



PENALTY ASSESSMENT FORM

FILE: 2022-31

PART ONE: THE CONTRAVENTION

Name of Party:

Vintage Views Developments Ltd. and Johnny Joseph Aantjes

Contravention or Failure:

- A. Contravention of the Municipal Wastewater Regulation 87/2012 (MWR) Section 47(a):**
47 A discharger must not discharge unless the wastewater facility is operated and maintained by persons who
(a) have the education, experience and qualifications specified in the operating plan
- B. Contravention of the MWR Section 50(1):**
50(1) If a malfunction or other condition results, or may result, in a discharge that fails to meet a requirement of this regulation, a discharger must notify a director immediately
- C. Contravention of the MWR Section 53(b):**
53 A person must not discharge, or provide or use reclaimed water, unless the discharger monitors,
(b) the receiving environment, to determine compliance with this regulation
- D. Contravention of the MWR Section 55(5):**
55(5) A discharger must submit municipal effluent flow, municipal effluent quality and receiving environment monitoring data, and associated quality control data
(a) by electronic transmission directly to the central computer system of the ministry of the minister, or
(b) in a form acceptable to the director
- E. Contravention of the MWR Section 75(1):**
75(1) A discharger of class A, B or C municipal effluent must meet the applicable municipal effluent quality requirements set out in this section and listed in Table 3:

Table 3 — Municipal Effluent Quality Requirements

Requirement	Class A	Class B	Class C
BOD ₅ (mg/L)	10	10	45
TSS (mg/L)	10	10	45
fecal coliform (MPN / 100 mL)	median: 2.2 any sample: 14	400, if maximum daily flow is $\geq 37 \text{ m}^3/\text{d}$	n/a
turbidity (NTU)	average: 2 any sample: 5	n/a	n/a
nitrogen (mg/L)	Nitrate-N: 10 total N: 20	n/a	n/a

F. Contravention of the MWR Section 85(1):

85(1) Subject to subsection (2), a discharger must install monitoring wells in sufficient number and orientation, as determined by a qualified professional, to measure background and receiving environment water quality.

G. Contravention of the MWR Section 86:

A discharger must monitor municipal effluent quality and quantity in accordance with section 87 [*additional monitoring requirements*] and Table 6, 7 or 8, as applicable, of this section.

Table 7 — Monitoring Requirements
If Maximum Daily Flow $\geq 50 \text{ m}^3/\text{d}$ and $< 500 \text{ m}^3/\text{d}$

	Class A	Class B	Class C
flow frequency	twice / week	twice / week	twice / week
BOD ₅ , TSS frequency and type	twice / month grab samples	twice / month grab samples	monthly grab samples
fecal coliform frequency and type	weekly grab samples	weekly grab samples	none
turbidity frequency and type	weekly grab samples	none	none
nitrogen total, and NO ₃ (as N frequency and type)	twice / month grab samples	none	none

Date of Contravention or Failure:

A. MWR Section 47(a): continuously from September 1, 2020 to May 6, 2022

B. MWR Section 50(1): on thirty-three (33) occasions:

- October 31, 2020
- January 21, 2021
- March 31, 2021*
- April 21, 2021*
- April 30, 2021
- May 31, 2021
- August 10, 2021
- September 30, 2021**
- November 23, 2021*
- November 30, 2021*
- December 19, 2021*
- December 27, 2021*
- January 16, 2022
- January 23, 2022*
- February 13, 2022
- March 15, 2022
- March 21, 2022
- March 28, 2022
- April 6, 2022
- April 22, 2022**
- May 2, 2022
- May 3, 2022

(*) Indicates two contraventions on this day

(**) Indicates three contraventions on this day

C. MWR Section 53(b): continuously from August 19, 2020 to May 6, 2022

D. MWR Section 55(5): on twelve (12) occasions:

- 2020 Q3 & Q4*
- 2020 Annual*
- 2021 Q1 & Q2*
- 2021 Q3 & Q4*
- 2021 Annual*
- 2022 Q1 & Q2*

(*) Indicates two contraventions on this day

E. MWR Section 75(1): on the following thirty-two (32) occasions:

- October 31, 2020
- January 21, 2021
- March 31, 2021*
- April 21, 2021*
- April 30, 2021
- May 31, 2021
- August 10, 2021
- September 30, 2021**
- November 23, 2021*
- November 30, 2021*
- December 19, 2021*
- December 27, 2021*
- January 16, 2022
- January 23, 2022*
- February 13, 2022
- March 15, 2022
- March 21, 2022
- March 28, 2022
- April 6, 2022
- April 22, 2022**
- May 3, 2022

(*) Indicates two contraventions on this day

(**) Indicates three contraventions on this day

F. MWR Section 85(1): continuously from August 19, 2020 to May 6, 2022

G. MWR Section: 86: on the following 265 occasions:

- Week of August 19, 2020
- Week of August 26, 2020
- Week of September 02, 2020
- Week of September 09, 2020
- Week of September 16, 2020
- Week of September 23, 2020
- Week of September 30, 2020
- Week of October 07, 2020
- Week of October 14, 2020
- Week of October 21, 2020
- Week of October 28, 2020
- Week of November 04, 2020
- Week of November 11, 2020
- Week of November 18, 2020
- Week of November 25, 2020
- Week of December 02, 2020
- Week of December 09, 2020
- Week of December 16, 2020
- Week of December 23, 2020
- Week of December 30, 2020
- Week of January 06, 2021
- Week of January 13, 2021
- Week of January 27, 2021
- Week of February 03, 2021
- Week of February 10, 2021
- Week of February 17, 2021
- Week of February 24, 2021
- Week of March 03, 2021
- Week of March 10, 2021
- Week of March 17, 2021
- Week of March 24, 2021
- Week of March 31, 2021
- Week of April 07, 2021
- Week of April 14, 2021
- Week of April 21, 2021
- Week of April 28, 2021
- Month of May 2021*
- Week of May 05, 2021
- Week of May 12, 2021
- Week of May 19, 2021
- Week of May 26, 2021
- Month of June 2021*
- Week of June 02, 2021
- Week of June 09, 2021
- Week of June 16, 2021
- Week of June 23, 2021
- Week of June 30, 2021
- Week of July 07, 2021
- Week of July 14, 2021
- Week of July 21, 2021
- Week of July 28, 2021
- Month of August 2021*
- Week of August 11, 2021
- Week of August 18, 2021
- Week of August 25, 2021
- Month of September, 2021*
- Week of September 01, 2021
- Week of September 08, 2021
- Week of September 15, 2021
- Week of September 22, 2021
- Month of October 2021***
- Week of October 06, 2021
- Week of October 13, 2021
- Week of October 20, 2021
- Week of October 27, 2021
- Week of November 03, 2021
- Week of November 10, 2021
- Week of December 01, 2021
- Week of December 08, 2021
- Week of December 29, 2021
- Week of January 05, 2022
- Week of January 26, 2022
- Month of February 2022*
- Week of February 02, 2022
- Week of February 16, 2022
- Week of February 23, 2022
- Week of March 02, 2022
- Week of March 30, 2022
- Week of April 13, 2022
- Bi-weekly flow monitoring Aug 19, 2020- May 6, 2022 (x178)

(*) Indicates two contraventions on this day (***) Indicates four contraventions on this day

Background

1. Vintage Views is a company registered in British Columbia (BC) that owns and operates a municipal wastewater collection and treatment system for a residential housing development at Heritage Hills, near Okanagan Falls, BC (Facility). Johnny Aantjes is the sole director/officer of Vintage Views.
[2023-04-06 BC Company Summary]
2. The Vintage Views development was planned with full build-out of approximately 120 residences. The current number of homes connected to the wastewater system is unclear. Fifty-five current connections are listed in Vintage Views' December 6, 2021, amendment application but in a May 2022 pre-application meeting, the Owner stated that there are 90 connections.
[2021-12-08 Registration Amendment Application]
[2022-05-03 Pre-Application Meeting Minutes]
3. The residences at the Vintage Views development are generally large, luxury homes where bed and breakfast or secondary suites are permitted.
[2022-09-01 Okanagan Valley Zoning Bylaw No. 2800, 2022]
4. There is a history of non-compliance at this Facility extending back to pre-2014. There have been three known releases of effluent from this treatment system including one that flowed off-site and down an adjacent road. After several warnings and a previous administrative penalty, the Facility remains out of compliance with the Municipal Wastewater Regulation (MWR). Vintage Views is currently subject to two pollution prevention orders.
[2022-09-22 PPO 111349]
5. This administrative penalty relates to MWR operating, monitoring and reporting contraventions, exceedances of effluent criteria, and failure to notify the Ministry of exceedances that occurred between August 19, 2020, and May 6, 2022.

Authorization for Environmental Discharge – Registration 17170

6. The provincial regulatory authorization governing the discharge of wastewater from Vintage Views is Registration 17170 (Registration) issued pursuant to the *Environmental Management Act*, S.B.C. 2003, c. 53 (EMA).
[2002-06-24 Original Registration]
7. The Registration was issued and is administered by the BC Ministry of Environment and Climate Change Strategy (Ministry).
8. The Registration authorizes a maximum discharge of 65 m³/day of secondary treated Class B effluent to the ground via a discharge field located on adjacent agricultural lands.

Summary of Relevant Facts

9. The original Registration under the Municipal Sewage Regulation (MSR) was issued to Mountain Landco Ltd. and came into effect May 29, 2002.
[2002-06-24 Original Registration]
10. The Facility is an upflow sludge blanket denitrification system discharging municipal wastewater effluent to ground.
[2003-01-21 Heritage Hills WWTP Operating Plan]
11. The 2002 Registration was amended on June 29, 2009. The previous owner, Mountain Landco Ltd., requested a reduction in the maximum discharge from 195 m³/day to 65 m³/day and transfer of ownership to Vintage Views. The volume reduction reflects that treatment plant capacity was designed to be expanded in three phases, but only phase one was installed and is operational.
[2006-10-25 Request to Amend Registration]
[2009-06-29 Registration Amendment Letter]
12. The 2009 Registration amendment letter required:
 - Flows be monitored two times per week;
 - Biological Oxygen Demand (BOD) and Total Suspended Solids (TSS) be sampled two times per month;
 - Groundwater levels in all monitoring wells be measured quarterly;
 - Sampling and analysis of three monitoring wells annually for multiple parameters; and
 - Groundwater monitoring program be reviewed annually by a qualified professional hydrologist.[2009-06-29 Registration Amendment Letter]
13. Effective April 20, 2012, the Registration was transferred from the MSR to the MWR in accordance with MWR Section 121(1).
14. From 2013 to 2022 the Ministry conducted nine Facility inspections and issued two advisories, four warnings and four administrative penalty referrals for contraventions including failure to monitor, failure to submit reports, effluent exceedances, failure to report non-compliance, failing to follow-operating plan, lack of a capital replacement fund. The contraventions from these inspections are summarized in the following table:

2022	2020	2019	2018 (Oct)	2018 (Feb)	2015	2014 (Apr)	2014 (Feb)	2013 (Apr)	2013 (Mar)	MWR Section (or EMA or Registration)	Contravention Description
IR187275	IR156484	IR127579	IR098538	IR061089	IR020211	IR017346	IR016325	IR009501	IR009501		
X	X									EMA 6(3)	Unauthorized Discharge
					X		X			3	Must not exceed effluent quality
									X	19/20	Conduct Env Impact Study and Receiving water monitoring program
X										23(c)	Operating plan requirements
X	X									29(b)(i)	Capital replacement fund required
X										47(a), (b)	Operator qualification and certificate.
X	X	X	X	X						48	Must follow operating plan
	X									49(1)	Must not by-pass
X		X	X							50(1)	Must notify of non-compliance
X	X	X			X	X	X	X		53	Monitor discharge and receiving env.
		X								54(b)(i)	Must install flow meter
X	X	X	X	X						55(5)(a)	Must submit effluent flow, quality, receiving env. monitoring and QA/QC
X										56	Sample schedule spacing requirement
		X	X							63(d)	Records must be available for inspect.
		X								63(e)	d) effluent flow, effluent quality, e) receiving environment monitoring
X										66(1)(a), (b)	Report by date specified w. info reqd.
X	X	X	X	X		X				75(1)	Must meet effluent quality specified
	X	X								75(4)(a)	Filtration is required for drain field
X										81(2)(a), (b)	Require two drain fields and standby
X										82(2)(b)	No incompatible use of field area
X	X	X								85(1)	Install monitoring wells per QP
		X	X	X						85(2)(b)	Minimum 4 wells, incl. 1 background
X	X	X	X	X						86	Effluent monitoring frequency
	X	X		X						87(3)(b)	Data to be submitted quarterly
X	X			X	X	X		X	X	Registration 17170	G/W sampling, Hydro rept, data 2x/yr

[2013-03-18 Warning]
[2013-04-22 IR9501 Warning]

[2014-02-05 IR16325 Warning]
[2014-04-22 IR17346 Advisory]
[2015-03-31 IR20211 Warning]
[2018-02-21 IR61089 Warning]
[2018-10-02 IR98538 AMP]
[2019-08-21 IR 127579 AMP]
[2020-09-30 IR156484 AMP]
[2022-06-16 IR187275 AMP]

15. Pollution abatement order (PAO) 109945 was issued May 30, 2019, in response to reports of surfacing effluent in an orchard. It required, among others, a schedule for the sampling required under the MWR; an assessment of human health risk from surfacing effluent; design and implementation of a groundwater monitoring system in accordance with the MWR and the 2009 Registration amendment letter.

[2019-08-26 PAO 109945 Amended]

16. On June 25, 2019, the Owner submitted an annual hydrogeological review. The report indicated that groundwater quality was analyzed from only one well and only in 2014, 2015 and 2016. The report noted that this well had been damaged and was no longer functional. While this is an annual requirement, the 2019 report is the only such review that has been submitted to the Ministry.

[2019-06-25 Heritage Hills Annual Hydro Review]

17. PAO 110100 was issued October 23, 2019, as a result of Vintage Views not complying with PAO 109945. This Order required a qualified professional to take action to mitigate and contain surfacing effluent; repair the system; to sample and analyze effluent, groundwater monitoring wells and a nearby domestic well; implement a schedule for sampling required under the MWR and 2009 Registration amendment; and design and implement a groundwater monitoring system.

[2019-10-23 PAO 110100]

18. A replacement drain field, constructed in 2019, was designed with laterals in the middle of the space between rows of apple trees. This field was installed on top of the original drain field area, but never commissioned.

[2021-08-23 Pollution Abatement Order 110100 Repair Plan and Final Report]

19. In November 2019, Interior Health Authority staff observed overland flow of effluent from on-site infiltration pits onto a public road. The Owner had dug the pits as a disposal option while the drain field was out of operation. The drain pits and the overflow were not reported to the Ministry.

[2019-11-15 PAO 110145]

20. In response, PAO 110145 was issued on November 15, 2019. It required closure of the infiltration pits; repair of the drain field; hauling of effluent to an authorized disposal facility; and prohibited new connections to the septic system pending amendment of the Registration or a new authorization.

[2019-11-15 PAO 110145]

21. A water sample, collected on December 17, 2019, from a domestic well located within 150 meters of the disposal field, exceeded the B.C. Source Drinking Water Quality Guidelines and Health Canada's Guideline for Canadian Drinking Water Quality for nitrate and total coliforms. The results from the well were 13.2 mg/L for nitrates and > 4 for total coliforms. The guidelines for nitrate and total coliforms are 10 mg/L and 0 CFU/100 mL, respectively.
[2020-04-03 Erdman Well Letter]
[2022-07-26 Erdman Well Location]
22. On February 25, 2020, PAO 110145 was cancelled as all conditions had been met. The cancellation noted that "*no new connections to the system should occur until you have determined that current flows and effluent quality will meet the requirements of the MWR.*"
[2020-02-25 PAO 110145 Cancellation]
23. In an e-mail, dated July 29, 2020, Associated Engineering (Michael Owen), a Qualified Professional (QP) working for the Owner, stated that, "*the property where the field is to be located has just sold and the future plans are to remove the orchard and replace with a vineyard.*"
[2020-07-29 Extension Request]
24. In 2020, a new drain field was constructed in the back-up field area and commissioned in January 2021. The drain field was installed in the spaces between orchard rows.
[2021-08-23 Pollution Abatement Order 110100 Repair Plan and Final Report]
25. On August 12, 2021, Pollution Prevention Order (PPO) 110871 was issued to Vintage Views due to the ongoing non-compliance with previous PAOs which had required repair of system, sampling and reporting. PPO 110871 prohibits the connection of new units to the Facility. The Regional District of Okanagan Similkameen is not issuing building permits for lots within the Vintage Views development until this order is cancelled.
[2021-08-12 PPO 110871]
26. In October 2021, the Ministry informed the Owner that PPO 110871 will be cancelled once the Facility has been re-registered under the MWR. The Facility has not been re-registered under the MWR, and this order remains in effect.
[2021-10-28 Beckett to AE regarding MWR Re-reg]
27. Between August 2021 and September 2022, multiple property owners have contacted the Ministry, MLA and Minister's office regarding their inability to build on lots they own in the Vintage Views development. They claim this is due to PPO 110871. The exact number of owners affected is unknown to the Ministry, as some reached out as individuals while others were representatives of a larger group. An estimated 20 undeveloped lots are in this situation.
28. Vintage Views was found in compliance with PAO 110100 in October 2021 and the order was cancelled.
[2021-10-12 IR168918 Notice]

29. On December 8, 2021, Associated Engineering, the Owner's agent, submitted a registration amendment request and supporting information. The Ministry responded that the scope of changes to the system was beyond a simple amendment and a new registration was required.
[2021-12-08 Registration Amendment Application]
30. On April 20, 2022, the Ministry issued three Administrative Penalty determinations (AMP 2019-20) to Vintage Views for non-compliance with MWR Sections 50(1), 75(1) and 86 between April 9, 2019, and August 11, 2020. Penalties assessed totalled \$19,300. They were paid in full.
[2022-04-20 AMP2019-20 Final Determination]
31. On May 3, 2022, a pre-application meeting was held between the Ministry and the Owner to review Registration requirements. A Regional District of Okanagan Similkameen director also attended. As a result of this meeting an Application Instruction Document (AID) was sent to Vintage Views requiring them to provide a map and listing of properties connected to the system as well as maximum flow calculations by July 15, 2022. The final registration package is due in July 2023. The Owner had not responded to the AID as of November 30, 2022.
[2022-07-07 Applicant Instruction Document]
32. In a May 2, 2022 e-mail from the Owner's QP, Tony Friesen, P.Geo., Interior Geoscience, stated, "*I have just got a call from Kendall Wilson (the operator) this evening, and he is currently on site right, and he has let me know that during his routine walk through noticed that the new land owners/farmers have plowed over most of the valve boxes and have caused some other damage as well.*"
[2022-05-02 Damage to field from vineyard]
33. During a May 6, 2022, inspection, Ministry staff observed workers installing a vineyard over the drain field. The Operator, Kendell Wilson, (Operator) informed Ministry staff that they were not notified or consulted during installation of the vineyard. Some trellis rows were installed directly on top of and across the laterals. Several valve boxes, inspection ports and at least two discharge pipes were damaged. Effluent was discharged to the ground surface in areas around the damaged pipes. This effluent discharge was not reported to the Ministry. The damaged valve boxes resulted in surfacing of an unknown amount of treated effluent.
[2022-06-16 IR187275 AMP]
34. On May 6, 2022, the Ministry conducted an on-site inspection (IR 187275) which resulted in the current referral for an Administrative Penalty. During the inspection, Ministry staff learned that the sub-surface drainage field had been damaged while installing a vineyard to replace the apple orchard and effluent had been discharged to the surface. The Ministry was not notified of this release. Vintage Views was found to be out of compliance with Section 6(3) of EMA for non-compliance with the MWR. The inspection also observed the following non-compliances with the MWR:
- Section 23(c) – Not having a commissioning or contingency plan
 - Section 29(b)(i) – Not maintaining a capital replacement fund

- Section 47(a) – Operator not trained and qualified as per operating plan
- Section 47(b) – Operator not certified with EOCB
- Section 48 – Not adhering to the operations plan
- Section 50(1) – Failure to notify of condition resulting in discharge not meeting requirements of the regulation
- Section 53(b) – Not conducting receiving environment monitoring
- Section 55(5)(a) – Not conducting required effluent quality monitoring
- Section 56(1)(b) – Less than 10 days between monthly samples
- Section 66(1)(a) – Failure to submit bi-annual reports
- Section 66(1)(b) – Reports not in required format or not including relevant information
- Section 75(1), Table 3 – fecal coliform, BOD and TSS exceedances
- Section 81(2)(a) – Not having second drain field
- Section 81(2)(b) – Not having undeveloped area for third field
- Section 82(2)(b) – Ensuring subsurface fields not subject to damage or interference
- Section 85(1) – Insufficient number of background and receiving monitoring wells
- Section 86, Table 7 – Failure to monitor effluent in accordance with MWR (TSS, BOD and fecal coliform)

[2022-06-16 IR187275 AMP]

35. The Owner has stated in communications with the Ministry and to the media that the system is operating well below the Registration limit of 65 m³/day. MWR Section 74(2)(a) allows system design using actual maximum daily flow if measured flows exceed 37 m³/day. Actual flow rates, as reported by the Operator in a 2019 report and flow meter readings observed by Ministry staff during the May 6, 2022 inspection, are approximately 22 m³/day. This is less than 37 m³/day, therefore, Section 74(2)(a) of the MWR does not apply and the Facility needs to be operated based on calculated maximum daily flow.

[2019-06-25 Heritage Hills Annual Hydro Review]

36. On September 22, 2022, the Ministry issued PPO 111349 requiring the provision of a map of all units connected to the system, maximum flow calculations, and conceptual plans to bring the system into compliance with the MWR. These items were required by October 28, 2022. The Owner had not responded to this order as of November 30, 2022. The Order also requires the Owner to submit a complete Facility registration package by June 12, 2023.

[2022-09-22 PPO 111349]

Contravention of MWR Section 47(a) – Operator Training

37. The 2003 treatment plant operating plan states that “*it is anticipated that [the Facility] will be operated by one O&M Supervisor having a minimum of Class II certificate.*” The 2021 Vintage Views Drainfield Operations Manual states that this portion of the system is “*Level 3*” and “*requires a Level 3 operator*”. The Environmental Operators Certification Program (EOCP) has classified the Facility as “Level II”.

[2003-01-21 Heritage Hills WWTP Operating Plan]

[2021-08 Vintage Views Drainfield OM Manual]

38. Prior to September 2020, the Facility was operated by a person having Level II or higher certification.

[2022-07-11 EOCB Organization Profile – Vintage Views]

39. The Vintage Views August 2020 monthly report noted that the Operator would take over the plant effective September 1, 2020. This was the last monthly report received.

[2020-09-09 2020 August Monthly Report Vintage Views WWTP]

40. The June 1, 2022, Ministry inspection report (IR) 187275 states that,
“Section 2 (Operator Certification) of the 2003 Operating Plan requires an EOCB Level II operator to run the Facility.[...] These non-compliances were confirmed during previous inspections (IR156484, dated September 30, 2020; IR127579, dated August 21, 2019; IR098538, dated October 2, 2018; and IR061089, dated February 21, 2018).”

“On May 6, 2022, Ministry staff conducted a search of the EOCB online database, which confirmed that the Facility does not have a Level II certified operator. During the on-site inspection, the Operator informed Ministry staff that he held an EOCB Level I certificate. However, the EOCB online database confirmed that the Operator's certification lapsed on November 17, 2021.”

[2022-06-16 IR187275 AMP]

41. Querying the EOCB database in November 2022 determined that the Operator now has a valid Level I certification expiring December 31, 2022. The Operator does not meet the certification requirements specified in the operating plan.

[2021-12-07 Operator Certificate Kendell Wilson]

[2022-07-11 EOCB Organization Profile – Vintage Views]

42. The Owner was first notified of this issue in June 2022.

[2022-06-16 IR187275 AMP]

43. The Facility’s compliance with effluent standards and reporting has decreased since October 2020. From August 2013 to September 2020 less than 15% of samples failed to meet discharge criteria. Since October 2020 more than 22% of samples have failed to meet criteria. Monthly reports, including effluent quality and flow data, have not been submitted since September 2020. Annual reports on receiving environment monitoring and groundwater levels have not been submitted. Non-compliance reports have not been submitted since September 2020. The only reporting from Vintage Views to the Ministry since September 2020 has been data uploads by the CARO Analytical Services (CARO) laboratory.

Contravention of MWR Section 50(1) – Notification of Non-compliance

44. In April 2022, Vintage Views received an Administrative Penalty of \$5,850 for contravening MWR Section 50(1) on May 28, 2019, and November 13, 2019.

[2022-04-20 AMP2019-20 Final Determination]

45. Between August 19, 2020, and May 6, 2022, thirty-two lab results exceeded MWR requirements. CARO laboratory uploaded the raw data to the Ministry EMS database. The Ministry did not receive non-compliance reports for any of these exceedances. See below - Section 25 Contravention of MWR Section 75(1) - for details on the exceedances.
[2022-07-12 Vintage Views Data EMS E248514 from 2020-08-16 to 2022-05-06]
46. During the May 2022 inspection, Ministry staff observed that effluent had surfaced from breaks in the drain field caused by the surface leaseholder removing the orchard and installing a vineyard over top of the drain field. The Operator told Ministry staff that they were unaware of when the breaks had occurred, or what volume of effluent discharged. Surfacing of effluent within a drain field is contrary to Section 73 of the MWR. The Ministry was not notified when effluent surfaced and/or was discharged from the Facility. This is the third known incident where Vintage Views has failed to notify of a surface release of effluent. The previous two discharges were captured in Administrative Penalty 2019-20.
[2022-04-20 AMP2019-20 Final Determination]
[2022-06-16 IR187275 AMP]
47. Vintage Views was previously informed of failing to notify Ministry of malfunctions or non-compliance with discharge criteria in 2018, 2019 and 2022.
[2018-10-02 IR98538 AMP]
[2019-08-21 IR127579 AMP]
[2022-06-16 IR187275 AMP]

**Contravention of MWR Section 53(b) – Receiving Environment Monitoring and
Contravention of MWR Section 85 – Monitoring Wells Required**

48. Findings for Sections 53 and 85 of the MWR are combined due to significant overlap in the nature of the contraventions and background information.
49. Vintage Views is required to monitor the receiving environment and install monitoring wells to do so. The 2009 Registration amendment letter requires:
- Groundwater levels in all monitoring wells be measured quarterly
 - Sampling and analysis of three monitoring wells annually for multiple parameters
 - The groundwater monitoring program be reviewed annually by a qualified professional hydrologist.
- [2009-06-29 Registration Amendment Letter]
50. Groundwater monitoring well levels were measured only twice in 2020 and three times in 2021. No report has been received for 2022.
[2021-08-23 Pollution Abatement Order 110100 Repair Plan and Final Report]
51. Groundwater quality was last analyzed in 2016. Annual sampling and reporting did not occur in 2017, 2018, 2019, 2020, or 2021. The 2022 reporting is not yet due.
[2021-08-23 Pollution Abatement Order 110100 Repair Plan and Final Report]
52. Section 85 of the MWR requires a minimum of four monitoring wells.

53. There are eleven monitoring wells located on-site. Seven of these have always been dry and the remaining four only occasionally have water. Only two wells have had measurable water since August 2017.

[2019-06-25 Heritage Hills Annual Hydro Review]

54. A 2019 groundwater monitoring program annual review indicated that groundwater quality at only one well had been analyzed and only in 2014, 2015 and 2016. This well was at the upper end of the drain field and according to the 2019 Hydro Review has since been declared ‘not in service’ and “all other wells have been reported as dry or there has been too little water to sample since monitoring began”.

[2019-06-25 Heritage Hills Annual Hydro Review]

55. According to the same report, “Water quality results at this location cannot be compared to background levels nor any other downgradient wells due to the lack of groundwater occurrence at this site.”

[2019-06-25 Heritage Hills Annual Hydro Review]

56. The most recent data regarding on-site receiving environment groundwater quality from Vintage Views was collected in 2016.

[2019-06-25 Heritage Hills Annual Hydro Review]

57. Vintage Views was previously informed of the requirement to monitor groundwater in letters and inspection reports in 2013(x2), 2014(x2), 2015, 2019, 2020, 2022.

[2013-03-18 Warning]

[2013-04-22 IR9501 Warning]

[2014-02-05 IR16325 Advisory]

[2014-04-24 IR17346 Advisory]

[2015-03-31 IR20211Warning]

[2019-08-21 IR127579 AMP]

[2020-09-30 IR156484 AMP]

[2022-06-16 IR187275 AMP]

58. On June 25, 2019, the Owner submitted an annual hydrological review prepared by Western Water Associates Ltd. These reports are an annual requirement, but this is the only hydrological review received since 2009.

[2019-06-25 Heritage Hills Annual Hydro Review]

59. PAO 109945, issued May 30, 2019, and PAO 110100, originally issued October 23, 2019, included actions to sample groundwater from monitoring wells and the nearby domestic well, as well as “design and implementation of a Groundwater monitoring system in accordance with the Municipal Wastewater Regulation and the same or equivalent to the 2009 Registration Amendment Letter.”

[2019-08-26 PAO 109945 Amended]

[2021-08-12 PAO 110100 Amended]

60. In 2019, in response to PAO 110100, the Owner hired Associated Engineering to complete order requirements. While none of the on-site wells were tested, they did test water quality at a nearby domestic well. December 2019 results at that well exceeded drinking water quality guidelines for total coliforms and nitrates. The exceedances were not present in 2021 samples.

[2019-06-25 Heritage Hills Annual Hydro Review]
[2020-04-03 Erdman Well Letter]

61. In August 2021, in response to PAO 110100, Associated Engineering submitted a final report. The report included recommendations for quarterly groundwater sampling and repair of damaged monitoring wells, followed by annual review of the results by a hydrogeologist. These recommendations have not been implemented. Monitoring well levels and groundwater quality have not been reported. The report indicates groundwater levels were only measured twice in 2020. Quarterly groundwater quality results were not submitted. There is no record of the well being repaired. No additional wells have been installed. No hydrogeologist review has been submitted. The report states that, “*With limited data and no background water quality information, the cause of the above-mentioned exceedances cannot be determined. Based on our hydrogeological review WTN 117515 is cross / downgradient of the effluent field, and as a result could be affected by it but also other land use practices.*”

[2021-08-23 Pollution Abatement Order 110100: Repair Plan and Final Report]

62. Vintage Views was informed of the need for additional groundwater monitoring wells through inspection reports issued in 2019, 2020 and 2022. Additional wells have not been installed.

[2019-08-21 IR127579 AMP]
[2020-09-30 IR156484 AMP]
[2022-06-16 IR187275 AMP]

Contravention of MWR Section 55(5) – Reporting

63. The following table summarizes reporting requirements for Vintage Views as indicated in the 2009 Registration amendment.

Report Type	Report Frequency	Missing Reporting Periods	Number Missed
Flow Reporting	2x/year	2020 Q3/4, 2021 Q1/Q2, Q3/4, 2022 Q1/2	4
Effluent Reporting	2x/year	2020 Q3/4, 2021 Q1/Q2, Q3/4, 2022 Q1/2	4
G/W Well Analysis	annual	2020, 2021	2
Hydrologist Review	annual	2020, 2021	2
Total			12

[2009-06-29 Registration Amendment Letter]

64. Flow data has not been submitted since August 2020. During the May 2022 inspection “*Ministry staff observed two installed and operational Greyline DFM 6.1 Doppler Flow*

Meters". During the May 2022 inspection hard-copy flow records covering the month of April 2022 were observed at the Facility.

[2022-06-16 IR187275 AMP]

65. Vintage Views has not submitted bi-annual effluent reports since August 2020. However, effluent samples were collected by the Operator and the lab analyses were uploaded to EMS by CARO. Data uploaded by the lab does not include sampling methodology, sample locations, or quality control information.

[2022-07-12 Vintage Views Data EMS E248514 from 2020-08-16 to 2022-05-06]

66. Receiving environment data has not been provided since analysis of a June 21, 2016, sample from background monitoring well BH02-1, reported in the 2019 hydrologist report.

[2019-06-25 Heritage Hills Annual Hydro Review]

67. No hydrologist report was received for 2020 or 2021.

68. Vintage Views did not submit any monitoring reports between September 2020 and May 2022, other than the automated upload of sample results by CARO.

69. Vintage Views was previously informed of the reporting requirements through inspection reports issued in 2018(x2), 2019, 2020 and 2022.

[2018-02-21 IR61089 Warning]

[2018-10-02 IR098538 AMP]

[2019-08-21 IR127579 AMP]

[2020-09-30 IR156484 AMP]

[2022-06-16 IR187275 AMP]

Contravention of MWR Section 75(1) – Effluent Quality Standards

70. In April 2022, Vintage Views received an Administrative Penalty of \$2,600 for contravening MWR Section 75(1) on eight occasions between April 9, 2019, and August 11, 2020.

[2022-04-20 AMP2019-20 Final Determination]

71. Between September 1, 2020, and April 30, 2022, CARO uploaded 34 each of the required 40 bi-monthly BOD and TSS samples and 16 of the required 89 weekly fecal coliform samples. Of the 84 samples submitted, 32 (38%) exceeded MWR limits. Specific exceedance details are in the following paragraphs.

[2022-07-12 Vintage Views Data EMS E248514 from 2020-08-16 to 2022-05-06]

72. The average BOD for all samples between September 1, 2020, and April 30, 2022, was 18.7 mg/L which exceeds the Registration and MWR limit of 10 mg/L. Results exceeded Class B effluent quality limits for BOD (10 mg/L MWR Section 75, Table 3) in 12 of the 34 samples (35%). The maximum exceedance was 290 mg/L (2800% over the limit.)

START DATE	BOD Results (mg/L)	% Over limit
Limit	10	
2020-10-31	20.9	109%
2021-03-31	290	2800%
2021-04-21	22.9	129%
2021-04-30	30	200%
2021-05-31	12	20%
2021-09-30	24.7	147%
2021-11-23	24.2	142%
2021-11-30	17	70%
2021-12-19	12.4	24%
2021-12-27	10.8	8%
2022-01-23	12.1	21%
2022-04-22	12.9	29%
Count:	12	
Maximum:	290	2800%

[2022-07-12 Vintage Views Data EMS E248514 from 2020-08-16 to 2022-05-06]

73. Between September 1, 2020, and April 30, 2022, the average TSS was 4.4 mg/L which is within the Registration and MWR limit. Results exceeded Class B effluent quality limits for TSS (10mg/L MWR Section 75, Table 3) in four of the 34 samples (12%). The maximum value was 40.7 mg/L (307% above the discharge limit).

START DATE	TSS Results (mg/L)	% Over limit
Limit	10	
2021-03-31	40.7	307%
2021-04-21	11	10%
2021-09-30	12	20%
2022-04-22	12.2	22%
Count:	4	
Maximum:	40.7	307%

[2022-07-12 Vintage Views Data EMS E248514 from 2020-08-16 to 2022-05-06]

74. Between August 19, 2020, and May 6, 2022, all 16 fecal coliforms samples exceeded MWR limits (400 MPN/100mL), by an average of 4,920% and a maximum of 24,700%.

START DATE	Coliform Results cfu/100mL	% Over limit
Limit	10	
2021-01-21	3650	813%
2021-08-10	>2420	505%
2021-09-30	>24200	5950%
2021-11-23	>2420	505%
2021-11-30	15500	3775%
2021-12-19	>24200	5950%
2021-12-27	>2420	505%
2022-01-16	11400	2750%
2022-01-23	6300	1475%
2022-02-13	7410	1753%
2022-03-15	12700	3075%
2022-03-21	67000	16650%
2022-03-28	23000	5650%
2022-04-06	13400	3250%
2022-04-22	6060	1415%
2022-05-03	99300	24725%
Count:	16	
Maximum:	99300	24725%

[2022-07-12 Vintage Views Data EMS E248514 from 2020-08-16 to 2022-05-06]

75. Vintage Views was previously informed of the requirement to meet effluent discharge criteria in 2014, 2018(x2), 2019, 2020, 2022.

[2014-04-24 IR17346 Advisory]
 2018-02-21 IR61089 Warning]
 [2018-10-02 IR98538 AMP]
 [2019-08-21 IR127579 AMP]
 [2020-09-30 IR156484 AMP]
 [2022-06-16 IR187275 AMP]

Contravention of MWR Section 86 – Effluent Monitoring Frequency

76. Monitoring frequency for the Registration varies depending on the parameter. This table summarizes the required frequency and the number of missed monitoring events for the period between August 19, 2020, and May 6, 2022.

Sample/Report Type	Sample Frequency	Requirement Source	Number reqd./year	Number Required August 19, 2020 - May 6, 2022	Number Uploaded	Number of Missing Events
Flow	2x/week	MWR Sec.86, 2009 Letter	104	178	0	178*
BOD	2x/mo.	MWR Sec.86, 2009 Letter	24	40	33**	7
TSS	2x/mo.	MWR Sec.86, 2009 Letter	24	40	33**	7
Fecal	weekly	MWR Sec 86	52	89	16	73
Total						265

* The Facility has a digital flow meter, but Vintage Views did not submit any data

** Two samples were not included in this total.

- The two May 2021 samples were less than the seven days apart required by MWR Section 56(1) and, therefore, only one is included.
- There were three March 2022 sample events. Only the required two are included.

[2022-07-12 Vintage Views Data EMS E248514 from 2020-08-16 to 2022-05-06]

77. Between August 19, 2020, and May 6, 2022, the Ministry received no flow records for the Facility. Upon inspection in May 2022 two digital flow meters were present and functional. The Facility log showed that in April 2022 flows were recorded every 4.7 days on average. This is less frequent than the required 2x/week.

78. BOD and TSS samples are required bi-monthly pursuant to MWR Table 7 and the 2009 Registration amendment letter.

79. Effluent quality data was uploaded directly to the Ministry's electronic database (EMS) by CARO. EMS records accessed on July 12, 2022, show that Vintage Views collected 50% (84 of 171) of the fecal, TSS and BOD samples required between August 20, 2020, and May 6, 2022.

[2022-07-12 Vintage Views Data EMS E248514 from 2020-08-16 to 2022-05-06]

80. Per MWR Section 86 Table 7, fecal coliforms are required to be sampled weekly for facilities with maximum daily flows exceeding 50 m³/ day.

81. Vintage Views was previously informed of the requirement to monitor effluent for fecal coliforms in 2018 (x2), 2019, 2020 and 2022 inspection reports.

[2018-02-21 IR61089 Warning]

[2018-10-02 IR98538 AMP]

[2019-08-21 IR127579 AMP]

[2020-09-30 IR156484 AMP]

[2022-06-16 IR187275 AMP]

82. Sampling intervals varied from five days to 54 days, with an average time between samples of 18 days. A detailed list of sample events is presented in the table on the next page.

[2022-07-12 Vintage Views Data EMS E248514 from 2020-08-16 to 2022-05-06]

83. The largest gap in samples occurred between August 10, 2021, and November 23, 2021 (15 weeks) with only one set of effluent samples collected on October 1, 2021.

[2022-07-12 Vintage Views Data EMS E248514 from 2020-08-16 to 2022-05-06]

84. In April 2022 Vintage Views was issued an administrative penalty of \$10,850 for contravening this section.

[2022-04-20 AMP2019-20 Final Determination]

Sample Event Table Legend (next page)		
✓	✗	NR
Sampled	Not Sampled	No Sample Required

Week Starting	Samples Collected		
	BOD	TSS	Fecal
August 19, 2020	✓	✓	✗
August 26, 2020	NR	NR	✗
September 02, 2020	NR	NR	✗
September 09, 2020	NR	NR	✗
September 16, 2020	NR	NR	✗
September 23, 2020	✓	✓	✗
September 30, 2020	✓	✓	✗
October 07, 2020	NR	NR	✗
October 14, 2020	NR	NR	✗
October 21, 2020	✓	✓	✗
October 28, 2020	✓	✓	✗
November 04, 2020	NR	NR	✗
November 11, 2020	NR	NR	✗
November 18, 2020	✓	✓	✗
November 25, 2020	✓	✓	✗
December 02, 2020	NR	NR	✗
December 09, 2020	NR	NR	✗
December 16, 2020	NR	NR	✗
December 23, 2020	✓	✓	✗
December 30, 2020	✓	✓	✗
January 06, 2021	NR	NR	✗
January 13, 2021	NR	NR	✗
January 20, 2021	✓	✓	✓
January 27, 2021	✓	✓	✗
February 03, 2021	NR	NR	✗

Week Starting	Samples Collected		
	BOD	TSS	Fecal
June 30, 2021	NR	NR	✗
July 07, 2021	✓	✓	✗
July 14, 2021	NR	NR	✗
July 21, 2021	NR	NR	✗
July 28, 2021	✓	✓	✗
August 04, 2021	✓	✓	✓
August 11, 2021	NR	NR	✗
August 18, 2021	✗	✗	✗
August 25, 2021	NR	NR	✗
September 01, 2021	NR	NR	✗
September 08, 2021	✗	✗	✗
September 15, 2021	NR	NR	✗
September 22, 2021	NR	NR	✗
September 29, 2021	✓	✓	✓
October 06, 2021	NR	NR	✗
October 13, 2021	✗	✗	✗
October 20, 2021	NR	NR	✗
October 27, 2021	✗	✗	✗
November 03, 2021	NR	NR	✗
November 10, 2021	NR	NR	✗
November 17, 2021	✓	✓	✓
November 24, 2021	✓	✓	✓
December 01, 2021	NR	NR	✗
December 08, 2021	NR	NR	✗
December 15, 2021	✓	✓	✓

Week Starting	Samples Collected		
	BOD	TSS	Fecal
February 10, 2021	✓	✓	X
February 17, 2021	NR	NR	X
February 24, 2021	✓	✓	X
March 03, 2021	NR	NR	X
March 10, 2021	✓	✓	X
March 17, 2021	NR	NR	X
March 24, 2021	NR	NR	X
March 31, 2021	✓	✓	X
April 07, 2021	NR	NR	X
April 14, 2021	NR	NR	X
April 21, 2021	✓	✓	X
April 28, 2021	✓	✓	X
May 05, 2021	NR	NR	X
May 12, 2021	X	X	X
May 19, 2021	NR	NR	X
May 26, 2021	✓	✓	X
June 02, 2021	NR	NR	X
June 09, 2021	X	X	X
June 16, 2021	NR	NR	X
June 23, 2021	✓	✓	X

Week Starting	Samples Collected		
	BOD	TSS	Fecal
December 22, 2021	✓	✓	✓
December 29, 2021	NR	NR	X
January 05, 2022	NR	NR	X
January 12, 2022	✓	✓	✓
January 19, 2022	✓	✓	✓
January 26, 2022	NR	NR	X
February 02, 2022	NR	NR	X
February 09, 2022	✓	✓	✓
February 16, 2022	NR	NR	X
February 23, 2022	X	X	X
March 02, 2022	NR	NR	X
March 09, 2022	✓	✓	✓
March 16, 2022	✓	✓	✓
March 23, 2022	NR	NR	✓
March 30, 2022	NR	NR	X
April 06, 2022	✓	✓	✓
April 13, 2022	NR	NR	X
April 20, 2022	✓	✓	✓
April 27, 2022	✓	✓	✓

* + no flow records Aug 2020-May 2022

Findings

Contravention of MWR Section 47(a) – Operator Training

85. The Ministry finds that the Facility requires a minimum of a Level II certified operator.
86. The Ministry finds that from September 1, 2020, until May 6, 2022 (612 days), the Facility Operator did not meet the certification requirements to operate the Facility found in the operating plan.

Contravention of MWR Section 50(1) – Notification of Non-compliance

87. The Ministry finds that from August 19, 2020, until May 6, 2022, Vintage Views failed to notify the Ministry of non-compliances on thirty-three (33) occasions.
88. The Ministry finds that from August 19, 2020, until May 6, 2022, effluent samples exceeded discharge criteria on thirty-two (32) occasions. These non-compliances were not reported to the Ministry.

89. The Ministry finds that on May 6, 2022, Ministry staff observed evidence of recent effluent surfacing due to damage during construction of a vineyard over the drain field. This non-compliance was not reported to the Ministry.
90. The Ministry finds that in 2018, 2019 and 2022 inspection reports Vintage Views was previously informed of and was aware of the requirement to notify the Ministry of non-compliance or potential non-compliance.
91. The Ministry finds that in April 2022 Vintage Views was issued an Administrative Penalty of \$5,850 for contraventions of this section on May 28, 2019 and November 13, 2019.

Contravention of MWR Section 53(b) – Receiving Environment Monitoring, and Contravention of MWR Section 85(1) – Monitoring Wells Required

92. The Ministry finds that Vintage Views has not monitored water levels quarterly. Two quarters were missed in 2020 and one in 2021. 2022 data has not yet been reported.
93. The Ministry finds that Vintage Views has not sampled and analyzed groundwater monitoring wells annually. No samples have been taken since 2016.
94. The Ministry finds that Vintage Views has not had the groundwater monitoring program reviewed annually by a QP since 2019.
95. The Ministry finds that Vintage Views was previously informed in 2013, 2014, 2015, 2019, 2020 and 2022, and was aware, of the requirement to monitor the receiving environment.
96. The Ministry finds that existing monitoring wells are non-functional and that the qualified professional recommendations for repair or replacement and implementation of a groundwater monitoring program have not been implemented.
97. The Ministry finds that Vintage Views was previously informed in 2019, 2020 and 2022, and was aware, of the MWR requirement for four functional monitoring wells, but functional wells have been not installed.

Contravention of MWR Section 55(5) – Reporting

98. The Ministry finds that from August 19, 2020, until May 6, 2022, Vintage Views did not submit any of the required bi-annual reports of twice-weekly effluent flow.
99. The Ministry finds that from August 19, 2020, until May 6, 2022, Vintage Views did not submit 2020 or 2021 annual reports of quarterly groundwater level measurements.
100. The Ministry finds that from August 19, 2020, until May 6, 2022, Vintage Views did not submit 2020 or 2021 annual groundwater monitoring well analyses.

101. The Ministry finds that from August 19, 2020, until May 6, 2022, Vintage Views did not submit 2020 or 2021 annual hydrologist reviews.
102. The Ministry finds that Vintage Views was previously informed, and was aware, of these reporting requirements in 2018, 2019, 2020 and 2022.

Contravention of MWR Section 75(1) – Effluent Quality Standards

103. The Ministry finds that from August 19, 2020, until May 6, 2022, Vintage Views effluent samples exceeded discharge criteria on 32 occasions. This included 12 BOD, four TSS and 16 fecal coliform samples. BOD exceeded limits by up to 2,800%. TSS exceeded limits by up to 307%. Fecal coliforms exceeded limits by more than 24,700%.
104. The Ministry finds that Vintage Views was previously informed, and was aware, of the effluent discharge limits and the requirement to meet them in 2014, 2018, 2019, 2020 and 2022.
105. In April 2022 Vintage Views was issued an Administrative Penalty of \$2,600 for eight contraventions of this section between April 9, 2019, and August 11, 2020.

Contravention of MWR Section 86 – Effluent Monitoring Frequency

106. The Ministry finds that from August 19, 2020, until May 6, 2022, Facility records indicate that effluent flows were being collected less than twice a week and none of the required 178 flow records were submitted to the Ministry.
107. The Ministry finds that from August 19, 2020, until May 6, 2022, Vintage Views failed to monitor BOD and TSS during seven of the required 40, bi-monthly periods (17.5%), including a 15-week interval with only one sample. Vintage Views was previously informed, and aware of the required frequency for BOD/TSS monitoring in 2020.
108. The Ministry finds that from August 19, 2020, until May 6, 2022, Vintage Views failed to monitor fecal coliforms during 73 of 89 weekly periods (82% failure). Vintage Views was previously informed, and was aware, of the fecal coliform monitoring requirement in 2018, 2019, and 2020.
109. In April 2022, Vintage Views was issued an Administrative Penalty of \$10,850 for contravention of this section between April 9, 2019, and August 11, 2020.

PART TWO: PENALTY CALCULATION

MWR Part 4 Section 47(a): Under Qualified Operator

Based on the information provided above, an administrative penalty is being considered for contravention of the MWR Section 47(a) for failing to operate and maintain the Facility by persons having the qualifications specified in the operating plan from September 1, 2020, until May 6, 2022.

The Administrative Penalties (EMA) Regulation Section 29(2) prescribes that a penalty for contravention of MWR Section 47 must not exceed \$40,000.

Factors to be considered in penalty calculation:

A. Base Penalty:

The base penalty reflects the seriousness of the contravention or failure, based on the following two factors:

a) Nature of Contravention or Failure

Moderate. This contravention undermines treatment plant operation and effectiveness. Having an Operator without the training and experience required to operate the plant has resulted in several deficiencies. Non-compliance reports, monthly and annual reporting ceased when the new Operator took over. Failure to report compromises the Ministry's ability to monitor and evaluate wastewater treatment operations.

b) Actual or Potential for Adverse Effect

Medium. The Operator's lack of training and experience has negatively impacted plant operations and effluent quality. There have been an increased number of effluent quality exceedances since the new Operator took over. The percentage of samples meeting criteria has decreased since October 1, 2020 (22%) compared to before October 1, 2020 (15%). Decreased effluent quality will have an increased impact on groundwater quality. This impact is not quantified as the Operator is not monitoring the receiving environment. Failing to report exceedances and surfacing of effluent limited the Ministry's ability to place additional protective measures or to inform potentially affected parties. Missing annual reports impede the Ministry's ability to evaluate wastewater system effectiveness.

BASE PENALTY:

Box A

\$10,000

B. Application of Penalty Adjustment Factors:

The following factors reflect the unique circumstances of this file, including what happened before, during and after the contravention or failure.

c) Previous contraventions, penalties imposed, or orders issued \$0

May 2022 was the first time this contravention was noted in an inspection report.

d) Whether contravention or failure was repeated or continuous + \$500

The failure to have a trained and experienced operator has been continuous for 612 days since September 2020.

Five percent of the base penalty (\$500) is added to account for the continuous nature of contravention.

e) Whether contravention or failure was deliberate \$0

The Ministry does not any evidence that the contravention was deliberate.

f) Economic benefit derived by the party from the contravention or failure + \$1,000

Assessment – True or Estimated Values

Item Description	True or Estimated ¹ Value	Value (\$)	Avoided or Delayed	Lifespan ²	Time Length ³	Interest Rate ⁴	Total (\$)
Operator salary	Estimated	\$999.63	Avoided	3 hr/week	87 weeks	5.8%/yr	\$999.63
TOTAL		\$999.63					
<i>1: See Spreadsheet for a list of estimated values</i> <i>2: The lifespan of a fixed asset or frequency of a service/deliverable. E.g. QP review conducted annually = 1 year. Fixed asset lifespan to be entered if known.</i> <i>3: The length of the contravention (time period of the avoided or delayed cost)</i> <i>4: Canada's central bank average rate was 5.8% from 1990 until 2022</i>							

Economic Benefit Rationale

Based upon a survey of thirty-eight wastewater positions in BC, an average Level I operator is paid \$31.72/hour while a Level II operator is paid \$35.55/hour, a difference of \$3.83/hour. The Operator stated they are on-site once or twice per week to monitor and maintain the Facility. In addition, the Operator would have travel, time for sample collection and laboratory submissions, and to prepare reports. Three hours per week is a conservative estimate of Operator time spent. From September 1, 2020, to May 6, 2022, is 87 weeks, resulting in an estimated savings of \$999.63 through hiring a Level I operator instead of a Level II.

An additional penalty of \$1,000 is added to offset the economic benefit received by not hiring a qualified operator.

g) Exercise of due diligence to prevent the contravention or failure **\$0**

The Ministry does not have any evidence that reasonable care was taken to hire an appropriately trained and qualified operator.

h) Efforts to correct the contravention or failure **\$0**

The Ministry does not any evidence that efforts have been taken to correct the contravention.

i) Efforts to prevent reoccurrence of the contravention or failure **\$0**

The Ministry does not have any evidence that efforts have been taken to prevent reoccurrence of the failures to notify.

j) Any additional factors that are relevant **\$0**

N/A

add factors (c) to (j)

**TOTAL PENALTY
ADJUSTMENTS:**

Box B

+ \$1,500

add Box A and Box B

**PENALTY AFTER
CONSIDERING
ALL FACTORS:**

Box C

\$11,500

IS A DAILY MULTIPLIER BEING APPLIED TO THIS PENALTY? NO

IF YES, HOW MANY DAYS? N/A

TOTAL PRELIMINARY PENALTY ASSESSMENT

\$11,500

PART THREE: PENALTY CALCULATION

MWR Part 4 Section 50(1): Fail to Notify of Non-compliance:

Based on the information provided above, an administrative penalty is being considered for contravention of the MWR Section 50(1) on 32 occasions between October 31, 2020 and May 3, 2022 for failure to immediately notify the Director when effluent exceed discharge criteria, and, on May 2, 2022, for failing to immediately notify the Director of effluent surfacing from the drain field.

The Administrative Penalties (EMA) Regulation Section 29 prescribes that a penalty for contravention of MWR Section 50 must not exceed \$75,000.

Factors to be considered in penalty calculation:

A. Base Penalty:

The base penalty reflects the seriousness of the contravention or failure, based on the following two factors:

a) Nature of Contravention or Failure

Major. This contravention undermines the basic integrity of the overarching regulatory regime and significantly interferes with the Ministry's capacity to protect the environment as the Ministry was not given the opportunity to order protective measures or inform potentially affected parties.

b) Actual or Potential for Adverse Effect

High. Failure to report non-compliance with effluent discharge limits meant that corrective measures were not investigated, and this had the potential to cause adverse impacts to drinking water, groundwater, or environmental receptors. Failure to report surfacing of effluent, which must be assumed to contain pathogens, in an area frequented by people and accessible to wildlife, and in a location that may impact a domestic drinking water well, prevented the Ministry from taking action to prevent potential acute adverse effects.

BASE PENALTY:

Box A

\$30,000

B. Application of Penalty Adjustment Factors:

The following factors reflect the unique circumstances of this file, including what happened before, during and after the contravention or failure.

c) Previous contraventions, penalties imposed, or orders issued + \$6,000

PAO 110100, issued in October 2019, noted that five BOD exceedances had not been reported.

An Administrative Penalty of \$5,850 was issued to Vintage Views on April 20, 2022, for contraventions of this section on May 28, 2019, and November 13, 2019.

Twenty percent of the base penalty (\$6,000) has been added to account for the history of non-compliance at the Facility.

d) Whether contravention or failure was repeated or continuous + \$15,000

Repeated: Failure to notify the Director as per MWR Section 50 occurred on 33 occasions.

Fifty percent of the base penalty (\$15,000) is added to account for the repeated nature of the contraventions.

e) Whether contravention or failure was deliberate + \$6,000

Vintage Views was previously reminded, and was aware, of the requirement to notify the Ministry of non-compliances, based on inspection reports issued in 2018, 2019 and 2020.

Twenty percent of the base penalty (\$6,000) has been added to account for the deliberate nature of the contraventions despite being previously advised of them.

f) Economic benefit derived by the party from the contravention or failure + \$0

The Ministry has no evidence that economic benefit was derived from failing to notify.

g) Exercise of due diligence to prevent the contravention or failure \$0

The Ministry has no evidence that reasonable care was taken to prevent the failures to notify.

h) Efforts to correct the contravention or failure \$0

The Ministry does have any evidence of efforts taken to correct the failures to notify.

i) Efforts to prevent reoccurrence of the contravention or failure \$0

The Ministry does have any evidence of efforts taken to prevent reoccurrence.

j) Any additional factors that are relevant \$0

N/A

add factors (c) to (j)

**TOTAL PENALTY
ADJUSTMENTS:**

Box B

+ \$27,000

add Box A and Box B

**PENALTY AFTER
CONSIDERING
ALL FACTORS:**

Box C

\$57,000

IS A DAILY MULTIPLIER BEING APPLIED TO THIS PENALTY? NO

IF YES, HOW MANY DAYS? N/A

TOTAL PRELIMINARY PENALTY ASSESSMENT

\$57,000

PART FOUR: PENALTY CALCULATION

MWR Part 4 Section 53(b): Failure to Monitor Receiving Environment

MWR Part 4 Section 85(1): Failure to Install Monitoring Wells

The Owner has not monitored groundwater levels quarterly. Annual groundwater quality samples have not been submitted since 2016. The required annual hydrologist's review has not been submitted since 2019. The required four functional monitoring wells have not been installed. An administrative penalty is being considered for these contraventions. Due to the similar nature and overlap in nature, the penalty calculation for these two sections is being combined.

The Administrative Penalties (EMA) Regulation Section 29 prescribes that penalties for contravention of MWR Section 53 and 85(1) must not exceed \$40,000 each.

Factors to be considered in penalty calculation:

A. Base Penalty:

The base penalty reflects the seriousness of the contravention or failure, based on the following two factors:

a) Nature of Contravention or Failure

Moderate. Subsurface discharge of effluent is, by design, invisible from the surface. When an underground drain field fails or is impaired, impacts such as degradation of natural water bodies and drinking water sources can occur.

Section 85 requires a minimum of four monitoring wells. Most on-site monitoring wells are dry. Only one well has been sampled. It is upgradient of the field and represents background conditions. It was found to be damaged in 2017 and has not been repaired. There has been no analysis of on-site monitoring wells since 2016.

Without functional monitoring wells no receiving environment monitoring can occur. Without monitoring of the receiving environment, failures of the field such as inadequate treatment will not be detected. The impact on human health or the environment from discharge exceedances could not be determined due to the lack of required receiving environment monitoring.

b) Actual or Potential for Adverse Effect

Medium. This contravention resulted in potential impact to the environment and human health as there were effluent discharge exceedances and no way to determine their impact on the receiving environment. In 2020 a domestic well at a residence downslope from the drain field had drinking water quality exceedances of total coliforms and nitrates. Without monitoring wells, it is uncertain if the drain field is the source.

Failure to monitor receiving environment has the potential to allow adverse impacts to drinking water, groundwater, or environmental receptors to persist, as Operator and the Ministry will be unaware of the need for protective measures or to inform potentially affected parties.

BASE PENALTY:

Box A

\$10,000

B. Application of Penalty Adjustment Factors:

The following factors reflect the unique circumstances of this file, including what happened before, during and after the contravention or failure.

c) Previous contraventions, penalties imposed, or orders issued + \$2,000

Two orders were issued that included the requirement to prepare and implement a groundwater monitoring program:

1. PAO 109945 was issued May 30, 2019,
2. PAO 110100 was issued October 23, 2019

Vintage Views' final report for PAO 110100 included recommendations for quarterly groundwater monitoring, annual sampling, and replacement of a damaged monitoring well. The report recommendations have not been implemented.

Twenty percent of the base penalty (\$2,000) has been added to account for the history of non-compliance at the Facility.

d) Whether contravention or failure was repeated or continuous + \$2,000

Repeated: The 2009 Registration Amendment Letter and MWR Section 53 requires regular monitoring of receiving environments as a condition of discharge. The QP report prepared in 2021 recommends that groundwater be sampled quarterly. This monitoring has not occurred, and discharge continues. Groundwater levels were missed for Q3 and Q4 of 2020. They were not reported for Q4 of 2021 or Q1, Q2 or Q3 of 2022. Groundwater quality was not monitored in 2020 or 2021.

Continuous: MWR Section 85 requires sufficient wells to monitor background and receiving environment. The wells are dry, therefore insufficient. The 2021 QP report in response to PPO 110100 recommended that the damage monitoring well be repaired. It has not. These deficiencies occurred over the entire period from August 19, 2020, to May 6, 2022 (625 days).

Twenty percent of the base penalty (\$2,000) has been added to account for the repeated and continuous nature of the contraventions.

e) Whether contravention or failure was deliberate**+ \$5,000**

Vintage Views was found out of compliance with Section 53 and Section 85 in multiple inspection reports:

Date	Inspection Report	Out of Compliance with	
		Section 53	Section 85
2013-04-22	IR009501	X	
2014-02-05	IR016325	X	
2014-04-07	IR017346	X	
2015-03-31	IR020211	X	
2018-02-21	IR61089		X
2018-10-02	IR98538		X
2019-08-21	IR127579	X	X
2020-09-30	IR156484	X	X
2022-06-16	IR187275	X	X

Two PAOs were issued in 2019 and a QP prepared a response in 2021. These documents required or recommended well installation, well repair, well monitoring and annual review by a hydrogeologist. None of these actions have occurred.

These records indicate that the Owner was aware of the required groundwater wells and monitoring. There is no indication of actions to meet these requirements.

Fifty percent of the base penalty (\$5,000) has been added to account for the deliberate nature of these contraventions despite being previously advised of them.

f) Economic benefit derived by the party from the contravention or failure**+ \$36,207****Assessment – True or Estimated Values**

Item Description	True or Estimated Value	Value (\$)	Avoided or Delayed	Frequency	Time Length ¹	Interest Rate ²	Total (\$)
Well installation x4	Estimated	\$24,000.00	Delayed	One time	3 years	5.8%	\$24,000.00
Well Sampling (Salary)	Estimated	\$71.10/year	Avoided	1x/year	3 years	5.8	\$213.30
Shipping (Salary)	Estimated	\$71.10/year	Avoided	1x/year	3 years	5.8	\$213.30
Laboratory Analysis Cost	Estimated	\$417.00/year	Avoided	1x/year	3 years	5.8	\$1,251.00
Supplies	Estimated	\$10.00/year	Avoided	1x/year	3 years	5.8	\$30.00
Reporting	Estimated	\$3500/year	Avoided	1x/year	3 years	5.8	\$10,500.00
TOTAL							\$36,207.60
<p>1: The length of the contravention (time period of the avoided or delayed cost) 3 years is based on no groundwater monitoring well sampling or reporting for 2017,2018,2019,2020,2021, but reduced by the three-year statute of limitations on administrative penalties.</p> <p>2: Canada's central bank average rate was 5.8% from 1990 until 2022</p>							

Economic Benefit Rationale

List	Rationale for Assessed Amount ⁶
Well Installation	Minimum 4 wells required. \$6,000 ea. Estimate from Ministry Economic Benefit spreadsheet (July 2022).
Well Sampling (Salary)	Based on sampling requiring 2 hours by Level 2 Operator (\$35.55/hr). - bottle order, measuring water level and field parameters, purging wells, collecting samples, labelling, packaging for transport at all 4 wells.
Shipping (Salary)	Based on 2 hours to transport samples to Caro Lab Kelowna by Level 2 Operator (\$35.55/hr)
Laboratory Analysis Cost	Based on standard lab pricing for the required analyses. Provided August 2022 by CARO Analytical Services, Kelowna, which is the lab used by Vintage Views. Ministry laboratory, ALS Environmental, price of \$30 for coliforms was used as CARO price of \$108 was high and included both fecal and total coliform.
Sampling Supplies	Gloves, bags, ice, etc
Annual Review/Reporting	Estimate of \$3500-4500/year for hydrologist report was provided to the Ministry by Vintage Views in March 2016.

An additional penalty of \$36,207 is added to offset the economic benefit of avoided costs.

g) Exercise of due diligence to prevent the contravention or failure \$0

The Ministry does not have any evidence that reasonable care was taken to prevent this contravention.

h) Efforts to correct the contravention or failure \$0

The Ministry does not have any evidence that effort was made to correct this contravention.

i) Efforts to prevent reoccurrence of the contravention or failure \$0

The Ministry does not have any evidence that effort was made to ensure this contravention would not reoccur.

j) Any additional factors that are relevant \$0

N/A

add factors (c) to (j)

**TOTAL PENALTY
ADJUSTMENTS:**



+ \$45,207

add Box A and Box B

**PENALTY AFTER
CONSIDERING
ALL FACTORS:**

Box C

\$55,207

The APR prescribes \$40,000 as the maximum daily penalty for this contravention. Accordingly, the calculated penalty has been adjusted from \$55,207 to \$40,000.

IS A DAILY MULTIPLIER BEING APPLIED TO THIS PENALTY? NO

IF YES, HOW MANY DAYS? N/A

TOTAL PRELIMINARY PENALTY ASSESSMENT

\$40,000

PART FIVE: PENALTY CALCULATION

MWR Part 5 Section 55(5): Submission of Monitoring Data:

Based on the information provided above, one administrative penalty is being considered for contravention of MWR Section 55(5) for failing to submit effluent flow, effluent quality and receiving environment data, and associated quality control data, between August 19, 2020, and May 6, 2022. Twelve reporting dates were missed.

The Administrative Penalties (EMA) Regulation Section 29 prescribes that the penalty for contravention of MWR 55 must not exceed \$10,000.

Factors to be considered in penalty calculation:

A. Base Penalty:

The base penalty reflects the seriousness of the contravention or failure, based on the following two factors:

a) Nature of Contravention or Failure

Minor. Failing to submit data is an administrative issue. Without these records the Ministry is unable to evaluate whether there are problems with the wastewater system, or risks to the environment of human health.

b) Actual or Potential for Adverse Effect

Medium. Failing to report results creates the potential for environmental or human health effects being present, but not actioned. As partial effluent data was submitted, the Ministry was able to determine that effluent is not being disinfected and extremely high levels of fecal coliforms are being released. This may result in contamination of nearby drinking water. Without reporting on flows or receiving environment results, appropriate corrective measures are more challenging to determine.

BASE PENALTY:

Box A

\$1,500

B. Application of Penalty Adjustment Factors:

The following factors reflect the unique circumstances of this file, including what happened before, during and after the contravention or failure.

c) Previous contraventions, penalties imposed, or orders issued **\$0**

No orders or administrative penalties have been issued for violation of this specific section.

d) Whether contravention or failure was repeated or continuous **\$0**

Repeated – The 2009 Registration amendment letter required that effluent monitoring data be submitted bi-annually. Flow data is required twice per year. It was not submitted in the second half of 2020, the first or second half of 2021 or the first half of 2022. Therefore, four reporting periods have been missed.

While raw data was uploaded by the laboratory, it did not indicate whether it was sample location influent, effluent, monitoring well, or other. Quality control information and sampling methodology was also not reported. Without this narrative the raw data could not be interpreted, and the report is incomplete. This information was not submitted in the second half of 2020, the first or second half of 2021 or the first half of 2022. Therefore, four reporting periods have been missed.

Receiving water data and hydrologist review is required annually. It was not received in 2020 or 2021. Two reporting periods have been missed for each.

The daily multiplier factor is used below to account for the repeated nature of the contravention.

e) Whether contravention or failure was deliberate **+ \$750**

Vintage Views was previously informed, and was aware, of the reporting requirements of Section 55(5) through inspection reports in 2018(x2), 2019, 2020 and 2022. These records indicate that the Owner was aware of the reporting required. There is no indication of actions to meet these requirements.

Fifty percent of the base penalty (\$750) has been added to account for the deliberate nature of the contraventions despite being previously advised of them.

f) Economic benefit derived by the party from the contravention or failure **\$0**

The Ministry does not have any evidence that not submitting required data resulted in economic benefit.

g) Exercise of due diligence to prevent the contravention or failure **\$0**

The Ministry does not have any evidence that reasonable care was taken to prevent the contravention.

h) Efforts to correct the contravention or failure **\$0**

The Ministry does not have any evidence that efforts were made to correct the failures to submit the required data.

i) Efforts to prevent reoccurrence of the contravention or failure \$0

The Ministry does not have any evidence that effort was made to ensure this contravention would not reoccur.

j) Any additional factors that are relevant \$0

N/A

add factors (c) to (j)

**TOTAL PENALTY
ADJUSTMENTS:**

Box B

+ \$750

add Box A and Box B

**PENALTY AFTER
CONSIDERING
ALL FACTORS:**

Box C

\$2,250

IS A DAILY MULTIPLIER BEING APPLIED TO THIS PENALTY? Yes

IF YES, HOW MANY DAYS? 4

TOTAL PRELIMINARY PENALTY ASSESSMENT

\$9,000

PART SIX: PENALTY CALCULATION

MWR Part 5 Section 75(1): Exceeding Effluent Limits

Based on the information provided above, one administrative penalty is being considered for contravention of MWR Section 75(1) by exceeding Table 3 Class B effluent quality limits 32 times between August 19, 2020, and May 6, 2022.

The Administrative Penalties (EMA) Regulation Section 29 prescribes that the penalty for contravention of MWR 75 must not exceed \$40,000.

Factors to be considered in penalty calculation:

A. Base Penalty:

The base penalty reflects the seriousness of the contravention or failure, based on the following two factors:

a) Nature of Contravention or Failure

Major. Meeting the quality limits is a fundamental requirement of wastewater treatment. Limits are set to prevent environmental or human health concerns. The system is designed to perform to a certain level and if this is not achieved then downstream components such as the drain field may be impacted, and downgradient domestic wells are at increased risk of contamination. The exceedances were significant. BOD was 2,800% over, TSS was 307% and fecal coliform was over by 24,700%. All fecal coliform samples analysed during the inspection period exceeded the limits. There is no indication that corrective measures were taken to correct the high fecal coliforms.

The impact on human health or the environment from these exceedances could not be determined due to the lack of required receiving environment monitoring.

b) Actual or Potential for Adverse Effect

Medium. All fecal coliform samples analysed during the inspection period exceeded the MWR limits. All samples analysed were at least six times higher than the MWR limit. Extremely high fecal coliforms indicate increased potential for pathogens to contaminate surface and drinking water. A nearby drinking well had elevated coliforms, but no firm linkage to the drain field was established. As effluent was surfacing from the damaged field in May 2022 it represented potential exposure to workers and wildlife.

BASE PENALTY:

Box A

\$20,000

B. Application of Penalty Adjustment Factors:

The following factors reflect the unique circumstances of this file, including what happened before, during and after the contravention or failure.

c) Previous contraventions, penalties imposed, or orders issued + \$2,000

An Administrative Penalty of \$2,600 was issued to Vintage Views on April 20, 2022, for eight contraventions of this section between April 9, 2019, and August 11, 2020.

Ten percent of the base penalty (\$2,000) has been added to account for the compliance history of previous contraventions at the Facility.

d) Whether contravention or failure was repeated or continuous + \$20,000

Repeated – Vintage Views exceeded MWR effluent quality limits 32 times between August 19, 2020, and May 6, 2022.

One hundred percent of the base penalty (\$20,000) has been added to account for the repeated nature of the contraventions.

e) Whether contravention or failure was deliberate + \$4,000

Vintage Views was previously informed, and was aware, of similar exceedances and the need to address them via inspection reports issued in 2018 (x2), 2019, 2020 and 2022.

Twenty percent of the base penalty (\$4,000) has been added to account for the deliberate nature of the contraventions despite being previously advised of them.

f) Economic benefit derived by the party from the contravention or failure \$0

The Ministry does not have any evidence that the failures to meet MWR effluent limits resulted in economic benefit.

g) Exercise of due diligence to prevent the contravention or failure \$0

The Ministry does not have any evidence that reasonable care was taken to prevent the failures.

h) Efforts to correct the contravention or failure \$0

The Ministry does not have any evidence that efforts were made to correct the contravention.

i) Efforts to prevent reoccurrence of the contravention or failure \$0

The Ministry does not have any evidence that efforts were made to prevent reoccurrence. Since August 2020 the number of exceedances has increased.

j) Any additional factors that are relevant

\$0

N/A

add factors (c) to (j)

**TOTAL PENALTY
ADJUSTMENTS:**

Box B

+ \$26,000

add Box A and Box B

**PENALTY AFTER
CONSIDERING
ALL FACTORS:**

Box C

\$46,000

The APR prescribes \$40,000 as the maximum daily penalty for this contravention. Accordingly, the calculated penalty has been adjusted from \$46,000 to \$40,000.

IS A DAILY MULTIPLIER BEING APPLIED TO THIS PENALTY? NO

IF YES, HOW MANY DAYS? N/A

TOTAL PRELIMINARY PENALTY ASSESSMENT

\$40,000

PART SEVEN: PENALTY CALCULATION

MWR Part 5 Section 86: Failing to Sample:

Based on the information provided above, one administrative penalty is being considered for contravention of MWR Section 86 failing to sample effluent for TSS, BOD, fecal coliforms on 87 occasions between August 19, 2020, and May 6, 2022, and for failing to monitor effluent flows on 178 occasions in the same period.

The Administrative Penalties (EMA) Regulation Section 29 prescribes that a penalty for contravention of MWR 86 must not exceed \$40,000.

Factors to be considered in penalty calculation:

A. Base Penalty:

The base penalty reflects the seriousness of the contravention or failure, based on the following two factors:

a) Nature of Contravention or Failure

Major. Failure to monitor TSS, BOD and fecal coliform concentrations deprives the Operator and the Ministry of a key piece of information about the effectiveness of the treatment works, and information about the potential effects to the environment. Flow records determine if the Facility is approaching design capacity and relate to the magnitude of potential impact on the receiving environment if the treatment system were to fail further.

Only 18% of the required fecal coliform samples were collected during the period being considered for penalty. This missing data directly inhibits the Ministry's ability to assess risks to human health and the environment. For instance, if this data had been available it would have been used by the Ministry to determine the public health risks in the May 2022 effluent surfacing event.

b) Actual or Potential for Adverse Effect

Medium. While failing to collect samples does not result in direct adverse effects, it does make it challenging for the Operator to determine if the system is functioning correctly and interferes with the Ministry's capacity to protect the environment as the Ministry is reliant on these records to determine whether the regulatory requirements are being met. Without feedback on system performance significant environmental or human health effects may occur.

BASE PENALTY:

Box A

\$20,000

B. Application of Penalty Adjustment Factors:

The following factors reflect the unique circumstances of this file, including what happened before, during and after the contravention or failure.

c) Previous contraventions, penalties imposed, or orders issued + \$2,000

Three PAOs under Section 83 of EMA and two PPOs under Section 81 of EMA have been issued since 2019 in order to protect human health and the environment. Two of these are relevant to this contravention.

- PAO 109945 was issued May 30, 2019, to mitigate surfacing effluent in an orchard. It required, among other actions, that Vintage Views retain a QP to, “*Design and implementation of a regular inspection and maintenance schedule of the works, including [...] a schedule for sampling required under the Municipal Wastewater Regulation & the 2009 Registration Amendment Letter*”
- PAO 110100 was issued October 23, 2019, include the same requirement.

A previous Administrative Penalty of \$10,850 was issued to Vintage Views on April 20, 2022, for contraventions of this section between April 9, 2019, and August 11, 2020.

Twenty percent of the base penalty (\$2,000) has been added to account for the history of orders issued, and previous administrative penalty at this Facility.

d) Whether contravention or failure was repeated or continuous + \$2,000

Repeated - Fecal coliform samples were missed for 73 of the 89 weeks between August 19, 2020, and May 6, 2022.

Repeated - Effluent samples for TSS and BOD were each missed on 7 occasions in the same period. In one instance only one TSS/BOD sample was collected over a 15-week span.

Repeated – Effluent flow records were not provided for any of the 178 bi-weekly periods.

Twenty percent of the base penalty is added (\$2,000) to account for the repeated nature of the contraventions.

e) Whether contravention or failure was deliberate + \$10,000

Vintage Views was previously informed, and was aware, of these monitoring requirements via inspection reports issued in 2018 (x2), 2019, 2020 and 2022.

One hundred percent of the base penalty (\$10,000) has been added to account for the deliberate nature of the contraventions despite being previously advised of this requirement on multiple occasions.

f) Economic benefit derived by the party from the contravention or failure + \$11,174

By failing to conduct the required effluent sampling and analysis, the Owner gained an economic benefit by avoiding costs for labour, costs of shipping, and costs of analysis at a laboratory over the eighty-nine weeks between August 19, 2020 and May 6, 2022.

Item Description	True or Estimated Value	Value (\$)	Avoided or Delayed	Frequency	Time Length ¹	Interest Rate ²	Total (\$)
Sampling (Salary)	Estimated	\$35.55/event	Avoided	73 events	89 weeks	5.8	\$2,595.15
Shipping (Salary)	Estimated	\$71.10/event	Avoided	73 trips	89 weeks	5.8	\$5,190.30
Laboratory Analysis - Coliform	Estimated	\$31.75/sample	Avoided	73 samples	89 weeks	5.8	\$2,317.75
- TSS	Estimated	\$13.75/sample	Avoided	7 samples	89 weeks	5.8	\$96.25
- BOD	Estimated	\$35.00/sample	Avoided	6 samples	89 weeks	5.8	\$245.00
Supplies	Estimated	\$10.00/event	Avoided	73 events	89 weeks	5.8	\$730.00
TOTAL							\$ 11,174.45

1: The length of the contravention (time period of the avoided or delayed cost) is the total period over which samples were missed.
 2: Canada's central bank average rate was 5.8% from 1990 until 2022

List	Rationale for Assessed Amount ⁶
Well Sampling (Salary)	Based on taking sampling requiring 1.0 hours by Level 2 Operator (\$35.55/hr). Sampling time included: placing bottle order, buying ice, measuring field parameters, purging sample ports, collecting samples, labelling, preparing chain of custody, packaging for transport. Assumes that TSS BOD samples are taken on days when fecal coliforms are sampled and add negligible additional time.
Shipping (Salary)	Based on 2 hours to drive samples to Caro in Kelowna by Level 2 Operator (\$35.55/hr)
Laboratory Analysis Cost	Based on standard lab pricing for the required analyses. Provided August 2022 by CARO Analytical Services, Kelowna, which is the lab used by Vintage Views. ALS price of \$30 for coliforms was used as CARO price of \$108 was too high.
Sampling Supplies	Gloves, bags, ice, etc
Annual Review/Reporting	Estimate of \$3500-4500/year for hydrologist report was provided to the Ministry by the Facility Operator in March 2016.

Based on the above information, the Ministry estimates that the Owner has avoided costs of not less than \$11,174.45. Therefore \$11,174 is added to this penalty calculation to account for the economic benefit of avoided costs.

g) Exercise of due diligence to prevent the contravention or failure \$0

The Ministry does not have any evidence that the Owner took reasonable care to avoid the failure to monitor effluent.

h) Efforts to correct the contravention or failure \$0

The Ministry does not have any evidence that the Owner made efforts to correct these failures.

i) Efforts to prevent reoccurrence of the contravention or failure - \$1,000

According to the Ministry’s EMS database, prior to 2021, fecal coliforms were never sampled at this site. Since August 2021 fecal coliforms have been sampled approximately every 16 days. While this is not the required every 7 days, it does represent improvement.

As a result of this effort, the base penalty is reduced by ten percent (\$1,000).

j) Any additional factors that are relevant \$0

N/A

add factors (c) to (j)

**TOTAL PENALTY
ADJUSTMENTS:**



+ \$24,174

add Box A and Box B

**PENALTY AFTER
CONSIDERING
ALL FACTORS:**



\$44,174

The APR prescribes \$40,000 as the maximum daily penalty for this contravention. Accordingly, the calculated penalty has been adjusted from \$44,174 to \$40,000.

IS A DAILY MULTIPLIER BEING APPLIED TO THIS PENALTY? NO

IF YES, HOW MANY DAYS? N/A



\$40,000