



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ENVIRONMENTAL QUALITY

NORTHERN VIRGINIA REGIONAL OFFICE  
13901 Crown Court, Woodbridge, Virginia 22193  
(703) 583-3800 Fax (703) 583-3801  
www.deq.virginia.gov

L. Preston Bryant, Jr.  
Secretary of Natural Resources

David K. Paylor  
Director

Jeffery A. Steers  
Regional Director

### STATE WATER CONTROL BOARD ENFORCEMENT ACTION AMENDMENT TO SPECIAL ORDER BY CONSENT

#### ISSUED TO

**AQUA UTILITIES, INC. AND LAND 'OR UTILITY COMPANY, INC.**

#### FOR THE

**LAND 'OR UTILITY COMPANY, INC. SEWAGE TREATMENT PLANT  
(VPDES Permit No. VA0060887)**

#### SECTION A: Purpose

This is an Amendment to a Consent Special Order issued under the authority of Va. Code § 62.1-44.15(8a) and (8d) and 10.1-1185 between the State Water Control Board and Aqua Utilities, Inc. on June 21, 2004, regarding the Land 'Or Utility Company, Inc. Sewage Treatment Plant, for the purpose of revising certain provisions of that Consent Special Order.

#### SECTION B: Basis for Amendment

1. On July 31, 2003, Aqua America ("Aqua America") acquired the stock of, among other companies, Aqua Utilities, Inc. ("Aqua Utilities"). Aqua Utilities is a wholly-owned subsidiary of Aqua America and is the sole shareholder of Land 'Or Utility Company, Inc. ("Land 'Or"). Land 'Or is the owner and current permit holder for the Land 'Or Utility Company, Inc. Sewage Treatment Plant ("STP"). The STP discharges wastewater to an unnamed tributary of the South River in the York River Basin. Discharges are the subject of VPDES Permit No. VA0060887 ("Permit"), which was issued on December 20, 2001 and expires on December 20, 2006.
2. The Board has evidence to indicate that Land 'Or violated Va. Code § 62.1-44.31 by violating an Order of the Board to complete construction of an expansion of the STP in a timely manner. The Board also has evidence to indicate that Land 'Or violated VPDES Permit Regulation, 9 VAC 25-31-50.A and the Permit as follows: (1) by submitting semi-annual progress reports late; (2) by exceeding Permit effluent limits for Total Kjeldahl Nitrogen ("TKN"), Total

Suspended Solids ("TSS"), Biochemical Oxygen Demand ("BOD"), Carbonaceous Biochemical Oxygen Demand ("CBOD"), Total Recoverable Zinc ("Zinc"), and Total Recoverable Copper ("Copper"); (3) by submitting the December 2004 and April 2005 Discharge Monitoring Report (DMR) late; and (4) failing to monitor monthly for Total Phosphorus and Nitrogen. DEQ NVRO issued four Warning Letters (WL) and nine Notices of Violation (NOV) to Land 'Or for the above-referenced violations as follows: WL No. W2005-02-N-1022 issued February 11, 2005; WL No. W2005-03-N-1003 issued March 7, 2005; WL No. W2005-04-N-1005 issued April 12, 2005; WL No. W2005-09-N-1013 issued September 12, 2005; NOV No. W2004-07-N-0015 issued August 4, 2004; NOV No. W2004-09-N-0014 issued October 8, 2004; NOV No. W2005-05-N-0004 issued May 16, 2005; NOV No. W2005-06-N-0004 issued June 13, 2005; NOV No. W2005-07-N-0013 issued July 6, 2005; NOV No. W2005-11-N-0005 issued November 10, 2005; NOV No. W2006-03-N-0007 issued March 10, 2006; NOV No. W2006-03-N-0013 issued April 5, 2006; and NOV No. W2006-05-N-0004 issued May 10, 2006.

3. A Consent Special Order was issued to Aqua Utilities, as corporate parent of Land 'Or, on June 21, 2004 ("2004 Order") for exceedences of Permit effluent limits for TKN, TSS, Ammonia as Nitrogen ("Ammonia"), and BOD. The violations that led to the 2004 Order occurred because the STP was not designed to treat for TKN and Ammonia removal or reduction. Appendix A of the 2004 Order is a construction plan and schedule that was developed by Land 'Or to replace the antiquated STP with a new, expanded facility in a timely fashion to ensure consistent compliance with present and future Permit requirements.
4. Land 'Or completed various improvements to the collection system and the STP to improve performance and reliability, including inflow and infiltration reduction, improvements to the filtration system, electrical systems, generators, chemical feed systems, electrical systems, and flow measurement while options were being explored to replace or eliminate the STP.
5. As a result of the uncertainty surrounding certain proposed regulatory changes, Land 'Or delayed final design and construction on the expanded facility.
6. On November 7, 2005, a meeting was held with DEQ and Land 'Or representatives to discuss the 2004 Order and reasons why Land 'Or was not able to meet the construction completion deadline. Land 'Or explained that during the design and planning stage for the expanded STP that the Board's recently adopted nutrient regulations were developed for the York River Basin (9 VAC 25-720-120). Since the STP discharges into the York River Basin the nutrient regulations govern what nutrient loadings Land 'Or can discharge. Compared with the original design and cost estimates, the cost to build a new, expanded facility with nutrient reduction capabilities would be significantly higher than previously anticipated. Land 'Or evaluated the estimated costs and determined that a new plant was no longer financially feasible.
7. To address the continuing deficiencies at the STP Land 'Or proposed to send all sanitary sewer flows from the Land 'Or community to Caroline County Wastewater Treatment Plant ("Caroline County WWTP") and take the existing STP offline.

8. A meeting to discuss the interconnect ("I/C") project with Caroline County WWTP was held on December 29, 2005 with DEQ, Caroline County, and Land 'Or representatives in attendance. Both permittees agreed that if the nutrient loadings for the STP could be exchanged between them then it would be beneficial to have the STP go offline and send all sewer flows to Caroline County WWTP. On February 10, 2006, DEQ, relying on the current draft of the nutrient trading regulation, sent both permittees an estimate of what they could expect in terms of nutrient loading exchange if the regulation becomes final.
9. Land 'Or developed and submitted to DEQ on April 25, 2006 a construction plan and schedule for the I/C project, which is incorporated into Appendix A of this Amended Order. Land 'Or asserts that it will make its best efforts to execute an agreement with Caroline County to finalize the details of the I/C project by August 2006.
10. Based upon the anticipated agreement with Caroline County, Appendix A of this Amendment requires Land 'Or to complete the I/C project and send all sanitary sewer flows to Caroline County WWTP. Furthermore, Land 'Or must close the STP within the timeframe stipulated in Appendix A and in accordance with the approved closure plan.
11. Therefore, the State Water Control Board and Land 'Or agree that it is appropriate to amend the 2004 Order as described below.

### **SECTION C: Agreement and Order**

Accordingly, the Board, by virtue of the authority granted it in Va. Code §§ 62.1-44.15(8a) and (8d) and 10.1-1185, orders Aqua Utilities, Inc. and Land 'Or Utility Company, Inc., and Aqua Utilities, Inc. and Land 'Or Utility Company, Inc. voluntarily agrees that:

1. Land 'Or Utility Company, Inc. shall perform the actions described in Appendix A and B of this Amended Order, which only supersedes and cancels Appendix A and B of the 2004 Order. Both the State Water Control Board and Land 'Or Utility Company, Inc. understand and agree that this Amendment does not alter, modify, or amend any other provision of the Order and that unmodified provisions of the Order remain in effect by their own terms.
2. Land 'Or Utility Company, Inc. shall pay a civil charge of \$7,900 within 30 days of the effective date of this Amendment in settlement of the violations cited in this Amendment. Payment shall be made by check payable to the "Treasurer of Virginia", delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 10150  
Richmond, Virginia 23240

Consent Special Order Amendment  
Land 'Or, Inc.  
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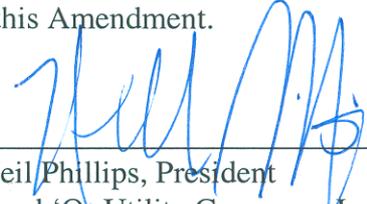
Either in the transmittal letter or as a notation on the check, Land 'Or Utility Company, Inc. shall indicate that this payment is submitted pursuant to this Amendment and shall include the Federal Identification Number for Land 'Or Utility Company, Inc.

And it is so ORDERED this day of September 11<sup>th</sup>, 2006.

  
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Jeffery A. Steers, Regional Director  
Northern Virginia Regional Office  
Department of Environmental Quality

Land 'Or Utility Company, Inc. voluntarily agrees to the issuance of this Amendment.



By:   
Neil Phillips, President  
Land 'Or Utility Company, Inc.

Date: \_\_\_\_\_

Commonwealth of ~~Virginia~~ North Carolina  
City/County of Wake

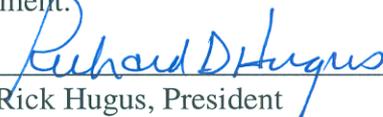
The foregoing document was signed and acknowledged before me this 12<sup>TH</sup> day of July, 2006, by Neil Phillips, who is the President of Land 'Or Utility Company, Inc., on behalf of Land 'Or Utility Company, Inc.

A. Artis Harvey  
Notary Public

My commission expires: August 22, 2009

Aqua Utilities, Inc. voluntarily agrees to the issuance of this Amendment.



By:   
Rick Hugus, President  
Aqua Utilities, Inc.

Date: \_\_\_\_\_

Commonwealth of ~~Virginia~~ North Carolina  
City/County of Wake

The foregoing document was signed and acknowledged before me this 12<sup>TH</sup> day of July, 2006, by Rick Hugus, who is the President of Aqua Utilities, Inc., on behalf of Aqua Utilities, Inc.

A. Artis Harvey  
Notary Public

My commission expires: August 22, 2009

**APPENDIX A  
SCHEDULE OF COMPLIANCE**

Land 'Or shall:

1. By no later than August 1, 2006, submit to DEQ a Preliminary Engineering Report (PER), for review and approval, to construct an interconnect between the STP and Caroline County WWTP. Land 'Or shall expeditiously respond to any comments on the PER and shall respond within thirty (30) days of receipt of written comments.
2. Within 30 days of PER approval, submit plans and specifications to DEQ, for review and approval, for the interconnect project. Land 'Or shall expeditiously address any comments from DEQ and shall respond to any comments from DEQ within 30 days of receipt of written comments.
3. By no later than December 1, 2006, submit to DEQ for review and approval, a closure plan for the STP. Land 'Or shall expeditiously address any comments from DEQ and shall respond to any comments from DEQ within 30 days of receipt of written comments.
4. By January 1, 2007 or within sixty (60) days of approval by DEQ of the plans and specification, whichever is later, commence construction of the interconnect project in accordance with the approved plans and specifications.
5. By November 30, 2007 or within 9-months from commencement of the construction of the interconnect project, whichever is later, complete construction and obtain a Certificate to Operate (CTO). Within 15 days of the receipt of the CTO, Land 'Or shall cease discharging from the STP.
6. By May 31, 2008 or within 6-months from obtaining a CTO, whichever is later, close the STP in accordance with the approved closure plan. Within 30 days of the closure of the STP, Land 'Or shall submit a closure report to DEQ.
7. Submit quarterly construction project progress reports to NVRO with the Discharge Monitoring Report (DMR) submission and continue to operate the STP in accordance with the O&M manual and the Sludge Management Plan (SMP) in order to ensure that the STP produces the best quality effluent of which it is capable, and in order to minimize any additional exceedences of Permit effluent limits and impacts to water quality that may occur prior to the STP going offline. Land 'Or shall submit its first progress report by October 15, 2006.

## APPENDIX B

### INTERIM EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

During the period beginning with the effective date of this Amended Order and lasting until the interconnect project is complete and the STP is taken offline in accordance with the schedule provided in Appendix A of this Amended Order, Land 'Or shall monitor and limit the discharge from outfall 001 at the Facility in accordance with the VPDES Permit No. VA0060887, except as specified below. These interim limits shall retroactively apply, if applicable, as of the first day of the month in which this Amended Order becomes effective. These requirements shall be construed in light of the Board's Permit Regulation.

PARAMETER	DISCHARGE LIMITATIONS			MONITORING REQUIREMENTS		
	Monthly Average	Weekly Average	Minimum	Maximum	Frequency	Sample Type
BOD <sub>5</sub>	10.0 mg/l	N/L	N/A	N/A	1/W	4H-C
TSS	30.0 mg/l	N/L	N/A	N/A	1/W	4H-C
TKN (Mar-Oct)	6.0 mg/l	N/L	N/A	N/A	1/W	4H-C
Ammonia as Nitrogen (Nov-Feb)	2.2 mg/l	N/L	N/A	N/A	1/W	4H-C
DO	N/A	N/A	5.0mg/l	N/A	1/Day	Grab
Copper, Total Recoverable	NL	NL	N/A	N/A	1/M	Grab
Zinc, Total Recoverable	NL	NL	N/A	N/A	1/M	Grab
Nickel, Total Recoverable	NL	NL	N/A	N/A	1/M	Grab

N/A = Not Applicable

1/W = Once per week

1/M = Once per month

1/Day = Once per day

4H-C = A flow proportional composite sample collected manually or automatically, and discretely or continuously, for the entire discharge of the monitored 4-hour period.

Grab = An individual sample collected over a period of time not to exceed 15-minutes

N/L = No Limit