



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
VALLEY REGIONAL OFFICE

Molly Joseph Ward
Secretary of Natural Resources

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Director

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Regional Director

STATE WATER CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO SANDY'S MHC, LLC VPDES Permit No. VA0088811

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15, between the State Water Control Board and Sandy's MHC, LLC, regarding the Facility, for the purpose of resolving certain violations of the State Water Control Law and the Permit and the Regulation. This Order supersedes and terminates the Consent Order issued by the Board to Sandy's MHC, LLC on April 24, 2008.

SECTION B: Definitions

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

1. "305(b) report" means the report required by Section 305(b) of the Clean Water Act (33 United States Code § 1315(b)), and Va. Code § 62.1-44.19:5 for providing Congress and the public an accurate and comprehensive assessment of the quality of State surface waters.
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
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, as described in Va. Code § 10.1-1185.
5. "Discharge" means discharge of a pollutant. 9 VAC 25-31-10
6. "Discharge of a pollutant" when used with reference to the requirements of the VPDES permit program means:
 - a. Any addition of any pollutant or combination of pollutants to surface waters from any point source; or
 - b. Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.
7. "DMR" means Discharge Monitoring Report.
8. "Effluent" means wastewater – treated or untreated – that flows out of a treatment plant, sewer, or industrial outfall.
9. "Facility" means the wastewater treatment plant located at 2044 Fairfax Pike, White Post, Virginia, that treats and discharges treated sewage and other municipal waters for the residents of the Sandy's Mobile Home Court.
10. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
11. "O&M" means operations and maintenance.
12. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.
13. "Permit" means VPDES Permit No. VA0088811, which was issued under the State Water Control Law and the Regulation to Sandy's MHC, LLC, on January 1, 2010, expired on December 31, 2014, and was reissued on January 1, 2015.
14. "Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 USC § 2011 *et seq.*)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water... 9 VAC 25-31-10.
15. "Pollution" means such alteration of the physical, chemical, or biological properties of any state waters as will or is likely to create a nuisance or render such waters (a) harmful

or detrimental or injurious to the public health, safety, or welfare or to the health of animals, fish, or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an alteration of the physical, chemical, or biological property of state waters or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution but which, in combination with such alteration of or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the Board, are "pollution." Va. Code § 62.1-44.3.

16. "Regulation" means the VPDES Permit Regulation, 9 VAC 25-31-10 *et seq.*
17. "Sandy's" means Sandy's MHC, LLC, a limited liability company authorized to do business in Virginia, and its members, affiliates, partners, and subsidiaries. Sandy's is a "person" within the meaning of Va. Code § 62.1-44.3
18. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.
19. "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. Va. Code § 62.1-44.3.
20. "Va. Code" means the Code of Virginia (1950), as amended.
21. "VAC" means the Virginia Administrative Code.
22. "VPDES" means the Virginia Pollutant Discharge Elimination System.
23. "VRO" means the Valley Regional Office of DEQ, located in Harrisonburg, Virginia.

SECTION C: The Board's Findings of Facts and Conclusions of Law

1. Sandy's owns and operates the Facility serving the Sandy's mobile home court with approximately 115 mobile homes. The Facility has a design average flow capacity of 0.04 MGD. The Permit authorizes Sandy's to discharge treated wastewater from the Facility to an unnamed tributary to Crooked Run from Outfall 001, in compliance with the terms and conditions of the Permit.
2. Crooked Run and the unnamed tributary to Crooked Run are located in the Shenandoah River subbasin and the Potomac River Basin. Crooked Run is listed as Tier 1 waters. The unnamed tributary to Crooked Run was not assessed during the 2014 305(b)/303(d) Water Quality Assessment.

3. Sandy's is subject to an Order that became effective April 24, 2008, which provided a schedule of compliance to upgrade the Facility to address seasonal algal related effluent limitation violations. Sandy's upgraded the Facility and made some operational changes which proved to be insufficient to return the Facility to consistent compliance with Permit effluent limitations. During the period from 2008 through 2014, Sandy's continued to experience seasonal problems with meeting limitations.
4. Sandy's submitted the Permit required DMRs for the January 2013 through January 2015 monitoring periods, which indicated that it exceeded discharge limitations contained in Part I.A.1 of the Permit for Ammonia-N in January 2013, CBOD₅ in February 2013, CBOD₅ in April 2013, TSS in May 2013, Ammonia-N in June 2013, pH in September 2013, Ammonia-N in December 2013, CBOD₅, TSS, and Ammonia-N in January 2014, TSS in February 2014, CBOD₅ and TSS in March 2014, TSS in June 2014, Ammonia-N in August 2014, Ammonia-N in September 2014, Ammonia-N in November 2014, TSS and Ammonia-N in December 2014, and Ammonia-N, TSS, and CBOD₅ in January 2015.
5. On March 13, 2013, DEQ issued Warning Letter No. W2013-03-V-1011 to Sandy's for Ammonia-N effluent limitation exceedances in January 2013.
6. On April 5, 2013, DEQ issued Warning Letter No. W2013-04-V-1001 to Sandy's for CBOD₅ effluent limitation exceedances in February 2013.
7. On February 19, 2014, DEQ issued Warning Letter No. W2014-02-V-1042 to Sandy's for Ammonia-N effluent limitation exceedances in December 2013.
8. On March 14, 2014, DEQ issued Warning Letter No. W2014-03-V-1007 to Sandy's for CBOD₅, TSS, and Ammonia-N effluent limitation exceedances in January 2014.
9. On April 11, 2014, DEQ issued Notice of Violation No. W2014-04-V-0001 to Sandy's for TSS effluent limitation exceedances in February 2014.
10. On May 1, 2014, DEQ staff met with representatives of Sandy's to discuss the NOV and the Facility's compliance issues, the problems that led to the violations and corrective actions needed to address the violations. During those discussions, Sandy's discussed its ongoing seasonal difficulties in consistently meeting effluent limitations which it attributed to the effects of algal growth. Sandy's also laid out some potential corrective actions to address violations.
11. On May 13, 2014, DEQ issued Notice of Violation No. W2014-05-V-0002 to Sandy's for TSS and CBOD₅ effluent limitation exceedances in March 2014.

12. By letter dated June 13, 2014, Sandy's provided DEQ with a plan to investigate options to return the Facility to compliance and make a decision on a proposed corrective action plan for inclusion into a Consent Order.
13. On July 2, 2014, DEQ issued a Letter of Agreement to Sandy's to provide a three month period to investigate options and a plan and schedule of compliance to return the Facility to compliance with its Permit requirements. Upon approval, the plan and schedule was to be incorporated into this Order.
14. On October 14, 2014, DEQ issued Notice of Violation No. W2014-10-V-0003 to Sandy's for Ammonia-N effluent limitation exceedances in August 2014.
15. On November 13, 2014, DEQ issued Notice of Violation No. W2014-11-V-0001 to Sandy's for Ammonia-N effluent limitation exceedances in September 2014.
16. On November 20, 2014, DEQ staff met with representatives of Sandy's MHC to discuss the NOVs and potential upgrade options for the Facility. Sandy's agreed to submit a corrective action plan including a schedule for repairs.
17. On December 2, 2014, Sandy's provided DEQ with a corrective action plan and schedule to address the effluent limitation violations.
18. On January 13, 2015, DEQ issued Notice of Violation No. W2015-1-V-0001 to Sandy's for Ammonia-N effluent limitation exceedances in November 2014.
19. Va. Code § 62.1-44.15(5a) states that a VPDES permit is a "certificate" under the statute.
20. Va. Code § 62.1-44.5 states that: "[E]xcept in compliance with a certificate issued by the Board, it shall be unlawful for any person to discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances."
21. The Regulation, at 9 VAC 25-31-50, also states that except in compliance with a VPDES permit, or another permit issued by the Board, it is unlawful to discharge into state waters sewage, industrial wastes or other wastes.
22. The Permit Part II.F. also states that except in compliance with this Permit, or another permit issued by the Board, it shall be unlawful for any person to discharge into state waters sewage, industrial wastes or other wastes.
23. The Department has issued no permits or certificates to Sandy's authorizing the discharge of wastewater from the Facility other than VPDES Permit No. VA0088811.
24. The Tributary to Crooked Run is a surface water located wholly within the Commonwealth and is a "state water" under State Water Control Law.

25. Based on Sandy's letters to DEQ, the November 20, 2014 meeting, DEQ's inspections, and a file review, the Board concludes that Sandy's has violated Va. Code § 62.1-44.5, 9 VAC 25-31-50 and the Permit, by discharging wastewater to State waters while concurrently failing to comply with the conditions of the Permit, as described in Section C above.
26. In order for Sandy's to provide for compliance with the Permit, Regulation and Va. Code § 62.1-44.5, DEQ and representatives of Sandy's have agreed to the schedule of compliance, which is incorporated as Appendix A of this Order, and the interim effluent limits as incorporated in Appendix B of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders Sandy's, and Sandy's agrees to:

1. Perform the actions described in Appendices A and B of this Order; and
2. Pay a civil charge of \$9,375 in settlement of the violations cited in this Order. The civil charge shall be paid in accordance with the following schedule:

Due Date	Amount
May 15, 2015	\$ 2,343.75 or balance
August 15, 2015	\$ 2,343.75 or balance
November 15, 2015	\$ 2,343.75 or balance
February 15, 2016	\$ 2,343.75 or balance

3. If the Department fails to receive a civil charge payment pursuant to the schedule described above, the payment shall be deemed late. If any payment is late by 30 days or more, the entire remaining balance of the civil charge shall become immediately due and owing under this Order, and the Department may demand in writing full payment by Sandy's. Within 15 days of receipt of such letter, Sandy's shall pay the remaining balance of the civil charge. Any acceptance by the Department of a late payment or of any payment of less than the remaining balance shall not act as a waiver of the acceleration of the remaining balance under this Order.
4. 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

3. Sandy's shall include its Federal Employer Identification Number (FEIN) (54-0991637) 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, Sandy's shall be liable for attorneys' fees of 30% of the amount outstanding.
4. Both the Board and Sandy's understand and agree that this Order supersedes and terminates the Consent Order issued by the Board to Sandy's MHC, LLC on April 24, 2008.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Sandy's for good cause shown by Sandy's, 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 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; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Sandy's admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Sandy's 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. Sandy's 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 Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Sandy's 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. Sandy's 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 unforeseen occurrence beyond its control and not due to a lack of good faith or diligence on its part. Sandy's shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Sandy's 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 Sandy's intends 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.

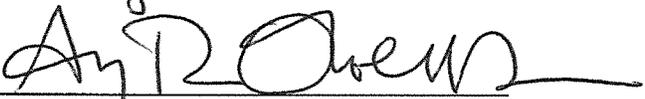
9. This Order is binding on the parties hereto, any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Sandy's. Nevertheless, Sandy's agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after Sandy's has completed all of the requirements of the Order;
 - b. Sandy's 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 Board terminates the Order in his or its sole discretion upon 30 days' written notice to Sandy's.

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

And it is so ORDERED this 26th day of May, 2015.


Amy T. Owens, Regional Director
Department of Environmental Quality

Sandy's MHC, LLC voluntarily agrees to the issuance of this Order.

Date: 3/20/2015 By: *[Signature]*, COO, THE Carlyle Group, Inc.
(Person) (Title)

Sandy's MHC, LLC
Joseph Weber
COO

Commonwealth of Virginia
City/County of _____

The foregoing document was signed and acknowledged before me this _____ day of _____, 2015, by _____ who is

_____ of Sandy's MHC, LLC on behalf of Sandy's MHC, LLC

See Attached California Acknowledgment

Notary Public

Registration No.

My commission expires: _____

Notary seal:

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Los Angeles)

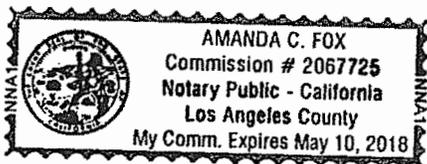
On March 20, 2015 before me, Amanda C. Fox Notary Public,
Date Here Insert Name and Title of the Officer

personally appeared Joseph Weber
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Amanda C. Fox
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: State Water Control Board Document Date: 3-20-15

Number of Pages: 13 total Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

- Signer's Name: Joseph Weber
- Corporate Officer — Title(s): COO Carlyle Group
- Partner — Limited General
- Individual Attorney in Fact
- Trustee Guardian or Conservator
- Other: _____

- Signer's Name: _____
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Individual Attorney in Fact
- Trustee Guardian or Conservator
- Other: _____

Signer Is Representing: _____

Signer Is Representing: _____

**APPENDIX A
SCHEDULE OF COMPLIANCE**

1. Within 30 days of the effective date of this Order, Sandy's shall submit an application for a CTC for the Facility improvements to DEQ for review and approval. The Facility improvements shall include the installation of additional aeration in cells 1 and 2 and the installation of a floating cover in cell 3. Sandy's shall respond to comments from DEQ regarding the CTC application within 30 days of receipt of written comments.
2. Within 180 days of issuance of the CTC, but no later than December 31, 2015, Sandy's shall complete construction of the approved Facility upgrade.
3. Within 30 days of completing construction of the Facility upgrade but no later than January 31, 2016, Sandy's shall submit an application for a CTO for the Facility improvements to DEQ for review and approval. Sandy's shall respond to comments from DEQ regarding the CTO application within 30 days of receipt of written comments.
4. No later than 14 days following a date identified in the above schedule of compliance Sandy's shall submit to DEQ's Valley Regional Office a written notice of compliance or noncompliance with the scheduled item. In the case of noncompliance, the notice shall include the cause of noncompliance, any remedial actions taken, and the probability of meeting the next scheduled item.
5. **DEQ Contact**

Unless otherwise specified in this Order, Sandy's shall submit all requirements of Appendix A of this Order to:

Tiffany R. Severs
Enforcement Specialist
VA DEQ –VRO Regional Office
4411 Early Road, Mailing PO Box 3000
Harrisonburg, VA 22980
540-574-7859
540-574-7878
tiffany.severs@deq.virginia.gov

beginning with the effective date of this Consent Order, lasting until completion of the correction outlined in
 later than January 31, 2016, Sandy's shall limit and monitor the discharge from Outfall 001 in accordance with the
 specified below:

CHARACTERISTICS

DISCHARGE LIMITATIONS

MONITORING REQUIREMENTS

	<u>Monthly Average</u>		<u>Weekly Average</u>		<u>Minimum</u>	<u>Maximum</u>	<u>Frequency</u>	<u>Sample Type</u>
	ds	30 mg/L	4.5 kg/d	45 mg/L	6.8 kg/d	NA	NA	1/Month
v)(mg/L)	45 mg/L	6.8 kg/d	NA	NA	NA	NA	1/Month	Grab
	10		10		NA	NA	1/Month	Grab