



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
THREE CREEK SEWAGE TREATMENT PLANT
VPDES Permit No. VA0077259**

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 and Sewer Authority, regarding the Three Creek 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. "305(b) report" means the report required by Section 305(b) of the Clean Water Act (33 United States Code § 1315(b)), and Va. Code § 62.1-44.19:5 for providing Congress and the public an accurate and comprehensive assessment of the quality of State surface waters.
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. "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, as described in Va. Code § 10.1-1185.
5. "Discharge" means discharge of a pollutant. 9 VAC 25-31-10

6. "Discharge of a pollutant" when used with reference to the requirements of the VPDES permit program means:
 - a. Any addition of any pollutant or combination of pollutants to surface waters from any point source; or
 - b. Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.
7. "DMR" means Discharge Monitoring Report.
8. "Effluent" means wastewater – treated or untreated – that flows out of a treatment plant, sewer, or industrial outfall.
9. "Facility" or "Plant" means the Three Creek Sewage Treatment Plant located at 428 Moonlight Rd, Emporia, Virginia, which treats and discharges treated sewage and other municipal wastes, for some of the residents and businesses of Greensville County.
10. "GCWSA" means Greensville County Water and 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.
11. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
12. "O&M" means operations and maintenance.
13. "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.
14. "Permit" means VPDES Permit No. VA0077259, which was issued under the State Water Control Law and the Regulation to GCWSA on September 30, 2007, and which expired on September 29, 2012. The Permit was reissued on September 30, 2012, and expires on August 31, 2017.
15. "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.
16. "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.

17. “PRO” means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
18. “Regulation” means the VPDES Permit Regulation, 9 VAC 25-31-10 *et seq.*
19. “State Water Control Law” means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.
20. “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.
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.

SECTION C: Findings of Fact and Conclusions of Law

1. GCWSA owns and operates the Facility in Greensville County, Virginia. The Permit allows GCWSA to discharge treated sewage and other municipal wastes from the Plant, to Three Creek, in strict compliance with the terms and conditions of the Permit.
2. Three Creek is located in the Chowan River and Dismal Swamp River Basin. During the 2010 and draft 2012 305(b)/303(d) Integrated Water Quality Assessments, Three Creek was impaired of the Fish Consumption Use due to a VDH fish consumption advisory for mercury. The Aquatic Life Use is considered fully supporting with observed effects for dissolved oxygen. The Wildlife Use is fully supporting and the Recreation Use was not assessed. The source of the mercury impairment is considered unknown, however atmospheric deposition is suspected. The Facility was included in the Three Creek bacteria TMDL, which was approved by the EPA on 9/28/2012. Bacteria were allocated to point and nonpoint sources in the watershed. The Facility received an E. coli wasteload allocation of 1.31E+12 E. coli cfu/year.

3. The recently expired permit was issued on September 30, 2007 and contains a 4 year permit compliance schedule to comply with the copper and zinc limits in the Permit by September 30, 2011. In 2008, GCWSA hired a consultant to engineer a solution to the Facility's zinc and copper issues. A Facility expansion was planned in order to accommodate a large industrial park under development and GCWSA needed to determine if any changes in Permit limits would affect the design of the expanded Facility. A meeting was held on August 27, 2008, between DEQ permitting staff, GCWSA, and the consultant to discuss the implications of expanding from a flow of 0.75 mgd to 2.0 and 4.0 mgd.
4. GCWSA submitted DMRs to the Department for the October 1, 2011, through January 31, 2012, monitoring periods, which indicated that the Facility exceeded discharge limitations for total copper and total zinc limits contained in Part I.A.1 of the Permit. In October, November, December of 2011 and January of 2012 the Facility discharge exceeded the total copper limits. The Facility discharge exceeded total zinc in January 2012. GCWSA indicated that it believed the exceedances were related to the need for completion of additional metal removal treatment processes at the Facility which were underway.
5. On March 6, 2012, DEQ issued NOV No.W2012-03-P-0002 to GCWSA for exceeding total copper and total zinc Permit discharge limitations for the October 1, 2011, through January 31, 2012, monitoring periods.
6. GCWSA submitted DMRs for the February 1, 2012, through April 30, 2012, monitoring periods, which indicated that it exceeded discharge limitations contained in Part I.A.1 of the Permit, for total copper and total zinc in February, March, and April of 2012, and for total suspended solids in April 2012. GCWSA indicated that the copper, zinc, and TSS exceedances were related to the need for additional metal removal and sludge handling treatment processes at the Facility which were underway.
7. On June 5, 2012, DEQ issued Notice of Violation No. W2012-05-P-0003 to GCWSA for exceeding total copper and total zinc Permit discharge limitations for the February 1, 2012, through April 30, 2012, monitoring periods.
8. On September 30, 2012, the Department reissued the Permit to GCWSA.
9. On October 16, 2012, Department staff met with GCWSA at the Facility to conduct a meeting and site inspection. Department staff observed that the sludge centrifuge construction was well underway and the magnesium hydroxide pilot study was in place and showing positive results. A review of GCWSA's DMR submittals for the May through October of 2012 monitoring periods indicate that it exceeded Permit limits for total copper each month.
10. GCWSA's submitted DMRs indicated that it discharged treated wastewater from the Facility every day from October 1, 2011, through October 31, 2012.

11. 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.”
12. 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.
13. Va. Code § 62.1-44.15(5a) states that a VPDES permit is a “certificate” under the statute.
14. The Department has issued no water discharge permits or certificates to GCWSA for this Facility other than VPDES Permit No. VA0077259.
15. Three Creek is a surface water located wholly within the Commonwealth and is a “state water” under State Water Control Law.
16. Based on the results of DMRs submitted by GCWSA, the March 27, 2012, meeting, and the October 16, 2012, site visit, the Board concludes that GCWSA 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 above.
17. In order for GCWSA to complete its return to compliance, DEQ staff and representatives of GCWSA have agreed to the Schedule of Compliance and interim limits, which are incorporated as Appendices A & B 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 GCWSA, and GCWSA agrees to:

1. Perform the actions described in Appendices A and B of this Order; and
2. Pay a civil charge of \$4,200 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).

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 unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. GCWSA shall demonstrate 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 parties intend 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, and any 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. The Director or his designee terminates the Order after GCWSA has completed all of the requirements of the Order;
 - b. 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
 - c. 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 [or officer] 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 20th day of March, 2013.



Michael P. Murphy, Regional Director
Department of Environmental Quality

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

Date: 1/11/13 By: David Whittington, Director
(Person) (Title)
Greenville County Water and Sewer Authority

Commonwealth of Virginia
City/County of Greenville

The foregoing document was signed and acknowledged before me this 11 day of

January, 2013, by K. David Whittington who is

director of Greenville County Water and Sewer Authority, on behalf

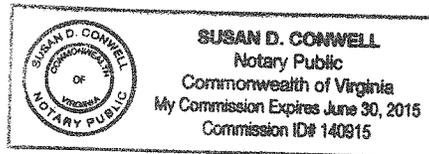
of the Authority.

Susan D. Conwell
Notary Public

140915
Registration No.

My commission expires: June 30, 2015

Notary seal:



APPENDIX A SCHEDULE OF COMPLIANCE

1. On or before July 15, 2013, GCWSA shall complete all upgrades, repairs and modifications to the Facility's solids handling units, chemical addition operations and dissolved oxygen blowers necessary to ensure consistent compliance with: (a) Permit discharge limitations for copper, zinc, and TSS; (b) conditions contained in the Certificate to Operate for the upgrade; and (c) the manufacturer's instructions for proper operation and maintenance of the solid handling units.

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 September 15, 2013, GCWSA shall monitor and limit the discharge from Outfall No. 001 of the Facility in accordance with VPDES Permit Number VA0077259, except as specified below. These interim limits shall retroactively apply, if applicable, as of the first day of the month in which this Order is signed by GCWSA.

Parameter Description	Parameter Limits			
	Monthly Average		Weekly Average	
	Concentration	Quantity	Concentration	Quantity
Total Copper	0.092 mg/L	NA	0.092 mg/L	NA
Total Zinc	0.123 mg/L	NA	0.123 mg/L	NA