COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
NORTHERN REGIONAL OFFICE
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Molly Joseph Ward
Secretary of Natural Resources

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Director

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Regional Director

STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
THE SALVATION ARMY
FOR
SALVATION ARMY CAMP HAPPYLAND
WASTEWATER TREATMENT PLANT
VPDES PERMIT NO. VA0074381

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15, between the State Water Control Board and The Salvation Army, regarding the Salvation Army Camp Happyland Wastewater Treatment Plant.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "305(b) report" means the report required by Section 305(b) of the Clean Water Act (33 United States Code § 1315(b)), and Va. Code § 62.1-44.19:5 for providing Congress and the public an accurate and comprehensive assessment of the quality of State surface waters.

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, as described in Va. Code § 10.1-1185.

5. "Discharge" means discharge of a pollutant. 9 VAC 25-31-10.

6. "Discharge of a pollutant" when used with reference to the requirements of the VPDES permit program means:

    a. Any addition of any pollutant or combination of pollutants to surface waters from any point source; or

    b. Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.

7. "DMR" means Discharge Monitoring Report.

8. "Effluent" means wastewater – treated or untreated – that flows out of a treatment plant, sewer, or industrial outfall.

9. "ESS" means Environmental Systems Service, Limited, the contract operator of the Facility.

10. "Facility" or "Plant" means the Salvation Army Camp Happyland Wastewater Treatment Plant located at 21457 Happyland Drive Drive, Richardsville, Culpeper County, Virginia, which treats and discharges treated sewage and other domestic wastes for the visitors and staff of the Salvation Army Camp Happyland (the Camp).

11. "MGD" means million gallons per day.

12. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.

13. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.

14. "Permit" means VPDES Permit No. VA0074381, which was issued under the State Water Control Law and the Regulation to The Salvation Army on January 23, 2013, and which expires on January 22, 2018.

15. "Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 USC § 2011 *et seq.*)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water… 9 VAC 25-31-10.

16. "Pollution" means such alteration of the physical, chemical, or biological properties of any state waters as will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious to the public health, safety, or welfare or to the health of animals, fish, or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an alteration of the physical, chemical, or biological property of state waters or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution but which, in combination with such alteration of or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the Board, are "pollution." Va. Code § 62.1-44.3.

17. "Regulation" means the VPDES Permit Regulation, 9 VAC 25-31-10 *et seq.*

18. "Salvation Army" means The Salvation Army, a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. The Salvation Army is a "person" within the meaning of Va. Code § 62.1-44.3.

19. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.

20. "State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3.

21. "TKN" means Total Kjeldahl Nitrogen.

22. "TSS" means Total Suspended Solids.

23. "Va. Code" means the Code of Virginia (1950), as amended.

24. "VAC" means the Virginia Administrative Code.

25. "VPDES" means Virginia Pollutant Discharge Elimination System.

SECTION C: Findings of Fact and Conclusions of Law

1. The Salvation Army owns the Plant located in Culpeper County, Virginia, operated by ESS. The Permit authorizes the Salvation Army to discharge treated sewage and other domestic wastes from the Plant, to an unnamed tributary to Hazel Run, in strict compliance with the terms and conditions of the Permit. The design flow of the Plant is 0.026 MGD.

2. The Hazel Run is located in the Rappahannock River Basin. This segment is listed in DEQ's 2012 305(b)/303(d) Integrated Report for impairments for recreational use, due to E. coli. Sources of impairment are: livestock (grazing or feeding operations); on-site treatment systems (septic systems and similar decentralized systems); wastes from pets; waterfowl; and wildlife other than waterfowl.

3. In submitting its DMRs, the Salvation Army reported that the Plant exceeded discharge limitations contained in Part I, Section A, Number 1, Page 1 of the Permit, for: TKN for July 2013, September 2013, October 2013, November 2013, and January 2014; and TSS for January 2014.

4. Additionally, the Salvation Army submitted the July 2013 DMR missing the weekly concentration average maximum *E. coli* sampling results. This was addressed in a letter, dated October 21, 2013, in which ESS stated that, the violation was caused by an accidental oversight by ESS, of the sampling requirements set forth in the newly reissued Permit.

5. Va. Code § 62.1-44.5 states that: "[E]xcept in compliance with a certificate issued by the Board, it shall be unlawful for any person to discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances."

6. The Regulation, at 9 VAC 25-31-50, also states that except in compliance with a VPDES permit, or another permit issued by the Board, it is unlawful to discharge into state waters sewage, industrial wastes or other wastes.

7. Va. Code § 62.1-44.15(5a) states that a VPDES permit is a "certificate" under the statute.

8. Hazel Run is a surface water located wholly within the Commonwealth and is a "state water" under the State Water Control Law.

9. Notices of Violation were issued to the Salvation Army for the violations referenced in paragraph 3 above on December 19, 2013, January 15, 2014, and March 18, 2014.

10. On February 27, 2014, representatives of the Salvation Army National Capital and Virginia Division, ESS, Culpeper Engineering, and DEQ met to discuss the violations at the WWTP.

11. At the meeting, ESS stated that the effluent violations were partially due to inconsistent occupancy. The Camp is minimally staffed during the week all year round and then entertains large groups of greater than 200 people on the weekends. During the summer months the Camp is inhabited all week with 270 to 280 people. ESS explained that this type of use creates hydraulic and organic flow surges that inhibited the effective treatment of sewage at the Plant. In addition ESS stated that the issues caused by the flow surges were further exacerbated by the difficulty of nitrification during the cold weather months of the fall and winter.

12. At the meeting, ESS presented a preliminary schedule of proposed corrective actions. The draft schedule includes the replacement of the rotor brush aerator with a positive displacement blower and a cover on the aeration tank. This equipment change will allow the system to retain more heat to combat the loss of nitrification during the colder months. In addition the draft schedule proposes the installation of a flow equalization tank to reduce the negative impacts related to flow and loading surges.

13. Based on the DMRs and submitted documents, the Board concludes that the Salvation Army has violated the Permit and Va. Code § 62.1-44.5 and 9 VAC 25-31-50, by discharging treated sewage and domestic wastes from the Plant while concurrently failing to comply with the conditions of the Permit, as described in paragraphs C(3) and C(4) above.

14. In order for the Salvation Army to complete its return to compliance, DEQ staff and representatives of the Salvation Army have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders the Salvation Army, and the Salvation Army agrees to:

1. Perform the actions described in Appendix A of this Order; and

2. Pay a civil charge of $3,577.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

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 1104
Richmond, Virginia 23218

The Salvation Army shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, The Salvation Army shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with consent of the Salvation Army for good cause shown by the Salvation Army, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.

2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. 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; or (3) taking subsequent action to enforce the Order.

3. For purposes of this Order and subsequent actions with respect to this Order only, the Salvation Army admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.

4. The Salvation Army 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 Salvation Army declares it has received fair and due process under the Administrative Process Act 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 modify, rewrite, amend, or enforce this Order.

6. Failure by the Salvation Army 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 Salvation Army 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 unforeseeable occurrence beyond its control and not due to a lack of good faith or diligence on its part. The Salvation Army shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. The Salvation Army shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days 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 verbally within 24 hours and in writing within three business days, of learning of any condition above, which the Salvation Army 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 Salvation Army. Nevertheless, the Salvation Army 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. The Director or his designee terminates the Order after the Salvation Army has completed all of the requirements of the Order;

b. The Salvation Army 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; or

c. The Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to the Salvation Army.

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

12. Any plans, reports, schedules or specifications attached hereto or submitted by the Salvation Army 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.

13. The undersigned representative of the Salvation Army 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 the Salvation Army to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of the Salvation Army.

14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.

15. By its signature below, the Salvation Army agrees to the issuance of this Order.

And it is so ORDERED this _____ day of _____, 2014.

_____
Thomas A. Faha, NRO Regional Director
Department of Environmental Quality

APPENDIX A
SCHEDULE OF COMPLIANCE

The Salvation Army shall:

1. **Submissions:**

   a. No later than 30 days from the effective date of this Order, submit to DEQ, for review and approval, a final plan and schedule to bring the Plant into compliance with its VPDES Permit.

2. **DEQ Contact:**

   Unless otherwise specified in this Order, the Salvation Army shall submit all requirements of Appendix A of this Order to:

   Enforcement
   Virginia Department of Environmental Quality
   Northern Regional Office
   13901 Crown Court
   Woodbridge, VA 22193

The Salvation Army voluntarily agrees to the issuance of this Order.

Date: 5-12-14 By: _____, Divisional Secretary
(Person) (Title)
The Salvation Army

~~Commonwealth of Virginia~~ District of Columbia
City/County of Washington

The foregoing document was signed and acknowledged before me this 12th day of

May, 2014, by Andrew Wiley who is

Divisional Secretary of the Salvation Army, on behalf of the Salvation Army.

_____
Notary Public

_____
Registration No.

My commission expires: 12/14/15

Notary seal:

KELLI QUICAY NOTARY PUBLIC DISTRICT OF COLUMBIA EXP. 12-14-15