

CITY COUNCIL
ATLANTA, GEORGIA

05- R -0455

A RESOLUTION BY

TRANSPORTATION COMMITTEE

A RESOLUTION TO AUTHORIZE PAYMENT OF A MONETARY SETTLEMENT TO THE ENVIRONMENTAL PROTECTION DIVISION OF THE DEPARTMENT OF NATURAL RESOURCES OF THE STATE OF GEORGIA (EPD) IN THE AMOUNT OF FORTY SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$47,500.00) TO RESOLVE ALLEGED VIOLATIONS OF THE GEORGIA WATER QUALITY CONTROL ACT AND THE GEORGIA RULES AND REGULATIONS FOR WATER QUALITY CONTROL FOR VARIOUS UNPERMITTED DISCHARGES IN DECEMBER 2002, FEBURARY 2003 AND JANUARY 2004; FUND ACCOUNT AND CENTER NUMBER 2H21 529017 T31001 (RENEWAL AND EXTENSION FUND, PROPERTY/LIQUIDATION, UNALLOCATED FUND-WIDE EXPENSES); AND FOR OTHER PURPOSES.

WHEREAS, five unpermitted discharges occurred on the Hartsfield-Jackson Atlanta International Airport (HJAIA) Fifth Runway Project that EPD alleges are violations of the Georgia Water Quality Control Act and the Georgia Rules and Regulations for Water Quality Control as set out in Exhibit "A" attached hereto; and

WHEREAS, the Director of EPD issued a National Pollution Discharge Elimination System (NPDES) Permit No. GA0024040 (Permit) to the City of Atlanta (City) for the South River Water Reclamation Center (WRC); and

WHEREAS, the Permit authorizes the City to discharge treated wastewater according to effluent limitations, monitoring requirements, and other conditions set forth in the Permit; and

WHEREAS, the City of College Park (College Park) has the responsibility for the operation and maintenance of the College Park Sanitary Sewer System upstream of Atlanta's Flint River Pump Station; and

WHEREAS, the City's Department of Aviation administers the daily management of HJAIA; and

WHEREAS, on March 16, 2000, the City and College Park entered into an Intergovernmental Agreement in connection with construction of HJAIA's Fifth Runway, pursuant to which the City and/or its consultants or contractors designed and constructed certain System Modifications for the College Park Sanitary Sewer System (Modified System) for and on behalf of College Park; and

WHEREAS, the aforementioned Intergovernmental Agreement does not require the City to operate the Modified System including two pump stations; and

WHEREAS, while effluent generated in College Park is presently conveyed into the Modified System, the provisions of the aforementioned Intergovernmental Agreement that provide for transfer of possession of the Modified System have not yet been implemented; and



WHEREAS, all conditions precedent of the aforementioned Intergovernmental Agreement regarding the City's conveyance of the Modified System to College Park have been satisfied and the City is in the process of formalizing a schedule by which the Modified System, necessary easements and licenses, and other necessary real property interests, will be conveyed to College Park; and

WHEREAS, on December 24, 2002, an unpermitted discharge of less than 10,000 gallons of raw sewage occurred to the waters of the State (Sullivan Creek) from the Modified System's pump station located on Riverdale Road adjacent to the former Georgia International Convention Center due to power failure; and

WHEREAS, on January 8, 2004 an unpermitted discharge of approximately 5,250 gallons of raw sewage occurred to the waters of the State (Sullivan Creek) from the sanitary sewer system at 1299 Sullivan Road due to a backhoe excavation rupturing a pipe; and

WHEREAS, on January 8, 2004, an unpermitted discharge of approximately 1,000 gallons of raw sewage occurred to the waters of the State (Sullivan Creek) from the pump station located at 4815 Riverdale Road due to power failure; and

WHEREAS, on February 8, 2003, an unpermitted discharge of approximately 25,000 gallons of raw sewage occurred to the waters of the State (Sullivan Creek) from the Modified System on Riverdale Road due to a backhoe excavations rupturing a pipe; and

WHEREAS, on January 8, 2004, an unpermitted discharge of approximately 300,000 gallons of raw sewage occurred to the waters of the State (Sullivan Creek) from the Modified System at Massachusetts Boulevard due to a blockage by asphalt rock and other construction debris in the pipe; and

WHEREAS, the payment to EPD of this assessment by the City does not constitute a finding or adjudication, is not to be evidence of a violation of state or federal laws by the City, nor does the City by its consent agree to any violations of state or federal laws or admit any liability to any third party or parties; and

WHEREAS, it is deemed to be in the interest of the City to accept the proposed consent order and to pay the incident assessments to them.

NOW, THEREFORE, BE AND IT IS RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, as follows: that the Chief Financial Officer of the City is authorized to issue a check in the amounts of Forty Seven Thousand Five Hundred Dollars (\$47,500.00) payable to the State of Georgia, Department of Natural Resources as penalties imposed pursuant to the Consent Order at the discretion of the Environmental Protection Division of the Department of Natural Resources of the State of Georgia.

BE IT FURTHER RESOLVED, that the said payments be charged to Account Number 2H21 529017 T31001 (Renewal and Extension Fund, Property/Liquidation, Unallocated Fund-Wide Expenses).

BE IT FINALLY RESOLVED, that the Chief Financial Officer be and hereby is directed to pay the abovesaid assessments upon receipt of requisition therefor from the Aviation General Manager.

A true copy,

Phonda Dauphin Johnson
Municipal Clerk

**ADOPTED by the City Council
APPROVED by the Mayor**

**March 21, 2005
March 25, 2005**

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

IN RE: City of Atlanta
Department of Aviation
Hartsfield-Jackson Atlanta International Airport (HJAIA)
Fifth Runway Construction for the City of College Park Sanitary Sewer System
Unpermitted Discharges

ORDER NO. EPD-WQ-

CONSENT ORDER

WHEREAS, the Director of the Georgia Environmental Protection Division (Director, EPD) has issued a National Pollution Discharge Elimination System (NPDES) Permit No. GA0024040 (Permit) to the City of Atlanta (Atlanta) for its South River Water Reclamation Center (WRC); and

WHEREAS, the Permit authorizes Atlanta to discharge treated wastewater according to effluent limitations, monitoring requirements, and other conditions set forth in the Permit; and

WHEREAS, according to Atlanta, the City of College Park (College Park) has the responsibility for the operation and maintenance of the College Park Sanitary Sewer System upstream of Atlanta's Flint River Pump Station; and

WHEREAS, Atlanta's Department of Aviation administers the daily management of the Hartsfield Jackson Atlanta International Airport (HJAIA); and

WHEREAS, according to Atlanta, on March 16, 2000, Atlanta and College Park entered into an Intergovernmental Agreement (Contract) in connection with construction



of HJAIA's Fifth Runway, pursuant to which Atlanta and/or its consultants or contractors designed and constructed certain System Modifications for the College Park Sanitary Sewer System (Modified System) for and on behalf of College Park; and

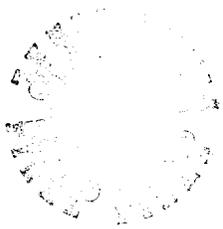
WHEREAS, according to Atlanta, the above Contract does not require Atlanta to operate the Modified System including two pump stations; and

WHEREAS, according to Atlanta, that while effluent generated in College Park is presently conveyed into the Modified System, the provisions of the Contract that provide for transfer of possession of the Modified System have not yet been implemented; and

WHEREAS, according to Atlanta, all conditions of the Contract precedent to the Atlanta's conveyance of the Modified System to College Park have been satisfied and Atlanta is in the process of formalizing a schedule by which the Modified System, necessary easements and licenses, and other necessary real property interests, will be conveyed to College Park; and

WHEREAS, EPD received a report of an unpermitted discharge occurring on December 24, 2002, of less than 10,000 gallons of raw sewage to the waters of the State (Sullivan Creek) from the Modified System's pump station located on Riverdale Road adjacent to the former Georgia International Convention Center due to power failure; and

WHEREAS, EPD received a report of an unpermitted discharge occurring on January 8, 2004, of approximately 5,250 gallons of raw sewage to the waters of the State (Sullivan Creek) from the Modified System at 1299 Sullivan Road due to a backhoe excavation rupturing a pipe; and



WHEREAS, EPD received a report of an unpermitted discharge occurring on January 8, 2004, of approximately 1,000 gallons of raw sewage to the waters of the State (Sullivan Creek) from the Modified System's pump station located at 4815 Riverdale Road due to power failure; and

WHEREAS, Chapter 391-3-6-.05 of the Georgia Rules and Regulations for Water Quality Control (Rules) defines a "spill" as any discharge of raw sewage by a Publicly Owned Treatment Works (POTW) to the waters of the State; and

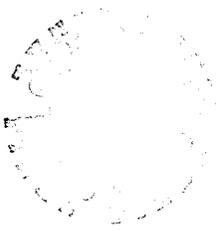
WHEREAS, the December 24, 2002 and January 8, 2004 events meet the definition of a spill; and

WHEREAS, EPD received a report of an unpermitted discharge occurring on February 8, 2003, of approximately 25,000 gallons of raw sewage to the waters of the State (Sullivan Creek) from the Modified System on Riverdale Road due to a backhoe excavation rupturing a pipe; and

WHEREAS, EPD received a report of an unpermitted discharge occurring on January 8, 2004, of approximately 300,000 of gallons raw sewage to the waters of the State (Sullivan Creek) from the Modified System at Massachusetts Boulevard due to a blockage by asphalt rock and other construction debris in the pipe; and

WHEREAS, Chapter 391-3-6-.05 of the Rules defines a "major spill" as a discharge of pollutants into the waters of the State by a POTW that is in excess of 10,000 gallons or results in water quality violations in the waters of the State; and

WHEREAS, the February 8, 2003 and January 8, 2004 events meet the definition of a major spill; and



WHEREAS, all five of the aforementioned spills occurred on the HJAIA Fifth Runway construction project site are located within College Park; and

WHEREAS, Chapter 391-3-6-.02(2)(c) of the Rules defines "sewerage system" as any system that treats or disposes of pollutants including treatment works, pipelines, or conduits, pumping stations or force mains, and all other constructions, devices, and appliances appurtenant thereto, used to conduct pollutants to the point of ultimate disposal; and

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

WHEREAS, Section 12-5-29(a) of the Official Code of Georgia Annotated (Code) makes it unlawful to use waters of the State for the disposal of sewage or other wastes, except in such a manner as to conform to and comply with the code and all rules, regulations, orders and permits established under the Code; and

WHEREAS, Section 12-5-52(a) of the Code provides that any person violating any provision of the Code or any permit condition or limitation established pursuant to the Code shall be liable to the State of Georgia for a civil penalty not to exceed \$50,000 per day per violation; and



WHEREAS, failure of the Director to take appropriate enforcement action against Atlanta for noncompliance would result in Federal enforcement action against Atlanta; and

WHEREAS, Atlanta, in an effort to cooperate with EPD and to comply with the provisions of the Code, agrees to comply with the terms and conditions of this Order.

NOW, THEREFORE, the Director ORDERS and Atlanta AGREES to the following:

1. Submit to the Georgia Department of Natural Resources within thirty days from the effective date of the Order, a monetary settlement of \$47,500.00 for the five spills from the HJAIA Fifth Runway construction project site occurring from December 24, 2002 though January 8, 2004.
2. Continue to submit to EPD the results of the stream-monitoring program conducted by Atlanta in accordance with the requirements of the major spill provisions per Chapter 391-3-6-.05(3)(c) of the Rules for the major spill occurring on January 8, 2004. This data shall include sampling upstream and downstream of the waters affected by the major spill for the following parameters:
 - a. Dissolved Oxygen
 - b. Fecal Coliform Bacteria
 - c. pH
 - d. Temperature

Samples shall be collected once per day for one week with the results for fecal coliform bacteria reported as a geometric mean, once per week for the



remainder of the month with the entire month of fecal coliform bacteria results reported as a geometric mean, and once per week during the 3rd and 12th month with the fecal coliform bacteria results reported as geometric means, as well. The results are to be submitted to EPD by the 15th day of the month following the sampling period.

3. Submit to EPD within 30 days of the effective date of the Order a Standard Operating Procedure (SOP) that specifies requirements for all Department of Aviation and third-party contractor personnel working in and around sewer system easements to prevent future sanitary sewer overflows. At a minimum, the SOP must include notification to an appropriate representative of the Department of Aviation by contractors of scheduled work, location and description of work, duration of work, and corrective actions that will be immediately undertaken to address any sewer system failure(s) that may result from contract work. Additionally, the SOP should include procedures to be implemented by the Department of Aviation personnel such as identifying sanitary sewer lines, providing contractors with updated system maps, and conducting routine system inspections in active construction sites.
4. Within 30 days of the effective date of this Order, through Atlanta's Department of Aviation, initiate procurement procedures to obtain and submit an evaluation that is conducted by an independent consultant/engineer of the two pump stations at HJAIA Fifth Runway construction project site located in College Park with respect to the following items:



- a. Proper continual functioning of all components of the pump stations to include flow monitoring and alarms for significant variations in flow levels;
- b. Implementation of an inspection program for the lift station(s) that occurs at a frequency that will allow for early detection of sanitary sewer system malfunctions.
- c. Evaluation of all lift station equipment for proper operation, maintenance, reliability and redundancy.

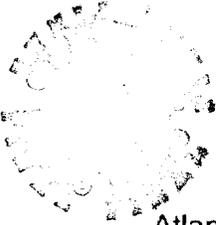
The report will detail recommendations from the evaluation and provide proposed schedules for implementation of the recommendations and completion of necessary improvements. The schedule(s) when approved by EPD will be incorporated as part of this Order.

5. Immediately provide notification to EPD of any ownership transfer covering the Modified System associated with the HJAIA Fifth Runway Project.

This Order does not waive EPD's power to take further enforcement action, or imply that EPD will not take such action if Atlanta fails to (1) meet all Permit conditions (2) fully satisfy the conditions of the Order, or (3) fully comply with any other relevant requirements.

This Order is not a finding, adjudication of, or evidence of a violation of any State law by Atlanta nor does Atlanta by its consent agree to any violation of State laws nor admit any liability to any third party or parties.

This Order does not relieve Atlanta of any obligations or requirements of the NPDES Permit.



This Order is final and effective immediately and shall not be appealable, and Atlanta waives any hearing on its terms and conditions.

IT is so ORDERED, CONSENTED and AGREED TO this _____ day of _____, 2005.

FOR THE DIRECTOR:

CAROL A. COUCH, Ph. D.
Director

FOR THE FACILITY:

CITY OF ATLANTA

BY: _____
[Handwritten Signature]

TITLE: Aviation General Manager

DATE: 2/18/05

RCS# 6559
3/21/05
2:26 PM

Atlanta City Council

Regular Session

CONSENT I

CONSENT I PG 4-16 EXCEPT
05-R-0499 04-O-2111
ADOPT

YEAS: 13
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 1
EXCUSED: 0
ABSENT 2

Y Smith	Y Archibong	Y Moore	Y Mitchell
Y Starnes	Y Fauver	B Martin	Y Norwood
Y Young	Y Shook	Y Maddox	Y Willis
Y Winslow	Y Muller	B Sheperd	NV Borders

CONSENT I

(Do 05 w/line # 0455 Line)

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TRANSPORTATION COMMITTEE

A RESOLUTION TO AUTHORIZE PAYMENT OF A MONETARY SETTLEMENT TO THE ENVIRONMENTAL PROTECTION DIVISION OF THE DEPARTMENT OF NATURAL RESOURCES OF THE STATE OF GEORGIA (EPD) IN THE AMOUNT OF FORTY SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$47,500.00) TO RESOLVE ALLEGED VIOLATIONS OF THE GEORGIA WATER QUALITY CONTROL ACT AND THE GEORGIA RULES AND REGULATIONS FOR WATER QUALITY CONTROL FOR VARIOUS UNPERMITTED DISCHARGES IN DECEMBER 2002, FEBRUARY 2003 AND JANUARY 2004; FUND ACCOUNT AND CENTER NUMBER 2H21 529017 T31001 (RENEWAL AND EXTENSION FUND, PROPERTY/LIQUIDATION, UNALLOCATED FUND-WIDE EXPENSES); AND FOR OTHER PURPOSES.

ADOPTED BY

MAR 2 1 2005

COUNCIL

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1st ADOPT 2nd READ & REFER
- PERSONAL PAPER REFER

Date Referred

Referred To:

Date Referred

Referred To:

Date Referred

First Reading

Committee _____
 Date _____
 Chair _____
 Referred To _____

TRANSPORTATION

3/16/05

Blair Smith

Fav, Adv, Hold (see rev. side)
Other

Members

Blair Smith

Refer To

Committee

Date

Chair

Action

Fav, Adv, Hold (see rev. side)
Other

Members

Committee

Date

Chair

Action

Fav, Adv, Hold (see rev. side)
Other

Members

Refer To

Committee

Date

Chair

Action

Fav, Adv, Hold (see rev. side)
Other

Members

Refer To

Refer To

FINAL COUNCIL ACTION

- 2nd
- 1st & 2nd Readings
- Consent
- V Vote
- R/C

CERTIFIED

MAR 2 1 2005

RECEIVED
MAR 21 2005

MAYOR'S ACTION

Blair Smith