



west virginia department of environmental protection

Division of Water and Waste Management
601 57th Street SE
Charleston, WV 25304
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Earl Ray Tomblin, Governor
Randy C. Huffman, Cabinet Secretary
www.dep.wv.gov

**CONSENT ORDER
ISSUED UNDER THE
WATER POLLUTION CONTROL ACT
WEST VIRGINIA CODE, CHAPTER 22, ARTICLE 11**

TO: Eric T. Dalton
Walton, LLC and Tea Properties
c/o Jennifer Hughes
Jackson Kelly, PLLC
500 Lee Street East
Suite 1600
Charleston, WV 25301-3202

DATE: August 11, 2014

ORDER NO.: 8011

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 Eric T. Dalton (hereinafter "Dalton").

FINDINGS OF FACT

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

Wildfire, WVG551447

1. Dalton operates a sewage treatment plant that serves the mobile home park known as "Wildfire," located near Morgantown, Monongalia County, West Virginia. Dalton was issued WV/NPDES Water Pollution Control Permit No. WV0103110, Registration No. WVG551447, on March 19, 2010, and the WV/NPDES permit was reissued on December 28, 2012.
2. On June 19, 2012, West Virginia Department of Environmental Protection (WVDEP) personnel conducted an inspection of the facility. During the inspection, a violation of the following section of the terms and conditions of Dalton's WV/NPDES permit was observed and documented:

- a. Section F.1 - Dalton failed to properly operate and maintain all facilities and systems of treatment and control. Specifically, required sand filters became blocked and no longer drained properly.

As a result of the aforementioned violation, Notice of Violation (NOV) No. W-NW-CJJ-061912-002 was issued to Dalton.

3. On October 2, 2013, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of the terms and conditions of Dalton's WV/NPDES permit were observed and documented:
 - a. Section F.1 - Dalton failed to properly operate and maintain all facilities and systems of treatment and control. Four (4) of the six (6) sand filters were clogged and/or did not drain properly, causing the other filters to have defective or clogged sprayer heads, resulting in untreated effluent passing through filter overflows and leaving the system, leading to an overgrowth of brush at the outfall area that prevented inspection and proper sampling.
 - b. Section G.3 - Dalton failed to retain a sewage treatment plant operator possessing at least a Class S certificate issued by the West Virginia Department of Health and Human Resources (DHHR).

As a result of the aforementioned violations, NOV Nos. W-NW-CJJ-100213-006 and W-NW-CJJ-100213-007 were issued to Dalton.

4. On July 23, 2014, WVDEP personnel conducted a review of Discharge Monitoring Reports (DMRs) from September 2011 through June 2014. During this review, the following violations of the terms and conditions of Dalton's WV/NPDES permit were observed:
 - a. Section A - Forty-nine (49) exceedances of Dalton's permit parameters were documented (Table 1). These exceedances can be further defined as:
 - i. Minor violations-six (6)
 - ii. Moderate violations-thirteen (13)
 - iii. Major violations-thirty (30)
 - b. Section B.3 – Dalton failed to submit the following DMRs within twenty (20) days following the end of the reporting period: the 3rd quarter of 2013 and the 2nd quarter of 2014.

Wildwood, WV551388

5. Dalton operates a sewage treatment plant that serves the apartment complex known as "Wildwood," located near Morgantown, Monongalia County, West Virginia. Dalton was issued WV/NPDES Water Pollution Control Permit No. WV0103110, Registration No. WVG551388, on March 29, 2006, and the WV/NPDES permit was reissued on August 2, 2011.
6. On January 25, 2011, WVDEP personnel conducted an inspection of the facility. During the inspection, a violation of the following section of WV Legislative Rules was observed and documented:

- a. 47CSR2 Sections 3.2.b and c - Dalton caused conditions not allowable in waters of the State by creating distinctly visible deposits on the bottom of a stream and odors in the vicinity of said waters.

As a result of the aforementioned violation, NOV No. W-NW-CJJ-012511-001 was issued to Dalton.

7. On February 27, 2012, WVDEP personnel conducted an inspection of the facility. During the inspection, a violation of the following section of WV Legislative Rules was observed and documented:

- a. 47CSR2 Sections 3.2.b and c - Dalton caused conditions not allowable in waters of the State by creating distinctly visible deposits on the bottom of a stream and odors in the vicinity of said waters.

As a result of the aforementioned violation, NOV No. W-NW-CJJ-022712-001 was issued to Dalton.

8. On April 13, 2012, WVDEP personnel conducted an inspection of the facility. During the inspection, a violation of the following section of WV Legislative Rules was observed and documented:

- a. 47CSR2 Sections 3.2.c and f - Dalton caused conditions not allowable in waters of the State by allowing visible color in a stream and odors in the vicinity of said waters.

As a result of the aforementioned violation, NOV No. W-NW-CJJ-04132012-001 was issued to Dalton.

9. On October 2, 2013, WVDEP personnel conducted a Compliance Evaluation Inspection (CEI) of the facility. During the inspection, violations of the following sections of WV Legislative Rules and Dalton's WV/NPDES permit were observed and documented:

- a. 47CSR2 Sections 3.2.b and c - Dalton caused conditions not allowable in waters of the State by creating distinctly visible deposits on the bottom of a stream and odors in the vicinity of said waters.
- b. Section F.1 - Dalton failed to properly operate and maintain all facilities and systems of treatment and control. Specifically, the permittee allowed septic effluent containing sewage solids to enter the recirculation tank. In addition, the permittee failed to repair/replace a broken pump/control board and failed to add chlorine/de-chlorination tablets to the feeders.
- c. Section F.3 - Untreated/unfiltered effluent was allowed to leave the system while the permittee had one pump turned off. Improper operation and maintenance allowed the system to discharge untreated/unfiltered effluent until failure of the second pump was discovered by WVDEP personnel.
- d. Section G.3 - Dalton failed to retain a sewage treatment plant operator possessing at least a Class S certificate issued by the DHHR.

As a result of the aforementioned violations, NOV Nos. W-NW-CJJ-100213-001, W-NW-CJJ-100213-002, W-NW-CJJ-100213-003 and W-NW-CJJ-100213-005 were issued to Dalton.

10. On October 16, 2013, WVDEP personnel conducted a review of laboratory results from samples taken during the October 2, 2013 CEI. During this review, the following violations of the terms and conditions of Dalton's WV/NPDES permit were observed:
 - a. Section A - Four (4) exceedances of Dalton's permit parameters were documented (Table 3). These exceedances can be further defined as:
 - i. Minor violations-one (1)
 - ii. Moderate violations-one (1)
 - iii. Major violations-two (2)

As a result of the aforementioned violations, NOV No. W-NW-CJJ-101613-001 was issued to Dalton.

11. On July 23, 2014, WVDEP personnel conducted a DMR review of facility records from January, 2012 through June, 2013. During this review, the following violations of the terms and conditions of Dalton's WV/NPDES permit were observed:
 - a. Section A - Thirty-eight (38) exceedances of Dalton's permit parameters were documented (Table 2). These exceedances can be further defined as:
 - i. Minor violations-seven (7)
 - ii. Moderate violations-nine (9)
 - iii. Major violations-twenty-two (22)
 - b. Section B.3 – Dalton failed to submit the following DMRs within twenty (20) days following the end of the reporting period: the 3rd and 4th quarters of 2013 and the 1st and 2nd quarters of 2014.

Single Family Residence Construction, WV0115924

12. Dalton is conducting land disturbance activity in the form of a single family residence construction site located near Morgantown, Monongalia County, West Virginia. Because Dalton is constructing single family residences that require land disturbances of less than three (3) acres, Dalton was automatically provided coverage under WV/NPDES Water Pollution Control Permit No. WV0115924. All terms and conditions of the WV/NPDES permit apply, except for the Notice of Termination requirement.
13. On May 16, 2013, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of WV Legislative Rule and Dalton's WV/NPDES permit were observed and documented:
 - a. Section D.1 - Dalton failed to properly operate and maintain all facilities and systems of treatment and control. Specifically, no erosion and sediment controls were in place, resulting in sediment-laden water leaving the site and entering Boyd Run.

- b. 47CSR2 Section 3.2.a - Dalton caused conditions not allowable by creating distinctly visible floating, settleable, or suspended solids in waters of the State.

As a result of the aforementioned violations, NOV Nos. W-NW-TJK-051613-001 and W-NW-TJK-051613-002 were issued to Dalton.

14. On June 13, 2013, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of WV Legislative Rules and Dalton's WV/NPDES permit were observed and documented:

- a. 47CSR2 Section 3.2.a - Dalton caused conditions not allowable in waters of the State by creating distinctly visible floating, settleable, or suspended solids in waters of the State. Specifically, sediment-laden water left the site at multiple areas, entered into an unnamed tributary of Boyd Run, and resulted in a plume in the receiving stream.
- b. Section G.4.e.2.A.ii.j - The permittee allowed sediment-laden water to leave the site without first going through an appropriate treatment device.

As a result of the aforementioned violations, NOV Nos W-NW-TJK-061313-001 and W-NW-TJK-061313-002 were issued to Dalton.

15. On February 20, 2014, WVDEP personnel and representatives of Dalton met to discuss the terms and conditions of this Order. During the meeting, Dalton submitted financial documents to WVDEP. The provided information was used to perform an economic analysis which evaluated Dalton's ability to pay a civil administrative penalty.
16. Subsequent to the February 20, 2014 meeting, WVDEP personnel and representatives of Dalton met to further 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. Dalton shall immediately take all measures to initiate compliance with all terms and conditions of its WV/NPDES permit and pertinent laws and rules.
2. Within thirty (30) days of the effective date of this Order, Dalton shall submit for approval a proposed plan of corrective action and schedule, outlining action items and completion dates for how and when Dalton will achieve compliance with all terms and conditions of its WV/NPDES permit and pertinent laws and rules. The plan of corrective action shall be submitted to:

**WVDEP Environmental Inspector Supervisor
NW Regional Environmental Enforcement Office
2031 Pleasant Valley Road
Fairmont, WV 26554**

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 Dalton's Legislative Rule and permit violations, Dalton shall be assessed a civil administrative penalty of ninety-six thousand dollars (\$96,000) 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 \$4,000 due on or before October 1, 2014.
Payment 2 in the amount of \$4,000 due on or before November 1, 2014.
Payment 3 in the amount of \$4,000 due on or before December 1, 2014.
Payment 4 in the amount of \$4,000 due on or before January 1, 2015.
Payment 5 in the amount of \$4,000 due on or before February 1, 2015.
Payment 6 in the amount of \$4,000 due on or before March 1, 2015.
Payment 7 in the amount of \$4,000 due on or before April 1, 2015.
Payment 8 in the amount of \$4,000 due on or before May 1, 2015.
Payment 9 in the amount of \$4,000 due on or before June 1, 2015.
Payment 10 in the amount of \$4,000 due on or before July 1, 2015.
Payment 11 in the amount of \$4,000 due on or before August 1, 2015.
Payment 12 in the amount of \$4,000 due on or before September 1, 2015.
Payment 13 in the amount of \$4,000 due on or before October 1, 2015.
Payment 14 in the amount of \$4,000 due on or before November 1, 2015.
Payment 15 in the amount of \$4,000 due on or before December 1, 2015.
Payment 16 in the amount of \$4,000 due on or before January 1, 2016.
Payment 17 in the amount of \$4,000 due on or before February 1, 2016.
Payment 18 in the amount of \$4,000 due on or before March 1, 2016.
Payment 19 in the amount of \$4,000 due on or before April 1, 2016.
Payment 20 in the amount of \$4,000 due on or before May 1, 2016.
Payment 21 in the amount of \$4,000 due on or before June 1, 2016.
Payment 22 in the amount of \$4,000 due on or before July 1, 2016.
Payment 23 in the amount of \$4,000 due on or before August 1, 2016.
Payment 24 in the amount of \$4,000 due on or before September 1, 2016.

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. Dalton 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, Dalton 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, Dalton 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 Dalton 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, Dalton 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 Dalton 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 Dalton 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 Dalton (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 Dalton 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 Dalton 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 Dalton, its successors and assigns.
7. This Order shall terminate upon Dalton's notification of full compliance with the "Order for Compliance" and verification of this notification by WVDEP.



Eric T. Dalton
Walton, LLC and Tea Properties

08/16/14

Date

Public Notice begin:

Date

Public Notice end:

Date

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

Date

revised September 2011

RECEIVED

AUG 21 2014

ENVIRONMENTAL
ENFORCEMENT

Table One:
DMR Exceedance Summary -Wildfire

WVG551447 Outlet 001 DMR Exceedances - AVG. MONTHLY - September 2011 - June 2014						Degree of non-compliance		
Date	Parameter	Units	Permitted avg. monthly	Reported avg. monthly	% Exceedance	Degree of non-compliance		
						Min	Mod	Maj
03/12	BOD-5	mg/l	10	54	440%	-	-	X
06/12	BOD-5	mg/l	5	51.3	926%	-	-	X
09/12	BOD-5	mg/l	5	12.4	148%	-	X	-
03/13	BOD-5	mg/l	10	78.2	682%	-	-	X
06/13	BOD-5	mg/l	5	27.6	452%	-	-	X
03/14	BOD-5	mg/l	10	26.2	162%	-	X	-
03/12	Fecal Coliform	Cnts/100	200	60000	29900%	-	-	X
06/12	Fecal Coliform	Cnts/100	200	6000	2900%	-	-	X
09/12	Fecal Coliform	Cnts/100	200	6000	2900%	-	-	X
03/13	Fecal Coliform	Cnts/100	200	6000	2900%	-	-	X
06/13	Fecal Coliform	Cnts/100	200	12000	5900%	-	-	X
12/13	Fecal Coliform	Cnts/100	200	1700	750%	-	-	X
3/14	Fecal Coliform	Cnts/100	200	6000	2900%	-	-	X
03/12	Nitrogen/Ammonia T	mg/l	6	37	517%	-	-	X
06/12	Nitrogen/Ammonia T	mg/l	3	56.8	1793%	-	-	X
09/12	Nitrogen/Ammonia T	mg/l	3	8.2	173%	-	X	-
03/13	Nitrogen/Ammonia T	mg/l	6	29.6	393%	-	-	X
06/13	Nitrogen/Ammonia T	mg/l	3	33.1	1003%	-	-	X
12/13	Nitrogen/Ammonia T	mg/l	6	15.3	155%	-	X	-
3/14	Nitrogen/Ammonia T	mg/l	6	37.3	522%	-	-	X

WVG551447 Outlet 001 DMR Exceedances - MAX DAILY - September 2011 - June 2014						Degree of non-compliance		
Date	Parameter	Units	Permitted max. daily	Reported max. daily	% Exceedance	Degree of non-compliance		
						Min	Mod	Maj
03/12	BOD-5	mg/l	20	54	170%	-	X	-
06/12	BOD-5	mg/l	10	51.3	413%	-	X	-
09/12	BOD-5	mg/l	10	12.4	24%	X	-	-
03/13	BOD-5	mg/l	20	78.2	291%	-	X	-
06/13	BOD-5	mg/l	10	27.6	176%	-	X	-
03/14	BOD-5	mg/l	20	26.2	31%	X	-	-
03/12	Fecal Coliform	Cnts/100	400	60000	14900%	-	-	X
06/12	Fecal Coliform	Cnts/100	400	6000	1400%	-	-	X
09/12	Fecal Coliform	Cnts/100	400	6000	1400%	-	-	X
03/13	Fecal Coliform	Cnts/100	400	6000	1400%	-	-	X
06/13	Fecal Coliform	Cnts/100	400	12000	2900%	-	-	X
12/13	Fecal Coliform	Cnts/100	400	1700	325%	-	-	X
03/14	Fecal Coliform	Cnts/100	400	6000	1400%	-	-	X
03/12	Nitrogen/Ammonia T	mg/l	12	37	208%	-	X	-
06/12	Nitrogen/Ammonia T	mg/l	6	56.8	847%	-	-	X
09/12	Nitrogen/Ammonia T	mg/l	6	8.2	37%	X	-	-
03/13	Nitrogen/Ammonia T	mg/l	12	29.6	147%	-	X	-
06/13	Nitrogen/Ammonia T	mg/l	6	33.1	452%	-	-	X
12/13	Nitrogen/Ammonia T	mg/l	12	15.3	28%	X	-	-
03/14	Nitrogen/Ammonia T	mg/l	12	37.3	211%	-	X	-

WVG551447 Outlet 001 - D.O. INSTANTANEOUS. MIN. - September 2011 - June 2014						Degree of non-compliance		
Date	Parameter	Units	Permitted min. daily	Reported min. daily	% Exceedance	Degree of non-compliance		
						Min	Mod	Maj
03/12	D.O.	mg/l	6.0	3	50.0%	-	X	-
06/12	D.O.	mg/l	6.0	1	83.3%	-	-	X
09/12	D.O.	mg/l	6.0	2.25	62.5%	-	X	-
03/13	D.O.	mg/l	6.0	1.77	70.5%	-	-	X
06/13	D.O.	mg/l	6.0	1.04	82.7%	-	-	X
12/13	D.O.	mg/l	6.0	5.59	6.8%	X	-	-
03/14	D.O.	mg/l	6.0	5.13	14.5%	X	-	-

Outlet 001 Totals		Degree of non-compliance		
		Min	Mod	Maj
		6	13	30

Table Two:
DMR Exceedance Summary -Wildwood

WVG551388 Outlet 001 DMR Exceedances - AVG. MONTHLY - September 2011 - June 2013						Degree of non-compliance		
Date	Parameter	Units	Permitted avg. monthly	Reported avg. monthly	% Exceedance	Min	Mod	Maj
						-	-	X
03/12	BOD-5	mg/l	10	135	1250%	-	-	X
06/12	BOD-5	mg/l	5	11	120%	-	X	-
09/12	BOD-5	mg/l	5	18.5	270%	-	X	-
12/12	BOD-5	mg/l	10	26.1	161%	-	X	-
03/13	BOD-5	mg/l	10	58.5	485%	-	-	X
06/13	BOD-5	mg/l	5	32.6	552%	-	-	X
03/12	Suspended Solids, T	mg/l	30	37	23%	X	-	-
03/13	Suspended Solids, T	mg/l	30	34	13%	X	-	-
03/12	Fecal Coliform	Cnts/100	200	6000	2900%	-	-	X
09/12	Fecal Coliform	Cnts/100	200	6000	2900%	-	-	X
03/13	Fecal Coliform	Cnts/100	200	6000	2900%	-	-	X
06/13	Fecal Coliform	Cnts/100	200	6000	2900%	-	-	X
03/12	Nitrogen/Ammonia T	mg/l	6	60	900%	-	-	X
06/12	Nitrogen/Ammonia T	mg/l	3	25.1	737%	-	-	X
09/12	Nitrogen/Ammonia T	mg/l	3	59.7	1890%	-	-	X
12/12	Nitrogen/Ammonia T	mg/l	6	40.9	582%	-	-	X
03/13	Nitrogen/Ammonia T	mg/l	6	29.5	392%	-	-	X
06/13	Nitrogen/Ammonia T	mg/l	3	62.8	1993%	-	-	X
06/13	Chlorine/Total Resid.	ug/l	28	30	7%	X	-	-

WVG551388 Outlet 001 DMR Exceedances - MAX DAILY - September 2011 - June 2013						Degree of non-compliance		
Date	Parameter	Units	Permitted max. daily	Reported max. daily	% Exceedance	Min	Mod	Maj
						-	X	-
03/12	BOD-5	mg/l	20	135	575%	-	X	-
06/12	BOD-5	mg/l	10	11	10%	X	-	-
09/12	BOD-5	mg/l	10	18.5	85%	X	-	-
12/12	BOD-5	mg/l	20	26.1	31%	X	-	-
03/13	BOD-5	mg/l	20	58.5	193%	-	X	-
06/13	BOD-5	mg/l	10	32.6	226%	-	X	-
03/12	Fecal Coliform	Cnts/100	400	6000	1400%	-	-	X
09/12	Fecal Coliform	Cnts/100	400	6000	1400%	-	-	X
03/13	Fecal Coliform	Cnts/100	400	6000	1400%	-	-	X
06/13	Fecal Coliform	Cnts/100	400	6000	1400%	-	-	X
03/12	Nitrogen/Ammonia T	mg/l	12	60	400%	-	-	X
06/12	Nitrogen/Ammonia T	mg/l	6	25.1	318%	-	-	X
09/12	Nitrogen/Ammonia T	mg/l	6	59.7	895%	-	-	X
12/12	Nitrogen/Ammonia T	mg/l	12	40.9	241%	-	X	-
03/13	Nitrogen/Ammonia T	mg/l	12	29.5	146%	-	X	-
06/13	Nitrogen/Ammonia T	mg/l	6	62.8	947%	-	-	X

Table Two:
DMR Exceedance Summary -Wildwood

WVG551388 Outlet 001 - D.O. INSTANTANEOUS. MIN. - September 2011 - June 2013						Degree of non-compliance		
Date	Parameter	Units	Permitted min. daily	Reported min. daily	% Exceedance	Min	Mod	Maj
03/12	D.O.	mg/l	6.0	1	83.3%	-	-	X
06/12	D.O.	mg/l	6.0	4	33.3%	-	X	-
12/12	D.O.	mg/l	6.0	4.51	24.8%	X	-	-

Outlet 001 Totals		Degree of non-compliance		
		Min	Mod	Maj
		7	9	22

Table Three:
 Discharge Exceedance Summary -Wildwood, October 2, 2013 Sampling Event

WVG551388 Outlet 001 - MAX. DAILY						Degree of non-compliance		
Date	Parameter	Units	Permitted max. daily	Reported max. daily	% Exceedance	Min	Mod	Maj
10/02/13	BOD-5	mg/l	20	256	1180%	-	-	X
10/02/13	Fecal Coliform	Cnts/100	400	2419.6	505%	-	X	-
10/02/13	Total Suspended Solids	mg/l	60	84	40%	X	-	-
10/02/13	Nitrogen/Ammonia T	mg/l	12	84	600%	-	-	X

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



IMGP2154, Wildfire MHP plant with flooded sand filters and weeds



IMGP2166, Wildfire MHP plant with flooded sand filters and weeds



IMG4149, Wildfire plant overview



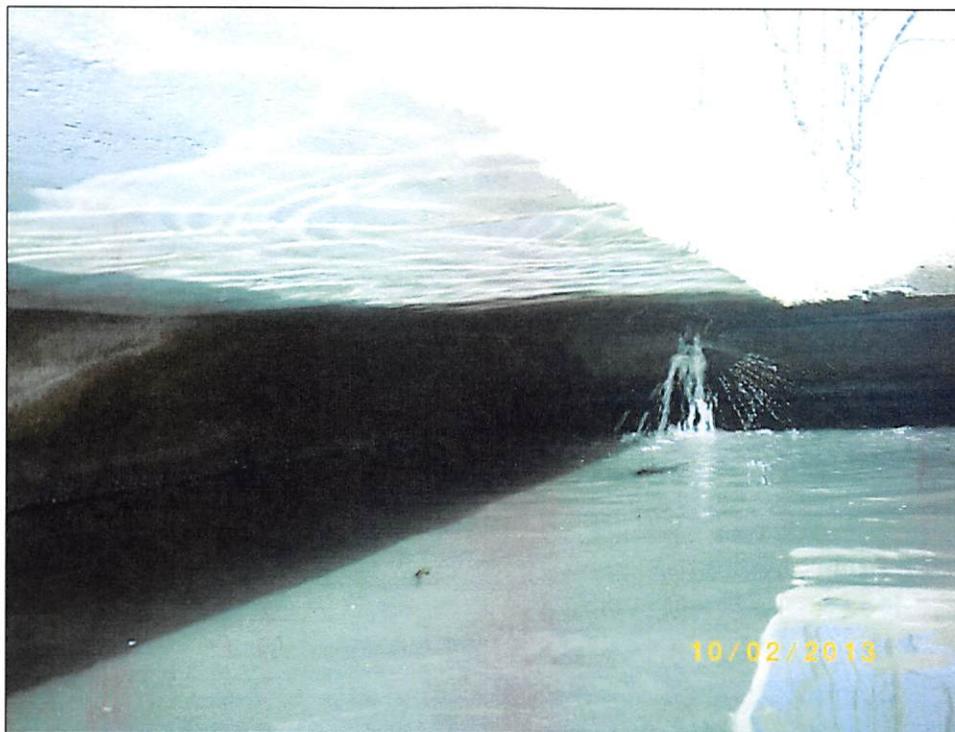
IMG4150, Wildfire plant overview



IMGP4148, From gate side, left three sand filters



IMGP4146, From gate side, right three sand filters



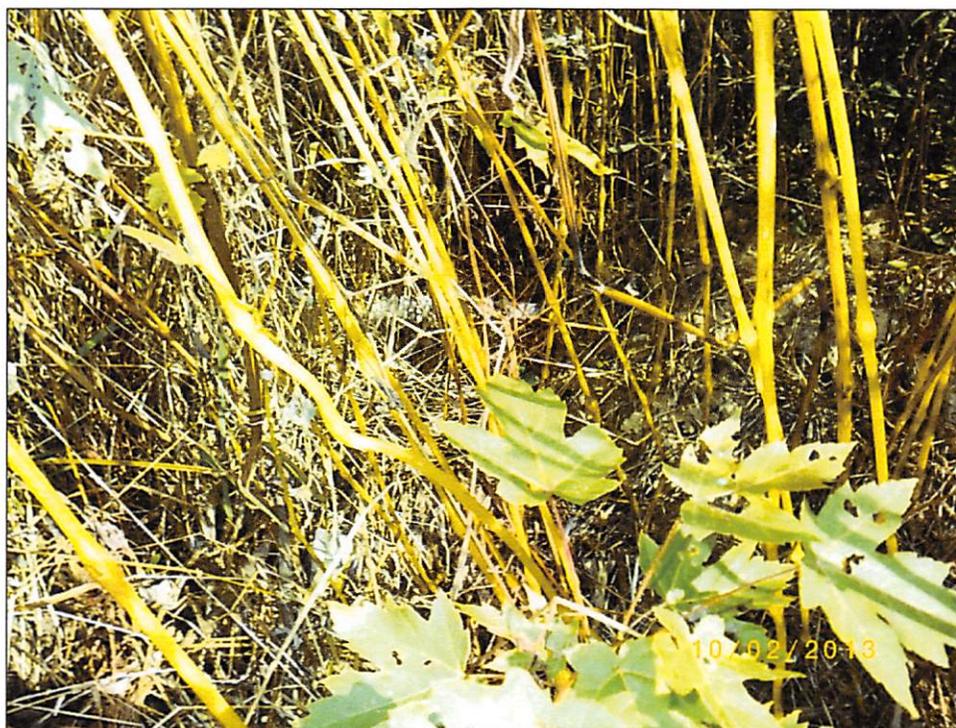
IMG4157, Sand filter with sprayer head, note color/turbidity of effluent



IMG4151, Outfall area with marker sign



IMGP4152, Outfall Marker-001



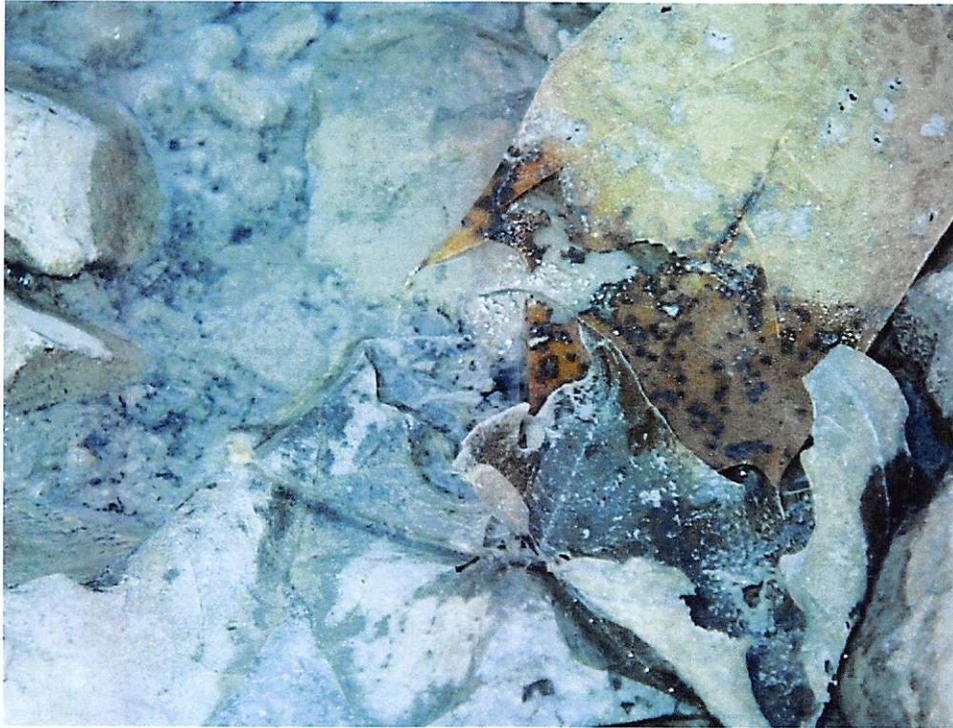
IMGP4159, Area where outfall pipe was found covered with vegetative growth



IMGP1637, Outfall



IMGP1639, Close up of scum from plant, below discharge



IMGP1642, Close up of scum from plant, below discharge site 2



IMGP1647, Sand Filter draining slowly



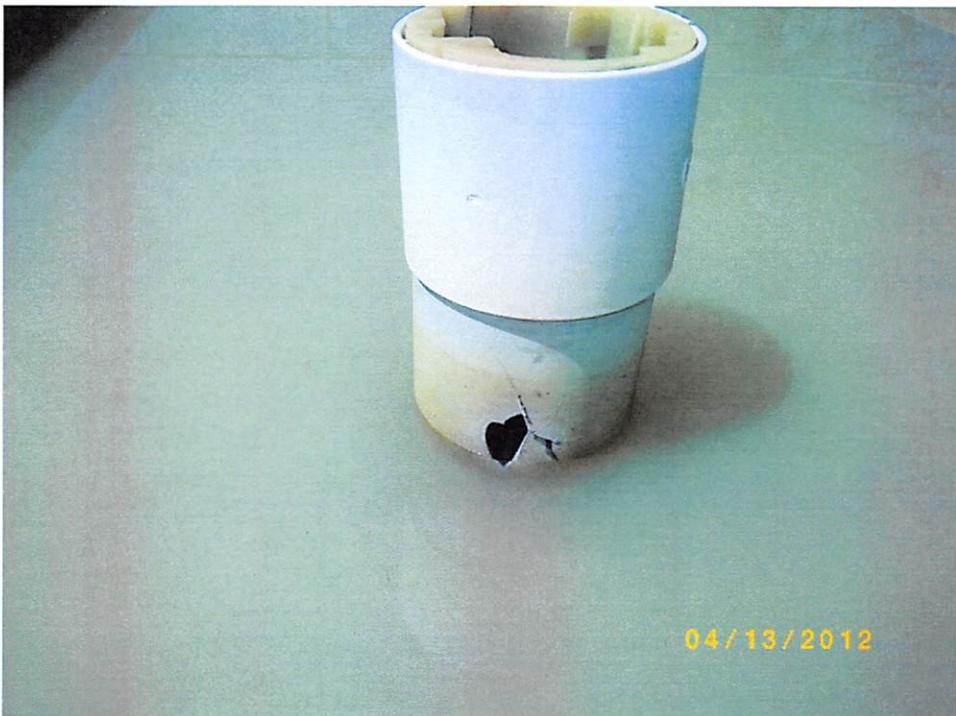
IMGP1926, Outfall from road



IMGP1927, close up of drainage from plant



IMGP1931, sand filter backed up with effluent



IMGP1932, close up of unpermitted bypass point (bypass 1 of 2)



IMGP1935, close up of other bypass point in other sand filter (closest to gate)

Photos: Wildwood, WVG551388, 10-02-13



IMGP4119, Wildwood Outfall area



IMGP4120, Apparent septic effluent below outfall



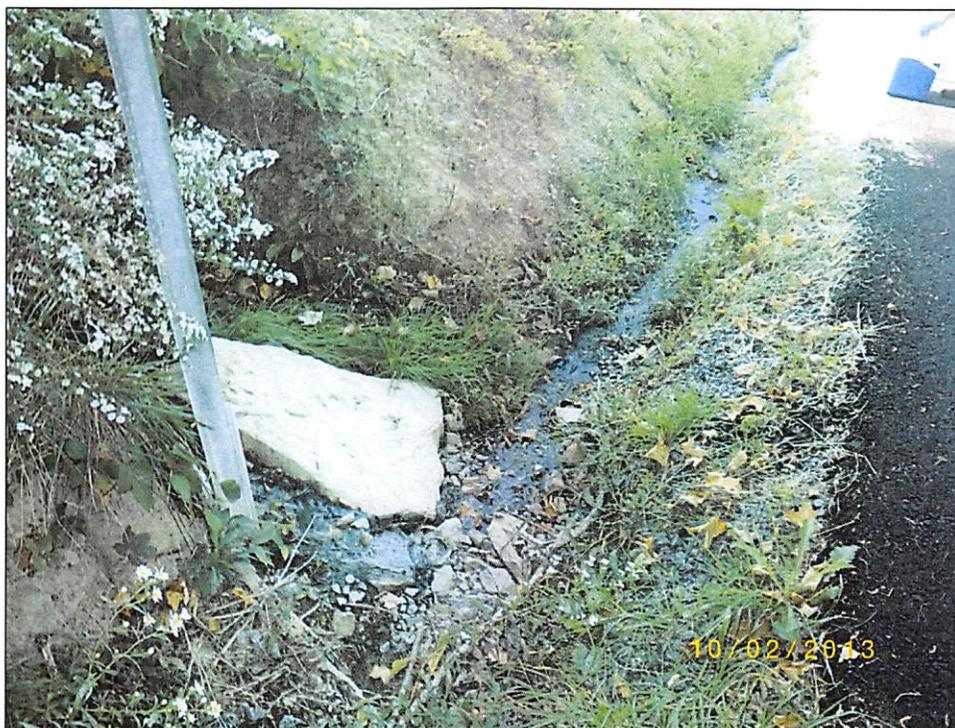
IMGP4122, Apparent septic effluent below outfall



IMGP4123, outlet pipe from Wildwood leading directly to waters of the state, namely, a roadside ditch



IMGP4124, Wildwood outlet pipe close up



IMGP4125, Outfall location from above



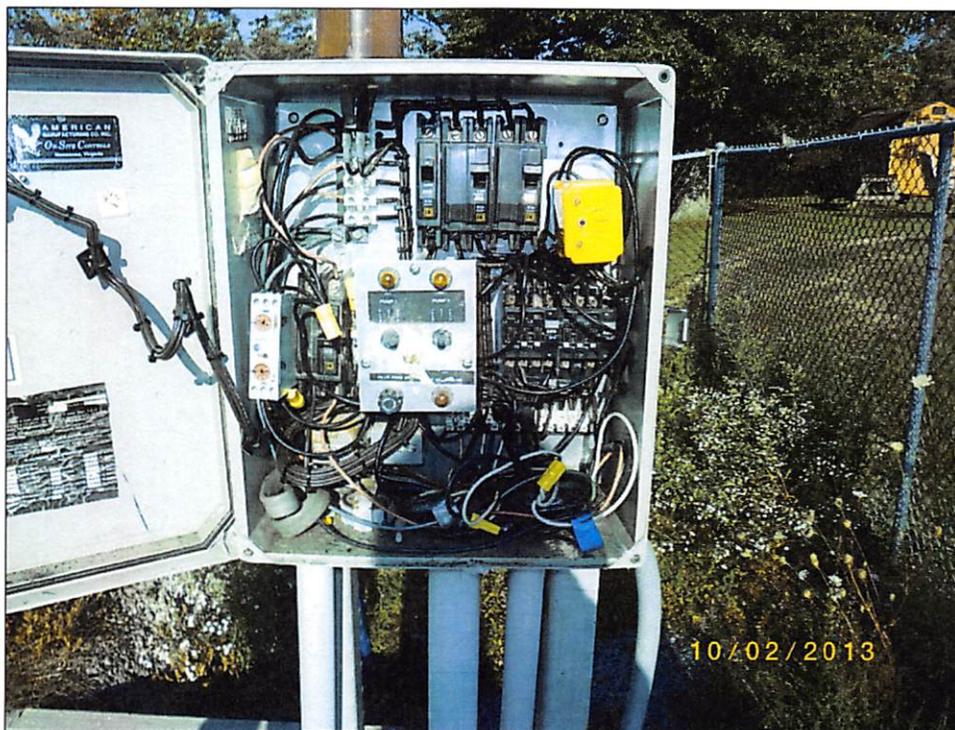
IMGP4126, Wildwood plant overview



IMGP4128, Sandfilter



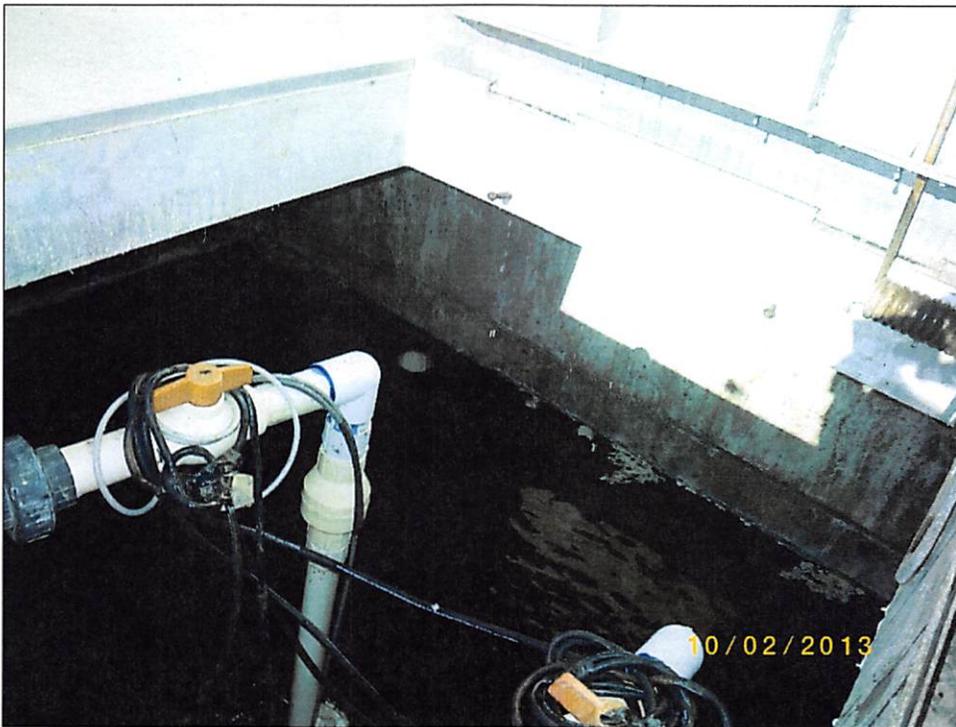
IMGP4127, Sandfilter close up



IMGP4130, Recirculating tank control board



IMGP4142, Recirculating Tank from above door



IMGP4140, Inside of recirc tank, note septage level and overflow pipe towards rear



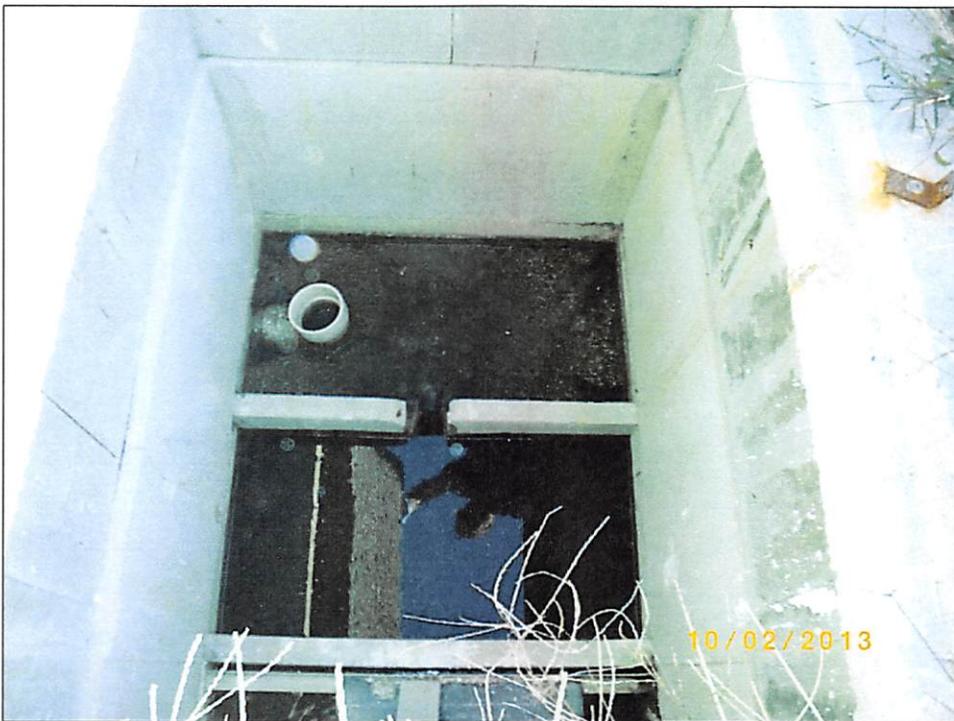
IMG4141, Close up of recirc tank overflow



IMG4135, End of tablet feeder tube from chlorine tablet feeder



IMG4136, End of chlorine tablet feeder tube, note stuck tablets



IMG4132, Chlorine contact chamber, note normal color should be clear effluent



IMGP4133, Chlorine contact closer view



IMGP4134, Close up of discharge pipe from chlorine contact chamber

Photos: Wildwood, WVG551388, 10-02-13



IMGP4139, Dechlorination tablet feeder



Sediment-laden water leaving the site and entering into UT of Boyd Run



Sediment-laden water leaving the site and entering into UT of Boyd Run



Sediment-laden water leaving the site



Sediment-laden water entering a wetland prior to entering into Wildwood Lake



Sediment-laden water entering Wildwood Lake



Dalton home site with no BMP's in place. Good housekeeping requires the maintenance of a clean and orderly project



Sediment-laden water which originated from the home site



Sediment-laden water leaving the site and entering UT of Boyd Run



Improperly installed and maintained BMP's allowing sediment-laden water to leave the site



Boyd Run and/or UT of Boyd Run entering Wildwood Lake

Base Penalty Calculation

(pursuant to 47CSR1-6.1)

Responsible Party:

Eric T. Dalton

Receiving Stream:

UT Aarons Creek and Wades
Run

Treatment System Design Maximum Flow: 0.0012 MGD

Treatment System Actual Average Flow: N/A MGD (if known)

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

1)	Potential for Harm Factor	Factor Range	FOF#												
			3a	3b	4ai	4aii	4aiii	9a	9b	9c	9d	10ai	10aii	10aiii	11ai
a)	Amount of Pollutant Released	1 to 3	1	1	1	1	1	1	1	1	1	1	1	1	1
b)	Toxicity of Pollutant	0 to 3	1	0	1	1	1	1	1	1	0	1	1	1	1
c)	Sensitivity of the Environment	0 to 3	1	0	1	1	1	1	1	1	0	1	1	1	1
d)	Length of Time	1 to 3	2	1	1	1	1	1	1	1	1	1	1	1	1
e)	Actual Exposure and Effects thereon	0 to 3	1	0	1	1	1	1	1	1	0	1	1	1	1
Average Potential for Harm Factor			1.2	0.4	1	1	1	1	1	1	0.4	1	1	1	1
2)	Extent of Deviation Factor	Factor Range													
	Degree of Non-Compliance	1 to 3	1	1	1	2	3	1	1	1	1	1	2	3	1

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 $\leq 40\%$ for Avg. Monthly or $\leq 100\%$ for Daily Max., exceed numeric WQ standard by $\leq 100\%$, or report doesn't contain some minor information.

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

Major = exceedance of permit limit by $\geq 301\%$ for Avg. Monthly, $\geq 601\%$ for Daily Max., exceed numeric WQ standard by $\geq 601\%$, 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
3a	Moderate	Minor	\$2,200	1	\$2,200
3b	Minor	Minor	\$400	1	\$400
4ai	Minor	Minor	\$1,000	2	\$2,000
4aii	Minor	Moderate	\$1,500	10	\$15,000
4aiii	Minor	Major	\$2,000	23	\$46,000
9a	Minor	Minor	\$1,000	1	\$1,000
9b	Minor	Minor	\$1,000	1	\$1,000
9c	Minor	Minor	\$1,000	1	\$1,000
9d	Minor	Minor	\$400	1	\$400
10ai	Minor	Minor	\$1,000	1	\$1,000
10aai	Minor	Moderate	\$1,500	1	\$1,500
10aaii	Minor	Major	\$2,000	2	\$4,000
11ai	Minor	Minor	\$1,000	7	\$7,000
11aai	Minor	Moderate	\$1,500	9	\$13,500
11aaii	Minor	Major	\$2,000	22	\$44,000
14a	Minor	Minor	\$1,000	1	\$1,000
14b	Minor	Minor	\$1,000	1	\$1,000
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
Total Base Penalty					\$142,000

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)			\$0
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	(\$14,200)
6.2.b.5 - Ability to Pay		22.4155	(\$31,830)
Penalty Adjustments			(\$46,000)
Penalty =			\$96,000

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:	