



## AlaFile E-Notice

01-CV-2026-901337.00

Judge: FREDERIC ALLEN BOLLING

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# NOTICE OF COURT ACTION

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IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

THE CITY OF BIRMINGHAM V. CENTRAL ALABAMA WATER ET AL  
01-CV-2026-901337.00

A court action was entered in the above case on 4/20/2026 2:43:13 PM

ORDER

[Filer: ]

Disposition: GRANTED  
Judge: FAB  
Notice Date: 4/20/2026 2:43:13 PM

JACQUELINE ANDERSON SMITH  
CIRCUIT COURT CLERK  
JEFFERSON COUNTY, ALABAMA  
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**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 DISSOLVING TEMPORARY RESTRAINING ORDER AND  
DENYING PRELIMINARY INJUNCTION**

This matter is before the Court of the Defendant's Motion to Dissolve the Temporary Restraining Order ("TRO") and the Plaintiff's Complaint for Declaratory Judgment, Public Nuisance, and Injunctive Relief. After consideration of the pleadings filed and evidence shown, the Court finds the following:

1. On May 7, 2025, Governor Ivey signed a law that created the Central Alabama Water, which replaced the previous Birmingham Water Works.
2. The newly created board became a reality just one (1) day after the Birmingham Water Works Board held its final meeting on May 6, 2025.
3. On May 6, 2025, the previous Board had an opportunity to return and solidify control of the water utility to the City of Birmingham, whose citizens make up the overwhelming number of the ratepayers serviced by the water utility.
4. Instead of taking actions to ensure local control over a local utility, a majority of members of that previous Board chose to instead approve contracts of their then legal counsel, and certain administrators, in a move that guaranteed their financial gain beyond the upcoming restructuring of the public utility.

5. The total value of the contracts awarded by the previous Board on the final day of existence of the Birmingham Water Works Board could easily cover the estimated 3.7 million dollar cost of repairing and upgrading the water system's outdated and inoperable fluoride delivery infrastructure.

6. Just one (1) of the contracts awarded on May 6, 2025, the eve of the takeover, will cost the system nearly 2.5 million dollars for "consulting".

7. Central Alabama Water, which was created on May 7, 2026, and which began operating in or about June 2025, did on March 12, 2026, send a "Public Water System Notice of Intent to Initiate Permanent Change in Flouridation Status of Its Water Supply".

8. While the front page of that "Notice" appears to address only the Shades Mountain Filter Plant, no fair and honest reading of the entire "Notice" could leave a person to believe that Central Alabama Water was intending to end fluoridation at just one treatment facility.

9. The "Notice", on the third page, states that Central Alabama Water requested approval to discontinue the addition of fluoride at its water treatment facilities.

10. In that same document, Central Alabama Water notes that the population and communities served by the supply totaled 620,000 and spanned a little over fifty (50) cities, towns, and communities, which were specifically set forth on the final two pages of the document.

11. The document was received by the State Health officer on or between March 12, 2026, and March 16, 2026.

12. The Plaintiff's own witness confirmed that the "Notice" was received by the State Health officer and eventually by him.

13. That witness also admitted that the use of the term facilities likely evidenced Central Alabama Water's intent that the March 12, 2026, application

was made for the entirety of the system. [Doc. 48, page 92, ln 13-21].

14. Regardless, additional records were produced that showed that revised notices were submitted separately for each of the four (4) treatment facilities on March 30, 2026.

15. On March 20, 2026, Central Alabama Water jumped the gun and maybe clumsily issued a press release that it would no longer add fluoride to the drinking water supply.

16. Upon review of the evidence and the actual procedures taken, the press release was clumsy because it should have simply alerted the public that it had submitted the required notice to the State Health Officer of an intent to cease fluoridation within ninety (90) days.

17. By announcing on March 20, 2026, that it had already stopped adding the fluoride, Central Alabama Water was technically in violation of the law, because it had initiated the permanent cessation of fluoridation before the expiration of the statutory ninety (90) day period.

18. As a result, the State Health officer issued a letter to Central Alabama Water advising that they had violated the law and ordered Central Alabama Water to resume adding the fluoride to the water supply.

19. Similarly, this Court found and finds that the announcement that Central Alabama permanently ended the fluoridation of its water on March 20, 2026, was a violation of State Law.

20. However, upon complete review of the circumstances and the evidence, the Court finds that Central Alabama Water's violation of the law was a technical violation that is attributable to an incomplete press release and not any intent to violate the law.

21. At the time of the March 20, 2026, press release, Central Alabama Water had already filed what it intended to be a notice of intent to cease adding

fluoride to the entire supply of its drinking water. The Court cannot reasonably and honestly interpret the March 12, 2026, “Notice” as anything other than an intent to end the water fluoridation system-wide.

22. What was known to Central Alabama Water, but not necessarily to the State Health Officer, nor the public, was that as of March 20, 2026, the customers of Central Alabama Water had been without fluoride in their drinking water at all but one (1) plant for 2 or 3 years.

23. In other words, the previous Birmingham Water Works and some serving on the previous Board and/or administration had allowed a condition to exist that delivered non-fluoridated drinking water to consumers served by 3 out of 4 treatment plants.

24. The lone remaining plant, which was the Shades Mountain Plant, which serves mostly suburban areas, was the last plant still supplying fluoridation when it also fell into disrepair before the March 20, 2026, announcement.

25. Both the State Health Officer and this Court have directed Central Alabama Water to resume the fluoridation of the drinking water, because its March 20, 2026, announcement seemingly violated the law.

26. However, in response, Central Alabama Water has shown that it has taken the statutorily required steps to end fluoridation permanently in ninety (90) days.

27. The Plaintiff’s own witness, who is the Jefferson County Health Officer, and is involved in the notice procedures at issue in this case, testified that after the ninety (90) day notice period is concluded, he knows of no statute or regulation that would allow the State Health Officer to order the continuation of fluoridation beyond the ninety (90) days. [Doc 48, page 119, ln 10-23].

Central Alabama Water has argued and presented additional evidence of its inability to immediately comply with the State Health Officer and this Court’s

previous TRO directing them to resume adding fluoride to the water supply. Their position is that, due to the infrastructure needs and Central Alabama Water, an exception under Alabama Code § 22-23-21(c) applies, which excuses discontinuance of fluoridation due to equipment failure, maintenance, or replacement issues that are unavoidable.

Central Alabama points to evidence that showed that under the previous Birmingham Water Works, the Shades Mountain Plant was without fluoride for more than three (3) years from September 10, 2020, through March 20, 2024. Additionally, the discontinuities at the Carson, Western, and Putnam facilities were all due to equipment failure, pump malfunctions, storage tank failures, and supply shortages, all occurring initially under the Birmingham Water Works and continued under Central Alabama Water.

The Court is convinced that Central Alabama Water cannot safely resume adding fluoride to the drinking water supply before June 2026. If the Court were convinced that the fluoride could be safely added with the existing equipment or equipment that could be obtained in time, the Court would certainly order that the fluoride be added back during the prescribed ninety (90) day period. Additionally, the Court would have no problem ordering a \$100,000.00 per day sanction for each day that the fluoride was not back in the water.

That said, the evidence shown does not convince this Court that Central Alabama Water was acting in conscious disregard for the legal requirements of Alabama Code § 22-23-21. In fact, it appears that they made attempts, although imperfect, to comply with the statutory requirements fully. This Court's assessment that they violated the law is premised on the press release wherein Central Alabama Water announced that it had stopped fluoridation, presumably on that same day.

What remains is what remedy this Court may fashion to address the apparent

violation of the law. The Plaintiff asserts that the mere finding of a violation allows the Court to permanently enjoin and force Central Alabama Water to resume fluoridation indefinitely, because the violation also gave rise to the creation of a condition that constituted a public nuisance. It was this argument that led the Court to leave the record open for the parties to submit any authority for or against that legal position.

The Court did not receive any submission that pointed to this Court having any authority to control, through its injunctive powers, the addition of fluoride into the water supply beyond June 2026. In fact, the Court's own research seemed to indicate the opposite conclusion.

In *City of Birmingham v. City of Fairfield*, 375 So. 2d 438, 441 (Ala. 1979), the Alabama Supreme Court stated that public nuisances are generally abatable by a city, but that the abatement remedy is limited when the conduct giving rise to the damage is statutorily authorized. *Id.* The Alabama Supreme Court went on to say that the rule of our cases is that "(t)here can be no abatable nuisance for doing in a proper manner what is authorized by law." *City of Birmingham v. City of Fairfield*, 375 So. 2d 438, 441 (Ala. 1979) (*quoting Fricke v. City of Guntersville*, 251 Ala. 63, 36 So.2d 321 (1948).).

As a parent of three young children and a mentor and coach to hundreds, I am very disappointed that this matter had to come before me. I am encouraged by the fact that it does not appear that the decision to discontinue fluoridation is spurred on by the anti-science movement and alternate reality culture that seems to prioritize feelings over facts; however, the disappointment for this Court comes from the fact that my hometown seems to be caught in a place where the leaders can't disagree without cutting off all communication. There is simply no way the amount of 3.7 million dollars should be an impossible barrier to the provision of what has been testified to as the TOP 10 public health achievement of our time.

There are more than fifty (50) cities and communities that will be affected by the removal of the fluoride. That means that less than \$80,000.00 per city and community is needed to make sure that our citizens have the best and most healthy drinking water available.

It is an absolute shame that this issue cannot be otherwise worked out. My disappointment aside, the law on this matter is relatively simple. Did Central Alabama Water violate the law, when it announced on March 20, 2026, that it had already ended fluoride in the drinking water? Yes. Next, did Central Alabama Water provide the statutorily required notice of intent to end fluoride? Yes, on March 12, 2026, Central Alabama Water provided a notice that this Court finds was compliant with the statute. Does the Court have authority to force Central Alabama Water to resume fluoride beyond June 2026? No, the statute only requires Central Alabama Water to issue notice to the State Health Officer ninety (90) days before ending the process of adding fluoride to the water.

For these reasons, the TRO is due to be and is hereby DISSOLVED, and the Court finds that the Plaintiff was unable to meet the requirements necessary for this Court to issue a preliminary or permanent injunction. Therefore, this case and all claims herein are DISMISSED. This is a Final Order, and costs are taxed as paid.

**DONE this 20<sup>th</sup> day of April, 2026.**

**/s/ FREDERIC ALLEN BOLLING**  
**CIRCUIT JUDGE**