



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

PIEDMONT REGIONAL OFFICE

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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
SYNAGRO CENTRAL, LLC
FOR
THE ESSEX COUNTY/DEATON FARM STORAGE PAD
BUR PERMIT No. 042
THE FAUQUIER COUNTY/RITCHIE FARM STORAGE LAGOON
BUR PERMIT No. 68
THE GOOCHLAND COUNTY/LANIER FARM STORAGE PAD
BUR PERMIT No. 096**

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 Synagro Central, LLC, regarding the Essex County/Deaton Farm Storage Pad, the Fauquier County/Ritchie Farm Storage Lagoon, and, the Goochland County/Lanier Farm Storage Pad, for the purpose of resolving certain violations of the State Water Control Law and the applicable permits 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. "Biosolids" means a sewage sludge that has received an established treatment for required pathogen control and is treated or managed to reduce vector attraction to a satisfactory level and contains acceptable levels of pollutants, such that it is acceptable for use for land application, marketing or distribution in accordance with the regulation as defined in 9 VAC 25-32-310.
3. "BUR" means Biosolids Use Regulation. 12 VAC 5-585-10 *et seq.*

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, as described in Va. Code § 10.1-1185.
6. "Deaton Site" means the Woodworks Associates LP property formerly owned by Jack Deaton at Route 684 in Essex County, Virginia where Synagro Central, LLC manages pollutants which are the subject of BUR Permit No. 042.
7. "Essex Permit" means BUR Permit No.042 which was issued by the VDH on February 18, 1997, amended by variance on March 24, 1998 and July 3, 2003 and last reissued on March 1, 2004 for the land application and temporary storage of Biosolids at various locations including the Deaton Site. The permit was originally issued to Wheelabrator Water Technologies, Inc., BioGro Division and last reissued to Synagro Mid-Atlantic, Inc., which was subsequently acquired by Synagro.
8. "Fauquier Permit" means BUR Permit No.068 which was issued by the VDH on July 7, 1998 for the routine storage of Biosolids at the Ritchie Site. The Permit was originally issued to Wheelabrator Water Technologies, Inc., BioGro Division, and later reissued to Synagro Mid-Atlantic, Inc., which was subsequently acquired by Synagro. On December 15, 2010, DEQ issued VPA Permit No. VA00062 to Synagro for the storage lagoon and land application within Fauquier County.
9. "Goochland Permit" means BUR Permit No.096 which was issued by the VDH on October 2, 2001, and amended by variance on March 5, 2003 for the land application and temporary storage of Biosolids at various locations including the Lanier Site. The permit was originally issued to Wheelabrator Water Technologies, Inc., BioGro Division and last reissued to Synagro Mid-Atlantic, Inc. which was subsequently acquired by Synagro.
10. "Lanier Site" means the P.O. Lanier Property at Route 613 in Goochland County, Virginia where Synagro Central, LLC manages pollutants which are the subject of BUR Permit No. 096.
11. "Ritchie Site" means the Ritchie property at Route 644 near its intersection with Highway 17, South of Bealeton in Fauquier County, Virginia, where Synagro Central, LLC manages pollutants which are the subject of BUR Permit No. 068.
12. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
13. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
14. "O&M" means operations and maintenance.
15. "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.

16. "Pollutant" means any substance, radioactive material, or waste heat that causes or contributes to, or may cause or contribute to, pollution. 9VAC 25-32-310.
17. "Pollution" means such alteration of the physical, chemical or biological properties of any state waters or soil as will, or is likely to, create a nuisance or render such waters or soil (i) harmful or detrimental or injurious to the public health, safety or welfare, or to the health of animals, fish or aquatic life; (ii) unsuitable despite reasonable treatment for use as present or possible future sources of public water supply; or (iii) unsuitable for recreational, commercial, industrial, agricultural or for other reasonable uses. Such alteration is also deemed to be pollution, if there occurs: (a) an alteration of the physical, chemical or biological property of state waters or soil, or a discharge or a deposit of sewage, industrial wastes or other wastes to state waters or soil 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 or soil by other owners, is sufficient to cause pollution; (b) the discharge of untreated sewage by any owner into state waters or soil; or (c) the contravention of standards of air or water quality duly established by the State Water Control Board. 9VAC25-32-310
18. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
19. "Regulation" means the VPA Permit Regulation, 9 VAC 25-32-10 *et seq.* On January 1, 2008, regulatory oversight of all permits relating to land application of Biosolids was transferred from the Virginia Department of Health (VDH) to DEQ. This transfer occurred at the direction of the 2007 General Assembly, which passed legislation that required all land application of Biosolids in the Commonwealth of Virginia be permitted under a permit issued by DEQ. The enactment clauses of the legislation specified that BUR permits would continue to be valid for the term specified in each permit unless amended or revoked by the Board. At the time of the program transfer the provisions of the BUR were incorporated in the Regulation.
20. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.
21. "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.
22. "Supernatant" means liquid obtained from the separation of suspended matter during sludge treatment or storage. 9 VAC 25-32-550 E(5) states that land application of supernatant will be regulated in the same fashion as land application of as liquid sludge.
23. "Synagro" means Synagro Central, LLC, a limited liability company authorized to do business in Virginia and its affiliates, partners, subsidiaries, and parents. Synagro is a "person" within the meaning of Va. Code § 62.1-44.3.
24. "Va. Code" means the Code of Virginia (1950), as amended.
25. "VAC" means the Virginia Administrative Code.
26. "VPA" means Virginia Pollution Abatement.

27. "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

The Essex County/Deaton Farm Storage Pad BUR Permit No. 042

1. Synagro operates the Biosolids Storage Pad at the Deaton Site in Essex County, Virginia.
2. The management of pollutants at the Deaton Site is the subject of the Essex Permit which allows Synagro to operate the Biosolids Storage Pad ("Pad") in strict compliance with permit conditions. The Pad is an uncovered rectangular asphalt pad located within a forested area and was designed to divert storm water runoff to the east side of the pad where a forested buffer was intended to absorb remaining pollutants. However, a small ditch transported the storm water runoff for approximately 200 feet into an unnamed and intermittent tributary, which flows for 400 yards before reaching its confluence with Dragon Run.
3. The affected segment of Dragon Run is located adjacent to a site routinely used for application of Biosolids from the Pad at the Deaton Site. During the 2008 305(b)/303(d) Water Quality Assessment, Dragon Run was assessed as impaired of the Aquatic Life Use due to low dissolved oxygen; natural swampwater conditions are suspected. Dragon Run is not currently proposed for designation as a Tier 3 Exceptional Water.
4. On November 25, 2009, Department staff inspected the Deaton Site for compliance with the requirements of the State Water Control Law, the Essex Permit, and the Regulation. Department staff arrived at the site of the Storage Pad after a rain event and observed uncovered Biosolids on the Pad and a discharge running from the Pad and into the unnamed tributary of Dragon Run. Observations noted and photographs taken during the inspection indicate the nutrient laden runoff entering the ditch from the Pad was causing growth of a large number of bacterial colonies in the small ditch and the unnamed intermittent tributary of Dragon Run. This was confirmed by the sample results from December 7 and 9, 2009.
5. On December 7, 2009, following a rain event, DEQ staff conducted an inspection with field sampling for nutrients at the Deaton Site. Storm water runoff was being generated as a result of recent precipitation and was observed running from the Pad and being conveyed by the above referenced small ditch to the unnamed intermittent tributary to Dragon Run. Samples were taken in the channel leading from the Pad prior to discharge into the tributary, in the tributary just downstream of the channel from the Pad, and in Dragon Run downstream of the confluence with the tributary. Several control samples were taken in the intermittent tributary upstream of the Pad's influence and in Dragon Run upstream of its confluence with the affected tributary. Ammonia results from samples collected on December 7 indicate that the stormwater from the Pad contained 6.97 mg/l more ammonia than background control samples and sufficient to cause an exceedance of the chronic water quality standard for ammonia, if continued over a 30 day period, as well as at levels sufficient to exceed the acute water quality standard for fresh water. Additionally the samples indicated that stormwater from the Pad contained E. coli in amounts of 1,000 CFUs per 100 ml, sufficient to cause an exceedance of the water quality standard of 630

CFUs per 100 ml, as a monthly geometric mean for fresh water. Observations, photographs, and sample results taken during the inspection indicate the nutrient laden runoff entering the ditch caused growth of a large number of bacterial colonies in the small ditch and the unnamed intermittent tributary of Dragon Run.

6. On December 9, 2009, following a rain event, DEQ staff conducted an inspection with field sampling for nutrients at the Deaton Site. Storm water runoff was being generated as a result of recent precipitation and was observed running from the Pad and being conveyed by the above referenced small ditch to the unnamed intermittent tributary to Dragon Run. Samples were taken in the channel leading from the Pad prior to discharge into the tributary, in the tributary just downstream of the channel from the Pad, and in Dragon Run downstream of the confluence with the tributary. Several control samples were taken in the intermittent tributary upstream of the Pad's influence and in Dragon Run upstream of its confluence with the affected tributary. Ammonia results from samples collected on December 9 indicate that the stormwater from the Pad contained 9.64 mg/l more ammonia than background control samples and sufficient to cause an exceedance of the acute water quality standard for ammonia as well as at levels to exceed the chronic water quality standard for ammonia. Additionally the samples indicated that stormwater from the Pad contained E. coli in amounts greater than 8,000 CFUs per 100 ml, sufficient to cause an exceedance of the water quality standard of 630 CFUs per 100 ml, as a monthly geometric mean for fresh water. Observations, photographs, and sample results taken during the inspection indicate the nutrient laden runoff entering the ditch from the Pad caused excessive growth of bacterial colonies in the small ditch and the unnamed intermittent tributary of Dragon Run.
7. On December 11, 2009, DEQ staff conducted an inspection at the Deaton Site and observed stored Biosolids on the asphalt Pad. Storm water runoff was being generated as a result of recent precipitation and was observed running from the Pad and being conveyed by the above referenced small ditch to the unnamed intermittent tributary to Dragon Run. Observations and photographs taken during the inspection indicate the discharge of nutrient laden (confirmed by December sampling data) runoff from the Pad continued to cause excessive growth of bacterial colonies in the ditch and the unnamed intermittent tributary of Dragon Run.
8. On December 18, 2009, DEQ staff conducted an inspection at the Deaton Site and observed stored Biosolids on the asphalt Pad. Storm water runoff was being generated as a result of recent precipitation and was observed running from the Pad and being conveyed by the above referenced small ditch to the unnamed intermittent tributary to Dragon Run. Observations and photographs taken during the inspection indicate the discharge of nutrient laden (confirmed by December sampling data) runoff from the Pad continued to cause excessive growth of bacterial colonies in the ditch and the unnamed intermittent tributary of Dragon Run.
9. On January 5, 2010, DEQ staff conducted an inspection at the Deaton Site and observed stored Biosolids on the Pad. Storm water runoff was being generated as a result of recent precipitation and was observed running from the Pad and being conveyed by the above referenced small ditch to the unnamed intermittent tributary to Dragon Run. Observations and photographs taken during the inspection indicate the discharge of nutrient laden (confirmed by December sampling data) runoff from the Pad continued to cause excessive growth of bacterial colonies in the ditch and the unnamed intermittent tributary of Dragon Run.

10. On January 12, 2010, Department staff inspected the Deaton Site for compliance with the requirements of the State Water Control Law, the Essex Permit, and the Regulation. Department staff arrived at the site of the Storage Pad after a rain event and observed a stormwater discharge running from the Pad and into an unnamed tributary of Dragon Run. Observations and photographs taken during the inspection indicate the discharge of nutrient laden (confirmed by December sampling data) runoff from the Pad continued to cause excessive growth of bacterial colonies in the ditch and the unnamed intermittent tributary of Dragon Run.
11. On February 2, 2010, DEQ staff conducted an inspection at the Deaton Site and observed repairs made to the floor of the Pad and a newly installed retaining wall on the right side of the Pad.
12. On February 12, 2010, Department staff inspected the Deaton Site for compliance with the requirements of the State Water Control Law, the Essex Permit, and the Regulation. Department staff arrived at the site of the Pad after a rain event and observed a discharge running from the Pad and into unnamed tributary of Dragon Run. Observations and photographs taken during the inspection indicate the discharge of nutrient laden (confirmed by December sampling data) runoff from the Pad continued to cause excessive growth of bacterial colonies in the ditch and the unnamed intermittent tributary of Dragon Run.
13. 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.”.
14. The Regulation, at 9 VAC 25-32-30B, states that except in compliance with a VPA permit, or another permit issued by the Board, it is unlawful to discharge into state waters sewage, industrial wastes or other wastes.
15. The Regulation at 9 VAC 25-32-500.A states that temporary storage of Biosolids must not result in water quality problems.
16. The March 24, 1998 variance to the Deaton Permit requires:
 - a. that temporary storage of Biosolids not result in water quality problems.;
 - b. that temporary storage facilities be located 500 feet or more from surface water; and
 - c. that a synthetic liner be placed over Biosolids from the Blue Plains sewage treatment plant.
17. There have been no permits or certificates issued to Synagro other than BUR Permit No. 042 for operations at the Deaton Site. BUR Permit No. 042 does not authorize discharges from the Pad.
18. The unnamed tributary of Dragon Run is a surface water located wholly within the Commonwealth and is a “state water” under State Water Control Law.
19. On March 12, 2010, the Department issued Notice of Violation No. W2010-03-P-301 to Synagro for unpermitted discharges at the Deaton site.
20. On May 5, 2010, PRO staff met with representatives of Synagro to discuss the violations.

21. On July 15, 2010 Synagro submitted a short term water management plan to address the contaminated storm water discharges. The plan involved several items as follows: 1) installation of a concrete wall on the East side of the Pad with compacted clay on the outside to prevent leakage; 2) installation of an internal block wall to separate supernatant from solids; 3) installation of a sump and generator at the northeast corner of the Pad to pump supernatant; and, 4) installation of piping and sprinkler heads to distribute the supernatant over a forested area adjacent to and south of the Pad which was previously approved for Biosolids application under the Deaton Permit. The Department reviewed and approved the plan on July 21, 2010.
22. On November 30, 2010, DEQ staff inspected the Pad and spray site. Storm water from a recent rainfall had accumulated at a corner of the Pad. The sump pump was activated and the spray field sprinkler heads were placed into operation. DEQ staff approved the use of the system temporarily however additional measures must be instituted at the Pad to prevent discharges to State Waters.
23. Based on the results of the inspections and the May 5, 2010, meeting, the Board concludes that Synagro has violated Va. Code §62.1-44.5, 9 VAC 25-32-30B, 9 VAC 25-32-500.A and the Deaton Permit as described in paragraphs C4 through C12, above.
24. In order for Synagro to return the Deaton Site to compliance, DEQ staff and representatives of Synagro have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

**The Fauquier County/Ritchie Farm Storage Lagoon
BUR Permit No. 68**

25. Synagro operates the Biosolids Storage Lagoon at the Ritchie Site in Fauquier County, Virginia.
26. The management of pollutants at the Ritchie Site is the subject of the Fauquier Permit which allows Synagro to operate the Biosolids Storage Lagoon in strict compliance with permit conditions.
27. An unnamed tributary to Browns Run, a State Water, is located adjacent to a farm field which is routinely used for supernatant irrigation from the Storage Lagoon at the Ritchie Site. The unnamed tributary to Browns Run has not been monitored to assess water quality, however, the segment of Browns Run that extends from the confluence of the unnamed tributary downstream to the confluence with Marsh Run, is listed in the 2008 Integrated Report as not supporting the Recreation Use for exceedances of the *E. coli* bacteria criterion, and the Aquatic Life Use for failing to meet the dissolved oxygen criterion.
28. On September 10, 2009, a DEQ inspection report stated that the Storage Lagoon had been emptied of biosolids. DEQ and Synagro agree that residual biosolids remained adhered to the surface of the Lagoon after the cleanout.
29. On November 13, 2009, Department staff inspected the Ritchie Site for compliance with the requirements of the State Water Control Law, the Fauquier Permit, and the Regulation. Based on the inspection and follow-up information, Department staff made the following observations:

- a. DEQ staff arrived at the Ritchie Site during a rain event and observed an employee of Synagro irrigating supernatant from the Lagoon onto an adjacent farm field. The employee stated that he had been irrigating the supernatant for four and a half hours. After reviewing Synagro's calibration report for the irrigation system, DEQ staff estimated that approximately 63,000 gallons of supernatant had been land applied on less than one-tenth of an acre.
 - b. DEQ staff observed an employee of Synagro irrigating supernatant in the rain on a saturated field.
 - c. DEQ staff observed runoff leaving the irrigation site and entering the unnamed tributary of Browns Run by way of a grassed waterway.
30. On November 16, 2009, DEQ staff observed and documented residual biosolids adhered to the surface of the Lagoon.
31. The Regulation at 9 VAC 25-32-560 B(3)(C)(1) requires that liquid sludges not be applied at rates exceeding 14,000 gallons per acre, per application, and that drying times be allowed between subsequent applications.
32. Attachment 1 Section C4 of Synagro's O&M Manual for the Ritchie Site requires that water not be sprayed during precipitation events, and when fields are snow or ice covered or saturated. Attachment 1 Section C6 of Synagro's O&M Manual for the Ritchie Site requires that operations be discontinued when soils are saturated and will not be resumed until sufficient drying of the fields has occurred. Section D3 of the Fauquier Permit states that noncompliance with the O&M Manual shall be deemed a violation of the Fauquier Permit.
33. 9 VAC 25-32-30A requires that all pollutant management activities covered under the Fauquier Permit maintain no point source discharge of pollutants to surface waters except in the case of a storm event greater than the 25-year, 24-hour storm.
34. Attachment B Section D1 of the Fauquier Permit states that there shall be no discharge of pollutants to surface waters from this operation except in the case of a 25-year, 24-hour or greater storm event and that the operation of the facilities shall not contravene the provisions of the State Water Control Law.
35. A review of weather data indicates that the precipitation event which occurred on November 13, 2009 was smaller than a 25-year, 24-hour storm event.
36. 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."
37. Va. Code § 62.1-44.15(5a) states that a VPA Permit is a "certificate" under the statute.

38. The Regulation, at 9 VAC 25-32-30B, states that except in compliance with a VPA permit, or another permit issued by the Board, it is unlawful to discharge into state waters sewage, industrial wastes or other wastes.
39. There have been no permits or certificates issued to Synagro other than BUR Permit No. 068 (which has since been superseded by VPA Permit No. VA00062) for operations at the Ritchie Site.
40. On December 22, 2009, based on the inspection and follow-up information, the Department issued Notice of Violation No. 2009-12-N-001 to Synagro for the violations described in paragraph C29 above.
41. On February 18, 2010, NRO staff met with representatives of Synagro to discuss the violations.
42. Based on the results of the November 13, 2009, inspection and the February 18, 2010, meeting, the Board concludes that Synagro has violated Va. Code § 62.1-44.5, 9 VAC 25-32-560B(3)(C)(1), 9 VAC 25-32-30A, 9 VAC 25-32-30B, Attachment 1, Sections C4 and C6 of Synagro's O&M Manual, and Attachment B, Section D1, of the Fauquier Permit as described in paragraph C29 above.
43. Synagro has asserted to DEQ that it has ceased the practices described in Paragraph C29 above and that therefore the violations described in Paragraph C29 have been corrected.
44. In order for Synagro to return the Ritchie Site to compliance, DEQ staff and representatives of Synagro have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

**The Goochland County/Lanier Farm Storage Pad
BUR Permit No. 096**

45. Synagro operates the Biosolids Storage Pad ("Pad") at the Lanier Site in Goochland County, Virginia.
46. The managements of pollutants at the Lanier Site is the subject of the Goochland Permit which allows Synagro to operate the Pad in strict compliance with permit conditions. The Pad is an uncovered rectangular layer of asphalt positioned and surrounded on three sides by temporary concrete walls to divert storm water runoff to one corner of the Pad. The storm water runoff on the Pad is then directed through a metal pipe and discharged, as an apparent point discharge, to a riprap lined conveyance channel. The storm water runoff subsequently converges into small ditches/channels and travels down slope for approximately 300 yards where it enters an unnamed tributary of Big Lickinghole Creek.
47. The unnamed tributary of Big Lickinghole Creek is located adjacent to the Storage Pad at the Lanier Site. During the 2008 305(b)/303(d) Water Quality Assessment, the tributary was not assessed for any of the designated uses. The bacterial TMDL for Big Lickinghole Creek was approved by the EPA on June 11, 2008 and by the Board on April 28, 2009. The Total Maximum Daily Load wasteload allocations include a 99% reduction in E. coli loads from agricultural

sources in the watershed. The unnamed tributary is not currently proposed for designation as a Tier 3 Exceptional Water.

48. On June 5, 2009, DEQ staff inspected the Lanier Site for compliance with the requirements of the State Water Control Law, the Goochland Permit, and the Regulation. Storm water runoff was being generated as a result of a rainfall event. Department staff observed solids on the Pad and the storm water runoff from the storage pad was observed leaving the Pad and entering the ditches/channels described above. The runoff was observed flowing down slope and subsequently entered a wetland adjacent to the unnamed tributary to Big Lickinghole Creek. Observations and photographs taken during the inspection indicate the discharge of runoff from the Pad was impacting the unnamed tributary of Big Lickinghole Creek.
49. A review of weather data indicates that the precipitation event which occurred during the June 5, 2009 inspection was smaller than a 25-year/24-hour storm event.
50. PRO issued Warning Letter No. W2009-06-P-301 for the discharge on June 15, 2009.
51. On January 22, 2010, DEQ staff conducted a compliance inspection and observed stored Biosolids on the Pad. Storm water runoff was being generated by a rainfall event. The storm water runoff was observed leaving the pad and entering the ditches/channels previously described. The runoff was observed flowing down slope and subsequently entered a wetland adjacent to the unnamed tributary to Big Lickinghole Creek. Observations noted and a video taken during the inspection indicate the discharge of stormwater runoff continued to impact the unnamed tributary of Big Lickinghole Creek
52. A review of weather data indicates that the precipitation event which occurred during the January 22, 2010 inspection was smaller than a 25-year/24-hour storm event.
53. On March 12, 2010, based on the inspections and follow-up information, the PRO issued NOV No. W2010-03-P-301 to Synagro for the violations described in paragraphs C45 and C48 above.
54. 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.”
55. The Regulation, at 9 VAC 25-32-30B, states that except in compliance with a VPA permit, or another permit issued by the Board, it is unlawful to discharge into state waters sewage, industrial wastes or other wastes.
56. The Regulation at 9 VAC 25-32-500.A states that temporary storage of Biosolids must not result in water quality problems.
57. The March 5, 2003 variance to the Goochland Permit requires that temporary storage of Biosolids not result in water quality problems.
58. The March 5, 2003 variance to the Goochland Permit also requires that temporary storage facilities be located 200 feet or more from surface water.

59. There have been no permits or certificates issued to Synagro other than BUR Permit No. 096 for operations at the Lanier Site. BUR Permit No. 096 does not authorize discharges from the Pad.
60. The unnamed tributary to Big Lickinghole Creek is a surface water located wholly within the Commonwealth and is a "state water" under State Water Control Law.
61. On May 5, 2010, PRO staff met with representatives of Synagro to discuss the violations.
62. Based on the results of the June 5, 2009, and January 22, 2010 inspections and the May 5, 2010, meeting, the Board concludes that Synagro has violated Va. Code §62.1-44.5, 9 VAC 25-32-30B, 9 VAC 25-32-500.A and the Permit as described in paragraphs C45 and C47, above.
63. In order for Synagro to return the Lanier Site to compliance, DEQ staff and representatives of Synagro have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

By virtue of the authority granted it pursuant to Va. Code §§ 62.1-44.15, and upon consideration of Va. Code § 10.1-1186.2, the Board orders Synagro, and Synagro agrees to:

1. Perform the actions described in Appendices A and B of this Order; and
2. To a civil charge of \$65,000 in settlement of the violations cited in this Order, to be paid as follows:
 - a. Synagro shall pay \$16,250 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," delivered to:

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

- Synagro 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. Synagro shall satisfy \$48,750 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 Synagro shall not be less than the amount set forth in Paragraph D.2.b. If it is, Synagro 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 Synagro certifies that it has not commenced performance of the SEP.
 - e. Synagro acknowledges that it is solely responsible for completing the SEP project. Any transfer of funds, tasks, or otherwise by Synagro to a third party, shall not relieve Synagro of its responsibility to complete the SEP as described in this Order.
 - f. In the event it publicizes the SEP or the SEP results, Synagro 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 Synagro has not completed the SEP, or alternate SEP, in a satisfactory manner, the Department shall so notify Synagro in writing. Within 30 days of being notified, Synagro 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 Synagro for good cause shown by Synagro, 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 Facilities; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only Synagro admits to the jurisdictional allegations, and agrees not to contest, but does not admit, the findings of fact and conclusions of law in this Order.
4. Synagro 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. Synagro 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 Synagro 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. Synagro 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. Synagro shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Synagro 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 Synagro 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 Synagro. Nevertheless, Synagro 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. Synagro 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 Synagro.

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

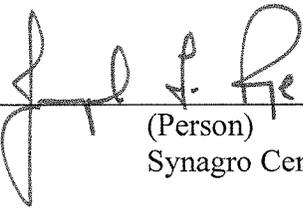
12. Any plans, reports, schedules or specifications attached hereto or submitted by Synagro and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Synagro 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 Synagro to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Synagro.
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, Synagro voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 6th day of APRIL, 2012.



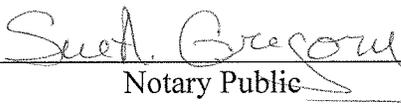
Michael P. Murphy, Piedmont Regional Director
Department of Environmental Quality

Synagro Central, LLC voluntarily agrees to the issuance of this Order.

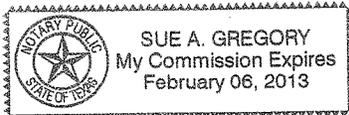
Date: 3 Feb 12 By: , Vice-President
(Person) (Title)
Synagro Central, LLC

~~Commonwealth of Virginia~~ State of Texas
City/County of Harris

The foregoing document was signed and acknowledged before me this 3rd day of
February, 2012, by Joseph L. Page who is
Vice President of Synagro Central, LLC, on behalf of the limited liability
company.


Notary Public
00039025-7
Registration No.

My commission expires: 02/06/13

Notary seal: 

**APPENDIX A
SCHEDULE OF COMPLIANCE**

**The Essex County/Deaton Farm Storage Pad
BUR Permit No. 042**

1. By April 30, 2012, Synagro must discontinue use of the Pad and either cover the Pad to prevent comingling of biosolids with stormwater or close the Pad permanently. At closure Synagro shall completely remove biosolids from the Pad, and after Department inspection, shall permanently relinquish use of the Pad. If Synagro chooses to continue use of the pad, it shall obtain a VPA application for such continued use and shall secure a CTC and a CTO for the pad cover.
2. If Synagro decides to continue use of the Pad, then on or before May 15, 2012, Synagro must submit to DEQ a nutrient management plan (NMP), for application of contaminated storm water from Pad to the forested area. Synagro shall adjust the NMP based on comments and concerns from the Department within the timeframe allowed in the correspondence. Once approved by the Department, Synagro must comply with the provisions of the approved NMP. Until the NMP is approved, Synagro shall follow the current NMP approved by the Department on July 21, 2010.

**The Goochland County/Lanier Farm Storage Pad
BUR Permit No. 096**

3. Synagro has informed DEQ that it has ceased use of the Pad at the Lanier site in order to avoid unpermitted discharges. Synagro shall not resume use of the Pad until it can be covered adequately to prevent stormwater from contacting biosolids. By April 30, 2012, Synagro must either cover the Pad or close the Pad permanently. At closure Synagro shall completely remove biosolids from the Pad, and after Department inspection, shall permanently relinquish use of the Pad. If Synagro chooses to continue use of the pad, it shall obtain a VPA application for such continued use and shall secure a CTC and a CTO for the pad cover.

**The Fauquier County/Ritchie Farm Storage Lagoon
BUR Permit No. 068**

4. Synagro shall submit a revised and complete O&M manual to the Department by March 15, 2012. Synagro shall respond to comments made by the Department on the O&M manual within the timeframe provided in any Department correspondence. The revised O&M manual shall include but may not be limited to Site Management Practices to address the handling of supernatant during wet weather. Upon approval, the O&M manual becomes an enforceable part of the Permit.

DEQ Contact - Unless otherwise specified in this Order, Synagro shall submit the requirements of Appendix A Nos. 1 through 6 of this Order to:

**Frank Lupini, Enforcement Specialist
VA DEQ –Piedmont Regional Office
4949A Cox Road,
Glen Allen, Virginia 23060**

Synagro shall submit the requirements of Appendix A No. 7 of this Order to:

**Attention Enforcement
VA DEQ –Northern Regional Office
13901 Crown Court
Woodbridge, VA 22193**

APPENDIX B
SYNAGRO CENTRAL, LLC
SUPPLEMENTAL ENVIRONMENTAL PROJECT (SEP)

In accordance with Va. Code § 10.1-1186.2, Synagro 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 Synagro is study, develop and implement best management practice (BMP) for agriculture that will reduce the amount of nitrogen lost to the environment and to educate farmers on the benefits of implementing the BMP.

As referenced in the project submittal dated December 2, 2011, the SEP has several objectives. The first is to determine the impact of growing a cover crop of cereal, legume and mixed crop systems on soil nitrogen during the cover crop and corn growing seasons. The second objective is to determine the nitrogen supplying and cycling capacity of cereal, legume and mixed crop systems for the following corn growing season. The third is to evaluate and compare a new carbon dioxide soil test with the currently used pre-sidedressed nitrogen test (PSNT) for determining soil plant available nitrogen for making accurate fertilizer application recommendations on farm fields that employ nitrogen scavenging cover crops.

The studies above will result in nitrogen recommendations that will prevent excess nitrogen from running off of agricultural fields and entering the Chesapeake Bay watershed. The new carbon dioxide test can be used to more accurately measure the amount of fertilizer the farmer needs to add, preventing over application which in turn prevents nutrient lost to the environment. In addition, the education of the farmers on implementing what the study reveals could potentially prevent the loss of millions of pounds of nitrogen from leaching away by runoff. In convincing a farmer to utilize agricultural BMPs to reduce nitrogen, other incentives must be conveyed to show the economic and crop system health and yield benefits from implementation. The more farmers can be convinced of the benefits of cover crop, the more nitrogen can be kept out of the Chesapeake Bay.

Experimental plots will be chosen with emphasis on proximity to riparian areas, inclusion within the Dragon Run watershed and opportunity to encompass acres that would not otherwise be planted in cover crops. In addition to the study plots the remaining fields at the chosen farms will be seeded with diverse cover crop mixtures. The cover crop BMP will sequester nitrogen during the colder seasons when nitrogen is typically lost by erosion. Through these studies over 8,000 acres of farmland will be influenced.

The studies will be conducted under the auspices of Virginia Tech and the education disseminated through the local Agricultural Extension Educators. A field day will be conducted at the experimental sites annually to provide farmers and their advisors hands on experience using the methods developed. Results and advice will also be published in local extension newsletters, in Virginia Tech Crop and Soil Environmental Science newsletter, and in the Delamarva Farmer, a popular agriculture publication by Southeast Farm Press. Findings from the work will be presented at winter production meetings throughout Virginia's coastal plain. In addition to educating farmers, in depth training events will be conducted for professionals working with production and conservation issues.

2. The SEP shall be completed by November 15, 2014.
3. Synagro shall submit progress reports on the SEP on a quarterly basis, with the first report due on June 15, 2012. The first report shall include details on the experimental methods used to accomplish the objectives. Subsequent reports will include a summary of the data produced by the study to that point.
4. If the SEP has not or cannot be completed as described in the Order, Synagro shall notify DEQ Piedmont Regional Director in writing within three business days. 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.
5. Synagro 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.
6. Synagro shall submit a written final report on the SEP, summarizing all the data and verifying that the SEP has been completed in accordance with the terms of this Order, and certified either by a responsible corporate officer or owner. Synagro shall submit the final report and certification to the Department on or before December 15, 2014. The final report shall include 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. 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 Synagro's Chief Financial Officer concerning the projected tax savings, grants or first-year operation cost reductions or other efficiencies.
7. 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 Piedmont contact identified in Appendix A of this Order.