

## The Birmingham News

### Environmentalists drub ADEM over productivity

Saturday, August 22, 2009

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The Alabama Department of Environmental Management's inspections, enforcement actions and penalties for violations of the Clean Water Act dropped steeply in 2008, and a coalition of 40 environmental groups from across the state wants to know why.

Environmental lawyer David Ludder, speaking on behalf of the ADEM Reform Coalition, presented the findings Friday to the Environmental Management Commission, the board appointed to oversee ADEM.

Ludder said he understood ADEM takes issue with some of the data published by U.S. Environmental Protection Agency, but the numbers show enforcement lagging across a wide variety of measures, including the numbers of enforcement actions and inspections and the total dollar amount of fines.

"I don't think they are off so much that the trend is unreliable," Ludder said.

Responding to Ludder's presentation, ADEM Director Trey Glenn said he believes there are problems with the numbers. For instance, a chart showing ADEM administrative penalties dropped from \$1.27 million in 2008 to \$146,500 in the first three quarters of 2009 doesn't include \$800,000 in proposed penalties, he said.

Glenn added that effective enforcement can't be judged by the number of violations ticketed.

"If I was running a speed trap, I'd be pretty mad at my employees," Glenn said. "But I'm not."

The data also has to be viewed in context, Glenn said. Enforcement activity has been affected by cuts to the ADEM budget and changes in personnel and policy at the department and the Environmental Management Commission.

"You do need to look at the trends, but you've got to know what's changing with all the external factors," Glenn said. There is now "less of a focus on quantity and more of a focus on quality" at the agency, Glenn said, assigning priority to the worst problems first.

"I'm proud of the changes we've made in the compliance and enforcement program," Glenn said.

In 2008, ADEM reorganized and consolidated its permitting and enforcement activity at a central office in Montgomery, while inspections are carried out by ADEM field offices throughout the state.

In ADEM's Birmingham field office, four inspectors handle storm water construction inspections in the 23 counties in central Alabama while three inspectors oversee business, government and industrial dischargers in the same counties.

Statewide, inspectors cover 190 major permitted facilities, 1,387 non-major permit holders and 4,000-6,000 construction sites greater than one acre.

One thing on which the environmental critics, the department and commissioners agreed was that sediment pollution from development is the biggest contributor to water pollution in the state. Commissioner Anita Archie said sediment control has been her top issue and it will continue to be a focus of ADEM and the commission.

Commissioner Sam Wainwright said commissioners will evaluate information provided by Ludder and explanations from ADEM staff before making any judgment as to whether a problem exists.

"We have a problem sorting out the truth," Wainwright said.

Birmingham-area environmental groups cited several local examples they believe point to a lack of enforcement on ADEM's part.

A recent audit by EPA said Shelby County's program for policing storm water pollution was inadequate on several fronts. Beth Stewart, executive director of the Cahaba River Society, said that is due in part to a lack of direction from ADEM.

"The EPA audit of Shelby County proves ADEM has failed in its responsibility to make sure counties and cities know what they must do to protect water quality under the Clean Water Act," Stewart said. "ADEM's poor enforcement leaves local governments open to EPA enforcement and leaves no one holding construction projects accountable for pollution."

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