COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
NORTHERN REGIONAL OFFICE
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Douglas W. Domenech
Secretary of Natural Resources

David K. Paylor
Director

STATE WATER CONTROL BOARD ENFORCEMENT ACTION SPECIAL ORDER BY CONSENT ISSUED TO PRINCE WILLIAM COUNTY SERVICE AUTHORITY FOR THE H. L. MOONEY WASTEWATER TREATMENT WORKS (VA0025101) AND THE PRINCE WILLIAM COUNTY SERVICE AUTHORITY SANITARY SEWER SYSTEM

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code §§62.1-44.15(8a), (8d), and (80 and 10.1-1185 between the State Water Control Board and the Prince William County Service Authority, regarding the H. L. Mooney Wastewater Treatment Works and the sanitary sewer collection system owned and operated by Prince William County Service Authority, for the purpose of resolving certain violations of the State Water Control Law and regulations.

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 §§62.1-44.7 and 10.1-1184.

2. "County" means Prince William County.

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

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

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

6. "NOV" means Notice of Violation.

7. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.

8. "Order" means this document, also known as a Consent Special Order.

9. "Permit" means Virginia Pollutant Discharge Elimination System (VPDES) permit No. VA0025101 issued to Prince William County Service Authority.

10. "Plant" means the H. L. Mooney Wastewater Treatment Works.

11. "Service Authority" or "PWCSA" means Prince William County Service Authority.

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

SECTION C: Findings of Fact and Conclusions of Law

1. The Service Authority owns and operates the Plant and a sanitary sewer collection system located in Prince William County. The Service Authority is chartered by the State Corporation Commission and is an independent public body responsible for providing wastewater collection and treatment within its service area.

2. The collection system is located in the Potomac and Occoquan River Basins.

3. The Permit allows the Service Authority to discharge treated wastewater to Neabsco Creek (located within the Potomac River Basin), from Outfall #001, located at the Plant, in strict compliance with the terms and conditions of the Permit. Outfall #001 is the sole authorized discharge point under the Permit.

4. 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."

5. The Service Authority is a "person" within the meaning of the statute.

6. Va. Code § 62.1-44.3 defines "state waters" to include all waters "on the surface and under the ground, wholly or partially within or bordering the Commonwealth". The Neabsco Creek and the creeks and tributaries of the Potomac and Occoquan River Basins are surface waters located wholly within the Commonwealth and therefore are "state waters" under the statute.

7. The Board has evidence to indicate that the Service Authority has violated Va. Code §62.1-44.5 by actively pumping sewage out of multiple areas of the Service

Authority's sanitary sewer collection system during a storm event experienced during May 9-12, 2008. The Service Authority informed DEQ that the pump out of Service Authority's collection system was necessary to avoid sewage back-up into homes. The pumped sewage was discharged into local roadways, which then allowed the sewage to run, by way of storm sewers and other surface drainage, into creeks and tributaries of the Potomac and Occoquan River Basins.

8. In accordance with regulations, on May 12, 2008, the Service Authority reported the above described discharges to DEQ, and on June 13, 2008, DEQ issued to the Service Authority NOV No. W2008-06-N-102. The NOV cited unpermitted discharges resulting from pumping out from the sanitary sewer collection system 1,755,500 gallons of raw sewage on 10 occasions due to heavy rains that occurred on May 11, 2008 and rain that occurred on May 12, 2008.

9. In addition, although not the subject of an NOV, the Board has evidence to indicate that the Service Authority has violated Va. Code §62.1-44.5 at the H.L. Mooney Wastewater Treatment Works by failing to comply with Permit discharge limitations for Ammonia, Total Suspended Solids and Phosphorus during the month of May 2008, detailed in a Warning Letter (WL) dated July 7, 2008; by bypassing treatment units at the Plant during the month of May 2008; by discharging untreated sewage from certain pump stations on four occasions in May 2008; and by discharging untreated sewage from a washed out sewer line in May 2008. The Service Authority has also attributed these effluent limit violations to hydraulic overloading caused by the above referenced rain events.

10. Representatives of the Service Authority met with DEQ staff on July 10, 2008, to discuss the discharges and potential solutions designed to minimize the potential for unpermitted discharges, bypasses, or discharge limit violations attributable to rainfall events.

11. During the July 10, 2008 meeting, the Service Authority indicated that it continues to address rainfall induced high-flows by implementation of I&I rehabilitation and repair projects. These projects have been incorporated into Appendix A of this Order.

SECTION D: Agreement and Order

By virtue of the authority granted it pursuant to Va. Code § 62.1-44.15 and upon consideration of Va. Code § 10.1-1186.2, the Board orders the Service Authority, and the Service Authority agrees:

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

2. To a civil charge of $25,320.00 in settlement of the violations cited in this Order, to be paid as follows:

a. The Service Authority shall pay $2,532.00 of the civil charge within 30 days of the effective date of this Order. Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," delivered to:

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

The Service Authority 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).

b. The Service Authority shall satisfy $22,788.00 of the civil charge by satisfactorily completing the Supplemental Environmental Project (SEP) described in Appendix B of this Order.

c. The net project costs of the SEP to the Service Authority shall not be less than the amount set forth in Paragraph D.2.b. If it is, the Service Authority shall pay the remaining amount in accordance with Paragraph D.2.a of this Order, unless otherwise agreed to by the Department. "Net project cost" means the net present after-tax cost of the SEP, including tax savings, grants, and first-year cost reductions and other efficiencies realized by virtue of project implementation. If the proposed SEP is for a project for which the party will receive an identifiable tax savings (e.g., tax credits for pollution control or recycling equipment), grants, or first-year operation cost reductions or other efficiencies, the net project cost shall be reduced by those amounts. The costs of those portions of SEPs that are funded by state or federal low-interest loans, contracts, or grants shall be deducted.

d. By signing this Order the Service Authority certifies that it has not commenced performance of the SEP.

e. The Service Authority acknowledges that it is solely responsible for completing the SEP project. Any transfer of funds, tasks, or otherwise by the Service Authority to a third party, shall not relieve the Service Authority of its responsibility to complete the SEP as described in this Order.

f. In the event it publicizes the SEP or the SEP results, the Service Authority shall state in a prominent manner that the project is part of a settlement of an enforcement action.

g. The Department has the sole discretion to:

i. Authorize any alternate, equivalent SEP proposed by the Facility; and
ii. Determine whether the SEP, or alternate SEP, has been completed in a satisfactory manner.

h. Should the Department determine that the Service Authority has not completed the SEP, or alternate SEP, in a satisfactory manner, the Department shall so notify the Service Authority in writing. Within 30 days of being notified, the Service Authority shall pay the amount specified in Paragraph D.2.b, above, as provided in Paragraph D.2.a, above.

SECTION E: Administrative Provisions

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

2. This Order only addresses and resolves those overflows, discharges, releases, and violations known or reported to the DEQ by the Service Authority up to the date of execution 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 Plant or collection system as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein. However, this Order shall preclude any actions against the Service Authority to the extent such claims are barred by Clean Water Act § 309(g) or by Va. Code § 62.1-44.15(8f).

3. For purposes of this Order and subsequent actions with respect to this Order only, the Service Authority admits the jurisdictional allegations, and agrees not to contest, but neither admits nor denies, the findings of fact and conclusions of law in this Order.

4. The Service Authority 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 Service Authority declares it has received fair and due process under the Administrative Process Act, Va. 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 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 enforce this Order.

6. Failure by the Service Authority 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 Service Authority 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 Service Authority shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. The Service Authority shall notify the DEQ 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 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 within 24 hours of learning of any condition above, which the Service Authority 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 Service Authority. Not withstanding the foregoing, the Service Authority agrees to be bound by any compliance date which precedes the effective date of this Order.

11. Any plans, reports, schedules or specifications attached hereto or submitted by the Service Authority 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.

12. This Order shall continue in effect until:

    a. The Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to the Service Authority; or

    b. The Service Authority petitions the Director or his designee to terminate the Order after it has completed all requirements of the Order and the Director or his designee approves the termination of the Order.

    Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve the Service Authority 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 Service Authority voluntarily agrees to the issuance of this Order.

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

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

_____
Thomas A. Faha, NRO Regional Director
Department of Environmental Quality

Prince William County Service Authority voluntarily agrees to the issuance of this Order.

Date: 4/16/10 By: _____, GM
(Person) (Title)
Prince William County Service Authority

Commonwealth of Virginia
City/County of Prince William

The foregoing document was signed and acknowledged before me this 16 day of April, 2010, by Dean Dickey, who is

General Manager of Prince William County Service Authority on behalf of the Service Authority.
(title)

_____
Notary Public

7032790
Registration No.

My commission expires: March 31, 2014

Notary seal:

OFFICIAL SEAL
ROSALIND S. JEFFRIES
NOTARY PUBLIC - VIRGINIA
REGISTRATION# 7032790
My Commission Exp. March 31, 2014

APPENDIX A

Prince William County Service Authority shall:

1. Continue to operate the sanitary sewer collection system in a manner consistent with industry best practices, as well as, continue to perform routine maintenance and upkeep of the system, in order to avoid discharge limit violations, bypasses, overflows and the necessity of pumping out of the collection system.

2. Update the existing Operations and Maintenance (O&M) manual for the H.L. Mooney Plant. The revised O&M manual shall detail the manner in which the plant operates in high-flow mode. The updated portions of the O&M manual shall be provided to DEQ for review and approval within 30 days of the effective date of this Order. The updated O&M manual shall incorporate the standard operating procedures (SOP) document submitted to DEQ on March 5, 2009.

3. Continue to report all pump-outs and overflows of the sanitary sewer system to DEQ within 24-hours of the occurrence. The report shall include a characterization of the event, including the amount of flow/discharge, the location, date, and time of the event, the reason for the event, the weather conditions when the event occurred and notifications made to community and other relevant agencies of the event.

4. Beginning immediately, the Authority shall collect grab samples during each specific instance of discharge from an unpermitted discharge point within the sanitary sewer system. The samples shall be taken at the point of discharge and shall be analyzed for dissolved oxygen, total suspended solids, biochemical oxygen demand (BOD5), pH and E. coli. The results of the analysis shall be reported to DEQ within 7 days of the discharge event.

5. Submit to DEQ, for review and approval, within 30 days of the effective date of this Order, a public awareness plan including, but not limited to: (a) the wording and schedule for installation of warning signs for waters affected by the pump-outs and overflows and (b) the posting of information regarding the date, location and gallonage of pump-outs and overflows, on the Service Authority's website and local newspapers.

6. Submit to DEQ, for its review and approval, within 90 days of the effective date of this Order, a schedule to complete the below listed projects (with cost information for each project and an estimate of the amount by which surcharging or pump-out of the collection system will be avoided upon completion of these projects), as they are described in the Service Authority's letter dated June 24, 2008, responding to the June 2008 NOV.

    a. Planned Projects:

        i. Bull Run Trunk Sewer Upgrade & Replacement

ii. Flat Branch Sewer Upgrade & Replacement within the sections controlled by PWCSA.

iii. Quantico Creek Aerial Sewer Relief Sewer Construction

iv. Amherst Drive Sewer Replacement

v. Redirect Colchester Road Sewer

vi. Colchester Interceptor Rehabilitation & Relief Sewers Construction

vii. Barrett Drive Sanitary Sewer Relief Sewer Construction

viii. Replace Occoquan Town Sewage Pumping Station

ix. Upgrade headworks at Dumfries Sewage Pumping Station

All correspondence required by this Order, with the exception of the civil charge as listed in Section D, shall be submitted to:

Department of Environmental Quality
Northern Regional Office
Attn: Enforcement
13901 Crown Court
Woodbridge, VA 22193

APPENDIX B

Prince William County Service Authority (PWCSA) shall perform the SEP identified below in the manner specified in this Appendix.

1. The SEP to be performed by the Prince William County Service Authority is the contribution of $22,778.00 from PWCSA to the PWC Department of Public Works (DPW) towards the stream stabilization and restoration of the severely impacted stream bank of Cow Branch starting at Route 1 and running northwesterly for approximately 1,400 lf to Mellott Road as proposed by submission by Prince William County Department of Public Works to DEQ on February 1, 2010. This contribution shall be used in partial funding for the riffle grade control structures (RGC 1-5) of the project.

2. The contribution of funds shall be completed within 30 days of the effective date of this Order.

3. Prince William County Service Authority shall submit progress reports on the specific sections funded and the stream project on a monthly basis, due the 10th day of each month.

4. Prince William County Service Authority shall submit a written final report on the SEP, verifying that the SEP has been completed in accordance with the terms of this Order, and certified either by a Certified Public Accountant or by a responsible corporate officer or owner. Prince William County Service Authority shall submit the final report and certification to the Department within 45 days of the effective date of the Order.

5. If the SEP has not or cannot be completed as described in the Order, Prince William County Service Authority shall notify DEQ in writing no later than 30 days from the effective date of this Order. Such notification shall include:

   a. an alternate SEP proposal, or
   b. payment of the amount specified in Paragraph D.2 as described in Paragraph D.1.

6. Prince William County Service Authority hereby consents to reasonable access by DEQ or its staff to property or documents under the party's control, for verifying progress or completion of the SEP.

7. Documents to be submitted to the Department, other than the civil charge payment described in Section D of the Order, shall be sent to:

   Department of Environmental Quality
   Northern Regional Office
   Attn: Enforcement
   13901 Crown Court

Woodbridge, VA 22193