



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

FEB 04 2020

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED 7019 0700 0000 6131 2678

The Honorable Robert Reichert  
Mayor of Macon-Bibb County  
700 Poplar Street, 2<sup>nd</sup> Floor  
Macon, Georgia 31201-3282

Re: Consent Agreement and Final Order Docket No. CWA-04-2020-0302(b)  
Macon-Bibb County MS4  
National Pollutant Discharge Elimination System Permit No.: GAS000301

Dear Mayor Reichert:

Enclosed is a fully executed copy of the Consent Agreement and Final Order, Docket No. CWA-04-2020-0302 (b), that has been finalized by the U.S. Environmental Protection Agency, Region 4. Please make note of the provisions under Paragraph VII. Payment.

Should you have any questions or problems, please contact Mr. Kenneth Kwan at (404) 562-9752. Legal inquiries should be directed to Ms. Michele Wetherington, Associate Regional Counsel, at (404) 562-9613.

Sincerely,

A handwritten signature in blue ink that reads "Carol L. Kemker".

Carol L. Kemker  
Director  
Enforcement and Compliance Assurance Division

Enclosure

cc: Mr. Lewis Hays  
Georgia Environmental Protection Division

Mr. Andrew J. Whalen, III  
Special Counsel to Macon-Bibb County

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

In the Matter of:

Macon-Bibb County, Georgia

Respondent.

Docket No. CWA-04-2020-0302(b)

FINAL ORDER

The Regional Administrator is authorized to ratify this Consent Agreement which memorializes a settlement between Complainant and Respondent. 40 C.F.R. 22.18(b)(3). The foregoing Consent Agreement is, therefore, hereby approved, ratified and incorporated by reference into this Final Order in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22.

The Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Final Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED this 21 day of January, 2020

1/21/2020

DATE



Mary S. Walker  
Regional Administrator

DATE: 1/15/58

TO: SAC, NEW YORK

FROM: SAC, NEW YORK

SUBJECT: [Illegible]

[Illegible]

[Illegible typed text]

[Illegible typed text]

[Illegible typed text]

[Handwritten signature]

1/15/58

[Illegible typed text]

**CERTIFICATE OF SERVICE**

I certify that the foregoing "Consent Agreement" and "Final Order," in the Matter of Macon-Bibb County, Georgia, Docket No. CWA-04-2020-0302(b), were filed and copies of the same were mailed to the parties as indicated below.

Via United Parcel Service :

The Honorable Robert Reichert  
Mayor of Macon-Bibb County  
700 Poplar Street, 2<sup>nd</sup> Floor  
Macon, Georgia 31201-3282

Andrew J. Whalen, III  
Special Counsel to Macon-Bibb County  
The Whalen Law Firm  
100 South Hill Street, Suite 524  
Griffin, Georgia 30223

Via EPA's internal email:

Kenneth Kwan  
Environmental Engineer  
U.S. EPA Region 4  
Enforcement and Compliance Assurance Division  
Water Enforcement Branch  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303  
kwan.ken@epa.gov

Michele Wetherington  
Associate Regional Counsel  
U.S. EPA Region 4  
Office of Regional Counsel  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303  
wetherington.michele@epa.gov

2-4-2020  
DATE



Patricia A. Bullock, Regional Hearing Clerk  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4

In the Matter of:

MACON-BIBB COUNTY, GEORGIA

Respondent.

Docket No. CWA-04-2020-0302(b)

2020 FEB -4 PM 7:26  
RECEIVED  
USEPA REGION 4  
OFFICE OF COMPLIANCE

**CONSENT AGREEMENT**

**I. NATURE OF ACTION**

1. This is an administrative penalty assessment proceeding brought under Section 309(g)(2)(B) of the Clean Water Act, 33 U.S.C. § 1319(g)(2)(B), (CWA or the Act) and Sections 22.13(b) and 22.18 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at Title 40 of the Code of Federal Regulations (C.F.R.), Part 22.
2. This Consent Agreement and the attached Final Order shall collectively be referred to as the CAFO.
3. Having found that settlement is consistent with the provisions and objectives of the Act and applicable regulations, the Parties have agreed to settle this action pursuant to 40 C.F.R. § 22.18 and consent to the entry of this CAFO without adjudication of any issues of law or fact herein.

**II. PARTIES**

4. Complainant is the Director of the Enforcement and Compliance Assurance Division of the United States Environmental Protection Agency (EPA), Region 4, who has been delegated the authority on behalf of the Administrator of the EPA to enter into this CAFO pursuant to 40 C.F.R. Part 22 and Section 309(g)(2)(B) of the CWA.

5. Respondent is Macon-Bibb County, Georgia (Respondent), a municipality existing under the laws of the State of Georgia doing business in the State of Georgia. This proceeding pertains to Respondent's facility located at 780 Third Street, Macon, Georgia (Facility).

### III. GOVERNING LAW

6. 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 as in compliance with a National Pollutant Discharge Elimination System (NPDES) permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.
7. Section 402 of the CWA, 33 U.S.C. § 1342, establishes an 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, through the Georgia Environmental Protection Division (GAEPD), approval to issue NPDES permits pursuant to Section 402(b) of the CWA.
8. Section 502(12) of the CWA, 33 U.S.C. § 1362(12), defines a "discharge of pollutants" as "[a]ny addition of any pollutant to navigable waters from any point source . . ."
9. Section 502(14) of the CWA, 33 U.S.C. § 1362(14), defines "point source" as "[a]ny discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit [or] discrete fissure . . . from which pollutants are or may be discharged."
10. Section 502(7) of the CWA, 33 U.S.C. § 1362(7), defines "navigable waters" as "[t]he waters of the United States, including the territorial seas."
11. Pursuant to Section 309(g)(1) of the CWA, 33 U.S.C. § 1319(g)(1), and 40 C.F.R. § 22.38(b), the Complainant represents that the State of Georgia was provided a prior opportunity to consult with the Complainant regarding this matter.
12. Pursuant to Section 309(g)(4)(A) of the CWA, 33 U.S.C. § 1319(g)(4)(A), and 40 C.F.R. § 22.45, Complainant will provide public notice of and reasonable opportunity to comment on the proposed issuance of this CAFO prior to issuance of the Final Order.

### IV. FINDINGS OF FACTS

13. GAEPD issued the Authorization to Discharge Under The National Pollutant Discharge Elimination System Stormwater Discharges for Municipal Separate Storm Sewer System (MS4), Permit No. GAS000301 ("Permit"). The Permit became effective on April 12, 2017, and expires on April 11, 2022. Prior to April 12, 2017, the Respondent was covered under the 2014 version of the Permit with an effective date of October 20, 2014, and an expiration date of April 11, 2017. Coverage under the Permit is obtained by submitting a permit application to GAEPD.

14. The Permit requires the following:

- (a) Permit Part 5.1 states that the Permittee must comply with all conditions of this Permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for an enforcement action.
- (b) Permit Part 3.3.1 requires that the Permittee's stormwater management program include the elements listed in Table 3.3.1.
- (c) Table 3.3.1.1.a. of the Permit states that the Permittee must "[p]rovide an inventory and map of MS4 control structures as defined in the SWMP [Stormwater Management Program] with each annual report. At a minimum, the inventory and map must include catch basins, ditches (miles or linear feet), detention/retention ponds, and storm drain lines (miles or linear feet)."
- (d) Table 3.3.1.2.a. of the Permit states that the Permittee must "[c]onduct inspections of the MS4 structures so that 100 percent of the structures are inspected within the 5-year period. The permittee must conduct a percentage of the inspections each year. 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."
- (e) Table 3.3.1.3.a. of the Permit states that the Permittee must "[d]evelop a comprehensive planning document which addresses, in part, areas of new development and redevelopment to reduce pollutants in discharges from the MS4."
- (f) Table 3.3.1.4.a. of the Permit states that the Permittee must "[i]mplement street maintenance and cleaning procedures specified in the SWMP. Documentation on activities conducted during the reporting period, such as litter removal, street sweeping, de-icing material removal, road repair, etc., must be submitted in each annual report. Report details such as the amount of litter removed, miles of street swept, final disposal of waste, etc., and provide documentation in each annual report."
- (g) Table 3.3.1.5.b. of the Permit states that the Permittee must "[i]mplement the procedures specified in the SWMP to ensure existing structural flood control devices are evaluated during each reporting period to determine if retrofitting the devices for additional pollutant removal is feasible. Provide details in each annual report."
- (h) Table 3.3.1.6.a. of the Permit states that the Permittee must "[m]aintain and/or update an inventory of municipal facilities with the potential to cause pollution (e.g., water treatment plants, wastewater plants <1.0 MGD, waste transfer facilities) and provide in each annual report."
- (i) Table 3.3.1.6.b. of the Permit states that the Permittee must "[i]mplement the program to control runoff from municipal waste facilities with the potential to cause pollution. The program shall include the facility inspection prioritization, inspection frequency, and inspection documentation protocol as described in the SWMP. Conduct an inspection on 100 percent of the inventoried facilities within the 5-year permit term."

- (j) Table 3.3.1.7.b. of the Permit states that the Permittee must “[i]mplement the program to reduce pollution caused by the municipal use of pesticides, fertilizer, and herbicides as described in the SWMP. If municipal staff performs application of pesticides, fertilizers, and herbicides, ensure they are properly trained by the Georgia Department of Agriculture. Provide documentation of program activities in each annual report.”
- (k) Table 3.3.2.2.a. of the Permit states that the Permittee must “[p]rovide an inventory and map showing the location of all outfalls from the MS4 and the names and location of all waters of the State that receive discharges from those outfalls with each annual report.”
- (l) Table 3.3.2.3.b. of the Permit states that the Permittee must “[i]mplement 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.”
- (m) Table 3.3.2.3.c. of the Permit states that the Permittee must “[e]nsure 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....”
- (n) Table 3.3.2.5.b. of the Permit states that the Permittee must “[i]mplement the procedures for receiving and responding to complaints related to illicit discharges described in the SWMP. Provide information on each complaint related to IDDE [Illicit Discharge Detection and Elimination] that was received and investigated during the reporting period in each annual report, including its status.”
- (o) Table 3.3.3.2.b. of the Permit states that the Permittee must “[i]mplement a monitoring program for stormwater runoff from industrial facilities, waste facilities, hazardous waste treatment, storage and disposal facilities, as defined in the SWMP. Provide the results of any monitoring conducted during the reporting period in each annual report. This shall include all facilities that the permittee determines are contributing a substantial pollutant loading to the MS4.”
- (p) Table 3.3.3.3.a. of the Permit states that the Permittee must “[i]mplement the enforcement procedures described in the SWMP and in accordance with the ERP in Part 3.3.6 of this permit if a stormwater violation is noted at an industrial facility that discharges to the MS4. Provide documentation on any enforcement actions taken during the reporting period in each annual report.”
- (q) Table 3.3.3.4.a. of the Permit states that the Permittee must “[i]mplement educational activities for industrial facilities. Provide details of any educational activities performed during the reporting period in each annual report.”
- (r) Table 3.3.4.2.a. of the Permit states that the Permittee must “[i]mplement the site plan review procedures described in the SWMP.”
- (s) Table 3.3.4.3.a. of the Permit states that the Permittee must “[i]mplement the construction site inspection program to ensure that the structural and non-structural BMPs at



construction sites are properly designed and maintained as specified in the Construction General Permits (CGPs).”

- (t) Table 3.3.4.3.c. of the Permit states that the Permittee must “[p]rovide the number of active sites and the number of inspections conducted during the previous reporting period in each annual report.”
- (u) Table 3.3.4.4.a. of the Permit states that the Permittee must “[i]mplement enforcement procedures for E&S [erosion and sediment] violations documented at construction sites during the reporting period as described in the SWMP 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, including the number and type (Notice of Violation, Stop Work Order, etc.).”
- (v) Table 3.3.5.1. of the Permit states that the Permittee must “[m]aintain and/or update an inventory for Highly Visible Sources (HVPS) facilities that discharge to the MS4.”
- (w) Permit 3.3.6. that the Permittee must “[d]evelop and implement an ERP that describes the actions to be taken for violations associated with....HVPS....” The ERP must detail when enforcement mechanisms will be employed, the path of escalation, and the time frame for each step.
- (x) Permit Part 3.3.7. states that the Permittee must “[i]dentify any impaired waterbodies located within its jurisdictional area, using the latest approved Georgia 305(b)/303(d) List of Waters...which contain MS4 outfalls or are within one linear mile downstream of MS4 outfalls. Also, the pollutant of concern must be identified. The permittee shall propose a monitoring and implementation plan (Plan) addressing each pollutant of concern. The permittee must check annually whether an impaired waterbody within its jurisdiction has been added to the latest 305(b)/303(d) list. Newly listed waterbodies must be addressed in the Plan and the SWMP must be revised accordingly. The permittee must report on all monitoring activities in subsequent annual reports. If a Total Maximum Daily Load (TMDL) containing a wasteload allocation specific to one or more of the permittee’s outfalls is approved, then the wasteload allocation must be incorporated into the SWMP. All previous and newly approved TMDLs within the jurisdictional areas must be included in either the proposed Plan or a revision to the existing Plan.
- (y) Permit Part 3.3.8. states that the Permittee must “[o]btain stormwater-related training for its employees at least annually.”
- (z) Permit Part 3.3.9. states that the Permittee must [i]mplement its own public education program, with a minimum of three separate public education activities.”
- (aa) Permit Part 3.3.10. states that the Permittee must [c]onduct a public involvement program.....that must consist of a minimum of three separate public involvement activities.”

15. On February 27 – March 1, 2018, PG Environmental, contractor for the EPA, along with representatives from EPA Region 4 and GAEPD performed an inspection to evaluate Respondent’s MS4 program to assess compliance with the CWA, the regulations promulgated thereunder at 40 C.F.R. § 122.26, and the Permit.

16. On September 27, 2018, the EPA sent a Notice of Violation (NOV) to the Permittee for violations of the CWA and the Permit observed by the EPA during the February 27 – March 1, 2018, inspection and requested that the Permittee contact the EPA to schedule a Show Cause Meeting.
17. On November 27, 2018, Respondent submitted written responses to the EPA's NOV.
18. On November 29, 2018, a Show Cause Meeting was held between the EPA and Respondent to discuss the alleged violations in the NOV.

## V. ALLEGED VIOLATIONS

19. At all times relevant to this action, Respondent is a "person" within the meaning of Section 502(5) of the CWA, 33 U.S.C. § 1362(5).
20. At all times relevant to this action, the Respondent owned and/or operated the Facility.
21. Based on the MS4 inspection, the review of the information provided to the EPA by the Respondent, the review of the April 2017 MS4 Annual Report, the Enforcement Response Plan (ERP), and the Show Cause Meeting, the Respondent has violated Section 301 of the CWA, 33 U.S.C. § 1311, due to Respondent's failure to comply with the Permit and the CWA implementing regulations. Specifically, the EPA alleges the following violations:
  - (a) The Permittee's GIS-based inventory/map of MS4 control structures did not identify all storm sewer system structures located in the MS4 service area. The City of Macon and Bibb County consolidated governments in 2014. During the EPA inspection, representatives from the Engineering Department explained that approximately 30 percent of the City of Macon's geographic area from before the City of Macon consolidated with Bibb County had not been inventoried or mapped in violation of the Table 3.3.1.1.a. of the Permit.
  - (b) At the time of the EPA inspection, the Permittee had not inventoried or mapped approximately 30 percent of the City of Macon's geographic area before consolidation; therefore, the number of total MS4 structures in the Permittee's entire MS4 was unknown. As a result, the Permittee could not have been conducting inspections so that 100 percent of the structures are inspected within the 5-year period in violation of Table 3.3.1.2.a. of the Permit.
  - (c) The Permittee's April 2017 MS4 Annual Report states that no existing flood management projects were evaluated during the reporting period. During the inspection, Permittee representatives stated that they had evaluated approximately half of the 14 County-owned detention ponds for potential retrofits during the current reporting year (2017-2018). However, Permittee representatives stated that the evaluations focused solely on determining if the ponds could be feasibly increased in size. The evaluations did not include assessing the feasibility of retrofitting the ponds for additional pollutant removal by means other than increasing the size (e.g., installing steel grates at the outlet structures for trash/debris removal). Furthermore, the Permittee had not documented these detention pond evaluations in violation of Table 3.3.1.5.b. of the Permit.
  - (d) Through discussions with the Permittee during the EPA inspection, EPA identified the Parks and Beautification/Solid Waste facility, Bowden Golf Course, and Central City

Park as Permittee-owned facilities with the potential to cause pollution that had not been inventoried or assessed for inclusion in the inventory. Permittee representatives stated that the Macon-Bibb Fire Department operates a training facility but it was unclear what types of activities occur at the facility. Therefore, Permittee's inventory of facilities with the potential to cause pollution was incomplete in violation of Table 3.3.1.7.a. of the 2014 Permit, and Table 3.3.1.6.a. of the 2017 Permit.

- (e) During the EPA inspection, the Permittee stated that inspections of Permittee facilities with the potential to cause pollution were not documented. As such, the Inspection Team was unable to assess whether inspections were adequately evaluating the facilities for the potential to pollute stormwater, or whether the inspections were occurring at all. The Permittee's 2016-2017 Annual Report does not include any documentation related to inspections of County facilities with the potential to cause pollution in violation of Table 3.3.1.7.b. of the 2014 Permit, and Table 3.3.1.6.b. of the 2017 Permit.
- (f) During the EPA inspection, the Permittee stated that pesticide application training had not been provided to Public Works employees or otherwise ensured that they were trained in accordance with Georgia Department of Agriculture requirements. Therefore, Permittee had not developed or implemented a program to reduce pollution by the application of pesticides, fertilizer, and herbicides in violation of Table 3.3.1.8.b. of the 2014 Permit, and Table 3.3.1.7.b. of the 2017 Permit.
- (g) During the EPA inspection, the Permittee explained that MS4 structures (including outfalls) in approximately 30 percent of the City of Macon's geographic area had not been inventoried or mapped. These outfalls remained unmapped from when the County's and City's MS4 programs were consolidated in 2014 and the two inventories had to be merged into the same format. Therefore, Permittee's inventory of MS4 outfalls did not identify all outfalls which discharged stormwater from Respondent's MS4 to waters of the State in violation of Table 3.3.2.2.a. of the 2014 and 2017 Permit.
- (h) The Permittee's IDDE investigative and follow-up procedures did not include immediate sampling and/or inspection procedures and therefore are not consistent with the SWMP in violation of Table 3.3.2.3.b of the 2014 and 2017 Permit.
- (i) During the EPA inspection, the Permittee stated that they had not performed any monitoring activities identified as necessary from industrial facility inspections. The Permittee's 2016-2017 Annual Report states that no monitoring of stormwater runoff from industrial facilities was conducted during the reporting period. Further, the Permittee did not have any procedures for what types of monitoring activities would be implemented in response to various issues identified during inspections in violation of Table 3.3.3.2.b. of the 2014 and 2017 Permit.
- (j) The Permittee was not issuing Land Disturbing Activity (LDA) permits or regularly inspecting tertiary construction sites. According to representatives from the Engineering Department during the EPA inspection, the Permittee required tertiary permittees to sign a soil erosion plan agreement but was not issuing them LDA permits in violation of Tables 3.3.4.2.a. and 3.3.4.3.a. of the 2014 and 2017 Permit.
- (k) During the EPA inspection, the EPA discovered that the Permittee's inspection program:
  - (a) did not routinely conduct comprehensive construction inspections, (b) had not developed or implemented construction site inspection documentation protocol, and (c) did not document the number of construction site inspections. The construction site inspector did not use an inspection report, checklist, or other form to document construction site inspections. Therefore, Permittee had not fully developed or implemented a construction site program to ensure that structural and non-structural

- BMPs at construction sites are properly installed and/or maintained in violation of Table 3.3.4.3.a. of the 2014 and 2017 Permit.
- (l) During the EPA inspection, the Permittee stated that they did not track the number of construction site inspections conducted. The representatives explained that the 578 inspections included in the 2016-2017 Annual Report was estimated based on the County inspector's labor hours for the reporting period in violation of Table 3.3.4.3.c. of the 2014 and 2017 Permit.
  - (m) During the EPA inspection, the Permittee stated that for construction site inspections and enforcement they use "verbal stop work orders" to gain compliance from construction site operators. The Permittee also stated that these verbal enforcement actions were not documented. Additionally, the Permittee does not maintain a tracking mechanism for enforcement actions. The County's 2016-2017 Annual Report states the no enforcement actions were taken against construction sites during the reporting period therefore, enforcement procedures were not implemented and documented in violation of Table 3.3.4.4.a. of the 2014 and 2017 Permit.
  - (n) Based on the review of the April 2017 MS4 Annual Report, the Permittee's HVPS facility inventory consists of only car wash facilities and quick lube/minor maintenance facilities, without justification given for not evaluating other sources, such as restaurants, gas stations, pet boarding, etc., as part of an updated inventory in violation of Table 3.3.5.1 of the 2017 Permit.
  - (o) In the Permittee's ERP, the action to be taken for violations associated with the HVPS program failed to detail when enforcement mechanisms will be employed, the path of escalation, and the time frame for each step, in violation of Permit Part 3.3.6 of the 2017 Permit.
  - (p) The Permittee had not assessed whether the sampling locations for monitoring impaired waterbodies were representative locations of the current MS4 area, or whether each impaired waterbody segment that receives discharges from the MS4 was being sampled in violation of Permit Part 3.3.7 of the 2014 and 2017 Permit.
  - (q) The Monitoring Plan did not include a description of proposed BMPs to be used to control and reduce the pollutants of concern (POCs) or a schedule for implementation of those BMPs in violation of Permit Part 3.3.7 of the 2014 and 2017 Permit.
  - (r) The Monitoring Plan did not address each POC for all impaired waterbodies in violation of Permit Part 3.3.7 of the 2014 and 2017 Permit.
  - (s) The Permittee was not sampling at the locations and frequency described in the Monitoring Plan in violation of Permit Part 3.3.7 of the 2014 and 2017 Permit.
  - (t) The Permittee was not collecting bacteriological samples instream at sample locations named OR-1 and OR-2 in violation of Permit Part 3.3.7 of the 2014 and 2017 Permit.
  - (u) The Permittee was not documenting the analytical methods used for water quality sampling in violation of Permit Part 3.3.7 and Permit Part 4.2.2 of the 2014 and 2017 Permit.
  - (v) The Permittee did not document stormwater pollution prevention training to Public Works employees nor provide pesticide application training to Public Works employees by the Georgia Department of Agriculture in violation of Permit Part 3.3.1.9 of the 2014 Permit, and Permit Part 3.3.8 of the 2017 Permit.
  - (w) The industrial facility inspector had not received any industrial stormwater training in violation of Permit Part 3.3.3.5 of the 2014 Permit, and Permit Part 3.3.8 of the 2017 Permit.

- (x) Based on the review of the April 2017 MS4 Annual Report, the Permittee conducted one separate public education activity by placing education flyers at colleges in the County. The Permittee failed to conduct a minimum of three public education activities in violation of permit Part 3.3.9 of the 2017 Permit.
- (y) Based on the review of the April 2017 MS4 Annual Report, the Permittee failed to conduct a minimum of three public involvement activities in violation of permit Part 3.3.10 of the 2017 Permit.

## VI. STIPULATIONS

22. The issuance of this CAFO simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).

23. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:

- (a) admits that EPA has jurisdiction over the subject matter alleged in this CAFO;
- (b) neither admits nor denies the factual allegations set forth in Section IV (Findings of Facts) of this CAFO;
- (c) consents to the assessment of a civil penalty as stated below;
- (d) consents to the conditions specified in this CAFO;
- (e) waives any right to contest the allegations set forth in Section 0 (Alleged Violations) of this CAFO; and
- (f) waives its rights to appeal the Final Order accompanying this CAFO.

24. For the purpose of this proceeding, Respondent:

- (a) agrees that this CAFO states a claim upon which relief may be granted against Respondent;
- (b) acknowledges that this CAFO constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement actions;
- (c) waives any rights it may possess at law or in equity to challenge the authority of EPA to bring a civil action in a United States District Court to compel compliance with the CAFO, and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action;
- (d) waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to EPA officials where the purpose of such discussion, memorandum, or communication is to persuade such official to accept and issue this CAFO; and

(e) agrees to comply with the terms of this CAFO.

25. In accordance with 40 C.F.R. § 22.5, the individuals named in the certificate of service are authorized to receive service related to this proceeding.
26. The parties acknowledge and agree that this CAFO is subject to the requirements of 40 C.F.R. § 22.45(c)(4), which provides a right to petition to set aside a proposed CAFO based on comments received during the public comment period.

## VII. TERMS OF PAYMENT

27. Respondent consents to the payment of a civil penalty, which was calculated in accordance with the Act, in the amount of **\$145,000.00**, which is to be paid within thirty (30) calendar days of the Effective Date of this CAFO.
28. Payment(s) shall be made by cashier's check, certified check, by electronic funds transfer (EFT), or by Automated Clearing House (ACH) (also known as REX or remittance express). If paying by check, the check shall be payable to: Treasurer, United States of America, and the Facility name and docket number for this matter shall be referenced on the face of the check. If Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

United States Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000

If Respondent sends payment by non-U.S. Postal express mail delivery, the payment shall be sent to:

U.S. Bank  
Government Lockbox 979077  
U.S. EPA Fines & Penalties  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, Missouri 63101  
(314) 425-1818

If paying by EFT, Respondent shall transfer the payment to:

Federal Reserve Bank of New York  
ABA: 021030004  
Account Number: 68010727

SWIFT address: FRNYUS33  
33 Liberty Street  
New York, New York 10045  
Field Tag 4200 of the Fedwire message should read:  
"D 68010727 Environmental Protection Agency"

If paying by ACH, Respondent shall remit payment to:

US Treasury REX / Cashlink ACH Receiver  
ABA: 051036706  
Account Number: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 – checking  
Physical location of US Treasury facility:  
5700 Rivertech Court  
Riverdale, Maryland 20737  
Contact: Craig Steffen, (513) 487-2091  
REX (Remittance Express): 1-866-234-5681

29. Respondent shall send proof of payment, within 24 hours of payment of the civil penalty, to:

a) Regional Hearing Clerk  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

and

b) Ms. Mary Mattox  
U.S. EPA Region 4  
Enforcement and Compliance Assurance Division  
Targeting, Data and Measures Office  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960  
mattox.mary@epa.gov

30. "Proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the Facility name and "Docket No. CWA-04-2020-0302(b)."

31. If Respondent fails to timely pay any portion of the penalty assessed under this CAFO, EPA may request the Attorney General to bring a civil action in an appropriate district court to recover: (a) the amount assessed; (b) interest at rates established pursuant to 26 U.S.C. § 6621(a)(2); (c) the United States' attorneys' fees and enforcement expenses; and (d) a 20 percent quarterly nonpayment penalty pursuant to 33 U.S.C. § 1319(g)(9). In any such action, the validity, amount, and appropriateness of the penalty and of this CAFO shall not be subject to review.

32. In addition to what is stated in the prior Paragraph, if Respondent fails to timely pay any portion of the penalty assessed under this CAFO, EPA may:
- (a) refer the debt to a credit reporting agency or a collection agency, 40 C.F.R. §§ 13.13, 13.14;
  - (b) collect the debt by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H;
  - (c) suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, 40 C.F.R. § 13.17; and/or
  - (d) refer the debt to the Department of Justice after having taken aggressive collection action, as provided in 40 C.F.R. § 13.33.
33. Penalties paid pursuant to this CAFO shall not be deductible for purposes of federal taxes.
34. Effective upon signature of this CAFO by the Respondent, the Respondent agrees that the time period commencing on the date of its signature and ending on the Effective Date shall not be included in computing the running of any statute of limitations potentially applicable to any action brought by EPA related to the matters addressed in this CAFO and that, in any action brought by EPA related to the matters addressed, the Respondent will not assert, and may not maintain, any defense or claim based upon principles of statute of limitations, waiver, laches, estoppel, or other defense based on the passage of time during such period.

#### **VIII. EFFECT OF CAFO**

35. In accordance with 40 C.F.R. § 22.18(c), Respondent's full compliance with this CAFO shall only resolve Respondent's liability for federal civil penalties for the violations and facts specifically alleged above.
36. Full payment of the civil penalty, as provided in Section VII (Terms of Payment), shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. 40 C.F.R. § 22.18(c).
37. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws or statutes, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit, except as expressly provided herein.



38. Nothing herein shall be construed to limit the power of EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment as provided under the Act.
39. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of both Parties, and approval of the Regional Administrator.
40. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns.
41. Any change in the legal status of the Respondent, or change in ownership, partnership, corporate or legal status relating to the Facility, will not in any way alter Respondent's obligations and responsibilities under this CAFO.
42. By signing this Consent Agreement, Respondent acknowledges that this CAFO will be available to the public and agrees that this CAFO does not contain any confidential business information or personally identifiable information.
43. By signing this Consent Agreement, the Complainant and the undersigned representative of Respondent each certify that he or she is fully authorized to execute and enter into the terms and conditions of this CAFO and has the legal capacity to bind the party he or she represents to this CAFO.
44. By signing this Consent Agreement, both Parties agree that each party's obligations under this CAFO constitute sufficient consideration for the other party's obligations.
45. By signing this Consent Agreement, Respondent certifies that the information it has supplied concerning this matter was at the time of submission, and continues to be, true, accurate, and complete for each such submission, response, and statement. Respondent acknowledges that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.
46. EPA also reserves the right to revoke this CAFO and settlement penalty if and to the extent that EPA finds, after signing this CAFO, that any information provided by Respondent was materially false or inaccurate at the time such information was provided to EPA. If such false or inaccurate material was provided, EPA reserves the right to assess and collect any and all civil penalties for any violation described herein. EPA shall give Respondent notice of its intent to revoke, which shall not be effective until received by Respondent in writing.
47. Unless specifically stated otherwise in this CAFO, each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.
48. It is the intent of the parties that the provisions of this CAFO are severable. If any provision or authority of this CAFO or the application of this CAFO to any party or circumstances is held by any judicial or administrative authority to be invalid or unenforceable, the application of such

provisions to other parties or circumstances and the remainder of the CAFO shall remain in force and shall not be affected thereby.

**IX. EFFECTIVE DATE**

49. This CAFO shall become effective after execution of the Final Order by the Regional Administrator, on the date of filing with the Hearing Clerk.

**[Remainder of Page Intentionally Left Blank.**

**Complainant and Respondent will Each Sign on Separate Pages.]**

The foregoing Consent Agreement In the Matter of Macon-Bibb County, Georgia, **Docket No. CWA-04-2020-0302(b)**, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:

Robert A. B. Reichert

Nov. 6, 2019

Signature

Date

Printed Name: Robert A.B. Reichert

Title: Mayor

Address: 700 Poplar St. P.O. Box 247 Macon, GA 31202

The foregoing Consent Agreement In the Matter of Macon-Bibb County, Georgia, Docket No. CWA-04-2020-0302(b), is Hereby Stipulated, Agreed, and Approved for Entry.

FOR COMPLAINANT:

1/30/20

DATE

Carol L. Kemker

Carol L. Kemker  
Director  
Enforcement and Compliance Assurance Division  
U.S. Environmental Protection Agency, Region 4