

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

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IN THE MATTER OF

Docket No. CWA-03-2003-0136DN

**DEPARTMENT OF THE ARMY  
and the ARMY CORPS OF  
ENGINEERS,**

Respondent

**WASHINGTON AQUEDUCT  
5000 MacArthur Boulevard, N.W.  
Washington, DC 20315-0220**

Facility

FEDERAL FACILITY  
COMPLIANCE AGREEMENT

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**I. SCOPE AND PURPOSE**

The express purpose of the undersigned Parties in entering into this Federal Facility Compliance Agreement ("FFCA" or "Agreement") is to address the discharge of pollutants from sedimentation basins and other facilities at the Washington Aqueduct located in Washington, D.C. and to further the goals of the Clean Water Act ("CWA" or "the Act"), 33 U.S.C. §§ 1251-1387. It is the express objective of all provisions and obligations of this Agreement to cause the United States Department of the Army Corps of Engineers to come into full compliance with all applicable Federal, state and local laws, regulations and ordinances governing the discharge of pollutants from the Washington Aqueduct into the waters of the United States.

2. This Agreement addresses discharges to waters of the United States from the Washington Aqueduct. The term "Washington Aqueduct" refers to the Dalecarlia and McMillan water treatment facilities and all real and personal property and appurtenances associated therewith. The Dalecarlia and McMillan water treatment plants supply potable water to the District of Columbia, the County of Arlington, Virginia, and the City of Falls Church, Virginia. In addition, the Washington Aqueduct must maintain a continuous uninterrupted supply of water of sufficient pressure in order to provide for the firefighting and other safety needs of its service area. Pursuant to an Act of Congress dated March 3, 1859 (11 Stat. 84), the Chief of Engineers, U.S. Army Corps of Engineers is responsible for the management and superintendence of the Washington Aqueduct. Ownership of the

Washington Aqueduct is under the administrative jurisdiction of the Department of the Army.

## **II. JURISDICTION**

3. The United States Environmental Protection Agency, Region III ("EPA") and United States Department of the Army Corps of Engineers ("Corps") enter into this Agreement pursuant to the Clean Water Act, 33 U.S.C. §§ 1251-1387, and Executive Order No. 12088. This Agreement contains a "plan," as described in Section 1-601 of Executive Order No. 12088, to achieve and maintain compliance with the CWA.

## **III. PARTIES**

4. The Parties to this FFCA are EPA and the Corps.
5. The Parties recognize that the cost to the Corps of operating and maintaining the Washington Aqueduct is not funded through the usual Federal budgetary mechanisms. Instead, the cost of operating and maintaining the Washington Aqueduct is funded through separate Water Sales Agreements between the Corps and the District of Columbia Water and Sewer Authority, Arlington County Government and Falls Church City Government (collectively the "Wholesale Customers"). These Water Sales Agreements obligate the purchasers (i.e., the Wholesale Customers) to pay their proportional shares of the Corps' costs of operating and maintaining the Washington Aqueduct. Thus, the Wholesale Customers bear the full cost of the operation and maintenance, including capital improvements, of the Washington Aqueduct.
6. The Parties recognize that the relationship between the Corps and the Wholesale Customers is governed by a Memorandum of Understanding Between the District of Columbia Water and Sewer Authority, Arlington County, Virginia and the City of Falls Church, Virginia and Between the District of Columbia Water and Sewer Authority, Arlington County, Virginia, the City of Falls Church, Virginia and the Department of the Army, Acting Through the Chief of Engineers (May 5, 1998) (Exh. A). Among various other provisions, the Memorandum of Understanding requires the Corps to submit a proposed agreement with a regulatory or enforcement agency to the Wholesale Customers if (A) such agreement would require the Corps to undertake a capital improvement to, or modify the operation of the Washington Aqueduct; (B) the cost of the capital improvement or operational modification exceeds a specified amount; and (C) the Corps determines that the capital improvement or operational modification does not represent the least costly means of satisfying the permit or statutory requirement which is the subject of the agreement. The Corps may proceed with such an agreement unless the Wholesale Customer Board votes to reject the agreement within thirty days of submission. *See* Exhibit A, Article IV, Section 2. The Corps agrees to exercise best

efforts, consistent with the Memorandum of Understanding, to obtain from the Wholesale Customers a written acceptance of the terms and conditions of this FFCA.

7. The undersigned representative of each Party to this Agreement certifies that s/he is fully authorized by the Party whom s/he represents to enter into the terms and conditions of the Agreement and to execute and legally bind that Party to it.

#### **IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

8. Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant into the waters of the United States by any person except in accordance with other specified sections of the Act, including section 402, 33 U.S.C. § 1342.
9. Section 402(a) of the Act, 33 U.S.C. § 1342(a), provides that the Administrator of EPA may issue permits under the National Pollutant Discharge Elimination System ("NPDES") program for the discharge of any pollutant into the waters of the United States upon such specific terms and conditions as the Administrator may prescribe. Each violation of an NPDES permit, and each discharge of a pollutant that is not authorized by an NPDES permit, constitutes a violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a).
10. Raw water is taken from the Potomac River, diverted through a screened intake at Great Falls, Maryland into two brick masonry pipes, and sent to the Dalecarlia Reservoir. Additionally, raw water is withdrawn at the Little Falls Dam via the Little Falls Pumping Station and sent to the Dalecarlia Reservoir. To make it drinkable, the water is treated with sedimentation, filtration and disinfection. Initially, there is some natural settling (i.e., no coagulant is added at that point) of sediment in the Dalecarlia Reservoir. Thereafter, the water is treated either at the Dalecarlia water treatment plant (the Dalecarlia sedimentation basins) or directed to the McMillan water treatment plant via the Georgetown sedimentation basins. Currently, aluminum sulfate (commonly called "alum") is used as a coagulant. This results in aluminum and fine sediments settling into the bottom of the basins. The water also is filtered and disinfected. The sediment and aluminum at the bottom of the sedimentation basins must be removed periodically to maintain the function of the sedimentation basins. Historically, the contents of the sedimentation basins periodically have been discharged through pipes to outfalls on the Potomac River.
1. On or about April 3, 1989, EPA issued to the Corps NPDES Permit No. DC 0000019, which authorizes certain discharges of pollutants from the Washington Aqueduct to waters of the United States, including the Potomac River. As issued on or about April 3, 1989, NPDES Permit No. DC 0000019 did not contain numeric discharge limitations for the following pollutants: total suspended solids, total aluminum, dissolved iron, and total residual chlorine.

12. On or about February 4, 1998, EPA issued to the Corps NPDES Permit No. DC 00000329, which authorizes certain discharges of pollutants from point sources within the Washington Aqueduct, other than those covered by Permit No. DC 0000019 issued in 1989, to waters of the United States. As issued on or about February 4, 1998, NPDES Permit No. DC 00000329 did not contain numeric discharge limitations for the following pollutants: total suspended solids, total aluminum, dissolved iron, and total residual chlorine.
13. On or about March 14, 2003, EPA re-issued NPDES Permit No. DC 0000019 ("the NPDES Permit"), which authorizes certain discharges of pollutants from the Washington Aqueduct to waters of the United States, including the Potomac River and supersedes NPDES Permit Nos. DC 0000019 (issued on or about April 3, 1989) and DC 00000329 (issued on or about February 4, 1998). The discharges authorized by NPDES Permit No. DC 0000019 are described in Exhibit B hereto. Unlike superseded NPDES Permit Nos. DC 0000019 (issued on or about April 3, 1989) and DC 00000329 (issued on or about February 4, 1998), the NPDES Permit contains numeric discharge limitations, with respect to various outfalls, for total suspended solids, total aluminum, and dissolved iron.
14. The Parties recognize that a variety of engineering and/or best management practices may be utilized by the Corps to achieve compliance with the numeric discharge limitations set forth in the NPDES Permit. These include, but are not limited to, conveyance (by pipeline or truck) of the discharge to a wastewater treatment facility for treatment, on-site dewatering and other methods.
15. The Parties further recognize that implementation of one or more of the treatment technologies necessary to achieve compliance with the numeric discharge limitations set forth in the NPDES Permit may require construction of pipelines and other appurtenances.
16. The Parties further recognize that implementation of one or more of the treatment technologies necessary to achieve compliance with the numeric discharge limitations set forth in the NPDES Permit may constitute a major Federal action significantly affecting the quality of the human environment.
7. The Parties further recognize that, prior to selecting one or a combination of treatment technologies to achieve compliance with the numeric discharge limitations set forth in the NPDES Permit, the Corps must satisfy its obligations pursuant to the National Environmental Policy Act ("NEPA"), 42 U.S.C. §§ 4321, et seq.
18. The Parties recognize that implementation (i.e., full design and construction) of one or more of the treatment technologies necessary to achieve compliance with the numeric discharge limitations set forth in the NPDES Permit may require the Corps to obtain

approvals, permits or some other form of authorization from local and/or federal agencies other than EPA, such as the State Historic Preservation Office or the National Park Service.

## **V. COMPLIANCE PROGRAM**

19. The Corps agrees to take any and all necessary steps within its power to achieve compliance with the numeric discharge limitations set forth in the NPDES Permit as soon as practicable, consistent with its obligations pursuant to NEPA. Such steps will include, but not be limited to, the activities outlined in this section. To the extent the Corps is able to achieve compliance more expeditiously than the timeframes set forth in this FFCA, the Corps shall do so.
20. No later than May 28, 2004, the Corps shall complete an alternatives evaluation and a disposal study. The purpose of the alternatives evaluation and disposal study shall be to identify a range of engineering and/or best management practices that will cause the discharge from the Washington Aqueduct to achieve compliance with the numeric discharge limitations set forth in the NPDES Permit. The Corps shall notify and provide copies to EPA within 30 days of the completion of the alternatives evaluation and disposal study.
21. No later than December 20, 2004, the Corps shall complete and submit to EPA an analysis of the range of engineering and/or best management practices identified by the evaluation and study described in Paragraph 20 that will cause the discharge from the Washington Aqueduct to achieve compliance with the numeric discharge limitations set forth in the NPDES Permit. This analysis may be a free-standing document or may be a draft Environmental Assessment (EA) or draft Environmental Impact Statement (EIS). If the analysis is a free-standing document, the document should be in a format capable of being incorporated into a draft EA or EIS. In preparing this analysis, the Corps shall seek the views of EPA, the National Park Service, United States Fish and Wildlife Service, the National Marine Fisheries Service, the District of Columbia, representatives of the District of Columbia Advisory Neighborhood Commissions, the Wholesale Customers, other interested parties and members of the public. Engineering/best management practices that shall be considered as part of this analysis include, but shall not be limited to, the collection, concentration and transport of sediments from the Georgetown sedimentation basins to the Dalecarlia property, off-site disposal options and other changes of procedure to achieve compliance with the numeric discharge limits set forth in the NPDES Permit.
22. No later than June 3, 2005, the Corps shall identify in a notice to EPA the engineering/best management practices it will implement in order to achieve compliance with the numeric discharge limitations set forth in the NPDES Permit and a schedule for implementing the identified engineering/best management practices as expeditiously as

practicable, consistent with best engineering judgment. The schedule shall include major milestones, including selection of a contractor, preliminary design, and final design, as well as the construction phase. The schedule shall achieve compliance with the numeric discharge limitations set forth in the NPDES Permit at one or more of the sedimentation basins no later than March 1, 2008, and to achieve full compliance with the numeric discharge limitations at all basins no later than December 30, 2009.

23. EPA shall notify the Corps within thirty (30) days of receiving the schedule described in Paragraph 22 above whether EPA agrees that the schedule represents the most expeditious practicable schedule consistent with best engineering judgment. Upon agreement between EPA and the Corps regarding the schedule, the schedule will be incorporated automatically into this FFCA. To the extent the Corps and EPA disagree regarding the schedule described in Paragraph 22 above, the Parties shall utilize the Conflict Resolution procedures described in Paragraphs 37-46 herein. During the Conflict Resolution process, the Corps shall proceed with implementing the engineering/best management practices necessary to achieve compliance with the numeric discharge limitations set forth in the NPDES Permit as expeditiously as practicable but in no case shall the Corps proceed less expeditiously than the the schedule described in Paragraph 22 above.
24. The Corps will exercise its best efforts to satisfy all requirements of NEPA consistent with the timeframes provided herein.
25. The Corps agrees that it shall immediately comply with all effective provisions of the NPDES Permit (including the prohibitions on discharges during the Spring Spawning Season) other than the numeric discharge limitations described in Exhibit B. In addition, until such time as the Corps has fully implemented all engineering/best management practices necessary to achieve compliance with the numeric discharge limitations set forth in the NPDES Permit, the Corps agrees that it shall not discharge through Outfall 002 (discharge from Dalecarlia Sedimentation Basin Nos. 1,2,3 and 4), unless the flow in the Potomac River is equal to or greater than 800 million gallons per day (mgd) as measured at the gauge station at Little Falls (2.64 feet in river elevation). Until such time as the Corps has fully implemented all engineering/best management practices necessary to achieve compliance with the numeric discharge limitations set forth in the NPDES Permit, the Corps agrees that it shall not discharge through Outfall 003 (discharge from Georgetown Sedimentation Basins Nos. 1 and 2) and Outfall 004 (discharge from Georgetown Sedimentation Basin No. 1), unless the flow in the Potomac River is equal to or greater than 1500 million gallons per day (mgd) as measured at the gauge station at Little Falls (2.90 feet in river elevation).
26. Until such time as the Corps has fully implemented all engineering/best management practices necessary to achieve compliance with the numeric discharge limitations set forth in the NPDES Permit, the Corps agrees that it shall increase the duration of the discharge

(which includes a step of an initial draining of flocculent/sediment-laden water and a step that is a final flushing of remaining flocculent/sediment) from Outfalls 003 and 004 to a minimum of thirty-six (36) hours per basin, with each discharge step at a constant rate on an hourly basis. The 36-hour period represents double the 18-hour period that is the current practice of the Corps. The Corps agrees to exercise best efforts, taking into consideration the projected flow rate of the river, its obligations under the Safe Drinking Water Act, and customer demand, to increase the duration of the discharge (which includes both above-described steps) from Outfalls 003 and 004 to 48 hours per basin, with each discharge step at a constant rate on an hourly basis. In addition, the Corps agrees to increase the amount of untreated process water that is used to flush and clean each of the Georgetown sedimentation basins to twice the amount used for each cleaning in calendar year 2001 (which, for Georgetown Basin No. 1, will be a new minimum of 3 million gallons, and for Georgetown Basin No. 2 will be a new minimum of 5 million gallons). Any upset or bypass that occurs at the Washington Aqueduct shall be governed by the upset and bypass provisions of Part II, Section B of the NPDES Permit. Provided that all other provisions of Part II, Section B of the NPDES Permit applicable to a bypass are satisfied, the diversion of waste streams from any portion of the treatment facilities includes an inability to control the timing of a discharge. Any bypass subject to Part II, Section B.3.b. of the NPDES Permit ("Bypass not exceeding limitations") shall comply with the numeric effluent limitations set forth in Exhibit B. Provided that all other provisions of Part II, Section B of the NPDES Permit applicable to an upset are satisfied, an upset may include a discharge that results from the inability to control the timing of a discharge. During any upset or bypass that occurs during the spring spawning season, the Corps shall use best efforts to slow the rate of flocculent/sediment discharge from Outfalls 003 and 004 to seventy-two (72) hours per basin.

27. The Corps agrees that it shall notify EPA, the District of Columbia Department of Health, and the Office of the Superintendent of the Chesapeake and Ohio Canal National Historical Park both orally (which may include by voice message) and in writing (which may include facsimile or electronic mail) at least twelve (12) hours in advance of any discharge from Outfalls 002, 003 and 004. The Corps agrees that it shall notify the District of Columbia Department of Health and the Superintendent of the Chesapeake and Ohio Canal National Historical Park both orally (which may include by voice message) and in writing (which may include facsimile or electronic mail) at least forty-eight (48) hours in advance of any discharge from Outfalls 006 and 007.
28. The Corps' officers, agents, contractors, servants, employees, successors, assigns, and all persons, departments, agencies, firms and corporations in active concert or participation with them shall take all necessary steps to ensure compliance with provisions of the Agreement. As long as this FFCA is in effect, the Corps shall give written notice of this Agreement to any prospective successor in interest and EPA at least ninety (90) calendar days prior to transfer of ownership or operation of the Facility.

29. In any action to enforce this Agreement, the Corps agrees that it shall not raise as a defense the avoidable failure of any of its officers, agents, servants, employees, successors, or assigns, within the scope of their employment, to take all actions necessary to comply with this Agreement. To the extent within its control or the control of its officers, agents, servants, employees, successors, or assigns, as recognized by federal law, the Corps agrees that it shall not raise as a defense the avoidable failure of its contractors, or of any other persons, departments, agencies, firms or corporations in active concert or participation with them, to take all actions necessary to comply with this Agreement.

#### **IV. REPORTING**

30. The Corps shall submit a written status report to EPA no later than sixty (60) calendar days after the end of each fiscal year quarter. The status report shall be submitted in addition to any other reporting or certification required under this Agreement or pursuant to law, regulation, or the Permit. The status report shall state and describe the cause of any failure to comply with this Agreement and at a minimum shall include: (1) the deadlines and other milestones which the Corps was required to meet during the reporting period; (2) the progress it made toward meeting them; (3) the reasons for any noncompliance; and (4) a description of any matters relevant to the status of its compliance with this Agreement.
31. Notification to EPA of any noncompliance with any provision of the Agreement or anticipated delay in performing any obligation under the Agreement shall not excuse the Corps' noncompliance or anticipated delay.
32. Unless specified otherwise, when written notification to or communication with EPA is required by the terms of the Agreement, it shall be addressed as follows:

Chief  
NPDES Branch (3WP31)  
Office of Compliance and Enforcement  
Water Protection Division  
U.S. EPA Region III  
1650 Arch Street  
Philadelphia, PA 19103

33. Each notification or communication to EPA shall be deemed submitted on the date it is postmarked, and shall be sent by certified mail, return receipt requested. The Corps shall maintain records of each notification or communication for the duration of the Agreement.
34. All submissions provided pursuant to this Order shall be signed by a duly authorized representative of the Corps who has personal knowledge of the submission's contents.



Each submission shall be admissible as evidence in any proceeding to enforce this Agreement. Each submission shall include the following certification:

"I certify that the information contained in or accompanying this submission is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

## **VII. COMPLIANCE WITH OTHER LAWS AND REGULATIONS**

35. Compliance with the terms of this Agreement in no way affects or relieves the Corps of its obligation to comply with all applicable requirements of the Act, and regulations promulgated thereunder, or other applicable requirements of Federal, state, or local law.

## **VIII. RIGHT OF ENTRY**

36. EPA, its contractors, and other authorized representatives shall have the right to enter the Washington Aqueduct to conduct any inspection, including but not limited to record inspection, sampling testing, or monitoring they believe is necessary to determine the Corps' compliance with the Agreement.

## **X. CONFLICT RESOLUTION**

37. In the event of any conflict involving violations of this Agreement, US EPA and the Corps shall meet promptly and work in good faith in an effort to reach a mutually agreeable resolution of the dispute.
38. Except as specifically set forth elsewhere in this Agreement, if a dispute arises under this Agreement, the procedures of this Section shall apply. In addition, during the pendency of any dispute, the Corps agrees that it shall continue to implement those portions of this Agreement which are not in dispute.
39. The pendency of any dispute under this Section shall not affect the Corps' responsibility to perform the work required by this Agreement in a timely manner, except that the time period for completion of work affected by such dispute may, at EPA's sole discretion, be extended for a period of time not to exceed the actual time taken to resolve any good faith dispute in accordance with, the procedures specified herein. All elements of the work required by this Agreement which are not affected by the dispute shall continue and be completed in accordance with applicable schedule.
40. The Parties to this Agreement shall make reasonable efforts to informally resolve disputes at the Project Manager or immediate supervisor level. With respect to EPA, "Project

Manager" means the Chief, NPDES Branch, Water Protection Division, EPA Region III, or any duly identified successor. With respect to the Corps, "Project Manager" means the Chief, Planning and Engineering Branch, Washington Aqueduct or any duly- identified successor. If resolution cannot be achieved informally, the procedures of this Section shall be implemented to resolve a dispute.

41. Within fourteen (14) days after any action which leads to or generates a dispute, the Corps shall submit to EPA a written statement of dispute setting forth the nature of the dispute, the Corps' position with respect to the dispute, and the information the Corps is relying upon to support its position. If the Corps does not provide such written statement to EPA within this fourteen (14) day period, the Corps shall be deemed to have agreed with EPA's position with respect to the dispute.
42. Upon EPA receipt of the written statement of dispute from the Corps, the Parties shall engage in dispute resolution among the Project Managers and/or (their immediate supervisors). The Parties shall have fourteen (14) days from the receipt by EPA of the written statement of dispute to resolve the dispute. During this period, the Project Managers shall meet or confer as many times as necessary to discuss and attempt resolution of the dispute. To the extent appropriate, the Project Managers may meet with and consider the views of the Wholesale Customers. If agreement cannot be reached on any issue within this fourteen (14) day period, the Corps may, within ten (10) days after the conclusion of the fourteen (14) days dispute resolution period, submit a written notice to EPA elevating the dispute to the Dispute Resolution Committee ("DRC") for resolution. If the Corps does not elevate the dispute to the DRC within this ten (10) day period, the Corps shall be deemed to have agreed with EPA's position with respect to the dispute.
43. The DRC will serve as a forum for resolution of disputes for which agreement has not been reached pursuant to the foregoing paragraphs in this Section. Following elevation of a dispute to the DRC, the DRC shall have thirty (30) days to unanimously resolve the dispute. The US EPA representative on the DRC is the Director, Water Protection Division, EPA Region III. The Corps' designated member is the Chief, Washington Aqueduct. Delegation of the authority from a Party's representative on the DRC to an alternate shall be provided to the other Party in writing within seven (7) days of delegation.
44. If unanimous resolution by the DRC is not achieved within this thirty (30) day period, the Corps may, within twenty-one (21) days after the conclusion of the thirty (30) day dispute resolution period, submit a written Notice of Dispute to the Regional Administrator of U.S. EPA Region III for final resolution of the dispute. In the event that the dispute is not elevated to the Regional Administrator of U.S. EPA Region III within the designated twenty-one (21) day period, the Corps shall be deemed to have agreed with the original EPA position with respect to the dispute.

45. Within twenty-one (21) days of resolution of a dispute pursuant to the procedures specified in this Section, the Corps shall incorporate the resolution and final determination into the appropriate statement of work, plan, schedule, or procedures and proceed to implement this Agreement according to the amended statement of work, plan, schedule, or procedures.
46. Resolution of a dispute pursuant to this Section of the Agreement constitutes a final resolution of any dispute arising under this Agreement. The Parties shall abide by all terms and conditions of any final resolution of dispute obtained pursuant to this Section of the Agreement.

## **XI. FORCE MAJEURE**

47. The Corps' obligations under the Compliance Program section of this Agreement shall be performed as set forth in this Agreement unless performance is prevented or delayed by a force majeure event. For purposes of this Agreement, "force majeure" is defined as any event arising from causes beyond the control of the Corps or of entities controlled by the Corps, including but not limited to contractors and subcontractors, which could not be overcome by the due diligence of the Corps or the entities controlled by the Corps, which delays or prevents the performance of any obligation under this Agreement, including acts of God or war, labor unrest, civil disturbance and any judicial orders which prevent compliance with the provisions of this Agreement. Force majeure shall not include increased costs of performance of any activity required by this Agreement, the failure of the Wholesale Customers to fund any activity necessary to achieve compliance with this Agreement or the failure to apply for any required permits or approvals or to provide all information required therefore in a timely manner, nor shall it include the failure of contractors or employees to perform or the avoidable malfunction of equipment.
48. If the Corps is having difficulty meeting its obligations as set forth in this Agreement due to a force majeure event, it shall notify EPA promptly by telephone of any change in circumstances giving rise to the suspension of performance or the nonperformance of any obligation under this Agreement. In addition, within fourteen (14) days of the occurrence of circumstances causing such difficulty, it shall provide a written statement to EPA of the reason(s), the anticipated duration of the event and delay, the measures taken and to be taken to prevent or minimize the time and effects of failing to perform or delaying any obligation, and the timetable for the implementation of such measures. Failure to comply with the notice provisions shall constitute a waiver of any claims of force majeure. The Corps shall take all reasonable steps to avoid and/or minimize any such delay.
49. The burden of proving that any delay is caused by circumstances beyond the control of the Corps shall rest with the Corps.

## **XII. MODIFICATIONS**

50. The requirements, timetable and deadline under this Agreement may be modified upon receipt of a timely request for modification and when good cause exists for the requested modification. Any request for modification by the Corps shall be submitted in writing and shall specify: the requirement, timetable or deadline for which a modification is sought; the good cause for the extension; and any related requirement, timetable, deadline or schedule that would be affected if the modification were granted.
51. Good cause exists for a modification when sought in regard to: a force majeure event; a delay caused, or which is likely to be caused, by the grant of an extension in regard to another timetable and deadline or schedule; a delay caused by failure of a regulatory agency to perform its duties in a timely manner where regulatory action is necessary to proceed with construction and where the Corps has made a timely and complete request for action from the regulatory agency; acceptable scientific data exists which demonstrates that another requirement, deadline or timetable would be adequate to achieve the numeric discharge limitations set forth in the NPDES Permit, protect water quality and achieve the goals of the Clean Water Act; and other event or series of events mutually agreed to by the Parties and constituting good cause.
52. Within twenty-one (21) calendar days of receipt of a request for a modification, EPA shall advise the Corps of its position on the request. If EPA does not concur in the modification, it shall include in its statement of nonconcurrence an explanation of the basis for its position.
53. In the event that the NPDES Permit is modified, through appeal, completion of ongoing consultation between EPA and the National Marine Fisheries Service, or otherwise, EPA and the Corps agree to negotiate modifications to this FFCA to the extent necessary for the Corps to achieve compliance with the discharge limitations in the final NPDES Permit pursuant to a schedule as consistent as practicable with the one set forth in this FFCA.

## **XIII. FUNDING**

54. It is the expectation of the Parties to this Agreement that all obligations of the Corps will be fully funded. The Corps agrees to use every legally available mechanism to seek sufficient funding to fulfill its obligations under the Agreement.
55. Provision herein shall not be interpreted to require obligations or payment of funds in violations of the Anti-Deficiency Act, 31 U.S.C. § 1341. In cases where payment or obligation of funds would constitute a violation of the Anti-Deficiency Act, the dates established requiring the payment or obligation of such funds shall be appropriately adjusted within the terms delineated in this Agreement.

If funds are not available to fulfill the Corps' obligations under this Agreement, EPA reserves the right to initiate an action against any other person, or to take any action which would be appropriate absent this agreement.

#### **XIV. GENERAL PROVISIONS**


57. The Parties agree that the terms and conditions of this Agreement are enforceable as appropriate by any person pursuant to Section 505 of the Act, 33 U.S.C. § 1365. Terms and conditions of this Agreement changed by an agreed upon modification shall be enforceable as changed. Nothing in this Agreement shall be deemed to waive the sovereign immunity of the United States beyond what is already accomplished in the Clean Water Act.
58. This Agreement was negotiated and executed by the Parties in good faith to ensure compliance with the law. No part of this Agreement constitutes or should be interpreted or construed as an admission of fact or of liability under federal, state or local laws, regulations, ordinances, or common law or as an admission of any violations of any law, regulations, ordinances, or common law. By entering into this Agreement, the Corps does not waive, other than as to the enforcement of this Agreement pursuant to the terms contained herein, any claim, right, or defense that it might raise in any other proceeding or action.
59. If any provision or authority of this Agreement or the application of this Agreement to any party or circumstance is held by any judicial or administrative authority to be invalid, the application of such provisions to other parties or circumstances and the remainder of the Agreement shall remain in force and shall not be affected thereby.
- The effective date of this Agreement shall be the date on which it is signed by the last signatory.
61. This Agreement shall be effective if signed in counterparts.
62. In computing any period of time described as "days" herein, all references to "days" refer to "calendar days." The last day of a time period shall be included, unless it is a Saturday, a Sunday or a legal holiday, in which event the period runs until the end of the next day that is not a Saturday, a Sunday or a legal holiday.

63. This Agreement shall terminate once the Corps has met all of its obligations herein, as determined by the mutual consent of the Parties and evidenced in writing.

\_\_\_\_\_  
Date

June 11, 2003  
Date

\_\_\_\_\_  
Jon M. Capacasa, Director  
Water Protection Division  
US EPA Region III

  
\_\_\_\_\_  
Thomas P. Jacobus, P.E.  
General Manager  
Washington Aqueduct  
U.S. Army Corps of Engineers

63. This Agreement shall terminate once the Corps has met all of its obligations herein, as determined by the mutual consent of the Parties and evidenced in writing.

June 12, 2003  
Date

Jon M. Capacasa  
Jon M. Capacasa, Director  
Water Protection Division  
US EPA Region III

\_\_\_\_\_  
Date

\_\_\_\_\_  
Thomas P. Jacobus, P.E.  
General Manager  
Washington Aqueduct  
U.S. Army Corps of Engineers

MEMORANDUM OF UNDERSTANDING BETWEEN  
THE DISTRICT OF COLUMBIA WATER AND SEWER  
AUTHORITY,  
ARLINGTON COUNTY, VIRGINIA  
AND THE CITY OF FALLS CHURCH, VIRGINIA  
AND BETWEEN  
THE DISTRICT OF COLUMBIA WATER AND SEWER  
AUTHORITY,  
ARLINGTON COUNTY, VIRGINIA,  
THE CITY OF FALLS CHURCH, VIRGINIA,  
AND THE DEPARTMENT OF THE ARMY, ACTING THROUGH  
THE CHIEF OF ENGINEERS

*WHEREAS* ownership of the Washington Aqueduct is under the administrative jurisdiction of the Department of the Army and the Department of the Army is required to operate the Washington Aqueduct consistent with applicable Federal statutes and regulations; and

*WHEREAS* an Act of Congress dated March 3, 1859 [ 11 Stat 84] placed the care, management, and superintendence of the Washington Aqueduct under the Chief of Engineers of the United States Army Corps of Engineers; and

*WHEREAS* pursuant to that Act the Chief of Engineers is responsible for supplying water in the City of Washington, D. C., for use by the Federal Government and for the use and benefit of the inhabitants of the City of Washington, D. C.; and

*WHEREAS* an Act of Congress dated April 14, 1926 (Pub. L. 119-79th Congress) permits the delivery of water from the Washington Aqueduct to Arlington County, Virginia; and

*WHEREAS* an Act of Congress dated June 26, 1947 (Pub. L. 310-80th Congress) permits the delivery of water from the Washington Aqueduct to the City of Falls Church, Virginia; and

*WHEREAS* the City of Washington, D. C., acting through the District of Columbia Water and Sewer Authority, an independent authority of the Government of the District of Columbia; and Arlington County, Virginia; and the City of Falls Church, Virginia, hereinafter referred to as "the Wholesale Water Customers", have entered into separate Water Sales Agreements with the Army that obligates the purchaser to pay its proportional share of the Army's costs of operating and maintaining the Washington Aqueduct; and

*WHEREAS* the Chief of Engineers relies upon the revenues generated from the three Water Sales Agreements to pay all such costs; and



*WHEREAS* The Wholesale Customers desire to create a mechanism by which they can jointly relate to the Army concerning the cost, quality, and availability of the water purchased through their Water Service Agreements; and *WHEREAS* Congress enacted section 306 of Pub. L. 104-182, which encourages the Wholesale Water Customers to pursue options regarding the ownership, operation, maintenance, and management of the Washington Aqueduct; and

*WHEREAS* the Wholesale Water Customers and the Army have determined that a desirable option is for the ownership, operation, maintenance, and management of the Washington Aqueduct to remain with the Army Corps of Engineers, hereinafter referred to as "the Army", and for the creation of a stable and mutually beneficial partnership among the Wholesale Water Customers and between the Wholesale Water Customers and the Corps of Engineers.

*NOW, THEREFORE* the parties agree as follows:

## ARTICLE I - AGREEMENT TO BE BOUND

The Wholesale Water Customers agree to be bound by Articles II and IV through XI of this Agreement. The Army agrees to be bound by Articles III through XI of this Agreement.

## ARTICLE II - INTERJURISDICTIONAL AGREEMENT

**SECTION I - WHOLESALE CUSTOMERS BOARD.** In order to foster a stable and mutually beneficial partnership among the Wholesale Water Customers, the Chief Administrative Officers of the Wholesale Water Customers agree to meet together as a Wholesale Customers Board, hereinafter referred to as "the Board", which shall serve as the mechanism for the Wholesale Water Customers to jointly relate to the Army on issues concerning, inter alia, the cost, quality, and availability of the water furnished by the Army from the Washington Aqueduct to the Wholesale Water Customers and the operation of the Washington Aqueduct, and other matters of mutual concern regarding the Washington Aqueduct.

**SECTION 2 - LIMITATIONS OF BOARD.** The Customer Board is not a political subdivision of any or all of the Wholesale Customers but only serves as a mechanism for the Wholesale Customers, as individual wholesale purchasers of drinking water, to communicate jointly with the Army, as seller, on matters pertaining to the availability, quality, cost and other matters related to the purchased service. As such, the board can neither sue or be sued. The Customer Board is not liable to third parties for the acts or omissions of the Army, regardless of whether the Army's actions or omissions were consistent with the Wholesale Customers' views. The Customer Board may not enter into contracts or own property in its name, nor hire its own employees.

**SECTION 3 - CHAIRPERSON OF THE BOARD.** The position of Board Chairperson shall be held by a Member of the Customer Board for a one year term and shall rotate among the three jurisdictions in the following order: the District of Columbia Water and Sewer Authority, Arlington County, Virginia, and the City of Falls Church, Virginia.

**SECTION 4 - BOARD MEETINGS: INTERNAL OPERATING RULES.**

(a) Subject to subsection (b), the Board shall meet (i) no later than 30 calendar days after the submission by the Army of a proposed Operating Budget and Revised 5Year Capital Improvement Plan, hereinafter referred to as "the Revised Plan", pursuant to Article IV, section 1 of this Agreement to accept, reject, or recommend modification to the proposed budget; (ii) at the written request of a Board Member to the Chairperson; or (iii) whenever the Board Chairperson considers necessary.

(b) The Chairperson shall confer with the other Board members before setting a meeting date and time; and, to the maximum extent practicable, shall not schedule a meeting on a date and time when a Board Member is not available. The Chairperson shall, to the maximum extent practicable, provide each Board Member with written notice of a meeting not less than 10 calendar days before the meeting date, together with a proposed agenda.

(d) A Board Member may designate a person to attend a board meeting and act in the Member's place. Whenever possible, the non-attending Board Member shall notify the Board Chairperson of a designation prior to the meeting date.

(d) The Board may adopt such other internal operating rules for conducting its meeting, including, but not limited to, provisions for public comment at such meetings.

(e) All meetings of the Board, including any meeting at which any official action is taken, shall be open to the public, with normal provisions for executive session as permitted by law. Any one of the Wholesale Water Customers may distribute agendas for the meetings, provide notice of the meetings, and make available nonprivileged staff reports prepared in anticipation of Board meetings as the such Wholesale Water Customer deems advisable.

**SECTION 5 - QUORUM AND VOTING.** Two Board Members must be in attendance to constitute a quorum for the transaction of business. No action may be undertaken by the Board in the absence of a quorum. Each Member of the Board shall have one vote on matters coming before the Board. Decisions of the Board shall be made by a simple majority vote, except that the District of Columbia Water and Sewer Authority must be included in the majority in order for the Board to approve, or recommend a modification to, a proposed annual operating budget; and a unanimous vote of all three board members shall be required in order for the Board to approve or to recommend modifications to the Revised Plan; to approve changes in the rate allocation formula; or to approve a proposed agreement between the Army and a regulatory or enforcement agency which would require the Army to undertake a capital improvement or modify the

represent the least costly means of satisfying a permit or statutory requirement, as defined in Article V of this Memorandum of Understanding.

#### SECTION 6 - TECHNICAL COMMITTEE.

(a) The Board shall establish a Technical Committee which shall constitute the mechanism for the Wholesale Water Customers to exchange informally information and views with the Army concerning operation of the Washington Aqueduct, longrange and strategic planning, and relevant Federal and State legislation and rulemaking concerning the Washington Aqueduct. Each member of the Customer Board shall designate one or more persons to serve on the technical Committee, who may be the Board member and/or individuals from the Board member's staff. The Technical Committee shall attempt to reach consensus with the Army on matters which the Army submits to the Board pursuant to Article IV of this Agreement.

(b) The position of Technical Committee Chairperson shall be held by a member of the Technical Committee for a one year term. The position shall be held by a member representing a different Wholesale Customer each year and shall rotate in the following order: the City of Falls Church, the District of Columbia Water and Sewer Authority, and Arlington County.

(c)(1) The Technical Committee shall meet at least quarterly. The Technical Committee Chairperson shall call a special meeting at the written request of another Technical Committee Member or whenever the Technical Committee Chairperson considers necessary, provided that the Chairperson shall confer with the other Technical Committee members before setting a date and time for a special meeting and shall, to the maximum extent practicable, not schedule a special meeting at a date and time when a Technical Committee Member is not available.

(2) The Chairperson shall, to the maximum extent practicable, provide each Technical Committee Member and the Army with written notice of a meeting not less than ten calendar days before the meeting date, together with a proposed agenda. At least two Technical Committee members representing different Wholesale Customers and one or more of the members of the Washington Aqueduct staff referenced in Article III, section 2 of this Agreement must be in attendance in order for a meeting to take place.

(3) The Technical Committee shall not have the independent authority to require the Army to take, or refrain from taking, any action.

### ARTICLE III - RELATIONSHIP BETWEEN THE ARMY AND THE WHOLESALE WATER CUSTOMERS

**SECTION 1** - The Army agrees to work closely in consultation and coordination with the Board on the issues referenced in Article II, section 1 of this Agreement. The Army

Corps of Engineers, further agrees to adhere to the recommendations of the Board on matters referenced in Article IV of this Agreement to the extent provided in Article IV.

SECTION 2 - The Army agrees to make members of the professional and technical staff of the Washington Aqueduct available to meet regularly with the Technical Committee established pursuant to Article II, section 5 of this Agreement to informally exchange information and views concerning operation of the Washington Aqueduct, long-range and strategic planning, and relevant Federal and State rulemaking impacting/concerning the Washington Aqueduct.

SECTION -3 - The Army shall afford the Board an opportunity to provide periodic evaluation reports concerning the General Manager of the Washington Aqueduct. Such reports shall be submitted to the District Commander, Baltimore District, United States Army Corps of Engineers. The Army shall consult with the Board prior to hiring a General Manager for the Washington Aqueduct after the effective date of this Memorandum of Understanding, and shall permit the Customers to participate in the interview process and shall take the views of the Board into consideration in making a selection for that position.

SECTION 4 - The Army, including the Washington Aqueduct, is not liable to third parties for acts or omissions of the Wholesale Water Customers or their representatives.

## **ARTICLE IV - GENERAL PROVISIONS**

### **SECTION I - SUBMISSION OF ANNUAL OPERATING BUDGET AND REVISED CAPITAL PLAN.**

(a) At a date each year that allows sufficient time for review by the Technical Committee and the Wholesale Customer Board, the Army, through the General Manager of the Washington Aqueduct, shall submit a proposed annual operating budget, hereinafter referred to as the "Operating Budget", for the forthcoming fiscal year and any proposed revisions to the Revised Plan to each Member of the Board. For items exceeding a cost threshold established by the Board, the Army shall state whether each proposed capital improvement on the Revised Plan represents the least costly means of accomplishing the intended objective. If a particular proposed capital improvement does not represent the least costly means of accomplishing the intended objective, the Army shall identify the less expensive alternatives rejected and state why the more costly option was chosen.

(b) The Board may vote to accept, reject, recommend modifications to, or postpone its considerations of the proposed Operating Budget or Revised Plan.

(c) If the Board rejects the proposed Operating Budget or Revised Plan or fails to take any action on the proposed Operating Budget or Revised Plan within 30 days after receipt of the Operating Budget or Revised Plan from the Army, the Army shall continue to operate the Washington Aqueduct consistent with the Operating Budget or Capital Improvement Plan in effect at the time the Operating Budget or

Revised Plan was submitted to the Board, with any adjustments required to meet outstanding financial obligations, unless the Army provides a written determination and findings that operation of the Washington Aqueduct in accordance with the proposed Operating Budget or Revised Plan is necessary to comply with applicable laws, regulations or permits or is necessary to comply with contractual agreements or is necessary to protect the public health.

(d ) Should the Board recommend a modification to a proposed Operating Budget or Revised Plan, the Army shall proceed with the Operating Budget or Revised Plan as modified, unless the Army provides a written determination and findings that non-adherence to the recommendation is necessary to comply with applicable laws, rules, or permits, necessary to comply with contractual obligations, or necessary to protect the public health. If the Army makes this determination and findings, the Army shall proceed with its proposed Operating Budget or Revised Plan, but shall include any Board recommended modifications that were not the subject the Army's determination and findings.

(e) The Army may agree to undertake capital improvements for one or more of the Wholesale Water Customers upon the request of the Wholesale Water Customer, provided that such capital improvements shall be undertaken at no cost to the other Wholesale Water Customers and the General Manager of the Washington Aqueduct certifies to the Board that the requested capital improvement will not degrade the service of the other Wholesale Water Customers and will not result in a system-wide cost increase.

## **SECTION 2 - NOTICE REGARDING DRAFT PERMITS, PERMIT VIOLATIONS, AND THE SUBMISSION OF CERTAIN AGREEMENTS.**

(a) The Army shall furnish the Board with immediate notice of the proposed issuance of a permit or permit modification for the Washington Aqueduct; a potential or actual permit violation at the Washington Aqueduct; the issuance of a notice of permit violation at the Washington Aqueduct, or any correspondence' threatening such issuance; any proposed consent agreement or decree, compliance order, or memorandum of understanding concerning a proposed or existing permit held by the Department of the Army for the Washington Aqueduct.

(b) The Army shall, to the maximum extent practicable, consult with the Board prior to responding to, or entering into any proposed consent decrees or orders, or before entering into a written agreement or understanding of any kind which would impact the Wholesale Water Customers.

(c) (l.) The Army shall submit a proposed agreement with a regulatory or

- (A) The agreement would require the Army to undertake a capital improvement to, or modify the operations of, the Aqueduct;
  - (B) The cost of the capital improvement or operational modification exceeds an amount previously established by the Board; and
  - (C) The Army determines that the capital improvement or operational modification does not represent the least costly means of satisfying the permit or statutory requirement which is the subject of the agreement.
- (2) The Army may proceed with an agreement submitted to the Board pursuant to this subsection unless the Customer Board votes to reject the agreement within thirty (30) days after submission. Jd) The Customers reserve whatever rights they otherwise have to challenge any permits, orders, decrees, agreements, or understandings covered in this Section.

SECTION 3 - RATE ALLOCATION STUDY. Upon request of a Board Member, but not less than three years from the date of the last such request, the Army shall perform and furnish the Board with a preliminary analysis of the fairness and accuracy of the existing rate allocation formula. The Board shall review the preliminary analysis and may, after its review, request the Army to undertake a full study of the fairness and accuracy of the existing rate allocation study. Upon the request of the Board, the Army shall revise the rate allocation formula if, following a review of the full study, the Board votes unanimously in favor of a revision to the formula, as required pursuant to Article II, section 4 of this Agreement.

SECTION 4 - ANNUAL **FINANCIAL REPORT**. The Army shall submit an annual financial report to the Board detailing the financial activities for the Washington Aqueduct during the most recently completed Federal Fiscal Year. The reports shall be submitted to the Board no later than April 1 st of the succeeding Fiscal Year.

## ARTICLE V - DEFINITIONS

For the purposes of this Memorandum of Understanding, the following terms shall mean:

**CHIEF ADMINISTRATIVE OFFICER** - The County Manager of Arlington County, Virginia, the City Manager of the City of Falls Church, Virginia, and the General Manager of the District of Columbia Water and Sewer Authority.

**WASHINGTON AQUEDUCT**. - The Washington Aqueduct facilities and related facilities under the administrative jurisdiction of the Department of the Army, including, without limitation, the dams, intake works, conduits, and pump stations that capture and transport raw water from the Potomac River to the Dalecarha Reservoir; the infrastructure and appurtenances used to treat water taken from the Potomac River to potable standards; and related water distribution facilities.

REVISED PLAN. - The Five-Year Capital Plan attached hereto as Exhibit A, as it may be subsequently revised.

LEAST COSTLY ALTERNATIVE - That alternative, as determined by professional engineering analysis (considering all components of cost over a defined life cycle, including the time value of money expended in a series of payments), which has the lowest total cost of multiple technically feasible alternatives.

BOARD MEMBER. - A duly appointed Member of the Customer Board, or a person designated by a Board Member to act in his/her place.

#### **ARTICLE VI - DURATION OF AGREEMENT: AMENDMENTS**

This Memorandum of Understanding shall remain in effect until terminated by any of the parties hereto as provided for in Article VII and may be amended only upon the written agreement of the parties.

#### **ARTICLE VII - TERMINATION**

A party desiring to terminate this Memorandum of Understanding shall be required to notify each of the other parties in writing of its intent to terminate. The written notice of intent to terminate shall be forwarded to the other parties by registered mail, return receipt requested. The effective date of the termination shall be no earlier than six months after receipt of such notice by the other parties.

#### **ARTICLE VIII = NOTICES**

Any notice or request which, under the terms of this Memorandum of Understanding, must or may be given or made by the parties hereto, shall be in writing and shall be delivered to:

For Arlington:

Office of the County Manager  
Arlington County Government 2100  
Clarendon Boulevard, Suite 302  
Arlington, Virginia 22201

For Falls Church:

Office of the City Manager Falls  
Church City Government 300  
Park Avenue Falls Church,  
Virginia 22046

For the District of Columbia Water and Sewer Authority:

Office of the General Manager  
District of Columbia Water and Sewer Authority  
5000 Overlook Avenue, S. W.  
Washington, D. C. 20032

For the Department of the Army:

Washington Aqueduct Division  
5900 McArthur Boulevard N.W.  
Washington, D.C. 20315-0220  
Chief, Washington Aqueduct  
U.S. Army Corps of Engineers

Changes to a party's address can be effected by a notice of such change, by registered mail with return receipt requested, to all the other parties.

## ARTICLE IX - COUNTERPARTS

This Memorandum of Understanding shall be executed in quadruplicate, each counterpart being an original.

## ARTICLE X - EFFECTIVE DATE

This Memorandum of Understanding shall take effect upon the date of execution by the parties hereto.

## ARTICLE XI - AUTHORITY TO ENTER INTO MEMORANDUM OF UNDERSTANDING

The parties hereto represent that they have the authority to enter into this Memorandum of Understanding and that the individuals signing this Memorandum of Understanding have the requisite power and authority to bind the parties to the terms and provisions contained herein. Nothing herein shall be construed to require an appropriation of funds of any of the Customers. This Memorandum of Understanding is not intended to create nor does it create a third party beneficiary contract.

## ARTICLE XII - RESERVATION OF RIGHTS

The respective rights of the Parties regarding the Washington Aqueduct, as those rights existed on the effective date of this Agreement, shall neither be extinguished nor altered as a consequence of the creation or termination of this Agreement.

*IN WITNESS WHEREOF*, the parties have executed this Memorandum of



William T. Donahue  
Acting County Manager  
Arlington County, Virginia

Hector A. Rivera  
City Manager  
City of Falls Church, Virginia

Jerry N. Johnson  
General Manager  
District of Columbia Water and  
Sewer Authority

Joe N. Ballard  
Lieutenant General, USA  
Commander,  
US Army Corps Engineers

## Part I - EFFLUENT LIMITS

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - DALECARLIA SEDIMENTATION BASINS

During the period beginning with the effective date and lasting through the expiration date of this permit, the permittee is authorized to discharge from Dalecarlia Sedimentation Basins Numbers 1, 2, 3 and 4 through Outfall 002. Subject to the special condition provisions found in Part III of this permit, permittee may discharge from Outfall 002.

Discharges shall be limited and monitored by the permittee as specified below:

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u> <u>Requirements</u>				<u>Monitoring</u>
<u>kg/day(lb/day)</u>	<u>Other Limits (Specify)</u>				<u>Measurement</u> <u>Sample</u>
<u>Type</u>	<u>Avg Monthly</u>	<u>Max. Daily</u>	<u>Avg Monthly</u>	<u>Max. Daily</u>	<u>Frequency</u>
Flow (mgd)	N/A	N/A	gpd <sup>(1)</sup>	gpd <sup>(1)</sup>	Continuous Recorded
Total Suspended Solids	N/A	N/A	30 mg/l	60 mg/l	2x week 24-hr. composite
Aluminum (total)	N/A	N/A	4 mg/l	8 mg/l	2x week
Iron (dissolved)	N/A	N/A	N/L <sup>(1)</sup>	N/L <sup>(1)</sup>	2x week
Chlorine, total residual <sup>(2)</sup>	N/A	N/A	N/A	N/A	1x day grab
Removal <sup>(3)</sup>	----- -- 85% (minimum) for TSS ----- -----				

The pH shall not be less than 6.0 standard units nor greater than 8.5 standard units and shall be monitored once per day by grab sample.

There shall be no discharge of floating solids or visible foam in other than trace amounts

Samples taken in compliance with the monitoring requirements specified above, with the exception of the chlorine samples shall be taken at the location in each of the sedimentation basins where the effluent discharges from that basin. The sampling point for the chlorine samples for Outfall 002 shall be in an access port in the discharge pipe between the Dalecarlia Basins and the point of entry into the Potomac River.

<sup>(1)</sup> - No limit, only monitoring is required.

<sup>(2)</sup> - No chlorine shall be discharged in detectable amounts. For the purpose of this permit no detectable amounts is defined as <0.1 mg/L.

<sup>(3)</sup> - Using a combination of engineering and/or Best Management Practices, the permittee shall increase the amount incoming residual solids removed from the Dalecarlia sedimentation basins to meet the TSS removal effluent limit. This represents a minimum of 85% removal of incoming solids to the sedimentation basins.

## B. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - GEORGETOWN SEDIMENTATION BASINS

During the period beginning with the effective date and lasting through the expiration date of this permit, the permittee is authorized to discharge from the Georgetown Sedimentation Basins through Outfalls 003 and 004. Outfall 004 is the discharge point for effluent and solids from the Georgetown sedimentation basin #1. Outfall 004 and Outfall 003 are discharge points for effluent and solids from the Georgetown sedimentation basin #2. Subject to the special condition provisions found at Part III. of this permit, permittee may discharge from Outfalls 003 and 004.

Discharges shall be limited and monitored by the permittee as specified below:

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>				<u>Monitoring</u>
<u>kg/day(lb/day)</u>	<u>Requirements</u>				<u>Measur</u>
	<u>Other Limits (Specify)</u>				<u>ementS</u>
<u>Type</u>	<u>Avg Monthly</u>	<u>Max. Daily</u>	<u>Avg Monthly</u>	<u>Max. Daily</u>	<u>ample</u>
					<u>Frequency</u>
Flow (mgd)	N/A recorded	N/A	gpd <sup>(1)</sup>	gpd <sup>(1)</sup>	continuous
Total Suspended Solids	N/A	N/A	30 mg/l	60 mg/l	2x week 24-hr. composite
Aluminum (total)	N/A	N/A	4 mg/l	8 mg/l	2x week 24 hr. composite
Iron (dissolved)	N/A	N/A	N/L <sup>(1)</sup>	N/L <sup>(1)</sup>	2x week 24 hr. composite
Removal <sup>(2)</sup>	----- 85% (minimum) for TSS ----- -----				

The pH shall not be less than 6.0 standard units nor greater than 8.5 standard units and shall be monitored once per day by grab sample.

There shall be no discharge of floating solids or visible foam in other than trace amounts.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the location in each of the sedimentation basins where the effluent is discharged from that basin.

<sup>(1)</sup>- No limit, only monitoring is required.

<sup>(2)</sup> - Using a combination of engineering and/or Best Management Practices, the permittee shall increase the amount incoming residual solids removed from the Georgetown sedimentation basins to meet the TSS removal effluent limit. This represents a minimum of 85% removal of incoming solids to the sedimentation basins.

## C. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - OTHER DALECARLIA DISCHARGE

During the period beginning with the effective date of this permit and lasting through the expiration date, the permittee is authorized to discharge effluent comprised of leakage and/or discharge from a spring located underneath the Dalecarlia Sedimentation Basins through Outfall 002. Such discharges shall be limited and monitored by the permittee as specified below:

	<u>Effluent Characteristic</u>		<u>Discharge Limitations</u>		<u>Monitoring Requirements</u>	
	<u>kg/day(lb/day)</u>		<u>All Units (mg/L)</u>		<u>Measurement</u>	<u>Sample</u>
	<u>Avg Monthly</u>	<u>Max. Daily</u>	<u>Avg Monthly</u>	<u>Max Daily</u>	<u>Frequency</u>	<u>Type</u>
Flow (mgd)	N/A	N/A	N/A	N/A	1x quarter	estimate
Total Suspended Solids	N/A	N/A	30	60	1x quarter	grab
Total Aluminum	N/A	N/A	4	8	1x quarter	grab
Iron dissolved	N/A	N/A	N/A	N/A	1x quarter	grab
Total Chlorine <sup>(1)</sup>	N/A	N/A	N/A	N/A	1x quarter*	grab

The pH shall not be less than 6.0 standard units nor greater than 8.5 standard units and shall be monitored once per quarter by grab sample.

There shall be no discharge of floating solids or visible foam in other than trace amounts.

<sup>(1)</sup> - No Chlorine shall be discharged in detectable amounts. For the purpose of this permit no detectable amounts is defined as <0.1 mg/L.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location for the underdrain. Samples shall be taken from an access port in the discharge pipe between the point at which the basin underdrains tie into a single pipe and the point of entry to the Potomac River.

\* In addition to the monitoring requirement of 1x quarter, monitoring will be done at a frequency of 1x day grab whenever pre-chlorination to the Dalecarlia sedimentation basins is occurring.

#### **D. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - CITY TUNNEL AND GEORGETOWN CONDUIT**

During the period beginning with the effective date and lasting through the expiration date of this permit, the permittee is authorized to discharge from Outfall number 006 directly to the Potomac River and from Outfall 007 from the City Tunnel to Rock Creek. Discharge from Outfall 006 is treated water blowoff from the Georgetown Conduit. Discharge from Outfall 007 is treated water blowoff from the City Tunnel.

Such discharges shall be limited and monitored by the permittee as specified below:

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>				<u>Monitoring</u>	
	<u>Requirements</u>				<u>Measurement</u>	<u>Sample</u>
<u>kg/day(lb/day)</u>	<u>All Units (mg/L)</u>		<u>Frequency</u>		<u>Type</u>	
<u>Avg Monthly</u>	<u>Max. Daily</u>	<u>Avg Monthly</u>	<u>Max Daily</u>			
Flow (mgd)	N/A	N/A	N/A	N/A	1x discharge	estimate
Total Suspended Solids	N/A	N/A	30	60	1x discharge	Grab*
Total Aluminum	N/A	N/A	4	8	1x discharge	Grab*
Iron dissolved	N/A	N/A	4	8	1x discharge	Grab*
Total Residual Chlorine <sup>(1)</sup>	N/A	N/A	N/A	N/A	1x discharge	Grab*

The pH shall not be less than 6.0 standard units nor greater than 8.5 standard units and shall be monitored at the point of discharge.

There shall be no discharge of floating solids or visible foam in other than trace amounts.

<sup>1)</sup> No chlorine shall be discharged in detectable amounts. For the purpose of this permit no detectable amounts is defined as <0.1 mg/L.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following locations: at Outfalls 006 and 007.

\* A grab sample shall be taken at the beginning and the midpoint of the above discharges, except for Total Residual Chlorine which shall be sampled at the start of the discharge.