



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

PIEDMONT REGIONAL OFFICE
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Secretary of Natural Resources

David K. Paylor
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Regional Director

**STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
TA OPERATING LLC
AND
HPT TA PROPERTIES TRUST
d/b/a TRAVEL CENTERS OF AMERICA
for the
RICHMOND TRAVEL CENTER**

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 TA Operating LLC/ HPT TA Properties Trust, for the purpose of resolving certain violations of the State Water Control Law and the applicable regulations.

SECTION B: Definitions

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

1. "AST" means above ground storage tank.
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. "LNAPL" means light non-aqueous phase liquid.
6. "Location" or "Site" means the facility, land, road, storm drain(s) and surface water(s) adversely affected by the oil discharge and located at the intersection of I-95 and Lewistown Road in Hanover County, Virginia.
7. "LPH" means liquid phase hydrocarbon.
8. "TCA" means TA Operating LLC and HPT TA Properties Trust d/b/a Travel Centers of America, a company authorized to do business in Virginia and its affiliates, partners, subsidiaries, and parents. TCA is a "person" within the meaning of Va. Code § 62.1-44.3.
9. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
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. "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.
12. "OWS" means oil water separator.
13. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
14. "SCR" means site characterization report.
15. "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.
16. "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.
17. "Va. Code" means the Code of Virginia (1950), as amended.
18. "VAC" means the Virginia Administrative Code.
19. "VDOT" means Virginia Department of Transportation.

SECTION C: Findings of Fact and Conclusions of Law

1. TA Operating LLC (TCA) is a foreign limited liability company formed in Delaware with its principal office located in Westlake Ohio. TCA owns and operates a truck maintenance and retail fueling station at the intersection of I-95 and Lewistown Road in Hanover County, Virginia.
2. On August 22, 2017, DEQ received notification from TCA's emergency response vendor, ERTS, who reported to DEQ on TCA's behalf of a 6,800 gallon discharge of diesel fuel from a one 30,000 gallon capacity above ground storage tank (AST) at the site. Diesel fuel is a petroleum product, and is included in the definition of "oil" under Va. Code § 62.1-44.34:14.
3. On August 23, 2017, DEQ staff inspected the site to investigate the extent of the release and observed fuel discharging from a leaking valve in an AST into the secondary containment area. Facility staff stated that there wasn't a valve on the secondary containment drain, however Department staff located the valve buried under several inches of dirt and in the open position. From secondary containment, the fuel flowed through an open storm water conveyance valve, migrated to, and bypassed an Oil Water Separator (OWS), crossing Lewistown Road and entering a Virginia Department of Transportation (VDOT) storm water conveyance system leading to Licking Hole Creek.
4. During the August 23, 2017 inspection of the ASTs on Site, DEQ staff observed weeds growing in between floor cracks and liner tears in the secondary containment system. DEQ staff noted that the ten-year secondary containment certification expired on August 25, 2016. In addition, DEQ staff observed that TCA was not conducting visual daily inspections (7 days a week) as daily maintenance checklists/logs revealed daily inspections are not performed consistently. There was no evidence of training for employees performing daily visual and weekly inspections.
5. Va. Code § 62.1-44.34:18 prohibits the discharge of oil into or upon state waters, lands, or storm drain systems. TCA is subject to the statutory prohibition.
6. On August 29, 2017, DEQ issued a directive letter requiring TCA to submit an initial abatement report by September 4, 2017, conduct an investigation into the source and extent of the release, and submit a Site Characterization Report (SCR) by November 23, 2017.
7. On September 22, 2017, the Department issued Notice of Violation No. 17-09-PRO-501 to TCA for a discharge of oil to the environment and the AST violations observed on Site.
8. On September 26, 2017, TCA submitted a written response to the NOV detailing actions taken to remediate the discharge. TCA hired a third party environmental emergency response company to remove product remaining in the leaking AST and to conduct remediation activities. The company used vacuum trucks to collect petroleum in multiple

places on Site and across the street on the VDOT property. TCA installed delineation soil borings and underflow dams. TCA formed a product collection point with corrugated piping installed in a soil boring adjacent to the oil water separator. In addition, TCA scraped the creek bed to remove petroleum-contaminated sediment. TCA stated that by the end of the day on August 24, 2017, they recovered 6,443 gallons of the estimated 6,800 gallons released.

9. On November 23, 2017, TCA submitted a proposed subsurface investigation work plan to the Department.
10. On May 8, 2018, TCA submitted a Site Characterization Report. Based on these findings, TCA recommended continued monitoring of LPH and groundwater in existing onsite wells for a period of one year. TCA will perform monthly gauging of the four TRW wells within the OWS backfill and five monitoring wells to monitor LPH. TCA will conduct quarterly groundwater sampling at the five monitoring wells. Results will be used to assess LPH and dissolved hydrocarbon trends, and to determine whether additional soil and groundwater characterization is needed. At the conclusion of the one year of monitoring, TCA will make an assessment to determine whether further action is necessary.
11. On November 5, 2018, TCA submitted a quarterly status report on the third quarter of 2018 to the Department. TCA completed monitoring well gauging data in July, August, and September 2018. LPH detection and groundwater sampling was summarized.
12. At the Department's request, an enhanced fluid extraction event was conducted to address increased LPH thickness observed in some of the wells. TCA conducted the event on November 29, 2018, and analysis and manifest documentation accompanied the report. TCA outlined work that was planned for the first quarter of 2019. On January 29, 2019, TCA submitted a quarterly status report on the fourth quarter of 2018 to the Department. TCA completed monitoring well gauging data. LPH detection, groundwater sampling, and enhanced fluid recovery continued.
13. On April 16, 2019, the Department held a meeting with TCA and AECOM to discuss the discharge and its subsequent remediation. AECOM reviewed their operating procedures during the remediation and the methods used to document the recovery amount. AECOM provided a detailed accounting of lost product after separation from other media such as water and soil. AECOM stated they recovered 6,843 gallons of product. Since LNAPL discharges in the vadose zone are not 100% recoverable some was likely lost. Best professional judgment of Department staff estimates the loss to be 357 gallons.
14. On April 23, 2019, TCA submitted a quarterly status report on the first quarter of 2019 to the Department. TCA completed monitoring well gauging data. LPH detection, groundwater sampling, and enhanced fluid recovery continued. TCA outlined work planned for the second quarter of 2019.

15. On July 23, 2019, TCA submitted a quarterly status report on the second quarter of 2019 to the Department. Groundwater monitoring data indicate that TCA has mitigated subsurface impacts stemming from the August 2017 diesel release and any residual impacts are contained within the vicinity of the OWS. Dissolved phase hydrocarbon concentrations in nearby monitoring wells have remained stable since the initial site characterization, and there is no evidence that concentrations are migrating offsite. The results from the past year of monitoring are consistent with the findings of the May 2018 SCR and demonstrate that subsurface impacts stemming from the August 2017 diesel have not migrated beyond the vicinity of the OWS. Residual LPH is minimal and is confined to the OWS backfill. AECOM, on behalf of TCA, requested no further action at the Site.
16. Based on the August 22, 2017 notification, results of the August 23, 2017 inspection, the April 16, 2019 meeting, and the documentation submitted on April 16, 2019, the State Water Control Board concludes that TCA 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 above.
17. Based on the quarterly reports, and a review of groundwater monitoring data and recovery amounts the Department concurs that no further action is required on site. On September 5, 2019, the Department issued a letter to TCA informing them that the petroleum contamination levels at the Site do not warrant further assessment or corrective action.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 62.1-44.34:20, the Board orders TCA, and TCA agrees to pay a civil charge of \$113,740 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

TCA shall include its Federal Employer Identification Number (FEIN) [(xx-xxxxxxx)] 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, TCA 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 TCA for good cause shown by TCA, 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, TCA admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. TCA 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. TCA 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 TCA 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. TCA 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 occurrence. TCA shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. TCA 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 TCA intends 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, their 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 TCA. Nevertheless, TCA 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. TCA 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
 - b. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to TCA.

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

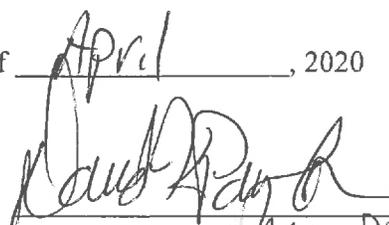
12. Any plans, reports, schedules or specifications attached hereto or submitted by TCA and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of TCA 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 TCA to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of TCA.

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, TCA voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 15 day of April, 2020


~~James I. Golden~~ DAVID PAYLOR, Director
Department of Environmental Quality
~~Piedmont Regional Director~~

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TA Operating LLC voluntarily agrees to the issuance of this Order.

Date: 1/23/20 By: *Peter P. Ward*, SVP CONSTRUCTION & ENVIRONMENTAL
(Person) (Title)
TA Operating LLC

State OHIO
Commonwealth of Virginia
City/County of Cuyahoga

The foregoing document was signed and acknowledged before me this 23 day of

January, 2020, by Peter P. Ward who is

SVP Construction & Environmental of TA Operating LLC, on behalf of the company.

Ramonita Agosto
Notary Public

2019-RE-788563

Registration No.

My commission expires: July 30, 2024

Notary seal:



Ramonita Agosto

Notary Public

In and For the State of Ohio

Recorded in Lorain County

My Commission Expires

July 30, 2024

HPT TA Properties Trust voluntarily agrees to the issuance of this Order.

Date: 2/4/2020 By: John G Murray, President
(Person) (Title)
HPT TA Properties Trust

Commonwealth of ~~Virginia~~ Massachusetts
City/County of Middlesex

The foregoing document was signed and acknowledged before me this 4th day of

February, 2020, by John G Murray who is
President of HPT TA Properties Trust, on behalf of the company.

Judith A Crowley
Notary Public

Registration No. _____

My commission expires: _____

Notary seal:

