

Here's why everyone keeps raising questions about Luther Strange's campaign contributions

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On Wednesday, Dom Gentile, a Republican candidate for US Senate in Alabama's Special Election, asked in a letter for the Alabama Ethics Commission to investigate campaign contributions made to current Sen. Luther Strange by Drummond Coal.

Strange, who was appointed to the Senate in February by former Gov. Robert Bentley, has come under fire of late for his involvement while attorney general in Alabama with an EPA superfund site in north Birmingham.

Last week, another Senate candidate, Randy Brinson, the former head of Alabama's Christian Coalition, told reporters that an Alabama House member, Democrat John Rogers, told Brinson that he had been offered a bribe related to the EPA site and that Strange had been involved in the conversation when the bribe was offered.

Rogers confirmed similar allegations to **APR**, and told numerous other people, before recanting those allegations the next day.

However, in his letter to Tom Albritton, the executive director of the Ethics Commission, Gentile doesn't mention the Rogers allegations and instead focuses on several questionable campaign contributions flowing from Drummond Coal to Strange at the same time Strange inserted himself and his office into the superfund ordeal.

According to a number of sources who are familiar with the Federal and State investigations surrounding the 35th Ave. Superfund Site, as it's officially known, investigators are most interested in that money – and what, if any, influence it purchased with Strange.

So, let's break this down.

The Site

The 35th Ave. Superfund Site comprises a large area in north Birmingham, in the general area where the city's famous steel mills have operated for decades. And for decades, those mills have belched pollutants into the air, water and ground surrounding them – even if they did so while ignorant of the damage they were doing.

In 2011, after years of complaints from residents of health issues and other pollution-related problems in the area,

the EPA finally landed on the scene after tests from one of the plants – ABC Coke – turned up unusually high levels of pollutants in the soil.

EPA testing confirmed those results and more. The area was deemed a superfund site – a designation used by the EPA to notate a large area of pollution related to one or a few sources. Over the course of the next several months, the EPA set about determining potentially responsible parties (PTPs) – the companies that caused the contamination and that would be responsible for its cleanup.

In this case, they found five: KMAC, Walter Coke, Drummond Coal, Alagasco and US Pipe.

Those companies, or their current owners, would be responsible for an estimated \$20 million cleanup. While no small amount, split five ways, it's \$4 million spread out over several years. A drop in the bucket for a company like Drummond, which had \$2.2 billion in sales in 2015 alone.

Instead of participating in the cleanup, at least one of the companies allegedly went a different direction.

The Scheme

Late last month, Federal prosecutors announced that former House member Oliver Robinson had agreed to a plea deal and was singing like a bird, telling the entire, pathetic story about the scheme to block the EPA's cleanup of hundreds of properties in the north Birmingham area.

Robinson was allegedly provided thousands of dollars in contributions and payments – mostly through his company – in exchange for him speaking against the superfund site, and specifically speaking against the site being added to the National Priority List. That designation would have made the 35th Ave. site a focus for the EPA and would have sped up the process for determining PRPs, and provided the EPA more flexibility and power in forcing remediation payments from those PRPs.

In June 2014, the EPA notified the Alabama Department of Environmental Management that it planned to place the site on the NPL. And that's when things got ... well, Strange.

The Letters

To fully appreciate the extent of Luther Strange's involvement in the 35th Ave. site – and how odd it was – a series of letters between the EPA, then-Gov. Bentley, ADEM and Strange tell the tale.

On April 2, 2014, the EPA sent a letter to ADEM and Bentley notifying the state officially that it was considering placing the 35th Ave. site on the NPL, but first the EPA wanted the state's input.

On May 30, 2014, Bentley responds, telling the EPA that he is delegating state authority for the site to ADEM. That agency, Bentley said, would be providing comments "to EPA on behalf of the State."

On June 11, 2014, ADEM responds to EPA. In its letter, ADEM offers no objection to the listing, telling the EPA: "ADEM does not object to EPA's proposal to list the site on the NPL provided EPA is able to reach an agreement with the (PRPs) to provide adequate funding for the cleanup."

ADEM's letter further states that should the PRPs be unable to provide the funding, the state paying its share (10 percent) would be "contingent on having funds available," and that currently "no such funding exists."

So, to sum up: The EPA wants to list the site on the NPL. ADEM, which is delegated to speak for the State, says it doesn't object so long as the state doesn't owe money.

But then, in September 2014, after the EPA publicly announces its plans to move forward with listing the 35th Ave. site on the NPL, ADEM officials, for some inexplicable reason, freak out. Director Lance LeFleur fires off an email

proclaiming the actions to be an “egregious breach of protocol” and claiming that ADEM “DID NOT CONCUR” with the proposal.

And then, Strange gets involved.

On Oct. 23, 2014, after LeFleur and EPA officials had exchanged several emails and phone calls on the matter, Strange fires off a letter of his own. In it, he proclaims that ADEM’s June 11 letter made it clear that the “State of Alabama does not concur” with listing the site on the NPL. Except, that letter literally stated the opposite.

In addition, Strange says the State will not expend any money to help with cleanup at the site.

On Jan. 20, 2015, Strange sent another letter to the EPA, again noting his office’s objections to the listing and citing several reasons for those objections, most of which were copied from LeFleur’s earlier letter.

The Money

The letters from Strange raise several questions. The biggest, obviously, is why would he be involved at all?

Bentley had clearly delegated state authority for the site to ADEM, which had worked with the EPA on several other projects, and it wasn’t as if working with the EPA was a standard task for the AG’s office.

A search through the AG’s archives and the document storage locations on the webpages for other superfund sites in Alabama, including the Montgomery plume site, turns up zero instances of the AG’s office or Strange involved in any other proposed NPL listings or other EPA actions at pollution sites.

Additionally, according to a story in *The Montgomery Advertiser*, LeFleur said ADEM never asked for Strange to get involved.

“They on their own determined that they would like to engage EPA on this issue,” LeFleur told the Advertiser. “We were already engaged with EPA.”

So, why was Strange involved at all?

That answer could lie in Gentile’s request to the Ethics Commission.

On Oct. 17, 2014, less than a week before Strange fired off his first letter to the EPA about the 35th Ave. site, Drummond Coal dumped \$25,000 into Strange’s campaign account.

On Feb. 20, 2015, some three months after Strange was elected for a second and final term as AG and a month after his second EPA letter, Strange got another \$25,000 from Drummond.

That final \$25,000, while well after the election, was allowed by campaign finance laws because Strange was settling campaign debt. Still, in just over 18 months, Strange hauled in at least \$75,000 from Drummond.

The Questions

Strange’s camp will certainly dismiss any allegations that a quid-pro-quo exists between the Drummond contributions and his actions against the EPA. And it will be easy – at least on the surface – for him to make those claims, given that he has a seemingly long history of fighting “Obama’s EPA” or the “activist EPA” or the “job-killing policies of the EPA,” as he’s touted for years.

And while those tactics could sway voters who were already inclined to vote for Strange or those who hate the EPA, they likely won’t do much to sway federal investigators.

Because Strange’s actions in regards to the 35th Ave. site are much different, much more focused.

It's one thing to join the state in a multi-state action fighting against an EPA rule. It's another to issue letters to the EPA fighting a specific, local superfund action, particularly when those letters include language promising that the State will not cooperate with the listing on the NPL and that it will not devote State funds.

Because without the state joining the EPA in the cleanup process at the 35th Ave. site, it's almost guaranteed that the NPL listing can't occur and the targeted superfund cleanup can't happen. As Strange himself notes in his letter, the EPA can't move forward with a listing without the State's guarantee that it will cover its potential costs.

The inaction by the State also ensures that the EPA will have myriad issues in forcing identified PRPs to cover the costs of the cleanup – a result that directly benefits the company dumping thousands of dollars into Strange's campaign account.