

June 18, 2009

Certified Mail
Return Receipt Requested

Hon. Roy Chapman, Mayor
Town of Millry
P. O. Box 563
Millry, Alabama 36558

Re: Notice of Intent to File Suit under the Clean Water Act for Violations of NPDES Permit No. AL0051144 and Administrative Order No. 06-064-CWP

Dear Mayor Chapman:

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 Town of Millry for discharges of pollutants from the Town of Millry's Lagoos into Mill Creek in violation of the limitations and conditions of NPDES Permit No. AL0051144 as reported in Discharge Monitoring Reports submitted by the Town of Millry to the Alabama Department of Environmental Management, including but not limited to, the following:

Violations of NPDES Permit No. AL0051144

Pollutant Parameter	Discharge Limit	Discharge Violation	Violation Date(s)	Days in Violation
Dissolved Oxygen	≥ 4.0 mg/L Daily Minimum	3.6 mg/L	Sep 2008	1
		2.4 mg/L	Jul 2008	1
		0.11 mg/L	Jun 2008	1
		0.07 mg/L	Apr 2008	1
		3.5 mg/L	Oct 2006	1
		3.1 mg/L	Sep 2006	1
		3.0 mg/L	Aug 2006	1
		2.8 mg/L	Jul 2006	1
		2.0 mg/L	Apr 2006	1

Pollutant Parameter	Discharge Limit	Discharge Violation	Violation Date(s)	Days in Violation
Chlorine, Total Residual	Daily Maximum ≤ 0.11 mg/L	0.30 mg/L	Nov 2008	1
		0.91 mg/L	Sep 2008	1
		0.97 mg/L	Aug 2008	1
		0.73 mg/L	Jul 2008	1
		2.05 mg/L	Jun 2008	1
		0.21 mg/L	Jan 2008	1
		0.55 mg/L	Oct 2007	1
		0.12 mg/L	Apr 2007	1
		1.0 mg/L	Jan 2007	1
Pollutant Parameter	Discharge Limit	Discharge Violation	Violation Date(s)	Days in Violation
Nitrogen, Ammonia Total (as N)	≤ 8.0 mg/L Monthly Average	8.9 mg/L	Dec 2008	31
		12 mg/L	Jun 2008	30
		11 mg/L	May 2008	31
		8.8 mg/L	Mar 2008	31
		13 mg/L	Feb 2008	28
		16.0 mg/L	Jan 2008	31
		8.7 mg/L	Dec 2007	31
		11 mg/L	Sep 2007	30
	≤ 12.0 mg/L Weekly Average	14 mg/L	May 2008	7
		16 mg/L	Feb 2008	7
		17.0 mg/L	Jan 2008	7
		13 mg/L	Sep 2007	7
	≤ 3.3 lbs/day Monthly Average	4.1 lbs/day	Dec 2008	31
		4.1 lbs/day	Mar 2008	31
		5.6 lbs/day	Feb 2008	28
		6.7 lbs/day	Jan 2008	31
		4.0 lbs/day	Sep 2007	30

		86 lbs/day	May 2006	31
	≤ 5.0 lbs/day Weekly Average	9.0 lbs/day	Dec 2008	7
		5.4 lbs/day	Nov 2008	7
		6.8 lbs/day	Jul 2008	7
		12 lbs/day	Jun 2008	7
		14 lbs/day	May 2008	7
		7.9 lbs/day	Apr 2008	7
		12 lbs/day	Mar 2008	7
		16 lbs/day	Feb 2008	7
		17 lbs/day	Jan 2008	7
		8.8 lbs/day	Dec 2007	7
		6.0 lbs/day	Nov 2007	7
		9.9 lbs/day	Oct 2007	7
		13 lbs/day	Sep 2007	7
		8.4 lbs/day	Aug 2007	7
		7.4 lbs/day	May 2007	7
		7.2 lbs/day	Apr 2007	7
		8.7 lbs/day	Jan 2007	7
		6.7 lbs/day	Dec 2006	7
		6 lbs/day	Sep 2006	7
		6.5 lbs/day	Aug 2006	7
Pollutant Parameter	Discharge Limit	Discharge Violation	Violation Date(s)	Days in Violation
Fecal Coliform	≤200 colonies/100 mL Monthly Geom. Mean Jun-Sep	1166 colonies/100 mL	Sep 2008	30
		346 colonies/100 mL	Aug 2008	31
		2898 colonies/100 mL	Jul 2008	31
		927 colonies/100 mL	Jun 2008	30
		18734 colonies/100 mL	Sep 2007	30
		9797 colonies/100 mL	Aug 2007	31
		4135 colonies/100 mL	Jul 2007	31

		1500 colonies/100 mL	Aug 2006	31
		450 colonies/100 mL	Jul 2006	31
		6000 colonies/100 mL	Aug 2005	31
		380 colonies/100 mL	Jul 2005	31
		6000 colonies/100 mL	Jun 2005	30
		6000 colonies/100 mL	May 2005	31
		6000 colonies/100 mL	Sep 2005	30
		1300 colonies/100 mL	Aug 2004	31
		1200 colonies/100 mL	Jun 2004	30
	≤1000 colonies/100 mL Monthly Geom. Mean Oct-May	5987 colonies/100 mL	Oct 2008	31
		14696 colonies/100 mL	Apr 2008	30
		3349 colonies/100 mL	Mar 2008	31
		1330 colonies/100 mL	Nov 2007	30
		1650 colonies/100 mL	Apr 2007	30
		3541 colonies/100 mL	Mar 2007	31
		1661 colonies/100 mL	Nov 2006	30
		1225 colonies/100 mL	Oct 2006	31
	≤ 2000 colonies/100 mL Daily Maximum	14000 colonies/100 mL	Nov 2008	1
		64000 colonies/100 mL	Oct 2008	1
		3400 colonies/100 mL	Sep 2008	1
		6000 colonies/100 mL	Aug 2008	1
		6000 colonies/100 mL	Jul 2008	1
		4500 colonies/100 mL	May 2008	1
		18000 colonies/100 mL	Apr 2008	1
		5100 colonies/100 mL	Mar 2008	1
		2100 colonies/100 mL	Nov 2007	1
		3500 colonies/100 mL	Oct 2007	1
		27000 colonies/100 mL	Sep 2007	1
		16000 colonies/100 mL	Aug 2007	1
		19000 colonies/100 mL	Jul 2007	1

		3800 colonies/100 mL	Mar 2007	1
		6000 colonies/100 mL	Dec 2006	1
		2300 colonies/100 mL	Nov 2006	1
		3000 colonies/100 mL	Oct 2006	1
		6000 colonies/100 mL	Aug 2005	1
		6000 colonies/100 mL	Jun 2005	1
		6000 colonies/100 mL	May 2005	1
		6000 colonies/100 mL	Sep 2004	1
Pollutant Parameter	Discharge Limit	Discharge Violation	Violation Date(s)	Days in Violation
Suspended Solids, Total	≤ 56.2 lbs/day Weekly Average	59 lbs/day	Aug 2008	7
		63 lbs/day	Mar 2008	7
		58 lbs/day	Nov 2007	7
		57 lbs/day	Aug 2007	7
	≥ 65 Percent Removal Monthly Average	63 Percent Removal	Apr 2008	30
		60 Percent Removal	Dec 2007	31
		43 Percent Removal	Jul 2007	31
		60 Percent Removal	Jan 2007	31
		57 Percent Removal	Dec 2006	31
		48 Percent Removal	Oct 2006	31
		4.4 Percent Removal	Aug 2006	31
		38 Percent Removal	Jul 2006	31
		18 Percent Removal	May 2006	31
		40 Percent Removal	Apr 2006	30
		59 Percent Removal	Dec 2005	31
		63 Percent Removal	Nov 2005	30
		37 Percent Removal	Oct 2005	31
		30 Percent Removal	Sep 2005	30
		46 Percent Removal	Aug 2005	31
23 Percent Removal	Jul 2005	31		

		23 Percent Removal	May 2005	31
		23 Percent Removal	Apr 2005	30
		35 Percent Removal	Jan 2005	31
		55 Percent Removal	Nov 2004	30
		60 Percent Removal	Sep 2004	30
		40 Percent Removal	Jul 2004	31
Pollutant Parameter	Discharge Limit	Discharge Violation	Violation Date(s)	Days in Violation
Biochemical Oxygen Demand, Carbonaceous	≤ 18.0 mg/L Monthly Average	22 mg/L	Apr 2007	30
		19 mg/L	Sep 2006	30
		19 mg/L	Aug 2005	31
		19 mg/Ldd	Jun 2005	30
		32 mg/L	Sep 2004	30
		20 mg/L	Jun 2004	30
	≤ 27.0 mg/L Weekly Average	30 mg/L	Apr 2007	7
		32 mg/L	Sep 2004	7
	≤ 11.2 lbs/day Weekly Average	12 lbs/day	Sep 2008	7
		20 lbs/day	Aug 2008	7
		23 lbs/day	Jul 2008	7
		14 lbs/day	Apr 2008	7
		17 lbs/day	Mar 2008	7
		16 lbs/day	Oct 2007	7
		14 lbs/day	Sep 2007	7
		20 lbs/day	May 2007	7
		30 lbs/day	Apr 2007	7
		20 lbs/day	Mar 2007	7
		20 lbs/day	Dec 2006	7
		12 lbs/day	Nov 2006	7
20 lbs/day	Sep 2006	7		
TOTAL VIOLATIONS				2355

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 Town of Millry for violations of requirements in Administrative Order No. 06-064-CWP, including but not limited to, the following:

Violations of Administrative Order No. 06-064-CWP

Order Paragraph	Requirement	Violation	Days in Violation
D	Town shall submit first progress report not later than December 13, 2006	Failure to submit first progress report not later than December 13, 2006 and thereafter	918
D	Town shall submit second progress report not later than June 13, 2007	Failure to submit second progress report not later than June 13, 2007 and thereafter	736
D	Town shall submit third progress report not later than December 13, 2007	Failure to submit third progress report not later than December 13, 2007 and thereafter	553
E	Town shall comply with permit effluent limitations for fecal coliform; carbonaceous biochemical oxygen demand; carbonaceous biochemical oxygen demand percent removal; total suspended solids; total suspended solids percent removal, not later than June 12, 2008	Failure to comply with permit effluent limitations for fecal coliform, total suspended solids, total suspended solids percent removal, carbonaceous biochemical oxygen demand, carbonaceous biochemical oxygen demand percent removal, and total ammonia-nitrogen not later than June 12, 2008 and thereafter	187
E	Town shall comply with all other permit effluent limitations (dissolved oxygen; nitrogen, ammonia total (as N); chlorine residual) not later than June 13, 2006	Failure to comply with permit effluent limitations for all other effluent limitations (dissolved oxygen; nitrogen, ammonia total (as N); chlorine residual) not later than June 13, 2006 and thereafter	610
TOTAL			3004

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