

STATE WATER CONTROL BOARD ENFORCEMENT ACTION

A SPECIAL ORDER BY CONSENT ISSUED TO

**Country Oaks, LLC
Carriage Hill Mobile Home Park**

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code §§ 10.1-1185 and 62.1-44.15(8a) and (8d), between the State Water Control Board and Country Oaks, LLC for the purpose of resolving certain violations of environmental law 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 citizen 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. “Owner” means Country Oaks, LLC a limited liability company certified to business in Virginia and its affiliates, partners, subsidiaries, and parents.
7. “Facility” means the wastewater treatment system at Carriage Hill Mobile Home Park located near Danville, Virginia, which is owned and operated by the Owner.
8. “SCRO” means the South Central Regional Office of the DEQ, located in Lynchburg, Virginia.
9. “VPDES” means the Virginia Pollution Discharge Elimination System.
10. “Permit” means VPDES Permit number VA0074586 issued to Country Oaks, LLC on March 20, 1998, and expired on March 20, 2003.
11. “DMR” means Discharge Monitoring Report.
12. “VAC” means the Virginia Administrative Code.

SECTION C: Findings of Facts and Conclusions of Law

1. The Owner operates a Facility near Danville, Virginia. The Facility was the subject of VPDES Permit number VA0074586, which allowed the Owner to discharge treated wastewater into Sandy Creek in the Roanoke River Basin in strict compliance with the terms, limitations, and requirements that were delineated in the Permit.
2. On January 13, 2003, the DEQ conducted an announced inspection of the Facility and based on the inspection, and DMRs submitted for the months of November and December 2002, issued Notice of Violation (“NOV”) number W2003-01-L-0006 on January 28, 2003, for the following:
 - a. Failure to report all required fields on the DMR;
 - b. Effluent limit violations of Total Chlorine Contact and Chlorine Instantaneous Technical Minimum parameters;
 - c. Untreated wastewater leaking from the chlorination unit, which was unreported and is unpermitted; and
 - d. The DEQ notified the Owner that its permit renewal application was incomplete as the Owner had not established financial assurance pursuant to 9 VAC 25-650-10 *et seq.*, and has not submitted proof of

incorporation in the Commonwealth of Virginia pursuant to Va. Code § 62.1-44.15:3.B.

3. On March 20, 2003, the Owner's Permit expired.
4. On March 26, 2003, the DEQ issued NOV number W2003-03-L-0011 for the effluent limit violation of Chlorine Instantaneous Technical Minimum parameter for the month of January 2003.
5. On April 10, 2003, the DEQ conducted an unannounced inspection of the Facility and found the Facility discharging without a permit, and found no chlorine treatment of the wastewater.
6. On April 17, 2003, the DEQ issued NOV number W2003-04-L-0003 to the Owner for discharging without a permit in contravention of Va. Code § 62.1-44.5.
7. On June 25, 2003, the Permit was public noticed for re-issuance.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted in Va. Code § 62.1-44.15(8a) and (8d), orders the Owner, and the Owner consents, to perform the actions contained in Appendix A of this Order. In addition, the Board orders the Owner, and the Owner consents, to pay a civil charge of \$5,250.00 in settlement of the violations cited in this Order. The 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 10150
Richmond, Virginia 23240

The payment shall include the Owner's Federal Identification Number and shall state that it is being tendered in payment of the civil charge assessed under this Order.

SECTION E: Administrative Provisions

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

2. This Order only addresses and resolves those violations specifically identified herein. 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 that occur after this Order is issued; (2) seeking subsequent remediation of the Facility as may be authorized by law; or (3) taking subsequent action to enforce the terms of this Order. Nothing herein shall affect enforcement actions by other state, local, or federal regulatory authorities, whether or not arising out of the same or similar facts.
3. For purposes of this Order and subsequent actions with respect to this Order, the Owner admits to the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. The Owner 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. The Owner 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 waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to 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 the Owner 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.
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. The Owner 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 other occurrence. The Owner shall demonstrate that such circumstances resulting in noncompliance were beyond the control of the Owner and not due to a lack of good faith or diligence. The Owner 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 24 hours of learning of any condition listed above, which the Owner 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 the Director, or his designee, and the Owner.
11. This Order shall continue in effect until:
 - a. The Owner petitions the Regional Director to terminate the Order after he has completed all requirements of the Order. The Director's determination that the Owner has satisfied all requirements of the Order is a "case decision" within the meaning of the Virginia Administrative Process Act; or

- b. The Director or the Board may terminate this Order in his or its sole discretion upon 30 days written notice to the Owner.

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

12. By his signature below, the Owner consents to the issuance of this Order.

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

Robert G. Burnley, Director
Department of Environmental Quality

The Owner consents to the issuance of this Order.

Date: _____ By: _____
Michael J. Power, President, Country Oaks, LLC

Commonwealth of Virginia
City/County of _____

The foregoing document was signed and acknowledged before me this _____ day of _____, 2003, by Michael J. Power, President, Country Oaks, LLC, on behalf of said company.

Notary Public

My commission expires: _____.

Appendix A

The Owner shall:

1. Within 90 days of the issuance of this Order, submit to DEQ an engineering report that specifies the capacity of the chlorine contact tank to disinfect the wastewater. Wastewater passing through the contact tank should, at a minimum, remain in the contact tank for 30 minutes after receiving chlorine treatment.
2. If DEQ determines that the report indicates that the contact tank does not provide for the minimum time of chlorine contact (30 minutes), the Owner shall upgrade or replace the contact tank within 90 days of DEQ informing the Owner of such determination.
3. Upon re-issuance, henceforth comply with all VPDES Permit requirements.
4. Unless otherwise specified in this Order, or in the reissued Permit, all correspondence related to this Order shall be submitted to:

Harry F. Waggoner
Virginia Department of Environmental Quality
South Central Regional Office
7705 Timberlake Road
Lynchburg, Virginia 24502

