COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
NORTHERN REGIONAL OFFICE
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L. Preston Bryant, Jr
Secretary of Natural Resources

David K. Paylor
Director

STATE WATER CONTROL BOARD
ENFORCEMENT ACTION
SPECIAL ORDER BY CONSENT
ISSUED TO
THE RAPPAHANNOCK COUNTY WATER AND SEWER AUTHORITY
FOR
THE SPERRYVILLE SEWAGE TREATMENT PLANT
(VPDES PERMIT NO. VA0062880)

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 Rappahannock County Water and Sewer Authority, regarding the Sperryville Sewage Treatment Plant, 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 meaning assigned to them below:

1. "Administrative Process Act" or "APA" means Chapter 40 (§ 2.2-4000 *et seq.*) of Title 2.2 of the Va. Code.

2. "Authority" means Rappahannock County Water and Sewer Authority.

3. "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.

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

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

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

9. "Permit" means VPDES Permit No. VA0062880, which was issued by authority of the Board to the Rappahannock County Water and Sewer Authority on August 31, 2006, and which expires on August 30, 2011.

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

11. "Sperryville" or "Town" means the Town of Sperryville.

12. "STP" means the Sperryville Sewage Treatment Plant, with a design flow of 0.055 MGD, located at 3751 Sperryville Pike, Sperryville in Rappahannock County, Virginia, which treats and discharges sewage for the Town of Sperryville.

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

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

13. "VAC" means the Virginia Administrative Code.

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

15. "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 Authority owns and operates the STP.

2. The STP is the subject of the Permit, which authorizes the Authority to discharge via Outfall 001 to the Thorton River which is located in the Rappahannock River Basin, in strict compliance with the terms and conditions of the Permit.

3. The Authority has experienced violations of Permit Condition Part I A(1) effluent limits for Ammonia as N and for Total Recoverable Copper. In response to these violations, DEQ sent the Authority the following NOVs and WLs:

    a. WL No. W2008-04-N-1001, dated April 8, 2008, (for the February 2008 monitoring period), citing Permit limit violations for exceeding the weekly

maximum and monthly average Permit limits for concentration for Total Recoverable Copper.

b. WL No. W2008-07-N-1002, dated July 9, 2008, (for the May 2008 monitoring period), citing Permit limit violations for exceeding the weekly maximum and monthly average Permit limits for concentration for Total Recoverable Copper.

c. WL No. W2008-10-N-1004, dated October 9, 2008, (for the August 2008 monitoring period), citing Permit limit violations for exceeding the weekly maximum and monthly average Permit limits for concentration for Total Recoverable Copper.

d. NOV No. W2009-01-N-0002, dated January 9, 2009, (for the November 2008 monitoring period), citing Permit limit violations for exceeding the weekly maximum and monthly average Permit limits for concentration for Ammonia as N in the outfall and for exceeding weekly maximum and monthly average Permit limits for concentration for Total Recoverable Copper.

e. NOV No. W2009-04-N-0002, dated April 8, 2009, (for the December 2008 to February 2009 monitoring periods), citing a Permit violation for failure to report the Total Recoverable Copper analysis.

4. On January 26, 2009, Environmental Systems Service, Ltd (ESS) on behalf of the Authority sent a NOV response letter to DEQ. ESS explained that the Ammonia as N violations were due to leaves that fell into the STP and had accumulated in the clarifier and causing a blockage of the activated sludge return to the clarifier. The leaves were cleaned out and ESS proposed that netting over the units be used to avoid further blockage concerns. ESS also explained that the Total Recoverable Copper violations were due to the fact the STP was not designed to, nor was able to remove metals of any type. Additionally, ESS proposed studying other treatment techniques including the use of chemical precipitation additives to reduce the Copper levels of the STP discharge.

5. On February 3, 2009, Authority staff and Don Hearl of ESS, the Authority's consultant, met with DEQ staff to discuss the January 9, 2009, NOV and potential methods to ensure future compliance with permitted limits. These measures have been incorporated into Appendix A of this order. The Total Recoverable Copper analysis has been submitted and the reporting issues have been resolved.

6. 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."

7. 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.

8. Va. Code § 62.1-44.15(5a) states that a VPDES permit is a "certificate" under the statute.

9. The Department has issued no permits or certificates to the Authority for the Town of Sperryville other than VPDES Permit No. VA0062880.

10. The Thornton River is a surface water located wholly within the Commonwealth and is a "state water" under State Water Control Law.

11. As detailed in the findings of fact above, DEQ concludes that the Authority has violated condition Part I A(1) of the Permit, Va. Code § 62.1-44.5 and 9 VAC 25-31.50.A.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code § 62.1-44.15 8(a) the Board orders the Rappahannock County Water and Sewer Authority and the Rappahannock County Water and Sewer Authority 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 this Order with the consent of the Rappahannock County Water and Sewer Authority for good cause shown by the Rappahannock County Water and Sewer Authority, or on its own motion pursuant to the Administrative Process Act 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 STP; 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 Rappahannock County Water and Sewer Authority admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.

4. The Rappahannock County Water and Sewer 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 Rappahannock County Water and Sewer Authority declares it has received fair and due process under the Administrative Process Act and the Virginia Water Pollution 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 Rappahannock County Water and Sewer 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 Rappahannock County Water and Sewer 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 Rappahannock County Water and Sewer 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 Rappahannock County Water and Sewer Authority 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 Rappahannock County Water and Sewer 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 Rappahannock County Water and Sewer Authority.

Nevertheless, the Rappahannock County Water and Sewer Authority agree 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 Rappahannock County Water and Sewer Authority 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 Rappahannock County Water and Sewer Authority.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve the Rappahannock County Water and Sewer Authority 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 Rappahannock County Water and Sewer 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.

13. The undersigned representative of the Rappahannock County Water and Sewer 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 Rappahannock County Water and Sewer Authority to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of the Rappahannock County Water and Sewer Authority.

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 Rappahannock County Water and Sewer Authority voluntarily agrees to the issuance of this Order.

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

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

The Rappahannock County Water and Sewer Authority voluntarily agree to the issuance of this Order.

By: Eugene Leggett, Jr., Chairman

Date: 22 July 09

Commonwealth of Virginia
City/County of Rappahannock

The foregoing document was signed and acknowledged before me this 22 day of July, 2009, by Eugene Leggett, who is Chairman (title) of the Rappahannock County Water and Sewer Authority on behalf of the Authority.

Laura Jane Dodd
Notary Public

7209615
Registration No.

My commission expires: 08-31-2012

Notary seal:

APPENDIX A

The Rappahannock County Water and Sewer Authority shall:

1. Leaf netting will be purchased and available on site within 30 days of the execution of the order and will be installed prior to the beginning of fall leaf dropping. Netting shall remain in place on all open top tanks until leaf fall ends. Proof of installation of the netting shall be submitted to NRO within 15 days of completion of the work.

2. Within 60 days of the execution of this Order, submit a Water Effects Ratio (WER) Study Plan to the Central Office of DEQ for review and approval. (Submit the original to Central Office and one copy of the Plan to NRO).

3. Within 180 days of DEQ approval of the WER Study Plan complete a WER Study.

4. Within 30 days of the date of completion of the WER study submit the results to the Central Office of DEQ for review and approval. (Submit one copy of the Plan to NRO).

5. Within 30 days of DEQ approval of the WER Study results, after the EPA review and public notice request a formal modification of the VPDES Permit to include the revised Total Recoverable Copper limits from NRO.

6. If the WER Study is not approved, submit to NRO within 30 days of the rejection of the WER Study, an alternative schedule and plan to comply with the conditions of the Permit, for review and approval.

7. Begin implementation of the plan and schedule referenced in paragraph 6 above, within 30 days of approval.

8. Operate the STP in a workman-like manner in order to produce the best quality effluent of which the STP is capable during implementation of this schedule.

Correspondence required by this Order, shall be submitted to:

Department of Environmental Quality
Northern Regional Office
13901 Crown Court
Woodbridge, VA 22193
Or
Department of Environmental Quality
Central Office
Attn: Alex Barron
629 East Main Street
Richmond, VA 23219

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, the Authority shall monitor and limit the discharge from Outfall No. 001 of the STP in accordance with VPDES Permit Number VA0062880, 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 Regulations.

Parameter Description	**Parameter Limits**					**Monitoring Requirements**	
	Quantity Average	**Quantity Maximum**	**Concentration Minimum**	**Concentration Average**	**Concentration Maximum**	**Sample Frequency**	**Sample Type**
Total Recoverable Copper	NL	NL	N/A	N/A	N/A	1/3M	Grab