

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III

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GENERAL INVESTIGATIVE DIVISION
EPA REGION III, PHOENIX, AZ

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IN THE MATTER OF:

EPA Docket No. CWA-03-2016-0100

Virginia Electric and Power Company,
d/b/a Dominion Virginia Power
120 Tredegar Street
Richmond, VA 23219,

Proceedings Pursuant to Section 311(b)(3) and
311(b)(6)(B)(i) of the Clean Water Act,
33 U.S.C. § 1321(b)(3) and 1321(b)(6)(B)(i)

Respondent.

LEGAL AUTHORITY

1. This Consent Agreement is proposed and entered into under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Section 311(b)(3) and 311(b)(6)(B)(i) of the Clean Water Act (“Act”), as amended, 33 U.S.C. § 1321(b)(3) and 1321(b)(6)(B)(i), and under the authority provided by 40 C.F.R. § 22.13(b), 22.18(b)(2) and (3), and 22.50(a)(1) and (b). The Administrator has delegated these authorities to the Regional Administrator of EPA, Region III, who has in turn delegated them to the Director of the Region’s Hazardous Site Cleanup Division (“Complainant”).

CONSENT AGREEMENT

Factual Allegations and Conclusions of Law

2. For the purpose of this proceeding, and with the exception of Paragraph 15, below, Respondent neither admits nor denies the following factual allegations and conclusions of law, but expressly waives its rights to contest said allegations.

Count I

3. Respondent is a company registered in Virginia with a place of business located in Richmond, Virginia 23219. Respondent is a person within the meaning of Section 311(a)(7) of the Act, 33 U.S.C. § 1321(a)(7), and 40 C.F.R. § 112.2.

4. Respondent is a Richmond-based subsidiary of Dominion Resources, Inc., an investor-owned electric and natural gas utility operating in the Midwest, Mid-Atlantic, and Northeast regions of the United States.

5. Respondent is the owner and operator of a Materials and Metering Center located at 4307 Castlewood Road, Richmond, VA.

6. Respondent is the owner and operator of a tanker truck (the “Tanker Truck”). The Tanker Truck is an onshore facility within the meaning of Section 311(a)(10) of the Act, 33 U.S.C. § 1321(a)(10), which defines “onshore facility,” in relevant part, to mean “any facility (including, but not limited to, motor vehicles and rolling stock) of any kind located in, on, or under, any land within the United States other than submerged land.”

7. Section 311(b)(3) of the Act prohibits the discharge of oil or hazardous substances into or upon the navigable waters of the United States or adjoining shorelines in such quantities that have been determined may be harmful to the public health or welfare or environment of the United States.

8. For purposes of Section 311(b)(3) and (b)(4) of the Act, 33 U.S.C. § 1321(b)(3) and (b)(4), discharges of oil into or upon the navigable waters and adjoining shorelines of the United States in such quantities that have been determined may be harmful to the public health or welfare or environment of the United States are defined in 40 C.F.R. § 110.3 to include

discharges of oil that violate applicable water quality standards or cause a film or a sheen upon or discoloration of the surface of the water or adjoining shorelines.

9. On February 23, 2015, the Tanker Truck discharged mineral oil from a ruptured drain line while parked at the Materials and Metering Center located at 4307 Castlewood Road, Richmond, VA. The Tanker Truck spilled approximately 550 gallons of mineral oil (the “discharge”).

10. Mineral oil is an “oil,” pursuant to Section 311(a)(1) of the Act, 33 U.S.C. § 1321 (a)(1).

11. The Virginia Department of Environmental Quality (“VADEQ”) reported to EPA that approximately 150 gallons of the discharged mineral oil reached Grindall Creek, a tributary of Falling Creek, which is a tributary to the James River, a navigable water of the United States as defined in Section 502(7) of the Act, 33 U.S.C. § 1362(7), and 40 C.F.R. § 110.1.

12. On June 15, 2015, pursuant to Section 308 of the Act, 33 U.S.C. § 1318(a), EPA issued an information request regarding the discharge, to which Respondent replied on July 16, 2015.

13. After EPA review of Respondent’s July 16, 2015 response, EPA determined that a sheen was observed along the shorelines of Grindall Creek and Falling Creek. Therefore, the discharge was in a quantity that has been determined may be harmful under 40 C.F.R § 110.3, which implements Section 311(b)(3) and (b)(4) of the Act, 33 U.S.C. § 1321(b)(3) and (b)(4).

14. Respondent’s discharge on February 23, 2015, from its onshore facility violated Section 311(b)(3) of the Act, 33 U.S.C. § 1321(b)(3).

Waiver of Rights

For the purpose of this proceeding, Respondent:

15. Admits only the jurisdictional allegations in this Consent Agreement and agrees not to contest EPA's jurisdiction with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, and the enforcement of this Consent Agreement and Final Order.

16. Waives the right to a hearing under Section 311(b)(6)(B)(i) of the Act and to appeal any Final Order in this matter under Section 311(b)(6)(G)(i) of the Act, 33 U.S.C. § 1321(b)(6)(G)(i), and consents to the issuance of a Final Order without further adjudication.

Penalty

17. Section 311(b)(6) of the Act, as amended, 33 U.S.C. §1321(b)(6), authorizes EPA to assess administrative penalties for violations of Section 311(b)(3) of the Act. Complainant proposes, and Respondent consents to, the assessment of a civil penalty of \$3,780. The civil penalty is based upon Complainant's consideration of a number of factors including the penalty criteria set forth in Section 311(b)(8) of the Act, 33 U.S.C. § 1321(b)(8), and has been calculated in accordance with Section 311(b)(6)(B)(i) of the Act, 33 U.S.C. § 1321(b)(6)(B)(i), as amended by the Debt Collection Improvement Act of 1996, as implemented by Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. Part 19, and with EPA's *Civil Penalty Policy For Section 311(b)(3) and Section 311(j) of the Clean Water Act*, dated August 1998.

Payment Terms

Based on the foregoing, the parties, in their own capacity or by their attorneys or authorized representatives, hereby agree that:

18. Within thirty (30) days of the effective date of the Final Order, Respondent shall pay the amount of \$3,780 by means of a cashier's or certified check, or by electronic funds transfer (EFT). If paying by check, Respondent shall submit a cashier's or certified check, payable to

“Environmental Protection Agency,” and bearing the notation “OSLTF – 311.” If Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000
Contact: Heather Russell, (513) 487-2044

If Respondent sends payment by a private delivery service, the payment shall be addressed to:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101
Attn: Heather Russell, (513) 487-2044

If paying by EFT, Respondent shall transfer the payment to:

Federal Reserve Bank of New York
ABA 021030004
Account 68010727
Swift Address FRNYUS33
33 Liberty Street
New York, NY 10045

If paying by EFT, field tag 4200 of the Fedwire message shall read: (D 68010727 Environmental Protection Agency).

If paying through the Department of Treasury’s Online Payment system, please access www.pay.gov, and enter sfo 1.1 in the search field. Open the form and complete the required fields to make the payment. Note that the type of payment is “civil penalty,” the docket number “CWA-03-2016-0100” should be included in the “Court Order # or Bill #” field, and 3 should be included as the Region number.

19. If paying by check, Respondent shall note on the penalty payment check the title and docket number of this case. Respondent shall submit a copy of the check (or, in the case of an EFT transfer, a copy of the EFT confirmation) to the following person:

Lydia Guy
Regional Hearing Clerk (3RC00)
U.S. Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia, PA 19103-2029
guy.lydia@epa.gov

Respondent must also provide a copy of its check or EFT confirmation to the attorney representing EPA in this matter at the following address:

Suzanne M. Parent
Associate Regional Counsel (3RC42)
U.S. Environmental Protection Agency – Region III
1650 Arch Street
Philadelphia, PA 19103-2029
parent.suzanne@epa.gov
(215) 814-2630

20. Failure by Respondent to pay the penalty assessed by the Final Order in full by its due date may subject Respondent to a civil action to collect the assessed penalty, plus interest, attorney's fees, costs and an additional quarterly nonpayment penalty pursuant to Section 311(b)(6)(H) of the Act, 33 U.S.C. § 1321(b)(6)(H), and 40 C.F.R. § 13.11. In any such collection action, the validity, amount and appropriateness of the penalty agreed to herein shall not be subject to review.

General Provisions

21. The Final Order shall be binding upon Respondent and Respondent's officers, directors, agents, servants, employees, and successors or assigns.

22. The Final Order does not constitute a waiver, suspension or modification of the requirements of Section 311 of the Act, 33 U.S.C. § 1321, or any regulations promulgated thereunder, and does not affect the right of the Administrator or the United States to pursue any appropriate injunctive or other equitable relief or criminal sanctions for any violation of law. Payment of the penalty pursuant to this Consent Agreement resolves only Respondent's liability for federal civil penalties for the violations of the Act alleged herein.

23. The undersigned officer of Respondent represents and warrants that he or she has the authority to bind Virginia Electric and Power Company, d/b/a Dominion Virginia Power, and its successors or assigns to this Consent Agreement.

24. Each party to this action shall bear its own costs and attorney's fees.

VIRGINIA ELECTRIC AND POWER COMPANY, d/b/a DOMINION VIRGINIA POWER

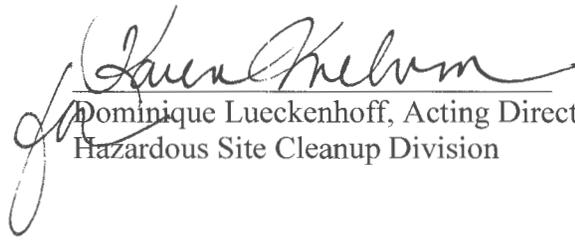
Date: 4/19/2016

Pamela Faggert
[Signature]

Pamela F. Faggert
Name (print or type)
Chief Environmental Officer and
Vice President - Corporate Compliance
Title

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: APR 21 2016


Dominique Lueckenhoff, Acting Director
Hazardous Site Cleanup Division

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III**

IN THE MATTER OF:

EPA Docket No. CWA-03-2016-0100

Virginia Electric and Power Company,
d/b/a Dominion Virginia Power
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Proceedings Pursuant to Section 311(b)(3) and
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33 U.S.C. § 1321(b)(3) and 1321(b)(6)(B)(i)

Respondent.

FINAL ORDER

Complainant, the Director of the Hazardous Site Cleanup Division, U.S. Environmental Protection Agency, Region III, and Respondent, Virginia Electric and Power Company, have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 (with specific reference to Section 22.13(b), 22.18(b)(2) and (3), and 22.50(a)(1) and (b)). The terms of the foregoing Consent Agreement are hereby accepted by the undersigned and incorporated by reference into this Final Order as if fully set forth at length herein.

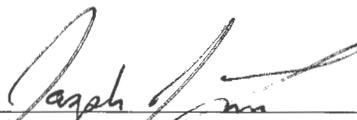
Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA's Civil Penalty Policy for Section 311(b)(3) and Section 311(j) of the Clean Water Act (August 1998) and the statutory factors set forth in Section 311(b)(8) of the Clean Water Act, 33 U.S.C. § 1321(b)(8).

NOW, THEREFORE, PURSUANT TO Section 311(b)(6)(B)(i) of the Clean Water Act, 33 U.S.C. § 1321(b)(6)(B)(i), and the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a penalty of **THREE THOUSAND SEVEN HUNDRED EIGHTY DOLLARS (\$3,780)**, plus any applicable interest, as specified in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

Effective Date

The effective date of the foregoing Consent Agreement and this Final Order, signed by the Regional Administrator of the U.S. Environmental Protection Agency, Region III, or the Regional Judicial Officer, is the date on which this Final Order is filed with the Regional Hearing Clerk.

Date: April 26, 2016



Joseph J. Lisa
Regional Judicial Officer

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

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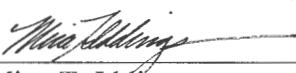
CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the date provided below, I hand-delivered and filed the original plus one copy of the Consent Agreement and Final Order, along with any enclosures and/or attachments, for the above-referenced matter, with the Regional Hearing Clerk, EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029, and that a true and correct copy of the Consent Agreement and Final Order, along with any enclosures and/or attachments, was sent by UPS overnight mail to:

Clay T. Burns
Senior Counsel, Law Department
Dominion Resource Services, Inc.
120 Tredegar St. RS-2
Richmond, VA 23219

I further certify that I have sent a pdf copy of the CAFO by electronic pdf to Respondent at clay.t.burns@dom.com on this day.

4/26/2016
Date


Mica T. Iddings
Law Clerk