COMMONWEALTH of VIRGINIA

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

Douglas W. Domenech
Secretary of Natural Resources

David K. Paylor
Director

STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
PRESIDENTIAL SERVICE COMPANY, TIER II, 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 the Presidential Service Company, Tier II, Inc., regarding the Presidential Lakes, Section 14 – Wastewater Treatment Plant, 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. "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. "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.

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

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

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

7. "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.

8. "DMR" means Discharge Monitoring Report.

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

10. "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.

11. "MGD" means million gallons per day.

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

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

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

15. "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.

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

17. "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.

18. "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.

19. "Presidential Service" or "Presidential Service Company" 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.

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

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

22. "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.

23. "TSS" means Total Suspended Solids.

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

25. "VAC" means the Virginia Administrative Code.

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

27. "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. Presidential Service owns the Plant in King George County, Virginia. The Plant is operated by Dabney & Crooks, Incorporated. The Permit authorizes Presidential Service to discharge 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 December 20, 2010, Presidential Service failed to submit to DEQ a revised O&M Manual as required by Part I, Page 4, Section C.2 of the Permit. The Manual was received by DEQ on May 6, 2011.

4. In submitting its DMRs, Presidential Service reported that it exceeded discharge limitations contained in Part I, Section A, Number 1, Page 1of the Permit, for Ammonia as N for the October 2010, January 2011, March 2011, April 2011, June 2011, July 2011, August 2011, September 2011, November 2011, January 2012, February 2012, March 2012, and April 2012 monitoring periods; TSS for the December 2011 and March 2012 monitoring periods; and Total Residual Chlorine for the March 2012 monitoring period.

5. Warning Letters and Notices of Violation were issued for the violations referenced in paragraph 3 and 4 above.

6. Presidential Service has stated in the DMR submittals that the effluent exceedances are due to the Plant operating at greater than or equal to 95% design flow.

7. On December 7, 2011, Representatives of Presidential Service and DEQ met to discuss the violations at the WWTP.

8. 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."

9. 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.

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

11. The Department has issued no individual permits or certificates to Presidential Service other than VPDES Permit No. VA0086720. The Board has issued coverage to Presidential Service under the General Permit for Nitrogen and Phosphorus Discharges to the Chesapeake Bay. That coverage does not authorize the effluent limit exceedances discussed above."

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 DMRs and submitted documents, the Board concludes that Presidential Service 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 paragraphs C(3) and C(4) above.

14. In order for Presidential Service to complete its return to compliance, DEQ staff and representatives of Presidential Service 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 the Presidential Service Company, Tier II, Inc., and Presidential Service Company, Tier II, Inc. agrees to:

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

2. Pay a civil charge of $2,520.00 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

Presidential Service Company, Tier II, Inc. shall include its Federal Employer Identification Number (FEIN) 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 the Presidential Service Company, Tier II, Inc. for good cause shown by the Presidential Service

Company, Tier II, Inc., 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, Presidential Service Company, Tier II, Inc. admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.

4. Presidential Service Company, Tier II, Inc. 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. Presidential Service Company, Tier II, Inc. 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 the Presidential Service Company, Tier II, Inc. 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. Presidential Service Company, Tier II, Inc. 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 occurrence. Presidential Service Company, Tier II, Inc. shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Presidential Service Company, Tier II, Inc. 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 Presidential Service Company, Tier II, Inc. 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 Presidential Service Company, Tier II, Inc.. Nevertheless, Presidential Service Company, Tier II, Inc. 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 Presidential Service Company, Tier II, Inc. has completed all of the requirements of the Order;

    b. Presidential Service Company, Tier II, Inc. 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 Presidential Service Company, Tier II, Inc..

    Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Presidential Service Company, Tier II, Inc. 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 Presidential Service Company, Tier II, Inc. 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 Presidential Service Company, Tier II, Inc. 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 Presidential Service Company, Tier II, Inc. to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Presidential Service Company, Tier II, Inc..

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, Presidential Service Company, Tier II, Inc. agrees to the issuance of this Order.

And it is so ORDERED this _____ day of _____, 2012.

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

Presidential Service Company, Tier ~~II, Inc.~~ voluntarily agrees to the issuance of this Order.

Date: 7/13/12 By: John J Hall, President
(Person) (Title)
Presidential Service Company, Tier II, Inc.

Commonwealth of Virginia
City/County of Fairfax

The foregoing document was signed and acknowledged before me this 13 day of July, 2012, by John J Hall who is President of Presidential Service Company, Tier II, Inc., on behalf of the Corporation.

Gregory Pueppka
Notary Public

324489
Registration No.

My commission expires: 12-31-2014

Notary seal:

GREGORY PUEPPKA
Notary Public
Commonwealth of Virginia
324489
My Commission Expires Dec. 31, 2014

APPENDIX A
SCHEDULE OF COMPLIANCE

Presidential Service Company, Tier II, Inc. shall:

1. Within 30 days of the effective date of this Order submit to DEQ for review and approval, a plan and schedule with a completion deadline of no later than October 1, 2014, for the upgrade/expansion of the Facility to 0.07 MGD as described in Presidential Service's Preliminary Engineering Report (PER) submitted to DEQ on April 6, 2012. Said upgrade/expansion having, as Presidential Service asserts, been designed to that ensure all permit effluent limits and requirements, to specifically include the ammonia final effluent limits, set forth in the Permit are consistently met.

2. The schedule shall include the submission of monthly progress reports due on the 10th of each month beginning with the first month after the approval of the schedule by DEQ, until the completion of the upgrade/expansion of the Facility. Upon DEQ approval said plan and schedule shall become a part of and enforceable under the terms of this Order.

3. 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, Presidential Service Company, Tier II, 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 October 1, 2014, Presidential Service Company, Tier II, 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