

August 28, 2009

Certified Mail
Return Receipt Requested

Hon. Frank Criswell, Mayor
City of Reform
P. O. Box 489
Reform, Alabama 35481

Re: Notice of Intent to File Suit under the Clean Water Act for Violations of NPDES Permit No. AL0020915 and Administrative Order No. 07-132-CWP

Dear Mayor Criswell:

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 City of Reform for discharges of pollutants from the City's Wastewater Treatment Plant into Lubbub Creek in violation of the limitations and conditions of NPDES Permit No. AL0020915 as reported in Discharge Monitoring Reports submitted by the City of Reform to the Alabama Department of Environmental Management, including but not limited to, the following:

Violations of NPDES Permit No. AL0020915

Pollutant Parameter	Discharge Limit	Discharge Violation	Violation Date(s)	Days in Violation
pH	≥ 6.0 s.u. Daily Minimum	5.5 s.u.	Jul 2005	1
		5.5 s.u.	Aug 2005	1
		5.5 s.u.	Sep 2005	1
		5.5 s.u.	Oct 2005	1
		5.5 s.u.	Nov 2005	1
		5.5 s.u.	Dec 2005	1
		5.5 s.u.	Jan 2006	1
		5.5 s.u.	Feb 2006	1
		5.4 s.u.	Jun 2008	1
		5.1 s.u.	Oct 2008	1

		5.1 s.u.	Feb 2009	1
		5.9 s.u.	Mar 2009	1
		5.7 s.u.	Apr 2009	1
	≤ 8.5 s.u. Daily Maximum	9.1 s.u.	Nov 2008	1
Pollutant Parameter	Discharge Limit	Discharge Violation	Violation Date(s)	Days in Violation
Biochemical Oxygen Demand, Carbonaceous	≤ 5.0 mg/L Monthly Average (after Jan 31, 2007)	9.3 mg/L	Jan 2008	31
		6.8 mg/L	Jul 2008	31
		9.3 mg/L	Aug 2008	31
		5.7 mg/L	Sep 2008	30
		8.2 mg/L	Oct 2008	31
		6.2 mg/L	Nov 2008	30
		7.1 mg/L	Feb 2009	28
	≤ 7.5 mg/L Weekly Average (after Jan 31, 2007)	21.2 mg/L	Jun 2007	7
		14.7 mg/L	Jan 2008	7
		11.5 mg/L	Jul 2008	7
		16.1 mg/L	Aug 2008	7
		9.9 mg/L	Sep 2008	7
		15.5 mg/L	Oct 2008	7
		9.2 mg/L	Nov 2008	7
	≤ 20.4 lbs/day Monthly Average (after Jan 31, 2007)	22.1 lbs/day	Jan 2008	31
	≤ 30.6 lbs/day Weekly Average (after Jan 31, 2007)	44.4 lbs/day	Jan 2008	7
		35.4 lbs/day	Feb 2009	7
	≤ 10 mg/L Monthly Average (before Feb 1, 2007)	102 mg/L	Aug 2005	31
		10.9 mg/L	Oct 2005	31
≤ 15 mg/L Weekly Average (before Feb 1, 2007)	447 mg/L	Aug 2005	7	

	≤ 40.8 lbs/day Monthly Average (before Feb 1, 2007)	254 lbs/day	Aug 2005	31
	≤ 61.2 lbs/day Weekly Average (before Feb 1, 2007)	1100 lbs/day	Aug 2005	7
Pollutant Parameter	Discharge Limit	Discharge Violation	Violation Date(s)	Days in Violation
Coliform, Fecal	≤ 200 colonies Monthly Geometric Mean (Jun - Sep)	2940 colonies	Jul 2005	31
		3330 colonies	Aug 2005	31
		9460 colonies	Sep 2005	30
		16300 colonies	Oct 2005	31
		14600 colonies	Nov 2005	30
		1990 colonies	Dec 2005	31
		2520 colonies	Jan 2006	31
		961 colonies	Feb 2006	28
		566 colonies	Apr 2006	30
		3950 colonies	May 2006	31
		1330 colonies	Jun 2006	30
		26100 colonies	Jul 2006	31
		12000 colonies	Aug 2006	31
		5240 colonies	Sep 2006	30
		5000 colonies	Oct 2006	31
		1880 colonies	Nov 2006	30
		23100 colonies	Jun 2007	30
		5840 colonies	Aug 2007	31
		17000 colonies	Sep 2007	30
		6610 colonies	Jul 2008	31
1230 colonies	Aug 2008	31		
20600 colonies	Sep 2008	30		

	≤ 1000 colonies Monthly Geometric Mean (Oct - May)	7800 colonies	May 2007	31
		1540 colonies	Nov 2007	30
		13000 colonies	Jan 2008	31
		2300 colonies	Feb 2008	28
		8700 colonies	Apr 2008	30
		8310 colonies	May 2008	31
		25900 colonies	Oct 2008	31
	≤ 2000 colonies Daily Maximum	9700 colonies	Jul 2005	1
		16000 colonies	Aug 2005	1
		3700 colonies	Sep 2005	1
		40000 colonies	Oct 2005	1
		63000 colonies	Nov 2005	1
		11800 colonies	Dec 2005	1
		8600 colonies	Jan 2006	1
		5900 colonies	Feb 2006	1
		2800 colonies	Apr 2006	1
		15500 colonies	May 2006	1
		5900 colonies	Jun 2006	1
		22000 colonies	Jul 2006	1
		46000 colonies	Aug 2006	1
		9600 colonies	Sep 2006	1
		17000 colonies	Oct 2006	1
		5000 colonies	Nov 2006	1
		37000 colonies	May 2007	1
		26000 colonies	Aug 2007	1
		40000 colonies	Sep 2007	1
		7800 colonies	Nov 2007	1
75000 colonies	Jan 2008	1		
5700 colonies	Feb 2008	1		
30000 colonies	Apr 2008	1		

		72000 colonies	May 2008	1
		22000 colonies	Jun 2008	1
		26000 colonies	Jul 2008	1
		67000 colonies	Aug 2008	1
		84000 colonies	Sep 2008	1
		132000 colonies	Oct 2008	1
		2800 colonies	Nov 2008	1
Pollutant Parameter	Discharge Limit	Discharge Violation	Violation Date(s)	Days in Violation
Nitrogen, Ammonia Total (as N)	≤ 1.5 mg/L Monthly Average (after Jan 31, 2007)	2.55 mg/L	Jan 2008	31
		1.70 mg/L	May 2008	31
		1.55 mg/L	Jun 2008	30
		1.54 mg/L	Jul 2008	31
		3.35 mg/L	Sep 2008	30
		6.84 mg/L	Nov 2008	30
		1.56 mg/L	Apr 2009	30
	≤ 2.2 mg/L Weekly Average (after Jan 31, 2007)	4.32 mg/L	May 2007	7
		2.69 mg/L	Nov 2007	7
		5.06 mg/L	Jan 2008	7
		6.55 mg/L	May 2008	7
		5.35 mg/L	Jun 2008	7
		2.86 mg/L	Jul 2008	7
		7.32 mg/L	Sep 2008	7
		16.4 mg/L	Nov 2008	7
	≤ 4.8 mg/L Weekly Average (before Feb 1, 2007)	11.2 mg/L	Dec 2005	7
		≤ 6.1 lbs/day Monthly Average (after Jan 31, 2007)	6.55 lbs/day	Sep 2008
	12.3 lbs/day		Nov 2008	30

	≤ 9.2 lbs/day Weekly Average (after Jan 31, 2007)	11.8 lbs/day	Jan 2008	7
		11.4 lbs/day	May 2008	7
		14.7 lbs/day	Sep 2008	7
		26.6 lbs/day	Nov 2008	7
	≤ 19.6 lbs/day Weekly Average (before Feb 1, 2007)	25.8	Dec 2005	7
Pollutant Parameter	Discharge Limit	Discharge Violation	Violation Date(s)	Days in Violation
Oxygen, Dissolved	≥ 6.0 mg/L Daily Minimum	5.4 mg/L	Jun 2007	1
		4.9 mg/L	Jun 2008	1
		5 mg/L	Aug 2008	1
		4.1 mg/L	Oct 2008	1
		5.2 mg/L	Nov 2008	1
		4.1 mg/L	Dec 2008	1
		5.4 mg/L	Mar 2009	1
Pollutant Parameter	Discharge Limit	Discharge Violation	Violation Date(s)	Days in Violation
Solids, Suspended	≤ 35 mg/L Monthly Average	43 mg/L	Jan 2008	31
		31 mg/L	May 2008	31
		60 mg/L	Sep 2008	30
		32 mg/L	Oct 2008	31
	≤ 45 mg/L Weekly Average	49 mg/L	Sep 2007	7
		71 mg/L	Jan 2008	7
		79 mg/L	May 2008	7
		93 mg/L	Sep 2008	7
		51 mg/L	Oct 2008	7
	≤ 183 lbs/day Weekly Average	234 lbs/day	Jan 2008	7
		322 lbs/day	May 2008	7
	≥ 85 Percent Removal	79.9 Percent Removal	Sep 2005	30
		81.4 Percent Removal	Oct 2005	31

		55.6 Percent Removal	Jan 2006	31
		35.4 Percent Removal	Feb 2006	28
		80.1 Percent Removal	Apr 2006	30
		82.7 Percent Removal	Jul 2006	31
		76.4 Percent Removal	Sep 2006	30
		79.8 Percent Removal	Oct 2006	31
		73.8 Percent Removal	Nov 2006	30
		64.9 Percent Removal	Feb 2008	28
		64.8 Percent Removal	Sep 2008	30
		61 Percent Removal	Dec 2008	31
		38.7 Percent Removal	Jan 2009	31
		6.62 Percent Removal	Feb 2009	28
		36.2 Percent Removal	Mar 2009	31
TOTAL VIOLATIONS				2354

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 City of Reform for violations of requirements in Administrative Order No. 07-132-CWP, including but not limited to, the following:

Violations of Administrative Order No. 07-132-CWP

Order Paragraph	Requirement	Violation	Days in Violation
C	City shall submit engineering report not later than 910 days after June 25, 2007 (December 22, 2007)	Failure to submit engineering report not later than December 22, 2007 and thereafter through August 28, 2009	615
D	City shall submit first progress report not later than six months after June 25, 2007 (December 25, 2007)	Failure to submit first progress report not later than six months after June 25, 2007 (December 25, 2007) and thereafter through August 28, 2009	612
D	City shall submit second progress report not later than twelve months after June 25, 2007 (June 25, 2008)	Failure to submit second progress report not later than twelve months after June 25, 2007 (June 25, 2008) and thereafter through August 28, 2009	429

D	City shall submit third progress report not later than eighteen months after June 25, 2007 (December 25, 2008)	Failure to submit third progress report not later than eighteen months after June 25, 2007 (December 25, 2008) and thereafter through August 28, 2009	246
D	City shall submit fourth progress report not later than twenty-four months after June 25, 2007 (June 25, 2009)	Failure to submit fourth progress report not later than twenty-four months after June 25, 2007 (June 25, 2009) and thereafter through August 28, 2009	64
F	City shall achieve 65 percent removal of total suspended solids from June 25, 2007 to December 21, 2009	Failure to achieve 65 percent removal of total suspended solids from June 25, 2007 to March 31, 2009	179
TOTAL			2145

Administrative Order No. 07-132-CWP is the fifth such order issued to the City of Reform by the Alabama Department of Environmental Management. *See* Order Nos. 85-089-WP, 90-163-WP, 91-091-WP, 01-194-CWP. The Alabama Department of Environmental Management's past enforcement efforts have not been diligent.

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
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Washington, D.C. 20460

Hon. A. Stanley Meiberg, Acting Regional Administrator
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Sam Nunn Atlanta Federal Center
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Atlanta, Georgia 30303-3104

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