COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

STATE WATER CONTROL BOARD ENFORCEMENT ACTION

SPECIAL ORDER BY CONSENT

ISSUED TO

THE TOWN OF CRAIGSVILLE

(VPA Permit No. VPA01542)

SECTION A: Purpose

This is a Special Order by consent issued under the authority of Va. Code § 62.1-44.15(8a) and (8d) between the State Water Control Board and the Town of Craigsville to resolve certain violations of environmental laws and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.

2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia as described in Va. Code §§ 62.1-44.7 and 10.1-1184.

3. "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 DEQ.

5. "VRO" means the Valley Regional Office of the DEQ.

6. "Craigsville" or "the Town" means the Town of Craigsville, Virginia.

7. "VPA" means Virginia Pollution Abatement.

8. "VPA Permit Regulation" means 9 VAC 25-32-10 *et seq.*

9. "The Permit" means VPA Permit No. VPA01542 issued to Craigsville on December 17, 2002 with an expiration date of December 16, 2012.

10. "Order" means this document, also known as a Consent Special Order.

11. "NOV" means Notice of Violation.

12. "Facility" means the sewage treatment plant serving Craigsville.

13. "STP" means sewage treatment plant

14. "CSPDC" means the Central Shenandoah Planning District Commission.

15. "ACCF" means the Augusta County Correctional Facility, a Virginia Department of Corrections prison.

16. "O&M" means operations and maintenance.

17. "SMP" means sludge management plan.

18. "PER" mean preliminary engineering report.

SECTION C: Findings of Fact and Conclusions of Law

1. Craigsville owns and operates the Facility which is the subject of the Permit. The Permit was reissued on December 17, 2002, with an expiration date of December 16, 2012. The Facility serves Craigsville and the nearby ACCF.

2. The Facility provides primary wastewater treatment in two separate sets of Imhoff tanks with one set serving the Town and one set serving the ACCF. Wastewater from the Imhoff tanks then flows to a series of three lagoons and is ultimately land applied onto a 53.5 acre site. The design flow of the Facility has been rated and approved as 0.25 MGD.

3. The Facility was originally designed in the 1980s to accommodate wastewater flows from the Town which then and now has a population of 979 and from the ACCF which then had an inmate population of approximately 768. The inmate population presently fluctuates around 1600, bringing the total population currently served by the Facility to approximately 2660. This increase in the population served by the Facility has resulted in

wastewater flows that routinely exceed 95% of the design influent flow to the Facility. During 20 months out of a 34 month period (January 2005 through October 2007), the monthly average flows through the Facility exceeded the Facility's design flow.

4. Excessive flows compound other operational problems which stem from the Facility's now out-moded design and limitations presented by the steep topography of the land application site. The gravity flow distribution system fails to provide even, consistent wastewater application. The karst geology underlying the land application area has precluded effective monitoring of groundwater quality at the land application site.

5. Beginning in the early 1990s, the CSPDC had explored the development of a regional sewer system to serve the Bells Valley area, including Craigsville, the ACCF, the Augusta Springs area, the Town of Goshen and Stillwater. A PER was developed that indicated that a Bells Valley Regional STP would be a cost effective remedy for the area's sewage handling problems.

6. In reliance on its ability to connect to a new regional STP, Craigsville agreed to a Permit special condition (Part I.C.5.) which required Craigsville to cease all spray irrigation by December 16, 2006. The goal was that the reissued Permit would allow for the continued operations of the Facility until the Town connected to the (then) proposed Bells Valley Regional STP or until a VPDES permit was issued for a new "local" STP. At the time, it appeared that the Bells Valley Regional STP would be online within four years.

7. Had the reissued Permit not contained the December 16, 2006 requirement to cease spray irrigation, it would have instead included a schedule for upgrading the Facility's land application equipment and design.

8. Following Permit reissuance, however, plans for a Bells Valley Regional STP were abandoned. In examining its alternatives to regional plant connection, Craigsville and DEQ ultimately determined that it was not feasible to upgrade the land application equipment at the Facility to meet current land application regulatory requirements.

9. As the alternative to conveying wastewater to a Bells Valley Regional STP, Craigsville ultimately agreed to upgrade and modify the Facility from a land application to a discharging treatment system. However, a number of complicated permitting, design, and funding issues have significantly delayed the planning and construction of the Facility's upgrade, most significantly the lack of a wasteload allocation for a discharge.

10. DEQ issued Warning Letter W2007-02-V-1019 on February 6, 2007, to Craigsville for failure to cease land application by December 16, 2006, and exceedances of the Plant Available Nitrogen limits on Fields #1 and #3 during November and December 2006.

11. On March 14, 2007, representatives of Craigsville, ACCF, CSPDC and DEQ met to discuss the mechanisms needed to move forward with the construction of the upgraded

Facility to address the expiration of the Permit's authorization to continue spray irrigation. During the March 14, 2007, meeting, DEQ requested that Craigsville submit a plan and schedule for construction of the upgraded Facility

12. DEQ issued the following NOVs to Craigsville:

    a. NOV W2007-05-V-0015 on May 14, 2007 for failure to cease land application by December 16, 2006 and failure to maintain a 2 foot freeboard in the lagoons;
    b. DEQ issued NOV W2007-07-V-0002 on July 6, 2007, to Craigsville for failure to cease land application by December 16, 2006, failure to maintain a 2 foot freeboard in the lagoons and failure to notify DEQ of the freeboard exceedance; and,
    c. DEQ issued NOV W2007-08-V-0015 on August 6, 2007, to Craigsville for failure to cease land application by December 16, 2006.

13. Funding and wasteload allocation impediments have been resolved. By letters dated November 13, 2007 and November 30, 2007, Craigsville, via its consultant, submitted to DEQ an updated plan and schedule for the construction of a new discharging sewage treatment plant to replace its failing land application system. The new discharging treatment plant is to be designed for a flow capacity of 0.435 MGD.

14.. DEQ issued NOV W2008-05-V-0001 on May 6, 2008, to Craigsville for failure to cease land application by December 16, 2006 and failure to maintain a minimum chlorine residual of 2.0 mg/l in treated wastewater being land applied to Field #1.

SECTION D: Agreement and Order

1. Accordingly, the Board, by virtue of the authority granted it in Va. § 62.1-44.15(8a) and (8d), orders Craigsville and Craigsville agrees, to perform the actions described in Appendix A of this Order. In addition, the Board orders Craigsville, and Craigsville voluntarily agrees, to pay a civil charge of **$2,200** within **30 days** of the effective date of the Order in settlement of the violations cited in this Order. Payment shall be made by check payable to the "Treasurer of Virginia", delivered to:

    Receipts Control
    Department of Environmental Quality
    Post Office Box 1104
    Richmond, Virginia 23218

    Either on a transmittal letter or as a notation on the check, Craigsville shall: 1) indicate that the check is submitted pursuant to this Order, and 2) include its Federal Identification Number.

2. Craigsville is authorized to operate the wastewater spray irrigation system in accordance with its Permit until the earlier of the following two dates at which time all spray irrigation under the Permit shall cease:

   a. 90 days following completion of the new sewage treatment plant; or
   b. **December 31, 2010**, whichever occurs first.

3. Until the completion of the Facility upgrade, Craigsville will operate the Facility in a workmanlike fashion so as to produce the best quality effluent and wastewater application of which the Facility is capable.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Craigsville, for good cause shown by Craigsville, or on its own motion after notice and opportunity to be heard.

2. This Order only addresses and resolves those violations specifically identified herein in Section C. 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 as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.

3. For purposes of this Order and subsequent actions with respect to this Order, Craigsville admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.

4. Craigsville 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. Craigsville declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, 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 enforce this Order.

6. Failure by Craigsville 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. Craigsville 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 occurrence. Craigsville shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Craigsville shall notify the DEQ Regional Director in writing 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 Director of the VRO within 24 hours of learning of any condition above, which Craigsville 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 Craigsville. Notwithstanding the foregoing, Craigsville 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. Craigsville petitions the VRO Director to terminate the Order after it has completed all requirements of this Order, and the Regional Director determines that all requirements of the Order have been satisfactorily completed; or
   b. The Director, his designee, or the Board may terminate this Order in his or its sole discretion upon 30 days written notice to Craigsville.

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

12. The undersigned representative of Craigsville 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 Craigsville to this document. Any documents to be submitted pursuant to this Order shall be submitted by a responsible official of Craigsville.

13. By its signature below, the Town of Craigsville voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 29th day of July, 2008.

Amy T. Owens, Regional Director

Department of Environmental Quality

The Town of Craigsville voluntarily agrees to the issuance of this Order.

By: _____

Date: 5/25/08

Commonwealth of Virginia

City/County of Augusta

The foregoing document was signed and acknowledged before me this 29th day of May, 2008 by Richard L. Fox (name), who is Mayor (title) of Craigsville on behalf of the Town of Craigsville.

Helen W. Cauley 107806
Notary Public

My commission expires: January 31, 2011.

APPENDIX A
SCHEDULE OF COMPLIANCE
THE TOWN OF CRAIGSVILLE

1. Craigsville shall inspect all of the Facility's spray-field heads weekly to ensure that the heads are functioning so as to ensure maximum usage of the spray-field. Craigsville shall keep a log of the weekly inspections noting the number of spray-field heads that were functioning or not and what actions the Town took to address any non functioning spray-field heads. Craigsville shall submit to DEQ along with the Facility's monthly monitoring report a copy of the logs of the weekly inspections for that month.

2. Craigsville has submitted to DEQ for review and approval a PER for the Facility upgrade. Craigsville shall respond to comments on the PER **within 30 days** of receipt of written comments on the PER.

3. **Within 210 days** of approval of the PER, Craigsville shall submit to DEQ for review and approval the plans and specifications for the Facility upgrade. Craigsville shall respond to comments on the plans and specifications **within 30 days** of receipt of written comments.

4. **Within 30 days** of approval of the plans and specifications, Craigsville shall advertise for bids for the approved Facility upgrade.

5. **Within 45 days** of receipt of bids for the Facility upgrade, Craigsville shall award the contract for the Facility upgrade.

6. **Within 45 days** of award of the contract for the Facility upgrade, Craigsville shall issue a Notice to Proceed, hold a Preconstruction Meeting and begin construction of the Facility upgrade.

7. **Within 600 days** of beginning construction of the Facility upgrade, Craigsville shall complete construction of the Facility upgrade. At the same time, Craigsville shall submit to DEQ for review and approval a revised O&M Manual and SMP for the Facility upgrade. Craigsville shall respond to comments on the O&M Manual and/or the SMP within **30 days** of receipt of written comments.

8. **Within 30 days** of completing construction of the Facility upgrade, Craigsville shall request a CTO for the Facility upgrade. Craigsville shall respond to comments on the CTO request **within 30 days** of any written comments.

9. **Within 30 day** of receipt of the CTO or by March 31, 2011, whichever occurs first, Craigsville shall comply with the Permit's effluent limitations.

GENERAL REQUIREMENTS

10. Craigsville shall submit Quarterly Progress Reports to DEQ, with the first report being **July 10, 2008**. Subsequent Progress Reports will be submitted by **October 10, January 10, April 10 and July 10**, along with the Facility's Monitoring Report until the cancellation of this Order. The progress reports shall contain:

    a. a summary of all work completed since the previous progress report in accordance with this Order;
    b. a projection of the work to be completed during the upcoming quarterly period in accordance with this Order; and
    c. a statement regarding any anticipated problems in complying with this Order.

11. No later than **14 days** following a date identified in the above schedule of compliance Craigsville shall submit to DEQ's VRO a written notice of compliance or noncompliance with the scheduled item. In the case of noncompliance, the notice shall include the cause of noncompliance, any remedial actions taken, and the probability of meeting the next scheduled item.