



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

JUN 20 2017

CERTIFIED MAIL 7016 0600 0000 3846 8142
RETURN RECEIPT REQUESTED

The Honorable Michael Thurmond
Chief Executive Officer
DeKalb County Government
1300 Commerce Drive, 6th Floor
Decatur, Georgia 30030

Re: U.S. District Court Civil Action 1:10cv 4039-WSD
DeKalb County Consent Decree
Demand for Stipulated Penalties

Dear Mr. Thurmond:

The U.S. Environmental Protection Agency Region 4 and the Georgia Environmental Protection Division (EPD) have reviewed DeKalb County's (the County's) Quarterly SSO Reports that were submitted from the First Quarter of 2015 (dated April 20, 2015) to the Fourth Quarter of 2016 (dated January 30, 2017) under Section IX (Reporting Requirements) of the Consent Decree, as well as the County's November 1, 2016 Supplement to Previously Submitted Quarterly SSO Reports (Supplement Report).

Pursuant to Paragraph 65 of the Consent Decree, the United States and/or the State of Georgia may assess a stipulated penalty for each Spill (discharge of wastewater from the collection system which reaches waters of the United States or the State) in a dollar amount that is dependent on the size of the Spill and when the Spill occurred. Stipulated penalties totaling \$69,000 for the 116 Spills that occurred from January 1, 2015, through December 31, 2015 could thus be assessed, and stipulated penalties totaling \$76,500 for the 135 Spills that occurred from January 1, 2016, through December 31, 2016 could also be assessed. Taking into account circumstances surrounding some of the Spills, and as permitted by the Consent Decree, the EPA and EPD have decided to not demand the full amount of stipulated penalties that could be assessed. Therefore, after review of the submitted documentation, the EPA and EPD hereby demand stipulated penalties in the amount of \$49,000 for Spills in 2015 and \$63,500 for Spills in 2016.

The County also found evidence of 48 previously-unreported Spills as documented in the Supplement Report. Because the volume of these Spills could not be determined, the EPA and EPD have assumed that all 48 Spills were greater than 10,000 gallons. These 48 Spills are subject to a stipulated penalty of \$34,000. The EPA and EPD hereby demand stipulated penalties in the amount of \$34,000 for these 48 Spills.

Pursuant to Paragraph 65 of the Consent Decree, the United States and/or the State of Georgia may assess stipulated penalties for failure to submit timely Quarterly SSO Reports and Annual Reports that is dependent on the number of days beyond the due date the required Report is submitted. The EPA and

RECEIVED
2017 JUN 22 PM 4:01
WATERSHED MANAGEMENT
DIRECTOR'S OFFICE

EPD consider the 17 Quarterly SSO Reports submitted from the First Quarter of 2012 to the First Quarter of 2016 and the four Annual Reports submitted for 2012 to 2015 to be not consistent with the applicable criteria for such reports as set forth in Section IX of the Consent Decree because they failed to accurately report all Sanitary Sewer Overflows (SSOs) that occurred in the applicable reporting period. The EPA and EPD acknowledge the County's efforts to identify these previously unreported SSOs as reported in its November 1, 2016 Summary of DeKalb County's Discovery, Investigation, and Correction of Sanitary Sewer Overflows Reporting Concerns. After review of the submitted documentation, the EPA and EPD hereby demand stipulated penalties in the amount of \$147,500 for these inaccurate Quarterly SSO and Annual Reports.


The total amount of stipulated penalties due pursuant to this letter is \$294,000 (\$49,000 + \$63,500 + \$34,000 + \$147,500). In accordance with Paragraph 67 of the Consent Decree, DeKalb County shall pay within 30 days of receipt of this letter \$147,000 (50%) of the stipulated penalties to the United States and \$147,000 (50%) of the stipulated penalties to the State of Georgia. The County shall pay the stipulated penalties to the United States in the manner set forth in Paragraph 9 of the Consent Decree, except that the transmittal letter shall state that the payment is for stipulated penalties and shall state for which violations the penalties are being paid. The Financial Litigation Unit of the U.S. Attorney's Office will provide the County with electronic funds transfer wiring instructions for the payment to the United States. The County shall pay the stipulated penalties to the State of Georgia by submitting a check payable to the State of Georgia and tendered to the Georgia Environmental Protection Division; ATTN: Mr. Lewis Hays; Watershed Compliance Program; 2 Martin Luther King Jr. Drive; East Tower Floyd Building, Suite 1152; Atlanta, Georgia 30334. Note that these payment instructions to the State are different from the instructions set forth in Paragraphs 69 and 10 of the Consent Decree.

If you have any questions, please have your attorneys contact Mr. William Bush, Associate Regional Counsel assigned to this matter, at (404) 562-9538.

Sincerely,



Denisse D. Diaz, Chief
NPDES Permitting and Enforcement Branch
Water Protection Division



Richard E. Dunn, Director
Georgia Environmental Protection Division

cc: See Attached Mailing List

Mailing List:

Mr. Thomas Mariani, Jr.
United States Department of Justice

Ms. Valerie K. Mann
United States Department of Justice

Mr. James Coots
Georgia Department of Law

Mr. James Capp
Georgia Environmental Protection Division

Mr. Lewis Hays
Georgia Environmental Protection Division

Ms. Marzieh Shahbazaz
Georgia Environmental Protection Division

Mr. Hsin-Sheng Yeh
Georgia Environmental Protection Division

Ms. Overtis Brantley
DeKalb County Law Department

Mr. E. Fitzgerald Veira
Troutman Sanders LLP

Mr. Scott Towler
DeKalb County Department of Watershed Management

