



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

NORTHERN REGIONAL OFFICE
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**STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
Six-O-Five Mobile Home Group, LLC
FOR
Six-O-Five Mobile Home Park Sewage Treatment Plant
VPDES Permit No. VA0090140**

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 Six-O-Five Mobile Home Group, LLC, regarding the Six-O-Five Mobile Home Park Sewage Treatment Plant, 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. "Effluent" means wastewater – treated or untreated – that flows out of a treatment plant, sewer, or industrial outfall.
9. "Facility" or "Plant" means the Six-O-Five Mobile Home Park Sewage Treatment Plant, located off Route 605, 0.3 miles northeast of State Highway 33 in Louisa County, Virginia, which treats and discharges treated sewage and other municipal wastes from the residents of Six-O-Five Mobile Home Park.
10. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
11. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
12. "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.
13. "Permit" means VPDES Individual Permit No. VA0090140, which was issued under the State Water Control Law and the Regulation to Six-O-Five on May 25, 2014, with an expiration of May 24, 2019, which has been administratively continued. DEQ records show that Six-O-Five submitted an application on November 16, 2018 to continue coverage after the May 24, 2019 Permit expiration (application deemed technically complete on November 30, 2018), and DEQ is still processing the renewal.
14. "Pollutant" means any substance, radioactive material, or heat which causes or contributes to, or may cause or contribute to pollution. 9 VAC 25-210-10.

15. "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: (i) harmful or detrimental or injurious to the public health, safety or welfare, or to the health of animals, fish or aquatic life; (ii) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (iii) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses; provided that (a) 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; (b) the discharge of untreated sewage by any owner into state waters; and (c) contributing to the contravention of standards of water quality duly established by the board, are "pollution." Va. Code § 62.1-44.3; 9 VAC 25-210-10.
16. "Regulation" means the VPDES Permit Regulation, 9 VAC 25-31-10 *et seq.*
17. "Six-O-Five" means Six-O-Five Mobile Home Group, LLC, a limited liability company authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Six-O-Five Mobile Home Group, LLC is a "person" within the meaning of Va. Code § 62.1-44.3.
18. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.
19. "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.
20. "STP" means the sewage treatment plant, and refers to the "Facility" as defined above.
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. Six-O-Five owns the Facility. The Permit allowed Six-O-Five to discharge treated wastewater/sewage from the Facility, to an unnamed tributary of the South Anna River, in strict compliance with the terms and conditions of the Permit.

2. The unnamed tributary to the South Anna River is located in the York River Basin. DEQ does not have monitoring data for the receiving stream. The nearest downstream DEQ ambient station that was monitored during the 2018 assessment period is located approximately 32 miles downstream from the facility, on a segment of the South Anna River. The aquatic life use is considered fully supporting, and the fish consumption and wildlife uses were not assessed. A bacterial impairment was found based on *E. coli* monitoring, resulting in an impaired classification for the recreation use. There is a bacteria Total Maximum Daily Load (TMDL) in place for the South Anna River watershed as part of the TMDL project for the Pamunkey River basin, and this facility received a waste load allocation (WLA) of 6.79E+10 colony forming units per year (cfu/year) *E. coli*.
3. Discharge monitoring reports (DMR) submitted in compliance with the Permit show that Six-O-Five has reported that it violated discharge limitations contained in Part I.A.1 of the Permit as follows:
 - a. Dissolved Oxygen concentration below the allowable monthly concentration minimum for May 2019 and June 2019.
 - b. Exceed monthly concentration average limit of TSS for July 2019.
 - c. Exceeded weekly concentration average of *E. coli* for August 2019.
 - d. Exceeded weekly concentration average maximum limit of ammonia for July 2019 and September 2019.
 - e. Exceeded monthly concentration average limit of ammonia for July 2019 September 2019.
4. On June 6, 2019, DEQ staff performed an inspection of the Facility and a review of Facility records.
5. During the June 2019 inspection, DEQ staff observed several pieces of equipment that were inoperable or not functioning properly as noted in the corresponding inspection report.
6. Permit Part II.Q states: "Proper Operation and Maintenance. 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."

7. During the June 2019 inspection, DEQ staff observed that Six-O-Five did not have an updated Operations and Maintenance (O&M) Manual for the Facility. The observed deficiencies included a missing spare parts inventory, a missing lubrication schedule, a missing equipment/parts supplier, a missing preventative maintenance schedule, and the laboratory sampling procedure was not up to date.
8. Permit Part I.C.3 requires Six-O-Five to maintain a current O&M Manual for the treatment works that is in accordance with VPDES Regulations, 9 VAC 25-31-10 *et seq* and the Sewage Collection and Treatment Regulations, 9 VAC 25-790-10 *et seq*.

Permit Part I.C.3 also requires Six-O-Five to document any operational changes at the Facility in the O&M Manual within 90 days.

9. During the June 2019 inspection, DEQ staff observed an unauthorized discharge of solids from the Facility into the UT of the South Anna River.
10. Permit Part II.F states: “Unauthorized Discharges. Except in compliance with this permit, or another permit issue by the Board, it shall be unlawful for any person to: 1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or 2. Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the use of such waters for domestic or industrial consumption, or for recreation, or for other uses.
11. 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.”
12. 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.
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 to Six-O-Five for the Facility other than VPDES Individual Permit No. VA0090140.
15. The UT to the South Anna River is a surface water located wholly within the Commonwealth and is a “state water” under State Water Control Law.
16. DEQ did not receive formal notification within 24 hours of Six-O-Five’s discovery of an occurrence of an unauthorized discharge from the Facility.

The unauthorized discharge was discovered by Six-O-Five on the morning of June 6, 2019, during a Facility inspection being performed by DEQ staff. Six-O-Five submitted

- notification of the unauthorized discharge to DEQ in the afternoon of June 7, 2019, after more than 24 hours had passed.
17. Permit Parts II.G and II.H require in part for Six-O-Five to “notify the Department of the discharge immediately upon discovery of the discharge, but in no case later than 24 hours after said discovery.”
 18. NRO issued three Notices of Violation to Six-O-Five for the violations described above in paragraphs C(1) through C(17) as follows:
 - a. Referral NOV No. W2019-08-N-0006 dated September 11, 2019;
 - b. NOV No. W2019-09-N-0006 dated September 30, 2019;
 - c. NOV No. W2019-11-N-0005 dated November 22, 2019.
 19. On September 30, 2019, Six-O-Five submitted a written response to the NOVs, and on October 16, 2019, DEQ staff met with representatives of Six-O-Five to discuss the NOVs, Six-O-Five’s written response, and plans to bring the Facility into compliance.
 20. It was explained to DEQ that the violations were primarily a result of issues that Six-O-Five had with a former contractor hired to operate/manage the STP, and a kill-off of the bacteria populations used in select stages of the wastewater treatment process at the Facility.

Six-O-Five stated that it recently hired a new contractor and is already in the process of performing corrective actions in attempt to resolve the non-compliance.
 21. Based on the results of the June 6, 2019 Facility inspection, DEQ’s review of submitted files, Six-O-Five’s NOV response, the October 16, 2019 meeting between DEQ and representatives of Six-O-Five, and correspondence between DEQ and representatives of Six-O-Five, the Board concludes that Six-O-Five has violated conditions Part I.A.1, Part I.C.3, Part II.F, Part II.G, Part II.H, and Part II.Q of the Permit and 9 VAC 25-31-50, as described above in paragraphs C(1) through C(20).
 22. In order for Six-O-Five to return to compliance, DEQ staff and representatives of Six-O-Five 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 Six-O-Five, and Six-O-Five agrees to:

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

2. Pay a civil charge of **\$9,481.50** 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

Six-O-Five 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, Six-O-Five 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 Six-O-Five for good cause shown by Six-O-Five, 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 and in NOV No. W2019-11-N-0005 dated November 22, 2019, NOV No. W2019-09-N-0006 dated September 30, 2019, and NOV No. W2019-08-N-0006 dated September 11, 2019. 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, Six-O-Five admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Six-O-Five 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. Six-O-Five 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 Six-O-Five 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. Six-O-Five 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. Six-O-Five shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Six-O-Five 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 Six-O-Five. Nevertheless, Six-O-Five 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 Six-O-Five has completed all of the requirements of the Order;
- b. Six-O-Five 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 Six-O-Five.

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

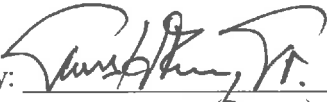
12. Any plans, reports, schedules or specifications attached hereto or submitted by Six-O-Five and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Six-O-Five certifies that he or she is a responsible official or officer authorized to enter into the terms and conditions of this Order and to execute and legally bind Six-O-Five to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Six-O-Five.
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, Six-O-Five 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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Six-O-Five Mobile Home Group, LLC voluntarily agrees to the issuance of this Order.

Date: 3-11-2020 By: , Manager member
(Person) (Title)
Six-O-Five Mobile Home Group, LLC

Commonwealth of Virginia
City/County of Henrico

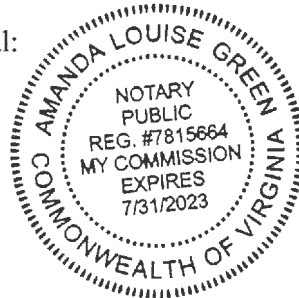
The foregoing document was signed and acknowledged before me this 11 day of March, 2020, by James H. Benson, Jr who is Managing Member of Six-O-Five Mobile Home Group, LLC, on behalf of the company.


Notary Public

7815664
Registration No.

My commission expires: 7/31/2023

Notary seal:



APPENDIX A SCHEDULE OF COMPLIANCE

Six-O-Five shall:

1. Increase the monitoring frequency of the final effluent parameters CBOD, TSS, and Ammonia, as N, from once per month to once every two weeks, and report the results to DEQ. This increased sampling frequency for CBOD, TSS, and Ammonia, as N, shall remain in effect for the duration of this Consent Order.
2. Within 45 days of the effective date of this Order, submit to DEQ an updated/revised O&M Manual for the Facility that meets the requirements of Permit Part I.C.3, 9 VAC 25-31-10 *et seq* and 9 VAC 25-790-10 *et seq*.

As part of this O&M Manual update, the daily check sheet for the Facility shall be revised to include a visual inspection of the outfall pipe and receiving stream, and specifically have sections to denote the following items: (1) if solids are observed in the stream; (2) a visual description of the effluent; and (3) the overall appearance of the receiving stream.

3. Within 90 days of the effective date of this Order, submit to DEQ a written status update summarizing the monitoring results from the Facility, including the results from the increased frequency monitoring required by Item No. 1 (see above).

This status update shall include a recommendation from Six-O-Five to terminate this Order if Six-O-Five has satisfied all requirements and demonstrated that effluent discharges from the Facility comply with permitted limits. Conversely, if effluent discharges continue to violate permitted limits, or if unauthorized discharges occur that could have been prevented or it was reasonably within Six-O-Five's control to take action to prevent recurrence, than Six-O-Five shall perform Item No. 4 listed below.

4. If necessary, within 120 days of the effective date of this Order, submit to DEQ a plan and schedule, for review and comment by DEQ, which lists any additional steps Six-O-Five intends to take to come into compliance with the Permit. Six-O-Five shall respond to DEQ's comments on the plan and schedule within 14 days, or a later date approved by DEQ in writing. Once notified by DEQ that the plan is acceptable, Six-O-Five shall implement said plan and schedule, which will become enforceable pursuant to this Order
5. Unless otherwise specified in this Order, Six-O-Five shall submit all requirements of Appendix A of this Order to:

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