



## COMMONWEALTH of VIRGINIA

M. Norman Oliver, MD, MA  
State Health Commissioner

Department of Health  
P O BOX 2448  
RICHMOND, VA 23218

TTY 7-1-1 OR  
1-800-828-1120

### STATE BOARD OF HEALTH SPECIAL ORDER ISSUED TO **The Four Winds Club, Inc.** FOR **Four Winds Campground Waterworks** **PWSID NO. VA6033249**

This is a Special Order issued by the State Board of Health to Four Winds Club, Inc. under authority granted by Va. Code § 32.1-175.01 for the purpose of resolving certain violations of the Public Water Supplies law and the Waterworks Regulations.

#### Section A. Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned below:

1. "Board" means the State Board of Health, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code § 32.1-15.
2. "Commissioner" means the Commissioner of the State Department of Health, as described in Va. Code §§ 32.1-16 and 17.
3. "Community waterworks" means a waterworks that serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.
4. "Department" or "VDH" means the Department of Health, an agency of the Commonwealth of Virginia, as described in Va. Code § 32.1-16.
5. "Four Winds" means the Four Winds Club, Inc., an individual, group of individuals, partnership, firm, association, institution, or corporation that supplies or proposes to supply water to any person within this Commonwealth from or by means of any waterworks.

6. "Nontransient noncommunity waterworks" or "NTNC" means a waterworks that is not a community waterworks and that regularly serves at least 25 of the same persons over six months out of the year.
7. "Notice of Violation" or "NOV" means a type of notice of alleged violation issued under 12VAC5-590-110 of the Regulations.
8. "ODW" means the VDH Office of Drinking Water.
9. "Public Water Supplies law" or "PWSL" means Article 2, Chapter 6, Title 32.1 of the Va. Code.
10. "Pure water" means water fit for human consumption that is (i) sanitary and normally free of minerals, organic substances, and toxic agents in excess of reasonable amounts, and (ii) adequate in quantity and quality for the minimum health requirements of the persons served.
11. "PWSID" means Public Water System Identification.
12. "Regulations" means the Waterworks Regulations, 12VAC5-590-10, *et seq.*
13. "RFO" means the ODW Richmond Field Office located in Richmond, Virginia.
14. "Special Order" means this document, which the Board is authorized to issue regarding the owner of a waterworks who violates the Public Water Supplies law or any order or regulation adopted thereto by the Board. The issuance of a special order shall be considered a case decision as defined in Va. Code § 2.2-4001 and may include a civil penalty to be paid to the state treasury and credited to the Water Supply Assistance Grant Fund.
15. "Waterworks" means the Four Winds Campground waterworks located on Skinners Neck Road in Caroline County, Virginia, which serves piped water for human consumption to at least 15 service connections or 25 or more individuals for at least 60 days out of the year. Waterworks includes all structures, equipment, and appurtenances used in storage, collection, purification, treatment, and distribution of pure water except the piping and fixtures inside the building where such water is delivered.
16. "Va. Code" means the Code of Virginia (1950), as amended.
17. "VAC" means the Virginia Administrative Code.

## **Section B. Findings of Fact and Conclusions of Law**

1. Four Winds owns and operates the Waterworks. The Waterworks consists of one active drilled well (referenced as WL02B in Exhibit F), a well house, chlorine disinfection treatment, storage, and a distribution system. The population and number of connections vary, but most recent records indicate that the Waterworks serves an estimated population of 100 residents, 25 nontransient noncommunity individuals, and 1,900 transient noncommunity individuals. The Waterworks has approximately 94 active connections and 975 available connections.
2. The Waterworks is subject to the Regulations because it serves more than 25 individuals for at least 60 days out of the year.
3. The RFO administers the Regulations for waterworks located in Caroline County.
4. By letter dated January 21, 2003, VDH identified the Waterworks as a nontransient noncommunity waterworks following an initial sanitary survey performed on December 17, 2002, and assigned the Waterworks PWSID number 6033249. The letter listed actions necessary for Four Winds to comply with the Public Water Supplies law and the Regulations, including bacteriological and chemical sampling requirements and submitting a cross connection control plan and bacteriological sample siting plan. VDH continued to regulate Four Winds as a waterworks but did not issue an operation permit for the Waterworks.
5. On December 7, 2010, ODW staff conducted a sanitary survey and observed that Four Winds appeared to be operating a community waterworks because the Waterworks served approximately 80 year-round residents. By letter dated December 13, 2010, VDH notified Four Winds that this information would change the Waterworks' classification from nontransient noncommunity to community, which would require that Four Winds comply with additional requirements necessary to meet community water quality standards. Four Winds responded by letter dated January 6, 2011, indicating that it would meet the requirements for the community waterworks classification. By letter dated March 9, 2011, ODW notified Four Winds that ODW was reclassifying the Waterworks as a community waterworks and again stated that Four Winds needed to comply with the Regulations applicable to community waterworks.
6. Between 2011 and 2016, ODW provided ongoing technical assistance and correspondence listing the requirements with which Four Winds must comply to satisfy the Regulations applicable to community waterworks and receive an operation permit.
7. On September 8, 2016 and September 25, 2018, ODW staff conducted sanitary surveys of the Waterworks. Based on the sanitary surveys and a review of VDH records, ODW staff observed the following:

- a. Four Winds is operating a community waterworks because it serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents. VDH has not issued a permit allowing Four Winds to operate a community waterworks.
  - b. Four Winds failed to provide a minimum working pressure of 20 psi at all service connections. Boil Water Notices, water outages, and leaks indicated that the working pressure in the Waterworks' distribution system and at individual service connections was less than 20 psi.
  - c. Four Winds failed to maintain conditions throughout the entirety of the water supply system in a manner that assured a high degree of capability and reliability to meet compliance with the standards in the Regulations. Leakage exceeded 30%, which could compromise water quality in the distribution system.
  - d. Four Winds failed to provide and implement a cross connection control plan (CCCP) for a community waterworks.
  - e. Four Winds failed to provide a waterworks business operation plan (WBOP).
  - f. Four Winds failed to submit certification confirming that it distributed the 2018 and 2019 Consumer Confidence Reports (CCR) to its customers.
  - g. Four Winds failed to submit monitoring results for disinfectant byproducts for the 2018 and 2019 annual monitoring periods.
  - h. Four Winds failed to provide adequate source capacity (i.e. a second well) given the number of residential connections.
8. 12VAC5-590-10 (Definitions.) of the Regulations defines a “nontransient noncommunity waterworks” to mean, “a waterworks that is not a community waterworks and that regularly serves at least 25 of the same persons over six months out of the year.”
9. 12VAC5-590-10 (Definitions.) of the Regulations defines a “community waterworks” to mean, “a waterworks that serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.”
10. 12VAC5-590-190 (Permits.) of the Regulations states, in part, “...no owner or other person shall cause or permit any waterworks or water supply to be operated without a written operation permit issued by the commissioner which authorizes the operation of the waterworks or water supply. Conditions may be imposed on the issuance of any permit,

and no waterworks or water supply may be constructed, modified, or operated in violation of these conditions.”

11. 12VAC5-590-360.A (Responsibility; Owner.) of the Regulations states that the waterworks owner “shall provide and maintain conditions through the entirety of the water supply system in a manner which will assure a high degree of capability and reliability to effect compliance with these standards. This requirement shall pertain to the source of supply, treatment, transmission, storage, and distribution facilities and the operation thereof. In addition, this requirement shall include specific and continuing assessment of the capability, effectiveness, and reliability of the treatment process in relation to potential contaminants in the source of supply. Finally, this requirement shall include the identification and evaluation of all factors having potential for impairing the quality of the water as delivered to customers and appropriate preventive and control measures.”
12. 12VAC5-590-370.B.3.c (Sampling Frequency.) of the Regulations states, in part, “Failure to monitor in accordance with the monitoring plan required under subdivision B 3 j of this section is a monitoring violation.”
13. 12VAC5-590-370.B.3.j (Sampling Frequency) of the Regulations states, in part, “[t]he owner of each waterworks required to monitor under subdivision B 3 of this section shall develop and implement a monitoring plan.”
14. 12VAC5-590-510.E (Acceptable Operating Practices.) of the Regulations states, “All waterworks shall provide a minimum working pressure of 20 psi at all service connections.”
15. 12VAC5-590-530.A (Reporting.) of the Regulations states, “The results of any required monitoring activity shall be reported by the owner (or their authorized agent) to the ODW no later than (i) the 10th day of the month following the month during which the test results were received, or (ii) the 10th day following the end of the monitoring period, whichever is shorter, unless stipulated otherwise by the commissioner. The results of any required monitoring activity shall be reported by the owner in a format prescribed by the commissioner.”
16. 12VAC5-590-545.A.1 (Consumer Confidence Reports.) of the Regulations states, “Each community waterworks owner shall deliver to his customers an annual report that contains information on the quality of the water delivered by the waterworks and characterizes the risk, if any, from exposure to contaminants detected in the drinking water.”
17. 12VAC5-590-600.B.1 (Responsibilities.) states, in part, “The [water] purveyor shall establish or cause to be established and operate a cross connection control and backflow prevention program consistent with the extent of the system and the type of consumer served.”

18. 12VAC5-590-690.E (Capacity of Waterworks.) of the Regulations states, “Waterworks serving 50 or more residential connections with wells as the source of supply shall provide at least two water sources that do not hydraulically interfere with another source of public water supply. Consideration shall be given to requiring each source to be of a minimum yield so its reliability is realistic. The secondary well should be rated at 20% of the waterworks capacity as a minimum.”
19. 12VAC5-590-1230 (Metering.) of the Regulations states, “[e]ach service connection should be metered.”
20. Va. Code § 32.1-172.A (Permit required.) states, “[n]o owner shall establish, construct or operate any waterworks or water supply in the Commonwealth without a written permit from the Commissioner...”
21. Va. Code § 32.1-172.B (Permit required.) states, in part, “[t]he application also shall include a comprehensive business plan detailing the technical, managerial, and financial commitments to be made by the owner in order to assure that system performance requirements for providing the water supply will be met over the long term.”
22. ODW issued NOVs to Four Winds for the above-mentioned violations on the following dates: November 7, 2018, December 4, 2018, February 7, 2019, June 26, 2019, and August 14, 2019.
23. On September 25, 2018 and August 22, 2019, ODW met with representatives of Four Winds to discuss alleged violations of the Regulations and the requirements necessary for Four Winds to comply with the Regulations applicable to community waterworks. During those meetings, ODW discussed with Four Winds representatives the business operation plan, cross connection control plan, community population, reliability issues, leaks, and boil water advisories.
24. Va. Code § 32.1-172 and 12VAC5-590-190 of the Regulations state that no owner shall establish, construct, or operate any waterworks or water supply in the Commonwealth without a written permit from the Commissioner, that conditions may be imposed on the issuance of any permit, and no waterworks may be operated in violation of these conditions.
25. Pursuant to Va. Code § 32.1-175.01, the Board may issue special orders against an owner who violates the law or any order or regulation adopted by the Board, and may require compliance with any law or regulation administered by the Board.
26. Based on the agency record, the Board concludes that Four Winds violated the Regulations at 12VAC5-590-10, 12VAC5-590-190, 12VAC5-590-360.A, 12VAC5-590-

370.B.3.c, 12VAC5-590-510.E, 12VAC5-590-530.A, 12VAC5-590-545.A.1, 12VAC5-590-600.B.1, 12VAC5-590-690.E, 12VAC5-590-1230, and the PWSL at Va. Code § 32.1-172.A and B by operating a waterworks in violation of the Regulations, as described in paragraphs B.7 through B.21 of this Special Order.

### **Section C. Order for Compliance**

In order for Four Winds to return to compliance, and continually operate in compliance with the Regulations, the Board orders Four Winds to comply with the requirements necessary to operate a waterworks in accordance with the PWSL and Regulations within 180 days of the effective date of this Special Order.

### **Section D. Administrative Provisions**

1. This Special Order does not suspend, minimize, or otherwise alter Four Winds' obligation to comply with federal, state, and local laws and regulations. The Board waives no lawful means of enforcing the laws it administers, the regulations it has adopted, or this Special Order.
2. To the fullest extent allowed by law, this Special Order is binding on Four Winds, its agents and legal representatives, heirs, devisees, executors, administrators, and successors in interest, jointly and severally as applicable.
3. This Special Order shall become effective on the 15<sup>th</sup> day after mailing a copy of it to Four Winds. Va. Code § 32.1-26. Any request for modification of this Order shall be submitted to VDH in writing to be considered for approval by the Board or its designee. The Board may revoke this Special Order in its discretion upon 30 days written notice to Four Winds.
4. This Special Order addresses and resolves only those violations specifically identified in Section B of this Special Order. This Special Order shall not preclude VDH from taking any action authorized by law, including but not limited to taking any action authorized by law regarding additional, subsequent, or subsequently discovered violations, or taking subsequent action to enforce this Special Order.
5. Failure by Four Winds to comply with any terms of this Special Order shall constitute a violation of this Special Order. Nothing herein shall waive the initiation of appropriate enforcement action or issuance of additional orders as appropriate because of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
6. This Special Order shall remain in effect until the Commissioner or his designee terminates the Special Order after Four Winds has completed all of the requirements of

the Special Order, or the Commissioner or Board terminates the Special Order in their sole discretion upon 30 days written notice to Four Winds.

7. Termination of this Special Order, or any obligation imposed in it, shall not relieve Four Winds from its obligation to comply with any statute, regulation, permit condition, other agreement, certificate, certification, standard, or requirement otherwise applicable.
8. Four Winds has the right to appeal this decision by requesting a formal hearing pursuant to Va. Code § 2.2-4020 or, in accordance with Article 5 of the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, seeking direct review thereof by an appropriate and timely court action against VDH in a manner provided by the Rules of the Supreme Court of Virginia.

It is SO ORDERED this 8<sup>th</sup> day of April, 2020.

STATE BOARD OF HEALTH  
Commonwealth of Virginia

DocuSigned by:

*M. Norman Oliver, MD*

E9885CE3DE124C6...

---

M. Norman Oliver, MD, MA  
State Health Commissioner