CITY OF ATLANTA

SHIRLEY FRANKLIN
MAYOR

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ROBERT J. HUNTER
Commissioner
DEPARTMENT OF WATERSHED
MANAGEMENT

April 14, 2009

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Georgia Environmental Protection Division 7006 2760 0003 6150 7677
Permitting, Compliance, and Enforcement Program
4220 International Parkway, Suite 101
Atlanta, Georgia 30354
ATTN: Marzieh Shahbazaz

Chief, Water Programs Enforcement Branch 7006 2760 0003 6150 7684
Water Management Division
U.S. Environmental Protection Agency, Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
ATTN: Douglas Mundrick

Subject: Section XII. Notification - Update #1
House Resolution 21, Senate Resolution 392, and House Bill 406
CSO Consent Decree – City of Atlanta
Civil Action File No. 1:95-CV-2550-TWT
First Amended Consent Decree – City of Atlanta
Civil Action File No. 1:98-CV-1956-TWT

On March 12, 2009, the City submitted a letter informing you of recent ongoing developments in the Georgia General Assembly that may eventually delay the completion of remaining unfulfilled requirements of both the CSO Consent Decree (avoiding Substantial Noncompliance during the Compliance Evaluation period) and First Amended Consent Decree (hereinafter collectively referred to as the "Consent Decrees"). These developments were one bill and two resolutions pending in the Georgia General Assembly that, if enacted and fully implemented, would alter the financial and operating environment within which the City negotiated the Consent Decrees and could prevent the City from raising the revenue necessary to comply with them.

The three pending legislative items are: (1) House Resolution 21 and Senate Resolution 392 which propose to amend the Georgia Constitution to essentially allow residents of North Fulton and South Fulton to unilaterally secede from Fulton County; and (2) House Bill 406 which would exempt South Fulton Municipal Regional Water and Sewer Authority's proposed Bear Creek Reservoir from being included or consistent with the Fulton County Service Delivery Strategy prior to being eligible for state administered financing and permits so that it might be permitted by the State to take existing service areas and customers of the City's water system without the City's consent.

The first session of the 2009-2010 term of the Georgia General Assembly closed on April 3, 2009 without enacting any of the aforementioned legislative items. The City undertook an aggressive and substantial lobbying effort to slow and defeat all three items. The Upper Chattahoochee Riverkeeper, the Metropolitan North Georgia Water Planning District, Cobb County-Marietta Water Authority, and others joined the effort to defeat some or all of them. During the first session, only HB 406 passed the Georgia House of Representatives but, failed on the Senate floor by one vote. However, HB 406 may be considered by the Senate again in 2010 because the Senate voted to reconsider the measure. HR 21 was passed out of the House Committee on State Planning and Community Affairs but was sent back to this committee on April 3, 2009. SR 392 remains in the Senate Committee on State and Local Government Operations.

City representatives testified in opposition to HB 406 before the Senate Natural Resources Committee and in opposition to HR 21 and SR 392 before the committees mentioned above. These lobbying efforts successfully stalled all three legislative items. However, the City expects the proponents of these three items to advocate zealously on their behalf in 2010. The second session of the 2009-2010 legislative term is expected to commence in January 2010.

The City remains strongly opposed to these legislative items and will provide updates on this matter pursuant to Section XII. of the Consent Decrees as circumstances continue to develop.[1]

I certify under penalty of law that this document was prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering such information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

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[1] As circumstances develop, this matter may meet the requirements of a *Force Majeure* pursuant to Section XII. of the Consent Decrees.

Sincerely,

CITY OF ATLANTA

Robert J. Hunter, Commissioner
Department of Watershed Management

xc:

Chief, Environmental Enforcement Section
Environmental and Natural Resource
Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
Ref: DOJ Case No. 90-5-1-1-4195

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Northern District of Georgia
Richard B. Russell Federal Building
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Suite 1800
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Juliet Cohen, Esq.
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City Team:

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Greg Pridgeon, Chief of Staff
Elizabeth B. Chandler, City Attorney
Roger Bhandari, Deputy City Attorney
Marc Goncher, Senior Assistant City Attorney
Renee Shepherd, Senior Assistant City Attorney
George Barnes, Deputy Commissioner, Bureau of Engineering Services

Sally Mills, Deputy Commissioner, Bureau of Watershed Protection
David St. Pierre, Deputy Commissioner, Bureau of Wastewater Treatment and Collections
Chris Hebberd, Deputy Commissioner, Bureau of Drinking Water
Samuel Goodson, Deputy Commissioner, Bureau of Financial Administration
Sheila Pierce, Deputy Commissioner, Bureau of Management
Repository (ATTN: Sheila Pierce)