



**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA
BIRMINGHAM DIVISION**

THE CITY OF BIRMINGHAM,)	
Plaintiff,)	
)	
V.)	Case No.: CV-2026-901337.00
)	
CENTRAL ALABAMA WATER,)	
THOMPSON JEFFREY,)	
BRUMLOW JEFFREY W,)	
MORRIS BILL ET AL,)	
Defendants.)	

ORDER GRANTING TEMPORARY RESTRAINING ORDER

This matter came to be heard on Plaintiff's (The City of Birmingham) Motion for Temporary Restraining Order and Motion for Preliminary Injunction. For the following reasons, the Temporary Restraining Order is hereby GRANTED.

Rule 65 of the Alabama Rules of Civil Procedure provides for the issuance of a Preliminary Injunction, upon a showing of the following: 1.) [T]hat the Plaintiff will suffer and immediate and irreparable injury; 2.) that the Plaintiff has no adequate remedy at law; 3.) that the plaintiff is likely to succeed on the merits of the case; and 4.) that the hardship imposed upon the defendant by the injunction would not unreasonably outweigh the benefit to the Plaintiff. *Water Works & Sewer Bd. of the City of Birmingham v. Inland Lake Invs., LLC*, 31 So. 3d 686 (Ala. 2009).

Further, for the Court to issue a Temporary Restraining Order, Rule 65 requires that the Plaintiff clearly show from the facts alleged by affidavit or verified Complaint that an immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party or that party's attorney can be heard in opposition, and the attorney for Plaintiff certifies that the efforts, if any, which have been made to give the notice.

Here, the Plaintiff is the City of Birmingham, and it appears to bring this action on behalf of itself as a customer of the Birmingham Water Works d/b/a Central Alabama Water, and its citizens. The Court notes that the Complaint filed in this case was not "verified" in the traditional manner and did not include an affidavit; however, the Complaint was filed by the City of Birmingham, by its in-house dedicated attorney, who signed the document and service certificate pursuant to Rule 11 of the Alabama Rules of Civil Procedure.

In the 1973 Commentary concerning the adoption of Rule 65, the Alabama Legislature commented that Rule 65 permits verification of the complaint where a temporary injunction is sought and further commented that the verified complaint could be regarded as an affidavit. The Commentary also stated that where verification is required, it should be by the party, rather than by the attorney, **unless** the attorney has personal knowledge of the facts alleged.

Here, the City attorney, more than anyone else, would have knowledge of the facts alleged by the City of Birmingham and thus, that attorney's signature, pursuant to Rule 11 of the Alabama Rules of Civil Procedure, sufficiently verifies to this Court the allegations set forth in the Complaint.

The crux of this case centers around the alleged and apparent violation of *Alabama Code* § 22-23-21, which requires that (a) [A] public water that proposes to initiate any permanent change in the fluoridation status of its water supply, including, but not limited to, discontinuing the fluoridation of the water supply or reducing the level of fluoride from an optimal level as defined by the Centers for Disease Control and Prevention, shall provide **written notice** to the State Health Officer **no fewer than 90 days before** initiating the change. Notice shall include the proposed date of the change, reasons for the change, and all communities affected by the change.

The statute further provides in subsection (b) that a public water system that

fails to meet the notification requirements of subsection (a) shall resume the fluoridation of its water supply to its previous level until proper notice is provided to the State Health Officer.

Finally, the statute provides for several excuses from compliance for unavoidable temporary circumstances. Nothing in the statute provides an exception to permanent and/or avoidable decisions by public water systems that decide on their own to permanently remove or change the levels of fluoridation in the system's water supply.

Here, the City of Birmingham has demonstrated an immediate and irreparable harm to it and its citizens, if the Defendants are not restrained from continuing to violate the law requiring a ninety (90) day notification to the State Health Officer before initiating a change to fluoridation levels. The Court takes judicial notice that the Defendants, on March 20, 2026, initiated a change to the fluoridation levels from optimal to **ZERO**. This initiation was announced as immediate and appears to have been done unilaterally by the Defendants, without having provided the mandatory notice to the State Health Officer.

The blatant disregard for the mandates of Alabama Law pertaining to this subject area has certainly harmed and injured the customers and ratepayers of the Defendants. Further, this harm and injury will likely continue without the issuance of the requested Temporary Restraining Order.

While this Court is not required to go further at this time, it elects to address the remaining elements necessary for the issuance of an injunction that will be decided after the parties from both sides have an opportunity to be fully heard.

NO ADEQUATE REMEDY AT LAW

In addition to having to demonstrate an immediate and irreparable harm, the City of Birmingham also must demonstrate that there is no adequate remedy at law. In other words, the City of Birmingham will carry the burden of showing why

monetary damages are not sufficient to address the injury caused by the complained-of actions of the Defendants. Here, the statute that has been alleged to have been violated is a statute aimed at safeguarding the health and safety of the community served by a public water utility. The apparent disregard for the legislative-enacted safeguards by this public water utility has likely caused and may continue to cause medical and health-related harm that may not be fully realized in the lifetime of any of the Defendants responsible for the decision announced on March 20, 2026.

In short, the calculation of the costs, including future damages, to the City of Birmingham and its citizens, would be difficult, if not impossible, to determine. However, as stated above, this issue will ultimately be determined after both parties have had an opportunity to be heard.

SUBSTANTIAL LIKELIHOOD OF SUCCESS ON THE MERITS

The City of Birmingham correctly states that the applicable code section requires, demands, mandates... that permanent changes in fluoridation status require a ninety (90) day period to the State Health Officer for the State of Alabama. There are no exceptions for permanent changes. The only exceptions to the notice requirement are unavoidable temporary circumstances. Thus, unless the Defendants can show that they in fact provided the required statutory notice, the City of Birmingham has a substantial, almost guaranteed likelihood of success on the merits of this case. The statute mandates notice for permanent changes to fluoridation. Here, the Defendants can either provide proof that they gave the required notice, or this Court would expect that the attorney representing the Defendants, as officers of the Court, would admit that the law was violated and proceed accordingly. Again, the Court will reserve the ultimate determination of this issue until after the parties have both had an opportunity to be heard.

Alabama Code § 22-23-21 (b) makes this court's job easy as it relates to

fashioning a remedy. The plain, unambiguous language mandates that if the public water utility fails to provide the mandated notice, the "... public water system... shall resume the fluoridation of its water supply to its previous level until proper notice is provided to the State Health Officer."

Therefore, unless the Defendants can show that the mandatory notice was provided, the Court will have no choice but to follow the law and Order that the Defendants comply with the law, which mandates that fluoridation of the water supply be resumed.

HARDSHIP IMPOSED BY THE INJUNCTION DOES NOT UNREASONABLY OUTWEIGH THE BENEFIT TO THE PLAINTIFF

For a multitude of reasons, it appears to this Court that the Defendants have an incredibly steep hill to climb regarding showing that the burden to it outweighs the Benefit to the Plaintiff. The burden placed upon the Defendants, if an injunction ultimately issues, is a burden that the Alabama State Legislature placed upon this public water system. It is a required burden that the system must bear, and it is a burden placed upon it by the very entity that created the public water system. Thus, if it is ultimately established that the mandated notice was not provided to the State Health Officer, it would be nonsensical to find that the burden placed on the public water system by the State Legislature that created it and the burden, would an unreasonable burden that outweighs the benefit and right of the Plaintiff and its citizens to have public agencies obey the public laws.

The Court anticipates that it will hear arguments regarding the costs of compliance with the law. First, the Court does not believe that it will have the authority to order disobedience to the law, because of cost concerns. After all, it is not within the Court's purview to legislate. However, if costs would be a factor that the Court could consider, the Court would eagerly await what argument could be made concerning costs, that would justify placing public health at risk, while

administrative salaries continue to balloon, front-line workers have been terminated by the hundreds, and salaries for legal services have for years been inflated, to include months when legal services billing has exceeded \$100,000.00 or more per month.

For the reasons stated above, this Court does not find that the legal issues presented in this case are complex or difficult to resolve; therefore,

IT IS ORDERED, ADJUDGED, AND DECREED as follows:

- 1.) The DEFENDANTS are Temporarily Restrained from failing to comply with state law as it pertains to the fluoridation of the drinking water supply delivered by the Defendants to the City of Birmingham, and all ratepayers and customers of the Defendants.
- 2.) The Defendants are restrained from the removal of fluoride from the drinking water that it supplies to the City of Birmingham, and all ratepayers and customers of the Defendants.
3. This Order is not limited to just the restoration of fluoride to the supply of drinking water supplied by the Shades Mountain treatment facility, but it applies to every drinking water treatment facility, managed, operated, or controlled by the Defendants.
- 4.) In case the above is not clear, the Court Orders that, unless the mandatory notice was provided to the State Health Officer, in compliance with state law, all water that does not contain the recommended levels of fluoride, be brought into compliance with all deliberate speed. If equipment needs to be ordered, ORDER IT. If extra work hours need to be approved, APPROVE THEM.

Until and unless state law changes, this Court expects the Defendants to obey the law, without exception or excuse. If a change in the law is desired, then the State Legislature is where that concern should be addressed. However, just as this Court holds the citizens that come before it responsible for obeying the law, so

too will it hold public utility services to the same obedience.

This Temporary Restraining Order shall remain in effect from 2:30 p.m. on March 30, 2026 (date and time of issuance), through 5:00 p.m. on April 2, 2026, which is the date that the requested injunction shall be heard by this Court. The hearing shall take place at noon on April 2, 2026, in Jefferson County courtroom 670. All parties are ordered to appear in person, or through their respective legal counsel, and be prepared to argue for or against the requested injunction. Alternatively, the parties may jointly stipulate to an agreed-upon timeline, which may extend beyond April 2, 2026, for further proceedings in this case. If an alternative timeline is agreed upon, the Court will issue a further Order concerning the temporary restraints set forth herein.

DONE this 30th day of March, 2026.

/s/ FREDERIC ALLEN BOLLING
CIRCUIT JUDGE