



GEORGIA

DEPARTMENT OF NATURAL RESOURCES

ENVIRONMENTAL PROTECTION DIVISION

Richard E. Dunn, Director

EPD Director's Office

2 Martin Luther King, Jr. Drive
Suite 1456, East Tower
Atlanta, Georgia 30334
404-656-4713

Honorable Eddie DeLoach, Mayor
City of Savannah
Post Office Box 1027
Savannah, GA 31402

RECEIVED

APR 24 2017

CITY MANAGER'S OFFICE

APR 07 2017

RECEIVED

APR 24 2017

**MAYOR'S OFFICE
CITY OF SAVANNAH**

RE: Consent Order EPD-WQ-
City of Savannah – Crossroads WPCP
NPDES Permit No. GA0038326
Chatham County

Dear Mayor DeLoach:

Please find enclosed a proposed Consent Order between the Division and the City of Savannah concerning violations of the Georgia Water Quality Control Act and the Rules for Water Quality Control.

The Division is offering an amicable disposition of these allegations in accordance with the attached proposed Order. The Order delineates the terms by which the Respondent may return to compliance. If you desire to settle the issue in this fashion please return the Order signed within fifteen (15) days of receipt of this letter to:

Environmental Protection Division

Coastal District, Brunswick Office
400 Commerce Center Drive
Brunswick, GA 31523-8251

Upon execution, a copy of the executed Order will be mailed to you, and the City of Savannah will be expected to fulfill the corrective actions listed in the Order within the time frames established.

Should you have any further questions or comments concerning this proposed Order or desire a meeting to discuss this Order, please contact Dagny Pariani or Bruce Foisy at our Brunswick office at (912) 264-7284.

Sincerely,

Richard E. Dunn
Director

Enclosure: Consent Order

cc: John Sawyer, Bureau Chief Public Works & Water Resources
Watershed Protection Branch
Coastal District WQ Files

**ENVIRONMENTAL PROTECTION DIVISION
DEPARTMENT OF NATURAL RESOURCES
STATE OF GEORGIA**

RE: City of Savannah
NPDES Permit No. GA0038326
Chatham County

EPD-WQ-

CONSENT ORDER

WHEREAS, the City of Savannah (hereinafter the "Respondent") owns and operates a Water Pollution Control Plant, NPDES Permit No. GA0038326 (hereinafter the "Facility") located at Gulfstream Rd., Savannah, Georgia; and

Authority

WHEREAS, under the "Georgia Water Quality Control Act of 1964" as amended O.C.G.A. § 12-5-20 et seq. (hereinafter the "Water Quality Act"), the General Assembly of Georgia designated the Director of the Georgia Department of Natural Resources, Environmental Protection Division, (hereinafter the "Director" and the "Division") to administer the provisions of the Water Quality Act; and

WHEREAS, the Rules for Water Quality Control, Chapter 391-3-6, as amended, (hereinafter the "Water Quality Rules") authorized under O.C.G.A. § 12-5-23 of the Water Quality Act, were established and became effective; and

WHEREAS, O.C.G.A. § 12-5-23 of the Water Quality Act, assigns the Director the authority to issue permits stipulating in each permit the conditions or limitations under which such permit was issued and the authority to issue orders as may be necessary to enforce compliance with the provisions of the Act and all rules and regulations promulgated thereunder; and

WHEREAS, Section 391-3-6-.03(5)(c) of the Water Quality Rules requires that all waters be free from material related to municipal, industrial or other discharges which

produce turbidity, color, odor or other objectionable conditions which interfere with legitimate water uses; and

WHEREAS, Section 391-3-6-.03(5)(e) of the Water Quality Rules requires that all waters be free from toxic, corrosive, acidic and caustic substances discharged from municipalities, industries or other sources, such as non-point sources, in amounts, concentrations or combinations which are harmful to humans, animals or aquatic life; and

History

WHEREAS, National Pollutant Discharge Elimination System Permit GA0038326 (hereinafter “the Permit”) was issued to the Respondent effective January 1, 2005 and extended by the Division September 12, 2013 authorizing discharge from the Facility to St. Augustine Creek, a tributary of the Savannah River; and

WHEREAS, the Permit contains operational conditions for the Respondent’s wastewater pretreatment program; and

WHEREAS, on January 3, 2017 the Respondent notified the Division via email correspondence of noncompliance with Facility Permit effluent limits in December 2016 and the efforts by Respondent’s staff to accommodate lower BOD loadings with supplemental food stock; and

WHEREAS, on January 4, 2017 the Respondent notified the Division via telephone call and email correspondence of an upset in the biological process at the Facility and process adjustments initiated to mitigate impacts to the effluent; and

WHEREAS, on January 19, 2017 the Respondent notified the Division via email correspondence of continuing compliance issues at the Facility and noncompliance with Permit effluent limits for the month of January 2017 ; and

WHEREAS, on January 27, 2017 the Division issued the Respondent a Letter of Noncompliance for the December 2016 Permit effluent limit violations at the Facility; and

WHEREAS, on February 1, 2017 the Division and the Respondent met to discuss effluent limit violations from the Facility which the Respondent alleges are caused by slug discharges from an industrial user; and

WHEREAS, on February 24, 2017 the Respondent notified the Division via email correspondence of a decline in effluent quality at the Facility and the observations noted by laboratory staff that a viscous material was present in influent samples; and

WHEREAS, on February 27, 2017 the Division issued the Respondent a Notice of Violation for the January 2017 Permit effluent limit violations at the Facility and failure to obtain appropriate remedies for noncompliance by an industrial user permitted through the Respondent's pretreatment program; and

WHEREAS, on February 28, 2017 the Respondent notified the Division via email correspondence of a dispersed growth biological condition at the Facility which was impeding floc formation in the aeration basin and decreasing settleability, and which plant staff attempted to mitigate by reducing air flow to the aeration basins; and

WHEREAS, on March 1, 2017 the Respondent notified the Division of noncompliance with Permit effluent limits for the month of February 2017, including numerical effluent Total Suspended Solids results from the Facility which met the Permit definition of a major spill from February 22-28, 2017; and

WHEREAS, on March 2, 2017 the Respondent provided to the Division copy of correspondence advising of the remedy and course of action the Respondent will take for future noncompliant discharges from the industrial discharger; and

WHEREAS, on March 7, 2017 the Respondent notified the Division via email correspondence that the addition of 50,000 gallons of seed sludge to the Facility would begin the following day; and

WHEREAS, on March 29, 2016 the Division and the Respondent met to discuss

forthcoming enforcement actions; and

Violations

WHEREAS, the Respondent violated O.C.G.A. §12-5-29(a) which requires conformance with the Act, the Water Quality Rules, and the Permit; and

WHEREAS, the Facility failed to ensure compliance with the terms and conditions of the Permit, in violation of Section 391-3-6-.06(4)(a) of the Water Quality Rules; and

WHEREAS, the Respondent has failed to obtain remedies for noncompliance by an industrial user in violation of 391-3-6-.09(9)(b) of the Rules and Part III Section A.2 of the Permit; and

WHEREAS, the Respondent exceeded discharge limits in the Permit at the Facility in December 2016 for the parameter Total Suspended Solids in violation of Part I, Section B of the Permit (“Effluent Limitations and Monitoring Requirements”); and

WHEREAS, the Respondent exceeded discharge limits in the Permit at the Facility in January 2017 for the parameters Total Suspended Solids, Carbonaceous Biochemical Oxygen Demand, and Fecal Coliform in violation of Part I Section B of the Permit (“Effluent Limitations and Monitoring Requirements”); and

WHEREAS, the Respondent incurred a major spill and exceeded discharge limits in the Permit at the Facility in February 2017 for the parameter Total Suspended Solids in violation of Part I Section B of the Permit (“Effluent Limitations and Monitoring Requirements”); and

Civil Penalties

WHEREAS, O.C.G.A. § 12-5-52 provides that any person violating any provision of the Act or any permit condition or limitation established pursuant to the Act or, negligently or intentionally, failing or refusing to comply with any final order of the Director shall be liable for a civil penalty of not more than \$50,000.00 per day for each day

during which such violation continues provided, however, that a separate and later incident creating a violation within a 12-month period shall be liable for a civil penalty not to exceed \$100,000.00 per day for each day during which such violation continues; and

Conditions

WHEREAS, the Director has determined that it is in the public interest to resolve all allegations raised above by entering into this Order without the necessity of litigation and adjudication of the issues.

NOW THEREFORE, by agreement of the parties, before the taking of any testimony and without adjudicating the merits of the parties' positions in this matter, in order to resolve the violations alleged herein, the Director hereby ORDERS and Respondent CONSENTS to the following:

1. Within thirty (30) days, upon the execution date of the Order, the Respondent agrees to pay to the Georgia Department of Natural Resources the amount of twenty thousand dollars (\$20,000) in compromise and settlement of the identified violations arising from the allegations referenced. Payment in the form of certified check or money order to the Georgia Department of Natural Resources shall be delivered to 400 Commerce Center Drive, Brunswick, GA 31523.
2. Within thirty (30) days of the execution date of this Order, the Respondent shall submit to the Division an operational and Permit compliance status update for the Facility including any additional actions, if any, to bring the Facility back to full operational status and compliance with the Permit. This update shall also include any actions taken as pretreatment authority with the industry discharging to the Facility.

Addresses

Correspondence and other submissions to the Division shall be addressed to: Mr. Bruce Foisy, 400 Commerce Center Drive, Brunswick, Georgia 31523-8251. Correspondence to Respondent shall be addressed to: Honorable Eddie DeLoach, Mayor, City of Savannah, Post Office Box 1027 Savannah, GA 31402.

Permit Compliance

This Order does not relieve Respondent of any obligations or requirements of the Permit except as specifically authorized herein; which authorization shall be strictly construed.

Time of Essence

Time is of the essence of this Order. Upon it becoming effective, Respondent shall promptly commence its undertakings required herein and shall diligently pursue the accomplishment thereof.

Required Submissions

Upon the submission of any plan, report, or schedule, or any modified plan, report or schedule, required by this Order, the Division shall review the submission to determine its sufficiency. The Division shall notify the Respondent in writing whether the submission is approved or disapproved.

If the Division determines that the submission is disapproved, it shall provide Respondent with a written notice of the deficiencies of the submission. The Respondent shall have thirty (30) days from the issuance of the Division's notice of deficiency to modify the submission to correct the deficiencies and resubmit it to the Division. If Respondent does not agree with the Division's initial determination, Respondent shall submit in writing to the Division the grounds for its objection(s)

within thirty (30) days from the issuance of the Division's notice of deficiency. The parties shall confer in an attempt to resolve any disagreement. If no such resolution is reached within thirty (30) days from the date of Respondent's written objection(s), Respondent shall be required to modify its submission in accordance with the Division's comments.

Notwithstanding the foregoing, the failure of Respondent to provide the Division with an ultimately approved submission on or before the specified due date, may, in the sole discretion of the Director, be deemed a violation of this Order. Upon approval by the Division, all submissions required by the terms of this Order are incorporated by reference into, and made a part of, this Order. Except as may be provided by this Order, noncompliance with the contents of such approved submissions shall be deemed noncompliance with this Order.

Division approval of any submission required by this Order is not intended as, nor shall such approval be construed as, certification by the Division that compliance with relevant state and federal laws, regulations, and permits will thereby be achieved, and such approval by the Division shall not provide Respondent with a defense to an enforcement action taken by the Director pursuant to violations of the same. Division approval of any submission is strictly limited to the technical aspects of the submission and is not intended as, nor shall it be construed as, approval or acceptance of any statements, assertions, or representations of fact, of opinion, or of a legal nature that are contained in the document.

Force Majeure

Failure to complete a condition mandated by this Consent Order within the time period specified may be excused and not subject Respondent to further enforcement action if the failure is the result of a force majeure event as identified

below and Respondent complies with the requirements set forth below. Respondent shall have the burden of proving to the Division that it was rendered unable, wholly or in part, by Force Majeure to carry out its obligations.

The term "Force Majeure" as used herein shall be limited to the following: Act of God; strike, lockout, or other labor or industrial disturbance not caused by an unfair labor practice by the Respondent; act of the public enemy; war; blockade; public riot; fire; storm; flood; explosion; failure to secure timely and necessary federal, state, or local approvals or permits, provided such approvals or permits have been timely and diligently sought; or other delay caused by unforeseeable circumstances beyond the reasonable control of Respondent, its employees, agents, consultants, or contractors, as determined by the Division in its sole discretion. Force Majeure does not include financial inability to perform an obligation required by this Consent Order or a failure to achieve compliance applicable regulatory permits.

Respondent shall notify the Division verbally within 48 hours (or no later than the beginning of the next business day if the expiration of the 48 hours occurs on a weekend or holiday) from the time Respondent learns, or in the exercise of reasonable diligence should have learned, of any Force Majeure circumstances that may reasonably be expected to cause a schedule or performance delay. Within 10 days of such time, Respondent shall submit to the Division a written notice as to the anticipated length (if known) and cause of any delay due to Force Majeure. Failure to so notify the Division shall constitute a waiver of any claim to Force Majeure.

The Respondent and the Division agree to negotiate informally and in good faith to identify delays resulting from Forces Majeure. Respondent shall comply with the Division's determination as to the appropriate time period to be excused by Force Majeure, which shall be communicated to Respondent in writing. In the event that

any circumstance or series of circumstances cause the schedule to extend over thirty (30) calendar days, Respondent and the Division shall meet formally to assess the overall schedule impact and attempt to mitigate same. Any Force Majeure or Forces Majeure that cause the schedule to extend over sixty (60) consecutive days shall be noticed to the citizens of Savannah in a form to be determined by the Division.

If the Division determines that Force Majeure has occurred, the affected time for performance specified in this Consent Order shall be extended for a period of time equal to the delay resulting from such Force Majeure. Respondent shall exercise due diligence and adopt all reasonable measures to avoid or minimize any delay.

This Order does not waive the Director's right to take further enforcement action against Respondent, or imply that the Director will not take such action, either for (1) the violations alleged herein if Respondent fails to fully comply with the conditions of this Order, or (2) violations not alleged herein based on any other relevant requirements of this Order, the law, rules, and permit(s). Issuance of this Order does not waive the Director's right to use the violations alleged herein, upon sufficient evidence, to show past violations in any subsequent enforcement proceeding.

This Order is executed and entered solely for the purpose of resolving and disposing of the alleged violations set forth herein and does not constitute a finding, adjudication, or evidence of a violation of any law, rule, or regulation by Respondent, and, by consenting to this Order, Respondent does not admit to any factual allegation contained herein or to any violations of State laws. In addition, this Order is not intended to create and it shall not be construed or otherwise deemed to recognize or create any claim, right, liability, estoppel, or waiver of rights in favor of any third-

party or parties.

By agreement of the parties, this Order shall have the same force and binding effect as a Final Order of the Director, and shall become final and effective immediately upon its execution by the Director. The parties further agree that this Order shall not be appealable by Respondent, and Respondent hereby waives its right to initiate any administrative or judicial hearing on the terms and conditions of this Order.

Unless modified or terminated by a subsequent order, or otherwise specified in writing by the Director, this Order shall be deemed satisfied and terminated upon full, complete, and timely performance of each and every condition set forth herein.

It is so ORDERED, CONSENTED, and AGREED to _____ lay of
_____, 2017.

Please do not remove.
Thank you.

FOR RESPONDENT: City of Savannah

BY: _____

NAME: _____ (printed)

TITLE: _____

DATE: _____

Please return
original copy.
Thank you.