

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515**

October 30, 2014



Mrs. Heather McTeer Toney  
Regional Administrator - Region 4  
United States Environmental Protection Agency  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street Southwest  
Atlanta, GA 30303-8931

Dear Administrator Toney,

We write to express our concern regarding the U.S. Environmental Protection Agency's (EPA) recent activities in Birmingham, Alabama. Specifically, last month EPA announced plans to list Birmingham's "35th Avenue" Superfund Site on the National Priorities List (NPL). While we appreciate EPA's efforts to protect Alabamians from the effects of hazardous substances in the environment, we are concerned that EPA's proposed listing is unsupported by reliable evidence and that it may undermine economic development in the area.


It is our understanding that EPA failed to follow its own protocol for issuing this proposed listing. The July 25, 1997 memorandum from Timothy Fields, Jr., Acting Assistant Administrator for the Office of Solid Waste and Emergency Response, to EPA's regional administrators titled "Coordinating with the States on National Priorities List Decisions—Issue Resolution Process" establishes the procedure for EPA to follow in listing a site on the NPL over state objections. According to that memorandum, when a state disagrees with a proposed NPL listing, the EPA regional office "should work closely with the State to try to resolve the issue before raising it to EPA Headquarters." If such talks are unsuccessful "the Regional Superfund Division Director should inform the Director of the State, Tribal and Site Identification Center (ST/SI) of the Office of Emergency and Remedial Response (OERR) and/or the appropriate ST/SI Regional Coordinator." OERR would then brief the Assistant Administrator for Solid Waste and Emergency Response, at which time "[t]he State should have the opportunity to present its position in writing."


Further, we understand that EPA was advised that the State of Alabama did not concur in EPA's proposed listing of the 35th Avenue Superfund Site, but proceeded to issue Proposed Rule No. 61 without any further communication with the state. EPA's disregard of the collaborative process with the state is concerning, given the gravity of such a listing on the area and its residents.


In light of our concerns, we write to join in the State of Alabama's and the Alabama Department of Environmental Management's recent requests for a 60 day extension to file comments to this proposed listing. We strongly believe that our

constituents should be afforded ample time to review EPA's proposed rulemaking and to provide meaningful comments, particularly in light of the opposition and concerns raised by the State of Alabama and the Alabama Department of Environmental Management.

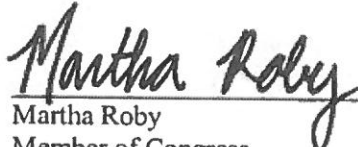
Thank you for your consideration of our views and concerns.

  
Robert Aderholt  
Member of Congress

  
Spencer Bachus  
Member of Congress

  
Mo Brooks  
Member of Congress

  
Bradley Byrne  
Member of Congress

  
Martha Roby  
Member of Congress

  
Mike Rogers  
Member of Congress