west virginia department of environmental protection

Division of Water and Waste Management
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Charleston, WV 25304
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Earl Ray Tomblin, Governor
Randy C. Huffman, Cabinet Secretary
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CONSENT ORDER
ISSUED UNDER THE
WATER POLLUTION CONTROL ACT
WEST VIRGINIA CODE, CHAPTER 22, ARTICLE 11

TO: City of Ripley
Hon. Carolyn Rader, Mayor
203 So. Church St.
Ripley WV 25271

DATE: February 10, 2016

ORDER NO.: 8504

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 City of Ripley (hereinafter "Ripley").

FINDINGS OF FACT

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

1. Ripley operates a sewage treatment pond located at Ripley, Jackson County, West Virginia. Ripley was reissued WV/NPDES Water Pollution Control Permit No. WV0045543 on March 19, 2008. The permit was again reissued on June 25, 2015.

2. Ripley operates a waste water treatment plant located at Evans, Jackson County, West Virginia. Ripley was issued WV/NPDES Water Pollution Control Permit No. WV0027791 on March 19, 2008. The permit was reissued on June 25, 2015.

3. On April 9, 2013, West Virginia Department of Environmental Protection (WVDEP) and Ripley entered into Order No. 7188. The Order was issued, in part, as a response to multiple exceedances of Ripley's permit parameters from the time period of January 2009 through December 2011, which are violations of Section A of the WV/NPDES permits. Ripley's approved plan of corrective action (POCA), dated April 23, 2012, was incorporated into and became part of the Order. The POCA outlined actions items and completion dates for how and when Ripley would achieve compliance with all terms and conditions of its WV/NPDES permits. Specifically, the POCA included a plan and schedule for constructing system upgrades.

4. On May 6, 2015, in response to March 20, 2015 correspondence from Ripley, WVDEP amended Order No. 7188. Specifically, Ripley's revised POCA, with an extended Phase I construction end date of April 2017, was approved and incorporated into the Order. The extension was necessary due to unforeseen concerns regarding project funding.

5. On June 29, 2015, WVDEP personnel received correspondence from Ripley which requested interim relief from several of its permitted parameters during the construction of collection system upgrades, as outlined in Phase I of the aforementioned approved POCA.

6. Since the issuance of the Order No. 7188, WVDEP personnel have observed and documented additional numerous exceedances of the permit parameters set forth in Section A of Ripley's WV/NPDES permits. WVDEP recognizes that Ripley continues to be unable to meet its permitted limits while constructing its new facility.

7. On December 21, 2015, WVDEP personnel and representatives of Ripley 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. Ripley shall immediately take all measures to initiate compliance with all terms and conditions of its WV/NPDES permits.

2. Ripley shall adhere to its March 19, 2015 Revised Milestone Schedule (attached). Failed to adhere to the Revised Milestone Schedule is a violation of this Order.

3. Upon the effective date of this Order, Ripley shall be placed on the following alternate interim limits until the expiration date of April 30, 2017. All other parameter limits contained within its WV/NPDES permits shall remain in full force and effect. Beginning May 1, 2017, Ripley shall achieve compliance with all limits as detailed within the WV/NPDES permits.

WV/NPDES Permit No. WV0045543 (Ripley)

Parameter	Interim Average Monthly Limit	Interim Max Daily Limit	Interim Instant. Min. Limit
BOD, 5-Day 20 Deg. C (Lbs/Day)	209 Lbs/Day	250 Lbs/Day	N/A
BOD, 5-Day 20 Deg. C (mg/L)	50 mg/l	60 mg/l	N/A
Dissolved Oxygen (mg/L)	N/A	N/A	Report Only
Total Recoverable Copper (mg/L)	Report Only	Report Only	N/A
Ammonia Nitrogen (mg/L)	15 mg/L	22 mg/L (current permitted limit)	N/A
Ammonia Nitrogen (Lbs/Day)	62.58 Lbs/Day	91.7 Lbs/Day (current permitted limit)	N/A

WV/NPDES Permit No. WV0027791 (Evans)

Parameter	Interim Average Monthly Limit	Interim Max Daily Limit	Interim Instantaneous Minimum Limit
BOD, 5-Day 20 Deg. C (Lbs/Day)	Report Only	Report Only	N/A
BOD, 5-Day 20 Deg. C (mg/L)	50 mg/l	60 mg/l	N/A
Dissolved Oxygen (mg/L)	N/A	N/A	Report Only
Total Recoverable Copper (mg/L)	Report Only	Report Only	N/A
Total Suspended Solids (Lbs/Day)	Report Only	Report Only	N/A
Ammonia Nitrogen (Lbs/Day)	Report Only	Report Only	N/A
BOD % Removal	65% (Minimum)	N/A	N/A

4. Upon the effective date of this Order, "Report Only" interim limits shall be in place for Maximum Outlet 001 Discharge Flow, as referred to in section C.27 of Ripley's WV/NPDES permits. The "Report Only" interim limit shall expire April 30, 2017, at which time Ripley shall achieve compliance with the flow limits as detailed within the WV/NPDES permits.

5. Upon the effective date of this Order, Ripley agrees to the following stipulated penalties for each future violation of the interim limits provided herein and the WV/NPDES permit limits for all additional parameters for which interim limits are not provided. Penalties shall be paid automatically, without demand, to WVDEP for deposit in the Water Quality Management Fund within ten (10) days of reporting of violations of daily maximum and/or monthly average values on its discharge monitoring reports. Stipulated penalties shall continue until April 30, 2017.

Stipulated Penalties

Total No. Daily Max Violations	Minor (≤100% exceedance)	Moderate (101-600% exceedance)	Major (>600% exceedance)
1 thru 10	$1000	$1500	$2000
11 thru 20	$1250	$1750	$2250
21 and greater	$1500	$2000	$2500

Total No. Monthly Avg Violations	Minor (≤40% exceedance)	Moderate (41-300% exceedance)	Major (>300% exceedance)
1 thru 5	$2000	$3000	$4000
6 thru 10	$2500	$3500	$4500
11 and greater	$3000	$4000	$5000

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. Ripley 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, Ripley 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, Ripley 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 Ripley 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, Ripley 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 Ripley becomes aware of such a delay, notification shall be provided to the Director/Chief Inspector and Ripley 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 Ripley 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 Ripley (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 Ripley 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 Ripley 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 Ripley, its successors and assigns.

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

Carolyn Rader — February 18, 2016

Hon. Carolyn Rader, Mayor
City of Ripley

Date

RECEIVED
FEB 26 2016
ENVIRONMENTAL ENFORCEMENT

Public Notice begin: _____ Date

Public Notice end: _____ Date

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

_____ Date

revised March 2013

MILESTONE SCHEDULE (REVISED)

March 19, 2015

1. Set In-Stream Flow Monitoring System (Phase I and Phase II)	July	2012
2. Collection System Evaluation/Inflow & Infiltration Study	August	2012
A. Develop Sewer System Mapping		
B. Evaluate Drainage Areas		
C. Evaluate Pump Stations		
3. Complete Draft Facility Plan (Phase I)	September	2012
(I&I Improvements/Pump Station Improvements)		
4. Public Meeting	September	2012
5. Finalize Facility Plan (Phase I)	November	2012
6. Submit IJDC Application (Phase I)	December	2012
7. Review Flow Data with WVDEP (Permits)	Ongoing	
8. Finalize Waste Load Allocation/Real-Time Permit	Ongoing	
Limits with WVDEP (Phase II)		
9. Submit Plans to WVDEP (Phase I)	July	2013
10. Evaluate Sites/Alternatives for New WWTP/Discharge Point	Ongoing	
Determine if Plant Will Be Regional (Phase II)		
11. Obtain Final Funding (Phase I)	January	2015
12. Apply for NPDES Permit Modification (Phase I)	December	2014
13. Submit to PSC (Phase I)	March	2015
14. Advertise for Bids (Phase I)	June	2015
15. Award Construction (Phase I)	October	2015
16. End Construction (Phase I)	April	2017