

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)	ADMINISTRATIVE ORDER
)	ON CONSENT
COLUMBUS CONSOLIDATED)	
GOVERNMENT)	DOCKET No. CWA-04-2016-4778
)	
PROCEEDING UNDER SECTION)	
309(a) OF THE CLEAN WATER ACT,)	
33 U.S.C. § 1319(a))	
_____)	

ADMINISTRATIVE ORDER ON CONSENT

I. STATUTORY AUTHORITY

1. Section 309(a) of the Clean Water Act (CWA), 33 U.S.C. § 1319(a), provides that, whenever the U.S. Environmental Protection Agency (EPA) finds that any person is in violation of any condition or limitation which implements, *inter alia*, Section 301(a) and 402 of the CWA, 33 U.S.C. §§ 1311(a) and 1342, EPA may issue an order requiring such person to comply with such condition or limitation, and shall specify a time for compliance that EPA determines to be reasonable.

2. The following Findings of Fact and Determinations of Law are made and Administrative Order on Consent (AOC) issued pursuant to the authority vested in EPA by Sections 308 and 309(a) of the CWA, 33 U.S.C. §§ 1318 and 1319(a), as amended. This authority has been delegated to the Regional Administrator of EPA, Region 4, and further delegated by the Regional Administrator to the Director of the Water Protection Division, EPA, Region 4.

II. EPA's FINDINGS OF FACT AND DETERMINATIONS OF LAW

3. Columbus Consolidated Government (Respondent or Permittee) is a "municipality" and is a "person" within the meaning of Sections 502(4) and (5) of the CWA, 33 U.S.C. §§ 1362(4) and (5).

4. At all times relevant to this action Respondent owned and/or operated a municipal separate storm sewer system (MS4).

5. To accomplish the objective of the CWA, defined in Section 101(a) of the CWA, 33 U.S.C. § 1251(a), to restore and maintain the chemical, physical, and biological integrity of the nation's waters, Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of

pollutants by any person into waters of the United States except in compliance with a National Pollutant Discharge Elimination System (NPDES) permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

6. Section 402(a) of the CWA, 33 U.S.C. § 1342, establishes a NPDES Permit Program authorizing the EPA or authorized states to administer the NPDES Permit Program, including the issuance of NPDES permits allowing for the discharge of pollutants, including stormwater, into navigable waters subject to specific terms and conditions. The EPA has granted the State of Georgia Department of Natural Resources Environmental Protection Division (GEPD), approval to issue NPDES permits pursuant to Section 402(b) of the CWA.

7. Pursuant to 40 C.F.R. § 122.26(a)(3) NPDES permits must be obtained for all discharges from large and medium MS4s.

8. GEPD issued *Authorization to Discharge Under the National Pollutant Discharge Elimination System Discharges from Municipal Separate Storm Sewer Systems* Permit No. GAS000202 (Permit) to the Respondent, to cover discharges from the Respondent's MS4, with an effective date of April 12, 2012, and an expiration date of April 11, 2017.

9. Part 5.1 of the Permit states that the permittee must comply with all conditions of this Permit. Any permit noncompliance constitutes a violation of the Clean Water Act and the State Act and is grounds for an enforcement action.

10. **Permit Part 3.** requires that "The permittee shall update, implement, and enforce a" Storm Water Management Program (SWMP). "The SWMP and its amendments, upon approval by the EPD, shall become a part of this permit." The SWMP Section 3.3.2 provides the Creek Walk Schedule that Respondent is required to follow.

11. **Permit Part 3.3.1.** requires that the Permittee's stormwater management program include the elements listed in Table 3.3.1., including the following:

a. Table 3.3.1.a. "Provide an inventory and map of MS4 control structures as defined in the SWMP. At a minimum the inventory and map must include catch basins, ditches (mile or linear feet), detention/retention ponds, and storm drain lines (miles or linear feet). Include the total number of each type of structure with the 2012-2013 annual report. The inventory and map must be completed and submitted with the 2013-2014 annual report."

b. Table 3.3.1. b. "Provide the number of MS4 control structures added during the reporting period, and the total number of structures in the inventory, in subsequent annual reports."

12. **Permit Part 3.3.1.** Table 3.3.1.2.a. requires the Permittee to "conduct inspections of the MS4 control structures so that 100% of the structures are inspected within the 5-year permit term." "The MS4 inspections shall be executed in accordance with the schedule contained in the SWMP."

Provide the number and percentage of the total structures inspected during the reporting period in each annual report.”

13. **Permit Part 3.3.1.9.a.** requires the Permittee to “ensure that MS4 staff involved in municipal facility operation activities obtain the appropriate education and training.”

14. **Permit Part 3.3.2.3.b.** requires the Permittee to “implement investigative and follow-up procedures when the results of the screening indicate a potential illicit discharge, including the sampling and/or inspection procedures described in the SWMP. Provide information on illicit discharge detection activities performed to eliminate any identified illicit discharges during the reporting period in each annual report.”

15. **Permit Part 3.3.2.3.c.** requires the Permittee to “ensure any identified illicit discharges are eliminated. If necessary, implement the enforcement procedures described in the SWMP and in accordance with the Enforcement Response Plan (ERP) in Part 3.3.6 of this permit. Provide information on any enforcement actions taken for illicit discharges during the reporting period in each annual report.”

16. **Permit Part 3.3.3.1.a.** requires the Permittee to “develop and/or update an inventory of facilities with industrial activities that potentially discharge to the MS4. At a minimum, this shall include facilities listed on EPD’s Industrial Storm Water General Permit (IGP) Notice of Intent (NOI) and No Exposure Exclusion (NEE) online listings. Provide an updated inventory in each subsequent annual report. Provide the inventory with the 2012-2013 annual report.”

17. **Permit Part 3.3.3.2.a.** requires the Permittee to “implement the industrial facility inspection program which includes the facility inspection prioritization, inspection frequency, and inspection documentation protocol described in the SWMP.”

18. **Permit Part 3.3.3.2.b.** requires the Permittee to “implement a monitoring program for stormwater runoff from industrial facilities, waste facilities, hazardous waste treatment, storage and disposal facilities, as defined in the SWMP.”

19. **Permit Part 3.3.3.3.a.** requires the Permittee to “implement enforcement procedures described in the SWMP to be utilized if a stormwater violation is noted at an industrial facility that discharges to the MS4 during the reporting period and in accordance with the ERP in Part 3.3.6 of this permit. Provide documentation on any enforcement actions taken during the reporting period in each annual report.”

20. **Permit Part 3.3.3.4.a.** requires the Permittee to “implement educational activities for industrial facilities during the reporting period. Provide details of any educational activities performed during the reporting period in each annual report.”

22. **Permit Part 3.3.4.3.a.** requires the Permittee to “implement the construction site inspection program to ensure that structural and non-structural BMPs at construction sites are properly designed and maintained as specified in the” Construction General Permits.

23. **Permit Part 3.3.4.4.a.** requires the Permittee to “provide documentation on any enforcement actions taken during the reporting period in each annual report, including the number and type.”

21. **Permit Part 3.3.4.5.a.** requires the Permittee to “ensure that MS4 staff involved in construction activities subject to the CGPs are trained and certified in accordance with the rules adopted by the Georgia Soil and Water Conservation Commission. Provide the number and type of current certification in each annual report.”

24. **Permit Part 3.3.5.3.a.** requires the Permittee to “implement enforcement procedures to be utilized if a stormwater violation is noted at a Highly Visible Pollutant Source (HVPS) facility that discharges to the MS4 as described in the SWMP and in accordance with ERP in Part 3.3.6 of this permit. Provide documentation on any enforcement actions taken at HVPS facilities during the reporting period in each annual report.”

25. **Permit Part 3.3.10(a)(1).** requires that “The permittee must adopt ordinances, or update existing ordinances, when necessary for compliance with this permit, to address development and enforcement of post-construction controls.” “The ordinance revisions must include the adoption and implementation of either the Georgia Stormwater Management Manual (GSMM) or an equivalent local design manual, which must include the performance standards listed in Section 3.3.10(a)(2).” “The adoption of the design manual must have been completed by no later than April 13, 2012. The permittee must provide documentation to EPD in the 2011-2012 annual report to demonstrate the date the adoption of the design manual occurred.”

26. **Permit Part 4.1.** requires that “The report shall be submitted by May 15th following the reporting period.”

27. On December 2 through December 5, 2014, Leidos, contractor for the EPA, along with representatives from EPA Region 4 and GEPD, conducted an inspection of the Respondent’s MS4 Program to evaluate the Respondent’s compliance with Sections 301 and 402(p) of the CWA, 33 U.S.C. §§ 1311 and 1342(p); the regulations promulgated thereunder at 40 C.F.R. § 122.26; and the Permit.

28. On April 24, 2015, the EPA sent a Notice of Violation (NOV) to the Respondent for violations of the CWA and the Permit observed by the EPA during the December 2 through December 5, 2014, inspection (December Inspection) and requested that the Respondent contact the EPA to schedule a Show Cause Meeting.

29. On June 9, 2015, the EPA received information from the Respondent in response to the EPA’s NOV.

30. On June 10, 2015, a Show Cause Meeting was held between the EPA and the Respondent to discuss the alleged violations in the NOV.

31. On June 11, 2015, the EPA received additional information from the Respondent in response to the EPA’s NOV and information requested during the Show Cause.

32. The following findings are based on the December Inspection, EPA's review of the documents provided by the Respondent, and the Show Cause Meeting:

- A. The Respondent screened only 41 outfalls in 2013-2014, and therefore, the Respondent failed to screen at least 20% of the 747 MS4 outfalls that year, in violation of Part 3 of the Permit. This violation was attributable in part to CCG's loss of staff during a hiring freeze. CCG made up some of these inspections as part of a negotiated schedule with GAEPD.
- B. The Respondent has failed provide the number of outfalls added during the reporting period and the total number of outfalls in the inventory in the annual reports, in violation of Part 3.3.1, Table 3.3.1.a. and Table 3.3.1.1.b of the Permit. According to Respondent, this violation was attributable in part to the difficulty CCG had in obtaining their data from a contractor.
- C. 1. Control Structure Inspections. The 2012 – 2013, 2013 – 2014, and 2014 – 2015 annual reports note that the total length of the structural control ditches is unknown. Because the total length of the ditches is unknown, it could not be determined how the Respondent verifies that it is inspecting a reasonable percentage of the ditches annually to ensure 100% of the ditches will be inspected during the permit cycle. The Respondent has failed to adequately document that 100% of ditches are being inspected within the 5-year permit cycle, in violation of Part 3.3.1.2.a of the Permit. The 2014-2015 Annual report says "varies" for the frequency at which permanent control structures were inspected during this reporting period. According to Respondent, this violation was attributable in part to the difficulty CCG had in obtaining their data from a contractor.
- C. 2. Outfall Screening. The reporting table for the last 3 annual reports does not include any MS4 outfalls that were inspected. The number of detention/retention ponds is inconsistent in the 2014-2015 annual report and lists the count as 70, 71, and 74 depending on where one looks in the report. The Respondent is required to screen at least 20% of the 747 MS4 outfalls each year as committed to in the SWMP Section 3.3.2., in violation of Part 3.3.1. Table 3.3.1.2.a of the Permit.
- D. The Respondent failed to include training of the MS4 staff involved in municipal facility operation activities (Chemical Application) in the 2012-2013 Annual Report, in violation of Part 3.3.1.9.a. of the Permit.
- E. The Respondent failed to identify the source of dry weather flows, implement follow-up procedures, conduct enforcement, and provide information on the results of source identification activities, in violation of Part 3.3.2.3.b. of the Permit.
- F. The Respondent's industrial inventory and annual report do not contain all of the facilities listed on the Georgia EPD's Industrial Storm Water General Permit NOI and NEE online listings, in violation of Part 3.3.3.1.a. of the Permit.

- G. The industrial inspection prioritization criteria identified in the Respondent's SWMP, Section 3.3.3.2 were not followed, in violation of Part 3.3.3.2.a. of the Permit.
 - H. The Respondent has not conducted monitoring of the industries listed in its inventory, in violation of Part 3.3.3.2.b. of the Permit.
 - I. The Respondent is not documenting (in accordance with the ERP) and reporting all enforcement actions conducted in the industrial program, in violation of Part 3.3.3.3.a. of the Permit.
 - J. Educational materials and training are not provided annually to all industries listed in the inventory, in violation of Part 3.3.3.4.a. of the Permit.
 - K. The Respondent did not include a roster of training attendees for the Pine Grove Landfill employees, or copies of materials handed out at the training in the annual reports, in violation of Part 3.3.3.5.a. of the Permit.
 - L. The Respondent's construction inspections failed to evaluate and identify BMP maintenance issues, thus failing to ensure that structural BMPs at construction sites are properly maintained, in violation of Part 3.3.4.3.a. of the Permit.
 - M. The Respondent has failed to document all enforcement actions taken in the construction program during the reporting period in each annual report, including the number and type, in violation of Part 3.3.4.4.a. of the Permit.
 - N. The Respondent did not provide a list of the HVPS facilities against which enforcement was taken in the annual report, or outcomes, in violation of Part 3.3.5.3.a. of the Permit.
 - O. The 2014-2015 Annual Report was due by May 15, 2015. The Respondent requested and was granted an extension by the EPD until Friday May 29, 2015. The EPD did not receive the City's annual report until June 1, 2015, in violation of Part 4.1 of the Permit.
33. Therefore, the Respondent has violated Sections 301 and 402(p) of the CWA, 33 U.S.C. §§ 1311 and 1342(p), by failing to comply with the conditions of the Permit.

III. AGREEMENT ON CONSENT

34. Based on the foregoing Findings of Fact and Determinations of Law and pursuant to the authority of Sections 308 and 309(a) of the CWA, 33 U.S.C. §§ 1318 and 1319(a), THE DIRECTOR HEREBY ORDERS AND THE RESPONDENT HEREBY AGREES AND CONSENTS TO THE PROVISIONS OF THE PARAGRAPHS BELOW:

- A. Training: Within **90 days** of the effective date of this AOC, the Respondent shall develop and **submit to the EPA a written Training Program** that specifies annual employee

technical training requirements (curriculum) that ensure each CCG employee has and maintains the level of knowledge commensurate with duties associated with the overall functions of the Respondent's infrastructure and MS4 responsibilities. The Training Program shall be implemented within 180 days of the effective date of this AOC and shall include the following elements.

1. Internal Training: The Internal Training shall, at a minimum, be provided to all inspectors and appropriate general staff and include the following:
 - a. Formalized training course conducted internally to ensure staff are familiar with the Respondent's NPDES MS4 permit and overall program, necessary forms, the Respondent's processes, the Respondent's ERP, proper inspection documentation, how to complete Dry Weather Screening forms, MS4 Annual Report requirements, responsibilities, and organization structure.
 - b. Formalized training from stormwater professional sources to ensure all inspectors are knowledgeable with regard to their responsibilities (e.g., industrial, construction, dry weather, HVPS, IDDE).
2. External Training: This element shall describe outside skills training opportunities, that include, but are not limited to, manufacturers' training, Georgia Soil and Water Conservation Commission (GSWCC) training, and professional conferences that are made available to employees.
3. The Respondent shall describe the extent to which employee certification, at the State or at the MS4 level, is required as a basis for obtaining or maintaining a position. Finally, the Respondent shall describe the skills and on-the-job training required before an employee can undertake specific work assignments or tasks.
4. A procedure to ensure there is an annual review for any necessary updates, based on lessons learned and/or permit revision, and that a summary of changes is documented.
5. A description of the common data management system to be used for tracking personnel participation in, and completion of all related training.
6. An implementation schedule, specifying dates and actions, for the first 12 months and annually thereafter.
7. The Respondent shall retain at least one person who has received Level 1B Advanced Fundamentals Certified through the Georgia Soil and Water Conservation Commission Certification Program, to conduct Stormwater Inspections for the Respondent, without a vacancy that extends beyond 90 days.

B. Inventory and Mapping:

1. Within **60 days** of the effective date of this AOC, the Respondent will update the inventory and map of storm sewer piping for permanent control structures, storm drain lines, and MS4 outfalls, that reflects data collected from 2013 up through the effective date of this AOC.
2. Within **90 days** of the effective date of this AOC, the Respondent shall develop and **submit to the EPA** a written plan that includes an expeditious implementation timeline, not to extend 300 days beyond the effective date of this AOC, which outlines a method to quantify the total length of structural control ditches within

the Respondent's boundaries.

C. Industrial Program.

1. Within **60 days** of the effective date of this AOC, revise the industrial inventory to include, at a minimum, the EPD's listed NOI and NEE industries (<http://epd.georgia.gov/npdes-industrial-storm-water-general-permits>).
2. Within **60 days** of the effective date of this AOC, the Respondent shall retain at least one full-time Stormwater Inspector on staff at all times (who maintains among their primary responsibilities evaluating stormwater practices at industrial facilities). A vacancy in this Stormwater Inspector position shall be filled within 90 days of the departed inspector's leaving that position.
3. Within **120 days** of the effective date of this AOC, implement educational activities consistent with permit requirements for all industrial facilities.
4. Within **120 days** of the effective date of this AOC, **submit to the EPA** the industrial inspection list based upon the SWMP revisions and include a quarterly inspection schedule for the first fiscal year that includes at least 25% of the facilities and a rationalization for the facilities selected.
5. Within **120 days** of the effective date of this AOC, develop and implement a stormwater pollution prevention plan (SWPPP) for the Respondent's Fleet Maintenance Facility which includes maintaining the oil water separators in a functional capacity.

D. SWMP Revisions: Within **120 days** of the effective date of this AOC, **provide a copy of the SWMP to the EPA** and the EPD that addresses all changes necessary to comply with this AOC and the Permit, which also includes the following elements and commitments to ensure these elements are implemented:

1. Industrial Program additions shall include, at a minimum, the below components.
 - a. Industrial inspection prioritization and analytical monitoring protocol.
 1. Facility inspection prioritization methodology that, at a minimum, takes into account the following criteria:
 - a. The duration since the last inspection;
 - b. A variety of industrial sectors;
 - c. A facilities' potential to contribute pollutants of concern to listed impaired waterbodies; and
 - d. Findings from the facilities' annual reports that were submitted to the Respondent.
 2. Facility inspection frequency greater than once every five years for facilities that have a greater potential to discharge pollutants to waters and taking into consideration the criteria in the previous subparagraph.
 3. Identify conditions when facility discharge sampling by the Respondent will be necessary and what actions will be taken to mitigate excessive pollutant discharges.
 4. A program to identify unpermitted industrial facilities and a written

method for notifying the EPD when unpermitted facilities are identified.

- b. Enforcement Tracking: The Respondent shall annually track, in hard-copy files or electronically, instances of non-compliance and all enforcement actions.
 - c. Recidivism Reduction. The Respondent shall annually summarize inspection results by repeat violators and identify incentives, disincentives, and an increased inspection frequency at the applicable facilities.
 - d. Inspection Documentation. Inspections of industrial sites must, at a minimum:
 1. Provide a written or electronic inspection report generated from findings in the field.
 2. Include any identified deficiencies and the corrective actions taken to fix them.
2. Incorporate the Training Program that was developed as part of this AOC.
 3. Construction Program. Inspections of construction sites must, at a minimum:
 - a. Check for appropriate coverage under GAR100001, GAR100002, or GAR100003 by reviewing the Notice of Intent (NOI) during initial inspections.
 - b. Review the applicable erosion, sedimentation and pollution control plan and conduct a thorough site inspection to determine if control measures have been selected, installed, implemented, and maintained according to the plan.
 - c. Assess compliance with the Respondent's ordinances and permits related to stormwater runoff, including the implementation and maintenance of designated minimum control measures.
 - d. Assess the effectiveness of control measures.
 - e. Visually observe and record non-stormwater discharges, potential illicit connections, and potential discharges of pollutants in stormwater runoff.
 - f. Visually observe all permitted outfalls, the surrounding perimeter, and specifically evaluate receiving waterbody conditions.
 - g. Provide the permittee within 7 days a written or electronic inspection report generated from findings in the field. This record shall also be retained by the Respondent.
- E. SWMP revisions shall be provided to the EPD in accordance with Part 3.5 of the Permit.
- F. Prior to **April 1, 2017**, the Respondent shall screen at least 25% of the total MS4 outfall universe, prioritizing those that have not been previously screened during this permit cycle.
- G. Annual Report. No later than **May 15, 2017**, submit to the EPA a copy of the 2016-2017 Annual Report which shall be completed in its entirety and addresses the following:
1. The table for dry weather flow detected during outfall screening shall include clear

information on the results of the source identification activity. This may include responses describing the source, such as: groundwater, sanitary leak, illicit industrial connection, illicit dumping, illicit sewer connection, or potable water leak. "Other" shall be an acceptable category when accompanied by a detailed explanation as a footnote to the table.

2. Populating the table for reporting enforcement activities at construction sites with summaries of site location, type of enforcement action (e.g., Verbal Warning, Warning Ticket, Citation, Notice of Violation, Stop Work Order, Warning Code Violations, summons, penalties, Etc.), and date of enforcement activity.
3. The total universe of structural control ditches shall be quantified, rather than listed as "unknown."
4. At least 25% of the MS4 outfalls having been screened.
5. Provide documentation on any enforcement actions taken during the reporting period in each annual report, including the number and type (e.g., Verbal Warning, Warning Ticket, Citation, Notice of Violation, Stop Work Order, Warning Code Violations, summons, penalties, Etc.) Verbal warnings shall be documented on the inspection checklists. A written record (e.g., checklist or inspection report) shall be retained for every inspection conducted.
6. The updated inventory and map of storm sewer piping for permanent control structures (e.g., storm drain lines and MS4 outfalls) with data from 2013, 2014, and 2015.
7. A list of all Chemical Applicators and the date of their annual University of Georgia's Cooperative Extension Service or other similar provider training for 2016.

35. Respondent may submit a request, in writing, for an extension of time to comply with the requirements of this AOC at least seven (7) calendar days in advance of the required completion date. Such request must include the reason(s) for the extension request and a date when compliance will be achieved. Any extension must be granted by the EPA in writing to be effective.

36. All reports, notifications, documentation, and submittals required by this AOC shall be signed by a duly authorized representative of Respondent as specified by 40 C.F.R. § 122.22 and shall include the following statement:

"I certify under the penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

All reports, notifications, documentation, and submittals required by this AOC shall be sent by certified mail or its equivalent to the following addresses:

LCDR Tara Houda
NPDES Permitting and Enforcement Branch
Water Protection Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

and

James A. Capp, Branch Chief
Watershed Protection Branch
ATTN: Frances Carpenter, Unit Manager
Georgia Environmental Protection Division
2 Martin Luther King Jr. Drive
Suite 1152 East
Atlanta, Georgia 30334

IV. FINAL REPORT AND TERMINATION of AOC

37. Within thirty (30) calendar days after the Respondent has fully completed and implemented the actions required by Section III (Agreement on Consent) of this AOC, the Respondent shall **submit for the EPA's review and approval** a final report ("Final Report") that includes: (a) a description of all of the actions which have been taken toward achieving compliance with this AOC and the associated dates of completion; (b) an assessment of the effectiveness of such actions; and (c) an analysis of whether additional actions beyond the scope of this AOC are necessary to further comply with the CWA, this AOC and the Permit.

38. If the EPA determines, after review of the Final Report, that all the requirements of this AOC have been completed and implemented in accordance with this AOC, the EPA will provide notice to the Respondent and this AOC shall be deemed terminated.

39. If the EPA determines that any requirement has not been completed and implemented in accordance with this AOC, the EPA will notify the Respondent, provide a list of deficiencies, and may require the Respondent to modify its actions as appropriate in order to correct such deficiencies. If so required, the Respondent shall implement the modified and approved requirement(s) and submit a modified Final Report in accordance with the EPA notice. Failure by the Respondent to implement any of the approved modified requirement(s) shall be a violation of this AOC.

V. GENERAL PROVISIONS

40. The Respondent's compliance with this AOC does not necessarily constitute compliance with the provisions of the CWA, 33 U.S.C. § 1251 et seq., and its implementing regulations, or with

the Permit. The Respondent shall remain solely responsible for compliance with the terms of the CWA, its implementing regulations, this AOC and the Permit.

41. Nothing in this AOC shall constitute a waiver, suspension, or modification of the terms and conditions of the Permit, which remain in full force and effect.

42. Failure to comply with the requirements herein shall constitute a violation of this AOC and the CWA, and may subject the Respondent to penalties as provided in Section 309(d) of the CWA, 33 U.S.C. § 1319(d).

43. This AOC shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state, or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any other federal, state, or local permit. Compliance with this AOC shall not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by the EPA.

44. Issuance of this AOC shall not be deemed as prohibiting, altering, or in any way limiting the ability of the EPA to pursue any other enforcement actions available to it under law. Such actions may include, without limitation, any administrative, civil, or criminal action to seek penalties, fines, injunctive, or other appropriate relief, or to initiate an action for imminent and substantial endangerment under the CWA or any other federal or state statute, regulation, or permit.

45. The EPA reserves all rights and remedies, legal and equitable, available to enforce any violation cited in this AOC and to enforce this AOC.

46. Nothing in this AOC is intended to nor shall be construed to operate in any way to resolve any criminal liability of the Respondent, or other liability resulting from violations that were not alleged in this AOC.

47. This AOC applies to and is binding upon the Respondent and its officers, directors, employees, agents, successors, and assigns.

48. Any change in the legal status of the Respondent, including but not limited to any transfer of assets of real or personal property, shall not alter the Respondent's responsibilities under this AOC.

49. The Respondent admits to the jurisdictional allegations set forth within this AOC but the Respondent does not otherwise admit the factual or legal allegations made by EPA.

50. The Respondent waives any and all claims for relief and otherwise available rights or remedies to judicial or administrative review which the Respondent may have with respect to any issue of fact or law set forth in this AOC, including, but not limited to any right of judicial review of the AOC under the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

51. Each party shall bear its own costs and attorneys fees in connection with the action resolved by this AOC.

52. Pursuant to Section 309(a)(4) of the CWA, 33 U.S.C. § 1319(a)(4), the EPA has sent a copy of this AOC to the State of Georgia.

53. Each undersigned representative of the parties to this AOC certifies that he or she is fully authorized to enter into the terms and conditions of this AOC and to execute and legally bind that party to it.

VI. EFFECTIVE DATE

54. This AOC shall become effective upon receipt by Mr. Isaiah Hugley, City Manager, of a copy of the fully executed AOC.

**FOR THE U.S. ENVIRONMENTAL
PROTECTION AGENCY**

Isaiah Hugley
City Manager

James D. Giattina
Director
Water Protection Division

Date

Date