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Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

SOUTHWEST REGIONAL OFFICE
355-A Deadmore Street, Abingdon, Virginia 24210
(276) 676-4800 FAX (276) 676-4899
www.deq.virginia.gov

Matthew J. Strickler
Secretary of Natural Resources

David K. Paylor
Director
(804) 698-4000

Jeffrey Hurst
Regional Director

**STATE AIR POLLUTION CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
WOLF HILLS FABRICATORS, LLC**

Registration No. 11488

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1309 and -1316, between the State Air Pollution Control Board and Wolf Hills Fabricators, LLC, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the applicable permits and 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 Air Pollution Control Board, a permanent citizens' board of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1184 and -1301.
2. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
3. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
4. "Facility" means the Wolf Hills Fabricators, LLC, structural steel fabrication and mining equipment repair facility located at 26161 Old Trail Road, Abingdon, Washington County, Virginia.

5. “Notice of Violation” or “NOV” means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
6. “Order” means this document, also known as a “Consent Order” or “Order by Consent,” a type of Special Order under the Virginia Air Pollution Control Law.
7. “Permit” means a New Source Review Permit to operate a mining equipment rebuild facility which was issued under the Air Pollution Control Law and the Regulations to DSI Underground Systems, Inc. effective May 3, 2011.
8. “PCE” means partial compliance evaluation by DEQ staff.
9. “Regulations” or “Regulations for the Control and Abatement of Air Pollution”, means 9 VAC 5 chapters 10 through 80.
10. "SWRO" means the Southwest Regional Office of DEQ, located in Abingdon, Virginia.
11. “Va. Code” means the Code of Virginia (1950), as amended.
12. “VAC” means the Virginia Administrative Code.
13. “Wolf Hills Fabricators, LLC” means Wolf Hills Fabricators, LLC, a limited liability company authorized to do business in Virginia and its affiliates, partners, subsidiaries, and parents. Wolf Hills Fabricators, LLC is a ‘person’ within the meaning of Va. Code § 10.1-1300.
14. “Virginia Air Pollution Control Law” means Chapter 13 (§ 10.1-1300 *et seq.*) of Title 10.1 of the Va. Code.

SECTION C: Findings of Facts and Conclusions of Law

1. Wolf Hills Fabricators, LLC owns and operates the Facility in Washington County, Virginia. On September 17, 2015, Wolf Hills Fabricators, LLC submitted a name change and ownership change request form for the Facility, previously owned by DSI Underground Systems, Inc. facility.
2. On March 26, 2019, DEQ staff conducted a PCE of the Facility. During the PCE, DEQ staff noted paint spray operations were being conducted outside of the paint spray booth, the use of non-equivalent coatings and failure to maintain records for applied coatings to demonstrate compliance with the Permit.
3. Condition No. 5 of the Permit states, “...Equivalent coatings shall not contain more than 1.394 lbs of volatile organic compounds per gallon, as applied.”

4. Condition No. 6 of the Permit states, "...The total consumption of all paints and coatings in the spray guns shall not exceed...1,980 gallons/year. The hourly consumption shall be calculated as total gallons during the month divided by total spray booth hours of operation for that month. The annual consumption shall be calculated monthly as the sum of each consecutive 12-month period"
5. 9 VAC 5-80-1180 states. "...D. Minor NSR permits will contain, but need not be limited to, any of the following elements as necessary to ensure that the permits are enforceable as a practical matter:
 1. Emission standards.
 2. Conditions necessary to enforce emission standards. Conditions may include but not be limited to, any of the following:
 - b. Limits on production rates with time frames as appropriate to support the emission standards. ...
 - d. Limits on the minimum required capture, removal and overall control efficiency for any air pollution control equipment..."
6. 9 VAC 5-50-260 A. states, "No owner or other person shall cause or permit to be discharged into the atmosphere from any affected facility any emissions in excess of emissions limitations representing best available control technology, as reflected in any term or condition that may be placed upon the minor NSR permit approval for the facility."
7. On April 25, 2019, based on the March 26, 2019 PCE, the Department issued a Notice of Violation No. ASWRO001191 to Wolf Hills Fabricators, LLC for the alleged violation described in paragraph C(2) above.
8. On May 6, 2019, the Department received an electronic written response to the NOV from representatives of the Facility. On June 3, 2019, DEQ staff met with representatives of Wolf Hills Fabricators, LLC.
9. On May 6, 2019; June 12, 2019; June 13, 2019; and July 12, 2019, the Department received electronic correspondence which included production data to satisfy the recordkeeping deficiencies. Subsequently, the production data demonstrated the Facility exceeded the volatile organic compounds tons/year permit limit.
10. Condition No. 8 of the Permit states, "Emissions from the operation of the spray guns shall not exceed the limits specified below:

Volatile Organic Compounds (VOC) 36.80 lbs/hr 1.38 tons/yr..."

11. Based on the results of the March 26, 2019 PCE, the May 6, 2019 response, the June 3, 2019 meeting, and the data submitted on May 6, 2019, June 12, 2019, June 13, 2019 and July 12, 2019, the Board concludes that Wolf Hills Fabricators, LLC has violated Conditions 5, 6, and 8 of the Permit, 9 VAC 5-80-1180 and 9 VAC 5-50-260 A. as described in paragraph C(2) through C(6) and (C)10.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and -1316, the Board orders Wolf Hills Fabricators, LLC and Wolf Hills Fabricators, LLC agrees to:

1. Perform the action described in Appendix A of this Order, and
2. Pay a civil charge of \$26,577 within 30 days of the effective date of the Order in settlement of the violation cited in this Order.

Each payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia", delivered to:

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

Wolf Hills Fabricators, LLC 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, Wolf Hills Fabricators, LLC shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Wolf Hills Fabricators, LLC for good cause shown by Wolf Hills Fabricators, LLC, 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 only those violations specifically identified in Section C of this Order and NOV No.ASWRO001191 dated April 25, 2019. This Order shall not preclude the Board or 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, Wolf Hills Fabricators, LLC admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Wolf Hills Fabricators, LLC 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. Wolf Hills Fabricators, LLC declares it has received fair and due process under the Administrative Process Act and the Virginia Air Pollution Control Law, and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to 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 or Director to modify, rewrite, amend, or enforce this Order.
6. Failure by Wolf Hills Fabricators, LLC 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. Wolf Hills Fabricators, LLC 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. Wolf Hills Fabricators, LLC shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Wolf Hills Fabricators, LLC shall notify 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 this Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of 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 listed above, which the parties intend to assert will result in the impossibility of compliance, shall constitute waiver of any claim of 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 Wolf Hills Fabricators, LLC. Nevertheless, Wolf Hills Fabricators, LLC 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 Wolf Hills Fabricators, LLC has completed all of the requirements of the Order.
 - b. Wolf Hills Fabricators, LLC 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 Wolf Hills Fabricators, LLC.

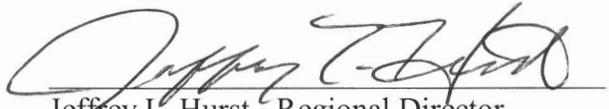
Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve Wolf Hills Fabricators, LLC from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

- 12. Any plans, reports, schedules or specifications attached hereto or submitted by Wolf Hills Fabricators, LLC 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 Wolf Hills Fabricators, LLC 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 Wolf Hills Fabricators, LLC to this

document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Wolf Hills Fabricators, LLC

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, Wolf Hills Fabricators, LLC voluntarily agrees to the issuance of this Order.

And it is ORDERED this 13th day of September, 2019


Jeffrey L. Hurst - Regional Director
Department of Environmental Quality

Wolf Hills Fabricators, LLC voluntarily agrees to the issuance of this Order.

Date: 9/10/2019 By: [Signature]
Steve Thorogood, Vice President Operations
Wolf Hills Fabricators, LLC

State of Virginia

City/County of Washington

The foregoing document was signed and acknowledged before me this 10 day of September, 2019 by Steve Thorogood who is VP Operations of Wolf Hills Fabricators, LLC, on behalf of the company.

[Signature]
Notary Public

7541462
Registration No.

My commission expires: April 30, 2021

Notary Seal:



APPENDIX A SCHEDULE OF COMPLIANCE

1. Wolf Hills Fabricators, LLC:

Shall submit an application for permit amendment application within 30 days of the execution of this Order to include the non-equivalent coatings and the paint spray application process.

2. Certification of Documents and Reports

In accordance with 9 VAC 5-20-230(A), in all documents or reports, including, without limitation, the SEP Completion Report, submitted to DEQ pursuant to this Consent Order, Wolf Hills Fabricators, LLC, shall by its officers, sign and certify under penalty of law that the information contained in such document or report is true, accurate, and not misleading by signing the following statement:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering and evaluating the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

3. DEQ Contact

Unless otherwise specified in this Order, Wolf Hills Fabricators, LLC shall submit all requirements of Appendix A of this Order to:

Crystal C. Bazyk
Enforcement and Air Compliance/Monitoring Manager
VA DEQ – SWRO
355-A Deadmore Street
Abingdon, VA 24210
(276) 676-4829
crystal.bazyk@deq.virginia.gov