



*Commonwealth of Virginia*

***VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY***

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**DEPARTMENT OF ENVIRONMENTAL QUALITY  
AMENDMENT TO  
ORDER BY CONSENT  
ISSUED TO COUNTY OF HENRICO  
FOR HENRICO COUNTY WATER RECLAMATION FACILITY  
VPDES Permit No. VA0063690**

**SECTION A: Purpose of Amendment**

1. This is an Amendment to a Special Order by Consent issued under the authority of Va. Code §§ 10.1-1185 and 62.1-44.15 between the Department of Environmental Quality ("DEQ" or "Department") and the County of Henrico to revise certain provisions of the Special Order by Consent issued December 15, 2021 between the State Water Control Board and the County of Henrico ("2021 Order"). In 2022, the Virginia General Assembly passed Senate Bill 657 which transferred the authority to issue consent special orders from the State Water Control Board to the Department.
2. The purpose of the Amendment is to modify the 2021 Order to align with the requirements of a Settlement Agreement executed on September 15, 2022 ("Settlement Agreement") by and among Chesapeake Bay Foundation, Inc., James River Association, Environmental Integrity Project (hereinafter referred to collectively as "Plaintiffs") and County of Henrico ("Henrico County") (each a "Party" and collectively the "Parties").

**SECTION B: Background and Authority for Amendment**

1. The Settlement Agreement resolves a Complaint filed by the Chesapeake Bay Foundation, Inc. and James River Association on December 6, 2021 in the United States District Court for the Eastern District of Virginia, Civil No. 3:21cv752 ("Litigation") associated with operations at the Henrico County Water Reclamation Facility located at 9101 WRVA Road in Henrico, Virginia, and the associated wastewater collection system.

2. The Department is not an identified party in the Litigation or the Settlement Agreement. The Department and Parties recognize, however, that the Department is a necessary party for purposes of facilitation, implementation, and enforcement of certain applicable terms of the Settlement Agreement.
3. Henrico County, on behalf of the Parties, initiated a joint request for an Amendment to the 2021 Order by correspondence dated September 30, 2022. The Parties request that the 2021 Order be amended to provide specific enforceable requirements under the Department's authority (Attachment A). Further the Parties maintain that a single and consolidated set of actionable requirements is preferable for these aspects of the settlement, and that such requirements are associated with, and complementary to requirements described in the 2021 Order.
4. Section E.1 of the 2021 Order provides that an amendment to an order may be granted by the Department upon a demonstration of good cause.<sup>1</sup> Based on the information provided herein, the Settlement Agreement, and in consideration of the best interests of the Department to facilitate settlement among the Parties, the Department determines that good cause has been demonstrated to grant the Amendment.

#### **SECTION C: Agreement and Order**

Pursuant to the authority granted to the Department at Va. Code §§ 10.1-1185 and 62.1-44.15, and pursuant to the 2021 Order, Sections E.1, the Department orders Henrico County, and Henrico County agrees, to perform the actions described in Attachment A.

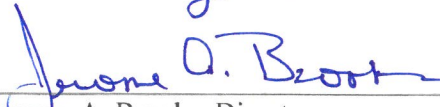
#### **SECTION D: Supplemental Administrative Provisions**

1. Upon full signature execution, the Amendment shall be incorporated by reference into the 2021 Order. The terms of the 2021 Order not superseded or contradicted by this Amendment shall remain in full force and effect.
2. The undersigned representative of Henrico County certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Amendment, and to execute and legally bind Henrico County to its terms and conditions.
3. This Amendment constitutes the entire agreement and understanding between Henrico County and the Department, and there are no representations, warranties, covenants, terms or conditions agreed upon other than those expressed in this Amendment.
4. By its signature below, Henrico County voluntarily agrees to the issuance of this Amendment.


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<sup>1</sup> Section E.1 of the 2021 Consent Order states, "The Board may modify, rewrite, or amend this Order with the consent of Henrico for good cause shown by Henrico, 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."

And it is so ORDERED this 17 day of February, 2023

  
Jerome A. Brooks, Director  
Piedmont Regional Office  
Department of Environmental Quality

County of Henrico voluntarily agrees to the issuance of this Amendment. On this 12<sup>th</sup> day of December, 2022, I, John A. Vithoukas, execute this Amendment on behalf of, and for the County of Henrico.

  
John A. Vithoukas, County Manager  
County of Henrico

**ATTACHMENT A**

**1. APPENDIX B: HENRICO COUNTY SSO REPAIR AND MAINTENANCE SCHEDULE, AND STATEMENT OF WORK**

Appendix B of the 2021 Order shall be amended to add the following requirements:

<b>ACTION OR PROGRAM</b>	<b>NEAREST RECEIVING STREAM</b>	<b>COMPLETION</b>	<b>REQUIREMENTS</b>
Facilities Plan Update	Various	July 1, 2025	<ul style="list-style-type: none"><li>a. Assemble extensive current/recent flow monitoring data in County's possession</li><li>b. Update hydraulic model to include current/recent flow monitoring data and antecedent wet soil conditions</li><li>c. Calibrate the hydraulic model and verify its results</li><li>d. Conduct updated capacity analysis and wet weather I/I analysis to identify sewer basins with excessive I/I</li><li>e. Conduct a hydraulic capacity analysis for 1-year, 2-year, 5-year (4.25"), and 10-year, 24-hour storm scenarios for all plan years</li><li>f. Identify locations of hydraulic capacity limitations resulting in potential SSOs and hydraulic bottlenecks under those scenarios</li><li>g. Complete plan considering results of I/I analysis and identified capacity limitations and providing an explanation of flow monitoring locations and manner of utilization</li><li>h. Submit plan to DEQ by July 1, 2025</li></ul>
Sewer Inspection Program	Various	First Annual Report Due: July 1, 2023*	<ul style="list-style-type: none"><li>a. Operate CCTV inspection program</li><li>b. Prioritize CCTV inspections (including manhole inspections) considering I/I analysis</li><li>c. Define criteria for rehabilitation and reinspection</li><li>d. Use CCTV results and criteria to annually prioritize CIP/Rehab and Problem Sewer Cleaning Program</li><li>e. Use smoke testing where DPU lacks information to identify sufficient corrections for excessive I/I</li><li>f. Submit annual report on Sewer Inspection Program implementation to DEQ by July 1</li></ul>

Problem Sewer Cleaning Program	Various	First Annual Report Due: July 1, 2023*	<ul style="list-style-type: none"> <li>a. Operate a Problem Sewer Cleaning Program</li> <li>b. Define criteria for including pipes and setting/adjusting cleaning schedule</li> <li>c. Define criteria for prioritizing CIP/Rehab based on Problem Sewer Cleaning Program results</li> <li>d. Submit annual report on Problem Sewer Cleaning Program implementation to DEQ by July 1</li> </ul>
Private I/I Reduction Program Development Evaluation	Various	July 1, 2025	<ul style="list-style-type: none"> <li>a. Prepare a report that evaluates the potential development and implementation of a Private I/I Reduction Program for identifying and reducing private sources of RDII and defective private laterals that are sources of infiltration, debris, or roots that enter the Collection System, taking into account alternative RDII reduction opportunities in the Collection System, cost-benefit, feasibility, and other reasonable utility management considerations. At a minimum, this review shall include an evaluation of (i) a point-of-sale inspection and certification ordinance, (ii) smoke testing to identify private I&amp;I sources, and (iii) the identification and correction of defective private laterals and illegal connections to the Collection System.</li> <li>b. Submit report to DEQ by July 1, 2025</li> </ul>
Enhanced SSO Notification	Various	First Annual Report Due: July 1, 2023*	<ul style="list-style-type: none"> <li>a. Provide web-based map of active and recent SSO events occurring within the past 48 hours, to include date and time discovered; estimated duration and whether the event is ongoing; estimated volume/amount; location (using common street names and addresses where available); and waterbody/waterbodies affected or potentially affected</li> <li>b. Update map daily with new information</li> <li>c. Use door hangers with link to web-based map or signage case-by-case at SSO location where considered appropriate by responding DPU field crews</li> <li>d. Use bill inserts to announce new program (to be printed in English, Spanish, and space permitting, Vietnamese)</li> <li>e. Submit annual report on Enhanced SSO Notification activities to DEQ by July 1</li> </ul>

\* The annual report submittal requirements in the above table shall be in effect through and end by December 15, 2028.

## **2. APPENDIX C: HENRICO COUNTY WRF UPGRADE SCHEDULE AND STATEMENT OF WORK**

Appendix C of the 2021 Order shall be amended as follows:

h) Filter Project (Phase I) Renew filters by constructing new filters with 75 mgd average and 150 mgd peak capacity and placing into service upon completion no later than December 15, 2027.