COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
NORTHERN REGIONAL OFFICE
13901 Crown Court, Woodbridge, Virginia 22193
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Douglas W. Domenech
Secretary of Natural Resources

David K. Paylor
Director

STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
LOUISA COUNTY WATER AUTHORITY
FOR
LOUISA REGIONAL SEWAGE TREATMENT PLANT
VPDES Permit No. VA0067954

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 Louisa County Water Authority, regarding the Louisa Regional Sewage Treatment Plant, for the purpose of resolving certain violations of the State Water Control Law and the applicable permit and regulation.

SECTION B: Definitions

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

1. "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.

2. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.

3. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

4. "DMR" means Discharge Monitoring Report.

5. "Facility" or "Plant" means the Louisa Regional Sewage Treatment Plant located in Louisa County, Virginia, which treats and discharges treated sewage and other municipal wastes, for the residents and businesses of Louisa County.

6. "LCWA" means "Louisa County Water Authority", an authority created pursuant to the Virginia Water and Waste Authorities Act, Va. Code § 15.2-5100 *et seq.* Louisa County Water Authority is a "person" within the meaning of Va. Code § 62.1-44.3.

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

8. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.

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

10. "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.

11. "Permit" means VPDES Permit No. VA0067954, issued under the State Water Control Law and the Regulation to Louisa County Water Authority.

12. "Regulation" means the VPDES Permit Regulation, 9 VAC 25-31-10 *et seq.*

13. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.

14. "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.

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

16. "VAC" means the Virginia Administrative Code.

17. "VPDES" means the Virginia Pollutant Discharge Elimination System.

18. "Warning Letter" or "WL" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.

SECTION C: Findings of Fact and Conclusions of Law

1. LCWA operates the Plant in Louisa County, Virginia. The Permit authorizes LCWA to discharge treated sewage and other municipal wastes from the Plant, to Beaver Creek, in strict compliance with the terms and conditions of the Permit.

2. Beaver Creek is located in the York River Basin. There has not been any ambient monitoring conducted on the receiving stream. However, there is a listed impairment of the recreation use due to elevated *E.coli* levels in the downstream South Anna River identified in the 305(b)/303(d) Integrated Report. A TMDL for the listed South Anna River impairment was approved in August 2006. The facility was assigned a waste load

allocation in the TMDL, and there is no evidence that discharges from the Plant are contributing to the above-described impairment.

3. LCWA also owns and operates the Laboratory which analyzes compliance samples for the Plant as well as for several other LCWA facilities.

4. In submitting its DMRs, as required by the Permit, LCWA has reported exceedances of the discharge limitations contained in Part I.A.1 of the Permit for the monthly concentration average limit and the weekly concentration average maximum limit for total recoverable Zinc for the months of June, July, October, November and December 2008, January, February, March, May, June, July, August, September, October and November 2009, and February, June, July, August, and September 2010. LCWA has exceeded the discharge limitations contained in Part I.A.1 of the Permit for the weekly concentration average maximum limit for total recoverable Zinc for February 2010. LCWA has also exceeded the discharge limitations contained in Part I.A.1 of the Permit for the monthly concentration average limit and the weekly concentration average maximum limit for Ammonia as N (November-March) in March 2010. LCWA has also failed to meet its instantaneous concentration minimum limit for pH in November 2008.

5. In submitting its DMRs as required by the Permit, LCWA has failed to comply with the sample analysis frequency as contained in Part I.A.1 of the Permit for *E.coli* in November 2008, and for Ammonia as N (April-October) in April 2009, and for failing to report sample type for Total Nitrogen for the Calendar Year and Year to Date, and Total Phosphorus for the Calendar Year and Year to Date in its December 2008 DMR.

6. In submitting its DMRs as required by the Permit, LCWA failed to report as required by Part II.C.1 of the Permit, *E.coli* during the February 2009 monitoring period, the monthly concentration average and the weekly concentration average maximum for total recoverable zinc, and the monthly concentration average and the weekly concentration average maximum for total Nitrite + Nitrate-N, the monthly concentration average for TKN, the monthly concentration average for Total Nitrogen, and the monthly concentration average for Total Phosphorus for the April 2009 monitoring period. LCWA failed to report the monthly concentration average for Total Nitrogen during the August 2009 monitoring period, the monthly concentration average for Total Nitrogen during the October 2009 monitoring period, the monthly concentration average for Total Nitrogen during the November 2009 monitoring period, and the monthly concentration average for Total Phosphorus, the monthly concentration average for TKN, the monthly concentration average for Total Nitrogen, the Total Nitrogen- Year to Date, and the Total Phosphorus- Year to Date during the January 2010 monitoring period.

7. In submitting its DMRs as required by the Permit, LCWA failed to meet the requirements of Part I.B.2.c as demonstrated by the laboratory reporting errors noted in the April 2009, and February and March 2010 DMRs for E. *coli*.

8. NRO conducted an inspection of the Plant and laboratory on March 11, 2009. Both operational and laboratory deficiencies were noted by DEQ and subsequently documented in an inspection report dated April 17, 2009, indicating that LCWA failed to

properly operate and maintain all facilities and systems of treatment in violation of Part II, Sections A.2, A.3, B.1.c, and Q of the Permit.

9. NRO conducted a follow up inspection of the Plant and laboratory on May 8, 2009. Both operational and laboratory deficiencies were noted by DEQ, and subsequently documented in an inspection report dated May 26, 2009, indicating that LCWA failed to properly operate and maintain all facilities and systems of treatment in violation of Part I, Sections A.2, A.3, B.l.c and Q of the Permit.

10. As a result of the laboratory deficiencies noted in the April 17, 2009, and May 26, 2009 inspection reports, DEQ issued a letter to LCWA on May 27, 2009, recommending that LCWA discontinue permit compliance sample analysis for Ammonia as Nitrogen, Carbonaceous Biochemical Oxygen Demand, and Total Suspended Solids, and by June 5, 2009 make arrangements to have all compliance sample analysis for the aforementioned parameters performed by a commercial laboratory.

11. Part I.F.3 of the Permit requires that LCWA review the existing O&M Manual and notify DEQ in writing whether it is still accurate and complete by June 4, 2010. DEQ received this notification from LCWA on August 2, 2010.

12. NRO issued Warning Letters and a Notice of Violation for the aforementioned violations as follows: WL No.W2008-11-N-1009, issued November 10, 2008; WL No. W2008-12-N-1004, issued December 4, 2008;WL No.W2009-02-N-1003, issued February 9, 2009; WL No.W2009-03-N-1010, issued March 11, 2009; NOV No. 2009-04-N-0003, issued April 8, 2009; NOV No. 2009-05-N-0001, issued May 13, 2009; NOV No. 2009-07-N-0003, issued July 14, 2009; NOV No. 2009-08-N-0002, issued August 14, 2009; NOV No. 2009-09-N-0001, issued September 10, 2009; NOV No. 2009-11-N-0003, issued November 9, 2009; NOV No. 2009-12-N-0002, issued December 10, 2009; NOV No. 2010-01-N-0002, issued January 11, 2010; NOV No. 2010-05-N-0003, issued May 21, 2010; NOV No. 2010-08-N-0009, issued August 30, 2010; NOV No. 2010-09-N-0006, issued September 10, 2010; NOV No. 2010-10-N-0003 issued October 15, 2010.

13. LCWA's Discharge Monitoring Reports indicate that it discharged treated wastewater from the Plant every day from June 1, 2008 through August 31, 2010.

14. Va. Code §62.1-44.5 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."

15. 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.

16. Va. Code § 62.1-44.15(5a) states that a VPDES permit is a "certificate" under the statute.

17. The Department has issued no permits or certificates to LCWA for the Plant, other than VPDES Permit No. VA0067954 and Nutrient General Permit VAN030125. The General

Permit addresses waste load allocations for Total Nitrogen and Total Phosphorus which are not at issue in this Order.

18. The unnamed tributary of Beaver Creek is a surface water located wholly within the Commonwealth and is a "state water" under State Water Control Law.

19. Based on the foregoing information collected by DEQ, the State Water Control Board concludes that LCWA by discharging treated sewage and municipal wastes from the Plant while concurrently failing to comply with the conditions of the Permit, and by failing to practice proper O&M of the Plant and its appurtenances and failing to use required laboratory procedures and controls, all as described in paragraphs C4 to C11 above, violated the following statutory and/or regulatory provisions:

- 9 VAC 25-31-50.A.1
- Va. Code §62.1-44.5
- Part I, page 1, Section A.1 of the Permit
- Part I, page 5, Section B.1.c of the Permit
- Part I, page 5, Section B.2.c of the Permit
- Part I, page 16, Section F.3 of the Permit
- Part II, page 6, Section Q of the Permit
- Part II, page 1, Section A.2 of the Permit
- Part II, page 1, Section A.3 of the Permit
- Part II, page 1, Section C.1 of the Permit

20. In order for LCWA to return to compliance, DEQ staff and representatives of LCWA 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 LCWA, and LCWA agrees to:

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

2. Pay a civil charge of $50,760.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order, to be paid as follows:

   a. LCWA shall pay $10,152.00 of the civil charge within 30 days of the effective date of this Order. Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

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

LCWA 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).

b. LCWA shall satisfy $40,608.00 of the civil charge by satisfactorily completing the Supplemental Environmental Project (SEP) as described in Appendix B of this Order.

c. The net project costs of the SEP to LCWA shall not be less than the amount set forth in Paragraph D.2.b. If it is, LCWA shall pay the remaining amount in accordance with Paragraph D.2.a of this Order, unless otherwise agreed to by the Department. "Net project cost" means the net present after-tax cost of the SEP, including tax savings, grants, and first-year cost reductions and other efficiencies realized by virtue of the project implementation. If the proposed SEP is for a project for which LCWA will receive an identifiable tax savings (e.g., tax credits for pollution control or recycling equipment), grants, or first-year operation cost reductions or other efficiencies, the net project cost shall be reduced by those amounts. The costs of those portions of SEPs that are funded by state or federal low-interest loans, contracts, or grants shall be deducted.

d. By signing this Order, LCWA certified that it has not commenced performance of the SEP.

e. LCWA acknowledges that it is solely responsible for completing the SEP project. Any transfer of funds, tasks, or otherwise by LCWA to a third party, shall not relieve LCWA of its responsibility to complete the SEP as described in this Order.

f. In the event it publicizes the SEP or SEP results, LCWA shall state in a prominent manner that the project is part of a settlement of an enforcement action.

g. The Department has the sole discretion to:

    i. Authorize any alternate, equivalent SEP proposed by LCWA; and

    ii. Determine whether the SEP, or alternate SEP, has been completed in a satisfactory manner.

h. Should the Department determine that LCWA has not completed the SEP, or alternate SEP, in a satisfactory manner, the Department shall so notify LCWA in writing. Within 30 days of being notified, LCWA shall pay the amount specified in Paragraph D.2.b above as provided in Paragraph D.2.a, above.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of LCWA for good cause shown by LCWA, 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, LCWA admits the jurisdictional allegations, and neither admits or denies the findings of fact, and conclusions of law contained herein.

4. LCWA 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. LCWA 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 LCWA 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. LCWA 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. LCWA shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. LCWA 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 LCWA 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 LCWA. Nevertheless, LCWA 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. LCWA 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

    b. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to LCWA.

    Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve LCWA 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 LCWA 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 LCWA 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 LCWA to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of LCWA.

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, LCWA voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 4th day of February, 2011.

Thomas A. Faha

Thomas A. Faha, Regional Director
Department of Environmental Quality

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Louisa County Water Authority voluntarily agrees to the issuance of this Order.

Date: Nov. 30, 2010 By: _____, Chairman
(Person) (Title)
James Bogdan

Commonwealth of Virginia

City/County of Louisa

The foregoing document was signed and acknowledged before me this 30th day of November, 2010, by James Bogdan who is Chairman of Louisa County Water Authority, on behalf of the Louisa County Water Authority.

Pamela S. Kincheloe
Notary Public

154664
Registration No.

My commission expires: 01/31/11

Notary seal:

PAMELA S. KINCHELOE
Notary Public
Commonwealth of Virginia
154664
My Commission Expires Jan 31, 2011

APPENDIX A
SCHEDULE OF COMPLIANCE

Louisa County Water Authority (LCWA) shall:

1. Evaluate and update the Louisa County Water Authority laboratory Standard Operating Procedures (SOPs) to include all current laboratory procedures, QA/QC, Standard Method Requirements, and a laboratory training program. The SOPs for the analysis of those parameters that are currently performed in-house, shall be submitted to DEQ by December 31, 2010, for review and approval. Once approved by DEQ, the SOPs shall be incorporated into the Louisa Regional and Zion Crossroads O&M Manuals. Prior to engaging in any future in-house laboratory analysis, SOPs shall be submitted to DEQ for review and approval.

2. Beginning November 1, 2010, keep a detailed log of all Plant maintenance including how often the Ultra Violet (UV) system is cleaned. This log shall be kept up to date and maintained on site for DEQ review.

3. Submit to DEQ for review and approval by January 31, 2011, a plan and schedule detailing the steps LCWA shall take to obtain an approvable pretreatment program. Said plan and schedule shall include all elements required by 9 VAC Part VII, and VPDES Permit VA0067954 Part I D.3, to develop an approvable pre-treatment program and shall include, but not be limited to the following requirements:

    A. Local limits, including a spreadsheet showing all calculations, and a comprehensive narrative explaining how the local limits were derived;
    B. A revised Sewer Use Ordinance and an Enforcement Response Plan;
    C. Inter-jurisdictional agreements for the pretreatment program for the Towns of Mineral and Louisa.

    Any comments provided to LCWA regarding the aforementioned submittal shall be addressed by LCWA to DEQ in writing within 30 days of receipt of comments. Once approved by DEQ, the aforementioned plan and schedule shall become an enforceable part of this Order.

4. Submit a plan and schedule to DEQ for review and approval by January 31, 2011, detailing the measures that LCWA will take to meet permitted zinc limits, including an evaluation of the current temporary chemical addition system. Once approved by DEQ, said plan and schedule shall be implemented by LCWA and shall become enforceable under this Order.

5. Submit completed Chain of Custody and Certificate of Analysis forms and any applicable bench sheets for compliance samples with each monthly DMR to DEQ for the life of this Order.

6. Documents to be submitted to the Department, other than the civil charge payment described In Section D of this Order, shall be sent to:
    Department of Environmental Quality
    Northern Regional Office

Attn: Enforcement
13901 Crown Court
Woodbridge, VA 22193

APPENDIX B
SUPPLEMENTAL ENVIRONMENTAL PROJECT

In accordance with Va. Code § 10.1-11862, Louisa County Water Authority (LCWA) shall perform the Supplemental Environmental Project (SEP) identified below in the manner specified in this Appendix:

1. The SEP to be performed by LCWA is the design and construction of the facilities needed to provide effluent from the current design flows treated at the Zion Crossroads Wastewater Treatment Facility to the adjacent Spring Creek Golf Course and residential development (Development) for reuse by the Development as irrigation water.

2. LCWA has agreed to undertake an evaluation of alternatives for providing the treated effluent to the Development with the objective of identifying the most cost-effective engineering design for the SEP. LCWA will complete the evaluation and submit the result of its alternatives evaluation and a preliminary engineering report for the SEP to the Department by April 1, 2011. The cost of the alternatives evaluation and preliminary engineering report shall be paid for from funds other than the $40,608.00 allocated to the SEP in Paragraph D.2 of this Order.

3. LCWA shall complete the SEP no later than December 31, 2015. Beginning July 1, 2011, and every six months thereafter until the SEP is completed, LCWA shall submit written progress reports to the Department.

4. Within 30 days following completion of the SEP, LCWA shall submit a written final report on the SEP, verifying that the SEP has been completed in accordance with the terms of this Order, and certified by a responsible official of LCWA.

5. If the SEP has not or cannot be completed as described in the Order, LCWA shall notify DEQ in writing no later than 30 days after said determination. Such notification shall include:

   a. an alternate SEP proposal, or
   b. payment of the amount specified in Paragraph D.2 of this Order as described in Paragraph D.1 of this Order.

6. LCWA hereby consents to reasonable access by the Department to property or documents under LCWA's control for verifying progress or completion of the SEP.

7. LCWA shall submit to the Department written verification of the final overall and net project cost of the SEP in the form of a certified statement itemizing costs, invoices and proof of payment, or similar documentation within 30 days of the project completion date. For the purposes of this submittal, net project costs can be either the actual, final net project costs or the projected net project costs if such projected net project costs statement is accompanied by a CPA certification or certification from LCWA's Chief Financial Officer concerning the projected tax savings, grants or first-year operation cost reductions or other efficiencies.