

April 7, 2009

**Certified Mail**  
**Return Receipt Requested**

Hon. Jim Johnson, Chairman  
 Utilities Board of the City of Atmore  
 P.O. Box 1296  
 Atmore, Alabama 36504

**Re: Notice of Intent to File Suit under the Clean Water Act for Violations of NPDES Permit No. AL0049557 and Administrative Order No. 06-061-CWP**

Dear Mr. Johnson:

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, Conservation Alabama Foundation, Inc. may file suit against the Utilities Board of the City of Atmore for discharges of pollutants from the Board's Wastewater Treatment Plant on Tennant Road into Boggy Branch in violation of the limitations and conditions of NPDES Permit No. AL0049557 as reported in Discharge Monitoring Reports submitted by the Board to the Alabama Department of Environmental Management, including but not limited to, the following:

**Violations of NPDES Permit No. AL0049557**

Pollutant Parameter	Discharge Limit	Discharge Violation	Violation Date(s)	Days in Violation
pH	6.0 ≤ 9.0 s.u.	2.9 s.u. <sup>+</sup>	Oct 2008	1
		3.0 s.u. <sup>+</sup>	Sep 2008	1
		4.8 s.u. <sup>+</sup>	Aug 2008	1
		3.3 s.u. <sup>+</sup>	Jul 2008	1
		5.9 s.u. <sup>+</sup>	Jun 2008	1
		3.4 s.u. <sup>+</sup>	May 2008	1
		3.9 s.u. <sup>+</sup>	Apr 2008	1
		5.9 s.u. <sup>+</sup>	Jan 2008	1
		5.8 s.u. <sup>+</sup>	Dec 2008	1
		5.3 s.u. <sup>+</sup>	Apr 2007	1

		5.8 s.u. <sup>+</sup>	Mar 2007	1
		5.9 s.u. <sup>+</sup>	Feb 2007	1
		5.4 s.u. <sup>+</sup>	Jan 2007	1
		5.6 s.u. <sup>+</sup>	Dec 2006	1
		5.9 s.u. <sup>+</sup>	Nov 2006	1
<b>Pollutant Parameter</b>	<b>Discharge Limit</b>	<b>Discharge Violation</b>	<b>Violation Date(s)</b>	<b>Days in Violation</b>
Solids, Total Suspended	≤30 mg/L Monthly Average	57.2 mg/L <sup>+</sup>	Apr 2008	30
		38.8 mg/L <sup>+</sup>	Mar 2008	31
		30.1 mg/L <sup>+</sup>	Nov 2007	30
		45.9 mg/L <sup>+</sup>	Sep 2007	30
		52.6 mg/L <sup>+</sup>	Aug 2007	31
		70.2 mg/L <sup>+</sup>	Jul 2007	31
		34.2 mg/L <sup>+</sup>	Jun 2007	30
		30.6 mg/L <sup>+</sup>	Oct 2006	31
		68 mg/L <sup>+</sup>	Aug 2006	31
	≤45 mg/L Weekly Average	97.7 mg/L <sup>+</sup>	Oct 2008	7
		63.0 mg/L <sup>+</sup>	May 2008	7
		117.0 mg/L <sup>+</sup>	Apr 2008	7
		89.3 mg/L <sup>+</sup>	Mar 2008	7
		72.5 mg/L <sup>+</sup>	Dec 2007	7
		46.6 mg/L <sup>+</sup>	Nov 2007	7
		66.7 mg/L <sup>+</sup>	Sep 2007	7
		78.0 mg/L <sup>+</sup>	Aug 2007	7
		97.2 mg/L <sup>+</sup>	Jul 2007	7
		91.3 mg/L <sup>+</sup>	Jun 2007	7
		88 mg/L <sup>+</sup>	Aug 2006	7
83 mg/L <sup>+</sup>	Jul 2006	7		
≤500 lbs/day Monthly Average	875.2 lbs/day <sup>+</sup>	Apr 2008	30	
	730.1 lbs/day <sup>+</sup>	Jul 2007	31	

		745 lbs/day <sup>+</sup>	Aug 2006	31
	≤750 lbs/day Weekly Average	908.6 lbs/day <sup>+</sup>	Oct 2008	7
		758.7 lbs/day <sup>+</sup>	May 2008	7
		2375.0 lbs/day <sup>+</sup>	Apr 2008	7
		768.0 lbs/day <sup>+</sup>	Mar 2008	7
		1022.3 lbs/day <sup>+</sup>	Dec 2007	7
		772.2 lbs/day <sup>+</sup>	Aug 2007	7
		1341.4 lbs/day <sup>+</sup>	Jul 2007	7
		821.7 lbs/day <sup>+</sup>	Jun 2007	7
		990 lbs/day <sup>+</sup>	Aug 2006	7
		≥85 Percent Removal Monthly Average	0.0 Percent Removal <sup>+</sup>	Apr 2008
	0.0 Percent Removal <sup>+</sup>		Mar 2008	31
	23.0 Percent Removal <sup>+</sup>		Feb 2008	28
	61.0 Percent Removal <sup>+</sup>		Jan 2008	31
	0.0 Percent Removal <sup>+</sup>		Dec 2007	31
	50.0 Percent Removal <sup>+</sup>		Nov 2007	30
	73.0 Percent Removal <sup>+</sup>		Sep 2007	30
	27.0 Percent Removal <sup>+</sup>		Aug 2007	31
	0.0 Percent Removal <sup>+</sup>		Jul 2007	31
	65.0 Percent Removal <sup>+</sup>		Jun 2007	30
	70 Percent Removal <sup>+</sup>		Jan 2007	31
	73 Percent Removal <sup>+</sup>		Dec 2006	31
	81 Percent Removal <sup>+</sup>		Nov 2006	30
	78 Percent Removal <sup>+</sup>		Sep 2006	30
	52 Percent Removal <sup>+</sup>		Aug 2006	31
	62 Percent Removal <sup>+</sup>		Jul 2006	31
	79 Percent Removal <sup>+</sup>		Jun 2006	30
	53 Percent Removal <sup>+</sup>		May 2006	31

<b>Pollutant Parameter</b>	<b>Discharge Limit</b>	<b>Discharge Violation</b>	<b>Violation Date(s)</b>	<b>Days in Violation</b>
Nitrogen, Ammonia Total (as N)	≤2.0 mg/L Monthly Average	2.4 mg/L*	Jun 2008	30
		14.5 mg/L	Apr 2008	30
		11.2 mg/L	Mar 2008	31
		3.98 mg/L	Jan 2008	31
		8.1 mg/L	Dec 2007	31
		27.9 mg/L	Nov 2007	30
		19.4 mg/L	Sep 2007	30
		24.2 mg/L	Aug 2007	31
		18.4 mg/L	Jul 2007	31
		17.0 mg/L	Jun 2007	30
		18.6 mg/L	May 2007	31
		9.71 mg/L	Apr 2007	30
		21.26 mg/L	Mar 2007	31
		8.2 mg/L	Feb 2007	28
		4 mg/L	Jan 2007	31
		11 mg/L	Dec 2006	31
		3.5 mg/L	Nov 2006	30
		12.9 mg/L	Oct 2006	31
		18.852 mg/L	Sep 2006	30
		29.3 mg/L	Aug 2006	31
		17 mg/L	Jul 2006	31
		13 mg/L	Jun 2006	30
		60 mg/L	May 2006	31
32 mg/L	Apr 2006	30		

	≤3.0 mg/L Weekly Average	5.0 mg/L*	Jun 2008	7
		25.1 mg/L	Apr 2008	7
		28.2 mg/L	Mar 2008	7
		11.1 mg/L	Jan 2008	7
		16.0 mg/L	Dec 2007	7
		65.5 mg/L	Nov 2007	7
		25.5 mg/L	Sep 2007	7
		26.9 mg/L	Aug 2007	7
		20.9 mg/L	Jul 2007	7
		21.1 mg/L	Jun 2007	7
		23.4 mg/L	May 2007	7
		15.53 mg/L	Apr 2007	7
		29.83 mg/L	Mar 2007	7
		11.0 mg/L	Feb 2007	7
		6 mg/L	Jan 2007	7
		15 mg/L	Dec 2006	7
		6.1 mg/L	Nov 2006	7
		20.7 mg/L	Oct 2006	7
		34.13 mg/L	Sep 2006	7
		31.3 mg/L	Aug 2006	7
		25 mg/L	Jul 2006	7
		25 mg/L	Jun 2006	7
		153 mg/L	May 2006	7
	108 mg/L	Apr 2006	7	
	≤33.3 lbs/day Monthly Average	221.9 lbs/day	Apr 2008	30
		142.2 lbs/day	Mar 2008	31
		33.8 lbs/day	Feb 2008	28
69.3 lbs/day		Jan 2008	31	
125.6 lbs/day		Dec 2007	31	

		290.2 lbs/day	Nov 2007	30
		186.2 lbs/day	Sep 2007	30
		229.9 lbs/day	Aug 2007	31
		191.4 lbs/day	Jul 2007	31
		173.4 lbs/day	Jun 2007	30
		160 lbs/day	May 2007	31
		132.06 lbs/day	Apr 2007	30
		244.5 lbs/day	Mar 2007	31
		99.2 lbs/day	Feb 2007	28
		64.8 lbs/day	Jan 2007	31
		124 lbs/day	Dec 2006	31
		49 lbs/day	Nov 2006	30
		156 lbs/day	Oct 2006	31
		190 lbs/day	Sep 2006	30
		320.8 lbs/day	Aug 2006	31
		139 lbs/day	Jul 2006	31
		107 lbs/day	Jun 2006	30
		552 lbs/day	May 2006	31
		294 lbs/day	Apr 2006	30
	≤ 50.0 lbs/day Weekly Average	65.5 lbs/day*	Jun 2008	7
		508.0 lbs/day	Apr 2008	7
		242.5 lbs/day	Mar 2008	7
		210.2 lbs/day	Jan 2008	7
		160.7 lbs/day	Dec 2007	7
		458.5 lbs/day	Nov 2007	7
		247.4 lbs/day	Sep 2007	7
		225.9 lbs/day	Aug 2007	7
		213.9 lbs/day	Jul 2007	7
		217.3 lbs/day	Jun 2007	7

		196.6 lbs/day	May 2007	7
		166.48 lbs/day	Apr 2007	7
		300.9 lbs/day	Mar 2007	7
		123 lbs/day	Feb 2007	7
		102.84 lbs/day	Jan 2007	7
		192 lbs/day	Dec 2006	7
		87 lbs/day	Nov 2006	7
		164 lbs/day	Oct 2006	7
		274 lbs/day	Sep 2006	7
		297.4 lbs/day	Aug 2006	7
		203 lbs/day	Jul 2006	7
		186 lbs/day	Jun 2006	7
		1316 lbs/day	May 2006	7
		896 lbs/day	Apr 2006	7
<b>Pollutant Parameter</b>	<b>Discharge Limit</b>	<b>Discharge Violation</b>	<b>Violation Date(s)</b>	<b>Days in Violation</b>
Silver, Total Recoverable	≤0.21 µg/L Monthly Average	4.5 µg/L <sup>+</sup>	Apr 2008	30
		1.0 µg/L <sup>+</sup>	Mar 2008	31
		2.5 µg/L <sup>+</sup>	Jan 2008	31
		3.0 µg/L <sup>+</sup>	Dec 2007	31
		2.0 µg/L <sup>+</sup>	Nov 2007	30
		1.0 µg/L <sup>+</sup>	Sep 2007	30
		6.5 µg/L <sup>+</sup>	Aug 2007	31
		11 µg/L <sup>+</sup>	Jul 2007	31
		2.0 µg/L <sup>+</sup>	Jun 2007	30
		2.5 µg/L <sup>+</sup>	May 2007	31
		3.5 µg/L <sup>+</sup>	Apr 2007	30
		9.5 µg/L <sup>+</sup>	Mar 2007	31
		14 µg/L <sup>+</sup>	Feb 2007	28

	≤0.43 µg/L Daily Maximum	5.0 µg/L <sup>+</sup>	Apr 2008	1
		2.0 µg/L <sup>+</sup>	Mar 2008	1
		5.0 µg/L <sup>+</sup>	Jan 2008	1
		3.0 µg/L <sup>+</sup>	Dec 2007	1
		4.0 µg/L <sup>+</sup>	Nov 2007	1
		2.0 µg/L <sup>+</sup>	Sep 2007	1
		9.0 µg/L <sup>+</sup>	Aug 2007	1
		11 µg/L <sup>+</sup>	Jul 2007	1
		2.0 µg/L <sup>+</sup>	Jun 2007	1
		3.0 µg/L <sup>+</sup>	May 2007	1
		4.0 µg/L <sup>+</sup>	Apr 2007	1
		12 µg/L <sup>+</sup>	Mar 2007	1
		17 µg/L <sup>+</sup>	Feb 2007	1
<b>Pollutant Parameter</b>		<b>Discharge Limit</b>	<b>Discharge Violation</b>	<b>Violation Date(s)</b>
Cadmium, Total Recoverable	≤0.64 µg/L Monthly Average	1.05 µg/L <sup>+</sup>	Apr 2008	30
		2.05 µg/L <sup>+</sup>	Feb 2008	28
		1.5 µg/L <sup>+</sup>	Jan 2008	31
		2 µg/L <sup>+</sup>	Jul 2007	31
		2.5 µg/L <sup>+</sup>	Jun 2007	30
		2.5 µg/L <sup>+</sup>	May 2007	31
		3.0 µg/L <sup>+</sup>	Apr 2007	30
		2 µg/L <sup>+</sup>	Mar 2007	31
		2 µg/L <sup>+</sup>	Feb 2007	28
<b>Pollutant Parameter</b>	<b>Discharge Limit</b>	<b>Discharge Violation</b>	<b>Violation Date(s)</b>	<b>Days in Violation</b>
Copper, Total Recoverable	≤12.21 µg/L Monthly Average	37.4 µg/L <sup>+</sup>	Sep 2008	30
		16.8 µg/L <sup>+</sup>	Aug 2008	31
		50.0 µg/L <sup>+</sup>	Mar 2008	31
		17.0 µg/L <sup>+</sup>	Dec 2007	31

		12.5 µg/L <sup>+</sup>	Sep 2007	30
		14.5 µg/L <sup>+</sup>	Jul 2007	31
		17.5 µg/L <sup>+</sup>	May 2007	31
		35 µg/L <sup>+</sup>	Jul 2006	31
	≤17.2 µg/L Daily Maximum	52.4 µg/L <sup>+</sup>	Sep 2008	1
		100.0 µg/L <sup>+</sup>	Mar 2008	1
		18.0 µg/L <sup>+</sup>	Aug 2007	1
		21.0 µg/L <sup>+</sup>	May 2007	1
		53 µg/L <sup>+</sup>	Jul 2006	1
<b>Pollutant Parameter</b>	<b>Discharge Limit</b>	<b>Discharge Violation</b>	<b>Violation Date(s)</b>	<b>Days in Violation</b>
Cyanide, Total Recoverable	≤5.20 µg/L Monthly Average	12.4 µg/L <sup>+</sup>	Dec 2008	31
		12.0 µg/L <sup>+</sup>	Aug 2008	31
		8.24 µg/L <sup>+</sup>	Jul 2008	31
		9.50 µg/L <sup>+</sup>	Nov 2007	30
		7.5 µg/L <sup>+</sup>	Jul 2007	31
		<7 µg/L <sup>+</sup>	Jun 2007	30
		14.7 µg/L <sup>+</sup>	May 2007	31
		7 µg/L <sup>+</sup>	Apr 2007	30
		<7 µg/L <sup>+</sup>	Mar 2007	31
		7 µg/L <sup>+</sup>	Feb 2007	28
		≤22.0 µg/L Daily Maximum	22.4 µg/L <sup>+</sup>	May 2007
<b>Pollutant Parameter</b>	<b>Discharge Limit</b>	<b>Discharge Violation</b>	<b>Violation Date(s)</b>	<b>Days in Violation</b>
Biochemical Oxygen Demand, Carbonaceous	≤5.0 mg/L Monthly Average (May-Nov)	5.8 mg/L <sup>+</sup>	Oct 2008	31
		7.8 mg/L <sup>+</sup>	Nov 2007	30
		6.2 mg/L <sup>+</sup>	Sep 2007	31
		6.1 mg/L <sup>+</sup>	Jun 2007	30
		6.8 mg/L <sup>+</sup>	Nov 2006	30
		8.8 mg/L <sup>+</sup>	Oct 2006	31

		7.87 mg/L <sup>+</sup>	Sep 2006	30
	≤7.5 mg/L Weekly Average (May-Nov)	12.5 mg/L <sup>+</sup>	Oct 2008	7
		8.3 mg/L <sup>+</sup>	May 2008	7
		9.0 mg/L <sup>+</sup>	Nov 2008	7
		8.3 mg/L <sup>+</sup>	Sep 2008	7
		8.6 mg/L <sup>+</sup>	Jun 2007	7
		8.7 mg/L <sup>+</sup>	Nov 2006	7
		9.6 mg/L <sup>+</sup>	Oct 2006	7
		9.26 mg/L <sup>+</sup>	Sep 2006	7
		8 mg/L <sup>+</sup>	May 2006	7
		≤83.4 lbs/day Monthly Average (May-Nov)	93.6 lbs/day <sup>+</sup>	Nov 2007
	96 lbs/day <sup>+</sup>		Nov 2006	30
	106 lbs/day <sup>+</sup>		Oct 2006	31
	≤125 lbs/day Weekly Average (May-Nov)	144 lbs/day <sup>+</sup>	Nov 2006	7
		180 lbs/day <sup>+</sup>	Oct 2006	7
<b>Pollutant Parameter</b>	<b>Discharge Limit</b>	<b>Discharge Violation</b>	<b>Violation Date(s)</b>	<b>Days in Violation</b>
Toxicity, chronic	No statistically significant reduction in survival, growth, or reproduction of ceriodaphnia between control and test samples Weekly Average	Fail*	May 2008	7
		Fail	Aug 2008	7
		Fail	May 2007	7
		Fail	Feb 2007	7
		Fail	Aug 2006	7
		Fail	Aug 2005	7
		Fail	May 2005	7
		Fail	Feb 2005	7
	No statistically significant reduction in survival, growth, or reproduction of pimephales between control and test samples Weekly Average	Fail*	May 2008	7
		Fail	Aug 2007	7
		Fail	May 2007	7
		Fail	Feb 2007	7
		Fail	Aug 2006	7
		Fail	Aug 2006	7

		Fail	Aug 2005	7
		Fail	Feb 2005	7
<b>TOTAL VIOLATIONS</b>				4593

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, Conservation Alabama Foundation, Inc. may file suit against the Utilities Board of the City of Atmore for discharges of pollutants from the Board's Wastewater Treatment Plant on Tennant Road into Boggy Branch in violation of Administrative Order No. 06-061-CWP as reported in Discharge Monitoring Reports submitted by the Board to the Alabama Department of Environmental Management, including but not limited to, the following:

**Violations of Administrative Order No. 06-061-CWP**

<b>Order Paragraph</b>	<b>Requirement</b>	<b>Violation</b>	<b>Days in Violation</b>
E	The permittee shall comply with Ammonia, Total (as N) limitations of NPDES Permit No. AL0049557 on and after May 7, 2008.	All Ammonia, Total (as N) violations listed above with an asterisk (*)	44
E	The permittee shall comply with short-term chronic toxicity limitations of NPDES Permit No. AL0049557 on and after May 7, 2008.	All Toxicity, ceriodaphnia chronic violations listed above with an asterisk (*)	7
		Toxicity, pimephales chronic violations listed above with an asterisk (*)	7
E	The permittee shall comply with all other terms, conditions and limitations of NPDES Permit No. AL0049557 on and after May 8, 2006.	All other violations listed above with a plus sign (+)	2692
<b>TOTAL VIOLATIONS</b>			2750

Civil penalties of up to \$37,500 per violation per day may be assessed by the court. Suit may be avoided if these violations have been permanently abated before the expiration of 60 days following service of this notice. Please advise the undersigned of any measures that you may undertake or may have undertaken which you contend have permanently abated these violations before suit is filed.

Sincerely,

David A. Ludder  
Attorney for  
Conservation Alabama Foundation, Inc.

cc:

Hon. Lisa P. Jackson, Administrator  
U.S. Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

Hon. A. Stanley Meiberg, Acting Regional Administrator  
U.S. Environmental Protection Agency-Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, Georgia 30303-3104

Hon. Onis "Trey" Glenn, Director  
Alabama Department of Environmental Management  
P.O. Box 301463  
Montgomery, Alabama 36130-1463