

**STATE WATER CONTROL BOARD ENFORCEMENT ACTION  
SPECIAL ORDER BY CONSENT  
ISSUED TO  
PEPPER'S FERRY REGIONAL WASTEWATER TREATMENT AUTHORITY  
VPDES PERMIT NO. VA0062685**

**SECTION A: Purpose**

This is a Consent Special Order issued under the authority of Va. Code §62.1-44.15(8a) by the State Water Control Board to Pepper's Ferry Regional Wastewater Treatment Authority for the purpose of resolving certain alleged violations of State Water Control Law and the 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 §§ 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 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. "WCRO" means the West Central Regional Office of DEQ, located in Roanoke, Virginia.

7. "Regulations" means the Permit Regulation, 9 VAC 25-31-10 *et seq.*
8. "Respondent" means Peppers Ferry Regional Wastewater Treatment Authority.
9. "Permit" means VPDES Permit No. VA0062685, which was reissued to the Peppers Ferry Regional Wastewater Treatment Authority for the operation of the Peppers Ferry Regional Wastewater Treatment Plant on October 21, 1999.
10. "DMR" means Discharge Monitoring Report.
11. "Substantially complete" means Respondent considers the entire referenced construction upgrade ready for its intended use and has received a letter from its consulting engineer certifying the project to be substantially complete in accordance with the applicable construction contracts.

#### **SECTION C: Department's Findings of Fact and Conclusions of Law**

1. Respondent owns and operates the Pepper's Ferry Regional Wastewater Treatment Plant, which operates under VPDES Permit No. VA0062685 ("Plant"). The Plant receives wastewater from the Town of Pulaski, the Town of Dublin, the County of Pulaski, the County of Montgomery, and the City of Radford. The Permit authorizes discharges at a rate of 9 MGD into the New River.
2. On June 5, 2001, the Department issued Warning Letter ("WL") No. W2001-06-W-1022 to Respondent. The WL alleged that Respondent had violated Total Suspended Solids ("TSS") and 5-day Biochemical Oxygen Demand ("BOD<sub>5</sub>") maximum loading and concentration limits and TSS average concentration limits at the Plant in March 2001.
3. In letters dated April 2, April 9, and June 11, 2001, Respondent stated that the above violations were "the result of solids carryover during extreme wet weather flows."
4. On August 27, 2001, the Department issued WL No. W2001-08-W-1021 to Respondent. The WL alleged that Respondent had violated the TSS maximum loading limit at the Plant in May 2001. The WL also alleged that Respondent had violated the chlorine instantaneous technical minimum requirement at the Plant in June 2001.
5. In a letter dated August 29, 2001, Respondent explained that the May 2001 solids violation was due to extreme wet weather flows and that the June 2001 chlorine violation was caused by the accidental closure of a manifold valve. Respondent stated that the valve would be added to the daily inspection list for the Plant.
6. On May 10, 2002, the Department issued WL No. W2002-05-W-1012 to Respondent. The WL alleged that Respondent had violated TSS maximum loading and TSS maximum and average

concentration limits at the Plant in March 2002.

7. In the Spring of 2003, Respondent commenced construction of Plant upgrades designed to improve management of wet weather flows, convert the aeration system to fine bubble diffusers, install basin baffles, replace the anaerobic digester mixing systems with new high rate equipment, and improve the plant control system.
8. On March 14, 2003, the Department issued WL No. W2003-03-W-1006 to Respondent. The WL alleged that Respondent had violated TSS average and maximum concentration limits at the Plant in January 2003.
9. On April 3, 2003 the Department issued WL No. W2003-04-W-1019 to Respondent. The WL alleged that Respondent had violated BOD<sub>5</sub> and TSS average and maximum limits for both loading and concentration at the Plant in February 2003. The WL also alleged that Respondent had submitted its August 2002 and January 2003 Discharge Monitoring Reports late.
10. On June 19, 2003, the Department issued Notice of Violation ("NOV") No. W2003-06-W-0002 to Respondent. The NOV alleged that Respondent had violated TSS maximum loading and maximum concentration limits at the Plant in April 2003.
11. Under the Permit, semi-annual water quality standards monitoring data was due by May 10, 2003. That data was received by the Department on June 10, 2003.
12. In letters dated January 27 and February 20, 2003, Respondent explained that the TSS violations in for those months were caused by the fact that frozen foam from the secondary clarifier was pushed into the clarifier's effluent troughs. Those letters also stated that plant improvements planned for the Spring of 2003 include modifications to the aeration and clarification systems designed to reduce the foam problem.
13. In letters dated April 16 and May 8, 2003, Respondent explained that because construction had commenced on the upgrade project, one of the three bioreactors at the Plant had been taken out of service. High wet weather flows on April 10 caused solids to wash out of the two remaining bioreactors, which in turn overloaded the secondary clarifiers and caused the April TSS violations.
14. In a letter dated June 26, 2003, Respondent explained in detail how the upgrade is expected to improve treatment at the Plant. Respondent also indicated that because reactors and clarifiers will have to be taken out of service to be upgraded, Plant treatment capacity will be temporarily reduced during construction.

15. Va. Code § 62.1-44.5.A and 9 VAC 25-31-50.A prohibit the discharge of sewage or other wastes into State waters, except in compliance with a certificate or permit issued by the Board.

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

Accordingly, the State Water Control Board, by virtue of the authority granted it in §62.1-44.15(8a), orders Respondent and Respondent agrees to perform the actions described in Appendix A of this Order. Moreover, the Board and Respondent understand and agree that the interim limits specified in Appendix B of this Order expire no later than October 1, 2004.

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

1. The Board may modify, rewrite, or amend the Order with the consent of Respondent, for good cause shown by Respondent or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those alleged 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: (a) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (b) seeking subsequent remediation of the facility as may be authorized by law; or (c) taking subsequent action to enforce this 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, Respondent admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Respondent declares that it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.* and 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 judicial review of, any action taken by the Board or the Director to enforce this Order.
5. Failure by Respondent 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. Respondent shall be responsible for failure to comply with its obligations under this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Respondent shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Respondent shall notify the WCRO 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 this 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 WCRO Regional Director within forty-eight hours of learning of any condition above, which Respondent 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. Any plans, reports, schedules or specifications attached hereto or submitted by Respondent 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.
10. This Order shall become effective upon execution by both the Director or his designee and Respondent. Notwithstanding the foregoing, Respondent agrees to be bound by any compliance dates that precede the effective date of this Order.
11. This Order shall continue in effect until either: a) Respondent 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 this Order, or b) the Director or Board terminates the Order in his or its sole discretion upon 30 days notice to Respondent. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Respondent 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, Respondent voluntarily agrees to the issuance of this Order.
13. The undersigned representative of Respondent 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 Respondent to this document. Any documents to be submitted pursuant to this Order shall also be

Page 6 of 8  
Special Order by Consent  
Pepper's Ferry Regional Wastewater Treatment Authority

submitted by a responsible official of Respondent.

And it is so ORDERED this day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
Robert G. Burnley, Director  
Department of Environmental Quality

Pepper's Ferry Regional Wastewater Treatment Authority voluntarily agrees to the issuance of this Order.

By: \_\_\_\_\_

Date: \_\_\_\_\_

Commonwealth of Virginia

City/County of \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2003,

by \_\_\_\_\_, who is \_\_\_\_\_ of the  
Pepper's Ferry Regional Wastewater Treatment Authority, on behalf of said Authority.

\_\_\_\_\_  
Notary Public

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

## **APPENDIX A**

Respondent shall:

1. Substantially complete upgrades at the Plant involving flow blending, aeration basins, secondary clarifiers, digesters, and Supervisory Control and Data Acquisition ("SCADA") system/telemetry upgrades for equipment monitoring and control, in accordance with approved plans and specifications, and submit a complete application for a Certificate to Operate, not later than June 1, 2004.
2. Substantially complete upgrades at the New River Pump Station involving pumps, controls, power, standby power, screening, and the equalization basin, in accordance with approved plans and specifications, and submit a complete application for a Certificate to Operate, not later than October 1, 2004.
3. Notify WCRO in writing within 10 days of substantial completion of each of the above upgrades. Submit with the notice of substantial completion, if applicable, the appropriate interim O&M manual from the following list: Interim O&M Manual for Primary Flow Diversion; Interim O&M Manual for Upgraded Aeration/Activated Sludge System; Interim O&M Manual for Upgraded Anaerobic Digestion System; Interim O&M Manual for New River Pump Station EQ Basins/Pumps.
4. Respondent shall comply with the effluent limitations specified in Appendix B herein in any month when influent peak flow during that month is greater than 9.25 MGD. The Permit specifies effluent limitations applicable for any month when daily influent flow during that month remains less than or equal to 9.25 MGD.
5. Follow the reporting requirements of the Interim Primary Flow Diversion Operation and Maintenance Manual, dated July 30, 2003.

**APPENDIX B**

**B. INTERIM EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

- As specified at Appendix A of this Order, during the period beginning with the effective date of this Order and lasting until such time this Order is terminated or October 1, 2004, whichever comes first, the Respondent is authorized to discharge from outfall serial number 001. The Permit specifies effluent limitations applicable for any month when daily influent flow during that month remains less than or equal to 9.25 MGD. Respondent shall comply with the effluent limitations specified below in any month when any influent peak flow during that month is greater than 9.25 MGD.

Such discharges shall be limited and monitored by Respondent as specified below:

<u>EFFLUENT CHARACTERISTICS</u>	<u>DISCHARGE LIMITATIONS</u>				<u>MONITORING REQUIREMENTS</u>	
	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Maximum</u>	<u>Minimum</u>	<u>Frequency</u>	<u>Sample Type</u>
Flow, (MGD) <sup>(2)</sup>	NL	NA	NA	NL	Continuous	T/I/R
BOD <sub>5</sub>	60 mg/l 1560 kg/d	135 mg/l 2940 kg/d	NA	NA	1/Day	24 HC
Total Suspended Solids	75 mg/l 1760 kg/d	130 mg/l 2870 kg/d	NA	NA	1/Day	24 HC
pH (Standard Units)	NA	NA	6.0	9.0	1/Day	Grab
Total Residual Chlorine (TRC) <sup>(3)</sup>	0.075 mg/l	0.090 mg/l	NA	NA	1/Day	Grab
Dissolved Oxygen (mg/l)	NA	NA	6.0	NA	1/Day	Grab

T/I/R = Totalizing, Indicating, Recording  
 NA = Not applicable  
 NL = No Limitation, monitoring required  
 24 HC = 24 hour composite

- The design flow of this treatment facility is 9.0 MGD.
- See Part I.D and Part I.E of the Permit for additional TRC limitations and monitoring instructions.
- There shall be no discharge of floating solids or visible foam in other than trace amounts.