

## AG, ADEM sue Demopolis board

*By Jason Morton Staff Writer*

*Published: Thursday, April 15, 2010 at 3:30 a.m.*

With a previous court filing as a template, Attorney General Troy King and the Alabama Department of Environmental Management have sued the city of Demopolis and its Water Works and Sewer Board over alleged environmental violations.

The civil action filed last week in Marengo County Circuit Court claims that Demopolis has repeatedly violated the terms of its wastewater discharge permit, failed to apply for the permit's renewal before a mandated deadline and is illegally processing leachate from a Perry County landfill.

"The citizen provisions of the (federal) Clean Water Act indicate that the state is the main enforcer," said Robert Tambling, an assistant attorney general and chief of the office's environmental division. "It's our role to step in and enforce when the rules are violated.

"In this case, the Water Works and Sewer Board of Demopolis are out of compliance."

Demopolis Mayor Mike Grayson said he was unaware of the lawsuit when reached by The Tuscaloosa News, but said he believes the city's water works plant can safely process the landfill leachate, which contains traces of coal ash, a toxic by-product of using coal to produce electricity.

"I still believe, as long as we can continue to process the leachate and it's done in a professional and safe manner, that we're OK," Grayson said.

Calls seeking comment to Demopolis officials, including Chuck Smith, chairman of the Water Works and Sewer Board, and City Attorney Woodford Dinning were not returned.

The environmental allegations against Demopolis were raised in February by Florida-based environmental lawyer David A. Ludder.

Ludder, who is representing a group of Perry County residents, filed a 60-day notice of intent to sue that outlined the same series of allegations as the state.

Citing a history of violations by the water and sewer board that dates back more than a decade, Ludder said a motivating factor behind the initiation of legal action is its acceptance of leachate from the Arrowhead Landfill in Uniontown.

Leachate is the liquid-based sludge that accumulates in the depths of a landfill.

Millions of tons of coal ash have been arriving at the landfill daily by railroad since July. The substance, known to contain toxins and heavy metals, spilled from a Tennessee Valley Authority power plant in December 2008.

The Demopolis Water Works and Sewer Board has been accepting and processing the leachate for about eight months, but the attorney general's lawsuit alleges that it had no permit to do so.

The state's court filing was not unexpected, Ludder said.

"The attorney general and Alabama Department of Environmental Management have obviously agreed with our assessment of Demopolis' violations and we hope that they prosecute the case to a successful conclusion and get Demopolis back into compliance," Ludder said. "This is a good development, as long as the government is serious about prosecuting the violations. We don't want to see a sweetheart deal come out of it."

Returning Demopolis to compliance is exactly what the state is asking the court to order.

But Chris Bence, the attorney general's chief of staff, doesn't expect the legal proceedings to get that far.

Normally, a state lawsuit in matters like these results in the accused city correcting the problem, he said.

While he said he expects that some kind of fine and oversight will result from Demopolis' alleged failings, he does not foresee the Demopolis leaders fighting back.

"This is not a sweetheart deal," Bence said. "It may not go to trial, but this is going to be a diligent enforcement action."

However, the state's legal action is intended to benefit the city, too.

As part of the Clean Water Act's provisions, third-party lawsuits are barred once the state brings a similar suit. This removes the federal court oversight and allows for more timely — and less expensive — avenues to a resolution.

"It's a protective umbrella for the municipality," Bence said. "In that, our mission and our goal is to bring them to where they want to be — and that's in compliance."