



GEORGIA
DEPARTMENT OF NATURAL RESOURCES

ENVIRONMENTAL PROTECTION DIVISION

Jeffrey W. Cown, Director

2 Martin Luther King, Jr. Drive
Suite 1456, East Tower
Atlanta, Georgia 30334
404-656-4713

09/15/2023

Honorable James Scott Matheson, Mayor
City of Valdosta
Post Office Box 1125
Valdosta, Georgia 31603

RE: Consent Order No. EPD-WP-9424
City of Valdosta Mud Creek and Withlacoochee WPCPs
NPDES Permit Nos. GA0020222 and GA0033235

Dear Mayor Matheson:

This letter serves as a notice that Consent Order No. EPD-WP-9424 has been executed. A copy of the executed Order is attached. Within thirty (30) days of execution of the Order, please submit a check payable to the Georgia Department of Natural Resources, for the agreed settlement amount, to the following address:

Georgia DNR Environmental Protection Division
Watershed Protection Branch
2 Martin Luther King, Jr. Drive
Suite 1470A, East Tower
Atlanta, Georgia 30334
Attention: Eddy Basilio

If you have any questions regarding this correspondence, please contact Eddy Basilio, of my staff, at edwina.basilio@dnr.ga.gov. Your cooperation in this matter is appreciated.

Sincerely,

Jeffrey W. Cown, Director
Environmental Protection Division

cc: Scott James Matheson, Mayor (sjmatheson@valdostacity.com)
Jason Barnes, Assistant Utilities Director (jbarnes@valdostacity.com)

JWC/EB
Attachment

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

IN RE: City of Valdosta)
Post Office Box 1125)
Valdosta, Georgia 31603) ORDER NO. EPD-WP-9424
Lowndes County)
Respondent.)

CONSENT ORDER

Authority

WHEREAS, the City of Valdosta (the "Respondent") owns, operates, and is the named permittee for the Mud Creek Wastewater Pollution Control Plant ("WPCP") located at 1638 New Statenville Rd Valdosta, Lowndes County, Georgia and the Withlacoochee WPCP located at 3108 Wetherington Lane Valdosta, Lowndes County, Georgia; and

WHEREAS, the Director (the "Director") of the Environmental Protection Division of the Georgia Department of Natural Resources ("EPD") administers and enforces the Georgia Water Quality Control Act, O.C.G.A. § 12-5-20 et seq. (the "Water Quality Act"); and

WHEREAS, EPD administers and enforces the Water Quality Control Rules, GA. COMP. R. and REGS. 391-3-6 (the "Water Quality Rules"), which were promulgated and are in effect pursuant to the Water Quality Act; and

WHEREAS, O.C.G.A. § 12-5-30(a) of the Water Quality Act and 391-3-6-.06(3)(a) of the Water Quality Rules makes it unlawful to discharge pollutants into waters of the State except in accordance with a permit issued by the Director pursuant to the Water Quality Acts and Rules; and

WHEREAS, O.C.G.A. § 12-5-23 of the Water Quality Act, authorizes the Director to issue permits stipulating in each permit the conditions or limitations under which such permit was issued and authorizes the Director to issue orders as may be necessary to enforce compliance with provisions of the Water Quality Act and Rules; and

WHEREAS, Section 391-3-6-.03(5)(c) of the Water Quality Rules requires that all waters 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

WHEREAS, Section 391-3-6-.03(5)(e) of the Water Quality Rules requires that all waters be free from toxic, corrosive, acidic and caustic substances discharges from municipalities, industries or other sources, such as non-point sources, in amounts, concentrations or combinations which are harmful to humans, animals, or aquatic life; and

WHEREAS, Section 391-3-6-.05(2) of the Water Quality Rules and Part II.A.11 of the Permits define a spill as any discharge of raw sewage by a Publicly Owned Treatment Works ("POTW") to waters of the State and a major spill as any discharge of raw sewage that results in water quality violations in waters of the State; and

WHEREAS, Part I.D.1 of the Permit No. GA0020222 requires the Respondent to report a monthly

Discharge Monitoring Report (“DMR”) detailing all monitoring data collected during the previous month, in accordance with Permits requirements in Part I.B; and

WHEREAS, Part I.C.2 of the Permit No. GA0033235 requires the Respondent to report a monthly Discharge Monitoring Report (“DMR”) detailing all monitoring data collected during the previous month, in accordance with Permit requirements in Part I.B; and

Civil Penalty

WHEREAS, O.C.G.A. § 12-5-52 provides that any person violating any provision of the Water Quality Act or any National Pollutant Discharge Elimination System Permit issued or established pursuant to the Water Quality Act, Water Quality Rules, or negligently or willfully failing or refusing to comply with any final order of the Director shall be liable for a civil penalty not to exceed \$50,000.00 per day for each day during which such violation continues provided, however, that a separate and later incident creating a violation within a twelve (12) month period shall be liable for a civil penalty not to exceed \$100,000.00 per day for each day during which such violation continues; and

Background

WHEREAS, National Pollutant Discharge Elimination System (“NPDES”) Permit No. GA0020222 and NPDES Permit No. GA0033235 (the “Permits”) were most recently reissued to the Respondent on May 1, 2020 and November 1, 2016 to discharge from the Mud Creek WPCP and Withlacoochee WPCP respectively; and

WHEREAS, the Respondent is currently operating in compliance with Consent Order EPD-WP-8904, which was executed on August 11, 2020 and amended on January 12, 2022 to address violations that occurred from April 9, 2014 to December 31, 2019; and

WHEREAS, EPD most recently transmitted a Letter of Noncompliance (LON) on September 22, 2022 to the Respondent to address four (4) spills of raw sewage to waters of the State and five (5) effluent limit violations, one of which was an Ammonia violation at the Mud Creek WPCP, that occurred between January 2022 and August 2022; and

WHEREAS, from September 1, 2022 to February 28, 2023, the Respondent reported a total of six (6) instances of spills of raw sewage into waters of the State, the details of which are provided in Attachment A; and

WHEREAS, the Respondent reported the corrective action taken to stop each of the reported spill and steps taken to prevent reoccurrences; and

WHEREAS, from September 1, 2022 to February 28, 2023, the Respondent reported six (6) permit limit violations at the Mud Creek WPCP, including Ammonia weekly average loading and concentration violations during September 2022, January 2023, and February 2023, as indicated in Attachment B; and

WHEREAS, the Respondent notified EPD via email for each month during which Ammonia violations occurred, indicating that they believed them to be caused by a seasonal spike in ammonia influent levels from pretreatment industries, but the Respondent was not able to provide additional information to identify the specific industries causing the violations or how the issue had been permanently addressed, as indicated in Attachment C; and

WHEREAS, on September 24, 2022, the Respondent notified the EPD Emergency Response Team of a fish kill in One Mile Branch; and

WHEREAS, on September 24 and September 25, 2022, the Fisheries Department of the Wildlife

Resources Division of the Department of Natural Resources ("Fisheries") conducted a fish kill investigation; and

WHEREAS, from September 26 to September 29, 2022, EPD communicated with the Respondent and Fisheries to discuss potential causes of the fish kill, which included hydraulic oil released during contractor activities, decommissioning of a boiler on the Valdosta State University (VSU) campus, and raw sewage; and

WHEREAS, on September 30, 2022, Fisheries emailed EPD the Fish Kill Investigation Report (the "Fish Kill Report") which noted that the fish kill began just downstream of a temporary sewage line crossing and that sewage was likely a contributing factor to the fish kill, as indicated in Attachment D; and

WHEREAS, the Fish Kill Report also noted that the Respondent's representative on-site believed that an unknown fuel/fluid had leaked from equipment in a parking lot near the crossing of North Oak Street over One Mile Branch and could have contributed to the fish kill, however, dead fish were observed upstream of this location on One Mile Branch and the Fish Kill Report concluded that any spill from the downstream fluid site would not have resulted in fish dying upstream of that location; and

WHEREAS, on October 3, 2022, EPD emailed the Fish Kill Report to the Respondent; and

WHEREAS, on October 20, 2022, EPD met with the Respondent virtually to discuss the findings of the Fish Kill Report and next steps; and

WHEREAS, on October 21, 2022, EPD sent an email to the Respondent requesting information and documentation following the meeting to continue its investigation of the fish kill, including additional sampling results along the impacted stream, information related to a temporary sewer line and bypass pump being operated by the Respondent in the area of the impacted stream, and information about an herbicide applied in the area of the impacted stream by Valdosta State University ("VSU"); and

WHEREAS, on October 21, 2022, the Respondent confirmed that the requested sampling would be scheduled and that it would forward additional information collected to EPD; and

WHEREAS, on October 21, 2022, EPD replied to the Respondent's confirmation email and requested an expected date by which the requested documentation would be submitted; and

WHEREAS, on October 31, 2022, EPD sent a follow-up email requesting the documentation from the October 21, 2022 email by November 4, 2022; and

WHEREAS, on November 1, 2022, the Respondent emailed the requested documentation from the October 21, 2022 email and notified EPD that closed-circuit television (CCTV) inspection footage of the of the gravity sewer main undergoing repair/replacement by the Contractor would be sent on a flash drive via mail; and

WHEREAS, on November 4, 2022, the Respondent notified EPD of an illicit discharge of process wastewater through a storm drain discovered from a VSU laundry facility that it believed may have contributed to the September fish kill; and

WHEREAS, on December 6, 2022, EPD received the flash drive described in the November 1, 2022 email from the Respondent; and

WHEREAS, on December 7, 2022, EPD sent an email to the Respondent requesting status updates on its projects, including an update on the sewer line repair work that had necessitated the installation of the temporary sewer line near the stream impacted by the fish kill, and the Respondent responded to EPD on December 7 that work had not begun in the area, but that EPD would be notified when work

commenced; and

WHEREAS, on January 1, 2023, the Respondent notified EPD that the sewer line repair work was slated to be completed throughout February 2023 and the bypass sewer line and pump system would resume usage from February 6 through February 22, or until the construction work was completed; and

WHEREAS, on January 6, 2023, the Respondent notified EPD that the bypass system would be in-use starting that day and that operation of the bypass pump would be monitored daily by the contractors and the Respondent; and

WHEREAS, on February 23, 2023, EPD sent an email to the Respondent to determine if the bypass system was still in-use and repairs still underway, and the Respondent responded on the same day stating that the construction work at the site had been completed and the bypass system was no longer in use; and

WHEREAS, EPD alleges that the available documentation and information reviewed by EPD do not provide sufficient evidence that raw sewage was not a contributing factor to the September 2022 fish kill ; and

WHEREAS, the Fish Kill Report acknowledges that a discharge of hydraulic fluid from a location within the area of the observed fish kill could have been a contributing factor of the September 2022 fish kill; and

WHEREAS, the Respondent owns and operates the collection system in the area in which the September 2022 fish kill occurred; and

WHEREAS, on November 4, 2022, the Respondent notified EPD of a pass-through flow event at the Mud Creek WPCP resulting in the effluent and receiving stream to have a bright green color when under direct light and that they were investigating the cause; and

WHEREAS, on November 7, 2022, the Respondent notified EPD that the receiving stream no longer had a green color; and

WHEREAS, on November 15, 2022, the Respondent notified EPD that an industry of interest had been identified as a likely cause of the green effluent and receiving stream and requested EPD authorization of a controlled discharge from the industry of interest to verify the cause; and

WHEREAS, EPD did not authorize the controlled discharge and stated to the Respondent that such a pass-through occurrence would be considered a water quality violation; and

WHEREAS, on November 15, 2022, the Respondent sent email notification to the industry of interest identified as the cause of the pass-through event, requesting that it stop use of the product believed to be the source of the violation for the near future, and forwarded the notification to EPD; and

WHEREAS, on December 7, 2022, EPD sent an email to the Respondent requesting status updates on City projects to include an update since the discontinuance of the product of concern; and

WHEREAS, on December 7, 2022, the Respondent replied that there had been no reoccurrence of the appearance of green influent, effluent, or a green color in the receiving stream; and

WHEREAS, from September 1, 2022 to February 28, 2023, the Respondent reported six (6) effluent limit violations of biochemical oxygen demand ("BOD") at the Withlacoochee WPCP, including monthly average concentrations, weekly average concentrations, monthly average loading, and weekly average loading occurring during September and October 2022, as indicated in Attachment E; and

WHEREAS, the Respondent had previously reported seven (7) effluent limit violations of BOD

at the Withlacoochee WPCP during September and October 2021, and these violations were addressed in Letters of Noncompliance (LONs) sent in November 2021 and February 2022, respectively; and

WHEREAS, on October 3, October 5, October 12, October 20, and October 31, 2022, the Respondent notified EPD of BOD permit limit violations during September and October at the Withlacoochee WPCP, as required; and

WHEREAS, in the notifications of noncompliance submitted during October 2022, the Respondent outlined the steps taken to determine the cause of these violations, including implementation of process control adjustments in each sequencing batch reactor (SBR) at the facility and additional BOD monitoring within the treatment from each SBR, as indicated in Attachment F; and

WHEREAS, on November 8, 2022, the Respondent notified EPD of an additional BOD violation that occurred in October and identified responsive steps taken to return to compliance, including implementing operational adjustments of the SBRs to enable equipment repairs, replacing filters, and analyzing additional samples from each SBR, as indicated in Attachment G; and

WHEREAS, on November 16, 2022, the Respondent notified EPD of a fourth October 2022 BOD violation and noted that improvements in BOD levels had been observed since making the operational adjustments explained in the November 8, 2022 noncompliance notification; and

WHEREAS, on December 7, 2022, EPD sent an email to the Respondent requesting status updates on its projects to regain compliance with the BOD limits at the Withlacoochee WPCP, including any additional actions implemented since the last reported noncompliance notification on November 16, 2022; and

WHEREAS, on December 7, 2022, the Respondent replied that it would maintain adjusted operations until equipment repairs were completed and no additional BOD violations occurred; and

Alleged Violations

WHEREAS, the Respondent's six (6) reported spills of raw sewage into waters of the State, three (3) of which are major spills, are in violation of the Permits, the Water Quality Rules, and the Water Quality Act; and

WHEREAS, the one (1) fish kill is in violation of the Water Quality Rules and the Water Quality Act; and

WHEREAS, the Respondent's one (1) unpermitted discharge is in violation of Permit No. GA0020222, the Water Quality Rules, and the Water Quality Act; and

WHEREAS, the Respondent's six (6) exceedances of effluent limits at the Mud Creek WPCP are in violation of Permit No. GA0020222; and

WHEREAS, the Respondent's six (6) exceedances of effluent limits at the Withlacoochee WPCP are in violation of Permit No. GA0033235; and

Conditions

WHEREAS, the Director has determined that an amicable disposition of the alleged violations set forth herein is in the best interest of the citizens of the State of Georgia.

NOW THEREFORE, before the taking of any testimony and without adjudicating the merits of the parties' positions, the parties hereby resolve the allegations in this matter upon order of the Director and consent of Respondent as follows:

1. Within thirty (30) days of the execution date of this Order, pay \$56,139.30 to the Georgia Department of Natural Resources for the violations listed in this Order.
2. Within sixty (60) days of the execution date of this Order, the Respondent shall submit to EPD a plan to identify the source of the Ammonia violations at the Mud Creek WPCP, including concrete actions and implementation timelines. Until the source has been identified, the Respondent must send monthly updates of the progress of the investigation to EPD, beginning two (2) months after the submission of the plan. The updates may be submitted with the Respondent's DMRs.
3. Within sixty (60) days of the execution date of this Order, the Respondent shall submit a Standard Operating Procedure (SOP) defining the Respondent's communication and compliance and enforcement procedures as they relate to the Industrial Users that participate in the Respondent's Industrial Pretreatment Program. The SOP should include requirements and standard procedures for Industrial Users to submit notifications of changes to their processes, including the addition, removal, or replacement of chemicals and/or products. Once submitted, EPD will review and notify the Respondent if any revisions are needed. If revisions are required, the Respondent shall submit the revised SOP within sixty (60) days of receipt of EPD's requested revisions.
4. Within sixty (60) days of execution date of this Order, the Respondent shall submit standard agreements and SOPs it uses in outlining procedures and responsibilities for interactions with contractors to EPD for review. These documents should address, but may not be limited to, requirements for maintenance and inspection of work sites and equipment as well as how the Respondent engages in oversight of contractor work and work sites. Once submitted, EPD will review and notify the Respondent if any revisions are needed. If revisions are required, the Respondent shall submit the revised SOP within sixty (60) days of receipt of EPD's requested revisions.
5. Within sixty (60) days of the execution date of this Order, the Respondent shall submit Operation and Maintenance Manuals and SOPs that outline inspection schedules and procedures of treatment equipment for both the Mud Creek WPCP and Withlacoochee WPCP. Once submitted, EPD will review and notify the Respondent if any revisions are needed. If revisions are required, the Respondent shall submit the revised SOP within sixty (60) days of receipt of EPD's requested revisions.

Deadlines

Time is of the essence in this Consent Order. Compliance with any deadline that falls on a Saturday, Sunday, or state-recognized holiday shall be by the next business day.

Addresses

All notices, correspondence, etc., from the Director and EPD to Respondent relating to this Consent Order shall be sent to:

Scott James Matheson, Mayor
City of Valdosta
Post Office Box 1125
Valdosta, Georgia 31603

sjmatheson@valdostacity.com

Respondent shall submit address changes to EPD in written notice sent by certified mail; such notice shall include this Order number.

All correspondence from Respondent to EPD relating to this Consent Order shall be sent to:

Johanna Smith, Watershed Compliance Program Manager
Environmental Protection Division
2 Martin Luther King Jr. Drive, SE, Suite 1470A, East Tower
Atlanta, Georgia 30334
johanna.smith@dnr.ga.gov

Public Notice

This Consent Order may be subject to public notice and comment.

Required Submissions

Upon the submission of any reports, plans, schedules, or other information required by any condition(s) of this Consent Order, EPD shall review the submission to determine its completeness. If EPD determines that the submission is complete, EPD shall notify the Respondent in writing that the submission is approved.

If EPD determines that the submission is incomplete, it shall provide the Respondent with written notice of the deficiencies. Respondent shall have fifteen (15) days from issuance of EPD's notice of deficiency to submit a corrected submission.

All submissions required by this Consent Order are, upon approval by EPD, incorporated by reference into, and made part of, this Consent Order. Any noncompliance with an approved submission shall be deemed noncompliance with this Consent Order.

Approval by EPD of any submission required by this Consent Order is not an agency determination that compliance with any state laws, regulations and/or permits, licenses, etc., will thereby be achieved, but is strictly limited to the completeness of the technical aspects of the submission with regards to the requirements of this Consent Order.

Force Majeure

Failure of Respondent to complete the requirement(s) of any Condition(s), other than payment obligations, by the deadline(s) specified therein may be excused by EPD if 1) Respondent's failure was caused by a force majeure event, and 2) Respondent complies with all notification requirements in this section. Respondent shall have the burden of proving to EPD that it was rendered unable, in whole or part, by the force majeure event to meet the deadline(s).

The term "force majeure event" as used herein shall be limited to the following: an act of war (whether declared or not), including as invasion, act of foreign enemies, or terrorism; a strike, lockout, or other labor or industrial blockade or embargo which is not attributable to any unreasonable action or inaction on the part of Respondent; public riot; specific incidents of exceptional adverse weather conditions or natural disasters such as a hurricane, flood, or earthquake; a fire or explosion affecting the Respondent's operational failure to secure timely and necessary federal, state, or local approvals or permits, provided approvals or permits have been timely and diligently sought; and any other occurrent caused by unforeseeable circumstances beyond the reasonable control of Respondent, as determined by EPD in its sole discretion.

Within two (2) business days of learning of any force majeure event that may reasonably be expected to cause a deadline to be missed, Respondent shall notify EPD verbally or in writing. Within seven (7) business days of learning of any force majeure event that may reasonably be expected to cause a deadline to be missed, Respondent shall submit written notice to EPD of the force majeure event, the possible effects, and the anticipated length (if known) of any delay. EPD shall review the submission and negotiate with Respondent regarding the length of the proposed extension of deadlines, if any. The Respondent shall exercise due diligence and adopt all reasonable measures to avoid or minimize any delay.

Effect of Order

Respondent consents and the Director executes Consent Order solely for the purpose of addressing the alleged violations set forth herein. This Consent Order does not relieve Respondent of any obligations or requirements of any statute, rules, permit, or other matter administered by EPD except as specifically authorized herein, which authorization shall be strictly construed. This Consent Order is not a finding, determination, or adjudication of a violation of any state laws, rules, standards and/or requirements, nor does Respondent by consenting to this Consent Order make any admission with respect to any factual allegation contained in this Consent Order or to any liability to any third party.

Unless modified or terminated by a subsequent order, or otherwise specified in writing by the Director, this Consent Order shall be deemed satisfied and terminated upon full, complete, and timely performance of each and every condition set forth herein.

Further Enforcement

Failure by Respondent to comply with any provision of the Consent Order may result in further enforcement action. Issuance of this Consent Order does not waive the Director's right to use the violation(s) alleged herein, upon sufficient evidence, to show past violations in any subsequent enforcement proceeding.

Finality

For the purpose of enforcement, this Consent Order constitutes a final order of the Director in accordance with applicable Georgia law. By agreement of the parties, this Consent Order shall be final and effective immediately upon execution by the Director, shall not be appealable, and Respondent does hereby waive all administrative proceedings and judicial hearings on the terms and conditions of this Consent Order.

Electronic Signatures

The parties agree that any electronic signatures on this Consent Order constitute original, valid signatures pursuant to the Uniform Electronic Transactions Act, O.C.G.A. § 10-12-1 *et seq.*

It is so ORDERED and CONSENTED TO on the following date 09/15/2023.

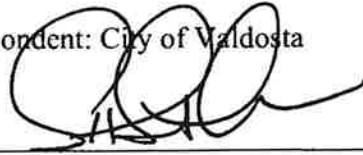
For the Georgia Environmental Protection Division:

By: Jeffrey W. Cown

Jeffrey W. Cown, Director

For Respondent: City of Valdosta

By:



Printed

Name:

Scott James Matheson

Title:

Mayor City of Valdosta