



August 13, 2018

Governor Kay Ivey
600 Dexter Avenue
Montgomery, AL 36130

Dear Governor Kay Ivey:

The following organizations respectfully request action be taken on the matter below:

Alabama Rivers Alliance, Black Warrior Riverkeeper, Cahaba River Society, Cahaba Riverkeeper, Friends of Hurricane Creek/Hurricane Creekkeeper, Friends of the Locust Fork River, Gasp and Tennessee Riverkeeper.

In a [recent statement](#) given to WHNT News, your office responded to the call by several environmental groups for the Environmental Management Commission to take action with regards to ADEM Director LeFleur's job performance. The statement read:

"The governor does not appoint the Director of ADEM, although Governor Ivey does have several key upcoming appointments to the Alabama Environmental Management Commission, which selects the director. Governor Ivey will take into account all of the information and actions regarding this situation when making those appointments," says Governor Ivey's press secretary Daniel Sparkman.

We appreciate your interest in considering these matters, however, we want to make it clear that Director LeFleur is not the only one that needs to be held accountable for actions revealed in the recent bribery trial.¹ In order to adequately address the performance issues with the Director, the Environmental Management Commission must also be held accountable.

As Governor, you are responsible for appointing members to the Commission and overseeing its functions and decisions. As such, we urge you to ask for the resignation of any offending Commissioners, appoint Commissioners who will be committed to the ideals of transparency and equal access, and direct the EMC to better serve the public interest moving forward.

It is clear that Director LeFleur's actions were requested and may have been condoned by some members of the EMC and then-Governor Bentley. While only one sitting member of the EMC, Chairman Lanier Brown, testified at the bribery trial, the testimony from the trial and the transcripts of the EMC meetings suggest that others may have been involved and/or may have been complicit in what developed.² It appears that Chairman Brown actively advocated against the Superfund designation after meeting with the man who pled guilty to taking the bribe, Oliver Robinson, as well as other trial defendant(s) and/or representatives of regulated industries. Brown argued against any federal action or assistance. Moreover, during his testimony Brown

¹ See generally U.S. v. Gilbert, et al., No. 2:17-cr-00419-AKK-TMP (N. D. Ala. 2018)

² See Environmental Management Commission meeting transcript (December 12, 2014) at p. 33-62. [http://www.adem.state.al.us/commission/minutes/12-12-14EMCMeetingFinalMinutes2-25-15.pdf]

appeared to show little remorse for working with the individuals involved in the bribery scheme, using their one-sided arguments to refute those in favor of cleanup, or opposing federal cleanup altogether.

A sitting member of the Commission at the time, Scott Phillips, contracted directly with the criminal defendants to oppose the Superfund site. While he is no longer a Commissioner, his story is suggestive of an unethical bias within the Commission. The Commissioner leaked a pro-cleanup presentation to the criminal defendants in the public corruption case, who then prepared talking points and comments for Commissioners to use against the presenter. It is unclear how much the Commissioners used those talking points, but the transcript from the meeting is certainly suggestive of such. The meeting transcript shows multiple members of the EMC, including sitting Commissioners in charge of protecting the public health, seemingly attempting to refute, delegitimize, and even attack the presenter, based upon these points.

In light of these actions we ask you to call on any Commissioner who your office believes participated in these or similar actions, and/or any Commissioner who believes there is nothing wrong with these actions, to step down immediately. The wrongdoings of past and present Commissioners must be admonished; addressing that impropriety is the only way to change the biased and unfair culture that failed the people of Alabama.

As private citizens and nongovernmental groups, we do not have the ability to bring to light all of the Commission's wrongdoing. Consequentially, we ask you to use your authority as Governor over the EMC to further investigate its role in opposing the Superfund site, as well as any unethical, inappropriate, or unbecoming conduct of specific Commissioners. We believe an investigation from your office will result in a clearer, more public account of what transpired. Testimony transcripts from the public corruption trial are a logical starting point.

The existing record demonstrates bias, unequal access, and a culture in which influence, money, and personal relationships matter more than public health. Allowing regulated industry representatives and their attorneys to have unfettered access to information that comes before the Commission while requiring that citizens and environmental interest groups submit a request to speak to the Commission 14 days in advance, which may even be denied, is a failure of the Commissioners' roles as public servants. As appointed Commissioners, members are as accountable to the people of Alabama as they are to the regulated industries they are charged with overseeing.

"The Unified Strategic Plan between ADEM and the EMC clearly states that in order for the Commission to fulfill its role, it requires **"comprehensive, clear, and unbiased information for policy decision making."** Unbiased information can only be achieved if the Commission seeks data and information from all parties involved and weighs them fairly. To unquestionably rely on information from the lawyers of regulated industries while failing to perform due diligence or evaluate the record as a whole is not unbiased and is a violation of the Commission's own stated value in the Unified Strategic Plan:

*Clear, Science-Based Decisions and Policies to Protect Human Health and the Environment - We seek clarity and certainty in our regulations, methods and actions, ensuring they are based on **objective, peer-reviewed scientific standards and that they provide protection for all citizens.***

In addition to holding accountable those who may have acted inappropriately, we urge you to direct the Commissioners who believe they have not been a party to conflicts of interest or biased behavior to draft and pass a resolution stating that this culture of allowing undue influence by the regulated industries is inconsistent with the values and purpose of the Commission --- and will stop.

You came into the office of Governor because of corruption by your predecessor. You have pledged to clean up Montgomery and run a transparent and open state government. In order to adhere to that pledge, we are asking you to direct the leaders who hold appointed positions in your administration to resist the unfair culture and finally ensure an even playing field for the public interest.

Thank you for your consideration of our request. We look forward to your response. If you would like to discuss this or have questions about the issues in this letter, please contact Cindy Lowry, Executive Director of the Alabama Rivers Alliance, at 205-322-6395 or email her at clowry@alabamarivers.org.

Sincerely,

Alabama Rivers Alliance

Black Warrior Riverkeeper

Cahaba River Society

Cahaba Riverkeeper

Friends of Hurricane Creek/Hurricane Creekkeeper

Friends of the Locust Fork River

Gasp

Tennessee Riverkeeper

cc: Alabama Environmental Management Commission

Director Lance Lefleur, Alabama Department of Environmental Management