

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

**FILED**

**Dec 17, 2024**

**3:03 pm**

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

**In the Matter of:** :  
:   
West Virginia Division of Natural Resources : **U.S. EPA Docket No.** CWA-03-2025-0019DN  
1988 Spring Run Road, Unit 1 :  
Petersburg, WV 26847 :  
: **ADMINISTRATIVE ORDER ON CONSENT**  
**Respondent.** : **PURSUANT TO 33 U.S.C. § 1319(a)**  
:   
Spring Run Fish Hatchery :  
1988 Spring Run Road, Unit 1 :  
Petersburg, WV 26847 :  
:   
**Facility.** :

**I. STATUTORY AUTHORITY AND JURISDICTION**

1. This Administrative Order on Consent (“AOC” or “Order”) is issued to the West Virginia Division of Natural Resources (“Respondent”) under the authority vested in the United States Environmental Protection Agency (the “EPA”) by Section 309(a) of the Clean Water Act, 33 U.S.C. § 1319(a) (“CWA” or “Act”). The Administrator delegated this authority to the Regional Administrator of EPA Region 3, who further delegated it to the Director of the Enforcement and Compliance Assurance Division of EPA Region 3.
2. Section 309(a) of the CWA, 33 U.S.C. § 1319(a), provides that whenever, on the basis of any information available to him, the Administrator finds that any person is in violation of any permit condition or limitation implementing certain sections of the CWA, in a permit issued under Section 402 of the CWA, 33 U.S.C. § 1342, he shall issue an order requiring such person to comply with such section or requirement.
3. The EPA has jurisdiction over the above-captioned matter, as described in Paragraphs 1 and 2, above.
4. The EPA has consulted with the West Virginia Department of Environmental Protection (“WVDEP”) regarding this action and, subsequent to the Effective Date, the EPA will email a copy of this fully executed AOC to the appropriate WVDEP representative.

**II. GENERAL PROVISIONS**

5. For the purposes of this proceeding only, Respondent admits to the jurisdictional allegations set forth in this AOC.

6. Except as provided in Paragraph 5, above, Respondent neither admits nor denies the specific factual allegations set forth in this Order.
7. The provisions of this AOC shall apply to and be binding upon Respondent and the officers, directors, employees, contractors, agents, trustees, successors, and assigns of Respondent.
8. Respondent shall bear its own costs and attorney's fees in connection with this proceeding and with the implementation or enforcement of this AOC, including any costs related to the resolution of any dispute arising from this Order.
9. The EPA reserves the right to commence an action against any person, including Respondent, in response to any condition which the EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. The EPA reserves all existing rights and remedies available to it under the CWA, 33 U.S.C. §§ 1311-1330, the regulations promulgated thereunder, and any other federal laws or regulations for which the EPA has jurisdiction, including enforcement of this AOC.
10. This AOC does not constitute a waiver or modification of the terms or conditions of any permit issued to Respondent. Nothing in this Order shall relieve Respondent of its obligation to comply with all applicable provisions of federal, state, or local laws and regulations, nor shall it restrict the 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 Order does not constitute a waiver, suspension, or modification of the requirements of the Act, 33 U.S.C. §§ 1251-1389, or any regulations promulgated thereunder.
11. Respondent waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this AOC, including any right of judicial review pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.
12. The EPA reserves all existing inspection authority otherwise available to the EPA pursuant to Section 308 of the CWA, 33 U.S.C. § 1318, or pursuant to any other statute or law.
13. The undersigned representative of Respondent certifies that they are fully authorized by Respondent to enter into the terms and conditions of this AOC and to execute and legally bind Respondent.
14. By signing this AOC, Respondent acknowledges that this AOC may be available to the public and represents that, to the best of Respondent's knowledge and belief, this AOC

does not contain any confidential business information or personally identifiable information from Respondent.

15. Respondent certifies that, to the best of its reasonable knowledge and belief, any information or representation it has supplied or made to the 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. The EPA shall have the right to institute further actions to recover appropriate relief if the EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this AOC are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that the EPA may have, civil or criminal, under law or equity in such event. Respondent and its 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.

### **III. STATUTORY AND REGULATORY BACKGROUND**

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, 33 U.S.C. §§ 1311, 1312, 1316, 1317, 1328, 1342, and 1344.
17. Section 402(a) of the Act, 33 U.S.C. § 1342(a), provides that the Administrator of the 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 permits. Section 402(b) of the Act, 33 U.S.C. § 1342(b), provides for the authorization of state programs to issue NPDES permits.
18. Pursuant to Section 402(b) of the Act, 33 U.S.C. § 1342(b), in 1982, the EPA authorized the State of West Virginia, through WVDEP, to administer the NPDES program in West Virginia.
19. Pursuant to Section 402(i) of the CWA, 33 U.S.C. § 1342(i), the EPA retains its authority to take enforcement action within West Virginia for NPDES permit violations.
20. “Concentrated aquatic animal production facility” is defined as “a hatchery, fish farm, or other facility” which meets specified criteria. 40 C.F.R. § 122.24(b).
21. Concentrated aquatic animal production facilities “are point sources subject to the NPDES permit program.” 40 C.F.R. 122.24(a).

22. “Pollutant” is defined as “dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.” 40 C.F.R. § 122.2. *See also* 33 U.S.C. § 1362(6).
23. “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* 33 U.S.C. § 1362(12).
24. “Storm water” is defined as “storm water runoff, snow melt runoff, and surface runoff and drainage.” 40 C.F.R. § 122.26(b)(13).

#### **IV. FINDINGS OF FACT, JURISDICTIONAL ALLEGATIONS, AND CONCLUSIONS OF LAW**

25. On March 7, 2017, WVDEP issued an NPDES Permit, NPDES Permit No. WV0112500, to Respondent to operate and maintain a flow-through aquaculture system, holding ponds, and best management practices (“BPMs”) and to discharge untreated aquaculture wastewater through Outlet No. 008, treated aquaculture wastewater from cleaning of raceways and ponds and untreated overflow through Outlet No. 011, and treated stormwater runoff through Outlet Nos. 009 and 010 to Spring Run of South Mill Creek of the South Branch of the Potomac River (the “Permit”). The Permit became effective on May 1, 2017, and expired on June 30, 2021. The Permit was reissued on May 5, 2021, effective July 1, 2021, and will expire on May 4, 2026.
26. Respondent is, and at all times relevant to this AOC was, the owner and operator of a fish hatchery located at Spring Run Road Dorcas, WV 26847 (the “Hatchery”).
27. Respondent is a “person” within the meaning of Section 502(5) of the Act, 33 U.S.C. § 1362(5).
28. The Hatchery discharges, and at all times relevant to this AOC discharged, authorized untreated and treated aquaculture wastewater and treated stormwater runoff through Outlet Nos. 008, 009, 010 and 011 into Spring Run, a relatively permanent tributary connected to South Mill Creek, a relatively permanent tributary connected to the South Branch of the Potomac River which is connected to the Potomac River which is connected to the Chesapeake Bay. The Potomac River and Chesapeake Bay are a traditional navigable water. Spring Run, South Mill Creek, the South Branch of the Potomac River, Potomac River and Chesapeake Bay are “water of the United States” within the meaning of Section 502(7) of the Act, 33 U.S.C. § 1362(7).
29. On December 8, 2022, a representative of the EPA’s contract inspector and WVDEP inspectors jointly conducted a compliance evaluation inspection of the Hatchery to determine Respondent’s compliance with the Permit (the “Inspection”).

30. On May 1, 2024, the EPA sent Respondent a Notice of Potential Violations and Opportunity to Confer letter.
31. Based on the Inspections and review of Respondent's subsequent responses, the EPA has identified the following violation of the Permit and Section 301 of the CWA, 33 U.S.C. § 1311, described in the Paragraphs below.

**Count 1**  
**Effluent Exceedance for Outlet No. 008**

32. The allegations in the preceding paragraphs are incorporated by reference.
33. Section A.008 of the Permit defines the discharge limitations and monitoring requirements for Outlet No. 008.
34. On March 31, 2020, the Hatchery experienced one effluent limit exceedance from Outlet No. 008 for total suspended solids, which it reported in its Discharge Monitoring Report ("DMR"). *See Table 1*, below, for the exceedance.

*Table 1. Effluent Limit Exceedances from Outlet No. 008 (Mar. 31, 2020)*

Monitoring Period End Date	Parameter	Limit Type	DMR Value	Permit Value	Units
03/31/2020	Total Suspended Solids	Monthly Average	54	30	mg/L

35. On March 31, 2020, Respondent failed to comply with the effluent limitations required by Section A.008 of the Permit.
36. Respondent's failure to comply with Section A.008 of the Permit issued pursuant to Section 402 of the Act, 33 U.S.C. § 1342, is a violation of Section 301 of the Act, 33 U.S.C. § 1311.

**Count 2**  
**Effluent Exceedances for Outlet No. 011**

37. The allegations in the preceding paragraphs are incorporated by reference.
38. Section A.011 of the Permit defines the discharge limitations and monitoring requirements for Outlet No. 011.
39. From April 30, 2021 to June 30, 2024, the Hatchery experienced 51 effluent limit exceedances from Outlet No. 011 for nitrogen nitrite and total suspended solids, which it reported in its DMRs. *See Table 2*, below, for the exceedances.

Table 2. Effluent Limit Exceedances from Outlet No. 011 (April 30, 2021 – June 30, 2024)

Monitoring Period End Date	Parameter Name	Limit Type	DMR Value	Permit Limit	Units
04/30/2021	Nitrogen Nitrite	Monthly Average	0.18	0.03	mg/L
04/30/2021	Nitrogen Nitrite	Daily Maximum	0.2	0.06	mg/L
05/31/2021	Nitrogen Nitrite	Monthly Average	0.16	0.03	mg/L
05/31/2021	Nitrogen Nitrite	Daily Maximum	0.16	0.06	mg/L
06/30/2021	Nitrogen Nitrite	Monthly Average	0.19	0.03	mg/L
06/30/2021	Nitrogen Nitrite	Daily Maximum	0.19	0.06	mg/L
08/31/2021	Nitrogen Nitrite	Monthly Average	0.1	0.03	mg/L
08/31/2021	Nitrogen Nitrite	Daily Maximum	0.1	0.06	mg/L
09/30/2021	Nitrogen Nitrite	Monthly Average	0.105	0.03	mg/L
09/30/2021	Nitrogen Nitrite	Daily Maximum	0.11	0.06	mg/L
10/31/2021	Nitrogen Nitrite	Monthly Average	0.04	0.03	mg/L
10/31/2021	Nitrogen Nitrite	Daily Maximum	0.08	0.06	mg/L
11/30/2021	Nitrogen Nitrite	Monthly Average	0.04	0.03	mg/L
11/30/2021	Nitrogen Nitrite	Daily Maximum	0.08	0.06	mg/L
01/31/2022	Total Suspended Solids	Monthly Average	31.75	30	mg/L
01/31/2022	Total Suspended Solids	Daily Maximum	60.5	60	mg/L
02/28/2022	Nitrogen Nitrite	Monthly Average	0.115	0.03	mg/L
02/28/2022	Nitrogen Nitrite	Daily Maximum	0.12	0.06	mg/L
03/31/2022	Nitrogen Nitrite	Monthly Average	0.145	0.03	mg/L
03/31/2022	Nitrogen Nitrite	Daily Maximum	0.15	0.06	mg/L
04/30/2022	Nitrogen Nitrite	Daily Maximum	0.12	0.06	mg/L
06/30/2022	Nitrogen Nitrite	Monthly Average	0.155	0.03	mg/L
06/30/2022	Nitrogen Nitrite	Daily Maximum	0.16	0.06	mg/L
08/31/2022	Nitrogen Nitrite	Monthly Average	0.05	0.03	mg/L
08/31/2022	Nitrogen Nitrite	Daily Maximum	0.1	0.06	mg/L
10/31/2022	Nitrogen Nitrite	Monthly Average	0.055	0.03	mg/L
10/31/2022	Nitrogen Nitrite	Daily Maximum	0.11	0.06	mg/L
01/31/2023	Nitrogen Nitrite	Monthly Average	0.04	0.03	mg/L
01/31/2023	Nitrogen Nitrite	Daily Maximum	0.08	0.06	mg/L
04/30/2023	Nitrogen Nitrite	Monthly Average	0.05	0.03	mg/L
04/30/2023	Nitrogen Nitrite	Daily Maximum	0.1	0.06	mg/L
05/31/2023	Nitrogen Nitrite	Monthly Average	0.085	0.03	mg/L
05/31/2023	Nitrogen Nitrite	Daily Maximum	0.09	0.06	mg/L
06/30/2023	Nitrogen Nitrite	Monthly Average	0.16	0.03	mg/L
06/30/2023	Nitrogen Nitrite	Daily Maximum	0.16	0.06	mg/L
07/31/2023	Nitrogen Nitrite	Monthly Average	0.2	0.03	mg/L

07/31/2023	Nitrogen Nitrite	Daily Maximum	0.22	0.06	mg/L
08/31/2023	Nitrogen Nitrite	Monthly Average	0.11	0.03	mg/L
08/31/2023	Nitrogen Nitrite	Daily Maximum	0.11	0.06	mg/L
09/30/2023	Nitrogen Nitrite	Monthly Average	0.105	0.03	mg/L
09/30/2023	Nitrogen Nitrite	Daily Maximum	0.11	0.06	mg/L
10/31/2023	Nitrogen Nitrite	Monthly Average	0.1	0.03	mg/L
10/31/2023	Nitrogen Nitrite	Daily Maximum	0.1	0.06	mg/L
11/30/2023	Nitrogen Nitrite	Monthly Average	0.055	0.03	mg/L
11/30/2023	Nitrogen Nitrite	Daily Maximum	0.11	0.06	mg/L
12/31/2023	Nitrogen Nitrite	Monthly Average	0.06	0.03	mg/L
12/31/2023	Nitrogen Nitrite	Daily Maximum	0.12	0.06	mg/L
02/29/2024	Nitrogen Nitrite	Monthly Average	0.06	0.03	mg/L
02/29/2024	Nitrogen Nitrite	Daily Maximum	0.12	0.06	mg/L
06/30/2024	Nitrogen Nitrite	Monthly Average	0.035	0.03	mg/L
06/30/2024	Nitrogen Nitrite	Daily Maximum	0.07	0.06	mg/L

40. From April 30, 2021 to December 31, 2023, Respondent failed to comply with the effluent limitations required by Section A.011 of the Permit, as provided in Table 2.
41. Respondent's failure to comply with Section A.011 of the Permit issued pursuant to Section 402 of the Act, 33 U.S.C. § 1342, is a violation of Section 301 of the Act, 33 U.S.C. § 1311.

**Count 3**  
**Discharging a Pollutant Without an NPDES Permit**

42. The allegations in the preceding paragraphs are incorporated by reference.
43. The Permit allows Respondent to "operate and maintain a flow-through aquaculture system, holding ponds, and best management practices [("BMPs")] and discharge untreated aquaculture wastewater through Outlet No. 008, treated aquaculture wastewater from cleaning of raceways and ponds and untreated overflow through Outlet No. 011 and untreated storm water runoff through Outlet Nos. 009 [and] 010 to Spring Run of South Mill Creek of the South Branch of the Potomac River."
44. During the Inspection, the EPA Inspector observed a pipe located near Outlet No. 011 that discharged stormwater into Spring Run from at least three onsite stormwater drain inlets. The volume of flow discharged via the pipe was consistent with the flow rate observed inside the drain inlets. This pipe and its discharges into Spring Run are not permitted in the Permit.
45. At the time of the Inspection, Respondent's unauthorized discharge of a pollutant was in violation of Section 301 of the Act, 33 U.S.C. § 1311.

46. On July 10, 2024, Respondent submitted to WVDEP an application to modify the Permit to include the pipe located near Outlet No. 011 that discharged stormwater into Spring Run from at least three onsite stormwater drain inlets (the “Unpermitted Outlet”).

**Count 4**

**Failure to Properly Sample Outlet No. 011 Discharges**

47. The allegations in the preceding paragraphs are incorporated by reference.
48. Section A.011 of the Permit provides that “[a]n eight (8) hour composite sample for Outlet No. 011 shall be taken during the decant of the batch clarifier supernate corresponding to the weekly cleanings of raceways and ponds.”
49. As a part of the Inspection, Respondent provided the EPA chain of custody records from samples taken on October 6, 2021, July 6, 2022, and November 2, 2022. According to the submitted records, the samples collected from Outlet No. 011 discharges during raceway and pond cleaning periods were grab samples rather than composite samples. The records indicate that grab samples were collected for the samples identified as “011 Preclean.” Composite samples were taken the day before the “011 Preclean” samples.
50. On October 6, 2021, July 6, 2022, and November 2, 2022, Respondent failed to comply with Section A.011 of the Permit by failing to take an eight-hour composite sample for Outlet No. 011 during the decant of the batch clarifier supernate corresponding to the weekly cleanings of raceways and ponds.
51. Respondent’s failure to comply with Section A.011 of the Permit issued pursuant to Section 402 of the Act, 33 U.S.C. § 1342, is a violation of Section 301 of the Act, 33 U.S.C. § 1311.

**Count 5**

**Failure to Submit DMR No Later Than 20 Days Following the End of the Reporting Period**

52. The allegations in the preceding paragraphs are incorporated by reference.
53. Section C.06 of the Permit provides that Respondent shall submit a DMR each month.
54. Section C.07 of the Permit provides that the “required DMRs shall be received by [WVDEP] no later than 20 days following the end of the reporting period” in accordance with specified requirements.
55. According to the EPA’s Enforcement and Compliance History Online (“ECHO”) system, Respondent submitted the DMRs for the January 1, 2021 to March 31, 2021 reporting



periods (due April 21, 2021) on June 28, 2021, which was later than 20 days following the end of the reporting period.

56. Respondent's failure to comply with Section C.07 of the Permit issued pursuant to Section 402 of the Act, 33 U.S.C. § 1342, is a violation of Section 301 of the Act, 33 U.S.C. § 1311.

### **Count 6**

#### **Failure to Properly Operate and Maintain the Hatchery and Implement BMP Plan**

57. The allegations in the preceding paragraphs are incorporated by reference.
58. Section C.13 of the Permit provides that the BMP Plan, titled "Spring Run State Fish Hatchery, Best Management Practices," updated November 16, 2020, "shall be implemented and maintained at the site." Paragraph E.4 of the BMP Plan discusses the plan for removal and disposal of fish mortalities. Specifically, all rearing units must be "screened to prevent live fish and fish mortalities from escaping to Spring Run."
59. Appendix A, Part II.1 of the Permit provides that Respondent must "at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by [Respondent] to achieve compliance with the conditions of [the Permit]." Proper operation and maintenance include "adequate laboratory controls, and appropriate quality assurance procedures."
60. At the Inspection, the EPA inspector observed the following:
- Brown colored staining inside the refrigerator of the automatic composite sampler for Outlet No. 011 and no thermometer present inside of the refrigerator.
  - Sludge and a deceased fish inside a clarifier at the Hatchery.
61. At the Inspection, Respondent stated the clarifier is not cleaned regularly. The rearing unit, or the raceway, leads into the clarifier which leads into Spring Run.
62. At the time of the Inspection, Respondent failed to properly operate and maintain all facilities and systems of treatment and control and failed to implement the BMP Plan.
63. At the time of the Inspection, December 8, 2022, Respondent failed to comply with Section C.13 and Appendix A, Part II.1 of the Permit by failing to properly operate and maintain all facilities and systems of treatment and control and by failing to implement the BMP Plan.

64. Respondent's failure to comply with Section C.13 and Appendix A, Part II.1 of the Permit issued pursuant to Section 402 of the Act, 33 U.S.C. § 1342, is a violation of Section 301 of the Act, 33 U.S.C. § 1311.

**V. COMPLIANCE ORDER**

THEREFORE, based on the foregoing, Respondent is hereby ORDERED, pursuant to Section 309(a) of the CWA, 33 U.S.C. § 1319(a), to conduct, and consents to conduct, the following activities:

65. Respondent shall take all actions necessary to comply with the Permit (or subsequent permits or permit modifications, including permit compliance schedules, issued by WVDEP) at the Hatchery.
66. Respondent shall:
- **Within 60 days of the Effective Date of this AOC:** Replace the current refrigerated sampler with a new updated model at the Hatchery and provide pictures of this new updated model of the refrigerated sampler to the EPA.
  - **Within 60 days of the Effective Date of this AOC:** Investigate the feasibility and logistics associated with installing an automatic composite sampler at Outlets 008 and 011 and provide documentation of this investigation to the EPA. Based on the results of the investigation, Respondent shall install an automatic composite sampler for all industrial discharge outlets at the Hatchery. If installed, Respondent shall provide to the EPA pictures of all the automatic composite samplers installed at the Hatchery.
  - **On a biannual basis on December 31st and June 30th from the Effective Date of this AOC until WVDEP's final modification to the Permit:** Provide data from monitoring and collection of water chemistry samples from the Unpermitted Outlet consistent with instruction and guidance by WVDEP while waiting for a modification to the Permit.
  - **Within 10 days of the Permit modification approval by WVDEP:** Submit to the EPA WVDEP's final modification to the Permit which will include the Unpermitted Outlet.
  - **Within 10 days of the Permit modification approval by WVDEP:** Update the Storm Water Pollution Plan and the BMP document to incorporate the final modification to the Permit and send the updated documents to the EPA.

- **On a biannual basis on December 31st and June 30th until the termination of this AOC:** Provide to the EPA copies of the training, inspection, and maintenance logs.
67. **Within 90 days of the Effective Date of this AOC:** Respondent shall provide to the EPA for review a Corrective Action Plan (“CAP”). The CAP shall include the following:
- A report that identifies and briefly explains all the potential sources of pollutants that may be causing the nitrogen nitrite exceedances.
  - An evaluation of potential solutions for the nitrogen nitrite exceedances, including permitting strategies, pollutant minimization, and treatment options.
  - A plan and schedule to implement the potential solution(s) the Respondent will undertake to address the nitrogen nitrite exceedances and achieve compliance with the Permit effluent limits within 2 years of the Effective Date of this AOC.
68. After review of the CAP:
- The EPA will in writing (i) accept the submission; (ii) accept the submission upon specified conditions; (iii) accept part of the submission and request resubmission of the remainder; or (iv) request a new submission.
  - If the submission is accepted, Respondent shall take all actions required by the CAP, in accordance with the schedule and requirements of the CAP, as approved. If the CAP is conditionally accepted or accepted only in part, Respondent shall, take all actions required by the accepted parts of the CAP.
  - If the CAP is disapproved in whole or in part, Respondent shall, within 15 days of receipt from the EPA of notice of deficiencies or by such other time as the parties agree to in writing, correct all deficiencies and resubmit the CAP or any deficient portion thereof, for approval. If the resubmission is accepted in whole or in part, Respondent shall proceed in accordance with the preceding Paragraph.
69. No later than 10 days from the EPA’s approval of the CAP, Respondent shall submit to the EPA for review a list of deadlines included in the CAP. The list shall be submitted in an electronic format (e.g., unlocked spreadsheet or similar format agreed to by the parties). Within 10 days of modifications of any deadline under the CAP, Respondent shall provide an updated list, reflecting changes to the future schedule.
70. Respondent shall submit progress reports every three months, by the final day of the month, until all work required by the CAP has been completed. Respondent shall submit

the reports in accordance with Paragraphs 72, 73, and 74, below. Progress reports shall include, at a minimum, the following:

- Activities completed during the reporting period.
- Dates by which the activities were completed.
- Any barriers to the timely completion of activities encountered.
- Activities currently in progress.

**VI. PROCEDURES FOR SUBMISSIONS**

71. All documents required to be submitted by this Order and any Request for Termination shall be accompanied by a certification signed by a responsible officer, as defined in 40 C.F.R. § 122.22(d), that reads as follows:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Signature: James Hedrick

Printed Name: James D. Hedrick

Title: Hatchery Program Manager

Date: 11/04/2024

72. Unless otherwise directed in writing, Respondent shall submit any submission or written communication, including any accompanying data, relating to this AOC via email to:

Dominic Cotton  
[cotton.dominic@epa.gov](mailto:cotton.dominic@epa.gov)  
NPDES Enforcement  
Enforcement and Compliance Assurance Division  
U.S. EPA, Region 3

ATTN: Promy Tabassum

[R3\\_ORC\\_mailbox@epa.gov](mailto:R3_ORC_mailbox@epa.gov)  
Water & Waste Branch  
Office of Regional Counsel  
U.S. EPA, Region 3

Any information submitted electronically shall be submitted in a widely recognized electronic format.

73. Respondent may assert a business confidentiality claim covering part or all the information which this AOC requires it to submit to the EPA, but only to the extent and only in the manner described in Part 2 Subpart B of Title 40 of the C.F.R. The EPA will disclose information submitted under a confidentiality claim only as provided in Part 2 Subpart B of Title 40 of the C.F.R. If, at the time any information is submitted to the EPA, the Respondent submitting such information does not assert a confidentiality claim, the EPA may make the submitted information available to the public without further notice to Respondent.

**VII. CERTIFICATION OF COMPLIANCE AND REQUEST FOR TERMINATION OF AOC**

74. Upon completion of all items required by this AOC, and a determination of completeness of each item, and after at least one year of implementation, Respondent shall submit to the EPA a Certification of Compliance and Request for Termination of this AOC. Such certification and request shall include:
- a. a certification that Respondent has maintained compliance with this Order for the term of this AOC; and
  - b. all necessary documentation, including photo documentation, as appropriate, to support a finding that Respondent has complied with Section V (Compliance Order) of this AOC.
75. If, following review of any Certification of Compliance and Request for Termination of this AOC, the EPA agrees that Respondent has adequately complied with all requirements of this Order, then the EPA will provide written notification of termination of this AOC.

**VIII. AOC MODIFICATIONS**

76. Any request to modify the terms of, or parties to, this AOC shall be submitted, in writing, by Respondent to the EPA and shall be subject to review and approval by the EPA, in its sole and unreviewable discretion. Respondent's submission of a written request for modification of this AOC shall not relieve Respondent of any obligation under this AOC and shall have no effect on the EPA's statutory or regulatory authority to enforce the terms of this AOC, in its sole and unreviewable discretion.

**IX. CHANGE OF OWNERSHIP OR OPERATION OF THE FACILITY**

77. Until or unless this AOC is modified or terminated, in accordance with the terms of this Order, Respondent shall remain responsible for compliance with the terms of this AOC following any transfer of ownership or operation of the Hatchery.
78. At least 90 days prior to any transfer of ownership or operation of the Hatchery, Respondent shall submit a written notification to the EPA of any such anticipated change in ownership or operation which shall include, at a minimum, a detailed summary of the anticipated change in ownership or operation, contact information for the proposed new owner or operator of the Hatchery, and a schedule for such anticipated change.
79. Respondent shall condition any sale or transfer of ownership or operation of the Hatchery, in whole or in part, upon the execution by such Prospective Third-Party Purchaser, or Transferee, of an agreement, which creates an obligation that shall survive the closing of such sale or transfer of the Hatchery, whereby such Prospective Third-Party Purchaser or Transferee agrees to comply with and be bound by the terms of this AOC.

**X. EFFECTIVE DATE**

80. This AOC shall become effective upon Respondent's receipt of a fully executed copy of this AOC ("Effective Date").

**FOR RESPONDENT WEST VIRGINIA DIVISION OF NATURAL RESOURCES**

Date: 11/4/04

By:



\_\_\_\_\_  
Brett W McMillion, Director  
West Virginia Division of Natural Resources

**SO ORDERED:**

**FOR U.S. ENVIRONMENTAL PROTECTION AGENCY**

By:

\_\_\_\_\_  
*[Digital Signature and Date]*

Karen Melvin, Director

Enforcement and Compliance Assurance Division

U.S. EPA, Region 3



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

<b>In the Matter of:</b>	:	
	:	
West Virginia Division of Natural Resources	:	<b>U.S. EPA Docket No. CWA-03-2025-0019DN</b>
1988 Spring Run Road, Unit 1	:	
Petersburg, WV 26847	:	
	:	<b>ADMINISTRATIVE ORDER ON CONSENT</b>
<b>Respondent.</b>	:	<b>PURSUANT TO 33 U.S.C. § 1319(a)</b>
	:	
Spring Run Fish Hatchery	:	
1988 Spring Run Road, Unit 1	:	
Petersburg, WV 26847	:	
	:	
<b>Facility.</b>	:	

**CERTIFICATE OF SERVICE**

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

Copies served via UPS and email to:

Jim Hedrick, Hatchery Program Manager  
Elkins Operation Center  
West Virginia Division of Natural Resources  
1988 Spring Run Road, Unit 1  
Petersburg, WV 26847-8877  
[jim.d.hedrick@wv.gov](mailto:jim.d.hedrick@wv.gov)

Copies served via email to:

Promy Tabassum, Esq.  
Assistant Regional Counsel  
U.S. EPA, Region 3  
[tabassum.promy@epa.gov](mailto:tabassum.promy@epa.gov)

Dominic Cotton  
Physical Scientist  
U.S. EPA, Region 3  
[cotton.dominic@epa.gov](mailto:cotton.dominic@epa.gov)

By:

\_\_\_\_\_  
[*Digital Signature and Date*]

Regional Hearing Clerk

U.S. EPA, Region 3