



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 NPDES Permit No. AL0023809 under the Clean Water Act

Dear Mayor Long:

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, 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 conditions of NPDES Permit No. AL0023809 described below.

NPDES Permit No. AL0023809 provides:

The Permittee shall not allow the introduction of wastewater, other than domestic wastewater, from a new direct [sic: indirect] discharger prior to approval and permitting, if applicable, of the discharge by the Department.

NPDES Permit No. AL0023809, Part II, G. The City of Marion has allowed the introduction of leachate generated from the Perry County Associates, LLC's Arrowhead Landfill into the Marion Wastewater Treatment Plant prior to approval and permitting of the discharge by the Alabama Department of Environmental Management as required by Ala. Code § 22-22-9 and Ala. Admin. Code R. 335-6-5-.04. These violations commenced on or about July 14, 2008 and have continued thereafter to the present day.

NPDES Permit No. AL0023809 also provides:

Prior to any facility expansion, process modification or any significant change in the method of operation of the Permittee's treatment works, the Permittee shall provide the Director with information concerning the planned expansion, modification or

change. The Permittee shall apply for a permit modification at least 180 days prior to any facility expansion, process modification, any significant change in the method of operation of the Permittee's treatment works or other actions that could result in the discharge of additional pollutants or increase the quantity of a discharged pollutant or could result in an additional discharge point. This condition applies to pollutants that are or that are not subject to discharge limitations in this permit. No new or increased discharge may begin until the Director has authorized it by issuance of a permit modification or a reissued permit.

NPDES Permit No. AL0023809, Part II, E.2. The City of Marion has modified the treatment process by converting a sludge lagoon into a landfill leachate storage and treatment lagoon. The City of Marion has also made a significant change in the method of operation of the treatment works by converting a sludge lagoon into a landfill leachate storage and treatment lagoon prior to further treatment in the Marion Wastewater Treatment Plant and allowing the introduction of large quantities of landfill leachate, that may include toxic metals (arsenic, cadmium, lead, mercury, nickel, selenium, and zinc) from coal ash, into the Wastewater Treatment Plant. These changes could result in the discharge of additional pollutants or an increase in the quantity of discharged pollutants. Such new or increased discharge has not been authorized by the Director of the Alabama Department of Environmental Management by a permit modification or a reissued permit. These violations commenced on or about July 14, 2008 and have continued thereafter to the present day.

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

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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

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

Hon. Troy King, Attorney General
Office of the Attorney General
500 Dexter Avenue
Montgomery, Alabama 36130

David A. Ludder

From: Jones, Azure [AJones@adem.state.al.us]
Sent: Tuesday, November 17, 2009 9:13 AM
To: 'DavidALudder@enviro-lawyer.com'
Subject: FW: Public Record Request - Perry County Associates, LLC

Good morning,

I did check again to see if there was a permit and at this time Perry County does not have an SID Permit. Let me know if you have any questions.

Thanks,

Azure D. Jones
 ADEM--Permits & Services
 334-271-7712

From: Jones, Azure
Sent: Wednesday, October 28, 2009 10:55 AM
To: 'DavidALudder@enviro-lawyer.com'
Subject: RE: Public Record Request - Perry County Associates, LLC

I will double check to make sure, but I did not find any SID permits. I will let you know shortly.

Thanks,

[Azure D. Jones](#)

From: David A. Ludder [mailto:davidaludder@enviro-lawyer.com]
Sent: Wednesday, October 28, 2009 10:52 AM
To: Jones, Azure
Subject: RE: Public Record Request - Perry County Associates, LLC

Azure:

I am only looking for one document which is not on FileNet, i.e., any SID permit or other authorization/approval for Perry County Associates to discharge leachate into a POTW. No such document may exist. If no such document exists, there is no point sending me any files -- I am not requesting any other documents.



9150 McDougal Court Tallahassee Florida 32312-4208
 Telephone 850-386-5671 Facsimile 206-888-5671 v-Card
 e-Mail DavidALudder@enviro-lawyer.com
 Web www.enviro-lawyer.com

Read [Alabama Environmental News](#) or [Florida Environmental News](#).

a free daily digest of state and local environmental news.

From: Jones, Azure [mailto:AJones@adem.state.al.us]
Sent: Wednesday, October 28, 2009 11:41 AM
To: 'DavidALudder@enviro-lawyer.com'
Subject: RE: Public Record Request - Perry County Associates, LLC

Good morning,

Would you like to get Land and Water division files for Perry County Associates? Most of the documents can be accessed by using eFile (on the website). I can provide the permit numbers if you would like to check the website first...just let me know. If not, I can get the files ordered and give you an estimate before any copies are made.

Thanks,

Azure D. Jones

From: David A. Ludder [mailto:davidaludder@enviro-lawyer.com]
Sent: Wednesday, October 21, 2009 4:16 PM
To: Jones, Azure
Subject: Public Record Request - Perry County Associates, LLC

Please forward to me any State Indirect Discharge permit or other approval issued to Perry County Associates, LLC authorizing the discharge of leachate into any POTW.



9150 McDougal Court Tallahassee Florida 32312-4208
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e-Mail DavidALudder@enviro-lawyer.com
Web www.enviro-lawyer.com

Read *Alabama Environmental News* or *Florida Environmental News*,
a free daily digest of state and local environmental news.