COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
NORTHERN REGIONAL OFFICE
13901 Crown Court, Woodbridge, Virginia 22193
(703) 583-3800 Fax (703) 583-3821
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Molly Joseph Ward
Secretary of Natural Resources

David K. Paylor
Director

Thomas A. Faha
Regional Director

STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
STAFFORD COUNTY BOARD OF SUPERVISORS
FOR
SANITARY SEWER COLLECTION SYSTEMS
ASSOCIATED WITH
THE
AQUIA WASTEWATER TREATMENT FACILITY
VPDES PERMIT NO. VA0060968
AND
THE
LITTLE FALLS RUN WASTEWATER TREATMENT PLANT
VPDES PERMIT NO. VA0076392

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 the Stafford County Board of Supervisors, regarding the Sanitary Sewer Collection Systems associated with the Little Falls Run Wastewater Treatment Plant and the Aquia Wastewater Treatment Facility for the purpose of resolving certain violations of 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. "305(b) report" means the report required by Section 305(b) of the Clean Water Act (33 United States Code § 1315(b)), and Va. Code § 62.1-44.19:5 for providing Congress and

the public an accurate and comprehensive assessment of the quality of State surface waters.

2. "Aquia Facility" means the Aquia Wastewater Treatment Facility located at 75 Coal Landing Road, Stafford, Stafford County, Virginia, which treats and discharges treated sewage from domestic, commercial, and light industrial sources.

3. "Aquia Permit" means VPDES Permit No. VA0060968, which was issued under the State Water Control Law and the Regulation to the Stafford County Board of Supervisors on November 20, 2013, and which expires on November 19, 2018.

4. "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.

5. "Collection System" means the sanitary sewer collection system owned by Stafford County Board of Supervisors.

6. "County" means the Stafford County Board of Supervisors, a political subdivision of the Commonwealth of Virginia. The Stafford County Board of Supervisors is a "person" within the meaning of Va. Code § 62.1-44.3.

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

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

9. "Discharge" means discharge of a pollutant. 9 VAC 25-31-10.

10. "Discharge of a pollutant" when used with reference to the requirements of the VPDES permit program means:

    a. Any addition of any pollutant or combination of pollutants to surface waters from any point source; or

    b. Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.

11. "Effluent" means wastewater – treated or untreated – that flows out of a treatment plant, sewer, or industrial outfall.

12. "Little Falls Facility" means the Little Falls Run Wastewater Treatment Plant located at 952 Kings Highway, Fredericksburg, Stafford County, Virginia, which treats and discharges treated sewage from domestic, commercial, and light industrial sources.

13. "Little Falls Permit" means VPDES Permit No. VA0076392, which was issued under the State Water Control Law and the Regulation to the Stafford County Board of Supervisors on September 29, 2010, and which expires on September 28, 2015.

14. "MGD" means million gallons per day.

15. "NOV" means Notice of Violation.

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

17. "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.

18. "Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 USC § 2011 *et seq.*), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water… 9 VAC 25-31-10.

19. "Pollution" means such alteration of the physical, chemical, or biological properties of any state waters as will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious to the public health, safety, or welfare or to the health of animals, fish, or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an alteration of the physical, chemical, or biological property of state waters or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution but which, in combination with such alteration of or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the Board, are "pollution." Va. Code § 62.1-44.3.

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

21. "SSO" means Sanitary Sewer Overflow.

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

23. "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.

24. "TV" means the television inspection of the sewer lines.

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

26. "VAC" means the Virginia Administrative Code.

27. "VPDES" means Virginia Pollutant Discharge Elimination System.

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

SECTION C: Findings of Fact and Conclusions of Law

1. The County owns and operates the Little Falls Facility located in Stafford County, Virginia. The Little Falls Permit authorizes the County to discharge treated sewage from domestic, commercial, and light industrial sources from the Little Falls Facility, to the Rappahannock River, in strict compliance with the terms and conditions of the Permit. The design flow of the Facility is 8.0 MGD.

2. Claiborne Run is located within the Rappahannock River Basin. This segment is listed in DEQ's 2012 305(b)/303(d) Integrated Report as not supporting the recreation use due to exceedances of the maximum *E. coli* bacteria criterion and for impairments to fish consumption, due to PCBs.

3. On August 12, 2014, County staff reported a discharge of approximately 740,000 gallons of sewage from a manhole at the Claiborne Run Pump Station located at 146 Cool Springs Road into Claiborne Run. The Claiborne Run Pump Station is located within the Little Falls Facility collection system. County staff attributed the cause of the discharge to a force main break. This incident was assigned IR#2015-N-0439.

4. The Little Falls Permit at Part II.F states: "Except in compliance with this permit, or another permit issued by the Board, it shall be unlawful for any person to: 1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or 2. Otherwise alter the physical, chemical, or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the use of such waters for domestic or industrial consumption, or for recreation, or for other uses."

5. As a result of the reported August 12, 2014 SSO, DEQ issued a NOV, No. W2014-10-N-0002, to the County, dated October 22, 2014.

6. The County owns and operates the Aquia Facility located in Stafford County, Virginia. The Aquia Permit authorizes the County to discharge treated sewage from domestic, commercial, and light industrial sources from the Aquia Facility, to an unnamed tributary to Austin Run, in strict compliance with the terms and conditions of the Permit. The design flow of the Facility is 10.0 MGD.

7. Aquia Creek is located within the Potomac River Basin. This segment is listed in DEQ's 2012 305(b)/303(d) Integrated Report for impairments to fish consumption, due to PCBs.

8. On November 25, 2014, County staff reported a discharge of approximately 450,000 gallons of sewage from the Woodstream Sanitary Sewer Easement area located at 281 Woodstream Boulevard, into an unnamed tributary to Aquia Creek. The easement is located within the Aquia Facility collection system. The County attributed the cause of the discharge to a line blockage. This incident was assigned IR#2015-N-1290.

9. The Aquia Permit at Part II.F states: "Except in compliance with this permit, or another permit issued by the Board, it shall be unlawful for any person to: a. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or 2. Otherwise alter the physical, chemical, or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the use of such waters for domestic or industrial consumption, or for recreation, or for other uses.

10. As a result of the reported November 25, 2014 SSO, DEQ issued a NOV, No. W2014-12-N-0005, to the County, dated December 17, 2014.

11. On December 9, 2014, representatives of the County met with DEQ staff to discuss the reported SSOs. At the meeting County staff stated that the County is currently working on reconditioning projects to upgrade the collection system and the pump stations serving the County.

12. On March 5, 2015, County staff reported a discharge of approximately 141,200 gallons of sewage from the Camp Barrett Pump Station force main located at Montezuma Avenue, Stafford, Virginia, into Aquia Creek. The Camp Barrett Pump Station is located within the Aquia Facility collection system. The County attributed the cause of the discharge to force main repairs. This incident was assigned IR#2015-N-2084.

13. On March 5, 2015, County staff reported a discharge of approximately 4,500 gallons of sewage from the Ebenezer Church Pump Station, which shares the force main with the Camp Barrett Pump Station located in Stafford, Virginia, into Aquia Creek. The Ebenezer Church Pump Station and the Camp Barrett Pump Station are located within the

Aquia Facility collection system. The County attributed the cause of the discharge to a force main break. This incident was assigned IR#2015-N-2011.

14. On March 12, 2015, County stated in an email to DEQ, that the County was planning to replace the manhole just upstream from the blockage causing the November 2014 SSO along with the adjacent sewer lines within the Woodstream Sanitary Sewer Easement Area. In addition, Stafford would schedule the TVing of the lines farther upstream in order to investigate the line for other failures outside the November 2014 SSO incident area.

15. On March 14, 2015, County staff reported a discharge of approximately 450 gallons of sewage from the utility easement in front of 144 Debra Drive, Stafford, Virginia, into Aquia Creek. The impacted force main is located within the Aquia Facility collection system. The County attributed the cause of the discharge to a force main break. This incident was assigned IR#2015-N-2174.

16. The Aquia Permit at Part II.F states: "Except in compliance with this permit, or another permit issued by the Board, it shall be unlawful for any person to: a. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or 2. Otherwise alter the physical, chemical, or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the use of such waters for domestic or industrial consumption, or for recreation, or for other uses.

17. On March 15, 2015, County staff reported a discharge of approximately 950 gallons of sewage from the collection system located at 199 Ingleside Drive, Stafford, Virginia, into an unnamed stream to the Rappahannock River. The point of discharge is located within the Little Falls Facility collection system. This incident was assigned IR#2015-N-2109.

18. On March 18, 2015, County staff reported a discharge of approximately 2,000 gallons of sewage from a manhole located at the sewer easement off of Baron Park Road, Stafford, Virginia, into an unnamed stream to the Claiborne Run. The manhole is located within the Little Falls Facility collection system. This incident was assigned IR#2015-N-2136.

19. On April 24, 2015, County staff reported a discharge of approximately 110,000 gallons of sewage from the Falls Run Pump Station force main located at the St. Clair Brooks Park on 80 Butler Road, Falmouth, Virginia, into an unnamed stream to the Rappahannock River. The Falls Run Pump Station is located within the Little Falls Facility collection system. The County attributed the cause of the discharge to a force main break. This incident was assigned IR#2015-N-2509.

20. The Little Falls Permit at Part II.F states: "Except in compliance with this permit, or another permit issued by the Board, it shall be unlawful for any person to: 1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or 2. Otherwise alter the physical, chemical, or biological properties of such

state waters and make them detrimental to the public health, or to animal or aquatic life, or to the use of such waters for domestic or industrial consumption, or for recreation, or for other uses."

21. Va. Code § 62.1-44.5 states that: "[E]xcept 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."

22. 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.

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

24. Aquia Creek is a surface water located wholly within the Commonwealth and is a "state water" under the State Water Control Law.

25. Claiborne Run is a surface water located wholly within the Commonwealth and is a "state water" under the State Water Control Law.

26. Based on the SSO reports, and submitted documents, the Board concludes that the County has violated the Little Falls Permit and Va. Code § 62.1-44.5 and 9 VAC 25-31-50, by discharging untreated sewage and domestic wastes from the collection system, as described in paragraphs C(3) and C(17) – C(19) above.

27. Based on the SSO reports, and submitted documents, the Board concludes that the County has violated the Aquia Permit and Va. Code § 62.1-44.5 and 9 VAC 25-31-50, by discharging untreated sewage and domestic wastes from the collection system, as described in paragraphs C(5-9,12,13, and 15) above.

28. The County has submitted documentation that verifies that the violations as described in paragraphs C(3) and C(19) above, have been corrected.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders the County, and the County agrees to:

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

2. Pay a civil charge $36,400.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

a. 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

The County 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). If the Department has to refer collection of moneys due under this Order to the Department of Law, the County shall be liable for attorneys' fees of 30% of the amount outstanding.

b. The County shall satisfy $32,760.00 of the civil charge by satisfactorily completing the Supplemental Environmental Project (SEP) described in Appendix B of this Order.

c. The net project costs of the SEP to the County shall not be less than the amount set forth in Paragraph D.2.b. If it is, the County 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 project implementation. If the proposed SEP is for a project for which the party 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 the County certifies that it has not commenced performance of the SEP.

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

f. In the event it publicizes the SEP or the SEP results, the County 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 the Facility; and

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

h. Should the Department determine that the County has not completed the SEP, or alternate SEP, in a satisfactory manner, the Department shall so notify the County in writing. Within 30 days of being notified, the County 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 consent of the County for good cause shown by the County, 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, the County admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.

4. The County 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. The County 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 the County 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 County 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 County shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. The County 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 County 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 the County. Nevertheless, the County 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 his designee terminates the Order after the County has completed all of the requirements of the Order;

    b. The County 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

c. The Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to the County.

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

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, the County agrees to the issuance of this Order.

And it is so ORDERED this _____ day of _____, 2015.

_____
Thomas A. Faha, NRO Regional Director
Department of Environmental Quality

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Stafford County Board of Supervisors voluntarily agrees to the issuance of this Order.

Date: 6.16.15 By: _____, _____
(Person) (Title)

Stafford County Board of Supervisors

Commonwealth of Virginia
City/County of Stafford

The foregoing document was signed and acknowledged before me this 16 day of June, 2015, by Anthony J. Romanello who is County Administrator of the Stafford County Board of Supervisors, on behalf of the County.

Marcia C. Hollenberger
Notary Public

302480
Registration No.

My commission expires: 8/31/17

Notary seal:

MARCIA C. HOLLENBERGER
NOTARY PUBLIC
REG # 302480
COMMISSION EXPIRES 8/31/2017
COMMONWEALTH OF VIRGINIA

APPENDIX A
SCHEDULE OF COMPLIANCE

A. Corrective Action:

No later than 30 days from the execution of this Order the County shall submit an a plan and schedule for the replacement of the manhole just upstream from the blockage causing the November 2014 SSO along with the adjacent sewer lines within the Woodstream Sanitary Sewer Easement Area and TV the lines upstream outside the November 2014 SSO incident area.

B. Submissions:

Unless otherwise specified in this Order, the County shall submit all requirements of Appendix A of this Order to:

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

APPENDIX B
STAFFORD COUNTY BOARD OF SUPERVISORS
SUPPLEMENTAL ENVIRONMENTAL PROJECT (SEP)

In accordance with Va. Code § 10.1-1186.2, the County shall perform the Supplemental Environmental Project (SEP) identified below in the manner specified in this Appendix. As used in this Order and Appendix, SEP means an environmentally beneficial project undertaken as partial settlement of a civil enforcement action and not otherwise required by law.

1. The SEP to be performed by the County is to donate $32,760.00 to Crow's Nest Natural Area Preserve maintained by Virginia Department of Conservation and Recreation (DCR) for the specific project of rehabilitation and stabilization of old roads, in order to prevent erosion/sediment loss and the resulting negative water quality impacts associated with eroded sediment. The donation will be used for renting equipment as well as purchasing gravel and other supplies necessary to stabilize the road.

2. The SEP shall be deemed satisfied upon the completion of the road stabilization project.
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3. No later than 30 days from the effective date of the Order, the County shall submit proof of payment of the donation of $32,760.00 to DCR for the Crow's Nest Natural Area Preserve.

4. The County 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 either by a Certified Public Accountant or by a responsible corporate officer or owner. The County shall submit the final report and certification to the Department within 30 days from the completion date of the Sep funded road stabilization project.

5. If the SEP has not or cannot be completed as described in the Order, the County shall notify DEQ in writing no later than 30 days from the execution of this Order. Such notification shall include:
    a. an alternate SEP proposal, or
    b. payment of the amount specified in Paragraph D.2.b as described in Paragraph D.2.a.

6. The County hereby consents to reasonable access by DEQ or its staff to property or documents under the party's control, for verifying progress or completion of the SEP.

7. The County shall submit to the Department written verification of the final overall and net project cost of the SEP in the form of invoices and proof of payment 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 the County's Chief Financial Officer concerning the projected tax savings, grants or first-year operation cost reductions or other efficiencies.

8. Documents to be submitted to the Department, other than the civil charge payment described in Section D of the Order, shall be sent to the contact identified in Appendix A of this Order.