



REGION 3

PHILADELPHIA, PA 19103

Re: Crooked Run Wastewater Treatment Plant, Consent Agreement and Final Order,
U.S. EPA Docket No. CWA-03-2024-0036

Dear Commenter,

Thank you for providing the Environmental Protection Agency (EPA) Region 3 with your comments related to the above referenced Consent Agreement and Final Order. On March 25, 2024, the EPA issued a Public Notice regarding our intent to file a Consent Agreement and Final Order negotiated with Frederick-Winchester Service Authority (FWSA) and Frederick County Sanitation Authority, doing business as Frederick Water, to assess administrative penalties for violations of the Clean Water Act (CWA). This letter is to inform you that the EPA intends to finalize this Consent Agreement and Final Order for \$12,000, as originally proposed. A copy of the proposed Consent Agreement and Final Order is also being provided to you, for your reference.

We appreciate the comment you submitted to the EPA regarding this matter and wanted to provide you further information regarding the intent of the EPA's action.

Frederick Water operates the Crooked Run Wastewater Treatment Plant located at 130 Crappie Court, Front Royal, VA 22630. The facility is owned by Frederick-Winchester Service Authority.

The EPA conducted an investigation of the Crooked Run Wastewater Treatment Plant and found it to have an extensive history of violations from January 31, 2017 to July 31, 2023. During this time period, the Crooked Run Wastewater Treatment Plant frequently discharged partially treated wastewater from its outlet to the Crooked Run stream. The EPA identified 102 instances in which wastewater was discharged with pollutants that exceeded permit limits, including repeated exceedances of nitrogen (total and ammonia), *E. coli*, biochemical oxygen demand 5-day, and chloride.

The EPA routinely seeks penalties in instances such as these where entities have extensive effluent violations and applies the Interim Clean Water Act Settlement Penalty Policy¹ to determine the penalty amount. Based on the EPA's Interim Clean Water Act Settlement Penalty Policy and on Clean Water Act statutory penalty factors, the EPA believes that the proposed settlement of \$12,000 is fair, appropriate and protects public health and the environment.

¹ The Interim CWA Settlement Penalty Policy can be found at: <https://www.epa.gov/enforcement/interim-clean-water-act-settlement-penalty-policy>.

As a separate matter, the EPA issued an Administrative Order on Consent to Frederick-Winchester Service Authority and Frederick Water that was filed on December 19, 2023. The Administrative Order on Consent, in part, requires Frederick-Winchester Service Authority and Frederick Water to construct a new service line to route their discharge from the Crooked Run Wastewater Treatment Plant to their Parkins Mills Wastewater Treatment Plant. The compliance actions outlined in the Administrative Order on Consent were agreed to by the parties after extensive discussions that considered various alternatives explored by Frederick-Winchester Service Authority and Frederick Water. The Administrative Order on Consent is final, and, when fully implemented, the compliance actions specified in it are expected to fully resolve ongoing non-compliance at the Crooked Run Wastewater Treatment Plant and should ensure that the Crooked Run Wastewater Treatment Plant has no further violations or pollution discharging into Crooked Run stream.

The EPA does not specify how compliance actions should be funded, and it is the responsibility of Frederick-Winchester Service Authority and Frederick Water to determine how to fund the agreed upon compliance actions. In situations such as these, sewer service providers can evaluate various options to ensure residents are not overburdened by these costs. These options could include evaluating the use of low interest loans, principal forgiveness loans, grants, Bipartisan Infrastructure Law funding, or other opportunities that may be able to offset rate increases. Comments regarding how Frederick-Winchester Service Authority and Frederick Water sets its rates should be directed to them.

Within 30 days of receipt of the enclosed proposed Consent Agreement and Final Order, commenters may petition the Regional Administrator to set aside the Consent Agreement and Final Order on the basis that material evidence was not considered, pursuant to 40 C.F.R. § 22.45(c)(4)(ii). If no such petition is filed, the EPA will submit the proposed Consent Agreement and Final Order to the EPA Region 3 Regional Judicial Officer, along with a copy of the comments and response to comments, requesting that the proposed Consent Agreement and Final Order be signed and entered.

Sincerely,

Karen Melvin
Director
Enforcement and Compliance Assurance Division