



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

W. Tayloe Murphy, Jr.
Secretary of Natural Resources

SOUTH CENTRAL REGIONAL OFFICE
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Robert G. Burnley
Director

Thomas L. Henderson
Regional Director

STATE WATER CONTROL BOARD ENFORCEMENT ACTION

SPECIAL ORDER BY CONSENT ISSUED TO

**Country Oaks, LLC
For
Country Oaks Mobile Home Park
Wastewater Treatment Lagoon
Permit Number VA0074586**

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 violations of an Order of the Board, and violations of State Water Control 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. "Country Oaks" means Country Oaks, LLC a limited liability company certified to do business in Virginia, and its affiliates, partners, subsidiaries, and parents.
7. "SCRO" means the South Central Regional Office of the DEQ, located in Lynchburg, Virginia.
8. "VPDES" means the Virginia Pollutant Discharge Elimination System.
9. "Permit" means VPDES permit number VA0074586 issued to the Country Oaks, LLC.
10. "Facility" means the wastewater treatment lagoon owned and operated by Country Oaks, LLC located at Country Oaks Mobile Home Park (formerly Carriage Hill Mobile Home Park) in Pittsylvania County, Virginia.
11. "2003 Order" means the Consent Special Order issued to Country Oaks on October 28, 2003.

"SECTION C: Findings of Fact and Conclusion of Law

1. Va. Code § 62.1-44.5 and 9 Virginia Administrative Code ("VAC") 25-31-50 provide, among other things, that except in compliance with a permit issued from the Board it is unlawful to discharge into State waters "sewage, industrial wastes, other wastes, or any noxious or deleterious substances[.]"
2. Va. Code § 62.1-44.31 states in relevant part that, "[i]t shall be unlawful for any owner to fail to comply with any special order adopted by the Board, which has become final under the provisions of this chapter[.]"
3. The Facility is subject to the Permit, which authorizes Country Oaks to discharge treated wastewater into Sandy Creek in strict compliance with the terms, limitations, and requirements delineated therein. Sandy Creek is listed as a category five (5) water on the 2004 303(d) Total Maximum Daily Load ("TMDL") Priority List, as required by the Clean Water Act 33 U.S.C. § 1313(d), to the Environmental Protection Agency as impaired for fecal coliform.

4. The 2003 Order was issued to Country Oaks to address discharging without a permit (expired), Permit effluent limit violations (chlorine), incomplete discharge monitoring reports (“DMR”), unauthorized bypasses of the chlorination treatment unit, and failure to report the unauthorized discharge. The 2003 Order required Country Oaks to upgrade the chlorine contact tank by November 26, 2004, and maintain compliance with the Permit.

5. From November 2003 until present the SCRO of DEQ issued Notices of Violations (“NOV”) numbers W2003-11-L-0008 issued on 11/14/03, W2004-03-L-0010 issued on 3/3/04, W2004-05-L-0012 issued on 5/14/04, W2004-08-L-0001 issued on 8/12/04, W2004-09-L-0004 issued on 9/2/04, W2004-10-L-0004 issued on 10/14/04, W2004-11-L-0002 issued on 11/03/04, W2004-12-L-0001 issued on 12/08/04, W2005-01-L-0006 issued on 1/07/05, W2005-02-L-0007 issued on 2/08/2005, W2005-03-L-0002 issued on 3/11/05, and W2005-04-L-0005 issued on 4/14/05. The violations noted in the NOV’s are as follows:
 - a. Submitting outdated (previous permit cycle) and incomplete (failed to report parameters) DMRs, and submitted a late DMR for January 2004;
 - b. Violation of the chlorine instantaneous effluent limit in October 2004;
 - c. Late submission of a groundwater monitoring plan and failure to submit the first and second groundwater monitoring reports;
 - d. Failure to initiate and complete the e.coli study in accordance with the schedule set forth in the Permit;
 - e. Failure to verify the Facility’s operation and maintenance manual by the due date in the Permit;
 - f. Two overflows from manholes in the Facility’s conveyance system and failure

to report the overflows;

g. Improper operation and maintenance noted on a DEQ inspection of January 10, 2005. The inspection also noted a total residual chlorine of 2.2 milligrams per liter (“mg/l”); the limit for this parameter is 0.7 mg/l; and,

h. Failure to upgrade the chlorine contact tank by the due date in the 2003 Order.

6. Given the extent of non-compliance by Country Oaks the Board is issuing a new order to supplant the 2003 Order, rather than amending the 2003 Order, which is hereby canceled upon the execution of this Order.

SECTION D: Agreement and Order

Accordingly, the State Water Control Board, by virtue of the authority granted in Va. Code § 62.1-44.15 (8a) and (8d), orders Country Oaks, and Country Oaks consents, to perform the actions contained in Appendix A of this Order. Further, the Board orders Country Oaks, and Country Oaks consents, to pay a civil charge of \$23,000.00 in settlement of the violations cited herein. The payment shall note that it is being made pursuant to this Order and shall note the Federal Identification number for Country Oaks. 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

SECTION E: Administrative Provisions

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

2. This Order addresses and resolves only 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; (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, Country Oaks admits to the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Country Oaks 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. Country Oaks 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, Va. Code § 62.1-44.2 *et seq.*, and waives the right to any hearing or other administrative proceeding authorized or required by law or regulation with respect to the violations alleged in this Order, and to judicial review of any finding of fact or conclusion of 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 other action taken by the Board or Director, including action to enforce this Order.
6. Failure by Country Oaks to comply with any term of this Order shall constitute a violation of an Order of the Board. Nothing herein shall preclude 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 this Order shall remain in full force and effect.
8. Country Oaks 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, vandalism, or other occurrence beyond the reasonable control of Country Oaks. Country Oaks shall demonstrate that circumstances resulting in noncompliance were beyond the reasonable control of Country Oaks, and were not caused or aggravated by a lack of good faith or due diligence. Country Oaks shall notify the SCRO Director by telephone and 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 SCRO Director by telephone not later than the close of business on the following business day, and in writing within (5) business days, after learning of any condition that Country Oaks intends to assert will result in the impossibility of compliance, shall preclude the assertion of such condition as a defense in any action to enforce this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees,

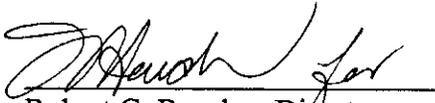
and assigns jointly and severally.

10. This Order shall become effective upon execution by both the Director, or his designee, and Country Oaks. Notwithstanding the forgoing, Country Oaks 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. Country Oaks petitions the SCRO Director to terminate the Order after it has completed all requirements of the 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 Country Oaks.

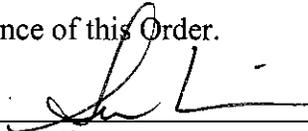
Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve Country Oaks from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By its signature below, Country Oaks consents to the issuance of this Order.

And it is so ORDERED this 7th day of December, 2005.


Robert G. Burnley, Director
Department of Environmental Quality

Country Oaks consents to the issuance of this Order.

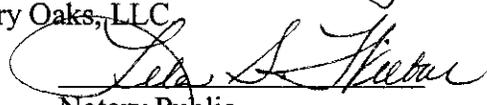
By: 
Sam Misuraca, Manager, on behalf of Country Oaks, LLC

Date: 8/31/05

Commonwealth of Virginia

City/County of OAKLAND

The foregoing instrument was acknowledged before me this 31st day of August, 2005,
by Sam Misuraca, Manager, on behalf of Country Oaks, LLC


Notary Public

My commission expires: _____
LELA S. WILBUR
Notary Public, State of Michigan
County of Oakland
My Commission Expires Jan. 29, 2012
Acting in the County of _____

APPENDIX A

Country Oaks shall do the following:

1. For the purposes of compliance with this Order Country Oaks shall maintain compliance with the Permit for one year.
2. Any violation of the Permit shall also constitute a violation of an Order from the Board pursuant to Va. Code § 62.1-44.31, and may subject Country Oaks to additional administrative civil charges or other appropriate enforcement action.