COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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Matthew J. Strickler
Secretary of Natural Resources

David K. Paylor
Director

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STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
234 AUTO & TRUCK SALVAGE LLC AND
234 AUTO SALVAGE LLC
FOR
234 AUTO & TRUCK SALVAGE
VPDES Permit No. VAR05
Registration Number VAR052243

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, 234 Auto & Truck Salvage LLC, and 234 Auto Salvage LLC regarding 234 Auto & Truck Salvage, for the purpose of resolving certain violations of the State Water Control Law and the applicable permit and regulation.

SECTION B: Definitions

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

1. "234 Auto & Truck" means 234 Auto & Truck Salvage LLC, a limited liability company authorized to do business in Virginia and its members, affiliates, partners, and subsidiaries. 234 Auto & Truck is a "person" within the meaning of Va. Code § 62.1-44.3.

2. "234 Auto Salvage" means 234 Auto Salvage LLC, a limited liability company authorized to do business in Virginia and its members, affiliates, partners, and subsidiaries. 234 Auto Salvage is a "person" within the meaning of Va. Code § 62.1-44.3.

3. "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.

4. "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.

5. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.

6. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

7. "Discharge" means discharge of a pollutant. 9 VAC 25-31-10

8. "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.

9. "DMR" means Discharge Monitoring Report.

10. "Facility" means the 234 Auto & Truck Salvage facility located at 14843 Dumfries Road, in Manassas, Virginia, from which discharges associated with industrial stormwater occur.

11. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.

12. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.

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. "Permit" means VPDES General Permit No. VAR05, the General Permit for Stormwater Discharges Associated with Industrial Activity, which was issued under the State Water Control Law and the Regulation on July 1, 2014, and which expires on June 30, 2019. 234 Auto applied for registration under the Permit and was issued Registration Number VAR052243 on October 1, 2015.

15. "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… 9 VAC 25-31-10.

16. "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.

17. "Registration Statement" means a registration statement for coverage under a stormwater general permit.

18. "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.*

19. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.

20. "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.

21. "SWPPP" means a Stormwater Pollution Prevention Plan.

22. "Va. Code" means the Code of Virginia (1950), as amended.

23. "VAC" means the Virginia Administrative Code.

24. "VPDES" means Virginia Pollutant Discharge Elimination System.

25. "Warning Letter" or "WL" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.

SECTION C: Findings of Fact and Conclusions of Law

1. 234 Auto & Truck leases and operates the Facility and has for approximately three (3) years. The prior owner and operator had been in business for more than forty (40) years at this location. The Facility is located at 14843 Dumfries Road in Manassas, Virginia, and discharges stormwater associated with industrial activity.

2. The Permit currently allows 234 Auto & Truck to discharge stormwater associated with industrial activity to an unnamed tributary to Powell's Creek in strict compliance with the terms and conditions of the Permit.

3. 234 Auto Salvage plans to obtain Permit coverage for operation of part of the Facility, at which point 234 Auto & Truck plans to terminate Permit coverage.

4. The receiving stream has not been monitored or assessed. There are downstream impairments. Lake Montclair is located approximately 5.9 miles downstream from the facility and is impaired for Fish Consumption for both PCBs in Fish Tissue and Mercury in Fish Tissue. There is a completed TMDL for the PCB impairment: the Potomac River Polychlorinated biphenyl (PCB) Total maximum daily load (TMDL) was completed on October 31, 2007. Starting with the 2014 assessment, Powell's Creek is impaired for dissolved oxygen in the estuarine segment, approximately 13 miles downstream from this facility; this impairment falls within the Chesapeake Bay TMDL. The County Municipal Landfill operation is located adjacent to this Facility and also discharges stormwater associated with its landfill activities.

5. DEQ staff conducted a site visit of the Facility on March 20, 2016. During the site visit, DEQ staff made the following observations:

    a. Fluid stains were observed on the ground and exposed to stormwater near the car dismantling and processing area and throughout the Facility.

    b. A large amount of asphalt millings and scrap tire piles were observed on the ground and exposed to stormwater.

    c. Batteries and fluids were observed remaining in processed cars.

    d. Trash and sediment were observed at the outfalls.

    e. The Facility SWPPP was not available upon request.

6. A response to the inspection report dated April 20, 2016 which detailed the findings of the

March 20, 2016 site visit, was submitted by 234 Auto & Truck to DEQ on May 5, 2016. The response noted that batteries had been removed from processed cars, tires had been hauled offsite, and staff was working on cleaning the outfalls and the rest of the Facility.

6. Based on the observations noted during the March 20, 2016, inspection, DEQ issued WL No. W2016-05-N-1010 to 234 Auto & Truck on May 17, 2016, for failing to provide the Facility SWPPP upon request, and for housekeeping issues.

7. DEQ staff conducted a follow-up inspection of the Facility on May 17, 2016. During the inspection DEQ staff observed the following:

    a. Fluids, batteries, and trash were observed on the ground and exposed to stormwater throughout the Facility.

    b. Vehicles and car parts with fluids were observed in standing water at the outfall located at the eastern part of the Facility.

    c. The Facility SWPPP was not available upon request.

8. Based on the observations noted during the May 17, 2016, inspection, DEQ issued NOV No. W2016-06-N-0008 to 234 Auto on June 16, 2016.

9. DEQ staff conducted a follow-up inspection of the Facility on July 12, 2016. During the Inspection DEQ staff observed the following:

    a. Fluid stains were observed on the ground and exposed to stormwater at the vehicle dismantling/processing area and throughout the yard.

    b. Fluids and batteries were observed within cards in the processed portion of the yard.

    c. Trash, sediment, and petroleum stains were observed at the outfalls.

    d. The Facility SWPPP was not available upon request.

10. 234 Auto & Truck failed to submit discharge monitoring reports for benchmark and Total Maximum Daily Load monitoring for the July 1, 2016 through December 31, 2016, January 1, 2017 through June 30, 2017, and July 1, 2017 through December 31, 2017 monitoring periods by the semiannual deadlines of January 10 and July 10

11. A SWPPP was received for the Facility on September 12, 2016.

12. Late discharge monitoring reports were received on February 13, 2018 for the July 1, 2016 through December 31, 2016, January 1, 2017 through June 30, 2017, and July 1, 2017 through December 31, 2017 monitoring periods.

13. DEQ issued NOV No. 2018-03-N-0011 to 234 Auto & Truck for late submittal of discharge monitoring reports for the July 1, 2017 through December 31, 2017 monitoring periods.

14. Part I.A.1.b(1) of the Permit requires the permittee to conduct benchmark monitoring for all benchmark parameters specified for the industrial sector or sectors applicable to a facility's discharge.

15. Part I.B.7(b)(1) of the Permit requires owners of facilities in the Chesapeake Bay watershed to monitor their discharges for total suspended solids (TSS), total nitrogen (TN), and total phosphorus to characterize 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.

16. Part I.A.2.d(2) of the Permit requires that benchmark monitoring, effluent limitation monitoring, and impaired waters monitoring (for waters both with and without an approved TMDL) be conducted at least once in each of the following semiannual periods each year of permit coverage: January through June, and July through December.

17. Part I.A.5.a of the Permit requires the permittee to submit semiannual monitoring results on a DMR by January 10 and July 10.

18. Part III of the Permit requires the permittee to develop and implement a Facility SWPPP according to requirements outlined in Part III of the Permit.

19. Part II.S of the Permit- Duty to Mitigate- states that the Permittee has the duty to minimize the risk of pollutant discharges.

20. Va. Code § 62.1-44.5 states that: "[E]xcept in compliance with a certificate issued by the Board, it shall be unlawful for any person to discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances."

21. VPDES Permit Regulation, at 9 VAC 25-151-50, also states that except in compliance with a VPDES permit, or another permit issued by the Board, it is unlawful to discharge into state waters sewage, industrial wastes or other wastes.

22. The Department has issued coverage under no permits or certificates to 234 Auto & Truck or 234 Auto Salvage for stormwater discharges associated with industrial activity other than VPDES Permit No. VAR05.

23. Va. Code § 62.1-44.15(5a) states that a VPDES permit is a "certificate" under the statute.

24. The unnamed tributary to Powell's Creek is a surface water located wholly within the Commonwealth and is a "state water" under State Water Control Law.

25. Based on the results of the March 20 and May 17, and July 12, 2016 inspections of the Facility, the Board concludes that 234 Auto & Truck has violated Part I.A.1.b(1), Part I.B.7(b)(1), Part I.A.2.d(2), Part I.A.5.a, Part III, and Part II.S, of the Permit, as described in paragraphs C(5) through C(21) above.

26. In order for 234 Auto & Truck and 234 Auto Salvage to return to compliance, DEQ staff and representatives of 234 Auto & Truck and 234 Auto Salvage have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders 234 Auto & Truck and 234 Auto Salvage, and 234 Auto & Truck and 234 Auto Salvage agree to:

1. Perform the actions described in Appendix A of this Order; and

2. Pay a civil charge of $11,137.50 in settlement of the violations cited in this Order.

   The civil charge shall be paid in accordance with the following schedule:

Due Date	Amount
January 15, 2018	$2,784.38 or balance
April 15, 2019	$2,784.38 or balance
July 15, 2019	$2,784.37 or balance
October 15, 2019	$2,784.37

3. If the Department fails to receive a civil charge payment pursuant to the schedule described above, the payment shall be deemed late. If any payment is late by 30 days or more, the entire remaining balance of the civil charge shall become immediately due and owing under this Order, and the Department may demand in writing full payment by 234 Auto & Truck and 234 Auto Salvage. Within 15 days of receipt of such letter, 234 Auto & Truck and 234 Auto Salvage shall pay the remaining balance of the civil charge. Any acceptance by the Department of a late payment or of any payment of less than the remaining balance shall not act as a waiver of the acceleration of the remaining balance under this Order.

4. All 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

5. 234 Auto & Truck and 234 Auto Salvage shall include their 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, 234 Auto & Truck and 234 Auto Salvage 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 234 Auto & Truck and 234 Auto Salvage for good cause shown by 234 Auto & Truck and 234 Auto Salvage, 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, 234 Auto & Truck and 234 Auto Salvage admit the jurisdictional allegations, findings of fact, and conclusions of law contained herein.

4. 234 Auto & Truck and 234 Auto Salvage consent to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.

5. 234 Auto & Truck and 234 Auto Salvage declare they has received fair and due process under the Administrative Process Act and the State Water Control Law and they 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 234 Auto & Truck and 234 Auto Salvage 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. 234 Auto & Truck and 234 Auto Salvage 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 their control and not due to a lack of good faith or diligence on their part. 234 Auto & Truck and 234 Auto Salvage shall demonstrate that such circumstances were beyond their control and not due to a lack of good faith or diligence on their part. 234 Auto & Truck and 234 Auto Salvage 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 234 Auto & Truck and 234 Auto Salvage. Nevertheless, 234 Auto & Truck and 234 Auto Salvage agree 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 234 Auto & Truck and 234 Auto Salvage have completed all of the requirements of the Order;

b. 234 Auto & Truck and 234 Auto Salvage petition the Director or his designee to terminate the Order after they have 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 234 Auto & Truck and 234 Auto Salvage.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve 234 Auto & Truck and 234 Auto Salvage from their 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 234 Auto & Truck and 234 Auto Salvage 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 234 Auto & Truck and 234 Auto Salvage certify 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 234 Auto & Truck and 234 Auto Salvage to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of 234 Auto & Truck and 234 Auto Salvage.

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 their signature below, 234 Auto & Truck and 234 Auto Salvage voluntarily agree to the issuance of this Order.

And it is so ORDERED this _____ day of _____, 2018.

_____

Justin L. Williams, Interim Director
Director of Enforcement
Department of Environmental Quality

234 Auto & Truck Salvage LLC voluntarily agrees to the issuance of this Order.

Date: 11/05/18 By: Adeela Ahmad, V. President/Member
(Person) (Title)
[234 Auto & Truck Salvage LLC]

Commonwealth of Virginia
City/County of Fairfax

The foregoing document was signed and acknowledged before me this 5 day of November, 2018, by Adeela Ahmad who is Vice President of 234 Auto & Truck Salvage LLC, on behalf of the company.

Notary Public

7213311
Registration No.

My commission expires: 12/31/19

Notary seal:

BRIAN ADAM THOMPSON
NOTARY PUBLIC
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES DEC. 31, 2019
COMMISSION # 7213311

234 Auto Salvage LLC voluntarily agrees to the issuance of this Order.

Date: 11/5/18 By: Adeela Ahmad, President - Member
(Person) (Title)
[234 Auto Salvage LLC]

Commonwealth of Virginia
City/County of Fairfax

The foregoing document was signed and acknowledged before me this 5 day of November, 2018, by Adeela Ahmad who is Vice President of 234 Auto Salvage LLC, on behalf of the company.

Notary Public

7213311
Registration No.

My commission expires: 12/31/19

Notary seal:

BRIAN ADAM THOMPSON
NOTARY PUBLIC
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES DEC. 31, 2019
COMMISSION # 7213311

APPENDIX A
SCHEDULE OF COMPLIANCE

With respect to any areas of the Facility for which 234 Auto & Truck or 234 Auto Salvage has Permit coverage at the time of the due date, the party with Permit coverage shall:

1. Within thirty days of the effective date of this Order, submit a revised compliance plan and schedule and documentation of any corrective action that 234 Auto & Truck or 234 Auto Salvage has implemented to date at the Facility to DEQ for review and approval. Said plan and schedule should detail how 234 Auto & Truck or 234 Auto Salvage intends to comply with all requirements of the Permit, including good housekeeping requirements. Once approved by DEQ, the plan and schedule shall become enforceable under this Order.

2. Monitor for Total Petroleum Hydrocarbons (TPH) on a semi-annual basis for the remainder of the Permit term. Results of said monitoring shall be conducted in accordance with Part I.A.2 and Part II.A-C of the Permit and submitted to DEQ as an attachment with the submittal of the benchmark monitoring and TMDL monitoring DMRs by January 10 and July 10 of each year. TPH is the sum of individual gasoline range organics and diesel range organics (TPH-GRO and TPH-DRO) to be measured by EPA SW Method 8015 for gasoline and diesel range organics, or by EPA SW 846 methods 8260 Extended and 8270 Extended. Chain of custody and certificate of analysis documentation shall be included with each submittal for all monitoring required by the Permit.

DEQ Contact

Unless otherwise specified in this Order, 234 Auto & Truck or 234 Auto Salvage shall submit all requirements of Appendix A of this Order to:

Carla Pool
Enforcement Adjudication Manager
VA DEQ – Central Office
P.O. Box 1105
Richmond, Virginia 23218
(804) 698-4150
Carla.Pool@deq.virginia.gov