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September 17, 2021

Hon. Thomas Battle, Jr, Mayor  
City of Huntsville  
City Hall, 8<sup>th</sup> Floor  
308 Fountain Circle  
Huntsville, AL 35801

**CERTIFIED MAIL**

RE: Spring Branch WWTP  
NPDES Permit No: AL0058394

Dear Mayor Battle,

Tennessee Riverkeeper, Inc. intends to file a lawsuit under section 505 of the Federal Water Pollution Control Act, also known as the Clean Water Act (CWA), 33 U.S.C. 1365, against The City of Huntsville (herein referred to as "Huntsville"), for violations of the CWA and the Alabama Water Pollution Control Act (AWPCA), §22-22-1 *et sec*, Code of Alabama 1975, and the regulations thereunder, as more fully referenced below, by Spring Branch WWTP located at Madison County, Alabama. Based on information and belief, Huntsville is an Alabama municipal corporation, and bears responsibility for the violations described herein. Huntsville operates the Spring Branch WWTP and its collection system. Tennessee Riverkeeper provides this written notice pursuant to section 135 of Title 40 of the Code of Federal Regulations.

Huntsville is in violation of sections 301 and 402 of the CWA (33 U.S.C. §§1311 and 1342) and sections 122.1 *et sec* of Title 40 of the Code of Federal Regulations. Huntsville is also in violation of similar provisions of Alabama law. *See* Code of Alabama 1975 §22-22-9 and Alabama Administrative Code Rule 335-6-6-.03. These laws require that no facility shall discharge pollutants to waters of the United States or waters of the state except as authorized by a permit issued pursuant to the National Pollutant Discharge Elimination System (NPDES).

Huntsville was issued NPDES permit number AL0058394 which authorizes the permit holder to discharge effluent from various outfalls into Tennessee River, subject to stated discharge limitations and/or monitoring requirements. The effluent limitations are protective of the classified uses of Tennessee River. All discharge must be in accordance with the effluent limitations, monitoring requirements, and other conditions set forth in the NPDES Permit.

Huntsville is in violation of provisions of the stated permit by operating Spring Branch WWTP in a manner which discharges pollutants to the waters of the United States and waters of the state not authorized by the city's NPDES permit. Huntsville is in violation of Code of Alabama 1975, §22-22-9(i)(3), which requires that a permit be obtained prior to discharging any new or increased pollution into any water of the State. Huntsville reported unpermitted discharges in the form of Sanitary Sewer Overflows (hereinafter

“Overflows”) to the Alabama Department of Environmental Management (hereinafter “ADEM”). Overflows are a discharge not authorized by the city’s NPDES permit. Overflows have been reported on at least the occasions set out in the Appendix, attached hereto.

Additionally, the permittee is required to accurately report to the ADEM any noncompliance with its permit, including any overflows, monthly on Form 421 and annually on its Municipal Water Pollution Prevention Plan (MWPP). Beginning in 2020, Huntsville has listed the ultimate destination of its overflows as “Ground Absorbed” for all but a few that were listed as “Backup into Building.” No overflow in 2020 or 2021 has been listed as flowing into a waterway, even though thousands of gallons of sewage were discharged with each overflow. These appear to be willfully false statements subject to civil and criminal penalties as provided by the permit and Code of Alabama §22-22-9, §22-22A-5(18) and 22-22-14(b), and provisions of the Clean Water Act. Each instance is a separate violation of the permit, the AWPCA, and the CWA. This constitutes forty-two (42) violations for which civil and criminal penalties may be warranted.

Spring Branch WWTP discharges into Tennessee River. The overflows made the subject of this notice are discharged into various tributaries of Tennessee River, including Broglan Branch, Aldridge Creek, Dallas Branch, Pinhook Creek, McDonald Creek, Spring Branch, Norman Branch, Merrimac Branch, West Fork Creek, and Sherwood Creek. The Tennessee River and these tributaries are jurisdictional waters of the United States under protection of the Clean Water Act.

The operational failures and discharges referenced above demonstrate a continuing pattern of pollution which degrades and threatens waters of the United States in violation of the CWA and state law. Tennessee Riverkeeper intends to prosecute these and similar or related violations in the appropriate judicial forum, including all violations which occur or continue after service of this notice and all violations revealed in the course of the litigation discovery process.

Tennessee Riverkeeper intends to file suit against Huntsville in federal district court sixty (60) days from the date of this notice. Tennessee Riverkeeper will request, among other things, a judgment declaring the discharges and violations described or listed herein to be illegal. Tennessee Riverkeeper will also seek an injunction prohibiting Huntsville from discharging pollutants and from operating in violation of the CWA and state law.

Additionally, Tennessee Riverkeeper will seek the imposition of civil penalties.

The person giving notice is Tennessee Riverkeeper, P.O. Box 2594, Decatur, AL 35602. The attorney for Tennessee Riverkeeper in this matter, to whom all correspondence should be directed, is Mark E. Martin, Attorney at Law, LLC, Post Office Box 1486, Oneonta, Alabama 35121, telephone (205) 578-8675.

Tennessee Riverkeeper is prepared to discuss the issues raised in this letter at any time. Thank you for your attention to this matter.

Sincerely,

/s Mark E. Martin  
Mark E. Martin

cc:

Andrew Wheeler, Administrator  
US Environmental Protection Agency Headquarters  
1101 A  
William Jefferson Clinton Building  
1200 Pennsylvania Ave., NW  
Washington, D.C. 20460

Mary Walker, Regional Administrator  
United States Environmental Protection Agency  
Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, GA 30303-3104

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

## Appendix

<b>SPRING BRANCH WWTP, NPDES Permit # AL0058394, SSO Violations</b>				
<b>Start Date</b>	<b>End Date</b>	<b>Volume in gallons</b>	<b>Location of discharge</b>	<b>Reported Destination</b>
3/18/2021	3/18/2021	10,000	4409 Saundralane Dr	Ground Absorbed
3/18/2021	3/18/2021	10,000	5101 Governors House Dr	Ground Absorbed
3/18/2021	3/18/2021	10,000	1201 John Wright Dr	Ground Absorbed
3/18/2021	3/18/2021	10,000	813 Memorial Pkwy	Ground Absorbed
3/18/2021	3/18/2021	10,000	205 Indiana St	Ground Absorbed
3/18/2021	3/18/2021	25,000	2222 Hall Ave	Ground Absorbed
3/18/2021	3/18/2021	10,000	2601 Leeman Ferry Rd	Ground Absorbed
3/18/2021	3/18/2021	10,000	2900 Memorial Pkwy	Ground Absorbed
3/18/2021	3/18/2021	10,000	2010 Bob Wallace	Ground Absorbed
3/18/2021	3/18/2021	25,000	2733 Johnson Rd	Ground Absorbed
3/18/2021	3/18/2021	10,000	2203 Ridgeway St	Ground Absorbed
3/26/2020	3/26/2020	1,000	2720 Hood Rd	Ground Absorbed
3/24/2020	3/25/2020	25,000	4207 Lakeview Dr	Ground Absorbed
3/24/2020	3/25/2020	25,000	2801 Memorial Pkwy	Ground Absorbed
3/24/2020	3/24/2020	10,000	1701 Truman Dr	Ground Absorbed
3/24/2020	3/24/2020	10,000	517 Bellingrath Dr	Ground Absorbed
2/13/2020	2/13/2020	10,000	1701 Truman Dr	Ground Absorbed
2/13/2020	2/13/2020	1,000	689 Discovery Dr NW	Ground Absorbed
2/11/2020	2/13/2020	10,000	2222 Hall Ave	Ground Absorbed
2/11/2020	2/11/2020	10,000	3801 Patton Rd SW	Ground Absorbed
2/6/2020	2/6/2020	10,000	2716 Johnson Rd	Ground Absorbed
2/6/2020	2/6/2020	10,000	2900 Memorial Pkwy	Ground Absorbed
2/6/2020	2/6/2020	10,000	517 Bellingrath Dr	Ground Absorbed
2/6/2020	2/6/2020	10,000	2010 Bob Wallace	Ground Absorbed
2/6/2020	2/6/2020	10,000	2601 Leeman Ferry Rd	Ground Absorbed
2/6/2020	2/6/2020	10,000	205 B Indiana St SW	Ground Absorbed
2/6/2020	2/6/2020	10,000	2222 Hall Ave	Ground Absorbed
2/6/2020	2/6/2020	10,000	1015 Meadow Dr NW	Ground Absorbed
2/6/2020	2/7/2020	10,000	813 Memorial Pkwy	Ground Absorbed
2/6/2020	2/6/2020	10,000	495 Wynn Dr NW	Ground Absorbed
2/6/2020	2/6/2020	10,000	1201 John Wright Dr	Ground Absorbed
1/3/2020	1/4/2020	10,000	2222 Hall Ave	Ground Absorbed
1/3/2020	1/3/2020	10,000	1015 Meadow Dr NW	Ground Absorbed
1/3/2020	1/3/2020	10,000	2601 Leeman Ferry Rd	Ground Absorbed
1/3/2020	1/4/2020	10,000	4409 Saundralane Dr	Ground Absorbed
1/3/2020	1/4/2020	10,000	12016 Queens Pl SE	Ground Absorbed
1/3/2020	1/3/2020	10,000	2900 Memorial Pkwy	Ground Absorbed

1/3/2020	1/4/2020	10,000	4020 Talwell Dr	Ground Absorbed
1/3/2020	1/4/2020	10,000	495 Wynn Dr NW	Ground Absorbed
1/3/2020	1/4/2020	10,000	205 B Indiana St SW	Ground Absorbed
1/3/2020	1/4/2020	10,000	3800 Squaw Valley Dr	Ground Absorbed
12/23/2019	12/23/2019	1,500	110 Cemetery St	Brogan Branch
12/23/2019	12/23/2019	2,000	Gateway Pump Station	Ground Absorbed
11/25/2019	11/25/2019	1,000	2200 Vermont Rd	Not given
2/23/2019	2/24/2019	1,000	3200 Boswell Dr	Ground Absorbed
2/23/2019	2/26/2019	75,000	13005 Branscomb Rd	Aldridge Creek
2/23/2019	2/24/2019	1,000	1719 Oakwood Ave	Dallas Branch
2/23/2019	2/26/2019	100,000	2403 Greenhill Dr	Pinhook Creek
2/23/2019	2/24/2019	1,000	1201 Dallas St	Dallas Branch
2/22/2019	2/22/2019	1,000	2717 Atlantic St	McDonald Creek
2/22/2019	2/24/2019	1,000	2811 Winchester Rd	West Fork Creek
2/22/2019	2/25/2019	10,000	7020 Lauderdale Dr	Spring Branch
2/22/2019	2/25/2019	10,000	4200 TeeJay Dr	Spring Branch
2/22/2019	2/24/2019	10,000	1022 Maysville Rd	Dallas Creek
2/22/2019	2/24/2019	10,000	3112 Lewisburg Dr	Pinhook Creek
2/22/2019	2/24/2019	1,000	2702 Bridge St	Pinhook Creek
2/22/2019	2/25/2019	10,000	2702 Memorial Pkwy	Spring Branch
2/22/2019	2/25/2019	10,000	4205 Lakeview Dr	Pinhook Creek
2/22/2019	2/23/2019	10,000	3106 Boswell Dr	Normal Branch
2/22/2019	2/25/2019	25,000	3901 Broadmor Rd	Brogan Branch
2/22/2019	2/25/2019	25,000	3700 Bob Wallace Ave	Merrimac Branch
2/22/2019	2/24/2019	1,000	2716 Wilson Dr	Brogan Branch
2/22/2019	2/25/2019	10,000	3111 Blue Springs Rd	Pinhook Creek
2/22/2019	2/25/2019	10,000	2705 Washington St	Normal Branch
2/22/2019	2/25/2019	10,000	3111 Blue Springs Rd	Pinhook Creek
2/22/2019	2/25/2019	50,000	3629 Patton Rd	McDonald Creek
2/20/2019	2/21/2019	25,000	2303 Braham Ave SW	Brogan Branch
2/20/2019	2/24/2019	100,000	2716 Johnson Rd	Spring Branch
2/20/2019	2/25/2019	75,000	1015 Meadow Dr	Brogan Branch
2/20/2019	2/25/2019	75,000	2601 Leeman Ferry Rd	Spring Branch
12/28/2018	12/29/2018	1,000	3800 Squaw Valley Dr	McDonald Creek
12/28/2018	12/29/2018	10,000	301 Sparkman	McDonald Creek
12/27/2018	12/29/2018	25,000	2605 Leeman Ferry Rd	Spring Branch
12/27/2018	12/29/2018	25,000	2315 Spring Branch Rd	Spring Branch
12/27/2018	12/29/2018	25,000	1100 Meadow Dr	Brogan Branch
12/27/2018	12/29/2018	25,000	2200 Clinton Ave	Brogan Branch
12/27/2018	12/29/2018	25,000	2735 Johnson Rd	Spring Branch
11/6/2018	11/6/2018	200	2904 Timberland Ave NW	Brogan Branch
11/6/2018	11/6/2018	500	6618 Robinhood Ln NW	Sherwood Creek

**Total volume: 1,250,200**

**Total number of SSOs: 79**