COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
NORTHERN REGIONAL OFFICE
13901 Crown Court, Woodbridge, Virginia 22193
(703) 583-3800 Fax (703) 583-3821

Molly Joseph Ward
Secretary of Natural Resources

David K. Paylor
Director

STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
KING GEORGE COUNTY SERVICE AUTHORITY
FOR
PURKINS CORNER WASTEWATER TREATMENT PLANT
(VPDES Permit No. VA0070106)
AND THE
OAKLAND PARK WASTEWATER TREATMENT PLANT
(VPDES Permit No. VA0086789)

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 King George County Service Authority, regarding the Purkins Corner Wastewater Treatment Plant, the Oakland Park Wastewater Treatment Plant, for the purpose of resolving certain violations of the State Water Control Law, the Regulation and applicable Permits.

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. "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, as described in Va. Code § 10.1-1185.

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

6. "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.

7. "DMR" means Discharge Monitoring Report.

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

9. "King George" means King George County Service Authority, an authority created pursuant to the Virginia Water and Waste Authorities Act, Va. Code § 15.2-5100 et seq. King George is a "person" within the meaning of Va. Code § 62.1-44.3.

10. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.

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

12. "Oakland Park" means the Oakland Park Wastewater Treatment Plant located at 1015 French Court, King George, Virginia, which treats and discharges treated sewage and other municipal wastes, for the residents and businesses of King George County.

13. "Oakland Permit" means the VPDES Permit No. VA0086789 which was issued under the State Water Control Law and the Regulation to King George County Service Authority on July 11, 2012, and which expires on July 10, 2017.

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 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.

17. "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.

18. "Purkins Corner" means the Purkins Corner Wastewater Treatment Plant located at 11224 Henry Griffin Road, King George, Virginia, which treats and discharges treated sewage and other municipal wastes, for the residents and businesses of King George County.

19. "Purkins Permit" means Virginia Pollutant Discharge Elimination System (VPDES) Permit No. VA0070106 which was issued under the State Water Control Law and the Regulation to King George County Service Authority on July 11, 2012, and which expires on July 10, 2017.

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

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

22. "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.

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

24. "VAC" means the Virginia Administrative Code.

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

26. "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

1. King George owns and operates Purkins Corner and Oakland Park. The Purkins Permit allows King George to discharge treated sewage and other municipal wastes from Purkins Corner, to an unnamed tributary of Pine Hill Creek, in strict compliance with the terms and conditions of the Purkins Permit. The Oakland Permit allows King George to discharge treated sewage and other municipal wastes from Oakland Park to an unnamed tributary of Muddy Creek, in strict compliance with the terms and conditions of the Oakland Permit.

2. Pine Hill Creek is located in the Potomac River Basin. Pine Hill Creek is listed in DEQ's 305(b) report as impaired for the aquatic life use due to excursions outside the dissolved oxygen criteria range. Muddy Creek is located in the Rappahannock River Basin. Muddy Creek is listed in DEQ's 305(b) report as not supporting recreation use due to exceedances of E. coli bacteria and not supporting aquatic life use due to biological monitoring indicating an unhealthy benthic macroinvertebrate community.

3. In submitting its DMRs, as required by the Purkins Permit, King George has indicated that it exceeded discharge limitations contained in Part I.A.1 of the Purkins Permit, for Total Kjeldahl Nitrogen ("TKN") for the months of September, November, December, 2012, January, February, March, December 2013, and January 2014; failed to meet the minimum Dissolved Oxygen ("DO") concentration for the month of August 2012; and exceeded permitted limits for *E. coli* for the months of November 2012, and February 2013. Additionally, King George reported an exceedance of the Total Nitrogen limit for the 2013 Calendar Year.

4. King George failed to monitor its discharge as required by Part I.A.1 of the Purkins Permit by failing to sample $NO_2 + NO_3$ as Nitrogen, Total Nitrogen, and Total Phosphorus in the month of November 2012.

5. NRO issued Warning Letters and Notices of Violation for the exceedances of the Purkins Permit as follows: WL No. W2012-11-N-1003, issued November 9, 2012; WL No. W2013-02-N-1004, issued February 11, 2013; NOV No. W2013-03-N-0003, issued March 19, 2013; NOV No. W2013-04-N-009 issued April 11, 2013; NOV No. W2013-05-N-0001, issued May 21, 2013; NOV No. W2014-02-N-0005, issued February 20, 2014, and NOV No. W2014-03-N-0008, issued March 18, 2014. The failure to monitor in accordance with the Permit was cited in WL No. W2013-02-N-1004.

6. King George's operating logs indicate that it discharged treated wastewater from Purkins Corner every day from August 2012 through January 2014.

7. In submitting its DMRs as required by the Oakland Permit, King George has indicated that it exceeded discharge limitations contained in Part I.A.1 of the Oakland Permit for TKN for the months of November, December 2012, January, February, and March 2013

and January 2014. Additionally, King George reported an exceedance of the Total Nitrogen limit for the 2013 Calendar Year.

8. NRO issued WLs and a NOV for the exccedances as follows: WL No. W2013-02-N-1005, dated February 11, 2013; WL No. W2013-03-N-1001, dated March 19, 2013; WL No. W2013-04-N-1021, dated April 11, 2013; NOV W2013-05-N-0003 dated May 21, 2013; and NOV No. W2014-02-N-0008, dated February 20, 2014.

9. King George's operating logs indicated that it discharged treated wastewater from Oakland Park every day from November 2012 through January 2014.

10. 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."

11. 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.

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

13. The Department has issued no permits or certificates to King George for Purkins Corner other than VPDES Permit No. VA0070106. The Department has issued no permits or certificates to King George for Oakland Park other than VPDES Permit No. VA0086789.

14. The unnamed tributaries of Pine Hill Creek and Muddy Creek are surface waters located wholly within the Commonwealth and are "state waters" under State Water Control Law.

15. Based on the results of DMR's submitted, the Board concludes that King George has violated the Purkins Corner and Oakland Park Permits, Va. Code §62.1-44.5, and 9 VAC 25-31-50, by discharging treated sewage and municipal wastes from Purkins Corner and Oakland Park while concurrently failing to comply with the conditions of the Purkins Corner and Oakland Park Permits, as described in paragraphs C(3) through C(9), above.

16. In order for King George to return to compliance at the Purkins Corner and Oakland Park Facilities, DEQ staff and representatives of King George have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, and upon consideration of Va. Code § 10.1-1186.2, the Board orders King George, and King George agrees to:

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

2. Pay a civil charge of $27,930.00 in settlement of the violations cited in this Order, to be paid as follows:

   a. King George shall pay $2,793.00 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," and delivered to:

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

      King George 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, King George shall be liable for attorneys' fees of 30% of the amount outstanding.

   b. King George shall satisfy $25,137.00 of the civil charge by satisfactorily completing the Supplemental Environmental Project (SEP) described in Appendix C of this Order.

   c. The net project costs of the SEP to King George shall not be less than the amount set forth in Paragraph D.2.b. If it is, King George 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 costs of the SEP, including tax savings, grants, and first-year costs 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, King George certifies that it has not commenced performance of the SEP.

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

   f. In the event it publicizes the SEP or the SEP results, King George 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 King George has not completed the SEP, or alternate SEP, in a satisfactory manner, the Department shall so notify King George in writing. Within 30 days of being notified, King George 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 King George for good cause shown by King George, 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, King George admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.

4. King George 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. King George 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 King George 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. King George 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 unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. King George shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. King George 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 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 and any 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 King George. Nevertheless, King George 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 King George has completed all of the requirements of the Order;

    b. King George 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 King George.

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

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, King George voluntarily agrees to the issuance of this Order.

And it is so ORDERED this _____ day of _____, 2014.

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

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King George County Service Authority voluntarily agrees to the issuance of this Order.

Date: Sept. 8, 2014 By: Christopher F. Thomas, General Manager
(Person) (Title)
King George County Service Authority

Commonwealth of Virginia
City/County of King George

The foregoing document was signed and acknowledged before me this 8th day of September, 2014, by Christopher F Thomas who is General Manager of King George County Service Authority, on behalf of the Authority.

Marcella A Feltner
Notary Public

7165166
Registration No.

My commission expires: 1/31/2016

Marcella A. Feltner
Commonwealth of Virginia
Notary Public
Commission No. 7165166
My Commission Expires 1/31/2016

Notary seal:

APPENDIX A
SCHEDULE OF COMPLIANCE

1. **Plan and Schedule of Corrective Action**

   a. King George shall submit to DEQ, for review and approval, by November 1, 2014, a detailed plan of action addressing how King George will achieve consistent compliance with TKN, E. coli, DO, and Total Nitrogen at Purkins Corner. Said plan of action shall also include a schedule of implementation. Upon approval, said plan and schedule shall become a part of and enforceable under the terms of this Order.

   b. King George shall submit to DEQ, for review and approval, by November 1, 2014, a detailed plan of action addressing how King George will achieve consistent compliance with TKN and Total Nitrogen at Oakland Park. Said plan of action shall also include a schedule of implementation. Upon approval, said plan and schedule shall become a part of and enforceable under the terms of this Order.

   c. King George shall submit to DEQ, for review and approval, by September 1, 2014, detailed procedures for ensuring the operability of the UV intensity meters at the Purkins Corner and Oakland Park facilities in accordance with manufacturer's recommendations. The procedures shall include daily readings of the intensity meter with recordation in the operator's log book. Upon approval, said procedures shall be incorporated into the O&M manual for each facility. If the UV intensity meters experience periods of downtime or fail to display levels set forth in the procedures, King George shall implement daily sampling for *E.coli* until such time as the intensity meters are fully operational.

2. **DEQ Contact**

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

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

APPENDIX B
INTERIM EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

From the effective date of this Order until completion of the corrective action requirements contained in paragraphs a and b of Appendix A, but in no event later than December 31, 2015, the Authority shall monitor, limit and calculate the discharge from Outfall No 001 of the Purkins Corner and Oakland Park facilities in accordance with VPDES Permit Numbers VA0070106 and VA0086789, except as specified below. The interim limits for Total Nitrogen - Calendar shall retroactively apply, if applicable, as of the first day of the year in which this Order becomes effective. The interim limits for TKN 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 Regulation.

Oakland Park (VA0086789)

Parameter	**Parameter Limits**				**Monitoring Requirements**	
	Quantity Average	Quantity Maximum	Concentration Average	Concentration Maximum	Sample Frequency	Sample Type
Total Nitrogen — Calendar	--	--	18.0 mg/L	--	1/Y	Calculated
TKN	2.7 kg/day	4.0 kg/day	5.0 mg/L	7.5 mg/L	3D/W	8HC

Purkins Corner (VA0070106)

Parameter	**Parameter Limits**				**Monitoring Requirements**	
	Quantity Average	Quantity Maximum	Concentration Average	Concentration Maximum	Sample Frequency	Sample Type
Total Nitrogen — Calendar	--	--	15.0 mg/L	--	1/Y	Calculated
TKN	2.3 kg/day	3.4 kg/day	5.0 mg/L	7.5 mg/L	3D/W	8HC

APPENDIX C
KING GEORGE COUNTY SERVICE AUTHORITY
SUPPLEMENTAL ENVIRONMENTAL PROJECT (SEP)

In accordance with Va. Code § 10.1-1186.2, King George 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 King George is donating $25,137.00 to the Tri-County/City Soil and Water Conservation District (SWCD) for funding water-quality improvement projects within the Potomac River and Rappahannock River watersheds within the service area of the SWCD.

2. The SEP shall be completed within 30 days of execution of this Order.

3. If the SEP has not or cannot be completed as described in the Order, King George shall notify DEQ in writing no later than 30 days from 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.

4. King George 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.

5. King George shall submit to the Department 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 within 15 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 King George's Chief Financial Officer concerning the projected tax savings, grants or first-year operation cost reductions or other efficiencies.

6. 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.