## IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA ATLANTA DIVISION

Richard Gray, et al.,

Plaintiffs. :

:

v. : CIVIL ACTION NO.

1:07-cv-02993-JOF

Province-Grace, LLC., et al.,

:

Defendants.

:

## **OPINION AND ORDER**

Plaintiffs filed suit against Defendants alleging that during construction projects in a residential subdivision called The Overlook at Marietta Country Club, Defendants had caused pollutants to be discharged into a body of water known as Murray's Loch in violation of the federal Clean Water Act and various state laws. In an order dated February 3, 2009, the court denied Defendants' motion for summary judgment in which Defendants had contended that Plaintiffs were required to pursue their claims through an alternative dispute resolution mechanism as described in the deeds to Plaintiffs' properties. The court found that Defendants had waived their right to insist on alternative dispute resolution.

A month prior to the court's order on Defendants' motion for summary judgment, the court approved a stipulation presented by the parties which noted that Defendants were

be approved by Cobb County. At that point, Defendants would present the plan to Plaintiffs and the parties would attempt to resolve the dispute. The stipulation further noted that if the parties were unable to reach a settlement within thirty days of the date on which the plan was presented to the Plaintiffs, then Defendants would have an additional twenty days to

preparing a "corrective action plan" related to remediation at the lake. The plan needed to

Defendant's response to Plaintiffs' motion for partial summary judgment shall be filed with

respond to Plaintiff's motion. See Stipulation, ¶ 6. "Notwithstanding any of the above,

the court no later than June 1, 2009." See id.,  $\P$  7.

No action has been taken in this case since the court's order in February 2009. Defendants failed to file a response to Plaintiffs' motion for partial summary judgment by June 1, 2009. Therefore, the court DIRECTS Defendants to respond to Plaintiffs' motion for partial summary judgment by Tuesday, September 8, 2009. Plaintiffs' reply brief is due by Monday, September 14, 2009.

**IT IS SO ORDERED** this 25<sup>th</sup> day of August 2009.

/s J. Owen Forrester
J. OWEN FORRESTER
SENIOR UNITED STATES DISTRICT JUDGE