

corrosive high-strength wastes, doughnut grease, and other pollutants, that destroyed iron pipes, mechanical pumps, and other components of the County's sewer system.

3. Krispy Kreme is regulated under Fairfax County's Pretreatment Program for industrial users of the County's sewer system, including Fairfax County Code Chapter 67.1 (Sanitary Sewers and Sewage Disposal), hereinafter the "Sewer Use Ordinance," which is required by and approved under the federal Clean Water Act, 33 U.S.C.A. §§ 1251, *et seq.*, (West 2001 & Supp. 2008), the State Water Control Law, Va. Code §§ 62.1-44.2 through - 44.34:28 (2006 & Supp. 2008) and implementing regulations, 40 C.F.R. Part 403 and 9 VAC 25-31.

4. Pursuant to these authorities, Fairfax County seeks civil penalties for Krispy Kreme's repeated and consistent violations. This civil action follows repeated administrative enforcement action by the County against Krispy Kreme including Notices of Violation and enforcement Orders, which Krispy Kreme never contested or appealed, but with which Krispy Kreme failed to effectively comply.

5. This action is also brought to recover the County's costs to repair and replace the portion of its sewer system damaged by Krispy Kreme, for which the County has invoiced Krispy Kreme and Krispy Kreme has refused to pay.

THE PARTIES

6. Plaintiff Board of Supervisors of Fairfax County, Virginia, is a body politic and corporate in the Commonwealth of Virginia. The County owns and operates a sanitary sewer system hereinafter referred to as the Publicly Owned Treatment Works ("POTW").

7. Defendant Krispy Kreme is a corporation organized under the laws of the state of North Carolina with its principal place of business in Winston-Salem, North Carolina. At

all times relevant to this action, Krispy Kreme transacted business in the Commonwealth of Virginia, including operation of a doughnut production plant at 10400 Furnace Road, Lorton, Virginia, which is located within Fairfax County, which is shown at Tax Map No. 113-3((1)) parcel 5J, and which is within a business park called the Gunston Commerce Center. A Geographic Information System map of the layout and location of the Gunston Commerce Center and the sanitary sewer lines that serve it is attached hereto and incorporated herein by reference as Exhibit 1.

JURISDICTION AND VENUE

8. This Court has jurisdiction over this matter pursuant to Va. Code Ann. § 17.1-513 (Supp. 2008).

9. Venue is appropriate in this matter in the Circuit Court for the County of Fairfax pursuant to Va. Code Ann. § 8.01-262 (2007).

REGULATORY FRAMEWORK

10. The Federal Water Pollution Control Act of 1972, as amended, more commonly known and referred to as the Clean Water Act, sets forth a comprehensive regulatory system designed to restore and maintain the chemical, physical and biological integrity of the Nation's waters. 33 U.S.C.A. §§ 1251, *et seq.*

11. Under the Clean Water Act, the United States Environmental Protection Agency ("EPA") administers, or delegates to the States to administer, permit programs to regulate and control the discharge of pollutants into the Nation's waters. 33 U.S.C.A. § 1251(b)-(d), 1342 (West 2001 & Supp. 2008).

12. Included among the responsibilities that EPA must either administer or delegate to the States to administer is the establishment and operation of a State Pretreatment

Program to regulate and control the introduction of pollutants from industrial and commercial dischargers to public sewer systems and treatment facilities, collectively referred to as “publicly owned treatment works” (“POTWs”). 33 U.S.C.A. §§ 1292(2)(A) (West 2001) and 1342(b) (West 2001 & Supp. 2008). The purpose of State Pretreatment Programs is to control and prevent the discharge of pollutants that interfere with, pass through, or otherwise are incompatible with POTWs. 33 U.S.C.A. § 1317(b) (West 2001).

13. On April 14, 1989, EPA approved the Commonwealth of Virginia's State Pretreatment Program and delegated this responsibility to the Commonwealth. Virginia's State Pretreatment Program is currently administered by the State Water Control Board and the Virginia Department of Environmental Quality (collectively, "DEQ").

14. Similarly, the States (or EPA directly) may delegate Pretreatment Program responsibilities to the POTW owner, including local program development, implementation and enforcement under legal authority enforceable in federal, state and local courts. 40 C.F.R. §§ 403.8(f) and 403.9; 9 VAC 25-31-800(f) and -810.

15. Because the County owns a POTW meeting certain regulatory criteria, the County was required to develop and obtain approval of, and now operates, a POTW Pretreatment Program pursuant to the Clean Water Act and State Water Control Law. 40 C.F.R. § 403.8(a); 9 VAC 25-31-800.A.

16. The County's POTW Pretreatment Program was approved by EPA in 1985, and all subsequent modifications to the County's POTW Pretreatment Program were approved by EPA or by DEQ after EPA delegated responsibility to the Commonwealth in 1989.

221. The above-described discharges caused corrosive structural damage and destruction to, disruption of, and interference with the POTW and its functioning and operations, thereby impairing the condition, quality, and value of the POTW, and interfering with the County's right of use thereof.

222. Accordingly, Krispy Kreme has committed trespass to chattels against the County, and is liable to the County therefore.

223. As a result, the County incurred expense, loss and property damage in the amount of \$1,952,527.

224. Krispy Kreme is liable to the County for the cost of these repairs, replacement, and other expenses and losses, or \$1,952,527.

COUNT TEN

CONVERSION

225. The allegations of paragraphs 1 through 156 are hereby incorporated by reference in this count.

226. Krispy Kreme consistently, and without permission, discharged wastewater containing excessive amounts of fats, oils and grease; containing excessive amounts of acid forming BOD and COD; and with a pH less than 5.0 to the POTW, which resulted in conversion of the POTW.

227. Krispy Kreme intended to discharge wastewater to the POTW.

228. The above discharges caused corrosive structural damage and destruction to, disruption of, and interference with the POTW and its functioning and operations, thereby interfering with the County's right of use thereof so seriously as to warrant requiring Krispy Kreme to pay the full cost of restoring the POTW to service.

229. Accordingly, Krispy Kreme has converted the POTW, and is liable to the County therefore.

230. As a result, the County incurred expense, loss and property damage in the amount of \$1,952,527.

231. Krispy Kreme is liable to the County for the cost of repairs, replacement, and other expenses and losses, or \$1,952,527.

PRAYER FOR RELIEF

WHEREFORE, the County requests this Court to:

A. Hold that Krispy Kreme repeatedly and consistently violated the requirements of the Sewer Use Ordinance, Fairfax County Code Chapter 67.1.

B. Hold that Krispy Kreme repeatedly and consistently violated its Wastewater Discharge Permit.

C. Enter judgment against Krispy Kreme for civil penalties in the amount of \$17,925,000, or such other amount deemed appropriate in the Court's discretion, in accordance with Fairfax County Code Section 67.1-8-10 and Krispy Kreme's Wastewater Discharge Permit, Part, 5, Section 7.E.

D. Enter judgment against Krispy Kreme for \$1,952,527 plus interest and, as appropriate, continuing damages to the date of trial;

E. Order Krispy Kreme to pay the bill issued by the County's Department of Finance pursuant to Fairfax County Code Section 67.1-1-10 and Krispy Kreme's Wastewater Discharge Permit, Part, 5, Section 7.G, plus interest running from the date on which payment was due, as provided by Fairfax County Code Section 67.1-8-8 and Krispy Kreme's Wastewater Discharge Permit, Part, 5, Section 7.D (Injunctive Relief).

17. As part of the County's approved POTW Pretreatment Program, the Fairfax County Board of Supervisors adopted and enforces the Sewer Use Ordinance which, as required by federal and state law, imposes restrictions on the discharge of wastewater by industrial users of the County's system, including the sewer system and Pump Station and related appurtenances relevant in this case.

18. The Sewer Use Ordinance includes both general and specific prohibitions of wastes with objectionable or dangerous characteristics, procedures for issuing permits with customized limits and requirements, and enforcement authorities, among other authorities and requirements.

19. The Sewer Use Ordinance further establishes an appeal procedure, whereby an industrial user must request administrative review of adverse decisions within 10 days of such decisions and that administrative review is a mandatory precondition to any further challenge of such decisions or of the facts that support them. Fairfax County Code Section 67.1-8-13.

20. The County's Sewer Use Ordinance has been reviewed and approved by both EPA and DEQ as required by federal and state law for conformance with federal and state requirements. As a part of that review, EPA and DEQ concluded that the Sewer Use Ordinance and its broader POTW Pretreatment Program are in compliance with federal and state law. Further, EPA and DEQ review and approval establish that the County's POTW Pretreatment Program is necessary and effective to achieve the purposes of the Clean Water Act, State Water Control Law and pretreatment regulations promulgated thereunder.

21. The County is required to enforce POTW Pretreatment Program requirements and the terms and conditions of pretreatment permits. 9 VAC 25-31-800.F. Counties implementing a POTW Pretreatment Program must be able to seek or impose monetary

charges of at least \$1,000 per day per violation of pretreatment requirements, 9 VAC 25-31-800.F.1.f, and counties must implement these enforcement programs, 9 VAC 25-31-800.F.

22. The County's POTW Pretreatment Program includes an Enforcement Response Plan, which is required and approved by DEQ. 9 VAC 25-31-800.F.5. The Enforcement Response Plan defines how the County will enforce pretreatment requirements, while retaining enforcement discretion, and includes procedures for Notices of Violations, Administrative Orders, both civil and criminal enforcement, and other remedies.

23. Pursuant to the delegations of Clean Water Act responsibilities from both EPA and DEQ, the County's POTW Pretreatment Program, including the Sewer Use Ordinance, is the first line of defense against the discharge of industrial and commercial wastewaters which may interfere with or cause damage to the POTW and which may cause pass through of harmful pollutants to the Nation's waters.

BACKGROUND

24. The County owns and operates sanitary sewer facilities referred to as the Gunston Commerce Pump Station, which consists of electrical equipment, controls, and mechanical equipment, including a wet well, plus a related Force Main. These facilities are located within Fairfax County on properties designated as Tax Map Nos. 113-3((1)) parcels 5E, 5F, 5G, 5H2, 5H3, and on the underside of, and the southwestern end of, the Route 1 Bridge crossing the Occoquan River into Prince William County.

25. By agreement between the two counties, the wastewater conveyed by the Pump Station and Force Main ultimately flows into Prince William County for treatment.

26. The County also owns and operates a gravity sewer line that is located within Fairfax County on property designated as Tax Map No. 113-3((1)) parcels 5K1 and 5G and

beneath Interstate 95 and that conveys wastewater from Land Bay C of the Gunston Commerce into the Pump Station.

27. The Pump Station, the related Force Main, and the gravity line are the portions of the POTW relevant to this case.

28. By letter dated September 15, 1999, the DEQ approved the engineering plans and specifications for the Gunston Commerce Center Pump and issued the County a Certificate to Construct those facilities.

29. The Gunston Commerce Pump Station, including the Force Main, was constructed in calendar years 1999 and 2000.

30. On October 4, 2000, the Virginia Department of Health issued the County a Certificate to Operate the Pump Station.

31. From the fall of 2000 until approximately July 2004, County staff inspected the Pump Station weekly and performed routine maintenance and cleaning. The POTW operated normally throughout that time.

32. In late 2001, the gravity sewer line that is a part of the POTW at issue herein was constructed to extend the existing POTW north from the Pump Station to the vicinity of Land Bay C of the Gunston Commerce Center, and the County accepted ownership of that gravity line.

33. In early 2004, a gravity sewer line was constructed within Land Bay C of the Gunston Commerce Center, and that sewer line was connected to the County's POTW.

34. The County has not accepted ownership of the gravity sewer line within Land Bay C, and it is not part of the POTW for which the County seeks relief in this case.

35. On or about May 13, 2004, Krispy Kreme commenced operation of its doughnut production plant in Land Bay C of the Gunston Commerce Center.

36. Shortly after that date, Krispy Kreme began discharging both domestic wastewater and industrial process water from its doughnut production operations into the County's POTW.

37. On July 2, 2004, staff of the County's Department of Public Works and Environmental Service inspected the Pump Station.

38. On July 2, 2004, the Pump Station contained heavy grease atypical of normal commercial and domestic wastewaters, and the smell of doughnuts emanated from the wet well and permeated the area.

39. Beginning in July 2004 and continuing until the POTW ceased operation in April 2008, County staff repeatedly needed to inspect the Pump Station and clean the wet well more frequently than required for normal preventive maintenance in order to remove deposits of doughnut grease and slime emanating from Krispy Kreme's doughnut production plant and to prevent obstruction of the POTW.

40. Beginning in July 2004 and continuing until the POTW ceased operation in April 2008, County staff repeatedly notified Krispy Kreme that excess fats, oils, and grease in were accumulating in the POTW.

41. By letter dated July 9, 2004, County staff sent Krispy Kreme a copy of Fairfax County Code Chapter 67.1, the Sewer Use Ordinance.

42. On July 30, 2004, the County issued a Notice of Violation to Krispy Kreme for violating Fairfax County Code Section 67.1-2-1(b)(3), which prohibits, *inter alia*, the discharge of "solid or viscous substances in amounts which may cause obstruction of the flow

in the POTW, including substances which may solidify or become viscous at temperatures between 32°F (0°C) and 150°F (65.5°C) and a pH between 5.0 and 11.0."

43. The July 30, 2004, Notice of Violation included photographs of fatty globules of doughnut grease on and in the County's wet well.

44. The July 30, 2004, Notice of Violation ordered Krispy Kreme to submit to the County a written plan of action to prevent fats, oils, and grease from obstructing the County's POTW and interfering with the operations of the Pump Station, to cease discharging wastewater with a temperature greater than 150° F, and to monitor and record the pH of its wastewater discharges and submit the results to the County.

45. A true and accurate copy of the July 30, 2004, Notice of Violation is attached hereto and incorporated herein by reference as Exhibit 2.

46. Krispy Kreme did not appeal the July 30, 2004, Notice of Violation as was authorized by Fairfax County Code Section 67.1-8-13.

47. Beginning no later than August 2004 and continuing until the POTW ceased operation in April 2008, the pH of the wastewater that Krispy Kreme discharged to the POTW was repeatedly less than 5.0.

48. The County's Sewer Use Ordinance prohibits the discharge of wastewater having a pH less than 5.0 into the POTW. Fairfax County Code Section 67.1-2-1(b)(2).

49. Pollutants with a pH less than 5.0 are prohibited by the Sewer Use Ordinance because they have the potential to cause structural damage to the POTW and can affect the POTW's treatment process.

50. On August 13, 2004, the County issued a Verbal Notice of Violation to Krispy Kreme for violating Fairfax County Code Section 67.1-2-1(b)(2), which prohibits, *inter alia*, the discharge of "pollutants having a pH less than 5.0."

51. On September 3, 2004, in response to the County's July 30, 2004, Notice of Violation ordering Krispy Kreme to provide the County with a written plan of action, Krispy Kreme sent the County documents describing "actions that have been taken and that are on going to help improve wastewater discharge at [Krispy Kreme's] Lorton Commissary."

52. A true and accurate copy of Krispy Kreme's September 3, 2004, communication is attached hereto and incorporated herein by reference as Exhibit 3.

53. On information and belief, the high-strength nature of Krispy Kreme's wastewater, including high concentrations of food wastes, causes the development of organic acids and low pH (acidic) conditions that deteriorate concrete over time.

54. On September 9, 2004, results from testing Krispy Kreme's wastewater revealed Biochemical Oxygen Demand ("BOD") of 5480 milligrams per liter ("mg/L") and Chemical Oxygen Demand ("COD") of 7310 mg/L.

55. The above-referenced BOD and COD test results, as well as the BOD and COD of Krispy Kreme's wastewater on March 18, 2008, as described in paragraph 128 below, are representative of the range of BOD and COD in Krispy Kreme's wastewater.

56. The above-referenced BOD and COD test results indicate high-strength wastes, which, on information and belief, lead to the development of organic acids and low pH/acidic conditions that corrode metal pipes and equipment and concrete.

57. The County provided the September 9, 2004, test results to Krispy Kreme on October 1, 2004.

58. On October 29, 2004, Krispy Kreme submitted to the County a Wastewater Discharge Application as required by the County to provide information about Krispy Kreme's doughnut production plant and its wastewater discharges, and on December 20, 2004, Krispy Kreme submitted revisions.

59. Krispy Kreme estimated in its Wastewater Discharge Application that it produced 6.95 million dozen doughnuts annually at its Lorton plant.

60. Krispy Kreme stated in its Wastewater Discharge Application that it operates its doughnut production plant 363 days per year.

61. A true and accurate copy of Krispy Kreme's Wastewater Discharge Application, dated October 29, 2004 and December 20, 2004, is attached hereto and incorporated herein by reference as Exhibit 4.

62. On November 30, 2004, and December 7, 2004, the County directed Krispy Kreme to submit a plan and a schedule to the County for resolving the repeated violations of the limits established in the County's Sewer Use Ordinance for pH and for fats, oils, and grease.

63. A true and accurate copy of the County's December 7, 2004, letter is attached hereto and incorporated herein by reference as Exhibit 5.

64. Krispy Kreme did not appeal the requirements that the County imposed on November 30, 2004 and December 7, 2004, as was authorized by Fairfax County Code Section 67.1-8-13.

65. On June 14, 2005, the County issued a Notice of Violation to Krispy Kreme documenting Krispy Kreme's violation of two provisions of the County's Sewer Use Ordinance: (a) Krispy Kreme had failed to submit required reports regarding Krispy Kreme's

efforts to control pH and to reduce fats, oil, and grease deposition in the POTW, in violation of Fairfax County Code Section 67.1-6-6, and (b) Krispy Kreme had decreased the frequency with which it pumped out its grease interceptor without notifying the County, in violation of Fairfax County Code Section 67.1-6-4.

66. A true and accurate copy of the June 14, 2005, Notice of Violation is attached hereto and incorporated herein by reference as Exhibit 6.

67. Krispy Kreme did not appeal the June 14, 2005, Notice of Violation as was authorized by Fairfax County Code Section 67.1-8-13.

68. On or about November 2, 2005, County staff attempted to conduct a closed circuit television inspection of the portion of the Force Main that is suspended beneath the Route 1 Bridge, which crosses the Occoquan River into Prince William County. The inspection showed deposits of grease in the first 633 feet of the line inspected, at which point the camera got stuck in the grease, preventing inspection of the remainder of the line.

69. On or about March 28, 2006, County staff inspected the Pump Station.

70. On or about March 28, 2006, a discharge pipe associated with the Pump Station was discovered to be substantially corroded, including a large hole.

71. On or about March 29, 2006, County staff repaired the damage by placing a repair clamp on the discharge line.

72. Prior to April 2006, Krispy Kreme was the only user that produced food and discharged wastewater including food wastes to the POTW.

73. On or about June 13, 2006, County staff inspected the Pump Station.

74. On or about June 13, 2006, a second discharge pipe associated with the Pump Station was discovered to be substantially corroded, including a hole through the pipe.

75. On or about June 15, 2006, County staff repaired the second corroded discharge pipe by placing a repair clamp on the pipe.

76. The County's costs to complete the repairs made in March and June 2006 were \$1,200.

77. On June 23, 2006, the County issued a Notice of Violation to Krispy Kreme for violating Fairfax County Code Section 67.1-2-1(b)(2), which prohibits, *inter alia*, the discharge of "pollutants having a pH less than 5.0."

78. A true and accurate copy of the June 23, 2006, Notice of Violation is attached hereto and incorporated herein by reference as Exhibit 7.

79. Krispy Kreme did not appeal the June 23, 2006, Notice of Violation as was authorized by Fairfax County Code Section 67.1-8-13.

80. In July 2006, the County decided to classify Krispy Kreme as a significant industrial user as authorized by Fairfax County Code Section 67.1-1-3 because of Krispy Kreme's repeated violations of the Sewer Use Ordinance. Consequently, the County directed Krispy Kreme to apply for a Wastewater Discharge Permit as required by Fairfax County Code Section 67.1-4-2.

81. Krispy Kreme did not appeal the County's decision to classify Krispy Kreme as a significant industrial user as was authorized by Fairfax County Code Section 67.1-8-13.

82. On August 29, 2006, Krispy Kreme submitted to the County a Wastewater Discharge Application, and on October 24, 2006, Krispy Kreme submitted revisions.

83. A true and accurate copy of Krispy Kreme's Wastewater Discharge Application, dated August 29, 2006 and October 24, 2006, is attached hereto and incorporated herein by reference as Exhibit 8.

84. On or about September 5, 2006, County staff inspected the Pump Station.
85. On or about September 5, 2006, in addition to the two ductile iron discharge pipes already known to be corroded, two flanges on the pipes, and two pump volutes (the casing surrounding the pump impeller) within the Pump Station were found to be corroded.
86. On September 6, 2006, a corroded discharge pipe and a pump volute were cut out for closer examination and were replaced.
87. Upon examination, the removed discharge pipe was found to be coated with fats, oil and grease.
88. On or about September 7, 2006, the County replaced the other corroded discharge pipe in the Pump Station.
89. The County's costs to complete the repairs made on September 6 and 7, 2006, totaled \$24,859.
90. On or about September 8, 2006, County staff contacted Krispy Kreme's corporate Director of Safety and Environmental Services and gave Krispy Kreme a verbal Notice of Violation. County staff also verbally notified Krispy Kreme's corporate Director of Safety and Environmental Services that Krispy Kreme's waste had caused corrosion in the Pump Station and directed him to send the County details of the pH adjustment system.
91. On September 28, 2006, County staff notified Krispy Kreme's corporate Director of Safety and Environmental Services via e-mail that wastewater from Krispy Kreme had corroded two discharge pipes in the Pump Station and was beginning to impact the pump, and the pipes had to be replaced.

92. On October 5, 2006, County staff issued a verbal Notice of Violation to Krispy Kreme by telephone call to Krispy Kreme's corporate Director of Safety and Environmental Services for Krispy Kreme's failure to monitor pH daily as required.

93. On information and belief, Krispy Kreme's yeast mix prepared for the production of raised doughnuts is prepared daily in batches as large as 100 gallons, and the unused portions of that yeast mixture are discharged to the POTW.

94. By certified letter to Krispy Kreme's corporate Director of Safety and Environmental Services dated October 27, 2006, the County notified Krispy Kreme that in September, 2006, the County had replaced two corroded discharge pipes and flanges at the County's Pump Station, that the County suspected Krispy Kreme was the cause of the damage, and that therefore Krispy Kreme could be held responsible for the costs of repair and replacement and could be subject to escalating enforcement action.

95. A true and accurate copy of the County's October 27, 2006, letter to Krispy Kreme is attached hereto and incorporated herein by reference as Exhibit 9.

96. The County's October 27, 2006, letter required Krispy Kreme to have an engineering study conducted by a qualified professional wastewater engineer to assess the corrosion issue associated with Krispy Kreme's discharge, and to propose a solution to prevent further damage to the sanitary sewer from Krispy Kreme's discharge.

97. Krispy Kreme did not appeal the requirements of the October 27, 2006, letter as was authorized by Fairfax County Code Section 67.1-8-13.

98. On or about November 30, 2006, the County replaced the second pump volute that had been found to be corroded on or about September 5, 2006.

99. On information and belief, Krispy Kreme's wastewater during the fall of 2006 was about 8 percent oil and grease by volume.

100. On information and belief, sulfate levels in Krispy Kreme's wastewater during the fall of 2006 were extremely high, at 12,500 mg/L.

101. On information and belief, Krispy Kreme's wastewater during the fall of 2006 had a pH in the range of 3 to 4, depending on the length of time the wastewater resided in Krispy Kreme's grease interceptor, and the pH decreased over time.

102. On information and belief, the high yeast content of Krispy Kreme's wastewater ferments and yields lactic, pyruvic and other organic acids. These acids lead to corrosion of the POTW, particularly in the lower quadrant of the pipes.

103. On information and belief, Krispy Kreme's wastewater oxidized metal within Krispy Kreme's doughnut production plant and in the discharge pipes leading from its plant.

104. On June 21, 2007, the County issued to Krispy Kreme Wastewater Discharge Permit No. A51211, effective June 30, 2007, as a means of imposing on Krispy Kreme additional, site-specific monitoring and reporting requirements.

105. A true and accurate copy of Permit No. A51211 is attached hereto and incorporated herein by reference as Exhibit 10.

106. On or around June 28, 2007, County staff inspected the Pump Station.

107. On and around June 28, 2007, further deterioration of the metal components was observable in the Pump Station.

108. On October 25, 2007, the County issued a Notice of Violation to Krispy Kreme for violating: (1) Fairfax County Code Section 67.1-2-1(b)(2), which prohibits, *inter alia*, the discharge of "pollutants having a pH less than 5.0;" (2) Part 2.D.1 of its Wastewater

Discharge Permit, governing pH meter cleaning and calibration; and (3) Part 5, Section 4.A of its Wastewater Discharge Permit, requiring the proper operation and maintenance of all facilities used to achieve compliance with permit conditions.

109. The October 25, 2007, Notice of Violation stated that "[i]n addition to violating the County's Sewer Use Ordinance, the discharge has caused damage to the Gunston Commerce Pump Station that services Krispy Kreme's flow." The County's Notice of Violation ordered Krispy Kreme to develop a plan of corrective action.

110. A true and accurate copy of the October 25, 2007, Notice of Violation is attached hereto and incorporated herein by reference as Exhibit 11.

111. Krispy Kreme did not appeal the October 25, 2007, Notice of Violation as was authorized by Fairfax County Code Section 67.1-8-13.

112. On January 10, 2008, the County issued a Verbal Notice of Violation to Krispy Kreme for violating Fairfax County Code Section 67.1-2-1(b)(2) and Part 5, Section 3.A.3 of its Wastewater Discharge Permit, which prohibit, *inter alia*, the discharge of "pollutants having a pH less than 5.0."

113. On or around February 15, 2008, sewage leaked from at least two locations along the Force Main where the pipe was corroded to the point of failure, releasing raw sewage onto the ground.

114. On February 15, 2008, as a result of the sewage leak, the County ceased operation of the POTW and began a "pump and haul operation." The County pumped all wastewater discharged into the wet well and then hauled it to the County's Noman M. Cole Pollution Control Plant for treatment.

115. On February 19, 2008, one portion of the Force Main was excavated and a section was extracted for inspection.

116. The section of the pipe extracted on February 19, 2008, had corroded through in several places, the pipe wall was thinner than the original pipe thickness, and the inside of the pipe was coated with grease.

117. On February 19, 2008, the leaks were repaired and the POTW was returned to service.

118. On or around February 20, 2008, sewage leaked from a different location along the Force Main where the pipe was corroded to the point of failure.

119. On February 20, 2008, as a result of the second sewage leak, the County again ceased operation of the POTW and began a "pump and haul operation." The County pumped all wastewater discharged into the wet well and then hauled it to the Noman M. Cole Pollution Control Plant for treatment.

120. That same day, the second leak in the Force Main was repaired, a section of the Force Main was extracted for inspection, and the POTW was returned to partial service.

121. The section of Force Main extracted on February 20, 2008, had multiple holes, the pipe wall in the lower quadrant was much thinner than the original pipe thickness, the coating applied to the inside of the pipe to protect it from the effects of normal domestic sewage had disintegrated, and the pipe was coated with heavy grease, slime, and food wastes atypical of normal commercial and domestic wastewaters.

122. On February 21, 2008, temporary repairs were completed at three locations along the Force Main, and the POTW was returned to full service.

123. The County's costs to complete the repairs made on February 19, 20, and 21, 2008, totaled \$22,895.

124. On March 14, 2008, the County issued an Administrative Order to Krispy Kreme.

125. The March 14, 2008, Administrative Order made a finding that the deleterious nature of Krispy Kreme's wastewater discharges damaged the County's Pump Station, Force Main, and possibly gravity sewer lines, in violation of the Fairfax County Code Sections 67.1-2-1(a)(1) and (b)(2-3). The Administrative Order directed Krispy Kreme to take certain corrective action.

126. A true and accurate copy of the County's March 14, 2008, Administrative Order is attached hereto and incorporated herein by reference as Exhibit 12.

127. Krispy Kreme did not appeal the March 14, 2008, Administrative Order as was authorized by Fairfax County Code Section 67.1-8-13.

128. On March 18, 2008, test results revealed that Krispy Kreme's wastewater had extremely high levels of pollutants, including Biochemical Oxygen Demand ("BOD") of 19,200 mg/L, Chemical Oxygen Demand ("COD") of 21,100 mg/L, and Total Suspended Solids of 587 mg/L.

129. The above-referenced BOD and COD test results, as well as the BOD and COD of Krispy Kreme's wastewater on September 9, 2004, as described in paragraph 54 above, are representative of the range of BOD and COD in Krispy Kreme's wastewater.

130. On April 10, 2008, a vertical pipe within the POTW that carried the sewage flow from the portion of the Force Main under the Route 1 Bridge into the receiving chamber on the far side of the bridge corroded completely through, leaving a large hole.

131. As a result of the hole, sewage flowed down the outside of the vertical pipe in sheets, beginning above a dent in the pipe. The outside of the vertical pipe and the top of the receiving chamber located on the Prince William County side of the Route 1 Bridge were covered in a film of white grease.

132. As a result of the damage and leaks, on April 10, 2008, the POTW, except for the gravity line from the vicinity of Land Bay C to the Pump Station, was removed from service.

133. On April 10, 2008, the County re-instituted its "pump and haul operation," pumping all wastewater discharged into the wet well and then hauling it to the County's Noman M. Cole Pollution Control Plant for treatment.

134. The POTW remains out of service pending repair and replacement of the damage, which is in progress.

135. On April 17, 2008, the County issued a Cease and Desist Order to Krispy Kreme.

136. The April 17, 2008, Cease and Desist Order made findings that long-term exposure to acid producing biological activity had resulted in corrosion and damage to the Gunston Commerce Pump Station, Force Main and gravity sewer, and that the damage was due to the deleterious nature of the wastewater discharged by Krispy Kreme in violation Fairfax County Code Sections 67.1-2-1(a)(1) and 67.1-2-1(b)(2-3) and Krispy Kreme's Wastewater Discharge Permit.

137. The April 17, 2008, Cease and Desist Order described the newly-discovered damage and stated that the damage was attributed to Krispy Kreme's doughnut production plant.

138. The April 17, 2008, Cease and Desist Order ordered Krispy Kreme to cease all discharge of industrial wastes to the County's POTW.

139. A true and accurate copy of the County's April 17, 2008, Cease and Desist Order is attached hereto and incorporated herein by reference as Exhibit 13.

140. Krispy Kreme did not appeal the April 17, 2008, Cease and Desist Order as was authorized by Fairfax County Code Section 67.1-8-13.

141. On or about April 25, 2008, Krispy Kreme ceased discharging its industrial wastewater to the POTW, and began pumping and hauling that wastewater from its grease interceptor to the Noman M. Cole Pollution Control Plant for treatment.

142. On or about December 23, 2008, in accordance with the Fairfax County Purchasing Resolution, the County awarded a contract in the amount of \$939,343, to J.L.W. Associates of Virginia, Inc., to perform the repairs and rehabilitation work necessary to repair the POTW except for the gravity sewer line.

143. The County's costs for the engineering design for the repair and rehabilitation work total \$152,600.

144. The County's costs for construction support, permits and fees total \$51,070.

145. Between March 2008 and February 1, 2009, the County incurred costs of \$515,760 to pump the wastewater discharged by other users of the POTW from the wet well and haul the wastewater to the Noman M. Cole Pollution Control Plant.

146. The County projects that its costs to pump and haul the wastewater from the Pump Station to the Noman M. Cole Pollution Control Plant beginning February 2, 2009, and continuing through the repair and rehabilitation work being conducted by J.L.W. Associates of Virginia, Inc., will total \$201,600.

147. On September 11, 2008, the County and Am-Liner East, Inc., amended their existing contract to add a line item for 8 inch x 6 mm vinyl ester resin at \$40 per line foot to line the portion of the County-owned gravity sewer line between Land Bay C of the Gunston Commerce Center, where Krispy Kreme's doughnut production plant is located, and the County's Pump Station, with this protective material.

148. The County's cost to line the gravity sewer line from Land Bay C to the Pump Station is \$40,560.

149. On April 7, 2009, upon direction by the Director of the County's Department of Public Works and Environmental Services, the County's Department of Finance billed Krispy Kreme in the amount of \$1,952,527, for the property damage and related losses and expenses as provided in Krispy Kreme's Wastewater Discharge Permit at Part 5, Section 7.G.

150. A true and accurate copy of the April 7, 2009, bill is attached hereto and incorporated herein by reference as Exhibit 14.

151. Krispy Kreme did not appeal the April 7, 2009, bill as was authorized by Fairfax County Code Section 67.1-8-13.

152. Krispy Kreme has failed and refused to pay the County's April 7, 2009, bill.

153. On or about April 16, 2009, portions of the gravity sewer lines within Land Bay C of the Gunston Commerce Center, which remain under private ownership and are not a part of the POTW, were excavated and sections of the lines were removed for inspection.

154. The sections of pipe extracted on or about April 16, 2009, show severe deterioration and corrosion, and the pipe wall in the lower quadrant is approximately one-half its original thickness.

155. The County has inspected the gravity sewer lines that flow into the Pump Station from Land Bays A and B of the Gunston Commerce Center. In stark contrast to the lines in Land Bay C where the Krispy Kreme plant is located, these lines show no evidence of corrosion, damage, or deterioration.

156. Instead, the path of corrosion, damage, and deterioration traces from the drop pipe at the downstream end of the damaged portion of the POTW, back through the Force Main and Pump Station, through the gravity sewer line, and directly to the sewer line immediately downstream of Krispy Kreme's wastewater discharge point.

COUNT ONE

**VIOLATIONS OF THE SEWER USE ORDINANCE AND
THE WASTEWATER DISCHARGE PERMIT
GENERAL PROHIBITIONS**

157. The allegations of paragraphs 1 through 156 are hereby incorporated by reference in this count.

158. Fairfax County Code Section 67.1-2-1(a)(1) and Krispy Kreme's Wastewater Discharge Permit at Part 5, Section 3.A.1., prohibit the discharge into the POTW of any pollutant(s) which will cause an interference or which is harmful to the health, safety or welfare of POTW personnel or the general public.

159. Krispy Kreme's wastewater (including the constituents and substances therein and characteristics thereof) is a "pollutant" as that term is defined by Fairfax County Code Section 67.1-1-3.

160. Krispy Kreme discharged its wastewater or caused its wastewater to be discharged into the POTW.

161. Krispy Kreme's wastewater discharges caused "interference," as that term is defined by Fairfax County Code Section 67.1-1-3, by corroding portions of the POTW.

162. Krispy Kreme's wastewater discharges resulted in a release of raw sewage harmful to the health, safety, and welfare of the general public in the vicinity of the Gunston Commerce Center and the south end of the Route 1 Bridge.

163. Therefore, Krispy Kreme violated Fairfax County Code Section 67.1-2-1(a)(1) and Krispy Kreme's Wastewater Discharge Permit at Part 5, Section 3.A.1.

164. Fairfax County Code Section 67.1-8-10 provides that any person who violates any provision of Chapter 67.1, any permit issued pursuant to Chapter 67.1, or any other pretreatment requirement shall be liable to the County for a civil penalty, not to exceed the maximum fine allowed for a Class 1 misdemeanor (\$2,500), for every such violation, and that each day on which a violation exists shall constitute a separate violation.

165. Upon information and belief, during each day Krispy Kreme was operating from May 13, 2004, to April 25, 2008, Krispy Kreme's wastewater discharge was in violation of Fairfax County Code Section 67.1-2-1(a)(1) and (from June 30, 2007, to April 25, 2008) Krispy Kreme's Wastewater Discharge Permit at Part 5, Section 3.A.1.

166. Krispy Kreme is liable to the County for civil penalties in the amount of \$3,585,000 or such other amount deemed appropriate in the Court's discretion as a result of Krispy Kreme's violations of Fairfax County Code Section 67.1-2-1(a)(1) and its Wastewater Discharge Permit at Part 5, Section 3.A.1.

COUNT TWO

**VIOLATIONS OF THE SEWER USE ORDINANCE AND
THE WASTEWATER DISCHARGE PERMIT
PROHIBITION ON DISCHARGES OF POLLUTANTS THAT COULD CAUSE
CORROSIVE STRUCTURAL DAMAGE TO THE POTW**

167. The allegations of paragraphs 1 through 156 are hereby incorporated by reference in this count.

168. Fairfax County Code Section 67.1-2-1(b)(2) and Krispy Kreme's Wastewater Discharge Permit at Part 5, Section 3.A.3, prohibit the discharge into the POTW of any pollutants with a pH less than 5.0 or more than 11.0, or which could otherwise cause corrosive structural damage to the POTW.

169. Krispy Kreme's wastewater (including the constituents and substances therein and characteristics thereof) is a "pollutant" as that term is defined by Fairfax County Code Section 67.1-1-3.

170. Krispy Kreme repeatedly discharged wastewater with a pH less than 5.0 to the POTW.

171. Krispy Kreme consistently discharged wastewater that could, and did, cause corrosive structural damage to the POTW.

172. Therefore, Krispy Kreme violated Fairfax County Code Section 67.1-2-1(b)(2) and Krispy Kreme's Wastewater Discharge Permit at Part 5, Section 3.A.3.

173. Fairfax County Code Section 67.1-8-10 provides that any person who violates any provision of Chapter 67.1, any permit issued pursuant to Chapter 67.1, or any other pretreatment requirement shall be liable to the County for a civil penalty, not to exceed the maximum fine allowed for a Class 1 misdemeanor (\$2,500), for every such violation, and that each day on which a violation exists shall constitute a separate violation.

174. Upon information and belief, during each day Krispy Kreme was operating from May 13, 2004, to April 25, 2008, Krispy Kreme's wastewater discharge was in violation of Fairfax County Code Section 67.1-2-1(b)(2) and (from June 30, 2007, to April 25, 2008) Krispy Kreme's Wastewater Discharge Permit at Part 5, Section 3.A.3.

175. Krispy Kreme is liable to the County for civil penalties in the amount of \$3,585,000 or such other amount deemed appropriate in the Court's discretion as a result of Krispy Kreme's violations of Fairfax County Code Section 67.1-2-1(b)(2) and its Wastewater Discharge Permit at Part 5, Section 3.A.3.

COUNT THREE

VIOLATIONS OF THE SEWER USE ORDINANCE AND THE WASTEWATER DISCHARGE PERMIT LIMITS ON DISCHARGES OF FATS, OILS AND GREASE

176. The allegations of paragraphs 1 through 156 are hereby incorporated by reference in this count.

177. Fairfax County Code Section 67.1-2-1(b)(3) and Krispy Kreme's Wastewater Discharge Permit at Part 5, Section 3.A.4, prohibit the discharge into the POTW of any solid or viscous substances in amounts which may cause obstruction of the flow in the POTW, including substances which may solidify or become viscous at temperatures between 32°F (0°C) and 150°F (65.5°C) and a pH between 5.0 and 11.0, and they specify that prohibited materials include, but are not limited to, grease.

178. Krispy Kreme's Wastewater Discharge Permit at Part 4 required Krispy Kreme to manage fats, oils and grease discharged to the sanitary sewer such that accumulation, clogging, and corrosion do not occur in the POTW.

179. Krispy Kreme consistently discharged wastewater into the POTW that included solid or viscous substances, including grease, in amounts which may cause obstruction of the flow in the POTW.

180. Krispy Kreme consistently failed to manage fats, oils and grease discharged to the sanitary sewer adequately, and as a result accumulation, clogging, and corrosion occurred in the POTW.

181. Therefore, Krispy Kreme violated Fairfax County Code Section 67.1-2-1(b)(3) and Krispy Kreme's Wastewater Discharge Permit at Part 4 and at Part 5, Section 3.A.4.

182. Fairfax County Code Section 67.1-8-10 provides that any person who violates any provision of Chapter 67.1, any permit issued pursuant to Chapter 67.1, or any other pretreatment requirement shall be liable to the County for a civil penalty, not to exceed the maximum fine allowed for a Class 1 misdemeanor (\$2,500), for every such violation, and that each day on which a violation exists shall constitute a separate violation.

183. Upon information and belief, during each day Krispy Kreme was operating from May 13, 2004, to April 25, 2008, Krispy Kreme's wastewater discharge was in violation of Fairfax County Code Section 67.1-2-1(b)(3) and (from June 30, 2007, to April 25, 2008) Krispy Kreme's Wastewater Discharge Permit at Part 4 and at Part 5, Section 3.A.4.

184. Krispy Kreme is liable to the County for civil penalties in the amount of \$3,585,000 or such other amount deemed appropriate in the Court's discretion as a result of Krispy Kreme's violations of Fairfax County Code Section 67.1-2-1(b)(3) and its Wastewater Discharge Permit at Part 4 and at Part 5, Section 3.A.4.

COUNT FOUR

VIOLATIONS OF THE SEWER USE ORDINANCE AND THE WASTEWATER DISCHARGE PERMIT LIMITS ON DISCHARGES OF OXYGEN-DEMANDING POLLUTANTS

185. The allegations of paragraphs 1 through 156 are hereby incorporated by reference in this count.

186. Fairfax County Code Section 67.1-2-1(b)(4) and Krispy Kreme's Wastewater Discharge Permit at Part 5, Section 3.A.5, prohibit the discharge into the POTW of oxygen-demanding pollutants released in a discharge at a flow rate and/or concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW.

187. Krispy Kreme consistently discharged wastewater into the POTW with excessive amounts of Biochemical Oxygen Demand ("BOD") and Chemical Oxygen Demand ("COD"). The organic loading represented by these BOD and COD amounts created organic acids and low pH/acidic conditions in the POTW causing damage to, disruption of and interference with the POTW and its functioning and operations.

188. Therefore, Krispy Kreme violated Fairfax County Code Section 67.1-2-1(b)(4) and Krispy Kreme's Wastewater Discharge Permit at Part 5, Section 3.A.5.

189. Fairfax County Code Section 67.1-8-10 provides that any person who violates any provision of Chapter 67.1, or any permit issued pursuant to Chapter 67.1, or any other pretreatment requirement shall be liable to the County for a civil penalty, not to exceed the maximum fine allowed for a Class 1 misdemeanor (\$2,500), for every such violation, and that each day on which a violation exists shall constitute a separate violation.

190. Upon information and belief, during each day Krispy Kreme was operating from May 13, 2004, to April 25, 2008, Krispy Kreme's wastewater discharge was in violation

of Fairfax County Code Section 67.1-2-1(b)(4) and (from June 30, 2007, to April 25, 2008) Krispy Kreme's Wastewater Discharge Permit at Part 5, Section 3.A.5.

191. Krispy Kreme is liable to the County for civil penalties in the amount of \$3,585,000 or such other amount deemed appropriate in the Court's discretion as a result of Krispy Kreme's violations of Fairfax County Code Section 67.1-2-1(b)(4) and its Wastewater Discharge Permit at Part 5, Section 3.A.5.

COUNT FIVE

VIOLATIONS OF FAIRFAX COUNTY CODE SECTION 67.1-3-1 FOR FAILURE TO PROVIDE ADEQUATE PRETREATMENT OF INDUSTRIAL WASTEWATER

192. The allegations of paragraphs 1 through 156 are hereby incorporated by reference in this count.

193. Fairfax County Code Section 67.1-3-1 requires industrial users to provide such wastewater pretreatment as necessary to comply with the Sewer Use Ordinance and to achieve compliance with all prohibited discharge standards. It further directs that all facilities necessary for such compliance shall be provided, operated and maintained at the industrial user's expense.

194. Krispy Kreme is an "industrial user" as that term is defined by Fairfax County Code Section 67.1-1-3.

195. Krispy Kreme failed to provide such wastewater pretreatment as necessary to comply with the Sewer Use Ordinance and to achieve compliance with all prohibited discharge standards.

196. Therefore, Krispy Kreme violated Fairfax County Code Section 67.1-3-1.

197. Fairfax County Code Section 67.1-8-10 provides that any person who violates any provision of Chapter 67.1, or any permit issued pursuant to Chapter 67.1, or any other pretreatment requirement shall be liable to the County for a civil penalty (\$2,500), not to exceed the maximum fine allowed for a Class 1 misdemeanor, for every such violation, and that each day on which a violation exists shall constitute a separate violation.

198. Upon information and belief, during each day Krispy Kreme was operating from May 13, 2004, to April 25, 2008, Krispy Kreme's wastewater discharge was in violation of Fairfax County Code Section 67.1-3-10.

199. Krispy Kreme is liable to the County for civil penalties in the amount of \$3,585,000 or such other amount deemed appropriate in the Court's discretion as a result of Krispy Kreme's violations of Fairfax County Code Section 67.1-3-10.

COUNT SIX

REPAIR AND REPLACEMENT COSTS PURSUANT TO FAIRFAX COUNTY CODE SECTION 67.1-1-10

200. The allegations of paragraphs 1 through 156 are hereby incorporated by reference in this count.

201. Fairfax County Code Section 67.1-1-10 provides that “[i]n the event of damage to any part of the Facilities of the County, it shall be the responsibility of the person causing such damage to immediately notify the Director [of the Department of Public Works and Environmental Services]. The necessary repairs or replacement shall be made by the County or under supervision of the County at the expense of the person causing such damage.”

202. Krispy Kreme caused damage to the County's POTW, which is part of the Facilities of the County, as defined in Fairfax County Code Section 67.1-1-3.

203. The County's costs for the necessary repairs and replacement of the POTW are \$1,952,527.

204. Krispy Kreme is liable to the County for the cost of these repairs and replacement, or \$1,952,527.

COUNT SEVEN

COST RECOVERY FOR VIOLATIONS, DAMAGE AND INTERFERENCE UNDER THE WASTEWATER DISCHARGE PERMIT

205. The allegations of paragraphs 1 through 156 are hereby incorporated by reference in this count.

206. Krispy Kreme's Wastewater Discharge Permit, Part, 5, Section 7.G provides that: "In addition to civil and criminal liability, the permittee violating any of the provisions of this permit or Chapter 67.1 of the Fairfax County Code, or causing damage to the POTW or otherwise interfering with the POTW, shall be liable to the Fairfax County Board of Supervisors for any expense, loss, or damage caused by such violations or discharge. The Fairfax County Office of Finance shall bill the permittee for the costs incurred by Fairfax County for any additional samplings and or inspections, cleaning, repair, or replacement work caused by the violation or discharge. Refusal to pay the assessed costs shall constitute a separate violation."

207. Krispy Kreme violated the provisions of its Wastewater Discharge Permit and Chapter 67.1 of the Fairfax County Code and Krispy Kreme caused damage to and interference with the County's POTW.

208. As a result, the County incurred expense, loss and property damage in the amount of \$1,952,527.

209. Under the terms of its permit, Krispy Kreme is liable to the County for \$1,952,527.

210. On April 7, 2009, the Fairfax County Office of Finance billed Krispy Kreme in the amount of \$1,952,527 for costs incurred by the County in accordance with Part 5, Section 7.G. of the Wastewater Discharge Permit. Payment was due upon receipt.

COUNT EIGHT

VIOLATIONS OF WASTEWATER DISCHARGE PERMIT FOR FAILURE TO PAY ASSESSED COSTS

211. The allegations of paragraphs 1 through 156 are hereby incorporated by reference in this count.

212. Krispy Kreme's Wastewater Discharge Permit, Part, 5, Section 7.G provides that: "In addition to civil and criminal liability, the permittee violating any of the provisions of this permit or Chapter 67.1 of the Fairfax County Code, or causing damage to the POTW or otherwise interfering with the POTW, shall be liable to the Fairfax County Board of Supervisors for any expense, loss, or damage caused by such violations or discharge. The Fairfax County Office of Finance shall bill the permittee for the costs incurred by Fairfax County for any additional samplings and or inspections, cleaning, repair, or replacement work caused by the violation or discharge. Refusal to pay the assessed costs shall constitute a separate violation."

213. Krispy Kreme violated the provisions of its Wastewater Discharge Permit and Chapter 67.1 of the Fairfax County Code, and Krispy Kreme caused damage to and interference with the County's POTW.

214. As a result, the County incurred expense, loss, and damage in the amount of \$1,952,527.

215. On April 7, 2009, the Fairfax County Office of Finance billed Krispy Kreme in the amount of \$1,952,527 for costs incurred by the County in accordance with Part 5, Section 7.G. of the Wastewater Discharge Permit. Payment was due upon receipt. To date Krispy Kreme has failed and refused to pay the bill.

216. Fairfax County Code Section 67.1-8-10 provides that any person who violates any provision of any permit issued pursuant to Chapter 67.1 shall be liable to the County for a civil penalty, not to exceed the maximum fine allowed for a Class 1 misdemeanor (\$2,500), for every such violation, and that each day on which a violation exists shall constitute a separate violation.

217. Krispy Kreme is liable to the County for civil penalties in the amount of \$75,000 at the time of the filing of this Complaint and continuing until paid, or for such other amount deemed appropriate in the Court's discretion as a result of Krispy Kreme's refusal to pay the April 7, 2009, bill issued by the County.

COUNT NINE

TRESPASS TO CHATTELS

218. The allegations of paragraphs 1 through 156 are hereby incorporated by reference in this count.

219. Krispy Kreme consistently, and without permission, discharged wastewater containing excessive amounts of fats, oils and grease; containing excessive amounts of acid forming BOD and COD; and with a pH less than 5.0 to the POTW, which resulted in a trespass to the POTW.

220. Krispy Kreme intended to discharge wastewater to the POTW.

F. Award the County reasonable attorney's fees, expert fees, sampling and monitoring fees, and other expenses attributable to the enforcement of the Sewer Use Ordinance, as set forth in Fairfax County Code Section 67.1-11-1.

G. Award the County such other and further relief as the Court deems just and proper.

Respectfully submitted,

DAVID P. BOBZIEN
COUNTY ATTORNEY



Erin C. Ward (VSB No. 25800)
Cynthia A. Bailey (VSB No. 37822)
Marilyn S. McHugh (VSB No. 17091)
Assistant County Attorney
12000 Government Center Parkway, Suite 549
Fairfax, Virginia 22035-0064
(703) 324-2421 / (703) 324-2665 (fax)

Christopher D. Pomeroy (VSB No. 40018)
F. Paul Calamita (VSB No. 34136)
Richard H. Sedgley (VSB No. 27254)
AquaLaw PLC
6 South 5th Street
Richmond, Virginia 23219
(804) 716-9021 / (804) 716-9022 (fax)

*Counsel for Plaintiff Board of Supervisors,
Fairfax County, Virginia*