



## II. GENERAL PROVISIONS

5. The provisions of this AOC shall apply to and be binding upon the Respondent and the officers, directors, employees, contractors, agents, trustees, successors and assigns of the Respondent.
6. Respondent shall 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.
7. EPA reserves the right to commence an 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. EPA reserves all 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, including enforcement of this AOC.
8. This AOC does not constitute a waiver or modification of the terms or conditions of any permit issued to Respondent. Nothing in this Order shall relieve Respondent of its obligation to comply with all applicable provisions of federal, state, or local laws and regulations, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This Order does not constitute a waiver, suspension, or modification of the requirements of the Act, 33 U.S.C. §§ 1251, et. seq., or any regulations promulgated thereunder.
9. Respondent waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this AOC, including any right of judicial review pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.
10. 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.
11. The undersigned representative of Respondent certifies that he or she is fully authorized by the Respondent to enter into the terms and conditions of this AOC and to execute and legally bind the Respondent.
12. By signing this AOC, Respondent acknowledges that this AOC may be available to the public and represents that, to the best of Respondent's knowledge and belief, this AOC does not contain any confidential business information or personally identifiable information from Respondent.
13. 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 AOC 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.

14. For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 162-21(b)(2), performance of Section V of this Order is restitution, remediation, or required to come into compliance with the law. Respondent neither admits nor denies the specific factual allegations set forth in this AOC.

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

15. 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.
16. 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.
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. 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.

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

20. 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).
21. 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.

22. At all times relevant to this AOC, the 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.
23. Respondent is authorized to discharge pollutants, in the form of wastewater from the WWTP, to waters of the United States only in accordance with the terms and conditions of the WWTP Permit.
24. 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).
25. At all times relevant to this AOC, 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).
26. On August 31, 2020, Respondent submitted a response to an EPA Information Requirement Letter (“IRL”).
27. On September 25, 2020, representatives of EPA inspected the WWTP for purposes of determining compliance with the WWTP Permit (“Site Inspection”).
28. 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 1**  
**Discharging Without a Valid Permit**

29. 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.”
30. 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.

31. Respondent alleges that 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.
32. 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.
33. 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.

**Count 2**  
**Effluent Exceedances/Reporting Violations**

34. Part I.A.1 of the WWTP Permit defines effluent limitations and monitoring requirements for Outfall 001 discharges.
35. 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 Discharge Monitoring Reports (“DMRs”), and, according to Respondent’s IRL response submitted August 31, 2020, the additional effluent exceedance violations set forth in Table 1 occurred between the periods of July 2018 and January 2019 that were not reported in the DMRs.
36. Red Hill did not submit DMRs in May, June, July, August, September, October, November, and 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	02/28/2019	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

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VA0028258	03/31/2019	Nitrogen, ammonia total [as N]	16.9	3.23	mg/L	Weekly Average
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 [5-day, 20 C]	83	24	mg/L	Weekly Average



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

37. 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.
38. Respondent has experienced effluent exceedances which include those reported in DMRs and those reported only in Respondent’s IRL response and which occurred from the period of December 31, 2016 through March 29, 2022.
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 and Section 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342 on the dates identified above.

**Count 3**  
**Unauthorized Discharge of Solids from the Outfall**

40. 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."

41. 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.
42. 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.
43. The discharges of solids are violations of Parts I.A.2. and II.F. of Respondent's WWTP Permit.
44. Based on the above assertions and allegations, EPA concludes that Respondent violated Parts I.A.2. and II.F. of its WWTP Permit and Section 301 of the CWA.

#### **Count 4**

#### **Failure to Properly Operate and Maintain the Facility**

45. 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."
46. 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.
47. O&M issues were documented in NOVs issued by VDEQ 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.
48. Based on the above assertions and allegations, EPA concludes that Respondent violated Part II.Q. of its WWTP Permit and as a result, has violated Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342 on the dates identified above.

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

49. 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."
50. 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).
51. 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.
52. VDEQ issued three NOVs 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.
53. Based on the above assertions and allegations in Count 5, Respondent has failed to comply with Part I.C.2. of the WWTP Permit during the term of that permit and as a result, has violated Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342.

**Count 6**  
**Failure to Retain Required Records**

54. 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.”
55. 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.
56. 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.
57. 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 Records<sup>1</sup> from June 2015 to April 2019**

Monitoring Period	Lab Analysis Retained	Additional info?
June 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

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

Monitoring Period	Lab Analysis Retained	Additional info?
		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
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.

58. 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. COMPLIANCE ORDER**

59. Therefore, based on the foregoing, Respondent is hereby ORDERED, pursuant to Section 309(a) of the CWA, 33 U.S.C. § 1319(a), to conduct, and consents to conduct, the following activities:
60. Within sixty (60) days of the Effective Date of the AOC, the Respondent shall provide to EPA for review a Corrective Action Plan ("CAP"), which meets the requirements set forth in this AOC. The CAP shall include, at a minimum, plans and a schedule for implementing corrective actions to address the following to return to compliance with the CWA:
- a. A plan and schedule for the construction of the septic wastewater facility.

- b. A plan and schedule for removal and closure of the old wastewater treatment facility as required in the closure requirements of the WWTP Permit in Part 1, Section C.12.
  - c. A plan and schedule for implementation of proper operation and maintenance of the septic wastewater treatment facility.
  - d. A report of infiltration and inflow (“I&I”) work on the collection system in the Red Hill Mobile Home Park completed prior to submission of the CAP and a plan and schedule for implementation of further I&I work, if necessary for the operability of the septic wastewater treatment facility.
  - e. Termination of the current NPDES permit.
61. On August 11, 2021, Red Hill’s permit for a septic system was approved by the Virginia Department of Health. The schedule to implement the remaining corrective actions identified in the CAP shall not exceed 18-months from the Effective Date of this AOC.
62. EPA will review the CAP and make a determination as to completeness, based on the requirements described in Paragraphs 60 and 61, above. If EPA determines that the CAP is not complete or adequate, EPA shall notify Respondent in writing and Respondent shall resubmit an updated CAP within thirty (30) days of Respondent’s receipt of EPA’s notice. Upon a determination of completeness as provided in writing by EPA to the Respondent, Respondent will begin to implement the CAP in full.
63. Respondent shall submit a notice to EPA within thirty (30) days once all work as identified in and required by the CAP has been completed.
64. No later than 60 days from the Effective Date, Defendant shall submit to EPA for review a list of deadlines included in the AOC. The list shall be submitted in an electronic format (e.g., unlocked spreadsheet or similar format agreed to by the Parties). Within 30 Days of any modification of any deadline under this Administrative Order, Defendant shall provide an updated list reflecting changes to the future schedule.

## **VI. PROCEDURES FOR SUBMISSIONS**

65. All documents required to be submitted by this Order and any Request for Termination shall be accompanied by a certification signed by a responsible officer, as defined in 40 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.

*Red Hill Utility, LLC**EPA Docket No. CWA-03-2022-0018DN*

Signed \_\_\_\_\_

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

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

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

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

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

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

68. Upon completion of all items required by the CAP and a determination of completeness of each item, and after one year of implementation the Respondent 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 Respondent has 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 Respondent has complied with Section VI (Compliance Order) of this AOC.
69. If, following review of any Certification of Compliance and Request for Termination of this AOC, EPA agrees that Respondent has adequately complied with all requirements of this AOC, then EPA may provide written notification of termination of this AOC.

**VIII. AOC MODIFICATIONS**

70. Any request to modify the terms of, or parties to, this AOC shall be submitted, in writing, by Respondent to EPA and shall be subject to review and approval by EPA, in its sole and unreviewable discretion.



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

71. Until or unless this AOC is modified or terminated, in accordance with the terms of this AOC, Respondent shall remain responsible for compliance with the terms of this AOC following any transfer of ownership or operation of the WWTP.
72. At least ninety (90) days prior to any transfer of ownership or operation of the WWTP, Respondent shall submit a written notification to EPA of any such anticipated change in ownership or operation which shall include, at a minimum, a detailed summary of the anticipated change in ownership or operation, contact information for the proposed new owner or operator of the WWTP and a schedule for such anticipated change.
73. Respondent shall condition any sale or transfer of ownership or operation of the Red Hill Facility, 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.

**X. FORCE MAJEURE**

74. If Respondent becomes aware, or reasonably should have become aware, of any event that causes or may cause a delay in Respondent's compliance with any of the deadlines set forth in this Order, Respondent shall notify EPA in writing within ten (10) calendar days after Respondent's knowledge of such delay or potential for delay, describing in detail the specific cause or causes of the delay and the measures taken to minimize the delay. If the anticipated length of the delay, the measures to be taken to minimize the delay, and the timetable for the implementation of such measures are known, Respondent's notice shall contain such information. If such information is not then known, Respondent's notice shall include a schedule of the date(s) by which Respondent expects to have such information and be able to provide it to EPA. Such notification shall be deemed submitted after notification is electronically transmitted and EPA has acknowledged receipt of the electronic transmission. Respondent shall implement all reasonable measures to avoid or minimize any such delay. Failure to notify EPA within the time period set forth shall constitute a waiver of any claim that circumstances beyond Respondent's control have prevented compliance with this AOC. Notification, by itself, shall not excuse delay.

**XI. EFFECTIVE DATE**

75. This AOC shall become effective upon the Respondent's receipt of a fully executed copy of this AOC.

**FOR RESPONDENT RED HILL UTILITY, LLC**

By:  5/5/2022

*Red Hill Utility, LLC*

*EPA Docket No. CWA-03-2022-0018DN*

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

*Red Hill Utility, LLC*

*EPA Docket No. CWA-03-2022-0018DN*

**SO ORDERED:**

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

By:

\_\_\_\_\_  
Karen Melvin, Director  
Enforcement & Compliance Assurance Division  
U.S. Environmental Protection Agency, Region III  
(dated via electronic timestamp)

