

**Georgia Department of Natural Resources**  
**Environmental Protection Division**

Mountain District Office, 16 Center Road, Cartersville, Georgia 30121

Judson H. Turner, Director

Phone: (770) 387-4900

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Remit Correspondence to:  
Post Office Box 3260  
Cartersville, Georgia 30120

Catherine Mashburn Amos, Trustee  
C/O Michael P. Carvalho, Esq.  
Carvalho & Associates  
707 Whitlock Avenue, Ste E-19  
Marietta, GA 30064

City of Cumming  
C/O Dana B. Miles  
Miles Patterson Hansford Tallant, LLC  
202 Tribble Gap Road, Ste 200  
Cumming, GA 30040

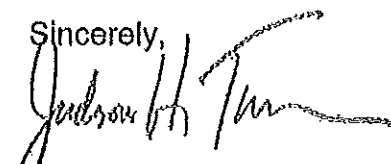
RE: Consent Order  
EPD-WQ-5476  
Lake Alice and Dam  
Forsyth County

Dear Messers Carvalho and Dana Miles:

The public notice comment period for your proposed Order has ended. No revisions were made to the Order that was transmitted to you. Enclosed is a copy of the executed Order. You are expected to comply with the conditions of the Order.

Your cooperation in this matter is appreciated.

Sincerely,



Judson H. Turner  
Director

ENVIRONMENTAL PROTECTION DIVISION  
DEPARTMENT OF NATURAL RESOURCES  
STATE OF GEORGIA

RE: Lake Alice and Surrounding Areas  
City of Cumming  
Forsyth County

EPD. WQ-5476

CONSENT ORDER

WHEREAS, The Marcus Mashburn, Jr. and Alice S. Mashburn Family Trusts and the City of Cumming, (hereinafter "the Respondents") are responsible for the property within the City of Cumming formerly known as Lake Alice and Dam, (hereinafter "the Site") located in Forsyth County, Georgia; and

WHEREAS, under the Georgia Water Quality Control Act at O.C.G.A. 12-5-30(a) (hereinafter "the Act"), the Georgia General Assembly designated the Director of the Georgia Department of Natural Resources, Environmental Protection Division (hereinafter "Director" and "EPD") to administer the provisions of the Act; and

WHEREAS, the Georgia Water Quality Control Act (hereinafter "the Act") at O.C.G.A. 12-5-30(a) requires that a permit be obtained prior to discharging pollutants to waters of the state; and

WHEREAS, Chapter 391-3-6-03 of the Rules provides that all waters shall be free from turbidity which results in a substantial visual contrast in a water body due to a man-made activity; and

WHEREAS, representatives of the Environmental Protection Division, Department of Natural Resources, State of Georgia (hereinafter "the EPD") conducted an investigation of the Site on May 29, May 30, June 5, June 24; 2013 (hereinafter "the Investigations"); and

WHEREAS, the associated Dam of Lake Alice consisting of an earthen dam failed and collapsed; and

WHEREAS, sediment was released in an amount which impacted state waters including Lake Lanier; and

WHEREAS, the release of sediment into state waters represents a violation of Georgia's Water Quality Control Act at O.C.G.A. 12-5-30(a); and

WHEREAS the Act at O.C.G.A. 12-5-42 authorizes the Director to issue such Orders as necessary to obtain compliance with the provisions of the Act and Rules; and

WHEREAS, a Consent Order was proposed and mailed by the Mountain District Office on June 5, 2013; and

WHEREAS, this Order shall not constitute a finding, adjudication of, or evidence of a violation of any law by the Respondents, nor do the Respondents, by this consent, agree to any violation of law or admit any liability to any party, third party, or each other; and

WHEREAS, This Order shall supersede the Administrative Order issued by the Director on August 21, 2013 (EPD-WQ-A0-5458). The Administrative Order by the Director on August 21, 2013 shall not constitute a finding, adjudication of, or evidence of a violation of any law by the Respondents.

WHEREAS, the Respondents deny for themselves, their respective members, trustees, heirs, agents, members and any related party are liable for the failure and collapse of the Alice Lake Dam.

WHEREAS, the Respondents wish to include a meaningful process for public participation in connection with the final remedy selection process; and

WHEREAS, nothing in this Order shall prohibit Respondents from seeking contribution for any costs incurred from any third party or other Respondents.

NOW THEREFORE, the parties agree that the Respondent(s) will comply with the following upon execution of this Order:

1. With the guidance of a certified design professional, provide for the immediate and temporary stabilization of all disturbed areas and install Best Management Practices to prevent further release of sediment into state waters until the site is completely stabilized;
2. Within 60 days of execution of this Order submit to EPD a plan which:
  - Provides for an assessment of the extent of the sediment deposition into state waters.

- Proposes a plan for removal of deposited sediment from state waters and the permanent stabilization of all disturbed and affected areas. This Plan shall include a proposed schedule of implementation.

3. After public notice and opportunity for comment and upon approval by EPD and the U.S. Army Corps of Engineers of the Plan required in 2 above implement the Plan.

It is so ORDERED, CONSENTED, and AGREED this 18 day of November, 2013.

FOR THE RESPONDENT(S):

By: Catherine Mashburn Amos  
Catherine Mashburn Amos, Trustee  
The Marcus Mashburn, Jr. and  
Alice S. Mashburn Family Trusts

Date: September 17, 2013

FOR THE DIVISION:

Judson H. Turner  
Judson Turner, Director  
Georgia Environmental Protection  
Division

By: \_\_\_\_\_  
City of Cumming, Georgia

Title: \_\_\_\_\_

Date: \_\_\_\_\_

- Proposes a plan for removal of deposited sediment from state waters and the permanent stabilization of all disturbed and affected areas. This Plan shall include a proposed schedule of implementation.
3. After public notice and opportunity for comment and upon approval by EPD and the U.S. Army Corps of Engineers of the Plan required in 2 above implement the Plan.

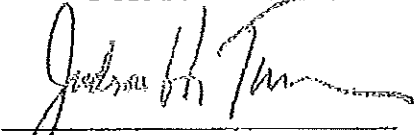
It is so ORDERED, CONSENTED, and AGREED this 18 day of November, 2013.

FOR THE RESPONDENT(s):

By: \_\_\_\_\_  
Catherine Mashburn Amos, Trustee  
The Marcus Mashburn, Jr. and  
Alice S. Mashburn Family Trusts

Date: \_\_\_\_\_

FOR THE DIVISION:

  
\_\_\_\_\_  
Judson Turner, Director  
Georgia Environmental Protection  
Division

By:   
City of Cumming, Georgia

Title: \_\_\_\_\_

Date: 9-17-13

Attest: 