

APR files records request related to Luther Strange and Super Fund site

alreporter.com/2018/01/30/alabama-political-reporter-files-freedom-of-information-request-to-ag-s-office-for-records-related-to-luther-strange-and-the-35th-avenue-super-fund-site/



By Brandon Moseley

Alabama Political Reporter

The **Alabama Political Reporter** filed a freedom of information request with the Alabama Attorney General's office requesting any and all public records concerning any email communications between the Drummond Company and former Alabama Attorney General Luther Strange.

The same FOI request was made by Tallahassee Attorney David A. Ludder on Aug. 23, 2017, but for some reason has been more or less ignored by the Attorney General's office. Ludder has again requested the public information.

Ludder is representing Birmingham area environmental activist group GASP. GASP has been advocating for the residents of North Birmingham and Tarrant that claim they are suffering negative health issues from legacy environmental contamination of their neighborhood.

The U.S. Environmental Protection Agency agreed with GASP and those residents and sought to expand and prioritize the 35th Avenue Superfund Site in the area to clean up the contamination. EPA can only prioritize and expand the site with the agreement of the state of Alabama.

Then Alabama Governor Robert Bentley, then State Representative Oliver Robinson, D-Birmingham, and then Alabama Attorney General Strange, however, strenuously opposed efforts to clean up the pollution, so the state of Alabama blocked EPA's efforts.

This was really not a major story at the time. It became a major story after the U.S. Attorney's office began investigating Robinson. The former state representative plead guilty and agreed to cooperate with federal prosecutors. In Sep. 2017, a federal grand jury indicted two Birmingham lawyers and a Drummond company executive on charges of conspiracy, bribery, wire fraud and money laundering conspiracy.

The indictment charges that the trio paid Robinson to take official action favorable to their

interests in connection with preventing the expansion and prioritization of the 35th Avenue Superfund site. The six-count indictment alleges that Joel Iverson Gilbert and Steven George McKinney, both partners in the Birmingham law firm Balch & Bingham, conspired with David Lynn Roberson, vice president of government and regulatory affairs for Drummond, to provide Robinson with a valuable and confidential consulting contract in exchange for his taking official action favorable to Balch & Bingham and its client, Drummond.

GASP had questions about Strange's relationship with Drummond, which was one of the 11 polluters who would have had to pay to clean up the site in North Birmingham if the EPA prioritized it. The cleanup would have potentially cost Drummond millions of dollars. Drummond was a major contributor to Strange.

Ludder filed a freedom of information request on Aug. 23, seeking any records that the AG's office had about communications the former attorney general may have had concerning the 35th Avenue site. Ludder again requested these records on Monday. **APR** decided that the public also has an interest in seeing any and all records concerning this subject, so we filed our own separate request.

Pursuant to Ala. Code § 36-12-4, public officers and servants are required to "turn over to their successors in office, together with a list thereof, all current books, papers and documents pertaining to the business, affairs or transactions of their office, taking a receipt therefor, which said receipt shall also contain a list of all such books, papers and documents." Similarly, Ala. Code § 36-12-20 provides that "when any office is vacated, . . . all books, papers, property and money belonging or appertaining to such office shall, on demand, be delivered over to the qualified successor."

Specifically **APR** has asked for:

1. All electronic mail records, letters, or other records of communications between Luther Strange or any employee or agent of the Office of the Attorney General, and any employee or agent of Balch & Bingham LLP concerning EPA, Drummond Company, Inc., ABC Coke, or the "35th Avenue site" in Birmingham dated, created or received after April 1, 2014.
2. All electronic mail records, letters, or other records of communications between Luther Strange or any employee or agent of the Office of the Attorney General and any employee or agent of Drummond Company, Inc. concerning EPA, Drummond Company, Inc., ABC Coke, or the "35th Avenue site" in Birmingham dated, created or received after April 1, 2014.
3. All electronic mail records, letters, or other records of communications between Luther Strange or any employee or agent of the Office of the Attorney General and any employee or agent of ABC Coke concerning EPA, Drummond Company, Inc., ABC Coke, or the "35th Avenue site" in Birmingham dated, created or received after April 1, 2014.
4. All electronic mail records, letters, or other records of communications between Luther Strange or any employee or agent of the Office of the Attorney General and any employee or agent of Drummond Company, Inc. concerning contributions to any political campaign of Luther Strange dated, created or received after April 1, 2014.

APR, at this point, knows of no reason why any of this material would be privileged in any way.

Perhaps coincidentally, **APR's** Josh Moon has reported that current Alabama Attorney General Steve Marshall may have received some campaign dollars from Drummond, albeit not directly.

Specifically, Moon reported that Marshall's campaign has reported that it has accepted \$15,000 in campaign contributions from six PACs managed by Fine Geddie & Associates, and all six were funded by the same four entities: Drummond Coal Company, Great Southern Wood, Blue Cross Blue Shield and Protective Life Insurance.

Marshall's campaign denies accepting any dollars from Drummond because of the cloud that is hanging over the company and the ongoing federal bribery and corruption prosecution of Robinson.

"The campaign has not made a solicitation to Drummond Company or Great Southern Wood," said David Ferguson, who is handling Marshall's campaign. "Marshall has made it clear that he is not accepting contributions from those who are under state or federal investigation. The campaign has already rejected contributions that are deemed inappropriate from both corporations and individuals."

Ferguson declined to identify the source of the donations returned.

According to Moon's reporting, a source close to Marshall's campaign claims that the \$15,000 in question actually was provided by Protective Life, a Birmingham based company operated by Johnny Johns.

To this point, the state of Alabama has not reversed its position on EPA's recommendation that the 35th Avenue Superfund site be expanded and prioritized.

While GASP remains highly suspicious of Strange's conduct as AG, he did send two letters to EPA objecting to expanding the site, and those letters were followed by sizable campaign contributions from Drummond. The U.S. Attorney's office in Birmingham denies that there was a larger conspiracy.

APR asked U.S. Attorney Jay Town how the government reached the conclusion that others at Drummond and Balch were not involved in this conspiracy.

Town said, "They were not given the full details and that was remarkably clear in the evidence." Town said that Robinson was the "only public official" involved. At Drummond, "Robinson appears to be the only one exposed at this point."

Eventually, Bentley appointed Strange to the U.S. Senate and Marshall to replace Strange. Strange, however, lost the Republican primary runoff to former GOP candidate Roy Moore. Marshall is seeking election as attorney general in the Republican primary on June 5.

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