



VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

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**STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
Hartland Institute of Health and Education
FOR
Hartland Institute
VPDES Permit No. VA0068951**

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 Hartland Institute of Health and Education, regarding the Hartland Institute facility, for the purpose of resolving certain violations of the State Water Control Law and the applicable permit and regulation.

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. "DO" means Dissolved Oxygen, a Permit-specified effluent parameter.
9. "Effluent" means wastewater – treated or untreated – that flows out of a treatment plant, sewer, or industrial outfall.
10. "Facility" or "Plant" means the Hartland Institute sewage treatment plant located at 444 Hartland Oak Drive, Rapidan, Virginia 22733, which treats and discharges treated sewage and other municipal wastes, for the residents and businesses of Hartland Institute of Health and Education.
11. "Hartland Institute of Health and Education" means Hartland Institute of Health and Education, a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Hartland Institute of Health and Education is a "person" within the meaning of Va. Code § 62.1-44.3.
12. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
13. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
14. "O&M" means operations and maintenance.
15. "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.
16. "Permit" means VPDES Permit No. VA0068951, which was issued under the State Water Control Law and the Regulation to Hartland Institute of Health and Education on April 1, 2017 and which expires on March 31, 2022.

17. "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.
18. "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.
19. "Regulation" means the VPDES Permit Regulation, 9 VAC 25-31-10 *et seq.*
20. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.
21. "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.
- ✓ 22. "TMDL" means Total Maximum Daily Load: a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards and an allocation of that amount to the pollutant's sources. A TMDL includes waste-load allocations (WLAs) for point source discharges, and load allocations (LAs) for nonpoint sources or natural background or both, and must include a margin of safety (MOS) and account for seasonal variations.
Violated May 2018
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.
26. "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. Hartland Institute of Health and Education owns and operates the Plant. The Permit allows Hartland Institute of Health and Education to discharge treated sewage and other municipal wastes from the Plant, to the Robinson River, in strict compliance with the terms and conditions of the Permit.
2. Robinson River is located in the Rappahannock River Basin. Robinson River is listed in DEQ's 305(b) report as impaired for recreational use, due to bacterial impairment. A bacterial TMDL was completed and approved by the US EPA for the Robinson River; this Facility has received a waste-load allocation with respect to this TMDL. The wastewater discharge from the Plant is listed among the potential sources of the impairment.
3. In submitting its DMRs, as required by the Permit, Hartland Institute of Health and Education has indicated that it exceeded discharge limitations contained in Part I.A.1 of the Permit, for DO (reported to be 4.5 mg/L), for the month of May, 2018. Hartland Institute of Health and Education indicated that it believed the exceedance was related to malfunctioning of the Plant's DO meter, and that the reading was not accurate.
 - a. Part I.A.1 of the Permit requires that the minimum concentration of 6.0 mg/L of dissolved oxygen be met for effluent discharges from the Plant.
4. DEQ staff have noted that the DMRs for June and July 2018 were not received by the Department until August 29, 2018. Hartland Institute of Health and Education has indicated to DEQ staff that it failed to submit the reports due to an oversight by its Plant operator.
 - a. Part II.C.1 of the Permit requires that DMRs be submitted by the 10th day of the month following the monitored period. The subject DMRs were due by July 10, 2018, and August 10, 2018, respectively.
5. According to DMR submissions received by DEQ, Hartland Institute was operated without a Class III licensed wastewater works operator for the sewage treatment plant for the months of June, July, August, and September 2018, and did not inform DEQ of such, except by DMR.
 - a. Part I.C.5 of the Permit requires that the permittee employ or contract at least one Class III licensed wastewater works operator for the STP, and shall notify DEQ in writing whenever the Facility is not in compliance with this requirement.
6. During a June 24, 2019, technical inspection of the Facility, DEQ compliance staff noted the following deficiencies:

Violation # 1

Violation # 2

- a. The Operation & Maintenance (O&M) manual was not up to date; additionally, it did not provide a spare parts inventory, lubrication schedule, equipment/parts supplier information, preventative maintenance schedule, up-to-date laboratory sampling procedures, procedures for measuring and recording the duration and volume of treated wastewater discharged, or hours/staffing requirements for the plant.
 - i. Part I.C.3 of the Permit requires that the permittee maintain a fully detailed and current O&M manual for the treatment works.
 - b. The treatment system had the following noted deficiencies: (1) there were holes observed in the lagoon liner; (2) there was a hole in the ground between the two lagoons; (3) the staff gauge was not visible; (4) one of the four diffusers was inoperable on the aerated side of the lagoon; (5) floating debris was observed in the clarifier side of the lagoon; (6) excessive grass clippings were present in the lagoon; (7) there were no dechlorination tablets on site; and (8) the ruler for the V-notch weir was illegible.
 - i. Part II.Q of the Permit requires that the permittee properly operate and maintain all facilities and systems of treatment and control.
 - c. The laboratory inspection by DEQ noted the following deficiencies: (1) pH buffers had expired, electrode storage solution had expired, black mold was visible on the pH analysis storage cap, no control sample annual test results were available for pH analysis, and no NIST certification documentation was available; (2) there was no annual DPD reagent buffering capacity check completed for TRC analysis, and no lab control-sample annual test results available for TRC analysis; (3) there was no NIST certification documentation available for DO analysis.
 - i. Part II.Q of the Permit requires that the permittee properly operate and maintain adequate laboratory and process controls, including appropriate quality assurance procedures.
7. On January 15, 2020, Hartland Institute of Health and Education notified DEQ through email communication that it had failed to monitor for, and submit, the 2019 annual DMR for the parameters of Nitrate+Nitrite, Total Kjeldahl Nitrogen, TKN, Total Nitrogen, Total Phosphorus, Influent BOD₅, and Influent TSS.
- a. Part I.A.1 of the Permit requires that the permittee limit and monitor discharge parameters as specified in the Permit, including the annual monitoring of Nitrate+Nitrite, Total Kjeldahl Nitrogen, TKN, Total Nitrogen, Total Phosphorus, Influent BOD₅, and Influent TSS.
8. NRO issued Warning Letters and Notices of Violation for the compliance deficiencies as follows:

- a. WL No. W2018-08-N-1022, issued August 22, 2018
 - b. WL No. W2018-09-N-1001, issued September 14, 2018
 - c. NOV No. W2018-10-N-0003, issued October 25, 2018
 - d. NOV No. W2018-11-N-0001, issued November 16, 2018
9. Hartland Institute of Health and Education responded to the Warning Letters and Notice of Violation by submitting letters on August 24, 2018, and November 21, 2018, which explained the reasoning for the lack of compliance with DMR submissions, effluent limits, and licensed operator status. According to the November 2018 letter, a licensed operator was retained at the STP through an agreement from September 26, 2018; this operator was not present during the discharge reported in the September 2018 DMR, and was therefore not included on the report.
 10. 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.”
 11. 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.
 12. Va. Code § 62.1-44.15(5a) states that a VPDES permit is a “certificate” under the statute.
 13. The Department has issued no permits or certificates to Hartland Institute of Health and Education other than VPDES Permit No. VA0068951.
 14. The Robinson River is a surface water located wholly within the Commonwealth and is a “state water” under State Water Control Law.
 15. Based on the results of the June 24, 2019, inspection, and the documentation submitted to DEQ on August 24, 2018, August 29, 2018, and November 21, 2018, the Board concludes that Hartland Institute of Health and Education has violated the Permit and 9 VAC 25-31, by discharging treated sewage and municipal wastes from the Plant while concurrently failing to comply with the conditions of the Permit, as described in paragraphs C(1) – C(13), above.
 16. On December 6, 2018, Department staff conducted a conference call with representatives of Hartland Institute of Health and Education to discuss the violations, including Hartland Institute of Health and Education’s written response. An additional meeting was held on November 21, 2019, with a follow-up written response from Hartland Institute of Health and Education being submitted to DEQ on December 16, 2019.

17. Hartland Institute of Health and Education was inspected on June 24, 2019 by Department staff. Verification that the violations described in paragraphs C(1) – C(16) have been corrected was confirmed through this inspection, and from the subsequent submittal of requested documentation from Hartland Institute of Health and Education.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders Hartland Institute of Health and Education, and Hartland Institute of Health and Education agrees to pay a civil charge of \$9,800 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

Hartland Institute of Health and Education 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, Hartland Institute of Health and Education 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 Hartland Institute of Health and Education for good cause shown by Hartland Institute of Health and Education, 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, Hartland Institute of Health and Education admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.

Payment
info. for
Louisa

4. Hartland Institute of Health and Education 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. Hartland Institute of Health and Education 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 Hartland Institute of Health and Education 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. Hartland Institute of Health and Education 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. Hartland Institute of Health and Education shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Hartland Institute of Health and Education 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 Hartland Institute of Health and Education. Nevertheless, Hartland Institute of Health and Education 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 Hartland Institute of Health and Education has completed all of the requirements of the Order;
 - b. Hartland Institute of Health and Education 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 Hartland Institute of Health and Education.

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

And it is so ORDERED this _____ day of _____, 2020.

Thomas A. Faha, Regional Director
Department of Environmental Quality

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Hartland Institute of Health and Education voluntarily agrees to the issuance of this Order.

Date: 02/20/2020 By: Norbert Restrepo, President
(Person) (Title)
Hartland Institute of Health and Education

Commonwealth of Virginia
City/County of Madison

The foregoing document was signed and acknowledged before me this 20th day of February, 2020, by Norbert Restrepo who is President of Hartland Institute of Health and Education, on behalf of the corporation.

Joan Midori Reichard
Notary Public

369935
Registration No.

My commission expires: February 28, 2022

Notary seal:

