



# *COMMONWEALTH of VIRGINIA*

## DEPARTMENT OF ENVIRONMENTAL QUALITY Blue Ridge Regional Office

[www.deq.virginia.gov](http://www.deq.virginia.gov)

Douglas W. Domenech  
Secretary of Natural Resources

**Lynchburg Office**  
7705 Timberlake Road  
Lynchburg, Virginia 24502  
(434) 582-5120  
Fax (434) 582-5125

David K. Paylor  
Director

Robert J. Weld  
Regional Director

**Roanoke Office**  
3019 Peters Creek Road  
Roanoke, Virginia 24019  
(540) 562-6700  
Fax (540) 562-6725

### STATE WATER CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO RONILE INC. FOR ITS WASTEWATER TREATMENT PLANT VPDES Permit No. VA0076015

#### **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 Ronile Inc., regarding the Ronile Inc. Wastewater 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. "BRRO" means the Blue Ridge Regional Office of DEQ, located in Roanoke, Virginia.
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. "Discharge" means discharge of a pollutant. 9 VAC 25-31-10
7. "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.
8. "DMR" means Discharge Monitoring Report.
9. "Effluent" means wastewater – treated or untreated – that flows out of a treatment plant, sewer, or industrial outfall.
10. "Facility" and "Plant" means the wastewater treatment plant located at 510 Orchard Avenue, Rocky Mount, Virginia, that treats and discharges treated effluent from Ronile's co-located business operations under VPDES Permit No. VA0076015.
11. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
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. VA0076015, which was issued under the State Water Control Law and the Regulation to Ronile on September 21, 2008 and which expires on September 20, 2013.
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. “Regulation” means the VPDES Permit Regulation, 9 VAC 25-31-10 *et seq.*
17. “Ronile” means Ronile Inc., a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Ronile is a “person” within the meaning of Va. Code § 62.1-44.3.
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. “Va. Code” means the Code of Virginia (1950), as amended.
21. “VAC” means the Virginia Administrative Code.
22. “VPDES” means Virginia Pollutant Discharge Elimination System.
23. “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. Ronile owns and operates the Facility. The Permit allows Ronile to discharge treated wastewater from the Facility, to the Pigg River, in strict compliance with the terms and conditions of the Permit.
2. The Pigg River is located in the Roanoke and Yadkin River Basin. The Pigg River is listed in DEQ’s 305(b)/303(d) Report as impaired for bacteria (*Escherichia coli* and Fecal coliform). Sources of the impairment are listed as livestock (grazing or feeding operations), municipal (urbanized high density area), on-site treatment systems (septic systems and similar decentralized systems), residential districts, unspecified domestic waste, wastes from pets, and wildlife other than waterfowl.

3. In submitting its DMRs, as required by the Permit, Ronile has indicated that it exceeded discharge limitations contained in Part I.A.1 of the Permit, for the months of April 2012, during the quarter July – September 2012, November 2012 and December 2012. Ronile indicated that the April 2012 Color (283) exceedance was due to a laboratory error. The contracted laboratory conducted a re-test of the sample and the results were in compliance with the Color effluent limit. The retested sample had exceeded the 48 hour holding period and so could not be reported for compliance purposes.
4. Ronile is in the 5<sup>th</sup> year of its Permit cycle. When the Permit was reissued in 2008, the Permit contained Zinc limits that would become enforceable in the 5<sup>th</sup> year of the Permit. Ronile has worked over the past four years to identify and remove sources of Zinc from its wastewater stream. Ronile has attempted to use a chemical to precipitate the Zinc out of the effluent to meet the effluent limits but asserts the use of the chemical resulted in the effluent violation of the Toxicity (379) parameter for the calendar quarter of July – September 2012.
5. Ronile discontinued use of the chemical to precipitate the Zinc out of the effluent and consequently, exceeded the effluent limits for Zinc (196) for Concentration, Average and Maximum, for the months of November and December 2012.
6. BRRO issued Notice of Violation (“NOV”) No. W2012-11-W-0001 to Ronile for the violations of the Color and Toxicity effluent limits on November 8, 2012. The violations of the November 2012 Zinc effluent limits were cited in Warning Letter (“WL”) No. W2013-01-W-1003 issued to Ronile on January 10, 2013 and the December 2012 Zinc violations were cited in NOV No. W2013-02-W-0001 issued to Ronile on February 7, 2013.
7. Ronile responded to the November 2012 Notice of Violation and the Warning Letter by submitting explanations of the violations and a plan and schedule of corrective action to address the exceedances.
8. 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.”
9. 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.
10. Va. Code § 62.1-44.15(5a) states that a VPDES permit is a “certificate” under the statute.
11. The Department has issued no permits or certificates to Ronile other than VPDES Permit No. VA0076015.
12. The Pigg River is a surface water located wholly within the Commonwealth and is a “state water” under State Water Control Law.

13. Based on the DMRs submitted by Ronile, the Board concludes that Ronile has violated the Permit and Va. Code § 62.1-44.5 and 9 VAC 25-31-50, by discharging treated wastewater from the Plant while concurrently failing to comply with the conditions of the Permit, as described in paragraphs C3 through C5, above.
14. On January 4, 2013, Department staff met with representatives of Ronile to discuss the violations, including Ronile's written response to the November 2012 NOV and January 2013 WL. Ronile has indicated that it intends to comply with the Zinc effluent limit by ceasing production of the product line responsible for the Zinc content in the effluent.
15. In order for Ronile to return to compliance, DEQ staff and representatives of Ronile have agreed to the Schedule of Compliance, which is incorporated as Appendix A 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 Ronile, and Ronile agrees to comply with the Interim Effluent Limitations and Monitoring Requirements described in Appendix A of this Order and Ronile will operate and maintain the Facility in a workmanlike manner, in order to ensure that the Facility produces the best quality effluent of which it is capable.

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend this Order with the consent of Ronile for good cause shown by Ronile, 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 and in NOV No. W2012-11-W-0001 dated November 8, 2012, NOV No. W2013-02-W-0001 dated February 7, 2013 and Warning Letter No. W2013-01-W-1003 dated January 10, 2013. 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, Ronile admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Ronile 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. Ronile 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 Ronile 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. Ronile 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. Ronile shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Ronile 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.

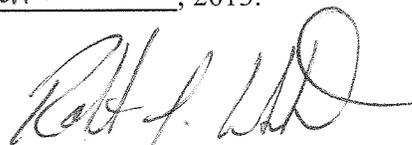
9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.

10. This Order shall become effective upon execution by both the Director or his designee and Ronile. Nevertheless, Ronile 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 Ronile has completed all of the requirements of the Order;
  - b. Ronile 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 Ronile.

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

And it is so ORDERED this 18<sup>th</sup> day of June, 2013.



Robert J. Weld, Regional Director  
Department of Environmental Quality

Ronile Incorporated voluntarily agrees to the issuance of this Order.

Date: 2/25/13 By: Phillip C. Essig Chief Executive Officer.  
Phillip C. Essig  
Ronile Inc.

Commonwealth of Virginia  
City/County of Franklin

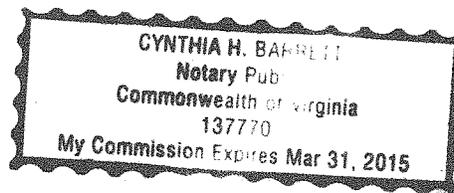
The foregoing document was signed and acknowledged before me this 25 day of February, 2013, by Phillip C. Essig who is the Chief Executive Officer of Ronile Inc. on behalf of the corporation.

Cynthia H. Barrett  
Notary Public

13770  
Registration No.

My commission expires: 3/31/15

Notary seal:



**APPENDIX A**

**INTERIM EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

From the effective date of this Order until reissuance of VPDES Permit Number VA0076015, but in no event later than September 30, 2013, Ronile shall monitor and limit the discharge from Outfall No. 001 of the Facility in accordance with VPDES Permit Number VA0076015, 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				Monitoring Requirements		
	Quantity Average	Quantity Maximum	Concentration Minimum	Concentration Average	Concentration Maximum	Sample Frequency	Sample Type
196 Zinc				390 µg/L	390 µg/L	1/M	24HC