



COMMONWEALTH of VIRGINIA

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State Health Commissioner

Department of Health
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TTY 7-1-1 OR
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STATE BOARD OF HEALTH SPECIAL ORDER BY CONSENT ISSUED TO

New River Water Company
Castle Craig Water Company, Inc.
Woodroam Water Company, Inc.
Iron Gate Water Company

FOR

Bethel Woods Subdivision Waterworks (PWSID No. 1121048)
Dry Valley Subdivision Waterworks (PWSID No. 1121150)
Twin Boulders Subdivision Waterworks (PWSID No. 1121755)
Viewland Subdivision Waterworks (PWSID No. 1121825)
Walton Farms Subdivision Waterworks (PWSID No. 1121842)
Bellavista Subdivision Waterworks (PWSID No. 1155050)
Riverbend Subdivision Waterworks (PWSID No. 1155700)
Castle Craig Subdivision Waterworks (PWSID No. 5031225)
Woodroam Subdivision Waterworks (PWSID No. 5143940)
Iron Gate Subdivision Waterworks (Unpermitted)

This is a Consent Order issued between the State Board of Health and the New River Water Company, Castle Craig Water Company, Inc., Woodroam Water Company, Inc., and Iron Gate Water Company under authority granted by Va. Code § 32.1-26 for the purpose of resolving certain violations of the Public Water Supplies Law and 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 ODW Abingdon Field Office located in Abingdon, Virginia.
2. "Bellavista" means the waterworks serving the Bellavista Subdivision located in Pulaski County, which serves piped water for human consumption to 17 service connections and approximately 45 year-round residents.

3. “Bethel Woods” means the waterworks serving the Bethel Woods Subdivision located in Montgomery County, which serves piped water for human consumption to 47 service connections and approximately 126 year-round residents.
4. “Board” means the State Board of Health, a permanent citizens’ board of the Commonwealth of Virginia, as described in Va. Code § 32.1-15.
5. “Castle Craig” means the waterworks serving the Castle Craig Subdivision located in Campbell County, which serves piped water for human consumption to 29 service connections and approximately 78 year-round residents.
6. “CCWC” means the Castle Craig Water Company, Inc., a corporation that supplies or proposes to supply water to any person within this Commonwealth from or by means of any waterworks.
7. “Chronically noncompliant waterworks” means a waterworks that is unable to provide pure water for any of the following reasons: (i) the waterworks’ record of performance demonstrates that it can no longer be depended upon to furnish pure water to the persons served; (ii) the owner has inadequate technical, financial, or managerial (TMF) capacity to furnish pure water to the persons served; (iii) the owner has failed to comply with an order issued by the Board or Commissioner pursuant to § 32.1-26 or 32.1-175.01; (iv) the owner has abandoned the waterworks and has discontinued supplying pure water to the persons served; or (v) the owner is subject to a forfeiture order pursuant to § 32.1-174.1.
8. “Commissioner” means the State Health Commissioner, who supervises and manages the Department, as described in Va. Code §§ 32.1-16 and 17.
9. “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.
10. “The Companies” mean the New River Water Company, Castle Craig Water Company, Inc., Woodroam Water Company, Inc., and Iron Gate Water Company, collectively.
11. “Department” or “VDH” means the Department of Health, an agency of the Commonwealth of Virginia, as described in Va. Code § 32.1-16.
12. “DFO” means the ODW Danville Field Office located in Danville, Virginia.
13. “Dry Valley” means the waterworks serving the Dry Valley Subdivision located in Montgomery County, which serves piped water for human consumption to 15 service connections and approximately 48 year-round residents.

14. “EPA” means the United States Environmental Protection Agency.
15. “Fee Regulations” means the Waterworks Operation Fee Regulations, 12VAC5-600-10, *et seq.*
16. “IGWC” means the Iron Gate Water Company, a corporation that supplies or proposes to supply water to any person within this Commonwealth from or by means of any waterworks.
17. “Iron Gate” means the consecutive waterworks serving the Iron Gate subdivision located in Botetourt County, which serves piped water for human consumption to 34 service connections and approximately 68 year-round residents.
18. “LFO” means the ODW Lexington Field Office located in Lexington, Virginia.
19. “Notice of Violation” or “NOV” means a type of notice of alleged violation issued under 12VAC5-590-110 of the Regulations.
20. “NRWC” means the New River Water Company, a corporation that supplies or proposes to supply water to any person within this Commonwealth from or by means of any waterworks.
21. “ODW” means the VDH Office of Drinking Water.
22. “Operator” means any individual employed or appointed by any owner, and who is designated by such owner to be the person in responsible charge, such as a supervisor, a shift operator, or a substitute in charge, and whose duties include testing or evaluation to control waterworks operations.
23. “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 § 2.2-4001, of the Board or Commissioner.
24. “Owner” or “water purveyor” means an individual, group of individuals, partnership, firm, association, institution, corporation, governmental entity, or the federal government, that supplies or proposes to supply water to any person within this Commonwealth from or by means of any waterworks.

25. “Permit” means a written waterworks operation permit, which ODW issued to NRWC or Petrus Environmental to operate the waterworks that are the subject of this Order in compliance with the law and regulations under their respective PWSID numbers.
26. “Petrus Environmental” means Petrus Environmental Services, Inc., a corporation that supplies or proposes to supply water to any person within this Commonwealth from or by means of any waterworks.
27. “PMCL” means primary maximum contaminant level.
28. “Proceeding” means an informal fact finding proceeding, as described in Va. Code § 2.2-4019.
29. “Public Water Supplies Law” or “PWSL” means Article 2, Chapter 6 of Title 32.1 of the Va. Code.
30. “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.
31. “PWSID” means Public Water System Identification.
32. “Qualified owner” means an owner who has the technical, managerial, and financial capability to operate the waterworks in compliance with the PWSL and Regulations. Any prospective qualified owner must submit a permit application and waterworks business operation plan for ODW’s review and approval before the applicant may be considered a qualified owner in satisfaction of the terms of this Order.
33. “Regulations” means the Waterworks Regulations, 12VAC5-590-10, *et seq.*
34. “Riverbend” means the waterworks serving the Riverbend Subdivision located in Pulaski County, which serves piped water for human consumption to 23 service connections and approximately 72 year-round residents.
35. “Twin Boulders” means the waterworks serving the Twin Boulders Subdivision located in Montgomery County, which serves piped water for human consumption to 29 service connections and approximately 90 year-round residents.
36. “Va. Code” means the Code of Virginia (1950), as amended.
37. “VAC” means the Virginia Administrative Code.

38. “Viewland” means the waterworks serving the Viewland Subdivision located in Montgomery County, which serves piped water for human consumption to 72 service connections and approximately 230 year-round residents.
39. “VRA” means the Virginia Resources Authority.
40. “VOC” means volatile organic chemical.
41. “Walton Farms” means the waterworks serving the Walton Farms Subdivision located in Montgomery County, which serves piped water for human consumption to 45 service connections and approximately 135 year-round residents.
42. “Warning Letter” means a type of notice of alleged violation.
43. “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 include 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.
44. “Woodroam” means the waterworks serving the Woodroam Subdivision located in Pittsylvania County, which serves piped water for human consumption to 30 service connections and approximately 80 year-round residents.
45. “WWC” means the Woodroam Water Company, Inc., a corporation that supplies or proposes to supply water to any person within this Commonwealth from or by means of any waterworks.

Section B. Findings of Fact and Conclusions of Law

1. NRWC is a Virginia-based corporation established in 1991.
2. Mr. David G. Petrus (Mr. Petrus) is the sole owner and acting director of NRWC.
3. According to VDH records, NRWC owns Bethel Woods, Dry Valley, Twin Boulders, Viewland, Walton Farms, Bellavista and Riverbend located in Montgomery and Pulaski Counties. CCWC owns Castle Craig. WWC owns Woodroam. IGWC owns Iron Gate. Collectively, the abovementioned waterworks may be referred to hereafter as “the Waterworks.”

4. NRWC contracts with Petrus Environmental to manage and operate Bethel Woods, Dry Valley, Twin Boulders, Viewland, Walton Farms, Bellavista, and Riverbend in compliance with the PWSL, the Regulations, and the Fee Regulations.
5. On March 25, 2021, ODW held the Proceeding to receive and review evidence from ODW and Mr. Petrus, who represented NRWC, to determine whether NRWC violated certain provisions of the PWSL and Regulations, and if found to have violated the law and regulations, to recommend an appropriate course of action. The Proceeding was held in person at Southeast Rural Community Assistance Project, Inc. (SERCAP), located at 347 Campbell Ave. S.W., Roanoke, VA 24016 and via WebEx. The Field Director for the ODW Richmond Field Office served as the Presiding Officer for the case. Staff from the Abingdon, Danville, and Lexington Field Offices participated in the Proceeding and served as agency witnesses. Staff from the ODW Capacity Development and Financial and Construction Assistance Programs provided information on funding opportunities to return the Waterworks to compliance. Representatives of VRA and Pulaski County Public Service Authority also attended and participated in the hearing. During the Proceeding, Mr. Petrus notified ODW that Castle Craig, Woodroam, and Iron Gate were owned by Castle Craig Water Company, Woodroam Water Company, and Iron Gate Water Company, respectively. After reviewing the record and exhibits presented at the Proceeding, the Presiding Officer concluded that NRWC, CCWA, IGWC, and WWC owned and operated the Waterworks in violation of the PWSL and Regulations, as described below.

Bethel Woods Subdivision

6. Bethel Woods is a community waterworks located in Montgomery County. On May 5, 2006, ODW issued a Permit to NRWC to operate Bethel Woods under PWSID No. 1121048 in compliance with the law and regulations. Bethel Woods consists of a well, bulk storage tank, booster pump station, chlorination facilities, hydro-pneumatic tank and the distribution system.
7. On December 17, 2020, ODW staff conducted a sanitary survey of Bethel Woods. Based on the sanitary survey and a review of ODW records, staff observed the following:
 - a. NRWC failed to maintain conditions at Bethel Woods in a manner that assures a high degree of reliability throughout the entirety of the water supply system, as required by 12 VAC 5-590-360(A) of the Regulations. The transfer pumps were inoperable. The transfer pumps and bulk storage tank were removed from service and a construction permit was not issued for the modifications

made to the water storage and transmission, as required by 12 VAC 5-590-190 of the Regulations.

- b. NRWC failed to collect one routine sample for bacteriological examination during the October and November 2020 monitoring periods, as required by 12 VAC 5-590-370(A) of the Regulations.
 - c. NRWC failed to conduct triggered source water monitoring by August 12, 2020, following a total coliform-positive sample result collected on July 28, 2020, as required by 12 VAC 5-590-379(B) of the Regulations.
 - d. NRWC failed to submit a Level 1 Assessment by October 10, 2020, or collect repeat samples, following a total coliform-positive sample result collected in July 2020, as required by 12 VAC 5-590-392 of the Regulations.
 - e. NRWC failed to designate a Class 6 licensed operator to be in responsible charge of Bethel Woods since February 2020, as required by 12 VAC 5-590-460 of the Regulations.
 - f. NRWC failed to submit monthly operation reports no later than the 10th day of the month following the end of the monitoring period for the January, March, and April through December 2020 monitoring periods, as required by 12 VAC 5-590-530(A) of the Regulations.
 - g. NRWC failed to provide certification that it issued public notices to persons served by Bethel Woods within 30 days of the July 8, 2020 NOV, advising the Bethel Woods residents that NRWC does not have a licensed operator in attendance, as required by 12 VAC 5-590-540(C) of the Regulations.
8. On July 8, 2020, August 26, 2020, September 28, 2020, November 30, 2020, December 7, 2020, December 15, 2020, and January 8, 2021, ODW notified NRWC of these alleged violations and requested certain corrective actions.
9. By Warning Letter dated November 16, 2020, ODW notified NRWC that Bethel Woods was listed as a “potential serious violator” on EPA’s Enforcement Response Policy for the above-mentioned violations.

Dry Valley Subdivision

10. Dry Valley is community waterworks located in Montgomery County. On September 11, 1992, ODW issued a Permit to NRWC to operate Dry Valley under PWSID No. 1121150 in compliance with the law and regulations. Dry Valley consists of a drilled

well, an 80-gallon hydro-pneumatic tank, a 5,000-gallon bulk storage tank, and a chlorinator.

11. On July 10, 2018, AFO evaluated Dry Valley's lead and copper water sample results to determine whether treatment was necessary to minimize lead and copper levels in the drinking water. Based on the evaluation, AFO required that NRWC design and install corrosion control treatment by November 8, 2019.

12. On December 17, 2020, ODW staff conducted a sanitary survey of Dry Valley. Based on the sanitary survey and a review of ODW records, staff observed the following:

- a. NRWC failed to maintain conditions at Dry Valley in a manner that assures a high degree of reliability throughout the entirety of the water supply system, as required by 12 VAC 5-590-360(A) of the Regulations. The bulk storage tank hatchway and lid were corroded, the gasket for the lid was deteriorating, and brush surrounding the tank prevented maintenance around all appurtenances. The roofing section for the wellhead enclosure was not flush against the treatment facilities building, allowing a gap for vermin to enter.
- b. NRWC failed to collect one routine sample for bacteriological examination during the October and November 2020 monitoring periods, as required by 12 VAC 5-590-370(A) of the Regulations.
- c. NRWC failed to install optimum corrosion control treatment by the November 8, 2019 deadline in accordance with the lead and copper evaluation performed on July 10, 2018, as required by 12 VAC 5-590-405(A) of the Regulations.
- d. NRWC failed to provide notice of the individual tap results from lead tap water monitoring to persons at the sampling sites from which samples were taken within 30 days of learning the results for the January 1 to June 30, and July 1 to December 31, 2019 semiannual monitoring periods, as required by 12 VAC 5-590-405(D) of the Regulations.
- e. NRWC failed to designate a Class 6 licensed operator to be in responsible charge of Dry Valley since February 2020, as required by 12 VAC 5-590-460 of the Regulations.
- f. NRWC failed to submit monthly operation reports by no later than the 10th day of the month following the end of the monitoring period for the January, March, and April through December 2020 monitoring periods, as required by 12 VAC 5-590-530(A) of the Regulations.

- g. NRW failed to submit, no later than three months following the end of the 2019 semiannual monitoring periods, a sample copy of the consumer notification of the lead tap results, along with certification that the notification had been distributed in a manner consistent with the requirements, as required by 12 VAC 5-590-530(F) of the Regulations.
 - h. NRW failed to provide public notice to persons served by the waterworks for the failure to install corrosion control treatment within 30 days of the November 8, 2019 deadline, as set forth in the lead and copper evaluation and as required by 12 VAC 5-590-540(A) of the Regulations.
 - i. NRW failed to repeat public notice every three months for as long as the failure to install corrosion control treatment persists, or from January 1, 2020 to present, as required by 12 VAC 5-590-540(C) of the Regulations.
 - j. NRW failed to submit certification that it fully complied with the public notice requirements or submit a representative copy of each type of notice distributed, published, posted, and made available to persons served by Dry Valley within ten days of completing the initial and repeat public notices, as required by 12 VAC 5-590-540(M) of the Regulations.
13. On December 30, 2019, March 4, 2020, July 6, 2020, November 30, 2020, December 15, 2020, and January 8, 2021, ODW notified NRW of these alleged violations.
14. By Warning Letter dated March 6, 2020, ODW notified NRW that Dry Valley had been identified as a “potential serious violator” under EPA’s Enforcement Response Policy for the above-mentioned violations.
15. On September 17, 2020, AFO staff presented a draft consent order to Mr. Petrus for review and consideration to resolve violations at Dry Valley, but did not receive a signed order.

Twin Boulders Subdivision

16. Twin Boulders is a community waterworks located in Montgomery County. On October 21, 1991, ODW issued a Permit to NRW to operate Twin Boulders under PWSID No. 1121755 in compliance with the law and regulations. Twin Boulders consists of a drilled well, bulk storage tank, dual transfer pumps, and hydro-pneumatic tank.

17. On December 17, 2020, ODW staff conducted a sanitary survey of Twin Boulders. Based on the sanitary survey and a review of ODW records, staff observed the following:

- a. NRWC failed to maintain conditions at Twin Boulders in a manner that assures a high degree of reliability throughout the entirety of the water supply system, as required by 12 VAC 5-590-360(A) of the Regulations. Transfer pumps were not present and the bulk storage tank was out of service. The hydro-pneumatic tank was waterlogged causing the well pump to recycle. The well blow-off and tank drain pipes were leaking when the well pump was in operation. The well house was unlocked due to a broken hasp. Free chlorine residual was not detected in the distribution system.
- b. NRWC failed to collect one routine sample for bacteriological examination during the October and November 2020 monitoring periods, as required by 12 VAC 5-590-370(A) of the Regulations.
- c. NRWC failed to designate a Class 6 licensed operator in responsible charge at Twin Boulders since February 2020, as required by 12 VAC 5-590-460 of the Regulations.
- d. NRWC failed to submit monthly operation reports no later than the 10th day of the month following the end of the monitoring period for the January, March, and April through December 2020 monitoring periods, as required by 12 VAC 5-590-530(A) of the Regulations.
- e. NRWC failed to provide certification that it issued public notice to persons served by Twin Boulders, within 30 days of the July 8, 2020 NOV, advising that NRWC failed to have a licensed operator in attendance, as required by 12 VAC 5-590-540(C) of the Regulations.

18. On March 23, 2006, January 18, 2007, February 29, 2008, March 5, 2009, April 6, 2010, May 4, 2011, March 20, 2012, May 20, 2013, June 29, 2015, July 15, 2016, April 27, 2017, April 18, 2018, July 8, 2020, and January 8, 2021, ODW notified NRWC of the failure to maintain conditions at Twin Boulders in a manner that assured a high degree of reliability throughout the entirety of the water supply system. On July 8, 2020, September 28, 2020, November 30, 2020, and December 15, 2020, ODW notified NRWC of the other alleged violations.

19. By Warning Letter dated November 16, 2020, ODW notified NRWC that Twin Boulders had been identified as a “potential serious violator” under the EPA’s Enforcement Response Policy for the above-mentioned violations.

Viewland Subdivision

20. On May 27, 2008, ODW issued a Permit to NRWC to operate Viewland under PWSID No. 1121825 in compliance with the law and regulations. Viewland is a consecutive community waterworks located in Montgomery County. Viewland receives treated drinking water from the Montgomery County Public Service Authority through one metered connection, which it then delivers to the customers through residential waterlines.
21. On May 27, 2020, ODW staff conducted a sanitary survey of Viewland. Based on the sanitary survey and a review of ODW records, staff observed the following:
- a. NRWC failed to collect one routine sample for bacteriological examination during the October and November 2020 monitoring periods, as required by 12 VAC 5-590-370(A) of the Regulations.
 - b. NRWC failed to designate a Class 6 licensed operator in responsible charge at Viewland since February 2020, as required by 12 VAC 5-590-460 of the Regulations.
 - c. NRWC failed to submit monthly operation reports no later than the 10th day of the month following the end of the monitoring period for the January, March, and April through December 2020 monitoring periods, as required by 12 VAC 5-590-530(A) of the Regulations.
 - d. NRWC failed to submit certification that it issued public notice to persons served by Viewland, within 30 days of the July 8, 2020 NOV, advising that NRWC failed to have a licensed operator in attendance, as required by 12 VAC 5-590-540(C) of the Regulations.
22. On July 8, 2020, September 28, 2020, November 30, 2020, and December 15, 2020, ODW notified NRWC of these alleged violations.
23. By Warning Letter dated November 16, 2020, ODW notified NRWC that Viewland had been identified as a “potential serious violator” under EPA’s Enforcement Response Policy for the above-mentioned violations.

Walton Farms Subdivision

24. On May 12, 2006, ODW issued a Permit to NRWC to operate Walton Farms under PWSID No. 1121842 in compliance with the law and regulations. Walton Farms is a community waterworks located in Montgomery County. Walton Farms consists of a

drilled well, 20,000-gallon bulk storage tank, chlorination system, booster pumps, and a hydro-pneumatic tank.

25. On December 17, 2020, ODW staff conducted a sanitary survey of Walton Farms. Based on the sanitary survey and a review of ODW records, staff observed the following:

- a. NRWC failed to maintain conditions at Walton Farms in a manner that assures a high degree of reliability throughout the entirety of the water supply system, as required by 12 VAC 5-590-360(A) of the Regulations. The hatchway and lid were corroded and the flow meter operation was inaccurate. The bulk storage tank and two transfer pumps were removed from service. A construction permit was not issued for the modifications made to water storage and transmission, as required by 12 VAC 5-590-190 of the Regulations. Free chlorine was detected in the distribution system.
- b. NRWC failed to collect one routine sample for bacteriological examination during the October and November 2020 monitoring periods, as required by 12 VAC 5-590-370(A) of the Regulations.
- c. NRWC failed to provide notice of the results from lead tap water monitoring to persons at the sampling sites from which samples were taken within 30 days of learning the results for the June 1 to September 30, 2019 monitoring period, as required by 12 VAC 5-590-405(D) of the Regulations.
- d. NRWC failed to designate a Class 6 licensed operation in responsible charge at Walton Farms since February 2020, as required by 12 VAC 5-590-460 of the Regulations.
- e. NRWC failed to submit monthly operation reports no later than the 10th day of the month following the end of the monitoring period for the January, March, and April through December 2020 monitoring periods, as required by 12 VAC 5-590-530(A) of the Regulations.
- f. NRWC failed to submit, no later than three months following the end of the June 1 to September 30, 2019 monitoring period, a sample copy of the consumer notification of the lead tap results along with a certification that the notification had been distributed in a manner consistent with the regulatory requirements, as required by 12 VAC 5-590-530(F) of the Regulations.
- g. NRWC failed to submit certification that it issued public notice to persons served by Walton Farms, within 30 days of the July 8, 2020 NOV, advising

that NRWC failed to have a licensed operator in attendance, as required by 12 VAC 5-590-540(C) of the Regulations.

26. On July 8, 2020, September 29, 2020, November 30, 2020, December 15, 2020, January 8, 2021, ODW notified NRWC of these alleged violations.
27. By Warning Letter dated November 16, 2020, ODW notified NRWC that Walton Farms had been identified as a “potential serious violator” on EPA’s Enforcement Response Policy for the above-mentioned violations.

Bellavista Estates

28. Bellavista is a community waterworks located in Pulaski County. On August 8, 1995, ODW issued a Permit to NRWC to operate Bellavista under PWSID No. 1155050 in compliance with the law and regulations. Bellavista consists of a drilled well, one hydro-pneumatic tank and chlorination equipment.
29. On December 17, 2020, ODW staff conducted a sanitary survey of Bellavista. Based on the sanitary survey and a review of ODW records, staff observed the following:
 - a. NRWC failed to maintain conditions at Bellavista in a manner that assures a high degree of reliability throughout the entirety of the water supply system, as required by 12 VAC 5-590-360(A) of the Regulations. The hydro-pneumatic tank was waterlogged causing the well pump to recycle.
 - b. NRWC failed to collect one routine sample for bacteriological examination during the October and November 2020 monitoring periods, as required by 12 VAC 5-590-370(A) of the Regulations.
 - c. NRWC failed to designate a Class 6 licensed operator in responsible charge at Bellavista since February 2020, as required by 12 VAC 5-590-460 of the Regulations.
 - d. NRWC failed to submit monthly operation reports no later than the 10th day of the month following the end of the monitoring period for the January, March, and April through December 2020 monitoring periods, as required by 12 VAC 5-590-530(A) of the Regulations.
 - e. NRWC failed to provide public notice for the failure to monitor lead and copper during the January 1, 2015 to December 31, 2017, and January 1, 2018 to December 31, 2018 monitoring periods, as required by 5-590-540(A) of the Regulations. NRWC also failed to submit a certification indicating that all

public notice requirements were met along with a copy of the notice distributed, as required by 12 VAC 5-590-540(M) of the Regulations.

- f. NRWC failed to submit certification that public notice was issued to persons served by Bellavista, within 30 days of the July 8, 2020 NOV, advising that NRWC failed to have a licensed operator in attendance, as required by 12 VAC 5-590-540(C) of the Regulations.

30. On July 8, 2020, October 1, 2020, November 30, 2020, December 15, 2020, and January 8, 2021, ODW notified NRWC of these alleged violations.

31. By Warning Letter dated September 9, 2019 and November 16, 2020, ODW notified NRWC that Bellavista had been identified as a “potential serious violator” under EPA’s Enforcement Response Policy.

Riverbend Subdivision

32. Riverbend is a community waterworks located in Pulaski County. On December 6, 1993, ODW issued a Permit to NRWC to operate Riverbend under PWSID No. 1155700 in compliance with the law and regulations. Riverbend consists of a drilled well, one hydro-pneumatic tank, and chlorination equipment.

33. On December 17, 2020, ODW staff conducted a sanitary survey of Riverbend. Based on the sanitary survey and a review of ODW records, staff observed the following:

- a. NRWC removed the 1,000-gallon hydro-pneumatic tank from service during 2012 due to leakage and replaced it with two 119-gallon pressure tanks. NRWC did not have a construction permit to modify the waterworks, as required by 12 VAC 5-590-190 of the Regulations.
- b. NRWC failed to maintain conditions at Riverbend in a manner that assures a high degree of reliability throughout the entirety of the water supply system, as required by 12 VAC 5-590-360(A) of the Regulations. The hydro-pneumatic tank was taken out of service due to a leak. The well house was not secured due to an unsealed opening where the hydro-pneumatic tank was removed. The flow meter bypass piping was leaking. The well casing vent was deteriorated.
- c. NRWC failed to collect one routine sample for bacteriological examination during the October and November 2020 monitoring periods, as required by 12 VAC 5-590-370(A) of the Regulations.

- d. NRW failed to monitor once every three years for VOCs during the January 1, 2017 to December 31, 2019 compliance period, as required by 12 VAC 5-590-370(B) of the Regulations.
 - e. NRW failed to monitor once every six years for radiological concentrations at every entry point, and did not collect the required radiological sample during the January 1, 2014 to December 31, 2019 compliance period, as required by 12 VAC 5-590-370(D) of the Regulations.
 - f. NRW failed to designate a Class 6 licensed operator in responsible charge at Riverbend since February 2020, as required by 12 VAC 5-590-460 of the Regulations.
 - g. NRW failed to submit monthly operation reports no later than the 10th day of the month following the end of the monitoring period for the January, March, and April through December 2020 monitoring periods, as required by 12 VAC 5-590-530(A) of the Regulations.
 - h. NRW failed to submit certification that it issued public notice to persons served by Riverbend, within 30 days of the July 8, 2020 NOV, advising that NRW failed to have a licensed operator in attendance, as required by 12 VAC 5-590-540(C) of the Regulations.
34. On April 27, 2015, July 15, 2016, May 1, 2017, April 19, 2018, February 12, 2020, July 8, 2020, October 1, 2020, November 30, 2020, and December 15, 2020, and January 8, 2021, ODW notified NRW of these alleged violations.
35. By Warning Letter dated September 10, 2020, ODW notified NRW that Riverbend had been identified as a “potential serious violator” under the EPA’s Enforcement Response Policy.

Castle Craig Subdivision

36. CCWC is a Virginia-based corporation established in 2001.
37. Mr. Petrus is listed as the sole owner and acting director of CCWC, which is no longer listed as active with the Virginia State Corporation Commission.
38. CCWC contracts with Petrus Environmental to operate Castle Craig in compliance with the law and regulations.

39. On April 29, 2011, ODW issued a Permit to operate Castle Craig under PWSID No. 5031225 in compliance with the law and regulations.
40. Castle Craig is a community waterworks located in Campbell County. Castle Craig consists of two drilled wells, pH adjustment corrosion control treatment, chlorine disinfection treatment, four 119-gallon pressure tanks, and associated distribution system.
41. On March 21, 2019 and February 17, 2021, DFO staff conducted sanitary surveys of Castle Craig. Based on the sanitary surveys and a review of ODW records, staff observed the following:
- a. CCWC failed to collect a raw water sample to be analyzed for coliform bacteria during the 2020 monitoring period, as required by 12 VAC 5-590-370(A) of the Regulations.
 - b. CCWC failed to collect a routine water sample for bacteriological examination during the October, November, and December 2020 monitoring periods, as required by 12 VAC 5-590-370(A) of the Regulations.
 - c. CCWC failed to collect a nitrate/nitrite sample during the 2020 annual monitoring period, as required by 12 VAC 5-590-370(B) of the Regulations.
 - d. CCWC failed to collect the five lead and copper samples from approved sites in the distribution system between June 1 and September 30, 2020, as required by 12 VAC 5-590-375(B) of the Regulations.
 - e. CCWC failed to collect one confirmation metals sample within two weeks of detecting cadmium (0.0064 mg/L) and beryllium (0.0062 mg/L) above the PMCL (0.005 mg/L and 0.004 mg/L, respectively) from a compliance metals sample taken on October 9, 2019, as required by 12 VAC 5-590-410(B) of the Regulations.
 - f. CCWC failed to submit monthly operation reports no later than the 10th day of the month following the end of the monthly monitoring periods for April through December 2020, as required by 12 VAC 5-590-530(A) of the Regulations.
42. On June 11, 2020, September 28, 2020, November 5, 2020, December 21, 2020, January 13, 2021, January 14, 2021, January 19, 2021, and January 21, 2021, ODW notified Petrus Environmental of these violations and requested certain corrective actions.

43. By Warning Letter dated June 21, 2019, ODW notified CCWA that Castle Craig was listed as a “potential serious violator” under EPA’s Enforcement Response Policy for the above-mentioned violations.

Woodroam Subdivision

44. WWC is a Virginia-based corporation established in 2001.
45. Mr. Petrus is the sole owner and acting director of WWC, which is no longer listed as active with the Virginia State Corporation Commission.
46. WWC contracts with Petrus Environmental to operate Woodroam in compliance with the law and regulations.
47. On December 30, 2015, ODW issued a Permit to operate Woodroam under PWSID No. 5143940 in compliance with the law and regulations.
48. Woodroam is a community waterworks located in Pittsylvania County. Woodroam consists of two drilled wells, a steel atmospheric-type storage standpipe, a hydro-pneumatic tank, two booster pumps, corrosion control treatment, and distribution system.
49. On March 11, 2020, DFO staff conducted a sanitary survey of Woodroam. Based on the sanitary survey and a review of ODW records, staff observed the following:
- a. WWC failed to collect routine water samples for bacteriological examination during the October, November, and December 2020 monitoring periods, as required by 12 VAC 5-590-370(A) of the Regulations.
 - b. WWC failed to collect a nitrate/nitrite sample during the 2020 annual monitoring period, as required by 12 VAC 5-590-370(B) of the Regulations.
 - c. WWC failed to collect repeat samples or submit a Level 1 Assessment by July 16, 2020, following two total coliform-positive sample results collected on May 28 and 29, 2020, as required by 12 VAC 5-590-392 of the Regulations.
 - d. WWC failed to submit the certification statement and example consumer notification within 30 days of learning the lead and copper tap sample results for samples collected on October 9, 2020, as required by 12 VAC 5-590-405(D) of the Regulations.

- e. WWC failed to submit monthly operation reports by no later than the 10th day of the month following the end of the monitoring period for the April through December 2020 monitoring periods, as required by 12 VAC 5-590-530(A) of the Regulations.
50. On July 24, 2020, September 28, 2020, November 18, 2020, December 21, 2020, January 13, 2021, January 14, 2021, and January 19, 2021, ODW notified Petrus Environmental of these violations and requested certain corrective actions.
51. By Warning Letter dated June 21, 2019 and December 2, 2020, ODW notified WWC that Woodroam had been identified as a “potential serious violator” under EPA’s Enforcement Response Policy.

Iron Gate Subdivision

52. IGWC is a Virginia-based corporation established in 2004.
53. Mr. Petrus is the sole owner and acting director of IGWC, which is no longer listed as active with the Virginia State Corporation Commission.
54. ODW has not issued a Permit to any of the Companies to operate Iron Gate in compliance with the law and regulations. IGWC contracts with Petrus Environmental to operate Iron Gate in compliance with the law and regulations.
55. Iron Gate is a consecutive community waterworks located in Botetourt County. The Town of Iron Gate operated Iron Gate until March 2004 when IGWC contracted with the Town to purchase its treated drinking water, which IGWC then distributes and sells to customers served by Iron Gate.
56. Iron Gate consists of piping of various types and diameters and plastic valves at unknown locations. Iron Gate serves 34 service connections and approximately 68 year-round residents. ODW has not issued a Permit to any of the Companies to operate Iron Gate.
57. On December 29, 2020, LFO staff performed a site visit to determine whether Iron Gate meets the definition of a “waterworks,” as defined in the PWSL and Regulations. Based on the site visit and other VDH records, LFO staff observed the following:
- a. Iron Gate meets the definition of a “waterworks” because it serves piped water for human consumption to at least 15 service connections and 25 or more individuals for at least 60 days out of the year.

- b. IGWC failed to obtain a written operation permit to operate Iron Gate, as required by 12 VAC 5-590-190 of the Regulations and § 32.1-172 of the Va. Code.
- c. IGWC failed to maintain conditions throughout the entirety of Iron Gate in a manner that will assure a high degree of capability and reliability to effect compliance with the regulatory standards, as required by 12 VAC 5-590-360(A) of the Regulations. This observation is based on the following:
 - i. IGWC has not designated a licensed operator to be in responsible charge of Iron Gate since July 2020 or longer.
 - ii. IGWC currently bills customers served by Iron Gate from a Texas address. On March 4, 2021, Iron Gate customers were billed for water usage during July 2020 to February 2021. Customers expressed concern with IGWC's billing practices and indicated that the bills did not reflect actual water usage.
 - iii. IGWC is delinquent on payments to the Town of Iron Gate for the water that it is re-metering and distributing to Iron Gate customers.
 - iv. IGWC has not provided appropriate preventative and control measures to assure the quality of water delivered to its customers is not impaired. Since July 2020, the locality or local service authority has responded to customer complaints, maintenance and repairs, and service requests.
 - v. IGWC has not applied for a waterworks operation permit, nor paid its waterworks operation fees since taking ownership in 2004.
 - vi. IGWC has not demonstrated the technical, managerial, or financial capacity to operate Iron Gate.
 - vii. IGWC has not complied with water quality standards by performing routine water quality monitoring and reporting to demonstrate that customers are protected against contaminants in the distribution system.
- d. On January 21, 2021, ODW issued an NOV to IGWC for operating Iron Gate without a permit.

Waterworks Operation Fees

58. The Companies failed to pay the Waterworks' operation fees for fiscal years 2019 and 2020 (at \$2.95 per connection) as follows:

Waterworks Name	No. of Connections	Cost Per Billing Period:	No. of Billing Periods Delinquent	Total Amount Due
Bethel Woods	47	\$138.65	2	\$277.30
Dry Valley	16	\$47.20	2	\$94.40
Twin Boulders	29	\$85.55	2	\$171.10
Viewland	73	\$215.35	2	\$430.70
Walton Farms	44	\$129.80	2	\$259.60
Bellavista	16	\$47.20	2	\$94.40
Riverbend	23	\$67.85	2	\$135.70
Woodroam	30	\$88.50	2	\$177
Castle Craig	29	\$85.55	2	\$171.10
Iron Gate	34	\$100.30	5 ¹	\$501.50
Total				\$2,312.80

59. On July 1, 2019 and July 1, 2020, ODW invoiced NRWC for Bethel Woods, Dry Valley, Twin Boulders, Viewland, Walton Farms, Bellavista Estates, and Riverbend for the July 1, 2019 - June 30, 2020 and July 1, 2020 - June 30, 2021 billing periods for \$1,097.40. On October 31, 2019 and November 25, 2020, ODW sent a payment notices to NRWC indicating that it had not received a payment by August 5, 2019 and August 3, 2020.

60. On July 1, 2019, and July 1, 2020, ODW invoiced Castle Craig Water Company for Castle Craig the July 1, 2019 - June 30, 2020 and July 1, 2020 - June 30, 2021 billing periods for \$171.10. On October 31, 2019 and November 25, 2020, ODW sent a payment notice to Castle Craig Water Company indicating that it had not received a payment by August 5, 2019 and August 3, 2020.

61. On July 1, 2019, and July 1, 2020, ODW invoiced Woodroam Water Company for Woodroam for the July 1, 2019 - June 30, 2020 and July 1, 2020 - June 30, 2021 billing periods for \$171.10. On October 31, 2019 and November 25, 2020, ODW sent a payment notice to Castle Craig Water Company indicating that it had not received a payment by August 5, 2019 and August 3, 2020.

¹ Iron Gate Water Company has owned Iron Gate since 2004; however, the number of billing periods for purposes of calculating the delinquent fees is considered five since this is the length of time used when evaluating violations or assessing civil charges according to ODW policy.

62. Based on a review of ODW records, ODW staff observed that the Companies failed to pay annual waterworks operation fees for the Waterworks for fiscal years 2019 and 2020 for \$2,312.80, as required by 12 VAC 5-600-50 of the Regulations and § 32.1-171.1(A) of the Va. Code.
63. On January 8, 2021, ODW notified NRWC of the alleged violation for the failure to pay the waterworks operation fees.

The Companies

64. Mr. Petrus is the sole owner and acting director of the Companies.
65. Mr. Petrus resides in Nevada, and can no longer be depended upon to furnish pure water to the customers served by the Waterworks.
66. The Companies employ no other staff in Virginia.
67. The Companies provide some satellite service to the customers of the Waterworks, but no longer maintain a physical address in Virginia.
68. The Companies do not have the technical, managerial, or financial capacity to own and operate the Waterworks in compliance with the PWSL, Regulations and Fee Regulations. The Companies do not have an onsite, licensed operator to perform routine operation and maintenance. NRWC does not qualify for funding through the Financial and Construction Assistance Program. According to the Companies, they do not have other sources of available funds to repair and improve the Waterworks' infrastructure.
69. NRWC's Promissory Note payable to the VRA in the principal amount of \$429,645 is delinquent and in default because NRWC has not made payments according to the terms of the Note. By letter dated January 26, 2021, the VRA notified NRWC that the amount past due, comprised of principal and a late fee, is \$7,185.71.
70. The Companies have been unable to identify a new owner or qualified operator to manage and operate some or all of the Waterworks in compliance with the law and regulations due to the remote locations of the Waterworks, the size of the systems, and lack of financial incentive.
71. The Companies no longer wish to conduct business in Virginia, and seek to divest themselves of the responsibility of owning and operating the Waterworks.

Legal Requirements

72. The Regulations, at 12 VAC 5-590-125 (Chronically noncompliant waterworks.), state, in part, “The commissioner may identify a waterworks as chronically noncompliant whenever he determines that... [t]he waterworks has a documented performance record that demonstrates the waterworks is not a dependable supplier of potable water; ... [t]he owner has shown inadequate technical, financial, or managerial capabilities to provide potable water; or... [t]he owner has abandoned the waterworks and has discontinued providing potable water to the consumers.”
73. The Regulations, at 12 VAC 5-590-190 (Permits.), state, in part, “No owner or other person shall cause or allow the construction or change in the manner of transmission, storage, purification, treatment, or distribution of water... at any waterworks or water supply without a written construction permit from the commissioner. Furthermore, no owner or other person shall cause or permit any waterworks or water supply to be operated without a written operation permit issued by the commissioner which authorizes the operation of the waterworks or water supply.”
74. The Regulations, at 12 VAC 5-590-360(A) (Responsibility; owner.), state, in part, “The water utility owner... shall provide and maintain conditions throughout the entirety of the water supply system in a manner that will assure a high degree of capability and reliability to effect compliance with these standards. This requirement shall pertain to the source of supply, treatment, transmission, storage, and distribution facilities and the operation thereof.”
75. The Regulations, at 12 VAC 5-590-370(A) (Sampling frequency.), state, in part, “The owner shall collect total coliform samples at specific sites and according to a schedule that is representative of water quality throughout the distribution system, which shall be documented in a written bacteriological sampling siting plan... The minimum number of bacteriological samples for total coliform evaluation to be collected and analyzed monthly from the distribution system of a community... waterworks shall be [one].”
76. The Regulations, at 12 VAC 5-590-370(B) (Sampling frequency.), state, in part, “[t]he owner of each groundwater waterworks... shall take one [VOC] sample [annually]...”
77. The Regulations, at 12 VAC 5-590-370(D) (Sampling frequency.), state, in part, “For gross alpha particle activity and uranium ...the community waterworks owner shall collect and analyze... at least one sample at that entry point every six years. For combined radium-226 and radium-228, the analytical results shall be combined

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[and]... the community waterworks owner shall collect and analyze for that contaminant using at least one sample at that entry point every six years.”

78. The Regulations, at 12 VAC 5-590-375(B) (Lead and copper monitoring.), state, in part, “Owners of all small... waterworks shall collect at least one sample during each six-month monitoring period... from [5] sample sites...until the waterworks exceeds the lead or copper action level and is therefore required to implement the corrosion control treatment requirements under 12 VAC 5-590-405.”
79. The Regulations, at 12 VAC 5-590-379(B) (Groundwater waterworks monitoring.), state, in part, “Groundwater waterworks owners shall conduct triggered source water monitoring if ... [t]he groundwater waterworks does not provide at least 4-log treatment of viruses before or at the first customer for each groundwater source; and ... [t]he groundwater waterworks owner is notified that a sample... is total coliform-positive. ... Groundwater waterworks owners shall collect, within 24 hours of notification of the total coliform-positive sample, one groundwater source sample from each groundwater source in use at the time the total coliform-positive sample was collected....”
80. The Regulations, at 12 VAC 5-590-392 (Coliform treatment technique triggers and assessment requirements.), state, in part, “Level 1 treatment technique [is triggered] when... [t]he owner fails to collect every required repeat sample after any single total coliform-positive sample... The owner shall complete the assessment and document the assessment on the [w]aterworks Level 1 Assessment form. The owner shall submit the assessment form, as soon as practical, but within 30 days after the owner learns that a trigger... has been exceeded.”
81. The Regulations, at 12 VAC 5-590-405(A) (Lead and Copper Treatment Techniques.), state, in part, “[t]he owners of all community... waterworks shall install and operate optimum corrosion control treatment by completing the corrosion control treatment requirements... [if the commissioner determines that treatment is needed].”
82. The Regulations, at 12 VAC 5-590-405(D) (Lead and Copper Treatment Techniques.), state, in part, “The owners of all community... waterworks shall provide a notice of the individual tap results from lead tap water monitoring carried out under the requirements of 12VAC5-590-375 B to the persons served by the waterworks at the specific sampling site from which the sample was taken (e.g., the occupants of the residence or buildings where the tap was tested).”
83. The Regulations, at 12 VAC 5-590-410(B) (Determination of compliance.), state, in part, “Where the results of sampling for... beryllium, cadmium... exceed the PMCL,

the owner shall take a confirmation sample, at the same sampling point, within two weeks of notification of the analytical results of the first sample.”

84. The Regulations, at 12 VAC 5-590-460 (Personnel.), state, “The owner shall designate one or more properly licensed operators to be in responsible charge of the waterworks at all times. When no designated operator is on duty or in communication with the operating personnel in attendance at the waterworks, a substitute operator shall be designated by the owner. The substitute operator shall possess a valid operator license of a classification equal to or greater than that of the waterworks.”
85. The Regulations, at 12 VAC 5-590-530(A) (Reporting.), state, in part, “The results of any required monitoring activity shall be reported by the owner... to the ODW no later than... the 10th day of the month following the month during which the test results were received.”
86. The Regulations, at 12 VAC 5-590-530(F) (Reporting.), state, in part, “[n]o later than three months following the end of the monitoring period, the owner shall mail a sample copy of the consumer notification of [lead] tap results to the district engineer along with a certification that the notification has been distributed in a manner consistent with the requirements of 12VAC5-590-405 D 4.”
87. The Regulations, at 12 VAC 5-590-540(A) (Public notices.), state, in part, “All owners shall give public notice to... persons served by the waterworks... [for] [Tier 2] violations of the PMCL... and treatment technique requirements...”
88. The Regulations, at 12 VAC 5-590-540(C) (Public notices.), state, in part, “For Tier 2 violations, exceedances, or situations, the owner shall... [p]rovide the public notice as soon as practical, but no later than 30 days after the owner learns of the violation, exceedance, or situation.”
89. The Regulations, at 12 VAC 5-590-540(M) (Public notices.), state, in part, “Within 10 days of completion of each initial and repeat public notice, the owner shall provide the district engineer [with] ...certification that he has fully complied with the public notice requirements... and ... [a] representative copy of each type of notice distributed, published, posted and made available to the persons served by the waterworks....”
90. The Fee Regulations, at 12 VAC 5-600-50 (Community waterworks operation fee.), states, “An annual waterworks operation fee shall be charged as of July 1 of each fiscal year to the owner of each community waterworks [based on] the number of

customer accounts multiplied by no more than \$3.00... [and] shall be paid to the department and due as follows:

1. If the fee... is \$400 or less, the fee shall be due in a lump sum on August 1;
 2. If the fee... is more than \$400, the fee shall be due in a lump sum or equal quarterly installments each year as follows:
 - a. August 1 – The lump sum or first quarterly installment.
 - b. November 1 – The second quarterly installment.
 - c. February 1 – The third quarterly installment.
 - d. May 1 – The fourth quarterly installment.”
91. Va. Code § 15.1-1800 (Purchase, sale, use, etc., of real property.), states, in part, “A locality may acquire by purchase, gift, devise, bequest, exchange, lease as lessee, or otherwise, title to, or any interests in, any real property, whether improved or unimproved, within its jurisdiction, for any public use.”
92. Va. Code § 15.2-2146 (Powers of localities to acquire certain waterworks system.), states, “For the purpose of providing an adequate water supply or of acquiring, maintaining, or enlarging a waterworks system, including chronically noncompliant waterworks, as defined in § 32.1-167, any locality, in addition to other powers conferred by law, may acquire, as provided in § 15.2-1800, within or outside or partly within and partly outside the limits of the locality, the property, in whole or in part, whensoever acquired, of any private or public service corporation operating a waterworks system or chartered for the purpose of acquiring or operating such a system. Such property shall include its lands, plants, works, buildings, machinery, pipes, mains, wells, basins, reservoirs and all appurtenances thereto and its contracts, easements, rights and franchises, including its franchise to be a corporation....”
93. Va. Code § 32.1-26 (Orders; hearing and notice.), states, in part, “The Board is authorized to issue orders to require any person to comply with the provisions of any law administered by it, the Commissioner or the Department or any regulation promulgated by the Board or to comply with any case decision, as defined in § 2.2-4001, of the Board or Commissioner.”
94. Va. Code § 32.1-27.D (Penalties, injunctions, civil penalties and charges for violations.), states, in part, “with the consent of any person who has violated or failed, neglected or refused to obey any regulation or order of the Board or Commissioner or any provision of this title, the Commissioner, acting for the Board, may provide, in an order issued by the Board against such person, for the payment of civil charges for past violations in specific sums, not to exceed the limits specified in... subsection C of this section (a civil penalty not to exceed \$25,000 for each violation).”

95. Va. Code § 32.1-171.1 (Waterworks operation fee required.) states, in part, “Every owner of a waterworks shall pay to the Department a waterworks operation fee... [b]ased upon the number of persons served, the number of connections, and the classification of the waterworks.”
96. Va. Code § 32.1-172 (Permit required.) states, in part, “No owner shall establish, construct or operate any waterworks or water supply in the Commonwealth without a written permit from the Commission.”
97. Va. Code § 32.1-174.3 (Appointment of receiver for certain private waterworks; grounds for such appointment; petition and hearing, etc.), states, in part, “In addition to the remedies provided in § 32.1-27 and this chapter for civil and criminal penalties and injunctive or other relief, the Commissioner may petition the circuit court for the jurisdiction in which any private waterworks is located for the appointment of a receiver for each waterworks in accordance with the provisions of this section. Such petition may be filed at any time that the Commissioner finds that the waterworks is unable or unwilling to provide adequate and safe service for any of the following reasons: 1. The waterworks can no longer be depended upon to furnish pure water; 2. The waterworks has inadequate [TMF] capacity to furnish pure water to its customers; 3. The owner has failed to comply with an order issued by the Commissioner; [or] 4. The owner has abandoned the waterworks and has discontinued supplying pure water to his customers.”

Conclusions of Law

98. Pursuant to 12 VAC 5-590-125 of the Regulations, the Commissioner, acting on behalf of the Board, has identified the Waterworks as “chronically noncompliant” based on the following determinations:
- a. The Companies’ record of performance demonstrates that they can no longer be depended upon to furnish pure water to the persons served by the Waterworks.
 - b. The Companies have inadequate technical, managerial, or financial capacity to furnish pure water to the persons served by the Waterworks.
 - c. The Companies have abandoned the Waterworks and have discontinued supplying pure water to the persons served by the Waterworks.
99. Pursuant to § 32.1-174.3 of the Va. Code, the Commissioner reserves the right to petition the circuit court of appropriate jurisdiction for the appointment of a receiver

for the Waterworks based upon the findings that the Companies are unable or unwilling to provide adequate and safe water service for the following reasons:

- a. The Waterworks can no longer be depended upon to furnish pure water.
 - b. The Waterworks have inadequate TMF capacity to furnish pure water to its customers.
 - c. The Companies have abandoned some or all of the Waterworks and have discontinued supplying pure water to their customers.
100. The Companies' lack of ability to ensure safe and adequate quantity and quality of water in a reliable manner at all times may present some risk of harm to customers served by the Waterworks resulting from the lack of management and investment in the Waterworks.
101. The Companies' performance record indicates the need for the transfer of ownership to a new owner to manage and operate the Waterworks in compliance with the law and regulations and to protect the public health of the Waterworks customers.
102. The Companies do not have financial means to repair and upgrade the Waterworks' infrastructure, which may affect the Companies' ability to provide safe and reliable drinking water.
103. NRWC is delinquent and in default on the amount due to VRA under its Promissory Note in the principal amount of \$429,645, and does not qualify to receive additional funding through the Drinking Water State Revolving Fund.
104. The transfer of ownership to a locality, service authority, or other qualified owner will solve several concerns, including:
- a. Having a certified operator in responsible charge of the daily operation of the Waterworks;
 - b. Maintaining the water treatment system, where applicable;
 - c. Obtaining funding for repairs required to maintain adequate service;
 - d. Proper monitoring and water quality sampling; and
 - e. Providing safe and reliable drinking water every day to the Waterworks' customers.

105. If the Companies are unsuccessful at transferring ownership of the Waterworks to a locality or service authority, then the Waterworks' customers may be left without a dependable water source, no certified operator, and no technical, managerial, or financial capacity. The Order is intended to serve as a basis for the transfer of ownership; however, if no new owner or operator can be identified, then ODW may proceed with the appointment of a receiver in the circuit court of appropriate jurisdiction.
106. Pursuant to § 2.2-4019 of the Va. Code, ODW held the Proceeding on March 25, 2021 to ascertain the fact basis for its case decision through an informal proceeding.
107. After reviewing the record and exhibits from the Proceeding, and the Presiding Officer's Recommended Findings of Fact and Conclusions of Law in the above-referenced matter, the Board adopts those Recommended Findings of Fact and Conclusions of Law, which ODW has incorporated into this Special Order.
108. Based on VDH records, the Board concludes that the Companies violated the PWSL, the Regulations, and the Fee Regulations, as described in paragraphs B(6) through B(97), above.
109. Pursuant to § 32.1-26 of the Va. Code, the Commissioner, acting for the Board, may issue orders to require any person to comply with the provisions of any law administered by it, the Commissioner or the Department or any regulations by the Board or to comply with any case decision, as defined in § 2.2-4001, of the Board or Commissioner.

Section C. Order for Compliance

In order for the Waterworks to be operated in compliance with the law and regulations, the Board orders the Companies, and the Companies agree, to the following:

1. **Corrective Action**
 - a. Within 30 days of the effective date of this Order, the Companies shall comply with federal monitoring and reporting requirements necessary to ensure a safe and adequate supply of drinking water to the Waterworks' customers until such time when they have discontinued providing water service, their Permits revoked, and the Waterworks are successfully operated by a qualified owner who has been issued a standard waterworks operation permit by ODW.

- b. Within 30 days of the effective date of this Order, the Companies shall ensure that the Waterworks are being operated and attended to on a frequency that is acceptable to ODW.
- c. Beginning the month following the effective date of this Order, the Companies shall submit monthly operation reports by the 10th day of the following month to the appropriate ODW field office to ensure a safe and adequate supply of drinking water to the Waterworks' customers until such time when they have discontinued providing water service and their permit revoked.
- d. In accordance with the terms of the Promissory Note dated February 21, 2006, between VRA and NRWC, NRWC shall pay the delinquent and default amount owed to VRA.
- e. Within 30 days of the effective date of this Order, the Companies, with the support of the Department, shall identify and petition the locality, service authority, or other qualified owner to:
 - i. Act in the best interest of the Waterworks' customers.
 - ii. Have full and unimpeded access to the Waterworks, including all infrastructure and records.
 - iii. Gain custody and control of all of the personal and real property necessary and incidental to the operation and maintenance of the Waterworks and the provision of water service to the Waterworks' customers, as well as to use the Waterworks' right of ways and property to deliver water for treatment and distribution purposes.
 - iv. Acquire the Waterworks free and clear of any and all liabilities and encumbrances of the Companies.
 - v. Apply for loans or grants as necessary to repair and maintain the Waterworks or otherwise consolidate them with the existing water supply.
 - vi. Impose reasonable assessments on the Waterworks' customers to recover expenses for improvements necessary for public health and safety, as well as the daily operation and maintenance of the Waterworks.
- f. The Companies shall petition the Waterworks' customers to begin directing paying fees and charges to a new owner to aid in the transfer of the Waterworks as may be determined by ODW.

- g. The Companies shall facilitate the transfer of title to, interest in, or other easements, contracts, and rights in the Waterworks to the locality, service authority, or other qualified owner as may be necessary to ensure the dependable supply of pure water to the customers, to the extent authorized by law.
- h. The Companies shall notify the Department within 10 days of identifying or petitioning any potential qualified owner in writing.
- i. The Department may create a fund as necessary to manage and control the fees and charges for water usage for the customers served by the Waterworks until such time when a new owner can be identified and the Waterworks successfully transferred.

2. Stipulated Penalties

- a. The Companies shall pay stipulated penalties of \$199,487.81 to the Department for failure to comply with any provision of this Order. Compliance by the Companies shall include the completion of an activity under this Order or a plan approved under this Order or any matter under this Order in an acceptable manner and within the specified time schedules in and approved under this Order. Any modifications of the time for performance pursuant to paragraph D.5 shall be in writing and agreed upon by both parties.
- b. All penalties begin to accrue on the day that complete performance is due or a violation occurs, and continue to accrue through the final day of correction of the noncompliance. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Order.
- c. Following the Department's determination that the Companies has failed to comply with the requirements of this Order, the Department shall give the Companies written notification of the same and describe the noncompliance. Said notice shall also indicate the amount of penalties due.
- d. All penalties owed to the Department under this section shall be payable within 30 days of receipt of the notification of noncompliance, unless the Companies invoke the dispute resolution procedures under paragraph D.5. Penalties shall accrue from the date of the violation regardless of whether the Department has notified the Companies of the violation. Such penalties shall be paid by certified check, money order or cashier's check to the "Treasurer of Virginia" and shall contain the Companies' complete and correct address. Payment shall be delivered to:

Attention: Diedre Forsgren
Virginia Department of Health
Shared Business Services
109 Governor Street, 11th Floor
Richmond, Virginia 23219

- e. Neither the filing of a petition to resolve a dispute nor the payment of penalties shall alter the Companies' obligation to complete the performance required hereunder.
- f. The Companies may dispute the Department's right to the stated amount of penalties by invoking the dispute resolution procedures under paragraph D.5. If the Companies do not prevail upon resolution, the Department has the right to collect all penalties which accrued prior to and during the period of dispute. If the Companies prevail upon resolution, no penalties shall be payable.
- g. No penalties shall accrue for violations of this Order caused by events beyond the control of the Companies. The Companies have the burden of proving force majeure or compliance with this Order.
- h. If the Companies fail to pay stipulated penalties, the Department may institute proceedings to collect the penalties. However, nothing in this section shall be construed as prohibiting, altering, or in any way limiting the ability of the Department to seek any other remedies or sanctions available by virtue of the Companies' violation of this Order or of the law and regulations upon which it is based.
- i. This section shall remain in full force and effect for the term of this Order.

3. Waterworks Operation Fees

- a. Within 30 days of the effective date of this Special Order, pay the waterworks operation fees for the Companies in settlement of its delinquent accounts for \$2,312.80 and this Special Order.
- b. Payment of the operation fee shall be made by check, certified mail, money order or cashier's check payable to the "VDH – Waterworks Technical Assistance Fund," and delivered to:

Diedre Forsgren, Accountant Sr.
Shared Business Services

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New River Water Company, Castle Craig Water Company, Inc., Woodroam Water Company, Inc.
Iron Gate Water Company

109 Governor Street, 11th Floor
Richmond, Virginia 23219

- c. If the Department has to refer collection of moneys due under the Fee Regulations or this Special Order to the Department of Law, NRWC shall be liable for attorneys' fees of 30% of the amount outstanding.
- d. Nothing in this Special Order suspends, minimizes, or otherwise alters the Companies' obligation to pay future operation fees as required by the law and regulations. Failure to pay future due amounts constitutes a violation of this Special Order.

Section D. Administrative Provisions

- 1. This Order does not suspend, minimize, or otherwise alter the Companies' 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.
- 2. 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.
- 3. This Order is not intended to waive or in any way limit the VRA's rights or remedies provided for in notes or financial agreements between VRA and NRWC, including any and all other documents and agreements between VRA and NRWC at law or in equity, all of which rights and remedies VRA expressly reserves.
- 4. To the fullest extent allowed by law, this Order is binding on the Companies, their agents and legal representatives, heirs, devisees, executors, administrators, and successors in interest, jointly and severally as applicable. This Order is not binding on any new waterworks owner that agrees to own or operate the Waterworks on behalf of the Companies or until such time when the transfer is complete.
- 5. Failure of the Companies to comply with any terms of this Order shall constitute a violation of this Order. Nothing herein shall waive the initiation of appropriate enforcement action, issuance of additional orders, judicial review, or the petition for the appointment of a receiver pursuant to § 32.1-174.3 of the Va. Code, as appropriate by VDH because of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

6. Pursuant to Va. Code § 32.1-26, this Order shall become effective on the 15th day after a copy is mailed to the Companies. Any request for modification of this Order shall be submitted to VDH in writing to be considered for approval by the Board or its designee.
7. Pursuant to 12 VAC 5-590-180 of the Regulations, the Companies shall have the right to request an informal or adjudicatory hearing should they dispute any action or inaction of the Board, its agents, or deputies in the administration of the Regulations. Such request shall be made in writing to the Department within 30 days of the action or inaction.
8. This Order shall remain in effect until the Commissioner or his designee terminates the Order after the Companies have completed all of the requirements of this Order, or the Commissioner or Board terminates the Order in their sole discretion upon 30 days written notice to the Companies. Termination of this Order, or any obligation imposed in it, shall not relieve the Companies from their obligation to comply with any statute, regulation, permit condition, other agreement, certificate, certification, standard, or requirement otherwise applicable.
9. The Companies neither admit nor deny owning some or all of the Waterworks but consents to this Order and waives their right to challenge their ownership of the Waterworks for the purpose of resolving violations of the law and regulations and complying with this Order.
10. The Companies hereby grant custody and control, and all legal and equitable right, title, and interests in all assets to a new owner(s) of the Waterworks under this Order as may be necessary to protect public health.
11. To the extent authorized by law in §§ 15.2-1800 and 2146 of the Va. Code, the Companies hereby agree to and authorize the acquisition by gift, devise, bequest, exchange, lease or lessee, or otherwise, title to, or any interests in, the Waterworks to a new owner, as may be deemed necessary to protect public health.
12. The Companies hereby authorize any locality, service authority, or other qualified owner to act in the best interest of the Waterworks' customers, to operate and maintain the Waterworks free and clear of any and all liability and encumbrances, and to apply for funding for the planning, design, and construction of facilities needed to consolidate or otherwise serve the Waterworks.
13. The Companies retain responsibility for complying with the law and regulations until such time when the Department issues a standard operation permit to the qualified after review and approval of the requirements set forth in this Order or otherwise required in a temporary permit, and has revoked the Permits issued to any of the Companies.

Consent Order

New River Water Company, Castle Craig Water Company, Inc., Woodroam Water Company, Inc.
Iron Gate Water Company

14. The Companies' failure to respond to requests for compliance with this Order, or for other information, documentation, or cooperation necessary to implement this Order may be considered as authorization for any locality, service authority, or authorized owner to act in the best interest of the customers of the Waterworks absent express consent by the Companies.

It is SO ORDERED.

STATE BOARD OF HEALTH
Commonwealth of Virginia

DocuSigned by:
M. Norman Oliver, MD 5/20/2021 | 9:37:46 AM EDT
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M. Norman Oliver, MD, MA
State Health Commissioner

The Companies voluntarily agree to the issuance of this Order.

Date: 5/14/2021 | 6:08:02 PM EDT By: *David Petrus*, President
75D77C656A7F4A9... (Person) (Title)
David George Petrus
New River Water Company
Castle Craig Water Company, Inc.
Woodroam Water Company, Inc.
Iron Gate Water Company