



October 31, 2012

Mr. J. Brian Atkins, P.E.
Division Director
ADECA Alabama Office of Water Resources
401 Adams Avenue, Suite 434
Montgomery, AL 36103-5690

Subject: 'Water Management Issues in Alabama Report' dated August 1, 2012,
as prepared by the Alabama Water Agencies Working Group (AWAWG)

Dear Mr. Atkins:

We appreciate your correspondence of September 18, 2012 to our Ken McCool, Section Manager for the ALMS Section of the American Water Works Association (AWWA), regarding the above report and request for our review and input as a stakeholder in this endeavor. Your work on this issue is of vital long term importance to the citizens of Alabama and the water utilities of our state whose every day task is to provide safe, reliable and sufficient drinking water to each one of us. We commend you for your efforts thus far and appreciate the opportunity to offer comments at this point in time.

First, let me define our organization more specifically. The ALMS Section of AWWA is a non-profit association of water professionals within our two states, some one-thousand members strong, representing our public and private water utilities, engineering consultants, manufacturers, vendors and academic institutions that work together to promote public health, safety, and welfare through the improvement of the quality and quantity of water delivered to the public. Our mission is to "serve as the dedicated source of information to promote, support, and improve the provision of sustainable safe water". Further, "through collective leadership, the Section advances innovation in technology, science, education, management, and *governmental policies for the betterment of the citizens of Alabama and Mississippi*". Therefore, it is with the above goal in mind that we review and comment on proposed statewide policy that will potentially influence our mission. We understand the critical need to develop a statewide water policy that is beneficial and fair to all our citizens and businesses. We know your task is to do just that while protecting our current and future abilities to provide safe, sufficient and reliable drinking water to all.

Our organization has conferred with a number of our members who are purveyors of water to some of our larger municipalities. You may have, no doubt, asked for input on this report from some of these members on an individual basis. Obviously each utility will have their own existing conditions, concerns, and needs regarding the availability and use of water within their service area. However, as a consensus, all our member utilities share the common concern of safe, sufficient and reliable water sources for public consumption and how current and future state policy and legislation will affect this ability. The following is a brief summary of comments that the ALMS Section AWWA submits for your consideration as the AWAWG continues its work in response to the Governor's request:

- The AWA WG report is based, in general, 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”. However, due to population growth, development, increased occurrences of drought, the legal unpredictability of interstate water disputes and the uncertainty of riparian common law there is a demonstrated increased demand for our finite water resources. The report 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. The 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 costs to our customers as low as possible for the welfare of our citizens and benefit to our economy.
- 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.
- 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.
- In some communities water is in short abundance or supply. 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.
- Water is a resource that is ever changing, with regions and periods of flooding and droughts. 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.
- The issue of inter-basin transfer of water must be considered and adequately addressed within our state. Some communities currently rely on this need for sufficient supply of reliable water. Any future state water management program must consider this issue and have a fair policy that is best served to all our citizens.

- 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.
- Some of our members have noted that not one utility member of our organization is represented on this task force. We would request consideration for including someone from our AWWA membership, such as a general manager from a larger utility within our state, have an opportunity to participate directly in your efforts to represent our drinking water public within Alabama.
- It is our understanding that Alabama has few current statutory laws concerning water use, and that 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 affect on a state water management policy, and consideration of legislation that would affect future rights and use must be considered.

As we move toward the admirable goal of achieving a statewide water management policy beneficial to all Alabamians, we believe management policies should be flexible and allow for innovative solutions and collaborative efforts that facilitate the sharing of water resources to meet sufficient long-term water quality and quantity needs for every stakeholder while protecting public health and the environment.

We thank you for the opportunity to share our thoughts and concerns and look forward to future discussion and seeing policy development that will address the concerns and needs of our drinking public as well as all Alabamians. Please keep us informed on further actions and contact us with questions or thoughts concerning this response.

Yours very truly,

Jim Watterson
Immediate Past Chair
ALMS Section AWWA

Cc: ALMS Section AWWA Board members
L. Brown, M. Snow, F. Eskridge