



west virginia department of environmental protection

Division of Water and Waste Management
601 57th Street SE
Charleston, WV 25304
Phone: (304) 926-0470
Fax: (304) 926-0488

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: Global Capital of World Peace, Inc.
Attn: Tim Fitz Randolph
1000 Purusha Place Suite 105
Romney WV 26757

DATE: February 8, 2016
ORDER NO.: 8531

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 Global Capital of World Peace, Inc. (hereinafter "GCOWP").

FINDINGS OF FACT

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

1. GCOWP is conducting land disturbance activity near Three Churches, Hampshire County, West Virginia. GCOWP was issued WV/NPDES Water Pollution Control Permit No. WV0115924, Registration No. WVR104360, on May 7, 2009. This WV/NPDES permit expired on September 30, 2013.
2. On March 18, 2015, West Virginia Department of Environmental Protection (WVDEP) personnel conducted an inspection of the facility. During the inspection, a violation of the following sections of WV Legislative Rules and WV State Code was observed and documented:
 - a. 47CSR10 Section 5.2 and 22-11-8 - GCOWP failed to re-apply for its WV/NPDES permit at least one hundred eighty (180) days prior to expiration of the permit.

As a result of the aforementioned violation, Notice of Violation (NOV) No. I15-14-016-MJA was issued to GCOWP.

Promoting a healthy environment.

3. On August 4, 2015, WVDEP and GCOWP entered into Consent Order No. 8398, which was issued in response to the aforementioned violation. The Order required GCOWP to submit an administratively complete application for WV/NPDES permit coverage within thirty (30) days of the effective date of this Order.
4. On January 12, 2016, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of WV Legislative Rules and WV State Code were observed and documented:
 - a. 47CSR10 Section 5.2 and 22-11-8 - GCOWP failed to re-apply for the WV/NPDES permit prior to its expiration. The aforementioned site was not adequately stabilized; therefore, the WV/NPDES permit was not properly closed.
 - b. 22-11-1 et seq. - GCOWP failed to comply with the terms and conditions of Order No. 8398. Specifically, GCOWP failed to submit an administratively complete application for WV/NPDES permit coverage.
 - c. 47CSR2 Section 3.2.b - GCOWP caused conditions not allowable in waters of the State by creating sediment deposits in an un-named tributary of Three Churches Run. Specifically, sediment and drill slurry from a recently installed water well were deposited in the stream channel. In addition, a sediment trap was built within an ephemeral stream channel.

As a result of the aforementioned violations, Notice of Violation (NOV) Nos. W16-14-001-MJA, W16-14-002-MJA and W16-14-003-MJA were issued to GCOWP.

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. GCOWP shall immediately take all measures to initiate compliance with all pertinent laws and rules.
2. Within thirty (30) days of the effective date of this Order, GCOWP shall electronically submit an administratively complete application for WV/NPDES permit coverage for the regulated activity. Any questions regarding the application process shall be directed to WVDEP DWWM-Permitting Section at (304) 926-0495.
3. Within thirty (30) days of the effective date of this Order, GCOWP shall submit for approval a proposed plan of corrective action and schedule, outlining action items and completion dates for how and when GCOWP will achieve compliance with all pertinent laws and rules. The plan of corrective action shall make reference to Order No. 8531. The plan of corrective action shall be submitted to:

**WVDEP Environmental Inspector Supervisor
NE Regional Environmental Enforcement Office
22288 Northwestern Pike
Romney, WV 26757-8005**

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.

4. Because of GCOWP's West Virginia Code and Legislative Rule violations, GCOWP shall be assessed a civil administrative penalty of eighteen thousand dollars (\$18,000) to be paid to the West Virginia Department of Environmental Protection for deposit in the Water Quality Management Fund within thirty (30) days of the effective date of this Order. 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. GCOWP 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, GCOWP 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, GCOWP 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 GCOWP 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, GCOWP 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 GCOWP becomes aware of such a delay, notification shall be provided to the Director/Chief Inspector and GCOWP 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 GCOWP 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 GCOWP (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 GCOWP 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 GCOWP 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 GCOWP, its successors and assigns.
7. This Order shall terminate upon GCOWP's notification of full compliance with the "Order for Compliance" and verification of this notification by WVDEP.


Project Manager
Tim Fitz Randolph
Global Capital of World Peace, Inc.

February 18, 2016
Date

Public Notice begin:

RECEIVED

Date

FEB 26 2016

Public Notice end:

**ENVIRONMENTAL
ENFORCEMENT**

Date

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

Date



Sediment trap built within an ephemeral stream channel. 01/12/2016 1230



Sediment and drill slurry from recently installed water well deposited within stream channel.
01/12/2016 1230



Large areas of un-permitted, un-stabilized earth disturbance. These areas were originally covered under the currently expired WV/NPDES permit. 01/12/2016 1230

Base Penalty Calculation

(pursuant to 47CSR1-6.1)

Responsible Party: Global Capital of World Peace, Inc. 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#											
			4a	4b	4c									
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	3	3	1									
e)	Actual Exposure and Effects thereon	0 to 3	3	1	1									
Average Potential for Harm Factor			1.8	1.4	1	No								
2)	Extent of Deviation Factor	Factor Range												
	Degree of Non-Compliance	1 to 3	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.

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 -	25		\$2,800
6.2.b.4 - Compliance/noncompliance history	25		\$2,800
6.2.b.6 - Economic benefits - (flat monetary increase)	\$1,170		\$1,170
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			\$0
6.2.b.5 - Ability to Pay			\$0
Penalty Adjustments			\$6,800
Penalty =			\$18,000

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	\$1,170
Competitive Advantage	
Estimated Economic Benefit	\$1,170
Comments: Avoided cost of WV/NPDES permit application fee.	