



**COMMONWEALTH of VIRGINIA**  
**STATE WATER CONTROL BOARD**

**Richard N. Burton**  
**Executive Director**

P. O. Box 11143  
Richmond, Virginia 23230-1143  
(804) 527-5000

**STATE WATER CONTROL BOARD ENFORCEMENT ACTION**

**A SPECIAL ORDER**

**ISSUED TO**

**NATIONAL CAPITAL AREA COUNCIL**

**BOY SCOUTS OF AMERICA**

This is a Special Order (the "Order"), issued by the State Water Control Board (the "Board") under the authority of Sections 62.1-44.15(8a)-(8d) of the Code of Virginia to the National Capital Area Council, Boy Scouts of America, (the "BSA").

The BSA owns Lake Merriweather which is located in Rockbridge County. On December 14, 1992 a State Water Control Board Headquarters staff member and staff from the Department of Game and Inland Fisheries and the Department of Conservation and Recreation investigated a report of excessive sedimentation of the Maury River coming from the Little Calfpasture River. The sedimentation was attributed to the BSA's draining of the lake by opening the subsurface discharge valve of the dam. The lake was being drained in order to have two dam gates repaired. On December 17, 1992 staff from the State Water Control Board's Valley Regional Office investigated a fish kill in the Little Calfpasture River due to the sedimentation. Two hundred and twenty-three dead fish were counted. Notice of Violation No. 93-01-VRO-001 was issued on January 15, 1993 to the BSA citing the following violations:

Prohibition of waste discharges or other quality alteration of State waters except as authorized by permit [(unpermitted discharge of sediment which resulted in an alteration of physical, chemical, or biological properties of State waters and produced a fish kill), a violation of Section 62.1-44.5 of the Code of Virginia, 1950, as amended, Section 1.5 of the Permit Regulation VR 680-14-01, Sections

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A&B of the General Standards VR 680-21-01.2 and Section 1.5 of the Virginia Water Protection Regulation VR 680-15-02.]

In order to prevent such violations in the future, the Board orders the BSA and the BSA voluntarily agrees to comply with the requirements contained in Appendix A of this Order.

The BSA also agrees that within fifteen (15) days of the effective date of this Order, it will deliver to the State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230, Attention: Accounting, a check in the amount of \$733.35 payable to the Commonwealth of Virginia/State Water Control Board. This amount includes a civil charge of \$221.89 which shall be in voluntary settlement of the fish kill and a reimbursement to the State of Virginia of \$511.46 for investigative costs. The BSA shall also include in this submittal a separate check in the amount of \$266.65 payable to the Department of Game and Inland Fisheries for fish replacement costs.

The BSA waives its rights to service of, a hearing on, written findings of fact and conclusions of law in support of, and judicial review of this Order. The BSA agrees that the Board may cancel this Order, in its sole discretion, upon thirty days written notice, and that otherwise, the Order may be modified only with the BSA's consent or after due notice and opportunity for hearing.

Nothing herein shall be construed as an admission or determination of a violation of any law or regulation.

This Order shall become effective upon the date of its execution by the Executive Director or his designee.

And it is so ORDERED this 30 day of April, 1993.

State Water Control Board

*for*   
Richard N. Burton  
Executive Director

The BSA hereby voluntarily agrees to the issuance of this Order:

J. Alexander Hopper  
Name: J. Alexander Hopper  
Title: Director of Support Service  
for the National Capital Area  
Council, Boy Scouts of America  
Date: March 9, 1993

State of ~~Virginia~~ MARYLAND  
City/County of MONTGOMERY

The foregoing Order was executed before me this 9<sup>th</sup> day of  
March, 1993 by J. ALEXANDER HOPPER of the  
National Capital Area Council, Boy Scouts of America.

Philip E. Melberg  
Notary Public

My commission expires: \_\_\_\_\_

PHILIP E. MELBERG  
NOTARY PUBLIC STATE OF MARYLAND  
My Commission Expires December 1, 1993

**APPENDIX A**

**NATIONAL CAPITAL AREA COUNCIL**

**BOY SCOUTS OF AMERICA**

In order to come into compliance with the applicable laws and regulations, the BSA shall follow the schedule of compliance listed below:

1. By **October 1, 1993** the BSA shall submit for approval to the Valley Regional Office one of the following:
  - A. a plan and schedule for the implementation of an alternate method for maintenance and/or repair of the dam without having to drain the lake via the subsurface discharge valve; or
  - B. a plan and schedule for the construction of a cofer dam which would be used as a settling basin in cases when the lake needs to be drained via the subsurface discharge valve.
2. Until an alternate method for draining the lake is implemented, if the subsurface discharge valve to the dam must be opened, the BSA shall take the following steps:
  - A. At least twenty four hours prior to opening the subsurface discharge valve, the BSA shall notify the State Water Control Board's Valley Regional Office that it intends to open the subsurface discharge valve. In case of emergency in order to protect the integrity of the dam, the BSA may open the valve without such notification but shall notify the Valley Regional Office of the opening of the valve within twenty four hours of it being opened.
  - B. Whenever there is a discharge from the subsurface discharge valve while the water level in the lake is below 9'6", the BSA shall monitor, report and control the discharge in the following manner:
    1. Samples for pH, dissolved oxygen (D.O.) and total settleable solids must be analyzed following the appropriate protocol outlined in Standard Methods for the Examination of Water and Wastewater, 17th Edition.
    2. The samples must be taken at a point approved by a representative of the State Water Control Board's Valley Regional Office.

3. The samples must be representative of the discharge that is occurring, i.e. taken while the subsurface discharge valve is discharging during active draining or during lowered lake level maintenance.

4. On the first day of discharge, the samples shall be taken every hour for the first four hours after the subsurface discharge valve has been opened and every four hours thereafter during daylight hours. Sampling shall continue daily thereafter until the valve has been closed, at a rate of one sample every four hours to begin at 6:00 a.m. and to stop at 6:00 p.m. for a total of four samples daily.

5. The daily analysis results shall be sent by telefax to the Valley Regional Office on the day following the sampling.

6. If at any time during the discharge, any one sample indicates a D.O. level below 5.0 mg/l, a pH level below 6.0 units or above 9.0 units or the settleable solids level exceeds 0.2 ml/l, then the subsurface discharge valve must be closed immediately, and notice must be provided to the Valley Regional Office within two hours. If the Valley Regional Office is closed, then the BSA shall notify the State Water Control Board's Pollution Response Program, (804) 527-5200.

7. In a case of emergency to protect the integrity of the dam, the subsurface discharge valve may remain open even if the effluent limits in paragraph number 6 have been violated. If it is not an emergency and the subsurface discharge valve must be closed due to a violation of the effluent limits in paragraph number 6, then the BSA may resume the discharge only after receipt of written approval from the Valley Regional Office.