



# COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

PIEDMONT REGIONAL OFFICE

4949A Cox Road, Glen Allen, Virginia 23060

(804) 527-5020 Fax (804) 527-5106

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

Matthew J. Strickler  
Secretary of Natural Resources

David K. Paylor  
Director

James J. Golden  
Regional Director

**STATE WATER CONTROL BOARD  
ENFORCEMENT ACTION - ORDER BY CONSENT  
ISSUED TO  
GREENSVILLE COUNTY WATER AND SEWER AUTHORITY  
FOR  
FALLING RUN WASTEWATER TREATMENT PLANT  
VPDES PERMIT NO. VA0070271**

**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 the Greensville County Water and Sewer Authority 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. "Authority" means the 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 and Sewer Authority is a "person" within the meaning of Va. Code § 62.1-44.3.

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" or "Plant" means the Falling Run Wastewater Treatment Plant located at 1174 Old Halifax Road, in Emporia, Virginia, which treats and discharges treated sewage and other municipal wastes, for the residents and businesses of the Authority of Greenville.
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. VA0070271 which was issued under the State Water Control Law and Regulation to the Greenville Authority Water & Sewer Authority on July 1, 2016, and expires on June 30, 2021.
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. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
17. "Regulation" means the VPDES Permit Regulation, 9 VAC 25-31-10 *et seq.*
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 the Virginia Pollutant Discharge Elimination System.

### **SECTION C: Findings of Fact and Conclusions of Law**

1. The Authority owns and operates the Plant. The Permit allows the Authority to discharge treated sewage and other municipal wastes from the Plant to the Meherrin River, in strict compliance with the terms and conditions of the Permit.
2. The Meherrin River is located in the Chowan and Dismal Swamp River Basin. During the 2010 305(b)/303(d) Integrated Water Quality Assessment Report, the Meherrin River was assessed as a Category 5A waterbody. The Fish Consumption Use is impaired due to VDH advisories for mercury and PCBs in multiple fish species; in addition arsenic is considered a non-impairing "observed effect". The Recreation Use is impaired due to *E. coli* exceedances. The Aquatic Life Use is considered fully supporting and the Wildlife Use was not assessed. The Falling Run WWTP has not been addressed in any TMDL. The Meherrin River has historically been considered a Tier 1 water.

3. In submitting its DMRs, as required by the Permit, the Authority has indicated that it exceeded discharge effluent limitations contained in Part I.A.1 of the Permit for 5-Day Biological Oxygen Demand (BOD<sub>5</sub>), and *E. coli* for the months of May, June and July 2017, and total suspended solids (TSS) for the month of May 2017.
4. On August 31, 2017, DEQ issued a Notice of Violation (NOV) No. W2017-08-P-0004 to the Authority for the BOD<sub>5</sub>, TSS and *E. coli* exceedances of the effluent limitations contained in the Permit. An additional *E. coli* exceedance occurred in August 2017, which has been incorporated into this Consent Order.
5. On September 14, 2017, the Authority called DEQ in response to the NOV and discussed the violations. The Authority stated that the BOD<sub>5</sub>, TSS and *E. coli* exceedances were the result of the failure of one of the two rotating biological contactor (RBC) wastewater treatment units. The failed RBC unit was taken off line for repairs, and all the wastewater flow was diverted to RBC unit No. 2 for treatment. The Authority reported that the main 'drive bearings' had failed on the RBC No. 1 unit and needed replacing.
6. Although the O&M Manual recommended the Authority maintain an inventory of critical spare parts for each piece of equipment, the Authority did not have the drive bearings in stock to make the repair to the RBC unit. The Authority ordered the bearings, but the wrong bearings were initially sent. The 'drive bearings' and spare 'drive bearings' were re-ordered. Upon receipt of the bearings, the repair was completed on August 3, 2017 and the RBC unit was put back in service. The spare 'drive bearings' were placed in the critical spare parts inventory as recommended by the O&M Manual.
7. The WWTP operated for three months with reduced wastewater treatment capacity using only one RBC unit.
8. Two additional *E. coli* exceedances were reported for July 2018 and November 2018 on DMRs submitted by the Authority. On January 8, 2019, DEQ issued Warning Letter No. W2019-01-P-1001 to the Authority for the exceedances.
9. Va. Code § 62.1-44.5 states that: "Except 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."
10. 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.
11. Va. Code § 62.1-44.15(5a) states that a VPDES permit is a "certificate" under the statute.
12. The Department has issued no other VPDES permits or certificates to the Authority for this Facility other than VPDES Permit No. VA0070271.

13. The Meherrin River is a surface water located wholly within the Commonwealth and is a "state water" under State Water Control Law.
14. Based on the results of the DMRs submitted for the months of May 2017, June 2017, July 2017, August 2017, July 2018 and November 2018, phone discussions on September 14, 2017, the Board concludes that the Authority has violated the Permit, 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 in paragraphs C(3), (4), and (8) above.
15. Corrective actions taken by the Authority demonstrate that the violations described in paragraphs C(3), (4), and (8) above, have been addressed, and the Authority has been in compliance with the Permit since December 2018.

#### **SECTION D: Agreement and Order**

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

1. Pay a civil charge of **\$10,587** within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payments 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

The 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). If the Department has to refer collection of moneys due under this Order to the Department of Law, the Authority shall be liable for attorneys' fees of 30% of the amount outstanding.

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

1. The Board may modify, rewrite, or amend this Order with the consent of the Authority for good cause shown by the Authority, 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, the Authority admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. The 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 Authority 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 the 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 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 unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. The Authority shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. The 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 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 Authority. Nevertheless, the Authority 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 the Authority has completed all of the requirements of the Order;
  - b. the 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
  - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to the Authority.

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

And it is so ORDERED this 17th day of July, 2019.

(FOR)

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James J. Golden, Regional Director  
Department of Environmental Quality



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

Date: 5-20-2019 By: Brenda M. Parson Director  
(Person) (Title)

Commonwealth of Virginia

The County/County of Greenville

The foregoing document was signed and acknowledged before me this 20<sup>th</sup> day of

May, 2019, by Brenda M. Parson who is

Director of the Greenville County Water and Sewer Authority.

Tricia L. Lewis  
Notary Public

7056842  
Registration No.

My commission expires: June 30, 2021

Notary seal:

