

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF:)

Athens Utilities)
Athens WWTP)
Athens, Limestone County, Alabama)

NPDES PERMIT NO. AL0020206)

Consent Order No. XX-XXX-CWP

PREAMBLE

This Special Order by Consent is made and entered into by the Alabama Department of Environmental Management ("the Department") and the Athens Utilities ("the Permittee") pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 to 22-22A-17, as amended, the Alabama Water Pollution Control Act ("AWPCA"), Ala. Code §§ 22-22-1 to 22-22-14, as amended, and the regulations promulgated pursuant thereto.

STIPULATIONS

1. The Permittee operates a wastewater treatment plant ("WWTP") known as the Athens WWTP, located at 942 East Sanderfer Road, in Athens, Limestone County, Alabama.
2. The Department is a duly constituted department of the State of Alabama pursuant to Ala. Code §§ 22-22A-1 to 22-22A-17, as amended.
3. Pursuant to Ala. Code § 22-22A-4(n), the Department is the state agency responsible for the promulgation and enforcement of water pollution control regulations in accordance with the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 to 1388. In addition, the Department is authorized to administer and enforce the provisions of the AWPCA.
4. The Department reissued National Pollutant Discharge Elimination System ("NPDES") Permit No. AL0020206 ("the Permit") to the Permittee on August 29, 2016, effective September 1, 2016, establishing limitations on the discharge of pollutants from point sources, designated therein as outfall numbers 001 and 002 (stormwater only), to Town Creek, a water of the state. The Permit requires that the Permittee monitor its discharges and submit periodic Discharge

Monitoring Reports ("DMRs") to the Department describing the results of the monitoring. In addition, the Permit requires that the Permittee properly operate and maintain all facilities and systems of treatment and control which are installed or used by the Permittee to achieve compliance with the conditions of the Permit.

5. Permit Condition I.A. requires that discharges be limited and monitored as specified in the Permit. Permit Condition I.A. establishes the E. coli summer daily maximum limitation as 487 col/100 mL for Outfall 0011. For the July 2018 and July 2019 monitoring periods, the Permittee submitted DMRs to the Department reporting E. coli values of 816 col/100 mL and 1120 col/100 mL, respectively, indicating that the Permittee discharged pollutants from Outfall 0011 into Town Creek, a water of the State, in violation of its Permit limitation for E. coli.

6. Ala. Code § 22-22-9(i)(3) requires that every person shall obtain a permit prior to discharging any new or increased pollution into any water of the state. The Permittee submitted sanitary sewer overflow ("SSO") reports for the SSOs listed in Attachment A indicating that wastewater in the form of SSOs was discharged without a permit.

7. ADEM Admin. Code r. 335-6-10-.06(c) requires State waters be free from substances attributable to sewage, industrial wastes or other wastes 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. On May 22, 2019, the Department observed evidence of a fish kill in an unnamed tributary ("UT") to Swan Creek that resulted from the May 22, 2019 SSO at 1004 E. Pryor St. The SSO report submitted to the Department by the Permittee indicated that the SSO was a result of employee error when performing maintenance on the sewer line. The Department's Report of the Fish Kill and the Alabama Department of Conservation and Natural Resources' ("DCNR") Fish Kill Report are included as Attachment B and C, respectively.

8. ADEM Admin Code r. 335-6-10-.09(5)(e)4. requires that instream daily dissolved oxygen ("DO") concentrations not be less than 5 mg/L, with limited exceptions. On May 22, 2019, ADEM noted that the DO concentration in the UT to Swan Creek above the SSO location was 9.7 mg/L and the DO concentration downstream of the SSO location was 4.17 mg/L.

9. ADEM Admin Code r. 335-6-10-.09(5)(e)9. requires that there shall be no turbidity of other than natural origin that will cause substantial visible contrast with the natural appearance of waters or interfere with any beneficial uses which they serve. On May 22, 2019, ADEM noted grey solids and cloudy water in the UT to Swan Creek and a cloudy plume entering Swan Creek that caused a substantial visible contrast with the natural appearance of the waters.

10. Permit Condition I.C.2.d. states that “[t]he 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].” Permit Condition III.H.30. defines a notifiable SSO as “an overflow, spill, release or diversion of wastewater from a sanitary sewer system that: a. Reaches a surface water of the State; or b. May imminently and substantially endanger human health based on potential for public exposure including by not limited to close proximity to public or private water supply wells or in areas where human contact would be likely to occur.” Therefore, ADEM, the public, county health department, and all other affected entities must be notified when the Permittee becomes aware of a notifiable SSO. The SSO report submitted to the Department by the Permittee indicates that notification to the public was not made for the February 22, 2019, SSO that occurred at 100 Highway 72 E because it was not a public health threat. The Permittee also submitted an SSO report for a December 20, 2017, SSO indicating that the county health department was not notified until January 21, 2018.

11. Permit Condition I.C.2.f. requires the Permittee to submit SSO reports no later than five days after becoming aware of the SSO. The Permittee submitted the first complete SSO report for the December 20, 2017, SSO to the Department on January 4, 2018, 15 days after the SSO occurred.

12. Permit Condition IV.B.3.b. requires that toxicity reports of biomonitoring test results must be submitted to the Department no later than 28 days after the month that tests were performed. As of the date of this Order, the Department has not yet received the annual toxicity reports for the 2017 and 2018 toxicity monitoring.

13. The Department issued a Warning Letter to the Permittee on January 13, 2012, for permit limitation exceedances, failure to submit noncompliance notification forms, and SSOs. The Permittee's response to the Warning Letter indicated that the permit limitation exceedances would not continue and that noncompliance notification forms would be submitted as required. In addition, the Permittee indicated that work being completed within the collection system would address the SSOs.

14. The Permittee consents to abide by the terms of this Consent Order and to pay any civil penalty assessed herein.

15. The Department has agreed to the terms of this Consent Order in an effort to resolve the violations cited herein without the unwarranted expenditure of State resources in further prosecuting the alleged violations. The Department has determined that the terms contemplated in this Consent Order are in the best interests of the citizens of Alabama.

CONTENTIONS

Pursuant to Ala. Code § 22-22A-5(18)c., as amended, in determining the amount of any penalty, the Department must give consideration to the seriousness of the violation, including any irreparable harm to the environment and any threat to the health or safety of the public; the standard of care manifested by such person; the economic benefit 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. Any civil penalty assessed pursuant to this authority shall not exceed \$25,000.00 for each violation, provided however, that the total penalty assessed in an order issued by the Department shall not exceed \$250,000.00. Each day that such violation continues shall constitute a separate violation. In arriving at this civil penalty (summarized in Attachment D), the Department has considered the following:

A. **SERIOUSNESS OF THE VIOLATIONS AND BASE PENALTY:** Based on the information available to the Department, violations of the Permit, ADEM Admin. Code chap. 335-6-6, ADEM Admin. Code chap. 335-6-10, and the AWPCA were noted. The Department considered the

general nature of each violation, the magnitude and duration of each non-compliant discharge, the characteristics of each pollutant discharged, the condition of the receiving waters, the violations' effects, if any, on the receiving waters, and any available evidence of irreparable harm to the environment or threat to the public.

B. THE STANDARD OF CARE: The Permittee could have avoided some of the violations cited herein by timely completing and submitting SSO notifications and reports, timely submitting toxicity test reports, and preventing operator error during sewer line maintenance. In consideration of the standard of care manifested by the Permittee, the Department enhanced the penalty.

C. ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED: The Department has considered that delayed compliance may have conferred an economic benefit upon the Permittee but is unable to estimate the economic benefit associated with the violations cited above, as the costs for compliance are not available.

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

E. HISTORY OF PREVIOUS VIOLATIONS: As noted herein, the Permittee has a history of previous violations. In consideration of such history of previous violations, the Department has enhanced the penalty.

F. THE ABILITY TO PAY: The Permittee has not alleged an inability to pay the civil penalty.

G. This Special Order by Consent is a negotiated settlement and, therefore, the Department has compromised the amount of the penalty the Department believes is warranted in this matter in the spirit of cooperation and desire to resolve this matter amicably, without incurring the unwarranted expense of litigation.

H. The civil penalty is summarized in Attachment D.

ORDER

THEREFORE, the Permittee, along with the Department, desires to resolve and settle the compliance issues cited above. The Department has carefully considered the facts available to

it and has considered the penalty factors enumerated in Ala. Code § 22-22A-5(18)c., as amended, as well as the need for timely and effective enforcement, and the Department believes that the penalty assessed below and the following conditions are appropriate to address the violations alleged herein. Therefore, the Department and the Permittee ("Parties") agree to enter into this CONSENT ORDER with the following terms and conditions:

A. The Permittee shall pay to the Department a civil penalty in the amount of \$30,000.00 in settlement of the violations alleged herein within forty-five days from issuance of this Consent Order. Failure to pay the civil penalty within forty-five days from issuance may result in the Department's filing a civil action in the Circuit Court of Montgomery County to recover the civil penalty.

B. All penalties due pursuant to this Consent Order shall be made payable to the Alabama Department of Environmental Management by certified or cashier's check and shall be remitted to:

Office of General Counsel
Alabama Department of Environmental Management
P.O. Box 301463
Montgomery, Alabama 36130-1463

C. The Permittee shall pay to DCNR the sum of \$16,678.21 within thirty days from the issuance of this Consent Order, which represents the replacement costs, biological interim losses, and the investigative costs associated with the fishery. The Permittee shall submit payment for these costs and losses to DCNR via wire transfer pursuant to the instructions provided by DCNR. If the Permittee fails to pay such restitution within the time required, the Permittee agrees to pay DCNR's expenses and attorney's fees necessary for the collection of the restitution.

D. The Permittee shall submit the Toxicity Reports for the 2017 and 2018 toxicity tests. The Toxicity Reports shall be submitted so that they are received by the Department no later than fourteen days after issuance of this Consent Order.

E. The Permittee shall submit a written report that includes the following: certification confirming the county health department notification date for the December 20, 2017, SSO and an update of the SSO report through the Department eSSO system if needed; a certification of

the receiving stream for the May 22, 2019, SSO which resulted in a fish kill and an update of the SSO report through the Department eSSO system if needed; specific details regarding the operator error that occurred and what changes have been taken or will be taken to prevent future SSOs due to operator error; and the current SOP(s) for sewer line maintenance. The written report shall be submitted so that it is received by the Department no later than thirty days after issuance of this Consent Order.

F. The Permittee shall prepare and submit to the Department an Engineering Report that includes a plan for continued maintenance and assessment of the collection system to minimize future inflow and infiltration. The Engineering Report shall be prepared by a professional engineer licensed to practice in the State of Alabama. The Engineering Report shall be submitted so that it is received by the Department no later than ninety days after issuance of this Consent Order. If the Department determines through its review of the submitted Engineering Report that the submittal is not sufficient, then the Permittee shall modify the Engineering Report. The Permittee shall submit modifications to the Engineering Report, if required, so that they are received by the Department no later than thirty days after Permittee's receipt of the Department's comments. The Permittee shall fully implement the Engineering Report.

G. SSO Response Plan

1. Within 120 days of issuance of this Order, the Permittee shall develop a Sanitary Sewer Overflow (SSO) Response Plan to establish timely and effective methods for responding to notifiable sanitary sewer overflows. The SSO Response Plan shall address each of the following:
 - a. General Information:
 - (1) Approximate population of City/Town, if applicable
 - (2) Approximate number of customers served by the Permittee
 - (3) Identification of any subbasins designated by the Permittee, if applicable
 - (4) Identification of estimated linear feet of sanitary sewers
 - (5) Number of Pump/Lift Stations in the collection system
 - b. Responsibility Information:

- (1) The title(s) and contact information of key position(s) who will coordinate the SSO response, including information for a backup coordinator in the event that the primary SSO coordinator is unavailable. The SSO coordinator is the person responsible for assessing the SSO and initiating a series of response actions based on the type, severity, and destination of the SSO, except for routine SSOs for which the coordinator may pre-approve written procedures. Routine SSOs are those for which the corrective action procedures are generally consistent.
- (2) The title(s), and contact information of key position(s) who will respond to SSOs, including information for backup responder(s) in the event the primary responder(s) are unavailable (i.e., position(s) who provide notification to the Department, the public, the county health department, and other affected entities such as public water systems; position(s) responsible for organizing crews for response; position(s) responsible for addressing public inquiries).

c. SSO and Surface Water Assessment

- (1) Identification of locations within the collection system at which an SSO is likely to occur (e.g., based upon historical SSOs, lift stations where electricity may be lost, etc.).
- (2) A map of the general collection system area, including identification of surface waterbodies and the location(s) of public drinking water source(s). Mapping of all collection system piping, pump stations, etc. is not required; however, if this information is already available, it should be included.
- (3) Identification of surface waterbodies within the collection system area which are classified as Swimming according to ADEM Admin. Code chap. 335-6-11. References available to assist in this requirement include:
<http://www.adem.state.al.us/alEnviroRegLaws/files/Division6Vol1.pdf>
and http://gis.adem.alabama.gov/ADEM_Dash/use_class/index.html.

- (4) Identification of surface waterbodies within the collection system area which are not classified as Swimming as indicated in paragraph c above, but are known locally as areas where swimming occurs or as areas that are heavily recreated.

d. Public Reporting of SSOs

- (1) Contact information for the public to report an SSO to the Permittee, during both normal and outside of normal business hours (e.g., telephone number, website, email address, etc.).
- (2) Information requested from the person reporting an SSO to assist the Permittee in identifying the SSO (e.g., date, time, location, contact information).
- (3) Procedures for communication of the SSO report to the appropriate positions for follow-up investigation and response, if necessary.

e. Procedures to immediately notify the Department, the county health department, and other affected entities (such as public water systems) upon becoming aware of notifiable SSOs

f. Public Notification Methods for SSOs

- (1) A listing of methods that are feasible, as determined by the Permittee, for public notifications (e.g., flyers distributed to nearby residents; signs posted at the location of the SSO, where the SSO enters a water of the state, and/or at a central public location; signs posted at fishing piers, boat launches, parks, swimming waterbodies, etc.; website and/or social media notifications; local print or radio and broadcast media notifications; "opt in" email, text message, or automated phone message notifications)
 - (a) If signage is a feasible method for public notification, procedures for use and removal of signage (e.g., availability and maintenance of signs, appropriate duration of postings)

- (2) Minimum information to be included in public notifications (e.g., identification that an SSO has occurred, date, duration if known, estimated volume if known, location of the SSO by street address or other appropriate method, initial destination of the SSO)
 - (3) Procedures developed by the Permittee for determining the appropriate public notification method(s) based upon the potential for public exposure to health risks associated with the SSO
- g. Standard Procedures shall be developed by the Permittee and shall include, at a minimum:
- (1) General SSO Response Procedures (e.g., procedures for dispatching staff to assess/correct an SSO; procedures for routine SSO corrective actions such as those for sewer blockages, overflowing manholes, line breakages, pump station power failure, etc.; procedures for disinfection of affected area, if applicable);
 - (2) Procedures for collection and proper disposal of the SSO, if feasible.
 - (3) General procedures for coordinating instream water quality monitoring, including, but not limited to, procedures for mobilizing staff, collecting samples, and typical test methods should the Department or the Permittee determine monitoring is appropriate following an SSO. Identification of a contractor who will collect and analyze the sample(s) may be listed in lieu of the procedures.
 - (4) References to other documents (such as Standard Operating Procedures for SSO Responses) may be acceptable for this section; however, the referenced document shall be identified and shall be reviewed at a frequency of at least that required by the Administrative Procedures Section.
- h. Date of the SSO Response Plan, dates of all modifications and/or reviews, the title and signature of the reviewer(s) for each date and the signature of the responsible official or the appropriate designee.

2. SSO Response Plan Implementation

Except as otherwise required by this Order, the Permittee shall fully implement the SSO Response Plan as soon as practicable, but no later than 180 days after the effective date of this Order.

3. Department Review of the SSO Response Plan

- a. When requested by the Director or his designee, the Permittee shall make the SSO Response Plan available for review by the Department.
- b. Upon review, the Director or his designee may notify the Permittee that the SSO Response Plan is deficient and require modification of the Plan.
- c. Within thirty days of receipt of notification, or an alternate timeframe as approved by the Department, the Permittee shall modify any SSO Response Plan deficiency identified by the Director or his designee and shall certify to the Department that the modification has been made.

4. SSO Response Plan Administrative Procedures

- a. The Permittee shall maintain a copy of the SSO Response Plan at the permitted facility or an alternate location approved by the Department in writing and shall make it available for inspection by the Department.
- b. The Permittee shall make a copy of the SSO Response Plan available to the public upon written request within 30 days of such request. The Permittee may redact information which may present security issues, such as location of public water supplies, identification of specific details of vulnerabilities, employee information, etc.
- c. The Permittee shall provide training for any personnel required to implement the SSO Response Plan and shall retain at the facility documentation of such training. This documentation shall be available for inspection by the Department. Training shall be provided for existing personnel prior to the date by which implementation of the SSO Response Plan is required and for new personnel as soon as possible. Should significant revisions be made to the SSO

Response Plan, training regarding the revisions shall be conducted as soon as possible.

- d. Documentation of the SSO Response Plan review and evaluation shall be signed and dated by the responsible official or the appropriate designee as part of the SSO Response Plan.

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

I. The Permittee shall submit a certification to the Department, signed by a professional engineer licensed to practice in the State of Alabama, indicating whether the Permittee is in compliance with all requirements of this Consent Order. The Permittee shall submit such certification so that it is received by the Department no later than 210 days after issuance of this Consent Order.

J. After issuance of this Consent Order, the Permittee shall pay stipulated penalties for each day it fails to meet any of the milestone dates or satisfy any of the requirements set forth in or established by Paragraphs D, E, F and I contained herein. The stipulated civil penalties for failure to meet each milestone or any requirement date, except for *Force Majeure* acts as hereinafter defined, shall be as follows:

<u>Period of Noncompliance</u>	<u>Penalty per Day per Violation</u>
1st to 30th day	\$ 100.00
31st to 60th day	\$ 200.00
After 60 days	\$ 300.00

If the Permittee fails to meet any milestone or any assigned date ninety days after the required dates found in Paragraphs D, E, F, and I, the Department reserves the right to file a new action against the Permittee.

K. Cumulative stipulated penalties described in Paragraph I above shall under no circumstances exceed \$18,000.00. Once stipulated penalties of \$18,000.00 are due to the Department, or should violations continue to occur after the final compliance date specified in

the accepted Compliance Plan, the Department reserves the right to issue additional orders or file suit against the Permittee in the Circuit Court of Montgomery County or other court of competent jurisdiction to enforce compliance with this Consent Order.

L. Payment of stipulated penalties are due for violations of milestone dates under this Consent Order not later than the 28th day of the month following the month a milestone date was not achieved. Notification to the Permittee by the Department of the assessment of any stipulated penalty is not required.

M. This Consent Order shall apply to and be binding upon both Parties, their directors, officers, and all persons or entities acting under or for them. Each signatory to this Consent Order certifies that he or she is fully authorized by the Party he or she represents to enter into the terms and conditions of this Consent Order, to execute the Consent Order on behalf of the Party represented, and to legally bind such Party.

N. Subject to the terms of these presents and subject to provisions otherwise provided by statute, this Consent Order is intended to operate as a full resolution of the violations which are cited in this Consent Order.

O. The Permittee is not relieved from any liability if it fails to comply with any provision of this Consent Order.

P. For purposes of this Consent Order only, the Department may properly bring an action to compel compliance with the terms and conditions contained herein in the Circuit Court of Montgomery County. In any action brought by the Department to compel compliance with the terms of this Agreement, the Permittee shall be limited to the defenses of *Force Majeure*, compliance with this Agreement and physical impossibility. A *Force Majeure* is defined as any event arising from causes that are not foreseeable and are beyond the reasonable control of the Permittee, including its contractors and consultants, which could not be overcome by due diligence (i.e., causes which could have been overcome or avoided by the exercise of due diligence will not be considered to have been beyond the reasonable control of the Permittee) and which delays or prevents performance by a date required by the Consent Order. Events such as unanticipated or increased costs of performance, changed economic circumstances, normal

precipitation events, or failure to obtain federal, state, or local permits shall not constitute *Force Majeure*. Any request for a modification of a deadline shall be accompanied by the reasons (including documentation) for each extension and the proposed extension time. The Permittee shall submit this information so that it is received by the Department a minimum of ten working days prior to the original anticipated completion date. If the Department, after review of the extension request, finds the work was delayed because of conditions beyond the control and without the fault of the Permittee, the Department may extend the time as justified by the circumstances. The Department may also grant any other additional time extension as justified by the circumstances, but it is not obligated to do so.

Q. The sole purpose of this Consent Order is to resolve and dispose of all allegations and contentions stated herein concerning the factual circumstances referenced herein. Should additional facts and circumstances be discovered in the future concerning the Athens WWTP which would constitute possible violations not addressed in this Consent Order, then such future violations may be addressed in other orders as may be issued by the Director, by litigation initiated by the Department, or by such other enforcement action as may be appropriate. The Permittee shall not object to such future orders, litigation, or enforcement action based on the issuance of this Consent Order if such future orders, litigation, or other enforcement action addresses new matters not raised in this Consent Order.

R. This Consent Order shall be considered final and effective immediately upon signature of all Parties. This Consent Order shall not be appealable, and the Permittee does hereby waive any hearing on the terms and conditions of same.

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

T. Final approval and entry into this Consent Order are subject to the requirements that the Department provide notice of proposed orders to the public, and that the public have at least thirty days within which to comment on the proposed Consent Order.

U. Should any provision of this Consent Order be declared by a court of competent jurisdiction or the Environmental Management Commission to be inconsistent with Federal or

State law and therefore unenforceable, the remaining provisions hereof shall remain in full force and effect.

V. Any modification of this Consent Order shall be agreed to in writing and signed by both Parties.

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

Executed in duplicate, with each part being an original.

ATHENS UTILITIES

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

EXECUTED AND ISSUED:

By:

William R. Marks

By: _____

Its:

MAYOR

Its: _____

Date:

Sept. 23, 2019

Date: _____

Attachment A
SSOs

Date	Location	Volume (gal)	Destination
12/20/2017	Across Hwy 72 East from 1124 Hwy 72 East	2600	Ground Absorbed
2/11/2018	Across Hwy 72 East from 1124 Highway 72 East	300	Ground Absorbed
2/20/2019	Across Hwy 72 East from 1124 Highway 72 East	9200	Ground Absorbed
2/21/2019	Near the intersection of East Forrest St and Stewart Dr	50,000 -75,000	Swan Creek
2/22/2019	100 Highway 72 E	1,000 - 10,000	Town Creek
2/22/2019	502 Brownsferry Street	10,000 -25,000	Town Creek
2/22/2019	102 Highway 31 N	1,000 - 10,000	Swan Creek
2/22/2019	Athens State University Library	1,000 - 10,000	Storm Drain
2/22/2019	1300 Aston Street	1,000 - 10,000	Town Creek
5/22/2019	1004 E Pryor Street	1,000 - 10,000	Swan Creek

Attachment B: ADEM Fish Kill Report



Alabama Department of Environmental Management
GENERAL SITE INSPECTION REPORT

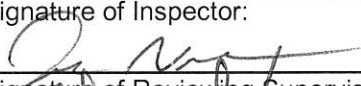

Company/Operator/Permittee: City of Athens		Phone Number: 256-233-8730	
Mailing Address: P.O. Box 1089	City Athens	State AL	Zip Code 35612
Responsible Official/Operator Name: Ronnie Marks, Mayor			

Facility Name: N/A	Facility ID # or Permit #: N/A	Inspection Entry Date & Time: May 22, 2019	County: Limestone
Activity Description: Fish Kill	NMS Inspection #: N/A	Inspection Exit Date & Time: May 22, 2019	Report Complete Date: June 12, 2019
Inspection Type: <input type="checkbox"/> CEI <input type="checkbox"/> CSI <input type="checkbox"/> Inspection Request <input type="checkbox"/> Routine <input type="checkbox"/> Complaint <input type="checkbox"/> Photos Taken <input checked="" type="checkbox"/> Samples Collected <input type="checkbox"/>			

Township, Range, Section:
Physical Address/Location Description (include nearest city): Athens, AL

Entrance Latitude & Longitude: Upstream: 34.808912, 86.958483; Downstream 34.793015, -86.948870
Discharge Point(s) Latitude & Longitude: 34.807108, -86.957526
Receiving Water(s): UT to Swan Creek; Swan Creek
Weather Conditions:

Observations/Comments: On May 22, 2019, a report of a milky substance and dead fish in a UT to Swan Creek in Athens, AL was received through the NRC (NRC #1246509). During the inspection, the UT to Swan Creek appeared cloudy and numerous dead fish were observed. A DO measurement was taken near 34.793015, -86.948870. The DO was 4.17. The UT was followed up-stream to what appeared to be an earlier SSO. Sediment and cloudy water were observed around the manhole. The DO measurement taken upstream of the manhole was 9.7.
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Name(s) of On-site Representative(s) and Phone Numbers:		
Name of Inspector: James Nelson	Signature of Inspector: 	Date: 6/12/2019
Name of Reviewing Supervisor: Shawn LaGrone	Signature of Reviewing Supervisor: 	Date: 6/12/2019

FOD Office: <input type="checkbox"/> Birmingham <input checked="" type="checkbox"/> Decatur <input type="checkbox"/> Mobile <input type="checkbox"/> Montgomery

Athens, AL Fish Kill May 22, 2019

Inspected by James Nelson

Upstream DO: 9.7







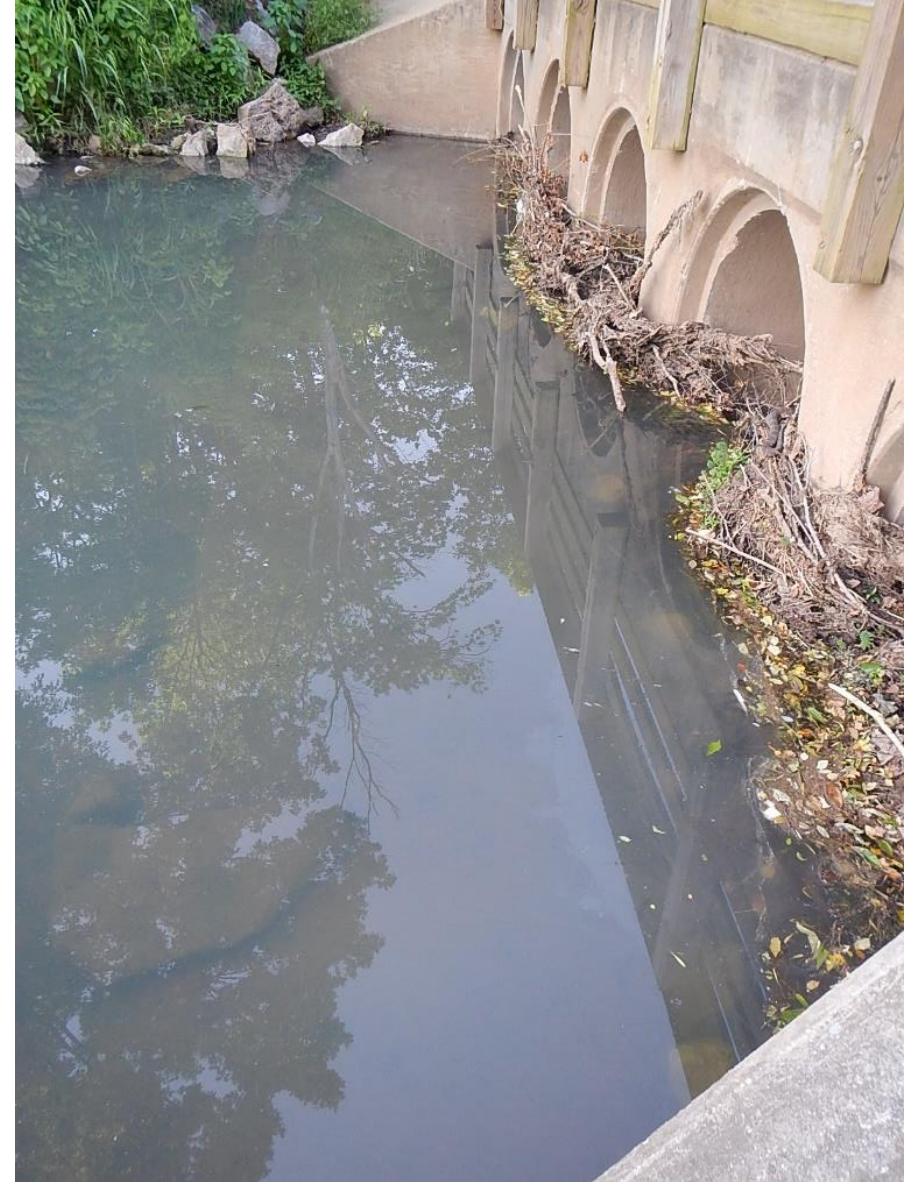
Grey solids and cloudy water were observed near Pryor Street in the UT to Swan Creek.



Grey solids and cloudy water were observed near Pryor Street in the UT to Swan Creek.



Dead fish were observed in numerous areas from the SSO to Swan Creek.



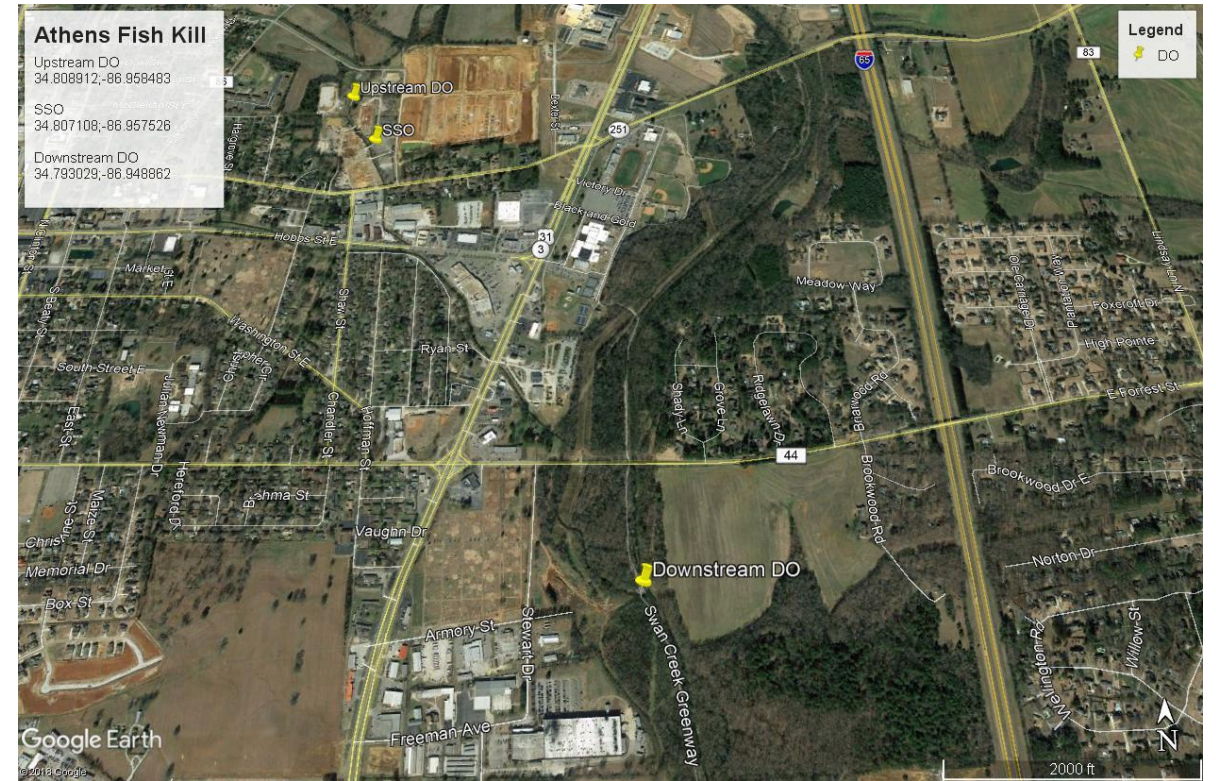
Downstream DO: 4.17



Cloudy plume entering Swan Creek



Cloudy plume entering Swan Creek



Athens Fish Kill

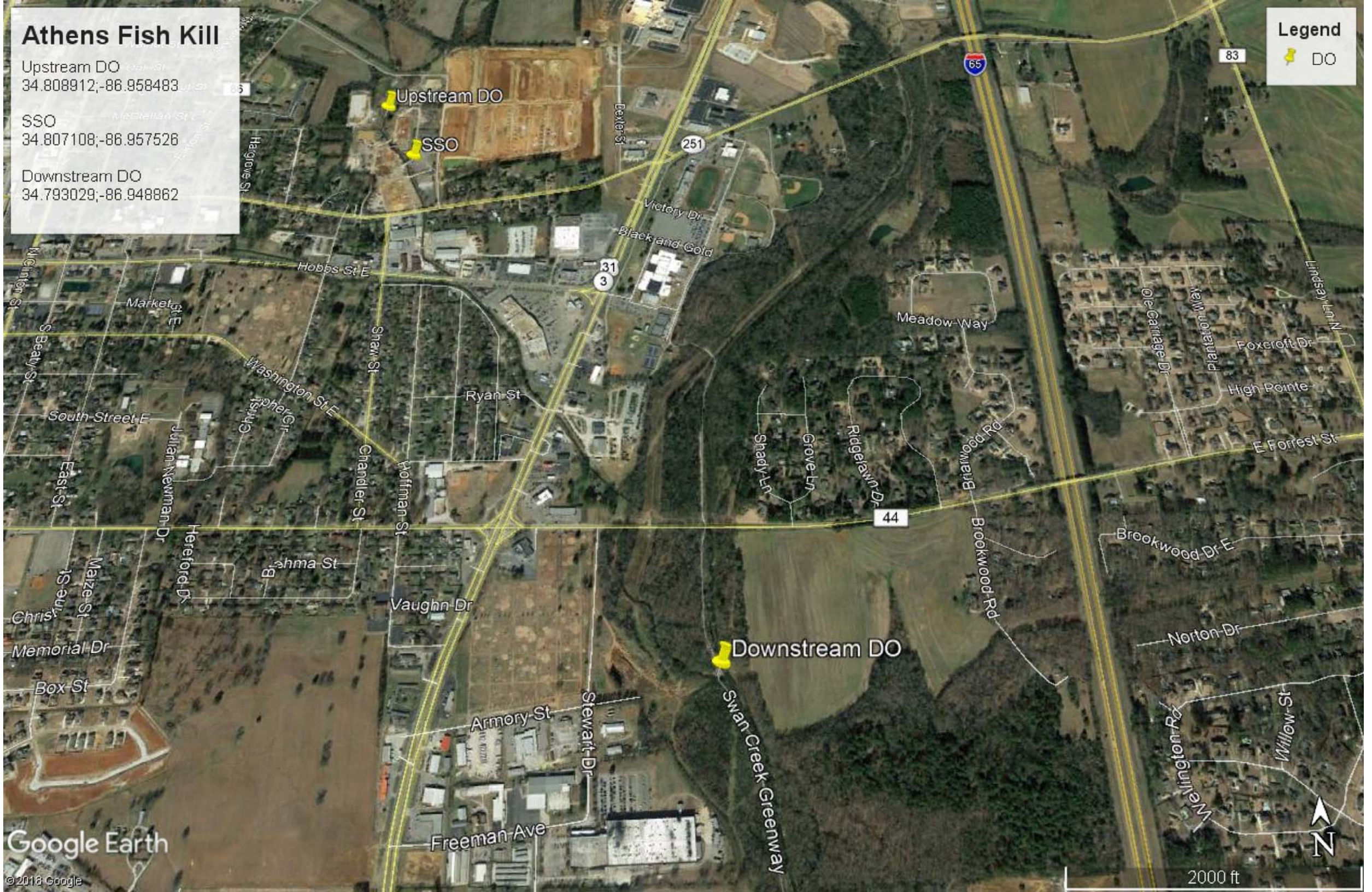
Upstream DO
34.808912,-86.958483

SSO
34.807108,-86.957526

Downstream DO
34.793029,-86.948862

Legend

 DO

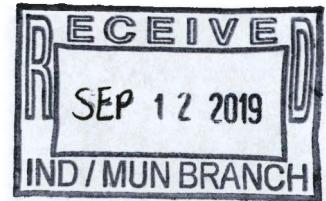


Attachment C: ADCNR Fish Kill Report

Fish Kill Investigation of an Unnamed Tributary to Swan Creek In Athens, Alabama on May 22, 2019

By

Phil Ekema and KD Wood



Introduction:

At 1719 on Wednesday, May 22, 2019, Mr. Billy Robinson (931-797-8288) of Mount Pleasant, TN called the NATIONAL RESPONSE CENTER to report a fish kill on Swan Creek, along the Swan Creek Walking Trail in Athens, AL (Appendix A). Shortly thereafter Mr. James (Jamie) Nelson of Alabama Department of Environmental Management (ADEM) called the Swan Creek District Office to report the fish kill to our office and Ms. Para Stewart took the call. Para called me regarding the fish kill report and then texted me Jamie's contact information. At approximately 1745 that afternoon I was able to contact Mr. Robinson and obtain information regarding the fish kill. Mr. Nelson stated that Mr. Robinson reported there were approximately 50 dead fish in Swan Creek. Mr. Robinson had been on the walking trail adjacent to Swan Creek when he noticed the dead fish from the pedestrian bridge over an Unnamed Tributary (UT) to Swan Creek. Due to the time of day, it was determined that an investigation would have to wait until first thing Thursday morning. I reported the fish kill to Biologist Heath Haley and Biologist Aide K.D. Wood and made arrangements to meet them at the fish kill site at 0700 Thursday morning.

Mr. Nelson went to the fish kill Wednesday evening and determined that it was a fairly significant kill. He was able to identify the lower and upper reaches of the fish kill and took dissolved oxygen (DO) readings at 1831 and 1930, respectively (Appendix C – Figure 1).

Investigation and Methods:

On Thursday morning I met Biologist Haley and Biologist Aide Wood at the source of the fish kill, a manhole cover (34.807171, -86.957541) where raw sewage had overflowed into the UT (Appendix D - Photo 1). Warning signs posted along the creek by Athens Utilities proved as evidence that Athens Utilities was aware of the sewer overflow, but to my knowledge, made no

effort to report it to the District 1 Fisheries Office. I am not aware if Athens Utilities reported the sewer overflow to ADEM.

Biologist Haley had a prior commitment and had to leave. Biologist Aide Wood and I decided to divide the fish kill into five (5) subsections. We identified, counted, and measured all dead fish along a randomly selected 150 foot transect within each of the five (5) subsections.

We started counting dead fish at around 0800 in Transect 1 of the upstream subsection. Transect 1 was located upstream of Pryor Street East and was the most upstream subsection of the fish kill. This is the site where the sewer overflow occurred (Appendix C – Figure 2). There were a few live fish noted in this area that had repopulated the area from upstream as water quality rebounded to tolerable limits. Dead Asian clams (corbicula) were noted in this location. Snails appeared to be unaffected.

Transect 2 was located between Pryor Street East and Hobbs Street East and adjacent to McClary Tire (Appendix C – Figure 3). There were no live fish observed in this subsection. Dead crayfish, Asian clams (corbicula) and one (1) tadpole were noted in this area in addition to the dead fish. This is also the location where two (2) slackwater darters (Appendix D – Photo 6) were collected as evidence (34.803788, -86.956405). Snails again appeared to be unaffected.

Transect 3 was located between Hobbs Street East and Highway 31 (Appendix C – Figure 4). This subsection had another UT that flowed into the UT with the fish kill (Appendix D – Photo 4). Despite the fish kill, there were some live crayfish, snails, frogs, and fish observed in this subsection.

Transect 4 was located at the Hwy 31 crossing and adjacent to Trigreen Equipment (Appendix C – Figure 5). A live turtle, snails, muskrat, and crayfish were noted despite the large number of dead fish observed in this section. As in previous transects, dead Asian clams (corbicula) were observed.

Transect 5 was located near the confluence of the UT and Swan Creek (Appendix C – Figure 6). This is the site where the walking trail bridge is located (34.793141, -86.949323) and the site where the initial fish kill report originated. Another warning sign was posted here by Athens Utilities notifying the public of the sewer overflow (Appendix D – Photo 5). Live fish, crayfish and two (2) snakes were observed at this site. Dead crayfish and Asian clams

(corbicula) were noted. Many badly decomposed fish were observed and could not be identified nor measured for length. These dead fish were not included in our dead fish counts in this transect.

Jeff Garner (ADCNR – Malacologist) was contacted regarding snails and mussels in the fish kill portion of the UT. Jeff later reported that the snails were unaffected, but it appeared that Corbicula were killed.

We completed our fish kill investigation at 1200 on Thursday. We returned to the office where I compiled the fish kill data by species and inch groups (Appendix E – Tables 1-13). Google Earth Pro was used to determine that the total length of the fish kill was 6,200 linear feet of stream. An expansion number of 8.267 (total length of kill / length of subsamples: $6,200' / 750' = 8.267$). This value was used to estimate the total number of fish killed in the UT.

Two (2) individuals of slackwater darter (*Etheostoma boschungii*) (Appendix D - Photo 6) were collected from Transect 2 of the fish kill. Mr. Cal Johson (ADEM) and Biologist Haley (ADCNR) both confirmed the identification of the threatened slackwater darter. These two (2) fish were preserved for future evidence.

It is likely that many fish, especially the smaller fish, disappeared due to decomposition or predation by scavengers and were unaccounted for by fish kill investigators, therefore the enumeration and valuation of this fish kill is considered to be conservative and underestimates actual damages.

The following summary describes the Appendices of this report:

Appendix A: National Response Center Incident Report #1246509

Appendix B: 50 CFR § 11.33 - Adjustments to penalties.

Appendix C: Contains Figures 1 – 6 (maps of the fish kill and transects where subsampling took place).

Appendix D: Photos 1 – 5 depict images of the fish kill area and investigation.
Photo 6 is an image of the threatened slackwater darters.

Appendix E: Tables 1 – 13 depict the fish species or genus, inch class, number, weight, and value of each fish encountered in the fish kill.

Table 14 is a summary of the total costs associated with the fish kill, including investigative expenses.

Appendix F: Contains Summary Yellow Card, Pages 1 and 2.

Results:

The UT fish kill resulted in 643 game fish killed, weighing an estimated 21.6 pounds, worth an estimated \$530.85 (Appendix F: Summary Yellow Card, Page 1).

Non-game fish killed were 2,357, weighing 13.9 pounds, and worth an estimated \$14,274.86. It should be noted that this includes a value of \$13,290.00 for the threatened species of slackwater darter. Total weights for several of the non-game fish were not available, so it should be noted that the weights of non-game fish is under estimated (Appendix F: Summary Yellow Card, Page 1).

There were 3,000 total dead fish, weighing at least 35.5 pounds, valued at \$14,805.71. These values were calculated using the American Fisheries Society Special Publication 35 (2017, revised 2018) and reflects the change in Producer Price Index (PPI) from 2017-2018 (Appendix E: Summary Yellow Card, Page 1). The value for the threatened slackwater darter was obtained from the U. S. Code of Federal Regulations 50 CFR § 11.33 (Appendix B).

All monetary values in the text and tables of this report are rounded to the nearest \$0.01.

Dissolved Oxygen readings as measured by Mr. James Nelson (ADEM) were as follows:

<u>Location</u>	<u>Date</u>	<u>Time</u>	<u>Surface DO (mg/L)</u>
Pedestrian Bridge	5/22/19	1831	4.17
Upstream of sewer overflow	5/22/19	1930	9.70

Conclusion:

1. A fish kill occurred in an UT to Swan Creek in Athens, AL (Appendix C – Figure 1).
2. The total length of the kill was estimated to be **6,200 linear feet**.

3. The cause of the kill was determined to be from a **sewer overflow** from a manhole (34.807171, -86.957541) causing low DO (Appendix D – Photo 1).
4. DO levels of 4.17 mg/L and 9.70 mg/L were measured by ADEM at the confluence of the UT and Swan Creek and above the sewer overflow source, respectively.
5. A conservative estimate of total game fish (N = 643) and non-game fish (N = 2,357) killed during this event was **3,000 fish** (Appendix F: Summary Yellow Card, Page 1).
6. A conservative estimate of the weight of game fish (21.6 pounds) and non-game fish (13.9 pounds) was **35.5 pounds** (Appendix F: Summary Yellow Card, Page 1). Obtaining total weights for several of the non-game fish was impossible, so it should be noted that the weights of non-game fish are underestimated.
7. A conservative estimate of the value of game fish (\$530.85) and non-game fish (\$14,274.86) killed during this event was **\$14,805.71** (Appendix F: Summary Yellow Card, Page 1). A value of \$13,290.00, accounted for in the non-game fish total, is attributed to the loss of threatened slackwater darters.
8. Investigative cost of the fish kill is **\$1,872.50** (Appendix E – Table 14).
9. Conservative estimates of the total cost of fish replacement and investigative cost is **\$16,678.21** (Appendix E – Table 14).
10. Due to numerous factors that are described in the investigation report, the total number of fish killed and the monetary valuation of the kill are considered to be conservative and likely underestimate actual amounts.

Appendix A

NATIONAL RESPONSE CENTER 1-800-424-8802

GOVERNMENT USE ONLYGOVERNMENT USE ONLY***

Information released to a third party shall comply with any applicable federal and/or state Freedom of Information and Privacy Laws

Incident Report # 1246509

INCIDENT DESCRIPTION

*Report taken by NRC at 17:19 on 22-MAY-19

Incident Type: UNKNOWN SHEEN

Incident Cause: UNKNOWN

Affected Area: SWAN CREEK

Incident was discovered on 22-MAY-19 at 16:20 local incident time.

Affected Medium: WATER / SWAN CREEK

REPORTING PARTY

Name: BILLY ROBINSON

MT. PLEASANT, TN

PRIMARY Phone: (931)7978288

SUSPECTED RESPONSIBLE PARTY

Name: UNKNOWN

Type of Organization: UNKNOWN

INCIDENT LOCATION

County: LIMESTONE

City: ATHENS State: AL

SWAN CREEK TRAIL/ ON HWY 72, NEAR TRAIL HEAD THAT GOES THRU TO THE MIDDLE SCHOOL

RELEASED MATERIAL(S)

CHRIS Code: OUN Official Material Name: UNKNOWN OIL

Also Known As:

Qty Released: 0 UNKNOWN AMOUNT Qty in Water: 0 UNKNOWN AMOUNT

DESCRIPTION OF INCIDENT

CALLER REPORTED AN UNKNOWN WHITE MILKY SUBSTANCE IN SWAN CREEK. CALLER STATED THERE ARE OVER 50 DEAD FISH IN THE CREEK. CALLER STATED THERE ARE NUMEROUS FISH AND WILDLIFE THAT ARE DYING AS A RESULT OF THIS SUBSTANCE.

SENSITIVE INFORMATION

INCIDENT DETAILS

Platform Rig Name:

Platform Letter:

Location Area ID:

Location Block ID:

OCSG Number:

OCSF Number:

State Lease Number:

Pier Dock Number:

Berth Slip Number:

---WATER INFORMATION---

Body of Water: SWAN CREEK

Tributary of:

Nearest River Mile Marker:

Water Supply Contaminated: UNKNOWN

IMPACT

Fire Involved: NO Fire Extinguished: UNKNOWN

INJURIES: NO Sent to Hospital: Empl/Crew: Passenger:

FATALITIES: NO Empl/Crew: Passenger: Occupant:

EVACUATIONS: NO Who Evacuated: Radius/Area:

Damages: NO

	Hours	Direction of
Closure Type Description of Closure	Closed	Closure

Air: NO

	Major
Road: NO	Artery: NO

Waterway: NO

Track: NO

Passengers Transferred: NO

Environmental Impact: YES/MARINE SPECIES, WILDLIFE

Media Interest: UNKNOWN Community Impact due to Material:

REMEDIAL ACTIONS

MADE NOTIFICATION

Release Secured: UNKNOWN
Release Rate:
Estimated Release Duration:

WEATHER

ADDITIONAL AGENCIES NOTIFIED

Federal:
State/Local:
State/Local On Scene:
State Agency Number:

NOTIFICATIONS BY NRC

ALABAMA DEPT OF ENV MGMT (MAIN OFFICE)
22-MAY-19 17:26 (334)3944382
ALABAMA DEPT OF ENV MGMT (DECATUR BRANCH)
22-MAY-19 17:26 (334)3944382
AL U.S. ATTORNEY'S OFFICE (COMMAND CENTER)
22-MAY-19 17:26 (205)2442188
CENTERS FOR DISEASE CONTROL (GRASP)
22-MAY-19 17:26 (770)4887100
DHS NOC (USCG LNO)
22-MAY-19 17:26 (202)2828114
DEPT OF HEALTH AND HUMAN SERVICES (SECRETARY'S OPERATION CENTER (SOC))
22-MAY-19 17:26
DHS DEFENSE THREAT REDUCTION AGENCY (CHEMICAL AND BIOLOGICAL TECHNOLOGI
22-MAY-19 17:26 (703)7673477
DOT CRISIS MANAGEMENT CENTER (MAIN OFFICE)
22-MAY-19 17:26 (202)3661863
U.S. EPA IV (MAIN OFFICE)
(404)6504955
U.S. EPA IV (DUTY OSC)
22-MAY-19 17:26 (404)6504955
USCG NATIONAL COMMAND CENTER (MAIN OFFICE)
22-MAY-19 17:26 (202)3722100
JFO-LA (COMMAND CENTER)
22-MAY-19 17:26 (225)3366513
NATIONAL INFRASTRUCTURE COORD CTR (MAIN OFFICE)
22-MAY-19 17:26 (202)2829201
NOAA RPTS FOR AL (MAIN OFFICE)
22-MAY-19 17:26 (206)5264911
DOI FOR REGION 4 (MAIN OFFICE)
22-MAY-19 17:26 (404)3314524
SECTOR OHIO VALLEY (MSD NASHVILLE)
22-MAY-19 17:26 (615)7365421
ALABAMA EMA (MAIN OFFICE)

22-MAY-19 17:26 (205)2802312
STEVE SPURLIN EPAIV (MAIN OFFICE)
22-MAY-19 17:26
USCG DISTRICT 8 (MAIN OFFICE)
22-MAY-19 17:26 (504)5896225
USCG DISTRICT 8 (PLANNING)
22-MAY-19 17:26 (504)6712080

ADDITIONAL INFORMATION

*** END INCIDENT REPORT #1246509 ***

Report any problems by calling 1-800-424-8802

PLEASE VISIT OUR WEB SITE AT

<https://linkprotect.cudasvc.com/url?a=http%3a%2f%2fwww.nrc.uscg.mil&c=E,1,THU9uDK2Cv3khOoYCSUlozMRMVAv3h6uQfPoa9G l3mtLr1-qXwUhrWA0yyadpSdpie6EqqztjZtvEdppggyApEpLANYbBEtoxXMTLq0VgfPyUYVgPA8-Qvz&typo=1>

Appendix B

50 CFR § 11.33 - Adjustments to

The civil monetary penalties provided by law within the jurisdiction of the U.S. Fish and Wildlife Service are adjusted as follows:

Law	Citation	Type of Violation	Maximum civil monetary penalty
(a) African Elephant Conservation Act	16 U.S.C. 4224(b)	Any violation	\$10,519.00
(b) Bald and Golden Eagle Protection Act	16 U.S.C. 668(b)	Any violation	\$13,291.00
(c) Endangered Species Act of 1973	16 U.S.C. 1540(a)(1)	(1) Knowing violation of section 1538	\$52,596.00
		(2) Other knowing violation	\$25,246.00
		(3) Any other violation	\$1,329.00
(d) Lacey Act Amendments of 1981	16 U.S.C. 3373(a)	(1) Violations referred to in 16 U.S.C. 3373(a)(1)	\$26,582.00
		(2) Violations referred to in 16 U.S.C. 3373(a)(2)	\$664.00
(e) Marine Mammal Protection Act of 1972	16 U.S.C. 1375	Any violation	\$26,582.00
(f) Recreational Hunting Safety Act of 1994	16 U.S.C. 5202(b)	(1) Violation involving use of force or violence or threatened use of force or violence	\$16,915.00
		(2) Any other violation	\$8,457.00
(g) Rhinoceros and Tiger Conservation Act of 1998	16 U.S.C. 5305a(b)(2)	Any violation	\$18,504.00
(h) Wild Bird Conservation Act	16 U.S.C. 4912(a)(1)	(1) Violation of section 4910(a)(1), section 4910(a)(2), or any permit issued under section 4911	\$44,585.00
		(2) Violation of section 4910(a)(3)	\$21,400.00
		(3) Any other violation	\$892.00

[81 FR 41865, June 28, 2016, as amended at 82 FR 6308, Jan. 19, 2017; 83 FR 5951, Feb. 12, 2018; 84 FR 15526, Apr. 16, 2019]

Appendix C



Figure 2. Upper end of fish kill depicting the location of the sewer overflow and the location of Transect 1.



Figure 3. View of Transect 2 and the site where two (2) slackwater¹ darters were collected.



Figure 4. Site of Transect 3 between Hobbs Street East and Highway 31.



Figure 5. Site of Transect 4 located just downstream of Highway 31.

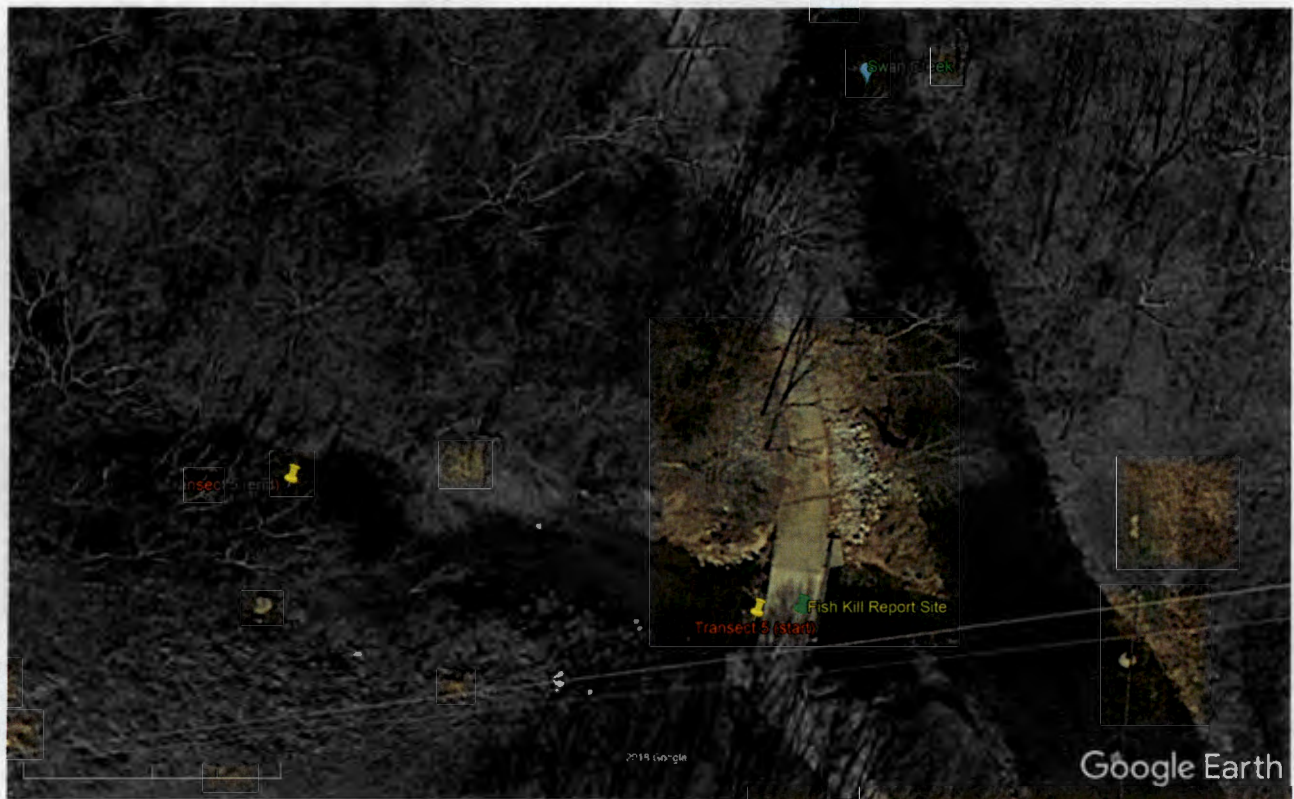


Figure 6. Site of Transect 6 and the pedestrian bridge where dead fish were first reported.

Appendix D



Photo 1. Manhole where raw sewage overflowed out of and into Unnamed Tributary of Swan Creek on May 22, 2019.



Photo 2. Sign posted by Athens Utilities warning of the sanitary sewer overflow.



Photo 3. Sewer sludge upstream of Pryor Street East in Unnamed Tributary of Swan Creek, Athens, AL.



Photo 4. Sewage sludge visible at the confluence with another Unnamed Tributary at Hobbs Street East, Athens, AL.



Photo 5. Warning sign at the lower end of the fish kill located at the confluence of Unnamed Tributary and Swan Creek, Athens, AL.



Photo 6. Slackwater darters collected from the fish kill in the UT of Swan Creek on May 23, 2019.

Appendix E

Table 1. Inch group, number, weight, and monetary value of
LARGESCALE STONEROLLER
killed in UT of Swan Creek, Limestone County, on May 22, 2019.

Inch Group	Number	Weight (lbs.)	Value
1	17	NA	\$2.07
2	50	NA	\$6.21
3	240	1.82205	\$30.03
4	306	3.05879	\$38.32
5	99	2.38090	\$12.43
6	58	2.31476	\$7.25
7			
8			
9			
10			
11			
12			
Total	770	9.57649	\$96.31

Table 2. Inch group, number, weight, and monetary value of
CREEK CHUB
 killed in UT of Swan Creek, Limestone County, on May 22, 2019.

Inch Group	Number	Weight (lbs.)	Value
1			
2			
3	8	0.02893	\$1.04
4			
5	8	0.26454	\$1.04
6			
7			
8			
Total	16	0.29348	\$2.08

Table 3. Inch group, number, weight, and monetary value of **MINNOW SPP. (flame chub, striped shiner, scarlet shiner)** killed in UT of Swan Creek, Limestone County, on May 22, 2019.

Inch Group	Number	Weight (lbs.)	Value
1			
2	33	NA	\$4.14
3	231	NA	\$29.00
4	364	NA	\$45.57
5	198	NA	\$24.85
6	50	NA	\$6.21
7			
Total	876		\$109.77

Table 4. Inch group, number, weight, and monetary value of
NORTHERN HOG SUCKER
killed in UT of Swan Creek, Limestone County, on May 22, 2019.

Inch Group	Number	Weight (lbs.)	Value
1			
2			
3			
4	8	0.07440	\$7.34
5			
6	17	0.82670	\$34.52
7	8	0.82670	\$24.85
8			
9	8	1.40539	\$23.30
10			
11			
12			
Total	41	3.13319	\$90.00

Table 5. Inch group, number, weight, and monetary value of
MADTOM (Noturus spp.)
killed in UT of Swan Creek, Limestone County, on May 22, 2019.

Inch Group	Number	Weight (lbs.)	Value
1			
2	17	NA	\$5.70
3	107	NA	\$74.05
4	66	NA	\$55.92
5	41	NA	\$43.58
6			
7			
8			
9			
10			
11			
12			
13			
Total	231		\$179.25

Table 6. Inch group, number, weight, and monetary value of
YELLOW BULLHEAD
 killed in UT of Swan Creek, Limestone County, on May 22, 2019.

Inch Group	Number	Weight (lbs.)	Value
1			
2	8	0.01323	\$2.85
3	8	0.04134	\$5.70
4	17	0.16534	\$13.98
5	8	0.24801	\$8.72
6	8	0.41335	\$9.49
7			
8			
9			
10			
11			
12			
Total	49	0.88126	\$40.74

Table 7. Inch group, number, weight, and monetary value of
LARGEMOUTH BASS
killed in UT of Swan Creek, Limestone County, on May 22, 2019.

Inch Group	Number	Weight (lbs.)	Value
1			
2			
3			
4	8	0.11574	\$11.13
5			
6			
7			
8			
9	8	1.98408	\$36.94
10	25	8.18433	\$110.81
11			
12			
Total	41	10.28415	\$158.88

Table 8. Inch group, number, weight, and monetary value of
SPOTTED BASS
killed in UT of Swan Creek, Limestone County, on May 22, 2019.

Inch Group	Number	Weight (lbs.)	Value
1			
2			
3			
4	8	0.07688	\$11.13
5			
6			
7			
8			
9			
10			
11			
12			
Total	8	0.07688	\$11.13

Table 9. Inch group, number, weight, and monetary value of
BLUEGILL
 killed in UT of Swan Creek, Limestone County, on May 22, 2019.

Inch Group	Number	Weight (lbs.)	Value
1			
2	8	0.00909	\$3.45
3	33	0.15542	\$15.88
4	8	0.13227	\$5.18
5			
6			
7			
8			
9			
10			
11			
12			
Total	49	0.29679	\$24.51

Table 10. Inch group, number, weight, and monetary value of
REDBREAST SUNFISH
 killed in UT of Swan Creek, Limestone County, on May 22, 2019.

Inch Group	Number	Weight (lbs.)	Value
1			
2	149	0.29761	\$62.14
3	165	0.92590	\$79.40
4	91	2.72811	\$56.96
5	99	4.36498	\$90.10
6	25	2.40570	\$38.58
7			
8			
9			
10			
11			
12			
Total	529	10.72230	\$327.18

Table 11. Inch group, number, weight, and monetary value of
GREEN SUNFISH
 killed in UT of Swan Creek, Limestone County, on May 22, 2019.

Inch Group	Number	Weight (lbs.)	Value
1			
2			
3	8	0.04795	\$3.97
4	8	0.14054	\$5.18
5			
6			
7			
8			
9			
Total	16	0.18849	\$9.15

Table 12. Inch group, number, weight, and monetary value of
DARTER SPP. (rainbow, stripetail, black, snubnose)
killed in UT of Swan Creek, Limestone County, on May 22, 2019.

Inch Group	Number	Weight (lbs.)	Value
1	8	NA	\$3.88
2	215	NA	\$242.33
3	58	NA	\$69.47
4	83	NA	\$151.03
5			
6			
7			
8			
9			
10			
11			
Total	364		\$466.71

Table 13. Inch group, number, weight, and monetary value of
SLACKWATER DARTER (THREATENED)
 killed in UT of Swan Creek, Limestone County, on May 22, 2019.

Inch Group	Number	Weight (lbs.)	Value
1			
2	10*	NA	\$13,290.00
3			
4			
5			
6			
7			
8			
9			
10			
11			
Total	10*		\$13,290.00

*See statement regarding the estimated number of slackwater darters on Summary Yellow Card (Appendix F).

Table 14. Summary of the total costs associated with the fish kill, including investigative expenses.

Total Charges for Fish Kill Worksheet

Current Mileage Charge (cents/mile): **0.580** for 2019 (<https://www.irs.gov/Tax-Professionals/Standard-Mileage-Rates/>)

ONLY ENTER DATA IN YELLOW COLORED CELLS

Employee Name	Current Hourly Salary Plus Benefits (as of 4/8/19)	Number of Hours Worked	Total Salary Charges	Number of Miles Driven	Total Mileage Charges	Total Per Diem Claimed
Biologist III (Phil Ekema)	\$51.38	31.0	\$1,592.78	26	\$15.08	\$0.00
Biologist II (Heath Haley)	\$37.34	1.0	\$37.34	7	\$4.06	\$0.00
Biologist Aide I/II (Ken Wood)	\$26.60	8.0	\$212.80	18	\$10.44	\$0.00
			\$0.00		\$0.00	
Sub-totals		40.0	\$1,842.92	51	\$29.58	\$0.00

GRAND TOTALS	
Value of Fish:	\$14,805.71
Salaries, Benefits, Mileage, and Per Diem:	\$1,872.50
Total Charges for Fish Kill:	\$16,678.21

Appendix F

Acres of lake affected:	<u>NA</u>	Miles of stream:	<u>1.17</u>
Temperature of water:	<u>26.2 C</u>	Temp. air:	<u>95</u>
		Weather:	<u>hot, sunny, clear</u>

Comments: (Include: water analysis data; location of water, fish, and bottom samples; number of photographs taken; and names and addresses of investigators or persons interviewed):

Greyish colored sediment on the creek bed (sewage sludge).

DO upstream of sewage discharge: 9.7 mg/L on 5/22/19 at 19:30.

Water temp.: 26.2 dgrees C

DO at pedestrian bridge near confluence w/ Swan Creek: 4.17 mg/L on 5/22/19 at 18:31.

Water temp.: NA

***During the field investigation, two (2) threatened slackwater darters were confirmed to have been killed. With this being a threatened species, the estimated number killed was ten (10) at a value of \$1,320 per fish. The total value for these threatened species is \$13,290.00**

FISH-KILL OR POLLUTION

Stream or lake:	<u>UT of Swan Creek</u>		
County:	<u>Limestone</u>		
Nearest Town:	<u>Athens</u>		
Date Investigated:	<u>05/23/19</u>		
Specific location on body of water:	<u>from north of Pryor St. E. downstream to confluence w/ Swan Creek</u>		
Duration of kill:	From: <u>05/22/19</u>	To:	<u>05/23/19</u>
Investigated by:	<u>Ekema, Wood</u>		
Time, date and person reporting:	<u>17:19 on 22-MAY-19; Billy Robinson</u>		
		Tel No:	<u>(931) 797-8288</u>
Date kill first noted:	<u>05/22/19</u>	Was area seined:	<u>no</u>

Game fish killed:	Number	<u>643</u>	Pounds	<u>21.6</u>	Value	<u>\$530.85</u>
Non-game fish killed:	Number	<u>2347</u>	Pounds	<u>13.9</u>	Value	<u>\$14,274.86</u>
TOTAL:	Number	<u>2990</u>	Pounds	<u>35.5</u>	Value	<u>\$14,805.71</u>

Condition of fish: dead 1-2 days

Other animals affected: fish, crayfish, tadpole, mussels,

Cause of kill: sewage discharge causing low DO

Kind of pollution: raw sewage

Source of pollution: sewer main overflow

Date report written: 05/28/19 Appearance of water: greyish to normal

	SPECIES	1	2	3	4	5	6	7	8	9	10	Total Number	Total Pounds	Value
NON-GAME FISH	LARGESCALE STONEROLLER	17	50	240	306	99	58					770	9.57649	\$96.31
	CREEK CHUB			8		8						16	0.29348	\$2.08
	MINNOW SPP. (flame chub, striped shiner, scarlet shiner)		33	231	364	198	50					876	NA	\$109.77
	NORTHERN HOG SUCKER				8		17	8		8		41	3.13319	\$90.00
	MADTOM (Noturus spp.)		17	107	66	41						231	NA	\$179.25
	YELLOW BULLHEAD		8	8	17	8	8					49	0.88126	\$40.74
	DARTER SPP. (rainbow, stripetail, black, snubnose)	8	215	58	83							364	NA	\$466.71
	SLACKWATER DARTER (THREATENED)		10*									10*	NA	\$13,290.00
GAME FISH	LARGEMOUTH BASS				8					8	25	41	10.28415	\$158.88
	SPOTTED BASS				8							8	0.07688	\$11.13
	BLUEGILL		8	33	8							49	0.29679	\$24.51
	REDBREAST SUNFISH		149	165	91	99	25					529	10.72230	\$327.18
	GREEN SUNFISH			8	8							16	0.18849	\$9.15
GRAND TOTAL												2990	35.45303	\$14,805.71

Attachment D

Athens Utilities

Athens WWTP

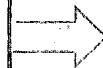
Athens, Limestone County, AL

NPDES Permit No. AL0020206

Violation*	Number of Violations*	(A)	(B)	(C)
		Seriousness of Violation*	Standard of Care*	History of Previous Violations*
Permit Limitation Violations	2	\$ 150.00	\$ -	\$ 50.00
SSOs	10	\$ 4,300.00	\$ 1,000.00	\$ 500.00
Fish Kill / Water Quality Standard (Free from Toxics / Harmful Substances)	1	\$ 10,000.00	\$ 2,500.00	\$ -
Instream DO Water Quality Criteria Violation	1	\$ 4,000.00	\$ 1,000.00	\$ -
Instream Turbidity Water Quality Criteria Violation	1	\$ 4,000.00	\$ 1,000.00	\$ -
Toxicity Test Reports	2	\$ 1,000.00	\$ 500.00	\$ -

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

Mitigating Factors (-)	
Economic Benefit (+)	
Ability to Pay (-)	
Other Factors (+/-)	
Total Adjustments (+/-)	\$0.00



\$23,450.00	\$6,000.00	\$550.00
Total (A)	Total (B)	Total (C)
Base Penalty Total [Total (A) + Total (B) + Total (C)]		\$30,000.00
Mitigating Factors (-)		
Economic Benefit (+)		
Ability to Pay (-)		
Other Factors (+/-)		
INITIAL PENALTY		\$30,000.00
Total Adjustments (+/-)		\$0.00
FINAL PENALTY		\$30,000.00

Footnotes

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