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west virginia department of environmental protection

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Division of Water and Waste Management  
601 57<sup>th</sup> Street SE  
Charleston, WV 25304  
Phone: (304) 926-0470  
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Austin Caperton, Cabinet Secretary  
dep.wv.gov

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

TO: West Virginia Division of Natural Resources  
ATTN: Stephen S. McDaniel  
324 4th Avenue  
Charleston, WV 25303

DATE: December 23, 2020

ORDER NO.: 9873

**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 West Virginia Division of Natural Resources (hereinafter "WVDNR").

**FINDINGS OF FACT**

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

1. WVDNR operates a wastewater treatment facility at Stonewall Jackson Resort located near Roanoke, Lewis County, West Virginia. WVDNR was reissued WV/NPDES Water Pollution Control Permit No. WV0101257 on January 30, 2015 and January 22, 2020.
2. On December 18, 2019, West Virginia Department of Environmental Protection (WVDEP) personnel conducted an inspection of the facility. During the inspection, violations of the following sections of the WV/NPDES permit were observed and documented:
  - a. Section A – WVDNR exceeded its permit parameters.
  - b. Section B – WVDNR failed to submit two (2) progress reports on the steps being taken to obtain compliance with the final permit limitations for lead and nitrate at Outlet No. 001. Specifically, the first progress report was due on or before December 1, 2015, and the second progress report was due on or before June 1, 2016.
  - c. Section C.18 – WVDNR failed to perform monthly cleaning of the ultraviolet disinfection units and make a record containing the date of monthly cleaning, the

Promoting a healthy environment.

name of the individual performing the cleaning, any deficiencies that may have been discovered, and any corrective action taken.

- d. Section D.4 – WVDNR failed to submit annual Sewage Sludge Management Reports.
- e. Appendix A.II.1 – WVDNR failed to properly operate and maintain the facility. Specifically, dead vegetation was present on the surface of each of the alternating surface sand filter beds.

As a result of the aforementioned violations, Notice of Violation (NOV) No. W19-21-001-SMC was issued to WVDNR.

- 3. On November 9, 2020, WVDEP personnel conducted a review of facility records from the time period of October 1, 2018 through September 30, 2020. During this review, the following violations of the terms and conditions of WVDNR's WV/NPDES permit were observed:
  - a. Section A – Multiple exceedances of WVDNR's permit parameters were observed and documented.
  - b. Section D.4 – WVDNR failed to submit annual Sewage Sludge Management Reports for 2018 and 2019.
- 4. On December 17, 2020, WVDNR submitted a Plan of Corrective Action (POCA), which included action items and completion dates for how and when WVDNR will achieve compliance with all terms and conditions of the WV/NPDES permit (attached). The POCA was subsequently approved by WVDEP personnel.

### **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. WVDNR shall immediately take all measures to initiate compliance with all terms and conditions of its WV/NPDES permit.
- 2. Upon the effective date of this Order, the aforementioned approved POCA and schedule, dated December 17, 2020, shall be incorporated into and become part of this Order. Failure to adhere to the approved POCA and schedule is a violation of this Order. In addition, WVDNR shall electronically submit an administratively complete WV/NPDES permit modification application for all action items outlined in the approved POCA for which such a modification is required. These action items shall not commence until such time when the WV/NPDES permit modification is issued by WVDEP. Any questions regarding the WV/NPDES permit modification process shall be directed to WVDEP DWWM-Permitting Section at (304) 926-0495.
- 3. Within thirty (30) days of the effective date of this Order, WVDNR shall commence submittal of monthly progress reports which include detailed descriptions of action items that have been completed in regard to the aforementioned approved POCA. The progress reports shall be submitted to the following address on a monthly basis until all tasks outlined in the approved POCA have been properly completed;

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

4. Upon the effective date of this Order, WVDNR shall be placed on the following alternate interim limits at Outlet No. 001 until the expiration date of August 31, 2021. All other parameter limits contained within its WV/NPDES permit shall remain in full force and effect. Beginning September 1, 2021, WVDNR shall achieve compliance with all limits as detailed within the WV/NPDES permit.

**Outlet No. 001**

Parameter	Interim Average Monthly Limit	Interim Max Daily Limit
Total Recoverable Copper	0.044 mg/L	0.044 mg/L
Total Recoverable Zinc	0.225 mg/L	0.225 mg/L

**OTHER PROVISIONS**

1. WVDNR hereby waives its right to appeal this Order under the provisions of West Virginia State Code 22-11-21. Under this Order, WVDNR 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, WVDNR 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 WVDNR 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, WVDNR 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 WVDNR becomes aware of such a delay, notification shall be provided to the Director/Chief Inspector and WVDNR 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 WVDNR 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 WVDNR (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 WVDNR 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 WVDNR 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 WVDNR, its successors and assigns.
7. This Order shall terminate upon WVDNR's notification of full compliance with the "Order for Compliance" and verification of this notification by WVDEP.



Stephen S. McDaniel  
West Virginia Division of Natural Resources

12/30/2020

Date

Public Notice begin:

Date

Public Notice end:

Date

Katheryn Emery, P.E., Acting Director  
Division of Water and Waste Management

Date





Photo # DSCF8815 – Overview of the alternating surface sand filter beds



940 Resort Drive  
Roanoke, WV, 26447  
304-269-7400

December 17, 2020

Jeremy W. Bandy, Chief Inspector  
Environmental Enforcement  
WV DEP  
601 57<sup>th</sup> Street, SE  
Charleston, WV 25304

Dear Mr. Bandy,

Re: Stonewall Jackson Lake Wastewater Treatment Facility – Schedule of Compliance

In response to recent communication with the WV DEP and the US EPA, attached is a timeline of significant events, proposed upgrade plans and schedule of compliance.

The existing WWTP was built in the 1980's for Stonewall Jackson State Park, long before the resort lodging facilities were built. The plant consists of two, 50,000 gpd package plants of extended aeration design. Over the years, UV disinfection lighting, blowers, air diffusers and other upgrades have taken place, but the overall plant has remained essentially the same.

As park visitors have grown over the years and regulations tightened, the existing treatment plant has struggled to meet new standards. Stonewall Resort has a unique financial & legal structure which is a collaboration between federal, state, and private interests. The resort is self-funded and does not rely on state funding for capital upgrades. Due to limited funding availability, upgrades over the years have been incremental in nature and have been unable to keep up with current regulations.

Since the resort opened in 2002, four different companies have been under contract to manage the WWTP. Finding reliable contract help has added to the operational problems, as each company had a different approach to managing the plant and difficulty in retaining qualified operators. To remedy this situation, we plan to hire a full-time WWTP operator in 2021. The new position will be adequately trained and answer directly to resort management. We anticipate this change will result in better accountability and communication.

Recognizing the need for major improvements in WWTP performance, in January of 2020 Stonewall Resort entered a contract with Civil and Environmental Consultants, Inc., to evaluate the

existing plant and make recommendations for meeting current guidelines. The result of this partnership is a solid plan to upgrade the facilities to meet current regulations.

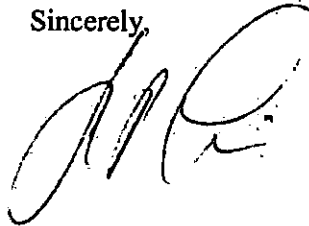
Plant upgrades have been in the survey & design phase since the first quarter of 2020. The following improvements are currently planned, with a completion date of 8/3/2020 (timeline below). The low bid for the upgrades listed below came in at \$714,974. To date we have spent over \$60,000 on surveying & engineering services related to this project.

- Construction of a new building to have the following under one roof: office, new ultraviolet disinfection units, and a new blower for post aeration basin.
  - The new building will have a dedicated space to archive plant pertinent information such as schedules, DMRs and results, maintenance records, pump and blower specification and general plant data.
  - The new ultraviolet disinfection units will ensure a better fecal kill rate while providing better bulb accessibility to encourage continued maintenance.
  - The design for the WWTP upgrades includes a dedicated aeration blower for the post aeration system, with DO sensors, piping, internal baffle, larger basin and controls for the fine bubble diffused aeration system. This improvement is to target to the dissolved Oxygen (DO) excursions.
- New 8' diameter concrete post aeration basin.
  - The enlarged diameter of concrete basin is to accommodate the sensors, piping baffles to distribute DO to the effluent to achieve permit parameters.
- Removal and replacement of flow equalization pumps (2), Replacement of four (4) 4" gate valves with 4" butterfly valves, Replacement of pressure relief valve on air piping, Miscellaneous site electrical improvements, gravity sewer piping to sand beds.
  - Significant resources have been allocated/attained in order to improve the operation and effectiveness of the biological process of the WWTP. The proposed maintenance upgrades to the WWTP components will improve the overall biological treatment process which shall result in an improved and healthy sludge production. Regulated metals are removed through the biomass/plant solids. It is anticipated that the proposed upgrades will allow for improved biomass production therefore reducing the number of overall exceedances.
- Removal and replacement of sand filter media (HDPE Liners to be replaced).
  - The proposed upgrades to the existing alternating surface sand filters media and liner will have an improvement related to effluent turbidity, which will result in improved UV transmittance resulting in a much more effective "kill" of microorganism.
- New netting to cover sand beds.
  - The proposed upgrade to the sand filter in the form of netting will reduce the amount of organic material that transfers onto the sand filter media. Organic material will decompose on the filter media and will clog the filter media while also encouraging vegetation growth. The clogging and vegetation growth will increase the suspended solids, harming the water treatment efficiency.
- Structures to be abandoned – existing ultraviolet disinfection vault and post aeration basin.
  - Existing structures not suitable for wastewater treatment will be abandoned in place or disposed of as appropriate.

We take our responsibility as stewards of Stonewall Resort very seriously. We hope that the plan described in this document demonstrates our commitment to attain compliance with all state & federal regulations and protect the environment.

If you have any questions or require any additional information, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to be 'JL', written over a faint, larger signature.

John Lappie  
Director of Property Operations  
Stonewall Resort

Cc: Scott Mandirola, WVDEP Deputy Cabinet Secretary  
Stephen McDaniel, Director  
Emily Fleming, Deputy Director  
Brad Reed, Chief of Parks  
Brad Leslie, Chief Engineer



Timeline of action:

- 9/30/2009 WV/NPDES Permit WV0101257 reissued.
- 4/10/2012 Contract with MR2 Environmental Solutions, Inc. for WWTP management.
- 4/11/2011 CSI Letter from WVDEP to Mike Hager, Stonewall Resort GM.
- 4/12/2011 Received NOV #CM-022511-002.
- 4/20/2011 Copper and zinc testing from lift stations begins.
- 4/29/2011 Response sent to Scott G. Mandirola, WVDEP re: CSI letter dated 4/11/2011.
- 4/29/2011 Response letter to Deborah Keener, WVDEP re: NOV# CM-022511-002.
- 10/26/2012 Major cleaning / re-work of sand beds by MR2.
- 1/1/2014 Contract signed with Mountain Movers Construction to manage the WWTP.
- 4/4/2014 Alpha Architects & Engineers delivers capacity evaluation of potable water treatment and wastewater treatment facilities for future expansion.
- 6/24/2014 Dunn Engineering hired to evaluate WWTP operations.
- 7/29/2014 Email to Stan Wolf describing blower control upgrades, air line repairs.
- 9/8/2014 CIS Letter from WVDEP to Bernie McCourt (operator).
- 11/18/2014 Letter to Bradley Swiger re: response to CIS letter and NOVs, request meeting.
- 12/8/2014 Letter from Mike Hager to Lori Derrick, WVDEP re: comments on draft permit. Request for mixing zone. Also included lake water testing from 5 locations.
- 1/28/2015 Meeting with Bob Bates and Matt Sweeney @ DEP office in Charleston re: effluent limits.
- 1/30/2015 WV/NPDES Permit WV0101257 reissued.
- 6/25/2015 Letter from Dunn Engineering to Bob Bates requesting time to analyze effects of change to public water source on copper in effluent.
- 5/24/2016 C.I.Thornburg replaced flow metering manhole with 2" Parshall flume, ultrasonic sensor, and Rosemount logger.
- 11/10/2016 C.I.Thornburg replaced pipes, pump rails and fittings in three original park lift stations.
- 11/28/2016 Shut down potable water plant and connect to WVAW.
- 6/27/2017 C.I.Thornburg replaced major sections of WWTP airlines.
- 11/1/2017 Contract signed with B&M Environmental to manage WWTP.
- 9/1/2018 Contract with MR2 Environmental Solutions, Inc. to manage WWTP.
- 1/6/2020 DEP issues WV/NPDES Permit extension until 4/30/2020.
- 1/8/2020 NOV #W19-21-001-SMC issued.
- 1/22/2020 WV/NPDES Permit WV0101257 reissued.
- 1/24/2020 Letter to Steven Cook re: NOV #W19-21-001-SMC under review by Dunn Engineering and request a meeting with WVDEP to discuss our action plan. (we did not receive a response to our meeting request, most likely due to COVID).
- 1/27/2020 Email to Steven Cook re: NOV #W19-21-001-SMC response to NOV & draft Plan of Action.
- 1/29/2020 Civil and Environmental Consultants hired to review WWTP operations & design. (Dunn Engineering was not selected for this project.)

- 2/8/2020 Phone call from John Lappie to Steven Cook. Steven acknowledged receipt of our response to NOV sent on 1/27/2020. John sent email to CEC, Andre D'Amour and others documenting the conversation.
- 6/25/2020 Letter to Steven Cook re: NOV #W19-21-001-SMC from Civil and Environmental Consultants, Inc. - formal Plan of Action.
- 8/3/2020 US EPA issues CWA Section 308 Information Requirement.
- 9/3/2020 WV DNR & Benchmark respond to EPA with information & plan of action.
- 9/10/2020 Black Diamond Energy Services replaces air lines from influent end of plant to blowers.
- 10/21/2020 Email from Jacob Mathis, WVDEP to John Lappie re: fecal and copper exceedances.
- 10/22/2020 Email to Steven Cook, WVDEP re: update on progress on Plan of Action.
- 10/22/2020 Email from John Lappie to Jacob Mathis, WVDEP re: fecal and copper exceedances.
- 10/22/2020 Email from Steven Cook acknowledging receipt of our plan of action update.
- 11/6/2020 Complete plans, specifications, and bidding documents.
- 11/9/2020 Advertise for bids.
- 11/19/2020 Pre-bid meeting.
- 12/9/2020 Bid opening.

Upcoming action:

- 1/5/2021 Award contract / pre-construction meeting.
- 4/1/2021 Target date to directly hire a WWTP operator (not a contractor)
- 7/4/2021 Construction substantially complete.
- 8/3/2021 Complete training, project closeout.