

Coalition claims ADEM unfit

Environmental groups ask EPA to step in to enforce clean water laws in Alabama

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TUSCALOOSA | A coalition of 14 environmental groups from across Alabama is asking a federal agency to limit the power of the state to regulate water pollution. The coalition claims Alabama has failed to protect the state's waterways.

The Alabama Rivers Alliance, which includes Friends of Hurricane Creek in Tuscaloosa County, has filed a petition claiming that the Alabama Department of Environmental Management is incapable of adequately enforcing water pollution regulations.

The petition was delivered Friday to the U.S. Environmental Protection Agency. It asks the EPA to remove ADEM's authority to grant discharge permits and remove the state agency's oversight of permits already granted.

In essence, the alliance is requesting that the EPA strip ADEM of its regulatory and enforcement powers as it pertains to water pollution.

"We have been very diligent in documenting the ongoing and chronic pollution sources, and ADEM has taken no effort to enforce even the most basic of regulations," said John Wathen, head of Friends of Hurricane Creek.

Scott Hughes, spokesman for ADEM, said the agency's attorneys had yet to review the full petition, and could not comment specifically on its content.

However, Hughes said it was a complaint that ADEM intends to take seriously.



Staff file photo | Robert Sutton

A coalition of 14 environmental groups, including the Friends of Hurricane Creek, is asking the EPA to limit the power of the state to regulate water pollution. Hurricane Creek is shown in this 2004 file photo.

“We have received notice of the petition, and we will work closely with the EPA to address all allegations in the petition,” Hughes said. “We take very seriously, not only this petition, but the responsibility that we have to protect Alabama’s land, air and water resources, on behalf of all Alabamians.”

Davina Marraccini, a spokeswoman for the EPA’s Region 4, based in Atlanta, said the federal agency has met with representatives of the alliance to review the purpose behind filing the petition.

She said the EPA would be assigning a lawyer and someone familiar with the details of the federal Clean Water Act’s pollution control regulations to examine the petition.

“We also will be informing ADEM of the petition and requesting a response from them on the individual elements of the petition,” Marraccini said.

Scott Edwards is the legal director for the Waterkeeper Alliance, an international environmental group formed in 1999 by Robert F. Kennedy Jr. to help protect more than 100,000 miles of rivers and streams on six continents.

He said that seven similar petitions have been filed against states in the past 15 years or so, resulting in some improvements in the way those states handled water pollution control. However, the EPA has never stepped in to take over a state’s water protection programs.

“Although it hasn’t happened in the past, we’re not so sure it won’t happen in the future,” Edwards said, adding that “from our experience, Alabama has not been doing the job that it should be.”

If successful, the claims in this petition could have a widespread effect on Alabama municipalities and construction efforts.

The Alabama Rivers Alliance is targeting ADEM’s regulatory oversight of water pollution, known as the National Pollutant Discharge Elimination System, which falls under the jurisdiction of the Clean Water Act.

The environmental coalition filed a 75-page petition with the EPA that documents what it believes are violations of the act.

Each state is required to implement at least the minimum clean water standards required by federal law.

The petition is supported with more than 200 exhibits, ranging from ADEM-issued permits to at least 15 municipalities that now are in violation of their wastewater discharge permits, the group claims.

“What we’d like to see this petition do in the short term is to bring Alabama at least up to the standards of the national Clean Water Act or exceed them,” Wathen said.

Wathen and others said that the various environmental protection groups have worked with ADEM and the EPA to find ways to improve the state's water pollution regulations for more than a decade. The groups also have sought relief through lawsuits.

However, the coalition claims that efforts to improve ADEM's willingness to better regulate Alabama's water polluters have been met time and again with resistance.

"The water pollution permitting program administered by ADEM is fundamentally broken and does not meet minimum federal standards," said Mitch Reid, director of the Alabama Rivers Alliance. "This failure is a systemic, statewide problem. From funding to implementation to enforcement, the failures of the current system are leaving the citizens and environment of Alabama unprotected."

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