



PRESS-REGISTER

Report finds ADEM enforcement actions down as pollution violations rise

Friday, August 21, 2009

By **BEN RAINES**

Staff Reporter

The number of facilities in violation of water pollution regulations in Alabama has nearly tripled since 2006, according to a review of federal records being circulated by a state environmental watchdog group.

During that same period, enforcement actions by the Alabama Department of Environmental Management decreased from 1,408 in 2006 to 222 in 2008, according to the review conducted by David Ludder, who was the chief attorney for the state environmental agency from 1984 to 1988.

Ludder now has an environmental law practice based in Tallahassee, Fla. His report was commissioned by the ADEM Reform Coalition, which includes 40 groups, such as Mobile Baykeeper and the Alabama Rivers Alliance.

"We haven't paid them (the coalition) much attention because they're wrong," ADEM's Jerome Hand said of the report in an e-mailed statement. "The report uses EPA statistics that are not up-to-date, and EPA's statistics have been questioned by the department (ADEM)."

It is unclear from the report what the violations were; they could have ranged from paperwork that hadn't been filed to factories putting out more pollution than allowed by their permits.

Ludder is scheduled to present his findings today to the Alabama Environmental Commission, which oversees ADEM.

Ludder said he analyzed ADEM records sent to the U.S. Environmental Protection Agency, which showed that ADEM assessed water pollution fines totaling nearly \$1.3 million in 2007 and 2008. In 2009, the total so far is \$146,500, Ludder's report showed.

Hand said ADEM had another \$800,000 in water pollution fines that were still "pending — at public notice or not finalized yet."

"It certainly looks like there has been some decline in enforcement activity," Ludder said Thursday. "We don't know why, but that is one of our most urgent questions for the commission."

Ludder said that many of the violations seen in the EPA data come from municipal sewer systems.

"Those facilities have a long history of noncompliance with very little enforcement action by ADEM," Ludder said. "Even when ADEM does take enforcement action, they generally don't follow up."

In 2007, ADEM received a similar critique from the EPA, which chided the state agency in a written report.

The EPA data suggest there has been "a dramatic decline" in ADEM enforcement actions, both formal and informal, Ludder said.

For instance, ADEM issued 1,632 informal actions against smaller facilities in 2005, according to the report. By 2006, the number had dropped to 1,296, then to 962 in 2007 and just 201 in 2008.

"The Department has taken direction from the Commission and EPA to focus our enforcement and to prioritize environmental cases based on those that potentially have the greatest impact on the environment

and the health and welfare of Alabamians," Hand's statement read. "It is a quality over quantity approach based on the direction of the Commission and our EPA grant commitments."

Ludder said the most distressing statistic he found involved the number of facilities that have not filed the Discharge Monitoring Reports they are required to submit under state and federal law.

Ludder's report showed that in 2005, six facilities in Alabama failed to file reports for at least three years. In 2008, there were 676 facilities that had not filed in the last three years.

Ludder said the EPA could pressure the state agency to do a better job of enforcing existing law. It is also possible someone could petition the EPA to take away ADEM's authority, he said, and under that scenario, federal officials would take over the job of safeguarding Alabama's environment.

"EPA certainly has the authority to approach the state and ask for changes," he said.

©2009 Mobile

© 2009 al.com All Rights Reserved.