



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

www.deq.virginia.gov

Travis A. Voyles
Acting Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director

**VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
AQUA VIRGINIA, INC.
FOR
LAKE MONTICELLO WWTP
VPDES Permit No. VA0024945**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15, between the Virginia Department of Environmental Quality and Aqua Virginia, Inc. regarding the Lake Monticello WWTP for the purpose of resolving certain violations of the State Water Control Law and the applicable permit and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the terms in this Consent Order have the meaning assigned to them in Va. Code § 62.1-44.2 *et seq.*, the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation at 9 VAC 25-31-10, and VPDES Permit VA0024945.

SECTION C: Findings of Fact and Conclusions of Law

1. Aqua Virginia, Inc. (Aqua) is a business entity authorized to do business in Virginia and references to Aqua Virginia, Inc. include its affiliates, partners, and subsidiaries. Aqua is a "person" within the meaning of Va. Code § 62.1-44.3.
2. Aqua owns and operates the Lake Monticello minor municipal (less than 1 million gallons per day design flow) Wastewater Treatment Plant (WWTP) located on 3086 South Boston Road, Palmyra, VA 22963 [Fluvanna County], which treats and discharges treated sewage from the residential community of Lake Monticello, as well as some commercial activities and residences outside of the community.
3. Virginia Pollutant Discharge Elimination System (VPDES) Permit No. VA0024945 (Permit) was issued under the State Control Law and VPDES Permit Regulations to Aqua on October 1, 2023 and expires on September 30, 2028. The Permit allows Aqua to discharge treated sewage from the Lake Monticello WWTP Outfall 001 to the Rivanna River, James (Middle) River Basin in strict compliance with the terms and conditions of

the Permit.

4. Rivanna River is located in the James (Middle) River Basin. Rivanna River is not listed in the DEQ's 305(b) report as impaired.
5. On April 10, 2023, Aqua reported an unauthorized discharge of sewage, approximately 8,000 gallons, to an intermittent stream that leads to the Rivanna River due to a break in a 6-inch force main. DEQ staff observed accumulated sewage solids in the intermittent stream downstream of the discharge, as well as twelve dead fish, a dead salamander, and multiple dead macroinvertebrates.
6. On June 30, 2023, DEQ issued Notice of Violation (NOV) No. W2023-05-V-0001 to Aqua regarding the unauthorized discharge on April 10, 2023.
7. On July 14, 2023, Aqua reported an unauthorized discharge of sewage, approximately 500 gallons, to Lake Monticello from a manhole due to rags clogging the system which also disrupted the alarm system.
8. On August 7, 2023, Aqua reported an unauthorized discharge of sewage, approximately 250 gallons, to Lake Monticello from a manhole due to rags clogging the collection system.
9. On August 18, 2023, DEQ issued NOV No. W2023-08-V-0001 to Aqua regarding the unauthorized discharges on July 14, 2023 and August 7, 2023.
10. On August 27, 2023, Aqua reported an unauthorized discharge of sewage, approximately 250 gallons, to Lake Monticello due to heavy rags, trash, and grease creating a blockage in a lift station, preventing adequate flow through the WWTP collection system.
11. On September 13, 2023, DEQ issued NOV No. W2023-09-0001 to Aqua regarding the unauthorized discharge on August 27, 2023.
12. On October 18-19, 2023, Aqua reported an unauthorized discharge of sewage, approximately 4,000 gallons, to an unnamed tributary to the Rivanna River from a manhole due to heavy grease creating a blockage in the sewer main, preventing adequate flow through the collection system.
13. On November 12, 2023, Aqua reported an unauthorized discharge of sewage, approximately 200 gallons, to Lake Monticello from a manhole due to a power failure at the lift station allowing wastewater to accumulate in the collection system and overflowing the manhole.
14. On January 4, 2024, DEQ issued NOV No. W2024-01-V-0001 to Aqua regarding the unauthorized discharges on October 18-19, 2023 and November 12, 2023.

15. On January 12, 2024, Aqua reported an unauthorized discharge of sewage, approximately 150 gallons, to Lake Monticello due to heavy rags and grease creating a blockage in a lift station, preventing adequate flow through the collection system.
16. On March 3, 2024, Aqua reported an unauthorized discharge of sewage, approximately 300 gallons, to Lake Monticello from a manhole due to pump station floats failure allowing wastewater to accumulate in the wet well and overflow the pump access location.
17. On March 7, 2024, Aqua submitted the WWTP Discharge Monitoring Report (DMR) for the February 1 – 29, 2024 monitoring period. The DMR reported a concentration average Escherichia coli (E. Coli) sampling result of “>105” number of colony-forming units per 100 milliliters (N/CML) sample. The Permit E. coli limit is 126 N/CML. “>105” did not demonstrate compliance with the E. coli concentration average permit limit.
18. On April 2, 2024, Aqua reported an unauthorized discharge of sewage, approximately 100 gallons, to Lake Monticello from a manhole due to Lake Monticello pool staff pumping pool water into the collection system, causing an overflow.
19. Va. Code § 62.1-44.5, 9VAC25-31-50(A), and Part II.F. of the Permit provide that except in compliance with a certificate issued by the Department, it shall be unlawful for any person to discharge into state waters sewage, industrial waste, other wastes, or any noxious or deleterious substances.
20. Part I.A.1 of the Permit provides limitations and monitoring requirements for the WWTP discharge from Outfall 001.
21. Part I.A.3 of the Permit provides that there shall be no discharge of floating solids or visible foam in other than trace amounts.
22. Part II.Q of the Permit provides that at all times the permittee shall at all times properly operate and maintain all facilities and systems of treatment and control which are installed or used by the permittee to achieve compliance with conditions of the Permit.
23. The Regulation, at 9 VAC 25-31-50, also states that except in compliance with a VPDES permit, or another permit, it is unlawful to discharge into state waters sewage, industrial wastes, or other wastes.
24. Va. Code § 62.1-44.15(5a) states that a VPDES permit is a “certificate” under the statute.
25. The Department has issued no permits or certificates to Aqua Virginia, Inc. other than VPDES Permit No. VA0024945.
26. The Rivanna River is a surface water located wholly within the Commonwealth and is a “state water” under State Control Law.

27. Based on the reported sewage overflows on April 10, 2023, July 14, 2023, August 7, 2023, August 27, 2023, October 18-19, 2023, November 12, 2023, January 12, 2024, March 3, 2024, and April 2, 2024, and the DMR E. coli result on the DMR for February 2024, the Department concludes that Aqua Virginia, Inc. has violated the Permit, Va. Code § 62.1-44.5, and 9 VAC 25-31-50(A) by discharging treated sewage wastes from the WWTP while concurrently failing to comply with the conditions of the Permit, as described in paragraph C5 – C18, above.
28. DEQ and Aqua have met several times regarding the NOVs, sewage overflows, and corrective actions taken. According to Aqua, Aqua has taken significant actions including collection system improvements, customer education and requirements to reduce collection system disruptions and overflows. There were no reported overflows that reached state waters or DMR deficiencies from April 2024 to August 2024.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 62.1-44.15, the Department orders Aqua Virginia, Inc. and Aqua Virginia, Inc. agrees to pay a civil charge of \$30,148 within 30 days of the effective date of this Order in settlement of violations cited in this Order.

Payment shall be made by credit card at www.deq.virginia.gov, or 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 Virginia, Inc. 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 Virginia, Inc. shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Department may modify, rewrite, or amend this Order with the consent of Aqua Virginia, Inc. for good cause shown by Aqua Virginia, 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 and in NOV No. W2023-05-V-0001 dated June 30, 2023, NOV No. W2023-08-V-0001 dated August 18, 2023, NOV No. W2023-09-0001 dated September 13, 2023, and NOV No. W2024-01-V-0001 dated January 4, 2024. This Order shall not

preclude the Department 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 Virginia, Inc. admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Aqua Virginia, 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. Aqua Virginia, 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 Department to modify, rewrite, amend, or enforce this Order.
6. Failure by Aqua Virginia, Inc. to comply with any of the terms of this Order shall constitute a violation of an order of the Department. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Department 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 Virginia, 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 unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Aqua Virginia, Inc. shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Aqua Virginia, 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 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 Aqua Virginia, Inc. Nevertheless, Aqua Virginia, 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 Aqua Virginia, Inc. has completed all of the requirements of the Order;
 - b. Aqua Virginia, 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 Department terminates the Order in his or its sole discretion upon 30 days' written notice to Aqua Virginia, Inc.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Aqua Virginia, 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 Aqua Virginia, 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 Aqua Virginia, 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 Aqua Virginia, Inc. to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Aqua Virginia, 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, Aqua Virginia, Inc. voluntarily agrees to the issuance of this Order.

And it is so ORDERED this _____ day of _____, 2024.

Craig Nicol, Regional Director
Department of Environmental Quality

-----Remainder of page intentionally blank-----

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

Date: 9/13/2024 By: Devon Scallan, Environmental Compliance Manager
(Person) (Title)
Aqua Virginia, Inc.

Commonwealth of Virginia
City/County of Richmond

The foregoing document was signed and acknowledged before me this 13th day of
September 2024, by Devon Scallan who is Environmental Compliance Manager of Aqua
Virginia, Inc. on behalf of the corporation.

Virginia Daniel Stewart
Notary Public

7529246
Registration No.

My commission expires: May 31, 2028

Notary seal:

