October 12, 2018

Governor Kay Ivey
OFFICE OF GOVERNOR KAY IVEY
Alabama State Capital
600 Dexter Avenue
Montgomery, Alabama 36130-2751

Attorney General Steve Marshall
OFFICE OF THE ATTORNEY GENERAL
501 Washington Avenue
Montgomery, Alabama 36104

Subject: PFOA and PFOS Contamination of the Tennessee River
Morgan and Lawrence Counties, Alabama

Dear Governor Ivey and Attorney General Marshall:

As you are aware, the West Morgan-East Lawrence Water and Sewer Authority ("WMEL" or "the Authority") is a non-profit entity formed under Alabama law to provide potable water and sanitary sewer services to under-served and often overlooked areas of Morgan and Lawrence Counties in north Alabama.
Our Robert M. Hames Water Treatment Plant ("the Plant") withdraws raw water from the Tennessee River approximately 13 miles downstream of the 3M Company’s industrial facility in Decatur, Alabama. Our plant and raw water intake locations were approved by the Tennessee Valley Authority ("TVA") and the Alabama Department of Environmental Management ("ADEM") prior to their construction in the mid-1990.

We withdraw the water from the River, process it through our Plant, and distribute it to our own residential and commercial customers as well as to other neighboring utility systems who distribute it to their customers. As of May 2016, we had 9,786 residential meters on the WMEL system and sold wholesale water to Falkville, who had 1,279 meters; Town Creek Water, who had 540 meters; Town of Trinity Water Works, who had 928 meters; VAW Water System, who had 5,091 meters; and West Lawrence Water Cooperative, who had 4,865 meters. All told, we provide drinking water on a daily basis to over 20,000 water meters in six counties in North Alabama; literally tens of thousands of Alabamians.

The United States Environmental Protection Agency ("USEPA") has determined that our source for raw untreated water, the Tennessee River, has been polluted by 3M Company’s documented discharges of perfluorinated chemicals, namely PFOA and PFOS, and is requiring the Authority to remove these chemicals from the drinking water at our Plant.
This requirement for WMEL to remove the manmade contaminants from the drinking water was issued by USEPA in the form of an immediately effective Health Advisory on May 19, 2016. This Advisory recommended that individuals not consume drinking water containing a combined level of PFOA and PFOS in excess of the EPA-designated levels. The Alabama Department of Public Health then released a list of water systems in Alabama that they (the ADPH) determined could not reliably produce drinking water at or below the levels specified in the USEPA’s Health Advisory and recommended that persons on those water systems seek an alternative source of water, which led to WMEL advising our customers not to drink the water until we were certain that we were removing PFOA and PFOS to acceptable levels.

To remove the PFOA and PFOS to acceptable levels, the Authority borrowed $4 million dollars and constructed a temporary granular activated carbon filtration system that went online on September 30, 2016.

There is no question that the citizens of North Alabama have been negatively impacted by 3M’s use of the Tennessee River as a dumping ground for its waste chemicals. The 13 miles of the Tennessee River between the 3M facility and our Plant is so polluted that the fish are not safe to eat and the raw water was not safe to drink without additional treatment. These facts are documented in numerous studies and dozens of media reports.
WMEL has filed suit against 3M for polluting the State’s waters and for damage to our Plant. We believe that the Tennessee River, the largest river in our state, is a natural resource that should be protected and treasured by all Alabamians. Yet, 3M has turned it into a legacy of pollution that threatens our water supply.

In July 2016, WMEL contacted Alabama Attorney General Luther Strange and asked for the State of Alabama to legally challenge 3M’s actions. Our attorneys met with Attorney General Strange, Chief Deputy Attorney General Alice Martin, and Assistant Attorney General Robert Tambling to discuss this very issue. Attorney General Strange appointed a group of water treatment experts to verify the problems facing WMEL and substantiate the costs that would have to be incurred in order to guarantee the safety of the drinking water. We simply requested that the Alabama Attorney General intervene in our case on behalf of Alabamians in the same way that the Attorney General of Minnesota, 3M’s home state, intervened on behalf of his citizens. We seemed to be making progress, and then Attorney General Strange was appointed to replace Jeff Sessions as Alabama’s Senator in Washington, DC and the process stalled completely.

In our pending case, 3M has done everything in its power to delay the acceptance of responsibility. They originally had a law firm from Texas, then replaced those lawyers with a firm from Chicago, which we were told is the same firm that represented BP in the Gulf Oil Spill. Now the Chicago lawyers are trying to move our case from
Alabama and combine it with other lawsuits from across the country into one massive suit that will take years and years to settle.

Throughout our lawsuit, 3M has made the same arguments that they made in their home state of Minnesota, with the major difference being that the State of Minnesota and the Minnesota Attorney General got on board and sued 3M for polluting the State’s natural resources. Recently, they reached an $850 million-dollar settlement with the State of Minnesota to address these exact same contaminants. The press release issued by the State of Minnesota regarding their settlement with 3M is attached for your reference.

To date, our elected officials in Alabama have not taken up for Alabamians like the officials in Minnesota, and more recently New York, did for their citizens. The part that is most troubling to WMEL is that 3M never even offered to provide so much as one case of bottled water in Alabama, yet we have discovered the fact that they spent $40 million many years ago to build a new water treatment plant for an authority in Minnesota who faced very similar issues to WMEL. At the same time that 3M was building a new water plant in Minnesota, they were telling WMEL and ADEM that there was no problem with these chemicals in the Tennessee River. 3M’s lies and disregard of the facts are shameful.

If the elected officials in 3M’s home state of Minnesota were willing to stand up against their state’s largest
company, isn’t it time that Alabama’s elected officials take action to clean up our state’s largest river and to protect the Alabamians who rely on the river for their drinking water supply? Please do not continue to stand on the sidelines while corporate polluters like 3M get away with endangering the health and well-being of our citizens.

Sincerely,

West Morgan-East Lawrence Water & Sewer Authority

[Signature]

Don Sims, General Manager

Enclosures

Copy: Morgan County Commissioners
    Lawrence County Commissioners