COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
NORTHERN VIRGINIA REGIONAL OFFICE
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L. Preston Bryant, Jr.
Secretary of Natural Resources

David K. Paylor
Director

Jeffery A. Steers
Regional Director

STATE WATER CONTROL BOARD ENFORCEMENT ACTION

SPECIAL ORDER BY CONSENT

ISSUED TO THE

CITY OF FREDERICKSBURG

FOR THE

FREDERICKSBURG WASTEWATER TREATMENT FACILITY
(VPDES PERMIT NO. VA0025127)

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code § 62.1-44.15(8a) and (8d) and 10.1-1185 between the State Water Control Board and the City of Fredericksburg regarding the Fredericksburg Wastewater Treatment Facility for the purpose of resolving certain alleged violations of the State Water Control Law and Regulations.

SECTION B: Definitions

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

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

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

3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.

4. "Director" means the Director of the Department of Environmental Quality.

5. "Order" means this document, also known as a Consent Special Order.

6. "WWTF" means the Fredericksburg wastewater treatment facility located in the City of Fredericksburg, Virginia.

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

8. "Permit" means the Virginia Pollutant Discharge Elimination System (VPDES) Permit No. VA0025127.

9. "NVRO" means the Northern Virginia Regional Office of DEQ, located in Woodbridge, Virginia.

SECTION C: Finding of Fact and Conclusions of Law

1. The City of Fredericksburg ("City") owns and operates the WWTF, which is a 4.5 MGD plant that is located in the City of Fredericksburg, Virginia and treats wastewater and sewage from the residences, businesses and institutions of the City. The WWTF discharges into the Rappahannock River, which is located within the tidal freshwater zone of the Rappahannock River Basin. Discharges from the City's WWTF are the subject of the Permit.

2. The Board has evidence to indicate that the City has allegedly violated the Regulation and the Permit by: (1) exceeding Permit effluent limits for Total Kjeldahl Nitrogen, Ammonia and Phosphorous; (2) failing to meet Reliability Class I requirements; and (3) failing to meet the minimum limit for Total Residual Chlorine. DEQ NVRO issued one warning letter (WL) and three notices of violation (NOV) to the City for the above-referenced alleged violations as follows: WL No. W2006-03-N-1020 issued March 14, 2006; NOV No. W2006-06-N-0007 issued June 8, 2006; NOV No. W2006-07-N-0006 issued July 11, 2006; and NOV No. W2006-08-N-0003 issued August 3, 2006.

3. DEQ staff performed a technical and laboratory inspection of the WWTF on April 27, 2006 and a site inspection on May 25, 2006. The inspections revealed certain operational and maintenance deficiencies at the WWTF as noted in the Facility Technical Inspection Report dated June 21, 2006. Among the process units observed, a primary clarifier, three of four primary effluent pumps, a sludge pump and a belt filter press were not in operation.

Observations made by DEQ staff during both inspections revealed that the WWTF does not meet Class I Reliability as required by the Permit because certain process units that are designed to provide redundancy were not in service.

4. The inspection also revealed general maintenance issues at the WWTF and DEQ made corrective action recommendations that included checking and cleaning the various process units at the WWTF.

5. DEQ compliance and permitting staff assert that the permit effluent limit violations are directly attributable to the Operations and Maintenance (O&M) issues. The City neither admits nor denies the accuracy of these assertions.

6. DEQ and representatives from the City's Management and Department of Public Works met on July 10, 2006 to discuss these compliance issues and options to return to compliance. As a result of the meeting, the City agreed to have its environmental consultant, Hazen and Sawyer, which was previously hired to provide guidance relative to optimizing the WWTF nutrient removal performance, to review the operational records and recommend improvements to process controls.

7. On July 21, 2006, the City submitted its response prepared by Hazen and Sawyer that included a process improvements program memorandum and Class I Reliability and corrective action summary. The recommendations included reducing the mixed liquor suspended solids (MLSS) at the WWTF to ensure that conditions are ideal for the biological nitrification process so that consistent Permit compliance can be achieved. The response also included the corrective actions taken to date and future corrective actions planned by the City to address the remaining maintenance and equipment reliability issues.

8. On September 15, 2006, the City applied to enroll the WWTF in the DEQ's Environmental Management Program (EMS) program, a voluntary program designed to assure that operations at facilities such as the City's wastewater treatment plant are conducted in accordance with best management practices and in a manner that minimizes impacts on the environment. The initial cost to the City for the EMS program is $21,500 as well as an ongoing commitment of staff resources to implement the program.

9. Based in part upon the recommendations and action plan in the City's response and further discussions with the City, DEQ developed Appendix A of this Order. Appendix A requires the City to: (1) complete repairs and put back in service Primary Clarifier #1 and Belt Filter Press #1; (2) submit revisions to the O&M manual that details the corrective actions found in Attachment C of the Fredericksburg WWTF Preliminary Process Assessment and Recommendations and the manual use of the chlorination/dechlorination

system; and (3) initiate the plant performance testing program pursuant to O&M Manual Section 5.5.1.

SECTION D: Agreement and Order

Accordingly, the State Water Control Board, by virtue of the authority granted it in Va. Code § 62.1-44.15(8a) and (8d), orders the City of Fredericksburg, and the City of Fredericksburg voluntarily agrees that:

1. The City of Fredericksburg shall perform the actions described in Appendix A of this Order to remedy the alleged violations described above and achieve compliance with the State Water Control Law and Regulations and the Permit requirements.

2. The City of Fredericksburg shall pay a civil charge of $4,900 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 payable to the "Treasurer of Virginia", delivered to:

   Receipts Control
   Department of Environmental Quality
   P.O. Box 1104
   Richmond, VA 23218

Either on a transmittal letter or as a notation on the check, the City of Fredericksburg shall indicate that this payment is submitted pursuant to this Order and shall include the Federal Identification Number for City of Fredericksburg.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of the City of Fredericksburg, for good cause shown by the City of Fredericksburg, or on its own motion after notice and opportunity to be heard.

2. This Order only addresses and resolves those violations specifically identified herein and listed above in Section C-2. 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 as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.

3. For purposes of this Order and subsequent actions with respect to this Order, the City of Fredericksburg admits the jurisdictional allegations, but neither

admits nor denies the factual findings, and conclusions of law contained herein.

4. The City of Fredericksburg consents to venue in the Circuit Court of the City of Fredericksburg for any civil action taken to enforce the terms of this Order.

5. The City of Fredericksburg declares it has received fair and due process under the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, 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 enforce this Order.

6. Failure by the City of Fredericksburg 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 City of Fredericksburg 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 City of Fredericksburg shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. The City of Fredericksburg shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of 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 within three (3) business days of learning of any condition above, which the City of Fredericksburg 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. Any plans, reports, schedules, permits, or specification attached hereto or submitted by the City of Fredericksburg 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.

11. This Order shall become effective upon execution by both the Director or his designee and the City of Fredericksburg. Notwithstanding the foregoing, the City of Fredericksburg agrees to be bound by any compliance date, which precedes the effective date of this Order.

12. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to the City of Fredericksburg. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve the City of Fredericksburg from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

13. By its signature below, the City of Fredericksburg voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of _____, 2006.

_____
Jeffery A. Steers, Regional Director
Department of Environmental Quality
Northern Virginia Regional Office

The City of Fredericksburg voluntarily agrees to the issuance of this Order.

By: Phillip L. Rodenberg
Phillip L. Rodenberg
City Manager
City of Fredericksburg

Date: October 25, 2006

Commonwealth of Virginia
City/~~County~~ of FREDERICKSBURG

The foregoing document was signed and acknowledged before me this 25 day of OCTOBER, 2006, by Phillip L. Rodenberg, City Manager of the City of Fredericksburg, on behalf of the City of Fredericksburg.

Brenda T. Martin
Notary Public

My commission expires: JULY 31, 2009

BRENDA TAYLOR MARTIN
COMMONWEALTH OF VIRGINIA
NOTARY PUBLIC

APPENDIX A
SCHEDULE OF COMPLIANCE

The City of Fredericksburg agrees to:

1. By no later than December 1, 2006, complete repairs to the Primary Clarifier #1 and place back in service.

2. By no later than December 1, 2006, submit revisions to Operations and Maintenance (O&M) manual, for review and approval, that incorporates all ten items found in Attachment C of the Fredericksburg WWTF Preliminary Process Assessment and Recommendations and the manual use of the chlorination/dechlorination system.

3. By no later than December 1, 2006, initiate the plant performance testing program pursuant to the O&M Manual Section 5.5.1, testing for the specified parameters shall include, but not be limited to: (1) raw influent; (2) pretreatment units; (3) primary clarifier; (4) primary sludge; (5) oxidation ditch; (6) secondary clarifiers; (7) return and waste activated sludge; (8) anaerobic digester; and (9) digested sludge. Beginning January 1, 2007, submit all plant performance testing data to DEQ with the monthly Discharge Monitoring Report submission.

4. By no later than January 15, 2007, complete repairs to the Belt Filter Press #1 and place back in service.