Piedmont Regional Office
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COMMONWEALTH of VIRGINIA

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STATE WATER CONTROL BOARD ENFORCEMENT ACTION
SPECIAL ORDER BY CONSENT
ISSUED TO
CHARLES CITY COUNTY, VIRGINIA
for the
RUTHVILLE WWTP
VPDES Permit No. VA0021261

SECTION A: Purpose

This is a Consent 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 Charles City County, for the purpose of resolving certain violations of the State Water Control Law and the applicable permit and/or regulation.

SECTION B: Definitions

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

1. "Board" means the State Water Control Board, a permanent citizen's board of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1184 and 62.1-44.7.

2. "County" means Charles City County, Virginia a political subdivision of the Commonwealth of Virginia. County is a "person" within the meaning of Va. Code § 62.1-44.3.

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. "DMR" means Discharge Monitoring Report.

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

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

8. "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.

9. "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.

10. "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.

11. "Permit Regulation" means 9 VAC 25-31-10, *et seq.*, the Virginia Pollutant Discharge Elimination System Permit Regulation.

12. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.

13. "Ruthville Facility" means Charles City County Ruthville Wastewater Treatment Plant (WWTP) located at 8320 Ruthville Road, in Charles City, Virginia.

14. "Ruthville Permit" means the VPDES Permit No. VA0021261 issued for the Ruthville Facility which became effective on November 5, 2008, and expires on November 4, 2013.

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

16. "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.

17. "TKN" means total kjeldahl nitrogen.

18. "TSS" means total suspended solids.

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

20. "VAC" means Virginia Administrative Code.

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

22. "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. The County owns and operates the Ruthville Wastewater Treatment Plant located at 8320 Ruthville Road, in Charles City, Virginia. The Ruthville Facility is subject to the Ruthville Permit which allows the County to discharge treated wastewater into an unnamed tributary to Glebe Creek in strict compliance with terms, limitations and requirements outlined in the Ruthville Permit. The Ruthville Permit became effective on November 5, 2008 and expires on November 4, 2013.

2. The Unnamed Tributary to Glebe Creek is located in the James River Basin (Lower). During the 2010 305(b)/303(d) cycle, the tributary is assessed as fully supporting with observed effects for the Fish Consumption Use because it is included in the VDH fish consumption advisory for kepone. No other designated uses were assessed. The stream is considered Tier 1 waters due to its intermittent nature and is not proposed for Tier 3 determination.

   The discharge was addressed in the Chesapeake Bay TMDL, which was approved by the EPA on 12/29/2010. It was included in the aggregated total nitrogen, total phosphorus,

and total suspended solids wasteload allocations for non-significant wastewater dischargers in the lower James River tidal freshwater estuary (JMSTF1).

3. On August 14, 2008, the Department performed an inspection of the Ruthville Facility and reviewed the DEQ Ruthville Permit file. The following violations were noted as the result of the inspections and file reviews:

    a. Unpermitted discharge to state waters, as prohibited by Va. Code § 62.1-44.5.A and Part II.F. of the Ruthville Permit. During the inspection Department staff observed an unpermitted discharge in proximity to the outfall of the permitted discharge point.
    b. Failure to properly operate and maintain systems of treatment and control, as required by Part II.Q of the Ruthville Permit. Department staff noted during the inspection that significant repairs were needed in order to make the Ruthville Facility operational.
    c. Failure to notify the Department about the use of herbicide as a method of treatment, as required by Part II.J.2 of the Ruthville Permit. During the inspection County staff reported that herbicides had been used to kill vegetation on the sand filters recently.
    d. Failure to maintain on site records, as required by Part II.B.1 and Part II.B.2 of the Ruthville Permit. Department staff reviewed the records that were available and found that the sample records, bench sheets, and DMRs were not being maintained to the extent required and none of the laboratory records or supporting documents could be located.
    e. Failure to report the unpermitted discharge, as required by Va. Code § 62.1-44.5.B and Part II.G of the Ruthville Permit. Review of the DEQ Permit file revealed that the discharge described in paragraph C.3.a. was not reported.

4. During the August 14, 2008 inspection, the unpermitted outfall was actively discharging. A County representative stated that they suspected that the unpermitted discharge was a stormwater discharge. The physical and chemical data that the Department staff collected do not support this claim. National Weather Service rainfall data indicates the most recent storm event prior to inspection occurred on 7/27/08. Department staff sampled the discharge and analyzed the sample for TKN, fecal coliform, e. Coli, and TSS. Nutrient, bacteriological, and solids results were elevated. This indicates the discharge is not stormwater or ambient water.

5. On September 18, 2008, the Department sent the County the report from the inspection that was performed on August 14, 2008. The Department requested the County to respond to the Compliance Recommendations by October 20, 2008. The Department did not receive a response from the County.

6. On September 29, 2008, the Department issued WL Number W2008-09-P-1005 to the County for the failure to complete Discharge Monitoring Report for the Ruthville Facility

for the August 2008 monitoring period. The Department did not receive a response from the County.

7. On November 14, 2008, the Department issued NOV Number W2008-10-P-0002 to the County for the violations described in paragraph C.3. The NOV also included a citation for the failure to provide a written response to the Compliance Recommendations made in the inspection report, as required by Section 62.1-44.21 and Part II.D of the Ruthville Permit.

8. On January 22, 2009, the Department performed a follow-up inspection of the Ruthville Facility and reviewed the DEQ Ruthville Permit file (January inspection). The following violations were noted as the result of the inspection and file review:

    a. Unpermitted discharge to state waters, as prohibited by Va. Code § 62.1-44.5.A and Part II.F. of the Ruthville Permit. Department staff noted the same observations that were made during the August inspection.
    b. Failure to properly operate and maintain systems of treatment and control, as required by Part II.Q of the Ruthville Permit. Department staff noted the same observations that were made during the August inspection.
    c. Failure to report unpermitted discharge, as required by Va. Code § 62.1-44.5.B and Part II.G of the Ruthville Permit. Department staff noted the same observations that were made during the August inspection.
    d. Failure to analyze permitted discharges for pH, DO, and chlorine, as required by Part I.A.1 of the Ruthville Permit. DEQ staff noted during review of DMRs and supporting documents for the December 2008 and January 2009 monitoring periods that it does not appear that pH, DO, and chlorine analysis are being performed once per day when a discharge occurs.
    e. Failure to provide a written response to the Compliance Recommendations section of the inspection report dated August 14, 2008, as required by Section 62.1-44.21 and Part II.D of the Ruthville Permit. DEQ staff noted during the file review that the Department still had not received a response to the Compliance Recommendations from the County.

9. On February 3 and 12, 2009, DEQ staff and County representatives met to discuss the issues at the Ruthville Facility.

10. On March 10, 2009, the Department received a status update from the County. The update in part included the following information: "the pumps have been placed in automatic to prevent overflows near the influent box."

11. On March 13, 2009, the Department issued NOV Number W2009-03-P-0003 to the County for the violations described in paragraph C.8. The NOV also included a citation for the failure to submit a revised O&M Manual or a written statement confirming the

accuracy and completeness of the current O&M Manual by February 5, 2009, as required by Part I.C.3 of the Ruthville Permit.

12. On April 16 and 30, 2009, the Department performed a follow-up inspection of the Ruthville Facility and reviewed the DEQ Ruthville Permit file. The following violations were noted as the result of the inspection and file review:

    a. Unpermitted discharge to state waters, as prohibited by Va. Code § 62.1-44.5.A and Part II.F. of the Ruthville Permit. During the inspection Department staff observed that the suspected unpermitted discharge in proximity to the outfall of the permitted discharge point had been plugged with an inflatable rubber plug however, the pipe had subsequently cracked and a trickle of gray water was coming from the crack.
    b. Failure to properly operate and maintain systems of treatment and control, as required by Part II.Q of the Ruthville Permit. Department staff noted the same observations that were made during the August and January inspections.
    c. Failure to analyze permitted discharges for pH, DO, and chlorine, as required by Part I.A.1 of the Ruthville Permit. Department staff noted the same observation that was made during the January inspection.
    d. Failure to calibrate and perform maintenance procedures on monitoring instrumentation, as required by Part II.A.3 of the Ruthville Permit. During the inspection Ruthville Facility staff could not provide Department staff with documentation to verify that calibration and maintenance were being performed at the Ruthville Facility.
    e. Failure to maintain records as required by Parts II.B.1. and B.2 of the Ruthville Permit. DEQ staff noted a number of record discrepancies some include the following: no calibration records, no times recorded for sample collection and analysis, and no chain of custody for some of the samples.
    f. Failure to measure and report permitted parameters, as required by Part I.C.11 of the Ruthville Permit. Department staff noted during the file review that the Department had not yet received the Water Quality Criteria Monitoring (Attachment A of the Ruthville Permit) from the County. The County was required to report the permitted parameters by May 5, 2009.
    g. Failure to submit an updated O&M Manual by February 5, 2009, as required by Part I.C.3 of the Ruthville Permit. Department staff noted the same observation that was made during the January inspection.
    h. Failure to report discharge, as required by Va. Code § 62.1-44.5.B and Part II.G of the Ruthville Permit. Review of the DEQ Permit file revealed that the discharge described in paragraph C12.a. was not reported.

13. On April 17, 2009, the Department received notification from the County that it was considering the replacement of the Ruthville Facility.

14. On April 23, 2009, the Department received a status update from the County. The update indicated the following: 1) the cracked Concrete Masonry Units have been repaired, 2) the deteriorated areas will be repaired if the plant is not replaced, 3) the County is attempting to find contractors for sand replacement, 4) a plug was installed in the unpermitted discharge area, and 5) calibration was being performed using a meter from the School Treatment Plant.

15. On April 28, 2009, the Department received a status update from the County, which reported that: 1) overflows ceased, 2) the unpermitted discharge was stormwater and the plug had been reinstalled, 3) operators are not able to monitor the facility wastewater discharge at the permitted outfall on all days for pH, DO and chlorine because discharges are intermittent.

16. On July 16, 2009, the Department received the Water Quality Criteria Monitoring from the County. This information was due to DEQ by May 5, 2009.

17. On August 7, 2009, the Department received the O&M Manual, which was due by February 5, 2009.

18. On August 10, 2009, the Department issued NOV Number W2009-07-P-0001 to the County for the violations described in paragraph C.12.

19. On October 1, 2009, the Department notified the County that the O&M Manual was incomplete and requested additional information.

20. On December 3, 2009, the Department issued NOV Number W2009-12-P-0002 to the County for its failure to adhere to permitted limits as required by the Ruthville Permit Part I.A, Va. Code § 62.1-44.5, and 9 VAC 25-31-50. The monitoring results reported on the September 2009 DMR noted the average and maximum concentration of $CBOD_5$ at 9.0 mg/L; however, the analytical summary submitted with the September 2009 monitoring results indicated that the level of $CBOD_5$ was 38 mg/L, which exceeds the permit allowable average and maximum concentrations of 9.0 mg/L and 14 mg/L respectively. The County failed to report the noncompliance as required by the Ruthville Permit, Va. Code § 62.1-44.5, and 9 VAC 25-31-50. The monitoring results reported on the October 2009 DMR noted the average and maximum concentration of $CBOD_5$ at 38.0 mg/L versus the permit allowable average and maximum concentrations of 9.0 mg/L and 14 mg/L respectively. The County failed to report the noncompliance as required by the Ruthville Permit, Va. Code § 62.1-44.5, and 9 VAC 25-31-50. The County failed to submit an updated O&M Manual, as required by Part I.C.2 of the Ruthville Permit.

21. On February 19, 2010, the Department issued NOV Number W2010-02-P-0005 to the County for its failure to adhere to permitted limits as required by the Ruthville Permit Part I.A, Va. Code § 62.1-44.5, and 9 VAC 25-31-50. The County failed to submit an updated O&M Manual, as required by Part I.C.2 of the Ruthville Permit. The monitoring

results reported on the December 2009 DMR noted $CBOD_5$ average loading of 366 grams/day versus the permit allowable average loading of 340 grams/day; a $CBOD_5$ average concentration of 21.0 mg/L versus permit allowable average concentration of 9.0 mg/L; a $CBOD_5$ maximum concentration of 21.0 mg/L, versus a permit allowable maximum concentration of 14 mg/L. The County failed to report the noncompliance as required by the Ruthville Permit, Va. Code § 62.1-44.5, and 9 VAC 25-31-50.

22. On March 10, 2010, the County submitted an O&M Manual for the Facility that was approved by the Department on April 12, 2010.

23. On July 13, 2010, the Department issued NOV Number W2010-06-P-0002 to the County for its failure to adhere to permitted limits as required by the Ruthville Permit Part I.A, Va. Code § 62.1-44.5, and 9 VAC 25-31-50. The monitoring results reported on the January 2010 DMR noted DO at 6.5 mg/L versus a permit allowable minimum concentration of 6.6 mg/L, $CBOD_5$ at 23 mg/L versus a permit allowable average concentration of 9.0 mg/L and maximum concentration of 14 mg/L. The monitoring results reported on the February 2010 DMR noted TKN at 18.1 mg/L versus a permit allowable average concentration of 3.0 mg/L and maximum concentration of 4.5 mg/L.

24. On September 7, 2010, the Department issued NOV Number W2010-09-P-0001 to the County for its failure to adhere to permitted limits as required by the Ruthville Permit Part I.A, Va. Code § 62.1-44.5, and 9 VAC 25-31-50. The monitoring results reported on the June 2010 DMR noted DO at 6.1 mg/L versus a permit allowable minimum concentration of 6.6 mg/L, TKN at 4.6 mg/L versus a permit allowable average concentration of 3.0 mg/L and maximum concentration of 4.5 mg/L. The monitoring results reported on the July 2010 DMR noted TKN at 5.5 mg/L versus a permit allowable average concentration of 3.0 mg/L and maximum concentration of 4.5 mg/L. The County failed to report monitoring results as required by the Ruthville Permit, Va. Code § 62.1-44.5, and 9 VAC 25-31-50. The monitoring results reported on the June 2010 DMR noted TSS as "<QL". The analytical summary submitted with the June 2010 monitoring results indicated that the level of TSS was 2.2 mg/L, which exceeds the permit required maximum quantification level of 1.0 mg/L.

25. On October 1, 2010, the Department issued NOV Number W2010-09-P-0006 to the County for its failure to adhere to permitted limits as required by the Ruthville Permit Part I.A, Va. Code § 62.1-44.5, and 9 VAC 25-31-50. The monitoring results reported on the August 2010 DMR noted DO at 6.4 mg/L versus a permit allowable minimum concentration of 6.6 mg/L, TKN at 4.3 mg/L versus a permit allowable average concentration of 3.0 mg/L and $CBOD_5$ at 10 mg/L versus the permit allowable average concentration of 9.0 mg/L. The County failed to report these instances of noncompliance as required by the Ruthville Permit, Va. Code § 62.1-44.31 and 44.5, and 9 VAC 25-31-50.

26. On November 18, 2010, the Department issued NOV Number W2010-11-P-0003 to the County for its failure to adhere to permitted limits as required by the Ruthville Permit Part I.A, Va. Code § 62.1-44.5, and 9 VAC 25-31-50. The monitoring results reported on the September 2010 DMR noted $CBOD_5$ at 13 mg/L versus the permit allowable average concentration of 9.0 mg/L. The County failed to report this instance of noncompliance as required by the Ruthville Permit, Va. Code § 62.1-44.31 and 44.5, and 9 VAC 25-31-50.

27. On August 5, 2011, the Department issued NOV Number W2011-08-P-004 to the County for its failure to adhere to permitted limits as required by the Ruthville Permit Part I.A, Va. Code § 62.1-44.5, and 9 VAC 25-31-50. The laboratory analysis and the monitoring results reported on the May 2011 DMR indicated a TKN concentration of 8.1 mg/L versus a permit allowable average concentration of 3.0 mg/L and a permit allowable maximum concentration of 4.5 mg/L. The NOV also noted the County's failure to properly operate and maintain systems of treatment and control, as required by Part II.Q of the Ruthville Permit and Section 7.A.F.5 of the O&M Manual; failure to analyze permitted discharges for pH, DO, and chlorine, as required by Part I.A.1 of the Ruthville Permit; failure to calibrate and perform maintenance procedures on monitoring instrumentation, as required by Part II.A.2 and 3 of the Ruthville Permit; and failure to maintain on site records, as required by Part II.B.1 and Part II.B.2 of the Ruthville Permit.

28. On October 27, 2011, the Department issued NOV Number W2011-10-P-0001 to the County for its failure to adhere to permitted limits as required by the Ruthville Permit Part I.A, Va. Code § 62.1-44.5, and 9 VAC 25-31-50. The monitoring results reported on the September 2011 DMR noted $CBOD_5$ at 10 mg/L versus the permit allowable average concentration of 9.0 mg/L. The County failed to report this instance of noncompliance as required by the Ruthville Permit. The County failed to report the September 2011 monitoring results as required by Part I.C.9.a and c of the Ruthville Permit.

29. On March 27, 2012, the Department issued NOV Number W2012-03-P-0007 to the County for its failure to adhere to permitted limits as required by the Ruthville Permit Part I.A, Va. Code § 62.1-44.5, and 9 VAC 25-31-50. The monitoring results reported on the January 2012 and February 2012 DMRs noted the minimum concentration of DO at 6.0 mg/L and 5.65 respectively, versus the permit allowable concentration of 6.6 mg/L. The monitoring results reported on the February 2012 DMR also noted the maximum concentration of pH at 9.04 SU, the average concentration of TKN at 3.90 mg/L, and the average concentration of $CBOD_5$ at 11 mg/L versus the permit allowable limits of 9.0 SU, 3.0 mg/L and 9.0 mg/L respectively. The County failed to report the noncompliance associated with the January 2012 monitoring results and the noncompliance of pH, TKN, and $CBOD_5$ from the February 2012 monitoring results as required by the Ruthville Permit.

30. On July 31, 2012, the Department received a compliance update from the County that vegetation on the sand filters is being prevented by daily raking of the sand, that it had

repaired the audio and visual alarms at the influent dosing tank, that it had eliminated the unpermitted discharge and that it will obtain samples when rain events occur to determine whether any additional work is necessary, that it had hired an independent contractor that is a certified wastewater treatment plant operator in August 2011 and that the contract can be obtained from the County's office, that the rotating arm at the Ruthville Facility had been repaired and was operational, that the Ruthville Facility is fundamentally sound and able to handle the volume and type of waste being discharged to it and that proper maintenance will allow the system to be used as it is, that it has implemented the practice of log books which the public works director is checking weekly and that disciplinary actions will be taken if employees fail to document appropriately. The County also submitted a policy for base-level and continued operator training and a certification that it had adequate funding for fiscal year 2012-2013 to operate, repair, and maintain the Ruthville Facility.

31. On August 14, 2012, the Department issued NOV Number W2012-08-P-0006 to the County for its failure to adhere to permitted limits as required by the Ruthville Permit Part I.A, Va. Code § 62.1-44.5, and 9 VAC 25-31-50. The monitoring results reported on the May 2012 DMR noted the average and maximum concentrations of $CBOD_5$ at 22 mg/L versus the permit allowable limits of 9.0 mg/L and 14.0 mg/L respectively. The June 2012 DMR noted the minimum concentration of DO at 5.31 mg/L, versus the permit allowable concentration of 6.6 mg/L and the average and maximum concentration of total chlorine at 0.02 mg/L and 0.39 mg/L respectively, versus the permit allowable concentrations of 0.0080 mg/L and 0.0098 mg/L respectively. The monitoring results reported on the July 2012 DMR noted the minimum concentration of DO at 5.48 mg/L, versus the permit allowable concentration of 6.6 mg/L and the average concentration of $CBOD_5$ at 11 mg/L versus the permit allowable limit of 9.0 mg/L. The analytical summary submitted for the April 2012 monitoring period qualified the CBOD data 'G', indicating that 'GGA/Int. QC was not 198.5+/-30.5'. The CBOD eDMR data submitted for the April 2012 monitoring period did not contain a qualifier as required by Part II.A of the Ruthville Permit. The County also failed to report all the permit required information with its noncompliance reports for the May, June and July 2012 monitoring periods as required by the Ruthville Permit.

32. On October 5, 2012, the Department received a response from the County regarding NOV No. W2012-08-P-0006:

    a. The County asserted that since the time these violations occurred, the County has made significant improvements in staffing, training, and work schedules for specific operators; all of which has worked to improve effluent quality and plant operations and maintenance.

    b. The $CBOD_5$ and chlorine violations will be addressed by recirculating effluent back to the influent well; the staff discovered that the facility was already piped to accomplish this.

c. The cause of the DO violation was attributed to inadequate training of operators in the storage and operation of testing equipment. The County stated that staff have been provided the proper training.

The County amended and resubmitted the eDMR for the months of April, June, and July 2012 to reflect the addition of the $CBOD_5$ qualifier, and revised the Reports of Non-Compliance for these 3 months to reflect the required information.

33. On November 9, 2012, the Department received a request for a Certificate to Construct for improvements to the chlorination system.

34. On January 8, 2013, the Department issued NOV Number W2013-01-P-0001 to the County for its failure to adhere to permitted limits as required by the Ruthville Permit Part I.A, Va. Code § 62.1-44.5, and 9 VAC 25-31-50. The monitoring results reported on the November 2012 DMR noted the average concentration of $CBOD_5$ at 10 mg/L versus the permit allowable limit of 9.0 mg/L.

35. On January 9, 2013, the Department issued a Certificate to Construct for improvements to the chlorination system.

36. Va. Code § 62.1-44.5 states that: "Except 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."

37. The Permit 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.

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

39. The Department has issued no permits or certificates to the County for the Ruthville Facility other than VPDES Permit No. VA0021261.

40. The unnamed tributary of Glebe Creek is a surface water located wholly within the Commonwealth and is a "state water" under State Water Control Law.

41. Based on the Department records, the Board concludes that the County has violated the Ruthville Permit, the State Water Control Law and the Regulations, as described above.

42. In order for the County to return to compliance, DEQ staff and representatives of the County 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, the Board orders the County, and the County agrees to perform the actions described in Appendix A of this Order.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of the County for good cause shown by the County, 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, the County admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.

4. The County 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. The County 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 the County 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 County 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 County shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. The County 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 County 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.

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 County. Nevertheless, the County 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 County 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' written notice to the County.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve the County 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 the County 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 the County certifies that he is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind the County to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of the County.

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, Charles City County, Virginia voluntarily agrees to the issuance of this Order.

And it is so ORDERED this _____ day of _____, 2013.

_____
Michael P. Murphy, Regional Director
Department of Environmental Quality

Charles City County, Virginia voluntarily agrees to the issuance of this Order.
Date: 3/28/13 By: _____, _____
Zach Trogdon County Administrator

Commonwealth of Virginia
~~City~~/County of Charles City

The foregoing document was signed and acknowledged before me this 28th day of March, 2013, by Zach Trogdon who is the County Administrator of Charles City County, Virginia.

Gina L. Sandy Patterson
Notary Public

7310887
Registration No.

My commission expires: 8/31/2014

Notary seal: GINA L. SANDY PATTERSON
NOTARY PUBLIC
REGISTRATION # 7310887
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES
AUGUST 31, 2014

APPENDIX A

1. **The County shall immediately** comply with the provisions of the Ruthville Permit and the approved O&M Manual with respect to maintenance, monitoring, recordkeeping and reporting requirements.

2. **Until the Environmental Management System described in Appendix B of the Charles City County Administrative Building Consent Order is implemented, the County shall immediately** implement the Quality Assurance/Quality Control program as described in the November 2010 Corrective Action Plan (CAP) and in the general comments item 1 of the May 11, 2011 CAP response letter.

3. The County shall submit a request for a Certificate to Operate (CTO) improvements to the Ruthville Facility chlorine disinfection system and post-aeration **no later than July 9, 2013.**

4. **Beginning March 1, 2013,** the County shall evaluate the septic tanks at the Ruthville Facility on a quarterly basis to determine if solids removal is needed. The County shall have the septic tanks pumped by a septage hauler **within 30 days if it is determined that solids removal is necessary, but in no case less frequently than once per calendar year.** Documentation of the quarterly evaluations, the results of the evaluations, and pumping records shall be maintained with the Ruthville Facility records and made available to DEQ staff for review.

5. The County shall provide additional training to the operators of the Ruthville Facility and the County Director of Public Works by requiring that these employees attend the following training courses as described in the DEQ Wastewater Operator Training Workshop Catalog:

   a) Basic Wastewater Licensure Review (ENV-40)
   b) Basic Lab Skills (DEQ-19)
   c) VPDES Permit Recordkeeping and Reporting (DEQ-16)
   d) Wastewater Math for Operators (DEQ-20)
   e) Sampling and Testing for Small Plants (DEQ-12)

   The employees shall attend and successfully complete all of the above referenced courses at the first date they are offered by the Department after the date of issuance of this Order. Documentation of the completion of the courses shall be maintained with the Ruthville Facility records and made available to DEQ staff for review.

6. **Beginning May 10, 2013,** the County shall submit quarterly reports to DEQ, including, but not limited to, the following information:

    a. Any Ruthville Facility repairs undertaken in the preceding calendar quarter.
    b. Calibration records (pH, DO, and chlorine)

    Updates shall be due every August 10, November 10, February 10, and May 10 while this Consent Order is in effect. In addition, the February 10th report shall include a certification to DEQ that the County has allocated the appropriate funding to operate, repair, update, and/or replace the Ruthville Facility.

All requirements of Appendix A of this Order shall be submitted to:

Kyle Ivar Winter, P.E.
Deputy Regional Director
VA DEQ – Piedmont Regional Office
4949-A Cox Road
Glen Allen, Virginia 23060
804-527-5052
804-527-5106 (fax)
kyle.winter@deq.virginia.gov