

**STATE WATER CONTROL BOARD ENFORCEMENT ACTION  
SPECIAL ORDER BY CONSENT  
ISSUED TO  
THE TOWN OF VINTON**

**SECTION A: Purpose**

This is a Consent Special Order issued under the authority of Va. Code §62.1-44.15(8a) by the State Water Control Board to the Town of Vinton for the purpose of resolving certain alleged violations of State Water Control Law and the Regulations. This Order addresses inflow and infiltration issues that may be occurring in the collection system owned and operated by the Town of Vinton.

**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 §§ 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 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. “WCRO” means the West Central Regional Office of DEQ, located in Roanoke, Virginia.

7. "Regulations" means the Permit Regulation, 9 VAC 25-31-10 *et seq.*
8. "Vinton" means the Town of Vinton, Virginia, a municipal corporation of the Commonwealth of Virginia.
9. "Inflow and Infiltration" or "I&I" means non-sewage waters entering the sanitary sewage transmission and collection system.
10. "Bypass", as defined at 9 VAC 25-31-10, means the intentional diversion of waste streams from any portion of a treatment facility.
11. "Overflow" means a discharge of wastewater from a sanitary sewer collection or transmission system.

#### **SECTION C: Department's Findings of Fact and Conclusions of Law**

1. Vinton owns a sanitary sewage collection system that connects to the transmission and collection system owned and operated by the City of Roanoke. The City of Roanoke treats wastewater at the Roanoke Regional Water Pollution Control Plant ("Plant"), which operates under VPDES Permit No. VA0025020. The City of Salem and the Counties of Botetourt and Roanoke also own sanitary sewage collection systems that connect to the transmission and collection system owned by the City of Roanoke.
2. Inflow and infiltration is believed to be occurring in the collection and transmission systems that convey wastewater to the Plant. That inflow and infiltration is believed to be a contributing factor leading to both overflows from those systems and bypasses and effluent limit violations at the Plant.
3. On August 10, 1992, the City of Roanoke entered into a Consent Special Order ("1992 Order") with the Board. The 1992 Order included provisions for I&I reduction.
4. On April 30, 1997, the 1992 Order was amended ("1997 Amendment") to include interim effluent limitations and a facility upgrade schedule for the Plant. The facility upgrade was intended to increase the capacity of the Plant from 35 million gallons per day ("MGD") to 62 MGD.
5. On December 10, 1999, the Board issued another order to the City of Roanoke ("1999 Order") that superseded the requirements of the 1992 Order and the 1997 Amendment. The 1999 Order extended the deadlines for completion of the facility upgrade and I&I reduction projects required under the 1997 Amendment. The Plant upgrade and expansion completion deadline under the 1999 Order was February 15, 2000. The I&I reduction project completion deadline under the 1999 Order was May 1, 2000. Although upgrades to the Plant were completed as of the deadline

in the 1999 Order, the upgrades did not result in the expected increase in capacity.

6. On July 8, 2002, the Board issued a Consent Order to the City of Roanoke that required the City to increase both treatment and equalization capacities at the Plant.
7. On November 16, 2000, the Department issued Warning Letter (“WL”) No. 00-11-WCRO-009 to Vinton. The WL alleged that an overflow in the collection system occurred during the week ending August 5, 2000.
8. On May 10, 2002, the Department issued Notice of Violation (“NOV”) No. 02-05-WCRO-002 to Vinton. The NOV alleged that overflows occurred in the collection system on February 19 and March 25, 2002 to Wolf Creek.
9. On December 9, 2002, the Department issued NOV No. 02-12-WCRO-002 to Vinton. The NOV alleged that overflows occurred in the collection system on August 18, September 27, September 29, and October 17, 2002 to Wolf Creek.
10. On January 8, 2003, the Department issued NOV No. 03-01-WCRO-001 to Vinton. The NOV alleged that overflows in the collection system occurred on November 20, 2002 to Glad Creek and on November 22, 2002 to Wolf Creek.
11. On April 3, 2003, the Department issued NOV No. 03-04-WCRO-004 to Vinton. The NOV alleged that overflows in the collection system occurred on February 6, February 27, and March 1, 2003 to Wolf Creek.
12. Va. Code § 62.1-44.5.A and 9 VAC 25-31-50.A prohibit the discharge of sewage or other wastes into State waters, except in compliance with a certificate or permit issued by the Board.
13. Vinton has not been issued a permit or certificate authorizing the overflows noted above.

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

Accordingly, the State Water Control Board, by virtue of the authority granted it in §62.1-44.15(8a), orders Vinton and Vinton agrees to perform the actions described in Appendix A of this Order.

#### **SECTION E: Administrative Provisions**

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

2. This Order only addresses and resolves those alleged violations relating to overflows 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: (a) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (b) seeking subsequent remediation of the facility as may be authorized by law; or (c) taking subsequent action to enforce this 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, Vinton admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Vinton declares that it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.* and 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 judicial review of, any action taken by the Board or the Director to enforce this Order.
5. Failure by Vinton 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.
6. 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.
7. Vinton shall be responsible for failure to comply with its obligations under this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Vinton shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Vinton shall notify the WCRO 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 this 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 WCRO Regional Director within forty-eight hours of learning of any condition above, which Vinton 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.

8. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
9. Any plans, reports, schedules or specifications attached hereto or submitted by Vinton and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
10. This Order shall become effective upon execution by both the Director or his designee and Vinton. Notwithstanding the foregoing, Vinton agrees to be bound by any compliance dates that precede the effective date of this Order.
11. This Order shall continue in effect until: a) Vinton 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 this Order, b) March 1, 2008, or c) the Director or Board terminates the Order in his or its sole discretion upon 30 days notice to Vinton, whichever occurs earlier. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Vinton 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, Vinton voluntarily agrees to the issuance of this Order.
13. The undersigned representative of Vinton 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 Vinton to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Vinton.

And it is so ORDERED this day of \_\_\_\_\_, 2003.

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

The Town of Vinton voluntarily agrees to the issuance of this Order.

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

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Special Order by Consent  
Town of Vinton

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

Commonwealth of Virginia

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

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2003,

by \_\_\_\_\_, who is \_\_\_\_\_ of the  
Town of Vinton, on behalf of said Town.

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

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

## APPENDIX A

1. **Project No. 1: Wolf Creek Sanitary Sewer Improvements.** Not later than April 1, 2004, Vinton shall replace a pump station and approximately 14,400 LF of gravity sewer pipe at the Wolf Creek Interceptor in accordance with the plans and specifications submitted by Vinton to the Board and the Virginia Department of Health (“VDH”) and approved by the Board and VDH. Vinton shall notify WCRO in writing within fourteen days of completing this project.
2. **Project No. 2: Chestnut Mountain Subdivision Sewer System Evaluation and Repairs.** Vinton shall evaluate and repair the 8-inch gravity sewer line and any associated manholes serving the Chestnut Mountain area in accordance with the requirements of the Sewerage Regulations, 9 VAC 25-60-10 *et seq.* and according to the following schedule:
  - a. Not later than June 30, 2003, Vinton shall submit to DEQ for review and approval a sewer rehabilitation work schedule for the Chestnut Mountain Subdivision based upon a televised evaluation of the sewer line serving that subdivision.
  - b. Not later than August 15, 2003, Vinton shall submit its first biannual progress report for this project to WCRO.
  - c. Not later than February 15, 2004, Vinton shall submit its second biannual progress report for this project to WCRO.
  - d. Not later than March 15, 2004, Vinton shall complete cleaning and evaluating the sewer line and associated manholes serving the Chestnut Mountain Subdivision.
  - e. Not later than August 15, 2004, Vinton shall submit its third biannual progress report for this project to WCRO.
  - f. Not later than February 15, 2005, Vinton shall complete repair of the sewer line and associated manholes serving the Chestnut Mountain Subdivision. Vinton shall notify WCRO in writing within fourteen days of completing this project.
3. **Project No. 3: Lindenwood Subdivision Sewer System Evaluation and Repairs.** Vinton shall evaluate and repair the sewer line and any associated manholes serving the Lindenwood Subdivision in accordance with the requirements of the Sewerage Regulations, 9 VAC 25-60-10 *et seq.* and according to the following schedule:
  - a. Not later than March 15, 2005, Vinton shall commence cleaning and performing a

televised evaluation of the sewer line serving the Lindenwood Subdivision.

- b. Not later than April 15, 2005, Vinton shall submit to DEQ for review and approval a sewer rehabilitation work schedule for the Lindenwood Subdivision.
- c. Not later than August 15, 2005, Vinton shall submit its first biannual progress report for this project to WCRO.
- d. Not later than February 15, 2006, Vinton shall submit its second biannual progress report for this project to WCRO.
- e. Not later than March 15, 2006, Vinton shall complete cleaning and evaluating the sewer line and associated manholes serving the Lindenwood Subdivision.
- f. Not later than August 15, 2006, Vinton shall submit its third biannual progress report for this project to WCRO.
- g. Not later than February 15, 2007, Vinton shall submit its fourth biannual progress report for this project to WCRO.
- h. Not later than August 15, 2007, Vinton shall submit its fifth biannual progress report for this project to WCRO.
- i. Not later than February 15, 2008, Vinton shall complete repair of the sewer line and associated manholes serving the Lindenwood Subdivision. Vinton shall notify WCRO in writing within fourteen days of completing this project.