RECEIVED 9/11/2003 MJ
GR-03-R

[redacted]

September 3, 2003

Re: Tallassee Waste Disposal Center Expansion/ Impact on the Ashurst Bar/ Smith Community

To Whom It May Concern:

Please accept this as an effort on my part to continue to inform of the environmental travesty that the local governing body (The Tallapoosa County Commission) has participated in creating for this small rural community in East Tallassee, Alabama.

As a result of a public hearing for comments on August 26, 2003, that was nothing more than a formality, are additional comments and concerns that I submitted to the Alabama Department of Environmental Management (ADEM) for inclusion in the record. Please be mindful that this meeting was the first opportunity granted to the people who are directly impacted by this landfill to seek answers to their concerns.
To be poor and Black does not mean that a people should not have due process in decisions that effect their health, safety, property, and overall well being.

The people of the Ashurst Bar/Smith Community have been in opposition to the operation of this landfill since it was sited in the neighborhood since 1970. Therefore, because it is now being expanded and proposed to be expanded to a total of 200 acres in the most populated part of the community we are seeking leadership and intervention from all aspects of our Government to address the concerns that are and have been ignored by our local, state regulatory agency, and other elected officials.

The concern or effort given to the issues that are within your realm of authority would be greatly appreciated.

[redacted]

[redacted]

Mr. James Warr, Director
ADEM
P.O. Box 301463
Montgomery, Al 36130-1463

Re: Public Hearing for Permit 62-11 Modification and Expansion of the Tallassee Waste Disposal Center Landfill

Dear Mr. Warr,

As a landowner and a product of the Ashurst Bar/Smith Community I am taking this opportunity to thank ADEM for fulfilling the requirement to grant a public hearing. The attorney presiding over the meeting conducted it in a most professional manner and the public did so as well based on the ground rules set forth for the process.

The following are comments and concerns that I am submitting for the placement in the records:

1. The card registration was a hindrance to participants entering into the meeting room. It established a long line outside of the door while the meeting was being conducted. The personal information requested on the card was intimidating and prevented some from speaking out of fear. The public assumed that they could rise, give their names, and proceed with their statements or ask questions.
2. The public was informed that this was not a question and answer session, but instead comments on solid waste issues and they had to be limited to 5 minutes.
3. The public was told that the comments and/or SCOPE would be limited to technical issues, and specifically that socio-economic issues were outside of ADEMS SCOPE but were to be evaluated by the local authority none of whom were available to address these critical issues at the Public Hearing. Out of a community like the Ashurst/Bar community how many scientist do you think live there or could pay someone to represent them on technical issues? Even more so ADEM representatives decided not to discuss technical issues. Without dialogue there is no discovery or resolution.
4. There appears to be a discrepancy about the acreage included in this request for expansion and modification between ADEM and the US Corp of Engineers.
5. Why is the sedimentation pond being moved and exactly where is it being located?
6. Prior to the reopening of this land fill in April 2002 it was the site of an unlined landfill that turned up with the presence of toluene in a local drinking spring 600

feet south of the perimeter of the boundary, what measures are in place to protect the community from the continued possibility of these safety hazards?

7. The expansion of this landfill as documented by the maps supplied by the US Corp of Engineers includes property purchased on the opposite side of Washington Boulevard, which will border the Local Church and the most populated area in the community. This is a rural community and many people still use well water. Where is the documentation that impact studies were done to protect these sources of water for these people?

8. What is the impact of water run-off on to adjacent property owners south and to the east of this site and to the west after expansion on to the opposite side of Washington Boulevard?

9 The community is concerned about wind patterns since this landfill is within a one to two and a half mile radius of the most populated area or in the case of Mr. Horace Geter in his back yard.

10. Entry of the landfill traffic is limited to entering from highway 49, but instead it has been reported that the traffic is entering from other directions. Has this previous permit specification been revised?

11. We are concerned about the setbacks of homes on the roads. Many of the residencies are very close to the roads.

12. Washington Boulevard and Ashurst Bar roads are very narrow two lane rural community roads that are not designed to handle eighteen-wheeler trucks and the continued increase in the number of garbage trucks. The roads are very curvaceous and have several snake pattern curves with homes situated near them. We are concerned about " the level of service/accident ratings."

13. We are concerned about the traffic by workers who are coming into the neighborhood to pick up their trucks and the subsequent movement of the trucks on to the roads during the hours our children are loading and dismounting the school buses.

14. We are concerned about the lack of traffic signs throughout the community indicating the speed limit, school bus loading, and children playing.

15. We are concerned about surface water and foliage used by the wild life in the area, and the impact this will have on our hunting capabilities.

16. With the close proximity of the landfill to the most populated area we are concerned about the transmission of diseases by rodents, insects and other wild life including wild dogs that are exposed to hazardous or other unsafe waste that these animals are exposed to since, a request was made by the owner to use a tarp instead of dirt cover except once a week.

17. We are concerned about the wetlands, the natural occurring springs, and the impact this landfill is having on the environmental natural balance in this part of our state.

18. We are concerned about the impact of the landfill on our farmers' animals and the gardens that people use for food.

19. Since the reopening of the Tallassee Waste Disposal center in April 2002 there has been numerous non-compliance reports of high methane gas levels. We are concerned that the community was not notified and to date there is not in place a mechanism to alert the community of such dangers. It is indeed the responsibility of every governmental agency including the owner, the local government, ADEM, the State of Alabama Health Department, EPA and whom ever else that has enforcement authority to guarantee the safety of its citizens from such potential danger and it surely should inform the people of a situation that has their lives and property at risk.

20. There are no fire hydrants from the entrance of Washington Boulevard to the site.

21. We are concerned that this site was ever permitted as suitable based on (a) the moisture problem, (b). a natural gas line, (c). the close proximity to the most populated area, (d). the site is accessed by two (2) very narrow two-lane highways (Highway 49 and Washington Boulevard). Both of these roads were designed for local residential traffic and not large commercial trucks.

22. We are concerned about the lack of emergency equipment, (ambulances, fire trucks, etc.).

23. We are concerned about the lack of an evacuation and decontamination plan.

24. We are concerned about the total disregard of our local church by situating a landfill near by and also the proposed design to relocate Washington Boulevard closer to its site.

25. We are concerned about the impact on the Tuscaloosa aquifer that is in the area.

26. We are concerned about the Gleeden Branch and other streams that leave the area and merge with larger bodies of water, which eventually empty into the Alabama River, specifically of water sources of other municipalities down stream.

27. We are concerned that the owner is being granted such a large service area and such wide latitude of waste types it can accept.

28. We are concerned about the displacement of landowners currently four (4), since the required boundary of a landfill owner is 200 or fewer feet.

29. We are concerned about the placement of the large garbage containers on the newly acquired Lanear property to the south of the existing landfill since in a letter dated May 2003 stated that this " 80 acre parcel was being withdrawn form the permit and modification request". Additionally since this parcel of property is separated from the existing landfill by a natural gas line we are concerned how the existing landfill will be merged with this property. We are concerned that an access road to a piece of private property south of the existing land fill was fenced off and included in the Lanear property, requiring the property owner to get a key from the owner to open a gate to enter their property.

30. We are concerned as to whether the Tallapoosa County Commission (the local authority) submitted a detailed analysis addressing the six minimum siting factors as set out in the Alabama Solid Waste Disposal Act (ASWDA) and ADEMS implementing regulations when selecting the Ashurst/Bar/Smith/Community as the

site for The Tallassee Waste Disposal Center. In as much were alternate sites considered by the Tallapoosa County Commission in selecting a site to consider for the waste for this area. Additionally in that the site was closed for lack of space and available land for expansion is it documented that the Commission weighed this issue in granting approval of the 2002 reopening of the landfill?

31. We are concerned as to whether a need based analysis was done with statistics to support that the 90 % African American Community of the Ashurst Bar/ Community should overwhelmingly bare the burden for the benefit of 74% of the communities served which are majority white. In view of the articles in the local paper concerning the litigation between Sunflower Inc. and Waste Management concerning the collecting of trash in Montgomery and Elmore Counties it appears that the need for an expansion is not supported by statistics generated by the integration of a statewide network of facilities that aid in the planning, development, and operation of facilities.

32. We are concerned that the Tallapoosa County Commission and ADEM have approved 4 out 5 landfills in majority African-American communities and this is in violation of Title VI and is blatant racial discrimination. In reopening the Tallassee Waste Disposal Center, if the proper criteria was used by the local authority the site should have been eliminated and even more so further scrutinized by ADEM for compliance since the Tallapoosa County Commissioners were already in violation of Title VI. Tallapoosa County is a majority white county why is the African-American population bearing the burden for waste disposal in this county? The continued failure of the Commission to comply with Title VI in preventing a disparate impact on majority African –American communities (protected communities by EPA Part 7 regulation) only concerns us more that ADEM the recipient of Federal Funds are not performing its duties as overseers for legal implementation of the laws of this land.

33. We are concerned about the devaluation of our properties and the social and community perception, even though there have been disparaging comments made in regards to the way the property owners maintain their properties.

34. We are concerned that in spite of the recent investigative report submitted by The U.S. Environmental Protection Agency Office of the Civil Rights, in June 2003 to ADEM in regards to the TITLE VI ADMINISTRATIVE COMPLAINT FILE NO. 28R-99-R4, that the attorney opened the meeting by stating that ADEM only considers technical issues and not socio-economic impact issues. As you are well aware this report found that ADEM is not limited or prohibited by any legislative act from exerting its authority to oversee that local bodies, consider safety and socio-economic impacts, but also ADEM should, " undertake additional and independent analyses of such impacts during the State permitting phase for a facility if necessary." In this report EPA found that ASWD Act, "gives ADEM broad authority to manage and regulate all aspects of solid waste disposal in Alabama." It is the EPA's position that the ASWD Act, "directs ADEM, in developing the State Solid Waste Management Plan to ensure that all aspects of local, regional, and state planning, zoning, population estimates, and economics are take into consideration." You should note that the files available at ADEM concerning the Tallassee Waste

Disposal Center includes pictures of abandon homes, rather than the homes within the 2 ½ mile radius surrounding the landfill.

In conclusion there were many issues that were not addressed because of the format of the hearing, and the lack of the public to participate by questions to really ascertain valid information to determine why the Ashurst/Bar/Smith Community was chosen as a site when clearly there are natural and population issues that should have sent up questions to ADEM when the owner began making application for a landfill in this protected community. The Tallassee Waste Disposal Center's proposed permit has received strong community opposition due to the racial and environmental disparities related to it. Despite this opposition, ADEM as failed to provide the Ashurst Bar/Smith Community with adequate opportunities to participate in the decision-making process related to the proposed permit. This procedural failure by ADEM violates Title VI. As much ADEM's August 26, 2003 Public hearing was neither early, inclusive, or meaningful for the Ashurst Bar/Smith Community based on the issues, procedures and concerns listed earlier.

According to EPA, it is possible to violate Title VI or EPA's Title VI regulations based solely on discrimination in the procedural aspects of the environmental decision-making process. USEPA, Draft Title VI Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs, Federal Register / Vol .65, No. 124 / Tuesday, June 27, 2000,39658. Early, inclusive, and meaningful public involvement in the environmental decision-making process is recommended for compliance with Title VI.

It is most disappointing to think that the governmental agency charged to protect the well being of the citizens of the State of Alabama, had knowledge of the June 2003 EPA report and its recommendations, but still chose to announce its ability to consider issues in the permitting process to its perceived limited scope.

Please enter this letter into the comment report.

cc: Mr. Jonathan Crosby

Alabama State Health Department

U.S. Environmental Protection Agency Office of Civil Rights

U.S. Corp of Engineers, Mobile District

U.S Department of Transportation

The Alabama Department of Transportation

Governor Bob Riley

Alabama Attorney General

The U. S. Justice Department

Janette Wipper

Senator Richard Shelby