

March 9, 2007

<u>CERTIFIED MAIL</u> RETURN RECEIPT REQUESTED

Hon. Joe L. Smith, Mayor City of Dadeville 216 Broadnax Street Dadeville, Alabama 36853-1700

Al Smith, Plant Superintendent Wastewater Treatment Plant City of Dadeville 475 Buck Street Dadeville, Alabama 36853

Re: Notice of Intent to File Suit for Violations of NPDES Permit No. AL0063797 under the Clean Water Act

Dear Mayor Smith and Mr. Smith:

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 receipt of this notice, Lake Watch of Lake Martin, Inc. intends to file suit against the City of Dadeville for discharges of pollutants from the City of Dadeville Wastewater Treatment Plant at 475 Buck Street in Dadeville into Chattasofka Creek in violation of the limitations and conditions of NPDES Permit No. AL0063797 as reported in Discharge Monitoring Reports submitted by the City of Dadeville to the Alabama Department of Environmental Management from March 2002 to March 2007, including but not limited to, the following:

Discharge Limit	Discharge Violation	Violation Date
17.5 lbs/day	21.66 lbs/day	31 days in Dec 2006
monthly average	18.58 lbs/day	31 days in May 2006
	33.15 lbs/day	30 days in Apr 2006
	24.33 lbs/day	30 days in Jun 2004
	32.6 lbs/day	30 days in Apr 2004
	26.1 lbs/day	31 days in Mar 2004
	20.02 lbs/day	31 days in Jan 2004
	21.1 lbs/day	31 days in Dec 2003
	17.5 lbs/day monthly average	18.58 lbs/day 33.15 lbs/day 24.33 lbs/day 32.6 lbs/day 26.1 lbs/day 20.02 lbs/day

			·
Nitrogen, Ammonia Total (as N)	26.2 lbs/day	39.28 lbs/day	7 days in May 2006
	weekly average	42.37 lbs/day	7 days in Apr 2006
		2935 lbs/day	7 days in Jun 2004
		29.8 lbs/day	7 days in May 2004
		36.2 lbs/day	7 days in Apr 2004
		30.5 lbs/day	7 days in Mar 2004
Nitrogen, Ammonia	5.0 mg/l	10.21 mg/l	31 days in Dec 2006
Total (as N)	monthly average	7.35 mg/l	31 days in May 2006
		12.38 mg/l	30 days in Apr 2006
		9.43 mg/l	30 days in Jun 2004
		6.45 mg/l	31 days in May 2004
		13.6 mg/l	30 days in Apr 2004
		10.0 mg/l	31 days in Mar 2004
		5.87 mg/l	28 days in Feb 2004
		9.06 mg/l	31 days in Jan 2004
		7.9 mg/l	31 days in Dec 2003
		5.72 mg/l	31 days in Jan 2003
Nitrogen, Ammonia	7.5 mg/l	11.15 mg/l	7 days in Dec 2006
Total (as N)	weekly average	21 mg/l	7 days in Jun 2006
		15.6 mg/l	7 days in May 2006
		15.45 mg/l	7 days in Apr 2006
		11.06 mg/l	7 days in Jun 2004
		12.15 mg/l	7 days in May 2004
		15.7 mg/l	7 days in Apr 2004
		11.8 mg/l	7 days in Mar 2004
		7.99 mg/l	7 days in Feb 2004
		11.56 mg/l	7 days in Jan 2004

		9.74 mg/l	7 days in Dec 2003
		7.64 mg/l	7 days in Dec 2002
		10.26 mg/l	7 days in Nov 2002
		10.48 mg/l	7 days in Oct 2002
Fecal Coliform	200/100 ml	1700/100 ml	30 days in Jun 2006
(summer)	monthly geometric mean	356.4/100 ml	30 days in Sep 2005
		365.33/100 ml	30 days in Sep 2004
		359.78/100 ml	31 days in Jul 2004
l		523.8/100 ml	30 days in Sep 2003
l		507/100 ml	31 days in Aug 2003
		439/100 ml	31 days in Jul 2003
		453.375/100 ml	30 days in Jun 2003
		5812/100 ml	30 days in Sep 2002
		12632/100 ml	31 days in Aug 2002
		1208/100 ml	31 days in Jul 2002
Fecal Coliform	2000/100 ml	15000/100 ml	1 day in Jun 2006
(summer)	daily maximum	2800/100 ml	1 day in Sep 2005
		3000/100 ml	1 day in Sep 2004
		2100/100 ml	1 day in Sep 2003
		60000/100 ml	1 day in Sep 2002
		63000/100 ml	1 day in Aug 2002
		8000/100 ml	1 day in Jul 2002
Fecal Coliform	1000/100 ml	8222/100 ml	31 days in May 2006
(winter)	monthly geometric mean	6943/100 ml	31 days in Mar 2006
		7277/100 ml	28 days in Feb 2006
		22156/100 ml	30 days in Apr 2005

17374/100 ml		1		
15105/100 ml 31 days in May 2004			17374/100 ml	31 days in Mar 2005
Fecal Coliform (winter) 2000/100 ml 4000/100 ml 4000/100 ml 40000/100 ml 400000/100 ml 4000000000000000000000000000000000000			3888/100 ml	28 days in Feb 2005
14529/100 ml			15105/100 ml	31 days in May 2004
1266.6/100 ml 31 days in Jan 2004			6983.4/100 ml	30 days in Apr 2004
5349.4/100 ml 30 days in Nov 2003			14529/100 ml	28 days in Feb 2004
5274.1/100 ml 31 days in May 2003			1266.6/100 ml	31 days in Jan 2004
3199.7/100 ml 30 days in Apr 2003			5349.4/100 ml	30 days in Nov 2003
Fecal Coliform (winter) 2000/100 ml daily maximum 2000/100 ml			5274.1/100 ml	31 days in May 2003
Fecal Coliform (winter) 2000/100 ml daily maximum 60000/100 ml 1 day in May 2006 29000/100 ml 1 day in Feb 2006 60000/100 ml 1 day in Apr 2005 60000/100 ml 1 day in Mar 2005 28000/100 ml 1 day in Feb 2005 60000/100 ml 1 day in Feb 2005 60000/100 ml 1 day in Feb 2004 60000/100 ml 1 day in Feb 2004 10000/100 ml 1 day in Feb 2004 10000/100 ml 1 day in Nov 2003 36000/100 ml 1 day in Nov 2003 25000/100 ml 1 day in Apr 2003 1 day in May 2003 1 day in Apr 2003 1 day in May 2003			3199.7/100 ml	30 days in Apr 2003
(winter) daily maximum 50000/100 ml			2097.5/100 ml	31 days in Mar 2003
(winter) daily maximum 50000/100 ml				
50000/100 ml			60000/100 ml	1 day in May 2006
60000/100 ml	(winter)	daily maximum	50000/100 ml	1 day in Mar 2006
60000/100 ml			29000/100 ml	1 day in Feb 2006
28000/100 ml			60000/100 ml	1 day in Apr 2005
60000/100 ml			60000/100 ml	1 day in Mar 2005
60000/100 ml			28000/100 ml	1 day in Feb 2005
60000/100 ml			60000/100 ml	1 day in May 2004
10000/100 ml			60000/100 ml	1 day in Apr 2004
40000/100 ml			60000/100 ml	1 day in Feb 2004
36000/100 ml			10000/100 ml	1 day in Jan 2004
25000/100 ml			40000/100 ml	1 day in Nov 2003
14000/100 ml			36000/100 ml	1 day in May 2003
			25000/100 ml	1 day in Apr 2003
5182/100 ml			14000/100 ml	1 day in Mar 2003
			5182/100 ml	1 day in Jan 2003

Suit may be avoided if these violations have been permanently abated before the expiration of 60 days following receipt 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 Lake Watch of Lake Martin, Inc.

cc: Stephen L. Johnson, Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

J.I. Palmer, Jr., Regional Administrator U.S. Environmental Protection Agency-Region 4 Sam Nunn Atlanta Federal Center 61 Forsyth Street, SW Atlanta, Georgia 30303-3104

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

ARCivP-93

LAST REVISION DATE:

5/99

TITLE OF THIS FORM:

Cover Sheet Circuit Court - Civil Cases Mon for Domestic

FRANK LUCAS

Relations Cases)

USERS OF THIS FORM:

Plaintiff/Plaintiff's Attorney /Clerk

PURPOSE OF THIS FORM:

This form is to be filed with the complaint in a civil action or with the notice of appeal in an appeal of a civil case from district to circuit court to supply general information to the court regarding the nature of the suit and allows the court follow, for organizational purposes, the disposition or status of the case.

APPLICABILITY:

Circuit and district Courts

AUTHORITY:

Rule 3(b), Alabama Rules of Civil Procedure (ARCP),

provides as follows:

"Except in domestic relations cases, each original complaint at the time it is filed with the circuit court shall be accompanied by an informational 'cover sheet.' ... The plaintiff, or if the plaintiff is represented by counsel, then the plaintiff's attorney, shall complete and sign the 'general information' portion of the cover sheet before it is filed with the court. If the complaint is tendered to the clerk of the circuit court without a properly completed cover sheet, the clerk shall accept the complaint and inform the person filing it of the requirements of this rule, and the plaintiff, or, if the plaintiff is represented by counsel, then the plaintiff's attorney, shall promptly file a properly completed cover sheet."

For a party's failure to comply with the requirements of Rule 3, ARCP, a court may stay the proceedings until the cover sheet is filed or make such other orders as are just, such as contempt of court, or, after proper notice, an order dismissing the action. Additionally, in cases appealed from the district court to the circuit court, the cover sheet shall accompany the notice of appeal.

State of Alabama		Case Number		
Unified Judicial System	COVER S	SHEET CV TTTTTTTTTTTTTTTTTTTTTTTTTTTTTTTTT		
	CIRCUIT COURT	Γ − CIVIL CASE Date of Filing: Judge Code:		
Form ARCiv-93 Rev.5/99	(Not For Domestic I			
		Month Day Year		
	GE	NERALINFORMATION		
IN THE CIRCUIT COURT	OF	TALLAPOOSA COUNTY , ALABAMA		
		(Name of County)		
STATE OF ALAB	AMA EX REL TROY	· · · · · · · · · · · · · · · · · · ·		
First Plaintiff Busin	Plaintiff ess Individual	Defendant First Defendant □ Business □ Individual		
✓ Gove	rnment Other	☑ Government ☐ Other		
-				
NATURE OF SUIT: Select	ct primary cause of action, b	by checking box (check only one) the best characterizes your action:		
TORTS: PERSONAL INJURY	•	OTHER CIVIL FILINGS (cont'd)		
WDEA - Wrongful De		MSXX - Birth/Death Certificate Modification/Bond Forfeiture Appeal/ Enforcement of Agency Subpoena/Petition to Preserve		
TONG - Negligence:		CVRT - Civil Rights		
☐ TOMV - Negligence☐ TOWA - Wantonness	: Motor Vehicle	COND - Condemnation/Eminent Domain/Right-of-Way		
TOPL - Product Lial		CTMP - Contempt of Court		
TOMM - Malpractice-	-	CONT - Contract/Ejectment/Writ of Seizure TOCN - Conversion		
TOLM - Malpractice-	Legal	☐ EQND - Equity Non-Damages Actions/Declaratory Judgment/Injunction		
TOOM - Malpractice	-Other	Election Contest/Quiet Title/Sale For Division		
	Faith/Misrepresentation	CVUD - Eviction Appeal/Unlawful Detainer		
TOXX - Other:	· · · · · · · · · · · · · · · · · · ·	FORJ - Foreign Judgment		
TORTS: PERSONAL INJURY	,	☐ FORF - Fruits of Crime Forfeiture		
TOPE - Personal P		MSHC - Habeas Corpus/Extraordinary Writ/Mandamus/Prohibition		
TORE - Real Prope	•	☐ FFAB - Protection From Abuse☐ FELA - Railroad/Seaman (FELA)		
OTHER CIVIL FILINGS		RPRO - Real Property		
ABAN - Abandone	d Automobile	WTEG - Will/Trust/Estate/Guardianship/Conservatorship		
ACCT - Account &		COMP - Workers' Compensation		
APAA - Administrat	ive Agency Appeal	CVXX - Miscellaneous Circuit Civil Case		
	ve Procedure Act			
ANPS - Adults in N	eed of Protective Services			
ORIGIN (check one): F	· ☑ INITIAL FILING	A ☐ APPEAL FROM O ☑ OTHER:		
		DISTRICT COURT ALABAMA WATER POLLUTION		
F	REMANDED	T TRANSFERRED FROM		
		OTHER CIRCUIT COURT		
UAC IUDV TDIAL DEE	N DEMANDEDO TIV	Note: Checking "Vee" does not constitute a demand for a		
HAS JURY TRIAL BEE	N DEMANDED? LIY	YES NO Note: Checking "Yes" does not constitute a demand for a jury trial. (See Rules 38 and 39, Ala.R.Civ.P, for procedure)		
RELIEF REQUESTED:	✓ MONETARY AWARD	D REQUESTED NO MONETARY AWARD REQUESTED		
ATTORNEY CODE:				
T A M 0 0 1	5-04-07	- Tuesta I am		
	Date	Signature of Attorney/Party filing this form		
MEDIATION DEGUES	TD. [] [] [[]		
MICDIATION REQUEST	ED: YES NO [✓ UNDECIDED		

State of Alabama	SUMMONS	Case Number
Unified Judicial System	-CIVIL-	
Form C-34 Rev 6/88	OI VIE	
IN THE CIRCU	JITCOURT OFTALLAPOOSA	COUNTY COUNTY
	ADAMA EV DEV	/ OF DADELWAY
	ABAMA EX REL v. Defendant CITY FORNEY GENERAL	Y OF DADEVILLE
_ROT KING, AT	TORNET GENERAL	
NOTICE TO THE HO	DNORABLE JOE SMITH, MAYOR OF THE CITY	OF DADEVILLE
	16 BROADNAX STREET, DADEVILLE, ALABA	
THE COMPLAINT WHICH IS A	TTACHED TO THIS SUMMONS IS IMPORTANT AND Y	YOU MUST TAKE IMMEDIATE
YOUR WRITTEN ANSWER, EIT	RIGHTS. YOU OR YOUR ATTORNEY ARE REQUIREI THER ADDMITTING OR DENYING EACH ALLEGATIO	ON IN THE COMPLAINT WITH
THE CLERK OF THIS COURT.	A COPY OF YOUR ANSWER MUST BE MAILED OR H	AND DELIVERED BY YOU OR
YOUR ATTORNEY TO THE PLANDERS IS	AINTIFF OR PLAINTIFF'S ATTORNEY ROBERT	D. TAMBLING WHOSE
11	FICE OF ATTORNEY GENERAL, ALABAMA S SOUTH UNION STREET, MONTGOMERY, ALA	ARAMA 36130
		**
THIS ANSWER MUST BE MA	AILED OR DELIVERED WITHIN 30 DAYS A	FTER THIS SUMMONS AND
THE MONEY OR OTHER THING	D TO YOU OR A JUDGMENT BY DEFAULT MAY BE IN DEMANDED IN THE COMPLAINT.	ENTERED AGAINST YOU FOR
TO ANY SHERIFF OR AN	Y PERSON AUTHORIZED by the Alabama Ru	les of Civil Procedure:
	nded to serve this summons and a copy of the comp	
defendant.	nded to serve this summons and a copy of the comp	name in this action upon the
Service by certified ma	il of this summons is initiated upon the written requ	est of
pursuant to the Alabama Rule		
Dete		_
Date	Clerk/Register	By:
	Clerk/Register	
Certified Mail is hereby	requested.	
	Plaintiff's/Attorney's Signatur	re 🔼
RETURN ON SERVICE:		
The state of the s		
Return receipt of certific	ed mail received in this office on	
		Date)
✓ I certify that I personally	delivered a copy of the Summons and Complaint t	o MR. DAINE
SHARPE, ATTORN	NEY in TALLAPOOSA COUNT	ΓΥ County,
Alabama on(Date)		
(Date)		
Date	Server's Signature	
m	OFFICE OF A	ATTORNEY GENERAL
Type of Process Server	Address of Server	
	11 SOUTH UNION	ST., MONTGOMERY, AL
	(3	34) 242-4260
	Phone Number of Se	erver

State of Alabama	SUMM	ONS	Case Number
Unified Judicial System	-CIV	ſΤ <u>,</u> _	
Form C-34 Rev 6/88	CIVI		
IN THE CIRCU	JITCOURT ()F TALLAPO	OSA COUNTY
Plaintiff STATE OF AL	ABAMA EX REL v.	Defendant CITY	OF DADEVILLE
	ΓORNEY GENERAL		
NOTICE TO THE HO	NORABLE IOE SMITH M	MAYOR OF THE CITY	OF DADEVII I E
	16 BROADNAX STREET,		
THE COMPLAINT WHICH IS A	TTACHED TO THIS SUMMON	IS IS IMPORTANT AND Y	OU MUST TAKE IMMEDIATE
ACTION TO PROTECT YOUR	RIGHTS. YOU OR YOUR AT	TORNEY ARE REQUIRED	TO FILE THE ORIGINAL OF
YOUR WRITTEN ANSWER, EITHE CLERK OF THIS COURT.	THER ADDMITTING OR DEN	YING EACH ALLEGATIO	N IN THE COMPLAINT WITH
YOUR ATTORNEY TO THE PL	AINTIFF OR PLAINTIFF'S AT	TORNEY ROBERT	D TAMBLING WHOSE
ADDRESS IS OF	FICE OF ATTORNEY GEN	VERAL ALABAMA S'	TATE HOUSE
	SOUTH UNION STREET,	MONTGOMERY, ALA	ABAMA 36130
THIS ANSWER MUST BE MA	AILED OR DELIVERED WIT	HIN 30 DAYS A	FTER THIS SUMMONS AND
COMPLAINT WERE DELIVERE			ENTERED AGAINST YOU FOR
THE MONEY OR OTHER THING	SS DEMANDED IN THE COMP	LAINT.	
TO ANY SHEDIEF OD AN	CORDON AUTHORIZA		1 (C) 1 D 1
TO ANY SHERIFF OR AN			
You are hereby comma	inded to serve this summons	and a copy of the comp	laint in this action upon the
defendant.			:
Constant (C. 1			
	il of this summons is initiate	d upon the written requ	est of
pursuant to the Alabama Rule	es of Civil Procedure.		
Date			By:
	Clerk/I	Register	
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		J t > 1 :	
Certified Mail is hereby	-	10000	
	Plainti	iff's/Attorney's Signatur	e G
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Return receipt of certific	ed mail received in this offic	e on	
Z I and Grahad I	1.11 1 0.1 0		Date)
V 1 certify that I personally	y delivered a copy of the Sur	nmons and Complaint t	
Court Clerk Alabama on MAY	in	TALLAPOOSA	County,
(Date)	- · · · · · · · · · · · · · · · · · · ·		
Date		Server's Signature	
Type of Process Server			ANN BOOTH
Type of Flocess Server		Address of Server	REET, MONTGOMERY AL
		11 50. UNION 51)	KLLI, MONTOUMERT AL
			34) 242-4260
		Phone Number of Se	rver

IN THE CIRCUIT COURT OF TALLAPOOSA COUNTY, ALABAMA

STATE OF ALABAMA, : ex rel. TROY KING, : ATTORNEY GENERAL, :

:

Plaintiff, : CIVIL ACTION NO. CV--

v.

•

CITY OF DADEVILLE, :

:

Defendant.

:

COMPLAINT

The State of Alabama, on the relation of Attorney General Troy King, files this complaint and alleges the following:

NATURE OF ACTION

- 1. This is an action for declaratory judgment, injunctive relief, and penalties to enforce the provisions of the Alabama Water Pollution Control Act, brought by the State of Alabama, on the relation of Attorney General Troy King.
- 2. The Attorney General is authorized by <u>Code of Alabama</u> (1975), §22-22A-5(1), §22-22-9(m), §22-22-9(n), §22-22-9(o), §22-22A-5(12) and §22-22A-5(18) to enforce the provisions of the Alabama Water Pollution Control Act found at <u>Code of Alabama</u> (1975), §22-22-1 et seq. (the Act). Specifically, <u>Code of Alabama</u> (1975), §22-22A-5(18)(b), authorizes the Attorney General to bring a civil action for violations of permits issued under the Act in violation of the Act. <u>Code of Alabama</u> (1975), §22-22A-5(18)(c), authorizes the Attorney General to recover civil penalties for such permit violations providing for a maximum of \$25,000 per violation. Furthermore, the Attorney General is authorized by <u>Code of Alabama</u> (1975), §36-15-12, to institute and prosecute, in the name of the State, all civil actions and other proceedings necessary to protect the rights and interests of this State.

- 3. The Defendant is a "person" within the meaning of that term as defined under Code of Alabama (1975), § 22-22-1(b)(7), of the Act.
- 4. The Defendant owns and operates the Dadeville Wastewater Treatment Plant (WWTP) located at 475 Buck Street, Dadeville, Tallapoosa County, Alabama.
- 5. The Defendant operates the Dadeville WWTP under National Pollutant Discharge Elimination System (NPDES) Permit Number AL0063797 issued by ADEM. This permit is presently held by the Defendant and establishes limitations on the discharge of pollutants from the WWTP at outfall 0011 into Chattasofka Creek, a water of the State.
- 6. This permit, among other things, requires that the Defendant monitor its discharges and submit annual Municipal Water Pollution Prevention (MMPP) reports to ADEM describing the results of its monitoring. This monitoring includes completing and filing Raw Sewage Bypass and Event Reporting forms whenever there is a discharge of raw sewage from the WWTP. The Defendant's failure to submit these reports to ADEM in a timely manner may result in additional permit violations during additional dates to be determined through discovery.

COUNT ONE

AMMONIA NITROGEN

- 7. The Plaintiff realleges and incorporates by reference paragraphs 1 through 6 above.
- 8. NPDES Permit Number AL0063797, for the period from April 1, 1997 through March 31, 2002, established discharge limits for Ammonia Nitrogen (NH3-N) as follows:

Monthly	Weekly	Monthly	Weekly
Average	Average	Average	Average
(lbs/day)	(lbs/day)	(mg/l)	(mg/l)
17.5	26.3	5.0	7.5

9. During the months listed below, as well as additional dates to be determined through discovery, the Defendant operated the Dadeville WWTP in violation of NPDES Permit Number AL0063797 by discharging effluent containing NH3-N in excess of the above referenced limitations into waters of the State as follows:

DATE	PARA	METER	TYPE OF <u>VIOLATION</u>
February 2002	31.5	lbs/day	Weekly Average
March 2002	37.7	lbs/day	Weekly Average
March 2002	23.1	lbs/day	Monthly Average
March 2002	12.7	mg/l	Weekly Average
March 2002	6.8	mg/l	Monthly Average
April 2002	40.9	lbs/day	Weekly Average
April 2002	37.1	lbs/day	Monthly Average
April 2002	13.35	mg/l	Weekly Average
April 2002	12.1	mg/l	Monthly Average

A. NPDES Permit Number AL0063797, from the period beginning May 22, 2002, establishes discharge limits for Ammonia Nitrogen (NH3-N) as follows:

Monthly Average	Weekly Average	Monthly Average	Weekly Average
(lbs/day)	(lbs/day)	(mg/l)	(mg/l)
17.5	26.2	5.0	7.5

B. During the months listed below, as well as additional dates to be determined through discovery, the Defendant operated the Dadeville WWTP in violation of NPDES Permit Number AL0063797 by discharging effluent containing NH3-N in excess of the above referenced limitations into waters of the State as follows:

<u>DATE</u>	PARAMETER	TYPE OF <u>VIOLATION</u>
February 2007 February 2007 February 2007 February 2007 January 2007	9.41 mg/l 12.3 mg/l 26.33 lbs/day 30.83 lbs/day 11.99 mg/l	Monthly Average Weekly Average Monthly Average Weekly Average Monthly Average
January 2007	11.39 IIIg/1	wioniniy Average

<u>DATE</u>	<u>PARA</u>	METER	TYPE OF <u>VIOLATION</u>
January 2007	19.55	mg/l	Weekly Average
January 2007	29.73	lbs/day	Monthly Average
January 2007	29.54	lbs/day	Monthly Average
December 2006	21.66	lbs/day	Monthly Average
December 2006	11.15	mg/l	Weekly Average
December 2006	10.21	mg/l	Monthly Average
June 2006	21	mg/l	Weekly Average
May 2006	39.28	lbs/day	Weekly Average
May 2006	15.6	mg/l	Weekly Average
May 2006	18.58	lbs/day	Monthly Average
May 2006	7.35	mg/l	Monthly Average
April 2006	42.37	lbs/day	Weekly Average
April 2006	15.45	mg/l	Weekly Average
April 2006	33.15	lbs/day	Monthly Average
April 2006	12.38	mg/l	Monthly Average
June 2004	24.33	lbs/day	Monthly Average
June 2004	2935	lbs/day	Weekly Average
June 2004	9.43	mg/l	Monthly Average
June 2004	11.06	mg/l	Weekly Average
May 2004	29.8	lbs/day	Weekly Average
May 2004	6.45	mg/l	Monthly Average
May 2004	12.15	mg/l	Weekly Average
April 2004	36.2	lbs/day	Weekly Average
April 2004	32.6	lbs/day	Monthly Average
April 2004	15.7	mg/l	Weekly Average
April 2004	13.6	mg/l	Monthly Average
March 2004	26.1	lbs/day	Monthly Average
March 2004	10.0	mg/l	Monthly Average
March 2004	30.5	lbs/day	Weekly Average
March 2004	11.8	mg/l	Weekly Average
February 2004	5.87	mg/l	Monthly Average
February 2004	7.99	mg/l	Weekly Average
January 2004	20.02	lbs/day	Monthly Average
January 2004	11.56	mg/l	Weekly Average
January 2004	9.06	mg/l	Monthly Average
December 2003	21.1	lbs/day	Monthly Average
December 2003	9.74	mg/l	Weekly Average
December 2003	7.9	mg/l	Monthly Average
January 2003	5.72	mg/l	Monthly Average
December 2002	7.64	mg/l	Weekly Average
November 2002	10.26	mg/l	Weekly Average
October 2002	10.48	mg/l	Weekly Average

COUNT TWO

FECAL COLIFORM

- 10. The Plaintiff realleges and incorporates by reference paragraphs 1 through 9 above.
- 11. NPDES Permit Number AL0063797, for the period beginning May 22, 2002, establishes discharge limits for the discharge of Fecal Coliform (FC) from June through September (summer months) as follows:

Monthly Geometric Mean	Daily Maximum
200 col./100ml	2000 col./100ml

12. During the months set out below, as well as additional dates to be determined through discovery, the Defendant operated the Dadeville WWTP in violation of NPDES Permit Number AL0063797 by discharging effluent containing FC in excess of the above referenced limitations into waters of the State as follows:

DATE	DISCHARGE	TYPE OF VIOLATION
June 2006	1700 col/100ml	Monthly Geo Mean
June 2006	15000 col/100ml	Daily Maximum
September 2005	356.4 col/100ml	Monthly Geo Mean
September 2005	2800 col/100ml	Daily Maximum
September 2004	365.33 col/100ml	Monthly Geo Mean
September 2004	3000 col/100ml	Daily Maximum
July 2004	359.78 col/100ml	Monthly Geo Mean
September 2003	523.8 col/100ml	Monthly Geo Mean
September 2003	2100 col/100ml	Daily Maximum
August 2003	507 col/100ml	Monthly Geo Mean
July 2003	439 col/100ml	Monthly Geo Mean
June 2003	453.375 col/100ml	Monthly Geo Mean
September 2002	5812 col/100ml	Monthly Geo Mean
September 2002	60000 col/100ml	Daily Maximum
August 2002	12632 col/100ml	Monthly Geo Mean
August 2002	63000 col/100ml	Daily Maximum
July 2002	1208 col/100ml	Monthly Geo Mean

A. NPDES Permit Number AL0063797, for the period beginning May 22, 2002, establishes discharge limits for FC from October through May (winter months) as follows:

Monthly Geometric Mean	Daily Maximum
1000 col./100	2000 col./100ml

B. During the months set out below, as well as additional dates to be determined through discovery, the Defendant operated the Dadeville WWTP in violation of Number AL0063797 by discharging effluent containing FC in excess of the above referenced limitations into waters of the State as follows:

DATE	DISCHARGE	TYPE OF VIOLATION
January 2007	2600 col/100ml	Daily Maximum
May 2006	8222 col/100ml	Monthly Geo Mean
May 2006	60000 col/100ml	Daily Maximum
March 2006	6943 col/100ml	Monthly Geo Mean
March 2006	50000 col/100ml	Daily Maximum
February 2006	7277 col/100ml	Monthly Geo Mean
February 2006	29000 col/100ml	Daily Maximum
April 2005	22156 col/100ml	Monthly Geo Mean
April 2005	60000 col/100ml	Daily Maximum
March 2005	17374 col/100ml	Monthly Geo Mean
March 2005	60000 col/100ml	Daily Maximum
February 2005	3888 col/100ml	Monthly Geo Mean
February 2005	28000 col/100ml	Daily Maximum
May 2004	15105 col/100ml	Monthly Geo Mean
May 2004	60000 col/100ml	Daily Maximum
April 2004	6983.4 col/100ml	Monthly Geo Mean
April 2004	60000 col/100ml	Daily Maximum
February 2004	14529 col/100ml	Monthly Geo Mean
February 2004	60000 col/100ml	Daily Maximum
January 2004	1266.6 col/100ml	Monthly Geo Mean
January 2004	10000 col/100ml	Daily Maximum
November 2003	5349.4 col/100ml	Monthly Geo Mean
November 2003	40000 col/100ml	Daily Maximum
May 2003	5274.1 col/100ml	Monthly Geo Mean
May 2003	36000 col/100ml	Daily Maximum
April 2003	3199.7 col/100ml	Monthly Geo Mean
April 2003	25000 col/100ml	Daily Maximum
March 2003	2097.5 col/100ml	Monthly Geo Mean

COUNT THREE

TOTAL RESIDUAL CHLORINE

- 13. The Plaintiff realleges and incorporates by reference paragraphs 1 through 12 above.
- A. NPDES Permit Number AL0063797, for the period from April 1, 1997 through March 31, 2002, established discharge limits for Total Residual Chlorine (TRC) as follows:

Daily <u>Maximum</u>

0.09 mg/l

B. During the months set out below, as well as during additional dates to be determined through discovery, the Defendant operated the Dadeville WWTP in violation of NPDES Permit Number AL0063797 by discharging effluent containing TRC in excess of the above referenced limitations into waters of the State as follows:

<u>DATE</u>	DISCHARGE	TYPE OF VIOLATION
February 2002	0.5 mg/l	Daily Maximum
March 2002	0.61 mg/l	Daily Maximum
April 2002	0.52 mg/l	Daily Maximum

C. NPDES Permit Number AL0063797 for the period from May 22, 2002, establishes discharge limits for Total Residual Chlorine (TRC) as follows:

Daily <u>Maximum</u>

0.09 mg/l

D. During the months set out below, as well as during additional dates to be determined through discovery, the Defendant operated the Dadeville WWTP in violation of NPDES Permit Number AL0063797 by discharging effluent containing TRC in excess of the above referenced limitations into waters of the State as follows:

<u>DATE</u>	DISCHARGE	TYPE OF VIOLATION
May 2002	0.51 mg/l	Daily Maximum
June 2002	0.6 mg/l	Daily Maximum

COUNT FOUR

TOTAL SUSPENDED SOLIDS

- 14. The Plaintiff realleges and incorporates by reference paragraphs 1 through 13 above.
- 15. NPDES Permit Number AL0063797, for the period from April 1, 1997 through March 31, 2002, established discharge limits for Total Suspended Solids (TSS) as follows:

Monthly	Weekly	Monthly	Weekly
Average	Average	Average	Average
(lb/day)	(lbs/day)	(mg/l)	(mg/l)
105	158	30.0	45.0

16. During the months set out below, as well as during additional dates to be determined through discovery, the Defendant operated the Dadeville WWTP in violation of the NPDES Permit Number AL0063797 by discharging effluent containing TSS in excess of the above referenced limitations into waters of the State as follows:

<u>DATE</u>	DISCHARGE	TYPE OF <u>VIOLATION</u>
February 2002	193.5 lbs/day	Weekly Average

COUNT FIVE

UNPERMITTED DISCHARGES

- 17. The Plaintiff realleges and incorporates by reference paragraphs 1 through 16 above.
- 18. Under <u>Code of Alabama</u> 1975, §22-22-9(i)(3), no person shall discharge any new or increased pollution into the waters of the state without first obtaining from ADEM a permit for the discharge.
- 19. On February 11, 2006, March 28, 2005, April 2, 2005, April 7, 2005 and June 14, 2005, the Dadeville WWTP, operated by the Defendant, discharged untreated raw or insufficiently treated sewage from a point source at either Buck Creek or Chattasofka Creek into waters of the state. These discharges were unpermitted discharges of new or increased in violation of <u>Code of Alabama</u> 1975, §22-22-9(i)(3).

COUNT SIX

- 20. The Plaintiff realleges and incorporates by reference paragraphs 1 through 19 above.
- 21. Under NPDES Permit Number AL0063797, the Defendant is to properly report, both verbally (i.e., no verbal notification within 24 hours) and in writing (i.e., no written notification within five days), any unpermitted discharges of a pollution to a water of the state.
- 22. The Defendant did not properly report to the Department in accordance with its Permit the unpermitted discharges that occurred on February 11, 2006, March 28, 2005, April 2, 2005, April 7, 2005 and June 14, 2005.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff request that the Court:

- A. Take jurisdiction of this matter.
- B. Adjudge and declare that the Defendant violated the terms and conditions of NPDES Permit Number AL0063797.
- C. Order the Defendant to take action to ensure that similar violations of the Alabama Water Pollution Control Act, <u>Code of Alabama</u> (1975), §22-22-1 et seq., do not recur.
- D. Assess a civil penalty against the Defendant and in favor of the Plaintiff pursuant to §22-22A-5(18)(b) and (c) for each and every violation of NPDES Permit Number AL0063797.
 - E. Order such additional relief as the Court deems appropriate.
 - F. Tax the costs of this action against the Defendant.

RESPECTFULLY SUBMITTED,

TROY KING ATTORNEY GENERAL

ROBERT D. TAMBLING Assistant Attorney General

WILLIAM D. LITTLE (LIT013)

Assistant Attorney General

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