



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

NORTHERN REGIONAL OFFICE

13901 Crown Court, Woodbridge, Virginia 22193

(703) 583-3800 Fax (703) 583-3821

www.deq.virginia.gov

Douglas W. Domenech
Secretary of Natural Resources

David K. Paylor
Director

**STATE AIR POLLUTION CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
GEO-CELL SOLUTIONS, INC.
Registration No. 74033**

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 Geo-Cell Solutions, Inc., for the purpose of resolving certain violations of the Virginia Air Pollution 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. "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. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
3. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
4. "Facility" means the Geo-Cell Solutions, Inc. portable foam concrete plant located at 10th Street and Courthouse Road, Arlington, VA 22201.
5. "FCE" means Full Compliance Evaluation by DEQ staff.

6. "Geo-Cell" means Geo-Cell Solutions, Inc., a company authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Geo-Cell is a "person" within the meaning of Va. Code § 10.1-1300.
7. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
8. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
9. "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.
10. "Permit" means a minor New Source Review Permit, Registration No.: 74033, to construct and operate a portable foam concrete plant, consisting of: a flyash silo; a cement silo; a cement batch plant; a 185 hp Cummins diesel engine; and a 105 hp diesel engine compressor, issued under the Virginia Air Pollution Control Law and the Regulations on February 15, 2013.
11. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 9 VAC 5 chapters 10 through 80.
12. "Va. Code" means the Code of Virginia (1950), as amended.
13. "VAC" means the Virginia Administrative Code.
14. "Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 *et seq.*) of Title 10.1 of the Va. Code.
15. "Warning Letter" or "WL" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.

SECTION C: Findings of Fact and Conclusions of Law

1. Geo-Cell owns and operates the Facility in Arlington, Virginia.
2. The Facility is the subject of the Permit issued under the Virginia Air Pollution Control Law and the Regulations.
3. On April 11, 2013, in response to a citizen complaint regarding alleged flyash and/or fugitive dust emissions being emitted from the Facility, DEQ staff conducted a site visit. During the site visit, DEQ staff observed a truck driver connecting a hose from a tanker truck to a bulk storage tank (PIG) located next to the plant. The tanker and PIG were owned by North American Trucking, and the employee operating the truck during the transfer of flyash into the PIG was employed by the same company, not Geo-Cell. It appeared that the truck began unloading its cargo from the tanker truck to the PIG as

indicated by the swelling of the transfer hoses. During the transfer of flyash from the tanker, DEQ observed fugitive flyash/dust emissions leaving the top of the flyash silo. The emissions continued until the truck driver discontinued the transfer of material.

4. Permit Condition 2, requires particulate emissions from the flyash silo be controlled by a fabric filter and requires the fabric filter on the flyash silo to be properly functioning when the process is in operation.
5. 9 VAC 5-50-20 (E), requires that “[a]t all times, including periods of startup, shutdown, soot blowing and malfunction, owners shall, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with air pollution control practices for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the board, which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.”
6. During the April 11, 2013 site visit, DEQ observed the operation of the PIG. DEQ has not issued a Permit for this piece of equipment.
7. 9 VAC 5-80-1120 (A), requires “[n]o 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.”
8. On April 15, 2013, based on the site visit and the violations described in C(3) - C(5) above, the Department issued a NOV to Geo-Cell.
9. On May 13, 2013, based on the review of Facility files, site visit, and the violations described in C(6) - C(7) above, DEQ issued a second NOV to Geo-Cell.
10. On May 22, 2013, Geo-Cell submitted a permit application and a response letter for the April 15, 2013 and May 13, 2013, NOVs. The response letter stated that the April 11, 2013 emissions violation was caused by a third-party driver during the transfer of the flyash load to the PIG. The response letter also addressed the permitting issues set forth in the May 13, 2013 NOV. In the letter, Geo-Cell stated that PIG was rented from another company and Geo-Cell did not realize it was their responsibility to obtain a permit as Geo-Cell was not the owner of the equipment.
11. On May 23, 2013, DEQ received a citizen complaint. The citizen stated that they had observed visible emissions coming from the stacks (silo).
12. On May 28, 2013, DEQ conducted a follow-up site visit. While on-site, the DEQ inspector observed visible emissions from the flyash silo bag house during the transfer of flyash from the truck to the PIG. In addition, during the site visit, DEQ observed fugitive emissions from the plant during operation.

13. Permit Condition 2, requires particulate emissions from the flyash silo be controlled by a fabric filter and requires the fabric filter on the flyash silo to be properly functioning when the process is in operation.
14. 9 VAC 5-50-20 (E), requires that “[a]t all times, including periods of startup, shutdown, soot blowing and malfunction, owners shall, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with air pollution control practices for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the board, which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.”
15. On June 3, 2013, based on the site visit, and the violations described in C(11) - C(14) above, DEQ issued a NOV to Geo-Cell.
16. On June 3, 2013, DEQ spoke with representatives of Geo-Cell via conference call to discuss the NOVs. During the call and in subsequent correspondence, Geo-Cell claimed that emissions from the silo were the direct result of the truck driver employed by North American Trucking using excessive amounts of air to transfer the flyash from the tanker truck to the PIG. In addition Geo-Cell claimed and provided photographic evidence that third party street sweeping at and around the site contributed to the excessive amounts of fugitive dust observed.
17. Based on the site visits conducted on April 11, 2013 and May 28, 2013, and the review of Facility files, the Board concludes that Geo-Cell has violated Permit Condition 2, 9 VAC 5-50-20(E) and 9 VAC 5-80-1120(A) as described in paragraphs C(3) - C(17) above.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and -1316, the Board orders Geo-Cell, and Geo-Cell agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$12,000.00 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

Geo-Cell 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, Geo-Cell 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 Geo-Cell for good cause shown by Geo-Cell, 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, Geo-Cell admits the jurisdictional allegations, and agrees not to contest, but neither admits nor denies, the findings of fact and conclusions of law in this Order.
4. Geo-Cell 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. Geo-Cell 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 Geo-Cell 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. Geo-Cell 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. Geo-Cell shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Geo-Cell 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 Geo-Cell. Nevertheless, Geo-Cell 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 Geo-Cell has completed all of the requirements of the Order;
 - b. Geo-Cell 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 Geo-Cell .

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

And it is so ORDERED this 26th day of November, 2013.



Thomas A. Faha, NRO Regional Director
Department of Environmental Quality

Geo-Cell Solutions, Inc. voluntarily agrees to the issuance of this Order.

Date: 11-21-13 By: [Signature]
(Person) (Title)
Geo-Cell Solutions, Inc.

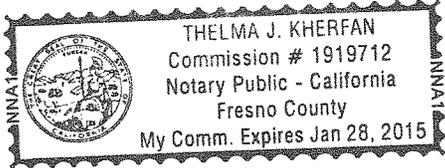
State of California
City/County of Fresno

The foregoing document was signed and acknowledged before me this 21st day of
November, 2013, by Edward Tagline Jr who is
President of Geo-Cell Solutions, Inc., on behalf of the Company.

[Signature]
Notary Public

1919712
Registration No.

My commission expires: Jan 28, 2015
Notary seal:



**APPENDIX A
SCHEDULE OF COMPLIANCE**

1. **Submittals**

Geo-Cell Solutions, Inc. shall:

- A. No later than 30 days from execution of this Order, submit to DEQ proof of the clean-up of the site. The clean-up shall be completed to prevent potential fugitive air emissions and shall include the treatment, removal and final disposition of residual wastewater, contaminated storm water held at the facility and solids, fate of structures, a removal plan for all exposed industrial materials and description of the stabilization of land in which they were stored or placed.

2. **Certification of Documents and Reports**

In accordance with 9 VAC 5-20-230(A), in all documents or reports, submitted to DEQ pursuant to this Consent Order, Geo-Cell Solutions, Inc., shall by its officers, sign and certify under penalty of law that the information contained in such document or report is true, accurate, and not misleading by signing the following statement:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering and evaluating the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

3. **DEQ Contact**

Unless otherwise specified in this Order, Geo-Cell Solutions, Inc shall submit all requirements of Appendix A of this Order to:

Enforcement
Virginia Department of Environmental Quality
Northern Regional Office
13901 Crown Court
Woodbridge, VA 22193