



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

1111 E. Main Street, Suite 1400, Richmond, Virginia 23219

P.O. Box 1105, Richmond, Virginia 23218

(800) 592-5482 FAX (804) 698-4178

www.deq.virginia.gov

Travis A. Voyles
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director
(804) 698-4020

February 23, 2024

Responsible Party Address:	Other Address:
146 Lizzie Mills Road Castleton, Virginia 22716	
Other Address:	Other Address:

**PROPOSED CONSENT ORDER AND
NOTICE OF INFORMAL FACT FINDING PROCEEDING**

RE:	Responsible Party(ies)	Mr. John H. Boldridge, Jr
	Facility Name	Butler Store Road
	Registration/ Permit No.	NP23-002045

Dear Sir/Madam:

The Virginia Department of Environmental Quality (“DEQ”) issued Notice(s) of Violation (the “NOV(s)”) on the following date(s) to the Responsible Party(ies) identified above for alleged violations observed at the facility identified above.

Proposed Consent Order and Notice of Informal Fact Finding Proceeding

NOV Date(s)	December 21, 2023
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The Responsible Party(ies) may resolve this matter quickly by entering into the enclosed Consent Order with DEQ within forty-five days from the date of this letter. If DEQ does not receive the signed Consent Order by that date, DEQ will proceed with conducting an Informal Fact Finding Proceeding as explained in Section II below.

I. PROPOSED CONSENT ORDER

DEQ wishes to resolve the alleged violations in the NOV by entering into a Consent Order with the Responsible Party(ies). DEQ’s proposed Consent Order is enclosed for your review. The proposed Consent Order includes:

<input checked="" type="checkbox"/>	A civil charge in the amount of <u>13,891.50</u>
<input type="checkbox"/>	Injunctive relief (corrective actions) in Appendix A.

If you agree with the terms of the proposed Consent Order, please sign and date the Consent Order and send it within forty-five days from the date of this letter to:

Enforcement Specialist	Katherine Mann
Address	13901 Crown Court Woodbridge, VA 22193
Email	katherine.mann@deq.virginia.gov

The order is subject to public notice and comment before it becomes final. A copy of the fully executed order will be returned to you for implementation upon signature on behalf of DEQ.

II. NOTICE OF INFORMAL FACT FINDING PROCEEDING

You are hereby notified that if DEQ does not receive the signed Consent Order within forty-five days from the date of this letter, an Informal Fact Finding Proceeding will be held via conference call at the date and time listed below. At the scheduled time, dial the Call-In Number listed below, and enter the Access Code listed below when requested.

Proceeding Date	May 2, 2024	Proceeding Time	1:00 PM
Call-In No.	(312) 757-3121	Access Code	253-160-749

If you have any difficulty accessing the conference call, please call:

Proposed Consent Order and Notice of Informal Fact Finding Proceeding

Agency Advocate	Gary Wooldridge
Phone No.	(804) 584-6716

The Informal Fact Finding Proceeding will be conducted pursuant to Va. Code §§ 2.2-4019 and 10.1-1186 to determine whether the Responsible Party(ies) violated the Virginia Code and Regulations as listed in the Findings of Fact and Conclusions of Law in Section C of the enclosed Consent Order. The Informal Fact Finding Proceeding will also determine the appropriateness of a civil penalty and/or injunctive relief.

DEQ staff will request a Special Order requiring the Responsible Party(ies) to:

<input checked="" type="checkbox"/>	Pay the maximum civil penalty authorized by law, and pay attorneys' fees of 30% of the amount outstanding should DEQ have to refer collection of the civil penalty to the Department of Law
<input type="checkbox"/>	Comply with the Virginia Code and Regulations by completing the corrective actions listed in Appendix A of the enclosed proposed Consent Order.

To ascertain the facts in this matter, DEQ staff may rely upon DEQ's inspection report(s) for the Facility, the NOV(s), any registration statement and permit for the Facility, other public documents in DEQ files, and the information presented by witnesses. DEQ staff will also rely on applicable statutes, regulations, and DEQ guidance. Full texts of statutes, regulations, and DEQ guidance can be obtained at <http://www.deq.virginia.gov/LawsRegulations.aspx> or <http://lis.virginia.gov/> (statutes and regulations) and <http://townhall.virginia.gov/L/GDocs.cfm> (DEQ guidance). Copies will be provided upon request.

You may participate in the conference call yourself or by counsel or other qualified representative pursuant to Va. Code § 2.2-4019. At this proceeding, the Responsible Party(ies) will be able to present factual data, argument, or proof in connection with this case. A Presiding Officer will hear the evidence in this case and will prepare an independent Findings of Fact and Conclusions of Law and a draft Special Order for the Director's review. Then the Director may issue a Special Order under Va. Code § 10.1-1186, which may include both injunctive relief and a civil penalty.

Be advised that if you fail to attend or appear without good cause to an informal fact-finding proceeding conducted pursuant to Va. Code § 2.2-4019, the Presiding Officer may issue a default order regarding the subject of this notice. If a default order is issued, the Presiding Officer may conduct all further proceedings necessary to complete the adjudication and shall determine all issues in the adjudication, including those affecting you. Further, an order may be issued against you based on any admissions or other evidence without notice to you.

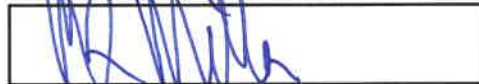
You will be notified of the results of the proceeding in accordance with Va. Code § 2.2-4019 and have the right to appeal any adverse decision in accordance with Va. Code § 2.2-4026.

If you have any questions or require assistance, please contact the following DEQ staff who will represent DEQ at this proceeding:

Agency Advocate	Gary Wooldridge
Phone No.	(804) 584-6716
Email	gary.wooldridge@deq.virginia.gov

Proposed Consent Order and Notice of Informal Fact Finding Proceeding

Sincerely,



Mark Miller
Environmental Manager II

Enclosure

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY ENFORCEMENT

ACTION - ORDER by CONSENT ISSUED to

Mr. John H. Boldridge, Jr

For

Hazel River at Jenkins and Boldridge Properties

VWP Permit No.

NP23-002045

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15 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 in Va. Code § 62.1-44.2 *et seq.* and 9 VAC 25-21-10 *et seq.*

SECTION C: Findings of Fact and Conclusions of Law

Responsible Party	Mr. John H. Boldridge, Jr	Permit No. or PReP No.	310857		
Violation Location	Street Address/Location		Butler Store Rd		
	City	Rixeyville	VA	Zip code	22737
Inspection Date	11/03/2023	State Waters Impacted	Hazel River		
Request for Corrective Action		Warning Letter		Notice of Violation	12/13/2023
State Water Control Law § 62.1-44.15:20 and 9VAC25-210-10 states that except in compliance with a VWP permit it shall be unlawful to excavate, drain or significantly alter/degrade, fill/dump, flood/impound a wetland, or alter the physical, chemical, or biological properties of state waters and make them detrimental to the public health, animal or aquatic life, or to the uses of such waters for domestic or industrial consumption, or for recreation.					
The Responsible Party is a "person" within the meaning of Va. Code § 62.1-44.3.					
"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.					

Violation	Observation and Legal Requirements	Civil Charge	Subtotal
✓	Failure to obtain/exceeded coverage under an Individual Permit (IP) or a General Permit (GP) prior to commencing activity. Va. Code § 62.1-44.15:20; 9VAC25-210-50	\$2,646 # of Violations: 1	\$2,646
✓	Unauthorized impacts to wetlands and/or streams (wetlands and streams assessed separately). Va. Code § 62.1-44.15:20; 9VAC25-210-50	\$6,615 # of Violations: 1	\$6,615
	Failure to perform or complete compensatory mitigation. Not Applicable	\$0 # of Violations:	\$0
	Failure to perform or complete corrective action relative to unsuccessful compensation. Not Applicable	\$0 # of Violations:	\$0
	Failure to conduct compensation, construction, or water quality monitoring. Not Applicable	\$0 # of Violations:	\$0
	Failure to submit preconstruction notice Not Applicable	\$0 # of Violations:	\$0
	Failure to submit plans and specifications prior to commencing construction. Not Applicable	\$0 # of Violations:	\$0
	Failure to comply with permit special conditions. Not Applicable	\$0 # of Violations:	\$0

	Failure to submit a complete, final compensation plan. Not Applicable	\$0	# of Violations	\$0
	Record or reporting violations (not otherwise specified)	\$0	# of Violations	\$0
	Failure to report a discharge within 24 hours. Not Applicable	\$0	# of Violations	\$0
Violations and Frequency Subtotal				\$9,261

	Aggravating Factors	Subtotal
CSO in another media within 36 months	0.00	\$ 0.00
CSO in same media within 36 months	0.00	\$ 0.00
Degree of Culpability	0.50	\$ 4,630.50
Natural gas pipeline	0.00	\$ 0.00
Aggravating Factors Subtotal		\$ 4,630.50
Civil Charge Subtotal and Aggravating Factor Subtotal		\$ 13,891.50
Cooperativeness and Quick Settlement	-0.00	\$0.00
Economic Benefit of Noncompliance	Not Applicable	
In accordance with 62.1-44.15(8e), the Responsible Party's ability to pay was evaluated and there is an ability to pay?	Not Applicable	
Total Civil Charge		\$13,891.50

Based on the observations and legal requirements cited above, The Department concludes that the responsible Party has violated the VA. Code and Regulations as identified herein.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Department orders the Responsible Party and the Responsible Party agrees to:

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

Pay the total civil charge of

\$13,891.50

 in settlement of the violations cited in this consent order in accordance with the following:

Within 30 days of the effective date of the consent order.

In accordance with the following schedule:

Due Date	Amount Due

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

The Responsible Party 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, the Responsible Party shall be liable for attorneys’ fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Department may modify, rewrite, or amend this Order with the consent of Responsible Party for good cause shown by Responsible Party, 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 Department 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, the Responsible Party 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. The Responsible Party 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. The Responsible Party 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 Department to modify, rewrite, amend, or enforce this Order.
6. Failure by the Responsible Party to comply with any of the terms of this Order shall constitute a violation of an order of the Department. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Department 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. The Responsible Party 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. The Responsible Party shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. The Responsible Party 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 the Responsible Party. Nevertheless, the Responsible Party 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 the Responsible Party has completed all of the requirements of the Order;
 - b. The Responsible Party 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 Department terminates the Order in his or its sole discretion upon 30 days' written notice to the Responsible Party

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve the Responsible Party 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 the Responsible Party 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 the Responsible Party 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 the Responsible Party to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of the Responsible Party
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, the Responsible Party voluntarily agrees to the issuance of this Order.

And it is so ORDERED.

DEQ Signee Name (Signature)

Date

DEQ Signee Name (Printed)

I hereby certify that I am the Responsible Party or duly appointed representative/officer of the Responsible Party and acknowledge that there are no material facts in dispute with respect to the violations as identified in this consent order.

Responsible Party Name (Signature)

Date

Responsible Party Name (Printed)

DEQ Contact

Unless otherwise specified in this Order, the Responsible Party shall submit all requirements of Appendix A of this Order to:

Virginia Department of Environmental Quality
Northern Regional Office
Attention: Enforcement
13901 Crown Ct
Woodbridge, VA 22193