

ENTERED



COMMONWEALTH of VIRGINIA

Molly Joseph Ward
Secretary of Natural Resources

DEPARTMENT OF ENVIRONMENTAL QUALITY
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David K. Paylor
Director

Robert J. Weld
Regional Director

STATE WATER CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO CARPET CARE OF CENTRAL VIRGINIA, INC.

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 62.1-44.34:18, between the State Water Control Board and Carpet Care of Central Virginia, Inc. for the purpose of resolving certain violations of the State Water Control Law and the applicable regulations.

SECTION B: Definitions

Unless the context 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. "BRRO" means the Blue Ridge Regional Office of DEQ, located in Roanoke, Virginia.
3. "CCCV" means Carpet Care of Central Virginia, Inc. a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. CCCV is a "person" within the meaning of Va. Code § 62.1-44.3.
4. "Containment and cleanup" means abatement, containment, removal and disposal of oil and, to the extent possible, the restoration of the environment to its existing state prior to an oil discharge.
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 any spilling, leaking, pumping, pouring, emitting, emptying or dumping.
8. "Location" means the facility, land, road, storm drain(s) or state water(s) where the oil discharge occurred. The Location is a restaurant located at 201 South Electric Road, Salem, Virginia.
9. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
10. "Oil" means oil of any kind and in any form, including, but not limited to, petroleum and petroleum by-products, fuel oil, lubricating oils, sludge, oil refuse, oil mixed with other wastes, crude oils and all other liquid hydrocarbons regardless of specific gravity. See Va. Code §62.1-44.34:14.
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. "Person" means any firm, corporation, association or partnership, one or more individuals, or any governmental unit or agency thereof.
13. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code. Article 11 (Va. Code §§ 62.1-44.34:14 through 62.1-44.34:23) of the State Water Control Law addresses discharge of oil into waters.
14. "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.
15. "Va. Code" means the Code of Virginia (1950), as amended.
16. "VAC" means the Virginia Administrative Code.
17. "Vehicle" means any motor vehicle, rolling stock or other artificial contrivance for transport whether self-propelled or otherwise, except vessels.

SECTION C: Findings of Fact and Conclusions of Law

1. On Thursday, January 26, 2017, the BRRO received notification from the Virginia Department of Emergency Management ("VDEM") of a discharge of oil and grease to Mason Creek in Salem, Virginia.

2. Employees of CCCV were pressure washing and cleaning the floors of the restaurant at the Location and the wash water was collected in a 55-gallon tank mounted on the Vehicle. When the tank became full, the employees discharged the oil/grease and water mixture to a drop inlet in the parking lot at the Location.
3. The employees discharged the full contents of the tank three times during the cleaning operations. VDEM staff estimate that approximately 165 gallons of oil/grease and water were discharged to the storm drain and subsequently Mason Creek.
4. VDEM staff observed an oil sheen at the outfall and initial containment of the discharge was provided by the City of Salem Fire Department at the outfall. CCCV employees purchased and applied 15 bags of Stay Dry absorbent to the parking lot. CCCV hired a contractor, to flush the drop inlet and stormwater conveyance system of any remaining residual oil and grease, capture the wash water, and maintain booms at the outfall to absorb the residual oil from the stormwater conveyance flush.
5. Mason Creek is located in the Roanoke River Basin. The aforementioned receiving water is listed in DEQ's *Final 2014 305(b)/303(d) Water Quality Assessment Integrated Report* as impaired for *Escherichia coli* and benthic-macroinvertebrate bio assessments. The sources of the impairment are listed as discharges from municipal separate storm sewer systems, municipal (urbanized high density area), sanitary sewer overflows (collection system failures), wet weather discharges (non-point source), wildlife (other than waterfowl), loss of riparian habitat, residential districts, and urban runoff. The impairment effects recreation use and aquatic life of the state water.
6. Va. Code § 62.1-44.34:18 prohibits the discharge of oil into or upon state waters, lands, or storm drain systems that violate applicable water quality standards or cause a film or sheen upon or discoloration of the surface of the water.
7. Va. Code § 62.1-44.34:19 requires any person causing or permitting a discharge of 25 gallons or more of oil that enters, or may reasonably be expected to enter, state waters, lands or storm drain systems within the Commonwealth immediately upon learning of the discharge to notify the Board.
8. On February 13, 2017, the Department issued Notice of Violation ("NOV") No. NOV-17-01-BRRO-001 to CCCV for a discharge of oil to the land and state waters and failure to report the discharge.
9. Based on the results of January 26, 2017 inspection the State Water Control Board concludes that CCCV has violated Va. Code § 62.1-44.34:18, which prohibits the discharge of oil into or upon state waters, lands, or storm drain systems, as described in paragraphs C(2) through C(4), above.

10. CCCV verifies that the violations as described in paragraphs C(2) through C(5), above, have been corrected by containment and clean-up.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 62.1-44.34:20, the Board orders CCCV, and CCCV agrees to pay a civil charge of **\$1,980** within 30 days of the effective date of the 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 delivered to:

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

CCCV shall include its Federal Employer Identification Number (FEIN) 54-1399221 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 Petroleum Storage Tank Fund (VPSTF). If the Department has to refer collection of moneys due under this Order to the Department of Law, CCCV 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 CCCV for good cause shown by CCCV, 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 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, CCCV admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. CCCV 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. CCCV 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 CCCV 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. CCCV 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. CCCV shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. CCCV 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 CCCV.

11. This Order shall continue in effect until:

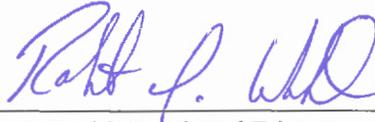
- a. The Director or his designee terminates the Order after CCCV has completed all of the requirements of the Order;
- b. CCCV petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
- c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to CCCV.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve CCCV 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 CCCV 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 CCCV 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 CCCV to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of CCCV.
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, CCCV voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 13th day of July, 2017.



Robert J. Weld, Regional Director
Department of Environmental Quality

Carpet Care of Central Virginia, Inc. voluntarily agrees to the issuance of this Order.

Date: 5-22-17 By:  _____, President
Thomas A. Rogers
Carpet Care of Central Virginia, Inc.

Commonwealth of Virginia
City/County of Lynchburg

The foregoing document was signed and acknowledged before me this 22nd day of May, 2017, by Thomas A. Rogers who is President of Carpet Care of Central Virginia, Inc., on behalf of the corporation.


Notary Public

205021
Registration No.

My commission expires: 10-31-19

Notary seal: