

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
NORTHERN DIVISION**

<b>TENNESSEE RIVERKEEPER, INC.,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	
	)	<b>Case No. 3:18-cv-374-HSM-HBG</b>
<b>CITY of OAK RIDGE, TENNESSEE,</b>	)	
	)	
<b>Defendant.</b>	)	<b>JURY TRIAL DEMANDED</b>

**AMENDED COMPLAINT**

The Plaintiff, Tennessee Riverkeeper, amends its Complaint as follows:

**NATURE OF THE CASE**

1. This is a citizen’s suit, brought pursuant to the provisions of Section 505(a)(1) of the Federal Water Pollution Control Act, also known as the Clean Water Act (hereinafter “CWA”), as amended, 33 U.S.C. § 1365(a)(1), to address violations of the CWA by Defendant, City of Oak Ridge, Tennessee (“Oak Ridge”) arising out of illegal discharges of pollutants from the Oak Ridge Sewage Treatment Plant located at Oak Ridge, Anderson County, Tennessee.

2. Defendant Oak Ridge is in violation of sections 301 and 402 of the CWA (33 U.S.C. §§1311 and 1342) and sections 122.1 *et sec* of Title 40 of the Code of Federal Regulations. These laws require that no facility shall discharge pollutants to waters of the United States or waters of the state except as authorized by a permit issued pursuant to the National Pollutant Discharge Elimination System (“NPDES”).

3. Oak Ridge is violating provisions of its NPDES permit by operating its sewage treatment plant in a manner that discharges pollutants to the waters of the United States and waters of the state due to its failure to operate its collection system so as to avoid overflows. Riverkeeper seeks a declaratory judgment, injunctive relief, the imposition of civil penalties, and the award of litigation costs, including attorney and expert witness fees, for Defendant Oak Ridge's repeated and ongoing violations of the CWA.

### **JURISDICTION AND VENUE**

4. This Court has subject matter jurisdiction over the CWA claims set forth in this Complaint by virtue of Section 505(a)(1) of the Federal Water Pollution Control Act ("FWPCA"), also known as the Clean Water Act, 33 U.S.C. § 1365(a)(1). Subject matter jurisdiction is also proper pursuant to 28 U.S.C. § 1331 (Federal question).

5. Venue is appropriate in the Eastern District of Tennessee pursuant to 33 U.S.C. § 1365(c)(1) and because the acts, omissions, and/or violations complained of herein occurred, and continues to occur, within the Eastern District of Tennessee.

### **NOTICE**

6. Tennessee Riverkeeper ("Riverkeeper") has complied with the pre-suit notice provisions of the CWA. Pursuant to 33 U.S.C. § 1365(b)(1)(A), 40 C.F.R. Part 135, Riverkeeper, on April 27, 2017, gave Defendant Oak Ridge notice of the violations alleged herein and its intent to sue after the expiration of sixty (60) days ("April Notice"). At the same time, Riverkeeper mailed a copy of the April Notice to the Administrator of the Environmental Protection Agency ("EPA"), the Regional Administrator of Region IV of the EPA, and the Commissioner of the Tennessee Department of Environment and Conservation ("TDEC"). Service of notice on Defendant was by

certified mail. More than 60 days have passed since the April Notice was served on Defendant and these agencies.

7. Since Riverkeeper gave notice, the violations complained of have not ceased, and are ongoing. Neither the EPA nor the State of Tennessee has commenced and diligently prosecuted a civil or criminal enforcement action in a court of the United States or a state for the violations. Furthermore, prior to the April Notice, neither the EPA nor the State of Tennessee commenced and diligently prosecuted an administrative action under 33 U.S.C. §1319(g), or under a comparable Tennessee law, for the violations.

8. Neither the EPA nor the state has issued a final order not subject to further judicial review and the Defendant has not paid a penalty assessed under 33 U.S.C. §1319(g), or under a comparable Tennessee law, for the violations.

9. Riverkeeper has mailed a copy of the Complaint to the Administrator of the EPA, the Regional Administrator of the EPA Region in which the violations are alleged to have occurred, and the Attorney General of the United States.

### **PARTIES**

10. Riverkeeper is a non-profit corporation formed in the State of Alabama and granted authority to operate in Tennessee by the Division of Business Services, State of Tennessee, as a nonprofit foreign corporation. Riverkeeper has approximately 1,800 members, and is dedicated to the preservation, protection, and defense of the Tennessee and Cumberland Rivers and their tributaries. Riverkeeper actively supports effective enforcement and implementation of environmental laws, including the CWA, on behalf of and for the benefit of its members.

11. Members of Tennessee Riverkeeper have recreated in, on or near, or otherwise used and enjoyed, or attempted to use and enjoy, the Tennessee River (and the named tributaries) in the past, and they intend to do so in the future. They have a direct and beneficial interest in the continued protection, preservation, and enhancement of the environmental, aesthetic, and recreational values in the Tennessee River and its tributaries. The quality of these waters directly affects the recreational, aesthetic, and environmental interests of certain members of Tennessee Riverkeeper. The recreational, aesthetic, and environmental interests of certain of Tennessee Riverkeeper's members have been, are being, and will be adversely affected by the Defendant's continued violation of the NPDES permit requirements, Tennessee NPDES rules, and the CWA as alleged in this complaint.

12. Members of Tennessee Riverkeeper now recreate less on the Tennessee River (including the named tributaries) because of the Defendant's illegal discharges. The violations alleged herein have had a detrimental impact on those members' interests because the violations have adversely affected and/or diminished aquatic life and water quality in the Tennessee River and have made the Tennessee River less suitable for fishing, boating, wading, walking, observing nature, or relaxing. Said members would recreate more in and around Tennessee River but for Defendant's illegal discharges of pollution. Riverkeeper's members will recreate more often in or near Tennessee River once the Defendant's illegal discharges cease.

13. The Declaration of Wade McCurdy is attached hereto as Exhibit B. Mr. McCurdy is a member of Tennessee Riverkeeper who enjoys canoeing and swimming in the rivers and creeks of the Tennessee River watershed. Mr. McCurdy was born in Oak Ridge and lived there again recently, from 2013 to 2014, while caring for an ailing parent. He still has family living in the area

and returns frequently. He has canoed East Fork Poplar Creek in the past and intends to do so in the future. He is very concerned with the quality of water where he recreates and does not want to swim in water that is not clean, wholesome or safe. He is less likely to canoe and swim if he is worried about water quality. He is aware of the sewage discharges from the City of Oak Ridge and, because of the sewage, he is concerned about his use of East Fork Poplar Creek. He wishes to continue to swim and canoe in this area in the future and would be much more likely to do so if he knows that the pollution from sewage has been removed. He is also concerned about the short and long-term effects of the sewage pollution on aquatic life, habitat and water quality. Because of his concerns, his use and enjoyment of East Fork Poplar Creek is greatly diminished. He would use East Fork Poplar Creek more, and with greater confidence, if he knew that the pollution had been removed.

14. Riverkeeper is a “citizen” within the meaning of 33 U.S.C. §§ 1365(g) and 1365(a).

15. Defendant, Oak Ridge, is a Tennessee municipal corporation, within the Eastern District of Tennessee, with principal offices in Oak Ridge, Tennessee. Oak Ridge is the owner and operator of the Oak Ridge Sewage Treatment Plant and is in control of the facility.

16. Defendant Oak Ridge is a “person” within the meaning of 33 U.S.C. §§1362(5) and 1365(a)(1).

### **STATUTORY BACKGROUND**

17. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants from a point source into waters of the United States unless the discharge is in compliance with various enumerated sections of the CWA. Among other things, Section 301(a) prohibits such discharges

not authorized by, or in violation of the terms of, a National Pollutant Discharge Elimination System permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

18. The State of Tennessee has been delegated the authority to implement the permitting programs of the Act by the EPA, including the NPDES permit program, pursuant to 33 U.S.C. § 1342(b). TDEC is the water pollution control agency for purposes of the Act, and has drafted regulations pursuant to that authority implementing the Act's permitting programs within the State of Tennessee.

19. A citizen suit, pursuant to 33 U.S.C. § 1365(a)(1), may be brought for violations of the terms and conditions of NPDES permits. 33 U.S.C. § 1365(f).

### **GENERAL ALLEGATIONS**

20. This is an action for declaratory judgment, injunctive relief, civil penalties, and litigation costs, including reasonable attorney's and expert witness fees, to enforce provisions of the CWA, and regulations adopted pursuant to said act.

21. Oak Ridge is in violation of sections 301 and 402 of the CWA (33 U.S.C. §§1311 and 1342) and sections 122.1 *et sec.* of Title 40 of the Code of Federal Regulations. These laws require that no facility shall discharge pollutants to waters of the United States or waters of the state except as authorized by a permit issued pursuant to the National Pollutant Discharge Elimination System.

22. Oak Ridge was issued NPDES permit number TN0024155 ("NPDES Permit") which authorizes the permit holder to discharge treated sanitary wastewater from one designated outfall called Outfall 001 into East Fork Poplar Creek at mile 8.3, subject to specific stated discharge limitations and monitoring requirements. All discharges must be in accordance with effluent limitations, monitoring requirements, and other conditions set forth in the NPDES Permit.

Specifically, Section 2.3.3 of the NPDES Permit prohibits overflows and places a duty on the permit holder to avoid them. Any permit noncompliance constitutes a violation of applicable state and federal laws and is grounds for enforcement action. *See*, Permit §2.3.1. Oak Ridge is subject to strict liability for any violations of its NPDES Permit.

23. As set forth in the April Notice, attached hereto as Exhibit “A” and incorporated by reference herein, and in Count One, below, Oak Ridge has violated the CWA by operating its sewage treatment plant in a manner which discharges pollutants to the waters of the United States and waters of the state in violation of its NPDES Permit, and by failure to operate its collection system so as to avoid overflows.

24. The violations set forth in the Paragraph 22 above and the April Notice are continuing and ongoing, or are likely to recur, as of the date this Complaint is being filed.

**COUNT ONE**  
**FAILURE TO AVOID OVERFLOWS IN VIOLATION OF AN NPDES PERMIT**  
**AND THE CLEAN WATER ACT**

25. Riverkeeper hereby repeats, re-alleges, adopts, and incorporates by reference paragraphs 1 through 23 herein above as if fully set out in this count.

26. Oak Ridge is in violation of provisions of its NPDES Permit by failing to operate its collection system so as to avoid overflows. The permit specifically prohibits overflows and places a duty upon Oak Ridge to avoid overflows. *See*, Permit §2.3.3. Overflows in violation of the NPDES Permit have been reported on at least the following occasions:

<b>Date</b>	<b>Number this month</b>	<b>Location of discharge</b>	<b>Est. Volume (gallons)</b>	<b>Nearest Stream</b>
2/28/2017	4	Details not available		
1/31/2017	6	Details not available		

12/31/2016	8	Details not available		
11/30/2016	3	Details not available		
10/12/2016	2	113 Baylor Dr	144	Not Reported
10/3/2016		200 Monterey Road, WWTP	1,000	Not Reported
9/30/2016	3	Details not available		
8/8/2016	1	169 Latimer Rd	10	Not Reported
7/18/2016	1	151 Cairo Ln	415,740	Ernie's Creek
6/16/2016	4	111 Howard Lane	600	Not Reported
6/16/2016		272 Highland Avenue	325	Not Reported
6/9/2016		137 Baltimore Drive	100	Not Reported
6/4/2016		101 Dallas Lane	50	Not Reported
5/5/2016	1	Jefferson at Robertsville Rd	1,350	East Fork Poplar Creek
4/22/2016	4	200 Monterey Road, WWTP	50	Not Reported
4/19/2016		137 Parsons Road	47	Not Reported
4/18/2016		109 Nevada Circle	105	Not Reported
4/15/2016		28 Irene Lane	28	Not Reported
3/28/2016	3	146 Parsons Road	30	Not Reported
3/24/2016		200 Monterey Road, WWTP	1,000	Not Reported
3/14/2016		200 Monterey Road, WWTP	250	Not Reported
2/29/2016	26	420 Laboratory Road	175	East Fork Poplar Creek
2/26/2016		107 Morris Lane	1,000	Not Reported
2/25/2016		136 Princeton Avenue	350	Not Reported
2/24/2016		108 Baypath Drive	91,500	Emory Valley Creek
2/24/2016		151 Cairo Lane	185,000	Ernie's Creek
2/24/2016		470 Oak Ridge Turnpike	12,500	Ernie's Creek
2/24/2016		117 N. Purdue Avenue	132,000	East Fork Poplar Creek
2/24/2016		1289 Oak Ridge Turnpike	2,375	East Fork Poplar Creek
2/24/2016		1403 Oak Ridge Turnpike	192,500	East Fork Poplar Creek
2/24/2016		1403 Oak Ridge Turnpike	1,500	East Fork Poplar Creek
2/24/2016		1403 Oak Ridge Turnpike	31,500	East Fork Poplar Creek
2/24/2016		216 S. Illinois Avenue	54,000	East Fork Poplar Creek
2/24/2016		191 Tusculum Drive	1,100	East Fork Poplar Creek
2/24/2016		114 Grandcove Lane	21,250	East Fork Poplar Creek
2/24/2016		270 Robertsville Road	1,000	East Fork Poplar Creek
2/24/2016		Iroquois @ Robertsville Rd.	2,000	East Fork Poplar Creek
2/3/2016		216 S. Illinois Avenue	40,000	East Fork Poplar Creek
2/3/2016		1403 Oak Ridge Turnpike	109,000	East Fork Poplar Creek
2/3/2016		1403 Oak Ridge Turnpike	5,700	East Fork Poplar Creek
2/3/2016		1403 Oak Ridge Turnpike	18,000	East Fork Poplar Creek
2/3/2016		117 N. Purdue Avenue	172,000	East Fork Poplar Creek
2/3/2016		108 Baypath Drive	58,500	Emory Valley Creek



2/3/2016		151 Cairo Lane	122,000	Ernie's Creek
2/3/2016		1289 Oak Ridge Turnpike	2,100	East Fork Poplar Creek
2/3/2016		191 Tusculum Drive	1,500	East Fork Poplar Creek
2/3/2016		270 Robertsville Road	1,000	East Fork Poplar Creek
2/3/2016		Iroquois @ Robertsville Rd.	2,000	East Fork Poplar Creek
2/3/2016		Monterey Road	295,000	East Fork Poplar Creek
2/3/2016		114 Grandcove Lane	25,500	East Fork Poplar Creek
1/27/2016	1	151 Cairo Lane	22,500	Ernie's Creek
12/29/2015	34	151 Cairo Lane	18,000	Ernie's Creek
12/29/2015		470 Oak Ridge Turnpike	1,000	Ernie's Creek
12/29/2015		117 N. Purdue Avenue	12,000	East Fork Poplar Creek
12/29/2015		1403 Oak Ridge Turnpike	1,000	East Fork Poplar Creek
12/29/2015		1403 Oak Ridge Turnpike	500	East Fork Poplar Creek
12/29/2015		216 S. Illinois Avenue	1,000	East Fork Poplar Creek
12/25/2015		724 Robertsville Road	30,450	East Fork Poplar Creek
12/25/2015		151 Cairo Lane	183,000	Ernie's Creek
12/25/2015		470 Oak Ridge Turnpike	8,850	Ernie's Creek
12/25/2015		117 N. Purdue Avenue	259,500	East Fork Poplar Creek
12/25/2015		1289 Oak Ridge Turnpike	86,500	East Fork Poplar Creek
12/25/2015		1403 Oak Ridge Turnpike	256,500	East Fork Poplar Creek
12/25/2015		1403 Oak Ridge Turnpike	19,500	East Fork Poplar Creek
12/25/2015		1403 Oak Ridge Turnpike	77,500	East Fork Poplar Creek
12/25/2015		216 S. Illinois Avenue	151,000	East Fork Poplar Creek
12/25/2015		191 Tusculum Drive	15,200	East Fork Poplar Creek
12/25/2015		270 Robertsville Road	15	Not Reported
12/25/2015		270 Robertsville Road	11,400	East Fork Poplar Creek
12/25/2015		Iroquois at Robertsville Road	18,750	East Fork Poplar Creek
12/25/2015		Monterey Road	?	East Fork Poplar Creek
12/25/2015		114 Grandcove Lane	151,000	East Fork Poplar Creek
12/25/2015		108 Baypath Drive	80,625	Emory Valley Creek
12/2/2015		1395 Oak Ridge Turnpike	50	Not Reported
12/1/2015		108 Baypath Drive	83,500	Emory Valley Creek
12/1/2015		151 Cairo Lane	229,000	Ernie's Creek
12/1/2015		117 N. Purdue Avenue	267,000	East Fork Poplar Creek
12/1/2015		1403 Oak Ridge Turnpike	55,000	East Fork Poplar Creek
12/1/2015		216 S. Illinois Avenue	91,000	East Fork Poplar Creek
12/1/2015		1289 Oak Ridge Turnpike	43,000	East Fork Poplar Creek
12/1/2015		1403 Oak Ridge Turnpike	331,500	East Fork Poplar Creek
12/1/2015		1403 Oak Ridge Turnpike	43,250	East Fork Poplar Creek
12/1/2015		114 Grandcove Lane	54,250	East Fork Poplar Creek
12/1/2015		1403 Oak Ridge Turnpike	78,000	Ernie's Creek

12/1/2015		191 Tusculum Drive	8,550	East Fork Poplar Creek
12/1/2015		Monterey Road	356,000	East Fork Poplar Creek
12/1/2015		270 Robertsville Road	4,275	East Fork Poplar Creek
12/1/2015		Iroquois at Robertsville Road	8,550	East Fork Poplar Creek
11/18/2015	1	190 Manhattan Avenue	48,750	East Fork Poplar Creek
10/19/2015	2	132 Manhattan Avenue	100	Not Reported
10/7/2015		101 Dana Drive	120	Not Reported
9/30/2015	1	Details not available		
8/20/2015	8	151 Cairo Lane	5,000	East Fork Poplar Creek
8/20/2015		117 N. Purdue Avenue	24,000	East Fork Poplar Creek
8/20/2015		1289 Oak Ridge Turnpike	1,000	East Fork Poplar Creek
8/20/2015		1403 Oak Ridge Turnpike	4,000	East Fork Poplar Creek
8/20/2015		1403 Oak Ridge Turnpike	500	East Fork Poplar Creek
8/20/2015		1403 Oak Ridge Turnpike	1,000	East Fork Poplar Creek
8/20/2015		216 S. Illinois Avenue	1,000	East Fork Poplar Creek
8/5/2015		103 Caldwell Drive	30	Ernie's Creek
7/15/2015	4	151 Cairo Lane	3,000	Ernie's Creek
7/15/2015		117 N. Purdue Avenue	1,000	East Fork Poplar Creek
7/15/2015		470 Oak Ridge Turnpike	1,000	Ernie's Creek
7/14/2015		110 Providence Road	770	East Fork Poplar Creek
6/29/2015	1	165 California Avenue	180	Not Reported
5/11/2015	1	235 Manhattan Avenue	120	Not Reported
4/3/2015	3	200 Monterey Road	100	East Fork Poplar Creek
4/2/2015		85 Kentucky Avenue	4,250	Not Reported
4/1/2015		151 Cairo Lane	4,000	Ernie's Creek
3/17/2015	2	148-150 S. Purdue Avenue	90	Not Reported
3/9/2015		Montana Hollow	2,250	Not Reported
2/19/2015	2	138 W. Bryn Mawr Circle	3,000	East Fork Poplar Creek
2/9/2015		200 Monterey Road	150	East Fork Poplar Creek
1/31/2015	1	116 Hunter Circle	270	Not Reported
12/31/2014	4	Details not available		
12/31/2014		Details not available		
11/25/2014	4	130 Providence Road	12,000	East Fork Poplar Creek
11/16/2014		239 Broadway Avenue	600	Not Reported
11/11/2014		329 Louisiana Avenue	40	Not Reported
11/7/2014		136 Newell Lane	240	Not Reported
10/14/2014	1	100 Coe Road	1,125	Not Reported
9/5/2014	2	140 E. Division Road	5	Not Reported
9/3/2014		129 Princeton Avenue	600	Not Reported
8/14/2014	1	1201 Oak Ridge Turnpike	15	Not Reported
7/28/2014	3	151 Cairo Lane	1,000	Ernie's Creek

7/28/2014		117 N. Purdue Avenue	1,000	East Fork Poplar Creek
7/1/2014		100 Dresden Road	500	Not Reported
5/24/2014	2	200 Monterey Road	210	Not Reported
5/24/2014		332 Jefferson Avenue	15	Not Reported
3/8/2014	1	113 Wakefield Road	1,500	Not Reported
2/3/2014	15	695 Melton Lake Drive	120,200	Melton Hill Lake
2/3/2014		108 Baypath Drive	18,800	Emory Valley Creek
2/3/2014		151 Cairo Lane	181,500	Ernie's Creek
2/3/2014		100 Dresden Road	89,250	Ernie's Creek
2/3/2014		535 Oak Ridge Turnpike	119,000	Ernie's Creek
2/3/2014		106 California Avenue	29,250	Ernie's Creek
2/3/2014		470 Oak Ridge Turnpike	59,000	Ernie's Creek
2/3/2014		117 N. Purdue Avenue	204,000	East Fork Poplar Creek
2/3/2014		1403 Oak Ridge Turnpike	120,000	East Fork Poplar Creek
2/3/2014		1403 Oak Ridge Turnpike	30,000	East Fork Poplar Creek
2/3/2014		1403 Oak Ridge Turnpike	60,000	East Fork Poplar Creek
2/3/2014		216 S. Illinois Avenue	97,000	East Fork Poplar Creek
2/3/2014		191 Tusculum Drive	48,500	East Fork Poplar Creek
2/3/2014		114 Grandcove Lane	49,500	East Fork Poplar Creek
2/3/2014		Tuskegee Drive	1,000	East Fork Poplar Creek
1/31/2014	1	100 Beverly Circle	1,350	Not Reported
12/22/2013	17	151 Cairo Lane	91,000	Ernie's Creek
12/22/2013		100 Dresden Road	59,700	Ernie's Creek
12/22/2013		535 Oak Ridge Turnpike	120,000	Ernie's Creek
12/22/2013		470 Oak Ridge Turnpike	14,500	Ernie's Creek
12/22/2013		117 N. Purdue Avenue	220,000	East Fork Poplar Creek
12/22/2013		1289 Oak Ridge Turnpike	22,500	East Fork Poplar Creek
12/22/2013		1403 Oak Ridge Turnpike	180,000	East Fork Poplar Creek
12/22/2013		1403 Oak Ridge Turnpike	12,125	East Fork Poplar Creek
12/22/2013		1403 Oak Ridge Turnpike	24,250	East Fork Poplar Creek
12/22/2013		216 S. Illinois Avenue	144,000	East Fork Poplar Creek
12/22/2013		191 Tusculum Drive	22,000	East Fork Poplar Creek
12/22/2013		270 Robertsville Road	8,500	East Fork Poplar Creek
12/22/2013		Iroquois@ Robertsville Road	12,750	East Fork Poplar Creek
12/22/2013		114 Grandcove Lane	22,500	East Fork Poplar Creek
12/22/2013		695 Melton Lake Drive	73,000	Melton Hill Lake
12/22/2013		105 Mohawk Road	9,500	East Fork Poplar Creek
12/6/2013		215 Jefferson Ave	33,500	East Fork Poplar Creek
7/7/2013	25	Belgrade Road	45,000	Ernie's Creek
7/7/2013		106 California Avenue	135,000	East Fork Poplar Creek
7/7/2013		116 W. Newkirk Lane	270,000	East Fork Poplar Creek

7/7/2013		110 Providence Road	39,000	East Fork Poplar Creek
7/7/2013		110 Providence Road	26,000	East Fork Poplar Creek
7/7/2013		270 Robertsville Road	262,500	East Fork Poplar Creek
7/7/2013		Iroquois@ Robertsville Road	525,000	East Fork Poplar Creek
7/7/2013		215 Jefferson Ave	26,250	East Fork Poplar Creek
7/7/2013		114 Grandcove Lane	255,000	East Fork Poplar Creek
7/6/2013		535 Oak Ridge Turnpike	532,800	Ernie's Creek
7/6/2013		470 Oak Ridge Turnpike	494,000	Ernie's Creek
7/6/2013		100 Dresden Road	500,000	East Fork Poplar Creek
7/6/2013		117 N. Purdue Avenue	7,857,000	East Fork Poplar Creek
7/6/2013		1289 Oak Ridge Turnpike	136,500	East Fork Poplar Creek
7/6/2013		1403 Oak Ridge Turnpike	5,181,000	East Fork Poplar Creek
7/6/2013		1403 Oak Ridge Turnpike	378,750	East Fork Poplar Creek
7/6/2013		1403 Oak Ridge Turnpike	606,000	East Fork Poplar Creek
7/6/2013		216 S. Illinois Avenue	4,488,000	East Fork Poplar Creek
7/6/2013		191 Tusculum Drive	333,750	East Fork Poplar Creek
7/6/2013		151 Cairo Lane	4,966,500	Ernie's Creek
7/6/2013		695 Melton Lake Drive	695,000	Melton Hill Lake
7/6/2013		108 Baypath Drive	3,047,500	Emory Valley Creek
7/6/2013		324 S. Illinois Avenue	671,250	East Fork Poplar Creek
7/6/2013		100 Thayer Lane	4,000	Ernie's Creek
7/1/2013		111 Woodland Terrace East	300	Not Reported
6/18/2013	12	213 S. Dillard Avenue	1,500	East Fork Poplar Creek
6/18/2013		695 Melton Lake Drive	66,000	Melton Hill Lake
6/18/2013		324 S. Illinois Avenue	600	East Fork Poplar Creek
6/18/2013		117 N. Purdue Avenue	678,500	East Fork Poplar Creek
6/18/2013		151 Cairo Lane	67,500	Ernie's Creek
6/18/2013		1403 Oak Ridge Turnpike	27,000	East Fork Poplar Creek
6/18/2013		1403 Oak Ridge Turnpike	9,000	East Fork Poplar Creek
6/18/2013		1403 Oak Ridge Turnpike	9,000	East Fork Poplar Creek
6/18/2013		470 Oak Ridge Turnpike	1,000	Ernie's Creek
6/18/2013		216 S. Illinois Avenue	1,000	East Fork Poplar Creek
6/10/2013		695 Melton Lake Drive	6,750	Melton Hill Lake
6/10/2013		151 Cairo Lane	87,500	Ernie's Creek
5/30/2013	13	Details not available		
3/28/2013	3	136 Nevada Circle	50	Not Reported
3/5/2013		117 N. Purdue Avenue	10,000	East Fork Poplar Creek
3/3/2013		130 Alger Road	10	Not Reported
2/10/2013	1	108 Jersey Lane	30	Not Reported
12/26/2012	4	151 Cairo Lane	195,000	Ernie's Creek
12/26/2012		119 Athens Road	12,100	Melton Hill Lake

12/19/2012		247 Jefferson Avenue	1,500	Not Reported
12/19/2012		Warehouse Rd & Melton Lake Dr.	170	Melton Hill Lake
11/20/2012	1	211 Northwestern Ave	15	Not Reported
9/29/2012	14	135 Wakeman Lane	2,200	Not Reported
9/18/2012		695 Melton Lake Drive	14,650	Melton Hill Lake
9/18/2012		108 Baypath Drive	28,900	Emory Valley Creek
9/18/2012		151 Cairo Lane	2,860	Ernie's Creek
9/18/2012		Athens @ E. Arrowwood Rd	2,560	Melton Hill Lake
9/18/2012		119 Athens Road	9,920	Melton Hill Lake
9/18/2012		117 N. Purdue Avenue	40,600	East Fork Poplar Creek
9/18/2012		1289 Oak Ridge Turnpike	4,000	East Fork Poplar Creek
9/18/2012		1403 Oak Ridge Turnpike	3,960	East Fork Poplar Creek
9/18/2012		1403 Oak Ridge Turnpike	3,940	East Fork Poplar Creek
9/18/2012		1403 Oak Ridge Turnpike	3,940	East Fork Poplar Creek
9/18/2012		216 S. Illinois Avenue	2,500	East Fork Poplar Creek
9/18/2012		1 00 Dresden Road	1,000	Ernie's Creek
9/18/2012		191 Tusculum Drive	1,500	East Fork Poplar Creek
<b>TOTAL</b>	<b>251</b>			

27. The violations set out in this count are continuing and ongoing and there is a reasonable likelihood that Defendant will continue these or similar violations in the future.

28. These violations have an adverse impact on waters of the United States and waters of the state, specifically East Fork Poplar Creek, a tributary of Clinch River, Ernie's Creek, a tributary of Clinch River, Emory Valley Creek, a tributary of Melton Hill Lake, Melton Hill Lake, an impoundment of Clinch River, Clinch River, a tributary of Tennessee River, and Tennessee River, and on the recreational, aesthetic, and environmental interests of Riverkeeper's members in those waterways as set out in paragraphs 11 and 12 herein above.

29. These violations cause or contribute to an impairment of the East Fork of Poplar Creek. Impaired waters are those waters which do not meet water quality standards for the designated use of the waterbody. East Fork Poplar Creek in Anderson and Roane Counties is listed on Tennessee's

303(d) list for the year 2016, as impaired due to PCBs, mercury, Escherichia coli (E.coli), loss of biological integrity due to siltation, nutrients (nitrate, nitrite, total phosphorus), and “other anthropogenic habitat alterations.” Listed as sources of these pollutants are industrial point sources, municipal point sources, contaminated sediments, **collection system failure [overflows]**, and MS4.

30. Defendant Oak Ridge should be subject to an enforcement order or injunction ordering it to fully comply with all requirements of its NPDES Permit and the CWA.

31. Defendant Oak Ridge should be subject to the assessment of civil penalties for these violations of the CWA pursuant to Section 309(d) and 505 of the CWA, 33 U.S.C. §§ 1319(d) and 1365. For the purpose of assessing the maximum penalty which Defendant Oak Ridge is liable, each day that the Oak Ridge sewage treatment plant has discharged pollutants in violation of its NPDES Permit and/or without a permit authorizing such discharges constitutes a separate violation of Section 301(a) of the CWA, pursuant to Section 309(d), 33 U.S.C. § 1319(d).

**COUNT TWO**  
**INJUNCTIVE RELIEF**

32. Riverkeeper hereby repeats, re-alleges, adopts, and incorporates by reference paragraphs 1 through 30 above as if fully set out in this count.

33. The violations set out herein will continue unless this Court enjoins Defendant from continuing to violate its permit.

34. These violations have caused irreparable injury to some of Riverkeeper's members. Riverkeeper has no adequate remedy at law for the injuries caused to its members by Defendant's ongoing violations in that Riverkeeper would be forced to bring repeated and burdensome actions for each new injury to its interests if Defendant's ongoing violations are not enjoined.

35. An injunction will be in the public's interest in this case. Because Defendant is in continuing violation of the law, the equities for an injunction weigh in Riverkeeper's favor.

36. Therefore, Riverkeeper brings this cause of action to enjoin Defendant from engaging in any other affirmative act or conduct which would contribute to further permit violations.

**PRAYER FOR RELIEF**

**WHEREFORE**, Riverkeeper respectfully requests that the Court grant the following relief:

- a. Plaintiff Riverkeeper requests the Court render a judgment finding and declaring that Defendant Oak Ridge has violated and is in violation the CWA, 33 U.S.C. 1311(a), and Tennessee NPDES rules;
- b. Plaintiff Riverkeeper requests and petitions this Court to enjoin the violations and any and all illegal conduct by Defendant set out and alleged in Counts One and Two above and issue an injunction compelling Defendant to remedy the illegal

discharges of pollutants into waters of the United States;

- c. Plaintiff Riverkeeper requests and petitions this Court to assess a \$37,500.00 (thirty-seven thousand, five hundred dollars) civil penalty (*see* 40 CFR § 19) against Defendant Oak Ridge, Tennessee for each violation and each day of continuing violation of the CWA for which Defendant is found liable pursuant to Sections 309(d) and 505(a) of the CWA, 33 U.S.C. §§ 1319(d) and 1365(a);
- d. Plaintiff Riverkeeper requests and petitions this Court for an award of litigation costs, including reasonable attorney's fees and expert fees, as authorized by 33 U.S.C. § 1365(d); and
- e. For such other, further or more general relief as this Court may deem appropriate.

Respectfully submitted this the 27th day of August, 2019.

s/ Elizabeth A. Alexander  
Elizabeth A. Alexander, BPR No. 19273  
Alexander Law  
4235 Hillsboro Pike, Suite 300  
Nashville, TN 37215  
Telephone: 415-860-4020  
alexanderlawnashville@gmail.com

s/ Mark E. Martin  
Mark E. Martin  
Alabama Bar No: ASB-9361-A41M  
*Admission Requested Pro Hac Vice*  
P.O. Box 1486  
Oneonta, AL 35121  
Telephone: (205) 516-9350  
mmartin@markemartin.com

*Attorneys for Plaintiff Tennessee Riverkeeper, Inc.*

**Plaintiff demands trial by struck jury.**



# EXHIBIT A

**MARK E. MARTIN**  
**Attorney at Law, LLC**

Post Office Box 1486  
Oneonta, Alabama 35121

Direct Dial Phone: (205) 578-8675  
mmartin@markemartin.com

April 27, 2017

Mr. Mark S. Watson  
City Manager  
City of Oak Ridge  
200 South Tulane Avenue  
Oak Ridge, TN 37830

**VIA CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

RE: Oak Ridge Sewage Treatment Plant  
NPDES Permit No: TN0024155

Dear Mr. Watson,

Tennessee Riverkeeper, Inc. intends to file a lawsuit under section 505 of the Federal Water Pollution Control Act, also known as the Clean Water Act ("CWA"), 33 U.S.C. 1365(a)(1), against the City of Oak Ridge, for violations of the CWA, and the regulations thereunder, as more fully referenced below, by Oak Ridge Sewage Treatment Plant ("STP"), located at Oak Ridge, Anderson County, Tennessee. Tennessee Riverkeeper provides this written notice pursuant to section 135 of Title 40 of the Code of Federal Regulations.

The City of Oak Ridge is in violation of sections 301 and 402 of the CWA (33 U.S.C. §§1311 and 1342) and sections 122.1 *et sec* of Title 40 of the Code of Federal Regulations. These laws require that no facility shall discharge pollutants to waters of the United States or waters of the state except as authorized by a permit issued pursuant to the National Pollutant Discharge Elimination System (NPDES). See also, T.C.A. §§ 69-3-101 *et seq.* and Tenn. Comp. R. & Regs. 0400-40-05-.07.

The City of Oak Ridge was issued NPDES permit number TN0024155 which authorizes the permit holder to discharge treated sanitary wastewater from Outfall 001 into East Fork Poplar Creek at Mile 8.3, subject to certain discharge limitations and monitoring requirements. All discharges must be in accordance with the effluent limitations, monitoring requirements, and other conditions set forth in the NPDES Permit. It is unlawful to discharge sewage, industrial wastes or other wastes into waters, or a location from which it is likely that the discharged substance will move into waters, except in accordance with the conditions of a valid permit. T.C.A. §69-3-108(b). Sanitary sewer overflows, including dry-weather overflows and wet weather overflows, are prohibited. Tenn. Comp. R. & Regs. 0400-40-05-.07. The City's permit, at section 2.3.3, defines "Overflow" as any release of sewage from any portion of the collection, transmission, or treatment system other than through permitted outfalls. The permit specifically prohibits overflows. Permit section 2.3.3 b.

The City of Oak Ridge is in violation of its permit, the Tennessee Water Quality Control Act, and the Federal Water Pollution Control Act by operating its sewage treatment plant in a manner which allows overflows to occur as demonstrated by Discharge Monitoring Reports (“DMRs”) and Overflow Reports submitted to the Tennessee Department of Environment and Conservation (“TDEC”). These activities include, but are not limited to, the specific dates and exceedances set out below:

<b>Date</b>	<b>Number this month</b>	<b>Location of discharge</b>	<b>Est. Volume (gallons)</b>	<b>Nearest Stream</b>
2/28/2017	4	Details not available		
1/31/2017	6	Details not available		
12/31/2016	8	Details not available		
11/30/2016	3	Details not available		
10/12/2016	2	113 Baylor Dr	144	Not Reported
10/3/2016		200 Monterey Road, WWTP	1,000	Not Reported
9/30/2016	3	Details not available		
8/8/2016	1	169 Latimer Rd	10	Not Reported
7/18/2016	1	151 Cairo Ln	415,740	Ernie's Creek
6/16/2016	4	111 Howard Lane	600	Not Reported
6/16/2016		272 Highland Avenue	325	Not Reported
6/9/2016		137 Baltimore Drive	100	Not Reported
6/4/2016		101 Dallas Lane	50	Not Reported
5/5/2016	1	Jefferson at Robertsville Rd	1,350	East Fork Poplar Creek
4/22/2016	4	200 Monterey Road, WWTP	50	Not Reported
4/19/2016		137 Parsons Road	47	Not Reported
4/18/2016		109 Nevada Circle	105	Not Reported
4/15/2016		28 Irene Lane	28	Not Reported
3/28/2016	3	146 Parsons Road	30	Not Reported
3/24/2016		200 Monterey Road, WWTP	1,000	Not Reported
3/14/2016		200 Monterey Road, WWTP	250	Not Reported
2/29/2016	26	420 Laboratory Road	175	East Fork Poplar Creek
2/26/2016		107 Morris Lane	1,000	Not Reported
2/25/2016		136 Princeton Avenue	350	Not Reported
2/24/2016		108 Baypath Drive	91,500	Emory Valley Creek
2/24/2016		151 Cairo Lane	185,000	Ernie's Creek
2/24/2016		470 Oak Ridge Turnpike	12,500	Ernie's Creek
2/24/2016		117 N. Purdue Avenue	132,000	East Fork Poplar Creek
2/24/2016		1289 Oak Ridge Turnpike	2,375	East Fork Poplar Creek
2/24/2016		1403 Oak Ridge Turnpike	192,500	East Fork Poplar Creek

2/24/2016		1403 Oak Ridge Turnpike	1,500	East Fork Poplar Creek
2/24/2016		1403 Oak Ridge Turnpike	31,500	East Fork Poplar Creek
2/24/2016		216 S. Illinois Avenue	54,000	East Fork Poplar Creek
2/24/2016		191 Tusculum Drive	1,100	East Fork Poplar Creek
2/24/2016		114 Grandcove Lane	21,250	East Fork Poplar Creek
2/24/2016		270 Robertsville Road	1,000	East Fork Poplar Creek
2/24/2016		Iroquois @ Robertsville Rd.	2,000	East Fork Poplar Creek
2/3/2016		216 S. Illinois Avenue	40,000	East Fork Poplar Creek
2/3/2016		1403 Oak Ridge Turnpike	109,000	East Fork Poplar Creek
2/3/2016		1403 Oak Ridge Turnpike	5,700	East Fork Poplar Creek
2/3/2016		1403 Oak Ridge Turnpike	18,000	East Fork Poplar Creek
2/3/2016		117 N. Purdue Avenue	172,000	East Fork Poplar Creek
2/3/2016		108 Baypath Drive	58,500	Emory Valley Creek
2/3/2016		151 Cairo Lane	122,000	Ernie's Creek
2/3/2016		1289 Oak Ridge Turnpike	2,100	East Fork Poplar Creek
2/3/2016		191 Tusculum Drive	1,500	East Fork Poplar Creek
2/3/2016		270 Robertsville Road	1,000	East Fork Poplar Creek
2/3/2016		Iroquois @ Robertsville Rd.	2,000	East Fork Poplar Creek
2/3/2016		Monterey Road	295,000	East Fork Poplar Creek
2/3/2016		114 Grandcove Lane	25,500	East Fork Poplar Creek
1/27/2016	1	151 Cairo Lane	22,500	Ernie's Creek
12/29/2015	34	151 Cairo Lane	18,000	Ernie's Creek
12/29/2015		470 Oak Ridge Turnpike	1,000	Ernie's Creek
12/29/2015		117 N. Purdue Avenue	12,000	East Fork Poplar Creek
12/29/2015		1403 Oak Ridge Turnpike	1,000	East Fork Poplar Creek
12/29/2015		1403 Oak Ridge Turnpike	500	East Fork Poplar Creek
12/29/2015		216 S. Illinois Avenue	1,000	East Fork Poplar Creek
12/25/2015		724 Robertsville Road	30,450	East Fork Poplar Creek
12/25/2015		151 Cairo Lane	183,000	Ernie's Creek
12/25/2015		470 Oak Ridge Turnpike	8,850	Ernie's Creek
12/25/2015		117 N. Purdue Avenue	259,500	East Fork Poplar Creek
12/25/2015		1289 Oak Ridge Turnpike	86,500	East Fork Poplar Creek
12/25/2015		1403 Oak Ridge Turnpike	256,500	East Fork Poplar Creek
12/25/2015		1403 Oak Ridge Turnpike	19,500	East Fork Poplar Creek
12/25/2015		1403 Oak Ridge Turnpike	77,500	East Fork Poplar Creek
12/25/2015		216 S. Illinois Avenue	151,000	East Fork Poplar Creek
12/25/2015		191 Tusculum Drive	15,200	East Fork Poplar Creek
12/25/2015		270 Robertsville Road	15	Not Reported
12/25/2015		270 Robertsville Road	11,400	East Fork Poplar Creek
12/25/2015		Iroquois at Robertsville Road	18,750	East Fork Poplar Creek



12/25/2015		Monterey Road	?	East Fork Poplar Creek
12/25/2015		114 Grandcove Lane	151,000	East Fork Poplar Creek
12/25/2015		108 Baypath Drive	80,625	Emory Valley Creek
12/2/2015		1395 Oak Ridge Turnpike	50	Not Reported
12/1/2015		108 Baypath Drive	83,500	Emory Valley Creek
12/1/2015		151 Cairo Lane	229,000	Ernie's Creek
12/1/2015		117 N. Purdue Avenue	267,000	East Fork Poplar Creek
12/1/2015		1403 Oak Ridge Turnpike	55,000	East Fork Poplar Creek
12/1/2015		216 S. Illinois Avenue	91,000	East Fork Poplar Creek
12/1/2015		1289 Oak Ridge Turnpike	43,000	East Fork Poplar Creek
12/1/2015		1403 Oak Ridge Turnpike	331,500	East Fork Poplar Creek
12/1/2015		1403 Oak Ridge Turnpike	43,250	East Fork Poplar Creek
12/1/2015		114 Grandcove Lane	54,250	East Fork Poplar Creek
12/1/2015		1403 Oak Ridge Turnpike	78,000	Ernie's Creek
12/1/2015		191 Tusculum Drive	8,550	East Fork Poplar Creek
12/1/2015		Monterey Road	356,000	East Fork Poplar Creek
12/1/2015		270 Robertsville Road	4,275	East Fork Poplar Creek
12/1/2015		Iroquois at Robertsville Road	8,550	East Fork Poplar Creek
11/18/2015	1	190 Manhattan Avenue	48,750	East Fork Poplar Creek
10/19/2015	2	132 Manhattan Avenue	100	Not Reported
10/7/2015		101 Dana Drive	120	Not Reported
9/30/2015	1	Details not available		
8/20/2015	8	151 Cairo Lane	5,000	East Fork Poplar Creek
8/20/2015		117 N. Purdue Avenue	24,000	East Fork Poplar Creek
8/20/2015		1289 Oak Ridge Turnpike	1,000	East Fork Poplar Creek
8/20/2015		1403 Oak Ridge Turnpike	4,000	East Fork Poplar Creek
8/20/2015		1403 Oak Ridge Turnpike	500	East Fork Poplar Creek
8/20/2015		1403 Oak Ridge Turnpike	1,000	East Fork Poplar Creek
8/20/2015		216 S. Illinois Avenue	1,000	East Fork Poplar Creek
8/5/2015		103 Caldwell Drive	30	Ernie's Creek
7/15/2015	4	151 Cairo Lane	3,000	Ernie's Creek
7/15/2015		117 N. Purdue Avenue	1,000	East Fork Poplar Creek
7/15/2015		470 Oak Ridge Turnpike	1,000	Ernie's Creek
7/14/2015		110 Providence Road	770	East Fork Poplar Creek
6/29/2015	1	165 California Avenue	180	Not Reported
5/11/2015	1	235 Manhattan Avenue	120	Not Reported
4/3/2015	3	200 Monterey Road	100	East Fork Poplar Creek
4/2/2015		85 Kentucky Avenue	4,250	Not Reported
4/1/2015		151 Cairo Lane	4,000	Ernie's Creek
3/17/2015	2	148-150 S. Purdue Avenue	90	Not Reported

3/9/2015		Montana Hollow	2,250	Not Reported
2/19/2015	2	138 W. Bryn Mawr Circle	3,000	East Fork Poplar Creek
2/9/2015		200 Monterey Road	150	East Fork Poplar Creek
1/31/2015	1	116 Hunter Circle	270	Not Reported
12/31/2014	4	Details not available		
12/31/2014		Details not available		
11/25/2014	4	130 Providence Road	12,000	East Fork Poplar Creek
11/16/2014		239 Broadway Avenue	600	Not Reported
11/11/2014		329 Louisiana Avenue	40	Not Reported
11/7/2014		136 Newell Lane	240	Not Reported
10/14/2014	1	100 Coe Road	1,125	Not Reported
9/5/2014	2	140 E. Division Road	5	Not Reported
9/3/2014		129 Princeton Avenue	600	Not Reported
8/14/2014	1	1201 Oak Ridge Turnpike	15	Not Reported
7/28/2014	3	151 Cairo Lane	1,000	Ernie's Creek
7/28/2014		117 N. Purdue Avenue	1,000	East Fork Poplar Creek
7/1/2014		100 Dresden Road	500	Not Reported
5/24/2014	2	200 Monterey Road	210	Not Reported
5/24/2014		332 Jefferson Avenue	15	Not Reported
3/8/2014	1	113 Wakefield Road	1,500	Not Reported
2/3/2014	15	695 Melton Lake Drive	120,200	Melton Hill Lake
2/3/2014		108 Baypath Drive	18,800	Emory Valley Creek
2/3/2014		151 Cairo Lane	181,500	Ernie's Creek
2/3/2014		100 Dresden Road	89,250	Ernie's Creek
2/3/2014		535 Oak Ridge Turnpike	119,000	Ernie's Creek
2/3/2014		106 California Avenue	29,250	Ernie's Creek
2/3/2014		470 Oak Ridge Turnpike	59,000	Ernie's Creek
2/3/2014		117 N. Purdue Avenue	204,000	East Fork Poplar Creek
2/3/2014		1403 Oak Ridge Turnpike	120,000	East Fork Poplar Creek
2/3/2014		1403 Oak Ridge Turnpike	30,000	East Fork Poplar Creek
2/3/2014		1403 Oak Ridge Turnpike	60,000	East Fork Poplar Creek
2/3/2014		216 S. Illinois Avenue	97,000	East Fork Poplar Creek
2/3/2014		191 Tusculum Drive	48,500	East Fork Poplar Creek
2/3/2014		114 Grandcove Lane	49,500	East Fork Poplar Creek
2/3/2014		Tuskegee Drive	1,000	East Fork Poplar Creek
1/31/2014	1	100 Beverly Circle	1,350	Not Reported
12/22/2013	17	151 Cairo Lane	91,000	Ernie's Creek
12/22/2013		100 Dresden Road	59,700	Ernie's Creek
12/22/2013		535 Oak Ridge Turnpike	120,000	Ernie's Creek
12/22/2013		470 Oak Ridge Turnpike	14,500	Ernie's Creek

12/22/2013		117 N. Purdue Avenue	220,000	East Fork Poplar Creek
12/22/2013		1289 Oak Ridge Turnpike	22,500	East Fork Poplar Creek
12/22/2013		1403 Oak Ridge Turnpike	180,000	East Fork Poplar Creek
12/22/2013		1403 Oak Ridge Turnpike	12,125	East Fork Poplar Creek
12/22/2013		1403 Oak Ridge Turnpike	24,250	East Fork Poplar Creek
12/22/2013		216 S. Illinois Avenue	144,000	East Fork Poplar Creek
12/22/2013		191 Tusculum Drive	22,000	East Fork Poplar Creek
12/22/2013		270 Robertsville Road	8,500	East Fork Poplar Creek
12/22/2013		Iroquois@ Robertsville Road	12,750	East Fork Poplar Creek
12/22/2013		114 Grandcove Lane	22,500	East Fork Poplar Creek
12/22/2013		695 Melton Lake Drive	73,000	Melton Hill Lake
12/22/2013		105 Mohawk Road	9,500	East Fork Poplar Creek
12/6/2013		215 Jefferson Ave	33,500	East Fork Poplar Creek
7/7/2013	25	Belgrade Road	45,000	Ernie's Creek
7/7/2013		106 California Avenue	135,000	East Fork Poplar Creek
7/7/2013		116 W. Newkirk Lane	270,000	East Fork Poplar Creek
7/7/2013		110 Providence Road	39,000	East Fork Poplar Creek
7/7/2013		110 Providence Road	26,000	East Fork Poplar Creek
7/7/2013		270 Robertsville Road	262,500	East Fork Poplar Creek
7/7/2013		Iroquois@ Robertsville Road	525,000	East Fork Poplar Creek
7/7/2013		215 Jefferson Ave	26,250	East Fork Poplar Creek
7/7/2013		114 Grandcove Lane	255,000	East Fork Poplar Creek
7/6/2013		535 Oak Ridge Turnpike	532,800	Ernie's Creek
7/6/2013		470 Oak Ridge Turnpike	494,000	Ernie's Creek
7/6/2013		100 Dresden Road	500,000	East Fork Poplar Creek
7/6/2013		117 N. Purdue Avenue	7,857,000	East Fork Poplar Creek
7/6/2013		1289 Oak Ridge Turnpike	136,500	East Fork Poplar Creek
7/6/2013		1403 Oak Ridge Turnpike	5,181,000	East Fork Poplar Creek
7/6/2013		1403 Oak Ridge Turnpike	378,750	East Fork Poplar Creek
7/6/2013		1403 Oak Ridge Turnpike	606,000	East Fork Poplar Creek
7/6/2013		216 S. Illinois Avenue	4,488,000	East Fork Poplar Creek
7/6/2013		191 Tusculum Drive	333,750	East Fork Poplar Creek
7/6/2013		151 Cairo Lane	4,966,500	Ernie's Creek
7/6/2013		695 Melton Lake Drive	695,000	Melton Hill Lake
7/6/2013		108 Baypath Drive	3,047,500	Emory Valley Creek
7/6/2013		324 S. Illinois Avenue	671,250	East Fork Poplar Creek
7/6/2013		100 Thayer Lane	4,000	Ernie's Creek
7/1/2013		111 Woodland Terrace East	300	Not Reported
6/18/2013	12	213 S. Dillard Avenue	1,500	East Fork Poplar Creek
6/18/2013		695 Melton Lake Drive	66,000	Melton Hill Lake



6/18/2013		324 S. Illinois Avenue	600	East Fork Poplar Creek
6/18/2013		117 N. Purdue Avenue	678,500	East Fork Poplar Creek
6/18/2013		151 Cairo Lane	67,500	Ernie's Creek
6/18/2013		1403 Oak Ridge Turnpike	27,000	East Fork Poplar Creek
6/18/2013		1403 Oak Ridge Turnpike	9,000	East Fork Poplar Creek
6/18/2013		1403 Oak Ridge Turnpike	9,000	East Fork Poplar Creek
6/18/2013		470 Oak Ridge Turnpike	1,000	Ernie's Creek
6/18/2013		216 S. Illinois Avenue	1,000	East Fork Poplar Creek
6/10/2013		695 Melton Lake Drive	6,750	Melton Hill Lake
6/10/2013		151 Cairo Lane	87,500	Ernie's Creek
5/30/2013	13	Details not available		
3/28/2013	3	136 Nevada Circle	50	Not Reported
3/5/2013		117 N. Purdue Avenue	10,000	East Fork Poplar Creek
3/3/2013		130 Alger Road	10	Not Reported
2/10/2013	1	108 Jersey Lane	30	Not Reported
12/26/2012	4	151 Cairo Lane	195,000	Ernie's Creek
12/26/2012		119 Athens Road	12,100	Melton Hill Lake
12/19/2012		247 Jefferson Avenue	1,500	Not Reported
12/19/2012		Warehouse Rd & Melton Lake Dr.	170	Melton Hill Lake
11/20/2012	1	211 Northwestern Ave	15	Not Reported
9/29/2012	14	135 Wakeman Lane	2,200	Not Reported
9/18/2012		695 Melton Lake Drive	14,650	Melton Hill Lake
9/18/2012		108 Baypath Drive	28,900	Emory Valley Creek
9/18/2012		151 Cairo Lane	2,860	Ernie's Creek
9/18/2012		Athens @ E. Arrowwood Rd	2,560	Melton Hill Lake
9/18/2012		119 Athens Road	9,920	Melton Hill Lake
9/18/2012		117 N. Purdue Avenue	40,600	East Fork Poplar Creek
9/18/2012		1289 Oak Ridge Turnpike	4,000	East Fork Poplar Creek
9/18/2012		1403 Oak Ridge Turnpike	3,960	East Fork Poplar Creek
9/18/2012		1403 Oak Ridge Turnpike	3,940	East Fork Poplar Creek
9/18/2012		1403 Oak Ridge Turnpike	3,940	East Fork Poplar Creek
9/18/2012		216 S. Illinois Avenue	2,500	East Fork Poplar Creek
9/18/2012		100 Dresden Road	1,000	Ernie's Creek
9/18/2012		191 Tusculum Drive	1,500	East Fork Poplar Creek
<b>TOTAL</b>	<b>251</b>			

In addition to the overflow violations set out above, Section 2.3.3 of the City's permit provides that no new or additional flows shall be added upstream of any point in the collection system which has experienced chronic overflows (greater than 5 events per year) or would otherwise overload any portion of the system.



While it appears that there are chronic overflows in the collection system, it is not known to Tennessee Riverkeeper whether the City imposed the required moratorium. Notice is hereby given that Tennessee Riverkeeper will pursue in its action claims for violations for failure to impose a moratorium if facts are obtained to show that the City failed to imposed a required moratorium.

The Oak Ridge STP discharges into waters of the United States, namely, East Fork Poplar Creek, a tributary of the Tennessee River within the jurisdiction of the Clean Water Act.

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

Tennessee Riverkeeper intends to file suit against the City of Oak Ridge, in federal district court sixty (60) days from the date of this notice. Tennessee Riverkeeper will request, among other things, a judgment declaring the discharges and violations described or listed herein to be illegal. Tennessee Riverkeeper will also seek an injunction prohibiting the City of Oak Ridge from discharging pollutants and from operating in violation of the CWA and state law. Tennessee Riverkeeper will endeavor to have the City of Oak Ridge, enjoined from engaging in the operation of a treatment plant if the cessation of operations is necessary to achieve compliance.

Additionally, Tennessee Riverkeeper will seek the imposition of civil penalties. The maximum fine or penalty, not including attorney fees and other costs, that could be imposed against the City of Oak Ridge, if the case goes to court would be computed at \$37,500.00 (thirty-seven thousand, five hundred dollars) per violation, *see*, 40 CFR 19.

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

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

Sincerely,

Mark E. Martin

cc:

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

V. Anne Heard, Acting Regional Administrator  
United States Environmental Protection Agency  
Region 4  
Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, GA 30303-3104

Robert Martineau, Commissioner  
Tennessee Dept. of Environment  
and Conversation  
2nd Floor, Tennessee Tower  
312 Rosa L. Parks Ave  
Nashville, TN 37243

# EXHIBIT B


## **DECLARATION**

1. My name is Wade McCurdy. I am a resident of Williamsport, Hickman County, Tennessee, am over the age of 19, and am competent to give this declaration. I have personal knowledge of the facts below.
2. I am a member of Tennessee Riverkeeper, Inc. (“Riverkeeper”), a nonprofit membership corporation founded in 2009 with a mission to protect and restore the Tennessee River and its tributaries. Riverkeeper has over 1800 members.
3. Riverkeeper is dedicated to the preservation, protection and defense of the environment and actively supports effective implementation of environmental laws, including the Resource Conservation and Recovery Act (RCRA), the Federal Water Pollution Control Act and the Alabama Water Pollution Control Act and their regulations, particularly as they relate to the Tennessee and Cumberland River watersheds.
4. In my spare time, I enjoy canoeing and swimming in the rivers and creeks of the Tennessee River watersheds.
5. I was born in Oak Ridge and lived there recently for one year from 2013 to 2014, caring for an ailing parent. I still have family living in the area, and return to the area frequently.
6. I have canoed in East Fork Poplar Creek in the past and I intend to do so in the future, and I am very concerned about the quality of the water where I recreate.

7. I do not want to swim in water that is not clean, wholesome or safe. I am less likely to canoe and swim when I am worried about water quality.
8. I am aware of the sewage discharges from Oak Ridge. Because of the sewage, I am concerned about my use of East Fork Poplar Creek.
9. I would like to continue to swim and canoe this area in the future. I am much more likely to do so if I know that these pollutants have been removed.
10. The recreational, aesthetic and environmental interests of Riverkeeper members like myself are directly threatened and are adversely affected by the discharge of sewage into East Fork Poplar Creek.
11. I am also concerned about the short and long-term effects of the pollution on aquatic life, habitat and water quality. Because of these concerns, my use and enjoyment of East Fork Poplar Creek is greatly diminished. I would use the East Fork Poplar Creek more, and with greater confidence, if I knew that the pollutants had been removed.

I have personal knowledge of the statements set forth herein and would testify to them under oath if called to do so.

Date: 8/26/18

  
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Wade McCurdy  
8962 White Road  
Williamsport, TN 38487  
(931) 583-2317