COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
NORTHERN VIRGINIA REGIONAL OFFICE
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STATE WATER CONTROL BOARD ENFORCEMENT ACTION
SPECIAL ORDER BY CONSENT
ISSUED TO
OAK GROVE MENNONITE CHURCH
FOR
MOUNTAIN VIEW NURSING HOME SEWAGE TREATMENT PLANT
(VPDES PERMIT NO. VA0063347)

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code §§ 62.1-44.15 8(a) and 8(d) and 10.1-1185 between the State Water Control Board and the Oak Grove Mennonite Church regarding the Mt. View Nursing Home Sewage Treatment Plant, for the purpose of resolving certain alleged violations of the State Water Control Law and regulations.

SECTION B: Definitions

Unless the context 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. "Mt. View" means Mountain View Nursing Home located in Madison County, Virginia.

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

8. "Permit" means Virginia Pollutant Discharge Elimination System (VPDES) Permit No VA0063347.effective June 30, 2004 and expires June 29, 2009.

10. "STP" means the Mt. View Sewage Treatment Plant

SECTION C: Findings of Fact and Conclusions of Law

1. Oak Grove Mennonite Church owns and operates Mt. View and the associated STP located in Madison County, Virginia. The .0125 million gallons per day ("MGD") STP serves a 40-bed nursing home and various accessory buildings located on the property for a total population of approximately 95 people.

2. The Board has evidence to indicate that Mt. View has violated the Permit. The violations are noted in the following Warning Letters (WLs) and Notices of Violations (NOVs)

   - WL No. W2006-09-N-1014, dated September 8, 2006 citing violations of the Permit including exceeding the monthly concentration average limit for E. Coli and the weekly concentration average limit for Total Residual Chlorine ("TRC") in July 2006.

   - WL No. W2006-10-N-1012, dated October 5, 2006 citing a violation of the Permit for exceeding the monthly concentration average limit for E. Coli in August 2006.

   - WL No. W2007-01-N-1019, dated January 10, 2007 citing violations of the Permit including exceeding both the weekly concentration maximum limit and the monthly concentration average limit for Ammonia in November 2006.

   - NOV No. W2007-02-N-0009, dated February 12, 2007 citing violations of the Permit including exceeding the weekly concentration average maximum limit for TRC in January 2007 and the weekly concentration average maximum limit for Total Suspended Solids ("TSS") in December 2006 and failing to take corrective action during a site inspection in January 2007.

3. DEQ staff met with representatives of Mt. View on March 19, 2007 to discuss the violations and various measures that could be implemented to help achieve compliance. These items have been incorporated into Appendix A of the Order.

4. DEQ staff conducted a site inspection on April 2, 2007 and found an unpermitted discharge to the receiving stream resulting from the loss of solids found within the chlorine contact chamber, the step aeration, outfall pipe, and finally the receiving stream. An unpermitted discharge is a violation of Va. Code § 62.1-44.5.A. In light of this violation, an additional requirement has been incorporated into Appendix A of the Order.

SECTION D: Agreement and Order

By virtue of the authority granted it in Va. Code § 62.1-44.15 8(a) and 8(d) the Board orders Mt. View, and Mt. View voluntarily agrees to perform the actions described in Appendix A of this Order.

In addition, the Board orders Mt. View, and Mt. View voluntarily agrees, to pay a civil charge of $2500.00 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", delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

The payment shall include Mt. View's Federal Tax ID.

SECTION E: Administrative Provisions

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

2. This Order addresses and resolves only 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 action regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the waste water treatment plant; or (3) taking subsequent action to enforce this Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities, whether or not arising out of the same or similar facts, for matters not addressed herein.

3. For purposes of this Order and subsequent actions with respect to this Order, Mt. View admits the jurisdictional allegations, and neither admits nor denies the factual findings and conclusions of law contained herein.

4. Mt. View consents to venue in the Circuit Court of the County of Madison for any civil action taken to enforce the terms of this Order.

5. Mt. View 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 Mt. View to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall act to waive or bar 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.

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. Mt. View 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 other such circumstance. Mt. View must show that such circumstances resulting in noncompliance were beyond its control and not due to a lack of good faith or diligence on its part. Mt. View 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 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 Director of the Regional Office in writing within 7 days of learning of any condition above, which Mt. View intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim of 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. Any plans, reports, schedules or specifications attached hereto or submitted by Mt. View 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.

11. This Order shall become effective upon execution by both the Director or his designee and Mt. View. Notwithstanding the foregoing, Mt. View agrees to be bound by any compliance date which precedes the effective date of this Order.

12. This Order shall continue in effect until:

    a. Mt. View 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

    b. The Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Mt. View.

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

13. By its signature below, Mt. View voluntarily agrees to the issuance of this Order.

14. The undersigned representative of Mt. View 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 Mt. View to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Mt. View.

    And it is so ORDERED this ____day of _____, 2007.

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

Mt. View voluntarily agrees to the issuance of this Order.

By: _____

Title: Administrator

Date: Oct 4, 2007

Commonwealth of Virginia
City/County of Madison

The foregoing document was signed and acknowledged before me this 4th day of OCTOBER, 2007, by Eldon Hochstetler (name), who is Administrator (title) of Mt. View on behalf of Mt. View

William H. Halyk #7031048
Notary Public

My commission expires: 02-28-2010.

APPENDIX A

Mountain View Shall:

1. By October 1, 2007, employ or contract a Class III, or higher, licensed operator to be onsite and overseeing the STP operations at least twice per week. These visits, along with any actions taken, shall be documented within the operator log. Within two weeks of employing or contracting an operator, Mt. View shall notify DEQ in writing how this requirement was met. This requirement shall remain in effect until Mt. View has experienced 6 consecutive months with no violations of its permit.

2. Beginning on October 1, 2007 and lasting for the life of the Order, increase TRC monitoring from once per day (1/D) to twice per day (2/D). Samples shall be taken once before noon (12:00 PM) and again after noon but at least 4 hours after the morning sample and reported on the monthly discharge monitoring report ("DMR").

3. Develop and submit to DEQ for approval by November 1, 2007 a training program for all employees involved in the operation of the STP, including a listing of all outside classes operators will attend to supplement their training. The training program shall be implemented within 30 days of DEQ approval.

4. Continue to document in the operator log any communications between the onsite operator and the licensed operator including reason for call and the outcome.

5. Develop and submit to DEQ for approval by December 1, 2007, an addendum to the O&M Manual that includes additional process control testing for settleable solids, dissolved oxygen, and pH. Process control testing shall begin within 30 days of DEQ approval and results of the testing shall be submitted along with the monthly Discharge Monitoring Report.

6. Include in the O&M addendum previously mentioned, a section on troubleshooting problems at the STP including steps to take when permit violations are identified.