



**COMMONWEALTH of VIRGINIA**  
*DEPARTMENT OF ENVIRONMENTAL QUALITY*

W. Tayloe Murphy, Jr.  
Secretary of Natural Resources

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Robert G. Bumley  
Director

Jeffery A. Steers  
Regional Director

**STATE WATER CONTROL BOARD ENFORCEMENT ACTION**  
**SPECIAL ORDER BY CONSENT**

**ISSUED TO**

**KIM AND PAK, INC.**

**FOR THE**

**NEW BALTIMORE SHELL SEWAGE TREATMENT PLANT**  
**(VA0029092)**

**SECTION A: Purpose**

This is a Consent Special Order issued under the authority of Va. Code §§ 62.1-44.15(8a) and 10.1-1185 between the State Water Control Board and Kim and Pak, Inc. regarding the New Baltimore Shell Sewage Treatment Plant for the purpose of resolving certain violations of the State Water Control 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 and described in Va. Code §§ 62.1-44.7 and 10.1-1184.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in § 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. "NVRO" means the Northern Virginia Regional Office of DEQ, located in Woodbridge, Virginia.
7. "BOD" means Biochemical Oxygen Demand.
8. "TSS" means Total Suspended Solids.
9. "Cecil's" means Cecil's Service & Equipment, Inc.
10. "STP" means the New Baltimore Shell Sewage Treatment Plant.
11. "Owner" means Kim and Pak, Inc.
12. "VPDES Permit" means Virginia Pollutant Discharge Elimination System (VPDES) Permit No. VA0029092.
13. "FCSA" means Fauquier County Water and Sanitation Authority.
14. "DMR" means Discharge Monitoring Report.

### **SECTION C: Finding of Facts and Conclusions of Law**

1. Cecil's Service & Equipment, Inc. owned and operated the STP, which is located in the New Baltimore area of Fauquier County, Virginia. The STP serves a convenience store/service station, retail auto sales center and a dry cleaning facility.
2. On December 5, 2003, the Board issued Cecil's an Order for exceeding Permit effluent limits for BOD, ammonia, and TSS.
3. Cecil's upgraded the existing STP in phases to ensure continued compliance with effluent limitations especially during cold weather by, as part of Phase I, modifying the secondary recirculation pump system, and as part of Phase II, by installing covers for the sand beds.
4. In July 2004, Cecil's sold the STP to Kim and Pak, Inc. and submitted a transfer of ownership request for the Permit. On September 2, 2004, Kim and Pak, Inc. submitted a letter to DEQ agreeing to accept the terms of the Order. Based on this information, DEQ is issuing this Consent Order to identify the change of ownership and the agreement by the new owner to comply with the terms now being addressed in this Order.

5. DEQ issued the Owner WL No. W2004-11-N-1018 for October 2004 exceedances of TSS and WL No. W2005-01-N-1010 for November 2004 chlorine exceedances. The Owner attributed the exceedances to a release of dechlorination tablet particulate and bridging of tablets in the dechlorinator feed tubes. The Owner made operational and maintenance changes to the tablet feed system thereby addressing the exceedances.
6. FCSA is in the process of extending sewer lines to the New Baltimore area. Once the public sewer system becomes available, the new Owner will facilitate connection to the FCSA system, as Cecil's agreed to do, and, which requirement is now incorporated into this Consent Order.
7. Appendix A requires that the Owner ensure compliance with effluent limits until connecting the STP to the FCSA public sewer service and eliminating the STP's discharge. Appendix B provides interim seasonal limits for ammonia, BOD, and TSS.

#### **SECTION D: Agreement and Order**

Accordingly the State Water Control Board, by virtue of the authority granted it in Va. Code § 62.1-44.15(8a), orders the Owner and, to resolve the violations, the Owner agrees, to perform the actions described in Appendices A and B of 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, including those matters addressed in the WLs issued on November 30, 2004 and January 5, 2005, as listed above 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, the Owner admits 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 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 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. 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. 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 such other occurrence. The Owner shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. 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.

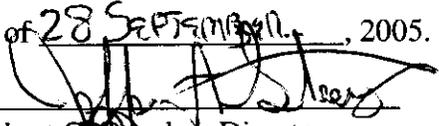
Such notice shall set forth:

- 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.

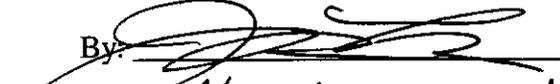
Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the Owner intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

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 both the Director or his designee and the Owner. Notwithstanding the foregoing, the Owner agrees to be bound by any compliance date, which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to the Owner. Termination of this Order, or 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 its signature below, Kim and Pak, Inc. voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of 28 September, 2005.

  
Robert G. Burnley, Director  
Department of Environmental Quality

Kim and Pak, Inc. voluntarily agrees to the issuance of this Order.

By: 

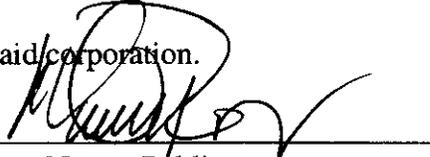
Date: March 21, 05'

Commonwealth of Virginia  
City/County of Fairfax

The foregoing document was signed and acknowledged before me this 21<sup>st</sup> day of

March, 2005, by Jih Wook Kim, who is  
(name)

President of Kim and Pak, Inc., on behalf of said corporation.  
(title)

  
Notary Public

My commission expires: January 31<sup>st</sup> 2008

**APPENDIX A**  
**SCHEDULE OF COMPLIANCE**

Kim and Pak, Inc. shall:

1. Within 180 days following notification by FCSA of the availability of sewer service to the New Baltimore property, but no later than June 30, 2006, the Owner shall connect the STP to the public sewer system and eliminate all discharges from the STP. The Owner shall notify the DEQ in writing of the connection of the STP to the FCSA sewer line within two weeks after the connection is complete;
2. Within 90 days of connecting to the public sewer service, submit a STP closure plan to DEQ and VDH for review and approval;
3. Complete closure of the STP within 90 days of approval of the closure plan;
4. Within 30 days of closure, submit a closure report to DEQ;
5. Continue to operate the STP in a workman-like manner striving to produce the best quality effluent of which the STP is capable, while awaiting availability of public sewer service by, at a minimum:
  - a) Removing any weeds in the sand filter regularly and disposing properly;
  - b) Raking smooth the sand bed surface;
  - c) Replacing the sand in the sand filter on an as needed basis;
  - d) Adjusting and cleaning the tablet dispensers; and
  - e) Cleaning the final tanks following dechlorination.

**APPENDIX B**

**INTERIM EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

**KIM and PAK, INC.**

During the period beginning with the effective date of this Order and lasting until June 30, 2006 or until connection to FCSA, whichever occurs first, Kim and Pak, Inc. shall monitor and limit the discharge from the STP in accordance with the VPDES Permit No. VA0029092, except as specified below. These interim seasonal limits shall retroactively apply, if applicable, as of the first day of the month in which this Order becomes effective. These requirements shall be construed in light of the Board's Permit Regulation.

<b>PARAMETER</b>	<b>DISCHARGE LIMITATIONS</b>				<b>MONITORING REQUIREMENTS</b>	
	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Minimum</u>	<u>Maximum</u>	<u>Frequency</u>	<u>Sample Type</u>
Ammonia (Nov.-March)	9 mg/L	NL	NA	NA	1/M	GRAB
BOD (Nov.-March)	15 mg/L	NL	NA	NA	1/M	GRAB
TSS (Nov.-March)	15 mg/L	NL	NA	NA	1/M	GRAB

NA Not Applicable  
 GRAB An individual sample collected in less than fifteen (15) minutes.  
 NL The Design flow of this facility is 0.005 MGD.  
 1/M = Once a Month  
 No Limit