



west virginia department of environmental protection

Division of Water and Waste Management
601 57th Street SE
Charleston, WV 25304
Phone: (304) 926-0470
Fax: (304) 926-0488

Harold D. Ward, Cabinet Secretary
dep.wv.gov

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

TO: Southern Jackson County PSD
Tim Bailey
PO Box 57
Kenna, WV 25248

DATE: May 14, 2026

ORDER NO.: 10437

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 22-11-1 et seq. to Southern Jackson County PSD.

FINDINGS OF FACT

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

1. Southern Jackson County PSD County PSD operates a wastewater collection and treatment system located in Kenna, Jackson County, West Virginia. Southern Jackson County PSD County PSD was reissued WV/NPDES Water Pollution Control Permit No. WV0084468 on September 28, 2021.
2. On August 29, 2019, West Virginia Department of Environmental Protection (WVDEP) and Southern Jackson County PSD entered into Order No. 8869, which was issued in response to violations observed and documented at the aforementioned facility. To fulfill the terms and conditions of the Order and achieve compliance, Southern Jackson County PSD completed a wastewater treatment plant upgrade project, a portion of which involved installation of a Membrane Bioreactor (MBR) to serve as tertiary treatment.
3. On April 22, 2026, a representative of Southern Jackson County PSD informed WVDEP personnel that the MBR was in need of repair. The correspondence stated that completing the repair work and restarting the treatment unit could take up to sixty (60) days. Due to the anticipated decrease in treatment efficiency during this period, there is a

Promoting a healthy environment.

concern that Southern Jackson County PSD may exceed the effluent limits outlined in Section A.001 of the WV/NPDES permit. As such, Southern Jackson County PSD's representative requested to enter into an administrative consent order with WVDEP, which would provide interim limits at Outlet No. 001 during the repair project.

ORDER FOR COMPLIANCE

Now, therefore, in accordance with West Virginia State Code 22-11-1 et seq., it is hereby agreed between the parties, and ORDERED by the Director:

1. Southern Jackson County PSD shall immediately take all measures to initiate compliance with all terms and conditions of its WV/NPDES permit.
2. Southern Jackson County PSD shall be placed on interim limits at Outlet No. 001, as detailed below, in accordance with the following stipulations:
 - a. At least thirty (30) days prior, Southern Jackson County PSD shall submit written notification to WVDEP of the calendar date that the aforementioned MBR repairs will begin.
 - b. The interim limits provided herein shall become effective on the date that the MBR is taken out of service and shall expire sixty (60) days thereafter.
 - c. Upon expiration of the interim limits provided herein, Southern Jackson County PSD shall achieve compliance with all limits as detailed within the WV/NPDES permit.

| Parameter | Interim Average Monthly Limit | Interim Max Daily Limit | Interim Instant. Min. Limit |
|--|-------------------------------|-------------------------|-----------------------------|
| BOD, 5-Day 20 Deg. C (mg/L) (summer) | Report Only | 30 mg/L | N/A |
| Ammonia Nitrogen (mg/L) (summer) | 4 mg/L | 8 mg/L | N/A |
| BOD, 5-Day 20 Deg. C (lbs/day) (summer) | Report Only | Report Only | N/A |
| Ammonia Nitrogen (lbs/day) (summer) | Report Only | Report Only | N/A |
| Total Suspended Solids (lbs/day) | Report Only | Report Only | N/A |
| Dissolved Oxygen (mg/L) | N/A | N/A | 6.0 mg/L |
| BOD % Removal | 70% Minimum | N/A | N/A |
| Suspended Solids % Removal | 70% Minimum | N/A | N/A |
| Total Recoverable Copper (mg/L) | Report Only | 0.02mg/L | N/A |

All other parameter limits contained within the WV/NPDES permit shall remain in full force and effect.

All notifications required by this Order shall be mailed to the following address:

**Chief Inspector
Environmental Enforcement - Mail Code #031328
WV-DEP
601 57th Street SE
Charleston, WV 25304**

OTHER PROVISIONS

1. Southern Jackson County PSD hereby waives its right to appeal this Order under the provisions of West Virginia State Code 22-11-21. Under this Order, Southern Jackson County PSD 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, Southern Jackson County PSD 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 Southern Jackson County PSD 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, Southern Jackson County PSD 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 Southern Jackson County PSD becomes aware of such a delay, notification shall be provided to the Director/Chief Inspector and Southern Jackson County PSD 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 Southern Jackson County PSD 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 Southern Jackson County PSD (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 Southern Jackson County PSD of the obligation to comply with any applicable law, permit, other order, including Administrative Consent Order No. 8753, or any other requirement otherwise applicable. Violations of the terms and conditions of

this Order may subject Southern Jackson County PSD 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 Southern Jackson County PSD, its successors and assigns.
- 7. This Order shall terminate upon Southern Jackson County PSD's notification of full compliance with the "Order for Compliance" and verification of this notification by WVDEP.



Tim Bailey
Southern Jackson County PSD

5/20/2026

Date

Public Notice begin:

Date

Public Notice end:

Date

Jeremy W. Bandy, Director
Division of Water and Waste Management

Date