

November 6, 2013

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Francis (Buddy) Rowland, Chairman
Mr. Michael S. Maddox, General Manager
The Water Works, Sewer and Gas Board of the City of Childersburg
117 6th Avenue, SW
Childersburg, Alabama 35044

Re: **Notice of Intent to File Suit under the Clean Water Act for Violations of NPDES Permit No. AL0021466**

Dear Messrs. Rowland and Maddox:

Pursuant to the Clean Water Act § 505, 33 U.S.C. § 1365, and 40 C.F.R. Part 135, Subpart A, you are hereby notified that after the expiration of sixty (60) days following the date of this notice, Coosa Riverkeeper, Inc. may file suit against The Water Works, Sewer and Gas Board of the City of Childersburg (a/k/a Childersburg Water Works, Sewer, Gas Board) for discharges of pollutants from the Childersburg South Bailey Branch Lagoon located at Southern Street near County Road 8 in Childersburg, Talladega County, Alabama into the Coosa River (Lay Lake) in violation of the Clean Water Act, 33 U.S.C. § 1251 et seq., and NPDES Permit No. AL0021466.

History of Previous Violations and Enforcement Actions

On August 30, 2004, the Alabama Department of Environmental Management sent a Notice of Violation to The Water Works, Sewer and Gas Board of the City of Childersburg for exceedences of discharge limitations in NPDES Permit No. AL0021466 for Carbonaceous Biochemical Oxygen Demand (monthly average and weekly average mass and concentration), Carbonaceous Biochemical Oxygen Demand Percent Removal (monthly average), Total Suspended Solids Percent Removal (monthly average), and Total Suspended Solids (monthly average mass) during the period of June 2003 through June 2004.

On March 6, 2006, the Alabama Department of Environmental Management sent a Notice of Violation to The Water Works, Sewer and Gas Board of the City of Childersburg for an unpermitted sanitary sewer overflow that occurred on January 20, 2006.

On May 18, 2007, the Alabama Department of Environmental Management sent a Letter of Violation to The Water Works, Sewer and Gas Board of the City of Childersburg for exceedences of discharge limitations in NPDES Permit No. AL0021466 for Total Suspended Solids Percent Removal (monthly average) during March 2007.

On October 13, 2011, the Alabama Department of Environmental Management sent a Notice of Violation to The Water Works, Sewer and Gas Board of the City of Childersburg for exceedences of discharge limitations in NPDES Permit No. AL0021466 for Carbonaceous Biochemical Oxygen Demand (monthly average and weekly average mass and concentration), Carbonaceous Biochemical Oxygen Demand Percent Removal (monthly average), Total Suspended Solids Percent Removal (monthly average), and Total Phosphorus (monthly average mass) during the period of July 2009 through April 2011. In addition, the Notice of Violation cited The Water Works, Sewer and Gas Board of the City of Childersburg for failure to submit discharge monitoring data as required by NPDES Permit No. AL0021466 during February 2011. Finally, the Notice of Violation cited The Water Works, Sewer and Gas Board of the City of Childersburg for seven unpermitted sanitary sewer overflows occurring in 2009 and 2011.

On February 21, 2013, the Alabama Department of Environmental Management sent a Warning Letter to The Water Works, Sewer and Gas Board of the City of Childersburg for exceedences of discharge limitations in NPDES Permit No. AL0021466 for Carbonaceous Biochemical Oxygen Demand (monthly average and weekly average mass and concentration), Carbonaceous Biochemical Oxygen Demand Percent Removal (monthly average), Total Suspended Solids Percent Removal (monthly average), Total Phosphorus (monthly average mass), and e. Coli (daily maximum and monthly average) during the period of February 2011 through November 2012. In addition, the Notice of Violation cited The Water Works, Sewer and Gas Board of the City of Childersburg for failure to submit discharge monitoring data required by NPDES Permit No. AL0021466 during February 2011. Finally, the Notice of Violation cited The Water Works, Sewer and Gas Board of the City of Childersburg for twelve unpermitted sanitary sewer overflows occurring between March 2011 and December 2012.

The foregoing enforcement actions by the Alabama Department of Environmental Management failed to deter The Water Works, Sewer and Gas Board of the City of Childersburg from causing additional violations of the Clean Water Act and NPDES Permit No. AL0021466. Despite this failure, on September 25, 2003, the Alabama Department of Environmental Management once again sent a Notice of Violation to The Water Works, Sewer and Gas Board of the City of Childersburg. This Notice documented exceedences of discharge limitations in NPDES Permit No. AL0021466 for e. Coli (monthly average and daily maximum), Total Suspended Solids Percent Removal (monthly average), Carbonaceous Biochemical Oxygen Demand (monthly average and weekly average), Carbonaceous Biochemical Oxygen Demand Percent Removal (monthly average), and Total Phosphorus (monthly average) during the period of August 2011 through July 2013. In addition, the Notice of Violation cited The Water Works, Sewer and Gas Board of the City of Childersburg for ten unpermitted sanitary sewer overflows between April 2012 and August 2013.

Violations of NPDES Permit No. AL0021466

Pursuant to § 402 of the Clean Water Act, 33 U.S.C. § 1342, The Water Works, Sewer and Gas Board of the City of Childersburg has been issued NPDES Permit No. AL0021466 authorizing the discharge of pollutants from the Childersburg South Bailey Branch Lagoon into the Coosa River (Lay Lake) subject to specific discharge limitations. The Water Works, Sewer and Gas Board of the City of Childersburg has discharged pollutants from Outfall 001 into the Coosa River (Lay Lake) in violation of the discharge limitations of NPDES Permit No. AL0021466 from January 2009 to July 2013 as described below.

Pollutant Parameter	Discharge Limit	Discharge Measurement	Violation Date(s)	Days in Violation
Phosphorous, Total (as P)	8.34 lbs/day (monthly average)	9.39 lbs/day	May 2013	31
		9.39 lbs/day	April 2013	30
		10.34 lbs/day	Sep 2011	30
		37 lbs/day	Apr 2011	30
Carbonaceous Biochemical Oxygen Demand	173 lbs/day (monthly average)	260 lbs/day	May 2013	31
		260 lbs/day	April 2013	30
		177 lbs/day	Mar 2013	31
		182 lbs/day	Feb 2013	28
		176 lbs/day	Mar 2012	31
		286 lbs/day	Apr 2011	30
		175 lbs/day	Mar 2011	31
		174 lbs/day	Apr 2010	30
		337 lbs/day	Mar 2010	31
		348 lbs/day	Feb 2010	28
		332 lbs/day	Jan 2010	31
		184 lbs/day	Apr 2009	30
		232 lbs/day	Mar 2009	31
		259 lbs/day (weekly average)	345 lbs/day	May 2013
	345 lbs/day		Apr 2013	7
	426 lbs/day		Apr 2011	7
	267 lbs/day		Apr 2010	7

Pollutant Parameter	Discharge Limit	Discharge Measurement	Violation Date(s)	Days in Violation
		337 lbs/day	Mar 2010	7
		373 lbs/day	Feb 2010	7
		368 lbs/day	Jan 2010	7
	25 mg/L (monthly average)	27 mg/L	Apr 2011	30
		26 mg/L	Mar 2010	31
		26 mg/L	Feb 2010	28
		30 mg/L	Jan 2010	31
		34 mg/L	Feb 2009	28
	37.5 mg/L (weekly average)	287 mg/L	Feb 2010	7
		38 mg/L	Feb 2009	7
	85 Percent Removal (monthly average)	83 Percent Removal	May 2013	31
		76 Percent Removal	Feb 2013	28
		82 Percent Removal	Oct 2012	31
		78 Percent Removal	Apr 2011	30
		75 Percent Removal	Feb 2011	28
		67 Percent Removal	Jun 2010	30
		82 Percent Removal	Apr 2010	30
		57 Percent Removal	Mar 2010	31
		79 Percent Removal	Feb 2010	28
		78 Percent Removal	Jan 2010	31
		79 Percent Removal	Dec 2009	31
78 Percent Removal		Nov 2009	30	
80 Percent Removal		Oct 2009	31	
84 Percent Removal		Aug 2009	31	
68 Percent Removal		Jun 2009	30	
78 Percent Removal	May 2009	31		
82 Percent Removal	Apr 2009	30		
80 Percent Removal	Mar 2009	31		

Pollutant Parameter	Discharge Limit	Discharge Measurement	Violation Date(s)	Days in Violation
		77 Percent Removal	Feb 2009	28
Solids, Total Suspended	65 Percent Removal (monthly average)	51 Percent Removal	Mar 2013	31
		56 Percent Removal	Feb 2013	28
		62 Percent Removal	Jul 2012	31
		55 Percent Removal	Apr 2012	30
		28 Percent Removal	Feb 2011	28
		63 Percent Removal	Nov 2010	30
		55 Percent Removal	Oct 2010	31
		11 Percent Removal	Mar 2010	31
		-10 Percent Removal	Nov 2009	30
		-164 Percent Removal	Jul 2009	31
		-39 Percent Removal	Jun 2009	30
E. Coli	235 colonies/100 ml (daily maximum)	243 colonies/100 ml	July 2013	1
		380 colonies/100 ml	Mar 2013	1
		340 colonies/100 ml	Feb 2013	1
		300 colonies/100 ml	Sep 2012	1
		270 colonies/100 ml	Dec 2011	1
		280 colonies/100 ml	Oct 2011	1
	126 colonies/100 ml (monthly average)	241 colonies/100 ml	Jul 2013	31
		165 colonies/100 ml	Feb 2013	28
		133 colonies/100 ml	Nov 2012	30
		184 colonies/100 ml	Sep 2012	30
		137 colonies/100 ml	Jun 2012	30
		175 colonies/100 ml	Dec 2011	31
		153 colonies/100 ml	Aug 2011	31
		TOTAL VIOLATIONS		

The Court may assess civil penalties of up to \$37,500 per violation. Suit may be avoided if these violations have been permanently abated before the expiration of sixty (60) days following the date of this notice. Please advise the undersigned of any measures that you may undertake which you contend have permanently abated these violations before suit is filed.

Sincerely,



David A. Ludder
Attorney for Coosa Riverkeeper, Inc.

cc: Hon. Gina McCarthy, Administrator
U.S. Environmental Protection Agency
Ariel Rios Building (AR)
1200 Pennsylvania Avenue N.W.
Washington, D.C. 20004

Hon. A. Stanley Meiburg, Acting Regional Administrator
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Hon. Lance LeFleur, Director
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