



May 14, 2021

First Class & Certified Mail 9214 8969 0099 9790 1419 5591 17

Mr. Christopher Eleazer
Oconee Joint Regional Sewer Authority
623 Return Church Road
Seneca, SC 29679



Re: **Executed Consent Order 21-025-W**
Oconee Joint Regional Sewer Authority
NPDES Permit SC0033553
Oconee County

Dear Mr. Eleazer:

Enclosed is fully executed Consent Order 21-025-W for the above referenced facility. The Order is considered executed on May 14, 2021.

The Order contains a civil penalty which may be paid online at scdhec.gov via invoice number **P3XY-NAMA-YM1R**, or via check to the following address:

Attn: Patrick Stivers
SCDHEC - Bureau of Water
WP Enforcement Section
2600 Bull Street
Columbia, S.C. 29201

If you have any questions regarding this matter, please contact me by telephone at (803) 898-0075 or by e-mail at stiverpb@dhec.sc.gov.

Sincerely,

Patrick Stivers
Enforcement Project Manager
Bureau of Water - WP Control Division
WP Enforcement Section

cc: Adam Cannon, WP Enforcement Section Manager
Melanie Hindman, SCDHEC, WP Compliance
Brenda Green, SCDHEC, Water Facilities Permitting
Paul Wilkie, SCDHEC, Anderson BEHS

Enclosure

**THE STATE OF SOUTH CAROLINA
BEFORE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**

**IN RE: OCONEE JOINT REGIONAL SEWER AUTHORITY
OCONEE COUNTY**

CONSENT ORDER

21-025-W

Oconee Joint Regional Sewer Authority (OJRSA) owns and is responsible for the proper operation and maintenance of the Coneross Creek wastewater treatment facility (WWTF) and the associated wastewater collection system (WWCS), located at 623 Return Church Road in Seneca, South Carolina, which serves the residences and businesses of its designated service area in Oconee County.

The Department alleges that OJRSA violated the Pollution Control Act, in that it discharged untreated wastewater into the environment, including waters of the State, in a manner other than in compliance with a permit issued by the South Carolina Department of Health and Environmental Control. The unauthorized discharges resulted from sewer system overflows (SSO) occurring October 12, 2019, December 23, 2019, and December 27, 2019, from locations within its WWCS. Additionally, OJRSA reported SSOs that occurred on February 6, 2020, April 13, 2020, April 15, 2020, April 21, 2020, June 4, 2020, and September 8, 2020.

The Department and OJRSA concur that in the interest of resolving this matter without delay and expense of litigation, OJRSA agrees to the entry of this Consent Order, but neither agrees with nor admits the Findings of Fact or the Conclusions of Law; and therefore, agrees that the Order shall be deemed an admission of fact and law only as necessary for enforcement of this Order by the Department or subsequent actions relating to OJRSA by the Department.

In accordance with approved procedures and based upon discussions with agents for OJRSA on April 28, 2020, the parties agree to the issuance of this Order to include the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. OJRSA owns and is responsible for the proper operation and maintenance of the Coneross Creek WWTF and the associated WWCS, located at 623 Return Church Road in Seneca, South Carolina, which serves the residences and businesses of its designated service area in Oconee County. OJRSA is composed of 80.97 miles of sewer line. OJRSA is overseen by a Commission comprised of representatives from Member Cities – Seneca, Walhalla, and Westminster. The WWCS includes several customer satellite sewer collection systems, including those belonging to the Member Cities, that collect and convey wastewater to the Coneross Creek WWTF.
2. The South Carolina Department of Health and Environmental Control (Department) reissued NPDES Permit SC0033553 (Permit) to OJRSA, effective August 1, 2019, authorizing it to discharge treated wastewater to Coneross Creek in accordance with effluent limitations, monitoring requirements, and other permit conditions. The Permit expires July 31, 2024.
3. OJRSA reported an SSO on October 12, 2019, in Seneca, South Carolina, caused by a concrete section of a manhole blocking the pipe. The report further stated an estimated 15,600 gallons of untreated wastewater entered a wet weather ditch leading to Hartwell Lake.
4. OJRSA reported an SSO on December 23, 2019, from manholes #596 and #591 near 195 Heritage Drive, and manhole #588 near 190 Duck Pond Road in Walhalla, South

Carolina, caused by inflow and infiltration (I&I) from the City of Walhalla satellite sewer system (SSS) due to a rain event. The report further stated an estimated 51,500 gallons of untreated wastewater entered Duck Pond.

5. OJRSA reported an SSO on December 27, 2019, in Westminster, South Carolina, caused by a collapsed reinforced concrete pipe gravity sewer line due to erosion of a sharp bend in Coneross Creek resulting from heavy rains. The report further stated an estimated 195,000 gallons of untreated wastewater entered Coneross Creek.
6. On January 23, 2020, Department staff conducted a collection system inspection with representatives of OJRSA present. Department staff made the following observations during the inspection:
 - a) There are no procedures developed for scheduling inspections or routine maintenance;
 - b) A sewer cleaning program has not been developed;
 - c) Fencing was missing on one side of Flat Rock Pump Station;
 - d) Excessive amount of trash was present in the wet well of Flat Rock pump station and was unable to be pumped out due to a steep embankment next to the riser;
 - e) A manhole was cracked at the riser; and
 - f) Manholes above Flat Rock Pump Station contained trash and rags and sediment.
7. OJRSA reported three SSOs on February 6, 2020. In the reports, OJRSA stated the SSOs were caused by an estimated 4.84 inches of rain during a 12-hour period. According to OJRSA, the following amounts of untreated wastewater were released during the SSOs:
 - a) 213,250 gallons of untreated wastewater from a Flat Rock gravity sewer line and pump station at 190 Duck Pond Road in Walhalla, South Carolina;

- b) 22,000 gallons of untreated wastewater from Seneca Creek Pump Station at 1102 Wells Highway in Seneca, South Carolina; and
 - c) 305,750 gallons of untreated wastewater from manholes 1A, 2, and Junction Box at Coneross Creek pump station in Seneca, South Carolina.
- 8. On February 28, 2020, the Department issued a Notice of Alleged Violation and Notice of Enforcement Conference to OJRSA for the aforementioned SSOs.
- 9. OJRSA reported two SSOs that occurred on April 13, 2020. In the reports, OJRSA stated the SSOs were caused by a power outage due to a tornado event. Downed trees in the areas hindered response teams from accessing the facilities. According to OJRSA, the following amounts of untreated wastewater were released during the SSOs:
 - a) 8,300 gallons of untreated wastewater from a manhole adjacent to the pump station at 1801 Davis Creek Road in Seneca, South Carolina. The generator failed to start due to an internal electrical computer fault; and
 - b) 88,610 gallons of untreated wastewater entered Speeds Creek from a Coneross Creek Pump Station at 380 Campbell Bridge Road in Seneca, South Carolina.
- 10. OJRSA reported an SSO that occurred on April 15, 2020, at 31804 Cross Creek Drive in Seneca, South Carolina, caused by a generator failure following several days without power caused by the April 13, 2020 tornado. The report further stated an estimated 57,192 gallons of untreated wastewater entered Perkins Creek.
- 11. OJRSA reported an SSO that occurred on April 21, 2020, at manhole #619 near 110 Commerce Way in Westminster, South Carolina, caused by rags and other non-woven fabrics placed into the system by an unknown source. The report further stated an estimated 4,050 gallons of untreated wastewater entered Miller Branch Creek.

12. On April 28, 2020, Department staff held an enforcement conference with representatives for OJRSA. During the conference, representatives for OJRSA provided the following explanations for the SSOs:

- a) October 12, 2019: the SSO was the result of a collapsed manhole that OJRSA identified prior to the incident and scheduled for repair; however, the SSO occurred prior to scheduled repair date;
- b) December 23, 2019: the SSO was attributed to excessive I&I from the Walhalla SSS;
- c) December 27, 2019: the SSO was the result of a collapsed creek bank on a concrete pipe;
- d) February 6, 2020: the SSO was attributed to a greater than 25-year rain event within a 24-hour period which forced OJRSA to turn off the pump at Duck Pond Road station, and created excessive I&I from the cities of Seneca and Walhalla.

The parties discussed the possibility of a Consent Order containing a civil penalty.

13. On May 29, 2020, the Department mailed the January 23, 2020 inspection report to OJRSA. The Department requested OJRSA to respond to the report within fifteen (15) days receipt of the letter. OJRSA received the inspection report on June 1, 2020.

14. OJRSA reported an SSO that occurred on June 4, 2020, at Seneca Creek Pumping Station, 1104 Wells Highway, Seneca, South Carolina, caused by a pinhole leak in the force main, caused by a rock left in contact with the iron piping when another utility backfilled a pipe installation. The report further stated an estimated 4,800 gallons was released into Seneca Creek.

15. On June 9, 2020, OJRSA submitted a response to the inspection report. In the response, OJRSA indicated it is in the process of upgrading its maintenance management program, approved funding to raise Flat Rock sewer manholes above the 100-year flood level, and approved funding for a comprehensive assessment of the Flat Rock pump station to determine how to improve or replace the station. The comprehensive assessment will address the missing fencing and the embankment preventing OJRSA from cleaning the wet well. OJRSA's response also stated that its Fiscal Year 2021 budget included funding for a capacity, management, operations, and maintenance (cMOM) audit intended to identify and correct deficiencies in the OJRSA system.
16. OJRSA reported an SSO that occurred on September 8, 2020, near 151 Wild Fern Road, Seneca, South Carolina, caused by a hole in the force main, possibly caused by hydrogen sulfide corrosion. The report further stated an estimated 19,350 gallons was released, with some entering Speeds Creek.
17. OJRSA contends that the SSOs on the following dates were caused by force majeure events as contemplated by S.C. Code Ann. § 48-1-300: December 23, 2019 (I&I from third party system); December 27, 2019 (erosion of creek bank from rain event and collapse of gravity line); February 6, 2020 (25-year rain event combined with I&I from third-party collection system); April 13 and 15, 2020 (tornado); April 21, 200 (third-party introduction of foreign material into system); June 4, 2020 (third-party placing rock backfill in direct contact with force main). Among other asserted force majeure causes are several instances of I&I from Member Cities' satellite sewer systems.
18. OJRSA operates pursuant to a Sewer Use Regulation (Regulation) which sets forth uniform requirements for discharges to its sewer conveyance system and wastewater

treatment system. The Regulation was effective March 1, 2019, and was revised August 23, 2019.

19. Section 1.2 of the Regulations defines “User” as any person (including by definition a company, association, or governmental entity) that directly or indirectly discharges, causes, or permits the discharges of wastewater to the POTW.
20. Section 2.14 of the Regulation provides that connection to OJRSA’s system constitutes “consent and agreement by the User to be bound by and to abide with all OJRSA Regulations and requirements.”
21. Section 8.1 of the Regulation provides that “the Director shall enforce the provisions of this Regulation in accordance with the current OJRSA [Enforcement Management Strategy].”
22. The customer satellite sewer systems which OJRSA asserts contributed I&I which caused some of the reported SSOs are defined as Users, who are bound by and must abide by OJRSA’s Regulation.

CONCLUSIONS OF LAW

Based upon the above Findings of Fact, the Department reaches the following Conclusions of Law with which OJRSA neither admits nor agrees:

1. OJRSA violated the Pollution Control Act, S.C. Code Ann. § 48-1-90(A)(1) (2008 & Supp. 2019), in that it discharged untreated wastewater into the environment, including waters of the State, in a manner other than in compliance with the Permit.
2. OJRSA violated the Pollution Control Act, S.C. Code Ann. § 48-1-110 (d) (2008 & Supp. 2019) and Water Pollution Control Permits, S.C. Code Ann Regs. 61-9.122.41(e) (2011) in that it failed to at all times properly operate and maintain in good working order and

operate as efficiently as possible all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the terms and conditions of NPDES Permit SC0033553.

3. The Pollution Control Act, S.C. Code Ann. § 48-1-95(D)(1) (2008 & Supp. 2019), provides in part, “If the wastewater utility has had more than two significant spills per one hundred miles of its aggregate collection system miles during a twelve-month period, the Department shall issue an order directing the utility to complete a comprehensive review of the sewage system and treatment works facility.”
4. The Pollution Control Act, S.C. Code Ann. § 48-1-330 (2008), provides for a civil penalty not to exceed ten thousand dollars (\$10,000.00) per day of violation for any person violating the Act or any rule, regulation, permit, permit condition, final determination, or Order of the Department.

NOW, THEREFORE, IT IS ORDERED, CONSENTED TO AND AGREED, pursuant to the Pollution Control Act, S.C. Code Ann. §§ 48-1-50 and 48-1-100 (2008 & Supp. 2019), that OJRSA shall:

1. Beginning with the effective date of the Order, submit to the Department copies of public notices issued by the Commission for all significant spills from the WWCS.
2. Within sixty (60) days of the effective date of this Order, submit to the Department a report which identifies the upstream publicly and privately owned satellite sewer systems (satellite systems) which are contributing excessive I&I into its conveyance system.
3. As determined necessary by OJRSA and pursuant to its Sewer Use Regulation, direct identified satellite systems to begin a comprehensive review of their WWCS by conducting a capacity, management, operations and maintenance audit (“cMOM Audit”) of the entity’s WWCS to include, but not be limited to: a) a financial plan detailing how

operation and maintenance of the WWCS will be funded; b) personnel charts, including job assignments; c) lift/pump station inspection and maintenance evaluations and schedules; d) a sewer inspection and cleaning program; e) inflow/infiltration evaluations; f) manhole inspections; g) detailed logs/records of daily operations; h) easement/right-of-way maintenance; i) sewer use and fats, oils and grease ordinance; j) spare parts inventory; k) customer complaints; l) line evaluations; m) work orders; n) system inventory; and o) any other components necessary for the proper operation and maintenance of the WWCS.

4. Within ninety (90) days of the effective date of this Order, begin conducting a cMOM Audit of the OJRSA WWCS and treatment works to include, but not be limited to: a) a financial plan detailing how operation and maintenance of the OJRSA WWCS will be funded; b) personnel charts, including job assignments; c) lift station inspection and maintenance schedules; d) a sewer inspection and cleaning program; e) Inflow/Infiltration evaluations; f) manhole inspections; g) detailed logs/records of daily operations; h) easement/right-of-way maintenance; i) sewer use and grease ordinance; j) a spare parts inventory; and k) any other components necessary for proper operation and maintenance of the OJRSA WWCS.
5. Within ninety (90) days of the effective date of this Order, begin conducting a comprehensive review of the OJRSA WWCS and treatment works, as a part of the cMOM Audit. The comprehensive review must include a complete technical assessment of the components and operation of the OJRSA WWCS and/or the treatment works that are contributing to, or may be contributing to, repetitive significant spills of untreated or partially treated domestic sewage and will be focused in the areas of the OJRSA WWCS where those spills have occurred. The comprehensive review shall be performed by a

licensed professional engineer registered in the state of South Carolina and shall be completed within 180 days of beginning the cMOM Audit.

6. Within thirty (30) days of the completion of the comprehensive review/technical assessment, submit to the Department a Preliminary Engineering Report (PER), prepared by a South Carolina licensed professional engineer, addressing planned improvements to the collection system. The PER shall include a full assessment and evaluation of the components and operations examined pursuant to the comprehensive review and technical assessment requirement above, and include recommendations for repairs and improvements to the collection system.
7. Within thirty (30) days of SCDHEC approval of the PER, submit to the Department a report of the findings and summary of all priority deficiencies identified in the WWCS or treatment works (pump stations, manholes, line breaks/deterioration, etc.). The report shall propose a Work Plan which incorporates benchmarks and target dates for priority corrective actions. The Work Plan will also identify a date (final completion date) on which all corrective actions and/or maintenance activities will be completed. The final completion date, upon acceptance by the Department, shall be incorporated into and become an enforceable part of this Order, with allowances for funding approvals and legally required procurement processes.
8. Within sixty days (60) days of SCDHEC approval of the PER and based on the findings of the OJRSA WWCS audit, finalize and submit a comprehensive management plan, covering operations, maintenance, and management of the collection system.
9. Within one hundred eighty (180) days of the effective date of this Order and every six (6) months thereafter until this Order is closed, submit to the Department a summary of corrective actions completed to date addressing deficiencies in the OJRSA WWCS and

the satellite systems as applicable.

10. This Consent Order shall terminate upon OJRSA: completing a comprehensive review of the WWTF and WWCS; implementing all corrective actions identified through the comprehensive review and schedule of implementation; and fulfilling all other requirements detailed within this Consent Order (e.g., payment of assessed penalties, etc.).
11. Within thirty (30) days of the execution date of this Order, pay to the Department a civil penalty in the amount of seven thousand, five hundred dollars (\$7,500.00).

PURSUANT TO THIS ORDER, communications regarding this Order and its requirements, including civil penalty payments, shall include the Order number and be addressed as follows:

Attn: Patrick Stivers
SCDHEC - Bureau of Water
WP Enforcement Section
2600 Bull Street
Columbia, S.C. 29201

IT IS FURTHER ORDERED AND AGREED that failure to comply with any provision of this Order shall be grounds for further enforcement action pursuant to the Pollution Control Act, S.C. Code Ann. § 48-1-330 (2008), to include the assessment of additional civil penalties.

IT IS FURTHER ORDERED AND AGREED that this Consent Order governs only the civil liability to the Department for civil sanctions arising from the matters set forth herein and constitutes the entire agreement between the Department and OJRSA with respect to the resolution and settlement of these civil matters. The parties are not relying upon any representations, promises, understandings or agreements except as expressly set forth within this Order.

THE PARTIES UNDERSTAND that the "execution date" of the Order is the date the Order is signed by the Director of Environmental Affairs.

[Signature Page Follows]

**FOR THE SOUTH CAROLINA DEPARTMENT
OF HEALTH AND ENVIRONMENTAL CONTROL**

Myra C. Reece

Myra C. Reece
Director of Environmental Affairs

Date: 5-14-2021

James M. Marcus

James M. Marcus, PhD, Chief
Bureau of Water

Date: 5-11-2021

[Signature] for Randy Stewart

Randy Stewart, Director
Water Pollution Compliance and
Enforcement Division
Bureau of Water

Date: 5-7-21

Reviewed By:

[Signature]

DHEC Legal Counsel

Date: 5-11-2021

WE CONSENT:

OCONEE JOINT REGIONAL SEWER AUTHORITY

[Signature]
Christopher Elcazer, Executive Director

Date: 3 May 2021