



*Commonwealth of Virginia*

**VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY**

[www.deq.virginia.gov](http://www.deq.virginia.gov)

Travis A. Voyles  
Secretary of Natural and Historic Resources

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

December 5, 2024

<b>Responsible Party Address:</b>	<b>Other Address:</b>
Thomas J. Fannon & Sons Inc. 1200 Duke Street Alexandria, VA 22314	
<b>Other Address:</b>	<b>Other Address:</b>

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

<b>RE:</b>	<b>Responsible Party(ies)</b>	Thomas J. Fannon & Sons Inc.
	<b>Facility Name</b>	Alves Property 3516 Cameron Mills Road, Alexandria
	<b>Registration/ Permit No.</b>	PC #2025-3026

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

<b>NOV Date(s)</b>	9/27/2024; NOV #2024-09-N-002
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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 \$16,528
<input checked="" type="checkbox"/>	Injunctive relief (corrective actions) in Appendix A.

DEQ may reduce the civil charge listed above if you demonstrate inability to pay the proposed amount through submittal of a complete Ability to Pay Application. The Ability to Pay Application includes tax documentation and information regarding assets and liabilities. Please contact the Enforcement Specialist listed below within ten days from the date of this letter to request an Ability to Pay Application. DEQ will assume that you are able to pay the proposed civil charge unless you make a timely request for an Ability to Pay Application and submit a complete application in accordance with the schedule and directions provided.

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:

<b>Enforcement Specialist</b>	Holly Shupe
<b>Address</b>	13901 Crown Court Woodbridge, VA 22193
<b>Email</b>	holly.shupe@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

## Proposed Consent Order and Notice of Informal Fact Finding Proceeding

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.

<b>Proceeding Date</b>	2/10/2025	<b>Proceeding Time</b>	10:30 am.
<b>Call-In No.</b>	434-230-0065	<b>Access Code</b>	258010691

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

<b>Agency Advocate</b>	Gary Wooldridge
<b>Phone No.</b>	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 checked="" 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.

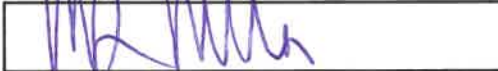
You will be notified of the results of the proceeding in accordance with Va. Code § 2.2-4019 and have the right to appeal any adverse decision in accordance with Va. Code § 2.2-4026.

Proposed Consent Order and Notice of Informal Fact Finding Proceeding

If you have any questions or require assistance, please contact the following DEQ staff who will represent DEQ at this proceeding. Please contact the Agency Advocate listed below at least ten days before the Proceeding Date to request accommodations under the Americans with Disabilities Act, translation services in a language other than English, or other reasonable accommodations to facilitate your meaningful participation in the proceeding.

<b>Agency Advocate</b>	Gary Wooldridge
<b>Phone No.</b>	804-584-6716
<b>Email</b>	<a href="mailto:gary.wooldridge@deq.virginia.gov">gary.wooldridge@deq.virginia.gov</a>

Sincerely,



Environmental Manager  
Enforcement/Pollution Response/EIR  
Virginia Department of Environmental Quality  
13901 Crown Court  
Woodbridge, Virginia 22193  
571.866.6487; [mark.miller@deq.virginia.gov](mailto:mark.miller@deq.virginia.gov)  
Office: 703.583.3800

Enclosure



*Commonwealth of Virginia*

***VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY***

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Director

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

**THOMAS J. FANNON & SONS, INC.**

**For**

**ALVES PROPERTY, 3516 CAMERON MILLS RD, ALEXANDRIA**

**SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code § 62.1-44.34:20, between the Department and Thomas J. Fannon & Sons, Inc., 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. Thomas J. Fannon & Sons, Inc., ('Fannon') owns and operates a company which transports petroleum products to customers. The company is located at 1200 Duke Street in Alexandria, Virginia. Fannon is a person as defined in §62.1-44.3.
2. On March 18, 2024, heating oil ('oil') was scheduled to be delivered to 3516 Cameron Mill Road (a private residence). The oil was delivered to a fill port in the front yard leading to an aboveground storage tank ('AST') in the basement. During the delivery Fannon's employee overfilled the AST and discharged oil in the front yard from a vent pipe and into the basement from the AST.
3. The homeowner discovered the discharge the same day of the delivery and contacted Fannon to request remediation. Fannon conducted limited remediation, recovering the discharged oil in the basement by applying adsorbents. Remediation of the oil in the ground area near the fill port was not performed. Fannon did not report the discharge to the Department of Environmental Quality (DEQ).

4. On September 9, 2024, DEQ received notification from the property owner of 3516 Cameron Mill Road of a discharge of oil. Prior to calling DEQ, the owner contacted a remediation contractor after the homeowner was unsatisfied with Fannon's remediation efforts. The contractor discovered that the carpet and pad were saturated with heating oil. DEQ issued a Pollution Complaint (PC# 2025-3026).
5. On September 12, 2024, DEQ issued a Confirmed Release letter to Fannon requesting they take action to address the discharged oil. DEQ requested Fannon submit an Initial Abatement Report no later than October 22, 2024, and a Site Characterization Report by December 12, 2024. An Initial Abatement Report has not been received.
6. Va. Code § 62.1-44.34:18 states: A. The discharge of oil into or upon state waters, lands, or storm drain systems within the Commonwealth is prohibited. For purposes of this section, discharges of oil into or upon state waters include discharges of oil that (i) violate applicable water quality standards or a permit or certificate of the Board or (ii) cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines.... B. Any person discharging or causing or permitting a discharge of oil into or upon state waters, lands, or storm drain systems, discharging or causing or permitting a discharge of oil which may reasonably be expected to enter state waters, lands, or storm drain systems, or causing or permitting a substantial threat of such discharge and any operator of any facility, vehicle or vessel from which there is a discharge of oil into or upon state waters, lands, or storm drain systems, or from which there is a discharge of oil which may reasonably be expected to enter state waters, lands, or storm drain systems, or from which there is a substantial threat of such discharge shall, immediately upon learning of such discharge or threat of discharge, implement any applicable oil spill contingency plan approved under this article or take such other action as may be deemed necessary in the judgment of the Board to contain and clean up such discharge or threat of such discharge. In the event of such discharge or threat of discharge, if it cannot be determined immediately the person responsible therefor, or if the person is unwilling or unable to promptly contain and clean up such discharge or threat of discharge, the Board may take such action as is necessary to contain and clean up the discharge or threat of discharge, including the engagement of contractors or other competent persons.
7. Va. Code § 62.1-44.34:19 states: A. Any person discharging or causing or permitting a discharge of oil into or upon state waters, lands, or storm drain systems within the Commonwealth or discharging or causing or permitting a discharge of oil which may reasonably be expected to enter state waters, lands, or storm drain systems within the Commonwealth, and any operator of any facility, vehicle or vessel from which there is a discharge of oil into state waters, lands, or storm drain systems, or from which there is a discharge of oil which may reasonably be expected to enter state waters, lands, or storm drain systems, shall, immediately upon learning of the discharge, notify the Board, the director or coordinator of emergency services appointed pursuant to § 44-146.19 for the

political subdivision in which the discharge occurs and any other political subdivision reasonably expected to be affected by the discharge....

8. On September 27, 2204, DEQ issued Notice of Violation No. 2024-09-N-002 (NOV) to Fannon for a discharge of oil to land and for failure to report the discharge. Additionally, the NOV requested Fannon take immediate action to address petroleum contamination and provide an Initial Abatement Report (IAR) by October 22, 2024. The IAR has not been received.
9. On October 8, 2024, Fannon provided a written response to the NOV asserting that the pipe vent discharge was less than 2 gallons, the volume in the basement was 1 gallon, and that the site was remediated.
10. Based on the initial report made by the tenant, and the September 27, 2024, NOV, the State Water Control Department concludes that Thomas J. Fannon & Sons, Inc., 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(9), above.
11. In order for Thomas J. Fannon & Sons, Inc., to complete its return to compliance, DEQ staff and representatives of Thomas J. Fannon & Sons, Inc., have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

#### **SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it in Va. Code § 62.1-44.34:20, the Department orders T.J. Fannon & Sons, Inc., and T.J. Fannon & Sons, Inc., agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$16,528 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

Fannon 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, T.J. Fannon & Sons, Inc., 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 Fannon for good cause shown by Fannon, 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-002 dated September 27, 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, Fannon admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Fannon 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. Fannon 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 Fannon 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. Fannon 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. Fannon shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Fannon 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 Fannon. Nevertheless, Fannon 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 Fannon has completed all of the requirements of the Order;
  - b. Fannon 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 Fannon.

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

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, Thomas J. Fannon & Sons, Inc., voluntarily agrees to the issuance of this Order.

And it is so ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

\_\_\_\_\_  
Richard C. Doucette, Regional Director  
Department of Environmental Quality

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Thomas J. Fannon & Sons, Inc. voluntarily agrees to the issuance of this Order.

Date: \_\_\_\_\_ By: \_\_\_\_\_, \_\_\_\_\_

(Person)

(Title)

Thomas J. Fannon & Sons, Inc.

## **APPENDIX A SCHEDULE OF COMPLIANCE**

Thomas J. Fannon & Sons, Inc., shall:

- Remediate the petroleum contamination located at 3516 Cameron Mill Road and provide an Initial Abatement Report (IAR) to DEQ's Northern Regional Office within 90 days of the execution of this Order, describing the actions taken. Include contamination conditions, risks posed by the release, and remedial options for cleaning up the release, including any necessary vapor mitigation at the site. Submission of a Site Characterization Report will be contingent on the information provided in the IAR.

### **DEQ Contact**

Unless otherwise specified in this Order, Thomas J. Fannon & Sons, Inc shall submit all requirements of Appendix A of this Order to:

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