

**STATE WATER CONTROL BOARD ENFORCEMENT ACTION  
SPECIAL ORDER BY CONSENT  
ISSUED TO  
HARBOUR EAST SEWAGE DISPOSAL CORPORATION  
Permit No. VA0028622**

**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 Harbour East Sewage Disposal Corporation, 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 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. “Harbour East” means Harbour East Sewage Disposal Corporation, certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.

7. “Facility” means the Harbour East sewer treatment plant located in Chesterfield County, Virginia.
8. “PRO” means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
9. “Permit” means VPDES permit No. VA0028622, which became effective May 25, 1999, and expires May 25, 2004.
10. “O&M” means operations and maintenance.

### **SECTION C: Findings of Fact and Conclusions of Law**

1. Harbour East owns and operates a sewer treatment facility in Chesterfield County, Virginia. This facility is the subject of VPDES Permit No. VA0028622, which allows Harbour East to discharge treated wastewater into the James River in strict compliance with terms, limitations and requirements outlined in the permit.
2. On October 24, 2001, Department staff conducted an inspection of the Harbour East STP. The facility’s condition was unsatisfactory and staff made several compliance recommendations and asked for a response by December 15, 2001. A response was not received by the Department.
3. On January 15, 2002, Department staff conducted an inspection of the Harbour East STP. The facility’s condition was unsatisfactory and staff made several compliance recommendations and asked for a response by February 15, 2002. A response was not received by the Department.
4. On January 28, 2002, Harbour East Village was issued an NOV for improperly completed DMRs, failure to submit three quarterly progress reports on chlorine compliance, failure to submit DMRs, and effluent violations of BOD, chlorine, and ammonia. A response to the NOV was not received by the Department.
5. On April 10, 2002, Harbour East Village was issued an NOV for failing to submit January and February 2002 DMRs, failure to respond to compliance recommendations after two inspections, failure to report an intentional bypass, and failure to submit a quarterly progress report on chlorine compliance. A response to the NOV was not received by the Department.
6. On May 9, 2002, the Department met with the owner of Harbour East Village to discuss the compliance issues at the treatment plant. The owner stated that he had not seen the NOVs and inspection reports until several days ago because office staff failed to forward the information to him in a timely manner. In addition, the owner stated that the facility has been repaired and is now operating properly.

**SECTION D: Agreement and Order**

Accordingly, the Board, by virtue of the authority granted it in Va. Code § 62.1-44.15(8a) and (8d), orders Harbour East, and Harbour East agrees, to perform the actions described in Appendix A of this Order. In addition, the Board orders Harbour East, and Harbour East voluntarily agrees, to pay a civil charge of \$1,000 in settlement of the violations cited in this Order. Payments shall be made in accordance with the following schedule:

<u>Due Date</u>	<u>Amount</u>
November 1, 2002	\$250
February 1, 2003	\$250
May 1, 2003	\$250
August 1, 2003	\$250

The payment shall note that it is being made pursuant to this order and shall note the Federal Identification Number for Harbour East. Payment shall be by check, certified check, money order, or cashier=s check payable to ATreasurer of Virginia" and sent 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 the Order with the consent of Harbour East, for good cause shown by Harbour East, 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; (2) seeking subsequent remediation of the facility as may be authorized by law; and/or (3) taking subsequent action to enforce the terms of this Order. Nothing herein shall affect appropriate enforcement actions by other federal, state, or local regulatory authority, 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, Harbour East admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Harbour East 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. Harbour East 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 Harbour East 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. Harbour East 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. Harbour East shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Harbour East 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 above, which the parties intend 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 Harbour East. Notwithstanding the foregoing, Harbour East agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until Harbour East 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. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Harbour East 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, Harbour East voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of \_\_\_\_\_, 2002.

\_\_\_\_\_  
Robert G. Burnley, Director  
Department of Environmental Quality

Harbour East voluntarily agrees to the issuance of this Order.

By: \_\_\_\_\_

Date: \_\_\_\_\_

Commonwealth of Virginia

City/County of \_\_\_\_\_

The foregoing document was signed and acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2002, by \_\_\_\_\_, who is  
(name)

\_\_\_\_\_ of Harbour East, on behalf of the Corporation.  
(title)

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_.

## APPENDIX A

Harbour East shall:

1. **Within thirty (30) days of the issuance of this Order**, submit to the Department a diagnostic evaluation conducted by a state certified wastewater operator. The diagnostic evaluation will be used to determine whether the sewer treatment plant is capable as-built to meet all permitted effluent limitations.
2. **Within thirty (30) days of the issuance of this Order**, submit to the Department formal written procedures to assure proper completion and timely submittal of discharge monitoring reports.
3. **Within sixty (60) days of the issuance of this Order**, submit to the Department a corrective action plan (CAP), based on the diagnostic evaluation, outlining the operation and maintenance procedures that will be implemented to achieve permit compliance. If the evaluation determines that construction of an upgrade is required to meet limits, then the CAP shall include an implementation schedule for Department approval. Once approved the schedule shall become a part of this Order.

**Pursuant to this Order** communications regarding this Order, and its requirements shall be addressed as follows:

Frank Lupini  
Department of Environmental Quality  
Piedmont Regional Office  
4949-A Cox Road  
Glen Allen, Virginia 23060

Harbour East shall confirm, in writing, completion of the Order requirements to the above address **within five (5) days of completion**.