

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
4 Penn Center
Philadelphia, Pennsylvania 19103**

In the Matter of:

Red Hill Utility, LLC
2073 Cypress Drive
Charlottesville, VA 22911

Respondent

Red Hill Utility, LLC
3812 Puddledock Road
Prince George, VA 23875
Latitude/Longitude: 36.807464/-76.304598
Permit No. VA0028258

Facility

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: **U.S. EPA Docket No. CWA-03-2022-0029**
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: **Proceeding under Section 402 of the Clean**
: **Water Act, 33 U.S.C. § 1342**
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CONSENT AGREEMENT

I. PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Division Director of the Enforcement and Compliance Assurance Division (ECAD), U.S. Environmental Protection Agency, Region III (“Complainant”) and Red Hill Utility, LLC (“Respondent”) (collectively the “Parties”), pursuant to Sections 301 and 402 of the Clean Water Act, 33 U.S.C. §§ 1311 and 1342 (“CWA”), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. Part 22. Section 309 of the CWA, 33 U.S.C. §§ 1319, authorizes the Administrator of the U.S. Environmental Protection Agency to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated the authority to enter into agreements concerning administrative penalties to the Complainant. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the “Consent Agreement and Final Order”) resolve Complainant’s civil penalty claims against Respondent under 402 of the CWA, 33 U.S.C. § 1342, for the violations alleged herein.
2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

II. JURISDICTION

3. The U.S. Environmental Protection Agency (“EPA”) has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.
4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(6) in assessing Class I penalties under Sections 309(g).

III. GENERAL PROVISIONS

5. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.
6. Except as provided in Paragraph 5, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
7. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this Consent Agreement and Final Order.
8. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in **this Consent Agreement and Final Order** and waives its right to appeal the accompanying Final Order.
9. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
10. Respondent shall bear its own costs and attorney’s fees in connection with this proceeding.
11. Pursuant to Section 309(g)(4)(A) of the Act, 33 U.S.C. § 1319(g)(4)(A), and 40 C.F.R. § 22.45(b), EPA is providing public notice and an opportunity to comment on the Consent Agreement prior to issuing the Final Order

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

12. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.
13. 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.

14. Pursuant to Section 402(b) of the Act, 33 U.S.C. § 1342(b), EPA authorized the Commonwealth of Virginia NPDES program on March 31, 1975. VDEQ was authorized to issue general NPDES permits on May 20, 1991. Pursuant to Section 402(b) of the Act, 33 U.S.C. § 1342(b), VDEQ is authorized to administer the NPDES program in the Commonwealth of Virginia.
15. Pursuant to Section 402(i) of the CWA, 33 U.S.C. § 1342(i), EPA retains its authority to take enforcement action within Virginia for NPDES permit violations.
16. As a Limited Liability Company (“LLC”), Respondent is a “person” within the meaning of Section 502(5) of the Act, 33 U.S.C. § 1362(5).
17. 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.
18. “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).
19. Respondent owns and operates the Red Hill Utility, LLC Wastewater Treatment Plant (“WWTP” or “Facility”), a privately owned wastewater treatment plant located at 3812 Puddledock Road, Prince George, VA. The WWTP discharges treated domestic wastewater with outfalls to Harrison Branch, a tributary to the James River.
20. At all times relevant to this Consent Agreement and Final Order, Respondent’s operation of the WWTP has been subject to NPDES Discharge Permit No. VA0028258 (“WWTP Permit”), issued by VDEQ, effective April 1, 2015, and which expired March 31, 2020. On January 5, 2021, VDEQ renewed the WWTP Permit. The renewed WWTP Permit became effective on February 1, 2021 and will expire January 31, 2026. The renewed WWTP Permit generally incorporated the same effluent limits as the old permit with some minor modifications.
21. Respondent is authorized to discharge pollutants, in the form of wastewater from the WWTP, to waters of the United States in accordance with the terms and conditions of its WWTP Permit.
22. Harrison Branch is a tributary to the James River in Prince George, Virginia. Both Harrison Branch and the James River are “waters of the United States” within the meaning of Section 502(7) of the Act, 33 U.S.C. § 1362(7).

23. At all times relevant to this Consent Order and Final Agreement, the WWTP discharged wastewater into Harrison Branch through a “point source” as that term is defined at Section 502(14) of the Act, 33 U.S.C. § 1362(14).
24. On August 31, 2020, Respondent submitted a response to an EPA Information Requirement Letter (“IRL”).
25. On September 25, 2020, representatives of EPA inspected the WWTP for purposes of determining compliance with the WWTP Permit (“Site Inspection”).
26. On November 16, 2020, EPA sent Respondent a copy of its Site Inspection report (“EPA Inspection Report”) identifying the following violations of the WWTP Permit and the CWA as described below.

Count I
Discharging without a valid permit

27. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
28. Part I.A.1 of the WWTP Permit states, “During the period beginning with the permit’s effective date and lasting until the permit’s expiration date, the permittee is authorized to discharge from Outfall number 001.”
29. According to VDEQ, Respondent submitted an incomplete WWTP Permit renewal application dated September 27, 2019, which lacked adequate financial assurance, a requirement of Part I.C.5 of the permit. Respondent submitted additional information on or about October 2019. While VDEQ and Respondent continued to work together to satisfy the requirements that would lead to valid permit coverage, due to Respondent’s inability to satisfy certain administrative requirements of the permit application, the WWTP Permit lapsed and was not administratively extended. VDEQ approved Respondent’s closure plan and financial capability demonstrations on November 12, 2020. Thereafter, on January 5, 2021, VDEQ renewed the WWTP Permit which became effective on February 1, 2021 and which will expire January 31, 2026.
30. Respondent alleges during the period of time between the expiration and renewal of the WWTP Permit, Respondent continued to treat the wastewater coming into the Facility, monitor effluent, and otherwise endeavored to comply with the requirements of the expired WWTP Permit.
31. The WWTP Permit expired on March 31, 2020 and was not renewed until January 5, 2021. Thus, the Facility was discharging from Outfall number 001 to the receiving water without a valid WWTP Permit for a period of 10 months.

- 32. Based on the above assertions and allegations, EPA concludes that Respondent violated Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342, by discharging from Outfall number 001 without a permit from April 1, 2020 to January 31, 2021.
- 33. In failing to comply with Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342, Respondent is subject to the assessment of penalties under Section 309 of the CWA, 33 U.S.C. §1319.

Count II
Effluent Exceedances/Reporting Violations

- 34. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
- 35. Part I.A.1 of the WWTP Permit defines effluent limitations and monitoring requirements for Outfall 001 discharges.
- 36. During the period from December 31, 2016, to March 31, 2020, the Facility experienced 35 effluent limit exceedances from Outfall 001 which it reported in its DMRs, and, according to Respondent’s IRL response submitted August 31, 2020, the additional effluent exceedance violations set forth in Table 1, which occurred between the periods of July 2018 and January 2019, that were not reported in the Discharge Monitoring Report (DMRs).
- 37. Red Hill did not submit DMRs in May, June, July, August, September, October, November, December 2018, and January 2019. Table 1, below, lists potential violations not identified in the DMRs while Table 2 lists the DMR-reported exceedances from December 2016 through March 29, 2022. Both are for Outfall 001.

Table 1. Effluent Limit Exceedance Violations Identified in the Response to CWA Information Requirement that Were Not Reported in DMRs

Permit #	Monitoring Period End Date	Parameter Name	Lab Result	Permit Limit	Units	Limit Type
VA0028258	7/31/2018	E. coli	>2419.6	126	mg/L	Monthly Average
VA0028258	8/31/2018	E. coli	No value given	126	mg/L	Monthly Average
VA0028258	10/31/2018	E. coli	No value given	126	mg/L	Monthly Average
VA0028258	12/31/2018	E. coli	No value given	126	mg/L	Monthly Average
VA0028258	12/31/2018	BOD, [5-day, 20 C]	No value given	At least 85% removal	%	Monthly Average

Permit #	Monitoring Period End Date	Parameter Name	Lab Result	Permit Limit	Units	Limit Type
VA0028258	12/31/2018	Carbonaceous Biochemical Oxygen Demand (cBOD5)	No value given	16	mg/L	Monthly Average
VA0028258	12/31/2018	Carbonaceous Biochemical Oxygen Demand (cBOD5)	No value given	24	mg/L	Weekly Average
VA0028258	12/31/2018	Solids, total suspended	No value given	30	mg/L	Monthly Average
VA0028258	12/31/2018	Solids, total suspended	No value given	45	mg/L	Weekly Average
VA0028258	12/31/2018	E. coli	No value given	126	mg/L	Monthly Average
VA0028258	1/31/2019	BOD, carbonaceous [5-day, 20 C	No value given	16	mg/L	Monthly Average
VA0028258	1/31/2019	Carbonaceous Biochemical Oxygen Demand (cBOD5)	No value given	At least 85% removal	%	Monthly Average
VA0028258	1/31/2019	Carbonaceous Biochemical Oxygen Demand (cBOD5)	No value given	24	mg/L	Weekly Average
VA0028258	1/31/2019	Solids, total suspended	No value given	30	mg/L	Monthly Average
VA0028258	1/31/2019	Solids, total suspended	No value given	45	mg/L	Weekly Average

Table 2. Outfall 001 DMR Reported Effluent Exceedances

Permit #	Monitoring Period End Date	Parameter Name	DMR Value	Permit Limit	Units	Limit Type
VA0028258	12/31/2016	Nitrogen, ammonia total [as N]	7.06	3.23	mg/L	Monthly Average
VA0028258	12/31/2016	Nitrogen, ammonia total [as N]	7.06	3.23	mg/L	Weekly Average
VA0028258	04/30/2018	Solids, total suspended	68	30	mg/L	Monthly Average
VA0028258	04/30/2018	Solids, total suspended	68	45	mg/L	Weekly Average
VA0028258	4/30/2018	Solids, total suspended	12,274	6,600	Kg/d	Weekly Average
VA0028258	04/30/2018	Nitrogen, ammonia total [as N]	14	3.23	mg/L	Monthly Average
VA0028258	04/30/2018	Nitrogen, ammonia total [as N]	14	3.23	mg/L	Weekly Average
VA0028258	02/28/2019	pH	9.9	9	--	Daily Max
VA0028258	02/28/2019	Solids, total suspended	48	30	mg/L	Monthly Average
VA0028258	02/28/2019	Solids, total suspended	48	45	mg/L	Weekly Average
VA0028258	02/28/2019	BOD, carbonaceous [5-day, 20 C]	27	16	mg/L	Monthly Average
VA0028258	02/28/2019	BOD, carbonaceous [5-day, 20 C]	27	24	mg/L	Weekly Average
VA0028258	2/28/2019	CL2	0.0	0.60	mg/L	Instantaneous
VA0028258	03/31/2019	Solids, total suspended	86	30	mg/L	Monthly Average
VA0028258	03/31/2019	Solids, total suspended	86	45	mg/L	Weekly Average
VA0028258	03/31/2019	Nitrogen, ammonia total [as N]	16.9	3.23	mg/L	Weekly Average

Permit #	Monitoring Period End Date	Parameter Name	DMR Value	Permit Limit	Units	Limit Type
VA0028258	03/31/2019	Nitrogen, ammonia total [as N]	16.9	3.23	mg/L	Monthly Average
VA0028258	03/31/2019	BOD, carbonaceous [5-day, 20 C]	28	16	mg/L	Monthly Average
VA0028258	03/31/2019	BOD, carbonaceous [5-day, 20 C]	28	24	mg/L	Weekly Average
VA0028258	07/31/2019	pH	9.2	9	--	Daily Max
VA0028258	08/31/2019	pH	5.9	6	--	Daily Min
VA0028258	08/31/2019	pH	13.4	9	--	Daily Max
VA0028258	10/31/2019	Oxygen, dissolved [DO]	4.4	5	mg/L	Minimum
VA0028258	12/31/2019	Nitrogen, ammonia total [as N]	34.1	3.23	mg/L	Monthly Average
VA0028258	12/31/2019	Nitrogen, ammonia total [as N]	34.5	3.23	mg/L	Weekly Average
VA0028258	12/31/2019	BOD, carbonaceous [5-day, 20 C]	19	16	mg/L	Monthly Average
VA0028258	02/29/2020	Solids, total suspended	51	45	mg/L	Weekly Average
VA0028258	02/29/2020	Solids, total suspended	51	30	mg/L	Monthly Average
VA0028258	02/29/2020	Nitrogen, ammonia total [as N]	8.62	3.23	mg/L	Monthly Average
VA0028258	02/29/2020	Nitrogen, ammonia total [as N]	8.62	3.23	mg/L	Weekly Average
VA0028258	02/29/2020	E. coli	>323	126	mg/L	Monthly Average
VA0028258	02/29/2020	BOD, carbonaceous [5-day, 20 C]	83	16	mg/L	Monthly Average
VA0028258	02/29/2020	BOD, carbonaceous	83	24	mg/L	Weekly Average

Permit #	Monitoring Period End Date	Parameter Name	DMR Value	Permit Limit	Units	Limit Type
		[5-day, 20 C]				
VA0028258	03/31/2020	Nitrogen, ammonia total [as N]	27.9	3.23	mg/L	Monthly Average
VA0028258	03/31/2020	Nitrogen, ammonia total [as N]	33	3.23	mg/L	Weekly Average
VA0028258	03/31/2020	BOD, carbonaceous [5-day, 20 C]	20	16	mg/L	Monthly Average
VA0028258	04/30/2020	BOD, carbonaceous [5-day, 20 C]	39	16	mg/L	Monthly Average
VA0028258	04/30/2020	BOD, carbonaceous [5-day, 20 C]	39	24	mg/L	Weekly Average
VA0028258	02/28/2021	Nitrogen Ammonia total [as N]	8.19	3.23	mg/L	Monthly Average
VA0028258	02/28/2021	Nitrogen, ammonia total [as N]	8.19	3.23	mg/L	Weekly Average
VA0028258	11/30/2021	Nitrogen, ammonia total [as N]	3.81	3.23	mg/L	Monthly Average
VA0028258	11/30/2021	Nitrogen, ammonia total [as N]	3.81	3.23	mg/L	Weekly Average

38. VDEQ issued nine Notices of Violation (NOV) Letters and one Order by Consent to the Respondent between August 2016 and August 2020 for deficiencies observed during inspections, DMR reporting errors, and effluent exceedances. In response, Respondent prepared a feasibility study to address issues of noncompliance, including upgrades and retrofits of the existing WWTP.
39. Based on the above assertions and allegations, EPA concludes that Respondent failed to comply with Part I.A.1. of its WWTP Permit in violation of its NPDES permit in violation of Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342 on the dates identified above.

40. In failing to comply with Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342, Respondent is subject to the assessment of penalties under Section 309 of the CWA, 33 U.S.C. §1319.

Count 3
Unauthorized Discharge of Solids from the Outfall

41. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
42. Part I.A.2 of the WWTP Permit states, "There shall be no discharge of floating solids or visible foam in other than trace amounts."
43. Part II.F of the WWTP Permit states, "Except in compliance with this permit, or another permit issued by VDEQ, it shall be unlawful for any person to discharge waste and other deleterious substances or otherwise alter waters of the state or make them detrimental to public, animal or aquatic health, among other things.
44. At five different inspections by VDEQ on April 4, 2018, June 19, 2018, July 24, 2018, March 27, 2019, and April 15, 2019, VDEQ documented that the effluent from permitted Outfall 001 was turbid and brown/yellow in color with white foam. Settled solids were also observed in the receiving stream by VDEQ on the inspection dates.
45. The discharges of solids are violations of Parts I.A.2. and II.F. of Respondent's WWTP Permit.
46. Based on the above assertions and allegations, EPA concludes that Respondent violated Parts I.A.2. and II.F. of its WWTP Permit and therefore, violated Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342.
47. In failing to comply with Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342, Respondent is subject to the assessment of penalties under Section 309 of the CWA, 33 U.S.C. §1319.

Count 4
Failure to Properly Operate and Maintain the Facility

48. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
49. Part II.Q of the WWTP Permit requires, "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 terms of and conditions of this permit. Proper operation and maintenance also include effective plant performance, adequate funding, adequate licensed operator staffing, and adequate laboratory and process controls, including appropriate quality assurance

procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of this permit.”

50. The EPA Inspection Report identified the following operation and maintenance (O&M) deficiencies:
- Sludge holding tanks of the east and west trains were not properly operating.
 - Solid’s accumulation in the influent manhole upstream of the splitter box.
 - Rust and deterioration of the interior of the splitter box.
 - Rust on the walls of the interior east train aeration basin and a plastic covering on the inlet pipe of the east train aeration basin.
 - Rust on the weir plate of the west train clarifier.
 - Algae and floatable solids had accumulated on the weir of the clarifier of the west train resulting in uneven flow across the clarifier weir.
 - Algae had accumulated within the flow channel.
 - Floatable solids within the chlorine contact tank.
51. O&M issues were documented in NOVs issued by DEQ dated August 2, 2016, May 30, 2017, April 17, 2018, August 23, 2018, and August 15, 2019. O&M issues identified include:
- a. During inspections occurring on April 4, 2018, June 19, 2018 and July 24, 2018 (NOV dated August 23, 2018) plant deterioration was observed along the East and West treatment train walls, including cracks and holes along the sludge holding tank walls where they connect to the return trough. Water was observed entering the sludge holding tanks in these areas.
 - b. During inspections occurring on April 4, 2018, June 19, 2018 and July 24, 2018 (NOV dated August 23, 2018) solids were observed exiting the clarifier discharge weirs. Algae and settled solids were observed along the East and West clarifier effluent troughs. Cloudy water was observed in the stilling well, chlorine contact tank, and in the post-aeration tank.
 - c. During an inspection occurring on June 19, 2018 (NOV dated August 23, 2018) settled solids were observed in the splitter box impeding the flow of wastewater into the East Train.
 - d. During an inspection occurring on April 4, 2018 (NOV dated August 23, 2018), the Plant’s licensed wastewater operator reported that Blower #1 was not capable of providing optimal aeration and further noted that the wall between the sludge holding trough and aeration basin in the West Train is not fully intact, allowing the wastewater to equalize between the two areas.
52. Based upon the above assertions and allegations, EPA concludes that Respondent violated Part II.Q. of its WWTP Permit on the dates of the inspections identified above, thereby violating Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342.

53. In failing to comply with Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342, Respondent is subject to the assessment of penalties under Section 309 of the CWA, 33 U.S.C. §1319.

**Count 5 Failure to Maintain and Implement a
Current Operations and Maintenance Manual**

54. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
55. Part I.C.2 of the WWTP Permit requires, “The permittee shall maintain a current Operations and Maintenance (O&M) Manual for the treatment works that is in accordance with Virginia Pollutant Discharge Elimination System Regulations, 9VAC25-31 and (for sewage treatment plants) Sewage Collection and Treatment Regulations, 9VAC25-790. The O&M Manual and subsequent revisions shall include the manual effective date and meet Part II K 2 and Part II K 4 Signatory Requirements of the permit. Any changes in the practices and procedures followed by the permittee shall be documented in the O&M Manual within 90 days of the effective date of the changes. The permittee shall operate the treatment works in accordance with the O&M Manual and shall make the O&M Manual available to Department personnel for review during facility inspections. Within 30 days of a request by DEQ, the current O&M Manual shall be submitted to the DEQ Regional Office for review and approval. The O&M manual shall detail the practices and procedures which will be followed to ensure compliance with the requirements of this permit.”
56. At the September 25, 2020 Site Inspection, representatives of EPA reviewed the 2010 O&M Manual and identified the following deficiencies with the manual contents:
- The manual does not discuss the procedures and locations for collecting total residual chlorine samples regarding the dechlorination process (as required per Part I.C.2.a of the WWTP Permit).
 - The manual does not list the quantity of chemicals stored at the facility (as required per Part I.C.2.d of the WWTP Permit) such as the drums of hypochlorite, lime and polymer observed during the Site Inspection.
 - The manual does not discuss the use of the east train as a “surge” tank during wet weather events or discuss modifying the operation of the treatment works in response to wet weather events (as required per Part I.C.2.e of the WWTP Permit).
 - The manual does not discuss management and disposal of solid waste from the bar screen (as required per Part I.C.2.f of the WWTP Permit).
57. At the September 25, 2020 Site Inspection, representatives of EPA reviewed the 2010 O&M Manual and identified the following inconsistencies between the manual and actual onsite operations:

- The “Personnel Responsibilities” section of the manual states, “the responsible operator in charge needs a minimum of a class 2-wastewater operator’s license issued by the Board of Waterworks and Wastewater works.” The manual does not reflect that an unlicensed Red Hill employee oversees plant operations during the weekend. Respondent’s representatives stated that Environmental System Service staff may be able to assist the Red Hill employee in the event of an emergency.
- The flow diagram included in the manual is outdated and does not depict where chlorination is introduced into the system. Note the updated flow diagram depicted in Appendix B, Exhibit 2 of the inspection report (not included in the 2010 O&M Manual) does not reflect the conditions observed onsite.
- Item c of “Plant Operations” of the manual states, “The clarifier will be clear and relatively free of particulate matter...The weir trough should be clean, and the water flow should be evenly distributed along the edges.” At the time of the Site Inspection, algae and floatable solids had accumulated on the weir of the clarifier of the west train resulting in uneven flow across the clarifier weir.
- The consultants mentioned in the manual are no longer employed at the Facility and the manual does not list the contact information for the current consultants.

58. VDEQ issued three NOV’s dated April 17, 2018, August 23, 2018, and August 15, 2019 for an incomplete O&M Manual. VDEQ requested revisions on December 6, 2017 and March 29, 2018. A revised, complete, and approvable manual has not been received to date. As a result, the O&M Manual has been deficient over an extended period in violation of Section 402 of the CWA.

59. Based on the above assertions and allegations in Count 5, since at least April 17, 2018 until March 29, 2022, Respondent failed to comply with Part I.C.2. of the WWTP Permit and as a result, has violated Section 402 of the CWA, 33 U.S.C. § 1342.

60. In failing to comply with Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342, Respondent is subject to the assessment of penalties under Section 309 of the CWA, 33 U.S.C. §1319.

Count 6 – Failure to Retain Required Records

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

62. Part II.B.2 of the WWTP Permit requires, “the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three years from the date of the sample, measurement, report or application.”

63. Document Retention – According to the IRL response, between September 19, 2017 and February 25, 2019, the flow meter had not been calibrated. Flow meters need to be

calibrated at least once a year as required by Respondent’s WWTP Permit. The facility did not have calibration records for the dissolved oxygen and pH meters from 2017 to 2019.

64. Daily logs – According to Respondent’s IRL response, Respondent was unable to locate daily logs for the Facility from June 2015 through December 2016 and December 2017 through January 2019.

65. Respondent’s IRL response identified certain gaps in Red Hill’s records pertaining to the information requested in the IRL. The table below summarizes the information gaps that were identified in the response to the IRL regarding DMR and lab analysis as well as daily log information obtained from Red Hill.

Table 3: Missing Records¹ from June 2015 to April 2019

Monitoring Period	Lab Analysis Retained	Additional info?
January 2015 to July 2015	No	No Records found at the facility
September 2015 to March 2016	No	No Records found at the facility
May 2016 to December 2016	No	No Records found at the facility
November 2017	No	Incomplete DMR, no lab reports found at the facility
December 2017 to March 2018	No	No Records found at the facility
April 2018	Yes	No DMR, no daily logs found at the facility. Lab reports do not reflect analysis TRC (Total Residual Chlorine), & e coli. Uncertain if sampling was conducted.
May to June 2018	Yes	No DMR, no daily logs found at the facility.
July 2018	Yes	Lab reports do not reflect analysis for Carbonaceous Biological Oxygen Demand, total suspended solids (TSS), TRC, & Nitrogen (as ammonia). Uncertain if sampling was conducted. No DMR, no daily logs found at the facility.
August 2018	Yes	Lab report do not reflect ammonia, & TRC. Uncertain if sampling was conducted. No DMR, no daily logs found at the facility.

¹ “Records” for purposes of this table refers to DMRs, daily logs, and lab reports.

Monitoring Period	Lab Analysis Retained	Additional info?
September 2018	Yes	No DMR, no daily logs found at the facility.
October 2018	Yes	Lab report do not reflect TRC, & ammonia. Uncertain if sampling was conducted. No DMR, no daily logs found at the facility.
November 2018	Yes	No DMR, no daily logs found at the facility.
December 2018	Yes	Lab report do not reflect ammonia & TRC. Uncertain if sampling was conducted. No DMR, no daily logs found at the facility.
January 2019	Yes	Lab report do not reflect ammonia) & TRC. Uncertain if sampling was conducted. No DMR, no daily logs found at the facility.
February 2019	Yes	No sampling for ammonia was conducted.
April 2019	Yes	No sampling for CBOD, TSS, or ammonia was conducted.

66. Based on the above assertions and allegations in Count 6, above, Respondents' failure to retain records and daily logs for a period of at least three years is a violation of Part II.B.2 of its WWTP Permit and Sections 301 and 402 of the CWA, 33 U.S.C. § 1342.

V. CIVIL PENALTY

67. In settlement of EPA's claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of Twenty-Seven Thousand Five Hundred and Seventy-Two dollars (\$27,572), which Respondent shall be liable to pay in accordance with the terms set forth below.
68. The civil penalty is based upon EPA's consideration of a number of factors, including the penalty criteria ("statutory factors") set forth in Section 309(g) of the CWA, 33 U.S.C. § 1319(g), including, the following: the nature, circumstances, extent and gravity of the violation(s), and the violator's ability to pay, any prior history of such violations, the degree of culpability, economic benefit or savings resulting from the violation, and such other matters as justice may require. These factors were applied to the particular facts and circumstances of this case and adjusted in accordance with the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and

the applicable EPA memoranda addressing EPA's civil penalty policies to account for inflation.

69. Payment of the civil penalty amount, and any associated interest, administrative fees, and late payment penalties owed, shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:

- a. All payments by Respondent shall include reference to Respondent's name and address, and the Docket Number of this action, *EPA Docket No. CWA-03-2022-0029*;
- b. All checks shall be made payable to the "United States Treasury";
- c. All payments made by check and sent by regular mail shall be addressed and mailed to:

U.S. Environmental Protection Agency
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

- d. For additional information concerning other acceptable methods of payment of the civil penalty amount see:

<https://www.epa.gov/financial/makepayment>

- e. A copy of Respondent's check or other documentation of payment of the penalty using the method selected by Respondent for payment shall be sent simultaneously by email to:

Pamela J. Lazos
Senior Assistant Regional Counsel
lazos.pamela@epa.gov

and

U.S. EPA Region III Regional Hearing Clerk
R3_Hearing_Clerk@epa.gov.

70. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment of the penalty as specified herein shall result in the assessment of late payment charges including interest, penalties and/or administrative costs of handling delinquent debts.

71. Payment of the civil penalty is due and payable immediately upon the effective date of this Consent Agreement and Final Order. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed as of the effective date of this Consent Agreement and Final Order by Respondent in accordance with 40 C.F.R. § 13.9(a).
72. INTEREST: Interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the effective date of this Consent Agreement and Final Order. However, EPA will not seek to recover interest on any amount of the civil penalties that is paid within thirty (30) calendar days after the effective date of this Consent Agreement and Final Order. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R § 13.11(a).
73. ADMINISTRATIVE COSTS: The costs of the EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives – Case Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
74. LATE PAYMENT PENALTY: A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
75. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.

VI. GENERAL SETTLEMENT CONDITIONS

76. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.
77. Respondent certifies that to the best of its knowledge and belief, any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made

by Respondent to the EPA regarding matters relevant to this Consent Agreement and Final Order, **including information about respondent's ability to pay a penalty**, are knowingly 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. 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.

CERTIFICATION OF COMPLIANCE

78. Respondent certifies to EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is in compliance with the Administrative Order on Consent between Respondent and EPA, Docket No. CWA-03-2022-0018DN, which addresses the violations alleged herein.

OTHER APPLICABLE LAWS

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

RESERVATION OF RIGHTS

80. This Consent Agreement and Final Order resolves only EPA's claims for civil penalties for the specific violations alleged against Respondent in this Consent Agreement and Final Order. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. This settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice, 40 C.F.R. § 22.18(c). EPA reserves any rights and remedies available to it under the Clean Water Act, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after its effective date. Respondent reserves whatever rights or defenses it may have to defend itself in any such action.

EXECUTION /PARTIES BOUND

81. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized

by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.

EFFECTIVE DATE

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

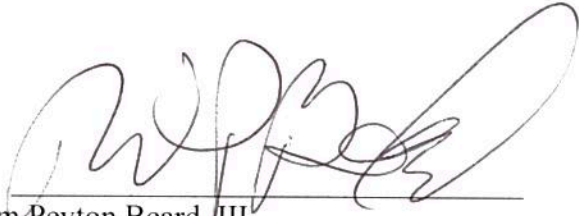
ENTIRE AGREEMENT

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

In the Matter of Red Hill Utility, LLC

U.S. EPA Docket No. CWA-03-2022-0029

For Respondent: Red Hill Utility, LLC

By: 
William Peyton Beard, III
Manager, Red Hill Utility, LLC
(dated via electronic timestamp)

For the Complainant:

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

By: _____.
[*Digital Signature and Date*]
Karen Melvin, Division Director
Enforcement and Compliance Assurance Division
USEPA Region 3

By: _____.
[*Digital Signature and Date*]
Pamela J. Lazos
Senior Assistant Regional Counsel
USEPA Region 3

In the Matter of Red Hill Utility, LLC

U.S. EPA Docket No. CWA-03-2022-0029

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
4 Penn Center
Philadelphia, Pennsylvania 19103**

In the Matter of:

Red Hill Utility, LLC
2073 Cypress Drive
Charlottesville, VA 22911

:
:
:
: **U.S. EPA Docket No. CWA-03-2022-0029**
:
:

Respondent

Red Hill Utility, LLC
3812 Puddledock Road
Prince George, VA 23875
Latitude/Longitude: 36.807464/-76.304598
Permit No. VA0028258
Facility

:
:
:
: **Proceeding under Section 402 of the Clean**
: **Water Act, 33 U.S.C. § 1342**
:
:
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:

FINAL ORDER

Complainant, the Director of the Enforcement and Compliance Assurance Division (ECAD), U.S. Environmental Protection Agency, Region III, and Respondent, Red Hill Utility, LLC have executed a document entitled “Consent Agreement,” which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. Part 22 (with specific reference to Sections 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA’s *Interim Clean Water Act Settlement Penalty Policy*, March 1, 1995, and the statutory factors set forth in Section 309(g)(2)(B)(3) of the CWA, 33 U.S.C. §1319(g)(2)(B)(3).

NOW, THEREFORE, PURSUANT TO Section 309(a) of the CWA, 33 U.S.C. § 1319(a), and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of **TWENTY-SEVEN THOUSAND FIVE HUNDRED AND SEVENTY-TWO DOLLARS (\$27,572.00)**, in

accordance with the payment provisions set forth in the Consent Agreement and in 40 C.F.R. § 22.31(c) and comply with the terms and conditions of the Consent Agreement.

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

The effective date of the attached Consent Agreement and this Final Order is thirty days after the date on which this Final Order is signed by the Regional Administrator or his delegate, the Regional Judicial Officer, and filed with the Regional Hearing Clerk.

Date: _____

By: _____
Joseph J. Lisa
Regional Judicial and Presiding Officer
U.S. EPA Region III

In the Matter of Red Hill Utility, LLC

U.S. EPA Docket No. CWA-03-2022-0029

(Digital signature)

Bevin Esposito
Regional Hearing Clerk
USEPA Region III