Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

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STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
ADAMS OIL COMPANY

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 62.1-44.34:20, between the State Water Control Board and Adams Oil Company, for the purpose of resolving certain violations of the State Water Control Law and the applicable regulations.

SECTION B: Definitions

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

1. "Adams Oil" means Adams Oil Company, a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Adams Oil is a "person" within the meaning of Va. Code § 62.1-44.3.

2. "Aboveground storage tank" or "AST" means any one or combination of tanks, including pipes, used to contain an accumulation of oil at atmospheric pressure, and the volume of which, including the volume of the pipes, is more than ninety percent above the surface of the ground. This term does not include line pipe and breakout tanks of an interstate pipeline regulated under the Hazardous Liquid Pipeline Safety Act of 1979 or the Natural Gas Pipeline Safety Act of 1968, as amended.

3. "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.

4. "Containment and cleanup" means abatement, containment, removal and disposal of oil and, to the extent possible, the restoration of the environment to its existing state prior to an oil discharge.

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 any spilling, leaking, pumping, pouring, emitting, emptying or dumping.

8. "Location" means the facility, land, road, storm drain(s) or state water(s) where the oil discharge occurred, namely the property and surrounding area located at 12829 Broad Street Rd., Goochland County, Virginia.

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

10. "Oil" means oil of any kind and in any form, including, but not limited to, petroleum and petroleum by-products, fuel oil, lubricating oils, sludge, oil refuse, oil mixed with other wastes, crude oils and all other liquid hydrocarbons regardless of specific gravity. *See* Va. Code §62.1-44.34:14.

11. "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.

12. "Person" means any firm, corporation, association or partnership, one or more individuals, or any governmental unit or agency thereof.

13. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.

14. "State Water Control Law" means Chapter 3.1(§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code. Article 11 (Va. Code §§ 62.1-44.34:14 through 62.1-44.34:23) of the State Water Control Law addresses discharge of oil into waters.

15. "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.

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

17. "VAC" means the Virginia Administrative Code.

18. "Vehicle" means any motor vehicle, rolling stock or other artificial contrivance for transport whether self-propelled or otherwise, except vessels.

SECTION C: Findings of Fact and Conclusions of Law

1. Adams Oil is a Virginia corporation, formed in 1989, engaged in the business of transporting and distributing heating oil to various residents throughout central Virginia.

2. As part of its service, Adams Oil owns and operates delivery vehicles to transport petroleum products to customers.

3. On February 4, 2021, DEQ received notification from the Goochland Fire Department of a discharge of Oil, in the form of home heating oil at the Location. Adams Oil did not notify DEQ of the discharge.

4. DEQ responded the same day and met with local emergency services and Adams Oil at the Location. Adams Oil informed DEQ that on February 1, 2021 the driver, an Adams Oil employee, was delivering Oil to the AST at the Location and allowed the AST to overfill causing Oil to spill onto the ground.

5. The Oil travelled through the front yard of the Location, into a stormwater inlet and a retention pond, through a drainage ditch, and into wetlands near Tuckahoe Creek.

6. The discharge caused a large area of staining in the yard. The retention pond contained large pockets of free and emulsified product and a heavy sheen on the surface. DEQ observed a sheen, discoloration, and small pockets of emulsified product in the drainage ditch. DEQ also observed a sheen in a small portion of the wetlands near Tuckahoe Creek where the ditch discharges.

7. With the cooperation of Adams Oil, containment and clean-up began on February 4, 2021.

8. Va. Code § 62.1-44.34:18 prohibits the discharge of oil into or upon state waters, lands, or storm drain systems. Discharges of oil into or upon state waters include discharges of oil that violate applicable water quality standards or cause a film or sheen upon or discoloration of the surface of the water.

9. Va. Code § 62.1-44.34:19 requires any person causing or permitting a discharge of 25 gallons or more of oil that enters, or may reasonably be expected to enter, state waters, lands or storm drain systems within the Commonwealth immediately upon learning of the discharge to notify the Board.

10. On March 12, 2021, the Department issued Notice of Violation No. 21/3/PRO-500 to Adams Oil for a discharge of oil to the land and state waters and failure to report the discharge. The discharge was estimated to be at least 40 gallons of Oil.

11. On April 16, 2021, the third-party contractor conducting remediation on behalf of Adams Oil submitted an Initial Abatement Report ("IAR") to the Department. This report provided a timeline of remediation efforts and sampling. This report was revised on April 23, 2021.

12. On April 26, 2021, Adams Oil submitted a written response to the NOV wherein it did not dispute the facts above.

13. On April 26, 2021, Department staff met by phone with representatives of Adams Oil and its third-party contractor to discuss the accident, discharge, emergency response, containment and clean-up, and future actions.

14. Based on the results of the February 4, 2021 site visit and the April 26, 2021 written response and telephonic conference, the State Water Control Board concludes that Adams Oil has violated Va. Code § 62.1-44.34:18 and Va. Code § 62.1-44.34:19 as described above.

15. As of the date of this Order, Adams Oil has completed containment and clean-up.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 62.1-44.34:20, the Board orders Adams Oil, and Adams Oil agrees to:

1. Pay a civil charge of **$8,526.00** 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

Adams Oil 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 Petroleum Storage Tank Fund (VPSTF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Adams Oil 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 Adams Oil for good cause shown by Adams Oil, 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 and in NOV No. 21/3/PRO-500 dated March 12, 2021. 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, Adams Oil admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.

4. Adams Oil 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. Adams Oil declares it has received fair and due process under the Administrative Process Act and the State Water 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 Adams Oil 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. Adams Oil 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. Adams Oil shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Adams Oil 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 Adams Oil. Nevertheless, Adams Oil 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 Adams Oil has completed all of the requirements of the Order;

    b. Adams Oil 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 Adams Oil.

    Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Adams Oil 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 Adams Oil 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 Adams Oil certifies that he or she is a responsible official or officer authorized to enter into the terms and conditions of this Order and to execute and legally bind Adams Oil to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Adams Oil.

Adams Oil Company voluntarily agrees to the issuance of this Order.

Date: 4/12/22 By: _____, VICE PRES.
(Person) (Title)
Adams Oil Company

Commonwealth of Virginia
City/County of Powhatan

The foregoing document was signed and acknowledged before me this 12 day of April, 2022, by Kevin Adams who is Manager/Owner of Adams Oil Company, on behalf of the corporation.

_____
Notary Public

7947910
Registration No.

My commission expires: April 30th 2025

Notary seal:

KATELYN MARIE NETHERLAND
NOTARY PUBLIC
REG. #7947910
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES APRIL 30, 2025

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, Adams Oil voluntarily agrees to the issuance of this Order.

And it is so ORDERED this _____ day of _____, 2022.

_____

James J. Golden, Regional Director
Department of Environmental Quality

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