COMMONWEALTH of VIRGINIA

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

David K. Paylor
Director

Michael P. Murphy
Regional Director

STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
YARD WORKS, LLC
FOR
YARD WORKS MULCH PROCESSING FACILITY
VPDES Permit No. VAR05
Stormwater Registration No. 1602

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 Yard Works, LLC for the purpose of resolving certain violations of the State Water Control Law, the Regulation, and the above-referenced Permit.

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 that provides Congress and the public an accurate and comprehensive assessment of the quality of State surface waters.

2. "BMP" means best management practice.

3. "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.

4. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.

5. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

6. "Discharge," when used without qualification, means discharge of a pollutant. 9 VAC 25-31-10

7. "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.

8. "DMR" means Discharge Monitoring Report.

9. "DO" means dissolved oxygen.

10. "EPA" means the United States Environmental Protection Agency.

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

12. "O&M" means operations and maintenance.

13. "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.

14. "Permit" means VPDES General Permit No. VAR05, which was issued under the State Water Control Law and the Regulation on July 1, 2009 and which expires on June 30, 2014. Yard Works applied for registration under the stormwater general permit and was issued Stormwater Registration No. 1602 on December 21, 2010.

15. "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.

16. "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.

17. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.

18. "Property" means the 117 acres of real property, owned by Skinquater, LLC., located at 20701 Hull Street Road, Moseley, Virginia, in Chesterfield County.

19. "Registration statement" means a registration statement for coverage under a stormwater general permit. Yard Works applied for registration under the stormwater general permit and was issued Stormwater Registration No. 1602 on December 21, 2010.

20. "Regulation" means the General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Discharges of Stormwater Associated with Industrial Activity, 9 VAC 25-151-10, *et seq.*

21. "SAV" means Submerged Aquatic Vegetation.

22. "Site" means the Skinquarter Land LLC Property located at 20701 Hull Street Rd., Moseley, Virginia, from which discharges of stormwater associated with industrial activity from Yard Works LLC occur. The industrial activity at this Site consists of mulch and soil processing on a portion of the property.

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

24. "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.

25. "SWP3" means Stormwater Pollution Prevention Plan.

26. "TMDL" means Total Maximum Daily Load.

27. "UT" means unnamed tributary.

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

29. "VAC" means the Virginia Administrative Code.

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

31. "Warning Letter" or "WL" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.

32. "Yard Works" means Yard Works, LLC, a limited liability company authorized to do business in Virginia and its members, affiliates, partners, and subsidiaries. Yard Works is a "person" within the meaning of Va. Code § 62.1-44.3.

SECTION C: Findings of Fact and Conclusions of Law

1. Yard Works processes mulch and soils for the retail and wholesale market on the Site. The mulch and soil operations are conducted by Yard Works and the Site is covered under VPDES General Stormwater Permit VAR05.

2. The Permit allows Yard Works to discharge stormwater associated with industrial activity from the Site to an Unnamed Tributary (UT) of Sappony Creek, in compliance with the terms and conditions of the Permit.

3. UT of Sappony Creek is located in the James River Basin (Appomattox River Subbasin). During the 2010 and draft 2012 305(b)/303(d) Integrated Water Quality Assessments, the UT was not assessed for any designated use. The UT is within the study area for the Appomattox River Bacterial TMDL, which was approved by the EPA on April 10, 2004 and by the Board on August 30, 2004. However, the Site was not specifically addressed in the report. The Site was not included in the Chesapeake Bay TMDL, which was approved by the EPA on December 29, 2010. The TMDL addresses dissolved oxygen and SAV impairments in the Chesapeake Bay and its tidal tributaries by allocating total nitrogen, total phosphorus, and total suspended solids to point and nonpoint sources, as well as atmospheric deposition and natural sources, throughout the Bay watershed. The tributary should be considered a Tier 1 water due to its intermittent nature.

4. On March 21, 2013, DEQ staff members visited the Property. Staff asked for and received permission to walk the Property. At Sediment Basin HP-1 (Pond 001), staff observed process water from mulch processing/dyeing operations comingling with stormwater from the site, and evidence of recent and frequent discharges from Pond 001 were observed and documented.

5. Pond 001 does not have a permanent discharge riser and the water level was recently lowered for the construction of a dry hydrant; a portable pump was used to lower the level of the pond. A strong sewage odor was detected in the area. The odor appeared to be coming from turbid water flowing from the base of mulch piles located near the trailer tipper and from sheet runoff from the dying operation.

6. Prior to leaving, DEQ staff spoke with the Yard Works operator and arranged for another Site visit for the purpose of sampling water quality.

7. On April 2, 2013, DEQ staff returned to the Property to evaluate Yard Works' compliance with the VPDES General Stormwater Industrial Permit. DEQ staff conducted a stormwater VPDES inspection and made the following observations:

   DEQ observed a mulch dye area with 5 make up water tanks. Dye totes are located outside on a pallet or in a covered trailer. Water from this area flows through the Site and is concentrated in Pond 001. The drainage area also has stockpiles of leaf debris, finished mulch and raw wood materials. The main conveyance is equipped with well maintained BMPs including rock check dams and filter socks. Some turbid water from the material piles was observed entering the main conveyance which flows to Pond 001. Pond 001 receives runoff from primary wood grinding/chipping, office, wood bark mulch piles, leaf debris, and mulch dyeing areas. The water was brown and turbid.

   According to Yard Works' staff, Pond 001 had been recently drained to accommodate the installation of a dry hydrant as required by the local fire department. Pond 001 is not equipped with a discharge structure, but is designed to overflow from the low point on its berm. During the April 2, 2013, inspection, there was no discharge; however, there was evidence of a recent discharge from the low point based on grass and vegetation on the berm. Yard Works recycles some of this water into the dye process.

   Sediment Basin HP-2 (Pond 002) – Pond 002 receives runoff from vehicle equipment and storage, wood waste staging, unscreened topsoil, and soil stockpiles. Water within this basin was brown. At the time of inspection, the pond was full and water was across the road. A discharge was not observed due to thick ground vegetation, but appeared on the verge of a discharge. Evidence was present of previous discharges at this outfall. The inspector expressed concern because all DMRs reviewed for Pond 002 indicated "No Discharge." Yard Works' managing member acknowledged that this outfall is not viewed everyday by onsite staff.

   Sediment Basin HP-3 (Pond 003) - Pond 003 collects runoff from vegetated forest and an old heavily vegetated logging road. The SWP3 indicates stormwater from primary wood grinding and chipping as well as mulch storage areas drain to this basin. There did not appear to be any industrial stormwater drainage to this area. Water in the basin was light brown.

   DEQ staff also found that stormwater records were not complete. Quarterly visual monitoring records were not submitted for the second and third quarters of 2012 for Outfall 003. Submitted visual monitoring records were incomplete for the second and fourth quarter of 2012 and a number of visual monitoring records

were signed as "no discharge" prior to the official end of the quarter. The SWP3 was in need of updating and does not address potential spills from the dye storage area.

8. On April 19, 2013, US Army Corps of Engineers staff and DEQ staff met with Robert Urbine and Bill Stinson of Yard Works. Mr. Urbine said a diversion ditch had been dug to divert turbid water seeping from wood piles adjacent to Pond 001 out of the stream and into upland areas where it could percolate into the ground.

9. DEQ staff returned to the Site on April 20, 2013, to perform stream sampling. As a result of an April 19, 2013, rain event, Pond 001 was discharging through a weir cut in berm at the south end of the Pond 001. Effluent was flowing overland down gradient towards the UT to Sappony Creek. Physical parameters taken at the discharging end of Pond 001 with the calibrated Hydrolab were: pH 6.36 SU, DO 0.54 mg/l, conductivity 228 us/cm. The extremely low DO and, elevated conductivity are likely due to decomposing organic matter from mulch piles and possibly from mulch dying wastewater.

10. On June 26, 2013, DEQ staff visited the Site to collect additional water quality samples. The water quality sampling results are as follows:

    The first sample location was designated SKINSWPD1 (Pond001). The dissolved oxygen (0.47 mg/l) was below the instantaneous water quality standards; pH (6.2 S.U.) was acidic as expected below tannic mulch piles; and conductivity (332 us/cm) was elevated above levels healthy for benthic organisms. The Biological Oxygen Demand, BOD5, (140 mg/l) was at levels similar to wastewater treatment facility influent, which is approximately 150-300 mg/l. Total dissolved solids, TDS, (420 mg/l) were elevated above levels healthy for benthic organisms. Total Kjehldahl Nitrogen, TKN, (13.6 mg/l) was elevated above normal levels; total phosphorus (2.78 mg/l) was more than one order of magnitude higher than levels that can cause excessive aquatic plant growth. E.coli was 8000 #/100ml indicating a possible inflow of sewage.

    The second sample location was designated SKINSWPD3 (Pond003). The dissolved oxygen (0.55 mg/l) was below the instantaneous water quality standards; pH (5.06 S.U.) was acidic as expected below tannic mulch piles; and conductivity (528 us/cm) was elevated above levels healthy for benthic organisms. The BOD5, (427 mg/l) was elevated at levels typical of a wastewater treatment facility influent. TDS, (44 mg/l) were elevated above levels found healthy for benthic organisms. TKN, (8.8 mg/l) was elevated above normal levels; total phosphorus (2.31 mg/l) was more than one order of magnitude higher than levels that can cause excessive aquatic plant growth. E.coli was 100 #/100ml, which in combination with the other results indicate that water flowing from the wood product piles to pond 003 is impacting state waters.

    The third sample location was designated UTDSSKINSWPD1 (Tributary adjacent to Pond 001). The dissolved oxygen (1.57 mg/l) was below the instantaneous

water quality standards; pH (6.03 S.U.) was acidic as expected below tannic mulch piles; and conductivity (286 us/cm) was elevated above levels healthy for benthic organisms. BOD5, (58.4 mg/l) was elevated at levels higher than a normal stream, which is approximately 4-6 mg/l. TDS, (71 mg/l) were elevated above levels found healthy for benthic organisms. TKN, (2.1 mg/l) and total phosphorus (0.22 mg/l) were elevated above normal levels. E.coli was 100 #/100ml which in combination with the other results indicate that water flowing from the wood product piles and mulch processing area to Pond 001 is impacting state waters.

11. On July 2, 2013, DEQ issued an NOV delivered to Bill Stinson of Yard Works for violations discovered on April 2, 2013, related to the VPDES Stormwater Program. Yard Works was cited as follows:

    Quarterly visual monitoring records were not submitted for the second and third quarters of 2012 for permitted Outfall 003.

    The submitted visual monitoring records were incomplete (i.e. did not contain the date that the monitoring occurred) for the second quarter of 2011; and the fourth quarter of 2012.

    The following quarterly visual monitoring records indicated no discharge had occurred from the permitted outfall before the end of the quarter;

    1st Quarter 2011 Outfalls 001-003 completed on 3/10/11.
    2nd Quarter 2011 Outfalls 001-003 signed on 5/18/11.*
    3rd Quarter 2011 Outfalls 001-003 completed on 9/6/11.
    4th Quarter 2011 Outfalls 001&003 completed on 11/16/11.
    1st Quarter 2012 Outfall 001 completed on 2/29/12.
    2nd Quarter 2012 Outfalls 001&002 completed on 6/11/12.
    3rd Quarter 2012 Outfalls 001&002 completed on 9/6/12.
    4th Quarter 2012 Outfalls 001-003 signed on 11/13/12.*

    Note = *Evaluations do not list date completed; only date signed.

    Records documenting the permit-required quarterly routine inspections were not available for review. Written correspondence submitted to the DEQ-PRO subsequent to the aforementioned compliance inspection stated "Written records have not been maintained to date. In the future, these inspections will be documented and filed on-site."

    The following discrepancies were noted with respect to the previously submitted Discharge Monitoring Reports (DMRs):

    The 2010 DMRs submitted for permitted Outfalls 001 and 002 were annotated with 'No Discharge' while the quarterly visual stormwater evaluation records

indicated a discharge occurred from Outfall 001 on March 12, 2010 and from Outfall 002 on October 14, 2010.

The 2011 DMR submitted for permitted Outfall 002 was annotated with 'No Discharge' while the quarterly visual stormwater evaluation records indicated a discharge occurred from Outfall 002 on November 16, 2011.

The 2012 DMRs submitted for permitted Outfalls 002 and 003 were annotated with 'No Discharge' while the quarterly visual stormwater evaluation records indicated a discharge occurred from Outfalls 002 and 003 on February 29, 2012.

12. Virginia Code § 62.1-44.5A(1) 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.

13. The Department has not issued any water discharge permits or certificates to Yard Works other than coverage under VPDES Permit No. VAR05.

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

15. The UT of Sappony Creek is a surface water located wholly within the Commonwealth and is a "state water" under State Water Control Law.

16. The Regulation, at 9 VAC 25-151-50.A states that "Any owner governed by this general permit is hereby authorized to discharge stormwater associated with industrial activity (as defined by this regulation) to surface waters of the Commonwealth of Virginia provided that the owner… complies with the requirements of 9 VAC 25-151-70 *et. seq.*"

17. Part II.F of the Permit states "Except in compliance with this permit, or another permit issued by the board, it shall be unlawful for any person to: 1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or 2. Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the use of such waters for domestic or industrial consumption, or for recreation, or for other uses."

18. Part I.B.1 of the Permit states that: "Except as provided in this section or in Part IV, all discharges covered by this Permit shall be composed entirely of stormwater."

19. Part I.A.1.a(1) of the Permit states that: "The permittee shall perform a quarterly visual examination of a stormwater discharge associated with industrial activity from each outfall…"

20. Part I.A.1.a(3) of the Permit states that: "The visual examination reports shall be maintained on-site with the SWP3. The report shall include the outfall location, the examination date and time, examination personnel, the nature of the discharge (i.e.,

runoff or snow melt), visual quality of the stormwater discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of stormwater pollution), and probable sources of any observed stormwater contamination." Part I.A.1.a(1) states the documentation shall be signed and certified in accordance with the Permit.

21. Part III.B.6.b.5 of the Permit states that: "Facility personnel who possess the knowledge and skills to assess conditions and activities that could impact stormwater quality at the facility, and who can also evaluate the effectiveness of BMPs shall regularly inspect all areas of the facility where industrial materials or activities are exposed to stormwater. These inspections are in addition to, or as part of, the comprehensive site evaluation required under Part III.E. At least one member of the Pollution Prevention Team shall participate in the routine facility inspections. The inspection frequency shall be specified in the plan based upon a consideration of the level of industrial activity at the facility, but shall be a minimum of quarterly unless more frequent intervals are specified elsewhere in the permit or written approval is received from the department for less frequent intervals."

22. Part IV.E of the Permit states "Timber product facilities are required to monitor their stormwater discharges for the pollutants of concern listed in the appropriate section of Table 90-2."

23. Part IV.C.2.a. of the Permit states that: "Good housekeeping measures in storage areas, loading and unloading areas, and material handling areas shall be designated to: ...(2) Minimize the leachate generated from decaying wood materials."

24. On August 5, 2013, DEQ met with Yard Works to discuss the issues raised in the July 2, 2013, NOV and the resolution of the observed environmental issues. Yard Works in cooperation with DEQ, developed a plan and schedule to correct the issues which involved separating the wastewater generated by the dyeing operations from stormwater, and taking baseline groundwater samples around the area. Yard Works also planned to draw down and shock Pond 001, install additional sediment traps adjacent to product piles, and increase security at the site to prevent unwanted entry, and update their SWP3.

25. On August 26, 2013, Yard Works submitted documentation of installation of additional BMPs as well as improvement of existing BMPs at the Site. Re-grading and a new colorant process water trap in the mulch dyeing area have removed the industrial wastewater flow to the stormwater basins. Process wastewater from the dyeing operation is now completely recycled. A new lock and security cameras were installed at the Site and Pond 001 was drawn down and shocked with chlorine for bacterial disinfection. In addition, Yard Works submitted documentation of a new sediment trap at and additional discharge BMPs at the head works and discharge structures of Pond 003.

26. Based on the results of the inspections and the August 5, 2013 meeting with Yard Works, the Board concludes that Yard Works has violated Va. Code § 62.1-44.5, and Permit

conditions Part I.A.1.a, Part I.A.1.a(3), Part I.B.1, Part II.F, Part III.B.6.b.5, Part IV.E, Part IV.C.2.a(2), 9 VAC 25-151-50, and 9 VAC 25-151-70 as noted above.

27. On August 30, 2013, Yard Works submitted an amended SWP3 and a copy of the task list developed on August 5, 2013, designed to bring the Site back into compliance. The last uncompleted item from the task list is incorporated in Appendix A of this Order.

28. On December 13, 2013, Department staff confirmed that the work described above had been completed. The SWP3 was reviewed and determined to be complete and in compliance with the Permit. In order for Yard Works to complete its return to compliance, DEQ staff and Yard Works have agreed to the completion of the requirements in Appendix A.

SECTION D: Agreement and Order

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

1. Perform the actions described in Appendix A of this Order; and

2. Pay a civil charge of $9,900 in settlement of the violations cited in this Order. The civil charge shall be paid in accordance with the following schedule:

Due Date	Amount
May 15, 2014	$3,300 or balance
August 15, 2014	$3,300 or balance
November 15, 2014	$3,300 or balance

3. 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 Yard Works. Within 15 days of receipt of such letter, Yard Works 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.

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

Yard Works shall include its Federal Employer Identification Number (FEIN) 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, Yard Works 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 Yard Works for good cause shown by Yard Works, 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 Site; or (3) taking subsequent action to enforce the Order.

3. For purposes of this Order and subsequent actions with respect to this Order only, Yard Works admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.

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

    b. Yard Works 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 Yard Works.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Yard Works 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 Yard Works 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 Yard Works certifies that he or she is a responsible official [or officer] authorized to enter into the terms and conditions of this Order and to execute and legally bind Yard Works to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Yard Works.

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, Yard Works voluntarily agrees to the issuance of this Order.

And it is so ORDERED this _____ day of _____, 2014.

_____
Michael P. Murphy, Regional Director
Department of Environmental Quality

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Yard Works LLC voluntarily agrees to the issuance of this Order.

Date: 7/8/14 By: W. J Stinson, OWNER
(Person) (Title)
Yard Works LLC

Commonwealth of Virginia
City/County of Glen Allen

The foregoing document was signed and acknowledged before me this 8th day of April, 2014, by William Stinson who is Owner of Yard Works LLC, on behalf of the company.

Judith V. Dalton
Notary Public

7164721
Registration No.

My commission expires: March 31, 2016

Notary seal:

JUDITH VERONIKA DALTON
NOTARY PUBLIC
REGISTRATION # 7164721
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES
MARCH 31, 2016

APPENDIX A
SCHEDULE OF COMPLIANCE

1. On or before June 1, 2014, submit to the Department the results of a onetime baseline sampling of groundwater up-gradient and down-gradient from the mulch dyeing operation to document surrounding groundwater quality. The groundwater samples shall be analyzed for the following parameters:

   pH
   Static Water Level
   Total Dissolved Solids
   Conductivity
   Total Organic Carbon (TOC)
   Ammonia - Nitrogen
   Total Recoverable Aluminum
   Total Recoverable Arsenic
   Total Recoverable Cadmium
   Total Recoverable Chromium
   Total Recoverable Copper
   Total Recoverable Iron
   Total Recoverable Lead
   Total Recoverable Manganese
   Total Recoverable Mercury
   Total Recoverable Nickel
   Total Recoverable Selenium
   Total Recoverable Silver
   Total Recoverable Zinc
   Total Nitrogen
   Total Phosphorus

2. On or before July 1, 2014, Yard Works shall complete installation of an automatic sump pump in the colorant process water trap located in the mulch dyeing area to prevent accidental overflows during heavy rain.

3. DEQ Contact

Unless otherwise specified in this Order, Yard Works shall submit all requirements of Appendix A of this Order to:

Frank Lupini
Enforcement Specialist
VA DEQ –Piedmont Regional Office
4949A Cox Road,
Glen Allen, Virginia 23060
Frank.Lupini@deq.virginia.gov