



# 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 AIR POLLUTION CONTROL BOARD  
ENFORCEMENT ACTION - ORDER BY CONSENT  
ISSUED TO  
CITY OF MANASSAS/VIRGINIA MUNICIPAL ELECTRIC  
ASSOCIATION  
FOR  
VIRGINIA MUNICIPAL ELECTRIC ASSOCIATION PLANT  
Registration No. 71977**

**SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1309 and -1316, between the State Air Pollution Control Board and The City of Manassas/Virginia Municipal Electric Association, regarding the City of Manassas/Virginia Municipal Electric Association Plant, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the applicable permit and regulations.

**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 Air Pollution Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1301.
2. "CFR" means the Code of Federal Regulations, as incorporated into the Regulations.
3. "Department" or "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 Department of Environmental Quality, as described in Va. Code § 10.1-1185.
5. "Facility" or "Plant" means the City of Manassas/Virginia Municipal Electric Association facility, located at 9898 Godwin Drive in Prince William County, Virginia. The facility is a peaking electric power generation plant.

6. "COM/VMEA" means City of Manassas/Virginia Municipal Electric Association, an association authorized to do business in Virginia and its affiliates, partners, subsidiaries, and parents. COM/VMEA is a "person" within the meaning of Va. Code § 10.1-1300.
7. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
8. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
9. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the Virginia Air Pollution Control Law.
10. "Permit" means a Title V permit to operate a peaking electric power generation plant, which was issued under the Virginia Air Pollution Control Law and the Regulations to COM/VMEA on September 28, 2001.
11. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 9 VAC 5 chapters 10 through 80.
12. "Va. Code" means the Code of Virginia (1950), as amended.
13. "VAC" means the Virginia Administrative Code.
14. "Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 *et seq.*) of Title 10.1 of the Va. Code.

### **SECTION C: Findings of Fact and Conclusions of Law**

1. City of Manassas/Virginia Municipal Electric Association owns and operates the Facility in Manassas, Virginia. The Facility is the subject of the Permit.
2. Condition VII.C.3 of the Permit requires COM/VMEA to submit a Title V Semi-Annual Compliance Monitoring Report ("Report") on March 1 and September 1 of each calendar year.
3. On February 22, 2010, COM/VMEA reported to DEQ that it failed to submit the Report by September 1, 2009.
4. On February 25, 2010, DEQ staff conducted a Partial Compliance Evaluation ("PCE") of COM/VMEA's Report received by DEQ on February 22, 2010, for compliance with the requirements of the Virginia Air Pollution Control Law, the Permit, and the Regulations and made the following observations:
  - (a) COM/VMEA failed to submit the Report by September 1, 2009.
  - (b) No other deviations were noted.

5. On March 2, 2010, based on the PCE, the Department issued a Notice of Violation to COM/VMEA for the violations described in paragraphs C(2) through C(4), above.
6. Based on the PCE, the Board concludes that COM/VMEA has violated Permit condition VII.C.3, as described in paragraphs C(2) through C(4), above.
7. COM/VMEA submitted correspondence on March 3, 2010 that verifies that the violation described in paragraphs C(2) and C(4) above has been corrected.

**SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it pursuant to Va. Code §§ 10.1-1309 and -1316, the Board orders City of Manassas/Virginia Municipal Electric Association, and City of Manassas/Virginia Municipal Electric Association agrees to pay a civil charge of \$2,574.00 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, 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

City of Manassas/Virginia Municipal Electric Association 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).

**SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend this Order with the consent of COM/VMEA for good cause shown by COM/VMEA, 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, COM/VMEA admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. COM/VMEA 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. COM/VMEA declares it has received fair and due process under the Administrative Process Act and the Virginia Air Pollution 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 COM/VMEA 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. COM/VMEA 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. COM/VMEA shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. COM/VMEA 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.

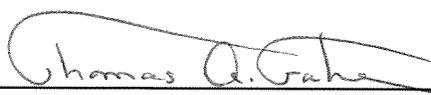
Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the COM/VMEA intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a 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 COM/VMEA.
11. This Order shall continue in effect until:
  - a. COM/VMEA 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 COM/VMEA.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve COM/VMEA 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 COM/VMEA 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 COM/VMEA 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 COM/VMEA to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of COM/VMEA.
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, COM/VMEA voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 26<sup>th</sup> day of May, 2010.

  
Thomas A. Faha, Regional Director  
Department of Environmental Quality

City of Manassas/Virginia Municipal Electric Association voluntarily agrees to the issuance of this Order.

Date: 5/17/10 By: Gregg Paulson, Deputy Director  
(Person) (Title)  
City of Manassas/Virginia Municipal Electric Association

Commonwealth of Virginia  
City/County of Prince William

The foregoing document was signed and acknowledged before me this 17<sup>th</sup> day of May, 2010, by Gregg Paulson who is Deputy Director of City of Manassas/Virginia Municipal Electric Association, on behalf of the Association.

Melissa M. Hush  
Notary Public

368446  
Registration No.

My commission expires: 10/31/2013

Notary seal: