



COMMONWEALTH of VIRGINIA

Molly Joseph Ward
Secretary of Natural Resources

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David K. Paylor
Director

Robert J. Weld
Regional Director

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO DYNAX AMERICA CORPORATION Registration No. 21279

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1309 and -1316, between the State Air Pollution Control Board and Dynax America Corporation, regarding the Dynax America Corporation plant in Botetourt County, Virginia, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the applicable permit(s) 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 Air Pollution Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1301.
2. "BRRO" means the Blue Ridge Regional Office of DEQ, located in Roanoke, Virginia.
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. “Dynax” means Dynax America Corporation, a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Dynax is a “person” within the meaning of Va. Code § 10.1-1300.
6. “Facility” means the Dynax facility located at 568 East Park Drive in Botetourt County Virginia, which is owned and operated by Dynax.
7. “Notice of Violation” or “NOV” means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
8. “Order” means this document, also known as a “Consent Order” or “Order by Consent,” a type of Special Order under the Virginia Air Pollution Control Law.
9. “Regulations” or “Regulations for the Control and Abatement of Air Pollution” mean 9 VAC 5 chapters 10 through 80.
10. “Permit” means a New Source Review (NSR) permit to operate a stationary source of air pollution, which was issued on May 15, 2017 under the Virginia Air Pollution Control Law and the Regulations to Dynax for operation of the Facility. The Permit supersedes a NSR permit that was issued to Dynax on January 3, 2017.
11. “Va. Code” means the Code of Virginia (1950), as amended.
12. “VAC” means the Virginia Administrative Code.
13. “Virginia Air Pollution Control Law” means Chapter 13 (§ 10.1-1300 *et seq.*) of Title 10.1 of the Va. Code.

SECTION C: Findings of Fact and Conclusions of Law

1. Dynax owns and operates the Facility. The Facility manufactures automotive parts.
2. The Permit authorizes Dynax to operate a stationary source of air pollution. The Permit contains conditions and enumerates limitations on the air emissions from the Facility and includes monitoring and recordkeeping requirements. Equipment specified in the Permit includes a ten roll coating units (SFRC10 – 14 and DL 3 – 7), two surface treatment lines (ST3 and ST4), one target molding operation, eight segment facing roll coating lines and one after-market coating line, two DOT lines (with segment facing roll coater and bonder each), a 2,000-gallon capacity waste acid tank, and associated air pollution control equipment.
3. On May 12, 2017, Department staff conducted a Surveillance/File Review compliance inspection of the Facility for compliance with the requirements of the Virginia Air Pollution Control Law, the Permit, and the Regulations. Based on the inspection and

follow-up information, Department staff made the following observations: On May 9, 2017, Dynax informed DEQ that construction had taken place for roll coaters that were subject to a permit application, though the relevant final air permit had not yet been issued.

4. On May 15, 2017, the Department issued a final air permit for the new construction.
5. On May 22, 2017, Dynax submitted written confirmation that construction of the roll coaters had started on May 8, 2017.
6. 9 VAC 5-80-1120 states that “No owner or other person shall begin actual construction of, or operate, any new stationary source or any project subject to this article without first obtaining from the board a permit under the provisions of this article. The owner may not construct or operate the stationary source or project contrary to the terms and conditions of that permit.”
7. Va. Code §10.1-1322 states that “Failure to comply with any condition of a permit shall be considered a violation of the chapter and investigations and enforcement actions may be pursued in the same manner as is done with regulations and orders of the Board under the provisions of this chapter.”
8. On June 1, 2017, based on the May 12, 2017 Surveillance/File Review compliance inspection, the Department issued NOV No. ABRRO000651 to Dynax for the violations described in paragraphs C(3) through C(5) above.
9. On June 28th, 2017, Dynax and DEQ staff discussed the NOV by phone.
10. Based on the results of the May 12, 2017 Surveillance/File Review compliance inspection, the Board concludes that Dynax has violated 9 VAC 5-80-1120 and Va. Code §10.1-1322 as described in paragraphs C(3) through C(5) above.
11. Dynax has submitted documentation that verifies that the violations described in paragraphs C(3) through C(5) have been corrected.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and -1316, the Board orders Dynax, and Dynax agrees to pay a civil charge of \$3,300.00 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

Dynax shall include its Federal Employer Identification Number (FEIN) _31-1652511 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, Dynax 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 Dynax for good cause shown by Dynax, 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, Dynax admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Dynax 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. Dynax declares it has received fair and due process under the Administrative Process Act and the Virginia Air Pollution 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 Dynax 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. Dynax 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. Dynax shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Dynax 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 Dynax. Nevertheless, Dynax 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 Dynax has completed all of the requirements of the Order;
 - b. Dynax 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 Dynax.

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

And it is so ORDERED this 6th day of July, 2017.



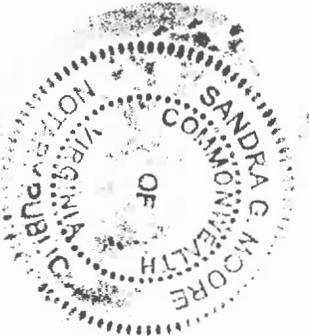
Robert J. Weld, Regional Director
Department of Environmental Quality

Dynax America Corporation voluntarily agrees to the issuance of this Order.

Date: 6/29/2017 By: Shinichi Sofve
Dynax America Corporation

Commonwealth of Virginia
City/County of Bostetourt

The foregoing document was signed and acknowledged before me this 29th day of
June, 2017, by Shinichi Sofve, who is
President, on behalf of the corporation.



Sandra G. Moore
Notary Public

225905
Registration No.

My commission expires: August 31, 2020

Notary seal: