

# Alabama Water Policy: Alabama Water Agencies Working Group Panel Discussion

*“The Secret to Nonpoint Source Success—Partners”*

ADEM 24<sup>th</sup> Annual Nonpoint Source Conference

January 17, 2013

Montgomery, Alabama

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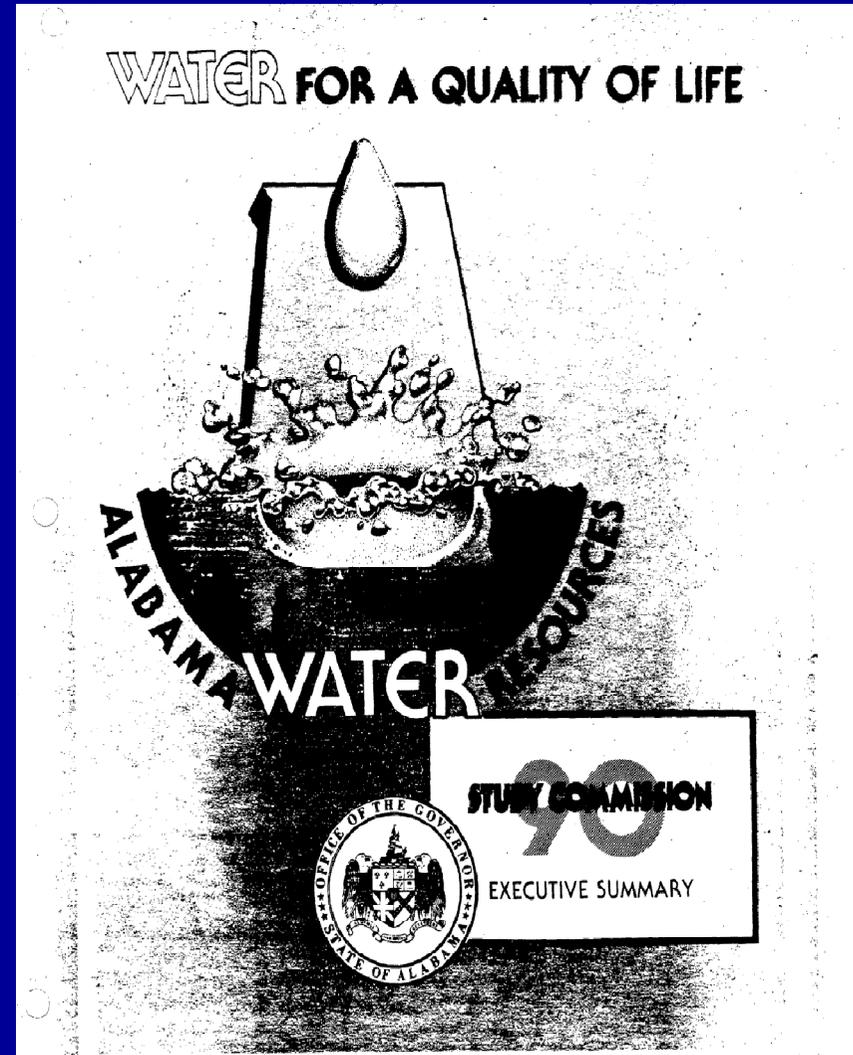


# Emerging Issue in the Alabama Water Resources Spectrum: "Magnitude 15" Sea Level Rise Near Tuscaloosa, Ebb Tide Near Auburn



# The Origin of the Paradigm

The 1990 Water Resources Study Commission Report resulted in the 1993 Alabama Water Resources Act, a passive statutory template that effectively does not modify common law riparian rights. Ironically, the report recommended, *inter alia*, permitting, instream flows and interbasin transfer (IBT) regulations.



**Question: What is the State's Authority?**

**Answer: Water Resources Act of 1993**

**“The Office of Water Resources (OWR) and the Alabama Water Resources Commission have the authority and responsibility for developing plans and strategies for managing the state's waters....” Warren Viessman, Jr. and Timothy D. Feather, 2005, *State Water Resources Planning in the United States*, ASCE, p. 28. (original citations omitted).**



- **Criticisms of Alabama water policy and recommendations for change have been remarkably consistent for over two decades.**
- **The paradigm is beginning to shift and conditions and attitudes seem to be changing. There is now greater change in perceptions about water policy than at any time since the 1990 Water Resources Study Commission Report.**
- **Environmentalism is now engaging economic development on a figurative battlefield. Will that battlefield become literal, i.e., a courtroom?**
- **There is a new perception in the role of state government in water resources management that has broadened the concept of a public interest in water and quickened political responses to water issues. There is a trend toward opening up decisions about water to wider interests.**

# **New Momentum in Water Policy in the 21<sup>st</sup> Century**

- **2008-Permanent Joint Legislative Committee on Water Policy and Management (SJR 28)**
- **2012-Governor Bentley's initiative-Alabama Water Agencies Working Group-ADEM, AGI, DCNR, GSA and OWR**



# Moving Forward: April 18, 2012, Alabama Water Agencies Working Group (AWAWG)-ADEM, DCNR, GSA and OWR

**Governor Bentley directed four state agencies, responsible for water management and investigations, to form the advisory AWAWG and outlined AWAWG's mission.**

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GOVERNOR



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STATE OF ALABAMA

April 18, 2012

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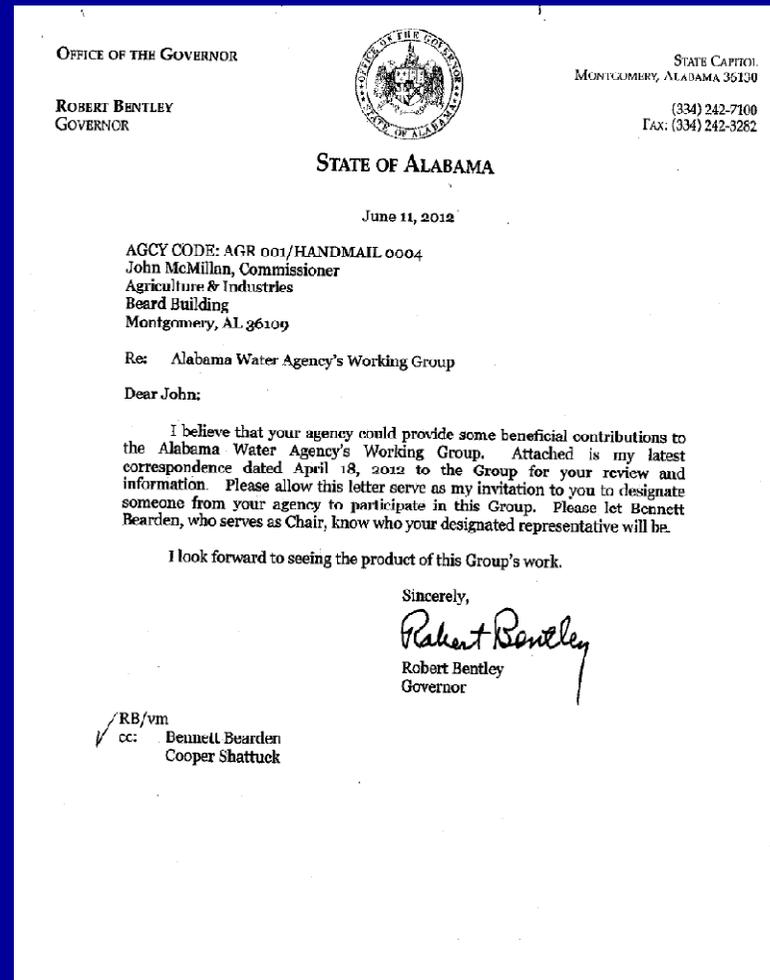
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Dear Ladies and Gentlemen:

Thank you for the information you have provided regarding the water resources of our State. As you have noted, and as a number of commissions,

# June 11, 2012, Governor added the Alabama Department of Agriculture and Industries (AGI)

**AGI added to AWA WG to provide insight on farming, irrigation and the agribusiness sector**



# **Governor's Charge to AWAAG**

- **Continue meetings and report progress and developments to the Governor's Office;**
- **Create a comprehensive database of Alabama's water resources by gathering all existing data and reviewing surface water, groundwater and instream flows/ecosystems assessments to provide a full understanding of the State's water resources, the use of those resources and need for those resources (including, but not limited to, industrial, economic, public health and safety and environmental needs);**
- **Conduct stakeholder meetings with the Governor's staff, key legislators and outside stakeholders from groups that represent-at a minimum-economic, industrial, utility, public drinking water supply, public safety, recreational, environmental, ecological and agricultural interests; and**
- **Recommend a statewide water management plan and timeline that takes into account and equitably manages the demands on the State's water resources. Include in the plan any proposed legislation necessary to implement such a plan.**

# AWAWG Member Agencies



**ADEM-AL Department of Environmental Management** (water quality management and biological monitoring)



**AGI-AL Department of Agriculture and Industries** (agriculture, farming, agribusiness, irrigation)



**DCNR-AL Department of Conservation and Natural Resources** (state land management, wildlife resources protection)



**GSA-Geological Survey of Alabama** (water and natural resources investigations and assessments)



**OWR-AL Office of Water Resources** (water quantity, water use reporting, water planning, drought response)

# AWAWG Issue Paper-Approved for Release by the Governor's Office on August 1, 2012

## Issues

- Water Resources Management
- Expanded Certificates of Use (Permitting)
- Economic Development
- Surface Water and Groundwater Availability
- Drought Planning
- Water Conservation and Water Reuse
- Interbasin Transfers
- Instream Flows
- Interstate Coordination
- Water Resources Data
- Key Stakeholder Education and Outreach
- Public Education and Outreach

## WATER MANAGEMENT ISSUES IN ALABAMA

### GOAL

A group of state agency representatives, herein referred to as the *Alabama Water Agencies Working Group (AWAWG)*, is comprised of the membership listed below. The purpose of this document is to provide overviews, considerations, and policy options for important water resource issues in Alabama.

### ALABAMA WATER AGENCIES WORKING GROUP MEMBERSHIP



Brian Atkins  
Larry Childers  
Tom Littlepage  
Craig Kneisel



Berry H. (Nick) Tew, Jr.  
Bennett Bearden,  
*Chairman, AWAWG*  
Marlon Cook  
Patrick O'Neil



Lance LeFleur  
Marilyn Elliott  
Vernon Barnett  
Glenda Dean  
Scott Hughes  
Lynn Sisk



N. Gunter Guy, Jr.  
Stan Cook  
Chris Greene  
Will Gunter  
Andrew Henderson



John McMillan  
Glen Zorn  
Patrick Moody

August 1, 2012

# AWAWG Stakeholder Subcommittee-Stakeholder Comments Due November 1, 2012-Responses from 70 of 247 Stakeholders

Table 1. Frequency table of stakeholder groups responding to the Water Management Issues in Alabama report.

| Stakeholder Group              | N  | %    |
|--------------------------------|----|------|
| Citizen                        | 10 | 14.3 |
| Utility                        | 4  | 5.7  |
| Federal Agency                 | 7  | 10.0 |
| State Agency                   | 7  | 10.0 |
| Academic                       | 6  | 8.6  |
| NGO/Business-Industry          | 12 | 17.1 |
| NGO/Environmental              | 13 | 18.6 |
| NGO/Utility                    | 3  | 4.3  |
| NGO/Water-Watershed-Recreation | 3  | 4.3  |
| NGO/Lake HOBO                  | 5  | 7.1  |

- **50.0 % - Water resources management**
- **37.1 % - Surface and groundwater assessments**
- **32.9 % - Water data collection**
- **32.9 % - Conservation and water reuse**
- **31.4 % - Instream flows**
- **28.6 % - Economic development**
- **28.6 % - Key stakeholders education and outreach**
- **24.3 % - Interbasin transfers**
- **24.3 % - Riparian law/legal regime**
- **22.9% - Public education and outreach**
- **17.1 % - Drought planning**
- **15.7 % - Enhanced COU/permitting**
- **14.3 % - Recreation**
- **11.4 % - Interstate coordination**

# **Emerging Common Theme\* and Key Issues\*\***

- **\*Lack of a statewide water resources assessment-surface water, groundwater and instream flows**
- **\*\*Permitting-water withdrawals**
- **\*\*Instream flows**
- **\*\*Interbasin transfers**
- **\*\*Non-riparian issues-access to water for irrigation, water supply, etc.**

# Stormwater-Is Sustainable Development a Concept at Odds with Itself? See *Virginia DOT v. EPA*



# Notice: Stakeholder Comment Period Extended

The period for providing stakeholder comments is officially extended from November 1, 2012 to the end of the AWAAG process on December 1, 2013. The AWAAG intends to engage in a continuing dialogue with all stakeholders during this period.

# **AWAWG Database Subcommittee Interim Report-December 31, 2012**

- 1. Where we've been***
- 2. Where we are***
- 3. Where we are going***

Attachment A

## **Alabama Water Agencies Working Group – Database Subcommittee Interim Report**

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Marlon Cook, Co chair  
Geological Survey of Alabama

Tom Littlepage, Co-chair  
ADECA – Office of Water Resources

Lynn Sisk, Co-chair  
Alabama Department of Environmental Management

12/31/2012

# AWAWG Legislation Subcommittee and the Permanent Joint Legislative Committee on Water Policy and Management-Drought Bill

**Update: Amended by Representative Tuggle's Water Management, Drought and Water Conservation Subcommittee on December 11, 2012. Bill will be submitted to Permanent Joint Legislative Subcommittee for 2013 Session.**

**Alabama Drought Planning and Response Act-This proposed bill creates the Alabama Drought Assessment and Planning Team (ADAPT) and establishes its membership, duties, responsibilities and powers; and creates a Monitoring and Impacts Group Subcommittee and establishes its membership, duties, responsibilities and powers.**

## Alabama Drought Planning and Response Act

1 **SYNOPSIS.** This bill creates the Alabama Drought Assessment and Planning Team (ADAPT),  
2 establishes its membership, establishes its duties, responsibilities and powers, creates a  
3 Monitoring and Impacts Group Subcommittee, establishes its membership, duties,  
4 responsibilities and powers, charges ADECA-OWR the Alabama Office of Water Resources  
5 (OWR), a division of the Alabama Department of Economic and Community Affairs, with the  
6 responsibility of developing a State Drought Plan and periodically issuing Drought Declarations.  
7 The bill also gives the Governor the power to require mandatory cutbacks of water withdrawals  
8 upon recommendations of ADAPT in a drought emergency.

9 **Section 1.** This Act may be cited as the Alabama Drought Planning and Response Act.

### 10 **Section 2. Definitions**

11 As used in this Act:

12 **ADAPT** means the Alabama Drought Assessment and Planning Team as created by this Act.

13 **ADECA** means the Alabama Department of Economic and Community Affairs.

14 **AEMA Director** means the Director of the Alabama Emergency Management Agency.

15 **ADEM Director** means the Director of the Alabama Department of Environmental  
16 Management.

17 **Alabama Adjutant General** means the Commanding General of the Alabama National Guard.

18 **AGI Commissioner** means the Commissioner of the Alabama Department of Agriculture and  
19 Industries.

20 **ADCNR Commissioner** means the Commissioner of the Alabama Department of Conservation  
21 and Natural Resources.

22 **State Forester** means the Director of the Alabama Forestry Commission.

23 **State Geologist** means the Director of the Geological Survey of Alabama.

24 **Division Director** means the Division Director of the Alabama Office of Water Resources.

25 **Drought Declaration** means a written summary, issued by OWR, containing a summary of  
26 drought conditions throughout the State.

# AWAWG Web Site:

## [www.adeca.alabama.gov/AWAWG](http://www.adeca.alabama.gov/AWAWG)



ABOUT ▾ DIVISIONS ▾ NEWS

ADECA > Divisions > Office of Water Resources > Alabama Water Agencies Working Group

### Divisions

- Floodplain Management
- Drought Planning and Management
- Water Management
- Interstate Water Issues
- Alabama Water Resources Commission
- Alabama Water Agencies Working Group**
- AWAWG Subcommittees

## Alabama Water Agencies Working Group



Alabama is blessed with many natural resources, but none is more important than water. Our rivers, lakes and streams sustain our communities, support industry and jobs, generate power, irrigate crops, provide critical transportation links, maintain wildlife and supply boundless opportunities for recreation.

When the Alabama territory was organized in 1817, Governor William Wyatt Bibb determined that the most suitable image for the official seal would be a map of our extensive rivers. Today, the Great Seal of Alabama continues to attest to the importance of these vital arteries.

Accustomed to an environment with abundant water, most of us assume that an adequate supply will be available to meet our needs. In recent years, however, large sections of our state have experienced periods of extreme drought, highlighting the need for responsible water management plans, which will help us ensure a plentiful supply in years to come.

As Alabama's population grows and our economy expands, so does the demand for water. Our water resources are substantial, but not limitless. As we harness this resource for the needs of today, we must do so with an eye toward tomorrow.

### Governor Bentley's vision for collaborative, responsible water management

Governor Robert Bentley believes that a resource as vital as water cannot be taken for granted if we expect our state to prosper and Alabamians to continue to enjoy an excellent quality of life. Being a good steward of our water heritage and managing it wisely is the only way to ensure future abundance for ourselves and for the generations to come. We all want our state to continue to thrive; as long as we work together toward our common goals, Alabama will flourish.

In August 2011, to begin developing an overview of water issues and activities, Governor Bentley called together four agencies of state government with water resource responsibilities. Following a preliminary briefing from the group, the Governor decided in April 2012 to continue and expand this work by formalizing the Alabama Water Agencies Working Group. Soon thereafter, a fifth agency, the Alabama Department of Agriculture and Industries was added, resulting in the group as currently constituted.

- Governor Bentley's letter to the group
- Governor Bentley's letter to Agriculture and Industries

### Member Agencies:

- Alabama Department of Economic and Community Affairs, Office of Water Resources
- Alabama Department of Agriculture and Industries
- Alabama Department of Conservation and Natural Resources
- Alabama Department of Environmental Management
- Geological Survey of Alabama

### Mission of the Alabama Water Agencies Working Group

# **“Reasons to Consider Regulating Water [Use] in Alabama”**

[Lance LeFleur, Director, ADEM, July 13, 2012]

- 1. “The demand for water in Alabama is increasing and the supply is finite.**
- 2. The riparian system currently employed in Alabama has significant disadvantages.**
- 3. Alabama may be vulnerable to federal control over water use through EPA if the State does not regulate water use.**
- 4. Provide predictability [security and certainty] for existing water users.**
- 5. Avoid competitive disadvantage in attracting new industry.”**

# Forward!

**The AWAAG is working to develop a set of recommendations, based on sound science, policy and law, for water resources management that will benefit all Alabamians now and for generations to come. We need *your* input and want to hear from *all* stakeholders.**



# Contact Us!



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- ADECA - Office of Water Resources (OWR), Brian Atkins ([brian.atkins@adeca.alabama.gov](mailto:brian.atkins@adeca.alabama.gov))
- Alabama Department of Environmental Management (ADEM), Lance LeFleur ([director@adem.state.al.us](mailto:director@adem.state.al.us))
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