



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

PIEDMONT REGIONAL OFFICE

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Regional Director

**STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
MT. GILEAD FULL GOSPEL INTERNATIONAL MINISTRIES
FOR
MT. GILEAD YOUTH MINISTRIES BUILDING
Permit No. WP4-08-0086**

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 Mt. Gilead Full Gospel International Ministries, regarding the Mt. Gilead Youth Ministries Building, Chesterfield County, Virginia, for the purpose of resolving certain violations of State Water Control Law and the applicable permit and regulations.

SECTION B: Definitions

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

1. "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.
2. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
3. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

4. "Discharge" means, when used without qualification, a discharge of a pollutant, or any addition of a pollutant or combination of pollutants, to state waters or waters of the contiguous zone or ocean other than a discharge from a vessel or other floating craft when being used as a means of transportation.
5. "Dredging" means a form of excavation in which material is removed or relocated from beneath surface waters.
6. "Excavate" or "excavation" means ditching, dredging, or mechanized removal of earth, soil, or rock.
7. "Fill" means replacing portions of surface water with upland, or changing the bottom elevation of surface water for any purpose, by placement of any pollutant or material including but not limited to rock, sand, earth, and man-made materials and debris. 9 VAC 25-210-10.
8. "Fill Material" means any pollutant which replaces portions of surface water with dry land or which changes the bottom elevation of a surface water for any purpose. 9 VAC 25-210-10.
9. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
10. "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.
11. "Permit" or "Virginia Water Protection Permit" means an individual or general permit issued under Va. Code § 62.1-44.15:20 that authorizes activities otherwise unlawful under Va. Code § 62.1-44.5 or otherwise serves as the Commonwealth's certification under § 401 of the federal Clean Water Act (33 United States Code ("USC") § 1344.
12. "Pollutant" means any substance, radioactive material, or heat which causes or contributes to, or may cause or contribute to pollution. 9 VAC 25-210-10.
13. "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: (i) harmful or detrimental or injurious to the public health, safety or welfare, or to the health of animals, fish or aquatic life; (ii) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (iii) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses; provided that (a) 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; (b) the discharge of untreated sewage by any owner into state waters; and (c)

contributing to the contravention of standards of water quality duly established by the board, are "pollution." Va. Code § 62.1-44.3; 9 VAC 25-210-10

14. "Property" or "Parcel" means the 9.39 acre parcel of land on Mr. Gilead Blvd, off Hicks Road in Chesterfield County, Virginia, on which the Gospel International Ministries is located. The Property is owned and developed by Mr. Gilead Full Gospel International Ministries.
15. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
16. "Regulations" means the VWP Permit Program Regulations, 9 VAC 25-210 *et seq.*
17. "Restoration" means the reestablishment of a wetland or other aquatic resource in an area where it previously existed. Wetland restoration means the reestablishment of wetland hydrology and vegetation in an area where a wetland previously existed. Stream restoration means the process of converting an unstable, altered or degraded stream corridor, including adjacent areas and floodplains, to its natural conditions.
18. "Mt. Gilead" means Mount Gilead Full Gospel International Ministries, a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Mt. Gilead is a "person" within the meaning of Va. Code § 62.1-44.3.
19. "Mt. Gilead Complex" means the construction site located at 2501 Mt. Gilead Blvd. in Chesterfield County.
20. "Significant alteration or degradation of existing wetland acreage or function" means human-induced activities that cause either a diminution of the areal extent of the existing wetland or cause a change in wetland community type resulting in the loss or more than minimal degradation of its existing ecological functions. 9 VAC 25-210-10.
21. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code. Article 2.2 (Va. Code §§ 62.1-44.15:20 through 62.1-44.15:23) of the State Water Control Law addresses the Virginia Water Resources and Wetlands Protection Program.
22. "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 and 9 VAC 25-210-10.
23. "Surface water" means all state waters that are not ground waters as defined in Va. Code § 62.1-255.
24. "USACE" means the United States Army Corps of Engineers.
25. "Va. Code" means the Code of Virginia (1950), as amended.

26. "VAC" means the Virginia Administrative Code.
27. "VWP" means Virginia Water Protection.
28. "Wetlands" means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. 9 VAC 25-210-10.

SECTION C: Findings of Fact and Conclusions of Law

1. On April 2, 2008, DEQ issued general permit WP4-08-0086 (Permit), to Mt. Gilead, authorizing impacts to 140 linear feet of stream channel for the placement of a road crossing culvert. The Permit expires on April 1, 2015.
2. On June 18, 2013, the USACE notified DEQ of unauthorized discharge of pollutants to wetlands and the unnamed tributaries to Pocoshock Creek, a state water, at the Mt. Gilead complex. The USACE reported that the unauthorized impacts may have resulted from extensive and prolonged erosion from the cleared Mt. Gilead Complex.
3. On June 26, 2013, DEQ staff inspected the Mt. Gilead Complex and met with Chesterfield County and the consulting firm that had performed the site preparation; and on June 27, 2013 DEQ staff returned to the site to evaluate surface water impacts. DEQ staff observed that approximately 0.30 acres of forested wetlands and 350 linear feet of stream had been significantly altered and degraded by fill material ranging from 2-inches to greater than 1.0 foot.
4. Part I.C.5 and Part I.C.6 of the Permit requires that the permittee maintain erosion and sedimentation controls and to adequately stabilize areas of exposed slopes upon completion of work in each permitted impact area to minimize impacts to state waters.
5. Part I.C.10 of the Permit requires the permittee to flag the non-impacted surface waters within 50 feet of any of the permitted activities.
6. Va. Code § 62.1-44.15:20 and 9 VAC 25-210-50.A of the VWP Permit Regulations state that except in compliance with a permit no person shall dredge, fill or discharge any pollutant into or adjacent to surface waters, excavate in wetlands or on or after October 1, 2001, conduct the following activities in a wetland: filling or dumping.
7. On October 8, 2013, DEQ issued Notice of Violation (NOV) No. 13-09-PRO-700 to Mt. Gilead for the unauthorized impacts at the Mt. Gilead complex. The NOV cited the following:

- a) Erosion and sediment controls in poor working order and areas of exposed slopes not adequately stabilized;
 - b) No flagging of the non-impacted surface waters within 50 feet of any of the permitted activities; and
 - c) An additional 0.30 acres of forested wetland and 350 linear feet of stream channel impacted by failed erosion and sedimentation control.
8. On October 11, 2013, Mt. Gilead responded to the NOV, and on November 7, 2013, met on-site with DEQ staff. At the meeting, Mt. Gilead and DEQ staff discussed corrective actions to bring Mt. Gilead back into compliance with the Permit. Mt. Gilead agreed to the removal of sediment from approximately 350 linear feet of stream and the removal of sediment as appropriate from 0.30 acres of forested wetlands.
9. By letter dated December 6, 2013, Mt. Gilead provided a Corrective Action Plan addressing the violations cited in the NOV.
10. Based on the results of the site inspections, review of the permit file, and the November 7, 2013, meeting, the Board concludes that Mt. Gilead has violated Permit condition Part I.C.5, Part I.C.6, Part I.C.10, Va. Code § 62.1-44.15:20.A; and 9 VAC 25-210-50.A as described in paragraphs C(2) through C(7), above.
11. On February 11, 2014, DEQ staff inspected the site and observed that the Corrective Action Plan had been completed and that the violations described in paragraphs C(2) through C(7), above, have been corrected.

SECTION D: Agreement and Order

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

1. Pay a civil charge of \$22,407 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

Mt. Gilead 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 Environmental Emergency Response Fund (VEERF).

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Mt. Gilead for good cause shown by Mt. Gilead, 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, Mt. Gilead admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Mt. Gilead 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. Mt. Gilead 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 Mt. Gilead 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. Mt. Gilead 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. Mt. Gilead shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Mt. Gilead 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.

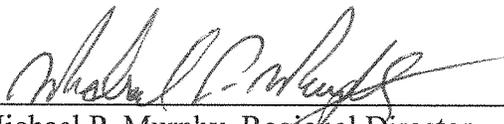
9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Mt. Gilead. Nevertheless, Mt. Gilead agrees to be bound by any compliance date which 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 Mt. Gilead has completed all of the requirements of the Order;
 - b. Mt. Gilead 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 Mt. Gilead.

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

And it is so ORDERED this 29th day of APRIL, 2015.



Michael P. Murphy, Regional Director
Department of Environmental Quality

Mount Gilead Full Gospel International Ministries voluntarily agrees to the issuance of this Order.

Date: 2-25-15 By: Kenneth Mitchell Sr. Asst. Pastor
(Person) (Title)
Mt. Gilead

Commonwealth of Virginia

City/County of Chesterfield

The foregoing document was signed and acknowledged before me this 25th day of

February, 2015 by Kenneth Mitchell who is
Assistant Pastor of Mt. Gilead.

Karen Gordon
Notary Public

325180
Registration No.

My commission expires: August 31, 2015

Notary seal:

