COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
Blue Ridge Regional Office
www.deq.virginia.gov

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STATE WATER CONTROL BOARD

ENFORCEMENT ACTION

ORDER BY CONSENT

ISSUED TO

THE TOWN of FARMVILLE
FOR
FARMVILLE WASTEWATER TREATMENT PLANT

VPDES Permit No. VA0083135

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 Town of Farmville, for the purpose of resolving certain violations of the State Water Control Law and the applicable Permit and regulation.

SECTION B: Definitions

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

1. "Ammonia" means Ammonia as N (nitrogen).
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. "BOD_5" means Biochemical Oxygen Demand.

4. "BRRO" means the Blue Ridge Regional Office of the DEQ, located in Lynchburg, Virginia.
5. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
6. "Director" means the Director of the Department of Environmental Quality.
7. "DMR" means Discharge Monitoring Report.
8. "Farmville" or "Town" means the Town of Farmville, a political subdivision of the Commonwealth of Virginia. The Town of Farmville is a "person" within the meaning of Va. Code § 62.1-44.3.
9. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
10. "O & M" means Operation and Maintenance.
11. "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.
12. "Permit" means VPDES Permit number VA0083135; which was issued under the State Water Control Law to the Town on February 1, 2005, and which expires on January 31, 2010.
13. "Plant" or "Facility" means the Farmville Wastewater Treatment Plant located at 600 Doswell Street in the Town of Farmville, Virginia, which treats and discharges treated sewage and other municipal wastes for the residents and businesses of the Town.
14. "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.

15. "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.
16. "Regulation" means the VPDES Permit Regulation at 9 VAC 25-31-10 *et seq.*
17. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.
18. "Total maximum daily load" or "TMDL" means the sum of the individual wasteload allocations (WLAs) for point sources, load allocations (LAs) for nonpoint sources, natural background loading and a margin of safety (MOS).
19. "TSS" means Total Suspended Solids.
20. "Va. Code" means the Code of Virginia (1950), as amended.
21. "VAC" means the Virginia Administrative Code.
22. "VPDES" means the Virginia Pollutant Discharge Elimination System.
23. "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 of Farmville owns and operates the Facility located in the Town of Farmville, Virginia. The Permit allows the Town to discharge treated sewage and other municipal wastes from the Facility to the Appomattox River in strict compliance with the terms and conditions of the Permit.
2. The Appomattox River is located in the James River Basin (Middle). The Appomattox River was designated as impaired for copper in the 2008 Integrated Report (IR), and listed as Category 4B water (water quality-based limited sources, impaired for one or more designated uses but does not require the development of a TMDL because other pollution control requirements, i.e., VPDES limitations under a compliance schedule, are reasonably expected to result in attainment of the WQS by the next reporting or permit cycle). The stream was first listed in the 2006 IR, with a compliance date of February 1, 2009. The source of the impairment has been identified as the Town of Farmville WWTP.
3. The Permit was re-issued on February 1, 2005, and contained a four-year Schedule of Compliance for total recoverable copper, which required the Town to submit a Plan for Achievement of Compliance with the proposed final copper limits. The Permit listed a final compliance deadline of February 1, 2009 and final Permit effluent limits for copper of 23 µg/l.
4. The Town submitted a Plan for Achievement of Compliance to the Department on May 10, 2005, in accordance with the deadline contained in the subject Permit. The Plan described the results of the Town's copper monitoring efforts for February through April 2005. The Town stated that it had not exceeded or come close to the proposed Permit effluent limitations for copper, and that its plan of action was to continue monitoring in order to track copper effluent levels to determine if additional controls were needed. The Town submitted the first quarterly Progress Report for copper compliance as required by the subject Permit on August 11, 2005, with the last submittal received by the Department on

December 17, 2008. All copper effluent monitoring results reported by the Town were below the proposed limits.

5. Although previous monitoring indicated that copper effluent limits could be met, in submitting its DMRs since February 2009, as required by the Permit, the Town has indicated that it exceeded discharge limitations contained in Part I.A.1. of the Permit, for total recoverable copper for the following reporting periods: March 2009; May 2009; June 2009; and July 2009. The Town also incurred the following Permit limit violations for the following conventional pollutants during the March 2009 reporting period: Ammonia, BOD_5, and TSS.

6. BRRO issued the following Warning Letter and Notices of Violation for Permit violations as follows: WL W2009-05-L-1003, issued May 6, 2009; NOV W2009-07-L-0002, issued July 9, 2009; NOV W2009-07-L-0012, issued August 7, 2009; and NOV W2009-09-L-0008, issued September 3, 2009.

7. The Town responded to the Warning Letter and Notices of Violation by conducting a wastestream characterization study and surveying local industries to determine possible sources of copper within the service area.

8. Corrective action for the conventional pollutant violations incurred during the March reporting period is not required since the violations were attributed to upgrades at the WWTP for a nutrient reduction project, which has since been completed and the violations have not reoccurred.

9. The Town's operating logs indicate that it discharged treated wastewater from the Plant every day from March 1, 2009 through July 31, 2009.

10. Va. Code § 62.1-44.5 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."

11. The 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.

12. Va. Code § 62.1-44.15(5a) states that a VPDES Permit is a "certificate" under the statue.
13. The Department has issued no permits or certificates to the Town other than VPDES Permit No. VA0083135.
14. The Appomattox River is a surface water located wholly within the Commonwealth and is a "state water" under State Water Control Law.
15. Based on the results of the DMRs submitted on April 9, 2009; June 8, 2009; July 9, 2009; and August 10, 2009, the Board concludes that the Town of Farmville has violated VPDES Permit No. VA0083135, Va. Code § 62.1-44.5, and 9 VAC 25-31-50 by discharging treated sewage and municipal wastes from the Plant while concurrently failing to comply with the conditions of the Permit, as described in paragraph C.4., above.
16. In order for the Town of Farmville to return to compliance, Department staff and representatives of the Town of Farmville 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 Town of Farmville, 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 the Order with the consent of the Town of Farmville 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 of Farmville admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.

4. The Town of Farmville 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 of Farmville 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 of Farmville 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 of Farmville 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 other

such 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 of Farmville 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 listed above, which the Town 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 Town of Farmville. 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 Town of Farmville 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 Town.

Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve the Town of Farmville 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 of Farmville 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.

13. The undersigned representative of the Town of Farmville 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 of Farmville voluntarily agrees to the issuance of this Order.

And it is so ORDERED this _____day of _____, 2009.

_____

Steven A. Dietrich, P.E., Director
Blue Ridge Regional Office
Department of Environmental Quality

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

Date: 10/20/09 By: _____, _____
Gerald J. Spates — Town Manager, Town of Farmville

Commonwealth of Virginia
~~Town of~~ County of Prince Edward

The foregoing document was signed and acknowledged before me this 20th day of October, 2009, by Gerald J. Spates, who is Town Manager of the Town of Farmville on behalf of the Town of Farmville.

Lisa M. Hricko
Notary Public

335855
Registration No.

My commission expires: 9/30/2010.

Notary seal:

LISA M. HRICKO
NOTARY PUBLIC
MY COMMISSION NUMBER 335855
COMMONWEALTH OF VIRGINIA

APPENDIX A

SCHEDULE OF COMPLIANCE

1. The Town of Farmville shall submit to the Department, for review and approval, by January 31, 2010, a detailed Corrective Action Plan (CAP) addressing how the Town will achieve consistent compliance with final Permit effluent limitations for total recoverable copper. Said plan of action shall also include a schedule of implementation. Upon Department approval said plan and schedule shall become a part of and enforceable under the terms of this Order.

2. The Town of Farmville shall complete corrective action in accordance with the CAP approved by the Department as expeditiously as possible, but in no case later than **April 30, 2010**.

3. The Town of Farmville shall submit to the Department an Interim Progress Report on or before **March 15, 2010**.

4. The Town of Farmville shall submit a final compliance report documenting completion of corrective action, in accordance with the CAP, within 30 days of completion of corrective action but in no case later than **May 30, 2010**.

5. Submit all reports and correspondence required by this Order to:

G. Marvin Booth, III

Regional Enforcement Representative

Department of Environmental Quality

Blue Ridge Regional Office

7705 Timberlake Rd.

Lynchburg, VA 24502

APPENDIX B

INTERIM EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

From the effective date of this Order until completion of the corrective action requirements contained in Appendix A, but in no event later than June 30, 2010, the Town of Farmville shall monitor and limit the discharge from Outfall No. 001 of the Farmville Wastewater Treatment Plant in accordance with VPDES Permit Number VA0083135 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
Copper, Total Recoverable	NA	NA	NA	NA	53.7 µg/l	1/M	24-HC