COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
PIEDMONT REGIONAL OFFICE
4949-A Cox Road, Glen Allen, Virginia 23060
(804) 527-5020 Fax (804) 527-5106
www.deq.virginia.gov

Douglas W. Domenech
Secretary of Natural Resources

David K. Paylor
Director

Michael P. Murphy
Regional Director

STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
GREENSVILLE COUNTY WATER & SEWER AUTHORITY
FOR THE
TOWN OF JARRATT
WASTEWATER TREATMENT PLANT
VPDES Permit No. VA0020761

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 Greensville County Water & Sewer Authority, regarding the Town of Jarratt Wastewater Treatment Plant, for the purpose of resolving certain violations of the State Water Control Law and the Virginia Pollutant Discharge Elimination System 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. "2005 Order" means the Consent Order issued to GCWSA on September 29, 2005.

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" means biochemical oxygen demand.

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.

5. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

6. "DMR" means Discharge Monitoring Report.

7. "Facility" or "Plant" means the Town of Jarratt Wastewater Treatment Plant located at 721 Horseshoe Road, in Jarratt, Virginia 23867, Virginia, which treats and discharges treated sewage and other municipal wastes, for the residents and businesses of the Town of Jarratt.

8. "GCWSA" means Greensville County Water & Sewer Authority, an authority created pursuant to the Virginia Water and Waste Authorities Act, Va. Code § 15.2-5100 *et seq.* Greensville County Water & Sewer Authority is a "person" within the meaning of Va. Code § 62.1-44.3.

9. "I&I" means inflow and infiltration.

10. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.

11. "O&M" means operations and maintenance.

12. "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.

13. "Permit" means VPDES Permit No. VA0020761, which was issued under the State Water Control Law and the Regulation to GCWSA on July 29, 2007 and which expires on July 28, 2012.

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. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.

17. "Regulation" means the VPDES Permit Regulation, 9 VAC 25-31-10 *et seq.*

18. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.

19. "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.

20. "TSS" means total suspended solids.

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

22. "VAC" means the Virginia Administrative Code.

23. "VPDES" means Virginia Pollutant Discharge Elimination System.

24. "Warning Letter" or "WL" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.

25. "WWTP" means wastewater treatment plant.

SECTION C: Findings of Fact and Conclusions of Law

1. GCWSA operates the Plant in Jarratt, Virginia. The Permit allows GCWSA to discharge treated sewage and other municipal wastes from the Plant, to Hickory Swamp, in strict compliance with the terms and conditions of the Permit.

2. Hickory Swamp is located in the Chowan River and Dismal Swamp River Basin. Hickory Swamp was not assessed during the 2008 305(b)/303(d) Water Quality Assessment.

3. GCWSA has been subject to a Consent Order which became effective September 29, 2005. The 2005 Order required GCWSA to conduct I&I repairs and develop a sewer collection system O&M program. GCWSA received several grants to assist with the repairs and is in substantial compliance with the requirements of that Order. However, the Facility is a simple lagoon system and GCWSA requires interim limits and a schedule to upgrade the Facility and construct a pump station and associated piping to connect a portion of the Town of Jarratt's wastewater flow to GCWSA's larger regional Three Creek WWTP.

4. GCWSA submitted DMRs for the November 2007 through April 2008 monitoring periods which indicated that it exceeded discharge limitations contained in Part I.A.1 of the Permit, for BOD in November 2007 through January 2008 and April 2008; TSS in January 2008; total zinc in November and December 2007. In addition, GCWSA reported flow exceeding design capacity for the months of November 2007 through April 2008.

5. PRO issued Notice of Violation No. W2008-06-P-0006 for the BOD, TSS, and total zinc exceedances on June 24, 2008.

6. The Department met with GCWSA on July 15, 2008 to discuss the NOV and the compliance issues at the Facility. GCWSA stated it was developing a plan and schedule to upgrade the Facility and re-route a portion of flow to the Three Creek Facility, as well as an interim plan of corrective action to operate the Facility in a manner that produces the best quality effluent of which it is capable until the discharge is eliminated, in order to minimize additional violations and minimize potential impacts to water quality. A requirement to submit a plan and schedule is incorporated in Appendix A of the Order.

7. A Department review of DMRs submitted by GCWSA for the May 2008 through January 2010 monitoring periods indicate that GCWSA failed to meet Permit effluent limits for BOD in September of 2008; July, October, and November of 2009; dissolved oxygen in June, July, August, and September 2009; TSS in March 2009; and total zinc in January 2010.

8. GCWSA's operating logs indicate that it discharged treated wastewater from the Plant every day from November 1, 2007 through January 31, 2010.

9. 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."

10. 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.

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 GCWSA other than VPDES Permit No. VA0020761.

13. Hickory Swamp is a surface water located wholly within the Commonwealth and is a "state water" under State Water Control Law.

14. Based on the results of the July 15, 2008 meeting, and the documentation submitted for the November 2007 through January 2010 monitoring periods, the Board concludes that GCWSA has violated has violated the Permit and 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 paragraphs C4 through C7, above.

15. In order for GCWSA to return to compliance, DEQ staff and representatives of GCWSA have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order. GCWSA has been compliant with Permit effluent limits for TSS since April of 2009; therefore corrective action is not required.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders GCWSA, and GCWSA agrees:

1. To perform the actions described in Appendices A and B of this Order; and

2. To pay a civil charge of $8,700 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, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

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

GCWSA shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF).

This Order supersedes and cancels the previous Order issued on September 29, 2005.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of GCWSA for good cause shown by GCWSA, 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, GCWSA admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.

4. GCWSA 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. GCWSA 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 GCWSA 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. GCWSA 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. GCWSA shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. GCWSA 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 GCWSA 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 GCWSA. Nevertheless, GCWSA 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. GCWSA 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 GCWSA.

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

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, GCWSA voluntarily agrees to the issuance of this Order.

And it is so ORDERED this _____ day of _____, 2010.

_____

Michael P. Murphy, Regional Director
Department of Environmental Quality

Greensville County Water & Sewer Authority voluntarily agrees to the issuance of this Order.

Date: 10/14/10 By: K. David Whittington, Director
(Person) (Title)
Greensville County Water & Sewer Authority

Commonwealth of Virginia
City/County of Greensville

The foregoing document was signed and acknowledged before me this 14th day of October, 2010, by K. David Whittington who is Director of Greensville County Water & Sewer Authority, on behalf of the Authority.

Denise A. Banks
Notary Public

322189
Registration No.

My commission expires: May 31, 2014

Notary seal:

APPENDIX A
SCHEDULE OF COMPLIANCE

1. DMR Exceedances

   a. On or before February 1, 2011, GCWSA must submit to DEQ, for review and approval, a Corrective Action Plan (CAP) detailing the construction of a Facility upgrade to improve the quality of the wastewater so that it meets Permit effluent limits for BOD and Total Zinc and to ensure that the Facility's monthly average daily flow remains below the design limit of 160,000 gpd. The CAP must include the remaining precursor I&I reduction work outlined in GCWSA's August 19, 2010 letter, necessary to reduce the Facility's influent flows. The CAP shall include an implementation schedule with a completion of construction date no later than December 1, 2012. Upon DEQ approval, the CAP and schedule shall become a part of and enforceable under the terms of this Order.

   b. GCWSA must complete corrective action in accordance with the Department approved CAP as expeditiously as possible, but no later than December 1, 2012.

   c. One month after completion of Appendix A 1.a., GCWSA shall submit an amended O&M manual for Department review and approval.

   d. GCWSA must submit notification to the Department of the completion of each of the approved CAP elements within 15 days of completion.

   e. GCWSA must submit a final report documenting completion of the corrective action, in accordance with the Department approved CAP, within 30 days of completion.

2. DEQ Contact

   Unless otherwise specified in this Order, GCWSA shall submit all requirements of Appendix A of this Order to:

   Frank Lupini
   Enforcement Specialist
   VA DEQ –Piedmont Regional Office
   4949A Cox Road,
   Glen Allen, Virginia 23060
   Frank.Lupini@deq.virginia.gov

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 May 31, 2013, GCWSA shall monitor and limit the discharge from Outfall No. 001 of the Facility in accordance with VPDES Permit Number VA0020761, 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				
	Monthly Average Quantity	Weekly Average Quantity	Concentration Minimum	Monthly Average Concentration	Weekly Average Concentration
BOD5	25 kg/day	36 kg/day	N/A	42 mg/L	60 mg/L
Total Zinc	N/A	N/A	N/A	49µ/L	49µ/L