Message

**From:** Dorka, Lilian [Dorka.Lilian@epa.gov]
**Sent:** 1/27/2017 2:49:33 AM
**To:** Covington, Jeryl [Covington.Jeryl@epa.gov]
**Subject:** Re: (CLEANER DRAFT) 06R-03-R4 Draft Closure Letter to ADEM DORKA 1-26-17.docx

Omg! This could have waited until tomorrow. But thank you!!

Sent from my iPhone

On Jan 26, 2017, at 7:43 PM, Covington, Jeryl <Covington.Jeryl@epa.gov> wrote:

I have provided information on the 2003 permit modification request but will need to continue to review the ADEM efiles to query the application number for the 2003 submission as I have been unable to find this reference tonight.

Furthermore, I have not included text on the Yerkwood recommendations as I believe that this may have been previously developed in briefing documents and or other communications related to this case and can simply be inserted after review.

Nonetheless, below is an excerpt of the recommendations from the Yerkwood IR.

As noted in detail in this Investigative Report, there is no evidence to support Part 7 disparate impact violations for the four landfills which are the subject of Allegation #1 and the recommendation is for Allegation #1 to be dismissed. In addition, there is no evidence supporting an intentional discrimination claim against ADEM for its permitting of solid waste landfills in Alabama and the recommendation is for Allegation #2 to be dismissed. Finally, EPA notes that the administration of ADEM's Solid Waste Program may nevertheless lead to violations of EPA's Title VI regulations in the future because the potential failure to consider safety or socio-economic impacts could lead to ADEM-permitted landfills that have an adverse disparate impact on a population protection by EPA's Part 7 regulations. In light of this, EPA recommends that ADEM take the following actions with regard to its solid waste program:

- <!--[if !supportLists]--><!--[endif]-->ADEM should require that local governing bodies submit to ADEM, along with their local approval of solid waste landfill permit applications, *detailed analyses* of the six minimum siting factors (as set out in the State's Solid Wastes Disposal Act and ADEM's implementing regulations) that were considered by the local body in connection with the site-specific permit;

- <!--[if !supportLists]--><!--[endif]-->Where a local body's analyses of the six minimum siting factors is not sufficient (as determined by ADEM) or not done, ADEM should undertake its own consideration of these factors during its permitting of a municipal solid waste landfill;

- <!--[if !supportLists]--><!--[endif]-->ADEM should put in place a program to oversee local government implementation of local solid waste management plans; and

- <!--[if !supportLists]--><!--[endif]-->ADEM should implement its own "recommendations" as contained within Phase II of the State's Solid Waste Management Plan.

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