



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

WASTE MANAGEMENT BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO OILFIELD PIPE & SUPPLY, INC. VAD988196747

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Waste Management Board and Oilfield Pipe & Supply, Inc. for the purpose of resolving certain violations of the Virginia Waste Management Act and the Virginia Hazardous Waste Management 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 Virginia Waste Management Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1401 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. "Facility" means the property located at 10780 Old Washington Highway, Glen Allen (Henrico County), Virginia.
6. "OPS" means Oilfield Pipe & Supply, Inc., a corporation certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.
7. "Order" means this document, also known as a Consent Order.

8. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
9. "VHWMR" means the Virginia Hazardous Waste Management Regulations, 9 VAC 20-60-12 et seq.

SECTION C: Findings of Fact and Conclusions of Law

1. Oilfield Pipe & Supply, Inc. ("OPS") specializes in the sale of secondary pipe and structural materials, and manufactures rolled steel shapes at its facility in Glen Allen, Virginia ("Facility"). Used and new secondary plate is cleaned and made into pipe of various diameters.
2. On March 24, 2006, OPS headquarters submitted EPA Form No. 8700-12 to DEQ, indicating that the Facility changed from a Large Quantity Generator ("LQG") to a Conditionally Exempt Small Quantity Generator ("CESQG"). A CESQG generates less than 220 pounds of hazardous waste per month. An LQG generates over 2,200 pounds per month.
3. On January 8, 2008, DEQ staff conducted an inspection of and records review for the Facility.
4. The hazardous waste manifest records reviewed by DEQ during the inspection indicated that the Facility generated an average of 6,061 pounds of hazardous waste per month from January 17 to May 15, 2006, and shipped 27,380 pounds of hazardous waste from the site on May 15, 2006. These records also indicated that the Facility generated an average of 3,900 pounds of hazardous waste per month from March 12 to May 1, 2007. Any facility that becomes an LQG must immediately notify DEQ in writing of this change in status, as required by 9 VAC 20-60-315.D. DEQ did not receive such notification.
5. As an LQG, the Facility was subject to certain regulatory requirements pertaining to generators. The following observations were made during DEQ's inspection with respect to these requirements:
 - a. The Facility accumulated hazardous waste on the site for 112 days (ending August 21, 2007), 127 days (ending January 3, 2007), 106 days (ending August 29, 2006), 118 days (ending May 15, 2006), and 110 days (ending January 17, 2006). LQGs are prohibited by 40 CFR §262.34 (as incorporated by 9 VAC 20-60-262) from accumulating hazardous waste on-site for greater than 90 days, unless they have obtained a permit for storage of hazardous waste from DEQ or unless they have "interim status." The Facility has not obtained the required permit and does not have interim status.
 - b. A copy of the Facility's contingency plan was not submitted to local hospitals, as required by 40 CFR §265.53 (incorporated by 9 VAC 20-60-262 and -265).

- c. The contingency plan was not updated with the name of the current emergency coordinator, as required by 40 CFR §265.54 (incorporated by 9 VAC 20-60-262 and -265).
 - d. Facility staff did not perform weekly inspections of hazardous waste accumulation areas, as required by 40 CFR 265.174 (incorporated by 9 VAC 20-60-262 and -265).
 - e. Two 55-gallon drums used to collect dust and blast waste were not labeled or marked, as required by 40 CFR §262.34 (incorporated by 9 VAC 20-60-262).
6. Because the Facility also manages used oil from its equipment, it is also subject to the Used Oil Management Standards at 40 CFR §279 (incorporated by 9 VAC 20-60-279). DEQ staff observed the following violations of these standards during the January 8, 2008 inspection:
 - a. Four used oil drums, located in the south roll area were not labeled or marked. Containers used to store used oil must be labeled or marked clearly with the words "Used Oil", as required by 40 CFR 279.22(c)(1) (incorporated by 9 VAC 20-60-279).
 - b. Used equipment oil filters were cold when drained. According to 40 CFR §261.4(b)(13) (as incorporated by 9 VAC 20-60-261), these oil filters must be drained when hot.
7. DEQ staff also noted that the Facility had not evaluated (1) disposed rags used to clean equipment with brake cleaner containing 90% tetrachlorethylene, (2) disposed "green tip" fluorescent lamps, (3) disposed drained oil filters, and (4) dust surrounding the "Wheelevator" to determine if these waste streams are hazardous waste. Such an evaluation is required by 40 CFR §262.11 (as incorporated by 9 VAC 20-60-262).
8. On February 1, 2008, DEQ received a revised EPA 8700-12 form from OPS, indicating that they are a LQG.
9. On February 8, 2008, DEQ issued Notice of Violation No. 2006-02-PRO-601 to OPS, for the violations described in Items 4, 5, 6, and 7, above.
10. On February 18, 2008, OPS responded to the Notice of Violation. The letter indicated that OPS has corrected the violations and instituted new procedures to prevent recurrence. On April 25, 2008, DEQ received documentation such as photographs, copies of logbooks, etc. to DEQ to demonstrate these actions.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1455(F), orders OPS, and OPS voluntarily agrees to perform the actions described in Appendices A and B of this Order. In addition, OPS voluntarily agrees to pay a civil charge of \$28,248 in settlement of the violations cited in this Order, to be paid as follows:

1. OPS shall pay **\$7,062** of the civil charge within 30 days of the effective date of 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

Either on a transmittal letter or as a notation on the check, OPS shall include its Federal Identification Number.

2. OPS shall satisfy **\$21,186** of the civil charge by satisfactorily completing the Supplemental Environmental Project ("SEP") described in Appendix B of this Order.
3. The net project cost of the SEP to OPS shall not be less than the amount set forth in Paragraph D.2. If it is, OPS shall pay the remaining amount in accordance with Paragraph D. 1 of this Order, unless otherwise agreed to by the Department. "Net project costs" means the net present after-tax cost of the SEP, including tax savings, grants, and first-year cost reductions and other efficiencies realized by virtue of project implementation. If the proposed SEP is for a project for which the party will receive an identifiable tax savings (*e.g.*, tax credits for pollution control or recycling equipment), grants, or first-year operation cost reductions or other efficiencies, the net project cost shall be reduced by those amounts. The costs of those portions of SEPs that are funded by state or federal low-interest loans, contracts, or grants shall be deducted.
4. By signing this Order OPS certifies that it has not commenced performance of the SEP.
5. OPS acknowledges that it is solely responsible for completing the SEP project. Any transfer of funds, tasks, or otherwise by OPS to a third party, shall not relieve OPS of its responsibility to complete the SEP as described in this Order.
6. In the event it publicizes the SEP or the SEP results, OPS shall state in a prominent manner that the project is part of a settlement of an enforcement action.
7. The Department has the sole discretion to:
 - a. Authorize any alternate, equivalent SEP proposed by the Facility; and
 - b. Determine whether the SEP, or alternate SEP, has been completed in a satisfactory manner.
8. Should the Department determine that OPS has not completed the SEP, or alternate SEP, in a satisfactory manner, the Department shall so notify OPS in

writing. Within 30 days of being notified, OPS shall pay the amount specified in Paragraph D.2., above, as provided in Paragraph D.1., above.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of OPS for good cause shown by OPS, 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 Notice of Violation (NOV No. 2008-02-PRO-601) issued by DEQ on February 8, 2008. 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 facility as may be authorized by law; or (3) taking subsequent action to enforce the 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, OPS admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. OPS 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. OPS declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the Waste Management Act 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 OPS 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. OPS shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake,

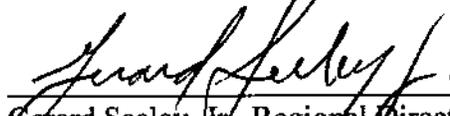
flood, other acts of God, war, strike, or such other occurrence. OPS shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. OPS shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, 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 OPS. Notwithstanding the foregoing, OPS agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to OPS. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve OPS 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, OPS voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 6th day of October, 2008.



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

Oilfield Pipe & Supply, Inc., voluntarily agrees to the issuance of this Order.

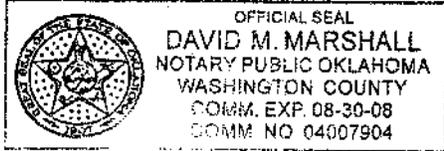
Date: 8-20-2008 By: Doug Sanders

State of Oklahoma
City/County of Washington

The foregoing document was signed and acknowledged before me this 20th day of

August, 2008, by Doug Sanders, who is
(Name)

Office Manager of Oilfield Pipe & Supply, Inc., on behalf of the Corporation.
(Title)



David M. Marshall
Notary Public

My commission expires: 8-30-2008

APPENDIX A

1. **No later than 30 days from the execution of this Order**, OPS shall submit the following to DEQ:
 - (a) daily and weekly inspection logs for the Facility for the months of June, July and August 2008; and
 - (b) new disposal procedures for the Brake Cleaner fluid to indicate that it is being managed properly as hazardous waste.

This information shall be submitted to:

Allison C. Dunaway
Enforcement Manager
VA DEQ – Piedmont Regional Office
4949-A Cox Road
Glen Allen, Virginia 23060
Phone: (804) 527-5086
Fax: (804) 527-5106
Email: acdunaway@deq.virginia.gov

2. **No later than October 1, 2008**, OPS shall send a payment transmittal letter and **\$2,000** payment to the Department of Environmental Quality for the 2006 and 2007 Large Quantity Generator annual fees (See 9 VAC 20-60-1284 and -1285.G). The letter shall contain the name and address of the facility or generator, the Federal Identification Number (FIN) for the facility or generator, the amount of the payment enclosed, and the period that the payment covers (January 1, 2006 through December 31, 2007). A copy of the transmittal letter only shall be maintained at the facility or the site where the hazardous waste was generated. Fees shall be paid by check, draft or postal money order made payable to "Treasurer of Virginia" and shall be sent to:

Department of Environmental Quality
Receipts Control
P.O. Box 1104
Richmond, VA 23218

APPENDIX B – SUPPLEMENTAL ENVIRONMENTAL PROJECT

General EMS Provision:

A comprehensive compliance-focused EMS shall be developed, implemented, and maintained by the organization. The EMS shall address, at a minimum, the 12 key elements listed below, and shall be described in an “Environmental Management System Manual.”

I. Definitions

Unless otherwise described in this subsection, the definitions set forth in the Part B of the Consent Special Order apply throughout Appendix B.

“**Action Plan**” means a comprehensive plan for bringing the Facility as defined below, into full conformance with the EMS provisions specified in Paragraph II.D, of this Appendix and fully addressing all Audit Findings identified in the Audit Report.

“**Audit Finding**” means a written summary of all instances of non-conformance with the provisions specified in Paragraph II.D, of this Appendix noted during the EMS audit, and all areas of concern identified during the course of the audit merits further review or evaluation for potential EMS, environmental, or regulatory impacts.

“**Audit Report**” means a report setting forth the Audit Findings resulting from the audit of a Facility by the Auditor, which meets all of the requirements set forth in Paragraph II.M, of this Appendix.

“**Auditor**” means the appropriately trained company personnel or independent third-party hired by OPS to conduct an EMS audit at the Facility, and who meets the requirements set forth in Paragraph II.G, of this Appendix.

“**Corrective Measures**” means those measures or actions appropriate to bring the Facility into full conformance with the EMS provisions of Paragraph II.D, of this Appendix.

“**Environmental Requirements**” means all applicable federal, state, and local environmental statutes and regulations, including permits and enforceable agreements between the OPS and the respective environmental regulatory agencies.

“**Facility**” means the property located at 10780 Old Washington Highway, Glen Allen (Henrico County), Virginia.

“**Initial Auditor**” means individual(s) meeting the requirements of Paragraph II.A, below, who are selected and/or contracted to perform the Initial EMS Review and Evaluation.

II. Environmental Management System

- A. **Initial Auditor Selection.** Within 60 days of the effective day of this Order, OPS shall submit to DEQ in writing:
- the name and affiliation of the Initial Auditor(s) selected by OPS to conduct the Initial EMS Review and Evaluation;
 - evidence that each Initial Auditor(s) satisfies the qualification requirements of International Organization for Standardization (ISO) 14012 (First edition, 1996-10-01), and that the team conducting the Initial EMS Review and Evaluation, in composite, has a working process knowledge of the Facility or similar operations, and has a working knowledge of federal and state environmental requirements which apply to the Facility;
 - a schedule, including milestones, for conducting the Initial EMS Review and Evaluation.
- B. **Initial Environmental Management System Review and Evaluation.** OPS shall direct the Initial Auditor(s) identified pursuant to paragraph II.A, above, to conduct and complete an Initial EMS Review and Evaluation (commonly referred to as a “gap” analysis) for the Facility. The designated Initial Auditor(s) shall review and evaluate the current EMS or environmental auditing system, using the elements set forth in paragraph II.D, below to identify where systems or subsystems have not been adequately developed or implemented. The results of the Initial EMS Review and Evaluation shall be documented in a report prepared by the Initial Auditor(s) and provided to OPS.
- C. **Comprehensive Environmental Management System.** Based on the Initial EMS Review and Evaluation results and other information, OPS shall develop a Comprehensive EMS for the Facility addressing, at a minimum, the twelve key elements presented in paragraphs II.D, below. The purpose of developing the Comprehensive EMS is to assist OPS in its efforts to comply with federal, state and local environmental requirements.
- D. **Environmental Management System Manual.** Within two hundred seventy (270) days of the effective date of this Order, OPS shall complete the preparation of an “EMS Manual” which shall describe and document the Comprehensive EMS and contain an EMS implementation schedule for each of the described systems and subsystems not already implemented. For each of the elements identified in Paragraph II.D, below, as appropriate, the manual shall describe the EMS, in detail, by explaining how the activity or program is or will be:
- established as a formal system, subsystem or task,
 - integrated into ongoing department operations,
 - continuously evaluated and improved.

The Environmental Management System Manual shall describe respective management systems, subsystems, and tasks for the following elements:

1. Environmental Policy

- a. This policy, upon which the EMS is based, must clearly communicate management commitment to achieving compliance with applicable federal, state, and local environmental statutes, regulations, enforceable agreements, and permits (hereafter, “environmental requirements”) and continual improvement in environmental performance. The policy should also state management’s intent to provide adequate personnel and other resources for the EMS.

2. Organization, Personnel, and Oversight of EMS

- a. Describes, organizationally, how the EMS is implemented and maintained.
- b. Includes organization charts that identify units, line management, and other individuals having environmental performance and regulatory compliance responsibilities.
- c. Identifies and defines specific duties, roles, responsibilities, and authorities of key environmental program personnel in implementing and sustaining the EMS (e.g., could include position descriptions and performance standards for all environmental department personnel, and excerpts from others having specific environmental program and regulatory compliance responsibilities).
- d. Includes ongoing means of communicating environmental issues and information to all organization personnel, on-site service providers, and contractors, and for receiving and addressing their concerns.

3. Accountability and Responsibility

- a. Specifies accountability and environmental responsibilities of organization’s managers, on-site service providers, and contractors for environmental protection practices, assuring compliance, required reporting to regulatory agencies, and corrective actions implemented in their area(s) of responsibility.
- b. Describes incentive programs for managers and employees to perform in accordance with compliance policies, standards and procedures.
- c. Describes potential consequences for departure from specified operating procedures, including liability for civil/administrative penalties imposed as a result of noncompliance.

4. Environmental Requirements

- a. Describes process for identifying, interpreting, and effectively communicating environmental requirements to affected

organization personnel, on-site service providers, and contractors, and then ensuring that facility activities conform to those requirements (i.e., ongoing compliance monitoring). Specifies procedures for prospectively identifying and obtaining information about changes and proposed changes in environmental requirements, and incorporating those changes into the EMS (i.e., regulatory “change management”).

- b. Establishes and describes processes to ensure communication with regulatory agencies regarding environmental requirements and regulatory compliance.

5. Assessment, Prevention, and Control

- a. Identifies an ongoing process for assessing operations, for the purposes of preventing and controlling releases, ensuring environmental protection, and maintaining compliance with statutory and regulatory requirements. This section shall describe monitoring and measurements, as appropriate, to ensure sustained compliance. It shall also include identifying operations and waste streams where equipment malfunctions and deterioration, operator errors, and discharges or emissions may be causing, or may lead to:

- releases of hazardous waste or other pollutants to the environment,
- threat to human health or the environment, or
- violations of environmental requirements.

- b. Describes process for identifying operations and activities where documented standard operating practices (SOPs) are needed to prevent potential violations or pollutant releases, and defines a uniform process for developing, approving and implementing the SOPs.
- c. Describes a system for conducting and documenting routine, objective, self inspections by department supervisors and trained staff, especially at locations identified by the process described in a. above, to check for malfunctions, deterioration, worker adherence to SOPs, and unauthorized releases.
- d. Describes process for ensuring input of environmental requirements (or concerns) in planning, design, and operation of ongoing, new, and/or changing buildings, processes, equipment, maintenance activities, and products (i.e., operational “change management”).

6. Environmental Incident and Noncompliance Investigations

- a. Describes standard procedures and requirements for internal and external reporting of potential violations and release incidents.

- b. Establishes procedures for investigation, and prompt and appropriate correction of potential violations. The investigation process includes root-cause analysis of identified problems to aid in developing the corrective actions.
- c. Describes a system for development, tracking, and effectiveness verification of corrective and preventative actions.
- d. Each of these procedures shall specify self-testing of such procedures, where practicable.

7. Environmental Training, Awareness, and Competence

- a. Identifies specific education and training required for organization personnel, as well as process for documenting training provided.
- b. Describes program to ensure that organization employees are aware of its environmental policies and procedures, environmental requirements, and their roles and responsibilities within the environmental management system.
- c. Describes program for ensuring that personnel responsible for meeting and maintaining compliance with environmental requirements are competent on the basis of appropriate education, training, and/or experience.

8. Environmental Planning and Organizational Decision-Making

- a. Describes how environmental planning will be integrated into organizational decision-making, including plans and decisions on capital improvements, product and process design, training programs, and maintenance activities.
- b. Requires establishing written targets, objectives, and action plans by at least each operating organizational subunit with environmental responsibilities, as appropriate, including those for contractor operations conducted at the Facility, and how specified actions will be tracked and progress reported. Targets and objectives must include actions which reduce the risk of noncompliance with environmental requirements.

9. Maintenance of Records and Documentation

- a. Identifies the types of records developed in support of the EMS (including audits and reviews), who maintains them and where, and protocols for responding to inquiries and requests for release of information.
- b. Specifies the data management systems for any internal waste tracking, environmental data, and hazardous waste determinations.
- c. Specifies document control procedures.

10. Pollution Prevention Program

- a. Describes an internal program for preventing, reducing, recycling, reusing, and minimizing waste and emissions, including procedures to encourage material substitutions. Also includes mechanisms for identifying candidate materials to be addressed by program and tracking progress.

11. Continuing Program Evaluation and Improvement

- a. Describes program for periodic (at least annually) evaluation of the EMS, including incorporating the results of the assessment into program improvements, revisions to the manual, and communicating findings and action plans to affected employees, onsite service providers, and contractors.
- b. Describes a program for periodic audits (at least annually) of facility compliance with environmental requirements by an independent auditor(s). Audit results are reported to upper management and potential violations are addressed through the process described in element 6 above.

12. Public Involvement/Community Outreach

- a. Describes a program for ongoing community education and involvement in the environmental aspects of the organization's operations and general environmental awareness.

- E. Environmental Management System Manual. Within three hundred (300) days of the effective date of this Order, OPS shall submit complete EMS Manual to DEQ.
- F. Quarterly Reports. OPS shall submit implementation status reports to DEQ on a quarterly basis (i.e., reports for periods of January-March, April-June, July-September, and October-December). The status reports shall be due within thirty (30) days after the quarter and every quarter thereafter until the Audit set forth in Paragraph II.J, is completed.
- G. Auditor Selection. OPS shall select an independent Auditor who:
 - was not involved in the Initial EMS Review and Evaluation,
 - meets the qualification requirements of ISO 14012 (First edition, 996-10-01),
 - has expertise and competence in the regulatory programs under federal and state environmental laws.
 - The Auditor shall be paid by OPS in an amount sufficient to fully carry out the provisions of this Appendix. The Auditor must not directly own any stock in OPS or in any parent or subsidiary, and must have no other direct financial stake in the outcome of the EMS audit conducted pursuant to this Order. The Auditor must be capable of exercising the same independent judgment and discipline that a certified public accounting firm would be expected to exercise in auditing a publicly held corporation.

If OPS has any other contractual relationship with the Auditor, OPS shall disclose to DEQ such past or existing contractual relationships.

- H. OPS shall identify any and all site-specific safety and training requirements for the Auditor(s), and shall ensure that the requirements are met prior to conducting the audit.
- I. Audit Plan. OPS shall require the Auditor to prepare an EMS Audit Plan.
- J. Audit. OPS shall require the Auditor to conduct an EMS Audit twelve (12) months after the completion of the EMS Manual, to evaluate the adequacy of EMS implementation, from top management down, throughout each major organizational unit at the Facility, and to identify where further improvements should be made to the EMS. The EMS Audit shall be conducted in accordance with ISO 14011 (First edition, 1996-10-01), using ISO 14010 (First edition, 1996-10-01), as supplemental guidance. The Auditor shall assess conformance with the elements specified in Paragraph II.D, above and with the EMS Manual, and shall determine the following:
- Whether there is a defined system, subsystem, program, or planned task for the respective EMS element;
 - To what extent the system, subsystem, program, or task has been implemented, and is being maintained
 - Adequacy of each Operation's internal self-assessment procedures for programs and tasks composing the EMS;
 - Whether OPS is effectively communicating environmental requirements to affected parts of the organization, Contractors and on-site service providers;
 - Whether further improvements should be made to the EMS;
 - Whether there are observed deviations from OPS's written requirements or procedures;
 - And, whether continuous improvement is occurring.
- K. Designated representatives from DEQ and other environmental regulatory agencies may participate in the EMS audit as observers. OPS shall make timely notification to designated regulatory contacts regarding audit scheduling in order to make arrangements for observers to be present. OPS personnel or consultants may also participate in the on-site audits as an observer(s), but may not interfere with the independent judgment of the Auditor.
- L. Audit Reports. OPS shall direct the Auditor to develop and concurrently submit an Audit Report to OPS and DEQ for the EMS Audit as required by this Order, within sixty (45) days following the completion of the on-site portion of the audit. The Audit Report shall present the Audit Findings and shall, at a minimum, contain the following information:
- Audit scope, including the period of time covered by the audit;

- The date(s) the on-site portion of the audit was conducted;
 - Identification of audit team members;
 - Identification of any company, facility, or consulting representatives and regulatory agency personnel observing the audit;
 - The distribution for the EMS Audit Report;
 - A summary of the audit process, including any obstacles encountered;
 - Detailed Audit Findings, including the basis for each finding and each Area of Concern identified;
 - Identification of any Audit Findings corrected or Areas of Concern addressed during the audit, and a description of the corrective measures and when they were implemented; and,
 - Certification by the Auditor that the EMS Audit was conducted in accordance with the provisions of this Appendix.
- M. Follow-Up Corrective Measures & Action Plan. Upon receiving the Audit Report, OPS shall conduct a root cause analysis of the identified Audit Findings, as appropriate, investigate all areas of concern and develop an Action Plan for expeditiously bringing OPS into full conformance with the EMS provisions in Paragraph II.D of this Appendix and the EMS Manual. The Action Plan shall include the results of any root-cause analysis, specific deliverables, responsibility assignments, and an implementation schedule. The Action Plan shall be submitted to DEQ within forty-five (45) days of receiving the Audit Report.
- N. Action Plan Completion Certification. Within thirty (30) days of completing all items or activities outlined in the Action Plan, OPS shall submit a written Completion Certification to DEQ. The certification shall also include written verification of the final overall and net project cost of the SEP in the form of a certified statement itemizing costs, invoices and proof of payment, or similar documentation. For the purposes of this submittal, net project costs are as defined in paragraph D.3 of the Consent Special Order.

III. General Provisions

- A. If the SEP has not or cannot be completed as described in the Order, OPS shall notify DEQ in writing no later than September 1, 2009. Such notification shall include:
1. an alternate SEP proposal, or
 2. payment of the amount specified in Paragraph D.2 as described in Paragraph D.1.
- B. OPS hereby consents to reasonable access by DEQ or its staff to property or documents under the party's control, for verifying progress or completion of the SEP.
- C. All submittals required by Appendix B shall be submitted to:

Allison C. Dunaway
Enforcement Manager
VA DEQ – Piedmont Regional Office
4949-A Cox Road
Glen Allen, Virginia 23060
Phone: (804) 527-5086
Fax: (804) 527-5106
Email: acdunaway@deq.virginia.gov