



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
VALLEY REGIONAL OFFICE

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Matthew J. Strickler
Secretary of Natural Resources

David K. Paylor
Director

Amy Thatcher Owens
Regional Director

**STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
RECYCLE MANAGEMENT, LLC
FOR
RECYCLE MANAGEMENT, LLC HARRISONBURG, VA RECYCLING
CENTER
General VPDES Permit Registration No. VAR052332**

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 Recycle Management, LLC, for the purpose of resolving certain violations of the State Water Control Law, the applicable Permit, and the Regulation.

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. "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.
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 the discharge of a pollutant.
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. "DMR" means Discharge Monitoring Report.
8. "Facility" means the Recycle Management, LLC Harrisonburg, VA Recycling Center automobile salvage yard and scrap recycling operation located at 1610 South Main Street in Harrisonburg, Virginia, from which discharges of stormwater associated with industrial activity occur.
9. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
10. "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.
11. "Permit" means General VPDES Permit No. VAR05, which was issued under the State Water Control Law and the Regulation on July 1, 2014 and which expires on June 30, 2019. Recycle Management applied for registration under the Permit and was issued coverage under Registration No. VAR052332 on November 8, 2017.
12. "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.

13. “Recycle Management” means Recycle Management, 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.
14. “Registration statement” means a registration statement for coverage under a storm water general permit.
15. “Regulation” means the General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Discharges of Storm Water Associated with Industrial Activity, 9 VAC 25-151-10, *et seq.* effective July 1, 2014.
16. “State Water Control Law” means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.
17. “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.
18. “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
19. “Va. Code” means the Code of Virginia (1950), as amended.
20. “VAC” means the Virginia Administrative Code.
21. “VPDES” means Virginia Pollutant Discharge Elimination System.

SECTION C: Findings of Fact and Conclusions of Law

1. Recycle Management owns and operates the Facility and is currently subject to the Permit with Registration No. VAR052332 that was issued on November 8, 2017 with an expiry date of June 30, 2019.
2. The Permit allows Recycle Management to discharge stormwater associated with Industrial Sector M – SIC Code 5015 and Industrial Sector N – SIC Code 5093 activities from the Facility to Blacks Run in compliance with the terms and conditions of the Permit.
3. Blacks Run is located in the Shenandoah Sub-basin and Potomac Basin. It is listed in DEQ’s 305(b)/303(d) report as impaired for aquatic life use due to violations of the general standard for benthics, and as impaired for recreational use due to violations of the standard for bacteria. The sources of pollutants are listed as Municipal - Urbanized High

Density Area, Wildlife Other than Waterfowl, and Non-Point Sources. These impairments are included in the EPA approved Blacks Run benthic and bacteria TMDLs.

4. On May 24, 2016, DEQ staff inspected the Facility in response to a notification from the Harrisonburg Fire Department that multiple fires, possibly attributed to vehicle crushing operations, had occurred at the Facility. During the inspection, DEQ staff observed a stormwater discharge from the Facility. At the time of the inspection, DEQ had no record of coverage for the Facility under the Permit.
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. On June 17, 2016, DEQ issued NOV No. 16-06-VRO-005 to Recycle Management for the violations noted in paragraphs C(4) through C(6).
8. On August 31, 2016 and November 8, 2017, DEQ staff met with representatives of Recycle Management to discuss outstanding violations, permitting requirements, and progress towards resolution. As stated above in paragraph C(1), on November 8, 2017, DEQ issued the Permit coverage with Registration No. VAR052332 to Recycle Management for the Facility.
9. On July 10, 2018, Recycle Management submitted a DMR and letter of explanation to DEQ, noting that no benchmark sampling and no Chesapeake Bay TMDL sampling were performed for the January 1, 2018 - June 30, 2018 monitoring period.
10. Permit Part I.A.1.b.1 requires that: “Benchmark monitoring shall be performed for all benchmark parameters specified for the industrial sector or sectors applicable to a facility’s discharge. Monitoring shall be performed at least once during each of the first four, and potentially all, monitoring periods after coverage under the permit begins. Monitoring commences with the first full monitoring period after the owner is granted coverage under the permit. Monitoring periods are specified in Part I.A.2.”
11. Permit Part I.B.7.b. states that: “Owners of facilities in the Chesapeake Bay watershed shall monitor their discharges for total suspended solids (TSS), total nitrogen (TN), and total phosphorus (TP) to characterize the contributions from their facility’s specific industrial sector for these parameters. After the facility is granted coverage under the permit, samples shall be collected during each of the first four monitoring periods (i.e., the first two years of permit coverage). Monitoring periods are specified in Part I.A.2. Samples shall be collected and analyzed in accordance with Part I.A.2. Monitoring

results shall be reported in accordance with Part I.A.5. and Part II.C., and retained in accordance with Part II.B.”

12. On August 13, 2018, DEQ issued NOV No. 2018-08-V-0003 to Recycle Management for the violations noted in paragraph C(9) through C(11) above.
13. Based on the documentation submitted by Recycle Management to DEQ on July 10, 2018, the Board concludes that Recycle Management has violated Va. Code §62.1-44.5, 9 VAC 25-31-120, Permit Part I.A.1.b.1, and Permit Part I.B.7.b as noted in paragraphs C(9) through C(11) described above.
14. Recycle Management has obtained Permit coverage that verifies that the violations as described in paragraphs C(4) 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 Recycle Management, and Recycle Management agrees to pay a civil charge of \$20,797.50 in settlement of the violations cited in this Order. The civil charge shall be paid in accordance with the following schedule:

Due Date	Amount
Within 30 days of the effective date of the Order	\$5,199.38 or balance
October 10, 2019	\$5,199.38 or balance
January 10, 2020	\$5,199.38 or balance
April 10, 2020	\$5,199.36 or balance

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

Recycle Management 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, Recycle Management 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 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. 16-06-VRO-005 dated June 17, 2016, and in NOV No. W2018-08-V-0003, dated August 13, 2018. 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, 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 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 Recycle Management 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. 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.

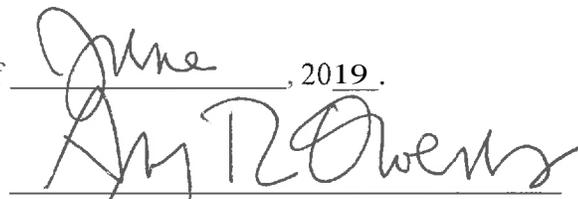
9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Recycle Management. Nevertheless, Recycle Management agrees to be bound by any compliance 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 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 or 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 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

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

Date: 6/08/19 By: [Signature], SOLE MEMBER
Jody Salyards Title
Recycle Management, LLC

Commonwealth of Virginia
City/County of Harrisonburg

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, LLC, on behalf of the corporation.

K. Olga Sas-Jaworsky
Notary Public
108395
Registration No.

My commission expires: 6-30-19

Notary seal:

