

UNIONTOWN WASTEWATER TREATMENT SYSTEM UPDATE AS OF OCTOBER 2023

Uniontown is an impoverished minority community with a population of approximately 2,500. For some time, Uniontown has had severe financial difficulties and has deferred maintenance and upgrades to its wastewater collection system, treatment plant, and spray field and has underfunded system operations. As a result, a number of noncompliance issues have occurred and caused the Alabama Department of Environmental Management (ADEM) to undertake necessary enforcement actions. Since ADEM has exhausted its legally available enforcement options against Uniontown the matter is now in the hands of the courts.

On November 20, 2015, the Court ordered that ADEM's application for an injunction was granted, but also allowed for a stay of the injunction during which time Uniontown was required to submit an Engineering Report to determine a path toward compliance. Unlike any other sector holding water permits, it is nearly impossible to shut down the operation of a sanitary wastewater treatment plant. To do so would result in sanitary system overflows, sewage backup into homes, and the discharge of untreated wastewater into water bodies, which certainly poses a greater risk to human health and the environment than discharging partially treated wastewater. That is why neither ADEM nor the court has shut down the Uniontown wastewater system.

It is the obligation of the permit holder to design, build, and operate its facility to meet the permit conditions set by ADEM or be subject to enforcement action. Although it is solely the responsibility of the permit holder to meet permit conditions, ADEM has been working for a number of years with local elected officials, design engineers, operating engineers, ADECA, USDA, EPA, Congresswoman Terri Sewell, and others to find a solution to Uniontown's wastewater problems so it can meet its permit requirements.

Substantial funds from a 2013 USDA grant and loan were expended on the treatment plant; however, the collection system was not materially refurbished and is in such a state of disrepair that storm water inflows completely overwhelm the treatment plant as well as the undersized spray field. The majority of the collection system has been surveyed using a video probe to determine what repairs are necessary. Uniontown was required by the Court to submit to ADEM an assessment of the alternatives it considered to achieve compliance with the Alabama Water Pollution Control Act and its Permit and to determine which remedial action(s) it would pursue. ADEM encouraged the City to engage the public in its decision-making process. ADEM attended community meetings in Uniontown on December 5, 2016 and February 23, 2017. These community meetings were planned by the City to inform the citizens of the issues with the sewer system and the options considered to return the system to compliance.

Pursuant to the 2015 Court Order, Uniontown has submitted an Engineering Report to the Department which assessed the alternatives considered and identified the option of routing the wastewater from the existing treatment plant to a new wetlands treatment system with a discharge of treated wastewater to Freetown Creek as the chosen alternative of those assessed in the Report. Uniontown has not yet submitted an application to the Department for a National Pollutant Discharge Elimination System (NPDES) permit for the discharge of wastewater for the above noted compliance option.

In November 2018, USDA announced a \$23.4 million grant to address Uniontown's wastewater treatment system. This grant would cover approximately 75% of the total estimated \$31 million cost of the upgrades. Commitments for the remaining cost have been obtained. USDA held stakeholder

meetings in November 2018, October 2019, February 3, 2021, and a July 28, 2022 town hall meeting regarding the Uniontown wastewater system. The USDA funding was conditioned upon, among other things, the utilities being controlled and operated independent from the city.

The Waterworks and Sewer Board of the City of Uniontown was officially formed on April 30, 2019 to oversee the management of the water and wastewater systems in Uniontown. It is the Department's understanding that the Board is focusing on the collection system repair work and will then assess options of wastewater treatment or transfer for treatment, rather than relying on the compliance alternative identified in the above noted Engineering Report.

Although the process has been painfully slow, progress is continuing. Regular updates are provided to the Court and ADEM. Updates to the 4th Judicial Circuit Court took place on August 24, 2016, January 12, 2017, June 21, 2017, October 10, 2017, April 12, 2018, September 13, 2018, and January 7, 2019.

During February 2018 to May 2018, Uniontown reported increased and more significant unpermitted discharges of wastewater from the spray field and additional overflows at the treatment lagoon. These chronic issues appeared to be increasing in number, volume, frequency, and severity. ADEM requested Uniontown give these matters immediate attention and take corrective measures to minimize and mitigate increased overflows and the risk of catastrophic failures of the system. Additionally, ADEM requested that Uniontown be vigilant in ensuring that any notifiable sanitary sewer overflows are noticed to the public so that the public can avoid contact with affected areas as necessary.

On June 5, 2018, the Courts granted Uniontown's Motion to Perform All Necessary Work to Avoid Catastrophic Breaches and ordered the City to perform all necessary work at the wastewater collection and treatment system, treatment lagoons, and spray field in order to avoid, reduce and prevent future catastrophic breaches. On November 29, 2018, Uniontown informed ADEM that emergency overflow pipes had been installed at the treatment lagoons and spray field. Uniontown indicated that the overflow pipes should protect the treatment lagoon dams from breaching and prevent a major failure of the spray field berm.

On April 11, 2019, Black Warrior Riverkeeper, Inc. and Black Belt Citizens Fighting for Health and Justice filed a motion in the Circuit Court of Perry County to intervene in the 2012 action. On October 1, 2019, a landowner also filed a motion to intervene in the 2012 action. A hearing was held on these motions on February 7, 2020.

On April 21, 2021, ADEM filed a Petition Seeking a Finding of Contempt against the City of Uniontown for failure to comply with the 2015 Court Order. A hearing was held on May 18, 2021. The Court granted ADEM's petition on May 22 and ordered the City to submit the required paperwork to transfer the NPDES permit from the City to the Board.

NPDES Permit AL0063657 was transferred from the City of Uniontown to the Waterworks and Sewer Board of the City of Uniontown on May 26, 2021. The Court held a hearing on January 14, 2022 to dispose of the pending contempt and intervention motions. The Court found that the City complied with its May 22, 2021, Order and, as such, denied the order of contempt against the City. The motions to intervene and all other pending motions were also denied.

Representatives of the Board indicated that rehabilitation of the Collection System began in May 2022 and is continuing. Collection system rehabilitation has been delayed as a result of many property owners failing to agree to allow property access to contractors to make repairs to the system.

On August 26, 2022, Black Warrior Riverkeeper, Inc. (BWRK) and Black Belt Citizens Fighting for Health and Justice (BBC) submitted a Notice of Intent (NOI) to sue the Waterworks and Sewer Board of the City of Uniontown in federal court for discharge of pollutants from its sewage system in violation of NPDES Permit No. AL0063657 and violation of the Clean Water Act and the Alabama Water Pollution Control Act. On October 24, 2022, ADEM filed Civil Action 53-CV-2022-900048.00 with the Circuit Court of Perry County in response to the NOI. The Complaint asked the Court to find the Defendant liable to comply with the previous orders entered against the City; compliance with those orders would result in compliance with the Alabama Water Pollution Control Act and the Permit, as well as continuing immediate and ongoing efforts to minimize and mitigate current violations while the system is being repaired. BWRK and BBC moved to intervene. ADEM asked the Court to limit intervention so that BWRK and BBC could not impede ADEM's enforcement of the injunctive relief already granted to ADEM in its prior case against Uniontown so that ADEM could require the Uniontown Water and Sewer Board to continue performance of remedial actions to repair the system without additional costly litigation and potential delay. Rather than limit intervention, the Circuit Court denied the motion to intervene in its entirety on November 22, 2022. BWRK and BBC appealed this decision which was reversed by the Court of Civil Appeals. The Circuit Court subsequently vacated the November 22, 2022, Order and granted the Motion to Intervene by BWRK and BBC.

ADEM has played an active role participating in discussions with stakeholders regarding funding solutions and treatment/disposal options including meeting with federal representatives, concerned Uniontown citizens, and the USDA. ADEM will continue to engage stakeholders and assist Uniontown in bringing resolution to this matter.

Public records regarding the City of Uniontown's Wastewater Treatment Plant are available in the Department's eFile system by selecting water as the media and entering the permit number AL0063657.