



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

March 20, 2014

D. Michael Amico
Potomac Park Camp Inc.
11 Tabernacle Way
Falling Waters, WV 25419

CERTIFIED RETURN RECEIPT REQUESTED
91 7199 9991 7031 3668 9865
RE: Violation of Chapter 22, Article 11
of the WV State Code

Dear Mr. Amico:

Enclosed is 2nd revised CONSENT ORDER NUMBER 8022 dated March 20, 2014. 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 Potomac Park Camp Inc. violating Chapter 22, Article 11 of the WV State Code at its facility located in Falling Waters, Berkeley County, West Virginia. This revision is based upon your recent meeting and discussion, by telephone, with David C. Simmons, Enforcement Hearing Officer, and your submittal of financial documents, which were used to evaluate your ability to pay a civil administrative penalty. 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,



Jeremy Bandy
Assistant Chief Inspector

Enclosure

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



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Division of Water and Waste Management
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Earl Ray Tomblin, Governor
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**CONSENT ORDER
ISSUED UNDER THE
WATER POLLUTION CONTROL ACT
WEST VIRGINIA CODE, CHAPTER 22, ARTICLE 11**

TO: Potomac Park Camp Inc.
Attn: D. Michael Amico
11 Tabernacle Way
Falling Waters, WV 25419

DATE: March 20, 2014

ORDER NO.: 8022

INTRODUCTION

This Consent Order is issued by the Director of the Division of Water and Waste Management (hereinafter "Director"), under the authority of West Virginia Code, Chapter 22, Article 11, Section 1 et seq. to Potomac Park Camp Inc. (hereinafter "Potomac Park").

FINDINGS OF FACT

In support of this Order, the Director hereby finds the following:

1. Potomac Park operates a wastewater treatment plant located in Falling Waters, Berkeley County, West Virginia. Potomac Park was reissued WV/NPDES Water Pollution Control Permit No. WV0103110, Registration No. WVG550911, on July 21, 2011.
2. On September 21, 2012, West Virginia Department of Environmental Protection (WVDEP) personnel conducted an inspection of the facility. During the inspection, violations of the following sections of the terms and conditions of Potomac Park's WV/NPDES permit were observed and documented:
 - a. Section F.1-Potomac Park failed to properly operate and maintain the facility. A seep was observed on the downhill slope of Cell No. Three (3).
 - b. Section A-Exceedances of Potomac Park's permit parameters were observed and documented.
3. On November 8, 2013, WVDEP personnel conducted a review of facility records from the time period of January 2012 through September 2013. During this review, the

following violations of the terms and conditions of Potomac Park's WV/NPDES permit were observed and documented:

- a. Section A-Nineteen (19) exceedances of Potomac Park's permit parameters were observed and documented (Table One). These exceedances can be further defined as:
 - i. Minor violations-Nine (9)
 - ii. Moderate violations-Seven (7)
 - iii. Major violations-Three (3)
4. On February 4, 2014, Potomac Park submitted financial documents to WVDEP. The provided information was used to perform an economic analysis which evaluated Potomac Park's ability to pay a civil administrative penalty.
5. On February 12, 2014, WVDEP personnel and representatives of Potomac Park met to discuss the terms and conditions of this Order.
6. On March 19, 2014, WVDEP personnel and a representative of Potomac Park discussed, by telephone, 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. Potomac Park shall immediately take all measures to initiate compliance with all terms and conditions of its WV/NPDES permit.
2. Upon the effective date of this Order, Potomac Park shall immediately begin electronically submitting Discharge Monitoring Reports (DMRs) via the e-DMR system.
3. Within thirty (30) days of the effective date of this Order, Potomac Park shall investigate the aforementioned seep to determine whether wastewater is being released from Cell No. Three (3). All findings shall be submitted to:

**WVDEP Environmental Inspector Supervisor
NE Regional Environmental Enforcement Office
22288 Northwestern Pike
Romney, WV 26757**

A copy of the findings shall be submitted to:

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

4. Within twenty (20) days of the effective date of this Order, Potomac Park shall submit for approval a proposed plan of corrective action and schedule, outlining action items and completion dates for how and when Potomac Park will achieve compliance with all terms and conditions of its WV/NPDES permit. The plan of corrective action shall make reference to WV/NPDES Permit No. WV0103110, Registration No. WVG550911, and Order No. 8022. The plan of corrective action shall be submitted to:

**WVDEP Environmental Inspector Supervisor
NE Regional Environmental Enforcement Office
22288 Northwestern Pike
Romney, WV 26757**

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.

5. Because of Potomac Park's permit violations, Potomac Park shall be assessed a civil administrative penalty of fourteen thousand three hundred eighty dollars (\$14,380) 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 \$1,198.33 due on or before June 1, 2014.
Payment 2 in the amount of \$1,198.33 due on or before July 1, 2014.
Payment 3 in the amount of \$1,198.33 due on or before August 1, 2014.
Payment 4 in the amount of \$1,198.33 due on or before September 1, 2014.
Payment 5 in the amount of \$1,198.33 due on or before October 1, 2014.
Payment 6 in the amount of \$1,198.33 due on or before November 1, 2014.
Payment 7 in the amount of \$1,198.33 due on or before December 1, 2014.
Payment 8 in the amount of \$1,198.33 due on or before January 1, 2015.
Payment 9 in the amount of \$1,198.33 due on or before February 1, 2015.
Payment 10 in the amount of \$1,198.33 due on or before March 1, 2015.
Payment 11 in the amount of \$1,198.33 due on or before April 1, 2015.
Payment 12 in the amount of \$1,198.37 due on or before May 1, 2015.

Payments made pursuant to this paragraph are not tax-deductible for purposes of State or federal law. **Payment shall include a reference to the Order No. and shall be mailed to:**

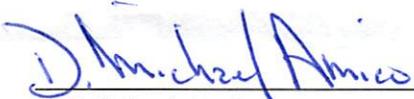
**Chief Inspector
Environmental Enforcement - Mail Code #031328
WV-DEP
601 57th Street SE
Charleston, WV 25304**

OTHER PROVISIONS

1. Potomac Park 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, Potomac Park 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, Potomac Park 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 Potomac Park 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, Potomac Park 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 Potomac Park becomes aware of such a delay, notification shall be provided to the Director/Chief Inspector and Potomac Park 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 Potomac Park 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 Potomac Park (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 Potomac Park 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 Potomac Park 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 Potomac Park, its successors and assigns.
7. This Order shall terminate upon Potomac Park's notification of full compliance with the "Order for Compliance" and verification of this notification by WVDEP.



D. Michael Amico
Potomac Park Camp Inc.

04.04.2014

Date

Public Notice begin:

Date

Public Notice end:

Date

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

Date



September 21, 2012 – The seep observed downhill of Cell No. Three (3).

Base Penalty Calculation

(pursuant to 47CSR1-6.1)

Responsible Party: Potomac Park Camp **Receiving Stream:** Unnamed Tributary of the Potomac River

Treatment System Design Maximum Flow: 0.025 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#											
			3ai	3aii	3aiii									
a)	Amount of Pollutant Released	1 to 3	1	1	1									
b)	Toxicity of Pollutant	0 to 3	1	1	1									
c)	Sensitivity of the Environment	0 to 3	1	1	1									
d)	Length of Time	1 to 3	1	1	1									
e)	Actual Exposure and Effects thereon	0 to 3	1	1	1									
Average Potential for Harm Factor			1	1	1	No								
2)	Extent of Deviation Factor	Factor Range												
	Degree of Non-Compliance	1 to 3	1	2	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.

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)		20	(\$4,100)
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			\$0
6.2.b.3 - Cooperation with the Secretary		10	(\$2,050)
6.2.b.5 - Ability to Pay			\$0
Penalty Adjustments			(\$6,120)
Penalty =			\$14,380

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:	