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COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
VALLEY REGIONAL OFFICE
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Molly Joseph Ward
Secretary of Natural Resources

David K. Paylor
Director

Amy Thatcher Owens
Regional Director

STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
MR. DANIEL H. LINK, DBA SQUEEKY CLEAN
FOR
AN UNPERMITTED DISCHARGE
INCIDENT REPORT NO. 2015-V-0318

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 Mr. Daniel H. Link, dba Squeeky Clean, for the purpose of resolving certain violations of the State Water Control Law and the applicable 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. "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, as described in Va. Code § 10.1-1185.

5. "Discharge" means discharge of a pollutant. 9 VAC 25-31-10

6. "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.

7. "Industrial wastes" means liquid or other wastes resulting from any process of industry, manufacture, trade, or business or from the development of any natural resources. Va. Code § 62.1-44.3.

8. "Mr. Link" means Mr. Daniel H. Link, who is currently a resident of Rockingham County, Virginia, dba Squeeky Clean, a sole proprietorship. Mr. Link is a "person" within the meaning of Va. Code § 62.1-44.3.

9. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.

10. "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.

11. "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.

12. "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.

13. "Regulation" means the VPDES Permit Regulation, 9 VAC 25-31-10 *et seq.*

14. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.

15. "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.

16. "Va. Code" means the Code of Virginia (1950), as amended.

17. "VAC" means the Virginia Administrative Code.

18. "VPDES" means Virginia Pollutant Discharge Elimination System.

19. "VRO" means the Valley Regional Office of DEQ, located in Harrisonburg, Virginia.

SECTION C: Findings of Fact and Conclusions of Law

1. Mr. Daniel H. Link, dba Squeeky Clean, owns and operates a power washing cleaning company located in Rockingham County, Virginia.

2. Blacks Run is located in the Shenandoah and Potomac River Basin. Blacks Run is listed in DEQ's 305(b) report as impaired due to Escherichia coli and Fecal Coliform. Additionally, Blacks Run is listed due to violations of the General Standard for Benthics (aquatic life).

3. On August 1, 2014, DEQ received a complaint of a discharge to Blacks Run in Harrisonburg, Virginia, reports of runoff entering a storm drain, and a fish kill. The complainant observed on the afternoon of July 31, 2014, a power washing company washing the Rockingham County Sherriff Department building. The complainant reported a strong odor of chlorine. Per the Virginia Department of Emergency Management report, the runoff flowed into a storm drain, which discharges ten feet from Blacks Run. In the area of the outfall, the complainant observed an unknown number of dead fish in Blacks Run. Incident report (IR) No. 2015-V-0318 was assigned to this incident.

4. On August 4, 2014, in response to the fish kill and discharge complaint, Department staff performed a site inspection and observed decayed fish in Blacks Run, downstream of the Rockingham County Sherriff's Department building.

5. On August 11, 2014, Mr. Link submitted documentation to the Department and included the following: the cleaning process performed beginning July 30, 2014 on the Rockingham County Sherriff's Office and Jail, the Material Safety Data Sheet (MSDS) for "EZ-CLING", "TWELVE PLUS", and "ELEMONATOR", the process for mixing the chemicals, the application process, and the rinsing process. The MSDS for "TWELVE PLUS" indicates that the sanitizing agent is comprised of Sodium Hypochlorite, Sodium Chloride, and Sodium Hydroxide. Included in the MSDS, Section 7, Spills or Leaks, is a statement that the material is toxic to fish.

6. On August 26, 2014, the Department issued Notice of Violation (NOV) No. 14-8-VRO-007 to Mr. Link for alleged violations of Va. Code §62.1-44.5.

7. On September 1, 2014, Mr. Link contacted the Department to schedule a meeting in response to the NOV noted in C(6).

8. Va. Code §62.1-44.5 states that: "Except in compliance with a certificate or permit issued by the Board or other entity authorized by the Board to issue a certificate or permit pursuant to this chapter, it shall be unlawful for any person to: Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; ...Otherwise alter the physical, chemical or biological properties of state waters and make them detrimental to the public health, or to animal or aquatic life, or to the uses of such waters for domestic or industrial consumption, or for recreation, or for other uses..."

9. 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.

10. Va. Code § 62.1-44.15(5a) states that a VPDES permit is a "certificate" under the statute.

11. The Department has not issued any permits or certificates to Mr. Link.

12. Blacks Run is a surface water located wholly within the Commonwealth and is a "state water" under State Water Control Law.

13. On September 11, 2014, Department staff met with Mr. Link. Mr. Link agreed to verify that discharges from their business operations are not discharged to state waters and will prevent future discharges via a wastewater collection system or comparable procedure.

14. Based on the results of August 4, 2014 field investigation, the September 11, 2014 meeting, and the documentation submitted on August 11, 2014, the Board concludes that Mr. Link has violated Va. Code §62.1-44.5 by discharging into state waters sewage,

industrial wastes, other wastes, or any noxious or deleterious as described in paragraphs C(3) through C(13) above.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders Mr. Link and Mr. Link agrees to:

1. Pay a civil charge of $4,550 in settlement of the violations cited in this Order. The civil charge shall be paid in accordance with the following schedule:

Due Date	Amount
January 15, 2015	$ 1,137.50 or balance
April 15, 2015	$ 1,137.50 or balance
July 15, 2015	$ 1,137.50 or balance
October 15, 2015	$ 1,137.50 or balance

2. If the Department fails to receive a civil charge payment pursuant to the schedule described above, the payment shall be deemed late. If any payment is late by 30 days or more, the entire remaining balance of the civil charge shall become immediately due and owing under this Order, and the Department may demand in writing full payment by Mr. Link. Within 15 days of receipt of such letter, Mr. Link shall pay the remaining balance of the civil charge. Any acceptance by the Department of a late payment or of any payment of less than the remaining balance shall not act as a waiver of the acceleration of the remaining balance under this Order.

3. 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

Mr. Link shall include the Federal Employer Identification Number (FEIN) for Squeeky Clean 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, Mr. Link 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 Mr. Link for good cause shown by Mr. Link, 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 and in NOV No. 14-8-VRO-007, dated August 26, 2014. 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, Mr. Link admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.

4. Mr. Link 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. Mr. Link declares he 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 Mr. Link 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. Mr. Link 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 his control and not due to a lack of good faith or diligence on his part. Mr. Link shall demonstrate that such circumstances were beyond his control and not due to a lack of good faith or diligence on his part. Mr. Link 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 Mr. Link. Nevertheless, Mr. Link 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 Mr. Link has completed all of the requirements of the Order;

b. Mr. Link 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 Mr. Link.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Mr. Link from his 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 Mr. Link 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 Mr. Link certifies that he is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally

bind Mr. Link to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Mr. Link.

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 his signature below, Mr. Link voluntarily agrees to the issuance of this Order.

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

_____
Amy Thatcher Owens, VRO Regional Director
Department of Environmental Quality

Mr. Daniel H. Link voluntarily agrees to the issuance of this Order.

Date: 11/14/2014 By: _____
(Person)
Mr. Daniel H. Link

Commonwealth of Virginia
City/County of Harrisonburg/Rockingham

The foregoing document was signed and acknowledged before me this 14th day of November, 2014, by Mr. Daniel H. Link.

Shelley Diane Pope
Notary Public

7133725
Registration No.

My commission expires: 1/31/2015

Notary seal:

SHELLEY DIANE POPE
NOTARY PUBLIC
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES JAN. 31, 2015
COMMISSION # 7133725