



October 30, 2012

ADECA Alabama Office of Water Resources
Attn: Mr. J. Brian Atkins, P.E., Division Director
P.O. Box 5690
Montgomery, AL 36103-5690

SUBJECT: AWAWG Water Management Issues in Alabama Report

Dear Mr. Atkins:

We appreciate your correspondence regarding the above report and your request for our review and input as a stakeholder in this endeavor. The August 1, 2012, Alabama Water Agencies Working Group (AWAWG) report to Governor Bentley, based on the belief that “Alabamians assume that water resources will be available for their use in sufficient quantities to drink, facilitate commerce and transportation, help meet our energy needs, and provide recreation and wildlife habitat,” concludes that a comprehensive statewide water management plan that adopts statewide policies and requires state agencies to work cooperatively is the best approach in assuring that Alabama’s water resources will meet the needs of our communities for the future. This premise is sound in that the State is best suited to address issues that affect the entire state. As purveyors of drinking water, our concerns are focused on the continued availability of water that is of sufficient quality and quantity to meet the needs of our customers for the foreseeable future. We also have to be continually mindful of our costs to perform our mission and work continuously to keep our costs to our customers as low as possible for the welfare of our citizens and benefit to our economy. Please consider the comments and concerns about this report from the viewpoint of a Drinking Water Utility:

- There are many references to Needs for Funding in the report. Since Alabama’s water benefits ALL of Alabama, we feel any future required funding for further studies, modeling, analysis, and sampling, etc., should be funded by the broadest segment of the population possible. We would not want to see that cost restricted to a partial group of citizens such as the drinking water consumer.
- In some communities water is in short abundance or supply while in other communities water is abundant. A statewide management plan must be cognizant of these variables. For instance, mandated conservation of water in areas where supply is plentiful could lead to rate increases due to reduced revenue from sale of water without a reduction in utility operations costs.
- Any proposed management plan should take into consideration existing uses and make allowances for those existing uses to continue and reasonably grow. Most existing water supply strategies and associated expenses were adopted over a period of years and considerable capital investments have been made and planned to implement those strategies. If future water use restrictions were implemented before past capital investments have been amortized, needless and possibly cost prohibitive investments may be necessary to identify and implement alternative water supply strategies. This cost would necessarily have to be passed along to the consumer.

- Water is a resource that is ever changing, with periods of flooding and drought. A statewide water management plan should take into consideration the feasibility and costs of establishing new impoundments for capturing water in times of plenty and use in times of need. Environmental considerations for this effort would obviously need special consideration as well.
- Alabama is the only state in the country that does not currently have a requirement for a Dam Safety Plan. Particularly in light of recent concerns and events, consideration should be given to including that requirement in this report.
- It is our understanding that Alabama has few current statutory laws concerning water use and those only apply to certain categories of users. We are subject, almost exclusively, to the common rights riparian law doctrine—meaning those that own land adjacent to surface water have the right to use the water and those that do not cannot use the water. Rights for usage are identical for all who have frontage, regardless of the amount of frontage. Further, concerning ground water, only the overlying surface land owners have rights to use of the water and only on the overlying tract of land. It does not appear clear that the state currently has indisputable rights to determine who has the right to use both surface water and ground water. Knowledge of existing laws and rights, their effect on a state water management policy and consideration of legislation that would affect future rights and use must be considered.

We recommend a phased approach to the overall effort of water management at the statewide level and that the first effort be legislative. The State Legislature should pass the necessary laws that give the state the right to manage the water resources. Additional legislation would be required to establish the responsibilities of the existing state agencies and provide for the funding mechanisms needed for them to be functional and capable of accomplishing the overall goals of water management. Once the necessary statutes are created, the work involved in data gathering could begin based on the funding provided at the state level.

Sincerely,



Leslie A. Brown, P.E.
Assistant Director