



FILE: _____
TO: _____
AUG 18 2011
DEQ-VALLEY

COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
VALLEY REGIONAL OFFICE

Douglas W. Domenech
Secretary of Natural Resources

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David K. Paylor
Director

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STATE WATER CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO SHRINE MONT, INCORPORATED VPDES PERMIT NUMBER VA0028401

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 Shrine Mont, Incorporated, regarding the Shrine Mont, Incorporated, for the purpose of resolving certain violations of the State Water Control Law and the applicable permit and regulation.

SECTION B: Definitions

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

1. "305(b) report" means the report required by Section 305(b) of the Clean Water Act (33 United States Code § 1315(b)), and Va. Code § 62.1-44.19:5 for providing Congress and the public an accurate and comprehensive assessment of the quality of State surface waters.
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. "CTC" means Certificate to Construct.
4. "CTO" means Certificate to Operate.

5. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
6. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
7. "Discharge" means discharge of a pollutant. 9 VAC 25-31-10
8. "Discharge of a pollutant" when used with reference to the requirements of the VPDES permit program means:
 - a. Any addition of any pollutant or combination of pollutants to surface waters from any point source; or
 - b. Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.
9. "DMR" means Discharge Monitoring Report.
10. "Effluent" means wastewater – treated or untreated – that flows out of a treatment plant, sewer, or industrial outfall.
11. "Facility" or "Plant" means the Shrine Mont Wastewater Treatment Plant located at Route 273, Orkney Springs, Virginia, which treats and discharges treated sewage and other municipal wastes, for the guests, employees, customers, and residents of Shrine Mont, Incorporated.
12. "Shrine Mont" means Shrine Mont, Incorporated, a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Shrine Mont, Incorporated is a "person" within the meaning of Va. Code § 62.1-44.3.
13. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
14. "O&M" means operations and maintenance.
15. "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.
16. "Permit" means VPDES Permit No. VA0028401, which was issued under the State Water Control Law and the Regulation to Shrine Mont, Incorporated on July 5, 2007 and which expires on June 30, 2012.

17. "Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 USC § 2011 *et seq.*)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water... 9 VAC 25-31-10.
18. "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 (a) harmful or detrimental or injurious to the public health, safety, or welfare or to the health of animals, fish, or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) 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; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the Board, are "pollution." Va. Code § 62.1-44.3.
19. "VRO" means the Valley Regional Office of DEQ, located in Harrisonburg, Virginia.
20. "Regulation" means the VPDES Permit Regulation, 9 VAC 25-31-10 *et seq.*
21. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.
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.
23. "Va. Code" means the Code of Virginia (1950), as amended.
24. "VAC" means the Virginia Administrative Code.
25. "VPDES" means Virginia Pollutant Discharge Elimination System.
26. "Warning Letter" or "WL" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.

SECTION C: The Board Findings of Facts and Conclusions of Law

1. Shrine Mont owns and operates the Facility which serves the Virginia Hotel (previously known as the Orkney Springs Hotel), conference center, other buildings, campgrounds and 17 single family residences in the Town of Orkney Springs, Virginia. Shrine Mont is a non-profit organization which operates the resort primarily from early spring to mid November and sponsors various activities including; weekend retreats, conferences, summer camps and special events such as the Shenandoah Valley Music Festival. The Facility is subject to the Permit which authorizes the Facility to discharge treated wastewater to an unnamed tributary to Stony Creek, in the Shenandoah River subbasin, Potomac River basin, in strict compliance with the terms and conditions of the Permit.
2. The design capacity of the Facility has been rated and approved as 0.039 MGD.
3. The unnamed tributary to Stony Creek is located in the Potomac River Basin. Stony Creek is not listed in DEQ's 303(d) report of impaired waters.
4. Historically (since 2007), Shrine Mont has had periodic seasonal problems meeting certain permit effluent limitations, primarily ammonia, but also TSS and CBOD₅. The CBOD₅ violations tend to correlate strongly with flow. The ammonia violations have primarily occurred in late summer and early fall months.
5. In submitting its DMRs, as required by the Permit, Shrine Mont has indicated that it exceeded discharge limitations contained in Part I.A.1. of the Permit, for ammonia, for the month of September 2009. Shrine Mont indicated that it believed the exceedances were related to problems with the nitrification chamber.
6. On November 5, 2009, VRO issued Notice of Violation No. W2009-11-V-0002 to Shrine Mont for ammonia concentration average and maximum effluent limit violations in September 2009. Shrine Mont indicated that it believed the exceedances were related to problems with the nitrification chamber.
7. On November 11, 2009, Shrine Mont's consultant responded to the NOV and indicated that Shrine Mont made improvements to increase aeration and performed general maintenance on the Facility's nitrification chamber.
8. On December 3, 2009, DEQ staff met with representatives of Shrine Mont to discuss the violations referenced in the NOV, the reasons for the violations and necessary corrective actions undertaken and planned to address the violations. DEQ requested the company submit a plan and schedule of corrective actions to address the violations.

9. On December 10, 2009, VRO issued Notice of Violation No. W2009-12-V-0006 to Shrine Mont for ammonia concentration average and maximum effluent limit violations in October 2009.
10. By letter dated January 8, 2010, Shrine Mont's consultant responded to the December 10, 2009 NOV. The ammonia violations were attributed to problems with the nitrification chamber barrier walls and the air lift pump station which included short circuiting due to severe corrosion in the metal barrier walls that separate the nitrification chamber from other treatment cells in the treatment lagoon. The January 8, 2010 letter also contained a general plan and schedule of short term and long-term corrective actions.
11. In submitting its DMRs, as required by the Permit, Shrine Mont has indicated that during the period of May 2010 through February 2011(10 months) it exceeded discharge limitations contained in Part I.A. of the Permit during the period, for ammonia in 7 of the 10 months and for TSS in 2 of the 10 months. Shrine Mont indicated that it believed the exceedances were related to problems with the nitrification chamber.
12. VRO issued Warning Letters and Notices of Violation for ammonia and/or TSS exceedances as follows: WL No. W2010-07-V-1003, issued July 9, 2010; WL No. W2010-08-V-1008 issued August 10, 2010; WL No. W2010-09-V-1002 issued September 10, 2010; WL No. W2010-10-V-1002 issued October 11, 2010; and NOV No. W2010-11-V-0001 issued November 9, 2010; NOV No. W2010-12-V-0002 issued December 9, 2010; NOV No. W2011-02-V-0001 issued February 16, 2011; VRO issued Notice of Violation No. W2011-02-V-0001; and NOV No. W2011-04-V-000 issued April 14, 2011,
13. Shrine Mont's operating logs indicate that it discharged treated wastewater from the Plant during the period from September 1, 2009 through February 28, 2011.
14. By correspondences dated February 16, 2011, April 19, 2011 and May 10, 2011, Shrine Mont's consultant provided reports on the status of Shrine Mont's efforts to negotiate a connection of the Facility to the Stoney Creek Sanitary District sanitary sewer collection system. The February 16, 2011 correspondence also contained a draft project schedule to either connect to the Stoney Creek Sanitary District or if that failed, to upgrade/replace the Facility. The April 19, 2011 correspondence also was a response to the April 14, 2011 NOV. Shrine Mont attributed the February 2011 ammonia violations to freezing in January that caused breakage in the air diffuser system and the system repairs were not completed until after the February 2011 effluent sampling.
15. On June 3, 2011, DEQ staff conducted an inspection of the Facility and observed a number of deficiencies in its operations and maintenance including:
 - a. inadequate aeration in the left side of the lagoon;

- b. tops of the lagoon curtains were submerged;
 - c. less diffused aeration than expected on a warm day with high wastewater level;
and,
 - d. improper alignment of the aeration diffuser pipe in Cell 3 of the lagoon.
16. Va. Code § 62.1-44.5 states that: “[E]xcept in compliance with a certificate issued by the Board, it shall be unlawful for any person to discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances.”
17. The Regulation, at 9 VAC 25-31-50, also states that except in compliance with a VPDES permit, or another permit issued by the Board, it is unlawful to discharge into state waters sewage, industrial wastes or other wastes.
18. Va. Code § 62.1-44.15(5a) states that a VPDES permit is a “certificate” under the statute.
19. The Department has issued no permits or certificates to Shrine Mont other than VPDES Permit No. VA0028401.
20. The unnamed tributary to Stony Creek and Stony Creek are surface waters located wholly within the Commonwealth and are “state waters” under State Water Control Law.
21. Based on the Shrine Mont’s DMRs and letter(s) to DEQ, the NOVs, the December 3, 2009 meeting, and/or a file review, the Board concludes that Shrine Mont has violated the Permit and/or Va. Code § 62.1-44.5 and 9 VAC 25-31-50, by discharging treated sewage and municipal wastes from the Plant while concurrently failing to comply with the conditions of the Permit, as described in paragraph C(5), C(6), C(9), C(11) through C(13), C(15) through C(18), C(20) and C(21)above.
22. In order for Shrine Mont to return to compliance, DEQ staff and representatives of Shrine Mont have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders Shrine Mont and Shrine Mont hereby agrees to perform the actions described in Appendices A and B of this Order.

During the estimated one year’s interim period during which Facility is to be taken offline and connected to the Stoney Creek Sanitary District’s collection system, the Board orders Shrine Mont and Shrine Mont agrees that it will operate the Facility in a workmanlike fashion so as to produce the best quality effluent of which it is capable.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Shrine Mont for good cause shown by Shrine Mont, 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 described 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, Shrine Mont admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Shrine Mont consents to venue in the Circuit Court of City of Richmond for any civil action taken to enforce the terms of this Order.
5. Shrine Mont 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 Shrine Mont 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. Shrine Mont does not waive any rights or objections it may have in any enforcement action by other federal, state, or local authorities arising out of the same or similar facts to those recited in this Order.
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. Shrine Mont 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. Shrine Mont shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Shrine Mont 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 Shrine Mont 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 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 Shrine Mont. Nevertheless, Shrine Mont 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. Shrine Mont 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 Shrine Mont.

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

And it is so ORDERED this 9th day of January, 2012



Amy T. Owens, Regional Director
Department of Environmental Quality

Shrine Mont, Incorporated voluntarily agrees to the issuance of this Order.

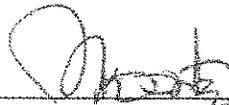
Date: 8/16/11 By: Lee O. Noonan, Exec. Director
(Person) (Title)
Shrine Mont, Incorporated

Commonwealth of Virginia

City/County of Shenandoah

The foregoing document was signed and acknowledged before me this 16th day of August, 2011, by Kevin D. Mammow who is

Executive Director of Shrine Mont, Incorporated on behalf of Shrine Mont, Incorporated.



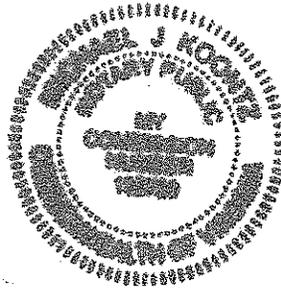
Notary Public

138769

Registration No.

My commission expires: MAY 31, 2012

Notary seal:



APPENDIX A
SCHEDULE OF COMPLIANCE
SHRINT MONT, INCORPORATED

1. **By August 1, 2011**, Shrine Mont shall complete the following:
 - a. repair/replace equipment to ensure proper and adequate aeration throughout the treatment lagoon;
 - b. properly anchor the lagoon curtains; and,
 - c. replace damaged floats on the lagoon curtains to ensure that the curtains prevent short circuiting of the lagoon cells.
2. **By November 21, 2011**, Shrine Mont shall complete the plans and specifications and make application to DEQ for a CTC for the construction of a pump station and force main to connect the Facility to the Stoney Creek Sanitary District collection system.
3. **By December 15, 2011**, Shrine Mont shall advertise for bids for the construction of the pump station and force main for the connection.
4. **By February 15, 2012**, Shrine Mont shall award the contract (Notice of Award) for the construction of the pump station and force main to make the connection.
5. **By March 1, 2012**, Shrine Mont shall issue a Notice to Proceed with construction of the pump station and force main.
6. **By November 30, 2012**, Shrine Mont shall complete construction of the pump station and force main and make application to DEQ for a CTO for the completed units. At the same time Shrine Mont shall cease discharging to state waters from the Facility.
7. **Within 180 days** of completing the pump station and force main, but no later than May 31, 2013, Shrine Mont shall complete closure of the Facility in accord with the approved closure plan.
8. Shrine Mont shall submit quarterly progress reports to DEQ, with the first report being due **October 10, 2011**. Subsequent progress reports will be due by **January 10, April 10, July 10, and October 10**, until the cancellation of this Order. The quarterly progress reports shall contain:
 - a. a summary of all work completed since the previous progress report in accordance with this Order;
 - b. a projection of the work to be completed during the upcoming quarterly period in accordance with this Order; and
 - c. a statement regarding any anticipated problems in complying with this Order.

9. No later than 14 days following a completion date identified in the above schedule of compliance Shrine Mont 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.

10. **DEQ Contact**

Unless otherwise specified in this Order, Shrine Mont shall submit all requirements of Appendix A of this Order to:

Steve Hetrick
Enforcement Specialist Sr.
VA DEQ -Valley Regional Office
P.O. Box 3000
Harrisonburg, VA 22801
(540) 574-7833 Phone
(540) 574-7878 Fax
Steven.hetrick@deq.virginia.gov

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 completion the connection to the Stoney Creek Sanitary District as required in Item 5 of Appendix A, but **no later than November 30, 2012**, Shrine Mont shall limit and monitor the discharge from outfall 001 in accordance with the Permit except as specified below.

EFFLUENT CHARACTERISTICS

DISCHARGE LIMITATIONS

	<u>Monthly Average</u>		<u>Weekly Average</u>		<u>Min.</u>	<u>Max</u>
	mg/l	kg/d	mg/l	kg/d		
CBOD ₅	28.2	2.6	28.2	NA	NA	NA
TSS	26.2	NA	NA	NA	NA	NA
Ammonia-N (Jun-Dec)	21.5	NA	21.5	NA	NA	NA
Ammonia-N (Jan-May)	21.1	NA	21.1	NA	NA	NA

NA = Not Applicable