COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
NORTHERN REGIONAL OFFICE
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Molly Joseph Ward
Secretary of Natural Resources

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Director

Thomas A. Faha
Regional Director

STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
AQUA PRESIDENTIAL, INC.
FOR
PRESIDENTIAL LAKES, SECTION 14 – WASTEWATER TREATMENT PLANT
VPDES PERMIT NO. VA0086720

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15, between the State Water Control Board and Aqua Presidential, Inc., regarding the Presidential Lakes, Section 14 – Wastewater Treatment Plant.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "305(b) report" means the report required by Section 305(b) of the Clean Water Act (33 United States Code § 1315(b)), and Va. Code § 62.1-44.19:5 for providing Congress and the public an accurate and comprehensive assessment of the quality of State surface waters.

2. "Ammonia as N" means Ammonia as Nitrogen.

3. "Aqua" means Aqua Presidential, Inc., a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Aqua Presidential, Inc. is a "person" within the meaning of Va. Code § 62.1-44.3.

4. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.

5. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.

6. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

7. "Discharge" means discharge of a pollutant. 9 VAC 25-31-10

8. "Discharge of a pollutant" when used with reference to the requirements of the VPDES permit program means:

    a. Any addition of any pollutant or combination of pollutants to surface waters from any point source; or

    b. Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.

9. "DMR" means Discharge Monitoring Report.

10. "Effluent" means wastewater – treated or untreated – that flows out of a treatment plant, sewer, or industrial outfall.

11. "Facility" or "Plant" means the Presidential Lakes, Section 14 – Wastewater Treatment Plant located at Carter Drive, King George, Virginia, which treats and discharges treated sewage and other domestic wastes for the residents of the Presidential Lakes Subdivision, Section 14.

12. "MGD" means million gallons per day.

13. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.

14. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.

15. "Permit" means VPDES Permit No. VA0086720, which was issued under the State Water Control Law and the Regulation to Presidential Service Company, Tier II on September 20, 2010, transferred to Aqua Presidential, Inc. on February 27, 2014, and which expires on September 19, 2015.

16. "Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials,

radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 USC § 2011 *et seq.*)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water… 9 VAC 25-31-10.

17. "Pollution" means such alteration of the physical, chemical, or biological properties of any state waters as will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious to the public health, safety, or welfare or to the health of animals, fish, or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an alteration of the physical, chemical, or biological property of state waters or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution but which, in combination with such alteration of or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the Board, are "pollution." Va. Code § 62.1-44.3.

18. "Presidential Service" means Presidential Service Company, Tier II, Inc., a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Presidential Service Company, Tier II, Inc., is a "person" within the meaning of Va. Code § 62.1-44.3.

19. "Regulation" means the VPDES Permit Regulation, 9 VAC 25-31-10 *et seq.*

20. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.

21. "State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3.

22. "TSS" means Total Suspended Solids.

23. "Va. Code" means the Code of Virginia (1950), as amended.

24. "VAC" means the Virginia Administrative Code.

25. "VPDES" means Virginia Pollutant Discharge Elimination System.

SECTION C: Findings of Fact and Conclusions of Law

1. The Permit authorizes the discharge of treated sewage and other domestic wastes from the Plant, to Popcastle Creek, in strict compliance with the terms and conditions of the

Permit. The design flow of the Plant is 0.045 MGD. The permit also authorizes an expanded flow tier of 0.07 MGD.

2. Popcastle Creek is located in the Rappahannock River Basin. This segment is not listed in DEQ's 2010 305(b)/303(d) Integrated Report.

3. On September 27, 2012, the Department issued a Consent Order to Presidential Service for exceeding Permit discharge limitations for Ammonia as N, TSS, and Total Residual Chlorine. The Order required Presidential Service to upgrade the Facility to consistently meet Permit limits.

4. During the negotiation process and after the Consent Order was executed, Presidential Service was soliciting bids from companies to purchase the Facility. On June 26, 2013, Representatives of Aqua and DEQ met to discuss the upgrade of the WWTP and the planned purchase of the Facility from Presidential Service.

5. Since the June 26, 2013, meeting, Presidential Service has reported multiple months of effluent violations. The violations include exceeding the permit limits for BOD5 during the monitoring periods of July 2013, September 2013, November 2013, and December 2013 and for TSS during the monitoring periods of November 2013, December 2013, and February 2014.

6. On February 27, 2014, Aqua purchased the Facility from Presidential Service.

7. On March 4, 2014, Aqua submitted to DEQ a change of ownership request.

8. In submitting its DMR for the March 2014 monitoring period, Aqua reported that the Plant exceeded discharge limitations contained in Part I, Section A, Number 1, Page 1 of the Permit, for BOD5 and TSS.

9. Va. Code § 62.1-44.5 states that: "[E]xcept in compliance with a certificate issued by the Board, it shall be unlawful for any person to discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances."

10. The Regulation, at 9 VAC 25-31-50, also states that except in compliance with a VPDES permit, or another permit issued by the Board, it is unlawful to discharge into state waters sewage, industrial wastes or other wastes.

11. Va. Code § 62.1-44.15(5a) states that a VPDES permit is a "certificate" under the statute.

12. Popcastle Creek is a surface water located wholly within the Commonwealth and is a "state water" under the State Water Control Law.

13. Based on the submitted DMR, the Board concludes that Aqua has violated the Permit and Va. Code § 62.1-44.5 and 9 VAC 25-31-50, by discharging treated sewage and domestic

wastes from the Plant while concurrently failing to comply with the conditions of the Permit, as described in paragraph C(8) above.

14. Aqua, having just purchased a facility that cannot meet permit effluent limits without an upgrade, has requested a revised schedule and interim limits provided for in this Order until the upgrade can be completed.

15. In order to allow Aqua time to upgrade the Facility to consistently meet Permit effluent limits, and time to upgrade the Facility expeditiously, the Department and Aqua have agreed to the schedule contained in Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders Aqua Presidential, Inc., and Aqua Presidential, Inc. agrees to perform the actions described in Appendices A and B of this Order.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Aqua for good cause shown by Aqua, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.

2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the Facility; or (3) taking subsequent action to enforce the Order.

3. For purposes of this Order and subsequent actions with respect to this Order only, Aqua admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.

4. Aqua consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.

5. Aqua declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.

6. Failure by Aqua to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.

8. Aqua shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable occurrence beyond its control and not due to a lack of good faith or diligence on its part. Aqua shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Aqua shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
   a. the reasons for the delay or noncompliance;

   b. the projected duration of any such delay or noncompliance;

   c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and

   d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

   Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which Aqua intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.

10. This Order shall become effective upon execution by both the Director or his designee and Aqua. Nevertheless, Aqua agrees to be bound by any compliance date which precedes the effective date of this Order.

11. This Order shall continue in effect until:

    a. The Director or his designee terminates the Order after Aqua has completed all of the requirements of the Order;

b. Aqua petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or

c. The Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to the Aqua.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Aqua from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Aqua and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.

13. The undersigned representative of Aqua certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Aqua to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Aqua.

14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.

15. By its signature below, Aqua agrees to the issuance of this Order.

And it is so ORDERED this 7th day of July, 2014.

Thomas A. Faha

Thomas A. Faha, NRO Regional Director
Department of Environmental Quality

Aqua Presidential, Inc. voluntarily agrees to the issuance of this Order.

Date: 5/6/14 By: [signature], Manager of Operations
(Person) (Title)
Aqua Presidential, Inc.

Commonwealth of Virginia
City/County of Goochland

The foregoing document was signed and acknowledged before me this 6th day of May, 2014, by Timothy E Castillo who is Manager of Operations of Aqua Presidential, Inc., on behalf of the Corporation.

[signature]
Notary Public

7529246
Registration No.

My commission expires: 5/31/16

Notary seal:

APPENDIX A
SCHEDULE OF COMPLIANCE

Aqua Presidential, Inc. shall:

1. Upgrade/expand the existing Plant according to the following schedule:

   a. Complete Construction and submit a certificate to operate (CTO) application to DEQ, no later than October 31, 2015.

   b. After the issuance of the CTO and no later than December 15, 2015, start-up and transition operations form the existing WWTP to the new WWTP.

2. Complete the conversion of the old WWTP into the digester serving the new WWTP, no later than March 14, 2016.

3. The schedule referenced above shall include the submission of quarterly progress reports due on the 10th of the month following the end of the quarter. The first quarter shall begin with the first month after the effective date of this Order, until the completion of the upgrade/expansion of the Facility.

4. Operate and maintain the Facility in a workmanlike manner, in order to ensure that the Facility produces the best quality effluent of which it is capable.

Unless otherwise specified in this Order, Aqua Presidential, Inc. shall submit all reports required by Appendix A of this Order to:

Virginia Department of Environmental Quality
Attn: Enforcement Staff
13901 Crown Court
Woodbridge, VA 22193

APPENDIX B
INTERIM EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

From the effective date of this Order until completion of the corrective action requirements contained in paragraph 1 of Appendix A, but in no event later than December 15, 2015, Aqua Presidential, Inc. shall monitor and limit the discharge from Outfall No. 001 of the Plant in accordance with VPDES Permit Number VA0086720, except as specified below. These interim limits shall retroactively apply, if applicable, as of the first day of the month in which this Order becomes effective.

These requirements shall be construed in light of the Regulation.

Parameter	Parameter Limits					Monitoring Requirements	
	Quantity Average	Quantity Maximum	Concentration Minimum	Concentration Average	Concentration Maximum	Sample Frequency	Sample Type
Ammonia, as N	n/a	n/a	n/a	NL	NL	1/W	4HC
BOD_5	4.7 kg/d	7.2 kg/d	n/a	25 mg/L	38 mg/L	1/W	4HC
TSS	5.7 kg/d	8.5 kg/d	n/a	30 mg/L	45 mg/L	1/W	4HC