

October 27, 2021

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Mr. Ronnie Brown, Chairman
Rockford Utilities Board, Inc.
Post Office Box 128
Rockford, AL 36017

Mr. Wade Brown, Superintendent
Rockford Utilities Board, Inc.
Post Office Box 128
Rockford, AL 36017

Re: Notice of Violation and Intent to File Suit under the Clean Water Act

Dear Chairman Brown and Mr. Brown:

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, the Environmental Defense Alliance may file suit against the Rockford Utilities Board, Inc., for violations of NPDES Permit No. AL0062278 issued by the Alabama Department of Environmental Management pursuant to Alabama's NPDES permit program approved by the U.S. Environmental Protection Agency under Clean Water Act § 402(b), 33 U.S.C. § 1342(b).

I. Violations

A. Permit Discharge Limit Violations

Pursuant to § 402(b) of the Clean Water Act, 33 U.S.C. § 1342(b), the Alabama Department of Environmental Management issued NPDES Permit No. AL0062278 authorizing the Rockford Utilities Board, Inc., to discharge pollutants from its Wastewater Treatment Plant, located on Nixburg Road, in Rockford, Alabama, subject to specific discharge limitations in Part

I, A., 1. and 2. of the permit. The Rockford Utilities Board, Inc., has discharged pollutants from Outfall 0011 into the Red Mouth Creek in violation of the discharge limitations of NPDES Permit No. AL0062278 from October 01, 2016 through September 30, 2021 as identified in Table A attached hereto. Additional violations may have occurred subsequent to September 2021.

B. History of Enforcement Actions

On January 21, 2020, the Alabama Department of Environmental Management issued a Notice of Violation to the Rockford Utilities Board, Inc., in which it cited discharge limit violations for the period from December 2017 through December 2019.

On October 05, 2018, the Alabama Department of Environmental Management issued a Warning Letter to the Rockford Utilities Board, Inc., in which it cited discharge limit violations for the period from September 2016 through September 2018.

II. Sanctions

The Clean Water Act authorizes the court to enforce a NPDES permit or condition thereof. Clean Water Act § 505(a), 33 U.S.C. § 1365(a). The court may assess civil penalties up to \$56,460 per day per violation. Clean Water Act §§ 505(a) and 309(d), 33 U.S.C. §§ 1365(a) and 1319(d); Federal Civil Penalties Inflation Adjustment Act of 1990, Pub. L. 101–410, Oct. 5, 1990, 104 Stat. 890, as amended by Pub. L. 104–134, title III, § 31001(s)(1), Apr. 26, 1996, 110 Stat. 1321–373; Federal Reports Elimination Act of 1998, Pub. L. 105–362, title XIII, § 1301(a), Nov. 10, 1998, 112 Stat. 3293; Bipartisan Budget Act of 2015, Pub. L. 114–74, title VII, § 701(b), Nov. 2, 2015, 129 Stat. 599; 40 C.F.R. § 19.4. Each day a violation continues is a separate violation. Violations of monthly average limits and weekly average limits are counted as violations for each day of the month and each day of the week, respectively. See *Atlantic States Legal Found. Inc. v. Tyson Foods, Inc.*, 897 F.2d 1128 (11th Cir. 1990). In addition, the Clean Water Act authorizes the award of costs of litigation (including reasonable attorney and expert witness fees) to any prevailing or substantially prevailing party, whenever the court determines that such an award is appropriate. Clean Water Act § 505(d), 33 U.S.C. § 1365(d).

Suit may be avoided if these violations have ceased before the expiration of 60 days following service of this notice. “Service” is defined as the postmark date of this notice. 40 C.F.R. § 135.2(c). Please advise the undersigned of any measures which you may undertake which you

contend have permanently abated these violations before suit is filed. Please direct all communications to the undersigned attorneys for the Environmental Defense Alliance.

Sincerely,



David A. Ludder
Attorney for
Environmental Defense Alliance



Charline Whyte
Attorney for
Environmental Defense Alliance

cc:

Hon. Lance R. LeFleur, Director
Alabama Department of Environmental Management
P.O. Box 301463
Montgomery, Alabama 36130-1463

Hon. Michael S. Regan, Administrator
Mail Code 1101A
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Hon. John Blevins, Acting Regional Administrator
U.S. Environmental Protection Agency - Region 4
61 Forsyth Street SW
Atlanta, Georgia 30303

Environmental Defense Alliance
1116 20th Street South #526
Birmingham, AL 35205-2612
(205) 718-7336

TABLE A
DISCHARGE LIMITATION VIOLATIONS
NPDES PERMIT No. AL0062278: Rockford Utilities Board, Inc.
Location: Rockford, Coosa County, AL 53136
Date Range: 10/01/2016 to 09/30/2021

Month Ending	Outfall	Parameter Description	Limit Type	Discharge Limit	Discharge Measurement	Violation Days
08/31/2021	0011	E. coli	MO AVG	≤ 126 col/100mL	2460.8 col/100mL	31
08/31/2021	0011	E. coli	DAILY MX	≤ 298 col/100mL	9208 col/100mL	1
05/31/2021	0011	E. coli	DAILY MX	≤ 298 col/100mL	2419.6 col/100mL	1
05/31/2021	0011	E. coli	MO AVG	≤ 126 col/100mL	686.2 col/100mL	31
10/31/2020	0011	E. coli	MO AVG	≤ 126 col/100mL	1189.18 col/100mL	31
10/31/2020	0011	E. coli	DAILY MX	≤ 298 col/100mL	2419.6 col/100mL	1
08/31/2020	0011	E. coli	MO AVG	≤ 126 col/100mL	1599.58 col/100mL	31
08/31/2020	0011	E. coli	DAILY MX	≤ 298 col/100mL	4839.2 col/100mL	1
07/31/2020	0011	E. coli	DAILY MX	≤ 298 col/100mL	2419.6 col/100mL	1
07/31/2020	0011	E. coli	MO AVG	≤ 126 col/100mL	513.64 col/100mL	31
06/30/2020	0011	E. coli	MO AVG	≤ 126 col/100mL	360 col/100mL	30
06/30/2020	0011	E. coli	DAILY MX	≤ 298 col/100mL	1229.7 col/100mL	1
05/31/2020	0011	E. coli	DAILY MX	≤ 298 col/100mL	980.4 col/100mL	1
05/31/2020	0011	E. coli	MO AVG	≤ 126 col/100mL	196.88 col/100mL	31
08/31/2019	0011	E. coli	DAILY MX	≤ 487 col/100mL	col/100mL	1
08/31/2019	0011	E. coli	MO AVG	≤ 126 col/100mL	521.52 col/100mL	31
07/31/2019	0011	E. coli	MO AVG	≤ 126 col/100mL	1157.9 col/100mL	31
07/31/2019	0011	E. coli	DAILY MX	≤ 487 col/100mL	col/100mL	1
06/30/2019	0011	E. coli	DAILY MX	≤ 487 col/100mL	2419.6 col/100mL	1
06/30/2019	0011	E. coli	MO AVG	≤ 126 col/100mL	1595.65 col/100mL	30
04/30/2019	0011	E. coli	MO AVG	≤ 548 col/100mL	1218.9 col/100mL	30
12/31/2018	0011	E. coli	MO AVG	≤ 548 col/100mL	613.03 col/100mL	31
05/31/2018	0011	E. coli	MO AVG	≤ 548 col/100mL	1215.45 col/100mL	31

Table (Con't)

Month Ending	Outfall	Parameter Description	Limit Type	Discharge Limit	Discharge Measurement	Violation Days
01/31/2018	0011	E. coli	MO AVG	≤ 548 col/100mL	1210.5 col/100mL	31
09/30/2021	00011	Nitrogen, ammonia total [as N]	WKLY AVG	≤ 0.99 lbs/day	2.08 lbs/day	7
09/30/2021	00011	Nitrogen, ammonia total [as N]	WKLY AVG	≤ 3.30 mg/L	27.1 mg/L	7
09/30/2021	00011	Nitrogen, ammonia total [as N]	MO AVG	≤ 2.20 mg/L	13.6 mg/L	30
08/31/2021	0011	Nitrogen, ammonia total [as N]	WKLY AVG	≤ 0.99 lbs/day	1.36 lbs/day	7
08/31/2021	0011	Nitrogen, ammonia total [as N]	WKLY AVG	≤ 3.30 mg/L	15 mg/L	7
08/31/2021	0011	Nitrogen, ammonia total [as N]	MO AVG	≤ 2.20 mg/L	6.26 mg/L	31
07/31/2021	0011	Nitrogen, ammonia total [as N]	MO AVG	≤ 2.20 mg/L	4.28 mg/L	31
07/31/2021	0011	Nitrogen, ammonia total [as N]	WKLY AVG	≤ 0.99 lbs/day	1.19 lbs/day	7
07/31/2021	0011	Nitrogen, ammonia total [as N]	WKLY AVG	≤ 3.30 mg/L	12.6 mg/L	7
06/30/2021	0011	Nitrogen, ammonia total [as N]	WKLY AVG	≤ 0.99 lbs/day	1.21 lbs/day	7
06/30/2021	0011	Nitrogen, ammonia total [as N]	MO AVG	≤ 2.20 mg/L	7.36 mg/L	30
06/30/2021	0011	Nitrogen, ammonia total [as N]	WKLY AVG	≤ 3.30 mg/L	14.8 mg/L	7
05/31/2021	0011	Nitrogen, ammonia total [as N]	MO AVG	≤ 0.66 lbs/day	0.967 lbs/day	31
05/31/2021	0011	Nitrogen, ammonia total [as N]	WKLY AVG	≤ 0.99 lbs/day	1.69 lbs/day	7
05/31/2021	0011	Nitrogen, ammonia total [as N]	WKLY AVG	≤ 3.30 mg/L	19.9 mg/L	7
05/31/2021	0011	Nitrogen, ammonia total [as N]	MO AVG	≤ 2.20 mg/L	11.07 mg/L	31
04/30/2021	0011	Nitrogen, ammonia total [as N]	WKLY AVG	≤ 0.99 lbs/day	1.39 lbs/day	7
04/30/2021	0011	Nitrogen, ammonia total [as N]	WKLY AVG	≤ 3.30 mg/L	10.4 mg/L	7
04/30/2021	0011	Nitrogen, ammonia total [as N]	MO AVG	≤ 0.66 lbs/day	0.858 lbs/day	30
04/30/2021	0011	Nitrogen, ammonia total [as N]	MO AVG	≤ 2.20 mg/L	5.53 mg/L	30
03/31/2021	0011	Nitrogen, ammonia total [as N]	WKLY AVG	≤ 6.30 mg/L	14.1 mg/L	7
03/31/2021	0011	Nitrogen, ammonia total [as N]	MO AVG	≤ 4.20 mg/L	8.34 mg/L	31
10/31/2020	0011	Nitrogen, ammonia total [as N]	WKLY AVG	≤ 0.99 lbs/day	1.24 lbs/day	7
10/31/2020	0011	Nitrogen, ammonia total [as N]	WKLY AVG	≤ 3.30 mg/L	10.9 mg/L	7
10/31/2020	0011	Nitrogen, ammonia total [as N]	MO AVG	≤ 2.20 mg/L	4.28 mg/L	31
09/30/2020	0011	Nitrogen, ammonia total [as N]	WKLY AVG	≤ 3.30 mg/L	4.09 mg/L	7
08/31/2020	0011	Nitrogen, ammonia total [as N]	WKLY AVG	≤ 0.99 lbs/day	2.82 lbs/day	7

Table (Con't)

Month Ending	Outfall	Parameter Description	Limit Type	Discharge Limit	Discharge Measurement	Violation Days
08/31/2020	0011	Nitrogen, ammonia total [as N]	WKLY AVG	≤ 3.30 mg/L	27.6 mg/L	7
08/31/2020	0011	Nitrogen, ammonia total [as N]	MO AVG	≤ 2.20 mg/L	7.77 mg/L	31
08/31/2020	0011	Nitrogen, ammonia total [as N]	MO AVG	≤ 0.66 lbs/day	0.738 lbs/day	31
07/31/2020	0011	Nitrogen, ammonia total [as N]	WKLY AVG	≤ 3.30 mg/L	15.9 mg/L	7
07/31/2020	0011	Nitrogen, ammonia total [as N]	MO AVG	≤ 0.66 lbs/day	1.701 lbs/day	31
07/31/2020	0011	Nitrogen, ammonia total [as N]	MO AVG	≤ 2.20 mg/L	12.37 mg/L	31
07/31/2020	0011	Nitrogen, ammonia total [as N]	WKLY AVG	≤ 0.99 lbs/day	2.53 lbs/day	7
06/30/2020	0011	Nitrogen, ammonia total [as N]	WKLY AVG	≤ 3.30 mg/L	16.1 mg/L	7
06/30/2020	0011	Nitrogen, ammonia total [as N]	MO AVG	≤ 2.20 mg/L	6.53 mg/L	30
10/31/2019	0011	Nitrogen, ammonia total [as N]	WKLY AVG	≤ 3.30 mg/L	7.44 mg/L	7
10/31/2019	0011	Nitrogen, ammonia total [as N]	MO AVG	≤ 2.20 mg/L	3.48 mg/L	31
07/31/2019	0011	Nitrogen, ammonia total [as N]	WKLY AVG	≤ 3.30 mg/L	3.75 mg/L	7
05/31/2019	0011	Nitrogen, ammonia total [as N]	MO AVG	≤ 2.20 mg/L	3.6 mg/L	31
05/31/2019	0011	Nitrogen, ammonia total [as N]	WKLY AVG	≤ 3.30 mg/L	8.06 mg/L	7
04/30/2019	0011	Nitrogen, ammonia total [as N]	WKLY AVG	≤ 3.30 mg/L	5.47 mg/L	7
05/31/2018	0011	Nitrogen, ammonia total [as N]	WKLY AVG	≤ 3.30 mg/L	4.97 mg/L	7
05/31/2018	0011	Nitrogen, ammonia total [as N]	MO AVG	≤ 2.20 mg/L	3.59 mg/L	31
04/30/2018	0011	Nitrogen, ammonia total [as N]	MO AVG	≤ 2.20 mg/L	3.71 mg/L	30
04/30/2018	0011	Nitrogen, ammonia total [as N]	WKLY AVG	≤ 3.30 mg/L	5.55 mg/L	7
02/28/2018	0011	Nitrogen, ammonia total [as N]	WKLY AVG	≤ 6.30 mg/L	11.9 mg/L	7
01/31/2017	0011	Nitrogen, ammonia total [as N]	WKLY AVG	≤ 6.30 mg/L	8.4 mg/L	7
09/30/2021	0011	Oxygen, dissolved [DO]	DAILY MN	≥ 5 mg/L	4.56 mg/L	1
08/31/2021	0011	Oxygen, dissolved [DO]	DAILY MN	≥ 5 mg/L	4.7 mg/L	1
07/31/2021	0011	Oxygen, dissolved [DO]	DAILY MN	≥ 5 mg/L	4.71 mg/L	1
06/30/2021	0011	Oxygen, dissolved [DO]	DAILY MN	≥ 5 mg/L	3.32 mg/L	1
05/31/2021	0011	Oxygen, dissolved [DO]	DAILY MN	≥ 5 mg/L	4.13 mg/L	1
04/30/2021	0011	Oxygen, dissolved [DO]	DAILY MN	≥ 5 mg/L	3.54 mg/L	1
10/31/2020	0011	Oxygen, dissolved [DO]	DAILY MN	≥ 5 mg/L	4.92 mg/L	1

Table (Con't)

Month Ending	Outfall	Parameter Description	Limit Type		Discharge Limit	Discharge Measurement	Violation Days
08/31/2020	0011	Oxygen, dissolved [DO]	DAILY MN	≥	5 mg/L	4.1 mg/L	1
07/31/2020	0011	Oxygen, dissolved [DO]	DAILY MN	≥	5 mg/L	2.98 mg/L	1
06/30/2019	0011	Oxygen, dissolved [DO]	DAILY MN	≥	5 mg/L	4.17 mg/L	1
						Total	1237