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west virginia department of environmental protection

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Division of Water and Waste Management  
601 57<sup>th</sup> Street SE  
Charleston, WV 25304  
Phone: (304) 926-0495  
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Earl Ray Tomblin, Governor  
Randy C. Huffman, Cabinet Secretary  
[www.dep.wv.gov](http://www.dep.wv.gov)

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

TO: Lincoln County Board of Education  
Ms. Patricia Lucas, Superintendent  
10 Marland Avenue  
Hamlin, WV 25523

DATE: February 9, 2015

ORDER NO.: 8187

**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 Lincoln County Board of Education (hereinafter "Lincoln BOE").

**FINDINGS OF FACT**

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

1. Lincoln BOE operates a sewage treatment facility located in Lincoln County, West Virginia. Lincoln BOE was reissued WV/NPDES Water Pollution Control Permit No. WV0103110, Registration No. WVG551009, on July 15, 2011. This facility serves the Midway Elementary School.
2. On February 6, 2015, West Virginia Department of Environmental Protection (WVDEP) personnel conducted a review of facility records from the time period of the 1<sup>st</sup> Quarter of 2012 through the 4<sup>th</sup> Quarter of 2014. During this review, the following violations of the terms and conditions of Lincoln BOE's WV/NPDES permit were observed:
  - a. Section A.3 – Twenty-four (24) exceedances of Lincoln BOE's permit parameters were observed and documented (Table 1). These exceedances can be further defined as:
    - i. Minor violations-seven (7)
    - ii. Moderate violations-six (6)

Promoting a healthy environment.

iii. Major violations-eleven (11)

3. Lincoln BOE operates a sewage treatment facility located in Lincoln County, West Virginia. Lincoln BOE was reissued WV/NPDES Water Pollution Control Permit No. WV0103110, Registration No. WVG551010, on July 15, 2011. This facility serves the Duval Pre K-8 School.
4. On February 6, 2015, WVDEP personnel conducted a review of facility records from the time period of the 1<sup>st</sup> Quarter of 2012 through the 4<sup>th</sup> Quarter of 2014. During this review, the following violations of the terms and conditions of Lincoln BOE's WV/NPDES permit were observed:
  - a. Section A.3 – Thirty (30) exceedances of Lincoln BOE's permit parameters were observed and documented (Table 2). These exceedances can be further defined as:
    - i. Minor violations-nine (9)
    - ii. Moderate violations-fifteen (15)
    - iii. Major violations-six (6)
  - b. Section B.2 – The permittee failed to submit the following Discharge Monitoring Reports (DMRs) within twenty (20) days after the reporting period: the 2<sup>nd</sup> quarter of 2012.
5. Lincoln BOE operates a sewage treatment facility located in Lincoln County, West Virginia. Lincoln BOE was reissued WV/NPDES Water Pollution Control Permit No. WV0103110, Registration No. WVG551015, on July 15, 2011. This facility serves the Ranger Elementary School.
6. On February 6, 2015, WVDEP personnel conducted a review of facility records from the time period of the 1<sup>st</sup> Quarter of 2012 through the 4<sup>th</sup> Quarter of 2014. During this review, the following violations of the terms and conditions of Lincoln BOE's WV/NPDES permit were observed:
  - a. Section A.1 – Seven (7) exceedances of Lincoln BOE's permit parameters were observed and documented (Table 3). These exceedances can be further defined as:
    - i. Minor violations-two (2)
    - ii. Moderate violations-two (2)
    - iii. Major violations-three (3)
  - b. Section B.2 – The permittee failed to submit the following DMRs within twenty (20) days after the reporting period: the 2<sup>nd</sup> quarter of 2012.
7. Lincoln BOE operates a sewage treatment facility located in Lincoln County, West Virginia. Lincoln BOE was reissued WV/NPDES Water Pollution Control Permit No. WV0103110, Registration No. WVG551441, on December 28, 2012. This facility serves the New Harts Pre K-8 School.
8. On February 6, 2015, WVDEP personnel conducted a review of facility records from the time period of the 1<sup>st</sup> Quarter of 2012 through the 4<sup>th</sup> Quarter of 2014. During this

review, the following violations of the terms and conditions of Lincoln BOE's WV/NPDES permit were observed:

- a. Section A.1 – Nine (9) exceedances of Lincoln BOE's permit parameters were observed and documented (Table 4). These exceedances can be further defined as:
    - i. Minor violations-three (3)
    - ii. Moderate violations-one (1)
    - iii. Major violations-five (5)
  - b. Section B.2 – The permittee failed to submit the following DMRs within twenty (20) days after the reporting period: the 2<sup>nd</sup> of Quarter 2012.
  - c. Section B.2 – The permittee failed to collect and analyze one (1) representative sample of the facility effluent for Total Nitrogen and Total Phosphorus during the 1<sup>st</sup> half of 2012.
  - d. Section B.2 – The permittee failed to properly collect and analyze one (1) representative sample of the facility effluent during the 2<sup>nd</sup> Quarter of 2013. Sampling for the submitted DMR occurred during July 2013, but was reported for 2<sup>nd</sup> Quarter 2013.
9. On January 6, 2015, WVDEP personnel and representatives of Lincoln BOE met to discuss the terms and conditions of this Order.
10. On January 8, 2015, Lincoln BOE submitted financial documents to WVDEP. The provided information was used to perform an economic analysis which evaluated Lincoln BOE's ability to pay a civil administrative penalty.

### **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. Lincoln BOE shall immediately take all measures to initiate compliance with all terms and conditions of its WV/NPDES permit.
2. Within thirty (30) days of the effective date of this Order, Lincoln BOE shall submit for approval a proposed plan of corrective action and schedule, outlining action items and completion dates for how and when Lincoln BOE 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 Nos. WVG551009, WVG551010, WVG551015, and WVG551441 and Order No. 8187. The plan of corrective action shall be submitted to:

**WVDEP Environmental Inspector Supervisor  
SW Regional Environmental Enforcement Office  
PO Box 662  
Teays, WV 25569**

A copy of this plan shall be submitted to:

**Chief Inspector  
Environmental Enforcement - Mail Code #031328  
WVDEP  
601 57<sup>th</sup> 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 Lincoln BOE's permit violations, Lincoln BOE shall be assessed a civil administrative penalty of ten thousand dollars (\$10,000) 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 \$833.33 due on or before April 1, 2015.  
Payment 2 in the amount of \$833.33 due on or before May 1, 2015.  
Payment 3 in the amount of \$833.33 due on or before June 1, 2015.  
Payment 4 in the amount of \$833.33 due on or before July 1, 2015.  
Payment 5 in the amount of \$833.33 due on or before August 1, 2015.  
Payment 6 in the amount of \$833.33 due on or before September 1, 2015.  
Payment 7 in the amount of \$833.33 due on or before October 1, 2015.  
Payment 8 in the amount of \$833.33 due on or before November 1, 2015.  
Payment 9 in the amount of \$833.33 due on or before December 1, 2015.  
Payment 10 in the amount of \$833.33 due on or before January 1, 2016.  
Payment 11 in the amount of \$833.33 due on or before February 1, 2016.  
Payment 12 in the amount of \$833.37 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 57<sup>th</sup> Street SE  
Charleston, WV 25304**

### **OTHER PROVISIONS**

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

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

Patricia Lucas  
Ms. Patricia Lucas, Superintendent  
Lincoln County Board of Education

2-23-15  
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 24 2015

ENVIRONMENTAL  
ENFORCEMENT

Table One:  
Midway Elementary School (WVG551009) DMR Exceedance Summary

Outlet 001 DMR Exceedances - AVG. MONTHLY - 1st Quarter 2012 through 4th Quarter 2014						Degree of non-compliance		
Date	Parameter	Units	Permitted avg. monthly	Reported avg. monthly	% Exceedance	Min	Mod	Maj
						-	-	X
Mar. 2012	Fecal	cnts/100 m	200	6000	2900%	-	-	X
Mar. 2012	BOD	mg/l	10	24	140%	-	X	-
June 2012	BOD	mg/l	5	8.3	66%	-	X	-
June 2012	TSS	mg/l	30	50	67%	-	X	-
Sept. 2012	Fecal	mg/l	200	6000	2900%	-	-	X
Dec. 2012	Fecal	cnts/100 m	200	3500	1650%	-	-	X
Dec. 2012	Nitrogen, Ammonia	mg/l	6	7.65	28%	X	-	-
Mar. 2013	BOD	mg/l	10	35	250%	-	X	-
Mar. 2013	Fecal	cnts/100 m	200	7200	3500%	-	-	X
Sept. 2013	Nitrogen, Ammonia	mg/l	3	3.1	3%	X	-	-
Mar. 2014	Nitrogen, Ammonia	mg/l	6	17	183%	-	X	-

Outlet 001 DMR Exceedances - MAX. DAILY - 1st Quarter 2012 through 4th Quarter 2014						Degree of non-compliance		
Date	Parameter	Units	Permitted max. daily	Reported max. daily	% Exceedance	Min	Mod	Maj
						-	-	X
Mar. 2012	Fecal	cnts/100 m	400	6000	1400%	-	-	X
Mar. 2012	BOD	mg/l	20	24	20%	X	-	-
Sept. 2012	Fecal	mg/l	400	6000	1400%	-	-	X
Dec. 2012	Fecal	cnts/100 m	400	3500	775%	-	-	X
Mar. 2013	BOD	mg/l	20	35	75%	X	-	-
Mar. 2013	Fecal	cnts/100 m	400	7200	1700%	-	-	X
Mar. 2014	Nitrogen, Ammonia	mg/l	12	17	42%	X	-	-

Outlet 001 DMR Exceedances - INSTANTANEOUS. MAX. - 1st Quarter 2012 through 4th Quarter 2014						Degree of non-compliance		
Date	Parameter	Units	Permitted max. daily	Reported max. daily	% Exceedance	Min	Mod	Maj
						-	-	X
Mar. 2012	Fecal	cnts/100 m	500	6000	1100%	-	-	X
Sept. 2012	Fecal	mg/l	500	6000	1100%	-	-	X
Dec 2012	Fecal	cnts/100 m	500	3500	600%	-	X	-
Mar. 2013	BOD	mg/l	25	35	40%	X	-	-
Mar. 2013	Fecal	cnts/100 m	500	7200	1340%	-	-	X
Mar. 2014	Nitrogen, Ammonia	mg/l	15	17	13%	X	-	-

Outlet 001 Totals	Degree of non-compliance		
	Min	Mod	Maj
	7	6	11

Table Two: Duval Pre K-8 School (WVG551010) DMR Exceedance Summary

Outlet 001 DMR Exceedances - AVG. MONTHLY - 1st Quarter 2012 through 4th Quarter 2014						Degree of non-compliance		
Date	Parameter	Units	Permitted avg. monthly	Reported avg. monthly	% Exceedance	Min	Mod	Maj
Mar 2012	BOD	mg/l	10	13	30%	X	-	-
Mar 2012	Ammonia, Nitrogen	mg/l	6	51	750%	-	-	X
Sept 2012	BOD	mg/l	5	34.1	582%	-	-	X
Sept 2012	TSS	mg/l	30	164	447%	-	-	X
Sept 2012	Ammonia, Nitrogen	mg/l	3	31.4	947%	-	-	X
Mar 2013	BOD	mg/l	10	46	360%	-	-	X
Mar 2013	Ammonia, Nitrogen	mg/l	6	40	567%	-	-	X
June 2013	BOD	mg/l	5	6.3	26%	X	-	-
June 2013	Ammonia, Nitrogen	mg/l	3	12	300%	-	X	-
Sept 2013	BOD	mg/l	5	11	120%	-	X	-
Sept 2013	Ammonia, Nitrogen	mg/l	3	5.1	70%	-	X	-
Sept 2013	Fecal	cnts/100ml	200	240	20%	X	-	-
Dec 2013	BOD	mg/l	10	15.9	59%	-	X	-

Outlet 001 DMR Exceedances - MAX. DAILY - 1st Quarter 2012 through 4th Quarter 2014						Degree of non-compliance		
Date	Parameter	Units	Permitted max. daily	Reported max. daily	% Exceedance	Min	Mod	Maj
Mar 2012	Ammonia, Nitrogen	mg/l	12	51	325%	-	X	-
Sept 2012	BOD	mg/l	10	34.1	241%	-	X	-
Sept 2012	TSS	mg/l	30	164	447%	-	X	-
Sept 2012	Ammonia, Nitrogen	mg/l	6	31.4	423%	-	X	-
Mar 2013	BOD	mg/l	20	46	130%	-	X	-
Mar 2013	Ammonia, Nitrogen	mg/l	12	40	233%	-	X	-
June 2013	Ammonia, Nitrogen	mg/l	6	12	100%	X	-	-
Sept 2013	BOD	mg/l	10	11	10%	X	-	-
Dec 2013	BOD	mg/l	20	26	30%	X	-	-

Outlet 001 DMR Exceedances - INSTANTANEOUS. MAX. - 1st Quarter 2012 through 4th Quarter 2014						Degree of non-compliance		
Date	Parameter	Units	Permitted max. daily	Reported max. daily	% Exceedance	Min	Mod	Maj
Mar 2012	Ammonia, Nitrogen	mg/l	15	51	240%	-	X	-
Sept 2012	BOD	mg/l	12.5	34.1	173%	-	X	-
Sept 2012	TSS	mg/l	75	164	119%	-	X	-
Sept 2012	Ammonia, Nitrogen	mg/l	7.5	31.4	319%	-	X	-
Mar 2013	BOD	mg/l	25	46	84%	X	-	-
Mar 2013	Ammonia, Nitrogen	mg/l	15	40	167%	-	X	-
June 2013	Ammonia, Nitrogen	mg/l	7.5	12	60%	X	-	-
Dec 2013	BOD	mg/l	25	26	4%	X	-	-

Outlet 001 Totals	Degree of non-compliance		
	Min	Mod	Maj
	9	15	6

Table Three: Ranger Elementary School (WVG551015) DMR Exceedance Summary

Outlet 001 DMR Exceedances - AVG. MONTHLY - 1st Quarter 2012 through 4th Quarter 2014						Degree of non-compliance		
Date	Parameter	Units	Permitted avg. monthly	Reported avg. monthly	% Exceedance	Min	Mod	Maj
Sept 2012	Fecal	cnts/100m	200	6000	2900%	-	-	X
Mar 2013	BOD	mg/l	30	78	160%	-	X	-
Mar 2013	TSS	mg/l	30	46	53%	-	X	-

Outlet 001 DMR Exceedances - MAX. DAILY - 1st Quarter 2012 through 4th Quarter 2014						Degree of non-compliance		
Date	Parameter	Units	Permitted max. daily	Reported max. daily	% Exceedance	Min	Mod	Maj
Sept 2012	Fecal	cnts/100m	400	6000	1400%	-	-	X
Mar 2013	BOD	mg/l	60	78	30%	X	-	-

Outlet 001 DMR Exceedances - INSTANTANEOUS. MAX. - 1st Quarter 2012 through 4th Quarter 2014						Degree of non-compliance		
Date	Parameter	Units	Permitted max. daily	Reported max. daily	% Exceedance	Min	Mod	Maj
Sept 2012	Fecal	cnts/100m	500	6000	1100%	-	-	X
Mar 2013	BOD	mg/l	75	78	4%	X	-	-

Outlet 001 Totals						Degree of non-compliance		
						Min	Mod	Maj
						2	2	3

Table Four: New Harts PK-8 School (WVG551441) DMR Exceedance Summary

Outlet 001 DMR Exceedances - 1st Quarter 2012 through 4th Quarter 2014						Degree of non-compliance		
Date	Parameter	Units	Permitted avg. monthly	Reported avg. monthly	% Exceedance	Min	Mod	Maj
						-	-	X
March 2013	Fecal	cnts/ml	200	4900	2350%	-	-	X
Sept 2013	Fecal	cnts/ml	200	245	23%	X	-	-
March 2014	Fecal	cnts/ml	200	570	185%	-	X	-

Outlet 001 DMR Exceedances - MAX. DAILY - 1st Quarter 2012 through 4th Quarter 2014						Degree of non-compliance		
Date	Parameter	Units	Permitted max. daily	Reported max. daily	% Exceedance	Min	Mod	Maj
						-	-	X
March 2013	Fecal	cnts/ml	400	4900	1125%	-	-	X
March 2014	Fecal	cnts/ml	400	570	43%	X	-	-
Sept 2013	Fecal	cnts/ml	400	6000	1400%	-	-	X

Outlet 001 DMR Exceedances - INSTANTANEOUS. MAX. - 1st Quarter 2012 through 4th Quarter 2014						Degree of non-compliance		
Date	Parameter	Units	Permitted max. daily	Reported max. daily	% Exceedance	Min	Mod	Maj
						-	-	X
March 2013	Fecal	cnts/ml	500	4900	880%	-	-	X
March 2014	Fecal	cnts/ml	500	570	14%	X	-	-
Sept 2013	Fecal	cnts/ml	500	6000	1100%	-	-	X

Outlet 001 Totals		Degree of non-compliance		
		Min	Mod	Maj
		3	1	5

## Base Penalty Calculation

(pursuant to 47CSR1-6.1)

Responsible Party: Lincoln County Board of Education 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#												
			2ai	2aii	2aiii	4ai	4aii	4aiii	6ai	6aii	6aiii	8ai	8aii	8aiii	8d
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	1	1	1	1	1	1	1	1	1	1	1	0
c)	Sensitivity of the Environment	0 to 3	1	1	1	1	1	1	1	1	1	1	1	1	0
d)	Length of Time	1 to 3	1	1	1	1	1	1	1	1	1	1	1	1	1
e)	Actual Exposure and Effects thereon	0 to 3	1	1	1	1	1	1	1	1	1	1	1	1	0
<b>Average Potential for Harm Factor</b>			1	1	1	1	1	1	1	1	1	1	1	1	0.4
2)	<b>Extent of Deviation Factor</b>	<b>Factor Range</b>													
	Degree of Non-Compliance	1 to 3	1	2	3	1	2	3	1	2	3	1	2	3	2

**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.



		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
2ai	Minor	Minor	\$1,000	4	\$4,000
2aii	Minor	Moderate	\$1,500	2	\$3,000
2aiii	Minor	Major	\$2,000	6	\$12,000
4ai	Minor	Minor	\$1,000	5	\$5,000
4aii	Minor	Moderate	\$1,500	9	\$13,500
4aiii	Minor	Major	\$2,000	5	\$10,000
6ai	Minor	Minor	\$1,000	1	\$1,000
6aii	Minor	Moderate	\$1,500	2	\$3,000
6aiii	Minor	Major	\$2,000	2	\$4,000
8ai	Minor	Minor	\$1,000	2	\$2,000
8aii	Minor	Moderate	\$1,500	1	\$1,500
8aiii	Minor	Major	\$2,000	3	\$6,000
8d	Minor	Moderate	\$1,200	1	\$1,200
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
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
<b>Total Base Penalty</b>					<b>\$66,200</b>

## 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 -	10		\$6,620
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)		40	(\$26,480)
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		54.94	(\$36,370)
<b>Penalty Adjustments</b>			<b>(\$56,200)</b>
<b>Penalty =</b>			<b>\$10,000</b>

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	
<b>Estimated Economic Benefit</b>	<b>\$0</b>
<b>Comments:</b> No economic benefit warranted.	