

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

IN RE: CITY OF VALDOSTA

ORDER NO. EPD-WQ-

CONSENT ORDER

WHEREAS, the City of Valdosta (City) was issued National Pollutant Discharge Elimination System (NPDES) Permit Nos. GA0033235 and GA0020222 (Permits) by the Director of the Georgia Environmental Protection Division (Director, EPD) for its Withlacoochee Water Pollution Control Plant (WPCP) and Mud Creek WPCP, respectively, located in the Suwannee River Basin; and

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

WHEREAS, from January 1, 2008 to June 30, 2013, the City reported an excessive number of effluent violations of Permit Nos. GA0033235 and GA0020222 (see Attachment 1); and

WHEREAS, from January 1, 2008 through July 31, 2013, the City reported an excessive number of raw sewage spills from its sanitary sewer collection system to waters of the State (see Attachment 2); and

WHEREAS, Chapter 391-3-6-.05(2)(a) of the Rules and Regulations of the State of Georgia 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, Chapter 391-3-6-.05(2)(b)(2) of the Rules defines a major spill, in part, as "Any discharge of raw sewage that (1) is in excess of 10,000 gallons or (2) results in water quality violations in the waters of the State"; and

WHEREAS, the City reported two fish kill events downstream of the November 18, 2009

and February 21, 2013 spills; and

WHEREAS, on November 20, 2009 and February 22, 2013, the Wildlife Resources Division investigated the fish kill events (see Attachment 3); and

WHEREAS, from January 1, 2008 through July 31, 2013, the City reported an excessive number of major spills, as defined by 391-3-6-.05(2)(b)(1) of the Rules, from the Withlacoochee WPCP and the Mud Creek WPCP outfalls to waters of the State (see Attachment 4); and

WHEREAS, Chapter 391-3-6-.05(2)(b)(1) of the Rules defines a major spill, in part, as "The discharge of pollutants into the waters of the State by a POTW that exceeds the weekly average permitted effluent limit of biochemical oxygen demand (5-day) or total suspended solids by 50 percent or greater for any one day, provided that the effluent discharge concentration is equal to or greater than 25 mg/L for biochemical oxygen demand or total suspended solids" [amended August 2012]; and

WHEREAS, Chapter 391-3-6-.03(3)(l) of the Rules defines waters of the State as any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, wetlands, and all other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the state which are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation; and

WHEREAS, the spills to State waters documented in Attachments No. 1 and 2 of this Order meet the definition of a spill or major spill; and

WHEREAS, on March 31, 2009, the Withlacoochee WPCP was inundated with floodwaters due to heavy rains and severe weather, and according to the City's April 1, 2009 and April 14, 2009 letters, an estimated 50,300,000 gallons of raw sewage was discharged to the Withlacoochee River from March 31, 2009 to April 2, 2009; and

WHEREAS, on March 27, 2009, Governor Sonny Perdue declared Lowndes County to

be in a State of Emergency due to heavy rains and severe weather; and

WHEREAS, on April 23, 2009, President Barack Obama declared South Georgia counties, including Lowndes County, federal disaster areas; and

WHEREAS, in July 2009, the City applied for federal funding with the Federal Emergency Management Agency (FEMA) to secure approval of, and funding for, damages to the Withlacoochee WPCP from the flood of March 2009; and

WHEREAS, on December 7, 2009, the Mud Creek WPCP sanitary sewer manhole receiving all influent flow into the WPCP collapsed, along with associated piping, and, according to the City's December 14, 2009 report to EPD, an estimated 5,500,000 gallons of raw sewage spilled into Mud Creek from December 8, 2009 to December 13, 2009 spill; and

WHEREAS, in a letter to EPD, dated January 4, 2010, the City stated that during the December 8-13, 2009 major spill, a major leak was discovered by close circuit television equipment just downstream from one of the plugged influent lines, allowing significant groundwater inflow into the repaired manholes and lines; and

WHEREAS, on January 5, 2010, representatives of the City and EPD held a teleconference to discuss the City's sanitary sewer system; and

WHEREAS, during the January 5, 2010 teleconference, the City advised EPD of work completed on the sanitary sewer system, various initiatives implemented by the City since October 2008, and the City's commitment to continue to address its sanitary sewer system issues; and

WHEREAS, in a correspondence, dated January 6, 2010, the City submitted to EPD a Sanitary Sewer Condition Assessment and Rehabilitation Program, Condition and Criticality Report, and Sewer System Modeling and Capacity Evaluation Report (Assessment Program); and

WHEREAS, the City completed construction of the renovated Mud Creek WPCP

WHEREAS, on April 6, 2010, representatives of the City and EPD held a teleconference to discuss clarification of the City's Assessment Program and to request the City to submit updated schedules for completion of specific sewer system projects; and

WHEREAS, on April 21, 2010, at the request of the City, representatives of the City and EPD met to further discuss corrective actions to address the City's sanitary sewer system, the amount of work the City has completed with regard to its sewer system, and the City's commitment to continue to address its sanitary sewer system; and

WHEREAS, in April 2012, the City completed the renovation and expansion of the Mud Creek WPCP. Since completion of the renovations and expansion, the Mud Creek WPCP has met permit effluent limitations for pollutant parameters; and

WHEREAS, on August 1, 2012, the City was denied federal funding from FEMA; and

WHEREAS, according to the City, the denial followed a final appeal prepared by FEMA staff and FEMA's external consultant, in which they concluded the proposed project to build a new force main system, equalization basin, headworks and relocation of the WPCP was eligible, feasible and cost effective; and

WHEREAS, in a letter dated October 23, 2012, the United States Environmental Protection Agency Region 4 (EPA) submitted a request to the City, under Section 308 of the Clean Water Act, for information regarding the Withlacoochee WPCP, the Mud Creek WPCP, and their associated sanitary sewer collection systems; and

WHEREAS, on February 28, 2013, at the City's request, the City met with EPA to discuss the City's sanitary sewer system issues and plans to address those issues, including funding alternatives and timelines of completion. In addition, the City requested that EPA allow them to work directly with EPD on a corrective action plan; and

WHEREAS, on February 28, 2013, the Withlacoochee WPCP was inundated with floodwaters due to heavy rains and severe weather; and

WHEREAS, on March 13, 2013, a meeting was held between the City and EPD to discuss recent flooding issues at the Withlacoochee WPCP and the City's plans to address its sanitary sewer system issues, including specific projects, timelines and funding sources, as well as a proposed corrective action plan; and

WHEREAS, in a letter to EPD, dated March 14, 2013, the City stated that due to the flooding on February 28, 2013 the Withlacoochee WPCP was taken offline from February 28, 2013 to March 3, 2013 and as a result an estimated 19,150,000 gallons of raw sewage was discharged to the Withlacoochee River; and

WHEREAS, on March 19, 2013, EPA and EPD held a teleconference to discuss the City's response to EPA's October 23, 2012 Section 308 information request and corrective actions to address the City's sanitary sewer system issues; and

WHEREAS, on April 10, 2013, the City submitted to EPD a document titled "Corrective Action Plans and Schedules" which includes completion dates for corrective actions within the City's sanitary sewer collection system and relocation of the Withlacoochee WPCP (see Attachment 6); and

WHEREAS, on April 11, 2013, following review of the City's response to the Section 308 information request, EPA submitted to EPD via electronic mail comments regarding the City's "Sewer Overflow Response and Reporting Procedures" (see Attachment 5a); and

WHEREAS, on April 15, 2013, the City submitted via electronic mail a list of sanitary sewer projects completed by the City from 2009 to present with a total expenditure amount of \$49,453,784 (see Attachment 7), including the renovation and expansion of the Mud Creek WPCP, which was completed in April 2012; and

WHEREAS, on April 23, 2013 the City submitted via electronic mail an interim plan for meeting permit compliance at the existing Withlacoochee WPCP; and

WHEREAS, according to the City, on April 25, 2013, the Mayor and City Council adopted a five (5) year action plan to address the City's sanitary sewer system issues, including the relocation of the Withlacoochee WPCP; a new force main to the Withlacoochee WPCP; an equalization basin; a new headworks facility at the Withlacoochee WPCP; inspection of all sewer lines and manholes with associated repairs; and short term improvements to the existing Withlacoochee WPCP; and

WHEREAS, on September 11, 2013 the City transmitted to EPD via electronic mail a revised "Sewer Overflow Response and Reporting Procedures" in response to EPA's and EPD's comments (See Attachment 5b); and

WHEREAS, Part II.A.1. of the Permits requires the permittee to maintain and operate as efficiently as possible all treatment or control facilities and related equipment installed or used by the permittee to achieve compliance with the permit; and

WHEREAS, Section 12-5-29(a) of the Georgia Water Quality Control Act (Act) makes it unlawful to use any waters of the State to dispose of sewage or other wastes, except in such a manner as to conform and comply with the Code and all rules, regulations, orders, and permits established under the Code; and

WHEREAS, Section 12-5-23(c)(12) of the Act provides the Director the authority to issue orders as may be necessary to control, abate, and prevent pollution of the waters of the State; and

WHEREAS, Section 12-5-52(a) of the Act specifies that any person violating 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 for each day during which such violations continue; and

WHEREAS, the spills and Permit violations addressed in this Order are violations of the Permits, Rules, and Act.

NOW THEREFORE, the Director ORDERS and the City AGREES as follows:

1. Allocate, at a minimum, \$200,000 to complete a Supplemental Environmental Project (SEP). The SEP must go beyond standard compliance requirements and should result in improvement to water quality or water conservation. Any proposed SEP should not be part of a plan or requirement that the City is already in the process of implementing or that is otherwise required in order to comply with the Georgia Water Quality Control Act. Within sixty (60) days of the execution date of this Order, submit to EPD for review and approval a SEP plan and schedule with a completion date no later than December 31, 2016. Once approved by EPD, the SEP plan and schedule will become part of the Order.
2. Complete the relocation of the Withlacoochee WPCP in accordance with the construction deadline as described in Action Item 1a and 1b in Attachment 6 of this Order.
3. Upon EPD written approval, immediately implement the interim plan for meeting permit compliance at the existing Withlacoochee WPCP, submitted to EPD on April 23, 2013.
4. Complete Action Item Nos. 2-5 in accordance with the completion deadlines listed in Attachment 6 of this Order.
5. Upon EPD written approval, immediately implement the revised "Sewer Overflow Response and Reporting Procedures", submitted to EPD via electronic mail on September 11, 2013.
6. Submit to EPD semi-annual progress reports for the SEP listed in Condition 1 this Order, and action items listed in Attachment 6 of this Order, by June 30th and December 31st of each year.

7. Consistent with timely review and approval by EPD, all plans, procedures, and schedules required by or referenced in this Order, are upon approval by EPD, incorporated into this Order. The City shall implement all approved plans, procedures, and schedules.
8. Upon receipt of any report, plan, or schedule; or any portion of a report, plan, or schedule; or any revised report, plan, or schedule; or any revised portion of a report, plan, or schedule; or any written response (hereinafter collectively "document") required under this Order, EPD shall review said document to determine its completeness with regard to the Act, Permit, and this Order. If EPD determines that said document is complete, EPD shall notify the City in writing that said document is approved. If EPD determines that said document is incomplete, EPD shall provide the City with written notice of any deficiencies. The City shall have sixty (60) days from receipt of the written notice of deficiencies to submit a modified document to EPD unless otherwise specified by EPD. Should the City take exception to all or part of EPD's notice of deficiencies, the City shall, within fifteen (15) days after receipt of the written notice of deficiencies, submit to EPD a written statement of the grounds for the exception. EPD and the City shall confer by telephone or in person in an attempt to resolve any disagreement. If agreement is reached, the resolution shall be written and signed by representatives of each party. If agreement cannot be reached within thirty (30) days from the date of the City's receipt of the notice of deficiencies unless otherwise specified by EPD, the City shall revise the document as required by EPD and resubmit the revised document in accordance with a schedule to be specified by EPD

This Order does not waive EPD's authority to take further enforcement action, or imply

that EPD will not take such action, if the City (1) fails to meet applicable Permit effluent limits, (2) or the City does not fully satisfy the conditions of the Order, or (3) fully comply with other relevant requirements.

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

This Order does not relieve the City of any obligation or requirements of the Permits.

This Order is final and effective immediately, and shall not be appealable, and the City waives any hearing on its term and conditions.

It is so ORDERED, CONSENTED, and AGREED TO this _____ day of _____, 2013.

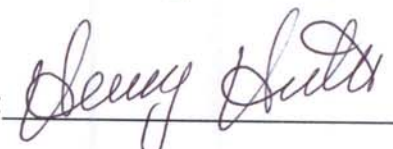
FOR THE DIVISION:

Judson H. Turner

Director

FOR THE CITY:

BY (print name): Henry Hicks

SIGNATURE: 

TITLE: Utility Director

DATE: September 23, 2013