



## PRESS-REGISTER

### Groups say ADEM botched Olin mercury disposal

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The former chief lawyer for the Alabama Department of Environmental Management has accused state officials of disregarding federal laws that keep hazardous waste out of landfills designed for household garbage.

In addition, the lawyer argues, the agency's recent actions mean hazardous waste could end up being dumped in any of the 31 municipal landfills scattered around the state.

A petition filed at EPA headquarters in Washington by ex-ADEM attorney David Ludder on behalf of two environmental groups suggests the agency so bungled its handling of waste from McIntosh's Olin Corp. chlorine factory -- allowing 23,000 tons of mercury-laden material to be placed in the Timberlands Sanitary Landfill in Escambia County -- that it should lose all authority to supervise hazardous waste disposal.

The Press-Register has previously reported that those same wastes served as an ongoing source of mercury contamination around the south Washington County town of McIntosh. Reporters found evidence of the wastes on public roads, in parks, on baseball fields and even in the McIntosh mayor's front yard.

ADEM officials insisted in interviews that the agency enforces federal hazardous waste laws appropriately and that EPA officials in the regional office in Atlanta concurred with the decision to send the Olin wastes to a municipal landfill in February of this year.

ADEM officials said this week that they cannot address specific issues set forth in the petition because it is a pending legal matter.

EPA officials in Atlanta did not reply to requests for comment Monday or Tuesday. Nor did EPA respond to requests for comment regarding these wastes in September.

Ludder said the primary goal of the petition was to get officials at EPA headquarters to review the decisions made by ADEM and the Atlanta office of EPA.

The petition alleges that ADEM violated federal law when the agency decided the dump-truck loads of Olin wastes did not qualify as "hazardous" under federal law. ADEM officials have previously indicated they decided the hazardous label would not apply because the material had been sitting in heaps at Olin for years before modern hazardous waste laws were created.

It would have cost Olin a great deal more money to dispose of the material, had ADEM declared it hazardous.

According to the petition as well as former EPA and ADEM officials and numerous scientists consulted by the Press-Register, the wastes qualify as a hazardous material known as "KO71" under federal law.

Federal law states that materials generated prior to the advent of modern environmental laws in the mid-1970s -- such as the Olin wastes, which date to the 1950s and '60s -- are exempt from regulation so long as they sit undisturbed on private property.

But, old wastes are governed by the current rules as soon as they are disturbed -- or in EPA parlance, "managed," which includes activities such as placing waste in dump trucks and taking it to a landfill.

The Timberlands Sanitary Landfill in Escambia County is not legally allowed to accept hazardous waste, nor is the facility equipped to contain hazardous waste, which must be sent to specially designed facilities.

The petition was filed by Citizens for a Clean Southwest Alabama and the Conservation Alabama Foundation. Ludder represents both groups.

The Olin material, according to testing by ADEM, contained mercury at levels up to 220 parts per million, which is higher than typical KO71 wastes, according to an EPA Web site.

"I don't really understand ADEM's position. I see this as hazardous waste, and I see this is a landfill that can't accept hazardous waste," said Adam Snyder, director of Conservation Alabama, which filed the petition.

Snyder said he also was troubled by the fact that the regional EPA office in Atlanta supported ADEM's decision because, "the region's position is in direct opposition to the position taken by EPA headquarters on handling hazardous waste."

"We see this as a statewide issue; that's why we've asked EPA headquarters to review ADEM's actions," Snyder said. "We want to make sure that hazardous wastes can't be put in any regular landfill."

In recent years -- prior to the disposal of more than 1,000 dump-truck loads of Olin's mercury wastes -- the

Timberlands landfill was found to be leaking mercury to groundwater and the atmosphere. ADEM drew fire for failing to inform Escambia county officials or local residents of the ongoing mercury releases, which were revealed last year, but detected from 1998 to 2003. At least 13 private residences in the area use the same aquifer for drinking water.

In August, ADEM officials said they did not notify the local government or the public because "specifically regarding groundwater, there is no state solid waste regulation that requires notification of city or county governments."

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