

IN THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA

Ogeechee-Canoochee Riverkeeper, LLC	*
	*
Petitioner,	*
	*
v.	*
	*
Jeffrey W. Cown, Director	*
Georgia Environmental Protection Division	*
Georgia Department of Natural Resources	*
	*
Respondent.	*
	*

**Petition for Hearing to Appeal EPD’s Issuance of
Permits to Use Groundwater**

1.

Ogeechee-Canoochee Riverkeeper, LLC (hereinafter “Ogeechee Riverkeeper” or “ORK”) appeals action by the Director of the Georgia Environmental Protection Division (hereinafter “EPD”) issuing Permits to Use Groundwater No. 016-0013 and No. 016-0014.

2.

Ogeechee Riverkeeper is a Georgia 501(c)(3) nonprofit organization dedicated to protecting, preserving, and improving the water quality in the Ogeechee River Basin, including the Canoochee River and coastal streams in Chatham, Bryan, and Liberty Counties, through enforcement, advocacy, water quality testing, land and river cleanups, and environmental education.

3.

The 5,500 square mile Ogeechee River Basin makes southeast Georgia an ecological treasure for residents and visitors alike. The Ogeechee River has been cherished by humans for its pristine condition and ecological diversity for over 10,000 years. Its slow-moving black water provides wonderful opportunities for fishing, swimming, and paddling, while also supporting abundant estuaries, tidal creeks, and salt marshes. Starting at its headwaters in Greene County, intimate swamps and bottomland hardwoods converge into vibrant coastal marshes and historic rice canals where the Mighty Ogeechee meets the Atlantic Ocean in Ossabaw Sound.

4.

Ogeechee Riverkeeper was founded to reverse threats and improve the watershed's condition. Since 2005, we have amplified the voices of concerned citizens and strengthened their efforts to protect their waterways and communities. By raising awareness and aggressively responding to critical threats, we advocate for the Ogeechee River watershed, its people, and their way of life. Ogeechee Riverkeeper and its roughly 1800 members across 43 Georgia Counties and 14 states will be harmed by these permits through the deterioration of recreational and aesthetic opportunities and values. Continued mismanagement of groundwater supplies and the resulting Savannah-area Cone of Depression directly impact surface waters, aquatic resources, and the people, fish, and wildlife who rely on them in the Ogeechee River Basin. Water quantity directly impacts water quality, affecting water supplies, habitats and ecological function, and recreational opportunities. Granting these permits will set bad precedents of poor planning and unsustainable groundwater use and its associated land development, both of which are inextricably linked to negative impacts to water quality. These permits will harm Ogeechee Riverkeeper's fulfillment

of its mission as well as its members' use and reliance on the Ogeechee River Basin's aquatic resources.

5.

An Administrative Law Judge has authority and jurisdiction to hear and decide cases filed by a party who is aggrieved or adversely affected by action of the EPD Director. O.C.G.A. §§ 12-2-2(c)(2)(A) and 50-13-13; Ga. Comp. R. & Regs. 391-1-2-.03.

6.

Ogeechee Riverkeeper filed this petition within thirty days after EPD issued Permit to Use Groundwater No. 016-0013 (Bryan County Board of Commissioners - Bulloch County Operations) and No. 016-0014 (Bulloch County Board of Commissioners).

7.

This case arises under the "Ground-water Use Act of 1972" (hereinafter "Ground-water Use Act") and the supporting rules and regulations promulgated under the Act. O.C.G.A. § 12-5-90 et seq; Ga. Comp. R. & Regs. 391-3-2 et seq.

8.

The Ground-water Use Act and its supporting rules and regulations require a permit for any person who wishes to withdraw, obtain, or utilize ground water in excess of 100,000 gallons per day. O.C.G.A. § 12-5-96(a)(1); Ga. Comp. R. & Regs. 391-3-2-.03(1).

9.

The EPD is authorized to issue permits for the withdrawal, obtaining, or utilization of ground water. O.C.G.A. § 12-5-96; Ga. Comp. R. & Regs. 391-3-2-.05 and -.06.

10.

The Ground-water Use Act and its rules and regulations direct EPD to consider “(1) The number of persons using an aquifer and the object, extent, and necessity of their respective withdrawals or uses; (2) The nature and size of the aquifer; (3) The physical and chemical nature of any impairment of the aquifer adversely affecting its availability or fitness for other water uses, including public use; (4) The probable severity and duration of such impairment under foreseeable conditions; (5) The injury to public health, safety, or welfare which would result if such impairment were not prevented or abated; (6) The kinds of businesses or activities to which the various uses are related; (7) The importance and necessity of the uses, including farm uses, claimed by permit applicants under this Code section, or of the water uses of the area under Code Section 12-5-95, and the extent of any injury or detriment caused or expected to be caused to other water uses, including public use; (8) Diversion from or reduction of flows in other watercourses or aquifers in accordance with Article 8 of this chapter or any state-wide water plan provided pursuant thereto; and (9) Any other relevant factors,” as well as “documentation of effective water conservation.” O.C.G.A. § 12-5-96(d); Ga. Comp. R. & Regs. 391-3-2-.05(1).

11.

The Ground-water Use Act and its rules and regulations require EPD to find that “there are not unreasonable adverse effects on other water uses, including public and farm use, and including potential as well as present use, based upon the consideration set forth in Rule 391-3-2-.05 of this Chapter” before issuing a permit. O.C.G.A. § 12-5-96; Ga. Comp. R. & Regs. 391-3-2-.06(2).

12.

The Ground-water Use Act’s rules and regulations direct EPD to “take into consideration the best information available on the geologic and hydrologic characteristics of the rocks and ground

water withdrawals of the area and shall require the user to take such actions as it deems necessary. The control measures which the Division may require the user to take may include, but not be limited to “(a) selective withdrawal from other fresh water aquifers than presently utilized; (b) pumping arrangements to reduce ground water withdrawal in areas concentrated pumping; (c) selective curtailment or reduction of ground water withdrawal where it is found to be in the public interest to protect the water resources; and (d) such other control techniques as are technically feasible and proven successful in other areas and nationally.” Ga. Comp. R. & Regs. 391-3-2-.11.

13.

The Ground-water Use Act’s rules and regulations further direct EPD to “gather and obtain all necessary geologic and hydrologic information on the characteristics of the aquifer or ground water system of the State for the purpose of evaluation, control and management of the ground water resources.” Ga. Comp. R. & Regs. 391-3-2-.12(1).

14.

The Ground-water Use Act and its rules and regulations require that when regional water development and conservation plans are adopted, “all permits issued by the division shall be consistent with such plan....Applications for new permits shall be subject to review by the division, and the division may issue such permits as appropriate pending completion of a regional plan. O.C.G.A. § 12-5-96(e); Ga. Comp. R. & Regs. 391-3-2-.16.

15.

The Ground-water Use Act’s rules and regulations direct EPD to “take into consideration the best information on the geologic and hydrologic characteristics of the rocks and the ground water withdrawals of the area involved and shall require the user to take such action as it deems

necessary for control of brackish or salt water intrusion into fresh water aquifers.” O.C.G.A. § 12-5-96; Ga. Comp. R. & Regs. 391-3-2-.10

16.

To control brackish or salt water intrusion into fresh water aquifers, control measures that EPD should include but are not limited to “(a) pumping arrangements to reduce ground water withdrawal in areas of concentrated pumping; (b) rearrangement of the location of wells to eliminate or reduce concentrated areas of ground water withdrawals; (c) requirement of selective withdrawal from other available fresh water aquifers than presently used; (d) curtailment of ground water withdrawal of proposed water users in the area; (e) selective curtailment or reduction of ground water withdrawal where it is found to be in the public interest or general welfare to protect the water resources; (f) conjunctive use of fresh water or brackish water or salt water aquifers, or waters of less desirable quality where water quality of a specific character is not essential; (g) use of observation or monitoring wells, drilled into fresh water aquifers between areas of ground water withdrawal and the seacoast, to detect the inward movement of salt water or to detect the deterioration of water quality; (h) use of interceptor wells, drilled into the area of encroachment, to intercept the brackish or salt water moving toward the center of excessive ground water withdrawal; (i) use of relief wells, drilled into the brackish or salt water aquifer, to relieve hydraulic pressure in the aquifer causing encroachment; (j) plugging with cement of deep wells that have penetrated brackish or salt water zones or zones of undesirable quality water, where hydraulic pressure cause leakage and contaminate fresh water aquifers of lower pressures; (k) abandonment of wells, which are then to be filled, plugged and sealed; and (l) Such other control or abatement techniques as are technically feasible and proven to be successful in other areas and nationally.” Ga. Comp. R. & Regs. 391-3-2-.10.

17.

The Ground-water Use Act and its rules and regulations empower EPD to “deny a permit application if the application therefor or the effect of the water use proposed or described therein upon the water resources of the area is found to be contrary to the public interest or general welfare...” O.C.G.A. § 12-5-96; Ga. Comp. R. & Regs. 391-3-2-.06(5)(b).

18.

On October 7, 2024, EPD issued two Permits to Use Groundwater for a combined four wells in Bulloch County, Georgia to “**provide water to the various entities at the Bryan County Industrial Mega-Site and other associated development**” (emphasis in original). Permit No. 016-0013 (to Bryan County Board of Commissioners - Bulloch County Operations) and Permit No. 016-0014 (to Bulloch County Board of Commissioners).

19.

The permits authorize a combined 6.625 million gallons per day (hereinafter “MGD”) annual average of maximum system wide total of groundwater, conditioned upon the permit holders complying with all of the terms, conditions, and schedules of compliance included in the permits. Permit No. 016-0013 and No. 016-0014.

20.

The permitted groundwater withdrawal authorized by these permits will result in unreasonable adverse impacts to other water users in the area. Ga. Comp. R. & Regs. 391-3-2-.06(2).

21.

EPD states “29 known wells that may be in the area with a potential drawdown impact” exist within the EPD-selected “5-mile radius.” Of these 29 known wells, three are permitted agricultural wells, 13 are permitted drinking water withdrawals, and at least five are residential

locations. EPD “Response to Comments on Draft GW Permit 016-0013 (Bryan Co.) and Draft GW Permit 016-0014 (Bulloch Co.)” [hereinafter “EPD Response to Comments”] #52.

22.

The “5-mile radius from the center point at the I-16 and Highway 119 interchange” was selected because it “roughly corresponds to the area where there is a projected additional drawdown resulting from the water withdrawals between 10 feet and 19 feet.” EPD Response to Comments #1. *See also* Permit No. 016-0013 § 6(c) and Permit No. 016-0014 § 6(b).

23.

The two permits direct the permittees to “create a joint Bulloch County and Bryan County municipal managed fund...to address any potential significant impacts to existing Floridan aquifer wells...” within the 5-mile radius. Permit No. 016-0013 § 6(c) and Permit No. 016-0014 § 6(b).

24.

Drawdown will also affect other already impaired sections of the Floridan Aquifer. This explicitly includes between a 1-3 ft drawdown at the center of the Savannah-area Cone of Depression and between 0.2 and 0.5 ft drawdown at Hilton Head Island, where saltwater intrusion issues already exist. EPD Response to Comments #43 and #88.

25.

For decades, the State of Georgia has attempted to address the issues related to the Savannah-area Cone of Depression, including but not limited to saltwater intrusion into the Floridan Aquifer and severely lowered water tables throughout the region, through the Georgia Department of Natural Resources’ “Coastal Georgia Water & Wastewater Permitting Plan for Managing Salt Water Intrusion.” Through this Plan and EPD’s permitting strategies, new

withdrawals have been restricted and existing groundwater permit holders have been forced to reduce their total permitted withdrawal amount in order to reduce overutilization in the Floridan Aquifer. These efforts have improved water levels at the Cone of Depression by about 40 feet. EPD Response to Comments #111.

26.

EPD's sole use of the "30-ft threshold" to determine whether "unreasonable adverse effects" would result from the requested groundwater withdrawals does not sufficiently consider the review factors delineated in Ga. Comp. R. & Regs. 391-3-2-.05(1). EPD's only stated justifications for its use of the threshold is that it is used in "permitting and regional water planning analyses" and that it "was selected in part because of the general practice of well drillers..." EPD Response to Comments #52 and #83.

27.

Solely using the non-specific method of a 30-ft threshold to assess whether a proposed withdrawal will result in unreasonable adverse effects to water users fails to consider, at minimum, the severity and duration of impairment for individuals, the kinds of businesses and activities that would be impaired, and the importance of those impacted water uses. It also prevents a critical look or review of "any other relevant factors" not explicitly included in the regulations. Any one of these factors individually is sufficient to prevent EPD granting the permit. Considered collectively, the unreasonable adverse effects are clear. O.C.G.A. § 12-5-96(d); Ga. Comp. R. & Regs. 391-3-2-.05(1).

28.

Increased strain on the Floridan Aquifer from the additional drawdown caused by these proposed wells is another unreasonable adverse impact. EPD itself states that "worsening saltwater

intrusion could constitute a potential unreasonably adverse effect.” The drawdowns resulting from these wells will necessarily increase the rate of saltwater intrusion as compared to if the proposed wells were not permitted. EPD Response to Comments #96.

29.

In the alternative, the increased drawdown on the Floridan Aquifer and its associated exacerbation of existing saltwater intrusion issues is contrary to the public interest and general welfare. The statewide efforts from both EPD regulators and the regulated community of water withdrawals to reduce the impacts from saltwater intrusion has been significant. The increased strain that these withdrawals would represent threaten the most significant source of water supply in the region, thereby threatening the general welfare and clearly being contrary to the public interest. O.C.G.A. § 12-5-96(d)(5); Ga. Comp. R. & Regs. 391-3-2-.05(5)(b).

30.

The impacts to groundwater quality and availability resulting from these permits on the area’s water users, water usages, and water resources are contrary to the public interest and general welfare. O.C.G.A. § 12-5-96(d)(5); Ga. Comp. R. & Regs. 391-3-2-.05(5)(b).

31.

Considering, at minimum, the number of individuals and entities potentially impacted; the importance of domestic and agricultural uses; the impacts on health, safety, and welfare from losing potable water; the potentially long duration of those impacts; the continuation of impacts to surface waters; and the unreasonable adverse effects noted above, the negative impacts to the public interest and general welfare outweigh any purely economic benefits offered by the withdrawal. Additional impacts, including but not limited to increased drawdown of water tables as far away as Hilton Head Island, the prioritization of groundwater for industry over human

consumption and agricultural use, and the continued forcing of municipalities to cut back on groundwater usage while permitting new industrial uses also highlights how these permits are contrary to the public interest and general welfare. Any one of these factors on its own would be enough to prevent EPD granting the permit. When taken as a whole, these factors show that the proposed withdrawals are clearly contrary to the public interest and threaten the general welfare.

32.

These proposed withdrawals are against the public interest. Specifically, the withdrawals are against the interest of every existing groundwater permit holder who has been forced to reduce significantly and drastically their permitted withdrawal volumes, the interest of other water users, such as new residential developments or municipal expansion, have had to rely on water supplied from treated river water due to restrictions on new groundwater withdrawals, and every individual that relies on these water suppliers for their personal needs, which includes every municipal and private water supplier customer. Years of forced reductions and a restriction of no new net increases in withdrawals have combined to recover the Savannah-area Cone of Depression by approximately 40 feet. The withdrawal from these four wells alone will negate hard-earned progress made at the sacrifice of other groundwater permit holders and prospective water users. The valuation of the proposed withdrawals over the reductions of others has not been adequately and sufficiently considered in EPD's review of the Ga. Comp. R. & Regs. 391-3-2-.05 factors review.

33.

In the alternative, the resulting prioritization of groundwater industrial usage over municipal and agricultural usage is an unreasonable adverse effect. Where the public health is threatened by the presence of trace chemicals, pharmaceuticals, and other pollutants even in treated surface water,

those same concerns do not apply to industrial processes. The dichotomy of water access should also be noted - rural Georgians outside of municipal service areas must rely on groundwater withdrawals, whereas large industries are such significant water users to attract suppliers. For these reasons, among others, this prioritization and valuation of industry over domestic and agricultural water supply is an unreasonable adverse effect. O.C.G.A. § 12-5-96(d); Ga. Comp. R. & Regs. 391-3-2-.05(1).

34.

The public interest and general welfare will be further harmed by the continuation of the State's deprioritization of restoring Floridan Aquifer-surface water connections in favor of industrial use. Historically, before the creation and persistence of the Savannah-area Cone of Depression, Floridan Aquifer-fed artesian wells, springs, and other surface water connections were prevalent in the area. Those naturally occurring connections have been lost with the Cone of Depression's sink, caused by industrial overutilization of groundwater. Recovering the Cone of Depression reconnects these aquatic resources, restoring critical habitat for threatened, endangered, and other constrained species, improving water quality, and strengthening Georgia aquatic resources. The decision to grant these permits is a step in the opposite direction, contributing new drawdown to the Savannah-area Cone of Depression and regressing on reconnecting the lost aquifer-surface water connection.

35.

The proposed wells' locations are also not in the public interest or general welfare. Each of the four wells are placed immediately along the Bryan-Bulloch county line. This lining-up of wells along the political boundary does not reflect the spirit of the EPD's saltwater intrusion management strategy and, therefore, is not in the public interest. While the county line was

chosen for the simplicity of the plan's implementation, it does not reflect hydrology, geology, or any effective management strategy. The withdrawals, while occurring in Bulloch County, will impact Bryan County water users, the Savannah-area Cone of Depression, and wells as far away as Hilton Head Island, harming the general welfare every step of the way

36.

Both the unreasonable adverse effects and the contrary effects to public interest and general welfare that would result from these permitted withdrawals are bases for why EPD should have denied these applications and not issued the permits. Ga. Comp. R. & Regs. 391-3-2-.05(5)(b); 391-3-2-.06(2).

37.

EPD's selection of certain permit terms and special conditions are arbitrary, capricious, an abuse of discretion, or otherwise an unwarranted exercise of discretion. As such, these terms are not acceptable as currently written and must be revised prior to any permit taking effect. None of EPD's explanations during public hearings or in its Response to Comment adequately justify or provide a basis for its decisions to include the specific terms and conditions in the final permit. O.C.G.A. § 50-13-19(h).

38.

The volume of groundwater requested to be withdrawn, obtained, or used by the applicants has no factual basis and is not reasonable. The largest recipient of the 6.625 MGD volume is the "I-16 HMGMA/Battery JV," using 4.0 MGD. Despite its singular status among other users, no details or even estimate of need are provided. While every other entity reports its expected 'unit loading,' i.e. its rate of water usage for each type of water user, the I-16 HMGMA/Battery JV section simply states "N/A." This apparent blind-faith reliance on the permittees is alarming on

its own. It also fails to provide a sound basis for EPD to confidently find that this groundwater usage is reasonable. Without an actual ability to critically review the requested need and making any necessary reductions in permitted amounts, especially in a groundwater-constrained region, EPD's permitting of 6.625 MGD annual average is arbitrary, capricious, an abuse of discretion, or otherwise an unwarranted exercise of discretion. Permit No. 016-0013 cover page and Permit No. 016-0014 cover page.

39.

The 10-year expiration date of the permit is also inappropriate and legally indefensible, given the unknowns and variables these permits present. The potentially wide-ranging adverse impacts to nearby water users and the wider region should be approached with caution by EPD. Likewise, the effectiveness and efficacy of the joint Bulloch County and Bryan County municipal managed mitigation fund warrants additional caution. While Ga. Comp. R. & Regs. 391-3-2-.07 allows for permits up to 10 years in length, EPD is not required to grant permits this long a term. For example, Pembroke's nearby Bulloch County Operations municipal groundwater permit recently sought a permit modification with a term of 5 years. Given the novelty, potential impact, and recent precedent in other groundwater permits, EPD choice of a 10-year term here is arbitrary, capricious, an abuse of discretion, or otherwise an unwarranted exercise of discretion. Permit No. 016-0013 cover page and Permit No. 016-0014 cover page.

40.

EPD's choice of a 25-year timeline for transitioning water supply away from these four wells and to an alternative source of water is entirely arbitrary and not based on scientific fact. The 25-year timeframe was requested by the applicant/permittee and appears to have been granted by EPD

without any pushback or legitimate justifications. Permit No. 016-0013 § 6(f)-(j) and Permit No. 016-0014 § 6(e)-(i).

41.

The 25-year transition has no clear statutory or regulatory basis in Georgia law. EPD states that “[t]he 25-year deadline was included to prevent the worsening of saltwater intrusion on Hilton Head Island. Worsening saltwater intrusion could constitute a potential unreasonably adverse effect, so EPD included the deadline in the permit.” However, EPD does not explain how cessation of groundwater withdrawals after 25 years would avoid those unreasonable adverse effects. That is, EPD does not explain or justify how 25 years of impacts from withdrawals are considered reasonable, but the 26th year of withdrawal impacts would be unreasonable. EPD Response to Comments. #96.

42.

EPD gives two, non-scientific bases for its choice of a 25-year transition timeline. First, EPD states it “does not have the authority under these groundwater withdrawal permits to require a third party to cooperate in providing a surface water or other alternative water source solution, and that cooperation will certainly be necessary. It will take adequate time to secure that cooperation and to plan, design, construct and implement operations of such a complicated infrastructure.” Second, EPD states that securing funding will take time as well. EPD Response to Comments #41.

43.

These two justifications for the 25-year transition have nothing to do with other water users, aquatic resources, or the impacts resulting from the issued permits. Those impacts should be the basis of EPD’s permitting decision. The permittees’ practical ability to comply with special

conditions meant to protect water users and aquatic resources should play absolutely no role in determining what those conditions require. As such, EPD's choice of a 25-year transition timeline is arbitrary, capricious, an abuse of discretion, or otherwise an unwarranted exercise of discretion.

44.

The granted permits also overlook monitoring for potential localized saltwater intrusion issues resulting from vertical conduits potentially present in the geology of the area around the proposed wells. Vertical conduits are naturally occurring gaps in the ground that connect aquifers to the surface and allow for the direct movement of water between groundwater and surface water sources - causing localized saltwater intrusion issues and allowing for the downward movement of pollutants into the underlying aquifers. Concentrated pumping and less restricted vertical movement of water allows saltwater from more saline aquifers below the Floridan Aquifer to upwell, causing localized saltwater encroachment issues. These vertical conduits occur throughout Georgia's coastal plain. Examples include the "T-shaped [saltwater] plume" underlying Brunswick, Georgia, conduits on Georgia's coastal barrier islands, and documented sinkholes and Floridan Aquifer-fed groundwater in Bulloch County itself. EPD's Coastal Georgia Water & Wastewater Permitting Plan for Managing Salt Water Intrusion.

45.

The proposed monitoring and reporting requirements in the permits do not sufficiently address potential saltwater intrusion issues from vertical conduits that could result from these four proposed water withdrawal wells.

46.

EPD is directed to “take into consideration the best information on the geologic and hydrologic characteristics of the rocks and the ground water withdrawals of the area involved and shall require the user to take such action as it deems necessary for control of brackish or salt water intrusion into fresh water aquifers.” With gaps in EPD’s knowledge of the location of vertical conduits, inclusion of requirements for monitoring wells and specific raw groundwater analyses for chloride on a monthly basis at each of the four wells is necessary to ensure that localized saltwater does not result from these proposed withdrawals. Ga. Comp. R. & Regs. 391-3-2-.10(g)&(l).

47.

The inadequacy of the proposed monitoring is readily seen in the permits’ monitoring requirements. The “MONTHLY” Groundwater Withdrawal Reports only require reporting of withdrawal amounts, failing to regularly check chloride concentrations or any pollutant. Likewise, the semi-annual and annual reporting requirements in § 4(c)&(d) that do address pollutants, albeit on an inadequately infrequent basis, fail to require chloride monitoring. Further, those semi-annual and annual reports do not monitor all wells, only requiring assessment of one well per each permit. Permit Nos. 016-0013 & 016-0014 § 4.

48.

The proposed monitoring requirements combined with EPD lack of knowledge of the precise locations of vertical conduits highlight the inadequacy of its saltwater intrusion consideration and prevention. The threat of localized saltwater intrusion that these conduits pose is serious. EPD’s role in protecting against this intrusion is crucial. The proposed monitoring will not sufficiently fulfill its role and achieve its statutory requirements. As such, the current monitoring and

reporting requirements in the permits do not meet statutory requirements and must be revised and improved before the permit may be issued and become effective. Ga. Comp. R. & Regs. 391-3-2-.10.

49.

The EPD Director erred by granting a permit that will have unreasonable adverse effects on other water uses in the area. O.C.G.A. § 12-5-96(d); Ga. Comp. R. & Regs. 391-3-2-.06(2).

50.

The EPD Director erred by granting a permit that is contrary to the public interest and general welfare. O.C.G.A. § 12-5-96(d)(5); Ga. Comp. R. & Regs. 391-3-2-.05(5)(b).

51.

The EPD Director erred by permitting the withdrawal of volumes of water that are arbitrary, capricious, an abuse of discretion, or otherwise an unwarranted exercise of discretion. O.C.G.A. § 50-13-19(h).

52.

The EPD Director erred by permitting these withdrawals for an unnecessarily long period, despite unknown impacts and untested special conditions, making the permit length arbitrary, capricious, an abuse of discretion, or otherwise an unwarranted exercise of discretion. O.C.G.A. § 50-13-19(h).

53.

The EPD Director erred by including a special condition that is based on the permittees needs rather than the needs of groundwater, water users, and aquatic resources, making the special condition arbitrary, capricious, an abuse of discretion, or otherwise an unwarranted exercise of discretion. O.C.G.A. § 50-13-19(h).

54.

The EPD Director erred by including monitoring and reporting requirements that fail to sufficiently protect against or abate salt water encroachment or deterioration of the water quality of the groundwater. Ga. Comp. R. & Regs. 391-3-2-.10.

55.

The Permits to Use Groundwater must avoid causing unreasonable adverse effects on other water users. Likewise, the Permits must ensure that the withdrawals are not contrary to the public interest and general welfare. The best way to ensure water supply needs are met while not causing unreasonable adverse effects or in conflict with the public interest and general welfare is to wholly forego these groundwater withdrawals and to find an existing surface source of water, such as the Savannah Industrial & Domestic Water Treatment Plant. Short of that, severely reduced amounts of groundwater to be withdrawn or use will reduce strain on the Floridan Aquifer and the users who depend on it. A significantly shortened transition away from these proposed groundwater withdrawals to an alternative water source would also help to reduce impacts to water users and the Floridan Aquifer. A shorter permit term with more frequent compliance monitoring would help to ensure the permit is performing as intended. Additionally, reduced pumping rates, better well spacing and less-concentrated pumping locations, and selective withdrawals from other freshwater aquifers are some of the additional potential adjustments to improve these Permits. Finally, revisions to the Permits' term at § 4(d) should read as follows:

In accordance with the Groundwater Use Rules, 391-3-2-.08(2) and 391-3-2-.10, a permit holder will analyze a raw groundwater sample for specific conductance on a monthly basis. Analysis for specific conductance must be conducted in accordance with 40 Code

of Federal Regulations, Part 141.89. Analysis of chloride levels must also be conducted in accordance with EPD-approved methods. A raw groundwater sample must be collected for every well. The results must be submitted to EPD and include the date sampled, well number, temperature of water sample at time of testing, the specific conductance result, and the units of measurement.

Filed this November 5, 2024.

/s/ Donald D.J. Stack

Donald D.J. Stack

Ga. Bar. No. 673735

Attorney for Petitioner Ogeechee-Canoochee Riverkeeper

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Certificate of Filing

I certify that I filed an original and three copies of this Petition and the permits at issue by first class mail and electronic mail, with proper postage attached, and properly addressed directly to the Decision Maker:

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I certify that I simultaneously served a copy of this petition by certified mail upon the Attorney General:

Honorable Chris Carr
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Certified this November 5, 2024.

/s/ Donald D.J. Stack

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Certificate of Service

I, Donald D.J. Stack, hereby certify that on November 5, 2024, I served copies of this Petition for Hearing to Appeal EPD's Issuance of Permits to Use Groundwater and copies of the two permits at issue on the following parties by way of USPS Certified Mail, UPS Overnight Mail, and electronic mail:

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This 5th day of November, 2024

Donald D.J. Stack
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