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*Working Together to Protect the Ogeechee, Canoochee and Coastal Rivers*

July 2, 2025

**Via E-Mail**

Georgia Environmental Protection Division  
Watershed Protection Branch  
2 MLK Jr. Dr., 1470A East Tower,  
Atlanta, Georgia 30334  
[EPDcomments@dnr.ga.gov](mailto:EPDcomments@dnr.ga.gov)

**Re: NPDES Permit No.: GA0038491 for Riceboro Water Pollution Control Plant (WPCP)**

To whom it may concern:

Ogeechee Riverkeeper 501(c)(3) (ORK) works to protect, preserve, and improve the water quality of the Ogeechee River basin, which includes the Canoochee River, tributary streams, and all of the streams flowing out to Ossabaw Sound and St. Catherine's Sound. The Ogeechee River system drains more than 5,500 square miles across 20 counties in Georgia. ORK works with local communities to retain the ecological and cultural integrity of rivers, streams, wetlands, and related habitats throughout the Basin. One of ORK's primary roles is as watchdog on permits throughout the watershed that could pose a significant threat to its water quality and aquatic environments.

ORK's comments on the National Pollution Discharge Elimination System (NPDES) permit reissuance for the Riceboro Water Pollution Control Plant (WPCP) address two concerns. First, increases to monitoring reporting frequencies and adding a per- and polyfluoroalkyl substances (PFAS) parameter to monitoring requirements will better ensure there are no fugitive pollutants coming from this site. Second, ORK has concerns about the legality of the Water Quality Based Effluent Limitations (WQBELs) following recent U.S. Supreme Court decisions. ORK asks that these concerns be fully addressed by the Georgia Environmental Protection Division (EPD) and confirms that it can ensure the Ogeechee River's water quality will be protected and preserved before it issues this permit.

First, monitoring and reporting requirements in the permit should expand frequency and add parameters for PFAS. Due to the regular non-compliance at the site, which includes non-compliance in seven of the last twelve quarters,<sup>1</sup> increased monitoring reporting is warranted. While the additional attention to BOD proposed in this draft permit is helpful for that parameter, the previous two quarters with submitted data (10/01-12/31/24 and 01/01-03/31/25) also show non-compliance with total suspended solid from multiple discharge points. As such, both BOD and total

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<sup>1</sup> EPA ECHO FRS ID: 110013812160 - <https://echo.epa.gov/detailed-facility-report?fid=110013812160>.

suspended solids should, at minimum, be monitored weekly and reported weekly. This response to apparently increasing non-compliance will allow EPD to institute preventative measures more quickly and reduce pollution's negative outcomes.

Additionally, PFAS parameters should be added to the monitoring requirements for this facility. PFAS present a long-term pollution and human health concern. Determining the presence of this pollution in wastewater not only helps to prevent its introduction into the aquatic environment through treatment, prevention, and mitigation measures, but it also helps to pinpoint potential sources of PFAS in need of remediation. To gather this information, a PFAS monitoring parameter should be added to multiple permit terms. Specifically, monitoring at the beginning (treatment ponds) and endpoints (spray fields and outfalls) of the treatment process will be important to document PFAS presence throughout the treatment process and where it ends up. Quarterly monitoring of a broad selection of PFAS will allow the operators and EPD to respond quickly to the discovery of PFAS in the treatment system. To achieve this, ORK suggests adding PFAS to the following permit terms:

- Part 1 B.1.a - Treatment Pond (Permit Page 6 of 26)
  - Parameter = Per- and polyfluoroalkyl substances (PFAS)
  - Discharge Limitation = [TBD]
  - Measurement Frequency = One Day/Quarter
  - Sample Type = Grab
  - Sample Location = Influent & Effluent
- Part 1 B.2.d - Land Treatment System (Sprayfields) - Soil Monitoring (Permit Page 10 of 26)
  - (iv.) A per- and polyfluoroalkyl substances (PFAS) sample shall be taken annually in the fourth (4th) calendar quarter in accordance with any methods approved by EPA.<sup>2</sup>
- Part 1 B.2.e - Land Treatment System (Sprayfields) - Surface Water Monitoring (Permit Page 11 of 26)
  - Parameter = Per- and polyfluoroalkyl substances (PFAS)
  - Discharge Limitation = [TBD]
  - Measurement Frequency = One Day/Quarter
  - Sample Type = Grab
  - Sample Location = Upstream & Downstream
- Part 1 B.3.a - Underdrain System (Permit Page 13 of 26)
  - Parameter = Per- and polyfluoroalkyl substances (PFAS)
  - Discharge Limitation = [TBD]
  - Measurement Frequency = One Day/Quarter When Discharging
  - Sample Type = Grab
  - Sample Location = Upstream & Downstream or Effluent

Second, there is uncertainty around the use and inclusion of Water Quality Based Effluent Limitations (WQBELs) in NPDES permits following the U.S. Supreme Court's decision in *San Francisco v. EPA*.<sup>3</sup> In this decision, the

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<sup>2</sup> See EPD Region 4 Operating Procedure for Soil Sampling (effective April 22, 2023) - <https://www.epa.gov/sites/default/files/2015-06/documents/Soil-Sampling.pdf>

<sup>3</sup> *City and County of San Francisco, California v. Environmental Protection Agency*, 604 U.S. \_\_\_\_ (No. 23-753). Available at: [https://www.supremecourt.gov/opinions/24pdf/23-753\\_f2bh.pdf](https://www.supremecourt.gov/opinions/24pdf/23-753_f2bh.pdf)

Supreme Court holds that “[33 U.S.C.] §1311(b)(1)(C) does not authorize the EPA to include “end-result” provisions in NPDES permits.” The Court defines these “end-result” requirements as “provisions that do not spell out what a permittee must do or refrain from doing,” but rather “make a permittee responsible for the quality of the water in the body of water into which the permittee discharges pollutants.” Instead of the permittee’s responsibility for the end-result requirement, the Court states that it is the EPA (and, therefore, the states authorized to issue NPDES permits through their environmental departments, *i.e.* Georgia and the EPD) to determine “what steps a permittee must take to ensure that water quality standards are met.”

Under these instructions, it is unclear whether WQBELs are allowed to be used or included under this new interpretation of 33 U.S.C. § 1311(b)(1)(C). The WQBELs do not instruct the permittee about “what steps [it] must take to ensure that water quality standards are met,” and appear to focus only on the end results. ORK urges EPD to consider whether these WQBELs should be included in this NPDES permit and any future permit. Further, EPD must still be mindful of its continuing duty to meet water quality standards when issuing NPDES permits in this changing legal landscape. If WQBELs cannot be used or included, EPD must determine whether the remaining permit terms are sufficient to ensure that water quality standards will still be met. If the remaining permit terms cannot achieve this requirement, EPD cannot issue the permit. ORK strongly urges EPD to fully consider its permitting strategy and approach in light of this recent Supreme Court decision.

Thank you in advance for your time and consideration; please let me know if you have any questions:  
[ben@ogeecheeriverkeeper.org](mailto:ben@ogeecheeriverkeeper.org).

Ben Kirsch, Legal Director  
Ogeechee Riverkeeper