

STATE WATER CONTROL BOARD ENFORCEMENT ACTION

SPECIAL ORDER BY CONSENT

ISSUED TO

FAIRFAX COUNTY SCHOOL BOARD

FOR

GUNSTON ELEMENTARY SCHOOL SEWAGE TREATMENT PLANT

(VPDES PERMIT NO. VA0023299)

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code ' ' 62.1-44.15(8a and 8d) and 10.1-1185 between the State Water Control Board and the Fairfax County School Board regarding the Gunston Elementary School Sewage Treatment Plant for the purpose of resolving certain alleged violations of the State Water Control 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 and described in Va. Code ' ' 62.1-44.7 and 10.1-1184.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the

Commonwealth of Virginia as described in ' 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. "School Board" means the Fairfax County School Board
7. "STP" means Gunston Elementary School Sewage Treatment Plant located in Fairfax County, VA.
8. "DO" means Dissolved Oxygen.
9. "BOD" means Biochemical Oxygen Demand
10. "NVRO" means the Northern Virginia Regional Office of DEQ, located in Woodbridge, Virginia.
11. "Permit" means Virginia Pollutant Discharge Elimination System (VPDES) Permit No. VA0023299.

SECTION C: Finding of Facts and Conclusions of Law

1. The Fairfax County School Board (School Board) owns and operates through its consultant, Gunston Elementary School Sewage Treatment Plant (STP) which is located in Fairfax County, Virginia.
2. The STP discharges wastewater to South Branch in the Potomac River Basin. Discharges of wastewater are the subject of VPDES Permit No. VA0023299 which was reissued in June 2002.
3. The Board has evidence to indicate that the School Board has violated VPDES Permit regulation 9 VAC 25-31-190.A at the STP for DO, BOD and ammonia Permit exceedances, and failure to achieve compliance with final ammonia Permit effluent limits.
4. The STP was to achieve compliance with the final Permit effluent limit for ammonia by June 30, 2001.
5. The STP is approximately thirty years old and not designed to meet ammonia limits.

6. The School Board experienced delays in the design and bid process for an upgrade to the STP to meet the final Permit ammonia effluent limits. In addition, the

appropriated funding was inadequate to complete the upgrade requiring a re-allocation in funding. Due to the delays in awarding the contract, the funds for the upgrade had to be re-allocated and were approved by the School Board in January 2002.
7. Appendix A of this Order requires that the School Board complete the upgrade of the STP to comply with its ammonia Permit limits. Appendix B of this Order provides interim limits for ammonia, BOD, TSS, and DO for the STP until the requirements of Appendix A are met.

SECTION D: Agreement and Order

Accordingly the State Water Control Board, by virtue of the authority granted it in Va. Code ' 62.1-44.15(8a) orders the School Board and, to resolve the alleged violations, the School Board agrees, to perform the actions described in Appendices A and B of this Order.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of the School Board, for good cause shown by the School Board, or on its own motion after notice and opportunity for the School Board to be heard.
2. This Order only addresses and resolves those alleged violations specifically identified herein, including those matters addressed in the Warning Letter and Notices of Violation issued to the School Board and dated November 19 and December 17, 2001, and February 15 and March 14, 2002. 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 STP as may be authorized by law; or (3) taking subsequent action authorized by law 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 School Board admits the jurisdictional allegations but does not admit the factual findings, and conclusions of law contained herein.
4. The School Board consents to venue in the Circuit Court of Fairfax County for any civil

action taken to enforce the terms of this Order.

5. The School Board 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.

6. Failure by the School Board 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 School Board shall be responsible for failure to comply with any of the terms and conditions by this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. The School Board shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. The School Board 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 two business days of learning of any condition above, which the parties intend 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 School Board. Notwithstanding the foregoing, the School Board agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to the School Board. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve the School Board from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By its signature below, the Fairfax County School Board voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of _____, 2002.

Robert G. Burnley, Director
Department of Environmental Quality

Fairfax County School Board voluntarily agrees to the issuance of this Order.

By: _____

Date: _____

Commonwealth of Virginia
City/County of _____

The foregoing document was signed and acknowledged before me this ____ day of

_____, 2002, by _____, who is
(name)

_____ of the Fairfax County School Board.

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(title)

Notary Public

My commission expires: _____.

APPENDIX A SCHEDULE OF COMPLIANCE

Fairfax County School Board agrees to:

1. Within 60 days of the Notice To Proceed, commence project start up;
2. Continue to operate the STP in a workman-like manner striving to produce the best quality effluent of which it is capable while the STP is undergoing the upgrade;
3. Submit to DEQ, monthly project construction progress reports along with the Discharge Monitoring Report (DMR) submittals until upgrade is complete;
4. Pump and haul wastewater during the sand filter and dosing siphon modifications and repairs. If at any time during construction, the STP can not meet its Interim Permit requirements, the School Board must continue to pump and haul until it can (1) ensure the STP complies with its Permit requirements or (2) construction is complete;
5. Within 120 days of project start up, complete construction of the STP upgrade;
6. Begin meeting final permit effluent limits beginning sixty days after construction completion and issuance of the Certificate to Operate (CTO) the upgraded STP;
7. Within 60 days of issuance of the CTO, submit an Operation and Maintenance manual to the Virginia Department of Health (“VDH”) and DEQ for review and approval;
8. Should DEQ determine that the upgrade has failed to demonstrate that the STP is able to consistently meet its Permit effluent limits, Fairfax County School Board must, within 60 days of notification, complete further evaluation of the system and submit to DEQ for review and approval, a plan and schedule for additional upgrades to the system. Upon approval by DEQ, the plan and schedule shall become a part of and enforceable under the terms of this Order;
9. Within 60 days of approval of the plan and schedule, submit plans and specifications to VDH and DEQ for review and approval;
10. Within 180 days of approval of the plans and specifications, complete the upgrade and obtain the CTO;
11. Beginning 60 days after construction completion, comply with effluent Permit limits; and
12. Within 60 days of issuance of the CTO, submit the Operation and Maintenance manual revisions to the Virginia Department of Health (“VDH”) and DEQ for review and approval.

APPENDIX B

INTERIM EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

GUNSTON ELEMENTARY SCHOOL STP

During the period beginning with the effective date of this Order and lasting until Fairfax County School Board complies with the items of Appendix A of this order, Fairfax County School Board shall monitor and limit the discharge from the Gunston Elementary School STP in accordance with the VPDES Permit No. VA0023299, except as specified below. These interim limits shall retroactively apply, if applicable, as of the first day of the month in which this Order becomes effective. These requirements shall be construed in light of the Board's Permit Regulation.

PARAMETER	DISCHARGE LIMITATIONS				MONITORING REQUIREMENTS			
	<u>Monthly Average</u>		<u>Weekly Average</u>		<u>Minimum</u>	<u>Maximum</u>	<u>Frequency</u>	<u>Sample Type</u>
Ammonia	NL	NL	NL	NL	N/A	N/A	1/M	GRAB
BOD	30 mg/L	0.7 KG/D	45 MG/L	1.0 KG/D	N/A	N/A	1/M	GRAB
TSS	30 mg/L	0.7 KG/D	45 MG/L	1.0 KG/D	N/A	N/A	1/M	GRAB
DO	N/A	N/A	N/A	N/A	5.0 MG/L	N/A	1/DAY	GRAB

N/A = Not Applicable

1/M = Once a Month

GRAB = An individual sample collected in less than fifteen (15) minutes.

The Design flow of this facility is 0.006 MGD.

NL = No Limit

1/DAY = Once a Day

