

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION III**  
**Four Penn Center – 1600 John F. Kennedy Blvd.**  
**Philadelphia, Pennsylvania 19103**



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**In the Matter of:** :

City of Charles Town : **U.S. EPA Docket No. CWA-03-2024-0019DN**

101 E. Washington Street : :

Charles Town, WV 25414 : **ADMINISTRATIVE ORDER**

And : **ON CONSENT**

Charles Town Utility Board : **PURSUANT TO 33 U.S.C. § 1319(a)**

661 S. George Street : :

Suite 101 : :

Charles Town, WV 25414 : :

**Respondents.** :

Charles Town Wastewater Treatment Plant : :

832 South George Street : :

Charles Town, WV 25414 : :

And : :

Tuscawilla Wastewater Treatment Plant : :

Baltusrol Drive, : :

Charles Town, WV 25414 : :

**Facilities** :

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**I. STATUTORY AUTHORITY AND JURISDICTION**

1. This Administrative Order on Consent (AOC or Order) is issued to the City of Charles Town, West Virginia (the City Respondent) and the Charles Town Utility Board (the Utility Board Respondent) (jointly referred to herein as “the Respondents”), under the authority vested in the United States Environmental Protection Agency (EPA) by Section 309(a) of the Clean Water Act (CWA or Act), 33 U.S.C. § 1319(a). The Administrator delegated this authority to the Regional Administrator of EPA Region III, who further delegated it to the Director of the Enforcement & Compliance Assurance Division, EPA Region III.
2. Section 309(a) of the Act provides, *inter alia*, that: "Whenever, on the basis of information available to [EPA], [EPA] finds that any person is in violation of any condition or limitation which implements section [301, 302, 306, 307, 308, 318, or 405] of this title in a permit issued under section [402] ... of this title," EPA shall issue an order requiring such person to comply with such condition or limitation." See 33 U.S.C. § 1319(a)(1) and (a)(3).
3. EPA has jurisdiction over the above-captioned matter, as described in Paragraphs 1 and 2, above.

4. EPA has consulted with the West Virginia Department of Environmental Protection (WVDEP) regarding this action and, subsequent to the Effective Date, EPA will provide a copy of this fully executed AOC to the appropriate WVDEP representative.

## **II. GENERAL PROVISIONS**

5. For the purpose of this proceeding only, Respondents, individually and jointly, admit each jurisdictional allegation set forth in this AOC.
6. Except as provided in Paragraph 5, above, Respondents neither admit nor deny the specific factual allegations set forth in Section IV (FINDINGS OF FACT AND JURISDICTIONAL ALLEGATIONS) of this AOC, below.
7. Respondents, individually and jointly, agree not to contest the jurisdiction of EPA with respect to the execution or enforcement of this AOC.
8. The provisions of this AOC shall, jointly and severally, apply to and be binding upon: a) the City Respondent and its officers, directors, employees, contractors, agents, trustees, successors and assigns of such Respondent and b) the Utility Board Respondent and its officers, directors, employees, contractors, agents, trustees, successors and assigns of such Respondent.
9. Respondents shall each bear its own costs and attorney's fees in connection with this proceeding and associated with the implementation or enforcement of this AOC, including any costs related to resolution of any dispute arising regarding this AOC.
10. Issuance of this AOC is intended to address the violations described herein. EPA reserves the right to commence action against any person, including either or both Respondents, in response to any condition which EPA determines may present an imminent and substantial endangerment to public health, public welfare, or the environment. EPA also reserves any existing rights and remedies available to it under the CWA, 33 U.S.C. §1311, et seq., the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction. Further, EPA reserves any rights and remedies available to it under the CWA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this AOC, following the Effective Date, as defined below.
11. This AOC is not a permit, a modification of any existing permit or a substitution for any permit or permit condition, under any federal, State, or local laws or regulations. The City Respondent and Utility Board Respondent are jointly and severally responsible for obtaining any permits relating to ownership or operation of the Facility required pursuant to any federal, state, and local laws or regulations. The City Respondent and Utility Board Respondent are jointly and severally responsible for achieving and maintaining complete compliance with all applicable federal, state, and local laws, regulations and permits. Nothing in this Order shall relieve either Respondent of its obligation to comply with all applicable provisions of federal,

state, or 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. The City Respondent's and the Utility Board Respondent's compliance with this AOC shall be no defense to any action commenced pursuant to any such laws, regulations, or permits, except as set forth herein or otherwise provided by law. EPA does not warrant or aver in any manner that compliance with any aspect of this AOC will result in compliance with provisions of the CWA, 33 U.S.C. §1251, et seq. or with any other provisions of federal, state, or local laws, regulations, or permits. This Order does not constitute a waiver, suspension or modification of the requirements of the Act, 33 U.S.C. §§ 1251 et seq., or any regulations promulgated thereunder.

12. The Respondents, jointly and severally, waive any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that either 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.
13. EPA reserves all existing inspection authority otherwise available to EPA pursuant to Section 308 of the CWA, 33 U.S.C. § 1318, or pursuant to any other statute or law.
14. Notwithstanding any other provisions of this AOC, no action or decision by EPA, including, without limitation, decisions of the Chief, Water Branch, Enforcement and Compliance Assurance Division (ECAD), or Director, ECAD, EPA, Region III, shall constitute a final agency action giving rise to any right to judicial review prior to EPA's initiation of judicial action to compel either, or both, Respondents' compliance with, or otherwise enforce, this AOC.
15. Each undersigned representative of the City Respondent and the Utility Board Respondent certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this AOC and to execute and legally bind the party.
16. By signing this AOC, Respondents acknowledge that this AOC may be available to the public and represents that, to the best of each Respondent's knowledge and belief, this AOC does not contain any confidential business information or personally identifiable information from either Respondent.
17. Each Respondent certifies that, to the best of Respondents' knowledge, any information or representation it has supplied or made to EPA concerning this matter, at the time of submission, was 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 either 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 EPA may have, civil or criminal, under law or equity in such event. Each Respondent and its

respective 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**

18. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant by any person 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.
19. 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.
20. "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).
21. Pursuant to Section 402(b) of the Act, 33 U.S.C. § 1342(b), EPA authorized WVDEP to administer the NPDES program in the State of West Virginia.

### **IV. FINDINGS OF FACT AND JURISDICTIONAL ALLEGATIONS**

22. The City Respondent is a city created by, or pursuant to, State law and has jurisdiction over disposal of sewage, industrial wastes and, therefore, is a "municipality" within the meaning of Section 502(4) of the Act, 33 U.S.C. § 1362(4).
23. The Utility Board Respondent was created, in 1998, by the City of Charles Town City Council upon the issuance of Combined Waterworks and Sewerage System Revenue Bonds, pursuant to Article 147 of the Codified Ordinances of the City. Among other portions of the waterworks and sewage system of the City of Charles Town, WV, the supervision, management, control and operation of the Charles Town Wastewater Treatment Plant (the Charles Town WWTP) and the Tuscawilla Wastewater Treatment Plant (Tuscawilla WWTP) is vested in the Utility Board Respondent.
24. The Utility Board Respondent is an association or other public body created in accordance with State law and has jurisdiction over disposal of sewage, industrial wastes and, therefore, is a "municipality" within the meaning of Section 502(4) of the Act, 33 U.S.C. § 1362(4).
25. As a municipality, the City Respondent and the Utility Board Respondent are each a "person" within the meaning of Section 502(5) of the Act, 33 U.S.C. § 1362(5).
26. At all times relevant to this AOC, the City Respondent owned, and the Utility Board Respondent operated, the Charles Town WWTP, a publicly owned wastewater treatment plant located in the City of Charles Town, Jefferson County, WV. The Charles Town WWTP discharges treated domestic, commercial, and industrial

- wastewater to Evitts Run, which is a tributary of the Shenandoah River.
27. At all times relevant to this AOC, the City Respondent owned, and the Utility Board Respondent operated, the Tuscawilla WWTP, a publicly owned wastewater treatment plant located in the City of Charles Town, Jefferson County, WV. The Tuscawilla WWTP discharges treated domestic, commercial, and industrial wastewater to Evitts Run, which is a tributary of the Shenandoah River.
  28. At all times relevant to this AOC, the operation of both WWTPs have been subject to WVDEP NPDES Discharge Permit No. WV0022349. WVDEP NPDES Discharge Permit No. WV0022349 became effective on September 1, 2016, and had an initial expiration date of June 30, 2021, and was administratively extended until October 1, 2021 (the 2016 Permit). On October 1, 2021, a revised version of NPDES Discharge Permit No. WV0022349 (the 2021 Permit) became effective. The 2021 Permit was subsequently modified and such modifications became effective on March 4, 2022 (the 2022 Permit). The 2022 Permit is the currently effective Permit regulating discharges of pollutants from the Charles Town WWTP and the Tuscawilla WWTP. The 2016 Permit, 2021 Permit and 2022 Permit are collectively referred to herein as “the Permits.”
  29. At all times relevant to this AOC, the Permits regulate, or have regulated, wastewater effluent discharges from Outfall 001 at the Charles Town WWTP (Outfall 001) and from Outfall 002 at the Tuscawilla WWTP (Outfall 002).
  30. At all times relevant to this AOC, Respondents have been authorized to discharge pollutants, in the form of wastewater, from Outfall 001 and Outfall 002 to waters of the United States only in accordance with the terms and conditions of the Permits.
  31. Evitts Run is a tributary of Shenandoah River in Jefferson County, West Virginia, and both Evitts Run and the Shenandoah River are "waters of the United States" within the meaning of Section 502(7) of the Act, 33 U.S.C. § 1362(7).
  32. At all times relevant to this AOC, the Charles Town WWTP discharged wastewater into Evitts Run through a "point source" as that term is defined at Section 502(14) of the Act, 33 U.S.C. § 1362(14).
  33. At all times relevant to this AOC, wastewater was intermittently discharged from the Tuscawilla WWTP through a "point source", as that term is defined at Section 502(14) of the Act, 33 U.S.C. § 1362(14), into Evitts Run.
  34. On August 10, 2021, a representative from EPA’s contractor, PG Environmental, (hereinafter referred to as the Inspector) conducted a compliance evaluation inspection (the Inspection). By correspondence dated September 20, 2021, EPA issued to the Respondents a copy of the inspection report (the Inspection Report), which describes certain observations made during the Inspection.

**Count I**  
**Failure To Comply With Effluent Discharge Limitations**  
**In Accordance With The Permits**

35. Parts A.001 and A.002 (Discharge Limitations and Monitoring Requirements) of the Permits define effluent discharge limitations and monitoring requirements for Outfall 001 Effluent (Part A.001) and Outfall 002 Effluent (Part A.002). Such effluent discharge limitations include limitations on Total Suspended Solids (TSS), Fecal Coliform, and Dissolved Oxygen applicable to the Effluent discharged from Outfall 001 and 002.
36. During multiple monthly monitoring periods since 2018, the Utility Board Respondent reported discharges of wastewater from Outfalls 001 and 002 in exceedance of the effluent discharge limitations set forth in Parts A.001 and A.002 of the Permits. A summary of certain such exceedances reported in Discharge Monitoring Reports (DMRs), submitted by the Utility Board Respondent, are set forth in Tables 1 and 2, below.

<b>Monitoring Period End Date</b>	<b>Parameter Name</b>	<b>Limit Type</b>	<b>Permit Limit</b>	<b>DMR Value</b>
8/31/2018	Nitrogen, ammonia total [as N]	Average monthly	60 lbs/day	63 lbs/day
8/31/2018	Nitrogen, ammonia total [as N]	Average monthly	4.1 mg/L	5.35 mg/L
2/28/2019	Nitrogen, ammonia total [as N]	Average monthly	60 lbs/day	88 lbs/day
2/28/2019	Nitrogen, ammonia total [as N]	Average monthly	4.1 mg/L	6.1 mg/L
4/30/2019	Fecal coliform	Max. Daily	400 Counts / 100mL	712 Counts / 100mL
7/31/2019	Nitrogen, ammonia total [as N]	Max. Daily	8.2 mg/L	8.99 mg/L
12/31/2019	Nitrogen, ammonia total [as N]	Max. Daily	120 lbs/day	126 lbs/day
12/31/2019	Nitrogen, ammonia total [as N]	Average monthly	4.1 mg/L	4.73 mg/L
12/31/2019	Nitrogen, ammonia total [as N]	Max. Daily	8.2 mg/L	11.9 mg/L
1/31/2020	Nitrogen, ammonia total [as N]	Average monthly	60 lbs/day	117 lbs/day
1/31/2020	Nitrogen, ammonia total [as N]	Max. Daily	120 lbs/day	139 lbs/day
1/31/2020	Nitrogen, ammonia total [as N]	Average monthly	4.1 mg/L	11.08 mg/L
1/31/2020	Nitrogen, ammonia total [as N]	Max. Daily	8.2 mg/L	13.3 mg/L
2/29/2020	Nitrogen, ammonia total [as N]	Average monthly	4.1 mg/L	4.98 mg/L
2/29/2020	Nitrogen, ammonia total [as N]	Max. Daily	8.2 mg/L	9.8 mg/L
7/31/2020	Fecal coliform	Max. Daily	400 #/100mL	1,178 #/100mL
11/30/2020	Nitrogen, ammonia total [as N]	Max. Daily	8.2 mg/L	8.5 mg/L
7/31/2021	Fecal coliform	Max. Daily	400 Counts / 100mL	448 Counts / 100mL
8/31/2021	Fecal coliform	Max. Daily	400 Counts / 100mL	410 Counts / 100mL
10/31/2021	Fecal coliform	Max. Daily	400 Counts / 100mL	2909 Counts / 100mL
01/31/2022	Nitrogen, ammonia total [as N]	Average monthly	4.1 mg/L	4.2 mg/L
01/31/2022	Nitrogen, ammonia total [as N]	Max. Daily	8.2 mg/L	8.9 mg/L

<b>Table 2: Summary of Effluent Exceedances at Outfall No. 002 (Tuscowilla WWTP) (July 2018 through March 2022)</b>				
<b>Monitoring Period End Date</b>	<b>Parameter Name</b>	<b>Limit Type</b>	<b>Permit Limit</b>	<b>DMR Value</b>
7/31/2018	BOD, 5-day, 20 deg. C	Average monthly	10 mg/L	30 mg/L
7/31/2018	BOD, 5-day, 20 deg. C	Max. Daily	20 mg/L	30 mg/L
9/30/2018	Dissolved Oxygen	Instantaneous Min.	6 mg/L	1.48 mg/L
12/31/2018	Nitrogen, ammonia total [as N]	Max. Daily	4 mg/L	5.15 mg/L
2/28/2019	Nitrogen, ammonia total [as N]	Average monthly	8.3 lbs/day	9.53 lbs/day
2/28/2019	Nitrogen, ammonia total [as N]	Max. Daily	16.7 lbs/day	21.3 lbs/day
2/28/2019	Nitrogen, ammonia total [as N]	Average monthly	2 mg/L	6.1 mg/L
2/28/2019	Nitrogen, ammonia total [as N]	Max. Daily	4 mg/L	13.3 mg/L
10/31/2019	Nitrogen, ammonia total [as N]	Average monthly	2 mg/L	4.08 mg/L
11/30/2019	Nitrogen, ammonia total [as N]	Average monthly	2 mg/L	4.97 mg/L
11/30/2019	Nitrogen, ammonia total [as N]	Max. Daily	4 mg/L	9.4 mg/L
11/30/2019	Nitrogen, ammonia total [as N]	Max. Daily	4 mg/L	9.3 mg/L
8/31/2020	Nitrogen, ammonia total [as N]	Average monthly	2 mg/L	13.75 mg/L
8/31/2020	Nitrogen, ammonia total [as N]	Max. Daily	4 mg/L	27.2 mg/L
1/31/2021	Nitrogen, ammonia total [as N]	Average monthly	2 mg/L	7.5 mg/L
1/31/2021	Nitrogen, ammonia total [as N]	Max. Daily	4 mg/L	7.5 mg/L
2/28/2021	BOD, 5-day, 20 deg. C	Average monthly	10 mg/L	27 mg/L
2/28/2021	BOD, 5-day, 20 deg. C	Max. Daily	20 mg/L	27 mg/L
2/28/2021	Nitrogen, ammonia total [as N]	Average monthly	8.3 lbs/day	8.44 lbs/day
2/28/2021	Nitrogen, ammonia total [as N]	Max. Daily	16.7 lbs/day	25.16 lbs/day
2/28/2021	Nitrogen, ammonia total [as N]	Average monthly	2 mg/L	12.69 mg/L
2/28/2021	Nitrogen, ammonia total [as N]	Max. Daily	4 mg/L	37.9 mg/L
10/31/2021	Chloride [as Cl]	Average monthly	179 mg/L	194 mg/L
11/31/2021	Chloride [as Cl]	Average monthly	179 mg/L	292 mg/L
3/31/2022	Nitrogen, ammonia total [as N]	Average monthly	8.3 lbs/day	15.95 lbs/day
3/31/2022	Nitrogen, ammonia total [as N]	Max. Daily	16.7 lbs/day	20.52 lbs/day
3/31/2022	Nitrogen, ammonia total [as N]	Average monthly	2 mg/L	6.55 mg/L

<b>Monitoring Period End Date</b>	<b>Parameter Name</b>	<b>Limit Type</b>	<b>Permit Limit</b>	<b>DMR Value</b>
3/31/2022	Nitrogen, ammonia total [as N]	Max. Daily	4 mg/L	18.8 mg/L
12/31/2022	Nitrogen, ammonia total [as N]	Average monthly	8.3 lbs/day	11.46 lbs/day
12/31/2022	Nitrogen, ammonia total [as N]	Max. Daily	16.7 lbs/day	22.74 lbs/day
12/31/2022	Nitrogen, ammonia total [as N]	Average monthly	2 mg/L	2.95mg/L
12/31/2022	Nitrogen, ammonia total [as N]	Max. Daily	4 mg/L	11.7 mg/L

- 37. Based on the above assertions and allegations, Respondents violated Parts A.001 and A.002 (Discharge Limitations and Monitoring Requirements) of the Permits during the periods set forth in Tables 1 and 2, above.
- 38. Based on the above assertions and allegations, during the above time periods, Respondents failed to comply with the terms and conditions of the Permits and, therefore, violated Section 301 of the CWA, 33 U.S.C. § 1311.

**Count II**  
**Failure to Maintain and Operate Charles Town WWTP**  
**In Accordance with the Permits**

- 39. Appendix A, Part II.1 (Proper Operation and Maintenance) of the 2016 Permit states, in relevant part:
 

“The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also include adequate laboratory controls, and appropriate quality assurance procedures. Unless otherwise required by Federal or State law, this provision requires the operation of back-up auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of the permit.”
- 40. The Inspection Report documented several operation and maintenance issues observed by the Inspector at the Charles Town WWTP during the Inspection, including the following observations:
  - a. Solids and scum were observed floating in Sequential Batch Reactor (SBR) No. 2 during the settling phase. Vegetation was also observed growing out of the SBR No. 2 decant trough.
  - b. Algae was observed growing over the rocks at Outlet No. 001. During the Inspection, the Lead Plant Operator stated the area is cleaned as time allows,



but not on a set frequency.

- c. A valve was broken on Waste Activated Sludge Pit No. 2, and a portable pump had been placed at the location in case solids needed to be transferred out of the pit while the valve was awaiting repair.
  - d. The City's June 2020 renewal and replacement summary includes the following recommended upgrades/replacements at the Charles Town WWTP. A definitive timeline for completion of all projects was not provided at the time of the Inspection.
  - e. Replace the grit removal system due to age (30 years old). The summary also indicates that the compactor was broken. This was not readily apparent at the time of the Inspection, and City representatives did not state the unit was broken during the Inspection.
  - f. Ultraviolet (UV) disinfection system replacement with panel-mounted ballasts. The summary states the UV channel has flooded in the past, causing the ballasts to fail and need replacement as they are close to the water surface. Based upon a review of the effluent discharge monitoring data, EPA has determined that, during July 2020, there was a single fecal coliform exceedance and during 2017 there were two (2) fecal coliform exceedances reported in accordance with the Permits. Therefore, during the five (5) years prior to the Inspection, there have been a total of three (3) fecal coliform effluent discharge exceedances reported at the Charles Town WWTP.
41. Based on the above assertions and allegations, Respondents violated requirements set forth at Appendix A, Part II.1 (Proper Operation and Maintenance) of the 2016 Permit on at least August 10, 2021, at the Charles Town WWTP.
42. Based on the above assertions and allegations, on at least August 10, 2021, at the Charles Town WWTP, Respondents failed to comply with the terms and conditions of the Permits and, therefore, violated Section 301 of the CWA, 33 U.S.C. § 1311.

## **V. COMPLIANCE ORDER**

Therefore, Respondents are hereby, jointly and severally, ORDERED, pursuant to Section 309(a) of the CWA, 33U.S.C. § 1319(a), to conduct, and consents to conduct, the following activities:

43. AOC Deadlines List and Schedule: No later than thirty (30) calendar days from the Effective Date, Respondents shall submit to EPA for review a list and schedule reflecting each deadline set forth in this AOC. The list shall be submitted in an electronic format which is accessible for purposes of editing and revision (e.g., unlocked spreadsheet or similar format agreed to by the Parties). In the event that the Parties agree to a modification of any deadline set forth in this AOC, within 30 calendar days of any such written agreement, Respondents shall provide an updated list and schedule of deadlines, which includes any such modification.
44. Charles Town WWTP and Tuscowilla WWTP Operators' Certifications: Within thirty (30) calendar days of the Effective Date and on an annual basis thereafter, Respondents shall submit independent and separate Certification of Certified WWTP Operator(s)

- for the Charles Town WWTP (Charles Town WWTP Operator Certification) and the Tuscowilla WWTP (Tuscowilla WWTP Operator Certification) to EPA. Each such WWTP Operator Certification shall certify that: a) Respondents have retained the services of at least one certified operator, who has been granted the authority to make process control decisions at such Facility, b) such certified operator is Board-certified with a valid certificate with the appropriate class and subclassifications required pursuant to Section C (Other Requirements) of the 2022 Permit, including any modification thereof, or any WVDEP issued revised version of NPDES Discharge Permit No. WV0022349, and c) Respondents have made arrangements to ensure oversight of the Facility by such certified operator(s) at all times. Respondents shall include a copy of each certified sewage treatment plant operator's certificate as an attachment to each Certification of Certified WWTP Operator(s) for each WWTP.
45. Within thirty (30) calendar days of the Effective Date of this AOC, Respondents shall provide to EPA a written certification that the following work has been completed at the Charles Town WWTP:
- a. Survey and establish control of the Charles Town WWTP construction site;
  - b. Complete work on the sludge day tank and building demolition;
  - c. Perform test pitting at the Digester area;
  - d. Complete digester blower building demolition; and,
  - e. Complete underground piping demolition.
46. Within sixty (60) calendar days of the Effective Date of this AOC, Respondents shall provide to EPA a written certification, including current photographic documentation with accompanying individual image narrative description, that the following work has been completed at the Charles Town WWTP:
- a. Install new yard piping;
  - b. Building earthwork and concrete pad preparation;
  - c. Install pour blower pad;
  - d. Fiber-reinforced plastics shelter installation; and,
  - e. Install duct banks to protect electrical and data cables.
47. Within sixty (60) days of the Effective Date of the AOC, Respondents shall provide to EPA for review an Initial Proposed Corrective Action Plan (CAP), which meets the requirements set forth in this AOC. The Initial Proposed CAP shall include, at a minimum, plans and schedules for implementing corrective actions at the Charles Town WWTP to address the work described in Paragraph 48 (Scope of CAP), below.
48. Scope of CAP: Respondents shall ensure that any CAP submitted to EPA for review includes a detailed description of necessary tasks and detailed schedules documenting plans for: i) ordering and acquiring all necessary materials and ii) completing the work encompassed within the following general work categories at the Charles Town WWTP within the following time periods. The following listings are intended as

guidelines for purposes of categorizing various categories of work.

- a. Phase I: The CAP shall provide a detailed plan and schedule for undertaking, and as required completing, the work encompassed within the following general work categories no later than the last business day of the first full calendar quarter following the Effective Date:
  - i. Headworks Building Demolition Work
    - Demolish existing screen and washer compactor.
    - Demolish existing grit system.
    - Demolish influent pumps, valves and related instrumentation.
  - ii. Electrical Building Work
    - Continue Electrical Building construction, including installation of walls, doors, roof, Heating, Ventilation, and, Air Conditioning System (HVAC System), lighting, plumbing (as necessary) and related finishes.
    - Initiate work for relocating existing electrical equipment and installing new electrical equipment.
  - iii. Sludge Holding Tank and Sludge Building Demolition and New Sludge Handling Building Construction and Equipment Installation Work
    - Complete work related to demolishing the existing Sludge Holding Tank and the Sludge Building (Existing Sludge Handling Building).
    - Continue New Sludge Handling Building construction, including finish pouring foundation, floor slabs, walls and roof.
    - Begin concrete masonry unit (CMU) block wall installation.
  - iv. Fiberglass Reinforced Plastic (FRP) Shelter (FRP Shelter) Work
    - Complete underground electrical component/conduit installation
    - Complete installation of concrete pad.
    - Complete installation of FRP Shelter structure, including and not limited to, flooring, walls, roof, doors and windows (if any).
  - v. Equipment Replacement Work
    - Complete installation of new grit removal system, including completion of startup related tasks.
    - 
    - Initiate modifications to aeration portion of aerobic digester system, including installation of all structural work and installation of new equipment.
  - vi. Miscellaneous Phase 1 Work
    - Initiate and complete construction of Temporary Headworks Bypass System, including all start-up tasks.
    - Initiate and complete demolition of Existing Headworks System.
    - Complete installation of New Headworks System, including

- complete installation of all mechanical components, new headworks screen and washer compactor, including completion of startup related tasks.
  - Clean Sequencing Batch Reactor (SBR) basins and complete installation of new instrumentation.
  - Complete installation of new influent meter vault and piping
  - Continue installation of underground duct bank(s) (one or more underground reinforced concrete or metal container(s) used for laying utility lines, such as electric and telecommunication cables).
  - Initiate and complete installation of new wiring and controls to new screen, grit system and influent pumps.
  - Initiate digester aeration system modifications, including electrical modification tasks.
  - vii. Schedule for ordering and acquiring all new equipment necessary for the completions of work described Phases I-V of the CAP.
- b. Phase II: The CAP shall provide a detailed plan and schedule for undertaking, and as required, completing, the work encompassed within the following general work categories no later than the last business day of the second full calendar quarter following the Effective Date:
- i. Piping, Electrical and Ultraviolet (UV) Systems Demolition and Replacement Work
    - Initiate and complete demolition of existing UV system (UV System).
    - Complete UV System demolition work relating to existing piping and electrical equipment, as necessary to accommodate new piping and electrical equipment.
    - Complete installation of new UV System, including electrical and startup tasks.
  - ii. Electrical Building Work
    - Complete Electrical Building construction, including installation of walls, doors, roof, HVAC System, lighting, plumbing (as necessary) and related finishes and start-up tasks.
    - Initiate installation of new electrical equipment, in coordination with delivery of such equipment, including low and high voltage panels, transformer, motor control center, switchboard, circuit breakers, automatic transfer switch, blower surge panels, SBR panel and remote Input and Output (I/O) panel.
  - iii. New Sludge Handling Building Construction and Equipment Installation Work
    - Complete centrifuge building construction tasks, including completion of CMU block walls, installation of structural steel and roof installation.

- Initiate installation planning (a.k.a. rough-in tasks) for building plumbing, mechanical and electrical lines.
- Initiate installation of new doors, windows, lighting installation and HVAC System installation.
- iv. FRP Shelter Work
  - Initiate installation of electrical equipment, in coordination with delivery of such equipment, including panelboards, transformer, variable frequency drives, motor starters and disconnects and remote I/O panel.
- v. Equipment Replacement Work
  - Complete installation of new influent pumps, including installation of level control system, piping and valves.
  - Complete installation of new influent meter valve vault and installation of influent meter, including all start-up tasks.
- vi. Phase II Miscellaneous Work
  - Complete modifications/upgrades to aeration portion of aerobic digester system equipment, including electrical modification tasks and startup of equipment tasks.
  - Complete installation of underground duct bank(s), necessary for operation of UV system, and continue installation of remaining underground duct bank(s).
- c. Phase III: The CAP shall provide a detailed plan and schedule for undertaking, and, as required, completing, the work encompassed within the following general work categories no later than the last business day of the third full calendar quarter following the Effective Date:
  - i. Sludge Transfer Building Piping Demolition Work
    - Complete piping demolition work within the Sludge Transfer Building.
  - ii. Electrical Building Work
    - Continue installation of new electrical equipment within the Electrical Building, including, and not limited to, low and high voltage panels, transformer, motor control center, switchboard, circuit breakers, automatic transfer switch, blower surge panels, SBR control panel and related instrumentation and remote I/O panel.
  - iii. New Sludge Handling Building Construction and Equipment Installation Work.
    - Complete Sludge Handling Building construction work, including, and not limited to, plumbing, mechanical lines, electrical lines, windows, doors, finishes, HVAC installation, lighting installation and related start-up tasks.
    - Complete installation of new maintenance crane and monorail

- system.
  - Complete installation of electrical, power and control for any centrifuge related equipment.
  - Complete installation of new sludge handling equipment, including startup tasks, of new centrifuge, pump, grinder, polymer feed system, and conveyor.
- iv. FRP Shelter Work
  - Continue installation, including startup tasks, of electrical equipment including panelboards, transformer, variable frequency drives, motor starters and disconnects and remote I/O panel.
- v. Equipment Replacement Work
  - Complete installation, including startup tasks, of new sludge transfer pump flow meter and valves.
- vi. Phase III Miscellaneous Work
  - Complete installation of all underground duct banks, including all necessary piping and wiring tasks.
- d. Phase IV: The CAP shall provide a detailed plan and schedule for undertaking, and as required, completing, the following general work no later than the last business day of the fourth full calendar quarter following the Effective Date:
  - i. Demolition Work
    - Complete demolition of Waste Activated Sludge (WAS) vault.
  - ii. Electrical Building Work
    - Continue installation of new electrical equipment within the Electrical Building, including, and not limited to, low and high voltage panels, transformer, motor control center, switchboard, circuit breakers, automatic transfer switch, blower surge panels, SBR control panel and related instrumentation and remote I/O panel.
  - iii. FRP Shelter Work
    - Continue installation of electrical equipment, including panel boards, transformer, variable frequency drives, motor starters and disconnects and remote I/O panel.
  - iv. Equipment Replacement Work
    - Initiate and complete installation of a new emergency generator, including startup tasks.
    - Complete new WAS vault construction, including installation and startup of electrical components.
  - v. Phase IV Miscellaneous Work
    - Initiate and complete installation of Drain Pump Station Bypass System, including startup tasks.
    - Complete a Supervisory Control and Data Acquisition System

(SCADA System) analysis of: a) all upgrades to the SCADA system, and categorize such upgrades as either appropriate upgrades or necessary upgrades, and b) options for replacement of the SCADA System (SCADA System Upgrades or Replacement Analysis) .

- e. Phase V: The CAP shall provide a detailed plan and schedule for undertaking, and, as required, completing, the following general work no later than the last business day of the fifth full calendar quarter following the Effective Date:
- i. Emergency Generator Demolition Work
    - Initiate and complete demolition of previously used emergency generator.
    - Complete all remaining demolition work at the Charles Town WWTP.
  - ii. Electrical Building Work
    - Complete installation of all remaining electrical equipment.
    - Complete any additional Electrical Building work necessary to ensure practical useability of the building and the equipment in such building.
  - iii. New Sludge Handling Building Construction and Equipment Installation Work.
    - Complete tasks necessary to connect monitoring equipment in the Sludge Handling Building with the main SCADA system.
    - Complete any additional Sludge Handling Building and sludge handling equipment work necessary to ensure practical useability of the building and the equipment in such building.
  - iv. FRP Shelter Work
    - Complete installation of any and all electrical components, including panelboards, transformer, variable frequency drives, motor starters and disconnects, remote I/O panel and all related start-up tasks.
    - Complete any additional FRP Shelter Building work necessary to ensure practical useability of the building and the equipment in such building.
  - v. Equipment Replacement
    - Complete installation of new waste activated sludge meter and valve vault.
    - Complete installation of new emergency generator
    - Initiate and complete installation, including startup tasks, of all pumps intended to be part of the new Plant Drain Pump Station
  - vi. Phase V Miscellaneous Work
    - Initiate tasks to implement the selected upgrades or replacement work set forth in the SCADA System Upgrades or Replacement Analysis.

- Complete Final Exterior Grounds Sitework, including, and not limited to, pavement restoration, grading, sidewalks, bollards and seeding/planting work.
  - Complete all remaining tasks necessary to achieve substantial completion of all Charles Town WWTP construction and demolition work, including all demobilization activities.
- f. Phase VI: The CAP shall provide a detailed plan and schedule for undertaking, and as required, completing, the following general work no later than the last business day of the sixth full calendar quarter following the Effective Date:
- i. Final Charles Town WWTP Miscellaneous Work
    - Complete debugging of plant, including addressing any issues with SCADA System operation, reports, data collection and analysis, alarms and programming for data collection and analysis.
    - Complete training related to Charles Town WWTP operations, including SCADA system operations.
    - Complete Charles Town WWTP construction work, including, and not limited to, site restoration, Erosion and Sediment (E&S) control removal, final cleaning, and related punch list items.

49. Respondents Proposed CAP Review and Approval Procedures

- a. EPA will review the Initial Proposed CAP. Subsequent to EPA's review of the Initial Proposed CAP, EPA shall either: i) make a determination of completeness, based on the requirements of this AOC, and provide Respondents with a written notification of such determination (Notification of Initial CAP Completeness) or ii) make a determination of deficiency and provide Respondents with a written notification of any such deficiencies (Notification of Initial Proposed CAP Deficiencies).
- b. In the event that EPA issues a Notification of Initial CAP Completeness, the Initial Proposed CAP shall be deemed the EPA Approved CAP for purposes of this AOC.
- c. In the event that EPA issues a Notification of Initial Proposed CAP Deficiencies, within forty-five (45) calendar days of Respondents' receipt of such notification, or within such alternative time period as the Parties agree to in writing, Respondents shall resubmit a revised CAP (Revised Proposed CAP), which addresses and corrects any identified deficiencies.
- d. Subsequent to EPA's review of any Revised Proposed CAP, EPA shall: i) make a determination of completeness, based on the requirements of this AOC, and provide Respondents with a written notification of such determination (Notification of Revised Proposed CAP Completeness), ii) make a determination of deficiency and provide Respondents with a written notification of any such deficiencies (Notification of Revised Proposed CAP Deficiencies) or iii) revise such Revised Proposed CAP and correct any deficiencies and notify Respondents, to take all actions required by such EPA



- revised resubmission (EPA Revised CAP).
- e. In the event that EPA issues a Notification of Revised Proposed CAP Completeness, the CAP subject to EPA's review and notification shall be deemed the EPA Approved CAP for purposes of this AOC.
  - f. In the event that EPA issues a Notification of Revised Proposed CAP Deficiencies, within thirty (30) calendar days of Respondents' receipt of such notification, or within such alternative time period as the Parties agree to in writing, Respondents shall submit a subsequent revised CAP, which addresses and corrects any EPA identified deficiencies.
  - g. Any request for any revision to the EPA Approved CAP, including any schedule for implementing any work required by this AOC, shall be subject to EPA review and approval. EPA may, in its unreviewable discretion, review, consider or reply to any request by Respondents to revise an EPA Approved CAP. In the event that EPA, in writing, approves any revision to a previously EPA approved CAP, such revised EPA Approved CAP shall be deemed the EPA Approved CAP for purposes of this AOC.
50. Subsequent to Respondents' receipt of a Notification of Initial CAP Completeness, Notification of Revised Proposed CAP Completeness or EPA Revised CAP, Respondents shall implement such EPA Approved CAP or EPA Revised CAP fully and completely.
51. Any EPA Approved CAP or EPA Revised CAP, including any EPA approved modifications thereto, shall be deemed incorporated into this AOC.
52. Respondents shall ensure that each corrective action identified in any EPA Approved CAP or EPA Revised CAP, including any EPA approved modifications thereto, shall be completed no later than thirty-six (36) calendar months following the Effective Date of this AOC. This paragraph is subject to Section IX (AOC Modification), set forth below.
53. No later than thirty (30) calendar days of completing all work identified in and required by the EPA Approved CAP or EPA Revised CAP, including any EPA approved modifications thereto, Respondents shall submit to EPA a written CAP Implementation Completion Notification (CAP Implementation Completion Notification).
54. Charles Town WWTP Post-CAP Implementation Preventative Maintenance and Corrective Action (Charles Town PM and CA)
- a. Beginning with the first full calendar month after Respondents submit to EPA a written CAP Implementation Completion Notification, Respondents shall, on a monthly basis, review all data relating to discharges from Outfall 001 and 002, including any data set forth in the most recent monthly DMR submitted to WVDEP or EPA (Monthly Charles Town WWTP Discharge Data Review), in accordance with the 2022 Permit, including any modification thereof, or any WVDEP issued revised version of NPDES Discharge Permit No. WV0022349.

- b. Within five (5) business days of each Monthly Charles Town WWTP Discharge Data Review, Respondents shall prepare a written Preventative Maintenance and Corrective Action Plan (Monthly Charles Town WWTP PM and CA Plan) clearly describing any preventative maintenance and corrective action appropriate and necessary to address any noncompliance with the effluent discharge limitations set forth in Section A.002 (Discharge Limitations and Monitoring Requirements) of the 2022 Permit, including any modification thereof, or any WVDEP issued revised version of NPDES Discharge Permit No. WV0022349.
  - c. Beginning with the first full calendar month after the Effective Date, Respondents shall, on a monthly basis, undertake any preventative maintenance or corrective action work as necessary to prevent any discharge of effluent in violation of Section A.001 (Discharge Limitations and Monitoring Requirements) of the 2022 Permit, including any modification thereof, or any WVDEP issued revised version of NPDES Discharge Permit No. WV0022349.
  - d. Beginning with the first full calendar month after the Effective Date, Respondents shall, on a monthly basis, document any and all preventative maintenance or corrective action work initiated, undertaken or completed with the goal of preventing any discharge of effluent in violation of Section A.002 (Discharge Limitations and Monitoring Requirements) of the 2022 Permit, including any modification thereof, or any WVDEP issued revised version of NPDES Discharge Permit No. WV0022349 (Monthly Charles Town WWTP PM and CA Log).
55. Tuscawilla WWTP Preventative Maintenance and Corrective Action (Tuscawilla WWTP PM and CA)
- a. Beginning with the first full calendar month after the Effective Date, Respondents shall, on a monthly basis, review all data relating to discharges from Outfall 002, including any data set forth in the most recent monthly DMR submitted to WVDEP or EPA (Monthly Tuscawilla WWTP Discharge Data Review), in accordance with the 2022 Permit, including any modification thereof, or any WVDEP issued revised version of NPDES Discharge Permit No. WV0022349.
  - b. Within five (5) business days of each Monthly Tuscawilla WWTP Discharge Data Review, Respondents shall prepare a written Preventative Maintenance and Corrective Action Plan (Monthly Tuscawilla WWTP Preventative Maintenance and Corrective Action Plan) clearly describing any preventative maintenance and corrective action appropriate and necessary to address any discharge monitoring data which documented noncompliance with the effluent discharge limitations set forth in Section A.002 (Discharge Limitations and Monitoring Requirements) of the 2022 Permit, including any modification thereof, or any WVDEP issued revised version of NPDES Discharge Permit No. WV0022349.
  - c. Beginning with the first full calendar month after the Effective Date, Respondents shall, on a monthly basis, undertake any preventative maintenance

or corrective action work as necessary to prevent any discharge of effluent in violation of Section A.002 (Discharge Limitations and Monitoring Requirements) of the 2022 Permit, including any modification thereof, or any WVDEP issued revised version of NPDES Discharge Permit No. WV0022349.

- d. Beginning with the first full calendar month after the Effective Date, Respondents shall, on a monthly basis, document any and all preventative maintenance or corrective action work initiated, undertaken or completed with the goal of preventing any discharge of effluent in violation of Section A.002 (Discharge Limitations and Monitoring Requirements) of the 2022 Permit, including any modification thereof, or any WVDEP issued revised version of NPDES Discharge Permit No. WV0022349, (Monthly Tuscawilla WWTP Preventative Maintenance and Corrective Action Log).
56. Subsequent to EPA approval of any plan, schedule or other document required to be submitted to EPA, pursuant to the Section V (Compliance Order) of this AOC, or otherwise submitted pursuant to this AOC, Respondents may request to revise such previously EPA-approved document. EPA may, in its unreviewable discretion, review, consider or reply to any request by Respondents for EPA's review of any revision to any plan, schedule or other document previously approved by EPA related to this AOC. In the event that EPA approves any revision to any such previously EPA-approved document, such EPA Approved revised document shall be deemed the EPA Approved document for purposes of this AOC.

## **VI. PROGRESS REPORTS**

57. Respondents shall submit a written status report (Quarterly Status Report) to EPA no later than thirty (30) calendar days after the end of each calendar year quarter as long as this AOC is in effect. Such Quarterly Status Reports shall be submitted in addition to any other reporting or certification required under this Agreement or pursuant to law, regulation, or the 2022 Permit. Each Quarterly Status Report shall state and describe:
- a. progress made with respect to compliance with the tasks described in Section V (Compliance Order) of this AOC, including any work completed in accordance with any EPA Approved CAP and any preventative maintenance or corrective action work initiated, undertaken or completed and described on any Monthly Charles Town WWTP PM and CA Log or any Monthly Tuscawilla WWTP PM and CA Log;
  - b. any additional deadlines and other milestones which Respondents were required to meet during the reporting period;
  - c. the progress Respondents have made toward meeting such deadlines or milestones;
  - d. the reasons, including a description of any causes, for any noncompliance with this AOC, including any EPA Approved CAP; and,
  - e. a description of any matters relevant to the status of Respondents' compliance with this AOC.

58. Notification to EPA of any noncompliance with any provision of this AOC or anticipated delay in performing any obligation under this AOC shall not excuse Respondents' noncompliance or delay.

**VII. EXTENSION OF TIME REQUEST BASED ON  
FORCE MAJEURE EVENT**

59. "Force Majeure Event", for purposes of this AOC, is defined as any event arising from causes beyond the control of either Respondent, of any entity controlled by any Respondent subject to this AOC or any contractor of such Respondent(s), that delays or prevents the performance of any obligation under this AOC subsequent to such Respondent(s) exercising best efforts to fulfill the obligation(s) at issue. The requirement that any Respondent, subject to this AOC, exercise "best efforts to fulfill the obligation(s)" includes using best efforts to anticipate any Force Majeure Event and best efforts to address the effects of any such event: (a) as it is occurring and (b) after it has occurred, to prevent or minimize any resulting delay. Unanticipated or increased costs or expenses associated with the performance of any Respondent's obligations under this AOC or any Respondent's financial inability to perform any obligation under this AOC shall not constitute circumstances beyond any Respondent's control nor serve as the basis for an extension of time under this AOC.
60. If at any time during the implementation of this AOC, any Force Majeure Event occurs that may delay the completion of any work required pursuant to Section V (Compliance Order) by the applicable deadline, including implementation of an EPA-approved plan or schedule, Respondents shall, within fourteen (14) calendar days of determining that such event may delay the performance of such obligation, jointly provide to EPA a written request for an extension of time to comply with any such obligation (Force Majeure Extension of Time Request). Such Extension of Time Request shall include, at a minimum, the following information for each specific obligation(s) for which an extension of time is sought.
- a. The specific obligation(s) for which an extension of time is sought, including each applicable deadline.
  - b. A detailed explanation and description of the Force Majeure Event at issue and the reasons for the requested extension of time, including all supporting documentation.
  - c. The amount of time for which an extension of time is sought for each such specific obligation.
  - d. A detailed description of all actions taken to prevent or minimize the amount of time for which an extension of time is sought, including a detailed description of each Respondent's best efforts to fulfill the obligation.
  - e. A detailed description, including a schedule for implementation, of all actions to be taken to prevent or mitigate the amount of time for which an extension is sought and the effect of any delay on any other obligation pursuant to this AOC.
  - f. A statement as to whether, in the opinion of each Respondent or the Respondents jointly, the Force Majeure Event at issue may cause or contribute to an endangerment to public health, welfare, or the environment.

- 61. To the extent that EPA approves any Force Majeure Extension of Time Request which affects an obligation set forth in the EPA Approved CAP, which is effective at the time of the Force Majeure Event, then, no later than fourteen (14) calendar days after receipt of such Force Majeure Extension of Time Request approval, Respondents shall, in accordance with the procedures set forth in Section V (Compliance Order, above, submit to EPA a request to revise such EPA Approved CAP and such request shall reflect any such approved extension(s) of time.
- 62. Each Respondent, who is subject to the terms of this AOC, shall be deemed to know of the occurrence of, or reasonable likelihood of an occurrence of, any circumstance or event that may delay the performance of any obligation under this AOC of which such Respondent, any entity controlled by such Respondent, or any contractor of such Respondent knew or reasonably should have known.
- 63. Any Force Majeure Extension of Time Request shall be submitted in accordance with this AOC and EPA may, in its unreviewable discretion, approve or disapprove any Extension of Time Request.
- 64. EPA's approval, including conditional approval, of any Force Majeure Extension of Time Request shall not, by itself, extend the time for performance of any other obligation not explicitly addressed in such approval.
- 65. Failure to comply with the above requirements may preclude any Respondent from asserting any claim of Force Majeure or other related defense for non-compliance with the terms of this AOC for the time period such non-compliance is related to a reportable event.

**VIII. PROCEDURES FOR SUBMISSIONS**

- 66. All documents required to be submitted by this Order and any Request for Termination or any Force Majeure Extension of Time Request shall be accompanied by a certification signed by a responsible officer, as defined in 40 CFR § 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.

Signed \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

67. Respondents may assert a business confidentiality claim covering part or all of the information which this AOC requires it to submit to 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 EPA, the Respondent submitting such information does not assert a confidentiality claim, EPA may make the submitted information available to the public without further notice to either Respondent.
68. Unless otherwise directed in writing, Respondent shall submit any submission or written communication, including any accompanying data, relating to this AOC via email to:

Mr. Steven Maslowski  
NPDES Branch, Enforcement and Compliance Assurance Division  
U.S. EPA, Region III  
Email: [Maslowski.Steven@epa.gov](mailto:Maslowski.Steven@epa.gov)

Any information submitted electronically shall be submitted in a widely recognized electronic format. Either Respondent may submit a submission on behalf of the Respondents jointly.

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

69. No earlier than six (6) calendar months following completion of all items required by the EPA Approved CAP or EPA Revised CAP, including any EPA approved modifications thereto, Respondents shall submit to EPA a Certification of Compliance and Request for Termination of this AOC. Such certification and request shall include:
- a. a certification that Respondents have maintained compliance with this AOC for the term of this AOC; and
  - b. all necessary documentation, including photo documentation as appropriate, to support a finding that Respondents have complied with Section V (Compliance Order) of this AOC.
70. Prior to EPA's approval of any Certification of Compliance and Request for Termination of this AOC, Respondents' submission of any Certification of Compliance and Request for Termination of this AOC shall not relieve either Respondent of any obligation under this AOC and shall have no effect on EPA's statutory or regulatory authority to enforce the terms of this AOC, in its sole and unreviewable discretion.
71. If, following review of any Certification of Compliance and Request for Termination of this AOC, EPA agrees that Respondents have adequately complied with all requirements of this AOC, then EPA may, in its unreviewable discretion, provide written notification of termination of this AOC (AOC Termination Notification).

**X. AOC MODIFICATION**

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

**XI. CHANGE OF OWNERSHIP OR OPERATION OF THE CHARLES TOWN WWTP OR TUSCAWILLA WWTP**

73. Until or unless this AOC is modified or terminated, in accordance with the terms of this AOC, Respondents shall remain, jointly and severally, responsible for compliance with the terms of this AOC following any transfer of ownership or operation of the WWTP.
74. At least ninety (90) days prior to any transfer of ownership or operation of the WWTP, Respondents shall submit a written notification to EPA of any such anticipated change in ownership or operation of the WWTP (Notification of Change of Charles Town or Tuscawilla WWTP Ownership or Operation). Each such Notification of Change of Charles Town or Tuscawilla WWTP Ownership or Operation 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 WWTP and a schedule for such anticipated change.
75. Respondents shall condition any sale or transfer of ownership or operation of the WWTP, 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 WWTP, whereby such Prospective Third Party Purchaser or Transferee agrees to comply with and be bound by the terms of this AOC.

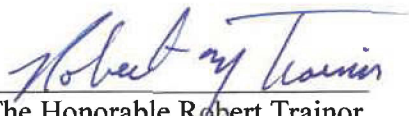
**XII. EFFECTIVE DATE**

76. This AOC will become effective upon the Utility Board Respondent's receipt of a fully executed copy of this AOC (Effective Date).

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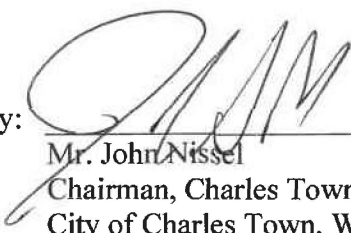
**For the City of Charles Town, WV, the City Respondent:**

Date: 30 Oct 2023

By:   
The Honorable Robert Trainor  
Mayor, City of Charles Town, WV

**For the Charles Town Utility Board, City of Charles Town, WV, the Utility Board Respondent:**

Date: Oct. 3, 2023

By:   
Mr. John Nissel  
Chairman, Charles Town Utility Board,  
City of Charles Town, WV



**SO ORDERED:**

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

By:

\_\_\_\_\_  
*Digitally signed and dated]*  
Karen Melvin, Director  
Enforcement & Compliance Assurance Division  
U.S. Environmental Protection Agency, Region III

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION III**  
**Four Penn Center – 1600 John F. Kennedy Blvd.**  
**Philadelphia, Pennsylvania 19103**

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**In the Matter of:** :  
: :  
City of Charles Town : **U.S. EPA Docket No. CWA-03-2024-0019DN**  
101 E. Washington Street : :  
Charles Town, WV 25414 : **ADMINISTRATIVE ORDER**  
: **ON CONSENT**  
And : **PURSUANT TO 33 U.S.C. § 1319(a)**  
: :  
Charles Town Utility Board : :  
661 S. George Street : :  
Suite 101 : :  
Charles Town, WV 25414 : :  
**Respondents.** : :  
: :  
Charles Town Wastewater Treatment Plant : :  
832 South George Street : :  
Charles Town, WV 25414 : :  
And : :  
Tuscawilla Wastewater Treatment Plant : :  
Baltusrol Drive, : :  
Charles Town, WV 25414 : :  
**Facilities** : :

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**CERTIFICATE OF SERVICE**

I certify that the foregoing Administrative Order on Consent was filed with the EPA Region III 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.

A copy of the Administrative Order on Consent and this Certificate of Service was served via **Overnight Delivery Via UPS, Signature Required** to:

The Honorable Rober Trainor  
Mayor  
City of Charles Town  
101 East Washington Street  
Charles Town, WV 25414

Mr. John Nissel, Chairman  
Charles Town Utility Board  
City of Charles Town  
101 East Washington Street  
Charles Town, WV 25414

TRACKING NUMBER: \_\_\_\_\_

A copy of this Certificate of Service was served via Electronic Transmission to each person listed below:

Kathleen Root, Esq.  
Sr. Assistant Regional Counsel  
Office of Regional Counsel, EPA, Region III  
[root.kathleen@epa.gov](mailto:root.kathleen@epa.gov)

Steven Maslowski  
Environmental Scientist  
Enforcement and Compliance Assurance Division  
EPA, Region III  
[Maslowski.steven@epa.gov](mailto:Maslowski.steven@epa.gov)

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[Digital Signature and Date]  
Regional Hearing Clerk  
Office of Regional Counsel, EPA, Region III