



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

www.deq.virginia.gov

Travis A. Voyles
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director

**VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
MITRE CORPORATION**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 62.1-44.34:20, between the Department and MITRE Corporation, 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 terms used in this Consent Order have the meanings assigned to them in Va. Code §62.1-44.2 *et seq.* and 9 VAC 25-91-10 *et seq.*

SECTION C: Findings of Fact and Conclusions of Law

1. MITRE Corporation (MITRE) is a business entity authorized to do business in Virginia and references to MITRE include its affiliates, partners, and subsidiaries. MITRE is a “person” within the meaning of Va. Code § 62.1-44.3.
2. On September 15, 2024, DEQ received notification of a discharge of Oil, in the form of non-highway diesel impacting Scott Run near Chain Bridge Road in Fairfax County.
3. On September 16, 2024, DEQ Pollution Response and Fairfax County staff conducted a site investigation at the incident location. DEQ staff observed the storm water conveyance outfall location where the oil was entering Scott Run. Recoverable oil impact to Scott Run was observed as far downstream as Route 267. DEQ and Fairfax staff were able to track the oil discharge to a storm water manhole near the MITRE #3 building. Fairfax County Fire Department inspected the MITRE #3 building generator room and on the roof observed discharged oil to have overflowed from a vent pipe for the generators day tank. The discharged oil had flowed to and entered a rooftop storm water drain. This drain discharges to subsurface stormwater conveyance and outfalls into Scott Run.

4. Va. Code § 62.1-44.34:18 prohibits the discharge of oil into or upon state waters, lands, or storm drain systems that violate applicable water quality standards or cause a film or sheen upon or discoloration of the surface of the water.
5. On September 30, 2024, the Department issued Notice of Violation No. 2024-09-N-003 to MITRE for a discharge of oil to state waters.
6. On October 8, 2024, Department staff met with representatives of MITRE to discuss the incident, discharge, emergency response, containment and clean-up, and future actions. On October 16, 2024, MITRE submitted their written response, which detailed the events of the release and clean up and provided information on the evaluations and reviews of the generator and tank system and repairs recommended.
7. On October 16, 2024, MITRE notified DEQ that up to 785 gallons of oil were discharged and remediation of the incident was complete.
8. Based on the results of the September 16, 2024, inspection, the October 8, 2024, meeting, and the documentation submitted on October 16, 2024, the State Water Control Department concludes that MITRE has violated Va. Code § 62.1-44.34:18, which prohibits the discharge of oil into or upon state waters, lands, or storm drain systems, as described in paragraphs C(2) through C(8), above.

SECTION D: Agreement and Order

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

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$18,055 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made either by credit card at www.deq.virginia.gov, or 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

MITRE 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, MITRE 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 MITRE for good cause shown by MITRE, 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. 2024-09-N-003 dated September 30, 2024. 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, MITRE admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. MITRE 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. MITRE 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 MITRE 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. MITRE 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. MITRE shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. MITRE 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 MITRE. Nevertheless, MITRE 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 MITRE has completed all of the requirements of the Order;
 - b. MITRE 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 MITRE.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve MITRE 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 MITRE 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 MITRE 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

MITRE to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of MITRE.

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, MITRE voluntarily agrees to the issuance of this Order.

And it is so ORDERED this _____ day of _____, 2024.

Richard C. Doucette, Regional Director
Department of Environmental Quality

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MITRE Corporation voluntarily agrees to the issuance of this Order.

Date: 18 Nov. 2024 By: *Stephen J. Kirin*, VP, Corporate Operations & Corporate Real Estate
(Person) (Title)
MITRE Corporation

**APPENDIX A
SCHEDULE OF COMPLIANCE**

1. Corrective Action

- a. MITRE shall develop and submit to DEQ a Corrective Action Plan (CAP) within 30 days of the execution of this Consent Order. This plan shall detail the actions MITRE will take to prevent future spills and a timeline for their completion. Upon DEQ approval of the CAP, it shall become an enforceable part of this Consent Order.

2. DEQ Contact

Unless otherwise specified in this Consent Order, MITRE shall submit all requirements of Appendix A of this Consent Order to:

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