



AlaFile E-Notice

61-CV-2016-900310.00

Judge: WM E HOLLINGSWORTH III

To: SARAH MCCARRON STOKES
sstokes@selcal.org

NOTICE OF ELECTRONIC FILING

IN THE CIRCUIT COURT OF TALLADEGA COUNTY, ALABAMA

STATE OF ALABAMA ET AL V. OXFORD WATER WORKS AND SEWER BOARD
61-CV-2016-900310.00

The following matter was FILED on 10/3/2016 5:15:47 PM

ZI COOSA RIVERKEEPER, INC.

MOTION TO INTERVENE

[Filer: STOKES SARAH MCCARRON]

Notice Date: 10/3/2016 5:15:47 PM

BRIAN YORK
CIRCUIT COURT CLERK
TALLADEGA COUNTY, ALABAMA
P O BOX 6137
TALLADEGA, AL, 35160

256-761-2102
brian.york@alacourt.gov



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61-CV-2016-900310.00

CIRCUIT COURT OF

TALLADEGA COUNTY, ALABAMA

BRIAN YORK, CLERK

STATE OF ALABAMA

Revised 3/5/08

Cas

Unified Judicial System

61-TALLADEGA

 District Court
 Circuit Court

CV21

CIVIL MOTION COVER SHEETSTATE OF ALABAMA ET AL V. OXFORD WATER
WORKS AND SEWER BOARD

Name of Filing Party: ZI - Coosa Riverkeeper, Inc.

Name, Address, and Telephone No. of Attorney or Party. If Not Represented.

SARAH MCCARRON STOKES

 Oral Arguments Requested

Attorney Bar No.: STO083

TYPE OF MOTION**Motions Requiring Fee**

- Default Judgment (\$50.00)
Joinder in Other Party's Dispositive Motion
(i.e. Summary Judgment, Judgment on the Pleadings,
or other Dispositive Motion not pursuant to Rule 12(b))
(\$50.00)
- Judgment on the Pleadings (\$50.00)
- Motion to Dismiss, or in the Alternative
Summary Judgment (\$50.00)
Renewed Dispositive Motion (Summary
Judgment, Judgment on the Pleadings, or other
Dispositive Motion not pursuant to Rule 12(b)) (\$50.00)
- Summary Judgment pursuant to Rule 56 (\$50.00)
- Motion to Intervene (\$297.00)
- Other _____
pursuant to Rule _____ (\$50.00)

*Motion fees are enumerated in §12-19-71(a). Fees
pursuant to Local Act are not included. Please contact the
Clerk of the Court regarding applicable local fees.

Local Court Costs \$ 0 _____

Motions Not Requiring Fee

- Add Party
- Amend
- Change of Venue/Transfer
- Compel
- Consolidation
- Continue
- Deposition
- Designate a Mediator
- Judgment as a Matter of Law (during Trial)
- Disburse Funds
- Extension of Time
- In Limine
- Joinder
- More Definite Statement
- Motion to Dismiss pursuant to Rule 12(b)
- New Trial
- Objection of Exemptions Claimed
- Pendente Lite
- Plaintiff's Motion to Dismiss
- Preliminary Injunction
- Protective Order
- Quash
- Release from Stay of Execution
- Sanctions
- Sever
- Special Practice in Alabama
- Stay
- Strike
- Supplement to Pending Motion
- Vacate or Modify
- Withdraw
- Other

pursuant to Rule

(Subject to Filing Fee)

Check here if you have filed or are filing contemporaneously
with this motion an Affidavit of Substantial Hardship or if you
are filing on behalf of an agency or department of the State,
county, or municipal government. (Pursuant to §6-5-1 Code
of Alabama (1975), governmental entities are exempt from
prepayment of filing fees)

Date:

10/3/2016 5:10:41 PM

Signature of Attorney or Party

/s/ SARAH MCCARRON STOKES

*This Cover Sheet must be completed and submitted to the Clerk of Court upon the filing of any motion. Each motion should contain a separate Cover Sheet.

**Motions titled 'Motion to Dismiss' that are not pursuant to Rule 12(b) and are in fact Motions for Summary Judgments are subject to filing fee.



IN THE CIRCUIT COURT OF
 TALLADEGA COUNTY, ALABAMA

STATE OF ALABAMA ex rel.,)	
LUTHER STRANGE, ATTORNEY GENERAL)	
and the ALABAMA DEPARTMENT OF)	
ENVIRONMENTAL MANAGEMENT,)	
)	
Plaintiffs,)	CASE NO.:CV-2016-900310.00
)	
v.)	
)	
OXFORD WATERWORKS AND SEWER)	
BOARD)	
)	
Defendant.)	

MOTION TO INTERVENE AS A MATTER OF RIGHT BY COOSA RIVERKEEPER, INC.

Coosa Riverkeeper, Inc. (“Riverkeeper”), through undersigned counsel, moves to intervene in the above-styled civil action, pursuant to Ala. R. Civ. P. 24(a). In support thereof, Riverkeeper states as follows:

1. This lawsuit relates to grievous and pervasive water pollution caused by illegal discharges from the Oxford Tull C. Allen Wastewater Treatment Plant (“Oxford Plant”), into Choccolocco Creek. These violations of the Alabama Water Pollution Control Act (“AWPCA”) have occurred continuously since 1992. The Oxford Plant has been the subject of numerous notices of violation, enforcement actions and administrative orders, but the violations continue.
2. On August 3, 2015, Riverkeeper issued a 60-day notice letter to the plant and all responsible parties, stating its intention to initiate a citizen’s suit under Section 505 of the federal Clean Water Act (“CWA”) if the violations were not remedied within 60 days. The notice letter sets out, in great detail, that the Oxford Plant violated its National Pollutant Discharge

Elimination System (“NPDES”) permit more than 1200 times—*since 2012*, when the last Consent Order against it was entered.

3. Prompted by Riverkeeper’s notice letter, the Plaintiffs, State of Alabama ex rel., Luther Strange, Attorney General, and the Alabama Department of Environmental Management (“ADEM”), filed this suit on September 30, 2016, and blocked Riverkeeper from bringing most of its claims to court. Riverkeeper seeks to intervene in this case to ensure that the interests of its members are protected, that all violations it has detected will be prosecuted, and to ensure that appropriate remedies are imposed which will stop the ongoing, serious degradation of Choccolocco Creek.

4. Ala. Code §§ 22-22A-5(18)(b) and (c), and 22-22A-5(19), authorize the state Attorney General to bring a civil action, and to seek civil penalties or injunctive relief, for violations of permits issued under the Alabama Water Pollution Control Act (“AWPCA”) (like the one issued to the Oxford Plant) for unpermitted discharges of pollutants into waters of the state.

5. Ala. Code §§ 22-22A-4(n) designates ADEM as the state agency responsible for enforcement of water pollution regulations under AWPCA. The Attorney General and ADEM brought this suit under the above-referenced statutes.

6. The same code provisions also confer the right to intervene as a matter of right in an enforcement action of this type “on any person having an interest which is or may be adversely affected” by the action. Ala. Code §§ 22-22A-5(18) (b) and 22-22A-5(19); *Black Warrior Riverkeeper, Inc. v. East Walker County Sewer Auth.*, 979 So.2d 69 (Ala. Civ. App. 2007).

7. Ala. R. Civ. P. 24(a) provides that, upon timely application, any person *shall* be permitted to intervene in an action “when a statute confers an unconditional right to intervene.”

8. Riverkeeper and its members are persons within the meaning of Ala. Code § 22-22A-5(18)(b). *Id.* at 71. They demonstrate an interest that is or may be adversely affected by the Oxford Plant’s unlawful discharges. Specifically, the Oxford Plant discharges to Choccolocco Creek, a tributary of the Coosa River. Riverkeeper is a nonprofit membership corporation that is dedicated to the preservation, protection, and defense of the Coosa River and its tributaries. It actively supports effective enforcement and implementation of environmental laws, including the CWA and the AWPCA on behalf of and for the benefit of its members. It has a substantial interest in stopping the Oxford Plant’s unlawful discharges into tributaries of the Coosa River which affect the recreational and aesthetic values enjoyed by its members. Riverkeeper also has a substantial interest in protecting the public health of those who use the River; preserving the River’s value as a source of drinking water, recreation, and habitat.

9. Riverkeeper members have recreated in, on or near, have businesses on, or otherwise used and enjoyed, or attempted to use and enjoy, the Choccolocco Creek downstream from the Oxford Plant in the past, and they intend to do so in the future. They have a direct and beneficial interest in the continued protection, preservation, and enhancement of the environmental, aesthetic, and recreational values of Choccolocco Creek downstream from Oxford Plant. The quality of the Creek’s water directly affects the recreational, aesthetic, economic, and environmental interests of certain Riverkeeper members. The recreational, aesthetic, economic, and environmental interests of certain Riverkeeper members have been, are being, and will be adversely affected by Oxford’s continued unlawful discharges at the Oxford

Plant in violation of the AWPCA as alleged in the State's Complaint and the attached Complaint in Intervention.

10. The violations alleged herein have had a detrimental impact on those Riverkeeper members' interests because the violations in Choccolocco Creek and the Coosa River have made the waters less suitable for swimming, fishing, tubing, wading, walking, observing nature, or relaxing.

11. Finally, this motion is timely filed. "The determination of timeliness is a matter committed to the sound discretion of the trial court." *Randolph County v. Thompson*, 502 So. 2d 357, 364 (Ala. 1987). Riverkeeper is filing this motion on the first business day after the enforcement action was filed, and prior to Oxford filing any responsive pleading. Thus, the granting of this motion will not prejudice the parties or delay these proceedings in any way.

12. Riverkeeper has a statutory right to intervene. The Court must allow the Riverkeeper time to intervene, conduct discovery as necessary, participate fully in the prosecution of claims relating to the Oxford Plant's violations, and craft the appropriate remedies and penalties to adequately address those violations. In short, Riverkeeper is a necessary party in order to ensure that discharges and other violations cease.

13. In accordance with Rule 24, Ala. R. Civ. P., Riverkeeper has attached a proposed Complaint in Intervention hereto.

14. In light of the forgoing Riverkeeper respectfully requests that the Court:

- (a) grant the Motion to Intervene;
- (b) accept for filing Riverkeeper's Complaint in Intervention; and
- (c) grant Riverkeeper such other relief to which it may be entitled.

Respectfully submitted,

s/ Sarah M. Stokes

Sarah M. Stokes (STO083)

Barry A. Brock (BRO165)

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CERTIFICATE OF SERVICE

I hereby certify that on October 3, 2016, I have served “Motion to Intervene as a Matter of Right by Coosa Riverkeeper” via certified mail or electronically filed the foregoing with the Clerk of the Court using the AlaFile system which will send notification of such filing to the recipients with listed email addresses.

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Oxford Water Works and Sewer Board
600 Barry St.
Oxford, AL 36203

s/ Sarah M. Stokes
Of Counsel

IN THE CIRCUIT COURT OF
TALLADEGA COUNTY, ALABAMA

STATE OF ALABAMA ex rel.,)	
LUTHER STRANGE, ATTORNEY GENERAL)	
and the ALABAMA DEPARTMENT OF)	
ENVIRONMENTAL MANAGEMENT,)	
)	
Plaintiffs,)	CASE NO.: CV-2016-900310.00
)	
v.)	
)	
OXFORD WATERWORKS AND SEWER)	
BOARD)	
)	
Defendant.)	

COMPLAINT IN INTERVENTION

COMES NOW, Intervenor Coosa Riverkeeper, Inc. (“Riverkeeper”) and files this
Complaint in Intervention as follows:

Nature of the Case

1. This lawsuit relates to grievous and pervasive water pollution caused by illegal discharges from the Oxford Tull C. Allen Wastewater Treatment Plant (“Oxford Plant”), into Choccolocco Creek. The violations raised in this Complaint are the latest in a continuous pattern of violations which have occurred continuously since 1992. The Oxford Plant has been the subject of numerous notices of violation, enforcement actions and administrative orders, but the violations continue.

2. Riverkeeper issued a 60-day notice to Oxford on August 3, 2016, stating its intention to file a citizen’s suit to address numerous violations, pursuant to the Alabama Water Pollution Control Act (“AWPCA”) and the federal Clean Water Act (“CWA”).

3. The Plaintiffs, the State of Alabama ex rel., Luther Strange, Attorney General, and the Alabama Department of Environmental Management (“ADEM”), filed this enforcement action on September 30, 2016, pursuant to Alabama statutes which authorize them to sue for civil penalties and/or injunctive relief for violations of the National Pollutant Discharge Elimination System (“NPDES”) permit issued to the Oxford Plant under the AWPCA.

4. Riverkeeper intervenes in this case in an effort to ensure that the vital interests of its members are protected and to ensure that, this time, all violations are prosecuted, and appropriate remedies and penalties are imposed which will stop the ongoing, serious degradation of Choccolocco Creek by the Oxford Plant’s violations. Riverkeeper’s claims arise under the Alabama Environmental Management Act (“AEMA”), Ala. Code §§ 22-22A-1 through 22-22A-16, and the AWPCA, Ala. Code §§ 22-22-1 through 22-22-14. As set forth below, Riverkeeper seeks declaratory relief, injunctive relief, and civil penalties.

5. The Oxford Plant has repetitively violated the terms of its NPDES permit over the course of 25 years, yet ADEM has only issued one fine to Oxford of \$20,450, which is insignificant when one considers it is roughly equal to the amount Oxford receives in annual fees from one of its twelve industrial dischargers.

6. Riverkeeper’s Complaint seeks enforcement action as to approximately 1200 violations.

Jurisdiction and Venue

7. The State of Alabama and the Alabama Department of Environmental Management (collectively “ADEM”) filed suit against the Oxford Waterworks and Sewer Board (“Oxford”). This court has jurisdiction under Ala. Code §§ 22-22A-5(18) and 22-22A-5(19).

8. Venue is appropriate in Talladega County pursuant to Ala. Code §22-22A-5 because the acts, omissions, and violations complained of herein occurred in Talladega County, Alabama.

9. Ala. Code §§ 22-22A-5(18)(b) and 22-22A-5(19) provide that any person having an interest which is or may be adversely affected may intervene as a matter of right in this action.

Parties

10. Plaintiff Alabama Attorney General is authorized by Alabama law to enforce provisions of the AWPCA pursuant to Ala. Code §§ 22-22A-5(18)(b) and (c).

11. Plaintiff ADEM is the State environmental agency responsible for administering the AWPCA, pursuant to Ala. Code § 22-22A-4(n).

12. Defendant Oxford Waterworks and Sewer Board (“Oxford”) operates the Oxford Plant, which discharges pollutants from its facility, located at 2975 Silver Run Road, Oxford, AL, to Choccolocco Creek, a water of the State.

13. Intervenor Riverkeeper is an Alabama nonprofit membership corporation with approximately 400 members that is dedicated to the preservation, protection, and defense of the Coosa River and its tributaries. Coosa Riverkeeper actively supports effective implementation and enforcement of environmental laws, including the AWPCA, on behalf of its members.

14. Members of Coosa Riverkeeper have recreated in, on or near, or otherwise used and enjoyed, or attempted to use and enjoy, Choccolocco Creek (a tributary of the Coosa River) downstream from Oxford Plant and they intend to do so in the future. They have a direct and beneficial interest in the continued protection, preservation, and enhancement of the environmental, aesthetic, and recreational values in Choccolocco Creek and the Coosa River downstream from the Oxford Plant.

15. The quality of these waters directly affects the recreational, aesthetic, and environmental interests of certain members of Riverkeeper, and these interests have been, are being, and will be adversely affected by Oxford's continued violation of its NPDES permit, and of the AWPCA at the Oxford Plant.

16. The violations have had a detrimental impact on those interests of Riverkeeper members because the violations in Choccolocco Creek and the Coosa River have made the waters less suitable for swimming, fishing, tubing, wading, walking, observing nature, or relaxing.

17. For example, Riverkeeper Member James O' Rear owns a tubing business which is approximately one mile downstream of the Oxford Plant, and his business has been negatively impacted by illegal discharges from Oxford Plant.

18. Riverkeeper Member Michael Kiser uses the Creek recreationally and teaches his four sons to fish on Choccolocco Creek.

19. Both Mr. O' Rear and Mr. Kiser avoid the Creek when Oxford illegally discharges.

20. Riverkeeper members would recreate more in and around Choccolocco Creek if these illegal discharges of pollution at the Oxford Plant ceased. Both are adversely affected.

21. Riverkeeper members who drink water, paddle, swim, fish, wade, walk, observe nature and otherwise enjoy the river downstream of the Oxford Plant have an interest that "is or may be adversely affected" by Oxford's unlawful discharges into Choccolocco Creek so as to authorize intervention as a matter of right in this case under Ala. Code 1975, § 22-22A-5(18)(b), and Ala. R. Civ. P. 24(a)(1). *See Black Warrior Riverkeeper v. East Walker County Sewer Authority*, 979 So. 2d 69 (Ala. Civ. App. 2007).

Legal Background

22. The goal of the Clean Water Act (“CWA”) is to “restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.” 33 U.S.C. § 1251(a).

23. Under Section 402(b), the Administrator of the Environmental Protection Agency has authorized ADEM to administer various aspects of the CWA, including the issuance of NPDES permits. 33 U.S.C. § 1342 (b).

24. The applicable Alabama law is the Alabama Water Pollution Control Act (“AWPCA”), which is found at Ala. Code §§ 22-22-1 - 22-22-14.

25. The AWPCA prohibits any person from discharging any pollutant into waters of the State without an ADEM-issued NPDES permit. Ala. Code § 22-22-9(i)(3).

26. Ala. Code § 22-22A-5(18)(c) provides that any person who violates Ala. Code § 22-22-9(i)(3) or *any* condition of any permit issued by ADEM shall be liable in a civil action for a civil penalty not to exceed \$25,000 per day. Each day a violation continues constitutes a separate violation.

27. In determining the amount of any penalty, consideration shall be given 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 which delayed compliance may confer 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.

28. Ala. Code § 22-22A-5(19) provides that any person who threatens or continues to violate Ala. Code § 22-22-9(i)(3) or any condition of any permit issued by ADEM shall be subject to a civil action to enjoin such threatened or continuing violation. These remedies are intended to operate as a deterrent against future violations.

Factual Background

29. The Oxford Tull C. Allen Wastewater Treatment Plant (“Oxford Plant”) discharges wastewater from Outfall 0011 into Choccolocco Creek. This is where a majority of the violations identified herein have occurred. Violations also occurred at overflow sites (i.e., where sewage was released from the collection, transmission, or treatment system other than through permitted outfalls).

30. The Oxford Plant serves approximately 28,700 people and has a design flow of 4.5 million gallons per day. It also serves approximately 12 industries that have significant industrial discharges.

31. Pursuant to the NPDES program administered by ADEM, the Department issued NPDES Permit No. AL0058408 to the Oxford Waterworks and Sewer Board in 1989. Oxford was last reissued its permit in August 28, 2013, and it expires on August 31, 2018.

32. The Oxford Plant has had a twenty-five year history of violations of its permit, and the plant continues to violate its permit on an ongoing and continuous basis to this day.

33. The Oxford Plant applied for its first permit in 1989, and it began violating its permit three years later, in 1992.

34. The Oxford Plant has had at least fifteen prior Notices of Violations issued to it by ADEM.

35. The Oxford Plant failed or has been cited for deficiencies in a large portion of its inspections and tests. Besides problems with the operation of the plant, most of these inspections and tests noted problems with the method of Oxford's sampling.

36. Additionally, ADEM has issued four administrative orders against Oxford (in 1994, 1995, 2012, and 2013). In the last two administrative orders alone, the plant was cited for violating its permit more than 1400 times.

37. Riverkeeper has also conducted its own sampling and found that Oxford has exceeded its permit limitation, sometimes as high as 122 times what its permit allows, as identified in the table below.

Daily Maximum Effluent Violations as Found by Riverkeeper			
Date	Parameter	Effluent Permit Limitation	Sample
February 23, 2016	<i>E. coli</i>	2507 col/100mL	308,000 col/100mL
February 23, 2016	Total Residue Chlorine	0.14 mg/L	0.21 mg/L
March 22, 2016	Total Residue Chlorine	0.14 mg/L	0.20 mg/L
April 12, 2016	<i>E. coli</i>	2507 col/100mL	24,117 col/100mL
April 12, 2016	Total Residue Chlorine	0.14 mg/L	0.27 mg/L
May 4, 2016	<i>E. coli</i>	2507 col/100mL	4,000 col/100mL
June 7, 2016	<i>E. coli</i>	487 col/100mL	120,000 col/100mL
July 5, 2016	<i>E. coli</i>	487 col/100mL	6400 col/100 mL

38. Despite a twenty-five year record of serious violations, the Oxford Plant has only received one \$20,450 fine in its history.

39. Choccolocco Creek, where the plant discharges, runs for over thirty miles until it reaches the Coosa River, an aquatically biodiverse subwatershed of the Mobile River Basin. According to the Water Resources Center at Auburn University, the Creek "may support the

largest number of endangered and threatened species found in any Alabama waterway of comparable size.”

40. Because of this, the Geological Survey of Alabama, the U.S. Fish and Wildlife, and the Alabama Department of Conservation and Natural Resources have designated the area from the Oxford Plant to the Coosa River as a “priority area for conservation action.”

41. Choccolocco Creek is a popular area for recreational activities such as canoeing, kayaking, and fishing. In addition, Choccolocco Creek is the base for a tubing business, Floating Fun, LLC, where tubers can float the creek in a tube. The main access point for Floating Fun, LLC is located approximately one mile downstream of the treatment plant effluent.

42. Less than twenty-five miles downstream from the treatment plant, Choccolocco Creek empties into Logan Martin Lake on the Coosa River, where boaters fish and swim on a daily basis.

Count I
AWPCA - NPDES Permit Discharge Violations.

43. Riverkeeper incorporates paragraphs 1 through 41 by reference.

44. The Alabama Department of Environmental Management issued NPDES Permit No. AL0058408 to Oxford Waterworks and Sewer Board authorizing the discharge of pollutants from the Oxford Plant to waters of the State, subject to certain conditions.

45. The Oxford Plant is violating this permit’s discharge limitations.

46. During all relevant times herein, NPDES Permit No. AL0058408 included the following discharge limitations applicable at Outfall 0011.

(a) For Ammonia, Total (as N), the permit specifies a Monthly Average of 37.5 lbs/day; a Weekly Average of 56.2 lbs/day; a Monthly Average of 1.0 mg/L; and a Weekly Average of 1.5 mg/L during the summer months from June through September.

(b) For BOD, Carbonaceous 05 Day, the permit specifies a Monthly Average of 300 lbs/day; a Weekly Average of 450 lbs/day; a Monthly Average of 8.0 mg/L; and a Weekly Average of 12.0 mg/L during the summer months from June through September.

(c) For BOD, Carbonaceous 05 Day, the permit specifies a Monthly Average of 938 lbs/day; a Weekly Average of 1407 lbs/day; a Monthly Average of 25.0 mg/L; and a Weekly Average of 37.5 mg/L during the winter months from October through May.

47. Oxford has self-reported violations in excess of the discharge limitations in NPDES Permit No. AL0058408 as identified in the table below.

Date of Violation(s)	Number of Violations	Permit Parameter Violated	Permit Limit	Reported on DMR	Additional Detail from DMR or Noncompliance Notification Form
July 31, 2014	31	CBOD mg/L monthly average	8.0	11	DMR
August 31, 2014	31	CBOD lbs/day monthly average	300	326	Reported on Noncompliance Notification Form not DMR.
August 31, 2014	31	CBOD mg/L monthly average	8.0	16	Reported on Noncompliance Notification Form not DMR.
August 31, 2014	7	CBOD mg/L max. weekly average	12.0	16	Reported on Noncompliance Notification Form not DMR.
September 30, 2014	30	CBOD lbs/day monthly average	300	331	DMR
September 30, 2014	30	CBOD mg/L monthly average	8.0	17	DMR
September 30, 2014	7	CBOD mg/L max. weekly average	12.0	20	DMR
October 31,	31	CBOD mg/L	8.0	10	DMR

2014		monthly average			
October 31, 2014	7	CBOD mg/L max. weekly average	12.0	20	DMR
June 30, 2015	30	Ammonia lbs/day monthly average	37.5	116	DMR
June 30, 2015	7	Ammonia lbs/day max. weekly average	56.2	136	DMR
June 30, 2015	30	Ammonia mg/L monthly average	1.0	4.23	DMR
June 30, 2015	7	Ammonia mg/L max. weekly average	1.5	5.15	DMR

48. For each violation of NPDES Permit No. AL0058408 identified in the table above, Oxford is liable for a civil penalty to be determined in accordance with Ala. Code § 22-22A-5(18)(c). For each threatened or continuing violation of NPDES Permit No. AL0058408 identified in Table 1, Oxford is also subject to an injunction.

Count II
AWPCA - NPDES Monitoring Violations.

49. Riverkeeper incorporates paragraph 1 through 47 by reference.
50. Oxford is violating the monitoring requirements of the NPDES permit No. AL0058408.
51. For most discharges, the permit requires that Oxford monitor the discharge at least three times a week. (See, Permit, Section I.A.1.-2.)
52. On almost a weekly basis, Oxford has failed to meet these monitoring requirements, as set forth in the table below.

Table 2: Monitoring Violations				
Date	Parameter Violated	Permit Requirement	Amount Monitored	Number of Violations
March 3-9, 2013	E.coli	3 times per week	1 time per week	7
March 24-30, 2013	E.coli	3 times per week	2 times per week	7
March 31- April 6, 2013	Nitrogen, Ammonia	3 times per week	2 times per week	7
April 7-13, 2013	Color	3 times per week	2 times per week	7
April 14-20, 2013	Color	3 times per week	2 times per week	7
May 5-11, 2013	Effluent BOD	3 times per week	2 times per week	7
May 5-11, 2013	Color	3 times per week	2 times per week	7
May 19-25, 2013	Color	3 times per week	1 time per week	7
June 2-8, 2013	Effluent BOD	3 times per week	2 times per week	7
June 16-22, 2013	Effluent BOD	3 times per week	2 times per week	7
June 30-July 6, 2013	Effluent TSS	3 times per week	2 times per week	7
June 30-July 6, 2013	Effluent BOD	3 times per week	1 time per week	7
June 30- July 6, 2013	<i>E. coli</i>	3 times per week	1 time per week	7
July 7-13, 2013	Effluent BOD	3 times per week	1 time per week	7
July 7-13, 2013	Color	3 times per week	2 times per week	7
July 21-27, 2013	Effluent BOD	3 times per week	1 time per week	7
July 21-27, 2013	Color	3 times per week	1 time per week	7
July 28-August 3, 2013	Color	3 times per week	2 times per week	7
August 4-10, 2013	Effluent BOD	3 times per week	2 times per week	7
August 11-17, 2013	Effluent BOD	3 times per week	2 times per week	7
August 18-24, 2013	Effluent BOD	3 times per week	1 time per week	7
August 18-24, 2013	Color	3 times per week	2 times per week	7
September 8-14, 2013	Color	3 times per week	2 times per week	7
December 8-14, 2013	Color	3 times per week	1 time per week	7
January 5-11, 2014	Effluent BOD	3 times per week	No testing recorded/incubator malfunction	7

January 12-18, 2014	Color	3 times per week	1 time per week	7
January 19-25, 2014	Effluent BOD	3 times per week	2 times per week	7
January 26-February 1, 2014	Color	3 times per week	2 times per week	7
February 2- 8 2014	Color	3 times per week	2 times per week	7
February 9-15, 2014	E.coli	3 times per week	2 times per week	7
February 23-March 1, 2014	Effluent BOD	3 times per week	2 times per week	7
February 23-March 1, 2014	Color	3 times per week	2 times per week	7
March 2-8, 2014	Effluent BOD	3 times per week	2 times per week	7
March 16-22, 2014	Effluent BOD	3 times per week	2 times per week	7
March 16-22, 2014	Color	3 times per week	2 times per week	7
March 23-29, 2014	Color	3 times per week	2 times per week	7
March 30-April 5, 2014	Effluent BOD	3 times per week	2 times per week	7
April 6-12, 2014	Effluent BOD	3 times per week	1 time per week	7
April 6-12, 2014	Color	3 times per week	No testing recorded	7
April 6-12, 2014	E.coli	3 times per week	2 times per week	7
April 13-19, 2014	Effluent BOD	3 times per week	2 times per week	7
April 13-19, 2014	Color	3 times per week	2 times per week	7
April 13-19, 2014	E.coli	3 times per week	2 times per week	7
April 20-26, 2014	Effluent BOD	3 times per week	2 times per week	7
April 27- May 3, 2014	Color	3 times per week	2 times per week	7
May 25-31, 2014	Color	3 times per week	No testing recorded	7
May 25-31, 2014	E.coli	3 times per week	1 time per week	7
May 25-31, 2014	pH	3 times per week	2 times per week	7
June 29- July 5, 2014	Color	3 times per week	2 times per week	7
June 29-July 5, 2014	E. coli	3 times per week	2 times per week	7
July 13- 19, 2014	E. coli	3 times per week	2 times per week	7
July 13-19, 2014	Color	3 times per week	2 times per week	7
September 7-13, 2014	E.coli	3 times per week	2 times per week	7
October 5-11, 2014	E.coli	3 times per week	2 times per week	7
October 19-25, 2014	Color	3 times per week	2 times per week	7

October 19-25, 2014	E.coli	3 times per week	No testing recorded	7
November 16-22, 2014	Color	3 times per week	2 times per week	7
November 30-December 6, 2014	Color	3 times per week	1 time per week	7
November 30-December 6, 2014	E.coli	3 times per week	1 time per week	7
December 14-20, 2014	Color	3 times per week	2 times per week	7
December 14-20, 2014	E.coli	3 times per week	2 times per week	7
December 21-27, 2014	E.coli	3 times per week	2 times per week	7
December 28, 2014 – January 3, 2015	Color	3 times per week	2 times per week	7
December 28, 2014 – January 3, 2015	E.coli	3 times per week	1 time per week	7
January 4-10, 2015	Color	3 times per week	1 time per week	7
January 11-17, 2015	E.coli	3 times per week	2 times per week	7
January 25-31, 2015	E.coli	3 times per week	2 times per week	7
February 8-14, 2015	Color	3 times per week	2 times per week	7
February 8-14, 2015	E.coli	3 times per week	2 times per week	7
March 29-April 4, 2015	Color	3 times per week	2 times per week	7
April 5-11, 2015	Color	3 times per week	2 times per week	7
April 19-25, 2015	Effluent BOD	3 times per week	2 times per week	7
April 26-May 2, 2015	E.coli	3 times per week	1 time per week	7
May 17-23, 2015	E.coli	3 times per week	2 times per week	7
May 24-30, 2015	Effluent BOD	3 times per week	2 times per week	7
May 31-June 6, 2015	E.coli	3 times per week	No testing recorded	7
June 14-20, 2015	E.coli	3 times per week	1 time per week	7
June 28-July 4, 2015	Effluent BOD	3 times per week	2 times per week	7
July 5-11, 2015	Effluent BOD	3 times per week	2 times per week	7
July 12-18, 2015	Effluent BOD	3 times per week	1 time per week	7
July 26-August 1, 2015	Effluent BOD	3 times per week	2 times per week	7
August 9-15, 2015	E.coli	3 times per week	2 times per week	7

August 23-29, 2015	Effluent BOD	3 times per week	2 times per week	7
September 6-12, 2015	Effluent BOD	3 times per week	2 times per week	7
September 6-12, 2015	E.coli	3 times per week	2 times per week	7
September 20-26, 2015	E.coli	3 times per week	2 times per week	7
October 18-24, 2015	Effluent BOD	3 times per week	2 times per week	7
October 18-24, 2015	E.coli	3 times per week	2 times per week	7
October 25-31, 2015	Color	3 times per week	2 times per week	7
October 25-31, 2015	E.coli	3 times per week	2 times per week	7
November 1-7, 2015	Color	3 times per week	2 times per week	7
November 8-14, 2015	Color	3 times per week	2 times per week	7
November 15-21, 2015	Effluent BOD	3 times per week	2 times per week	7
November 15-21, 2015	Color	3 times per week	2 times per week	7
November 15-21, 2015	E.coli	3 times per week	2 times per week	7
November 22-28, 2015	Color	3 times per week	2 times per week	7
November 29-December 5, 2015	Color	3 times per week	2 times per week	7
November 29-December 5, 2015	E.coli	3 times per week	1 time per week	7
December 13-19, 2015	Effluent BOD	3 times per week	2 times per week	7
December 20-26, 2015	Color	3 times per week	2 times per week	7
December 20-26, 2015	E.coli	3 times per week	2 times per week	7
December 27, 2015 – January 2, 2016	Color	3 times per week	No testing recorded	7
December 27, 2015 – January 2, 2016	E.coli	3 times per week	2 times per week	7
December 27, 2015 – January 2, 2016	Effluent BOD	3 times per week	1 time per week	7
January 3-9, 2016	Color	3 times per week	2 times per week	7
January 17-23, 2016	Color	3 times per week	2 times per week	7
January 24-30, 2016	Color	3 times per week	2 times per week	7
January 24-30, 2016	Effluent BOD	3 times per week	2 times per week	7

January 24-30, 2016	E.coli	3 times per week	2 times per week	7
January 31-February 6, 2016	Color	3 times per week	1 time per week	7
February 14-20, 2016	Color	3 times per week	2 times per week	7
February 21-27, 2016	Color	3 times per week	1 time per week	7
February 21-27, 2016	E.coli	3 times per week	2 times per week	7
February 28-March 5, 2016	Color	3 times per week	No testing recorded	7
February 28-March 5, 2016	Effluent BOD	3 times per week	2 times per week	7
March 20-26, 2016	E.coli	3 times per week	2 times per week	7
March 27-April 2, 2016	Effluent BOD	3 times per week	2 times per week	7
			Total	819

53. For each violation of NPDES Permit No. AL0058408 identified in the table above, Oxford is liable for a civil penalty to be determined in accordance with Ala. Code § 22-22A-5(18)(c). For each threatened or continuing violation of NPDES Permit No. AL0058408 identified in Table 2, Oxford is also subject to an injunction to abate the ongoing violations.

Count III
AWPCA – Unpermitted Discharges

54. Riverkeeper incorporates herein paragraphs 1 through 52 by reference.

55. 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.

56. Despite the foregoing, Oxford has self-reported to ADEM a number of discharges in the form of Sanitary Sewer Overflows (“SSOs”) at the Oxford Plant that are new or increased sources of pollution not authorized by the permit, in violation of Ala. Code § 22-22-9(i)(3), as set forth in Table 3 below.

Table 3: SSO Violations				
Date of Sanitary Sewer Overflow	Number of Overflows	Amount Discharged	Location of Discharge	Source of the Overflow
2011	4	Unknown	Trinity Pumping Station; Corner of Meadow Ave and US Hwy 21, South of Friendship Lift Station; Snow Street	2011 Municipal Pollution Prevention Report "How many bypass or overflow events of untreated wastewater occurred in the last year prior to the headworks of the WWTP due to heavy rain?" Answer: "4"
2012	6	Unknown	Hwy 21 to Airport Rd; Friendship Lift Station to Hwy 21 Lift Station; 4 th Street	2012 MPPR Language "How many bypass or overflow events of untreated wastewater occurred in the last year prior to the headworks of the WWTP due to heavy rain?" Answer: "6"
December 25, 2014	1	250 gal	59 Bailey St, Oxford, AL 36203	SSO Reporting Form: The suspected or known cause of the overflow was a clog in the sewer line.
November 10, 2015	1	Over 10,000 gal	801 Boozer Drive, Oxford, AL 36203	SSO Reporting Form: The overflow was caused by excessive rain.
December 24, 2015	1	Over 10,000 gal	Hickory Drive and Airport Road	SSO Reporting Form: Rains caused manholes to be submerged.
December 26, 2015	1	Over 100,000 gal	Friendship Lift Station	SSO Reporting Form: Overflow lasted 6 days, and was caused by excessive rain.

57. The August 28, 2014 Stormwater Pollution Prevention Plan and Best Management Practices Plan also indicates that Oxford is discharging stormwater toward an unpermitted outfall.

58. For each unpermitted discharge at the Oxford Plant, Oxford is liable for a civil penalty to be determined in accordance with Ala. Code § 22-22A-5(18)(c). For each threatened

or continuing violation of Ala. Code § 22-22-9(i)(3) at the Oxford Plant, Oxford is also subject to an injunction to abate the discharges.

Count IV
AWPCA - NPDES Reporting Violations.

59. Riverkeeper incorporates paragraph 1 through 57 by reference.
60. NPDES Permit No. AL0058408 (Section I.C.2) also requires that a written report be submitted if the Permittee's discharge does not comply with a limitation in the permit.
61. Oxford did not submit a Noncompliance Form in July 2013.
62. The Oxford Plant must also report the cause, date, duration, volume, description of the source, and the ultimate destination of a sanitary sewer overflow ("SSO") discharge in the Municipal Water Pollution Prevention Report, per Section I.C.2.e.1-5 of the permit.
63. The permit also requires the Oxford Plant notify the Department when a sanitary sewer overflow occurs.
64. Oxford failed to complete its SSO reporting requirements, as shown in Table 4 below.

Table 4: Reporting SSOs Violations				
Date of Overflow or Bypass	Number of Overflows or Bypasses	Number of Violations	Source	Violation of Permit
2011	4	16	2012 Municipal Water Pollution Prevention Report ("MWPPR"): "How many bypasses or overflow events of untreated wastewater occurred in the last year prior to the headworks of the	2007 NPDES Permit Section I.C.2.e.1-5 Failure to report cause, date/duration/volume, description of the source, and the ultimate destination of discharge in the MWPPR.

			WWTP due to heavy rain?" Answer: "4"	
2011	3	3	Reported Overflows in MWPPR, but did not file a Form 415 or otherwise report to the Department	2007 NPDES Permit Section I.C.2.a.,d.,f or II.C.
2012	6	24	2013 MWPPR: "How many bypasses or overflow events of untreated wastewater occurred in the last year prior to the headworks of the WWTP due to heavy rain?" Answer: "6"	2007 NPDES Permit Section I.C.2.e.1-5 Failure to report cause, date/duration/volume, description of the source, and the ultimate destination of discharge in the MWPPR
2012	6	6	Reported Overflows in MWPPR, but did not file a Form 415 or otherwise report to the Department	2007 NPDES Permit Section I.C.2.a.,d.,f or II.C
2014	At least 2	At least 2	ADEM wrote to Oxford ¹ : "comments received indicated that sanitary sewer overflows (SSOs) discharging into Choccolocco Creek have occurred." And Oxford did not report these to the Department.	ADEM: " Permit Condition I.C.2.d states that "The permittee shall provide notification to the Director, the public, the county health department and any other affected entity such as public water systems, as soon as possible upon becoming aware of any notifiable SSO." Section I.C.2.a.,d.,f or II.C.

65. The permit requires that the Permittee report to the Department any adverse impact caused or believed to be caused by an industrial discharger. (Permit, Section II.G.3.)

66. The Oxford Plant failed to report the adverse impacts believed to be caused by an industrial discharger.

¹ Letter from Emily Anderson, ADEM, to Wayne Livingston, Oxford Plant, Re: Sanitary Sewer Overflows, NPDES Permit No. AL0058408, Oxford Tull C. Allen WWTP, Talladega County, Alabama, Feb. 25, 2014.

Count V
AWPCA--Improper Sampling Procedures.

67. Riverkeeper incorporates paragraph 1 through 65 by reference.

68. The permit, Section I.B.7. and II.A.1, 40 CFR Part 136, and EPA's Standard Methods require that Oxford follow certain sampling procedures.

69. The Oxford Plant has repeatedly failed to comply with these sampling procedures, as shown in Table 5 below.

Table 5: Violations in Sampling Procedures		
Date	Violation	Comments from ADEM
April 24, 2012	Deficiencies noted during inspection	“At the time of inspection, the facility’s influent sampler location was not representative of waste contributed by Kronospan.”
August 12, 2014	Deficiencies noted during inspection	“The effluent sampling refrigerator had a temperature above the maximum allowable temperature.”
December 16, 2014	Deficiencies noted during inspection	<p>“The facility did not have chains of custody for samples analyzed in-house that noted the date and time that samples were collected and by whom they were collected.”</p> <p>“The sample tube on the influent sampler between the sampler and the sample container was contaminated by solids attached to the pump tubing wall.”</p> <p>“There were no certified weights on site.”</p> <p>“The thermometers need to be checked and recorded along with the balance.”</p> <p>“There should not be drinks and food stored with samples.”</p> <p>“CBOD, TSS, <i>E. coli</i>, Ammonia, and color testing methods were found to be ‘inadequate.’”</p> <p>“Laboratory personnel were not able to provide all necessary Standard Operating Procedures.”</p> <p>“The <i>E. coli</i> media plates had expired.”</p>

Count VI
AWPCA--Failure to Properly Maintain and Operate the Plant.

70. Riverkeeper incorporates paragraph 1 through 68 by reference.

71. The permit requires that the Oxford Plant properly operate and maintain all facilities and systems of treatment and control. (See, Permit, Section II.A.)

72. Oxford has failed to operate and maintain all facilities and systems of treatment and control.

73. Proper maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures.

Prayer for Relief

Coosa Riverkeeper respectfully requests that this Court grant the following relief:

A. That the Court take jurisdiction over this matter and render a judgment finding and declaring that Oxford has operated the Oxford Plant in violation of the discharge limitations and conditions in NPDES Permit No. AL0058408 and in violation of Ala. Code § 22-22-9(i)(3), the AWPCA;

B. That the Court enjoin Oxford from continuing to operate the Oxford Plant in violation of the discharge limitations and conditions in NPDES Permit No. AL0058408 and in violation of Ala. Code § 22-22-9(i)(3), the AWPCA;

C. That the Court order frequent, unplanned, independent audits and corrections of the Oxford Plant and Oxford's sampling procedures and require the Oxford Plant to use an independent laboratory for all testing conducted to demonstrate compliance with its permit;

D. That the Court assess a civil penalty of \$25,000.00 for each violation of the discharge limitations and conditions in NPDES Permit No. AL0058408 alleged herein, and for each violation of Ala. Code § 22-22-9(i)(3), in accordance with the evidence and penalty factors prescribed by Ala. Code § 22-22A-5(18)(c);

E. That any civil penalty assessed by the Court specifically reflect and incorporate all of the penalty factors specified in Ala. Code 22-22A-5(18)(c); and

F. That the Court award Riverkeeper costs, attorney's fees, and such other relief to which it may be entitled.

Respectfully submitted,

s/ Sarah M. Stokes

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Barry A. Brock (BRO165)

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CERTIFICATE OF SERVICE

I hereby certify that on October 3, 2016, I have served "Complaint in Intervention" via certified mail or electronically filed the foregoing with the Clerk of the Court using the AlaFile system which will send notification of such filing to the recipients with listed email addresses.

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