COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
NORTHERN REGIONAL OFFICE
13901 Crown Court, Woodbridge, Virginia 22193
(703) 583-3800 Fax (703) 583-3821

Douglas W. Domenech
Secretary of Natural Resources

David K. Paylor
Director

STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
LOUDOUN COUNTY SANITATION AUTHORITY
d/b/a LOUDOUN WATER
FOR
COURTLAND RURAL VILLAGE WRF
VPA Permit No. 00010

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 Loudoun County Sanitation Authority, regarding the Courtland Rural Village Water Reclamation Facility, for the purpose of resolving certain violations of the State Water Control Law and the applicable permit and regulation.

SECTION B: Definitions

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

1. "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.

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

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

4. "Discharge" means discharge of a pollutant. 9 VAC 25-32-10.

5. "Facility" or "Site" means the Courtland Rural Village Water Reclamation Facility located at 20191 Honeycreeper Place in Loudoun County, Virginia, where Loudoun County Sanitation Authority manages pollutants which are the subject of the Permit.

6. "Loudoun Water" means the Loudoun County Sanitation Authority, an authority created pursuant to the Virginia Water and Waste Authorities Act, Va. Code § 15.2-5100 *et seq*. Loudoun Water is a "person" within the meaning of Va. Code § 62.1-44.3.

7. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.

8. "O&M" means operations and maintenance.

9. "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.

10. "Permit" means VPA Permit No. VPA00010, which was issued under the State Water Control Law and the Regulation to Loudoun Water on June 11, 2009, and which expires on June 10, 2019.

11. "Pollutant" means any substance, radioactive material, or heat which causes or contributes to, or may cause or contribute to, pollution. It does not mean (i) sewage from vessels; or (ii) water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil or gas production and disposed of in a well, if the well is used either to facilitate production or for disposal purposes if approved by Department of Mines Minerals and Energy unless the Board determines that such injection or disposal will result in the degradation of ground or surface water resources. 9 VAC 25-32-10.

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

13. "Regulation" means the VPA Permit Regulation, 9 VAC 25-32-10 *et seq*.

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

15. "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.

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

17. "VAC" means the Virginia Administrative Code.

18. "VPA" means Virginia Pollution Abatement.

19. "Warning Letter" or "WL" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.

SECTION C: Findings of Fact and Conclusions of Law

1. Loudoun Water operates the Site. The Site is the subject of the Permit which authorizes Loudoun Water to produce and distribute reclaimed water in strict compliance with the terms and conditions of the Permit.

2. On December 6, 2010, Loudoun Water submitted monitoring reports (MR) for the November 2010, monitoring period. Based on this submission, Department staff made the following observations:

    a. Loudoun Water reported a monthly carbonaceous biochemical demand ($CBOD_5$) average value of 21 mg/L.

3. On January 11, 2011, Loudoun Water submitted MRs for the December 2010, monitoring period. Based on this submission, Department staff made the following observations:

    a. Loudoun Water reported a monthly $CBOD_5$ average value of 18.8 mg/L;
    b. Loudoun Water reported a one daily Turbidity average reading of 2.19 nephelometric turbidity units (NTU).

4. On February 8, 2011, Loudoun Water submitted MRs for the January 2011, monitoring period. Based on this submission, Department staff made the following observations:

    a. Loudoun Water reported a monthly $CBOD_5$ average value of 16.7 mg/L;
    b. Loudoun Water reported daily Turbidity average readings greater than 2 NTU for 29 days.

5. On March 8, 2011, Loudoun Water submitted MRs for the February 2011, monitoring period. Based on this submission, Department staff made the following observations:

    a. Loudoun Water reported daily average Turbidity readings greater than 2 NTU for 27 days.

6. On May 9, 2011, Loudoun Water submitted MRs for the April 2011, monitoring period. Based on this submission, Department staff made the following observations:

    a. Loudoun Water reported daily average Turbidity readings greater than 2 NTU for 6 days.

7. On June 9, 2011, Loudoun Water submitted MRs for the May 2011, monitoring period. Based on this submission, Department staff made the following observations:

    a. Loudoun Water reported daily average Turbidity readings greater than 2 NTU for 12 days.

8. On July 10, 2011, Loudoun Water submitted MRs for the June 2011, monitoring period. Based on this submission, Department staff made the following observations:

    a. Loudoun Water reported daily average Turbidity readings greater than 2 NTU for 3 days.

9. 9 VAC 25-740-70(A)(1)(e) and Part I.A.1.a of the Permit limits the monthly concentration average for $CBOD_5$ to less than or equal to 8 mg/L. 9 VAC 25-740-70.B requires compliance with this limit at the point of compliance.

10. 9 VAC 25-740-70(A)(1)(f) limits the daily concentration average for Turbidity to less than or equal to 2 NTU. Part I.A.1.a of the Permit limits the daily concentration average for Turbidity to less than or equal to 2.0 NTU. 9 VAC 25-740-70.B requires compliance with this limit at the point of compliance.

11. 9 VAC 25-32-30 states that except in compliance with a VPA permit, it shall be unlawful for any person to discharge sewage, industrial wastes, other wastes, or any noxious or deleterious substance into, or adjacent to state waters.

12. The Department has issued no permits or certificates to Loudoun Water for the Facility other than VPA Permit No. VPA00010

13. Loudoun Water asserts that these violations can be attributed to raw $CBOD_5$ concentrations that are 24% higher than plant design. This condition required Loudoun Water to bring a second treatment unit on line, upsetting the process. The Facility is now operating at 100% of capacity to treat 20% of design flow.

14. On January 12, 2011, February 11, 2011 (revised August 4, 2011), March 16, 2011 (revised August 4, 2011), April 15, 2011, and August 4, 2011, based on the MRs submitted by Loudoun Water and follow-up information, the Department issued Notices of Violation to Loudoun Water for the violations described in paragraph C2 through C11, above.

15. Based on the results of the MRs submitted by Loudoun Water, the Board concludes that Loudoun Water has violated Permit condition I.A.1, 9 VAC 25-740-70(A)(1)(e), 9 VAC 25-740-70(A)(1)(f), 9 VAC 25-740-70.B, and 9 VAC 25-32-30 as described in paragraph C(2) through C(13), above.

16. In order for Loudoun Water to complete its return to compliance, DEQ staff and representatives of Loudoun Water have agreed to the Schedule of Compliance, which is incorporated as 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 Loudoun Water, and Loudoun Water agrees to:

1. Perform the actions described in Appendix A of this Order; and

2. Pay a civil charge of $5,200.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Loudoun Water shall include its Federal Employer Identification Number with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF).

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Loudoun Water for good cause shown by Loudoun Water, 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, Loudoun Water admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.

4. Loudoun Water consents to venue in the Circuit Court of the County of Loudoun for any civil action taken to enforce the terms of this Order.

5. Loudoun Water 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 Loudoun Water 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. Loudoun Water 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 circumstances beyond its control and not due to a lack of good faith or diligence on its part. Loudoun Water shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Loudoun Water 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 the parties intend 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 and any 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 Loudoun Water. Nevertheless, Loudoun Water 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 Loudoun Water has completed all of the requirements of the Order;

b. Loudoun Water 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 Loudoun Water.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Loudoun Water 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 Loudoun Water 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 Loudoun Water 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 Loudoun Water to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Loudoun Water.

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, Loudoun Water voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 14th day of December, 2011.

Thomas A. Faha

Thomas A. Faha, Regional Director
Department of Environmental Quality

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Loudoun County Sanitation Authority voluntarily agrees to the issuance of this Order.

Date: Oct 17, 2011 By: Dale C Hammas, General Manager
(Person) (Title)
Loudoun County Sanitation Authority

Commonwealth of Virginia
City/County of Loudoun

The foregoing document was signed and acknowledged before me this 17th day of October, 2011, by Dale Hammas who is General Manager of Loudoun County Sanitation Authority on behalf of the Authority.

Denise Reyes
Notary Public

7350700
Registration No.

My commission expires: _____

Notary seal:

DENISE REYES COMMONWEALTH OF VIRGINIA NOTARY PUBLIC

Denise Reyes
NOTARY PUBLIC
Commonwealth of Virginia
Reg. #7350700
My Commission Expires
November 30, 2014

APPENDIX A
SCHEDULE OF COMPLIANCE

Loudoun County Sanitation Authority shall:

1. Submit by October 18, 2011, to DEQ for its review and approval, a plan and schedule for the installation of control measures to enhance treatment at the Facility in the interim until the long term solution is established. Upon approval, this plan and schedule shall become an enforceable part of the Order.

2. Submit by October 31, 2011, a plan and schedule setting forth a long term solution for achieving consistent compliance with CBOD and Turbidity permit limits. Upon approval, said plan and schedule shall become an enforceable part of the Order.

3. Beginning with the first quarter of 2012, Loudoun Water shall provide project progress reports to DEQ. The reports shall be due by the 10th of the month following the end of the quarter. The first quarterly report shall be due on April 10, 2012.

   Unless otherwise specified in this Order, Loudoun County Sanitation Authority shall submit all requirements of Appendix A of this Order to:

   Virginia Department of Environment Quality
   Northern Regional Office
   Attention: Enforcement
   13901 Crown Court
   Woodbridge, VA 22193