

January 16, 2016

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Honorable Albert Lowe, Mayor
Town of Gordon
Post Office Box 46
Gordon, AL 36343

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

Dear Mayor Lowe:

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 Town of Gordon for (1) discharges of pollutants in violation of NPDES Permit No. AL0073202 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); and (2) violations of requirements of Order No. 15-081-WP 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 No. AL0073202

Pursuant to § 402 of the Clean Water Act, 33 U.S.C. § 1342, the Alabama Department of Environmental Management issued NPDES Permit No. AL0073202 authorizing the Town of Gordon to discharge pollutants from the Town of Gordon Wastewater Treatment Plant, located on Curtis Mixon Road in Gordon, Houston County, Alabama, into the Chattahoochee River at approximately Latitude 31.14824° North and Longitude 85.07092° West, into the Chattahoochee River subject to specific discharge limitations. The Town of Gordon has discharged pollutants from Outfall 0011 into the Chattahoochee River in violation of the discharge limitations of NPDES Permit No. AL0073202 from April 2012 through November 2015 as described in Tables 1 through 6 attached hereto. Additional violations may have occurred.

II. Violations of Order No. 15-081-WP

Pursuant to § 402 of the Clean Water Act, 33 U.S.C. § 1342, the Alabama Department of Environmental Management issued Order No. 15-081-WP to the Town of Gordon on July 22, 2015 directing as follows:

B. The [Town of Gordon] shall prepare and submit to the Department an Engineering Report that addresses the need for changes in maintenance and operating procedures, the potential for infiltration and inflow, the need for modification of existing treatment and collection system works, and the need for new or additional treatment and collection system works as necessary to achieve compliance with applicable rules and regulations and permit conditions. The Engineering Report must include a schedule for implementation (*i.e.*, a Compliance Plan) and cost of equipment and/or repairs needed to achieve compliance, if known. The Engineering Report must include a plan for continued maintenance and assessment of the collection system to minimize future infiltration and inflow. The Engineering Report must be prepared by a professional engineer licensed to practice in the State of Alabama. The Engineering Report shall be submitted so that it is received by the Department no later than ninety days after the date of issuance of this Order. * * *

C. The [Town of Gordon] shall prepare and submit detailed quarterly Progress Reports to the Department describing the Permittee's progress towards achieving compliance with the items presented in the Compliance Plan, including the cost of equipment and/or repairs needed to achieve compliance. The Department must receive the Progress Reports no later than ninety days after the date of issuance of this Order and continuing every ninety days thereafter that the Permittee's performance obligations under this Order remain incomplete. * * *

The Engineering Report and Quarterly Progress Report were each due to be submitted to the Department on or before October 19, 2015. The Town of Gordon failed to submit the required Engineering Report and Quarterly Progress Report as described in Table 7 attached hereto.

III. History of Previous Violations and Enforcement Actions

On June 15, 2005, the Alabama Department of Environmental Management issued a Warning Letter (WL) to the Town of Gordon. The WL alleged violations of discharge limitations in NPDES Permit No. AL0073202 for pH, BOD, Carbonaceous (CBOD), and Total Suspended Solids (TSS) during the month of April 2005.

On November 30, 2005, the Alabama Department of Environmental Management issued a Notice of Violation (NOV) to the Town of Gordon. The NOV alleged violations of discharge limitations in NPDES Permit No. AL0073202 for CBOD during the months of December 2003 and February 2004; TSS during the months of January, February, September, November and December, 2004; TSS during the months of January, June and August, 2005; pH during the months of September through November, June, and July, 2005.

On September 26, 2006, the Alabama Department of Environmental Management issued Consent Order No. 06-099-CWP to the Town of Gordon. The Order alleged violations of

discharge limitations in NPDES Permit No. AL007320 for TSS, Fecal Coliform, and pH. The Order assessed a civil penalty of \$2,600; required the submission of an engineering report, including a compliance plan, within 90 days; required the submission of semi-annual progress reports; and required compliance with all discharge limitations within 365 days.

On February 9, 2007, the Alabama Department of Environmental Management issued a WL to the Town of Gordon. The WL alleged that the Town of Gordon failed to submit the engineering report, including compliance plan, required by Consent Order No. 06-099-CWP.

On June 6, 2007, Alabama Department of Environmental Management issued a NOV to the Town of Gordon. The NOV alleged that the Town of Gordon failed to submit the engineering report, including compliance plan, required by Consent Order No. 06-099-CWP.

On August 10, 2007, the Alabama Department of Environmental Management issued a WL to the Town of Gordon. The WL alleged that the Town of Gordon failed to submit a progress report required by Consent Order No. 06-099-CWP.

On April 5, 2013, the Alabama Department of Environmental Management issued a WL to the Town of Gordon. The WL alleged violations of discharge limitations in NPDES Permit No. AL0073202 for CBOD during the months of April 2012 and January 2013; TSS during the months of April, October, and November, 2012; TSS during January 2013; and pH during the month of January 2013.

On January 16, 2014, the Alabama Department of Environmental Management issued a NOV to the Town of Gordon. The NOV alleged violations of discharge limitations in NPDES Permit No. AL0073202 for CBOD for the months of April 2012; CBOD for the months of January, April, May, July and September 2013; TSS for the months of April, October and November 2012; TSS for the months of January and July 2013; and pH for the months of January, May, June, July, August and September, 2013.

On July 22, 2015, Alabama Department of Environmental Management issued Order No. 15-081-WP to the Town of Gordon. The Order alleged violations of discharge limitations in NPDES Permit No. AL0073202 for CBOD for the months of April, May, July, September through November, 2013; CBOD for the months of January through July and September through November, 2014; TSS for the months of July through September and November, 2013; TSS for the months of April through November 2014; pH for the months of May through July, 2013; pH for the months of March, April and October, 2014; and dissolved oxygen the month of October 2013. In addition to these effluent violations, the Order alleged failure to submit Notice of Noncompliance forms (NCFs) and failure to submit complete NCFs. The Department determined that no civil penalty would be assessed because the Town of Gordon does not have the ability to pay a civil penalty. Order No. 15-081-WP directed that an engineering report be submitted within 90 days and that quarterly progress reports be submitted every 90 days.

IV. Sanctions

The Court may assess civil penalties of up to \$37,500 per violation. 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 Court may award litigation expenses and attorney fees. Suit may be avoided if the violations alleged herein have been permanently abated before the expiration of sixty (60) days following the date of this notice. Please advise the undersigned of any measures that you may undertake which you contend have permanently abated these violations before suit is filed.

Sincerely,



David A. Ludder
Attorney for
Environmental Defense Alliance

cc:

Hon. Gina McCarthy, Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Hon. Heather McTeer Toney, Regional Administrator
U.S. Environmental Protection Agency-Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, Georgia 30303-3104

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

TABLE 1
MONTHLY AVERAGE PERCENT REMOVAL OF CARBONACEOUS BIOCHEMICAL
OXYGEN DEMAND (5-day) IN EFFLUENT DISCHARGED FROM OUTFALL 0011

Monitoring Period	Discharge Limit	Measured Value	Violation Days
Nov 2015	≥85%	81.9%	30
Oct 2015	≥85%	84.4%	31
Sep 2015	≥85%	72.8%	30
Jul 2015	≥85%	55.3%	31
Jun 2015	≥85%	78.0%	30
May 2015	≥85%	68.0%	31
Apr 2015	≥85%	78.2%	30
Jan 2015	≥85%	84.3%	31
Nov 2014	≥85%	79.6%	30
Oct 2014	≥85%	82.2%	31
Sep 2014	≥85%	82.2%	30
Jul 2014	≥85%	58.5%	31
Jun 2014	≥85%	65.4%	30
May 2014	≥85%	84.3%	31
Apr 2014	≥85%	55.3%	30
Mar 2014	≥85%	66.4%	31
Feb 2014	≥85%	76.3%	28
Jan 2014	≥85%	76.3%	31
Nov 2013	≥85%	66.3%	30
Oct 2013	≥85%	82.9%	31
Sep 2013	≥85%	78.6%	30
Jul 2013	≥85%	66.8%	31
May 2013	≥85%	79.2%	31
Apr 2013	≥85%	58.7%	30
Jan 2013	≥85%	82.5%	31
Apr 2012	≥85%	84.9%	30

SUBTOTAL 791

TABLE 2			
MONTHLY AVERAGE PERCENT REMOVAL OF TOTAL SUSPENDED SOLIDS IN			
Monitoring Period	Discharge Limit	Measured Value	Violation Days
Nov 2015	≥65%	31.8%	30
Oct 2015	≥65%	28.8%	31
Sep 2015	≥65%	0.0%	30
Jul 2015	≥65%	0.0%	31
Jun 2015	≥65%	0.3%	30
May 2015	≥65%	21.2%	31
Apr 2015	≥65%	55.1%	30
Mar 2015	≥65%	56.3%	31
Nov 2014	≥65%	30.7%	30
Oct 2014	≥65%	20.9%	31
Sep 2014	≥65%	20.9%	30
Aug 2014	≥65%	53.8%	31
Jul 2014	≥65%	7.7%	31
May 2014	≥65%	58.3%	31
Apr 2014	≥65%	0.0%	30
Mar 2014	≥65%	33.9%	31
Nov 2013	≥65%	58.4%	30
Sep 2013	≥65%	60.1%	30
Aug 2013	≥65%	51.7%	31
Jan 2013	≥65%	60.2%	31
Nov 2012	≥65%	63.4%	30
Oct 2012	≥65%	7.8%	31
Apr 2012	≥65%	52.3%	30

SUBTOTAL 702

TABLE 3 DAILY MAXIMUM pH IN EFFLUENT DISCHARGED FROM OUTFALL 0011			
Monitoring Period	Discharge Limit	Measured Value	Violation Days
Nov 2015	≤9.0 S.U.	10.0 S.U.	1
Oct 2015	≤9.0 S.U.	9.6 S.U.	1
Sep 2015	≤9.0 S.U.	10.0 S.U.	1
Aug 2015	≤9.0 S.U.	9.4 S.U.	1
Jun 2015	≤9.0 S.U.	9.7 S.U.	1
May 2015	≤9.0 S.U.	9.4 S.U.	1
Apr 2015	≤9.0 S.U.	9.8 S.U.	1
Jan 2015	≤9.0 S.U.	9.1 S.U.	1
Oct 2014	≤9.0 S.U.	9.9 S.U.	1
Apr 2014	≤9.0 S.U.	10.0 S.U.	1
Apr 2014	≤9.0 S.U.	10.3 S.U.	1
Mar 2014	≤9.0 S.U.	9.8 S.U.	1
Jul 2013	≤9.0 S.U.	9.2 S.U.	1
Jun 2013	≤9.0 S.U.	10.2 S.U.	1
May 2013	≤9.0 S.U.	9.3 S.U.	1
Jan 2013	≤9.0 S.U.	9.3 S.U.	1
SUBTOTAL			16

TABLE 4 WEEKLY AVERAGE CONCENTRATION OF CARBONACEOUS BIOCHEMICAL OXYGEN			
Monitoring Period	Discharge Limit	Measured Value	Violation Days
Mar 2014	≤37.5 mg/L	39.3 mg/L	7
SUBTOTAL			7

TABLE 5 MONTHLY AVERAGE CONCENTRATION OF CARBONACEOUS BIOCHEMICAL OXYGEN			
Monitoring Period	Discharge Limit	Measured Value	Violation Days
Mar 2014	≤25 mg/L	27.4 mg/L	31
Jan 2013	≤25 mg/L	29.5 mg/L	31
SUBTOTAL			62

Table 6 DAILY MINIMUM CONCENTRATION OF DISSOLVED OXYGEN IN EFFLUENT DISCHARGED FROM OUTFALL 0011			
Monitoring Period	Discharge Limit	Measured Value	Violation Days
Oct 2013	≥ 5.0 mg/L	3.9 mg/L	1
SUBTOTAL			1

Table 7 VIOLATIONS OF ORDER NO. 15-081-WP		
Requirement	Status	Violation Days
Submit Engineering Report not later than October 19, 2015	Report not submitted	89
Submit Quarterly Progress Report not later than October 19, 2015	Report not submitted	89

SUBTOTAL 178

TOTAL VIOLATION DAYS 1,757



AlaFile E-Notice

38-CV-2017-900601.00

To: CARRIE TOMPKINS BLANTON
carrie.blanton@adem.alabama.gov

NOTICE OF ELECTRONIC FILING

IN THE CIRCUIT COURT OF HOUSTON COUNTY, ALABAMA

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT V. TOWN OF GORDON
38-CV-2017-900601.00

The following complaint was FILED on 11/3/2017 2:23:53 PM

Notice Date: 11/3/2017 2:23:53 PM

CARLA H. WOODALL
CIRCUIT COURT CLERK
HOUSTON COUNTY, ALABAMA
P.O. DRAWER 6406
DOTHAN, AL, 36302

334-677-4859



ELECTRONICALLY FILED
11/3/2017 2:24 PM
38-CV-2017-900601.00
CIRCUIT COURT OF
HOUSTON COUNTY, ALABAMA
CARLA H. WOODALL, CLERK

Case:

38

Date of Filing:
11/03/2017

Judge Code:

State of Alabama Unified Judicial System Form ARCiv-93 Rev.5/99	COVER SHEET CIRCUIT COURT - CIVIL CASE (Not For Domestic Relations Cases)	Date of Filing: 11/03/2017	Judge Code:
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GENERAL INFORMATION

IN THE CIRCUIT COURT OF HOUSTON COUNTY, ALABAMA
ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT v. TOWN OF GORDON

First Plaintiff: Business Individual Government Other
First Defendant: Business Individual Government Other

NATURE OF SUIT: Select primary cause of action, by checking box (check only one) that best characterizes your action:

TORTS: PERSONAL INJURY

- WDEA - Wrongful Death
 TONG - Negligence: General
 TOMV - Negligence: Motor Vehicle
 TOWA - Wantonness
 TOPL - Product Liability/AEMLD
 TOMM - Malpractice-Medical
 TOLM - Malpractice-Legal
 TOOM - Malpractice-Other
 TBFM - Fraud/Bad Faith/Misrepresentation
 TOXX - Other: _____

TORTS: PERSONAL INJURY

- TOPE - Personal Property
 TORE - Real Property

OTHER CIVIL FILINGS

- ABAN - Abandoned Automobile
 ACCT - Account & Nonmortgage
 APAA - Administrative Agency Appeal
 ADPA - Administrative Procedure Act
 ANPS - Adults in Need of Protective Service

OTHER CIVIL FILINGS (cont'd)

- MSXX - Birth/Death Certificate Modification/Bond Forfeiture Appeal/ Enforcement of Agency Subpoena/Petition to Preserve
 CVRT - Civil Rights
 COND - Condemnation/Eminent Domain/Right-of-Way
 CTMP - Contempt of Court
 CONT - Contract/Ejectment/Writ of Seizure
 TOCN - Conversion
 EQND - Equity Non-Damages Actions/Declaratory Judgment/ Injunction Election Contest/Quiet Title/Sale For Division
 CVUD - Eviction Appeal/Unlawful Detainer
 FORJ - Foreign Judgment
 FORF - Fruits of Crime Forfeiture
 MSHC - Habeas Corpus/Extraordinary Writ/Mandamus/Prohibition
 PFAB - Protection From Abuse
 FELA - Railroad/Seaman (FELA)
 RPRO - Real Property
 WTEG - Will/Trust/Estate/Guardianship/Conservatorship
 COMP - Workers' Compensation
 CVXX - Miscellaneous Circuit Civil Case

ORIGIN: F INITIAL FILING A APPEAL FROM DISTRICT COURT O OTHER
R REMANDED T TRANSFERRED FROM OTHER CIRCUIT COURT

HAS JURY TRIAL BEEN DEMANDED? YES NO

Note: Checking "Yes" does not constitute a demand for a jury trial. (See Rules 38 and 39, Ala.R.Civ.P, for procedure)

RELIEF REQUESTED: MONETARY AWARD REQUESTED NO MONETARY AWARD REQUESTED

ATTORNEY CODE:

TOM024

11/3/2017 2:24:52 PM

/s/ CARRIE TOMPKINS BLANTON

Date

Signature of Attorney/Party filing this form

MEDIATION REQUESTED: YES NO UNDECIDED



IN THE CIRCUIT COURT FOR HOUSTON COUNTY

_____)	
ALABAMA DEPARTMENT OF)	
ENVIRONMENTAL MANAGEMENT,)	
)	
Plaintiff,)	
)	CV-2017-_____
v.)	
)	
TOWN OF GORDON,)	
)	
Defendant.)	
_____)	

COMPLAINT

1. This is an action brought pursuant to Ala. Code §§ 22-22A-5(18) and (19), and 22-22A-7(c)(7), as amended, to enforce ADEM Administrative Order 15-081-WP (hereinafter “the Unilateral Order”), issued by the Alabama Department of Environmental Management to the Defendant the Town of Gordon on July 21, 2015, and to address new violations of the Defendant’s Permit, state law and ADEM regulations.

THE PARTIES

2. The Alabama Department of Environmental Management (hereinafter “the Department” or “ADEM”) is an agency of the State of Alabama and, pursuant to the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 to 22-22A-17, as amended, is authorized to seek judicial enforcement of the Alabama Water Pollution Control Act (hereinafter “AWPCA”), Ala. Code §§ 22-22-1 to 22-22-14, as amended.

3. The Town of Gordon (hereinafter “Permittee” or “Defendant”) is a municipal corporation operating a wastewater treatment plant (hereinafter “WWTP”) known as the Town of Gordon WWTP located on Curtis Mixon Road, in Gordon, Houston County, Alabama, that discharges pollutants to the

Chattahoochee River, a water of the State. The Defendant is a “person” within the meaning of Ala. Code § 22-22-1(b)(7), as amended, and is responsible for compliance with the AWPCA, its ADEM Permit, and all applicable ADEM regulations.

JURISDICTION AND VENUE

4. The Court has jurisdiction and venue over this Complaint pursuant to Ala. Code § 22-22A-5(18)b. and § 22-22A5(19), as amended.

GENERAL ALLEGATIONS

5. The Department reissued National Pollutant Discharge Elimination System Permit Number AL0073202 (hereinafter “the Permit”) to the Defendant on August 24, 2010, effective September 1, 2010. The Permit was again reissued on January 22, 2016, effective February 1, 2016. The Permit establishes limitations and conditions on the discharge of pollutant from a point source, described therein as Outfall 0011, to the Chattahoochee River, a water of the State. The Permit requires that the Defendant monitor its discharges and submit periodic Discharge Monitoring Reports (hereinafter “DMRs”) to the Department describing the results of the monitoring. The Permit also requires that the Defendant properly operate and maintain all facilities and systems of treatment and control which are installed or used by the Defendant to achieve compliance with the conditions of the Permit.

6. The Department issued the Unilateral Order to the Defendant on July 21, 2015. The Unilateral Order required the Defendant to submit updated noncompliance notifications forms, submit an Engineering Report and Quarterly Progress Reports, and comply with the Permit limitations for pH, Total Suspended Solids Percent Removal, Carbonaceous Biochemical Oxygen Demand (hereinafter “CBOD”), CBOD Percent Removal, and Dissolved Oxygen. Compliance with the above noted permit limitations and implementation of the recommendations provided in the Engineering Report was required not later than October 31, 2017. The Unilateral Order is attached hereto as “Exhibit A” and is incorporated as if fully set out herein.

7. Defendant failed to seek review of the Unilateral Order before the Alabama Environmental Management Commission pursuant to Ala. Code § 22-22A-7, as amended. Accordingly, pursuant to Ala. Code § 22-22A-7(c)(7), as amended, the Unilateral Order is not subject to judicial review in this civil proceeding for enforcement.

8. The Unilateral Order required the Defendant to submit updated noncompliance notification forms by September 19, 2015. These forms were not received by the Department until October 16, 2015.

9. The Unilateral Order required the Defendant to submit Quarterly Progress Reports to the Department beginning ninety days after issuance of the order and continuing every ninety days thereafter. The Progress Reports the Defendant failed to submit in a timely manner or failed to submit at all are set forth in attachment “Exhibit B” which is incorporated as if fully set out herein.

10. On May 2, 2017, the Department received a Progress Report from the Defendant indicating that construction to improve the Facility was not anticipated to *begin* until the second quarter of 2018, well after the October 31, 2017 Unilateral Order compliance deadline.

11. The Defendant has failed to achieve compliance by the October 31, 2017 deadline.

12. Permit Condition I.A requires that discharges be limited and monitored as specified in the Permit. The Defendant submitted DMRs to the Department indicating that the Defendant has discharged pollutants from a point source, Outfall Number 0011, to the Chattahoochee River, in violation of the limitations established in the Permit. The months the violations occurred and the parameters violated are listed in “Exhibit C” which is incorporated as if fully set out herein.

13. Permit Condition I.C.1.b requires that the Permittee submit DMRs so that they are received by the Department no later than the 28th day of the month following the reporting period. The Defendant has failed to submit DMRs for the May 2017, June 2017, July 2017, and August 2017 monitoring periods. Also, the Defendant failed to submit the DMRs for the monitoring periods as described in Exhibit C on time.

14. Ala. Code § 22-22-9(i)(3) requires that a permit be obtained prior to discharging any new or increased pollution into any water of the State. The Defendant reported one unpermitted discharge to the Department in the form of a Sanitary Sewer Overflow (hereinafter “SSO”) on April 19, 2016.

15. The Defendant failed to notify the county health department and the public of the April 19, 2016 SSO, as required by Permit Condition I.C.2.d.

16. The Defendant also failed to submit an SSO Report to the Department within five days of becoming aware of the April 19, 2016 SSO, as required by Permit Condition I.C.2.f.

17. Defendant’s failure to comply with the terms and requirements the Unilateral Order, the AWPCA, and all applicable ADEM regulations has resulted in a continuing threat of pollution and discharges into waters of the State.

COUNT I

18. The Department incorporates paragraphs 1-17 herein by reference.

19. Defendant has failed to comply with the Unilateral Order, and thus remains in violation of its Permit, the AWPCA, ADEM regulations and applicable State law.

COUNT II

20. The Department incorporates paragraphs 1-19 herein by reference.

21. Pursuant to Ala. Code § 22-22A-5(18)b., as amended, Defendant is due to be assessed additional civil penalties by this Court for failing to comply with the Unilateral Order, its Permit, the AWPCA, and ADEM regulations.

PRAYER FOR RELIEF

WHEREFORE, the Department requests the following relief, to-wit:

A. That this Court temporarily and permanently enjoin Defendant from continuing to violate the Unilateral Order, its Permit, all applicable ADEM regulations, and the AWPCA.

B. That this Court Order Defendant to comply fully with the Unilateral Order, its Permit, applicable ADEM regulations, and the AWPCA.

C. That this Court grant such further relief against Defendant as may be warranted under the circumstances, including but not limited to the imposition of a civil penalty, pursuant to Ala. Code (1975) § 22-22A-5(18)c., for Defendant's failure to comply with the Unilateral Order, its Permit, the AWPCA, and applicable ADEM regulations as described above in this Complaint.

D. That this Court enter judgment under Counts I and II against Defendant and in favor of the Plaintiff for the maximum penalty allowed by law.

E. That this Court enter judgment against Defendant for all costs of this action.

DONE this 3rd day of November, 2017.

Respectfully submitted,

STEVE MARSHALL
ATTORNEY GENERAL

/s/ Carrie Blanton
Carrie Blanton (TOM024)
Assistant Attorney General

ADDRESS OF COUNSEL:

Alabama Department of Environmental Management
Office of General Counsel
P.O. Box 301463
Montgomery, AL 36130-1463
(334) 271-7855 (Office)
(334) 394-4332 (Telefax)
Carrie.Blanton@adem.alabama.gov

LANCE R. LEFLEUR
DIRECTOR



Alabama Department of Environmental Management
adem.alabama.gov

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Montgomery, Alabama 36130-1463
(334) 271-7700 ■ FAX (334) 271-7950



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38-CV-2017-900601.00
CIRCUIT COURT OF
HOUSTON COUNTY, ALABAMA
CARLA H. WOODALL, CLERK

JUL 22 2015

CERTIFIED MAIL 91 7199 9991 7032 3171 5438
RETURN RECEIPT REQUESTED

Honorable Charles Dismukes, Mayor
Town of Gordon
Post Office Box 46
Gordon, Alabama 36343

RE: Unilateral Order No. 15-081-WP
NPDES Permit AL0073202
Town of Gordon
Curtis Mixon Road
Houston County (069)

Dear Mayor Dismukes:

Please find the enclosed ADEM Unilateral Order No. 15-081-WP which requires you to take certain actions at the Town of Gordon WWTP, located on Curtis Mixon Road, in Gordon, AL in regard to alleged violations of the Alabama Water Pollution Control Act. This Unilateral Order has been issued without the consent of Town of Gordon.

Sincerely,

Glenda L. Dean

Glenda L. Dean, Chief
Water Division

GLD/mfc

File: EUO/15-081-WP

Enclosure

cc: Tom Johnston/ADEM, Office of General Counsel
Schuyler Espy/ADEM, Office of General Counsel
Daphne Lutz/ADEM, Industrial Municipal Branch/Water Division
Emily Anderson/ADEM, Industrial Municipal Branch/Water Division
Donald Brown/ADEM, Industrial Municipal Branch/Water Division

Birmingham Branch
110 Vulcan Road
Birmingham, AL 35209-4702
(205) 942-6168
(205) 941-1603 (FAX)

Decatur Branch
2715 Sandlin Road, S. W.
Decatur, AL 35603-1333
(256) 353-1713
(256) 340-9359 (FAX)



Mobile Branch
2204 Perimeter Road
Mobile, AL 36615-1131
(251) 450-3400
(251) 479-2593 (FAX)

Mobile-Coastal
4171 Commanders Drive
Mobile, AL 36615-1421
(251) 432-6533
(251) 432-6598 (FAX)

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF:)
)
Town of Gordon)
Town of Gordon WWTP)
Gordon, Houston County, Alabama)
)
NPDES Permit No. AL0073202)

ORDER NO. 15-081-WP

FINDINGS

Pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 to 22-22A-16 (2006 Rplc. Vol.), the Alabama Water Pollution Control Act (hereinafter “AWPCA”), Ala. Code §§ 22-22-1 to 22-22-14 (2006 Rplc. Vol.), and the regulations promulgated pursuant thereto, and § 402 of the Federal Water Pollution Control Act, 33 U.S.C. § 1342, the Alabama Department of Environmental Management (hereinafter “the Department”) makes the following FINDINGS:

1. The Department is a duly constituted department of the State of Alabama pursuant to §§ 22-22A-1 to 22-22A-16 (2006 Rplc. Vol.).
2. Pursuant to Ala. Code § 22-22A-4(n) (2006 Rplc. Vol.), the Department is the state agency responsible for the promulgation and enforcement of water pollution control regulations in accordance with the Federal Water Pollution Control Act and 33 U.S.C. §§ 1251 to 1387. In addition, the Department is authorized to administer and enforce the provisions of the AWPCA.
3. The Town of Gordon (hereinafter “the Permittee”) operates a wastewater treatment plant (hereinafter “WWTP”) known as the Town of Gordon WWTP, located on Curtis Mixon Road in Gordon, Houston County, Alabama.

4. The Department reissued National Pollutant Discharge Elimination System (hereinafter "NPDES") Permit Number AL0073202 (hereinafter "the Permit") to the Permittee on August 24, 2010, effective September 1, 2010, establishing limitations on the discharge of pollutants from a point source, designated therein as outfall number 0011, to the Chattahoochee River, a water of the State. The Permit requires that the Permittee monitor its discharges and submit periodic Discharge Monitoring Reports (hereinafter "DMRs") to the Department describing the results of the monitoring. In addition, the Permit requires that the Permittee properly operate and maintain all facilities and systems of treatment and control which are installed or used by the Permittee to achieve compliance with the conditions of the Permit.

5. Part I.A. of the Permit requires that discharges be limited and monitored as specified in the Permit. The Permit limitation violations listed in Attachment 1 indicate that discharges from outfall 0011 did not comply with the Total Suspended Solids (hereinafter "TSS") Percent Removal, Carbonaceous Biochemical Oxygen Demand (hereinafter "CBOD") Percent Removal, CBOD, Dissolved Oxygen (hereinafter "DO"), and pH Permit limitations.

6. Permit Condition I.C.2.b requires that a noncompliance notification form (hereinafter "NCF") be submitted to the Department should a discharge not comply with any limitation of the permit. NCFs are to be submitted to the Department with the next DMR after becoming aware of the noncompliance. The Department received NCFs for the July 2013 and October 2013 monitoring periods; however, the NCFs did not include all violations during the monitoring period. As of the date of this order, the Department has not received completed NCFs for the July 2013 and October 2013 monitoring periods.

7. The Department issued a Warning Letter (hereinafter "WL") to the Permittee on April 15, 2013. The WL cited discharge limitation violations, failure to submit Noncompliance

Forms (hereinafter “NCFs”), and failure to calibrate the flow meter within the permit specifications. A response was required to be submitted to the Department within 30 days of the WL to address the violations.

8. The Permittee’s response to the WL was received on May 16, 2013. The response indicated that the CBOD and TSS percent removals violations were due to drought conditions and Inflow and Infiltration (hereinafter “I&I”) problems. The response also indicated that the flow meter was calibrated on April 18, 2013. A second response to the WL was received on May 28, 2013 that included the missing NCFs that were noted in the WL.

9. The Department issued a Notice of Violation (hereinafter “NOV”) to the Permittee on January 16, 2014. The NOV cited discharge limitation violations and failure to submit DMRs in a timely manner. A response by a professional engineer was required within 30 days of receipt of the NOV to address the violations.

10. The Permittee’s response to the NOV was received on February 14, 2014. The response included several options the Permittee was reviewing to return to compliance; however, there was no definitive solution identified with the necessary steps that would be taken to correct the violations addressed in the NOV. A second response was received on February 27, 2014 that indicated DMRs would be submitted in a timely manner.

Pursuant to Ala. Code § 22-22A-5(18)c., as amended, in determining the amount of any penalty, the Department must give consideration to the seriousness of the violation, including any irreparable harm to the environment and any threat to the health or safety of the public; the standard of care manifested by such person; the economic benefit that delayed compliance may have conferred upon such person; the nature, extent and degree of success of such person’s efforts to minimize or mitigate the effects of such violation upon the environment; such person’s history of

previous violations; and the ability of such person to pay such penalty. Any civil penalty assessed pursuant to this authority shall not exceed \$25,000.00 for each violation, provided however, that the total penalty assessed in an order issued by the Department shall not exceed \$250,000.00. Each day that such violation continues shall constitute a separate violation. In arriving at this civil penalty (summarized in Attachment II), the Department has considered the following:

A. **SERIOUSNESS OF THE VIOLATIONS AND BASE PENALTY:** Based on the information available to the Department, violations of the Permit, ADEM Admin. Code div. 335-6, and the AWPCA were noted. Considering the general nature of each violation, the magnitude and duration of each non-compliant discharge, the characteristics of each pollutant discharged, their effects, if any, on impaired waters, and any available evidence of irreparable harm to the environment or threat to the public, the Department determined the base penalty to be \$8,500.00.

B. **THE STANDARD OF CARE:** In consideration of the standard of care provided by the Permittee, the Department believes the civil penalty sought in this matter is sufficient and has not enhanced the penalty based on this factor.

C. **ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED:** The Department has not been able to determine if there has been a significant economic benefit associated with the violations cited above.

D. **EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATIONS UPON THE ENVIRONMENT:** The Department is unaware of any efforts to minimize or mitigate the effects of the violations upon the environment.

E. **HISTORY OF PREVIOUS VIOLATIONS:** The Permittee has a history of violations prior to the two-year period addressed by this Order. In consideration of the history of previous violations, the Department has enhanced the penalty by an additional \$2,850.00.

F. **THE ABILITY TO PAY:** The Permittee completed the EPA's MUNIPAY model regarding their ability to pay a civil penalty. Per the MUNIPAY Model results, the Department has determined that the Permittee has an inability to pay the civil penalty. In consideration of the Permittee's inability to pay, the Department has decreased the penalty by \$11,350.00.

G. The civil penalty is summarized in Attachment II.

ORDER

Based on the foregoing FINDINGS and pursuant to Ala. Code §§ 22-22A-10, 22-22A-5(12), 22-22A-5(18), and 22-22-9(i) (2006 Rplc. Vol.), it is hereby ORDERED:

A. If not already enrolled, the Permittee shall prepare and submit to the Department a complete application for enrollment in the Department's Electronic Environmental DMR Reporting System Program (hereinafter "E2 Program") for all of its permitted facilities, so that it is received by the Department not later than thirty days after the issuance date of this Order. If the Department determines through its review of the submitted application that the submittal is not sufficient for the Permittee to participate in the E2 Program, then the Permittee must modify the application so that it is sufficient. The Permittee shall submit modifications to the application, if required, so that they are received by the Department no later than fourteen days after receipt of the Department's comments. Upon acceptance by the Department into the E2 Program, the Permittee shall begin the electronic submittals of DMRs through the E2 Program no later than the 28th day of the month following the first complete monitoring period. The Permittee shall fully implement all aspects of the E2 Program including the cessation of federal paper DMR submittals, if applicable, no later than 180 days after acceptance into the E2 Program, unless an extension is granted in writing by the

Department. The Permittee shall abide by all terms, conditions, and limitations of the E2 Program immediately upon acceptance into the E2 Program.

B. The Permittee shall prepare and submit to the Department an Engineering Report that addresses the need for changes in maintenance and operating procedures, the potential for infiltration and inflow, the need for modification of existing treatment and collection system works, and the need for new or additional treatment and collection system works as necessary to achieve compliance with applicable rules and regulations and permit conditions. The Engineering Report must include a schedule for implementation (i.e., a Compliance Plan) and cost of equipment and/or repairs needed to achieve compliance, if known. The Engineering Report must include a plan for continued maintenance and assessment of the collection system to minimize future infiltration and inflow. The Engineering Report must be prepared by a professional engineer licensed to practice in the State of Alabama. The Engineering Report shall be submitted so that it is received by the Department no later than ninety days after the date of issuance of this Order. If the Department determines through its review of the submitted Engineering Report that the submittal is not sufficient, then the Permittee must modify the Engineering Report. The Department must receive modifications to the Engineering Report, if required, no later than thirty days after receipt of the Department's comments. The Permittee shall complete implementation of the recommendations provided in the Engineering Report not later than October 31, 2017.

C. The Permittee shall prepare and submit detailed quarterly Progress Reports to the Department describing the Permittee's progress towards achieving compliance with the items presented in the Compliance Plan, including the cost of equipment and/or repairs needed to achieve compliance. The Department must receive the Progress Reports no later than ninety days after the date of issuance of this Order and continuing every ninety days thereafter that the Permittee's

performance obligations under this Order remain incomplete. In addition, the Permittee shall submit a written notice of noncompliance with each imposed requirement, if applicable. The Permittee shall submit the notice of noncompliance to the Department no later than fourteen days following each applicable due date contained in this Order. Notices of noncompliance shall state the cause of noncompliance, the corrective action taken, and shall also describe the Permittee's ability to comply with any remaining requirements of this Order.

D. The Permittee shall submit updated NCFs for the July 2013 and October 2013 monitoring periods within 30 days of the issuance date of this Order.

E. The Permittee shall fully comply with the Permit limitations for pH, TSS percent removal, CBOD, CBOD percent removal, and DO by October 31, 2017.

F. The Permittee shall comply with all other terms, conditions, and limitations of the Permit immediately upon the issuance date of this Order.

G. The Permittee shall submit a certification to the Department, signed by a professional engineer licensed to practice in the State of Alabama, indicating whether or not the Permittee is in compliance with all requirements of this Order. The Permittee shall submit such certification to the Department no later than November 30, 2017.

H. This Order shall not affect the Permittee's obligation to comply with any Federal, State, or local laws or regulations.

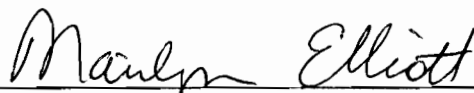
I. Final approval and issuance of this Order are subject to the requirement that the Department provide notice of proposed Orders to the public, and that the public have at least thirty days within which to comment on the proposed Order.

J. Should any provision of this Order be declared by a court of competent jurisdiction or the Environmental Management Commission to be inconsistent with Federal or State law and therefore unenforceable, the remaining provisions hereof shall remain in full force and effect.

K. Except as otherwise set forth herein, this Order is not and shall not be interpreted to be a permit or modification of an existing permit under Federal, State or local law, and shall not be construed to waive or relieve the Permittee of its obligations to comply in the future with any permit.

L. Failure to comply with the provisions of this Administrative Order shall constitute cause for commencement of legal action by the Department against the Permittee for recovery of additional civil penalties, criminal fines, or other appropriate sanctions or relief.

ORDERED and ISSUED this 21 day of JULY, 2015.



Lance R. LeFleur, Director
Alabama Department of Environmental Management
1400 Coliseum Boulevard
Montgomery, AL 36110-2059
(334) 271-7700

Attachment 1

Town of Gordon
Gordon, Houston County, Alabama
NPDES Permit No. AL0073202

Monitoring Period	Outfall	Parameter	Limit	Reported	Limit Type	Unit
April 2013	0011	CBOD % Removal	85.0	58.7	Monthly Average Minimum	%
May 2013	0011	pH	9.0	9.3	Maximum Daily	S.U.
May 2013	0011	CBOD % Removal	85.0	79.2	Monthly Average Minimum	%
June 2013	0011	pH	9.0	10.2	Maximum Daily	S.U.
July 2013	0011	pH	9.0	9.2	Maximum Daily	S.U.
July 2013	0011	CBOD % Removal	85.0	66.8	Monthly Average Minimum	%
July 2013	0011	TSS % Removal	65.0	0.0	Monthly Average Minimum	%
August 2013	0011	TSS % Removal	65.0	51.7	Monthly Average Minimum	%
September 2013	0011	CBOD % Removal	85.0	78.6	Monthly Average Minimum	%
September 2013	0011	TSS % Removal	65.0	60.1	Monthly Average Minimum	%
October 2013	0011	DO	5.0	3.9	Minimum Daily	mg/l
October 2013	0011	CBOD % Removal	85.0	82.9	Monthly Average Minimum	%
November 2013	0011	CBOD % Removal	85.0	66.3	Monthly Average Minimum	%
November 2013	0011	TSS % Removal	65.0	58.4	Monthly Average Minimum	%
January 2014	0011	CBOD % Removal	85.0	76.3	Monthly Average Minimum	%

Monitoring Period	Outfall	Parameter	Limit	Reported	Limit Type	Unit
February 2014	0011	CBOD % Removal	85.0	68.9	Monthly Average Minimum	%
March 2014	0011	pH	9.0	9.8	Maximum Daily	S.U.
March 2014	0011	CBOD	25.0	27.4	Monthly Average	mg/l
March 2014	0011	CBOD	37.5	39.3	Weekly Average	mg/l
March 2014	0011	CBOD % Removal	85.0	66.4	Monthly Average Minimum	%
March 2014	0011	TSS % Removal	65.0	33.9	Monthly Average Minimum	%
April 2014	0011	pH	9.0	10.3	Maximum Daily	S.U.
April 2014	0011	CBOD % Removal	85.0	55.3	Monthly Average Minimum	%
April 2014	0011	TSS % Removal	65.0	0.0	Monthly Average Minimum	%
May 2014	0011	CBOD % Removal	85.0	84.3	Monthly Average Minimum	%
May 2014	0011	TSS % Removal	65.0	58.3	Monthly Average Minimum	%
June 2014	0011	CBOD % Removal	85.0	65.4	Monthly Average Minimum	%
June 2014	0011	TSS % Removal	65.0	0.0	Monthly Average Minimum	%
July 2014	0011	CBOD % Removal	85.0	58.5	Monthly Average Minimum	%
July 2014	0011	TSS % Removal	65.0	9.9	Monthly Average Minimum	%

Monitoring Period	Outfall	Parameter	Limit	Reported	Limit Type	Unit
August 2014	0011	TSS % Removal	65.0	53.6	Monthly Average Minimum	%
September 2014	0011	CBOD % Removal	85.0	82.2	Monthly Average Minimum	%
September 2014	0011	TSS % Removal	65.0	20.9	Monthly Average Minimum	%
October 2014	0011	pH	9.0	9.9	Maximum Daily	S.U.
October 2014	0011	CBOD % Removal	85.0	64.8	Monthly Average Minimum	%
October 2014	0011	TSS % Removal	65.0	0.0	Monthly Average Minimum	%
November 2014	0011	CBOD % Removal	85.0	79.6	Monthly Average Minimum	%
November 2014	0011	TSS % Removal	65.0	30.7	Monthly Average Minimum	%

Attachment II

Town of Gordon WWTP
Gordon, Houston County, Alabama
NPDES Permit No. AL0073202

Violation*	Number of Violations*	(A)	(B)	(C)
		Seriousness of Violation*	Standard of Care*	History of Previous Violations*
Permit Limitation Violations	38	\$ 8,500.00	\$ -	\$ 2,850.00
		\$8,500.00	\$0.00	\$2,850.00
		Total (A)	Total (B)	Total (C)
Base Penalty Total				\$11,350.00
[Total (A) + Total (B) + Total (C)]				
Mitigating Factors (-)				
Economic Benefit (+)				
Ability to Pay (-)				
Other Factors (+/-)				
INITIAL PENALTY				\$11,350.00
Total Adjustments (+/-)		- \$11,350.00		
FINAL PENALTY				\$0.00

Additional Adjustments due to negotiations, receipt of additional information, or public comment

Mitigating Factors (-)	
Economic Benefit (+)	
Ability to Pay (-)	\$11,350.00
Other Factors (+/-)	
Total Adjustments (+/-)	- \$11,350.00

Footnotes

*See the "Findings" portion of the Order for a detailed description of each violation and the penalty factors

Exhibit B



ELECTRONICALLY FILED
11/3/2017 2:24 PM
38-CV-2017-900601.00
CIRCUIT COURT OF
HOUSTON COUNTY, ALABAMA
CARLA H. WOODALL, CLERK

Progress Report Due Date	Progress Report Received Date	Number of Days Late
January 17, 2016	January 22, 2016	5
April 16, 2016	April 18, 2016	2
January 11, 2017	May 2, 2017	111
April 11, 2017	May 2, 2017	21
July 10, 2017	Not Received	>90
October 8, 2017	Not Received	>5



Exhibit C

Limitation Violations

<u>Monitoring Period</u>	<u>Parameter</u>	<u>Permit Limit</u>	<u>Reported Value</u>	<u>Unit</u>	<u>Limit Type</u>
January 2015*	pH	9.0	9.1	S.U.	Maximum Daily
January 2015*	CBOD5% Removal	85.0	84.3	%	Monthly Average Minimum
March 2015*	TSS% Removal	65.0	56.3	%	Monthly Average Minimum
April 2015*	pH	9.0	9.8	S.U.	Maximum Daily
April 2015*	CBOD5% Removal	85.0	78.2	%	Monthly Average Minimum
April 2015*	TSS% Removal	65.0	55.1	%	Monthly Average Minimum
May 2015*	pH	9.0	9.4	S.U.	Maximum Daily
May 2015*	CBOD5% Removal	85.0	68.0	%	Monthly Average Minimum
May 2015*	TSS% Removal	65.0	21.2	%	Monthly Average Minimum
June 2015*	pH	9.0	9.7	S.U.	Maximum Daily
June 2015*	CBOD5% Removal	85.0	78.4	%	Monthly Average Minimum
June 2015*	TSS% Removal	65.0	0.3	%	Monthly Average Minimum
July 2015*	CBOD5% Removal	85.0	55.3	%	Monthly Average Minimum
July 2015*	TSS% Removal	65.0	0.0	%	Monthly Average Minimum
September 2015*	pH	9.0	10.0	S.U.	Maximum Daily
September 2015*	CBOD5% Removal	85.0	72.8	%	Monthly Average Minimum
September 2015*	TSS% Removal	65.0	0.0	%	Monthly Average Minimum
October 2015*	pH	9.0	9.6	S.U.	Maximum Daily
October 2015*	CBOD5% Removal	85.0	84.4	%	Monthly Average Minimum
October 2015*	TSS% Removal	65.0	28.8	%	Monthly Average Minimum
November 2015*	pH	9.0	10.0	S.U.	Maximum Daily
November 2015*	CBOD5% Removal	85.0	81.9	%	Monthly Average Minimum
November 2015*	TSS% Removal	65.0	31.8	%	Monthly Average Minimum
December 2015*	pH	9.0	9.9	S.U.	Maximum Daily
February 2016*	pH	9.0	9.8	S.U.	Maximum Daily
February 2016*	CBOD5% Removal	85.0	76.2	%	Monthly Average Minimum
March 2016*	pH	9.0	10.3	S.U.	Maximum Daily
April 2016*	pH	9.0	9.7	S.U.	Maximum Daily
April 2016*	TSS% Removal	65.0	57.8	%	Monthly Average Minimum
May 2016*	pH	9.0	9.3	S.U.	Maximum Daily

Exhibit C

Town of Gordon WWTP
Permit. No. AL0073202

May 2016*	TSS% Removal	65.0	64.7	%	Monthly Average Minimum
June 2016*	pH	9.0	9.5	S.U.	Maximum Daily
June 2016*	CBOD5% Removal	85.0	40.4	%	Monthly Average Minimum
June 2016*	TSS% Removal	65.0	0.0	%	Monthly Average Minimum
July 2016*	CBOD5% Removal	85.0	83.0	%	Monthly Average Minimum
July 2016*	TSS% Removal	65.0	15.0	%	Monthly Average Minimum
August 2016	E. Coli	126	275	col/100 mL	Monthly Average
August 2016*	CBOD5% Removal	85.0	64.7	%	Monthly Average Minimum
August 2016*	TSS% Removal	65.0	0.0	%	Monthly Average Minimum
September 2016*	CBOD5% Removal	85.0	51.4	%	Monthly Average Minimum
September 2016*	TSS% Removal	65.0	0.0	%	Monthly Average Minimum
October 2016*	TSS	135	166	mg/l	Weekly Average
October 2016*	TSS	90.0	166	mg/l	Monthly Average
October 2016	E. Coli	548	900	col/100 mL	Monthly Average
October 2016*	TSS% Removal	65.0	0.0	%	Monthly Average Minimum
December 2016	E. Coli	2507	8000	col/100 mL	Maximum Daily
December 2016	E. Coli	548	4140	col/100 mL	Monthly Average
January 2017*	CBOD5% Removal	85.0	74.5	%	Monthly Average Minimum
January 2017*	TSS% Removal	65.0	9.1	%	Monthly Average Minimum
February 2017*	pH	9.0	10.1	S.U.	Maximum Daily
February 2017*	CBOD5% Removal	85.0	79.0	%	Monthly Average Minimum
February 2017*	TSS% Removal	65.0	45.3	%	Monthly Average Minimum
March 2017*	pH	9.0	9.4	S.U.	Maximum Daily
March 2017*	CBOD5% Removal	85.0	26.8	%	Monthly Average Minimum
March 2017*	TSS% Removal	65.0	0.0	%	Monthly Average Minimum
April 2017*	TSS% Removal	65.0	0.0	%	Monthly Average Minimum

CBOD5 - Five Day Carbonaceous Biochemical Oxygen Demand

TSS - Total Suspended Solids

E. Coli - *Escherichia coli*

* Limitation violations with October 31, 2017 compliance date

Exhibit C

Town of Gordon WWTP
Permit. No. AL0073202**Late Discharge Monitoring Reports (DMRs)**

<u>Monitoring Period</u>	<u>Due Date</u>	<u>Received Date</u>	<u>Days Late</u>
December 2014	January 28, 2015	February 27, 2015	30
February 2015	March 28, 2015	March 30, 2015	2
October 2016	November 28, 2016	December 19, 2016	21
December 2016	January 28, 2017	March 27, 2017	58
January 2017	February 28, 2017	March 27, 2017	27



AlaFile E-Notice

38-CV-2017-900601.00

Judge: J. MICHAEL CONAWAY

To: BLANTON CARRIE AMANDA TOM
carrie.blanton@adem.alabama.gov

NOTICE OF ELECTRONIC FILING

IN THE CIRCUIT COURT OF HOUSTON COUNTY, ALABAMA

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT V. TOWN OF GORDON
38-CV-2017-900601.00

The following matter was FILED on 11/19/2018 10:01:11 AM

Notice Date: 11/19/2018 10:01:11 AM

CARLA H. WOODALL
CIRCUIT COURT CLERK
HOUSTON COUNTY, ALABAMA
P.O. DRAWER 6406
DOTHAN, AL, 36302

334-677-4859



IN THE CIRCUIT COURT OF HOUSTON COUNTY, ALABAMA

ALABAMA	DEPARTMENT	OF)	
ENVIRONMENTAL	MANAGEMENT,)	
Plaintiff,)	
V.)	Case No.: CV-2017-900601.00
)	
TOWN OF GORDON,)	
Defendant.)	

Default Judgment

This action came before the Court for a hearing on Plaintiff's Motion for Entry of Default on October 24, 2018. The Court, having received sufficient evidence from the Plaintiff in support of its request for default and injunctive relief, finds the following:

1. Plaintiff served the Defendant with a copy of the summons, together with a copy of the complaint, on November 16, 2017.
2. Plaintiff filed a Motion for Entry of Default on August 3, 2018.
3. The Defendant, having been duly served with summons and complaint and not being an infant or an unrepresented incompetent, has failed to plead or otherwise defend Plaintiff's complaint.
4. The Town of Gordon has violated, and continues to violate, Administrative Consent Order No. 15-081-WP, the Alabama Environmental Management Act, Ala.Code §§ 22-22A-1 to 22-22A-17, as amended, the Alabama Water Pollution Control Act, Ala.Code §§ 22-22-1 to 22-22-14 (2006 Rplc. Vol.), and the regulations promulgated pursuant thereto.

THEREFORE, it is hereby **ORDERED, ADJUDGED AND DECREED** that:

5. Plaintiff's Motion for Entry of Default against Defendant, the default having been duly entered and the Defendant having taken no proceedings within fifteen days showing

good cause why such default should not be entered, is hereby GRANTED.

6. The Court hereby ORDERS the Town of Gordon to comply with NPDES Permit Number AL0073202, the Alabama Water Pollution Control Act and the regulations promulgated pursuant thereto, and, specifically, to submit and implement the following remedial actions:

A. Within thirty days from the date of this Order, submit to the Department contact information including name and title, telephone number, and email address for the responsible official, duly authorized representative of the responsible official, designated facility contact, designated emergency contact, and any other relevant contact personnel for the Town of Gordon Wastewater Treatment Plant. The Defendant has the duty to update and supplement this information provided to the Department should the responsible official or designated contacts change. A responsible official for a municipal, state, federal or other public entity shall be either a principal executive officer, or a ranking elected official. A person is a duly authorized representative of the responsible official only if an authorization is made in writing by the responsible official, the authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, and the written authorization is submitted to the Department.

B. Within thirty days from the date of this Order, submit to the Department updated forms for Permittee Registration and Electronic Signature Agreement for electronic Discharge Monitoring Report (eDMR) and electronic Sanitary Sewer Overflow (eSSO), ADEM Forms 511 and 512, respectively. DMRs and SSO reports must be submitted by the responsible official or a duly authorized representative of that person. If the Department determines through its review of the submitted application that the submittal is not sufficient for the Permittee to participate in the E2 Program, then the

Permittee shall modify the application so that it is sufficient. The Permittee shall submit modifications to the application, if required, so that they are received by the Department no later than fourteen days after receipt of the Department's comments. Upon acceptance by the Department into the E2 Program, the Permittee shall immediately begin the electronic submittals of SSO notifications and reports through the E2 Program. The Defendant shall fully implement all aspects of the E2 Program – including the cessation of immediate notification of SSOs through the Department's SSO Hotline and the cessation of ADEM Form 415 submittals, if applicable, immediately upon acceptance into the E2 Program, unless an extension is granted in writing by the Department. The Defendant shall abide by all terms, conditions, and limitations of the E2 Program immediately upon acceptance into the E2 Program.

C. Within sixty days from the date of this Order, submit to the Department via the E2 Program all missing DMRs for the May 2017 through October 2018 monitoring periods. DMRs shall be submitted for future monitoring periods as required by the Permit.

D. Within ninety days from the date of this Order, submit to the Department an Engineering Report that identifies the potential causes of noncompliance and summarizes an investigation of the changes necessary for the Permittee to achieve compliance with NPDES Permit Number AL0073202. The Engineering Report shall include a schedule for implementation (i.e., a Compliance Plan) of necessary corrective actions. At a minimum, the Permittee shall consider each of the following in making its determination: the need for changes in maintenance and operating procedures; the potential for infiltration and inflow; the need for modification of existing treatment and collection system works; and the need for new or additional treatment and collection system works. The Engineering Report shall be prepared by a professional engineer

licensed to practice in the State of Alabama. If the Department determines through its review of the submitted Engineering Report that the report is not sufficient to accomplish compliance with the Permit, then the report shall be modified so that it does accomplish compliance. Modifications to the Engineering Report, if required, shall be submitted to ADEM no later than thirty days after receipt of the Department's comments.

E. All submittals shall be remitted to:

Water Division, Municipal Section
Alabama Department of Environmental Management
P.O. Box 301463
Montgomery, Alabama 36130-1463

7. This Court shall retain jurisdiction of this matter for purposes of implementing and enforcing the implementation of the aforementioned remedial actions.

8. That a hearing on Plaintiff's request for additional civil penalties will not be set unless and until Plaintiff's motion for same.

DONE this 19th day of November, 2018.

/s/ J. MICHAEL CONAWAY
CIRCUIT JUDGE
