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STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
CELANESE ACETATE LLC
FOR
CELANESE ACETATE LLC – NARROWS PLANT
VPDES Permit No. VA0000299

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15, between the State Water Control Board and Celanese Acetate LLC regarding the Celanese Acetate LLC – Narrows Plant, for the purpose of resolving certain violations of the State Water Control Law and the applicable permit and regulation.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. “305(b) report” means the report required by Section 305(b) of the Clean Water Act (33 United States Code § 1315(b)), and Va. Code § 62.1-44.19:5 for providing Congress and the public an accurate and comprehensive assessment of the quality of State surface waters.
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. “BRRO” means the Blue Ridge Regional Office of DEQ, located in Roanoke, Virginia.

4. "Celanese" means Celanese Acetate LLC, a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Celanese is a "person" within the meaning of Va. Code § 62.1-44.3.
5. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
6. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
7. "Discharge" means discharge of a pollutant. 9 VAC 25-31-10
8. "Discharge of a pollutant" when used with reference to the requirements of the VPDES permit program means:
 - (a) Any addition of any pollutant or combination of pollutants to surface waters from any point source; or
 - (b) Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.
9. "DMR" means Discharge Monitoring Report.
10. "Effluent" means wastewater – treated or untreated – that flows out of a treatment plant, sewer, or industrial outfall.
11. "Facility" means "the Celco Plant" or "the Celanese Acetate LLC – Narrows Plant" located at 3520 Virginia Ave, Narrows, Virginia, which discharges treated and untreated effluent from Celanese's co-located business operations under VPDES Permit No. VA0000299. Outfall 001 discharges non-contact cooling water and storm water.
12. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
13. "O&M" means operations and maintenance.
14. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.
15. "Permit" means VPDES Permit No. VA0000299, which was issued under the State Water Control Law and the Regulation to Celanese on June 28, 2013 and which expires on June 27, 2018.
16. "Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials,

radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 USC § 2011 *et seq.*)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water... 9 VAC 25-31-10.

17. "Pollution" means such alteration of the physical, chemical, or biological properties of any state waters as will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious to the public health, safety, or welfare or to the health of animals, fish, or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an alteration of the physical, chemical, or biological property of state waters or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution but which, in combination with such alteration of or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the Board, are "pollution." Va. Code § 62.1-44.3.
18. "Regulation" means the VPDES Permit Regulation, 9 VAC 25-31-10 *et seq.*
19. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.
20. "State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3.
21. "Va. Code" means the Code of Virginia (1950), as amended.
22. "VAC" means the Virginia Administrative Code.
23. "VPDES" means Virginia Pollutant Discharge Elimination System.
24. "Warning Letter" or "WL" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.

SECTION C: Findings of Fact and Conclusions of Law

1. Celanese owns and operates the Facility in Narrows, Virginia. The Permit contains conditions and enumerates effluent limitations on the discharges from the Facility. The Permit allows Celanese to discharge effluent from Outfall 001, to the New River, in strict compliance with the terms and conditions of the Permit. The effluent from Outfall 001 consists of process cooling water and storm water from approximately 100 locations around the Facility.

2. The New River is located in the New River Basin. The New River is listed in DEQ's 2014 Draft 305(b)/303d Report as impaired for PCB in fish tissue and the source is listed as unknown.
3. In submitting its DMRs, as required by the Permit, Celanese has indicated that it exceeded discharge limitations contained in Part I.A.1 of the Permit, for pH, for the month of April 2014. The DMR indicated a minimum concentration of 3.1 for Parameter 002, pH, for Outfall 001.
4. The Permit states, under Part 1.C.12, pH Excursions, that "[A]ll excursions exceeding the range 4.0 to 11.0 are violations of this permit and shall be reported in accordance with Part II."
5. On August 18, 2014, Celanese reported an unpermitted discharge of approximately 28 gallons of acetic acid to Outfall 001 as the result of a chemical sewer drain overflow event. The drop inlet to the chemical sewer system was blocked by debris and industrial wastewater backed up, overflowed a containment berm, and flowed into a storm water sewer inlet. Celanese staff responded immediately and the unpermitted discharge was stopped. The effluent limits for Outfall 001 were not exceeded by this event and no impact was observed on the New River.
6. On August 22, 2014, the Department issued Notice of Violation No. W2014-08-W-0003 to Celanese for the violations associated with the April 2014 DMR data.
7. On August 27, 2014, Department staff met with Celanese staff to discuss the pH violation and the corrective actions taken by Celanese to prevent future pH violations. Celanese has implemented several institutional controls to ensure active monitoring of pH alarms from the outfall, housekeeping, and capital improvements of secondary containment and the chemical sewer piping in and around the sulfuric acid unloading station.
8. On October 21, 2014, Celanese reported an unpermitted discharge to Outfall 001 as the result of an underground break in the sewer line draining the floor drains from the waste treatment plant. No adverse environmental conditions were observed and the effluent limits for Outfall 001 were not exceeded by this event.
9. Va. Code § 62.1-44.5 states that: "[E]xcept in compliance with a certificate issued by the Board, it shall be unlawful for any person to discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances."
10. The Regulation, at 9 VAC 25-31-50, also states that except in compliance with a VPDES permit, or another permit issued by the Board, it is unlawful to discharge into state waters sewage, industrial wastes or other wastes.
11. Va. Code § 62.1-44.15(5a) states that a VPDES permit is a "certificate" under the statute.

12. The Department has issued no permits or certificates to Celanese other than VPDES Permit No. VA0000299.
13. The New River is a surface water located within the Commonwealth and is a "state water" under State Water Control Law.
14. Based on the results of the April 2014 DMR data and the August 22nd and October 21st reports, the Board concludes that Celanese has violated the Permit and Va. Code § 62.1-44.5 and 9 VAC 25-31-50 , by discharging effluent from the Facility while concurrently failing to comply with the conditions of the Permit and by allowing unpermitted discharges from Outfall 001, as described in paragraph C(3) and C(4), above.
15. Celanese has submitted documentation that verifies that the violations as described in paragraphs C(3), C(4), C(5) and C(8) above, have been corrected.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders Celanese, and Celanese agrees to pay a civil charge of \$2,795 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

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

Celanese shall include its Federal Employer Identification Number (FEIN) 56-2051387 with the civil charge payment **and** shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Celanese shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Celanese for good cause shown by Celanese, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.

2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. 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; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Celanese admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Celanese 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. Celanese declares it has received fair and due process under the Administrative Process Act 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 modify, rewrite, amend, or enforce this Order.
6. Failure by Celanese 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. Celanese 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 unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Celanese shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Celanese shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days 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 verbally within 24 hours and in writing within three business days, 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 and any 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 Celanese. Nevertheless, Celanese 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. The Director or his designee terminates the Order after Celanese has completed all of the requirements of the Order;
 - b. Celanese 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
 - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Celanese

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

12. Any plans, reports, schedules or specifications attached hereto or submitted by Celanese and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Celanese certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Celanese to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Celanese.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no

representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.

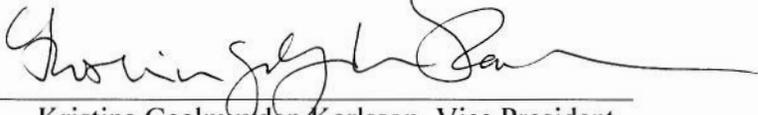
15. By its signature below, Celanese voluntarily agrees to the issuance of this Order.

And it is so ORDERED this _____ day of _____, 2015.

Robert J. Weld, Regional Director
Department of Environmental Quality

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Celanese Acetate LLC voluntarily agrees to the issuance of this Order.

Date: 03/17/2015 By: 
Kristina Geelmuyden Karlsson, Vice President
Celanese Acetate, LLC

Commonwealth of Virginia
City/County of Giles

The foregoing document was signed and acknowledged before me this 17 day of March, 2015, by Kristina Geelmuyden Karlsson who is Vice President of Celanese Acetate LLC, on behalf of the corporation.


Notary Public

338567
Registration No.

My commission expires: 9-30-15

Notary seal:

