



*Commonwealth of Virginia*

**VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY**

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**STATE WATER CONTROL BOARD  
ENFORCEMENT ACTION - ORDER BY CONSENT  
ISSUED TO  
QUARLES PETROLEUM, INC  
FOR  
VALLEY AVENUE CITGO  
FACILITY ID NO. 6015009**

**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 Quarles Petroleum, Inc., 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 meanings 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. "CSLD" means the Continuous Statistical Leak Detection
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. "Facility" means the physical location where the UST system is installed and operated, known as Valley Avenue Citgo, located at 1856 Valley Avenue in Winchester, Virginia. The Facility's UST system is owned and operated by Quarles Petroleum, Inc., and the Facility is further identified by UST Facility ID# 6015009.
6. "Financial Responsibility" means the ability to demonstrate that one has the financial resources available to pay for the costs of containment and cleanup and third party lawsuits in the event of a release from an UST or UST system.
7. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
8. "Operator" means any person in control of, or having responsibility for, the daily operation of the UST system as defined in Va. Code § 62.1-44.34:8 and 9 VAC 25-580-10.
9. "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.
10. "Owner" means any person who owns an UST system used for storage, use, or dispensing of regulated substances as defined in Va. Code § 62.1-44.34:8 and 9 VAC 25-580-10.
11. "Person" means an individual, trust, firm, joint stock company, corporation, including a government corporation, partnership, association, any state or agency thereof, municipality, county, town, commission, political subdivision of a state, any interstate body, consortium, joint venture, commercial entity, the government of the United States or any unit or agency thereof.
12. "Quarles" means Quarles Petroleum, Inc., a corporation authorized to do business in Virginia, and its affiliates, partners, and subsidiaries. Quarles is a "person" who owns and operates the Facility.
13. "Regulations" means the Underground Storage Tanks: Technical Standards and Corrective Action Requirements, 9 VAC 25-580-10 *et seq.*
14. "Release detection" means determining whether a release of a regulated substance has occurred from the UST system into the environment or into the interstitial space between the UST system and its secondary barrier or secondary containment around it.
15. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code. Article 9 (Va. Code §§ 62.1-44.34:8 through 62.1-44.34:9) of the State Water Control Law addresses Storage Tanks.
16. "Underground Storage Tank" or "UST" means any one or combination of tanks (including underground pipes connected thereto) that is used to contain an accumulation

of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is 10% or more beneath the surface of the ground as defined in Va. Code § 62.1-44.34:8 and 9 VAC 25-580-10.

17. "Va. Code" means the Code of Virginia (1950), as amended.
18. "VAC" means the Virginia Administrative Code.
19. "Warning Letter" or "WL" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.

### **SECTION C: Findings of Fact and Conclusions of Law**

1. Quarles is the operator of the Facility. Quarles stores a regulated substance in the form of gasoline in USTs at the Facility.
2. On June 25, 2019, Department staff inspected the Facility to evaluate compliance with the requirements of the State Water Control Law and the Regulations. At that time, there were three USTs at the Facility: Tanks 1M (8000 gallons), Tank 2M (6000 gallons), and Tank 3 (8000 gallons); Registration No. 6015009. DEQ staff observed the following:
  - a. There was no evidence that release detection records were available for every month for Tank 1M and Tank 2M;
  - b. Release detection monitoring results indicated that a release may have occurred from Tank 1M and Tank 2M.
3. 9 VAC 25-580-50.6 states that: "Release detection shall be provided in accordance with Part IV (9 VAC 25-580-130 et seq.) of this chapter."
4. 9 VAC 25-580-180 requires that: "All UST system owners and operators must maintain records in accordance with 9 VAC 25-580-120 demonstrating compliance with all applicable requirements of this part."
5. 9 VAC 25-580-130.A.1-2 states that: "Owners and operators of UST systems must provide a method, or combination of methods, of release detection that: Can detect a release from any portion of the tank and the connected underground piping that routinely contains product, and is installed and calibrated in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability or running condition."

6. 9 VAC 25-580-190 states in part that “Owners and operators of UST systems must report to the board within 24 hours and follow the procedures in 9 VAC 25-580-210 for any of the following conditions: The discovery by owners and operators or others of released regulated substances at the UST site or in the surrounding area (such as the presence of free product or vapors in soils, basements, sewer and utility lines, and nearby surface water); unusual operating conditions observed by owners and operators; monitoring results, including investigation of an alarm, from a release detection method required under 9 VAC 25-580-140 and 9 VAC 25-580-150 that indicate a release may have occurred unless: The monitoring device is found to be defective, and is immediately repaired, recalibrated or replaced, and additional monitoring does not confirm the initial result...”
7. On June 27, 2019, DEQ sent a Request for Corrective Action (RCA) to Quarles outlining the following:
  - a. DEQ requested Quarles to investigate the suspected release for Tank 1M and Tank 2M to determine whether a release occurred from the tank systems.
  - b. DEQ also requested Quarles to submit the next two consecutive months of automatic tank gauging (ATG) records for Tank 1M and Tank 2M.
8. The response deadline for the RCA was September 25, 2019. Quarles responded prior to the response deadline. On June 25, 2019, the day of inspection, Quarles had a third party tank tightness test performed. Quarles provided DEQ with documentation of passing tank tightness tests for Tank 1M and Tank 2M. Subsequently on July 19, 2019, Quarles provided passing ATG release detection records for June 10, 2019 and July 15, 2019.
9. On July 22, 2019, DEQ issued a NOV No. TVRO248176 to Quarles for the aforementioned violations.
10. On July 29, 2019, Quarles provided a response to the NOV, which reiterated the actions taken at the facility by providing passing tank tightness. Additionally, Quarles attributed the lack of awareness of the CLSD system failure to change of ownership at the Facility. Quarles stated that the new owner’s information was not updated, and the vendor did not notify Quarles of the system failures. Quarles has since updated the necessary information to ensure that the third party vendor contacts the Facility in the event of any future system failures.
11. On August 27, 2019, Quarles resubmitted the passing ATG release detection records for July 2019, as well the passing release detection records for August 2019. On September 24, 2019, Quarles notified DEQ that the CSLD was operational again, and the release detection test for August 2019 and September 2019 passed for the Facility.
12. Based on the results of June 25, 2019 and the documentation submitted on July 29, 2019 and August 27, 2019, the Board concludes that Quarles has violated 9 VAC 25-580-50.6,

9 VAC 25-580-180, 9 VAC 25-580-130.A.1-2, and 9 VAC 25-580-190, as described in paragraphs C(1) through C(11), above.

13. Quarles has submitted documentation that verifies that the violations described in paragraphs C(1) through C(6) above have been corrected.

**SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15 the Board orders Quarles and Quarles agrees to:

1. Pay a civil charge of \$15,402.00 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

Quarles 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). If the Department has to refer collection of moneys due under this Order to the Department of Law, Quarles 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 Quarles for good cause shown by Quarles, 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 and in No. TVRO248176 dated July 22, 2019. 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, Quarles admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.

4. Quarles 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. Quarles 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 Quarles 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. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
9. This Order shall become effective upon execution by both the Director or his designee and Quarles.
10. This Order shall continue in effect until:
  - a. the Director or his designee terminates the Order after Quarles has completed all of the requirements of the Order;
  - b. Quarles 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 Quarles.

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

11. The undersigned representative of Quarles 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 Quarles to this document.

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12. 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.

13. By its signature below, Quarles voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 24<sup>th</sup> day of July, 2020.

  
Amy T. Owens, Regional Director  
Department of Environmental Quality

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Consent Order  
Quarles Petroleum, Inc.; Registration No. 6015009

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Quarles Petroleum, Inc. voluntarily agrees to the issuance of this Order.

Date: 5-29-2020 By: [Signature] Steve Fowler VP Sales  
(Person) (Title)  
Quarles Petroleum, Inc.

Commonwealth of Virginia  
City/County of Fredricksburg

The foregoing document was signed and acknowledged before me this 29 day of May, 2020, by STEVE Fowler who is of Quarles Petroleum, on behalf of the corporation.

[Signature]  
Notary Public

299545  
Registration No.

My commission expires: 9-30-21

Notary seal:

NANCY B McKEITHAN  
NOTARY PUBLIC  
COMMONWEALTH OF VIRGINIA  
REG#299545