



west virginia department of environmental protection

Environmental Enforcement
601 57th Street SE
Charleston, WV 25304
Telephone: (304) 926-0470 Fax: (304) 926-0488

Earl Ray Tomblin, Governor
Randy C. Huffman, Cabinet Secretary
www.dep.wv.gov

February 26, 2013

Panhandle Homes of Berkeley County
Lester Henry, President
222 Langston Blvd.
Martinsburg, WV 25401

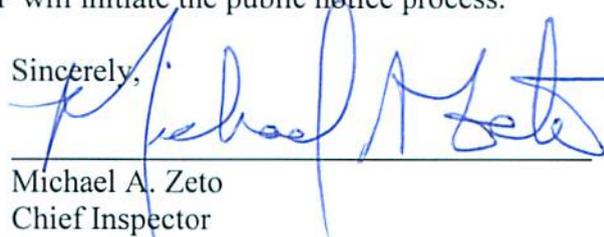
CERTIFIED RETURN RECEIPT REQUESTED
91 7199 9991 7032 6243 2014
RE: Violation of Chapter 22, Article 11
of the WV State Code

Dear Mr. Henry:

Enclosed is 2nd revised CONSENT ORDER NUMBER 7552 dated February 26, 2013. This action is based upon the investigation and recommendation of the West Virginia Department of Environmental Protection's (WVDEP) Environmental Enforcement unit in response to Panhandle Homes of Berkeley County violating Chapter 22, Article 11 of the WV State Code at its facility located in Falling Waters, Berkeley County, West Virginia. This revision is based upon your recent meeting and subsequent correspondence with David C. Simmons, Enforcement Hearing Officer, and your submittal of financial documents, which were used to evaluate your ability to pay a civil administrative penalty. This administrative settlement is being offered on behalf of the director of the Division of Water and Waste Management.

Please review, sign and return the original copy of the revised ORDER to me within five (5) working days of receipt. Subsequently, WVDEP will initiate the public notice process.

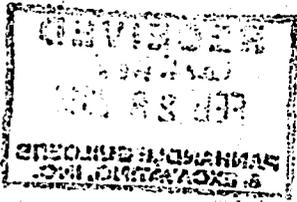
Sincerely,


Michael A. Zeto
Chief Inspector

Enclosure

- cc: Scott G. Mandirola, Director, DWWM (via e-mail)
- Yogesh Patel, Asst. Director, DWWM/Permits (via e-mail)
- Joseph M. Hickman, Assistant Chief Inspector, EE/WW (via e-mail)
- Jeremy Bandy, Assistant Chief Inspector, EE (via e-mail)
- David C. Simmons, Enforcement Hearing Officer, EE (via e-mail)
- Laura McGee, Environmental Resources Specialist, EE (via e-mail)
- Robin C. Dolly, Environmental Inspector Supervisor, EE/WW (via e-mail)
- Michael Kanehl, Environmental Inspector, EE/WW (via e-mail)
- Shyrel Moellendick, MSSS, EE (via e-mail)
- Matthew Sweeney, Senior Engineer, DWWM (via e-mail)
- Richard Lewis, Steptoe and Johnson (via e-mail)





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Fourth section of faint, illegible text, possibly a concluding paragraph or signature area.

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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: Panhandle Homes of Berkeley County
Lester Henry, President
222 Langston Blvd.
Martinsburg, WV 25401

DATE: February 26, 2013

ORDER NO.: 7552

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 Panhandle Homes of Berkeley County (hereinafter "Panhandle Homes").

FINDINGS OF FACT

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

1. Panhandle Homes operates the Brookfield Subdivision wastewater treatment plant located in Falling Waters, Berkeley County, West Virginia. Panhandle Homes was issued WV/NPDES Water Pollution Control Permit No. WV0105708 on April 29, 2011, with an expiration date of June 30, 2014.
2. On December 9, 2011, West Virginia Department of Environmental Protection (WVDEP) personnel conducted a review of facility records from the time period of January 1, 2010 through August 31, 2011. During this review, the following violations of the terms and conditions of Panhandle Homes' WV/NPDES permit were observed:
 - a. Forty-two (42) exceedances of Panhandle Homes' Discharge Monitoring Report (DMR) parameters were observed and documented (see Table 1). Each exceedance is a violation of the terms and conditions of Panhandle Homes' WV/NPDES Permit (Section A). These exceedances can be further defined as:

Promoting a healthy environment.

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- i. Minor violations-13
 - ii. Moderate violations-16
 - iii. Major violations-13
3. On April 2, 2012, WVDEP personnel and representatives of Panhandle Homes met to discuss the terms and conditions of this Order. Subsequent to the meeting, Panhandle Homes provided financial information which was used to determine its ability to pay a civil administrative penalty.
 4. On September 11, 2012, in correspondence to WVDEP personnel, Panhandle Homes represented that it was, at that time, unable to consistently comply with the WV/NPDES permitted effluent limit for Total Kjeldahl Nitrogen (TKN). In response to Panhandle Homes' representation, WVDEP is imposing a Final Order TKN effluent limit for six (6) months subsequent to the effective date of this Order (DMR attached). The Final Order limit will allow time for Panhandle Homes to come into compliance with its WV/NPDES permitted TKN effluent limit.

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. Panhandle Homes shall immediately take all measures to initiate compliance with all terms and conditions of its WV/NPDES permit.
2. Panhandle Homes shall immediately comply with the Final Order effluent TKN limit, as outlined in the attached DMR. The limit shall expire six (6) months after the effective date of this Order, at which time Panhandle Homes shall achieve compliance with the TKN limit contained within its WV/NPDES permit. Should Panhandle Homes submit a report within said six (6) month period describing efforts taken to bring the facility into compliance and requesting an extension, WVDEP personnel shall, at that time, determine whether Panhandle Homes shall be afforded an additional six (6) month extension of the Final Order Limits.
3. Within thirty (30) days of the effective date of this Order, Panhandle Homes shall submit for approval a proposed plan of corrective action and schedule, outlining action items and completion dates for how and when Panhandle Homes will achieve compliance with all terms and conditions of its WV/NPDES permit. The plan of corrective action shall be submitted to:

**WVDEP Environmental Inspector Supervisor
NE Regional Environmental Enforcement Office
HC63 Box 2545
Romney, WV 26757**

[Handwritten Signature]
3-4-13

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 Panhandle Homes' permit violations, Panhandle Homes shall be assessed a civil administrative penalty of twelve thousand dollars (\$12,000) 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 \$500 due on or before May 1, 2013.
Payment 2 in the amount of \$500 due on or before June 1, 2013.
Payment 3 in the amount of \$500 due on or before July 1, 2013.
Payment 4 in the amount of \$500 due on or before August 1, 2013.
Payment 5 in the amount of \$500 due on or before September 1, 2013.
Payment 6 in the amount of \$500 due on or before October 1, 2013.
Payment 7 in the amount of \$500 due on or before November 1, 2013.
Payment 8 in the amount of \$500 due on or before December 1, 2013.
Payment 9 in the amount of \$500 due on or before January 1, 2014.
Payment 10 in the amount of \$500 due on or before February 1, 2014.
Payment 11 in the amount of \$500 due on or before March 1, 2014.
Payment 12 in the amount of \$500 due on or before April 1, 2014.
Payment 13 in the amount of \$500 due on or before May 1, 2014.
Payment 14 in the amount of \$500 due on or before June 1, 2014.
Payment 15 in the amount of \$500 due on or before July 1, 2014.
Payment 16 in the amount of \$500 due on or before August 1, 2014.
Payment 17 in the amount of \$500 due on or before September 1, 2014.
Payment 18 in the amount of \$500 due on or before October 1, 2014.
Payment 19 in the amount of \$500 due on or before November 1, 2014.
Payment 20 in the amount of \$500 due on or before December 1, 2014.
Payment 21 in the amount of \$500 due on or before January 1, 2015.
Payment 22 in the amount of \$500 due on or before February 1, 2015.
Payment 23 in the amount of \$500 due on or before March 1, 2015.
Payment 24 in the amount of \$500 due on or before April 1, 2015.

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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. Panhandle Homes 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, Panhandle Homes 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, Panhandle Homes 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 Panhandle Homes 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, Panhandle Homes 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 Panhandle Homes 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 Panhandle Homes 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 Panhandle Homes (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 Panhandle Homes of the obligation to comply with any applicable law, permit, other order, or any other requirement otherwise applicable. Violations of the

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terms and conditions of this Order may subject Panhandle Homes 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 Panhandle Homes, its successors and assigns.
7. This Order shall terminate upon Panhandle Homes' notification of full compliance with the "Order for Compliance" and verification of this notification by WVDEP.



Lester Henry, President
Panhandle Homes of Berkeley County

3-4-13

Date

Public Notice begin:



Date

MAR -6 2013

Public Notice end:



Date

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

Date

revised September 2011


3-4-13

Table One:
Panhandle Homes DMR Exceedance Summary

Outlet 001 DMR Exceedances - AVG. MONTHLY - 1/1/2010 to 8/31/2011						Degree of non-compliance		
Date	Parameter	Units	Permitted avg. monthly	Reported avg. monthly	% Exceedance	Min	Mod	Maj
1/31/11	BOD	lbs/day	12.5	20.14	61%	-	X	-
2-28-11	BOD	lbs/day	12.5	28.2	126%	-	X	-
1/31/11	BOD	mg/l	30	105	250%	-	X	-
2-28-11	BOD	mg/l	30	147	390%	-	-	X
4-30-11	BOD	mg/l	30	31.9	6%	X	-	-
7-31-11	BOD	mg/l	30	34.1	14%	X	-	-
1-31-11	TSS	lbs/day	12.51	40.5	224%	-	X	-
1-31-11	TSS	mg/l	30	211	603%	-	-	X
1-31-11	TKN	lbs/day	7.5	7.9	5%	X	-	-
2-28-11	TKN	lbs/day	7.5	9.4	25%	X	-	-
3-31-11	TKN	lbs/day	7.5	7.94	6%	X	-	-
7-31-11	TKN	lbs/day	7.5	8.17	9%	X	-	-
3-31-10	TKN	mg/l	18	20.8	16%	X	-	-
4-30-10	TKN	mg/l	18	26.4	47%	-	X	-
5-31-10	TKN	mg/l	18	19.5	8%	X	-	-
1-31-11	TKN	mg/l	18	41	128%	-	X	-
2-28-11	TKN	mg/l	18	49	172%	-	X	-
3-31-11	TKN	mg/l	18	45.9	155%	-	X	-
4-30-11	TKN	mg/l	18	35.3	96%	-	X	-
5-31-11	TKN	mg/l	18	35.8	99%	-	X	-
7-31-11	TKN	mg/l	18	39.2	118%	-	X	-
8-31-11	TKN	mg/l	18	25.6	42%	-	X	-
4-30-10	Fecal	Cnts/100m	200	1520	660%	-	-	X
7-31-10	Fecal	Cnts/100m	200	2793	1297%	-	-	X
1-31-11	Fecal	Cnts/100m	200	49000	24400%	-	-	X
6-30-11	Fecal	Cnts/100m	200	1009.95	405%	-	-	X
7-31-11	Fecal	Cnts/100m	200	60000	29900%	-	-	X
8-31-11	Fecal	Cnts/100m	200	9000	4400%	-	-	X

Outlet 001 DMR Exceedances - MAX. DAILY - 1/1/2010 to 8/31/2011						Degree of non-compliance		
Date	Parameter	Units	Permitted max. daily	Reported max. daily	% Exceedance	Min	Mod	Maj
1-31-11	BOD	mg/l	60	105	75%	X	-	-
2-28-11	BOD	mg/l	60	147	145%	-	X	-
1-31-11	TSS	lbs/day	25.02	40.5	62%	X	-	-
1-31-11	TSS	mg/l	60	211	252%	-	X	-
2-28-11	TSS	mg/l	60	64	7%	X	-	-
2-28-11	TKN	mg/l	36	49	36%	X	-	-
1-31-11	TKN	mg/l	36	41	14%	X	-	-
4-30-10	Fecal	Cnts/100m	400	1520	280%	-	X	-
7-31-10	Fecal	Cnts/100m	400	760000	189900%	-	-	X
11-30-10	Fecal	Cnts/100m	400	880	120%	-	X	-
1-31-11	Fecal	Cnts/100m	400	49000	12150%	-	-	X
6-30-11	Fecal	Cnts/100m	400	34000	8400%	-	-	X
7-31-11	Fecal	Cnts/100m	400	60000	14900%	-	-	X
8-31-11	Fecal	Cnts/100m	400	9000	2150%	-	-	X

Outlet 001 Totals	Degree of non-compliance		
	Min	Mod	Maj
	13	16	13

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STATE OF WEST VIRGINIA
 NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
 DISCHARGE MONITORING REPORT

Final Order Limitations
 Year Round

FACILITY NAME: (Brookfield Subdivision) PANHANDLE HOMES OF BERKELEY COU
 LOCATION OF FACILITY: MARTINSBURG, Berkeley County
 PERMIT NO.: WV0105708 OUTLET NO.: 001
 WASTELOAD FOR THE MONTH OF: _____

CERTIFIED LABORATORY NAME: _____
 CERTIFIED LABORATORY ADDRESS: _____
 INDIVIDUAL PERFORMING ANALYSIS: _____

Parameter	Reported	Quantity			Other Units			CEL*	Units	N.E.	Measurement Frequency	Sample Type
		Units	N.E.									
50050 (ML-1) RF-A Flow in Conduit or thru plant Year Round	Reported	N/A	N/A					N/A	mgd		1/month	measured
00310 (ML-B) RF-A BOD, 5-Day 20 Deg.C Year Round	Permit Limits											
	Reported	12.5 Avg. Monthly	25 Max. Daily	Lbs/Day				N/A	mg/l		1/month	8 hr comp
00530 (ML-A) RF-A Total Suspended Solids Year Round	Permit Limits											
	Reported	12.5 Avg. Monthly	25 Max. Daily	Lbs/Day				N/A	mg/l		1/month	8 hr comp
81010 (ML-K) RF-B BOD, % Removal Year Round	Permit Limits											
	Reported	N/A	N/A					N/A	Percent		1/quarter	Calculated
81011 (ML-K) RF-B Suspended Solids, % Removal Year Round	Permit Limits											
	Reported	N/A	N/A					N/A	Percent		1/quarter	Calculated
74055 (ML-A) RF-A Coliform, Fecal Year Round	Permit Limits											
	Reported	N/A	N/A					N/A	Cnts/100r		1/month	Grab
00400 (ML-A) RF-A pH Year Round	Permit Limits											
	Reported	N/A	N/A					N/A	S.U.		1/month	Grab
00625 (ML-A) RF-A Nitrogen, Kjeldahl Total Year Round	Permit Limits											
	Reported	N/A	N/A					N/A	mg/l		1/month	8 hr comp

* CEL = Compliance Evaluation Level

Name of Principal Executive Officer	I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of a fine and imprisonment for knowing violations.											
Title of Officer												
Date Completed	Signature of Principal Executive Officer or Authorized Agent											

3-4-15

STATE OF WEST VIRGINIA
 NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
 DISCHARGE MONITORING REPORT

Final Order Limitations
 Year Round

FACILITY NAME: (Brookfield Subdivision) PANHANDLE HOMES OF BERKELEY COU CERTIFIED LABORATORY NAME: _____
 LOCATION OF FACILITY: MARTINSBURG; Berkeley County CERTIFIED LABORATORY ADDRESS: _____
 PERMIT NO.: WW0105708 OUTLET NO.: 001
 WASTELOAD FOR THE MONTH OF: _____

INDIVIDUAL PERFORMING ANALYSIS:

Parameter	Reported	Quantity				Other Units				Measurement Frequency	Sample Type	
		Rpt Only Avg. Monthly	Rpt Only Max. Daily	Units	N.E.	Rpt Only Avg. Monthly	Rpt Only Max. Daily	Units	N.E.			CEL*
00600 (ML-A) RF-B Nitrogen, Total (as N) Year Round	Reported Permit Limits	Rpt Only Avg. Monthly	Rpt Only Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l		N/A	1/quarter	8 hr comp
00665 (ML-A) RF-B Phosphorus, Total Year Round	Reported Permit Limits	Rpt Only Avg. Monthly	Rpt Only Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l		N/A	1/quarter	8 hr comp
50060 (ML-A) RF-A Chlorine, Total Residual Year Round	Reported Permit Limits	N/A	N/A		N/A	0.028 Avg. Monthly	0.057 Max. Daily	mg/l		0.1	1/month	Grab
01119 (ML-A) RF-B Copper, Total Recoverable Year Round	Reported Permit Limits	N/A	N/A		N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l		N/A	1/quarter	8 hr comp
01114 (ML-A) RF-B Lead, Total Recoverable Year Round	Reported Permit Limits	N/A	N/A		N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l		N/A	1/quarter	8 hr comp
01094 (ML-A) RF-B Zinc, Total Recoverable Year Round	Reported Permit Limits	N/A	N/A		N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l		N/A	1/quarter	8 hr comp
										N/A		
										N/A		

* CEL = Compliance Evaluation Level

Name of Principal Executive Officer		Date Completed
Title of Officer		Signature of Principal Executive Officer or Authorized Agent

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of a fine and imprisonment for knowing violations.

3-4-13

Base Penalty Calculation

(pursuant to 47CSR1-6.1)

Responsible Party: Panhandle Homes of Berkeley County Potomac River Receiving Stream: Potomac River

Treatment System Design Maximum Flow: 0.15 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.i	2.a.ii	2.a.iii									
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	1	1	1									
e)	Actual Exposure and Effects thereon	0 to 3	1	1	1									
Average Potential for Harm Factor			1	1	1	No								
2)	Extent of Deviation Factor	Factor Range												
	Degree of Non-Compliance	1 to 3	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.

3-4-13

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
2)	Extent of Deviation Factor	Factor Range												
	Degree of Non-Compliance	1 to 3												

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3-4-13

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

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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)		20	(\$12,600)
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		61	(\$38,430)
Penalty Adjustments			(\$51,000)
Penalty =			\$12,000

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:	

h
3-4-13



222 Langston Boulevard ■ Martinsburg, WV 25404 ■ 304/274-1920 ■ WV011376

March 5, 2013

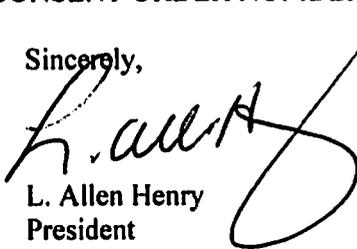
Michael A. Zeto
Chief Inspector
WV Department of Environmental Protection
Environmental Enforcement
601 57th Street SE
Charleston, WV 25304

RE: Violation of Chapter 22 Article 11 of the WV State Code

Dear Mr. Zeto:

Enclosed is a signed, original revised CONSENT ORDER NUMBER 7552, as requested.

Sincerely,



L. Allen Henry
President

Enclosure

RECEIVED

MAR - 6 2013

ENVIRONMENTAL
ENFORCEMENT