

December 3, 2009

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Hon. Anthony J. Long, Mayor
City of Marion
P.O. Box 959
Marion, Alabama 36756

Re: Notice of Intent to File Suit for Violations of Alabama State Implementation Plan under the Clean Air Act

Dear Mayor Long:

Pursuant to the Clean Air Act § 304, 42 U.S.C. § 7604, and 40 C.F.R. Part 54, you are hereby notified that after the expiration of 60 days following service of this notice, Irene Young, Ernie and Cynthia Bagley, and Jackie and Katherine Fike, who reside at 705, 706 and 707 Moore Street, respectively, in Marion, Alabama, intend to file suit against the City of Marion for violations of the following standards or limitations applicable under the Alabama State Implementation Plan:

No person shall permit or cause air pollution, as defined in Rule 335-3-1-.02(1)(e) of this Chapter by the discharge of any air contaminant for which no ambient air quality standards have been set under Rule 335-3-1-.03(1).

Ala. Admin. Code R. 335-3-1-.08. "Air Pollution" shall mean the presence in the outdoor atmosphere of one or more air contaminants in such quantities and duration as are, or tend to be, injurious to human health or welfare, animal or plant life, or property, or would interfere with the enjoyment of life or property throughout the State and in such territories of the State as shall be affected thereby. Ala. Admin. Code R. 335-3-1-.02(1)(e). "Air Contaminant" shall mean any solid, liquid, or gaseous matter, any odor, or any combination thereof, from whatever source. Ala. Admin. Code R. 335-3-1-.02(1)(d). "Odor" shall mean smells or aromas which are unpleasant to persons or which tend to lessen human food and water intake, interfere with sleep, upset appetite, produce irritation of the upper respiratory tract, or cause symptoms or nausea, or which by their inherent chemical or physical nature or method or processing are, or may be, detrimental or dangerous to health. Odor and smell are used interchangeably herein. Ala. Admin. Code R. 335-3-1-.02(1)(ss).

Since July 14, 2008, the City of Marion has been operating a lagoon for the storage and treatment of landfill leachate prior to further treatment in the Marion Wastewater Treatment Plant. During the last three months in particular, the City has, in the operation of the lagoon, permitted or caused the presence of one or more contaminants in the outdoor atmosphere which are injurious to

human health and welfare and interfere with the enjoyment of life and property, including odors which are unpleasant to persons, tend to interfere with sleep, produce irritation of the upper respiratory tract, and cause dizziness, headache, nausea and vomiting. Accordingly, the City of Marion is permitting or causing air pollution in violation of Ala. Admin. Code R. 335-3-1-.08 and the Alabama State Implementation Plan.

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 which you contend have permanently abated these violations before suit is filed.

Sincerely,



David A. Ludder

cc: **CERTIFIED MAIL**
RETURN RECEIPT REQUESTED
Hon. Lisa P. Jackson, Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

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

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

Hon. Bob Riley, Governor
State Capitol
600 Dexter Avenue
Montgomery, Alabama 36130