TRUE COPY OF SIGNED ORDER

COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
VALLEY REGIONAL OFFICE
4411 Early Road, P.O. Box 3000, Harrisonburg, Virginia 22801
(540) 574-7800 Fax (540) 574-7878
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Molly Joseph Ward
Secretary of Natural Resources

David K. Paylor
Director

Amy Thatcher Owens
Regional Director

STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
AQUA VIRGINIA, INC. – LAKE HOLIDAY WWTP
VPDES Permit No. VA0027642

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 Virginia, Inc., regarding the Facility, for the purpose of resolving certain violations of the State Water Control Law and the Permit and the 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. "Aqua" or "Company" means Aqua Virginia, Inc., a corporation authorized to do business in Virginia, and its affiliates, partners, and subsidiaries. Aqua is a "person" within the meaning of Va. Code § 62.1-44.3.

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" means the wastewater treatment plant located at 231 S. Lakeview Drive, Cross Junction, Virginia, that treats and discharges treated sewage and other municipal wasters for the residents of the Lake Holiday residential development.

11. "I&I" means inflow and infiltration.

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

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

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. VA0027642, which was issued under the State Water Control Law and the Regulation to Aqua Virginia, Inc. which became effective on September 1, 2013 and which expires on August 31, 2018.

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

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

20. "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.

21. "TKN" means total kjeldahl nitrogen.

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

23. "VAC" means the Virginia Administrative Code.

24. "VPDES" means the Virginia Pollutant Discharge Elimination System.

25. "VRO" means the Valley Regional Office of DEQ, located in Harrisonburg, Virginia.

SECTION C: The Board's Findings of Facts and Conclusions of Law

1. Aqua owns and operates the Facility serving the Lake Holiday Estates residential development with a population of 2135. The Facility has a design average flow capacity of 0.24 MGD. The Permit authorizes Aqua to discharge treated wastewater from the Facility to an unnamed tributary to Isaacs Creek from Outfall 001, in strict compliance with the terms and conditions of the Permit.

2. Isaacs Creek and Lake Holiday are located in the Potomac River subbasin and the Potomac River Basin. Isaacs Creek is listed as Tier 1 waters. Isaacs Creek and Lake Holiday are not listed in DEQ's 305(b) report as impaired.

3. On October 29, 2013, DEQ received a pollution complaint reporting ongoing overflows from Pump Station No. 4, non-functioning pump stations and grinder pumps, and inadequate maintenance of the pump stations in the collection system serving the Facility.

4. On October 30, 2013, DEQ staff conducted an investigation of the complaint regarding overflowing pump stations. DEQ staff observed Pump Station No. 4 actively overflowing into Lake Holiday and the pump station's visual and audio alarms were active. The investigation showed that Pump Station No. 4 had been overflowing for an extended period of time. DEQ staff observed a turbid plume of wastewater extending >50 meters into Lake Holiday from the point where overflow from the Pump Station entered the Lake. Staff took samples at the Pump Station and in Lake Holiday.

   The sampling results were as follows:

   Sewage:
   - Ammonia-N 32.4 mg/L
   - TKN 45.2 mg/L
   - Total Phosphorus 6.4 mg/L

   Lake:
   - Ammonia-N 0.04 mg/L
   - TKN 0.3 mg/L
   - Total Phosphorus 0.1 mg/L

   The Lake samples were considered slightly elevated from natural waters.

   In addition, DEQ staff observed that a homeowner's grinder pump serving 219 Lakeview Drive had malfunctioned and overflowed into Lake Holiday.

   During the investigation, DEQ made multiple visits to the Facility in attempts to contact the Aqua operator(s) to appraise Aqua of the overflowing pump station. DEQ staff contacted Aqua through its emergency telephone number and reported the overflows.

5. On October 31, 2013, Aqua reported that there had been an overflow of approximately 100 to 300 gallons from Pump Station No. 4 on October 11, 2013 which was not originally reported to DEQ. There was no indication that this overflow reached state waters. Aqua indicated that it was investigating its records to determine why the unauthorized discharge(s) was not properly reported to DEQ.

6. On November 1, 2013, Aqua reported information regarding its investigation of the events that lead to an overflow from Pump Station No. 4 on October 11, 2013, which was not reported to DEQ. Aqua indicated that the overflow resulted from the power supply being purposely turned off by a terminated operator and that the failure to report was attributed to operator error. Aqua indicated it took corrective actions to address both the pump station problems and the operators' failure to report.

7. On November 12, 2013, DEQ VRO issued Notice of Violation No. W2013-11-V-0001 to Aqua for unauthorized discharges of untreated sewage to State waters, failure to report unauthorized discharges and apparent inadequate pump station maintenance.

8. By letter dated November 21, 2013, Aqua responded to the NOV and its individual citations. Aqua attributed the failure to report to DEQ the October 2013 pump station overflows to its staff failing to apprise their supervisor of the events and so management was not aware of the situation until reported by DEQ. Aqua indicated that the failure to report is counter to its policy and it took disciplinary actions and provided additional training in properly reporting events.

9. On December 4, 2013, DEQ staff met with representatives of Aqua to discuss the NOV and the Facility's compliance issues, the problems that led to the violations and corrective actions needed to address the violations. During those discussions, Aqua laid out the corrective actions taken to address violations including its mechanism for tracking pump station problems.

10. By letter dated January 3, 2014, Aqua provided DEQ with additional information on its corrective actions as a follow-up to the December 4, 2013, meeting. The January 3, 2014, letter contained Aqua's standard operating procedures for neutralizing sanitary sewer overflows and for reporting sanitary sewer overflows. The letter also contained a revised letter of explanation regarding the October 2013 overflows; a list of inventory parts kept on site for the pump stations and grinder pump repairs; an update on operating log information to be kept at the Facility; and, a list of Aqua's capital expenditures for collection system upgrades.

11. By letter dated March 7, 2014, Aqua provided DEQ with a corrective action plan and schedule to address pump station problems and I&I issues in the collection system.

12. 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."

13. 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.

14. The Permit Part II.F. also states that except in compliance with this permit, or another permit issued by the Board, it shall be unlawful for any person to discharge into state waters sewage, industrial wastes or other wastes.

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

16. The Department has issued no permits or certificates to Aqua authorizing the discharge of wastewater from the Facility other than VPDES Permit No. VA0027642.

17. Lake Holiday is a surface water located wholly within the Commonwealth and is a "state water" under State Water Control Law.

18. Based on Aqua letter(s) to DEQ, the NOV, the December 4, 2013 meeting, DEQ's inspections, and a file review, the Board concludes that Aqua has violated Va. Code § 62.1-44.5 and 9 VAC 25-31-50, by discharging wastewater to State waters while concurrently failing to comply with the conditions of the Permit, as described in Section C above.

19. In order for Aqua to provide for compliance with the Permit, Regulation and Va. Code § 62.1-44.5, DEQ and representatives of Aqua 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 Aqua, and Aqua agrees to:

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

2. Pay a civil charge of **$5,460** 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

Aqua shall include its Federal Employer Identification Number (FEIN) (54-0991637) 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). If the Department has to refer collection of moneys due under this Order to the Department of Law, Aqua shall be liable for attorneys' fees of 30% of the amount outstanding.

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 unforeseen 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, 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 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 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 voluntarily agrees to the issuance of this Order.

And it is so ORDERED this _____ day of _____, 2014.

_____
Amy T. Owens, Regional Director
Department of Environmental Quality

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

Date: 4/16/14 By: _____, Manager of Operations
(Person) (Title)
Aqua Virginia, Inc.

Commonwealth of Virginia
City/County of Goochland

The foregoing document was signed and acknowledged before me this 16 day of April, 2014, by Tim Castillo who is

State Operations Manager of Aqua Virginia, Inc. behalf of Aqua Virginia, Inc.

_____
Notary Public

7526426
Registration No.

My commission expires: 12-31-2017

Notary seal:

LUTHER SIDNEY GHORLEY JR.
NOTARY PUBLIC
REG # 7526426
MY COMMISSION EXPIRES 12/31/2017
COMMONWEALTH OF VIRGINIA

APPENDIX A
SCHEDULE OF COMPLIANCE
AQUA VIRGINIA, INC. – LAKE HOLIDAY WWTP

GENERAL MAINTENANCE

1. Aqua shall immediately institute the Standard Operation Procedures for neutralizing contamination from sanitary sewer overflows with the addition of lime within 24 hours as described in Appendix B below.

2. Aqua shall immediately institute the Standard Operation Procedures for reporting sanitary sewer overflows within 24 hours as described in Appendix B below.

3. Aqua shall ensure that the Facility's daily operating logs/reports are present at the Facility and available for inspection by DEQ staff.

4. Aqua shall maintain an inventory of spare parts to make repairs to pump stations and grinder pumps in a timely manner.

I & I CORRECTIVE ACTIONS

5. **By April 15, 2014**, Aqua shall submit to DEQ for review and approval a corrective action plan and schedule to address the sources of I&I, especially manholes in sewer subbasins 9, 10, 11 and 12 of the collection system. Aqua shall respond to any comments on the corrective action plan and schedule **within 30 days** of receipt of written comments. Upon approval of the corrective action plan and schedule, said plan and schedule shall be incorporated by reference into this Order and become enforceable as part of this Order.

6. **By June 15, 2014**, Aqua shall submit to DEQ for review and approval a corrective action plan and schedule to address the operational and maintenance issues with each of its sewer lift stations in the collection system. Aqua shall respond to any comments on the corrective action plan and schedule **within 30 days** of receipt of written comments. Upon approval of the corrective action plan and schedule, said plan and schedule shall be incorporated by reference into this Order and become enforceable as part of this Order.

7. **By July 15, 2014**, Aqua shall submit to DEQ for review and approval the updated O&M Manual section which includes new procedures for regular pump station maintenance.

8. Aqua shall submit quarterly progress reports to DEQ, with the first report being due **July 10, 2014.** Subsequent Progress Reports will be due by **October 10, January 10, April 10, and July 10,** along with the Facility's Discharge Monitoring Report until the cancellation of this Order. The quarterly progress reports shall contain:

a. a summary of all work completed since the previous progress report in accordance with this Order;
b. a projection of the work to be completed during the upcoming quarterly period in accordance with this Order; and
c. a statement regarding any anticipated problems in complying with this Order.

9. No later than **14 days** following a completion date identified in the above schedule of compliance Aqua shall submit to DEQ's Valley Regional Office a written notice of compliance or noncompliance with the scheduled item. In the case of noncompliance, the notice shall include the cause of noncompliance and any remedial actions taken to remedy noncompliance.

10. **DEQ Contact**

Unless otherwise specified in this Order, Aqua shall submit all requirements of Appendix A of this Order to:

Tiffany Severs
Enforcement Specialist
VA DEQ –Valley Regional Office
P.O. Box 3000
Harrisonburg, VA 22801
(540) 574-7859 Phone
(540) 574-7878 Fax
Tiffany.severs@deq.virginia.gov

APPENDIX B

Standard Operating Procedure for the Addition of Lime on Sanitary Sewer Overflows

- In the event of a sanitary sewer overflow Aqua Virginia will evenly distribute a layer of lime to adequately cover any wetted areas caused by the sewer overflow.
- All trash and loose debris found within the contaminated area will be collected to be discarded in the proper receptacle for disposal.
- An inventory of lime is to be kept at the Facility to assure prompt response and treatment of contaminated area.

APPENDIX C

Standard Operating Procedure for Reporting Sanitary Sewer Overflows

In the event of discovering a sanitary sewer overflow of Aqua owned sewer system, Aqua Virginia will:

1. The technician discovering SSO will immediately notify his/her immediate supervisor of the issue.
2. Notify the appropriate DEQ Regional office (but no case will this notification be later than 24 hrs of observed SSO)
3. Notify the appropriate Home Owner's Association of said SSO.
4. Apply lime and pick up debris in accordance with SOP.
5. Submit a five day report to appropriate DEQ Regional office describing the overflow event and corrective action/s taken.

In the event of discovering a sanitary sewer overflow of a Customer owned sewer system, i.e. Grinder Pump unit, service lateral, Aqua Virginia on *behalf of the homeowner* will:

1. The technician discovering SSO will immediately notify his/her immediate supervisor of the issue.
2. Notify the homeowner of their responsibility for corrective action required.
3. Notify the appropriate DEQ Regional office (but no case will this notification be later than 24 hrs of observed SSO)
4. Notify the appropriate Home Owner's Association of said SSO.
5. Notify the appropriate local Virginia Department of Health office of said SSO.
6. Apply lime and pick up debris in accordance with SOP