COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
NORTHERN VIRGINIA REGIONAL OFFICE
13901 Crown Court, Woodbridge, Virginia 22193
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L. Preston Bryant, Jr.
Secretary of Natural Resources

David K. Paylor
Director

~~Jeffery A. Steers~~
Regional Director

STATE WATER CONTROL BOARD ENFORCEMENT ACTION

SPECIAL ORDER BY CONSENT

ISSUED TO

THE TOWN OF LOVETTSVILLE

FOR

THE LOVETTSVILLE SEWAGE TREATMENT PLANT
(VPDES PERMIT NO. VA0023183)

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code §§62.1-44.15(8a) and (8d), and 10.1-1185 between the State Water Control Board and the Town of Lovettsville, regarding the Lovettsville Sewage Treatment Plant, for the purpose of resolving certain violations of the State Water Control Law and regulations.

SECTION B: Definitions

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

1. "Ammonia-N" means ammonia as nitrogen.

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. "CBOD" means Carbonaceous Biochemical Oxygen Demand.

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

5. "Director" means the Director of the Department of Environmental Quality.

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6. "D.O." means Dissolved Oxygen.

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

8. "NOV" means Notice of Violation.

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

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

11. "Permit" means Virginia Pollutant Discharge Elimination System (VPDES) Permit No. VA0023183.

12. "STP" means Lovettsville Sewage Treatment Plant located in Loudoun County, Virginia.

13. "Town" means the Town of Lovettsville, located in Loudoun County, Virginia.

14. "TSS" means Total Suspended Solids.

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

16. "WL" means Warning Letter.

SECTION C: Findings of Fact and Conclusions of Law

1. The Town owns and operates, through its consultant, Loudoun County Sanitation Authority, now known as Loudoun Water (LCSA), the STP.

2. The STP is the subject of the Permit, which authorizes the Town to discharge via Outfall 001 to an unnamed tributary of Dutchman's Creek which is located in the Potomac River Basin and Shenandoah River Basins.

3. The Town has experienced Permit effluent violations for Ammonia, TSS, E. coli, CBOD and an unauthorized bypass of the STP as well as a solids loss from the STP. DEQ sent the Town the following NOVs and WLs:

    a. WL No. W2007-12-N-1007, dated December 5, 2007 was issued for the October 2007 monitoring period, citing Permit limit violations for exceeding the monthly concentration average Permit limits for E. coli.

    b. WL No. W2008-01-N-1008, dated January 9, 2008 was issued for the November 2007 monitoring period, citing Permit limit violations for exceeding the monthly concentration average and the weekly concentration maximum limit for Ammonia-N, and for exceeding the monthly concentration average limit for E. coli.

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c. WL No. W2008-02-N-1001, dated February 5, 2008 was issued for the December 2007 monitoring period, citing Permit limit violations for exceeding the monthly concentration average and the weekly concentration maximum limit for Ammonia-N and for exceeding the monthly concentration average Permit limits for E. coli for the August 2007 monitoring period.

d. NOV No. W2008-03-N-0004, dated March 7, 2008 was issued for the January 2008 monitoring period, citing Permit limit violations for exceeding the monthly concentration average and the weekly concentration maximum limit for Ammonia-N.

e. NOV No. W2008-05-N-0003, dated May 7, 2008 was issued for the March 2008 monitoring period, citing Permit limit violations for exceeding monthly concentration average and the weekly concentration maximum limit for Ammonia-N and for exceeding the weekly concentration average maximum limit for TSS.

f. NOV No. W2008-05-N-0008, dated May 16, 2008, was issued citing a violation of the Permit for un-permitted discharge of waste to state waters. On May 2, 2008 the Town experienced a solid loss from the STP due to a mechanical failure at the STP. The solids loss was caused by the return activated sludge (RAS) line not returning from cell #2. This caused all of the RAS to be pulled from cell #1, pumping it down 3 feet. The RAS which is combined with the influent at the distribution box was split and went into both cells. This caused cell #2 to be overloaded with solids and causing the clarifier to eventually overflow, causing solids to be washed into the stream. The loss of solids was found at 0630 on May 2, 2008 with an estimated 260 pounds of solids going into Dutchman's Creek. The loss of solids was stopped immediately and a septage hauler was called to start cleaning the area up. The stream was cleaned up around the outfall, the U.V. cells were cleaned, and the post air chamber was cleaned. After the stream was cleaned, there is no visual evidence of solids in the receiving stream.

4. The Town responded to each of these WLs and NOVs with an explanation of the cause of the violation. Most of the violations can be attributed to inflow and infiltration (I&I) causing high flows at the STP.

5. Representatives for the Town, Loudoun Water, and the Town's Engineering Consultants, R. Stuart Royer, now known as Royer Malcolm Pirnie met with DEQ staff on April 1, 2008 in Lovettsville to tour the STP and to discuss both the NOVs and the potential solutions to ensure future compliance of the STP. At the time of the tour, the STP was operating correctly. During the meeting, the Town indicated that it would address the high-flow exceedances in two ways. First, a third Schreiber unit will be installed at the STP to address the building and the expansion needs of future development in the Town. The Town has submitted a request to DEQ for a permit amendment to increase the design flow from 250,000 to 375,000 gallons/day. Second, the Town will build on the I&I work it has done since 2000. A study was done evaluating the extent of the I&I problem, and the Town will implement

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rehabilitation and repair projects to solve the high-flow issues that the STP has experienced. These measures have been incorporated into Appendix A and B of this order.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code § 62.1-44.15 8(a) and 8(d) orders the Town and the Town agrees, to perform the actions described in Appendix A of this Order. In addition, the Board orders the Town, and the Town voluntarily agrees, to pay a civil charge of Ten Thousand Dollars ($10,000) in settlement of the violations cited in this Order. The payments will be made on the following dates:

1st payment of $3,000 will be paid on or before 30 days of the effective date of the Order
2nd payment of $3,000 will be paid on or before 60 days of the effective date of the Order
3rd payment of $4,000 will be paid on or before 90 days of the effective date of the Order

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia", delivered via certified mail with a cover letter to:

Department of Environmental Quality
629 East Main Street,
Richmond, VA. 23219
Attention: Receipts Control 3rd Floor

Either on a transmittal letter or as a notation on the check, the Town shall indicate that this payment is submitted pursuant to this Order and shall include the Federal Identification Number for the Town.

SECTION E: Administrative Provisions

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

2. This Order only addresses and resolves those violations specifically identified herein. 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, the Town admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.

4. The Town consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.

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5. The Town 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 the Town 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. The Town 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. The Town shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. The Town 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 Regional Director within 24 hours by telephone, and in writing within 5 days of learning of any condition above, which the Town 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.

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10. This Order shall become effective upon execution by both the Director or his designee and the Town. Notwithstanding the foregoing, the Town agrees to be bound by any compliance date which precedes the effective date of this Order.

11. This Order shall continue in effect until:

    a. The Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to the Town; or

    b. The Town petitions the Director or his designee to terminate the Order after it has completed all requirements of the Order and the Director or his designee approves the termination of the Order.

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

12. By its signature below the Town voluntarily agrees to the issuance of this Order.

13. The undersigned representative of the Town 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 the Town to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of the Town.

And it is so ORDERED this 11 day of December, 2008.

Thomas A. Faha

Thomas A. Faha, NRO Regional Director
For David K. Paylor, Executive Director
Department of Environmental Quality

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

By: Elaine Walker - Mayor

Date: September 23, 2008

Commonwealth of Virginia

City/County of Loudoun

The foregoing document was signed and acknowledged before me this 23 day of September, 2008, by Elaine Walker, who is

Mayor of the Town of Lovettsville on behalf of the Town.
(title)

Notary Public

FRANCESCA JACOBINI
NOTARY PUBLIC
REG # 7135610
COMMISSION EXPIRES 8/31/2011
COMMONWEALTH OF VIRGINIA

My commission expires: 8/31/2011.

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APPENDIX A

The Town shall:

1. **Effluent Limits:** Continue to operate the STP in a workman-like manner, as well as, continue to perform routine maintenance and upkeep of the STP in order to produce the best quality effluent of which the STP is capable during the implementation of this schedule. The Town is expected to meet all current effluent permit limits during the life of this Order except as detailed in Appendix B, for ammonia.

2. **Current I&I Rehabilitation and Repair Program:** Create and implement a Final Plan and Schedule detailing the Infiltration and Inflow (I&I) rehabilitation and repair program addressing the current I&I problems. The Final Plan and Schedule shall be provided to DEQ for review and approval within eight (8) months from the execution date of this Order. Upon approval by DEQ, the rehabilitation and repair plan and schedule shall become an enforceable part of this Order.

    a. The rehabilitation and repair plan shall include, but not be limited to:
        i. a detailed map of the sewer system,
        ii. a list of actual and proposed I&I remediation activities and proposed schedule,
        iii. a method to verify the success and effectiveness of the I&I program after the completion of work in each sewershed, which shall include the measurable reduction in wet weather flows. The Method shall determine if the rehabilitation and repair is sufficient to address the current and future permitted flows of the collection system for at least five years,
        iv. TV inspections and flow assessments reports,
        v. rate structure and budget information for system repair work,
        vi. the Town's Sanitary Sewer Overflow (SSO) response and reporting procedures, and
        vii. the Town's program to address fats, oils and grease within the system.

3. **Plant Upgrades:** Within 30 days of the execution of this Order the Town shall submit a construction schedule for the installation of: two Schreiber filter units, one UV disinfection bank, and a 2-Ring Counter-Current Schreiber unit rated at 125,000 gallons/day. The schedule set forth shall become an enforceable part of this Order.

4. **Annual I&I Program:** The Town shall establish the following procedures:

    a. Create and implement an I&I program to repair and maintain the Town's sanitary sewer collection system to proactively pursue and significantly reduce I&I sources in the sanitary collection system. The plan detailing the framework of the program shall be provided to DEQ for review and approval within eight (8) months from the execution date of this Order.

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i. The Framework shall include a description of:
   1. How the I&I Program will be managed by the Town,
   2. The system maintenance plan and the system for monthly record keeping of the inspections and maintenance activities of the collection system, and
   3. The system for ensuring that staff, consultants and operators are trained regarding the implementation of the Town's I&I program.

b. Upon approval by DEQ, the program shall become an enforceable part of this Order. In addition, the reporting requirements of the I&I program shall be incorporated into the reissuance of the Town's VPDES STP Permit, VA0023183 and shall be enforceable under the Permit.

c. The program shall be adequately funded and managed annually by ensuring the availability of fiscal resources and trained staff to carry out the necessary operation and maintenance of the Town's sanitary sewer collection system.

d. The Town shall submit an annual report before or on August 10th of each year during the life of the Consent Order to the Department of Environmental Quality Northern Regional Office, summarizing the I&I activity for the preceding fiscal year. A certification of assurance is required to document that the necessary funds, equipment and personnel will be committed to the continuation of the I&I program for the next fiscal year. The report shall also include the annual inspection information, addressing the elimination of discharge of fats, oils and grease into the system.

All correspondence required by this Order, with the exception of the civil charge as listed in Section D, shall be submitted to:

Department of Environmental Quality
Northern Regional Office
Attn: Enforcement
13901 Crown Court
Woodbridge, VA 22193

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APPENDIX B

INTERIM EFFLUENT LIMITATIONS

LOVETTSVILLE STP

During the period beginning with the effective date of this Order and lasting until completion of the upgraded treatment plant and 6 months from the issuance of CTO for the upgrades required by Appendix A, Paragraph # 3, the Town shall monitor and limit the discharge from the Lovettsville STP in accordance with VPDES Permit No. VA0023183, except as specified below. These interim limits shall apply in lieu of the A mmonia limits in the Permit and shall retroactively apply, if applicable, as of the first day of the month in which this Order becomes effective. These requirements shall be construed in light of the Board's Permit Regulation.

PARAMETER	DISCHARGE LIMITATIONS			
	Monthly Concentration Average	Weekly Concentration Average	Minimum	Maximum
Ammonia, as N	**2.4**	**NL**	N/A	N/A

N/A = Not applicable.

NL = No limit; Monitor and reporting required

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