west virginia department of environmental protection

Division of Water and Waste Management
601 57th Street SE
Charleston, WV 25304
Phone: (304) 926-0495
Fax: (304) 926-0463

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: Ellenboro-Lamberton PSD
James "Mickey" Walters, Chairman
P.O. Box 240
Harrisville, WV 26362

DATE: February 11, 2015

ORDER NO.: 8135

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 Ellenboro-Lamberton PSD (hereinafter "Ellenboro").

FINDINGS OF FACT

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

1. Ellenboro operates a wastewater treatment plant located in Ellenboro, Ritchie County, West Virginia. Ellenboro was reissued WV/NPDES Water Pollution Control Permit No. WV0027308 on December 30, 2008 and June 24, 2014.

2. On February 16, 2014, West Virginia Department of Environmental Protection (WVDEP) personnel conducted an inspection of the facility. During the inspection, violations of the following sections of Ellenboro's WV/NPDES permit were observed and documented:

   a. Section C.19-The permittee incorrectly reported Total Nitrogen.
   b. Appendix A.III.2.c-The number of exceedances was incorrectly reported on the Discharge Monitoring Report (DMR).
   c. Section C.11-The Plan of Action addressing the facility's hydraulic loading was not submitted.

d. Section C.20-Quarterly Inflow and Infiltration (I/I) reports were not submitted during 2012 and 2013.
e. Appendix A.III.6-The permittee failed to retain records of all monitoring information. Specifically, calibration logs for the flow, pH and Dissolved Oxygen meters were not being kept.
f. Appendix A.II.1-Ellenboro failed to properly operate and maintain the alternating surface sand filters.
g. Section A.IU02 and A.IU03-Ellenboro failed to sample Industrial Users (IU02 and IU03) during each quarter of 2012 and 2013.
h. Section E.2.d.4-Ellenboro failed to submit a DMR for Industrial Users (IU01, IU02, and IU03) for each quarter of 2012 and 2013.
i. Section E.7-Ellenboro failed to complete and submit oil/water separator logs for Industrial Users (IU02 and IU03) for each quarter of 2012 and 2013.

As a result of the aforementioned violations, Notice of Violation (NOV) No. CM-DAK-02-27-14-NOV1 was issued to Ellenboro.

3. On February 27, 2014, WVDEP personnel conducted a review of facility records from the time period of January 2012 through January 2014. During this review, the following violations of the terms and conditions of Ellenboro's WV/NPDES permit were observed:

   a. Section A.001 - Sixty-six (66) exceedances of Ellenboro's permit parameters observed and documented (Table 1). These exceedances can be further defined as:
      i. Minor violations-twenty-eight (28)
      ii. Moderate violations-twenty-seven (27)
      iii. Major violations-eleven (11)

4. On September 2, 2014, WVDEP personnel and representatives of Ellenboro met to discuss the terms and conditions of this Order.

5. On September 9, 2014, Ellenboro submitted financial documents to WVDEP. The provided information was used to perform an economic analysis which evaluated Ellenboro's ability to pay a civil administrative penalty.

6. On February 10, 2015, WVDEP personnel conducted a review of facility records from the time period of February 2014 through December 2014. During this review, the following violations of the terms and conditions of Ellenboro's WV/NPDES permit were observed:

   a. Section A.001 - Forty-six (46) exceedances of Ellenboro's permit parameters observed and documented (Table 2). These exceedances are defined as:
      i. Minor violations-twenty-Nine (9)
      ii. Moderate violations-twenty-Twenty-four (24)
      iii. Major violations-eleven-Thirteen (13)

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. Ellenboro 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 twenty (20) days of the effective date of this Order, Ellenboro shall submit for approval a proposed plan of corrective action and schedule, outlining action items and completion dates for how and when Ellenboro will achieve compliance with all terms and conditions of its WV/NPDES permit and pertinent laws and rules. The plan of corrective action shall make reference to WV/NPDES Permit No. WV0027308 and Order No. 8135. The plan of corrective action shall be submitted to:

   WVDEP Environmental Inspector Supervisor
   Compliance Monitoring
   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 Ellenboro's permit violations, Ellenboro shall be assessed a civil administrative penalty of nine thousand dollars ($9,000) 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 $750 due on or before April 1, 2015.
   Payment 2 in the amount of $750 due on or before May 1, 2015.
   Payment 3 in the amount of $750 due on or before June 1, 2015.
   Payment 4 in the amount of $750 due on or before July 1, 2015.
   Payment 5 in the amount of $750 due on or before August 1, 2015.
   Payment 6 in the amount of $750 due on or before September 1, 2015.

Payment 7 in the amount of $750 due on or before October 1, 2015.
Payment 8 in the amount of $750 due on or before November 1, 2015.
Payment 9 in the amount of $750 due on or before December 1, 2015.
Payment 10 in the amount of $750 due on or before January 1, 2016.
Payment 11 in the amount of $750 due on or before February 1, 2016.
Payment 12 in the amount of $750 due on or before March 1, 2016.

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

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

James "Mickey" Walters, Chairman
Ellenboro-Lamberton PSD

2-18-15
Date

Public Notice begin:

Date

Public Notice end:

Date

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

Date

revised March 2013

RECEIVED

FEB 23 2015

ENVIRONMENTAL
ENFORCEMENT

Table One: Ellenboro DMR Exceedance Summary

Outlet 001 DMR Exceedances - AVG. MONTHLY - 01/2012 through 1/2014						Degree of non-compliance		
Date	Parameter	Units	Permitted avg. monthly	Reported avg. monthly	% Exceedance	Min	Mod	Maj
1/2012	**Fecal Coliform**	Cnts/100ml	200	**596**	198%	-	X	-
2/2012	**Fecal Coliform**	Cnts/100ml	200	**210**	5%	X	-	-
2/2012	**Zn, Total Rec.**	mg/l	0.0443	**0.055**	24%	X	-	-
3/2012	**Zn, Total Rec.**	mg/l	0.0443	**0.38**	758%	-	-	X
3/2012	**Fecal Coliform**	Cnts/100ml	200	**430**	115%	-	X	-
4/2012	**Zn, Total Rec.**	mg/l	0.0443	**0.049**	11%	X	-	-
4/2012	**Fecal Coliform**	Cnts/100ml	200	**6000**	2900%	-	-	X
4/2012	**NH3, Total**	mg/l	2	**4.14**	107%	-	X	-
4/2012	**NH3, Total**	Lbs/Day	2.09	**3.35**	60%	-	X	-
5/2012	**Zn, Total Rec.**	mg/l	0.0443	**0.091**	105%	-	X	-
5/2012	**Fecal Coliform**	Cnts/100ml	200	**11400**	5600%	-	-	X
5/2012	**NH3, Total**	mg/l	2	**3.22**	61%	-	X	-
6/2012	**Zn, Total Rec.**	mg/l	0.0443	**0.084**	90%	-	X	-
6/2012	**Fecal Coliform**	Cnts/100ml	200	**29500**	14650%	-	-	X
6/2012	**NH3, Total**	mg/l	2	**6.91**	246%	-	X	-

Table One: Ellenboro DMR Exceedance Summary (cont'd)

Outlet 001 DMR Exceedances - AVG. MONTHLY - 01/2012 through 1/2014						Degree of non-compliance		
Date	Parameter	Units	Permitted avg. monthly	Reported avg. monthly	% Exceedance	Min	Mod	Maj
6/2012	**NH3, Total**	Lbs/Day	2.09	**5.71**	173%	-	X	-
9/2012	**Fecal Coliform**	Cnts/100ml	200	**1200**	500%	-	-	X
9/2012	**NH3, Total**	mg/l	2	**3.91**	96%	-	X	-
9/2012	**NH3, Total**	Lbs/Day	2.09	**2.97**	42%	-	X	-
10/2012	**Zn, Total Rec.**	mg/l	0.0443	**0.106**	139%	-	X	-
10/2012	**Fecal Coliform**	Cnts/100ml	200	**2200**	1000%	-	-	X
11/2012	**Zn, Total Rec.**	mg/l	0.0443	**0.098**	121%	-	X	-
12/2012	**Zn, Total Rec.**	mg/l	0.0443	**0.079**	78%	-	X	-
1/2013	**Zn, Total Rec.**	mg/l	0.0443	**0.095**	114%	-	X	-
2/2013	**Zn, Total Rec.**	mg/l	0.0443	**0.08**	81%	-	X	-
3/2013	**Zn, Total Rec.**	mg/l	0.0443	**0.08**	81%	-	X	-
5/2013	**Fecal Coliform**	Cnts/100ml	200	**440**	120%	-	X	-
5/2013	**NH3, Total**	mg/l	2	**9.09**	355%	-	-	X
5/2013	**NH3, Total**	Lbs/Day	2.09	**5.61**	168%	-	X	-
6/2013	**NH3, Total**	mg/l	2	**10.5**	425%	-	-	X
6/2013	**NH3, Total**	Lbs/Day	2.09	**6.13**	193%	-	X	-
7/2013	**Zn, Total Rec.**	mg/l	0.0443	**0.053**	20%	X	-	-
8/2013	**Zn, Total Rec.**	mg/l	0.0443	**0.046**	4%	X	-	-
9/2013	**Zn, Total Rec.**	mg/l	0.0443	**0.126**	184%	-	X	-
10/2013	**NH3, Total**	mg/l	2	**3.02**	51%	-	X	-
10/2013	**NH3, Total**	Lbs/Day	2.09	**2.44**	17%	X	-	-
11/2013	**Zn, Total Rec.**	mg/l	0.0443	**0.053**	20%	X	-	-
11/2013	**NH3, Total**	mg/l	2	**2.46**	23%	X	-	-
11/2013	**NH3, Total**	Lbs/Day	2.09	**2.97**	42%	-	X	-

Table One: Ellenboro DMR Exceedance Summary (cont'd)

Outlet 001 DMR Exceedances - MAX. DAILY - 01/2012 through 1/2014						Degree of non-compliance		
Date	Parameter	Units	Permitted max. daily	Reported max. daily	% Exceedance	Min	Mod	Maj
1/2012	**Fecal Coliform**	Cnts/100 ml	400	**596**	49%	X	-	-
3/2012	**Fecal Coliform**	Cnts/100 ml	400	**430**	8%	X	-	-
4/2012	**Fecal Coliform**	Cnts/100 ml	400	**6000**	1400%	-	-	X
4/2012	**NH3, Total**	mg/l	4	**4.14**	3%	X	-	-
5/2012	**Fecal Coliform**	Cnts/100 ml	400	**11400**	2750%	-	-	X
6/2012	**Fecal Coliform**	Cnts/100 ml	400	**29500**	7275%	-	-	X
6/2012	**NH3, Total**	mg/l	4	**6.91**	73%	X	-	-

Outlet 001 DMR Exceedances - MAX. DAILY - 01/2012 through 1/2014						Degree of non-compliance		
Date	Parameter	Units	Permitted max. daily	Reported max. daily	% Exceedance	Min	Mod	Maj
6/2012	**NH3, Total**	Lbs/Day	4.18	**5.71**	37%	X	-	-
9/2012	**Fecal Coliform**	Cnts/100 ml	400	**1200**	200%	-	X	-
10/2012	**Fecal Coliform**	Cnts/100 ml	400	**2200**	450%	-	X	-
5/2013	**Fecal Coliform**	Cnts/100 ml	400	**440**	10%	X	-	-
5/2013	**NH3, Total**	mg/l	4	**9.09**	127%	-	X	-
5/2013	**NH3, Total**	Lbs/Day	4.18	**5.61**	34%	X	-	-
6/2013	**NH3, Total**	mg/l	4	**10.5**	163%	-	X	-
6/2013	**NH3, Total**	Lbs/Day	4.18	**6.13**	47%	X	-	-

Table One: Ellenboro DMR Exceedance Summary (cont'd)

Outlet 001 DMR Exceedances - D.O. INSTANTANEOUS. MIN. - 01/2012 through 1/2014						Degree of non-compliance		
Date	Parameter	Units	Permitted min. daily	Reported min. daily	% Exceedance	Min	Mod	Maj
2/2012	**D.O.**	mg/l	7.0	6.92	1.1%	X	-	-
6/2012	**D.O.**	mg/l	7.0	6.92	1.1%	X	-	-
9/2012	**D.O.**	mg/l	7.0	6.97	0.4%	X	-	-
10/2012	**D.O.**	mg/l	7.0	6.99	0.1%	X	-	-
3/2013	**D.O.**	mg/l	7.0	6.47	7.6%	X	-	-
6/2013	**D.O.**	mg/l	7.0	6.99	0.1%	X	-	-
7/2013	**D.O.**	mg/l	7.0	6.99	0.1%	X	-	-
10/2013	**D.O.**	mg/l	7.0	6.92	1.1%	X	-	-
11/2013	**D.O.**	mg/l	7.0	6.99	0.1%	X	-	-
12/2013	**D.O.**	mg/l	7.0	6.99	0.1%	X	-	-
1/2014	**D.O.**	mg/l	7.0	6.98	0.3%	X	-	-

Outlet 001 Exceedances-Minimum 85% Removal-AVG MONTHLY-01/2012 through 1/2014						Degree of non-compliance		
Date	Parameter	Units	Permitted Minimum % Removal	Reported % Removal	% Exceedance	Min	Mod	Maj
8/2013	**BOD5**	mg/l	**85.0**	**83.0**	2.4%	X	-	-

Outlet 001 Totals	Degree of non-compliance		
	Min	Mod	Maj
	28	**27**	**11**

Table Two: Ellenboro DMR Exceedance Summary

Outlet 001 DMR Exceedances - AVG. MONTHLY - Feb 2014 through Dec 2014						Degree of non-compliance		
Date	Parameter	Units	Permitted avg. monthly	Reported avg. monthly	% Exceedance	Min	Mod	Maj
8/2014	**BOD**	mg/L	6	**6.2**	3%	X	-	-
11/2014	**BOD**	mg/L	6	**7.3**	22%	X	-	-
2/2014	**Ammonia Nitrogen**	mg/L	2	**4.06**	103%	-	X	-
2/2014	**Ammonia Nitrogen**	Lbs/Day	2.09	**4.4**	111%	-	X	-
3/2014	**Ammonia Nitrogen**	mg/L	2	**3.52**	76%	-	X	-
3/2014	**Ammonia Nitrogen**	Lbs/Day	2.09	**3.52**	68%	-	X	-
4/2014	**Ammonia Nitrogen**	mg/L	2	**3.54**	77%	-	X	-
4/2014	**Ammonia Nitrogen**	Lbs/Day	2.09	**3.31**	58%	-	X	-
5/2014	**Ammonia Nitrogen**	mg/L	2	**10.2**	410%	-	-	X
5/2014	**Ammonia Nitrogen**	Lbs/Day	2.09	**7.49**	258%	-	X	-
6/2014	**Ammonia Nitrogen**	mg/L	1	**8.93**	793%	-	-	X
6/2014	**Ammonia Nitrogen**	Lbs/Day	1	**8.12**	712%	-	-	X
8/2014	**Ammonia Nitrogen**	mg/L	1	**10.9**	990%	-	-	X
8/2014	**Ammonia Nitrogen**	Lbs/Day	1	**7.45**	645%	-	-	X
9/2014	**Ammonia Nitrogen**	mg/L	1	**7.02**	602%	-	-	X
9/2014	**Ammonia Nitrogen**	Lbs/Day	1	**5.56**	456%	-	-	X
10/2014	**Ammonia Nitrogen**	mg/L	1	**10.9**	990%	-	-	X
10/2014	**Ammonia Nitrogen**	Lbs/Day	1	**7.63**	663%	-	-	X
11/2014	**Ammonia Nitrogen**	mg/L	1	**7.66**	666%	-	-	X
11/2014	**Ammonia Nitrogen**	Lbs/Day	1	**5.75**	475%	-	-	X
12/2014	**Ammonia Nitrogen**	mg/L	1	**5.81**	481%	-	-	X
12/2014	**Ammonia Nitrogen**	Lbs/Day	1	**6.15**	515%	-	-	X
2/2014	**Zinc, Total Recoverabl**	mg/L	0.0443	**0.095**	114%	-	X	-
3/2014	**Zinc, Total Recoverabl**	mg/L	0.0443	**0.095**	114%	-	X	-
5/2014	**Zinc, Total Recoverabl**	mg/L	0.0443	**0.07**	58%	-	X	-
6/2014	**Zinc, Total Recoverabl**	mg/L	0.063	**0.074**	17%	X	-	-
3/2014	**Fecal Coliform**	Cnts/100m	200	**400**	100%	-	X	-

Outlet 001 DMR Exceedances - MAX. DAILY - Feb 2014 through Dec 2014						Degree of non-compliance		
Date	Parameter	Units	Permitted max. daily	Reported max. daily	% Exceedance	Min	Mod	Maj
2/2014	**Ammonia Nitrogen**	mg/L	4	**4.06**	1%	X	-	-
2/2014	**Ammonia Nitrogen**	Lbs/Day	4.18	**4.4**	5%	X	-	-
5/2014	**Ammonia Nitrogen**	mg/L	4	**10.2**	155%	-	X	-
5/2014	**Ammonia Nitrogen**	Lbs/Day	4.18	**7.49**	79%	X	-	-
6/2014	**Ammonia Nitrogen**	mg/L	2	**8.93**	347%	-	X	-
6/2014	**Ammonia Nitrogen**	Lbs/Day	2.1	**8.12**	287%	-	X	-
8/2014	**Ammonia Nitrogen**	mg/L	2	**10.9**	445%	-	X	-
8/2014	**Ammonia Nitrogen**	Lbs/Day	2.1	**7.45**	255%	-	X	-
9/2014	**Ammonia Nitrogen**	mg/L	2	**7.02**	251%	-	X	-
9/2014	**Ammonia Nitrogen**	Lbs/Day	2.1	**5.56**	165%	-	X	-
10/2014	**Ammonia Nitrogen**	mg/L	2	**10.9**	445%	-	X	-
10/2014	**Ammonia Nitrogen**	Lbs/Day	2.1	**7.63**	263%	-	X	-
11/2014	**Ammonia Nitrogen**	mg/L	2	**7.66**	283%	-	X	-
11/2014	**Ammonia Nitrogen**	Lbs/Day	2.1	**5.75**	174%	-	X	-
12/2014	**Ammonia Nitrogen**	mg/L	2	**5.81**	191%	-	X	-
12/2014	**Ammonia Nitrogen**	Lbs/Day	2.1	**6.15**	193%	-	X	-

Table Two: Ellenboro DMR Exceedance Summary

Outlet 001 DMR Exceedances - D.O. INSTANTANEOUS. MIN. - Feb 2014 through Dec 2014						Degree of non-compliance		
Date	Parameter	Units	Permitted min. daily	Reported min. daily	% Exceedance	Min	Mod	Maj
2/2014	D.O.	mg/l	7.0	6.72	4.0%	X	-	-
7/2014	D.O.	mg/l	7.0	6.99	0.1%	X	-	-

Outlet 001 Exceedances - Minimum 85% Removal - AVG. MONTHLY - Feb 2014 through Dec 2014						Degree of non-compliance		
Date	Parameter	Units	Permitted Minimum % Removal	Reported % Removal	% Exceedance	Min	Mod	Maj
6/2014	Suspended Solids	%	85.0	73.0	14.1%	X	-	-

Outlet 001 Totals	Degree of non-compliance		
	Min	Mod	Maj
	9	24	13

Ellenboro Order Photo Log

02/26/2014 10:29: Wastewater leaking through cracks in sand filter walls.

02/29/2014 10:30: Ponding wastewater exiting filter through overflow pipe.

Base Penalty Calculation

(pursuant to 47CSR1-6.1)

Responsible Party: Ellenboro-Lamberton PSD **Receiving Stream:** Hushers Run of Hughes River of the Little Kanawha River

Treatment System Design Maximum Flow: 0.125 MGD **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.a	2.b	2.c	2.d	2.e	2.f	2.h	2.i	3.a.i	3.a.ii	3.a.iii		
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	0	0	0	0	0	1	0	0	1	1	1		
c)	Sensitivity of the Environment	0 to 3	0	0	0	0	0	1	0	0	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	0	0	0	0	0	1	0	0	1	1	1		
	Average Potential for Harm Factor		0.4	0.4	0.4	0.4	0.4	1	0.4	0.4	1	1	1	No	No
2)	**Extent of Deviation Factor**	**Factor Range**													
	Degree of Non-Compliance	1 to 3	1	1	3	3	2	2	1	1	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.

Continue rating Findings of Facts (FOF) here, if necessary. Otherwise, continue on Page 3.

1)	Potential for Harm Factor	Factor Range	FOF#												
a)	Amount of Pollutant Released	1 to 3													
b)	Toxicity of Pollutant	0 to 3													
c)	Sensitivity of the Environment	0 to 3													
d)	Length of Time	1 to 3													
e)	Actual Exposure and Effects thereon	0 to 3													
	Average Potential for Harm Factor		No	No	No	No	No	No	No	No	No	No	No	No	No
2)	**Extent of Deviation Factor**	**Factor Range**													
	Degree of Non-Compliance	1 to 3													

		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.a	Minor	Minor	$400	1	$400
2.b	Minor	Minor	$400	1	$400
2.c	Minor	Major	$1,700	1	$1,700
2.d	Minor	Major	$1,700	6	$10,200
2.e	Minor	Moderate	$1,200	1	$1,200
2.f	Minor	Moderate	$1,500	1	$1,500
2.h	Minor	Minor	$400	6	$2,400
2.i	Minor	Minor	$400	6	$2,400
3.a.i	Minor	Minor	$1,000	18	$18,000
3.a.ii	Minor	Moderate	$1,500	18	$27,000
3.a.iii	Minor	Major	$2,000	4	$8,000
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
Total Base Penalty					$73,200

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 -	20		$14,640
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)		5	($3,660)
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	($7,320)
6.2.b.5 - Ability to Pay		92.746	($67,890)
Penalty Adjustments			**($64,200)**
Penalty =			**$9,000**

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:	