



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Valley Regional Office

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Robert G. Burnley
Director

R. Bradley Chewing, P.E.
Valley Regional Director

STATE WATER CONTROL BOARD ENFORCEMENT ACTION

SPECIAL ORDER BY CONSENT

ISSUED TO

Pine Hills Water & Sewer CO., L.C.

For

**Jackson's Chase Waste Water Treatment Plant,
Warren County Virginia**

(VPDES Permit No. VA0090247)

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code § 62.1-44.15(8a) and (8d), between the State Water Control Board and Pine Hills Water and Sewer CO., L.C. for the purpose of resolving certain violations of environmental laws 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. "Pine Hills" means Pine Hills Water & Sewer Co., L.C., the owner of the Facility.
7. "Facility" means Jackson's Chase WWTP, the facility and property located in Front Royal, Virginia.
8. "VRO" means the Valley Regional Office of DEQ, located in Harrisonburg, Virginia.
9. "Permit" means Virginia Pollutant Discharge Elimination System Permit No. VA0090247, which became effective October 8, 2004 and is set to expire September 30, 2009.
10. "NOV" means Notice of Violation.
11. "Regulation" means the VPDES Permit Regulation 9 VAC 25-31-10 et seq.

SECTION C: Findings of Fact and Conclusions of Law

1. Pine Hills owns the Facility located in Front Royal, VA. The Facility is subject to the Permit and discharges to the upper tributary of Molly Camel Run, Potomac River Basin and the Shenandoah River Subbasin.
2. On August 12, 2005 DEQ issued Warning Letter W2005-08-V-1011 to Pine Hills for:
 - A. According to the Facilities DMR the CBOD5 limits were exceeded in June 2005.
This is a violation of 9 VAC 25-31-50 and Part I.A. of the Permit.
3. On September 14, 2005 DEQ issued Warning Letter W2005-09-V-1009 to Pine Hills for:
 - A. Failing to submit the 1st Annual Financial Assurance Review/Adjustment document.
This is a violation of Part I.D.9. of the subject Permit and 9 VAC 25-650-80.B.
4. On October 17, 2005 DEQ issued NOV W2005-10-V-0001 to Pine Hills for:

- B. The 1st Annual Finance Assurance Review/Adjustment was due on or before June 20, 2005 and has not been received.
This is a violation of Part I.D.9. of the subject Permit and 9 VAC 25-650-80.B.
 - C. According to the Facilities DMR the CBOD5 limits were exceeded in June 2005.
This is a violation of 9 VAC 25-31-50 and Part I.A. of the Permit.
5. On October 26, 2005 DEQ conducted a telephone meeting with a representative for Pine Hills. At this time he was stated that he simply forgot to submit the 1st Annual Financial Assurance Review/Adjustment document. and speculated that the CBOD5 maximum concentration/loading limits were exceeded because contractors dumped paint into the system.
 6. On November 9, 2005 DEQ issued NOV W2005-11-V-0002 to Pine Hills for:
 - A. The 1st Annual Financial Assurance Review/Adjustment document was due on or before June 20, 2005 and had not been received.
This is a violation of Part I.D.9. of the subject Permit and 9 VAC 25-650-80.B.
 7. On December 21, 2005 DEQ issued NOV W2005-12-V-0004 to Pine Hills for:
 - A. The 1st Annual Financial Assurance Review/Adjustment document was due on or before June 20, 2005 and had not been received.
This is a violation of Part I.D.9. of the subject Permit and 9 VAC 25-650-80.B.
 8. Pine Hills agrees to enter into an Order, this document, and pay civil charges for failure to submit the 1st Annual Finance Assurance Review/Adjustment and CBOD5 violations. The CBOD5 limit violations have been addressed through training and the implementation of proper operational procedures to ensure that proper effluent limits are maintained and Pine Hills agrees to complete requirements to address the failure to provide the 1st Annual Financial Assurance Review/Adjustment document as outlined in Appendix A.

SECTION D: Agreement and Order

1. Accordingly, the Board, by virtue of the authority granted it in Va. § 62.1-44.15(8a) and (8d), orders Pine Hills to perform the actions described in this Order.
2. Within 30 days of the effective date of this Order, Pine Hills shall pay a civil charge of \$3,500 in settlement of the violations cited in this Order. Payment shall be by check.

certified check, money order, or cashier's check payable to "Treasurer of Virginia" and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

Pine Hills shall also include its federal identification number (FIN) with the check, certified check, money order, or cashier's check and shall include a note that payment is being made in pursuant to this order.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Pine Hills for good cause shown by the Facility or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein 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, Pine Hills admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Pine Hills 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. Pine Hills 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 Pine Hills 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. Pine Hills 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. Pine Hills shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Pine Hills 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.

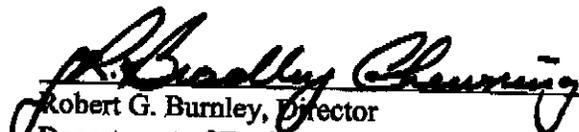
Failure to so notify the Director of the Valley Regional Office within 24 hours of learning of any condition above, which Pine Hills intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

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 Pine Hills. Notwithstanding the foregoing, Pine Hills 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. Pine Hills petitions the VRO Director to terminate the Order after it has completed all requirements of this 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 Pine Hills.

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

12. The undersigned representative of Pine Hills 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 Pine Hills to this document. Any documents to be submitted pursuant to this Order shall be submitted by a responsible official of Pine Hills.
13. By its signature below, Pine Hills voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of June 2, 2006.


Robert G. Burnley, Director
Department of Environmental Quality

Pine Hills agrees to the issuance of this Order.

By: 
Title: PH WSCo, LLC
Member
Date: 1/30/06

Commonwealth of Virginia

City/County of WARREN

The foregoing document was signed and acknowledged before me this

30th day of January, 2006, by Charles E. Maddox
(name)

who is member of Jackson's Chase Waste Water Treatment Plant on
(title)

behalf of said company.

Monica Morrison
Notary Public

My commission expires: April 30, 2007

**APPENDIX A
SCHEDULE OF COMPLIANCE**

Pine Hills Water & Sewer Company, L.C.

1. By January 30, 2006 Pine Hills shall provide the following information to DEQ for review and approval:

A. Submit 1st Annual Financial Assurance Review/Adjustment document.