

# SOUTHERN ENVIRONMENTAL LAW CENTER

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## **VIA EMAIL**

Municipal Permitting Program  
Georgia Environmental Protection Division  
2 MLK Jr. Drive, SW, 1152 East Tower  
Atlanta, GA 30334  
Email: [epdcomments@dnr.ga.gov](mailto:epdcomments@dnr.ga.gov)

Re: Comments on NPDES permits GA36854 and GA37222 (City of Albany)

Dear Sir or Madam:

Please accept these comments on behalf of the Flint Riverkeeper (FRk) regarding the above-referenced permits. FRk is a non-profit advocacy organization that seeks to restore and protect the quality and flow of the Flint River basin. FRk staff, attorneys, consultants, and volunteers have been studying and tracking the Albany sewer system in a structured way since 2016. FRk staff has been sampling the Albany riverfront and associated waters upstream and downstream since 2018. FRk staff has also been working with the City to avoid litigation on the issues associated with the sewer system since 2019. FRk's continued goal is to seek solutions short of a federal Clean Water Act action. However, the problems remain and thus legal action remains an option as do appeals of these permits.

As you know, the Albany wastewater system has been beset with problems for many decades. As the permit application (GA36854) shows, as recently as 2017 the system experienced approximately 600 million gallons of spills of untreated wastewater directly into the Flint River. This level of discharge exists after substantial separation of the CSO (stormwater from sanitary, as much as 40%) has already been accomplished. This is a very serious problem from a public and river ecosystem health perspective, one that needs to be addressed immediately and with extreme diligence.

The proposed permit, like the previous permit, suffers from the fundamental problem of not ensuring compliance with Georgia's water quality standards, as it must under the Clean Water Act. We know without question that such compliance has not been occurring because of the consistent spills. Additionally, the Riverkeeper has sampled the water quality in the river approximately 300 times on 50 separate occasions since July of 2018. These sampling events document consistent water quality violations, literally dozens of them, occurring in association with significant (and even relatively insignificant) rainfall events, plus persistent and chronic

leaks or flows from the CSO infrastructure even when it is not raining. We have shared this data with the City and are happy to share it with EPD as well. These results alone provide sufficient basis for a Clean Water Act action but, much more preferably, for EPD to craft a strong and meaningful permit.

It appears that when rainfall occurs overflows are being discharged from the seven minor outfalls which have no treatment, rather than being routed to the main CSO facility at Joshua Street. Because these minor outfalls do not have adequate storage, untreated sewage is discharged directly into the River.

The result is that we know the City has been violating the Clean Water Act consistently over the last five years because it has caused violations of Georgia's water quality standards for bacteria (391-3-6-.03(6)(iii)). Other systems, such as Atlanta, Valdosta, and Dekalb County, have been forced to implement federal or state enforcement orders to come into compliance. The Riverkeeper does not desire such a solution here unless such compliance cannot be otherwise achieved. Any permit that does not ensure such compliance is illegal, and since we know the proposed permit does not do anything to ensure greater compliance in the next 5 years than the current permit did, we know ***that the permit does not pass muster under the Clean Water Act.***

We also know that the City has been undertaking an evaluation of the steps necessary to correct this situation. We support the City and are not unmindful of the time and investment involved in doing so. However, the Clean Water Act is not suspended while such evaluation is undertaken. Continual huge raw sewage spills are neither legal nor acceptable. And while the violations cannot be eliminated overnight, the citizens of Albany and downstream need to see improvements implemented at the earliest possible date to protect water quality while the larger, more time-consuming projects are undertaken.

As a result, Riverkeeper has the following specific comments regarding protection of water quality during the five year period of the proposed permit:

1. During the pendency of the permit, the permit should increase on an annual basis the rainfall levels that constitute a "design storm event." In the draft permit, as in the previous permit, that demarcation point is set at .19 inches within a one hour period. In order to come into compliance with the state standards, that number should be increased incrementally, at some or all of the outfalls, every 6 to 12 months. In order to accommodate the City's need to implement this over some time period, we are amenable to the initiation of the stepped-up increases in the rainfall limits beginning in 2021. And, from a practical standpoint, changes in the limits may make sense for certain outfalls early in the sequence while others are delayed. Alternatively, actions must be taken to either increase storage at the minor outfalls or to route that overflow to the main CSO facility.
2. The Long-Term Control Plan ("LTCP") is not required to be produced until December 31, 2021. We understand that Plan has been in the works for some time now and we do not understand why a requirement to turn it in to EPD in what is essentially 2022 would

be acceptable. It is not for us. We request that the deadline for that plan be set for June 2021.

3. A permit condition should be added to monitor water quality above, along, and below the Albany waterfront where the CSO outfalls exist, obviating the need for Flint Riverkeeper to sample. Results should be reported on the City's website and social media outlets. A portion of this sampling regime should be retained in future permits, but for now the sample design should be for fecal coliform bacteria and all standard water quality parameters to be sampled and reported weekly from:
  - a. the boat ramp below Albany dam;
  - b. the lower kayak launch downtown;
  - c. Oakridge Drive bridge (GA 234);
  - d. midstream ¼ mile downstream of the Joshua Street facility; and
  - e. "Punks" landing boat ramp (just inside Mitchell County, on the east bank).
4. Once the CSO is completely separated, the second, third, and fifth stations (b, c, and e) could be deleted.
5. If chlorine is being used as a final or near-final stage treatment, a continuous monitor should be set up near the end of any pipe prior to discharge with records readily available to the public within 12 hours; e.g., a continuous readout on their website.
6. Once the LTCP is finalized and accepted, the permit should be amended at that time to include the schedule of CSO separation all the way to the final buildout and completion. In other words, the LTCP should become part of the permit and be subject to public review and comment, and potentially an appeal.

We understand that a major engineering study has been completed. We were given a power point overview of the study by City personnel. The City's elected officials have also had the Plan presented to them. However, despite repeated requests, the Riverkeeper has not been able to review the study itself. We request the opportunity to review it immediately and also the opportunity to supplement these comments through either an extension of the comment period or other such accommodation.

As we have repeatedly shared with the City, we are very pleased with the attention it has paid and the improvements that have been made to the sanitary sewer system (lift stations and key lines), greatly diminishing the spills over the last many months. The City has shown tremendous diligence and commitment. CSO's are responsible for orders of magnitude more pollution entering the Flint from the City's system. The City must now separate the CSO's and make the permanent changes necessary for cessation of CSO discharges. EPD must issue a permit that insures such.

Finally, with regard to the permit for the Joshua Street Plant (GA37222), we have reviewed it and are satisfied that the limits and design features provide adequate protections for the receiving waters of the Flint River as a standalone permit. However, given the many exceedances of the requirements and limits of the Clean Water Act due to the CSO discharges (just a handful of

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miles upstream of the Joshua Street Plant), we note the very high likelihood that the permit requirements of the permit for the Plant are likely not protective of the receiving waters during moderate to major CSO discharge events. Thus, the monitoring requirements that we note above should also be included in GA37222 (especially ¼ mile below the Joshua Street outfall and at “Punk’s” Landing) in order to maintain a full picture of what is actually happening in the river. This set of requirements will be an extremely important feature not only of the CSO permit but also of the Joshua Street Plant permit, and thus we insist upon such inclusion.

Please contact me if you have any questions. We have retained an experienced engineer who specializes in wastewater treatment systems. We are happy to make him available to meet with EPD or the City to discuss our concerns.

Thank you for your attention to this letter.

Sincerely,

s/Hutton Brown