COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

West Central Regional Office

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L. Preston Bryant, Jr
Secretary of Natural Resources

David K. Paylor
Director

Steven A. Dietrich
Regional Director

STATE WATER CONTROL BOARD ENFORCEMENT ACTION
SPECIAL ORDER BY CONSENT
ISSUED TO
THE TOWN OF STUART
FOR THE STUART WASTEWATER TREATMENT PLANT
VPDES PERMIT # VA0022985

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code § 62.1-44.15(8a) and (8d) by the Board to the Town of Stuart for the purpose of resolving certain violations of environmental law and/or 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 § 1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Order.
6. "Town" means the Town of Stuart, a political subdivision of Patrick County, Virginia and identified by Federal Identification Number 54-6001634.
7. "WCRO" means the West Central Regional Office of DEQ, located in Roanoke, Virginia.
8. "Regulations" means the Virginia Pollutant Discharge Elimination System Permit

Regulations, 9 VAC 25-31-10 *et seq* and the Sewage Collection and Treatment Regulations, 9 VAC 25-790-10 *et seq*.

9. "VPDES Permit" or "Permit" means the permit to discharge to state waters issued to the Town of Stuart for the Stuart Wastewater Treatment Plant and issued under the authority of the Regulations.

10. "Facility" means the Stuart Wastewater Treatment Plant owned and operated by the Town of Stuart and permitted under VPDES permit number VA0022985.

SECTION C: Findings of Fact and Conclusions of Law

1. The Stuart Wastewater Treatment Plant, owned and operated by the Town of Stuart, is permitted under VPDES Permit Number VA0022985. The permit was most recently reissued on August 21, 2003 and expires on August 20, 2008.

2. The Town's VPDES Permit and the Regulations at 9 VAC 25-31-50 require that:

   The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of the permit. Proper operation and maintenance also includes effective plant performance, adequate funding, adequate staffing, and adequate laboratory and process controls including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

3. Department compliance staff conducted technical and laboratory inspections on June 6, 2000, January 25, 2002, and August 20, 2003. All three inspections noted apparent deficiencies in the operation and maintenance of the Facility. The apparent deficiencies and suggestions for corrective actions were communicated to the Town via copies of the inspection reports. The Town failed to correct all the operational and maintenance deficiencies observed during the aforementioned technical and laboratory inspections as requested by the Department in the inspection reports.

4. Department compliance staff conducted a technical and laboratory inspection at the Facility on February 27, 2006 and the observations made by Department compliance staff are contained in an inspection report dated March 13, 2006.

5. Technical inspection results from the February 27, 2006 inspection indicated that the screening and grit removal equipment (pretreatment) was not functioning; the effluent troughs on the activated sludge aeration basins were not being cleaned frequently; the west secondary clarifier was not receiving flow; and the chlorine gas alarm in the chlorine room was not functioning in violation of the VPDES Permit.

6. Technical inspection results from the February 27, 2006 inspection indicated that the Town was not documenting the sludge wasting rates for the Facility; not maintaining accurate

records of daily sulfur dioxide and chlorine usage; and not complying with the Operations and Maintenance manual's sampling chart for operational control of the Facility in violation of the VPDES Permit.

7. Technical inspection results from the February 27, 2006 inspection indicated that the Town had not repaired the sulfur dioxide scales and the redundant feed capability and automatic switchover capability for the sulfur dioxide tanks in violation of the VPDES Permit.

8. Laboratory inspection results from the February 27, 2006 inspection indicated nine deficiencies in five categories in violation of the VPDES Permit. The nine deficiencies were in the following five categories: Laboratory Records, Laboratory Equipment, Total Residual Chlorine, Total Suspended Solids, and Biochemical Oxygen Demand.

9. Technical inspection results from the February 27, 2006 inspection indicated the ventilation system for the Influent Pump Station was not operating properly in violation of the VPDES Permit and the standards in 9 VAC 25-790-380.B.1.

10. Technical inspection results from the February 27, 2006 inspection indicated the exhaust fan for chlorination equipment room was not operating properly in violation of the VPDES Permit and the standards in 9 VAC 25-790-750.F.5.

11. Technical inspection results from the February 27, 2006 inspection indicated the room light/fan automatic activation switch for the chlorination equipment room was not operating properly in violation of the VPDES Permit and the standards in 9 VAC 25-790-750.F.6.

12. Technical inspection results from the February 27, 2006 inspection indicated the backflow prevention devices for the Facility had not been recertified as scheduled in violation of the VPDES Permit and the standards in 9 VAC 25-790-470 E.1.

13. The Department transmitted a copy of the inspection report to the Town by letter on April 10, 2006. The technical report and the laboratory report summarized requirements and recommendations for action related to the Facility and its operation. The letter requested that the Town respond to the West Central Regional Office within 15 days and provide details of actions taken and/or proposed to correct the deficiencies listed in the inspection report.

14. On April 10, 2006, the Department issued Notice of Violation No. W2006-04-W-0003 to the Town of Stuart for violations at the Facility observed during the February 27, 2006 technical and laboratory inspection.

15. On April 25, 2006, Mr. Terry Tilley, Town Manger of Stuart responded with a written response to the Notice of Violation. According to the written response, the Town had made steps to address the areas of alleged non-compliance but there were still numerous items that had not been completed.

16. On April 26, 2006, WCRO compliance and enforcement staff met with Mr. Terry Tilley and

Mr. Pete Slate, Superintendent of Water and Wastewater to discuss the alleged violations in the Notice of Violation. The representatives of the Town agreed to begin work immediately on the remaining issues of apparent non-compliance at the facility.

17. Beginning on May 3, 2006 and continuing to July 25, 2006, Mr. Tilley regularly contacted the Department via electronic mail with progress reports of the Town's work to address the remaining issues of apparent non-compliance.

18. As a result of the information provided in the progress reports and submittals from the Town, DEQ compliance and enforcement staff have determined that the Town has corrected and addressed the alleged violations observed during the February 27, 2006 technical and laboratory inspection and cited in the Notice of Violation to the Town dated April 10, 2006.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code §62.1-44.15(8a) and (8d), orders the Town, and the Town voluntarily agrees, to pay a civil charge of Two Thousand Nine Hundred Forty Dollars ($2,940.00) within 30 days of the effective date of this 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". Payment shall be sent to:

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

Payment shall include the Town's Federal Identification Number and shall state that it is being tendered in payment of the civil charges assessed under this Order.

SECTION E: Administrative Provisions

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

2. This Order only addresses and resolves those violations specifically identified herein. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (a) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (b) seeking subsequent remediation of the facility as may be authorized by law; or (c) taking subsequent action to enforce this 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 Town admits the jurisdictional allegations, factual findings, and conclusions of law contained

herein.

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

5. The Town declares that it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 et seq. and 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 judicial review of, any action taken by the Board or the Director to 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 occurrence. The Town shall show 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 WCRO 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 this 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 WCRO Regional Director within twenty-four hours of learning of any condition above, which the Town intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim of 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 or specifications attached hereto or submitted by the Town and approved by the Department pursuant to this Order are incorporated into this Order. Any noncompliance 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 Town. Not withstanding the foregoing, the Town agrees to be bound by any compliance

date that precedes the effective date of this Order.

12. This Order shall continue in effect until the Director or the 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.

13. By the signature of an authorized official below, the Town voluntarily agrees to the issuance of this Order.

14. 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.

15. By the signature of an authorized official below, the Town voluntarily agrees to the issuance of this Order.

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

_____
Steven A. Dietrich, Regional Director
Department of Environmental Quality

The Town voluntarily agrees to the issuance of this Order.

By: James C. McHone
James C. McHone, Mayor of the Town of Stuart

Commonwealth of Virginia

City/County of Patrick

The foregoing document was signed and acknowledged before me this 25th day of October, 2006, by James C. McHone, who is the Mayor of the Town of Stuart.

Susan C Slate
Notary Public

My commission expires: 8/31/10