



west virginia department of environmental protection

Environmental Enforcement
601 57th Street SE
Charleston, WV 25304
Telephone: (304) 926-0470 Fax: (304) 926-0488

Earl Ray Tomblin, Governor
Randy C. Huffman, Cabinet Secretary
www.dep.wv.gov

January 4, 2012

Kobie Coburn
Director of Facilities
Boone County Board of Education
5367 Daniel Boone Parkway
Foster, WV 25081

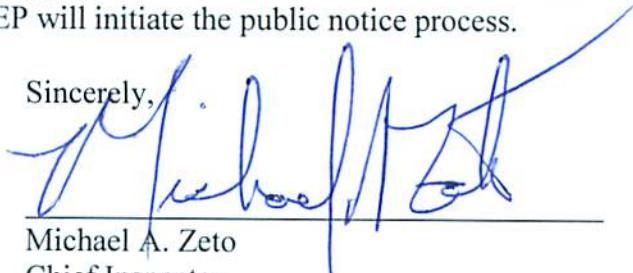
CERTIFIED RETURN RECEIPT REQUESTED
91 7199 9991 7030 8755 8654
RE: Violation of Chapter 22, Article 11
of the WV State Code

Dear Mr. Coburn:

Enclosed is revised CONSENT ORDER NUMBER 7450 dated January 4, 2012. This action is based upon the investigation and recommendation of the West Virginia Department of Environmental Protection's (WVDEP) Environmental Enforcement unit in response to Boone County Board of Education violating Chapter 22, Article 11 of the WV State Code at its facility located in Boone County, West Virginia. This revision is based upon your recent meeting with David C. Simmons, Enforcement Hearing Officer. This administrative settlement is being offered on behalf of the director of the Division of Water and Waste Management.

Please review, sign and return the original copy of the revised ORDER to me within five (5) working days of receipt. Subsequently, WVDEP will initiate the public notice process.

Sincerely,



Michael A. Zeto
Chief Inspector

Enclosure

cc: Scott G. Mandirola, Director, DWWM (via e-mail)
Yogesh Patel, Asst. Director, DWWM/Permits
Joseph M. Hickman, Assistant Chief Inspector, EE/WW (via e-mail)
Jeremy Bandy, Assistant Chief Inspector, EE (via e-mail)
David C. Simmons, Enforcement Hearing Officer, EE (via e-mail)
Laura McGee, Environmental Resources Specialist, EE (via e-mail)
Cynthia Musser, Environmental Inspector Supervisor, EE/WW (via e-mail)
Brad Wright, Environmental Inspector, EE/WW (via e-mail)
Shyrel Moellendick, MSSS, EE (via e-mail)

submit DMRs is a violation of Section B “Monitoring and Reporting” of the facility’s WV/NPDES permit.

4. The discharge of pollutants into waters of the state by Boone BOE in amounts that exceed permitted limitations was noted in four (4) of the DMRs submitted in the last eight (8) quarters for Boone County Career/Technical Center. These permit exceedances are further described and detailed in Attachment A. These violations are summarized as follows:
 - a. Six (6) minor exceedances on permitted discharge limitations.
 - b. Nine (9) moderate exceedances on permitted discharge limitations.
 - c. Seven (7) major exceedances on permitted discharge limitations.
5. Boone BOE operates a sewage treatment plant at Nellis Elementary located in Nellis, Boone County, West Virginia. Boone BOE was issued WV/NPDES Water Pollution Control Permit No. WV0103110, Registration No. WVG551115 on February 16, 2005. This permit was administratively extended through July 13, 2011.
6. Boone BOE failed to submit DMRs for the aforementioned facility for 3rd and 4th quarter 2009 and 3rd quarter 2010. Failure to submit DMRs is a violation of Section B “Monitoring and Reporting” of the facility’s WV/NPDES permit.
7. The discharge of pollutants into waters of the state by Boone BOE in amounts that exceed permitted limitations was noted in three (3) of the DMRs submitted in the last eight (8) quarters for Nellis Elementary. These permit exceedances are further described and detailed in Attachment A. These violations are summarized as follows:
 - a. Two (2) minor exceedances on permitted discharge limitations.
 - b. Four (4) moderate exceedances on permitted discharge limitations.
 - c. Two (2) major exceedances on permitted discharge limitations.
8. Boone BOE operates a sewage treatment plant at Ramage Elementary located in Ramage, Boone County, West Virginia. Boone BOE was issued WV/NPDES Water Pollution Control Permit No. WV0103110, Registration No. WVG551110 on February 16, 2005. This permit was administratively extended through July 13, 2011.
9. Boone BOE failed to submit DMRs for the aforementioned facility for 4th quarter 2009, 1st quarter 2010, 2nd quarter 2010, and 3rd quarter 2010. Failure to submit DMRs is a violation of Section B “Monitoring and Reporting” of the facility’s WV/NPDES permit.
10. The discharge of pollutants into waters of the state by Boone BOE in amounts that exceed permitted limitations was noted in two (2) of the DMRs submitted in the last eight (8) quarters for Ramage Elementary. These permit exceedances are further described and detailed in Attachment A. These violations are summarized as follows:
 - a. Two (2) minor exceedances on permitted discharge limitations.
 - b. One (1) moderate exceedance on permitted discharge limitations.
 - c. One (1) major exceedance on permitted discharge limitations.
11. Boone BOE operates a sewage treatment plant at Sherman Junior and Senior High located in Seth, Boone County, West Virginia. Boone BOE was issued WV/NPDES

Water Pollution Control Permit No. WV0103110, Registration No. WVG551112 on February 16, 2005. This permit was administratively extended through July 13, 2011.

12. Boone BOE failed to submit DMRs for the aforementioned facility for 3rd and 4th quarter 2009 and 3rd quarter 2010. Failure to submit DMRs is a violation of Section B “Monitoring and Reporting” of the facility’s WV/NPDES permit.
13. The discharge of pollutants into waters of the state by Boone BOE in amounts that exceed permitted limitations was noted in three (3) of the DMRs submitted in the last eight (8) quarters for Sherman Junior and Senior High. These permit exceedances are further described and detailed in Attachment A. These violations are summarized as follows:
 - a. Two (2) moderate exceedances on permitted discharge limitations.
 - b. Four (4) major exceedances on permitted discharge limitations.
14. Boone BOE operates a sewage treatment plant at Van Elementary located in Van, Boone County, West Virginia. Boone BOE was issued WV/NPDES Water Pollution Control Permit No. WV0103110, Registration No. WVG551113 on February 16, 2005. This permit was administratively extended through July 13, 2011.
15. Boone BOE failed to submit DMRs for the aforementioned facility for 3rd and 4th quarter 2009 and 3rd quarter 2010. Failure to submit DMRs is a violation of Section B “Monitoring and Reporting” of the facility’s WV/NPDES permit.
16. The discharge of pollutants into waters of the state by Boone BOE in amounts that exceed permitted limitations was noted in four (4) of the DMRs submitted in the last eight (8) quarters for Van Elementary. These permit exceedances are further described and detailed in Attachment A. These violations are summarized as follows:
 - a. One (1) minor exceedance on permitted discharge limitations.
 - b. Six (6) moderate exceedances on permitted discharge limitations.
 - c. Six (6) major exceedances on permitted discharge limitations.
17. Boone BOE operates a sewage treatment plant at Brookview Elementary located in Rock Creek, Boone County, West Virginia. Boone BOE was issued WV/NPDES Water Pollution Control Permit No. WV0103110, Registration No. WVG551114 on February 16, 2005. This permit was administratively extended through July 13, 2011.
18. Boone BOE failed to submit DMRs for the aforementioned facility for 3rd and 4th quarter 2009 and 3rd quarter 2010. Failure to submit DMRs is a violation of Section B “Monitoring and Reporting” of the facility’s WV/NPDES permit.
19. The discharge of pollutants into waters of the state by Boone BOE in amounts that exceed permitted limitations was noted in two (2) of the DMRs submitted in the last eight (8) quarters for Brookview Elementary. These permit exceedances are further described and detailed in Attachment A. These violations are summarized as follows:
 - a. Two (2) moderate exceedances on permitted discharge limitations.
 - b. Two (2) major exceedances on permitted discharge limitations.

20. Boone BOE operates a sewage treatment plant at Sherman Elementary located in Comfort, Boone County, West Virginia. Boone BOE was issued WV/NPDES Water Pollution Control Permit No. WV0103110, Registration No. WVG551116 on February 16, 2005. This permit was administratively extended through July 13, 2011.
21. Boone BOE failed to submit DMRs for the aforementioned facility for 3rd and 4th quarter 2009 and 3rd quarter 2010. Failure to submit DMRs is a violation of Section B “Monitoring and Reporting” of the facility’s WV/NPDES permit.
22. The discharge of pollutants into waters of the state by Boone BOE in amounts that exceed permitted limitations was noted in three (3) of the DMRs submitted in the last eight (8) quarters for Sherman Elementary. These permit exceedances are further described and detailed in Attachment A. These violations are summarized as follows:
 - a. Three (3) minor exceedances on permitted discharge limitations.
 - b. Five (5) moderate exceedances on permitted discharge limitations.
 - c. Four (4) major exceedances on permitted discharge limitations.
23. In October 2010, Boone BOE employed a new Director of Facilities. Since that time, Boone BOE has made significant steps toward correcting the violations discussed in this Order and has ensured that its Wastewater Operator holds the required 1-S certification.
24. On December 14, 2011, WVDEP personnel and representatives of Boone BOE met to discuss the terms and conditions of this Order.

ORDER FOR COMPLIANCE

Now, therefore, in accordance with Chapter 22, Article 11, Section 1 et seq. of the West Virginia Code, it is hereby agreed between the parties, and ORDERED by the Director:

1. Boone BOE shall immediately take all measures to initiate compliance with all terms and conditions of its WV/NPDES permits.
2. Within twenty (20) days of entry of this Order, Boone BOE shall submit for approval a proposed plan of corrective action and schedule, outlining action items and completion dates for how and when Boone BOE will achieve compliance with all terms and conditions of its WV/NPDES permit and/or pertinent laws and rules. The plan of corrective action shall be submitted to:

**WVDEP Environmental Inspector Supervisor
SW Regional Environmental Enforcement Office
PO Box 662
Teays, WV 25569**

A copy of this plan shall be submitted to:

**Chief Inspector
Environmental Enforcement - Mail Code #031328
WVDEP
601 57th Street SE
Charleston, WV 25304**

Upon approval, the plan of corrective action and schedule shall be incorporated into and become part of this Order, as if fully set forth herein. Failure to submit an approvable plan of corrective action and schedule or failure to adhere to the approved schedule is a violation of this Order.

3. Because of Boone BOE's permit violations, Boone BOE shall be assessed a civil administrative penalty of forty-three thousand three hundred fifty dollars (\$43,350) to be paid to the West Virginia Department of Environmental Protection for deposit in the Water Quality Management Fund in accordance with the following schedule:

Payment 1 in the amount of \$3,612.50 due on or before March 1, 2012.
Payment 2 in the amount of \$3,612.50 due on or before April 1, 2012.
Payment 3 in the amount of \$3,612.50 due on or before May 1, 2012.
Payment 4 in the amount of \$3,612.50 due on or before June 1, 2012.
Payment 5 in the amount of \$3,612.50 due on or before July 1, 2012.
Payment 6 in the amount of \$3,612.50 due on or before August 1, 2012.
Payment 7 in the amount of \$3,612.50 due on or before September 1, 2012.
Payment 8 in the amount of \$3,612.50 due on or before October 1, 2012.
Payment 9 in the amount of \$3,612.50 due on or before November 1, 2012.
Payment 10 in the amount of \$3,612.50 due on or before December 1, 2012.
Payment 11 in the amount of \$3,612.50 due on or before January 1, 2013.
Payment 12 in the amount of \$3,612.50 due on or before February 1, 2013.

Payments made pursuant to this paragraph are not tax-deductible for purposes of State or federal law. **Payment shall be mailed to:**

**Chief Inspector
Environmental Enforcement - Mail Code #031328
WV-DEP
601 57th Street SE
Charleston, WV 25304**

OTHER PROVISIONS

1. Boone BOE hereby waives its right to appeal this Order under the provisions of Chapter 22, Article 11, Section 21 of the Code of West Virginia. Under this Order, Boone BOE agrees to take all actions required by the terms and conditions of this Order and consents to and will not contest the Director's jurisdiction regarding this Order. However, Boone BOE does not admit to any factual and legal determinations made by the Director and reserves all rights and defenses available regarding liability or responsibility in any proceedings regarding Boone BOE other than proceedings, administrative or civil, to enforce this Order.
2. The Director reserves the right to take further action if compliance with the terms and conditions of this Order does not adequately address the violations noted herein and reserves all rights and defenses which he may have pursuant to any legal authority, as well as the right to raise, as a basis for supporting such legal authority or defenses, facts other than those contained in the Findings of Fact.
3. If any event occurs which causes delay in the achievement of the requirements of this Order, Boone BOE shall have the burden of proving that the delay was caused by circumstances beyond its reasonable control which could not have been overcome by due diligence (i.e., force majeure). Force majeure shall not include delays caused or contributed to by the lack of sufficient funding. Within three (3) working days after Boone BOE becomes aware of such a delay, notification shall be provided to the Director/Chief Inspector and shall, within ten (10) working days of initial notification, submit a detailed written explanation of the anticipated length and cause of the delay, the measures taken and/or to be taken to prevent or minimize the delay, and a timetable by which Boone BOE intends to implement these measures. If the Director agrees that the delay has been or will be caused by circumstances beyond the reasonable control of Boone BOE (i.e., force majeure), the time for performance hereunder shall be extended for a period of time equal to the delay resulting from such circumstances. A force majeure amendment granted by the Director shall be considered a binding extension of this Order and of the requirements herein. The determination of the Director shall be final and not subject to appeal.
4. Compliance with the terms and conditions of this Order shall not in any way be construed as relieving Boone BOE of the obligation to comply with any applicable law, permit, other order, or any other requirement otherwise applicable. Violations of the terms and conditions of this Order may subject Boone BOE to additional penalties and injunctive relief in accordance with the applicable law.
5. The provisions of this Order are severable and should a court or board of competent jurisdiction declare any provisions to be invalid or unenforceable, all other provisions shall remain in full force and effect.
6. This Order is binding on Boone BOE, its successors and assigns.

7. This Order shall terminate upon Boone BOE's notification of full compliance with the "Order for Compliance" and verification of this notification by WVDEP.

Kobie Coburn
Boone County Board of Education

Date

Public Notice begin: _____
Date

Public Notice end: _____
Date

Scott G. Mandirola, Director
Division of Water and Waste Management

Date

revised November 2010

ATTACHMENT A
Nellis Elementary (WVG551115)

Outlet 001 DMR Exceedances - AVG. MONTHLY - 03/09 through 03/11						Degree of non-compliance		
Date	Parameter	Units	Permitted avg. monthly	Reported avg. monthly	% Exceedance	Min	Mod	Maj
6/10	Total Residual Chlorine	ug/L	28	180	543%	-	-	X
12/10	Fecal Coliform	Cnts/100ml	200	1590	695%	-	-	X
12/10	Total Residual Chlorine	ug/L	28	100	257%	-	X	-
3/11	Fecal Coliform	Cnts/100ml	200	800	300%	-	X	-

Outlet 001 DMR Exceedances - MAX. DAILY - 03/01/09 through 03/01/11						Degree of non-compliance		
Date	Parameter	Units	Permitted max. daily	Reported max. daily	% Exceedance	Min	Mod	Maj
6/10	Total Residual Chlorine	ug/L	57	180	216%	-	X	-
12/10	Fecal Coliform	Cnts/100ml	400	1590	298%	-	X	-
12/10	Total Residual Chlorine	ug/L	57	100	75%	X	-	-
3/11	Fecal Coliform	Cnts/100ml	400	800	100%	X	-	-

Outlet 001 Totals	Degree of non-compliance		
	Min	Mod	Maj
	2	4	2

ATTACHMENT A
Van Elementary (WVG551113)

Outlet 001 DMR Exceedances - AVG. MONTHLY - 03/09 through 01/11						Degree of non-compliance		
Date	Parameter	Units	Permitted avg. monthly	Reported avg. monthly	% Exceedance	Min	Mod	Maj
						-	X	-
3/10	Total Suspended Solids	mg/L	30	52	73%	-	X	-
3/10	Total Residual Chlorine	ug/L	28	1700	5971%	-	-	X
6/10	Fecal Coliform	Cnts/100m	200	900	350%	-	-	X
6/10	Total Residual Chlorine	ug/L	28	220	686%	-	-	X
12/10	Total Suspended Solids	mg/L	30	50	67%	-	X	-
12/10	Total Residual Chlorine	ug/L	28	210	650%	-	-	X
3/11	Total Suspended Solids	mg/L	30	42	40%	X	-	-
3/11	Total Residual Chlorine	ug/L	28	250	793%	-	-	X

Outlet 001 DMR Exceedances - MAX. DAILY - 03/01/09 through 03/01/11						Degree of non-compliance		
Date	Parameter	Units	Permitted max. daily	Reported max. daily	% Exceedance	Min	Mod	Maj
						-	X	-
3/10	Total Residual Chlorine	ug/L	57	1700	2882%	-	-	X
6/10	Fecal Coliform	Cnts/100m	400	900	125%	-	X	-
6/10	Total Residual Chlorine	ug/L	57	220	286%	-	X	-
12/10	Total Residual Chlorine	ug/L	57	210	268%	-	X	-
3/11	Total Residual Chlorine	ug/L	57	250	339%	-	X	-

Outlet 001 Totals	Degree of non-compliance		
	Min	Mod	Maj
	1	6	6

ATTACHMENT A
Sherman Junior and Senior High (WVG551112)

Outlet 001 DMR Exceedances - AVG. MONTHLY - 03/09 through 03/11						Degree of non-compliance		
Date	Parameter	Units	Permitted avg. monthly	Reported avg. monthly	% Exceedance	Min	Mod	Maj
3/10	Total Residual Chlorine	ug/L	28	500	1686%	-	-	X
6/10	Total Residual Chlorine	ug/L	28	250	793%	-	-	X
12/10	Total Residual Chlorine	ug/L	28	250	793%	-	-	X

Outlet 001 DMR Exceedances - MAX. DAILY - 03/01/09 through 03/01/11						Degree of non-compliance		
Date	Parameter	Units	Permitted max. daily	Reported max. daily	% Exceedance	Min	Mod	Maj
3/10	Total Residual Chlorine	ug/L	57	500	777%	-	-	X
6/10	Total Residual Chlorine	ug/L	57	250	339%	-	X	-
12/10	Total Residual Chlorine	ug/L	57	250	339%	-	X	-

Outlet 001 Totals	Degree of non-compliance		
	Min	Mod	Maj
	0	2	4

ATTACHMENT A
Sherman Elementary (WVG551116)

Outlet 001 DMR Exceedances - AVG. MONTHLY - 03/09 through 03/11						Degree of non-compliance		
Date	Parameter	Units	Permitted avg. monthly	Reported avg. monthly	% Exceedance	Min	Mod	Maj
6/10	Total Suspended Solids	mg/L	30	90	200%	-	X	-
6/10	Total Residual Chlorine	ug/L	28	790	2721%	-	-	X
12/10	Total Suspended Solids	mg/L	30	52	73%	-	X	-
12/10	Total Residual Chlorine	ug/L	28	540	1829%	-	-	X
3/11	BOD5	mg/L	30	106	253%	-	X	-
3/11	Total Suspended Solids	mg/L	30	60	100%	-	X	-
3/11	Total Residual Chlorine	ug/L	28	100	257%	-	X	-

Outlet 001 DMR Exceedances - MAX. DAILY - 03/01/09 through 03/01/11						Degree of non-compliance		
Date	Parameter	Units	Permitted max. daily	Reported max. daily	% Exceedance	Min	Mod	Maj
6/10	Total Suspended Solids	mg/L	60	90	50%	X	-	-
6/10	Total Residual Chlorine	ug/L	57	790	1286%	-	-	X
12/10	Total Residual Chlorine	ug/L	57	540	847%	-	-	X
3/11	BOD5	mg/L	60	106	77%	X	-	-
3/11	Total Residual Chlorine	ug/L	57	100	75%	X	-	-

Outlet 001 Totals	Degree of non-compliance		
	Min	Mod	Maj
	3	5	4

ATTACHMENT A
Ramage Elementary (WVG551110)

Outlet 001 DMR Exceedances - AVG. MONTHLY -03/09 through 03/11						Degree of non-compliance		
Date	Parameter	Units	Permitted avg. monthly	Reported avg. monthly	% Exceedance	Min	Mod	Maj
9/09	Fecal Coliform	Cnts/100 ml	200	220	10%	X	-	-
12/10	Ammonia Nitrogen	mg/L	15	16.2	8%	X	-	-
12/10	Total Residual Chlorine	ug/L	28	260	829%	-	-	X

Outlet 001 DMR Exceedances - MAX. DAILY - 03/01/11 through 03/01/11						Degree of non-compliance		
Date	Parameter	Units	Permitted max. daily	Reported max. daily	% Exceedance	Min	Mod	Maj
12/10	Total Residual Chlorine	ug/L	57	260	356%	-	X	-

Outlet 001 Totals		Degree of non-compliance		
		Min	Mod	Maj
		2	1	1

ATTACHMENT A
 Brookview Elementary (WVG551114)

Outlet 001 DMR Exceedances - AVG. MONTHLY - 03/09 through 03/11						Degree of non-compliance		
Date	Parameter	Units	Permitted avg. monthly	Reported avg. monthly	% Exceedance	Min	Mod	Maj
6/10	Total Residual Chlorine	ug/L	28	300	971%	-	-	X
12/10	Total Residual Chlorine	ug/L	28	300	971%	-	-	X

Outlet 001 DMR Exceedances - MAX. DAILY -03/01/09 through 03/01/11						Degree of non-compliance		
Date	Parameter	Units	Permitted max. daily	Reported max. daily	% Exceedance	Min	Mod	Maj
6/10	Total Residual Chlorine	ug/L	57	300	426%	-	X	-
12/10	Total Residual Chlorine	ug/L	57	300	426%	-	X	-

Outlet 001 Totals		Degree of non-compliance		
		Min	Mod	Maj
		0	2	2

ATTACHMENT A
Boone County Career/Technical Center (WVG551111)

Outlet 001 DMR Exceedances - AVG. MONTHLY - 03/09 through 03/11						Degree of non-compliance		
Date	Parameter	Units	Permitted avg. monthly	Reported avg. monthly	% Exceedance	Min	Mod	Maj
3/10	BOD5	mg/L	10	12.2	22%	X	-	-
3/10	Total Suspended Solids	mg/L	30	64	113%	-	X	-
3/10	Ammonia Nitrogen	mg/L	8	63.5	694%	-	-	X
6/10	Total Suspended Solids	mg/L	30	40	33%	X	-	-
6/10	Total Residual Chlorine	ug/L	28	560	1900%	-	-	X
12/10	BOD5	mg/L	10	24.9	149%	-	X	-
12/10	Ammonia Nitrogen	mg/L	8	13.2	65%	-	X	-
12/10	Total Residual Chlorine	ug/L	28	180	543%	-	-	X
3/11	BOD5	mg/L	10	18.3	83%	-	X	-
3/11	Total Suspended Solids	mg/L	30	166	453%	-	-	X
3/11	Ammonia Nitrogen	mg/L	8	41.6	420%	-	-	X
3/11	Total Residual Chlorine	ug/L	28	220	686%	-	-	X

Outlet 001 DMR Exceedances - MAX. DAILY - 03/01/09 through 03/01/11						Degree of non-compliance		
Date	Parameter	Units	Permitted max. daily	Reported max. daily	% Exceedance	Min	Mod	Maj
3/10	Total Suspended Solids	mg/L	60	64	7%	X	-	-
3/10	Ammonia Nitrogen	mg/L	12	63.5	429%	-	X	-
6/10	Total Residual Chlorine	ug/L	57	560	882%	-	-	X
12/10	BOD5	mg/L	20	24.9	25%	X	-	-
12/10	Ammonia Nitrogen	mg/L	8	13.2	65%	X	-	-
12/10	Total Residual Chlorine	ug/L	57	180	216%	-	X	-
3/11	Total Suspended Solids	mg/L	60	166	177%	-	X	-
3/11	Ammonia Nitrogen	mg/L	12	41.8	248%	-	X	-
3/11	Total Residual Chlorine	ug/L	57	220	286%	-	X	-

Outlet 001 DMR Exceedances - pH MAX. DAILY (Max.) - Month/Day/Year through Month/Day/Year						Degree of non-compliance		
Date	Parameter	Units	Permitted max. daily	Reported max. daily	% Exceedance	Min	Mod	Maj
3/10	pH	S.U.	9.0	9.41	54.7%	X		

Outlet 001 Totals	Degree of non-compliance		
	Min	Mod	Maj
	6	9	7

Base Penalty Calculation

(pursuant to 47CSR1-6.1)

Responsible Party: Boone County Board Of Education Receiving Stream:

Treatment System Design Maximum Flow: MGD

Treatment System Actual Average Flow: MGD (if known)

Enter FOF# and rate each finding as to Potential and Extent.

1)	Potential for Harm Factor	Factor Range	FOF#													
			2	3, 6, 9, 12	15, 18, 21	4a, 7a, 10a	16a, 22a	4b, 7b, 10b	13a, 16b	19a, 22b	4c, 7c, 10c	13b, 16c	19b, 22c			
a)	Amount of Pollutant Released	1 to 3	1	1	1	1	1	1	1	1	1	1	1			
b)	Toxicity of Pollutant	0 to 3	1	0	0	1	1	1	1	1	1	1	1			
c)	Sensitivity of the Environment	0 to 3	1	0	0	1	1	1	1	1	1	1	1			
d)	Length of Time	1 to 3	1	1	1	1	1	1	1	1	1	1	1			
e)	Actual Exposure and Effects thereon	0 to 3	1	0	0	1	1	1	1	1	1	1	1			
Average Potential for Harm Factor			1	0.4	0.4	1	1	1	1	1	1	1	1	No	No	
2)	Extent of Deviation Factor	Factor Range														
	Degree of Non-Compliance	1 to 3	3	3	3	1	1	2	2	2	3	3	3			

Potential for Harm Factors:

- 1)c - Sensitivity of the Environment Potentially Affected (0 for "dead" stream)
- 1)d - Length of Time of Violation
- 1)e - Actual Human/Environmental Exposure and Resulting Effects thereon

Examples/Guidance:

Note: Rate as 1 for Minor, 2 for Moderate and 3 for Major. Rate as 0 if it does not apply.

Minor = exceedance of permit limit by <=40% for Avg. Monthly or <=100% for Daily Max., exceed numeric WQ standard by <= 100%, or report doesn't contain some minor information.

Moderate = exceedance of permit limit by >= 41% and <= 300% for Avg. Monthly , >= 101% and <= 600% for Daily Max., exceed numeric WQ standard by >= 101% and <= of 600% or report doesn't fully address intended subject matter.

Major = exceedance of permit limit by >= 301% for Avg. Monthly, >= 601% for Daily Max., exceed numeric WQ standard by >= 601%, failure to submit a report, failure to obtain a permit, failure to report a spill, etc. Note that a facility in SNC should be rated as major for length of time and degree of non-compliance.

Narrative WQ standard violations - case-by-case.

		Extent of Deviation from Requirement		
		Major	Moderate	Minor
Potential for Harm to Human Health or the Environment	Major	\$8,000 to \$10,000	\$6,000 to \$8,000	\$5,000 to \$6,000
	Moderate	\$4,000 to \$5,000	\$3,000 to \$4,000	\$2,000 to \$3,000
	Minor	\$1,500 to \$2,000	\$1,000 to \$1,500	Up to \$1,000

FOF #	Potential for Harm	Extent of Deviation	Penalty	Multiple Factor	Base Penalty
2	Minor	Major	\$2,000	1	\$2,000
3, 6, 9, 12	Minor	Major	\$1,700	6	\$10,200
15, 18, 21	Minor	Major	\$1,700	3	\$5,100
4a, 7a, 10a	Minor	Minor	\$1,000	6	\$6,000
16a, 22a	Minor	Minor	\$1,000	4	\$4,000
4b, 7b, 10b	Minor	Moderate	\$1,500	12	\$18,000
13a, 16b	Minor	Moderate	\$1,500	7	\$10,500
19a, 22b	Minor	Moderate	\$1,500	7	\$10,500
4c, 7c, 10c	Minor	Major	\$2,000	9	\$18,000
13b, 16c	Minor	Major	\$2,000	6	\$12,000
19b, 22c	Minor	Major	\$2,000	6	\$12,000
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
Total Base Penalty					\$108,300

Penalty Adjustment Factors

(pursuant to 47CSR1-6.2)

Penalty Adjustment Factor

6.2.b.1 - Degree of or absence of willfulness and/or negligence - 0% to 30% increase
 6.2.b.4 - Previous compliance/noncompliance history - 0% to 100% increase - based upon review of last three (3) years - Warning = maximum of 5% each, N.O.V. = maximum of 10% each, previous Order = maximum of 25% each - Consistent DMR violations for <1 year = 10% maximum, for >1 year but <2 years = 20% maximum, for >2 years but <3 years = 30% maximum, for >3 years = 40 % maximum

6.2.b.6 - Economic benefits derived by the responsible party (increase to be determined)

6.2.b.7 - Public Interest (increase to be determined)

6.2.b.8 - Loss of enjoyment of the environment (increase to be determined)

6.2.b.9 - Staff investigative costs (increase to be determined)

6.2.b.10 - Other factors

Size of Violator: 0 - 50% decrease

NOTE: This factor is not available to discharges that are causing a water quality violation. This factor does not apply to a commercial or industrial facility that employees or is part of a corporation that employees more than 100 individuals.

Avg. Daily WW Discharge Flow (gpd)	% Reduction Factor
< 5,000	50
5,000 to 9,999	40
10,000 to 19,999	30
20,000 to 29,999	20
30,000 to 39,999	10
40,000 to 99,999	5
> 100,000	0

Additional Other factors to be determined for increases or decreases on a case-by-case basis.

Public Notice Costs (cost for newspaper advertisement)

6.2.b.2 - Good Faith - 10% decrease to 10% increase

6.2.b.3 - Cooperation with the Secretary - 0% to 10% decrease

6.2.b.5 - Ability to pay a civil penalty - 0% to 100% decrease

Base Penalty Adjustments

(pursuant to 47CSR1-6.2)

Penalty Adjustment Factor	% Increase	% Decrease	Base Penalty Adjustments
6.2.b.1 - Willfulness and/or negligence -			\$0
6.2.b.4 - Compliance/noncompliance history			\$0
6.2.b.6 - Economic benefits - (flat monetary increase)			\$0
6.2.b.7 - Public Interest - (flat monetary increase)			\$0
6.2.b.8 - Loss of enjoyment - (flat monetary increase)			\$0
6.2.b.9 - Investigative costs - (flat monetary increase)			\$0
6.2.b.10 - Other factors (size of violator)		40	(\$43,320)
6.2.b.10 - Additional Other Factors - Increase (flat monetary increase)			\$0
6.2.b.10 - Additional Other Factors - Decrease (flat monetary decrease)			\$0
Public Notice Costs (flat monetary increase)	\$30		\$30
6.2.b.2 - Good Faith - Increase			\$0
6.2.b.2 - Good Faith - Decrease		10	(\$10,830)
6.2.b.3 - Cooperation with the Secretary		10	(\$10,830)
6.2.b.5 - Ability to Pay			\$0
Penalty Adjustments			(\$64,950)
Penalty =			\$43,350

Estimated Economic Benefit Item	Estimated Benefit (\$)
Monitoring & Reporting	
Installation & Maintenance of Pollution Control Equipment	
O&M expenses and cost of equipment/materials needed for compliance	
Permit Application or Modification	
Competitive Advantage	
Estimated Economic Benefit	\$0
Comments:	