LAW OFFICE OF
DAVID A. LUDDER
A Professional Limited Liability Company

September 3, 2009

Certified Mail
Return Receipt Requested

Hon. Jeffrey White, Chairman
Town of New Brockton Water and Sewer Board
P. O. Box 70
New Brockton, Alabama 36351

Re: **Notice of Intent to File Suit under the Clean Water Act for Violations of NPDES Permit No. AL0055875 and Administrative Order No. 06-048-CWP**

Dear Mr. White:

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 New Brockton Water and Sewer Board for discharges of pollutants from the Board's Wastewater Treatment Plant into an unnamed tributary of Double Bridges Creek in violation of the limitations and conditions of NPDES Permit No. AL0055875 as reported in Discharge Monitoring Reports submitted by the Board to the Alabama Department of Environmental Management, including but not limited to, the following:

Violations of NPDES Permit No. AL0055875

Pollutant Parameter	Discharge Limit	Discharge Violation	Violation Date(s)	Days in Violation
Biochemical Oxygen Demand (before Mar 1, 2009)	≤ 12.0 mg/L Monthly Average (May-Nov)	19.08 mg/L	May 2008	31
		15.19 mg/L	Nov 2008	30
	≤ 30.0 mg/L Monthly Average (Dec-Apr)	41.72 mg/L	Dec 2008	31
		42.95 mg/L	Jan 2009	31
		44.31 mg/L	Feb 2009	28
	≤ 18.0 mg/L Weekly Average (May-Nov)	19.6 mg/L	May 2008	7
		19.75 mg/L	Aug 2008	7
		25.1 mg/L	Nov 2008	7
	≤ 45.0 mg/L Weekly Average (Dec-Apr)	48.7 mg/L	Dec 2008	7
		49.45 mg/L	Feb 2009	7

9150 McDougal Court ◆ Tallahassee ◆ Florida 32312-4208 ◆ Telephone 850-386-5671
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	≥ 85 Percent Removal	83 Percent Removal	Feb 2009	28
Pollutant Parameter	**Discharge Limit**	**Discharge Violation**	**Violation Date(s)**	**Days in Violation**
Biochemical Oxygen Demand, Carbonaceous (after Feb 28, 2009)	≤ 12.0 mg/L Monthly Average (Apr-Oct)	21.37 mg/L	Apr 2009	30
	≤ 18.0 mg/L Weekly Average (Apr-Oct)	41.2 mg/L	Apr 2009	7
		18.81 mg/L	May 2009	7
	≤ 26.4 lbs/day Weekly Average (Apr-Oct)	49.32 lbs/day	Apr 2009	7
Pollutant Parameter	**Discharge Limit**	**Discharge Violation**	**Violation Date(s)**	**Days in Violation**
Nitrogen, Ammonia Total (as N) (before Mar 1, 2009)	≤ 2.5 mg/L Monthly Average (May-Nov)	6.34 mg/L	Apr 2008	30
		5.57 mg/L	May 2008	31
		9.2 mg/L	Jun 2008	30
		5.14 mg/L	Jul 2008	31
		4.75 mg/L	Aug 2008	31
		5.66 mg/L	Oct 2008	31
	≤ 5.8 mg/L Monthly Average (Dec-Apr)	12.36 mg/L	Nov 2008	30
		18.04 mg/L	Dec 2008	31
		24.85 mg/L	Jan 2009	31
		32.93 mg/L	Feb 2009	28
	≤ 3.7 mg/L Weekly Average (May-Nov)	6.65 mg/L	May 2008	7
		12.58 mg/L	Jun 2008	7
		8.56 mg/L	Jul 2008	7
		10.32 mg/L	Aug 2008	7
		4.27 mg/L	Sep 2008	7
		14.3 mg/L	Oct 2008	7

	≤ 8.7 mg/L Weekly Average (Dec-Apr)	23.1 mg/L	Nov 2008	7
		25.2 mg/L	Dec 2008	7
		25.9 mg/L	Jan 2009	7
		36.65 mg/L	Feb 2009	7
	≤ 3.7 lbs/day Monthly Average (May-Nov)	8.52 lbs/day	Jun 2008	30
		5.99 lbs/day	Nov 2008	30
	≤ 8.5 lbs/day Monthly Average (Dec-Apr)	15.57 lbs/day	Dec 2008	31
		10.54 lbs/day	Jan 2009	31
		10.61 lbs/day	Feb 2009	28
	≤ 5.57 lbs/day Weekly Average (May-Nov)	13.43 lbs/day	Jun 2008	7
		7.69 lbs/day	Jul 2008	7
		7.95 lbs/day	Oct 2008	7
		11.75 lbs/day	Nov 2008	7
	≤ 12.7 lbs/day Weekly Average (Dec-Apr)	21.18 lbs/day	Dec 2008	7
		13.69 lbs/day	Jan 2009	7
		20.1 lbs/day	Feb 2009	7
Pollutant Parameter	**Discharge Limit**	**Discharge Violation**	**Violation Date(s)**	**Days in Violation**
Nitrogen, Ammonia Total (as N) (after Feb 28, 2009)	≤ 2.2 mg/L Monthly Average (Apr-Oct)	6.31 mg/L	May 2009	31
	≤ 3.3 mg/L Weekly Average (Apr-Oct)	10.35 mg/L	May 2009	7
	≤ 3.2 lbs/day Monthly Average (Apr-Oct)	3.89 lbs/day	May 2009	31
	≤ 4.8 lbs/day Weekly Average (Apr-Oct)	10.27 lbs/day	May 2009	7

Pollutant Parameter	Discharge Limit	Discharge Violation	Violation Date(s)	Days in Violation
Coliform, Fecal	≤ 200 colonies Monthly Geometric Mean (Jun-Sep)	325.83 colonies	Jun 2008	30
		321.63 colonies	Aug 2008	31
	≤ 1000 colonies Monthly Geometric Mean (Oct-May)	1250.73 colonies	May 2008	31
		20973 colonies	Dec 2008	31
		25086 colonies	Jan 2009	31
		1574.21 colonies	Feb 2009	28
	≤ 2000 colonies Daily Maximum	4700 colonies	May 2008	1
		7700 colonies	Jun 2008	1
		4400 colonies	Jul 2008	1
		6000 colonies	Aug 2008	1
		3200 colonies	Oct 2008	1
		6000 colonies	Nov 2008	1
		60000 colonies	Dec 2008	1
		60000 colonies	Jan 2009	1
		5800 colonies	Feb 2009	1
		18000 colonies	Mar 2009	1
		2500 colonies	Apr 2009	1
			TOTAL VIOLATIONS	1107

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 New Brockton Water and Sewer Board for violations of requirements in Administrative Order No. 06-048-CWP, including but not limited to, the following:

Violations of Administrative Order No. 06-048-CWP

Order Paragraph	Requirement	Violation	Days in Violation
E	Board shall achieve compliance with all permit limitations 365 days after April 10, 2006 (April 10, 2007) through February 28, 2009	Failure to achieve compliance with all limitations 365 days after April 10, 2006 (April 10, 2007) through February 28, 2009 as indicated above.	978
		TOTAL	978

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