

June 27, 2017

***Delivered Via Certified Mail***  
***Return Receipt Requested***  
No. 7008 1300 0001 2360 3763

Hon. Thomas M. Tartt, Mayor  
City of Livingston  
P. O. Box W  
Livingston, AL 35470

**Re: Notice of Violation and Intent to File Suit under the Clean Water Act**

Dear Mayor Tartt:

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 60 days following service of this notice, the Environmental Defense Alliance may file suit against the City of Livingston for the discharge of pollutants in violation of NPDES Permit No. AL0023256 issued by the Alabama Department of Environmental Management pursuant to Alabama's NPDES permit program approved by the U.S. Environmental Protection Agency under Clean Water Act § 402(b), 33 U.S.C. § 1342(b).

**I. Permit Discharge Limit Violations**

Pursuant to § 402 of the Clean Water Act, 33 U.S.C. § 1342, the Alabama Department of Environmental Management issued NPDES Permit No. AL0023256 authorizing the City of Livingston to discharge pollutants from the Livingston Lagoon, located on Happy Hollow Road, Livingston, Alabama, into the Sucarnoochee River at approximately Latitude 32.5761° North and Longitude 88.1836° West, subject to specific discharge limitations. The City of Livingston has discharged pollutants from Outfall 0012 into the Sucarnoochee River in violation of the discharge limitations of NPDES Permit No. AL0023256 from January 2007 through May 2017 as identified in the table attached hereto. Additional violations may have occurred.

**II. Previous Enforcement Actions**

On July 18, 2011, the Alabama Department of Environmental Management issued a Warning Letter to the City of Livingston in which it cited effluent violations for the period January 2010 through March 2011.

On November 26, 2012, the Alabama Department of Environmental Management issued a Warning Letter to the City of Livingston in which it cited effluent violations for the period October 2010 through July 2012.

On June 4, 2014, the Alabama Department of Environmental Management issued a Warning Letter to the City of Livingston in which it cited effluent violations for the period July 2012 through February 2014.

On July 15, 2015, the Alabama Department of Environmental Management issued a Notice of Violation to the City of Livingston in which it cited effluent violations for the period August 2013 through March 2015.

The Alabama Department of Environmental Management has not issued an administrative order or filed a civil action to address the violations identified in the attached table.

### **III. Sanctions**

The Clean Water Act authorizes injunctive relief and civil penalties up to \$37,500 per day per violation. In addition, the Act authorizes the award of costs of litigation (including reasonable attorney and expert witness fees) to any prevailing or substantially prevailing party, whenever the court determines that such an award is appropriate. Suit may be avoided if these violations have ceased before the expiration 60 days following service of this notice. Please advise the undersigned of any measures which you may undertake which you contend have permanently abated these violations before suit is filed.

Sincerely,



David A. Ludder  
Attorney for  
Environmental Defense Alliance

cc:

Hon. Lance R. LeFleur, Director  
Alabama Department of Environmental Management  
P.O. Box 301463  
Montgomery, Alabama 36130-1463

Hon. Scott Pruitt, Administrator  
Mail Code 1101A  
Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

Hon. V. Anne Heard, Acting Regional Administrator  
U.S. Environmental Protection Agency - Region 4  
61 Forsyth Street SW  
Atlanta, Georgia 30303

Effluent Limit Exceedances Report

Facility: LIVINGSTON MAIN LAGOON, LIVINGSTON, AL, 35470

Date Range: 07/01/2012 to 5/31/2017

Exceedance Details

Month Ending	Outfall	Pollutant Parameter	Limit Type	Discharge Measurement	Discharge Limitation	Violation-Days
5/31/2014	0012	00400 - pH	DAILY MX	9.2 SU	9.0 SU	1
6/30/2014	0012	00400 - pH	DAILY MX	9.8 SU	9.0 SU	1
7/31/2014	0012	00400 - pH	DAILY MX	9.8 SU	9.0 SU	1
4/30/2016	0012	00400 - pH	DAILY MX	9.4 SU	9.0 SU	1
5/31/2016	0012	00400 - pH	DAILY MX	9.4 SU	9.0 SU	1
8/31/2016	0012	00400 - pH	DAILY MX	10.2 SU	9.0 SU	1
9/30/2016	0012	00400 - pH	DAILY MX	9.6 SU	9.0 SU	1
10/31/2016	0012	00400 - pH	DAILY MX	10.1 SU	9.0 SU	1
5/31/2017	0012	00400 - pH	DAILY MX	9.7 SU	9.0 SU	1
11/30/2013	0012	00530 - Solids, total suspended	WKLY AVG	1254.419 LBS/D	900.0 LBS/D	7
12/31/2013	0012	00530 - Solids, total suspended	WKLY AVG	1132.155 LBS/D	900.0 LBS/D	7
1/31/2015	0012	00530 - Solids, total suspended	MO AVG	622.651 LBS/D	600.0 LBS/D	31
1/31/2015	0012	00530 - Solids, total suspended	WKLY AVG	1731.217 LBS/D	900.0 LBS/D	7
11/30/2015	0012	00530 - Solids, total suspended	MO AVG	667.376 LBS/D	600.0 LBS/D	30
11/30/2015	0012	00530 - Solids, total suspended	WKLY AVG	984.787 LBS/D	900.0 LBS/D	7
4/30/2014	0012	80082 - BOD, carbonaceous, 05 day, 20 C	MO AVG	172.279 LBS/D	166.0 LBS/D	30
1/31/2015	0012	80082 - BOD, carbonaceous, 05 day, 20 C	WKLY AVG	279.907 LBS/D	250.0 LBS/D	7
3/31/2015	0012	80082 - BOD, carbonaceous, 05 day, 20 C	MO AVG	210.881 LBS/D	166.0 LBS/D	31
3/31/2016	0012	80082 - BOD, carbonaceous, 05 day, 20 C	MO AVG	219.582 LBS/D	166.0 LBS/D	31
3/31/2016	0012	80082 - BOD, carbonaceous, 05 day, 20 C	WKLY AVG	289.982 LBS/D	250.0 LBS/D	7
4/30/2016	0012	80082 - BOD, carbonaceous, 05 day, 20 C	MO AVG	183.322 LBS/D	166.0 LBS/D	30
2/28/2017	0012	80082 - BOD, carbonaceous, 05 day, 20 C	MO AVG	185.249 LBS/D	166.0 LBS/D	28
2/28/2017	0012	80082 - BOD, carbonaceous, 05 day, 20 C	WKLY AVG	302.375 LBS/D	250.0 LBS/D	7
7/31/2012	0012	80091 - BOD, carb-5 day, 20 deg C, percent removal	MO AV MN	79.3%	85.0%	31
3/31/2013	0012	80091 - BOD, carb-5 day, 20 deg C, percent removal	MO AV MN	76.9%	85.0%	31
8/31/2013	0012	80091 - BOD, carb-5 day, 20 deg C, percent removal	MO AV MN	81.0%	85.0%	31
2/28/2014	0012	80091 - BOD, carb-5 day, 20 deg C, percent removal	MO AV MN	68.3%	85.0%	28
4/30/2014	0012	80091 - BOD, carb-5 day, 20 deg C, percent removal	MO AV MN	81.6%	85.0%	30

Month Ending	Outfall	Pollutant Parameter	Limit Type	Discharge Measurement	Discharge Limitation	Violation-Days
12/31/2014	0012	80091 - BOD, carb-5 day, 20 deg C, percent removal	MO AV MN	82.6%	85.0%	31
1/31/2015	0012	80091 - BOD, carb-5 day, 20 deg C, percent removal	MO AV MN	79.2%	85.0%	31
2/28/2015	0012	80091 - BOD, carb-5 day, 20 deg C, percent removal	MO AV MN	78.9%	85.0%	28
3/31/2015	0012	80091 - BOD, carb-5 day, 20 deg C, percent removal	MO AV MN	80.8%	85.0%	31
2/29/2016	0012	80091 - BOD, carb-5 day, 20 deg C, percent removal	MO AV MN	76.7%	85.0%	29
3/31/2016	0012	80091 - BOD, carb-5 day, 20 deg C, percent removal	MO AV MN	73.7%	85.0%	31
3/31/2017	0012	80091 - BOD, carb-5 day, 20 deg C, percent removal	MO AV MN	74.3%	85.0%	31
7/31/2012	0012	81011 - Solids, suspended percent removal	MO AV MN	60%	65.0%	31
2/28/2014	0012	81011 - Solids, suspended percent removal	MO AV MN	45.20%	65.0%	28
8/31/2014	0012	81011 - Solids, suspended percent removal	MO AV MN	57.90%	65.0%	31
12/31/2014	0012	81011 - Solids, suspended percent removal	MO AV MN	48.10%	65.0%	31
<b>TOTAL</b>						<b>753</b>