COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

VALLEY REGIONAL OFFICE

L. Preston Bryant, Jr.
Secretary of Natural Resources

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David K. Paylor
Director

Amy Thatcher Owens
Regional Director

STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
Donnie C. Campbell, Sr.

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 Donnie C. Campbell, Sr., 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 meanings assigned to them below:

1. "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.

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

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

4. "Mr. Campbell" means Donnie C. Campbell Sr., currently a resident of Nelson County, Virginia. Mr. Campbell is a "person" within the meaning of Va. Code § 62.1-44.3.

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

6. "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.

7. "Poultry Waste" means dry poultry litter and composted dead poultry, as defined in 9 VAC 25-630-10.

8. "Poultry Waste Broker" means a person, other than the poultry grower, who possesses more than 10 tons of poultry waste in any 365-day period and who transfers some or all of the waste to other persons, as defined in 9 VAC 25-630-10.

9. "Regulation" means the Virginia Pollution Abatement General Permit Regulation for Poultry Waste Management, 9 VAC 25-630-10 *et seq.,* which was promulgated in December of 2000.

10. "State Water Control Law" means Chapter 31 (§62.1-44.2 *et seq*). of Title 62.1 of the Va. Code.

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

12. "VAC" means the Virginia Administrative Code.

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

SECTION C: Findings of Fact and Conclusions of Law

1. Mr. Campbell operates in the Commonwealth of Virginia as a Poultry Waste Broker, within the meaning of 9 VAC 25-630-10.

2. Since December of 2000, the Regulation, at 9 VAC 25-630-60(D), requires that each Poultry Waste Broker submit to the Department records of poultry waste that has been acquired and transferred throughout the previous calendar year, by February 15th of the following year.

3. A review of Department records indicated that Mr. Campbell failed to submit to the Department the required records by February 15th, for the calendar year 2008. On June 24, 2009, Department staff issued NOV number NOV-09-04-VRO-001 to Mr. Campbell for this violation of the Regulation at 9 VAC 25-630-60(D).

4. On June 29, 2009, a representative for Mr. Campbell contacted DEQ staff to respond to the NOV and schedule a meeting to discuss the violations.

5. On July 7, 2009, Department staff met with Mr. Campbell to discuss the violation.

6. Based on the results of the above referenced records review and statements made by Mr. Campbell at the July 7, 2009, meeting, the Board concludes that Mr. Campbell has violated 9 VAC 25-630-60(D), as described in paragraph 3, above.

7. Mr. Campbell submitted the required records for the calendar year 2008 on July 13, 2009.

SECTION D: Agreement and Order

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

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

2. Pay a civil charge of $500.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

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

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

Mr. Campbell shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Emergency Environmental Emergency Response Fund (VEERF).

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Mr. Campbell for good cause shown by Mr. Campbell, 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; 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. Campbell admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.

4. Mr. Campbell 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. Campbell declares he has received fair and due process under the Administrative Process Act and the State Water Control Law and he 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. Campbell 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. Campbell 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 occurrence. Mr. Campbell shall show that such circumstances were beyond his control and not due to a lack of good faith or diligence on his part. Mr. Campbell 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 Mr. Campbell 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. This Order shall become effective upon execution by both the Director or his designee and Mr. Campbell. Nevertheless, Mr. Campbell 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. Mr. Campbell 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

    b. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Mr. Campbell.

    Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Mr. Campbell 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. Campbell 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. Campbell 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 Mr. Campbell to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Mr. Campbell.

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. Campbell voluntarily agrees to the issuance of this Order.

And it is so ORDERED this _____ day of _____, 2009.

_____
Amy Thatcher Owens, Regional Director
Department of Environmental Quality

Mr. Donnie C. Campbell, Sr. voluntarily agrees to the issuance of this Order.

Date: 7-23-09 By: Donnie C. Campbell Sr.

Donnie C. Campbell, Sr.

Commonwealth of Virginia, ~~City~~/County of Amherst

The foregoing document was signed and acknowledged before me this 23rd day of July, 2009, by Donnie C. Campbell, Sr..

Gwendolyn F. Gordon
Notary Public

205475
Registration No.

My commission expires: 9/30/2013

Notary seal: GWENDOLYN F. GORDON
NOTARY PUBLIC
COMMONWEALTH OF VIRGINIA
My Commission Expires September 30, ~~2009~~ 2013
Registration No. 205475

APPENDIX A
SCHEDULE OF COMPLIANCE

Record Submittal

1. Mr. Campbell shall submit all applicable poultry waste records for the calendar year 2009 by February 1, 2010.

2. **DEQ Contact**

   Unless otherwise specified in this Order, Mr. Campbell shall submit all requirements of Appendix A of this Order to:

   David Robinett
   Enforcement Specialist
   VA DEQ –Valley Regional Office
   PO Box 3000
   Harrisonburg, VA 22801
   540-574-7862
   540-574-7878
   david.robinett@deq.virginia.com