



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
TIDEWATER REGIONAL OFFICE
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Matthew J. Strickler
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Regional Director

**STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
A&B SALVAGE, INC.
VPDES Permit No. VAR05
Storm Water Registration No. VAR052095**

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 A&B SALVAGE, INC. regarding the A&B Salvage, Inc. facility, for the purpose of resolving certain violations of the State Water Control Law and the applicable permit and regulations.

SECTION B: Definitions

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

1. "305(b) report" means the report required by Section 305(b) of the Clean Water Act (33 United States Code § 1315(b)), and Va. Code § 62.1-44.19:5 for providing Congress and the public an accurate and comprehensive assessment of the quality of State surface waters.
2. "A&B Salvage" means A&B SALVAGE, INC., a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. A&B Salvage is a "person" within the meaning of Va. Code § 62.1-44.3.
3. "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.
4. "CSCE" means comprehensive site compliance evaluation.

5. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
6. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
7. "Discharge" means the discharge of a pollutant.
8. "Discharge of a pollutant" when used with reference to the requirements of the VPDES permit program means:
 - a. Any addition of any pollutant or combination of pollutants to surface waters from any point source; or
 - b. Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.
9. "DMR" means Discharge Monitoring Report.
10. "Facility" means the A&B Salvage automobile salvage yard, located at 31194 Bishop Road in New Church, Virginia, from which discharges of stormwater associated with industrial activity occur.
11. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
12. "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.
13. "Permit" means VPDES General Permit No. VAR05, which was issued under the State Water Control Law and the Regulation on July 1, 2014 and which expires on June 30, 2019. A&B Salvage applied for registration under the Permit and was issued Registration No. VAR052095 on July 1, 2014.
14. "Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 USC § 2011 *et seq.*)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water... 9 VAC 25-31-10.
15. "Pollution" means such alteration of the physical, chemical, or biological properties of any state waters as will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious to the public health, safety, or welfare or to the health of

animals, fish, or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an alteration of the physical, chemical, or biological property of state waters or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution but which, in combination with such alteration of or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the Board, are “pollution.” Va. Code § 62.1-44.3.

16. “Registration statement” means a registration statement for coverage under a storm water general permit.
17. “Regulation” means the General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Discharges of Storm Water Associated with Industrial Activity, 9 VAC 25-151-10, *et seq.*
18. “State Water Control Law” means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.
19. “State waters” means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3.
20. “SWPPP” means Stormwater Pollution Prevention Plan.
21. “TRO” means the DEQ Tidewater Regional Office located in Virginia Beach, Virginia.
22. “Va. Code” means the Code of Virginia (1950), as amended.
23. “VAC” means the Virginia Administrative Code.
24. “VPDES” means Virginia Pollutant Discharge Elimination System.
25. “Warning Letter” or “WL” means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.

SECTION C: Findings of Fact and Conclusions of Law

1. A&B Salvage owns and operates the automobile salvage yard, located in New Church, Virginia, which discharges stormwater associated with industrial activity. At the Facility, vehicles are stored, sorted, crushed, and cut onsite.

2. The Permit allows A&B Salvage to discharge stormwater associated with industrial activity from the Facility to an unnamed tributary that leads to Pitts Creek, in strict compliance with the terms and conditions of the Permit.
3. Pitts Creek is located in the Chesapeake Bay, Atlantic, and Small Coastal Basins River Basin watershed. Pitts Creek is listed in DEQ's 305(b) report as impaired for aquatic life and recreational uses. The causes of the impairments are pH and Escherichia coli.
4. Part II.C of the Permit requires that A&B Salvage submit monitoring results on DMRs no later than the 10th day of the month after monitoring takes place.
5. A review of DEQ files indicated that A&B Salvage had not submitted DMRs for benchmark monitoring for the January to June 2016, January to June 2017, and July to December 2017 reporting periods. A&B Salvage also had not submitted DMRs for TMDL monitoring for the January to June 2016 reporting period.
6. Part I.A.1.a of the Permit requires that A&B Salvage perform and document quarterly visual examinations of the storm water quality discharging from Outfall 001.
7. Part III of the Permit requires that A&B Salvage develop and implement a SWPPP for the Facility and retain a copy onsite that is immediately available.
8. Part III.B.5 of the Permit requires that A&B Salvage perform and document routine Facility inspections for all areas where industrial materials or activities are exposed to stormwater at a minimum quarterly and at least once each year while a discharge is occurring.
9. Part III.E.3 of the Permit requires that A&B Salvage conduct a CSCE at least annually that evaluates the effectiveness of stormwater control measures.
10. On July 6, 2017, DEQ staff conducted an inspection at the Facility. During the inspection, DEQ observed the following compliance deficiencies with respect to the monitoring and SWPPP requirements of the Permit:
 - a. The quarterly visual examinations of storm water quality required by Part I.A.1.a of the Permit had not been performed for 2016 and the first quarter of 2017.
 - b. The routine Facility inspections required by Part III.B.5 of the Permit had not been performed for 2016 and the first quarter of 2017.
 - c. The SWPPP was not available for review as required by Part III.B.5 of the Permit.
 - d. The 2016 annual CSCE had not been performed as required by Part III.E.3 of the Permit.

11. A&B Salvage violated conditions Part I.A.1.a, Part II.C, Part III, Part III.B.5, and Part E.3 of the Permit as noted in paragraphs C(5), and C(10) of this Order.
12. TRO issued a Warning Letter and Notice of Violation for the violations noted above as follows: WL No. W2016-03-T-1006, issued March 8, 2016; and NOV No. W2017-11-T-003, issued November 14, 2017.
13. Va. Code § 62.1-44.5 states that: “[E]xcept in compliance with a certificate issued by the Board, it shall be unlawful for any person to discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances.
14. The Regulation, at 9 VAC 25-151-70, also states that except in compliance with a VPDES permit, or another permit issued by the Board, it is unlawful to discharge into state waters sewage, industrial wastes or other wastes.
15. Va. Code § 62.1-44.15(5a) states that a VPDES permit is a “certificate” under the statute.
16. The Department has issued coverage under no permits or certificates to A&B Salvage other than under VPDES Permit No. VAR05.
17. The unnamed tributary of Pitts Creek is a surface water located wholly within the Commonwealth and is a “state water” under State Water Control Law.
18. Based on the results of the July 6, 2017 inspection, the Board concludes that A&B Salvage has violated conditions Part I.A.1.a, Part II.C, Part III, Part III.B.5, and Part III.E.3 of the Permit as noted in paragraphs C(6), C(8), and C(11) of this Order.
19. In order for A&B Salvage to return to compliance, DEQ staff and A&B Salvage have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders A&B Salvage, and A&B Salvage agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$11,160 in settlement of the violations cited in this Order. The civil charge shall be paid in accordance with the following schedule:

<u>Payment Due Date</u>	<u>Payment Amount</u>
July 1, 2018	\$1,860
August 1, 2018	\$1,860
September 1, 2018	\$1,860

October 1, 2018	\$1,860
November 1, 2018	\$1,860
December 1, 2018	\$1,860

3. If the Department fails to receive a civil charge payment pursuant to the schedule described in the above paragraphs D.1, the payment shall be deemed late. If any payment is late, the Department shall have the right to demand in writing full payment of the entire remaining balance under this Order by A&B Salvage. A&B Salvage shall pay the entire remaining balance within 15 days of receipt of the demand letter from the Department. Any acceptance by the Department of a late payment or a payment of less than the entire remaining balance shall not serve as a waiver of the Department's right to accelerate payment of the balance under this Order.
4. 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

5. A&B Salvage shall include its Federal Employer Identification Number (FEIN) _____ with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, A&B Salvage shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of A&B Salvage for good cause shown by A&B Salvage, 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 and in WL No. W2016-03-T-1006 dated March 8, 2016 and in NOV No. W2017-11-T-003 dated November 14, 2017. 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; or (3) taking subsequent action to enforce the Order.

3. For purposes of this Order and subsequent actions with respect to this Order only, A&B Salvage admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. A&B Salvage 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. A&B Salvage declares it has received fair and due process under the Administrative Process Act 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 modify, rewrite, amend, or enforce this Order.
6. Failure by A&B Salvage 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. A&B Salvage 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 unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. A&B Salvage shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. A&B Salvage 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 parties intend to assert will

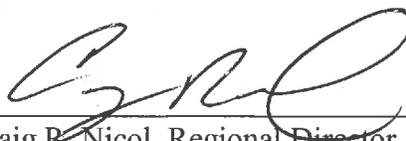
result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any 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 A&B Salvage. Nevertheless, A&B Salvage 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. The Director or his designee terminates the Order after A&B Salvage has completed all of the requirements of the Order;
 - b. A&B Salvage 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
 - c. The Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to A&B Salvage.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve A&B Salvage from its 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 A&B Salvage 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 A&B Salvage 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 A&B Salvage to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of A&B Salvage.
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 its signature below, A&B Salvage voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 26 day of July, 2018.



Craig R. Nicol, Regional Director
Department of Environmental Quality

A&B SALVAGE, INC. voluntarily agrees to the issuance of this Order.

Date: 5-15-2018 By: [Signature], [Signature]
(Person) (Title)
A&B SALVAGE, INC.

Commonwealth of Virginia
City/County of Virginia Beach

The foregoing document was signed and acknowledged before me this 15th day of May, 2018, by Timothy Dyson who is Downer of A&B SALVAGE, INC., on behalf of the corporation.

[Signature]
Notary Public

255127
Registration No.

My commission expires: 7-31-21

Notary seal:



APPENDIX A SCHEDULE OF COMPLIANCE

A&B Salvage shall:

1. Corrective Action Plan

- a. Within 30 days of the effective date of this Order, submit to DEQ TRO for review and approval a corrective action plan (“CAP”) and schedule that lists the compliance deficiencies identified in Section C.10 of this Order and describes actions that A&B Salvage has taken or plans to take to comply consistently with its Permit.
- b. Upon DEQ approval, implement the CAP in accordance with the schedule. The approved CAP and schedule shall become a part of and enforceable under the terms of this Order.
- c. Upon completion of the CAP, submit a final report verifying that the CAP has been completed in accordance with the terms of this Order.

2. Permit Requirements

- a. Within 30 days of the effective date of this Order, submit to DEQ TRO for review and approval a SWPPP that meets all the requirements in Part III.B of the Permit.
- b. Submit quarterly visual examinations of stormwater quality and routine Facility inspections for the second, third, and fourth quarters of 2018. These quarterly visual examinations and routine Facility inspection reports shall be submitted by the 10th day of the following monitoring period (i.e. July 10th 2018, October 10th 2018, and January 10th 2019).
- c. Submit the 2018 CSCE by January 10, 2019.
- d. Comply with all conditions of the Permit.

3. DEQ Contact

Unless otherwise specified in this Order, A&B Salvage shall submit all requirements of Appendix A of this Order to:

Enforcement
VA DEQ – Tidewater Regional Office
5636 Southern Blvd
Virginia Beach, VA 23462