



COMMONWEALTH of VIRGINIA

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Secretary of Natural Resources

DEPARTMENT OF ENVIRONMENTAL QUALITY
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**STATE AIR POLLUTION CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
MORGAN LUMBER COMPANY, INC.
FOR THE
RED OAK, CHARLOTTE COUNTY, VA FACILITY
Registration No. 30996**

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 Morgan Lumber Company, Inc., regarding its facility in Red Oak, Charlotte County, Virginia, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law, applicable regulations and its permit.

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 Air Pollution Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1301.
2. "BRRO" means the Blue Ridge Regional Office of DEQ, located in Salem, 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 Morgan Lumber Company, Inc. lumber mill, located in Red Oak, Charlotte County, Virginia.
6. "FCE" means a full compliance evaluation by DEQ staff.
7. "MLC" means Morgan Lumber Company, Inc., a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. MLC is a "person" within the meaning of Va. Code § 10.1-1300.
8. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
9. "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.
10. "Permit" means the Title V Operating Permit issued to MLC on May 11, 2018 under the Virginia Air Pollution Control Law and the Regulations.
11. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 9 VAC 5 chapters 10 through 80.
12. "Va. Code" means the Code of Virginia (1950), as amended.
13. "VAC" means the Virginia Administrative Code.
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 Fact and Conclusions of Law

1. MLC owns and operates the Facility in Red Oak, Charlotte County, Virginia.
2. On August 14, 2019, Department staff conducted an FCE at the Facility and noted that sawdust was covering the ground excessively and fugitive emissions, in the form of sawdust, could be observed dropping from the conveyor system and becoming airborne. According to MLC, maintenance on this area was performed as a follow-up, on August 23, 2019 but the issue persisted.
3. On August 29, 2019, Department staff conducted a second onsite inspection to follow-up on the sawdust issue. MLC explained that there is a reverse brush system that is supposed to be in operation when the belt is in operation to sweep off any dust left on the belt after it has emptied into the bin. This equipment has not been maintained. Parts for this equipment have been ordered and will be repaired as soon as possible. Several pictures were taken during this visit to document the sawdust issue. MLC staff stated that

they have been manually cleaning up 12 tons per week of sawdust from the ground coming from the sawmill. This equates to approximately 624 tons of particulate/sawdust spillage per year.

4. Condition #35 of the Permit requires MLC to take reasonable precautions to prevent particulate matter from becoming airborne during operation of the Facility. Such reasonable precautions may include, but are not limited to...d. Open equipment for conveying or transporting material likely to create objectionable air pollution when airborne shall be covered or treated in an equally effective manner at all times when in motion.
5. On September 11, 2019, the Department issued Notice of Violation ("NOV") ABRRO001299 to MLC for the violation listed in paragraphs, C(2) and C(3), above.
6. On September 17, 2019, MLC responded to the NOV, as requested. MLC has reengineered the reverse brush system and instituted some automated reminders for monthly inspection and maintenance of the reverse brush system to ensure normal operation. MLC provided the Department a video of the reverse brush system operating.
7. Based on the results of the August 14, 2019 FCE, the Board concludes that MLC violated Condition #35 of the Permit, as described in paragraphs C(2) and C(3), above.
8. MLC submitted documentation on September 17, 2019 that verifies the violation described in paragraphs C(2) and C(3), above, has been corrected.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and -1316, the Board orders MLC, and MLC agrees to pay a civil charge of **\$6,720** 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

MLC 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, MLC 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 MLC for good cause shown by MLC, 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, MLC admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. MLC 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. MLC 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 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 MLC 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. MLC 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. MLC shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. MLC 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 MLC.
11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after MLC has completed all of the requirements of the Order;
 - b. MLC 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 MLC.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve MLC 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 MLC 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 MLC 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 MLC to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of MLC.

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, MLC voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 13th day of August, 2020.


Robert J. Weld, Regional Director
Department of Environmental Quality

Morgan Lumber Company, Inc. voluntarily agrees to the issuance of this Order.

Date: 8/3/20 By: 

Mr. John Morgan
President
Morgan Lumber Company, Inc.

State of Virginia
City/County of Charlotte

The foregoing document was signed and acknowledged before me this 3rd day of August, 2020, by Mr. John Morgan who is the President for Morgan Lumber Company, Inc., on behalf of the corporation.


Notary Public

7095836
Registration No.

My commission expires: December 31, 2021
Notary seal:

