COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

West Central Regional Office

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L. Preston Bryant, Jr
Secretary of Natural Resources

David K. Paylor
Director

Steven A. Dietrich
Regional Director

STATE WATER CONTROL BOARD ENFORCEMENT ACTION
SPECIAL ORDER BY CONSENT
ISSUED TO
NOVOZYMES BIOLOGICALS, INC.

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code §62.1-44.15(8a) and (8d) by the State Water Control Board to Novozymes Biologicals, Inc. for the purpose of resolving certain violations of State Water Control Law and the Regulations.

SECTION B: Definitions

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

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia as described in Va. Code §§ 62.1-44.7 and 10.1-1184.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Special Order.
6. "WCRO" means the West Central Regional Office of DEQ, located in Roanoke, Virginia.
7. "Regulations" means the Virginia Pollution Discharge Elimination System Permit Regulation, 9 VAC 25-31-10 *et seq.*

8. "Novozymes" means Novozymes Biologicals, Inc., a Delaware corporation registered in Virginia with corporate identification number F147538-5 and Federal ID number 542042079.

SECTION C: Findings of Fact and Conclusions of Law

1. On April 20, 2005, DEQ received a report of a fish kill in Mason's Creek in Salem, Virginia, from the Virginia Emergency Operations Center. Responding DEQ staff observed dead fish and foam in the creek. Subsequent investigation indicated that Novozymes personnel had disposed of a total of approximately sixty-three drums of cleaning and soap-based wastes through a floor drain (hereinafter the "upper drain") at a Novozymes warehouse at 312 Kessler Mill Road in Salem during the period between April 11 and April 20, 2005. Novozymes staff stated that they believed at the time of the discharges that the floor drain led to the sanitary sewer. Subsequent investigation indicated that this floor drain discharged directly to Mason's Creek and that a second floor drain (the "lower drain") located in a different part of the same warehouse also discharges to Mason's Creek. Novozymes asserts that, while certain wastes were discharged to Mason's Creek, such discharges were not negligent, willful, intentional, or knowing.

2. Based on a field count, DEQ staff estimated that 6,700 fish were killed by the April 2005 discharges for a distance of approximately 2.33 miles along the stream.

3. In a letter dated April 27, 2005, Novozymes stated that it discarded such wastes to the lower drain in October 2004 and to the upper drain in March 2005 and during a period between April 11 and April 20, 2005. The total amount discarded to the drains between October 2005 and April 2005 was 4,125 gallons.[1] The April 27 letter also provided a list of the products discarded to the drains during this period.

4. Novozymes provided copies of the Material Safety Data Sheets ("MSDS") for each of the products it discarded to the drains. Based upon a review of these MSDSs by DEQ staff, it is evident that none of these materials was a hazardous waste.

5. During the Spring of 2005, consultants for Novozymes conducted remediation of groundwater and soil at the site. A contractor hired by Novozymes excavated the upper drain line in the Novozymes parking lot and found broken wastewater pipes and a large quantity of free product and saturated soils.

6. The initial abatement report submitted by Novozymes on June 1, 2005 stated that 1,796 tons of contaminated material had been removed for disposal and 23,986 gallons of liquid (believed to be a mixture of groundwater and discharged waste) had been vacuumed from

[1] Volumes discarded to the drains are as follows: Oct. 2004: 550 gal. (lower drain); Mar. 2005: 110 gal. (upper drain); April 11-19: 3,025 gal. (upper drain); April 20: 440 gal. (upper drain).

three monitoring/recovery wells that had been drilled at the site.

7. Analytical results from up- and downstream sampling indicated that by June 8, 2005, the stream no longer showed contamination.

8. Based on data collected between June and August 2005, DEQ staff recommended in a memo dated September 8, 2005 that groundwater abatement be discontinued. No further remedial activity was needed after that date. Novozymes spent a total of approximately $375,000 on remediation.

9. On April 20, 2006, Novozymes paid investigative costs of $3,178.53 and fish replacement costs of $3,864.29.

10. On August 4, 2006, DEQ informed Novozymes that the monitoring/recovery wells should be abandoned.

11. DEQ issued Notice of Violation ("NOV") No. 06-08-WCRO-003 to Novozymes on August 14, 2006. This NOV alleged that Novozymes had made unpermitted discharges to state waters in violation of Va. Code § 62.1-44.5(A) and 9 VAC 25-31-50(A) in April 2005. The NOV did not allege any other violations of the State Water Control Law or the Regulations.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Code §62.1-44.15(8a) and (8d), and upon consideration of Va. Code § 10.1-1186.2, orders Novozymes and Novozymes agrees, to perform the actions described below and in Appendix A of this Order. In addition, the Board orders Novozymes, and Novozymes voluntarily agrees, to pay a civil charge of Sixteen Thousand Three Hundred Dollars ($16,300.00) in settlement of the violations cited in this Order.

1. Novozymes shall pay $5,000.00 of the civil charge within 30 days of the effective date of this Order. Payment shall be by check, certified check, money order, or cashier's check payable to "Treasurer of Virginia" and sent to:

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

   The payment shall include Novozymes' Federal Identification Number and shall state that it is being tendered in payment of the civil charges assessed under this Order.

2. Novozymes shall satisfy $11,300.00 of the civil charge upon completing the Supplemental

Environmental Project ("SEP") described in Appendix A of this Order.

3. The net cost of the SEP to Novozymes shall not be less than the amount set forth in Paragraph D.2. If it is, Novozymes shall pay the remaining amount in accordance with Paragraph D.1 of this Order, unless otherwise agreed to by the Department. "Net costs" means the costs of the project minus any tax savings, grants and first-year operation cost reductions or other efficiencies.

4. By signing this Order, Novozymes certifies that it has not commenced performance of the SEP before DEQ identified the violations in this Order and approved the SEP.

5. In the event that it publicizes the SEP or the SEP results, Novozymes shall state in a prominent manner that the project is a part of a settlement for an enforcement action.

6. The Department has sole discretion to:

   a. Authorize any alternate SEP proposed by Novozymes; and

   b. Determine whether the SEP, or alternate SEP, has been completed in a satisfactory manner.

7. Should the Department determine that Novozymes has not completed the SEP, or alternate SEP, in a satisfactory manner, the Department shall so notify Novozymes in writing. Within 30 days of being notified, Novozymes shall pay the amount specified in Paragraph 2 as provided in Paragraph 1 above.

8. Novozymes acknowledges that it is solely responsible for completion of the SEP. Any transfer of funds, tasks, or otherwise by Novozymes to a third party shall not relieve Novozymes of its responsibility to complete the SEP as contained in this Order.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Novozymes, for good cause shown by Novozymes or on its own motion after notice and opportunity to be heard.

2. This Order only addresses and resolves those violations specifically identified herein, including all violations noted in the NOV. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (a) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (b) seeking subsequent remediation of the facility as may be authorized by law; or (c) taking subsequent action to enforce this Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for

matters not addressed herein.

3. For purposes of this Order and subsequent actions with respect to this Order, the Novozymes admits the jurisdictional allegations in this Order, but does not admit the factual allegations or legal conclusions contained herein. The Board and Novozymes agree that the actions undertaken by Novozymes in accordance with this Order do not constitute an admission of any liability by Novozymes. Novozymes does not admit, and retains the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this Order, the validity of the Findings of Fact and Conclusions of Law contained in Section C of this Order.

4. Novozymes 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. For purposes of this Order and subsequent actions with respect to this Order, and for no other purpose, Novozymes declares that it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.* and 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 as such pertain to this Order. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or judicial review of, any action taken by the Board or the Director to enforce this Order.

6. Failure by Novozymes 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. Novozymes shall be responsible for failure to comply with its obligations under this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Novozymes shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Novozymes shall notify the WCRO Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of this 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 WCRO Regional Director within forty-eight hours of learning of any condition above, which Novozymes intends to assert will result in the

impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.

10. Any plans, reports, schedules or specifications attached hereto or submitted by Novozymes 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.

11. This Order shall become effective upon execution by both the Director or his designee and Novozymes. Not withstanding the foregoing, Novozymes agrees to be bound by any compliance dates that precede the effective date of this Order.

12. This Order shall continue in effect until either: a) Novozymes 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 this Order, or b) the Director or Board terminates the Order in his or its sole discretion upon 30 days notice to Novozymes. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Novozymes from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

13. By the signature of an authorized official below, Novozymes voluntarily agrees to the issuance of this Order.

14. The undersigned representative of Novozymes certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Novozymes to this Order. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Novozymes.

And it is so ORDERED this _____ day of _____, 2007.

Steven A. Dietrich, Regional Director
West Central Regional Office
Department of Environmental Quality

Novozymes voluntarily agrees to the issuance of this Order.

By: _____

Date: 1-10-07

Commonwealth of Virginia

City/County of Roanoke

The foregoing instrument was acknowledged before me this 10th day of January, 2007, by Ted Melnik, who is President of Novozymes Biologicals, Inc., on behalf of said corporation.

Karen M. Griese
Notary Public

My commission expires: April 30, 2010

KAREN M. GRIESE
COMMONWEALTH OF VIRGINIA
NOTARY PUBLIC

APPENDIX A
SUPPLEMENTAL ENVIRONMENTAL PROJECT

1. The SEP to be performed by Novozymes is to donate $11,300 to Roanoke Valley Greenways to be used for native riparian plantings to improve water quality along the Roanoke River in the Roanoke Valley in accordance with an approved plan and schedule. Novozymes shall submit the plan and schedule to DEQ for review and approval not later than February 15, 2007. Novozymes shall comply with the approved plan.

2. The SEP shall be completed within 90 days of the effective date of this Order.

3. Novozymes shall provide the Department with written verification of completion of the SEP by providing a written report to DEQ within 10 days of completion of the SEP.

4. Novozymes shall submit written verification of SEP costs to the Department in the form of invoices or other proof of payment of the final overall and net cost of the SEP within 30 days of completion of the SEP. For the purposes of this submittal, net costs can be either the actual final net costs or the projected net costs if such projected net costs statement is accompanied by a CPA certification or certification from Novozymes' Chief Financial Officer concerning the projected tax savings, grants or first-year operation cost reductions or other efficiencies.

5. Documents to be submitted to the Department regarding the SEP shall be sent to: Robert Steele, Va. Department of Environmental Quality, West Central Regional Office, 3019 Peters Creek Road, Roanoke, VA 24019.