

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 3  
Philadelphia, Pennsylvania 19103**

**FILED**

**Apr 07, 2025**

**11:07 am**

**U.S. EPA REGION 3  
HEARING CLERK**

<b>In the Matter of:</b>	:	
	:	
<b>Frederick-Winchester Service Authority</b>	:	<b>U.S. EPA Docket No. CWA-03-2024-0036</b>
<b>9 West Piccadilly Street</b>	:	
<b>Winchester, VA 22601</b>	:	<b>Proceeding under Section 309(g) of the Clean</b>
	:	<b>Water Act, 33 U.S.C § 1319</b>
<b>Frederick County Sanitation Authority</b>	:	
<b>dba Frederick Water</b>	:	
<b>315 Tasker Road</b>	:	
<b>Stephens City, VA 22655</b>	:	
	:	
<b>Respondents.</b>	:	
	:	
<b>Crooked Run</b>	:	
<b>Wastewater Treatment Plant</b>	:	
<b>130 Crappie Court</b>	:	
<b>Front Royal, VA 22630</b>	:	
	:	
<b>Facility.</b>	:	

**CONSENT AGREEMENT**

**PRELIMINARY STATEMENT**

1. This Consent Agreement is entered into by the Division Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 3 ("Complainant"), Frederick-Winchester Service Authority, and Frederick County Sanitation Authority, dba Frederick Water ("Respondents") (collectively the "Parties"), pursuant to Section 309(g) of the Clean Water Act, 33 U.S.C. § 1319 ("CWA" or the "Act"), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. Section 309 of the CWA, 33 U.S.C § 1319, authorizes the Administrator of the U.S. Environmental Protection Agency to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated the authority to enter into agreements concerning administrative penalties to the Complainant. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the "Consent Agreement and Final Order") resolve Complainant's civil penalty claims against Respondents under Section 309 of the CWA, 33 U.S.C. § 1319, for the violations alleged herein.

2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

### **JURISDICTION**

3. The U.S. Environmental Protection Agency ("EPA") has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.
4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(6).
5. In accordance with Section 309(g)(1) of the CWA, 33 U.S.C. § 1319(g)(1), EPA has consulted the Virginia Department of Environmental Quality ("VDEQ") regarding this action, and, subsequent to the effective date of this Consent Agreement and Final Order, EPA will email a copy of this fully executed Consent Agreement and Final Order to the appropriate VDEQ official.

### **GENERAL PROVISIONS**

6. For purposes of this proceeding only, Respondents admit the jurisdictional allegations set forth in this Consent Agreement and Final Order.
7. Except as provided in Paragraph 6, above, Respondents neither admit nor deny the specific factual allegations set forth in this Consent Agreement.
8. Respondents agree not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this Consent Agreement and Final Order.
9. For purposes of this proceeding only, Respondents hereby expressly waive their right to contest the allegations set forth in this Consent Agreement and Final Order and waive their right to appeal the accompanying Final Order.
10. Respondents consent to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
11. Respondents shall bear their own costs and attorney's fees in connection with this proceeding.

12. Pursuant to Section 309(g)(4)(A) of the Act, 33 U.S.C. § 1319(g)(4)(A), and 40 C.F.R. § 22.45(b), EPA is providing public notice and an opportunity to comment on the Consent Agreement prior to issuing the Final Order.

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

13. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.
14. Section 402(a) of the Act, 33 U.S.C. § 1342(a), provides that the Administrator of EPA may issue permits under the National Pollutant Discharge Elimination System (“NPDES”) program for the discharge of pollutants from point sources to waters of the United States. The discharges are subject to specific terms and conditions as prescribed in the permit. Section 402(b) of the Act, 33 U.S.C. § 1342(b), provides for the authorization of state programs to issue NPDES permits.
15. Pursuant to Section 402(b) of the Act, 33 U.S.C. § 1342(b), EPA authorized the Commonwealth of Virginia’s NPDES program on March 31, 1975. Pursuant to Section 402(b) of the Act, 33 U.S.C. § 1342(b), VDEQ is authorized to administer the NPDES program in Virginia.
16. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant by any person into waters of the U.S. except in compliance with sections 301, 302, 306, 307, 318, 402, and 404 of the Act.
17. “Discharge of a pollutant” means “[a]ny addition of any ‘pollutant’ or combination of pollutants to ‘waters of the United States’ from any ‘point source.’” 40 C.F.R. § 122.2. See *also* Section 502(12) of the Act, 33 U.S.C. § 1362(12).
18. Frederick County Sanitation Authority, dba Frederick Water is a public body with jurisdiction over water and sewer services pursuant to the laws of the Commonwealth of Virginia and is thus a “municipality” and “person” within the meaning of Section 502(4) and (5) of the Act, 33 U.S.C. § 1362(4) and (5). Frederick-Winchester Service Authority (“FWSA”) is a public body with jurisdiction over sewer services pursuant to the laws of the Commonwealth of Virginia and is thus a “municipality” and “person” within the meaning of Section 502(4) and (5) of the Act, 33 U.S.C. § 1362(4) and (5).
19. FWSA is and, at all times relevant to the violations alleged herein, was the owner of the Crooked Run Wastewater Treatment Plant (the “WWTP” or the “Facility”), a wastewater treatment plant located at 130 Crappie Court, Front Royal, Virginia 22630. Frederick

Water is and, at all times relevant to the violations alleged herein, was the operator of the WWTP.

20. The WWTP discharges treated wastewater through an outfall to Crooked Run.
21. Crooked Run is a stream that is connected to the Shenandoah River which is a tributary connected to the Potomac River in Virginia. Crooked Run, the Shenandoah, and the Potomac are “waters of the United States” within the meaning of Section 502(7) of the Act, 33 U.S.C. § 1362(7).
22. At all times relevant to the violations alleged herein, the operation of the WWTP, including the discharge of wastewater, has been subject to NPDES Permit No. VA0080080 (“WWTP Permit”), issued by VDEQ, effective June 1, 2014, and which expired March 31, 2019. On May 31, 2019, VDEQ renewed the WWTP Permit. The renewed WWTP Permit became effective on June 1, 2019, and will expire on May 31, 2024. The renewed WWTP Permit incorporated nearly the same effluent limits as the previous permit except for Ammonia-N, which had a limit increase. Both the expired and the new NPDES permit are referred to herein as the WWTP Permit.
23. Respondents are, and at all times relevant to the violations alleged herein, were authorized to discharge pollutants, in the form of treated wastewater from the WWTP, to waters of the United States in accordance with the terms and conditions of the WWTP Permit.
24. At all times relevant to the violations alleged herein, the WWTP discharged treated wastewater into Crooked Run through a “point source” as that term is defined at Section 502(14) of the Act, 33 U.S.C. § 1362(14).
25. On May 3, 2021, EPA sent an Information Request Letter (“IRL”) to Respondents pursuant to Section 308 of the Act, 33 U.S.C § 1318. On May 26, 2021, Respondents submitted a response to the IRL. On March 21, 2022, Respondents provided a further response to EPA.
26. On January 26, 2022, EPA sent Respondents a Notice of Potential Violations and Opportunity to Confer (“NOPVOC”) with a list of violations.

**Count 1**  
**Effluent Exceedances**

27. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.

*In the Matter of: Frederick-Winchester Service Authority & EPA Docket No. CWA-03-2024-0036  
Frederick County Sanitation Authority, dba Frederick Water*

28. Part I.A.1 of the WWTP Permit defines effluent limitations and monitoring requirements for Outfall 001 discharges.
29. From June 30, 2019 through January 31, 2024, the Facility experienced 67 effluent limit exceedances from Outfall 001, which it reported in the Facility's Discharge Monitoring Reports ("DMRs"). The effluent limits exceeded were those for nitrogen, chloride, and biochemical oxygen demand ("BOD") as indicated in *Table 1*.

**Table 1 Outfall 001 DMR Reported Effluent Exceedances (June 2019 through January 2024)**

Monitoring Period Date	Outfall	Parameter Description	Limit Type	DMR Value	Limit Value	Unit
6/30/2019	1	BOD, carbonaceous, 05 day, 20 C	WKLY AVG	23.27	12	mg/L
6/30/2019	1	BOD, carbonaceous, 05 day, 20 C	MO AVG	10	8	mg/L
11/30/2019	1	Nitrogen, ammonia total (as N)	WKLY AVG	3.7	2.5	mg/L
11/30/2019	1	Nitrogen, ammonia total (as N)	WKLY AVG	2.87	2.5	mg/L
11/30/2019	1	Nitrogen, ammonia total (as N)	MO AVG	2.3	1.9	mg/L
1/31/2020	1	Nitrogen, total (as N)	MO AVG	5.4	5	mg/L
1/31/2020	1	Chloride (as Cl)	WKLY AVG	342	336	mg/L
1/31/2020	1	Chloride (as Cl)	MO AVG	342	336	mg/L
7/31/2020	1	Chloride (as Cl)	WKLY AVG	372	336	mg/L
7/31/2020	1	Chloride (as Cl)	MO AVG	372	336	mg/L
11/30/2020	1	Nitrogen, ammonia total (as N)	MO AVG	2	1.9	mg/L
11/30/2020	1	Nitrogen, ammonia total (as N)	WKLY AVG	2.8	2.5	mg/L
12/31/2020	1	Nitrogen, ammonia total (as N)	WKLY AVG	2.9	2.5	mg/L
12/31/2020	1	Nitrogen, ammonia total (as N)	MO AVG	2.2	1.9	mg/L
1/31/2021	1	Nitrogen, ammonia total (as N)	WKLY AVG	3.4	2.5	mg/L
1/31/2021	1	Nitrogen, ammonia total (as N)	MO AVG	2.2	1.9	mg/L
2/28/2021	1	Nitrogen, ammonia total (as N)	WKLY AVG	2.7	2.5	mg/L
3/31/2021	1	Chloride (as Cl)	MO AVG	346	336	mg/L

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3/31/2021	1	Chloride (as Cl)	WKLY AVG	346	336	mg/L
4/30/2021	1	Chloride (as Cl)	MO AVG	347	336	mg/L
4/30/2021	1	Chloride (as Cl)	WKLY AVG	347	336	mg/L
11/30/2021	1	Chloride (as Cl)	WKLY AVG	348	336	mg/L
11/30/2021	1	Chloride (as Cl)	MO AVG	348	336	mg/L
1/31/2022	1	Chloride (as Cl)	WKLY AVG	354	336	mg/L
1/31/2022	1	Chloride (as Cl)	MO AVG	354	336	mg/L
2/28/2022	1	Chloride (as Cl)	WKLY AVG	356	336	mg/L
2/28/2022	1	Chloride (as Cl)	MO AVG	356	336	mg/L
2/28/2022	1	Nitrogen, ammonia total (as N)	MO AVG	2.3	1.9	mg/L
6/30/2022	1	Chloride (as Cl)	WKLY AVG	382	336	mg/L
6/30/2022	1	Chloride (as Cl)	MO AVG	382	336	mg/L
12/31/2022	1	Nitrogen, ammonia total (as N)	WKLY AVG	4.9	2.5	mg/L
1/31/2023	1	Nitrogen, ammonia total (as N)	MO AVG	3.11	1.9	mg/L
1/31/2023	1	Nitrogen, ammonia total (as N)	WKLY AVG	9.6	2.5	mg/L
2/28/2023	1	Chloride (as Cl)	MO AVG	427	336	mg/L
2/28/2023	1	Chloride (as Cl)	WKLY AVG	427	336	mg/L
2/28/2023	1	Nitrogen, ammonia total (as N)	WKLY AVG	2.9	2.5	mg/L
2/28/2023	1	Nitrogen, ammonia total (as N)	MO AVG	2.1	1.9	mg/L
2/28/2023	1	E. Coli	MO GEOMN	188	126	N/CML
3/31/2023	1	Nitrogen, ammonia total (as N)	WKLY AVG	2.9	2.5	mg/L
4/30/2023	1	Nitrogen, ammonia total (as N)	WKLY AVG	3.3	2.5	mg/L
4/30/2023	1	Nitrogen, ammonia total (as N)	WKLY AVG	10.8	2.5	mg/L
4/30/2023	1	Nitrogen, ammonia total (as N)	WKLY AVG	12.1	2.5	mg/L
4/30/2023	1	Nitrogen, ammonia total (as N)	MO AVG	7.4	1.9	mg/L
5/30/2023	1	Nitrogen, ammonia total (as N)	WKLY AVG	13.5	2.5	mg/L
5/30/2023	1	Nitrogen, ammonia total (as N)	WKLY AVG	12.9	2.5	mg/L
5/30/2023	1	Nitrogen, ammonia	WKLY AVG	7.38	2.5	mg/L

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		total (as N)				
5/30/2023	1	Nitrogen, ammonia total (as N)	MO AVG	10	1.9	mg/L
5/30/2023	1	Nitrogen, total (as N)	MO AVG	9.4	5	mg/L
5/30/2023	1	Chloride (as Cl)	WKLY AVG	382	336	mg/L
5/30/2023	1	Chloride (as Cl)	WKLY AVG	392	336	mg/L
5/30/2023	1	Chloride (as Cl)	MO AVG	387	336	mg/L
6/30/2023	1	Chloride (as Cl)	WKLY AVG	407	336	mg/L
6/30/2023	1	Chloride (as Cl)	MO AVG	407	336	mg/L
7/31/2023	1	Chloride (as Cl)	WKLY AVG	402	336	mg/L
7/31/2023	1	Chloride (as Cl)	MO AVG	402	336	mg/L
9/30/2023	1	Chloride (as Cl)	WKLY AVG	342	336	mg/L
9/30/2023	1	Chloride (as Cl)	MO AVG	342	336	mg/L
10/31/2023	1	Chloride (as Cl)	WKLY AVG	407	336	mg/L
10/31/2023	1	Chloride (as Cl)	MO AVG	407	336	mg/L
11/30/2023	1	Chloride (as Cl)	WKLY AVG	416	336	mg/L
11/30/2023	1	Chloride (as Cl)	MO AVG	416	336	mg/L
12/31/2024	1	Nitrogen, ammonia total (as N)	WKLY AVG	11.5	2.5	mg/L
1/31/2024	1	Nitrogen, ammonia total (as N)	WKLY AVG	2.6	2.5	mg/L
1/31/2024	1	Nitrogen, ammonia total (as N)	MO AVG	3.45	1.9	mg/L
1/31/2024	1	Nitrogen, total (as N)	MO AVG	9.9	5.0	mg/L
1/31/2024	1	Chloride (as Cl)	WKLY AVG	416	336	mg/L
1/31/2024	1	Chloride (as Cl)	MO AVG	416	336	mg/L

30. From at least June 30, 2019 to at least January 31, 2024, Respondents failed to comply with Part I.A.1. of the WWTP Permit by discharging multiple parameters in excess of effluent limitations in violation of Section 301 of the CWA, 33 U.S.C. § 1311, and the WWTP Permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.
31. In failing to comply with Section 301 of the CWA, 33 U.S.C. § 1311, and the WWTP Permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, Respondents are subject to the assessment of penalties under Section 309 of the CWA, 33 U.S.C. § 1319.

**CIVIL PENALTY**

32. In settlement of EPA's claims for civil penalties for the violations alleged in this Consent Agreement, Respondents consent to the assessment of a civil penalty in the amount of



TWELVE THOUSAND dollars (\$12,000), which Respondents shall be jointly and severally liable to pay in accordance with the terms set forth below.

33. The civil penalty is based upon EPA's consideration of a number of factors, including the penalty criteria ("statutory factors") set forth in Section 309(g) of the CWA, 33 U.S.C. § 1319(g), including the following: the nature, circumstances, extent and gravity of the violation(s), and the violator's ability to pay, any prior history of such violations, the degree of culpability, economic benefit or savings resulting from the violation, and such other matters as justice may require. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's Interim Clean Water Act Settlement Penalty Policy dated March 1, 1995 which reflects the statutory penalty criteria and factors set forth at Section 309(g)(3) of the CWA, 33 U.S.C. § 1319(g)(3), and adjusted in accordance with the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA's civil penalty policies to account for inflation.
34. Respondents agree that, within 30 days of the effective date of this Consent Agreement and Final Order, Respondents shall make a payment of \$12,000 to "**United States Treasury**" with the case name, address, and docket number of this Consent Agreement and Final Order (CWA-03-2024-0036), for the amount specified above. Respondents shall pay the assessed penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.
35. A copy of Respondents' check or other documentation of payment of the penalty using the method selected by Respondents for payment shall be sent simultaneously **by email** to:
- Promy Tabassum  
Assistant Regional Counsel  
[tabassum.promy@epa.gov](mailto:tabassum.promy@epa.gov)
- and**
- U.S. EPA Region 3 Regional Hearing Clerk  
[R3\\_Hearing\\_Clerk@epa.gov](mailto:R3_Hearing_Clerk@epa.gov)
36. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondents' failure to make timely payment of the penalty as specified herein shall result in the assessment of late payment charges including



interest, penalties, and/or administrative costs of handling delinquent debts.

37. Payment of the civil penalty is due and payable immediately upon the effective date of this Consent Agreement and Final Order. Receipt by Respondents or Respondents' legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed as of the effective date of this Consent Agreement and Final Order by Respondents in accordance with 40 C.F.R. § 13.9(a).
38. INTEREST: Interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the effective date of this Consent Agreement and Final Order. However, EPA will not seek to recover interest on any amount of the civil penalties that is paid within thirty (30) calendar days after the effective date of this Consent Agreement and Final Order. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R § 13.11(a).
39. ADMINISTRATIVE COSTS: The costs of the EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives – Case Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
40. LATE PAYMENT PENALTY: A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
41. Respondents agree not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.
42. The Parties consent to service of the Consent Agreement and Final Order by e-mail at the following valid email addresses: [tabassum.promy@epa.gov](mailto:tabassum.promy@epa.gov) (for Complainant), and [dmullen@whitefordlaw.com](mailto:dmullen@whitefordlaw.com) and [mbrady@whitefordlaw.com](mailto:mbrady@whitefordlaw.com) (for Respondents).
43. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service ("IRS") annually, a completed IRS Form 1098-F ("Fines, Penalties, and Other Amounts") with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an

aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor's violation of any law or the investigation or inquiry into the payor's potential violation of any law, including amounts paid for "restitution or remediation of property" or to come "into compliance with a law." EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number ("TIN"), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires, and Respondents herein agree, that:

- a. Respondent shall complete an IRS Form W-9 ("Request for Taxpayer Identification Number and Certification"), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
- b. Each Respondent shall therein certify that their completed IRS Form W-9 includes Respondent's correct TIN or that Respondent has applied and is waiting for issuance of a TIN;
- c. Each Respondent shall email their completed Form W-9 to EPA's Cincinnati Finance Center at [henderson.jessica@epa.gov](mailto:henderson.jessica@epa.gov), within 30 days after the Final Order ratifying this Consent Agreement is filed, and EPA recommends encrypting IRS Form W-9 email correspondence; and
- d. In the event that either Respondent has certified in their completed IRS Form W-9 that they have applied for a TIN and that TIN has not been issued to such Respondent within 30 days after the effective date, then such Respondent, using the same email address identified in the preceding sub-paragraph, shall further:
  - i. notify EPA's Cincinnati Finance Center of this fact, via email, within 30 days after the 30 days after the effective date of the Final Order per Paragraph 50; and
  - ii. provide EPA's Cincinnati Finance Center with such Respondent's TIN, via email, within five (5) days of Respondent's issuance and receipt of the TIN.

#### **GENERAL SETTLEMENT CONDITIONS**

44. By signing this Consent Agreement, Respondents acknowledge that this Consent Agreement and Final Order will be available to the public and represent that, to the best of Respondents' knowledge and belief, this Consent Agreement and Final Order does

not contain any confidential business information or personally identifiable information from Respondents.

45. Respondents certify that any information or representation they have supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy, or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondents to the EPA regarding matters relevant to this Consent Agreement and Final Order, including information about Respondents' ability to pay a penalty, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondents and their officers, directors, and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

#### **CERTIFICATION OF COMPLIANCE**

46. Respondents certify to EPA, upon personal investigation and to the best of their knowledge and belief, that they currently are in compliance with the Administrative Order on Consent between Respondents and EPA, Docket No. CWA-03-2024-0035DN, which addresses the violations alleged herein.

#### **OTHER APPLICABLE LAWS**

47. Nothing in this Consent Agreement and Final Order shall relieve Respondents of their obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state, or local permit. This Consent Agreement and Final Order does not constitute a waiver, suspension, or modification of the requirements of the CWA, 33 U.S.C. § 1251 *et seq.*, or any regulations promulgated thereunder.

#### **RESERVATION OF RIGHTS**

48. This Consent Agreement and Final Order resolves only EPA's claims for civil penalties for the specific violations alleged against Respondents in this Consent Agreement and Final Order. EPA reserves the right to commence action against any person, including Respondents, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. This settlement is subject to all limitations on the scope of resolution and

to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice, 40 C.F.R. § 22.18(c). EPA reserves any rights and remedies available to it under the CWA, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after its effective date. Respondents reserve whatever rights or defenses they may have to defend themselves in any such action.

#### **EXECUTION/PARTIES BOUND**

49. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, Respondents, and the officers, directors, employees, contractors, successors, agents, and assigns of Respondents. By their signature below, the people who sign this Consent Agreement on behalf of Respondents are acknowledging that they are fully authorized by Respondents to execute this Consent Agreement and to legally bind Respondents to the terms and conditions of this Consent Agreement and Final Order.

#### **EFFECTIVE DATE**

50. Pursuant to 40 C.F.R. § 22.45(b), this Consent Agreement and Final Order shall be issued only after a 40-day public notice and comment period is concluded. This Consent Agreement and Final Order will become final and effective thirty (30) days after having been signed by the Regional Administrator or his/her delegate, the Regional Judicial Officer, and filed with the Regional Hearing Clerk.

#### **ENTIRE AGREEMENT**

51. This Consent Agreement and Final Order constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this Consent Agreement and Final Order.

*In the Matter of: Frederick-Winchester Service Authority & EPA Docket No. CWA-03-2024-0036  
Frederick County Sanitation Authority, dba Frederick Water*

For Respondent: Frederick-Winchester Service Authority

Date: 3/14/24

By:

A black rectangular box redacting the signature of Candice Perkins.

Candice Perkins, Executive Director  
Frederick-Winchester Service Authority

*In the Matter of: Frederick-Winchester Service Authority & EPA Docket No. CWA-03-2024-0036  
Frederick County Sanitation Authority, dba Frederick Water*

For Respondent: Frederick County Sanitation Authority, dba Frederick Water

Date: 3-14-24

By:



Gary R. Oates, Chairman  
Frederick County Sanitation Authority,  
dba Frederick Water

*In the Matter of: Frederick-Winchester Service Authority & EPA Docket No. CWA-03-2024-0036  
Frederick County Sanitation Authority, dba Frederick Water*

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement & Compliance Assurance Division of the United States Environmental Protection Agency, Region 3, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

By: **Melvin, Karen** Digitally signed by Melvin,  
Karen  
Date: 2025.03.25 08:20:45  
-04'00'  
\_\_\_\_\_  
[Digital Signature and Date]  
Karen Melvin, Director  
Enforcement and Compliance Assurance Division  
U.S. EPA – Region 3  
Complainant

Attorney for Complainant:

By: **PROMY  
TABASSUM** Digitally signed by PROMY  
TABASSUM  
Date: 2025.03.25 08:29:35  
-04'00'  
\_\_\_\_\_  
[Digital Signature and Date]  
Promy Tabassum  
Assistant Regional Counsel  
U.S. EPA – Region 3



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 3  
Philadelphia, Pennsylvania 19103

FILED

Apr 07, 2025

11:07 am

U.S. EPA REGION 3  
HEARING CLERK

In the Matter of: :  
:   
Frederick-Winchester Service Authority : U.S. EPA Docket No. CWA-03-2024-0036  
9 West Piccadilly Street :   
Winchester, VA 22601 : Proceeding under Section 309 of the Clean  
: Water Act, 33 U.S.C § 1319  
Frederick County Sanitation Authority :   
dba Frederick Water :   
315 Tasker Road :   
Stephens City, VA 22655 :   
:   
Respondents. :   
:   
Crooked Run :   
Wastewater Treatment Plant :   
130 Crappie Court :   
Front Royal, VA 22630 :   
:   
Facility. :

**FINAL ORDER**

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 3, and Respondents, Frederick-Winchester Service Authority and Frederick County Sanitation Authority, dba Frederick Water, have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 (with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA's *Interim Clean Water Act Settlement Penalty Policy*, March 1, 1995, and the statutory factors set forth in Section 309(g)(3) of the Clean Water Act, 22 U.S.C. § 1319(g)(3).

**NOW, THEREFORE, PURSUANT TO** Section 309(a) of the Clean Water Act, 33 U.S.C. § 1319(a), and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondents pay a civil penalty in the amount of **TWELVE THOUSAND DOLLARS (\$12,000.00)**, in accordance with the payment provisions set forth in the Consent Agreement

and in 40 C.F.R. § 22.31(c), and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final Agency Action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Consent Agreement and does not waive, extinguish, or otherwise affect Respondents' obligation to comply with all applicable provisions of the Clean Water Act and the regulations promulgated thereunder.

The effective date of the attached Consent Agreement and this Final Order is thirty (30) days after having been signed by the Regional Administrator or his/her delegate, the Regional Judicial Officer, and filed with the Regional Hearing Clerk.

By: CATHERINE  
LIBERTZ

Digitally signed by CATHERINE  
LIBERTZ  
Date: 2025.04.03 13:37:10  
-04'00'

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*[Digital Signature and Date]*  
Catherine A. Libertz  
Acting Regional Administrator  
U.S. EPA – Region 3

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 3  
Philadelphia, Pennsylvania 19103

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	:
Crooked Run	:
Wastewater Treatment Plant	:
130 Crappie Court	:
Front Royal, VA 22630	:
	:
Facility.	:

**CERTIFICATE OF SERVICE**

I certify that the foregoing ***Consent Agreement and Final Order*** was filed with the EPA Region 3 Regional Hearing Clerk on the date that has been electronically stamped on the ***Consent Agreement and Final Order***. I further certify that on the date set forth below, I caused to be served a true and correct copy of the foregoing to each of the following persons, in the manner specified below, at the following addresses:

Copies served via email to:

Gary R. Oates, Chairman  
Frederick County Sanitation Authority  
dba Frederick Water  
315 Tasker Road  
Stephens City, VA 22655  
[OatesGR@aol.com](mailto:OatesGR@aol.com)

Candice Perkins, Executive Director  
Frederick-Winchester Service Authority  
P.O. Box 43  
Winchester, VA 22604

[cperkins@fredwin.com](mailto:cperkins@fredwin.com)

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[mbrady@whitefordlaw.com](mailto:mbrady@whitefordlaw.com)

*In re: Frederick-Winchester Service Authority &  
Frederick County Sanitation Authority, dba Frederick Water*

*EPA Docket No. CWA-03-2024-0036*

Promy Tabassum, Esq.  
Assistant Regional Counsel  
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[tabassum.promy@epa.gov](mailto:tabassum.promy@epa.gov)

Peter Gold  
Enforcement Officer  
U.S. EPA, Region 3  
[gold.peter@epa.gov](mailto:gold.peter@epa.gov)

By: BEVIN  
ESPOSITO

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*[Digital Signature and Date]*  
Regionally Hearing Clerk  
U.S. EPA – Region 3

Digitally signed by BEVIN  
ESPOSITO  
Date: 2025.04.07 11:01:51  
-04'00'