

WildLaw Community Action Coalition News

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Legislative Roundup 2009: May 19, 2009

Senate Bill 72 and House Bill 652 were the landfill bills, introduced by Senator Wendell Mitchell and Rep. James Thomas **did not pass**. These bills would have changed the language in the law regarding landfill applications. Currently the law says that if the county gets a landfill application and fails to act within 90 days, the application is approved. These bills would have changed “approved” to denied, and also clarified that landfills must get county approval to modify their permit to expand or change the types of waste they accept. Senator Mitchell was able to get the bill passed in the senate committee, but Lowell Barron refused to place the bill on the special order calendar. In the House, Rep. Thomas could not even get the bill in committee, although the committee was ready to give a favorable vote. Rep. Bill Dukes of Decatur was the committee chair who knuckled under to the landfill lobbyists, and effectively prevented the bill from even being considered by the committee. Rep. Seth Hammett, the speaker of the House, would not intervene.

It should be noted that the form of SB 72 passed out of committee was a substitute bill that would have allowed language that any modification of a landfill permit had to come back before local host government, and if they failed to act on the request for modification within 90 days it would be approved. This was a compromise which many folks did not like (including me, but I felt it was better than nothing). The lobbyists used all their power to stop this bill. They won. And don't think they played fair. They said they would help me get the landfill bills passed IF they only pertained to Lowndes County, knowing full well that you cannot get local legislation passed if there is already existing state law that conflicts.

Senator Tom Butler, representing Limestone and Madison Counties was successful, with our help, in getting 4 local bills passed that rock quarries may not be established within a certain distance of Brown's Ferry Nuclear Power Plant, public schools, TVA industrial mega site, and Calhoun Community Robotics Center. These are local bills pertaining to Limestone County only.

The Gulf States legislation introduced by Senator Dixon to protect some of Alabama's Gulf Coast from developers turned into a compromise bill that **passed**, and will allow a new resort on the beach with “reasonable” prices for consumers. (There's already a fight brewing because the Al. Tourism Dept says the prices should be comparable to Perdido Beach Resort) Senator Dixon was

obviously perturbed by the secret meetings to hand over the coast to developers held without his knowledge and orchestrated by Rep. Frank McDaniel. At the public hearing, we asked them to leave the little stretch of beach alone, but nobody was hearing that. Those in power claim we are losing convention business to Florida. Once more, the environment was sacrificed for business.

The quarry bill which would have given county government the power to accept or reject applications for rock quarries did not get a full hearing in committee and failed. This bill was also in Rep. Duke's committee. A public hearing in the committee went very well, with citizens from Lee and Conecuh County testifying, **but the committee never met for a vote.**

Three members of ADEM's Environmental Management Commission were confirmed by the full Senate during the flooding of the State House. Governor Riley submitted the names the night before, and the full Senate confirmed while the Legislature was working out of the old capitol building

The new commissioners are **H. Lanier Brown, II**, an attorney from Birmingham, **Conrad Piece**, a retired physician from Mobile and **Scott Phillips** was reappointed for a second term.

And a **true victory** is that the infamous **Hog Farm Bill** was not even introduced this year.....thanks to YEARS of action by Concerned Citizens of Sand Mountain.

Speaker of the House Seth Hammett will not run for re-election to the House of Representatives. Beloved **Senator Bobby Denton** is retiring. He gave my nickname, "The People's Lobbyist", and I am very sad to see him go. **Senator Hank Sanders** is also considering retiring, according to the Montgomery Advertiser.

Barbara's Take on the Session

I often hear community folks say, "Let's hire a lobbyist!" so they can get bills passed. Lobbyists are people who are usually employed on a contract basis and most of them make big bucks. And since they represent the "big boys", they aren't about to work hard for the little guy, paid or not. Never were the lobbyists more powerful and arrogant than during this session of the Legislature. Everyone was excited that for the first time in two years, bills actually had a chance to get passed without in-fighting among our elected officials. And although we hear some legislators say this was a good session, I give it a "C". I give it that grade ONLY because some legislation was passed, unlike the past two years. I think Senator Sanders did a good job with the education budget. But I am not impressed. PAC to PAC and ethics reform are badly needed, but few legislators have the courage to back these bills.

Legislative sessions have turned into public relations blitzes for politicians who are trying to keep their jobs. There are some good folks who work very hard to get things done, but the system is broken. There are many times when the issue of a piece of legislation is lost because somebody doesn't like somebody else, or because somebody did something to somebody else's bill. This will sound familiar to those of us who are parents.

Politicians respond to several things; the greatest of which is **PRESSURE**. Those citizens who traveled to the State House this year can be very proud of themselves. Now, multiply those numbers of folks by 100 and we might actually get somewhere in the future.

It is easy to kill a bill and extremely difficult to get one passed. Legislators love to avoid any kind of controversy, and it is a shame that good bills cannot get a full hearing. It is important to select the right sponsors for a bill because you have to know who is powerful and who is not.

Plus, it is business as usual for a legislator to sponsor a bill to placate someone or some group and then not work at getting it passed. Elected officials count on the fact that most Alabamians are not knowledgeable of the system and the fact that it takes real passion and work to get a bill passed. They can then say they sponsored the bill but it just did not pass when in reality they didn't work on it.

The lobbyists have control because they are the only source of information readily available to the legislators, who have few staff and resources. Still, I would love to see the Legislature given the power to place folks under oath in public hearings. And I would really love to see elected officials who have courage and who do not want to make becoming an elected official a career.

Again, thank you for your work. We cannot give up, but it is important that we understand the system, and the limitations. It is even more important to keep going.

Next year: If they aren't going to pass our little landfill bill, **let's go for it next year**. What we need is a certificate of need for landfills. We need a study of all existing landfills, documentation about what's going into those landfills, and the "life" of each one. We need a board made up of citizens, scientists and environmentalists to analyze the information and with the power to accept or reject any more landfills in this state. We need legislation that would prevent any material coming in from other states. We are going to need hundreds of people to flood the statehouse on a regular basis to get this going.

Noteworthy: Perry County

Lesson: when you get a landfill, there is always a risk for toxins.

Remember the toxic ash spills from Tennessee and Alabama?

Reprinted from **Facing South** (www.southernstudies.org) (emphasis added)

Some of the more than 1 billion gallons of toxic coal ash that spilled from an impoundment at the Tennessee Valley Authority's Kingston power plant in eastern Tennessee last December is making its way to landfills in poor and black communities in Alabama and Georgia, [as we reported last week at Facing South](#).

It turns out that TVA also looked into sending the waste to Pennsylvania for dumping into abandoned mines—but that state's Department of Environmental Protection rejected the ash as substandard.

“This ash material was accidentally released from a disposal impoundment and mixed with unknown materials in the river water and bottom sediment,” Pennsylvania DEP Secretary John Hanger [announced last week](#). “DEP only certifies coal ash for mine reclamation in Pennsylvania that is not contaminated with other materials and can meet our stringent chemical requirements.”

But experts say that Pennsylvania's toxicity standards for coal ash used in such projects are not particularly high—at least not high enough to keep the ash from damaging water quality in the vicinity of the dump sites.

“PADEP is hurling boulders through their glass house with their public rejection of TVA ash as too contaminated for mine disposal,” [Earthjustice](#) attorney Lisa Evans told Facing South.

Evans is one of the authors of [a 2007 report](#) that found widespread contamination of groundwater and surface water across Pennsylvania due to dumping of coal ash waste into abandoned mines as part of its land reclamation program. The report by the [Clean Air Task Force](#) found degraded water quality at two-thirds of the sites examined, with levels of arsenic, cadmium, chromium, copper, lead, nickel, zinc and other pollutants found to exceed drinking-water and other water-quality standards.

A Pennsylvania newspaper [reports](#) that the material was apparently being considered as fill for an amphitheater construction project underway on abandoned mine lands in Hazleton, a predominantly white community in the northeastern part of the state that gained fame in recent years for its [controversial efforts to drive out illegal immigrants](#).

The Hazleton Standard-Speaker quoted a TVA spokesperson as saying the federal company decided on its own against sending the ash to Pennsylvania because the site where it was to be used lacked a liner to prevent the material from contaminating groundwater. Abandoned mines where coal ash waste is being dumped across Pennsylvania typically lack liners—one of the reasons why CATF's report found such widespread water contamination.

Instead, TVA is sending the spilled coal ash waste from Tennessee to

landfills in Taylor County, Ga. and Perry County, Ala.

The choice of these communities for disposal of the waste raises environmental justice concerns, since almost 41% of Taylor County's population is African-American and more than 24% of its residents live in poverty, while Alabama's Perry County is 69% African-American with more than 32% of its population in poverty, according to the latest census data. Residents had no voice in the decision-making process, given that there was no opportunity for public comment.

The landfill officials have pointed out that their facilities have synthetic liners and systems to collect and treat the liquid runoff known as leachate in order to help prevent groundwater contamination. But even lined landfills with leachate collection systems provide no guarantee that the materials dumped into them won't eventually impact groundwater.

In fact, the U.S. Environmental Protection Agency—which is now [overseeing cleanup of the TVA spill](#)—has acknowledged that all landfills eventually leak. The Environmental Research Foundation [points to a Federal Register notice from EPA that states](#):

There is good theoretical and empirical evidence that the hazardous constituents that are placed in land disposal facilities very likely will migrate from the facility into the broader environment. This may occur several years, even many decades, after placement of waste in the facility, but data and scientific prediction indicate that, in most cases, even with the application of best available land disposal technology, it will occur eventually.

Unlike many constituents of ordinary household garbage, the toxic elements in coal ash waste—arsenic, lead and the like—do not break down over time. That means that once the landfill liner deteriorates and springs a leak, those chemicals will be present to leach into the groundwater.

In addition, the leachate collection systems used in landfills are far from foolproof, [ERF notes](#). For one thing, the systems have a tendency to clog up and/or corrode after a few decades. And as the fluid builds up and puts pressure on the bottom of the structure, it increases the likelihood of liner failure.

There's no doubt that TVA needs to clean up the spilled ash. [The results of independent tests conducted on samples collected downstream from the spill that were released today](#) found dangerous levels of toxic elements present in the water, sediment and fish, with some water samples showing arsenic levels 260 times and lead 16 times drinking water standards. The scientists also found fish with lesions and lost scales, which could be attributed to contaminated water.

But TVA's choice for disposing of the ash is not without its problems, either. Despite assurances by the company and government regulators that their plan is safe, the ash waste presents a very real risk to the communities where it's being sent for long-term storage.

At the very least, the authorities should acknowledge that fact.

Support the work of WildLaw!

Tax-deductible donations (checks made out to WildLaw) may be sent to the Alabama Organizing Office.

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The activist is not the one who says that the river is dirty, but the one who cleans it up.

"Secrecy is what tyrants dream of" Bill Moyers