

**A RESOLUTION BY COUNCILMEMBER CARLA SMITH
AS SUBSTITUTED BY CITY UTILITIES COMMITTEE**

A RESOLUTION TO AUTHORIZE PAYMENT OF STIPULATED PENALTIES IMPOSED BY THE ENVIRONMENTAL PROTECTION DIVISION OF THE DEPARTMENT OF NATURAL RESOURCES OF THE STATE OF GEORGIA IN THE AMOUNT OF TWO THOUSAND EIGHT HUNDRED DOLLARS AND 00/100 (\$2,800.00) PURSUANT TO THE FIRST AMENDED CONSENT DECREE, CIVIL ACTION FILE NO. 1:98-CV-1956-TWT; TO IDENTIFY THE SOURCE OF FUNDING; AND FOR OTHER PURPOSES.

WHEREAS, on September 12, 2007 the Georgia Environmental Protection Division (“EPD”) transmitted a Proposed Expedited Enforcement Compliance Order to the City of Atlanta (“City”) for stipulated penalties concerning violations of the First Amended Consent Decree (1:98-CV-1956-TWT) at Intrenchment Creek; and

WHEREAS, the Department of Watershed Management (“Department”) continues to make substantial progress within the separated and combined sewer systems in which the Department expects to continue seeing declines in future fines and spills; and

WHEREAS, under the First Amended Consent Decree the City is subject to stipulated penalties for Combined Sewer Overflows (“CSO”) to waters and dry land; and

WHEREAS, the total amount assessed and demanded by EPA and EPD for these violations is Two Thousand Eight Hundred Dollars and 00/100 (\$2,800.00); and

WHEREAS, the Department does not dispute the fact that these violations did occur; and

WHEREAS, the payment to the EPD and EPA of this assessment by the City does not constitute a finding of 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 violation of state or federal laws or admit any liability to any third party or parties; and

WHEREAS, the payment will be charged to and paid from Fund, Account and Center Number 2J01(Water & Wastewater Revenue) 529017 (Property/Liquidation) Q30001 (Deputy Commissioner, Treatment & Collection); and

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

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY RESOLVES, that the Chief Financial Officer is authorized to issue payments in an amount not to exceed Two Thousand Eight Hundred Dollars And 00/100 (\$2,800.00) payable to the **Georgia Department of Natural Resources** as stipulated penalties

imposed pursuant to the First Amended Consent Decree at the discretion of the Environmental Protection Division of the Department of Natural Resources of the State of Georgia for unpermitted discharges and incomplete sample events at Intrenchment Creek.

BE IT FURTHER RESOLVED, that the Chief Financial Officer is authorized to pay interest due, if any, on the said stipulated penalties in accordance with the First Amended Consent Decree.

BE IT FINALLY RESOLVED, that the said payments be chargeable to Fund Account and Center Number 2J01 (Water & Wastewater Revenue) 529017 (Property/Liquidation) Q30001 (Deputy Commissioner, Treatment & Collection).



06.17.001
02.2

CITY OF ATLANTA

SHIRLEY FRANKLIN
MAYOR

55 TRINITY AVENUE, S.W. • SUITE 5400 • SOUTH BUILDING
ATLANTA, GEORGIA 30303-0310
Office: (404) 330-6081 • Fax: (404) 658-7194

DEPARTMENT OF
WATERSHED MANAGEMENT
ROBERT J. HUNTER
Commissioner

October 10, 2007

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

7006 2760 0003 6162 9188

Jeffrey H. Larson, Manager
Permitting, Compliance and Enforcement Program
Georgia Environmental Protection Division
4220 International Parkway, Suite 101
Atlanta, Georgia 30354

Subject: Proposed Expedited Enforcement Compliance Order, East Area Combined
Sewer Overflow (CSO) NPDES Permit No. GA0036178 Unpermitted
Discharge, Incomplete Sample Event

The purpose of this letter is to transmit the EPD Proposed Expedited Enforcement Compliance Order for East Area Combined Sewer Overflow (CSO) sent to the City of Atlanta on September 12, 2007. The City of Atlanta hereby agrees to comply with the Order, subject to approval by the City Council as necessary.

If you require additional information, please contact me at (404) 330-6287.

Sincerely,

CITY OF ATLANTA

Robert J. Hunter, Commissioner
Department of Watershed Management

Enclosure

GEORGIA ENVIRONMENTAL PROTECTION DIVISION
PERMITTING, COMPLIANCE, AND ENFORCEMENT PROGRAM
4220 INTERNATIONAL PARKWAY, SUITE 101
ATLANTA, GEORGIA 30354

EXPEDITED ENFORCEMENT COMPLIANCE ORDER AND SETTLEMENT AGREEMENT

PART I: COMPLIANCE ORDER

Permit No.: GA0037168

East Area Combined Sewer Overflow Facilities (CSO)
(Name of Facility)

Name of Owner, Operator, or Responsible

Official: Mr. Rob Hunter, Commissioner

Department of Watershed Management

City of Atlanta
(Address)

55 Trinity Avenue S. W., Suite 5400 City Hall South

Atlanta, Georgia 30335-3029

The Environmental Protection Division (EPD) documented that the City of Atlanta (City) experienced one unpermitted discharges of combined sewer at the Intrenchment Creek CSO facility occurring on March 1, 2007. Also, on February 25, 2007, the City did not collect composite influent and effluent samples from the Combined Sewer Overflow at the Intrenchment Creek CSO Facility. The unpermitted discharge to the State waters and non-collection of samples violate of your NPDES Permit, Chapter 391-3-6. of the Georgia Rules and Regulations for Water Quality Control, and Title 12, Chapter 5 of the Official Code of Georgia Annotated (Code). The following violations noted, in accordance to section 12-5-52. of the Code and its corresponding settlement amount, are listed below:

391-3-6-.06(5)(c) [12-5-52(a)], Settlement \$ 2,000
Nature of Violation: 1 unpermitted discharge of approximately 8,000 gallons of combined sewer to the waters of the State (Intrenchment Creek) occurring on March 1, 2007 at the Intrenchment Creek CSO facility influent pump station emergency by-pass channel due to a drop shaft sealed with plastic.

391-3-6-.06(4)(a) [12-5-52(a)], Settlement \$ 800.00
Nature of Violation: No influent or effluent composite samples collected for the CSO event on February 25, 2007 at the Intrenchment Creek CSO facility according to Permit No. GA0037168

TOTAL SETTLEMENT AMOUNT \$2,800.00

The City of Atlanta is hereby ordered to correct the violation and pay the settlement amount.

This Compliance Order is issued solely with reference to the Settlement Agreement in Part II of this form. If the Settlement Agreement in Part II is not returned in correct form by the City of Atlanta within 30 days of receipt, this Compliance Order can be withdrawn without prejudice to EPD's ability to file additional enforcement actions for the above violation or any other violations.

Part II: SETTLEMENT AGREEMENT

The Georgia Environmental Protection Division (EPD) offers this Settlement Agreement as an expedited enforcement procedure in order to settle the violation listed in the Compliance Order in Part I of this form subject to the following terms and conditions:

The City of Atlanta, by signing below, certifies under penalty of law that: a) the information submitted in this and all attached documents has been personally examined and that the City of Atlanta is familiar with the information; b) the **CITED VIOLATIONS WILL BE CORRECTED**; and c) payment of the settlement amount in the form of a check made payable to the Department of Natural Resources for \$2,800 will be remitted within 30 days of the execution of the Order.

Upon EPD final approval of this Settlement Agreement, EPD will take no further action against the City of Atlanta for the specific violations described in this Compliance Order. EPD does not waive any enforcement action by EPD, the State, or any local agencies for any past, present or future violations of the Water Quality Control Rules. This Order does not relieve the City of Atlanta of any obligations or requirements of the Permit.

This Settlement Agreement is binding on EPD and the City of Atlanta once it is signed below. This Settlement Agreement is not negotiable and is effective upon EPD's final approval below. Upon final approval, EPD shall mail a copy of the approved Settlement Agreement to the City of Atlanta signing below.

Final approval of the Settlement Agreement is in the sole discretion of the Director of EPD, or authorized delegate.

BY (print name): Robert J. Hunter
TITLE: Commissioner
SIGNATURE: [Signature]
DATE: 10-10-07

FINAL ORDER BY EPD this _____ day of _____, 2007.

Carol A. Couch, Ph. D., Director

COMPLIANCE ORDER NO:

PROPOSED ORDERS

PUBLIC NOTICE. The Georgia Environmental Protection Division is providing public notice of the following proposed orders:

Under authority of the Water Quality Control Act (including Surface Water Allocation) :

Facility: City of Atlanta sewer system
Location: Fulton County
Order Number: EPD-PCEP-07-019
Cause of Order: Unpermitted discharge to Intrenchment Creek; failure to sample
Requirement(s) of Order: Correct immediately
Settlement Amount: \$2800.00
Date Notice Posted: November 12, 2007
Comment Period Closes: December 12, 2007
Send Comments To: Ms. Linda MacGregor-Chief
 Watershed Protection Branch
 4220 International Parkway, Suite 101
 Atlanta, Georgia 30354

Facility: City of Eatonton sewer system; order issued to Eatonton-Putnam Water and Sewerage Authority
Location: Putnam County
Order Number: EPD-WQ-4835
Cause of Order: Sewer system overflows
Requirement (s) of Order: Complete appropriate sewer system repairs by December 31, 2008; modifications to splitter box piping at Eastside water pollution control plant must be completed by December 31, 2007; submit detailed report on all corrections/repairs made to collection system by July 15, 2008; continue proper stream monitoring program until December 15, 2007 for both WPCPs receiving streams, submitting results as required; complete repairs in Bryan-Williams Subdivision by January 1, 2008, providing detailed report on repairs made and costs involved, by January 15, 2008; stipulated penalties for continued overflows
Settlement Amount: \$4000.00
Date Notice Posted: November 12, 2007
Comment Period Closes: December 12, 2007
Send Comments To: Ms. Linda MacGregor-Chief
 Watershed Protection Branch
 4220 International Parkway, Suite 101
 Atlanta, Georgia 30354

Facility: Polo Golf and Country Club reuse facility/Cumming; order issued to Mr. Leo A. Morehouse, Jr., Fairgreen Development

Georgia Department of Natural Resources

2 Martin Luther King, Jr. Drive, SE, Suite 1452 East, Atlanta, Georgia 30334-9000

Noel Hoicomb, Commissioner
Environmental Protection Division
Carol A. Couch, Ph.D., Director
Phone: (404) 463-7600
Fax: (404) 651-9329

November 13, 2007

Mr. Rob Hunter, Commissioner
City of Atlanta
Department of Watershed Management
Suite 5400, City Hall South
55 Trinity Avenue SW
Atlanta, Georgia 30335-3029

**RE: Proposed Consent Order
Order No. EPD-PCEP-07-
019**

Dear Commissioner Hunter:

The Environmental Protection Division appreciates your willingness to enter into the referenced proposed consent order.

Since this proposed order falls into the category of orders which must be public noticed prior to execution, EPD today issued public notice on the proposed order. The notice appears on EPD's website and is mailed to those persons who have requested such notices. A copy of the notice is enclosed.

The notice period is scheduled to expire on December 12, 2007. We will review all comments received and will either (1) execute the order exactly as proposed or (2) contact you if we believe the order needs revisions. Of course, since this is proposed as a consent order, we cannot make revisions to the order without your prior consent.

Sincerely,



Carol Weight
Environmental Outreach Coordinator

CW:dak

Enclosure

c: Ted Hendrickx

DEPARTMENT OF WATERSHED
MANAGEMENT
2007 NOV 21 AM 9:16
OFFICE OF COMMISSIONER

A RESOLUTION BY
COUNCILMEMBER CARLA SMITH



07-R-2597

AUTHORIZING PAYMENT OF STIPULATED PENALTIES IMPOSED BY THE ENVIRONMENTAL PROTECTION AGENCY (EPA) AND THE ENVIRONMENTAL PROTECTION DIVISION OF THE DEPARTMENT OF NATURAL RESOURCES OF THE STATE OF GEORGIA (EPD) IN THE AMOUNT OF \$ _____ AS STIPULATED PENALTIES FOR THE VIOLATION OF CSO FECAL COLIFORM OPERATIONAL STANDARDS _____ PURSUANT TO THE CSO CONSENT DECREE, CIVIL ACTION FILE NO. 1:95-CV-2550-TWT; TO IDENTIFY THE SOURCE OF FUNDING; AND FOR OTHER PURPOSES.

WHEREAS, the City has experience a violation to the CSO Consent Decree set out in Exhibit "A" hereto; and

WHEREAS, this violation is subject to stipulated penalties imposed at the discretion of the Environmental Protection Agency (EPA) and the Environmental Protection Division of the Department of Natural Resources of the State of Georgia (EPD) pursuant to the CSO Consent Decree, Civil Action File No. 1:95-CV-2550-TWT; and

WHEREAS, the Department of Watershed Management of the City does not dispute the fact this violation did occur; and

WHEREAS, the payment to EPA and 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, funds for this purpose are available in Fund, Account and Center Number 2J01-529017-Q31001; and

WHEREAS, the CSO Consent Decree, Section XI. O. similarly provides for payment of interest on late payment of stipulated penalties; and

WHEREAS, it is deemed to be in the best interest of the City to accept the proposed stipulated penalties and to pay the incident assessments to the Environmental Protection Agency (EPA) and the Environmental Protection Division of the Department of Natural Resources of the State of Georgia (EPD).

NOW, THEREFORE, BE AND IT IS RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA as follows:

Section 1: That the Chief Financial Officer of the City of Atlanta is authorized to issue checks payable in the amount of \$ _____ to the **State of Georgia** and in the amount of \$ _____ to the **Treasurer, United States of America** as stipulated penalties imposed pursuant to the CSO Consent Decree at the discretion of the Environmental

Protection Agency and the Environmental Protection Division of the Department of Natural Resources of the State of Georgia.

Section 2: That said payments shall be charged to and paid from Fund, Account and Center Number 2J01 529017 Q30001.

Section 3: That all resolutions and parts of resolutions in conflict herewith be and are hereby waived in this instance only.

EXHIBIT A

The City is subject to stipulated penalties for violations of the CSO Consent Decree, per Section _____ as follows:

CSO Consent Decree Section

| Date | Facility | Colonies/100 ml | Penalty | Comment |
|-------------|-----------------|------------------------|----------------|----------------|
|-------------|-----------------|------------------------|----------------|----------------|