

STATE WATER CONTROL BOARD ENFORCEMENT ACTION

**A SPECIAL ORDER BY CONSENT
ISSUED TO**

RAYMOND A. STRANGE d/b/a

WILLIS ROAD SHELL

**Underground Storage Tank Facility # 4012578 and Pollution Complaint #03-4208
Richmond, Virginia**

SECTION A: Purpose

This is a Special Order by consent issued under the authority of §§ 62.1-44.15 (8a) and (8d) of the Code of Virginia issued by the State Water Control Board between the Board and Raymond A. Strange doing business as Willis Road Shell to resolve certain violations of the State Water Control Law and regulations at Willis Road Shell.

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 Code §§ 10.1-1184 and 62.1-44.7.
2. “Code” means the Code of Virginia (1950), as amended.
3. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Code § 10.1-1183.
4. “Director” means the Director of the Department of Environmental Quality.
5. “Facility” means Raymond A. Strange’s (d/b/a Willis Road Shell) real property and UST facility located at 2116 Willis Road in Richmond, Virginia.

6. “Order” means this document, also known as a Consent Special Order.
7. “PRO” means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
8. “UST” means underground storage tank.

SECTION C: Findings of Fact and Conclusions of Law

1. Mr. Raymond A. Strange is the owner of USTs located at the Willis Road Shell petroleum dispensing facility at 2116 Willis Road in Richmond, Virginia. The facility is subject to Code § 62.1-44.34:20 of the State Water Control Law.
2. Mr. Raymond A. Strange is an UST owner and/or operator within the meaning of Code § 62.1-44.34:8.
3. On October 20, 2002, a petroleum release occurred from the facility which caused environmental impact to an un-named tributary of Kingsland Creek. The owner did not report the release to the Department as required by the regulations.
4. An inspection conducted on October 25, 2002, revealed that the facility failed to upgrade a UST as required by December 22, 1998; failed to conduct leak detection for the product bearing piping, and the owner had failed to provide for financial assurance.
5. On December 18, 2002, the Department issued a Notice of Violation to Mr. Strange citing the above violations.
6. On January 7, 2003, the Department met with Mr. Strange to discuss the issues cited in the December 18, 2002, NOV.
7. Mr. Strange claimed a financial hardship and an inability to pay a civil charge. The Department calculated a \$13,500 civil charge based on the above facts. The financial records submitted by Mr. Strange indicate that there is not enough financial resources to pay a civil charge.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of its authority in Code §§ 62.1-44.15 (8a) and (8d), orders Raymond A. Strange and Raymond A. Strange agrees to perform the actions described in Appendix A of this Order.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Raymond A. Strange, for good cause shown by Raymond A. Strange, or on his own motion after notice and opportunity to be heard.
2. This Order addresses only those violations specifically identified herein. 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 regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; and/or (3) taking subsequent action to enforce the terms of this Order. Nothing herein shall affect appropriate enforcement actions by other federal, state, or local regulatory authority, whether or not arising out of the same or similar facts.
3. For purposes of this Order and subsequent actions with respect to this Order, Raymond A. Strange admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Raymond A. Strange 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. Raymond A. Strange declares he has received fair and due process under the Virginia Administrative Process Act, Code §§ 2.2-4000 *et seq.*, and the State Water Control Law, and waives his 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 to enforce this Order.
6. Failure by Raymond A. Strange to comply with any of the terms of this Order shall constitute a violation of an Order of the Board. Nothing herein shall act to waive or bar 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. Raymond A. Strange shall be responsible for failing 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. Raymond A. Strange must show that such circumstances resulting in noncompliance were beyond his control and not due to a lack of good faith or diligence on his part. Raymond A. Strange shall notify the Director of the Regional Office in writing 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 Director of the Regional Office in writing within 10 days of learning of any condition listed above, which Raymond A. Strange intends to assert will result in the impossibility of compliance, shall constitute a 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 Raymond A. Strange. Notwithstanding the foregoing, Raymond A. Strange agrees to be bound by any compliance date that precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days notice to Raymond A. Strange. Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve Raymond A. Strange from his obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By his signature below, Raymond A. Strange voluntarily agrees to the issuance of this Order.

And it is so ORDERED this _____ day of _____, 2003.

Robert G. Burnley, Director
Department of Environmental Quality

Raymond A. Strange voluntarily agrees to the issuance of this Order.

Date: _____ By: _____

Title: _____

Commonwealth of Virginia City/County of _____

The foregoing document was signed and acknowledged before me this _____ day of _____, 2003, by _____:
(name)

Notary Public

My commission expires: _____

Appendix A

Raymond A. Strange - UST Facility #4012578; PC# 03-4208

Raymond A. Strange shall:

1. Within sixty (60) days of the effective date of this Order, upgrade the waste oil UST in accordance with 9 VAC 25-580-60 or properly close the UST in accordance with 9 VAC 25-580-320 through -350.
2. Within sixty (60) days of the effective date of this Order, submit to the Department, a report with leak detection results for the petroleum piping on all the facility USTs.
3. Within thirty (30) days of the effective date of this Order, submit to the Department, financial assurance as required by 9 VAC 25-590-10 et.seq.

Pursuant to this Order communications regarding this Order, and its requirements shall be addressed as follows:

Frank Lupini
Department of Environmental Quality
Piedmont Regional Office
4949-A Cox Road
Glen Allen, Virginia 23060

Raymond A. Strange shall confirm, in writing, completion of the Order requirements to the above address **within five (5) days of completion.**