

Environmental groups call for ADEM director's resignation or termination

Published on August 2, 2018

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Eleven Alabama environmentalist groups signed off on a letter Monday calling for the resignation or firing of Alabama Department of Environmental Management Director Lance LeFleur.

The groups claim that the bribery and corruption trial *U.S. v. Gilbert, et al* yielded many disturbing revelations, including the failures of leaders at the Alabama Department of Environmental Management (ADEM) and the Alabama Environmental Management Commission (AEMC) to avoid conflicts of interest with those whom they regulate.

The groups claim that in many other instances, ADEM Director Lance LeFleur has failed to lead the Department in a manner that advances its official mission “to assure for all citizens of the State a safe, healthful and productive environment.”

LeFleur's annual job evaluation and public comments were due on Monday, July 30.

Black Warrior Riverkeeper emailed its evaluation of Director LeFleur to the Personnel Committee of the AEMC, which oversees ADEM. The letter calls for LeFleur's resignation or termination for what the groups claim is his consistent failure to lead and advance ADEM's mission.

Groups signing Black Warrior Riverkeeper's letter include: Alabama Rivers Alliance, Cahaba River Society, Cahaba Riverkeeper, Choctawhatchee Riverkeeper, Environmental Defense Alliance, Friends of Hurricane Creek, Friends of the Locust Fork River, Gasp, Little River Waterkeeper, and Tennessee Riverkeeper.

The groups claim that sworn testimony in the recent public corruption case has revealed bias and corruption at both the Environmental Management Commission (“EMC”) and ADEM.

“In order to repair that trust, there must be new leadership at ADEM. When an organization like ADEM stumbles, its director must take responsibility,” the groups wrote. “Director LeFleur has failed to lead the Department in a manner that advances the mission of ADEM “to assure for all citizens of the State a safe, healthful and productive environment.” He must resign or be terminated.”

“Instead of carefully weighing all the evidence and allowing the Department to make decisions that would protect the health and safety of North Birmingham residents, Director LeFleur's testimony at trial shows how he failed not only those residents but his

job,” the letter states. “He apparently did not express opposition to EPA’s efforts to clean up toxic pollution at the 35th Avenue Superfund Site in North Birmingham, until lawyer Joel Gilbert and lobbyists David Roberson and Trey Glenn, among others, began to exert pressure on behalf of their clients Balch & Bingham and/or Drummond Co. When Governor Bentley and the EMC joined in, the Director succumbed to that pressure and began to publicly and actively oppose EPA’s efforts. Even worse, he sent a letter to EPA in his capacity as Director opposing EPA’s cleanup in North Birmingham. Although trial testimony indicates that Director LeFleur may not have known this, the letter he sent was drafted at least in part by Gilbert, whose client Drummond Company, had the most to lose if EPA expanded the cleanup and placed the 35th Ave. site on the National Priorities List. Gilbert apparently routed the draft letter through Governor Bentley’s office, which then sent it to Director LeFleur to send.”

“Director LeFleur testified that it was not uncommon for lobbyists/consultants to draft letters for him to sign,” the letter continued. “The closeness of the relationship between the Director and those he is supposed to regulate should disqualify him from this important position of public service. He is ultimately answerable not to Drummond Co. or Balch & Bingham, but to the citizens of Alabama, for whom he is supposed to ensure a safe, healthful and productive environment.”

The groups said that they. “Were disappointed, but not entirely surprised, to learn that Director LeFleur and ADEM were part of a leak of a planned EMC public presentation.” “Testimony and evidence offered in U.S. v. Gilbert indicates that Director LeFleur and his staff, along with others, communicated and/or discussed a proposed presentation submitted by Gasp, with parties outside the Department, and subsequently discussed the substance of that proposal.”

“There is no suggestion that the EMC or ADEM solicited or neutrally evaluated all available information and reached a considered decision,” the letter stated. “They apparently took talking points directly from the industry’s lawyer and uncritically adopted them as their own.” “These actions reflect poorly on the judgment of the Director and the Department. These actions reinforce the appearance of favoritism and bias on the part of the Director and ADEM. There is no indication that the Director or his staff reached out similarly to residents of North Birmingham or any other potentially affected parties.”

“The testimony in U.S. v. Gilbert suggests that fair play or neutrality at ADEM is currently a myth,” the environmentalists argued. “The Director and the Department have broken trust not just with us, but with the public that ADEM is supposed to serve. A group worried about health consequences in a poor, polluted area wanted to present information to state regulators about appropriate cleanup in the area — and the presentation was sent straight to a lawyer who represented one of the companies most likely responsible for the pollution.”

“The Director knew this and did not blow the whistle,” according to the letter. “Secretly sharing information with favored parties, then allowing their point of view to masquerade as the EMC’s or ADEM’s is beyond wrong. This subterfuge occurred outside the public view and was only exposed by a criminal prosecution where Director LeFleur and others were subpoenaed to testify.”

“Regardless of whether Director LeFleur’s tenure at ADEM ends, we ask the EMC to authorize a neutral, independent investigator to determine whether the actions revealed

by U.S. v. Gilbert are an isolated event or represent routine practice at the EMC and ADEM,” the groups stated. “We ask the EMC to share the method and the results of this investigation with the public in order to begin the process of restoring the public’s trust. Finally, we ask the EMC to implement any procedures as necessary that will ensure that this kind of dishonesty and favoritism ends.”

They also accused Director LeFleur of failing to fully implement federal regulation from using criteria or methods of administering its programs or activities that subject individuals to discrimination because of their race or color, among other things. “Ensuring that ADEM complies with requirements of state and federal law and providing the public with valid policies to combat discrimination should have been key priorities for Director LeFleur and the Department. Evidently they were not. We urge the EMC to work with the ADEM Director to ensure that this issue is quickly and decisively addressed through valid rulemaking.”

“Rather than passively wait for an EPA investigation or further litigation, a director must take proactive measures to ensure that the Department has all necessary legal authority to meet EPA’s funding requirements. Delay invites the substantial risk of litigation, another EPA investigation, or the catastrophic loss of the Department’s federal funding,” the groups charged. “Director LeFleur’s failure in this regard reflects poorly on his job performance and should be considered in the EMC’s evaluation.”

The groups also complained that ADEM ranked dead last in per capita funding among state environmental agencies in a recent study published by the Environmental Council of States, just \$10.85 per person, per year from 2013 to 2015. While Mississippi, Tennessee, Georgia and Florida’s general funds all contribute millions to their state environmental agencies, in recent years, ADEM has received little from the state’s General Fund and in one year actually had to return money (earmarked for scrap tire cleanup) to the General Fund. They claim that part of the Director’s job is to make the public case for the adequate funding of his agency.

They also accused ADEM and LeFleur of being soft on polluters. “When permittees’ interactions with ADEM after permit noncompliance involve warning letters, notices of violation, long compliance schedules, and nominal fines rather than meaningful enforcement actions, the message ADEM sends is clear. Occasional enforcement is a cost of doing business and is cheaper than investing in compliance.”

“ADEM’s mission is “to assure for all citizens of the State a safe, healthful and productive environment.” Director LeFleur has failed to lead ADEM in a manner that advances that mission,” the environmentalists claimed in their letter. “He must resign or be terminated. When the EMC puts together the appropriate search committee for his replacement, we ask that at least one representative from the undersigned organizations be a part of that committee.”