

# SUPER LAW GROUP, LLC

November 18, 2021

**Via E-mail and Certified Mail, Return Receipt Requested**

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The Water Works and Sewer Board of the City of Gadsden  
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Gadsden, AL 35901

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Mayor Sherman Guyton  
City of Gadsden  
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Re: Notice of Violation and Intent to File Suit under the Clean Water Act

Mr. Reed, Mr. Hare, and Honorable Mayor Guyton:

You are hereby notified that Coosa Riverkeeper, the Center for Biological Diversity, Advance Etowah, and Our Children's Earth Foundation ("Notifiers") intend to file suit against The Water Works and Sewer Board of the City of Gadsden ("the Board") for serious and ongoing violations of the Federal Water Pollution Control Act ("Clean Water Act" or "CWA").<sup>1</sup> Notifiers intend to file suit under the "citizen suit" provision of the Clean Water Act, Section 505(a),<sup>2</sup> as organizations and on behalf of their adversely affected members, in the United States District Court for the Northern District of Alabama seeking appropriate equitable relief and civil penalties 60 days from the postmark date of this letter.<sup>3</sup>

Notifiers intend to file their lawsuit because the Board regularly violates the Clean Water Act by discharging untreated sewage to the waters in and around Gadsden. For years, the Board has allowed sanitary sewers in Gadsden to fall into disrepair. Cracked and broken sewers, leaking manholes, uncleared blockages, pump station failures and other problems cause untreated sewage to discharge from manholes, underground breaks in sewer pipes, and other points. These sewer system defects also allow rainwater and groundwater to enter the sanitary sewer system, a problem referred to as "inflow and infiltration" (or "I&I"). The excess water in the system overwhelms the hydraulic capacity of sewer pipes, manholes, and other sewer infrastructure, leading to high volume overflows of untreated sewage. All of these sanitary

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<sup>1</sup> 33 U.S.C. § 1251 et seq.

<sup>2</sup> 33 U.S.C. § 1365(a).

<sup>3</sup> See 40 C.F.R. § 135.2(a)(3)(c) (notice of intent to file suit is deemed to have been served on the postmark date).

sewage overflows enter streets, homes, and ultimately the waters surrounding the City of Gadsden – the Coosa River, Neely Henry Lake, Big Wills Creek, Black Creek, and their tributaries and surrounding wetlands.

The Board has been issued two National Pollutant Discharge Elimination System (“NPDES”) permits that control discharges of sewage from the Board’s two sewer systems and sewage treatment plants. The Board’s failure to maintain its sanitary sewage infrastructure is itself a violation of the Board’s NPDES permits. In addition, the excessive inflow and infiltration in the sanitary sewers leads to multiple other violations of the law. Gadsden’s other violations of its NPDES permits and the Clean Water Act include:

- recurrent, unauthorized discharges of raw sewage from manholes and other points throughout the city to waters of the United States;
- continually misreporting the extent and effect of unauthorized sanitary sewer overflows;
- exceedances of numeric effluent limits on the discharge from the West River sewage treatment plant; and
- discharges of sewage that causes or contribute to violations of water quality standards in portions of the Coosa River, Black Creek, and Big Wills Creek.

Coosa Riverkeeper, the Center for Biological Diversity, Advance Etowah, and Our Children’s Earth Foundation are compelled to file suit in federal court to address the Board’s long history of violations and its inadequate responses to the dozens of raw sewage discharges that enter Gadsden’s streets and waters every year.

## I.

### **BACKGROUND**

#### **A. The Board Is Authorized to Discharge Sewage from Two Publicly Owned Treatment Works**

Under the Clean Water Act:

The term Publicly Owned Treatment Works or POTW means a treatment works as defined by section 212 of the Act, which is owned by a State or municipality . . . [it] includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also

includes sewers, pipes and other conveyances only if they convey wastewater to a POTW Treatment Plant.<sup>4</sup>

The Board operates two POTWs in Gadsden: on their NPDES permits, these POTWs are named the East River Wastewater Treatment Plant (“East River POTW”) and the West River Wastewater Treatment Plant (“West River POTW”). Both POTWs discharge into the Coosa River. Each POTW consists of both a sewage treatment plant (whose address is provided on the NPDES permit) and a network of sewers that connects homes and businesses to the plant.

Discharges from certain enumerated outfalls at the two POTWs to the Coosa River are authorized pursuant to the Board’s NPDES permits. The East River POTW is covered by permit number AL0022659, and the West River POTW is covered by permit number AL0053201.

Each of these NPDES permits contains terms and limitations regulating how and where the Board is authorized to discharge pollution from each POTW to the Coosa River. The outfalls listed in these NPDES permits are the only locations from which Gadsden is authorized to discharge pollution, and only if the discharges comply with all terms and limitations stated in the permit.

Each permit also contains other terms and limitations that regulate maintenance, monitoring, recordkeeping, and other matters, all designed to ensure that Gadsden’s sewers and sewage treatment plants are well maintained, well managed, and that problems are observed, reported accurately, and addressed in a timely manner. A citizen can bring suit to address any violation of any term of a NPDES permit and ensure compliance with all terms of the permit.<sup>5</sup>

## **B. The Problem of Inflow and Infiltration**

The environmental problems and Clean Water Act violations arising in the East River POTW and West River POTW that are the subject of this Notice all originate with a central problem: excessive inflow and infiltration.

Inflow generally refers to water other than wastewater—typically rain or snowmelt—that enters a sanitary sewer system through a direct connection to the sewer. Infiltration generally refers to other water that enters the sanitary sewer underground, for example through defects in the sewer pipes or other infrastructure. Infiltration can be long-term seepage of water into a sanitary sewer system from the water table, or a rapid increase in sanitary sewer flow during and immediately after a rainfall event due to rapidly rising groundwater. Inflow and infiltration may

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<sup>4</sup> 40 C.F.R. § 403.3(q); *see also* CWA 212(2)(A) and (B), 33 U.S.C. § 1292(2)(A) and (B) (A treatment works includes “sewage collection systems, pumping, power and other equipment, and their appurtenances” and “sanitary sewer systems.”); 33 U.S.C. § 1362(4) (defining “municipality” as any “public body created by or pursuant to State law and having jurisdiction over disposal of sewage . . .”).

<sup>5</sup> *See* 33 U.S.C. §§ 1365(a)(1) (allowing “any citizen” to commence a civil action against “any person” alleged to be in violation of “an effluent standard or limitation. . .”), 1365(f) (defining “effluent standard or limitation” to include, among other things, “a permit or condition of a permit issued under section 1342 of this title . . .,” i.e. a NPDES permit), 1365(a) (providing the federal district court with jurisdiction, among other things, to “enforce such an effluent standard or limitation”).

occur directly in the main sewer lines or in private sewer lines, including the private sewer “laterals” that connect individual buildings to the municipal sewers.<sup>6</sup>

Inflow and infiltration cause a cascade of environmental problems because sanitary sewer systems are not designed to collect large amounts of runoff from precipitation events or to provide widespread drainage. Sanitary sewers systems are built with some allowance for extraneous flow (i.e., inflow and infiltration), but large volumes of extraneous flow cause sanitary sewers to back up and overflow or overload the treatment plant and degrade its performance.

The Board’s sanitary sewer systems play a critical role in protecting human health and the environment. The purpose of sanitary sewers is to transport wastewater uninterrupted from its source to the treatment plants associated with the two POTWs. Proper operation and maintenance of the sewers is integral to ensuring that wastewater is collected, transported, and treated at the plants. Failure to adequately maintain sewers results in: blockages, backups, and overflows of untreated sewage; underground leakage of untreated sewage into groundwater (exfiltration) and of groundwater into sewer pipes (infiltration); other forms of reduced structural integrity; reduced capacity of the collection system; and reduced treatment plant performance because of inflow and infiltration-related hydraulic overloading.

**C. Permitted and Unpermitted Discharges of Pollution from the East River POTW and West River POTW**

As noted above, the NPDES permits issued to the Board for operation of the East River and West River POTW authorize the discharge of treated sewage for certain permitted outfalls that are located at the treatment plant in each POTW. But, in addition to discharging pollution from these permitted outfalls, the Board also discharges pollution from multiple point sources not authorized by its NPDES permits. That is, there are unpermitted discharges from the two POTWs.

Unpermitted discharges are caused by the Board’s failure to properly maintain its sewer infrastructure, including its failure to prevent excessive inflow and infiltration. Excessive inflow and infiltration cause overflows from the sewer system. Frequently, such “sanitary sewer overflows,” or “SSOs,” result in discharges of pollution to waters of the United States.

The most immediate health risks associated with SSOs to waters and other areas with a potential for human contact are associated with exposure to bacteria, viruses, and other pathogens. Human health impacts occur when people become ill due to contact with water or ingestion of water or shellfish that have been contaminated by SSO discharges. In addition, sanitary sewer systems can back up into buildings, including private residences. These discharges provide a direct pathway for human contact with untreated wastewater.

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<sup>6</sup> Notifiers intend to challenge the Board’s inadequate measures to prevent excessive inflow and infiltration from entering the system through private sewer laterals as a violation of the NPDES permits. The responsibility to address inflow and infiltration from sewer laterals is part of the Board’s duty, under the NPDES permits, to properly operate and maintain the POTWs, the violation of which is discussed further below.

SSOs are a systemic problem in Gadsden. The occurrence and severity of SSOs is directly caused by the Board's neglect of the sewer infrastructure. The Board is failing to regularly and adequately inspect, clean, and maintain parts of the two POTWs, and thus allows conditions to deteriorate to the extent that blockages, pipe leaks, equipment failures, and other sewer failures occur. These conditions cause SSOs both during peak flows (i.e., during rainstorms) and in dry weather.

SSOs have been a recurring problem in Gadsden for many years. The Alabama Department of Environmental Management ("ADEM") has repeatedly sent warning letters requiring the Board to provide explanations for its systemic SSO problem. In both 2014 and 2020, the Board informed ADEM that inflow and infiltration was the source of the issue. In the Municipal Wastewater Pollution Prevention Report that the Board submitted to ADEM in 2019, the Board described its sanitary sewers as experiencing "severe" inflow and infiltration. Because its significant SSO problem is still ongoing despite years of reports from the Board to ADEM indicating that the Board's repair, management, and rehabilitation efforts are "continual," it seems evident that the Board's efforts to manage, repair and rehabilitate its systems are insufficient.

Notifiers have drawn upon data published by ADEM to develop a disturbing picture of SSOs in the East River POTW and West River POTW. Figure 1 details 80 SSOs discharged from the Board's POTWs since November 2016 that Notifiers allege have reached surface waters. Although the Board reported to ADEM that just a handful of these SSOs reached surface waters and reported the majority as discharging to a "drainage ditch" or to "ground," Notifiers have reviewed the locations of these SSOs and their volumes and, based on that information, allege that these SSOs ultimately discharged to surface waters. Figure 2 details 69 SSOs that Gadsden has discharged to groundwater. Finally, Figure 3 details the dates and locations of five SSO events that Notifiers allege occurred in Gadsden but that the Board did not report to ADEM. Notifiers have identified 154 SSO events from November 2016 to July 2021.

According to an analysis of SSOs in Gadsden commissioned by Notifiers, the rate of SSOs and the nature of these SSOs suggests a systemic inflow and infiltration problem caused by the Board's failure to properly operate and maintain the POTW. This conclusion is informed by several lines of evidence.

First, Gadsden has a very high rate of SSOs compared to most sanitary sewer systems. SSO benchmarking data compiled for the American Society of Civil Engineers and the United States Environmental Protection Agency show typical annual SSO rates averaging 4.5 SSOs/100 miles and ranging up to 9.3 SSOs/100 miles within one standard deviation.<sup>7</sup> Well maintained sewer systems should have SSO rates below or near the average of 4.5 SSOs/100 miles of sewer. But in the last six years, Gadsden's best performance was in 2017, with 8.1 SSOs/100 miles of sewer. Gadsden's average rate of SSOs from 2015 through 2020 was 10.4 SSOs/100 miles, a six-year average that falls far short of the performance metrics set by the American Society of Civil Engineers and the EPA and indicates systemic problems. The problem is worst in the West

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<sup>7</sup> Black & Veatch LLP, American Society of Civil Engineers, U.S. Environmental Protection Agency Office of Wastewater Management, Optimization of Collection System Maintenance Frequencies and System Performance, EPA Cooperative Agreement #CX 824902-01-0, February 1999.

River POTW, which routinely experiences SSO rates approaching or exceeding two standard deviations above the mean (14.1 SSOs/100miles).

Second, SSOs are not just a persistent problem in Gadsden, they often recur in the same places. For example, the Board reported 15 wet weather SSOs at 400 North 6th Street between November 18, 2015, and January 23, 2019, and additional wet weather SSOs at three nearby locations (404 North 6th Street, 406 North 6th Street, and 301 North 6th Place). Other locations of recurrent SSOs include North 11th Street, Jackson Avenue, River Road, 1884 Rainbow Drive and 515 Bryan Street. Repeated SSOs in these locations indicate that the Board has not effectively addressed locations of known hydraulic capacity limitations through rehabilitation to increase capacity or eliminate I&I.

Third, blockages of sewer pipes appear widely distributed. Of 32 blockage-related SSOs in the West River POTW reported by the Board to ADEM between 2015 and 2019, only one location (799 Tarrant Court) experienced a repeat blockage. The distribution of blockages widely throughout the West River POTW suggests that the Board is not effective in carrying out routine operation and maintenance measures, such as pipe cleaning.

A review of the Board's Municipal Wastewater Pollution Prevention Reports shows that the asset management efforts detailed are generally reactive to SSOs, pump station failures, and pipe failures. Proactive asset management is considered best practice in the sanitary sewer industry to maintain a collection system within its useful service life, prevent structural or mechanical asset failures, prevent blockages, and prevent SSOs from occurring. The Board is not following best practice standards to reduce discharges of untreated sewage. The Board's reactive approach is unacceptable to Notifiers and to residents of Gadsden generally. The Board should not wait for sewer systems to fail and for untreated sewage to run into streets, into people's homes, and into the Coosa River before acting.

The information available to Notifiers is indicative of a systemic SSO problem in Gadsden that includes, but is not limited to, the SSO incidents identified above. The systemic SSO problem is caused by the Board's inadequate investments in maintenance and repairs. The problem is long standing and, despite past assurances from the Board to ADEM and to the public, has not been adequately addressed. Notifiers intend to sue because the Board's failure to apply industry best practice standards to maintain the sewer system violates the requirement of Section 301 of the Clean Water Act that sewage discharges must use the best available technology economically achievable to reduce pollution.

Considering these problems, the Board's attention and capital investment plans should be focused on its long-neglected sewers and treatment plants. But instead, the Board is focused on a new project that will add sewage waste to its overburdened, inadequately maintained POTWs. The Board has proposed to expand the capacity of its sewer lines in the area near the airport and Steele Station Road to accommodate a proposed poultry rendering plant that would discharge more than 600,000 gallons of wastewater to the Board's overloaded sewer system every day. This is despite the fact that the sewers connecting the proposed site to the West River POTW are already capacity constrained by inflow and infiltration, which results in wet weather SSOs and

violations of numeric effluent limits at the West River sewage treatment plant's main outfall, Outfall 0011.

The Board's current practices and repeated sanitary sewer overflows violate the Clean Water Act. The Board's attention should be on fixing the problems of an overloaded and overflowing sewer system; not exacerbating them. The Board's priority should be to keep sewage out of the streets and our waterways, but instead the Board seems to be prioritizing its desire to service potential new industrial users. The Board's highest priority should be to first fix what is broken and malfunctioning within the sewer system to protect residents, provide basic, decent, and sanitary service, and cease its ongoing and severe violations of the Clean Water Act.

Given the history of sewage overflows and inadequate maintenance, as well as the Board's focus on other issues instead of these dire problems, Notifiers believe it is necessary to initiate a citizen suit. Notifiers will seek a court order requiring the Board to cease its illegal discharges of raw sewage and substantially improve the condition and management of its sewers.

**D. The Problem of Inflow and Infiltration at the West River POTW Treatment Plant**

Excessive inflow and infiltration at the West River POTW result in violations of numeric effluent limitations contained in the POTW's NPDES permit for the discharge point at the West River Wastewater Treatment Plant, Outfall 0011. In March 2018, November 2018, December 2018, December 2019, and January 2020, the Board failed to meet its required CBOD5 percent removal limitation at this outfall. In March 2020, the Board failed to meet its required TSS percent removal limitation, and in October 2019, it exceeded its permitted limit for E. coli. For each of these noncompliance periods, the Board reported that inflow and infiltration was a cause of the violation. Like the systemic SSO problem in the sanitary sewers, the issues at the West River sewage plant are caused by the Board's inadequate investments in Gadsden's sewer infrastructure.

**II.**

**STANDARDS AND LIMITATIONS ALLEGED TO HAVE BEEN VIOLATED  
AND ACTIVITIES ALLEGED TO CAUSE VIOLATIONS**

**A. Unpermitted Discharges from Sanitary Sewer Overflows**

Section 301 of the Clean Water Act prohibits "the discharge of any pollutant by any person" to waters of the United States, unless the discharge complies with various enumerated sections of the Clean Water Act.<sup>8</sup> Among other things, Clean Water Act Section 301(a) prohibits discharges not authorized by, or in violation of the terms of, a permit issued pursuant to Section

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<sup>8</sup> CWA § 301 (33 U.S.C. § 1311).

402 of the Act [i.e., a NPDES permit].<sup>9</sup> All discharges that violate Sections 301 and/or 402 of the Act are enforceable by citizens pursuant to Section 505 of the Act.<sup>10</sup>

The Clean Water Act prohibits *unpermitted discharges* – i.e., any discharge of pollutants except through the outfalls designated in a NPDES permit.<sup>11</sup> The individual NPDES permits for the East River POTW and West River POTW also prohibit the discharge of pollutants from sources not expressly authorized:

The discharge of a pollutant from a source not specifically identified in the permit application for this permit and not specifically included in the description of an outfall in this permit is not authorized and shall constitute noncompliance with this permit.<sup>12</sup>

The discharge of raw sewage into waters of the United States from SSOs constitute such prohibited discharges. The Board is liable under the Clean Water Act for its unpermitted discharges of sewage into portions of the Coosa River (including Neely Henry Lake) and its tributaries (such as Big Wills Creek and Black Creek) and adjacent wetlands, which are all Waters of the United States.

The Board has violated the above-cited terms of its NPDES permits and the Clean Water Act on all the occasions and in all the locations listed in Figures 1 and 3, below, and on other dates as well. The SSOs in Figures 1 and 3 constitute at least 85 separate violations of the Board's permits and the Clean Water Act.

Further, in Part I.C of this notice, Notifiers identified 154 SSO events in Gadsden. These are indicative of a systemic SSO problem in the POTW caused by the Board's inadequate investments in maintenance and repairs. The SSOs form a recurrent and systemic pattern of Clean Water Act violations – namely, unpermitted discharges from the East River POTW and West River POTW in violation of Section 301 of the Act. The Board is in continuing violation of the Act because the underlying causes of these SSOs – inadequate maintenance combined with excessive inflow and infiltration – are unaddressed and will cause more SSOs throughout the East River POTW and West River POTW.

## **B. Failure to Maintain Sewage Infrastructure**

As noted above, adequate maintenance and management of the Board's sanitary sewers is essential to controlling inflow and infiltration, preventing sewer overflows, and forestalling problems at the sewage treatment plants. The individual NPDES permits for the East River

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<sup>9</sup> See id. §§ 301(a) and 402 (33 U.S.C. §§ 1311(a) and 1342).

<sup>10</sup> See CWA § 505(a) (33 U.S.C. 1365(a)) (“any citizen may commence a civil action on his own behalf ... against any person ... who is alleged to be in violation of ... an order issued by ... a State with respect to ... [an effluent standard or limitation under this chapter].”); (f)(1) (33 U.S.C. § 1365(f)(1)) (defining discharge without a permit or in violation of the conditions of a permit, either of which constitutes “an unlawful act under subsection (a) of section 1311,” as an “effluent standard or limitation” that citizens can enforce); and (f)(7) (33 U.S.C. § 1365(f)(7)) (defining a NPDES permit or a condition thereof as an “effluent standard or limitation” that citizens can enforce).

<sup>11</sup> CWA § 301 (33 U.S.C. § 1311).

<sup>12</sup> 2015 East River POTW Permit, Section II.D.1.c.; 2018 West River POTW Permit Section II.D.1.c.



POTW and West River POTW require that the Board 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.”<sup>13</sup> The permits clarify that “[p]roper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures.”<sup>14</sup>

Notifiers intend to bring suit because the Board has failed to properly operate and maintain its POTWs as required by the NPDES permits.<sup>15</sup> The Board’s failure to maintain its sewer infrastructure has allowed excessive infiltration and inflow into the East River POTW and West River POTW, causing SSOs. Additionally, the Board’s improper maintenance of its systems has resulted in blockages, pipe leaks, equipment failures, and other failures that lead to SSOs. The Board’s neglect of its POTWs therefore directly violates the terms of its individual NPDES permits, which mandate proper operation and maintenance. These permit violations also violate the Clean Water Act.

### **C. Inaccurate Sanitary Sewer Overflow and Other Reporting**

The individual NPDES permits for the East River POTW and West River POTW impose several reporting requirements on the Board in the event of an SSO. For instance, the Board must report to ADEM the cause, location, and ultimate destination of each SSO.<sup>16</sup> The Board’s NPDES permits require that “The Permittee shall keep an updated record of all known wastewater discharge points that are not authorized as outfalls, including but not limited to SSOs.”<sup>17</sup> Further, the NPDES permits also state that the Board shall report to ADEM annually, for each unpermitted instance of a discharge, “the ultimate destination of the flow (e.g. surface waterbody, municipal separate storm sewer to surface waterbody).”<sup>18</sup>

The Board has failed to state the ultimate destinations of multiple SSOs reported to ADEM. The Board repeatedly reports that SSOs discharge to storm drains and drainage ditches but fails to provide the name of the surface water that receives the flow from the storm drain or drainage ditch. The failure to accurately report these SSOs constitutes a violation of the Board’s NPDES permits and the Clean Water Act. Figures 1 and 2 detail SSOs that the Board has reported as flowing to storm drains and drainage ditches without identifying the ultimate destination of the discharge. The Board has failed, and continues to fail, to describe the ultimate destinations for its discharges.

Moreover, Notifiers are informed and believe that the Board has failed to report several SSOs to ADEM at all. Notifiers have received complaints from community members of SSOs that the Board has failed to report to ADEM. This failure to report likewise constitutes a

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<sup>13</sup> See 2015 East River POTW Permit, Section II.A.1; 2018 West River POTW Permit, Section II.A.1.

<sup>14</sup> *Id.*

<sup>15</sup> Notifiers intend to challenge the Board's inadequate measures to prevent excessive inflow and infiltration from entering the system through private sewer laterals as part of the Board’s failure to properly operate and maintain the POTWs.

<sup>16</sup> See 2015 East River POTW Permit, Section I.C.2.e.5; 2018 West River POTW Permit, Section I.C.2.e.5.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

violation of its NPDES permits and the Clean Water Act. Figure 3 details these unreported SSOs. Notifiers intend to file suit against the Board for violating these reporting requirements of the NPDES permits.

Additionally, the NPDES permits require the Board to conduct sampling for most pollutants at East River POTW Outfall 0011 and West River POTW Outfall 0011 more frequently than monthly, and report on results more frequently than monthly. But based on a review of the Board's discharge monitoring reports and non-compliance reports, it appears that the Board only reports one value per month for all such parameters. For example, at the East River POTW, Outfall 0011, the Board is required to measure and report on the daily values for flow, to sample three times weekly and report the data collected each day for E. coli and dissolved oxygen, and to sample three times weekly and report on the weekly average value for total suspended solids, various forms of nitrogen, phosphorus, and biological oxygen demand (BOD).<sup>19</sup> Similar requirements apply at the West River POTW.<sup>20</sup> However, a review of the discharge monitoring reports submitted by the Board indicates that the Board routinely provides just a single monthly value at both the East River POTW and West River POTW for each parameter that the Board is required to monitor for and report upon on a more frequent than monthly basis. Each failure to report on each parameter, at each less than monthly time interval, is a separate violation of the Clean Water Act. Notifiers intend to file suit against the Board for violating the reporting requirements of the NPDES permits related to discharges that must be sampled and reported on time scales shorter than one month.

#### **D. Groundwater Discharges**

The individual NPDES permits for the East River POTW and West River POTW prohibit the discharges of pollutants to groundwater.<sup>21</sup> To the extent that the raw sewage discharged by the Board during SSO events has actually been absorbed into the ground and failed to reach surface waters, as represented by the Board on multiple SSO reporting forms, these discharges too violate the NPDES permits for the East River POTW and West River POTW as these absorption events lead to the discharge of pollutants to groundwater. The Board has violated the above-cited terms of its NPDES permits and the Clean Water Act on all the occasions and in all the locations listed in Figure 2, below. The SSOs in Figure 2 constitute at least 69 separate violations of the Board's permits and the Clean Water Act. As noted above, SSOs in Gadsden are an ongoing and systemic problem and thus the Board's illegal discharges of pollutants to groundwater are an ongoing and continuous violation of the NPDES permits and the Clean Water Act. Notifiers intend to file suit against the Board for violating these limitations found in the NPDES permits.

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<sup>19</sup> See 2015 East River POTW Permit, Section I.A.1 and I.C.1.

<sup>20</sup> See 2018 West River POTW Permit, Section I.A.1 and I.C.1 (requiring daily calculation and reporting of flow, two day per week sampling and daily value reporting for dissolved oxygen, pH, chlorine, and E.coli, and two day per week sampling and weekly value reporting for suspended solids, nitrogen (total ammonia and total Kjeldahl) various forms), and biological oxygen demand.

<sup>21</sup> See 2015 East River POTW Permit, Section III.G; 2018 West River POTW Permit, Section III.G.

### **E. Violations of Water Quality Standards**

The Board's sanitary sewer overflows also violate the Board's NPDES permits because these discharges cause or contribute to violations of water quality standards set by the State of Alabama to protect the waters in and around Gadsden. The Clean Water Act requires that NPDES permits shall contain effluent limitations that will assure compliance with water quality standards.<sup>22</sup> EPA regulations states that such effluent limitations must be established for any discharge that may cause or contribute to a violation of water quality standards.<sup>23</sup> The effluent limits in the Board's NPDES permits include a prohibition on SSOs – compliance with this limit is necessary to assure compliance with water quality standards. Any SSO that causes or contributes to a violation of water quality standards at the point of discharge violates the terms of the relevant NPDES permit and the Clean Water Act.

As part of its water quality standards, Alabama sets numeric and narrative criteria for different water pollution parameters. A waterbody must meet these numeric and narrative criteria to support its designated uses. Waters whose use is designated by ADEM as "Fish and Wildlife" must be "suitable for fish, aquatic life and wildlife propagation."<sup>24</sup> Fish and Wildlife waters must meet several specific criteria. Sewage that is not effectively controlled under the ADEM waste treatment requirements is prohibited from reaching such waters.<sup>25</sup> Additionally, in non-coastal "Fish and Wildlife" waters, "bacteria of the E. coli group shall not exceed a geometric mean of 548 colonies/100 ml; nor exceed a maximum of 2,507 colonies/100 ml in any sample."<sup>26</sup>

Waters whose use is designated by ADEM as "Public Water Supply" may be used for drinking and food-processing purposes if subjected to ADEM-approved treatment.<sup>27</sup> Such waters may also be used for swimming and other whole body water-contact sports.<sup>28</sup> Sewage that is not effectively controlled under the ADEM waste treatment requirements is also prohibited from reaching these waters.<sup>29</sup> Additionally, in non-coastal Public Water Supply waters, "bacteria of the E. coli group shall not exceed a geometric mean of 548 colonies/100 ml; nor exceed a maximum of 2,507 colonies/100 ml in any sample," and, for incidental water contact and whole body water-contact recreation during the months of May through October, the geometric mean E. coli density "may not exceed 126 colonies/100 ml nor exceed a maximum of 298 colonies/100 ml in any single sample in non-coastal waters."<sup>30</sup>

Notifiers are informed and believe that the Board's SSOs listed in Figure 1 contain sewage that is not effectively controlled under ADEM waste treatment requirements and that these sewage discharges contain E. coli in concentrations that exceed the above-listed concentrations for Fish and Wildlife and Public Water Supply waters.

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<sup>22</sup> CWA § 402(a)(1) (33 U.S.C. § 1342(a)(1)) (referencing CWA § 302 (33 U.S.C. § 1312)).

<sup>23</sup> 40 C.F.R. § 122.44(d).

<sup>24</sup> ADEM Rule 335-6-10-.09(5)(b).

<sup>25</sup> ADEM Rule 335-6-10-.09(5)(e)(1).

<sup>26</sup> ADEM Rule 335-6-10-.09(5)(e)(7)(i).

<sup>27</sup> ADEM Rule 335-6-10-.09(2)(b).

<sup>28</sup> ADEM Rule 335-6-10-.09(2)(d).

<sup>29</sup> ADEM Rule 335-6-10-.09(2)(e)(1).

<sup>30</sup> ADEM Rule 335-6-10-.09(2)(e)(7).

The Board's SSOs have reached a segment of the Coosa River designated as a Fish and Wildlife water. Specifically, the portion of the river from McCardney's Ferry to the City of Gadsden's water supply intake has been designated by ADEM as a Fish and Wildlife water.<sup>31</sup> The Board's SSOs have caused untreated sewage to flow into this Fish and Wildlife waterbody. These SSOs thus violate the prohibition against the introduction of untreated sewage into Fish and Wildlife waterbodies and have violated the numeric standard related to E. coli, as there is no mixing zone at the point where the SSO reaches the Coosa River.

The Board's SSOs have also reached a segment of the Coosa River designated as a Public Water Supply water. Specifically, the portion of the river from City of Gadsden's water supply intake to the Weiss Dam powerhouse has been designated by ADEM as a Public Water Supply water.<sup>32</sup> The Board's SSOs have caused untreated sewage to flow into this Public Water Supply waterbody. These SSOs thus violate the prohibition against the introduction of untreated sewage into Public Water Supply waterbodies and have violated the numeric standard related to E. coli, as there is no mixing zone at the point where the SSO reaches the Coosa River.

The Board's SSOs also have contributed to the impairment of two different tributaries of the Coosa River. Both Black Creek and Big Wills Creek are Fish and Wildlife waters, are impaired for nutrients, and therefore have been placed on Alabama's 303(d) list of impaired waterbodies.<sup>33</sup> The Board's SSOs have reached these creeks, thereby adding excess nutrients to these waters and contributing to their continuing impairment.

Further, the entirety of Neely Henry Lake is designated as impaired by the State of Alabama due to nutrients; organic enrichment; high levels of oxygen demanding pollutants (measured as CBOD and NBOD) and resulting low dissolved oxygen levels; pH; and PCBs.<sup>34</sup> ADEM has prepared Total Maximum Daily Loads for Neely Henry Lake – plans that strictly limit the quantity of nutrients and other wastes that can be discharged into the lake. The plans note that sanitary sewer overflows can be significant sources of organic loading to Neely Henry Lake.<sup>35</sup> The plans determine the quantity or load of nutrients from sewage and other sources that can be discharged to the lake and allocate that load across different sewage plants and other sources. There is no allocation for sanitary sewer overflows. Every sanitary sewer overflow from the Board's POTWs that reaches any part of Neely Henry Lake violates the TMDL and contributes to the ongoing nutrient, organic enrichment, and dissolved oxygen impairments in the lake, thus violating both the terms of the NPDES permits and the Clean Water Act.

Finally, Alabama has adopted water quality standards for sewage discharges that apply to all waters in and around Gadsden at all times. This necessarily includes the nutrient impaired

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<sup>31</sup> ADEM Rule 335-6-11-.02(8).

<sup>32</sup> *Id.*

<sup>33</sup> 2020 Alabama §303(d) List, ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT, 6 (2020), <https://adem.alabama.gov/programs/water/wquality/2020AL303dList.pdf>.

<sup>34</sup> See, e.g., ADEM, "FINAL Total Maximum Daily Loads (TMDLs) for Neely Henry Lake (Nutrients, OE/DO & pH), Logan Martin Lake (Nutrients & OE/DO), Lay Lake (Nutrients & OE/DO), Mitchell Lake (Nutrients)" 2008 (<http://adem.alabama.gov/programs/water/wquality/tmdls/FinalCoosaLakesTMDLReport.pdf>).

<sup>35</sup> *Id.* at 21.

waters of Neely Henry Lake, Big Wills Creek, and Black Creek. These standards, codified at Section 335-6-10-.06(a)-(c) of the Alabama Administrative Code (2020), provide that:

- (a) State waters shall be free from substances attributable to sewage . . . that settle in forming bottom deposits which are unsightly, putrescent or interfere directly or indirectly with any classified water use.
- (b) State waters shall be free from floating debris, oil, scum, and other floating materials attributable to sewage . . . in amounts sufficient to be unsightly, or which interfere directly or indirectly with any classified water use.
- (c) State waters shall be free from substances attributable to sewage. . .in concentrations or combinations, which are toxic or harmful to human, animal, or aquatic life to the extent commensurate with the designated usage of such waters.

Many of the Board's sanitary sewer overflows violate these standards by causing unsightly bottom deposits and unsightly floating debris and scum on waters around Gadsden. And all of the Board's SSOs that reach Neely Henry Lake, Big Wills Creek, or Black Creek necessarily violate this standard by contributing to the existing impairments that, by definition, interfere with the designated uses of these waters. Thus, all of the Board's SSOs that reach a surface water are discharges that cause or contribute to a violation of several different water quality standards in all receiving waters, including but not limited to the impaired waters of Neely Henry Lake (the Coosa River), Black Creek and Big Wills Creek. And therefore, all of the Board's SSOs violate the Board's NPDES permits – which prohibit SSOs and any other discharges that cause or contribute to violations of water quality standards – and violate the Clean Water Act.

#### **F. Numeric Effluent Limit Violations at the West River POTW Treatment Plant**

As mentioned above, the Board has violated, and continues to violate, the CWA and its NPDES permit for the West River POTW whenever it fails to meet the numeric effluent limitations established for its sewage treatment plant outfall, Outfall 0011, in Part I of the West River NPDES permit. In March 2018, November 2018, December 2018, October 2019, December 2019, and January 2020, the Board failed to meet its required CBOD5 percent removal limitation at the West River POTW; in March 2020, the Board failed to meet its required TSS percent removal limitation; and in October 2019, it exceeded its permitted limit for e. coli. Each noncompliance event is a violation of the terms of the West River NPDES permit and of the Clean Water Act. The below figure details each noncompliance event:

<b>Date</b>	<b>Parameter</b>	<b>Outfall</b>	<b>Effluent Limitation</b>	<b>Sample Result</b>
March 2018	CBOD5 Percent Removal	0011	85%	80%

November 2018	CBOD5 Percent Removal	0011	85%	84%
December 2018	CBOD5 Percent Removal	0011	85%	83%
October 2019	E. Coli	0011	298 col/100mL	1966 col/100mL
December 2019	CBOD5 Percent Removal	0011	85%	82%
January 2020	CBOD5 Percent Removal	0011	85%	80%
March 2020	TSS Percent Removal	0011	85%	81.40%

As noted above, the Board has attributed these effluent limit violations to excessive inflow and infiltration. Accordingly, the violations of numeric effluent limitations at the West River treatment plant, Outfall 0011, are continuing violations of the NPDES permit and the Clean Water Act and will continue as long as inflow and infiltration remain a problem in Gadsden.

### III.

#### **PERSONS RESPONSIBLE FOR ALLEGED VIOLATIONS**

The person responsible for the violations alleged in this Notice is The Water Works and Sewer Board of the City of Gadsden (“the Board”). The Board is a municipal corporation of the City of Gadsden, a “municipality” as defined in section 502(4) of the Act, 33 U.S.C. § 1362(4), incorporated under the laws of the State of Alabama.

Notifiers hereby put the Board on notice that if Notifiers subsequently identify additional persons as also being responsible for the violations set forth above, Notifiers intend to include those persons in this action.

### IV.

#### **LOCATION OF THE ALLEGED VIOLATION**

The violations alleged in this Notice have occurred and continue to occur throughout the East River POTW and West River POTW, at all points where inflow and infiltration enter the POTWs, at the treatment plants associated with the POTWs, at the unpermitted discharge points from the POTWs identified above in Part II.A and in Figures 1-3 below, and at all other unpermitted sanitary sewer overflow points from which discharges of pollution from the POTWs have reached waters of the United States and/or groundwater. The failures to accurately report SSOs are violations occurring in general and in the inadequate reports themselves.

**V.****DATES OF VIOLATION**

First, every day upon which the Board fails to properly operate and maintain the East River POTW is a separate violation of CWA Section 301(a) and the Board's individual NPDES permit. Similarly, each such day is a separate day of violation with respect to the West River POTW.

Second, the violations noted in Part II. A of this Notice relating to unpermitted discharges from the East River POTW and West River POTW have occurred during all instances of sanitary sewer overflows that reach waters of the United States and/or groundwater. The Board is better positioned than Notifiers to comprehensively catalogue all dates on which such violations have occurred, but based on public reporting of sanitary sewer overflows, as well as Notifiers' own observations, Notifiers can inform the Board that such violations have occurred on at least the dates provided in Figures 1, 2, and 3. These SSO violations will continue to recur at points throughout the East River POTW and West River POTW, and thus are ongoing.

Third, the Board has violated its NPDES permits and the Clean Water Act each time it fails to comply with the reporting requirements of its permits. Notifiers allege that the Board has failed to accurately report its SSOs on numerous occasions, including the dates in Figure 1 describing SSOs that flow to drainage ditches and storm drains where the Board has not provided the ultimate destination of the discharge, and including the dates in Figure 3, which describe SSOs that the Board has failed to report to ADEM. Further, with respect to the allegations above that the Board has failed to properly monitor and report on its discharges of pollutants at both the East River POTW and the West River POTW that must be sampled and reported on time scales shorter than one month, Notifiers allege that these violations have occurred at each POTW in every month since November 2016. These particular violations will continue until the Board corrects its inaccurate reports in these instances, and these violations form a recurring and continuing pattern of non-compliance both as to the SSO reporting requirements and the more-frequently-than-monthly reporting requirements for pollutants at Outfalls 0011 at the East River and West River POTWs.

Fourth, the Board violates its NPDES permits and the Clean Water Act on each day of each recordkeeping period in which the Board fails to comply with the numeric effluent limitations in its permits, including the effluent limitations for Outfall 0011 at the West River POTW. Notifiers allege that these violations have occurred on all days in March 2018, November 2018, December 2018, December 2019, January 2020, and March 2020, and form a recurring and thus continuing pattern of numeric effluent limit violations.

Fifth, the Board has violated its NPDES permits and the Clean Water Act each time it discharges raw sewage that cause or contribute to exceedances of the applicable water quality standards. Notifiers allege that these violations have occurred every day that the Board's unpermitted discharges reach surface waters (specifically, all dates specified in Figures 1 and 3), and are continuing.

The Board is liable for the above-described violations occurring prior to the date of this letter, and for every day after the date of this letter that these violations continue. In addition to the violations set forth above, this Notice covers all violations of the CWA evidenced by information that becomes available to Notifiers after the date of this Notice.<sup>36</sup> All of the above violations are ongoing and barring full compliance with the permitting requirements of the Clean Water Act – which will require removal of significant volumes of I&I from the Board’s sewer system – these violations will continue.

## VI.

### **RELIEF REQUESTED**

Notifiers will ask the court to order the Board to comply with the CWA, to pay penalties, and to pay Notifiers’ costs and legal fees.

First, Notifiers will seek declaratory relief and injunctive relief to prevent further violations of the Clean Water Act pursuant to Sections 505(a) and (d) and such other relief as permitted by law. In particular, Notifiers will seek an injunction requiring the Board to comply with the terms of its permits, to stop sanitary sewer overflows and to significantly increase the rate of repairs and rehabilitation, improve its operations and maintenance practices, and take all other measures necessary to remove inflow and infiltration from the East and West River POTWs. These changes are necessary to stop sewer overflows, achieve compliance with the terms of the Board’s NPDES permits, and protect the waters of the Coosa River and its tributaries.

Second, pursuant to Section 309(d) of the CWA, each separate violation of the CWA subjects the Board to a penalty not to exceed \$56,460 per day for each violation.<sup>37</sup>

Third and lastly, pursuant to Section 505(d) of the CWA, Notifiers will seek recovery of litigation fees and costs (including reasonable attorney and expert witness fees) associated with this matter.<sup>38</sup>

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<sup>36</sup> See, e.g., *Public Interest Research Grp. v. Hercules, Inc.*, 50 F.3d 1239, 1248-49 (3d Cir.1995) (a notice that adequately identifies specific violations to a potential defendant also covers repeated and related violations that the plaintiff learns of later. “For example, if a permit holder has discharged pollutant ‘x’ in excess of the permitted effluent limit five times in a month but the citizen has learned only of four violations, the citizen will give notice of the four violations of which the citizen then has knowledge but should be able to include the fifth violation in the suit when it is discovered.”).

<sup>37</sup> 33 U.S.C. § 1319(d); see also 40 C.F.R. § 19.4 (Adjustment of Civil Monetary Penalties for Inflation).

<sup>38</sup> 33 U.S.C. § 1365(d).



**VII.**

**PERSONS GIVING NOTICE**

The full name, address, and telephone number of the persons giving notice are as follows:

Coosa Riverkeeper  
102-B Croft St.  
Mt Laurel, AL 35242  
(205) 981-6565

Center for Biological Diversity  
P.O. Box 710  
Tucson, AZ 85702-0710  
(520) 623-5252

Advance Etowah  
3331 Rainbow Drive, Suite E,  
PMB 107  
Rainbow City, AL 35906  
(256) 467-7010

Our Children's Earth Foundation  
1625 Trancas St. #2218  
Napa, CA 94558-9998  
(510) 910-4535

**VIII.**

**IDENTIFICATION OF COUNSEL**

Notifiers are represented by legal counsel in this matter. The name, address, and telephone number of Notifiers' attorneys are:

Edan Rotenberg  
Benjamin Pierce  
Super Law Group, LLC  
110 Wall Street  
New York, New York 10005  
(212) 242-2355

Christie D. Knowles, Esq. (KNO015)  
Megan Phillips Huizinga, Esq. (PHI091)  
Knowles & Sullivan, LLC  
413 Broad Street  
Gadsden, AL 35901  
256-547-7200

Hannah Connor  
Center for Biological Diversity  
1411 K Street NW, Suite 1300  
Washington, DC 20005  
(202) 681-1676

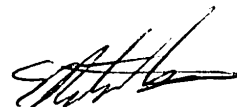
**XI.**

**CONCLUSION**

The foregoing provides more than sufficient information to permit the Board to identify the specific standard, limitation, or order alleged to have been violated, the activities alleged to constitute violations, the person or persons responsible for the alleged violations, the locations of the alleged violation, the date or dates of such violations, and the full name, address, and telephone number of the persons giving notice.<sup>39</sup>

During the sixty-day notice period, Notifiers are willing to discuss effective remedies for the violations noted in this letter that may avoid the necessity of protracted litigation. If the Board wishes to pursue such discussions, please contact the undersigned attorney immediately. We do not intend to delay the filing of a complaint in federal court, regardless of whether discussions are continuing at the conclusion of the sixty days.

Very truly yours,



Edan Rotenberg  
Super Law Group, LLC  
110 Wall Street  
New York, New York 10005  
(212) 242-2355

Hannah Connor  
Center for Biological Diversity  
1411 K Street NW, Suite 1300  
Washington, DC 20005  
(202) 681-1676

Christie Knowles (KNO015)  
Megan Phillips Huizinga (PHI091)  
Knowles & Sullivan, LLC  
413 Broad Street  
Gadsden, AL 35901  
(256) 547-7200

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<sup>39</sup> 40 C.F.R. §§ 135.3(a), 254.3(a).

cc:

Michael S. Regan, Administrator  
Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460  
regan.michael@epa.gov  
(via certified mail, return receipt and e-mail)

John Blevins, EPA Region 4 Acting Administrator  
U.S. EPA Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, GA 30303-8960  
blevins.john@epa.gov  
(via certified mail, return receipt and e-mail)

Lance R. LeFleur, Director  
Alabama Department of Environmental Management  
1400 Coliseum Boulevard  
Montgomery, AL 36110-2400  
llefleur@adem.alabama.gov  
(via certified mail, return receipt and e-mail)

Congressman Robert B. Aderholt  
600 Broad St. Ste. 107  
Gadsden, AL 35901

Sen. Andrew Jones  
11 S. Union St. Ste. 733  
Montgomery, AL 36130

Rep. Craig Lipscomb  
11 S. Union St. Ste. 526-D  
Montgomery, AL 36130

Rep. Gill Isbell  
11 S. Union St. Ste. 434  
Montgomery, AL 36130

**Figure 1: SSOs Alleged to Discharge to Surface Waters**

POTW	Start Date	Volume (gal)	Location	Latitude	Longitude	Destination of Discharge as reported to ADEM by Gadsden	Alleged Destination of Discharge
East River POTW	6/23/17	360	1124 Stillman Ave.	34.0009	-85.9807	Storm Drain	Coosa River
East River POTW	12/14/17	180	1115 Stillman Ave	34.00094	-85.980786	Storm Drain	Coosa River
East River POTW	3/2/18	20	409 Herzberg Circle	34.0036	-85.9927	Ground Absorbed	Coosa River
East River POTW	12/9/18	3600	499 7th St S	34.002313	-85.991073	Ground Absorbed	Coosa River
East River POTW	12/28/18	6000	703 George Wallace Dr	33.999664	-85.993347	Ground Absorbed	Coosa River
East River POTW	12/28/18	4800	499 7th St S	34.002308	-85.991062	Ground Absorbed	Coosa River
East River POTW	1/4/19	7800	499 S 7th St	34.002313	-85.991073	Ground Absorbed, Drainage Ditch	Coosa River
East River POTW	1/19/19	3600	701 George Wallace Drive	33.999634	-85.993408	Ground Absorbed	Coosa River
East River POTW	2/19/19	4500	701 George Wallace Drive	33.999634	-85.993408	Ground Absorbed	Coosa River
East River POTW	2/21/19	1,000 ≥ gallons <10,000	701 George Wallace Drive	33.999634	-85.993408	Ground Absorbed	Coosa River
East River POTW	2/22/19	1,000 ≥ gallons <10,000	701 George Wallace Drive	33.999634	-85.993408	Ground Absorbed	Coosa River
East River POTW	3/24/21	3750	509 College Parkway	33.971727	-85.965201	Ground Absorbed	Coosa River
West River POTW	11/2/16	1800	4644 Airport Rd	33.9872	-86.0784	Ground Absorbed, Drainage Ditch	Big Wills Creek
West River POTW	12/7/16	540	301 S 11th St	34.0157	-86.0181	Storm Drain	Coosa River
West River POTW	12/21/16	540	101 Commerce Pkwy	33.9965	-86.0706	Ground Absorbed	Big Wills Creek

West River POTW	1/23/17	2400	92 River Rd.	33.9947	-86.0022	Ground Absorbed	Coosa River
West River POTW	1/23/17	720	124 River Rd.	33.9947	-86.0022	Ground Absorbed	Coosa River
West River POTW	4/3/17	1800	94 River Rd	33.9934	-86.0012	Ground Absorbed	Coosa River
West River POTW	4/3/17	1440	400 N. 6th St.	34.0185	-86.0054	Drainage Ditch	Coosa River
West River POTW	5/15/17	540	338 Howell Cir	34.0148	-86.0693	Ground Absorbed	Big Wills Creek
West River POTW	5/24/17	720	400 N. 6th St.	34.0185	-86.0054	Drainage Ditch	Coosa River
West River POTW	6/14/17	400	Manhole #517 901 Rainbow Drive	33.9897	-86.0027	Storm Drain	Coosa River
West River POTW	6/28/17	5700	4698 Airport Rd.	33.9836	-86.0784	Ground Absorbed, Drainage Ditch	Big Wills Creek
West River POTW	6/30/17	1800	430 N. 6th St.	34.0186	-86.0055	Drainage Ditch	Coosa River
West River POTW	11/20/17	7600	4699 Airport Rd.	33.984963	-86.078638	Ground Absorbed, Drainage Ditch	Big Wills Creek
West River POTW	12/20/17	540	400 N. 6th St	34.018818	-86.00554	Drainage Ditch	Coosa River
West River POTW	2/7/18	720	400 N. 6th Street	34.018576	-86.005451	Drainage Ditch	Coosa River
West River POTW	2/11/18	1800	400 N. 6th St.	34.018579	-86.005447	Drainage Ditch	Coosa River
West River POTW	2/13/18	600	905 Brookside Dr.	34.025731	-86.004042	Ground Absorbed, Drainage Ditch	Coosa River
West River POTW	2/13/18	1440	1282 Rainbow Drive	33.984223	-86.004986	Ground Absorbed, Drainage Ditch	Coosa River
West River POTW	5/2/18	720	702 Tarrant Ct.	34.018349	-86.007709	Ground Absorbed	Coosa River
West River POTW	5/16/18	9000	4689 Airport Rd.	33.983593	-86.079006	Ground Absorbed	Big Wills Creek
West River POTW	6/19/18	180	2312 Sansom Ave.	34.021813	-86.039014	Storm Drain	Black Creek

West River POTW	8/8/18	4320	2200 Industrial Avenue	34.024626	-86.037287	Ground Absorbed	Black Creek
West River POTW	9/27/18	360	1323 Jackson Ave., MH#4595	34.003303	-86.035428	Ground Absorbed	Black Creek
West River POTW	11/12/18	600	23 River Road	33.991116	-86.002677	Ground Absorbed	Coosa River
West River POTW	11/12/18	1800	93 River Road	33.993492	-86.001231	Coosa River, Lake Neely Henry	Coosa River
West River POTW	12/1/18	180	400 N. 6th St.	34.018576	-86.005451	Ground Absorbed	Coosa River
West River POTW	12/8/18	4200	400 N 6th St	34.018576	-86.005451	Ground Absorbed	Coosa River
West River POTW	12/28/18	180	1329 Jackson Ave.	34.0033	-86.035429	Ground Absorbed, Drainage Ditch	Black Creek
West River POTW	12/28/18	2400	404 N. 6th St.	34.018822	-86.005534	Ground Absorbed, Drainage Ditch	Coosa River
West River POTW	12/28/18	300	AL - 759 E	33.993507	-86.001185	Ground Absorbed	Coosa River
West River POTW	1/4/19	3150	400 N 6th Street	34.018576	-86.005451	Ground Absorbed	Coosa River
West River POTW	1/19/19	1950	400 N. 6th St.	34.018576	-86.005451	Ground Absorbed	Coosa River
West River POTW	1/23/19	3900	400 N. 6th St	34.018576	-86.005451	Ground Absorbed, Drainage Ditch	Coosa River
West River POTW	2/17/19	2520	406 N. 6th Street	34.018938	-86.005605	Ground Absorbed, Storm Drain	Coosa River
West River POTW	2/19/19	8400	4688 Airport Road	33.9836	-86.078462	Ground Absorbed	Big Wills Creek
West River POTW	2/19/19	10,000 ≥ gallons < 25,000	406 N. 6th Street	34.018938	-86.005605	Ground Absorbed, Storm Drain	Coosa River
West River POTW	2/21/19	450	1324 Jackson Avenue	34.003326	-86.035375	Ground Absorbed, Drainage Ditch	Black Creek
West River POTW	2/21/19	900	4688 Airport Road	33.9836	-86.078462	Ground Absorbed	Big Wills Creek

West River POTW	2/22/19	750	1324 Jackson Avenue	34.003326	-86.035375	Ground Absorbed, Drainage Ditch	Black Creek
West River POTW	10/25/19	8325	402 N 11th Street	34.002364	-86.017063	Ground Absorbed	Coosa River
West River POTW	10/25/19	5325	301 N 6th Pl	34.018569	-86.005405	Ground Absorbed	Coosa River
West River POTW	12/22/19	9200	301 N 6th Place	34.018569	-86.005405	Ground Absorbed	Coosa River
West River POTW	12/23/19	1400	4688 Airport Road	33.9836	-86.078462	Ground Absorbed	Big Wills Creek
West River POTW	12/23/19	4875	1884 Rainbow Drive	33.975872	-86.009752	Ground Absorbed	Coosa River
West River POTW	2/6/20	7700	301 N 6th Place	34.018569	-86.005405	Ground Absorbed	Coosa River
West River POTW	2/20/20	450	103 Goldenrod Ave	34.038836	-85.973911	Ground Absorbed	Coosa River
West River POTW	2/21/20	250	204 Waterford Lane	33.986998	-86.020348	Ground Absorbed	Coosa River
West River POTW	2/20/20	6450	406 N 6th St	34.018936	-86.005628	Ground Absorbed	Coosa River
West River POTW	2/21/20	25,000 < 50,000 gal	1884 Rainbow Drive	33.977	-86.008813	Coosa River	Coosa River
West River POTW	2/25/20	6000	1884 Rainbow Drive	33.977	-86.008813	Coosa River	Coosa River
West River POTW	3/5/20	6600	406 N 6th St	34.018936	-86.005628	Ground Absorbed	Coosa River
West River POTW	3/5/20	25,000 < 50,000	1884 Rainbow Drive	33.977	-86.008813	Coosa River	Coosa River
West River POTW	4/2/20	1670	2816 Forrest Avenue	34.018416	-86.048041	Ground Absorbed	Black Creek
West River POTW	4/2/20	8870	153 S 29th Street	34.018458	-86.048989	Ground Absorbed	Black Creek
West River POTW	9/4/20	930	1113 Tidmore Bend Road	34.025801	-85.960508	Ground Absorbed	Coosa River

West River POTW	10/16/20	< 1,000 gal	Manhole before Pump Station	34.000631	-86.08755	Ground Absorbed	Big Wills Creek
West River POTW	11/2/20	30000	970 Hadwen Street	34.032706	-85.964387	Ground Absorbed, Drainage Ditch	Coosa River
West River POTW	12/7/20	1800	25 Lakefront Avenue	34.024642	-86.037262	Ground Absorbed, Drainage Ditch	Black Creek
West River POTW	12/24/20	1,000 < gallons ≤ 10,000	4688 Airport Road, MH #133	33.9836	-86.078462	Ground Absorbed	Big Wills Creek
West River POTW	1/26/21	840	1811 Truman Street	34.00225	-86.032111	Ground Absorbed	Black Creek
West River POTW	2/1/21	300	273 Walker St	34.000627	-86.087543	Ground Absorbed	Big Wills Creek
West River POTW	2/26/21	2250	408 N 30th Street	34.023061	-86.051659	Ground Absorbed, Storm Drain	Black Creek
West River POTW	3/1/21	800	111 Lakepoint Drive	33.982117	-86.00755	Ground Absorbed	Coosa River
West River POTW	3/25/21	< 1,000 gal	4688 Airport Road; Manhole #133	33.9836	-86.078462	Ground Absorbed	Big Wills Creek
West River POTW	3/30/21	9000	4134 Brooke Avenue	34.000844	-86.074344	Ground Absorbed	Big Wills Creek
West River POTW	3/31/21	6300	108 S 21st Street	34.019116	-86.032874	Ground Absorbed	Black Creek
West River POTW	3/31/21	2562	200 Princeton Avenue	34.031671	-85.978251	Ground Absorbed	Coosa River
West River POTW	3/31/21	3660	327 Princeton Avenue	34.031717	-85.976045	Ground Absorbed	Coosa River



**Figure 2: SSOs Discharged to Groundwater**

POTW	Start Date	Volume of Release (gal)	Location	Latitude	Longitude	Destination of Discharge as reported to ADEM by Gadsden
East River POTW	12/4/16	2880	1125 Bonton Ave., Gadsden, Al	33.9965	-85.9611	Drainage Ditch
East River POTW	1/27/17	3600	1407 Rhea St., Gadsden, Al	33.9965	-85.9602	Drainage Ditch
East River POTW	3/9/17	6600	1407 Rhea St., Gadsden, Al	33.9965	-85.9601	Drainage Ditch
East River POTW	4/3/17	1440	2803 E. Broad St., Gadsden, Al	33.977	-85.9544	Drainage Ditch
East River POTW	4/5/17	540	2803 E. Broad St., Gadsden, Al	33.977	-85.9544	Drainage Ditch
East River POTW	4/10/17	180	608 Magnolia Ave., Gadsden, Al	33.9905	-85.9889	Ground Absorbed
East River POTW	5/19/17	60	610 Magnolia Ave., Gadsden, Al	33.9905	-85.9889	Ground Absorbed
East River POTW	6/28/17	1200	1400 Poplar St.	33.9965	-85.9611	Drainage Ditch
East River POTW	7/24/17	120	100 20th St. N, Gadsden, Al	33.992	-85.9718	Ground Absorbed, Drainage Ditch
East River POTW	8/11/17	240	1124 Bonton Ave	33.9966	-85.9612	Drainage Ditch
East River POTW	3/24/18	900	860 Goodyear Ave	34.009556	-85.973074	Ground Absorbed
East River POTW	6/25/18	300	235 Riverside Drive	33.985641	-85.988189	Ground Absorbed
East River POTW	8/24/18	240	608 Magnolia Ave	33.990525	-85.988986	Ground Absorbed
East River POTW	12/28/18	2400	2822 E Broad St	33.977101	-85.954473	Ground Absorbed
East River POTW	1/18/19	1200	1798 Woodside Avenue	33.993908	-85.949837	Ground Absorbed
East River POTW	3/1/19	900	3201 Gurley Avenue	33.969456	-85.949946	Ground Absorbed

East River POTW	10/16/19	125	1102 Raley Street	34.000933	-85.964283	Ground Absorbed
East River POTW	10/25/19	1890	3211 Calhoun Drive	33.969376	-85.952183	Ground Absorbed
East River POTW	10/30/19	1525	3211 Calhoun Drive	33.969376	-85.952183	Ground Absorbed
East River POTW	10/31/19	510	103 Margaret Street	33.975722	-85.954149	Ground Absorbed
East River POTW	12/22/19	4800	103 Margaret Street	33.975722	-85.954149	Ground Absorbed
East River POTW	1/2/20	4800	103 Margaret Street	33.975722	-85.954149	Ground Absorbed
East River POTW	2/6/20	500	123 Brookwood Street	33.997008	-85.974159	Ground Absorbed
East River POTW	6/17/20	250	225 Riverside Drive	33.985978	-85.988222	Ground Absorbed
East River POTW	10/28/20	900	2822 East Broad Street	33.977101	-85.954448	Ground Absorbed
East River POTW	10/28/20	5360	977 Gray Road	33.974288	-85.955308	Ground Absorbed
East River POTW	10/28/20	3600	2818 Fields Avenue	33.977405	-85.953169	Ground Absorbed
East River POTW	3/31/21	600	1102 Slusser Avenue	34.002083	-85.978421	Ground Absorbed
East River POTW	4/26/21	250	1336 Merrhyll Avenue	33.991243	-85.984217	Ground Absorbed
West River POTW	4/3/17	1440	405 N. 11th St.	34.0225	-86.017	Drainage Ditch
West River POTW	4/11/17	600	405 N. 11th St.	34.0225	-86.0174	Ground Absorbed, Drainage Ditch
West River POTW	4/13/17	180	31 Cabot Ave.	34.0305	-86.0433	Ground Absorbed
West River POTW	12/20/17	3600	515 Bryan St	34.011566	-86.061387	Drainage Ditch
West River POTW	12/20/17	540	401 N 11th St	34.022503	-86.017078	Drainage Ditch

West River POTW	2/7/18	720	408 N. 11th Street	34.02241	-86.017082	Drainage Ditch
West River POTW	2/8/18	1200	199 Silvey St., Rainbow City, AL	33.959398	-86.034912	Drainage Ditch
West River POTW	2/11/18	1800	401 N. 11th St.	34.022406	-86.01707	Drainage Ditch
West River POTW	2/11/18	4800	515 Bryan St. Pump Station	34.011572	-86.061386	Drainage Ditch
West River POTW	6/28/18	1200	597 Van del Blvd.	34.011204	-86.053899	Ground Absorbed, Drainage Ditch
West River POTW	7/4/18	100	Rosemount Pump Station, 3800 Roselawn Drive, Gadsden, AL 35904	34.0198	-86.0659	Ground Absorbed
West River POTW	12/29/18	1200	2476 Chestnut St.	34.015184	-86.041939	Ground Absorbed, Drainage Ditch
West River POTW	1/4/19	1500	400 N 11th Street	34.022393	-86.017098	Ground Absorbed, Drainage Ditch
West River POTW	1/19/19	7800	408 N. 11th St.	34.022393	-86.017098	Ground Absorbed, Drainage Ditch
West River POTW	1/23/19	9450	408 N. 11th St	34.022393	-86.017098	Ground Absorbed, Drainage Ditch
West River POTW	1/24/19	150	28 Cabot Avenue	34.030287	-86.042376	Ground Absorbed
West River POTW	2/17/19	9600	404 N. 11th Street	34.022398	-86.017107	Ground Absorbed, Drainage Ditch
West River POTW	2/19/19	25,000 $\geq$ gallons <50,000	404 N. 11th Street	34.022398	-86.017107	Ground Absorbed, Drainage Ditch
West River POTW	5/31/19	50	Morningview Drive	34.044215	-85.954667	Ground Absorbed
West River POTW	6/5/19	75	419 Roslyn Drive	34.044995	-85.954333	Ground Absorbed
West River POTW	10/25/19	315	419 Roslyn Drive	34.044575	-85.954022	Ground Absorbed
West River POTW	12/4/19	3150	912 Willow Street	34.009409	-86.02343	Ground Absorbed

West River POTW	12/22/19	7875	402 N 11th Street	34.022364	-86.017063	Ground Absorbed
West River POTW	12/23/19	2660	515 Bryan Street	34.011571	-86.061395	Ground Absorbed
West River POTW	2/6/20	9175	402 N 11th St	34.022364	-86.017063	Ground Absorbed
West River POTW	2/10/20	6780	402 N 11th Street	34.022364	-86.017063	Ground Absorbed
West River POTW	2/20/20	8000	402 N 11th St	34.022364	-86.017063	Ground Absorbed
West River POTW	3/5/20	6450	402 N 11th St	34.022364	-86.017063	Ground Absorbed
West River POTW	3/23/20	6400	402 N. 11th Street	34.022364	-86.017063	Ground Absorbed
West River POTW	4/13/20	4800	515 Bryan Street	34.011566	-86.061469	Ground Absorbed
West River POTW	4/23/20	675	402 N 11th Street	34.022364	-86.017063	Ground Absorbed
West River POTW	10/29/20	2520	404 N 11th Street	34.02242	-86.017102	Ground Absorbed, Drainage Ditch
West River POTW	10/29/20	5625	1690 S 11th Street	33.996104	-86.030954	Ground Absorbed
West River POTW	11/23/20	1800	463 Roslyn Drive	34.044245	-85.954856	Ground Absorbed
West River POTW	2/25/21	720	904 Willow Street	34.010059	-86.023322	Ground Absorbed
West River POTW	3/25/21	1150	996 4th Avenue	34.015045	-86.016057	Ground Absorbed
West River POTW	3/25/21	1100	2300 Hickory Street	34.003547	-86.036654	Ground Absorbed
West River POTW	7/8/21	960	404 N 11th Street	34.022406	-86.01728	Ground Absorbed; Drainage Ditch
West River POTW	7/27/21	5500	4610 Airport Road	33.990206	-86.078375	Ground Absorbed; Drainage Ditch
West River POTW	9/20/21	2610	11 W Tuscaloosa Avenue	34.02912	-86.045566	Ground Absorbed

**Figure 3: Dates of Unreported SSOs Alleged to Discharge to Surface Waters**

<b><u>Date</u></b>	<b><u>Location</u></b>	<b><u>Destination of Discharge</u></b>
2/26/21	N 30th St & W Meighan Blvd	Black Creek
3/24/21	Airport Road & Anita Lane	Bill Wills Creek
3/27/21	1 River Rd	Coosa River
4/24/21	Forrest Ave & S 21st St	Black Creek
5/4/21	Airport Road & Anita Lane	Bill Wills Creek