

TULANE LAW SCHOOL

Tulane Environmental Law Clinic

October 14, 2003

Via Certified Mail, Return Receipt Requested, #7002 2410 0000 6421 9015

To: Southeastern Louisiana Water & Sewer Co., L.L.C.
350 N. Causeway Blvd.
Mandeville, Louisiana 70448

Through: Jean M. Champagne
Registered Agent
350 N. Causeway Blvd.
Mandeville, LA 70448

Re: Notice of Violation under § 505 (b) of the Clean Water Act, 33 U.S.C. § 1365 and 40 C.F.R. §§ 135.1—135.13.

Dear Mr. Champagne:

This letter is to inform you that the Lake Pontchartrain Basin Foundation (“Foundation”) intends to sue Southeastern Louisiana Water & Sewer Co. (“Southeastern”) under Section 505 of the Clean Water Act, 33 U.S.C. § 1365, for violations of the Clean Water Act, 33 U.S.C. §§ 1251-1376.

In 1972, Congress passed the Clean Water Act to “restore and maintain the chemical, physical and biological integrity of the Nation’s waters.” 33 U.S.C. § 1251(a). To commemorate the thirtieth anniversary of the Act, President George W. Bush declared the year beginning October 18, 2002 to be the Year of Clean Water. The Clean Water Act is the cornerstone of surface water quality protection in the United States. In the thirty years since its passage, the Act has dramatically increased the number of waterways that are once again safe for fishing and swimming. Despite this great progress in reducing water pollution, many of the Nation’s waters still do not meet water quality goals. In fact, the Louisiana Department of Environmental Quality (“LDEQ”) lists the Tchefuncte River on its swimming advisory webpage due to fecal coliform contamination and on Louisiana’s 303(d) list as an impaired waterway.

Section 505(a)(1) of the Clean Water Act provides that “any citizen may commence a civil action on his own behalf ... against any person ... who is alleged to be in violation of (A) an effluent standard or limitation under this Act or (B) an order issued by ... a State with respect to such standard or limitation.” The Clean Water Act requires that the Foundation wait at least

sixty days after filing this notice before it can file an enforcement action in federal court. 33 U.S.C. §1365(b)(1)(A). This waiting period gives the parties a reasonable time to resolve the matter cooperatively, without litigation.

The Foundation alleges that Southeastern is in violation of the Clean Water Act. Under § 301 of the Clean Water Act, 33 U.S.C. § 1311, it is unlawful for any person to discharge any pollutant from a point source into waters of the United States, except in compliance with a National Pollution Discharge Elimination System (“NPDES”) permit issued pursuant to § 402 of the Act. 33 U.S.C. § 1342.

LDEQ administers the Clean Water Act permit program in Louisiana and issues Louisiana Pollutant Discharge Elimination System (“LPDES”) permits pursuant to 33 U.S.C. § 1342(b). The LPDES permit program implements the NPDES permit program in Louisiana. 33 U.S.C. § 1342(c). LPDES permits establish “effluent limitations” that restrict the “quantities, rates, and concentrations” of pollutants that a permittee can legally discharge into navigable waters. 33 U.S.C. § 1362(11). Under this system, the permittee has a duty to comply with all conditions of its permit and any noncompliance constitutes a violation of the Clean Water Act. 40 C.F.R. § 122.41(a). The Louisiana Environmental Quality Act also prohibits the violation of water discharge permits. La. R.S. 30:2076(A)(3).

Southeastern runs multiple Sewerage Treatment Plants (“STPs”) that are permitted to discharge treated sewage into waters that run into the Tchefuncte River and then into Lake Pontchartrain. Several of Southeastern’s facilities have been violating their LPDES permits. The known facilities in violation are Timber Branch STP, Christwood Retirement Community STP, Del Oaks Subdivision STP, Faubourg-Coquille Subdivision STP, Indian Trace STP, Lake Hills Subdivision STP, Lazy Creek STP, and Highway 22 STP. This letter gives Southeastern notice of the Foundation’s intent to sue if these violations cannot be prevented through settlement negotiations. Specific violations for each facility are listed below.

I. Timber Branch STP: Permit No. LAG570114

A. General Statement of Violations

LDEQ issued Water Discharge Permit LAG570114 to Southeastern for its Timber Branch facility. This permit limits the amount of pollutants that can be discharged into the Tchefuncte River. Timber Branch has been and is violating the Clean Water Act by polluting the Tchefuncte River and Lake Pontchartrain in violation of its permit. These illegal discharges are contributing to the degradation of our Nation’s waters.

B. Failure to Comply with Effluent Standards

Permit No. LAG570114 requires Southeastern’s Timber Branch facility to meet the effluent standards and limitations set forth in that permit. Timber Branch’s Discharge Monitoring Reports (“DMRs”) covering the periods from January 1, 2002 through March 31,

2003 show excessive discharges of Fecal Coliforms, Total Suspended Solids (“TSS”), minimum pH, and Biochemical Oxygen Demand (“BOD”).

The DMRs for periods after March 2003 were not included in LDEQ’s response to the Foundation’s original public records request. The Foundation has submitted another public records request specifically for Timber Branch’s latest DMRs and intends to include any permit violations listed in those DMRs in its complaint.

The specific violations of Timber Branch’s permit are listed below:

Biochemical Oxygen Demand: 30-Day Average

<u>DMR DATES</u>	<u>SAMPLE MEASURMENT (permit allows 10 mg/l)</u>
10/01/02-10/31/02	26mg/l
09/01/02-09/30/02	12 mg/l
08/01/02-08/31/02	20 mg/l
07/01/02-07/31/02	17 mg/l
06/01/02-06/30/02	40 mg/l
05/01/02-05/31/02	13 mg/l
04/01/02-04/30/02	36 mg/l
03/01/02-03/31/02	15 mg/l
02/01/02-02/28/02	11 mg/l
01/01/02-01/31/02	14 mg/l

Biochemical Oxygen Demand: Weekly Average

<u>DMR DATES</u>	<u>SAMPLE MEASURMENT (permit allows 15 mg/l)</u>
10/01/02-10/31/02	26 mg/l
08/01/02-08/31/02	20 mg/l
07/01/02-07/31/02	17 mg/l
06/01/02-06/30/02	40 mg/l
04/01/02-04/30/02	36 mg/l

Total Suspended Solids: 30-Day Average

<u>DMR DATES</u>	<u>SAMPLE MEASURMENT (permit allows 15 mg/l)</u>
08/01/02-08/31/02	84 mg/l
07/01/02-07/31/02	64 mg/l
06/01/02-06/30/02	176 mg/l
04/01/02-04/30/02	29 mg/l

Total Suspended Solids: Weekly Average

<u>DMR DATES</u>	<u>SAMPLE MEASURMENT (permit allows 23 mg/l)</u>
08/01/02-08/31/02	84 mg/l
07/01/02-07/31/02	64 mg/l
06/01/02-06/30/02	176 mg/l
04/01/02-04/30/02	29 mg/l

Fecal Coliforms: 30-Day Average

<u>DMR DATES</u>	<u>SAMPLE MEASURMENT (permit allows 200 c/100ml)</u>
09/01/02-09/30/02	3680 colonies/100ml
03/01/02-03/31/02	600 colonies/100ml
02/01/02-02/28/02	280 colonies/100ml

Fecal Coliforms: Weekly Average

<u>DMR DATES</u>	<u>SAMPLE MEASURMENT (permit allows 400 c/100ml)</u>
09/01/02-09/30/02	3680 Colonies/100ml
03/01/02-03/31/02	600 colonies/100ml

Minimum pH

<u>DMR DATES</u>	<u>SAMPLE MEASURMENT (permit allows 6 Standard Units)</u>
04/01/02-04/30/02	5.51 SU

II. Christwood Retirement Community STP: Permit No. LAG570012

A. General Statement of Violations

LDEQ issued Water Discharge Permit LAG570012 to Southeastern for its Christwood facility. This permit limits the amount of pollutants that can be discharged into the Tchefuncte River. Christwood has been and is violating the Clean Water Act by polluting the Tchefuncte River and Lake Pontchartrain in violation of its permit. These illegal discharges are contributing to the degradation of our Nation's waters.

B. Failure to Comply with Effluent Standards

Permit No. LAG570012 requires Southeastern's Christwood facility to meet the effluent standards and limitations set forth in that permit. Christwood's DMRs covering the periods from January 1, 2002 through March 31, 2003 show excessive discharges of Fecal Coliforms, TSS, Oil and Grease, and BOD.

The DMRs for periods after March 2003 were not included in LDEQ's response to the Foundation's original public records request. The Foundation has submitted another public records request specifically for Christwood's latest DMRs and intends to include any permit violations listed in those DMRs in its complaint.

The specific violations of Christwood's permit are listed below:

Biochemical Oxygen Demand: 30-Day Average

<u>DMR DATES</u>	<u>SAMPLE MEASURMENT (permit allows 10 mg/l)</u>
10/01/02-10/31/02	14 mg/l
09/01/02-09/30/02	13 mg/l
08/01/02-08/31/02	60 mg/l
07/01/02-07/31/02	35 mg/l

06/01/02-06/30/02	14 mg/l
05/01/02-05/31/02	81 mg/l
04/01/02-04/30/02	21 mg/l
03/01/02-03/31/02	11 mg/l
02/01/02-02/28/02	18 mg/l
01/01/02-01/31/02	37 mg/l

Biochemical Oxygen Demand: Weekly Average

<u>DMR DATES</u>	<u>SAMPLE MEASURMENT (permit allows 15 mg/l)</u>
08/01/02-08/31/02	60 mg/l
07/01/02-07/31/02	35 mg/l
05/01/02-05/31/02	81 mg/l
04/01/02-04/30/02	21 mg/l
02/01/02-02/28/02	18 mg/l
01/01/02-01/31/02	37 mg/l

Total Suspended Solids: 30-Day Average

<u>DMR DATES</u>	<u>SAMPLE MEASURMENT (permit allows 15 mg/l)</u>
09/01/02-09/30/02	36 mg/l
08/01/02-08/31/02	114 mg/l
07/01/02-07/31/02	49 mg/l
06/01/02-06/30/02	49 mg/l
05/01/02-05/31/02	70 mg/l
04/01/02-04/30/02	155 mg/l
03/01/02-03/31/02	21 mg/l
02/01/02-02/28/02	82 mg/l
01/01/02-01/31/02	82 mg/l

Total Suspended Solids: Weekly Average

<u>DMR DATES</u>	<u>SAMPLE MEASURMENT (permit allows 23 mg/l)</u>
09/01/02-09/30/02	36 mg/l
08/01/02-08/31/02	114 mg/l
07/01/02-07/31/02	49 mg/l
06/01/02-06/30/02	49 mg/l
05/01/02-05/31/02	70 mg/l
04/01/02-04/30/02	155 mg/l
02/01/02-02/28/02	82 mg/l
01/01/02-01/31/02	82 mg/l

Oil and Grease: Daily Maximum

<u>DMR DATES</u>	<u>SAMPLE MEASURMENT (permit allows 15 mg/l)</u>
09/01/02-09/30/02	45 mg/l

Fecal Coliforms: 30-Day Average

DMR DATES

01/01/02-01/30/02

SAMPLE MEASURMENT (permit allows 200 c/100ml)

6400 colonies/100ml

Fecal Coliforms: Weekly Average

DMR DATES

01/01/02-01/30/02

SAMPLE MEASURMENT (permit allows 400 c/100ml)

6400 colonies/100ml

III. Del Oaks Subdivision STP: Permit No. LAG570103

A. General Statement of Violations

LDEQ issued Water Discharge Permit LAG570103 to Southeastern for its Del Oaks facility. This permit limits the amount of pollutants that can be discharged into the Tchefuncte River. Del Oaks has been and is violating the Clean Water Act by polluting the Tchefuncte River and Lake Pontchartrain in violation of its permit. These illegal discharges are contributing to the degradation of our Nation's waters.

B. Failure to Comply with Effluent Standards

Permit No. LAG570103 requires Southeastern's Del Oaks facility to meet the effluent standards and limitations set forth in that permit. Del Oaks' DMRs covering the periods from January 1, 2003 through March 31, 2003 show an excessive discharge of BOD.

The DMRs for periods after March 2003 and for the entire year of 2002 were not included in LDEQ's response to the Foundation's original public records request. The Foundation has submitted another public records request specifically for those DMRs and intends to include any permit violations listed in those DMRs in its complaint.

The specific violation of Del Oaks' permit is listed below:

Biochemical Oxygen Demand: 30-Day Average

DMR DATES

02/01/03-02/28/03

SAMPLE MEASURMENT (permit allows 10 mg/l)

12 mg/l

IV. Faubourg-Coquille STP: Permit No. LAG570005

A. General Statement of Violations

LDEQ issued Water Discharge Permit LAG570005 to Southeastern for its Faubourg-Coquille facility. This permit limits the amount of pollutants that can be discharged into the Tchefuncte River. Faubourg-Coquille has been and is violating the Clean Water Act by polluting the Tchefuncte River and Lake Pontchartrain in violation of its permit. These illegal discharges are contributing to the degradation of our Nation's waters.

B. Failure to Comply with Effluent Standards

Permit No. LAG570005 requires Southeastern's Faubourg-Coquille STP to meet the effluent standards and limitations set forth in that permit. Faubourg-Coquille's DMRs covering the periods from January 1, 2002 through March 31, 2003, show excessive discharges of Fecal Coliforms and BOD.

The DMRs for periods after March 2003 were not included in LDEQ's response to the Foundation's original public records request. The Foundation has submitted another public records request specifically for Faubourg-Coquille's latest DMRs and intends to include any permit violations listed in those DMRs in its complaint.

The specific violations of Faubourg-Coquille's permit are listed below:

Biochemical Oxygen Demand: 30-Day Average

<u>DMR DATES</u>	<u>SAMPLE MEASURMENT (permit allows 10 mg/l)</u>
10/01/02-10/31/02	16 mg/l
06/01/02-06/30/02	15 mg/l
05/01/02-05/31/02	15 mg/l
03/01/02-03/31/02	17 mg/l
02/01/02-02/28/02	12 mg/l
01/01/02-01/31/02	12 mg/l

Biochemical Oxygen Demand: Weekly Average

<u>DMR DATES</u>	<u>SAMPLE MEASURMENT (permit allows 15 mg/l)</u>
10/01/02-10/31/02	16 mg/l

Fecal Coliforms: Weekly Average

<u>DMR DATES</u>	<u>SAMPLE MEASURMENT (permit allows 400 c/100ml)</u>
01/01/03-01/31/03	2760 colonies/100ml

V. Westwood Regional STP: Permit No. LA0063991

A. General Statement of Violations

LDEQ issued Water Discharge Permit LA0063991 to Southeastern for its Westwood facility. This permit limits the amount of pollutants that can be discharged into the Tchefuncte River. Westwood has been and is violating the Clean Water Act by polluting the Tchefuncte River and Lake Pontchartrain in violation of its permit. These illegal discharges are contributing to the degradation of our Nation's waters.

B. Failure to Comply with Effluent Standards

Permit No. LA0063991 requires Southeastern's Westwood facility to meet the effluent standards and limitations set forth in that permit. Westwood's DMRs covering the periods from

January 1, 2002 through July 31, 2003 show excessive discharges of Fecal Coliforms, TSS, Ammonia ("NH3"), and Carbonaceous Biochemical Oxygen Demand ("CBOD"). The specific violations of Westwood's permit are listed below:

Total Suspended Solids: 30 Day Average

<u>DMR DATES</u>	<u>SAMPLE MEASURMENT (permit allows 15 mg/l)</u>
10/01/02-10/31/02	31.4 mg/l
09/01/02-09/30/02	73.4 mg/l
08/01/02-08/31/02	51.1 mg/l
07/01/02-07/31/02	57.6 mg/l
06/01/02-06/30/02	80.2 mg/l
05/01/02-05/31/02	143.8 mg/l
04/01/02-04/30/02	227.4 mg/l

Total Suspended Solids: Sample Exceedence Reports

<u>SAMPLE DATE</u>	<u>SAMPLE MEASURMENT (permit allows 23 mg/l)</u>
05/06/03	46 mg/l

Fecal Coliforms:

<u>DMR DATES</u>	<u>SAMPLE MEASURMENT (permit allows 200c/100ml)</u>
09/01/02-09/31/02	371 colonies/100 ml
05/01/02-05/31/02	672.9 colonies/100 ml

Carbonaceous Biochemical Oxygen Demand: 30-Day Average

<u>DMR DATES</u>	<u>SAMPLE MEASURMENT (permit allows 10 mg/l)</u>
05/01/03-05/31/03	13 mg/l
10/01/02-10/31/02	19.8 mg/l
09/01/02-09/30/02	29.5 mg/l
08/01/02-08/31/02	33.2 mg/l
07/01/02-07/31/02	38.1 mg/l
06/01/02-06/30/02	55.6 mg/l
05/01/02-05/31/02	69.9 mg/l
04/01/02-04/30/02	58.0 mg/l
03/01/02-03/31/02	17.7 mg/l
01/01/02-01/31/02	12.5 mg/l

Carbonaceous Biochemical Oxygen Demand: Sample Exceedence Reports

<u>SAMPLE DATE</u>	<u>SAMPLE MEASURMENT (permit allows 10mg/l)</u>
05/06/03	14 mg/l
05/10/03	13 mg/l
05/28/03	12 mg/l

NH3: 30-Day Average

<u>DMR DATES</u>	<u>SAMPLE MEASURMENT (permit allows 5 mg/l)</u>
06/01/03-06/30/03	10.5 mg/l
05/01/03-05/31/03	7.3 mg/l
10/01/02-10/31/02	16.03 mg/l
09/01/02-09/30/02	17.5 mg/l
08/01/02-08/31/02	21.76 mg/l
07/01/02-07/31/02	21.4 mg/l
06/01/02-06/30/02	21.41 mg/l
05/01/02-05/31/02	19.72 mg/l
04/01/02-04/30/02	17.82 mg/l

NH3: Sample Exceedence Reports

<u>SAMPLE DATE</u>	<u>SAMPLE MEASURMENT (permit allows 5 mg/l)</u>
04/17/03	10.2 mg/l
05/10/03	5.41 mg/l
05/28/03	7.54 mg/l
06/04/03	5.73 mg/l
06/18/03	12.3 mg/l

VI. Indian Trace STP: Permit No. LAG570073

A. General Statement of Violations

LDEQ issued Water Discharge Permit LAG570073 to Southeastern for its Indian Trace facility. This permit limits the amount of pollutants that can be discharged into the Tchefuncte River. Indian Trace has been and is violating the Clean Water Act by polluting the Tchefuncte River and Lake Pontchartrain in violation of its permit. These illegal discharges are contributing to the degradation of our Nation's waters.

B. Failure to Comply with Effluent Standards

Permit No. LAG570073 requires Southeastern's Indian Trace facility to meet the effluent standards and limitations set forth in that permit. Indian Trace's DMRs covering the periods from January 1, 2002 through March 31, 2003 show excessive discharges of TSS, and BOD.

The DMRs for periods after March 2003 were not included in LDEQ's response to the Foundation's original public records request. The Foundation has submitted another public records request specifically for Indian Trace's latest DMRs and intends to include any permit violations listed in those DMRs in its complaint.

The specific violations of Indian Trace's permit are listed below:

Total Suspended Solids: 30-Day Average

<u>DMR DATES</u>	<u>SAMPLE MEASURMENT (permit allows 15 mg/l)</u>
10/01/02-10/31/02	30 mg/l
02/01/02-02/28/02	220 mg/l

Total Suspended Solids: Weekly Average

<u>DMR DATES</u>	<u>SAMPLE MEASURMENT (permit allows 23 mg/l)</u>
10/01/02-10/31/02	30 mg/l
02/01/02-02/28/02	220 mg/l

Biochemical Oxygen Demand: 30-Day Average

<u>DMR DATES</u>	<u>SAMPLE MEASURMENT (permit allows 10 mg/l)</u>
10/01/02-10/31/02	12 mg/l
09/01/02-09/30/02	12 mg/l
08/01/02-08/31/02	13 mg/l
04/01/02-04/30/02	12 mg/l
03/01/02-03/31/02	12 mg/l
02/01/02-02/28/02	12 mg/l

VII. Lazy Creek STP: Permit No. LAG570076

A. General Statement of Violations

LDEQ issued Water Discharge Permit LAG570076 to Southeastern for its Lazy Creek facility. This permit limits the amount of pollutants that can be discharged into the Tchefuncte River. Lazy Creek has been and is violating the Clean Water Act by polluting the Tchefuncte River and Lake Pontchartrain in violation of its permit. These illegal discharges are contributing to the degradation of our Nation's waters.

B. Failure to Comply with Effluent Standards

Permit No. LAG570076 requires Southeastern's Lazy Creek facility to meet the effluent standards and limitations set forth in that permit. Lazy Creek's DMRs covering the periods from January 1, 2002 through March 31, 2003 show excessive discharges of Fecal Coliforms, minimum pH, TSS, and BOD.

The DMRs for periods after March 2003 were not included in LDEQ's response to the Foundation's original public records request. The Foundation has submitted another public records request specifically for Lazy Creek's latest DMRs and intends to include any permit violations listed in those DMRs in its complaint.

The specific violations of Lazy Creek's permit are listed below:

Total Suspended Solids: 30-Day Average

<u>DMR DATES</u>	<u>SAMPLE MEASUREMENT (permit allows 15 mg/l)</u>
11/01/02-11/30/02	17 mg/l
09/01/02-09/30/02	190 mg/l
08/01/02-08/31/02	22 mg/l
07/01/02-07/31/02	25 mg/l
06/01/02-06/30/02	22 mg/l
05/01/02-05/31/02	16 mg/l
03/01/02-03/31/02	16 mg/l
01/01/02-01/31/02	59 mg/l

Total Suspended Solids: Weekly Average

<u>DMR DATES</u>	<u>SAMPLE MEASUREMENT (permit allows 23 mg/l)</u>
11/01/02-11/30/02	24 mg/l
09/01/02-09/30/02	190 mg/l
07/01/02-07/31/02	25 mg/l
01/01/02-01/31/02	59 mg/l

Biochemical Oxygen Demand: 30-Day Average

<u>DMR DATES</u>	<u>SAMPLE MEASUREMENT (permit allows 10 mg/l)</u>
09/01/02-09/30/02	16 mg/l
05/01/02-05/31/02	14 mg/l
04/01/02-04/30/02	19 mg/l
03/01/02-03/31/02	13 mg/l
01/01/02-01/31/02	11 mg/l

Biochemical Oxygen Demand: Weekly Average

<u>DMR DATES</u>	<u>SAMPLE MEASUREMENT (permit allows 15 mg/l)</u>
09/01/02-09/30/02	16 mg/l
04/01/02-04/30/02	19 mg/l

Minimum ph

<u>DMR DATES</u>	<u>SAMPLE MEASUREMENT (permit allows 6 Standard Units)</u>
08/01/02-08/31/02	4.64 SU
05/01/02-05/31/02	5.33 SU
03/01/02-03/31/02	5.57 SU
02/01/02-02/28/02	5.72 SU

Fecal Coliforms: Weekly Average

<u>DMR DATES</u>	<u>SAMPLE MEASUREMENT (permit allows 400 c/100ml)</u>
10/01/02-10/31/02	420 colonies/100ml

VIII. Highway 22 STP: Permit No. WP5197

A. General Statement of Violations

LDEQ issued Water Discharge Permit WP5197 to Southeastern for its Highway 22 facility. This permit limits the amount of pollutants that can be discharged into the Tchefuncte River. Highway 22 has been and is violating the Clean Water Act by polluting the Tchefuncte River and Lake Pontchartrain in violation of its permit. These illegal discharges are contributing to the degradation of our Nation's waters.

B. Failure to Comply with Effluent Standards

Permit No. WP597 requires Southeastern's Highway 22 facility to meet the effluent standards and limitations set forth in that permit. Highway 22's sample exceedence reports submitted to LDEQ show excessive violations of Fecal Coliforms, TSS, and NH3.

The Foundation requested DMRs for Highway 22 on September 5, 2003. On September 17, 2003, LDEQ informed the Foundation that those records are missing. The Foundation subsequently requested that LDEQ either find these files or require Southeastern to re-submit the DMRs. The Foundation will make another public records request with LDEQ and review Highway 22's DMRs. The Foundation intends to include any permit violations listed in those DMRs in its complaint.

The specific violations of Highway 22's permit are listed below:

Fecal Coliforms: Sample Exceedence Reports

<u>SAMPLE DATE</u>	<u>SAMPLE MEASURMENT (Permit Allows 400c/100ml)</u>
03/02/02	2760 Colonies/100ml
01/24/02	1840 Colonies/100ml

Total Suspended Solids: Sample Exceedence Reports

<u>SAMPLE DATE</u>	<u>SAMPLE MEASURMENT (Permit Allows 23 mg/l)</u>
02/01/02	34 mg/l

NH3: Sample Exceedence Reports

<u>SAMPLE DATE</u>	<u>SAMPLE MEASURMENT (Permit Allows 10 mg/l)</u>
06/04/02	13.7 mg/l

IX. Lake Hills Subdivision STP: Permit No. LAG570165

A. General Statement of Violations

LDEQ issued Water Discharge Permit LAG570165 to Southeastern for its Lake Hills facility. This permit limits the amount of pollutants that can be discharged into the Tchefuncte River. Lake Hills has been and is violating the Clean Water Act by polluting the Tchefuncte

River and Lake Pontchartrain in violation of its permit. These illegal discharges are contributing to the degradation of our Nation's waters.

B. Failure to Comply with Effluent Standards

Permit No. LAG570165 requires Southeastern's Lake Hills facility to meet the effluent standards and limitations set forth in that permit. Lake Hills's DMRs covering the periods from May 1, 2001 through March 31, 2003 show excessive discharges of Fecal Coliforms, TSS, minimum pH, and BOD.

The DMRs for periods after March 2003 were not included in LDEQ's response to the Foundation's original public records request. The Foundation has submitted another public records request specifically for Lake Hills' latest DMRs and intends to include any permit violations listed in those DMRs in its complaint.

The specific violations of Lake Hills's permit are listed below:

Biochemical Oxygen Demand: 30-Day Average

<u>DMR DATES</u>	<u>SAMPLE MEASURMENT (permit allows 10 mg/l)</u>
10/01/02-10/31/02	13 mg/l
09/01/02-09/30/02	11 mg/l
06/01/02-06/30/02	12 mg/l
04/01/02-04/30/02	12 mg/l
02/01/02-02/28/02	14 mg/l
08/01/01-08/31/01	19 mg/l

Biochemical Oxygen Demand: Weekly Average

<u>DMR DATES</u>	<u>SAMPLE MEASURMENT (permit allows 15 mg/l)</u>
01/01/03-01/31/03	19 mg/l
08/01/01-08/31/01	26 mg/l

Total Suspended Solids: 30-Day Average

<u>DMR DATES</u>	<u>SAMPLE MEASURMENT (permit allows 15 mg/l)</u>
01/01/03-01/31/03	21 mg/l
09/01/02-09/30/02	42 mg/l
08/01/02-08/31/02	31 mg/l
07/01/02-07/31/02	98 mg/l
09/01/01-09/30/01	18 mg/l

Total Suspended Solids: Weekly Average

<u>DMR DATES</u>	<u>SAMPLE MEASURMENT (permit allows 23 mg/l)</u>
09/01/02-09/30/02	42 mg/l
08/01/02-08/31/02	31 mg/l
07/01/02-07/31/02	98 mg/l

Fecal Coliforms: 30-Day Average

<u>DMR DATES</u>	<u>SAMPLE MEASURMENT (permit allows 400 c/100ml)</u>
09/01/02-09/30/02	1160 colonies/100ml

Minimum pH

<u>DMR DATES</u>	<u>SAMPLE MEASURMENT (permit allows 6 Standard Units)</u>
01/01/03-01/31/03	4.27 SU
05/01/02-05/31/02	5.9 SU

The Person Giving Notice

This notice of intent to sue is being submitted on behalf of the Foundation. The Foundation is an incorporated, non-profit community organization, that was organized for the express purpose of restoring and preserving the Lake Pontchartrain Basin, as well as protecting the organization's members, who live, work, and recreate within the state from threats of pollution, such as water pollution. The Foundation's members' use and enjoyment of the water in the Tchefuncte River and Lake Pontchartrain is diminished as a result of Southeastern's violations of the Clean Water Act. The Foundation intends to sue on behalf of itself and its members.

The name, address and phone number of persons giving notice:

Lake Pontchartrain Basin Foundation
Lakeway III, Suite 2070
3838 N. Causeway Blvd.
Metairie, LA 70002

Relief Sought by Plaintiff

The Foundation may seek declaratory and injunctive relief and civil penalties against Southeastern. Be aware that, under the Louisiana Environmental Quality Act, La. R.S. 30:2026, Southeastern can be fined up to ten thousand dollars for each day of the continued noncompliance and may also be ordered to pay plaintiff's attorney fees. Under the Clean Water Act, 33 U.S.C. § 1319(d), Southeastern can be fined up to \$27,500 per day¹ and ordered to pay reasonable attorney's fees for continued violation.

We believe this notice of intent to sue sufficiently states the grounds for the complaint. This notice covers violations by Southeastern's above-mentioned facilities during the period from August 2001 until July 2003, except for those violations documented in DMRs that the Foundation requested from LDEQ and has not yet received. The Foundation will amend this notice to include any violations found in DMRs for periods after March 2003 once LDEQ provides the Foundation with those DMRs. The Foundation's suit, when filed, will address any

¹ See 40 C.F.R. § 19.4 (raising the maximum civil penalty from \$25,000 to \$27,500 per day).

violations contained in DMRs filed by the above-mentioned facilities, and it will also address any violations that are revealed during the discovery process.


During the sixty-day waiting period prescribed by the Clean Water Act, we would be pleased to discuss this matter further. If you have any questions about the issues raised in this letter please contact counsel at the telephone number and address provided below.

Identification of Counsel


Please direct all correspondence to counsel:

Karla Raettig
Tulane Environmental Law Clinic
6329 Freret Street
New Orleans, Louisiana 70118
Phone: (504) 865-5789
Fax: (504) 862-8721

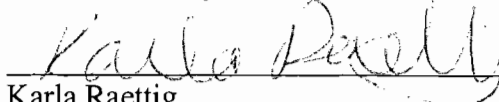
Sincerely,



John Robert
Student Attorney



Aylin Açikalın
Student Attorney



Karla Raettig
Tulane Environmental Law Clinic
6329 Freret Street
New Orleans, Louisiana 70118
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Fax: (504) 862-8721

Counsel for Lake Pontchartrain Basin Foundation

enclosures

Southeastern Louisiana Water & Sewer Co.
October 14, 2003
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cc:

Certified Mail, #7002 2410 0000 6421 9008

Ms. Christine T. Whitman, Administrator
U.S. E.P.A. Headquarters
Ariel Rios Building
1200 Pennsylvania Avenue N.W.
Washington, D.C. 20460

Certified Mail, #7002 2410 0000 6421 8797

Mr. Richard Greene, Regional Administrator
E.P.A. Region 6
1445 Ross Avenue
Suite 1200
Dallas, TX 75202

Certified Mail, #7002 2410 0000 6421 8780

Mr. Hall Bohlinger, Secretary
Louisiana Department of Environmental Quality
P.O. Box 82263
Baton Rouge, LA 70884

Certified Mail, #7002 2410 0000 6421 8803

Mr. John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530-0001