COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
Blue Ridge Regional Office
www.deq.virginia.gov

Molly Joseph Ward
Secretary of Natural Resources

David K. Paylor
Director

Robert J. Weld
Regional Director

Lynchburg Office
7705 Timberlake Road
Lynchburg, Virginia 24502
(434) 582-5120
Fax (434) 582-5125

Roanoke Office
3019 Peters Creek Road
Roanoke, Virginia 24019
(540) 562-6700
Fax (540) 562-6725

STATE WATER CONTROL BOARD

ENFORCEMENT ACTION - ORDER BY CONSENT

ISSUED TO

H&W PROPERTIES, LLC
FOR
DOUTHAT ROAD MOBILE HOME PARK
SEWAGE TREATMENT PLANT

VPDES PERMIT No. VA0089001

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15(8a) between the State Water Control Board and H&W Properties, LLC, 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 meanings 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. "AOSS" means Alternative Onsite Sewage System.
3. "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.
4. "BOD_5" means Biochemical Oxygen Demand.
5. "BRRO-R" means the Blue Ridge Regional Office of DEQ, located in Roanoke, Virginia.
6. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
7. "Director" means the Director of the Department of Environmental Quality.
8. "DMR" means Discharge Monitoring Report.
9. "Discharge" means discharge of a pollutant. 9 VAC 25-31-10.
10. "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.
11. "Effluent" means wastewater – treated or untreated – that flows out of a treatment plant, sewer, or industrial outfall.
12. "Facility" means the Douthat Road Sewage Treatment Plant, located at 3913 Douthat Road in Alleghany County, Virginia, which treats and discharges treated domestic sewage for the residents of Douthat Road Mobile Home Park.
13. "H&W" means H&W Properties, LLC, the owner of Douthat Road Mobile Home Park, a limited liability company organized in the

Commonwealth of Virginia. H&W Properties, LLC is a "person" within the meaning of Va. Code § 62.1-44.3.

14. "I&I" means Infiltration and Inflow.

15. "Notice of Violation" or "NOV" means a type of Notice of Violation under Va. Code § 62.1-44.15.

16. "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.

17. "Permit" means VPDES Permit number VA0089001; which was issued under the State Water Control Law and the Regulation to H&W Properties, LLC on August 23, 2010, and which expires on August 22, 2015.

18. "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.

19. "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.

20. "Regulation" means the VPDES Permit Regulation at 9 VAC 25-31-10 *et seq*.
21. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq*.) of Title 62.1 of the Va. Code.
22. "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.
23. "STP" means Sewage Treatment Plant.
24. "TSS" means Total Suspended Solids.
25. "Va. Code" means the Code of Virginia (1950), as amended.
26. "VAC" means the Virginia Administrative Code.
27. "VDH" means the Virginia Department of Health.
28. "VPDES" means the Virginia Pollutant Discharge Elimination System.
29. "Warning Letter" or "WL" means a type of Notice of Violation under Va. Code § 62.1-44.15.

SECTION C: Findings of Fact and Conclusions of Law

1. H&W owns and operates the Facility. The Permit allows H&W to discharge treated sewage from the Facility to Wilson Creek, in strict compliance with the terms and conditions of the Permit.
2. Wilson Creek was listed as impaired for aquatic life due to temperature in the draft 2014 305(b)/303(d) Integrated Report as a Va. Category 5C water (i.e., the water quality standard is not attained due to "suspected" natural conditions, the water is impaired for one or more designated uses by a pollutant(s) and may require the development of a TMDL, water quality standards for these waters may be re-evaluated due to the presence of natural conditions, or water quality standard is not attained and the water is impaired or threatened for one or more designated uses (excluding

shellfish use) by a pollutant(s) and requires a TMDL). The impairment is believed to be naturally occurring and drought related. The Facility discharge point in not within the impaired segment.

3. In submitting its Discharge Monitoring Reports ("DMRs"), as required by the Permit, H&W has indicated that it exceeded effluent discharge limitations contained in Part I.A.1of the Permit, for the May (TSS), June (BOD_5 and TSS), and August (TSS) 2013 compliance periods. Additional effluent discharge limitation exceedances were reported for the February (BOD_5), March (E. coli), April (BOD_5, E. coli, TSS, DMR and permit application received late), June (BOD_5, TSS and E. coli), July (BOD_5, E. coli, and TSS), August (E. coli), September (TSS), October (E. coli and TSS), and December 2014(TSS), January (BOD_5, TSS and E. coli), February (BOD_5, TSS and E. coli), March (BOD_5, TSS and E. coli), and April 2015 (BOD_5, TSS and E. coli) compliance periods.

4. The Department issued WLs and NOVs for the violations described in paragraph C.3., above. H&W personnel and/or their consultants contacted the Department in response to the WLs/NOVs in a timely manner.

5. The Facility's manager, Mr. Dana Walker and his environmental consultants met with the Department of Environmental Quality ("Department" or "DEQ") enforcement staff at the Department's Blue Ridge Regional Office (BRRO-R) in Roanoke on October 7, 2014 to discuss the violations and corrective action required to return to compliance. Mr. Walker discussed the operational problems experienced during the previous year, which included hydraulic overloading due to excessive I&I, and the deteriorating condition of the package treatment system. He informed the Department that H&W had retained an engineer to recommend several options to correct the effluent violations experienced and return to compliance. The option Mr. Walker has chosen will be the installation of an AOSS in conjunction with a drip-fed subsurface drain field to replace the failing treatment system and eliminate further discharges to surface waters.

6. The Facility's operating logs indicate that it discharged treated wastewater from May 1, 2013 through April 30, 2015.
7. Va. Code § 62.1-44.5.A. states that: "Except 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."
8. 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.
9. Va. Code § 62.1-44.15(5a) states that a VPDES Permit is a "certificate" under the statue.
10. The Department has issued no permits or certificates to H&W other than VPDES Permit No. VA0089001.
11. Wilson Creek is a surface water located wholly within the Commonwealth and is a "state water" under State Water Control Law.
12. Based on Department staff observations and findings, in addition to the DMRs and additional documentation submitted by H&W, the Board concludes that H&W has violated the Permit, the Va. Code and the Regulation by failing to comply with the conditions of the Permit, as summarized in paragraph C.3., above.

SECTION D: Agreement and Order

By virtue of the authority granted it pursuant to Va. Code § 62.1-44.15, the Board orders H&W , and H&W agrees to perform the actions described in Appendix A and Appendix B of this Order.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of the H&W, for good cause shown by H&W, 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 the purposes of this Order and subsequent actions with respect to this Order only, H&W admits the jurisdictional allegations, the findings of fact and conclusions of law contained herein this Order.

4. H&W 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. H&W 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 H&W 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. H&W 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 other such occurrence. H&W shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. H&W 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 listed above, which H&W intends 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, their 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 H&W.

11. This Order shall continue in effect until:

a. The Director or his designee terminates the Order after H&W has completed all of the requirements of the Order;

b. H&W 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 H&W.

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

13. Any plans, reports, schedules or specifications attached hereto or submitted by H&W and approved by the Department pursuant to this Order are incorporated into this Order. Any noncompliance with such approved documents shall be considered a violation of this Order.

14. The undersigned representative of H&W 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 H&W to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of H&W.

15. 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.

16. By its signature below, H&W voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 19th day of August, 2015.

Robert J. Weld, Regional Director
Blue Ridge Regional Office
Department of Environmental Quality

H&W Properties, LLC voluntarily agrees to the issuance of this Order.

Date: 8/11/15 By: _____, _____
Dana A. Walker Manager

Commonwealth of Virginia

City/County of ROANOKE

The foregoing document was signed and acknowledged before me this 11TH day

of AUGUST, 2015, by DANA WALKER, who is

Manager of H&W Properties, LLC on behalf of the company.

Roy E. Chambers, Jr.
Notary Public - ID 363508
Commonwealth of VA
My Com. Exps. 10-31-17

_____
Notary Public

363508
Registration No.

My commission expires: 10-31-17.

Notary seal:

APPENDIX A
SCHEDULE OF COMPLIANCE

1. Prior to the effective date of this Order, H&W shall submit to the Department, for review and approval, a Plan of Action ("POA") for coming into compliance with State Water Control Law. The POA shall contain a Preliminary Engineering Report ("PER") prepared by a Professional Engineer ("P.E.") licensed to practice in the Commonwealth of Virginia and shall address the installation of an AOSS which effectively eliminates discharges from the current Facility in a manner approved by the VDH.

2. H& W shall submit an updated Facility Closure Plan to the Department for review and approval no later than **September 30, 2015**.

3. Not later than **90 days** following the effective date of this Order, H&W shall obtain all approvals required by the VDH for the installation of the AOSS outlined in the POA and PER previously submitted and approved by the Department. All plans, specifications and approvals from the VDH associated with the AOSS shall be submitted to the Department and considered an enforceable part of this Order.

4. Upon obtaining all required approvals from the VDH, H&W shall proceed with the installation of the AOSS and cease discharges from the current STP not later than **December 31, 2015**.

5. If approvals are not obtained from the VDH within 90 days of the effective date of this Order as outlined in paragraph 2. above, H&W shall submit a complete VPDES permit application package and fee to the Department not later than **December 31, 2015** for reissuance of the Permit. H&W shall also submit plans and specifications for a new package STP, capable of meeting all Permit requirements, to the Department, for review and approval, not later than **January 31, 2016**. H&W shall complete the installation of the new STP not later than **June 30, 2016**.

6. During the effective period covered by this Order, H&W shall operate the current Facility in a workmanlike manner to insure the best quality effluent of which it is capable.

7. H&W shall submit monthly effluent data from the Facility on hard-copy DMRs to the Department beginning with the August 2015 compliance period. DMRs are to be

submitted on or before the tenth of the month for the preceding month during the period this Order remains in effect.

8. H&W shall submit monthly progress reports to the department describing process control modifications made to comply with the terms and requirements of the Permit and this Order. Reports are to be submitted on or before the tenth of the month for the preceding month during the period this Order remains in effect. All correspondence and reports relating to this Order shall be sent to:

G. Marvin Booth, III
Regional Enforcement Representative
Virginia Department of Environmental Quality
Blue Ridge Regional Office
7705 Timberlake Road
Lynchburg, VA 24502

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APPENDIX B

AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA POLLUTION DISCHARGE ELIMINATION SYSTEM AND THE VIRGINIA STATE WATER CONTROL LAW

In compliance with the provisions of the Clean Water Act as amended and pursuant to the State Water Control Law and regulations adopted pursuant thereto, the following owner is authorized to discharge in accordance with the information submitted with the conditions as set forth herein.

Owner Name: **H&W Properties L.L.C.**
Facility Name: **Douthat Road Mobile Home Part STP**
City/County: Alleghany County
Facility Location: 3913 Douthat Road, Clifton Forge, VA 24422

The owner is authorized to discharge to the following receiving stream:

Stream: Wilson Creek
River Basin: James River, Upper
River Subbasin: Jackson River
Section: 12
Class: IV, Mountainous Zone Waters
Special Standards: None

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. H&W is authorized to discharge from **outfall number 001.** This discharge shall be limited and monitored by H&W as specified below:

	DISCHARGE LIMITATIONS				MONITORING REQUIREMENTS		
Effluent Characteristic	Monthly Average		Weekly Average		Minimum		
		Maximum		Maximum	Frequency	Sample Type	
Flow (MGD)	NL	NA	NA	NL	1/day	Estimate	
pH (standard units)	NA	NA	6.0	9.0	1/day	Grab	
BOD5 c	30 mg/L	1.2 kg/day	45 mg/L	1.8 kg/day	NA	NA	1/month
							Grab
Total Suspended Solids c	30 mg/L	1.2 kg/day	45 mg/L	1.8 kg/day	NA	NA	
						1/month	Grab
E. coli	126 cfu/100 mL (geometric mean)		NA	NA	NA	1/week	Grab
	(between 8 a.m. and 4 p.m.)						
Total Residual Chlorine b & c	0.08 mg/L		0.10 mg/L			1/day	
							Grab

NL = No Limitation with monitoring required NA = Not Applicable
1/day = once per day 1/week = once per week 1/month = once per month

a. The design flow of this treatment facility is 0.011 MGD. See Part I.B.2 for additional flow requirements.
b. See Part I.B.1 for Additional Total Residual Chlorine monitoring requirements.
c. See Part I.B.9 for quantification levels and reporting requirements.
d. At least 85% removal for BOD and TSS must be attained for this effluent.
e. There shall be no discharge of floating solids or visible foam in other than trace amounts.

B. Other Requirements or Special Conditions

1. **Additional Total Residual Chlorine (TRC) Limitations and Monitoring Requirements**
If chlorine is chosen as a disinfection method, TRC shall be limited and monitored [DMR code #165], by H&W as specified below:
a. H&W shall monitor the TRC at the outlet of the chlorine contact tank, prior to dechlorination, **once per day** by grab sample.
b. No more than 3 of all samples taken at the outlet of the chlorine contact tank shall be less than **1.0 mg/l** for any one calendar month [DMR code # 157].
c. No TRC sample taken at the outlet of the chlorine contact tank shall be less than **0.6 mg/l** [DMR code # 213].
d. If dechlorination facilities exist the samples above shall be collected prior to dechlorination.
e. If chlorine disinfection is not used, H&W shall discontinue TRC requirements in Part 1.A. and Part I.B.1 hereof.

2. **95% Capacity Reopener** - A written notice and a plan of action for ensuring continued compliance with the terms of this Order shall be submitted to the DEQ West Central Regional Office, when the monthly average flow influent to the sewage treatment plant reaches 95 percent of the design capacity authorized herein for each month of any three consecutive month period. The written notice shall be submitted within 30 days and the plan of action shall be received at the Blue Ridge Regional Office no later than 90 days from the third consecutive month for which the flow reached 95 percent of the design capacity. The plan shall include the necessary steps and a prompt schedule of implementation for controlling any current or reasonably anticipated problem resulting from high influent flows. Failure to submit an adequate plan in a timely manner shall be deemed a violation of this Order.

3. **CTC, CTO Requirement** - H&W shall, in accordance with the DEQ Sewage Collection and Treatment Regulation (9VAC25-790), obtain a Certificate to Construct (CTC), and a Certificate to Operate (CTO) from the DEQ Office of Wastewater Engineering (for Water Quality Improvement Funded (WQIF) projects) or submitted by the design engineer and H&W to the Department (for non WQIF projects) prior to

constructing wastewater treatment works and operating the treatment works, respectively. Non-compliance with the CTC or CTO shall be deemed a violation of this Order.

4. **Operation and Maintenance Manual Requirement** - H&W shall review the existing Operations and Maintenance (O & M) Manual and notify the DEQ Regional Office in writing within 90 days of **the effective date of this Order** whether it is still accurate and complete. If the O & M Manual is no longer accurate and complete, a revised O & M Manual shall be submitted for approval to the DEQ Regional Office within 90 days of **the effective date of this Order.** H&W will maintain an accurate, approved operation and maintenance manual for the treatment works. This manual shall detail the practices and procedures which will be followed to ensure compliance with the requirements of this Order. H&W shall operate the Facility in accordance with the approved O&M Manual. This manual shall include, but not necessarily be limited to, the following items, as appropriate:

a. Techniques to be employed in the collection, preservation, and analysis of effluent samples (and sludge samples if sludge analyses are required);

b. Procedures for measuring and recording the duration and volume of treated wastewater discharged;

c. Discussion of Best Management Practices, if applicable;

d. Procedures for handling, storing, and disposing of all wastes, fluids, and pollutants that will prevent these materials from reaching state waters.

e. Treatment works design, treatment works operation, routine preventive maintenance of units within the treatment works, critical spare parts inventory and record keeping; and,

f. A plan for the management and/or disposal of waste solids and residues.

Any changes in the practices and procedures followed by H&W shall be documented and submitted for DEQ Regional staff approval within 90 days of the effective date of the changes. Upon approval of the submitted manual changes, the revised manual becomes an enforceable part of this Order. Noncompliance with the O & M Manual shall be deemed a violation of this Order.

5. **Reliability Class** - The Facility shall meet **Reliability Class III.**

6. **Financial Assurance, Disclosure to Purchasers and/or Closure Plans** – H&W shall provide continuous coverage to implement the approved closure plan until released from financial assurance requirements by the State Water Control Board. If a transfer of ownership or operational control of this facility occurs, H&W shall comply with the requirements of 9VAC25-650 until the new owner or operator has demonstrated compliance with the requirements of 9VAC25-650. Failure to maintain adequate financial assurance in accordance with 9VAC25-650 shall be a basis for termination of this Order.

During the term of this Order, H&W shall revise the closure plan implementation cost estimate concurrently with any revision made to the closure plan which increases the closure plan cost. At a minimum, H&W shall annually adjust the closure plan implementation cost estimate in accordance with 9VAC25-650 within 60 days prior to the anniversary date of the establishment of the approved financial assurance mechanism.

H&W shall disclose the provisions of this Order to all purchasers of property served by this Facility in accordance with Section 55-519 of the Code of Virginia.

7. **Sludge Reopener** - The Board may promptly modify or revoke and reissue this Order if any applicable standard for sewage sludge use or disposal promulgated under Section 405(d) of the Clean Water Act is more stringent than any requirements for sludge use or disposal in this Order, or controls a pollutant or practice not limited in this Order.

8. **Total Maximum Daily Load (TMDL) Reopener** - This Order shall be modified or alternatively revoked and reissued if any approved wasteload allocation procedure, pursuant to Section 303(d) of the Clean Water Act, imposes wasteload allocations, limits or conditions on the Facility that are not consistent with the Order's requirements.

9. **Compliance Reporting**

a. The quantification levels (QL) of all data reported shall be less than or equal to the following concentrations:

Effluent Parameter	Quantification Level
BOD5	5.0 mg/l
Total Suspended Solids	1.0 mg/l
Chlorine	0.10 mg/l

The QL is defined as the lowest concentration used to calibrate a measurement system in accordance with the procedures published for the method. It is the responsibility of H&W to ensure that proper quality assurance/quality control (QA/QC) protocols are followed during the sampling and analytical procedures. QA/QC information shall be documented to confirm that appropriate analytical procedures have been used and the required QLs have been attained. H&W shall use any method in accordance with Part II A of this Appendix.

b. Monthly Average - Compliance with the monthly average limitations and/or reporting requirements for the parameters listed in subsection a. above shall be determined as follows: All concentration data below the QL used for the analysis shall be treated as zero. All concentration data equal to or above the QL used for the analysis shall be treated as it is reported. An arithmetic average shall be calculated using all reported data for the month, including the defined zeros. This arithmetic average shall be reported on the Discharge Monitoring Report (DMR) as calculated. If all data are below the QL used for the analysis, then the average shall be reported as "<QL". If reporting for quantity is required on the DMR and the reported monthly average concentration is <QL, then report "<QL" for the quantity. Otherwise use the reported concentration data (including the defined zeros) and flow data for each sample day to determine the daily quantity and report the monthly average of the calculated daily quantities.

Weekly Average - Compliance with the weekly average limitations and/or reporting requirements for the parameters listed in subsection a. of this Order condition shall be determined as follows: All concentration data below the QL used for the analysis shall be treated as zero. All concentration data equal to or above the QL used for the analysis shall be treated as reported. An arithmetic average shall be calculated using all

reported data, including the defined zeros, collected within each complete calendar week and entirely contained within the reporting month. The maximum value of the weekly averages thus determined shall be reported on the DMR. If all data are below the QL used for the analysis, then the weekly average shall be reported as "<QL". If reporting for quantity is required on the DMR and the reported weekly average concentration is <QL, then report "<QL" for the quantity. Otherwise use the reported concentration data (including the defined zeros) and flow data for each sample day to determine the daily quantity and report the maximum weekly average of the calculated daily quantities.

Single Datum - Any single datum required shall be reported as "<QL" if it is less than the QL used for the analysis. Otherwise the numerical value shall be reported.

c. Significant Digits - H&W shall report at least the same number of significant digits as the effluent limit for a given parameter. Regardless of the rounding convention used by H&W (i.e., 5 always rounding up or to the nearest even number), H&W shall use the convention consistently, and shall ensure that consulting laboratories employed by the permittee use the same convention.

10. **Sludge Use and Disposal** - H&W shall conduct all sewage sludge use or disposal activities in accordance with the Sludge Management Plan (SMP) approved for the Facility. Any proposed changes in the sewage sludge use or disposal practices or procedures followed by H&W shall be documented and submitted for DEQ approval 90 days prior to the effective date of the changes. Upon approval, the revised SMP becomes an enforceable part of this Order. This Order may be modified or alternatively revoked and reissued to incorporate limitations or conditions necessitated by substantive changes in sewage sludge use or disposal practices.

STANDARD CONDITIONS

A. MONITORING

1. Samples and measurements taken as required by this Order shall be representative of the monitored activity.

2. Monitoring shall be conducted according to procedures approved under Title 40 Code of Federal Regulations Part 136 or alternative methods approved by the U.S. Environmental Protection Agency, unless other procedures have been specified in this Order.

3. H&W shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will insure accuracy of measurements.

B. RECORDS

1. Records of monitoring information shall include:

a. The date, exact place, and time of sampling or measurements;

b. The individual(s) who performed the sampling or measurements;

c. The date(s) and time(s) analyses were performed;

d. The individual(s) who performed the analyses;
e. The analytical techniques or methods used; and
f. The results of such analyses.

2. Except for records of monitoring information required by this Order related to H&W sewage sludge use and disposal activities, which shall be retained for a period of at least five years, H&W shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, and copies of all reports required by this Order for a period of at least 3 years from the date of the sample, measurement, report or application. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to H&W, or as requested by the Board.

C. REPORTING MONITORING RESULTS

1. H&W shall submit the results of the monitoring required by this Order not later than the 10th day of the month after monitoring takes place, unless another reporting schedule is specified elsewhere in this Order. Monitoring results shall be submitted to: Virginia Department of Environmental Quality, West Central Regional Office, 3019 Peters Creek Road, Roanoke, VA 24019-2738.

2. Monitoring results shall be reported on a Discharge Monitoring Report (DMR) or on forms provided, approved or specified by the Department.

3. If H&W monitors any pollutant specifically addressed by this Order more frequently than required by this Order using test procedures approved under Title 40 of the Code of Federal Regulations Part 136 or using other test procedures approved by the U.S. Environmental Protection Agency or using procedures specified in this Order, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or reporting form specified by the Department.

4. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this Order.

D. DUTY TO PROVIDE INFORMATION

H&W shall furnish to the Department, within a reasonable time, any information which the Board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Order or to determine compliance with this Order. The Board may require H&W to furnish, upon request, such plans, specifications, and other pertinent information as may be necessary to determine the effect of the wastes from its discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of the State Water Control Law. H&W shall also furnish to the Department upon request, copies of records required to be kept by this Order.

E. COMPLIANCE SCHEDULE REPORTS

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this Order shall be submitted no later than each schedule date.

F. UNAUTHORIZED DISCHARGES

Except in compliance with this Order, or a permit issued 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.

G. REPORTS OF UNAUTHORIZED DISCHARGES

If H&W 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, Section F.; or discharges or causes or allows a discharge that may reasonably be expected to enter state waters in violation of Part II, Section F., H&W 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 Order.

Discharges reportable to the Department under the immediate reporting requirements of other regulations are exempted from this requirement.

H. REPORTS OF UNUSUAL OR EXTRAORDINARY DISCHARGES

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, H&W 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 affects on aquatic life and the known number of fish killed. H&W 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, Section I.2. Unusual and extraordinary discharges include but are not limited to any discharge resulting from:

1. Unusual spillage of materials resulting directly or indirectly from processing operations;
2. Breakdown of processing or accessory equipment;
3. Failure or taking out of service some or all of the treatment works; and
4. Flooding or other acts of nature.

I. REPORTS OF NONCOMPLIANCE

H&W shall report any noncompliance which may adversely affect state waters or may endanger public health.

1. An oral report shall be provided within 24 hours from the time H&W becomes aware of the circumstances. The following shall be included as information which shall be reported within 24 hours under this paragraph:

a. Any unanticipated bypass; and

b. Any upset which causes a discharge to surface waters.

2. A written report shall be submitted within 5 days and shall contain:

a. A description of the noncompliance and its cause;

b. The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and

c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The Board may waive the written report on a case-by-case basis for reports of noncompliance under Part II, Section I. if the oral report has been received within 24 hours and no adverse impact on state waters has been reported.

3. H&W shall report all instances of noncompliance not reported under Part II, Sections I.1. or 2., in writing, at the time the next monitoring reports are submitted. The reports shall contain the information listed in Part II, Section I.2.

NOTE: The immediate (within 24 hours) reports required in Part II, Sections G., H. and I. may be made to the Department's Regional Office at (540) 562-6700 (voice) or (540) 562-6725 (fax). For reports outside normal working hours, leave a message and this shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Services maintains a 24 hour telephone service at 1-800-468-8892.

J. NOTICE OF PLANNED CHANGES

1. H&W shall give notice to the Department as soon as possible of any planned physical alterations or additions to the Facility. Notice is required only when:

a. H&W plans alteration or addition to any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

(1) After promulgation of standards of performance under Section 306 of Clean Water Act which are applicable to such source; or

(2) After proposal of standards of performance in accordance with Section 306 of Clean Water Act which are applicable to such source, but only if the standards are promulgated in accordance with Section 306 within 120 days of their proposal;

b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations nor to notification requirements specified elsewhere in this Order; or

c. The alteration or addition results in a significant change in H&W's sludge use or disposal practices, and such alteration, addition, or change may justify the application of conditions that are different from or absent in this Order, including notification of

additional use or disposal sites not previously reported during a permit application process or not reported pursuant to an approved land application plan.

2. H&W shall give advance notice to the Department of any planned changes in the Facility or activity which may result in noncompliance with the requirements of this Order.

K. SIGNATORY REQUIREMENTS

1. Documents. All document submittals shall be authorized as follows:

a. For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (i) A president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

c. For a municipality, state, federal, or other public agency: By either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a public agency includes: (i) The chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

2. Reports, etc. All reports required by this Order, and other information requested by the Board shall be signed by a person described in Part II, Section K.1., or by a duly authorized representative of that person. A person is a duly authorized representative only if:

a. The authorization is made in writing by a person described in Part II, Section K.1.;

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated Facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.); and

c. The written authorization is submitted to the Department.

3. Changes to authorization. If an authorization under Part II, Section K.2. is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part II, Section K.2. shall be submitted to the Department prior to or together with any reports, or information to be signed by an authorized representative.

4. Certification. Any person signing a document under Parts II, Section K.1. or 2. shall make the following certification:
"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

L. DUTY TO COMPLY

H&W shall comply with all conditions of this Order. Any noncompliance with this Order constitutes a violation of the State Water Control Law and the Clean Water Act, except that noncompliance with certain provisions of this Order may constitute a violation of the State Water Control Law but not the Clean Water Act. Noncompliance with the terms of this Order constitutes grounds for termination or modification of this Order.

H&W shall comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under Section 405(d) of the Clean Water Act within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if this Order has not yet been modified to incorporate the requirement.

M. EFFECT OF ORDER

This Order does not convey any property rights in either real or personal property or any exclusive privileges, nor does it authorize any injury to private property or invasion of personal rights, or any infringement of federal, state or local law or regulations.

N. State Law

Nothing in this Order shall be construed to preclude the institution of any legal action under, or relieve H&W from any responsibilities, liabilities, or penalties established pursuant to any other state law or regulation or under authority preserved by Section 510 of the Clean Water Act. Except as provided in this Order, conditions on "bypassing" (Part II, Section U.), and "upset" (Part II, Section V.) nothing in this Order shall be construed to relieve H&W from civil and criminal penalties for noncompliance.

O. OIL AND HAZARDOUS SUBSTANCE LIABILITY

Nothing in this Order shall be construed to preclude the institution of any legal action or relieve H&W from any responsibilities, liabilities, or penalties to which H&W is or may be subject under Sections 62.1 44.34:14 through 62.1 44.34:23 of the State Water Control Law.

P. PROPER OPERATION AND MAINTENANCE

H&W 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 H&W to achieve compliance with the conditions of this Order. 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 H&W only when the operation is necessary to achieve compliance with the conditions of this Order.

Q. DISPOSAL OF SOLIDS OR SLUDGES

Solids, sludges or other pollutants removed in the course of treatment or management of pollutants shall be disposed of in a manner so as to prevent any pollutant from such materials from entering state waters.

R. DUTY TO MITIGATE

H&W shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this Order which has a reasonable likelihood of adversely affecting human health or the environment.

S. NEED TO HALT OR REDUCE ACTIVITY NOT A DEFENSE

It shall not be a defense for H&W in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this Order

T. BYPASS

1. "Bypass" means the intentional diversion of waste streams from any portion of the Facility. H&W may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Part II, Sections U.2. and U.3.

2. Notice

a. Anticipated bypass. If H&W knows in advance of the need for a bypass, prior notice shall be submitted, if possible at least ten days before the date of the bypass.

b. Unanticipated bypass. H&W shall submit notice of an unanticipated bypass as required in Part II, Section I.

3. Prohibition of bypass

a. Bypass is prohibited, and the Board may take enforcement action against a permittee for bypass, unless:

(1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back up equipment should have been installed in the exercise of reasonable engineering judgment to prevent

a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(3) H&W submitted notices as required under Part II, Section U.2.

b. The Board may approve an anticipated bypass, after considering its adverse effects, if the Board determines that it will meet the three conditions listed above in Part II, Section U.3.a.

U. UPSET

1. An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of Part II, Section V.2. are met. A determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is not a final administrative action subject to judicial review.

2. If H&W wishes to establish the affirmative defense of upset, H&W shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

a. An upset occurred and that the permittee can identify the cause(s) of the upset;

b. The Facility was at the time being properly operated;

c. H&W submitted notice of the upset as required in Part II, Section I.; and

d. H&W complied with any remedial measures required under Part II, Section S.

3. In any enforcement proceeding, if H&W seeks to establish the occurrence of an upset, H&W has the burden of proof.

V. INSPECTION AND ENTRY

H&W shall allow the Director, or an authorized representative, upon presentation of credentials and other documents as may be required by law, to:

1. Enter upon H&W's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this Order;

2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Order;

3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order; and

4. Sample or monitor at reasonable times, for the purposes of assuring compliance or as otherwise authorized by the Clean Water Act and the State Water Control Law, any substances or parameters at any location.

For purposes of this section, the time for inspection shall be deemed reasonable during regular business hours, and whenever the Facility is discharging. Nothing contained herein shall make an inspection unreasonable during an emergency.