



COMMONWEALTH of VIRGINIA

Colin M. Greene, MD, MPH
State Health Commissioner

Department of Health
P O BOX 2448
RICHMOND, VA 23218

TTY 7-1-1 OR
1-800-828-1120

STATE BOARD OF HEALTH

ORDER BY CONSENT

ISSUED TO

Dickenson County Public Service Authority

FOR THE

DCPSA – Honey Camp/Darwin Waterworks

PWSID No. VA1051726

This is a Consent Order issued under authority granted by Va. Code § 32.1-26 between the State Board of Health and the Dickenson County Public Service Authority for the DCPSA – Honey Camp/Darwin Waterworks for the purpose of resolving certain violations of the Public Water Supplies Law and the applicable regulations.

Section A. Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned below:

1. "AFO" means the Abingdon Field Office, the Virginia Department of Health Office of Drinking Water field office located in Abingdon, Virginia.
2. "Board" means the State Board of Health, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code § 32.1-5.
3. "Commissioner" means the State Health Commissioner, who supervises and manages the Department, as described in Va. Code §§ 32.1-16 and 32.1-17.
4. "Community waterworks" means a waterworks that serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.
5. "Consecutive waterworks" means a waterworks that receives some or all of its finished water from one or more waterworks. Consecutive waterworks may provide additional treatment to finished water. Delivery may be through a direct connection or through the distribution system of one or more consecutive waterworks.

6. "DBPs" means disinfection byproducts, which include haloacetic acids (HAA5) and total trihalomethanes (TTHM).
7. "Department" or "VDH" means the Department of Health, an agency of the Commonwealth of Virginia, as described in Va. Code § 32.1-16.
8. "Dickenson County PSA" means the Dickenson County Public Service Authority, a government entity that supplies or proposes to supply water to any person within this Commonwealth from or by means of any waterworks.
9. "HAA5" means haloacetic acids (five) and includes monochloroacetic acid, dichloroacetic acid, trichloroacetic acid, monobromoacetic acid, and dibromoacetic acid, which are DBPs.
10. "Honey Camp/Darwin" means DCPSA – Honey Camp/Darwin waterworks located in Dickenson County, Virginia, which serves piped water for human consumption to 282 service connections and approximately 700 year-round residents.
11. "LRAA" means locational running annual average, which is the average of sample analytical results for samples taken at a particular monitoring location during the previous four calendar quarters.
12. "Notice of Alleged Violation" or "NOAV" means a type of notice of alleged violation issued under 12VAC5-590-110 of the Regulations.
13. "ODW" means the VDH Office of Drinking Water.
14. "Order" means this document, also known as a "Consent Order" or "Order by Consent," which the Board is authorized to issue to require any person to comply with the provisions of any law administered by it, the Commissioner or the Department or any regulations promulgated by the Board or to comply with any case decision, as defined in Va. Code § 2.2-4001, of the Board or Commissioner.
15. "PMCL" means primary maximum contaminant level.
16. "Public Water Supplies Law" or "PWSL" means Chapter 6, Article 2 of Title 32.1 of the Va. Code.
17. "Pure water" means water fit for human consumption that is (i) sanitary and normally free of minerals, organic substances, and toxic agents in excess of reasonable amounts

and (ii) adequate in quantity and quality for the minimum health requirements of the persons served.

18. "PWSID" means Public Water System Identification.
19. "Regulations" means the *Waterworks Regulations*, 12VAC5-590-10, *et seq.*
20. "Town of Clintwood" means the Town of Clintwood, a government entity that supplies or proposes to supply water to any person within this Commonwealth from or by means of any waterworks.
21. "Town Waterworks" means the Town of Clintwood waterworks located in Dickenson County, which serves piped water for human consumption to 1,775 service connections and approximately 4,836 year-round residents.
22. "TTHM" means total trihalomethanes, and includes trichloromethane (chloroform), dibromochloromethane, bromodichloromethane, and tribromomethane (bromoform), which are DBPs.
23. "Va. Code" means the Code of Virginia (1950), as amended.
24. "VAC" means the Virginia Administrative Code.
25. "Waterworks" means a system that serves piped water for human consumption to at least 15 service connections or 25 or more individuals for at least 60 days out of the year. Waterworks includes all structures, equipment, and appurtenances used in storage, collection, purification, treatment, and distribution of pure water except the piping and fixtures inside the building where such water is delivered.

Section B. Findings of Fact and Conclusions of Law

1. The Dickenson County PSA owns and operates Honey Camp/Darwin. Honey Camp/Darwin is a consecutive community waterworks that consists of a master meter vault, 180 gallons per minute booster pump station and backfeed bypass, 13 gallons per minute booster pump station with backfeed bypass, 200,000-gallon storage tank, 10,000-gallon storage tank, three pressure reducing stations, surge relief station, and distribution system.
2. On May 31, 2006, ODW issued permit no. VA1051726 to Dickenson County PSA to operate Honey Camp/Darwin in compliance with the PWSL and Regulations.

3. Honey Camp/Darwin purchases all of its finished drinking water from the Town of Clintwood, which owns and operates the Town Waterworks. The Town Waterworks is a consecutive community system that consists of a 6-inch master meter located at the John Flannagan Water Treatment Plant, three pump stations, five water storage tanks, seven pressure reducing stations, two surge relief stations, and a distribution system.
4. Dickenson County PSA reported to VDH laboratory results for LRAAs for TTHM as follows:

Contaminant	Compliance Period Ending Quarter	LRAA (mg/L)	Sampling Point	PMCL (mg/L)
TTHM	December 31, 2021	0.089	739 Layne Hollow Road	0.080
TTHM	March 31, 2022	0.094	739 Layne Hollow Road	0.080

5. Dickenson County PSA reported to VDH laboratory results for LRAAs for HAA5 as follows:

Contaminant	Compliance Period Ending Quarter	LRAA (mg/L)	Sampling Point	PMCL (mg/L)
HAA5	December 31, 2021	0.061	1609 Coeburn Road	0.060
HAA5	March 31, 2022	0.066	1609 Coeburn Road	0.060

6. The Regulations, at 12VAC5-590-340 (Compliance standards.), Table 340.6 (Disinfection Byproducts), state that the PMCL for TTHM is 0.080 mg/L and for HAA5 is 0.060 mg/L.
7. The Regulations, at 12VAC5-590-384.B.1.a (Residual disinfectant, DBPs, and DBPPs compliance.), state in part, "The owner of a waterworks required to monitor quarterly shall calculate the LRAAs for TTHM and HAA5 using monitoring results collected under 12VAC5-590-374 F and determine that each LRAA does not exceed the PMCL in order to comply with the PMCLs listed in Table 340.6."
8. On December 6, 2021, VDH issued an NOAV to the Dickenson County PSA for exceeding the PMCL for TTHM and HAA5 for the running annual average period of January 1, 2021 through December 31, 2021, at the sample locations, 739 Layne Hollow Road and 1609 Coeburn Road.
9. By Warning Letter dated February 4, 2022, ODW notified Dickenson County PSA that Honey Camp/Darwin had been identified as a "potential Serious Violator", under the

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U.S. Environmental Protection Agency's Enforcement Response Policy, that it was an enforcement priority for the above-mentioned violations, and that formal enforcement may be taken to ensure a safe and reliable supply of drinking water to the customers served by Honey Camp/Darwin.

10. By Warning Letter dated May 5, 2022, ODW notified Dickenson County PSA that Honey Camp/Darwin had been identified as a "potential Serious Violator", under the U.S. Environmental Protection Agency's Enforcement Response Policy, that it was an enforcement priority for the above-mentioned violations, and that formal enforcement may be taken to ensure a safe and reliable supply of drinking water to the customers served by Honey Camp/Darwin.
11. Pursuant to Va. Code § 32.1-26, the Board may issue orders requiring compliance with any law or regulation administered by the Board.
12. Based on a review of ODW records, the Board concludes that the Dickenson County PSA has violated Table 340.6 at 12VAC5-590-340 of the Regulations, and 12VAC5-590-384.B.1.a of the Regulations, as described in paragraphs B(4) through B(7), above.

Section C. Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 32.1-26 and 32.1-27, the Board orders the Dickenson County PSA, and the Dickenson County PSA agrees, to:

1. Petition the Town of Clintwood to make necessary changes or modifications to the Town Waterworks and/or operational procedures for the Town Waterworks in order to support Dickenson County PSA's compliance efforts.
2. Perform the actions described in Appendix A of this Order.

Section D. Administrative Provisions

1. This Order addresses and resolves only those violations specifically identified in Section B of this Order. This Order shall not preclude VDH from taking any action authorized by law, including but not limited to taking any action authorized by law regarding additional, subsequent, or subsequently discovered violations or taking subsequent action to enforce this Order.
2. This Order does not suspend, minimize, or otherwise alter the Dickenson County PSA's obligation to comply with federal, state, and local laws and regulations. The Board waives no lawful means of enforcing the laws it administers, the regulations it has adopted, or this Order.

3. The Dickenson County PSA waives its rights to further hearings or challenges, whether civil or administrative, regarding the terms, conditions, or issuance of this Order and specifically waives its right to a hearing under Va. Code §§ 2.2-4019 or 2.2-4020 as a predicate for issuance of this Order. The Dickenson County PSA consents to the issuance of this Order freely, voluntarily, and after an opportunity to consult counsel of its choice.
4. To the fullest extent authorized by law, this Order is binding on the Dickenson County PSA, its agents and legal representatives, heirs, devisees, executors, administrators, and any successors in interest, jointly and severally as applicable.
5. The Board may modify, rewrite, or amend this Order with the consent of the Dickenson County PSA, or on its own motion pursuant to the Administrative Process Act, Va. Code §§ 2.2-4000, *et seq.*, after notice and opportunity for the Dickenson County PSA to be heard. Any request for modification of this Order shall be submitted to VDH by the Dickenson County PSA in writing to be considered for approval by the Board or its designee.
6. Failure of the Dickenson County PSA to comply with any terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or Department as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. The Dickenson County PSA shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Failure to notify the Department verbally within 24 hours and in writing within three business days of such an event shall constitute a waiver of any claim by the Dickenson County PSA of its inability to comply with a requirement of this Order pursuant to this paragraph.
9. This Order shall become effective on the 15th day after a copy of it is mailed to the Dickenson County PSA. Va. Code § 32.1-26.

10. This Order shall continue in effect until:

- a. The Commissioner or his designee terminates the Order after the Dickenson County PSA has completed all of the requirements of this Order;
- b. The Dickenson County PSA petitions the Commissioner or his designee to terminate the Order after the Dickenson County PSA has completed all of the requirements of the Order and the Commissioner or his designee approves the termination of the Order; or
- c. The Commissioner or Board terminates the Order in their sole discretion upon 30 days written notice to the Dickenson County PSA.

11. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve the Dickenson County PSA from its obligation to comply with any statute, regulation, permit condition, other order, certificate, standard, or requirement otherwise applicable.

12. By its signature below, Dickenson County PSA voluntarily agrees to the issuance of this Order.

It is SO ORDERED this day, 6/6/2022 | 11:27:50 AM EDT.

STATE BOARD OF HEALTH
Commonwealth of Virginia

DocuSigned by:



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Colin M. Greene, MD, MPH
State Health Commissioner

The Dickenson County PSA voluntarily agrees to the issuance of this Order.

Ron Phillips Executive Director
Name Title
5/19/22 Ron Phillips
Date Signature

Commonwealth of Virginia

City/County of Dickenson

The foregoing document was signed and acknowledged before me this 19th day of May, 2022, by Ron Phillips who is Executive Director of the Dickenson County PSA, signing on behalf of the entity.

Crystal S R Phillips
Notary Public
253112

Registration No.

My commission expires: 12/31/2022

Notary seal:



Appendix A

Corrective Action Plan and Schedule for Compliance

The Dickenson County PSA shall:

- a. Within 30 days of the effective date of this Order, submit to ODW for review and approval a Corrective Action Plan (CAP) and Schedule that sets forth actions that the Dickenson County PSA has taken or plans to take to comply consistently with the PMCLs for TTHM and HAA5, as set forth in 12VAC5-590-340, Table 340.6 of the Regulations.
- b. Upon ODW approval of the CAP and Schedule, implement the CAP in accordance with the Schedule. The approved CAP and Schedule shall become a part of, and enforceable under, the terms of this Order.
- c. In the event that issues arise that impact the CAP and Schedule, submit any proposed modifications to the CAP and Schedule, pursuant to this Order, to ODW in writing for review, discussion, and approval prior to taking action.
- d. Mail all submittals and reports required by this Order to:

Lisa Crabtree, District Engineer
VDH-ODW – Abingdon Field Office
407 East Main St, Suite 2
Abingdon, VA 24210