



GEORGIA

DEPARTMENT OF NATURAL RESOURCES

ENVIRONMENTAL PROTECTION DIVISION

Jeffrey W. Cown, Director

EPD Director's Office

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

09/22/2025

Mr. Brandon Rakestraw, Director
City of Dallas Public Works
brakestraw@dallas-ga.gov

RE: Proposed Consent Order (Order)
Pumpkinvine Creek WPCP
NPDES Permit No. GA0039241
Paulding County

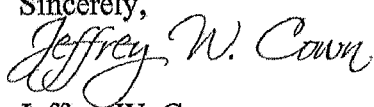
Dear Mr. Rakestraw:

Representatives of the Environmental Protection Division (EPD) have documented noncompliance with the Georgia Water Quality Control Act and the Department of Natural Resources Rules for Water Quality Control, Chapter 391-3-6. The enclosed proposed Order is to provide an amicable disposition of the alleged violations. Please return the signed Order within fifteen (15) days of receipt to:

Environmental Protection Division
Mountain District Office
16 Center Road
Cartersville, Georgia 30121

In accordance with Chapter 391-1-3 of the Public Participation in Enforcement of Environmental Statutes Rule, the EPD plans to issue public notice on this Order once you have signed and returned it. After consideration of any comments received during the 30-day comment period, EPD will present to you an executed Order or an Order with modifications based upon comments received pursuant to the public notice. In the event that no changes are made to the proposed Order previously forwarded to you, you will then be responsible for returning the settlement amount to the EPD in the form of a check made payable to the Georgia Department of Natural Resources within 15 days of the execution date of the Order.

If there are any questions concerning the proposed Order, please contact Maggie Buffington at (770) 387-4900.

Sincerely,

Jeffrey W. Cown
Director

Enclosure: Proposed Order

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

RE: Pumpkinvine Creek WPCP)	
City of Dallas, Georgia)	ORDER NO. EPD-WP-
Attn: Mr. Brandon Rakestraw)	
129 East Memorial Dr.)	
Dallas, GA 30132)	
)	
Respondent)	

CONSENT ORDER

Authority

WHEREAS, the City of Dallas, Georgia, (hereinafter "Respondent") owns and operates the Pumpkinvine Creek Water Pollution Control Plant located at 1753 Old Cartersville Road, Dallas, Paulding County, Georgia (hereinafter "Facility"); 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 of 1964, O.C.G.A. § 12-5-20 et seq. (the "Act"); and

WHEREAS, EPD administers and enforces the Rules for Water Quality Control, GA. COMP. R. AND REGS. 391-3-6 (the "Rules"), which were promulgated and are in effect pursuant to § 12-5-23 of the Water Quality Act; and

WHEREAS, O.C.G.A. § 12-5-29(a) of the Act makes it unlawful to use any waters of the state to dispose of sewage or other waste, except in such a manner as to comply with the Code and the rules, regulations, orders and permits established under the Code; and

WHEREAS, Section 391-3-6-.03(5)(c) of the 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 Rules requires that all waters be free from toxic, corrosive, acidic and caustic substances discharged 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-.06(3) of the Rules requires that any person discharging or proposing to discharge any pollutant from a point discharge into waters of the state shall obtain a Permit from the Director to make such discharge; and

Civil Penalties

WHEREAS, O.C.G.A. § 12-5-52 provides that any person violating any provision of the Act or any permit condition or limitation established pursuant to the Act or, negligently or intentionally, failing or refusing to comply with any final order of the Director shall be liable for a civil penalty of not more than \$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 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, authorization to discharge under the National Pollutant Discharge Elimination System (hereinafter "NPDES") Permit No. GA0039241 (hereinafter "Permit") was issued to the Respondent on March 3, 2020, became effective on April 1, 2020, and is currently administratively extended; and

WHEREAS, Between July 29, 2021 and February 13, 2022, the Division was notified by the Respondent of four (4) spills from the collection system belonging to the Facility which were addressed by EECO EPD-WP-9224 executed on June 9, 2022; and

Alleged Violations

WHEREAS, On May 11, 2022, the Division was notified by the Respondent of a discharge of approximately one hundred, ninety-eight thousand (198,000) gallons of untreated wastewater into Griffin Creek, a 303(d)-water body, from the collection system of the Facility; and

WHEREAS, On May 12, 2022, the Division was notified by the Respondent of a fish kill in Griffin Creek and Lawrence Creek, 303(d)-water bodies, as a result of the discharge that occurred on May 11, 2022; and

WHEREAS, On December 6, 2022, the Division was notified by the Respondent of a discharge of approximately one thousand, five hundred (1,500) gallons of untreated wastewater into Weaver Creek, a 303(d)-water body, from the collection system of the Facility; and

WHEREAS, On April 5, 2023, the Division was notified by the Respondent of a discharge of approximately three thousand, six hundred (3,600) gallons of untreated wastewater into an unnamed tributary to Lawrence Creek from the collection system of the Facility; and

WHEREAS, On April 9, 2023, the Division was notified by the Respondent of a discharge of approximately two thousand, three hundred (2,300) gallons of untreated wastewater into an unnamed tributary to Bone Creek from the collection system of the Facility; and

WHEREAS, On November 14, 2023, the Division was notified by the Respondent of a discharge of approximately three thousand, six hundred (3,600) gallons of untreated wastewater into Bone Creek from the collection system of the Facility; and

WHEREAS, On December 20, 2023, the Division was notified by the Respondent of a discharge of approximately two thousand, four hundred (2,400) gallons of untreated wastewater into Griffin Creek, a 303(d)-water body, from the collection system of the Facility; and

WHEREAS, On January 5, 2024, the Division was notified by the Respondent of a discharge of approximately one thousand, two hundred (1,200) gallons of untreated wastewater

into Weaver Creek, a 303(d)-water body, from the collection system of the Facility; and

WHEREAS, On April 22, 2024, the Division was notified by the Respondent of a discharge of approximately one thousand (1,000) gallons of untreated wastewater into an unnamed tributary of Pumpkinvine Creek from the collection system of the Facility; and

WHEREAS, On September 3, 2024, the Division was notified by the Respondent of a discharge of approximately six thousand, six hundred (6,600) gallons of untreated wastewater into an unnamed tributary of Pumpkinvine Creek from the collection system of the Facility; and

WHEREAS, On September 4, 2024, the Division was notified by the Respondent of a discharge of approximately five thousand, four hundred (5,400) gallons of untreated wastewater into Weaver Creek, a 303(d)-water body, from the collection system of the Facility; and

WHEREAS, On January 15, 2025, the Division was notified by the Respondent of a discharge of approximately six thousand (6,000) gallons of untreated wastewater into an unnamed tributary to Pumpkinvine Creek from the collection system of the Facility; and

WHEREAS, On February 26, 2025, the Division was notified by the Respondent of a discharge of approximately six hundred (600) gallons of untreated wastewater into Griffin Creek, a 303(d)-water body, from the collection system of the Facility; and

WHEREAS, On April 13, 2025, the Division was notified by the Respondent of a discharge of approximately three thousand, six hundred (3,600) gallons of untreated wastewater into Lawrence Creek, a 303(d)-water body, from the collection system of the Facility; and

WHEREAS, On May 9, 2025, the Division was notified by the Respondent of a discharge of approximately twenty-nine thousand (29,000) gallons of untreated wastewater into Bone Creek from the collection system of the Facility; 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, the Respondent shall submit, for EPD review and approval, a Corrective Action Plan (hereinafter "CAP") and an associated timeline for completion that will be implemented for the Facility to address the compliance issues documented in the VIOLATIONS section of this Order. The timeline for completion of the approved CAP shall not exceed 36 months from the date of execution of this Order. The CAP must also include interim milestones to allow the Division to monitor progress toward full completion with the CAP. Upon receipt of the CAP, the Division shall have thirty (30) days to review the CAP and either approve it or return it for revision. The CAP, when approved by the Division, will become part of this Order and must be executed per the timeline established in the CAP.

2. If the Respondent implements the approved CAP, then any expenditures made directly by the Respondent towards completing the CAP may be used to offset, in partial or in full, the stipulated penalty of forty-eight thousand, eight hundred, fifty-five dollars (\$48,855.00). If by completion of the CAP, expenditures have only partly offset the stipulated penalty, then the remaining penalty amount will be due within thirty (30) days of completion of the CAP.

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:

Mr. Brandon Rakestraw, Director
City of Dallas Public Works
129 East Memorial Dr.
Dallas, GA 30132
brakestraw@dallas-ga.gov

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:

Mr. Brian Boutelle, District Manager
Environmental Protection Division
Mountain District- Cartersville Office
16 Center Road
Cartersville, GA 30121
brian.boutelle@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 Respondent in writing that the submission is approved.

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

EPD's disapproval, Respondent shall submit the grounds for its objection(s) to EPD in writing within fifteen (15) days from the date of EPD's notice of deficiency. The parties may confer in an attempt to resolve the disagreement(s). If resolution is not reached within forty-five (45) days from the date of EPD's notice of deficiency, Respondent shall modify its submission as required by EPD and resubmit it in accordance with a schedule specified by EPD.

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 an 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 operations; 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 occurrence 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 this 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 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 this 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 _____.

For the Georgia Environmental Protection Division:

By: _____
Jeffrey W. Cown, Director

For Respondent: *City of Dallas, Georgia*

By: _____

Printed
Name: _____

Title: _____

Date: _____