

11-R-0443

(Do Not Write Above This Line)

A RESOLUTION BY Natalyn Mosby
 COUNCIL MEMBER NATALYN MOSBY
 ARCHIBONG HS

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 ADOPTED BY
 PURPOSES.

SUBSTITUTE MAY 02 2011

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

Date Referred 03/07/2011
 Referred To: City Committee
 Date Referred
 Referred To:
 Date Referred
 Referred To:

First Reading

Committee _____
 Date _____
 Chair _____
 Referred To _____

Committee City
 Date March 15, 2011
 Chair HS
 Action Refer
 Fav, Adv, Hold (see rev. side)
 Other _____
 Members _____

Members

Refer To

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

- FINAL COUNCIL ACTION
- 2nd
 - 1st & 2nd
 - 3rd
 - Consent
 - V Vote
 - RC Vote

CERTIFIED

CERTIFIED
 MAY 02 2011

ATLANTA CITY COUNCIL PRESIDENT

[Signature]

CERTIFIED
 MAY 02 2011

[Signature]
 MUNICIPAL CLERK

MAYOR'S ACTION

APPROVED

MAY 11 2011

WITHOUT SIGNATURE
 BY OPERATION OF LAW



A RESOLUTION

11-R-0443

**BY COUNCIL MEMBERS NATALYN MOSBY ARCHIBONG
& HOWARD SHOOK**

AS SUBSTITUTED BY CITY UTILITIES COMMITTEE

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A CONSENT ORDER AND TO AUTHORIZE PAYMENT OF PENALTIES IMPOSED BY THE ENVIRONMENTAL PROTECTION DIVISION OF THE DEPARTMENT OF NATURAL RESOURCES OF THE STATE OF GEORGIA IN THE AMOUNT OF TWO THOUSAND FIVE HUNDRED DOLLARS AND 00/100 (\$2,500.00) TO THE STATE OF GEORGIA TO RESOLVE ALLEGED VIOLATIONS OF THE GEORGIA RULES FOR AIR QUALITY CONTROL AND PART 70 OPERATING PERMIT NO. 4952-121-0036-V-02-0; TO IDENTIFY THE SOURCE OF FUNDING; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta (the "City") presently owns and operates the Utoy Creek Water Pollution Control Plant (the "Facility") in Atlanta, Fulton County, Georgia; and

WHEREAS, the Facility is subject to the provisions of the Georgia Air Quality Act, O.C.G.A. Section 12-9-1 *et seq.* (the "Act") and Rules promulgated pursuant thereto, Chapter 391-3-1 (the "Rules"); and

WHEREAS, the Environmental Protection Division (the "Division") issued Part 70 Operating Permit No. 4952-121-0036-V-02-0 (the "Permit") to the City on October 19, 2007, for the operation of the Facility; and

WHEREAS, the Permit requires the City to continuously operate any continuous monitoring system required by the Division and record data during all periods of operation, except for during breakdowns and repairs; and

WHEREAS, the Permit requires the City to install, calibrate, maintain, and operate a device to continuously measure and record specific exhaust gases from an incinerator; and

WHEREAS, the First Semiannual Report for 2010, was submitted by the City regarding the Facility and received on July 28, 2010 by the Division; and

WHEREAS, after a review of the submitted report, the Division sent a Notice of Violation (the "NOV"), dated August 25, 2010, to the City alleging that the City violated Permit conditions; and

WHEREAS, the NOV requested a written response for information concerning the reason for relocation of the monitor, excessive time for relocation of the monitor, information on the new location of the meter, actions taken to minimize downtime during



relocation, details of why the incinerator was operated while monitor was inoperable, and additional information the City considered relevant to the alleged violations; and

WHEREAS, the City submitted a written response to the NOV dated September 22, 2010 (the "Response") that provided responses to the requested information; and

WHEREAS, the Division considered the City's Response and determined that the monitor downtime was excessive, not caused entirely by a startup, shut down, or unavoidable malfunction and not allowed by the Rules and the Permit, therefore determining that the City violated the Permit conditions; and

WHEREAS, both the City and the Division wish to enter into a Consent Order (attached as "Exhibit A") to resolve the alleged violations in the Order; and

WHEREAS, the parties enter into and execute this Order solely for the purpose of resolving and disposing of the allegation set forth herein and the Order shall not constitute any finding, determination or adjudication of a violation of any state laws, rules, standards or requirements, not does it constitute a finding or adjudication of liability to a third party or parties.

THE CITY COUNCIL OF THE CITY OF ATLANTA HEREBY RESOLVES, as follows:

SECTION ONE That the Mayor, or his designee, the Commissioner of the Department of Watershed Management, acting on behalf of the City, is authorized to enter a Consent Order that substantially conforms to the attached "Exhibit A".

SECTION TWO That the Chief Financial Officer of the City is authorized to issue a check in the amount of Two Thousand Five Hundred Dollars and 00/100 (\$2,500.00) payable to the State of Georgia to resolve the alleged violations cited herein.

SECTION THREE That said payment be chargeable to Fund, Account and Center Fund Number 5051 (Water & Wastewater Revenue) 5750002 (Property Liquidation) 170203 (Department of Watershed Management Wastewater Treatment).

A true copy,

Deputy Clerk

ADOPTED by the Atlanta Council
RETURNED WITHOUT SIGNATURE OF THE MAYOR
APPROVED as per City Charter Section 2-403

MAY 02, 2011

MAY 11, 2011

“Exhibit A”



Georgia Department of Natural Resources

Environmental Protection Division, Air Protection Branch

4244 International Parkway, Suite 120, Atlanta, Georgia 30354

Telephone: (404) 363-7000 • Fax: (404) 363-7100

Chris Clark, Commissioner

F. Allen Barnes, Director

OCT 21 2010

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Mr. Michael Shelhamer
WRC Manager
City of Atlanta Utoy Creek WPCP
805 Selig Drive, SW
Atlanta, GA 30336

RE: **Proposed Consent Order**
City of Atlanta Utoy Creek WPCP
Atlanta, Georgia

Dear Mr. Shelhamer:

A Notice of Violation was sent to the City of Atlanta on August 25, 2010, for an alleged violation of the Georgia Rules for Air Quality Control and Part 70 Operating Permit No. 4952-121-0036-V-02-0. The Division has considered the information presented in the City's response dated September 22, 2010 and has determined that the City violated Condition 5.2.1.b of the Permit.

As a means to resolve the alleged violation, the Division is proposing the enclosed Consent Order. The Consent Order includes a monetary settlement in an amount consistent with other settlements we have proposed for similar violations in the past. Please provide the necessary signature and return the signed Consent Order to the above address with a check payable to the Georgia Department of Natural Resources within 15 days of receipt of this letter.

If you have any questions or comments, please contact Sherry Waldron at (404) 362-4853 or Sherry_Waldron@dnr.state.ga.us.

Sincerely,

A handwritten signature in cursive script that reads "Lou Musgrove".

Lou Musgrove
Program Manager
Stationary Source Compliance Program

LAM:sw

Enclosure

AIRS # 121-00036



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

CONSENT ORDER

**CITY OF ATLANTA
UTOY CREEK WPCP
ATLANTA, GEORGIA
FULTON COUNTY**

ORDER NO. EPD-AQC-

WHEREAS, the City of Atlanta (hereinafter called the “City”) presently owns and operates a sewage wastewater treatment plant facility (hereinafter called the “Facility”) in Atlanta, Fulton County, Georgia; and

WHEREAS, such Facility is subject to the provisions of the Georgia Air Quality Act, O.C.G.A. Section 12-9-1 et seq., (hereinafter called the “Act”) and Rules promulgated pursuant thereto, Chapter 391-3-1 (hereinafter called the “Rules”); and

WHEREAS, the Director of the Environmental Protection Division (hereinafter called the “Division”) issued Part 70 Operating Permit No. 4952-121-0036-V-02-0 (hereinafter called the “Permit”) to the City on October 19, 2007, for the operation of the Facility; and

WHEREAS, Condition 5.1.1 of the Permit requires the City to continuously operate any continuous monitoring system required by the Division and data be recorded during all periods of operation of the affected facility except for continuous monitoring system breakdowns and repairs. This Condition also requires maintenance or repair be conducted in the most expedient manner to minimize the period during which the system is out of service.

WHEREAS, Condition 5.2.1.b of the Permit requires the City to install, calibrate, maintain, and operate a device to continuously measure and record the oxygen content of the exhaust gases from multiple hearth incinerator INC2 (hereinafter called “INC2”); and

WHEREAS, the First Semiannual Report for 2010, as amended, was submitted by the City for the Facility and was received on July 28, 2010. That report indicated that the exhaust gas oxygen analyzer probe on INC2 was down for 15.6% of operating time. The problem was primarily attributed to the time it took to move the Continuous Emissions Monitoring System (CEMS) and oxygen analyzer probe to a new location on the exhaust stack; and

“Exhibit A”



WHEREAS, after a review of the report submitted to the Division, the Division sent a Notice of Violation letter dated August 25, 2010, (hereinafter called the “NOV”) to the City alleging that the City violated Condition 5.2.1.b of the Permit; and

WHEREAS, the NOV requested a written response with the following information: (1) the reason for the relocation of the monitor, an explanation for the excessive time it took to complete the relocation, and a certification that the new location meets the requirements of 40 CFR 60.152(b)(2) (a location requirement for oxygen probes on sewage sludge incinerators); (2) details of any actions taken to minimize downtime during the relocation; and (3) details of why the incinerator was operated while a critical monitor was inoperable; and (4) any additional information the City considered relevant to the alleged violations; and

WHEREAS, the City submitted a written response to the NOV dated September 22, 2010 (hereinafter called the “Response”), that provided responses to the requested information, including details of operational problems occurring after the oxygen probe relocation that caused additional downtime in the oxygen CEMS, including a malfunctioning zero air generator, a malfunctioning total hydrocarbon analyzer, and a malfunctioning heating assembly in the sample line. The reason provided for operating the incinerator without the oxygen CEMS was that liquid levels in the digesters rose to a critical level, dictating commencement of dewatering/incineration activities; and

WHEREAS, the Division has considered the City’s Response and has determined that the oxygen CEMS downtime was excessive, not caused entirely by a startup, shutdown, or unavoidable malfunction, and is not allowed by the Rules and the Permit. The Division has determined that the City violated Conditions 5.1.1 and 5.2.1.b of the Permit; and

WHEREAS, both the City and the Division wish to cooperate fully to resolve the issues in this Order;

NOW, THEREFORE, before taking any testimony and without adjudicating the merits of the parties’ position in this matter, and without admission or assignment of liability by or to the City, the parties hereby resolve the issues in this case by agreement and upon the order of the Director and the consent of the City as follows:

1. The City shall pay to the State of Georgia the sum of \$2,500 for the alleged violations cited herein.

“Exhibit A”



2. Failure of the City to comply with any provision of this Order may result in additional enforcement action by the Division.
3. The parties enter into and execute this Order solely for the purpose of resolving and disposing of the allegations set forth herein. This Order shall not constitute any finding, determination or adjudication of a violation of any state laws, rules, standards or requirements, nor does it constitute a finding or adjudication of liability to a third party or parties.
4. By agreement of the parties, this Order shall be final and effective immediately and shall not be appealable by the parties, and Respondent does hereby waive all administrative and judicial hearings on the terms and condition of the same.

It is so ORDERED and AGREED to this _____ day of _____, 2010.

F. ALLEN BARNES
DIRECTOR
ENVIRONMENTAL PROTECTION DIVISION

CITY OF ATLANTA

BY: _____
NAME: _____
TITLE: _____
DATE: _____

RCS# 986
5/02/11
2:32 PM

Atlanta City Council

REGULAR SESSION

CONSENT I

ADOPT

YEAS: 14
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 2
EXCUSED: 0
ABSENT 0

Y Smith	Y Archibong	Y Moore	Y Bond
Y Hall	Y Wan	Y Martin	Y Watson
Y Young	Y Shook	Y Bottoms	Y Willis
NV Winslow	Y Adrean	Y Sheperd	NV Mitchell

CONSENT I

		05-02-11
ITEMS ADOPTED ON CONSENT	ITEMS ADOPTED ON CONSENT	ITEMS ADVERSED ON CONSENT
1. 11-O-0132	38. 11-R-0557	64. 11-R-0582
2. 11-O-0494	39. 11-R-0558	65. 11-R-0583
3. 11-O-0528	40. 11-R-0559	66. 11-R-0584
4. 11-O-0683	41. 11-R-0560	67. 11-R-0585
5. 11-O-0268	42. 11-R-0561	68. 11-R-0586
6. 11-O-0513	43. 11-R-0562	69. 11-R-0587
7. 11-O-0514	44. 11-R-0563	70. 11-R-0588
8. 11-O-0515	45. 11-R-0564	71. 11-R-0589
9. 11-O-0679	46. 11-R-0565	72. 11-R-0590
10. 11-R-0443	47. 11-R-0566	73. 11-R-0591
11. 11-R-0618	48. 11-R-0567	74. 11-R-0592
12. 11-R-0619	49. 11-R-0568	75. 11-R-0593
13. 11-R-0620	50. 11-R-0569	76. 11-R-0594
14. 11-R-0621	51. 11-R-0570	77. 11-R-0595
15. 11-R-0622	52. 11-R-0571	78. 11-R-0596
16. 11-R-0627	53. 11-R-0572	79. 11-R-0597
17. 11-R-0628	54. 11-R-0573	80. 11-R-0598
18. 11-R-0629	55. 11-R-0574	81. 11-R-0599
19. 11-R-0686	56. 11-R-0575	82. 11-R-0600
20. 11-R-0613	57. 11-R-0576	83. 11-R-0601
21. 11-R-0614	58. 11-R-0577	84. 11-R-0602
22. 11-R-0687	59. 11-R-0578	85. 11-R-0603
23. 11-R-0689	60. 11-R-0579	86. 11-R-0604
24. 11-R-0630	61. 11-R-0580	87. 11-R-0605
25. 11-R-0631	62. 11-R-0581	88. 11-R-0606
26. 11-R-0632	63. 11-R-0669	89. 11-R-0607
27. 11-R-0633		90. 11-R-0608
28. 11-R-0634		91. 11-R-0609
29. 11-R-0635		92. 11-R-0610
30. 11-R-0636		93. 11-R-0611
31. 11-R-0646		
32. 11-R-0649		
33. 11-R-0650		
34. 11-R-0652		
35. 11-R-0554		
36. 11-R-0555		
37. 11-R-0556		