



MEMORANDUM

TO: Timothy J. Baroody, City Manager
FROM: Milas Smith, Assistant Director of Public Works – Utilities
RE: Completion of DEQ Draft Consent Order
DATE: June 22, 2021 (for July 13, 2021 Regular Meeting)

ISSUE

City Council is asked to approve by resolution the execution of a Department of Environmental Quality (DEQ) Draft Consent Order and pay the associated civil charge.

RECOMMENDATION

Staff recommends City Council direct the City Manager by way of Resolution to execute the Draft Consent Order and remit the associated civil charge to the DEQ.

BACKGROUND

Fredericksburg owns and operates a 4.5 million gallons a day (MGD) wastewater treatment plant (WWTP). The WWTP is located behind Dixon Park. Wastewater is collected in underground pipes known as the sewer collection system. Wastewater from all over the City is directed to the WWTP for treatment before discharge.

The wastewater after being treated at the WWTP is then discharged into the Rappahannock River. The City is permitted to discharge treated wastewater by the Department of Environmental Quality (DEQ), the State agency charged with regulating and enforcing the City's wastewater permit (Permit No. VA0025127).

The City's wastewater permits sets various requirements and demands on water quality discharged to the river as well as WWTP facility operations and maintenance minimum levels. To ensure the permit requirements are met, one tool used by the DEQ is unannounced WWTP inspections. The DEQ site inspections include but are not limited to reviewing facility records, i.e., wastewater sampling records, wastewater lab results, WWTP operations documentation, plant processes, equipment, and staffing.

If and when DEQ site inspections identify failures to meet the City's permit requirements, DEQ will work to return violators to compliance.

DEQ's enforcement pillars include1:

- Actions are consistently applied regardless of where in Virginia the violation occurs or whether it is caused by an individual or corporation.

- DEQ focuses on returning violators to full compliance.
- Enforcement actions escalate for parties that remain out of compliance.
- The process begins with notification of suspected noncompliance and encourages self-correction without further action. Enforcement levels progress with repeated violations.
- Formal enforcement may result in an enforceable document such as an administrative order or judicial decree. Examples of these methods include consent orders, fact-finding proceedings, formal hearings, and civil suits.

The City has reached a resolution with the DEQ regarding several Notice of Violations issued to the WWTP over the past year. The City must agree to continue to resolve requested DEQ actions by resolution and pay a civil charge to complete the administrative process.

Such actions include:

- Upgrade and expansion of WWTP, currently underway
- Update of WWTP Operation and Maintenance Manual, currently underway
- Fats, Oils, and Grease (FOG) Program Implementation, currently underway
- FOG Program Food Service Entity Inspections, pending
- Pay a civil charge (\$32,232)

The City has made significant progress in recent months in the operations of its utilities. The City also is making great strides in improving relationships and communications with DEQ regulators. These efforts will continue to pay dividends. The City should continue to provide substantial support to utilities to ensure these essential services are maintained and operated per State laws.

FISCAL IMPACT

The City will remit a civil charge of \$32,232.

Attachment: Resolution
 Draft Consent Order



July 13, 2021
Regular Meeting
Resolution 21-

MOTION:

SECOND:

RE: Authorizing the City Manager to execute a Consent Order with the State Water Control Board

ACTION: APPROVED: Ayes: 0; Nays: 0

On February 20, 2020, staff from the Virginia Department of Environmental Quality, Northern Regional Office, conducted a compliance inspection of the City's wastewater treatment plant. During this inspection, the staff observed scum (fats, oil, grease, debris, and plastics) floating on the water surface of the oxidation ditches, secondary clarifiers, flow measurement tank, and in the final effluent prior to cascade aeration/discharge. The City's Virginia Pollutant Discharge Elimination System (VPDES) permit for the wastewater treatment plant proscribes the discharge of floating solids or visible foam in other than trace amounts.

The State Water Control Board, through the Northern Regional Office Regional Director, has proposed a Consent Order, including a civil charge of \$32,232, in response to this violation of the City's VPDES permit. The City's Superintendent of Utilities has reviewed the Consent Order and recommends approval. He further reports that the City has undertaken a series of steps, as described in Appendix A to the Consent Order, to address the presence of fats, oils, and grease in the City's wastewater system, and that the City will continue to pursue these steps as proposed in the Consent Order.

Therefore, the City Council hereby authorizes the City Manager to execute the Consent Order on behalf of the City, and further authorizes payment of the civil charge.

Votes:

Ayes:

Nays:

Absent from Vote:

Absent from Meeting:

Clerk's Certificate

I certify that I am Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Resolution No. 21-__, adopted at a meeting of the City Council held Date, 2021, at which a quorum was present and voted.

Tonya B. Lacey, MMC
Clerk of Council



VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

NORTHERN REGIONAL OFFICE
13901 Crown Court, Woodbridge, Virginia 22193
(703)583-3800 FAX (703) 583-3821

www.deq.virginia.gov

Matthew J. Strickler
Secretary of Natural Resources

David K. Paylor
Director
(804) 698-4000

Thomas A. Faha
Regional Director

May 10, 2021

Diane Beyer, Director
Department of Public Works
City of Fredericksburg
715 Princess Anne Street, Rm L6
Fredericksburg, VA 22401

Sent via email:dbeyer@fredericksburgva.gov

RE: **Fredericksburg WWTF Consent Order**
Fredericksburg WWTF at 700 Beulah Salisbury Rd, Fredericksburg, VA 22401
Permit Registration No. VA0025127

Dear Ms. Beyer:

On June 17, 2020, the Virginia Department of Environmental Quality (DEQ) issued a Notice of Violation (NOV) to the City of Fredericksburg for the facility noted above.

DEQ wishes to resolve this NOV by entering into a Consent Order with the City of Fredericksburg. DEQ's proposed Consent Order, including injunctive relief in Attachment A, is enclosed for your review. In addition to the proposed injunctive relief, the Consent Order includes a civil charge in the amount of \$32,232.

If the City of Fredericksburg agrees with the terms of the proposed Consent Order, please sign, date, and notarize the original copy of the Consent Order to my attention at the above address by May 25, 2021. The order is subject to public notice and comment, and approval by the State Water Control Board, before it becomes final. A copy of the fully executed order will be returned to you for implementation upon signature on behalf of the Board.

The enclosed Order, however, is not final and your comments are open to further discussions. If you have questions or wish to discuss the proposed Consent Order, please contact Mr. Ben Holland at (703) 583-3812 or benjamin.holland@deq.virginia.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mark Miller".

Mark Miller
Environmental Manager
Enforcement/Pollution Response/EIR

Cc: Case File# NR20-0737



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STATE WATER CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO City of Fredericksburg FOR Fredericksburg WWTF VPDES Permit No. VA0025127

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15, between the State Water Control Board and City of Fredericksburg, regarding the Fredericksburg WWTF, for the purpose of resolving certain violations of the State Water Control Law and the applicable permit and regulation.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "305(b) report" means the report required by Section 305(b) of the Clean Water Act (33 United States Code § 1315(b)), and Va. Code § 62.1-44.19:5 for providing Congress and the public an accurate and comprehensive assessment of the quality of State surface waters.
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
3. "City of Fredericksburg" means the City of Fredericksburg, a political subdivision of the Commonwealth of Virginia. The City of Fredericksburg is a "person" within the meaning of Va. Code § 62.1-44.3.

4. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
5. “Director” means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
6. “Discharge” means discharge of a pollutant. 9 VAC 25-31-10
7. “Discharge of a pollutant” when used with reference to the requirements of the VPDES permit program means:
 - (a) Any addition of any pollutant or combination of pollutants to surface waters from any point source; or
 - (b) Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.
8. “DMR” means Discharge Monitoring Report.
9. “Effluent” means wastewater – treated or untreated – that flows out of a treatment plant, sewer, or industrial outfall.
10. “Facility” or “Plant” means the Fredericksburg WWTF located at 700 Beulah Salisbury Rd, Fredericksburg, Virginia 22401, which treats and discharges treated sewage and other municipal wastes, for the residents and businesses of City of Fredericksburg.
11. “Notice of Violation” or “NOV” means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
12. “NRO” means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
13. “O&M” means operations and maintenance.
14. “Order” means this document, also known as a “Consent Order” or “Order by Consent,” a type of Special Order under the State Water Control Law.
15. “Permit” means VPDES Permit No. VA0025127, which was issued under the State Water Control Law and the Regulation to City of Fredericksburg on September 1, 2019, and which expires on August 31, 2024.
16. “Pollutant” means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 USC § 2011 *et seq.*)), heat, wrecked or discarded equipment, rock, sand,

cellar dirt and industrial, municipal, and agricultural waste discharged into water... 9
VAC 25-31-10.

17. "Pollution" means such alteration of the physical, chemical, or biological properties of any state waters as will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious to the public health, safety, or welfare or to the health of animals, fish, or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an alteration of the physical, chemical, or biological property of state waters or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution but which, in combination with such alteration of or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the Board, are "pollution." Va. Code § 62.1-44.3.
18. "Regulation" means the VPDES Permit Regulation, 9 VAC 25-31-10 *et seq.*
19. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.
20. "State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3.
21. "Va. Code" means the Code of Virginia (1950), as amended.
22. "VAC" means the Virginia Administrative Code.
23. "VPDES" means Virginia Pollutant Discharge Elimination System.

SECTION C: Findings of Fact and Conclusions of Law

1. City of Fredericksburg owns and operates the Plant. The Permit allows City of Fredericksburg to discharge treated sewage and other municipal wastes from the Plant, to the Rappahannock River, in strict compliance with the terms and conditions of the Permit.
2. This section of the Rappahannock River is listed in DEQ's 305(b) report as impaired for aquatic life use and recreational use.
3. On February 20, 2020, NRO staff conducted a compliance inspection of the Facility. During this inspection, the following observations were made related to operation and maintenance:

- a. The supervisory control and data acquisition system (“SCADA”) for the Facility was not operating properly;
 - b. Several of the wheel aerators were not in operation;
 - c. Aerator motors were leaking;
 - d. Dead zones existed in the inner ring of the oxidation ditch adjacent to the aerator wheels in various spots throughout the ditch;
 - e. Uneven flow was present over the clarifier weirs;
 - f. Algae and solids were present in the clarifier launder;
 - g. Even though only one belt press was in operation, water was flowing through both presses; and
 - h. Laboratory issues existed, relevant to sample collection, analysis, and calculation. These included pH data discrepancies between collection and analyzing time; lack of chain of custody and cooler temperature record preservation by the laboratory; and recording data on DMRs as the QL/RL value itself, when a “less than” QL/RL value was calculated and should have been reported as <QL or zero. Additionally, the 4 SU and 10 SU pH buffers were expired (Dec 2019), and the pH probe had debris on the tip; the pH meter was malfunctioning, a new one was put into service during the inspection but did not appear to have IDCs conducted for individuals conducting the sampling/analysis with this meter, or for dissolved oxygen (“D.O.”) sampling/analysis tools; and the facility was not conducting annual laboratory control sample testing for pH analysis.
4. Part II.Q of the Permit states, “The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes effective plant performance, adequate funding, adequate staffing, adequate laboratory process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of the permit.”
 5. Part I.B.2 of the Permit states that all data (for weekly or monthly averages) or a singular datum that is analyzed to be below the Quantitative Limit shall be reported as “<QL.”
 6. During the February 20, 2020, inspection, scum (fats, oil, grease, debris, and plastics) was observed floating on the water surface of oxidation ditches, secondary clarifiers, flow

measurement tank, and in the final effluent prior to cascade aeration/discharge.

7. Part I.A.1.b of the Permit states, “There shall be no discharge of floating solids or visible foam in other than trace amounts.”
8. Part I.E.3 of the Permit states in the relevant part, “... The permittee shall operate the treatment works in accordance with the O&M Manual...”
9. The City of Fredericksburg did not report scum discharge in the final effluent to DEQ.
10. Part II.I of the Permit states, “The permittee shall report any noncompliance which may adversely affect state waters or may endanger public health. 1. An oral report shall be provided within 24 hours from the time the permittee becomes aware of the circumstances... 2. A written report shall be submitted within 5 days... 3. The permittee shall report all instances of noncompliance not reported under Parts II, II:1, or I.2, in writing, at the time the next monitoring reports are submitted...”
11. The State Water Control Law at § 62.1-44.5(B) states, “Any person in violation of the provisions of subsection A who discharges or causes or allows (i) a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance into or upon state waters or (ii) a discharge that may reasonably be expected to enter state waters shall, upon learning of the discharge, promptly notify, but in no case later than 24 hours the Board, the Director of the Department of Environmental Quality, or the coordinator of emergency services appointed pursuant to § 44-146.19 for the political subdivision reasonably expected to be affected by the discharge. Written notice to the Director of the Department of Environmental Quality shall follow initial notice within the time frame specified by the federal Clean Water Act.”
12. The Facility’s August 2020 DMR, received on September 9, 2020, reported *E. coli* geometric mean monthly concentration average limit as 173 n/100mL. The August 2020 DMR also reported TKN (May through October) weekly concentration average limit as 14 mg/L, and a weekly loading maximum limit as 171 kg/day.
13. Permit Condition Part I.A.1 lists effluent limits for *E. coli* (Geometric Mean) as 126 n/100 mL, and TKN (May – Oct) Weekly Concentration Average Limit as 10 mg/L and Weekly Loading Average Limit as 170 kg/day.
14. A DEQ file review for the Facility indicated that the Local Limits Data (LDD) and evaluation results were due to DEQ by August 31, 2020, and were not received until December 2, 2020. The Collection System Operation and Maintenance Program (CSOM) report was due to DEQ by September 10, 2020, and was not received until November 12, 2020.
15. Permit Condition Part I.D.1.b states in part, “Within one year of the effective or modification date of this permit, the permittee shall develop or reevaluate the local limits using current influent, effluent and sludge, monitoring data and submit the [LLD] data

and results of the evaluation to the DEQ Regional Office...”

16. Permit Condition Part I.E.15 states in part, “The [CSOM] program shall be submitted to DEQ for review and approval no later than 120 days following the permit’s effective date (December 29, 2019). Upon approval of the program, an annual report shall be submitted thereafter on or before the 10th of September of every year detailing the previous fiscal years activities...”
17. A DEQ file review for the Facility indicated that the first annual chronic toxicity test was due January 10, 2021, and was not received until February 16, 2021.
18. Part I.C.1 of the Permit states, “a...the permittee shall conduct annual chronic toxicity tests during this permit term... f. The results of the test and the test report shall be reported with the DMR for the month following the receipt of the testing results.” Part I.A.1 of the Permit states, “The DMR shall be submitted no later than the 10th day of the month following the monitoring period.”
19. A DEQ file review for the Facility indicated that the composite sampling for the January 2021 DMR was incomplete (19 hours) for TSS, Total Phosphorus, cBOD₅, TKN (Nov-Apr), Nitrite+Nitrate, and Ammonia (as N) (Nov-Apr).
20. Permit Part I.A.1 Discharge Limitations and Monitoring Requirements table defines the 24 Hour Composite (24H-C) sample type as, “A flow proportional composite sample collected manually or automatically, and discretely or continuously, for the entire discharge of the monitored 24-hour period...”
21. The February 2021 DMR reported the following effluent parameter exceedances: cBOD₅ (reported 389 kg/day), and *E. coli* (reported 295 n/100 mL). Additionally, no letter of explanation for the exceedances was received by DEQ.
22. Permit Condition Part I.A.1 lists effluent limits for *E. coli* (Geometric Mean) as 126 n/100 mL, and cBOD₅ Weekly Concentration Average Limit as 340 mg/L and Weekly Loading Average Limit as 170 kg/day.
23. Permit Condition Part II.I states, “The permittee shall report any noncompliance which may adversely affect state waters or many endanger public health. 1. An oral report shall be provided within 24 hours from the time the permittee becomes aware of the circumstances... 2. A written report shall be submitted within 5 days... 3. The permittee shall report all instances of noncompliance not reported under Parts II, I.1. or I.2., in writing, at the next time the monitoring reports are submitted. The reports shall contain the information listed in Part II.I.2.”
24. NRO issued NOVs for the violations noted above as follows: NOV No. W2020-06-N-0002, issued June 17, 2020; NOV No. W2020-10-N-0010, issued October 15, 2020; NOV No. W2020-11-N-0001, issued November 16, 2020; NOV No. W2020-12-N-0007, issued December 21, 2020; and NOV No. W2021-03-N-0003, issued March 18, 2021.

25. City of Fredericksburg responded to the June Notice of Violation through a letter dated July 9, 2020, and in a meeting with DEQ NRO staff, held on July 28, 2020.
26. These responses initially indicated that the long-term plan for the Facility was to have its influent flow consolidated at the Massaponax Wastewater Treatment Facility (owned and operated by the County of Spotsylvania) by 2023, leading to the closure of the Fredericksburg WWTF and its Permit. Later discussions, including a letter dated November 4, 2020, have indicated that this plan was being reconsidered.
27. The City of Fredericksburg responded to the October and November NOVs in response letters dated November 17, and December 3, respectively. These letters indicated that the *E. coli* and TKN exceedances were due to the plant operating in high flow mode following high levels of precipitation; that the LLD evaluation results were submitted on December 2, 2020, and that the CSOM report was submitted on November 12, 2020.
28. Va. Code § 62.1-44.5 states that: “[E]xcept in compliance with a certificate issued by the Board, it shall be unlawful for any person to discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances.”
29. The Regulation, at 9 VAC 25-31-50, also states that except in compliance with a VPDES permit, or another permit issued by the Board, it is unlawful to discharge into state waters sewage, industrial wastes or other wastes.
30. Va. Code § 62.1-44.15(5a) states that a VPDES permit is a “certificate” under the statute.
31. The Department has issued other permits or certificates to City of Fredericksburg other than VPDES Permit No. VA0025127, including Air Registration 41080 for its permit-exempt electrical generator.
32. The Rappahannock River is a surface water located wholly within the Commonwealth and is a “state water” under State Water Control Law.
33. Based on the results of the February 20, 2020, inspection, the July 28, 2020, meeting, and the documentation submitted on July 9, August 9, November 4, November 12, and December 2, 2020, the Board concludes that City of Fredericksburg has violated the Permit and Va. Code 62.1-44.5(B) by discharging treated sewage and municipal wastes from the Plant while concurrently failing to comply with the conditions of the Permit, as described in paragraph C(1) – C(25) and C(27) – C(32), above.
34. In order for City of Fredericksburg to return to compliance, DEQ staff and representatives of City of Fredericksburg have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders City of Fredericksburg, and City of Fredericksburg agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$32,232 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

City of Fredericksburg shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, City of Fredericksburg shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of City of Fredericksburg for good cause shown by City of Fredericksburg, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, the City of Fredericksburg admits to the jurisdictional allegations, and agrees not to contest, but does not admit, the findings of fact and conclusions of law in this Order.

4. City of Fredericksburg consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. City of Fredericksburg declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by City of Fredericksburg to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. City of Fredericksburg shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. City of Fredericksburg shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. City of Fredericksburg shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and City of Fredericksburg. Nevertheless, City of Fredericksburg agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after City of Fredericksburg has completed all of the requirements of the Order;
 - b. City of Fredericksburg petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to City of Fredericksburg.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve City of Fredericksburg from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by City of Fredericksburg and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of the City of Fredericksburg certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind the City of Fredericksburg to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of the City of Fredericksburg.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, City of Fredericksburg voluntarily agrees to the issuance of this Order.

And it is so ORDERED this _____ day of _____, 20_____.

Thomas A. Faha, Regional Director
Department of Environmental Quality

------(Remainder of Page Intentionally Blank)-----

The City of Fredericksburg voluntarily agrees to the issuance of this Order.

Date: _____ By: _____, _____
(Person) (Title)
City of Fredericksburg

Commonwealth of Virginia
City/County of _____

The foregoing document was signed and acknowledged before me this _____ day of
_____, 20____, by _____ who is
_____ of City of Fredericksburg, on behalf of the City.

Notary Public

Registration No.

My commission expires: _____

Notary seal:

APPENDIX A SCHEDULE OF COMPLIANCE

1. **The City of Fredericksburg shall:**

- a. Within 30 days of the execution of this Order, submit to DEQ NRO a revised Operations & Maintenance Manual, to reflect actual on-site operations of the Facility, and to address the maintenance deficiencies identified in the February 2020 Facility inspection.
- b. Implement the FOG plan per the schedule laid out on Page 2 of the City's FY2020 CSOM report, included in this Order as Appendix B. Additionally,
 - i) A FOG program implementation update report shall be submitted to DEQ by July 30, 2021, in addition to the FOG program annual report, due September 10, 2021. This report shall detail the City's progress on the items detailed in this implementation schedule.
 - ii) A FOG-generating facility inspection update report, detailing the number of facilities inspected and the general actions taken in response to those inspections, shall be submitted to DEQ by December 10, 2021.
- c. Respond in writing to DEQ requests for information regarding the injunctive actions listed in Appendix A of this Order within 10 calendar days.

2. **DEQ Contact**

Unless otherwise specified in this Order, City of Fredericksburg shall submit all requirements of Appendix A of this Order to:

**Virginia Department of Environmental Quality
Northern Regional Office
Attn: Enforcement
13901 Crown Court
Woodbridge, VA 22193**

