COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
PIEDMONT REGIONAL OFFICE
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L. Preston Bryant, Jr.
Secretary of Natural Resources

David K. Paylor
Director

Gerard Seeley, Jr.
Regional Director

STATE WATER CONTROL BOARD ENFORCEMENT ACTION
SPECIAL ORDER BY CONSENT
ISSUED TO
RICHMOND PETROLEUM MARKETING, INCORPORATED

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code §§ 62.1-44.15(8a) and (8d), between the State Water Control Board and Richmond Petroleum Marketing, Incorporated for the purpose of resolving certain violations of environmental law and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning 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. "VA Code" means the Code of Virginia (1950), as amended.

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

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

7. "Facility" means the Petro Express, the combination fast mart and gasoline station containing four (4) underground storage tanks currently in use, FAC ID No. 4018307, located at 2301 Mechanicsville Turnpike, Mechanicsville, Virginia.

8. "Richmond Petroleum" means Richmond Petroleum Marketing, Incorporated, owner and operator of Petro Express, certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.

9. "Notification Form" means Form 7530 used by DEQ to register and track USTs for proper operation, closure and ownership purposes. 9 VAC 25-580-70.

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

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

SECTION C: Findings of Fact and Conclusions of Law

1. Richmond Petroleum Marketing, Incorporated (Richmond Petroleum) is d/b/a Petro Express. Mr. Altaf Ladhani is the President and shareholder in Richmond Petroleum. Through Richmond Petroleum, Mr. Ladhani operates a convenience store and retail gasoline station known as Petro Express (the Facility). Petro Express is located at 2301 Mechanicsville Trnpk., Mechanicsville, Virginia.

2. At the Facility there are four USTs used to store petroleum for retail sale. The USTs are identified as follows:

Tank No.	Capacity	Content
1	12,000	gasoline
2	12,000	gasoline
3	12,000	gasoline
4	12,000	kerosene

3. Because petroleum is a "regulated substance" as defined by Va. Code 62.1-44.34:8 and 9 VAC 25-580-10, the USTs at the Facility are regulated under 9 VAC 25-580-10, *et seq.*

4. On December 7, 2006, the Department conducted a formal inspection of the Facility. The following deficiencies were noted:

- An amended Notification Form, 7530, correctly identifying the current owner was not available and had not been submitted to the Department, in apparent violation of 9 VAC 25-580-70.
- Liquid was present in the sumps. The owner and operator had failed to notify the Department of a suspected release within 24 hour, in apparent violation of 9 VAC 25-580-190.
- Records verifying that the cathodic protection equipment is operating properly were not available, in apparent violation of 9 VAC 25-580-90.
- Records of recent compliance with release detection requirements were not available, in apparent violation of 9 VAC 25-580-120, and failure to perform recent monthly release detection was evident, in apparent violation of 9 VAC 25-580-140.
- Financial responsibility documentation was not available, in apparent violation of 9 VAC 25-590-10 *et seq.*

5. The Department staff issued Mr. Ladhani a Request for Corrective Action (RCA) on December 7, 2006.

6. On February 28, 2007, the Department issued Petro Express a Warning Letter (WL) for the deficiencies as described above.

7. In response to the WL, Mr. Ladhani submitted some of the requested information, but it was incomplete and/or incorrect.

8. On June 6, 2007, the Department issued a Notice of Violation to Mr. Altaf Ladhani d/b/a Richmond Petroleum Marketing for the above described violations.

9. On June 20, 2007, Mr. Ladhani submitted an incomplete 7530 Notification Form.

10. On July 18, 2007, Mr. Ladhani met with the Department to discuss resolution of the violations. During the meeting, Mr. Ladhani submitted current passing test results for cathodic protection and annual line tightness and leak detectors.

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 Richmond Petroleum, and Richmond Petroleum voluntarily agrees, to perform the actions described in Appendix A of this Order. In addition, the Board orders Richmond Petroleum, and Richmond Petroleum voluntarily agrees to pay a civil charge of **$6,615** in accordance with Appendix A of the order in settlement of the violations cited in this Order. The payment shall note that it is being made pursuant to this order and shall note the Federal Identification Number for Richmond Petroleum. Payment shall be by check, certified check, money order, or cashiers check payable to "Treasurer of Virginia" and **sent to**:

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

Payment shall include the Federal Tax Identification Number for the Facility.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the written consent of Richmond Petroleum, for good cause shown by Richmond Petroleum, 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 those matters addressed in the NOV issued on June 6, 2007. 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 property 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, Richmond Petroleum admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.

4. Richmond Petroleum 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. Richmond Petroleum declares it has received fair and due process under the Administrative Process Act, Va. 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 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 enforce this Order.

6. Failure by Richmond Petroleum 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. Richmond Petroleum 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. Richmond Petroleum shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Richmond Petroleum shall notify the DEQ 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 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 within 24 hours 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, 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 Richmond Petroleum. Notwithstanding the foregoing, Richmond Petroleum 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. Richmond Petroleum 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 Richmond Petroleum.

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

12. By the signatures below, Richmond Petroleum voluntarily agrees to the issuance of this Order.

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

_____
Gerard Seeley, Jr., Regional Director
Department of Environmental Quality

Richmond Petroleum voluntarily agrees to the issuance of this Order.

By: _____

Date: 1/2/08

Commonwealth of Virginia
City/County of Hanover

The foregoing document was signed and acknowledged before me this 2nd day of JANUARY, 2008, by ALTAF LADHANI on behalf of Richmond Petroleum.
(name)

_____
Notary Public

My commission expires: August 31, 2010
Notary #271859

APPENDIX A

Richmond Petroleum shall:

1. Submit to the Department, copies of the ATG monthly tank release detection testing and monitoring records in accordance with 9 VAC 25-580-140 for the next **6** consecutive months, beginning with **November 2007** and ending with the **April 2008** records.

2. Make four quarterly payments in settlement of the violations cited in the Order as scheduled:

   - **The first payment of $1,653.75 shall be due within 30 days of the effective day of the Order.**
   - **$1653.75 shall be due by .....July 10, 2008**
   - **$1653.75 shall be due by .....October 10, 2008**
   - **$1653.75 shall be due by .....January 10, 2009**

3. **Pursuant to this Order, submit all documentation as required by Appendix A to:**

   Cynthia Akers
   Department of Environmental Quality
   Piedmont Regional Office
   4949-A Cox Road
   Glen Allen, Virginia 23060