



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

NORTHERN VIRGINIA REGIONAL OFFICE

13901 Crown Court, Woodbridge, Virginia 22193

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L. Preston Bryant, Jr.
Secretary of Natural Resources

David K. Paylor
Director

~~Jeffery A. Steers~~
Regional Director

STATE WATER CONTROL BOARD ENFORCEMENT ACTION

SPECIAL ORDER BY CONSENT

ISSUED TO

SMG LLC

FOR THE

**SIX-O-FIVE MOBILE HOME PARK SEWAGE TREATMENT PLANT
(VPDES PERMIT NO. VA0090140)**

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 SMG LLC regarding the Six-O-Five Mobile Home Park 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. "Facility" means the Six-O-Five Mobile Home Park sewage treatment plant located in Louisa County, Virginia, owned by SMG LLC.
5. "Director" means the Director of the Department of Environmental Quality.
6. "Order" means this document, also known as a Consent Special Order.
7. "Regulation" means 9 VAC 25-31-10 *et seq.*, the Virginia Pollutant Discharge Elimination System Permit Regulation.
8. "Permit" means the Virginia Pollutant Discharge Elimination System (VPDES) Permit No. VA0090140.
9. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.

SECTION C: Finding of Fact and Conclusions of Law

1. SMG LLC owns and operates Six-O-Five Mobile Home Park STP, which is a 0.04 MGD plant that is located in Louisa County, Virginia and treats wastewater from a mobile home park. The STP discharges into an unnamed tributary of the South Anna River, which is located within the York River Basin. Discharges are the subject of VPDES Permit No. VA0090140.
2. On February 26, 2007, DEQ personnel conducted a site visit of the facility and found a number of major concerns, including filters still being offline and a number of rags and trash found in the effluent discharge path and in the stream. The facility submitted a schedule to DEQ for the filter rehabilitation project that expected completion near the end of May 2007. The filter rehabilitation project is still ongoing and the facility exceeded their permit limits for Ammonia on numerous occasions over the last year and for CBOD in August of 2006.
3. The Board has evidence to indicate that SMG LLC has violated the Regulations and the Permit by: (1) exceeding Permit effluent limits for Ammonia as Nitrogen ("Ammonia") as well as CBOD and (2) not properly maintaining the facility in order to operate in accordance with the Regulations and the Permit. In response to these issues, DEQ has issued Warning Letters on April 11, 2007, (W2007-04-N-1024), February 2007 (W2007-02-N-1019), January 2007 (W2007-01-N-1003), October 2006 (W2006-10-N-1024), August 2006 (W2006-08-N-1024), and April 2006 (W2006-04-N-1009); and a Notice of Violation on May 9, 2007, (W2007-05-N-0015). As a result of

these violations, DEQ is issuing this Consent Order to ensure that the facility complies with permit limits and continues to perform necessary maintenance to ensure the facility remains in compliance with the State Water Control Law and Regulations.

4. DEQ met with the facility owner, James Benson, and operator, Mike Cook, on June 19, 2007, in order to discuss the status of the filter rehabilitation project and the ammonia exceedances. Apparently, against manufacturer's recommendations, an aerator had been placed on the trash tank and disrupted the anaerobic digester process. Therefore, the filters needed to be replaced and the entire system required maintenance. At the time of the meeting, the first filter had been replaced and the facility had almost completed the second filter replacement. Then, the tanks would be cleaned and put back online. It was also determined that the bar trap has been clogging with debris recently causing other problems; however, the filter rehabilitation should take care of removing excess debris and prevent it from reaching the bar trap. Finally, the ammonia exceedances, some caused by weather and low temperatures, were discussed and it was suggested that the operator return to monitoring for ammonia, CBOD and TSS on a more frequent basis. The previous Consent Order with Mr. Zarin for 605 Village Mobile Home Park was also discussed and it was determined that all corrective action measures required under the prior Consent Order had been completed.
5. Appendix A of this Order requires SMG LLC to: (1) increase sampling frequency for a 6-month period beginning December 1, 2007; (2) update the Operations and Maintenance Manual for the facility by December 30, 2007; and (3) check and clean out bar trap daily to remove trash and debris.

SECTION D: Agreement and Order

Accordingly, the State Water Control Board, by virtue of the authority granted it in Va. Code § 62.1-44.15(8a) and (8d), orders SMG LLC, and SMG LLC voluntarily agrees that:

1. SMG LLC shall perform the actions described in Appendix A of this Order to remedy the violations described above and achieve compliance with the State Water Control Law and Regulations and the Permit requirements.
2. SMG LLC shall pay a civil charge of Four thousand, six-hundred and thirty dollars (\$4,630.00) within 30 days of the effective date of the Order in the settlement of the violations cited in this Order.

Payments may be made in two monthly installments of \$1,543 and one monthly installment of \$1,544. These payments shall be made on the following dates:

The first payment of \$1,543 shall be made on December 31, 2007.

The second payment of \$1,543 shall be made on January 31, 2008.
The third payment of \$1,544 shall be made on February 28, 2008.

Payment shall be made by check payable to the "Treasurer of Virginia", delivered to:

Receipts Control
Department of Environmental Quality
P.O. Box 1104
Richmond, VA 23218

Either on a transmittal letter or as a notation on the check, SMG LLC shall indicate that this payment is submitted pursuant to this Order and shall include the Federal Identification Number for SMG LLC.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of SMG LLC, for good cause shown by SMG LLC, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein and listed above in Section C-2. 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, SMG LLC neither admits nor denies the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. SMG LLC 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. SMG LLC 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 SMG LLC 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. SMG LLC 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. SMG LLC shall show that such circumstances were beyond his control and not due to a lack of good faith or diligence on his part. SMG LLC 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 twenty-four (24) hours of learning of any condition above, which SMG LLC 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, their successors in interest, designees and assigns, jointly and severally.
10. Any plans, reports, schedules, permits, or specification attached hereto or submitted by SMG LLC 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.
11. This Order shall become effective upon execution by both the Director or his designee and SMG LLC. Notwithstanding the foregoing, SMG LLC agrees to

be bound by any compliance date, which precedes the effective date of this Order.

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

13. By his signature below, SMG LLC voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of April 10, ~~2007~~ ²⁰⁰⁸

Thomas A. Faha

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

SMG LLC voluntarily agrees to the issuance of this Order.

By: James H. Benson, Jr.

Date: 1-8-08

Commonwealth of Virginia
City/County of _____

The foregoing document was signed and acknowledged before me this 8th day of January, 2008, by James H. Benson, Jr. who is Managing member of SMG LLC.
(name) (title)

Joann C. Haynes
Notary Public

My commission expires: 6/30/09



**APPENDIX A
SCHEDULE OF COMPLIANCE**

SMG LLC agrees to:

1. Beginning December 1, 2007, increase monitoring frequency to twice per month (2/M) for CBOD, TSS, and Ammonia for a 6-month period. Samples shall be collected in a full 7-day week and one full week apart from each other (i.e. 1st and 3rd or 2nd and 4th weeks). Include the chain of custody and certificate of analysis for the commercial lab with the monthly DMR submission.
2. Update the Operations and Maintenance Manual based on current operations of the plant and submit a revised copy to DEQ no later than December 30, 2007.
3. Continue to check the bar trap for trash and debris daily and clean it out accordingly.