



**COMMONWEALTH of VIRGINIA**  
*DEPARTMENT OF ENVIRONMENTAL QUALITY*

W. Tayloe Murphy, Jr.  
Secretary of Natural Resources

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Robert G. Burnley  
Director  
  
Gerard Seeley, Jr.  
Piedmont Regional Director

**STATE WATER CONTROL BOARD ENFORCEMENT ACTION  
SPECIAL ORDER BY CONSENT  
ISSUED TO  
DINWIDDIE COUNTY WATER AUTHORITY  
Permit No. VPDES VA0081779**

**SECTION A: Purpose**

This is a Consent Special Order issued under the authority of Va. Code §§ 10.1-1185 and 62.1-44.15(8a) and (8d), between the State Water Control Board and Dinwiddie Authority Water Authority, for the purpose of resolving certain violations of environmental law and regulations.

**SECTION B: Definitions**

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

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "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.
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.
5. "Order" means this document, also known as a Consent Special Order.
6. "The Authority" means Dinwiddie County Water Authority.
7. "Facility" means the Dinwiddie Courthouse Sewage Treatment Plant located in Dinwiddie County, Virginia.

8. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
9. "Permit" means VPDES Permit No. VA0081779, which became effective August 23, 1999, and which expired and has been administratively continued as of August 23, 2004.
10. "gpd" means gallons per day.

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

1. Dinwiddie County Water Authority owns and operates the Dinwiddie Courthouse Sewage Treatment Plant (Facility) to serve citizens, businesses and institutions in Dinwiddie County, Virginia. This Facility is the subject of VPDES Permit No. VA0081779, which allows the Authority to discharge treated wastewater into Stony Creek in strict compliance with terms, limitations and requirements outlined in the Permit.
2. On April 6, 2004, the Department issued a warning letter to the Authority for exceeding the copper limit in December 2003, and failure to submit a violation report required by Part II § I.3. of the Permit.
3. The Department issued 2 warning letters to the Authority on June 17, 2002 and August 11, 2003, for failing to submit quarterly progress report required by Part I § D.1. b. of the Permit.
4. On October 18, 2004, the Department issued an NOV to the Authority for copper violations in March, May, June, July, and August of 2004. The Permit's schedule of compliance in Part I Section D.1. requires compliance with final effluent limits for metals on or before August 23, 2003.
5. Subsequent to the effective date of the new copper limit referenced above, the Authority hired a new executive director on October 20, 2003. The new executive director has reviewed the existing Permit with staff and the Authority's Board of Directors.
6. The Authority met with the Department on November 9 and December 17 of 2004, to discuss re-issuance of the Permit and this Consent Order. The Authority is planning to expand the Facility from 50,000 gpd to 100,000 gpd and is preparing a Conceptual Engineering Report (CER) addressing the expansion. The Authority will prepare an engineering report outlining the possible alternatives for source reduction upstream of the Facility. If compliance with copper effluent limits cannot be accomplished by source reduction, then the CER will include system modifications to treat for copper.

#### **SECTION D: Agreement and Order**

Accordingly, the Board, by virtue of the authority granted it in Va. Code § 62.1-44.15(8a) and (8d), orders the Authority, and the Authority agrees, to perform the actions described in Appendix A of this Order. The Authority agrees to comply with the interim effluent limits specified in Appendix B which are attached hereto and incorporated herein by reference. In addition, the Board orders the Authority, and the Authority voluntarily agrees, to pay a civil charge of \$3,700 within 30 days of the effective date of the Order in settlement of the violations cited in this Order. The payment shall note that it is being made pursuant to this Order and shall note the Federal Identification Number for the Authority. Payment shall be by check, certified check, money order, or cashier's check payable to "Treasurer of Virginia" and sent to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 10150  
Richmond, Virginia 23240

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of the Authority, for good cause shown by the Authority, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein.. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the Facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, the Authority admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. The Authority declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as

a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.

5. Failure by the Authority 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.
6. 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.
7. The Authority 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 Authority shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. The Authority shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
  - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 5 business days of learning of any condition above, which the Authority 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.

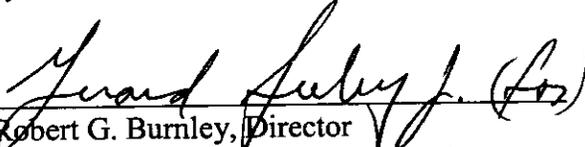
8. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
9. This Order shall become effective upon execution by both the Director or his designee and the Authority. Notwithstanding the foregoing, the Authority agrees to be bound by any compliance date which precedes the effective date of this Order.
10. This Order shall continue in effect until:

- a. The Authority 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 notice to the Authority.

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

- 11. By its signature below, the Authority voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of March 17, 2005.

  
Robert G. Burnley, Director  
Department of Environmental Quality

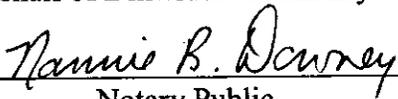
The Authority voluntarily agrees to the issuance of this Order.

By: Robert B. Wilson  
Date: 2-3-05

Commonwealth of Virginia  
City/County of Dinwiddie

The foregoing document was signed and acknowledged before me this 3<sup>RD</sup> day of February, 2005, by Robert B. Wilson, who is  
(name)

Executive Director of Dinwiddie Authority, on behalf of Dinwiddie Authority.  
(title)

  
Notary Public

My commission expires: May 31, 2005

## APPENDIX A

The Authority shall:

1. Within 90 days of the issuance of this Order, submit to the Department for review and approval a corrective action plan (CAP) with an implementation schedule for compliance with copper effluent limits. Once approved by the Department, the schedule shall become a part of and enforceable under the terms of this Order.
2. Obtain a certificate to operate (CTO) for the Department approved Facility expansion and comply with the Permit copper limitation on September 15, 2007 or within 90 days of completion of the expansion, whichever comes first.

**Pursuant to this Order** communications regarding this Order, and its requirements shall be addressed as follows:

Frank Lupini  
Department of Environmental Quality  
Piedmont Regional Office  
4949-A Cox Road  
Glen Allen, Virginia 23060

The Authority shall confirm, in writing, completion of the Order requirements to the above address **within five (5) days of completion.**

## APPENDIX B

### Interim Copper limitations

During the period beginning with the effective date of this Order and lasting until September 15, 2007 or within 90 days of completion of the expansion, whichever comes first, discharges shall be limited and monitored by the Authority in accordance with VPDES Permit VA0081779, except as specified below:

	Concentration Monthly Average	Concentration Weekly Average
Copper	65.0 $\mu\text{g/L}$	65.0 $\mu\text{g/L}$