COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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Director

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Regional Director

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION
A SPECIAL ORDER BY CONSENT
ISSUED TO
Bassett Furniture Industries, Inc.

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code § 10.1-1307.D, 10.1-1309, and 10.1-1184, and § 10.1-1316.C, between the State Air Pollution Control Board and Bassett Furniture Industries, for the purpose of resolving certain violations of State Air Pollution Control Laws and regulations.

SECTION B: Definitions

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

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

2. "Board" means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1301 and 10.1-1184

3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.

4. "Director" means the Director of the Department of Environmental Quality.

5. "Order" means this document, also known as a Consent Order.

6. "Bassett Furniture Industries" means the corporation certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.

7. "Facility" means the structure at Trent Hill Drive located in Bassett, Virginia.

8. "WCRO" means the West Central Regional Office of DEQ, located in Roanoke, Virginia.

9. "Permit" means Title V Operating Permit, which became effective March 1, 2002 and expires February 28, 2007.

10. "O&M" means operations and maintenance.

SECTION C: Findings of Fact and Conclusions of Law

1. Bassett Furniture Industries owns and operates a facility in the Bassett, Virginia. This facility is the subject of a Title V Operating Permit, which allows the operation of a wood furniture manufacturing facility.

2. DEQ has noted numerous apparent violations of the Air Pollution Control Law and Regulations. These problems, noted in a Notice of Violation issued by DEQ on October 1, 2004, include:

   a. The source has failed to submit semi-annual periodic monitoring reports in accordance with Condition X.C.3 of the March 1, 2002 Title V Operating Permit. The source failed to submit reports for the periods of January 1, 2003 through June 30, 2003; July 1, 2003 through December 31, 2003; and January 1, 2004 through June 30, 2004. These reports were due to DEQ and EPA on September 1, 2003, March 1, 2004, and September 1, 2004 respectively.

   b. The source has failed to submit the annual compliance certification in accordance with Condition X.D of the March 1, 2002 Title V Operating Permit. The source failed to submit the report for the period of January 1, 2003 through December 31, 2003, which was due on March 1, 2004.

   c. The source has failed to submit continuous compliance reports in accordance with 40 CFR 63 Subpart JJ and Condition VII.I of the March 1, 2002 Title V Operating Permit. The source failed to submit reports for the periods of January 1, 2003 through June 30, 2003; July 1, 2003 through December 31, 2003; and January 1, 2004 through June 30, 2004. The reports were due to DEQ and EPA on September 1, 2003, March 1, 2004, and September 1, 2004 respectively.

3. Bassett Furniture Industries submitted the reports, which were received by DEQ on September 27, 2004.

3. Bassett Furniture Industries resubmitted corrected reports on October 20, 2004.

SECTION D: Agreement and Order

Accordingly the State Air Pollution Control Board, by virtue of the authority granted it pursuant to Va. Code §§10.1-1309 and 10.1-1316, and after consideration of the factors set forth in Va. Code § 10.1-1186.2, orders Bassett Furniture Industries, and Bassett Furniture Industries agrees, to perform the actions described below and in Appendices A and B of this Order. In addition, the Board orders Bassett Furniture Industries, and Bassett Furniture Industries voluntarily agrees to pay a civil charge of **$1,400** in settlement of the violations cited in this Order.

1. **$1,400** of this civil charge shall be paid within 30 days of the effective date of this Order. Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia", delivered to:

   Receipts Control
   Department of Environmental Quality
   Post Office Box 10150
   Richmond, Virginia 23240

The payment shall include Bassett Furniture Industries's Federal ID number or Social Security Number if Bassett Furniture Industries does not have a Federal ID number and shall state that it is being tendered in payment of the civil charges assessed under this Order.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Bassett Furniture Industries, for good cause shown by Bassett Furniture Industries, or on its own motion after notice and opportunity to be heard.

2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Bassett Furniture Industries by DEQ on October 1, 2004. 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 as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.

3. For purposes of this Order and subsequent actions with respect to this Order, Bassett Furniture Industries admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.

4. Bassett Furniture Industries 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. Bassett Furniture Industries declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 9-6.14:1 *et seq.*, and the Air Pollution 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 enforce this Order.

6. Failure by Bassett Furniture Industries 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. Bassett Furniture Industries 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 occurrence. Bassett Furniture Industries shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Bassett Furniture Industries shall notify the DEQ Regional Director in writing 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 within 24 hours 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, their 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 Bassett Furniture Industries. Notwithstanding the foregoing, Bassett Furniture Industries agrees to be bound by any compliance date, which precedes the effective date of this Order.

11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Bassett Furniture Industries. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Bassett Furniture Industries from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By its signature below, Bassett Furniture Industries voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 19th day of NOVEMBER, 2004.

Steven A. Dietrich
for Robert G. Burnley, Director
Department of Environmental Quality

Bassett Furniture Industries voluntarily agrees to the issuance of this Order.

By: Jay R. Henry VP

Date: October 27, 2004

Commonwealth of Virginia

~~City/~~County of Henry

The foregoing document was signed and acknowledged before me this 27th day of October, 2004, by Jay R. Henvey (name), who is VP (title) of Bassett Furniture Industries, on behalf of the Corporation.

Nancy Beeson
Notary Public

My commission expires: 7-31-06.