



VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

NORTHERN REGIONAL OFFICE
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Matthew J. Strickler
Secretary of Natural Resources

David K. Paylor
Director

Thomas A. Faha
Regional Director

**STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
GLENWOOD MHC, LLC
FOR THE
GLENWOOD MHC, LLC FACILITY
VPDES Permit No. VA0068934**

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 Glenwood MHC, LLC regarding the Glenwood MHC, LLC 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. "Effluent" means wastewater – treated or untreated – that flows out of a treatment plant, sewer, or industrial outfall.
9. "Facility" or "Plant" means the Glenwood MHC, LLC Facility located at 9755 Glenwood Drive Fredericksburg, Virginia, which is located in Spotsylvania County and which treats and discharges treated sewage for the residents of Glenwood Mobile Home Community.
10. "Glenwood MHC" means Glenwood MHC, LLC, a limited liability company authorized to do business in Virginia and its members, affiliates, partners, and subsidiaries. Glenwood MHC, LLC 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. VA0068934 which was re-issued under the State Water Control Law and the Regulation to Glenwood MHC, LLC on March 1, 2016 and which expires on February 28, 2021.

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.

SECTION C: Findings of Fact and Conclusions of Law

1. Glenwood MHC owns and operates the Plant. The Permit allows Glenwood MHC to discharge treated sewage from the Plant, to an unnamed tributary of Massaponax Creek, in strict compliance with the terms and conditions of the Permit.
2. The unnamed tributary of Massaponax Creek is located in the Rappahannock River Basin. The unnamed tributary has been neither monitored nor assessed. The 2016

Integrated Report notes that for Massaponax Creek, located 0.80 mile downstream from the Facility, *E. coli* monitoring finds a bacterial impairment, resulting in an impaired classification for the recreation use. This impairment is nested within the downstream completed bacteria TMDL for the Tidal Freshwater Rappahannock River TMDL. Ambient monitoring finds a pH impairment, resulting in an impaired classification for the aquatic life use. Citizen monitoring previously noted a high probability of adverse conditions for biota, resulting in an observed effect for the aquatic life use. The observed effect will remain. The wildlife use is considered fully supporting, and the fish consumption use was not assessed.

3. DEQ staff conducted an inspection of the Facility on February 1, 2018. During the inspection, DEQ staff observed solids in the clarifier launder but the Facility was not discharging at the time of the inspection. DEQ staff also observed a large amount of sewage solids in the receiving stream channel, approximately 100 linear feet downstream of the Facility's outfall. DEQ does not have any record showing that Glenwood MHC reported the discharge to DEQ.
4. NRO issued Notice of Violation No. W2018-02-N-0015 to Glenwood MHC on February 14, 2018, as a result of the sewage solids observed in the receiving stream during the February 1, 2018, DEQ inspection.
5. Glenwood MHC responded to the Notice of Violation in writing on February 21, 2018. The response noted its assertion that the solids observed was due to the accumulation of total suspended solids discharged in accordance with permit limits over time.
6. DEQ staff conducted an additional inspection of the Facility on February 14, 2018. Solids were observed on the surface of the clarifier and launder. The Plant was discharging, and no solids were observed in the effluent. DEQ staff observed that the effluent stream had created a channel through the sewage solids downstream from the outfall. Sludge bars were observed along approximately 100 linear feet of the stream channel downstream of the outfall. Correspondence received from the Permittee on February 22, 2018, noted that cleanup of the outfall area and downstream channel was conducted, and Plant staff had been instructed to perform bimonthly visual inspections of the area downstream of the outfall and remove buildup as needed.
7. DEQ staff conducted an additional inspection of the Facility on March 8, 2018. There were no visible solids in the Plant's effluent. Solids were observed along the top portion of the bucket below the dechlorination tablet feeder. Solids were also observed at the discharge pipe and for approximately 40 feet downstream of the Plant's outfall. Solids were also observed along the banks of the receiving stream.
8. Glenwood MHC reported an exceedance of its monthly geometric mean concentration average limit for *E. coli* for the May 2018 monitoring period and the monthly geometric mean concentration maximum limit for *E. coli* for the June 2018 monitoring period. DEQ issued NOV W2018-07-N-0007 to Glenwood on July 10, 2018 for the exceedance

in May 2018, and NOV W2018-10-N-0001 on October 16, 2018, for the June 2018 exceedance.

9. DEQ staff conducted a follow-up inspection of the Facility on June 7, 2018. As noted in the Inspection Report, dated June 22, 2018, DEQ staff did not see solids in the effluent, but did observe solids adjacent to and downstream of the Facility's outfall. Glenwood MHC responded to the inspection report on July 8, 2018, noting that it had taken measures to address the solids at the outfall and that it was also looking at installing an equalization basin at the Facility to help handle high flows.
10. On August 13 and 20, 2018 DEQ received notification from Glenwood MHC that upsets at the Plant had occurred causing partially treated wastewater and solids to be discharged to the receiving stream. Plant staff took appropriate action to remediate the receiving stream area upon discovery. DEQ issued NOV W2018-10-N-0001 for these events.
11. Glenwood MHC reported exceedances of its weekly concentration average maximum limit and monthly concentration average limit for Ammonia as Nitrogen for the November 2018 monitoring period. DEQ issued NOV W2019-01-N-0003 on January 28, 2019 for these exceedances. Glenwood MHC also reported exceedances of its weekly concentration average maximum limit and monthly concentration average limit for Total Suspended Solids (TSS), Biochemical Oxygen Demand (BOD5), and Ammonia as Nitrogen for the December 2018 monitoring period. DEQ issued NOV W2019-02-N-0011 on February 25, 2019, for these exceedances. Glenwood MHC reported exceedances of its weekly concentration average maximum and monthly concentration average limit for Ammonia for the January 2019 monitoring period. DEQ issued NOV W2019-03-N-0003 on March 21, 2019 for these exceedances.
12. On January 4, and 17, 2019, DEQ staff conducted follow-up inspections of the Facility. As noted in NOV W2019-03-N-0003 issued on March 21, 2019, DEQ staff observed solids in the receiving stream and observed that the inner wall of the clarifier was deteriorating and in need of repair.
13. On February 14, and 27, 2019, DEQ staff conducted follow-up inspections of the Facility. As noted in NOV W2019-04-N-0005 issued on April 23, 2019, DEQ staff observed solids in the receiving stream. During the February 14, 2019, inspection DEQ staff observed that the Facility was experiencing an unusual discharge/upset event. Based upon a review of DEQ records, no notification was received from the permittee regarding this event.
14. Part I.A. of the Permit contains permit effluent limitations and states that there shall be no discharge of floating solids or visible foam in other than trace amounts.
15. Part II.F of the Permit states that "Except in compliance with this permit, or another permit issued by the Board, it shall be unlawful for any person to 1) discharge into state waters sewage, industrial waste, 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 industrial consumption, or for recreation or for other uses.”

16. Part II.G of the Permit states that “Any permittee who discharges or causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance into or upon state waters in violation of Part II.F, shall notify the Department of the discharge immediately upon discovery of the discharge, but in no case later than 24 hours after said discovery. A written report of the unauthorized discharge shall be submitted to the Department within five days of discovery of the discharge. The written report shall contain: 1) A description of the nature and location of the discharge; 2) The cause of the discharge; 3) The date on which the discharge occurred; 4) The length of time that the discharge continued; 5) The volume of the discharge; 6) If the discharge is continuing, how long it is expected to continue; 7) If the discharge is continuing, what the expected total volume of the discharge will be; and 8) Any steps planned or taken to reduce, eliminate and prevent a recurrence of the present discharge or any future discharges not authorized by this permit.
Discharges reportable to the Department under the immediate reporting requirements of other regulations are exempted from this requirement.”
17. Part II.H of the Permit states “If any unusual or extraordinary discharge including a bypass or upset should occur from a treatment works and the discharge enters or could be expected to enter state waters, the permittee shall promptly notify, in no case later than 24 hours, the Department by telephone after the discovery of the discharge. This notification shall provide all available details of the incident, including any adverse effects on aquatic life and the known number of fish killed. The permittee shall reduce the report to writing and shall submit it to the Department within five days of discovery of the discharge in accordance with Part II.I.2.”
18. 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) that are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also include 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 that are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of this permit.”
19. 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.”
20. 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.

21. Va. Code §62.1-44.5(B) states that any person in violation of the provisions of subsection A who discharges or causes or allows (i) a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance into or upon state waters or (ii) a discharge that may reasonably be expected to enter state waters shall, upon learning of the discharge, promptly notify, but in no case later than 24 hours the Board, the Director of the Department of Environmental Quality, or the coordinator of emergency services appointed pursuant to § 44-146.19 for the political subdivision reasonably expected to be affected by the discharge. Written notice to the Director of the Department of Environmental Quality shall follow initial notice within the time frame specified by the federal Clean Water Act.
22. 9 VAC 25-31-50(B) states Any person in violation of subsection A of this section, who discharges or causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance into or upon state waters; or who discharges or causes or allows a discharge that may reasonably be expected to enter state waters in violation of subsection A of this section shall notify the department of the discharge, immediately upon discovery of the discharge but in no case later than 24 hours after said discovery. A written report of the unauthorized discharge shall be submitted by the owner, to the department, within five days of discovery of the discharge. The written report shall contain:
1. A description of the nature and location of the discharge;
 2. The cause of the discharge;
 3. The date on which the discharge occurred;
 4. The length of time that the discharge continued;
 5. The volume of the discharge;
 6. If the discharge is continuing, how long it is expected to continue;
 7. If the discharge is continuing, what the expected total volume of the discharge will be;
- and
8. Any steps planned or taken to reduce, eliminate and prevent a recurrence of the present discharge or any future discharges not authorized by the permit.
- Discharges reportable to the department under the immediate reporting requirements of other regulations are exempted from this requirement.
18. Va. Code § 62.1-44.15(5a) states that a VPDES permit is a “certificate” under the statute.
19. The Department has issued no permits or certificates to Glenwood MHC other than VPDES Permit No. VA0068934.
20. The unnamed tributary to Massaponnax Creek is a surface water located wholly within the Commonwealth and is a “state water” under State Water Control Law.
21. Based on the results of February 1, 2018, March 8, 2018, and June 7, 2018 inspections, May and June 2018 sampling results reported on Glenwood MHC’s DMRs, and the plant upsets reported to DEQ on August 14 and 20, 2018, the Board concludes that Glenwood MHC has violated Part I.A., IIF and IIG of the Permit, 9 VAC 25-31-50.A and B and §62.1-44.5A and B, 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(3) through C(20) above.

22. On April 10, 2018, and May 14, 2019, Department staff met with representatives of Glenwood MHC to discuss the violations, including Glenwood MHC's written response.
23. On January 4, 2019, Glenwood MHC submitted a CTC application for upgrades to the Plant to DEQ. On January 11, 2019, a Certificate to Construct Plant upgrades, including the installation of an equalization basin was authorized by DEQ.
24. In order for Glenwood MHC to return to compliance, DEQ staff and representatives of Glenwood MHC 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 Glenwood MHC, LLC, and Glenwood MHC, LLC agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$11,985.00 in settlement of the violations cited in this Order. The civil charge shall be paid in accordance with the following schedule:

Due Date	Amount
Within 30 days of execution of this Order	\$2,996.25 or balance
Within 90 days of execution of this Order	\$2,996.25 or balance
Within 120 days of execution of this Order	\$2,996.25 or balance
Within 180 days of execution of this Order	\$2,996.25 or balance

3. If the Department fails to receive a civil charge payment pursuant to the schedule described above, the payment shall be deemed late. If any payment is late by 30 days or more, the entire remaining balance of the civil charge shall become immediately due and owing under this Order, and the Department may demand in writing full payment by Glenwood MHC within 15 days of receipt of such letter, Glenwood MHC shall pay the remaining balance of the civil charge. Any acceptance by the Department of a late payment or of any payment of less than the remaining balance shall not act as a waiver of the acceleration of the remaining balance under this Order.
4. 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

Glenwood MHC, LLC 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, Glenwood MHC, LLC 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 Glenwood MHC, LLC for good cause shown by Glenwood MHC, LLC 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, Glenwood MHC, LLC admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Glenwood MHC, LLC 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. Glenwood MHC, LLC 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 Glenwood MHC, LLC 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. Glenwood MHC, LLC 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. Glenwood MHC, LLC shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Glenwood MHC, LLC 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 Glenwood MHC, LLC. Nevertheless, Glenwood MHC, LLC 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 Glenwood MHC, LLC has completed all of the requirements of the Order;

- b. Glenwood MHC, LLC 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 Glenwood MHC, LLC.

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

And it is so ORDERED this 29th day of July, 2019.



Thomas A. Faha NRO Regional Director
Department of Environmental Quality

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Glenwood MHC, LLC voluntarily agrees to the issuance of this Order.

Date: 5/30/19 By: [Signature] COO

(Person) (Title)

Glenwood MHC, LLC

By: Joseph Weber, COO
THE Carlyle Group, Inc., Manager

Commonwealth of Virginia

City/County of Los Angeles

The foregoing document was signed and acknowledged before me this 30th day of May, 2019, by Joseph Weber who is Chief Operations Officer of Glenwood MHC, LLC on behalf of the company.

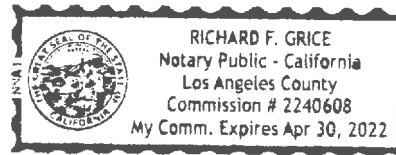
[Signature]
Notary Public

#2240608

Registration No.

My commission expires: Apr 30, 2022

Notary seal:



APPENDIX A SCHEDULE OF COMPLIANCE

Glenwood MHC, LLC shall:

1. Continue inspecting the area downstream of the outfall daily. The observations noted on these inspections shall be documented in writing and shall be made available to DEQ upon request.
2. A Certificate to Operate the upgraded Plant will be requested by the Permittee no later than May 15, 2020.
3. DEQ Contact

Unless otherwise specified in this Order, Glenwood MHC, LLC shall submit all requirements of Appendix A of this Order to:

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