COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

STATE WATER CONTROL BOARD ENFORCEMENT ACTION

SPECIAL ORDER BY CONSENT

ISSUED TO

SANDY'S MHC, LLC

(VPDES Permit No. VA0088811)

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 Sandy's MHC, LLC, 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 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 §§ 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.

5. "Order" means this document, also known as a Consent Special Order.

6. "STP" means sewage treatment plant.

7. "Sandy's MHC" means Sandy's MHC, LLC, which owns and operates the Sandy's MHC STP.

8. "Facility" and "Plant" means the Sandy's MHC STP located in Frederick County, Virginia.

9. "VRO" means the Valley Regional Office of DEQ, located in Harrisonburg, Virginia.

10. "Permit" means Virginia Pollutant Discharge Elimination System Permit No. VA0088811 issued to Sandy's MHC, LLC which became effective January 24, 2005 and expires December 31, 2009. Permit limits include pH, CBOD, TSS, D.O., ammonia, and total residual chlorine ["TRC"].

11. "2005 Order" means the Consent Special Order issued to Sandy's MHC that became effective on July 5, 2005.

12. "NOV" means Notice of Violation.

13. "Regulation" means the VPDES Permit Regulation 9 VAC 25-31-10 et seq.

14. " P.E.R." means preliminary engineering report.

15. "O&M" means operations and maintenance.

SECTION C: Findings of Fact and Conclusions of Law

1. Sandy's MHC owns and operates the STP serving approximately 110 mobile homes in Frederick County, Virginia, which is the subject of the Permit. The Facility discharges to an unnamed tributary to Crooked Run in the Shenandoah River subbasin, Potomac River basin.

2. The 2005 Order required Sandy's MHC to provide Facility upgrades to meet the Permit's effluent limitations, including ammonia, by February 1, 2007. Sandy's MHC upgraded the Facility; however, the upgraded Facility experienced unanticipated performance problems and conditions and violated TSS and CBOD effluent in February 2007. Previous to the upgrades, the Facility's primary treatment deficiencies involved violations of ammonia limitations.

3. DEQ issued Warning Letter No. W2007-04-V-1018 on April 11, 2007, to Sandy's MHC for TSS effluent limitation violations occurring during February 2007.

4. DEQ issued Warning Letter No. W2007-05-V-1003 on May 7, 2007, to Sandy's MHC for TSS effluent limitations violations occurring during March 2007.

5. DEQ issued Warning Letter No. W2007-06-V-1006 on June 8, 2007, to Sandy's MHC for TSS and CBOD effluent limitations violations occurring during April 2007.

6. DEQ issued NOV No. W2007-08-V-0007 on August 6, 2007, to Sandy's MHC for CBOD, TSS, and ammonia effluent limits violations occurring during June 2007.

7. In addition to the effluent violations cited in the Warning Letters and NOVs, the Facility experienced apparent pH and CBOD Permit effluent limitation violations in March 2007 that were not cited in any enforcement notice.

8. On August 23, 2007, DEQ met with Sandy's MHC in an informal conference to discuss the August 6, 2007, NOV and resolution of the violations. Sandy's MHC attributed the violations to an unusually mild winter which fostered an unusual algae growth in the Facility, that it had not previously experienced. The August 23, 2007, meeting included discussions of the Facility operations and the need for a plan and schedule of corrective actions to return to compliance with effluent limitations. During the August 23, 2007 meeting, Sandy's MHC presented a generalized plan of corrective actions for another Facility upgrade.

9. By submittal dated September 5, 2007, Sandy's MHC, via its consultant, provided a written plan and schedule of corrective actions to ensure compliance with the Permit. Sections of this plan and schedule have been incorporated into Appendix A of this Order.

SECTION D: Agreement and Order

1. Accordingly, the Board, by virtue of the authority granted it in Va. § 62.1-44.15(8a) and (8d), orders Sandy's MHC and Sandy's MHC agrees, to perform the actions described in Appendix A and Appendix B of this Order. In addition, the Board orders Sandy's MHC, and Sandy's MHC voluntarily agrees, to pay a civil charge of **$5,500** in settlement of the violations cited in this Order. The civil charge shall be paid in two payments of $2750. The first payment is due **within 30 days** of the effective date of the Order. The second payment is due no later then **90 days** after the effective date of the Order. 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

Either on a transmittal letter or as a notation on the check, Sandy's MHC shall: 1) indicate that the check is submitted pursuant to this Order, and 2) include its Federal Identification Number.

2. This Order cancels and supersedes the 2005 Order.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Sandy's MHC, for good cause shown by Sandy's MHC, or on its own motion after notice and opportunity to be heard.

2. This Order only addresses and resolves those violations specifically identified herein in Section C. 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, Sandy's MHC admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.

4. Sandy's MHC 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 MHC 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 Sandy's MHC 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 MHC 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. Sandy's MHC shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Sandy's MHC 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 Director of the Valley Regional Office within 24 hours of learning of any condition above, which Sandy's MHC 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. This Order shall become effective upon execution by both the Director or his designee and Sandy's MHC. Notwithstanding the foregoing, Sandy's MHC 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. Sandy's MHC petitions the VRO Director to terminate the Order after it has completed all requirements of this Order, and the Regional Director determines that all requirements of the Order have been satisfactorily completed; or
   b. The Director, his designee, or the Board may terminate this Order in his or its sole discretion upon 30 days written notice to Sandy's MHC.

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

12. The undersigned representative of Sandy's MHC 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 MHC to this document. Any documents to be submitted pursuant to this Order shall be submitted by a responsible official of Sandy's MHC.

13. By its signature below, the Sandy's MHC, LLC voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 24th day of April, 2008.

Amy T. Owens, Regional Director
Department of Environmental Quality

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

By: _____

Title: Environmental Director

Date: 1-28-08

~~Commonwealth of Virginia~~ State of NC
City/County of Orange

The foregoing document was signed and acknowledged before me this 28 day of January, 2008, by Matthew E. Raynor,
(name)

who is Environmental Director of Sandy's MHC, LLC, on behalf of said company.

(title)

Notary Public

My commission expires: 4-10-2012.

APPENDIX A
SCHEDULE OF COMPLIANCE
SANDY'S MHC, LLC

1. On October 1, 2007, DEQ received Sandy's MHC's plans and specifications for the Facility upgrade for review and approval. Sandy's MHC shall respond to comments on the plans and specifications **within 30 days** of receipt of written comments.

2. **Within 30 days** of plans and specification approval, Sandy's MHC shall advertise for bids for the construction of the approved Facility upgrade.

3. **Within 45 days** of receipt of bids, Sandy's MHC shall award the contract for the construction of the approved Facility upgrade.

4. **Within 30 days** of award of the contract, Sandy's MHC shall begin construction of the approved Facility upgrade.

5. **Within 90 days** of beginning construction, Sandy's MHC shall complete construction of the approved Facility upgrade.

6. **Within 30 days** of completing construction of the Facility upgrade, Sandy's MHC shall request a CTO for the Facility. Sandy's MHC shall respond to comments regarding any construction deficiencies **within 30 days** of receipt of written comments.

7. **Within 60 days** of receipt of the CTO for the Facility upgrade, but **no later than January 1, 2009**, Sandy's MHC shall meet all Permit effluent limits contained in the Permit.

8. No later than **14 days** following a date identified in the above schedule of compliance Sandy's MHC 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.

APPENDIX B: INTERIM EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

During the period beginning with the effective date of this Consent Special Order and lasting until the date described in paragraph 7 of Appendix A, but not later than January 1, 2009, Sandy's MHC shall limit and monitor the discharge from outfall 001 in accordance with the Permit except as specified below.

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS						MONITORING REQUIREMENTS	
	Monthly Average		Weekly Average		Min.	Max.	Frequency	Sample Type
	mg/l	kg/d	mg/l	kg/d				
$CBOD_5$	32	5.1	34	6.9	NA	NA	1/M	GRAB
TSS	50	6.6	61	9.0	NA	NA	1/M	GRAB

NA = Not Applicable