



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ENVIRONMENTAL QUALITY

### NORTHERN REGIONAL OFFICE

13901 Crown Court, Woodbridge, Virginia 22193

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Molly Joseph Ward  
Secretary of Natural Resources

David K. Paylor  
Director

Thomas A. Faha  
Regional Director

July 18, 2014

## NOTICE OF VIOLATION

Mr. James Patteson  
Fairfax County  
12055 Government Center Parkway, Suite 659  
Fairfax, VA 22035

**RE: NOV No. W2014-07-N-001**  
**Fairfax County Sanitary Sewer Collection System**  
**Unpermitted**  
**Fairfax County**

Dear Mr. Patteson:

This letter notifies you of information upon which the Department of Environmental Quality ("Department" or "DEQ") may rely to institute an administrative or judicial enforcement action. Based on this information, the DEQ Northern Regional Office (NRO), has reason to believe that the Fairfax County may be in violation of State Water Control Law § 62.1-44.

This letter addresses conditions at the facility named above, and also cites compliance requirements of the State Water Control Law and Regulations. Pursuant to Va. Code § 62.1-44.15 (8a), this letter is not a case decision under the Virginia Administrative Process Act, Va. Code § 2.2-4000 et seq. The Department requests that you respond **within 10 days of the date of this letter**.

### **OBSERVATIONS AND LEGAL REQUIREMENTS**

The following describe the staff's factual observations and identify the applicable legal requirements.

- 1. Legal Requirements:** Va. Code §62.1-44.5, A., states: "Except in compliance with a certificate issued by the Board, it shall be unlawful for any person to: 1. discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances."

**Observations:** On May 16, 2014, Fairfax County reported a discharge of approximately 3,240 gallons of diluted wastewater from manhole #060-4-007 located at 6528 Bay Tree Court to Holmes Run and Lake Barcroft which are state waters. Fairfax

attributed the cause of the discharge to a pump failure at the Holmes Run Pump Station. This incident was assigned IR#2014-N-3321.

2. **Legal Requirements:** Va. Code §62.1-44.5, A., states: “Except in compliance with a certificate issued by the Board, it shall be unlawful for any person to: 1. discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances.”

*Observations:* On May 19, 2014, Fairfax County reported a discharge of approximately 6,404 gallons of wastewater from the Barcroft I Wastewater Pump Station located at 6411A Waterway Drive to Lake Barcroft, a state water. Fairfax estimates that approximately 3,904 gallons reached Lake Barcroft. Fairfax attributed the cause of the discharge to communication being lost between the Supervisory Control and Data Acquisition System (SCADA) and the Wastewater Collection Trouble Response Center (TRC) and the failure of a pump station controller. This incident was assigned IR# 2014-N-3176.

3. **Legal Requirements:** Va. Code §62.1-44.5, A., states: “Except in compliance with a certificate issued by the Board, it shall be unlawful for any person to: 1. discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances.”

*Observations:* On June 16, 2014, Fairfax County reported a discharge of approximately 8,000 gallons of wastewater from the Holmes Run Pump Station located at 6623 Dearborn Drive. Fairfax County estimates that approximately 6,000 gallons of wastewater was discharged from the Pump Station to Holmes Run and Lake Barcroft, both state waters, as the result of a failed gasket. This incident was assigned IR# 2014-N-3438.

**\*These events were assessed 1.0 point each, respectively, in the Compliance Auditing System.**

### **ENFORCEMENT AUTHORITY**

Va. Code § 62.1-44.23 of the State Water Control Law provides for injunction for any violation of the State Water Control Law, any State Water Control Board rule or regulation, an order, permit condition, standard, or any certificate requirement or provision. Va. Code § 62.1-44.15 and 62.1-44.32 provide for a civil penalty up to \$32,500 per day of each violation of the same. In addition, Va. Code § 62.1-44.15 authorizes the State Water Control Board to issue orders to any person to comply with the State Water Control Law and regulations, including the imposition of a civil penalty for violations of up to \$100,000. Also, Va. Code § 10.1-1186 authorizes the Director of DEQ to issue special orders to any person to comply with the State Water Control Law and regulations, and to impose civil penalty of not more than \$10,000. Va. Code § 62.1-44.32 (b) and 62.1-44.32 (c) provide for other additional penalties.

The court has the inherent authority to enforce its injunction, and is authorized to award the Commonwealth its attorney’s fees and costs.

## FUTURE ACTIONS

DEQ staff wishes to discuss all aspects of their observations with you, including any actions needed to ensure compliance with state law and regulations, any relevant or related measures you plan to take or have taken, and a schedule, as needed, for further activities. In addition, please advise us if you dispute any of the observations recited herein or if there is other information of which DEQ should be aware. In order to avoid adversarial enforcement proceedings, Fairfax County may be asked to enter into a Consent Order with the Department to formalize a plan and schedule of corrective actions and to settle any outstanding issues regarding this matter, including the assessment of civil charges.

In the event that discussions with staff do not lead to a satisfactory conclusion concerning the contents of this letter, you may elect to participate in DEQ's Process for Early Dispute Resolution. Also, if informal discussions do not lead to a satisfactory conclusion, you may request in writing that DEQ take all necessary steps to issue a final decision or fact finding under the APA on whether or not a violation has occurred. For further information on the Process for Early Dispute Resolution, please see Agency Policy Statement No. 8-2005 posted on the Department's website under "Programs," "Enforcement," and "Laws, Regulations, & Guidance"

(<http://www.deq.virginia.gov/Programs/Enforcement/LawsRegulationsGuidance.aspx>) or ask the DEQ contact listed below.

Please direct written materials regarding this matter to Sarah Baker. Written materials may be sent either via the US Postal Service or electronically, via E-mail. DEQ recommends sending electronic responses as an Acrobat PDF or in a Word-compatible, write-protected format. Please contact Sarah Baker at (703) 583-3850 or by e-mail at [Sarah.Baker@deq.virginia.gov](mailto:Sarah.Baker@deq.virginia.gov) within **10 days of the date of this letter** to discuss this matter and arrange a meeting.

Sincerely,



Edward L. Stuart  
Regional Water Compliance Manager

cc via electronic copy:

Permits/DMR File, Compliance Manager, Compliance Auditor, Enforcement – DEQ  
Thomas Russell- Director, Wastewater Collection Division