



west virginia department of environmental protection

Division of Water and Waste Management
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Charleston, WV 25304
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Randy C. Huffman, Cabinet Secretary
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**CONSENT ORDER
ISSUED UNDER THE
WATER POLLUTION CONTROL ACT
WEST VIRGINIA CODE, CHAPTER 22, ARTICLE 11**

TO: The City of Weston
The Honorable Julia Spelsberg, Mayor
102 West 2nd St
Weston WV 26452

DATE: December 6, 2010

ORDER NO.: 7074

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 the City of Weston (hereinafter "Weston").

FINDINGS OF FACT

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

1. The City of Weston operates a wastewater treatment plant located in Weston, Lewis County, West Virginia. Weston was issued WV/NPDES Water Pollution Control Permit No. WV0028088 on May 26, 2006.
2. On April 22, 2008, West Virginia Department of Environmental Protection (WVDEP) personnel performed a Compliance Evaluation Inspection (CEI) at Weston's wastewater treatment system and discovered several deficiencies.
 - a. The January 2008 Discharge Monitoring Report (DMR) revealed ten fecal coliform excursions.
 - b. The February 2008 DMR revealed six fecal coliform excursions and one BOD Percent Removal excursion.
 - c. The March 2008 DMR revealed one excursion for BOD Percent Removal and one for TSS Percent Removal.

Promoting a healthy environment.

Notice of Violation (NOV) NW-M-SFC-042208-001 was issued.

3. On November 5, 2008, WVDEP personnel conducted an inspection at Weston's wastewater treatment system and discovered several deficiencies.
 - a. The aeration basin did not have a healthy concentration of biomass indicative of proper operation.
 - b. The clarifier effluent was cloudy.
 - c. The effluent to the stream was creating a visible plume in the receiving stream, a violation of WV Legislative Rules, Title 47, Series 2, Section 3. NOV NW-SW-M-110508-01 was issued.
 - d. The June 2008 DMR revealed Weston failed to meet one permit effluent limitation for BOD Percent Removal, one for TSS Percent Removal and one for fecal coliform. NOV NW-SW-M-110508-02 was issued.
 - e. The July 2008 DMR revealed Weston failed to meet one permit effluent limitation for BOD Percent Removal, one for BOD maximum limit, one for ammonia nitrogen and three for fecal coliform. NOV NW-SW-M-110508-03 was issued.
 - f. The August 2008 DMR revealed Weston failed to meet one permit effluent limitation for BOD Percent Removal, two for ammonia nitrogen, one for TSS Percent Removal and three for fecal coliform. NOV NW-SW-M-110508-04 was issued.
 - g. The September 2008 DMR revealed Weston failed to meet one permit effluent limitation for BOD Percent Removal, one for ammonia nitrogen, one for TSS Percent Removal and three for fecal coliform. NOV NW-SW-M-110508-05 was issued.

4. On May 29, 2009, West Virginia Department of Environmental Protection (WVDEP) conducted a pre-enforcement meeting with the Weston to discuss ongoing issues at the Weston Wastewater Treatment Facility. These deficiencies include: consistent excursions of discharge limitations, routinely low quality influent, several instances of repeated replacement and/or rehabilitation of the same pieces of equipment, and limitations to operational flexibility of the treatment works. Weston agreed to the following tasks:
 - a. Request approval and begin sampling dissolved oxygen of the discharge at the outlet of the step aeration unit rather than prior to. The sampling location was moved to the end of step aeration.
 - b. Acquire additional sludge to increase the food to mass ratio in an effort to improve wastewater operations. Weston began accepting Jane Lew sludge on June 29, 2009.
 - c. Inspect and replace if necessary by July 15, 2009, the valve on the UV disinfection unit. The UV system was repaired in the summer of 2009.
 - d. Replace or repair the bar screen on or before July 15, 2009. The mechanical bar screen was rebuilt during September 2009.
 - e. Will submit plans by July 15, 2009 to the WV Infrastructure and Jobs Development Council for the West Fork Interceptor replacement/rehabilitation. Efforts are under way to seek this source of funding.
 - f. Will consider a chlorination/de-chlorination strategy as an option for disinfection as a temporary solution if the UV system is not repaired by July 15, 2009. Weston

will seek authorization from the WVDEP, DWWM Permits Section prior to implementation. Although the UV system was repaired, Weston continues to exceed permit effluent limitations for fecal coliform.

- g. The UV disinfection unit will be repaired and returned to effective service on or before July 31, 2009.
 - h. Will meet with Wilo-EMU and other equipment providers on June 1, 2009 to discuss and implement a corrective action strategy at Lift Station No. 7. This corrective action will be completed on or before July 31, 2009. Although the timeline was not met, improvements were achieved in February 2010.
 - i. Identify sources of mine drainage sources inter-connected into the collection system. Weston also suggested that a large portion of storm water may be contributed by the WV Division of Highways.
5. On December 17, 2009, WVDEP personnel conducted a Compliance Sampling Inspection (CSI) at Weston's wastewater treatment system and discovered several deficiencies.
- a. Outfall 007 composite sample exceeded maximum daily limits for TSS. Specifically, the TSS mass loading of 1268 pounds exceeded the maximum daily limit of 1251 pounds. NOV dated February 9, 2009 was issued.
 - b. Outfall 007 composite sample exceeded maximum daily Copper limits. Specifically, the Copper concentration of 16 ug/l exceeded the maximum daily limit of 12.3 ug/l. NOV dated February 9, 2009 was issued.
 - c. The permittee was not following the rules for calculating averages when non detect samples are measured. NOV dated February 9, 2009 was issued.
 - d. Two of the three UV disinfection drains were allowing groundwater into the unit.
 - e. The return activated sludge (RAS) duplex lift station had one of two pumps out of service due to a soft start problem.
 - f. The biological condition of the plant was not performing well because excessive inflow and infiltration (I&I) was diluting the treatment process.
 - g. The aeration and clarifiers operating on the same air units were causing operational problems by prohibiting operational controls to separate units.
 - h. The Corner Lift Station's electrical panels were overheating and shutting the pumps off. A temporary fix of propping the panels open to allow for cooling was creating unsafe conditions.
6. On February 23, 2010, the WVDEP personnel conducted a CEI at Weston's wastewater treatment system and discovered several deficiencies.
- a. Wet weather BOD and TSS Percent Removal calculations were not reported on the January 2010 DMR, a violation of the terms and conditions of its permit. Specifically, wet weather flows greater than 2.5 MGD on January 25 and 27, 2010 were not calculated.
 - b. Multiple excursions were noted on the DMRs at outlet 007 for January 2009 through January 2010, a violation of the terms and conditions of its permit. NOV No. NW-SW-M-012310-01 was issued

- c. Average monthly loadings for ammonia nitrogen were erroneously calculated on the January 2010 DMR. Specifically, the mass loading was reported as 93.32 lbs/day instead of 104.8 lbs/day.
- d. The maximum daily loading for ammonia nitrogen was erroneously calculated on the January 2010 DMR. Specifically, the mass loading was reported as 134 lbs/day instead of 124 lbs/day.
- e. The calculation for total nitrogen on the January 2010 DMR failed to incorporate nitrite, a violation of the terms and conditions of its permit.
- f. The effluent to the stream was cloudy and indicating that the treatment system is not functioning properly, a violation of the terms and conditions of its permit.
- g. The influent to the wastewater treatment system exhibits multiple on-going, persistent and unacceptable symptoms indicative of a troubled facility including the following:
 - i. The influent is often weak;
 - ii. The influent flow is extremely variable;
 - iii. The influent BOD concentration fluctuates within an unacceptable range of 10 mg/l to 200 mg/l;
 - iv. The biological community appears weak and is probably starved;
 - v. The biomass, at times, is less than acceptable in the aeration basin;
 - vi. A settlemeter test exhibits less than desirable concentrations of biomass;
 - vii. At times, the influent BOD exceeds the effluent BOD;
 - viii. WILO return sludge pumps were installed in April 2008, failed shortly thereafter, and remain out of service;
 - ix. Used Myers pumps have been installed as back-up return sludge pumps and only one of three is operational causing frequent overflows onto the ground;
 - x. The facility fails to promptly and effectively replace and/or rehabilitate dysfunctional equipment.
- h. Industrial user information was not up to date and user monitoring reports were not submitted with DMRs, a violation of the terms and conditions of its permit. Specifically, Weston failed to comply with the Pre-treatment and Industrial User Program requirements as identified below:
 - i. IU01 – Weston failed to submit the 4th Quarter 2009 DMR for Allegheny Wireline.
 - ii. IU02 – Weston failed to submit the 2009 annual report and the 4th Quarter 2009 DMR for Wvang.
 - iii. IU03 – Weston failed to submit the 2009 annual report and the 4th Quarter 2009 DMR for WV Department of Highways, District VII.
 - iv. IU05 – Weston failed to submit monthly DMRs for 2009 for Pantry Store Number 7.
 - v. IU06 – Weston failed to submit DMRs for March, July and December 2009 for Pantry Store Number 20. Weston also failed to use the proper form when reporting.
 - vi. IU07 – Weston failed to submit the 2nd half 2009 DMR for Roger’s Motor Lodge.

- vii. IU08 – Weston failed to submit quarterly 2009 DMRs for Fesenius Medical Center.
 - viii. IU09 – Weston failed to submit the 2009 annual report and the December 2009 DMR for WV DOT
 - ix. IU11 - Weston failed to submit June, October and November 2009 DMRs for Tucker County Landfill. The DMRs reported excursion for Arsenic.
 - x. IU12 - Weston failed to periodically evaluate and record the indirect discharge maintenance of the silver recovery unit at CVS.
 - xi. IU13 - Weston failed to remove the silver recovery unit associated with Rite Aid from its permit. Specifically, the unit has been removed from service and is not reflected in the permit.
 - xii. IU14 – Weston failed to submit the 2009 annual report for Schlumberger Oil Field Services.
7. On May 6, 2010, WVDEP personnel conducted an inspection of Weston’s collection system and confirmed numerous, significant problems with inflow and infiltration.
8. On June 2, 2010, WVDEP personnel conducted an inspection of Weston’s wastewater treatment system and observed and documented the effluent from outlet 007 causing a distinctly visible plume in the West Fork River in violation of WV Legislative Rules, Title 47, Series 2, Section 3. NOV No. NW-SW-M-060210-01 was issued.
9. WVDEP personnel reviewed Discharge Monitoring Reports (DMRs) submitted between January 2009 through January 2010 and observed and documented the following violations of WV/NPDES permitted effluent limits:
- a. 60 minor violations
 - b. 58 moderate violations
 - c. 23 major violations

These violations are further described in Appendix A of this Order.

10. A meeting was held between WVDEP and Weston on September 24, 2010 to discuss the terms of this Order. Subsequent to the meeting, Weston has submitted to WVDEP financial information regarding its ability to pay a civil administrative penalty. The financial information demonstrated Weston’s reduced 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. Weston 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, Weston shall submit for approval a proposed plan of action and schedule, outlining action items and completion dates for how and when Weston will achieve compliance with all terms and conditions of its WV/NPDES permit. The plan of action shall be submitted to:

**Environmental Inspector Supervisor
NW Regional Environmental Enforcement Office
2031 Pleasant Valley Rd., Suite #1
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 action and schedule shall be incorporated into and become part of this Order, as if fully set forth herein. Failure to submit an approvable corrective action plan and schedule or failure to adhere to the approved schedule is a violation of this Order.

3. Weston shall obtain a third party evaluation of the biological condition of the treatment plant, the process controls in use and operation and maintenance program. Once evaluated Weston shall implement any strategies that will help improve the wastewater treatment plant performance. These strategies shall be included in the approved schedule to be incorporated into this Order.
4. The plan of action shall include a schedule for the return activated sludge pump station, Corner Pump Station and Jackson's Mill Pump Stations to be evaluated and repaired to provide reliable service.
5. The plan of action shall provide a schedule to address inflow and infiltration (I&I) of the collection system. This would include the status of the West Fork Interceptor replacement/rehabilitation Project and the North Kittsonville Project and the CSO Project.
6. Weston shall immediately implement a program to bring their "Industrial Users" into compliance with the required pretreatment monitoring and inspection programs. This plan shall include an inspection and documentation program.
7. Weston shall immediately implement a program to accurately identify where and how much mine drainage and/or WVDOT storm water has been diverted into the collection system and provide a plan of action for removal, billing, or management. This plan of action shall be submitted on or before one year of the effective date of this Order.

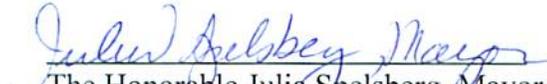
8. Because of Weston's West Virginia Code violations, Weston shall be assessed a civil administrative penalty of five thousand four hundred sixty-two dollars (\$5,462) to be paid to the West Virginia Department of Environmental Protection for deposit in the Water Quality Management Fund within thirty (30) days of entry of this Order. 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. Weston 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, Weston 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, Weston 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 Weston 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, Weston 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 Weston 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 Weston 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 Weston (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 Weston 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 Weston 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 Weston, its successors and assigns.
7. This Order shall terminate upon Weston's notification of full compliance with the "Order for Compliance" and verification of this notification by WVDEP.


The Honorable Julia Spelsberg, Mayor
The City of Weston

12-13-10
Date

Public Notice begin: _____
Date

Public Notice end: _____
Date

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

Date

WV0028088 Outlet 007 AVG MONTHLY DMR Exceedances 1/09 through 1/10						Degree of non-compliance		
Date	Parameter	Units	Permitted avg. monthly	Reported avg. monthly	% Exceedance	Min	Mod	Maj
						-	X	-
1/10	BOD	mg/l	30.00	82.2900	174%	-	X	-
1/10	BOD	lbs	626.00	1212.0000	94%	-	X	-
12/16/09	BOD	mg/l	30.00	54.6300	82%	-	X	-
12/09	BOD	lbs	626.00	811.6500	30%	X	-	-
11/09	BOD	mg/l	30.00	58.7100	96%	-	X	-
10/09	BOD	mg/l	30.00	59.5300	98%	-	X	-
09/09	BOD	mg/l	30.00	42.5000	42%	-	X	-
08/09	BOD	mg/l	30.00	33.2800	11%	X	-	-
07/09	BOD	mg/l	30.00	32.9900	10%	X	-	-
03/09	BOD	mg/l	30.00	58.7100	96%	-	X	-
01/09	BOD	mg/l	30.00	37.9400	26%	X	-	-
11/09	Ammonia	mg/l	15.00	20.4700	36%	X	-	-
09/09	Ammonia	mg/l	15.00	15.4000	3%	X	-	-
7/09	Ammonia	mg/l	15.00	18.4400	23%	X	-	-
03/09	Ammonia	mg/l	15.00	17.3800	16%	X	-	-
1/10	TSS	mg/l	30.00	39.0000	30%	X	-	-
11/09	TSS	mg/l	30.00	34.0000	13%	X	-	-
03/09	TSS	mg/l	30.00	37.0000	23%	X	-	-
1/10	Fecal	Geo.Mn	200.00	3289.0000	1545%	-	-	X
09/09	Fecal	Geo.Mn	200.00	388.0000	94%	-	X	-
05/09	Fecal	Geo.Mn	200.00	204.0000	2%	X	-	-
04/09	Fecal	Geo.Mn	200.00	215.0000	8%	X	-	-
03/09	Fecal	Geo.Mn	200.00	2095.0000	948%	-	-	X
02/09	Fecal	Geo.Mn	200.00	334.0000	67%	-	X	-
01/09	Fecal	Geo.Mn	200.00	904.0000	352%	-	-	X
1/10	Total Copper	mg/l	5.60	14.0000	150%	-	X	-
11/09	Total Copper	mg/l	5.60	11.0000	96%	-	X	-
10/09	Total Copper	mg/l	5.60	11.0000	96%	-	X	-
09/09	Total Copper	mg/l	5.60	8.0000	43%	-	X	-
06/09	Total Copper	mg/l	5.60	22.0000	293%	-	X	-
05/09	Total Copper	mg/l	5.60	7.0000	25%	X	-	-
04/09	Total Copper	mg/l	5.60	9.0000	61%	-	X	-
03/09	Total Copper	mg/l	5.60	34.0000	507%	-	-	X
02/09	Total Copper	mg/l	5.60	12.0000	114%	-	X	-
1/10	Total Lead	mg/l	1.40	3.0000	114%	-	X	-
06/09	Total Lead	mg/l	1.40	5.0000	257%	-	X	-
05/09	Total Lead	mg/l	1.40	3.0000	114%	-	X	-
1/10	BOD	lbs/d	626.00	1078.0000	72%	-	X	-

WV0028088 Outlet 007 MAX DAILY DMR Exceedances 1/09 through 1/10						Degree of non-compliance		
Date	Parameter	Units	Permitted max. daily	Reported max. daily	% Exceedance	Min	Mod	Maj
						-	X	-
1/11/10	BOD	mg/l	60.00	129.0000	115%	-	X	-

1/6/10	BOD	mg/l	60.00	116.0000	93%	X	-	-
1/4/10	BOD	mg/l	60.00	60.2000	0%	X	-	-
1/13/10	BOD	mg/l	60.00	82.0000	37%	X	-	-
1/18/10	BOD	mg/l	60.00	83.9000	40%	X	-	-
1/25/10	BOD	mg/l	60.00	62.4000	4%	X	-	-
1/27/10	BOD	mg/l	60.00	108.0000	80%	X	-	-
12/16/09	BOD	mg/l	60.00	81.2000	35%	X	-	-
12/21/09	BOD	mg/l	60.00	72.3000	21%	X	-	-
12/23/09	BOD	mg/l	60.00	98.5000	64%	X	-	-
11/4/09	BOD	mg/l	60.00	117.0000	95%	X	-	-
11/16/09	BOD	mg/l	60.00	72.2000	20%	X	-	-
11/25/09	BOD	mg/l	60.00	92.0000	53%	X	-	-
11/00/09	BOD	mg/l	60.00	98.7000	65%	X	-	-
10/14/09	BOD	mg/l	60.00	62.2000	4%	X	-	-
10/19/09	BOD	mg/l	60.00	82.7000	38%	X	-	-
10/21/09	BOD	mg/l	60.00	77.0000	28%	X	-	-
10/26/09	BOD	mg/l	60.00	66.5000	11%	X	-	-
9/9/09	BOD	mg/l	60.00	88.7000	48%	X	-	-
9/28/09	BOD	mg/l	60.00	61.0000	2%	X	-	-
8/10/09	BOD	mg/l	60.00	65.0000	8%	X	-	-
8/24/09	BOD	mg/l	60.00	67.5000	13%	X	-	-
3/9/09	BOD	mg/l	60.00	117.0000	95%	X	-	-
3/11/09	BOD	mg/l	60.00	88.0000	47%	X	-	-
3/16/09	BOD	mg/l	60.00	97.0000	62%	X	-	-
2/25/09	BOD	mg/l	60.00	103.0000	72%	X	-	-
1/29/09	BOD	mg/l	60.00	111.0000	85%	X	-	-
1/29/09	BOD	lbs/D	1251.00	3425.0000	174%	-	X	-
1/4/10	Fecal	MAX DAILY	400.00	6000.0000	1400%	-	-	X
1/6/10	Fecal	MAX DAILY	400.00	1260.0000	215%	-	X	-
1/11/10	Fecal	MAX DAILY	400.00	2600.0000	550%	-	X	-
1/13/10	Fecal	MAX DAILY	400.00	6000.0000	1400%	-	-	X
1/18/10	Fecal	MAX DAILY	400.00	6000.0000	1400%	-	-	X
1/20/10	Fecal	MAX DAILY	400.00	1000.0000	150%	-	X	-
1/25/10	Fecal	MAX DAILY	400.00	1000.0000	150%	-	X	-
1/27/10	Fecal	MAX DAILY	400.00	4400.0000	1000%	-	-	X
12/2/09	Fecal	MAX DAILY	400.00	6000.0000	1400%	-	-	X
12/9/09	Fecal	MAX DAILY	400.00	3700.0000	825%	-	-	X
12/23/09	Fecal	MAX DAILY	400.00	560.0000	40%	X	-	-
11/16/09	Fecal	MAX DAILY	400.00	2000.0000	400%	-	X	-
10/21/09	Fecal	MAX DAILY	400.00	6000.0000	1400%	-	-	X
9/9/09	Fecal	MAX DAILY	400.00	6000.0000	1400%	-	-	X
9/11/09	Fecal	MAX DAILY	400.00	500.0000	25%	X	-	-
9/28/09	Fecal	MAX DAILY	400.00	1400.0000	250%	-	X	-
8/10/09	Fecal	MAX DAILY	400.00	460.0000	15%	X	-	-
5/1/09	Fecal	MAX DAILY	400.00	1400.0000	250%	-	X	-
5/6/09	Fecal	MAX DAILY	400.00	1900.0000	375%	-	X	-

5/13/09	Fecal	MAX DAILY	400.00	480.0000	20%	X	-	-
4/6/09	Fecal	MAX DAILY	400.00	500.0000	25%	X	-	-
4/8/09	Fecal	MAX DAILY	400.00	480.0000	20%	X	-	-
4/27/09	Fecal	MAX DAILY	400.00	560.0000	40%	X	-	-
3/2/09	Fecal	MAX DAILY	400.00	6000.0000	1400%	-	-	X
3/4/09	Fecal	MAX DAILY	400.00	2200.0000	450%	-	X	-
3/9/09	Fecal	MAX DAILY	400.00	6000.0000	1400%	-	-	X
3/11/09	Fecal	MAX DAILY	400.00	6000.0000	1400%	-	-	X
3/18/09	Fecal	MAX DAILY	400.00	2100.0000	425%	-	X	-
3/25/09	Fecal	MAX DAILY	400.00	6000.0000	1400%	-	-	X
2/2/09	Fecal	MAX DAILY	400.00	410.0000	3%	X	-	-
2/4/09	Fecal	MAX DAILY	400.00	570.0000	43%	X	-	-
2/9/09	Fecal	MAX DAILY	400.00	1100.0000	175%	-	X	-
2/23/09	Fecal	MAX DAILY	400.00	5000.0000	1150%	-	-	X
1/7/09	Fecal	MAX DAILY	400.00	560.0000	40%	X	-	-
1/12/09	Fecal	MAX DAILY	400.00	2000.0000	400%	-	X	-
1/14/09	Fecal	MAX DAILY	400.00	6000.0000	1400%	-	-	X
1/19/09	Fecal	MAX DAILY	400.00	6000.0000	1400%	-	-	X
1/21/09	Fecal	MAX DAILY	400.00	6000.0000	1400%	-	-	X
1/29/09	Fecal	MAX DAILY	400.00	2300.0000	475%	-	X	-
1/10	Total Copper	mg/l	12.30	14.0000	14%	X	-	-
06/09	Total Copper	mg/l	12.30	22.0000	79%			
03/09	Total Copper	mg/l	12.30	34.0000	176%	-	X	-
1/10	BOD	lbs/D	1251.00	2431.9400	94%	X	-	-
11/09	BOD	lbs/d	1251.00	1399.3700	12%	X	-	-

WV0028088 Outlet 007 D.O. INST MIN DMR Exceedances 1/09 through 1/10						Degree of non-compliance		
Date	Parameter	Units	Permitted min. daily	Reported min. daily	% Exceedance	Min	Mod	Maj
07/09	D.O.	mg/l	6.0	4.4000	266.7%	-	X	-
06/09	D.O.	mg/l	6.0	4.3000	283.3%	-	X	-
05/09	D.O.	mg/l	6.0	4.5000	250.0%	-	X	-
03/09	D.O.	mg/l	6.0	3.7000	383.3%	-	X	-
02/09	D.O.	mg/l	6.0	5.4000	100.0%	X	-	-
01/09	D.O.	mg/l	6.0	5.3000	116.7%	-	X	-

Outlet 00X Exceedances - Minimum 85% Removal - AVG. MONTHLY - 1/09 through 1/10						Degree of non-compliance		
Date	Parameter	Units	Reported influent concentration	Reported effluent concentration	% Exceedance	Min	Mod	Maj
01/10	TSS	mg/l	28	39	63%	-	X	-
01/10	BOD	mg/l	85	82	14%	X	-	-
12/09	TSS	mg/l	26	25	11%	X	-	-
12/09	BOD	mg/l	67	55	5%	X	-	-

11/09	TSS	mg/l	92	34	56%	-	X	-
11/09	BOD	mg/l	152	58	55%	-	X	-
10/09	TSS	mg/l	65	29	48%	-	X	-
10/09	BOD	mg/l	144	60	51%	-	X	-
09/09	TSS	mg/l	39	14	58%	-	X	-
09/09	BOD	mg/l	102	43	51%	-	X	-
08/09	TSS	mg/l	38	7	79%	-	-	X
08/09	BOD	mg/l	73	33	46%	-	X	-
07/09	TSS	mg/l	39	10	69%	-	-	X
07/09	BOD	mg/l	115	33	66%	-	-	X
06/09	TSS	mg/l	23	9	55%	-	X	-
06/09	BOD	mg/l	47	15	64%	-	X	-
05/09	TSS	mg/l	29	10	57%	-	X	-
05/09	BOD	mg/l	72	27	56%	-	X	-
04/09	TSS	mg/l	30	14	44%	-	X	-
04/09	BOD	mg/l	38	16	49%	-	X	-
03/09	TSS	mg/l	104	37	58%	-	X	-
03/09	BOD	mg/l	71	59	3%	X	-	-
02/09	TSS	mg/l	38	25	24%	X	-	-
02/09	BOD	mg/l	50	29	31%	X	-	-
01/09	TSS	mg/l	56	22	54%	-	X	-
01/09	BOD	mg/l	71	38	37%	-	X	-

WV0028088	Totals	Degree of non-compliance		
		Min	Mod	Maj
		60	58	23

Base Penalty Calculation

(pursuant to 47CSR1-6.1)

Responsible Party: Weston Receiving Stream: West Fork River

Treatment System Design Maximum Flow: MGD

Treatment System Actual Average Flow: 2.5 MGD (if known)

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

1)	Potential for Harm Factor	Factor Range	FOF#											
			8	9a	9b	9c								
a)	Amount of Pollutant Released	1 to 3	1	1	1	2								
b)	Toxicity of Pollutant	0 to 3	1	1	1	1								
c)	Sensitivity of the Environment	0 to 3	1	1	1	1								
d)	Length of Time	1 to 3	1	1	1	1								
e)	Actual Exposure and Effects thereon	0 to 3	1	1	1	1								
Average Potential for Harm Factor			1	1	1	1.2	No							
2)	Extent of Deviation Factor	Factor Range												
	Degree of Non-Compliance	1 to 3	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.

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			\$0
6.2.b.5 - Ability to Pay		97.7883	(\$240,168)
Penalty Adjustments			(\$240,138)
Penalty =			\$5,462

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:	