

October 13, 2010

**Certified Mail**

**Return Receipt Requested**

Hon. Carolyn Bailey-Jones, Chairwoman  
The Water and Sewer Board of the Town of Leighton  
P. O. Box 817  
Leighton, Alabama 35646

Re: **Notice of Intent to File Suit under the Clean Water Act  
NPDES Permit No. AL0071901**

Dear Ms. Bailey-Jones:

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 may file suit against the Water and Sewer Board of the Town of Leighton for discharges from the Wastewater Treatment Facility located on Sixth Street into the Tennessee River in violation of the Clean Water Act as described herein.

**A. History of Previous Violations and Enforcement Actions**

The last known Notices of Violation issued by the Alabama Department of Environmental Management to The Water and Sewer Board of the Town of Leighton were on March 9, 2001, August 12, 2003, and September 21, 2007. A Warning Letter was also issued to The Water and Sewer Board of the Town of Leighton on July 16, 2007. These informal enforcement actions have not resulted in compliance with NPDES Permit No. AL0071901.

**B. Discharges In Excess of Permit Limitations**

NPDES Permit No. AL0071901 establishes limitations on the discharge of specified pollutants from The Water and Sewer Board of the Town of Leighton Wastewater Treatment Facility, located at 12570 Sixth Street into the Tennessee River. The Board discharged pollutants in excess of the limitations as indicated below:

<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	≤ 30 mg/L Monthly Average	39.58 mg/L	Oct. 2008	31
	≤ 45 mg/L Weekly Average	86 mg/L	Oct. 2008	7
	≥ 85 % Removal Monthly Average	16.6%	Feb 2009	28
		59.2%	Nov 2008	30
		48.72%	Oct 2008	31
		73.23%	Sep 2008	30
		70%	Aug 2008	31
		77%	Jun 2008	30
		74%	May 2008	30
<b>Pollutant Parameter</b>	<b>Discharge Limit</b>	<b>Discharge Violation</b>	<b>Violation Date(s)</b>	<b>Days in Violation</b>
Carbonaceous Biochemical Oxygen Demand	≤ 37.5 mg/L Weekly Average	45.6 mg/L	Sep 2009	7
		48 mg/L	Jun 2009	7
	≥ 85% Removal Monthly Average	72.5%	Jul 2010	31
		51.4%	Jun 2010	30
		19.9%	May 2010	31
		35.4%	Apr 2010	30
		42.2%	Mar 2010	31
		49.16%	Jan 2010	31
		81.8%	Dec 2009	31
		47.55%	Nov 2009	30
		43.39%	Oct 2009	31
		59.1%	Sep 2009	30
		66.31%	Aug 2009	31
		54.4%	Jul 2009	31
		57.7%	Jun 2009	30
19.7%	May 2009	31		

<b>Pollutant Parameter</b>	<b>Discharge Limit</b>	<b>Discharge Violation</b>	<b>Violation Date(s)</b>	<b>Days in Violation</b>
Fecal Coliform	≤ 2000 colonies/100 ml Monthly Geometric Mean	TNTC	Jul 2010	31
		TNTC	Jun 2010	30
		TNTC	May 2010	31
		TNTC	Apr 2010	30
		TNTC	Mar 2010	31
		TNTC	Jan 2010	31
		TNTC	Dec 2009	31
		TNTC	Nov 2009	30
		TNTC	Oct 2009	31
		146640 colonies/ 100 ml	Sep 2009	30
		39436 colonies/100 ml	Aug 2009	31
		113782 colonies/100 ml	Jul 2009	31
		4000 colonies/100 ml	Jun 2009	30
		3525 colonies/100 ml	May 2009	31
		≤ 4000 colonies/100 ml Daily Maximum	TNTC	Jul 2010
	TNTC		Jun 2010	1
	TNTC		May 2010	1
	TNTC		Apr 2010	1
	TNTC		Mar 2010	1
	TNTC		Jan 2010	1
	TNTC		Dec 2009	1
	TNTC		Nov 2009	1
	432000 colonies/100 ml		Sep 2009	1
80900 colonies/100 ml	Aug 2009		1	
468000 colonies/100 ml	Jul 2009	1		
<b>Pollutant Parameter</b>	<b>Discharge Limit</b>	<b>Discharge Violation</b>	<b>Violation Date(s)</b>	<b>Days in Violation</b>
Total Suspended Solids	≤ 30 mg/L Monthly Average	60 mg/L	Jun 2009	30
		41.25 mg/L	Nov 2008	30

		82 mg/L	Oct 2008	31	
		31.5 mg/L	Sep 2008	30	
		38 mg/L	Aug 2008	31	
	≤ 45 mg/L Weekly Average	47 mg/L	Sep 2009	7	
		120 mg/L	Jun 2009	7	
		52 mg/L	May 2009	7	
		47 mg/L	Dec 2008	7	
		72 mg/L	Nov 2008	7	
		140 mg/L	Oct 2008	7	
		100 mg/L	Jul 2008	7	
		52 mg/L	Feb 2008	7	
		46 mg/L	Jul 2007	7	
		≤ 100 lbs/day Monthly Average	106.87 lbs/day	Jun 2009	30
		≤ 150 lbs/day Weekly Average	217.47 lbs/day	Jun 2009	7
	152 lbs/day		Jul 2007	7	
	≥ 85% Removal Monthly Average	64.2%	Jul 2010	31	
		51.1%	Jun 2010	30	
		27.7%	May 2010	31	
		43.2%	Apr 2010	30	
		9.6%	Mar 2010	31	
		45.06%	Feb 2010	28	
		5.7%	Jan 2010	31	
		54.9%	Dec 2009	31	
		49%	Nov 2009	30	
		48.65%	Oct 2009	31	
		71.9%	Sep 2009	30	
		54.99%	Aug 2009	31	
		77.9%	Jul 2009	31	
<b>TOTAL VIOLATIONS</b>				1786	

Civil penalties of *not less than \$100 per violation per day* nor more than \$25,000 per violation per day may be sought by the State or Alabama Department of Environmental Management in State court. Civil penalties of up to \$37,500 per violation per day may be sought by Conservation Alabama Foundation in federal court after the expiration of 60 days. Suit by Conservation Alabama Foundation 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

cc:

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

Hon. Gwendolyn Keyes Fleming, Regional Administrator  
U.S. Environmental Protection Agency-Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, Georgia 30303-3104

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

Hon. Joyce White Vance  
U.S. Attorney  
U.S. Attorney's Office  
1801 4th Ave North  
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