



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY Blue Ridge Regional Office

www.deq.virginia.gov

Molly Joseph Ward
Secretary of Natural Resources

Lynchburg Office
7705 Timberlake Road
Lynchburg, Virginia 24502
(434) 582-5120
Fax (434) 582-5125

David K. Paylor
Director

Robert J. Weld
Regional Director

Roanoke Office
3019 Peters Creek Road
Roanoke, Virginia 24019
(540) 562-6700
Fax (540) 562-6725

STATE WATER CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO TOWN OF VIRGINIA FOR TOWN OF VIRGINIA SEWAGE TREATMENT PLANT VPDES Permit No. VA0076830

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 the Town of Virgilina, regarding the Town of Virgilina Sewage Treatment Plant, for the purpose of resolving certain violations of the State Water Control Law and the applicable permit and regulations.

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" means the Blue Ridge Regional Office of DEQ, located in Roanoke, 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.

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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 Town of Virgilina Sewage Treatment Plant located at 8060 Florence Avenue, State Route 49, East of Town, Halifax County, Virginia, which treats and discharges treated sewage and other municipal wastes, for the residents and businesses of the Town.
11. "Infiltration" means the water entering the Sewer System and service connections from the ground through such means as, but not limited to, defective pipes, pipe joints, connections, or manhole walls. Infiltration does not include, and is distinguishable from, Inflow.
12. "Inflow" means the water discharged into the Sewer System, including service connections, from such sources as, but not limited to, roof leaders, cellar, yard and area drains, foundation drains, cooling water discharges, drains from springs and swampy areas, manhole covers, cross connections from storm sewers and combined sewers, catch basins, storm sewers, surface run-off, street wash waters, or drainage. Inflow does not include, and is distinguishable from, Infiltration.
13. "I&I" means the total quantity of water from both Infiltration and Inflow without distinguishing the source.
14. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
15. "O&M" means operations and maintenance.

16. "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.
17. "Permit" means VPDES Permit No. VA0076830, which was issued under the State Water Control Law and the Regulation to the Town of Virgilina on March 31, 2013 and which expires on March 30, 2018.
18. "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.
19. "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.
20. "Regulation" means the VPDES Permit Regulation, 9 VAC 25-31-10 *et seq.*
21. "Rehabilitation" means the repair work on sewer lines, manholes and other Sewer System appurtenances that have been determined to be the source of I&I. The repair work may involve grouting of sewer pipe joints or defects, sewer pipe relining, inversion and de-slipping, sewer pipe replacement and various repairs or replacements of other Sewer System appurtenances.
22. "Sewer System" means the system owned and operated by the Town designed to convey wastewater to the Facility for treatment, including transmission lines, pumping facilities, manholes, discharge pipes, and related appurtenances.
23. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.
24. "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.

25. "The Town" means the Town of Virgilina, a political subdivision of the Commonwealth of Virginia. Town is a "person" within the meaning of Va. Code § 62.1-44.3.
26. "Va. Code" means the Code of Virginia (1950), as amended.
27. "VAC" means the Virginia Administrative Code.
28. "VPDES" means Virginia Pollutant Discharge Elimination System.
29. "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 Town owns and operates the Facility. The Permit allows the Town to discharge treated sewage and other municipal wastes from the Facility, to an unnamed tributary of Wolfpit Run, in strict compliance with the terms and conditions of the Permit.
2. Wolfpit Run, a tributary of Aarons Creek, is located in the Roanoke River Basin. Aarons Creek is listed in DEQ's *Final 2012 305(b)/303(d) Water Quality Assessment Integrated Report* as impaired for *Escherichia coli* and dissolved oxygen. The sources of the impairment are listed as unknown.
3. In submitting its DMRs, as required by the Permit, the Town has indicated that it exceeded discharge limitations contained in Part I.A.1 of the Permit, for Parameter 383 - Ammonia, as N (May – November), for July 2013, May 2014, and June 2014 and Parameter 358 - Ammonia, as N (December – April) for December 2013, January 2014, February 2014, and March 2014. The Town indicated that it believed the exceedances were related to infiltration and inflow into the Sewer System of the Facility combined with periodic heavy precipitation. In addition DEQ staff noted that the Town failed to report the number of excursions for Parameter 358 in July 2013 and June 2014, as required by Part II.C of the Permit.
4. DEQ staff noted that the Town failed to submit its Plans for Achievement of Compliance (Ammonia), as required by Part I.B.1 of the Permit, which was due on or before July 10, 2013. The Town subsequently made the required submittal on October 19, 2013.
5. DEQ staff noted that the Town failed to submit its PCB Monitoring Study and reporting no later than January 10, 2014 as required by Part I.D.12 of the Permit. The Town did conduct the PCB Monitoring but the monitoring results and data were not submitted as required. The Town submitted the PCB Monitoring Study and reporting on March 31, 2014.

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6. DEQ staff also noted that the Town failed to submit a written notice or plan of action to address Facility flows in excess of 95% of design, as required by Part I.D.1 of the Permit.
7. BRRO issued Warning Letters and Notices of Violation for the exceedances, the failures to submit the Plan for Achievement of Compliance (Ammonia) and the PCB Monitoring Study and 95% Design Capacity as follows: WL No. W2013-09-L-1003, issued September 4, 2013; WL No. W2013-09-L-1007, issued October 2, 2013; WL No. 2013-11-L-1004, issued November 6, 2013; NOV No. W2014-02-L-0001, issued February 13, 2014; NOV No. W2014-03-L-0002, issued March 21, 2014; NOV No. W2014-04-L-0002, issued April 10, 2014; NOV No. W2014-05-L-0005, issued May 7, 2014; NOV No. W2014-06-L-0007, issued July 3, 2014; and NOV No. W2014-08-L-0004, issued August 13, 2014.
8. The Town responded to the Warning Letters and Notices of Violation by requesting assistance from the Virginia Rural Water Association (“VRWA”). The VRWA would provide assistance with smoke testing and televising the interior of the Sewer System.
9. Va. Code § 62.1-44.5(A)(1) 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.”
10. The Regulation, at 9 VAC 25-31-50 (A), 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.
11. Va. Code § 62.1-44.15(5a) states that a VPDES permit is a “certificate” under the statute.
12. The Department has issued no permits or certificates to the Town other than VPDES Permit No. VA0076830.
13. The unnamed tributary of Wolfpit Run, a tributary of Aarons Creek is a surface water located wholly within the Commonwealth and is a “state water” under State Water Control Law.
14. Based on the DMRs submitted by the Town and a review of DEQ files, the Board concludes that the Town has violated the Permit and Va. Code Va. Code § 62.1-44.5(A)(1) and 9 VAC 25-31-50 (A), by discharging treated sewage and municipal wastes from the Plant while concurrently failing to comply with the conditions of the Permit, as described in paragraphs C(3) through C(5), above.
15. In order for the Town to return to compliance, DEQ staff and representatives of the Town 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 pursuant to Va. Code § 62.1-44.15, the Board orders the Town, and the Town agrees to perform the actions described in Appendices A and B of this Order.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of the Town for good cause shown by the Town, 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 Town admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. The Town 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 Town 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 Town 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 Town 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. The Town shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. The Town 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 the Town. Nevertheless, the Town 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 the Town has completed all of the requirements of the Order;
 - b. The Town 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 the Town.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve the Town 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 Town 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 Town 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 the Town to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of the Town.
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, the Town voluntarily agrees to the issuance of this Order.

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

Robert J. Weld, Regional Director
Department of Environmental Quality

The Town of Virgilina voluntarily agrees to the issuance of this Order.

Date: 11-13-14 By: Ralph Murray, Mayor of the Town of Virgilina
Mr. Ralph Murray

Commonwealth of Virginia
City/County of Halifax

The foregoing document was signed and acknowledged before me this 13 day of November, 2014, by Ralph Murray who is the Mayor of the Town of Virgilina, on behalf of the Town.

Priscilla B. Lassiter
Notary Public

274223
Registration No.



My commission expires: _____

Notary seal:

APPENDIX A SCHEDULE OF COMPLIANCE

The Town shall:

1. Complete an I&I study of the Facility's Sewer System by September 30, 2015 and submit the results to the Department for verification by October 10, 2015. The I&I study shall include, at minimum, the following:
 - a. Assembly of a sewerage transmission system configuration map with pipe sizing, pump stations, manhole locations, and graphic reference points noted;
 - b. Transmission line integrity testing (robotic TV monitoring and segment smoke testing) for the entire Sewer System;
 - c. Evaluation of security and leakage for all pump stations, manhole covers, and other sewer transmission lines;
 - d. Analysis and project report.
2. Based on the I&I study, identify and prioritize I&I projects, which will prevent future non-compliance with the Facility's Permit requirements and submit the list of prioritized projects to the Department for review and approval by December 31, 2015.
3. Develop a schedule and financial plan ("Town's Plan of Action") to complete the projects, identified in item 2 of this Appendix, no later than March 31, 2017. Submit the Town's Plan of Action to the Department for review and approval by December 31, 2015. After the Department approves the Town's Plan of Action it shall be incorporated by reference and become an enforceable part of this Order.
4. Unless otherwise specified in this Order, the Town shall submit all requirements of Appendix A of this Amendment to:

Jerry Ford, Jr.

VA DEQ - Blue Ridge Regional Office

3019 Peters Creek Road

Roanoke, VA 24019

Phone: (540) 562-6817

e-mail: Jerry.Ford@deq.virginia.gov

APPENDIX B

INTERIM EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

From the effective date of this Order until March 31, 2017, the Town shall monitor and limit the discharge from Outfall No. 001 of the Facility in accordance with VPDES Permit Number VA0076830, 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
(358) Ammonia, as N (Dec - Apr)				5.0 MG/L	6.0 MG/L	1/M	Grab