COMMONWEALTH of VIRGINIA

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STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
RIVER RIDGE ASSOCIATION, INC.
FOR
RIVER RIDGE ASSOCIATION WASTEWATER TREATMENT PLANT
VPDES Permit No. VA0028029

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 River Ridge Association, Inc., regarding the River Ridge Association Wastewater Treatment Plant, for the purpose of resolving certain violations of the State Water Control Law and the applicable permit and regulation.

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. "BRRO-L" means the Blue Ridge Regional Office of DEQ, located in Lynchburg, Virginia.

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

7. "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.

8. "DMR" means Discharge Monitoring Report.

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

10. "Facility" or "Plant" means the River Ridge Wastewater Treatment Plant located at State Route 751, Bracey, Virginia, which treats and discharges treated sewage and other wastes, for the residents and businesses located at River Ridge Association, Inc.

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

12. "O&M" means operations and maintenance.

13. "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.

14. "Permit" means VPDES Permit No. VA0028029, which was issued under the State Water Control Law and the Regulation to River Ridge Association, Inc. on October 1, 2009 and which expires on September 30, 2014.

15. "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.

16. "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.

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

18. "River Ridge" means River Ridge Association, Inc., a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. River Ridge is a "person" within the meaning of Va. Code § 62.1-44.3.

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

20. "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.

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

22. "VAC" means the Virginia Administrative Code.

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

24. "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. River Ridge owns and operates the Plant. The Permit allows River Ridge to discharge treated sewage and other wastes from the Plant through Outfall 001, to an unnamed tributary to Lake Gaston, and through Outfall 650, to a pond that is used as a reservoir for spray irrigation of a golf course, in strict compliance with the terms and conditions of the Permit.

2. The unnamed tributary to Lake Gaston is located in the Roanoke River Basin. This unnamed tributary is not listed in DEQ's 305(b) report.

3. River Ridge performed upgrades to the Plant after the Permit was reissued in 2009. A Certificate to Operate for the Plant upgrade was issued by DEQ on October 11, 2011. Because the upgraded Plant was not meeting the copper limits specified in the Permit, River Ridge performed water effect ratio ("WER") testing in 2012 and submitted a WER Copper Study to DEQ on January 3, 2013.

4. In submitting its DMRs, as required by the Permit, River Ridge has indicated that it exceeded discharge limitations contained in Part I.A.1 of the Permit for Outfall 001, for Copper, Ammonia, BOD_5, and Total Suspended Solids, for the month of April 2013; Ammonia and Copper for the month of May 2013; and Copper for the month of June 2013. River Ridge indicated that as of June 2013 all parameters are in compliance except Copper.

5. DEQ staff have noted that the DMRs for Outfall 650, required by Part I.A.2 of the Permit to be submitted by River Ridge for the months of October 2009 through June 2013, has not been received by the Department and that the monitoring requirements by the Permit for that outfall has not been performed during that period. River Ridge has indicated to DEQ staff that it failed to submit the DMRs because it did not know submittal was required. In addition, the DMR for April 2013 for Outfall 001 did not report the number of excursions for certain parameters, did not include a letter of explanation for the permit limit violations, and did not correctly report the chlorine total contact parameter, all of which are required by Parts I.A and I.D of the Permit. The DMR for Outfall 001 that was due January 10, 2013 has not been received by the Department. River Ridge stated in an email dated May 2, 2013 that it had submitted a no-discharge DMR for Outfall 001 that month.

6. DEQ staff have noted that a Reclamation Water Management Plan, required by Part I.E.19 of the Permit, and a Nutrient Management Plan, required by Part I.E.20 of the Permit, both of which were due on October 1, 2010, have not been received. An e-mail dated May 2, 2013 submitted by a consultant representing River Ridge indicated that River Ridge did not submit these items because "we never intended to upgrade to satisfy water reuse regulations."

7. An inspection by DEQ staff on March 11, 2013 indicated that fencing and advisory signs required by Part I.E.16 of the Permit have not been installed. An e-mail dated May 2, 2013 submitted by a consultant representing River Ridge indicated that River Ridge did not install these items because "we never intended to upgrade to satisfy water reuse regulations."

8. BRRO-L issued Notice of Violation No. W2013-04-L-0006 on April 26, 2013 for the violations noted in Paragraphs C(4) through C(7) above.

9. River Ridge responded to April 26, 2013 NOV with a letter dated April 30, 2013. That letter indicated that "We were of the opinion that it would be environmentally preferable to continue discharging the improved quality effluent produced by the new treatment plant to the irrigation pond rather than the stream while the new copper limits were being considered."

10. BRRO-L issued Notice of Violation No. W2013-04-L-0006 on May 9, 2013 for the violations noted in Paragraphs C(5) through C(7) above.

11. BRRO-L issued Notice of Violation No. W2013-06-L-002 on June 4, 2013 for the violations noted in Paragraphs C(4) through C(7) above.

12. BRRO-L issued Notice of Violation No. W2013-07-L-0003 on July 16, 2013 for the violations noted in Paragraphs C(4) through C(7) above.

13. BRRO-L issued Notice of Violation No. W2013-08-L-0002 on August 1, 2013 for the violations noted in Paragraphs C(4) through C(7) above.

14. River Ridge's operating logs indicate that it discharged treated wastewater from the Plant every day from October 1, 2009 through June 30, 2013.

15. 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."

16. 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.

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

18. The Department has issued no permits or certificates to River Ridge other than VPDES Permit No. VA 0028029.

19. The unnamed tributary of Lake Gaston is a surface water located wholly within the Commonwealth and is a "state water" under State Water Control Law.

20. On July 23, 2013, Department staff met with representatives of River Ridge to discuss the violations, including River Ridge's written response. At that meeting, River Ridge representatives stated that River Ridge has permanently blocked Outfall 650 with concrete and will never discharge through that outfall again.

21. Based on the results of the March 11, 2013 inspection, the July 23, 2013 meeting, and the documentation submitted on April 30, 2013, the Board concludes that River Ridge has violated the Permit and Va. Code § 62.1-44.5 and 9 VAC 25-31-50, by discharging

treated sewage and municipal wastes from the Plant while concurrently failing to comply with the conditions of the Permit, as described in paragraph C(4) through C(7), above.

22. River Ridge has submitted documentation that verifies that Outfall 650 is permanently blocked and has indicated that it will never again use that outfall. During the July 23, 2013 meeting, River Ridge officials agreed to submit "no-discharge" DMRs for Outfall 650 for the remainder of the Permit term. Accordingly, the violations as described in paragraphs C(5) through C(7), above, have been corrected. The permit requirements specified in those paragraphs are expected to be eliminated from the Permit upon its reissuance because, with the elimination of Outfall 650, those requirements are now moot.

23. As of June 2013, River Ridge has been in compliance with all effluent limits except Copper. The WER ratio proposed by the Copper Study referenced in paragraph C(3) above was approved by the Department on August 1, 2013. The WER results indicate that no effluent limit is necessary for Copper. Accordingly, the effluent limits for Copper are expected to be deleted in accordance with the results of the WER study in the next permit cycle. This Order contains interim limits for Copper of "no limit" in accordance with the results of the WER study.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders River Ridge, and River Ridge agrees to:

1. Perform the actions described in Appendix A of this Order; and

2. Pay a civil charge of $13,934.00 within 30 days of the effective date of the Order in settlement of the violations cited in 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

River Ridge 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, River Ridge shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of River Ridge for good cause shown by River Ridge, 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 and in NOV No. W2013-04-L-0006 dated April 26, 2013 and NOV No. W2013-06-L-0002 dated June 4, 2013. 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, River Ridge admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.

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

b. River Ridge 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 River Ridge.

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

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, River Ridge voluntarily agrees to the issuance of this Order.

And it is so ORDERED this _____ day of _____.

_____
Robert Weld, Regional Director
Department of Environmental Quality

----------(Remainder of Page Intentionally Blank)----------

River Ridge Association, Inc. voluntarily agrees to the issuance of this Order.

Date: 12/12/13 By: _____, Maintenance Supervisor
(Person) (Title)
River Ridge Association, Inc.

Commonwealth of Virginia
City/County of Mecklenburg

The foregoing document was signed and acknowledged before me this 12 day of December 2013, by Alan F Rhodes who is Maintenance Supervisor of River Ridge Association Inc., on behalf of the corporation.

_____
Notary Public

186073
Registration No.

My commission expires: June 30 2014

Notary seal:

Rita C Southerland
Commonwealth of Virginia
Notary Public
Commission No. 186073
My Commission Expires 6/30/2014

APPENDIX A
INTERIM EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

From the effective date of this Order until the reissuance of VPDES Permit No. VA0028029, but in no event later than September 30, 2014, River Ridge shall monitor and limit the discharge from Outfall No. 001 of the Facility in accordance with VPDES Permit Number VA0028029, 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 Regulation.

Parameter Description	Parameter Limits					Monitoring Requirements	
	Quantity Average	Quantity Maximum	Concentration Minimum	Concentration Average	Concentration Maximum	Sample Frequency	Sample Type
Copper, Total Recoverable	******	*******	********	NL	NL	1/M	GRAB