COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
VALLEY REGIONAL OFFICE
4411 Early Road, P.O. Box 3000, Harrisonburg, Virginia 22801
(540) 574-7800 Fax (540) 574-7878
www.deq.virginia.gov

Douglas W. Domenech
Secretary of Natural Resources

David K. Paylor
Director

Amy Thatcher Owens
Regional Director

STATE WATER CONTROL BOARD
AMENDMENT TO
SPECIAL ORDER BY CONSENT ENFORCEMENT ACTION
ISSUED TO
TOWN OF MONTEREY
FOR
MONTEREY STP
VPDES Permit No. VA0023281

SECTION A: Purpose

This is an Amendment to a Consent Special Order (hereinafter referred to as the Amendment) issued under the authority of Va. Code § 62.1-44.15, between the State Water Control Board and Town of Monterey, regarding the Monterey STP, for the purpose of revising certain provisions of that Consent Special Order (hereinafter referred to as the Order) issued by the State Water Control Law to the Town of Monterey on June 28, 2007 and for resolving certain violations of that Order and the State Water Control Law.

SECTION B: Definitions

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

1. "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.

2. "CBOD" mean carbonaceous biochemical oxygen demand.

3. "CTC" means Certificate to Construct.

4. "CTO" means Certificate to Operate.

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, as described in Va. Code § 10.1-1185.

7. "DMR" means Discharge Monitoring Report.

8. "D.O." means dissolved oxygen.

9. "Facility" or "Plant" means the Monterey Sewage Treatment Plant located in Monterey, Virginia, which treats and discharges treated sewage and other municipal wastes, for the residents and businesses of the Town of Monterey.

10. "I&I" means Inflow and Infiltration.

11. "MGD" means millions gallons per day.

12. "Monterey" and "Town" means the Town of Monterey, a political subdivision of the Commonwealth of Virginia. Monterey is a "person" within the meaning of Va. Code § 62.1-44.3.

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

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

15. "Permit" means VPDES Permit No. VA0023281, which was issued under the State Water Control Law and the Regulation to Monterey on September 27, 2007 and which expires on August31, 2012.

16. "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.

17. "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.

18. "VRO" means the Valley Regional Office of DEQ, located in Harrisonburg, Virginia.

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

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

21. "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.

22. "TRC" means total residual chlorine.

23. "TSS" means total suspended solids.

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

25. "VAC" means the Virginia Administrative Code.

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

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

SECTION C: Basis for Amendment

1. Monterey owns and operates the Facility and the sewage collection system serving the Town and adjacent areas in Highland County, Virginia. The Town has approximately 230 residents with 271 connections. The Permit allows Monterey to discharge treated sewage and other municipal wastes from the Facility, to West Strait Creek, in strict compliance with the terms and conditions of the Permit.

2. West Strait Creek is located in the Potomac River basin. West Strait Creek from the Monterey STP downstream to its confluence with an unnamed tributary to Miracle Ridge is listed on the 303 (d) list as severely impaired for aquatic life use (benthics). The cause(s) of the impairment have been listed as Municipal Point Source discharges (Monterey STP).

West Strait Creek from the headwaters to the Monterey STP is listed on the 303 (d) list as impaired for aquatic life use (benthics). The cause(s) of the impairment have been listed as non-point sources.

3. Presently, Monterey is subject to a Consent Order that became effective June 28, 2007, which provided a schedule of compliance to construct an upgraded STP capable of meeting the Permit's effluent limitations.

4. Previously, the Town was subject to a Consent Order that became effective January 7, 2003, which provided a schedule of compliance to address significant I&I problems in its sewage collection system. The Town completed the I&I project repairs in the spring of 2006. Drier weather in 2005 and reduced flows at the STP led DEQ to cancel the 2003 Order, believing that the worst of the I&I was corrected, and issue the 2007 Order to construct a Facility upgrade to meet limits. However, wet weather in 2006 and 2007 indicated that while the frequency of high flow was reduced, there were sufficiently high flow events that the proposed upgraded plant would often not ensure compliance.

5. On May 6, 2008, VRO issued Warning Letter number W2008-5-V-1004 to Monterey for a violations of the 2007 Order's CBOD concentration average and CBOD concentration maximum interim effluent limitations in January 2008.

6. On June 6, 2008, DEQ staff met with Monterey to discuss the Town's submittal of the plans and specifications for the Facility upgrade. Based on a review of the Town's flow records, DEQ expressed concerns that the proposed plant would fail due to excessive peak flow events.

7. On September 10, 2008, DEQ conditionally approved the plans and specifications for the Facility upgrade with a design capacity of 0.12 MGD and issued a CTC. However, the CTC approval was conditioned on Monterey entering into a consent order, as agreed, that incorporated a corrective action plan to further reduce excessive I&I in the collection system. The condition stipulated that a CTO would not be issued until the Town signed a new consent order with that I&I schedule.

8. On October 6, 2008, VRO issued Warning Letter number W2008-10-V-1016 to Monterey for a violation of the 2007 Order's CBOD concentration average interim effluent limitation in August 2008.

9. In addition, there were violations of the 2007 Order's CBOD concentration average interim effluent limitations in June and July 2008 and CBOD concentration maximum interim effluent limitations in July 2008. These violations were not included in any enforcement documents.

10. On December 3, 2008, VRO issued Warning Letter number W2008-12-V-0002 to Monterey for violation of the 2007 Order's CBOD concentration average interim effluent limitation in October 2008.

11. On April 8, 2009, VRO issued Notice of Violation number W2009-04-V-0012 to Monterey for violations of the 2007 Order's CBOD concentration average and maximum interim effluent limitation in February 2009.

12. On May 6, 2009, VRO issued Notice of Violation number W2009-05-V-0005 to Monterey for violations of the 2007 Order's CBOD concentration average and maximum interim effluent limitations in March 2009.

13. On October 5, 2009, VRO issued Notice of Violation number W2009-10-V-0001 to Monterey for a violation of the 2007 Order's CBOD concentration average interim effluent limitation in August 2009.

14. On November 5, 2009, VRO issued Notice of Violation number W2009-11-V-0003 to Monterey for a violation of the 2007 Order's CBOD concentration average interim effluent limitation in September 2009.

15. On December 10, 2009, VRO issued Notice of Violation number W2009-12-V-0004 to Monterey for violations of the 2007 Order's CBOD concentration average and maximum interim effluent limitations in October 2009.

16. Wet weather in late 2009 and early 2010 indicates that significant I&I problems continue to exist as demonstrated by excessive peak flow events / high flow events which can impact the new plant's performance if not addressed.

17. The design capacity of the Facility has been rated and approved as 0.12 MGD.

18. Monterey is presently constructing an upgraded sewage treatment plant designed to meet the Permit's final effluent limitations with a design capacity of 0.12 MGD. The upgraded Facility will have the capability to treat wet weather flows up to 0.3 MGD. The 2007 Order required the Facility upgrade to be on-line by December 13, 2009.

19. On February 17, 2010, Department staff met with representatives of Monterey to discuss the development of a plan and schedule to further address the Town's I&I problems and for completing construction of the Facility upgrade. DEQ requested the Town submit a plan and schedule of corrective actions to address the problems.

20. On February 18, 2010, VRO issued Notice of Violation number W2010-02-V-0002 to Monterey for violations of the 2007 Order's CBOD concentration average and maximum interim effluent limitations in December 2009 and failure to complete construction of the Facility by December 13, 2009 in accordance with the 2007 Consent Order.

21. In addition, Monterey experienced October 2009 TSS violations, March 2010 CBOD violations and pH, D.O., and chlorine effluent violations that have not been cited in any enforcement documents.

22. Monterey attributes the CBOD violations occurring after mid-April 2009 to the Facility's reduced treatment capacity when half of the treatment beds were taken offline in order to begin construction of the new Facility in mid-April 2009. DEQ recognizes that the reduced treatment capacity has had an adverse impact on the wastewater quality.

23. Monterey also attributes the delays in completing construction of the new Facility to a combination of extreme winter weather and the apparent necessity to extend the construction schedule during the contractor negotiations after the 2007 Order was signed due to potential delays in receipt of the precast Facility.

24. Monterey asserts that the topographic relief of some portions of the Town tends to acerbate the I&I problem by funneling high flows into the collection system.

25. By letters dated March 17, 2010 and April 5, 2010, Monterey submitted to DEQ a plan and schedule of corrective actions to further address the Town's I&I problems and to complete construction of the Facility upgrades for incorporation into this Amendment.

26. Va. Code § 62.1-44.31 states that: "It shall be unlawful for any owner to fail to comply with any special order adopted by the Board, which has become final under the provisions of this chapter, or to fail to comply with a pretreatment condition incorporated into the permit issued to it by the owner of a publicly owned treatment works or to fail to comply with any pretreatment standard or pretreatment requirement, or to discharge sewage, industrial waste or other waste in violation of any condition contained in a certificate issued by the Board or in excess of the waste covered by such certificate, or to fail or refuse to furnish information, plans, specifications or other data reasonably necessary and pertinent required by the Board under this chapter."

27. Based on the results of the February 17, 2010, meeting, and a file review, the Board concludes that Monterey has violated the Order, Va. Code § 62.1-44.31, by discharging treated sewage and municipal wastes while concurrently failing to comply with the conditions of the Order, as described in paragraphs C(5) and (C8) through C(15), and C(20) and C(21) above.

28. In order for Monterey to return to compliance, DEQ staff and representatives of Monterey have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Amendment and requires Monterey to complete construction of the new Facility and conduct certain I&I corrective actions to address collection system deficiencies.

SECTION D: Agreement and Order

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

1. Perform the actions described in Appendix A and Appendix B of this Amended Order; which supersedes and cancels Appendix A and Appendix B of the 2007 Order. Both State Water Control Board and Monterey understand that this Amendment does not alter,

modify, or amend other provisions of the Order and that unmodified provisions of the Order remain in effect by their own terms.

2. During the estimated 6 month's interim period during which Facility improvements will be completed, Monterey will operate the STP in a workmanlike fashion so as to produce the best quality effluent that the Facility is capable of producing.

3. Monterey shall comply with the interim effluent limits and monitoring requirements contained in Appendix B for CBOD and TSS. For the Permit's effluent limits for pH, DO and TRC the Parties acknowledge that pending upgrade of the Facility, Monterey may experience additional violations of Permit conditions for these parameters. Accordingly, pending completion of upgrade of the Facility, Monterey shall operate the Facility in such a manner that it produces the best quality effluent of which it is capable in order to minimize such additional violations and minimize potential impacts to water quality, including eliminating exceedances of water quality criteria.

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

_____
Amy T. Owens, Regional Director
Department of Environmental Quality

Town of Monterey voluntarily agrees to the issuance of this Amendment.

Date: 6/25/10 By: Janice Warner Mayor
(Person) (Title)
Town of Monterey

Commonwealth of Virginia
City/County of Highland

The foregoing document was signed and acknowledged before me this 25th day of June, 2010, by Janice Warner who is Mayor of Town of Monterey on behalf of the Town of Monterey.

Melanie R Smith
Notary Public

7320138
Registration No.

My commission expires: 2-28-2014

Notary seal:

MELANIE R. SMITH
COMMONWEALTH OF VIRGINIA
REGISTRATION NO. 7320138
NOTARY PUBLIC

APPENDIX A
SCHEDULE OF COMPLIANCE

Corrective Action Plan – Sewage Treatment Plant Modifications

1. **By July 15, 2010**, Monterey shall complete construction of the approved Facility upgrades and submit a Certificate to Operate ("CTO") application to DEQ for review and approval. Monterey shall respond to any comments or deficiencies noted by DEQ in the application expeditiously and shall, in no event, fail to secure the CTO by **September 15, 2010.**

   At the same time, Monterey shall also submit to DEQ for review and approval the O&M Manual and Sludge Management Plan for the approved Facility upgrade. Monterey shall respond to any comments regarding the O&M Manual and Sludge Management Plan **within 30 days** of receipt of written comments.

2. **Within 60 days** of obtaining a CTO for the Facility upgrade, but **in no event later than November 15, 2010,** Monterey shall comply with the Permit's final effluent limitations.

3. **Within 180 days** of completion of construction of the Facility upgrade, Monterey shall complete the closure of the unneeded units of the Facility in accordance with the approved closure plan.

Corrective Action Plan - I&I

4. **By April 15, 2010**, Monterey shall begin the collection system flow monitoring study as described in its letter dated April 5, 2010, and in addition, Monterey shall:

   a. conduct a public information program regarding reporting overflows to the Town and human health concerns about sewage overflows;
   b. conduct flow metering during day and night and wet and dry weather conditions;
   c. conduct smoke testing in the collection system to identify inflow areas as necessary;
   d. conduct manhole inspections in the collection system to evaluate I&I sources and structure conditions;
   e. conduct building plumbing inspections as necessary after smoke testing to confirm suspected inflow sources, such as roof leaders and foundation drains;
   f. conduct television inspection of lines as necessary to verify smoke testing or when temporary flow monitoring indicates excessive I&I;
   g. perform a data analysis and produce a project report, and
   h. continue the flow monitoring study through **November 30, 2010.**

5. **By August 15, 2010**, Monterey shall ensure that the map of its collection system identifies the sewer sub-basins within the collection system and numbered manholes

located within the sub-basins and shall submit the map with any changes to DEQ. The map will be used for identifying sewer lines with excessive I&I flows.

6. **By November 30, 2010,** Monterey shall complete the flow monitoring study as detailed in Item #4 above.

7. **By November 30, 2010**, Monterey shall complete the evaluation of the individual sewer sub-basins identified by the flow monitoring study as having I&I to determine sewer lines and/or areas in need of repairs.

8. **By February 1, 2011**, Monterey shall submit to DEQ for review and approval a summary report on its flow monitoring studies and the I&I investigations including the smoke testing studies, manhole inspections, and TV monitoring of the collection system describing the work conducted and the collection system defects found during its investigations. The summary report should include the raw flow data and individual inspection reports as attachments. In addition, Monterey shall submit to DEQ for review and approval a detailed plan and schedule of I&I corrective actions to address the deficiencies identified and include funding amounts and sources and the Town's sewer rates. Monterey shall address any comments regarding the plan and schedule within 30 days of receipt of written comments. Upon approval, the plan and schedule of I&I corrective actions will be incorporated by reference into this Consent Order.

9. DEQ and Monterey will meet to discuss the progress and adequacy of the Town's I&I plan on a semi-annual basis for the duration of the Amendment.

GENERAL REQUIREMENTS

10. Monterey shall submit quarterly progress reports to DEQ, with the first report being due **July 10, 2010**. Subsequent Progress Reports will be due by **October 10, January 10, April 10, and July 10,** along with the Facility's Discharge Monitoring Report until the cancellation of this Order. The quarterly progress reports shall contain:

    a. a summary of all work completed since the previous progress report in accordance with this Order;
    b. a projection of the work to be completed during the upcoming quarterly period in accordance with this Order; and
    c. a statement regarding any anticipated problems in complying with this Order

11. No later than **14 days** following a date identified in the above schedule of compliance **Monterey** shall submit to DEQ's Valley Regional Office a written notice of compliance or noncompliance with the scheduled item. In the case of noncompliance, the notice shall include the cause of noncompliance, any remedial actions taken, and the probability of meeting the next scheduled item.

12. **DEQ Contact**

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

Steve Hetrick
Enforcement Specialist Sr.
VA DEQ –Valley Regional Office
P.O. Box 3000
Harrisonburg, VA 22801
(540) 574-7833 Phone
(540) 574-7878 Fax
Steven.hetrick@deq.virginia.gov

APPENDIX B: INTERIM EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

During the period beginning with the effective date of this Consent Special Order Amendment and lasting until the completion of the Facility upgrade as required in Appendix A, Monterey shall limit and monitor the discharge from outfall 001 in accordance with the Permit except as specified below.

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS					
	Monthly Average		Weekly Average		Min.	Max.
	mg/l	kg/d	mg/l	kg/d		
$CBOD_5$	48	11	62	18	NA	NA
TSS	30	14	45	20	NA	NA
Ammonia-N (January-May)	NL	NA	NL	NA	NA	NA
Ammonia-N (January-May)	NL	NA	NL	NA	NA	NA

NA = Not Applicable
NL = No Limit