COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

VALLEY REGIONAL OFFICE

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L. Preston Bryant, Jr.
Secretary of Natural Resources

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Director

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STATE WATER CONTROL BOARD ENFORCEMENT ACTION
A SPECIAL ORDER ISSUED BY CONSENT TO
HAHN TRANSPORTATION, INC.

UST Facility at 75 Country Club Road, Front Royal, VA
Facility Identification No. 6015272

SECTION A: Purpose

This is a Special Order by consent issued under the authority of Va. Code §§ 62.1-44.15 (8a) and (8d) between the State Water Control Board, Hahn Transportation, Inc., to resolve certain violations of the State Water Control Law and regulations at Hahn Transportation's Underground Storage Tank Facility located at 75 Country Club Road, Front Royal, Warren County, Virginia.

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 citizen's board of the Commonwealth of Virginia as described in Code §§ 10.1-1184 and 62.1-44.7.

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

3. "UST" means underground storage tank as further defined in 9 VAC 25-580-10 and Virginia Code § 62.1-44.34:8.

4. "Hahn" means Hahn Transportation, Inc., owner of the UST within the meaning of Virginia Code § 62.1-44.34:8.

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

6. "Director" means the Director of the Department of Environmental Quality.

7. "Facility" means the fleet petroleum refueling station currently known as Hahn Transportation, along with the UST owned and operated by Hahn, located at 75 Country Club Road, Front Royal, Virginia. The UST is further identified as diesel tank #1, installed on April 8, 1979, with capacity of 10,000-gallons.

8. "Order" means this document, also known as a Consent Special Order.

9. "Regional Office" means the Valley Regional Office of the Department.

10. "Regulation" means 9 VAC 25-580-10 *et seq.* (Underground Storage Tanks: Technical Standards and Corrective Action Requirements) relating to upgrading of existing UST systems, registration of tanks, closure of non-compliant tanks, and release detection requirements.

11. "Form 7530-2" means the UST notification form used by the DEQ to register and track USTs for proper operation, closure and ownership purposes. See 9 VAC 25-580-70.

SECTION C: Findings of Fact and Conclusions of Law

1. The Regulation, at 9 VAC 25-580-10 *et seq.*, requires that the UST at the Facility meet final, specific performance requirements for leak detection, spill and overfill protection, and corrosion protection by December 22, 1998.

2. Hahn is the owner of the UST at the Facility within the meaning of Virginia Code § 62.1-44.34:8.

3. On April 12, 2006, DEQ staff conducted a formal inspection of the Facility. The following deficiency remains unresolved for the UST:
   a. Overfill prevention equipment was not installed on the UST in violation of 9 VAC 25-580-60, paragraph 4.

4. DEQ staff issued a Request for Corrective Action (RCA) to Hahn on April 12, 2006. The RCA itemized the alleged violation noted in paragraph 3 and requested that Hahn respond by June 12, 2006. Hahn responded on June 8, 2006, with a letter which erroneously stated the type of overfill prevention equipment installed on the UST and the UST's material of construction.

5. DEQ staff then sent a Warning Letter (No. 06-06-VRO-7) to Hahn on June 26, 2006, for the unresolved violation of the Regulation noted above. The letter requested that Hahn respond in writing by July 7, 2006, and included a summary of the formal inspection results, detailing

the violation identified during the April 12, 2006 inspection.

6. Throughout the course of numerous telephone calls during November and December of 2006, DEQ staff negotiated a Letter of Agreement (LOA) with the UST owner that was drafted and sent to the UST owner on December 18, 2006. The LOA required that all violations be resolved by April 30, 2007. Hahn did not sign or return the LOA. Hahn claims that it did not receive a copy of the LOA.

7. On July 23, 2007, DEQ staff issued Notice of Violation (NOV) No. 07-7-VRO-2 to Hahn, citing the alleged violation of the Regulation. In the NOV, the Department requested that Hahn respond by August 3, 2007.

8. After issuance of the NOV, DEQ staff and Hahn officials discussed potential resolutions to this matter via telephone on numerous occasions. Hahn has hired a contractor to install overfill prevention equipment on the UST.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code §§ 62.1-44.15 (8a) and (8d), orders Hahn and Hahn agrees that:

1. To remedy the violation described above and bring the Facility into compliance with the Regulation, Hahn shall perform the actions described in Appendix A to the Order.

2. Hahn shall pay a civil charge of $2,455.00, within 30 days after the effective date of the Order. Payment shall be by check, certified check, money order, or cashier's check payable to "Treasurer of the Commonwealth of Virginia" and delivered to:

   Receipts Control
   Department of Environmental Quality
   P.O. BOX 1104
   Richmond, Virginia 23218

3. Hahn shall also include its Federal Identification Number with the civil charge payment and shall note on the payment that it is being made pursuant to this Order.

SECTION E: Administrative Provisions

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

2. This Order addresses only those violations specifically identified herein. This Order shall not preclude the Board or Director from taking any action authorized by law, including, but not limited to: (1) taking any action regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the Facilities as may be authorized by law; and/or (3) taking subsequent action to enforce the terms of this Order. Nothing herein shall affect appropriate enforcement actions by other federal, state, or local regulatory authority, whether or not arising out of the same or similar facts.

3. For purposes of this Order and subsequent actions with respect to this Order, Hahn admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.

4. Hahn 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. Hahn declares it has received fair and due process under the Virginia Administrative Process Act, Code §§ 2.2-4000 *et seq.*, 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 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 enforce this Order.

6. Failure by Hahn to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall act to waive or bar 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. Hahn shall be responsible for failing to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other act of God, war, strike, or such other occurrence. Hahn must show that such circumstances resulting in noncompliance were beyond its control and not due to a lack of good faith or diligence on its part. Hahn shall notify the Director of the Regional Office 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 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 Director of the Regional Office in writing within 10 days of learning of any condition listed above, which Hahn intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim of 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 Hahn. Notwithstanding the foregoing, Hahn 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. Hahn petitions the Regional Director to terminate the Order after it has completed all requirements of the Order and the Director or his designee approves the termination of the Order; or
b. The Director or the Board terminates this Order in his or its whole discretion upon 30 days written notice to Hahn

Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve Hahn from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By its signature below, Hahn voluntarily agrees to the issuance of this Order.

And it is so ORDERED this _____day of _____, 2008.

_____
Amy T. Owens, Regional Director
Department of Environmental Quality

The terms and conditions of the Order are voluntarily accepted by Hahn Transportation, Inc.:

Date: 12/18/07 By: Barbara J. Windsor
Barbara J. Windsor
President/CEO

State of Maryland, County of
~~Commonwealth of Virginia, City/County of~~ Frederick

The foregoing instrument was acknowledged before me this 18th day of December, 2007, by

Barbara J Windsor
(name)

12.18.07
Date

Notary Public

My commission expires:

12.24.11

Appendix A

Hahn Transportation, Inc.
UST Facility at 75 Country Club Road, Front Royal, Warren County, VA
Facility 6015272

For UST #1, Hahn shall:

A. By December 31, 2007, install overfill prevention equipment and submit documentation to the DEQ confirming its proper installation and operation.