

STATE WATER CONTROL BOARD ENFORCEMENT ACTION

SPECIAL ORDER BY CONSENT

ISSUED TO

RED HILL MOBILE HOME PARK

VA0028258

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code §§ 62.1-44.15(8a) and (8d) between the State Water Control Board and Red Hill Mobile Home Park for the purpose of resolving certain violations of environmental laws and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meanings 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 Code §§ 10.1-1184 and 62.1-44.7.

3. ADepartment≡ or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Code § 10.1-1183.
4. ADirector≡ means the Director of the Department of Environmental Quality.
5. AOrder≡ means this document, also known as a Consent Special Order.
6. ARed Hill≡ means Red Hill Mobile Home Park, certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.
7. "Facility" means the Red Hill Mobile Home Park, located at 3812 Puddledock Road, in Prince George County, Virginia.
8. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
9. "Permit" means Virginia Pollution Discharge Elimination System Permit No. VA0028258 which became effective on March 31, 1997, and expired on March 31, 2002.
10. "TKN" means total kjeldahl nitrogen a measure of organic and ammonia nitrogen.
11. "VPDES" means Virginia Pollution Discharge Elimination System.
12. "CBOD" means carbonaceous biochemical oxygen demand a standardized test used to determine the relative non nitrogenous oxygen requirements of wastewaters, effluents, and polluted waters.

SECTION C: Findings of Facts and Conclusions of Law:

1. Red Hill owns and operates a trailer park with a wastewater treatment system at 3812 Puddledock Road, in Prince George County, Virginia. This facility was subject to VPDES VA0028258, "Permit", which allowed Red Hill to discharge treated wastewater into Harrison Creek in strict compliance with terms, limitations and requirements outlined in the permit. This permit expired on March 31, 2002.
2. The Department issued a Consent Special Order to Red Hill on May 7, 2002. The Order required Red Hill to submit an updated operation and maintenance manual and written authorization for the DMR signature. The Order also provided for the payment of a \$2,800 civil charge.

3. The Department conducted an inspection of the Red Hill facility on May 23, 2002. The inspection confirmed that the facility was discharging without a permit. Department staff collected samples and the analysis showed an ammonia concentration of 19.2 mg/L and a TKN concentration of 22.0 mg/L. In addition, staff observed there was no chlorine solution being fed at the chlorine tank.
4. On July 7, 2002, Red Hill failed to meet the Consent Order requirement to submit an operation and maintenance (O&M) manual for the facility.
5. The Department issued NOV No. W2002-07-P-0004 on August 7, 2002, to Red Hill for the above violations:
6. On August 26, 2002, Department staff met with Red Hill to discuss the August 7, 2002, NOV and resolution of the violations. Red Hill hired a new operator after the previous operator resigned abruptly. Since that time, the new operator has significantly reduced solids inventory in the treatment plant and made strong efforts to bring the facility back into compliance.
7. On September 10, 2002, Red Hill found and submitted an old operation and maintenance manual for the facility. On October 10, 2002, Red Hill submitted an adjusted draft operation and maintenance manual. The Department provided review comments to Red Hill in a letter dated January 14, 2002.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code §§62.1-44.15(8a) and (8d), orders Red Hill, and Red Hill agrees to perform the actions described in Appendix A of this Order. In addition, the Board orders Red Hill, and Red Hill voluntarily agrees to pay a civil charge of \$5,700 in settlement of the violations cited in this Order. Payments shall be made in accordance with the following schedule:

<u>Due Date</u>	<u>Amount</u>
April 1, 2003	\$950.00
July 1, 2003	\$950.00
October 1, 2003	\$950.00
January 1, 2004	\$950.00
March 1, 2004	\$950.00
June 1, 2004	\$950.00

Payment shall be made by check payable to the ATreasurer of Virginia.≡ Red Hill shall include the Federal Identification Number of Red Hill on the check and deliver to:

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

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Red Hill, for good cause shown by Red Hill, 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 Red Hill by DEQ on August 7, 2002. 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, Red Hill admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.

4. Red Hill 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. Red Hill 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 Red Hill 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. Red Hill 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. Red Hill shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Red Hill 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 PRO 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 Red Hill. Notwithstanding the foregoing, Red Hill 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 Red Hill. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Red Hill 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, Red Hill voluntarily agrees to the issuance of this Order.

And it is so ORDERED this _____ day of _____, 2003.

Robert G. Burnley, Director
Department of Environmental Quality

Red Hill voluntarily agrees to the issuance of this Order.

Date: _____

By: _____

C. Ray Beard
President

State of Virginia
City/County of _____

The foregoing document was acknowledge before me this _____ day of _____ , 2003,

by _____, who is the _____ of on behalf of

Red Hill.

My commission expires:

Notary Public

Appendix A

Red Hill shall:

1. **Within 90 days from the issuance of this Order**, provide to the Department, an approvable updated operation & maintenance manual for the Red Hill Mobile Home Park Treatment Plant.
2. **On or before March 1, 2003**, reduce sludge inventory in the clarifiers and the sludge storage lagoon to less than 30% volume.
3. **Within 30 days of the issuance of this Order**, submit to the Department a complete permit application to include all required financial assurance documentation.
4. **Within 30 days of the issuance of this Order**, submit an approvable corrective action plan with an implementation schedule for an upgrade to the treatment system. The schedule, once approved by the department will become a part of this Order.

Provide all documents to the attention of:

Frank Lupini
Department of Environmental Quality
Piedmont Regional Office
4949-A Cox Road
Glen Allen, Virginia 23060

Red Hill shall confirm, in writing, completion of the Order requirements to the above address **within five (5) days of completion.**