



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

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**STATE WATER CONTROL BOARD & VIRGINIA WASTE
MANAGEMENT BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
RECYCLE MANAGEMENT OF STANLEY, LLC
FOR
RECYCLE MANAGEMENT, LLC STANLEY, VA RECYCLING CENTER
General VPDES Permit Registration No. VAR052404
Discharge of Oil onto State Lands
Unauthorized Solid Waste Management**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15 and Va. Code § 10.1-1455, between the State Water Control Board, the Virginia Waste Management Board, and Recycle Management of Stanley, LLC, regarding the Recycle Management, LLC Stanley, VA Recycling Center, for the purpose of resolving certain violations of the State Water Control Law, the applicable Permits and Regulations, and the Waste Management Act and Regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "305(b) report" means the report required by Section 305(b) of the Clean Water Act (33 United States Code § 1315(b)), and Va. Code § 62.1-44.19:5 for providing Congress and

the public an accurate and comprehensive assessment of the quality of State surface waters.

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. “Discharge of a pollutant” when used with reference to the requirements of the VPDES permit program means:
 - a. Any addition of any pollutant or combination of pollutants to surface waters from any point source; or
 - b. Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.
7. “Effluent” means wastewater – treated or untreated – that flows out of a treatment plant, sewer, or industrial outfall.
8. “Facility” means the Recycle Management, LLC Stanley VA Recycling Center, an automobile salvage yard and scrap recycling, located at 3426 U.S. HWY 340 Business West in Stanley, Virginia, from which discharges of stormwater associated with industrial activity occur.
9. “General Permit” means the VPDES General Permit No. VAR05, which was issued under the State Water Control Law and Regulation on July 1, 2014 and which expires on June 30, 2019. Recycle Management of Stanley, LLC applied for registration under the Permit and was issued Registration No. VAR052404 on May 3, 2018.
10. “Individual Permit” means VPDES Individual Permit No. VA0001961, which was issued under the State Water Control Law and the Regulation on April 1, 2015 and which expires on January 31, 2020.
11. “Notice of Violation” or “NOV” means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.

12. "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
13. "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.
14. "Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 USC § 2011 *et seq.*)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water 9VAC 25-31-10.
15. "Pollution" means such alteration of the physical, chemical, or biological properties of any state waters as will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious to the public health, safety, or welfare or to the health of animals, fish, or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an alteration of the physical, chemical, or biological property of state waters or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution but which, in combination with such alteration of or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the Board, are "pollution." Va. Code § 62.1-44.3.
16. "Recycle Management" means Recycle Management of Stanley, LLC, a limited liability company authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Recycle Management is a "person" within the meaning of Va. Code § 62.1-44.3
17. "Registration statement" means a registration statement for coverage under a storm water general permit.
18. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code. Article 1 (Va. Code §§ 62.1-44.5) of the State Water Control Law addresses the industrial stormwater discharges. Article 11 (Va. Code §§ 62.1-44.34:18 through 62.1-44.34:19) of the State Water Control Law addresses discharge of oil onto state lands or storm drain systems.
19. "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.

20. "SWPPP" means Stormwater Pollution Prevention Plan.
21. "TMDL" means Total Maximum Daily Load, and is the sum of the individual wasteload allocations for point sources and load allocations for nonpoint sources and natural background.
22. "Va. Code" means the Code of Virginia (1950), as amended.
23. "VAC" means the Virginia Administrative Code.
24. "Virginia Waste Management Act" means Chapter 14 (§ 10.1-1400 *et seq.*) of Title 10.1 of the Va. Code. Article 2 (Va. Code §§ 10.1-1408.1 through 1413.1) of the Virginia Waste Management Act addresses Solid Waste Management.
25. "VPDES" means Virginia Pollutant Discharge Elimination System.
26. "VRO" means the Valley Regional Office of DEQ, located in Harrisonburg, Virginia.
27. "Waste Board" means the Virginia Waste Management Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and-1401.
28. "Water 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

SECTION C: Findings of Fact and Conclusions of Law

1. Recycle Management leases the property located at 3426 U.S. Highway 340 Business West in Stanley, Virginia (Property). The Property is owned by JP Salyards Properties LLC and is the location of a former poultry processing plant. A portion of the wastewater treatment facility associated with the poultry processing plant remains in operation at the Property. Recycle Management operates the Facility at the Property.
2. The Individual Permit authorizes the discharge of wastewater and stormwater from the Facility to the South Fork Shenandoah River.
3. The South Fork of the Shenandoah River is located in the Shenandoah Sub-basin and Potomac River Basin. The South Fork Shenandoah River is listed in DEQ's 305(b) report as impaired for aquatic life use and fish consumption based upon benthic-macroinvertebrate bioassessments and the presence of mercury and PCB in fish tissue. The sources of pollutants are listed as contaminated sediments and unknown sources.
4. On September 13, 2016 and August 17, 2017, DEQ staff inspected the Facility in response to multiple complaints from downstream property owners of stormwater runoff

and debris discharging from the Facility onto private properties. During the inspections, DEQ staff observed:

- a. two industrial stormwater outfalls from the Facility that were not authorized under the Individual Permit; and
 - b. several piles of mixed solid waste, which included trash, soil, tires, metal, plastics, wood, rubber, and fiberglass insulation at the Facility.
5. 9 VAC 25-31-120 states that: “Dischargers of storm water associated with industrial activity are required to apply for an individual permit or seek coverage under a promulgated storm water general permit.”
 6. Virginia Code § 62.1-44.5 states that: “Except in compliance with a certificate or permit issued by the Board or other entity authorized by the Board to issue a certificate or permit pursuant to this chapter, it shall be unlawful for any person to: Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances.”
 7. Virginia Code §10.1-1408.1 states that: “No person shall operate any sanitary landfill or other facility for the disposal, treatment or storage of nonhazardous solid waste without a permit from the Director.”
 8. 9 VAC 20-81-40 states that: “No person shall operate any sanitary landfill or other facility for the disposal, treatment, or storage of solid waste without a permit from the Director. No person shall allow waste to be disposed of or otherwise managed on his property except in accordance with this chapter. It shall be the duty of all persons to dispose of or otherwise manage their solid waste in a legal manner.”
 9. On October 27, 2017, DEQ issued NOV No. 2017-VRO-0010 to Recycle Management for violations of the Virginia Waste Management Act and Regulations noted in paragraph 4.b. above.
 10. On October 30, 2017, DEQ issued NOV No. 2017-VRO-0011 to Recycle Management for violations of the State Water Control Law and Regulations noted in paragraph 4.a. above.
 11. On November 8, 2017, DEQ staff met with representatives of Recycle Management to discuss outstanding violations, and necessary corrective actions. Required corrective actions included removing all solid waste within 90 days, temporarily redirecting all stormwater runoff to the outfall authorized under the Individual Permit, and applying for and implementing all requirements of the General Permit.
 12. Recycle Management submitted numerous progress reports to DEQ through February 2018, regarding progress towards resolution of the violations cited in NOV No. 2017-VRO-0010. In addition, on February 20, 2018, Recycle Management submitted a General Permit Registration Statement to DEQ to address the violations cited in NOV No. 2017-VRO-0011.

13. On April 26, 2018, DEQ staff conducted a follow up inspection at the Facility and confirmed that all solid waste was removed. As a result of the informal return to compliance, DEQ closed the enforcement action associated with NOV No. 2017-VRO-0010 on June 25, 2018.
14. On May 3, 2018, DEQ issued the General Permit with Registration No. VAR052404 to Recycle Management with an expiry date of June 30, 2019. The General Permit authorizes the discharge of stormwater from the Facility to an unnamed tributary to Stony Run.
15. The unnamed tributary to Stony Run is located in the Shenandoah Sub-basin and Potomac River Basin, and was not assessed during the 2016 monitoring cycle
16. On June 17, 2018 and June 20, 2018, DEQ received citizen complaints with photographs illustrating that petroleum contaminated stormwater runoff was discharging from the Facility onto downstream properties following recent heavy rains.
17. On June 21, 2018, DEQ staff inspected the Facility in response to the citizen complaints and observed soil staining and petroleum sheen in standing water in the discharge path from the Facility onto the downstream properties, and towards the unnamed tributary to Stony Run. DEQ requested that Recycle Management place absorbent booms to intercept stormwater runoff, remove petroleum-impacted soils, provide soil samples to confirm the absence of petroleum contamination off-site, and ensure the best management practices contained in the Facility's SWPPP were installed and operational.
18. On June 22, 2018, DEQ received an additional citizen complaint with a photograph illustrating that petroleum contaminated stormwater runoff was continuing to discharge from the Facility onto downstream properties following recent heavy rains.
19. On June 25, 2018, DEQ staff performed a follow-up inspection at the Facility and DEQ staff observed:
 - a. soil staining and petroleum sheen in standing water in the discharge path from the Facility onto the downstream properties and towards the unnamed tributary to Stony Run, an inadequate number and size of absorbent booms to intercept stormwater, inadequate progress towards removal of contaminated soil;
 - b. inadequate progress towards the installation of best management practices contained in the Facility's SWPPP; and
 - c. a new accumulation of mixed solid waste material at the Facility, which included wet cardboard, metal, plastics, and wood.
20. Virginia Code § 62.1-44.34:18 states that: "The discharge of oil into or upon state waters, lands, or storm drains systems within the Commonwealth is prohibited. For purposes of this section, discharges of oil into or upon state waters includes discharges of oil that (i) violate applicable water quality standards or a permit or certificate of the Board or (ii) cause a film or sheen upon or discoloration of the surface of the water or

adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines.

21. Virginia Code § 62.1-44.34:19 states that: “Any person discharging or causing or permitting a discharge of oil into or upon state waters, lands, or storm drain systems within the Commonwealth or discharging or causing or permitting a discharge of oil which may reasonably be expected to enter state waters, lands, or storm drain systems within the Commonwealth, and any operator of any facility, vehicle, or vessel from which there is a discharge of oil which may reasonably be expected to enter state waters, lands, or storm drain systems, shall, immediately upon learning of the discharge, notify the Board, the director or coordinator of emergency services appointed pursuant to § 44-146.19 for the political subdivision in which the discharge occurs and any other political subdivision reasonably expected to be affected by the discharge, and appropriate federal authorities of such discharge.”
22. General Permit Part III states that: “A Stormwater Pollution Prevention Plan (SWPPP) shall be developed and implemented for the facility covered by this permit. The SWPPP is intended to document the selection, design, and installation of control measures, including BMP’s, to eliminate or reduce pollutants in all stormwater discharges from the facility, and to meet applicable effluent limitations and water quality standards.”
23. General Permit Part III.B.4.a states that: “Control measures shall be implemented for all areas identified in Part III.B.3 (summary of potential pollutant sources) to prevent or control pollutants in stormwater discharges from the facility...”
24. Virginia Code § 10.1-1408.1 states that: “No person shall operate any sanitary landfill or other facility for the disposal, treatment, or storage of nonhazardous solid waste without a permit from the Director.”
25. 9 VAC 20-81-40 states that: “No person shall operate any sanitary landfill or other facility for the disposal, treatment, or storage of solid waste without a permit from the director. No person shall allow waste to be disposed of or otherwise managed on his property except in accordance with this chapter. It shall be the duty of all persons to dispose of or otherwise manage their solid waste in a legal manner. Any person who violates subsection A, B, or C of this section shall immediately cease the activity of improper management and the treatment, storage, or disposal of any additional wastes and shall initiate such removal, cleanup, or closure in place.”
26. On June 27, 2018, DEQ issued NOV No. 2018-VRO-0011 to Recycle Management for violations of Virginia Waste Management Act and Regulations noted in paragraph C(19) above.
27. On June 28, 2018, DEQ issued NOV No. W2018-06-V-0001 for violations of the State Water Control Law, Regulations, and the General Permit noted in paragraphs C(17) and C(19) above.

28. On July 25, 2018, DEQ staff met with representatives of Recycle Management to discuss outstanding violations and necessary corrective actions. Required corrective actions included installation and operation of best management practices as contained in the SWPPP, completion of a Site Characterization Report (SCR), any necessary remediation of the petroleum release, and removal of all solid waste. DEQ requested all corrective actions to be completed within 60 days.
29. On August 22, 2018, DEQ reviewed the completed SCR and supporting documentation submitted by Recycle Management and determined that no further investigation or remediation was required regarding the petroleum release.
30. On October 17, 2018, DEQ staff conducted a conclusive inspection of the Facility and confirmed that all solid waste was removed, and best management practices were constructed and were in operation in compliance with the revised SWPPP.
31. Based on the results of DEQ inspections on September 13, 2016 and August 17, 2017, and the meeting with Recycle Management on November 8, 2017, the Water Board concludes that Recycle Management has violated Va. Code § 62.1-44.5 and 9 VAC 25-31-120 by discharging industrial stormwater without a permit, therefore failing to comply with the State Water Control Law and Regulations, as described in paragraphs C(4) through C(6), and C(11) above.
32. Based on the results of DEQ inspections on June 21, 2018 and June 25, 2018, and the meeting with Recycle Management on July 25, 2018, the Water Board concludes that Recycle Management has violated Part III.B.4.a. of the General Permit by failing to implement the Facility's SWPPP, and has violated Va. Code §§ 62.1-44.34:18 through 62.1-44.34:19 for the discharge of oil onto state lands or storm drain systems, and failure to report that discharge of oil, therefore failing to comply with the State Water Control law and Regulations as described in paragraphs C(16) through C(23), C(27), and C(28) above.
33. Based on the results of the DEQ June 25, 2018 inspection and the meeting with Recycle Management on July 25, 2018, the Waste Board concludes that Recycle Management has violated Va. Code §10.1-1408.1 and 9 VAC 20-81-40 for unpermitted solid waste management, therefore failing to comply with the Virginia Waste Management Act and Regulations, as described in paragraphs C(19), C(24) through C(26), and C(28) above.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 62.1-33.34:20, the Water Board orders Recycle Management, and Recycle Management agrees to pay a civil charge of \$9,245.60 in settlement of the violations cited in Sections C(16) and C(19a) of this Order. In addition, by virtue of the authority granted it in Va. Code § 62.1-44.15, the Water Board orders Recycle Management, and Recycle Management agrees to pay a civil charge of \$16,380 in

settlement of the violations cited in Sections C(4a) and C(19b) of this Order. The civil charges shall be paid in accordance with the following schedule:

Due Date	Amount
Within 30 days of the effective date of the Order	\$6,406.40 or balance
October 10, 2019	\$6,406.40 or balance
January 10, 2020	\$6,406.40 or balance
April 10, 2020	\$6,406.40 or balance

Recycle Management shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and 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) and the Virginia Emergency Response Fund (VEERF).

Payments 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

If the Department has to refer collection of moneys due under this Order to the Department of Law, Recycle Management shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Waste Board and/or the Water Board may modify, rewrite, or amend this Order with the consent of Recycle Management for good cause shown by Recycle Management, 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, in NOV No. 2017-VRO-0011 dated October 30, 2017, NOV No. 2018-VRO-0011 dated June 27, 2018, and NOV No. W2018-06-V-0001 dated June 28, 2018. This Order shall not preclude the Waste Board and/or the Water 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, Recycle Management admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.

4. Recycle Management 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. Recycle Management declares it has received fair and due process under the Administrative Process Act, the State Water Control Law, and the Virginia Waste Management Act 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 Waste Board and/or the Water Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Recycle Management to comply with any of the terms of this Order shall constitute a violation of an order of the Waste Board and/or the Water Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Waste Board and/or the Water 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. Recycle Management 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. Recycle Management shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Recycle Management 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 Recycle Management.
11. This Order shall continue in effect until:
 - a. the Director or his designee terminates the Order after Recycle Management has completed all of the requirements of the Order;
 - b. Recycle Management 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, the Waste Board, or the Water Board terminates the Order in his or its sole discretion upon 30 days' written notice to Recycle Management.

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

And it is so ORDERED this 13th day of June, 2019.



Amy T. Owens, Regional Director
Department of Environmental Quality

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Recycle Management of Stanley, LLC voluntarily agrees to the issuance of this Order.

Date: 04/18/19 By: [Signature], Sole Member
(Person) (Title)
Recycle Management of Stanley, LLC

Commonwealth of Virginia
City/County of Narrisonburg

The foregoing document was signed and acknowledged before me this 18 day of April, 2019, by JODY SALYARDS who is SOLE MEMBER of Recycle Management of Stanley, LLC, on behalf of the company.

[Signature]
Notary Public
108395
Registration No.

My commission expires: 6-30-19

Notary seal:

