



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

TIDEWATER REGIONAL OFFICE

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Molly Joseph Ward
Secretary of Natural Resources

David K. Paylor
Director

Maria R. Nold
Regional Director

STATE WATER CONTROL BOARD ENFORCEMENT ACTION ENFORCEMENT ORDER - ORDER BY CONSENT

ISSUED TO

Amadas Industries, Inc.

FOR

Amadas Industries, Inc.'s Holland and Kenyon Road Facilities

VPDES Permit No. VAR05

Registration No. VAR050230 (Holland Rd.)

Registration No. VAR050231 (Kenyon Rd.)

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 Amadas Industries, Inc., regarding its Holland and Kenyon Road Facilities, for the purpose of resolving certain violations of the State Water Control Law and the applicable permit and regulation.

SECTION B: Definitions

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

1. "Amadas" means Amadas Industries, Inc., a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Amadas is a "person" within the meaning of Va. Code § 62.1-44.3.
2. "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.
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, as described in Va. Code § 10.1-1185.
5. “Discharge” means discharge of a pollutant. 9 VAC 25-31-10.
6. “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.
7. “DMR” means Discharge Monitoring Report.
8. “Effluent” means wastewater – treated or untreated – that flows out of a treatment plant, sewer, or industrial outfall.
9. “Facilities” means the two peanut harvesting and processing equipment-manufacturing facilities located at 1100 Holland Road and 302 Kenyon Road in Suffolk, Virginia, which discharge stormwater associated with industrial activity to surface waters.
10. “Notice of Violation” or “NOV” means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
11. “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.
12. “Permit” means VPDES General Permit for Stormwater Discharges Associated with Industrial Activity VAR05, which was issued under the State Water Control Law and the Regulation on July 1, 2014, and which expires on June 30, 2019. Amadas applied for registration under the Permit and was issued Registration Nos. VAR050230 (Holland Rd.) and VAR050231 (Kenyon Rd. on June 30, 2014).
13. “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.

14. "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.
15. "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.*
16. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.
17. "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.
18. "TMDL" means total maximum daily load, a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards, and an allocation of that amount of the pollutant's sources.
19. "TRO" means the Tidewater Regional Office of DEQ, located in Virginia Beach, Virginia.
20. "Va. Code" means the Code of Virginia (1950), as amended.
21. "VAC" means Virginia Administrative Code.
22. "VPDES" means Virginia Pollutant Discharge Elimination System.

SECTION C: Findings of Fact and Conclusions of Law

1. Amadas owns and operates the Facilities located at Holland and Kenyon Road in Suffolk, Virginia which discharge stormwater associated with industrial activities.

2. The Permit allows Amadas to discharge stormwater associated with industrial activity from the Facilities to Lake Meade and Speights Run, in strict compliance with the terms and conditions of the Permit.
3. Lake Meade is the receiving stream for the Holland Road Facility. Lake Meade is located in the James River Basin (Lower). Lake Meade is impaired (segment impairment TMDL ID VAT-G12L-0) for Aquatic Life Use based on dissolved oxygen concentrations below the DEQ minimum allowable instantaneous criteria. Lake Meade also exhibits Observed Effects based on exceedance of DEQ screen values for sediment toxics. The Aquatic Life Use also is impaired for total phosphorous.
4. Speights Run is the receiving waterbody for the Kenyon Road Facility. Speights Run is located in the James River Basin. Speights Run is impaired for Chlorophyll-a and dissolved oxygen. Aquatic Life Use is impaired based on dissolved oxygen concentrations below the DEQ minimum allowable instantaneous criteria and nutrient data.
5. On October 27 and 29, 2015, DEQ inspected the Facilities and observed that:
 - a. The Stormwater Pollution Prevention Plan (“SWPPP”) had not been developed and implemented as required by the Permit. The SWPPP was not signed, the maps did not include all specified items, and non-stormwater discharges had not been identified fully in the plan and site maps.
 - b. A summary of training performed was not included in the SWPPP, and the SWPPP had not been updated after agency inspections performed in June and November 2012.
 - c. Records of Facility inspections were not provided for 2013, 2014, and 2015.
 - d. Records for training were not provided for 2013, 2014, or 2015.
 - e. The comprehensive site compliance evaluations and summary reports had not been documented as required. Evaluations for 2012 did not meet the Permit requirements. Evaluations for 2013 and 2014 were not available.
 - f. Sampling for quarterly visual monitoring had not been documented as required. For 2013, 2014, and 2015, only one quarterly visual monitoring record was provided for each Facility. The records for monitoring performed on February 26, 2013 were not complete with storm event information and times of sampling were not documented.
 - g. Samplings for benchmark, impaired water, and Chesapeake Bay TMDL monitoring had not been performed and documented as required for the

second semiannual period of 2014, the first semiannual period of 2015, or the first semiannual period of 2016.

6. Part I.A of the Permit requires Amadas to perform quarterly visual monitoring, benchmark monitoring of discharges associated with specific industrial activities, compliance monitoring for discharges subject to numerical effluent limitations, and monitoring of discharges to impaired waters.
7. Part II.C of the Permit requires Amadas to submit monitoring results required by the Permit no later than the 10th day of the month.
8. Part III.B.4.b.(6) of the Permit requires Amadas to implement a stormwater employee training program for the Facilities and document all training sessions in the SWPPP.
9. Part III.B.5 of the Permit requires Amadas to assess conditions that could impact stormwater quality at the Facilities, evaluate the effectiveness of control measures, and inspect all areas where industrial materials or activities are exposed to stormwater. Amadas is required to inspect the Facilities at a minimum quarterly.
10. Part III.E.3 of the Permit requires Amadas to conduct comprehensive site compliance evaluations at least once each calendar year and write a report summarizing the scope of the evaluation, the personnel evaluating, evaluation date, and observations relating to SWPPP implementation.
11. Parts III.F.1, III.B.2.c.1-13, III.B.4.b.(6), III.D.1, and III.G of the Permit require Amadas to develop and implement a SWPPP, including a pollution prevention team, site description, implement control measures to prevent or control pollutants in Stormwater discharges from the Facilities, and maintain a signed and updated SWPPP available for review.
12. DEQ issued to Amadas four NOVs (two for the Facility located on Holland Road, and two for the Facility located on Kenyon Road) citing the abovementioned Permit violations as follows: NOV No. W2016-01-T-0001 (Kenyon Rd.) and NOV No. W2016-01-T-0002 (Holland Rd.), dated January 5, 2015; and NOV No. W2016-08-T-0004 (Holland Rd.) and NOV No. W2016-08-T-0005 (Kenyon Rd.), dated August 12, 2016.
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 no permits or certificates to Amadas other than VPDES Permit VAR05.
17. Lake Meade and Speights Run are surface waters located wholly within the Commonwealth and are “state waters” under State Water Control Law.
18. Based on the results of the site inspections conducted on October 27 and 29, 2015, the Board concludes that Amadas has violated Parts I.A, II.C, III.B.4.b.6, III.B.5, III.E.3, Part III.F.1, III.B.2.c.1-13, III.B.4.b.6, III.D.1, and III.G of the Permit, by discharging stormwater from the Facilities while concurrently failing to comply with the conditions of the Permit, as described in paragraph C(5), above.
19. In order for Amadas to return to compliance, DEQ staff and representatives of Amadas 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 Amadas, and Amadas agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$17,076.00 within 30 days of the effective date of this 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 shall be delivered to:

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

Amadas shall include its Federal Employer Identification Number (FEIN) 54 - 1504912 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, Amadas shall be liable for attorneys’ fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Amadas, for good cause shown by Amadas, 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 of the Facilities; or (3) taking subsequent action to enforce the Order.
3. For the purposes of this Order and subsequent actions with respect to this Order only, Amadas admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Amadas 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. Amadas 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 Amadas 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. Amadas 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 -unforeseen circumstances beyond its control and not due to a lack of good faith or diligence on its part. Amadas shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Amadas 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 Amadas 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 Amadas. Nevertheless, Amadas 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 Amadas has completed all of the requirements of the Order;
 - b. Amadas 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 Amadas.

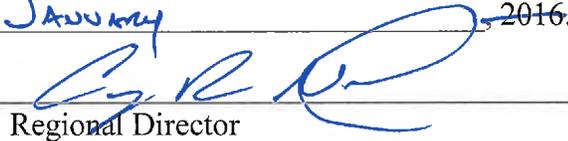
Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Amadas from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Amadas 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 Amadas 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 Amadas to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Amadas.
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, Amadas voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 26th day of JANUARY, 2016. 207

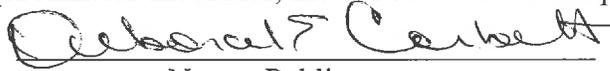

Regional Director
Department of Environmental Quality

Amadas Industries, Inc. voluntarily agrees to the issuance of this Order.

Date: 11/29/16 By: James C. Lache (Person), PLANT MANAGER (Title)
Amadas Industries, Inc.

Commonwealth of Virginia
City/County of SUFFOLK

The foregoing document was signed and acknowledged before me this 29 day of November, 2016, by James C Lache who is Plant Manager of Amadas Industries, Inc. on behalf of the corporation.


Notary Public
294221
Registration No.

My commission expires: 11/30/2020

Notary seal:



APPENDIX A SCHEDULE OF COMPLIANCE

Amadas Industries, Inc. shall:

- a. Within 30 days of the effective date of this Order, submit to DEQ TRO certification that all staff who are responsible for implementing activities identified in the SWPPP or otherwise responsible for stormwater management have been trained and that the training includes all components required by the Permit and SWPPP.
- b. Within 30 days of the effective date of this Order, submit to DEQ TRO a comprehensive site compliance evaluation report to ensure compliance with the Permit and SWPPP.
- c. Within 60 days of the effective date of this Order, submit to DEQ TRO for review and approval an updated SWPPP that contains all elements required by Part III.B of the Permit.
- d. Within 60 days of the effective date of this Order, submit to DEQ for review and approval a corrective action plan ("CAP") that describes actions Amadas has taken or plans to take to comply consistently with inspection, monitoring, and reporting requirements set forth in Part I.A.1.a-c, Part I.B.7.b, Part II.C, and Part III.B.5 of the Permit and SWPPP.
- e. Mail all submittals and reports required by this Appendix A to:

Regional Director
VA DEQ – Tidewater Regional Office
5636 Southern Boulevard
Virginia Beach, VA 23462