



PRESS-REGISTER

Lawyer accuses ADEM, Olin Corp. of illegal dumping

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Staff Reporter

An attorney has accused the Alabama Department of Environmental Management and Olin Corp. of breaking federal law by dumping more than 23,000 tons of mercury-laced wastes in the Timberlands Sanitary Landfill in Escambia County in February.

David Ludder, who served as ADEM's chief lawyer for many years, filed documents Friday with the FBI and the U.S. Environmental Protection Agency's criminal investigations division suggesting a "criminal violation of the Resource Conservation and Recovery Act of 1976" had occurred. That act is part of the suite of laws dealing with industrial pollution and federal Superfund sites, which are considered the most polluted sites in the nation.

ADEM officials said Friday that they could not discuss a pending legal matter, but provided a letter from the U.S. Environmental Protection Agency. That letter states that the agency concurred with ADEM's decision to place the material in the Timberlands facility. Officials with Olin and the EPA could not be reached for comment.

Ludder asked that the FBI and EPA investigate and pursue indictments against those involved. He filed his request on behalf of the Citizens for a Clean Southwest Alabama and Conservation Alabama, both environmental groups.

The Timberlands landfill, owned by Allied Waste, is not normally allowed to accept hazardous waste. ADEM granted the landfill permission to accept the material from Olin for use as "daily cover" in the dump.

In recent months, the Press-Register has reported that mercury from the Timberlands facility contaminated groundwater in the area for several years.

"There was mercury contamination in the groundwater in the past at that landfill. Now ADEM has authorized mercury containing wastes to be disposed of there," Ludder said. "If listed hazardous waste can go to any landfill in the state of Alabama, then all communities around landfills are in jeopardy."

The complaint argues that the mercury wastes from Olin appear to be a federally regulated hazardous waste known as KO71, although ADEM documents from 2005 show that the agency decided not to designate Olin's wastes as KO71. Ludder said it will be up to the U.S. attorney to decide if the decision by ADEM's Phil Davis was in keeping with federal law.

Testing by ADEM, Olin and the Press-Register showed that the material moved to the landfill contained mercury at levels up to 220 parts per million, which is actually higher than the mercury levels typically associated with KO71, according to EPA documents. Scientists have published peer-reviewed papers about the unique dangers posed by Olin's brine wastes deposited around the company's McIntosh plant in Washington County.

Heaps of the wastes sat for decades along one of McIntosh's main roadways, which was itself covered in the mercury-contaminated material. ADEM has insisted that the presence of the material posed no threat to the public.

In March, ADEM maintained to the Press-Register that the material was not hazardous because Olin generated it in the 1950s and '60s, before the creation of modern environmental laws.

Ludder's filing and documents on EPA Web sites suggest that so long as hazardous wastes generated before the modern laws were drafted in the 1970s and 1980s sit undisturbed on private property, they are immune from being handled under the modern regulations. But when those wastes are moved, they fall under the modern hazard waste regulations.

ADEM approved Olin's hauling of more than 1,000 dump truck loads to the Timberlands landfill. Under the law, Ludder said, the material was considered hazardous waste the moment that Olin began putting it onto trucks with bulldozers.

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