



COMMONWEALTH of VIRGINIA

Matthew J. Strickler
Secretary of Natural Resources

DEPARTMENT OF ENVIRONMENTAL QUALITY
Blue Ridge Regional Office
3019 Peters Creek Road, Roanoke, Virginia 24019
(540) 562-6700; Fax (540) 562-6725
www.deq.virginia.gov

David K. Paylor
Director

Robert J. Weld
Regional Director

STATE WATER CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO F.V. JONES AND SONS, LLC Facility ID No. 7-012485

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 F.V. Jones and Sons, LLC, for the purpose of resolving certain violations of the State Water Control Law and the applicable regulations.

SECTION B: Definitions

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

1. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 62.1-44.7.
2. "BRRO" means the Blue Ridge Regional Office of DEQ, located in Roanoke, Virginia.
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. "Facility" means the physical location where the USTs are installed and/or operated, known as F.V. Jones and Sons, LLC, at 5285 Blackridge Road in La Crosse, Virginia. The Facility is further identified by facility ID# 7-012485.

6. "F.V. Jones and Sons, LLC" means, a limited liability company authorized to do business in Virginia and its affiliates, partners, and subsidiaries. F.V. Jones is a "person" within the meaning of Va. Code § 10.1-1300.
7. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
8. "Operator" means any person in control of, or having responsibility for, the daily operation of the UST system as defined in Va. Code § 62.1-44.34:8 and 9 VAC 25-580-10.
9. "Order" means this document, also known as an "Order by Consent" or "Consent Order", a type of Special Order under the Virginia State Water Control Law.
10. "Owner" means any person who owns an UST system used for storage, use, or dispensing of regulated substances as defined in Va. Code § 62.1-44.34:8 and 9 VAC 25-580-10.
11. "Regulations" means the Underground Storage Tanks: Technical Standards and Corrective Action Requirements, 9 VAC 25-580-10 et seq.
12. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 et seq.) of Title 62.1 of the Va. Code. Article 9 (Va. Code §§ 62.1-44.34:8 through 62.1-44.34:9) of the State Water Control Law addresses Storage Tanks.
13. "Underground Storage Tank" or "UST" means any one or combination of tanks (including underground pipes connected thereto) that is used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is 10% or more beneath the surface of the ground as defined in Va. Code § 62.1-44.34:8 and 9 VAC 25-580-10. "Va. Code" means the Code of Virginia (1950), as amended.
14. "VAC" means the Virginia Administrative Code.

SECTION C: Findings of Fact and Conclusions of Law

1. F.V. Jones and Sons, LLC, is the owner of F.V. Jones and Sons ("Facility"), within the meaning of Va. Code § 62.1-44.34:8 and 9 VAC 25-580-10.
2. On September 6, 2012, DEQ staff conducted an inspection of the underground storage tanks ("USTs") at the Facility, along with a review of the Department's file-of-record and UST registration documents for the Facility. Observations made during the inspection process included improper temporary closure of the 4 USTs on-site, Corrosion Protection

(“CP”) testing not performed on the USTs, and Release Detection (“RD”) requirements on the USTs not carried out. A Request for Compliance Action (“RCA”) was issued on September 6, 2012 to address the deficiencies.

3. On June 20, 2013, a Warning Letter (“WL”) was issued for the remaining unresolved compliance issues.
4. On July 2, 2014, DEQ staff conducted a follow-up inspection of the Facility to determine current compliance status with the Regulations. Observations made during the inspection included a failed CP Test conducted on October 17, 2013, and RD was not conducted as required as it appeared that the Automatic Tank Gauge (“ATG”) was not functional.
5. On July 29, 2014, a Notice of Violation (“NOV”) was issued to address the noncompliance issues. The NOV requested a response from the owner not later than August 8, 2014. The Department received no response from Mr. Jones.
6. On October 12, 2016, Veritank, a contractor for the UST Owner, conducted a three-year cathodic protection test on all four USTs. All four USTs passed.
6. On December 1, 2016, DEQ staff conducted an additional inspection of the Facility to determine current compliance status with the Regulations. Observations made during the inspection included no RD or CP testing conducted on the USTs, and no corrective action done based on the failed CP testing performed on October 17, 2013.
7. On December 6, 2016, the Department received operator training documentation and emergency notification and procedures from the owner.
8. On December 27, 2016, a NOV was issued to address the noncompliance issues.
9. On March 20, 2018, DEQ compliance and enforcement staff conducted a facility inspection to determine the current status of the Facility prior to issuing an enforcement action. The noncompliance issues of CP and RD remain unresolved. Reportedly, the owner plans to perform the required testing and re-establish petroleum sales at the Facility.
10. On April 24, 2018, the Department received CP testing documentation performed at the Facility on October 12, 2016, which satisfies the CP requirements.
11. 9 VAC 25-580-130 requires, *inter alia*, that owners and operators of UST systems must provide a method, or combination of methods, of release detection that can detect a release from any portion of the tank and the connected underground piping that routinely contains product, and is installed and calibrated in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability or running condition.

12. 9 VAC 25-580-140 requires, *inter alia*, that owners and operators of petroleum UST systems must provide release detection for tanks and piping according to the requirements of this section.
13. 9 VAC 25-580-180 requires, *inter alia*, all UST system owners and operators must maintain records in accordance with 9VAC25-580-120 demonstrating compliance with all applicable requirements of this part.
14. 9 VAC 25-580-90 requires, *inter alia*, all owners and operators of metal UST systems with corrosion protection must comply with the requirements of this section to ensure that releases due to corrosion are prevented until the UST system is permanently closed or undergoes a change-in-service pursuant to 9 VAC 25-580-320.
15. Based on the facility inspections conducted by DEQ staff on September 6, 2012; July 2, 2014; and December 1, 2016; and a review of the Facility's file-of-record and documents submitted to the Department, the Board finds that F.V. Jones & Sons, LLC has violated Va. Code § 62.1-44.34:(9), as described in items C.2. - C.6., and C.9., above.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it pursuant to Va. Code §§ 62.1-44.15, the Board orders F.V. Jones & Sons, LLC, and F.V. Jones & Sons, LLC agrees to perform the actions described in Appendix A of this Order.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of F.V. Jones and Sons, LLC for good cause shown by F.V. Jones and Sons, 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 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, F.V. Jones and Sons, LLC admits the jurisdictional allegations, and agrees not to contest, but neither admits nor denies the findings of fact, and conclusions of law in this Order.
4. F.V. Jones and Sons, 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. F.V. Jones and Sons, LLC declares that they have received fair and due process under the Administrative Process Act and the Virginia State Water Control Law and they waive 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 F.V. Jones and Sons, 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. F.V. Jones and Sons, 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. F.V. Jones and Sons, LLC shall demonstrate that such circumstances were beyond their control and not due to a lack of good faith or diligence on their part. F.V. Jones and Sons, LLC 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 F.V. Jones and Sons, LLC 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 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 F.V. Jones and Sons, LLC.

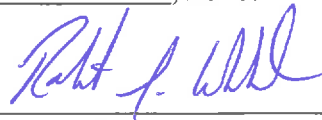
11. This Order shall continue in effect until:

- a. The Director or his designee terminates the Order after F.V. Jones and Sons, LLC has completed all of the requirements of the Order;
- b. F.V. Jones and Sons, 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 F.V. Jones and Sons, LLC.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve F.V. Jones and Sons, 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 A F.V. Jones and Sons, 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 F.V. Jones and Sons, 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 F.V. Jones and Sons, LLC to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of F.V. Jones and Sons, 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 their signature below, F.V. Jones and Sons, LLC Petroleum, Incorporated voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 23rd day of October, 2018.



Robert J. Weld, Regional Director
Department of Environmental Quality

F.V. Jones and Sons, LLC voluntarily agrees to the issuance of this Order.

Date: 8/10/18 By: F. David Jones, President
F. David Jones President
F.V. Jones and Sons, LLC

Commonwealth of Virginia

City/County of Mecklenburg

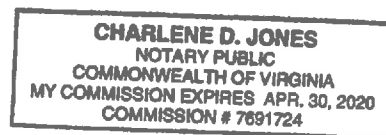
The foregoing document was signed and acknowledged before me this 10th day of
August, 2018, by Frank D. Jones who is
President of F.V. Jones and Sons, LLC, on behalf of

F.V. Jones and Sons, LLC.

Charlene D. Jones
Notary Public
7691724
Registration No.

My commission expires: April 30, 2020

Notary seal:



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APPENDIX A

SCHEDULE OF COMPLIANCE

F.V. Jones and Sons, LLC shall complete the following actions:

1. Within 30 days of the effective date of this order:
 - a. Place the UST system into temporary closure in accordance with 9 VAC 25-580-310 and comply with the closure records requirement at 9VAC25-580-350; or
 - b. Provide a method, or combination of methods, of release detection that is in accordance with 9 VAC 25-580-130 and operate and maintain corrosion protection in accordance with 9 VAC 25-580-90.
2. Maintain release detection and corrosion protection records in accordance with 9 VAC 25-580-120.
3. Prior to bringing the USTs back into service and the receiving a fuel delivery, submit records demonstrating compliance with the following (failure to demonstrate compliance with the following requirements will be proof of negligence in the event of a release):
 - a. Performance of a tank tightness test in accordance with 9 VAC 25-580-160;
 - b. Performance of a line tightness test in accordance with 9 VAC 25-580-170; and
 - c. Performance of a cathodic protection test in accordance with 9 VAC 25-580-90.
4. Report any suspected release or unusual operating conditions in accordance with 9 VAC 25-580-190.

DEQ Contact

Submit all requirements of Appendix A of this Order to:

Marvin Booth
VA DEQ —Blue Ridge Regional Office
3019 Peters Creek Road
Roanoke, VA 24019

Phone: (540) 598-1200
marvin.booth@deq.virginia.gov