Pollution Control Board, by virtue of the authority granted it pursuant to Va. Code §§10.1-1309 and 10.1-1316, orders Tire Energy Corporation and Tire Energy Corporation agrees to pay a civil charge of \$ 22,035.00 in settlement of the violations cited in this Order.

1. \$22,035 of this civil charge shall be paid within thirty (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 10150
Richmond, Virginia 23240

2. Within thirty (30) days of the effective date of this Order, TEC shall submit a report which identifies;
 - the locations of the tire transport trailers
 - the number (or poundage) of tires stored at all intermediate storage locations and the TEC facility

The report shall be submitted to the Waste Division Manager, WCRO.

3. Within sixty (60) days from the effective date of this Order, TEC shall conduct a relative accuracy test audit (RATA) on the continuous emission monitor for carbon monoxide and perform stack emissions testing for;
 - PM-10
 - NOX
 - SO2
 - Lead compounds

Details of the testing shall be arranged with the Air Compliance Manager, WCRO.

SECTION E: Administrative Provisions

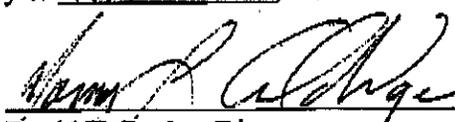
1. The Board may modify, rewrite, or amend the Order with the consent of Tire Energy Corporation for good cause shown by Tire Energy Corporation, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves the violation specifically identified herein, including those matters alleged in the Notice of Violation issued to Tire Energy Corporation on February 17, 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; (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. For purposes of this Order and subsequent actions with respect to this Order, Tire Energy Corporation admits the jurisdictional allegations, but does not admit the factual allegations or legal conclusion of law contained herein. DEQ and Tire Energy Corporation agree that the actions undertaken by Tire Energy Corporation in accordance with this Consent Order do not constitute an admission of liability by Tire Energy Corporation. Tire Energy Corporation does not admit, and retains the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this Order, the validity of the Findings of Facts and Conclusions of Law contained in Section C of this order.
4. Tire Energy Corporation 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. Tire Energy Corporation declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 9-6.14:1 *et seq.*, and the Air Pollution 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 Tire Energy Corporation 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. Tire Energy Corporation 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. Tire Energy Corporation shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Tire Energy Corporation 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 the parties intend 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 Tire Energy Corporation.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Tire Energy Corporation. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Tire Energy Corporation from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By its signatures below, Tire Energy Corporation agrees to the issuance of this Order.

And it is so ORDERED this 19 day of APRIL, 2006.


David K. Paylor, Director
Department of Environmental Quality

Tire Energy Corporation agrees to the issuance of this Order.

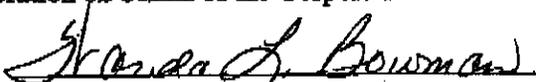
By: W. Larry McDorman - Pres. - TEC

Date: 4/19/06

Commonwealth of Virginia
City/County of Roanoke

The foregoing document was signed and acknowledged before me this 19th day of April, 2006, by W. LARRY MCDORMAN, who is
(name)

President of Tire Energy Corporation on behalf of the Corporation.
(title)


Notary Public

My commission expires: Dec. 31, 2009