



May 12, 2026

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T.J. Maloney, Chair
The Water Works and Sewer Board of the City of Heflin
d/b/a Heflin Water Works and Sewer Board
P.O. Box 488
Heflin, AL 36264

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

Dear Chair Maloney:

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 Water Works and Sewer Board of the City of Heflin (the “Board”) for violations of NPDES Permit No. AL0056146 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 of NPDES Permit AL0056146

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. AL0056146 authorizing The Water Works and Sewer Board of the City of Heflin (d/b/a Heflin Water Works and Sewer Board), to discharge pollutants from the Heflin Lagoon, located at U.S. Highway 78, West, Heflin, Alabama, into the Tallapoosa River, subject to discharge limitations and other conditions.

A. Discharge Limitations

NPDES Permit No. AL0056146 includes specific discharge limitations in Part I, A., 1. and 2. of the permit. The Board has discharged pollutants from Outfall 0011 into the Tallapoosa River in violation of the discharge limitations of NPDES Permit No. AL0056146 from May 2021 through March 2026 as identified in Table A attached hereto. Additional violations may have occurred subsequent to March 31, 2026.

B. Facility Operation and Maintenance

NPDES Permit No. AL0056146 includes a condition in Part II, A., 1. which provides:

Facilities Operation and Maintenance

The Permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Permittee to achieve compliance with the conditions of the permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities only when necessary to achieve compliance with the conditions of the permit.

The Board violated the above condition by failing to operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed by the Board to achieve compliance with the conditions of NPDES Permit No. AL0056146. The Board's non-compliance with e. coli limits and chlorine residual limits have been well documented from March 2020 through September 2023. However, a remedial upgrade to ultraviolet disinfection was not authorized until October 2024 and has yet to be installed. The Board's non-compliance with oxygen demanding parameter limits (Carbonaceous Biochemical Oxygen Demand (CBOD), Total Kjeldahl Nitrogen(TKN), and Total Ammonia (as Nitrogen), has been well documented since December 2023. However, remedial upgrades to include new pumps, aerators, dividing curtains, and bar screen were not authorized until October 2024 and have yet to be installed. The failure to promptly make these upgrades to avoid continued violations of discharge limitations constitute a continuing violation of Part II, A., 1. of NPDES Permit No. AL0056146.

II. Discharges without permit

Clean Water Act § 301(a), 33 U.S.C. § 1311(a), makes it unlawful to discharge pollutants from a point source into waters of the United States without an NPDES permit issued pursuant to Clean Water Act § 402, 33 U.S.C. § 1342.

The Board experienced Sanitary Sewer Overflows that resulted in the discharge of sanitary sewage from point sources into waters of the United States without an NPDES permit in violation of Clean Water Act § 301(a), 33 U.S.C. § 1311(a). These unlawful discharges are described in Table B attached hereto.

III. History of ADEM's Previous Enforcement Actions

On August 9, 2022, the Alabama Department of Environmental Management issued a Warning Letter to the Board, in which it cited discharge limit noncompliance for the period from August 2020 through August 2022. The Letter requests the submission of "a written report describing the steps that have been taken or will be taken to correct the permit noncompliance . . ."

On March 28, 2025, the Alabama Department of Environmental Management issued a Warning Letter to the Board, in which it cited discharge limit noncompliance for the period from March 2023 through March 2025. The Letter requests the submission of "a written

report describing the steps that have been taken or will be taken to correct the permit noncompliance . . .”

On December 10, 2025, the Alabama Department of Environmental Management issued a Notice of Violation to the Board, in which it cited discharge limit violations for the period from December 2023 through December 2025. The Notice requires the submission of “[a] written report prepared by an engineer registered and authorized to practice in Alabama which describes the steps that have been or will be taken to correct these violations . . .”

No further enforcement actions have been taken by the Alabama Department of Environmental Management despite continuing violations.

IV. Sanctions

The Clean Water Act authorizes the federal 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 \$66,712 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 the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Pub. L. 114–74, Title VII, § 701, Nov. 2, 2015, 129 Stat. 599; 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 discharge limitations and weekly average discharge limitations 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 attorney for the Environmental Defense Alliance.

Sincerely,



David A. Ludder
Attorney for
Environmental Defense Alliance

cc: Hon. Edward F. Poolos, Director
Alabama Department of Environmental Management
P.O. Box 301463
Montgomery, Alabama 36130-1463

Environmental Management Commission
P.O. Box 301463
Montgomery, AL 36130-1463

Hon. Lee M. Zeldin, Administrator
Mail Code 1101A
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Hon. Kevin J. McOmber, 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. AL0056146: HEFLIN LAGOON, HEFLIN, AL 36264
Date Range: 05/01/2021 to 03/31/2026**

Month Ending	Outfall	Parameter Description	Limit Type	Discharge Limit	Discharge Measurement	Violation Days
3/31/2026	001-1	BOD, carb-5 day, 20 deg C, percent removal	MO AV MN	>= 85 %	0 %	31
3/31/2026	001-1	Solids, suspended percent removal	MO AV MN	>= 65 %	0 %	31
2/28/2026	001-1	BOD, carbonaceous [5 day, 20 C]	WKLY AVG	<= 37.5 mg/L	40.6 mg/L	7
10/31/2025	001-1	Nitrogen, ammonia total [as N]	WKLY AVG	<= 22.5 mg/L	37.6 mg/L	7
10/31/2025	001-1	Nitrogen, ammonia total [as N]	MO AVG	<= 15 mg/L	29.8 mg/L	31
9/30/2025	001-1	Nitrogen, ammonia total [as N]	MO AVG	<= 15 mg/L	26.5 mg/L	30
9/30/2025	001-1	Nitrogen, ammonia total [as N]	WKLY AVG	<= 22.5 mg/L	30.5 mg/L	7
9/30/2025	001-1	Nitrogen, Kjeldahl, total [as N]	MO AVG	<= 30 mg/L	31.3 mg/L	30
8/31/2025	001-1	Nitrogen, ammonia total [as N]	MO AVG	<= 15 mg/L	36.7 mg/L	31
8/31/2025	001-1	Nitrogen, ammonia total [as N]	WKLY AVG	<= 22.5 mg/L	59 mg/L	7
8/31/2025	001-1	Nitrogen, Kjeldahl, total [as N]	MO AVG	<= 30 mg/L	44.5 mg/L	31
8/31/2025	001-1	Nitrogen, Kjeldahl, total [as N]	WKLY AVG	<= 45 mg/L	76.4 mg/L	7
8/31/2025	001-1	E. coli	MO AVG	<= 126 /100mL	211 /100mL	31
8/31/2025	001-1	E. coli	DAILY MX	<= 298 /100mL	845 /100mL	1
8/31/2025	001-1	BOD, carb-5 day, 20 deg C, percent removal	MO AV MN	>= 85 %	64.1 %	31
7/31/2025	001-1	Nitrogen, ammonia total [as N]	WKLY AVG	<= 22.5 mg/L	31.3 mg/L	7
7/31/2025	001-1	Nitrogen, ammonia total [as N]	MO AVG	<= 15 mg/L	30.6 mg/L	31
7/31/2025	001-1	Nitrogen, Kjeldahl, total [as N]	WKLY AVG	<= 45 mg/L	47.7 mg/L	7
7/31/2025	001-1	Nitrogen, Kjeldahl, total [as N]	MO AVG	<= 30 mg/L	40.5 mg/L	31
6/30/2025	001-1	Nitrogen, ammonia total [as N]	WKLY AVG	<= 22.5 mg/L	26.1 mg/L	7
6/30/2025	001-1	Nitrogen, ammonia total [as N]	MO AVG	<= 15 mg/L	23 mg/L	30
5/31/2025	001-1	Nitrogen, ammonia total [as N]	MO AVG	<= 15 mg/L	17.8 mg/L	31
4/30/2025	001-1	Nitrogen, ammonia total [as N]	MO AVG	<= 15 mg/L	17.5 mg/L	30
4/30/2025	001-1	BOD, carbonaceous [5 day, 20 C]	WKLY AVG	<= 30 mg/L	32.4 mg/L	7
1/31/2025	001-1	Nitrogen, ammonia total [as N]	MO AVG	<= 20 mg/L	21.6 mg/L	31
12/31/2024	001-1	Nitrogen, ammonia total [as N]	MO AVG	<= 20 mg/L	22.7 mg/L	31
12/31/2024	001-1	Nitrogen, ammonia total [as N]	WKLY AVG	<= 150 lb/day	163 lb/day	7

12/31/2024	001-1	BOD, carb-5 day, 20 deg C, percent removal	MO AV MN	>=	85 %	82.9 %	31
10/31/2024	001-1	Nitrogen, ammonia total [as N]	MO AVG	<=	15 mg/L	19.5 mg/L	31
10/31/2024	001-1	Nitrogen, ammonia total [as N]	WKLY AVG	<=	22.5 mg/L	27.8 mg/L	7
9/30/2024	001-1	Nitrogen, ammonia total [as N]	MO AVG	<=	15 mg/L	24 mg/L	30
9/30/2024	001-1	Nitrogen, ammonia total [as N]	WKLY AVG	<=	22.5 mg/L	26.2 mg/L	7
9/30/2024	001-1	Nitrogen, Kjeldahl, total [as N]	MO AVG	<=	30 mg/L	33.3 mg/L	30
8/31/2024	001-1	Nitrogen, ammonia total [as N]	MO AVG	<=	15 mg/L	27.2 mg/L	31
8/31/2024	001-1	Nitrogen, ammonia total [as N]	WKLY AVG	<=	22.5 mg/L	34.1 mg/L	7
8/31/2024	001-1	BOD, carbonaceous [5 day, 20 C]	WKLY AVG	<=	30 mg/L	58.2 mg/L	7
7/31/2024	001-1	Nitrogen, ammonia total [as N]	MO AVG	<=	15 mg/L	19.8 mg/L	31
7/31/2024	001-1	BOD, carbonaceous [5 day, 20 C]	WKLY AVG	<=	30 mg/L	31.5 mg/L	7
6/30/2024	001-1	Nitrogen, ammonia total [as N]	MO AVG	<=	15 mg/L	15.1 mg/L	30
6/30/2024	001-1	BOD, carbonaceous [5 day, 20 C]	WKLY AVG	<=	30 mg/L	42.9 mg/L	7
6/30/2024	001-1	BOD, carbonaceous [5 day, 20 C]	MO AVG	<=	20 mg/L	24.8 mg/L	30
6/30/2024	001-1	BOD, carb-5 day, 20 deg C, percent removal	MO AV MN	>=	85 %	81.7 %	30
5/31/2024	001-1	Nitrogen, ammonia total [as N]	MO AVG	<=	15 mg/L	21 mg/L	31
5/31/2024	001-1	Nitrogen, ammonia total [as N]	WKLY AVG	<=	22.5 mg/L	24 mg/L	7
4/30/2024	001-1	Nitrogen, ammonia total [as N]	MO AVG	<=	15 mg/L	20.95 mg/L	30
4/30/2024	001-1	BOD, carbonaceous [5 day, 20 C]	MO AVG	<=	20 mg/L	21.1 mg/L	30
2/29/2024	001-1	Nitrogen, ammonia total [as N]	MO AVG	<=	20 mg/L	23.4 mg/L	28
1/31/2024	001-1	Nitrogen, ammonia total [as N]	WKLY AVG	<=	150 lb/day	233 lb/day	7
1/31/2024	001-1	Nitrogen, ammonia total [as N]	MO AVG	<=	20 mg/L	22.9 mg/L	31
1/31/2024	001-1	BOD, carbonaceous [5 day, 20 C]	WKLY AVG	<=	187 lb/day	390 lb/day	7
1/31/2024	001-1	BOD, carbonaceous [5 day, 20 C]	WKLY AVG	<=	37.5 mg/L	78.1 mg/L	7
1/31/2024	001-1	BOD, carbonaceous [5 day, 20 C]	MO AVG	<=	125 lb/day	181 lb/day	31
1/31/2024	001-1	BOD, carbonaceous [5 day, 20 C]	MO AVG	<=	25 mg/L	55.5 mg/L	31
1/31/2024	001-1	BOD, carb-5 day, 20 deg C, percent removal	MO AV MN	>=	85 %	56.8 %	31
12/31/2023	001-1	Nitrogen, ammonia total [as N]	MO AVG	<=	20 mg/L	25 mg/L	31
12/31/2023	001-1	Nitrogen, ammonia total [as N]	WKLY AVG	<=	30 mg/L	35 mg/L	7
9/30/2023	001-1	E. coli	DAILY MX	<=	298 /100mL	3750 /100mL	1
9/30/2023	001-1	E. coli	MO AVG	<=	126 /100mL	1003 /100mL	30
7/31/2023	001-1	E. coli	DAILY MX	<=	298 /100mL	6300 /100mL	1
7/31/2023	001-1	E. coli	MO AVG	<=	126 /100mL	1610 /100mL	31
5/31/2023	001-1	E. coli	DAILY MX	<=	298 /100mL	570 /100mL	1
5/31/2023	001-1	E. coli	MO AVG	<=	126 /100mL	206 /100mL	31
4/30/2023	001-1	Chlorine, total residual	MO AVG	<=	0.253 mg/L	0.258 mg/L	30

3/31/2023	001-1	BOD, carb-5 day, 20 deg C, percent removal	MO AV MN	>=	85 %	82 %	31
2/28/2023	001-1	Chlorine, total residual	MO AVG	<=	0.253 mg/L	0.298 mg/L	28
12/31/2022	001-1	Chlorine, total residual	MO AVG	<=	0.253 mg/L	0.33 mg/L	31
11/30/2022	001-1	Chlorine, total residual	MO AVG	<=	0.253 mg/L	0.26 mg/L	30
10/31/2022	001-1	E. coli	DAILY MX	<=	298 /100mL	6000 /100mL	1
10/31/2022	001-1	E. coli	MO AVG	<=	126 /100mL	1520 /100mL	31
9/30/2022	001-1	E. coli	MO AVG	<=	126 /100mL	1359 /100mL	30
9/30/2022	001-1	E. coli	DAILY MX	<=	298 /100mL	3750 /100mL	1
6/30/2022	001-1	E. coli	DAILY MX	<=	298 /100mL	425 /100mL	1
6/30/2022	001-1	BOD, carb-5 day, 20 deg C, percent removal	MO AV MN	>=	85 %	63.2 %	30
5/31/2022	001-1	E. coli	MO AVG	<=	126 /100mL	804 /100mL	31
5/31/2022	001-1	E. coli	DAILY MX	<=	298 /100mL	3200 /100mL	1
5/31/2022	001-1	Solids, suspended percent removal	MO AV MN	>=	65 %	62.8 %	31
3/31/2022	001-1	E. coli	DAILY MX	<=	2507 /100mL	3200 /100mL	1
3/31/2022	001-1	E. coli	MO AVG	<=	548 /100mL	910 /100mL	31
9/30/2021	001-1	E. coli	DAILY MX	<=	298 /100mL	300 /100mL	1
5/31/2021	001-1	E. coli	DAILY MX	<=	298 /100mL	3750 /100mL	1
5/31/2021	001-1	E. coli	MO AVG	<=	126 /100mL	1239 /100mL	31
5/31/2021	001-1	BOD, carbonaceous [5 day, 20 C]	WKLY AVG	<=	150 lb/day	286.8 lb/day	7

TOTAL 1662

TABLE B

**UNPERMITTED SANITARY SEWER OVERFLOWS FROM THE
WATER WORKS AND SEWER BOARD OF THE CITY OF HEFLIN FACILITIES**

Estimated Start Date	Estimated Start Time	Estimated End Date	Estimated End Time	Location	Receiving Water	Estimated Volume (Gallons)
01/06/2023	12:05 PM	1/6/2023	2:00 PM	33.64797088564179, -85.5820064372253	Unnamed Tributary of Town Creek	10,000≤25,000
12/30/2021	8:00 AM	12/30/2021	10:00 AM	33.6408154, -85.5976974	Unnamed Tributary of Calhulga Creek	25,000≤50,000
09/24/2021	9:39 AM	9/24/2021	11:27 AM	33.656089 -85.578158	Town Creek	1,000≤10,000