



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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Secretary of Natural Resources

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STATE WATER CONTROL BOARD ENFORCEMENT ACTION SPECIAL ORDER BY CONSENT ISSUED TO LEISURE CAPITAL CORPORATION

(VPDES PERMIT NO. VA0076678)

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code §§62.1-44.15(8a) and (8d), and 10.1-1185 between the State Water Control Board and Leisure Capital Corporation, regarding the Shenandoah Crossing Sewage Treatment Plant, for the purpose of resolving certain violations of the State Water Control Law 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 Water Control Board, a permanent citizens' board of the Commonwealth of Virginia as described in Va. Code §62.1-44.7 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. "LCC" means Leisure Capital Corporation.
6. "Order" means this document, also known as a Consent Special Order.

7. "STP" means Shenandoah Crossing Sewage Treatment Plant located in Louisa County, Virginia.
8. "The Facility" means Shenandoah Crossing Sewage Treatment Plant located in Louisa County, Virginia.
9. "NVRO" means the Northern Virginia Regional Office of DEQ, located in Woodbridge, Virginia.
10. "Permit" means Virginia Pollutant Discharge Elimination Permit System (VPDES) Permit No. VA0076678, which was reissued January 20, 2003 and expires January 19, 2008.
11. "TSS" means Total Suspended Solids.
12. "CBOD₅" means Carbonaceous Biochemical Oxygen Demand.
13. "TKN" means Total Kjeldahl Nitrogen.
14. "NOV" means Notice of Violation.
15. "WL" means Warning Letter.

SECTION C: Findings of Fact and Conclusions of Law

1. LCC purchased a portion of the property at Shenandoah Crossing Resort, a part of which included the STP. The resort is operated by Shenandoah Community Resort Association, Inc., an owner controlled association. The STP serves the resort which includes a 48 room lodge including a commercial kitchen, Manor House, RV area and town homes. This Facility is the subject of VPDES Permit No. VA0076678, which authorizes LCC to discharge via Outfall 001 to Lickinghole Creek which is located in the York River basin.
2. It is acknowledged and agreed by both DEQ and LCC that LCC hired an engineer and contractor to improve the STP. In the course of the improvements, LCC submitted all of the plans created by the engineer and contractor to DEQ for approval. DEQ reviewed the plans for technical adequacy with respect to the requirements of the applicable regulations, inspected the STP and approved them. The engineer and contractor followed the approved plans and completed the improvements. Upon completion of the improvements, the STP began experiencing difficulties due to the way in which the improvements were designed and constructed. LCC has experienced Permit effluent violations for TSS, CBOD₅, Ammonia-N, TKN, and Copper. DEQ sent LCC the following NOV's and WL's:

- WL No. W2007-02-N-1013, citing Permit limit violations for exceeding maximum and average Permit limits for concentration and quantity for TSS, as reported in the Facility's December 2006 DMR.
 - WL No. W2007-03-N-1011, citing Permit limit violations for exceeding maximum quantity and concentration, and average concentration Permit limits for CBOD₅, for exceeding maximum and average Permit limits for concentration and quantity for TSS, for exceeding maximum and average Permit limits for concentration for Ammonia-N, as reported in the Facility's January 2007 DMR. As a result, LCC failed to achieve compliance with ammonia limits within 4 years from the Permit issuance as required by the Permit.
 - WL No. W2007-04-N-1027, citing Permit limit violations for exceeding maximum and average Permit limits for concentration and quantity for BOD₅, for exceeding maximum and average Permit limits for concentration and quantity for TSS, for exceeding maximum and average Permit limits for concentration Ammonia-N, as reported on the Facility's February 2007 DMR. As a result, LCC failed to achieve compliance with ammonia limits within 4 years from the Permit issuance as required by the Permit.
 - NOV No. W2007-05-N-0008 citing Permit limit violations for exceeding the maximum and average Permit limits for concentration and quantity for CBOD₅, for exceeding the maximum and average Permit limits for concentration and quantity for TSS, for exceeding maximum and average Permit limits for concentration and quantity for TKN, as reported on the Facility's March DMR. In addition, the March 2007 DMR was incomplete.
 - NOV No. W2007-06-N-0010 citing Permit limit violations for exceeding the maximum and average Permit limits for concentration and quantity for CBOD₅, for exceeding the maximum and average Permit limits for concentration and quantity for TSS, for exceeding maximum and average Permit limits for concentration and quantity for TKN, as reported on the Facility's April 2007 DMR. In addition, Permit limit violations for exceeding concentration average and maximum limit for Total Recoverable Copper as reported on the facility's April 2007 DMR. In addition, NOV No. W2007-11-N-0011 was citing Permit limit violations for exceeding weekly concentration average maximum limit for Total Recoverable Copper as reported on the facility's September 2007 DMR.
3. Upon review of its DMRs cited above, a LCC representative initiated contact with DEQ to request assistance to determine what was causing the permit limit

exceedances. At LCC's request, DEQ met with a LCC representative on June 6, 2007 to discuss the engineer's plans, the contractor's work and possible solutions to achieve compliance with permitted limits. These measures have been incorporated into Appendix A of this order. As noted in Appendix A, LCC began implementing the measures requested by DEQ, and STP performance began to improve.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code § 62.1-44.15 8(a) and 8(d) orders LCC and LCC agrees, to perform the actions described in Appendix A of this Order. In addition, the Board orders LCC, and LCC voluntarily agrees, to pay a civil charge of \$10,570.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order. The penalty reflects the gravity and extent of LCC's violations, as well as its timeliness in addressing these violations. Payment shall be made by check payable to the "Treasurer of Virginia", delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

The payment shall include LCC's Federal Tax ID number.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of LCC, for good cause shown by LCC or on its own motion after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations occurring prior to December 1, 2007 for which DEQ has knowledge. 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, LCC admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. LCC 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. LCC declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, 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 enforce this Order.
6. Failure by LCC 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. LCC or its successors and/or assigns 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 other such occurrence. LCC shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. LCC shall notify the DEQ Regional Director (via facsimile, via mail, or via e-mail with a hard copy to follow by fax or mail) 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 3 business days of learning of any condition above, which LCC 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, or upon conveyance or transfer of the STP to such owner, 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 LCC. Notwithstanding the foregoing, LCC 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. LCC 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
 - b. The Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to LCC or the Director determines in its sole discretion, that LCC has complied with all the requirements of the Order. Such determination shall not be unreasonably withheld by the Director.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve LCC from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

13. The undersigned representative of LCC 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 LCC to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of LCC.

And it is so ORDERED this day of October 17, 2008.


Thomas A. Faha, NRO Regional Director
Department of Environmental Quality

Leisure Capital Corporation voluntarily agrees to the issuance of this Order.

By: Leisure Capital Corporation
[Signature] Via President

Date: 7/7/08

STATE OF FLORIDA
~~Commonwealth of Virginia~~
~~City/County of~~ PALM BEACH

The foregoing document was signed and acknowledged before me this 7 day of
JULY, 2008, by TERRY DODD, who is

VICE PRESIDENT of Leisure Capital Corporation on behalf of the Corporation.
(title)

[Signature]
Notary Public

My commission expires: _____



APPENDIX A

Leisure Capital Corporation shall:

1. Continue to operate the STP (Sewage Treatment Plant) in a workman-like manner as well as continue to perform routine maintenance and upkeep of the STP, in order to produce the best quality effluent of which the STP is capable during the implementation of the remainder of the items described in this Appendix "A". The STP is expected to meet all current effluent permit limits during the life of this Order.
2. Develop a training program for all employees involved in the operation of the STP. The training program shall include a requirement for all employees involved in plant operation to attend a course equivalent to training that would qualify as Continuing Professional Education (CPE) for a Virginia Waste Water Class III license as recommended by the Virginia Department of Professional and Occupational Regulation (DPOR). The training program shall be implemented within 15 days of DEQ approval. DEQ acknowledges that LCC submitted a training program which DEQ has verbally accepted and which LCC has implemented and completed for all persons employed to operate the STP. LCC shall continue to adhere to the DEQ approved training program for all employees involved in the operation of the STP.
3. Ensure that the operator of the STP shall remain onsite for the eight hour recommended minimum hour period as recommended by 9 VAC 25-790-300. In the absence of the Class III operator, the operator's assistant shall remain onsite for the recommended eight hour period, and the Class III operator shall be available during this time to assist if necessary. This requirement shall commence by August 1, 2007. DEQ acknowledges that the operator's assistant has been and will continue to observe the majority of this requirement. DEQ has determined that LCC has satisfied this requirement
4. Submit to DEQ for review and approval a written fat, oil, and grease (FOG) handling and control program within 30 days of the execution of this consent order. When approved, this FOG handling and control program shall be distributed to kitchen staff and implemented immediately. The program shall include a grease trap cleaning schedule, controls for products disposed of in sinks, and alternative disposal methods. DEQ acknowledges and agrees that LCC has submitted its handling and control program as well as the grease trap cleaning schedule, which has been distributed and implemented
5. Submit to DEQ for approval within 60 days of the execution of this consent order an accurate and complete O&M (Operation and Maintenance Manual) to reflect all old and existing process units and equipment located on the old side of the STP, as well as all new process units and equipment located on the new side of the STP. DEQ acknowledges that LCC submitted an accurate and complete O & M (Operation and Maintenance Manual) reflecting the above requirements as prepared by LCC's engineer.

6. Conduct a sanitary sewer collection system inventory and review. This inventory shall be submitted to DEQ within 60 days of the execution of this Consent Order. Elements of this inventory should include: (1) Number of current and planned residential & commercial connections; (2) Approximate total length of sewer lines; (3) Makeup of collection system (gravity, low pressure grinder pump, force main, etc.); (4) Makeup of pipe materials (PVC, ductile iron, clay, etc.); (5) Number of pump stations, alternate power source provided, alarm system provided. DEQ acknowledges receipt of the above inventory and review as part of the O & M plan.
7. By no later than 60 days after the execution of this Consent Order, submit to DEQ Copper Study Plans including study schedules, for review and approval. Within 10 days of approval, LCC shall implement the Copper Study Plan in accordance with the approved schedule. Should LCC identify a potential source of elevated Copper in its treatment system, LCC shall submit, within 30 days of such identification, its proposed options for source control, together with a schedule for their implementation, to DEQ for review and approval. DEQ acknowledges receipt of a Copper Study Plan including a study schedule, and DEQ also acknowledges that LCC has implemented said plan. Furthermore, DEQ acknowledges receipt of Shenandoah Crossing's copper testing results, Shenandoah Crossing's subsequent decision to raise pH to address elevated copper levels, and Shenandoah Crossing's decision to evaluate replacing copper piping at the resort should future copper exceedences occur.
8. Conduct Ammonia sampling and analysis once per week, to coincide with sample collection and analysis for TKN to be collected in the same manner, and to be collected from the same sample used for TKN. The ammonia sampling commenced on August 7, 2007 and continued for one month. At the end of this month, provided that there have been no ammonia violations, the ammonia sampling required under this Consent Order shall cease. The results from the ammonia sampling shall be included in LCC's monthly DMR. DEQ acknowledges that the ammonia sampling was completed in accordance with the above specifications and no further ammonia sampling is required. The results from the ammonia sampling are included in subsequent monthly DMRs