

Black Warrior RIVERKEEPER®  
712 37<sup>th</sup> Street South  
Birmingham, AL 35222  
Tel: (205) 458-0095  
Fax: (205) 458-0094  
[nbrooke@blackwarriorriver.org](mailto:nbrooke@blackwarriorriver.org)  
[www.BlackWarriorRiver.org](http://www.BlackWarriorRiver.org)



March 17, 2017

Scott Ramsey, Chief  
Industrial Section  
Industrial/Municipal Branch  
Water Division  
Alabama Department of Environmental Management  
1400 Coliseum Blvd.  
Montgomery, AL 36110-2400

**Re: Alabama Catfish, Inc. DBA Harvest Select (ADEM SID Permit # IU375300102)**

*Via Electronic Mail Only*

Dear Mr. Ramsey:

As ADEM is keenly aware, the lagoon wastewater treatment system owned and operated by the City of Uniontown has been plagued with excessive flows and near constant inability to meet permit limits for almost thirty years. Unfortunately, throughout Uniontown's efforts to fix the problem under ADEM oversight, one major piece of the wastewater puzzle has gone unaddressed.

The contribution of wastewater by State Indirect Discharge (SID) permit holder Alabama Catfish, Inc. DBA Harvest Select ("Harvest Select"), has been a significant factor in the treatment issues at the lagoon, yet the City and ADEM have done little to address the high volume and potency of Harvest Select's wastewater. ADEM recently issued a draft SID permit to Harvest Select which, if finalized in its current form, will only serve to perpetuate the Uniontown Lagoon's inability to properly treat the community's wastewater.

We urgently request that ADEM substantially revise this draft permit to limit the amount of wastewater and nutrients that Harvest Select may discharge into the Uniontown Lagoon. We write on behalf of Black Warrior Riverkeeper, a nonprofit organization dedicated to protecting and restoring the Black Warrior River and its tributaries.

Harvest Select is permitted to discharge industrial process wastewater from its catfish processing operations into the Uniontown Lagoon. The chronic compliance failures at the Uniontown Lagoon have been the subject of serial enforcement actions by ADEM as well as a current lawsuit, *ADEM v. the Town of Uniontown*, Case No. 53-CV-2012-900021.00 (Perry Co. Cir. Ct.). The design capacity of the

Uniontown Lagoon is permitted at 0.525 MGD, a volume consistently exceeded by the actual quantity of wastewater that passes through the lagoon. Over the years, the City of Uniontown and its engineers have placed the blame for the excessive volume only on infiltration and inflow (“I/I”) to the system. To be sure, I/I certainly plays a significant part in the overflows and treatment failures at the lagoon. However, the City and their engineers have routinely turned a blind eye to another major culprit in the ongoing wastewater debacle. For years, Harvest Select has been allowed to exceed the entire design capacity of the Uniontown Lagoon as necessary --- with no limitation or repercussions, or even recognition of the problem.

According to Sentell Engineering (the City of Uniontown’s consultant), Harvest Select is contributing an average of .25 MGD of wastewater each day, and on some days exceeds .5 MGD. (*Sentell Letter to ADEM September 30, 2014*). Although Sentell expressed surprise at this “unknown” volume in that letter, a quick review of Harvest Select’s ADEM permit file indicates the facility consistently and irrefutably has been discharging much more than the .1 MGD originally estimated and assumed by Sentell. Harvest Select’s 2012 draft permit reports their flow at .20 MGD (p. 28), although their highest flow for the preceding 12 months was reported to be .525 MGD (p. 29), coincidentally the design capacity of the Uniontown Lagoon. Black Warrior Riverkeeper also called attention to and expressed deep concern about the huge volume of wastewater contributed by Harvest Select and its implications for the struggling Uniontown Lagoon in comments submitted to ADEM on November 9, 2012, which were subsequently ignored by the Department. A detailed review of DMRs from Harvest Select underscores this critical point: on certain days, the catfish processor approaches or exceeds the design capacity of the already overtaxed Uniontown Lagoon.

Month	2014	2015	2016
January	Max 0.435	Max 0.405	Max 0.38
February	Max 0.446	Max 0.514	Max 0.38
March	Max 0.440	Max 0.511	Max 0.468
April	Max 0.342	Max 0.499	Max 0.423
May	Max 0.42	Max 0.56	Max 0.499
June	Max 0.375	Max 0.37	Max 0.418
July	Max 0.38	Max 0.41	Max 0.350
September	Max 0.36	Max 0.383	Max 0.331
October	Max 0.52	Max 0.402	Max 0.356
November	Max 0.409	(missing)	Max 0.376
December	Max 0.451	Max 0.408	Max 0.333

Despite the fact that the volume of wastewater coming from Harvest Select is clearly interfering with treatment at the Lagoon as well as contributing to overflows at the Lagoon and Sprayfield #1, neither ADEM nor Uniontown ever thought to ensure that Harvest Select had properly calibrated, working flow meters. There are three ADEM inspection reports available for the last nine years on eFile dated February 24, 2009, August 25, 2015 and May 4, 2016, which chronicle the lack of proper

calibration of the two city water meters in place at Harvest Select to measure the amount of effluent they send to the Uniontown Lagoon. Are these meters accurately measuring Harvest Select's effluent flow? It appears ADEM does not know the answer to this question, and it also appears from documents filed by Sentell Engineering on behalf of Uniontown that the City does not either. Both the 2015 and 2016 ADEM inspection reports state that "ADEM personnel could not verify the correct installation of the city's flow meters due to lack of specialized equipment." It is evident that someone needs to validate the effluent flow measurement system at Harvest Select; the large volumes reported by the catfish processor may not even represent the total amount of wastewater discharged.

It is not just the overwhelming volume of Harvest Select's wastewater that is contributing to the failure of Uniontown Lagoon. The high concentration of nutrients in Harvest Select's treated effluent (Ammonia as Nitrogen, Nitrite/Nitrate as Nitrogen, and Total Phosphorous) is also overtaxing Uniontown's primitive lagoon system. See *USEPA R4's Diagnostic Evaluation and Report: Uniontown Wastewater Treatment Facility* (September 10-12, 2012) at 10-11. Despite this fact, the pretreatment standards remain unchanged. See *September 28, 2016 Letter from J. Williams, Uniontown Public Works Director, to W. Holt, ADEM*. Uniontown has missed an important opportunity to demand better pretreatment of the effluent and should revisit those standards to demand better pretreatment standards for Harvest Select's wastewater.

Just as concerning, ADEM's 2017 draft permit contains no limitations for any of these parameters of concerns. ADEM states in the draft permit (just as it did in the 2012 version) that "EPA has not promulgated specific pretreatment guidelines for [catfish processors] other than to stipulate compliance with the general requirements in 40 CFR 403. However, the lack of specific pretreatment standards excuses neither ADEM nor Uniontown from imposing stricter treatment requirements upon Harvest Select. Harvest Select, as a user of a publicly-owned treatment works (like the Uniontown Lagoon) may not introduce any pollutant(s) into the treatment works which cause pass through or interference. 40 C.F.R. § 403.5. This general prohibition applies whether or not the user is subject to other pretreatment standards or requirements. *Id.* ADEM has an obligation to write a local limit in the 2017 draft permit that will prevent the established, ongoing pass through and/or interference caused by both the volume and the nutrient concentration in Harvest Select's wastewater. But ADEM has failed to do so, even though the contributions of Harvest Select are demonstrably interfering with the treatment process of the Uniontown Lagoon.

As stated by the 2017 draft permit, proposed permit limits are based upon "EPA general requirements, [Best Professional Judgment] and local requirements." The permit defines local requirements as "protection of the operations of the POTW, water quality in the receiving stream, and sludge disposal concerns." Despite this definition, the 2017 draft permit contains no limitations on the flow volume or concentration of wastes that Harvest Select may discharge to the Uniontown Lagoon. This is so even though the discharge of Harvest Select's wastewater through the lagoon is contributing to a violation of water quality standards at the already impaired Cottonwood Creek, whose unnamed

tributary is adjacent to the Uniontown Lagoon, and to Freetown Creek, adjacent to the Lagoon's overwhelmed Sprayfield #1.

We note the 2017 draft permit indicates that Harvest Select has recently redesigned a lagoon cell which pretreats its effluent. The proffered explanation for this redesign is "the substantial increase in flow and loading anticipated." Uniontown Lagoon is presently unable to treat Harvest Select's effluent. We fail to understand how Uniontown or ADEM can even entertain the possibility of increased discharges from the catfish processor, which this statement appears to suggest. Moreover, a recent Sentell January 12, 2017 engineering report calculates the already large rainwater capture volume of Harvest Select's wastewater lagoon system. Given the rainwater capture volume, ADEM must require that Harvest Select construct covers for both cells to prevent the facility from contributing an even greater volume of wastewater.

The City of Uniontown is currently facing the expenditure of millions of dollars to upgrade its treatment system, after a recent \$4.8 million grant was exhausted without returning the lagoon to compliance. Until Uniontown can identify and implement a solution to bring its wastewater treatment system into compliance, it cannot afford to take unlimited and inadequately pretreated effluent from Harvest Select. ADEM must calculate a permit limit for the amount of wastewater Harvest Select can safely discharge to Uniontown. ADEM must also work with the City of Uniontown to ensure that the effluent receives adequate pretreatment. By failing to include a flow limitation in the draft permit ADEM effectively ignores the burden that Harvest Select is placing on Uniontown. By doing so, ADEM is allowing Harvest Select to externalize the cost of doing business on one of Alabama's poorest communities.

Harvest Select is a key contributor to the Uniontown Lagoon's chronic noncompliance with the Clean Water Act. It is past time for ADEM and Uniontown to meaningfully address Harvest Select's role in this noncompliance, which means illegal raw sewage overflows within the sewage collection system throughout Uniontown, onto private property and into area streams; illegal overflows at the Lagoon into the unnamed tributary to Cottonwood Creek resulting in more contamination of an already impaired stream, water pollution affecting people, livestock, and wildlife along the creek to its confluence with Big Prairie Creek, and all who use Big Prairie Creek all the way to its confluence with the Black Warrior River, where there are many homes and lots of fishermen; illegal overflows regularly occurring at Sprayfield #1 into Freetown Creek affecting local property owners, livestock, and wildlife its confluence with Chilatchee Creek, downstream users of Chilatchee Creek, and all who use Chilatchee Creek all the way to its confluence with the Alabama River, where there is a public use area, Chilatchee Park. Uniontown and ADEM cannot address this noncompliance without including the major contributors to the problem, like Harvest Select. The 2017 draft permit represents an opportunity to take meaningful measures to address the complicated problem that is Uniontown Lagoon. And by not taking advantage of this opportunity, ADEM is failing the citizens of Uniontown.

Alabama Catfish, Inc. DBA Harvest Select is owned by The Greene Group. The Greene Group's president is Paul W. Bryant, Jr. A prominent businessman should be taking a leadership role in ensuring that Uniontown's wastewater treatment system is being properly funded and operated. Rather, Bryant's company is taking advantage of Uniontown by burdening it with a large volume of partially treated wastewater, which contributes to regular overflows and violations of the city's wastewater treatment permit. It is time for Mr. Bryant to take responsibility for his company's impacts on the local community and environment, and take a leadership role in ensuring a swift resolution to this long lasting problem. It is also past time that ADEM live up to its responsibility and use the regulatory authority bestowed upon the Department by the State of Alabama and its citizens to put a stop to the ongoing pollution in Uniontown. By revising the current draft of Harvest Select's SID permit, ADEM has the opportunity to begin the process of mending the City of Uniontown.

For the River & Uniontown,

Black Warrior Riverkeeper, Inc.



Nelson Brooke  
Riverkeeper



John Kinney  
Enforcement Coordinator



Eva Dillard  
Staff Attorney

cc: Maurice L. Horsey, IV, Chief  
Municipal & Industrial Enforcement Section  
USEPA R4 Clean Water Enforcement Branch

Mayor Jamaal Hunter  
Uniontown

Uniontown City Council  
Vera Davis (District 1)  
Geneva Watts (District 2)  
Don Moore (District 3)  
Christine White (District 4)  
Frank Braxton (District 5)