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COMMONWEALTH of VIRGINIA

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Director

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STATE WATER CONTROL BOARD ENFORCEMENT ACTION
SPECIAL ORDER BY CONSENT
ISSUED TO
DICKENSON COUNTY PSA
HAYSI SEWAGE TREATMENT PLANT
VPDES PERMIT NO. VA0067571

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code § 62.1-44.15 (8a), between the State Water Control Board and the Dickenson County Public Service Authority, for the purpose of resolving certain violations of environmental law and regulations.

SECTION B: Definitions

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

1. "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 Code §§ 10.1-1184 and 62.1-44.7.

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

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

5. "SWRO" means the Southwest Regional Office of the Department.

6. "Order" means this document, also known as a consent special order.

7. "PSA" or "Authority" means the Dickenson County Public Service Authority.

8. "Facility" means the Haysi Sewage Treatment Plant, located at State Rt. 613, North Splashdam Road, Haysi, VA.

9. "Permit" means Virginia Pollutant Discharge Elimination System (VPDES) Permit No. VA0067571, issued to the Dickenson County PSA. The Permit was most recently reissued September 18, 2003, and will expire on September 17, 2008.

10. "NOV" means Notice of Violation.

11. "BOD_5" means Biochemical Oxygen Demand (5-day analysis).

12. "TSS" means Total Suspended Solids.

13. "Inflow and Infiltration" or "I&I" means non-sewerage waters entering the sanitary sewerage collection system.

SECTION C: Findings of Facts and Conclusions of Law

1. The PSA owns and operates the Facility and associated collection lines pursuant to VPDES Permit No. VA0067571, which was reissued on September 18, 2003 and will expire on September 17, 2008. The Facility discharges to Russell Fork River in the Tennessee-Big Sandy River Basin.

2. The PSA has reported a number of final effluent permit limit violations over an extended period of time. Most violations were of BOD_5 and TSS effluent limits, with some violations of the ammonia effluent limit. The PSA's own responses to a number of NOVs written identified I&I and management of solids as the causes of the violations.

3. The SWRO issued an NOV to the PSA on August 19, 2005. Cited in that NOV were various final effluent permit limit violations of BOD_5, TSS and ammonia reported on the DMRs submitted for March through July, 2005.

4. The SWRO issued an NOV to the PSA on March 10, 2006. Cited in that NOV were: a) failure to submit the annual report for achieving compliance with the final limits for E. coli, which was due September 17, 2005; b) failure to submit annual sludge DMRs SP1, S01, S02 and S03, which were due February 10, 2006; c) continued inoperability of chlorine contact tank No.1; d) continued failure to submit a plan to address reduction of flows exceeding 95% of design flow volumes; and e) failure to follow proper operational procedures regarding maintenance of sludge inventories. Also cited in that NOV were various final effluent violations for BOD_5, TSS and ammonia reported on the DMRs submitted for August, 2005 through January, 2006. Items a, b and c have recently been corrected by submittal of the annual E. coli report and sludge DMRs, and by replacement of the broken valve, thereby making chlorine contact tank No. 1 operational.

5. Virginia Code § 62.1-44.5.A and VPDES permit regulation 9 VAC 25-31-50 state 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 waste, other wastes, or any noxious or deleterious substances.

6. An NOV issued to the PSA on July 9, 2004, included the following item: During a Compliance Inspection conducted by a SWRO staff member on May 10, 2004, it was noted that the Facility's discharge was black and very turbid and there was a visible plume in the receiving stream. This was considered to be an unusual/extraordinary discharge, but it was not reported to SWRO by the PSA, nor was a letter of explanation received.

7. Part II, Section H (Reports of Unusual or Extraordinary Discharges) of VPDES Permit No. VA0067571 states that if any unusual or extraordinary discharge including a bypass or upset should occur from a treatment works and the discharge enters or could be expected to enter state waters, the permittee shall promptly notify, in no case later than 24 hours, the Department by telephone after the discovery of the discharge. The permittee shall also submit a written report within five days after discovery of the discharge.

8. The PSA has reported a more recent unusual or extraordinary discharge, and a bypass. The PSA has also reported several overflows within the present permit cycle. None of these events are sanctioned by the Permit.

9. Part II, Section F (Unauthorized Discharges) of VPDES Permit No. VA0067571 states "Except in compliance with this permit, or another permit issued by the Board, it shall be unlawful for any person to: a.) discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or b.) otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the use of such waters for domestic or industrial consumption, or for recreation, or for other uses.

10. High influent BOD_5 values have been recorded at the Facility, but investigations conducted to date have failed to identify the source of the high BOD_5. Included in the expansion of the Facility is the construction of a 0.167 MGD pretreatment/flow equalization basin to address this problem. An influent volume of 50,000 gallons will be maintained and aerated in this basin. Other pretreatment issues are addressed in Appendix A, and will also be addressed in the modified Permit for the expanded Facility.

11. During a Technical Inspection conducted May 3, 2005, the following deficient items were cited as needing action: a) placement of the offline chlorine contact tank No. 1 back in service; b) compliance with all requirements of the facility's Sludge Management Plan; and, c) increase of I&I work to lower flows below 95% of design flow.

12. Items cited as needing action during Compliance Inspections conducted June 15, 2005 and August 18, 2005 included: a) maintain sludge inventory at manageable levels; b) accelerate I&I correction program; and c) repair and return the offline chlorine contact tank No. 1 to service; proper operation and maintenance requires repair/return to service of all treatment units as soon as possible. Chlorine contact tank No.1 was placed back in service on April 4, 2006.

13. The PSA has depended on the use of one portable belt press, shared between several facilities, for removal of solids. However, drying beds available for wasting of sludge were not utilized or maintained. Repair of sludge drying bed roofs, cited in both technical and compliance inspections, has not been done. In 2005, DEQ was told that the drying beds were no longer used for sludge dewatering.

14. Part II, Section Q (Proper Operation and Maintenance) of VPDES Permit No. VA0067571 states 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 this permit.

15. After meetings between SWRO and the PSA, a letter of response was submitted to DEQ April 5, 2004. It summarized I&I problems, connection of the new regional jail (scheduled completion date of March, 2005), and sludge handling. The PSA stated in the April 5, 2004 letter that a plan of action to address I&I should be developed by July 12, 2004. Per letter dated November 8, 2004, DEQ again expressed its concern regarding both existing flows received by the Facility, as well as anticipated flows when the new Haysi Regional Jail Facility was to be connected to the Haysi STP collection system in the spring of 2005. However, no comprehensive plan for addressing I&I problems at the Facility was received by DEQ.

16. Per letter from the PSA's contract operator's Project Manager dated September 29, 2004, smoke testing of the Facility's collection lines had been done. However, commencement of work (manhole rehabilitation) required waiting until water level in the river dropped sufficiently. No report or written summation of work accomplished by the PSA regarding manhole rehabilitation was received by DEQ.

17. The PSA submitted a letter regarding the above issues January 31, 2005. The PSA and DEQ then met on February 1, 2005 to resolve the PSA's compliance issues. The need for continual management of solids, both within the plant and by removal from the plant by wasting, was discussed. Also discussed was a pending contract to address some I&I issues (i.e. manhole rehabilitation). Additionally, a contract had been let to develop a comprehensive long range plan for the Facility. It was to address both current problems and the impact of connection of the new Haysi Regional Jail Facility.

18. With receipt of the DMR for January, 2005, Part I, Section F.1 of VPDES Permit No. VA0067571 was activated. This section of the permit requires written notification and submittal of a plan of action to ensure continued compliance with the permit when the average monthly flow values reported for three consecutive months are greater than 95 percent of the design capacity of the Facility. DMRs for November and December, 2004 and for January, 2005 reported average monthly flow values greater than 95 percent of the design capacity of the Facility. Submittal of a plan of action to ensure continued compliance with the permit was not received within the 90 day period following the third consecutive month that greater than 95 percent average monthly flow values were reported. However, a Preliminary Engineering Report (PER) for upgrade and expansion of the present Facility was received by DEQ on September 26, 2005. A Revised PER was received by DEQ on February 3, 2006, and approved by letter dated March 1, 2006.

SECTION D: Agreement and Order

Accordingly the Board, by virtue of the authority granted it pursuant to Va. Code § 62.1-44.15 (8a), orders the PSA, and the PSA 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 the Order with the consent of the PSA, for good cause shown by the PSA, or on its own motion after notice and opportunity to be heard.

2. This Order addresses only those violations specifically identified herein. This Order shall not preclude the Board or 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; and/or (3) taking subsequent action to enforce the terms of 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 PSA admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.

4. The PSA 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 PSA declares it has received fair and due process under the Administrative Process Act, 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 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 PSA 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 PSA 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 act of God, war, strike, or such other occurrence. The PSA must show that such circumstances resulting in noncompliance were beyond its control and not due to a lack of good faith or diligence on its part. The PSA shall notify the Director and the Director of the SWRO 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 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 notify by phone the Director and the Director of the SWRO within 24 hours of learning of any condition listed above, which the PSA 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 PSA 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 Department and the PSA. Notwithstanding the foregoing, the PSA 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 PSA. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve the PSA 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 PSA voluntarily agrees to the issuance of this Order.

14. The undersigned representative of the PSA 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 PSA to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of the PSA.

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

_____
Michael D. Overstreet, Regional Director
Department of Environmental Quality

The Dickenson County Public Service Authority voluntarily agrees to the issuance of this Order.

Name: Ron Phillips

Title: Executive Director

Date: 7-25-06

State of Virginia

City/County of Dickenson

The foregoing instrument was acknowledged before me this 25 day of July, 2006, by Ron Phillips (name), who is Executive Director (title) of the Dickenson County Public Service Authority, on behalf of the Public Service Authority.

Crystal S R Phillips
Notary Public

My commission expires: December 31, 2006
Date

APPENDIX A

In order to comply with the provisions of the State Water Control Law and Regulations and the Permit, the PSA agrees to implement the following actions by the dates noted below:

1.	Submit Plans and Specifications for Plant Upgrade and Expansion to DEQ	December 30, 2006
2.	Obtain DEQ Approval of Plans and Specifications*	April 30, 2007
3.	Preconstruction Conference/Begin Construction	October 30, 2007
4.	Complete Installation of Sludge Press System and Construction of Associated Building	April 30, 2008
5.	Completion Construction of Plant Upgrade and Expansion	January 30, 2010
6.	Comply with modified VPDES Permit No. VA0067571 Final Effluent Limits for the Expanded Facility	April 30, 2010
7.	Utilize its best efforts to maximize treatment of high flows at the Facility and manage solids for maximum treatment performance at the Facility. operating the Facility in a workmanlike fashion during construction.	Immediately
8.	Aggressively pursue identification of the source(s) of high influent BOD; conduct a new significant discharger waste survey and develop a Sewer Use Ordinance; develop a permit for significant users to ensure that prohibitions are documented, and necessary monitoring and reporting requirements are established; meet with all potential significant users, discussing wastes that are prohibited from entering the system; and permitting significant users as appropriate, with enforcement for violations of monitoring and reporting requirements. All elements of the pretreatment program shall meet DEQ program requirements.	December 30, 2006
9.	Submit quarterly progress reports to the SWRO; the first report, for the reporting period July 1, 2006 through September 30, 2006, shall be due on October 10, 2006; subsequent quarterly reports shall be submitted in the same manner until the project is completed.	
10.	All reports submitted to the SWRO shall be mailed to the attention of Ruby Scott, Compliance Auditor, P.O. Box 1688, Abingdon, VA 24212.	

* Upon approval by DEQ, said documents/schedules shall become an enforceable part of this Consent Order, as stated in Item 10 of Section E, Administrative Provisions, above.

APPENDIX B

In order to comply with the provisions of the State Water Control Law and Regulations and the Permit, the PSA agrees to implement the following actions by the dates noted below:

1. Evaluate the entire collection system by means of the following: — July 30, 2006

   - Inspect manholes and perform spot flow measurements
   - Conduct smoke testing/conduct dye testing of suspect areas
   - Conduct camera inspection of suspect areas, if needed

2. Prioritize sources of I/I identified for repair/replacement, identifying low cost mitigation measures to be completed by the PSA and mitigation measures requiring advertisement and administration of contract for work. — August 30, 2006

3. Submit Engineering Report, evaluating the collection system, with prioritization lists and breakdown of work to be done by the PSA and work to be done by contract. This report should include schedules, indicating dates/time frames for completion of both categories of work.* — September 30, 2006

4. Submit quarterly progress reports to the SWRO with the first report, for the reporting period of July 1, 2006 through September 30, 2006, due on October 10, 2006 and in the same manner continue to submit quarterly reports until all work detailed in the Engineering Report (Item 3 above) is completed.

5. All reports submitted to the SWRO shall be mailed to the attention of Ruby Scott, Compliance Auditor, P.O. Box 1688, Abingdon, VA 24212.

* Upon approval by DEQ, said report/schedules shall become an enforceable part of this Consent Order, as stated in Item 10 of Section E, Administrative Provisions, above.