

# WATER WORRIES

## State files complaint against Elba for Pea River pollution

**Story** **Comments**



Posted: Wednesday, March 19, 2014 11:29 am | Updated: 2:53 pm, Wed Mar 19, 2014.

By Carly Omenhiser [comenhiser@southeastsun.com](mailto:comenhiser@southeastsun.com) | 0 comments

The city of Elba is facing state litigation after the Attorney General's office filed a complaint at the Elba Courthouse in the 12th Judicial Circuit regarding violations at the city's wastewater treatment plant.

### Water

On March 12, a complaint was filed electronically on behalf of the Alabama Department of Environmental Management stating the Attorney General is authorized to bring civil action for violations of permits issued under the Alabama

Water Pollution Control Act against the city of Elba.

The complaint came with an attachment listing 77 violations spanning back to 2008, as well as 16 late or missing reports, at the Elba Lagoon on Forest Avenue.

According to the complaint, the wastewater treatment facility "discharges pollutants from a point source ... to the Pea River, a water of the state."

Permit violations and unpermitted discharge of pollutants carry a penalty of up to a maximum of \$25,000 per violation.

"A civil penalty is due to be assessed for the referenced violations," the complaint reads, however, it also states the violations are due to be abated by injunction.

The city will need to take action to ensure similar violations of the AWPCA do not recur.

The penalty to be assessed has not yet been determined.

ADEM is responsible for the enforcement of water pollution control regulations in accordance with the Federal Water Pollution Control Act and is authorized to administer and enforce the provisions of the AWPCA.

A permit, issued by ADEM to Elba in 1993, established limitations, terms and conditions on the discharge of pollutants from a point source to the Pea River.

Wastewater treatment facilities are required to report those numbers periodically back to the state.

The allegations against the city of Elba state the city is in violation of the limitations established by the permit.

According to the list of violations, the wastewater treatment facility had violations regarding carbonaceous biochemical oxygen demand (CBOD) percentage removal, fecal coliform and total suspended solids (TSS) percentage removal.

The permit requires a noncompliance notification report be submitted should a discharge not comply with any limitation of the permit and be submitted to the department with the next discharge monitoring report after becoming aware of the noncompliance.

The complaint said, "the defendant failed to file noncompliance reports."

The complaint also states the monitoring reports need to be submitted and received by the department no later

than the 28th day of the month following a reporting period. Monitoring reports were not received from Elba for 11 months between April 2008 and December 2009. Five other monitoring reports were received after their due dates.

An attorney for the Choctawhatchee Riverkeeper Inc., an organization that serves as an advocate for the Pea River, issued a letter of intent to file suit unless the violations were permanently abated within 60 days of issuing the letter, which was on Jan. 28.

In the letter, sent by environmental attorney David Ludder out of Tallahassee, Fla., the suit would be for \$37,500 per violation, of which he lists more than 2,000 violations, counting each day as a violation.

Because the state has filed with the courts, it takes precedence and the suit from the Choctawhatchee Riverkeeper, Inc. can not be pursued, Ludder said.

In contacting the city of Elba through its attorney Mary Katherine Head, city officials had no comment regarding the matter.