

COMMONWEALTH OF VIRGINIA
WASTE MANAGEMENT BOARD AND
THE DEPARTMENT OF ENVIRONMENTAL QUALITY

In re.

ExxonMobil Oil Corporation

SUNOCO LOGISTICS

MANASSAS TERMINAL FACILITY

EPA ID No. VAD048565279

REMEDY CONSENT ORDER

DATE: July 24, 2014

TABLE OF CONTENTS

SECTION I.	BACKGROUND	4
SECTION II.	JURISDICTION	6
SECTION III.	PARTIES BOUND	6
SECTION IV.	DEFINITIONS	6
SECTION V.	GENERAL PROVISIONS	10
SECTION VI.	RECORDING, TRANSFER AND SUCCESSORS	11
SECTION VII.	PERFORMANCE OF THE WORK	11
SECTION VIII.	REMEDIAL ACTION REVIEW	13
SECTION IX.	QUALITY ASSURANCE, SAMPLING, AND DATA	13
SECTION X.	ACCESS AND INSTITUTIONAL CONTROLS	14
SECTION XI.	REPORTING REQUIREMENTS	14
SECTION XII.	APPROVAL OF PLANS, REPORTS, AND OTHER DELIVERABLES	14
SECTION XIII.	PROJECT COORDINATORS	15
SECTION XIV.	FINANCIAL ASSURANCE MECHANISM	15
SECTION XV.	CERTIFICATION OF COMPLETION	16
SECTION XVI.	EMERGENCY RESPONSE	16
SECTION XVII.	INDEMNIFICATION AND INSURANCE	17
SECTION XVIII.	FORCE MAJEURE	17
SECTION XIX.	DISPUTE RESOLUTION	18
SECTION XX.	COVENANTS BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY	19
SECTION XXI.	COVENANTS BY THE RESPONDENT	19
SECTION XXII.	EFFECT OF SETTLEMENT	20
SECTION XXIII.	ACCESS TO INFORMATION	20
SECTION XXIV.	RETENTION OF RECORDS	20
SECTION XXV.	NOTICES AND SUBMISSIONS	21

SECTION XXVI.	RETENTION OF JURISDICTION	21
SECTION XXVII.	APPENDICES	22
SECTION XXVIII.	COMMUNITY INVOLVEMENT	22
SECTION XXIX.	MODIFICATION	22
SECTION XXX	TERMINATION OF CONSENT ORDER	22
SECTION XXXI.	CONCLUSIONS AND ORDER	22

APPENDICES

A	STATEMENT OF WORK
B	FINANCIAL ASSURANCE
C	STATEMENT OF BASIS/ FINAL DECISION AND RESPONSE TO COMMENTS
D	BASELINE REPORT
E	DEED RESTRICTION

SECTION I: BACKGROUND

1. Purpose of Consent Order. This is a Consent Order issued under the authority of Va. Code §§ 10.1-1402(19) - (21), 10.1-1404(B)(3), 10.1-1186(2), and 10.1-1455(F), between the Virginia Department of Environmental Quality (“DEQ”), pursuant to authority delegated by the Virginia Waste Management Board (“Board”), and ExxonMobil Oil Corporation (“ExxonMobil”), regarding the Sunoco Logistics Manassas Terminal Facility, for the purpose of requiring Remedial Action due to a Release of Waste Material within the jurisdiction of the Board at the Site. The purpose of this Consent Order is to describe the requirements for Remedial Action.
2. Agency Oversight. The Work conducted by ExxonMobil pursuant to this Consent Order is subject to concurrence, oversight and enforcement by the Board and DEQ, an agency of the Commonwealth of Virginia authorized to act on behalf of, and in the best interest of the Board to oversee the investigation and/or remediation of a Release or threatened Release of any Waste Material at or from the Site. The Work conducted by ExxonMobil shall be consistent with this Consent Order, all applicable laws and regulations, and any appropriate guidance documents.
3. No Admission of Liability. DEQ and ExxonMobil recognize that this Consent Order has been negotiated in good faith and that the actions undertaken by ExxonMobil in accordance with this Consent Order do not constitute an admission of any liability. ExxonMobil does not admit, and retains the right to controvert in any subsequent proceedings, other than proceedings to implement or enforce this Consent Order, the validity of the findings of fact, conclusions of law, and determinations in this Consent Order. ExxonMobil agrees to comply with and be bound by the terms of this Consent Order and further agrees that it will not contest the basis or validity of this Consent Order or its terms.
4. Recorded Release of Waste Material. The Facility is subject to the Corrective Action program under the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA) of 1976, and the Hazardous and Solid Waste Amendments (HSWA) of 1984, 42 U.S.C. §§ 6901 et seq. (Corrective Action Program). The Corrective Action Program is designed to ensure that certain facilities subject to RCRA have investigated and cleaned up any releases of hazardous waste and hazardous constituents that have occurred at their respective facilities.

Documented Releases of Waste Material, including benzene and methyl tertiary butyl ether (MTBE), occurred at the Facility. The Waste Material is a substance within the jurisdiction of the Board and is to be addressed by a Remedial Action described in this Consent Order. In response to the Release, ExxonMobil conducted a RCRA Facility Investigation and Corrective Measures Study for the Site between October 11, 2000 and February 2012 identifying areas where Releases of Waste Material occurred and testing appropriate remedial measures (“Baseline Report; Appendix D”). The investigations were performed under a Facility Lead Agreement with the US Environmental Protection Agency (EPA) in coordination with DEQ. A final remedy to address the identified releases in the Baseline Report was proposed by DEQ on February 12, 2014 and public comment on DEQ’s Statement of Basis describing the facility background, investigations and the proposed remedy was solicited for 30 days. The public notice was published in *Northern Virginia Times*. No comments of the proposed remedy were

received by DEQ. The Statement of Basis and Final Decision and Response to Comment documents are incorporated into this Consent Order by reference in Appendix C. The selected remedy for the Facility consists of the following three components: 1) vacuum truck extraction (“VTE”); 2) groundwater monitoring; and 3) institutional controls (See Appendix A, Statement of Work).

5. Use of Facility. The Facility, formerly known as the Brennan Farm, was purchased in 1965 by Mobil Oil Corporation (“Mobil”). From 1965 to 2000, the Site was owned and operated by Mobil. In 1999 Mobil changed its name to ExxonMobil Oil Corporation (“ExxonMobil”). From 2000 to 2004 Tosco/ConocoPhillips (“Tosco”) owned and operated the Site. From 2004 through the present, Sunoco Marketing & Terminals, LP (“Sunoco”) owns and operates the Site for the bulk storage and distribution of gasoline. Future land use of the Site is restricted to industrial use, with installation of drinking/irrigation wells and basements prohibited as stipulated in the Special Warranty Deed recorded in 2000 when ExxonMobil sold the assets to Tosco.

The Site occupies 11 acres of an industrial park located approximately 2.5 miles north of downtown Manassas. The Site is bordered to the north by the Pomeroy Company facility, to the south by a commercial building, to the east by the Transcontinental Gas Pipeline Company facility, and to the west by the Interstate 66 Industrial Park and a private warehousing company. Security for the Site is provided by a chain-link fence and electronically operated gate.

The Facility currently has nine aboveground storage tanks (ASTs) and two underground storage tanks providing a total bulk storage capacity of approximately 15.9 million gallons of petroleum. Additional structures on Site include a tank truck loading rack, an office building, a maintenance building, and a fire pump house.

6. Permits. The Facility currently holds environmental and public health permits for

- National Pollutants Discharge Elimination System (NPDES) Permit Application VA0051691
- Virginia Pollutants Discharge Elimination System (VPDES) Application VA0087858

7. Intent of the Parties. ExxonMobil has expressed their intent to pursue a Consent Order to remediate Releases of Waste Material at the Site as identified in the Baseline Report that are associated with the Site during the time period ExxonMobil owned and operated the Site. On December 10, 2013, the Parties and their representatives met by teleconference to discuss implementing the Remedial Action as described in the Statement of Basis. ExxonMobil agreed that Remedial Action is required to address the above-referenced Releases of Waste Material at the Site.

8. Owner/Operator Relationship. ExxonMobil formerly owned and operated the Facility in Manassas, Virginia and has performed environmental investigations pursuant to a Facility Lead Agreement with EPA. Operations at the Facility are subject to the Virginia Waste Management Act, Va. Code §§ 10.1-1400 *et seq.* and RCRA, 42 U.S.C. §§ 6901-6992 and their associated regulations.

9. DEQ Determination. Based on available information, DEQ determines that the Work will be properly and promptly completed by ExxonMobil if conducted in accordance with the

requirements of this Consent Order and its allied appendices and documents incorporated by reference. ExxonMobil acknowledges, and DEQ by entering this Consent Order finds, that this Consent Order has been negotiated in good faith and implementation of the Remedial Action will expedite the cleanup of the Releases of Waste Material at the Site as identified in the Baseline Report that are associated with the Site during the time period ExxonMobil owned and operated the Site, and that this Consent Order is fair, reasonable, and in the public interest. ExxonMobil does not take responsibility for any Releases of Waste material associated with operations during the period of time ExxonMobil did not own or operate on the Site, and is not responsible for any Releases of Waste Material that may have occurred during the ownership or operation by the former owner Tosco or the present owner/operator, Sunoco.

SECTION II: JURISDICTION

DEQ has jurisdiction over the Remedial Action and the Site pursuant to authority delegated by the Board, Va. Code §§ 10.1-1402(19) - (21), 10.1-1404(B)(3), 10.1-1186(2), and 10.1-1455(F), ExxonMobil waives all objections and defenses that they may have to jurisdiction of DEQ, and shall not challenge the terms of the Consent Order or DEQ's jurisdiction to enter and enforce this Consent Order.

SECTION III: PARTIES BOUND

1. *Parties*. This Consent Order applies to and is binding upon DEQ and ExxonMobil, their heirs, successors, and assigns. No change in ownership or legal status of ExxonMobil including, but not limited to, any transfer of assets or property, real or personal, shall in any way alter any requirements or responsibilities under this Consent Order unless DEQ agrees in writing to such change. The signatories to this Consent Order certify that they are fully authorized to execute and legally bind the Parties they represent.

2. *Contractors and Agents*. ExxonMobil shall within (14) fourteen days after the Effective Date of this Consent Order or the date of retaining their services, whichever is later, provide a copy of this Consent Order to each contractor hired to perform the Work and to each person representing ExxonMobil with respect to the Site or the Work. ExxonMobil shall condition all contracts entered into hereunder upon performance of the Work in conformity with the terms of this Consent Order. ExxonMobil contractors shall within (14) fourteen days after the Effective Date of this Consent Order or the date of retaining their services, whichever is later, provide written notice of the Consent Order to all subcontractors hired to perform any portion of the required Work. ExxonMobil contractors shall be responsible for ensuring that their contractors and subcontractors perform the Work in accordance with the terms of this Consent Order.

SECTION IV: DEFINITIONS

Unless otherwise expressly provided in this Consent Order or the context clearly indicates otherwise, terms used in this Consent Order that are defined by the Virginia Waste Management

Act (“VWMA”), Va. Code §§ 10.1-1400 – 10.1-1457, and RCRA, 42 U.S.C. §§ 6901-6992 shall have the meaning assigned to them in VWMA, and RCRA. When terms listed below are used in this Consent Order, the following definitions shall apply solely for this Consent Order.

“**Administrative Process Act**” or “**APA**” means Va. Code § 2.2-4000 *et seq.*

“**Baseline Report**” means the RCRA Facility Investigation and Corrective Measures Study for the Site between October 11, 2000 and February 2012 identifying areas where Releases of Waste Material occurred and testing appropriate remedial measures. *See*, Appendix D.

“**Board**” means the Virginia Waste Management Board, a permanent citizen board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 1401. The term “Board” is inclusive of the Virginia Department of Environmental Quality and its delegated authority to act on behalf of, and in the best interest of, the Board to oversee and administer the Work described in this Consent Order.

“**CERCLA**” means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601 - 9675.

“**Certification of Completion**” means a letter or writing by the DEQ indicating that No Further Action is required or that the Remedial Action has been completed and Performance Standards have been achieved.

“**Commonwealth**” means the Commonwealth of Virginia.

“**Consent Order**” means this Consent Order, also known as a “Remedy Consent Order,” including all appendices attached hereto and documents incorporated by reference. In the event of a conflict between this Consent Order and any appendix or other documents, the terms and requirements of this Consent Order shall control.

“**Day**” means a calendar day unless expressly stated otherwise. In computing any period of time under this Consent Order where the last day would fall on a Saturday, Sunday, or state or federal holiday, the period shall run until the close of business of the next working day.

“**Department**” or “**DEQ**” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183, and any successor departments or agencies of the Commonwealth of Virginia.

“**Director**” means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

“**Effective Date**” means the date upon which this Consent Order is executed by all Parties.

“**EPA**” means the United States Environmental Protection Agency, and any successor departments or agencies of the United States.

“Facility” or “Site” means the former ExxonMobil Facility located at 10315 Balls Ford Road in Manassas, Virginia.

“Institutional Controls” or “ICs” mean Proprietary Controls, and state or local laws, regulations, ordinances, zoning restrictions, or other governmental controls or notices that: (a) limit land, water, and/or resource use to minimize the potential for human exposure to Waste Material at or in connection with the Site; (b) limit land, water, and/or resource use to implement, ensure non-interference with, or ensure the protectiveness of the Remedial Action; and/or (c) provide information intended to modify or guide human behavior at or in connection with the Site. Any and all Institutional Controls concerning the Site shall conform to the Virginia Uniform Environmental Covenants Act, Va. Code §§ 10.1-1238 *et seq.*, 9 VAC 15-19-10 *et seq.*

“Institutional Control Implementation Plan” or “ICIP” means the plan for implementing, maintaining, monitoring, and reporting on the Institutional Controls prepared in accordance with a required Statement of Work (“SOW”).

“Interest” means interest at the rate specified for interest on investments of the Commonwealth of Virginia as determined by the DEQ Office of Financial Assurance, compounded annually on October 1 of each year. The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year.

“National Contingency Plan” means the National Oil and Hazardous Substances Pollution Contingency Plan, 40 CFR 300.

“Operation and Maintenance” or “O&M” mean all activities, including Institutional Controls, required to maintain the effectiveness of the Remedial Action as required under an approved Operation and Maintenance Plan.

“Parties” means the Board, DEQ and ExxonMobil.

“ExxonMobil” means ExxonMobil Oil Corporation as the responsible party for the Remedial Action. ExxonMobil, inclusive of its affiliates, and subsidiaries, is a corporation entity authorized to do business in Virginia. ExxonMobil is a “person” within the meaning of Va. Code § 10.1-1400.

“Performance Standards” mean the Remedial Action standards and other measures of successful completion of the Remedial Action as set forth in this Consent Order, SOW, and any modified standards established pursuant to this Consent Order.

“Proprietary Controls” mean easements or covenants running with the land that: (a) limit land, water, or resource use and/or provide access rights; and (b) are created pursuant to common or statutory law by an instrument that is recorded by the landowner in the appropriate land records office. Any and all Proprietary Controls concerning the Site shall conform to the Virginia Uniform Environmental Covenants Act, Va. Code §§ 10.1-1238 *et seq.*, 9 VAC 15-19-10 *et seq.*

“RCRA” means the Solid Waste Disposal Act, as amended, 42 U.S.C. §§ 6901-6992, also known as the Resource Conservation and Recovery Act.

“Release” means any spill, leak, pumping, pouring, emitting, emptying, discharging, injection, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing any Waste Material), or any mismanagement of any Waste Material. A Release also means any substantial threat of release as described in 9 VAC 20-81-10.

“Remedial Action” or “Corrective Measures” means all Work and activities required by this Consent Order to implement the remedy, including, but not limited to any Statement of Work, Remedial Design Work Plan, Remedial Action Work Plan, Schedule of Compliance, Operations and Maintenance Plan, Institutional Control Implementation Plan, and other plans approved by DEQ until Performance Standards are successfully met.

“Remedial Action Work Plan” or “Corrective Measures Implementation Plan” means the document developed pursuant to Section VII (Performance of the Work) and approved by DEQ, and any modifications thereto in accordance with this Consent Order.

“Remedial Design Work Plan” or “Corrective Measures Design Work Plan” means the document developed pursuant to Section VII (Performance of the Work) and approved by DEQ, and any modifications thereto in accordance with this Consent Order.

“Site” or “Facility” means the former ExxonMobil Facility located at 10315 Balls Ford Road in Manassas, Virginia.

“Statement of Work” or “SOW” means the statement of work for implementation of the Remedial Design Work Plan, Remedial Action, and O&M at the Site, as set forth in Appendix A (Statement of Work) to this Consent Order, inclusive of any modifications thereto in accordance with this Consent Order.

“Supervising Contractor” means the principal contractor retained to supervise and direct the implementation of the Work under this Consent Order.

“Transfer” means to sell, assign, convey, lease, mortgage, or grant a security interest by operation of law.

“Virginia Waste Management Act” means Chapter 14 (§ 10.1-1400 *et seq.*) of Title 10.1 of the Va. Code. Article 4 (Va. Code §§ 10.1-1426 through 10.1-1429) of the Virginia Waste Management Act addresses Hazardous Waste Management.

“Waste Material” means: (a) any “hazardous substance” under Va. Code § 10.1-1400, 9 VAC 20-81-10, or Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); (b) any “pollutant or contaminant” under 9 VAC 20-81-10 or Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); (c) any “solid waste” under Va. Code § 10.1-1400, 9 VAC 20-81-10 or Section 1004(27) of RCRA, 42 U.S.C. § 6903(27); and (d) other “waste” as that term is defined under Va. Code § 10.1-1400.

“**Work**” means all activities and obligations required under this Consent Order.

SECTION V: GENERAL PROVISIONS

1. Objectives. The objectives of the Parties in entering into this Consent Order are to protect human health and the environment by the implementation of a Remedial Action at the Site.
2. Commitments. ExxonMobil shall finance and perform the Work in accordance with this Consent Order, the SOW, Remedial Action Work Plan, Schedule of Compliance, Operations and Maintenance Plan, ICIP, and other plans and modifications approved by DEQ until the Performance Standards are met.
3. Compliance with Applicable Law. All activities undertaken pursuant to this Consent Order shall be performed in accordance with the requirements of all applicable local, state and federal laws and regulations. The Work conducted pursuant to this Consent Order, if approved, shall be deemed to be consistent with the Virginia Waste Management Act and its associated Regulations.
4. Severability. If any provision of this Consent Order is found to be unenforceable for any reason, the remainder of the Consent Order shall remain in full force and effect.
5. Permitting. This Consent Order shall not be construed to be a permit issued pursuant to any local, state, or federal statute or regulation. Where any portion of the Work requires a permit or approval, ExxonMobil shall submit timely and complete applications, and take all actions necessary to obtain all such permits or approvals. ExxonMobil may seek relief under the provisions of Section XIX (Force Majeure) for any delay in the performance of the Work resulting from a failure to obtain, or a delay in obtaining, any permit or approval, provided that they have submitted timely and complete applications and taken all actions necessary to obtain all such permits or approvals.
6. Notice of Bankruptcy or Dissolution. In the event that ExxonMobil files for bankruptcy, or a petition in bankruptcy is filed against Respondent, or Respondent files for dissolution, ExxonMobil shall notify DEQ within (5) five days of such filing.
7. APA Due Process. ExxonMobil declares it has received fair and due process under the Administrative Process Act and the Virginia Waste Management Act, and that 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 DEQ to modify, rewrite, amend, revoke, terminate, or enforce this Consent Order.

SECTION VI: RECORDING, TRANSFER AND SUCCESSORS

1. Notice. ExxonMobil shall provide a copy of this Order to the current owner/operator of the Facility within (10) ten calendar days of the Effective Date. In the event of any change in ownership, operation, or control of the Facility, ExxonMobil shall notify DEQ in writing within (30) thirty calendar days of learning of such change, and shall provide a copy of this Order to the transferee in interest of the Facility prior to any agreement for Transfer.

2. Recordings. The Facility is presently owned and operated by Sunoco. Accordingly, ExxonMobil shall, within (30) thirty days after the signing of this Consent Order, make reasonable efforts to work with Sunoco, or the then current owner, to submit to DEQ for approval a proposed notice to be filed with the appropriate land records office that provides a description of the real property and notice to all successors-in-title that the real property is part of the Site, that the Site is subject to Remedial Action, that a Consent Order has been entered requiring implementation of the Remedial Action, and a copy of this Consent Order.. Further, after the completion of the Remedial Action and within 30 (thirty) days of the receipt of a Certification of Completion or equivalent no further action letter from the DEQ, ExxonMobil shall make reasonable efforts to work with Sunoco, or the then current owner, to submit to DEQ for approval a proposed notice to be filed with the appropriate land records office that provides a description of the real property, notice to all successors-in-title that the real property is part of the Site, that the Site was subject to this Consent Order, under which the Remedial Action has been completed, and that the Site is subject to Institutional Controls, if any. The notice shall describe all Institutional Controls, in effect at the time, if any, including land use restrictions, if any. ExxonMobil shall record such notices, or cause the notices to be recorded, within (10) ten days after DEQ's approval of each notice. ExxonMobil shall provide DEQ with a certified copy of the recorded notice within (10) ten days after recording, or causing to be recorded, such notice. The notice shall meet the requirements of the Uniform Environmental Covenants Act.

5. Uniform Environmental Covenants Act. Any and all Institutional Controls concerning the Site shall conform to the Virginia Uniform Environmental Covenants Act, Va. Code §§ 10.1-1238 *et seq.*, 9 VAC 15-19-10 *et seq.*

6. Compliance. In the event of any Transfer of real property located at the Site, unless DEQ otherwise consents in writing, ExxonMobil shall continue to comply with the requirements in this Consent Order, providing ExxonMobil can secure the required access from the new property owner, which ExxonMobil will use reasonable efforts to secure.

SECTION VII. PERFORMANCE OF THE WORK

1. Selection of Supervisory Contractor. All aspects of the Work to be performed pursuant to this Consent Order shall be under the direction and supervision of ExxonMobil. In the event of ExxonMobil selection of a Supervising Contractor to perform the Work described in this Consent Order, such selection shall be subject to the disapproval of DEQ. Within (10) ten days after the Effective Date of this Consent Order, ExxonMobil shall notify DEQ in writing of the name, title, and qualifications of any contractor proposed to be the Supervising Contractor.

ExxonMobil shall demonstrate that the proposed Supervising Contractor has a quality assurance system that complies with ANSI/ASQC E4-1994, *Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs* (American National Standard, January 5, 1995), by submitting a copy of the proposed contractor's Quality Management Plan ("QMP"). The QMP should be prepared in accordance with *EPA Requirements for Quality Management Plans (QA/R-2)* (EPA/240/B-01/002, March 2001, reissued May 2006) or equivalent documentation as determined by DEQ. DEQ shall, within (10) ten days of receipt of such notice proposing a Supervising Contractor, issue a disapproval of the proposal. In the event DEQ does not issue a notice of disapproval within (10) ten days, such proposal shall be deemed approved. If at any time thereafter, ExxonMobil proposes to change a Supervising Contractor, such proposal is subject to the same terms, conditions and option by DEQ to disapprove as provided herein.

2. Remedial Action Work Plan. Within (30) days after the Effective Date of this Consent Order, ExxonMobil shall submit to DEQ a Remedial Action Work Plan. The Remedial Action Work Plan shall provide for implementation of the remedy in accordance with this Consent Order, the SOW, and any approved modifications for the achievement of the Performance Standards. Upon DEQ approval, the Remedial Action Work Plan shall be incorporated into and enforceable under this Consent Order.

3. Content of the Remedial Action Work Plan. The Remedial Action Work Plan shall include (a) schedule for completion of the Remedial Action; (b) groundwater monitoring plan; (c) methods for satisfying permitting requirements, if applicable; (d) an ICIP; (e) procedures and plans for disposal of contaminated materials.

4. Approval of the Remedial Action Work Plan. Upon approval of the Remedial Action Work Plan by DEQ, ExxonMobil shall implement the Remedial Action Work Plan. ExxonMobil shall submit to DEQ all plans, reports, and other deliverables required under the approved Remedial Action Work Plan in accordance with the approved schedule for review and approval pursuant to Section XII (Approval of Plans, Reports, and Other Deliverables).

5. Modification and Further Response. Nothing in this Section shall be construed to limit the Parties from seeking modification of the Remedial Action or good cause. Nothing in this Section shall be construed to limit DEQ's authority to require performance of further response actions as otherwise provided in this Consent Order.

6. No Warranty of Performance. Nothing in this Consent Order, the SOW, the Remedial Design Work Plan, or the Remedial Action Work Plan constitutes a warranty or representation of any kind by DEQ that compliance with the work requirements set forth therein will achieve the Performance Standards.

7. Off-Site Shipment of Waste Material. ExxonMobil may transport Waste Material from the Site to an off-Site facility upon verification to DEQ that the off-Site facility is operating in compliance with the requirements of Section 121(d)(3) of CERCLA, 42 U.S.C. § 9621(d)(3).

VIII. REMEDIAL ACTION REVIEW

1. *Periodic Review*. As part of each annual report required by Section XI of this Consent Order, ExxonMobil shall demonstrate that the Remedial Action is protective of human health and the environment. If DEQ determines that the Remedial Action is not protective of human health and the environment, DEQ may request studies and investigations to identify further response actions needed for the Site to assure the achievement of Performance Standards.
2. *Respondent Obligation to Perform Further Response Actions*. If DEQ determines that the selected Remedial Action will not comply with the Performance Standards, the DEQ may require ExxonMobil to perform additional studies and/or perform modifications to the existing Remedial Action. If necessary, the Department or ExxonMobil may seek modification of this Consent Order to implement modifications to the existing Remedial Actions.
3. *Submission of Plans*. If ExxonMobil is required to perform further response actions, they shall submit a plan for such response action to DEQ within (60) sixty days of request for approval in accordance with the procedures and requirements provided in this Consent Order. Upon approval from DEQ, ExxonMobil shall implement such plan in accordance with this Consent Order.

IX. QUALITY ASSURANCE, SAMPLING, AND DATA

1. *Quality Assurance Guidance*. ExxonMobil shall use quality assurance, quality control, and chain of custody procedures for all samples as previously approved by EPA. In general, quality assurance, quality control, and chain of custody procedures shall be in accordance with *EPA Requirements for Quality Assurance Project Plans (QA/R5)* (EPA/240/B-01/003, March 2001, reissued May 2006), *Guidance for Quality Assurance Project Plans (QA/G-5)* (EPA/240/R-02/009, December 2002), and subsequent amendments to such guidelines.
2. *Split and Duplicate Samples*. Upon request, ExxonMobil shall allow split or duplicate samples to be taken by DEQ. ExxonMobil shall notify DEQ not less than (30) thirty days in advance of any sample collection unless shorter notice is agreed to by DEQ. In addition, DEQ may take any additional samples necessary to assure the performance of this Consent Order. Upon request, ExxonMobil may take split or duplicate samples of any samples DEQ requires for oversight or implementation of the Work.
3. *Sample Results*. Unless otherwise agreed to by DEQ, ExxonMobil shall submit to DEQ copies of the results of all sampling and/or tests, or other data obtained with respect to the Site or the implementation of this Consent Order along with the annual report as set forth in Section XI, Reporting Requirements, paragraph 1.

X. ACCESS AND INSTITUTIONAL CONTROLS

1. Access. ExxonMobil shall on the Effective Date of this Consent Order provide DEQ with access to the Site at all reasonable times to conduct any activity regarding the oversight, administration, and assessment of compliance with this Consent Order. Should the access rights ExxonMobil currently has cease due to a change in ownership of the property, or the expiration of the term, ExxonMobil will use reasonable efforts to obtain access, to include access for DEQ, from the new property owner or re-new access with existing property owner.
2. Institutional Controls. As set forth in Section VI, Recording, Transfer, and Successors, paragraph 2, ExxonMobil will make reasonable efforts to effectuate the notices as set forth therein, including Institutional Controls, if any, that conform to the Virginia Uniform Environmental Covenants Act, Va. Code § 10.1-1238 *et seq.*, and 9 VAC 15-19-10 *et seq.* The current deed restriction is attached in Appendix E.
3. Party Cooperation. If, upon DEQ review, it is determined that Institutional Controls in the form of state or local laws, regulations, ordinances, zoning restrictions, or other governmental controls are needed at or in connection with the Site, ExxonMobil shall cooperate with DEQ's efforts to secure and ensure compliance with such governmental controls.

XI. REPORTING REQUIREMENTS

1. Annual Reports. ExxonMobil shall submit to DEQ copies of written progress reports every year by March 1 for the preceding calendar year. The annual summary report will include documentation regarding the vacuum truck extraction (VTE) events, volume and concentrations of fluid and vapor recovered, groundwater monitoring results, and sampling and/or tests as set forth in Section IX. Quality Assurance, Sampling, and Data, paragraph 3. Reporting on the implementation and review of institutional controls required under UECA may be incorporated into the annual report as appropriate.
2. Report Format. ExxonMobil shall submit (1) one copy in electronic format of all plans, reports, data, and other deliverables required by the SOW, the Remedial Design Work Plan (if applicable), the Remedial Action Work Plan, or any other approved plans to DEQ in accordance with the schedules set forth in such plans. ExxonMobil shall submit a paper copy of such plans, reports, data, and other deliverables referenced in this section upon request by DEQ.

XII. APPROVAL OF PLANS, REPORTS, AND OTHER DELIVERABLES

1. Initial Submissions. After review of any plan, report, or other deliverable required for approval pursuant to this Consent Order, DEQ shall: (a) approve, in whole or in part, the submission; (b) approve the submission upon specified conditions; (c) disapprove, in whole or in part, the submission; or (d) any combination of the foregoing. DEQ may modify the initial submission to cure deficiencies if it determines that disapproving the submission and awaiting a

resubmission would cause substantial disruption to the Work or cure of deficiencies is otherwise not substantial.

2. Resubmissions. Upon DEQ's disapproval or approval with conditions of a submission, ExxonMobil shall, within (30) thirty days, or such longer time as specified by DEQ, to correct the deficiencies and resubmit the plan, report, or other deliverable for review.
3. Incorporation of Approved Submittal. Any plan, report, or other deliverable, or any portion thereof, approved by DEQ, shall be incorporated by reference into and enforceable under this Consent Order.

XIII. PROJECT COORDINATORS

Identification of Project Coordinators. Within (30) thirty days after the Effective Date of this Consent Order, ExxonMobil and DEQ will notify each other, in writing, of the name, address, telephone number, and email address of their respective designated Project Coordinators and Alternate Project Coordinators. If a Project Coordinator or Alternate Project Coordinator is changed, the identity of the successor will be given to the other Party at least (10) ten working days before the change occurs, if practical. ExxonMobil Project Coordinator shall have the technical expertise sufficient to adequately oversee all aspects of the Work.

XIV. FINANCIAL ASSURANCE MECHANISM

1. Selection of Financial Assurance. In order to ensure the full and final completion of the Work, ExxonMobil shall establish and maintain a financial assurance mechanism, initially in the amount of \$123,200, for the benefit of DEQ (hereinafter "Estimated Cost of the Work"). In the event of an increase or decrease in the Estimated Cost of Work, the financial assurance mechanism shall be adjusted commensurate with such increase or decrease. The financial assurance mechanism shall be in the form of one or more of the following mechanisms: (a) a surety bond unconditionally guaranteeing payment and/or performance of the Work; (b) one or more irrevocable letters of credit, payable to or at the direction of DEQ; (c) a trust fund established for the benefit of DEQ that is administered by a trustee; (d) an insurance policy that identifies DEQ as a beneficiary; (e) a demonstration by ExxonMobil that they meet the financial test criteria of 40 C.F.R. 264.143(f) or 40 CFR 265.145 as incorporated by 9 VAC20-60 *et seq.* with respect to the Estimated Cost of the Work; or (f) a written guarantee to fund or perform the Work executed in favor of DEQ by a direct or indirect parent company of ExxonMobil provided that such company demonstrate to the satisfaction of DEQ that it satisfies the financial test criteria for owners and operators in 40 C.F.R. 264.143(f) or 40 C.F.R. 265.145, as incorporated by 9 VAC 20-60 *et seq.*, with respect to the Estimated Cost of the Work.

2. Execution of Financial Assurance. Within (60) sixty days after the Effective Date, ExxonMobil shall execute all instruments or other documents required in order to make the selected financial assurance mechanism(s) legally binding. Within (60) sixty days after the

Effective Date, ExxonMobil shall submit copies of all executed instruments or other documents required in order to make the selected financial assurance mechanism(s) legally binding to DEQ.

3. Change of Form of Financial Assurance. If, after the Effective Date, ExxonMobil changes the form or terms of any financial assurance mechanism(s), ExxonMobil shall provide prior notice of such change to DEQ. Such change shall be consistent with the terms and conditions herein.

XV. CERTIFICATION OF COMPLETION

1. Completion of Remedial Action and Achievement of Performance Standards. Within (90) ninety days after ExxonMobil completes the Remedial Action and the Performance Standards have been achieved for at least a three year confirmation period, ExxonMobil shall request and schedule a certification inspection to be attended by ExxonMobil and DEQ. Upon approval by DEQ that the Remedial Action is complete and Performance Standards have been achieved, ExxonMobil shall submit a written report requesting a Certification of Completion to DEQ within (30) thirty days after the inspection. In the report, the ExxonMobil Project Coordinator shall state that the Remedial Action has been completed in full satisfaction of the requirements of this Consent Order. If applicable, the report may also request a release from one or more institutional controls. The report shall contain the following statement and signed by a responsible official of ExxonMobil or their assigned Project Coordinator:

"I certify under penalty of law that this document and all attachments were prepared by me, or under my direction or supervision in accordance with a system designed to assure that qualified personnel properly prepared and evaluated the information. Based on my inquiry of those qualified personnel, all of the information submitted is, to the best of my knowledge and belief, true, accurate, and complete."

2. Approval and Certification. If DEQ concludes that the Remedial Action has been performed in accordance with this Consent Order and that the Performance Standards have been achieved for at least a three year monitoring period, DEQ will so certify in writing. This certification shall constitute the Certification of Completion of the Remedial Action for purposes of this Consent Order. A Certification of Completion of the Remedial Action and achievement of Performance Standards shall also be a certification of completion of the Work.

XVI. EMERGENCY RESPONSE

1. Releases of Waste Material. The Facility is owned and operated by Sunoco. In the event of any action or occurrence during the performance of the Work by ExxonMobil that causes or threatens a release of Waste Material from the Site that may present an immediate threat to human health or the environment, ExxonMobil shall immediately take all appropriate action to prevent, abate, or minimize such release or threat of release, and shall immediately notify the DEQ Project Coordinator or Alternate Project Coordinator, and any other local, state, or federal

official or entity required to be notified. If either of these persons is unavailable, ExxonMobil shall notify the DEQ Pollution Response Program (“PReP”) Unit at 800.592.5482. ExxonMobil shall take all such necessary response actions in consultation with DEQ’s Project Coordinator or alternate representative.

2. *State Response.* Nothing in the preceding paragraph or in this Consent Order shall be deemed to limit any authority of DEQ to take all appropriate action to protect human health and the environment or to prevent, abate, respond to, or minimize an actual or threatened release of Waste Material on, at, or from the Site. Further, nothing in the preceding paragraph or this Consent Order shall be deemed to limit any cost recovery or reimbursement associated with such action.

SECTION XVII. INDEMNIFICATION AND INSURANCE

1. *Indemnification of the Commonwealth of Virginia.* The Commonwealth of Virginia, Board, and DEQ do not assume any liability by entering into this Consent Order. ExxonMobil shall indemnify, save and hold harmless the Commonwealth of Virginia, Board, DEQ, and their officials, agents, employees, contractors, subcontractors, and representatives for or from any and all claims or causes of action arising from, or on account of acts or omissions of ExxonMobil, their officers, directors, employees, agents, contractors, subcontractors, and any persons acting on their behalf or under their control, in carrying out the activities described in this Consent Order. Further, ExxonMobil agrees to pay the Commonwealth of Virginia, Board, and DEQ all costs they may incur, including, but not limited to, attorneys’ fees and other expenses of litigation and settlement arising from, or on account of, claims based on acts or omissions of ExxonMobil their officers, directors, employees, agents, contractors, subcontractors, and any persons acting on their behalf or under their control, in carrying out activities pursuant to this Consent Order.

2. *No Agency or Contractual Party Status.* The Commonwealth of Virginia, Board, and DEQ shall not be held out as a party to any contract entered into by or on behalf of ExxonMobil in carrying out the activities described in this Consent Order. Neither ExxonMobil nor any such contractor shall be considered an agent of the Commonwealth of Virginia, Board, or DEQ.

SECTION XVIII. FORCE MAJEURE

1. *Force Majeure Defined.* For purposes of this Consent Order, a force majeure event is defined as any event arising from causes beyond the control of ExxonMobil, of any entity controlled by ExxonMobil, or of ExxonMobil contractors, that delays or prevents the performance of any obligation under this Consent Order, despite best efforts to fulfill the obligation. The requirement that ExxonMobil exercise “best efforts to fulfill the obligation” includes using best efforts to anticipate any potential force majeure, best efforts to address the effects of any potential force majeure as it is occurring, and best efforts to minimize any adverse effects following the potential force majeure event. Force majeure does not include financial inability to complete the Work or a failure to achieve the Performance Standards.

2. Notice of Force Majeure Event. If any event occurs or has occurred that may delay the performance of any obligation under this Consent Order for which ExxonMobil intends or may intend to assert a claim of force majeure, ExxonMobil shall notify DEQ's Project Coordinator or Alternate Project Coordinator within (10) ten days of when ExxonMobil first knew that the event might cause a delay. Within (10) ten days thereafter, ExxonMobil shall provide in writing to DEQ an explanation and description of the reasons for the delay, the anticipated duration of the delay, all actions taken or to be taken to prevent or minimize the delay, a schedule for implementation of any measures to prevent or mitigate the delay, a rationale for attributing such delay to a force majeure, and a statement as to whether such event may cause or contribute to an endangerment to human health or the environment.

3. Effect of Force Majeure Event. If DEQ agrees that the delay or anticipated delay is attributable to a force majeure, the time for performance of the obligations under this Consent Order that are affected by the force majeure shall be extended for such time as is reasonably necessary to complete the delayed obligations. An extension of the time for performance of the obligations affected by the force majeure event shall not extend the time for performance of any other obligation. If DEQ does not agree that the delay or anticipated delay has been or will be caused by a force majeure, DEQ shall provide such notification in writing.

SECTION XIX. DISPUTE RESOLUTION

1. Limits of Dispute Resolution. Unless otherwise expressly provided for in this Consent Order, the dispute resolution procedures of this Section shall be the exclusive mechanism to resolve disputes regarding this Consent Order. However, the procedures set forth in this Section shall not apply to actions by the Commonwealth of Virginia, Board, or DEQ to enforce the substantive obligations of ExxonMobil to perform in accordance with the requirements of this Consent Order.

2. Informal. Any dispute regarding this Consent Order shall first be the subject of informal negotiations between the Parties to the dispute. The period for informal negotiations shall not exceed (30) thirty days from the time the dispute arises, unless it is modified by written agreement of the Parties. The dispute shall be considered to have arisen when one Party sends the other Party a written Notice of Dispute.

3. Division Director Review. In the event informal negotiations are not successful in resolving a dispute, ExxonMobil may present written notice of such dispute to the DEQ Director of the Division of Land Protection and Revitalization ("Division Director"), setting forth specific points of dispute and the position of ExxonMobil. This written notice shall be submitted no later than (10) ten days after ExxonMobil expiration of the (30) thirty day informal negotiation period. Within (10) ten days of receipt of such a written notice, the Division Director shall provide a written response to ExxonMobil setting forth DEQ's position and the basis thereof. If the Division Director concurs with the position of ExxonMobil, notification shall be provided in writing and this Agreement shall be modified to include any necessary extensions of time or variances of work.

4. DEQ Director Review. If DEQ and ExxonMobil are still in disagreement after a decision is issued from the Division Director, the DEQ Director shall make a determination regarding the dispute based upon the requirements of this Consent Order and all information previously made available to the DEQ Director.

5. Performance of Requirements not in Dispute. Use of formal dispute resolution procedures under this Section shall not extend, postpone, or affect in any way any obligation under this Consent Order not directly in dispute.

SECTION XX. COVENANTS BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY

1. Covenants by DEQ. In consideration of the actions to be performed and the payments to be made by ExxonMobil under this Consent Order, and except as otherwise specifically provided herein, DEQ covenants not to sue or to take administrative action against ExxonMobil pursuant to the Virginia Waste Management Act, Va. Code §§ 10.1-1400 – 10.1-1457, CERCLA, 42 U.S.C. §§ 9601-9675, and/or RCRA, 42 U.S.C. §§ 6901-6992, relating to the Release of Waste Material at the Site as identified in this Consent Order. This covenant shall take effect upon issuance of a Certification of Completion of Remedial Action by DEQ. These covenants are conditioned upon the satisfactory performance by ExxonMobil of all required obligations under this Consent Order. These covenants shall extend to ExxonMobil, their successors, and assigns.

2. General Reservations of Rights. DEQ reserves, and this Consent Order is without prejudice to, all rights against ExxonMobil with respect to all matters not expressly included within DEQ's covenant. Notwithstanding any other provision of this Consent Order, the DEQ reserves all rights against ExxonMobil with respect to: (a) liability for failure to meet a requirement of this Consent Order; (b) liability arising from the past, present, or future disposal, release, or threat of Release of Waste Material outside of the Site; (c) liability based on the ownership of the Site by ExxonMobil when such ownership commences after signature of this Consent Order; (d) liability based on the operation of the Site by ExxonMobil when such operation commences after signature of this Consent Order and does not arise solely from performance of the Work; (e) liability based on ExxonMobil transportation, treatment, storage, or disposal, or arrangement for transportation, treatment, storage, or disposal of Waste Material at or in connection with the Site; (f) liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments; (g) criminal liability; and (h) liability for violations of federal or state law that occur during or after implementation of the Work.

SECTION XXI. COVENANTS BY THE RESPONDENT

Covenants by Respondent. Subject to and except as otherwise specifically provided in this Consent Order, ExxonMobil covenants not to sue and agrees not to assert any claims or causes of action against the Commonwealth of Virginia and DEQ with respect to the Site and this Consent Order, including, but not limited to: (a) any direct or indirect claim for reimbursement of any

Costs; (b) any claims under VWMA, CERCLA, or RCRA regarding the Site and this Consent Order; and (c) any other claims arising out of response actions at or in connection with the Site and this Consent Order.

SECTION XXII. EFFECT OF SETTLEMENT

Reservation. Nothing in this Consent Order shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Consent Order. Each of the Parties expressly reserves any and all rights, including, but not limited to, defenses, claims, demands, and causes of action that each Party may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a Party hereto.

SECTION XXIII. ACCESS TO INFORMATION

Availability of Records. ExxonMobil shall provide to DEQ, upon request, copies of all records, reports, documents, and other information (including materials in electronic form) (hereinafter referred to as "Records") within their possession or control or that of their contractors or agents relating to activities at the Site or to the implementation of this Consent Order, including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information regarding the Work. ExxonMobil shall also make available to DEQ, for purposes of investigation, information gathering, or testimony, their employees, agents, or representatives with knowledge of relevant facts concerning the performance of the Work.

SECTION XXIV. RETENTION OF RECORDS

1. *Retention Term.* For a term of (5) five years from the receipt of a Certification of Completion, ExxonMobil shall preserve and retain all non-identical copies of records, including records in electronic form, now in its possession or control, or that come into its possession or control, that relate in any manner to the Site. Contractors and agents of ExxonMobil shall also preserve for the same period of time all non-identical copies of the last draft or final version of any records, including records in electronic form, now in its possession or control, or that come into its possession or control, that relates in any manner to the performance of the Work.

2. *Destruction of Records.* At the conclusion of the record retention period, ExxonMobil shall notify DEQ of its intent to discard any or all records previously subject to preservation under this Consent Order. If at the conclusion of (90) ninety days from the date ExxonMobil provides such notice to DEQ of its intent to discard such records, ExxonMobil can, without further notice, discard such records, unless ExxonMobil has received a written request from DEQ with specific instructions to deliver such records to DEQ, including the delivery address and contact person to whom the records should be delivered.

SECTION XXV. NOTICES AND SUBMISSIONS

1. Identification of Individuals Receiving Notice. Whenever a written notice, report, or other document is required to be sent by one Party to another, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change. All notices and submissions shall be considered effective upon receipt, unless otherwise provided. Written notice as specified in this Section shall constitute complete satisfaction of any written notice requirement of the Consent Order.

DEQ: Virginia Department of Environmental Quality
Director, Division of Land Protection and Revitalization
629 East Main Street
Richmond VA 23219

and;

Virginia Department of Environmental Quality
Director, Division of Enforcement
629 East Main Street
Richmond VA 23219

ExxonMobil ExxonMobil Environmental Services
1016 Poplar Avenue, Suite 106 #232
Collierville, TN 38017
Attention: Jewel Cox

And

ARCADIS U.S., Inc
2464 Fortune Drive Suite 170
Lexington, KY 40509

SECTION XXVI. RETENTION OF JURISDICTION

1. DEQ Retention of Jurisdiction. DEQ retains jurisdiction over the subject matter of this Consent Order for the duration of performance and for purposes of enabling any of the Parties to request such further order, direction, and relief as may be necessary or appropriate for the construction or modification of this Consent Order, or to effectuate or enforce compliance with its terms, or to resolve disputes in accordance with Section XX (Dispute Resolution).

2. Judicial Jurisdiction and Venue. ExxonMobil consents to jurisdiction and venue in the Circuit Court of the Commonwealth of Virginia, City of Richmond for any civil action taken to enforce the terms of this Consent Order.

SECTION XXVII. APPENDICES

The following appendices are attached to and incorporated into this Consent Order:

- Appendix A: Statement of Work
- Appendix B: Financial Assurance Mechanism
- Appendix C: Statement of Basis/ Final Decision Response to Comments
- Appendix D: Baseline Report
- Appendix E: Deed Restriction

SECTION XXVIII. COMMUNITY INVOLVEMENT

Participation. If requested by DEQ, ExxonMobil shall participate in community involvement activities. DEQ will determine the appropriate role for ExxonMobil and ExxonMobil shall also cooperate with DEQ in providing information regarding the Work to the public. As requested by DEQ, ExxonMobil shall participate in the preparation of such information for dissemination to the public and in public meetings that may be held or sponsored by DEQ to explain activities at or relating to the Site.

SECTION XXIX. MODIFICATION

1. *Mutuality.* The Parties may modify, rewrite, or amend this Consent Order by mutual consent.
2. *Material and Non-Material Modification.* Material modifications to this Consent Order and any appendix shall be in writing, signed by the Parties, and shall be effective upon approval. Non-material modifications to this Consent Order and any appendix shall be in writing and shall be effective when signed by duly authorized representatives of DEQ and ExxonMobil. A modification shall be considered material if it fundamentally alters the basic features of the selected remedy. Nothing in this Consent Order shall be deemed to alter DEQ's authority to enforce, supervise, or approve modifications to this Consent Order.

SECTION XXX. TERMINATION OF CONSENT ORDER

Once the Certification of Completion has been received by ExxonMobil, this Consent Order shall terminate upon the date that the notice set forth under Section VI: Recording, Transfer And Successors, paragraph 2, has been filed with the appropriate land records office.

SECTION XXXI. CONCLUSIONS AND ORDER

1. *Conclusions.* Pursuant to Va. Code § 10.1-1402(19) - (21), and in consideration of 10.1-1404(B)(3), 10.1-1186(2), and 10.1-1455(F); (a) an improper Release of Waste Material has occurred at the Facility and that such Waste Material is subject to the jurisdiction of DEQ; (b)

Remedial Action addressing the Release is required to abate threats to human health and the environment, and to address any potential nuisance, hazard or trespass resulting from the Release; and (c) execution of this Consent Order is in the best interests of the Commonwealth of Virginia.

2. *Finality*. This Consent Order and its Appendices constitute the final, complete, and exclusive agreement and understanding among the Parties regarding the embodied settlement. The Parties acknowledge that there are no representations, agreements, or understandings relating to the settlement other than those expressly contained herein. Upon entry by DEQ, this Consent Order shall constitute a final Consent Order between and among the Parties.

SIGNATURES

Each undersigned representative of the Parties certifies that he or she is fully authorized to execute this Consent Order on behalf of such Party and to legally bind such Party.

Executed this ____ day of _____, 20 ____.

For the Commonwealth of Virginia
Department of Environmental Quality

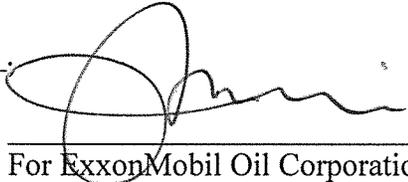
Jeffery A. Steers, Director
Division of Land Protection and Revitalization

Executed this ____ day of _____, 20 ____.

For the Commonwealth of Virginia
Department of Environmental Quality

Jefferson D. Reynolds, Director
Division of Enforcement

Executed this 25 day of July, 20 14.



For ExxonMobil Oil Corporation

Joel C. Larkow

Printed Name

Attorney in Fact

APPENDIX A STATEMENT OF WORK

I. Description of Selected Remedy

1. Groundwater

ExxonMobil shall clean up the contaminated groundwater to the groundwater cleanup standards described in Section II below using a two phase approach described below. Furthermore, until the groundwater cleanup standards are achieved, access to and use of the groundwater (other than for monitoring activities) shall be prohibited via Institutional Controls.

a. Phase I - Vacuum truck extraction (VTE): VTE shall be employed to recover contaminated vapor and fluid using a technology similar to the pilot test Enhanced Fluid Recovery (EFR) events, except that a submersible pump shall be used in conjunction with vacuum extraction at the well head. This two-pump system provides more effective vapor extraction than the one-pump EFR system. VTE involves the simultaneous removal of free product (not present at the Site), impacted groundwater, and soil vapor from the subsurface. The VTE events will be conducted in MW-33, MW-34, MW-11, MW-35, MW-28, MW-30 and MW-31 at annual intervals during late summer months when the water table is deepest and the well screens are exposed to the thickest unsaturated zone. Summer operation is preferred to optimize vapor extraction component of the operation because data have shown that volatile gasoline constituents in groundwater are more effectively removed by vapor extraction than by fluid extraction. Groundwater samples will be collected prior to commencement of the VTE events to monitor the concentration trend. If the monitoring results demonstrate that groundwater concentrations are declining in three consecutive years, the VTE events will be suspended while annual monitoring will continue.

b. Phase II – Groundwater Monitoring: If monitoring results after suspension of the VTE events demonstrate that groundwater concentrations continue to decline in three consecutive years, it suggests that natural attenuation is occurring at a sustainable rate and ExxonMobil may request DEQ's approval to reduce the scope and frequency of monitoring. If monitoring results show a reversal of concentration trend decline, VTE events will resume in the same year in accordance with the protocol described in Phase I. Monitoring shall be required until the cleanup standards listed in Section II below are met.

c. Disposal of Recovered Fluid: Recovered vapors and groundwater shall be conveyed to and separated in the truck holding tank. Recovered fluid will be transported off-site for treatment and disposal at a RCRA permitted treatment, storage and disposal facility. Recovered soil vapors will be discharged onsite in accordance with local, state, and federal regulations.

d. Groundwater Use Restrictions: Groundwater remediation will not achieve protective levels for some time. Therefore, access to and use of the groundwater (other than for monitoring activities) shall be prohibited until cleanup objectives have been achieved. The groundwater use restrictions shall be implemented through institutional controls (ICs).

The ICs shall include the following groundwater use restrictions:

(1) Until such time as the Corrective Action Objectives are achieved, groundwater at the Facility shall not be used for any purpose other than monitoring activities required by DEQ, and

(2) No new wells shall be installed on Facility property without prior, written approval by DEQ.

2. Soil

ExxonMobil shall implement and maintain ICs to include the following land use restrictions:

(1) The Facility property shall not be used for residential purposes, and

(2) the Facility property will not be used in a way that will adversely affect or interfere with the integrity or protectiveness of the final remedy.

3. Vapor Intrusion

There are currently no unacceptable risks to human health due to vapor intrusion from the plumes because there are no building structures currently located above the plume. To minimize potential occupant exposure to Site-related VOCs in the event that habitable buildings are constructed on Site, ExxonMobil shall implement and maintain ICs to include the following land use restriction:

A vapor intrusion control system, the design of which shall be approved in advance by DEQ, shall be installed in each new structure constructed above the contaminated groundwater plume or within 100-foot around the perimeter of the contaminated groundwater plume, unless it is demonstrated to DEQ that vapor intrusion does not pose a threat to human health and DEQ provides prior written approval that no vapor intrusion control system is needed.

II. Performance Standards

1. Groundwater

The Corrective Action performance standards for groundwater at the Facility are to remediate groundwater to meet drinking water standards established by the Maximum Contaminant Levels (MCLs) promulgated at 40 C.F.R. Part 141 pursuant to Section 1412 of the Safe Drinking Water Act, 42 U.S.C. Section 300g-1, except for MTBE. MTBE does not have a MCL. The remediation standard for MTBE is based on EPA's health advisory range of 20 to 40 ppb pertaining to taste and odor thresholds in drinking water.

Benzene	5 micrograms per liter (ug/l)
Toluene	1,000 ug/l
Ethylbenzene	700 ug/l
Xylenes	10,000 ug/l
MTBE	40 ug/l

II. Soil

DEQ's Corrective Action Objective for Facility soils is to control exposure to any hazardous constituents remaining in subsurface soils by requiring the compliance with and maintenance of land use restrictions at the Facility.

APPENDIX B
FINANCIAL ASSURANCE

The Financial Assurance Mechanism will be incorporated by reference according to Section XIV.

APPENDIX C
STATEMENT OF BASIS/ FINAL DECISION AND RESPONSE TO COMMENTS

See, following attachment titled “Final Decision Response to Comments” (21 pages) hereafter incorporated by reference.

**APPENDIX D
BASELINE REPORT**

See, following attachment titled “Environmental Investigations and Regulatory Update” (2 pages) hereafter incorporated by reference.

APPENDIX E
DEED RESTRICTION

See, following attachment titled “Special Warranty Deed” (4 pages) hereafter incorporated by reference.