



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 WATER CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO HOLTZMAN OIL CORPORATION

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 62.1-44.34:20, between the State Water Control Board and Holtzman Oil Corporation, for the purpose of resolving certain violations of the State Water Control Law and the applicable 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 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. "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.
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 any spilling, leaking, pumping, pouring, emitting, emptying or dumping.

6. "Location" means the facility, land, road, storm drain(s) or state water(s) where the oil discharge occurred, on the Dulles Greenway between Belmont Ridge Road and Shreve Mill Road, located in Leesburg, Loudoun County, Virginia.
7. "Holtzman Oil" means Holtzman Oil Corporation, a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Holtzman Oil Corporation is a "person" within the meaning of Va. Code § 62.1-44.3.
8. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
9. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
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. "Operator" means any person who owns, operates, charters, rents or otherwise exercises control over or responsibility for a facility or a vehicle or vessel.
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. "Person" means any firm, corporation, association or partnership, one or more individuals, or any governmental unit or agency thereof.
14. "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.
15. "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.
16. "Va. Code" means the Code of Virginia (1950), as amended.
17. "VAC" means the Virginia Administrative Code.
18. "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. Holtzman Oil is a person and operator of a vehicle that transports Oil to customers.

2. On August 30, 2012, DEQ received notification of a discharge of Oil, in the form of diesel fuel, at the location.
3. The notification indicated that on August 30, 2012, a Holtzman Oil vehicle, laden with approximately 7500 gallons of diesel fuel had an accident on the Dulles Greenway. As a result of accident, the tanker overturned and ruptured, allowing the diesel fuel to be discharged onto the road, shoulder, and the road side embankment. The diesel fuel was originally thought to be limited to a 100 foot stretch of embankment on the north side of the Dulles Greenway. However, on October 2, 2012, Holtzman Oil's environmental consultant and clean-up contractor observed the diesel fuel entering a nearby storm water conveyance pipe and discharging on the south side of the Dulles Greenway into a storm water retention pond system.
4. 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.
5. On October 17, 2012, the Department issued Notice of Violation No. 2012-10-N-001 to Holtzman Oil for a discharge of oil into or upon state waters, lands, or storm drain systems.
6. On October 30, 2012, John Davis, Senior Project manager with Cardno MM&A, the consultant for the insurance company, submitted a summary timeline regarding the accident. The summary detailed how the discharge occurred and how the containment and cleanup of the location is progressing. As of this date, approximately 7,000 gallons of diesel fuel remain in the environment.
7. On January 14, 2013, Mr. Davis submitted an Initial Abatement Measures and Limited Site Characterization Report. Based on the information presented in the report, approximately 6,900 gallons of diesel fuel remain in the environment.
8. On February 19, 2013, Holtzman Oil met with DEQ to discuss the oil discharge.
9. On February 20, 2013, Holtzman Oil submitted documentation regarding the vehicle crash.
10. Based on the results of DEQ site visits, and documentation submitted on October 30, 2012, January 14, 2013, and February 20, 2013 the State Water Control Board concludes that Holtzman Oil 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(3) above.
11. In order for Holtzman Oil to complete its return to compliance, DEQ staff and representatives of Holtzman Oil 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 § 62.1-44.34:20, the Board orders Holtzman Oil and Holtzman Oil agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$48,225.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.
3. Reimburse DEQ \$1,379.96 for oil discharge investigative costs within 30 days of the effective date of the Order;

Payment shall be made by separate checks, certified checks, money orders or cashier's checks payable to the "Treasurer of Virginia," for the civil charge and for DEQ oil discharge investigative costs and delivered to:

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

Holtzman Oil 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 Petroleum Storage Tank Fund (VPSTF).

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Holtzman Oil for good cause shown by Loudoun Water, 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, Holtzman Oil admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Holtzman Oil 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. Holtzman Oil 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 Holtzman Oil 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. Holtzman Oil 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. Holtzman Oil shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Holtzman Oil 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 Holtzman Oil. Nevertheless, Holtzman Oil 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 Holtzman Oil has completed all of the requirements of the Order;
 - b. Holtzman Oil 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 Holtzman Oil.

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

And it is so ORDERED this 17th day of June, 2013.



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

Holtzman Oil Corporation voluntarily agrees to the issuance of this Order.

Date: 3-26-13 By: Richard L. Kornf, Vice-President
(Person) (Title)
Holtzman Oil Corporation

Commonwealth of Virginia
City/County of Shenandoah

The foregoing document was signed and acknowledged before me this 26th day of March, 2013, by Richard L. Kornf Jr. who is Vice President of the Holtzman Oil Corporation, on behalf of the corporation.

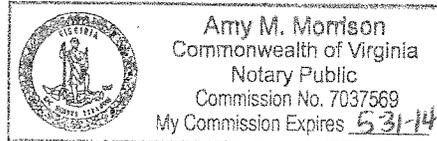
Amy M. Morrison
Notary Public

7037569

Registration No.

My commission expires: May 31, 2014

Notary seal:



**APPENDIX A
SCHEDULE OF COMPLIANCE**

Holtzman Oil Corporation shall:

1. Submit a Site Characterization Report (SCR) by January 14, 2013, for approval in accordance with the items referenced in the September 20, 2012 letter from the DEQ Remediation Staff.
2. Within 120 days of the approval of the SCR, and dependent on the review and recommendations of the DEQ Remediation Staff, submit an SCR Addendum and / or a Correction Action Plan (CAP).
3. Within 120 days of the approval of the CAP, submit a CAP Implementation Report. Additional CAP Implementation Reports are to be submitted per the approved schedule in the CAP and in accordance with DEQ Remediation Staff directives. The schedule set forth in the CAP shall become an enforceable part of this Consent Order. Submission of the reports will continue until the cleanup goals and endpoints, as included in the approved CAP, have been met.

DEQ Contact

Unless otherwise specified in this Order, Holtzman Oil Corporation shall submit all requirements of Appendix A of this Order to:

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