

COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
NORTHERN REGIONAL OFFICE

13901 Crown Court, Woodbridge, Virginia 22193
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www.deq.virginia.gov

Molly Joseph Ward
Secretary of Natural Resources

David K. Paylor
Director

Thomas A. Faha
Regional Director

**STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
THE FOUR WINDS CLUB, INC.
FOR
FOUR WINDS CAMPGROUND SEWAGE TREATMENT PLANT
VPDES Permit No. VA0060429**

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 Four Winds Club, Inc., regarding the Four Winds Campground Sewage Treatment Plant, for the purpose of resolving certain violations of the State Water Control Law and the applicable permit and regulations.

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. "Facility" or "Plant" means The Four Winds Campground Sewage Treatment Plant located at 2350 Skinkers Neck Road in Caroline County, Virginia, which treats and discharges treated sewage and other domestic wastes, for the Four Winds Campground and associated golf course clubhouse.
10. "Four Winds" means The Four Winds Club, Inc., a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Four Winds is a "person" within the meaning of Va. Code § 62.1-44.3.
11. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
12. "NRO" means the Northern Regional office of DEQ, located in Woodbridge, Virginia.
13. "O&M" means operations and maintenance.
14. "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.
15. "Permit" means VPDES Permit No. VA0060429, which was re-issued under the State Water Control Law and the Regulation to The Four Winds Club, Inc. on June 28, 2011 and which expired on June 27, 2016. The Permit has been administratively continued.

16. "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.
17. "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.
18. "Regulation" means the VPDES Permit Regulation, 9 VAC 25-31-10 *et seq.*
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. "Va. Code" means the Code of Virginia (1950), as amended.
22. "VAC" means the Virginia Administrative Code.
23. "VPDES" means Virginia Pollutant Discharge Elimination System.
24. "Warning Letter" or "WL" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.

SECTION C: Findings of Fact and Conclusions of Law

1. Four Winds owns and operates the Plant. The Permit allows Four Winds to discharge treated sewage and other domestic wastes from the Plant, to the Rappahannock River in strict compliance with the terms and conditions of the Permit.

2. The segment of the Rappahannock River that the Facility discharges into is listed as not supporting the fish consumption use in the 2012 Integrated Water Quality Report, based upon the Virginia Department of Health PCB fish consumption advisory dated 12/13/04. Excursions above the risk-based tissue value of 300 parts per billion for mercury in fish tissue was recorded in one species of fish collected in 2006, located approximately 13 miles downstream from Outfall 001. The aquatic life use is listed as not supporting due to exceedances of the thirty day mean dissolved oxygen values during the summer season. This impairment is addressed by the Chesapeake Bay TMDL.
3. In submitting its DMRs, as required by the Permit, Four Winds has indicated that it exceeded discharge limitations contained in Part I.A.1 of the Permit, for the weekly concentration average maximum limit and monthly concentration average limit for Ammonia as Nitrogen (May-October), for the months of May, June, and July 2016, and for the weekly average maximum limit and monthly concentration average limit for Ammonia as Nitrogen (November-April), for the months of February and March 2016, and for the monthly concentration average limit for BOD₅ (Biochemical Oxygen Demand) in March 2016. Four Winds indicated that it is unsure of what caused the Ammonia exceedances, however the operator has been investigating the issue.
4. On March 10, 2016, and May 10, 2016, DEQ staff took grab samples of the effluent for analysis. The results of both sampling events noted Ammonia exceedances. These results were averaged into the Facility's results for the months of March and May 2016.
5. NRO issued Warning Letters and a Notice of Violation for the aforementioned violations: WL No. W2016-04-N-1005 issued on April 25, 2016 and revised on April 26, 2016; NOV No. W2016-07-N-0007 issued on July 12, 2016 and revised on July 25, 2016, and NOV No. W2016-08-N-0003 issued on August 22, 2016.
6. On May 12, 2016, DEQ staff conducted an inspection of the Facility. A subsequent inspection report dated June 21, 2016, noted that the manual bar screen was clogged with rags and the lagoon liner and chlorine contact tank liner (triangular lagoon) were in disrepair.
7. On June 30, 2016, Four Winds submitted an "Ammonia Abatement Program" to DEQ that proposed to address ammonia limit violations through: evaluation of the need for sludge removal, elimination of investigation of Inflow and Infiltration issues and improved operational coordination. To date Four Winds has not confirmed that any of these items have been accomplished.
8. Four Wind's operating logs indicate that it discharged treated wastewater from the Plant every day from February 2016 through the present date with the exception of late October 2016 through January 2017, when the Plant did not discharge.

9. 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.”
10. 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.
11. Part I.A.1 of the Permit contains effluent limitations for the Plant.
12. Part II.Q of the Permit states that “the permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes effective plant performance, adequate funding, adequate staffing, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of this permit.”
13. Va. Code § 62.1-44.15(5a) states that a VPDES permit is a “certificate” under the statute.
14. The Department has issued no permits or certificates for the Plant to Four Winds other than VPDES Permit No. VA0060429.
15. The Rappahannock River is a surface water located wholly within the Commonwealth and is a “state water” under State Water Control Law.
16. Based on the results of DMRs submitted for February, March, May, June, and July 2016, and results of samples taken by DEQ staff on March 10, 2016 and May 10, 2016, and observations documented by DEQ staff during a May 12, 2016 inspection, the Board concludes that Four Winds has violated Va. Code § 62.1-44.5, 9 VAC 25-31-50, Part I.A.1, Part II.Q of the Permit, 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) through C(14) above.
17. In order for Four Winds to return to compliance, DEQ staff and representatives of Four Winds 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 Four Winds, and Four Winds agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$11,882.50 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

Four Winds 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, Four Winds 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 the consent of Four Winds for good cause shown by Four Winds, 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, Four Winds admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Four Winds 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. Four Winds 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 Four Winds 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. Four Winds 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 circumstances beyond its control and not due to a lack of good faith or diligence on its part. Four Winds shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Four Winds 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 parties intend 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.

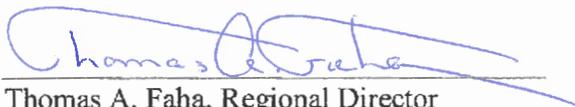
9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Four Winds. Nevertheless, Four Winds agrees to be bound by any compliance date which 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 Four Winds has completed all of the requirements of the Order;
- b. Four Winds 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 Four Winds.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Four Winds 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 Four Winds 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 Four Winds 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 Four Winds to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Four Winds.
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, Four Winds voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 2nd day of June, 2017.


Thomas A. Faha, Regional Director
Department of Environmental Quality

The Four Winds Club, Inc. voluntarily agrees to the issuance of this Order.

Date: 4/4/17 By: William B. Schindler III Treasurer
(Person) (Title)
The Four Winds Club Inc.

Commonwealth of Virginia
City/County of Fredricksburg

The foregoing document was signed and acknowledged before me this 7th day of April, 2016, by William B. Schindler III who is Treasurer of The Four Winds Club, Inc., on behalf of the corporation.

[Signature]
Notary Public
367976
Registration No.

My commission expires: 3/31/19

Notary seal:



APPENDIX A SCHEDULE OF COMPLIANCE

The Four Winds Club, Inc. shall:

1. Submit a compliance plan and schedule to DEQ for review and approval by May 1, 2017 that details the steps Four Winds shall take to achieve and maintain compliance with permitted Ammonia limits.
2. Submit a plan and schedule to DEQ for review and comment within 30 days of execution of this Order that details the steps Four Winds will take to address Inflow and Infiltration at the Facility.
3. Submit documentation to DEQ within 30 days of execution of this Order, that shows that the liner of the lagoon currently in use and the liner of the "chlorine contact tank" have been repaired at the Facility.
4. **DEQ Contact**

Unless otherwise specified in this Order, The Four Winds Club, Inc. shall submit all requirements of Appendix A of this Order to:

Attention Enforcement
VA- DEQ Northern Regional Office
13901 Crown Court
Woodbridge, VA 22193